

START

1847

CASE

COURT OF GENERAL SESSIONS OF THE PEACE,

City and County of New York.

THE PEOPLE

against

HARRY C. BOHN and SAMUEL A. LONDON.

2234

Indictment filed 19th day of January, 1914.

Indicted for Violation of 1140 A and 1530 to 1532 Penal Law.

APPEARANCES:

For the People,

ASSISTANT DISTRICT ATTORNEY HAYWARD

For the Defendants,

JOHN B. STANDCHFIELD, ESQ., and

SAMUEL KOENIG, ESQ.

Tried before HON. EDWARD SWANN, Judge, and a Jury, on the 4th day of March, 1914.

(The jury are duly empanelled and sworn)

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes a recess until 8:30 P.M.

Thomas W. Osborne,

Official Stenographer.

MR. HAYWARD'S OPENING ADDRESS TO THE JURY IN BEHALF OF THE PEOPLE:

May it please your Honor, Mr. Foreman, and gentlemen of the jury: As briefly outlined to you at the beginning of the examination of the jury, this forenoon, these defendants are indicted jointly for a violation of the section of the statutes of New York which makes it a misdemeanor to produce or give any show, display or exhibition -- I shall not attempt to give you the exact effect of the statute, especially as there will be no defense here that this was not a show, public exhibition coming within the meaning of that statute, but, the statute says any obscene and indecent -- using some other words -- show or exhibition which tends to the corruption of the morals of youths or others, shall be a misdemeanor, and it is under that section of the statute that the People now prosecute these defendants.

The exhibition or show was given in the city of New York, and we expect to either show you this by evidence or by agreement of counsel for the defendants, or by stipulation, to save time -- that a public show was given on the day alleged in this indictment, the 20th day of December last, at the Park Theatre, in New York City and County; that these two defendants, Mr. London and Mr. Bohn, were respectively the author and producer of this show, and Mr. Bohn the proprietor of the theatre, coming, of course, within the meaning

of the statute. The whole question resolves itself into this proposition: Whether this exhibition was such a show as would tend to the corruption of the morals of youths and others who might see the exhibition. There will be no contention, I think, that it was a public show; that an admission was charged, and that in that respect it differed from no other public theatre in this city, but it will also be shown, and I will agree to that, of course, with Mr. Stanch-field, that the defendants and those producing this exhibition, made it a rule that no children under the age of sixteen years would be permitted in the theatre. That, I think, is a sufficient statement of the preliminary facts, the necessary facts, to bring us down to the real issue here as to the decency or otherwise of this performance.

As of course you know, it was a moving picture performance, in which the photographs were shown on a screen, preceded and accompanied by explanatory captions, showing the titles to these different acts and scenes, and I will briefly go over these, as it is my duty to do, in order that as the pictures are shown to you, which we will offer in evidence first, you may see what in particular the People contend about these pictures to be immoral and to be corrupt, and I shall not take a moment longer of your time than I feel it is my duty to take.

These pictures depict the life, travels and adventures

of a prostitute. They show at the beginning, I may say, a preliminary announcement, that they were produced by the defendant, Mr. London, after a great experience in matters of this kind, and they state that the object of Samuel A. London was to educate and arouse all classes throughout the world against the conditions that are claimed to exist with relation to the White Slave trust or traffic in women, and that one particular feature of the performance to which attention is drawn, in this preliminary statement, as you will see when the pictures are shown, is the "out of my house" policy, that being the policy of a parent whose daughter has gone astray and been led astray, in failing to forgive her and take her back, but instead, refusing to forgive her and not let her come back home. There is a sort of a plot, to be sure, running through this play, and of course there are characters.

The principal character, as I take it, is a trafficker and procurer, a young man whose name is supposed to be George Fisher. There is a minor character, another man by the name of Philip Lester, a drug clerk; there is a girl who, at the beginning of this play, is supposed to already be a prostitute and already be working with this man Fisher, this procurer. The first girl's name is Mary Freeman; then there is another character introduced by the name of Rose Fletcher who is supposed to be a Galician girl, an immigrant girl,

who comes to this country, and last the real female character of this drama, if it can be called that, Anna Kline, who at the beginning of the pictures, is working in a factory.

The first scene I will go through as rapidly as possible. The caption of the first act is "The procuring traffickers daily routine." This shows the trafficker in bed, some time during the forenoon, and getting out of bed, evidently out of money, and next is introduced the girl I told you about who had been his companion before the play begins, Mary Freeman. She comes to this cadet's bedroom and gives him money and then goes out, and the next caption is entitled "White Slave headquarters", and it is outside of a restaurant called "Little Roumania", and this procurer comes into the restaurant and sits down; and this procurer and others sit there and play stuss, and Fisher loses his money and pawns his watch; plays with that money and loses that, and then comes a night scene on the street in which the two male characters meet at a drug store and evidently make some plan or another. The drug clerk goes with the cadet Fisher, and then we have the caption "Bad association for the drug clerk". Here Fisher and the drug clerk go to the same Little Roumania restaurant, and they are shown here with others sitting around while their girls come in, evidently from the street, from time to time, and lift up their skirts, some of them, and take money from their stockings, which they give to these

men or boys in there to whom they happen to belong or be attached. Now, a letter comes to this man Fisher, this cadet, which states that Mary Freeman has been arrested and is in the Night Court, and so they all go over there, to the Night Court, and there is depicted a scene in the Night Court. Mary is discharged, manifestly because of the influence of a politician, or something of that sort, who comes out from behind the Judge's bench and shakes hands with Fisher, the cadet, and they all leave the court room very contentedly, and then they go back to the bright lights again of the Little Roumania cafe. Mary goes to work on the streets. There is a street scene and she is seen soliciting various men she meets with for the purpose of inducing them to have sexual intercourse with her, and she is shown practicing the arts of a prostitute in that manner, on the street, and bringing back the proceeds of prostitution which she is successful in inducing, and giving it to this man Fisher, the cadet, in and out of this Little Roumania cafe. The cadet Fisher goes home and leaves this prostitute and the drug clerk sitting at a table, and they, after a conversation, go out together. There is a plot to this thing, and Part 2 begins the real plot, called "The innocent in danger." It shows the factory girl, Anna Kline, that I have told you about, leaving the drug store, and being followed by the cadet Fisher, who had been working before that with the other

woman. He follows her to her factory. She goes to work with a lot of other girls at sewing machines in this factory, and then this cadet follows her to her home and writes down the number of her home. Then Anna is shown at home with her people. Next comes "The scheme that won her gratitude". The cadet and drug clerk make a plan, evidently, and the drug clerk follows this girl as she comes from the factory, and accosts her. She turns away from him, but he is persistent, and by a prearranged plan, the cadet Fisher comes along and seemingly knocks the drug clerk down, and of course rescues this girl Anna from him, and goes home with the girl Anna to her home, and they shake hands and separate. Then, two weeks are supposed to have passed, and this girl, this factory girl, gets a letter from this man Fisher, in which he says "Anna dear, the theatre to-night and then supper at The Garden. Lovingly, George." So, that evening they go to the beer garden, and during the course of the evening spent there, after the theatre, he is seen to pour some sort of a drug from a bottle taken from his clothing, into her glass. She at first refuses to drink, but he drugs her there, and as she gets under the influence of this drug, he takes her to his own room, and then you see the inside of this room, rather pleasantly furnished, comfortably furnished, and in some respects luxuriously furnished; the bed is

made up properly, and the girl is so sleepy from the effects

of this drug that has been given to her, that she lies down on the bed and evidently goes right to sleep. In the meantime there is a scene showing the distress of her parents at her failure to come home. The next morning it shows her awakened in this apartment, bedroom, and she is seen lying on the bed with her clothes up to about her knees, and the bed tossed about, manifestly having been occupied by two people, but, I want to say that the People in this case do not base their prosecution on the fact that throughout any part of these pictures there is any nudity, which, taken by itself, would necessarily be indecent, or tend to the demoralisation of one's morals. That is to say, it is not a case of indecent exposure of person at all. It is the acts that are depicted and the conclusions that must necessarily be drawn from them that the People want to draw your attention to, upon which the prosecution is based. So as I say, there will be no shocking exposure of the female person throughout these pictures, and we do not claim such is the case. This girl, after she awakens, goes home and tells her mother exactly what has happened, and then her father comes and refuses to be reconciled, and sends the girl away. Then there is no place, according to this story, on earth for her to go but back to the man who had seduced her, and back to him she goes and he tells her that he will marry her. She believes him. They go then on a ferry boat over to Jersey, and go to

the Court House, and come out evidently with a marriage license, and they go to a house. Now, in the house they see a young man as thinly disguised as a clergyman as the ordinary actor would be in a high school performance -- very plain to see it is a disguise upon him, but according to this picture it is sufficient to deceive the girl who goes through this ceremony which is supposed to be marriage ceremony, and then they come back to New York and live together a couple of weeks there, she supposing herself to be this man's wife, and then he comes in and tells her he is out of funds and he must take her to some friends of his, and so then the next scene is entitled "The Friends" and one sees a large parlor of a house of prostitution into which this chap takes this girl. There is the luxurious furniture, thick carpets and draperies, and all that stuff, marble, and a semi-nude picture on the wall, and these girls, the inmates, prostitutes, sitting about the house of prostitution, playing cards and solitaire, smoking cigarettes, and occasionally the lover of one of these girls comes to that room and the girl springs to her feet and rushes and throws her arms around his neck and lies in his arms awhile, and they smoke from the same cigarette, &c., and during the course of this scene, this girl Anna, who supposed, of course, that she was the wife of the man who took her there, when she discovers what sort of a place she is in, she makes a desperate effort to go out.

Of course, you will bear in mind she has had no experience of any kind in such a place as that, up to that time, but as soon as she sees that it is that kind of a house, she tries to escape and the others keep her there, and then this man Fisher comes back and makes them let her alone. At any rate she stays in that house of prostitution. The various antics of the prostitutes in this parlor scene I do not need to detail to you. The pictures will do that very much better than I possibly could -- the pranks they play together, &c. -- the gay scene that is inside that house of prostitution.

The next caption is "And, in time, the usual developments." There is a street scene, and this girl is seen practicing the trade of a prostitute, soliciting on the streets, accosting men and smirking and smiling at them, and as I said, using the necessary devices to attract these men, and arouse him to such a pitch that he will accompany her to a place of prostitution. Then comes a series of pictures which shows how this cadet, who had taken this factory girl, sells her, as it were. He tells her she can no longer expect any help from him; that he must go away, and in the meantime he has made a bargain with another man by the name of -- it does not appear here -- but I think it was Mink -- at any rate this second man comes and says to this girl who had been fooled in Jersey by this mock marriage, and then taken by the man she supposed to be her husband, to the house of prosti-

tution -- the second man comes to this girl and says "If you will go with me to New Orleans I will have your marriage with Fisher annulled, and I will marry you." She of course in the play is shown to implicitly believe and rely and act upon it. So, a payment is made of \$300. from the one man to the other -- not in her presence, of course, and she goes with Mink to the Pennsylvania Railroad station down here, and they go to New Orleans, where he is supposed to annul her marriage with her first husband, and marry her over again. They come to New Orleans. Now, as a preliminary to -- certainly not to an annulment of the marriage promised her, but to what subsequently is going to happen to this girl, there is shown the segregated or crib district of New Orleans. The pictures show a street on either side of which are these little one story houses, each with a large window and a door immediately on the sidewalk, and they show these prostitutes in New Orleans in many cases half clad, plying their trade there to the men who are either passing by or who come to the district for that purpose. They show these girls going in and out of the door of their house; they show them taking hold of these men and accosting them -- in fact, show them using all the arts and postures and attitudes necessary, when taken together, with their legs which they display to these men, and their figures which they display through the loose wrappers or kimonos, which cling to their figures -- necessary, I

say, because they are shown in many cases, these practices, to be successful in so arousing the passions of these men, that they do go with them to the interior of these cribs and stay an appreciable length of time, and then come out. In other cases the men simply look at them, and play with them, and go on, but I won't deal with that any further except to say that it shows completely all "before" and "after" of this hideous business.

Now then it seems, that the author of this thing contends that this system is international, and so, when the girl gets there and is placed in one of these buildings I have described where this soliciting and this prostitution has been shown to you, she attempts and does get away from it and goes to Denver, Colorado, but before she is shown in Denver, we are shifted back to New York where a liner is coming in bearing European immigrants to this country, and Fisher, the original cadet, and the first woman I told you about, are seen down there going aboard the steamer, and it shows how they get hold of this immigrant girl, how they wait for her. There are two captions, the first is "The immigrant girl is easy prey for the procurers" and then after the girl comes over here to New York, the caption to that is "Once discharged from Ellis Island, the government can no longer protect them", and the public is told by these pictures with what impunity the White Slavers can go at least as far as the

Battery to pick up these girls. Now, this girl whose name I guess was Rose, the immigrant girl, it shows her education -- they show her how much better off she will be and how much better clothes she can wear, and show her the good clothes she will have in her new life, and all of that, and finally this immigrant girl is shown completely transformed in a low necked gown. Then she is taken to New Orleans and turned over to this same crib, where we saw the prostitutes soliciting the men before. Now, Anna, as I have said, breaks away, as the expression is used in this play, and goes to Denver, Colorado. I may say, unless I should omit it, and unless it should be said I am not fair, that on one or two occasions, during these pictures, the cadet is shown to strike the girl, slap her or strike her. That is true. That is correct. That does occur. I don't Just now remember -- I only saw these pictures once and I don't remember when it occurs, but it does occur. This man strikes this woman once or twice during the play, but at any rate, Anna goes to Denver. And now, to show, the international scope of this White Slave Trust and Traffic, the theory is attempted to be portrayed on this canvas that the girl Anna, who has gone to Denver, not to reform or to lead a better life, but to become a prostitute out there under more favorable auspices, is unable to rent a crib in Denver, or to become an inmate of a house of prostitution there, because she has been, as it were,

blacklisted by the White Slave Traffic, for running away from New Orleans, and as the result of her inability to get into a house of prostitution, either in Denver or other places, she suffers great distress, as I have said, because she cannot be a prostitute. They won't let her be in Denver and she goes from place to place trying to be a prostitute unsuccessfully, until she is finally brought down to a state of object poverty and distress, and is shown in a pitiable condition in a room in some old lodging house giving up her last dollar, and then she pawns some of her jewels that were left, and goes to Dallas, or Houston, Texas -- Houston, and has the same experience there, which I will not dwell on. The fact is, she cannot get into a house of prostitution in either of those places, and from that came her distressing condition, so that she goes back voluntarily to New Orleans, and reports back there for business to this cadet that she had been turned over to, who took her there from New York. A month later the two return to New York, and they are shown together in a bedroom, she giving money to Mink, and he sending her out evidently to get more money, and she goes to work again on the streets soliciting and practicing her art of prostitution here in New York, and she is arrested for soliciting and picked up by an officer, and goes to court, and she is turned over to a probation officer in whose charge she is placed by the Magistrate. They go to the Rescue Home

for Girls, this probation officer and Anna, and then Anna goes to work as a clerk. They give her employment and she goes to work evidently in a department store, and she is shown working there hard, with the counter piled up in front of her, and a lot of fussy old women come along and tear up her counter and upset her goods and everything, and don't buy anything, and make her a lot of trouble, and she shows by

her attitude and actions that she is very tired and very disgusted and discouraged, and at the end of what must have been a week's work, the pay clerk comes around and gives this girl a small amount of money -- perhaps four dollars -- I don't know if the amount is shown, but it is clearly shown that the smallness of the amount she receives discourages her to such an extent that she voluntarily again goes back to prostitution, and back to her lover, to this chap she had been living with when she was arrested and taken to the department store by the probation officer. He is shown seated in the bedroom, and she comes in the room and he looks up from the paper he is reading, looks at her and smiles, and she looks at him and smiles, and then he holds out his arms to this lost girl of his, and she rushes to his arms and places her head down on his shoulder, and she turns over to him or shows him the four dollars or whatever the amount was that she had earned from her week's hard work in the department store, and as he goes out of the room she evidently has an

attack of homesickness. There comes to her as she sits there alone in this room she has gone back to, a sort of dream or vision of her family at home eating their frugal

meal in the simple little house which she had left.

Now, there is another scene, gentlemen, that will be shown to you to-night by consent of both Mr. Stanchfield and myself, and the question of its admissibility will be taken up. There seems to be a doubt as to whether it was exhibited at the show on which this indictment is based or not, but at any rate it will be of course conceded that it was an afterthought, and it shows one of these main characters, one of these male characters, in another transaction in which he, through a confederate, takes and entices this woman -- his confederate entices a girl to go with her and she pretends to be this woman's friend, and I think -- I am not sure even that I saw all of this reel -- but entices her at any rate to go and have her hair fixed in a new way, and takes her to her home, and during the time she is there, two Government detectives, evidently of the United States Government, have had a telegram warning them to be on the lookout for this White Slaver, this procurer or whatever you want to call him, this cadet, and in fact they pick him up at the station where he comes I believe from New Orleans, and shadow him, so that when he goes to the house where his confederate has taken this girl that she picked up in the park, they are close

at his heels, and one of them takes a stand in front of the house and the other at the rear of the house, and there they stay on guard, and he goes in to where this girl is and when she finds out what it all means, she is ready to fight, and does fight with a chair, and knocks this chap down and flies from one story to another, and he pursues her and breaks down the door which she has closed to keep him out. He finally gets in to where she is and is about to make an assault upon this girl when the officers, who had heard the noise, go into the house and place him under arrest. As I say, that is kind of an extra scene -- the real drama, the real play, whatever you choose to call it, terminates, as I have said, when the girl comes from the department store back to her lover.

Now, gentlemen, that in brief is an account of the pictures. The People contend two things: First, that there are specific scenes, specific pictures, the inside of the parlor of the house of prostitution in New York, and the crib scene with these prostitutes displaying themselves and soliciting these men in New Orleans, that taken alone, or anything they may be taken with, constitute such an indecency and would tend so to demoralize the youths and others, as to be a violation of this statute, and on the other hand, not taking any particular scenes or acts, that the entire trend of this play, this picture play, instead of reforming anybody,

instead of giving a warning to anybody, would have exactly the opposite effect, and would tend to demoralize not only the youths but grown people, and his Honor will instruct you, and it is proper for me, to tell you what the law is, in the opening statement, I think -- that the test is not what offset these pictures would have upon a man of mature mind and of careful thought and judgment, but upon those who might be peculiarly susceptible to such things, the youths of both sexes who from an unusual degree of sensuality or amorousness or weakness of resolution, are peculiarly susceptible to those influences, and that, with such formal proof as may be agreed upon by Mr. Stanchfield, or offered, will constitute the People's case.

I offer our exhibits, being four reels, taken by the police officers at the Park Theatre, which have been in their custody since then, and which I will offer as Exhibits 1, 2, 3 and 4, and I understand that Mr. Stanchfield has the fifth reel, which I agree may be offered by him at this time, subject to connection to-morrow, and may be shown at this time.

THE COURT: That is by consent?

MR. STANCHFIELD: Yes.

Reels of films are offered, received in evidence and marked People's Exhibits 1, 2, 3 and 4.

The fifth reel is marked in evidence Defendant's Exhibit A.

MR. HAYWARD: Mr. Stanchfield has called my attention to a matter that I am not positive about, and that was the pay that the girl received at the end of her week's work in the department store. I think I said I did not remember or know the exact amount shown, but I have an impression from some source that it was four dollars. Now, it may be the amount is not shown, but the point I was trying to make, which the author of this play was trying to make was that owing to the smallness of the amount, the pay envelope was sneered at, and that was the point endeavored to be brought out by Mr. London, which I attempted to bring out by my statement.

(The lights are now extinguished in the court room and the five reels, People's Exhibits 1, 2, 3 and 4 and Defendant's Exhibit A, are now exhibited to the jury by being exposed through the medium of a moving picture machine and projected on a white screen or cloth fastened to the rear wall of the court room).

The Court now admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes an adjournment until to-morrow morning, March 5th,

1914, at 10:30.

New York, March 5, 1914.

TRIAL RESUMED.

THE COURT: Now gentlemen, anything we can do to shorten the trial that will give both sides every opportunity will be very much appreciated. Will that be agreed upon in some way so that we can make it short? I presume the real thing, the substance of it and the essence of it, is the exhibition of the pictures; isn't that about it?

MR. STANCHFIELD : Yes, sir.

THE COURT: And all else is incidental it seems to me, but at the same time it is merely suggested that anything we can do to shorten the trial probably would be appreciated by all parties concerned. Have you formulated among yourselves a plan for the balance of the trial?

MR. STANCHFIELD: I don't know what Mr. Hayward's intentions are; of course the pictures are in evidence; I don't know what more could be done in the way of description.

THE COURT: No; it seems to me that is about all. At the same time it is rather difficult to make a record in that manner. The reels are in evidence themselves and that seems to be the very best thing we can do so far as I can think of, but then if either of you can think of anything else you think ought to be done.

MR. STANCHFIELD: Yes.

THE COURT: Governor Stanchfield, I understand from the court attendant that some ladies are here, friends of some of the defendants; they want to sit a little nearer. Personally I don't approve it but if they would like them to do so they are at liberty to do it; just merely it is entirely with them.

MR. HAYWARD: If your Honor please, I believe we have agreed on a procedure that will save some time.

THE COURT: Very well.

MR. HAYWARD: Mr. Stanchfield is willing to have it appear in the record as follows: that on the 20th day of December, 1913, In the Borough of Manhattan, City and County of New York, the defendants Samuel H. London and Harry C. Bohn did prepare, give and present at and in the Park Theatre in the City and County of New York to and before a large number of persons then gathered together there in a certain public exhibition, show and entertainment; that at said time there was maintained at the entrance to said Park Theatre and said show a box office where tickets were sold, and that the said audience had purchased said tickets before being allowed to enter; and that the defendants had and were enforcing a rule excluding all children under the age of 16 years from said show; that the show, entertainment and exhibition there publicly given consisted of the projection

Upon a screen of certain and all the pictures contained in and upon the films heretofore offered by the People in evidence as People's Exhibits 1, 2, 3 and 4. And the film produced by the defendants, Defendants' Exhibit A, and that at said time and place the defendants did keep and maintain a certain theatre and play house there commonly known as the Park Theatre for the purpose of exhibiting and exposing to the sight and view of any persons willing to pay and desirous of seeing the same and paying for admission into the said theatre the said exhibition, show and entertainment heretofore described; that all of said acts were committed on the 20th day of December, 1913, in the City and County of New York. Have you anything to add to that, Mr. Stanchfield?

MR. STANCHFIELD: No.

MR. HAYWARD: Now it has been consented by counsel that for the purposes of the record in this case there may be read into the record the affidavit of Mr. Harry W. Newburger, formerly Third Deputy Police Commissioner of the Police Department of the City of New York, which I now hand to the reporter, beginning where indicated with the paragraph "That a synopsis of the said moving picture performance 'The Inside of the White Slave Traffic' is as follows" and ending with the words "Caption: Our National Shame. End of Part IV."

(The said affidavit as indicated reads as follows:)

That a synopsis of the said moving picture performance "The Inside of the White Slave Traffic" is as follows:

The said pictures were preceded by a preliminary announcement upon the screen to the effect that these pictures portrayed in life business of those engaged or associated in the white slave traffic, their ramifications, methods and system, presented without exaggeration or fictional indulgence, and wherever possible showing the actual places where the traffickers operate, and that the object of Samuel H. London, who presented the pictures, was to educate and arouse all classes throughout the world against this terrible traffic, thereby realizing the possibility for a national campaign against white slavery; that one of the particular lesions Mr. London intended to teach was in regard to the "out of my house policy" of parents who are injured; and also presented some of Mr. London's facts and figures concerning the white slave traffic in the United States:

PRINCIPAL CHARACTERS:

George Fisher, Trafficker and procurer.

Philip Lester, Drug clerk.

Mary Freeman, American woman.

Rose Fletcher, Galician girl.

Anna Kline, Factory girl.

CAPTION: THE PROCURING TRAFFICKER'S DAILY ROUTINE.

Bedroom, showing trafficker in bed, yawning, evidently just waking. Lights cigarette, stretches, looks out of window at clock on building, which indicates 11:37, looks in trousers pocket. Is evidently short of money.

Street scene: Mary Freeman (girl who lives with trafficker George Fisher) entering house.

Bedroom: Trafficker dressing. Mary enters. She hands trafficker money. He counts money and appears disgusted. Trafficker takes money and departs. Girl looks after him frowning.

CAPTION: WHITE SLAVE HEADQUARTERS.

Inside of restaurant: George Fisher enters restaurant, sits down and orders meal.

CAPTION: STUSS IS THEIR FAVORITE GAME.

Room with long table at which about a dozen men are seated, engaged in playing cards. Money being passed. George Fisher enters and takes part in game. He evidently loses all money and offers watch to banker, who passes him money for it. Re-engages in game, evidently loses. Leaves.

Street scene: Night. George Fisher meets Philip Lester, the drug Clerk. Fisher enters drug store and telephones Mary Freeman.

Fisher's room: Mary at telephone answering Fisher's call.

Drug store: Fisher and Lester conversing. Mary

Approaches and hands money to Fisher.

CAPTION: BAD ASSOCIATION FOR THE DRUG CLEKR.

Drug clerk and Fisher leave store together.

Fisher and drug clerk enter Little Roumania together and sit at a table. About half a dozen procurers or cadets sitting at different tables. Three girls enter at different times, one lifting up her skirts and reaching into her stocking, taken money out and turning it over to one of the men.

Letter handed to Fisher which reads as follows:

"George: Was arrested on the street. Come to Night Court. Mary."

Fisher after reading note leaves restaurant.

Night Court: Various prisoners being arraigned before the Magistrate -- several women, an old man and an old hag evidently intoxicated.

Mary arraigned. Fisher leans over rail, listening. Policeman witness unable to identify Mary. Mary discharged. A man (apparently a politician or "fixer") comes down from the side of the judge's bench after Mary is discharged, laughs with Fisher in front of the judge and shakes hands with Fisher in front of the judge. Fisher puts on hat in front of judge and all walk out laughing.

Fisher converses with Mary evidently informing her that he is penniless. This is "Little Roumania" where

Fisher and Mary have been congratulated by the men and girls in the place on Mary's discharge.

Street scene: Mary at work, soliciting. Solicits man, who walks on, then looks back and follows Mary. Fisher meets Mary and they converse, walking along street. Mary reaches in stocking, takes out money, and hands money to Fisher. Fisher is apparently not satisfied with the amount and strikes Mary, knocking her down onto a stoop.

A policeman approaches; Fisher tries to escape but is pursued by the officer who seizes him and brings him back to where Mary is sitting. Mary shakes her head at policeman, evidently refusing to make complaint. Fisher assists her to her feet and they walk away together.

Fisher and Mary enter Little Roumania and take seat at table. Mary weeping. Fisher attempts to pacify her, patting her cheek and hands.

Street scene: Night. Drug clerk boarding street car, evidently on his way home.

Little Roumania: Mary and Fisher at table; talk, and depart together.

(END OF PART I.)

PART TWO

CAPTION: THE INNOCENT IN DANGER.

A girl, Anna Kline, seen leaving drug store, observed

by Fisher, who points her out to drug clerk. They evidently discuss her. Fisher follows Anna who enters shirtwaist factory. Fisher notes name of firm and smiles.

Workroom in shirtwaist factory: Anna and other girls at work at sewing machines.

Quitting time: Girls close machines and depart from building.

Outside of building: Fisher stands outside and when Anna emerges, follows her.

Street scene: Anna walking, followed by Fisher. Anna enters door of her home. Fisher notes number of the house and departs.

Inside of Anna's home: Anna enters, kisses her folks and sits at supper table.

Outside of Little Roumania: Fisher and drug clerk in conversation.

CAPTION: THE SCHEME THAT WON HER GRATITUDE.

Fisher and drug clerk outside of shirtwaist factory. They have, apparently made the following plan: the drug clerk is to accost Anna, Fisher to follow and come to Anna's rescue and in this manner get into the good graces of Anna.

Anna leaves and is followed by the drug clerk, who is followed at a distance by Fisher. Drug clerk approaches Anna and accosts her. She tries to escape but he seizes, her arm. Fisher appears on scene, knocks drug

clerk down and escorts Anna to her home. Shakes hands with her at door and leaves.

CAPTION: TWO WEEKS HAVE PASSED:

Workshop: Anna and other girls working at sewing machines. Foreman hands Anna a letter, which reads as follows: "Anna dear: The theatre tonight and then supper at the Garden. Lovingly, George." Anna reads letter and smiles.

CAPTION: THAT EVENING.

Anna and Fisher seated in beer garden.

CAPTION: HE PERSUADES HER TO DRINK.

Liquor is brought for Anna and Fisher. When Anna is not looking. Fisher pours some liquid into her glass.

Fisher induces her to drink. She demurs at first but under Fisher's persuasion, finally does drink.

Anna's home: Father looks at watch, which indicates 2 o'clock. Shakes head. Speaks to mother, who is evidently worried. Father puts on hat and coat and departs evidently in search of Anna.

Restaurant garden: Girl, who has taken the drugged drink, becomes sleepy. Fisher assists her out of restaurant.

Outside of restaurant garden: Night. Fisher and Anna enter taxi cab. Taxi cab stops outside of Fisher's house. He assists Anna into house and into his bedroom. Fisher places Anna in a sitting position on the bed and

removes her hat. Anna falls back on the bed, apparently unconscious. Fisher looks at her triumphantly.

CAPTION: MORNING.

Anna lying on bed with dresses just below her knees. She wakes, gets up and looks around, alarmed, goes to window, pulls up blind, looks horror stricken, realizes she has been seduced by Fisher. Puts on hat and departs, looking back at bed fearfully.

CAPTION: THE HOME OF YESTERDAY, PARENTS "BEWARE OF THE 'OUT OF MY HOUSE' POLICY."

Anna enters her house and is met by her mother. Falls into her mother's arms, weeping. Tells her mother of her seduction. Mother looks horrified and weeps.

Father enters. Berates Anna and orders her out of his house. Tears her from mother's arms and points to door. Anna departs.

CAPTION: THERE IS BUT ONE DOOR OPEN TO HER.

Fisher's room: Anna returns, weeping. Fisher pats her on shoulder, evidently reassuring her.

CAPTION: HE PROMISES TO MARY HER.

Fisher and Anna talk, then depart from room.

(END OF PART II.)

PART THREE

Anna and Fisher on ferry boat, evidently en route to Jersey City.

CAPTION: THE TRAFFICKER FREQUENTLY PURSUES THIS

COURSE WITH HIS VICTIM.

Outside of court house: Anna and Fisher leaving building. Both look pleased. Anna displays marriage license to Fisher. They enter taxi cab and are taken to a dingy looking brick house, which they enter.

CAPTION: BUT THE MARRIAGE CEREMONY IS SELDOM CENUINE.

Inside of house: A man, a colleague of Fisher, in clerical garb, greets them. Fisher winks at him and they whisper together. Fisher produces marriage license. Bogus preacher performs ceremony.

CAPTION: TWO WEEKS LATER. THE TRAFFICKER TELLS ANNA HE HAS NO FUNDS AND MUST PLACE HER WITH FRIENDS UNTIL HE FINDS EMPLOYMENT.

Fisher's room. He is evidently telling Anna he is without funds. She appears sympathetic. They depart together.

CAPTION: THE FRIENDS.

Large parlor of house of prostitution, semi-nude picture on wall. Prostitute in kimono playing solitaire at table and an older woman, evidently the madam, seated in an arm chair. Fisher enters with Anna and introduces her to the madam. Fisher whispers to madam, who nods her head. A prostitute in kimono enters, smoking a cigarette. Other prostitutes enter in kimonos. A man enters whom the prostitute smoking embraces. She gives her cigarette to this man, who takes a few puffs

and returns it to the prostitute, who then continues her smoking. The prostitute takes the man's hat and puts it on her head. Ann looks alarmed and rushes toward the door but is seized by all the prostitutes, who fight with her and keep her in the parlor. Fisher re-enters and disperses the crowd. He speaks to Anna evidently telling her the nature of the place. Anna weeps Fisher lights cigarette.

CAPTION: AND, IN TIME, THE USUAL DEVELOPMENTS.

Street scene: Anna on street, soliciting. Approaches man, who smiles at her knowingly, but walks away.

CAPTION: THE METHOD EMPLOYED BY PROCURING TRAFFICKERS IN MAKING A TURN-OVER.

Man enters with note for Anna, which reads as follows: "Anna, I am leaving the city for good, don't depend upon me any longer. George."

Anna reads note and weeps.

CAPTION: "IF YOU WILL GO WITH ME TO NEW ORLEANS I WILL HAVE YOUR MARRIAGE WITH FISHER ANNULLED AND I WILL MARRY YOU."

Man who brought the note to Anna converses with her, evidently making the above statement.

CAPTION: THE TURN-OVER COMPLETED, THE CLERK PAYS PROCURER \$300.00.

Fisher's room: Man who offered to take Anna to New Orleans hands money to Fisher. They shake hands.

CAPTION: THE START.

Anna and man who offered to take her to New Orleans (Frank Mink) at railroad station, approaching gate marked "Southern Express." Mink shows two tickets to gatemen marked "New Orleans and return." They enter train as it is leaving station.

CAPTION: ARRIVAL AT NEW ORLEANS.

Train arriving at New Orleans station. Anna and Mink depart.

CAPTION: SEGREGATED OR CRIB DISTRICT.

This picture shows the disorderly house or crib district in New Orleans, where the prostitutes ply their trade. A prostitute is lounging in the doorway of each crib, some in kimonos, some in knee dresses and one in a short white skirt or chemise. Most of them are accosting men walking past. In one instance a girl is bidding good-bye to a man who has apparently just come from her crib. Occasionally a man who is talking to one of the women enters the house with her. This scene continues for some time, passing from house to house.

Anna and Mink appear on scene and enter one of these cribs, with suit cases.

CAPTION: THE SYSTEM IS INTERNATIONAL.

Little Roumania restaurant: Fisher gets the following telegram: "To George Fisher, 17 Clinton Street, New York City. Rose Fletcher left 12th, Steamer 'Bremen'".

New York 24th. Going to stop with sister."

Fisher takes up telephone and calls Mary, who is in his room. After receiving message she puts on coat and hat and departs.

CAPTION: NEARING THE LAND OF PROMISE.

Ocean liner coming up New York Harbor.

Scene in steerage, showing immigrants.

Fisher and Mary at dock when steamer arrives.

Steerage scene, showing immigrants.

Mary and Fisher board steamer. He evidently points out Rose Fletcher to her.

CAPTION: THE IMMIGRANT GIRL IS EASY PREY FOR THE PROCURER.

Waiting room at Ellis Island, showing immigrants.

Outside of Barge office. Mary and Fisher Ellis Island ferry.

CAPTION: ONCE DISCHARGED FROM ELLIS ISLAND THE GOVERNMENT CAN NO LONGER PROTECT THEM.

Outside of Barge Office, showing immigrants leaving Ellis Island ferry.

(END OF PART III.)

PART FOUR

CAPTION: THE FIRST STEP IN HER EDUCATION.

Mary, Fisher and Rose Fletcher in Fisher's bedroom. Mary shows Rose dainty feminine garments and they depart into an inner room. Fisher looks after them and smiles.

Messenger boy hands Fisher following telegram:

"To George Fletcher, 17 Clinton Street, New York, Care restaurant. Lost mine, send me Gillette Razor as soon as possible. Frank Mink."

Fisher points to inner room and smiles.

Mary and Rose, the latter clad in new dress, enter room.

CAPTION: TWO DAYS LATER THE IMMIGRANT GIRL IS DELIVERED AT NEW ORLEANS.

Train approaching New Orleans station.

Outside crib. Anna in kimona, outside crib.

Mink approaches and strikes her.

Fisher and Rose approaches and enter one of the cribs together. Fisher speaks to man who appears to be in charge of crib, evidently requesting money. Man hands money to Fisher. Fisher counts same, smiles and departs.

CAPTION: SHE REBELS UNDER HER MASTER'S LASH.

Inside of crib: Anna arguing with Mink. He attempts to strike her and she starts packing her clothes.

Outside of crib: Night. Mink evidently telling manager of one of the other cribs about Anna's departure.

Anna leaves crib and with valise. Man and woman entering crib gaze after her.

CAPTION: "SHE WENT TO DENVER."

Outside of crib: Mink and other man in conversation.

Cheap restaurant: Mink enters and speaks to manager.

CAPTION: CODE USED BY TRAFFICKERS IN THE UNITED STATES:

Mary - Send money immediately.

Gillette blade - Girl.

Smoke - Run out.

Crying - Police

Smile - For police attention.

Gate - Crib.

Sunshine - Jewelry.

First - Telegraph.

Threat - Money order.

Sugar - Frame a job.

Mink in restaurant, sends code telegram in regard to Anna's departure.

CAPTION: DENVER.

Anna, in street, asks directions from proprietor of a restaurant. After directing her, he looks at telegram.

Anna knocks at door of what is evidently intended to represent a disorderly house. A man in shirt sleeves opens door. Anna speaks to him and he shakes head, denying her admission.

CAPTION: BARRED OUT BY THE SYSTEM.

Anna on street, looks into hand bag, evidently without funds. Enters pawnshop, pawns jewelry.

CAPTION: ANNA GETS TO HOUSTON BUT THE SYSTEM IS EVERYWHERE.

Anna on street, asks directions from girl. Anna speaks to an old man in front of a saloon, evidently the manager. He shakes his head in the negative and Anna goes on.

CAPTION: REFUSED A CRIB, HER LAST DOLLAR IS SPENT FOR LODGING.

Bedroom in cheap lodging house. Anna hands landlady a bill, takes off coat and hat and looks about.

Cheap restaurant in New Orleans. Mink speaks to manager and shows telegram: "Breakaway. Anna here broke. Wire instructions. Felix Cooper."

Mink shows this telegram to manger who congratulates him.

CAPTION: DESTITUTE AND HELPLESS, SHE RETURNS WITH HIM TO NEW ORLEANS.

Anna and Mink enter crib from which she ran away.

CAPTION: A MONTH LATER THEY RETURN TO NEW YORK.

Bedroom scene: Anna and Mink in bedroom. Anna hands money to Mink. He speaks to her, evidently telling her to go out on street and get more. She departs. Mink lights cigarette and picks up paper.

CAPTION: SHE SLAVES FOR HIM AGAIN.

Anna on street soliciting. She accosts man, is arrested by policeman.

CAPTION: SHE IS TURNED OVER TO THE PROBATION OFFICER.

Night Court: Anna placed in custody of probation

officer by Magistrate.

Probation officer and Anna leave night court and enter Rescue Home for Girls.

CAPTION: SHE IS GIVEN HONEST EMPLOYMENT.

Anna at work as clerk in dry goods store.

Paymaster enters and pays her salary. She opens envelope, counts money and shakes her head.

CAPTION: UNFITTED FOR WORK BY HER FORMER LIFE AND HABITS, SHE RETURNS TO HER MASTER.

Anna approaches door of Rescue Home. Hesitates, then turns away.

Mink's bedroom: Mink seated in chair reading the Police Gazette. Anna enters, weeping. She hands him pay she has received, which he takes and departs.

Anna sits on chair and has vision of her home, showing her parents and little sisters. The vision fades and Anna rises, stretches out her arms and weeps.

CAPTION: OUR NATIONAL SHAME.

(END OF PART IV.)

MR. HAYWARD: And also a scenario from the play prepared by Mr. London, Part V of the same.

(The said Part V is as follows:)

PART FIVE

SCENE 1.

Interior U.S. Secret Service Office.

Secret Service man receives following telegram, which reads: "New Orleans, La., Sept. 2nd, 1910. Chief U.S. Secret Service, New York. Information George Fisher, five feet ten, dark, weight one-sixty, delivered foreign girl here in crib, has record. Train No. 42. Spot and cover. (Signed) A. B. Blair."

Chief calls two detectives. Shows them the telegram and also a picture of Fisher. Detective look at same and exit.

SCENE 2. Interior of Pennsylvania Depot.

Detectives seen talking to ticket taker. Detectives then exit. Fisher then enters and exits.

SCENE 3. Entrance to railroad depot. Fisher appears. Detectives follow him.

SUBTITLE: THE MOST USUAL METHODS EMPLOYED BY THE TRAFFICKERS IN PROCURING YOUNG GIRLS.

SCENE 4. Exterior of house. Fisher enters.

SCENE 5. Interior of house. Fisher speaks to woman.

SUBTITLE: "GET ME A VERY YOUNG BLONDE GIRL AND I WILL PAY YOU \$200.00."

They exit.

SCENE 6. Exterior of house. Fisher and woman seen leaving. They exit.

SCENE 7. Park. Woman seated next to blonde girl. They are seen conversing and exit.

SCENE 8. Exterior of hair dressing establishment. Blonde girl and woman enter.

SCENE 9. Interior of hairdressing establishment. Blonde girl has her hair dressed. Woman pays money and they both exit.

SUBTITLE: HER VANITY GRATIFIED: FOURTEEN SUCH ESTABLISHMENTS WITHIN FIVE BLOCKS WHERE POVERTY IS INTENSE.

SCENE 10. Exterior of hairdressing establishment. Blonde girl and woman seen in front of store and exit.

SCENE 11. Exterior of house. Woman is seen to coax girl into house.

SCENE 12. Interior of house. Girl and woman enter. Woman exists. Returns with refreshments.

SCENE 13. Street. Fisher seen coming up street, detectives following.

SCENE 14. Exterior of house. Fisher is seen entering.

SCENE 15. Interior of house. Fisher enters room, talks to woman, who introduces blonde girl.

SCENE 16. Exterior of house. Detectives sitting on stoop, seen taking the number of the house. One detective leaves.

SCENE 17. Back of the house. Detective seated at rear entrance to house.

SCENE 18. Interior of house. Woman exits, leaving Fisher alone with blonde girl. Fisher approaches her

and proffers her money and fine clothes. She resists him. He then grabs her. They wrestle. Girl picks up chair and strikes Fisher over the head.

SCENE 19. Rear of house. Detective overhears the disturbance.

SCENE 20. Front of house. Detective comes from rear of house and tells his associate of disturbance inside.

SCENE 21. Interior of house. They are seen running up the stairway.

SCENE 22. Interior of room. Girl is seen leaving the room after striking Fisher over the head. She closes the door after her.

SCENE 23. Bedroom. Girl is seen standing with her back against the door. She then draws washstand and places it against the door.

SCENE 24. Fisher's room. Fisher is seen rising from sofa to which he was thrown and picks up wooden pedestal and beats down the door.

SCENE 25. Stairway is hallway. Detectives seen running up stairs.

SCENE 26. Door, Fisher seen looking through door which he has just broken down. He rushes into the room and girl throws pitcher which grazes Fisher's head. Another struggle then ensues.

SCENE 27. Room. Detectives enter room in which

first struggle took place. They overhear struggle in the adjoining room and rush into same, separating participants. Fisher is handcuffed and detectives take Fisher out with woman.

TRAILER: OUR NATIONAL SHAME.

(END OF PART V.)

MR. HAYWARD: And if your Honor please, we believe that it would be a useless taking of time to read these exhibits to the jury, which are merely formally descriptive) of the pictures they have already seen, and we both agree that the reading of them may be waived in order to save your Honor's time and the jury's time.

THE COURT: Very well, put them in evidence and than if either side would like to read them or any parts of them you may do so. Would that be satisfactory?

MR. HAYWARD: That would be satisfactory.

THE COURT: Very well.

(The papers referred to were marked respectively People's Exhibits 5 and 6.)

THE COURT: I believe it is agreed by both sides that opinion evidence is not admissible in this class of case; isn't that about correct:

MR. HAYWARD: It is our contention; I think there is no question about it.

THE COURT: I believe it is agreed on by both sides.

Very well.

MR. HAYWARD: If your Honor please, with that admission the People rest.

MR. STANCHFIELD: The defendants ask your Honor to advise the jury to direct a verdict in acquittal upon the ground that the evidence now upon the record does not show a violation of any or either of the statutes of the State of New York under and upon which the indictment in this action has been framed. Secondly, upon the ground that the facts proven do not establish a crime. Third, that the facts proven do not establish the crime set out in either the first or the second counts of the indictment herein. In the light of what has occurred I don't care to argue that motion, if your Honor please.

THE COURT: Very well; motion denied.

MR. STANCHFIELD: Exception.

THE COURT: I understand -- it was not in evidence but it was agreed by both sides --in regard to the films and their ownership and the origin of the films and their being presented as alleged, that is admitted?

MR. STANCHFIELD: Oh certainly.

THE COURT: Of course; there is no question about that?

MR. STANCHFIELD: There is not; no technical question raised.

THE COURT: The defendants prepared and gave the ex-

hibition as alleged. All right.

MR. STANCHFIELD: Do I understand from your Honor's ruling and the agreement of counsel it is to go to these twelve men to determine?

THE COURT: It is a question of fact entirely, a question of fact for the jury, they have seen the films.

MR. STANCHFIELD: It is conceded by counsel for the People that on or about the 15th and 16th of December, 1913, a preliminary examination was had before Hon. Robert C. TenEyck, a city magistrate of the City of New York, as to the question as to whether or no these pictures constituted a violation of law, and upon that examination Inspector Dwyer and his assistant Oscar Haight were sworn in behalf of the People, and other witnesses for the People and the defendants, but at the conclusion of the taking of testimony Magistrate TenEyck refused to hold the defendants for trial. Does that come with in your Honor's --

THE COURT: I think so, and that is the stipulation put upon the record. At the same time I would like to instruct the jury now while you put it there that that would not be at all binding upon them, it is simply one of the facts in the case, it does not bind the jury in any respect what the city magistrate did, any more than what the Grand Jury did; now he fact that the Grand Jury indicted these defendants does not bind you in any

respect. I think that is a fair statement, isn't it, on both sides?

MR. STANCHFIELD: Yes.

THE COURT: They are merely facts to go into the case for what they are worth.

MR. STANCHFIELD: It is not only a fact that the indictment doesn't bind them but it is a fact that they haven't any right to consider an indictment against a man as evidence of anything; that is the law as I understand it.

THE COURT: That is correct.

ROSE SOMMERFIELD, called as a witness in behalf of the defendants, being duly sworn, testified as follows:

(THE witness states that she resides at 225 East 63rd street.)

DIRECT EXAMINATION BY MR. STANCHFIELD:

Q Are you married?

A Single.

Q So it is Miss Sommerfield?

A Yes.

Q Where do you reside, Miss Sommerfield?

A 225 East 63rd Street.

Q You will have to speak so that the gentleman over in the corner will hear you.

THE COURT: You can't make it too loud, Miss Sommerfield, we can't hear very well in a court room like this, that last juror over there must hear you.

THE WITNESS: 225 East 63rd Street.

Q Thank you, we heard that very distinctly. And what is your occupation?

A I am the superintendent of a home for working girls and trade training school.

BY THE COURT:

Q What is the name, what do you call it?

A The Baron de Hirsch Home.

BY MR. STANCHFIELD:

Q Located where?

A 265 East 63rd street.

Q And how long have you occupied that place?

A Fourteen years.

Q And that brings you into pretty close contact with young girls, does it not?

A Yes, sir.

Q So that you have become more or less a student of their habits?

A Yes, sir.

Q -- character and mode of thought?

A Yes, sir.

Q Now do you know the defendant Samuel H. London in this action?

A Yes, sir.

Q And how long have you known him?

A Since November, 1911.

Q Something then upwards of two years.

A Yes.

Q Did you know him before he came to New York?

A I had heard of him.

Q And you knew him by reputation?

A Yes, sir.

Q You knew, did you not, that he had been for some years the prosecuting officer of the city of El Paso in Texas?

A Yes, sir, I had heard that.

Q And did you know that he was the counsel and legal adviser for --

MR. HAYWARD: If your Honor please, may I inquire what the purpose is, and perhaps we will get along better if we understand what the purpose. If this is a character witness.

MR. STANCHFIELD: Yes.

THE COURT: Yes.

MR. STANCHFIELD: We will get at that later; one thing at a time.

THE COURT: Yes, I think he is entitled to show the history of the defendant. He may show his history.

Q And did you also know that he had been the legal adviser and counsel for the Hebrew society known as the Bnai B'rith?

A I had heard so, yes, sir.

Q That Hebrew society Bnai B'rith is entirely an eleemosnary, philanthropic and benevolent organization, is it not?

A Yes, I think so.

Q Then did you also know that Mr. London had acted as counsel for that organization in conjunction with the Department of Justice in an endeavor to suppress the white slave traffic?

A Yes, sir. I am not sure that I knew it before I met him but I heard it after I met him.

Q Yes, you became cognizant of those facts?

A Yes.

Q Now have you during the period of time over which

your acquaintance with Mr. London has lasted talked with different people at different times, Miss Sommerfield, who knew him?

A Yes, sir.

Q And have you seen these pictures that are involved in this litigation?

A Yes, sir.

Q Upon more than one occasion?

A Yes, sir.

Q And I am not asking you for any opinion but just permit me.- now did you go to see them with a view to satisfying yourself as to whether or no they were educational in their character?

MR. HAYWARD: If your Honor please, I don't think that is a proper inquiry of a character witness; it is doing inferentially what he understands he could not do otherwise.

THE COURT: Go ahead and ask the question, but don't answer it until I rule upon it.

MR. STANCHFIELD: If you Honor please, I am not asking Miss Sommerfield as to any opinion upon these pictures; I was asking her simply, occupying the public place she does, if she went to see these pictures with a view to satisfying herself as to whether or no they might be of educational value.

THE COURT: Wouldn't that be asking for an operation of the witness's mind; and what her mental attitude was and what the prompting motive was in going there, would that be material?

MR. STANCHFIELD: Well, I understand the law does not permit in this case -- and I certainly would be the last to transgress it -- any opinion evidence upon these pictures, but I should suppose I could demonstrate by a witness occupying the relation that this witness does to young girls that she saw these pictures --

THE COURT: You may show that, surely.

MR. STANCHFIELD: --with a view to satisfying herself as whether or no they might be of educational value.

THE COURT: Would her view be material? We have got her position, we know what it is, we know what her duties are, and she went to see this show.

MR. STANCHFIELD: Very well, I abide by your Honor's suggestion.

THE COURT: Very well.

Q Now have you heard in the circles in which you move, Miss Sommerfield, the work and reputation of Mr. London talked about?

A Well I can only speak from my -- a few people I know who have spoken of Mr. London and some valuable work that he did for them, and I only know of a very valuable piece of work that he did for me in 1911, that is all I know.

MR. HAYWARD: If your Honor please, I must respectfully object to that and move to have it stricken out as having no possible bearing on this case and as an improper method of establishing anything by a character witness

and as an effort to circumvent the common rules of evidence.

MR. STANCHFIELD: I don't take kindly, if your Honor please, to any suggestions from Mr. Hayward as to what is a proper or improper method; I will take that from you.

THE COURT: Yes. Suppose we read the question, and would you, Madam, listen to the question and see if you can answer it just as it is put?

MR. STANCHFIELD: The witness as did not catch the question.

THE COURT: I think so; the question was all right.

Q (Repeated as follows) Now have you heard in the circles in which you move, Miss Sommerfield, the work and reputation of Mr. London talked about?

THE COURT: You see it is very simple. Now you listen to that and then answer that.

A Yes.

Q Now predicating your answer, Miss Sommerfield, and basing answer upon what you have heard said in the community of which you are speaking, of Mr. London, what is his reputation, good or bad?

A Good.

MR. STANCHFIELD: That is all.

MR. HAYWARD: No cross examination.

ROBBINS GILMAN, called as a witness in behalf of the defendants, being duly sworn, testified as follows:

(The witness states he resides at 184 Eldridge Street.)

DIRECT EXAMINATION BY MR. STANCHFIELD:

Q Mr. Gilman, where do you reside?

A At the University Settlement, 184 Eldridge street.

Q In the City of New York?

A In the City of New York.

Q What is your occupation?

A I am head worker of the University Settlement, social worker.

Q And what is the function of the University Settlement?

A Well it is to come in contact with people of congested districts for the purpose of improving their standards of living and promoting a spirit of civic righteousness and inculcating principles of sound morality and cooperating with other organizations that are aimed for that purpose.

Q And you are the head of that institution?

A Yes.

Q Now do you know the defendant in this action, Samuel H. London?

A What was that?

Q Do you know Samuel H. London?

A I have met him.

Q And have you at any time gone to an exhibition of these films?

A Yes, I have.

Q Where did you see them?

A I saw them first at the Carnegie Lyceum, and then I saw them at the Park Theatre.

Q And did you got to see them by virtue of your position as the head of this settlement work?

A I was asked to; it was on that account.

Park Theatre -- I am not sure about the Park Theatre but I think I did. I know I did at the Carnegie Lyceum.

BY THE COURT:

Q Had you met him before that?

A No.

Q No; that is the first time you ever met him?

A Yes.

BY MR. STANCHFIELD:

Q Now at this exhibition at the Carnegie Lyceum how many people were there do you recall?

A About fifty I should think.

Q And generally speaking what class of people were there?

A Why they were people interested in social welfare.

Q And it took in what classes?

A Well people of intelligence.

Q Clergymen?

A I don't know whether there were any clergymen there; I know there were some social workers.

THE COURT: You mean at this particular exhibition?

MR. STANCHFIELD: Yes, at this exhibition that was given.

A (Witness continuing) Social workers -- those that were interested in uplift.

Q In other words, Mr. Gilman, -- am I addressing you right, is it Mr. Gilman or Dr. Gilman?

A No; Mr. Gilman.

Q At this exhibition that was given at the Carnegie Lyceum, that was an exhibition to which

People were invited?

A Yes.

Q And for which you paid no admission fee?

A Yes.

Q You went to examine these pictures with reference to the different walks of life in which you were interested?

A Yes.

Q Now from what you have heard in regard to Mr. London's work and reputation what would you say about it, is it good or is it bad?

A It is good.

MR. STANCHFIELD: That is all.

MR. HAYWARD: That is all.

MR. STANCHFIELD: It is admitted by Mr. Hayward that Sadie American, the executive secretary of the Council of Jewish Women, with headquarters at 448 Central Park West, New York City, is under subpoena to testify as to the good reputation and work of Mr. Samuel H. London, and that if here in court she would testify that Mr. London's reputation was good; and Mrs. Ray Pearlman, engaged in a similar line of work, would likewise if here testify to his good reputation. Both these witnesses are under subpoena and they do not happen to be here at the moment and I don't want to take the time waiting for them.

MR. HAYWARD: I will also agree that their absence was not due to any unwillingness on their part to come.

MR. STANCHFIELD: Yes. The defendants rest.

THE COURT: Both sides rest?

MR. HAYWARD: Yes.

MR. STANCHFIELD: I renew the motion what I made at the close of the People's case.

THE COURT: Yes; the motion is denied and you have an exception.

MR. STANCHFIELD: Exception.

THE COURT: The matter being entirely one for the jury; and the fact that I have denied the motions is merely upon the question of law, not upon any fact; the facts are entirely for the jury. That is satisfactory, isn't it?

MR. STANCHFIELD: Yes, sir.

MR. KOENIG: Yes.

(The Court then admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and took a recess until 2.15 p.m.)

After Recess.

(Mr. Stanchfield summed up to the jury in behalf of the defendants as follows:)

MR. STANCHFIELD: May it please your Honor, and Gentlemen of the Jury: I would feel delinquent in my sense of the fitness of things if I did not upon the threshold of the final appearance of any representative of Mr. London in this drama of real life express my appreciation of the courteous and attentive hearing that this case has had at your hands; and I ask you now in the short time given to this summary to lend me not only your ears but your careful and considerate attention because we feel -- and I am voicing the sentiment of Mr.

Koenig my associate as well as the friends of the defendant himself -- that this case in a measure represents and is a cause and not a case.

Quite a number of you men stated upon the examination both of Mr. Hayward and myself that you had rendered jury service before only where civil property rights were at issue, and because of that fact I purpose to take a moment to differentiate between the character of proof required in a civil as distinguished from a criminal litigation. When you gentlemen were chosen as jurors and you served in the Supreme Court and passed upon civil property disputes between persons perhaps you will remember that the Court when he charged you as jurors stated that it was necessary before you rendered a verdict in behalf of the plaintiff that he should establish his contention by a fair preponderance of evidence and no more. In this case a man is accused of crime; his liberty is the issue; and therefore the quantity of proof required, before the jury may convict, is entirely different from the rule with reference to the quantity that obtains in a civil issue. And I may say without the slightest fear of transgressing upon the domain of the Court that he will say to you twelve men that in this case -- it being criminal in its character, the accusation being criminal -- that before you have a right to convict your conscience, your judgment must be satisfied beyond

a reasonable doubt of two things: first that a crime has been committed, and second that Mr. London and his associate in the indictment committed it, before you are at liberty to convict. Now when I use that expression that your judgment must be satisfied beyond a reasonable doubt -- volumes have been written to define it, and yet I very much question whether they have added to the clearness or the lucidity of the statement itself; it is so suggestive, so translatable, so intelligent that I know without trespassing further upon your time that every one of you twelve men will understand at a glance that when you are passing upon a question that involves the liberty of another your judgment must be satisfied beyond a reasonable doubt that a crime was committed and that he committed it.

Let us look then for a passing moment at the history or environs of these pictures. These pictures, gentlemen, are evidence in the case -- the pictures are not upon trial. The defendant who is upon trial and who is interested and whose liberty is involved in Mr. London. Now it seems that prior to December 15th and 16th last these pictures -- or this play, I prefer to treat it that way -- this play had been written by Mr. London. And I am going -- another word of explanation -- I am going all the way through here to speak of Mr. London because his colleague in the indictment, Harry C. Bohn, as Mr. Hayward

will doubtless concede, is a mere pawn; he was technically manager of the Park Theatre and that is the reason and the only reason why he is linked in this charge. I repeat: before December 16th Mr. London had written this play. Suppose instead of writing it to appear to the eye through the medium of pictures he had written it in the form of a book, and one were to stand here and read from a book that such a recitation as Mr. Hayward delivered last night with reference to these pictures; would it ever occur to one of you for a passing moment that there was anything impure, immoral or obscene about a book written according to and along the lines of his opening address?

The thought is on my mind, and lest I forget it later on: Mr. Hayward stated to you last evening that he had seen these pictures but once and therefore he was a little suspicious of the integrity of his own recollection as to the minute details of what was portrayed by means of these pictures; and I recall with a good deal of distinctness -- for I had seen them but once, and my memory is not infallible either -- but recollect that Mr. Hayward stated with quite some force that he expected to show that this immigrant girl when she lanced from the linear was taken to the home of Fisher and there was decked, in order to appeal to her vanity and to her woman's pride, in a low necked gown. I hadn't recalled

that in the picture and I was watching with a good deal of eagerness to see just how low the neck was of the new gown that was given to Rose Fletcher when she was taken to the party by Mr. Fisher, and upon my word, I don't know whether you gentlemen remember it or not, but it was so high that it was decidedly out of vogue. There were sitting in this court room and around me here, certainly ladies, in every sense of that term, and I don't think any one of them felt that that was a low necked gown. I am quite sure that they felt that it was an extremely high one, and so do you. That is a mere aside which hasn't anything to do with the merits, but it does bear upon the concession that Mr. Hayward practically made that there was nothing new displayed in these pictures -- there was nothing in the sense of bald nakedness that might excite one's impure imagination or that might be lowering or attractive or inducing or seducing to one's sexual instincts -- practically those things are conceded.

Now turning back to resume the thread of my argument from which I deflected for a moment, the history of these pictures is that after they had been written Mr. London called by invitation to the Carnegie Lyceum in this city in the neighborhood of fifty people of both sexes, men and women who are interested in various philanthropic movements in this turbulent city to uplift and help those who are unable to help themselves. When I speak of

fifty I refer to people of the general class of Mr. Gilman and Miss Sommerfield, people who are devoting their lives and their energies, their talents, and in many instances their property in the congested districts of this city to uplift and to help those who are unable to help themselves. Now that is the class of people, about fifty in number, of whom Mr. Gilman and Miss Sommerfield are exponents, that were called to the Carnegie Lyceum to view these pictures. Now is it conceivable, Mr. Hirschfield, or is it conceivable, by you, Mr. Cahill, and I embrace you all, that those people, following that walk in life which is theirs, would for a moment tolerate, sit by or endorse by their presence a series of pictures that were impure, that were immoral, that were obscene, and which tended to the corruption of the youth and others? I ask you the broad question whether it is conceivable that that class of people would come here, for illustration, as did Mr. Gilman and Miss Sommerfield, and be testifying to the character of Mr. London and the work in which he was engaged, and that his reputation among them and among their acquaintances was of the highest character -- is it possible that that could occur if these pictures came within the inhibition of the statute against the production of obscene literature or pictures?

Now having been exhibited in this Carnegie Lyceum to

this audience, invited there for the purpose, who were interested in these walks of city life, they were first staged a little before December 15th and 16th at a public theatre. Now these moving picture entertainments of this character compete and conflict with the regular theatrical interests of this city, palpably so, plainly so. That is the reason Mr. Hayward, wanting a fair jury, asked you whether you had any ties in connection with theatrical organizations, companies or corporations, and I joined with him because the theatres don't want these moving picture entertainments of this class to prosper because they detract from the audiences that attend the regular theatre. And it is rather a surprising thing, but it is true -- you may cross the threshold of many theatres in this city tonight and they treat these questions involved in these moving pictures in a light and frivolous and fantastic way, and nobody seems to find fault, there is no popular outcry against them; but the moment that they are presented with a view to teaching a moral lesson then there are always those who say "Well, no matter whether that be true or otherwise, the lesson ought not to be aught." But that largely involves one's earlier training. Mr. Whitman, the District Attorney of this County, and myself chanced to be graduates of the same collegiate institution, Amherst College, Massachusetts, and we had during his day and mine a

doctor in charge of the college who was the professor having charge of all our gymnastic exercises as well as our bodily condition, who in the baldest and the crudest way used to teach and instruct the four or five hundred students with reference to everything that might pertain to their physical conduct in life; and I have always believed and I believe now -- and I want it conveyed from me to you, the sincerity of that remark -- that it is better for the welfare of boys and girls that they should be acquainted with the dangers incident to the pathway of life. I am not going now to get down into language to define what I mean; it is perfectly clear to you what I mean by the remark that I believe the children not under 16, which is the age recognized as the age of consent, 17, 18, 19, 20 21, ought to be taught in the home circle or elsewhere of the dangers that confront them every hour in the twenty-four from that period on.

These pictures being exhibited at a public theatre, a complaint was made, I know not from what source or how, but a complaint was made, as the testimony shows, to Robert C. TenEyck, one of the city magistrates of New York. Now I call your attention to the date: he conducted a hearing on the 15th and 16th of December. This offense which we are now trying is as of the 20th of December. Upon the hearing before Judge TenEyck John F. Dwyer the police inspector of the district and

some other policemen whose names it is unnecessary to give in detail, were complaining witnesses, and there were witnesses sworn in behalf of the defendant with regard to these pictures, and the judge himself went to a private exhibition of them to determine from his standpoint what he thought of them; with the result that the defendants were discharged upon the ground that these pictures did not constitute a violation of law. Now after that discharge in a court having ample and complete jurisdiction of the question, these pictures were exposed to the public view in a public theatre where an admission fee was charged, in the belief on the part of Mr. London that they had satisfied people of the character that attended this meeting at the Carnegie Lyceum, and that they had satisfied a court having jurisdiction to act in the premises, and therefore he was free to enter upon a campaign to which according to the testimony in the case has been devoted quite a portion of his active professional life. You thus will obtain, in this quick and hurried way, necessarily, a notion about the history surrounding the appearance of these pictures and their production down until the time of the night of this accusation.

The defendant here upon trial, I repeat again, is Mr. London. It seems according to the evidence that for many years he has been counsel of the Hebraic society

known as the Bnai B'rith. I am told by Mr. Koenig and others who surround me upon this trial that that is the great benevolent, eleemosynary, philanthropic society of the Hebrew race; it is the society that furnishes funds to help those who are in distress; it is the society that furnishes means to succor and support Hebrews who are in want-- and Mr. London was its counsel. According to the testimony in this case he acted for quite a period of time in conjunction with the Department of Justice of the United States in an endeavor to extirpate and suppress this unlicensed, unlawful and one might say with propriety terrible traffic in human flesh. This defendant has been for some years the prosecuting officer of his native city in Texas. Now is it conceivable with that record behind him, in association with people of the class and of the character that I am picturing before you, a lawyer by profession, cognizant of the law, realizing what statutes mean and what language means -- is it conceivable that he would stoop, with that record, to commit this particular kind of a crime? It blasts his whole future. There is no city to which he might travel where he might be called into a court of justice, that some lawyer wanting to question his credibility or destroy his influence with the jury might not say to him "Well you were convicted of crime, were you not, by a jury in the City of New York, and the nasty contemptible

crime of publishing obscene, immoral and impure pictures which tended to corrupt the youth of that city;" and if that question were asked him in the city of Chicago and he answered it yes, what weight do you suppose a jury would give to his evidence after that fact appeared? Now I grant you one might well say "Well he is responsible for his acts, he intended to do that which he did do and he is bound by the results of what he did do;" and measurably I concede that proposition to be true. Mr. Hayward emphasized somewhat a concession from me, and I am perfectly willing that he should, that these pictures in theatres when they were displayed were displayed for

pay; in other words that an admission was charged. That is true. You can't get theatres nor man them with help, you can't advertise in the newspapers, without money, and it is necessary for the propagation of this or any other reform, I don't care whether it be civic in its character or whether it be philanthropic or benevolent

or tending to the general uplift of the community, any reform requires money to set it in motion. A concrete illustration I suppose, perhaps the two richest book concerns in the country are the Methodist Book Concern and the American Bible Society, and they have made their money by printing and selling religious books of one sort or another; no one would ever think of questioning them because of the fact they charged for what they do.

But I am willing to concede that admissions were charged. I am willing to concede whatever you like in reference to the fact that whoever may be interested in these various movements obtain from them in one way or another, and must if they live, financial support.

Now I repeat again, because I never want you to lose sight of this thought, that we are trying an American citizen. There is more behind this ease than the simple question as to whether these pictures violate any technical statute or otherwise; there is behind it the absolute right of free speech. How it is not a matter of concern to me whether one believes in the object to be obtained by exhibitions of this sort or not. When we built this country, when our ancestors fought for the independence of the United States, thirteen in number, they did it upon the principle that the right of free speech should be incorporated in the Constitution of the State and of the Nation, and from that time until this there has been and is now embedded in the Constitution of this State and of the United States -- which constitutes the organic law of the State and the Nation, for the Constitution of New York is the base of all law in New York -- the provision that any one may speak freely without criticism anywhere his opinions and his views upon any question what do we mean when we use the expression "the freedom of the press"? We mean -- and I am not speak -

ing now of its license, I am not speaking of what does in fact exist -- but what do we mean by "the freedom of the press"? We mean the right of the newspaper press to tell the truth.

It used to be the law -- and this may strike some of you as strange, but it was the law hardly more than a century ago that the greater the truth the greater the libel. In other words if a newspaper published of a man that he committed a crime, as they do today, the man could go into court and recover damages upon proof that he had committed the crime. In other words public sentiment, public feeling, at that time, not much more than a century ago, was of such a character that they felt that a newspaper which published of a man that he committed a crime ought to be penalized in damages although it was true. That rule has been completely reversed, and now a newspaper with impunity publishes of one the fact that he has committed a crime and in a suit for libel may show that he committed it as a justification. So with reference to the right of free speech, one has the unquestioned right, no matter whether everybody agrees with him or otherwise -- you may disagree with the argument I am making as to the propriety, the broad propriety of educating young children with reference to various and kindred questions that are relevant to their age; you may think It is wrong; I may think it is right; neither one

of us ought to criticise or impugn the motives of another because of the attitude he takes upon these questions, because people always have been different and always will, and the theory of our law is that each will live in harmony and in consonance with the rights of another.

I don't know how many of you men gave to the subject even the honor of a passing thought, but within six weeks the honorable Edgar. M. Cullen, a long time Chief Judge of the Court of Appeals of this State -- our tribunal of last resort -- a man of great virility and force of character, for thirty years a distinguished ornament of the Bench of this State, delivered an address to the Bar Association of this City upon the decline of the right of personal liberty in this country, and he took for his text a debate that took place in Congress where one member of Congress said to another "Do you not recognize, sir, that the great question before the American people of today is a constitutional amendment prohibiting the sale of alcohol in any form or manner?" That may be a great question upon its merits; it would be ill becoming and I don't express an opinion; it may be a great question but a still greater question underlies it, and that is What becomes of individual liberty if that is true? They have passed in two States of the Union a law upon the general topic of Eugenics in which they require a man and woman who marry to go and submit to a physical

examination and obtain a certificate from a physician as to the physical fitness of each of them before they can marry. There are two States in the Union in which such a law as that is in force today. Therefore one may well stop and inquire what all this great flood of antagonism and argument and indictment and legislation means in its outcome with reference to the individual liberty of yourself and of myself.

Now here is a portrayal of pictures, I tell you frankly I don't like those pictures. But the last thought on earth when the lights were turned on after the last picture had been displayed last night would be the thought of anything that was salacious or the arousing of anything that might have the character of passion in it. They are gloomy, they create in me a feeling of sadness and of sorrow; they are repellent and they are repulsive. But they are not obscene, they are not lascivious, they are not impure, they are not immoral; they are all true. They picture and portray -- and necessarily so because you can see at a glance -- they picture and portray the truth, no matter how you darken it; no matter how you phrase it or describe it, all that these pictures do is to portray the truth; and no man, if the organic law in this state is in force, is to be punished because he speaks or writes or pictures the truth. You may disagree, I repeat again, with reference to the

propriety of having everybody know the truth, but it doesn't make it a crime because another set of people think that it is better that the on-coming generation should know the truth.

This indictment charges that these pictures were an indecent, obscene, immoral and impure exhibition. Now this is not the first time that cases have arisen of this general character, and while I am not intending to trespass and shall not upon the function of the Court who will advise you as to the law, I want to read from a case one sentence as to the test that is to control cases of this kind: "That test" -- I read the exact language and I speak your attention: "That test is whether the picture presented to the eye is naturally calculated to excite in a spectator impure imagination" -- "is calculated to excite in a spectator impure imagination, and whether the other incidents and qualities however attractive were merely accessory to this as the primary or main purpose of the representation." In other words, briefly recapitulating the testimony, the test is as one sits and views these pictures do they excite in you, first, impure imagination. The next question is would they naturally excite in others impure imagination? The last thought left with me when the picture exhibition closed would be that I would like to take part in the lynching of Fisher. His whole story through this play aroused in

me such a sense of personal antagonism that the hand-cuffing of Fisher and taking him off on the way to jail was grossly inadequate. The last thought in the hour of the exhibition of these pictures is a moral tale. It shows that there is a world of truth in "the old Biblical saying "The wages of sin is death." There never was a more concrete practical illustration than those creatures furnished of that axiom. It is centuries old but it is as true today as when it was originally uttered. You take this girl; don't you think it might be wise if every working girl not in a position to have the protecting care thrown around her that you surround your children with, might be taught the trick to which some evilly disposed men might be inclined, as indicated in that picture where you will recall this bright attractive young girl comes so jauntily out of the drug store and happens to pass within the line of vision of Fisher, and he follows her along the street and notes the number of the place of business where she is employed, and then he is there at the noon hour and follows her home and gets the number of her place of residence, and then arranges this scheme with the drug clerk by which the drug clerk insults her upon the public highway and Fisher comes to her rescue and knocks him down and thereby earns her gratitude? -- don't you think it might be a very wise thing if every girl in this greater city of New York working in

factories and stores had brought home to her just such an episode? Could it be claimed -- I don't know whether I have lost all sense of proportion or not -- can it be claimed that that is obscene? By any possibility can one of you twelve men say that that is immoral or impure that she should be warned that such a thing might happen in her career?

Now you cannot pick out in a play any more than you can in a book a single incident, a single sentence, a single chapter, a single portion of a single picture and say "Well it were better if that were out." You have got to take this in its entirety. Here was an exhibition that reached upwards of an hour and a half in time. From the beginning to the end is a continuous story, with a moral to the story. You start with this trafficker getting out of bed at half-past 11 in the morning -- a life of idleness. You might say "Well there might be a class" -- they are not men, let me suggest, they are degenerates, they are neurotics -- "there may be a class to whom that would appeal." But the moral is when he is hand-cuffed and leaves the stage, showing that the inevitable ends both for the boy and the girl is the grave upon the one hand and the jail upon the other. And when this poor unfortunate girl as she passes off the stage of life, as portrayed in these pictures, is sitting in her chair and has this dream of home, if you will recol-

lect how there rises up before her the picture of her old gray-haired father and mother -- isn't that incident calculated to repell girls who see it from the life of prostitution? I don't think that question is open to debate or to discussion.

It teaches another lesson, and that is that the policy of the father in shutting this girl from out his door made necessary in her future career just the life that she led. In other words there was no other resort. And I ask you if I am not speaking -- any of you men, and if I am wrong correct me -- if I am not speaking within bounds when I say that at least once a week in the columns of some newspaper in this city one reads of the performance of just such a fake marriage as was illustrated in these pictures here before you last night. In other words, from the opening to the closing those pictures re-present real true life. There can be no question about that. There can be no argument built here that they are fictional or that they are the result of one's wild and fanciful flights of imagination, they represent life as it is in this and other cities; and the sole effort of Mr. London in a lifetime given to the enterprise is to do what he can in his way to remove and suppress this traffic in the bodies of young girls, and I commit his case to you with the expectation and the hope that you will feel in the presentation of these pictures and

in their writing, as evidenced by the people who come to his support, that he was endeavoring to perform in this Greater City of New York a public service.

(Mr. Hayward summed up to the jury in behalf of the People as follows:)

MR. HAYWARD: May it please your Honor; Mr. Foreman and Gentlemen of the jury: In rising to speak for the People in this case I only regret my inability to cope with my distinguished opponent herein the choice of beautiful language and in the diction which he is such a master of. However, it has seemed to me that his argument has been, in spite of its wonderful embellishment and its fascination, a good deal like some of the garments that these prostitutes wore in the picture -- however disagreeable it may be we have got to get back to the consideration of this case -- like his argument it covers everything and touches nothing in particular that has any real bearing on the issues in this case.

Now gentlemen of the jury, I want to get your minds in harmony with mine at the very threshold of my argument at least on one proposition, and that is, gentlemen, that this law that we are discussing is not intended to protect Governor Stanchfield or to protect me or to protect any of you gentlemen of the jury or to protect this Court or to protect any person of sound, experienced and mature years. Gentlemen, the law in its very wording tells

you what it is for and it is not to protect us, it is to protect the youth. The very legislators who passed that law realized that there was a class of our people that needed especial protection, and that is why those words appear in this statute, gentlemen of the jury. So at the very beginning let us get in the right attitude on this thing. This case, gentlemen, could very well -- the title of it could very well be changed from the People of New York against these defendants to the boys and girls of New York against these defendants. And as I go on in the best manner I can command to call your attention to what we think about this case I want you to have if you can a mental picture, not of you and Governor Stanchfield and me sitting in a moving picture house darkened, where these pictures might be shown, but I want you to think of the boys and the girls, the 17 and 18 year old boys and girls who may be sitting in that theatre and let us view it from that attitude; because, gentlemen, that is the attitude that the Legislature of New York intended you to view it from when they put those words into that statute.

Now you said each and every one of you when you were being examined on your voir dire that you had no prejudice or no objection to such a law as this. I refused therefore, believing implicitly in what you said, to be drawn into any colloquy with such a distinguished opponent

to discuss here before you the effect primarily of this show and these pictures on mature people, the same as I declined to be drawn into any colloquy or discussion with him as to the right of free press or the right of free speech or the right of free soil or the right of free trade, as having no bearing on this case. We are not here, gentlemen, to restrict the right of free speech or the right of free press; the Legislature of the State of New York has passed a law, and we are here, gentlemen, commissioned, paid by the People of their State, to enforce the laws that are on the statute books of the State of New York; and we contend that these defendants, showmen, have offended against this law. Now don't let Governor Stanchfield alarm you as to the possible future of these defendants if they are convicted of the misdemeanor for which they are being tried; don't be alarmed about their being sent to jail or imprisoned or anything else. It is true we are trying these two men as individuals; it is likewise true, gentlemen, that we must confine ourselves to the laws and the rules of evidence applicable in criminal cases, and it is true what he said as to the rule of reasonable doubt to be applied in this case; but as a matter of fact we are here trying -- in spite of what he said -- we are trying this show; that is what we are trying. And, gentlemen of the jury, if you have got any doubts, if you have got any fear, if you feel any

alarm as to what may become of these two men, if you can't trust the Honorable Court to make the proper disposition of this case as he sees fit and after you as you said you would apply the law to this case, then, gentlemen, if you desire to make any recommendation in this case I will gladly join with you in that; so don't be alarmed or sympathetic or tender hearted as to what may become of these defendants. They are here; they are being tried not as reformers, they are here being tried as showmen, and in no other way; and what Mr. London's past may have been I don't care about, it is not a question in this case. Mr. London may have been the greatest man in the world before he produced and staged this play. I am a prosecuting attorney. I draw pay for it the same as I presume he did for every prosecution he ever conducted. But simply because I am a public prosecutor, simply because of that, gentlemen, would it be any excuse for me, gentlemen, to go down to Part Two and take one of those dirty rape cases that from force of necessity we have to try and take it up and put it in a theatre on Broadway and show it to the boys and girls that come from high school? Why the standing room would be crowded up there every hour that it was being done, and yet it would be the truth; nothing but the truth in it. There, gentlemen, can't you see the fallacy of his argument? Nobody is trying to stop free press or free speech, we are just

trying to keep this community a little decenter than it might be if the strong arm of the law would not be applied to what we deem to be a transgression of what the Legislature has just passed.

No gentlemen of the jury, the Governor would have you believe that there was a motive back of this prosecution other than the enforcement of the law. He would have you believe that perhaps the theatres of this town had come down here and had subsidized the District Attorney's office in an attempt to run the moving picture shows out of business, and I refute that charge and tell you that there is nothing in it. The theatres are not conducting this prosecution; I am conducting this prosecution on behalf of the People of whom you are the representatives, and nobody else. If there is any sinister motive back of this prosecution it has not come to my attention, and if there was any I think I would be apt to know it. Governor Stanchfield has attempted to tell you that was my theory on taking you as jurors. I know what my theory was and I know the common brotherhood that exists between all showmen and I know that the people who give performances in the regular theatres would just like to swell their box receipts as well as the moving pictures would, so don't be alarmed again about any sinister motive back of this prosecution, it is just the same as any other prosecution in the four or five parts

of this old dingy building down here. With the prosecutors who are here I don't think I need to say to you that no theatrical trust in this city could come down here and subsidize this staff who are trying to enforce the law of this State, and I not only repudiate that charge but I resent it.

MR. STANCHFIELD: I think you entirely misunderstood me.

MR. HAYWARD: I think I understood, Governor Stanchfield, what the inference was to be drawn from your suggestion that the other theatres would be very glad to put the moving picture people out of business.

Now as the Governor has told you on the question of intent, the Court will instruct you that these two men are presumed in the eyes of the law to have intended the natural consequences of their act. If the act was unlawful their intent was presumed to have been unlawful, and the Court will so instruct you. So we need not waste any time about that. It gets back to this, whether or not this show that they produced violated that law.

Now I was in a way criticized by Governor Stanchfield because of a misstatement I made in my opening statement as to the particular height of the immigrant girl's gown. Now gentlemen I have tried in this prosecution to be absolutely fair with these defendants and not to make a single misstatement or a single exaggerated

statement, and if I was in that regard in error I apologize to Governor Stanchfield now, and it seems to me a defense must be in sorry straights when it must take up all the time that this defense took up in calling attention to an immaterial statement that I might have made in an error on that point.

Now I have asked you to consider this case, gentlemen, from the viewpoint of the legislators who passed the act, that is, that there are in every community persons who are peculiarly susceptible to evil influences -- weaklings if you want to use that term. Society's chain, gentlemen, can be no stronger than the weakest links in it, and the Legislature recognized that the youth of both sexes were the people who have latent desires in this regard and are weak links in this chain, and that is why they passed this particular law, the law you said when you came into the box you would stand for and you would enforce if we showed you facts came under it. Now you take the case -- and I am going to talk to you about the case here and not about free speech -- let me call to your attention one idea: suppose in this theatre there are boys and girls of the age we will say past 16; just at that peculiar age, just past what we call the age of puberty, when these mysterious currents, when these queer passions are dominating those young people, when they have all this new found sex instinct with nothing to

control it -- those are the kind of people that this play is particularly dangerous for, gentlemen of the jury, and it is from that attitude that you must view it. Now that period of adolescence which comes at that time is a crucial period in the life of every boy and every girl. Why, gentlemen of the jury, did this defendant and his codefendant voluntarily enforce a rule that nobody under 16 years of age should see this play, if it points this great moral lesson they are claiming? Isn't it just as important for a 15 year old girl to know these dangers, more important if anything than for the 16 year old girl to know them? Why the necessity for that if this play is such an honorable, uplifting thing? If it can't work any wrong or injury to these people why enforce that rule? According to their own estimation of that rule why can you say it would hurt a girl of 15 years and 11 months and be the finest thing in the world for a girl of 16 years and 1 month? And yet they put that rule up there. Why? Because they knew they were playing with fire. Because they knew in their own hearts they had a lewd and a vicious show and a show that was not fit to be shown to anybody except a lot of college professors, medical students and social workers, men like Mr. Stanchfield and these witnesses who were on the stand here, experts on the subject.

Mr. London hasn't any monopoly on the knowledge of

these things, gentlemen of the jury; not at all; we all know about them; every man in this jury box knows about them. But because we don't go about chattering about them and prattling about them and parading them in public and showing them on screens and exhibiting them to the boys and girls and everybody else in the world it is no sign we don't know about them; we just don't agree with Mr. London, that is all, gentlemen, about the advisability of this thing, that is all there is to the case.

Now don't be deceived for a minute about the motive back of this production. Know that an advance here where it is produced it is connected up with a box office; if this show is such a marvelously fine thing why isn't it a free show? It is simply, gentlemen -- I charge it and I believe the facts warrant me in charging it -- it is simply that this man has commercialized vice; he has put this dirty stuff in this show to draw a crowd to his theatre because he knew the show was so weak it couldn't stand on its own legs unless that was in there. Now let us analyze this show just a few minutes. I don't know how it affected you gentlemen; I was bored by it. It seemed to me just a weak, silly sort of a thing in many regards. For instance I will discuss for a moment to give you a specific example -- take this girl, the factory girl that is seduced and then goes to her home and goes

back after she is turned out from home to this apartment of this seducer Fisher. Now she must have known she had been drugged, but she goes back and he says he will marry her. He takes her over to New Jersey and puts over, in the language of the street, that palpable fraud upon the girl, and she comes back with him and lives with him for a couple weeks when he takes her to this house of prostitution and leaves her there. Now I am not in error about this; after he goes away and leaves her there you will remember that after a period of time, which is sufficiently long for her to become a practiced prostitute, because the pictures say "In time the usual result", she goes upon the street. So that brings her down to the point where she becomes a practical prostitute and this supposed husband of hers had deserted her. Then what happens? Another one comes along and says "If you will go to New Orleans with me I will have your marriage with Fisher annulled and I will marry you myself." Now gentlemen any girl who would believe that, any girl who could be deceived by that -- think how absurd that is -- any girl who would possible derive any benefit from those pictures no matter how great a moral they might point. It is just to give spice to it, just to make it sufficiently exciting to draw people to it to get their money, to bring them to the door; so that it isn't much use to talk about those things.

Now however unfortunate it may be, gentlemen, we must concede that the smutty, the nasty things do naturally appeal to young people; I am sorry it is so; you are sorry it is so; but we can't help it. It is a condition that comes in the mind of the people of that age. We know what the school girls titter and gossip about; we know what the school boys talk about, because we have all been at that age ourselves. Now we would like to have them all talk about these uplifting subjects Governor Stanchfield was talking about, the great governmental principles, but they don't do it. Let them go to this show, let them see those things you men saw last night, and what is going to be the result? Well it will be the topic of every high school in New York, won't it? It is all they will talk about for months and months. But that parade of prostitutes won't end when the curtain goes down, in those vivid imaginations of those children about that age, 17, 18; that parade will go on forever and ever and ever and the innocence of those minds will be forever destroyed.

Now think of those children having that picture of that New Orleans crib and those strutting, pluming prostitutes ever in their mind. Is it wholesome? Is it healthy? Do you want your children to see it? Do you want that to be the topic for your children to see and talk about? If you do, acquit these defendants; but if

you don't, then discharge your duty like men, to the other fathers of this community. You are twelve fathers brought here. You represent all the fathers not only in New York but all over the United States, because, let these men go forth from this court room with a vindication at your hands and this show as you know will be produced from Maine to California with your O. K. on it. So I say you owe a duty, if you don't want your daughter and your son to see this thing, to have all those prostitutes shown, practicing their art, to them -- it is your duty, gentlemen of the jury, to do as you would have the other fathers do if they sat in your place; and it seems to me your duty in this case and in that event is absolutely clear; it seems to me there can be no question about that.

Now is there one single argument that has been advanced by Governor Stanchfield, or that can be advanced by any person in favor of this show of London and Bohn, that could not be advanced with like force in favor of the proposition to take a class of high school girls from up town and put them inside the parlor of a house of prostitution to watch the girls at work? Now I challenge anybody to show any one argument in favor of this show that we are talking about now that would not apply with like force and effect to that proposition. They say it is educational. Of course it is educational,

and what does it educate them on? It teaches them the sign language of whoredom, doesn't it? Could anything be more carefully explained or taught than that is taught by these pictures? What else is it? It teaches a girl how to accost a man on the street for purposes of sexual intercourse, doesn't it? It teaches a girl the gentle art of street walking, doesn't it? What else does it teach her if it doesn't teach her that? And yet they say it is educational and that it is uplifting. Do you want the girls and the boys taught that? They might advertise this academy: "All the arts of the prostitute made clear" -- this academy which fully prepares, for what? prepares for the college of sin; that is what it prepares for, and it can't prepare for anything else.

I can never subscribe, gentlemen of the jury, to the proposition that it is necessary to pollute an innocent girl's mind with all the things that appear in this exhibition in order to protect her from the dangers of the white slavers -- real dangers I presume; there are dangers from wild animals, but my God, gentlemen, we don't turn a skunk loose in a school room to teach the children to look out for lions and tigers, do we? It isn't the right way. I agree with Governor Stanchfield's old Amherst College professor that taught him and Judge Whitman so successfully as he has told us about the dangers of these things. That is the proper place. Of course

he did. Why shouldn't he? Is that any sign because this wise old man up there at Amherst College taught these men in a class by themselves the dangers of these

things, that these showmen should be allowed to hawk this show all over the world for boys and girls in our mixed audiences, sitting there in the dark, to see and talk about and be excited about for months and years?

Now gentlemen, I take this decided exception to the proposition that there is one moral lesson taught in this play without a greater lesson of evil walking with it hand in hand. Now let us briefly see about that.

Governor Stanchfield has talked about the girl having the dream of home, having the spell of homesickness.

That is really what is the end of this play. Now let us go back a little and see what has happened to that

girl. You remember how she was drugged; you remember how she was seduced; you remember now she went and thought she was marrying this boy -- and so far as this play shows, gentlemen, she thought at the end of the

play she was that man's wife. Of course this other person told her he was going to have that marriage

annulled, but so far as this play is concerned she thought at the end of it she was that man's wife. Now what

does she do? She lives apparently in luxury, in comfort; she is better dressed; she is better fed; she is

having more of the white light life that appeals to certain classes of peo-

ple than she ever had in her life. According to this play that is what she has. Remember, gentlemen, that the girls that are going to see these pictures are not the educated girls of this community. You know where these moving pictures hold forth. Who are they? They are the factory girls; they are the girls that are tired of their lot in life perhaps; they are the girls whose backs are worn and eyes aching over those sewing machines. What is heaven to them in their imaginations? Why gentlemen, it is the life around the cafe, it is the life of good clothes and of well dressed hair and of vanity and of all those things, that is what appeals to those girls, who perhaps are hungry and cold and starving. And it is not given to those girls to know how great a thing it is, gentlemen, how sublime a thing it is, gentlemen, to suffer and be strong. That is all very well to theorize about but it is their physical suffering that they want to cure. They are hungry a lot of them; they are tired, a lot of them; they are cold a lot of them; and you dangle before their eyes this vivid picture of luxury and of comfort and of good food and of society and of gay life and company, -and in the picture it is shown just what happened to the girl. When were her troubles? When she was inside any of those houses practicing prostitution? No. The only time this girl was in any trouble, gentlemen, was when she was outside of

A house of prostitution and could not get in. Isn't that true? When she was out there in Denver and down in Texas spending her last dollar, starving in an old lodging house down there -- the most sombre scene they had was when that girl was down and out, in great trouble and in great distress and great woe, because she could not get back in a house of prostitution. Then they bring her back to New York and she goes to this rescue home, and goes to work in a department store. I said last night four dollars she got, and when Mr. Stanchfield corrected me I looked a second time and I believe it was three one-dollar bills she had, but whatever it was she worked that time for it. She was tired, she was disgusted with that kind of thing, disgusted with a virtuous life, and she voluntarily goes back to whoredom, having her own free voluntary choice.

Now that is a pretty thing to show to working girls, that one of their own class having tried both things voluntarily goes back to that kind of life. And yet they say there is a moral lesson in having this show shown to girls like that. I may say that for every moral lesson there might possibly be, there is without any over-exaggeration a lesson ten times as strong that will produce ten crimes where it will conserve one virtue.

Now let us take the other question, these pimps who take these girls and live with them and stay with them.

You take this exhibition up on Broadway at 11 o'clock in the morning, when most of us are hard at work; what kind of men will you see in that playhouse at 11 o'clock?

You will see the prototypes of Fisher, embryo pimps. They are the boys that will be in there, the hangers on around the stage door, won't they? Now what are they going to say? You or I would not say it of course; Governor Stanchfield would not say it. But what is that class, with just enough education to make them dangerous, -lazy, with hell working in their hearts -- what are they going to say when they see these pictures and see this Fisher and others dressed better than any men in this court room are dressed, and living with a good looking girl -- what are they going to say? They are going to say "Pretty soft; easy money." That is what they are going to say. And these men show them just exactly how to go about it. They teach them how to do these things. They teach them how to scrape up an acquaintance with a girl, how to drug her, how to put the thing over in all its details, and they teach those fellows that they can go with impunity down here to the Battery and get those immigrant girls and use them for purposes of prostitution, so long as they don't do it over on Ellis Island -- and the very sign in the picture says the Government is powerless to protect these girls once they land from Ellis Island.

Now I claim, gentlemen of the jury, that the danger of increasing this thing is multiplied a hundredfold over the possibility of preventing any of it. It is true that in this fifth roll, over which there was some discussion as to whether it was shown or not, which was let in here, the boy is shown under arrest, but why that is connected with white slavery I don't know because he made a criminal assault on this girl, and whether he was a white slaver or not he would have got that if there was any policeman around. But each one of these prospective pimps would say "I wouldn't have done it that way, I would get away with it." So there is so little warning in the arrest of this man Fisher that it doesn't detract much from the desires of that class of youth.

I don't think I could overstate the power of that wonderful thing we call suggestion. Now what is suggested to anybody by these pictures? What is suggested to that kind of a boy and what is suggested to the factory girl; and what is suggested to the decent girl and the decent boy of high education and high standing by these pictures? There can be but one thing suggested to them, gentlemen of the jury, and this power of suggestion permeates our whole civilization. Why look when a man commits a crime -- you draw on your own personal experience and see if I am not right -- one man commits a crime, and he may be taken to the electric chair for it, but that

crime is repeated out in Minnesota, down in Dallas Texas; over in San Francisco somebody repeats that crime. And in the same way this man that took bichloride of mercury -- he didn't have a very happy ending, but yet that method of suicide was practiced by thousands all over this United States -- simply the power of suggestion. And what do they suggest by this play? Crime, lewd lascivious living, prostitution, procuring; that is all; that is all that can be suggested by this play, gentlemen. And it teaches the working girl not only that she would be better off if she were a prostitute, but that after she becomes a prostitute she had better be a good and obedient one, for you will remember the only time when trouble came to her was when she became disobedient to the man she was living with.

Do you remember, gentlemen, in Governor Stanchfield's examination he asked you if you would have any prejudice against a society which sought to show the dangers of prostitution from disease -- I think he asked every one of you that. Now gentlemen is there any lesson regarding that shown by this play? Why there isn't a germ in this whole case as far as these pictures are concerned. And as to the treatment the prostitute gets, it is true she gets cuffed over the head and gets knocked down once, but that is the only grief she comes to in this play. We know there are dangers; and we know the average girl

knows herself now without seeing these pictures more dangers than this play points out to her in its entirety, and she is in a better frame of mind than she will be after she finishes looking at these pictures. You take this girl when she tried to escape from this house. It is true she was drugged and was married, but you can't warn against that in each specific case, there are a thousand ways a girl might be fooled or might be drugged or any of those things; but she comes to that house of prostitution as that man's wife, a girl that has never had the remarkable benefit of seeing Mr. London's pictures, gentlemen, and what does she do when she discovers what kind of a place she is in? Why gentlemen, she fights like a tiger to get out. She doesn't know anything about the inside of this place that they say it is so wholesome for her to know about; somebody has told her about these things and she knows, and when she finds out the kind of a house she is in she fights and tries to escape. It is the only time she ever does try to escape; the other times she tries to get back.

I would like to take a lot more time on that proposition than I have, on the difference in the condition of life compared with the factory girl at the sewing machine and the other girls. And I say, to an educated girl that probably doesn't appeal, but to a working girl think of the plea that it carries, the greatest appeal imaginable

that any carries -- clothes, hair, food, and all that. You can't get away from that proposition. Even the magnificent entrance to this man's apartment that she is taken

to; do you remember what a grand affair it was that they rolled up to in a taxicab? Why the average working girl, gentlemen of the jury, never went inside as magnificent and palatial a looking place in her whole life unless it was to go as a hired girl to work. Do you think it is going to alarm her, these pictures of prostitution, to show her a picture of herself going out of that sort of a place and living in that sort of luxury, this girl down here, on the East Side working away hard at some machine? It is perfectly absurd to say that she would fear anything from that kind of a life.

Now if this play is decent, if the crib scenes from New Orleans are decent, if the parlor inside this house of prostitution is decent, gentlemen of the jury, what is indecent? If you are going to say that is all right, that is neither immoral nor indecent nor lewd, then let us make the rule -- and you will be making it by your verdict if you acquit these defendants -- you will say to the People of New York "You can show anything you want to show short of a public exhibition of actual sexual intercourse;" because, my goodness, they couldn't have gone up any closer to it, and they couldn't have picked it up any sooner after it was over, could they? That is the

only thing lacking in this picture; absolutely the only one thing that is not displayed in all its nakedness in these moving pictures is that one act of sexual intercourse. So gentlemen, if you are going to say that these men here have not violated this law, don't be mealy mouthed about it, talk up like men; explain to your neighbors, tell your wife, and tell your children, "We tried a case down there and they showed everything except the bare act of sexual intercourse, and we discharged the men because the show didn't have that thing in it."

Would any of you go home from this court room and talk to your wife and children at the dinner table and tell them in plain unvarnished English actually and completely a description of that New Orleans crib scene, or would you wait perhaps until the children had gone into the other room before you told about that? It would be a good deal more likely -- I think it would do my little boy 11 years old a lot less harm; I think it would do a child 4 or 5 years old a lot less harm to see these pictures than the youth, that class the Legislature has intended to protect. And those of you who have children about that age, 17, 18, turn it over in your own mind now. Now is the time to do it. Do you want them to go and see this show? Do you want your 18 year old daughter to go with a 20year old boy -- do you want a gawk of a boy and your girl to see this show? Do you? Do you think

it will do them good? Do you want them to go inside of a house of prostitution? Do you want the door to swing open hospitably and let them in to see this thing? Do they need that protection?

If you want that, gentlemen, acquit these defendants. But remember you are acting for all the fathers of this town; not alone for yourselves. Remember you are here a picked twelve from this whole community to decide this question, and if you would not have these men turn loose for your children this kind of influences, you do your duty as you would have it done by others, that is all we are asking you in this case, gentlemen. And take that home to you, whether you want your own children to have that, that is a true, fair test certainly, gentlemen; and if you don't -- and I can't believe there is a man in that jury box that would want such a thing -- then your duty is clear and plain and apparent and your work is cut out for you here without any assistance or any help here from me.

Those girls down in that crib in New Orleans, they are not wasting their time, they are not wearing those short clothes and showing their legs for comfort's sake; they are practicing those arts that they know have been successful for years, and they are successful in those pictures. Now calling your attention again not to you or to me but to the ones the Legislature intended to

protect from just such influences: if those lewd attitudes of those girls down there were effective -- and they were very effective in these pictures -- won't they have the same effect on the youth; on the boy or the girl who is weak on those lines if he sees these pictures? How could it have any other effect? It is absurd. It might be revolting to you or me. It is not for us. We are not here to protect ourselves, but the people whom the Legislature told us to protect when they passed that law; and that is what you must do in this case by your verdict.

No man may commit a crime because he hopes or expects that some good may come of it. The motive of the case that Governor Stanchfield has talked to you about does not matter a particle, and this Court is going to instruct you that and I will not attempt to usurp his function by telling you now what the law is on that subject. I know in my own mind, I am satisfied what the motive was of these two men in producing this show. They sold tickets at the door, and they wanted to sell more tickets, and that is the motive of this show. They are tried here as showmen. Now don't be deceived by any thin veneer of reform movement here. These men are camp followers of the army of reform, not leaders, and don't be deceived by them. Their motive is one of pure gain; otherwise these shows would be given free to

society. But the Court will instruct you that it doesn't make any difference what a man's ulterior motive may be, he is presumed to have intended the natural consequences of an unlawful act.

There are two defendants here indicted for this crime. Poor Bohn over here seems to have been lost somewhere in the shuffle, the array of counsel who appear here for London and the witnesses; I would like to say a word in behalf of Mr. Bohn as long as nobody else seems to be willing to. I say Mr. Bohn is not any more guilty in this case than a lot of them, and from the fact that London was a lawyer he had a right to know better; if anything he is the more guilty of the two. But they have gone into the show business, these two defendants, and they must stand on that proposition. They have given this public show, they have given it for pay, they were there to make money out of it; and don't be deceived by any maudlin sentimentality about the motive of these two defendants. They were there; to make money out of it. That in itself is a worthy motive, but don't let anybody pull any wool over your eyes as to the motive or the intent of these two defendants.

Now gentlemen, here is what the proposition resolves itself down to: there have come of late years a lot of faddists, a lot of theorists, a lot of self-appointed experts on morality, a lot of people who would like to

loan us their consciences, a lot of people who say that those of us who are a bit old-fashioned, who are un-willing to abandon all the sheet anchors that our own families and our fathers' families have clung to for years, that we are not moral, we are just stupid. Well now gentlemen of the jury, if clinging to just common decency -- just common decency -- be stupidity, then I am glad to be stupid. This is a kind of a novel idea you know, one of those new ideas, a good deal like the Governor's sex hygiene that he has talked about here -- eugenics -- that is right along the same line, advocating this kind of a production. He kind of washed that off on to me; I put it back; it is right on all fours with that proposition; I don't approve of it, and I am glad that you don't either.

They are asking us to forget that we know absolutely that the sense of shame, the sense of modesty, is the greatest protection that a virtuous girl can have; and that is not conserved by parading before such a girl the practice of harlots and prostitutes, but that is what they are asking us to do. They are asking you gentlemen to abandon all your instinctive common sense, abandon what is good, and what is decent, and what is fair and square in this case and follow off a will-o-the-wisp here looking for some new way to reform this community; and I say instead of having that effect, gentlemen, it

is going to have the opposite effect. I can only say to you what one of the greatest philosophers, one of the greatest poets in the world said, and I want you to take it when you go out there to the jury room and apply it to the facts in this case; that was Pope; Pope said "Vice is a creature of such hideous mien as to be abhorred must be but seen, but seen too oft, familiar with her face, we first endure, then pity, then embrace." That is the wisdom of the centuries, gentlemen, that has come down to us. Don't abandon it now. Don't leave this one sheet anchor and go off into the shoals and wreck this ship that has been conserved -- the ship of society that has gone along here -- don't acquit these men because of sympathy. Go out of that jury room if you believe this play is not a good play, if you don't want your children to see it, and bring in a verdict of guilty against these defendants, and I will be glad to join in any recommendation you see fit to make if you are worried about these defendants, because as I want to say we simply want to protect the public against this show which we think is bad and against the welfare of the community and we don't want to inflict any punishment upon any individuals that may be concerned in its production.

(The Court charged the jury as follows:)

THE PEOPLE v. BOHN and LONDON

THE COURT'S CHARGE

SWANN, J. -

Gentlemen of the jury: the defendants Bohn and London are on trial before you under an indictment which charges them and each of them with unlawfully preparing, flying and presenting an obscene, indecent, immoral and impure exhibition, show and entertainment. It is alleged that one of these defendants, Mr. London, was the owner of the exhibition, and that the other defendant, Mr. Bohn, was the manager of the theatre in which the exhibition took place. It was a moving picture show, and the reels have been exhibited to you through the instrument in the regular way, Just as they were exhibited on the canvas at the theatre on the night in question.

The statute which is applicable to this case is contained in Section 1140A of the Penal Law, which reads as follows: "Any person who, as owner, manager, director or agent, or in any other capacity, prepares, presents or participates in any obscene, indecent, immoral or impure exhibition, Show or entertainment which would tend to the corruption of the morals of youth and others, and every person aiding or abetting such act, and every owner or lessee or manager of any building, room, place or structure who permits the same to be used for the purpose of any such exhibition, show or entertainment

knowingly, or who ascents to the use of the same for any such purpose, shall be guilty of a misdemeanor." There are certain lines there, gentlemen, which I will read to you again. You will observe that one of the elements and the chief element of this crime is that the play or representation shall be obscene, indecent, immoral or impure. Now if it comes under any one of those words -- and it is for the jury to determine, the jury are the final arbiters of the facts in this case -- you have seen the motion pictures, and now do they come under the head of obscene, indecent, immoral or impure exhibitions, show or entertainments? It is solely a question of fact for you to determine.

There is no dispute here but what Mr. London prepared those reels, or that they were prepared under his direction, and that he is the owner of the reels and of the exhibition. There is no question here as I understand it but that Mr. Bohn, the other defendant, is the manager of the theatre. There is no question here but what they exhibited the motion pictures, just as they were exhibited here in court last night in your presence. There is no question here either as I understand the attitude of the prosecution and the defense, but that the defendants presented them for the purpose and with the intent that they should be seen by the public, that is, all of the public who had a legal right to go to a public

entertainment or a public show of any kind -- those over 16 years of age. So therefore the question of intent it seems to me does not enter into this case at all. They were presented by the defendants and the defendants intended to present them.

Counsel for the defense has argued that while they presented them and they fully Intended to present them and they presented them at a public theatre and they charged for them at the regular rates that seats in that theatre called for, nevertheless their motives were good; that they did so with the motives of uplift and so that they might instruct the public and guard them against certain perils which counsel for the defendant has argued before you. And he argues that therefore because their purposes were good, and because Mr. London, who is apparently so far as this record is concerned, and for ought that I know or anybody else knows is a good and upright man -- because he is an upright man that therefore he, could not do harm and that therefore his motive was right; but I shall have to charge you in this case even over the objection and exception of the defense that the character of Mr. London is not at issue here at all, because Mr. London says that he prepared these reels and he says that he deliberately presented them; so therefore so far as this case is concerned it does not seem to me that Mr. London's character is at all at issue. The

issue is the character of the reels, because certainly the law would not hold that a man of good character could present reels that were indecent and a man of bad character could not present the reels, so you will see the character of the exhibitor is not at issue, it is the character of the reels. Now if Mr. London had denied that he presented these reels or had presented the exhibition then you would take his character into consideration in determining whether or not he did do so; but in this case he says he did do so and his character is not in issue at all. And certainly the jury could not hold that a man because his character was good could exhibit reels whose character was bad and another man whose character is bad could not exhibit them; we cannot discriminate between persons.

The test of criminality in this case is whether the exhibition tends to deprave and corrupt those whose minds are open to immoral influences and who are likely to visit the exhibition; if the exhibition is calculated to have this effect the motive of the exhibitor or the character of the exhibitor is held to be immaterial. It is held by the Court of Appeals in a celebrated case as follows: "One may not be allowed to commit a crime because he hopes or expects that good will come of it." The motive of the exhibitor is never essential in the element of the crime. A good motive does not prevent an

act from being a crime.

You will observe that the language used in the statute is "obscene, indecent, immoral and impure." For your benefit I will give a definition of the word "obscene," although that word, and all of those words, gentlemen, are not to be sought for in musty pages; they are to be construed by you in the ordinary every day acceptation of those words just as you would meet them in every day contact with your fellow men and in conversation with people you meet in the community. What does the average man in the community understand by "obscene, indecent, immoral and impure"? Whatever the average man believes, whatever you believe those meanings to be in their usual acceptation among men, that is the meaning you are to apply to the statute here before you. It is true that one of the dictionaries defines "obscene" as "something expressing or suggesting unchaste or lustful ideas, or being indecent or lewd." In all criminal actions the defendant is presumed to be innocent until the contrary is shown, and in case of a reasonable doubt as to his guilt he is entitled to an acquittal. In this case the defendants were charged with that crime, with that particular act, and they claim these reels were not indecent, obscene, immoral and impure.

I went to relieve your minds from any discussion or any possible contest there may be here between the regu-

lar theatrical managers and the managers of the moving picture shows. If such a thing as that exists, and I have never heard of it before, we have nothing to do with it and we are not to interject any extraneous matter of that kind; that is entirely foreign to this issue. If they have any quarrel among themselves we have nothing to do with it. If the regular theatrical managers put an act on the stage, as they have tried to do in time past, such a one as that called "The Orange Blossoms" which I saw myself, if they were indicted for it just as these people were indicted for it and if they claimed the moving picture people were opposed to them, we would have nothing to do with that. You will not let that weigh here one bit against these defendants or in their favor either one or the other.

This action really is in the nature of a trial of the reels, although in form the defendants are on trial before us; I don't say that that is so; I merely liken it to that, as if it was a trial of these reels, almost as if the defendants themselves were an incident to the trial. The question is whether these reels as presented are obscene, indecent, immoral or impure, and do they suggest those thoughts and ideas?

The District Attorney in his argument has dwelt upon the psychological proposition that there is what is known as the force of suggestion, and especially upon the minds

of the youth. From the earliest ages the laws have endeavored to take care of and protect the young, because "as the twig is bent the tree is inclined." That is the plastic period of man's life, youth, and a great author has put it -- no greater to my mind in the world than this -- that "In the morn and liquid dew of youth contagious blastments are most imminent." In other words, suggestions, evil suggestions, are most imminent to the youth, and they blast the youth. Of course when a man's character is formed, when he is past the formative period of character, when he is of age, then of course his character being formed -- if he has any at all -- it is more difficult to change it. But the character and minds of the youth are very plastic and they are like the photographic plate that receives impressions, and quickly. And it is for them that the law is particularly solicitous; so that the law prohibits a youth under the age of 16 years, of either sex, from going into any sort of a show unless he is accompanied by a parent or guardian. It is for them as well as for others that this law is passed, and it is not for you and it is not for me to say whether the law is good or bad, and it is not for the defendants to say whether the law is good or bad.

We are a law abiding community, and if you find that these reels and the pictures come within the prohibition of that statute, why then you would find the de-

defendants guilty as charged. And if you find that those reels do come under the provisions of that statute, the fact that Mr. London may hereafter suffer some inconvenience from it -- that part of it you could not properly within your oaths take consideration of if you think he is guilty, because that is his own doing and not yours or mine or anybody else's. He is a lawyer and this question -- if he did it, and he says he did it -- he knows that a lawyer is not to determine this particular question, but you the jury are to determine it, and no one could tell him better than when he hears me say this too, that the jury are the sole judges of the facts, and performances are allowed in the community just as the jury say they shall be allowed, and only as the jury say they shall be allowed. Now a jury in Paris may say something may be allowed there, and a jury in New York may say differently. It depends upon the moral atmosphere of the place, and you are to determine what that is and apply it to this case here at the bar.

From the fact that Magistrate TenEyck did not deem it within his judgment to hold the defendants, you must not substitute his opinion for your own in case you have a different opinion, any more than you would be allowed, and you certainly would not be allowed, to substitute the Grand Jury's indictment for your own opinion.

Governor Stanchfield in his argument says that in

hit opinion these reels and the pictures, the representation, are repellant and repulsive. I thoroughly agree with him on that point, that they are repellent and repulsive; they were to me. Ho says that they teach a moral lesson. The District Attorney argues to you that if they do teach a moral lesson they also teach a lesson that is just the contrary, and that is that in some respects it pays better to tread the primrose path rather than the straight and narrow path. The District Attorney argues, contrary to Governor Stanchfield, that he thinks that even upon the question of a moral lesson -- he denies that, but he says assuming that there is a lesson here, he draws a contrary conclusion; Governor Stanchfield says it is a warning to the young, but the District Attorney says that on the psychological theory of the force of suggestion it shows to a young man that has a small salary, the young man who would go to such

exhibitions as this, that if he could sell a girl for \$200 -- that was I believe the smallest amount exhibited, and another was \$300, or I heard something about \$300

for a girl -- if he could gain her confidence by strategy and confidence on his part, that is what the District Attorney argues is "easy money" and that that is there suggested to the young man. Somewhat in the nature of showing the youth how easy it is to commit a crime, or a certain form of crime, instead of repelling him, the

argument of the District Attorney is that that would teach him to go and do that very thing and see if he could improve upon the actor who did it in that particular case. Now gentlemen, all of these are matters for you. It doesn't make any difference what I think in regard to this case, it is a question of what the jury thinks. It doesn't make the least particle of difference what Mr. London thinks in regard to whether or not the pictures are obscene, indecent, immoral or impure; that doesn't make any difference at all. It is not what I think or Mr. London thinks or Mr. Bohn thinks; it is what you think and nobody else. And this is not a question of freedom of speech, and this is not a question of freedom to make one's living, any more than it is a question of freedom of speech degenerating into license, and there is a great difference between the two.

Gentlemen, are there any requests to charge, or any exceptions to the charge as given? -- Before I stop I want to impress upon you, gentlemen, that nothing that I have said must be taken by you as to imply any opinion on my part. A Judge is not allowed under the rules of procedure in this State to indicate to the jury what he thinks of a case. He must carefully refrain from letting the jury know what he thinks. It is entirely for the jury to determine. You and you alone are the sole judges as to whether or not this act comes within the prohibition

of the statute, and I have read you the statute, and I have told you what the test is.

MR. KOENIG: If your Honor please, may I read the requests that we have?

THE COURT: Yes; would you mind not repeating any more than you possibly could help, because I see that you have handed up 35 requests, and if you can condense them it would take up so much less time.

MR. KOENIG: I have a few more here that are not on there.

THE COURT: Oh; very well.

MR. KOENIG: I ask you Honor to charge that the jury in considering the case after its submission to them must proceed upon the presumption that the accused are innocent of the crime charged in the indictment, and what it is necessary for the People to rebut this presumption by evidence them beyond and a reasonable doubt that the defendants are guilty of the crime charged against them in the indictment.

THE COURT: In this particular case the jury could not proceed upon the theory that the defendants are guiltless of having exhibited the reels because they admit it.

MR. KOENIG: Perhaps your Honor misunderstood me.

THE COURT: Read that again.

MR. KOENIG: The jury in considering this case after its submission to them must proceed upon the presumption

that the accused are innocent of the crime charged in the indictment and that it is necessary for the People to rebut this presumption by evidence which convinces them beyond a reasonable doubt that the defendants are guilty of the crime charged against them in the indictment. Not a question of exhibiting the reels; that is no crime; reels are being exhibited in every part of this city. The question is whether the crime has been established, and on that I ask your Honor to charge as I have requested.

THE COURT: As an abstract proposition of law; your law is excellent, but in this particular case, as I say there is no question but that the defendants committed the act, and the real question is the character of the act, isn't it?

MR. KOENIG: I beg your Honor's pardon; did your Honor say the defendants committed the act?

THE COURT: They exhibited the reels.

MR. KOENIG: Oh.

THE COURT: They exhibited the reels.

MR. KOENIG: I ask your Honor to instruct the jury that they had a right to do that unless a violation of the statute is established.

THE COURT: Oh yes, but I think there is no question --

MR. KOENIG: Your Honor refuses to charge as I asked?

THE COURT: No, the only thing -- I charge it, but I supplement it by what I have said, and you take an excep-

tion.

MR. KOENIG: And I take an exception to the modification. I ask your Honor to charge the presumption of innocence is not a mere formality. Every juror is bound to entertain it conscientiously, sincerely and ungrudgingly, without any mental reservation or evasion whatsoever, and to give to the defendants the full benefit of it.

THE COURT: That is good law in the abstract, but again I say in this particular case the defendants say that they exhibited the reels; but as an abstract proposition of law that is a good proposition.

MR. KOENIG: Then your Honor charges that?

THE COURT: Yes.

MR. KOENIG: I except to the comments of the Court.

THE COURT: Very well.

MR. KOENIG: May I ask your Honor to charge that the jury in determining the guilt or innocence of the defendants of the offense charged in the indictment can consider only the evidence in the case and are to disregard any statement made during the course of the trial by counsel and the Court not supported by evidence, and they are not to be influenced or governed by any expression of opinion or action of either the Court or the counsel.

THE COURT: That is good law. The reels themselves are in evidence.

MR. KOENIG: Your Honor charges that to the jury?

THE COURT: Oh I do charge it; they are not bound by the opinion of anybody. However, they may adopt the opinion as their own provided they believe it to be right.

MR. KOENIG: I ask your Honor to charge the jury, and I respectfully suggest this in view of the repeated instruction of the Court, that the mere exhibiting of the reels of these defendants is not a crime.

THE COURT: The mere exhibiting of these reels?

MR. KOENIG: Yes, unless it is shown by evidence beyond a reasonable doubt that it is in violation of a statute.

THE COURT: Oh certainly.

MR. KOENIG: I don't want any misunderstanding about that.

THE COURT: Oh the exhibiting of reels -- I think the jury understand the exhibiting of reels is no offense; it depends upon what the character of the reels is. I think I made that very clear.

MR. KOENIG: One more if your Honor please. If the facts in this case proven against the defendants are equally consistent with innocence and guilt, the jury must adopt the construction in favor of innocence and acquit the defendants.

THE COURT: Oh yes, that is correct.

MR. KOENIG: You charge that, your Honor?

THE COURT: That is correct.

MR. STANCHFIELD: I would like to make two or three requests.

THE COURT: Very well.

MR. STANCHFIELD: Because I am free to say I don't think certain legal aspects of this case are clear. This Section 1140A contains four words as descriptive of the offense, "obscene, indecent, immoral or impure." I ask your Honor to charge this jury that they must find from the evidence beyond a reasonable doubt that these pictures were obscene, indecent, immoral or impure.

THE COURT: That is absolutely correct -- or some part thereof. It does not mean that every particle of it must be obscene, indecent, immoral or impure.

MR. STANCHFIELD: To that I except.

THE COURT: Yes.

MR. STANCHFIELD: And I ask your Honor to charge the jury that even though some one portion of these pictures might be obscene, indecent, immoral or impure, still if as a whole they are not convinced beyond a reasonable doubt that they are obscene, indecent, immoral or impure they must acquit.

THE COURT: No, I refuse to so charge.

MR. STANCHFIELD: And I take an exception to that.

THE COURT: Yes.

MR. STANCHFIELD: I think I am right about that pro-

position.

THE COURT: You think you are? I wish you would hand me up the authority.

MR. STANCHFIELD: There is no authority except the language of the request, if your Honor please. Let the stenographer read that again. (The request was read) That is practically what the Court of Appeals held in the Eastman case.

THE COURT: I have got that Eastman case here I think.

MR. STANCHFIELD: Well I will not stop. I ask your Honor to charge the jury that they must find before they can convict that the evidence establishes beyond a reasonable doubt that these pictures would tend to the corruption of the morals of youth and others.

THE COURT: Certainly; that is correct.

MR. STANCHFIELD: That is in addition to finding that they were obscene, indecent, immoral or impure.

THE COURT: That is correct.

MR. STANCHFIELD: And I ask your Honor to charge this jury that the test as to whether the exhibition violated the statute and constituted a crime is as follows: whether said pictures are naturally calculated to excite in a spectator impure imagination.

THE COURT: Yes, that is correct, but a spectator of any kind.

MR. STANCHFIELD: Yes, but of no particular kind, but

any kind.

THE COURT: Of any kind, that is right.

MR. STANCHFIELD: That does not relate to degenerates and neurotics. I ask your Honor to charge this proposition, and I am reading from the Court of Appeals in the Eastman case. Even though the jury should find that some of the scenes in the exhibition in question were unconventional, indelicate, gross, unbecoming or vulgar, nevertheless the exhibition of each scenes is not unlawful unless the pictures as a whole offend against the test that they must create in the mind of the spectator impure thoughts and lustful desires.

THE COURT: Very well; I so charge.

MR. STANCHFIELD: I ask your Honor to charge this proposition, that neither the jury nor any member of the jury is entitled to decide the question of the defendants' guilt or innocence from their or his preconceived opinion in regard to any of the facts or thoughts based on the exhibition in question; that they are to determine upon the facts as found and under the law as laid down whether the exhibition in question takes as a whole is beyond a reasonable doubt of an obscene, indecent, immoral or impure character which tends to corrupt the morals of youth and others.

THE COURT: That is correct.

MR. STANCHFIELD: I will read now in a request to

charge from a charge recently delivered by a Federal Court Judge, Judge Thomas: if you should find a verdict against the defendant because you personally did not like the pictures or because you personally felt the subject of the pictures was not a proper theme to discuss or develop, or because there was too much license, or because the pictures overstep the bounds of what you personally regard as obscene, indecent, immoral or impure, you would be doing the defendant an injustice.

THE COURT: The very question here is what the jurors believe about whether or not the pictures are Indecent.

MR. STANCHFIELD: But not what their personal ideas would be, or what their notions might be of the effect these pictures would have upon spectators, and the effect of polluting the morals of youth and others.

THE COURT: But who is to determine? The Judge cannot determine it. The jury are to determine it. That is what they are there for it seems to me.

MR. STANCHFIELD: I will read this language to you again.

THE COURT: I wish you would, because if Judge Thomas says the jury cannot determine it I don't know who can.

MR. STANCHFIELD: If you should find a verdict against the defendant because you personally did not like the pictures --

THE COURT: Yes, that part of it I thoroughly agree

with.

MR. STANCHFIELD: -- or because you personally felt the subject of the pictures was not a proper theme to discuss or develop, or because there was too much license,

you would be doing this defendant an injustice. In other words the purport of the request is that they are not to be governed by their personal notions on that subject, but by the evidence as to whether or no they come within the rule of being obscene, indecent, immoral or impure.

THE COURT: Yes. Well, in this case they have seen the pictures themselves and we have not had any testimony from anybody else as to whether or not they were obscene, indecent, immoral or impure, and we have relied entirely upon the jury to tell us that, and that I think is their exclusive and peculiar function and that is exactly what

we want, their opinion on that subject -- their judgment on that subject, I will put it that way, what we want is the judgment of the jury on that question whether or not they are obscene, indecent, immoral or impure and tend to the corruption of youth.

MR. STANCHFIELD: I except to the language in which your Honor phrases it and to the comment upon the request and to your refusal to charge as requested.

THE COURT: Very well.

MR. STANCHFIELD: And I except to your Honor's

charge to the jury that the character of the defendant Samuel London is not in issue in this case, and it being a criminal trial upon a criminal accusation I ask your Honor to charge this jury that his good character is presumed irrespective of any evidence --

THE COURT: That is what I have said; I have said that I never heard anything against it, and the evidence was all in his favor as to his personal character.

MR. STANCHFIELD: Now I ask your Honor to charge --

THE COURT: I could go further; so far as the evidence is concerned his character is established beyond a reasonable doubt.

MR. STANCHFIELD: Yes and I am going to follow that by asking your Honor to charge this jury that it is the law of this State that his good character as proved in this case may create a reasonable doubt and entitle him to an acquittal.

THE COURT: That would create a reasonable doubt as to whether or not a man committed a particular act charged against him, but in this particular case he admitted he exhibited the particular reels, so that his character could not be an element in their determining whether or not he exhibited the reels because he says he did.

MR. STANCHFIELD: Yes, he says he exhibited the reels, but he says he did not commit a crime.

THE COURT: He says he did not commit a crime, but what the character of the defendant has to do with it I cannot see, as to whether or not the reels that the jury have seen are, impure.

MR. STANCHFIELD: Well as I understand it the courts of this State -- your Honor, I don't mean to be unduly persistent, but the question of character I am reasonably familiar with -- I understand it to be the law of this State that the Court of Appeals of this State, the highest tribunal in this State, have used the language that good character in and of itself may be of such probative force as to establish in the minds of the jury reasonable doubt as to whether the man committed a crime.

THE COURT: That is excellent law, and I so charge it.

MR. STANCHFIELD: That is all.

THE COURT: That is all now, gentlemen, you may retire, and your verdict in this case will be either guilty or not guilty. This matter is entirely with you, gentlemen, everybody has had his last say about the question.

MR. HAYWARD: If your Honor please, do you care to submit both counts in this indictment?

THE COURT: The verdict will be guilty or not guilty; why not let it go to the jury that way?

MR. HAYWARD: Yes, sir.

(The jury retire at 4.42 p. m.)

(At 5.25 the jury return a verdict of guilty but with a recommendation for the leniency and mercy of the Court.)

Motions reserved.

COURT OF GENERAL SESSIONS OF THE PEACE,

City and County of New York.

THE PEOPLE

against

JOHN J. HAEGNEY.

Indictment filed 19th day of January, 1914.

APPEARANCES:

For the People,

ASSISANT DISTRICT ATTORNEY HAYWRD.

Before HON. EDWARD SWANN, J., March 9th, 1914.

Thomas W. Osborne,

Official Stenographer.

THE COURT: Suppose I suspend sentence now.

MR. LONDON now makes the following statement:

Counsel informed me that in presenting or taking up the matter of sentence, the Court preferred to suspend sentence than to have me pay some nominal fine; the purpose of that is merely this. At the time I wrote the scenario for the film, it was done with a spirit of moral uplift, to be shown not in theatres but only before civic and social organizations engaged in moral uplift work, and only before such audiences as these civic organizations would select. I had presented it before the Purity Federation, Minneapolis, on the 12th day of November, and on the 25th of October, before about fifty or sixty social workers of the Carnegie Lyceum. We found it was impracticable to present it in that manner. The people who were interested, especially throughout the South, felt that they had been in civic co-operation with the United States Government, and had spent upwards of \$26,000 in the hope something might be done in a national way against White Slavery, and that nothing could be done because it was only local, no real national campaign, and that they thought in this manner public conscience could be aroused. When my people found that they could not carry out their purpose, they asked me to come on to New York and seek to dispose of this film, perhaps that it could be revised or cut down to a point where it might become a business proposition. I did

that. The matter was turned over by the Moral Feature Film Company, under contract to the Sociological Research Film Company, a corporation doing business under the laws of this state, and they to do with it as they saw fit, so far as public presentation was concerned. In the first place the film has passed out of my control, for two reasons -- first, I personally never produced it. The film says it was first under the personal direction of Frank Beal. Second, it was produced by the money of the Moral Feature Film Company who had other purposes than a commercial one. It has passed beyond my control and beyond the control of the Moral Feature Film Company, and is now in the control, so far as the public presentation is concerned, of the Sociological Research Film Company.

THE COURT: Where are they and who are they?

MR. LONDON: They are here in the city of New York, who gave the public presentations at the Park and Bijou, rented the place, paid the rent, employed these very men, and I personally had nothing to do with it.

THE COURT: Who are the managers of that?

MR. LONDON: There is Mr. Levy and Mr. Hoops -- I don't know how many other stockholders there are.

THE COURT: I mean the managers.

MR. LONDON: I really do not know who is in management of it, except that our company turned this over to the

Sociological Film Company as a company.

THE COURT: By bill of sale?

MR. LONDON: No, by a contract. It was a contract.

THE COURT: Sort of a royalty?

MR. LONDON: Yes, they get 75% and the Moral Feature Film Company, 25%. To me personally the earnings of this film will amount to one-sixty fourth part of every dollar taken in.

THE COURT: Gross?

MR. LONDON: Net, and I desire to call the Court's attention to this phase of it. The reason that I asked for a fine -- so that there is nothing to hang over me -- is for this very reason. My home is that of El Paso, Texas. The Sociological Research Film Company have the right to present this film beyond the jurisdiction of the State of New York, I take it, as a legal proposition -- they have that right. As matter of fact the proceedings that took place here are not binding upon those people in New York City. They may present it and the law would take its course. If there are complaints filed and indictments returned, they would come into court as we did.

THE COURT: Are there many copies of this reel?

MR. LONDON: Yes.

This film is playing in San Francisco, where it was tried in a court of law, and the Judge said it did not come

within their statute, and the film went on and played. It is playing in two theatres in Los Angeles, in one theatre in Philadelphia; it is playing in some other small towns in California or Washington -- I really do not know where they are.

THE COURT: Under the same name?

MR. LONDON: Yes, under the same name. I ask the Court to bear that in mind, and see my position, and the reason why I would like a disposition in this case within the spirit of the verdict returned by the jury, and Mr. Hayward, in his agreement with counsel, and, I believe Mr. Hayward will bear me out, when it was agreed upon that I was simply the president of the Moral Feature Film Company -- in feeling that the film was on trial, as stated by the Court and Mr. Hayward himself, not I.

THE COURT: You were getting a certain revenue from it.

MR. LONDON: I certainly was.

THE COURT: You are now, I presume, from all these films.

MR. LONDON: I certainly am.

THE COURT: You are getting all the financial benefit of it?

MR. LONDON: A very very small portion of it.

THE COURT: You think it was the theory of the District Attorney, or you thought it was the spirit of the jury that Mr. London should be allowed to go ahead and receive the

profits from the films, and that the inanimate films should alone be condemned?

MR. LONDON: No, I did not. I thought that this jury of New York County saw fit to suppress the public presentation of the film, because they felt it would corrupt the morals of the youths and others -- that was the spirit of it -- but, I, in fact, give these public presentations? I did not run away from the proposition. I stood by it, because I believed, as I believe now, may it please the Court, that White Slavery in this country has made such inroads, that we should awake the public conscience to its enormity, and to its effect. My method of doing that, we may differ as to view points, and the jury differed from mine, and on the other hand, Rev. Dr. Aiken agrees with me, John A. Holmes agrees with me, and I can mention scores of others, and other courts have agreed with me.

THE COURT: Did they see the films?

MR. LONDON: Yes, they certainly did, and I could mention a great number of ministers and social workers and people of the ordinary run of life who have agreed with me, and led me to believe that I had a picture that should be presented. Here is a jury returns a verdict and says it should not be. I submit to the jury and to the Court and to the law of this State, in the spirit of not caring to violate, not alone the law, but the feeling that was manifested by the Court and by

The jury, that these pictures ought to be suppressed, for, I believe I have no right to fix the moral standards for nine millions of people in New York State, and I have no right to persist that these films should be presented, but, other officials, the Mayor of Reading, Pennsylvania, and the Mayor of Troy and some of the ministers there state that if more of such films would come in their community instead of the nonsense that is thrown upon the screens, there might be some good done. That is the position I find myself in. Where are we to find these finally defined distinguishing lines, where the moral ends and the immoral begins? They are blended. We cannot fix a line there. Now, I am to go forth leaving this Court to believe these films will not be presented. Personally I want to get away from the proposition. If I have failed to arouse public conscience through the medium of something expressed in one court, I do not care to be the one that will present films anywhere. That is my feeling about it.

THE COURT: We would all like to aid you in that.

MR. LONDON: Yes. Now, on the other hand, they are being presented now -- the Court held in California, after trial -- and the opinion I believe of the Judge, Mr. Stanchfield had with him and could have read to you, that while the Court felt it was not a place to take his daughter, that he does not care for the picture, he felt also it was not a

picture that came within the statute, but I do not want this Court or the people to feel, who are interested in the suppression of this picture -- because I believe they are interested from a good motive, and they are sincere, and, I do not want these people to feel that because a condition exists whereby I have no control over these films, that I am the man presenting them in spite of what has happened, regardless of whether I am living beyond the jurisdiction of this court or not.

THE COURT: Could these films be presented without your consent?

MR. LONDON: Certainly, I have no control over them.

THE COURT: I thought they were under lease from you or under some form of royalty.

MR. LONDON: The contract between the Moral Feature Film Company and the Sociological Research Film Company is such whereby they can enforce the company making this contract, having entered into it, to comply with it; they are not bound by the decision of this court.

THE COURT: They are not?

MR. LONDON: There is a question of damage there. There is a question of civil responsibility, one to the other, as parties to a contract but here, I stand in this position. I want to meet the spirit of this Court and this Jury. How can I do it? The Court cares to impose a suspended sentence.

You see the position that places me in.

THE COURT: If I impose a nominal fine all you would have to do would be to pay it, and you could go ahead and do whatever you wished.

MR. LONDON: Personally I would feel I would gladly give a bond, if such a thing were possible. I do not care what amount it be in -- as long as it is within my reach, that I personally would not present it.

THE COURT: Another thing, you being a lawyer in good standing, you know our Court of Appeals has held that until a sentence is passed, there is no conviction whatever.

MR. LONDON: Yes.

THE COURT: No man is convicted unless there is a sentence passed, and even if it were a felony, if there had been no sentence, there is no conviction, and so as it now stands, so far as your are concerned, you have not been convicted. What we want is to suppress the firm. The verdict of the jury was against the firm, and that is what I want to enforce, and nothing that would tarnish the good name of Mr. London in any respect. These are my sentiments. Suppose I suspend sentence in all these cases now, and then, if in the future you would like to take up the matter at some other time, you can do it then. However, this does not prejudice you in the least.

MR. LONDON: I expect to go to Europe very shortly, as soon as I can get away.

THE COURT: You are a free man, you have never been convicted.

MR. LONDON: The idea is I would like to have some disposition made. I would not like to feel that there is something hanging over me.

THE COURT: You need not feel that there is anything hanging over you.

MR. LONDON: I will take the Judge's suggestion on that.

THE COURT: Even in the case of a felony, where a man swore he had never been convicted, although he had been nominally convicted of a felony and sentence suspended, the Court of Appeals held he was never convicted. So, Mr. London has never been convicted. I suspend sentence in all of the cases.

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