New Jersey Court of Errors and Appeals

THE STATE OF NEW JERSEY, *Defendant-in-error,* vs. FREDERICK KOETTGEN, *Plaintiff-in-error.*	*On Error to New Jersey Supreme Court.*

BRIEF FOR PLAINTIFF-IN-ERROR.

Statement of Facts

This writ brings up for review the judgment of the Supreme Court confirming the judgment of conviction in the Passaic Court of Quarter Sessions. The plaintiff-in-error was convicted of keeping a disorderly house and sentenced to State's prison for the minimum term of 18 months and $500.00. The alleged disorderly house consisted of the maintenance of a hall in which dancing was carried on, and of alleged disorderly or improper acts either in or without the premises. The hall in question was known as "Helvetia Hall," and the indictment charges the maintenance of a disorderly house between April 11th, 1913, and the date of the indictment May 8th, 1914.

Helvetia Hall was one of the largest halls in the City of Paterson. It was part of a four story building situated on Van Houten street about one and one-half blocks west of Main street, the prin-

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cipal businesss thoroughfare of the city. The building so described consisted of a basement in which there were two bowling alleys and a pool room. On the first floor was a cafe, bar room and dining room, while on the floor above this, was a dance hall, a gallery and rooms for lodgers. The hall was forty-two by one hundred feet. Above the hall were living apartments for Mr. Koettgen, plaintiff-in-error and his family, and a lodge room.

The entrance to the hall, lodge rooms and other parts of the building was not through the saloon or cafe, but directly from the street through a large entrance and stairway. (P. 222-223). When the dining room was not being used for serving of meals, it was used for serving of refreshments and drinks to persons using the dance hall, and for the public generally. The access to this dining room was also obtained directly from the street, and was not connected with the saloon. (P. 223).

The hall was used to a considerable extent for lodge meetings; meetings of labor organizations; political meetings and for dancing and for this purpose was very frequently hired by clubs and societies throughout the city.

At the beginning of each season, Mr. Koettgen rented the hall to a man by the name of Barlow, for which he received monthly rental. *He had no direction or control of any dances run by Mr. Barlow, neither did he have any control over the use of the hall.* (p. 223 lines 20-32).

Aside from the rent Mr. Koettgen did not receive any income from the hall whatsoever. He had no financial interest whatsoever in any dance or any other affair or gathering carried on at the hall. (p. 224, lines 1-5). The only right that Mr. Koettgen reserved to himself was the right to en-

gage two constables to patrol the entire premises to see that no lawlessness of any kind took place. (p. 224, lines 5 to 15). The constables in question were Charles McGee and Charles Clark. (p. 225, lines 10-15). One of them being a former police officer of the City of Paterson. To these men positive instructions were communicated, that the slightest disorder of any kind was to be stopped; that no minors were to be allowed in the place, and that objectionable characters should be removed. (p. 225, lines 10-25). These same instructions were given by him to his own waiters, barkeepers who were told to be on guard if they noticed anything of improper character going on about the place and communicate with him. (p. 225, lines 30-40).

Mr. Koettgen testified and it was not denied that he frequently went through the premises and the dance hall, and that he never saw anything of improper character going on. (p. 227).

The whole trouble in this case arose out of a dance known as the "Chorus Girls' Ball" of the Orpheum. The Orpheum is a theatre in the City of Paterson. The dance in question was conducted by employees of the Orpheum, who hired the hall by a contract in writing, which is offered in evidence by the defendant. (p. 228).

The business carried on was not carried on by the defendant individually, but by a company known as the Charles Krutten Company. The contract by which the Orpheum employees secured the possession of this hall for a public dance, at which admission was charged, gave them the exclusive control of the hall. All employees in connection with it were hired by them, and the defendant had absolutely nothing whatever to do with the hall in question. (p. 231).

The acts which were claimed to constitute the disorderly house consisted of the alleged presence of minors, of whom no proof was offered as to their age; some swearing or improper language between two persons in the hall; and a fight and improper language used on one occasion in front of the premises and on another on the corner of Main and Market streets, a block and one-half away. On evidence of this character, the case was allowed to be sent to the jury and the verdict of guilty allowed to stand.

The writ of error brings up for review rulings of the trial judge, which is claimed were erroneous. In this brief it is proposed to follow the general line of argument pursued in our brief presented in the Supreme Court.

POINT I.

The Court erred in allowing witness to give their opinion as to the ages of persons in the dance hall.

The rulings questioned under this point, are covered by the first, third, eleventh, nineteenth twenty-fifth, (this last is a motion to strike out all testimony under this point) thirty-first and thirty-second assignments of error.

Under the first assignment, James Smith, a witness for the State was asked the question:

> "Did you observe the ages of the boys and girls there sitting around the table?"
> He was allowed to answer this question.

Under the third assignment he was asked:

> "Q. Now, did you observe any of the people there as to whether they were young people or people advanced in years, and how many would you say were young people or people advanced in years?"

Under the nineteenth assignment, a witness by the name of Abraham Weinberg, was allowed to testify:

> "That a girl to whom he was talking in the dance hall told him she was sixteen or seventeen years of age."

When the State had rested its case, counsel moved to strike out all this testimony relative to ages, but the court refused to do so.

The thirty-first and thirty-second assignments covered part of the charge of the court, in which the court told the jury that to allow minors to frequent the place would constitute keeping a disorderly house and then proceeded to charge that the giving of opinion and evidence as to the ages of persons was permissible. These rulings and the charge of the court in the premises, we contend were erroneous.

This question has been passed upon in numerous cases upon charges of selling intoxicating liquors to minors. (23 Cyc. p. 272). It is there laid down that amongst other things, "It must be proved that there was a sale of the liquor and that the purchaser was under age at the time, such knowledge on the part of the defendant must be affirmatively proved by the evidence of the State."

"It is not permissible for the jury to make their finding as to the belief and good faith, depend upon their impressions of the age of the alleged minor, as formed from their observations."

In Koblenschleg v. State, 23 Texas Appeals 264-4 S. W. 888, the court held "It is error to permit the State to ask a witness whether, at the time of the alleged offence, the purchaser, by reason of his physical appearance, would be taken by a person of ordinary observation to be a minor."

"Hearsay and general reputation cannot generally be received as competent evidence of the age of the person in question. *Peterson v. State,* 83*Md.* 194, 34 *Atl.* 834.

In this State the courts have gone a little farther than the general rule as above enunciated.

In the case of State v. Laster, 42 Vroom, 527, the court held:

> "Common observers having special opportunity for observation may testify to their opinions as conclusions of fact, although they are not experts, if the subject matter, to which the testimony relates, cannot be reproduced or described to the jury precisely as it appeared to the witness at the time, and their opinions are such as men in general are capable of forming with reasonable correctness on the facts observed."

There may be some question, as to whether or not the ruling in the Laster case, would be extended to a state of facts like the case at bar.

We would respectfully submit that the general rule as given in Cyc. is not contradicted by the

rule in the Laster case. Assuming however, that opinion evidence as to the ages of the persons in the hall might have been received under the ruling in the Laster case, the court erred. It will be observed that the ruling laid down in the Laster case is that the opinion may be received when the subject matter cannot be reproduced or described to the jury.

We contend, that in this connection, positive testimony might have been obtained as to the ages of these particular persons other than by the testimony of the persons themselves, viz., by the production of birth records or the testimony of some person or persons who knew their age.

We insist, that if it be a crime as charged by the trial judge, to permit minors under the age of eighteen years, to frequent a place where liquor is sold, then proof of the age of the frequentor is just as essential and just as strict proof is required, as to prove age in any other criminal proceedings, such for instance, rape; seduction under promise of marriage; carnal abuse of a woman under the age of sixteen years.

It would indeed be a serious condition of affairs when a man conducting a place for the sale of liquor, might be sent to State's prison upon a charge of permitting a minor under the age of eighteen to frequent his place, when the only proof that the frequentor was a minor, would be the guess of some person or persons as to the age of such minor. The court therefore, we contend, was in error in admitting the evidence under any circumstances.

The court however, in charging the jury on this point, did not qualify it within the rule in the Laster case. He simply said to the jury:

> "The giving of an opinion as to age is permissible when accompanied by such circumstances as will justify it, and you will remember the evidence in this connection, *so that the jury can take not only the opinion as to the age of the party, but the facts upon which that opinion was made, so as to readily understand for themselves whether or not the opinion was justified.*"

It will be observed here, that the court in charging the jury distinctly charged that the jury could not only take the facts upon which the opinion was rendered, but aside from that, that they could take the opinion without the facts. In support of this, we call to the court's attention, that part of the charge wherein the court said: "So that the jury can take not only the opinion as to the age of the party, but the facts upon which that opinion was made." The charge should have required them to take the facts (if there were any facts) as well as the opinion. The language of the charge should have been: "That the jury must take not *only* the opinion as to the age of the party, but the facts, upon which the opinion was based."

That the court intended the jury to consider the evidence of the opinion not based upon facts presented to the jury, may be seen by an examination of the evidence covered by the assignments in question.

The evidence covered by the first and third assignments was given by a witness for the State, named James Smith. He was asked:

> Q. "What was the ages of some of the girls and young men that you saw there at the tables?" This was partly answered.

"Did you observe the ages of the boys and girls there sitting around the table?" (p. 15).

Q. "Now did you observe any of the people there as to whether they were young people or people advanced in years, and how many would you say there were young people or people advanced in years?" (p. 17).

A. "They appeared to be the age of seventeen and eighteen years of age."

After the objection to the questions had been formally made and overruled, the witness proceeded to tell how many of them in his opinion were around seventeen and eighteen years of age. A scrutiny of his testimony will fail to reveal the slightest evidence given to show upon what he based his opinion as to their age. In view of this, there was error.

The Supreme Court in its opinion seemed to consider this point of little effect, and some expression was used to the effect that the objection was pedantical. The court seemed to lose sight of the fact that this wasn't a mere opinion as to the probable age of a person, as for instance, an opinion as to whether a person was an "old man," a "young man" or a "middle-aged man," but it was offered to support a contention that there was violated a statute forbidding persons under the age of eighteen years to frequent a place wherein intoxicating liquors were sold, etc.

Age, therefore, was of the very essence of the offence.

If, in view of the clear words of this statute, evidence of opinion as to a person's age may be admitted as evidence, showing the violation of

this statute, then, every hotel-keeper, inn-keeper or keeper of any place where liquor is sold would be at the mercy of the opinion of any person or persons desiring to make a charge against them for violating the statute.

It would make no difference that such opinion might differ as to the age of the persons in his place from the defendant's opinion; it would make no difference how erroneous the judgment of the State's witnesses might be as to their opinion. All they would need to testify to, would be that in their opinion a person in the defendant's place was under the age of 18 years and a prima facie case would be made out.

If such evidence be admissible in cases of this kind, as evidence showing a violation of a statute forbidding the sale of liquor, etc., to persons under 18 years of age, then such evidence would be equally relevant to prove the State's case in an indictment for sexual intercourse with a female under the age of 16 years. It would be equally efficacious to support an indictment and make out a prima facie case charging a person under the age of 21 years with illegal voting. It would be sufficient to make out a prima facie case (with the necessary facts) charging a man above the age of 18 years with seducing a female under the age of 21 years, under a promise of marriage. In fact, in any case where age would be one of the necessary facts to be proven, opinion evidence of by-standers, or on-lookers, or persons casually knowing the individual would be receiveable as primary evidence.

This we contend cannot be the law.

The nineteenth assignment deals with the admission of testimony of Abraham Weinberg, for the State. He was asked a question or questions

as to what conversation he heard between persons in the hall. He gave some of this conversation, and included in it a statement that a girl with whom he was, said "she was in a fast house on River street, and one said she was in a fast house in Little Falls, and I asked her age and she said sixteen or seventeen years of age." Counsel for defendant moved to strike out that part of the answer, but the court refused to do so and allowed it to stand.

Here then was further opinion evidence as to the age of a person in the place, without the slightest evidence of any kind being given to show upon what that was based, excepting purely hearsay evidence, viz: the statement of the girl herself. No attempt was made in this to learn who the girl was, although she was with Weinberg, and proof could have been easily obtained as to her exact age. The court was given an opportunity to correct this error in this respect at the close of the case, but refused to do so.

A motion was made by counsel for the defendant to strike out all this testimony. This motion being refused, the consideration of the correctness of this ruling is placed before the court by the twenty-fifth assignment.

The eleventh assignment also deals with opinion evidence. Robert Close, a witness for the State, testified that he saw some young people on the premises drinking. He testified that he thought it was beer. On cross-examination, he was asked the question: "Did you know whether it was ginger ale or beer?" A. "From my instinct I could almost swear it was beer." Counsel for the defendant moved to strike this answer out but the court refused to do so. (p. 65, lines 10-20).

We respectfully submit to the court, whether

the liquor in question was beer, could have been proved by a variety of ways: by taste, by smell, to some extent by appearance, by the testimony of the person who served it or the person who drank it, but we respectfully submit that the court cannot recognize a person's instinct as the means of ascertaining the existence of any fact.

Webster defines "instinct" as: "Natural inward impulse; unconscious, involuntary or unreasoning prompting to any mode or action, whether bodily or mental without a distinct apprehension of the end or object to be accomplished."

We submit that in this connection, that instinct is not the best evidence on which to prove any object.

POINT II.

The Court improperly admitted hearsay evidence.

Under this point, we refer the court to the twelfth and nineteenth assignments.

The twelfth assignment covers the admission of testimony of Thomas Stapleton, a witness for the State, who was allowed to testify to a conversation that he and another officer had in regard to what course of action they would pursue as to the making of arrests. Said conversation was purely hearsay.

In the nineteenth assignment, Albert Weinberg was permitted to testify to a conversation had between him and some women in the dance hall. He testified that these girls had told him they lived in a fast house, and that their age was seventeen years. We have already touched upon this assignment in the preceding point.

This testimony, of course was purely hearsay. The rule is too well settled to require citation of authorities.

We insist that the errors in question were substantial ones. They must have had considerable influence with the jury in their verdict.

POINT III.

The Court improperly admitted evidence of conversations and conduct outside of the premises.

See assignments, seven, eight, nine, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, twenty, twenty-one, twenty-two, twenty-three and twenty-four.

As will be seen from the large number of assignments grouped under this head, that the rulings of the court were numerous on the point involved.

The seventh assignment covers the admissibility of testimony of James Brooks for the State (p. 47, line 20), who was allowed to testify that a man came out of the hall under the influence of liquor and used certain indecent language when he came out.

The eighth assignment covers the admissibility of testimony by the same witness as to conversations he heard on the doorway or steps as they came out of the hall (p. 48).

The ninth assignment covers the admissibility of testimony of the same witness, who testified that he saw a young man come out of the door and go up the street towards Main street. Witness was on the street and as this man passed the

witness, he made use of certain cursing and swearing expressions. (p. 49, lines 25-35).

The twelfth assignment covers the admissibility of testimony of Thomas Stapleton, witness for the State, who testified concerning a fight on the corner of Main and Van Houten streets, a distance of over one block from the hall. (p. 74, lines 10-20).

The thirteenth assignment covers the admissibility of testimony of the same witness, who was allowed to testify that he saw some young men come out of the hall, one of them drunk, and as they went up the street he heard them make a filthy remark to somebody in a window in a nearby house. (p. 74, lines 30-40).

The fourteenth assignment covers the admissibility of testimony of the same witness, who was allowed to testify that they saw some men come out of the hall and start a fight on the street in front of the hall. (p. 75, lines 10-20).

The fifteenth assignment covers the admissibility of testimony of William Fiztpatrick, for the State, who testified he had seen some men come out of the hall and start a fight in the street. (p. 82 lines 10-20).

The sixteenth assignment covers the admissibility of testimony of John H. Kinney, a witness for the State, who testified that he was never on the premises of the defendant; that he was stationed on the corner of Main and Van Houten streets, a distance of over a block away, and yet the court allowed him to testify as to the conduct he had observed of people at this distance from the hall. (p. 88, lines 12-20).

The seventeenth assignment covers the admissibility of testimony of Archibald N. Smith, a witness for the State, who was allowed to testify that

two women he had seen in the place had been arrested the next day for being drunk on the street. (p. 95, lines 1-10).

The eighteenth assignment covers the admissibility of testimony of William Zimlinghaus, a witness for the State, who testified as to the fight on the street. Notwithstanding that he did not know where these persons had come from and did not know whether they had been in the hall of the defendant or not. (p. 110, lines 16-18).

The twentieth and twenty-first assignments cover the admissibility of Dent Bell, at witness for the State, who was allowed to testify to conversations and remarks held on the street by persons alleged to have come from the hall of the defendant. (p. 134, lines 20-40; p. 135, lines 25-40).

The twenty-second and twenty-third assignments cover the admissibility of the same witness, who testified as to the fights that took place with people coming from the hall. (p. 135, entire).

The twenty-fourth assignment covers the admissibility of the testimony of Dent Bell, a witness for the State, who testified that he saw a fight on Van Houten street, but did not see whether the fight took place directly in front of the hall or not; that he did know where the fighters came from; that the fight was on when the witness arrived on the scene. (p. 137, lines 30-40; p. 138).

All of the rulings of the court in admitting this testimony were plainly erroneous. Under the well settled rule of law laid down in the case of the State v. Heflin, 20 N. J. Law, Journal p. 151. The Supreme Court held: "Evidence of the general reputation of the house *or* to conversations and conduct outside the house, is not admissible." As the opinion is short, counsel will quote it in full:

> "1. Evidence of general reputation of the house was, we think plainly inadmissible. Such proof, so far as we know, has never been received in our courts. Almost all authority is opposed to its reception.
>
> 2. Conversations that occurred outside of the house were not legal testimony. Only conversations and conduct in the house were admissible. The character of the frequenters of the place could have been shown only by evidence of general reputation. Indecent conduct or conversations out of the house should not have been introduced."

This is the only expression of our courts on the point involved. It follows, however, the rule laid down in Massachusetts, in the case of Commonwealth v. Harwood, 70 Mass. 41; 64 Am. Dec. page 49, where it was held:

> "In a prosecution for keeping a house of ill fame, evidence of conversations held by men immediately after coming out of the house, and not in the presence of the defendant, or any of the inmates, as to what had taken place in the house, is inadmissible."

This rule is reasonable. It holds a man responsible for what happens upon his premises only.

If it were held otherwise, it would logically follow that the most respectable theatre might be adjudged a disorderly house, if from the great mass of people visiting it, a few persons had after the performance, engaged in a fight on the street

or had used indecent language in the course of their conversation. In view of the positive statement of the law, by the Supreme Court of this state, as set forth in the Heflin case, the admission of this evidence was clearly erroneous.

It is difficult to say in what respect it could be justified. Some of the evidence challenged, concerned the conduct or language of the people immediately after coming out of the hall.

Perhaps it might be contended that inasmuch as the objectionable acts occurred so close to the hall, as to make it a part of the transaction, but this point was considered in the Heflin case as may be seen from an examination of the original records in that case, and by the rule laid down in the Massachusetts case of Commonwealth v. Harward, wherein the trial judge had committed error in admitting the testimony of conversation by men "*immediately*" upon leaving the alleged disorderly house.

The serious results which would follow from a contrary rule of law, can readily be appreciated. All that would be necessary to convict a person conducting any public amusement would be to produce evidence that at some time or other, at some place other than the defendant's premises, individuals had used indecent language or committed improper acts. This notwithstanding the fact that their conduct in the place itself was above criticism.

But why should the defendant here be held responsible for their conduct? They may have been intoxicated. Is there any inference that they took intoxicants in the place of the defendant? They may have quarrelled and fought in the street. Is any inference to be drawn that the cause of the quarrel arose in the place of the defendant? That

some of these persons on the street may have cursed or swore or used indecent language, can that be chargeable to the defendant? The question is, what did they do in his place?

The courts of this state, we submit are correct in principle, in laying down the rule that a man's responsibility ceases when he carries on his place in an orderly and law abiding manner.

Assuming for the purpose of argument, however, that the evidence of conduct immediately surrounding the place was admissible, what can be said in favor of the admissibility of testimony of conduct of persons remote from the defendant's place of business? Or of the conduct of persons upon the public street of which there is not a scintilla of evidence that they were ever on the defendant's premises?

We especially refer to the ninth, twelfth, sixteenth, seventeenth, eighteenth and twenty-fourth assignments.

The ninth assignment, challenged the admissibility of certain testimony of Dent Bell, a witness for the State. There was no testimony to show how near the hall the people were and whose actions and language he testified to.

By the twelfth assignment testimony of Thomas Stapleton is challenged. He testified that a fight had occurred on the corner of Main and Van Houten streets, a block and a half from the hall. (p. 74, lines 5-10).

In the sixteenth assignment, John H. Kinney, a witness for the State, testified that he was never down by the premises of the defendant, but was stationed at the corner of Main and Van Houten streets, a block and one-half away from the hall. (p. 88 and 89).

By the seventeenth assignment, was challenged

the testimony of Archibald N. Smith, a witness for the State, who was allowed to testify that two people whom he had seen in the place were arrested the next day for being drunk. (p. 95, lines 1-10).

The eighteenth assignment challenged the testimony of William Zimlinghaus, for the State, as to a fight on the street. He was asked the question "So you don't know whether they were in the hall or not?" A. "No. sir." (p. 110, lines 16-20).

By the twenty-fourth assignment was challenged the testimony of Dent Bell, for the State, that he saw a fight in the street as he came along. He did not say what part of the street or how near the hall. He was asked "You did not know where they came from?" A. No, sir, but they were fighting when we got there." (p. 137, lines 25-35.)

This evidence we insist not only is erroneous in the sense *that it related to actions remote from the defendant's place of business but it also related to evidence of the action of people, who so far as the evidence appears, were never in the defendant's place of business.*

In this connection, we again refer the court to the case of the State v. Heflin, N. J. L. 20 page 151 and Commonwealth v. Harward, 70 Mass. We refer also to the case of the State v. McGahan, 48 West Va. 438; 37 S. E. 573. Where the court held: "In the prosecution for keeping a disorderly house, evidence as to vulgar and unseemly acts on the part of persons who were in the habit of resorting to such house, but committed at places not in the vicinity of such houses, was prejudicial error."

That these errors were of a substantial charac

ter, we believe to be equally clear. The rulings covered the admission of testimony of seven different witnesses. As these rulings settled so far as the trial was concerned, the legality of this class of evidence, other evidence of like character was admitted without objection of counsel for the defendent.

POINT IV.

The Court erred in admitting testimony of the reputation of persons who had visited the premises of defendant.

See assignments 4, 10, 17, *and* 19.

The form of the question to Smith, a State's witness was: "Did you notice that night in there any girls that are girls of bad reputation for virtue in the town; that people spoke about as being girls of bad reputation in the town?" This question we submit was badly framed and should not have been admitted.

The form of the question in the tenth assignment was a question asked of Robert Close, a witness for the State, viz., "What was the reputation, if you know of any of the young men whom you said in there whose age ranged from fifteen to twenty years or over, good or bad?" The form of this question was erroneous, in that it did not point the nature of the reputation under inquiry, either for chasity, honesty, veracity or what else.

By the seventeenth assignment is challenged the admissibility of testimony by Archibald N. Smith, as to the reputation of persons he saw in the defendant's place. When asked if he knew what the reputation of any one in the place was, he replied, "There was two I knew was bad, because

they had been arrested the morning after that for being drunk in the street." Both the question and answer were objected to, but was allowed to stand. (P 95 L. 5-20).

By the nineteenth assignment is challenged the admissibility of the testimony of Abraham Weinberg. He was allowed to relate a conversation between himself and one or two women who were with him. Included in this conversation was a statement alleged to have been made to him by these two women, in which they said that they were inmates of a house of prostitution. This we contend was an attempt to prove the reputation of these women by specific questions and acts, rather than by general reputation. We contend that the testimony admitted under these rulings was erroneous.

Even conceding that evidence of the general reputation of persons frequenting a place may be admitted, yet it must be proven in a legal manner. The witnesses should have first been asked the question as to whether or not he knew the reputation of the persons, and then upon giving an affirmative answer, he should have stated what he knew the same to be, good or bad. This was not the procedure adopted in examining the witness Smith, and upon the answer being given as to a specific act of wrong doing of the said persons, and that they had been arrested for drunkenness, the court should have on motion of counsel stricken said testimony from the record.

The same ruling should also have been made with regard to testimony of Weinberg. Specific statements that a certain person was an inmate of a disorderly house was not proving general reputation in the manner provided by law. These

rulings we claim were erroneous and the error of a substantial character.

POINT V.

The Court committed error in submitting the case to the consideration of the jury.

This point is raised under the twenty-sixth assignment wherein the court was requested to direct a verdict of not guilty, and by the twenty-seventh assignment, which excepts to that portion of the charge wherein the court said in substance, that if the charge were true, that there was no question but what a crime had been committed.

The court's ruling on counsel's motion to acquit, and his statement that if the evidence of the state were true, a crime was committed, directly raises the question as to whether or not the facts as submitted by the state, if true, constituted a crime.

We have pointed out in the statement of facts at the beginning of this brief that the premises of the defendant consisted of a large, four-story building, and that the hall or the dining room in connection therewith, and in which it is alleged that the improper conduct took place was only a part of this building. The hall was one of the largest, if not the largest, hall in the city of Paterson, and it was extensively used for political meetings, labor and mass meetings of all kinds. This is shown by the testimony of the Reverend A. N. Smith, a witness for the state, who testified that he had been in the hall at a labor meeting.

There is no contention by the state that any disorderly acts occurred at any time, excepting when dances were held in the hall. There is no contention that there was any disorder or improper con-

duct in any part of the building, excepting the dance hall, or the dining room, where refreshments were served. Consequently, we need only look into the conduct at these dances to ascertain just what the disorderly conduct consisted of.

It is not necessary, however, to discuss the evidence on this point, as it is contended that not only is there no evidence to show that the defendant controlled the hall but the contrary clearly appears.

Upon the part of the state there appears no evidence that would connect Mr. Koettgen with the hall. The only evidence submitted on the part of the state was given by the City Clerk of Paterson, who testified that the defendant held a liquor license during the time charged in the indictment. This license was a license to keep a saloon. (P. 34). As we have already indicated the saloon was only a part of the building, situated on the first or ground floor and was accessible from the street, while the hall and other parts of the building were likewise accessible by an independent entrance from the street.

Not a scintilla of evidence was offered on the part of the state to show that Mr. Koettgen, the defendant, had any control of any kind over the dance hall, or that he ran the dances, nor that he was present when anything improper was carried on. This in itself we submit therefore, was not sufficient evidence to charge the defendant with responsibility for any misconduct in the hall while a public dance was going on.

If we turn, however, to the testimony of Mr. Koettgen, which commences at page 221 of the state of case, we obtain from him not only the description of the building, already indicated, but his positive testimony that he had rented the part

of the building containing the hall to a man named Barlow, by the month, or rather for the season, with the rent payable monthly. (P. 23 L. 18-40). He was asked, "Have you any direction or control of the dances run by Mr. Barlow?" A. "No, sir." Q. "Anything to do with it at all?" A. "I merely furnish two constables." Q. "Do you derive any direct gain or profit part of the entrance fees?" A. "No, sir; not outside of the rental." Q. "The only thing you receive is the rental, is it?" A. "Yes, sir." Q. "When you rent this to societies for holding a dance have you any other revenue other than or except the rental of the hall?" A. "No, sir." (P. 224, L. 1-10).

The only supervision exercised was the employment by himself of two constables, to see that order was at all times maintained. (P. 225, L. 10-20). This was the only supervision he exercised over the place. (P. 244, L. 10-15). This evidence was not contradicted by the state either on its direct case or in rebuttal. It was the only positive testimony on the point.

As a matter of law, with no evidence on the part of the state, other than the license granted to the saloon part of the premises, and with the uncontradicted evidence on the part of the defendant, that he had sub-let this hall to Harold Barlow, reserving only the right to assist and enforce order on his whole premises, can he be said to have maintained the premises in question, especially when he is corroborated on all points by Mr. Barlow, that he, the defendant, had absolutely nothing to do with the hall or dance carried on therein.

He was further corroborated by the said Barlow, who testified that he had hired the hall from defendant, paying a monthly rental, with the condition that the place should be conducted properly.

He distinctly states that the defendant had no part in the management or conduct of these dances, nor did he participate in any of the profits therefrom. (P. 252, L. 5-15.)

That there was no direct connection between the dance hall and the dining room, commonly called throughout the state of case as the cabaret; that if anyone went from this dance hall to the dining room they had to go out the regular entrance, and obtain a return check at the door, in order to be permitted to re-enter. (P. 259, L. 20-23).

The court recognized the necessity of connecting the defendant with the hall. In charging the jury he said, "We pass on to the next element and that is the defendant must be proved to be the proprietor or actual manager of the place. * * * I do not think it has been disputed that he is the proprietor of Helvetia Hall, and you must determine that he was such proprietor at the time and during the time provided for or covered by the indictment."

With no evidence before it, the court, therefore, committed error, in submitting this case to the jury, or in leaving to the jury as a question of fact the inquiry as to whether or not the defendant did own or manage the dance hall.

Over and over again our courts have said, and it is elementary, that all the essentials of a crime must be proven by the positive evidence. For the reasons under this point, we respectfully submit that there was harmful error in the charge.

POINT VI.

The Court committed error in charging the jury.

The twenty-eighth assignment deals with an exception to the following part of the charge:

"It is not necessary to appear that he (the defendant) had power to suppress the mischief, but if he participated with others in conducting the place in such an obnoxious manner, and lent his aid to maintaing it, the law charges him as a principal offender."

The jury considered the question of whether or not the defendant had power to suppress the mischief, or if he participated in conducting the management of the alleged disorderly house. The error in this rspect is due to the fact that there was no evidence before the jury, by which it might appear that he had such power to suppress the mischief or that he participated with others in the conducting of, or the maintenance of the business. This is a measure we have dealt with in the preceding point, and we repeat that there was absolutely no evidence against the defendant on the part of the state, excepting the evidence given by the City Clerk, that the defendant had obtained a license to conduct the saloon business on the premises. Against this was the testimony of Mr. Koettgen that he had no control over the hall, wherein the alleged misconduct took place, and that the control and management of said premises was under a man by the name of Barlow. Barlow corroborated this. No attempt was made to challenge the correctness of this, directly or indirectly.

Thirtieth assignment deals with an exception taken to the following part of the charge:

"Even then, the house could be a disorderly house, if other acts took place there habitually and continuously that were against the morals and manners of the people, such as the habitual sale of liquors on Sunday, or habitual sale of liquor to minors, or consenting or permitting minors to frequent around the dance hall."

Said charge was erroneous in law, and to the damage of the defendant, in that there was no evidence before the jury as to the sale of liquor on Sundays, habitually or otherwise; or of the sale of liquor to minors, habitually or otherwise; or of defendant consenting and permitting minors to frequent around the dance hall, habitually or otherwise; also because the court incorrectly stated the law respecting minors.

The correctness of this charge is challenged for the same reason as in the preceding one, viz: that the court allowed the jury to consider whether or not certain facts were in evidence; that in fact there was no evidence before the court.

In this last excerpt, the court allowed the jury to consider the question of the habitual sale of liquor on Sunday; the habitual sale of liquor to minors; and the consenting or permitting of minors to frequent around the dance hall. A careful study of this entire state of case fails to disclose the habitual sale of liquor on Sunday; not only is there no evidence of the habitual sale of liquor on Sunday, but there is no evidence of the sale of liquors on any single Sunday.

There is no evidence of any kind of the habitual sale of liquor to minors or the sale of liquor to any minor, that is, any legal evidence (dealt with in point one); nor is there any evidence that the defendant consented or permitted minors to fre

quent around the dance hall. In this connection we would call the court's attention to the fact that he permitted minors to frequent around the dance hall is not a crime. The statute plainly states that the minor must be under eighteen years of age and must frequent a place where intoxicating liquor is sold. The evidence does not disclose the sale of any intoxicating liquors in the hall. On the contrary it is very clearly testified to by the defendant and inferentially by witnesses on the part of the state, that the only place liquor was sold was in the dining room, and access to that room was obtained only by means of a stairway, and persons leaving the hall for any reason were obliged to obtain a return check.

The thirty-third assignment deals with an exception taken to the following part of the charge:

"You must find that it was reasonable to believe that this defendant had knowledge, and that is as far as it is necessary to go."

Which charge was erroneous and to the damage of the defendant.

This we claim is an erroneous statement of the law. because not only must knowledge be proven, but it should further appear that it was the duty of the defendant to stop the unlawful acts and that he was in a position to stop them. His evidence on this point is that he did not have knowledge; that he was powerless to stop anything of an unlawful nature in the place.

POINT VI.

There was error in the refusal of the Court to charge as requested.

These requests are quoted at length in the thirty-fifth, thirty-sixth and thirty-seventh assignments of error, and embrace the sixth, seventh and eighth requests to charge.

The court when requested to charge, charged request number six, but modified it as follows: "I charge in that way, but with this modification, unless you find that this defendant knew at the time the law was being violated, as I understand the testimony to indicate, that defendant reserved the obligation to see that the dances were conducted properly."

The court charged the seventh request with the same reservation.

In this request the court committed error. The testimony was not that he assumed the responsibility of the conduct of the dance hall, because he hired constables, but as an added precaution to preserve the good name of his hall and his whole place of business and to see that the person to whom the place was rented, complied with the contract that the dances should be conducted in a respectable and law abiding manner; such precaution on the part of the defendant, did not shift the responsibility to him.

It can be very readily argued that Mr. Koettgen not only engaged these constables to guard his saloon, billiard business and premises in general, but also in the event of seeing anything of an unlawful nature transpiring, he would be in a position to refuse to re-rent his place to any person or persons who would conduct themselves improperly while in the hall.

The eighth request the court charged, with a reservation substantially as quoted above, and with the following additional reservation:

"The testimony indicates that if he reserved rights to see that the dance was properly conducted, and if he had knowledge that the place was being unlawfully conducted, and if he possessed that knowledge, he would be responsible as charged in the indictment."

The court again committed error in charging this last request, by in effect charging that knowledge of wrongdoing on his part would be sufficient, even if he did not participate in the management, direction and control of the "Chorus Girls' Ball," as set forth in the eighth request.

CONCLUSION.

It is respectfully submitted, that for the reasons herein set forth, that the conviction should be set aside.

March Term, 1916.

WARD & MCGINNIS,
Attorneys for and of counsel with plaintiff-in-error.

New Jersey Court of Errors and Appeals

STATE OF NEW JERSEY, Defendant-in-Error, vs. FREDERICK KOETTGEN, Plaintiff-in-Error.	On Error to Supreme Court.

BRIEF FOR THE STATE, DEFENDANT-IN-ERROR.

MICHAEL DUNN, Prosecutor of the Pleas,
of Counsel.

The writ of error in this case brings up for review the judgment of the Supreme Court in affirming the judgment of the Passaic Quarter Sessions on an indictment against the defendant for maintaining a disorderly house in the City of Paterson between April 11th, 1913, and May 8th, 1914. The charge is made in the common law form, and also specifically alleges that the inmates of the place were persons of bad repute and were there engaged in drinking, tippling, fighting, cursing, swearing, soliciting for immoral purposes and acting in a lewd and indecent manner; the habitual sale of liquors on Sundays, the habitual sale of liquors to minors under the age of eighteen years, the habitual permitting of minors under the age of eighteen

years to frequent and lounge in the room and place where such liquors are kept and sold, and misbehaving themselves to the scandal and common nuisance of all citizens.

The building maintained as a disorderly house was known as Helvetia Hall and was located at Nos. 54 and 56 Van Houten Street, in the City of Paterson.

It was in the center of the city. It was four stories high. On the basement floor there were bowling alleys and a poolroom. On the next floor was a cafe and barroom, and about three steps up was a room called a dining-room and cabaret room, in which there were a large number of tables and chairs, and there the usual cabaret performances were given, and there was also an extra bar in that cabaret room from which liquors and beers were dispensed and served to patrons seated at the tables there. Above the cabaret room was a large dance hall. There was a stairway leading up to it from the rear of the cabaret room, and also one from the front to afford convenient access to the cabaret room. There were fourteen other rooms upstairs; some were used for private living rooms for defendant's family and the servants, and eight rooms that were hired out to boarders and lodgers, and there was also a lodge room about twenty by sixty feet in size.

The defendant had a saloon license to sell intoxicating liquors in this building. The dance hall was sometimes rented out to private parties for meetings and entertainments (p. 223), but the plaintiff-in-error retained control of the cabaret room and the supervision of the orderly conduct of the whole place and employed therein two constables to preserve order (p. 223, l. 25; p. 224, l. 12). In winter time the attendance at these dances and cabaret performances frequently numbered three to

four hundred, and sometimes as high as six hundred. Five waiters were employed during the winter time of 1913 to serve the patrons in the cabaret room (p. 225, l. 28). For a long time prior to the finding of the indictment the place had become a public nuisance to the community.

The case was tried in the Passaic Quarter Sessions, before a jury, on December 21st, 22nd, 23rd and 24th, 1914, and a verdict of guilty was rendered against the defendant. On January 8th, 1915, the defendant was sentenced to the State Prison for the maximum term of three years and the minimum term of one year and six months, and to pay a fine of $500. The judgment was affirmed by the Supreme Court, 95 *Atl.*, 747 (see Opinion, p. 6, ~~11.~~). It shows that all the objections raised were most carefully considered. The assignments of error here are identical with those before the Supreme Court.

The present writ of error brings up this judgment for review. The case comes before the Court on a strict bill of exceptions.

At the trial the record shows that a large number of witnesses were sworn and that the case was carefully tried, and that the Judge was very cautious in his ruling and in his charge, to avoid error.

The plaintiff-in-error assigns for error the ruling of the Court in the admission and rejection of evidence and in the charge. A brief review of the errors assigned we feel confident will convince the Court that no error, prejudicial or harmful to the defendant, was made in the trial, and that the judgment should be affirmed by this Court.

I.

There was no error in the ruling of the Court on the admission of evidence.

First Assignment of Error.

There was no error in admitting the question asked James Smith: "Did you observe the ages of the boys and girls there sitting around the table?" (p. 15, l. 20). The Court sustained the objection and no answer was made to that question.

Second Assignment of Error.

The ruling was perfectly proper on the motion to strike out what the defendant heard. The State had a right to show the conversation of the inmates of the place. It was evidential of their character and also of the language and conversation there carried on, and of the character of the house.

Bindernagle v. *State,* 60 *N. J. L.,* 307, 312; 61 *N. J. L.,* 259.
State v. *Kelly,* 76 *N. J. L.,* 576, 578.
State v. *Littman,* 86 *N. J. L.,* 453, 457.

Third Assignment of Error.

An inspection of the record (p. 17, l. 30) will show that there was nothing improper in the form of the question here complained of. We had a right to show, as best we could, who composed the audience in that building when visited by the witness. The witness James Smith was a police officer of the city for two years and a half, accustomed to observing people and their ages. He was on duty at this hall and had a perfect right to state whether the parties there appeared to be old or young people. The weight of the evidence is for

the jury. An examination of the testimony of this witness on this subject, on both direct and cross-examination (pp. 18, 19, 20, 21) will show that this ruling did no harm to the plaintiff in error.

Fourth Assignment of Error.

There was no harmful error in allowing the State to inquire whether or not witness noticed in the hall that night any girls of bad reputation for virtue and who were thus spoken of by people in the city. It was proper to prove this fact. An inspection of the record shows (p. 20, l. 21) that there was no answer to this question which did any harm to the plaintiff in error. He further on states that he cannot say anything concerning the virtue or chastity of the girl Ethel Holmes, whom he saw there (p. 20, l. 23).

Fifth Assignment of Error.

There is no merit in the objection here stated. James Brooks, a member of the Detective Bureau of Paterson, testified just before the question complained of that he was at Helvetia Hall on November 8th. 1913, and he was then asked what he observed there, and testified as stated in this assignment of error. An inspection of the record will show that no objection was made to the question until after it was answered (p. 43, l. 28), and even though the question had been objected to in time, it could not be lawfully overruled.

Sixth Assignment of Error.

There was no error in the ruling of the Court on the point here raised. James Brooks was a member of the detective force of the city. He went to this hall on duty. An inspection of the preceding testimony of the witness Brooks (p. 46, l. 35) shows

that, in describing what he saw at Helvetia Hall, he had stated without objection that on March 21st, 1914, he saw girls sitting there around the tables drinking, from seventeen to twenty-one years of age, and that he had seen there (p. 46, l. 5) three girls, Mary Mackey, Ethel Swords and Clara Sands, who were persons of bad character, and that he saw other girls there whose names he did not know. This was on March 6th, and on March 21st, 1914, he saw young girls and young men from seventeen to twenty-one years of age there at the tables drinking beer (p. 47, l. 3). After giving this testimony he was asked as to what he noticed as to the condition of these persons as they came out of the hall, as to being under the influence of liquor. We submit that the testimony was perfectly proper. It showed the witness' observation of the boys and girls inside and showed their condition by their walk and by their expressions when they came through the door leaving the hall. Such testimony is material and appropriate. It showed the effect of the drinking and tippling.

Seventh Assignment of Error.

Here again objection was made after the question had been answered (p. 47, l. 22), but the question could not be overruled even though the objection was made before the answer. The ruling was perfectly proper. It was evidential of the physical condition of the inmates of the place just as they were leaving. The testimony of this and other witnesses in the case shows that they were drinking beer and liquor at the tables in the place. The plaintiff-in-error admits that the place was run for the purpose of selling intoxicating liquors. This objection is without merit.

Eighth Assignment of Error.

This assignment is clearly devoid of merit. What the officer heard and saw (p. 48, l. 20) the people do at the doorway and on the steps coming out of that building was clearly competent to show the character and the condition of the inmates who had been spending their evening there. It showed the bad effect of the drinking. It showed the character of the place.

Ninth Assignment of Error.

An inspection of the record, page 49, line 28, shows that there is no merit in this objection. The objection was made after the question was answered. The question was perfectly proper, and the record on page 50, line 12, shows that the girl who used the profane language was seen by the witness, Mr. Brooks, coming out of the cabaret room.

Tenth Assignment of Error.

A further reading of Robert Close's testimony on page 64 shows the correctness of these rulings. The point of the question was the reputation of the inmates and patrons of the place, whom he had estimated were between fifteen and twenty years of age. It will therefore be seen that the questions were perfectly proper.

Eleventh Assignment of Error.

Further on in the record, on cross-examination, Mr. Close, when asked the kind of drinks the inmates were taking, said: "It appeared to me to be beer."

Nowhere does defendant deny serving beer to the inmates in the cabaret room. It was the chief business (p. 65). The witness then further testified:

> "Q. Do you know? A. I didn't taste it.
> Q. You don't know whether it was ginger ale or beer? A. From my instinct I should almost swear it was beer."

A motion was made to strike out this answer, which the Court declined to grant. There was certainly no harmful error in this testimony. It showed exactly the extent of the knowledge that the witness had as to whether it was ginger ale or beer. He was a police officer and it was his duty to inspect these places and the inmates. He had been connected with the Detective Bureau for three years (p. 58, l. 35); the weight of the testimony was for the jury. It was the best answer he could make to defendant's question.

Twelfth Assignment of Error.

An inspection of the record on the question raised here as to the testimony of Thomas Stapleton will show that the point is devoid of merit (p. 74, l. 10). Again the objection was made after the question was answered. The motion should have been to strike out the answer. We had a right to show that there was fighting there in the neighborhood of the hall. The witness was describing the conduct of the inmates, their language and their condition as they came out of the hall (pp. 75 and 76). It was on the premises and sidewalk in front of the main entrance to the hall. A public nuisance caused by acts or language in the immediate neighborhood may exist as the result of what goes on inside. A house may be disorderly if it

attracts disorderly persons who cause disturbance in the public street.

State v. *Webb*, 25 *Iowa*, 235.

THIRTEENTH ASSIGNMENT OF ERROR.

Here again the objection is made after the answer is recorded (p. 74, l. 30). Mr. Marelli, who tried the case as counsel, made the objection too late. The question was perfectly proper and showed the condition of the man and the character of the inmates. The utterance was at the door of the hall on the premises.

FOURTEENTH ASSIGNMENT OF ERROR.

There is no merit in this assignment. An inspection of the record, page 75, line 10, will show that Officer Stapleton was standing right in front of the hall in the street, and he observed the crowd rush out of the hall and form a ring in the middle of the street, and seeing that there was likely to be a fight, he rapped with his night-stick upon the pavement, and then testified that the crowd yelled: "Cheese it, the cop!" This was the expression used by the person who had just come out of the hall, and it was perfectly proper to show the disposition of these persons to fight and disturb the peace, and also their character, by the language which they used. This certainly cannot be said to be prejudicial error. Reading on (p. 75, l. 25), the Court will see that this fighting, lewd talk and immoral conduct on the part of the patrons of this place was a common occurrence every Saturday night. The Police Department was obliged to send a squad of officers to that hall to prevent disorder and breaches of the peace among the men and women as they came out of the doors of that hall. On page 76, Officer Stapleton testifies that girls

under the influence of liquor were brought out of the hall by men under the influence of liquor. On one occasion two young men took two young girls who were under the influence of liquor away in an automobile (p. 76, l. 10); he further says, "Ethel Holmes and the Crampton girl were the names of these two" (p. 76, l. 25), and that they are girls of very bad reputation; that on Saturday nights in December, 1913, and February, 1914 (p. 77, l. 8), they were obliged to have eight policemen and a sergeant there to preserve order and to disperse drunken and fighting crowds and disorderly persons coming out of this building. How, then, can it be said that the ruling here complained of was under our law prejudicial error? This was evidence that a disorderly house was being maintained there by defendant.

Fifteenth Assignment of Error.

Here objection is made to the testimony of William Fitzpatrick. An inspection of the record will show that the witness (pp. 80, 81, 82) was giving an account of the condition and conduct of the inmates of the hall and as they were coming out of the hall. Here again the objection was not made until after the question was answered. An inspection of the record on page 82 (ll. 20-30) will show that these men started fighting right at the door of the hall and they continued at it out in the street. What better evidence could we have as to the character and conduct of the inmates frequenting the hall? It showed the disorderly character of the house. This ruling was proper.

Sixteenth Assignment of Error.

Here complaint is made to ruling as to the testimony of Officer John H. Kinney. An inspection

of the record on page 88, line 10, will show there is no merit in the objection here made. The witness had testified that he was a police officer and was sent down to the hall, and he told where he was stationed, and on page 89, when, by order of the Court, the question was put to Mr. Kinney: "And did you at any time observe the people coming out of Helvetia Hall on Saturday night?" and he answered, "I could see the crowd coming down that way and they must have come from the hall." That testimony was stricken out. Certainly no error harmful to the plaintiff-in-error can be predicated in that ruling.

SEVENTEENTH ASSIGNMENT OF ERROR.

Here the testimony of Rev. Archibald N. Smith is criticized. He says that he is the pastor of the Paterson Avenue Methodist Church; that he visited Helvetia Hall January 16th, 1914, about 10 o'clock at night (p. 90, l. 25). He went to inspect the dance hall, and on page 91 describes the condition of the patrons there, and what he saw them doing in the dance hall and cabaret room. He tells of fighting (p. 91, ll. 1-10); he tells of the lewd and immoral conduct he saw there (p. 91, l. 30); he tells of the intoxicated condition of the patrons in the dance hall and in the cabaret room. He was with a party inspecting the conditions there, which at that time had become a menace to the morals of the community. His testimony on pages 90, 91, 92, 93, 94, 95 and 96, gives a graphic description of the vulgarity, profanity, the lewd and immoral conduct that was habitually taking place in that building.

Objection is made under this assignment that the Court allowed the witness (p. 95, ll. 1-10) to testify as follows:

"Q. What do you know about the reputation of the persons whom you saw in the room? A. There were two I knew were bad, because they had been arrested the morning after that for being drunk on the street."

After this answer was given, the following question was put: "You knew their reputation before that?" To this question objection was made, but to that question no answer was given as appears by the record on page 95. Certainly this did no harm to the defendant.

EIGHTEENTH ASSIGNMENT OF ERROR.

This concerns the testimony of William Zimlinghaus. An inspection of the record, page 110, shows that this objection is frivolous. The witness has stated that one night after April 4th, 1914, he was sent down to the hall by his superior officers with the patrol wagon. It was in the month of April, 1914, but the date he did not remember. He did not go into the hall that night. The officers had the men outside of the hall, on the sidewalk, and he says he does not know whether they were in the hall that night or not. Certainly no harmful error resulted to the plaintiff-in-error from this testimony nor from this ruling. A review of the testimony of the other witnesses who made the arrest would probably disclose why the men were arrested and who made the arrest, but Officer Zimlinghaus was simply sent down there with the patrol wagon to help bring them up to the station house. Their conduct was such as to cause the police to arrest them.

NINETEENTH ASSIGNMENT OF ERROR.

Mr. Weinberg testifies that he visited the hall on January 10th and 16th, 1914 (pp. 118, 119), as a private detective, and was doing investigating work with regard to the character of this hall, and testifies that he and his companion had two girls in their company who had solicited him and his companion to buy a drink for them, which they did in the cabaret room. He then testifies as follows (p. 121, l. 30):

> "I heard men say, 'Son of a bitch,' 'Go fuck yourself,' and all kinds of talk, and one girl that was with us said she was in a fast house on River Street, and one said she was in a fast house in Little Falls, and I asked her age, and she said sixteen or seventeen years of age."

A motion was made by counsel for the defendant to strike out all that the girl said to him; this was refused (p. 122, l. 5). The record is:

> *"I move that that be stricken out, what she said to him."*
>
> "The Court: No, that will stand. * * * The expression used is characteristic of the place."

It showed they were prostitutes. It showed the bad character of the inmates.

What she said about her age was not harmful, and no motion was made to strike out that.

The quotation of the testimony as printed in the assignments of error on page 331 of the record is incorrectly printed, and it is not correctly printed on page 348. Are these mistakes accidental?

There was no error in this ruling as will appear by an inspection of the record. There is no ground

upon which the Court would be justified in striking out that testimony in this case.

State v. *Kelly*, 76 *N. J. L.*, 578.

TWENTIETH ASSIGNMENT OF ERROR.

This refers to the testimony of Dent Bell, page 134, line 20. He testifies that he was living at 58 Van Houten Street, next door to Helvetia Hall, and that he used to watch the people coming out of the hall from his window; that half of them would be intoxicated; that they would start to come out about half past eleven at night; that the crowds were about equally divided between men and women; that he was upstairs looking down upon their heads; that he could see them seven or eight feet from the hall door and he could hear the language they were using as they came out of the hall. He then testified as follows (p. 134, l. 15):

> "Q. Now, what did you hear those people that were coming out of the hall; give to the jury some of the expressions? A. They were some of the vilest I ever heard."
>
> "Q. Just tell the jury what you heard? A. 'Go screw yourself'; 'Send them to Hell'; and language of that nature; common dance hall language where a bar is attached."

After that testimony was given, defendant's counsel moved that it be stricken out. The Court ruled that it was too late and granted an exception. We contend that it would have been highly improper to have ruled it out, because it was germane and material, tending to show the character of the people and their condition as they were coming out of this hall, where they had been indulging in the illegal acts testified to by the other

witnesses. It showed the character of the house. It was part of the *res gestae.*

Twenty-first Assignment of Error.

An inspection of the record, page 134, line 30, will show that after the testimony mentioned in the former assignment was dealt with the witness, Dent Bell, was asked the following:

> "Q. Just be a little more in detail? A. Some would say, 'Go screw yourself'; 'Go to hell,' and some called them 'bastards.' "

The assignment is predicated upon a motion to strike out all this talk outside of the hall. The expressions were used by the inmates just as they were coming out of the hall (p. 134). The Court ruled that it was too late to strike it out because no objection had been made to the question for further details after the question was asked. The answer shows that both the question and the answer should not have been stricken out. This was not error. It proved the character of the inmates and the character of the house.

Twenty-second and Twenty-third Assignments of Error.

An inspection of the record, page 135, line 10, shows that it was perfectly proper to ask the witness, Dent Bell, whether or not on any of those Saturday nights, during the period on which he was giving testimony, his attention was called to any fights there with the people coming out of the hall. The objection, you will observe, was made because the question was not specific enough. The Court allowed the question and the witness answered as

follows: "Yes, fights on several occasions," and then the record proceeds:

> "Q. Tell us the instance of any of those fights of people coming out of the hall?" (p. 135, l. 30). "A. I don't remember no dates" (p. 136, l. 10).

On page 136 he describes specific occasions as he was requested to do by counsel for plaintiff-in-error in his objection. The ruling complained of was proper and it was not error.

Twenty-fourth Assignment of Error.

An inspection of the record, page 137, line 20, will show that there was no error in the ruling of the Court on this question. On page 136, line 35, the witness, Dent Bell, testified to what he had seen at two fights, one of which was a colored fight, near Helvetia Hall. He stated he did not know whether the parties came from the hall or not, and the Court ordered that it be stricken out (p. 137, l. 5). Later on, in cross-examination, the witness testified in answer to the defendant's attorney that the fight was on when he got into Van Houten Street. It was a colored fight and he did not know where they came from. How can there be any error in this? The Court allowed it to stand for what it was worth, on the ground that it was corroborative of the evidence of the other witnesses in respect to the fact that there was a fight; and other witnesses did see where the participants came from, namely, the hall. The testimony of this witness, then, did no harm, and it was perfectly proper.

TWENTY-FIFTH ASSIGNMENT OF ERROR.

The Court committed no error in refusing to strike out the testimony given by the State's witnesses concerning the ages of the persons whom they saw frequent the hall. The ruling of the Court (p. 139, l. 20) was proper and the law on this question was correctly stated by the Court in his charge to the jury (p. 315).

(See C. S., 1769, Secs. 70-D and 70-F.)

It is a misdemeanor to allow minors under eighteen years to remain and lounge in a room where liquors are sold.

The language of the motion is as follows:

> "I move that all evidence concerning the age of the persons who are alleged to have frequented this hall, except such evidence as was given concerning the age of two, where specific ages were given, be stricken out, on the ground that the evidence given was not proof of age, and this being a criminal statute, all the essential elements that constitute the crime of keeping a disorderly house must be proved, and I contend that when a person goes on the stand and testifies concerning the age of a person, that witness must prove the age" (p. 139, l. 20).

It will be noted that this motion failed to direct the attention of the Court to the specific witnesses who had testified to the ages of certain persons whom they saw at different times in the dance hall and cabaret room. Again, there is no indication in the motion as to the names of the two persons who were admitted in the language of the motion to be under age. The Court properly

refused this motion. There was testimony of witnesses offered showing there could be no question as to the ages of some of the persons frequenting the building.

We further contend that the Court properly denied this motion. You will find on inspection of the record that the different witnesses who testified as to persons present in the building under age give the facts and circumstances on which their opinion was based, and some witnesses give the names of the girls.

The fact that minors under eighteen years were allowed to frequent this place and drink liquors and beer and lounge in the room where the same were sold, was only one of the many illegal acts which were habitually done there. There was uncontradicted evidence of many acts of lewd and immoral conduct in the place and riotous and disorderly conduct on and about the premises which would have justified the conviction independent of the charge that minors were allowed to frequent the place. This question of age was dealt with by the Court in his charge to the jury in a manner to cure any error by this ruling and also affording all the protection necessary to the rights of the plaintiff-in-error, so as to avoid harmful error under the rules of law. At page 315 the Court said:

> "Now, Gentlemen of the Jury, outside of the facts as to whether or not a sale has been made to a minor, or whether a minor has been found in the place, which you must determine beyond all reasonable doubt, there must be an element of age. You have heard opinions given in this court room in testifying in this case concerning the age of certain parties who were found, or testified to as to having been found in this place. The

giving of an opinion as to age is permissible when accompanied by such circumstances as will justify it, and you will remember the evidence in this connection, so that the jury can take not only the opinion as to the age of the party, but the facts upon which that opinion was made, so as to readily understand for themselves whether or not the opinion was justified. Now, this evidence is of the same line as the other evidence in the case. Before you can determine that the child was under the age of sixteen years, in the opinion of any of the witnesses, you must be satisfied beyond all reasonable doubt in your own mind, from the evidence in the case, that such child was under the age of sixteen years."

In Abbott, Proof of Facts, page 164, paragraph 5, numerous cases will be found cited supporting the language used by the Trial Judge in his charge. All the witnesses who gave testimony on behalf of the State as to the ages of the persons present gave the facts and stated the facts and circumstances upon which their testimony was based. The motion, therefore, to strike out this testimony was properly denied. It was properly left to the jury to decide on the weight of the evidence.

Wigmore on Evidence Sec. 222.

TWENTY-SIXTH ASSIGNMENT OF ERROR.

The Court properly refused to direct a verdict of not guilty at the close of the State's case. This motion was necessarily directed to the discretion of the Trial Judge. An inspection of the testimony of the different witnesses on behalf of the State at the time the motion was made will sat-

isfy this Court that the refusal of this motion, in the face of that evidence, was not legal error. The testimony of the witnesses is summarized later in this brief under the Thirtieth Assignment of Error. It was in keeping with the rule stated in *State* vs. *Jaggers,* 71 *L.,* p. 281. See also *State* vs. *Brown,* 72 *L.,* 354.

Twenty-seventh Assignment of Error.

The extract from the charge quoted will be found in the record, page 306, line 11. Only a portion of the sentence is quoted. This is misleading. The quotation of the whole sentence is necessary to give the correct thought expressed. When this extract is read in connection with the charge, it shows that the Court did not say that if the testimony produced by the State were true, it would render the defendant guilty under the indictment. The following is the language used:

> "Now, gentlemen, naturally you are shocked by some of the testimony in this case. If the testimony of the State is true, there is no question but that one of the most detestable crimes has been committed in your city, a crime such as affects the morality of the youth and the character of the old. So I say, if the facts brought forth by the State are true, it needs careful handling at your hands, and it is only the evidence that has been produced before you upon which you must determine this defendant's guilt or innocence" (p. 306, ll. 10-30).

This was not error.

TWENTY-EIGHTH ASSIGNMENT OF ERROR.

The extract from the charge here complained of is incorrect and omits important words (p. 312, l. 1). It is also misleading taken by itself from the body of the charge. The Court, on page 311, had just defined the meaning of a disorderly house under the law, and at line 33 this language is used in connection with the extract quoted in the assignment under consideration:

> "After the disorderly character of the house is established it must be shown that the defendant must have knowledge of the character of the house, and must have consented to its use, to authorize his conviction. It is not necessary to appear that he (the defendant) had power to suppress the mischief, but if he participated with others in conducting the place in such an obnoxious manner, and lent his aid to maintaining it, the law charges him with guilt as a principal offender."

We contend that this statement of the law is correct and was not error, and that the same should be read in connection with the whole charge.

A house may be disorderly if it attracts disorderly persons who cause a disturbance, even in the public street.

State v. *Webb,* 25 *Iowa,* 235.
State v. *Pierce,* 21 *N. W.,* 195.
State v. *Engeman,* 54 *L.,* 247.
State v. *Delaney,* 51 *L.,* 57.

TWENTY-NINTH ASSIGNMENT OF ERROR.

Here another extract from the charge is complained of. It can be found on page 313, line 20.

This extract is incorrect and does not indicate the principle of law that the Court was stating to the jury. It is necessary that it should be taken in conjunction with what precedes it. The Court had just stated the different offenses constituting a disorderly house. This is the language used in the charge (p. 313, l. 20):

> "Has anything taken place in this house within the period set forth in the indictment, or covering the intermission, that is, up to the time of finding the indictment, which would injuriously affect the morals of the people? If you find evidence that satisfies you that persons have acted in that place continuously in a lewd or indecent manner; has anything happened to debauch the morals of the people? Have any persons been guilty of any carnal indecency with another? These are the points that you ought to determine. If you are satisfied beyond all reasonable doubt, you would then be justified in coming to the conclusion that this house was operated as a disorderly house, and on that alone you would be justified in determining this to be a disorderly house; but even if you come to the conclusion that such conditions did not exist, and you are satisfied that they did not exist, then, even then the house could be a disorderly house if other acts took place there habitually and continuously that were against the morals and manners of the people, such as the habitual sale of liquor to minors, or consenting and permitting of minors to frequent around the dance hall; if you find from the evidence in the case that such occurrences existed, even then you would be justified in determining this place to be a disorderly

house, even if you did not find anything of a lewd or lascivious nature" (p. 314, ll. 1-10).

This was not error. The law is well settled by our Courts.

THIRTIETH ASSIGNMENT OF ERROR.

The extract from the charge as quoted under this assignment is incorrectly stated (see p. 314, ll. 2-7). It is correctly quoted in the twenty-ninth assignment in this brief. There is nothing stated in the charge there concerning the habitual sale of liquor on Sunday. These mistakes might be due to the fact that the counsel who prepared the assignments of error did not participate in the trial of the case, but it is difficult to understand how words were inserted in the quotation which were not present in the record. It is also strange that the same mistake should be repeated in this record in the Court of Errors, as it was pointed out on the argument in the Supreme Court (Opinion, p. "I," l. 30). The criticism here made is not well founded nor warranted by the evidence or the correct language of the charge. There was evidence in the case showing that the place kept open on Sunday. William Fitzpatrick, a police officer, pages 80 and 81, testifies that on Sunday night, about 8 o'clock, on April 20th, he went to the cabaret room and found beer being sold there, and there were twenty-nine people sitting at the tables in the room (p. 80, l. 30), drinking beer. They were ordered out by him and the place closed up. He was sent there by the Sergeant because of complaints made against the place (p. 81, l. 10). His testimony is also corroborated by Officer Charles Simpson (p. 86, l. 35, and p. 87, ll. 1-10), and it is not contradicted by the defendant. There was also evidence as to the sale of liquor to minors and as to minors being allowed

to lounge around the cabaret room, as appears from reference to the testimony of the different witnesses in the case.

THE TESTIMONY.

James Smith, page 18, says that he went to Helvetia Hall with Sergeant Ryan and others. This was April 11th, 1914, as testified by the other witnesses. On page 18 he says there were about a hundred and fifty or two hundred people in the cabaret room, and among them there were thirty or thirty-five young people between seventeen and eighteen years of age. On page 18, line 1, he also says that these young people were sitting around drinking beer at the tables; that he saw two girls there in the hallway, about seventeen years of age, in a drunken condition. He also says that he knew these girls and boys by sight, but not by name, and that he formed his opinion of their ages by seeing them.

Charles Pirola testifies that he was in there two or three weeks prior to April 11th, 1914, and saw young girls there hugging and crossing their legs under the table and he saw one young lady smoking a cigarette (p. 24, l. 10), and these girls were drinking beer and wines (p. 24, l. 21). They were accompanied by young men; the young men were in the twenties and younger. He further testifies that he was there several times prior to April 11th, 1914, during the winter of 1913 and 1914 (p. 28, l. 7), and he describes the conduct of the inmates and their conversation, and that there was cursing and noise there (p. 29, l. 10), and people were drinking. He further says (p. 31, l. 24) that he reported to Captain McBride the conditions that he observed there. He mentions Marie Mackey as one of the

girls that he saw there, who is about seventeen years of age (p. 33, l. 1), and he tells how he knows her age (p. 33, l. 10).

Henry Schuman-Heink, clerk to the Police Recorder, testifies that he was there on the night of April 11th, 1914 (pp. 35-39). He describes the conduct of the inmates; the cursing and swearing and the vulgar language and lewdness. In the cabaret room women were sitting on men's laps and had their arms around men's necks and were drinking (p. 37, l. 18). The girls were comparatively young (p. 37, l. 20), some twenty, some twenty-two, and some younger. He saw some under eighteen years of age (p. 38, l. 1), but how many he could not say. He also saw young men there about that age. He also saw prostitutes there that night.

James Brooks (p. 45) says he was down there in November, 1913, and at different times between that and May, 1914. In November, 1913, he was there when there was a hundred or a hundred and fifty in the cabaret room; many were young women and girls; he saw girls that looked as young as seventeen, and young men eighteen to thirty; they were drinking beer around the table. He also describes on page 45 the lewd conduct that he observed. On other occasions he saw persons of bad repute, and mentions Marie Mackey, Ethel Swords and Clara Sands (p. 46, ll. 1). He was there again on March 6th and on March 21st, 1914 (p. 46). On March 21st, 1914, he saw young girls there, aged seventeen to twenty-one, drinking in the cabaret room. Most of these were younger than those who were in there on March 6th, 1914. They were drinking beer. He also testifies to their conversation and talk. He was there again on March 28th, 1914, and saw young men and girls drinking beer there that night (pp. 45-49).

William Kinney visited the place during the month of March, 1914 (p. 54, l. 30). He saw young men and girls there from seventeen to twenty-five years of age, drinking at the tables, on March 6th, 1914. He was there again on March 21st, 1914, and saw the same conditions prevailing then as on March 6th; he saw persons there of ill repute, the Mackey girl and her sister and the Swords girl. He saw others there who had been arrested as disorderly persons (p. 56, l. 20); he saw defendant there (p. 55, l. 30).

Robert Close, on page 60, line 10, testifies that he was down to the place in October, 1913, and young men and young women were sitting around the tables drinking beer; that Mr. Koettgen was there in control; that the ages of the girls and young men would range, to the best of his judgment, from fifteen to twenty years old; he saw them served with beer to drink. He saw them (p. 60, l. 20) at the end of each dance flock down both the rear and front entrances from the dance hall to the tables, and he says some of them were only striplings of girls, because some of them he knew well, and he saw some of them under the influence of liquor after they were there a while and he saw them supplied with liquor while in that condition (p. 61, l. 10). In December, 1913, he used to go down there nearly every Saturday night. He was sent there to make observations by his superior officers. He also testifies to the bad character of many of the patrons whom he saw there at these different times; he also testifies on his cross-examination that he saw young girls and boys there from fifteen years of age served with beer (p. 65, l. 10).

William H. Elvin testifies that on April 24th, 1914, he saw a girl there of bad reputation, whom

he knew to be seventeen years old, and that she was under the influence of liquor (p. 70, l. 10; p. 71, l. 30).

Thomas Stapleton testifies that he was on duty at Helvetia Hall in the months of October and December, 1913, every Saturday night; that he went down usually about half-past nine and had to remain until midnight (p. 33, l. 10). He saw numbers of young men and young girls coming out of that hall under the influence of liquor; they were of various ages. He looked up two in particular; one the Parrington girl from Totowa, and one by the name of Granda, from Grand Street (p. 73, l. 20). One was seventeen and the other said she was eighteen, and he took them away from a crowd of fellows (p. 76, l. 10). He saw two young men bring two young girls out of the hall who were under the influence of liquor, and they took them away in an automobile. Ethel Holmes was one of the girls and the other girl's name was Campton (p. 76, l. 30). On page 78, line 30, he says in answer to a question that had been asked by one of the jurors:

> "Q. What would you consider a young child? A. I would imagine, and could almost swear, their size; their face; their appearance; there was many a girl in there under sixteen.
>
> Q. How about the boys? A. One boy in particular that I arrested for breaking things; he isn't over sixteen now.
>
> Q. Officer, you saw their features; you can pretty near judge? A. Yes; dozens and dozens of young men and young girls.
>
> Q. Under the age of seventeen? A. That shouldn't be admitted in that hall on general appearances."

The officer says that he was satisfied that wrong things were being done in the hall and reported the same to his superiors. He arrested the two girls he speaks of and took them to the station house to protect them.

Rev. Archibald N. Smith testifies that he is Pastor of Paterson Avenue M. E. Church and that he visited this place January 16th, 1914, Friday night, and that in the cabaret room he saw a young man about fifteen years of age have a woman on his lap (p. 91, l. 20); that they had their arms around each other and were fondling each other in a very disgusting manner. He had his hands on her breasts and she had her hands on him. While they were in this position some man struck him and the woman jumped up and called that man, "Son of a bitch." Mr. Smith was there with a party to observe the conduct of the patrons of this place, and he saw people in the dance hall also intoxicated. There were three others with him (p. 92, l. 25). He here describes in detail lewd and immoral conduct on the part of men and women there in the cabaret room drinking. Women were sitting on men's laps; one case he noticed a woman sitting on a man's lap and rubbing their noses together, and then he saw her trying to open the man's trousers, and drinks were being served to them, and he saw a number of young people there, over a dozen, he says (p. 93, l. 10). He describes how they were dressed and how their hair was fixed, and their appearance, and he says they were not old girls dressed to look young, but were young, and he saw these girls sitting at the tables with the men with drinks in their hands, and that he judged it was beer, but did not taste it; it was served from the bar in the cabaret room. He was in the room twenty or thirty minutes. He saw

two persons there whose characters he knew were bad (p. 92, l. 2). On page 96 he says the condition as to many there as to sobriety was terrible; many who were there were in a drunken condition, and this applies to both sexes. Their conversation was lewd. He saw Mr. Weinberg, the detective, there, and also the detective, Mr. Leitenberg. He also saw Mr. George Hardy Payne and his party, Miss Hulmes and Mrs. Hillman. On his cross-examination he says (p. 97) that this boy who was sitting on the woman's lap was not eighteen; he was smooth-faced and had never shaved, and as to the ages of the girls, he knows the Partington girl whom he saw there. He baptized her when she was an infant, and shortly before this occasion her mother called upon him to get a certificate as to her baptismal record, so that she might be permitted to work when she was sixteen; that she was a bad girl. He saw her in the cabaret room and in the dance hall. The other girl gave her age as eighteen. The ages of the others he judged from their appearance, their hair and their dress.

May Stumpf, page 98, testifies that she is superintendent of the Florence Crittenden Home at Paterson for the past four and a half years; that she visited the hall on this night with Rev. Mr. Smith and Mr. Payne and Miss Hulmes. She was in the cabaret room about half an hour and there were about an equal number of men and women in there. On page 100 she says there were very young girls there; they wore short dresses; from fourteen to eighteen or older; there were older women there, too; there were women there with gray hair. The young girls were seated at the tables, she saw them served with drinks; there were young men with them; she saw beer glasses there; they were very familiar with one another, sitting there with their

arms around one another and the men were sitting on the girl's laps. This was done by both old and young girls and men. It was done at different tables (p. 100, l. 10); she saw one young girl there that she knew, Violet Tueffel; she had been in the Crittenden Home under her management in June, 1913; that she saw two young men have a fight over her upstairs; that she was confined to the Home because she was incorrigible. She went to the girl and talked to her after the men who were fighting were separated, and urged her to go home, but she did not. There were two women dancing on the floor who were drunk; they were reeling across the floor; there were a great number of young girls there; there were at least ten girls under fifteen, and she saw them go down to the cabaret room from the dance hall (p. 103, l. 10). On cross-examination she says that these girls belong in the city and that she spoke frequently to quite a few of them. Two of them she asked their ages, one was Minnie Jenney, and the other was Violet Tueffel. Minnie Jenney was twenty and Violet Tueffel was fifteen. She saw Violet Tueffel down in the cabaret room. Line 28, page 104, she said that she went there to see the class of girls that attended, and the tender ages of the girls.

George Hardy Payne, who was a member of the same party, says on page 105, line 30, that he saw a young girl not over seventeen years of age act in a very indecent way with a young man. He had his hands on her breast and she had her hands on his privates. He describes the same lewd conduct of the men and women as testified to by Rev. Mr. Smith (p. 106). He also saw this Violet Tueffel. As to the ages of the girls, he says some were seventeen and some eighteen and some older. He also says he saw Mr. Weinberg, the detective, there (p. 107, l. 15).

Jennie Hulmes, page 112, testifies that she is matron of the Florence Crittenden Home, in Paterson, and was with the Rev. Mr. Smith and his party and saw in the cabaret room one hundred or more people sitting at the tables drinking. Some were from sixteen years of age to old gray-haired men (p. 112, l. 14). Line 20, she judges there were at least a dozen girls sixteen to seventeen years of age and about the same number of boys of the same age, and they were drinking. The waiters were serving the drinks in glasses (p. 113, l. 20). She saw them with their arms around each other's necks. She remained about half an hour in the cabaret room and then went up to the dance hall. She says: "So many of the men were under the influence of liquor, about a third" (p. 114, l. 10): the movements in the dance appeared to be vulgar (p. 114, l. 28); a fight occurred while she was there; she saw Violet Tueffel there; she used to be at the Home; she was fifteen years old then while there; she saw her frequently at different times in the dance hall. The young men who were fighting in the dance hall were under the influence of liquor, and they were fighting about Violet. Page 116, line 35, she says she went there just to see for herself how young girls were allowed to attend such places.

Abraham Weinberg, page 117, testifies that he was at the place January 10th and 16th, 1914. January 16th he arrived there at 8.30 P. M. and remained there until 3.30 A. M. January 17th; that he went there in company with Mr. Leitenberg (p. 119); he was also a detective; that they sat down at a table in the cabaret room and drank with some girls they had picked up in the hall on January 16th, 1914, and afterwards went up in the dance hall. He was there as a private detective

and was engaged in investigating work He first visited the place on January 10th and describes the lewd conduct of persons present and also of girls soliciting for immoral purposes, who were there present; he and Mr. Leitenberg were also solicited on January 16th. On page 120, line 35, he says he saw a young girl about fourteen putting her hands on a man's privates; she sat at a table a few feet away (p. 121); he saw young girls and fellows kissing each other and the men grabbing the girls by the breast. He then describes the lewd and vulgar conversations of the parties there (p. 121, l. 30). On cross-examination he says that of the two girls that he and Mr. Leitenberg were with one said that she was sixteen and the other said she was seventeen, but he says from their appearance and action he believed them to be eighteen or nineteen years of age (p. 126, l. 28). There were prostitutes there.

Paul Leitenberg, page 127, testifies on page 128 to lewd and immoral conduct of the inmates of the place on January 16th, and of the intoxicated condition of the girls. He testifies that there were girls there in his judgment as young as seventeen years old; he corroborates the testimony of the other witnesses as to the lewd conduct and the lewd and immoral conversation and manners, and as to the drinking of liquors and the intoxication (pp. 128-129); also as to the soliciting for immoral purposes of the women met by himself and Mr. Weinberg there. He also says that he is a private detective in the employ of the Society for the Prevention of Crime. On page 131, line 20, he says there were girls there under seventeen years old; that he bases his judgment upon his observations of women and of going around making investigations of disorderly houses and other places; he also says there were prostitutes there.

REMARKS.

The above reference to the testimony well illustrates the necessity of the Court being guarded as to accepting as true mere extracts as contained in some of the assignments of error. The testimony of these different witnesses proves that persons of evil repute, prostitutes and drunkards, and that minors, young girls and boys, were allowed to go to this place and to be in the dance hall and in the cabaret room and act in an immoral, lewd and indecent manner in a public place. It was complaints concerning the shocking and revolting conditions there prevailing that caused the Rev. Mr. Smith, Mr. Payne and the ladies from the Crittenden Home to visit this public place and see for themselves the dangers to which our young boys and girls were being subjected, and their morals corrupted. The competency of these witnesses to judge as to the ages of the parties was for the jury. They stated facts on which they based their judgment. In several instances you will observe they were personally acquainted with some of the minors whom they found there; as to others, they used their judgment, and gave the necessary reason for the opinion. There was no denial of this testimony. It was legal evidence. Such places destroy the morals of our young men and women. The owners and managers must be held to a strict account for their part in maintaining such a nuisance. There was no error in this part of the charge harmful to the defendant.

If this place was not a disorderly house, what was it?

The contention is also made that the Court incorrectly stated the law. The Court read the law from the statute (p. 314). C. S., p. 1769, Sec. 70(d) and 70(f); Sec. 51, p. 1762.

It should also be borne in mind that the harboring of minors or selling liquor to persons under eighteen years of age is only one of the elements charged in this case. The other elements which are charged and proved in the case are sufficient to justify the verdict as to the evidence on these points and stands uncontradicted. The most that can be said of the testimony on the part of the defendant was that his witnesses did not see these lewd and immoral acts occurring at these different times, and did not know that there were persons of bad character and evil repute in the hall at different times; did not know that the patrons, young and old, were intoxicated and were acting in a lewd and indecent manner in this public place, and did not know that the police were obliged to go to that hall every Saturday night to preserve the peace. It was for the jury to say who told the truth, the witnesses for the State or the witnesses for the defendant, as to the character of this house, and its patrons and their conduct and the scenes there enacted, and as to the knowledge of the defendant concerning the unlawful acts there carried on.

THIRTY-FIRST ASSIGNMENT OF ERROR.

There is no error in the law as stated there (p. 335, l. 108). The contention that the effect of this language was to charge the jury that if the defendant were guilty of violating the statute quoted he would be guilty of keeping a disorderly house is not warranted. If the Court will refer to the charge as delivered you will find that the learned Trial Judge was very careful. On page 311 he defines what a disorderly house is, and there he points out very clearly the elements that are necessary to be established beyond a reasonable doubt to show that the place is a disorderly house. He calls attention to the different elements that in this case

are relied upon to show that this was a disorderly house (pp. 312 and 313), and in that connection he read these statutes, but before doing so he used this language:

> "If other acts took place there habitually and continuously that were against the morals and manners of the people, such as the habitual sale of liquors to minors, or consenting and permitting of minors to frequent around the dance hall; if you find from the evidence in the case that such occurrences existed, even then you would be justified in determining this place to be a disorderly house, even if you did not find anything of a lewd or lascivious nature."

This was a correct statement of the law. A disorderly house is a place where unlawful practice and illegal actions are habitually done. What the Court says is the habitual and continuous violation of these statutes would be against the morals and manners of the people and leaves it for the jury to say from the evidence whether or not the plaintiff-in-error under the evidence is guilty of habitually and continuously in that place of doing or permitting to be done acts which were against the morals and the manners of the people. I do not see how the Court could well state this branch of the case in different language. The jury were certainly not misled.

State v. *Bindernagle,* 60 *L.,* 307; 61 *L.,* 259.

State v. *Derby,* 60 *L.,* 258.

THIRTY-SECOND ASSIGNMENT OF ERROR.

There is no error in the language here used in the charge, but it should be read in connection with what the Court says on page 315. The complaint is that it permits the jury to consider opinion evidence as to age of the persons in the house without evidence being produced as to the facts upon which such evidence was based. I have already under the thirtieth assignment set forth the testimony of different witnesses on the question of age. An examination of their testimony as it appears in the printed case will show that in every instance the facts upon which they based their opinion as to the age of the persons they saw there were fully stated and set forth. In many cases the witnesses had personal knowledge. In other cases it was based upon their observation; the appearance of the persons; their development; their dress; their conduct and their manner. The witnesses were all near by these persons and they had a full opportunity to observe them. The ruling of the Court is supported by abundant authority. Abbott on Proof of Facts says that an ordinary witness having testified to appearance of a person may state his opinion as to the person's age, and under this head he cites a number of cases.

In *Garner* v. *State,* 28 *Tex. App.,* 561, 13 *S. W.,* 1004, it is held in a prosecution for selling liquors to minors, the testimony of a witness as to the effect their physical appearance produced on the mind of the witness as to the age of the minors is admissible, being the impression made upon the mind of the witness himself, and not his opinion as to the impression made upon the minds of others.

In *State* v. *Bernstein,* 99 *Iowa,* page 5, 68 *N. W.,* 442, it is held a witness may testify he believed

from the appearance of certain persons to whom defendant sold intoxicating liquors that they were minors, although he does not know their age, especially where they lack several years of their majority.

See also:

State v. *Douglas,* 48 *Missouri App.,* 39.
Jones v. *State,* 32 *Tex. Crim. Rep.,* 108, 22 *S. W.,* 149.
People v. *Bond,* 13 *Cal. App.,* 175, 109 *Pac.,* 150.
Wigmore on Evidence, Sec. 222.

This question was correctly left to the jury under the law and there was no harmful error in this part of the charge.

THIRTY-THIRD ASSIGNMENT OF ERROR.

This excerpt from the charge will be found on page 316, lines 16 to 20; it reads as follows:

> "You must find that it was reasonable to believe that this defendant had knowledge and that is as far as it is necessary for you to go. It cannot be considered by itself, separate from the context."

To determine what the Court meant in the use of that expression and what thought it conveyed to the jury, it is necessary to read the preceding language on page 316, line 1, and also what follows the quoted paragraph. The Court says:

> "The third element is that this defendant must be proved to have known the fact of the existence of the acts which went to make up the elements of a disorderly house. You

must be satisfied from the evidence in the case of the knowledge of this defendant as to the character of this house. You must be satisfied that this was a disorderly house, and you must also be satisfied that he knew it, before you can convict."

The Court continues:

"Now, Gentlemen of the Jury, it is hardly necessary that the evidence must be driven home to such an extent that the defendant would state on the stand that he knew it to be a fact. If the law called for such knowledge to convict, you could rarely, if ever, get a conviction; it would be putting a premium on perjury and falsehood. You must find that it was reasonable to believe that this defendant had knowledge, and that is as far as it is necessary for you to go. I am going to read what the courts have said, and in connection with a case, a disorderly house, which was previously tried in this State," etc.

The Court then proceeds to read from the opinion of the Court of Errors by Justice PARKER in *State* v. *Mausert,* 89 *Atl.,* at 1013, and then the Court, after commenting upon the facts and giving further instructions, says:

"Now, Gentlemen of the Jury, do these facts warrant you to believe that he must have known the facts? If you come to that conclusion you have the right to find that he did have knowledge of the facts going on to make up the character of a disorderly house" (p. 317, l. 20).

He then cites the case of *State* v. *Callahan,* 77 *N. J. L.,* 687, and quotes from it, at page 317, line 30.

The language used by the learned Trial Judge in presenting his charge on this point is a correct statement of the law, and on page 319 he says, speaking of the knowledge that must be possessed by the defendant:

> "It means that such knowledge must be clearly proved which will leave no reasonable doubt on a fair and reasonable mind."

I am unable to discover any error in this carefully worded charge.

State v. *Engeman,* 54 *L.,* 257.
State v. *Bindernagle,* 60 *L.,* 307, 313.
State v. *Harrington,* 94 *Atl.,* 623.

THIRTY-FOURTH ASSIGNMENT OF ERROR.

I am unable to discover any error in this extract which will be found on page 315 of the charge, line 25. Again it is necessary to bear in mind what the Court said preceding this paragraph. On page 313 he says the first element to be considered was the statute concerning open lewdness or public indecency, and then he takes up as the second element—did other acts take place there habitually and continuously which were against the morals and manners of the people? He then reads the statutes in reference to minors and the sale of intoxicating liquors to them, and he then takes up the question that the evidence will show that the defendant was the proprietor or manager of the place (p. 315, l. 25).

I am unable to comprehend from the language here used what is really meant, when you take this paragraph complained about in connection with the whole charge. The statement under this assignment that it was erroneous because the commission of different crimes at different times on the premises would not constitute the keeping of a disorderly house is difficult to understand from a person practising criminal law. On the theory suggested in this assignment, to convict a man for keeping a disorderly house it would be necessary to prove that there was a continuous performance day and night and every day during the period charged in the indictment. Such is not the law, and there is no merit in the contention.

Again, counsel says that this part of the charge was erroneous because no crime was proven to have been committed on the premises. We submit that the evidence in the case when examined by the Court will clearly show that this place was a disorderly house and was corrupting the morals of our whole community. We especially refer the Court to the evidence set forth under the thirtieth assignment of error in this brief. It is difficult to understand how it continued to run so long.

The defendant in his testimony admits that he had the license and collected all the money; that he was the proprietor and manager and had the full control of the renting of the place and of the preservation of order therein; he hired two constables to aid in preserving order (p. 223, l. 34; p. 225, l. 10); that he lived in the place and was present there every day and night. The evidence also shows that his wife owns the building and she acted as cashier every night during these entertainments in the cabaret room, and shows that she was seated so that she could overlook the room. The Court charged the defendant's first request, which covered this very point.

THIRTY-FIFTH ASSIGNMENT OF ERROR.

This is an exception to the refusal to charge the sixth request of the defendant, which will be found on page 321 of the record of the case. On page 322, line 1, the Court will note how the learned Trial Judge treated this request, which language the present counsel *omits* from his assignment. The Court, after reading the request to the jury, said:

> "I charge in that way, but with this modification: unless you find that this defendant knew at the time the law was being violated, as I understand the testimony to indicate that the defendant reserved the obligation to see that the dances were conducted properly."

How could there be any harmful error in this? Referring to the testimony of Frederick Koettgen, the defendant, you will find on page 223, line 35, he says that he furnishes two constables for the hall, and then testifies as follows (p. 224, l. 10):

> "Q. Do you retain any supervision or control of any of the entertainments? A. When they hire the hall I tell them they must conduct it in a proper way.
>
> Q. Do you reserve to yourself that right? A. Yes, sir."

He further says, page 225, line 10, that during the time covered by this indictment he had employed two constables to assist him in maintaining order in the place, Charles McGee and Charles Clark, and it will be noted by reference to his other testimony that he had complete charge and supervision of the place and of the entertainments there carried on (p. 227, l. 1). On page 239, line 30, he testifies that he was the only man who had control of the

liquors there sold. He also testifies, page 241, that he stands in all places in the hall when parties are there, upstairs and downstairs, sometimes in the door, sometimes in the barroom, and sometimes in the dance hall and sometimes in the cabaret room. He had the license in his name and had full control of the conduct and order of the inmates.

This case on this point is within the rule stated in

State v. *Harrington,* 94 *Atl.,* 623.
State v. *Engeman,* 54 *L.,* 257.
State v. *Mausert,* 89 *Atl.,* 1013.

No defendant can escape liability in such a case by saying he employed two constables to preserve order. He might say he employed two wooden Indians. He was there himself, and if he had opened his eyes and ears and looked and listened, he would have seen the disorderly and immoral conduct of the inmates testified to by the witnesses for the State.

THIRTY-SIXTH ASSIGNMENT OF ERROR.

An inspection of the record, page 322, shows that this seventh request of the defendant was charged as requested. At the conclusion of the words the Court said: "That is charged with the same reservation as in the other charge," which undoubtedly refers to the language used at the top of page 322 in charging the sixth request, which was the subject of the former assignment, No. 35, where it was said:

> "I charge in that way, but with this modification: Unless you find that this defendant knew at the time the law was being violated, as I understand the testimony to indicate that defendant reserved the obligation

to see that the dances were conducted properly."

Certainly no prejudicial error can be predicated upon this assignment. It was left to the jury under proper instructions.

THIRTY-SEVENTH ASSIGNMENT OF ERROR.

This was the eighth request to charge, and will be found on page 322. The Court, after reading the request to the jury, charged the same; and said in addition, line 33, page 322:

> "I so charge you with the same reservation as before. The testimony indicates that he reserved the right to see that it was properly conducted, and if he had knowledge that the place was being unlawfully conducted, and if he abused that knowledge, he would be responsible as charged in the indictment."

No error can be assigned to this ruling. The comment made by the Court is wholly justified by the law and the evidence.

On page 226, line 1, the defendant says that he gave personal supervision to the cabaret room; that he was in that room whenever he could be there; that he had a barroom and sometimes it was very crowded and he worked there and gave them help there. On the night of the Chorus Girls' Ball, January 16th, 1914, he says that he was in the building and that he furnished the beer and soda and it was sold under his license (p. 232, l. 15); that he reserved the right to go behind the bar and direct the sale of the goods. He admits that he visited the cabaret room that night and was also in the dance hall, looking after matters up there (p. 232, l. 25).

Sam Cohen, one of the committee at the Chorus Girls' Ball, testifies at page 249, line 10, that the beer and whiskey were furnished by Mr. Koettgen on that night, and that in addition to that Koettgen provided and paid the constables.

In his testimony Mr. Koettgen further says that he has been running a cabaret room for four years (p. 241, l. 15). He admits visiting the Chief of Police in reference to his cabaret (p. 242, l. 25); he admits that he visited Captain McBride about his place (p. 243, l. 5).

Captain McBride testifies, on page 304, that complaints were made to him about Helvetia Hall during the period covered by the indictment on different occasions by James Miller and his son, William J. Miller, who live in the neighborhood of the hall. This testimony corroborates the fact that police officers were frequently sent down to visit the hall to make inspections concerning the disorder, the conduct and management there going on. The frequent visits of the police to this place, as testified to by them and admitted by defendant, and the visits of the defendant to the Chief of Police and Captain McBride concerning the place were facts for the jury as to his knowledge of this disorderly house. The jury were justified in their conclusion.

Thirty-eighth Assignment of Error.

There was certainly no error in the Trial Court refusing to direct a verdict for the defendant in this case. It would have been an outrage upon the administration of the law.

CONCLUSION.

We contend that an inspection of the record in this case will show that on different dates and times between the 11th of April, 1913, and May 8th, 1914, when this indictment was presented (pp. 3-4) against the plaintiff-in-error, that criminal offenses were committed in this place by the patrons; that unlawful and illegal acts were committed; that there were present there persons of evil name and fame; that there was dishonest and lewd conversation there; that there was lewd and immoral conduct there, and that minors were frequently there, boys and girls; the inmates were drinking, tippling, fighting, cursing and swearing continuously; women were there soliciting for immoral purposes and acting in a lewd and indecent manner; there was disorderly conduct in the building and on the premises and sidewalk and street near the main entrance, and the public peace was disturbed by the patrons coming out of the place; they were intoxicated, fighting, and were using vulgar, lewd and profane language. On Sunday, the 20th day of April, 1913, it is not contradicted that the police raided the place for unlawfully selling liquor, and drove the people out of it. Liquors were sold to minors under eighteen years of age, and minors under that age were permitted to frequent and lounge in the cabaret room, where liquors were kept and sold, drinking and misbehaving themselves; that this lewd and immoral conduct was continuous and habitual at different days between the dates mentioned in the indictment is clearly established by uncontradicted evidence on the part of the State. There is not a particle of evidence to contradict the testimony of the witnesses who swear specifically to the minors that they saw there in the cabaret room under eighteen

years of age, and whose names are given in the testimony. The trial was a fair and impartial one; the defendant is here on a strict bill of exceptions; the verdict was in keeping with the law and the evidence.

There was no error in the judgment of the Supreme Court in affirming the judgment of the Passaic Quarter Sessions.

The judgment of the Supreme Court should be affirmed.

Respectfully submitted,

MICHAEL DUNN,
Prosecutor of the Pleas, and
Counsel for Defendant-in-Error.

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New Jersey Court of Errors and Appeals

Writ.

NEW JERSEY, SS.:

THE STATE OF NEW JERSEY:

(Seal) To the Chief Justice and other Justices of our Supreme Court of Judicature:

GREETING:

Forasmuch as in the record and proceedings, and also in the giving of judgment in a certain plaint, which was in our said Supreme Court of judicature, before you, between, the State of New Jersey, defendant-in-error and Frederick Koettegen, plaintiff-in-error, in an action upon sur indictment for maintaining a disorderly house, manifest error hath intervened, to the great damage of the said defendant Frederick Koettegen, as it is said; we being willing, that the error, if any there be, should in due manner, be corrected, and full and speedy justice done to the said Frederick Koettegen, aforesaid, in this behalf, do command you, that if judgment be thereupon given and affirmed, then you distinctly and openly send, under your seal, the record and proceedings, aforesaid, with all things touching the same, to our judges of our Court of Errors and Appeals in the last resort in all causes, at Trenton, on the eleventh day of December, 1915 together with this writ, and that the record and proceedings, aforesaid, being inspected, we may cause to

be further done thereupon, for correcting that error, what of right, and according to the law and custom of the State of New Jersey, ought to be done.

Witness, our Chancellor and President Judge, of our said Court of Errors and Appeals, at Trenton, aforesaid, the 22nd day of November, A. D., nineteen hundred and fifteen.

WARD & MCGINNIS,

Attorneys.

THOMAS F. MARTIN,

Clerk.

Return to Writ.

NEW JERSEY SUPREME COURT.

The State of New Jersey,
Defendant-in-Error,

vs.

Frederick Koettegen,
Plaintiff-in-Error.

RETURN TO WRIT.

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.

WILLIAM S. GUMMERE, (L.S.)
C. J.

Order on Affirmation of Judgment.

NEW JERSEY SUPREME COURT.

The State of New Jersey, *Defendant-in-Error,* vs. Frederick Koettegen, *Plaintiff-in-Error*	*In Error to Passaic County Quarter Sessions.* *On Indictment.*

ORDER ON AFFIRMATION OF JUDGMENT.

This cause having been duly argued at the June Term, 1915, of this court by Ward & McGinnis, of counsel for the plaintiff-in-error, and Michael Dunn, Prosecutor of the Pleas, of counsel for the defendant-in-error, and the court having considered the same, and finding no error in the record or proceedings in the Passaic County Quarter Sessions.

It is on this sixteenth day of November, in the year of our Lord, one thousand nine hundred and fifteen, ordered and adjudged that the judgment of the Passaic County Quarter Sessions, removed by the writ of error in this cause, be affirmed with costs; and that the record be remitted to the Passaic County Quarter Sessions to be proceeded with in accordance with this judgment and the practice of said court.

Entered November 16, 1915.

On motion of Michael Dunn,
Prosecutor of the Pleas, and
Attorney of Defendant-in-Error.

Order on Affirmation of Judgment.

I William C. Gebhardt, 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.

In testimony whereof I have set my hand and the seal of said Court at Trenton, this thirtieth day of November, A. D., nineteen hundred and fifteen.

(Seal)

WILLIAM C. GEBHARDT,
Clerk.

Opinion.

NEW JERSEY SUPREME COURT.
June Term, 1915.

State of New Jersey,
Defendant-in-Error,

vs.

Frederick Koettegen,
Plaintiff-in-Error.

Opinion.

Error to Passaic Quarter Sessions:

Before the Chief Justice, Justices Swayze and Bergen.

Ward & McGinnis, for Plaintiff in Error.

Michael Dunn, Esq., for Defendant in Error.

SWAYZE, J.:

The plaintiff in error was convicted of keeping a disorderly house. The specific charge was the maintenance of a dance hall, where drunkenness prevailed, foul and vulgar language was used, where prostitutes gathered, and outside of which and nearby, fights were frequent.

Most of the questions argued relate to the admission of evidence. Some of the assignments of error are supported by exceptions and, although many are not, the questions or most of them are legally before us. We need say but a word of the complaint that witnesses were permitted to testify to the age of persons frequenting the place, who knew about it only as they judged from appearances. To reject such evidence would, as Prof. Wigmore says, be pedantically over-cautious. (Wigmore on Evidence, Section 222.) The value of such testimony varies with circumstances, but of that the jury must judge.

Opinion.

That the acts and sayings of persons within the place complained of are admissible is settled in this state. *Bindernagle v. State,* 60 N. J. Law, 307, 312; approved on this point in the court of errors and appeals, 61 N. J. Law, 259; and subsequently applied to evidence of conversations between men and women at a hotel in the absence of the proprietor. *State v. Kelly,* 76 N. J. Law, 576, 578. The same authority justifies the admission of evidence that girls of bad reputation for virtue were frequenters of the place.

The principle upon which evidence of the conduct and conversation of frequenters of the place is permitted is that it tends to show the character of the people and hence of the place where they gather. For this purpose, proof of the use of foul and profane language may sometimes be as important as lewd conduct. The language, however, must of itself be disorderly, or must be used in connection with acts which together with the language exhibit disorderly conduct. *State v. Sweet,* 81 N. J. Law, 250; *State v. Littman,* 86 N. J. Law, 453,457, acts and language of that kind, even in the absence of the proprietor tend to show the actual character of those who frequent the place and hence of the place itself. Thieves and protitutes do not gather in a church. Proof of general reputation of those who frequent the place is also admissible, because a house may be disorderly in the sense of a public nuisance if it is the gathering place of persons of ill-repute. (Wigmore on Evidence, sections 78, 204.) There is, however, a necessary limitation upon the use of evidence of specific acts and language growing out of the necessity of proving knowledge on the part of the defendant. Since he cannot be charged with guilt unless

he knows or may be assumed to know the bad character of those who frequent his place, it has been held that bad character cannot be proved by the fact that crimes were committed elsewhere even though there have been convictions, *State v. Baans,* 77 N. J. Law, 123. In such cases proof of general reputation is admissible but general reputation cannot be proved by evidence of specific acts of immorality. The reason is that it is not ordinarily probable that the defendant would know of such specific acts and new issues would be introduced into the case if he had to be ready to defend all his guests against charges of misconduct whereever committed. When, however, the misconduct takes place in or near his place, the situation is different. He may well be held accountable for the preservation of good order within the premises, and the public nuisance caused by acts or language in the immediate neighborhood, may exist as the direct result of what goes on inside. A house may be disorderly if it attracts disorderly persons who cause a disturbance even in the public street. *State v. Webb,* 25 Iowa, 235, (per Chief Justice Dillon); *State v. Pierce,* 21 N. W. Rep., 195 (Iowa). All the testimony of this character related to what was said and done within the dance hall, or immediately outside, and most of the latter class related to the conduct and condition of persons as they came out the door, or so close thereto that it was apparently a continuation of what had gone on inside. On the question of remoteness, much must be left to the discretion of the trial judge and we see no reason to think that discretion was abused. As to the language used, an important distinction is that already referred to which was pointed out in *State v. Sweet.* The

language must itself be disorderly or used in connection with acts which together with the language exhibit disorderly conduct. It is this distinction which justifies the ruling in *Commonwealth v. Harwood,* 4 Gray, 41. The language which the state offered to prove showed a specific wrongful act which the witness said had taken place in the house, but the language was not itself disorderly. The report in *Heflin v. State,* 20 J. L. J., 151, states no facts and gives no reasons. Some of its broader statements as given in the Law Journal were no doubt justifiable as applied to the facts of the case.

The testimony of Stapleton as to his agreement with Kerwin seems to have been meant only to fix a date by reference to a circumstance connected with it in the mind of the witness. We think it was not prejudicial to the defendant.

The charge to the jury that if the defendant participated with others in conducting the place in such an obnoxious manner and lent his aid to maintaining it, the law charged him as a principal offender, is not complained of as a legal proposition. It is said there was no evidence justifying the submission of the question to the jury. We think there was ample evidence.

The portion of the charge as to which complaint is made in the 30th assignment of error is misquoted. There is no reference to Sunday selling in the charge as printed on page 114. If there were, it would have been cured by the court charging the fifth request.

The complaint that the court charged that the jury must find that it was reasonable to believe that the defendant had knowledge and that was as

far as it was necessary for the jury to go, is hypercritical. The judge had told the jury that the defendant must be proved to have known the fact of the existence of the acts which went to make up the elements of a disorderly house; he then added that it need not go to such an extent that the defendant would admit his knowledge on the stand. Then followed the passage complained of. All it could mean was that it was enough if the evidence caused in the minds of the jury a reasonable belief of defendant's knowledge. This is enough. *State vs. Callahan,* 77 N. J. Law, 685.

The judgment is affirmed.

New Jersey Supreme Court

Writ.

NEW JERSEY, SS.:

THE STATE OF NEW JERSEY:

To William Seufert or Abram Klenert, Judges of our Passaic Court of Quarter Sessions, in and for the County of Passaic:

(Seal)

GREETING:

Because in the record and proceedings and also in the giving of the judgment upon a certain indictment against Frederick Koettegen late of the City of Paterson, County of Passaic, for keeping a disorderly house, (pro ut the said indictment and the several counts therein) where of, before you he has been indicted, and is thereof convicted by a certain jury of the county, taken between the State of New Jersey and the said Frederick Koettegen as it is said, manifest error hath intervened to the great damage of the said Frederick Koettegen as from his complaint we have received information, we being willing, in his behalf to correct the error in due manner if any there shall be, and that speedy justice be done to him, the said Frederick Koettegen, command you that if judgment be thereon given, then that you distinctly and openly, send under your seal, the record and proceedings aforesaid, with all things touching the same to our Justices of our Supreme Court of Judicature at Trenton, on the twenty-ninth day of January, 1915, and this writ, that the record and preceedings aforesaid being inspected, we may further cause to be done thereupon for correcting that error, what of right

and according to the laws and customs of New Jersey ought to be done.

Witness, William S. Gummere, Chief Justice of our New Jersey Supreme Court, at Trenton this 8th day of January, 1915.

HENRY MARELLI,
WARD & MCGINNIS,
Attorneys.

WILLIAM C. GEBHARDT,
Clerk.

State of New Jersey,
County of Passaic, ss.:

I, John J. Slater, Clerk of the County of Passaic and also Clerk of the Court of Quarter Sessions, in and for the said county, do hereby in the schedule hereto annexed, send to our Justices of our Supreme Court of Judicature at Trenton, the record and proceedings mentioned in the within Writ of Error, with all things touching the same, as I am within commanded.

In testimony whereof, I have hereunto set my hand and affixed the seal of the said court and county, at Paterson, this twenty-fifth day of January, A. D. nineteen hundred and fifteen.

(Seal)

JOHN J. SLATER,
Clerk.

Indictment.

STATE OF NEW JERSEY,
PASSAIC COUNTY, TO WIT:

Indictment.

Be it remembered, that at a Court of General Quarter Sessions of the Peace, held at Paterson, in and for the said County of Passaic, on the eighth day of May, in the year of our Lord, one thousand nine hundred and fourteen, being the day on which the Grand Jury for Passaic County heretofore summoned to the Court of Oyer and Terminer and general jail delivery for said county desire to present bills and no Justice of the Supreme Court being present at the court house in said county, before the Honorable Abram Klenert, Judge of the said Court of General Quarter Sessions of the Peace, in and for the said county of Passaic, according to the form of the statute in that case made and provided; by the oath of 1. Henry G. Hershfield, Foreman; 2. Henry Atkinson, 3. Horace Beaumont, 4. Simon Bicking, 5. Christian Braun, 6. James Butterworth 7. James Eastwood, 8. John Groenendyk, 9. Samuel F. Groocock, 10. James Haas, 11. Henry L. Hageman, 12. William H. Hornbeck, 13. Wallace King, 14. Thomas McGuire, 15. Garret Martin, 16. Frank Pawelski, 17. Benjamin Plog, 18. Charles B. Russell, 19. James J. Ryan, 20. Abraham Smith, 21. Patrick Sweeney, 22. William J. Turner, 23. Cornelius Van Noort, good and lawful men of the said county of Passaic, duly summoned and then and there sworn and charged to inquire in behalf of the State of New Jersey in and for the said county of Passaic; it is presented in manner and form following, to wit: The bills herewith presented are true bills.

HENRY GRAH HERSHFIELD,
Foreman.
MICHAEL DUNN,
Prosecutor of the Pleas.

COURT OF OYER AND TERMINER IN AND FOR THE COUNTY OF PASSAIC.

April Term A. D. Nineteen Hundred and Fourteen

PASSAIC COUNTY, TO WIT:

The Jurors of the State of New Jersey, in and for the body of the county of Passaic, upon their oath present, that Frederick Koettgen late of the City of Paterson, in the county of Passaic aforesaid, on the eleventh day of April, in the year of our Lord nineteen hundred and thirteen and on divers other days and times between that day and the taking of this Inquisition with force and arms at the city aforesaid, in the county aforesaid and within the jurisdiction of this court, unlawfully did keep and maintain and yet doth keep and maintain a certain common, ill-governed and disorderly house and at his said house, for his own lucre and gain, certain persons of evil name and fame and of dishonest conversation, then and on said other days and times, there unlawfully and wilfully did cause and procure to frequent and come together and the said persons in his said house at unlawful times, as well in the night as in the day, then and on said other days and times, there to be and remain drinking, tippling, fighting, cursing, swearing, soliciting for immoral purposes and acting in a lewd and indecent manner; and the said Frederick Koettgen during said days and times did habitually sell, permit and cause to be sold intoxicating liquors on the first day of the week commonly called Sunday; and did habitually sell, permit and cause to be sold intoxicating liquors to minors under the age of eighteen years; and did habitually suffer and permit minors under the age of eighteen years to frequent and

lounge in the room and place where such liquors are kept and sold, and misbehaving themselves unlawfully and wilfully did permit and yet doth permit to the great scandal and common nuisance of all citizens of this state there residing, inhabiting and passing, to the evil example of all others in such like cases offending, 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.

Witness:

CHARLES H. RYAN.

MICHAEL DUNN,
Prosecutor of the Pleas.

Thereupon the said Court of Quarter Sessions did receive such indictment and the Clerk of the said Court of Quarter Sessions did file the same in the said court, and also did thereupon make entry thereof in the minutes of said court at the then session of said court, and afterwards, to wit, at the same term of said Court of Quarter Sessions, holden at Paterson, in and for the County of Passaic aforesaid, to wit: on the fifteenth day of May, A. D. nineteen hundred and fourteen, at a session thereof before the judge of said court, in and for said county of Passaic, according to the statute in such case made and provided, comes the said Frederick Koettgen, in his own proper person, and now touching the premises in said indictment above specified and charged against him, being asked in what manner he will acquit himself, says, he is not guilty and of this he puts himself upon the country, etc., and the Prosecutor of the Pleas for the County of Passaic, who prosecutes for the State of New Jersey, in this behalf, doth the like.

Therefore, let a jury come here beofre the judge aforesaid, at Paterson aforesaid, in the county of Passaic aforesaid, at a session of the Court of Quarter Sessions aforesaid, on the first day of June, next ensuing, being as yet of the term of April, A. D. nineteen hundred and fourteen, of twelve good and lawful men, each of whom shall be a citizen of this State, and a resident within the county of Passaic 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 are not of kin to the said Frederick Koettgen, to recognize upon their oaths whether the said Frederick Koettgen be guilty as in the said indictment specified, or not guilty, because as well the Prosecutor of the Pleas for the said county of Passaic aforesaid, who prosecutes for the State of New Jersey aforesaid, in this behalf, as the said Frederick Koettgen have put themselves upon the said jury, and the same day is given to the parties aforesaid, at the same place.

And the trial on this indictment having been continued until the twenty-first day of December, A. D. nineteen hundred and fourteen, being of the term of September of said court, at which day before the court aforesaid, at Paterson aforesaid, comes as well the Prosecutor of the Pleas aforesaid, who prosecutes as aforesaid, as the said Frederick Koettgen, in his own proper person, and the jurors of said jury, by the sheriff of the county of Passaic aforesaid, for this purpose empanelled and returned, to wit:

1. Richard Conklin, 2. J. R. Smith, 3. James McMurray, 4. John A. Huggs, 5. C. S. Van Ness, 6

Thomas A. McPherson, 7. George B. Bolton, 8. Robert Breslin, 9. Jacob S. Hagen, 10. Jonathan Robertson, 11. Lewis Benatar, 12. William Stannard, also come, who to speak the truth of the matters within contained, being chosen, tried and sworn upon their oaths, say on the twenty-fourth day of December, A. D. nineteen hundred and fourteen, that the said Frederick Koettgen is guilty of the premises in the within indictment named and specified, in manner and form as by the indictment is charged against him.

And thereupon on the eighth day of January, A. D. nineteen hundred and fifteen, it was demanded of the said Frederick Koettgen if he hath or knoweth anything to say wherefore the court here ought not upon the premises and verdict proceed to judgment against him, who nothing further says, unless as he has before said.

Wherefore, all and singular the premises being seen and by the court here fully understood, it is considered by the court, and the sentence of the law is, that the said Frederick Koettgen shall be confined in the State Prison, at hard labor, for the maximum term of three years, and the minimum term of one year and six months, and that he do pay a fine of five hundred dollars, without costs, and stand committed until said fine be paid.

WILLIAM M. SEUFERT,
Judge.

State of New Jersey, }
County of Passaic. } ss.:

I, John J. Slater, Clerk of said County, and Clerk of the County Courts thereof, do hereby certify, that the foregoing is a transcript of the

record and proceedings in the case of Frederick Koettgen, convicted of keeping a disorderly house, in our Court of Quarter Sessions, on the twenty-fourth day of December, A. D. nineteen hundred and fourteen, as the same is taken from and compared with the original record, in the Court of Quarter Sessions, and now remaining in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal (Seal) of the said courts and county, at Paterson, this twenty-fifth day of January, A. D. nineteen hundred and fifteen.

JOHN J. SLATER,
Clerk.

PASSAIC COUNTY QUARTER SESSIONS.

State vs. Frederick Koetttgen.	Sur Indictment for Maintaining a Disorderly House.

Before Hon. William M. Seufert, P. J.

Appearances:

Michael Dunn, Esq., Prosecutor for the State.

Henry Marelli, Esq., and Gustave Hunziker, Esq., for the defendant.

A jury having been empanelled and found satisfactory to both sides, the same was duly sworn.

Transcript of the testimony in the above entitled case, taken stenographically by William N. Berdan, on Monday, the twenty-first day of December, nineteen hundred and fourteen, at 10 o'clock A. M., who was duly sworn to take and transcribe the same.

Mr. Dunn opens for the State.

CHARLES RYAN, a witness produced on behalf of the state, being first duly sworn according to law testified as follows:

Direct Examination by Mr. Dunn.

Q. Are you connected with the police force of the City of Paterson? A. Yes, sir.

Q. And have been for how long? A. Twelve years.

Q. A sergeant, I believe? A. A sergeant for about seven years.

Q. Do you know Mr. Koettgen, the defendant here? A. I do.

Q. What business is he in, and where does he keep it? A. Keeps on Van Houten street, and is in the liquor business.

Q. Any name to it? A. Helvetia Hall.

Q. Tell how the rooms are situated—take the first floor. A. The first floor is a bar room, and then you go up in the cabaret room.

Q. Tell the size of it. A. It is big, and at the rear there is a raised platform, and as you go up the stairs there is a little bar on the side where they sell or dispense with the liquor.

Q. And at this bar in the little cabaret room—

By Mr. Marelli—I object to the leading manner of the question.

By the Court.—Objection sustained.

Q. Where are the drinks that are served in the cabaret room served from? A. As far as I could see, from the cabaret room.

Q. Were you in there at any time during the period from April 11th, 1913, to May 14th, 1914? A. I was in there on April 11th, 1914.

Q. Now, just describe to the jury what you found—where were you before that? A. I was at police headquarters and was sent down by the captain along with Officers Pirola, Rickenbock, Brooks and Close.

Q. Just state to the jury what you found when you got down there? A. We went in the hall lead-

ing to the dance hall and the same leads into the cabaret room, and I went up stairs and looked around and I saw several persons who I had arrested the night before, a girl, and one of the girls was there and as I passed the door she said: "Let's get out; here is Ryan," and I saw Ethel Holmes there.

Q. What was they doing that you arrested them? A. For fighting on the street, and fighting with the police.

Q. What is their reputation? A. Only that they are frequenters of dance halls.

Q. What is their reputation? A. They are common street walkers.

Q. What other characters did you see there on that night? A. I saw them there drunk and I saw a girl smoking a cigarette and another lady with her feet on the table.

Q. Exposing any part of the person? A. I couldn't see; I went to see Mr. McGee.

Q. Who is he? A. He was the officer there.

Q. Well, go on. A. I told him that if they didn't know how to run the place they better get some body that did, and I said that we were going to take care of it tonight.

Q. What prompted you to say that? A. The conduct of the place; men and women sitting around and smoking, and being sent down before on account of the fighting.

By Mr. Marelli.—I move that the last part of that answer be stricken out.

By the Court.—Strike it out.

Q. Sergeant, what did you notice as to the ages of the girls and boys? A. I didn't have much

time to notice anything; I judge I was there only two minutes when the fight started.

Q. What was the fight? A. Two of them were in a fight and I went down and took one away.

Q. What language did you hear used there that night? A. It all happened so quick I couldn't hear much; this one fellow I took out of the hall and handed him to Pirola.

Q. What did you do after that? A. We went back to the hall and I took Mr. Koettgen—

Q. The defendant here? A. The defendant here. I said the place has to be run different, and he said "I will get an injunction against you if you don't stop interferring with my business."

Q. What did you say then? A. I didn't say anything; I went into the bar room and called up the captain, and I said "Send me down about eight men and I will send you up about two hundred," and when I came back the hall was clean with the exception of two men and two boys, and then I came out to Elizabeth Howley—no, Elizabeth Rose, 1015 East Twenty-second street, and she came out and I was in the door way and she said—

Q. As she came out of the hall? A. Yes, sir.

Q. You saw her in the hall? A. Yes, sir.

Q. These remarks that you heard, how close was it to the hall? A. Right next door.

Q. What was done with her? A. I locked her up and she got ten days and done it.

By Mr. Marelli.—I move that that be stricken out.

By the Court.—Strike all of that out.

Q. Now, then, were you down there any other night after the eleventh of April? A. Yes; I

was; well, it was only about three weeks ago, when I was down to the fight.

Q. Never mind that. As you saw the crowd coming out of the hall that you had seen in the cabaret room, did you notice anything about their ages? A. When I came out they were pretty well crowded, and I couldn't notice much.

Cross Examination by Mr. Hunziker.

Q. When you were in there sergeant, did these other officers accompany you in the hall? A. They came in behind me.

Q. Just as soon as you got in the fight started? A. About two minutes.

Q. After the fight started wasn't the other officer there? A. Yes, he was with me and we ran down together.

Q. Didn't McGee take hold of the fighter first? A. Not to the best of my knowledge.

Q. What part of the hall was it? A. Left hand side going down.

Q. Toward the front part of the hall? A. About the middle going toward Ellison street.

Q. These parties that were in the quarrel were leaving the hall? A. No.

Q. Did they fight? A. Yes, sir.

Q. Weren't they moving toward the exit? A. No; I saw two fellows clinched.

Q. And you seized him? A. Both seized him.

Q. And then went out of the hall? A. Yes, sir.

Q. And after that you telephoned to the police station? A. Yes, sir.

By the Court.

Q. How many people did you see in the hall when you went in? A. About two hundred sitting around the table and standing up, and some standing around the bar.

Q. Any of them intoxicated? A. I don't know.

By Mr. Hunziker.

Q. You say about the ball room— A. I didn't go up in the ball room.

Q. Do you know what the rest of the building consists of? A. I believe there is a ball room and then living rooms above.

Q. Any connection between the ball room and the cabaret room? A. Two stairways; one in the back and one in the front.

Q. That is all.

JAMES SMITH, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. You are a police officer of the City of Paterson? A. I am.

Q. And have been for how long? A. Two years and six months.

Q. During the year nineteen hundred and fourteen, at any time, were you at Turn hall? A. Helvetia Hall.

Q. I mean Helvetia Hall. A. Yes, sir.

Q. Who did you go there with? A. Sergeant Ryan, Detective Moore and Pirola and Brooks, and that is all I can think of now.

Q. When you went in the hall, how did you enter? A. Through the entrance to the—well, it is a cabaret room and dance hall—leads into both.

Q. Which did you go in first? A. Cabaret hall.

Q. What did you find in there? A. Crowds of people sitting around; I should judge from one hundred and fifty to two hundred people.

Q. What were they doing? A. Sitting drinking; I didn't see, that is, the girls smoking; I saw the men smoking.

Q. What was the ages of some of the girls and young men that you saw there at the tables? A. I should judge—

By Mr. Marelli.—I object to any judgments or conclusions.

By the Court.—I think prosecutor, if you are going to depend upon the officer's observation, I think you better bring it down to one case where the defense can go into cross examination. It should be subject to cross examination.

Q. Did you observe the ages of the boys and girls there sitting around the table?

By Mr. Marelli—I object to the question on the ground that it takes if for granted that boys and girls were in there.

By the Court.—Technically you are right, and the objection will be sustained.

Q. The question is, did you observe the persons whom you saw sitting at the tables when you went in the hall? A. Did I observe them?

Q. Did you observe them; did you notice them? A. I did.

Q. What can you say to us as to who any of them were, if you know? A. There was one girl that I did know; that was Ethel Holmes.

Q. How old is Ethel Holmes? A. I couldn't tell you.

Q. What was her reputation? A. Her reputation, as far as I know, is that she has been locked up.

Q. What is her reputation as being chaste; moral or not?

By Mr. Marelli.—I object to the form of the question.

Q. Have you heard people talk of Ethel Holmes and her character?

By Mr. Marelli.—I object to the question.

By the Court.—Objection sustained. There are certain questions allowable. The first question is do you know the reputation of this person in the location in which she resides, and then whether it is good or bad.

Q. Do you know the reputation of this Ethel Holmes in the neighborhood in which she lives for virtue and chastity? A. Only by hearsay.

Q. What is it? A. As to keeping late hours?

Q. No; as to whether she is virtuous or not? A. I couldn't say.

Q. Don't know what they say about her? A. No.

Q. You say you observed the people in this cabaret room; what did you observe as to who they were, or what they were; how many men and how many women? A. I couldn't tell the exact number.

Q. About? A. There were about one hundred and fifty to two hundred in the room, and there seemed to be much more men than women.

Q. And what had they been doing? A. Sitting down drinking, and getting up and going from one room to the other.

Q. Did you hear any conversation when you first entered? A. I couldn't tell exactly.

Q. Just tell what you did hear. A. There was one woman sitting to the left of the hall, and she jumped up and grabbed her coat off the back of the chair, and she said "I will get to hell out of here before the place gets pulled."

Q. Is that all you heard? A. Yes, sir.

By Mr. Marelli.—I move that that be stricken out; suppose a woman did say that?

By the Court.—Exception prayed, allowed and sealed.

WM. SEUFERT.
(L. S.)
Judge.

Q. Now did you observe any of the people there as to whether they were young people or people advanced in years, and how many would you say there were, young people or people advanced in years?

By Mr. Marelli.—I object to the question.

By the Court.—Question allowed.

Exception prayed, allowed and sealed.

WM. M. SEUFERT. (L. S.)
Judge.

A. They appeared to be the age of seventeen and eighteen years of age.

By the Court.

Q. All of them? A. No; not them all.

By Mr. Dunn.

Q. How many? A. Thirty to thirty-five that I noticed when I walked around the hall.

Q. That were what age? A. From seventeen to eighteen.

Q. And what would you say as to the age of the rest of them? A. They were elderly people there from twenty-seven to twenty-eight years of age.

Q. How many? A. I couldn't say.

Q. And as you entered this hall what were these seventeen and eighteen year olds doing? A. Sitting and drinking.

Q. What? A. They looked like beer glasses, and I noticed two in particular that they had beer in and two girls got up from the table.

Q. Did you notice any of the men or women, or boys or girls, under the influence of drink? A. Yes; there were two girls, I should say about seventeen, in the hall-way.

Q. What was their condition? A. They seemed to be in a drunken condition.

Q. Did you hear what they said? A. No; they went up stairs to the dance hall.

Q. From the cabaret room? A. Yes, sir.

Q. Did you notice any others under the influence of liquor in the cabaret room? A. Yes; there seemed to be others.

Q. Did you notice what they were doing in the cabaret room, any of these persons before they noticed the police? A. Sitting around the tables.

Q. What were they doing? A. Drinking out of glasses in front of them.

Q. Anything else you saw them do? A. No; only to get up and walk to other tables from time to time.

Q. While you were in front of the hotel— A A fight started.

Q. Yes; tell us about the fight. A. I stood at the street entrance, and Sergeant Ryan went in and it seems the fight started and Sergeant Ryan came out with a man and handed him over, and then he went down to the bar room to telephone and as he was down there the constable and Mrs. Koettgen went around to the tables and told them all to get out, there was going to be something doing, and it seems that some of them went out and some went up to get their clothes, because they would go up empty and come back with a coat or something on their arm, and we noticed one girl in particular, and she seemed to be mixed up with a dozen men, and as she was going out I heard her say "Where is that son-of-a-bitch, Bummy Ryan."

By Mr. Marelli.—I object to that.

(Witness continues) I heard her first in the hall going to the street, and I was trying to get nearer and these fellows seemed to be nearer.

Q. Was this remark made inside of the hallway, while she was going to the street? A. Yes, sir.

Q. Inside of the building? A. Inside of the building.

Q. And that was the girl that was afterwards arrested? A. Taken by the sergeant. When she

passed that remark there was one of the fellows said: "Aren't you going to stick to her?"

Q. Had you been down at any other time? A. That was the only time I was down.

Q. Did you notice that night in there any girls that are girls of bad reputation for virtue in the town; that people spoke about as being girls of bad reputation in the town?

By Mr. Marelli.—I object to the question. The question is leading, and in the next place it assumes that he knows the reputation.

By the Court.—The question the prosecutor asked was as to their reputation, and I will allow it.

Exception prayed, allowed and sealed.

WM. M. SEUFERT, (L. S.)
Judge.

A. If a bad reputation I speak of this Holmes girl.

Q. As to virtue, to chastity? A. No; that I could not say.

Cross Examination by Mr. Hunziker.

Q. You went there with Sergeant Ryan? A. I did.

Q. Did you go in the hall with the sergeant? A. About four or five yards behind him.

Q. Did you go in before him or after him? A. After him.

Q. How long? A. About a minute and a half or two minutes.

Q. Then you were in the hall not over three or four minutes? A. No; we were in there ten minutes if not twelve.

Q. Did you hear Sergeant Ryan testify that he was in there for two minutes? A. Did I hear him testify?

Q. Yes. A. No.

Q. The other officers that accompanied the sergeant and you there, were also in the hall while you were there? A. The sergeant had been down in the bar room and I was in the cabaret room myself for ten or twelve minutes.

Q. And you only knew this one young girl there; this Holmes girl? A. I knew lots of them, but only the Holems girl by name.

Q. You have spoken of having seen persons there from seventeen to eighteen? A. Yes.

Q. Did you know them personally? A. No.

Q. Remember of ever having seen them before? A. Yes; several occasions.

Q. Weren't acquainted with them? A. Only to say "Hello."

Q. Who did you see there that you say were only seventeen or eighteen? A. I couldn't tell you any names.

Q. Boys or girls? A. Boys and girls.

Q. You form your opinion of the age simply by seeing them? A. Yes, sir.

Q. You don't know but what they might have been over eighteen? A. Seventeen or eighteen.

Q. You might have been mistaken? A. Pretty near right in some of the cases I should think.

Q. Now, you said you heard a girl make a remark with regard to Sergeant Ryan, that was on the sidewalk, was it not? A. Both places.

Q. When you heard it on the street where was she? A. She seemed to be about five yards from me.

Q. Where were you? A. Just coming out of the main entrance.

Q. Was Sergeant Ryan there? A. I didn't notice the sergeant; she may have passed the remark three times; I heard her twice.

Q. That is all.

CHARLES H. PIROLA, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. You are a police officer of the City of Paterson, Mr. Pirola? A. Yes, sir.

Q. What bureau are you connected with? A. The detective bureau.

Q. How long have you been connected with the detective bureau? A. About two years.

Q. And how long have you been on the police force? A. Nearly three years.

Q. Do you know the defendant Koettgen; Frederick Koettgen? A. I do.

Q. Where does he keep? A. 54 and 56 Van Houten street.

Q. What does he keep there? A. A place they call Helvetia Hall.

Q. What business is carried on there? A. A saloon, a hall for dances and a cabaret room.

Q. What is there down in the cabaret room; what is down there in the cabaret room; what is it used for besides? A. They have a piano playing and singing and chairs and tables where men and women sit and drink and take in the pleasure of what is going on.

Charles H. Pirola—direct.

Q. How long do you know Mr. Koettgen to be engaged in the business of running that hall? A. As long as I have been on the force, to the best of my knowledge.

Q. And have you been there between the eleventh day of April nineteen hundred and thirteen, and the eighth day of May, nineteen hundred and fourteen? A. Yes, sir; several occasions.

Q. When from April eleventh, nineteen hundred and thirteen did you first visit the hall? A. The first was on the eleventh; on that day.

Q. That is nineteen hundred and fourteen? A. No; that is nineteen hundred and thirteen; I will just tell you better; nineteen hundred and fourteen.

Q. When had you been in there before that? A. A few weeks prior to that.

Q. Yes, and what did you observe in the hall when you were in there prior to April 11th, 1914? A. I observed a cabaret show going on down stairs, and a dance up stairs.

Q. What did you see them doing in there? A. I should think that I saw them drunk.

Q. No; two or three weeks before that? A. I saw them dance and singing and smoking.

Q. In the cabaret room?

By Mr. Marelli.—I objcet to the question

By the Court.—The question was preceded by what he saw in the cabaret room; it is involuntary, but the question before that called for the answer.

Q. Just tell us what you saw when you were in there two or three weeks prior to that time?

A. There was a woman singer there and piano playing and men and women drinking, young and old around the tables and they were cursing, passing funny remarks and men, young fellows hugging girls, etc.

Q. Just describe that when you say young; how old were they? A. From sixteen years to—

Q. How old were they? A. The young girls there hugging and crossing their legs under the table, and I saw one young lady smoking a cigarette.

Q. How old was she? A. Anywheres from eighteen to twenty, or sixteen, something like that.

By Mr. Marelli.—I object to that answer.

By the Court.—Cross out the last part of it.

Q. How old was the girl that was smoking the cigarettes, so far as you could observe? A. I should say around twenty.

Q. What were these girls drinking? A. Beer, wines.

Q. Who were they accompanied by when at these tables? A. Who were they attended by?

Q. Who were they accompanied by? A. Young men.

Q. How old were they? A. I couldn't say their ages.

Q. From your observation? A. From eighteen to thirty; maybe forty-five.

Q. The majority of them? A. Young men, maybe in the twenties and younger.

Q. Now, officer, how many times were you in there and saw that place prior to the time you have just described, which you say was prior to April 11th, 1914? A. Several times.

Q. Now, during nineteen hundred and thirteen, from April, nineteen hundred and thirteen to April, nineteen hundred and fourteen, you had been in there different times? A. Yes, sir.

Q. Now, during that time what can you say of the reputation of some of these women that were in there? A. To some of the girls; the young ladies, I know their morals are not right; some are street walkers; some I know; some were street walkers, and some I think I have took out of rooms.

Q. Rooms where? A. Rooms with young men; that I saw there with young men.

Q. Rooms where? A. In different houses.

Q. Where you would make raids; is that right? A. Yes, sir.

Q. During the different times that you were there state whether you saw some of the people of this character in there? A. I am positive that three of these girls that I know I saw there on different occasions; that I could swear to.

Q. On the night of April 11th, 1914, you were there with Sergeant Ryan? A. Yes, sir.

Q. State what you first observed. A. It was about 11:15 a call came in at the police station and Captain McBride detailed Sergeant Ryan, and I think the clerk to the recorder came with us, Henry Scheuman-Heink, and the crowd became quite boisterous, and I was one of the last to get in, and I saw Ryan speak to the constable, and then he got a fellow by the name of Jefferson.

Q. What can you say as to the reputation that Jefferson has in the city; know anything about him? A. No, sir.

Q. Was he sober or drunk? A. He was more drunk than sober.

Q. He was under the influence of liquor then? A. Yes, sir.

By Mr. Marelli.—I object to the question.

By the Court.—You got your objection in too late.

Q. What else did you see after that? A. That night I didn't see anything else, because I brought the persons to the police station.

Q. When you went in the room, what can you say about the reputation of the people you saw there that night? A. Some of the people have a bad reputation.

By Mr. Marelli.—I move that that be stricken out; some of them had a bad reputation.

Q. Now, what else did you observe there after that; did you hear any expression used by them, any language used by the inmates? A. Yes, I often heard familiar remarks.

Q. What did you hear that night? A. I didn't hear anything, as I was one of the last to enter the line.

Q. And on what other occasion prior to May 8th, nineteen hundred and fourteen, can you relate to the jury any of the remarks that you heard, made by the persons there in the cabaret room, or in the ball room? A. What I answered a little while ago; familiar remarks I heard young men say to young ladies, if I take you home tonight, and I heard one say "I will get a piece tonight."

Q. They would say that to young girls?

By Mr. Marelli.—I object to the question.

Q. Between whom was this convresation that you just mentioned? A. One young man to another.

Q. Were these young men in company with the girls; had they been drinking with the girls? A They had.

Q. What other remarks had you heard? A. I heard them, but I can't recall them.

Q. Different remarks of what kind and character? A. Similar to what I just said a little while ago.

By the Court.

Q. Were those remarks very audible? A. Pretty low, say.

Q. How far away could you hear it? A. I was at the adjoining table, and I could hear it.

Q. How far could it be heard in your judgment? A. Anyone at our table; say five or six feet.

By Mr. Dunn.

Q. Now, after April 11th, 1914, were you in any time? A. Yes, sir.

Q. When were you there next? A. I don't remember the date; I know we made an arrest in there.

By Mr. Marelli.—I object to the last part of that answer and move that it be stricken out.

By the Court.—Strike it out.

Q. Were you there after April 11th, and before May 8th, 1914; that is, after you went there with Mr. Ryan? A. Not that I can recollect.

Q. Were you at any time detailed on special duty down at that hall? A. Yes, sir.

Q. When were you first detailed down there on special duty? A. Prior to April 11th.

Q. When; what nights in the week? A. During the latter part of the winter.

Q. The winter of 1913 and 1914? A. Yes, sir.

By the Court.

Q. As plain clothes man, or at the request of the proprietor? A. No; plain clothes.

By Mr. Dunn.

Q. Were you in the hall? A. Yes, sir; inside and outside.

Q. State during the winter of 1913 and 1914, state what you observed during that time, first with reference to the character of the people that were assembled in the hall.

By Mr. Marelli.—I object to the question as being indefinite.

By the Court.—I think in a case of this kind it is permissible.

Exception asked for and allowed.

Q. (Question repeated by the stenographer.) A. Some of the people in that hall are of bad morals that I saw; they were with reference to being street walkers and men that I know had been arrested for being thieves.

Q. State whether or not those persons of that character were seen there by you on different occasions when you visited the hall? A. Yes, sir; I saw different ones on different occasions.

By the Court.

Q. Did you see the same ones on different occasions? A. That I couldn't say.

By Mr. Dunn.

Q. And at these times during the winter of nineteen hundred and thirteen and nineteen hundred and fourteen, on up prior to the April instant that you speak of, what, when you went in the hall there, what did you observe as to the condition of the inmates there as to sobriety? A. The inmates were sitting around tables listening to the cabaret and singing, amongst them; generally start singing from the piano and going half way down, and women and men sitting around tables drinking and jollying and some were fairly intoxicated, and some were pretty well drunk. Of course there was cursing and noise that you would get from people that were drinking and a good time of that kind.

Q. Did you see that on more than one occasion when you visited the place? A. I did.

Q. And were the ages of the people, so far as you could observe, what would you say about that, as to whether they were young or old? A. Some were young and some were old.

Q. The majority? A. The majority were young people.

Q. What is that? A. The majority of them were young people.

Q. And during these times that you were there, take it on April 11th, 1914, did you see Mr. Koettgen in charge?

Charles H. Pirola—cross.

By Mr. Marelli.—I object to the question as leading.

By the Court.—Objection sustained.

Q. Who did you see in charge there on April 11th, 1914? A. The only one I can recollect McGee, and to the best of my recollection I think I saw Mr. Koettgen at the door leading to the bar.

Q. You wouldn't swear to that? A. No.

Q. Did you see him there at other times? A. Yes, sir.

Cross Examination by Mr. Marelli.

Q. When was the first time you ever went to the hall? A. The first time—maybe five years ago.

Q. Did he run the cabaret show then? A. I cannot say.

Q. When since you have been an officer? A. Taking notice of this cabaret show?

Q. Yes. A. Latter part of 1913.

Q. And when is the first time that you took any note? A. We always took a note and reported back to our superior.

Q. You made a note on April 11th? A. Yes. sir.

Q. Where is that book? A. The book I started on April 1st, 1914.

Q. And have you any other book that you made notes in? A. I have in the police station, yes, sir.

Q. You haven't it here? A. No, sir.

Q. When was the first day you went there as a police officer, the first time? A. In the winter—in the latter part of the winter of 1913.

Q. December or November? A. It may have been December, or it may have been February.

Charles H. Pirola—cross.

Q. Was it a Thursday or a Friday? A. I couldn't fix the date precisely.

Q. After that you went there a number of times? A. Yes, sir.

Q. Different nights? A. Yes, sir.

Q. Sometimes Wednesday and sometimes Friday? A. And sometimes Saturday.

Q. And sometimes Saturday? A. Yes, sir.

Q. When you first observed these things that you speak of did you tell Mr. Koettgen about it? A. I believe the—

Q. Answer the question? A. Not myself.

Q. Why not? A. I had people that were higher than me in office; they took charge of that part.

Q. How long did you stay there when you went? A. Sometimes ten minutes; sometimes half an hour.

Q. You, yourself, never said a word personally to Mr. Koettgen? A. No, sir.

Q. Do you know who was sergeant of this district at this time; the time you were visiting this place? A. No, sir.

Q. You don't know? A. No.

Q. To whom did you report? A. Captain McBride, or the man in charge inside where I was sent from.

Q. Can you fix one day specifically, other than April 11th, 1914, when you were there; fix one other day? A. Before or after?

Q. Before. A. The only—the best way I can fix—

Q. Can you fix a day or not? A. No; not to the date.

Q. Why can't you? A. I can't remember everything that is going on in my mind.

Q. You have a memorandum? A. Yes, sir.

Q. Why didn't you consult it? A. I wasn't asked to.

Q. Didn't you know that you were to testify about these previous dates? A. No, sir

Q. Who have you talked to concerning this case since the eleventh of April, 1914? A. Nobody.

Q. Haven't you talked to the prosecutor? A. No, sir.

Q. Weren't you in the prosecutor's office last Wednesday night? A. I was not.

Q. You say the ages of the girls were fifteen to sixteen? A. I said some were sixteen, some eighteen or twenty.

Q. When you saw them why didn't you put them out? A. Because they would take the hint themselves.

Q. They would go out? A. One of them.

Q. Did any of the others go out? A. Some went out; I don't know how many.

Q. Did you ever speak to any of them and say "You are under age; get out of here?" A. Yes, sir.

Q. To every one? A. No.

Q. Why not? A. Because I didn't know everything.

Q. When you say they were under sixteen, or under eighteen, you didn't know? A. I know the one I am alluding to.

Q. That is the one that you know? A. That is the only one I can say of.

Q. When is it that you saw this one prior to the eleventh of April? A. When?

Q. Yes. A. I should judge the Saturday night before that.

Q. Who is she? A. Her name is Marie Mackey.

Q. You didn't attempt to arrest her, did you? A. No, sir.

T. Simpson Standeven—direct.

Q. How do you know she is sixteen? A. She is over sixteen; she is about seventeen.

Q. How do you know? A. Because I locked her up and she gave her age on the docket as seventeen.

Q. Have you the docket here? A. No, sir.

Q. When did you arrest her? A. Prior to that time.

Q. Is that what you go by? A. She also told Judge Klenert, and that is the way she got away from going to state prison.

Q. That is the only one you arrested? A. The only one that was in that hall.

Q. Now, when were you in before the week—before the eleventh? A. I couldn't give the exact date, but a few weeks ahead of that; it may have been two Saturday nights before that.

Q. Can you say whether you went in there on a Thursday or Friday? A. Mostly on a Saturday.

Q. That is all.

T. SIMPSON STANDEVEN, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Standeven, do you hold any office in the City of Paterson? A. City Clerk and acting Register of Licenses, under the direction of the Mayor.

Q. Have you any record there of 52 and 53 Van Houten street, known as Helvetia Hall? A. It is 54 and 56 Van Houten street.

Q. What have you for that? A There was a liquor license granted for that place.

Q. What date? A. Granted April 21, 1913, and issued May 2, 1913.

Q. For how long a term? A. One year.

Q. Was that license renewed after the expiration of the year? A. It was granted April 14th, 1914.

Q. To whom? A. Fred Koettgen.

Q. And in 1913? A. Fred Koettgen.

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

Q. Is that the gentlemen who was granted the license for those two years? A. Yes, sir.

By the Court.

Q. License for what? A. Saloon.

By Mr. Dunn.

Q. A license to do what? A. To keep a saloon; license to keep a slaoon.

Q. That is all.

No Cross Examination.

HENRY SCHUMAN-HEINK, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Heink, do you hold any official position in the police department? A. In the Recorder's Court.

Q. What is it? A. Clerk to the Recorder's Court.

Q. Do you know Mr. Koettgen, the defendant here? A. I do.

Q. Did you ever visit his place? A. I did.

Q. Where he keeps? A. Yes, sir.

Q. Did you go there on the eleventh day of April, nineteen hundred and fourteen? A. I did.

Q. Did you see him there that night? A. I did.

Q. What time did you go there that night? A. About 11:15.

Q. What door did you enter? A. Not the saloon, but the main entrance.

Q. On Van Houten street side? A. Yes, sir.

Q. Where is the saloon entrance door? A. One door towards Main street.

Q. Just this side? A. Just this side to the main entrance to the dance hall.

Q. When you got in that building which room did you enter? A. The lower room on the first floor.

Q. The back room where the cabaret show seemed to be going on? A. Yes, sir.

Q. What were the furnishings in that room? A. Tables and chairs and a piano and a bar and light fixtures.

Q. Were there any people in the room when you entered it? A. Yes, it was crowded.

Q. How many were there in there? A. Between one hundred and fifty and two hundred.

Q. What were they doing? A. Drinking and carrying on; laughing and talking.

Q. When you say drinking, were they standing up? A. Some of them were sitting and some were standing.

Q. When you entered the room what can you say as to the conduct of the people there? A. I wouldn't call it orderly, so far as the conduct was concerned.

Q. Just describe it. A. I was in company with Sergeant Ryan, and when we entered the hall about a minute and a half a fight started in the center of this place, and the Sergeant immediately moved forward and grabbed the two men that were fighting, and I relieved him of one of these men and I took him and turned him over to Officer Parola, and we had to drag him out, and it seems that they were using all kinds of resistance, but finally we succeeded in getting him out, and the language that was carried on while this was going on was terrible.

Q. Give us some of it. A. Some called the officer "son-of-a-bitch," "whore" and said they had something on him, and told him he was going to be fixed, and one girl in particular, and I learned her name afterwards was Rose Howely, she called him Bummy Ryan.

Q. What remark did she use? A. She called him a "son-of-a-bitch, Bummy Ryan."

Q. What was the character of the language in general? A. It was vulgar.

Q. Some of the words used; some of the expressions that you heard used there that you spoke of as being vulgar, just tell us some of them so the jury can pass on them. A. I didn't hear any particular expression prior to the time the arrest was made.

Q. Well, after the arrest was made. A. I heard "son-of-abitch," "bastard," "whore."

Q. What can you say to us as the—while that was going on, did you hear any conversation between Officer Ryan and Koettgen? A. I don't know.

Q. Was Mr. Koettgen there? A. Yes; he was dishing out beer and taking in money.

Q. What were the people at the tables drinking? A. Most of them drank beer out of good sized glasses.

Q. Where was it served from? A. There was a temporary bar right in that room; where it came from I don't know, but it appeared to come right from taps there.

Q. Was it there that you saw Mr. Koettgen? A. Yes, sir.

Q. While you were in there and up to the time the row took place, or afterwards, did you see Mr. Koettgen do anything? A. I don't know; the whole thing happened so quickly that I didn't see Mr. Koettgen do anything particular, no.

Q. Did you notice anything as you went in, first, as to what the crowd were doing around these tables? A. Women sitting on men's laps.

Q. And what were they doing? A. Had their hands around men's necks I suppose; that is what I saw.

Q. Did you notice whether these girls were young? A. They were all comparatively young.

Q. How old? A. Average age of about twenty-two or twenty-four—twenty-three.

Q. Any of them younger than that? A. Yes; there were.

Q. How many would you say were younger than that? A. Girls that I actually saw—it is pretty hard for me to say.

Q. I know that—what would you think, of all that you saw there, what was the youngest age? A. Between eighteen and twenty.

Q. That is the average; how many did you see younger than eighteen? A. I couldn't say.

Q. Did you see any under eighteen? A. Yes, sir.

Q. About how many you couldn't say? A. No; some appeared to be very young.

Q. About the boys—the young men that you saw in there, what would you say was their age? A. Anywheres from twenty to twenty-eight.

Q. Any younger than twenty? A. Yes, eighteen—seventeen, yes, young men that would go to the dance.

Q. Were you in there any other time prior to April 11th, 1914? A. I have dropped in and seen Mr. Koettgen, yes.

Q. Did you see at this time, or at that time when your dropped in there, any men and women there in the hall of bad repute? A. Not prior to April 11th.

Q. That night? A. That night, yes.

Q. What can you say of the reputation of some of them? A. Some of those women I took to be prostitutes, because I have had some of them solicit me on Broadway and Main street, and others I have seen in the Recorder's Court, arraigned for being disorderly persons, and that is about how I got my knowledge.

Q. Girls known to the police to be of bad character? A. I should say so, yes.

Q. Did you notice girls of that character in there before? A. No, I never seen any there before when there was a dance.

Q. Cross examine.

Cross Examination by Mr. Marelli.

Q. This swearing was going on about the time the fight was going on? A. Yes, sir.

Q. Did you stay in there very long? A. No; the officer passed this man over to me and I passed him over to another officer.

Q. At the time the man was arrested, is that the time the other patrolman came? A. As I recollect there were four or five that went down there; some of them may have remained on the outside.

Q. How soon after you were in there did the fight start? A. One minute—two minutes.

Q. When you were in there you say you saw women putting their arms around men's necks? A. Yes, sir.

Q. Where was that? A. To the right and to the center of the room.

Q. What would they do; put their arms on and remove them again? A. I saw them there, but I didn't see them remove.

Q. You didn't notice it for any length of time? A. No.

Q. Might not it have been that their arm was on the back of the chair? A. It may have been on the chair, and it may have slipped.

Q. It may have been their husband? A. Yes.

Q. As to the ages, Mr. Heink, you wouldn't swear that these girls were under eighteen? A. It is hard to say; I wouldn't conscientiously say no.

Q. That is all.

GEORGE T. MOORE, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Moore, where do you reside? A. I live at 189 Park evenue.

Q. Are you a member of the police force of the City of Paterson? A. Yes, sir.

Q. And have been for how long? A. Two years and five months.

Q. Are you connected with the detective bureau? A. Yes, sir.

Q. And have been for how long? A. Seventeen months.

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

Q. Do you know his place, 54 to 56 Van Houten street? A. Yes, sir; Helvetia Hall.

Q. Were you in his place on the eleventh day of April, nineteen hundred and thirteen? A. I was there on April eleventh, nineteen hundred and fourteen.

Q. Just describe that visit. A. I left police headquarters about 11:15 at night, Saturday night, and we went down to this hall, and we went down Van Houten street and we went in the main entrance, and as I went in Sergeant Ryan was first, and I don't know whether I was second or third, and he looked around the hall and he made an effort to go over to the constable and before he got down there a fight started and Sergeant Ryan said to the constable "We are going to handle this tonight," and then the fight started and they were up on their feet and there was a shuffle of the tables and then the two men were rushed out and the crowd seemed to make a forward rush to go out with them, and then Sergeant Ryan went up to the front part to telephone, and Officer Smith and I went near the front door, and when Sergeant Ryan came out he and Koettgen had some words.

Q. Did you hear what the words were? A. He said he would get an injunction and Ryan said he could get his injunction; that he would make his complaints Monday morning.

Q. When you came in how many people would you say was in the cabaret room? A. One hundred and fifty.

Q. What were they doing? A. Sitting around and drinking, and three or four girls, and fellows smoking cigarettes.

Q. What did you see? A. At one side I saw a girl leaning over a man's shoulder.

Q. What was her condition according to your observation? A. She appeared to have a drink or two; she had a drowsy appearance.

Q. How old was she about? A. About twenty.

Q. And who was at the table with her? A. Three men.

Q. How old were they? A. About eighteen or twenty.

Q. How about the girls that you noticed there? A. They all looked to be about eighteen, twenty or twenty-two.

Q. None younger than that? A. No; I wouldn't say that there were any younger than that.

Q. Did you see these girls drinking there? A. There was liquor on the table.

Q. Do you know the reputation of any of the parties that you saw there; the general reputation? A. Not any of them, except the one young lady, and that one I saw in police court before.

By. Mr. Marelli.—I move that that be stricken out.

By the Court.—Strike it out.

Q. Her reputation—what you heard the public say about her? A. I can't say I heard anything about her character.

Q. About their character with reference to being good or bad.

By. Mr. Marelli.—I object to the form of the question.

By the Court.—Objection sustained.

Q. Were you in there prior to that time, prior to April 11th, 1914, in Koettgen's place? A. No; I don't think I was.

Q. Were you in there at any time after that between April 11th, and May 8th? A. I was in there on the eighteenth and on the twenty-fifth.

Q. Just say what you saw on the eighteenth? A. I went there with Sergeant Colledge.

Q. What did you see? A. I saw three men sitting in the cabaret room and one woman there; and there didn't seem to be anything out of the way.

Q. And the next time? A. Same way; there was nobody around but men about thirty or thirty-eight years of age.

Q. Cross examine.

Cross Examination by Mr. Marelli.

Q. Are you certain as to the boys ages? A. I wouldn't be certain; from seventeen up to twenty-five.

Q. You wouldn't swear they were seventeen? A. No; I wouldn't swear they were seventeen.

Q. Can you tell me the sergeant who was in charge of that district at the time? A. I believe it was Sergeant Colledge.

Q. That is all.

JAMES BROOKS, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. You are connected with the police department of the City of Paterson? A. Yes, sir.

Q. How long have you been connected with that department? A. Seven and one half years.

Q. Connected with the detective staff? A. I am.

Q. Were you so connected in 1913 and 1914? A. I was.

Q. And as such did you have occasion at any time to visit Helvetia Hall? A. I did on several times.

Q. When did you have occasion to visit Helvetia Hall from April 11th, 1913 to May 8th, 1914? A. I was down there on November 8th, 1913.

Q. What did you observe? A. Detective Kerwin and I were sent down by Captain McBride; it was reported that a man got cut there, and we took a man out of the hall leading to the cabaret with three cuts on his hand.

By Mr. Marelli.—I object to that question, or that line of questions as being immaterial in this case; he can't be held guilty of keeping a disorderly house if a man is cut in the hall way.

By the Court.—Objection overruled.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L. S.)
Judge.

Q. What were the nature of his wounds? A. Three cuts that looked like razor cuts.

Q. Where did you find him? A. In the narrow hall way leading into the cabaret room.

Q. Was he alone? A. He was alone, and I think McGee was with him.

Q. Was he bleeding? A. Yes; he had it tied up with a handkerchief.

Q. What was his condition? A. He was drunk —under the influence of liquor.

Q. What did you observe as you went in the hall that night, as to the condition of the cabaret room? A. All I noticed was that it was filled with people, and filled with smoke.

Q. Just got the man and went out? A. Yes, sir; Detective Kerwin and I.

Q. And you were there again when? A. March 6th.

Q. Tell us what you saw that time? A. That was Detective Kerwin and I again, and we went down there because a man we wanted was down there, Dave Sheridan, but the time we got down there he was gone.

Q. You had a warrant for him? A. Yes, sir; for non support.

Q. Just tell us what you saw that night you went in? A. They were drinking in the cabaret show, and all smoking to the best of my recollection; that was a ball night.

Q. Just tell the jury the class of people you saw at the table, and as to their being old or young? A. One hundred and fifty or two hundred, and a great many of them what I would call young men and young women.

Q. When you say "young" what do you mean?

A. I have seen them that looks as young as seventeen and some twenty-four.

Q. And as to the young men? A. I have seen them there up to thirty, and I have seen them there eighteen.

Q. The young men? A. Yes, sir.

Q. The first night in March that you went there, what did you observe as to the conduct going on with these folks sitting at the tables? A. They were talking and joking and drinking.

Q. What were they drinking? A. Beer, mostly.

Q. What did you see them do with reference to—

By Mr. Marelli.—I object to any suggestion made by the Prosecutor.

Q. Their conduct and demeanor towards each other?

By Mr. Marelli.—Objection withdrawn.

A. Detective Koren and I went to the cabaret show, and there was a woman there, and I have seen her since, and she is a woman probably twenty-five or twenty-six, she was sitting with a man there; he appeared to be about twenty-three, and he was about half drunk, and she had a glass of beer and she was feeding him the beer.

Q. Where was she sitting? A. At one of the tables on the right hand side.

Q. What else did you observe? A. That is about all I observed.

Q. Did you hear any expressions used in the room? A. No, sir.

Q. Did you see among the crowd that night any persons that was reputed to be persons of ill-fame? A. I did see there on different occasions Marie Mackey and Ethel Sords and Clara Sands.

Q. Do you know anything about them? A. She was arrested for breaking and entering and receiving; she was let go and given one more chance; she is no good according to her own admissions, and Clara Sands is the same.

Q. Is her moral character good or bad? A. Bad.

Q. Any others that you saw there that night? A. Only the ones I knew by sight.

Q. Any you saw known to be of bad character? A. I saw three or four there that I know by sight that I know frequent back rooms of saloons; that I have seen coming out of back rooms of saloons.

Q. That was on March—? A. Sixth.

Q. When was the next? A. Twenty-first, Saturday night.

Q. What did you see then? A. We were sent down by Captain McBride to look the place over, and lock anybody up that started a fight when they came out of there, and we went down about quarter past eleven; we went in and looked the cabaret over and I stood in the doorway of the Salvation Army doorway, next door.

Q. Right there, just tell us what you saw when you went in that night—the character and reputation of any of the people that you saw inside; not specifically but generally? A. We just went in the cabaret door and looked around.

Q. What were they doing? A. Girls sitting there drinking.

Q. What would you say the ages of the young girls and young men you saw there that night?

A. From seventeen to twenty-one; they were younger than the prior night, the majority of them.

Q. Were they at the tables drinking? A. They were.

Q. What were they drinking? A. Beer, most of them.

Q. Did you notice whether any of them were under the influence of liquor? A. I didn't notice it at that time.

Q. Did you notice it after when they came out of the hallway? A. They were; a part of them under the influence of liquor.

Q. What would you say to the jury as to who these persons were that were under the influence? A. Young; one young man he fell out almost, and when he came out he said: "Where is that son-of-a-bitch?"

By Mr. Marelli.—I object to that.

By the Court.—Objection overruled.

Exception prayed, allowed and sealed.

WM. M. SEUFERT, (L.S.)

Judge.

Q. How close was he to the door? A. As he stumbled out; there was a crowd there and he looked through the crowd as though he was looking for someone, and there was a young Italian, I know he isn't over seventeen, and he came out and whispered something to this young fellow.

By Mr. Marelli.—I object to that on the ground that it was said outside, after the cabaret show had been concluded, and he is saying something about a whispered conversation.

By the Court.—Let him explain the facts; if it is immediately connected up with what took place inside. I will admit it.

Exception prayed, allowed and sealed.

WM. M. SEUFERT, (L.S.)
Judge.

Q. Officer, what else did you hear there by those people on the door way or on the steps as they were coming out of the hall, if you heard anything?

By Mr. Marelli.—I object.

By the Court.—You mean the same transaction?

By Mr. Dunn.—Yes, sir.

By the Court.—I will allow it.

Exception prayed, allowed and sealed.

WM. M. SEUFERT, (L.S.)
Judge.

A. The young Italian?

Q. No; I don't want that. I am speaking of the parties that are coming out of the doorway and on the steps? A. There were a number of them drunk coming out cursing. Boys were cursing as they were coming out.

Q. Did you observe anything else there that night in the hallway, or in the hall, coming out? A. No, sir.

Q. When were you down there next? A. March 28th.

Q. What did you see there that night? A. Saw about the same conditions; we looked in the cabaret; there was a good crowd in there; the usual crowd; about one hundred and fifty, and we went outside and stayed there again until the crowd dispersed—got away.

Q. Did you see young girls and young men drinking there that night? A. Yes, sir.

Q. What were they drinking? A. Mostly beer.

Q. Did you see Mr. Koettgen there that night? A. I don't know if he was; I saw him one night in his shirt sleeves.

Q. When was that? A. Either the twenty-first or the twenty-eighth.

Q. What was he doing? A. Standing there looking over the room.

Q. And he was in a position that he could see the whole length and breadth of the hall? A. Yes, sir.

Q. What was the ages of the young girls and young men that you saw there on the twenty-eighth of March? A. They looked to me from seventeen up to twenty-four, and young girls eighteen, nineteen, twenty-one.

Q. And on the night of March 28th, did you notice anything being done by the girls or young men there to attract your attention? A. No; not inside, but when I came out.

Q. What did you observe in the doorway? A. There was one young man came out, about twenty-three or twenty-four, and he went towards Main street.

Q. How far from the place was he when this transaction took place? A. He came out of the door and passed me, and he was drunk, and later a girl came along and she said "Jesus Christ, where did he go?" and then another came along and when it—

By Mr. Marelli.—I object to this; this was outside.

James Brooks—cross.

By the Court.—I will allow it.
Exception prayed, allowed and sealed.
WM. M. SEUFERT, (L.S.)
Judge.

Q. Did you observe what condition the girl was in? A. I didn't observe her condition, no.

By the Court.

Q. Had you seen her inside before? A. No; I saw her come out of the entrance.

By Mr. Dunn.

Q. You saw her by the cabaret room? A. I saw her open the door by the cabaret room and come out.

Q. Were you in there any other time after the twenty-eighth? A. No, sir.

Q. Except April 11th, as you have described?

By Mr. Marelli.—I object.

A. I wasn't there April 11th.

Q. That is all.

Cross Examination by Mr. Marelli.

Q. Officer, you don't know positively the ages of these people, do you? A. No, sir; I don't know positively; only what they look like to me.

Q. Those that you say looked like seventeen may have been eighteen? A. Yes, sir.

Q. Or may have been nineteen? A. May have been; they didn't tell me their ages, except Marie Mackey, she told me her age.

James Brooks—cross.

Q. When did you see her? A. Either on the sixteenth or twenty-first.

Q. You only saw her once? A. Yes, sir.

Q. Did you tell her to get out? A. No, sir.

Q. Why not? A. I didn't go there for that purpose.

Q. Isn't it your duty to make arrests? A. I wasn't sent there for that purpose.

Q. You didn't think anything serious of it, did you? A. I didn't think anything serious or anything foolish.

Q. Did you report to your superior officer? A. We reported jsst what we found.

Q. You didn't report any violations of the law, did you?

By the Prosecutor.—I object to the question.

By the Court.—I will allow it.

Q. Did you report any violations of the law? A. I reported everything I have testified to here.

Q. Did you report any violations of the law, did you; can't you tell me?

By the Court.—Did you tell the officer that the law was being violated?

A. No, sir.

By Mr. Marelli.

Q. Can't you tell me of one specific report that you made that would indicate that there was a violation of the law? A. We made verbal reports to the captain of everything we saw down there.

Q. Can you tell me whether, in any of your reports, there appeared any statement which indicated that the law was in any way being violated at Mr. Koettgen's place?

By Mr. Dunn.—I object to the question.
By the Court.—Objection sustained.

Q. Did you report anything that you believed to be a violation of the law? A. I think I did, yes.

Q. What? A. The disorder.

Q. What disorder? A. The drunken crowd.

Q. Is drunkenness a disorder? A. Yes.

Q. You saw that afterwards, after they came out? A. Yes, all drunk.

Q. After the cabaret was all over? A. No; the dance closed at eleven thirty.

Q. You are referring to the crowds upstairs in the hall? A. They came out from the dance hall and from the cabaret hall.

Q. You can't tell me whether the people came from the dance hall or from the cabaret hall? A. Yes; I saw them coming out; this woman I have mentioned.

Q. Was she in the cabaret? A. Yes, sir.

Q. That was the only violation of the law that you saw, that there were some people there that were drunk? A. That is all.

Q. That is all.

By the Court.

Q. This Marie Mackey that you spoke of, did you see her inside of the place? A. Inside of the hall, yes, sir.

Q. What was she doing? A. Dancing up stairs.

Q. How many times did you see her there? A. One of those dates.

Q. Just dancing? A. Just dancing, that is all.

By Mr. Dunn.

Q. Where are the drinks served? A. On the floor below the dance hall.

By Mr. Marelli.

Q. You didn't see the Mackay girl in the caba ret hall? A. No, sir.

Q. That is all.

WILLIAM KINNEY, a witness produced on behalf of the State, being duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. You are an officer of the police department of this city? A. Yes, sir.

Q. And what branch of the force are you on? A. Detective part.

Q. How long have you been there? A. Over two years.

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

Q. Do you know his place of business, called Helvetia Hall, down on Van Houten street? A. Yes, sir.

Q. During the year nineteen hundred and thirteen, down to May, nineteen hundred and fourteen, did you have occasion to visit his place of business? A. Yes, sir.

Q. When do you recollect was the first you went there after April 11th, 1913? A. I was there in March, 1914.

Q. What date were you there? A. I was there March 6th, March 21st and March 28th.

Q. Will you tell us, how did you come to go there on March 6th? A. Another officer and I went down there to get a man.

Q. Which room did you go there to? A. I think we went to the cabaret room.

Q. What did you then see on March 6th, in the cabaret room? A. The cabaret room was pretty well crowded up with people, women and men.

Q. See the crowd—what they were doing there? A. They weren't doing anything more than any other crowd would do under the same circumstances.

Q. Can you tell the character of any of the people in the cabaret room? A. Only what Officer Brooks told about; I didn't know her; that was the woman that was feeding the man with beer.

Q. What was the condition of the man? A. He was drunk; he appeared to be drunk.

Q. What was her condition? A. She was intoxicated also.

Q. How old was the man, about? A. He didn't look to be over twenty-two or twenty-four.

Q. What can you say about other persons who occupied the tables there? A. That was kept up, young men and girls from seventeen to thirty-five years old.

Q. What were they doing? A. All drinking; that is they had beer in front of them.

Q. Did you see any of the young folks with beer in front of them? A. I certainly did.

Q. How many entrances are there from the cabaret to the room up stairs? A. There is an entrance in the back of the hall and an entrance in the front of the hall.

Q. These people that you saw there at this time, what can you say to the jury as to whether you observed any of them under the influence of liquor? A. You wouldn't say they were drunk; they had a few beers all right.

Q. When you were in there just describe to the jury what you saw. A. They were a little drunk and a little hilarious, and arms on shoulders; not all tables; scattered around the room.

Q. During the time you were there on March 6th, did you hear any profanity used; any cursing or swearing? A. No; I can't say I did.

Q. Were you there when the people came out of the hall that night? A. I don't know whether I was or not.

Q. When was the next time you were there? A. March 21st.

Q. What was the condition then? A. Same crowd; same condition; we came back and we were sent down at half past eleven and stood outside.

Q. You were inside before that? A. Yes.

Q. Just tell us what you found down there March 21st. A. Same conditions that I found on March 6th or 8th.

Q. Same boys and girls there? A. Yes; same.

Q. Did you see Mr. Koettgen there? A. I saw him there one night by the door leading to the bar room; standing by the door leading to the bar room.

Q. Did you speak to him? A.I did not, no, sir.

Q. Now, that night, on the 21st, did you stay out after being inside and looking the place over, then you were ordered to stay outside? A. Yes, sir.

Q. What did you observe the conduct of the inmates to be as they were coming out of the hall, if anything? A. They commenced to come out, and the people that came out were more or less intoxicated, and going up Van Houten street you could hear them using loud language.

Q. Those people that you saw come out of the hall intoxicated, what can you say to the jury as to the ages? A. Ages would range from seventeen to twenty-five, and some might have been younger.

Q. This was on the 21st? A. And on the 28th also.

Q. Same ages? A. Seemed to be the same crowd, prosecutor.

Q. On the 21st or 28th did you notice any persons in there of ill-repute, ill-fame? A. One I saw there, this Mackey girl and her sister and this Swords girl.

Q. Are they known to be persons of ill-repute? A. They are known to be.

Q. Did you see any there that are noted for street walkers? A. I saw them there that have been arrested for disorderly persons.

By Mr. Marelli.—I object to that.

By the Court.—It is answered and I will let it stand.

Q. Were you there any other night after the twenty-eighth of the month? A. Yes; I can't mention any specific dates.

William Kinney—cross.

Q. How long after the twenty-eighth—were you there before May eighth? A. I can't remember.

Q. Are you sure that you were there between March 28th and April 11th; you heard of Mr. Ryan making this trip down there? A. Yes.

Q. Were you there between that period? A. I don't think I was.

Q. You were not detailed outside any Saturday night? A. No, sir.

Q. Cross examine.

Cross Examination by Mr. Marelli.

Q. I believe you said you wouldn't swear to the ages of the persons? A. I would not.

Q. When you say you saw the men and women intoxicated—you didn't talk to them? A. No, sir.

Q. You say they were drinking beer? A. I said it looked like beer.

Q. It may have been ginger ale? A. I didn't taste it.

Q. Did you see these prostitutes in there more than once? A. Yes, sir.

Q. Who did you see in there more than once? A. I couldn't tell you.

Q. You saw the Mackey girl in the dance hall? A. Yes, sir.

Q. Didn't see her in the cabaret at all? A. No, sir.

Q. Tell me who you saw there more than once, a person of ill-repute, if you can't remember the name just describe the person? A. I wouldn't swear to that at all.

Q. You wouldn't swear to that? A. No, sir.

By the Court.

Q. As I understand it, the Salvation Army have a place there? A. Yes, sir.

Q. Next door to the hall? A. Next door to the saloon.

Q. Is the saloon next to the hall? A. Just adjacent.

Q. What is the distance of the Salvation Army and the entrance to the cabaret? A. Twenty to twenty-five or thirty feet.

Q. Is there anything to obstruct the view from the two buildings? A. No, sir.

By Mr. Marelli.

Q. There is a door leading to the bar room and leading also to the dance hall up stairs, and also other places up stairs? A. Yes, sir.

Q. That is all.

At this point a recess was taken until 2 o'clock P. M.

Court convened at 2 o'clock P. M., as per adjournment.

ROBERT CLOSE, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Close are you connected with the police department of the city of Paterson? A. Yes, sir.

Q. What bureau are you connected with? A. Detective bureau.

Q. And have been for how long? A. Three years.

Robert Close—direct.

Q. Were you acquainted with the defendant from April nineteen hundred and thirteen to April, nineteen hundred and fourteen? A. Yes, sir.

Q. Where did he keep? A. Down on Van Houten street.

Q. What did he keep there? A. A saloon and dance hall.

Q. And were you in his place at any time during the period of April 1913, down to January 1st, 1914? A. Yes, sir.

Q. When were you in there, do you recall? A. I believe the months of October and November.

Q. What time in October, if you can tell us, or as near as you can, what time did you go in there? A. About eleven o'clock.

Q. At night? A. Yes, sir.

Q. What did you see there? A. On the main floor, the cabaret and up-stairs the dance hall, there were weekly dances, I believe.

Q. In October what did you see? A. A serving bar and tables and chairs and a piano, and I believe two women singers from New York.

Q. In October, 1913, when you were in there how many were in the cabaret hall? A. It would vary; while the dance was on maybe seventy-five, and when the dance was over maybe two hundred.

Q. How long were you in there on this occasion in October? A. Some times a half, some times three quarters of an hour.

Q. What did you see going on when you were in there during October, nineteen hundred and thirteen? A. In the cabaret room they were singing and waiters were serving drinks from the service bar, and sitting around the tables were men and women and young men and young women.

Q. And what were they serving the inmates sitting around the tables? A. Mostly beer.

Q. And during the times that you were there in October, who did you see in control? A. Mr. Koettgen.

Q. The defendant here? A. Yes, sir.

Q. When you speak of some girls and young men, what can you say as to the ages, from your observation, of the ages that you saw in there? A. To the best of my judgment they ranged from fifteen to twenty.

Q. And how about the young men? A. About the same age.

Q. And did you see whether or not there was any drink served to them? A. Yes, sir.

Q. What was served to them? A. Beer.

Q. And did you see anything else there on that occasion, in October, anything in special with respect to the conduct of any of the persons there in the cabaret room? A. Why, at the end of each dance they would flock down both the rear and front entrances from the dance hall to the tables, and some of them I knew were only striplings of girls, because some of them I know well.

By the Court.

Q .Just explain yourself; why do you say they were only fifteen? A. Because I know some of them by sight; their general appearance.

Q. Any in short dresses? A. In three quarter dresses.

Q. How was their hair made up? A. Some down their backs and some in fancy puffs.

Robert Close—direct.

By Mr. Dunn.

Q. How was the hair of these girls that you speak of as fifteen, sixteen—seventeen, made up? A. Just as I told the judge now.

Q. What can you say as to the condition of the inmates of that place after you had been in there a little while? A. Some of them were under the influence of liquor and some were not.

Q. And what can you say say about the latter, the young, were they under the influence of liquor? A. Some of them.

By the Court.

Q. Did you see any liquor sold to any of them that in your judgment were under the influence of liquor? A. Yes, sir.

By Mr. Dunn.

Q. What other time were you there besides October? A. December.

Q. What did you see in December? A. Practically the same conditions.

Q. Do you know what time in December? A. I used to go down there nearly every Saturday night.

Q. Do you recollect any special night in December? A. Nothing special, no, sir.

Q. What about the conditions as compared with the conditions you described in October? A. About the same.

Q. You saw the young girls and boys there? A. Yes, sir.

Q. Where did they come from? A. Came down from the dance hall.

Q. Any under the influence of liquor? A. In my judgment, yes, sir.

Q. Were you there any time after December? A. Yes, sir; April.

Q. April, what year? A. 1914.

Q. What day in April? A. The fourth, I think.

Q. What did you see then? A. We were telephoned to police headquarters that there was a riot down there twice.

Q. Did you go down? A. Yes, sir.

Q. What did you see? A. Streams of men and boys came away from there and when we got down there Officer Zimlinghaus had cleaned it up pretty near and when we were coming down we could hear it, and we rushed down and there were several hats there, and one man had three or four hats in his hand.

Q. And you saw the men coming out of the hall before? A. Yes, sir.

Q. Where did the people come from that you saw, with reference to the door way? A. They came from the main door way, which comes from the cabaret and dance hall.

Q. What was the condition of the people that you saw, as to sobriety? A. There were people that came out of there that were drunk.

Q. After April 4th, were you down there? A. No, sir; not after this indictment.

Q. Now, these times that you were there, that you have related, were you there to keep order?

By Mr. Marelli.—I object to the question.

Q. How did you come to be there? A. I was sent by my superior officers.

Robert Close—direct.

Q. During the times that you were there in October and December 1913, state what, if anything, you heard said by the inmates of the cabaret room during the time you were there, as to conversation or talk? A. I cannot recollect that, because pretty near each time I got there they knew that I was from the detective bureau, and they kept quiet.

Q. Did you hear anything in December? A. I heard them say there was a detective.

By the Court.—Strike that out, Mr. Stenographer.

Q. Can you say to us what, if anything, you observed with reference to the character, reputation—the reputation of the inmates in the cabaret room in October and December? A. Many of the girls that were there I have seen in other places in the city.

Q. I am speaking of the reputation, that is what people say about them; the inmates there? A. The general reputation; some of them is supposed to be girls of ill-repute.

By Mr. Marelli.—I object to that.

By the Court.—Strike it out.

Q. What was the general reputation of some of the girls that you saw there, good or bad? A. Bad.

By Mr. Marelli.—I object to that.

By the Court.—The last question was proper and I will allow it.

By Mr. Dunn.

Q. What was the reputation of the men and boys that you saw in this place, good or bad?

By Mr. Marelli.—I object to the question because the question presumes that there were boys in there.

Q. What was the reputation, if you know, of any of the young men whom you saw in there whose ages ranged from fifteen to twenty or over, good or bad?

By Mr. Marelli.—I object to the question because the witness said he thought the ages were between fifteen and twenty, he wasn't sure, and the question of the prosecutor intimates that there were young men and young women of the ages of fifteen who went there.

By the Court.—I will allow the question. Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L. S.)
Judge.

A. They were bad.

Q. And as to those both, male and female, that you saw in there during the month of March and April, or April, 1914, what can you say to us as to their reputation? A. About the same conditions each time I went there; about the same faces seen there?

Q. Cross examine.

Robert Close—cross.

By Juror No. 11.

Q. You have testified that on several occasions you have seen boys or girls from fifteen to twenty years there? A. I said about that.

Q. You know a boy fifteen pretty nearly? A. Yes, sir.

Q. And girls? A. Yes, sir.

Q. Did you at any time see these young people served with drinks? A. Yes, sir.

Cross Examination by Mr. Marelli.

Q. Do you know what kind of drinks? A. It appeared to me to be beer.

Q. Do you know? A. I didn't taste it.

Q. You don't know whether it was ginger ale or beer? A. From my instinct I could almost swear it was beer.

By Mr. Marelli.—I move that that be stricken out.

By the Court.—I will let it stand.

WM. E. SEUFERT, (L. S.)
Judge.

Q. How did you see them served? A. From the waiter.

Q. You saw the waiter take the tray and serve them? A. Yes, sir.

Q. Tell me the name of one. A. That Mackey girl; I have seen her served there.

Q. When? A. In 1913.

Q. When? A. In either October or December.

By the Court.

Q. In the dance hall or cabaret? A. Cabaret, and also the Burns girl.

By Mr. Marelli.

Q. Who else? A. I don't know them by name.

Q. Did you go and speak to her? A. I have spoken to her, yes.

Q. Did you ask her her age? A. I knew her age.

Q. Now, you believe these persons to be under age, didn't you? A. Yes, sir.

Q. Why didn't you make an arrest? A. I didn't make one.

Q. Why not? A. I can't answer that.

Q. Did you speak to Mr. Koettgen about that? A. No, sir.

Q. Why not? A. I spoke to my superiors about it.

Q. Why didn't you speak to Mr. Koettgen about it? A. Because I was sent down there to view the place and report back to my superiors, which I did.

Q. Isn't it your duty to arrest persons violating the law? A. Sometimes.

Q. Isn't that the rule of your department? A General rule, yes, sir

Q. You say you wouldn't swear that these persons were not over fifteen? A. No, sir; except the Mackey girl.

Q. And you only know because she told you? A. I arrested her for breaking in and larceny.

Q. You say the reputation of all these young men and women was— A. positively not.

Q. How many? A. Often I would pick out boys and girls.

Q. Then you come to the conclusion that they were bad? A. No; I know I know I had it on them many times but couldn't prove it.

Q. So you base your conclusion on what you can't prove? A. Yes; in that particular case.

Q. Which particular case? A. Where we had it on them and couldn't prove it.

Q. Do you know what the reputation of persons that went in there was to be, except that you had something on them and couldn't prove it? A. I thought you meant the males.

Q. Take the females. A. I know there have been others from back rooms of saloons.

Q. Picture in your mind one girl. A. Take the Burns girl.

Q. What is there about her? A. She is serving from one to three years and served a term before that.

Q. How old is she? A. Nineteen.

Q. When? A. Sometime after the strike.

Q. Is that the way you know? A. No; she was pointed out to me as having served a year for perjury.

Q. So her reputation for perjury was bad? A. Yes, sir.

Q. In any other respect? A. She was pointed out to me that her reputation was not good.

Q. Anything else said about it? A. That is the time I considered her one of the bad ones in the hall.

Q. That is all you heard at that time? A. Yes, sir.

Q. Take another one? A. Take Gubacker.

Q. Did you see her in there more than one time, the Burns girl? A. Yes, sir.

Q. How often? A. Saturday night dance, three or four times.

Q. Up stairs or down in the cabaret? A. Both places.

Q. Did you ever tell Mr. Koettgen about it? A. No, sir.

Q. Who else did you see? A. Gubacker; he is about nineteen and a half years of age, and he is doing five years for five charges of breaking, and previous to that I know he was bad, because he had been down to the reform school.

Q. When did you see him there? A. I saw him with the Mackey girl.

Q. When? A. In October.

Q. You didn't tell Mr. Koettgen about him, did you? A. No, sir.

Q. Who else did you see? A. By name?

Q. Yes. A. I couldn't point them all out, but I remember those three distinctly.

Q. The Mackey girl, the Burns girl, and this young man? A. The reason I pick them so well is because I arrested them afterwards.

Q. And they are in prison? A. Yes, sir.

Q. That is a very good reason. Who else did you see? A. I can't name them; I know them by sight.

Q. How was their reputation bad? A. I believe they are hustlers.

Q. How do you know? A. They were pointed out to me as such.

Q. By whom? A. I don't know.

Q. Tell me one. A. I don't know; I know from general reputation, seeing them in the back rooms of saloons.

Q. How many of them? A. Two or three that I know personally.

Q. You didn't tell Mr. Koettgen about it? A. No, sir.

Q. You say you saw liquor sold to some one under the influence of liquor? A. I saw liquor served to some that were under the influence.

Q. Did you speak to them? A. No; I observed them through the door way.

Q. That is all.

By Mr. Marelli.—There is one question I would like to ask Officer Brooks, may I ask it?

By the Court.—Yes.

JAMES BROOKS, recalled.

Direct Examination by Mr. Marelli.

Q. Officer when you went over to Helvetia Hall to get the man did not Mr. Koettgen telephone to you? A. I don't know; Captain McBride sent me down.

By Mr. Dunn.

Q. Was he alone in the alley-way? A. Constable McGee was standing close by.

Q. That is all.

WILLIAM H. ELVIN, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Are you connected with the detective department of the City of Paterson? A. Yes, sir.

Q. And were you in May, 1913, and April, 1914? A. Yes, sir.

Q. Do you remember being in Helvetia Hall during the month of April, 1914? A. I was in there on April 24th, 1914.

Q. What time did you get there? A. Sometime around midnight.

Q. What did you find? A. I went in down stairs into the cabaret and looking over their crowd, and there came a girl out of the toilet, and she zig zagged her way down to a table, and when she got there she said "Who is going to buy me a beer?", slapping the table, and someone said "There is Elvin," and she said "To hell with Elvin" and I called the young man to one side and told him not to bother her; that she was not all there, and she went up stairs to the dance hall, and she acted so that I took her out and arrested her.

Q. Did you see her get anything to drink in the cabaret? A. No; as I said she came out of the toilet when I first saw her.

Q. Do you know anything about what her reputation was before that time, her general reputation as to chastity? A. I had seen her in the police court; she is not quite right; she had an idiotical grin on her face all the time.

Q. How old was she? A. Seventeen.

Q. How long before that had you seen her in the police court? A. Perhaps two or three weeks before that.

Q. What was her reputation, as you found it afterwards? A. That night I knew, but it was as to having been arrested.

Q. Her reputation as to being a street walker? A. I don't know anything about her reputation.

William H. Elvin—cross.

Q. What was done with her after that, on the 24th?

By Mr. Marelli.—I object to the question "What became of her after that."

By the Court.—How is it material? Objection sustained.

Q. Did you see her there more than once? A. I saw her when she came out of the toilet and went over to the table and wanted to know who was going to buy her a drink.

Q. Did you see Mr. Koettgen there that night? A. I think he was, to the best of my knowledge.

Q. Did you notice any other people there of bad reputation, on this night of April 24th? A. I didn't; because my mind was centered on this girl.

Q. Did you notice any as to their ages there, girls or men? A. No, I didn't.

Q. Have you been in there since then? A. About two weeks ago.

Q. No; prior to April 24th? A. I wasn't detailed there any time.

Q. Cross examine.

Cross Examination by Mr. Marelli.

Q. How old did you say she was? A. Seventeen, she said she was.

Q. That is the age she gave you? A. That is the age she gave at police headquarters.

Q. Do you remember that that night Mr. Koettgen said to put her out? A. No.

Q. Isn't it a fact—didn't you say she was only half witted? A. Yes.

Q. You don''t remember whether Mr. Koettgen asked you to put her out? A. No, sir.

Q. Do you know how long she was down there? A. No, sir.

Q. She might have just gone in there for all you know? A. Yes, sir.

Q. That is all.

THOMAS STAPLETON, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Stapleton, you are an officer of the police department of the City of Paterson? A. Yes, sir.

Q. And were you in that position during the year 1913, and down to May, 1914? A. Yes, sir.

Q. During the year 1913, at any portion of that year, what was your station? A. Station from Main to Prospect, and from Van Houten to River street.

Q. Include the premises kept by Mr. Koettgen? A. Opposite; across the street; the post divides there.

Q. From what months were you on duty there? A. October and December.

Q. At any time during that period, I will ask you, were you in Helvetia Hall? A. Ordered to go there every Saturday night.

Q. And did you go every Saturday night? A. Yes, sir.

Q. What time did you go to the hall? A. Generlly go over the post, and then go there about half past nine or ten o'clock, when the crowd started to gather.

Q. Gather where? A. At the hall.

Q. And remain on duty how long? A. A quarter after five in the morning.

Q. How long around the hall there? A. Always had to say until midnight.

Q. During the time that you were stationed there, what, if anything, did you observe with reference to the persons that you saw coming out of the hall, as they were coming out? A. Saw crowds of men and women; young men and young women.

Q. What, if anything, did you observe with reference to the condition of the young women coming out? A. I saw numbers of young men and young women come out of that hall, from half past eleven up to twelve o'clock, under the influence of liquor.

Q. How old, in your opinion? A. Various ages; one in particular, I looked up two in particular, one by the name of Parrington, from Totowa, and one Granda, from Grand street.

Q. How old were they? A. She said she was seventeen, and the other said she was eighteen, and I took them off a crowd of fellows.

Q. As they came from the hall? A. I saw them and I took them away from them when they said they would take them up to the cut.

Q. Is that a light or a dark place? A. It has light and dark places.

Q. Not many houses? A. None at all, except on Spruce street.

Q. What else then did you observe at any other time as to the condition there Saturday nights, of the young men and women? A. The drunk and boisters noises in the neighborhood, and if there wasn't something done there would be a murder committed in the neighborhood.

By Mr. Marelli.—I object to that.
By the Court.—Strike that out.

Q. Just tell us what else you saw there with reference to the conduct of these people as they were coming out of the hall—when did you say it was? A. I saw it in November, but this particular case of this girl happened in February, 1914.

Q. You said November you were there? A. That is the time there was a fight and Officer Kerwin was there and we agreed that we would go up to Diskon's corner and if anything happened we would arrest them there.

By Mr. Marelli.—I object to that.
By the Court.—No, it is carried on up to that corner; I will allow it.
Exception prayed, allowed and sealed.
WM. E. SEUFERT, (L. S.)
Judge.

Q. That was in November or December? A. December.

Q. Now, at that time, state, if anything, what you heard as to utterances of the crowd; as to the language used; take it in November. A. I don't remember it in November; in December.

Q. Take it in December then. A. I was standing right outside, about five minutes after eleven, and those two young men came right out of the door, or three young men, and they were supporting a young man that was very, very drunk, and there was a young woman in the window way of the Hoebler Hotel, and she asked them to move, and he said "Go fuck yourself" and I arrested him.

Mr. Marelli.—I object to that; it is something he said after he got out of that place.

The Court.—No, it was evidential of the people that were going in the place.

Exception prayed, allowed and sealed.

WM. E. SUEFERT, (L. S.)
Judge.

Q. Any other instance of language that you recall of people uttering as they came out of the hall? A. This was in December, too.

Q. What was it? A. I was standing opposite the hall, and they rushed out of the hall and formed a ring in the middle of the street, and I rapped and Officer Kerwin came, and they all yelled, "Cheese it; the cop;" and they all separated and ran.

By Mr. Marelli.—I move that it be stricken out on the ground that it is too remote.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L. S.)
Judge.

Q. Now, on any other occasion after December, do you recall any condition of inmates of the hall on their way out, in the hall-ways or on the sidewalk? A. Every Saturday night that I worked nights.

Q. You were there on Saturday nights? A. It was the same thing every Saturday night, so far as the conduct was concerned, unless the police were there.

By Mr. Marelli.—I object to that.
By the Court.—Strike it out.

Q. State whether or not Saturday night in February, you observed conduct of men and women coming out of the hall? A. There was girls under the influence of liquor thait were brought out by men under the influence of liquor—there was one time in particular when two young men brought out two young girls, and they were all under the influence of liquor and they got in an automobile that belonged to a business man here in town, but I found out he didn't know they had his machine out.

Q. You saw that occurrence? A. Yes, sir.

Q. Any other occurrences where you saw drunken men and women coming out of the hall? A. I saw it regularly.

By Mr. Marelli.—I object to that.
By the Court.—Strike it out.

Q. Do you know the age of these girls and men that got in this automobile? A. Ethel Holmes is the name of one of them; only know them by name.

By the Court.

Q. Do you know the age of Ethel Holmes? A. No, sir.

Q. What was the name of the other girl? A. Campton.

By Mr. Dunn.

Q. What is the reputation of the Holmes girl? A. Very bad.

Q. Any other time in February that you can recall? A. No; only the drunks.

Q. How about March; you weren't there in March? A. No, sir; April.

Q. How about April? A. I don't remember anything in that month.

Q. And how many officers did you have there with you on Saturdaay nights? A. In December and February I have seen as high as eight ann a sergeant in charge.

Q. Take the witness.

Cross Examination by Mr. Marelli.

Q. Who was the sergeant in charge? A. Sergeant Coyle and Sergeant Colledge.

Q. When? A. I don't know; they alternate on that district.

Q. Isn't it customary to report violations of the law? A. Yes, sir.

Q. To whom did you report? A. Mostly to Sergeant Coyle.

Q. Did you ever report to Sergeant Colledge? A. No.

Q. Why not? A. Because I got my orders to report to Captain McBride.

Q. Did you ever report to Sergeant Colledge? A. No, sir.

Q. Wasn't Sergeant Colledge in charge of the district part of the time while you were on duty? A. Yes, sir.

Q. Wasn't it your duty to report to him? A No; I remember one month I did; he was with me.

Q. You never closed the place up? A. It wasn't on my district.

Q. It was in your district when you were there? A. On Saturday nights men from other districts were sent there.

Q. You never spoke to Mr. Koettgen about this, did you? A. No, sir; I spoke to the young man in charge of his place.

Q. Do you know who that was? A. I think he was Mr. Barlow.

Q. Do you know? A. I could not positively say; only what he tells me.

By Mr. Marelli.—I move that that be stricken out as heresay.

By the Court.—Yes; strike it out.

Q. Now, how do you know these persons were under the influence of liquor? A. Looking at it; all you had to do was to look at them.

Q. Did they stagger? A. Yes, sir.

Q. Did they come from the dance hall or from the cabaret? A. The majority from the cabaret.

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

By Juror No. 11.

Q. Officer, you were in a position on these Saturday nights to see these people in the hall and then come out? A. Yes, sir.

Q. Now, in your opinion, what was about the age of the youngest people that you saw go into that hall at any time? A. You are not asking me to be positive, of course.

Q. What you would consider a young child? A. I would imagine, and could almost swear, their size; their face; their appearance; there was many a girl in there under sixteen.

Q. How about the boys? A. One young boy in particular that I arrested for breaking things; he isn't over sixteen now.

Q. That was one instance; how many others? A. You can't be sure; there were so many people going there.

Q. Officer, you saw their features; you can pretty near judge? A. Yes; dozens and dozens of young men and young girls.

Q. Under the age of seventeen? A. That shouldn't be admitted in that hall on general appearances.

By Mr. Marelli.

Q. Did you ask them their age? A. Only these two.

Q. Why? A. Because, coming out of that hall with nine young men in that condition.

Q. Up to that time you never thought there was anything illegal going on in there? A. Myself, yes.

Q. Why didn't you take action then? A. I did do.

Q. What did you do? A. Reported to my superior.

Q. Did you yourself attempt to personally arrest any of these youngsters? A. Yes, sir.

Q. When? A. These two cases.

Q. Outside of that did you ever try to prevent anybody from going in there? A. No, I didn't try to prevent anybody going in the hall; I took these two girls to the station and they saw their condition.

Q. Why didn't you take that action in all cases? A. I didn't come across a case as flagrant as that before.

Q. Didn't see anything like that before? A. Not as young as those two.

Q. And how old were those two? A. Not as young as those two.

Q. And one said she was seventeen? A. One seventeen and the other eighteen.

Q. That is all.

WILLIAM FITZPATRICK, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Officer, you are connected with the police department of the City of Paterson? A. Yes, sir.

Q. And in the course of the year 1913, between April and January 1st, 1914, were you at any time at Helvetia Hall in this city? A. Yes, sir.

Q. Were you alone, or with somebody? A. With Officer Simpson one time and Officer Stapleton another.

Q. When you were there with Officer Simpson, do you know what day that was? A. That was Sunday.

Q. What did you observe, if you did observe anything? A. It was about eight o'clock and we went into the cabaret and there was men and women in there; there was two men and two women sitting at one table, and about twenty-five sitting at other tables.

Q. What were they drinking? A. Beer.

Q. Did you observe where the beer was being served from? A. From the bar there.

Q. Did you see the beer being served? A. Yes, sir.

Q. Did you see Mr. Koettgen there that day? A. Yes, sir.

Q. Did you see waiters there that you knew belonged to the hall? A. Yes, sir.

Q. Did you taste of any of the stuff? A. I didn't; I smelled it; it smelled like beer to me; I didn't taste it.

Q. Then what did you do when you found the place open? A. We ordered them out, and ordered the place closed up.

Q. Did they do it? A. Yes, sir.

Q. Had you had complaints before that about this place being open on Sunday? A. Yes; the sergeant said that there had been complaints, and we went down.

Q. That was April 20th; were you down there again during April? A. Of that month?

Q. Before April were you down there? A. Yes, sir.

Q. What did you see at the times you were down there before April? A. On Saturday nights, the same as Offiicer Stapleton.

Q. Just tell the condition of the people as they came to the door, as to their condition? A. I have seen women come out drunk on different Saturday nights.

By Mr. Marelli.—I object to that.

(Witness continuing) I can't give the date of every Saturday night.

Q. What months were you there on Saturday nights; can you tell us, that was in 1913? A. April.

Q. April 1913, or April 1914? A. 1913, and every other month after that.

Q. Then you would be there in June? A. Yes, sir.

Q. Now, following the months that you would be there, state to the jury the condition of the people that you would see coming out of that hall on Saturday nights. A. Came out in a boisterous manner, hollering and yelling and on one occasion there was two women got in an automobile, a business automobile; fellows helped them in.

Q. Did you hear at that time—will you state to us whether or not you heard any profane language used by anybody when they came out of the hall? A. No.

Q. Any cursing or swearing? A. No.

Q. Any fights there? A. Some fights there.

Q. What did you see with reference to that? A. I have seen them come out of the hall and start to fight as soon as they got out, and as soon as they saw me they went away.

By. Mr. Marelli.—I object to it, on the ground that anything that happened outside did not have anything to do with this defendant.

By the Court.

Q. How close to the hall? A. Come out of the door and go in the middle of the street.

Q. And start fighting right from the door? A. Yes, sir.

By the Court.—Question allowed.
Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L. S.)
Judge.

By Mr. Dunn.

Q. Did that occur at different Saturday nights that you were there? A. Yes, sir.

Q. And how many officers did you have there with you assisting in preserving order around the entrance of that hall? A. Officer Kerwin, Officer Stapleton and Officer Joulet.

Q. Is there anything about the character or reputation of the inmates that you saw coming out of that hall? A. Only Ethel Holmes.

Q. Is her character good or bad? A. Bad.

Q. Any one else? A. This Campton girl.

Q. Good or bad? A. Bad.

Q. Seen her there more than once? A. Oh, yes.

Q. What other girl can you recall? A. Lizzie Francis; I have seen her there.

Q. What is her reputation? A. Bad; she travels with this Holmes girl.

Q. What about the reputation of the men? A. I don't know much about the reputation of the men.

Q. About the age of the young people that you saw there? A. Their age is from eighteen to twenty, twenty-four.

Q. Did you know what the age of the other girl is, the Holmes girl? A. I would judge them to be about twenty-one, now.

Q. Now, with reference to all the girls that you have mentioned, do you say their reputation is good or bad? A. Bad.

Q. Cross examine.

Cross Examination by Mr. Marelli.

Q. Then, officer, you only know about the reputation of these girls? A. That I remember at this.

Q. What day did you say you saw them selling beer? A. Twentieth day of April.

Q. What year? A. 1913.

Q. And where was it being sold you say? A. In the cabaret hall.

Q. Not in the saloon? A. Not in the saloon, no.

Q. Where was the beer obtained, do you know? A. In the hall.

Q. The beer was in the hall there? A. Yes, sir.

Q. And who was there, do you know? A. Mr. Koettgen's brother-in-law, I couldn't call him by name, and some waiters; I don't know any of the parties that were in there.

Q. He keeps boarders there, doesn't he? A. I believe he does.

Q. And they were eating at the table? A. No.

Q. Have you ever been in Helvetia Hall outside of Sunday? A. I have stood at the door and looked around.

Q. Have you ever seen anything wrong? A. I have seen them sit there drunk and arms around girls waists and neck, leaning over.

Q. That would not last long, would it? A. I don't know how long it would last.

Q. It wasn't so offensive as to cause you to go to these people and tell them to desist? A. I know I wouldn't want my daughter there.

Q. No; that is true; but you didn't think it sufficient offensive to make an arrest? A. No.

Q. You say you don't remember exactly the dates that these things occurred? A. No.

Q. Haven't you notes of that? A. No.

Q. You didn't consider it sufficiently important to keep notes of that? A. No.

Q. Did you report any of them? A. Yes, sir.

Q. To whom? A. The sergeant.

Q. Sergeant whom? A. Coyle.

Q. Ever report to Sergeant Colledge? A. No; it wasn't his time that this happened.

Q. What you say is that you would see people come out of the hall and afterwards start to fight? A. Yes, sir; right out to the middle of street.

Q. How many times did you see that? A. Two or three times.

Q. Ever attempt to arrest them? A. Yes, sir; but when they saw me coming they would run away.

Q. Anything serious happen? A. They didn't have a chance; just get in it and have a couple of blows.

Q. Did you see the blows struck? A. No; if I had I would have locked them up.

Q. The fact of the matter is that nothing serious was done? A. No; if I hadn't been there probably there would have been.

Q. That is a probability, but you don't know about that? A. No.

Q. So then the only offensive thing that you saw was these two girls get in the automobile? A. Two.

Q. You don't know where they came from? A. They came out of the hall.

Q. You don't know whether they came from the cabaret or dance hall? A. No, sir.

Q. That was on a Saturday night? A. I would not say; I am not positive whether that was a Saturday night or not.

Q. Are you positive as to whether it was Saturday night when all these things occurred? A. No.

Q. It might have been a Monday or Wednesday? A. Yes, sir; but the fights were generally from the time they closed up their dance hall; from half past eleven to twelve o'clock; drunken women would come out of there.

Q. After the dance hall was closed? A. Yes, sir.

Q. That is all.

CHARLES SIMPSON, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Simpson, you are a member of the police force of the City of Paterson? A. Yes, sir.

Q. Do you remember going down to Helvetia Hall with Officer Fitzpatrick, in April, 1913? A. Yes, sir.

Q. What day was that? A. On Sunday.

Q. And what day of the month? A. Twentieth.

Q. Twentieth of April? A. Yes, sir.

Q. How did you get in the hall? A. Went in the front door leading to the hall.

Q. Then where did you go? A. We went up a few steps, and went in what they call the cabaret room.

Q. Any people in there? A. Yes, sir.

Q. How many? A. Oh, maybe twenty-five.

Q. What were they doing? A. Sitting around tables and drinking what I thought was beer.

Q. What did you see then? A. The waiter came over with two glasses on a tray.

Q. Did you notice if it was the same kind of glasses as other glasses in the room? A. Yes, sir.

Q. Did you see beer drawn? A. No; he came from the bar room and we just came in, and the cloth was over and we couldn't see from where we were.

Q. Was that the only order served? A. Yes, sir.

Q. Any women there? A. Two women.

Q. Old or young? A. In the neighborhood of twenty-five years, I should judge.

Q. After you discovered what you have told us, did you hear any conversation pass on between the people? A. No, sir; they were very quiet.

Q. Then what did you do? A. Some young man came in and seemed to be in authority, and we told him to put them out, and he did.

Q. What did you tell him to do about the bar? A. We told him to close it, and I believe Mr. Fitzpatrick made the complaint.

Q. That is all.

Cross Examination by Mr. Marelli.

Q. There was a charge made, wasn't there, for this alleged violation that you spoke of? A. Yes, sir; I believe there was.

Q. And do you know he was acquitted of that? A. I never was subpoeaned on that.

Q. What is that? A. I was never subpoenaed on that.

Q. You don't know whether it was dismissed or not? A. No, sir; only by hearsay.

Q. That is all.

JOHN H. KINNEY, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Officer, you are connected with the department—the police department of the City of Paterson? A. Yes, sir.

Q. And during the year 1913, up to January, 1914, were you at any time down to Helvetia Hall, down on Van Houten street? A. I was never down at the place; I was always stationed at Main and Van Houten streets; at Diskon's corner.

Q. And did you, at any time, observe the people coming out of Helvetia Hall on Saturday nights?

By Mr. Marelli.—I object to that; he was a block and a half away.

By the Court.—I will allow the question. Exception prayed, allowed and sealed.

WM E. SEUFERT, (L. S.)
Judge.

Q. Did you observe the people? A. They came down Van Houten street to Main street.

By the Court.—No; that isn't the question.

Mr. Stenographer, repeat the question?

(By the stenographer) Q. Did you observe the people?

Archibald N. Smith—direct.

By the Court—Repeat the question prior to that.

(By the stenographer) And did you, at any time, observe the people coming out of Helvetia Hall on Saturday nights? A. I could see the crowd come down that way, and they must have come from the hall.

By the Court. Strike that out.

Q. Were you ever down any closer? A. I was down once to Allen & Dunning's tobacco store, standing in the doorway.

Q. When was that? A. About the second night we went down there.

Q. When was that, November? A. December.

Q. What time did you go down there that night? A. About eleven fifteen.

Q. On a Saturday night? A. On a Saturday night.

Q. Did you notice anything with regard to the conduct or condition of the people that came out of the hall on Saturday night? A. They came right out, and some were quiet and some hollered and yelled.

Q. And you were where? A. At Diskon's corner.

Q. That is all.

No Cross Examination.

ARCHIBALD N. SMITH, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Archibald N. Smith—direct.

Direct Examination by Mr. Dunn.

Q. Mr. Smith, where do you reside? A. 314 Totowa avenue.

Q. And have you a pastoral charge here in the city? A. Yes, sir.

Q. Where is the church situated? A. Corner of Paterson avenue and Totowa avenue.

Q. What church is it? A. Paterson Avenue Methodist Episcopal.

Q. And are you acquainted with the location of what is known as Helvetia Hall, in this city? A. Yes, sir.

Q. Are you acquainted with the proprietor? A. Not acquainted; no, sir.

Q. You have seen him before? A. Not to know who he was.

Q. Were you at any time in that hall? A. Yes, sir.

Q. When were you in there; in 1913 at all? A. I wasn't in in that year. I beg your pardon; I was in there at a meeting of the laboring men.

Q. In the day time? A. Yes, sir.

Q. Were you in there any time during that year, during the evening? A. No, sir.

Q. Were you in there during 1914? A. Yes, sir.

Q. When? A. January 16th, on a Friday night.

Q. Anything special going on? A. Yes, sir; a dance going on.

Q. What time did you arrive there? A. Sometime after ten o'clock.

Q. And what part of the hall did you locate in first? A. When I went in I went first to the dance hall, and spent some time in inspecting the dance hall.

Q. And then where did you go? A. I went to the cabaret, where we witnessed a fight between a woman about thirty-five, and she had a young man, a boy on her lap, and another young man came up and began swearing at the boy, and he was knocked down, and I went to raise him and I could see that he was sufficiently young, and some other persons that were in company with him went to separate them and help the young boy that was hit. We were fearing that we would be detected; we were somewhat disguised, and then we went on the other side of the hall so we would not be detected.

Q. That quit that fight? A. That quit that fight, and the crowd soon dispersed.

Q. How old was the boy that was on the woman's lap? A. I should judge that he was about fifteen.

Q. Did you observe what his demeanor—the demeanor between himself and the woman before the boy came up and started the fight? A. He had this woman on his lap.

Q. The young man? A. Yes; and they had their arms around each other.

Q. Did you notice whether they did anything else? A. They were fondling each other in a very disgusting manner.

Q. Won't you indicate to the jury; we have to give the jury the facts? A. I cannot remember.

Q. Just tell the jury what you saw them doing. A. He had his hands on her breasts, and she had her hands on him.

Q. Do you remember what language they used? A. No; I don't recall; the one that was after him struck him on the back of the head, and the woman

who had been in this boy's lap ran and helped him, and called him a son-of-a-bitch.

Q. Where did you go from there? A. We went to observe the dancing.

Q. What, if anything, did you observe there? A. On the other side of the hall I was detected by a young woman.

Q. What did you observe? A. We saw the dancing.

Q. Did you see anything there that you think was improper? A. Well, I might have seen something improper, but not illegal.

Q. Where did you go from there? A. To the cabaret room below; we descended the stairs, and there were crowds coming and going.

Q. While you were in the dance hall, and in the gallery of the dance hall, did you notice any drink sold in the dance hall? A. I didn't observe any; I saw people intoxicated.

Q. When you got in the cabaret, what part did you locate in? A. In the part that leads to the gallery, towards the street, as I recall.

Q. Did you sit down there? A. No, sir.

Q. What did you do there? A. I was in company with three men, and we made a pretense of looking for someone, and we went from one end of the room to the other, and we saw a bar, over which they were passing beers, on which were glasses, small and large. The first thing that attracted my attention was the stiffling atmosphere filled with smoke and liquor, and the people—men and women sitting at tables, and in many cases the women were sitting in the men's lap, and one case that shocked me was when one young woman was sitting on a man's lap, and they rubbed their noses together, and used such

remarks as "Oh! Hell" and then I saw her trying to open his trousers, and in several instances women were sitting in men's laps, and drinks were being sold, and I saw a number of young people there.

Q. How many young people did you see there? A. That would be pretty hard to say, but I should say over a dozen.

Q. And you came in contact with them there? A. One girl whose age I know; she is now eighteen, and she was then sixteen.

Q. And the rest of them? A. Some of them young.

Q. How was their hair done up? A. Some in braids.

By the Court.

Q. Those with their hair in braids, were they young? A. Yes, sir.

Q. How about their appearance? A. Three-quarter dresses; below the knees.

Q. Did they otherwise have the appearance of youth? A. Yes, sir.

Q. They weren't old girls dressed to look young? A. No, sir; in the gallery there was one like that, and I should judge she was twenty-five.

By Mr. Dunn.

Q. How about the age of the men? A. Some of them looked as though they were old enough to be their fathers.

Q. Did you see any of those young girls be- served with drinks? A. I can't say that I deliberately saw them served, but I saw them with drinks in their hands or on the table.

Q. What was it? A. I should judge it was beer, but I didn't taste it.

Q. What kind of glasses did they use? A. Both small and large.

Q. Served from what station? A. From the counter on the side, and there were sandwiches on it, and I purchased a sandwich myself, and almost choked to death.

Q. Did you see Mr. Koettgen there? A. No, sir.

Q. You spoke of a couple of persons rubbing noses; what else did you see there; just describe it? A. Such as I have described; women sitting on men's laps and their arms around each other and fondling each other, and smoking.

Q. Girls smoking cigarettes?

By Mr. Marelli.—I object to the question as being leading.

By the Court.—You do not follow the testimony. It is not objectionable technically.

Q. Now, anything else. Won't you describe a little more in detail the conduct of the persons that you saw sitting on each others laps, or what you did see? A. That is hard to do. I didn't tarry very long at any one particular place.

Q. At the time you were there, was there music being played in the cabaret room? A. I don't remember; I think there was a piano being played part of the time.

Q. How long did you remain in the room? A. I can't say exactly; probably twenty or thirty minutes; maybe longer.

Archibald N. Smith—direct.

Q. What did you know about the reputation of the persons you saw in the room? A. There was two I knew was bad, because they had been arrested the morning after that for being drunk on the street.

Q. You knew their reputation before that?

By Mr. Marelli.—I object to the question because that doesn't necessarily mean that a person is of bad reputation because he happens to be arrested the next day for being drunk.

By the Court.—Your objection is as to weight, and not to substance; I will take the question and answer.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)
Judge.

Q. Now, you spoke about the reputation of two; were they males ar females? A. Females.

Q. And about what was their age, if you know? A. Over twenty; about twenty-five; somewhere around there.

Q. Did you see any men there whose reputation you know, young or old? A. I knew men there; I can't say their reputation was bad; it was questionable.

By Mr. Marelli.—I object to that.

By the Court.—Strike it out.

Q. Did anything else occur while you were there with respect to their conduct, and if so, state it. A. In the cabaret?

Q. Yes. A. Just the general condition as I have described it.

Q. With respect to the condition as to sobriety? A. It was terrible.

By Mr. Marelli.—I move that that be stricken out.

By the Court.—Strike that out.

Q. What was the condition of the people as to sobriety? A. Many in a drunken condition.

Q. Does this apply to both sexes? A. Both sexes.

Q. And in their talk and conversation; how were they as to being lewd? A. They were lewd; I cannot recall all that was said.

Q. Do you recall any other profane language? A. Not that I could give testimony on.

Q. Were you there on any other occasion? A. No, sir.

Q. Did you see a man by the name of Mr. Weinberg there that night? A. Yes, sir.

Q. And Mr. Leitman? A. Yes, sir.

Q. Did you see George Hardy Payne? A. Yes, sir.

Q. And Miss Hulmes? A. Yes, sir.

Q. And Mrs. Hill? A. Yes, sir.

Q. That is all.

Cross Examination by Mr. Marelli.

Q. Mr. Smith, this was the night of the Chorus Girls' Ball, wasn't it? A. I believe so.

Q. And the girls that were there were chorus girls? A. I couldn't say that.

Q. Weren't they painted up? A. Yes, sir.

Q. Some of them were done up in their stage costumes, weren't they? A. I don't know.

Q. You didn't know about that? A. No, sir.

Q. These girls that looked so young and had their hair braided in the back, didn't you know they were chorus girls? A. No, sir.

Q. You didn't know that? A. No, sir.

Q. This fight that you say you saw there was stopped very quickly? A. Yes, sir.

Q. It didn't continue very long? A. It didn't become general, no, sir.

Q. The place was crowded? A. I presume you would say so.

Q. What time of night was it? A. When the fight took place?

Q. No, when you were there? A. From after ten to after twelve.

Q. How long were you in altogether? A. About two hours.

Q. Now, you don't know the age of this boy to whom you refer; you say his age was fifteen; he may have been eighteen? A. No.

Q. How are you sure he wasn't eighteen? A. A boy of eighteen will have shaved, and this boy had never shaved; the down was on his face yet.

Q. That may be, but there are others who would not shave until they are twenty? A. There may be, but not a normal boy.

Q. Did he appear to be a normal boy? A. Yes, sir.

Q. The ages of the girls of whom you have testified, you don't know their age? A. I do the Parlington girl.

Q. How do you know? A. Because when she was an infant she was baptized, and her mother came to me to get the certificate so she might be admitted to work when she was sixteen, and I have had occasion two or three times to look it up.

Q. So she was a bad girl anyway? A. Yes.

Q. Was she there that night? A. Yes, sir.

Q. Where? A. I saw her in both places; in the cabaret and in the dance hall.

Q. And how old is the other girl? A. The girl with her gave her age to me as eighteen.

Q. Now, those are the only two whose ages you know? A. In a definite way.

Q. That is all.

By the Court.

Q. Mr. Smith, this couple that you say was maudlin drunk and fondling each other, did you see any liquor served to them while they were in that condition? A. They had liquor on their table, but I didn't see any brought to them. I stood at their chair with two men that were with me and I can't swear that they were served, but they had drink on the table.

Q. That is all.

MAY STUMPF, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mrs. Stumpf, where do you reside? A. 700 East Eighteenth street.

Q. How long have you lived in the city of Paterson? A. About four years and a half.

Q. And do you occupy any position with any institution? A. Yes, sir.

Q. What is it? A. I am superintendent of the Florence Crittenden Home.

Q. And that is located on East Eighteenth street? A. Yes, sir.

Q. And what is the purpose of that institution? A. Taking care of girls and women that are homeless and friendless.

Q. During January, nineteen hundred and fourteen, did you visit Helvetia Hall? A. I did.

Q. Do you remember the date? A. Sixteenth of January; Friday evening.

Q. Who else of your party did you see there? A. Of our party?

Q. Yes. A. Mrs. Hillman, Miss Hulmes and myself.

Q. Did you see Mr. Smith there? A. Yes, sir.

Q. And Mr. Payne? A. Yes, sir.

Q. What time did you get there? A. Between ten and eleven o'clock.

Q. What part did you go in? A. In the cabaret.

Q. Did you sit down in the cabaret? A. Yes, sir.

Q. What part as you enter the hall? A. Just a short distance from the door.

Q. You sat down there? A. Yes, sir; there were tables and chairs there, and there was a bench there and we sat down on the bench.

Q. What time was this? A. Between eleven and twelve.

Q. How many people were in at that time? A. The room was full; every table occupied.

Q. How long were you in the cabaret? A. From twenty minutes to a half hour.

Q. When you first went in there what did you observe as to whether or not any of these persons were being served with drink; did you notice whether they were being served? A. Yes, sir.

Q. How were the people that were there divided as to sexes—men and women? A. Both sexes were there.

Q. More women or men? A. About equal.

Q. These men and women there, did you notice any difference in the age of the girls— the females —any material difference? A. Yes, sir.

Q. Tell the jury what you saw there with reference to the age of the females there, and then, of the boys and girls and men. A. There were very young girls there; they wore short dresses; from fourteen to eighteen; there were older women there too, there were women with gray hair.

Q. These young girls that you spoke of, where were they placed in the room? A. At the tables.

Q. Did you see any of them served with drink while you were there? A. Yes, sir.

Q. Did they seem to have young men with them, or were they seated alone at the table? A. They were with men.

Q. Could you tell what they were served with? A. They were small glasses.

Q. That the girls were served with? A. There were small glasses there.

Q. What other kind of glasses, that night, did you see there? A. Beer glasses there.

Q. While you were there, state to the jury what you observed, if anything, with regard to the conduct of any of the inmates there, towards each other? A. They were very familiar with one another.

Q. What were they doing? A. They were sitting there with their arms around one another.

Q. Now, Miss Stumpf, just describe what you mean when you state they were very familiar, so the jury can get an idea; just describe it as practical as you can, as to what you saw going on there

that night. A. All I saw was they were sitting there with their arms around each other, men and women; the men were sitting on the girl's laps.

Q. What else did you see? A. That is all I saw.

Q. Was that confined to the young girls, or older ones also? A. Old and young.

Q. Both classes? A. Both classes.

Q. Was that conduct located in the part of the hall that you were in, or in different places? A. In the cabaret hall.

Q. Wasn't confined to one table? A. No, sir.

Q. You saw it at other tables? A. Yes, sir.

Q. What did you hear in the way of conversation between the parties, while you were there? We heard none.

Q. Was there any entertainment going on? A. No, sir.

Q. Did you see the parties go so far as kissing?

By Mr. Marelli.—I object to that.

By the Court.—Objection sustained.

Q. What else did you see these parties doing, except what you have described? A. Nothing else.

Q. Did you see any young girls that you knew? A. Yes, sir.

Q. Who was that? A. Violet Tueffel.

Q. And where had you become acquainted with her? A. In the home; in the Crittenden home.

Q. And how long before you saw her in this hall had she been in the Crittenden Home? A. She was in the home in June, and she left the home in July, and I saw her last in the home in June, 1913.

Q. June 1913? A. Yes, sir.

Q. Was she good or bad? A. She was incorrigable and her mother placed her in the home.

Q. And from her conversation after you got her there? A. She seemed to be a very nice little girl.

Q. When you saw her here, that was the first you saw her from the time she left the home? A. Yes, sir.

Q. What did you see her doing there that night? A. There were two young men had a fight over her after we went up stairs; that wasn't in the cabaret room.

Q. How long was that after you had seen her down stairs? A. It was, I should judge about one hour.

Q. Did you see her drink anything down stairs? A. No, sir.

Q. Afterwards; you were up stairs then? A. Yes, sir.

Q. And you witnessed two men have a fight over her? A. Yes, sir.

Q. And the fight was stopped by whom A. I went to the girls and talked to the girls.

Q. Did you stop it? A. I don't know; I reasoned with her to go home, but she said her mother was in the hall.

Q. Did she go out? A. No, sir; we left her there.

Q. Did you see any conduct in the gallery? A. We didn't in the gallery; we saw two women that were dancing that were drunk.

Q. What, if anything, did you notice with reference to their conduct? A. They were intoxicated. They were reeling across the floor and could not keep in step, and just bumping into one another.

May Stumpf—cross.

Q. Did you see anything else there that night? A. No, sir.

Q. And the number of—How did the number of young folks up stairs, compare with the number of older girls and boys? A. There were a great number of young girls; there were at least ten girls there not fifteen.

Q. Did you see them in the cabaret? A. We sat in the gallery and saw them go down the back stairs.

Q. And before that you saw some of that same aged girls down in the cabaret? A. Yes, sir.

Q. Cros examine.

Cross Examination by Mr. Marelli.

Q. Didn't you know that was the Chorus Girls Ball? A. Yes, sir.

Q. And didn't you see a lot of chorus girl there? A. Yes, sir.

Q. Don't you know the young girls that you refer to were chorus girls? A. No, sir; they were not; they were girls in the city.

Q. Did you go around and see them? A. I spoke to quite a few of them.

Q. You spoke to them? A. I did.

Q. Did you ask them their ages? A. Two of them.

Q. What are their names? A. One was Minnie Jenney.

Q. Who else? A. Violet Tuffel.

Q. Who else? A. That was the only two.

Q. Just two you spoke to then? A. Yes, sir.

Q. How old is Jenney, Minnie Jenney? A. Twenty.

Q. How old is Violet? A. Fifteen.

Q. You know that, do you? A. Yes, sir.

Q. Where did you see Violet, up stairs or down stairs? A. Both places.

Q. Isn't she the one you saw go down? A. No, sir; I saw her in the cabaret first.

Q. You saw her in the cabaret first? A. Yes, sir.

Q. Did she stay there all the time you did? A. Yes, sir; we left her in the cabaret when we went up stairs.

Q. And you say she was put in your Home? A. Yes, sir.

Q. What for? A. She was incorrigable.

Q. Then she wasn't a "nice little girl?" A. I had no trouble with her.

Q. Was she with an older person? A. She said her mother was there, but I couldn't find her.

Q. Did you look? A. I certainly did.

Q. Did you find her? A. No, sir.

Q. Where did you look? A. All around up stairs and down stairs.

Q. Did you know her? A. Yes, sir.

Q. These are the only ones that you knew? A. The only two that I knew.

Q. What did you go there for; did you go there for the purpose of getting testimony against this man? A. No, sir; I went there to see the class of girls that went there, and the tender ages of the girls that went to dance halls.

Q. You didn't take the trouble to find out whether all the rest of the girls except these two girls were chorus girls? A. No, sir; I did not.

Q. That is all.

George Hardy Payne—direct.

GEORGE HARDY PAYNE, a witness produced on behalf of the state, being first duly sworn according to law testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Payne, you reside in the city of Paterson? A. I do.

Q. And what business are you in? A. The art glass window business.

Q. And are you connected with some of the institutions here in the city? A. I am president of the Florence Crittenden Home.

Q. And you recall visiting Helvetia Hall at any time during nineteen hundred and fourteen? A. I went down, and I believe it was January 16th, at the Chorus Girls Ball.

Q. Now, who did you see there; who went with you? A. Mrs. Stumpf, Miss Hulmes went with me, and Mrs. Hillman.

Q. What part of the hall did you go in when you first entered the hall? A. As I remember we stopped in the cabaret; can I go on and tell?

Q. Just go on and tell what you saw in the cabaret? A. Can I start where I want to?

Q. No; just tell us what you saw there. A. We went in the cabaret and staid there a little while; there was a dance going on up stairs, and there wasn't as many people down in the cabaret when there was a dance going on, and later, up in the dance hall I noticed several couples that were drunk. I saw, sitting at the gallery rail, a young girl that was not over seventeen years of age acting in a very indecent way with a young man; the young man had his hands on her breast, and she had her hands on the young man's privates,

and I went down there and I saw several occasions where the girls had beer in front of them down in the cabaret room, and in several cases the women were simply sitting on the men's laps, drinking beer, and as I remember it, down near the main entrance of the room, as I passed the people, there was a young man sitting on a woman's lap with his trousers open, and I went up stairs again and I saw this Violet Tueffel, the little girl that I had met in the Crittenden Home, her dresses quite short, and she was running around wild, and a little later on, two or three boys, I call them that because they looked it, one of them wore a cap, and they got in a fight, and if I am not mistaken, I think Mrs. Hill helped take the girl away. The officer in charge interfered, and straightened things out and I went back in the cabaret and saw things going on the same as I had previously; I went in between ten and eleven o'clock, and left a little previous to one o'clock, and it was getting hotter and hotter all the time.

Q. Did you see drink served there? A. I saw drinks on the table, and I saw the waiters serve them and heard orders given for beer.

Q. As to the different tables there; what can you say to the jury as to the age of some of the girls and boys that were served with a drink? A. I was impressed with the youthfulness of many of the girls.

Mr. Marelli.—I move that that be stricken out.

By the Court.—Strike that answer out.

Q. What would you judge their ages to be? A. There were some seventeen—eighteen years of age, and some older.

Q. Were any of the persons that you saw sitting on each others laps—girls on boys laps, and boys on girls laps, were they young, as you spoke of? A. As I recall it, the girls were mostly older, probably eighteen.

Q. And how about the younger ones? A. Outside of the one up in the gallery, I wouldn't say that I saw real young ones guilty of that action.

Q. Then you left and went home? A. Yes, sir.

Q. Did you leave before twelve o'clock? A. No; in the neighborhood of one o'clock.

Q. Did you see Mr. Leitenberg or Mr. Weinberg there that night? A. I saw Mr. Weinberg there I believe that night, and they both had women at the tables and beer before them.

Q. You knew that they were detectives? A. Yes, sir.

Q. That is all.

Cross Examination by Mr. Marelli.

Q. It was the Chorus Girls Ball? A. It was.

Q. And the most of the girls there were chorus girls? A. I am sure I don't know.

Q. You couldn't distinguish, could you? A. I am not acquainted with the chorus girls.

Q. Weren't the women there made up—paint on their faces; rouge, etc.? A. There were a number, but the great majority were not.

Q. You say the great majority were not; did you examine close or not? A. I didn't have to.

Q. Don't some of them make up so perfectly that you can hardly tell? A. I don't know.

Q. You say the girls and young men you saw there were seventeen years of age; would you swear that that is so? A. I wouldn't swear to it, no; I am giving you the best of my judgment.

Q. What part of the building was it that you saw this hugging? A. Up stairs.

Q. In the dance hall? A. Yes; but the place of gross immorality was in the cabaret.

Q. Where abouts? A. On the right hand side.

Q. Near the door? A. One couple up near the rear entrance, and another one towards the center, and a couple of others down near the other door, as I remember.

Q. Didn't you see officers there trying to preserve order? A. Only the man that came in up stairs and tried to straighten things out.

Q. Did you make any report there of what you saw? A. I did not.

Q. That is all.

WILLIAM ZIMLINGHAUS, a witness produced on behalf of the state, being first duly sworn according to law, testifies as follows:

Direct Examination by Mr. Dunn.

Q. You are an officer of the police department of the city of Paterson, officer? A. Yes, sir.

Q. And you know the location of Helvetia Hall? A. Yes, sir.

Q. And do you remember having your attention called to that any time in the month of April, 1914?

By Mr. Marelli.—Attention of what?

By Mr. Dunn.—Attention of Helvetia Hall?

A. Yes, sir.

Q. What time was it? A. Saturday night, April 4th.

Q. Did you go down to the hall? A. Yes; I was doing inside reserve duty at the time, and I was just going to work, and I heard a lot of hooting and hollering down Van Houten street, and I ran down.

Q. Ran down where? A. Down Van Houten street.

Q. Go on. A. They came down Van Houten street, hooting and hollering and fighting, and I got a couple of hats, and that is all I could get.

Q. How many were engaged in that fight? A. A big mob; a hundred and fifty or so.

Q. They were fighting and coming out of the hall? A. I saw them coming out.

Q. And after you got on the scene they dispursed? A. Yes; they knew who I was.

Q. When these people came out of the hall and you approached them, were you close enough to hear what they said? A. They were cursing and swearing the same as they do in general fights.

Q. Do you recall what they said? A. One young fellow; I got hold of him, and he said: "The son-of-a-bitch; if he got him he would break his neck."

By Mr. Marelli.—I object to it, unless it happened in the hall.

(Witness continuing) It did; he said it occured over a girl.

Q. Did anything else happen? A. No; somebody telephoned to police headquarters.

Q. Did you notice anything else as to those people that were coming out of the hall, except

the instance that you have just mentioned? A. No; there were some of them that had pretty good skates on; some of the young lads.

Q. Did you see the Holmes girl there that night? A. No; not that night.

Q. Did you ever see her in there? A. No; I was talking to her on the street one night when she came from there.

Q. Were you down there any other night after April 4th, 1914? A. I was sent down there one night with the wagon, but I don't remember the date.

Q. Was it in the month of April? A. Yes, sir.

Q. Did you go in the hall? A. No.

Q. Where were the persons? A. They had them outside on the sidewalk.

Q. So you don't know whether they were in the hall or not? A. No, sir.

By Mr. Marelli.—I object to that.

By the Court.—It is in and I will let it stand.

Exception prayed, allowed and sealed.

WM. E. SEUFEFT, (L.S.)
Judge.

Q. Take the witness.

Cross Examination by Mr. Marelli.

Q. There is a theatre across the street? A. Yes, sir.

Q. The Orpheum theatre? A. Yes, sir.

Q. And isn't there a lot of disorder caused there when the theatre comes out? A. It generally doesn't come out at midnight.

Q. When does it come out? A. I don't know; I never visit the vicinity.

Q. You only know of one occasion? A. That is all.

Q. There was nothing serious? A. No.

Q. No arrests made? A. Just a brawl; that is all.

Q. Many involved in the fight? A. I don't know how many were involved; if I could see who it was I could have got somebody; if I could have I would have locked somebody up.

Q. That is all.

JENNIE HULMES, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn

Q. You reside in the city of Paterson? A. I do.

Q. And where are you located? A. 700 East Eighteenth street.

Q. And you are there connected with some institution? A. Yes, sir; the Florence Crittenden home.

Q. What department? A. Matron.

Q. And have been there for how long? A. Four years.

Q. And you and Mrs. Stumpf were there together? A. Yes, sir.

Q. And you were down there sometime the early part of this year? A. Yes, sir.

Q. And what was the date, if you can tell us? A. I think it was the sixteenth of January, on a Friday night.

Q. When you first went into the hall, do you know what part you entered first? A. We went up several steps in the cabaret room.

Q. Did you sit down there in the cabaret room? A. Yes, sir.

Q. Just describe in your own way what you observed—the number of people and their conduct and demeanor, in your own way? A. I couldn't tell you how many there was; it seemed quite a number to me, and I should safely say one hundred, probably more; they were drunk, and men and women were sitting at the tables, and some of them were from sixteen years of age to old gray haired men.

Q. How many would you say were sixteen to seventeen, of the girls, say, first? A. I could give no definite number.

Q. No; but just to the best of your belief? A. I should judge within our sight, we were sitting near the door, I would say at least one dozen.

Q. And how many boys from sixteen to sixteen and a half, as compared with the girls? A. I should say about the same number.

Q. Now, what did you see these girls and boys and men and women doing while you were there in the cabaret room, first, with reference to eating or drinking? A. They were drinking.

Q. Were you close enough, or did you observe what they were drinking? A. I could only tell you how it was served to them.

Q. How was it served?

By Mr. Marelli.—I object to the question

By the Court.—Question allowed.

Exception prayed, allowed and sealed.

WM. E. SEUFEFT, (L.S.)
Judge.

A. Just in small glasses; I noticed those particularly, there were two young men and two young women and they were served with small glasses.

Q. Did you notice the color of the liquor? A. No; I didn't.

Q. And what did you notice with reference to the glasses that were served on any other table near you? A. Which?

Q. Do you know what a beer glass is? A. Yes, sir.

Q. Did you see any beer glasses? A. Yes, sir.

Q. Where was this liquor obtained and served from; where was it obtained? A. I couldn't tell you.

Q. Who served it? A. Young men.

Q. Did they have anything in their hands that they carried it on? A. They had a tray.

Q. And they would bring it and serve it at these tables? A. Yes, sir.

Q. Did you see any of these young girls sixteen or seventeen years of age, and these young men, drinking anything at the tables? A. Yes; they were drinking and talking.

Q. Just tell what else you noticed? A. I saw them with their arms around or across the back of the chairs, and around each other, and the men were smoking.

Q. Was there anything else done that you saw? A. No, sir.

Q. How long were you in the cabaret room? A. We were in there from twenty minutes to a half hour.

Q. And did you overhear any conversation there? A. No, sir.

Q. And you went from there where? A. To the dance hall; we went up stairs.

Q. And what did you see up stairs, if anything, see out of the ordinary? A. Well, we sat down in the dance hall just a few minutes.

Q. The floor where the dancing was? A. Yes.

Q. What did you see there? A. I saw them dancing the popular dances of the day.

Q. What was there there that you noticed, or that you want to call our attention to? A. So many of the men seemed to be under the influence of liquor.

Q. How many as compared to the whole number—what percentage? A. I should say one-third.

Q. And what can you say to us with reference to the women; what portion of the women, if any, were under the influence of liquor? A. I couldn't say the percentage there.

Q. Did you see anything there with reference to the condition of any of the women there in the dance hall as to being under the influence of liquor? A. The dancing, of course, appeared to me to be vulgar.

Q. In what respect; what was the particular thing that you noticed about the dancing? A. The positions they took and the movements in the dancing.

Q. Did you know—were you familiar with the dance sufficient to know that they were indulging in excessive exhibitions?

By Mr. Marelli.—I object to the question.

By the Court.—Objection sustained.

Q. Now, then, did anything occur while you were up in the gallery of the dance hall? A. Yes, sir.

Q. What? A. There was young men got into a difficulty and was going to fight.

Q. What was that about? A. I couldn't tell you.

Q. Did you see who separated them? A. No; I couldn't say that.

Q. Now, what else did you see with reference to the facts in the dance hall, after the dance was finished, what would they do; the facts, if anything, where would they go? A. Some of them sat down, and some of them walked around, and some left the room at the side of the musicians room.

Q. Do you know where that took them to? A. I think that is the same door we came through from the cabaret room.

Q. Did you see any other fights, except this one? A. No, sir.

Q. Did you see Violet that night? A. Yes, sir.

Q. Was the trouble about her? A. I think it was.

Q. Did you look around with Mrs. Smith to see if her mother was there at the hall? A. Yes, sir; we looked for her mother.

Q. Did you find her? A. No, sir.

Q. How old was Violet? A. She was fifteen.

Q. Was she in company with some young man? A. I couldn't tell you; when we first met her she was in company with a young girl.

Q. How old was the other girl? A. She looked to be about the same age.

Q. After you had been in the dance room, where

did you go then? A. When we came from the gallery we went home.

Q. While you were up in the gallery, do you recall any utterances that you heard in the gallery; any expressions of profanity? A. We heard profanity, going through the hall at different times.

Q. Where did you hear that? A. In the hall.

Q. Dance hall or cabaret hall? A. Dance hall.

Q. Will you give us some of the expressions? A. No, sir.

Q. Don't recall it? A. No, sir; I am just giving you a general impression.

Q. Can you say to us whether or not the young folks that you observed in the cabaret room, girls and boys, were any of them under the influence of liquor? A. I couldn't tell you that, because we were sitting and we did not observe them closely enough to tell you that.

Q. And the up stairs part, will you say anything about them? A. The young men that were fighting were under the influence of liquor.

Q. Take the witness.

Cross Examination by Mr. Marelli.

Q. Now, you don't know for certain the ages of these persons concerning whose ages you have testified, do you? A. No; I can only tell you to the best of my judgment, with the exception of Violet Tueffel.

Q. You don't know about anybody else, do you? A. Not positive; no.

Q. And you went there that night to observe things, didn't you? A. Yes, sir; I went to just see for myself how young girls were allowed to attend these places.

Q. And you are against dance halls? A. Yes, of that kind.

Q. Any kind? A. I can't say I would be against a dance hall that has no saloon connection.

Q. You went there with a hostile attitude, didn't you? A. No, sir.

Q. In the first place, you didn't like a place where liquor is sold, do you? A. No, sir; I do not.

Q. And during all the time you were down stairs you say all these girls and young men were seated? A. Yes, sir.

Q. How long were you down stairs? A. From twenty minutes to a half hour.

Q. Was Mr. Payne with you then? A. No, sir.

Q. Was Miss Stumpf with you? A. Yes, sir.

Q. The two of you were together? A. Yes, sir.

Q. You didn't observe, or see anything improper down stairs? A. The drinking and sitting with their arms around one another.

Q. That is all you observed? A. Yes, sir.

Q. That is all.

ABRAHAM WEINBERG, a witness produced on behalf of the state, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Weinberg, where do you reside? A. 631 West 207th street, New York City.

Q. What is your business? A. Private detective.

Q. And were you any time during the year nineteen hundred and fourteen, doing detective work? A. I was doing investigating work.

Q. Do you know Mr. Koettgen, the defendant in this case, at the head of the table? A. I do not.

Q. And did you, in the course of your investigation, visit Helvetia Hall? A. Yes, sir; I did.

Q. When did you visit it? A. January tenth, 1914.

Q. And what time did you go there? A. About nine o'clock, P. M.

Q. What room did you visit? A. I went in and sat at a table, and I saw several sitting there, and after sitting there a while a woman kept winking for me, and she asked me if I would buy her a drink, and I said "yes", and she ordered straight whiskey, and I ordered the same, and I paid for it. In the meantime she asked me if I wanted a good time, and I asked her where she could take me, and she said to MacElroy's Hotel, and I asked her what she would charge, and she said a dollar, and that the room would be a dollar.

Q. What room—this room that you were sitting in, was there anything going on in this room? A. A piano was playing.

Q. Any cabaret performances? A. I don't remember seeing it.

Q. How many people were in that room? A. About thirty people, I should say.

Q. What were they; men or women, or both? A. Men and women, and some women by themselves.

Q. Do you remember what day of the week it was that you met this young lady and went out with her? A. Saturday night.

Q. While you were there did you make any observations of the condition of the inmates and

patrons in that room? A. No, I didn't; outside of that girl.

Q. Did you notice the conduct of any of the other girls in that room on the night of January tenth? A. No, I did not.

Q. Were you in that room at any other time? A. Yes, sir.

Q. When? A. On January sixteenth, 1914.

Q. What time did you get there that night? A. Arrived 8:30 P. M.

Q. How long did you stay? A. 3:30 A. M., January 17th.

Q. During the time that you were in that room were you in the same cabaret room? A. I was.

Q. When you went in that room on January 16th, how many people were in the room about? A. I didn't count them, but the place was well packed.

Q. Did you make any observation that night as to the ages of any of the people in that room? A. I did, sir.

Q. State to the jury what you observed. A. I went in company with Mr. Leitenberg; we walked up one flight of stairs, and I paid fifty cents, and Leitenberg paid ten cents for a hat check, and while we were there there was two girls, and they said "Hello, boys," and we answered them in the same tone, and they asked us to buy them a drink, and we said "All right," and we walked down stairs to the large back room, and sat at a table, and a waiter came over and asked us what we wanted, and I ordered straight whiskey, and the girls some fancy drink I can't recall it, and Mr. Leitenberg bought a drink, and I bought a drink and Mr. Leitenberg bought a drink, and we kept going for a number of hours, and then one of the

girls asked me if I could dance, and I said "No," and she said "Come on up anyhow," and they went up and I went up and they danced and wriggled themselves in a disgusting way—

By Mr. Marelli.—I object to that.
By the Court.—Strike it out.

Q. Explain it. A. They would wriggle their backs, and the men would have the girls on the behind and bring her back to him.

Q. Bring her back? A. Her stomach to his stomach.

Q. What would he do in that position? A. Keep on moving around in motion.

Q. Well, after that dance got through what became of the girls? A. They came over to us and we went down stairs again and had some more drinks, and they asked us if we would go out for a good time with them, and we asked them where they would take us, and they said over to their furnished room over on Clinton street, and then they said they wanted another drink.

Q. What time was that? A. Somewhere around twelve o'clock.

Q. Well, then, how long did you stay there after twelve o'clock? A. I remained until 3:30 A. M.

Q. Did you buy any liquor after twelve o'clock? A. I ordered liquor myself.

Q. That was Saturday morning, three o'clock? A. Yes, sir.

Q. What else transpired then, go on, give us your history? A. In this room I saw a young girl falling over herself; she was young, about fourteen, and I saw young girls around men's pants, and put their hands on their privates.

Q. How far away was that? A. Tables right adjoining; just a few feet.

Q. What else? A. Men intoxicated; girls intoxicated.

Q. Could you tell us how many young girls you saw put their hands—open men's pants and on the private parts? A. Not of them young girls; no, sir.

Q. Any young girls doing that? A. Young girls intoxicated.

Q. What did you see any of the young girls and young fellows doing? A. Kissing the girls and grabbing them by the breast.

Q. And what else did you see? A. That is all.

Q. And did that—how long did that continue to be noticeable during the time that you were there? A. I couldn't tell you.

Q. Did it occur shortly after you went in there; did you see it from time to time? A. Yes, sir; while I was at the table; surely.

Q. Then you staid there until 3:30, and then did you go out? A. I did.

Q. Did the young girls go out with you? A. They did, sir.

Q. Did Mr. Leitenberg go out before you did? A. All went out together.

Q. During the time that you were there, did you notice what conversation was had, if anything, by any of the parties that was there? A. The girls in our company?

Q. The girls that were in your company; the ones near enough or men. A. I heard men say "Son-of-a-bitch" "Go fuck yourself" and all kinds of talk, and the one girl that was with us that said she was in a fast house on River street,

and one said she was in a fast house in Little Falls, and I asked her age, and she said sixteen or seventeen years of age.

By Mr. Marelli.—I move that that be stricken out; what she said to him.

By the Court.—No; that will stand.

Exception prayed, allowed and sealed.

WM. E. SEUFEFT, (L.S.)
Judge.

By the Court.—The expression itself is characteristic of the place.

Q. Now, this one girl spoke about Clinton street; what was that? A. She said she lived there.

Q. Did you hear any other expressions from any of the other girls there that night? A. No, sir.

Q. Now, when you were in there on January 10th, 1914, do you recall any expressions of young girls in the hall? A. No, sir.

Q. Did you see any of them drunk? A. Not to my recollection.

Q. Cross examine.

Cross Examination by Mr. Marelli.

Q. These two girls that you were with, were young girls, were they? A. One said she was seventeen and one said sixteen.

Q. How long did you stay with them? A. From 8:30 to 3:30 in the morning.

Q. And you were buying them drinks? A. Yes, sir.

Q. And notwithstanding their ages? A. They didn't drink it; they threw it under the table.

Q. They didn't drink at all? A. No, sir.

Q. You were ready to let them drink it all? A. Yes, sir.

Q. What is your occupation? A. Private detective.

Q. In business for yourself? A. Yes, sir.

Q. For how long? A. Since nineteen hundred and twelve.

Q. And what were you doing before that? A. Before that?

Q. Yes. A. I was with John McCullough, and I was with the Metropolitan Street Railroad Company, and former District Attorney.

Q. For how long a time did all this cover? A. I started when I was about the age of eighteen or nineteen.

Q. To be a detective? A. No, sir; investigating.

Q. Investigating for whom? A. John McCullough.

Q. Always investigating for him? A. No, sir; for lawyers.

Q. Investigating? A. No, sir; serving papers.

Q. Did you ever work for a Mrs. Stranton on Forty-seventh street? A. No, sir.

Q. Never was a pimp for her? A. Never.

Q. Did you ever work for a house of prostitution? A. Never in my life.

Q. Never investigated? A. No, sir.

Q. Were you ever convicted of crime? A. No sir.

. . . . . .

Q. Never were convicted in New York? A. Never.

Q. Weren't you involved in some trouble over there?

By Mr. Dunn.—I object to the queston.
By the Court.—Objection sustained.

Q. Were you ever arrested?

By Mr. Dunn.—I object to that question.
By the Court.—Objection sustained.

Q. Who hired you here? A. Anti-Saloon League and the Paterson Ministers.

Q. And you went there to obtain evidence? A. To investigate.

Q. And you gave testimony here in a case some time ago, didn't you; the MacElroy case?

By Mr. Dunn.—I object to the question as irrelevant and immaterial.
By the Court.—Objection sustained.

Q. Now, where did you stay all this time from half past eight until half past three in the morning? A. On the right hand side of this back room.

Q. The cabaret room? A. I don't know whether it is a cabaret or not.

Q. The back room? A. Yes; men drinking there.

Q. That was on January 16th? A. Yes, sir.

Q. Did you stay in the one place all the time? A. Only when I went upstairs and went to the toilet.

Q. Did you stay upstairs long? A. Only while the girls had a dance.

Q. Did you go upstairs with the girls? A. On one occaison only.

Q. Would they go and have a dance alone? A. They would leave us and then come back again.

Q. With the exception of the one time you were upstairs, you sat in this one place all the time? A That is right.

Q. And you were there to observe things, weren't you? A. I was.

Q. And you say you observed these women at the tables with men? A That is right.

Q. And drank together? A. They were drinking together, and girls were pulling men's pants open.

Q. That was toward the end? A. No; early in the evening.

Q. Did you have an altercation with the officer there, A, No, sir.

Q. And they drank whiskey? A. Yes, sir.

Q. And you let them do it? A. They are women of that character; that is their nature.

Q. And you were getting them to do it? A. I certainly was not.

Q. Why did you let them do it? A, They even put their hands on my privates.

Q. Why did you let them do it? A. They did it all of a sudden.

Q. Where did they come with you? A. I mean these two girls, at different times, would put their hands on my private.

Q. You didn't bother with any other woman? A. Only saw what they were doing.

Q. And didn't the officer come there and tell you to stop following women? A. The officer asked me to buy a drink, and then said, "Never mind; give me the ten cents."

Q. Was it a regular policeman? A. No, sir; it wasn't.

Q. Didn't the officer tell you to stop your indecent conduct? A. No, sir.

Q. Didn't he threaten to put you out? A. No, sir; he was under the influence of liquor himself.

Q. The officer was? A. Yes, sir.

Q. Did you know this was the Chorus Girls Ball? A. Yes, sir.

Q. Don't you know there was a lot of chorus girls there? A. Not to my assumption.

Q. It was the Chorus Girls Ball? A. That was the name.

Q. Did you know the theatre was just across the way? A. I didn't know that.

Q. Why didn't you walk around? A. I didn't have to; I walked up to the dance hall and a young girl was falling downstairs; the most awful thing I ever saw.

Q. What time was this? A. Around twelve o'clock.

Q. Getting late? A. Yes, sir.

Q. That is all.

By the Court.

Q. These girls that were with you what kind of dresses did they wear? A. Long dresses.

Q. And in what way did they have their fixed? A. I really could not say.

Q. Just from their appearance and general actions, what in your judgement, would their ages be? A. Eighteen years of age; eighteen or nineteen.

Q. That is all.

Paul Leitenberg—direct.

PAUL LEITENBERG, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Where do you reside? A. 520 West 51st street, New York City.

Q. What is your business? A. Investigator and private detective.

Q. And were you ever in Paterson during the early part of nineteen hundred and thirteen, making investigation? A. Yes, sir.

Q. And in the course of your investigation, did you visit Helvetia Hall? A. Yes, sir.

Q. When did you first visit it? A. January 16th.

Q. What year? A. 1914.

Q. Who were you in company with? A. Mr. Weinberg.

Q. What business is he in? A. Runs a detective agency in New York City.

Q. What connection did he have with you? A. To see the general conditions.

Q. Were you working together? A. Yes, sir.

Q. What time did you get in Helvetia Hall that night? A. About eight thirty.

Q. About eight thirty? A. Yes, sir.

Q. What room did you go to? A. We went in and bought tickets, and on the way up there was two young girls there; we said "Hello" and they said "Hello" and then they asked us if we would buy them a drink when you come out, and I said we would, and I said: "Where do you go to get a drink here?" and she said: "We will show you," and we took a seat at one of the tables, and Mr.

Weinberg bought a drink, and I would treat, back and forth, and the girls, at times, took whiskey, and I took beer, but they mixed their drinks up.

Q. How long did you stay there with those girls? A. On and off, we were there about seven hours.

Q. While you were there at that table, what did you observe, first, with reference to the condition of the other inmates of the place? A. Some of them under the influence of liquor; some of the girls—one in particular, a young woman was sitting on a man's lap, and she had her hand on his private, and the woman said: "We will take a screw before the public" and the young man said: "You can't do that here; there are too many people."

Q. What else? A. I saw her going from table to table, and they were falling over each other, as the hours were getting towards morning.

Q. What can you say about the ages of the inmates there that you noticed? A. From seventeen on up to thirty—thirty-five.

Q. Was there any girls there in your judgment as young as seventeen? A. Yes, sir.

Q. Did you see them drink? A. Yes, sir.

Q. Was there any boys there seventeen? A. One or two I could almost safely say was seventeen.

Q. Did you see them drink? A. Yes, sir.

Q. What other conversation, other than you have just related? A. The young fellows would tell the girls "Go fuck yourself; go to hell;" and call them "bastards" etc.

Q. And what was the demeanor of the young girls and boys towards each other, as they would sit there? A. Very affectionate; sitting on their laps.

Q. Any other manifestations? A. I saw one or two put their tongue in each others mouth.

Q. And what can you say to the jury as to those indulging in that kind of language—under the influence of liquor at the time? A. They may have been a little, but they didn't appear to be.

Q. Didn't appear to be? A. No, sir.

Q. And were they at the table drinking at the time? A. They had drinks before them.

Q. What else did you see there that evening? A. General carousing, going around from table to table, drinking.

Q. How late did you stay there? A. Three thirty, Saturday morning, January 17th.

Q. Was there much of a crowd there as late as three thirty? A. Oh, yes.

Q. How many were there in the cabaret room then? A. To the best of my judgment, two hundred there.

Q. In the cabaret room? A. Yes, sir.

Q. Music? A. I couldn't say as to that.

Q. Any singing? A. Yes; there was a couple of young men trying to sing.

Q. Did you know any of the persons in there to be persons of bad reputation? A. Yes, sir; I saw some of them.

Q. Now, these ladies that you spoke of meeting, and having some drinks with; what was the conversation that they extended to you? A. They asked me, one did, if I wanted to go with her to her room on Clinton street; it would cost me five dollars for the rest of the night.

Q. What was their demeanor? A. Common prostitutes; and the other one, I heard her ask Mr. Weinberg several times if he was going to come up with her.

Q. Then at three thirty, did the house closeup? A. No, sir; there were some still left there.

Q. When you went away? A. They were still left there.

Q. Do you remember seeing Reverend Mr. Smith there that night? A. Yes, sir.

Q. And Mr. Payne? A. Yes, I do.

Q. Did you buy any liquor after one o'clock? A. Yes, sir; up until ten minutes before we left there.

Q. Take the witness.

Cross Examination by Mr. Marelli.

Q. What is your business? A. Private detective and investigator.

Q. How long have you been at that? A. About seventeen years.

Q. Who are you working for now? A. It is an investigation that I do not care to expose.

Q. Who is your employer? A. At the present time?

Q. Yes. A. I am in the service of the District Attorney.

Q. Of Mr. Dunn? A. Yes, sir.

Q. And who were you employed by before you were employed by Mr. Dunn? A. Mr. Weinberg.

Q. How long have you been employed by him? A. Over one year.

Q. And who before that? A. Society for the prevention of crime.

Q. How long were you employed by them? A. Over ten years.

Q. Were you ever convicted of crime? A. Yes, sir.

Q. Where? A. New York.

Q. What crime? A. Fighting.

Q. What kind? A. Street fighting.

Q. What did you get? A. Five days.

Q. Any other time? A. No, sir.

Q. Now, what is your name? A. Paul Leitenberg.

Q. How far were those people seated from you, that you say you saw put their tongues in each others mouth? A. I could almost reach them.

Q. You saw it? A. Yes, sir.

Q. You saw them put their tongues in each others mouths? A. Positively.

Q. And the people who were drinking were seated at all the tables? A. All around the house.

Q. And you say there were a couple of young men, in your opinion, about seventeen? A. I said eighteen.

Q. You don't think there were any seventeen? A. I didn't see any.

Q. How about the girls? A. There were girls there of seventeen.

Q. You are only using your judgment? A. Yes, sir; from my going around to disorderly houses.

Q. Don't you know there were a lot of chorus girls there? A. No, sir.

Q. Don't you know there were different girls there made up? A. What do you mean?

Q. You are a New Yorker, a wise guy; weren't there girls there that were made up? A. Some of them.

Q. There were some of them painted up? A. Yes, sir.

Q. There were some prostitutes there? A. Yes, sir.

Q. They were painted up? A. No, sir.

Q. Did you see all the women there? A. It was almost impossible.

Q. Weren't there about fifteen hundred people there altogether? A. I wouldn't say that.

Q. Pretty close? A. If I gave an estimate I would say one thousand; somewhere around that.

Q. And in dancing they were pretty well packed together? A. In some parts they were, and at times they were not.

Q. And down stairs pretty well packed up? A. At times.

Q. Did you take liberties with the girls? A. No, sir.

Q. Did they with you? A. They tried to, but I told her she was too young for that kind of business.

Q. They weren't too young for you to fill up with drink? A. I wasn't filling them up with drink.

Q. Didn't you and your employer keep buying them drinks? A. Yes, sir.

Q. And didn't you continually, from the time you went in there until you left? A. Not continuously.

Q. But once in a while? A. Yes, sir.

Q. You didn't think they were too young for that? A. I told them to take soda, and they did it.

Q. They did take something else? A. They took something and slipped it under the table.

Q. Didn't they slip it under the table because they had too much? A. I think they had enough of it.

Q. It wasn't through your solicitation? A. That I couldn't say.

Q. That is all.

DENT BELL, a witness produced on behalf of the State, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Dunn.

Q. Mr. Bell, where do you live? A. 58 Van Houten street.

Q. And do you know where the Helvetia Hall is located? A Yes, sir.

Q. And you live where, with reference to the Helvetia hall? A. Next door.

Q. To the entrance to the saloon, or main hall. A. Entrance to the saloon.

Q. And next is the entrance to the main hall? A. Yes, sir.

Q. How long have you been living there? A. Almost three years.

Q. During the year nineteen hundred and thirteen, from the month of April, on, say, to the month of May, nineteen hundred and fourteen, thirteen months, were you down around that place every day? A. Off and on, yes.

Q. And nights? A. Yes.

Q. During that time did you have occasion to go in Helvetia Hall? A. Went down in there during the day time.

Q. While you lived there, during the time from April, nineteen hundred and thirteen, to January first, nineteen hundred and fourteen, during the fall and winter, did you have occasion to watch the people coming out of Helvetia Hall? A. Used to watch them from my window.

Q. What was the condition of them coming out of Helvetia Hall? A. Half of them would be intoxicated.

Q. What time would they come out? A. Generally start to come out about half past eleven.

Q. And what would the crowd be as to sex? A. About half men and half women.

Q. And what can you say to us about the ages of the men and women that you saw there? A. I generally noticed from up stairs, and would be looking down at their heads.

Q. What expressions would they use as they came out? A. Some vile language sometimes, and we could hear them from the door.

Q. How far would they be away from the door when you could see them? A. About seven or eight feet.

Q. It would be a constant stream? A. Yes, sir.

Q. Now, what did you hear those people that were coming out of the hall; give to the jury some of the expressions? A. They were some of the vilest I ever heard.

Q. Just tell the jury what you heard. A. "Go screw yourself;" "Send them to Hell;" and language of that nature; common dance hall language where a bar is attached.

By Mr. Marelli.—I move that that testimony be stricken out.

By the Court.—You are too late for it.

Exception prayed, allowed and sealed.

WM. E. SEUFEFT, (L.S.)
Judge.

Q. Just be a little more in detail. A. Some would say "Go screw yourself;" "Go to hell," and some called them bastards.

By Mr. Marelli.—I object to that, and move that all this conversation, or all this talk concerning what was said outside of the hall be stricken out.

By the Court.—Your motion is too late.

By Mr. Marelli.—Too late to have it stricken out?

By the Court.—Motion denied.

Exception asked for and allowed.

Q. On any of those Saturday nights, during the period I am speaking of; take the fall of 1913, and winter of 1913, and January and February, was your attention called to any fights there with people coming out of the hall?

By Mr. Marelli.—I object to the question as not being specific enough.

By the Court.—The court is simply calling the attention of the witness to an event of a certain kind; question allowed.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)
Judge.

A. Yes; fights on several occasions.

Q. Tell us the instance of any of those fights of people coming out of the hall.

By Mr. Marelli.—I do not think the prosecutor should lead the witness.

By the Court.—It is hard to draw the line between a leading question and a suggestive question; the manner in which the court is able to determine a leading question is the nature of the answer; where

the answer calls for yes or no, but outside of that, where the attention of the witness is called to certain line of facts which does not call for a yes or no answer, the court have almost exclusively held that they are not a leading question.

Exception asked for and allowed.

(Question repeated.)

A. I don't remember no dates.

Q. Any time in the fall or winter of nineteen hundred and thirteen, was there any fights? A. Sometime after Thanksgiving.

Q. What called your attention to them? A. We came up from our meeting on Broadway, and, like other people, we went down there to see what was going on, and the police separated them.

Q. What was their conduct? A. The police were there, and they kept moving; I don't remember the date.

Q. Was there noise down there? A. There would be a noise with so many people coming out in a stream.

Q. On any other occasion did you make an observation of people coming out of the hall, and engage in a fight? A. One time when there was a colored ball.

Q. When was that? A. Sometime last year; the people were coming out and—

By the Court.

Q. Before April, 1913, or after April, 1913? A. After; somewhere after Thanksgiving.

By Mr. Dunn.

Q. Tell us what happened. A. They were dis-

orderly and we saw a colored woman take an umbrella to hit somebody.

Q. Did you see whether they came from the hall? A. I don't know where they came from.

By the Court.—Strike that out.

Q. Was there any occasion when you saw people rush out of the hall and engage in a fight?

By Mr. Marelli.—I object to the question.

By the Court.—Question overruled.

Q. Any other instant when you observed people coming out of the hall and engaging in a fight? A. No.

Q. Cross examine.

Cross Examination by Mr. Marelli.

Q. This one fight, concerning which you have testified, your attention was called to it after it had started? A. You mean the first fight; you don't mean the colored fight?

Q. Yes. A. We were coming around from Broadway, and saw the crowd gathering there.

Q. From Broadway to Main and Van Houten streets? A. Yes, sir.

Q. When you got there the fight was on? A. Yes, sir.

Q. You don't know where they came from? A. No. they were fighting when we got there.

By Mr. Marelli.—I move that that be stricken out.

By the Court.—It is corroborative of

what the police said; I will leave it in for what it is worth.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)
Judge.

Q. That is all.

ANDREW J. McBRIDE, a witness produced on behalf of the State, being first duly sworn according to law, testifies as follows:

Direct Examination by Mr. Dunn.

Q. Captain, you are the Captain of the police department? A. Yes, sir.

Q. And were you in that position during the year 1913? A. Yes, sir.

Q. From April or June, to May, 1914? A. Yes, sir.

Q. During that time just state to the jury whether you had complaints made to you by your officers who were detailed in the neighborhood of Helvetia Hall, with reference to the conduct of the hall?

By Mr. Marelli.—I object to the question on the ground that it is irrelevant and incompetent; because any reports made to him cannot be binding on the defendant.

By the Court.—The question is "Were there any reports made."

A. Yes, sir.

Q. During the year nineteen hundred and thirteen, between April and May, ninete hundred

and fourteen, were there any special orders as to assignments of men on Saturday nights in the neighborhood of Helvetia Hall?

By Mr. Marelli.—I object to the question on the ground that it is incompetent and inproper, and it is immaterial what the Captain may have done.

By the Court.—How is it material?

By Mr. Dunn.—The cross examination of the other officers who performed the duty, as to whether they made reports of this to their superior officers.

By the Court.—You have got the details in, and I think you ought to stop there.

Q. That is all.

No Cross Examination.

State Rests.

By Mr. Marelli.—I move that all evidence concerning the age of the persons who are alleged to have frequented this hall, except such evidence as was given concerning the age of two, where specific ages were given, be stricken out, on the ground that the evidence given was not proof of age, and this being a criminal staute, all the essential elements that constitute the crime of keeping a disorderly house must be proved, and I contend that when a person goes on the stand and testifies concerning the age of a person that witness must prove the age.

By the Court.—Motion denied.
Exception prayed, allowed and sealed.
WM. E. SEUFERT, (L.S.)
Judge.

Now, I ask that the jury be directed to acquit the defendant on the ground that the evidence adduced does not show that the defendant is guilty of the crime of which he is alleged to be guilty.

By the Court.—Motion denied.
Exception prayed, allowed and sealed.
WM. E. SEUFERT, (L.S.)
Judge.

At this point an adjournment was taken until Tuesday, the twenty-second day of December, 1914, at ten o'clock, A. M.

Court convened on Tuesday, the twenty-second day of December, 1914, at 10 o'clock A. M., as per adjournment.

Mr. Hunziker opens for the defendant.

T. SIMPSON STANDEVEN, a witness produced on behalf of the defendant, being first duly sworn according to law, testifies as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Simpson, I believe that you have testified that you are the City Clerk of the City of Paterson? A. Yes, sir.

Q. Have you with you this morning any licenses with reference to Helvetia Hall on Van Houten street? A. I have the stubs.

Q. Can you, referring to these stubs, tell the court and jury, tell whether any licenses were

issued to people to conduct dances at Helvetia Hall? A. I could.

Q. Will you turn to them? A. I didn't bring stubs all the way through.

Q. What have you? A. I have the ones you requested me to bring.

Q. What are they?

By the Court.

Q. Do I understand that licenses are granted, and that they are granted for the term of one year? A. Yes, sir.

Q. What have you there? A. I have two stubs here, granted to Harold Barlow.

Q. When was that for? A. License stub No. 705, for twenty-five dollars, issued to Harold Barlow, October 11th, 1913.

Q. What was the license for? A. To conduct a dance hall.

By the Court.

Q. What date? A. October 11, 1913.

By Mr. Hunziker.

Q. For one day? A. No, sir; on to October 11th, 1914.

Q. Have you a license to run a dance for January 16th, 1914? A. Yes, sir.

Q. And to whom was that issued? A. License No. 920, the Orpheum Chorus Girls; Same Cohen, President.

Q. Does that indicate for what that license was granted? A. Yes; to hold a dance in Helvetia Hall.

Q. That is all.

Cross Examination by Mr. Dunn.

Q. How do you issue that? A. Well, Mr. Barlow could run a dance there any night but if an individual wanted to run off a dance there any one night in that year, he would have to get a separate license

Q. Couldn't he get another license? A. No, sir; he wouldn't be responsible.

Q. Who is this Cohen? A. I know him when I see him.

Q. There is no such organization as Orpheum Chorus Girls, is there, so far as you know?

By Mr. Hunziker.—I object to the question.

Q. Do you know whether there is any such corporation, or body, known as the Orpheum Chorus Girls Association?

By Mr. Hunziker.—I object to the question.

By the Court.—The question is addressed as to whether or not there is.

A. I don't know personally.

Q. So far as your knowledge goes it may be a myth or fiction? A. About ninety-five percent of them are.

By the Court.—Strike that out.

Q. You have told us all you know about Mr. Cohen? A. Yes, sir.

By Mr. Hunziker.

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

Q. Do you know whether or not he is connected with the Orpheum Theatre? A. I know he was on account of the business he had with me.

By Mr. Dunn.

Q. This license doesn't give them any license to sell liquors in the part of the building? A. Oh no.

Q. That is all.

ADOLPH GUNTZEL, a witness produced on behalf of the defendant, being first duly sworn according to law, testifies as follows:

Direct Examination by Mr. Hunziker.

Q. Where do you live? A. 56 Van Houten street, Helvetia Hall.

Q. How long have you lived there? A. Over three years.

Q. Are you a maried man? A. Yes, sir.

Q. Live with your wife? A. Yes, sir.

Q. Live with you at this place? A. Yes, sir.

Q. What is your business? A. Printer.

Q. Employed in Paterson? A. Yes, sir; Evening News for thirteen years.

Q. How long have you lived in Paterson? A. Same length of time.

Q. You say you live in Helvetia Hall? A. Yes; I live next to the family kitchen.

Q. Where do you get your meals? A. Outside to the lunch rooms, and sometimes down stairs.

Q. How many rooms have you? A. Two rooms but one I only have for my baggage.

Q. Now, Mr. Guntzel, do you know as to the entertainments being held at Helvetia Hall while you have been there? A. Yes, sir.

Q. Do you know whether these entertainments, or cabaret shows have been held there during April, nineteen hundred and thirteen, down to May 8th, 1914? A. Yes, sir.

Q. Did you ever attend these entertainments? A. Yes, sir.

Q. What nights were they usually held on? A. Saturday nights.

Q. During the time I have mentioned have you attended these performances? A. Well, I walk down some time to get my glass of beer, as I am a German, and I look in.

Q. Does that happen many times? A. Yes, sir.

Q. Tell the court and jury how many times that happens. A. That happens nearly every Saturday.

Q. And what time of day or evening would it be? A. Different times; it is always in full swing.

Q. And were there times when you stayed in there for a time? A. Yes, sir.

Q. How long would you stay? A. Say ten minutes.

Q. And did you, while you were there, notice the people, what they were doing? A. Yes, sir; drinking their glass of beer.

Q. What can you say about the conduct there, one towards another? A. They enjoyed their glass of beer, and I didn't see anything out of the way, or else I wouldn't live there.

Q. Just answer the question. Did you ever know the ages of the people you saw there? A. Yes; so much I know it, the charge of the young people being there—

Q. Never mind the charge; I ask you the ages of the people there? A. None under eighteen that I could see.

Q. Did you ever see anyone there that, in your judgment, from their appearance, they were under eighteen years of age? A. No; more elderly people who came with their bundles and drink their glass of beer; some tables were full of bundles.

Q. Did you ever see any familiarities between men and women and young men and young women while you were there? A. No; I never saw it.

Q. Do you remember the night of January 16th, 1914? A. I can remember I guess; it was the day of the Chorus Girls Ball.

Q. Can you remember the fact? A. Yes.

Q. Were you there that night? A. I can't say positively, but I think I was for a short time.

Q. You think you was? A. Yes.

Q. Is there anything that will help your recollection as to whether you were there that night? A. I think I was there for a very short time to have a look at it.

Q. Can you say about what time of the evening you were there? A. About eight o'clock.

Q. And do you remember what part of the building you were in? A. In the hall; in the cabaret; of course, I walked right through my rooms and go to the gallery door and have a look.

Q. How long did you stay; can you say? A. Not over ten minutes.

Adolph Guntzel—cross.

Q. What can you say as to the ages of the people there, if you can remember? A. Saw none under eigtheen years.

Q. Did you see any girls or women there who looked younger? A. Yes, the actors; of course, there was some actors there, but I didn't know where they were from.

Q. Was there anything about their appearance that would indicate that they were young, or looked young? A. No; I didn't see it.

Q. Did you see any one there in short dresses? A. Not short I didn't; not what you would call short dresses.

Q. From the knee down, or from the ankle up? A. No; I didn't see anything out of the way.

By Mr. Dunn.—I move that that be stricken out.

By the Court.—No; I will leave it in.

Q. Did you see any girls with curls hanging down their back? A. Not the whole hairs.

Q. With a braid—anything down their back, in girlish fashion? A. No, sir.

Q. Did you see anybody there that night that was under the influence of liquor? A. No, sir.

Q. What can you say as to the cabaret performances; seeing anybody under the influence of liquor on Saturday nights? A. No.

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. You never saw anybody in the cabaret under the influence of liquor? A. No.

Q. Old or young? A. No, sir; not inside.

Q. Where did you see them? A. Outside on the streets.

Q. Coming out of this hall? A. No; not coming out.

Q. You went in there on the sixteenth, to this Chorus Girls Ball; you came to the gallery and stayed there about ten minutes? A. Yes, sir.

Q. And then went back to your room? A. Yes, sir.

Q. And didn't come out again that evening or not? A. No, sir.

Q. Do you know whether there was a show on at the Orpheum that night? A. I think so.

Q. Now, you didn't go down in the cabaret this night that you came out up stairs in the ball room from your room; you didn't come down in the cabaret that night? A. Not when I came out; I went back in my room again; I might come down to get beer; but I don't know.

Q. You are quite intimate with Mr. Koettgen? A. I don't think so; I don't see him very often I don't see him much; I pay my rent to Mrs. Koettgen.

Q. Whenever you were in the cabaret or hall, he was in the hall looking after things? A. Yes, sir.

Q. He was the man that gave orders? A. I saw him looking around.

Q. You have seen him up in the dance hall, too? A. I seen him up in the dance hall.

Q. Now, you spoke about being in the cabaret on Saturday nights and remaining there a short time; while you were there you never saw anybody under the influence of liquor any time? A. No, sir.

Q. And you sat down at the table by yourself? A. No; I stand up; I don't sit down; I talk to Mrs. Koettgen, and there was a time, but that was years ago, that I would sit down.

Q. But this time she was living with you and you would go in and get a glass of beer, and then go out? A. Yes, sir.

Q. This time your wife was living there with you? A. Yes, sir.

Q. That is all.

OTTO HORNING, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Horning, where do you reside? A. 56 Van Houten street.

Q. Is that Helvetia Hall? A. Yes, sir.

Q. How long have you lived there? A. Nearly a year and three quarters.

Q. Are you a boarder there? A. Yes, sir.

Q. Get your meals there? A. Yes, sir.

Q. Have you a room there? A. Yes. sir.

Q. Are you married or single? A. Single.

Q. What is your business? A. Watch maker.

Q. How long have you been in Paterson? A. Almost fifty-four years.

Q. And have you resided in Helvetia Hall from April first, 1913, to May, 1914? A. Yes, sir.

Q. During all that period? A. Yes, sir.

Q. Do you know whether or not entertainments were held in the cabaret room during that time? A. Yes, sir.

Q. What nights were they held on? A. Saturday nights, always.

Q. Did you ever visit these entertainments? A. Yes, sir.

Q. How often? A. Every Saturday night.

Q. What time of the evening would you call in there? A. Oh, nine o'clock; half past nine; ten o'clock.

Q. How long would you stay? A. Different times; go in awhile and then go out, and then go back again.

Q. Did you seat yourself or not in the cabaret room? A. Yes; seated myself and talked to people.

Q. What can you say, Mr. Horning, as to the conduct of the people that attended those entertainments? A. I never saw anything wrong during all that time.

Q. Ever see any familiarities? A. No, sir.

Q. What can you say as to the conduct of the people, with reference to their sobriety? A. I never saw an intoxicated man.

Q. How about women? A. No, sir; I knew they wouldn't allow it.

By Mr. Dunn.—I move that that be stricken out.

By the Court.—Strike it out.

Q. Mr. Horning, did you ever observe the people who attended these entertainments, with reference to their ages? A. Whose ages?

Q. What can you say as to whether young people attended those entertainments, and how young? A. From eighteen, nineteen and twenty; no younger than eighteen; older than that.

Q. Did you ever see anybody there, in your judgment, under eighteen years of age, male or female, in your judgment, male or female? A. No, sir.

Q. Do you remember the night of January sixteenth, nineteen hundred and fourteen? A. Yes, sir.

Q. Do you know if that was the occasion of the show called Chorus Girls Ball? A. Yes, sir.

Q. Were you in Helvetia Hall that evening? A. I was.

Q. From what time until when? A. I went to the ball about half past nine, up stairs, and then I came down in the cabaret.

Q. How long did you stay there? A. Didn't retire probably until two o'clock in the morning.

Q. What can you say as to the conduct of the people in the cabaret room that night? A. I never saw anything improper.

Q. Did you see any manifestations of affection between male and female there that night? A. No, sir.

Q. See men and women having their arms around each other? A. I did not.

Q. Did you see any intoxication there? A. I did not; I saw men and women drinking, but no intoxication.

Q. Did you see anything lewd or indecent? A. No, sir.

Q. What part of the room were you sitting in? A. Sitting at a table; sitting there alone.

Q. On that evening, what can you say as to whether there were any young people there from your observation, under eighteen years of age? A. I didn't see anybody in my judgment, under eighteen years of age.

Q. Did you see any girls there under eighteen years of age? A. I did not; no, sir.

Q. Mr. Horning, I believe that you said that on that night you were also in the dance hall? A. Yes, sir.

Q. When were you there; what hour? A. At intervals I was up stairs.

Q. What can you say about seeing intoxicated people there? A. I didn't see no intoxicated persons at no time.

Q. Do you remember whether or not you were in this hall at the time Sergeant Ryan came there with some police officers? A. I was there that Saturday evening.

Q. And you were in the room when Sergeant Ryan came in? A. Yes, sir.

Q. Did you see what transpired there? A. Yes, sir; there was quite some commotion.

Q. You saw what occurred there? A. Yes, sir.

Q. Just tell the court and jury what occurred there? A. He seemed to be quite excited, and I think he was there twice.

Q. That evening? A. I think so; I went up there and he ordered the people out.

Q. At the time he ordered the people out, what was going on in the cabaret room? A. People were sitting; men and women, drinking.

Q. Any unusual conduct? A. No, sir.

Q. Anything with the aspeck of disorder? A No, sir.

Q. After he told the people to get out what happened? A. The people went out.

Q. Did you notice any skuffle? A. I didn't notice; I went out; I know something took place.

Q. Did you notice, while you were there, that Sergeant Ryan placed somebody under arrest? A.

I think he and Mr. Heink placed somebody under arrest; I saw Mr. Heink take somebody out.

Q. Did you see any occasion for it? A. No, sir

Q. Did you leave the hall before Sergeant Ryan did. I was there for just a moment, talking to Mr. Baxter.

Q. What time of the evening was that? A. I should judge around about half past ten, or a quarter past ten; somewhere around that time.

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. Were you there when Sergeant Ryan came in and spoke to Officer McGee? A. Yes, sir.

Q. At that time how many were in there? A. About one hundred.

Q. Where were you? A. I think I sat on the right hand side as you go in.

Q. Accompanied with anybody? A. I think Mr. Baxter was there.

Q. Did you go out when Sergeant Ryan came? A. I went in the cafe.

Q. Did you hear him speaking to Mr. McGee? A. No, sir; I didn't hear him.

Q. At that time were there any people in there intoxicated? A. No, sir.

Q. You weren't looking for anybody intoxicated? A. No, sir.

Q. You were just walking around? A. I couldn't help observing it.

Q. You weren't there as an officer, but as a boarder? A. No, sir; I was a boarder.

Q. You had no occasion to observe whether the young girls there, or young boys were old or young, as to whether they were sixteen or eighteen? A. I didn't observe any young boys.

Q. Did you see any middle aged girls there? A. Around thirty-five, thirty-eight, twenty-seven.

Q. That you were acquainted with? A. I am not acquainted with them.

Q. Did you see any street walkers there? A. I am not acquainted with them either.

Q. Did you ever see any from April 13th, 1913, down to May 8th, 1914, did you ever see any prostitutes or whores in there? A. No, sir.

Q. Do you know Mamie Mackey? A. No, sir.

Q. Do you know Ethel Holmes? A. I do not; no.

Q. Do you know the Sands girl? A. No.

Q. Do you know Margaret Ryan? A. No, sir.

Q. Do you know the Swords girl? A. No, sir.

Q. Do you know the Parrington girl? A. No, sir.

Q. They might be there and you not know them? A. That is true.

Q. Now, you think that when Officer Ryan came in there on April 11th, there was no noise or disorder? A. I saw none.

Q. Why did he call Officer McGee over to him? A. I don't know; he said he was sent down.

Q. Were you there when the fight occurred? A. There was a skrimmage, yes.

Q. Didn't you see Sergeant Ryan go over there and throw them apart? A. Yes, sir.

Q. And go over and hand them to the officer? A. Yes, sir.

Q. Who started that? A. I don't know; I was on the other side.

Q. And as soon as you saw that you immediately walked away? A. I didn't immediately.

Q. You didn't stay there? A. I went out in the cafe.

Q. You say up to that time there had been nobody under the influence of liquor? A. I didn't see any.

Q. You weren't looking for any disorder? A. No, sir.

Q. Any other Saturday nights that you have been in there you didn't look for any disorders? A. I did not.

Q. There is a stairs leading from the dance hall to the cabaret room? A. Yes, sir.

Q. Did you ever see any boys and girls coming from the dance hall down to the cabaret room? A. No, sir.

Q. Your eye sight is good? A. Yes, sir; if it is a large person.

Q. You couldn't see a boy or girl sixteen years of age? A. Oh, yes.

Q. And you weren't looking to see whether the girl had her arm around the boys neck, or the boy around the girl's neck? A. No, sir.

Q. And you never saw any woman with her arm around a man's neck? A. No, sir.

Q. If you did you would have fainted; what would you do? A. Nothing.

Q. Did you see Officer Moore there that night? A. No, sir.

Q. Did you see Officer Kinney there? A. No, sir.

Q. Did you see Officer Elvin there? A. No, sir.

Q. Did you ever see Officer Stapleton there? A. Once, on the outside.

Q. Did you ever see Detective Brooks there? A No; I didn't.

Q. Do you recall any Saturday night when you saw officers stationed at the door leading to the

hall? A. Very seldom see them there; before I have.

Q. Don't you know, Mr. Horning, for a year and a half there hasn't been sent from eight to ten officers down there every Saturday night? A. No, sir.

Q. You are not employed by Mr. Koettgen? A. No, sir.

Q. You pay for your board? A. Yes, sir.

Q. He doesn't keep you around there? A. Sometimes I take a walk on Saturday nights.

Q. If these officers were outside you wouldn't see them? A. If I happened to take a walk out I would.

Q. You don't stand outside of that hall until eleven or twelve o'clock watching for officers? A. No, sir.

Q. Did you ever follow the crowd from the hall out in the street at a quarter to twelve, to see if there were officers there? A. No, sir.

Q. You never heard of a fight there? A. Yes; I remember one time of Mr. McGee taking a man out and having him arrested.

Q. How long ago was that? A. I don't know; quite some time ago.

Q. Did you ever hear of a man with three cuts on his hand? A. With his razor, and they sent for an officer and took him away.

Q. You said you thought Officer Ryan was excited? A. He was excited.

Q. You were cool? A. I was there drinking my beer with a friend.

Q. Now, when you heard him address people, that you and others would have to get out of the hall— A. What was that?

Q. You heard him say the people would have to go out of the hall—close up? A. I just went out.

Q. Now, if there was nothing wrong going on, why would Officer Ryan come in there with a lot of other officers for and order the people out? A. I thought I would go out in the cafe; not because the officer said so.

Q. But everybody got out? A. I don't know whether everybody did; I went out in the cafe. I know I came back later and there were some few people there.

Q. Were you there the night of the chorus girls ball? A. I was.

Q. What time did they come in? A. After the theatre closed.

Q. What time was that? A. About half past ten.

Q. There was none of the chorus girls that had hair down their back? A. I didn't notice it.

Q. There was none of the chorus girls that had sort dresses? A. No, sir.

Q. After the chorus girls came there, were you up in the ball room? A. I couldn't say.

Q. How many chorus girls were there? A. I didn't count them.

Q. How many do you think? A. Twelve or fifteen.

Q. Were they old or young? A. I can't tell the age of people; if I was a vetinarian I might look at their teeth.

Q. You can't tell whether the girls were young? A. Eighteen—twenty.

Q. Why do you say eighteen; can't you tell us they were seventeen? A. I don't know.

Q. Weren't the chorus girls painted a little? A. Some of them.

Q. Did you speak to any of them? A. Yes, sir.

Q. Have anything to drink with them? A. Yes, sir.

Q. Where; up in the ball room, or in the cabaret room? A. I don't know; I sat down there and asked a lady to have a drink with me, and she asquiesced with me and talked to me.

Q. Did you see Mr. Smith there that night? A. I don't remember.

Q. Didn't see Mr. George Hardy Payne? A. No, sir.

Q. Did you see Mr. Weinberg there that night? A. I think I did.

Q. He was enjoying himself? A. Yes; I didn't take any notice.

Q. And you are still boarding at Mr. Koettgen's place? A. I certainly am.

Q. And you never saw anything improper in the place? A. No, sir.

Q. And never saw a bad character in the place? A. I don't know what a bad character is.

Q. You never saw any there? A. No, sir.

Q. Where are you working now? A. For myself for the last twenty-two years.

Q. Where is your business located? A. Sixty-eight Broadway.

Q. That is all.

By Juror No. 1.

Q. You said that you didn't see any officers there at any time; I would like to know if you are acquainted with the plain clothes men? A. I am; yes, sir.

Q. You never saw them there? A. Not to my knowledge.

By Mr. Hunziker.

Q. Can you give us your estimate of the number of people there on the night of January sixteenth? A. A very large ball.

Q. How large a ball? A. The ball was very well filled, and the cabaret; maybe one thousand or eleven hundred, or twelve hundred.

Q. Did you see any police officers there that night? A. I didn't; no.

Q. That is all.

THEODORE HAEFLE, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Where do you live? A. 61 Van Houten street.

Q. Near Helvetia Hall? A. Opposite.

Q. What is your business? A. Silk worker.

Q. How long have you lived at the address you mentioned? A. A little over two years.

Q. And during that time have you visited Helvetia Hall? A. I eat my meals there.

Q. All your meals? A. All my meals.

Q. Have you visited there on Saturday nights during that time? A. Several times.

Q. How many times? A. Say a half dozen times or more.

Q. Can you say when it was that you made those visits; what months? A. No; I couldn't say when it was, but a half dozen times.

Q. Have you been in the cabaret room? A. I have been there.

Q. How many times? A. Same number of times.

Q. How long would you stay there? A. Probably one hour, and an hour and a half.

Q. Were your visits any time between April 1st, and May 8th, 1914? A. Yes.

Q. What can you say as to the number of people, first, that you saw there when you visited? A. Between one hundred and two hundred.

Q. And what can you say as to their conduct toward one another? A. They behaved themselves.

Q. Did you see anything that impressed you as being improper? A. No.

Q. Did you see anything that was immodest? A. No.

Q. Or lewd? A. No.

Q. Did you see any manifestations between the men and the women? A. No.

Q. And hugging and kissing? A. No.

Q. What can you say as to the ages of the people you saw there; whether young or not? A. What would be considered old?

Q. Give us your idea of their ages? A. Twenty and over.

Q. Did you ever, on the occasions that you were there, see any young people there; real young people, boys or girls, girls—any girls with short clothes? A. Never.

Q. What can you say as to whether any of the people that you saw there were intoxicated? A. No; never intoxicated.

Q. Did you ever see any fighting there, or quarreling or scuffling? A. Not while I was there; no.

Q. Were you there on the night of the Chorus Girls Ball? A. I was.

Q. What time did you go there? A. Shortly after the doors opened; probably about half past nine.

Q. And how long did you remain? A. I can't give a positive statement; say one o'clock.

Q. Were you alone, or in company with others? A. In company with others.

Q. With men or women? A. Both.

Q. Where were you? A. In the dance hall and in the cabaret both.

Q. While you were in the dance hall, what can you say of the conduct of the people there? A. They behaved themselves.

Q. Any disorder there? A. No; they were very orderly.

Q. See any improprieties? A. No.

Q. Any intoxicated people there at the dance? A. I didn't see any.

Q. See any real young people there at the dance? A. Real young girls?

Q. Girls. A. No.

Q. Did you see any that in your judgment was under eighteen years of age? A. No.

Q. In the cabaret show, what can you say as to whether there were any intoxicated people there? A. I didn't see any.

Q. See any improprieties there? A. No.

Q. Any lewd or immodest conduct there? A. Positively, no.

Q. Can you say whether or not you saw any members of the police department there on the evening of January sixteenth; the evening of the Chorus Girls Ball? A. In uniform?

Q. Or not? A. I saw no members there.

Q. Either in unimorm or not? A. I know no plain clothes men.

Q. Do you know whether or not on Saturday nights there is any police officers or constables in attendance? A. Yes, sir.

Q. Who is he or they? A. There is Charles McGee, but I don't know the other.

Q. Are there one or two? A. Two.

Q. Where do they station themselves? A. Charles McGee is always stationed by the door, in the cabaret room.

Q. How about the other man? A. Up stairs in the dance hall.

Q. Are there dances there Saturday nights? A. Yes, sir.

Q. Up stairs? A. Up stairs.

Q. Have you ever seen more than one officer or constable on Saturday nights? A. I have seen the two together, but I don't know whether they make a practice of staying together or not.

Q. How many boarders, if you know, were there in Helvetia Hall during this period from April, nineteen hundred and thirteen to May, nineteen hundred and fourteen, or lodgers who roomed there? A. It would vary, from ten to twenty.

Q. Are there any married couples there that you know of? A. I think I know of two at the present time.

Q. How long have they been there? A. Mr. Guntzel and wife have been there before I have been there, and the other married couple have been there as long as they have been in the country; a few months.

Q. The last few months? A. Yes, sir.

Q. Do you remember being in the cabaret room

on the occasion when Sergeant Ryan came there with some police officers? A. I wasn't there that night.

Q. Did you ever see any quarreling or fighting there? A. No.

Q. Did you ever observe the conduct of the people upon leaving the hall? A. I never left with them; I have come down and observed them going home.

Q. Did you ever see any fights outside the hall? A. I have never seen a fight.

Q. By the people who came out? A. No.

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. Did you usually pass by there before they came out, or after they came out? A. Different times I have come home about the same time; about half past eleven or twelve o'clock; came down Van Houten street, and see the crowd from the Orpheum Theatre and different cafes around there.

Q. What time does the Orpheum get out? A. About eleven o'clock.

Q. What time do they close Helvetia Hall? A. Twelve o'clock.

Q. So the time the crowd comes out of the Helvetia is not the same time that the crowds come from the Orpheum? A. No.

Q. You still live with Mr. Kitchen? A. I don't live with him; I just get my meals there.

Q. You and your wife? A. I can't live with my wife, because she don't live in this town.

Q. You don't live with your wife? A. No, sir

Q. Where do you live? A. 61 Van Houten street.

Q. With whom do you live? A. Mr. Omhultz.

Q. Haven't you heard him complain about the noise that the crowd made when they came out of Helvetia Hall on a Saturday night? A. No.

Q. Never heard him say a word about it? A. Never said a word to me about it.

Q. Where do you work? A. Migel and Blum.

Q. How long have you worked there? A. Four years.

Q. Your wife never around here any portion of the time? A. No.

Q. Do you visit her? A. No.

Q. Does she visit you? A. No.

Q. Now, during the time—you had a companion that night; didn't you, a lady companion? A. For the evening, probably; I was in the company of men and women.

Q. And you danced? A. With who; the one I invited.

Q. Your lady? A. I wouldn't say my lady.

Q. Your company? A. My company, yes.

Q. Then you were interested and wasn't paying any attention with other things? A. Not particularly.

Q. You spoke about being there on different Saturday nights when there would be one hundred or two hundred people in there? A. Yes, sir.

Q. Any of those Saturday nights you never saw any of the officers, Mr. Moore, Mr. Kinney, Mr. Brooks down there, nor Stapleton down there, nor Elvin? A. I don't know them.

Q. Do you know Violet Tueffel? A. No.

Q. The Campion girl? A. No.

Q. Clara Swords? A. No.

Q. The Parrington girl? A. No.

Q. Don't know any of those girls? A. No.

Q. Do you know the Burns girl? A. No.

Q. The Mackey girl? A. No.

Q. They might have been there and you wouldn't know them? A. They might have been.

Q. You were there the night of the dance? A. What dance.

Q. The night of the sixteenth? A. Yes, sir.

Q. You saw young people there, boys? A. What do you call boys?

Q. Sixteen or seventeen years old. A. No.

Q. Did you notice any girls there with their hair braided down their back? A. No.

Q. Didn't notice that? A. No.

Q. Might have been there? A. No.

Q. Was there any fight up in the gallery? A. No; there wasn't any there.

Q. Didn't see any drunken women dance in a vulgar, indecent way, and had to be removed? A. No.

Q. That is all.

JAMES MILLER, a witness produced on behalf of the defendant, being first duly sowrn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Miller, where do you live? A. 63 Van Houten street.

Q. And how long have you lived in that locality? A. Seventy years.

Q. How long? A. Seventy years.

Q. Seventy years? A. Yes, sir.

Q. You own property there? A. Yes, sir.

Q. You own the property in which you live, do you? A. Yes, sir.

Q. And you are a married man, or were? A. Yes, sir.

Q. And have you lived there during all that time, with your family? A. Except the year of the big fire.

Q. Where is Helvetia Hall from your place? A. I guess in the neighborhood of seventy-five feet from my place.

Q. During the time from April first, nineteen hundred and thirteen, until May the eighth, nineteen hundred and fourteen, did you have occasion to visit Helvetia Hall? A. What month?

Q. During the period from April first, nineteen hundred and thirteen, to May the eighth, nineteen hundred and fourteen? A. I did in May.

Q. May of what year? A. Nineteen hundred and fourteen.

Q. Before May eighth, or after? A. I couldn't tell you; I know the first of May I was sick, but I came out early.

Q. During the year before that had you been there at all? A. Sir?

Q. During the year before the first of May, had you been in Helvetia Hall? A. Yes, sir.

Q. How often? A. Go every Saturday night.

Q. And where do you go? A. Go down stairs; sit there a while, and then go and hear the singing.

Q. What hour of the night would you go there? A. I would be in there about half past eight or nine o'clock.

Q. And how long would you stay there? A. An hour and a half or two hours.

Q. What can you say about the conduct of the people that you saw there? A. I never saw any-

thing disorderly there while I was there.

Q. Did you ever see any lewd conduct there? A. No, sir.

Q. Did you ever see any familiarity of the sexes indulged in there? A. No, sir.

Q. What can you say about whether there are any very young people who attend these entertainments? A. There was working people who came in there, and some with their lady friend who came in for their glass of beer.

Q. How about the ages of the people; whether they are under twenty-one years of age? A. I don't think there are many under twenty-one years of age by the looks of them.

Q. From your observation of them; seeing them there, do you think there was any boys or girls there under eighteen years of age? A. I don't think so.

Q. Is that your best judgment? A. Yes, sir.

Q. What can you say about the people being intoxicated, or intoxicated people there? A. I have seen people come in there intoxicated, and I have seen Officer McGee throw them out.

Q. Have you ever seen intoxicated people served there? A. No, sir.

Q. Have you seen intoxicated people frequenting the place and remain there any length of time A. No, sir.

Q. Do you remember the night of January the sixteenth, nineteen hundred and fourteen; the Chorus Girls Ball? A. I remember the ball coming off, but I wasn't there that night.

Q. You weren't there? A. No, sir.

Q. Mr. Miller, upon the occasions that you were there, have you seen any police officers, or constables there? A. Yes, sir.

James Miller—cross.

Q. What police officers, or what constables have you seen there? A. I saw there one night, I saw Officer Fitzpatrick come in.

Q. Anybody else? A. Seen Constables McGee and another one there.

Q. Any regular constables there? A. Yes, sir.

Q. Who are they? A. Officer McGee.

Q. Is the other one's name Clark? A. Yes, sir.

Q. Where are they? A. Charley McGee is stationed at the door going into the cabaret.

Q. And Officer Clark, where is he stationed? A. At the dance hall.

Q. Is Officer McGee stationed where he can observe the people in the cabaret room, or while they are in or going in? A. He could see them going in or out and I have also seen him in the cabaret.

Q. Have you ever seen any fighting there or quarreling there? A. Never seen a quarrel or fight in there in my life.

Q. Were you there the night Sergeant Ryan came in with some police officers? A. I wasn't there when he came in, but I was there before he went out.

Q. Now, Mr. Miller, in this cabaret room, what is the nature of the entertainment there? A. They have a lady singer, and a gentleman singer.

Q. And in the way of instrumental music? A. They have a piano there and sing songs there.

Q. Take the witness.

Cross Examination by Mr. Dunn.

Q. Where did you usually sit when you went in the cabaret room? A. I used to sit in all parts of it; sometimes to the right; sometimes to the left, and sometimes in the middle.

Q. You speak of being in there during the year nineteen hundred and thirteen; were you in there during the month of November, nineteen hundred and thirteen? Do you recall being in there during the month of November or October, nineteen hundred and thirteen? A. Does it come on a Saturday night.

Q. Were you there any Saturday night? A. I was in there every Saturday night.

Q. Do you know Mr. Robert Close, the detective? A. Yes, sir.

Q. Was he there? A. He was never there when I was there.

Q. Usually you go to bed very early? A. Sometimes.

Q. How about Saturday night? A. I usually turn in about half past ten or half past eleven.

Q. More often half past ten? A. No; more often near twelve o'clock.

Q. Did you ever complain about the disorder there? A. No, sir.

Q. Didn't you ever make a complaint to Captain McBride, and ask him to stop it? A. No, sir.

Q. You know Captain McBride? A. Yes, sir; I may have complained about the theatre people.

Q. No; I am asking you about Helvetia Hall. A. No, sir.

Q. You have been quite interested in Mr. Koettgen's case? A. I have known him for twenty-five years.

Q. You are quite familiar with him? A. No, sir.

Q. Haven't you had a talk with him about this case? A. No, sir.

Q. Haven't had any interview with his counsel? A. No, sir; and they can say so themselves.

Q. Now, Mr. Miller. you said you didn't think there were any persons in that room under eighteen years of age; now you didn't make any observation of people, to see the age of the people in there? A. No; but I can tell a person when I see them.

Q. You didn't go there looking for that? A. Looking for the age; no.

Q. And you didn't go there to dance? A. No.

Q. Did you ever, while in the cabaret room—you said you sometimes went in there around eight thirty, did you ever while you were in the cabaret room, see a crowd come down from the dance hall? A. I couldn't see them; they might have come from the street for all I know.

Q. There is a back stairs; did you ever see them come down the back stairs? A. No, sir.

Q. The people that you did see come in, did you see them with their hats off, or coats off? A. They always came in with some kind of a rigging on their head.

Q. Haven't you never saw them come from the up stairs part to the down stairs part? A. No, sir.

Q. You went in there yourself to be entertained and have a little refreshment, and then go home? Yes, sir.

Q. Then you never bothered with what other people did? A. No, sir.

Q. You weren't a detective? A. No.

Q. You went and got what you wanted, and then went off about your business? A. And maybe came back again.

Q. What for? A. To get another drink.

Q. Would you have to come way back to this hall to get a drink? A. Yes, sir.

Q. Would you go in the bar, or in the cabaret? A. In the cabaret.

Q. You don't drink much whiskey? A. Who told you that?

Q. Or much beer? A. Who told you that?

Q. Do you? I never heard that you were a man that indulged in liquor; do you mean to tell the jury that you would go in there and drink for an hour and then go out, and then go back and have another drink before you would go home? A Yes, sir.

Q. How many would be in there on a Saturday night? A. Sometimes it would be quite full.

Q. How many? A. I should judge in the neighborhood of one hundred, one hundred and fifty.

Q. In the cabaret room? A. Yes, sir.

Q. You never went up stairs? A. I never went up stairs.

Q. Now, you said you had been there nights when you saw Offiicer McGee grab a hold of fellows and throw them out? A. I have.

Q. How often? A. I was there one night and a person came in and he was drunk, and started to talk very loud, and Offiicer McGee took him by the neck and threw him in the street.

Q. Down on the street? A. Took him out of the hall altogether.

Q. Was that the only occasion you saw him do that? A. I have seen Offiicer McGee stand there and refuse to let young women to come in.

Q. Drunk or sober? A. Perfectly sober.

Q. How could he keep them out if they paid? A. This was in the cabaret.

Q. If they wanted to go up in the dance hall, that was different? A. I don't know that.

Q. Did the fellow that McGee threw out; had he been served with a drink? A. No, sir; the waiters wouldn't serve him.

Q. That was the only disturbance you saw in the place? A. Yes, sir.

Q. You were there when Sergeant Ryan was there? A. I came in just as he went out.

Q. Did you know then that Mr. Koettgen threatened to get an injunction against Mr. Ryan for interfering with his business? A. I wasn't there.

Q. When did you see Offiicer Fitzpatrick there? A. I can't recall the place.

Q. Was that on a Sunday night when he pulled the place? A. No, sir; it was on a Saturday night.

Q. You weren't there on that night? A. No, sir.

Q. Do you know Detective Close? A. Yes, sir.

Q. And Offiicer Moore? A. Yes, sir.

Q. And Officer Hearney? A. Yes, sir.

Q. And Kinney? A. Yes, sir.

Q. And Stapleton? A. Yes, sir.

Q. And Officer Smith? A. Yes, sir.

Q. And Officer Brooks? A. I do.

Q. Were you ever there during November and December, nineteen hundred and thirteen? A. Don't remember seeing any.

Q. Were you in there in January, February, March, April and May? A. I was sick.

Q. Sick in January? A. I was taken sick on the second of February, and didn't get out until June.

Q. The night you saw Officer Fitzpatrick there,

what was he doing? A. I think talking to Officer McGee.

Q. Did you ever see any extra police officers in the neighborhood of the hall, around half past eleven or twelve o'clock at night, during the period from April, nineteen hundred and thirteen, to May, nineteen hundred and fourteen? A. No, sir.

Q. Didn't know they were there? A. No, sir.

Q. That is all.

By Mr. Hunziker.

Q. How many saloons and places of entertainment are there in that immediate neighborhood? A. One, two, three, and Helvetia Hall is four.

Q. Saloons? A. Yes, sir.

Q. How far away are the other three from Helvetia Hall? A. Take Hoebler's; that is across the street, and Hobson's.

Q. How far is that? A. About eighty feet and then there is Mr. Kane's; he is up the street a little further.

Q. Is there a saloon also in the theatre building? A. Yes, sir.

Q. That makes four? A. Four in that bunch.

Q. Where is Helvetia Hall, with reference to that bunch? A. Right across the street.

Q. What kind of performances do they give in Helvetia Hall? A. Piano playing and singing.

By Mr. Dunn.

Q. Are there any other cabaret shows around there? A. Yes.

Q. Where? A. Mrs. Hobson.

Q. Where is that located? A. Opposite.

Q. There is no cabaret there, is there? A. Under her saloon.

Q. Have you ever been down there? A. No, sir.

Q. How do you know there is a cabaret down there? A. Because I have been told by those who have been there.

Q. You don't know of it yourself? A. No, sir.

By Mr. Dunn.—I ask to have that stricken out.

By the Court—Strike it out.

Q. That is all.

WILLIAM D. MILLER, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Where do you live? A. 63 Van Houten street.

Q. Are you a son of the last witness? A. Yes, sir.

Q. Are you married? A. Yes, sir.

Q. Live there with your family? A. Yes, sir.

Q. How many are there in your family? A. Wife and two children.

Q. How long have you lived in that immediate neighborhood? A. All my life.

Q. How old are you now? A. Fifty-two next January.

Q. Have you lived there ever since you have been married? A. No, sir.

Q. How long have you lived there with your wife and children? A. Four years.

Q. During the time of April first, nineteen hundred and thirteen, and May 8th, 1914, have you had occasion to visit Helvetia Hall? A. I have been in there, yes.

Q. On any particular day or days? A. Saturday nights.

Q. How often? A. Sometimes one and sometimes three or four times.

Q. How many Saturday nights? A. Every Saturday night that I have been in town, unless I was sick.

Q. Have you visited the entertainment given in the cabaret room? A. Yes, sir.

Q. What time would you go in there? A. About eight o'clock, or half past eight.

Q. How long would you stay there? A. About ten or fifteen minutes, talking to Mr. McGee.

Q. Have there been occasions when you would stay longer than that? A. No, sir.

Q. Have you ever seated yourself and taken refreshments? A. No, sir.

Q. Have you ever taken notice of the conduct of the people there? A. No, sir.

Q. What would be the number of people there? A. When I went in at eight o'clock, sometimes there would be nobody there.

Q. How about when you went later? A. Then there would be quite a number there.

Q. How about the conduct of the people there? A. Nothing out of the way while I was standing there.

Q. Ever see any lewd or indecent conduct? A. Not while I was there.

Q. Any familiarity? A. Not while I was there.

Q. What can you say about the ages of the people there? A. I was standing by the door.

Q. From there can you see the people plainly? A. I could see the whole room.

Q. Could you form some judgment as to the ages of the people there? A. Yes, sir.

Q. What would you say about people under twenty-one years of age? A. The officer would not allow them in.

Q. How about under eighteen? A. The officer would not allow them in.

Q. How about seeing them there? A. No; all over eighteen, up to thirty-five.

Q. How about their conduct as to sobriety, being intoxicated or not? A. When I go there I could see they were drinking; that is all.

Q. Have you seen intoxicated people in there? A. I have seen them come in and Mr. McGee put them out.

Q. Have you seen them there? A. Sitting at the table?

Q. Intoxicated people? A. No; sir.

Q. What have you seen there? A. People sitting at the table drinking their beer or soda water.

Q. Do you remember the night of January sixteenth, nineteen hundred and fourteen? A. I do.

Q. The night of the Chorus Girls' Ball? A. Yes, sir.

Q. Were you there that night? A. No, sir.

Q. Have you ever seen any quarreling, scuffling or fighting there? A. In the cabaret room?

Q. Yes. A. No, sir; I have heard hard words.

Q. When did you hear that? A. I don't remember the date.

Q. What happened then? A. The officer would leave and go over and tell them to keep quiet.

Q. The argument? A. Yes, sir.

Q. And you saw the officer interfere? A. Yes; tell them not to make any noise.

Q. Ever see girls there in short dresses? A. No, sir.

Q. Hair hanging down their backs? A. No, sir.

Q. Or anything else appear to make you think they were very young? A. No, sir.

Q. Ever go up in the dance hall? A. Once in a while.

Q. Who conducts the dance hall? A. A man I believe by the name of Barlow.

Q. How often would you go there? A. Nearly every Saturday night.

Q. Was there a dance every Saturday night? A. Yes, sir.

Q. See any misconduct there? A. No, sir.

Q. See any girls there under eighteen years of age? A. I don't think so.

Q. So far as you are able to judge? A. I would judge them to be eighteen, or over.

Q. What can you say about the conduct of the people being in the cabaret room coming out, as to any disorder? A. I was never there when they came out; I generally go to bed before that.

Q. Do you know whether there was any other cabaret places in that neighborhood? A. No, sir.

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

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. Now, Mr. Miller, let me see, occasionally you would go down there Saturday nights and remain

ten or fifteen minutes and then go out? A. Yes, sir.

Q. And sometimes went back later? A. Yes, sir.

Q. And about what time would it be when you would go back? A. Sometimes nine o'clock; sometimes half past nine; sometimes ten, and sometimes later.

Q. What part of the hall would you go in? A. The same as before.

Q. That was the place where you would enter? A. The little hall.

Q. The west part of the building? A. I would call it the north end.

Q. Then the main body of the hall would be off toward the south? A. Yes, sir.

Q. And then after standing there and talking to Mr. McGee a few minutes you would go home? A. Yes, sir.

Q. You never went there to ascertain the age of any of the people who went there? A. No; I went there to hear the music and singing mostly.

Q. And the times you were up stairs? A. See them dancing.

Q. And then went home to your family? A. Yes, sir.

Q. And you didn't see anything disorderly? A. Not while I was there.

Q. Were there times while you were there in nineteen hundred and thirteen and nineteen hundred and fourteen, a stairs in the back leading down to the cabaret room from the dance hall? A. Yes, sir.

Q. And one in the front? A. Yes, sir.

Q. And did you ever see couples coming down

to the cabaret room from the dance hall; down those back stairs? A. On a Saturday night?

Q. Yes. A. No, sir.

Q. Or the front stairs? A. Yes, sir.

Q. Ever see Mr. Koettgen there? A. Yes; I have talked to him about business.

Q. He was there every night that you were there? A. Yes, sir.

Q. In charge; looking over things? A. He was behind the bar.

Q. He could see everything? A. He could see everything; yes, sir.

Q. And during the times that you went in, the age, you never had occasion to notice? A. No.

Q. Might have been girls in there under eighteen years of age? A. Yes, sir.

Q. You didn't take any particular notice as to that? A. No, sir.

Q. Did you ever make any complaint to Officer Stapleton with reference to disturbances around there? A. No, sir.

Q. That is all.

By Juror No. 11.

Q. Mr. Miller, are you in any way interested in the property of Helvetia Hall? A. No, sir.

Q. Your father? A. No, sir; only interested as neighbors, that is all.

HARRY GROSS, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Gross, where do you live? A. I live at No. 96 Jasper street.

Q. What is your business? A. Bartender.

Q. Where do you work? A. Extra, at balls.

Q. Do you know Helvetia Hall? A. Yes, sir.

Q. Ever work there? A. Yes, sir; for twenty four years.

Q. Up until what time? A. The last ball I worked there last winter was the Chorus Girls' Ball.

Q. The Chorus Girl's Ball? A. Yes; that was the last one last winter; I worked two or three balls this year.

Q. And you worked there Saturday nights? A. I used to work there.

Q. Up until what time? A. Up until March.

Q. March, 1914? A. March, 1913.

Q. March, 1913? A. Yes, sir.

Q. And since that time how often have you worked there? A. This winter I have worked there five or six times.

Q. What part of the hall? A. In what was called the cabaret room.

Q. That was the winter of nineteen hundred and thirteen and nineteen hundred and fourteen? A. Yes, sir.

Q. Where do you work; what part of the room? A. In the cabaret room.

Q. What kind of a bar is there there? A. About a seven foot bar standing in the corner.

Q. Who is served there? A. Waiters there; only waiters.

Q. You didn't serve patrons there? A. No, sir; only waiters.

Q. And they took it from the bar and delivered it at the tables? A. Yes, sir.

Q. Do you remember whether or not you were employed there during the month of October, nineteen hundred and thirteen? A. No, sir; I was not; November, nineteen hundred and thirteen.

Q. On Saturday nights? A. No, sir; balls, but not Saturday nights.

Q. Can you tell us what months you worked there at the cabaret? A. January, March, and I think the latter part of March, or the first part of April.

Q. That was nineteen hundred and fourteen? A. Nineteen hundred and thirteen.

Q. What can you say as to the number of people that attended the entertainments while you were there—Mr. Gross, I want to know, without any doubt, whether you served these five or six times in the cabaret? A. Yes, sir.

Q. Between nineteen hundred and thirteen, April first, nineteen hundred and thirteen, and the eighth of May, nineteen hundred and fourteen? A. Yes, sir.

Q. You are clear about that? A. Yes, sir; but I didn't work Saturday nights; I worked when there was balls there; I worked in the cabaret room, but only ball nights.

Q. Was there any entertainment or anything of that nature going on in the cabaret room, going on while you were working there? A. No, sir; only singing.

Q. You say you worked there on the night of the Chorus Girls' Ball? A. Yes, sir.

Q. At this bar? A Yes, sir.

Q. What time did you start your work? A. I started seven o'clock to get everything ready.

Q. What time did it break up? A. I think 2:30 or three o'clock.

Q. And what can you say as to the number of people in the cabaret room? A. The place was packed that night.

Q. In your judgment how many people were there there? A. There must have been at least two hundred, or two hundred and fifty in that room.

Q. And there are tables there, are there not, at which the guests are seated? A. Yes, sir.

Q. Mr. Gross, the place you are stationed, can you observe the people in the room? A. Yes, sir; I can observe every table in the room.

Q. About how large is that cabaret room, Mr. Gross? A. I should think it is about sixty-five by thirty.

Q. Sixty-five feet in depth by thirty feet wide, is it? A. Yes, sir.

Q. And there are tables there? A. Yes, sir; throughout the whole room.

Q. Anything else there? A. In one corner there is a bar, and there is an aisle down the center.

Q. And on both sides of the aisle is where the tables are located? A. Yes, sir.

Q. On the evening of the Chorus Girls' Ball did you notice whether or not there was any improprieties or familiarities engaged in? A. No, sir.

Q. Were you so situated that you could have

seen them if they had been done openly? A. Why, certainly.

Q. Did you see any misconduct or immodesty or lewd take place there during that night? A. No, sir; because it is not allowed.

Q. Did you see any; never mind what is allowed? A. No, sir.

Q. What can you say as to whether there were any boys or girls there that night? A. I didn't see any.

Q. Or any persons under the age of eighteen years, according to your judgment? A. No, sir.

Q. Did you see any girls there that wore short dresses? A. No, sir.

Q. Or hair down her back? A. No, sir.

Q. Or in braids? A. No, sir.

Q. Did you see whether or not there was any intoxication there that night? A. No, sir; I did not.

Q. What kind of entertainment was provided that night? A. The Chorus girls each sang a song.

Q. In the cabaret room? A. Yes, sir.

Q. Any music? A. Piano playing.

Q. Any solos or any artists? A. I think a fellow gave a solo on a fiddle.

Q. During that night, did you leave that room any time to go to any other part of the hall? A. No, sir.

Q. Did you observe the chorus girls, when they came in, after the show was over? A. Yes, sir.

Q. Do you know about how many there were? A. The whole troupe came over.

Q. You don't know how many there were? A. I should judge about twenty-five.

Q. And were they in costume or not? A. Some had their stage dresses on and were dolled up and daubed up.

Q. Were there any of them that had wigs on? A. One of them, or two of them had a wig; that new style, reddish, or violet.

Q. Were they painted up? A. Yes, sir.

Q. Were any of them gotten up to look infantile or young? A. You know these stage people; they all look young.

Q. In your opinion were there any of them looking eighteen years of age? A. No, sir.

Q. Any look over? A. A great deal over.

Q. Do you know who ran that ball; who had charge of that? A. The gentleman who hired me, his name is Mr. Cohn.

Q. Do you know whether or not Mr. Cohn had the conduct of the dance and management of the cabaret room there that night? A. Yes, sir; he hired me and told me to hire the waiters.

Q. For whom? A. Mr. Cohn.

Q. Did he afterwards pay you? A. Certainly.

Q. And did he pay the other men, to your knowledge? A. Certainly he paid them.

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. Whose beer did you handle that night? A. Sprattler and Mennels.

Q. Where did you get it? A. From the cellar.

Q. Who had charge of the cellar? A. The committee.

Q. Where was Koettgen's bar? A. That was on the other side; that isn't connected with this bar.

Q. Cohn had no license to sell beer there that night? A. He hired the hall.

Q. That is all? A. Yes, sir.

Q. You saw Koettgen there that night? A. He was in the saloon looking around.

Q. Did you see him in the cabaret room? A. Yes, sir.

Q. Did you see McGee there that night? A. Yes, sir.

Q. Cohn hired him? A. I think so.

Q. You had a pretty good crowd in the cabaret room that night? A. Yes, sir.

Q. What time was it when the chorus girls came in? A. About half past ten.

Q. Had you been drinking? A. I never drink when I work.

Q. Did they go up to the dance hall after? A. I judge some of them did.

Q. Did they come in and have a drink before they went up stairs, to have a drink, or go right up stairs? A. Some sat down and some went right up stairs.

Q. Did they have gentlemen escorts with them? Yes, sir.

Q. You served some of them? A. I didn't serve, I drew the beer.

Q. How many kegs of beer did you run off? A. Sold most soft stuff.

Q. I didn't ask you that. A. About eighteen.

Q. Quarters? A. Yes, sir.

Q. How much whiskey? A. About a bottle and a half.

Q. A thousand people? A. Yes, sir.

Q. That is all the whiskey that was served? A. Yes, sir.

Harry Gross—cross.

Q. Most of them drank soft stuff? A. I never sold so much soft stuff.

Q. How many boxes of soft stuff did you sell? A. About twenty-two boxes.

Q. Two dozen bottles in a box? A. Yes, sir.

Q. All of soft stuff? A. Big bottles.

Q. Quart bottles? A. Held more than a quart.

Q. The girls that came in, did they have the wigs? A. Two of them had the wigs.

Q. After some of them went up stairs—what hour did they come in? A. About half past ten.

Q. Did you notice some of the girls coming down the back stairs to the cabaret room? A. That is more than I can state, because that if off in the other corner.

Q. Many girls would come down that you could not see at all? A. Yes, sir.

Q. And you could not tell whether they were old or young, because you couldn't see? A. I couldn't.

Q. The place was packed? A. Yes, sir.

Q. You were behind the bar working? A. Yes, sir.

Q. How many waiters did you have there that night? A. Four.

Q. Busy all the time? A. Medium; just going nicely.

Q. So, standing back of the bar, dolling this stuff out, your attention was on that—it had to be? A. Yes, sir.

Q. Then you don't want us to understand but what there may have been a dozen young people there that you didn't see at all? A. Yes, sir.

Q. And there might have been some of those girls and boys intoxicated, and you wouldn't know anything about it at all? A. That could happen.

Q. That is all.

WILLIAM CONOVA, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Conova, where do you live? A. 399 East Eighteenth street.

Q. How old are you? A. Thirty, this month coming in.

Q. What is your business? A. I work for Mr. Koettgen on Saturday nights.

Q. How long have you worked for him? A. Four or five years.

Q. What is your employment with him? A. Serving drinks.

Q. Waiter? A. Yes, sir; serving beer.

Q. What part of the room? A. In the cabaret room.

Q. Then you have worked there from April first, nineteen hundred and thirteen, until May, nineteen hundred and fourteen? A. If it is on Saturday nights.

Q. That the only nights you worked there? A. Sometimes got a job off of some of the committees.

Q. Mr. Conova, what can you say of the number of people that visited that cabaret room on Saturday night? A. Maybe two hundred.

Q. Coming and going, I presume? A. Yes.

Q. And, in your employment as waiter, do you have occasion to go in all parts of the room? A. Well, no; we are stationed.

Q. Where are you stationed? A. To the right hand side of the hall.

Q. The front or back? A. Up and down, we separate the room in halves.

Q. You have one half of the room? A. Yes, sir.

Q. The half next to Van Houten street? A. No; we separate it the other way.

Q. And your duties make it necessary for you to go half way down? A. Yes, sir.

Q. Where do you get the refreshments that you dispense to the tables? A. Over the bar.

Q. In the cabaret room? A. Yes, sir.

Q. Now, Mr. Conova, what can you say as to the conduct of the people that you saw there, how do they behave toward one another? A. Fine.

Q. See anything improper or indecent happening between the men and women there? A. No, sir.

Q. Any kissing or hugging there? A. That is not allowed.

Q. Did you see any at any time? A. No, sir

Q. What can you say as to whether there was people under eighteen years of age inside the place? A. Not allowed.

Q. Have you seen any there? A. No, sir.

Q. During all that period, did you ever see any boy or girl, who, from your observation, was under eighteen years of age? A. Never seen any boys or girls.

Q. What can you say as to whether there were people in that room, or in the building, that were intoxicated at times? A. I couldn't say they were intoxicated; they may have two or three drinks in them; that is all I could see about them.

Q. Ever see any drunken women there? A. No, sir.

Q. Or young men? A. No, sir; they could take care of themselves.

Q. Do you remember any occasion when there were quarrels—fights there? A. They might have little arguments; they didn't amount to anything, though.

Q. What would happen if there was? A. Stopped right away.

Q. Then what happened? A. When they went away?

Q. Yes. A. They never went too far.

Q. Officer McGee, he is an offiicer, isn't he? A. Yes, sir.

Q. Do you know women of bad reputation around town? A. I don't mix in with them.

Q. Do you know them by sight? A. Yes, sir.

Q. What do you know of men or women of bad character visiting that place? A. I never saw anything bad about them.

Q. Women who the state has referred to as whores? A. I don't know them; none of my business.

Q. Mr. Conova, have you—when you began working in this cabaret room, did you receive any instructions with reference to the people that you were to serve, or not to serve? A. Yes, sir.

Q. From whom did you receive them? A. Mr. Koettgen.

By Mr. Dunn.—I object to that as irrelevant and immaterial.

Court.—Let it go in for what it is worth.

Q. What were the instructions you received? A. Not to serve anybody that was intoxicated; not to serve any minors, or serve drunks, or anybody who came in intoxicated.

Q. Were those instructions given to you more than once? A. Yes; sir.

Q. About how often were you reminded? A. Reminded every Saturday night.

Q. Were you there the night of the Chorus Girls' Ball, January sixteenth? A. I think I was there.

Q. Aren't you sure? A. Yes; I guess I was.

Q. Chorus Girls' Ball on January sixteenth? A. Yes; I guess I did.

Q. I want you to be sure? A. Yes; I remember there was a bar tender waiting to be put on the job, and I was put to work right away.

Q. Who put you to work? A. I was told to come down; I didn't know I was going to work.

Q. Who hired you? A. I was hired by Harry Gross.

Q. Do you remember— A. I remember I was working; that is all.

Q. Do you remember how many people there were in the cabaret room that night? A. No body when I went there.

Q. Before you went away? A. It was packed.

Q. How long were you there? A. Until it broke up.

Q. What can you say about the conduct of the people there? A. I would say nothing bad.

Q. Did you see any kissing? A. No, sir.

Q. Any familiarities? A. I didn't see any; I was so busy.

Q. If that had occurred you would have seen it? A. If it had been in front of me.

Q. Did you see any boys and girls there that night? A. No, sir.

Q. Any boys or girls under eighteen years of age? A. Not allowed to come in.

Q. Did you see any? A. No, sir.

Q. Did you see the chorus girls come in? A. I don't recall that.

Q. Don't recall that? A. I was too busy.

Q. See any young girls there? A. No, sir.

Q. Any fighting? A. Not that I know of.

Q. During the Saturday nights that you have been there, in the time that I have mentioned, did you see any fighting going on? A. I said there were little arguments.

Q. Any outside of the building? A. I came at seven o'clock and got through at twelve; I don't know what goes on inside.

Q. That is all.

Cross examination by Mr. Dunn.

Q. What else do you do besides help Mr. Koettgen? A. I help Mr. Walder, the wood worker.

Q. Have you been serving beer there for four years, I understand? A. Four or five.

Q. And you got some instructions from Mr. Koettgen? A. Yes, sir.

Q. What were the instructions? A. Not to serve minors, or anybody intoxicated, or anybody that came in intoxicated.

Q. Any time that you were there, when there was a dance going on, did you notice couples coming down from up stairs by the back stairs? A. The back stairs are closed on Saturday nights.

Q. Weren't they open last October? A. They are never open on Saturday nights; the door is closed.

Q. Closed? A. Yes, sir; nobody can get through there.

Q. How do they get down? A. Come down the front way.

Q. McGee isn't stationed there? A. McGee is up stairs at the present time.

Q. No; in October and November, and December, nineteen hundred and thirteen? A. Inside.

Q. By the door leading from the street? A. No; in the door, and he can look right down the whole room.

Q. People that have been up stairs; how do they get in the cabaret? A. Through that door.

Q. He is at the other door? A. That is by the door.

Q. Can't they go down the other way? A. No; he is on the other side.

Q. They don't have to ask him permission to go in? A. I understand he can see the people come in.

Q. He didn't stop and talk to them? A. He was over on the steps.

Q. Now, did you notice, during the time you were there, the same girls on different Saturday nights? A. I would see different ones.

Q. Did you see the same ones? A. No, sir.

Q. Did you ever know Violet Tueffel? A. No, sir.

Q. Or Mamie Mackey? A. No, sir.

Q. The Champion girl? A. No, sir.

Q. Margaret Ryan? A. No, sir.

Q. Or the Parrington girl? A. No, sir

Q. Didn't know any of them by their names? A. No; because I don't mix in with them.

Q. Have you ever seen detectives come in? A. Yes, sir.

Q. Mr. Fitzpatrick? A. Yes, sir.

Q. William Kinney? A. I don't know him.

Q. Officer Elvin? A. Never seen him on Saturday night.

Q. Officer Smith? A. I have seen him.

Q. Officer Brooks? A. Yes, sir.

Q. Officer Ryan? A. Yes, sir.

Q. How often have you seen Officer Brooks there? A. One time on a Saturday night.

Q. Your instructions were not to serve intoxicated people or minors; what would you do about soft stuff? A. They had to be over the age.

By the Court.

Q. What age? A. Eighteen.

By Mr. Dunn.

Q. Refuse them soft stuff? A. First I would Call McGee over to see if I would serve it or not.

Q. You want to tell the jury if you got an order for three beers and three sodas you would call McGee over?

By Mr. Hunziker.—I object to that.

By the Court.—He has already said so.

Q. You mean to say that? A. Yes, sir.

Q. Did you ever see anybody there under the age of eighteen who did call for soda, where you did go over and call McGee to pass on her age? A. No.

Q. So you never did call upon McGee to determine whether you would serve her or not? A. If I thought—

Q. Did you? A. I called him.

Q. Did you ever call him to come down to the table and first determine her age before you would

serve her with soft stuff? A. Maybe not soft stuff.

Q. Did you ever call him? A. To see if they would have anything at all?

Q. Why? A. If I thought they were only nineteen I wouldn't give them a drink.

Q. They had to be twenty-one? A. If they weren't twenty I wouldn't serve them.

Q. You frequently seen young couples come down from up stairs? A. Is this from the ball? 10

Q. You have seen them, haven't you? A. I don't know; if I am busy I can't see them.

Q. You say you have seen them come in the door? A. The back door?

Q. Any door; did you ever see them come in from the back door? A. Yes, sir.

Q. Did you ever see them come in with the men? A. No, sir.

Q. Never saw that in your life? A. No, sir.

Q. Never in your life see a girl put her arms 20 around the neck of a fellow? A. No, sir.

Q. Never see him put his arm around her waist? A. No, sir.

Q. That is enough for you. Did you ever see anybody drunk at the ball? A. Seen them feel good.

Q. How would they indicate their feeling? A Two or three beers in them.

Q. How could you tell? A. Talk a little loud.

Q. What would they say? A. I don't remember. 30

Q. Ever hear them use any cuss words? A. I didn't go in that deep.

Q. Never heard any fellows say "damn"? A. Maybe "Holy Christ".

Q. Fellow a little full? A. Maybe, but he wouldn't get any more.

Q. Wouldn't they get what they had there? A. I should say not; never served anybody who was under the influence.

By Mr. Hunziker.

Q. Would you throw anybody out yourself? A. I would not; I would call the officer; that is his duty; it was none of my business.

Q. That is all.

JAMES MOTTAATZO, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Where do you live? A. 168 East Sixteenth street.

Q. What is your business? A. I am a silk worker.

Q. Do you ever work for Mr. Koettgen? A. Yes, sir.

Q. When? A. About three years now I am working for him Saturday nights.

Q. For the last three years on Saturday nights? A. Yes, sir.

Q. What do you do for him? A. Waiter.

Q. Where? A. Waiter in the cabaret room.

Q. Now, during the time from April first, nineteen hundred and thirteen, to May, nineteen hundred and fourteen, you worked as a waiter at Helvetia Hall? A. Yes, sir.

Q. When did you begin work? A. I think nineteen hundred and twelve.

Q. What hour of the night? A. Seven thirty.

Q. And work until what hour? A. Twelve o'clock.

Q. What can you say of the number of people who visited that cabaret room on Saturday nights? A. Between one hundred and fifty and two hundred.

Q. What can you say between the time of April first, nineteen hundred and thirteen, and May, nineteen hundred and fourteen, how did these people behave themselves? A. They behaved themselves all right.

Q. Did you see any misconduct between men and women? A. No, sir.

Q. Hugging and kissing? A. No, sir.

Q. Men with their arms around women? A. No, sir.

Q. Women sitting on men's laps? A. No, sir.

Q. Any immodest or improper conduct? A. Nothing at all.

Q. What part of the hall were you in? A. Right hand side.

Q. How far down the room? A. About fifteen feet.

Q. And in your work do you have occasion to go in and around the tables? A. Of course.

Q. So you can see or hear what people talk about? A. We are not supposed to hear what they are talking.

Q. If there is anything loud you can hear it? A. Yes, sir.

Q. And anything going on you can see it? A. I can see it.

Q. What do you say about young women visiting that place? A. Never seen it.

Q. Have you ever seen any young girls there, in

your judgment under eighteen years of age? A. No, sir.

Q. Any young men? A. No, sir.

Q. See any girls with short dresses? A. No, sir.

Q. With their hair hanging down their backs? A. No, sir.

Q. Or girls, or anything like that? A. No, sir.

Q. Do you know any prostitutes around town? A. I may know a couple of them.

Q. Did you ever see any of them down in the cabaret room? A. I may; I don't know.

Q. Do you remember of ever seeing any of them there? A. I wouldn't swear positively.

Q. You don't remember? A. No.

Q. What can you say as to the conduct of the people with reference to being intoxicated, or not? A. Never seen any.

Q. Ever seen any drunken people in there? A. No, sir.

Q. Ever serve any intoxicated people with intoxicating liquor? A. No, sir; that is our order.

Q. Did you ever reecive, before April first, nineteen hundred and thirteen, down to May 8th, nineteen hundred and fourteen, were you instructed as to your duties as to who you would serve and not serve? A. Yes, sir.

Q. What were those instructions?

By the Court.

Q. Who gave you the instruction? A. Mr. Koettgen.

Q. Mr. Koettgen there every Saturday night? A. Yes, sir.

Q. What did he do? A. Tended to his business.

Q. What was his business? A. Looking people over and seeing that they were not fighting in there, and told the constable to put them out.

Q. He would walk back and forth and look the place over generally? A. Yes, sir.

Q. Did that all the time? A. Not every minute, but every night, yes, sir.

By Mr. Hunziker.

Q. What did you understand as to whom you were to serve and not to serve; what were your instructions? A. Instructions were not to serve any minors or intoxicated people.

Q. So far as you know, did you ever serve any minors or intoxicated people there? A. No, sir.

Q. Were you present at the Chorus Girls ball? A. I was working that night.

Q. As a waiter? A. Yes, sir.

Q. In the cabaret room? A. In the cabaret room.

Q. Did you see any improper or immodest conduct there that night? A. No, sir.

Q. Did you see any boys or girls there under eighteen years of age? A. No, sir; I don't think so.

Q. Do you know? A. I don't think I did.

Q. Did you see any hugging or kissing, or love-making that night? A. No, sir.

Q. Were you in any other part of the building? A. Only in the cabaret room.

Q. Any intoxicated people there? A. No, sir.

Q. Were there any police officers there that night, so far as you know? A. Yes, sir.

Q. Who? A. Mr. McGee and Mr. Clark, I think.

Q. Did you see any regular members of the police force there that night? A. Not in the uniform.

Q. Did you see any in civilian clothes? A. I don't remember.

Q. Take the witness.

Cross Examination by Mr. Dunn.

Q. What did you understand him to mean when he said not to serve minors? A. I understood people under age; under twenty-one.

Q. And during the whole time you worked there you never served any person under twenty-one? A. Certainly not.

Q. And not serve people intoxicated; did you ever serve any beer or whiskey to any person who was under the influence of liquor? A. No, sir.

Q. You mean if he had two or three, not the fourth one? A. No, sir.

Q. If he had the third one he couldn't have the fourth? A. That is our order from Mr. Koettgen, not to serve any people after three drinks.

Q. Did that refer to beer too? A. We can serve the beer, but as far as that is concerned, I think we can serve with beer, but not with whiskey.

Q. No orders as to beer? A. Not unless they are sober.

Q. And then you were there three years during the year beginning April thirteenth, nineteen hundred and thirteen, on down to May, nineteen hundred and fourteen, you never saw any men and women come in from the dance hall, with their arms around each others necks? A. No, sir.

Q. And never saw any girls put their arms around fellows necks? A. No, sir.

Q. Nor with his cheek down against hers? A. Never seen that.

Q. You didn't consider that wrong? A. Maybe not.

Q. Why would you? A. I don't think they should allow it before the people.

Q. The night the chorus girls were there were any of them served by you? A. I was working.

Q. Did you serve them drinks? A. Yes, sir.

Q. Did you serve other persons that came down from the dance hall? A. Yes, sir; everybody that asked for a drink.

Q. You saw some ladies there with their hair braided and hanging down their back? A. No, sir.

Q. And saw ladies there with their dresses down to their knees or just below? A. No, sir.

Q. Have you ever been up in the ball room? A. No, sir.

Q. Never in your life? A. Oh! yes.

Q. Never seen anything like that? A. No, sir; I have been around dances for six years.

Q. How old are you now? A. Twenty-three.

Q. Since you were seventeen then? A. Yes, sir.

Q. When not serving minors, did that apply to soda water as well as to liquor? A. Nothing at all.

Q. Wouldn't serve them at all? A. No, sir.

Q. When you got an order would you stop and look the persons over? A. I pretty near know them all, because I ran around with them.

Q. Did you ever remember seeing Violet Tueffel there? A. Yes, sir.

Q. Do you ever remember serving her with a

drink? A. I haven't seen her there in quite a while.

Q. Did you see her at the night of the Chorus Girls ball? A. I don't know.

Q. Do you know how old she is? A. About twenty-two.

Q. She had been up to the Crittenden Home, you knew that? A. I didn't know about that.

Q. Do you know Minnie Mackey? A. Yes, sir.

Q. How old is she? A. About twenty-two.

Q. And Ethel Holmes? A. Yes, sir.

Q. And the Champion girl? A. Yes, sir.

Q. And the Burns girl? A. Yes, sir.

Q. And you have seen them in Helvetia Hall? A. Yes, sir.

Q. Do you know Emma Grosser? A. I do not.

Q. Do you know Margaret Ryan? A. No, sir.

Q. Clara Sords? A. Clara Sords I know.

Q. The Parrington girl? A. I don't know her.

Q. The others you do? A. Yes, sir.

Q. And they have been served while you were there? A. They came in and behaved themselves and they were served.

Q. Yes; that is all.

By Juror No. 3.

Q. Were you paid by percentage, by the number of drinks you served or salary? A. To a ball, twenty per cent.; but by Mr. Koettgen, a salary.

By Mr. Hunziker.

Q. You have stated, in answer to Mr. Dunn, that you knew some of these girls that he mentioned? A. Yes, sir.

Q. And are there any of those girls, and if so

which ones, in your judgment are under eighteen years of age? A. None of them.

Q. Tell the court and jury how old you think they are? A. I think they are all between twenty-one and twenty-eight years of age.

Q. That is your judgment of all these girls? A. All of them; yes, sir.

By the Court.

Q. When they had balls up on the top story, did men and women come back and forth to the cabaret room? A. Yes, sir.

Q. Do they come back and forth without any limitation? A. To the ball they do, because they can get a return at the front door.

Q. When they have a ball in that place where do they collect the tickets for the ball? A. At the front door.

Q. They never can get in the cabaret room or dance room without paying an admission? A. No, sir.

Q. What is the admission? A. A quarter.

Q. Always a quarter? A. The Chorus Girls ball was fifty cents.

Q. Why the different prices? A. I don't know.

Q. Nobody goes into the cabaret room or ball without a ticket? A. No, sir.

Q. On cabaret nights when there is no ball? A. No, sir.

By Mr. Dunn.

Q. Then you got a commission on January sixteenth; the twenty per cent.? A. Yes, sir.

By Mr. Hunziker.

Q. Do you know whether or not Mr. Koettgen conducts the balls up stairs on the third floor? A. Sometimes we do and sometimes we don't.

Q. Isn't it a fact that they are usually given by individuals or clubs? A. I couldn't tell you.

Q. Isn't there a ball on every Saturday night? A. Yes, sir; a regular committee.

Q. Do you know who runs that? A. Harold Barlow.

By the Court.

Q. Is that paid for, or free? A. Twenty cents admission.

Q. Where do they collect the tickets? A. On the second floor.

Q. They can't go in the dance hall without admission? A. No, sir.

Q. Every Saturday night? A. Yes, sir.

Q. That is all.

EDDIE CASPER, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Where do you live? A. 455 Main street.

Q. What is your business? A. Waiter.

Q. And do you work, or have you worked for Koettgen at Helvetia Hall? A. Yes, sir.

Q. During what time? A. After the first of last January I finished the season, and this fall.

Q. Did you work for him during the period of April first, nineteen hundred and thirteen, and

May eighth, nineteen hundred and fourteen? A. Last January?

Q. You started to work in the cabaret on January first, nineteen hundred and fourteen? A. A few days after that.

Q. And have you been doing that ever since? A. Up until April twenty-second; I resigned for another job and then I started this year again, November sometime.

Q. Now during that time from January first, did you work every night as a waiter? A. Yes, sir.

Q. What part of the building were you in? A. On the left hand side that time, as you go in.

Q. Front or back? A. Front and back.

Q. How many people in your judgment, attended the cabaret? A. Between one hundred and two hundred, more or less.

Q. What can you say as to their conduct toward one another, whether it was proper or not? A. It was proper; if it was improper it would not be allowed.

By the Prosecutor.— I object to the last part of the answer.

By the Court.—Strike it out.

Q. Any immodest conduct? A. No, sir.

Q. Hugging or kissing? A. No, sir.

Q. Arms around their neck? A. I might see a woman put her arm on a man's shoulder and speak to him.

Q. That is the limit? A. Yes, sir.

Q. What about people there being intoxicated? A. I wouldn't call them intoxicated; I would say

they were having a special time; not out of the way.

Q. Ever see any people there under eighteen years of age? A. Male or female?

Q. Either. A. No, sir.

Q. Ever see any girls there in short dresses? A. No, sir; not in short dresses.

Q. Hair in braid, or otherwise down their back? A. No, sir.

Q. Are you acquainted in any way with people of low repute around the city? A No, sir

Q. Ever see any of them around there? A. I have seen one or two come in there, but I have seen the constable put them out.

Q. How long would they be in before they would be invited to go out? A. As soon as they were noticed.

Q. Did you ever serve any intoxicated people? A. No, sir; that was against our orders.

Q. Did you ever have such orders? A. Yes, sir.

Q. What were they? A. Not to serve minors, intoxicated people, or anybody out of order.

Q. These orders given to you once, or more than once? A. When I started, and every Saturday night it was impressed on our mind.

Q. Were you present at the Chorus Girls' Ball? A. I was there when they got through.

Q. What time was that? A. About one o'clock.

Q. Did you go in the cabaret room? A. Yes, sir.

Q. Many people there? A. Yes, sir.

Q. How about the conduct then? A. They were sober.

Q. Any loving or hugging? A. No, sir.

Q. Any improper or familiar conduct between the men and women? A. No, sir.

Q. Were you sitting there? A. I don't think so.

Q. How long were you there? A. About one hour.

Q. See any intoxicated people there? A. I didn't take notice of them.

Q. Did you go up stairs to the ball room? A. No, sir.

Q. Did you see any police officers there that night? A. Only the constable.

Q. Any others? A. No, sir; I didn't go up stairs.

Q. On these cabaret shows that you have officiated at, do you remember seeing police officers in there? A. Yes, sir.

Q. Who were they? A. Close, Moore and I think Brooks.

Q. At the time the police officers would be there would there be anything unusual? A. No, sir; they would come in and look around a few minutes and go out.

Q. Anything ever said to you about the conduct of the people there? A. No, sir.

Q. Ever see any of them speak to Mr. Koettgen? A. No, sir; I saw Officer Ryan there, too.

Q. Were you there when he came in? A. Yes, sir.

Q. Before he came in was there anything of an unusual nature going on? A. No, sir; nothing unusual.

Q. What happened when he came in? A. I saw him, and I was busy, and the next thing I saw he had a young man, taking him out.

Q. Before had you heard any scuffle or commotion? A. No, sir.

Q. After he went out was there any unusual noise or condition? A. After he went out they went out.

Q. Did Mr. Ryan make any announcement to the people? A. Not loudly; not that I heard.

Q. Did anybody tell the people to get out? A. Maybe; but I didn't hear it.

Q. You didn't hear it? A. No, sir.

Q. That is all.

Cross Examination by Mr. Dunn.

Q. You spoke of the occasion when yau saw some whores come in there and the officer put them out; who was it? A. Some girl.

Q. Who was it? A. I think it was McGee.

Q. Who was the girl? A. I didn't know the girl.

Q. When was the other occasion? A. I don't remember whether that was before or after.

Q. Was it at a ball? A. No, sir; Saturday evening.

Q. Were the girls drinking? A. They didn't get time to drink.

Q. Were they sitting down at the table? A. Just a minute or two.

Q. They hadn't done anything? A. I suppose they had a bad reputation.

Q. Weren't they drunk? A. No, sir.

Q. Were you close enough to see? A. Yes, sir.

Q. Were you talking to them? A. No, sir.

Q. And you don't know who they were? A. No, sir.

Q. You have seen bad characters in there served with drink? A. No, sir.

Q. Do you know Violet Tueffel? A. No, sir.

Q. The Ryan girl? A. No, sir.

Eddie Casper—cross.

Q. The Campion girl? A. I know her by sight; I have seen her in there.

Q. When? A. I saw her in there last year.

Q. What do you mean by last year? A. January, February or March.

Q. Of this year? A. Yes; nineteen hundred and fourteen.

Q. After you went to work there? A. Yes, sir.

Q. How often did you see the Campion girl there? A. Once.

Q. Do you know the Burns girl? A. No, sir.

Q. The Ryan girl? A. No, sir.

Q. Annie Grosser? A. No, sir.

Q. And the Parrington girl? A. No, sir.

Q. Don't know them? A. No, sir.

Q. So they might be in there and you not know it at all? A. Perhaps.

Q. During the time you were in there at the time of the Chorus Girls' Ball, you didn't see any loving on the part of anybody? A. Didn't take notice of any.

Q. You were busy? A. No, sir; I wasn't busy.

Q. You weren't working there? A. No, sir.

Q. What were you doing there? A. Just dropped in.

Q. How long did you stay there? A. About a half an hour.

Q. There was two stairs from the ball room to the cabaret room? A. When there is a ball there is.

Q. Did you see them come down this back stairs? A. Maybe.

Q. It was open? A. Yes, sir.

Q. And the front stairs were open? A. Yes, sir.

Q. But you didn't take notice of anybody show-

ing any affection—girl or man—if there was any there at all? A. No, sir.

Q. You didn't have any girl at the ball? A. No, sir.

Q. Are you married or single? A. Single.

Q. What is your business? A. Waiter.

Q. Where do you work? A. I work at the Manhattan.

Q. You go just around to balls? A. I am on the extra list.

Q. And when you work balls you work them on commission? A. Yes, sir.

Q. You spoke of Mr. Koettgen giving you instructions about serving people every Saturday? A. It seemed to be every Saturday; he might have missed.

Q. Can't you remember? A. Yes, and he generally did.

Q. Had there been any complaints, that he called your attention to it again? A. Not that I know of.

Q. Did he tell you anything about that? A. No, sir.

Q. And you didn't know of any other complaints? A. No, sir.

Q. What else do you work at? A. I was away with a show during the summer.

Q. Where were you? A. At Rutherford.

Q. Did you take some part in the show? A. No, sir; I had a concession.

Q. Where else did you work besides the Manhattan and down at Mr. Koettgen's? A. Broadway hotel.

Q. How long were you there? A. About a year.

Q. When did you work at the Manhattan? A.

Just after. It seems there were two waiters there and after that—previous to last summer.

Q. Two years ago then? A. Yes, sir.

Q. And you never saw a person in there with a short dress? A. A three-quarters dress.

Q. How far down or up would that be? A. About up to the ankle.

Q. Were there many full frocks that came below that? A. Yes, sir.

Q. Don't all the hobble skirts come there? A. What is a short dress; a girl with dresses up to her knees; that is what I call a short dress.

Q. Did you ever see one there just below the knee? A. No, sir.

Q. Never see a girl with her hair braided just down her back? A. No, sir.

Q. Never see one with her hair loose and just held with a ribbon? A. No, sir.

Q. Would you refuse to serve soft drinks to minors? A. Yes, sir; no kind of drink at all.

Q. Did you ever refuse anybody there any drinks, or serve girls who gave you orders from the time you went to work there? A. There were two minors that came in and ordered something and I refused, because they were too young.

Q. When was that? A. Last winter sometime, and they were told to get out, because they were too young.

Q. Did you refuse them before or after they were told to get out? A. Before.

Q. How young were they? A. They looked like eighteen.

Q. How old? A. They looked like seventeen; maybe sixteen.

Q. And what did they order? A. Soda.

Q. And you refused to serve them with soda? A. Yes, sir.

Q. That is all.

By Mr. Hunziker.

Q. You said you knew the Campion girl? A. Yes, sir.

Q. How old is she? A. Twenty-six, twenty-seven or eight, and looks like sixteen.

Q. She has a bad reputation? A. So I have heard.

Q. That is all.

At this point a recess for lunch was taken until two o'clock P. M.

Court convened at two o'clock, as per adjournment.

CONANT HAYES, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Hayes, where do you live? A. 455 Main street.

Q. What is your business? A. Bartender.

Q. Have you ever worked for Mr. Koettgen? A. Yes, sir.

Q. Do you work for him now? A. Yes, sir; at the present time.

Q. As a regular bartender? A. Yes, sir; I started as regular.

Q. Did you work for him during the period of April first, nineteen hundred and thirteen, and May eighth, nineteen hundred and fourteen? A. Yes, sir.

Q. How frequently? A. I would work every Saturday night and nights of balls.

Q. Did you work in the cabaret room? A. Yes, sir.

Q. During that period what can you say as to the number of people that would visit that room of a Saturday night? A. From one hundred and fifty to one hundred and seventy-five.

Q. Both sexes? A. Yes, sir.

Q. What can you say about the conduct of them that were there so far as you could see? A. Acted all right as far as I could see.

Q. What about their conduct as regards modesty or impropriety there? A. I never saw anything out of the way.

Q. Ever see any manifestations of any kissing or hugging? A. No, sir.

Q. Ever see anything of that kind? A. No, sir.

Q. Ever see anything of that kind? A. No, sir.

Q. From where you were on duty can you see the entire room where the cabaret performance is carried on? A. Yes, sir.

Q. And in the event of any unusual occurrences could you see what was going on, or hear what was going on? A. Yes, sir; anything unusual.

Q. And if anything like that did happen the officer would put them out? A. Yes, sir.

Q. What can you say of any of the people attending that place being under the age of eighteen years? A. Every one I could see always looked over eighteen to me, because I have had quite a lot of experience with regard to ages.

Q. Have you ever seen girls in short dresses there? A. No, sir.

Q. Or with their hair down? A. No, sir.

Q. Or anything else in their makeup to indicate that they were under eighteen years of age? A. No, sir.

Q. Or boys? A. No, sir.

Q. What can you say about the boys being intoxicated, or any of them intoxicated? A. Intoxication means what?

Q. Drunk. A. No; never saw anybody drunk.

Q. Ever see a fight there? A. On one occasion I saw what I guess was a fight and that was the night Mr. Ryan took them out.

Q. Did you notice the beginning of the commotion? A. No, sir; the first I saw was the sergeant shoving him down the aisle.

Q. Any loud talk or blows? A. No; no blows.

Q. The first you saw was when Sergeant Ryan had hold of this person taking him out? A. Yes, sir.

Q. Was that the first time you ever saw any fighting in there? A. Yes, sir.

Q. Are you acquainted with the faces of any men or women of ill repute in the city? A. I could not say.

Q. Do you know them? A. Only what people tell me.

Q. Do you know of your own knowledge? A. No, sir.

Q. Can you say whether or not at this cabaret there were any persons present of bad reputation? A. No, sir; not to my knowledge.

Q. Men or women? A. Men or women.

Q. Other than the time you mention when Mr. Ryan was there, do you ever remember of any members of the Paterson police force being there? A. On Saturday night, or any time?

Q. On Saturday nights. A. No; officers came

in on dance nights and wanted to see the license, and that is the custom.

Q. On Saturday nights? A. No, sir; only those hired by the proprietor; Mr. McGee and Mr. Clark.

Q. Those are hired by the proprietor? A. Yes; they are retained there.

Q. Did you, at any time, see any lewd or indecent conduct on the part of the men or women there in the cabaret room? A. No, sir.

Q. Were you there on the night of January sixteenth, nineteen hundred and fourteen? A. Yes, sir.

Q. In what capacity? A. Well, I went to the ball and when I got there I was asked to go to work and fill out the soft stuff; I was second bartender, and I filled out enough on the bar and then I went and enjoyed myself.

Q. Then where did you go? A. Up stairs and down stairs.

Q. At what hour? A. I went to work about nine o'clock and worked until about ten, and then went away, and then worked again and then went away again and worked again, and staid there until about half past two.

Q. Were you in the cabaret room? A. Yes, sir.

Q. Did you see anything lewd there that night? A. What does lewd mean?

Q. Lewd means indecent. A. No, sir.

Q. Did you see any hugging or kissing? A. No, sir.

Q. Put their arms on their shoulder? A. No, sir.

Q. Or hands on their person—couples? A. Yes; holding hands walking down the aisle.

Q. Did you see any intoxication there that night? A. No, sir.

Q. Did you see any young girls there that night that, in your judgment, were under the age of eighteen years? A. No, sir.

Q. Do you remember when the chorus girls came there? A. That was when the boss put me to work.

Q. What time was that? A. A little after ten o'clock.

Q. Did you notice whether the girls were made up in costume or painted, etc.? A. Yes, sir.

Q. Were any of them made up to appear young? A. I don't know whether they were supposed to look young; they had those colored wigs.

Q. Do you know whether there were any among them that were under eighteen? A. No; I don't think there were.

Q. Did you go up stairs any time that evening? A. Yes, sir.

Q. Before or after? A. Before and after.

Q. After you working what time would that be? A. After twelve.

Q. Did you then see any intoxicated people up stairs? A. No, sir.

Q. No intoxicated men or women at all? A. No, sir.

Q. See any improper conduct of any men or women up there? A. No, sir.

Q. Sitting on each others laps or hugging or kissing each other? A. No, sir.

Q. Did you go around or stay in one place? A. I danced.

Q. Saw nothing occurring on the dance floor out of the way? A. No, sir.

Q. You could observe? A. Yes, sir.

Q. And would have observed if there had been? A. Naturally, yes.

Conant Hayes—cross.

Q. Did you see any police officers there that night other than the ones regularly employed there? A. The only one I took any notice of was Mr. McGee; otherwise as I went around I didn't see anybody.

Q. You didn't see any member of the force there? A. No, sir.

Q. There in uniform or civilian clothes? A. No, sir.

Q. Who employed you there that night? A. I don't know his name, he is one of the members of the committee of the chorus girls. He was working on the bar and called me over.

Q. Did he pay you your wages or compensation? A. Yes, sir.

Q. Did you have anything to do with Mr. Koettgen with reference to your work there that night? A. No, sir.

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. Was Mr. Koettgen there that night? A. No, sir.

Q. January sixteenth? A. He may have been in the building, but I didn't see him.

Q. You were assisting at the bar in the cabaret room? A. Yes, sir.

Q. They were serving beer there? A. I was on the soft stuff.

Q. Wasn't there beer handed out to the waiters? A. I guess so.

Q. Didn't you see it? A. I wasn't on the beer; I saw waiters carrying trays away.

Q. Did you notice any of the trays whether they had whiskey on or not? A. They had whiskey glasses.

Q. Wasn't there whiskey in the glasses? A. I guess so.

Q. It wasn't water? A. Water for a chaser.

Q. Whiskey in the other glasses? A. Yes, sir.

Q. If they wanted soft stuff they came to you? A. Yes, sir.

Q. Who was this man that employed you? A. I don't know his name.

Q. Was it Cohen? A. No, sir.

Q. Wasn't Barlow? A. No; Barlow wasn't on there.

Q. You were working on percentage? A. No, sir; a dollar an hour.

Q. While you were engaged there from ten o'clock to a little after twelve, you didn't pay any attention to what was going on in the cabaret room? A. Not particularly, no.

Q. Then after you got through there you went up stairs and had a dance? Yes, sir.

Q. Did you have a lady there that you escorted that night, or were you alone? A. My wife.

Q. Your wife was with you? A. Yes, sir.

Q. While you were in the cabaret room did you notice whether they would come down in the cabaret room and have refreshments? A. Yes, sir.

Q. Men and women? A. Yes, sir.

Q. Young men and young women and old men and old women? A. They came down.

Q. How close were you to them? A. When I was at the bar?

Q. Yes. A. About to this corner of the room over to that corner of the room.

Q. In the neighborhood of fifty feet? A. Yes; in that neighborhood.

Q. You were busy at the bar watching what was being poured out and you had no occasion

to notice anything that was going on? A. Didn't have any occasion.

Q. Or didn't? A. When I had enough stuff poured out I would look around.

Q. At any of those times that you looked around you never saw a man with his arm around a girls neck, or a girl with her arm around a man's neck? A. No, sir.

Q. Never saw them showing any affection by hugging or attempting to kiss the girl? A. No, sir.

Q. Never saw that? A. No, sir.

Q. Ever see any of the boys attempt to tickle the girls under the arms? A. No, sir.

Q. Or on the ribs? A. No, sir.

Q. Nothing of that kind at all? A. No, sir.

Q. Anybody under the influence of liquor? A. Not under the influence.

Q. How many drinks do you think those people would have to have to be under the influence of liquor? A. That all depends upon the person.

Q. They were all hilarious? A. Not hilarious.

Q. They were jolly? A. Yes, sir.

Q. They wouldn't put their hands on each other? A. I don't know whether they did or not; maybe they weren't in the habit of doing it.

Q. You knew some of the people there? A. Let me think.

Q. You had been around there for some time? A. Yes, sir.

Q. Do you know Violet Tueffle? A. No, sir.

Q. Mamie Mackey? A. No, sir.

Q. Ethel Holmes? A. No, sir.

Q. Do you knew the Campion girl? A. I know her by sight.

Q. Did you see her there? A. No, sir.

Q. Did you ever see her at Helvetia Hall? A. I may have.

Q. Do you know the Ryan girl? A. No.

Q. Do you know Clara Swords? A. No.

Q. Amy Gross? A. No, sir.

Q. The Parrington girl? A. No, sir.

Q. Did you ever see anybody there that you have heard people say they were girls of bad character? A. No, sir.

Q. Not that you knew yourself but that you had heard others make remarks about? A. No, sir.

Q. In your testimony you said that you didn't know of any of them being there of your own knowledge? A. That was on Saturday nights.

Q. That is what I mean; now, did you ever see any girls there on a Saturday night that were street walkers or frequenters of back rooms of saloons?

By the Court.—Those are facts that would go to make up a bad reputation.

Q. Did you, at any time, while you were there, from April, nineteen hundred and thirteen, down to May, nineteen hundred and fourteen have your attention called to girls by anybody concerning whom before you have been informed were prostitutes?

By Mr. Hunziker.—I object to the question.

By the Court.—No; not that they are prostitutes but it is some notice to him that they were prostitutes, but when it is corroborated by others it may be brought home to the proprietor that there were prostitutes in the hall. How is the witness going to obtain knowledge of it if he is not told by somebody? Here is notice to an

employe of the place about prostitutes being in the place.

By Mr. Hunziker.—I suppose that he has a right to disregard it as unworthy of belief unless there is some other fact proven.

By the Court.—I will take it. Objection overruled.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)
Judge.

Q. Did you see any girls in the room of whom you had received information before you saw them in the room were prostitutes?

By Mr. Hunziker.—I object to that question.

By the Court.—Same ruling.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)
Judge.

A. Not that they were prostitutes; no.

Q. That they were street walkers? A. Street walkers? No.

Q. What was the character that you were informed about these girls? A. That they were toughs.

Q. What did you understand by "toughs"? A. Dances, going around; may have disregard for their character, and get drunk, but not prostitutes.

Q. And there were some of them there? A. There was one to whom I called the attention of the waiter.

Q. The chorus girls, when they came in you didn't see any of them with braids hanging down

their backs? A. No, sir; not hanging down their backs.

Q. With short dresses? A. No, sir; not as they came in the hall.

Q. Did you see them in the cabaret hall in that condition? A. No, sir.

Q. Did you see anybody in the cabaret hugging the girls and men; indulging in kissing, or anything of that kind? A. No, sir.

Q. When you went up stairs to the ball room did you remain there? A. No; I would come down and have a drink with my wife, and then go up and have another dance.

Q. You waited there until after one o'clock? A. After two.

Q. The hall was full at two o'clock? A. No; they were kinda thinning out then.

Q. That is all.

By Mr. Hunziker.

Q. You say you called the attention of the waiter to one of the girls that was intoxicated there; had she been served with anything? A. No, sir; that was a Saturday night; I have seen her actions in Baum's Park, and I knew she wasn't in the proper place, and he told her that she would have to get out.

Q. How old a girl is she? A. About twenty or twenty-one.

Q. That is all.

By Mr. Dunn.

Q. She was sober? A. Yes; she was sober.

Q. That is the only one you saw Mr. McGee put out? A. Yes; that is the only one I seen.

Q. That is all.

FREDERICK KOETTGEN, the defendant in the above entitled cause, being first duly sworn according to law, testified in his own behalf as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Koettgen, you are the defendant in this case, are you not? A. Yes, sir.

Q. And you live at Helvetia Hall? A. Yes, sir.

Q. How old are you? A. Pretty near fifty-one years of age.

Q. You are married? A. Yes, sir.

Q. Your wife living there with you? A. Yes, sir.

Q. You have no children, I believe? A. No, sir.

Q. How long have you lived in Helvetia Hall? A. Very near ten years, I believe.

Q. And during all that time you have conducted the retail liquor business carried on there? A. No, sir.

Q. How long have you conducted that? A. About five years.

Q. Since that time you have conducted it; the business has been in your name? A. For three years; after I was married; my wife, I had the license in her name.

Q. Helvetia Hall is quite a large building? A. Yes, sir.

Q. Will you describe it to the jury? A. The first floor, or the basement is consisted of two bowling alleys and the pool room.

Q. Do you conduct those in connection with your business? A. Yes, sir.

Q. That is the basement? A. Yes, sir.

Q. What is on the first floor? A. Next floor

is a cafe and the bar room, and that leads right in the dining room.

Q. Is that on the same floor? A. Steps up, but the same floor.

Q. What do you mean by that? A. You go up four steps to get in the dining room, but the ceiling is the same.

Q. Any other rooms there? A. The kitchen.

Q. Is the dining room used for anything else? A. Used for refreshments on Saturday night, or when there is a ball.

Q. And was called the cabaret room? A. Yes, sir.

Q. That is on the street side? A. Yes, sir.

Q. And above that floor what is there? A. A dance hall, a gallery and rooms for lodgers.

Q. How big is it? A. The hall is forty-two feet by one hundred feet, inside about ninety-six feet.

Q. How is the gallery reached? A. Stairway leading directly inside.

Q. On each side? A. No; only on one side, but there is a large entrance by which you can reach the gallery.

Q. Are there any other rooms in the building? A. Yes, sir; there are fourteen rooms up stairs.

Q. What are they used for? A. They are used for my private living, and my servants, and there are eight rooms that I hire out to steady boarders, and besides that there is a lodge room about twenty by sixty.

Q. A lodge room? A. Yes, sir; where they hold their regular monthly meetings.

Q. What connection is there from the dance room to the dining room? A. When you enter from the Van Houten street side there is a large

entrance that goes in the cabaret room, and there is an entrance that goes from the lobby to the cabaret room.

Q. Which end? A. The rear end of the cabaret room.

Q. Then when anyone enters the cabaret room they don't have to go through your cafe? A. No, sir.

Q. They can get in the main entrance and go in the cabaret room and not go to the ball room? A. Yes, sir.

Q. Do you rent out any part of this building for any other purposes? A. I rent out the hall whenever I get an opportunity, for balls, mass meetings, society meetings, or any party that I consider respectable, I rent it out.

Q. Do you rent it out to parties or for entertainments? A. Yes, sir.

Q. Do you know a man by the name of Barlow? A. Yes, sir.

Q. Do you rent the hall to him? A. For the whole season.

Q. Do you make a separate agreement every Saturday night, or was there an agreement from the beginning of the season? A. I make an agreement when the season enters for a month's rent.

Q. Then from month to month? A. Yes, sir.

Q. He pays you the rent each month? A. Yes, sir.

Q. Have you any direction or control of the dances run by Mr. Barlow? A. No, sir.

Q. Anything to do with it at all? A. I merely furnish two constables.

Q. Do you derive any direct gain or profit—

part of the entrance fees? A. No, sir; not outside of the rental.

Q. The only thing you receive is the rental, is it? A. Yes, sir.

Q. When you rent this to societies for holding a dance have you any other revenue other than or except the rental of the hall? A. No, sir.

Q. Do you retain any supervision or control of any of the entertainments? A. When they hire the hall I tell them they must conduct it in a proper way.

Q. Do you reserve to yourself that right? A. Yes, sir.

By Mr. Dunn.

Q. Is that agreement with Barlow in writing? A. No, sir.

By Mr. Hunziker.

Q. Upon these occasions do you reserve to yourself the right of managing any part of the entertainment? A. Not the entertainment.

Q. Now, Mr. Koettgen, during the time from April first, nineteen hundred and thirteen, up to May, nineteen hundred and fourteen, how many people did you have living there as reguar boarders? A. From eight to ten that stayed there as reguar boarders, but I had other men as boarders who took their meals and lived in furnished rooms and that brought it up to twenty or twenty-five.

Q. And they frequented the place every day for the purpose of getting their meals, or otherwise? A. Yes, sir; frequented it three times a day.

Q. Now, Mr. Koettgen, when did you begin con-

ducting these cabaret shows there? A. It would be about five years in January or February.

Q. Now, during the period which I have mentioned, from April first, nineteen hundred and thirteen, to May, nineteen hundred and fourteen, what would be the attendance to these cabarets? A. In the winter time, sometimes three hundred, four hundred attendance—on the kind of weather—ran sometimes up to six hundred.

Q. Now what arrangements had you made, or did you make, during that period, to assist you to maintain order in that place? A. I had two constables.

Q. Who were they? A. Charles McGee and Charles Clark.

Q. What were they hired for? A. To keep order and see that no minors came in the place.

Q. That all? A. Or if a man was boisterous to see that he should be removed from the place.

Q. Did you communicate these instructions to these officers? A. I communicated these instructions to the officers mostly every Saturday night, that I didn't want them in and that they must take strict care of the place.

Q. How many waiters did you employ? A. During the early part of nineteen hundred and thirteen I employed five, and in the summer I employed two or three and sometimes only one, it depended on how the attendance was.

Q. Did you communicate any directions to the waiters? A. I told the waiters that if anybody slipped by the door where the officers were stationed that they must communicate it to me, and not serve them with anything under no consideration.

Q. Did you yourself give that personal supervision, to the cabaret and maintenance of order in that room? A. I was there whenever I could be in the room.

Q. What other duties did you have or did you perform on Saturday nights? A. I have a bar room, and sometimes it is very crowded, and sometimes I work there and give them help.

Q. Can you see in the cabaret room from the bar room? A. If the door is open I can see a small space.

Q. Or otherwise not? A. No.

Q. Now, Mr. Koettgen, you have spoken about a back entrance leading from the dance hall to the cabaret room, was that entrance used? A. A. No, sir; that entrance was always closed when there is a cabaret going on.

Q. In what way did people gain access to the cabaret room on Saturday nights? A. By going through the cafe or the main entrance.

Q. That is the only means of access when the back entrance is closed? A. Yes, sir.

Q. Is that back entrance always closed? A. Ever since I have been running the cabaret.

Q. On Saturday nights is there a dance on the dance floor? A. In the winter there is.

Q. A dance conducted by Mr. Barlow? A. Yes, sir.

Q. If any people wanted to attend the cabaret they would have to come down the front entrance? A. Come through the front entrance.

Q. And go in like anybody else? A. Like anybody else, yes, sir.

Q. Now, Mr. Koettgen, what can you say as to the conduct of the people that attended the cabaret entertainments during the period that we

have mentioned? A. Whenever I have been in the cabaret room I have never seen any disorder, or anything out of the way. I go around and I often hear to be mentioned "Here comes the boss" and it seems that everything was in good behavior. and if I did see anything that I thought wasn't right I would notify the officer, or tell the people to vacate the place.

Q. Did you ever on any of these occasions see any kissing or hugging? A. No, sir.

Q. Or sitting on each others laps? A. No, sir.

Q. Or putting their hands on each others persons? A. No, sir.

Q. Or acting freely or immodestly in any way? A. No, sir.

Q. What can you say about the people attending these entertainments being intoxicated? A I have never seen anyone in that cabaret room that was intoxicated.

Q. At any time? A. At no time.

Q. Do you permit anybody to be served there intoxicated? A. No, sir; any time when I see a person, if he had sufficient or could not take care of himself then I didn't serve him any more during the week or any other day.

Q. What can you say of the people who patronized the cabaret performance are under the age of eighteen? A. I have at no time seen them in the cabaret room, although I have stood at the door and kept them out on Saturday nights.

Q. For what reason? A. Because I thought they were too young; I even once refused a man and wife, as I was afterwards informed.

Q. Ever see girls with short dresses? A. No, sir.

Q. With their hair braided? A. No, sir.

Q. Any boys in your judgment under eighteen? A. No, sir; I have seen them in the hall way, and I have chased them out.

Q. Do you know of any persons of ill repute attending there? A. I don't know any people in Paterson of ill repute in any way; I don't associate with them.

Q. Have your people—your employes—any instructions with reference to admission of or serving people of ill repute? A. I have always instructed them that if they didn't know how old they were—if they thought they were under the age not to serve them.

Q. Were your cabaret performances during the time you have mentioned, ever attended by the police officers of the city of Paterson? A. I have seen a few of them in there; standing by the doorway.

Q. Who did you see? A. I don't remember; there was Close and Fitzpatrick, he was there, and I believe that during the time of the first part of nineteen hundred and thirteen, Sergeant McBride had been in there several times, and I spoke to him—

Q. You mean Captain McBride? A. Yes, sir

Q. Did any of the officers ever speak to you, or make any comment about the management of the place? A. Not on Saturday night.

Q. Mr. Koettgen, it has been mentioned that on one occasion a man was taken from your place that had three cuts on his hand; do you remember that occasion? A. Yes, sir.

Q. Can you tell us about that? A. Officer McGee came to me and told me—

Q. Never mind what he told you; what did you do? A. I had to telephone to police headquarters.

Q. After Officer McGee spoke to you, did you see a man there? A. I didn't see him, no; he said he had to take care of the man and I had to telephone to the police station.

Q. Do you know whether he was cut there? A. No, sir; it was early and there was nothing going on there.

Q. You didn't see him yourself? A. No, sir.

Q. What part of the hall was he in? A. On the left hand side toward the toilet room.

Q. Was he in the cabaret room? A. Yes.

Q. Now, Mr. Koettgen, it has been said that upon a certain Sunday, April twentieth, nineteen hundred and thirteen, that liquor was sold in your place, what do you know about that, if anything? A. On April twentieth; it was the memorial day of the order of Moose; I hadn't been in the hall all day, and after supper I said to my wife: "We will go to the memorial that night" and I left the place in charge of my brother-in law.

Q. What is his name? A. Emil, and I left the place in charge of him and my boarders, and after we came out of the memorial I met Mr. Fitzpatrick and I met him on Market street and he passed on and we passed on, and I learned when I got home that Mr. Fitzpatrick and another officer had been in the place and I asked him what he said, and he said to get out.

Q. Before you left the building that day had you done any business? A. No, sir.

Q. Did you say anything to your brother in-

law about doing business? A. I said he should not.

Q. Did you ever do business on Sunday? A. No, sir; no time.

Q. Especially during the period that we have mentioned? A. No, sir; not since I have had the liquor license in my name.

Q. Was there a complaint made? A. I got a subpoena to come, but I was told to go home.

Q. Ever hear any more of it? A. He said he would send for me when he wanted me.

Q. Did you ever hear any more of it? A. No, sir.

Q. Now, Mr. Koettgen, you remember the night of the Chorus Girls ball? A. Yes, sir.

Q. That was on January sixteenth, was it not? Yes, sir.

Q. Nineteen fourteen? A. Yes, sir.

Q. Did you conduct that ball? A. No, sir.

Q. Who did? A. I hired the place out to the Chorus Girls of the Orpheum.

Q. The Chorus Girls of the Orpheum? A. The employees of the Orpheum.

Q. Was that hiring in writing? A. Yes, sir.

Q. I show you this agreement and ask you if that is the writing? A. Yes, sir; with the signature on it.

Q. Did you see them sign it? A. Yes, sir.

Q. Whose signatures are they? A. Ipp, Cohen and Louis Watson.

Offered in evidence and marked Exhibit "D-1" on behalf of the Defendant.

Q. Who owns that Helvetia Hall? A. The building is owned by my wife, but the business is

carried on by a company, which is the Charles Kruchen company.

Q. Is that the lessee, the party who really leases the hall for hall purposes? A. Yes, sir.

Q. That is your hand writing? A. Yes, sir.

Q. Mr. Koettgen, this contract—I will read it to the jury; (Reads contract to jury), these signatures which appear opposite the word "Committee;" those are the signatures of the committee? A. Yes, sir.

Q. Signed by them in your presence? A. Signed by them in my presence.

Q. Under this contract did the committee have charge of what part of the building—I will withdraw that question. Now, Mr. Koettgen, did you have any connection with the management, control or direction of that Chorus Girls' Ball? A. No, sir.

Q. Were you in the building? A. I was.

Q. On that night? A. I was.

Q. What part of the building? A. In the bar room and front hallway most of the time.

Q. Who furnished the waiters and other employes of the building, did they hire all the employes themselves? A. Yes.

Q. Did you have anything to do with that ball at all? A. Not outside of furnishing the soda and beer.

Q. In what manner did you furnish the refreshments? A. I turned a certain amount of goods over to them.

By Mr. Dunn.—I object to that.

By the Court.—Let it go in for what it is worth.

Q. What arrangements was there between you and this committee with regards to the refreshments? A. I turned over a certain amount of goods over to them and what they didn't sell they turned back to me, and I got a certain percentage.

Q. Is there any license taken out for this purpose? A. No, sir.

Q. Sell under your license? A. Yes, sir; I reserve the right to go behind the bar and direct them to sell the goods as I direct them.

Q. Now, Mr. Koettgen, during the night of the Chorus Girls ball, did you at any time visit the cabaret room? A. I went there once and notified them that some net wire had been tapped.

Q. Was that the only time you were there? A To my knowledge, yes.

Q. Were you up to the dance hall? A. I didn't take any notice; I went up to the toilets because they got stuffed.

Q. So you were only in the dance hall the time it took to pass through it? A. Yes, sir.

Q. Did you notice any misconduct? A. No, sir; the hall was so crowded that I couldn't see what was going on.

Q. Did anybody make complaint to you about any misconduct? A. No, sir.

Q. Any complaint made to you at any time that night with reference to the conduct of this ball? A. No, sir.

Q. Mr. Koettgen, do you remember an occasion when Mr. Ryan came there one Saturday night? A. Yes, sir.

Q. Will you tell us, if you know, what induced the Sergeant to come there that night, and what happened after he got there? A. I didn't see him come in at all. I was standing in the bar room, and all at once, on the left hand side I saw a commotion, and when I saw the commotion I saw a policeman's stick up in the air; I didn't know who it was, and when he came towards the front then I saw it was Sergeant Ryan.

Q. How long was he in your place to your knowledge? A. I didn't see him at all until I saw the commotion.

Q. How long did that commotion last? A. About a minute or so.

Q. Did you observe whether anybody was placed under arrest? A. I saw them take a man out.

Q. Did you see anybody in company with the Sergeant? A. I saw Schuman-Heink, that is all.

Q. Before that was there any trouble there? A. No, sir; everything was quiet.

Q. Any unusual noise? A. Everything was quiet.

Q. Mr. Koettgen, besides this occurrence has there been any fights in your establishment? A. Not in the hall.

Q. Just outside the hall? A. That I don't know.

Q. Remember any occasion when there was a fight on the outside of the hall? A. Doesn't concern me on the outside.

Q. Do you remember it? A. I don't know outside.

Q. Do you remember of a night when Sergeant Ryan was there? A. Yes, sir.

Q. Did you speak disrespectful to him? A. No, sir; Sergeant Ryan spoke disrespectful to me.

Q. Did you hear anybody so speak to Sergeant Ryan in front of you? A. No, sir.

Q. On these other occasions when there are dances on the floor above, I mean occasions other than Saturday nights, is there connection by the back stairway with the cabaret room? A. Yes, sir.

Q. And do people come down that way to the cabaret room? A. Yes, sir.

Q. For the purpose of obtaining refreshments? A. Yes, sir.

Q. And do you ever see any coming down under the age of eighteen? A. No, sir.

Q. Or any mispropriety in the cabaret room? A. No, sir.

Q. Or become intoxicated while there? A. No, sir.

Q. Or cursing and swearing and usuing vile lauguage? A. No, sir; not to my observation.

Q. In the conduct of your cabaret, does your wife assist you in any way? A. Yes, sir; cashier.

Q. Where is she stationed? A. In the cabaret room; in the front.

Q. From her station can she see what is going on? A. Yes, sir; she sits on a high hair and she can see everthng thiat is going on.

Q. That is true of every Saturday night? A. Yes, sir.

Q. She always acts that way? A. Yes, sir.

Cross Examination by Mr. Dunn.

Q. She acts for you? A. She acts for the company.

Q. The company isn't running the bar? A. The company runs the whole business.

Q. The license is with you? A. Yes, sir.

Q. What she takes in there for beer belongs in the first place to you? A. Yes, sir.

Q. Then she is there as your agent? A. Yes, sir.

Q. Now, Mr. Koettgen, you have had considerable trouble in the last year with the running of your hall? A. Not that I know of.

Q. Did you know during the year nineteen hundred and thirteen, from about the first of October, down to the first of May, nineteen hundred and fourteen, eight or nine policemen had to be detailed down to your place every Saturday night? A. Not that I know of.

Q. You didn't know they were there? A. No, sir.

Q. How do you account for Mr. Ryan coming down to your place on April eleventh, nineteen hundred and fourteen, if there was nothing there? A. I don't know why he came in.

Q. What started the commotion just as he came in if there had been no trouble? A. I don't know.

Q. Ryan didn't start it? A. It seems to me that way.

Q. Then he went over to the fight? A. I didn't see any fight there.

Q. You heard what Mr. Ryan said? A. What Mr. Ryan said I don't know.

Q. You had a talk with Ryan there? A. That was after; after he had put the man out.

Q. Did you think he did wrong in putting the man out? A. Yes, sir.

Q. Notwithstanding the man was fighting? A. Yes, sir; I paid two officers.

Q. Suppose there was a fight there, he was not to put the man out? A. I thought he could turn them over to my officers.

Q. He should play second fiddle? A. I paid two men.

Q. Your idea is— A. Not act like second fiddle, or like he did, I considered what he did was wrong, yes.

Q. Now, after that had taken place, he had told you and McGee that the authorities were going to take charge of that place hadn't he? A. When he came back he called me a Dutch bastard; he said: "You can't run the place" and he was going to run it to-night.

Q. Didn't you tell me you were going to get an injunction against him? A. I may have.

Q. Haven't you acted in that manner with any other officer during the past year? A. I have not.

Q. Do you recollect that I telephoned to you in May or June of last year, and wanted to speak to your wife, and wanted to speak to her about the manner the place was being running, and you refused to let her come to the wire?

By Mr. Hunziker.—I object to that; that is irrelevant and immaterial.

By the Court.—Is that the only reason?

By Mr. Hunziker.—Yes, sir.

By the Court.—Objection overruled.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)

Judge

A. I didn't refuse that she should come to the phone; I said that I was her husband, and I was

conducting the hall and if anything was wrong I would want to know about it.

Q. And didn't I say that if you refused to let her come I would send the wagon down and bring all of you to the court house within one half an hour?

By Mr. Hunziker.—I object to the question as irrelevant and immaterial.

By the Court.—Objection overruled. 10
Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)
Judge.

A. I didn't say that; you said that you would send the wagon and you would find some means of getting her there.

Q. Then you let her come to the phone? A. Yes, sir.

Q. And then she came to see me; didn't she? 20
A. Yes, sir.

Q. Now, Mr. Koettgen, you mean to tell this jury that you didn't know that complaints had been made about the conduct of your hall there? A. No complaints have been made to me.

Q. Wasn't the license of your place opposed before the Board of Aldermen? A. Not to my knowledge.

Q. And you didn't know that these policemen were down there by your hall every Saturday 30
night from eleven fifteen until after twelve o'clock; a staff of five or six men? A. No, sir.

Q. And you never knew that a fight took place in front of your hall with people that came out? A. Not with the people coming out.

Q. And you never knew that people came out

drunk; men and women and the women came out and were put in an automobile and taken away? A. No, sir.

Q. Do you know Violet Tueffle? A. No, sir.

Q. The Mackey girl? A. No, sir.

Q. And the Campion girl? A. No, sir.

Q. And the Burns girl? A. No, sir.

Q. Margaret Ryan? A. No, sir.

Q. The Storms girl? A. No, sir.

Q. The Gross girl? A. No, sir.

Q. Didn't know the Parrington girl? A. No, sir.

Q. And you didn't know the Grandy girl? A No, sir.

Q. Don't you know that they were taken out of your place? A. I don't know.

Q. Do you know they were in your hall? A. I don't know them.

Q. When you gave the instructions to these men—you knew that Officers Clark and McKee were there? A. Very seldom I seen them.

Q. And you knew that the police officers were there? A. Very seldom I seen them.

Q. And didn't you know that Elvin and Stapleton were there different nights? A. No, sir; the only time I saw Stapelton was four or five years ago, and then I requested him to come in, as the people refused to go out.

Q. Did you know that Smith was there? A. No, sir.

Q. You know that Ryan and McBride were there? A. Yes, sir.

Q. You say the only ones in the place on that Sunday were your boarders? A. Yes, sir.

Q. Did you hear their testimony here yesterday, Mr. Fitzpatrick? A. Yes, sir.

Frederick Koettgen—cross.

Q. Did you hear that there were thirty-five or forty people there, and that he ordered them out?

By Mr. Hunziker.—I object to the question; he didn't say so.

Q. Twenty-five or thirty people? A. Yes, sir.

Q. Did you hear Mr. Simpson say he went in there and found twenty-five or thirty people in there and that your bartender was there, and when he ordered him to close up all the parties left the hall and went away? A. I heard that, yes, sir.

Q. Do you want the jury to believe that there were no outsiders there? A. I wasn't there.

Q. Then you don't want us to understand they were all your boarders? A. They were all boarders when I left there.

Q. The door was open? A. The door was closed when I left the place.

Q. Was the bar locked? A. Yes, sir; the door was locked and I had the key in my pocket.

Q. How did they get in the bar room?

By Mr. Hunziker.—I object to that; there is no proof that there was anybody in the bar room.

Q. You were the only man who had control of the liquors there? A. Yes, sir.

Q. Do you want this jury to understand also that you never sold whiskey or beer there on Sunday? A. Yes, sir; since I had the license.

Q. For three years? A. Yes, sir.

Q. Now, what constitutes the Krutchen Company? A. There are various persons.

Q. Mrs. Koettgen is in it? A. Yes, sir.

Q. And you are in it? A. Yes, sir.

Q. Who else? A. And a fellow by the name of Sheppard.

Q. And that is all? A. And another party.

Q. And who is that? A. I can't just think of the name.

Q. And the building belongs to Mrs. Koettgen? A. Yes, sir.

Q. What is it the company owns? A. The business carried on inside.

Q. And the license is carried on in your name? A. Yes, sir.

Q. Now these girls—you don't see at all in the hall, at any time, any street walkers in the hall? A. I don't know any of them; the people that came in there, as long as they conduct themselves right, are permitted to stay in there as long as they are not under age.

Q. How many fights have you seen in the place from April, nineteen hundred and thirteen, down to May, nineteen hundred and fourteen? A. None at all.

Q. How many have you seen put out from April, nineteen hundred and thirteen, down to May, nineteen hundred and fourteen? A. Put out; what do you mean?

Q. Put out by the officers? A. Only two, and not for fighting.

Q. Do you want the jury to understand that you have never seen the girls and men in there, in the cabaret room there, under the influence of liquor? A. No, sir.

Q. And you never saw them staggering out? A. No, sir.

Q. Where do you stand? A. In all places of the hall; sometimes by the door; sometimes in the bar room, and sometimes in the cabaret room; most of them leave from quarter past eleven to half past eleven mostly from the dance, but no time did I see that there was fighting inside of the hall.

Q. This passage way from the back part of the hall down to the cabaret room is closed on Saturday nights? A. Yes, sir; that door is always closed Saturday night.

Q. Other nights in the week it is open? A. Yes, sir.

Q. Since when did you close that passage? A. Since I began to hire the hall out up stairs.

Q. How long is that? A. Four years since I began to run the cabaret.

Q. And you have continued to run the hall in the same way from the period of nineteen hundred and thirteen down to May? A. Yes, sir.

Q. Now, haven't you been out in the front of the hall there at times when six, seven or eight officers would have to dispurse the crowd there right on the steps? A. No, sir.

Q. During the time from April first, nineteen hundred and thirteen, to May nineteen hundred and fourteen, have you ever heard any man in your cabaret room use any profane language, cursing or swearing? A. No, sir; I haven't.

Q. Have you ever heard any women? A. No, sir.

Q. Or any vulgar talk? A. No, sir; because I didn't listen to them.

Q. Have you ever heard it expressed? A. No, sir.

Q. Have you ever seen a couple walking along with the arm over the neck of the other, or embracing? A. No, sir.

Q. Did you ever see a couple sitting at your table in your cabaret room? A. Yes, sir.

Q. Ever see them play hold hands? A. No, sir.

Q. Ever see a man or girl tickle them under the arms or any other place?

By Mr. Hunziker.—I object to that line of questioning.

By the Court.—I think it is within the legitimate range of cross examination.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)

Judge.

Q. Did you ever see a woman sitting on a chair with her legs upon the table? A. No, sir.

Q. Ever see a woman smoking a cigarette? A No, sir.

Q. Did you ever visit the Chief of Police with reference to your place? A. I have been to Bimson's office various times; not as far as my place is concerned; concerning my cabaret is concerned.

Q. And when was it you were there? A. Just during the time when the labor trouble occurred.

Q. Was that prior to April eleventh, nineteen hundred and thirteen? A. I think it was around that time.

Q. The strike broke out February twenty-fifth, was it prior to that? A. I think it was prior to that.

Q. Haven't you spoke to Captain McBride about conditions there since that time? A. Yes, sir.

Q. What was the complaint you made to him? A. I said to Captain McBride if he could show me where I could improve anywheres or the people that came in there, I would gladly take the advice and do so.

Q. Hadn't you had information at that time that they were not satisfied with the way you were running your place? A. No, sir.

Q. What prompted you to mention it? A. The conversation that was going on, and he arrested one time a couple, or had arrested a couple who was doing what he called the Trukey Trot.

Q. When was that; prior to this time? A. Yes, sir.

Q. You have spoken to him since then? A. Yes, sir.

Q. And you knew he had a force there to take care of any trouble of that kind? A. No, sir.

Q. You didn't know that? A. No, sir.

Q. That is all.

By Mr. Hunziker.

Q. Mr. Dunn has referred to the telephone, was that in relation to the cabaret or liquor business? A. No, sir.

Q. Was it in relation to the labor troubles there? A. Yes, sir.

Q. When you spoke to Captain McBride, as you have mentioned, did he point out any fault or complaint that you could remove? A. He pointed out men hanging in Van Houten street; not that comes in my place, but hangs in front of

the Orpheum, and meets on the street, which I didn't consider concerned me.

Q. Did you tell that to the captain at that time? A. He thought that these things; these disturbances were coming all from my hall. I have noticed that when the police patrol came there, they came there and there were no people there at all, and then they said that there was a disturbance at Helvetia Hall.

Q. That is all.

OTTO BLY, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Bly, what is your business? A. Bar tender.

Q. And you live in Paterson? A. Haledon.

Q. Work for Mr. Koettgen any time? A. For the past three years I have worked for him.

Q. The past three years? A. Yes, sir.

Q. Been employed in this cabaret any time within the past two years? A. No, sir.

Q. Then we don't want you; I was misinformed about your information.

SAM COHN, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Cohn, do you live in Paterson? A. Yes, sir.

Q. Where? A. 64 Van Houten street.

Q. Are you connected in any way with the Orpheum Theatre? A. Yes, sir.

Q. In what way? A. Superintendent.

Q. How long have you been there in that capacity? A. Three years.

Q. And during the time that you have been employed there have you had occasion to visit Helvetia Hall? A. A few times; yes, sir.

Q. On a Saturday night? A. Never on a Saturday night.

Q. Did you, with others, have an occasion to rent Helvetia Hall? A. Yes, sir.

Q. On January sixteenth, nineteen hundred and fourteen? A. Yes, sir.

Q. And your agreement was in writing? A. Yes, sir.

Q. I show you Exhibit D-1, and ask you if that is the agreement made by you? A. Yes, sir.

Q. Is that your signature opposite "Committee"? A. Yes, sir.

Q. That was the occaasion known as the Chorus Girls' Ball? A. Yes, sir.

Q. Did you take any part of the management of that ball? A I was in the ticket box office.

Q. And did you observe the people who came in? A. They would buy a ticket, and some of them had a ticket when they came in.

Q. What can you say about anybody coming in there under eighteen years of age? A. I didn't observe any.

Q. Did you have occasion to observe? A. Yes, sir.

Q. Either boys or women? A. Yes, sir.

Q. Did you go in the cabaret? A. Yes, sir.

Q. What time? A. About half past eleven.

Q. Where? A. I went first to the dance hall.

Q. Did you observe the conduct of the persons present? A. Yes, sir.

Q. Did you observe whether they were acting in an orderly or disorderly manner? A. Yes, sir.

Q. Did you notice any impropriety? A. I didn't.

Q. See anyone kissing one another? A. No, sir.

Q. Putting their hands on each others persons in any way? A. No, sir.

Q. While you were up there did you observe any that appeared to be under the age of eighteen years? A. No, sir.

Q. Either men or women? A. No, sir.

Q. Did you notice anybody there who was in an intoxicated state? A. I did not.

Q. Did you observe the dance? A. Yes, sir; I looked around.

Q. Did you notice anybody there who was in an toxicated dance? A. No, sir.

Q. Men or women or women together? A. No, sir.

Q. Was that the only time you were in the hall? A. Yes, sir.

Q. Were you in the cabaret room? A. Yes, sir.

Q. How long were you around there? A. Half an hour.

Q. After you had been to the dance hall? A. Yes, sir.

Q. What was the hour then? A. Five after eleven.

Q. Did you see any misconduct or impropriety on the part of men or women then? A. No, sir.

Q. Any manifestation of affection of any kind? A. No, sir.

Q. See any intoxication? A. No, sir.

Q. Any hugging? A. No, sir.

Q. Was there music or other entertainment being furnished in the cabaret room while you were there? A. No, sir.

Q. Only people sitting there? A. Sitting around the table.

Q. Did you notice any police officers there that night? A. Up stairs there was one and one down stairs.

Q. Those are the men regularly employed there, or on the force? A. One was for the hall and one for the Orpheum Theatre.

Q. Do you know whether or not your committee made any arrangements for the policing of the hall that night? A. Yes, sir.

Q. What was that? A. They would come around and look out for the hall that night.

Q. Who? A. Some of the police.

Q. The regular department? A. Yes, sir.

Q. Does the Orpheum employ any men for police duty? A. We had two of them at that time.

Q. For the ball? A. Yes, sir; one there in uniform, and one about one hour.

Q. Then you had four there? A. Three.

Q. All evening? A. All evening.

Q. And one for an hour in addition? A. Yes, sir.

Q. Now, during the time you were in the cabaret room was the room full? A. Yes, sir.

Q. Now, during the time you were in there did you see anything out of the way? A. No, sir.

Q. Anything out of the way at all? A. No, sir; everything was all right.

Q. Did you see any of these reverned gentlemen there that night; any of those seated in this front row—Mr. Smith? A. I didn't see them.

Q. Were you present in court yesterday? A. Yes, sir.

Q. Did you see the two women who testified? A. Yes, sir.

Q. Did you see them there? A. No, sir.

Q. Did you see Mr. Weinberg and Mr. Leitenberg there? A. No, sir.

Q. How long did you remain in the hall that night? A. I was there until it broke up.

Q. Did Mr. Koettgen have any connection with that ball? A. No, sir.

Q. Who had charge of the ball? A. Mr. Paul Ipp.

Q. One of those whose name is on this contract? A. Yes, sir.

Q. The committee had the management and comduct of the ball? A. Yes, sir.

Q. Did you see Mr. Koettgen on the premises that night? A. In my presence; no, sir.

Q. What arrangement was made, if you know, with reference to the disposing of refreshments that night? A. The arrangements was that we got everything from him.

Q. Who supplied the waiters? A. The committee.

Q. And bartenders and servants generally? A. The committee.

Q. Did you on that night see anybody in there whom you knew to be a person of bad reputation? A. No, sir.

Q. That is all.

Cross Examination by Mr. Dunn.

Q. When you say you were to get everything from Mr. Koettgen, under that contract, what do you mean by that? A. Just the stuff we bought from him; the soft stuff and beer.

Q. And whiskey? A. I don't know.

Q. Sandwiches? A. We had a gent there for sandwiches.

Q. Then you got from Mr. Koettgen your whiskey and beer and soft stuff? A. Yes, sir.

Q. And he delivered it to your committee and they dispensed it through the room? A. Yes, sir.

Q. And you paid him for that? A. Yes, sir.

Q. And in addition to that he provided for hiring the hall up stairs? A. Yes, sir.

Q. And he paid the constables? A. Yes, sir.

Q. You were busy in the ticket office down stairs? A. Yes, sir.

Q. I suppose that box is constructed with a little circular hole? A. Yes, sir.

Q. I suppose anybody would come in and get two or three tickets and they might have children with them? A. No, sir; I could see.

Q. Did you see Mr. Smith? A. No, sir.

Q. Did you see the two women? A. No, sir.

Q. Did you see Violet Tueffle come in there? A. No, sir.

Q. The little girl who ran away from the Crittenden Home? A. No, sir.

Q. Any of the girls we have been mentioning? A. No, sir.

Q. So there must have been a lot of people that got in that you didn't see at all, these people that got in? A. I don't know.

Q. Suppose I walked in and asked for three

tickets, you would give them to me if I had the price? A. Yes, sir.

Q. You wouldn't ask me who I was going to take in? A. No, sir.

Q. What did you do about minors? A. I instructed the door keeper not to let them in.

Q. What were your instructions? A. Not to admit anybody under eighteen.

Q. Suppose they had their father or mother or guardian? A. I don't know.

Q. Did you give them any instructions at all? A. Yes, sir.

Q. Where did you get the information from that they must be over eighteen? A. Because I take tickets at the Orpheum and I didn't let any one in there under age.

Q. What is the age? A. Eighteen.

Q. When they have a guardian with them? A. If they have a parent or guardian that is all right.

Q. I could have gone there with a half dozen of my boys? A. Yes, sir.

Q. Then it wasn't your duty to see particularly if anybody got in there under eighteen, was it? A. No, sir

Q. Who are these other three who signed this contract; who is Ipp? A. He is here.

Q. What is his business? A. Charge of the Strand Theatre.

Q. Charge? A. Manager of it; yes, sir.

Q. Louis Watson, who is he? A. He was Treasurer of the Orpheum.

Q. And Paul Ipp, who was he? A. Assistant manager.

Q. You are not related to any of them? A. No, sir; but it was a combination. Most of us worked together.

Q. That is all.

Frederick Koettgen—recalled.

FREDERICK KOETTGEN, the defendant is recalled.

By Juror No. 11.

Q. I understand you to say that yon were conducting this dance hall and saloon for five years, is that right? A. Yes, sir.

Q. During that period did the police authori ties of this city make a specific charge against you as to the way you were conducting your place? A. Not to me.

By Mr. Dunn.

Q. Wasn't there a complaint made about your selling liquor on Sunday? A. That was previous.

By Mr. Marelli.

Juror No. 11 had in mind, when he asked the question, whether or not Mr. Koettgen had received any notification from the police of these violations that took place.

By Mr. Dunn.

Q. As I understand it you only had the license for three years? A. Yes, sir.

By Mr. Hunziker.

Q. Mr. Koettgen, that complaint about Sunday selling, was there any complaint made? A. No, sir.

By Mr. Dunn.

Q. What was Captain McBride complaining

about? A. The disturbance on Van Houten street.

Q. Who came out of your place? A. No, sir; not to my knowledge.

Q. That is all.

At this point an adjournment was taken until Thursday morning, the twenty-fourth day of December, nineteen hundred and thirteen, at ten o'clock.

10 Court convened on Thursday, December 24th, 1913, as per adjournment.

MARTIN IPP, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

20 Q. Mr. Ipp, where do you live? A. 292 Market street.

Q. Paterson? A. Yes, sir.

Q. How long have you been in Paterson? A. Three years.

Q. Married man? A. Yes, sir.

Q. Are you connected with the Orpheum Theatre? A. I am.

Q. You were last year? A. Yes, sir.

Q. In what capacity were you employed there?

30 A. As advertising agent and "ad" man.

Q. Do you remember the sixteenth day of January last? A. I do.

Q. Do you remember that there was a function known as the Chorus Girls' ball held at Helvetia Hall on that date? A. I do.

Q. Were you one of the persons who signed this agreement? A. I was, sir.

Q. I mean Exhibit D-1? A. Yes, sir.

Q. The name of Martin Ipp on here, is that your name? A. Yes, sir.

Q. And your handwriting? A. Yes, sir.

Q. Did anyone else than those whose names appear on this lease have anything to do with the running off of the Chorus Girls' ball? A. There is one name missing.

Q. Who is that? A. Frank Higgenbottom.

Q. Anybody else that had anything to do with the management or control of this ball? A. No, sir.

Q. Do you know, Mr. Ipp, what arrangement was made with reference to disposing of refreshments at that ball? A. I didn't have anything to do with that.

Q. Were you on the committee? A. I was.

Q. What time did you get there? A. I reached there about five minutes of nine, or nine o'clock.

Q. How long did you remain in Helvetia Hall at that time? A. Until one o'clock.

Q. What part of the hall were you in? A. On the left hand side; I was all around at different times. But I was at the door most of the time.

Q. How long were you away? A. Just a few minutes.

Q. Do I understand that you were at the door? A. Taking tickets.

Q. Did every one who entered the hall that night have to deliver the ticket to you to pass in? A. yes, sir.

Q. Did you observe any of the ages of the people who entered the hall? A. Yes, sir.

Q. For what purpose? A. Not to let in minors; not under the age of eighteen..

Q. On this occasion did you make observation for that purpose? A. Yes, sir.

Q. Did you let in minors under eighteen to the best of your knowledge? A. To the best of my knowledge I did not; no.

Q. Do you know of any persons that were in that hall on that night of bad reputation? A. I don't sir.

Q. While you were at the door were the persons leaving the hall? A. Yes, sir.

Q. Was that the only means of exit from the hall? A. Yes, sir.

Q. What can you say as to whether or not you saw any intoxicated persons leaving or entering the hall? A. I did not.

Q. Did you see any men that staggered? A. I did not, sir.

Q. Where you were stationed was it possible for you to see the inside of the cabaret room? A. Parts of it.

Q. Did you observe the cabaret room? A. I was kept busy and didn't have much time to observe.

Q. Watching, could you see from where you were? A. Just a little.

Q. How far down? A. All the way.

Q. And how much on either side of the hall? A. Just a little bit.

Q. Could you see patrons seated at the tables? A. Yes, sir.

Q. Did you see any police officers there that night? A. I believe there was one or two came in there in civilian clothes.

Q. Did you recognize them? A. Yes, sir.

Q. You know them? A. Yes, sir.

Q. Did you see any other officer there? A. I think one came over in his uniform; he was the one we had there and one in civilian clothes there.

Q. They were there for what purpose? A. To look around and keep order.

Q. Do you know when the entertainment broke up? A. I don't sir, I left there at two o'clock.

Q. That lease is dated October sixteenth, nineteen hundred and thirteen; that is when you hired the hall? A. Yes, sir.

Q. So that when you made that lease in the name of the Chorus Girls, you didn't know what show would be at the Orpheum on that particular night? A. We knew the show.

Q. You do know that sometimes that girls of ill repute get among chorus girls; you know that, don't you?

By Mr. Dunn.—I object to the question.

By Mr. Hunziker—I will withdraw the question.

Q. Now, Mr. Ipp, the only persons who shared in the proceeds of that ball were the persons who signed the lease and Mr. Higginbottom? A. Yes, sir.

Q. Did Mr. Koettgen participate in any of the moneys made inside? A. Just the percentage.

Q. The more that was sold the greater was his share? A. Yes, sir.

Q. What was his percentage? A. I don't know.

Q. What was your percentage? A. That I just forget.

Q. Was it fifty-fifty? A. No, sir.

Q. You don't know? A. I can't remember what I got out of it.

Q. So the name "Chorus Girls' Ball" was a mere name? A. It was selected—voted on.

Q. Now, of course, you were quite busy? A. Yes, sir.

Q. And anybody that presented tickets you admitted? A. Not all of them.

Q. Did you reject any? A. Yes, sir.

Q. Why? A. I thought they were under age?

Q. That the only reason? A. Yes, sir.

Q. They were in company with older persons? A. Yes, sir.

Q. How old do you judge they were? A. I judged them to be under eighteen.

Q. You just rejected them because you thought they were under age; you didn't know? A. Yes, sir.

Q. If they came with their parent or guardian you didn't reject them? A. I didn't, sir.

Q. Did you ask them their age? A. No, sir.

Q. Did you reject anybody? A. Yes, sir.

Q. This committee ran this ball that evening? A. Yes, sir.

Q. Take the witness.

Cross Examination by Mr. Dunn.

Q. You want this jury to understand that after these tickets had been sold and paid for, and you up at the door receiving the tickets, that you rejected people and sent them back to the ticket office to get their money back? A. Yes, sir.

Q. How much was the admission? A. Fifty cents.

Q. Now, do you want to tell this jury that there was a single instance that you did that that night? A. Yes, sir.

Q. How do you account for little Violet Tueffle getting in that night? A. I don't know her.

Q. Do you know the Campion girl? A. No, sir.

Q. Margaret Ryan? A. No, sir.

Q. Do you know Ethel Holmes? A. No, sir.

Q. Do you know the Mackey girl? A. No, sir.

Q. Do you know Clara Swords? A. No, sir.

Q. The Parrington girl? A. No, sir.

Q. Don't know any of those? A. No, sir.

Q. So you don't know how many persons of bad repute you left in the hall? A. No, sir.

Q. You don't pretend to know the girls of bad repute in the town? A. I don't know, sir.

Q. Do you know that Gross girl is only seventeen years of age? A. No, sir.

Q. Now, Mr. Ipp, you had about a thousand or twelve hundred people there that night, didn't you? A. I don't know.

Q. You took the tickets? A. I wasn't there at the count out.

Q. Didn't you see them counted out? A. No, sir.

Q. How did you reach the amount you were to receive? A. I simply got it.

Q. You simply took it and didn't know how much was taken in for admissions or anything else? A. No, sir.

Q. Nothing except the returns at all? A. No, sir.

Q. During the evening you were away a few times? A. Yes, sir.

Q. Were you in the dance hall that night? A. Yes, sir.

Q. Did you notice or see whether anybody had a dress just below the knees? A. No, sir.

Q. And when down in the cabaret room you didn't bother to notice what was going on there? A. I was only in there on one occasion.

Q. You didn't notice anything? A. No, sir.

Q. That is all.

HAROLD BARLOW, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Where do you live? A. Summer and Morton streets.

Q. Paterson? A. Yes, sir.

Q. What is your business? A. Newspaper man.

Q. Where are you employed? A. Out of town papers at the present time.

Q. You mean that you are a reporter? A. Sure.

Q. Do you do anything else? A. I conduct a dance at Helvetia Hall every Saturday night.

Q. How long past was that? A. The first dance there was October fourth, nineteen hundred and thirteen.

Q. And since that time you still conduct them? A. I do.

Q. And during all that time up to the present them? A. Not in the summer.

Q. From last October up to the present, except in the summer time? A. Yes, sir.

Q. Is there any arrangement between you and the proprietor as to your rental? A. There is.

Q. What is the arrangement? A. That I shall pay so much a month, and that the place shall be conducted right.

Q. Now, at these dances that you hold, does the proprieor of the hall have any part in their management, or the conduct of them? A. He has not.

Q. Does he participate in any of the profits? A. He does not.

Q. Do you charge an admission fee? A. Yes, sir.

Q. How much? A. Twenty-five cents.

Q. Can you say whether or not on those nights that you have these dances that there is any connection between the dance hall and the cabaret room? A. There is no connection at all.

Q. If there is any one present in the dance hall who wants to go down to the place where liquor is sold, how do they get there? A. I give them a return check.

Q. How can they get there? A. Going down the front entrance.

Q. Is the front entrance that you speak of, is that also the entrance to the room below? A. Yes, sir.

Q. Do you know whether that is the same entrance to the hall? A. Same entrance.

Q. Do you ever have occasion to go down to the cabaret room while they are holding this dance? A. I do once in a while.

Q. Do you know whether you have been in there from April, nineteen hundred and thirteen, down to May, nineteen hundred and fourteen? A. I have occasionally.

Q. Can you say whether or not you ever saw any persons in the cabaret room, who, in your judgment, were under the age of eighteen? A. I did not.

Q. Did you ever see any young women there in short dresses? A. No, sir.

Q. Or otherwise dressed up like young girls? A. No, sir.

Q. Any prostitutes or street walkers? A. No, sir.

Q. What can you say as to whether you have seen persons under the influence of liquor coming from or going to that cabaret room or the dance hall? A. I have seen persons that came in from the streets under the influence of liquor, and put out by Officer McGee.

Q. You have seen that? A. Yes, sir.

Q. At the dances that you say you conduct, do you have any provision made for the preservation or order and maintenance of order? A. There is a constable there.

Q. At the expense of who? A. There are two, one stationed in the cabaret, and one in the dance hall.

Q. Have this constable in the dance hall every Saturday night? A. Yes, sir.

Q. Is he under your instructions or order? A. Me and Mr. Koettgen also.

Q. Have you given him any instructions as to the maintenance of order? A. I have given him instructions that anybody acting in a disorderly manner shall be put out, and not enter the hall again; we have done that many times.

Q. Were you at the hall on the evening of the Chorus Girls ball? A. No, sir.

Q. That is all.

Cross Examination by Mr. Dunn.

Q. How old are you? A. Twenty-two.

Q. How long have you been running the dances? A. At Helvetia?

Q. Yes. A. Two years.

Q. Any relation to Koettgen? A. No, sir.

Q. His wife? A. No, sir.

Q. Are you a dancing teacher? A. Yes, sir.

Q. How long have you been following that? A. Two years.

Q. Same length of time? A. Yes, sir.

Q. What rent do you pay for the hall? A. Thirty-five dollars a month.

Q. And does that include Saturday nights? A. Every Saturday night.

Q. How was it that you didn't have anything to do with the renting of the hall for the Chorus Girls ball? A. I have enough to do without that.

Q. You run the Saturday night dance? A. I do.

Q. Then Mr. Koettgen has the constables there to look after that? A. Yes, sir.

Q. Mr. Koettgen there every Saturday night? A. I generally see him.

Q. And you say you didn't notice at any time during the period from nineteen hundred and thirteen, April, down to May, nineteen hundred and fourteen, any persons of ill repute—prostitutes—in the hall? A. No, I didn't.

Q. Any in the cabaret room? A. No, sir.

Q. You didn't have any occasion to look in there to see who was there? A. No, sir.

Q. Do you know any people in town who are persons of bad repute? A. I do not.

Q. Do not know of any? A. No, sir.

Q. So they might be in there and you would not notice them at all? A. No, sir.

Q. They might be in there and you wouldn't know? A. No, sir.

Q. And they might be in your dance hall and you wouldn't know them? A. That might be so.

Q. Any under eighteen? A. No, sir.

Q. Were you going around to look to see any-
10 body under eighteen? A. Yes, sir.

Q. Do you know this Mamie Mackey? A. No, sir.

Q. She frequents your place? A. I don't know her.

Q. Do you know the Gross girl? A. No, sir.

Q. Don't know her? A. No, sir.

Q. Know the Parrington girl? A. No, sir.

Q. She used to go to your place and she is under sixteen? A. I don't know her.

20 Q. Then you don't want the jury to understand that you never leave anybody in under eighteen? A. I don't know her.

Q. Answer the question. A. I do.

Q. Now, Mr. Barlow, the back stairs leading down to the cabaret room is closed when you have an admission dance on for the purpose of preventing the people from the cabaret room to enter the dance hall? A. That is the idea.

Q. They might come up—they might slip up
30 without paying an admission? A. Yes, sir.

Q. And that is done for that reason? A. Yes sir.

Q. And all they have to do is to get a return ticket? A. Yes, sir.

Q. Now, you said a moment ago, that every Saturday you gave Officers McGee and Clark

orders as to who to admit to the hall? A. Gave the orders not to admit anyone under age.

Q. The question is that you did every Saturday? A. Yes, sir.

Q. Isn't Mr. McGee an intelligent man? A. He is.

Q. And usually sober? A. Yes, sir.

Q. So is Clark? A. Yes, sir.

Q. And Mr. McGee is a man how old? A. I couldn't tell the age.

Q. Old enough to be your father? A. He may be and he may be not.

Q. Wouldn't you think he is old enough to be your father? A. I should say about fifty-five.

Q. So he could be your father? A. Yes, sir.

Q. Clark is the same way? A. Yes, sir.

Q. You mean to tell the jury that you had to go in there and repeat your orders every Saturday night; did you do that or didn't you? A. That is my system; I gave instructions every night.

Q. There hadn't anything happened by reason of their work that necessitated you to refreshen their minds on the following Saturday night, had there? A. The reason that I gave the officers that instruction is that the law is eighteen, and I wanted to obey the law.

Q. After you told them on say the first of January, would you tell them again on the eighth? A. Probably I wouldn't have to, but I did every Saturday.

Q. Now, you never saw any disorder in the cabaret room? A. No, sir.

Q. You never saw anybody under the influence of liquor in the cabaret room? A. No, sir.

Q. Never saw them under the influence of liquor in the dance hall? A. No, sir.

Q. Nor in the cabaret room? A. I have seen them going in the show and saw Mr. McGee put them out.

Q. But you didn't know whether they had been in the show or not? A. No, sir.

Q. How many people have you seen Mr. McGee put out in the two years that you have been there? A. I have seen him put quite a few out.

Q. How many times; first take the women; how many times? A. I couldn't give you the exact number.

Q. Name me one? A. I have seen him put out about a dozen.

Q. This is from April, nineteen hundred and thirteen, to May, nineteen hundred and fourteen; tell me one? A. I have seen him put out men but never seen him put out any women.

Q. Can you name me a man? A. No, sir.

Q. Can you tell whether he had drink in there? A. No, sir.

Q. Now, do you know that Saturday nights during the year covering the period from April, nineteen hundred and thirteen, to May eighth, nineteen hundred and fourteen, that there has been a detail or special detail of officers down there of six, seven or eight special officers from the police department?

By Mr. Hunziker.—I object to the question.

By the Court.—Objection overruled.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)

Judge

A. I know of one instance when Sergeant Ryan came in.

Q. That was April eleventh, when he stopped the fight? A. I believe that was April eleventh.

Q. Do you know of any other occasion when they have been down there from eleven o'clock to twelve o'clock? A. There may have been other occasions, but I didn't know it.

Q. Did you ever see that crowd come out at eleven thirty, coming out of the cabaret room; did you ever see the crowd? A. I have seen them.

Q. Were there any of them noisy, or under the influence of liquor? A. I have never seen any of them under the influence of liquor.

Q. Ever hear any of them make any noise as they were coming out of the building?

By Mr. Hunziker.—I object to the question.

By the Court.—Objection overruled
Exception prayed, allowed and sealed.
WM. E. SEUFERT, (L.S.)
Judge.

A. I have heard them talking.

Q. Just talking just like you are now? A. Yes, sir.

Q. Just as though they were going out of a theatre? A. Yes, sir.

Q. That is all.

By Mr. Hunziker.

Q. Mr. Barlow, you said in response to a question by Mr. Dunn that Mr. Koettgen came up to the dance hall from time to time? A. Did I say that? He doesn't come up from time to time.

Q. For what reason does he come up, if he does do you know? A. To see that things are running right.

By Mr. Dunn.

Q. He does visit it and inspects it? A. Yes sir.

Q. He pays the constables? A. Yes, sir.

By Mr. Hunziker.

Q. His paying the constables is part of the agreement with Mr. Koettgen? A. Yes, sir.

Q. That is all.

FRED CLARK, a witness produced on behalf of the defendant, being duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. Clark, where do you live? A. 20 Sixteenth avenue.

Q. Paterson? A. Yes, sir.

Q. How long have you lived in Paterson? A. All my life, except three months.

Q. What is your business? A. Court Attendant.

Q. One of the officers attached to the court? A. Yes, sir.

Q. And have been for how long? A. Since the twenty-eighth day of last April.

Q. Do you know Mr. Koettgen here? A. Yes, sir.

Q. Has he ever an occasion to employ you? A Yes, sir.

Q. When? A. On December thirteenth, nineteen hundred and thirteen, Saturday afternoon was the first that he hired me.

Q. For what times and for what purpose did he hire you? A. He hired me to see that his orders were observed.

Q. From what time? A. From seven o'clock to midnight.

Q. On what dates? A. On Saturdays.

Q. When did you first act as constable down there? A. On Saturday, December thirteenth, nineteen hundred and thirteen.

Q. And what time of the day or evening did your duties begin? A. Eight o'clock.

Q. And what part of the hall were you stationed in? A. At first in the dance hall.

Q. Who conducted the dances? A. Barlow and Stalin.

Q. The last witness? A. He was one of them.

Q. Have you ever done duty in the cabaret room? A. Yes, sir.

Q. How frequently? A. After they stopped dancing I would go down there and get a drink.

Q. Have you done duty there as a regular constable? A. Yes, sir.

Q. From when, about? A. Twenty-sixth of September of this year.

Q. Then up to the eighth day of May, nineteen hundred and fourteen, your regular station was in the dance hall? A. Yes, sir.

Q. You did, from time to time, go down stairs? A. Yes, sir.

Q. That is on Saturday nights? A. On Saturday nights.

Q. Now, Mr. Clark, what can you say about the ages of the people that visited the dance hall or

cabaret with reference to any eighteen years of age or not? A. I couldn't swear.

Q. Your observation and best judgment, do you know, do you know whether any patronized that place under eighteen years of age? A. I wouldn't let them in.

Q. Have you any instructions as to disorderly persons? A. My instructions was to see that there was no disorderly persons, or any persons under age and to use my best judgment.

Q. What were your instructions as to age? A. Nobody under eighteen.

Q. Is that the age you judged by? A. No; eighteen or twenty.

Q. What can you say, Mr. Clark, as to whether the people you saw in that dance hall and cabaret, during the time that you were there, whether they were intoxicated or not? A. I never saw anybody intoxicated; I would put them out.

Q. Did you ever put out any intoxicated people? A. I at different occasions stopped intoxicated people from coming in, and I have stopped them and taken them out and taken them up to the Recorder.

Q. What can you say to whether they were orderly or not? A. My duty was to keep order.

Q. Did you see any disorder there? A. If I did I would stop it right away and make the person leave the room.

Q. Did you ever see any familiarity between the boys and girls, young girls and men? A. No; I have seen them put their hand on the shoulder, or something like that, but never nothing out of the way.

Q. Ever see any girls there with short dresses? A. No, sir.

Q. See people sitting on one another's laps? A. No, sir.

Q. Sure of that? A. I am certain.

Q. Do you know any of the people in Paterson that are women of bad reputation? A. Now, Counsel, I couldn't answer that; I don't know them.

Q. Do you know them by sight? A. Not that I seen there.

Q. Do you know whether this dance hall is visited by prostitutes—whores—street walkers? A. I wouldn't want to call a woman a whore.

Q. Do you know whether any of them bear a bad reputation? A. I couldn't answer that.

Q. Is it part of your duty to observe whether people of bad reputation came in the hall? A. If I knew them they wouldn't get in.

Q. And if you learned that they were persons of bad reputation what would be your duty? A. Put them out.

Q. Were you in Helvetia Hall the night of January sixteenth, nineteen hundred and fourteen? A. No, sir.

Q. You weren't there? A. I was working in another hall that night.

Q. Mr. Clark, during the time that you were there did you ever see any fighting there? A. A little scrap might happen. One night in particular I stood there right by the door, and one fellow said "Come on, we will go home," and the other fellow said "You go to hell" and he hit him and I locked him up and the next morning he was fined in court.

Q. You mean in the police station? A. Yes, sir; and he paid ten dollars in the morning.

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

Q. You didn't see what happened in the cabaret room? A. Not in the cabaret room.

Q. Have you seen or known of your own knowledge of any fights occurring outside of the building? A. When they are leaving it would be impossible for me to know. I stand there and say "Look out; don't break each others necks."

Q. Do you know of fights occurring outside on the street? A. I could not swear; I never saw any.

Q. Did you ever hear any vile or bad language? A. Always stopped it.

Q. Have you heard it and stopped it? A. Maybe a fellow might say something that wouldn't be really bad and I would tell him that if he had any respect for a woman he wouldn't use that kind of language; that is what I told them.

Q. Did you ever see the defendant up in the dance hall on dance nights? A. Yes, sir.

Q. What would he come for? A. Came there and stand there and say "How are they behaving themselves," and I would say "All right" and he might tell me to go to the galleries.

Q. Did you do that? A. Yes, sir; during the Saturday nights that I worked there that was my duty.

Q. Do you remember one occasion when a man was in the hall there that had his hand cut? A. No, sir; I wasn't there.

Q. That is all.

Cross Examination by Mr. Dunn.

Q. When was this fight that you speak of, when you arrested the man. officer? A. On one occasion four or five weeks ago.

Q. How long ago? A. I didn't put any dates down.

Q. You mean it was in November, around November, around Thanksgiving? A. I said about four or five weeks ago.

Q. That is possible. A. It was around November or December; this is the twenty-fourth.

Q. It was during the winter months? A. Yes, sir.

Q. That was the only time you noticed any fights around the hall? A. Little arguments.

Q. What do you mean? A. One time a fellow had an argument there.

Q. What did you do then? A. I took him out.

Q. What was the trouble? A. One man drank another man's beer.

Q. And then there was a scrimmage? A. I A. I told them there was no reason to fight; come on; get out.

Q. Which one did you put out? A. The man that drank the beer.

Q. Was he drunk? A. He was partly intoxicated.

Q. They were served there? A. No.

Q. How do you know? A. He had no money.

Q. That was the only instance? Then what happened? A. I called to the waiter and he gave him another glass of beer, and I said that is all right, and that is all there was to it.

Q. Any other occasion? A. Maybe over a glass of beer, but that would be all.

Q. No blows struck? A. No, sir.

Q. No loud talk? A. The same as any other place.

Q. Any swearing there? A. No, sir.

Q. Any vile language? A. No vile language.

Q. Just give us the words that you have heard there? A. One man might claim a beer and say it was his and the other man might call him a liar, and I would say "That will do; don't argue over a beer."

Q. What else have you heard? A. Never heard them use any cuss words or swear.

Q. Never heard anybody say "Go to hell?" A. No; there would be fighting in there in a minute.

Q. That strikes fire sometimes? A. I can't answer that question right.

Q. Yes you can. A. It was never said in my hearing.

Q. You never saw any of the ladies on the ball room floor under the influence of liquor, dancing? A. No, sir; if I did I would put them out.

Q. You never put a lady out of the hall? A. I would do if she was intoxicated.

Q. Did you put one lady out? A. I have interferred.

Q. The question is did you ever put a lady out from there on any occasion? A. Yes, sir.

Q. Because of what? A. She came looking for her daughter; she said her daughter was only fifteen years of age; and she wanted to know if she could come in and look, and I said: "You certainly can," and I took her around.

Q. Did she find her daughter there? A. No.

Q. Then you didn't put her out? A. She insisted on staying there, and I said "No."

Q. That lady came in without any ticket of admission? A. I took her in myself.

Q. And then she went out? A. She went out.

Q. That is the only occasion—that is the only occasion in that whole thirteen months? A. On another occasion.

Q. What happened then? A. On a Saturday night, about three weeks ago, a lady came and said she would get the police; she claimed her daughter was there, and I think Mr. Barlow called my attention to it and I allowed her to look around, and she wasn't there, and when she went out she took a white hat that belonged to another lady about twenty-five years old.

Q. She went in and looked around and went out without any trouble? A. No trouble.

Q. She came there under the influence of liquor or was she only interested because she came there inquiring the whereabouts of her daughter? A. She said she came there to get her daughter.

Q. Why did she take the hat? A. She claimed that it was her daughter's hat, and, as I say, it belonged to a woman about twenty-five years old.

Q. And in going out she discovered what she thought was her daughter's hat? A. Yes, sir.

Q. And it was restored? A. Not that I know of.

Q. So the management didn't restore the hat to the lady to whom it belonged? A. She had no business leaving it there.

Q. Where? A. She left it on one of the chairs and she had no business to leave it there.

Q. You never saw any kissing or hugging? A. No, sir.

Q. Not even on the ball room floor? A. No, sir.

Q. Nor going down from the dance hall? A No, sir.

Q. Did you ever see them go arm in arm? A. Not arm in arm.

Q. How would they go? A. Just walk along like that.

Q. Want me to show you? A. Just like this; just talking to her in a friendly way; the same as at any other dance.

Q. Then when they came out of the cabaret room? A. They would come back just the same.

Q. When they came back you never saw a man ahold of the lady's arm? A. Seen them come in there the same as in an other dance hall.

Q. That isn't the question. The question is: "You never saw a man with his hand on the arm of a lady when they came back from down stairs." A. I have seen them have a hold of their hands, maybe.

Q. You weren't down in the cabaret room much? A. I told you I went down there six or seven times a night.

Q. When you went down there did you do duty there? A. Not on Saturday night.

Q. Never saw anybody kiss a girl in the cabaret room? A. No, sir.

Q. Or in the ball room? A. No, sir.

Q. Did you ever see anybody kiss a girl in the ball room during the whole time you were there? A. No, sir.

Q. Never saw a gentleman sitting on a lady's lap? A. No.

Q. Nor a lady on a man's lap? A. No.

Q. Where did the young men come from who attended these balls? A. All over the city, Passaic and everywheres.

Q. And the young ladies the same way? A. I guess they did; I didn't ask them.

Q. Do you know the Mackey girl? A. No, sir.

Q. Haven't you seen her over in the other court, a little girl seventeen years old? A. The girl fetched over from the jail one time?

Q. Yes. A. I remember her now.

Q. Did you ever see her down there during the year nineteen hundred and thirteen? A. Not to my knowledge.

Q. How about Violet Tueffel? A. I don't know her.

Q. Do you know Esther Thomas? A. Not by name.

Q. Didn't you ever see her down there; she was sent away a short time ago? A. I remember a girl being sent away, but I could not swear.

Q. Do you know the Parrington girl? A. I don't by name.

Q. Do you know Ethel Holmes? A. Yes, sir.

Q. Ever see her down there? A. On a Saturday night and I refused her admission.

Q. Did you ever see her in the cabaret room? Not to know her, I never did.

Q. That was the first time? A. Yes, sir; I saw her name in the paper for being arrested.

Q. She was one of the girls arrested that time? A. Yes, sir.

Q. And the Campion girl was the other? A. Yes, sir.

Q. Did you eer see her in the cabaret room? A Not after that.

Q. Were they in the hall before they had the fight? A. They may have been, but I didn't see them.

Q. But you didn't see anybody drunk in the cabaret room? A. No intoxication; they were able to take care of themselves.

Q. A little jolly? A. There might be a party of five or six at a table and they may be feeling good.

Q. Ladies and gentlemen? A. Men and women came in with bundles and after a song or two they would go out.

Q. When they came in with bundles they would be coming from stores; what time would that be? Nine or ten o'clock; some of them would maybe sit there for an hour or an hour and a half, listening to the singing.

Q. Now, those people wouldn't stay there very long? A. I told you about an hour or so, some of them.

Q. You spoke something about there being no noise? A. Kept there as quiet as possible.

Q. No swearing? A. Not in the hall; I never went on the street.

Q. You stood inside until the whole crowd was out? A. To see that the hall was clear.

Q. Do you know that there was a special detail of police there every Saturday night, at the entrance to the hall?

By Mr. Hunziker.—I object to that.
By the Court.—Question allowed.
Exception prayed, allowed and sealed.
WM. E. SEUFERT, (L.S.)
Judge

A. No, sir.

Q. Between eleven fifteen and twelve o'clock? A. No, sir.

Q. Did you know that there had been fights there from people coming out of the hall? A. I don't know; I can't swear.

Q. Cursing and swearing as they came out of the hall? A. I never heard it.

Q. Did you know that there were two gangs that came there; one from one part of town and another from another? A. Gangs?

Q. Yes. A. Don't remember any gangs.

Q. Gangs may be technical; say a crowd from the Riverside section and one from Sandy Hill? A. I can't answer that.

Q. Did you ever hear any altercations over girls? A. No.

Q. Because one fellow had a little more affection for her than another fellow? A. No.

Q. That is all.

By Mr. Hunziker.

Q. Mr. Clark, do you remember ever seeing Mr. Weinberg at Helvetia Hall, or Mr. Leitenberg? A. I could tell them if I saw them.

Q. Stand up? A. I saw him, this man here, and another man with light hair down there.

Q. You remember seeing Mr. Weinberg? A. Yes, sir; he sat at the table just as you go in; that is him.

Q. Do you remember the date of it? A. If I am not mistaken, I think it was on Saturday night before the Chorus Girls ball; this fellow sat this way and this one sat next to the big stout lady.

Q. Did you have any conversation with him? A. Only to keep his hands to himself.

Q. Why did you do that? A. The lady said: "Don't be too fresh with me" and I went over and I said: "That will be enough of you."

Q. Which one of the two was that? A. This one. (Pointing to Leitenberg.)

Q. That was all that was passed? A. I just told him to cut it out.

By Mr. Dunn.

Q. That was the Saturday night before the Chorus Girls ball, was it? A. To the best of my knowledge.

Q. Did you see them at the Chorus Girls Ball? A. I wasn't there.

Q. You know it wasn't Friday night? A. I can't answer that question.

Q. You spoke about going down and taking a drink? A. Yes, sir.

Q. How many would you take during the evening? A. Four or five.

Q. Charles McGee take one with you? A. No, sir.

Q. See him taking any? A. No, sir.

Q. Didn't? A. No, sir.

By Mr. Hunziker.

Q. You didn't drink any whiskey? A. No, sir; beer.

By Jurur No. 1.

Q. Mr. Clark, you said there was nobody intoxicated, are you sure about that? A. As they would pass you you could smell that they had been drinking.

Q. There is a difference between drinking and intoxication? A. If a man was capable of taking care of himself; if he was able to get up and walk out without any assistance. I never saw one that couldn't walk out without any assistance.

Q. That is all.

CHARLES McGEE, a witness produced on behalf of the defendant, being first duly sworn according to law, testifies as follows:

Direct Examination by Mr. Hunziker.

Q. Mr. McGee, where do you live? A. Preakness; about six miles from here.

Q. How old are you? A. I will be sixty years the thirtieth day of next August.

Q. Married? A. Yes, sir.

Q. Been married for how long? A. Thirty years.

Q. How long have you lived in Paterson? A. I was born here.

Q. Are you a constable? A. Yes, sir.

Q. And you are elected as such, I believe? A. Yes, sir.

Q. And sworn? A. Yes, sir.

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

Q. Have you been employed by him in the past? A. Yes, sir.

Q. As a constable? A. Yes, sir.

Q. From what time? A. It is just about four years and a half, as near as I can remember.

Q. What was the nature of your employment? A. Every Saturday night at Helvetia Hall.

Q. All during that period? A. I think except two months.

Q. From April nineteen hundred and thirteen, down to May eighth, nineteen hundred and fourteen, you were regularly employed on Saturday night? A. Yes, sir.

Q. From when? A. Eight o'clock.

Q. And up until when? A. Twelve o'clock.

Q. What part of the hall were you employed in? A. When I first went there—

Q. Kindly limit your time from April, nineteen hundred and thirteen to May, nineteen hundred and fourteen. A. Part of the time in both halls, until Mr. Clark was engaged.

Q. How about after Mr. Clark came? A. Then I was stationed in the cabaret room.

Q. Were you at all times, or at least part of the time in the cabaret room? A. Most of the time in the cabaret.

Q. What can you say as to the number of people that would patronize the cabaret room while you were there? A. From one hundred and twenty-five to two hundred people.

Q. And what can you say as to the general conduct of the people there? A. I didn't see anything out of the way.

Q. Were they orderly? A. Yes, sir.

Q. See any unduly familiarity with one another or not? A. I never saw anything there except what you would see in a general ball room.

Q. General ball room? A. I mean the conduct of men and women.

Q. Have you, during that period, ever observed any improper conduct? A. No, sir.

Q. Such as hugging. kissing, or anything like that? A. No, sir.

Q. Sitting on one another's laps? A. No, sir.

Q. Caressing one another? A. No, sir.

Q. What part of the cabaret room, if any particular part, did you station yourself? A. Right by the door.

Q. And were you so stationed there so you could observe the whole room? A. I could look over the whole room.

Q. You are quite a tall man? A. Yes, sir.

Q. What can you say as to whether that hall is patronized by young men and young women under the age of eighteen years? A. I have stopped, I cannot tell you how many since I have been in, and some I wouldn't take their own statements and put them out.

Q. Considering them to be under eighteen years of age? A. Yes, sir.

Q. If you considered them under eighteen years of age, what would you do? A. Wouldn't let them in the hall.

Q. Ever see girls go in there with short dresses? A. No, sir.

Q. Or girls with hair hanging down their back? A. No, sir.

Q. Do you make any estimate of girls ages? A. Last Saturday night I refused them.

Q. Just a minute. I am addressing all my questions to the time between April, nineteen hundred and thirteen, to May eighth, nineteen hundred and fourteen? A. Yes, sir.

Q. During those times did you ever see any young girls in there, any you considered under eighteen years of age? A. Not to my knowledge.

Q. Now, Mr. McGee, in your employment are you instructed as to your duties there? A. Yes, sir.

Q. And what were your instructions? A. My instructions are not to allow anybody in there, girl or boy, under age, or any intoxicated person.

Q. And do you comply with those instructions? A. I did, to the best of my ability.

Q. What can you say as to whether the cabaret room was patronized by intoxicated people during that time? A. I never allow an intoxicated person come in the hall.

Q. Did you see them become intoxicated in there? A. No, sir; I have seen them feel good.

Q. You have been a resident of Paterson? A. Yes, sir.

Q. I believe you were once a regular policeman of the city of Paterson? A. Yes, sir.

Q. For how long? A. Fifteen years.

Q. And you are familiar with the faces of men and women? A. Not as much as I used to be.

Q. Are you somewhat acquainted with them? A. To a certain extent.

Q. And what can you say during the time I have mentioned, men or women of bad reputation visiting the hall? A. I wouldn't be willing to swear that I have never seen any of them in there.

Q. Has it been your duty to observe them? A. Yes, sir; and if I knew them not to let them in.

Q. It is part of your duty to observe who is in the hall? A. Yes, sir.

Q. And if you saw a woman or a man of bad reputation in there what would you do? A. I would go to them and tell them to vacate the hall.

Q. You said you did serve on the police force in the city of Paterson? A. Yes, sir.

Q. You were right there up until the last cabaret show? A. Yes, sir.

Q. I believe that was last October? A. It is something like two months.

Q. Up to May eighth, nineteen hundred and fourteen, and up until Clark came there, did you have occasion to go up to the dance hall? A. Very seldom.

Q. What can you say about the character of the people that attended, were they orderly or not? A. Orderly while I was there.

Q. Did you see any in there that you knew to be people of bad reputation? A. No, sir.

Q. Or any improprieties? A. There never was any while I was there.

Q. Nor saw anybody under eighteen years? A. No, sir.

Q. Or under the age of sixteen years? A. Not to the best of my knowledge.

Q. What was the purpose, Mr. McGee, if there was any special purpose, what was the special purpose of having you stationed there at the door? A. There was no purpose; I used to stand there mostly on my own account.

Q. Did you make it a practice to observe people? A. Yes, sir.

Q. Do you remember an occasion when a man was in Helvetia Hall with some cuts on his hand? A. Yes, sir; I stopped him at the door and asked him how he got them, and then I spoke to Mr. Koettgen and told him that a man had come in with his hand cut, and I told him the best thing to do is to telephone the police, and he did, and they came down and called me to one side and said there was a fight, and I said that there had been no fight, that he had come in that way.

Q. They took him away? A. Yes, sir.

Q. Was he cut in the hall? A. No, sir.

Q. How long was he in the hall? A. Only until the police came down there.

Q. Do you remember the night of January sixteenth? A. Yes, sir.

Q. Were you on duty that night? A. Yes, sir.

Q. Who employed you that night? A. I was employed by the proprietor of the hall.

Q. By the proprietor of the hall? A. Yes, sir.

Q. Paid by him? A. Yes, sir.

Q. Did you act under the direction of any other people that night? A. I acted under the direction of the people that were running the ball.

Q. What time did you begin your duties? A. I should judge about nine o'clock.

Q. How long did you remain there? A. Until three in the morning; after the ball was over.

Q. What part of the hall were you in? A. A good part of the time by the door.

Q. Which door? A. The entrance.

Q. The cabaret door? A. Yes, sir; part of the time in the hall and gallery and cabaret.

Q. So that during the evening you were in all parts of the hall? A. Yes, sir.

Q. What can you say as to whether there was any improper conduct between men and women there that night? A. I saw nothing like that.

Q. What can you say as to whether the people there were orderly? A. They were.

Q. See any under the influence of liquor? A. No, sir.

Q. Did you see any people, who, in your judgment, were under eighteen years of age? A. No, sir; I did not; not to my judgment.

Q. Did you see any police officers there that night? A. I saw them in civilian clothes.

Q. How many of them? A. Generally will see two there; may have been four, but I will say two.

Q. Were they there on duty, or guests of the ball? A. I don't know.

Q. How many men were there doing duty? A. I saw two; saw one besides myself.

Q. He was in uniform? A. Yes, sir.

Q. Who is he? A. He works in the Orpheum Theatre.

Q. You know of one, at least? A. Yes, sir.

Q. In the dance hall that night, did you see any dancing by men or women who were intoxicated? A. None that I recall, no, sir.

Q. You would recall it? A. Yes, sir.

Q. Well, did you see any? A. No, sir.

Q. Did you see Mr. Weinberg there that night? A. No, sir.

Q. Mr. Leitenberg? A. No, sir.

Q. Did you ever see them there at any time? A. No, sir.

Q. During that evening, or any other evening during your service there was there ever any complaint made by any person to you of any misconduct there in the hall? A. No, sir.

Q. Do you remember the occasion when Sergeant Ryan came there with a number of officers? A. Yes, sir.

Q. Know when that was? A. I didn't keep the date.

Q. There was a scuffle there? A. Sergeant Ryan came in and I was about ten or twelve feet from him, and he came in and he said he was going to pull it, and that he had twenty people there to pull it.

Q. That is what he said? A. That is what he said. There was a little scuffle there and I had the man and started out with him and Sergeant Ryan said he was going to take my man and he did and he came back and said he was going to pull the place and he chased everybody out.

Q. On that evening, Mr. McGee, had anything unusual occurred there? A. No, sir.

Q. Anything that would justify the visit of the police department? A. Nothing.

Q. Had any complaint been made to you by the members of the police department about the conduct of the place? A. No, sir.

Q. What can you say, Mr. McGee. as to whether during the time between April first, nineteen hundred and thirteen, and May eighth, nineteen hundred and fourteen, about fights occurring in Helvetia Hall, or outside? A. I can name you all the fights in the hall.

Q. How many were there? A. Three in the hall; not fights; blows struck and I took them out and locked them up.

Q. In each instance? A. Yes, sir.

Q. Do you know about fights occurring outside, after the people had left the hall? A. That I could not swear to.

Q. Do you know about the police being there? A. I have seen maybe one or two in the hall after half past eleven, but outside I don't know; I couldn't tell you.

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. Do you recall on the night of January sixteenth, nineteen hundred and fourteen, of seeing Mr. Smith in the hall? A. I have never seen him before to my knowledge.

Q. And do you recall of seeing Miss Hill? A. No, sir.

Q. And the other lady with her? A. No, sir.

Q. Mrs. Hillman? A. They may have been there and I wouldn't recognize them.

Q. And it may be that many people would come in and you would never notice them? A. Many people come in there.

Q. And how long have you been away from Paterson, Mr. McGee? A. It will be seven years next year.

Q. You have been away from the police force for seven years, then? A. No; since ninety-five.

Q. Since you quit the force you had no occasion to keep track of the people of bad reputation about town? A. No, sir.

Q. So women that were little girls then may now be of bad repute and you wouldn't know them? A. That is possible.

Q. Isn't that natural? A. No; people I knew seven years ago I wouldn't know now; children that were then seven or eleven years of age I wouldn't have any knowledge of.

Q. So many who were young children seven years ago may now be attending dance halls and you would have no knowledge of them? A. I would have to judge from experience as to their age.

Q. Do you know Violet Tueffle? A. No, sir.

Q. Do you know Mamie Mackey? A. No, sir.

Q. Do you know Ethel Holmes? A. No, sir.

Q. And the Campion girl? A. No, sir.

Q. Did you ever see them down in Helvetia Hall? A. Not to my knowledge.

Q. Did you ever see the Burns girl? A. No, sir.

Q. The Ryan girl? A. No, sir.

Q. Or the Parrington girl? A. No, sir.

Q. And the Burns girl? A. No, sir.

Q. And you didn't know that they frequented your place at different times? A. Not by names, no, sir.

Q. But you did see disorder in the cabaret room three times, didn't you? A. There was a blow struck.

Q. Was that between April, nineteen hundred and thirteen, and May eighth, nineteen hundred and fourteen? A. The only blow struck for the year was when Sergeant Ryan was there.

Q. Trouble must have been brewing? A. It was real quiet that night.

Q. What did you think of him coming in? A. Police often come in there and stand and look around and then go out.

Q. Ryan went right up to you and said: "Mc Gee, if you don't know how to run this place we will run it for you," didn't he? A. No, sir.

Q. What did he say? A. He said "Why don't you run this place right?" and I said, "If you see anything wrong here, why don't you pull it?"

Q. He grabbed this man that was fighting? A. I grabbed him.

Q. You took him out? A. I took him two or three feet; I made the start with him before Ryan came.

Q. What did you do with the other fellow? A. What other fellow?

Q. The other fellow in the fight. A. The fellow we got struck the blow.

Q. You didn't think there was any provocation for the blow, did you? A. I didn't see any; it was all done so quick.

Q. Under the influence of liquor? A. No, sir; he hadn't been in there fifteen minutes.

Q. No argument? A. No, sir.

Q. How did you account for the blow being struck? A. I don't know.

Q. No girl in the case? A. No, sir.

Q. And they had nothing to drink? A. I couldn't tell you; he had been in there about ten minutes.

Q. Did Mr. Koettgen object to Mr. Ryan's being there? A. What happened there I couldn't tell you.

Q. Didn't you see it? A. I went back in the hall, and if Mr. Ryan and Mr. Koettgen had any words I didn't hear it.

Q. Now, you have never heard any complaints during nineteen hundred and thirteen about Helvetia Hall? A. Not to me.

Q. Didn't you ever hear any complaints? A. No, sir.

Q. About the character of the people there? A. No, sir.

Q. And the language being used there? A. No, sir.

Q. Did you ever hear any cursing or swearing in the cabaret room? A. I might have heard a curse word.

Q. Suppose you were there by the door way and they were used fifty feet away, over by the back stairs, you couldn't hear it, could you? A. That is possible.

Q. Vulgar words could be used and you not hear it? A. Yes, sir.

Q. Sometimes, when you were over by the door, you would be engaged in conversation? A. Sometimes.

Q. Invited to the bar? A. Never in my five years was I in front of that bar.

Q. In the cabaret room? A. No, sir.

Q. Before you came in? A. No, sir.

Q. After you were through? A. No, sir.

Q. Never in the cabaret room? A. No, sir; and not a waiter can say that they served me with a drink during all the time that I worked there.

Q. Did you see Mr. Weinberg there? A. No, sir.

Q. Remember him inviting you to have a drink? A. No, sir.

Q. See Mr. Leitenberg there? A. No, sir.

Q. When the crowd would start to go out of the cabaret on Saturday nights, wouldn't they be under the influence of liquor? A. Been drinking, but not intoxicated.

Q. The girls lit up a little? A. No, sir.

Q. Women feel good? A. No, sir.

Q. Did you ever see any of the gentlemen take hold of the ladies and escort them along? A. No, sir.

Q. And you didn't know that during the winter, from October, nineteen hundred and thirteen, down to May, nineteen hundred and fourteen, that there was a detail of police officers outside of the hall to clear the streets after they came out? A. They could have been there and I not know it.

Q. Didn't you know it? A. I have heard that the police have been out there, and that a fight started up on Van Houten street.

Q. From people coming out of that hall? A. I couldn't say that.

Q. Didn't Captain McBride complain to you with reference to that? A. You would have to enlighten my memory.

Q. Did he make any complaint to you during the year nineteen hundred and thirteen? A. No, sir; he used to come there.

Q. During the time that you were there, you never saw a gentleman sitting on a lady's lap in the cabaret room? A. Not that I can remember.

Q. Or a lady on a gentleman's lap? A. Not that I can remember.

Q. Your memory is pretty good? A. I cannot recall it.

Q. And in all the time that you were there you never saw a lady sit on a man's lap? A. I did once, yes, sir.

Q. How long ago was that? A. Last winter.

Q. Was she old or young? A. About thirty-five years.

Q. Was she under the influence of liquor? A. No, sir.

Q. Then how did she come to do it? A. She was walking through the hall and there wasn't a vacant chair, and she sat down.

Q. He had a chair? A. He certainly did.

Q. And he got her down on his lap? A. Yes, sir.

Q. And you went over? A. I started over, but she was only down for just a moment and then jumped right up.

Q. That is the only time you can recall? A. Yes, sir.

Q. Say on the night of January sixteenth, you didn't see that then? A. No, sir.

Q. The people were coming in and going out? A. Yes, sir.

Q. Did you notice the night of the Chorus Girls ball that the boys and girls came there for a general carousal? A. They came there to enjoy themselves.

Q. They came down to the cabaret room? A. They could go where they wanted to.

Q. You paid no attention? A. It was none of my business.

Q. You said that one fight occurred this last year when Sergeant Ryan was there? A. Yes, sir.

Q. When were the other fights that you have spoken of? A. I couldn't tell you what date it was; it was two sailors and I locked them both up

Q. That makes three fights? A. No.

Q. When was the other one? A. I should judge about two months ago.

Q. Do you remember this fight with Murphey? A. Murphey had no fight in the hall.

Q. What was the trouble with him? A. He was going to come in and the proprietor said he couldn't come in and he was going to come in and I arrested him and he was fined in the morning.

Q. What happened to the other fellow? A. He ran away.

Q. Didn't you tell Officer Stapleton that you would knock his damned block off? A. No, sir.

Q. That is all.

By Mr. Hunziker.

Q. Why didn't you want to let Murphey in? A. Beause he is a trouble maker.

Q. That is all.

WILHELMINA KOETTGEN, a witness produced on behalf of the defendant, being first duly sworn according to law, testified as follows:

Direct Examination by Mr. Hunziker.

Q. Mrs. Koettgen, you are the wife of Frederick Koettgen, the defendant in this case? A Yes, sir.

Q. And you lie with him in Helvetia Hall? A. Yes, sir.

Q. How long have you lived in Helvetia Hall? A. Twenty-five years.

Q. And during that time have you and your husband, and your previous husband as well as your present husband, conducted a dance hall and a lodge hall and a cafe there? A. Yes, sir.

Q. And do you, at the present time, and did you actively assist your husband in carrying on the business? A. Yes, sir.

Q. And are still doing so? A. Yes, sir.

Q. During the time that you have been in Helvetia Hall, Mrs. Koettgen, have you ever had any trouble with the police of this city? A. No, sir.

Q. Now, on these Saturday night occasions, since nineteen hundred and thirteen, do you help in doing the work in the abaret room? A. Yes, sir.

Q. What do you do? A. I take in the cash.

Q. What part are you stationed in? A. In the booth.

Q. And you are seated? A. Yes, sir.

Q. On what? A. On a high chair.

Q. And can you see all over the room? A. Yes, sir.

Q. See all that is going on? A. Yes, sir.

Q. At this buffet, what is done there? A. They run the beer and soft stuff and cigars from there.

Q. Are your people served there? A. No, sir.

Q. Who is served there? A. Just the waiters

Q. Just the waiters? A. Yes, sir; they come for the drinks at that bar.

Q. And then they are served at the tables? A. Yes, sir.

Q. Now, Mrs. Koettgen, will you tell the court and jury what is the general conduct of the people there in the cabaret room on Saturday nights as to whether they are orderly or not? A. It is orderly; they have to behave.

Q. Will you tell the jury whether you have ever seen any impropriety there? A. No, sir; I wouldn't allow it.

Q. Did you ever see a man sitting on a woman's lap? A. No, sir.

Q. Or a woman sitting on a man's lap? A. No, sir.

Q. If they did those things in that room could you see it from where you sat? A. Yes, sir; and I would stop it.

Q. What can you say about people while they are there, or coming there intoxicated, drunk, while you were in there? A. No, sir.

Q. Have there been occasions when you have seen drunken men or drunken women in there? A. No, sir; I have never seen it.

Q. What can you say, Mrs. Koettgen, as to whether or not there were very young men and girls that came there? A. Not the cabaret room; no.

Q. Ever seen any young girls there? A. No.

Q. Or boys? A. No.

Q. Have you ever seen anybody there in your judgment, man or woman, who was under eighteen years of age? A. No, sir.

Q. Do you know of men or women of bad reputation coming there, Mrs. Koettgen, on Saturday nights, come in your hall? A. No, sir.

Q. They didn't come there to your knowledge? A. No, sir.

Q. Do you know any men or women of bad reputation? A. I don't know those people.

Q. So if there were any prostitutes that came in there you wouldn't know it? A. I don't know them.

Q. Anything that you have seen in there Mrs Koettgen, can you say that there were any men or any women of bad conduct, loose, indecent conduct in there at any time while you were there? A. No, sir.

Q. How much of the evening are you in the room; what time do you go in? A. About a quarter to eight.

Q. And stay how long? A. To twelve o'clock; that is when we close.

Q. You always close at twelve? A. Yes, sir.

Q. Have any members of the police department ever complained to you, Mrs. Koettgen, about the way the cabaret room or hall generally is conducted? A. No, sir.

Q. Mr. Dunn spoke about having telephoned to you last spring, or in the spring of nineteen hundred and thirteen, about the conduct of the hall, was that in regard about the way liquor was sold? A. No, sir.

Q. What was that for? A. About stopping the meetings of the people of the strike.

Q. Is that the only thing? A. Yes, sir; not to have any more agitators in the place.

Q. That is the day I went with you to Mr. Dunn's office? A. That day or the next day, Mr. Hunziker.

Q. Now, Mrs. Koettgen, do you know whether any dances are held in the dance hall on Saturday nights? A. Yes, sir.

Q. Dances run by your husband? A. No, sir.

Q. Who runs those dances? A. Mr. Barlow.

Q. Do you know whether there is any arrangements between him and your husband? A. I don't know anything about the arrangement.

Q. Do you know whether he rents the hall? A. He pays the rent.

Q. Do you know what rent he pays? A. I think thirty-five dollars.

Q. For how long? A. The month.

Q. Do you know when he made that arrangement with your husband? A. I can't recall.

Q. Do you remember the night of the Chorus Girls' Ball? A. Yes, sir.

Q. Where were you? A. In the kitchen.

Q. Did you have any occasion to go in the cabaret room that night? A. The place was so crowded I didn't go there.

Q. Do you remember whether or not, during the time between April, nineteen hundred and thirteen, and May, nineteen hundred and fourteen, there were any fights in the hall? A. No, sir.

Q. Did you, during that time, see any fights in the cabaret room? A. No, sir.

Q. Do you remember whether there were any fights in the hall? A. I never seen or heard of any.

Q. If there had any existed, you would have known of it? A. In the hall, not on the street.

Q. Could you hear any unusual noise? A. Yes, sir.

Q. Do you remember that there was any unusual commotion in the hall that year? A. No, sir.

Q. Did you hear of any? A. I never go away.

Q. Do you know as a matter of fact that there was a detail of police down there at your hall to preserve order on Saturday nights? A. I saw once or twice a policeman in the hall.

Q. Remember the Saturday night that Sergeant Ryan was in the cabaret room? A. Yes, sir.

Q. Before he came had there anything unusual happened? A. No, sir.

Q. Was there any particular reason why he should come down there that night, so far as you know? A. No, sir.

Q. When he came in what did he say or do? A. He said to Mr. Koettgen: "If you don't know how to run the place, we will run it."

Q. What happened them? A. He went over and grabbed a fellow and took him out and that was the whole story.

Q. That all that happened? A. That was all.

Q. Remember any other occasion when there was a commotion or trouble in the cabaret room? A. No, sir.

Q. Do you remember the occasion when there was a man there with his hand cut? A. Yes, sir.

Q. Was he cut in your building? A. No, sir

Q. How do you know? A. Because he came in that way.

Q. He came in that way? A. Yes sir.

Q. No trouble or fight in or around that building, so far as you know? A. No, sir.

Q. Then he was taken by the police? A. Yes, sir; he was bleeding all over the floor and Mr. McGee took him over and helped him.

Q. Now, Mrs. Koettgen, there a number of saloons in your neighborhood? A. Yes, sir.

Q. How many? A. Three more.

Q. Three more besides yours? A. Yes, sir.

Q. Who are they? A. The Orpheum cafe.

Q. Next? A. Yes, sir.

Q. Where is Mr. Hoebler's? A. Twenty-feet away.

Q. Where is another one? A. And Mr. Kane's place.

Q. Where is his place? A. Sixty-three Van Houten street.

Q. How far is that away? A. Seventy-five feet, I guess.

Q. Any more besides those? A. Not so close.

Q. During the winter season there are shows given in the Orpheum Theatre? A. Yes, sir.

Q. When do they begin? A. In August; the seond or third week in August.

Q. And they continue down until about when? A. Until the last week in May.

Q. Up until Decoration Day? A. Around that time.

Q. How many performances a day? A. Twice.

Q. Do you know about what time the evening performances usually gets out? A. Sometimes twelve o'clock; it all depends.

Q. Sometimes earlier? A. Monday night it is always twelve.

Q. What is the nature of the place, opera or drama? A. Burlesque.

Q. Do a great many boys and girls go there? A. Men and women.

Q. More men than women? A. Yes, sir.

Q. Do you ever go up stairs in the dance hall? A. No; very seldom.

Q. Do you remember whether or not you were up there much during the time between April, nineteen hundred and thirteen and May, nineteen hundred and fourteen? A. Yes; I go up once in a while.

Q. Now, these dances that are held Saturday nights; have they only been held when Mr. Barlow gave them? A. Yes, sir.

Q. Before that was there regular dances? A. No, sir.

Q. Letting out the hall to clubs, is that part of your regular business? A. Yes, sir.

Q. Ever since the hall has been built? A. Yes, sir.

Q. And when the hall is let out for dances, do you or your husband have anything to do with running off the dances, or anything of that kind? A. No, sir.

Q. You are paid the rent of the hall? A. Yes, sir.

Q. And the people who hire it from you run off the dances? A. Yes, sir.

Q. Your hall is one of the largest in town? A. Yes, sir; used for entertainments, weddings or suppers, or anything like that.

Q. Cross examine.

Cross Examination by Mr. Dunn.

Q. Now, Mrs. Koettgen, who owns that property where Kane has his saloon; who owns that building?

By Mr. Hunziker.—I object to the question.

By the Court.—Objection sustained.

Q. Where is sixty-three Van Houten street? A. Mr. Mertz has his office there and Mr. Kane has his saloon there.

Q. How far is that saloon from where Mr. Miller resides; Mr. James Miller? A. What?

Q. Does James Miller live at 63 Van Houten street? A. I think he lives over Kane's saloon; I don't know.

Q. You are seated on that high chair; evenings

would be busy, and you would be busy making change for the waiters? A. Yes, sir.

Q. You didn't see what was going on? A. I can look over the whole room from where I sit.

Q. You don't want this jury to believe that while you were busy making change and keeping track of your waiters that you could see all that was going on in the room? A. I can see everything.

Q. Were you looking for that purpose? A. Yes; it is my duty to see that everything is right.

Q. Did you ever see Violet Tueffle in there? A. No, sir.

Q. Marie Mackey? A. I don't know them.

Q. The Burns girl? A. No, sir.

Q. Ethel Grosser? A. I don't know them.

Q. The Parrington girl? A. I don't know them.

Q. Ever see Ethel Holmes? A. I don't know them.

Q. So all those girls could be in the room drinking, and you wouldn't know them? A. I don't know those girls.

Q. They could be there and you wouldn't be any the wiser of it, would you? A. No, sir.

Q. They could be there soliciting men for immoral purposes and you wouldn't know it? A. No; I never came in connections with them.

Q. During the time covered by this indictment, from April nineteen hundred and thirteen, down to May eighth, nineteen hundred and fourteen, did you ever see anybody in the cabaret room under the influence of liquor? A. Not that I knew.

Q. Did you see anybody there that you didn't know? A. No, sir.

Q. Young men and young girls? A. No, sir.

Q. Would you be there when they were going out? A. Not in the hall way, no.

Q. So they might have been hugging and fooling with each other and you wouldn't know it? A. I can see them.

Q. Unless there was something to attract your attention to it you wouldn't? A. I always make it my business that the place is run in the right way.

Q. You weren't running the place at this time, Mr. Koettgen was running it? A. Yes, sir.

Q. Couldn't any of these things happen over in this corner of the room or over in that corner of the room without you seeing it? A. I could see all over the room.

Q. It could happen? A. I always have my eyes open.

Q. You have about two hundred chairs in that room? A. No, sir.

Q. About a hundred and fifty chairs? A. Yes, sir.

Q. And it is always pretty well filled up; all the chairs occupied? A. It isn't always.

Q. How many? A. Sometimes only thirty-five or forty.

Q. They come down from the dance hall to the cabaret room? A. Yes, sir.

Q. And they go from the cabaret room to the dance hall? A. Yes, sir.

Q. And there is an entrance that they can come in the cabaret room and never go in the dance hall? A. That is right.

Q. You never saw any men or women in your place under the influence of liquor? A. No, sir.

Q. You mean to say that you never saw them so drunk that they staggered? A. When a man goes out I think he is all right.

Q. No matter whether he had four or five or a half dozen? A. Yes, sir.

Q. And you wouldn't say that a girl was intoxicated or under the influence of liquor, if she had three or four cocktails or whiskeys, is that your idea of it? A. That is not my idea.

Q. Would you say she was under the influence of liquor, is that your idea? A. I don't think anybody could be drunk with three beers.

Q. I didn't say drunk, I said under the influence? A. I don't know.

Q. Did you notice any of the girls there in the cabaret room feel good or showing that she was under the influence of liquor? A. No, sir.

Q. Did you ever see them after they had been there getting refreshments? A. No, sir.

Q. When they are passing from the cabaret room up to the hall, ever see them go arm in arm, or hand in hand? A. I couldn't see them going up stairs.

Q. But you could see all around the room? A. That I could see.

Q. Did you ever see any case where they came in from the dance hall, into the cabaret room, walking arm in arm, or hand in hand? A. No, sir.

Q. You knew that the police were stationed outside of your hall? A. No, sir.

Q. Didn't you? A. I didn't know it.

Q. Sometimes five, six, seven or eight officers? A. I didn't know it.

Q. To stop the disturbance? A. No, sir.

Q. Do you know Detective Close? A. Yes, sir.

Q. Did you ever see him in the dance hall? A. Yes, sir.

Q. Officer Moore? A. Yes, sir.

Q. Officer Kinney? A. Yes, sir.

Q. Elvin? A. Not Saturday nights.

Q. Did you see Brooks? A. Yes, sir.

Q. Fitzpatrick? A. Yes, sir.

Q. Captain McBride? A. Not lately.

Q. What did these officers do? A. Standing in the dinning room door.

Q. That is all? A. Yes, sir.

Q. Looking the crowd over? A. Yes, sir.

Q. And come in the next Saturday night? A. Once in a while I would see them.

Q. Now, you weren't in the hall at all on the night of January sixteenth? A. No, sir.

Q. Didn't see the chorus girls? A. No, sir.

Q. You don't know what they wore? A. No, sir.

Q. You don't know whether they had long dresses or short dresses? A. No, sir.

Q. Mr. Koettgen was down stairs in the cabaret room? A. He was in the ball room.

Q. You don't know where he was after that? A. No, sir.

Q. You went up stairs about twelve o'clock? A. Yes, sir.

Q. It didn't break up until about three? A. I don't know; I went to bed.

Q. When you first came to see me with Mr. Hunziker, your husband didn't want you to come, did he? A. Well, he thought that you should speak to him.

Q. But then he let you come? A. Yes.

Q. That is all.

Defendant Rests.

Andrew J. McBride—direct.

Thomas Stapleton—direct.

ANDREW J. McBRIDE, having already been sworn, is recalled, and testified for the state as follows:

Direct Examination by Mr. Dunn.

Q. Captain, you know Mr. James Miller, who was on the stand? A. Yes, sir.

Q. Did he ever make a complaint to you about Helvetia Hall during the period from April eleventh, nineteen hundred and thirteen, until May eighth, nineteen hundred and fourteen? A He did, on several occasions.

Q. Did his son make complaints to you also? A. Yes, sir; on several occasions.

Q. That is all.

THOMAS STAPLETON, a witness produced on the part of the state, is recalled, and testifies as follows:

Direct Examination by Mr. Dunn.

Q. Officer, do you know William Miller? A. Yes, sir.

Q. Did he ever make complaint to you from the period from April eleventh, nineteen hundred and thirteen, to May eighth, nineteen hundred and fourteen, about the character of the people that visited Helvetia Hall? A. No; his father, James Miller did.

Q. He made complaint to you? A. Yes, sir.

Q. That is all.

Paul Leitenberg—direct.

Abraham Weinberg—direct.

PAUL LEITENBERG, having already been sworn, is recalled and testified in behalf of the state as follows:

Direct Examination by Mr. Dunn.

Q. How many times were you in Helvetia Hall in your life? A. Once.

Q. When was that? A. Friday, January sixteenth, nineteen hundred and fourteen.

Q. Were you there the Saturday night, January tenth, as stated here by Constable Clark? A. No, sir; only once.

Q. And that night who was with you? A. Mr. Weinberg.

Q. Did you see Mr. Koettgen there that night? A. Yes, sir.

Q. That is all.

ABRAHAM WEINBERG, having already been sworn is realled and testifies in behalf of the state as follows:

Direct Examination by Mr. Dunn.

Q. Were you in Helvetia Hall, in the cabaret room, on the night of the Chorus Girls' Ball? A. Yes, sir.

Q. Was Mr. Lietman there with you? A. Yes, sir.

Q. Was Mr. Leitman in Helvetia Hall on January tenth, nineteen hundred and fourteen with you? A. No, sir.

Q. Was he in town or not? A. No, sir.

State rests.

Defendant Rests.

Charge.

The court then charged the jury as follows:

The court:—Genltemen of the Jury; you have listened to this case patiently for three full days, and given such attention as not only the court thinks, but as you realize, is necessary in a case of this kind, and in charging a case of this kind, it is necessary to call attention to the fact that you must bring in your verdict according to the evidence.

Now, gentlemen, naturally you are shocked by some of the testimony in this case. If the testimony of the State is true, there is no question but that one of the most detestable crimes has been committed in your city, a crime such as affects the morality of the youth and the character of the old. So I say, if the facts brought forth by the State are true, it needs careful handling at your hands, and it is only the evidence that has been produced before you upon which you must determine this defendant's guilt or innocence. The evidence is shocking. The evidence shows a condition that is appalling, if it is true, and there should be no reason, if you find the facts to be true, why you should hesitate to bring in a verdict of guilty, if he is guilty, and at the same time you can readily see you should not hesitate to withhold a conviction on such a crime, unless the evidence honestly and truly warrants it. I am bringing it out in this way to bring to your mind the fact that this case requires the most careful consideration of the evidence in arriving at your verdict.

This is truly an important case, and needs your careful and honest consideration in the evidence, and you should bring in your verdict according to the evidence, as you find it.

Charge.

In this case, as in any other case, where the defendant stands charged before a jury with any crime, the law of this state presumes him to be innocent until he is proved to be guilty; and that presumption must be considered by you in this court room and carried into the jury room, and can only die with a verdict of guilty. Likewise it is another principle of law in vogue, not in this state, but in every state in the country, that in order to convict a man of crime, you must be satisfied from all the evidence in the case, that he is guilty beyond all reasonable doubt; but reasonable doubt does not mean any doubt that may come in you mind, because if that were true, then it may be hard to ever obtain a conviction for the commission of almost any crime. The law says it must be a reasonable doubt. That means a doubt that any reasonable man would have, after having heard the evidence. The court has, of course, defined in many instances what reasonable doubt is, and you have, no doubt, listened to the definition time and time again, nevertheless, at the risk of repitition, I am going to repeat what the court of last resort in this state has defined to be a reasonable doubt. The best definition of the term "reasonable doubt" is given by Mr. Justice Ogden, in quoting Chief Justice Shaw. "It is a term often used, probably pretty well understood, but not easily defined. It is not mere possible doubt, because everything relating to human affairs, and depending on 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 mind of jurors in that condition that they cannot say they feel abiding conviction, to a moral certainty,

of the truth of the charge. The burden of proof is on the prosecutor. All the presumptions of law, independent of evidence, are in favor of innocence; and every person is presumed to be innocent until he is proven guilty. If upon such proof there is reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal. For it is not sufficient to establish a probability, though a strong one arising from the doctrine of chance, that the fact charged is more likely to be true than the contrary; but 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."

Gentlemen of the Jury, before we enter into the details of this case, there are one or two things that I desire to speak about that you may apply to this case. You are not compelled to take everything that is said on the stand as true. You are the judges of the truth. You are not compelled to receive it as stated by word of mouth. Sometimes a witness may tell a straight-forward story, and yet from the circumstances surrounding the witness you may determine that he is prejuring himself. You have the right to consider whether or not he is connected with the prosecution or the defense. Is he biased in any way? Will he be affected, directly or indirectly, by the evidence of this case? Is he affected favorably or unfavorably by his testimony for the party he has testified for?

Gentlemen of the Jury, you, as reasonable jury men must apply this as a test. You have the right to weigh the testimony and must determine wheth-

er or not the witness is telling the truth. You are placed here as judges of the facts, and before you can ascertain and judge of the facts you must first ascertain what facts are true you must use your own judgment as to whether or not any of the witnesses, or which of the witnesses are entitled to credibility, so that testimony which may be given by him may be tested by you before you consider it to be true or not true. Fundamentally upon your opinion in the jury box where the outcome of this case lies, because with you rests that judgment which must determine whether or not a man is guilty of crime, so as you perform your duty fearlessly and honestly, you can see, lies the enforcement of law in this community. You are the judges of the facts. You are superior to anybody here. You are superior to the court in determining the facts in the case. I am permitted to comment on the facts, by law, as to what facts I think should be called to your attention,—but the law does not permit me to go beyond that, because in the beginning and end of this case, you are the judges of the facts, and you must determine them and bring in your verdict accordingly. It is immaterial what I say as to the facts, and it is immaterial what the counsel for the defendant and the prosecutor say in their arguments. They may assist you to analyze the evidence, but no further. You are not bound by what they say; the only thing you are bound to do is to follow the court on questions of law, but on questions of fact you are the superior judges, and you must determine them and act upon them, and it is what you remember the testimony and evidence to be and you must act according to your best recollection in the case.

Charge.

Now, Gentlemen of the Jury, this defendant is charged under the indictment with keeping a disorderly house, and I am going to read the indictment, because it is under this indictment that you must bring in your verdict, and that indictment is that this defendant, Frederick Koettgen, of the city of Paterson, in the county of Passaic, on the eleventh day of April, in the year of our Lord nineteen hundred and thirteen, and on divers other days and times between that day and the taking of this inquisition with force and arms at the city aforesaid, in the county aforesaid and within the jurisdiction of this court, unlawfully did keep and maintain and yet doth keep and maintain a certain common, illgoverned and disorderly house at his said house, for his own lucre and gain, certain persons of evil name and fame and of dishonest conversation, then and on said other days and times, there unlawfully and wilfully did cause and procure to frequent and come together, and the said persons in his said house at unlawful times, as well in the night as in the day then and on said other days and times there to be and remain drinking, tippling, fighting, cursing, swearing, soliciting for immoral purposes and acting in a lewd and indecent manner; and the said Frederick Koettgen during said days and times did habitually sell, permit and cause to be sold intoxicating liquors on the first day of the week commonly called Sunday; and did habitually sell, permit and cause to be sold intoxicating liquors to minors under the age of eighteen years; and did habitually suffer and permit minors under the age of eighteen years to frequent and lounge in the room and place where such liquors are kept and sold, and misbehaving themselves unlawfully and wil-

fully did permit and yet doth permit to the great scandal and common nuisance of all citizens of this state there residing, inhabiting and passing, to the evil example of all others in such like cases offending, 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."

Plainly stated, this defendant is charged with keeping a disorderly house. A disorderly house has been defined in the law to be any place of public resort in which illegal practices are habitually carried on. That is the fundamental definition of a disorderly house: Any place of public resort where illegal practices are habitually carried on or when it becomes the habitual resort of thieves, drunkards, prostitutes, or other idle, vicious, and disorderly persons, who gather together there for the purpose of gratifying their own depraved appetites, or to make it a rendezvous where plans may be concocted for depredations upon society, and to disturb either its peace or its rights of property, is a public nuisance, and therefore a disorderly house. So is any place where persons are permitted by the proprietor to assemble and misbehave themselves in such manner as to annoy the public. A saloon or place where intoxicating liquors are habitually sold to minors becomes a disorderly house, or when it is conducted in such a manner as to scandalize the people of the neighborhood or when it is permitted to be a resort of thieves or other disorderly persons. After the disorderly character of the house is established it must be shown that the defendant must have knowledge of the character of the house, and must have consented to its use, to

authorize his conviction. It is not necessary to appear that he (the defendant) had power to suppress the mischief, but if he participated with others in conducting the place in such an obnoxious manner, and lent his aid to maintaining it, the law charges him with guilt as a principal offender.

Now, Gentlemen of the Jury, such is the definition of a disorderly house, and it is for you to determine whether the evidence in this case brings this defendant within the pale of any of the charges set forth in the indictment under a disorderly house. In analyzing the testimony in this case there are these elements that you must keep in mind, any one of which you find not to exist, must result in the acquittal of this defendant, and before you can convict the defendant of the crime charged in the indictment, you must find as a fact that all three of the elements existed that I am about to point out to you. In the first is that you must take up the character of the house; the character of the place conducted by this defendant, and you must come to the conclusion, before you can convict this defendant that this place has been conducted as a disorderly house by this defendant, before you need go any further. In considering the character of a disorderly house it easily separates itself into two divisions. First, of the common nuisance or ordinary nuisance—public nuisance, where the people are affected injuriously; where the morals are affected, and the second is where illegal practices are carried on. I might further illustrate this in this manner: Any house where loitering or the like is carried on would come under the first branch; under the second, any house in which gambling, usurious loans, or

any other illegal practices, if habitually carried on, would result in the keeping of a disorderly house. The first element therefore to be considered in connection with the character of this house, and because of the fact that the same is included within the prohibitory part of the statute, and I will read the statute. The statutes in our state say that "Any person who shall be guilty of open lewdness, or any notorious act of public indecency, grossly scandalous and tending to debauch the morals and manners of the people, or any person who shall in private be guilty of any lewdness or carnal indecency with another, grossly scandalous and tending to debauch the morals and manners of the people, shall be guilty of a misdemeanor. These are offences prohibited by law, and come within the conduct of the house in such a way as to be a menace to the public. Has this house been conducted in that manner? Has anything taken place in this house within the period set forth in the indictment, or covering the intermission, that is up to the time of finding the indictment, which would injuriously affect the morals of the people? If you find evidence that satisfies you that persons have acted in that place continuously in a lewd or indecent manner; has anything happened to debauch the morals of the people? Have any persons been guilty of any carnal indecency with another? These are the points that you ought to determine. If you are satisfied beyond all reasonable doubt you would then be justified in coming to the conclusion that this house was operated as a disorderly house, and on that alone you would be justified in determining this to be a disorderly house; but even if you come to the conclusion that such conditions did

not exist, and you are satisfied that they did not exist, then, even then the house could be a disorderly house if other acts took place there habitually and continuously that were against the morals and manners of the people, such as the habitual sale of liquor to minors, or consenting and permitting of minors to frequent around the dance hall; if you find from the evidence in the case that such occurrences existed, even then you would be justified in determining this place to be a disorderly house, even if you did not find anything of a lewd or lascivious nature. The court wants to caution you, however, in connection with the law, in finding the condition of things which would indicate the commission of these acts that you must be exceedingly careful to weigh the evidence, particularly in the case concerning the age limit or the determination as to whether or not minors frequented the place or received liquors in the same. The statutes covering these facts are as follows: "Any person owning, occupying or having the management or control of any public dance house or hall, or any concert saloon, whether licensed as such or not, his agents or servants, who shall admit thereto or permit or suffer to be or remain therein any child under the age of sixteen years, unaccompanied by a parent or guardian, shall be guilty of a misdemeanor; or any person having a license to sell spirituous, vinous, malt or brewed liquors, his agents or servants, who shall sell or give to any minor under the age of eighteen years any such liquors, or shall suffer or permit any such minor to frequent or lounge in the room or place where such liquors are kept or sold, shall be guilty of a misdemeanor."

Charge.

Now, Gentlemen of the Jury, outside of the facts as to whether or not a sale has been made to a minor, or whether a minor has been found in the place, which you must determine beyond all reasonable doubt, there must be an element of age. You have heard opinions given in this court room in testifying in this case concerning the age of certain parties who were found, or testified to as to having been found, in this place. The giving of an opinion as to age is permissible when accompanied by such circumstances as will justify it, and you will remember the evidence in this connection, so that the jury can take not only the opinion as to the age of the party, but the facts upon which that opinion was made, so as to readily understand for themselves whether or not the opinion was justified. Now, this evidence is of the same line as the other evidence in the case. Before you can determine that the child was under the age of sixteen years in the opinion of any of the witnesses, you must be satisfied beyond all reasonable doubt in your own mind, from the evidence in the case, that such child was under the age of sixteen years.

Now, Gentlemen of the Jury, we pass on to the next element and that is the defendant must be proved to be the proprietor or actual manager of the place. It is needless for me to go over the evidence in connection with this, and this is merely an opinion and comment on my part, but I do not think it has been disputed that he is the proprietor of Helvetia Hall, and you must determine that he was such proprietor, and that he was such proprietor at the time and during the time provided for or covered by the indictment.

The third element is that this defendant must be proved to have known the fact of the existence of the acts which went to make up the elements of a disorderly house. You must be satisfied from the evidence in the case of the knowledge of this defendant as to the character of this house. You must be satisfied that this was a disorderly house, and you must also be satisfied that he knew it, before you can convict.

Now, Gentlemen of the Jury, it is hardly necessary that the evidence must be driven home to such an extent that the defendant would state on the stand that he knew it to be a fact. If the law called for such knowledge to convict, you could rarely if ever get a conviction; it would be putting a premium on perjury and falsehood. You must find that is was reasonable to believe that this defendant had knowledge, and that is as far as it is necessary for you to go. I am going to read what the courts have said, and in connection with a case, a disorderly house, which was previously tried in this state, and the case I now read will be found in 89 Atlantic Reporter on page 1013. Judge Parker, in his opinion, uses the following terms: "The keeping of a disorderly house of any kind, is something that connotes consciousness of the character of the place. That such consciousness may be brought home to the accused party as a matter of fact by evidence showing a course of practice, or frequent acts, of which in the natural order of things he would have been cognizant, and to which his assent would be as a matter of fact naturally implied, is perfectly clear. On this point it is sufficient to cite the recent decision by the Court of Errors and Appeals in State v. Callahan, 77 N. J. Law. 687; 73 Atlantic Re-

porter 235; but the jury must determine as questions of fact, first, that the defendant was proprietor or under control, second that the house was disorderly, and third, that defendant knew it, before there can be a conviction."

New, Gentlemen of the Jury, that is the measure of knowledge you must use, and in order to determine that you must go all over the case and ascertain, as a matter of fact, taking all of the testimony into consideration, and let me illustrate in this way. Taking the testimony that the defendant was the proprietor of the place, that he was in actual management of the place and that he was continuously in and around the place; that he went from time to time through the cabaret room and up to the dance hall; that he went to the extent of hiring officers and that he went to the extent of giving instructions to see that the place was being properly conducted. Now, Gentlemen of the Jury, do those facts warrant you to believe that he must have known the facts? If you come to that conclusion you have the right to find that he did have knowledge of the facts going on to make up the character of a disorderly house.

With reference to this case, I call attention to the case of State vs. Callahan, where it referred to the particular facts which in that case went to make up knowledge, and the defendant in that case likewise as in this case, denied knowledge, yet you can use this case which has been passed on by the Supreme Court of this state, as a guide to assist you as to formulate whether the defendant had knowledge. Not using the same facts, of course, as the facts in the Callahan case. The court in that case says: "We think that when it is proved

that a man is the owner and in control of a house of this character''—the crime charged in this case was the keeping of a bawdy house. A bawdy house, which is commonly known as a house of illfame,—the conviction in the Callahan case was based merely upon the keeping of the bawdy house. The circumstances going to make a bawdy house are quite different than in this case, but the principle is there just the same, and I will repeat: ''We think that when it is proved that a man is the owner and in control of a house of this character, where acts such as described take place at a time when he is in the house, and he is present in one room when men and women are present and then leave the room and go upstairs, and when it further appears that he is an unmarried man and has four women of the character proven in this case, apparently living in his house, or at any rate there at midnight, a jury could hardly avoid an inference of knowledge on his part.''

So, Gentlemen of the Jury, of course you are not to look for facts the same as these in that case, but you are to look for facts that are fundamentally the same as were found in that case; but it will give you an idea of what has been construed to be knowledge; you are to look for facts that are fundamentally the same, and that is if this defendant would know or have knowledge of the occurrences, if they actually existed.

Now, Gentlemen of the Jury, before leaving this question of knowledge so there will be no doubt in your mind, I want to call your attention to the abstracts of some other cases. The word ''knowledge'' in the criminal statute, and while this indictment is not under a criminal statute, yet the law requires knowledge of the character

of the house; so the principle applies in the same way,—it means that such knowledge must be clearly proved which will leave no reasonable doubt on a fair and reasonable mind.

These are the elements that go to make up the consideration of this case. As I have previously stated, you must come to the conclusion beyond all reasonable doubt that these elements existed before you can find a verdict of guilty. If you find them to exist then there is no question about your plain duty to bring in a verdict of guilty, but it is not necessary for you to find that all the crimes as alleged in the indictment have existed. If you find that any one of the crimes enumerated in the indictment, and in order to make it familiar I will repeat, if you find that habitually in Helvetia Hall that any one of these crimes was committed, then you are entitled to bring in a verdict of guilty. Again if you find the commission of one crime at another time, showing the habitual commission of crime outside of the commission of a particular crime habitually, you are entitled to bring in a verdict of guilty in that case.

Now, Gentlemen of the Jury, as the court has intimated, you are the judges of the facts in this case. I am not going to comment on the facts. Time and the hour is getting late, and I am going to leave the facts with you, and you must determine them to the best of your ability, and I will state that the court has full faith and confidence that you will live up to the oath that you took when you entered upon this case, and that you will hew your way through in a straight line to the truth, and bring in a verdict which will be actually and positively in accord with the evidence in the case.

Charge.

Now, Gentlemen of the Jury, I have been requested to charge you as follows; most of them I have already charged you, but at the request of the counsel for the defendant, I will repeat them to you:

1. "Before the jury can find a verdict of guilty under the indictment they must be satisfied beyond a reasonable doubt, that the law was habitually violated in the respects charged in the indictment, or some of them; and that the defendant had actual knowledge of such practices as constituted violations of the law." Subject to the definition of actual knowledge as I have given you, I so charge you.

2. "If the jury believe that the premises of the defendant, where liquor was sold, were resorted to by minors under the age of eighteen years, who obtained admission by representing themselves to be over eighteen years of age and the defendant did not have any reasonable ground to suspect that such persons were under the age of eighteen years, then no verdict of guilty can be based upon the charge in the indictment that the defendant permitted minors under the age of eighteen years to frequent or lounge in such premises." I so charge you.

3. "No verdict of guilty can be based by the jury upon the finding that minors under the age of eighteen years frequented the premises of the defendant, where liquor was sold, unless the jury are satisfied beyond a reasonable doubt that the defendant knew, or had reason to believe, that such persons were under the age of eighteen years." I so charge you, subject to the definition of knowledge as I have already charged you.

4. "If the jury believe that the offences charged in the indictment, or some of them, occurred in the premises of defendant, but that the defendant had no knowledge of the fact of their occurrence, and had as a matter of fact, made reasonable efforts to prevent violations of the law and to prevent unseemly and improper conduct in his premises by his patrons, the verdict should be one of not guilty." I charge as requested with this modification, that knowledge can, as stated in this charge, be governed by the definition as I have given you, and a man cannot relieve himself of liability on the ground that he has given instructions; he must see that his instructions are being carried out.

5. "No verdict of guilty can be based upon a finding by the jury that liquor was sold in the premises of the defendant on Sunday the 20th day of April, 1913." This is true as to the offense standing alone. That is to say if you find nothing else in the case except the sale of this liquor on Sunday, April 20th, 1913, that would not be sufficient to convict this defendant.

6. "If the jury believe that the dance hall in the premises occupied by the defendant was let by him to the man Barlow, and that Barlow conducted the dances held there, then no verdict of guilty can be based upon a finding by the jury that any misconduct occurred in said dance hall, or that said dances were resorted to by persons under the age of eighteen years, unaccompanied by parent or guardian, unless they are satisfied beyond a reasonable doubt that at the time of such letting, the defendant knew that said dance hall would be kept in a manner in violation of the law or that he participated in the manage-

ment and conduct thereof." I charge in that way, but with this modification; unless you find that this defendant knew at the time the law was being violated as I understand the testimony to indicate that defendant reserved the obligation to see that the dances were conducted proprly.

7. "If the jury believe that the premises of defendant were let by him to the committee to conduct the "Chorus Girls' Ball" for the sixteenth day of January, nineteen hundred and fourteen, no verdict of guilty can be based upon a finding that the law was violated upon that occasion in any of the respects charged in the indictment, unless they are satisfied beyond a reasonable doubt that the defendant knew that the ball was to be conducted in such manner as to violate the law or that he participated in the management and conduct of said ball." That is charged with the same reservation as in the other charge.

8. "If the jury believe that the defendant let his premises to a committee for the sixteenth day of January, nineteen hundred and fourteen, and that said committee controlled, managed and directed the "Chorus Girls' Ball' held on that evening, and that the defendant did not participate in such management, direction or control of said ball, and did not know at the time of such letting that said ball was to be conducted in a disorderly or illegal manner, then no verdict of guilty can be based on the mere failure of the defendant to actively prevent disorder or illegal conduct on the part of the persons present at the ball." I so charge you with the same reservation as before. The testimony indicates that he reserved the right to see that it was properly conducted, and if he had knowledge that the place was being unlawfully

conducted, and if he abused that knowledge he would be responsible as charged in the indictment.

Now, Gentlemen of the Jury, I think this concludes the charge. Take the case; give it your best and most careful attention, realizing the importance of rendering a true verdict in this case, not only to the state but to the defendant as well. Dismiss all malice or animosity that might have crept in. Consider all the evidence carefully and impartially and bring in a verdict that will be a credit to the government and administration of justice in this county.

(The jury then retire.)

Mr. Hunziker takes an exception to the modification of the sixth, seventh and eighth requests to charge, and a general exception to the whole charge.

Exception prayed, allowed and sealed.

WM. E. SEUFERT, (L.S.)
Judge.

NEW JERSEY SUPREME COURT.

State of New Jersey, Defendant-in-Error, vs. Frederick Koettgen, Plaintiff-in-Error.	On Error to Passaic Court of Quarter Sessions

Assignments of Error.

Afterwards, to wit, on the return of the said writ, before the Justices of the Supreme Court of Judicature, at Trenton, comes the said Frederick Koettgen by Ward & McGinnis, his attorneys, and says that in the record and proceedings aforesaid and also in the matters recited in the bill of exceptions and in the verdict and judgment aforesaid there is manifest error, to wit:

First. Because the court at the trial of the indictment, permitted the prosecutor of the pleas, against the objection of the counsel for the defendant, to ask the following questions of one James Smith, a witness for the State: Q. "Did you observe the ages of the boys and girls there sitting around the table"?, which question was answered by the said witness; said ruling was erroneous and to the damage of the defendant.

Second. Because the court at the trial of the indictment, permitted James Smith, a witness for the State to testify against the objection of the counsel for the defendant to the following ques-

tion: Q. "Did you hear any conversation when you first entered?" A. "I couldn't tell exactly." Q. "Just tell what you did hear." A. "There was one woman sitting to the left of the hall, and she jumped up and grabbed her coat off the back of the chair, and she said: "I will get the hell out of here before the place gets pulled." Q. "Is that all you heard?" A. "Yes, sir." Counsel for the defendant moved to strike out said testimony, but the motion was refused; said ruling was erroneous and to the damage of the defendant.

Third. Because the court at the trial of the indictment permitted one James Smith, a witness for the State, against the objection of counsel for the defendant, to be asked by the prosecutor, the following question: Q. "Now, did you observe any of the people there as to whether they were young people or people advanced in years, and how many would you say were young people or people advanced in years?" Objection was over-ruled and witness permitted to answer said question; said ruling was erroneous and to the damage of the defendant.

Fourth. Because the court at the trial of the indictment permitted the prosecutor for the State to ask one James Smith, a witness for the State the following question: Q. "Did you notice that night in there any girls that are girls of bad reputation for virtue in the town; that people spoke about as being girls of bad reputation in the town?" The court over-ruled said objection and thereupon witness answered the question; said ruling was erroneous and to the damage of the defendant.

Fifth. Because the court at the trial of the indictment permitted the prosecutor for the State to ask of James Brooks, after the said James Brooks had testified he had been to the place of the defendant, against the objection of counsel for the defendant, the following question: Q. "What did you observe?" A. "Detective Kerwin and I were sent down by Captain McBride, it was reported that a man got cut there, and we took a man out of the hall leading to the cabaret with three cuts on his hand." The court overruled said objection, and permitted the witness to answer said question; said ruling was erroneous and to the damage of the defendant.

Sixth. Because the court at the trial of the indictment permitted the prosecutor of the pleas to ask of James Brooks, a witness for the State, who had testified that he had seen persons come out of the place of the defendant under the influence of liquor, the following question, against the objection of counsel for the defendant: "Q. What would you say to the jury as to who these persons were that were under the influence?" A. "Young; one young man he fell out almost, and when he came out he said:: "Where is that son-of-a-bitch?" Said ruling was erroneous and to the damage of the defendant.

Seventh. Because the court at the trial of the indictment permitted James Brooks, a witness for the State, to testify as follows: Q. "How close was he to the door?" (referring to the person mentioned in the preceeding assignment,) and witness answered: "As he stumbled out there was a crowd there and he looked through the crowd as though he was looking for somone and there was a young Italian, I know he isn't over seven-

teen, and he came out and whispered something to this young fellow." Objection being made to said evidence on the ground that the conversation had taken place outside of the defendant's premises, but the court over-ruled said objection and refused to strike out said answer; said ruling was erroneous and to the damage of the defendant.

Eighth. Because the court at the trial of the indictment, permitted the prosecutor of the pleas to ask of one James Brooks, a witness for the State the following question: Q. "Officer, what else did you hear there by these people on the doorway or on the steps as they were coming out of the hall, if you heard anything?", which question was objected to by counsel for defendant, and the objection was over-ruled; said ruling was erroneous and to the damage of the defendant.

Ninth. Because the court at the trial of the indictment permitted James Brooks, a witness for the State, who had testified that a young man had come out of the doorway of these premises and went towards Main street, to testify as follows: Q. "How far from the place was he when this transaction took place?" A. "He came out of the door and passed me and he was drunk and later a girl came along and she said: "Jesus Christ, where did he go," and then another came along and when it——," which being objected to by counsel for the defendant, the court over-ruled said objection; said ruling was erroneous and to the damage of the defendant.

Tenth. Because the court at the trial of the indictment allowed one Robert Close, a witness for the State to answer the following question against the objection of counsel for the defendant: Q. "What was the reputation, if you know,

of any of the young men whom you saw in there whose age ranged from fifteen to twenty or over, good or bad?" which question being objected to was over-ruled by the court, which ruling was erroneous and to the damage of the defendant.

Eleventh. Because the court at the trial of the indictment, when a witness for the State was being cross-examined by counsel for the defendant and counsel for the defendant in asking the witness as to what certain persons had been drinking, permitted the witness to answer the following question: Q. "You don't know whether it was ginger ale or beer?" Witness answered: "From my instinct I could almost swear it was beer." Counsel for the defendant moved to strike out said answer, but the court refused to do so, which ruling was erroneous and to the damage of the defendant.

Twelfth. Because the court at the trial of the indictment, allowed one Thomas Stapleton, a witness for the State, to be asked the following question by the prosecutor: "You said November you were there?" and witness answered: "That is the time there was a fight and Officer Kerwin was there and we agreed that we would go up to Diskon's corner and if anything happened we would arrest them there." Counsel for the defendant moved to strike out said question on the ground that is was a conversation not held on the premises, but on the street corner some distance away, but the court refused to grant said motion, which ruling was erroneous and to the damage of the defendant.

Thirteenth. Because the court at the trial of the indictment permitted one Thomas Stapleton, a witness for the State, to answer the following

question asked by the prosecutor: "Take it in December then." Said witness answered: "I was standing right outside about five minutes after eleven, and those two young men came out of the door or three young men, and they were supporting a young man who was very, very drunk, and there was a young woman in the window way of the Hoebler Hotel, and she asked them to move and he said: "Go fuck yourself" and I arrested him." Counsel for the defendant moved to strike out the question, but the court refused the same on the ground that it was evidential of the people who were going in the place, which ruling was erroneous and to the damage of the defendant.

Fourteenth. Because the court at the trial of the indictment, permitted Thomas Stapleton, a witness for the State, to answer the following question: Q. "Who was it?" He testified: "I was standing opposite the hall and they rushed out of the hall and formed a ring in the middle of the street, and I rapped and Officer Kerwin came, and they all yelled: "Cheese-it; the cop;" and they all separated and ran." Counsel for defendant moved to strike out the answer, but the court over-ruled said motion, which ruling was erroneous and to the damage of the defendant.

Fifteenth. Because the court at the trial of the indictment allowed one William Fitzpatrick, a witness for the State to be asked the question as to what fights he had seen in defendant's hall. Witness thereupon answered, "I have seen them come out of the hall and start to fight as soon as they got out, and as soon as they saw me they went away." Counsel for the defendant thereupon objected to this testimony on the ground that it related to matters outside the dance hall or prop-

erty. The court allowed said question and answer to stand which, ruling was erroneous and to the damage of the defendant.

Sixteenth. Because the court at the trial of the indictment allowed one John H. Kenney, a witness for the State to testify when asked whether or not during a certain period of time he was at Helvetia Hall, the place of the defendant on Van Houten street. Witness answered, "I was never down at the place; I was always stationed at Main and Van Houten streets, at Diskon's corner." Thereupon the prosecutor asked the question, "Did you at any time observe the people coming out of Helvetia Hall on Saturday nights." Counsel for defendant objected as the witness was a block and a half from the premises in question. The court over-ruled said objection and allowed said questions and answers to stand, which ruling was erroneous and to the damage of the defendant.

Seventeenth. Because the court at the trial of the indictment allowed a witness for the State, Archibald N. Smith, to testify when asked about the reputation of the persons he saw in defendant's place as follows: A. "There was two that I know was bad, because they had been arrested the morning after for being drunk on the street." Thereupon the prosecutor asked, Q. "You knew their reputation before that?" Counsel for defendant objected to said question; the court over-ruled said objection, which ruling was erroneous and to the damage of the defendant.

Eighteenth. Because the court at the trial of the indictment allowed one William Zimlinghaus, a witness for the State, to testify to a fight on the street and of the conduct of certain persons.

He was then asked by the prosecutor, Q. "Where were the persons?" A. "They had them outside on the side-walk." Q. "So you don't know whether they were in the hall or not?" A. "No, sir." Thereupon counsel for the defendant objected to said testimony, but the court over-ruled the objection, on the ground that it was already in, which ruling was erroneous and to the damage of the defendant.

Nineteenth. Because the court at the trial of the indictment permitted one Abraham Weinberg, a witness for the State to testify as follows: By the prosecutor, Q. "The girls were in your company; the ones near enough or men?" A. "I heard men say "son-of-a-bitch," "go fuck yourself" and all that kind of talk, and the one girl that was with us that said she was in a fast house at Little Falls, and I asked her her age, and she said sixteen or seventeen years of age." Counsel for defendant moved to strike out said answer, but the coure over-ruled said motion and allowed said answer to stand, which ruling was erroneous and to the damage of the defendant.

Twentieth. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the State, to testify in answer to questions by the prosecutor as to the language he had heard used by the people coming from the hall of the defendant as follows: Q. "Tell the jury what you heard." A. "Go screw yourself;" "Send them to hell:" and language of that nature; common dance hall language where a bar is attached." Counsel for defendant moved to strike out said testimony and the court over-ruled said objection which ruling was erroneous and to the damage of the defendant.

Twenty-first. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the State to further testify in answer to the prosecutor as to the language used by the persons coming from the hall of the defendant as follows: Q. "Just be a little more in detail." A. "Some would say "go screw yourself;" "go to hell" and some called them bastards." Counsel for defendant moved to strike out said testimony and conversations which had taken place out of the hall, but the court over-ruled said motion, which ruling was erroneous and to the damage of the defendant.

Twenty-second. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the State to be asked the following question by the prosecutor: Q. "On any of those Saturday nights during the period I am speaking of; take the fall of 1913, and the winter of 1913, and January and February was your attention called to any fights there with people coming out of the hall?" This question was objected to by counsel for the defendant; the court over-ruled the objection and allowed the question to be answered, which ruling was erroneous and to the damage of the defendant.

Twenty-third. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the State, to answer the following question by the prosecutor: Q. "Tell us the instance of any of these fights of people coming out of the hall?" This question was objected to by counsel for the defendant; the court over-ruled said objection and allowed the question to be answered, which ruling was erroneous and to the damage of the defendant.

Twenty-fourth. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the State to testify as follows: "When you got there the fight was on?" A. "Yes, sir." Q. "You don't know where they came from?" A. "No, they were fighting when we got there." Thereupon counsel for the defendant moved that the testimony of the witness respecting said fight or fights be stricken out, but the court refused to grant said motion and allowed said testimony to stand, which ruling was erroneous and to the damage of the defendant.

Twenty-fifth. Because the court at the trial of the indictment when the State rested its case refused the motion of counsel for defendant to strike out all testimony given as to the ages of the persons alleged to have frequented the hall of the defendant, excepting as in such cases where specific ages were testified to, which motion was over-ruled by the court; that said ruling was erroneous and to the damage of the defendant.

Twenty-sixth. Because the court at the trial of the indictment, at the close of the State's case, refused to direct a verdict of not guilty, thereunto moved by counsel for the defendant; that said ruling was erroneous and to the damage of the defendant.

Twenty-seventh. Because the court charged the jury as follows.

> "If the testimony of the State is true, there is no question but that one of the most detestable crimes has been committed in your city."

Which charge was erroneous and to the damage of the defendant, in that if the testimony produced by the State were true it would not render the defendant guilty under the indictment.

Twenty-eighth. Because the court after defining what constituted a disorderly house, then charged the jury as follows:

> "It is not necessary to appear that he (the defendant) had power to suppress the mischief, but if he participated with others in conducting the place in such an obnoxious manner, and lent his aid to maintaining it, the law charges him as a principal offender."

Said charge was erroneous and to the damage of the defendant.

Twenty-ninth. Because the court charged the jury as follows:

> "Has anything happened to debauch the morals of the people? Have any persons been guilty of any carnal indecency with another? These are the points that you ought to determine. If you are satisfied beyond all reasonable doubt, you would then be justified in coming to the conclusion that this house was operated as a disorderly house."

Said charge was erroneous and to the damage of the defendant.

Thirtieth. Because the court charged the jury as follows:

> "Even then, the house could be a disorderly house, if other acts took place there habitually and continuously that were against the morals and manners of the people, such as the habitual sale of liquor on Sunday, or habitual sale of liquor to minors, or consenting or permitting of minors to frequent around the dance hall."

Said charge was erroneous in law, and to the damage of the defendant, in that there was no evidence before the jury as to the sale of liquor on Sundays, habitually or otherwise; or of the sale of liquor to minors, habitually or otherwise; or of defendant consenting and permitting minors to frequent around the dance hall. habitually or otherwise; also because the court incorrectly stated the law respecting minors.

Thirty-first. Because the court charged the jury as follows:

> "The court wants to caution you, however, in connection with the law, in finding the condition of things which would indicate the commission of these acts that you must be exceedingly careful to weigh the evidence, particularly in the case concerning the age limit or the determination as to whether or not minors frequented the place or received liquors in the same. The statutes covering these facts are as follows: 'Any person owning, occupying or having the management or control of any public dance house or hall, or any concert saloon, whether licensed as such or not, his agents or servants, who shall admit thereto or permit or suffer to be or remain therein any child under the age of sixteen years, unaccompanied by a parent or guardian, shall be guilty of a misdemeanor; or any person having a license to sell spirituous, vinous, malt or brewed liquors, his agents or servants, who shall sell or give to any minor under the age of eighteen years any such liquors, or shall suffer or

permit any such minor to frequent or lounge in the room or place where such liquors are kept or sold, shall be guilty of a misdemeanor."

Said charge was erroneous in that the court in effect charged the jury that if the defendant were guilty of violating the statute quoted, he would be guilty of keeping a disorderly house.

Thirty-second. Because the court charged the jury as follows:

"Now gentlemen of the jury, outside of the facts as to whether or not a sale has been made to a minor, or whether a minor has been found in the place, which you must determine beyond all reasonable doubt there must be an element of age. You have heard opinions given in this court room in testifying in this case concerning the age of certain parties who were found, or testified to having been found, in this place. The giving of an opinion as to what age is permissible when accompanied by such circumstances as will justify it, and you will remember the evidence in this connection, so that the jury can take not only the opinion as to the age of the party, but the facts upon which that opinion was made, so as to readily understand for themselves whether or not the opinion was justified."

Said charge was erroneous because it permitted the jury to consider opinion evidence as to the age of persons alleged to have been in the house in question; also because the jury was permitted to consider opinions of witnesses as to the age of alleged minors, without any evidence be-

ing produced as to the facts upon which such evidence was based.

Thirty-third. Because the court charged the jury as follows:

> "You must find that it was reasonable to believe that this defendant had knowledge, and that is as far as it is necessary to go."

Which charge was erroneous and to the damage of the defendant.

Thirty-fourth. Because the court charged the jury as follows:

> "Now, gentlemen of the jury, we pass on the next element and that is the defendant must be proved to be the proprietor or actual manager of the place. It is needless for me to go over the evidence in connection with this, and this is merely an opinion and comment on my part, but I do not think it has been disputed that he is the proprietor of Helvetia Hall, and you must determine that he was such proprietor, and that he was such proprietor at the time and during the time provided for or covered by the indictment."

Said charge was erroneous because it in effect stated the law to be, that two crimes would constitute habitual crime; also because the commission of different crimes at different times in the premises would not constitute keeping a disorderly house; also because no crime was proven to have been committed in or on said premises.

Thirty-fifth. Because the court refused to charge the jury as follows, when requested by counsel for defendant:

"If the jury believe that the dance hall in the premises occupied by the defendant was let by him to the man Barlow and that Barlow conducted the dances held there, then no verdict of guilty can be based upon a finding by the jury that any misconduct occurred in said dance hall, or that said dances were resorted to by persons under the age of eighteen years, unaccompanied by parent or guardian, unless they are satisfied beyond a reasonable doubt that at the time of such letting, the defendant knew that said dance hall would be kept in a manner in violation of the law or that he participated in the management and conduct thereof."

Twenty-sixth. Because the court refused to charge the jury as follows, when requested by counsel for defendant:

"If the jury believe that the premises of defendant were let by him to the committee to conduct the "Chorus Girls Ball' for the sixteenth day of January, nineteen hundred and fourteen, no verdict of guilty can be based upon a finding that the law was violated upon that occasion in any of the respects charged in the indictment, unless they are satisfied beyond a reasonable doubt that the defendant knew that the ball was to be conducted in such manner as to violate the law or that he participated in the management and conduct of said ball."

Thirty-seventh. Because the court refused to charge the jury as follows, when requested by counsel for defendant:

"If the jury believe that the defendant let his premises to a committee for the sixteenth day of January, nineteen hundred and fourteen, and that said committee controlled, managed and directed the "Chorus Girls Ball' held on that evening, and that the defendant did not participate in such management, direction or control of said ball, and did not know at the time of such letting that said ball was to be conducted in a disorderly or illegal manner, and no verdict of guilty can be based on the mere failure of the defendant to actively prevent disorder or illegal conduct on the part of the persons present at the ball."

Thirty-eight. Because the court refused to direct the jury to acquit the defendant, when requested by counsel for defendant.

For the errors aforesaid, and in the giving of judgment and passing of sentence aforesaid, the said Frederick Koettgen prays that the said judgment and sentence be reversed and annulled and for nothing holden, and that he may be restored to all things which he has lost by occasion thereof.

WARD & MCGINNIS,
Attorneys for and of Counsel
with Plaintiff-in-Error.

NEW JERSEY SUPREME COURT.

The State of New Jersey, Defendant in Error, vs. Frederick Koettgen, Plaintiff in Error.	In Error to Passaic Court of Quarter Sessions.

Joinder in Error.

And thereupon the State of New Jersey, defendant in error, by Michael Dunn. its attorney, comes into court and says, that there is no error, either in the record and proceedings aforesaid, or in the giving of judgment aforesaid, and it prays here, that the court here may proceed to examine, as well the record and proceedings aforsaid, as the matters aforesaid assigned for error, and that the judgment aforesaid, in the manner aforesaid, given, may in all things, be affirmed, etc.

MICHAEL DUNN,
Attorney for Defendant in Error.

(Filed)

NEW JERSEY COURT OF ERRORS AND APPEALS.

State of New Jersey,
Defendant-in-Error,

vs.

Frederick Koettegen,
Plaintiff-in-Error

ASSIGNMENTS OF ERROR.

Afterwards, to wit, on the return of the writ of error in the above cause, before the New Jersey Court of Errors and Appeals, comes the said Frederick Koettegen by Ward & McGinnis, his attorneys, and says that in the record and proceedings aforesaid, and also in the matters recited in the bill of exceptions and in the verdict and judgment aforesaid there is manifest error, to wit:

1. Because the court at the trial of the indictment permitted the prosecutor of the pleas, against the objection of the counsel for the defendant, to ask the following questions of one James Smith, a witness for the State: Q. "Did you observe the ages of the boys and girls there sitting around the table?", which question was answered by said witness; said ruling was erroneous and to the damage of the defendant.

2. Because the court at the trial of the indictment, permitted James Smith, a witness for the state to testify against the objection of the counsel

for the defendant to the following question: Q. "Did you hear any conversation when you first entered?" A. "I couldn't tell exactly." Q. "Just tell what you did hear." A. "There was one woman sitting to the left of the hall, and she jumped up and grabbed her coat off the back of the chair, and she said: "I will get the hell out of here before the place gets pulled." Q. "Is that all you heard?" A. "Yes, sir." Counsel for the defendant moved to strike out said testimony, but the motion was refused; said ruling was erroneous and to the damage of the defendant.

3. Because the court at the trial of the indictment permitted one James Smith, a witness for the state, against the objection of counsel for defendant, to be asked by the prosecutor the following question: Q. "Now, did you observe any of the people there as to whether they were young people or people advanced in years, and how many would you say were young people or people advanced in years?" Objection was overruled and witness permitted to answer said question; said ruling was erroneous and to the damage of the defendant.

4. Because the court at the trial of the indictment permitted the prosecutor for the state to ask one James Smith, a witness for the state the following question: Q. "Did you notice that night in there any girls that are girls of bad reputation for virtue in the town; that people spoke about as being girls of bad reputation in the town?" The court overruled said objection and thereupon witness answered the question; said ruling was erroneous and to the damage of the defendant.

5. Because the court at the trial of the indictment permitted the prosecutor for the state to ask

of James Brooks, after the said James Brooks had testified he had been to the place of the defendant against the objection of counsel for the defendant, the following question: Q. "What did you observe?" A. "Detective Kerwin and I were sent down by Captain McBride, it was reported that a man got cut there, and we took a man out of the hall leading to the cabaret with three cuts on his hand." The court overruled said objection, and permitted the witness to answer said question; said ruling was erroneous and to the damage of the defendant.

6. Because the court at the trial of the indictment permitted the prosecutor of the pleas to ask of James Brooks, a witness for the state, who had testified that he had seen persons come out of the place of the defendant under the influence of liquor, the following question, against the objection of counsel for the defendant: Q. "What would you say to the jury as to who these persons were that were under the influence?" A. "Young; one young man he fell out almost, and when he came out he said: "Where is that son-of-a-bitch?"; said ruling was erroneous and to the damage of the defendant.

7. Because the court at the trial of the indictment permitted James Brooks, a witness for the state, to testify as follows: Q. "How close was he to the door?" (referring to the person mentioned in the preceding assignment) and witness answered: "As he stumbled out there was a crowd there and he looked through the crowd as though he was looking for someone and there was a young Italian, I know he isn't over seventeen, and he came out and whispered something to this young

fellow." Objection being made to the said evidence on the ground that the conversation had taken place outside of the defendant's premises, but the court overruled said objection and refused to strike out said answer; said ruling was erroneous and to the damage of the defendant.

8. Because the court at the trial of the indictment permitted the prosecutor of the pleas to ask of one James Brooks, a witness for the state, the following question: Q. "Officer, what else did you hear there by these people on the doorway or on the steps as they were coming out of the hall, if you heard anything?", which question was objected to by counsel for the defendant, and the objection was overruled; said ruling was erroneous and to the damage of the defendant.

9. Because the court at the trial of the indictment permitted James Brooks, a witness for the state, who had testified that a young man had come out of the doorway of these premises and went towards Main street, to testify as follows: Q. "How far from the place was he when this transaction took place?" A. "He came out of the door and passed me and he was drunk and later a girl came along and she said: "Jesus Christ, where did he go," and then another came along and when it—," which being objected to by counsel for the defendant, the court overruled said objection; said ruling was erroneous and to the damage of the defendant.

10. Because the court at the trial of the indictment allowed one Robert Close, a witness for the state to answer the following question against the objection of counsel for the defendant: Q. "What was the reputation, if you know, of any of the young men you saw in there whose age ranged

from fifteen to twenty or over, good or bad?'' which question being objected to was overruled by the court, which ruling was erroneous and to the damage of the defendant.

11. Because the court at the trial of the indictment, when a witness for the state was being cross-examined by counsel for the defendant and counsel for the defendant in asking the witness as to what certain persons had been drinking, permitted the witness to answer the following question: Q. ''You don't know whether it was ginger ale or beer?'' Witness answered: ''From my instinct I could almost swear it was beer.'' Counsel for the defendant moved to strike out said answer, but the court refused to do so, which ruling was erroneous and to the damage of the defendant.

12. Because the court at the trial of the indictment, allowed one Thomas Stapleton, a witness for the state, to be asked the following question by the prosecutor: ''You said November you were there?'' and witness answered: ''That is the time there was a fight and Officer Kerwin was there and we agreed that we would go up to Diskon's corner and if anything happened we would arrest them there.'' Counsel for the defendant moved to strike out said question on the ground that it was a conversation not held on the premises, but on the street corner some distance away, but the court refused to grant said motion, which ruling was erroneous and to the damage of the defendant.

13. Because the court at the trial of the indictment permitted one Thomas Stapleton, a witness for the state, to answer the following question asked by the prosecutor: ''Take it in December then.'' Said witness answered: ''I was standing right outside about five minutes after eleven, and

those two young men came out of the door or three young men, and they were supporting a young man who was very, very drunk, and there was a young woman in the window way of the Hoebler Hotel, and she asked them to move, and he said: 'Go fuck yourself' and I arrested him." Counsel for the defendant moved to strike out the question, but the court refused the same on the ground that it was evidential of the people who were going in the place, which ruling was erroneous and to the damage of the defendant.

14. Because the court at the trial of the indictment, permitted one Thomas Stapleton, a witness for the state to answer the following question: Q. "Who was it?" He testified: "I was standing opposite the hall and they rushed out of the hall and formed a ring in the middle of the street, and I rapped and Officer Kerwin came, and they all yelled: "Cheese-it; the cop;" and they all separated and ran." Counsel for the defendant moved to strike out the answer, but the court overruled said motion, which ruling was erroneous and to the damage of the defendant.

15. Because the court at the trial of the indictment allowed one William Fitzpatrick, a witness for the state to be asked the question as to what fights he had seen in the defendant's hall. Witness thereupon answered, "I have seen them come out of the hall and start to fight as soon as they got out, and as soon as they saw me they went away." Counsel for the defendant thereupon objected to this testimony on the ground that it related to matters outside the dance hall or property. The court allowed said question and answer to stand, which ruling was erroneous and to the damage of the defendant.

16. Because the court at the trial of the indictment allowed one John H. Kenney, a witness for the state to testify when asked whether or not during a certain period of time he was at Helvetia Hall, the place of the defendant, on Van Houten street, witness answered, "I was never down at the place; I was always stationed at Main and Van Houten streets, at Diskon's corner." Thereupon the prosecutor asked the question, "Did you at any time observe the people coming out of Helvetia Hall on Saturday nights." Counsel for defendant objected as the witness was a block and a half from the premises in question. The court overruled said objection and allowed said questions and answers to stand, which ruling was erroneous and to the damage of the defendant.

17. Because the court at the trial of the indictment allowed a witness for the state, Archibald N. Smith, to testify when asked about the reputation of the persons he saw in defendant's place as follows: A. "There was two that I know was bad, because they had been arrested the morning after for being drunk on the street." Thereupon the prosecutor asked, Q. "You knew their reputation before that?" Counsel for defendant objected to said question; the court overruled said objection, which ruling was erroneous and to the damage of the defendant.

18. Because the court at the trial of the indictment allowed one William Zimlinghaus, a witness for the state, to testify to a fight on the street and of the conduct of certain persons. He was then asked by the prosecutor, Q. "Where were the persons?" A. "They had them outside on the sidewalk." Q. "So you don't know whether they were in the hall or not?" A. "No, sir." Thereupon

counsel for the defendant objected to said testimony, but the court overruled the objection on the ground that it was already in, which ruling was erroneous and to the damage of the defendant.

19. Because the court at the trial of the indictment permitted one Abraham Weinberg, a witness for the state to testify as follows: By the prosecutor, Q. "The girls were in your company; the ones near enough or men?" A. "I heard men say "Son-of-a-bitch," "go fuck yourself" and all that kind of talk and the one girl that was with us said she was in a fast house at Little Falls, and I asked her age, and she said sixteen or seventeen years of age." Counsel for defendant moved to strike out said answer, but the court overruled said motion and allowed said answer to stand, which ruling was erroneous and to the damage of the defendant.

20. Because the court at the trial of the indictment allowed one Dent Bell a witness for the state to testify in answer to questions by the prosecutor as to the language he had heard used by the people coming from the hall of the defendant, as follows: Q. "Tell the jury what you heard." A. "Go screw yourself;" "Send them to hell;" and language of that nature; common dance hall language where a bar it attached." Counsel for defendant moved to strike out said testimony and the court overruled said objection, which ruling was erroneous and to the damage of the defendant.

21. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the state, to further testify in answer to the prosecutor as to the language used by the persons coming

from the hall of the defendant as follows: Q "Just be a little more in detail." A. "Some would say, "go screw yourself;" "go to hell" and some called them bastards." Counsel for defendant moved to strike out said testimony and conversations which had taken place out of the hall, but the court overruled said motion, which ruling was erroneous and to the damage of the defendant.

22. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the state, to be asked the following question by the prosecutor: Q. "On any of those Saturday nights during the period I am speaking of; take the fall of 1913, and the winter of 1913, and January and February; was your attention called to any fights there with people coming out of the hall?" This question was objected to by counsel for the defendant; the court overruled the objection and allowed the question to be answered, which ruling was erroneous and to the damage of the defendant.

23. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the state, to answer the following question by the prosecutor: Q. "Tell us the instance of any of these fights of people coming out of the hall?" This question was objected to by counsel for the defendant; the court overruled said objection and allowed the question to be answered, which ruling was erroneous and to the damage of the defendant.

24. Because the court at the trial of the indictment allowed one Dent Bell, a witness for the state, to testify as follows: Q. "When you got there the fight was on?" A. "Yes, sir." Q. "You don't know where they came from?" A. "No, they were fighting when we got there." Thereupon counsel for the defendant moved that the

testimony of the witness respecting said fight or fights be stricken out, but the court refused to grant said motion and allowed said testimony to stand, which ruling was erroneous and to the damage of the defendant.

25. Because the court at the trial of the indictment when the state rested its case, refused the motion of counsel for defendant to strike out all testimony given as to the ages of the persons alleged to have frequented the hall of the defendant, excepting as in such cases where specific ages were testified to, which motion was overruled by the court; that said ruling was erroneous and to the damage of the defendant.

26. Because the court at the trial of the indictment, at the close of the state's case refused to direct a verdict of not guilty, thereunto moved by counsel for the defendant; that said ruling was erroneous and to the damage of the defendant.

27. Because the court charged the jury as follows:

> "If the testimony of the state is true, there is no question but that one of the most detestable crimes has been committed in your city."

Which charge was erroneous and to the damage of the defendant, in that if the testimony produced by the state were true it would not render the defendant guilty under the indictment.

28. Because the court, after defining what constituted a disorderly house then charged the jury as follows:

> "It is not necessary to appear that he (the defendant) had power to suppress the

mischief, but if he participated with others in conducting the place in such an obnoxious manner, and lent his aid to maintaining it, the law charges him as a principal offender."

Said charge was erroneous and to the damage of the defendant.

29. Because the court charged the jury as follows:

"Has anything happened to debauch the morals of the people? Have any persons been guilty of any carnal indecency with another? These are the points that you ought to determine. If you are satisfied beyond all reasonable doubt you would then be justified in coming to the conclusion that this house was operated as a disorderly house."

Said charge was erroneous and to the damage of the defendant.

30. Because the court charged the jury as follows:

"Even then, the house could be a disorderly house, if other acts took place there habitually and continuously that were against the morals and manners of the people, such as the habitual sale of liquor on Sunday, or habitual sale of liquor to minors, or consenting or permitting of minors to frequent around the dance hall."

Said charge was erroneous in law, and to the damage of the defendant, in that there was no evi-

dence before the jury as to the sale of liquor on Sundays, habitually or otherwise; or of the sale of liquor to minors, habitually or otherwise, or of defendant consenting and permitting minors to frequent around the dance hall, habitually or otherwise; also because the court incorrectly stated the law respecting minors.

31. Because the court charged the jury as follows:

> "The court wants to caution you, however, in connection with the law, in finding the condition of things which would indicate the commission of these acts that you must be exceedingly careful to weigh the evidence, particularly in the case concerning the age limit or the determination as to whether or not minors frequented the place or received liquors in the same. The statutes covering these facts are as follows: "Any person owning, occupying or having the management or control of any public dance house or hall, or any concert saloon, whether licensed as such or not, his agents or servants, who shall admit thereto or permit or suffer to be or remain therein any child under the age of sixteen years, unaccompanied by a parent or guardian, shall be guilty of a misdemeanor; or any person having a license to sell spirituous, vinous, malt or brewed liquors, his agents or servants, who shall sell or give to any minor under the age of eighteen years any such liquors, or shall suffer or permit any such minor to frequent or lounge in the room or place where such liquors are kept or sold, shall be guilty of a misdemeanor."

Said charge was erroneous in that the court in effect charged the jury that if the defendant were guilty of violating the statute quoted, he would be guilty of keeping a disorderly house.

32. Because the court charged the jury as follows:

> "Now, gentlemen of the jury, outside of the facts as to whether or not a sale has been made to a minor, or whether a minor has been found in the place, which you must determine beyond all reasonable doubt there must be an element of age. You have heard opinions given in this court room in testifying in this case concerning the age of certain parties who were found, or testified to having been found, in this place. The giving of an opinion as to what age is permissible when accompanied by such circumstances as will justify it, and you will remember the evidence in this connection, so that the jury can take not only the opinion as to the age of the party, but the facts upon which that opinion was made, so as to readily understand for themselves whether or not the opinion was justified."

Said charge was erroneous because it permitted the jury to consider opinion evidence as to the age of persons alleged to have been in the house in question; also because the jury was permitted to consider opinions of witnesses as to the age of alleged minors, without any evidence being produced as to the facts upon which such evidence was based.

33. Because the court charged the jury as follows:

> "You must find that it was reasonable to believe that this defendant had knowledge, and that is as far as it is necessary to go."

Which charge was erroneous and to the damage of the defendant.

34. Because the court charged the jury as follows:

> "Now, gentlemen of the jury, we pass on to the next element and that is the defendant must be proved to be the proprietor or actual manager of the place. It is needless for me to go over the evidence in connection with this, and this is merely an opinion and comment on my part, but I do not think it has been disputed that he is the proprietor of Helvetia Hall, and you must determine that he was such proprietor, and that he was such proprietor at the time and during the time provided for or covered by the indictment."

Said charge was erroneous because it in effect stated the law to be, that two crimes would constitute habitual crime; also because the commission of different crimes at different times in the premises would not constitute keeping a disorderly house; also because no crime was proven to have been committed in or on said premises.

35. Because the court refused to charge the jury as follows when requested by counsel for defendant:

"If the jury believe that the dance hall in the premises occupied by the defendant was let by him to the man Barlow and that Barlow conducted the dances held there, then no verdict of guilty can be based upon a finding by the jury that any misconduct occurred in said dance hall, or that said dances were resorted to by persons under the age of eighteen years, unaccompanied by parent or guardian, unless they are satisfied beyond a reasonable doubt that at the time of such letting, the defendant knew that said dance hall would be kept in a manner in violation of the law or that he participated in the management and conduct thereof."

36. Because the court refused to charge the jury as follows, when requested by counsel for defendant:

"If the jury believe that the premises of defendant were let by him to the committee to conduct the "Chorus Girl's Ball' for the sixteenth day of January, nineteen hundred and fourteen, no verdict of guilty can be based upon a finding that the law was violated upon that occasion in any of the respects charged in the indictment, unless they are satisfied beyond a reasonable doubt that the defendant knew that the ball was to be conducted in such manner as to violate the law or that he participated in the management and conduct of said ball."

37. Because the court refused to charge the jury as follows, when requested by counsel for defendant:

"If the jury believe that the defendant let his premises to a committee for the sixteenth day of January, nineteen hundred and fourteen, and that said committee controlled, managed and directed, the "Chorus Girl's Ball" held on that evening, and that the defendant did not participate in such management, direction or control of said ball, and did not know at the time of such letting that said ball was to be conducted in a disorderly or illegal manner, and no verdict of guilty can be based on the mere failure of the defendant to actively prevent disorder or illegal conduct on the part of the persons present at the ball."

38. Because the court refused to direct the jury to acquit the defendant, when requested by counsel for defendant.

39. Because the Supreme Court should have reversed the judgment of conviction and awarded the plaintiff in error a new trial.

40. Because the Supreme Court affirmed the judgment of conviction, and thereby committed error.

For the errors aforesaid, and in the giving of judgment and passing of sentence aforesaid, the said Frederick Koettegen prays that the said judgment and sentence be reversed and annulled and for nothing holden, and that he may be restored to all things which he lost by occasion thereof.

WARD & MCGINNIS,
Attorneys for and of Counsel with Plaintiff-in-Error.