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

THE PEOPLE

against

MYRTLE BRADSHAW.

2949

Indictment filed 31st day of October, 1917.

Indicted for forgery in the second degree.

For the People, ASSISTANT DISTRICT ATTORNEY SHERIDAN.

For the Defendant, SAMUEL FELDMAN, ESQ.

Tried before HON. OTTO A. ROSALSKY, Judge, and a Jury, on the 7th day of January, 1918, &c.

EDWARD GABLER, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

(Residence 207 East 16th Street)

DIRECT-EXAMINATION BY MR. SHERIDAN:

Q You are a minister?

A I am.

Q You are associated with the Church of St. Georges, in New York City?

A Yes.

Q How long have you been connected with that church?

A About one year.

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Q What is your title, curate?

A Senior assistant.

Q Do you know the defendant?

A I know her since last August.

Q Did you know the defendant Myrtle Bradshaw prior to August 1917?

A I did not.

Q When did you first meet the defendant Myrtle Bradshaw and where and under what circumstances?

A Mrs. Bradshaw, between the date of the 12th and the 17th of August -- I do not recall the date exactly -- came to St. George's Pariah House asking to see the Rector Dr. Reiland. Dr. Reiland being away for the summer, the young man who received Mrs. Bradshaw said that he would take her in to see me and she was brought in and introduced as Mrs. Bradshaw, stating that she had come --

Q Are you stating the conversation that you had with Mrs. Bradshaw?

A I have just stated that she said she was Mrs.

Bradshaw and was introduced by Mr. Nicholson who received her at the door.

Q What did she say?

A She said she came to see the rector on a very delicate had come to see the Rector really for assistance, that she had been brought up and confirmed and baptised in that church as a young girl and that she had come to that she was stopping at the present time at the Hotel Union Square and on her way from the station she had either lost or had stolen her pocket book, and that the only means they had was what her daughter had in her purse; that they had paid that

for the hotel bill, and if I would call up the hotel they would verify it; that the restaurant was not connected with the hotel, and that she and her daughters had not had anything to eat since the evening before. That her husband was employed in Swift & Company and that he would be in Pittsburg the following day when she could reach him by telegraph and be able to get funds from her husband.

Q That took place you say either between the 12th and the 14th of August?

A Between the 12th and the 17th. I do not know exactly what date.

Q When she called, was she alone or accompanied by her daughter?

A The first time alone.

Q Did you call up the Union Square Hotel to verify whether she lived there or not?

A I did.

Objected to as immaterial. Objection sustained.

Q Kindly tell what you did, did you do anything that day in reference to any statements she made?

Objected to as immaterial.

THE COURT: How relevant is that it might be relevant but I question --

MR. SHERIDAN: It might be relevant later on when it is perhaps raised in issue on the change of hotels.

MR. FELDMAN: I object to it now.

THE COURT: You are anticipating something and I will sustain the objection.

BY MR. SHERIDAN:

Q Did you upon that visit give her any money?

A I gave her \$10.

Q Did you give her that \$10. in cash?

A In cash.

Q Or by check?

A In cash.

Q In her first conversation that she had with you, did she make any reference at all to the physical condition of her daughters?

A She did.

Q What did she say?

A She stated - -Objected to.

THE COURT: This testimony is incompetent on any theory. We are trying a forgery case. You are anticipating a great many things. Come right down to the issue involved.

MR. SHERIDAN: Very well, sir. I will be guided by your instructions.

BY MR. SHERIDAN:

Q Did you at any time give the defendant a check?

A I did.

Q What was the amount of that check if you recall?

THE COURT: We do not know anything about the present issue. Confine your direct examination of this witness to the subject matter of the indictment. If it should become important to throw any light upon the transaction, then you may go into it. We want to know something about the charge in the indictment.

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BY MR. SHERIDAN:

Q I show you a check dated September 14th, 1917, and I ask you did you ever sign that check?

A I did not.

Q Did you authorize anybody to sign that check?

A I did not.

THE COURT: Have you any account at that particular bank?

Q Have you an account with the New York County Bank?

A I have.

Q And you had an account prior to August at that bank?

A I had.

BY THE COURT:

Q Did you ever give this check to the defendant?

A I did not.

Q Did you ever send it to her?

A I did not. Furthermore there is no such person as Ellen Gabler, who this check is made out to.

BY MR. SHERIDAN:

Q That is as far as you know?

A As far as I know, in my own history.

CROSS-EXAMINATION BY MR. FELDMAN:

Q In other words you do not know whose check it is?

A I know it came back in my check account as going on my account.

Q Did you ever see the check before?

A Yes.

Q Where?

A I saw it the day I was called to the magis-

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trate's court

Q There is nothing written here by your hand that you wrote down on the check?

A No, nothing there that I wrote down.

Q None of the persons whose names are mentioned upon the check are known to you?

A One on the back is known to me.

Q Myrtle Bradshaw?

A Yes.

Q You do not know who Ellen Gabler is?

A I do not.

Q You do not know who Edward Gabler is, as far as the signature is concerned?

A Not as far as the signature is concerned.

Q In other words there might be an Edward Gabler and there might be an Ellen Gabler?

A But not using my account.

Q You do not know who they are, that is not your signature?

A No.

Q And that is not your signature here on the other side?

A No.

Q The endorsement?

A No.

BY THE COURT:

Q Is there any writing on that check in your handwriting?

A No, no handwriting.

BY MR. FELDMAN:

Q All you know is you have an account with the New York County National Bank?

A I have an account.

Q And those names and words are printed upon this check?

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A Yes -- and the statements from the defendant that she forged them, to myself.

MR. FELDMAN: I ask that that be stricken out.

THE COURT: Strike it out.

BY MR. FELDMAN:

Q That is all you know about it?

MR. FELDMAN: I object at this time to introducing this check in evidence.

THE COURT: For the present have it marked for identification, because you must trace the possession to the defendant.

A check is marked for identification People's Exhibit 1 BY MR. SHERIDAN:

Q Did you have any further conversation with the defendant in the latter part of September in reference to that check?

Objected to. Overruled and exception.

A The first of October I did.

Q What was that conversation?

A Mrs. Brads haw called on the day I returned from Canada, less than an hour after I had reached home, stating that she had something very important which had to be spoken privately. She came into my study and she said she had done a dreadful thing, that she had forged some checks.

BY THE COURT:

Q Did she use the word forged?

A She did.

MR. FELDMAN: I object to it.

THE COURT: That is the conversation. He says this woman used the language. Of course, forgery is a conclusion of a fact, but the witness states that the witness, or the defendant, rather, employed the word forged.

THE WITNESS: She did.

THE COURT: He is not giving a narrative of the conversation but using the words employed by the defendant --is that correct?

THE WITNESS: Yes.

MR. FELDMAN: I object to it on the ground that she came to the minister to make a confession and it is a privileged communication.

THE COURT: You may claim the witness with a view to showing that such relationship existed. You may question the witness and find out whether such relationship existed.

BY MR. FELDMAN:

Q You saw the defendant before that time?

A Not during the month of September.

Q You saw her in your church?

A No, sir.

Q Never met her in the church?

A No.

Q Did you know she was one of your parishioners there?

A No.

Q Did you investigate and try to find out if she belonged to the church?

A Yes.

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Q Did you find that out?

A No such name.

Q You mean to say the first time she came, just upon the story she told you, you gave her the \$10.?

A Yes.

Q Charity, is that right?

A If you call it so.

Q Don't you call it so?

A No, she asked for a loan.

THE COURT: If you can show that the alleged conversation, or, the alleged confession made by the defendant to the clergyman was made to him in his professional character, in the course of discipline enjoined by the rules of practice of the religious body to which he belongs, then it is not admissible.

MR. FELDMAN: That is what I claim.

THE COURT: Is it? Your claim is one thing and proof of the claim is another.

MR. FELDMAN: Here is the minister in the parish house, where one of the parishioners came to see him.

THE WITNESS: Regular confessions are held in the church, not in the study, if it comes to the official act.

BY THE COURT:

Q According to the ritual of your church, I assume that you practice and encourage confessions on the part of parishioners?

A Voluntarily, yes, sir -- it is absolutely voluntary with the parishioner.

BY THE COURT:

Q What particular formula must be followed by the parish-loner so as to preserve the secrecy that a confession to a

clergyman should be upheld?

A No form except that if -- the clergyman is generally in vestments always at a confession in a church, in the open church itself, where there is at least one other person present in the building.

Q What is the practice that is in vogue in your church?

A We have very little of the regular confession.

BY THE COURT:

Q The Code provision is as follows, "A clergyman or other minister of any religion shall not be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs. That inhibition is placed upon the minister, the theory of the law being that persons should be encouraged to consult the clergyman, or minister rather, so that it will give one's soul comfort. The point is, if there was any such relationship we do not know whether there was or not, but, it does seem to me that the place where the person comes to make the confession is immaterial. If a minister were met upon the street and a parishioner were to approach him on the street or anywhere for that matter, for the purpose of disclosing some secret things in her life to him, when made upon the assumption that it was in the nature of a confession, I think the law should not open the lips of the minister and permit him to state the result of the conversation.

MR. SHERIDAN: May I ask a few questions along that line?

THE COURT: Yes.

BY MR. SHERIDAN:

Q Is the act of confession in the Episcopal Church, a formal act or rather is it an informal act?

Objected to.

THE COURT: I will allow the question but it seems to me it makes no difference whether the confession was formal or informal. We must uphold the spirit of the confession.

MR. SHERIDAN: I will try to find out from the witness.

BY MR. SHERIDAN:

Q The place of confession, does it take place in a confessional or in an open church or does the minister give certain functions and impose certain penalties in the confession or advise the saying of certain prayers, to try to find out if it was a confession, otherwise it is not a confession.

MR. FELDMAN: I object.

THE COURT: The fact that the witness is a clergyman --it is difficult to determine for instance, if there were persons present, then it would not be a confession. It is rather a delicate matter. It is not within the power of the minister to state that he was not engaged in his duty as a clergyman. The law does not look to the form of

the confession but to the Substance of what transpired.

MR. SHERIDAN: I think the law follows, as a rule, the rule or law of the religion itself, binding them to secrecy, and if there is any such rule --

THE COURT: The statute says so. The statute is clear, it says "A clergyman or other minister of any religion shall not be allowed to disclose a confession made to him in his professional capacity. Now was it made to him in his professional capacity? I will allow you to go into that, but, if I should hold that it was made to him in his professional capacity or character, then I will not allow the confession.

BY MR. SHERIDAN:

Q Your study is located in the Rectory Building or Memorial Building?

A Memorial Building.

Q Is that back of the church building or adjoining it?

A It is adjoining the rectory.

Q In that building itself there are many activities connected with the church, for example, gymnasiums, reading rooms, clubs and different rooms?

A Yes.

Q In the upper part of the building is located your study?

A The clergy apartments.

Q Is it the usual and customary place for you to hear confessions?

Objected to. Objection overruled.

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Q Is that the usual or customary place?

A No.

Q For confessions to be heard by you?

A No.

Q Have you or your associate ministers ever held confessions there?

Objected to. Overruled and exception.

THE WITNESS: Not in the study -- please repeat the question.

Q Have you or your associate ministers ever held confessions in your study, or was it in the church?

A Not officially.

BY THE COURT:

Q What do you mean by not officially?

A When anybody comes for the purposes of confessing, they so state that they wish to have a confession.

BY MR. SHERIDAN:

Q And is that a formal part of the act of confession as known in the Episcopal Church?

Objected to.

A It is.

Objection overruled. Exception.

Q Are there any preliminary words of a fixed, determined standard, that the party about to make a confession uses, when they are making an act of confession?

A Except that they ask or state that they are coming to confession.

Q Are there any doctrinal words they use?

A No, not

particularly.

THE COURT: In this case what did the defendant say to you?

A She came there to explain her situation, that is all -- if I used the word confession, it was used in the sense that she was confessing what she did, and not a confession of the church.

MR. FELDMAN: I ask to strike that out.

THE COURT: Strike it out. That is the witness's own conclusion.

THE COURT: I think in the interests of justice the rule provided for in Section 835 of the Civil Code should be strictly followed.

MR. SHERIDAN: May I ask another question?

THE COURT: It must clearly appear that the alleged confession comes without the provision of the statute. If it comes within it, there is an inhibition placed on the minister from disclosing it, unless the defendant waives that privilege.

BY MR. SHERIDAN:

Q When a parishioner of your church comes to confession, is there any formal act on the part of the minister, either in the imposing of certain prayers to be said or certain acts to be done by the party who has made a confession?

Objected to. Overruled and exception.

A Yes, sir, there will be some advice given and absolution.

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Q You have absolution?

A Yes.

Q That is the formal act of confession?

A Yes.

Q The parishioner states his offences or sins during a certain time, you hear them, and at the conclusion you give absolution?

A I do.

Objected to as incompetent, irrelevant and immaterial. Objection overruled. Exception.

Q Now, on this particular occasion when Myrtle Bradshaw, the defendant, called at your study, was she kneeling or did you give her absolution?

A She was not kneeling nor did I give her absolution.

Q Was she making a confession in the sense that one of your parishioners would come to you in your official capacity as a minister?

Objected to. Sustained.

Q Does a parishioner, when they are in the act of making a confession, do they assume a certain pose, do they kneel?

Objected to. Objection sustained.

THE COURT: Let the witness state the procedure.

BY MR. SHERIDAN:

Q Kindly state the formal acts of a parishioner in the act of making a confession to a minister, from the time of the opening statement until the close, in reference to his position or her position and what is said at the conclusion?

MR. FELDMAN: I object as not binding on the defendant.

MR. SHERIDAN: I am trying to find out on this particular occasion if she went to confession or merely made a statement to this man.

Objection overruled. Exception.

THE WITNESS: The parishioner's posture is generally --in fact always, in my experience, kneeling.

Objected to. Overruled and exception.

THE WITNESS (continuing): While the clergyman is either seated in or near, or rather near the altar.

BY MR. SHERIDAN:

Q State the conclusion I cannot lead you, you must tell us?

A After hearing the confession and giving the advice as to what to do, absolution is given.

BY THE COURT:

Q Have you followed closely my reading of the statute?

A I did.

Q "A clergyman or other minister of any religion shall not be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs. Now, has the church to which you belong any rules for the encouragement of confessions or for the reception of confessions?

A Not for the encouragement or the reception. It is absolutely optional with the parishioner.

Q Does your ritual provide for the reception of con-

fessions?

A It does not.

Q Is there any part of the creed which does?

A Public confessions -- in a part of their service, yes.

Q Is that what is termed general confession?

A General confession.

Q How is the public confession conducted?

A In the church, it is usually in the church.

Q But only in the presence of the minister?

A In the presence of the congregation. It is a part of the regular morning prayer or evening prayer.

Q Do you have what is termed a confession made to the minister not in public?

A By request of the parishioner.

Q By the request of the parishioner?

A Yes.

BY MR. SHERIDAN:

Q You have not got the individual confessional boxes?

A No, we have not.

THE COURT: I am going to sustain the objection made by counsel and strike out the statement alleged to have been made by the defendant to the witness upon the ground that it does not clearly appear to me that the conversation had between the defendant and the witness was not had in a professional capacity.

MR. FELDMAN: Then I ask your Honor to direct the jury to disregard it.

THE COURT: Yes, the jurors are so instructed.

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BY MR. SHERIDAN:

Q Did you ever have any conversation with the defendant after this occasion that she met you in your study?

A I did.

Q Where did you have that conversation?

A In my study and also on the telephone -- over the telephone.

Q Was the conversation in reference to the check in question?

A They were.

Q Had you spoken to the defendant Mrs. Bradshaw prior to this telephone conversation?

A Yes.

Q And you had heard her speak over the phone?

A Yes.

Q You recognized her voice?

A I did.

Q What was that conversation?

Objected to. Overruled and exception.

A The conversation consisted in asking that I might hold the bank off from taking any action regarding the checks, as she was about to receive money in order to pay a certain amount down for the checks or for the money that had been taken out on these checks.

Q Do you recall the date of that conversation?

A I do not.

Q Did she say in that conversation where she was telephoning from?

A I understood it was from the Hotel Glendenning.

Objected to. Objection sustained.

Q Did she in the conversation state the place where she was?

A No, she did not.

Q What was this conversation that you had in the study other than the night that she came there after your return from your vacation?

A It was practically the same.

THE COURT: Strike that out.

BY THE COURT:

Q What was it?

A The conversation was to the effect Objected to.

BY MR. SHERIDAN:

Q What did she say to you and what did you say to her?

A If they would wait at the bank, if the bank would wait until Saturday she would have \$50. which she could pay on the checks that had been forged.

MR. FELDMAN: I object to that.

THE COURT: Strike out the words "That had been forged."

Q Was that her conversation?

A That was.

Q Are you repeating her language?

A As far as I am able to remember.

BY THE COURT:

Q Did she use the word "forged" in that conversation, in the second conversation?

A I do not remember.

THE COURT: Then you had better strike it out.

BY MR. SHERIDAN:

Q What did you say to her?

A I told her I would try to the best of my ability to have it settled quietly, if she was

willing to pay the money back.

Q Where were you during the month of September?

A In Canada -- for the first seven days in Long Island.

CROSS EXAMINATION BY MR. FELDMAN:

Q How many times did you see the lady altogether?

A Perhaps -- I could not say definitely.

Q Your memory is pretty good?

A I trust so.

Q Try to remember how many times altogether?

A During my official duties I do not keep track of whom I see each time.

Q What do you consider your official duties?

A I should think I saw her perhaps nine or ten times.

Q Where?

A Pardon me?

Q Where?

A Well, at least four times in my study or in the clergy parlor. One time at the apartment, I believe, which was in 116th street.

Q Is that a hotel?

A No, a rented apartment of three rooms which she and her daughters were occupying.

Q Do you know what the place is called?

A No.

Q Only once you were there?

A I do not know whether I was there once or twice.

Q Were you not there about five or six times -- about five times?

A No.

Q Sure of that?

A Positive.

Q Only twice?

A I know I was not there over twice. I was called there -- the first time, she being sick and the

second time I came and brought flowers from the altar of the church.

Q On what occasion was that?

A She being sick.

Q You took the flowers to her for that purpose?

A Yes, it is the custom of our church to use the flowers that have been on the altar for the sick.

Q As a token of what?

A People appreciate flowers that have been on the altar of the church. It is the custom of the church to bring them.

Q The first time she came to you you say you gave her ten dollars?

A Yes.

Q After that when did you see her again?

A I don't know exactly the dates after that I saw her.

Q How soon after that, how many days elapsed before you saw her again?

A I believe she came the very next day.

Q Don't you remember?

A I don't remember the exact time she came.

Q When she came the second time did you give her any money?

A I could not say.

Q What do you mean, you cannot remember?

A If I could remember I would say.

Q Don't you know that you gave her some more money?

A Yes, I gave her ten dollars again.

Q You gave her the first time ten dollars and then ten dollars again?

A Yes that was twenty dollars.

Q You don't know how many days elapsed from the first to the second?

A No.

Q When did you see her again?

A I couldn't say when I saw her again.

Q Did you give her any money?

A I think I was called by her daughter on the telephone.

Q Did you give her any money besides the other that you have told us, ten and ten?

A Yes, I gave her altogether forty dollars.

Q How we have only twenty dollars now -- what became of the other twenty?

A After she left the hotel at 125th Street where she said she could not stay on account of the conditions, for her daughters she came and stated that she had to have some funds as her husband, she was expecting a letter and she telephoned or her daughter telephoned repeatedly down to the parish house.

Q Did you give her ten dollars again?

A I gave her a check for \$15., and five dollars in cash.

Q Altogether \$40.?

A \$40.

Q When was that?

A That was about around somewhere between the 20th and perhaps the 30th of August.

Q In how many weeks or days did you give her the \$40.?

A I should say in the course of three weeks -- two or three weeks.

Q And it was just because she told you that she was in

straitened circumstances, is that the idea?

A No, because she told me her husband was sending her money and she would repay the loan as soon as she received the money.

Q Did you ever do that before?

A I have.

Q With anybody else?

A Yes.

Q Can you give us the names?

A Your Honor, have I to give the names of those?

THE COURT: Is that necessary Mr. Feldman? It is a collateral matter.

MR. FELDMAN: I will withdraw that.

BY MR. FELDMAN:

Q You say it is customary?

A It is.

Q You have a fund for that purpose?

A I have.

Q You say she lived in 116th Street?

A I believe that was the number, somewhere between 103rd and 120th.

Q Do you remember when she moved in there?

A I do not remember the date. It was after she said the hotel was too expensive.

Q Did you telephone to the Hotel Glendenning to get rooms for her?

A No -- I telephoned -- she came to me and asked me if I knew a hotel that was respectable for her and her daughters and I inquired of one of our clergymen whose mother and father stayed at the Hotel Glendenning, and she asked if I minded calling up and ask what the rates were in that hotel, which I did for her.

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Q You suggested that hotel?

A I suggested nothing. I called up and asked for the rate of the hotel.

Q You were there in that hotel afterwards did you see her there after wards?

A I was called to the hotel after by her daughter, stating that she was very ill.

Q Did you go there?

A I did.

Q Did you see her there?

A I did.

Q And you took flowers there?

A No.

Q To what place did you take the flowers?

A To the apartment.

Q The last time you gave her fifteen and five, when was that?

A I don't know the exact date.

Q You did not put it down some where?

A I could find it in my check book.

Q Have you your check book here?

A No, I have not -- I might have --

Q Don't you know if you have got your check book or not?

A I have not the one up to August I have not the one up to August.

Q When was it you made the last payment to her?

A I couldn't say exactly without consulting my --

Q How many months before you caused her arrest did you give her money?

A How many months before I --

Q Caused her arrest?

A Did I give her money?

Q Yes?

A I gave her the money in August and her arrest was caused sometime in -- I don't know as it was the first time

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in the middle of October or the first of November.

Q Did you see her from August to October?

A Not from the end of August. I saw her the 4th of September when she --when her daughter telephoned to me on Sunday.

Q Did you see her from August to October, yes or no?

A Yes.

Q Where?

A At the Glendenning Hotel.

Q That was another call there?

A What?

Q That was the second time you called there?

A Possibly--might have been the third.

Q So you were three times there?

A I was sent for repeatedly.

Q And that was the last time you called upon her?

A I was sent for --

Q That was the last time you called upon her before she was arrested?

A Yes.

Q That was some time in October at the Glendenning Hotel?

A I did not call upon her in October at the Glendenning Hotel.

Q Where did you call upon her?

A I did not call anywhere in October on her.

Q When was the last time you called upon her and where?

A The first Sunday in September.

Q You did not see her until the time she was arrested?

A I did. She came to my study on the first of October and told me what I started to say before, that she had forged some

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checks --

MR. FELDMAN: I object to that.

THE COURT: Strike it out.

Q The reason you say you gave her money was just her circumstances, is that right, yes or no, the reason that you advanced her the money?

A That I advanced I loaned it to her or advanced it -- you can say just what you wish.

Q You say you never gave her this check?

A I did not.

Q Did you ever give her any check at any time?

A I did.

Q Where is that check that you gave her, show us the check that you gave her, have you got it?

A No, I haven't got the check here.

Q Do you know when you made that check out that you gave her for \$158.?

A Yes, sometime in August.

Q Didn't you get it back from the bank?

A I did.

Q Where is it?

A I believe it is home in my desk.

Q It is important to see that check?

A Perhaps they have it upstairs --

MR. SHERIDAN: We will have it here to-morrow.

BY MR. FELDMAN:

Q This is the check which you do not know anything about?

A I do not.

Q I see it was certified -- you see that?

A Yes.

Q Certified by the bank, is that right?

A Yes.

Q As your signature, is that right?

A No, sir.

Q Do you know anybody else by that name?

A I do not.

Q Do you know if there is a depositor by the name of Edward Gabler in that bank?

A Beside myself?

Q Yes?

A I do not know.

Q Did you inquire in the bank with reference to this check?

A I did.

Q What did they say, tell us what you inquired about there--did they take this for your signature?

THE COURT: What was the result of the conversation --you asked him.

Q What was the result?

A When I stated the two checks were not my own signatures they stated if I knew whose signature it was and I told them I did not, but I also stated that somebody had told me --

MR. FELDMAN: I object to that.

Q Just tell us what you know about it yourself?

A That the defendant had said she had written the checks and that I knew what hotel she was stopping at and that I had been in a position of helping her to get her daughter into the hospital.

Q Please write the following, Ellen Gabler, No. 1214, New York, September 14, 1917 -- leave out the printed matter -- Ellen Gabler -- thirty dollars and then the ciphers \$30.?

A You want the thirty written out?

Q Yes, the way you make a check out -- now your name Edward Gabler and now on the other side Ellen Gabler?

A I have written Ellen Gabler.

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Q Write it once more?

A I have other checks with my signature on if you wish to see them.

The witness writes as requested.

MR. FELDMAN: I offer this in evidence.

THE COURT: Do you offer both, the check and the paper?

MR. FELDMAN: Yes, so that the jury can see them both.

THE COURT: You offer the check, People's Exhibit 1 for identification in evidence.

MR. FELDMAN: Yes, and also the paper.

People's Exhibit 1 for identification is received in evidence and marked Defendant's Exhibit A.

The paper upon which the witness did the writing as requested by counsel is offered in evidence and received and marked Defendant's Exhibit B.

BY MR. FELDMAN:

Q You say you are an ordained minister?

A I am -- ordained in the Protestant Episcopal Church of the United States of America.

Q How many years?

A Since 1912.

Q The last five years?

A Five years.

Q What business were you in before?

A In college.

Q Where?

A Trinity and St. Stephens, and the General Theological Seminary.

BY MR. SHERIDAN:

Q Were you away for the entire month of September?

A I

was away from New York City with the exception of Sunday, the first Sunday in September.

Q Who was the first man that met the defendant Mrs. Bradshaw when she came to the Rectory of St. George's?

A I suppose the man on the elevator.

Q I mean -- you mentioned the name in the early part of your testimony?

A Mr. Nicholson.

Q Was he the man who introduced the defendant to you?

A He was.

Q The money that was spoken of, this \$40., \$25. in cash and \$15. in a check -- how long a period of time elapsed --

THE COURT: I thought the first time was \$10.

THE WITNESS: The first time \$10.

BY MR. SHERIDAN:

Q All told it amounted to \$40.?

A Yes.

Q That you advanced the defendant?

A Yes.

Q You gave her \$10. in cash?

A Yes.

Q And then after this?

A \$10. in cash.

Q And then you gave her \$15. in a check?

A Yes.

Q And \$5. in cash?

A Yes.

Q Now, that money was all given as an advance?

A As an advance to the defendant on the promise or on her statement that her husband would be reached in Pittsburg at the hotel and as soon as he sent his check she would refund the same.

Q Do you know of anybody by the name of Ellen Gabler?

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A I do not.

Q Have you any relative or anybody by that name?

A I have not.

Q How long have you had an account with the New York County National Bank?

A At least five years.

Q During the past five years have you at any time made out a check payable to the order of Ellen Gabler?

A I have not.

RE-CROSS EXAMINATION BY MR. FELDMAN:

Q You do not know that that is your check and you claim it is not your check -- that is not your check?

A It was checked on my account and paid off by the money I have on deposit.

BY THE COURT:

Q But you did not make the check?

A I did not.

Q The body of the check, the face of the check, is not in your handwriting?

A No, sir, it is not.

BY MR. FELDMAN:

Q You do not know who made it?

A Except on the statement of other people as to they having made it.

Q I ask if you know of your own knowledge, you do not know of your own knowledge who made that check?

A If somebody else tells that they made it --

Q Do you know of your own knowledge, did you see somebody make it?

A I did not see them make it.

BY MR. SHERIDAN:

Q Did the defendant in this telephone conversation that

you had with her state anything in reference to the check?

Objected to. Objection overruled. Exception.

A Yes.

Q What did she say?

A She stated she was endeavoring to get money to pay --

Objected to.

THE COURT: I will allow it if that was what she said.

THE WITNESS (continuing): To pay a certain sum on the money that had been taken from the bank.

BY MR. SHERIDAN:

Q How long did that conversation last?

A Possibly five minutes.

Q Will you search your recollection and try to tell this Court and jury as best you can, all she said to you in that conversation and all that you said to her in reference to this check?

A That is practically all. She stated that if I would give her a little time she would --

Q Was there any preliminary statement?

A Except to ask if I thought the bank officials would arrest her.

Q What did you say?

A I stated that if I turned over the checks to them, they would.

Q And then she said something about an extension of time?

A Yes.

Q Kindly state that conversation as best you can, giving us every statement in detail in connection with this check--

you say the conversation lasted five minutes?

A That did not take place on the telephone. That was in my study.

Q I only want the conversation you had over the phone?

A I do not recollect any other conversation that we had outside of what I have just stated.

BY MR. FELDMAN:

Q When was that, what day was that, the conversation that you had on the telephone?

A I could not state the exact date.

Q You do not know what day of the week it was?

A I do not.

Q You do not know what time of the day it was?

A I think it was in the morning.

Q Do you remember the time?

A I do not.

Q You do not, still you do remember what she stated to you, is that right?

A Approximately.

Q You told us the story about it, but you don't remember the day or the hour of the day it happened?

A I do not.

Q Where were you at that time?

A In the telephone booth in the clergy apartment.

Q You remember that?

A Yes.

Q Did you put down the conversation?

A I did not.

Q Approximately how many months ago did that happen?

A It happened in October.

Q You were quite a busy man from October until now?

A Yes.

Q You are quite a busy man?

A Yes.

Q People come to you for confessions during the time?

A No,

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no one has come to me for confessions.

Q No one from the time that happened?

A No.

Q You are otherwise busy?

A Yes.

Q In what way?

A In my general parish duties.

Q So you are not exactly sure what took place on that day, are you, you just told us approximately what happened?

A I did.

Q That was not exactly the words or the gist of it?

A I do not remember every article now.

BY MR. SHERIDAN:

Q Did you make the complaint in this case?

A I am the complaining witness.

Q Did you make the complaint?

A I turned in the checks to the bank, and the bank sent the detective to arrest the defendant.

MR. FELDMAN: I move to strike that out.

THE COURT: Strike that out, that is purely hearsay.

Q You have enlisted as Chaplain in the United States Navy?

Objected to. Objection overruled. Exception.

A The reserve list, yes.

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes an adjournment until to-morrow morning, January 8th, 1918, at 10:30 A.M.

New York, January 8th, 1918.

Trial resumed.

EDWARD GABLER recalled:

BY MR. SHERIDAN:

Q Do you write with both hands?

A I do.

Q Will you kindly write with your left hand what I dictate--now right over in the right hand corner December 14, 1917, in the extreme left hand corner No. 1214; now the words Ellen Gabler, underneath that, thirty; in the extreme left hand corner \$30. in figures and then your name David Gabler?

A (The witness writes as requested).

Q When you opened an account with the New York County National Bank were you asked for your signature?

A I was.

Q And with what hand did you write that signature?

Objected to. Overruled and exception.

A With my right hand.

Q During the time that you have had a bank account with the New York County National Bank, have you ever on any occasion signed a check drawn by you with your left hand?

Objected to as incompetent, irrelevant and immaterial. Overruled and exception.

A I have not.

Q So that every check you signed with your right hand?

A I did.

Q That is the signature?

A The signature.

Q How about the body of the check, have you ever at any time filled in the body of the check with your left hand?

A Yes.

Objected to. Overruled and exception.

BY THE COURT:

Q The body you say you have filled in with your left hand, but your signature you always write with your right hand?

A Yes.

MR. SHERIDAN: I offer this paper written by the witness in, evidence.

Objected to. Objection overruled. Exception.

MR. FELDMAN: The witness testified he wrote his name in the bank with his right hand and all the checks were made with his right hand. This is the handwriting of his left hand and what bearing has that in the case.

THE WITNESS: I did not say I wrote all my checks with the right hand. I said I wrote the signature with my right hand.

MR. FELDMAN: You changed off?

THE WITNESS: You just stated I wrote all my checks with my right hand.

BY THE COURT:

Q The body of the check, with what hand do you generally write?

A Generally with my left and the signature with my right.

The paper is received in evidence and marked People's Exhibit 2.

BY MR. SHERIDAN:

Q Did you write a letter to the defendant in the early part of August or the early part of September, 1917?

A Yes.

Q How did you write that letter, with what hand?

A With my left hand.

Q Do you recall the date?

A Not exactly.

BY THE COURT:

Q How about your signature, with what hand did you write that?

A With my left hand, the whole letter was written with my left hand.

BY MR. SHERIDAN:

Q You wrote the body of the letter with your left hand and signature with your left hand?

A Yes.

Q Do you recall the date?

A Either the last of August or the first of September, I am not positive.

CROSS-EXAMINATION BY MR. FELDMAN:

Q Why did you do that, why did you write with your left hand?

A Because I write with both hands.

Q Why do you select your left hand to write a letter to the lady and with your right hand you write your checks?

A I write my checks with my left hand and the signature with my right hand.

Q You write in the body of your check with your left hand?

A Yes.

Q And your signature with your left?

A Yes.

Q And you wrote the entire letter with your left?

A That

was not my bank signature.

Q Will you explain why you did that?

A I write with both hands simply because I write with both hands. That is all.

Q Therefore you selected the left hand to write a letter?

A I did on that date.

Q Why?

A Because it was the hand I used.

Q You use both hands?

A Yes.

Q According to the occasion, and when you sign a check you write it with your right and you write the letter with your left hand?

A I sign my checks with my right hand and write them with my left.

REDIRECT EXAMINATION BY MR. SHERIDAN:

Q Have you any cancelled checks that you drew prior to the 14th day of September in which you used a left hand writing in the body of the check and signed by your right hand?

A (The witness produces some checks and hands them to counsel).

Q Kindly pick out from these checks those that were written with your left hand and signed with your right hand?

A These are all written with my left hand and signed with my right, (indicating).

Q I show you a check No. 1536, dated August 3rd, and I ask you was the body of that check written with your left hand?

A It is.

Q And is that your signature?

A Yes.

Q Right hand?

A Yes.

The check is offered in evidence.

MR. FELDMAN: I object. It has no bearing upon this case.

THE COURT: Do you offer that as a standard of handwriting?

MR. SHERIDAN: Yes.

THE COURT: For the purpose of making a comparison later on?

MR. SHERIDAN: Yes.

THE COURT: With the genuine writing -- if it is upon that theory, Mr. Feldman, you have offered in evidence some of the handwriting of this witness. The object of putting in evidence additional handwriting is to offer an expert the opportunity of giving his professional opinion as to who wrote the checks.

MR. FELDMAN: It was not disclosed that the gentleman wrote with both hands at that time. It is something extraordinary.

THE COURT: You may question him, but your comment is unnecessary and will be disregarded by the jury.

MR. FELDMAN: I withdraw the comment.

The check is received in evidence and marked People's Exhibit No. 3.

Q I show you a check dated August 21st, No. 1545 and I ask you to kindly state with what hand you wrote the body of that check and also the signature?

A The body of the check is written with my left hand and the signature with my right.

Offered in evidence.

Same objection, ruling and exception.

Received and marked People's Exhibit No. 4.

Q I show you a check dated August 28th, 1917, No. 1547 and I ask you to kindly explain with what hand you wrote the body of the check and your signature?

A The body of the check written with my left and the signature with my right.

Offered in evidence, received and marked People's Exhibit No. 5.

Q Look at these checks, all of these checks, and kindly state with what hand you wrote the body of the check and the signature?

A All of these checks are written with my left hand in the body of the check, and the signature with my right.

Q The check that you gave to the defendant on August 24th, do you recall how the body of that check was made out?

A In the same way as far as I know.

THE COURT: Have you the check?

THE WITNESS: It was handed in by the detective.

MR. SHERIDAN: It was given to the officer and he has enlisted in the Navy but we expect him here to-day.

BY MR. SHERIDAN:

Q I show you this book and I ask you when you drew the check, did you keep a record on the stub of the payee of the check and the date and all the facts as set forth on that stub? Objected to, overruled and exception.

A I did.

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Q Turn to check No. 1546 and I ask you did you make that memorandum on the stub at the time you drew the check?

A I did.

Q I ask you to turn to your book showing the checks drawn by you between the dates of September 1st and October 1st?

A The first check September 1st was 1551.

THE COURT: That was not the question.

BY MR. SHERIDAN:

Q How many checks were drawn by you during those dates that I have mentioned?

A Six checks.

MR. FELDMAN: How is that material?

THE COURT: Of course, this book is not evidence against the defendant. You can ask him what numbers he gave his checks in September and whether they were consecutive did he issue any check numbered so and so, but his books are not binding in a criminal case against this defendant.

MR. SHERIDAN: This book was kept by this man.

THE COURT: As against this witness himself, this book would be binding, but not against the defendant.

BY MR. SHERIDAN:

Q Does that book refresh your recollection as to the checks drawn by you during the month of September?

Objected to. Overruled and exception.

A Yes, sir, it does.

Q Look at that book and kindly state if you drew the check numbered 1214 on the date of September 14th?

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Objected to. Overruled and exception.

A I did not.

BY THE COURT:

Q Did you always number your checks in their order?

A Yes, sir.

Q Consecutively?

A Yes, sir.

BY MR. FELDMAN:

Q What is the number of September 12th -- have you a check there September 12th?

A I have.

Q What was the last number of the last checks you made out?

A September 29th.

Q Any one before that?

A September 24th.

Q Any one before the 15th of September?

A September 5th.

Q Between the 5th and the 24th you did not draw any checks at all?

A No.

Q What was the number of that check on the 5th of September?

A 1553.

Q May I ask you why did you sign the check with your right hand and the body of the check with the left?

A Because it was my custom.

Q Your custom?

A Yes.

Q Only to checks?

A On checks.

Q Otherwise you write letters with your left hand?

A I write letters with my left and with my right hand.

Q When did you write a letter with your right hand?

A No specific time.

Q When did you write with the left hand?

A No specific

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time.

Q Just as you feel like it, is that the idea?

A Yes.

Q But every check is always made out with the left hand and signed by the right hand?

A Yes.

Q You made that as a rule?

A My bank signature was with my right hand.

Q You made that as a rule as far as checks were concerned?

A Yes.

Q You say you have not got the checks you made to the lady--the last check?

THE COURT: He said the police have it.

BY MR. FELDMAN:

Q The policeman has it?

A Yes.

Q You received it back from the bank?

A Yes, I received it back from the bank.

Q You say the last letter you wrote was when?

A The 1st of September or the last of August.

BY MR. SHERIDAN:

Q What was the letter you wrote to her?

A The letter recommending --

MR. FELDMAN: I object; the letter is the best evidence.

THE COURT: He is entitled to prove it by secondary evidence.

MR. FELDMAN: What he wrote?

THE COURT: Yes.

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BY MR. SHERIDAN:

Q You wrote that letter to the defendant Mrs. Bradshaw?

A Yes.

Q Did you deliver it or mail it?

A I mailed it.

Q You yourself mailed it?

A Yes.

Q What was that letter?

THE COURT: State how he mailed it, by putting on a postage stamp and did he put his name on it to be returned in case of non-delivery -- follow the usual procedure.

BY MR. SHERIDAN:

Q Did you write that letter on the church stationery?

A I did.

Q And did you seal it in an envelope?

A I did.

Q And on one part of that letter-head there was an address?

A Yes.

Q What was that address?

A St. Georges Church Clergy Apartments, 207 East 16th Street.

Q How was that letter addressed and where?

A To Mrs. Myrtle Bradshaw, Hotel Glendenning, 103rd Street and Amsterdam Avenue.

Q Did you attend to the postage of that letter and did you put a stamp on the letter?

A Yes.

Q You mailed it?

A Yes, sir, I did.

Q What did that letter contain?

A A statement that as I was to be away for the month of September any assistance that

might be needed for herself or for her daughter in regard to the hospital would be taken care of by either Mr. Ricker, Mr. Bell, or Mr. Barnett, the other clergy.

Q These gentlemen you have just mentioned are clergymen attached to St. Georges Church?

A Yes.

Q For how many years have you been in the habit of writing with either your right or left hand?

Objected to.

Question withdrawn.

Q For how many years have you been writing with either your right or left hand?

Objected to as incompetent, irrelevant and immaterial.

Overruled and exception.

A About 27 years.

BY MR. FELDMAN:

Q You did not write as a child, did you?

A I beg your pardon.

Q You said 27 years, all at once you started 27 years ago?

A Yes.

Q To write with both hands?

A Yes, sir.

Q Up to that time you wrote only with the right hand 27 years ago you started to write with the right hand?

A With the left and the right hand.

Q And you kept up writing all the time?

A Yes.

Q You have the same control with your right as with the left?

A Yes.

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Q You do as you please, either write with the one hand or the other, is that right?

A Yes.

Q Do you know the difference between the hands, is there any difference as far as you know?

A One is more of a back hand and the other long hand.

JOHN EDWARD HANCY, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

(Residence 11 Manhattan Avenue)

BY MR. SHERIDAN:

Q Do you know the defendant Myrtle Bradshaw?

A Yes.

Q Where are you employed?

A Hotel Glendenning.

BY THE COURT:

Q Where is that hotel?

A 202 West 103rd Street.

Q How long have you been employed by the Hotel Glendenning?

A Over five years.

Q Were you in the employ of the hotel at the time the defendant was stopping there?

A I was.

Q For how long a period of time was she stopping at the Hotel Glendenning?

A I can tell by refreshing my recollection.

Q Have you anything here?

A I have.

(The witness consults a paper)

THE WITNESS: From August 24th to October 15, 1917.

Q What are your duties at the hotel?

A Bookkeeper and cashier.

Q During the month of September did the defendant, Myrtle

Bradshaw, present any checks in payment of bills at your hotel?

A She did.

Q I show you a check marked Defendant's Exhibit A and I ask you was that check presented by the defendant Myrtle Bradshaw?

A It was.

Q Was the check certified when you received it?

A It was.

Q And for what was that check given?

THE COURT: Let him state the circumstances under which the check was given to him.

BY MR. SHERIDAN:

Q State the circumstances under which you received the check?

A I am not sure I don't remember whether it was for cash or in payment of a bill.

BY THE COURT:

Q Do you remember the fact of her giving you the check?

A I do.

Q You recall that?

A Yes, and I remember a coincidence with reference to it. The proprietor of the hotel who is sitting in the court room, instructed me to --

Q Do not say that, do you remember any conversation you had with her on that occasion?

A Yes.

Q Concerning this check?

A Yes.

Q State it?

A I said to Mrs. Bradshaw that I would ask the proprietor if he would consent to my cashing the check. I presented it to the proprietor and he said yes, inasmuch as it is certified, give the lady the money.

MR. FELDMAN: I object to that.

THE COURT: The conversation with the proprietor is stricken out.

BY THE COURT:

Q It was certified and you gave her the money?

A Yes.

BY MR. SHERIDAN:

Q Was she alone at the time?

A Yes.

CROSS EXAMINATION BY MR. FELDMAN:

Q You are sure the defendant gave you the check, or her daughter?

A The defendant.

Q You are sure of that?

A Yes.

Q You do not know if it was in payment for board or room or cash, you don't know that?

A I don't remember that.

Q Was the full amount due to you or did you give her any money?

A No, I think it was for cash.

Q You say you looked at the check and it was certified?

A Yes.

Q What do you understand by being a certified check?

A What I understand by a certified check?

Q Yes?

A I understand that a certified check is the same as cash.

THE COURT: It is far from it.

MR. FELDMAN, why do you want to ask him that legal proposition.

Q You believed it was a good check, passed through the

bank?

THE COURT: The certification of, a bank, you understand what that means?

MR. FELDMAN: Yes.

THE COURT: That the bank certifies it has in its possession moneys belonging to the drawer of the check which will be available for payment.

MR. FELDMAN: They look up the signature before they certify it?

THE COURT: We do not know that.

BY MR. FELDMAN:

Q Don't you know that?

THE COURT: The witness cannot testify to that. You can call the paying teller and find out from him whether he examined the check.

BY MR. FELDMAN:

Q Did you ever see Mr. Gabler?

A Did I ever see him?

Q Before to-day?

A No, sir -- yes, when I was first subpoenaed to this trial.

Q Did you ever see him in that hotel?

A No, sir.

Q Will you swear you never saw him there?

A Yes.

Q Do you know of your own knowledge that he ever came there?

A Not of my own knowledge, no, sir.

Q You never did see him down there?

A No.

Q When was the first time you saw him?

A The first time

I was subpoenaed in this case.

Q When was that?

A I don't remember.

Q Only once that you did see him before?

A No, I have been subpoenaed to this case five or six times.

Q And you seen him every time?

A Yes.

Q And spoke to him?

A Yes.

Q You spoke to him to-day?

A Yes.

Q In reference to what, this case?

A Yes.

Q What did you say to him?

A I don't remember in particular.

Q You don't remember what you said to him and what he said to you to-day?

A Yes, I remember some things.

Q What, for instance?

A I remember asking him if he was sure that he was in Canada during the month of September.

Q You asked him that?

A Yes.

Q Anything else, did he try to refresh your recollection with reference to the check?

A Not in reference to the check, no, sir.

Q Did he ask any question in reference to the check?

A Yes.

Q What?

A I asked him if there was not more than one check drawn by or presented by her to the bank and he said yes.

Q Did you ask him if it was his check?

A No, sir, I did not.

Q Did you call his attention to the certified check?

A Yes.

Q Did you speak with reference to his signature?

A No.

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Q You did not ask him those questions?

A No.

NORMAN B. HALL, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:  
Residence 202 West 103rd Street.

DIRECT EXAMINATION BY MR. SHERIDAN:

Q What is your business?

A Proprietor of the Hotel Glendenning.

Q Do you know the defendant Myrtle Bradshaw?

A I do.

Q Was she a guest at your hotel during the month of September?

A She was.

Q Did you know Mr. Edward Gabler prior to September 14th, 1917?

A I did not.

Q I show you a check marked Defendant's Exhibit A, and I ask you have you seen that check before?

A Yes, I saw it before.

Q Under what circumstances, when and where did you first see that check?

A I think I saw it first, my recollection of seeing it first was in the hands of the detective when he brought it to the hotel -- not at the time it was paid -- I do not recall it being shown to me at the time my clerk says he did. I do not recall that.

Q Did you ever have any conversation with the defendant in reference to checks that were signed by Mr. Edward Gabler, while she was a guest at your hotel?

A Yes.

Q What was that conversation?

A There was a check --

Objected to, overruled and exception.

MR. FELDMAN: What time and when?

MR. SHERIDAN: While she was a guest at the hotel.

MR. FELDMAN: I object.

Overruled and exception.

THE WITNESS: There was a check she had presented to us that had been returned.

BY THE COURT:

Q The question is this, concerning the signature of this check?

A No.

Q Only the signature?

A No.

MR. SHERIDAN: No, this witness had a conversation with the defendant in reference to this particular check and other checks that were drawn during the month of September while she was a guest.

THE COURT: That question was too broad. I do not know to what it might lead.

MR. SHERIDAN: If I confine it to the checks --

THE COURT: The question is too broad and I will not allow it.

BY MR. SHERIDAN:

Q Did you ever have any conversation With the defendant as to the check you hold in your hand?

A No, sir.

THE COURT: You may ask the witness if he had any conversation with reference to the name Edward Gabler, and

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what she said.

A No.

THE COURT: I do not know what you intend to prove by this witness.

BY MR. SHERIDAN:

Q Did you ever have any conversation with the defendant as to the name Edward Gabler appearing on checks as presented by her during the month of September?

A I had a conversation with her relative to a check that had been sent to the bank and returned for insufficient funds. That check was signed by Mr. Gabler.

Q Did you have any conversation with reference to the signature of Mr. Gabler?

A No. I asked her --

BY THE COURT:

Q What did she say concerning that check?

A I asked her why that check was returned -- let me think a moment I asked her why Mr. Gabler was paying or giving her checks, and she said her husband was in Chicago and was sending him the money to pay to her, that he was financing her through Mr. Gabler.

CROSS EXAMINATION BY MR. FELDMAN:

Q You are satisfied in your own mind that the check that was presented to you with the name of Gabler was written and signed by Gabler?

Objected to as a conclusion. Objection sustained.

Q You saw the check was a certified check when you looked at it, you saw it was certified by the bank?

A I am not sure

I ever saw that check until afterwards. I just said that.

Q Don't you remember seeing the check at the time?

A I do not recall it.

Q Did you hear your clerk testify that before he cashed it, he asked you whether he should cash it?

A Probably he did, but I do not recall it. I first saw it, to my knowledge, when it was in the hands of the detective, after this affair was started.

Q You do not remember what your clerk testified to, that he asked you for permission?

A No, that happens so often I could not recall it. It is a daily occurrence.

Q You are a depositor in a bank, you yourself are?

A Yes, sir, certainly.

Q You know what a certified check means?

A Certainly.

Q What does it mean?

Objected to. Objection sustained.

FERDINAND MENGES, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 958 Seneca Avenue, Brooklyn).

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Were you in the employ of the New York County National Bank on or about September 14th, 1917?

A Yes.

Q How long had you been in the employ of the New York County National Bank?

A About ten years.

Q What is your occupation there?

A Bookkeeper.

Q And it is part of your duties to have charge of the signature cards of the depositors?

A Well, as the checks come in I post them to the accounts as they are signed and from me they go to the hand of the paying teller.

Q Have you in your possession what is known as the signature card of Mr. Gabler?

A The paying teller has that.

(A card is produced by the District Attorney and handed to the witness)

THE WITNESS: That is the signature card.

Q I show you check marked Defendant's Exhibit A and I ask you was that check charged against the account of Edward Gabler?

A Yes, sir.

CROSS-EXAMINATION BY MR. FELDMAN:

Q What are your duties, bookkeeper and what?

A Bookkeeper.

Q You take care of the checks?

A I post the checks to the accounts.

Q When a check comes in for certification do you look up the signatures?

A No, the paying teller asks me if the check is good for the amount.

Q You only look up the book to see if there is enough money left?

A Yes.

BY THE COURT:

Q Were you the bookkeeper that had charge of this check?

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A Of that account.

Q What accounts did you have charge of?

A D to G.

Q You have seen many of the signatures of the depositors of your bank?

A Yes.

Q Are you familiar with their signatures?

A Yes.

BY MR. FELDMAN:

Q Are you familiar with Mr. Gabler's signature?

A Well, I handle the accounts. I saw them often.

Q Could you tell whether he wrote a check or not by looking at it, without comparing it with the card?

A No, sir.

Q As a rule you do compare?

A I do not, no, sir.

Q I mean the paying teller?

A That is the paying teller's business, yes.

Q You could not tell if it is his signature unless you compared it with the card?

A No.

WILLIAM O. TUTTLE, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 10 Tremont Street, Irvington, New Jersey).

DIRECT-EXAMINATION BY MR. SHERIDAN:

Q What is your business?

A Paying teller of the New York County National Bank.

Q How long have you been in the employ of the New York County National Bank as paying teller?

A 20 years.

Q I show you a card and I ask you is that the signature of

Mr. Edward Gabler?

A Yes.

Q As presented at your bank?

A Yes.

Q And what do you call that card?

A A signature card.

Q That card you brought from your records?

A Yes, sir.

Q From your bank this morning?

A Yes.

Q Now, I show you a check marked Defendant's Exhibit A.

BY THE COURT:

Q You say you were the paying teller for 20 years?

A Yes.

BY MR. SHERIDAN:

Q I ask you was that check presented for certification at your bank?

A Yes.

Q Is the signature on that check, in your opinion, the signature as on the card?

A Yes, sir.

Q Of the bank?

A Yes, sir.

THE COURT: You did not object to it, Mr. Feldman.

MR. FELDMAN: No, I did not.

Q It is part of your duties at the bank, if a check is presented for certification, for you to compare the signature on the check with the card containing the signature of the depositor?

A Yes.

Q Did you do that in this instance?

A I do not recollect.

Q It is your custom, however?

MR. FELDMAN: I object to the custom.

THE COURT: He says he does not recollect.

BY THE COURT:

Q Have you ever seen the signature of Edward Gabler?

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A Yes.

Q Such signatures have passed through your hands on many occasions?

A Yes.

Q As a rule you rely upon your memory of the man's signature?

A Yes.

Q It is only in exceptional cases that you make a comparison?

A Only in case of a doubt.

Q At the time this check was presented to you, Defendant's Exhibit A, for certification, have you any recollection whether you made a comparison of the signature on the check with the signature card?

A I have not.

Q You have none?

A No.

Q You have been paying teller for 20 years?

A Yes.

Q In the course of that time you have made a study of handwriting?

A Yes.

Q Are you able to express an opinion as to the handwriting of a person, by comparison?

A To my satisfaction, yes, but I am not an expert.

THE COURT: Then I will not ask you an expert question.

BY MR. SHERIDAN:

Q During the past five years have you had occasion to see many checks that were presented bearing the signature of Edward Gabler?

A Yes.

Q Do you ever recall in any instances where a check was made payable to Ellen Gabler?

A No.

CROSS-EXAMINATION BY MR. FELDMAN:

Q As a rule you are only interested in the signature?

A Yes.

Q There is no doubt in your mind that that is the signature of Mr. Gabler?

A There is no doubt in my mind that that is the signature.

BY THE COURT:

Q That that is the signature?

A Yes.

MR. SHERIDAN: I offer in evidence the signature card.

THE COURT: The signature card will have to be proved.

BY THE COURT:

Q Did you see the signature placed on this card?

A No.

Q Do you know who did that, is there any objection to it, Mr. Feldman?

MR. FELDMAN: It is objected to -- no, I have no objection.

THE COURT: Then the defendant consents to the admission in evidence of the signature card.

MR. FELDMAN: Yes.

The signature card is received in evidence and marked People's Exhibit 6.

BY THE COURT:

Q You do not claim to be an expert?

A No.

Q You would not make an attempt to express an opinion by comparison of the handwriting?

A No.

Q In giving your opinion as to the signature of the Reverend Doctor Gabler, you are not expressing any professional opinion?

A No.

Q You are simply giving your opinion as to the handwriting of the Reverend Doctor Gabler from your knowledge of having seen him write?

A Yes.

Q You have seen him write his signature?

A Yes.

Q You are merely testifying as a lay witness?

A Yes.

BY MR. FELDMAN:

Q For the last five years you have handled his checks?

A Yes.

Q And by looking at this check you recognize his signature?

A Yes.

Q And therefore certified the check?

A Yes.

Q And there is no doubt that that is his signature?

BY THE SECOND JUROR:

Q You would not have certified that check unless you were positive of the signature?

A No, I would not.

THE JUROR: Consequently, if he certified that check at the time he must have been certain the check was signed by Mr. Gabler.

THE COURT: He is, he says.

THE WITNESS: I was satisfied of the signature at the time I certified it.

THE COURT: He still says in his opinion this is the handwriting of Dr. Gabler.

MR. FELDMAN: And his opinion was so strong that he certified the check.

BY MR. SHERIDAN:

Q You do not compare the signature on the check with the signature on the card in all instances?

A No.

Q Have you any recollection in reference to this particular check, whether you compared the signature with the signature on the identification card?

A No, sir, I have not.

MR. FELDMAN: I object. He has already stated that he does not remember.

BY THE COURT:

Q Do you recall when, prior to to-day, you had occasion to examine the signature card bearing the signature of Edward Gabler?

A Yes.

Q Do you remember when?

A It was in the month of -- during the month of October I think Mr. Gabler came into the bank and said those signatures were not his. Then I made a comparison or made an examination.

BY MR. SHERIDAN:

Q I show you a check marked People's Exhibit 5, and I ask you is that Mr. Gabler's signature?

A I think it is, yes.

Q I show you People's Exhibit No. 3, and I ask you is that Mr. Gabler's signature?

A I think it is, yes.

Q I show you People's Exhibit No. 4, and I ask you if that is the signature of Edward Gabler?

A I think it is, yes.

Q If all those checks were presented, would you have them

certified?

A Yes, sir.

THE COURT: That is hypothetical.

BY MR. FELDMAN:

Q I show you the \$30. check, Defendant's Exhibit A, and I ask you is that Mr. Gabler's signature?

A I think it is, yes.

BY THE COURT:

Q Are you familiar with right and left hand writing?

A No, I am not.

Q Did you ever see in the signature Reverend Gabler, a capital G similar to the capital G in the signature in Defendant's Exhibit A?

A Yes.

Q Now, in reference to the smaller letter d, in Edward, I ask you the same question, did you ever see the letter d in his signature similar to the letter d there?

A Yes.

THE COURT: He is not an expert, so you cannot ask him as an expert. That is all.

BY THE SEVENTH JUROR:

Q I understand you to say that after the signature on the certified check, you were certain that was Mr. Gabler's signature?

A Yes.

Q But on the other checks he cashed or wrote, you are not certain, you only think so?

A Yes, I think they are.

BY MR. FELDMAN:

Q How many checks do you certify during the day?

A It is hard to tell.

Q About?

A Sometimes 25 and sometimes 125, it depends

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upon the volume of business.

Q In the amount of money?

A \$500,000. a day to \$5,000. a day.

Q Where you have any doubt you compare the signature?

A Yes.

Q If you have no doubt you certify the check?

A Yes.

BY THE COURT:

Q If a check for the sum of \$30. was presented for certification would you make a comparison of the signature with the signature card?

A Yes, the amount is immaterial. It is your suspicions.

BY MR. FELDMAN:

Q There was nothing suspicious whatever in your mind?

A Yes.

Q You have none whatever to-day?

A No.

BY THE COURT:

Q Do you know who presented the check?

A I do not.

BY MR. SHERIDAN:

Q Have you any recollection of ever seeing the defendant prior to her arrest?

A No.

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes a recess until 2:15.

After recess. Trial resumed.

EDWARD GABLER recalled by the People:

BY MR. SHERIDAN:

Q I show you these checks, and I ask you were these

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checks signed by you?

A Yes.

Offered in evidence.

Objected to.

MR. SHERIDAN: These are additional checks I am offering to prove the signature of the complaining witness. They are to be used by the expert.

THE COURT: You want to prove the genuine writing of this witness with a view of making comparisons with disputed writing. That is the theory, Mr. Feldman.

MR. FELDMAN: I object.

THE COURT: He is entitled to do that under the decisions.

Objection overruled. Exception.

THE COURT: In other words as standards of handwriting.

MR. SHERIDAN: Yes.

The checks are received in evidence and marked People's Exhibits 7, 8, 9, 10 and 11.

THOMAS M. GOSS, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. SHERIDAN:

(Formerly attached to the 4th Branch Detective Bureau)

DIRECT-EXAMINATION BY MR. SHERIDAN:

Q Are you a member of the Municipal Police Force of the City of New York?

A I was up until the 14th of last month and

then I was granted leave of absence to enter the Army.

BY THE COURT:

Q How old are you?

A 26.

BY MR. SHERIDAN:

Q Were you the arresting officer in this case?

A Yes, sir.

Q Did you arrest Myrtle Bradshaw? A I did.

Q Where did you make the arrest?

A I believe it was around 15th Street and 6th Avenue, if I am not mistaken, outside of a hospital down there -- she was there to see her daughter.

Q Do you recall the date?

A No, I have not got my book with me.

Q At the time of her arrest did you have any conversation with her?

A Yes.

Q What did she say?

Objected to.

THE COURT: What she said I will allow.

BY THE COURT:

Q You asked her some questions?

A Yes.

Q Did she make any answer?

A Yes.

Q State what she said, if anything?

A She said "Reverend Doctor Gabler gave me the check, signed with his signature, and I filled in the body."

BY MR. SHERIDAN:

Q Did she say anything else?

A Not at that time.

Q When next did you have a conversation with her?

A A few hours later in the 4th Branch Detective Bureau.

Q What were her answers on that occasion in answer to your questions?

A She said she had received several checks from Dr. Gabler and another answer was "He visited me at one time at my furnished room where he placed his hands upon my chest My little daughter was in the room at the time."

Q I show you Defendant's Exhibit A and I ask you were you in possession of that check?

A I was.

Q During the course of this conversation?

A I was.

Q Did you show her the check?

A I did.

Q Did she say she filled in the body of that check?

A I believe she did.

BY THE COURT:

Q Did she?

A I would not be positive on it at this moment. I handed her this check and I said, who is Ellen Gabler. She said that is somebody that I just know. I said, what do you mean, you just know. She said "The Doctor told me to put that name in there.

BY MR. SHERIDAN:

Q Is it your best recollection that in that conversation she said to you that she filled in the body of that check?

A Yes, sir, it is. In fact, at this moment I am positive of it now. I recollect it.

CROSS-EXAMINATION BY MR. FELDMAN:

Q The more you think of it the more you are positive?

A Yes, sir -- the more facts come back in my memory.

Q The facts are presented to you clearly?

A Yes, sir, when I see the exhibits the matter is recalled to my mind more clearly.

Q Your memory is pretty good?

A At times.

Q Did you put down in writing what was said to you?

A No.

Q When did it happen?

A At the time of the arrest.

Q When was that?

A Around August sometime, I have not got my book with me at present.

Q You don't remember the date?

A No, I could get it very easily.

Q Do you remember the day of the week?

A I believe it was Friday.

Q Do not believe, but do you know the day?

A I would not swear to it, no.

Q Do you know the time of the day?

A Yes.

Q What time was it?

A 4 P.M.

Q You met her in front of a hospital?

A Yes, sir -- one block north of the hospital.

Q You said you were a police officer?

A I did.

Q Did you give her any warning that whatever she said to you that you might bring it up against her, before you asked her any questions, did you say that to her?

THE COURT: There is no such duty enjoined upon an of-

flcer.

MR. FELDMAN: I understand there is.

THE COURT: No. The Court of Appeals in the case of the People against Randazzi, 194 New York, held that it is unnecessary for the police to apprise the defendant of his or her rights. "The failure of the District Attorney, before taking a confession, to warn the accused that his statement might be used against him, is not sufficient ground for reversal. The District Attorney is not a magistrate required by statute to advise the accused of his statutory rights upon a preliminary examination before commitment."

In the case of the People against Garfalo, 207 New York, the Court of Appeals held that a witness need not be warned of his rights, excepting that a judge must do so, but an officer or a district attorney is not required to apprise anyone of his or her rights.

BY MR. FELDMAN:

Q Did you tell her you were a police officer?

A Yes, I showed her my shield.

Q And she told you that the check was given to her?

A She told me the checks were all right. That the check --

Q What check was all right?

THE COURT: The case of the People against Hill is to the same effect.

Q What do you mean, she said it was all right?

A When I--

Q She told you the signature is Mr. Gabler's, is that right?

A She told me the checks were all right, that she had been given -- that they had been given to her by Dr. Gabler.

Q Had been given to her?

A Yes.

Q Did she tell you where?

A One was given to her at the church rectory and the other I believe was supposed to have been given to her at her home.

Q Did you ask her how she received it?

A I did, she said she received it by hand.

Q By hand -- did she say anything about mail?

A No.

Q Did she tell you why she received that?

A No, sir, she did not.

Q You did not go into the details altogether, did you?

A Not very much.

Q You were not very much interested in the case?

A I was as a police officer, up to a certain point, to see if there had been a crime committed.

Q You did not know that?

A Why, yes, when Dr. Gabler told me it was not his signature.

Q Then you thought so?

A Then I was positive -- I did not think -- I was positive at that point.

Q At the time that you placed her under arrest you knew Dr. Gabler?

A Yes, because I had interviewed him before I made the arrest.

BY THE COURT:

Q Who sent for you originally in this case?

A A private detective agency came to the 4th Branch Detective Bureau and said --

Q Do not say what was said?

A He came there and said --

Q Do not state what was said to you?

A I do not know how I am to get around it.

Q Did you see anybody before you went to see Dr. Gabler?

A Yes, sir, I saw the operator of a private detective agency.

Q After seeing the operator, where did you go?

A I proceeded to the rectory where Dr. Gabler is.

Q Did you ever call at the bank, the New York County National Bank?

A No, I sent for the representative of that bank to have him in court the following morning.

BY MR. FELDMAN:

Q Did you ever try to find out if it was his signature or not?

A Did I?

Q Yes?

A I asked people interested in it.

Q Did you find out whether it was his signature or not at the bank?

A No, I did not except I spoke to the representative of the bank and he stated --

Q Do not tell us that, it might be against the rules of evidence -- that is all --

BY MR. SHERIDAN:

Q Was this check also, dated September 19th, in the possession of the defendant at the time of her arrest?

A None

of the checks were in her possession. There were three checks handed to me.

MR. FELDMAN: I object to that.

MR. SHERIDAN: Then I withdraw it.

THE COURT: The question is withdrawn.

MR. FELDMAN: And I ask your Honor to direct the jury to disregard it.

THE COURT: Yes, the jury are so directed.

LOREN C. HORTON, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Officer address 261 Broadway, residence 199 St. Clinton Street, East Orange).

DIRECT EXAMINATION BY MR. SHERIDAN:

Q What is your business?

A I am an examiner of questioned documents, handwriting, typewriting, paper, pens and ink, written instruments, that has to do with the investigation of documents in all their phases.

Q How long have you been engaged in that business?

A About 12 years.

Q During the past 12 years have you had occasion to testify?

A I have. I have testified in the criminal court here in New York and for the United States District Attorney in New York. I have also testified in Philadelphia, Washington, Providence and in the States of Vermont, Connecticut, Arkansas, New

Jersey, New York and Pennsylvania.

BY THE COURT:

Q During the last twelve years?

A Yes.

BY MR. SHERIDAN:

Q How frequently have you testified in the course of a month or two months, in a court hearing, in reference to handwriting?

A Sometimes I have testified twice in the same day in different cases.

BY THE COURT:

Q In about how many cases have you given testimony?

A I should say in perhaps one hundred court cases. Many of my cases never come into court. I can enumerate some of the cases if you desire.

Q Yes?

A The United States against May, United States Government at Washington.

BY THE COURT:

Q In this county in what cases have you testified?

A The People against Beal, several years ago.

Q That was the case of Dr. Daderian?

A The black hand case.

Q And Mr. Kinsley is dead?

A Yes, sir. I am his successor.

Q And the other expert was who?

A Mr. Osborn.

Q Is he alive?

A Yes, and I was in the Means case in North Carolina for the District Attorney's office and I was in

the case of the People against Gazelle.

BY THE COURT:

Q You may proceed.

BY MR. SHERIDAN:

Q Have you made an examination of different signatures of Edward Gabler that are admitted in evidence, in this court room to-day?

A I have.

Q You have also examined specimens of his handwriting both with his right and with his left hand?

A Yes.

Q I show you People's Exhibit No. 6, and I ask you to compare that with the signature on Defendant's Exhibit A?

A I have done so.

Q You have made a careful examination of the signatures on these different checks?

A I have.

THE COURT: You had better so phrase your questions, Mr. District Attorney, as to embrace all of the conceded handwritings of the Reverend Doctor Gabler. It is very important for your record to so phrase your questions.

Q You have examined the handwriting of Mr. Gabler not only as to the signatures, but you have also examined Defendant's Exhibits?

A I have.

Q Have you examined the copy of his handwriting, People's Exhibit No. 2?

A I have.

Q On the examinations you have made, will you kindly give your opinion as to whether the signature on Defendant's Exhibit

A, is the same as the signature appearing on the identification card People's Exhibit No. 6?

A If the Court please, I have framed my testimony with an additional --

MR. FELDMAN: I object. Just answer yes or no.

THE COURT: Answer the question.

(The question is repeated).

A I should like to do that in connection with some other documents I examined.

MR. FELDMAN: It is a question yes or no.

(The question is repeated).

THE COURT: That question is restricted to those two exhibits.

THE WITNESS: I understand it.

THE COURT: Are you prepared to express a professional opinion on that question?

A I am.

Q State what is your opinion?

A In my opinion they are not written by the same hand.

Q In other words, the hand that wrote People's Exhibit 2, the signature on the identification card, did not write the signature on Defendant's Exhibit A, the second question, is that right?

A That is right.

Q Now, you may give your reasons to this jury?

A I formed my opinion of this signature Edward Gabler on Defendant's Exhibit A in connection with another questioned check.

Q The check is there in that group of checks?

A I should

like to see the additional questioned check.

MR. SHERIDAN: That cannot be admitted at this time.

THE WITNESS: Then I cannot testify until it is in.

MR. SHERIDAN: That is the check for \$100.

THE COURT: That check is not in evidence.

MR. SHERIDAN: At your suggestion I withheld it.

BY MR. SHERIDAN:

Q Cannot you give an opinion other than that?

THE COURT: In justice to the witness, an expert when called for the purpose of expressing his professional opinion under the rules of law he can only do so by giving testimony with a view to showing that his opinion is based upon a comparison of disputed handwriting with the genuine and conceded writings. It appears that the witness examined some writing which at present is not in evidence, and in order for the witness to express his professional opinion he wanted to refer to that document and I have told the District Attorney this cannot be done, so for the present we will proceed with having the witness give testimony concerning the exhibits which he examined, exhibits which are conceded to be the handwriting of the People's witness, the Reverend Doctor Gabler and Defendant's Exhibit A, claimed by the People to be the forged instrument. Do you understand the question, Mr. Horton?

THE WITNESS: Yes, I do.

BY MR. SHERIDAN:

Q Will you kindly give your opinion, the reason for your opinion, wherein the signature on Defendant's Exhibit A differs from the signature of the admitted signatures of the complaining witness Edward Gabler, from the checks you have in your hand?

A The standard signatures on People's Exhibits in evidence, No. 6, No. 10, No. 4, No. 3, No. 9, No. 8, No. 11, No. 7 and No. 5, are written offhand, and freely written, whereas the signature Edward Gabler on Defendant's Exhibit A in evidence has been slowly and carefully drawn, not written -- not written in the sense of free offhand unconscious writing. The word Gabler to the alleged signature compared with the word Gabler of the payee to this check is the same in length.

BY THE COURT:

Q The same in what?

A In length.

Q That is the payee's name Gabler and the drawer's name Gabler?

A Yes. This is a circumstance that does not occur in ordinary writing, except over a period of time of a great many repetitions of a signature. When Mr. Gabler writes his own name he writes it offhand, freely and unconsciously. When this signature was written, in my estimation, it was made from one common model, so that the two Gablers are the same in length. They do not show the strength and ease of his natural writing, and if the Court please I would like to show the jury the two words Gabler as to length.

Q Yes.

A I have a glass here which I would be glad to

loan any one of the jurors. Take the words Gabler of the payee and the word Gabler of the makers name on the check, and in ray estimation they are exactly the same length. The dividers I have offered the jury will enable you to measure the two words Gabler, and help us to determine whether or not they are substantially the same length.

BY MR. SHERIDAN:

Q Go right ahead?

A In my further opinion the figure making on this disputed check -- the figures 1214 and the 14 following the September, and the 7, are a superior hand as far as the writing is concerned, to that on the standard. If the Court please, I would like to show the jurors Exhibits 9, 4 and 10, and in addition to comparing the figures I would like to ask them to compare the style of the capital S, the letter which begins the word September, and in the standard checks one begins the word Seven and another begins the word St. George, and another begins the word Sears, Roebuck & Company, and in addition to that also like to have them look at the style of the capital T in the word Thirty of the disputed check and compare that with the capital T of the word Ten, in Ten dollars and the capital T in the word Three dollars, and further compare the numerical double cipher over double ciphers in the cents, after the figures 30 in which the one -- the usual no one hundredths -- the one is missing, and in the standards it is present.

Q Can you state with a reasonable degree of certainty

whether the signature on the check known as Defendant's Exhibit A is the signature of Edward Gabler or not?

A In my opinion it is not.

BY THE COURT:

Q Have you compared Defendant's Exhibit A with People's Exhibit 6?

A I have.

Q Can you state in your opinion whether the hand that wrote People's Exhibit 6 wrote the signature to Defendant's Exhibit A?

A In my opinion it did not.

Q Will you explain to the jury the difference, if any, that you discover in both signatures -- the differences, if any?

A One of the main differences is that of the slant, very apparent, and another decided difference is the speed at which the two signatures are written. The one to Defendant's Exhibit A, as I said at the outset, has been slowly produced, and under a modest magnification, the lines within themselves show the process by which they were being made was a slow one and is not the kind of a speed which would make clean clear out edged letters. The production of this Edward Gabler on this check, by transmitted light, is an easy proposition, because this check is quite transparent within itself, and it would be a comparatively easy matter to lay this check down over a model signature, and with the light coming through from the under side, you could see sufficiently to follow the lines of the signature underneath. If the paper upon which the model

signature was written was too thick, it is an easy matter to take a little bit of vaseline and put on the paper and make it transparent at once, so you would have no trouble seeing through it at all, and if the Court thinks it wise I would be glad to show the jury an electric light with a plain glass and frame and see how transparent that particular piece of paper is and how possible it would be to lay it over another piece and transfer that signature on there by a slow process.

THE COURT: You may do that.

(The witness demonstrates with an electric light).

THE WITNESS: Take People's Exhibit 9 in evidence and Defendant's Exhibit A and see if it is not possible to see the writing of one check appearing through the other by transmitted light.

BY THE COURT:

Q With reference to the alignment of the letters of Defendant's Exhibit A, have you made a comparison with the alignment of the letters in People's Exhibit 6?

A I have.

Q What, if anything, do you discover?

A That Exhibit A, in the word Gabler, recedes downward -- the alignment is down hill, as we would say.

Q In Exhibit A?

A Yes.

Q What is the alignment of the letters in Exhibit 6?

A Substantially horizontal.

Q Explain to the jurors what you mean by the technical

term alignment of letters?

A As to whether or not the letter goes uphill or horizontal or down hill.

Q Have you examined People's Exhibit No. 2 in evidence?

A I have.

Q Have you made a comparison between People's Exhibit 2 and Defendant's Exhibit A?

A Yes.

Q Will you state the nature of examination that you made with reference to those two signatures?

A I examined them particularly with reference to the force or speed with which they were written or with which they were reproduced, and I find the word Edward Gabler in Exhibit No. 2 represents an offhand easy flowing style with the sides of the strokes the shaded strokes of the letters clean and clear cut, and distinct as to outline. Whereas the sides of the lines in the word Edward Gabler of Defendant's Exhibit A are broken or furrowed or wavering, by reason of the slow process at which they were made. That is very apparent under ordinary magnification, and I would be glad to lend my glasses to the jury to see it.

Q Will you state whether or not the person who wrote the signature appearing on People's Exhibit 2 in evidence was the same person who wrote the signature appearing on Defendant's Exhibit A?

A In my opinion it was not the same hand.

Q Can you state in your opinion, from the writings that you have in your possession, from what writing, if any, Defendant's Exhibit A is a pattern?

A It is a pattern of a back

hand signature.

Q Of a back hand signature?

A Yes, sir, backhand. A model made from that.

Q State to this jury the reasons, if any, that you can furnish -- do you get my point -- can you state to the jury your reasons -- in what respect the signature on People's Exhibit 2 differs from Defendant's Exhibit A?

A I have so stated, that it materially differs in the quality of the lines. In the word Edward Gabler on No. 2 the outline of the letters as to their edges is clean and clear cut, whereas in the words Edward Gabler on Defendant's Exhibit A the edges are not clean and clear cut and do not show the same rapidity of production as the others.

Q Did you make a comparison of the signature appearing on People's Exhibit 4, 10, 5, 9, 8, 11, 7 and 3, with People's Exhibit 2?

A I have.

Q State the result of your finding, if any, with reference to those signatures?

A The Exhibit 2 is backhand, decidedly, and the Exhibits that you have just mentioned are all written forehand, that is to the right of a vertical.

Q In all of the checks drawn on the bank, which signatures are claimed to be the standard signatures, did you find any signature there written in back hand?

A I did not.

Q Is it possible to distinguish between the writing of a person who is accustomed to write both with his right and left hand?

A It may be under certain circumstances.

Q Can you recognize the handwriting of a person who writes with his right hand differently than when written with his left hand -- in other words can you make a comparison between back hand writing and right hand writing, in order to determine whether the same person wrote both?

A No, because there are some persons who write left handed that write forehanded, and also back handed, both.

Q If the matter of alignment of the forehanded and back handed handwriting were the same, there would be a possibility of discovering whether the same person wrote both?

A Yes, sir.

CROSS EXAMINATION BY MR. FELDMAN:

Q Can you tell us what part was written with one hand and what part with the other hand?

A I don't believe I can.

Q You examined you say all these checks?

A Yes.

Q Were they written by the same party?

A In my opinion they were.

Q They were?

A Yes.

Q Did you examine also the check in evidence -- did you examine this one, Defendant's Exhibit A?

A I did.

Q Did you examine that? A I did.

Q And you say it was written by the same man who wrote these?

A In my opinion it was not.

Q Why did you find that, by certain letters?

A Because of the quality of the lines that make up the letters.

Q Then you say the signature on that card and the signa-

ture here in your opinion is not the same?

A I did.

Q Did you also examine the date of that card, when that was written?

A I do not recall.

Q Is there any difference in the time, in a lapse of five years, that differs the handwriting of a man?

A Not substantially.

Q Don't you know it does, that the handwriting of a man changes within five years?

A That depends upon the man.

Q Any man?

A No, not all men.

Q Don't you know also that the pens you write with and the inks that you use and the humor and mood you are in, might influence the handwriting of a man?

A Yes.

Q When were you called on this case?

A I received a telephone message last night, I think, about five o'clock.

Q You are paid by the City, retained by the City?

A I am not retained by anybody. I presume I will be paid by New York County.

Q You have submitted your bill to New York County?

A I have in the past.

Q What is your bill?

A I don't know what it will be until I get throw.

Q By the day or the hour?

A By the day.

Q Upon an acquittal or a conviction?

A It is immaterial to me whether there is a conviction or not.

Objected to. Question withdrawn.

Q Suppose I tell you that the paying teller of the bank claims that for 20 years he has been paying teller there, that he pays out from \$5,000. to \$500,000. a day and has stated that he handled those checks of Mr. Gabler's for the last five years, and handled many of his checks and he knows his signature, and knows his handwriting, and that there is no doubt in his mind that the hand that wrote the other checks is the hand that wrote this check Defendant's Exhibit A, would that change your opinion?

A No, not a bit. I have no fear of bank men at all.

Q You were not a paying teller?

A I have matters that involve more money than bank tellers.

Q What business were you in before you became an expert?

A I was a teacher.

Q Of what?

A Teacher of commercial branches, mathematics and accounting.

Q Not of handwriting?

A Penmanship. I took a special course in that.

Q How many years did you study?

A I studied ever since I started in on it, in 1889. I have been on the job since 1889 studying and investigating.

Q And all you can find in the difference of the handwriting is in the strong line and softer line?

A That makes a big difference sometimes.

Q You showed us something under the glass, some measure, that the name is exactly the same upon one check, the same

length of name?

A I don't think anything was put under a glass. There was a little compass shown here to show the length of the names.

Q Is it not a fact that a man who writes sometimes his name a certain length, does not write it as lengthy as before, a different way?

A Yes.

Q It depends a great deal upon the humow, where he writes it and under what circumstances he writes it?

A I suppose everything makes a difference.

Q Is not handwriting one of the principal qualifications of a man, you can tell a man by his handwriting?

A I don't pretend to.

Q Can you tell a man who is of a nervous disposition by the handwriting?

A No, I have seen some very nervous people who write very well.

Q You do not mean to say a man would write all the time the same way, that the way he writes to-day he wrote five years ago?

A There are some people do not change their writing materially at all over a period of a great many years, and others who do.

Q You are not exactly sure that that man did not write that check because five years ago he wrote the name upon this card?

A I am sure of that. There is no doubt about it in my mind that he did not write the check.

Q You appear as an expert for whoever retains you?

A No, sometimes I have to turn people down.

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Q You turn then down?

A I do.

Q And have you the names of those you have turned down?

A I can get those.

Q You don't remember them?

THE COURT: When the District Attorney calls you into a case --

THE WITNESS: When the District Attorney calls me in a case I very frequently tell them they have not any case. I told Mr. Dooling only a few weeks ago that he had no case in the Stiasila matter and I told Mr. Black he had no case in the McCauley matter, and I told Mr. Minton that he had no case in another matter. I think nine or ten cases within the last year I have told the District Attorney he was wrong.

BY MR. FELDMAN:

Q They called you in for consultation?

A No, called me in to investigate. I have had indictments dismissed upon what I told them.

Q You appear for both sides, whoever retains you?

A Whoever comes to me first I take up the matter and sometimes I do not go further than an office examination, because I cannot agree with my clients.

THE PEOPLE REST.

MR. FELDMAN: At this time, at the close of the People's case I ask your Honor to advise the jury to acquit.

There is no proof before your Honor of any forgery of anything this woman wrote upon that check. There is some proof she gave the check. There is proof she received money upon the check but no proof she forged the name.

THE COURT: How about the second count, uttering? MR. FELDMAN: There is no proof she uttered the check.

THE COURT: That is the passing off of the check.

The witness, Mr. Hancy testified that he was bookkeeper and cashier of the Hotel Glendenning. That he recalled distinctly that this defendant presented to him a check for \$30. which he cashed. Mr. Gabler has testified that he issued no check to the order of one Ellen Gabler; that the signature upon that check was not written by him nor did he authorize any one, or give this check to this defendant, and he also testified that the signature was not his. An expert testified that in his opinion the man who wrote the conceded and standard writings did not write the signature Gabler upon Defendant's Exhibit A. Upon this evidence I shall deny the motion.

MR. FELDMAN: On the other hand, we have the paying teller who handled for five years those checks.

THE COURT: The paying teller testified that was his signature. But after all is said and done it will be for this jury to say, taking into consideration the testimony of all the witnesses, whether or not this is a forged in-

strument. It is a question of fact for the jury. The motion is denied.

Exception.

THE DEFENCE RESTS.

THE COURT: I will submit this case to the jury on the second count of the indictment. The reference clauses in the first count will be retained.

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes an adjournment until to-morrow morning, January 9, 1918, at quarter to eleven.

Court adjourned until 10:30.