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Writ of Error to Supreme Court.

WRIT OF ERROR TO SUPREME COURT.

Filed December 10, 1919.

New Jersey Court of Errors and Appeals

NEW JERSEY, ss.

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The State of New Jersey, to our Justices of our Supreme Court of Judicature, GREETING:

(L. s.) Because in the record and proceedings, and also in the giving of the judgment upon a certain indictment which was in our said Supreme Court of Judicature, before you, between the State of New Jersey, defendant-in-error, and Joseph Mayewski, plaintiff-in-error, on a writ of error issued out of our Supreme Court of Judicature to the Judges holding the Court of Oyer and Terminer, constituting the Court of General Quarter Sessions in and for said County of Essex, as is said, manifest error hath intervened to the great damage of him, the said Joseph Mayewski, as from his complaint we have received information, we being willing in this behalf to correct the error in due manner, if any there shall be, and that speedy justice be done to him, the said Joseph Mayewski, do command you that if judgment be thereupon given, then you send distinctly and openly, under your seal, the entire record proceedings and indictment aforesaid, with all things touching and concerning the same, to our Court of Errors and Appeals, before the Judges thereof, on the 9th day of December next, and this writ, that the records and proceedings aforesaid being inspected, we may cause to be done thereupon what of right and according to law ought to be done.

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30

Witness, EDWIN ROBERT WALKER, our Chancellor and President Judge of our said Court of Errors and Appeals, at Trenton, aforesaid, this 20th day of November, nineteen hundred and nineteen.

THOMAS F. MARTIN,
Clerk.

40

McDERMIT & McDERMIT,
Attorneys.

Return to Writ.

RETURN.

10 The answer of the Justices of the Supreme Court of the State
of New Jersey within-named. The record and proceedings
whereof mention is within made, with all things touching and
concerning the same, we do certify to the Court of Errors and
Appeals of said State, in a certain schedule to this writ annexed,
as within we are commanded.

WM. S. GUMMERE,
C. J.

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Writ of Error.

Writ of Error.

Filed.

NEW JERSEY, ss.

(SEAL) The State of New Jersey to our Judges of our Court of Oyer and Terminer of the County of Essex, constituting the Court of General Quarter Sessions in and for the County of Essex, GREETING: 10

Because in the record and proceedings and also in the giving of judgment upon a certain indictment in the name of the State of New Jersey against Joseph Mayewski, for receiving money from a prostitute, in the City of Newark, in said County of Essex, found in our Court of Oyer and Terminer and in and for said county heard and determined, manifest error hath intervened to the great damage of him, the said Joseph Mayewski, as from his complaint we have received information, we being willing in this behalf to correct the error in due manner if any there shall be, and that speedy justice may be done to him, the said Joseph Mayewski, do command you, that if judgment be thereupon given, that then you do send the record and proceedings aforesaid, with all things touching and concerning the same, to us, under your seal, distinctly and openly, and this writ, so that we may have them before our Supreme Court of Judicature, at Trenton, on the eighth day of March next, that inspecting the proceedings and record aforesaid we may further do thereupon for correcting the error that which of right and according to law shall be fit to be done. 20 30

Witness, WILLIAM S. GUMMERE, Chief Justice of our said Supreme Court, at Trenton, the 17th day of February, A. D. nineteen hundred and nineteen.

(SEAL)

ENOCH L. JOHNSON,
Clerk.

McDERMIT & McDERMIT,
Attorneys.

FRANK M. McDERMIT,
Counsel.

Indictment.

Clark, Hubert F. Hahn, Henry G. Atha, Rev. Edmund A. Wasson, John W. Halsey, Thos. D. Miller, William S. Rich, Charles I. Beck, Armand J. DeRosset, Casper Milici, Michael F. McLaughlin, Frank Cantelmo, Charles W. Hunter, John J. Pfeifer, Harry M. Friend, good and lawful men of the said County of Essex, duly commissioned and then and there duly sworn and charged to enquire in behalf of the State of New Jersey, in and for the said County of Essex, it is presented in manner and form following, to wit:

10

ESSEX OYER AND TERMINER.

December Term, A. D. 1918.

Essex County to wit: The grand jurors of the State of New Jersey, in and for the body of the County of Essex, upon their oath, present that Joseph Mayewski, late of the City of Newark, in the County of Essex aforesaid, on the thirtieth day of May, in the year of our Lord one thousand nine hundred and eighteen, with force and arms at the city aforesaid, in the county aforesaid, and within the jurisdiction of this Court, unlawfully and knowingly did receive money to the value of thirty dollars, without actual and bona fide consideration, from one Margaret Wild, from the earnings of the said Margaret Wild, she, the said Margaret Wild being then and there a female engaged in prostitution contrary to the form of the statute in such case made and provided, and against the peace of this State; the government and dignity of the same.

20

J. H. HARRISON,
Prosecutor of the Pleas.

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On the seventeenth day of December, A. D. nineteen hundred and eighteen, on which day the said indictment was presented by the grand jury aforesaid, to the said Court of Oyer and Terminer, and the said Justice did then and there order the said indictment to be handed down to the Court of General Quarter Sessions, in and for the said County of Essex, and then and there the said indictment was duly delivered and duly filed by the Clerk of said Court and an entry of such order and delivery and filing was there and then made in the minutes of said Court at the same time pursuant to the statute in such case made and provided.

40

Postea.

Plea.

10 And afterwards, that is to say, on the nineteenth day of
December, A. D. nineteen hundred and eighteen, at the Court
of General Quarter Sessions, holden at Newark, in and for the
County of Essex, before the Honorable William P. Martin,
presiding Judge of the Court of Common Pleas, Joseph
Mayewski, in the custody of John R. Flavell, Sheriff of the
County of Essex aforesaid, and the said Joseph Mayewski
being brought before the bar in his own proper person and
forthwith being demanded of and concerning the premises in
the above indictment specified and charged upon him, how he
would acquit himself thereof, says that he is not guilty thereof,
and therefore for good and evil he puts himself upon the
country, &c., and J. Henry Harrison, prosecutor of the pleas
20 of said State, for said County of Essex in this behalf doth the
like.

Therefore, let a jury thereupon come before the Court of
General Quarter Sessions to be holden at Newark in and for
the County of Essex, on the fourteenth day of January, A. D.
nineteen hundred and nineteen, then next ensuing twelve free and
lawful men, each of whom shall be a citizen of this State and
resident within the County of Essex aforesaid, above the age
of twenty-one years and under the age of sixty-five years by
whom the truth of the matter may be better known and who
30 are not of kin to the said Joseph Mayewski to recognize upon
their oath whether the said Joseph Mayewski is guilty of the
premises in the said indictment specified or not guilty because
the said J. Henry Harrison, Esq., prosecutor, &c., as the said
Joseph Mayewski puts himself upon the jury and the same time
is given to the parties aforesaid at the same place.

40 And now, that is to say, the thirteenth day of February,
A. D. nineteen hundred and nineteen, to which date the trial
of said issue was postponed, at the same Court of General
Quarter Sessions holden before the Honorable William P.
Martin, Judge of the Court of Quarter Sessions, comes the said
J. Henry Harrison, who prosecutes as aforesaid, and the said
Joseph Mayewski and the jury of whom mention is before made,
and by the said John R. Flavelle, Sheriff of the County of

Postea.

Essex, for this purpose empanelled and returned, to wit: after the following number of challenges were exhausted: By the State, four; by the defendant, seven. Bartlett W. Page, Frederick Fuchs, William G. Locherty, Isaac Wood, William B. Abbey, James L. O'Brien, Robert E. Louer, William H. Speller, George Schneider, John W. Lushear, Harry W. Van Brunt, James P. Benbrook, who being called, were sworn upon that jury who to speak the truth of and concerning the premises and thereupon the trial of said issue was commenced and continued until the fourteenth day of February, A. D. nineteen hundred and nineteen, when the jury returned into Court in charge of the officer sworn to attend them, and then and there in the presence of the prosecutor, defendant and Court do say upon their oath they find the said Joseph Mayewski guilty, and so they say all.

10

Judgment signed
February 17, 1919.
WM. P. MARTIN,
Judge.

Whereupon all and singular, the premises being seen and by the Court now here fully understood, it is on this seventeenth day of February, A. D. nineteen hundred and nineteen, ordered and adjudged that the said Joseph Mayewski be com-

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mitted to the County Penitentiary for a period of eighteen months at hard labor and pay a fine of two thousand dollars upon this conviction and stand committed until the fine and costs are paid, which said costs are taxed by the Clerk at the sum of ninety-six dollars and ninety-one cents, and the said defendant be in mercy, &c.

30

40

Margarette Wild, direct.

ESSEX COUNTY COURT OF GENERAL QUARTER
SESSIONS.

February 13, 1919.

10 STATE

v.

JOSEPH MAYEWSKI,

Indictment No. 79.

*Receiving Money
from Prostitute.*

20 Transcript of shorthand notes of testimony taken in the above entitled matter before his Honor William P. Martin, Judge, and a jury, at the court house in the City of Newark, New Jersey, in the presence of Clarence Blake, Esq., assistant prosecutor of the pleas, for the State, and Frank M. McDermit, Esq., for the defendant.

Mr. Blake opened for the State.

MARGARETTE WILD, sworn for the State.

Direct examination by Mr. Blake.

Q Mrs. Wild, where did you live on the 13th of May last; 1918 that is? A 41 Monmouth street.

Q This city? A Yes, sir.

30 Q How long had you lived there? A I lived there a year and a half or two years. I really do not know. Around two years.

Q With whom did you live? A Joseph Mayewski.

Q This defendant here? A Yes, sir.

Q How long had you lived with him? A Five years.

Q Were you married to him? A No, sir.

Q When you lived at Monmouth street how many rooms did you have there? A Four rooms.

Q Was it an apartment? A Yes, sir.

Q An apartment house? A Only three-family house.

40 Q How many families? A Three families.

Q Three-family house; and which flat did you occupy? A First floor.

Q While you lived there did you do anything for a living? A Well, I did until May—30th of May.

Margarette Wild, direct.

- Q What did you do? A I had men to my house.
- Q Where did you get these men? A One fellow would bring the other fellow.
- Q How did you start this practice? A I started that five years ago.
- Q At whose suggestion? A Mr. Mayewski's. 10
- Q What did he say to you? A He told me—I was going to work, and he told me to go out and make money—I would make money quickly with men than going in the shop. I did work for two days and then I went out and got men and brought them to the house.
- Q Was he ever at home when you brought these men to the house? A Why, he was at home; he used to go and hide.
- Q Was he there? A Some times.
- Q How often would he be there? A Very seldom was in in the day time. I always had my men in the day time. 20
- Q Did you ever have men at night? A Very seldom.
- Q Did you have them? A Once in a while; maybe one or two.
- Q Would the defendant be there when you had these men at the house? A Not at night; in the day time.
- Q Was he there at night? A No, sir.
- Q The defendant, was he there at night? A No, sir. He slept there all night, yes, sir; go out about 2 or 3 in the afternoon and come home supper time and go out about 7 and stay until two or three in the morning.
- Q What was his business? A Gambler, I guess. He was supposed to be a carpenter but he never worked at it. 30
- Q Which trade did he work at? A Gambling trade.
- Q Did he tell you that was what he did? A I know he did.
- Q What places did he frequent, if you know? A Sir?
- Q Do you know where he used to stay in the day time? A I know where he stayed at night time playing cards.
- Q Did you ever go there and see him there? A Lots of times.
- Q Did you ever get men there? A No, sir.
- Q Did he ever see you with men? A My men always came to the house. Never went out in the street to get them. 40
- Q How much did you take in in a day?
- Mr. McDermit.* I object. What difference does it make? Her private acts has no bearing on the defendant

Margarette Wild, direct.

unless it is shown he connived at it with her. And there hasn't any foundation been laid for this class of proof.

10 *The Court.* Are you going to connect it, Mr. Prosecutor? I will let it in conditionally, and you may move to strike it out if it is not connected. Of course, you got to fix dates and times. She says she lived at 41 Monmouth street two years in a four-room apartment, with this defendant, and that she stopped this business at the end of last May and it would seem that the only time that you can refer to is within two years prior to the indictment.

Q Did you leave this address on Monmouth street on May 30th? A I left the 7th of October.

20 Q Left the 7th of October. And you say you lived there two years. That was two years back from October or from May? A From October. I moved in the second of October and I moved out the seventh of October. It was two years I lived there. I thought it was a year and a half.

Q And you lived with him a year and a half at that address? A Two years.

Q He didn't live with you up to October, did he? A He lived with me until he got arrested.

Q Up to October? A Yes, sir.

30 Q Now during the time you lived with him on Monmouth street—or was it during the time you lived with him at Monmouth street that he told you to go out in the street and get men? A He told me that five years ago.

Q Did you start five years ago? A Yes, sir.

Q And did you continue? A Yes, sir.

Q And continued all during the time you were in Monmouth street? A Yes, sir; until May.

Mr. McDermit. I move to strike it out. All the evidence tends to show that the statute of limitations runs against it.

40 *The Court.* If it was the result of practice or course of dealing or the request of the defendant ten years ago, it would be competent.

Mr. McDermit. It couldn't be unless it was within the statutory time.

Margarette Wild, direct.

The Court. That only relates to the acts of passing the money over.

Defendant's counsel prays an exception to this ruling of the Court, the same is allowed and it is signed and sealed accordingly.

Judge.

10

Q You continued in that practice for that whole period, five years? A Until the 30th of May.

Q Until the 30th of May.

The Court. Last year?

Witness. Yes, sir.

Q Now was he ever in Monmouth street when you brought men in there? A Yes, sir.

Q What would he do when you brought the men in, if you know? A He would hide in the bathroom. 20

Q Hide in the back? A Hide in the bathroom.

Q Where did you take the men? A In the bedroom.

Q And would you receive anything from these men? A Yes, sir.

Q How much would you receive? A Two dollars.

Q And after they paid you would they leave? A Yes, sir.

Q And after they left what would this defendant do? A He would come out.

Q And what would he say to you, if anything? A Take the money. 30

Q How much of the money? A All of it.

Q And he did that during the whole two years you lived in Monmouth street? A Until the 30th of May.

Q Pardon me? A Until May 30th.

Q Until May 30th? A Yes, sir.

Q Did you have any men in your house on the 30th day of May? A Yes, sir.

Q How many? A Four.

Q How much did you receive from them? A \$8.

Q How much? A \$8. 40

Q And what did you do with the money? A Gave it to him.

Q Was he in the apartment at the time these men were there on the 30th of May? A He was in, but he went out the parlor door and came back later.

Margarette Wild, direct.

Q What time did you have these men in the house? A Between two and four.

Q And were they all there together? A No, sir.

Q Did you go out and get them or were they there? A They came to the house.

10 Q They came to the house? A Yes, sir.

Q And you were in the house all that afternoon from two to four? A Yes, sir.

Q Was the defendant there? A He was until the men came, and he went out the parlor door.

Q When the men came in he went out the parlor door? A Yes, sir.

Q Where did he go, do you know? A Over to Broom and Mercer street, where he used to hang out.

20 Q Did these men come together or separate? A Two came at a time.

Q Two of the men came together, and then two together? A Yes, sir; two friends came together and the other was two friends.

Q How did you know that he knew these men? A He didn't know the men. He didn't take time to look at them. He went out the parlor door when they entered by the back door. He never wanted the men to see his face.

The Court. They came to the back door and knocked and he went away before he saw them?

30 *Witness.* He heard them knock and went out from the kitchen and through the rooms and went out the parlor door.

Q How much money did you receive from these four men? A \$8.

Q What did you do with that money? A Supper time came and he took it.

40 Q During all the time he lived with you—or he lived with you or you lived with him did he give you any money? A After I broke up housekeeping he gave me \$7. The room was \$6 and he gave me \$7.

Q When was that? A After May 7th—October 7th. After I put my stuff in the storage.

Q Up to the 30th of May did he give you any money? A Very seldom; five dollars and two dollars.

Margarette Wild, cross.

Q How much were you turning over to him during the month of May? A I really don't know.

Q What? A I don't know.

Q About how much? A Well, I used to get it by the days—once during the day.

Q How much would you get a day? A Over there I used to give him fifteen to twenty dollars; in the other house from twelve to fifteen. 10

Q I mean while you lived in Monmouth street? A From fifteen to twenty dollars a day.

Q And was that during all the time you lived at Monmouth street? A Yes, sir; until I stopped doing business.

Q And during all the time he lived in Monmouth street did he ever do any work? A No, sir.

Cross examination by Mr. McDermit.

Q How old are you? A Thirty-two years old. 20

Q Where were you born? A Newark.

Q What was your maiden name? A Margarette Reilly.

Q What part of Newark were you born in? A I was born way down on the Plank road.

Q You say you are a married woman, do you? A Yes, sir.

Q And your name is Wild? A Yes, sir.

Q When were you married? A Must be 11 years ago.

Q Eleven years ago. What was your husband's first name?

A Charles Wild.

Q What was his business? A Dyer. 30

Q Where is he now? A He is in court.

Q He is here in court, is he? A Yes, sir.

Q When did you last live with him, this man Wild? A Five years ago.

Q Down in Halsey street? A Where?

Q Halsey street? A I never lived in Halsey street.

Q Where did you last live with him as man and wife? A Corner of Mercer and West street.

Q When you were living with him were you also prostituting yourself? A No, sir. 40

Q You and your husband separated, did you? A Yes, sir.

Q Why?

Mr. Blake. I object.

Witness. This man.

Margarette Wild, cross.

Mr. Blake. I withdraw the objection.

The Court. Where is Mr. Wild? Is that the man?
(A man stood up in the court room.)

Witness. Yes, sir.

Q You lived with him up to five years ago, did you? A
10 Yes, sir.

The Court. When you say "Until I went with this man," to whom did you refer, to this Mayewski, this defendant here?

Witness. Yes, sir.

Q So that up to the time you met Joe Mayewski you and your husband had lived together, had you? A Yes, sir.

Q Any family? A No, sir.

Q Eh? A No, sir.

20 Q Where had you lived? A I don't understand you. What do you mean?

Q Where had you lived? A I told you corner of Mercer and West streets.

Q What business were you in then? A No business.

Q What business was your husband in? A Dyer.

Q Who supported the family? A My husband supported me.

Q How did you come to separate? A Over this man Mr. Mayewski.

30 Q Mayewski. Where did you meet Mayewski? A A pedler brought him to my house, clothes pedler.

Q Where? A A pedler brought him to my house, a Jewish man.

Q A pedler; what kind of a pedler? A Clothes pedler; man selling clothes.

Q Clothing pedler. What was this clothing pedler's name? A I really don't know.

Q How did he come to bring Joe to your house? Were you looking for men then too? A Certainly not.

40 Q How did he come to bring Joe to your house? A Just passing one day. I used to buy clothes from him. He brought this man up with him.

Q You called up the pedler? A I didn't call up the pedler.

Q Who did you call up? A Man came up—used to sell my friend clothes.

Margarette Wild, cross.

Q Who is your friend, lady friend? A Yes, sir. She is out of the city.

Q What is her name? A I don't know where she is now.

Q What is her name? A Mrs. Smith.

Q What was she doing at that time at your house, grubbing?
A She wasn't in my house. I am not talking about her being in my house; I said he came to this lady's house and to my house. 10

Q This pedler came from Mrs. Smith's home to your home?
A Yes, sir.

Q And brought Joe with him? A That was his friend.

Q What did he want? A He was with the man. I don't know what he wanted. It was none of my business.

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

Q Have anything to do with him that day? A No, sir. 20

Q Did he ask you to have anything to do with him? A No, sir.

Q How long was he there? A He kept coming every day by himself.

Q How long was he there on the first occasion, him and the pedler? A About ten minutes.

Q About ten minutes. Then he left with the pedler, did he?
A Yes, sir.

Q Or did he remain? A He left with the pedler.

Q He left with the pedler. When did you see the pedler again? A Used to see him once a week to pay him. 30

Q See him once a week? A Yes, sir.

Q The pedler came there once a week to see you? A No; to pay on the goods I had off of him.

Q The pedler came to make his collections for clothing he sold to you and Mrs. Smith, is that the idea? A Yes, sir.

Q Now, then, the next day after the pedler called with Joe then Joe came over to see you? A He used to always make excuses. Come up looking for the pedler.

Q Came the next day looking for the pedler. What did he say to you? A I used to slam the door in his face. 40

Q What? A I slammed the door in his face.

Q You slammed the door in his face. So then he came the next day looking for the pedler, did he? A Yes, sir.

Q You slammed the door in his face? A I let him in.

Margarette Wild, cross.

Q You let him in. What did he do? A I had a lot of friends in my house—lady friends in my house.

Q Mrs. Smith there too that day? A No, sir.

Q How many lady friends did you have? A About three.

Q Were they permanent or transient?

10 *The Court.* What is the purpose of this examination?

Mr. McDermitt. The State opened its case and said under an agreement made five years ago between these people she began the life of a prostitute. I want to show a situation to contradict that; to show her acts and what her surroundings and conditions were, to discredit her story. Her conduct and acts are a subject for the jury to review.

The Court. What difference does it make how many people were there unless you can produce them.

20 *Mr. McDermitt.* I couldn't produce them unless I knew who they were and what they were. It is news to me that there was any such situation.

Q Any way there were four or five women there that day, was there? A Three.

Q What were their names?

Mr. Blake. I object.

A I don't know. I forget the names.

30 *The Court.* I cannot see the materiality of that, Counsellor, at all. When you were asked by this defendant to lead a life of prostitution, as you have already testified, Mrs. Wild, and give him the proceeds of it, was anybody there at that time?

Witness. No, sir.

The Court. Did anybody hear it to your knowledge?

Witness. No, sir.

The Court. Where was it?

Witness. In the house.

40

The Court. Your house?

Witness. Yes, sir.

The Court. When you were living with Wild?

Witness. Yes, sir.

Margarette Wild, cross.

Q Now, then, it wasn't the day that the three women were there that you made that agreement with him? A I was living with my husband at that time.

Q It was not upon that day when the three women were present when he came in. That was his third visit. When did he next visit you? A I knew him a year before I went— started to live with him. 10

Q Then you had been intimate with him for over a year before he suggested that to you, is that right? A Yes, sir.

Q When did you first become intimate with him, on his third, fourth or fifth visit? A Three weeks after.

Q Three weeks after his first visit. Was that in your own house? A Yes; my husband's house.

Q And he continued—you continued to have him come there every week, did you? A Came every day.

Q Had intercourse with you every day? A Yes, sir. 20

Q Did he have intercourse with you every day for a whole year? A He watched my husband go to work in the morning, half-past six, and come in.

Q Just as soon as your husband went out to go to work Joe would show up and stay with you all day? A Stay in the house all day.

Q All day; and he did that for one entire year? A Yes, sir.

Q Had intercourse with you every single day he was there? A Not every day.

Q Did you have intercourse with anybody else besides him during that year? A No, sir. 30

Q Did you have intercourse with your husband? A Yes, sir.

The Court. Isn't that a confidential matter?

Mr. McDermitt. Not in this kind of a case.

The Court. She does not have to waive the privilege of the marital relation.

Mr. McDermitt. But nevertheless the subject of inquiry is proper, as to whether or not she had intercourse with her husband while she was having intercourse with this man. I do not mean the same day or same night, but I think it is proper inquiry in a case of this kind to show the morality of this woman and show her character. I think I am entitled to it. 40

Margarette Wild, cross.

The Court. The trouble of it is that the Court does not understand that you dispute her character. She says that she has been engaged in the business of prostitution. Now I do not understand from what you have said that you dispute that proposition.

10 *Mr. McDermit.* I do not.

The Court. You are not trying to prove that she is a chaste woman, do you?

Mr. McDermit. No; I want to show the condition—The point is this that she has testified that she was prostituting with other men for the benefit of this man. I want the jury to understand what led up to that situation and the class of woman she is,—to go to her credibility,—to show whether the jury can believe her statement.

20 *The Court.* She says she has been engaged in the business of prostitution.

Mr. McDermit. During that period of a year, that is the point, your Honor, during that period of a year in which he was visiting your house did you have any other men come there with him?

Witness. No, sir.

Q Or with anybody else? A No, sir.

Q You and Joe are not on very good terms now, are you?

30 A The same as we always were.

Q What? A The same as we always were.

Q You had some trouble with Joe up to 447 High street, didn't you? A That is when he got arrested.

Q What? A He got arrested from there.

40 Q Some trouble about some money that was taken from under a pillow in the bedroom there in which it was said it had been cut with a razor or scissors and the money taken out of the pillow cover. Do you know anything about that? A Certainly. He went to cut me with the razor and turned the wrong side over my throat. My hair was on the pillow and he slashed my hair and cut the pillow case and I grabbed my hair and he slashed a second time—my throat was getting slashed.

Q You hadn't taken six or seven hundred dollars out of the pillow case? A I didn't get in the room. The detective come that night—

Margarette Wild, cross.

Q You didn't get in the room? A No, sir; I run out.

Q Who ran that place up there? A I don't know.

Q How long had you lived there? A Five days.

Q What was the number on High street? A 444 High.

Q Whereabouts is that on High street; near what street? A
Second door from Bank street.

Q So after you had received him for a year then you left
your husband, did you? A Yes, sir. 10

Q And did you tell your husband why you were leaving him?

The Court. You do not have to state anything that
you told your husband or did with your husband when
nobody else was present unless you want to.

Q Well, you left your husband.

The Court. The marriage relation still existed and
that is a confidential communication.

Q You left your husband? 20

Adjourned until tomorrow morning at 10 A. M.

ESSEX COUNTY GENERAL QUARTER SESSIONS COURT

Feburary 14, 1919.

STATE,

vs.

JOSEPH MAYEWSKI.

30

SECOND DAY.

Appearances as before.

MARGARETTE WILD, resumed the stand.

Further cross examination by Mr. McDermit.

Q When you met the defendant first you were living on
Mercer street? A Yes, sir. 40

Q And the first time he had anything to do with you you
took him down to the hotel on Broad street opposite Bridge,
didn't you? A No, sir.

Margarette Wild, cross.

Q You were down in a hotel opposite Bridge with him when you first had intercourse with him? A No, sir; in my own house.

Q You charged him three dollars, didn't you? A Yes, sir.

Q Is that right? A Yes, sir.

10 Q And this pedler that brought him over to the house, he brought him over there to have a good time, didn't he? A No, sir.

Q Well, you told Joe something about the pedler, didn't you? A No, sir.

Q Didn't you tell Joe that the pedler had brought him there and that the pedler wanted you to take—get Joe's money away from him? A No, sir.

Q Didn't you tell Joe that? A No, sir.

20 Q And you and Joe were good friends right along after that, weren't you? A Yes, sir.

Q And every day for a whole year he come up to Mercer street, did he? A Yes, sir.

Q Is that right? A Yes, sir.

Q Now who were these four men that came into your home in Monmouth street on the last day of May last year? A I never asked the men their names.

30 Q Well, can't you give to the jury some idea of the names of any of the people that you say you had intercourse with in the Monmouth street house? A I never asked people their names. They would be foolish to tell me if I did.

Q How did you come to get these four men together? A They came theirselves. They were my customers for five years.

Q You were running a fast house? A With Mr. Mayewski, yes.

Q You were running a fast house? A Yes, sir.

Q And you were running a fast house when you first met Mayewski? A No, sir; I was not.

Q You always charged him as well as anybody else for intercourse? A Only first; only for about two weeks.

40 Q You only charged Joe for a couple of weeks for it? A Yes, sir.

The Court. You haven't answered the question who they were.

Witness. I really don't know.

Margarette Wild, cross.

Q You do not know and cannot tell this jury the name of one single man? A No, sir.

Q That came to the Monmouth street house? A No, sir.

Q And they came there by appointment, any of them, with you? A They came when they pleased. Whenever they felt like coming.

10

Q How did these people know that you ran that kind of a house up there? A I had those men about five years coming to my house. They were not strangers.

Q These same men? A Yes, sir.

Q That came up to Monmouth street—had been coming to your house for five years; is that right? A Yes, sir.

Q Now Joe and you had a little fight, didn't you? A No, sir.

Q What? A No, sir.

Q Who hired the High street room? A I did.

Q You and Joe had a fight up in that room, didn't you? A Yes; when he wanted to murder me. 20

Q Joe has got another girl now, hasn't he? A I don't know none of his business.

Q Joe has had another girl for something like a year back? A Girl giving him money, yes.

Q You have been following Joe up day and night in the streets? A I have been following him?

Q Yes. A I certainly have not.

Q Following him down to different places where he played cards? A He told me to come down there.

30

Q Threatening to have him locked up, is that right? A No, sir.

Q That isn't true? A No, sir.

Q Did you tell the other girl that Joe is going with now to bring Joe up to the house and you would both get him to sleep and rob him and whack up the proceeds? A No, sir.

Mr. Blake. I object.

The Court. Do not answer when there is an objection. On what ground?

Mr. Blake. I do not think it is material. Conversation she had with this girl, unless he first fixes the time.

40

The Court. The situation is that this witness has testified that she worked as described and she gave the proceeds to the defendant, and the purpose of the cross

Margarette Wild, cross.

examination is to show that the witness conducted an entirely separate and distinct enterprise and that the defendant merely came to see her as the others did. And when he left she tried to get him back. Objection overruled.

10 Q Please answer that? A I don't know what you said.

The Court. Didn't you tell this girl,—I don't know who it is,—or a girl that you and she would get the defendant in your room and when he got to sleep would rob him?

Witness. No, sir; I never had such a conversation.

Q You know who I am speaking about, don't you? I suppose you know Eva Speecher? A I never knew the girl's last name.

20 Q You know who I mean by "Eva," do you not? A Yes, sir.

Q You have talked with Eva? A We are the best of friends.

Q You talked with Eva and told her that she must—

The Court. Fix the date.

Q You have told Eva since last May upon several occasions that she must leave Joe alone or there would be trouble, haven't you? A I never had a conversation of that kind with the girl.

The Court. She has already said that this Eva is another woman who works for this defendant in the same way she has.

Q Now, then, didn't you say to Eva that if Joe didn't come back and live with you that you would make a charge of white slavery against him and you would send him to prison, and she could not have him? A Certainly did not. I don't want the man. It is him following me. I don't want him. When I broke up housekeeping he beated me and let me go everywhere to room. That is the reason I wanted to get rid of him. He is no use to me. He come up in my house in Mercer street and beat me. My husband seen him sneaking out in the middle of the night.

Margarette Wild, cross.

Q Why didn't you go back to your husband? A My husband didn't want me any more.

Q Didn't want you? A Certainly not, after this man was sneaking out of my house. He was for a whole year in my house, sneaking up nights and beating me because I had give my husband money, when I was living with my husband.

Q Didn't he give you money to put in the building loan? A No, sir. I put my brother's allotment in the building loan. 10

Q Didn't you put money in the building loan association? A Five dollars a month on my brother's allotment.

Q Didn't he put money in the American National Bank for you? A I should say not.

Q Didn't you have a bank account in the bank? A I did when I was out slaving for it.

Q That is where you deposited your money, didn't you, that you made? A What, one hundred dollars? I could own houses today with all the money I gave him. 20

Q Do you know where 81 South Orange avenue is? A Yes, sir.

Q And you know that Joe had a room up there, don't you? A Yes, sir.

Q And when Joe was over to your house visiting you after you and he had broken up didn't you take a key out of his pocket? A No, sir; he never left my house until he got arrested. We didn't break up in my house. We lived together until he got arrested. 30

Q He did have a room at 81? A That is to fix his fake cards in.

Q Fix his fake cards? A Yes, sir.

Q You feel very pleasant. Did you ever take all his clothes out of 81 and bring them home? A Because he gave us the key to go and get the clothes. He said he owed the lady too much and we had to get it for him.

Q You took the key out of his pocket? A No, sir; he handed it to me.

Q You stole all his clothes and brought them back to Monmouth street? A No, sir. 40

Q You brought them back? A He gave it to me and I helped to get them for him.

Q He gave you the key to get them for him?

Margarette Wild, cross.

The Court. You have got enough of that, haven't you. You have had her answer twice.

Q You cut his clothes up to, didn't you? A Well, my clothes I cut up. All my hard earnings they meant. I had to go two years without clothes on my back and this man had nine
10 suits.

Q When you and Joe separated you cut up six or seven of his suits in pieces? A No, sir.

Q That is not true. How many did you cut up? A I cut up his suits two months before we separated—what belonged to me.

Q When he came to your house did you take his hat and coat and lock them up so he couldn't get them? A No, sir.

Q Never did that? A No, sir. And he wanted to steal my furniture. Before I moved he stole the key to my front door—
20 I had to buy a key when the man came to take the furniture out.

Q You did not upon 25 or 30 different occasions go out after him at night? A No, sir.

Q Listen to the question, please. And get hold of him and bring him to the house and lock the house up and keep him there and threaten to shoot him? A Threaten to shoot him?

Q Yes. A He is the one that always had the guns and razors, not I. Certainly not.

Q Why did you want to live with him? A I couldn't get rid of him. This is the time I am getting rid of him by getting
30 him arrested.

Q He knew about these other men coming there, did he? A Yes, sir.

Q And when they came there he would hide in the bathtub? A In the bathroom, not the bathtub.

Q Your sister lived in the Monmouth street house for quite a while? A My sister lived with—left about two years next—

Q Did or did not your sister— A No, sir.

Q Live in the Monmouth street house? A No, sir.

Q Did your sister have any children? A My sister that
40 died? Yes; she lived there three weeks in my house. That is a year and a half ago.

Q Yes; and at the time that your sister was living there dying from tuberculosis were these men coming in to see you? A No, sir; they stopped for the three weeks.

Margarette Wild, cross.

Q Did Joe come to see you during those three weeks? A He always lived in my house.

Q Now this is a three-story building, isn't it, in Monmouth street? A Yes, sir.

Q There is two families, one on the second floor and one on the third floor? A Yes, sir. 10

Q And you occupied the downstairs flat? A Yes, sir.

Q You started these proceedings against Joe, did you not? A What proceedings?

Q These proceedings—present proceedings—proceedings of the State of New Jersey against the defendant. You went down and made the complaint?

The Court. How do you mean?

Mr. McDermit. She started the procedure of these proceedings. She started the complaint. Had him arrested. 20

The Court. You can ask her if she signed the complaint.

Q Did you sign the complaint? A Yes, sir.

Q Against Joe? A Yes, sir.

Q Did you make that complaint voluntarily or did some one suggest to you the making of that complaint?

Mr. Blake. I object. It doesn't make any difference who made the complaint. 30

The Court. Of course this is now the case of the State of New Jersey against this defendant under an indictment found by the Grand Jury of this county and you are trying to show the bias of the witness, I suppose.

Mr. McDermit. Yes, sir.

The Court. She may answer that question.

Q Did you make the complaint yourself of your own free will or did some one suggest the making of the complaint to you? A I made it of my own free will. 40

Q Your own free will. Now that complaint was made following some trouble in the High street house, was it? A Certainly; after he wanted to kill me with the razor.

Q And how many days had you been to the High street house? A Five days.

Margarette Wild, cross.

Q And this happened on the fifth day you were at the High street house—this trouble occurred? A Yes, sir.

Q This is where you say he pulled the razor and was going to kill you? A Yes, sir.

Q Why? A Why, because I told him I was going to get
10 him arrested.

Q Now, did you sleep there that night with him? A Yes, sir.

Q Slept until ten or eleven or twelve o'clock the next day?
A Certainly not. Out of the house seven in the morning. He got in half-past three. He told me he was going to buy me a coat; he says "I only got \$30 in my pocket. I will buy the coat later." I said "After me giving you money for five years can't I have a coat?" "I gave shivers on the street." He put the back of the razor on my throat; my hair was on the pillow and
20 he made two slashes with the razor and I pulled my hair; that is how the pillow case was cut. It was my pillow case that was cut.

Q He didn't have his money under his head and lay on the pillow case? A That isn't the one that was cut.

Q You saw the pillow case after it was cut? A It was mine. Certainly. My hair—

Q The pillow case is here, isn't it? A Yes, sir; and the razor is here.

Q The pillow case, you say, was your property? A No; it was under my head. It was me who was laying on the cut
30 pillow case.

Q Wasn't Joe laying on the pillow and didn't you take the scissors, and cut the back of the pillow with the scissors? A It was the razor.

Q Didn't you cut the back of the pillow case with the scissors—not the razor—with the scissors— A No, sir.

Q—in an effort to get at Joe's money? A No, sir; it was the razor cut the pillow case.

Q And didn't you say that unless Joe gave you \$150 to get you new clothes and a coat so that you could go on to do your
40 business, you would go right down to the police station and make a charge against him? A I didn't do business in a long time.

Q Didn't you take in point of fact \$270, his gold watch and locket and pin? A No, sir.

Margarette Wild, re-direct—re-cross.

Q A twenty dollar gold piece besides? A No, sir. I grabbed his pants and his vest to go out to get him arrested. I thought he couldn't leave the room while I went out and got the police after him. I got out and got to a lady's house and was there two minutes when Joe came and he knocked at the door; the lady's niece went to the door and he says "Where is Margarette, that big H," he said it right out in the hall. The little child run and slammed the door. The aunt was in bed resting. So the aunt came and she says "If you don't get away from that door I will get you arrested"; so he hung around the corner.

10

Q This was on Thirteenth avenue, wasn't it? A Yes, sir.

Q You had ran from the High street house with \$270, gold watch and chain, this man's vest and the other stuff from this room and ran for refuge into a woman friend's house of yours on 13th avenue; isn't that so? A There was about one dollar in his pants pocket.

20

Q You took the dollar then, did you? A I left it laying there.

Q Left it laying where? A When I shook his pants it fell out.

Q Where did you shake his pants, 13th avenue? A Yes, sir.

The Court. We are not trying an assault and battery case or a larceny case. We are trying the case as to whether or not this defendant received money as the proceeds of prostitution. You have the fact that they had a quarrel and as a result of that quarrel she made a complaint. What more you want I cannot see. If there is anything more you do want, why state it, but do not spend time going over and over and over again an incident which has no apparent relation to the case.

30

Re-direct.

Q Would you know that pillow case if you saw it? A Yes, sir.

Q Is that it? A That is what got slashed with the razor.

Q Would you know the razor if you saw it? A Yes, sir.

40

Q Is that it? (Showing witness razor.) A Yes, sir.

Re-cross.

Q Did you take the razor and the pillow case when you ran out of the house too? A No, sir. Joe stood around; when I

Margarette Wild, re-direct—re-cross.

went back the door was locked. I had to get the key. When he was arrested we got the key off of him, and then we went up and got the pillow case and stuff with the detective.

Re-direct.

10 Q Did I understand you to say you hadn't been entertaining men since last May? A Yes, sir.

Further cross.

Q Now isn't it a fact that Joe was asleep and that while you were in the act of taking the money out of the pillow case that he woke up and said "Margarette, what are you doing"? Isn't that so? A No, sir. Why, he was awake; he was the one that cut the pillow case. He wanted to kill me; he tried to cut my neck. Only for the man in the next room came out I'd a been killed I suppose.

20 Q Isn't it a fact that you were fully dressed, with all your clothes on? A No, sir.

Q And started to go away when the pillow case was cut? A No, sir. I went down to the bathroom and dressed myself half and put half in my valise and went to the lady's house and dressed. I was just dressed when Joe came hollering.

Q Didn't you have your hat and your coat on your arm? (Question withdrawn. Didn't you place your hat and your coat out in the hallway? A No, sir; I had my night gown and my coat over it when I wanted to run out.

30

By the Court.

Q What is 81 South Orange avenue? Did you say? A Furnished room house, I guess.

Q Have you ever been there? A No, sir; only once when Joe gave me the key to get his clothes.

Q What did he tell you, if anything, about what that place was for? A He told me he fixed his cards there. He used to bring a lot of fellows—

40 Q Fixed what? A His cards; marking them on the backs and all, to skin the fellows.

Q Is that what he said to you? A Yes, sir.

Q You met him, as we understand the matter now, about five years ago or six years ago, and then five years ago you went out from your home and lived with him? A Yes, sir.

Margarette Wild, by the Court.

Q Now when was it that you first got to be afraid of him? A I always was afraid of him.

Q Why did you stop doing this work that you say you did up to the first of June? A First of May. My health failed me.

Q Up to the first of May. A My health failed me.

Q Then you went on and lived with him after that? A I 10
couldn't get rid of him. I was afraid of getting arrested. I thought I would get my—I asked the detective; he said—

Q Never mind what you asked the detective. Did he say anything about that to you? A No, sir.

Q You lived on Monmouth street and you did this work for him, as you say, and yet when your health failed and you couldn't go on doing that kind of work any more you stayed with him; is that so? A I had to keep giving him money just the same.

Q I ask you if that is the fact? A Yes, sir.

Q Now where did you get the money from that you kept on giving him? A My brothers gave it to me. 20

Q Did you ever tell him that you had stopped doing this business? A I told him? Certainly; I told him I stopped doing business because I had no clothes or anything but the working clothes around the house. Sometimes I would hardly have anything to eat; he would take the money and go out and gamble it.

Q You pay attention to my question and not talk about something else. You have told us that for years this man lived in the same place with you; slept in the same bed at night with you; is that so? A Yes, sir. 30

Q And that he went out at 2 o'clock in the afternoon and came home for his supper or his dinner or whatever you called it, and then he went out again and came back at 2 o'clock in the morning. Is that right? A Yes, sir.

Q And that he said to you that he was a gambler; is that right? A Yes, sir.

Q And that during the day time and sometimes at night and even in the morning you received men? A I never received—

Q As high as ten men a day and that you charged them two dollars apiece and that you gave the money to this defendant; is that so? A Yes, sir. 40

Q Now there came a time in May of last year when you stopped doing that. Is that so? A Yes, sir.

Margarette Wild, by the Court.

Q Now did you tell him that you had stopped, or what talk was there between you at that time? A I told him I wasn't going to do any more business.

Q What did he say? A I really forget what he did say.

10 Q Well, if you can't remember what he said— A I know we had a big fight.

Q What? A We had a big fight. He said he had to get money some place.

Q Did you tell him you were going to stop doing business? A Yes, sir.

Q Or did the receipts begin to fall off and did he ask you why they did fall off? A No; I told him I wouldn't do any more business.

Q What did he say? A We had a fight.

20 *The Court.* Strike that out. It is too indefinite. What was that about?

A He said he wasn't able to work and wouldn't work and some one else would have to keep him.

Q When did he say, as you stated, he was unable to work? A He always says that, "Sick man," he says, "Delicate."

Q Well, what was this fight about? What happened that you call a fight? A He went around beating me and pounding me on the head, and I had to hold the door and keep myself in the bedroom until he went out.

30 Q Then what happened? A When he come back he was all right.

Q He went out? A Yes, sir.

Q Did you go out after he went out? A No, sir.

Q Do you mean to tell us that because of physical fear that you stayed there? A Why certainly.

Q Then why didn't you go out? A Only when he fought he was only dangerous. Other times he was all right.

40 Q Then you stayed and lived with him after the first day of May and up until the third day of October; is that it? A Up until he got arrested.

Q That was in October, was it? A I really don't know the date.

Q Were you perfectly willing to go on and do this work for him and pay him the money? A No, sir.

Q What? A No, sir.

Margarette Wild, re-direct.

Q Why did you do it? A I was ashamed to let my old friends know it. Everybody thought I was married to him. He always went by my husband's name, Mr. Wild.

Q You had these men come into your apartment on the first floor on Monmouth street in broad daylight? A Yes, sir.

Q You weren't very much ashamed then. That can't be the reason, can it? Is that all you have got to say about that? A (No answer.) 10

Q Well, that is all then, is it? A Yes, sir.

Q You said something that may have meant you had a lot of men call on you at Monmouth street. Only these four men you speak of particularly. A I had more than that.

Q There during the whole period of five years. These four—two of them came one time and two another time—the defendant was there and he went up in the bathroom—after they came into the bedroom he left, you said, on one occasion? A That was different fellows; not these four fellows; he went out the parlor door another day. 20

Q These four men— A Yes, sir.

Q Men that you had coming to see you for the purpose of prostitution for upwards of five years? A Yes, sir.

Q What? A Yes, sir.

Q And how about the others that came there to Monmouth street? A They all came different times.

Q Had they been coming to see you for five years for that purpose? A Yes, sir. 30

Q What? A Yes, sir.

Re-direct.

Q Did you have any friends in the house in Monmouth street? A I had my niece—my two nieces and two nephews—little children.

Q Did they think you were married to Joe? A No; my niece didn't, but I mean all my other friends did.

Q Were your other friends living anywhere around Monmouth street? A No, sir. 40

Q None of them lived around there? A No, sir.

Q And those were the friends you were ashamed to have know you were not married to this man? A Yes, sir.

Margarette Wild, re-cross.

Re-cross.

Q Your sister—deceased sister and the other sister who visited you there and those nieces knew that your name was Wild, didn't they? A He always went by Wild.

10 Q And they knew your husband, of course? A Oh, my niece? Certainly she knew my husband.

Q Your husband used to come to Monmouth street too, didn't he, once in a while? You used to feed him and give him clothes? A Certainly not. I had no clothes to give him.

Q He used to come there two or three times a week and eat there? A No, sir.

Q How often? A Once or twice in three months.

Q Isn't it a fact that he slept in the Monmouth street house often? A Very seldom; twice.

Q Twice he slept there? A Yes, sir.

20 Q He knew this man Joe? A Certainly.

Q And he talked with Joe, didn't he? A He always had fights.

Q You and your husband and Joe sat down and ate together, the three of you, didn't you? A No, sir.

Q Is that right? A No, sir.

Q Well, you and Joe and your husband has had conversations together; isn't that right? A Once in a while.

Q Please answer the question? A Yes, sir.

30 Q Very frequently? A Not very frequently; because my husband worked up in Westfield; couldn't get down to Newark very often.

Q Your husband knew what you were doing, didn't he?

Mr. Blake. I think we are getting far afield in this inquiry. This man is charged with receiving money from this woman that she received from prostitution. Conversations with the husband I do not think are material to the issue.

40 *The Court.* The trouble is this, the prosecution in presenting its case has failed to show that this woman has received a particular sum of money from a certain man on a certain day and that money was delivered to this defendant and the defendant knew it was money received by prostitution. You put this woman on the stand and asked her how much did you make on the average and

Margarette Wild, re-direct.

how much did you give this man. No objection was made, and from that generality has resulted a general cross examination and now we find ourselves dealing with a broad line of matter. Now, Mrs. Wild, if you ever told your husband or spoke to him about this situation when no one was present, then you may decline to answer; if you told him that in the presence of anybody you may answer the question. 10

Witness. I didn't tell him in the presence of anybody.

Re-direct.

Q With whom did you go to the house to get this pillow case and razor? A Mr. Bauman—Detective Bauman.

Q That was after your husband was arrested? A Yes, sir.

Q Let me understand you; on the 30th day of May, that is the last day you say you were in business in the house, how many men came to see you? A Four. 20

Q How much did you receive from those four men? A Eight dollars.

Q Two dollars apiece? A Yes, sir.

Q What did you do with that money? A Gave it to Mr. Mayewski.

Q Were those the men who came to the house while your husband was there? A Yes, sir.

The Court. Do you mean husband?

Mr. Blake. Or while the defendant was there? 30

Witness. Yes, sir.

Q Did he say anything to you when these men came in or did you say anything to him? A He was sitting at the table eating when they came. I have a glass door on the back porch and he seen two men coming—he jumped up from the table—he never wanted any one to see his face—he jumped up, went in the dining-room, took his hat and coat and went out the parlor door; so I didn't see him until half-past six at night.

Q When he came in at half-past six these men were all gone? A Certainly. 40

Q What did you say to him and what did he say to you? A He asked me for the money.

Q What money—what did he say to you? A He says where is the money the men gave you?

Margarette Wild, re-cross.

Q What did you say to him? A I handed it to him.

Q How much? A Eight dollars.

Q The same eight dollars you received from these men? A Yes, sir.

By the Court.

10

Q Now these four men had had intercourse with you for five years? A Yes, sir.

Q Off and on; and you don't know either their first name or last name or anything else about them? A I never asked them their name.

Q I didn't ask you whether you asked their name, I asked you whether or not you know their name, or any of them? A No, sir.

20

Re-cross.

Q How many times do you think any one of those individual men had intercourse with you in the last five years, twenty times? A I guess three hundred.

Q Hundred times?

The Court. Three hundred she says. The same men?

Witness. I had a bunch of men; not only those four men.

30 Q These four men that came, how often had they been coming to see you before? A Twice a week.

Q Twice a week? A Yes, sir.

Q Same four men? A Yes, sir.

Q What business are they in? A I don't know their business.

Q How old are they? A Middle age, I guess.

Q Married or single, do you know? A Married.

Q You had been charging three dollars right along before that time? A Dollar for the bed.

40 Q But you cut it down to two on this last trip; right? A Some times.

Re-direct.

Q Was there any time that he asked you for money when you didn't have it to give? A Yes, sir.

Philip M. Bauman, direct.

Q What did he do to you then? A I got a beating. He would steal it if I didn't give it to him.

Q What? A He would take it out of my pocket book—steal it on me.

The Court. What was the rent of this place down on Monmouth street?

Witness. \$17.

10

Re-cross.

Q You signed a statement at the police station besides making a complaint, did you not? You signed a written statement at police headquarters? A Yes, sir.

Q And did you in that statement say that Joe had—

Mr. Blake. Don't answer until we find out whether it is proper.

20

Q —that Joseph had rented the High street house or not? A No, sir; he rented the Nelson place house.

Q I ask you whether or not you made such a statement? A No, sir.

The Court. Let me ask you, Mrs. Wild, you know the names of these people but you do not want to give them; isn't that it?

Witness. I don't know anybody's name.

PHILIP M. BAUMAN, sworn for the State.

30

Direct examination by Mr. Mott.

Q Did you go with this complainant, Mrs. Wild, to 44 High street some time in November? A November 25th. I took the pillow case off the bed; she give me the razor.

Q What did you do with it? A I took the pillow case and razor to headquarters.

Q Did you arrest the defendant? A Lieutenant Quinn and myself.

Q Where? A On Market street.

40

Q Was the complaining witness with you at the time you made the arrest? A Yes, sir.

Q Was that made the same night, the 25th? A Yes, sir.

Not cross examined.

Charles W. Wild, direct—cross.

CHARLES W. WILD, sworn for the State.

Direct examination by Mr. Blake.

Q Mr. Wild, you are the husband of the complaining witness? A Yes, sir.

Q In this case—Margarette Wild? A Yes, sir.

10 Q When were you married to her? A About twelve years ago.

Q Did you live with her here in the city? A Yes, sir.

Q Up to what time? A Until the 22nd of December, 1913.

Q What happened then? A She had me arrested with intent to kill.

Q Did she leave you? A Yes, sir.

Q And did she ever live with you from that time to the present time? A No, sir.

20 Q Did you ever see this defendant at your house before she left you? A Yes, sir.

Q How often? A Well, when I did see him, I warned him to keep away from the house. I met him on Springfield avenue and warned him a dozen times to keep away from my home.

Cross examination by Mr. McDermit.

Q You were married by Judge Bossett? A Yes, sir.

Q And you had been living with your wife how many years before you were actually married to her? A I was not.

30 *The Court.* What is the purpose of that?

Mr. McDermit. I purpose to show her general line of conduct to show the woman we are dealing with, as to her credibility, character, reputation, to sustain the charges that she makes.

The Court. There ought to be a limit to that.

Mr. McDermit. I will withdraw the question.

Q You know where 41 Monmouth street is? A Yes, sir.

Q And you frequently went up there? A Once in a while when I come from the country—from Westfield.

40 Q You slept over there at night time? A Only two times, when I couldn't get a place in Newark.

Q Did you know that your wife was doing anything?

The Court. You are making him your witness. This is not cross examination.

Sadie C. Martin, direct—cross.

Q Did you ever see any men come into the Monmouth street house to see your wife? A No, sir; I did not.

Q Did you ever have any knowledge in any-way, shape, manner or form that your wife was running with other men and entertaining them, outside of Joseph? A No, sir; I did not.

Mr. Blake. I object. 10

The Court. You need not answer that question. If he is your witness that is not the way to ask him. Objection sustained.

SADIE C. MARTIN, sworn for the State.

Direct examination by Mr. Blake.

Q Where do you live, Miss Martin? A Since my aunt broke up housekeeping I have been living with my father's people on Lafayette street. 20

Q You are a niece of Margarette Wild who was just on the witness stand? A Yes, sir.

Q And did you see the defendant at her home on Monmouth street? A He used to live there.

Q Were you ever present when they had a quarrel? A Well, only the last time,—the day that they were breaking up housekeeping, was the only day—that was when they had a quarrel.

Q What did he do to her? A He threw her over the machine and said he was going to kill her. 30

Cross examination by Mr. McDermit.

Q You lived in this house and slept there right along, didn't you? A Yes, sir; for over a year.

Q You lived in this house for over a year in Monmouth street? A Yes, sir.

Q Joe paid the rent? A I don't know who paid the rent.

Q How many beds were there? A Well, two beds; one I slept in and one my aunt slept in.

Q You were there for the full period of a year, were you not? A Yes, sir. 40

Q And your mother was there for a while? A My mother was only there for three weeks before she died.

Q Your folks lived there for a year, did you not, or over? A Yes, sir.

Sadie C. Martin, cross.

Q In the same room; slept there and all? A Not in the same room.

Q On the same floor? A On the same floor.

Q You folks were there in the day time, were you? A No, sir; I was to work in the day time.

10 Q What time in the morning did you go to work? A Six o'clock in the morning.

Q What time did you return? A About quarter after six or half-past.

Q Did your sister remain home or did she go to work? A My sister? I haven't any sister.

Q Anybody else remain in the house besides your aunt? A In the morning, do you mean?

Q Yes. A Joe used to come in about six o'clock in the morning.

20 Q Who? A Joe.

Q Joe would come in at six o'clock in the morning. Came there six o'clock every morning before you went to work, is that right? A Yes, sir.

Q And he would sleep during the day time, wouldn't he? A I guess so; I wasn't home.

Q Who else was in the house besides you and your mother, anybody else besides Mrs. Wild? A Only my brother and my little sister—my two brothers and my little sister.

30 Q How old is your brother? A He is only seven; the other brother is five and my little sister is three.

Q Did they live there after your mother died? A Yes, sir; for a time only.

Q How long? A About four or five months; then my step-father took them up to his house.

Q So that the four children, you and your two little brothers and your little sister, they lived there after your mother died in that 41 Monmouth street house for how long? A Well, I have been—my brothers only lived there about four months, but I have been living there ever since until they broke up house-keeping.

40 Q You remained there until they broke up housekeeping? A Yes, sir.

Q You never were there during the day time? A No, sir; I was working in the day time.

Sadie C. Martin, cross.

Q Did you ever see any men come around that place during the time you were there—night time? A No, sir. I used to go out night time.

Q What time did you go out and when did you come back? A Used to go out about seven and come back ten or half-past ten.

Q Now, any time during the number of months that you were living there did you ever see any men come in there at night time to visit your aunt, Mrs. Wild? A No, sir. 10

Q Did you ever see during the entire time there by day or night that you were there any other person come in other than Joseph there? A No, sir.

Q Do you know the people who lived upstairs? A No, sir.

The Court. What was this that your aunt had, an apartment?

Witness. Four rooms. 20

The Court. All on one floor?

Witness. Yes, sir.

The Court. And it was the first floor of the building?

Witness. Yes, sir.

Q Did you ever see any financial transactions between Joe and Mrs. Wild? A No, sir.

Q Did you? A No, sir.

Q Did you ever see Joe give her money? A No, sir. I didn't know that he ever gave her money. I don't know whether he ever gave her money or not. 30

Q Did you ever see Joe, the defendant, give Mrs. Wild any money? A No, sir.

Mr. Blake. I offer in evidence the razor and pillow case.

Mr. McDermit. No objection.

Articles marked Exhibit S. 1 and 2.

Q Were you home the night that Margarete, your aunt, cut Joe's clothes up? A No, sir; I wasn't. 40

Mr. Blake. I object as not cross examination.

Witness. I wasn't home that night at all.

The Court. Objection sustained. That was not done there, was it?

Sadie C. Martin, cross.

Witness. I don't know where that was done.

The Court. I am asking counsel. The evidence doesn't show that that was done at High street?

10 *Mr. McDermit.* No. She took the clothes away from South Orange avenue and cut them up; took them to the house in Monmouth street.

The Court. You are making her your witness.

Mr. McDermit. All right.

The Court. You have no right to lead her:

Q Did you bear any conversation about Margarett going to Pittsburg? A To Pittsburg?

Q Yes. A No, sir.

Q Did you ever hear any conversation there when they were breaking up house as to what she was going to do in the future?

20 A No, sir; I did not.

Q Did you go out with your aunt Margarett with the bag—satchel? A What satchel do you mean?

Q Why a clothes satchel—carrying clothing? A No, sir; I did not.

Q Did you go out into an automobile with—did you go out to accompany your aunt as far as an automobile and put the valise in the automobile?

Mr. Blake. I object.

Mr. McDermit. Question withdrawn.

30

STATE RESTS.

Mr. McDermit opened for the defense.

The Court. Before you call a witness I want to ask the girl a question.

By the Court.

Q How old are you? A Nineteen.

40 Q And did this defendant go under the name of Mr. Mayewski or Wild at this place where you lived? A It was always Wild on the bell.

Q Wild or Bell? A Name of Wild on the door bell.

Q What did you call him? A I called him Joe.

Q You knew he was not the husband of Mrs. Wild, didn't you? A Yes, sir.

Raynor F. Jarmichi, direct.

Mr. McDermitt. I intend to prove the financial condition of Mr. Mayewski; money he had in banks of his own. I want to show his financial standing at that time.

The Court. Suppose a man is charged with larceny and he offers to prove he is worth a hundred thousand dollars, is that a good defense? 10

Mr. McDermitt. That is the question here; whether in this case, where the allegation is made that he obtained his living from one source, whether we can prove that this man had independent means of his own.

RAYNOR F. JARMICHI, sworn for defendant.

Direct examination by Mr. McDermitt.

Q Mr. Jarmichi, are you connected with the American National Bank in any capacity? A Yes, sir. 20

Q What is your position there? A Bookkeeper of the savings department.

Q And in 1916 and 1917 did one Joseph Mayewski, the defendant, have an account in your bank, to your knowledge?

Mr. Blake. I object.

A He did.

Q Do you know what his deposits, made in that bank, were,—as to the amount of the deposit?

Mr. Blake. I object. 30

A Yes, sir.

Q And have you a transcript in your pocket taken from your books showing the amount of deposits that were made by Mayewski during that time? A I have.

Q And was that transcript taken from the books today—this morning or yesterday? A Why I have the original.

Q The original transcript? A Ledger page; yes, sir.

Q From the ledger of your bank? A Yes, sir.

Q I ask you to produce that. A (Witness complied.)

Q I show to the witness what purports to be a page from the original ledger, leaflet page, book No. 295869, and ask the witness whether or not that represents the bank account of the defendant, Joseph Mayewski during that time which the book covers? A It does. 40

Raynor F. Jarmichi, direct.

Mr. McDermit. I desire to offer this transcript in evidence.

Mr. Blake. I object.

The Court. On what ground.

10 *Mr. Blake.* This is not direct evidence. It is evidence which is offered for the purpose of allowing the jury to draw certain inferences of fact. Now the fact that this defendant had money in the bank standing by itself and was a man who derived money from other sources, does not prove anything in this case of receiving money from a prostitute.

The Court. Your ground of objection is, first, that it is irrelevant, secondly, that it is immaterial and, thirdly, that there is no foundation laid. Is that correct?

20 *Mr. Blake.* Absolutely.

The Court. It has never been a defense that a man did not have to steal because he had enough.

Mr. McDermit. Certainly not.

The Court. What is the difference between that and this?

Mr. McDermit. The difference is this—

30 *The Court.* There are hundreds of men that we read about every day in the newspapers worth thousands charged with taking money belonging to other people, and you mean to say that it is a good defense to say that they have got enough money and do not have to steal? There is no logical connection between the two in human experience.

Mr. McDermit. I mean to say in a case of this kind, where a defendant is charged with obtaining money from prostitution and where the state claims and where the state's witness claims that defendant's means of support came from that source—

40 *The Court.* You do not have to show that it was his means of support. All that it is necessary is to show that this woman received some money from prostitution and that she delivered it to this defendant and that he knew at the time that it was money received from prostitution. You do not have to show that she was supporting him or anything else.

Joseph Mayewski, direct.

Mr. McDermit. And the further contention made by counsel for the admission of this paper is that *prima facie* the deposits show a refutation of her story—that contradicts her, and takes this without the rule and which make it an exception, where the state contends that he has been supported and got his livelihood from this woman. I think in that aspect of the case this account should go in. I offer it and ask that it be marked. 10

The Court. Mark it D. 1 for identification.

Paper marked Exhibit D. 1 for identification.

The Court. If it appears subsequently that your evidence connects the bank account with the transaction in hand you may renew your offer.

JOSEPH MAYEWSKI, sworn in his own behalf.

Direct examination by Mr. McDermit. 20

Q Joseph, you are the defendant in this case? A Yes, sir.

Q And do you know Margarett Wild? A Yes, sir.

Q Are you a married man? A Single.

Q How long have you lived in Newark, about? A Seventeen years, City of Newark.

Q What is your line of business? A Carpenter.

Q And what else? A Go once in a while and play poker or anything, you know; gambling. Go out and play pinochle or poker or shoot crap. 30

Q Well, your occupation was— A Carpenter.

Q Carpenter originally? A Yes, sir.

Q But you don't work at the carpenter business at night time, do you? A No, sir.

Q So what did you do during the night times when you were living with Mrs. Wild on Monmouth street? You will have to tell us. A Lately?

Q No, at that time in Monmouth street. Go back to May, and a year and a half back from there. A I was working at that time. I was working on Monmouth street. I was working for myself. I can prove myself by the people I was working. Yes, sir. Working for myself. 40

Q Did you gamble or didn't you? A Yes, sir. Used to go out once in a while and play, but I used to work for myself.

Joseph Mayewski, direct.

Q You and Margarete had some trouble, did you? A Yes, sir; we had a little misunderstanding between me and Margarete. Margarete accused me because I was going with another girl, and I was living at the present time on South Orange avenue, on 81; had a room and she found it out I was going with another girl; she got jealous and she said if I don't go back and live with her—

The Court. If you are going to prove this you have got to prove the time, place, circumstances and persons present. The charge against this man is that he received money from a prostitute, earned by her as such prostitute and he knowing that it was such money. Now you asked Margarete Wild if she had a quarrel with this man and she answered, and that was not a fact relevant to the issue, but introduced by you merely for the purpose of showing bias and therefore you are bound by her answer. This man can only testify to the main facts in the case.

Q Now what did you do at Monmouth street? A I was living over there.

Q Who owned the property at Monmouth street? A Some people from 15th street.

Q Who paid the rent at Monmouth street? A I did.

Q Who supported the house? A I supported the house, and four children—her sister's children; her sister was sick, laying there. I told her to take her from St. Michael's Hospital. Sick—had consumption; no chance for her to live. I told her to bring her home and let her die in her own house.

Q And was the sister removed from St. Michael's Hospital to the house in Monmouth street where she died? A 41 Monmouth street.

Q And you paid the bills there, did you? A Paid everything.

Q How much money a week did you give Mrs. Wild to run the house there? A I gave her at that time from \$35 to \$40 because they didn't had nothing. They brought four children and they were all neglected because her sister didn't have nobody to support her, only her brother used to send a check for \$25 a month. That is all he sent—four children and two sisters. After she wasn't able to work then Margarete used to go out from the house and buy a lot of stuff and bring it to her sister

Joseph Mayewski, direct.

and give her money and pay insurance and everything, and I had to—

Q Did you ever give Margarett any money for the building loan association? A Yes, sir.

Q How much money did you give her for the building loan association? A I made her bring her sister. At the building loan I make her take out a book and pay \$5 a month. 10

Q That was paid while you were over at the Monmouth street house? A Yes, sir.

Q Did you ever get her to open an account in the American National Bank—savings account—for herself? A Yes, sir. I gave her a hundred dollars she should deposit; she should have money; because she arguing “I ain’t got no money; ain’t got a dollar; if I get sick if I ain’t got nobody I won’t have a dollar to go nowheres. I want to have money.” I said “All right; here is a hundred dollars, deposit for yourself in the bank, and she spent of it about \$25 and deposited \$70 or \$75 and she got yet ten dollars in the bank. 20

Q Same account still? A Yes, sir; same account.

Q Now did you ever receive any money from her—money that she had received from prostitution? A No, sir.

Q Did you ever get eight dollars on the 30th of May? A No, sir.

Q Of last year? A No, sir. 30th of May I had about \$1,800 in bank.

The Court. You are not asked that question. You better pay attention to the question. 30

Q Did you on the 30th of May last year receive \$8 from Margarett for having taken care of carnally four men during that day? A No, sir.

Q Did she ever at any time during the time you lived in Monmouth street—did she ever give you a dollar saying it was from men that she had slept with or carnally knew? A No, sir.

Q At any time that you ever lived with her— A No, sir.

Q —did she ever give you a dollar? A No, sir.

Q Did she ever give you a dollar? No, sir. 40

Q Did you make any arrangement with her— A No, sir.

Q —whereby she should go out into the street and solicit or get men and make money in that way? A No, sir.

Q What is the name of this other woman that you go with?

Joseph Mayewski, direct.

Mr. Blake. I object.

The Court. Objection sustained. What has that to do with the case?

10 *Mr. McDermitt.* To show what led up to this woman testifying today. I want to show jealousy. I think I have a right to.

Q You had some differences with Margarett?

Mr. McDermitt. I think I have a right to show that to show the method of separation at the time. Part of the *res gestae*.

20 *The Court.* If you are going to introduce this to show that Mrs. Wild had a very strong bias against this defendant you cannot contradict her answers to your questions on cross examination because of its not being relevant to the issue. Now if you want to show a separate single circumstance standing alone from which the inference may be drawn or that you can reasonably and properly argue to the jury should be drawn that this man is innocent or that some fact which raises a reasonable doubt, whether or not it is relevant, then you may do so. The purpose of the Court is to seek from counsel the object of the question. If you will state the object of the question the Court in its discretion is going to allow the fullest leeway for all the defense you have got.

30 *Mr. McDermitt.* I want to put the question this way. Did you have a conversation between you and Eva Speeher and Margarett Wild some time in May of last year or later?

The Court. Answer that yes or no.

Witness. Yes; I had a conversation.

The Court. What is the purpose of this?

40 *Mr. McDermitt.* The purpose is to show the row between these people at that time—the three people—to show what transpired to show the reason she gave this other woman as to why she would make a charge against him. The point is that she said if he did not desist from going with the new girl she would make a charge against him, and she made it, and she made that statement in the

Joseph Mayewski, direct.

presence of the other girl. I am trying to show some motive on the part of this woman to come here and make the statement on the stand. I want to show if we can't get some statement that will shed some light on that situation. She says they did have a fight and he pulled the back of the razor across her throat.

The Court. That was in November.

10

Mr. McDermit. Before that. I am trying to get some conversation between these people that will throw some light on the situation to see whether there is bias.

The Court. You haven't laid any foundation for this question, if that is the objection.

Q Was there any quarrel between you and Margarete Wild in the presence of Eva Speecher prior to the episode in the High street house?

Mr. Blake. I object. Margarete Wild testified that there was no quarrel between the three, when she was a witness for the defense.

20

Mr. McDermit. She also testified there was a conversation between her and the other girl and this man. I want to bring it out.

Mr. Blake. There was no quarrel. The only way the evidence can be introduced to show bias—he has shown it by the complaining witness. She says there was a fight and denies that this statement was made before Eva Speecher. I do not think he can put this witness on to testify to the contrary.

30

The Court. Didn't this Mrs. Wild, the witness for the State, testify that she kept on working for this man because she was in deadly fear of him?

Mr. Blake. She said she stopped working in May.

The Court. Up to that time didn't she say she was in fear of her life, at all events her person, and she stayed with this man on Monmouth street up to May and after that she didn't leave him for the same reason. I do not think I will rule this question out. The objection is overruled.

40

Joseph Mayewski, direct.

Q (Question read.) A Before Mrs. Margarette Wild went to live on High street she had a conversation with Eva Specher, she should—

Mr. Blake. Were you there?

Witness. No; but Eva Specher told me—

10 *The Court.* Strike it out. You have answered the question.

Witness. Had a conversation—

The Court. You have answered it. You have said you were not there. You don't know anything about it.

Q Did you have any conversation personally with Margarette Wild and Eva Specher, when you three were together?

A Yes, sir; we had a conversation.

20 Q When was that? A That was two weeks before she had me arrested.

Q What was it? State what the conversation was. A They were arguing, between Eva Specher and Margarette Wild.

Mr. Blake. Was this when you were there and heard them yourself or is this what Eva told you?

Witness. I heard it myself. We were three together—three of us together.

Mr. Blake. A minute ago you said you weren't there.

30 *Witness.* Well, that was some other time. Margarette Wild was looking for rooms and I had—she asked me I should take a machine out and go with her to look for rooms because it is hard to get a room. She wanted to get a machine. So I did take her in the machine and looking up rooms. So we met Eva Specher a block above High street. She had a newspaper. So she was looking for rooms. So Margarette says—called Eva to the car and we go together, so I did, and they started to argue between Margarette and Eva Specher. They had a little argument and they make up and they asked me to take them out—I should take them out for a ride—three of them—two of them. So I did. I went for the ride and they told me to stop in a place on Frelinghuysen avenue to buy them a drink; so I did stop there and they had a little conversation—

40

Joseph Mayewski, cross

Q Well, what finally was the result of that day—the end of it. What was done? A The result was Eva Speecher and Margarete they went together after and I left them—both went together and they—whatever they make up with themselves I don't know.

Q Did you see Eva Speecher after that? A Yes; I did. 10

Q Did you see Margarete after that? A Yes; I did.

Q Did Margarete have anything to say to you? A Yes, sir; she did.

Q You had a talk with Margarete? A Yes, sir.

Q What did Margarete say to you? A Margarete says to me if I don't go back to live with her if she got to go for five years in jail; she says she is going to go lie and put me in jail. I says "You ain't got no reason to put me in jail. On what ground?" "I am going to go lie and put you for five years, if I can—five years in jail. I am going to have you. You ain't going to stay with her. You ain't going to get married because that girl is no good girl. If you go out and get married with a good girl," she says, "I will be glad to see you get married, if you have a good girl, because you are a good fellow. You were good to me. I got nobody and you keep me all that time and keep my sister and four children." So I did, and I got sick of it; I couldn't keep up because every week it cost every week \$40 or \$50 to keep up; so I told her, "You got more relation and your relation"— 20

The Court. You were asked what Margaret said to you on that occasion and you are going on and telling us a lot of things that happened on another occasion. 30

Q The talk with Margarete. Just answer what Margarete said to you. Never mind what you afterwards did yourself.

The Court. He has already answered it. Margarete said if he went with Eva she would put him in jail and she didn't care if she spent five years for it herself.

Cross examination by Mr. Blake.

Q Margarete told you if you would marry a good girl she wouldn't care about that? A Yes, sir. She said— 40

Q She said what? A She says she don't like that girl and she don't think well of her and if I go out and get married with a good girl she would be glad to see me get married.

Joseph Mayewski, cross

Q Glad to see you? A Yes, sir; because I was supposed to get married with a good girl because I was a good fellow; I never said anything wrong to her and always give her everything her heart desired.

10 Q Never mind that. You knew Margarett Wild was a married woman, didn't you? A Yes, sir.

Q And you knew her when she lived with her husband, didn't you? A Yes, sir.

Q And you went away with her from her husband—you took her away from her husband's house? A No, sir.

Q She came to you from her husband's house? A She had her husband arrested for attempt to kill her with a razor and Counsel Vreeland was for her husband in the First Precinct.

20 Q She came to live with you? A She lived on Mount Prospect place—she was living on Mount Prospect place and I met her as I was coming from my house—met her 15th avenue around my home. She asked me where you going; "I am going out to look for a room for myself, I ain't going to live with my brother"; she said "Why?" "I had some misunderstanding" I told her I am going to look for a room for myself. She says don't have to go anywhere. I got a room. Come up to live with me. I only got my sister's boy living with me. Boy, age of fourteen." He was living with Margarett. She says "You can come up and live in my house." So I did.

30 Q What house was this? Is that where she lived with her husband—same place? A No, sir; she lived by herself at the time and her sister's boy.

Q And you have lived with her ever since? A I lived over there ever since.

Q Why were you so interested in Margarett that you took care of her sister's family and bought the groceries? A Because they didn't had nobody to buy it.

40 Q You were not obligated to pay it, were you? A I paid it because I had the money. I was working. I had money then; I paid everybody.

Q You finally left Margarett and went to live on South Orange avenue; is that true? A I went to live on South Orange avenue about fourteen months ago—I hired a room on South Orange avenue—Margarett went over there—took the key out of my pocket, went over there and took all my clothes.

Joseph Mayewski, cross

The Court. Were you with her when she took the key out of your pocket? Were you?

Witness. She took the key—

The Court. Were you with her when she took the key out of your pocket? Were you with her?

Witness. Yes, sir; I was in her house. 10

The Court. You were in the room and she took the key out of your pocket in your presence, and you knew it?

Witness. In 41 Monmouth street.

The Court. I am asking you did you see her do it?

Witness. No; I didn't see it.

The Court. Then do not testify to things you do not know. Witnesses waste a lot of time telling us things they do not know. 20

Q Did you leave Monmouth street and take a room up on South Orange avenue? A Yes, sir; I left—

Q Left Monmouth street, and how long did you have this room up in South Orange avenue? A Pretty near a year.

Q Pretty near a year? A Yes, sir.

Q Do you know when you left Monmouth street? What month? A Yes, sir.

Q When? A It was in 1917.

Q In 1917 you left Monmouth street and took a room up on South Orange avenue. Were you back to Monmouth street after that? A I was going over there to Monmouth street. 30

Q Where did you spend your nights? A Nights, I slept 81 Monmou—South Orange avenue.

Q And you slept there until when? A Until Margarete went over there and took my clothes from the room.

Q When was that? A Before—two months before she had me arrested.

Q Two months before she had you arrested. What month in 1917 did you go to South Orange avenue? A I don't remember, absolutely, it was. I don't know. 40

Q Spring or fall? A Fall.

Q Fall of 1917? A Yes, sir.

Q And you stayed there until the fall of 1918, when you were arrested. Is that true? A Yes, sir.

Joseph Mayewski, cross

Q About four months before you were arrested? A Two months before.

Q During all that time how often did you go to Monmouth street? A I used to go every week.

10 Q Once a week? A Once a week. Once a week or twice a week I used to go up to the house.

Q Is that the time when the sister was up there with tuberculosis? A Yes, sir.

Q When did you go to South Orange avenue? As soon as the sister came to the house? A I don't understand you? What did you mean?

Q When did you go to South Orange avenue with relation to the time the sister came to the house? A When did I go back to live?

20 Q When did you leave Monmouth street and go to South Orange avenue in relation to the time that her sister came to Monmouth street? A Her sister wasn't in Monmouth street when I went to live on South Orange avenue.

Q Her sister wasn't there when you went to live on South Orange avenue? A No, sir.

Q How soon after that did her sister come? A Her sister come in the spring.

Q In the spring of 1918? A Yes, sir.

30 Q Now you say you came and spent—three nights a week and spent the night in Monmouth street? A Didn't go day time; sometimes go night time. Margarette wouldn't let me out—went out to moving pictures with her or something and she wouldn't let me out. She kept me—she took my hat and coat, and hat, too, and I couldn't go out. She wouldn't let me.

Q What did you go down to Monmouth street three times a week for? Why did you go down? A Because she had my clothes—some of my clothes over there washing, my shirts and underwear she had and some of my clothes.

Q You let her do your washing and you went there to get your wash; is that right? A Yes, sir.

40 Q Two times a week? A I was to go up because she asked me to go up.

Q You went because she asked you? A Yes, sir. She asked me to come up and I went over there—I had my clothes there.

Joseph Mayewski, cross

Q Did you go there because she asked you to or because you wanted your clothes? Which? A I went over there because some of my clothes was in the tailor—she had it over there—I went over there to change my suit.

Q You were paying \$35 to \$40 a week for a place to have your washing done and change your suit; is that right? A I used to give her whatever she would need. Some weeks I gave her more than that. 10

Q You were paying her \$35 or \$40 a week for that slight accommodation; is that right? A I give her all the money she wants.

Q And that is all you got for it? A Well, I had some connection with her; I admit it, but I never see nobody in the house.

Q Now, did you have connection with her during the time you lived at South Orange avenue? A Yes, sir. 20

Q Then that is why you went down there, isn't it? A I had some connection with her; I admit it.

Q When? A At the time I was living on South Orange avenue.

Q Within the last two years? A Yes, sir.

Q Where? 41 Monmouth street? A Yes, sir. She was living on 41 Monmouth street.

Q Did you have intercourse with her in May, 1918? What?

Q Did you have connection with her in May, 1918—last May? A Did I had any connection? 30

Q Yes. A The day?

Q Any time? A In May? Yes, sir.

Q When did you leave South Orange avenue and go back to live at Monmouth street? A I went there—after I left South Orange avenue I went to live with my brother on 12th street.

Q When did you go back to Monmouth street? A I didn't go back.

Q Never went back there to live? A After she took my clothes I didn't go back to live at Monmouth street. 40

Q Did you ever go back to live at Monmouth street after you went to South Orange avenue? Did you ever go back there to live again? A No, sir.

Q Never? A No.

Joseph Mayewski, cross

Q Did you go to High street to live? A No; only Margarette come—she meets me down in Market street and she tells me she don't feel good—she is sick and she says—

Q When was that? A That was I think on the 24th—the day before she had me arrested.

10 Q Did she ever tell you she was sick before? A No.

Q Never heard that she was sick before. And then because she was sick you went up to High street with her? A She said to me, "I come for you. I want you to come up in my room and before you—I am going to leave you. Buy me a bottle of whiskey and I got some quinine, and I am not going to go to bed; I am going to make it hot to you."

Q Now at the time you lived—during the time she lived at the High street house you never lived there with her at all?

A No.

20 Q Until about two nights before you were arrested? A Day before and she—she come night, I got over there next night.

Q Just answer my question and you won't waste so much time. Did you go to High street the day before you were arrested or two days before you were arrested? Which was it, one or two? A She come down on Saturday night, down Neck, and Monday night I was arrested.

Q Which night did you stay at High street, Sunday night?

30 A Sunday night until Monday, I go up there.

Q Now that is all; Sunday night, was it? A Sunday night—Monday morning, four o'clock.

Q You say you worked for yourself as a carpenter? A Yes, sir.

Q When did you first meet Margarette? A When I first met Margarette I was working in Bloomfield.

Q For another man? A Yes, sir.

40 Q When did you quit working there and go in business for yourself? A I met Margarette about six or seven months after I quit the job there.

Q After you met her or after you started to live with her? A After I met her.

Q After you met her you quit? A Yes, sir. There was no work. We got laid off.

Joseph Mayewski, re-direct.

Q And from that time on were you working for yourself?

A After that I was working for some more bosses—different bosses in Newark.

Q How long did you work for other bosses? How many years? A Before I met Margarete?

Q After. A For how many years? Right on every few months I worked for bosses; then after I worked for myself. 10

Q Then after the first several months you started to work for yourself; is that right? A Yes, sir; worked for myself.

Q And from that time down to the present time you have been working for yourself? A Yes, sir.

Q Is that right? A Yes, sir.

Q As a carpenter? A Yes, sir.

Q How much time do you devote to your other business? A Well, I used to, if I was working, used to go out nights, from—say I got through about seven until twelve or one o'clock and go home. 20

Q You put that time in about every night, didn't you? A What?

Q You put that time in at your other business every night? A Every night? Once in a while.

Q Every night? A Not every night; once in a while. I used to go out maybe twice a week or once a week; mostly I go out on Saturday.

Q Did you ever play in the day time? A If I wasn't working. 30

Q You continued that right up to the present time, didn't you? A Yes, sir. I admit it, I used to go out and play.

Q Caught in a raid about three weeks ago by the police, didn't you?

Mr. McDermitt. I object.

The Court. Objection sustained.

Re-direct.

Q Is there anybody here in court you worked for at your regular business, carpenter business? A Yes, sir; I was working for myself—boss for myself. 40

Q Is there anybody in the court room besides yourself? A Yes, sir. People I did work for.

Q In the last two or three years? A Yes, sir.

Joseph Mayewski, re-direct.

Q Your legitimate business, carpenter? A Yes, sir.

Q Name some of them? A John Jurkowski, real estate man, Belmont avenue, used to give me different jobs for different people and himself.

10 *The Court.* You are wasting time. When did you work for him?

Witness. I worked several times—couple of times.

The Court. When did you work for him?

Witness. I worked for him four years ago and I worked for him two years ago, and maybe about a year and a half ago.

The Court. What did you do for him four years ago?

Witness. I was working on 15th street on his property, put a window on the side of his house.

20 *The Court.* How long did that take?

Witness. Took a day and a half.

The Court. Two years ago or a year and a half ago?

Witness. Year and a half ago I worked in Harrison.

The Court. What did you do?

Witness. I was working for a fellow building a bakery there, and I was working for Mr. Giblensky.

The Court. How long did it take?

Witness. Took me about two months.

30 *The Court.* Working continuously?

Witness. Yes, sir.

The Court. Didn't you used to be there at 41 Monmouth street all during the morning?

Witness. That time, no; I used to work.

The Court. Sadie was there when you were there, wasn't she? A Not at the time, if I was working.

The Court. Was Sadie living in the same house—same place, when you lived there?

40 *Witness.* No, sir; at that time Sadie wasn't living there.

The Court. When did Sadie come to live there?

Witness. Sadie come to live with us in the spring after her mother.

The Court. This year?

Joseph Mayewski, re-direct.

Witness. Last year.

The Court. 1918?

Witness. 1918.

The Court. Do you mean to say that you were not out until morning—six o'clock?

Witness. I used to go out if I wasn't working; lately, when I wasn't working, I used to stay out. 10

The Court. How long is it since you worked at the carpenter business?

Witness. Lately I couldn't get no men because the men was off.

The Court. I didn't ask you why you didn't work, I asked you how long since you worked at the carpenter business?

Witness. About eight or nine months. 20

The Court. Why did you say that your work was gambling?

Witness. I didn't say my work.

The Court. You said that this morning.

Witness. I used to go out and gamble.

The Court. You said you were a carpenter and a poker player and a pinochle player and a gambler. Why did you say that your business was that of a gambler if you are a carpenter? 30

Witness. I said that I go out and gamble, but—I admit that because I used to go out and gamble.

The Court. Every night?

Witness. Not every night.

The Court. Almost every night?

Witness. No; twice a week or three times a week.

The Court. Five days a week?

Witness. No.

The Court. Six times a week? 40

Witness. Three times or two times a week, I used to go out.

The Court. How old are you?

Witness. Going on thirty-five.

Eva Speecher, direct.

The Court. Did this man Wild ever appear at the Monmouth street house while you were there?

Witness. Yes, sir.

The Court. Did he ever stay there all night?

Witness. Yes, sir.

10 *The Court.* Did you sleep in the bed with his wife when he was in the house?

Witness. I slept in a bed with myself with two children; once in a while if I woke up Margarett was alongside of me sleeping too.

The Court. What is that??

Witness. Once in a while, I say, Margarett was sleeping, too, with me in the bed.

The Court. With whom?

20 *Witness.* With me, and present time was her sister's children in there—they were sleeping because there was no room—there was only two beds and Sadie Martin was sleeping with her brother and the sister and little brother used to sleep with me and Margarett.

EVA SPEECHER, sworn for defendant.

Direct examination by Mr. McDermit.

Q Where do you live, Miss Speecher? A 559 Springfield
30 avenue.

Q Is your hearing good or not? A What?

Q Do you hear good, or not? A Not very good.

Q Not very good. Do you know a woman by the name of Margarett Wild? A I know her by seeing her.

Q Is that the lady sitting over there (indicating)? A Yes, sir.

Q Now, do you know this man, the defendant here, Joseph Mayewski? A I know him for the last—about ten years or so, from my childhood.

40 Q Do you keep company with him? Do you? A No, sir.

Q Have you been out with him? A No, sir; only been in company with my brother.

The Court. What has that got to do with the case, Counsellor?

Eva Speecher, direct.

Mr. McDermit. To show the relationship and what the situation was between these people.

The Court. The question isn't whether this woman gave him any money or their relations. The question is what the other woman did.

Q Did you ever meet Mrs. Wild? A She called at my house one time. 10

Q Have you talked with her? A She came in and she said—

The Court. Answer the question only. "Have you talked with her?" The answer is "Yes," isn't it?

The Witness. Yes, sir.

The Court. Now wait until the next question. Do not answer anything you are not asked about.

Q Did she talk to you with regard to the defendant, Joe, here? A Yes, sir. 20

Q What did she say to you with regard to him?

Mr. Blake. I object.

The Court. Objection sustained.

A She says to me, "Do you know"—

The Court. Do not answer. Fix the date.

Q When was it that you talked with her at your home? 30

A About three months ago.

Q And was that before the arrest of Joe? A Yes, sir.

Q And what did she say to you concerning Joe, in regard to having him arrested?

Mr. Blake. I object.

Mr. McDermit. I had to lead in order to show the situation.

Mr. Blake. I do not object on that ground.

The Court. You laid the foundation for a contradictory statement and you have not only the right, but it is your duty to ask the direct leading question upon it, that Margaretta Wild said to her that "We will get Joe into a room and get him asleep and rob him." I think that is it. You may remember better than I do. 40

Eva Speaker, cross.

Q Did Margaretta Wild say to you that you and her was to get Joe into a room and rob him? A Well, she had told me that—

The Court. Answer that yes or no.

The Witness. Yes, sir.

10 Q And what else did she say?

Mr. Blake. I object.

The Witness. She said she would put him in right if he said anything.

The Court. What has the rest to do with it?

Q Did she say that if Joe tried to get back upon you people after you divided the money that she would make a charge against him of having taken money from her from prostitution?

20 *Mr. Blake.* I object.

The Witness. Yes.

The Court. Objection sustained. You have not fixed the time and no foundation laid for that.

Cross examination by Mr. Blake.

Q Where did you meet Joe? A I met him at a picnic with my mother.

Q How long ago? A About ten years or so. It was in my childhood days I met him.

30 Q How long have you known him since? A How long have I known—

Q Yes. A I know him at least eight years, I know him.

Q Know him good? How good? How well do you know him? A What is that?

Q How well do you know him? A I know him well by coming calling, going out with my brother and I have been in company with him.

Q You have been in company with him how often? A Oh, not often; maybe once in two months I saw him.

40 Q Were you down drinking with Mrs. Wild and this man down in Frelinghuysen avenue roadhouse? A No, sir.

The Court. Did you ever try to get Joe, this defendant here, as he is called in this case, away from Mrs. Wild?

Sophia Buara—Joseph Giblonsky.

The Witness. No, sir.

Q Did Margarett and you go automobile riding with Joe, out with a machine looking for rooms? A Well, I went out for rooms; yes, sir.

SOPHIA BUARA, sworn on the part of the defendant.

10

Direct examination by Mr. McDermit.

Q Where do you live? A South Orange avenue, 81.

Q How long have you lived there? A About four years.

Q Do you own the property there? A No, sir.

Q You rent rooms there, do you? A I got a little flat and rent a couple of rooms.

Q Do you know this man, Joseph Mayewski? A Yes, sir.

Q Did he have a room in your place up there? A Yes, sir.

Q How long a time did he have a room there? A He was about eleven or twelve months. I couldn't really remember, but he was about eleven months in my—

20

Not cross examined.

JOSEPH GIBLONSKY, sworn on the part of the defendant.

Direct examination by Mr. McDermit.

Q Where do you live? A 232 Springfield avenue.

Q How long have you known the defendant, Joseph Mayewski? A About sixteen years.

Q And during the last four or five years has he ever done any work for you? A Yes, sir.

30

Q What sort of work did he do for you? A Carpenter work.

Q Where? A Well, he done work at different places, on our real estate.

Q Are you in the real estate business? A I am a property owner; not doing much real estate.

Q You own property in Harrison? A No, not today.

Q Do you know whether or not he did any work in Harrison? A I believe he done, through my recommendation, Mr. Hauser's work.

40

Mr. Blake. I object.

The Court. Do not testify to what you do not know.

Not cross examined.

John W. Jurkowski, direct.

JOHN W. JURKOWSKI, sworn on the part of the defendant.

Direct examination by Mr. McDermit.

Q Mr. Jurkowski, do you know the defendant, Joseph Mayewski here? A I do.

10 Q What is your business? A Real estate and insurance.

Q How long have you known the defendant? A About fourteen years.

Q During that period of time has he done any work for you? A Yes, sir.

Q What kind of work? A Carpenter.

20 Q And to what extent? A Well, he worked South Fifteenth—58 South Fifteenth, I guess the last work he done, May, 1916, when I had the house corner of Livingston and Seventeenth avenue; he done some work around the apartment and also fence posts—gate where I go in; pulled the gate down; that was about the last work he done; then he done work at 11 Houston street, also 11 Napoleon street, Newark.

Q Did he ever do any other work? A Yes, sir, 139 Fleming avenue.

Q All together what was the total amount of these works in point of days?

The Court. The last was 1916, he says.

The Witness. That was about the last that he did.

30 Q Through your instrumentality did you personally get him other work? A Yes, sir; I did, on South Belmont avenue; man named Castle bought a house; he had quite a job there; I think five or six hundred dollars.

Q Did he do the work to your own knowledge? A Yes, sir; seen him.

Q Did you send him work of the Liverpool Insurance Company? A Yes, sir; Eleventh street; they had a fire.

Q You know he did the work there? A I am positive; I seen him work there.

40 Q How long did the six hundred-dollar job on Belmont avenue last? A I think he worked there almost three or four weeks.

Q Didn't he also do the carpenter work where your office is on Belmont avenue? A He done some railing there; inside partition.

John W. Jurkowski, cross—re-direct—re-cross.

Q Didn't he build a piazza around there? A He built a piazza for a brother-in-law of mine; quite a large job there.

Cross examination by Mr. Blake.

Q When was that piazza built? A That was built quite some years ago.

Q How many? A Maybe seven years ago; in my judgment. 10

Q When was your office railing put up? A Sir?

Q How long ago was your office railing put up? A About three years.

Q That wasn't much of a job? A No, that was a light job.

Q When was this five hundred-dollar job done? A That might be about four years ago; Castle's; near four. Of course I will say that I have asked him to do other work.

Mr. Blake. Never mind. 20

Re-direct examination.

Q Did he do work up at 156 Belmont avenue? A I seen him working on a building there—porch there; he was putting on the rear.

The Court. When?

The Witness. That would be in my judgment about three years ago.

Re-cross examination. 30

Q You just passed there and saw him working? A Yes, sir.

Q You are a warm personal friend of Joe's, aren't you? A I have known him for years.

Q You visit him at his house? A No, sir.

Q Have you ever been to Monmouth street? A Only once, but never seen Joe there. The lady there, through advertisement, she came to my office and had insurance.

Q What lady? A The lady that lives there.

Q Margarett Wild? A Yes, sir. 40

Q She came to your office—what were you doing at the house? A Brought the policy there one time. That is the only time I ever was there.

Bertha Stafford, direct.

Q Did you know Joe lived there? A I heard he lived there, but I never seen him in the house.

Q Sure of that? A I am positive I never seen him.

BERTHA STAFFORD, sworn for the defendant.

10 *Direct examination by Mr. McDermit.*

Q Where do you live? A 448 High street.

Q How long have you lived there? A Ten years.

Q And do you know Margarett Wild? A No; I do not.

Q Sitting over there? A No.

The Court. Wait until you get the question and perhaps the answer may be different.

20 Q Did Margarett Wild, the lady sitting over there; did she come and hire a room at your house? A That lady came, but she came under the name of Mrs. Meyers. I don't know no Mrs. Wild.

Q How long did she remain in your house? A Almost two weeks.

Mr. Blake. I object.

The Witness. Almost two weeks.

The Court. If there is an objection, do not answer.

30 *Mr. McDermit.* She has sworn to a certain state of facts; attempt on life, and pillow case, and I want to go into that matter. I think I have a right to do it. I will put the question this way. I will withdraw that question for the present.

The Court. You are bound by her answer.

Mr. McDermit. Sir?

The Court. You have been bound by her answers, haven't you?

40 *Mr. McDermit.* Not to the extent of the cutting of the pillow case with the razor.

The Court. Why not?

Mr. McDermit. He has denied that. I want to ask her what she knows about that, whether she can throw any light on it.

Margarette Wild, direct—cross.

The Court. You brought that pillow case out for the purpose of showing bias on the part of Margarette Wild. You are bound by her answers, aren't you?

Mr. McDermit. Yes, there is no question about that.

The Court. How are you going to contradict her then?

Q Did you ever see the defendant? A No; I should have put him out if I had have done. She rented that room— 10

The Court. One moment, Madam. You might just as well understand, as you appear to show a tendency to want to answer questions as you please—you have been in this court room for a day and a half.

The Witness. Yes, sir.

The Court. And you now know that the witnesses' business is to answer questions.

The Witness. All right, sir. 20

The Court. And nothing else. Now you did not see him there at that house, did you?

The Witness. No, sir.

Not cross examined.

DEFENDANT RESTS.

MARGARETTE WILD, recalled by the State in rebuttal.

Direct examination by Mr. Blake.

Q Did you ever receive from the defendant during the time he lived with you, thirty-five or forty dollars a week? A No; I never received nothing. 30

Q Did he give you that sum to run the house on during the time your sister was there sick? A My brother gave me sixty-five or seventy dollars to take my sister out of the hospital and keep her in my house.

Q Brother in the army? A Navy. He kept my sister twelve years.

Cross examination by Mr. McDermit. 40

Q Did you buy a coat for \$85 any place? A No, sir. My sister loaned me—I had seventy dollars in the building and loan, and my sister loaned me seventy to buy a coat.

Margarette Wild, re-direct.

The Witness. Judge, your Honor, can I speak a minute?

The Court. The witness says she has got something to say. You may state it to the prosecutor, not in the hearing of the Court or jury and we will see if it is relevant or competent.

10

Mr. Blake. I will ask one question first.

Re-direct examination.

Q Have you ever seen that man before (indicating)? A Yes, sir.

Q Where? A In my house.

Q How often? A About seven or eight times.

Q Who was he there talking to? A He came and gave me money the same as a lot of men. He says Joe sent him.

20 He is the only man that was sent by Joe to my house.

The Court. What is his name?

The Witness. I don't know his name.

The Court. Is that John W. Jurkowski?

(A Voice.) That is my name.

Q Did you entertain him? A Yes, sir.

Q Receive money from him? A Yes, sir.

30

Mr. McDermit. I object as immaterial to the issue, and ask that it be stricken out. We rested our case and she is recalled and I cannot see that she can be recalled except for rebuttal.

The Court. Your request is too broad in the first place. The Court will open the case and let this evidence in as to the fact that Jurkowski was there and that he paid money to her and that he had intercourse with her. What did you do with the proceeds, with the money?

The Witness. Gave them to Joe.

40

The Court. Now the fact that Jurkowski said that Joe sent him is hearsay and will go out. Is there anything more that you want stricken out of that answer?

Mr. McDermit. No, sir.

The Court. Is that what you mean by your motion?

Mr. McDermit. Yes, sir.

Margarette Wild, re-direct.

By the Court.

Q Now when was Jurkowski there the first time and when was he there the last time? What house? A Monmouth street.

Q Monmouth street? A Yes, sir.

Q When was he there the first time? A I went up to look for rooms first. He has a place on Belmont avenue. 10

Q When was he there the first time to see you? A The first time he came he insured my furniture; then after—

The Court. A little louder, please. When was it? We got to get the date.

The Witness. He knows the date.

Q What is your best recollection about it? A Middle of the summer.

Q A year and a half ago? A No; summer past.

Q You weren't doing business in the last summer? A I know I wasn't, but I had him on the side, I had him. 20

Mr. McDermitt. I didn't hear that answer.

Q Was he there before May 30th, 1918? A No—I think it was before May.

Q Before May? A Yes, sir.

Q How often was he there before May? A Oh, six or seven times.

Q How long before May was the first visit? A I really don't know. 30

Q A month—two months? A Oh, no, about a week.

Q I don't think you understand. Was his first visit in the spring or in the winter time? A Spring.

Q And how long before May 30th, 1918, last, was it that he came there the first time? A I guess in July.

Q July the year before? A Really, I never kept months in my head. I know it was a month or two months before May.

Q You said that you closed up—stopped doing business, as you expressed it, in May? A Yes, sir. 40

Q Now you say the first time this man ever came there was in July. What July; was it before or after May? A A couple of months before May.

Q Two months before May is March, isn't it? A Yes, sir.

Q Or April. Certainly cannot be July.

Margarette Wild, cross.

Further direct examination.

Q How many times did he come there between the first visit and May 30th when you stopped doing business? A About six times.

10 Q Did you ever say anything to the defendant about this particular man being there? A Yes, sir.

Q What did you say to him? A I told him his friend was down to see me.

Q What did he say? A He laughed and he says, "Why don't you get a lot of money out of him; he's got lots of money."

Q Did he take what you had given him—what you had received? A Yes, sir.

Cross examination by Mr. McDermit.

20 Q You said something about "summer" with regard to Mr. Jurkowski, didn't you? You used the word "summer"? A I don't know what you are speaking about.

Q You said you were doing things on the quiet? A No, sir.

Q Please raise your voice so we can hear you? A No, sir.

Q You know the months of the year, don't you? A Yes, sir.

30 Q And you know that July is summer time, don't you? A Yes, sir.

Q Do you? A Yes, sir.

Q Now did you have intercourse with Jurkowski this last July? A No, sir.

Q What? A It will be a year in July.

Q It will be a year in July that you had intercourse with him last? A Yes, sir.

Q Is that right? A Yes, sir.

Q Won't you answer so we can hear you? A I said yes.

40 *The Court.* What July, this coming July or last July?

The Witness. I really don't know the month.

Q Well, you said this morning that you didn't know any of the men who called there, didn't you? A Well, when I seen this man's face I recognized him. I don't know his name.

John W. Jurkowski, direct.

Q And yet you say this man had been there eight times to see you? A Six times.

Q Six times? A Yes, sir.

Q And that you told Joe about it? A Yes, sir.

Q And Joe said "Why don't you get some money out of him"? Is that right? A Yes, sir. 10

Q Why couldn't you tell us this morning that you had spoken to Joe about some friend of his that had been there?

A I didn't know his name to tell it.

Q Didn't know his name? A To tell you his name this morning.

Q When did you have intercourse with him last? A With who?

Q With Jurkowski, this man you have identified? A I just told you a minute ago two months before summer.

Q What? A A couple of weeks before May—end of May. 20

Q End of May of last year? A Two weeks from the end of May.

Q So that you didn't have intercourse with anybody after May 30th, 1918, down to the present time, is that right? A Yes, sir.

Q That is correct, is it? With Joe either? A Yes, sir; I lived with him until he got arrested, I told you.

Q Only with Joe? A Yes, sir.

STATE RESTS.

30

JOHN W. JURKOWSKI, recalled by the defendant in rebuttal.

Direct examination by Mr. McDermit.

Q Mr. Jurkowski, how long have you lived in Newark? A Well, since ten years of age; brought up in Orange, New Jersey.

Q You are a married man? A No; I am a widower now.

Q You just heard the testimony of Mrs. Wild on the witness stand here, did you? A I did; yes, sir.

Q And she testified that she had intercourse with you prior to May of last year six times. What have you got to say about that? A I say it is a lie. 40

Q Did you ever have intercourse with her? A No.

Q Did you ever talk with her any time? A Yes, sir.

Charge to Jury.

Q How did you come to talk to her? A She came to my office, whether it was through advertisement in the paper I don't know; I spend hundreds of dollars yearly through advertisement in my line of business. It may be that Joe Mayewski told me one time—

10 Q You met her at your office? A She came to my office herself.

Q The question is this; did you or did you not at any time have any intercourse with her any place, Monmouth street or elsewhere? A I did not.

Not cross examined.

DEFENDANT RESTS.

TESTIMONY CLOSED.

COUNSEL SUMMED UP.

20

RECESS.

Charge.

MARTIN, J.

Gentlemen of the jury: The function of the Court is to instruct the jury in reference to the principles of law which govern the case. The principles of law as charged should be
 30 accepted as a correct statement of law; the jury, however, are the sole judges of the facts, the weight of testimony, credibility of witnesses, inferences to be drawn from the evidence, and the ultimate conclusions to be reached upon all of the facts. The Court in referring to the evidence is not to be understood as decided any of the facts, but merely as attempting to elucidate the evidence for the convenience or the assistance of the jury, or to illustrate or explain the possible application of principles of law. If the Court errs in its statement of any evidence or assumes the existence of any evidence that is not
 40 actually before the jury, the jury are to rely upon their recollection and not upon the recollection of the Court. If any part of the evidence is referred to, seemingly giving it particular emphasis, the jury are not to disregard other evidence which they may deem of equal or greater importance. The

Charge to Jury.

law presumes that the defendant is innocent and this presumption can be overcome by evidence showing beyond a reasonable doubt the guilt of the defendant only. The burden of proof to show that the defendant is guilty beyond a reasonable doubt is on the State and does not shift from the State throughout the whole case.

“Reasonable doubt is a term often used, probably pretty well understood, but not easily defined. It is not a mere possible doubt, because everything relating to human affairs and depending upon moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge. The burden of proof is on the prosecution. If upon such proof there be reasonable doubt remaining the defendant is entitled to the benefit of it by an acquittal. The evidence must establish the truth of the fact to a reasonable and moral certainty, a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it. This we take to be proof beyond a reasonable doubt; because if the law should go further than this and require absolute certainty it would exclude circumstantial evidence altogether.”

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20

30

This defendant is presented here upon an indictment found by the grand jury which charges that he did, on the thirtieth day of May, 1918, unlawfully, and knowingly receive money to the value of thirty dollars without actual and bona fide consideration from one Margarett Wild from the earnings of the said Margarett Wild, she, the said Margarett Wild, being then and there a female engaged in prostitution, contrary to the form of the statute in such case made and provided.

The statute referred to is Section 5, of the Supplement of the Crimes Act enacted in 1910, page 24, which reads in part as follows:

40

“Any person or persons who knowingly receive any money or other valuable thing without actual and bona fide consideration from the earnings of any woman or girl engaged in pros-

Charge to Jury.

10 titution shall be guilty of a high misdemeanor." Amongst the other elements that must be included in the facts to constitute this offense you must find, before you can convict this defendant, that he knowingly—that is to say that he knew that this woman was engaged in prostitution, knew that she had earned money and knew that the particular money which he received was the proceeds of such prostitution. You must find that he actual-ly received the money. You must find that, notwithstanding that she was engaged in prostitution and that he knew that the money was earned in that fashion, yet that he received it without any actual or bona fide consideration, because if a prostitute who earns money paid that money to a person know-
ing that she was a prostitute for a hat or suit of clothes or for a ride in a taxi-cab, it would probably be that there was an actual or a bona fide consideration present.

20 In support of this charge the State has presented the evidence of Margarett Wild and it is contended by the State that she has stated before you that she lived at 41 Monmouth street for a year and a half, up to the 31st of May, 1918, that she was the wife of Charles Wild; while she was living with her husband five and a half or six years ago this defendant appeared upon the scene and had intercourse with her; she had trouble with her husband and she left her husband and joined this defendant. He at the time stated that he wanted her to work in prostitu-
tion and turn over the proceeds to him, and that for a period of about five years she says she did that, including a year and
30 a half at the Monmouth street house; and she also has stated that on or about the 30th or 31st of May there were four men came to the apartment with whom she had intercourse, that each of them paid her \$2, and that this defendant was present when the first couple came in; that he left shortly afterwards and came back and asked for the money—wanted to know where the money was that those men had paid, or something to that effect, and that she thereupon turned the money over to him and received nothing from him at that time. From
40 this evidence and the circumstances of the case the State contends that you should draw the inference that this woman is telling the truth and that you should find the defendant guilty.

The defense of the defendant is, first, a denial and, second, a statement that you ought not to find him guilty because you ought to be unable to find beyond a reasonable doubt that this

Charge to Jury.

defendant has been shown to be guilty under the evidence. In other words, he relies upon his denial and says that "I do not have to prove a denial, but at all events I have done so," and then he says that the State at all events has not made out its case against him beyond a reasonable doubt. The defendant contends that it is true, as I understand his admissions on the stand, that he has had intercourse frequently with this woman, that he lived with her for a time at 41 Monmouth street, and that he supported her and members of her family—paid her thirty or forty dollars a week—and that he never received any money from her. Upon this evidence and under the circumstances of the case the defendant contends that you should arrive at the conclusion that the defendant is innocent and that your verdict should be not guilty. 10

Gentlemen, it is for you to search through this testimony and ascertain where the truth is. You have a right to consider the manner and appearance of a witness on the stand, his observation, closeness of attention, memory of events, his statements, the inconsistencies of those statements, if any, and all such other matters as you may in your own discretion determine will be helpful to you in ascertaining the truthfulness of the statements. 20

It is contended very emphatically by the defendant that you should place no reliance upon the evidence of Margarett Wild because she is a prostitute and that she had abandoned herself to that in this life and that she has nothing which is binding upon her conscience to hold her to tell the truth upon the witness stand. 30

On the other hand the State contends that it is true that she is a prostitute, but that in spite of that fact the State contends she has told the story consistently, which appears on its face to be the truth, and that witnesses in this kind of a case have got to be secured from that class of life and that you should give her evidence very careful consideration before determining to exclude it from consideration altogether. 40

The defendant contends also that she is strongly biased, and for all these years lived an existence under the conditions which she stated, and she made this charge when there was some quarrel, and, that her motive is strong and no confidence should be placed in the evidence which she has presented.

Charge to Jury.

On the other hand the State contends that the evidence would probably never come to the surface unless something occurred as the moving cause to produce such a result.

10 Amongst all the other things that you may consider in your discretion, you have a right to consider the interest of a witness in testifying and whether or not that interest has affected the story of the witness on the stand. You have a right to consider the interest of Margarett Wild, whether or not that has affected her capacity to tell you the truth on the witness stand. You have a right to consider the interest of Eva Specher, and whether or not her interest has affected her truthfulness upon the witness stand and the confidence that you should place in her story. And you have the right to consider the interest of John W. Jurkowski, and whether or not his interest has affected the truthfulness of his statements on the witness stand. And
20 you have a right, of course, to consider the interest of the defendant, who testified, because he has testified before you and he has a very grave interest in any verdict which you may render, and you have a right in your discretion to consider whether or not the defendant's interest in the verdict which you may render has affected his truth-telling capacity on the witness stand.

If, under the principles of law and upon the evidence in the case you arrive at the conclusion beyond a reasonable doubt that this defendant is guilty, then your verdict should be guilty, otherwise, of course, it must be not guilty.
30

Defendant's counsel prays a general exception to the charge of the Court, the same is allowed and it is signed and sealed accordingly.

Judge.

Certificate of Court Stenographer.

ESSEX COUNTY COURT OF GENERAL QUARTER
SESSIONS.

STATE

v.

JOSEPH MAYEWSKI.

Indictment No. 79.

Receiving Money 10
from Prostitute.

STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

I, F. L. Salmon, the official stenographer of the Essex County Court of General Quarter Sessions, part 1, do hereby certify that the foregoing transcript contains the entire record of the proceedings and testimony taken by me at the trial of the above case, which trial was held before Honorable William P. Martin, Presiding Judge of the Essex County Court of General Quarter Sessions in and for the County of Essex, and a jury, on February 13 and 14, 1919, at Newark, New Jersey. 20

F. L. SALMON.

30

40

*Certificate of Judge.*ESSEX COUNTY COURT OF GENERAL QUARTER
SESSIONS.

STATE

10 v.

JOSEPH MAYEWSKI.

*Indictment No. 79.**Receiving Money
from Prostitute.*STATE OF NEW JERSEY, }
COUNTY OF ESSEX. } ss.

20 I, William P. Martin, Presiding Judge of the Essex County Court of General Quarter Sessions and Essex County Court of Oyer and Terminer, and the Judge who presided over the aforesaid cause, certify that the above printed book contains the entire record of the proceedings had upon the trial of the said cause, and that the same is returned by the plaintiff-in-error therein with the writ of error bringing up the bill of exceptions signed and sealed in this cause.

Dated , 1919.

*Presiding Judge of the Essex County Court of Oyer
and Terminer and General Quarter Sessions.*

30

40

*Assignment of Errors.***Assignment of Errors.**

Filed.

Afterwards, to wit, in the Supreme Court of Judicature of the State of New Jersey, comes the said Joseph Mayewski by his attorneys, McDermit and McDermit, and says, that in the record and proceedings aforesaid and also in the giving of the verdict and judgment aforesaid there is manifest error in this to wit: 10

1. That there is no evidence that defendant was guilty of receiving money from a prostitute and of the charge of white slavery.

2. That there is no proof that defendant received any money on the date, time and place from a prostitute, as alleged in the indictment. 20

3. That no crime was proven to have been committed by the defendant.

4. In that the Court erred in permitting the State's witness Margarette Wild to testify to acts and conduct alleged to have been committed by the defendant, five years before the time alleged in the indictment, which testimony is as follows:

"Q Now, during the time you lived on Monmouth street—or was it during the time you lived with him at Monmouth street that he told you to go out in the street and get men? A He told me that five years ago. 30

Q Did you start five years ago? A Yes, sir.

Q And continued all during the time you were in Monmouth street? A Yes, sir; until May.

Mr. McDermit. I move to strike it out. All the evidence tends to show that the statute of limitations runs against it.

The Court. If it was the result of practice or course of dealing or the request of the defendant ten years ago, it would be competent. 40

Mr. McDermit. It could not be unless it was within the statutory time.

The Court. That only relates to the acts of passing the money over."

Assignment of Errors.

To all of which defendant's counsel prayed for an exception and same was allowed and sealed.

10 4. In that the Court erred in ruling that defendant could not put in evidence showing that he had money in bank, and was deriving his money from legitimate sources and not from, as in the case as for receiving money from prostitution which ruling is as follows: "There are hundreds of men that we read about every day in the newspapers worth thousands charged with taking money belonging to other people, and you mean to say that it is a good defense to say that they have got enough money and do not have to steal; there is no logical connection between the two in human experience."

20 And the Court further stating, "You do not have to show that it was his means of support. All that is necessary is to show that this woman received some money from prostitution and that she delivered it to this defendant and that he knew at the time that it was money received from prostitution. You do not have to show that she was supporting him or anything else." Which statements and rulings were prejudicial to defendant's defense.

30 5. In that the Court in stating the defense and contentions of the defendant erred, failed and omitted to state the contention as shown by the testimony that, the defendant was not deriving any money from prostitution and making a living from it as contended by the State, as his bank deposits and work he was doing showed a refutation of the complainant's story that defendant was being supported and got his livelihood from her.

6. In that the Court erred in charging the jury: "And you have a right, of course, to consider the interest of the defendant, who testified, because he has testified before you and he has a very grave interest in any verdict you may render and you have a right in your discretion to consider whether or not the defendant's interest in the verdict which you may render has affected his truth-telling capacity on the witness stand."

40 And the plaintiff-in-error, Joseph Mayewski, prays that the judgment aforesaid be reversed and altogether held for nothing and that he may be restored to all things he has lost by reason of the said judgment, etc.

McDERMIT & McDERMIT,
Attorneys for Plaintiff-in-Error.

*Specification of Causes.***Specification of Causes.**

Filed.

Joseph Mayewski, plaintiff-in-error, by his attorneys, McDermit & McDermit, hereby specifies the causes in the record relied upon for relief or reversal:

10

1. That there is no evidence that defendant was guilty of receiving money from a prostitute and of the charge of white slavery.

2. That there is no proof that defendant received any money, on the date, time and place from a prostitute, as alleged in indictment.

3. That no crime was proven to have been committed by the defendant.

4. In that the Court erred in permitting the State's witness Margarett Wild to testify to acts and conduct alleged to have been committed by the defendant five years before the time alleged in the indictment, which acts, if a crime, was outlawed by the statute of limitations.

20

5. In that the Court erred in ruling that defendant could not put in evidence showing that he had money in bank, and was deriving his money from legitimate sources and not from, as in the case at bar for receiving money from prostitution, in refutation of the complainant's story and to contradict her and the State's contention that defendant had been supported and received his livelihood from complainant.

30

6. In that the Court in stating the defense and contentions of the defendant erred, failed and omitted to state the contention as shown by the testimony that, the defendant was not deriving any money from prostitution and making a living from it as contended by the State, as his bank deposits and work he was doing showed a refutation of the complainant's story that defendant was being supported and got his livelihood from her.

7. In that the Court erred in charging the jury—"And you have a right, of course to consider the interest of the defendant, who testified, because he has testified before you and he has a very grave interest in any verdict you may render, and you have a right in your discretion to consider whether or not the defendant's interest in the verdict which you may render has affected his truth-telling capacity on the witness stand.

40

McDERMIT & McDERMIT,
Attorneys for Plaintiff-in-Error.

Opinion of Supreme Court.

OPINION OF SUPREME COURT.

Filed November 7, 1919.

NEW JERSEY SUPREME COURT.

June Term, 1919.

10

THE STATE OF NEW JERSEY,

Defendant-in-Error,

vs.

JOSEPH MAYEWSKI,

Plaintiff-in-Error.

*Writ of Error
from Essex
Quarter Sessions.*

Submitted June Term, 1919; decided November 5, 1919.

20

Before Gummere, Chief Justice, and Justices Minturn and Black.

For plaintiff, Messrs. McDermit & McDermit.

For defendant, J. Henry Harrison, Prosecutor of the Pleas.

Per Curiam:

The defendant was indicted, tried and convicted for knowingly receiving money from the earnings of a prostitute, without actual and bona fide consideration, under the Act P. L. 1910, p. 24, par. 5.

The case comes before the Court on a strict bill of exceptions and on the entire record, under the 136th and 137th sections of the Criminal Procedure Act. There are seven assignments of error and the causes for reversal are the same. We have examined the record and find there is no legal merit in any of the assignments or causes of reversal. They merit no extended discussion. There is ample evidence to sustain the conviction, if believed by the jury. The admission of evidence, as to the course of dealings between the parties for more than five years was not error, the Court rightfully held; the Statute of Limitations applied only to the passing of the money. Nor was it error to exclude evidence that the defendant had money on deposit in bank. The charge of the Trial Judge was not error, in which he points out to the jury the right to consider the interest of the defendant, as affecting his credibility. *State v. Dugan*, 84 N. J. L. 603. The judgment of the Essex Quarter Sessions is affirmed.

30

40

Remittitur.

REMITTITUR.

NEW JERSEY SUPREME COURT.

10	THE STATE OF NEW JERSEY, <i>Defendant-in-Error,</i>	}	<i>On Error.</i>
	<i>vs.</i>		<i>Remittitur.</i>
	JOSEPH MAYEWSKI, <i>Plaintiff-in-Error.</i>		

20 The above-stated cause having been duly submitted on brief at the November Term, nineteen hundred and nineteen, in the New Jersey Supreme Court, by J. H. Harrison, Esq., attorney of defendant-in-error, and Messrs. McDermit & McDermit, attorneys of the plaintiff-in-error, and the Court having considered the matter and finding no error in the record and proceedings in the Essex County Court of Quarter Sessions;

It is thereupon ordered and adjudged that the judgment of the Essex County Court of Quarter Sessions, removed by the writ of error in this cause, be affirmed in all things with costs, and that the record be remitted to the Essex County Court of Quarter Sessions to be proceeded with according to law and the practice of said court.

30 Entered November 14, 1919,

On motion of

J. H. HARRISON,
 Prosecutor,
Attorney of Defendant-in-Error.

I, Enoch L. Johnson, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true copy of a rule entered in the minutes of the court in the above-stated cause.

40 In testimony whereof, I have set my hand and the seal of said court at Trenton, this first day of
 (L. s.) December, A. D. nineteen hundred and nineteen.

ENOCH L. JOHNSON,
Clerk.

*Assignment of Errors.***ASSIGNMENT OF ERRORS.****New Jersey Court of Errors and Appeals**

 THE STATE OF NEW JERSEY,

Defendant-in-Error,
vs.

JOSEPH MAYEWSKI,

Plaintiff-in-Error.

On Writ of Error.
*Assignment
of Errors.*

10

Afterwards, to wit, on the return day of said writ in the Court of Errors and Appeals of the State of New Jersey, in the last resort in all causes of the State of New Jersey, comes the said Joseph Mayewski, by his attorneys, McDermit & McDermit, and says that in the record and proceedings aforesaid and also in the giving of judgment aforesaid there is manifest error in this, to wit:

20

1. That there is no evidence that defendant was guilty of receiving money from a prostitute and of the charge of white slavery.

2. That there is no proof that defendant received any money on that date, time and place from a prostitute, as alleged in the indictment.

30

3. That no crime was proven to have been committed by the defendant.

4. In that the Court erred in permitting the State's witness, Margarette Wild, to testify to acts and conduct alleged to have been committed by the defendant five years before the time alleged in the indictment, which testimony is as follows:

Q Now, during the time you lived on Monmouth street—or was it during the time you lived with him at Monmouth street—that he told you to go out in the street and get men? A He told me that five years ago.

40

Q Did you start five years ago? A Yes, sir.

Q And continued all during the time you were in Monmouth street? A Yes, sir; until May.

Assignment of Errors.

Mr. McDermitt. I move to strike it out. All the evidence tends to show that the Statute of Limitations runs against it.

The Court. If it was the result of practice or course of dealing or the request of the defendant ten years ago it would be competent.

10 *Mr. McDermitt.* It could not be unless it was within the statutory time.

The Court. That only relates to the acts of passing the money over.

To all of which defendant's counsel prayed for an exception, and same was allowed and sealed.

4. In that the Court erred in ruling that defendant could not put in evidence showing that he had money in bank and was
20 deriving his money from legitimate sources and not from, as in the case as for receiving money from prostitution, which ruling is as follows: "There are hundreds of men that we read about every day in the newspapers worth thousands charged with taking money belonging to other people, and you mean to say that it is a good defense to say that you have got enough money and do not have to steal; there is no logical connection between the two in human experience."

30 And the Court further stating: "You do not have to show that it was his means of support. All that is necessary is to show that this woman received some money from prostitution and that she delivered it to this defendant and that he knew at the time that it was money received from prostitution. You do not have to show that she was supporting him or anything else." Which statements and rulings were prejudicial to defendant's defense.

5. In that the Court in stating the defense and contentions of the defendant erred, failed and omitted to state the contention as shown by the testimony, that the defendant was not deriving
40 any money from prostitution and making a living from it, as contended by the State, as his bank deposits and work he was doing showed a refutation of the complainant's story that defendant was being supported and got his livelihood from her.

Specification of Causes.

6. In that the Court erred in charging the jury: "And you have a right, of course, to consider the interest of the defendant, who testified, because he has testified before you, and he has a very grave interest in any verdict you may render, and you have a right in your discretion to consider whether or not the defendant's interest in the verdict which you may render has affected his truth-telling capacity on the witness stand."

10

And the plaintiff-in-error, Joseph Mayewski, prays that the judgment aforesaid be reversed and altogether held for nothing and that he may be restored to all things he has lost by reason of the said judgment, etc.

McDERMIT & McDERMIT,
Attorneys for Plaintiff-in-Error.

Service of a copy of the within assignment of errors is hereby acknowledged this 6th day of January, 1920.

20

J. H. HARRISON,
Attorney for Defendant-in-Error.

SPECIFICATION OF CAUSES.

Joseph Mayewski, plaintiff-in-error, by his attorneys, McDermit & McDermit, hereby specifies the causes in the record relied upon for relief or reversal:

30

1. That there is no evidence that defendant was guilty of receiving money from a prostitute and of the charge of white slavery.

2. That there is no proof that defendant received any money on the date, time and place from a prostitute, as alleged in indictment.

3. That no crime was proven to have been committed by the defendant.

40

4. In that the Court erred in permitting the State's witness, Margarette Wild, to testify to acts and conduct alleged to have been committed by the defendant five years before the time alleged in the indictment, which acts, if a crime, was outlawed by the Statute of Limitations.

Specification of Causes.

5. In that the Court erred in ruling that defendant could not put in evidence showing that he had money in bank and was deriving money from legitimate sources and not from, as in the case at bar, for receiving money from prostitution, in refutation of the complainant's story and to contradict her and the State's contention that defendant had been supported and received his livelihood from complainant.

6. In that the Court in stating the defense and contentions of the defendant erred, failed and omitted to state the contention as shown by the testimony, that the defendant was not deriving any money from prostitution and making a living from it, as contended by the State, as his bank deposits and work he was doing showed a refutation of the complainant's story that defendant was being supported and got his livelihood from her.

7. In that the Court erred in charging the jury: "And you have a right, of course, to consider the interest of the defendant, who testified, because he has testified before you, and he has a very grave interest in any verdict you may render, and you have a right in your discretion to consider whether or not the defendant's interest in the verdict which you may render has affected his truth-telling capacity on the witness stand."

McDERMIT & McDERMIT,
Attorneys for Plaintiff-in-Error.

Service of a copy of the within specification of causes is hereby acknowledged this 6th day of January, 1920.

J. H. HARRISON,
Attorney of Defendant-in-Error.

New Jersey Court of Errors and Appeals

THE STATE OF NEW JERSEY,

Defendant-in-Error,

vs.

JOSEPH MAYEWSKI,

Plaintiff-in-Error.

*On Writ of
Error to
Supreme Court.*

BRIEF OF PLAINTIFF-IN-ERROR.

Plaintiff-in-error, Joseph Mayewski, was indicted that he did on the thirtieth day of May, 1918, unlawfully and knowingly receive money to the value of thirty dollars without actual and *bona fide* consideration from one Margaret Wild, she being then and there a female engaged in prostitution.

The indictment is founded under section 5 of the supplement of the Crimes Act, enacted 1910. He was convicted of the said crime, and the present writ or error brings up for review the said conviction upon the entire record of proceedings had in the court below, and comes within purview of sections 136 and 137 of the Criminal Procedure Act of 1898.

The State presented evidence through Margaret Wild to the effect that she had met the defendant about five or six years ago, while she was living with her husband, Charles Wild, that because of some trouble she had with her husband she joined the defendant. She stated that at that time defendant wanted her to work in prostitution and turn over the proceeds to him; she claimed she did this for a period of five years, until the month of May, when there were four men who came to her apartment, with whom she had intercourse, and that each of them paid her two dollars and that she turned the money over to the defendant. There is no positive testimony that on May 30th, 1918, that she paid the defendant thirty dollars. There is testimony of a general character that she may have given the defendant the sum of eight dollars, and yet that is rather testimony of an indefinite nature. The testimony shows that Margaret Wild ceased prostitution from the first of May up to

October, 1918, when she had defendant arrested, as disclosed by the following testimony (p. 27, Case Book, to p. 29):

“By the Court.

Q Why did you stop doing this work that you say you did up to the first of June? A First of May; my health failed me.

Q Up to the first of May? A My health failed me.

Q Then, you went and lived with him after that? A I couldn't get rid of him. I was afraid of getting arrested. I thought I would get my—I asked the detective; he said—

Q Never mind what you asked the detective. Did he say anything about that to you? A No, sir.

Q You lived on Monmouth street, and you did this work for him, as you say, and yet when your health failed and you couldn't go on doing that kind of work any more you stayed with him; is that so? A I had to keep giving him money just the same.

Q I asked you if that is the fact? A Yes, sir.

Q Now, where did you get the money from that you kept on giving him? A My brothers gave it to me.

Q Did you ever tell him that you had stopped doing this business? A I told him? Certainly; I told him I stopped doing business because I had no clothes or anything but the working clothes around the house. Sometimes I would hardly have anything to eat; he would take the money and go out and gamble it.

Q You pay attention to my question and not talk about something else. You have told us that for years this man lived in the same place with you; slept in the same bed at night with you; is that so? A Yes, sir.

Q And that he went out at 2 o'clock in the afternoon and came home for his supper or his dinner, or whatever you called it, and then he went out again and came back at 2 o'clock in the morning; is that right? A Yes, sir.

Q And that he said to you that he was a gambler; is that right? A Yes, sir.

Q And that during the day time and sometimes at night and even in the morning you received men? A I never received—

Q As high as ten men a day, and that you charged them two dollars apiece and that you gave the money to the defendant; is that so? A Yes, sir.

Q Now, there came a time in May of last year when you stopped doing that. Is that so? A Yes, sir.

Q Now, did you tell him that you had stopped, or what talk was there between you at that time? A I told him I wasn't going to do any more business.

Q What did he say? A I really forget what he did say.

Q Well, if you can't remember what he said— A I know we had a big fight.

Q What? A We had a big fight. He said he had to get money some place.

Q Did you tell him you were going to stop doing business? A Yes, sir.

Q Or did the receipts begin to fall off and did he ask you why they did fall off? A No; I told him I wouldn't do any more business.

Q What did he say? A We had a fight.

The Court. Strike that out; it is too indefinite. What was that about? A He said he wasn't able to work and wouldn't work and some one else would have to keep him.

Q When did he say, as you stated, he was unable to work? A He always said that; "sick man," he says; "delicate."

Q Well, what was this fight about? What happened that you call a fight? A He went around beating me and pounding me on the head, and I had to hold the door and keep myself in the bedroom until he went out.

Q Then what happened? A When he came back he was all right.

Q He went out? A Yes, sir.

Q Did you go out after he went out? A No, sir.

Q Do you mean to tell us that because of physical fear that you stayed there? A Why, certainly.

Q Then why didn't you go out? A Only when he fought he was only dangerous; other times he was all right.

Q Then you stayed and lived with him after the first day of May and up until the third day of October; is that it? A Up until he got arrested.

Q That was in October, was it? A I really don't know the date.

Q Were you perfectly willing to go on and do this work for him and pay him the money? A No, sir.

Q What? A No, sir.

Q Why did you do it? A I was ashamed to let my old friends know it. Everybody thought I was married to him. He always went by my husband's name, Mr. Wild.

Q You had these men come into your apartment house on the first floor on Monmouth street in broad daylight? A Yes, sir.

Q You weren't very much ashamed then. That can't be the reason, can it? Is that all you have got to say about that? A (No answer.)

Q Well, that is all, then, is it? A Yes, sir.

Q You said something that may have meant you had a lot of men call on you at Monmouth street. Only these

four men you speak of particularly. A I had more than that.

Q There during the whole period of five years. These four—two of them came one time and two another time—the defendant was there and he went up in the bathroom—after they came into the bedroom he left, you said, on one occasion? A That was different fellows; not these four fellows; he went out the parlor door another day.

Q These four men— A Yes, sir.

Q Men that you had coming to see you for the purpose of prostitution for upwards of five years? A Yes, sir.

Q What? A Yes, sir.

Q And how about the others that came there to Monmouth street? A They all came different times.

Q Had they been coming to see you for five years for that purpose? A Yes, sir.

Q What? A Yes, sir.

Therefore, the State's case wholly fails to show that the defendant was guilty of unlawfully and knowingly receiving money from a prostitute on May 30th, 1918, of the sum of thirty dollars as charged in the indictment, or at any time at or near that date, and the conviction of the defendant is, therefore, erroneous and should be reversed by this court.

What the conviction of the defendant was had upon is the testimony of the complainant, Margaret Wild, found on page 8 of the case, where she testifies that five years ago she was told by the defendant to go out in the street and get men, and that she continued to do that until the month of May, 1918, which testimony was objected to by counsel for the defendant, on the ground that the evidence tended to show that the statute of limitations run against it, relating to acts of passing the money, which objection was overruled, thereby bringing about a conviction of the defendant on testimony which was illegal, and not upon the fact of whether or not the defendant obtained the money from Margaret Wild on May 30th, 1918, by reason of her act of prostitution.

The defendant contended that he was not guilty of the charge made against him, and that he admitted that he had intercourse frequently with this woman and lived and supported her and members of her family, paying her thirty to forty dollars per week, and that he never received any money from her, which she claimed was earned by prostitution, in which he is corroborated by Margaret Wild herself in view of the above testimony wherein she testifies that she was not a prostitute nor receiving any

money from the first of May on and that if she gave the defendant any money during that time it was money that she was receiving from her brothers.

Therefore, the contention is that the conviction of the plaintiff-in-error is erroneous and should be reversed and that the charge made against him was done by reason of perjury and bias on the part of Margaret Wild, as shown by her testimony that she wanted to get rid of him (p. 22, l. 28):

“Q Why did you want to live with him? A I couldn't get rid of him. This is the time I am getting rid of him by getting him arrested.”

The assignment of errors are to be found on page 75 of the case, and the specification of causes for reversal on page 77, which set out substantially the following points, viz:

1. That there is no evidence that defendant was guilty of receiving money from a prostitute and of the charge of white slavery.

2. That there is no proof that defendant received any money on the date, time and place from a prostitute, as alleged in indictment.

3. That no crime was proven to have been committed by the defendant.

4. In that the Court erred in permitting the State's witness, Margaret Wild, to testify to acts and conduct alleged to have been committed by the defendant five years before the time alleged in the indictment, which acts, if a crime, was outlawed by the statute of limitations.

5. In that the Court erred in ruling that defendant could not put in evidence that he had money in bank and was deriving his money from legitimate sources and not from, as in the case at bar, for receiving money from prostitution, in refutation of the complainant's story and to contradict her and the State's contention that defendant had been supported and received his livelihood from complainant.

6. In that the Court in stating the defense and contentions of the defendant erred, failed and omitted to state the contention as shown by the testimony that the defendant was not deriving any money from prostitution and making a living from it, as contended by the State, as his bank deposits and work he was doing showed a refutation of the complainant's story that defendant was being supported and got his livelihood from her.

7. In that the Court erred in charging the jury: “And you have a right, of course, to consider the interest of the defendant, who testified, because he has testified before

you, and he has a very grave interest in any verdict you may render, and you have a right in your discretion to consider whether or not the defendant's interest in the verdict which you may render has affected his truth-telling capacity on the witness stand."

POINTS.

I.

That no crime was proven to have been committed by the defendant or that defendant received any money on the date, time and place, as alleged in the indictment, from a prositute.

The evidence shows that the complainant witness, Margaret Wild, from May 1st up to October, 1918, was not prostituting (pp. 27 and 29, printed case), and that she was not receiving any money or moneys from men by reason of sexual intercourse and turning the same over to the defendant on May 30th, 1918, being the sum of thirty dollars, as alleged in the indictment. In fact, the evidence discloses under questioning by the Court of the State's witness, Margaret Wild, that she had ceased doing business as a prostitute on the first of May on account of poor health up until the month of October of that year, when she had the defendant arrested, and that moneys she gave to the defendant if any was money that she had received from her brothers (p. 27, l. 21, printed book).

There is no other evidence showing that the defendant either directly or indirectly received from Margaret Wild, a prostitute, the sum of thirty dollars on May 30th, 1918, as alleged in the indictment.

II.

Acts and conduct alleged to have been committed by the defendant five years before the time alleged in the indictment, illegal and inadmissible.

This point covers assignment of error number 4, which is as follows:

4. In that the Court erred in permitting the State's witness, Margaret Wild, to testify to acts and conduct alleged to have been committed by the defendant five years before the time alleged in the indictment, which testimony is as follows:

"Q Now, during the time you lived on Monmouth street—or was it during the time you lived with him at

Monmouth street—that he told you to go out in the street and get men? A He told me that five years ago.

Q Did you start five years ago? A Yes, sir.

Q And continued all during the time you were in Monmouth street? A Yes, sir; until May.

Mr. McDermitt. I move to strike it out. All the evidence tends to show that the statute of limitations runs against it.

The Court. If it was the result of practice or course of dealing or the request of the defendant ten years ago, it would be competent.

Mr. McDermitt. It could not be unless it was within the statutory time.

The Court. That only relates to the acts of passing the money over.”

The State sought to show that the defendant had been continually receiving money from this witness for five years which she was earning as a prostitute, and that the same was the defendant's means of livelihood which acts were outlawed by reason of the statute of limitations and far afield from the point under consideration. The question was if whether or not on May 30th, 1918, the defendant unlawfully and knowingly did receive money to the value of thirty dollars without actual or *bona fide* consideration from Margaret Wild from her earnings derived from prostitution, and not what had occurred five years before.

I respectfully submit this is prejudicial error to the defendant as this testimony is illegal and inadmissible.

III.

Assignments of error four and five and Causes No. 5 and 6.

“4. In that the Court erred in ruling that defendant could not put in evidence showing that he had money in bank, and was deriving his money from legitimate sources and not from, as in the case as for receiving money from prostitution which ruling is as follows: ‘There are hundreds of men that we read about every day in the newspapers worth thousands charged with taking money belonging to other people, and you mean to say that it is a good defense to say that they have got enough money and do not have to steal; there is no logical connection between the two in human experience.’”

“And the Court further stating, ‘You do not have to show that it was his means of support. All that is necessary is to show

that this woman received some money from prostitution and that she delivered it to this defendant and that he knew at the time that it was money received from prostitution. You do not have to show that she was supporting him or anything else.' Which statements and rulings were prejudicial to defendant's defense."

"5. In that the Court in stating the defense and contentions of the defendant erred, failed and omitted to state the contention as shown by the testimony that, the defendant was not deriving any money from prostitution and making a living from it as contended by the State, as his bank deposits and work he was doing showed a refutation of the complainant's story that defendant was being supported and got his livelihood from her."

It was the contention of the State that the defendant was deriving money from a prostitute, Margaret Wild, to support himself and that this was the only means of livelihood. And that the defendant never did any work and had no means whatever; in fact, the State assailed the defendant's character through the testimony of Margaret Wild, it therefore became competent for the defendant to establish the fact that he was not getting his means of livelihood from the complainant Margaret Wild by reason of her prostitution, that he had means of his own, and had a trade and was keeping the complainant witness as his mistress, to do all of which he subpoenaed Raynor F. Jarmicki, book-keeper for the American National Bank, to show his line of conduct in the business world and the community in general, and not as contended by the State, in the first instance.

The rulings of the Court was stated in the presence of the jury, they having received the benefit of his remarks to the prejudice of the defendant.

IV.

Assignment of error No. 6 and Cause No. 7.

"6. In that the Court erred in charging the jury; and you have a right, of course, to consider the interest of the defendant, who testified, because he has testified before you and he has a very grave interest in any verdict you may render and you have a right in your discretion to consider whether or not the defendant's interest in the verdict which you may render has affected his truth-telling capacity on the witness stand."

The Trial Judge made the fact pointed that the jury has a right to consider the very grave interest, which this defendant has in any verdict the jury may render, after having charged them that the jury had a right to consider the interest of the defendant because he had testified before them. By the Court in so pointedly charging the jury, made them understand that the defendant being a party in interest that it gives the defendant a motive to commit perjury, and that they could at their pleasure and without regard to the element of credibility, which the evidence of the defendant may possess rejected it because of his interest which is a grave one, and because he has every opportunity to commit perjury, or because they are not satisfied that it has not been corroborated. It is tantamount to saying that because of the very grave interest of the defendant, his testimony is unworthy of belief, as he is the person most likely to commit perjury.

I have always understood it to be the law, that it is the duty of the jury to always consider the evidence of the accused with all the evidence in the case. The charge as given by the Court to the jury, takes away the right of the defendant's presumption of innocence. The presumption of innocence is itself a piece of evidence to be weighed with the other evidence favorable to the accused in determining the question of his guilt.

State v. Marston, 72 Atl. (Vt.), 1075.

It is not up to the accused to prove his innocence, the State must prove the guilt of the defendant beyond a reasonable doubt; but the Trial Court makes the jury understand that the defendant by taking the stand shows an interest in the case which is a very grave one, and most likely to commit perjury in order to establish his innocence, so as to escape punishment.

V.

Verdict of guilty unjustified.

The evidence is clear and unequivocal and is conclusive of being consistent with the innocence of the defendant, and not to justify the verdict founded upon it, as the evidence heretofore cited, shows that the Margaret Wild ceased prostituting on the first of May until October, 1918, when she had the defendant arrested, and that moneys she received during that time was, that which she received from her brothers, which she claims she

gave to the defendant, which money she received lawfully, therefore the defendant was not guilty of receiving the sum of thirty dollars as alleged in the indictment, unlawfully and knowingly without *bona fide* consideration from Margaret Wild, she being then and there a female engaged in prostitution.

Respectfully submitted,

FRANK M. McDERMIT,
Of Counsel with Plaintiff-in-Error.

New Jersey Court of Errors and Appeals

STATE OF NEW JERSEY,

Defendant-in-Error,

vs.

JOSEPH MAYEWSKI,

Plaintiff-in-Error.

*On Writ of
Error to Essex
Quarter Sessions.*

BRIEF FOR DEFENDANT-IN-ERROR.

The defendant was tried and convicted of unlawfully and knowingly receiving money from a prostitute without actual and *bona fide* consideration.

The case comes up on a strict bill of exceptions and on the entire record under the 136th and 137th sections of the Criminal Procedure Act.

There are seven assignments of error and seven causes for reversal.

The assignments of error and the causes specified are for all purposes the same.

Assignments and Specifications 1, 2 and 3.

These assignments and specifications are all based on alleged lack or defect of evidence to sustain the verdict.

“The other ground upon which the judgment is attacked is that the verdict is against the weight of the evidence, but this is a matter which cannot be considered upon a writ of error.”

State v. Donohue, 59 Atl. 12.

In the Hummer case, the Court of Errors and Appeals says:

“Without regard to the legal soundness of this proposition, there are several obstacles to its application to the case before us. In the first place, it implies that the verdict can be set aside upon a writ of error, which our Supreme Court has decided it cannot do. *State v. Donohue*, 59 Atl. 12.”

State v. Hummer, 44 Vr., at p. 721.

In the Merkle case, the Court says:

“The only other ground upon which we are asked to reverse the conviction is that the verdict of the jury is not supported by the preponderance of the evidence. In the case of *State v. Lang*, 46 Vr., page 8, this Court, in disposing of a similar contention, declares that it was no part of the duty of a court of review, in a case brought up under the 136th Section of the Criminal Procedure Act, to examine the evidence for the purpose of determining whether or not it justified the verdict of the jury; and the Court of Errors and Appeals, upon a review of our judgment in that case, ‘entirely concurred’ in the conclusion expressed by us upon that point. *S. C. on error*, 46 *Id.* 513.”

State v. Merkle, 53 Vr., at page 177.

“To justify a court in setting aside the verdict of a jury on the ground that it is against the weight of the evidence, it must so clearly appear as to give rise to the inference that it is the result of mistake, passion, prejudice or partiality.”

Floersch v. Donnell, 53 Vr., at page 359.

In the case of *State v. Donnell*, 53 Vr., at page 359.

“The Criminal Procedure Act of 1888, in Section 136, *supra*, omits the words, ‘or upon the evidence adduced upon the trial,’ so that since that act of the Court, upon review, does not pass upon the weight of the evidence, and only upon its omission or rejection, or upon the direction of the Judge as to its legality, and that only when brought before the reviewing court in the manner indicated above.”

State v. Shutts, 40 Vr., at 208.

In the Shutts case, *supra*, there were thirteen assignments of error, of which the fifth and eleventh were as follows:

“Fifth—Because the testimony was such that it showed that the defendant was not guilty, and the verdict should have been accordingly.”

“Eleventh—Because the verdict or finding is against the clear weight of evidence.”

In disposing of these assignments of error, which are similar in character to the assignments in the case at bar, the Court says:

“The fifth and eleventh assignments of error are upon the finding of the evidence, and cannot be considered.”

State v. Shutts, supra.

In the Egan case, the Court of Errors and Appeals says:

“As the law now stands, whether a case comes before us on a strict bill of exceptions or under the statute, or both, a review on the facts is limited in any case to the question whether there was any evidence which would support a conviction under the indictment.”

State v. Egan, 55 Vr., at 704.

The evidence to support a conviction is clearly found in the testimony of Margaret Wild on different pages of the case, as follows: Margaret Wild's testimony, pages 9 and 10; also page 18; also page 27, lines 38 to 45, and is clearly shown in her testimony on pages 31 and 32.

Margaret Wild testifies (pages 31 and 32):

“Q Let me understand you; on the 30th day of May, that is the last day you say you were in business in the house, how many men came to see you? A Four.

Q How much did you receive from those four men? A Eight dollars.

Q Two dollars apiece? A Yes, sir.

Q What did you do with that money? A Gave it to Mr. Mayewski.

Q Were those the men who came to the house while your husband was there? A Yes, sir.

The Court. Do you mean husband?

Mr. Blake. Or while the defendant was there?

Witness. Yes, sir.

Q Did he say anything to you when these men came in or did you say anything to him? A He was sitting at the table eating when they came. I have a glass door on the back porch and he seen two men coming—he jumped up from the table—he never wanted any one to see his face—he jumped up, went in the dining-room, took his hat and coat and went out the parlor door; so I didn't see him until half-past six at night.

Q When he came in at half-past six these men were all gone? A Certainly.

Q What did you say to him and what did he say to you? A He asked me for the money.

Q What money—what did he say to you? A He says, 'where is the money the men gave you'?

Q What did you say to him? A I handed it to him.

Q How much? A Eight dollars.

Q The same eight dollars you received from these men?

A Yes, sir."

Assignment and Specification No. 4.

This assignment and specification is based on the admission of evidence to which attorney for plaintiff-in-error objected and on which objection an exception was allowed and sealed.

In the Riley case, the Supreme Court says:

In the crime of obtaining money under false representation, the offense does not consist in the making of the false representation, but in the making of the false representation and the obtaining money or other thing of value by means thereof.

An indictment alleging the making of the false pretenses more than two years prior to the finding of the same, and which further alleges that money was obtained less than two years before the finding of the indictment, is not barred by Section 130 of the Criminal Procedure Act, General Statute, page 1146."

State v. James Riley, 65 N. J. L., page 192.

Assignment and Specification No. 5.

This assignment and specification is based on the Court's ruling on the exclusion of evidence. The plaintiff-in-error offered to prove that he had money in the bank to refute (as he claimed) the State's contention that defendant had been supported and received his livelihood from a prostitute, the complaining witness.

It is respectfully urged that the State's case consisted of the evidence that on the 30th day of May, 1918, the defendant was guilty of receiving \$8.00 from a prostitute and without a valuable consideration, knowing it had been earned in that way. That was the issue the defendant had to meet and any proof that he had abundant money or income of any sort as a means of support would not meet the issue and that therefore the offer was irrelevant and immaterial.

Assignment and Specification No. 6.

This assignment and specification is based on alleged error of omission in the Court's charge.

It is respectfully urged that there was no error for three reasons:

First—that the contention of the plaintiff-in-error as to whether or not he was living on the earnings of the prostitute and evidence that he had money or independent income was immaterial to meet the issue. That it had no more place in the Court's charge than it did in the evidence of the case.

Secondly—In the Donnelly case, the Supreme Court says:

“That the Court, in its charge to the jury, argued the facts of the case, or gave a partial view of the evidence against the prisoner, constitutes no legitimate ground of error or of a bill of exceptions.”

James P. Donnelly v. The State, 26 N. J. L., p. 463.

Thirdly—There was no request by counsel for plaintiff-in-error upon the Court to charge.

“Omission of the Court to charge on a particular matter is not error, in the absence of a request to charge thereon.”

State v. Bertchey, 77 N. J. L. 640.

Assignment and Specification No. 7.

This assignment and specification is based on alleged error in the Court's charge.

Counsel for plaintiff-in-error urges the point in this assignment of error that “The Court in so pointedly charging the jury, made them understand that the defendant being a party in interest that it gives the defendant a motive to commit perjury, and that they could at their pleasure and without regard to the element of credibility which the evidence of the defendant may possess rejected it because of his interest, which is a grave one, and because he has every opportunity to commit perjury, or because they are not satisfied that it has not been corroborated. It is tantamount to saying that because of the very grave interest of the defendant, his testimony is unworthy of belief, as he is the person most likely to commit perjury.”

In the Dugan case, the Supreme Court says:

“1—The Judge charged the jury: ‘One of the best ways of ascertaining the truth of the statements of a witness upon the witness stand is to ascertain the interest of a witness in the story he told on the stand.’ Held, that the Judge did not by the use of the language ‘One of the best ways’ limit the jury to the consideration of the last specified, to the exclusion of other matters which might tend to affect the credibility of a witness.”

State v. Dugan, 84 N. J. L., p. 603.

And again in the same case, on page 605, Justice Kalisch in his opinion says:

“While it is true that the law lays down no specific tests for the ascertainment of the truth or falsity of a witness, yet there are well-recognized conditions of which the law takes notice, as affording a means of ascertaining to what extent, if any, credit may be given to a witness, a conspicuous example of which is the interest that a witness has in the case in which he is testifying. This is not without judicial authority in this State. In *Haver v. Central Railroad Company*, 35 Vroom 312, Mr. Justice Gummere, delivering the opinion of the Court of Errors and Appeals (on p. 313), says: ‘That interest in the result of a suit is apt to produce bias on the part of a witness may be shown for the purpose of discrediting him, is elementary law.’”

State v. Dugan, 84 N. J. L., p. 603.

We, therefore, respectfully insist that there is no error in the record, and that the judgment below should be affirmed.

Respectfully submitted,

J. H. HARRISON,
Prosecutor of the Pleas.

A. LESLIE PRICE,
Assistant Prosecutor.

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