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COURT OF GENERAL SESSIONS OF THE PEACE

TRIAL TERM-- PART IV.

-----X
THE PEOPLE
vs.
MAX BLAUSTEIN.
-----X

Before:
Rosalsky, J.,
and a Jury.

New York, May 6th, 1910.

Date of Indictment, September 17th, 1909.

Indicted for Forgery in the Third Degree.

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

REUBEN LESLIE MAYNARD, Esq., District Attorney, for the
People.

L. & J. WEINBERGER, by

MR. WEINBERGER, of counsel, for the Defendant.

A jury was empanelled and sworn.

THE COURT: Do not discuss this case, nor permit any
person to talk with you about it, nor form any opinion as to the
guilt or innocence of the Defendant until it is finally submitted
to you. You may be excused until 2 o'clock.

Bail continued.

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2 o'clock P. M.

THE COURT: Do not discuss this case, nor permit any person to talk with you about it, nor form any opinion as to the guilt or innocence of the Defendant until it is finally submitted to you. Be in your seats at 10:30 o'clock Monday morning.

Bail continued.

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May 9th, 1910.

TRIAL RESUMED.

THE COURT: Do not discuss this case, nor permit any person to talk with you about it, nor form or express any opinion as to the guilt or innocence of the Defendant until it is finally submitted to you. You may be excused until 2:15 o'clock.

Bail continued.

TRIAL RESUMED.

2:15 P. M.

THE COURT: Do not discuss this case, nor permit any person to talk with you about it, nor form or express any opinion as to the guilt or innocence of the Defendant until it is finally submitted to you. Be in your seats at 10:30 o'clock to-morrow morning.

Bail continued.

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May 10th, 1910.

TRIAL RESUMED.

MR. WEINBERGER: If the Court please, I move to dismiss the indictment on the ground that the facts stated in the indictment do not constitute a crime inasmuch as the indictment simply alleges that a certain entry was made with intent to defraud.

In the case ex rel Hegeman against Carrigan, reported 195 N. Y., the Court of Appeals there decided that there must be a person to be defrauded to constitute ^{the} crime of forgery in the Third Degree, the crime the defendant is here charged with. The same case is reported in the Appellate Division of this department, 129 Appellate Division, page 75, and there the Court expressly says there must be a person to be defrauded. I submit, if your Honor please, that that being a necessary part of a crime, if a person is to be defrauded and that not having alleged here a person -- it not being alleged here in this indictment, the indictment is fatally defective. In 195 Appellate Division, the Court of Appeals said that the forgery was made for the purpose of deceiving somebody, and it must be for the purpose of defrauding a person.

THE COURT: The proposition of law as urged by

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you is not borne out by the Hegeman case. The information in the Hegeman case charged that the relator with intent to defraud, caused false entries to be made in the cash book of an insurance company, of which he was President; that such entries were false, and they purported and set forth that the company had made temporary loans to persons mentioned, and in the amounts indicated by the entries; whereas in fact no such loans had been made as of that day as the relator well knew.

Held that any evidence contained in the deposition accompanying the information, did not tend to show the commission of an offence under Section 515 of the Penal Code. The entries in no wise purported to defraud the company nor anyone else, nor had there been any larceny or misappropriation which an entry could serve to conceal or cover up.

I am very familiar with this form of an indictment, and have had occasion to pass upon it before both as Assistant District Attorney in the case of the People against Hunt, and as Judge in the People against Curtis, and the Court of Appeals properly disposed of the Hegeman case. In this indictment I assume that there is an allegation that the false entry was made with intent to conceal a larceny.

MR. WEINBERGER: If your Honor please, there is not.

THE COURT: Is not that in the indictment -- let

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me have the indictment. (Examines). This indictment is
a good indictment. Motion denied.

MR. WEINBERGER: I take an exception.

(The District Attorney opens the case to the Jury).

MR. WEINBERGER: (During the opening) I object
to the District Attorney injecting into this complaint any
other charges that he wants to bring in here.

THE COURT: You mean other entries?

MR. WEINBERGER: I don't know, if your Honor
please, some other entries.

THE COURT: Other alleged false entries are you
referring to?

MR. MAYNARD: If your Honor please, in support of
an indictment, and under its peculiar form I shall offer
proof of similar instances.

THE COURT: Objection overruled.

MR. WEINBERGER: Exception.

(The District Attorney continues opening to Jury).

W I L L I A M S C H W A R T Z, a witness called on behalf of the
People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MAYNARD:

Q Now, Mr. Schwartz, will you be so good as to talk loud
enough so that the farthest jurymen in the box can hear every

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word you say. What is your business, Mr. Schwartz? A Manufacturer of coats.

Q And where is your place of business? A 65 Bleecker Street.

Q How long has that been your place of business? A Since about six years.

Q How long have you known the Defendant, Max Blaustein?
A Since about five years.

Q Five years? A Yes.

Q You are a clothing contractor, Mr. Schwartz? A Yes.

Q And for whom do you manufacture clothing? A Heidelberg, Wulf & Company.

Q And where is their place of business? A On Broadway, 644.

Q In the year 1909, and in February of that year, how many people were in your employ, if you can state? A I cannot tell that exactly -- I never counted them, and I don't know the number of the people.

Q Approximately how many people did you have in your employ?

A I think it was about 200, around that.

Q 200? A Yes.

Q And upwards? A Yes.

Q That is about the average that you employed? A No, at many times I employed three or four hundred.

Q But that is on work that you are doing for Heidelberg, Wulf & Company? A Yes, sir.

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Q The work done under contract? A Yes, sir.

Q And agreement? A Contract.

Q That is under contract? A Yes, sir.

Q Is that contract or agreement dependent in any way upon your profits in your own business?

MR. WEINBERG: I object to that.

MR. MAYNARD: I withdraw that question. I do not like the form of it myself.

Q Your only connection with Heidelberg, Wulf & Company is that of clothing contractor, is it? A Yes, sir.

Q That firm has no interest in your business at all? A No.

Q And have you any interest in theirs in any shape or manner?
A No shape or manner.

Q In what capacity -- how was this Defendant Blaustein employed by you, about your manufactory? A As a bookkeeper.

Q As a bookkeeper. Has he always been employed as a bookkeeper? A No, sir, not always.

Q What did he do at first? A He was a brusher, brushed coats.

Q How long was he employed in that capacity? A I think about a year -- something like that -- I think so; I do not remember exactly.

Q And after that? A He became a bookkeeper.

Q He became a bookkeeper? A Yes, sir.

Q And did he have charge of your payroll? A Yes, sir.

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Q What else did he have charge of; tell the jury in your own way what were his duties. A A whole cash matter, whatever was billed, or anything to be paid, it was his work to attend to it; about books, I didn't bother anything.

Q You had placed the entire management of the bookkeeping in the hands of this Defendant? A yes, sir.

Q With authority to draw checks for disbursements? A For everything; he just gave me a check to sign, and I took it and signed it.

Q That is what you mean -- if there were disbursements to be made, he made out a check and you signed it? A yes, sir.

Q I stated to the jury in my opening that you did not read and write. Is that the fact, Mr. Schwartz? A No, sir; I just can write my name; not full name, just "W. Schwartz".

Q Can you read figures, and use those adeptly? A yes, sir.

Q You can add and multiply figures all right? A Very slow; I just know numbers; simply numbers.

Q You know figures when you see them? A yes, sir.

Q Can you figure? A Yes, sir.

Q But not writing? A yes, sir, I can write figures.

Q You can write? A A number, yes.

Q Did you -- but you left everything practically in the hands of this Defendant? A Yes, sir.

Q Was he any relation of yours? A Well, not of mine, but my wife's.

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Q He is a relation of your wife? A yes.

Q You trusted him? A Yes, sir.

THE COURT: The Defendant?

THE WITNESS: Yes, sir.

Q What duty, if any, did he have to perform with the people in your employ in respect of tallying up their work; tell the jury what that was. A Well, he used to keep account from them, whoever worked piece work or hour, time cards he had to make him, just know what it is work, what hours they worked, and piece workers how many clothes they turned out, how many goods was made, pockets or edges basted, or linings put in the coats, all that was his look out. What was made and how much was made, and what everybody earned.

Q Did he make entries in the books of your employees to show what they had done? A Yes, sir.

MR. WEINBERGER: I object to that.

THE COURT: He has answered it.

Q You know that of your own knowledge, Mr. Schwartz? A Yes, sir.

Q You have seen him do it? A Yes, sir.

Q And we have the books, haven't we? A Yes.

MR. WEINBERGER: I move to strike out the answer and object to the question on the ground that it is incompetent, irrelevant and immaterial, and not binding.

THE COURT: Read the question

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(Question read as follows):

Q. Did he make entries in the books of your employees to show what they had done? A. Yes, sir.

THE COURT: Do you know of your own knowledge, did you see him make entries?

THE WITNESS: yes, sir.

THE COURT: Objection overruled.

MR. WEINBERGER: He didn't say he saw them make it.

THE COURT: I asked him the question just now whether he saw him make entries, and the witness answered he did.

MR. WEINBERGER: Exception.

Q What particular work did Mr. I. Sivirski have in your employment? A To put in pockets in coats.

Q To put in pockets in coats? A Yes, sir.

Q What particular work did Frank Moscitelli have? A Baste edges.

Q I don't think the jury heard you. A Baste edges.

Q What was the work of Louis Moscitelli? A Basting linings.

Q Were your employees known by numbers on the pay roll as well as by name? A Yes.

Q Do you know the number of L. Sivirski? A The number, yes, sir, I do.

A
Q Was it always his number? Since he worked for us.

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Q What is the number of Frank Moscitelli? A Number 48.

Q What is the number of Louis Moscitelli? A Number 49.

Q And you consulted your pay roll by the numbers of these men, did you, when you had occasion to do so? A Yes.

Q I will ask you -- direct your attention to the 9th of February, 1909, that is pay day in your establishment, is it not?

A Yes, sir, that is on Tuesday.

Q On Tuesday, February 9th, 1909, did this Defendant submit to you a check for your signature for the purpose of your pay roll?

A Yes, sir.

Q Do you remember how much that check was?

MR. WEINBERGER: I object to that as being incompetent, irrelevant and immaterial, and not being the best evidence.

THE COURT: Well, first, why not prove the pay roll --

MR. MAYNARD: I will have to prove it by the wife on account of his not reading and writing at all.

THE COURT: Subject to your promise to connect it I will allow it.

Q I show you this paper, and ask if that is the check this Defendant submitted to you for your signature on Tuesday, February 9th, 1909? (Handing paper to witness). A Yes, sir.

Q That is your signature (Indicating)? A Yes, sir.

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MR. MAYNARD: I offer that check in evidence.

MR. WEINBERGER: I object to it, to it being received in evidence, and as being incompetent, irrelevant and immaterial.

THE COURT: Let me look at it.

(Same handed to the Court).

Subject to the District Attorney's promise to connect the check with the charge made in the indictment, I will allow it. Objection overruled.

MR. WEINBERGER: Exception.

(The same was received in evidence, and marked People's Exhibit No. 1).

MR. WEINBERGER: I except also on the further ground that it is not yet connected with the Defendant.

THE COURT: The witness says, as I understand, that this check was drawn by the Defendant.

MR. MAYNARD: Yes, drawn by this Defendant, and signed by this witness, and we shall show that it is endorsed by this Defendant.

BY THE COURT:

Q At that time did you have an account in any bank? A Yes, sir.

Q What bank? A Butchers' and Traders' Bank.

Q Did you have any money on deposit in that bank in sufficient amount? A Yes, sir.

Q To authorize you to draw this check? A Yes, sir.

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Q And after you signed this check what did you do with it?

A Gave it to the bookkeeper.

Q To whom? A To Mr. Blaustein.

Q To the Defendant? A To the Defendant.

THE COURT: Objection overruled.

MR. MAYNARD: "Check No. 156, New York, February 9, 1909, National Butchers' & Traders' Bank of the City of New York, pay to the order of Bearer, Eleven Hundred and Eighty Two Dollars, in figures \$1,182.00 (it is signed) W. Schwartz".

BY MR. MAYNARD:

Q Is that your signature there (indicating on paper). A Yes, sir.

Q Endorsed W. Schwartz. Do you know the other signature on it (indicating)? A Yes, sir, Max Blaustein.

Q Is that the signature of this defendant? A Yes, sir.

MR. WEINBERGER: I object to that and move to strike it out -- the answer of the witness, the remark of the witness --

A I saw him endorse it.

Q The Defendant did sign it in your presence? A Yes, sir, I saw him endorse it.

BY THE COURT:

Q Have you frequently observed him writing his name? A Yes, sir.

Q You are familiar with his handwriting? A I am not able to tell his handwriting.

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BY MR. MAYNARD:

Q Are you familiar with his signature? A I am familiar with his signature.

Q With his signature? A Yes.

MR. WEINBERGER: If your Honor please, this man testified he could not read or write.

THE COURT: He said he could sign his name, he is familiar with his signature.

MR. WEINBERGER: I mean the Defendant's signature.

THE COURT: We said he is familiar with the Defendant's signature.

MR. WEINBERGER: I except.

MR. MAYNARD: And that he saw him sign this name.

This check is endorsed W. Schwartz and Max Blau-stein.

BY MR. MAYNARD:

Q How many pay-rolls did you have in your establishment, Mr. Schwartz? A Two.

Q And is this book one of those pay-rolls? (Handing book)?

A Yes, sir.

Q And what was the amount called for by your pay roll/February 5, 1909? A \$1727.42, --

MR. WEINBERGER: I object to that.

THE COURT: I sustain the objection.

First you can do that better by proving the book.

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MR. MAYNARD: I can do that later.

Q perhaps you can testify of your own knowledge with respect to that. Do you remember the amount of the pay-roll on that date for the up-stairs part of your work, how much it called for, how much the book called for? A I don't remember (shows book to witness). A \$501.20.

MR. WEINBERGER: Before you show that book I want to ask a question.

MR. MAYNARD: I want to ask a question myself.

Q Does this book represent the pay-roll for one department of your business? A Yes, sir.

Q And does this other book represent the pay-roll for the other part of your business (indicating)? A Yes, sir.

Q Can you state what the amount of the pay-roll as entered by this Defendant in Book No. 1 was for the week ending February 5, 1909?

MR. WEINBERGER: I object to it.

A Yes, sir.

THE COURT: Strike out the ~~wt~~ answer. I think the best evidence is the book, Mr. Maynard.

MR. MAYNARD: I will offer the book subsequently.

THE COURT: Then I sustain the objection.

Q Do you know of your own knowledge, Mr. Schwartz, whether your wife assisted this Defendant on Tuesday, February 9th, 1909, in making up the pay-roll, and putting the money and checks in the

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envelopes? A Yes, sir.

Q And you saw them at the work? A Yes, sir.

Q State what conversation you had, if any, with this Defendant, on Wednesday, February 10th, 1909, in respect to this pay-roll. State it in your own way to the jury what you said to this Defendant, and what he said to you.

MR. WEINBERGER: I object to the question as being incompetent, irrelevant and immaterial.

THE COURT: objection overruled.

MR. WEINBERGER: I take an exception.

Q Now tell the jury in response to the question just what you said to Max Blaustein on that day in your place of business, and what he said to you. Talk up loud so that everybody can hear you.

A I went over to the desk that is about the center of the place to Mr. Blaustein, and I asked him, "Mr. Blaustein, how many "pockets" did Mr. Sivirski made last week"?

Q Well, what did he say? A He answered me he made 595.

THE COURT: 595 what?

THE WITNESS: Coat pockets.

Q How much did you pay that man for making coat pockets?

A 10 1/2 cents.

Q For each pocket? A Yes, sir.

Q All right now. What did he say to you, or I think that was his answer. A That was his answer, he made 595.

Q Say what else was said? A I knew that I didn't have in

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the place 595 coats.

MR. WEINBERGER: No, no; I move to strike that out.

THE COURT: strike it out. You must not state what you think.

Q Just state what was said and done. A I left him then and went over to Louis Sivirski, to the machine, and I asked Louis how many coat pockets did you make that week?

MR. WEINBERGER: I move to strike that answer out.

MR. MAYNARD: I consent to the statement how many coat pockets, etc., be stricken out.

Q After you went over to see Louis Sivirski at his machine, what did you and Sivirski do? A Called ^{him} ~~me~~ over to the desk, to Mr. Blaustein's, where Mr. Blaustein was, and I said to him,--

Q Blaustein had a desk? A Yes, sir.

Q You brought this employee Sivirski over to the desk in front of this Defendant? A Yes, sir.

Q State what conversation was had in the presence of this Defendant? A I asked Louis how many coat pockets did you made last week, and he told me 495. I say, "How many you say, Mr. Blaustein"? He said, "495". I said, "Why a minute ago you told me that 595"? He answered me, "I didn,t tell you 595, he only made 495". Then I asked how much money did he get for 495 coats, show me the pay roll. Well, he handed out the pay-roll.

Q You mean this book (indicating)? A Yes, sir, that is the book.

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Q Go on. A And he began to look in the middle of the book, all over I said, "Show me the last page from what we paid off now at the end", and he showed it to me, and it shows \$61.97. in the pay-roll written. I asked Louis "How many money did you get"? He said, \$51.97. "Well", I said, "Where is the \$10? There is a difference of \$10 -- where is the money?" He answered --

Q Who do you mean by "he"? A Louis Sivirski. He said, "I only received 51.97". I said, "What do you say now, Mr. Blaustein"? He told me it is a mistake. I said, "Well, it is a mistake." I said, "Louis, how much you had a week before, do you remember?" He said, "yes, sir", he said, "\$53.88". I said, "Show me the pay-roll from the week before". He showed to me and it showed \$63.88. And I said, "Well, how is this?" "What do you say now, Mr. Blaustein"? Then he answered me, "Mr. Schwartz, you have got me" (speaking same in Yiddish).

Q What was it you said? A (Speaking in Yiddish)

Q What is the translation? A You have got me.

MR. MAYNARD: That is a very good translation.

Q If there is any further conversation in Yiddish, I will ask for an Interpreter. Now, after that statement made by this Defendant, was there any further conversation? A yes, sir.

Q Well, tell us all this conversation; we want to know all about it. A Then we went into the office.

Q Who do you mean by "we"? A I and Mr. Blaustein, the Defendant.

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Q Yes. A And I asked Mr. Blaustein like that I said, "Mr. Blaustein, was all my worriment because you only took money on that one man"? He said, "No, I got to come out with it, I took by three". I said, "Who are they"?

Q This was all in the presence of the Defendant, was it?

A Yes, sir.

MR. WEINBERGER: I object to this conversation referring to any other inquitties than is in this issue.

MR. MAYNARD: You surely will permit an admission made by the Defendant?

MR. WEINBERGER: An admission -- this is outside of the charge made in the indictment?

THE COURT: Objection overruled.

MR. WEINBERGER: My objection is against the District Attorney's attempt to prove admissions of several other crimes having been committed.

THE COURT: You see, Counsel, in a case of forgery and in a case where the charge is that a false entry was made in a book of account with intent to defraud is permissible under the decisions to prove similar acts as bearing on the question of the Defendant's intent with which the alleged false entry was made, not to the other acts proved -- if the other acts should prove the guilt of the Defendant; it does not necessarily follow that he is guilty of

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this act. And the District Attorney does not offer this evidence with a view of establishing his guilt upon the other charges, he simply offers this class of evidence and an alleged admission made by the Defendant concerning other acts as bearing on the Defendant's intent with which this act was committed. And the decisions on that subject are numerous, and the People against Curtis, 118 Appellate Division. In that case at the trial, 500 different entries, similar entries, were allowed in the Court of Appeals as held that this is proper under People against Dolan. That is proper in the case of the People against Underhill, and the People against Phelps. Phelps, you will recall, was during the Tweed day, and there allowed in that case numerous forgeries with intent to defraud be shown.

MR. WEINBERGER: I have the case of the People against Corbin, 56 N. Y., 363, which says commissions of other forgeries is not admissible for purposes of showing criminal intent.

MR. MAYNARD: That has been overruled many times.

THE COURT: The 56 of N. Y. you know is way back in 1850, 1855 or 1860, and we have made very rapid strides since then. The case of the People against Dolan which is one of the leading cases by the Court of Appeals on this subject, says as follows:

"Where the only issue upon the trial of a Defendant charged with feloniously uttering of a forged note with

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intent to defraud is whether the Defendant knew whether the note was forged at the time that he endorsed it, and had the amount thereof credited upon his bank account" --

(Reading the decision).

And in the case of the People against Curtis, a case tried before me in 1906, reported in 118 Appellate Division. In that case, of course, as I have said without looking at the indictment, I have sent for the head of the Indictment Bureau, and told him that he best follow the lead which was established some fourteen or fifteen years ago, an old form, but this indictment is good.

But under the allegation, "with intent to defraud", the District Attorney can show his course of conduct with intent to defraud, and the code provision -- the indictment where a person is defrauded out of money, the purpose of it is the District Attorney may or may not plead that fact because under the construction of the statutory plan you will find in the back of the Penal Code, in the Penal Law rather, you will find the allegation "Where an intent to defraud constitutes a part of a crime, it is not necessary to aver or prove an intent to defraud any particular person as long as somebody was defrauded".

Now, under the allegation with intent to defraud, it is permissible to allow the District Attorney to show just what the Defendant did with intent to defraud. For instance,

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in the crime of burglary, a person commits burglary with intent to commit a crime. Now the intent to defraud, and ^{are} the intent to commit a crime ~~is~~ virtually synonymous if in the premises he stole something that fact may be proved. You may allow other forgeries as bearing on the intent with which the act was committed, and later in the course of the trial I shall under proper instructions, charge the jury as to what effect this evidence has upon the main charge. You see the theory of other kindred offences of that character is that a person might honestly make an improper entry, it may be done unintentional as a result of error, accident or mistake, and then it is for the jury to say if similar entries then made with the intent to defraud, what effect, if any, such false entries if made with the ^{would} intent to defraud, have upon the main charge laid in the indictment that the entry was a false entry with the intent to defraud.

MR. MAYNARD: That is the purpose for which I have offered it.

MR. WEINBERGER: I except to your Honor's ruling.

MR. MAYNARD: And for the possibility of a defence of mistake, I offer this to show the common purpose running through it all. And for the benefit of the witness, we read to him his last statement.

(The last answer of the witness was repeated to

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the witness by the Stenographer).

Q Now go ahead from that point, and tell the jury what he said in addition after he said he took from three. A Then I said, "Who are they"?

THE COURT: A little louder.

THE WITNESS: (Continuing) He said, "Who are they". He answered me it was the brothers Moscitelli, No. 48 and No. 49. And then it got 12 o'clock, and we went out.

Q Whom do you mean by "we"? A I and Mr. Blaustein.

Q Left the business? A Left the business, and we went out to go downstairs for lunch. I went down with the car before, -- one elevator from the building -- I went down before him, and I run home.

Q Now, the Defendant was not with you at that time? A No, sir.

Q Well, we cannot have you tell that. After you came back from your home, you came to your office again, did you? A Yes, sir.

Q Was the Defendant then there? A No, sir.

Q What did you do? A I took the two little books from the two Moscitellis, No. 48 and No. 49, and took up the pay-roll from the desk.

MR. WEINBERGER: I object to that.

THE COURT: Objection overruled.

A (Continuing) And went into the office--

MR. WEINBERGER: I object to this as the Defendant

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was not present at this time.

THE COURT: I will allow the evidence. He may state that he took the books in the absence of the Defendant.

Q Go ahead; state what you did. A I went into the office. I had the two little books and the pay roll -- that is, the pay-roll (indicating), and I looked up the numbers from the very last week, that was from February 5th, and I saw right along--

THE COURT: "No, no; you had better get these books first in evidence.

MR. MAYNARD: I can call a witness to identify them, and withdraw her, and then go on with this witness.

THE COURT: Will there be any question that these books were kept by this defendant, and that the entries contained therein are his?

MR. MAYNARD: I will prove his handwriting.

THE COURT: I have addressed a question, counsellor. (Addressing Mr. Weinberger). Is there any question about the booksxhaving been kept by the Defendant?

MR. WEINBERGER: There is a question about these books if these are the books, your Honor. Then most certainly there is a question about them.

MR. MAYNARD: We will prove them.

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MRS. BERTHA SCHWARTZ, a witness called on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MAYNARD:

Q Now, Mrs. Schwartz, kindly talk loud so that everybody can hear you. How long have you known this Defendant, Max Blaustein? A Five years.

Q I don't think the jury all heard that. A Five years.

Q Five years? A Yes.

Q During the four years of that time he had been employed by your husband? A Yes, sir.

Q Have you seen him in that employment write many times? A yes, sir.

Q You are thoroughly familiar with his handwriting? A Oh, yes, sir.

Q I ask you to look at this pay-roll, and to say to the jury whether or not this is in his handwriting (handing witness). A Yes, sir.

MR. WEINBERGER: You mean these books (indicating)? These are not the books.

MR. MAYNARD: Do contain yourself in patience.

Q Are all of the entries in that book, run back through it, is that all in the handwriting of the Defendant Blaustein? A Till February 12th, 1909.

Q Now I ask you to turn back -- that runs back, that is a book

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that was kept by this Defendant? A Yes, sir.

Q That was a pay roll, was it not? A yes, sir.

Q That was the pay-roll used when you worked with him? A Yes, sir.

Q In putting the money in the envelopes? A yes, sir.

Q Is there another pay-roll as well? A No, sir. The 13th floor -- that has a book -- it was not in the office when I was there went.

Q This other book; do you know the handwriting? A That is Mr. Blaustein's son.

Q Have you seen Blaustein's son write frequently? A Yes, sir.

Q You are thoroughly familiar with his handwriting? A Yes, sir.

Q He kept the books up-stairs? A He did.

THE COURT: Mr. Blaustein's son?

THE WITNESS: Yes.

Q On the occasion when you assisted this Defendant Blaustein in putting the envelopes -- the money in the envelopes -- was this book downstairs also (indicating)? A No, sir.

Q This was up-stairs (indicating)? A Yes.

Q And the only one you used was this one (indicating). A Yes, sir.

Q I show you --

THE COURT: (Interrupting) You mean this one (indicating). You had better call it an identification number, for instance People's Exhibit --

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MR. MAYNARD: I will offer this book in evidence being the pay-roll kept by this Defendant, during the year 1909.

THE COURT: Received.

(The same was received in evidence, and marked People's Exhibit No. 2).

Q Now, I show you this memorandum book -- these memorandum books marked 48 and 49, and ask you to examine those, and see if you know the handwriting (handing books to witness). A These are Mr. Blaustein's handwriting.

Q That is this Defendant's handwriting? A Yes, sir.

Q Run it through, and see if you find any other handwriting at all. A No, sir, everything in Mr. Blaustein's handwriting.

MR. MAYNARD: I offer that book No. 48 in evidence.

MR. WEINBERGER: I make the same objection.

THE COURT: Were these books furnished to employees?

MR. MAYNARD: Yes, he entered up in those books.

A (Interrupting) That is also Mr. Blaustein's (indicating).

MR. MAYNARD: Just a moment.

THE COURT: Have you the book, Mr. Maynard, of L. Sivirski?

MR. MAYNARD: No, we have not that book. His was on slips.

THE COURT: His was on slips; where are the ~~slips~~

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slips?

MR. WEINBERGER: I object on the same ground to all of this line of evidence as not being within the indictment.

THE COURT: The better course is to offer in evidence, if you have, the alleged false entry as laid in the indictment.

MR. MAYNARD: That is contained in the book. I will offer them separately, -- that is in the book which I have already offered in evidence.

THE COURT: It is?

MR. MAYNARD: Yes.

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

MR. MAYNARD: And I have offered this other book, No. 48, one of the Moscitelli's books written by this Defendant, and referred to by the last witness.

THE COURT: Received.

MR. WEINBERGER: Exception.

(The same was received in evidence, and marked People's Exhibit 3).

Q Book 49 of the same kind, now I offer it in evidence.

THE COURT: Received.

MR. WEINBERGER: Exception.

(The same was received in evidence, and marked

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People's Exhibit 4.)

Q While we are identifying handwriting, I will ask you to look at this book, and state whether you know that handwriting or not? A That is Mr. Blaustein's handwriting.

Q Talk up loud so that everybody can hear you. A Mr. Blaustein's handwriting.

Q The Defendant? A The Defendant.

Q This is all in his handwriting, is it? A Yes, sir.

MR. MAYNARD: I offer the cash book kept by this defendant in evidence.

MR. WEINBERGER: I object to the introduction of this book in evidence as not proper under the indictment.

THE COURT: As I understand, all kept by the Defendant co-rated to the entire transaction.

MR. MAYNARD: That is right.

THE COURT: And the false entry is alleged to have been made in what book?

MR. MAYNARD: That is in the book that is Exhibit 2, of this date.

THE COURT: That is the false entry in the indictment?

MR. MAYNARD: That is in People's Exhibit 2.

THE COURT: Received.

(The same is received in evidence, and marked People's Exhibit 5).

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MR. MAYNARD: That will be all for the present,
Mrs. Schwartz.

W I L L I A M S C H W A R T Z resumed the stand.

DIRECT EXAMINATION (CONTINUED)

BY MR. MAYNARD:

Q I show you the pay-roll book, People's Exhibit 2 of this date, and ask you if that was a book with which you compared books 48 and 49, People's Exhibits 3 and 4? A Yes, sir.

Q You compared the entries in these books? A Yes, sir.

Q For particular dates with the amounts entered in the pay-roll by this Defendant? A Yes, sir.

Q And what did you find from your comparison? A I found \$10 difference on each number in the pay roll than in the smaller book, larger in the pay-roll than in the smaller book.

THE COURT: Let me understand that, Mr. Maynard, that in the pay-roll book --

THE WITNESS: There was \$10 more.

MR. MAYNARD: Where the forged entry is made, he found repeatedly that in respect of the three men, Siriski, and the two Moscitellis, there was entered in the pay-roll book an amount larger by \$10 in each instance, week by week.

THE COURT: For how many weeks?

Q How far back did that go? A I think as far as the little

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book goes, back as far, as old as they are.

THE 8TH JUROR: How far back?

THE COURT: As far as the little book goes back.

A (Interrupting) I went as far as back goes the book, August that time, the Defendant came in-

Q AS far back as August, 1908? A As far as it was to go, the whole book, week by week, where it showed by the way the same--

MR. WEINBERGER: I move to strike out this evidence. The book is the best evidence, if this is contained in the book, it is the best evidence.

MR. MAYNARD: The book is in evidence, all the books are in evidence.

THE COURT: Let us agree upon that, if we can. Have you got the books as to the date? What date are those books?

MR. MAYNARD: Commencing with August 21st, 1909, books numbered 48 and 49, and continuing week by week down to the time, February 5th, 1909, in respect of each and every week.

THE COURT: I will be obliged to take an adjournment for about fifteen minutes.

Do not discuss this case, gentlemen, nor form nor express any opinion among yourselves, until it is finally submitted to you. Take a recess of fifteen minutes.

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TRIAL RESUMED.

WILLIAM SCHWARTZ resumed the stand:

DIRECT EXAMINATION (CONTINUED)

BY MR. MAYNARD:

Q Now I ask you again in respect to the pay-roll for February 5th, People's Exhibit 2, in this case, if you -- starting with February 5th, book 48. A Yes, sir.

Q Which was the book of Frank Moscitelli, you went back week by week, from February 5th to August 21st? A Yes, sir.

Q And did you compare the entries made by this Defendant in Frank Moscitelli's book? A Yes, sir.

Q That is, the entries made in the pay-roll book? A In the pay-roll book.

Q And you then carefully observed the entries that were in that Moscitelli book? A Yes, sir.

Q And the entries made in this book (indicating)? A Yes, sir.

Q You did the same thing with book 49? A Yes, sir.

Q That was the book of Louis Moscitelli? A yes, sir, both of them same time.

Q Running back from February 5th, clear to August 21st?

A Yes, sir.

Q Comparing the entries in book 49, in that book? A Yes, sir.

Q How about Siriski -- did he have a memorandum book? A No, sir.

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Q Did you furnish either of these Moscitelli's with these books? A That I don't know; ask Mr. Blaustein.

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

Q You do know that the Moscitellis had these books? A Yes, sir.

Q And that they surrendered them to you for the purpose of comparison of these up to February 10th, 1909? A Yes, sir.

Q How long did you keep these books? A Well, for about three quarters of an hour -- or about an hour. Something like that.

Q Three quarters of an hour? A Yes, sir, about that.

Q Then what did you do with those books? A Then I gave them back to the Moscitellis.

Q Frank and Louis Moscitelli, A yes, sir.

Q How long after that was it that you got possession of those books again? A The coming Sunday morning, the following Sunday.

Q This was on a Wednesday? A This was on a Sunday morning.

Q You had them for three quarters of an hour or an hour on Wednesday? A Yes, sir.

Q Then you returned them? A Yes, sir.

Q And got them again on Sunday? A yes, sir.

Q Were those two books then in the same condition as when you made the comparison? A No, sir, there was a whole lot of changing done, and a whole lot of rubbing done in the little book.

Q Erasures in them both? A A lot of erasures to get the same

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numbers in the pay-roll as in the small books alike alike , not every one.

THE COURT: That is an expression of opinion. Strike it out. Let the witness, if he can point it out, show in what respect these books were changed.

MR. MAYNARD: I can show every change, but it takes a little more time, that is all.

THE COURT: Let him do it.

Q Taking the book 49 for instance. A Yes, sir, 49.

Qa You have February 5th, 1909? A Yes, sir.

Q Now run back in that book to December 11th, 1908.

THE COURT: Give me this so that I can follow you. February 5th.

MR. MAYNARD: February 5th.

THE COURT: people's Exhibit 2.

Q This is the pay-roll book in which the forgery is made?

A Yes.

Q Turnvin that book to December 11th, 1908? A Yes, sir.

Q December. For No. 49 what was the entry in your pay-roll?

A In No. 49, Louis Moscitelli, \$51.72.

Q Now I show you the book of Louis Moscitelli for that date, and ask you if the page has been changed, and if so, in what respect since the time that he you first compared it. A Yes, sir, it was made 5, from before.

MR. WEINBERGER: I object to the question.

THE COURT: I sustain the objection, as to the

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former question.

Do you remember what was the entry in that book when you first saw it?

THE WITNESS: yes, sir.

THE COURT: what was the entry?

THE WITNESS: It was \$41.72.

Q What is it now? A Now it is \$51.72.

MR. WEINBERGER: I move to strike out the answer as not being binding on the Defendant.

THE COURT: Do you know whose handwriting that \$51.72 is in?

THE WITNESS: Yes, sir. That is, the "5" is made by Mr. Blaustein, the Defendant.

MR. WEINBERGER: I move to strike that out.

It is his answer. He don't say he knows the handwriting. He says it is made by Mr. Blaustein.

BY THE COURT:

Q Are you familiar with Mr. Blaustein's handwriting? A Yes, sir.

Q And his figures? A Figures, yes, sir.

Q You are familiar with his figures? A Yes, sir.

BY MR. MAYNARD:

Q Saw them day by day while he was with you? A Yes, sir.

Q You are thoroughly familiar with them? A Yes, sir.

THE COURT: I will allow it.

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Q Turn, if you will in that book to November 27th.

THE COURT: Subject to the promise to connect,
I will allow all of this evidence. Objection overruled.

Q Now, turn to November 27th. Have you found that?

A Yes, sir.

THE COURT: 1908?

Q 1908? A Yes, sir.

THE COURT: No. 49.

MR. MAYNARD: 49, book 49. Now, in the pass book
for November 27th, 1908; what was the entry opposite Louis
Moscitelli's No. 49?

THE WITNESS: Small book?

Q Your book. A \$40.28.

THE COURT: In the pay-roll book?

THE WITNESS: Pay-roll book.

THE COURT: \$40.28?

THE WITNESS: Yes, sir.

Q When you first compared the small book with the pay-roll
book, what was the entry? \$30.28.

Q What is it now? A \$40.28.

Q In whose handwriting is it? A Mr. Max Blaystein's.

MR. WEINBERGER: I object to this.

THE COURT: Objection overruled.

MR. WEINBERGER: Exception.

Q Now, turn to November 20th, the week before. A Yes, sir.

Q what was the entry for that date opposite No. 49, Louis Moscitelli? A \$42.67.

Q What was the entry in Louis Moscitelli's book, No. 49, when you first compared it? A It can be seen yet, \$32.67.

Q what is it at the present time? A \$42.67.

Q In whose handwriting is the change? A Mr. Blaustein's.

THE COURT: In whose handwriting was the entry \$32.67?

THE WITNESS: Also Mr. Blaustein's.

Q In the small book?

MR. WEINBERGER: I object to that.

THE COURT: objection overruled.

MR. WEINBERGER: Exception.

Q Turn to November 13th, the week preceding. A Yes, sir.

Q Now, what is the entry in the pay-roll as due Louis Moscitelli, No. 49, on that occasion? A \$40.93.

Q Now, what is the amount of the small book when you compared it with the pass book in the first instance? A \$30.93.

Q What is it now? A \$40.93.

Q In whose handwriting is the change? A Mr. Blaustein's.

Q Turn to November 6th. A yes, sir.

Q What was the entry in the pay-roll made by this Defendant for Louis Moscitelli, No. 49, for that date? A \$47.54.

Q What was the amount in the little book when you first compared them? A \$37.54.

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Q What is it now? A \$47.54.

Q In whose handwriting is the change? A Mr. Max Blaustein's.

Q Turn to October 23rd. A Yes, sir.

Q In the pay-roll book, what was the entry in the handwriting of this defendant against No. 49, Louis Moscitelli, for that date? A \$41.55.

Q What was the amount in the little book when you first compared it on that date? A \$31.55.

Q What is it now? A \$41.55.

Q In whose handwriting is the change? A Mr. Max Blaustein's.

Q Turn to November 16th. A Yes, sir.

MR. WEINBERGER: I don't think it is necessary to object to every one of these. I have the objection to cover all of this?

THE COURT: Yes.

MR. WEINBERGER: ~~yes~~ Exception.

Q What was the entry made by this defendant in the pay-roll book opposite 49, for Louis Moscitelli, that day? A \$42.35.

Q And what was the amount in the Moscitelli little book when you first compared it with the pay-roll book? A \$32.83.

Q What is it now? A \$42.83.

Q In whose handwriting is the change? A Mr. Max Blaustein's.

THE COURT: The pay roll amount is \$42.35?

THE WITNESS: \$42.35.

Q The change now is \$42.83? A \$42.83.

Q Turn to October 9th. A Yes, sir.

Q What was the entry made by this defendant in the pay-roll for that date opposite No. 49, Louis Moscitelli? A \$25.38.

Q Now, what was the amount in the little book when you first made the comparison? A \$15.38.

Q What is it now? A \$25.38.

Q Turn to October 2nd. A Yes, sir.

Q What was the entry made by this defendant in the pay-roll opposite No. 49? Louis Moscitelli? A \$42.83.

Q What was the entry in that little book when you first made your comparison with it? A \$32.83.

Q What is it now? A \$42.83.

Q In whose handwriting is the alteration? A Mr. Max Blaustein.

Q Turn to September 25th. A Yes, sir.

Q What was the entry in the pass book made by this Defendant for that date, for No. 49, Louis Moscitelli? A \$44.87.

Q What was the amount in the little book when you first made the comparison? A \$34.87.

Q What is it now? A \$44.87.

Q Can you see the "3" there also? A Yes, sir, it is plain there.

Q In whose handwriting is the alteration? A Mr. Max Blaustein, the defendant.

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Q Turn to September 18th. A Yes, sir.

Q What was the amount entered in that pay roll for this day, No. 49, Louis Moscitelli, for that day? A \$38.16.

Q What was the amount in the little book of Moscitelli when you first compared it? A \$28.16.

Q What is it now? A \$38.16, and the "2" is there yet.

Q The "2" is there yet? A Yes, sir.

Q In whose handwriting is the alteration? A Mr. Blaustein's.

Q Turn to September 11th. A Yes, sir.

Q What was the amount entered in that pay-roll on that date against No. 49, Louis Moscitelli, for that day? A \$50.91.

Q What was the amount in the little book of Moscitelli, when you first compared it with that entry? A \$40.91.

Q What is it now? A \$50.91.

Q Is the "4" visible? A Still there.

Q In whose handwriting is the alteration made? A Mr. Max Blaustein.

THE COURT: Instead of that question, ask him in whose handwriting are the figures.

MR. MAYNARD: yes, sir.

Q Turn to September 4th. A Yes, sir.

Q What was the entry made by the defendant in your pay-roll book of No. 49, Louis Moscitelli, for that date? A \$53.82.

Q What was the entry made in Moscitelli's little book on that date as it was when you first compared them? A \$43.82.

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Q What is it now? A \$53.82.

Q In whose handwriting is the \$53.82? A Mr. Blaustein's.

Q Turn to August 28th. A yes, sir.

Q what was the entry made in your pay-roll book for this date opposite No. 49, Louis Moscitelli, for that day? A \$51.89.

Q What was the amount in Louis Moscitelli's little book when you first compared it with your pay-roll? A \$41.89L

Q What is it now? A \$51.89.

Q In whose handwriting is the \$51.89? A Mr. Max Blaustein, the Defendant.

Q One more, August 21st. A Yes, sir.

Q What was the amount entered in your pay-roll book for this day opposite No. 49, Louis Moscitelli, on that date? A \$48.32.

Q what was the amount in Louis Moscitelli's little book when you first compared that with it? A \$38.32.

Q What is it now? A \$48.32.

Q In whose handwriting is this \$48.32? A Mr. Max Blaustein's.

Q I will ask you to turn again to February 12th, with book No. 48 --

MR. WEINBERGER: I object to this, showing the witness where to begin. The witness testified he cannot read or write, and the District Attorney shows him of course where to look.

THE COURT: AS I understand, the witness cannot read nor write, but he claims that he is familiar with the

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signature of the Defendant and with the figures, the written figures made by the Defendant; is that so?

THE WITNESS: yes, sir.

BY THE COURT:

Q You recognize his figures? A yes, sir.

Q Is that right? A yes, sir.

A JUROR: Can you read the months of January, February, and March?

THE WITNESS: (No response).

BY THE 6TH JUROR:

Q You are very familiar with these books, are you not, Mr. Schwartz? A I am familiar, since I caught him.

Q Did you have a handwriting expert examine these since, or after his arrest? A yes, sir.

Q You did? A Yes, sir.

MR. WEINBERGER: I think that is all gone over; I don't understand it, for a moment ago he claimed he was familiar with his handwriting, and now he stated to the juror he was only familiar with the numbers, and before he said he was familiar with his handwriting.

MR. MAYNARD: This witness has testified that he was thoroughly familiar with the figures, and he knows the handwriting of this man in respect to figures wherever he sees them. He knows the signature wherever it is signed, and he shows to you, by my asking him, by turning, he i

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is familiar with numbers and figures.

THE 11TH JUROR: He states the dates there.

MR. MAYNARD: That is true.

THE 11TH JUROR: If he can't read or write, I can't understand that.

MR. MAYNARD: But that is here in figures.

BY THE COURT:

Q Let me ask, Mr. Schwartz, do you know what I am pointing to now (indicating)? A No, sir.

Q What this letter is? A No, sir.

Q What the second letter is? A No, sir.

Q What the third letter is? A No, sir-- 21.

Q You know what that is? A That is a "T".

Q And this is what? A 8-0-9-1.

Q Read it. A 1908.

Q Can you point to December 11th, 1908?

MR. WEINBERGER: Let me suggest that he close the book.

THE COURT: Leave him alone.

MR. MAYNARD: Is that in the book, your Honor?

THE COURT: Yes. Were you reading to me from 1908 or 1909?

MR. MAYNARD: 1909.

Q Do you write Yiddish? A No, sir. (Witness examining book).

Yes, sir, here it is.

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THE COURT: Show that to the Jury, December 11th, 1908.

(Witness does so).

Q Now will you explain to this jury, Mr. Schwartz, if you cannot read nor write, how you were able to locate in this book the date of December 11th, 1908, tell the jury how you were able to do that. A Well , I know it by the numbers.

Q You know by what numbers? A It says so many months from a week back a week.

Q Well, for instance, on page 207 it appears on the top of the page the following entry: "Ending December 11th, 1908". How do you know that ~~is~~ the 11th on that page, referring to the month of December, 1908? Do you understand me? A Yes.

Q How do you know, if you only can read numbers ~~at~~ that the entry 11 here refers to December, 1908? A Yes, sir.

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Q Tell that to the jury ? A I know it by that just how the year is, so I go back.

Q You count the weeks? A Count the weeks, yes, sir.

THE COURT: Which shows you with what difficulty a person must labor if he cannot read nor write.

THE EIGHTH JUROR: May I ask the witness another question?

THE COURT: Yes.

BY THE SIXTH JUROR:

Q As I understand, you cannot figure, can you? A Yes.

THE COURT: You add, can you?

THE WITNESS: Yes.

Q I would like to have him do a short example there, multiplying 27 by 37 and tell me what the answer is.

THE COURT: Can you tell me what 27 times 37 are?

THE SIXTH JUROR: Multiplication is a short method of addition.

MR. MAYNARD: I saw him add yesterday.

Q I want him to multiply 27 by 37. A That would take me very long (paper and pencil handed witness and he figures) 999.

THE SIXTH JUROR: Correct.

THE FIRST JUROR: May I ask your Honor how did he do it, real figuring?

THE COURT: Yes, real figuring. Show it to the jury.

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(Witness shows same to the jury.)

THE COURT: Do not discuss this case among yourselves nor permit any person to talk to you about it, nor form any or express any opinion as to the guilt or innocence of the defendant until the case is finally submitted to you. We will adjourn until a quarter after two.

AFTERNOON SESSION.

WILLIAM SCHWARTZ resumes the stand.

DIRECT EXAMINATION CONTINUED BY MR. MAYNARD:

Q Mr. Schwartz if you will turn to October 23rd of the payroll book? A Yes, sir.

Q I will ask you to state what entry was made by this defendant after that date to Frank MosCitelli? A Yes, sir.

Q How much was it, A At that time it was in the payroll book \$58.31, and now it is \$48.31.

Q That is, October 23, 1908. What was the amount of the MosCitelli book No. 48?

THE COURT: What date is that?

MR. MAYNARD: October 23, 1908.

THE COURT: Not Louis MosCitelli?

MR. MAYNARD: No, this is the other MosCitelli, Frank MosCitelli.

THE COURT: On October 28th?

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MR. MAYNARD: October 23, 1908.

A (Continuing) In the book it was the same as it is now \$58.58.

Q \$58.58? A Yes, sir.

Q In the payroll of October 23rd, for No. 48? A Yes, sir

Q Frank MosCitelli there? A \$58.31.

Q And what was there in the payroll book at the time you compared it? A \$58.58.

THE COURT: You have got to pass over that entry have you not?

Q Was there any change made? A The change made that time in that payroll.

Q That change that time was in the payroll? A And it can be seen, the five is made to a four.

THE FIRST JUROR: Was this book in the possession of the defendant?

MR. MAYNARD: Of the defendant.

MR. WEINBERGER: For how long?

MR. MAYNARD: For a week.

MR. WEINBERGER: To correct that statement, the two books were not taken out of the premises, they were at the place all the time, the juror has made the statement directly.

MR. MAYNARD: I will ask this question right now while that is an interruption in a way.

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BY MR. MAYNARD:

Q Were the payroll books in the possession of this defendant in your place of business all of the time? A Yes, sir.

Q And how long after February 9, 1909 did he remain in your employ? A Until February 16th, the following Tuesday.

Q Until the following Tuesday? A Yes.

Q And during that time was the payroll book in his possession and control? A Why yes, he made another payroll after that, yes.

Q In that same book? A Yes, in that same book.

MR. MAYNARD: And we will show the jury where these books were in the interim.

Q Now if you will turn to October 2, 1908? A Yes, sir.

Q Now what entry did this defendant make in your payroll book opposite 48, Frank MosCitelli, for that date? A \$62.42.

Q What was the entry in Frank MosCitelli's book when you first compared them? A \$52.42.

A What is it now? A \$62.42

Q In whose handwriting is this \$62.42? A Mr. Max Blaustein.

Q Turn to September 25th? A Yes, sir.

Q Now what entry did this defendant make in your payroll book? A September 25, 1908, opposite No. 48, Frank Mos Citelli? A \$85.42.

Q What was the entry in Frank MosCitelli's book when you first compared it with your payroll? A \$75.42, that is

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there yet, the seven.

Q What was written over it if anything? A Made an eight from the seven, it is \$85.42.

Q In whose handwriting is \$85.42? A Mr. Blaustein's.

Q Is the seven underneath that eight perfectly clear to you? A Yes.

Q Is that seven in the handwriting of Mr. Blaustein?

A Yes, sir.

Q Turn to September 18, 1908? A Yes, sir.

Q What entry did this defendant make in your payroll book opposite No. 48, Frank MosCitelli for that date? A \$70.47.

Q What was the entry in Frank MosCitelli's little book when you first compared it with your little book? A \$60.47. this is not rubbed out clear.

Q What is it now? A \$70.47.

Q Can you still see the six? A Oh, yes.

Q Is the six in the handwriting of this defendant? A Yes

Q In whose handwriting is the \$70.47? A Mr. Blaustein's.

Q Turn to September 11, 1908? A Yes, sir.

Q What entry did this defendant make in your payroll book on that date opposite No. 48, Frank MosCitelli? A \$83.15.

Q What was the amount in Frank MosCitelli's little book when you first compared that with your payroll book? A It shows like \$60.47.

Q \$60.47? A Yes, sir.

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Q What is it now? A \$70.47.

THE COURT: No, no, that is the entry of the 18th.
Have him look that over again.

Q This was September 11th? A \$83.15.

Q What was the entry in Frank MosCitelli's little book?
A \$73.15. now it is \$83.15.

Q In whose handwriting is \$83.15? A Mr. Blaustein's.

Q Can you see the seven underneath the eight? A Only
seen that it is rubbed.

Q Turn next to September 4, 1908? A Yes, sir.

Q What entry did this defendant make in your payroll book
as of that date, opposite No. 48, Frank MosCitelli? A \$94.65.

Q What was the amount in Frank MosCitelli's little book
when you first compared it with the payroll book for that date?
A \$84.65.

Q What is it now? A \$92.65.

Q In whose handwriting is it? A Mr. Blaustein's.

Q \$84.65? A \$84.65.

Q One more, August 28th, what entry did this defendant
make in your payroll book for August 28, 1908 opposite 48, Frank
MosCitelli? A \$82.77.

Q And what entry was in Frank MosCitelli's little book as
of that date when you first compared it with your payroll?
A \$72.77.

Q What is it now? A \$82.77.

Q Whose handwriting is that in? A Mr. Max Blaustein's.

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Q After you had compared these books with your payroll books what did you do with the little book belonging to Frank MosCitelli and Louise MosCitelli? A I gave the book back to them.

Q And I think you have testified that was the following Sunday that you got the book back? A Yes, sir.

Q And it has been in your possession? A Yes, sir.

Q Have you made any changes in those books since they came into your possession? A No, sir.

Q After you had made these comparisons on the 10th day of February 1909? A 1910.

Q 1910, was it? A Yes, sir.

Q 1909? A 1910.

Q That is last February? A Yes.

Q Did this defendant come to your office? A Yes, sir.

Q Did you have any further conversation with him-----was that the same day? A That is at the time of it.

Q After lunch he came back? A Yes, sir.

Q Tell the jury what conversation you had with him after you had made these comparisons? A Yes, sir. When Mr. Blaustein came back, he saw me sitting with the other desk, in the office, and was looking at the payroll and had opened the two little books, so he asked me, "what is the use of doing that Mr. Schwartz?"

Q Talk up louder? A He said, "what is the use? you know it already, what is the use of looking at it, you know it already?" I said "Yes". "Well, that should satisfy me that

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I know it already". He said, "I done it". I said, "Is that all you done?" He said, "I am willing to pay it back". I said, "What do you mean you are willing to pay it back?" He said, "I am willing to give a writing that I stole on you \$450. and want to pay back at \$10. a week". "All right, give me the writing", I said.

Q Who said that? A I said so to Mr. Blaustein.

Q You said, "All right, give me the writing?" A Yes, sir.

Q Did he do it? A Yes, sir. He sat down to the desk and took one of my letter-heads and began to write in German. Of course, I made him when he writes, he shall explain it to me in words, because he knows I cannot read; afterwards he is done with it---so he write it in German.

Q And after he completed his writing in German, did he sign it in your presence? A Yes, sir.

Q Did you recognize his signature? A Yes, sir, I was present.

Q And as he wrote that paper he stated the words that he was writing to you? A Yes, sir.

Q Did you deliver that paper---

MR. WEINBERGER: I object to these questions. I wish the witness could testify in his own words just what happened and not the District Attorney lead and point out what happened.

MR. MAYNARD: The District Attorney is not leading

in this respect.

Q Did he deliver that to you afterwards? A Gave it to my hand personally.

Q What did you do with it? A Picked it up and put it in my pocket, the vest that I had on, in my vest pocket.

Q Did you show it to your wife? A When I went home in the evening I showed it to my wife and she read it for me, and it was exactly the way the bookkeeper----that Mr. Blaustein say he told me or wrote it----

MR. WEINBERGER: I move to strike that out.

THE COURT: Strike out the last part.

Q You say this defendant continued in your employ for another week and made one more payroll? A Yes, sir.

Q Did you discharge him? A Yes, sir.

Q There was no discrepancy in connection with the last week's payroll, was there? A No, sir.

Q It was all straight? A All straight.

Q Did you discharge him? A I discharged him, I had another agent.

Q After you had discharged him? Did you cause his arrest? A After I discharged him?

Q Yes? or no, did you cause his arrest afterwards? A No, sir.

Q You did not. Did you employ an attorney? A Yes, sir.

Q Who was that attorney? Mr. Ginsley, Morris Ginsley.

Q What did you do with the paper that this man gave you?

A Gave it to Morris Ginsley, the lawyer.

Q Have you ever received it back? A Never.

Q Have you ever seen it since you delivered it to him?

A No, sir.

MR. MAYNARD: For the convenience of an attorney or for two attorneys if your Honor pleases, I would like to withdraw the witness and put on two very short witnesses in respect to this document.

THE COURT: Do so.

MORRIS M. GINTZLER, a witness called on behalf of the people, being first duly affirmed, testified as follows:

DIRECT EXAMINATION BY MR. MAYNARD:

Q Mr. Ginsler, being an attorney it is not necessary for me to tell you to lift your voice that the jurors want to hear every word you say, and the auditory qualities of this room are not of the best. Have you ever acted as attorney for Mr.

Schwartz, the complaining witness in this case? A I have.

Q In February, 1909, did he consult with you? A He did.

Q Did he at that time deliver any papers to you in connection with this case? A He did.

Q What papers did he deliver? A Amongst others, a paper purporting to be a confession----

MR. WEINBERGER: I move to strike that out as not responsive.

THE COURT: Stop right there. I sustain the objection and strike out the answer.

Q Purport----

THE COURT: Purported to be a confession is a conclusion of fact, counselor.

Q Do you know this defendant Max Blaustein? A I do.

Q Are you familiar with his handwriting? A I am.

Q You know his writing? A Yes, sir.

Q You know his handwriting? A Yes, sir.

Q Was any paper to which you refer in the handwriting of this defendant?

MR. WEINBERGER: I object to it as the witness has not testified yet there was any paper. He said several papers.

Q I will ask it for your own convenience. Did Mr. Schwartz give to you a paper in the handwriting of this defendant and signed by him? A He did.

Q Did you read that paper? A I did.

Q Do you know its contents? A I do.

Q What did you do with the paper? A I turned it over to a legal associate of mine Herman M. Schapp.

Q Since you turned that over to him, have you ever seen the paper? A I saw it in his possession.

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Q How long afterwards? A Within a few days after that while we were discussing the particulars involved.

Q Have you produced that paper to-day? A I have not.

Q Could you produce it? A I cannot.

Q You know the contents? A I do.

Q You could state what they were? A I can.

MR. WEINBERGER: I object to that.

MR. MAYNARD: I will ask him to stand aside.

THE COURT: A very important question arises here.

MR. MAYNARD: I will prove the loss by just one more witness.

THE COURT: I want to call your attention to the United States Court opinion and the Court of Appeals which permits in, in a case of McKnight against the United States, 115 Federal Reporter in which the Court exhaustively renews the subject. Held you cannot offer it in criminal cases.

MR. MAYNARD: Our Court of Appeals says it is competent.

THE COURT: That is true, but a question arises that can properly go to the highest court. I sending for that case, I did not think the question would arise here, but you better pass that particular part for a while.

MR. MAYNARD: I will prove the loss.

THE COURT: Yes, prove the loss.

HERMAN M. SCHAMP a witness called on behalf of
the People being first duly affirmed, testified as follows:

DIRECT EXAMINATION BY MR. MAYNARD:

Q What is your business, Mr. Schamp? A Attorney.

Q Have you ever been associated in legal matters with the
last witness? A I have, yes.

Q Did you hear his testimony? A I did.

Q Did you receive from him the paper which he described to
the jury? A I did.

MR. WEINBERGER: I object to the question as being
incompetent?

THE COURT: Sustained. Strike out the answer. Let
him state what it is.

Q State what if any papers you received from Mr. Ginsler
in connection with this matter.

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

THE COURT: Overruled. Do not characterize the
paper Mr. Schamp.

A I received one paper.

Q What was that? A Only one paper.

Q What kind of a paper was that? A That was a paper
written on a letter note.

Q Letter head, letter sheet as you say? A I don't know

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whether it had a letter head on it.

Q In what language was it? A German.

Q Did you read the German? A I do.

MR. WEINBERGER: I object to that.

THE COURT: Objection overruled; the witness at present is merely identifying a document without reciting the contents of that document.

Q Have you been subpoenaed to produce that writing to-day in court? A I have been.

Q Have you produced it? A I have not.

Q State to the jury why you have not? A I have made a search for it and I cannot find it.

BY THE COURT:

Q Tell the jury what search you made Mr. Schamp? A I have looked----I have a case---wh

Q Where did you put the paper as you say, if you remember?

A To the best of my recollection, I gave it to the boy to put among the file of papers in the case.

Q In what case? A People against Blaustein. I looked over my case file, and I did not find it among the papers, in the papers again---People against Blaustein.

Q Where is your boy? A He is not with me now.

BY MR. MAYNARD:

Q Have you made diligent search among your papers and legal documents in your office and elsewhere to discover this paper?

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A I have looked through the letter files of Mr. Ginsler's letters, I have a number, I have looked through papers of Mr. Ginsler; I looked under the letter B., and I took out the Blaustein papers. I have ransacked my two safes. I have gone home and searched there all my clothes to see if it is in any of my pockets and have not been able to find it.

CROSS EXAMINATION BY MR. WEINBERGER:

Q Mr. Schamp, you are a very careful attorney, aren't you?

A I believe so.

Q When did you get this paper? A I believe about the end of February.

Q Then you represented the complainant in the police court? A I did.

Q You are a pretty careful man, aren't you? A I should judge so.

Q And you intended to make the best possible case for your client?

MR. MAYNARD: I object to that as calling for a conclusion.

THE COURT: Well, this is cross examination.

MR. MAYNARD: All right.

THE COURT: I will allow it.

A I did.

Q And did you mention this letter to the Police Magistrate

A I did not.

THE COURT: What matter?

MR. WEINBERGER: This letter I say.

THE COURT: This letter.

MR. WEINBERGER: Yes.

Q You made no mention at all to the police magistrate about this letter? A I did not have the letter when I came up to him, I searched for it.

Q Did you make any mention about this letter to the Police Magistrate? A No.

Q When did you ransack your house and your safe for this paper? A About ten days ago.

Q You did not make any diligent search for it before? A I did.

Q What do you mean by ten days ago? A A week and three days.

Q I know, but you say you searched for it before, when did you search for it before? A At the time that Mr. Blaus-
tein was on the stand in the Magistrate's Court.

Q At that time you knew it was lost, did you think it was lost? A At that time I could not find it.

Q And still you did not mention anything about the mat-
reserved
ter? A No, I did not, I ~~searched~~ for it for his cross ex-
amination and then could not find it.

Q You did not put the letter away anywhere, put it away
yourself? A My impression is it just followed the ordinary

course, that is put away for the boy to file.

Q You knew this was an important letter, didn't you?

A I certainly did.

Q In this matter? A Yes.

Q And still you did not keep it with the other papers?

A I presume it was given to be filed with those papers, as papers ordinarily are.

Q Did you file a copy of the affidavit in this matter?

A Of the affidavit?

Q Well you prepared an affidavit, or several affidavits before the Police Magistrate? A I prepared the first one, the affidavit which was not used, I have that with the papers now.

Q And that you have? A I have it.

Q Isn't it a custom with lawyers to keep all the papers together? A Yes, sir.

Q And this was the only exception in your practice, was this letter of this complainant? A I don't think it was an exception.

Q Did you keep these papers separate? A I believe it was given to the boy to be filed with these papers, that was the ordinary course.

Q You don't know whether you did it or not? A I could not swear to that, no.

REDIRECT EXAMINATION BY MR. MAYNARD:

Q Who if anybody was the attorney that appeared for this defendant in the Magistrate's Court? A Weinberger.

Q His present attorney? A His present attorney.

Q Did you take to the court with you that day all of the papers in the Blaumstein case? A I did not, there was several, let me say there was perhaps ten.

MR. WEINBERGER: The witness answered he did not, I don't see what else he can say.

A (interrupting) He said, "that day". I was in court perhaps six or more days.

Q I am trying to get the truth as the jury is, I am asking ~~from~~ for it from you. How many hearings was there before the Magistrate's Court? A We were in the Magistrate's Court at least half a dozen times.

Q And on each of those of those occasions if ever, was Blaustein on the stand? A I believe the last two.

Q Did you take with you to the Magistrate's Court on any of those days or other occasions the writing which you have described as having been received from lawyer Ginsler? A I don't think so.

Q Where was it? A They searched for it.

Q Did you search for it too in Court for the purpose of examination and didn't find it? A I searched for it in my office, not the court.

THE COURT: Didn't you tell the jury you searched in the court for the purpose of cross examination?

A No, I said I intended to reserve the letter for cross examination.

Q Did you cross examine Blaustein in that proceeding?

A I did, yes, sir.

Q Did you have the letter there to cross examine him upon? A I did not.

Q Where was it then? A At that time I looked for it among the papers and could not find it.

Q What was that? A I looked for it at that time and could not find it.

Q Are you connected in business with the defendant's attorney? A I am not.

Q Are you related to him? A No.

Q In any way? A No.

Q Are you his partner? A Yes.

Q Yes? A No.

MR. WEINBERGER: I object to the questions, he said he wishes to impeach the witness, does the District Attorney impeach his own witness?

MR. MAYNARD; I AM not trying to do that, I am trying to get at the truth if I can, if I can't I want to know the reason why.

Q What is you partner's name, Mr. Schamp? A Mr.

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Q Is he a relative of the defendant? A No, I would not consider him a relative, he is not a relation by blood.

Q By marriage? A The attorney in this case married a sister of his wife.

RE CROSS EXAMINATION BY MR. WEINBERGER:

Q Just for a moment, you know that my wife died, don't you.? A Yes.

Q Quite a number of years ago? A I do.

Q And you did your best at the Police proceeding to make a good case for your client? A I believe that is evidenced by the fact that he was held.

BY THE SIXTH JUROR:

Q If I employ you as an attorney and I give you a document so important as this instrument evidently is in this case and you lose it either through your own organization or yourself, would you feel a bit humiliated and somewhat shamefaced to come into court and admit the fact? A I am in court today under subpoena and I certainly do feel badly over it.

Q You feel badly over it? A Yes, sir, I certainly do.

MR. MAYNARD: I think you show that sir. I sympathize with you.

BY MR. WEINBERGER:

Q You never showed me that letter, did you? A I did not. no I spoke to you of it.

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BY MR. MAYNARD:

Q Tell the jury what you said to the defendant's counsel in the Magistrate's Court about that paper? A When Mrs Weinberger told that Mr. Blaustein was going to take the stand at the Magistrate's Court----

THE COURT: That is in the absence of the defendant---

Q Was it in the absence of the defendant, was not the defendant present at the time? A I think not.

MR. MAYNARD: If your Honor pleases, this is cross examination because the defendant's counsel has asked if he ever said anything to him about it.

MR. WEINBERGER: This attorney likely, in all probability, because the witnesses' partner---my partner is probably related to him by----

THE COURT: I want that question read.

(Question read by stenographer)

MR. MAYNARD: Now I ask him to tell the jury what he said to him about that paper.

THE COURT: Is that such an opening of the door Mr. Maynard, you see Professor Wigmore laid down that rule very strictly and in the Swishel case if you recall, the whole thing is explained that it may be given under the most careful instructions, because it is nevertheless a conversation in the absence of the defendant.

MR. MAYNARD: If your Honor please, the question calls for an answer and that answer I think if it had not

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gone further than the question did not open the door to that conversation unless that in itself opened it.

THE COURT: I am inclined to allow it. I have read the United States Case and our own Court of Appeals, which is good enough for me, and the most remarkable thing is that I don't find a case cited in the United States Supreme Court or at least the United States Circuit Court, which is a very strong court, Judge Day was on that bench as a Circuit judge at the time.

MR. MAYNARD: I know him very well and I will vouch for him.

THE COURT: And this case of Dillon came four years later, that the Court of Appeals was willing to take secondary evidence against a defendant of a document in his possession although no notice to produce was served, it seems to me that the Court is safe in taking the testimony of a document which was in the possession of the attorney for the complaining witness. Of course, it will have to go to the jury under appropriate instructions that such document was in existence. The reasoning in the ~~xxxx~~ case of McKnight against the United States was very powerful reasoning because throughout that discussion, the amendment of the constitution, the giving of testimony against one against his objection. But here they have a right, the defendant has a right to cross examine the witness with a view to ascertaining whether such a document

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was in existence. Of course, it will be for the jury to find from all the circumstances in the case as to whether the defendant made any such document, any such writing. Secondly did he write down the matter testified to? Thirdly, has the absence of producing the writing been properly accounted for.

MR. MAYNARD: That is all Mr. Schaap.

MORRIS GINTZLER resumed the stand.

EXAMINATION BY MR. MAYNARD: (Continued)

Q Can you tell the jury the contents of the writing which was delivered to you by Mr. Schwartz in the handwriting of this defendant, signed by him? A I can.

MR. WEINBERGER: I object to that.

THE COURT: Upon what ground.

MR. WEINBERGER: Being incompetent, the instrument while lost, it has not properly been accounted for, the last person having it in charge was not called here to show that it was lost.

THE COURT: How about that Mr. Maynard.

MR. MAYNARD: The delivery was made to a ---

THE COURT: To a clerk and the clerk was not here, would not you have to show where the clerk is, if he is dead or what?

MR. MAYNARD: No, I think if your Honor pleases the clerk is part of the machinery of the law office; a clerk

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may remain or he may depart and if the lawyer in charge of the papers in the office causes strict search to be made through all of his several cases and packages of documents, and a thorough search is made of his office, that search is always deemed sufficient.

THE COURT: The great difficulty with the testimony of Mr. Schaap is that there is no evidence that the clerk ever put the document away in the place referred to by him and if so, all the search in the world would not avail. You know that rule requires you to go very far. For example a book of accounts, an entry made by a bank clerk in the books of accounts with reference to a discounted papers. Now the mere fact it was made in the regular course of business would be insufficient in order to warrant that entry in evidence in the absence of knowing that the witness is either dead or insane or out of the state. The Court of Appeals has been very particular in that regard. And here is an alleged admission against the defendant's interest that is sharply contested. Don't you think you ought to go a step further?

MR. MAYNARD: I will be willing to do that. I will ask Mr. Schaap one more question and then I will renew my offer at a subsequent point, having made an effort to find the young man.

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THE COURT: I think the rule requires you to go very carefully.

HERMAN M. SCHAAP recalled.

EXAMINATION BY MR. MAYNARD:

Q Mr. Schaap, what was the name of your boy to whom you delivered this writing in the beginning to be filed with your papers? A I could not tell you at this time, because we have had several boys. I have it at the office.

Q Can you furnish his name to Mr. Barry, our representative? A I believe I can.

Q This afternoon, name and address? A I think so.

Q As far as you know, is that boy alive to-day? A He is.

Q How recently have you seen him?

MR. WEINBERGER: I object to that line of questioning if your Honor please.

THE COURT: Objection overruled.

A It must be several months.

Q Since you have seen him? A Yes

Q Do you know what his address is or was when he worked for you? A I think I have his name and address in my book.

THE COURT: Mr. Schaap, did you ever see that document in the files in your office?

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THE WITNESS: I did not.

Q Where did you last see that document? A My last recollection was when I saw it in my hands.

MR. MAYNARD: I do not see where the boy comes in at all.

Q Now where did you last see the document in question, Mr. Schaap? A I believe when it was in my hand.

Q Have you any recollection of delivering that document to anybody else? A No. It is my impression it took the usual course in the office.

Q The last time that you saw it was in your own hands? A In my own hands.

Q MR. MAYNARD: If your Honor please, I shall renew my offer of secondary evidence.

THE COURT: Just pay attention Mr. Maynard to the latter part of the answer, he said it was filed in the usual way, and the usual way was for a boy to file it.

THE WITNESS: I say, I assume, I have no distinct recollection, but I presume it followed the usual course.

Q Did you ever file papers yourself in your office? A Occasionally.

Q As all lawyers do. Have you any recollection that you gave those particular papers to any boy to file? A No, I have no recollection I did sir.

Q Is it possible you filed those papers yourself? A It may be.

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MR. WEINBERGER: I move to strike out the answer, and object to the question, the witness really has testified he gave it to the boy.

MR. MAYNARD: I will ask one additional question to cover that. Can you testify Mr. Schaap that you ever delivered that paper to any boy in your office? A Not positively, no.

Q Last see in your hands-----

THE COURT: How many clerks have access to those papers?

THE WITNESS: The stenographer, the clerk, and the boy, that is the office boy.

Q Any one could at any time go to the cases in your office I assume just as in my own office. A Yes.

Q You never saw that paper in the hands of any person other than yourself, that is right isn't it? A Unless I gave it to the boy, I am not sure about that.

Q Now Mr. Schaap have you made search in every place in your office where that paper might be found? A In every place where it ought to be.

Q Have you made such search in your own room? A I have.

Q Have you searched the coat that you wore at the time it was in your office? A I searched through every suit at home.

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Q You made a careful and diligent search everywhere? A
I did.

Q Do you know of anything that you could do now further
than the search which you have made to find that paper? A Ex-
cept to look over every paper in the office.

THE COURT: Did you look over every paper in the
letter "B"?

THE WITNESS: I did.

Q Every paper? A Every file in the letter "S", I
looked through my letter book under "S" for Schwartz and under
"B" for Blaustein and under "G" for Gintzler of last year.

MR. MAYNARD: I submit your Honor, we have made a
diligent search for the paper.

BY THE SIXTH JUROR:

Q I want to ask you if you have on record in your office
any evidence or any letter referring in any way to the in-
strument that is lost? A No, because there was no other let-
ters in connection with the matter.

BY MR. WEINBERGER:

Q Did you ever give a receipt to Mr. Gintzler for this
letter? A Of course not.

Q Mr. Gintzler's office is not at the same place with
yours, is it? A It is not.

BY MR. MAYNARD:

Q Mr. Schaap, do you ever give a receipt to another at-

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torney for whom you acted as counsel, for papers you received from him? A Not that I can recall.

BY MR. WEINBERGER:

Q Isn't it possible that the boy filed it with other papers?

MR. MAYNARD: I object to that as conjectural, hypothetical, and speculative and calling for a conclusion of the witness.

MR. WEINBERGER: If your Honor please, the ~~known~~ ~~xxx~~ prosecution attemptsto introduce a document the contents of which I have not the faintest idea and that is lost suddenly, that was lost and I never heard about it. I was in police court and I never heard about this document.

MR. MAYNARD: This witness told you.

MR. WEINBERGER: Your Honor will appreciate the danger that there is in a lost document which I heard for the first time at this moment. Your Honor will appreciate my reason for strenuously trying to find the original of this document if it ever existed.

THE COURT: I will allow the question.

(Question repeated by the stenographer)

A That might have happened.

BY THE COURT:

Q Have you a separate case for live cases as well as for disposed of issues? A We have.

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Q How long would it take you to go through them, your live issues of the year 1909? A Some of those issues are filed away as dead papers now.

Q ~~Now~~ I know, but among the live issues? A The papers in the live files now would perhaps take to look through each paper well, perhaps take a day.

Q Well, Mr. Schaap, it is a matter of importance to the people and eventually to this defendant, and I think some effort should be made to go through every paper? A Through every paper?

MR. MAYNARD: And report to-morrow morning.

A (Continuing) You have got me in a bad time, to-day is moving day at home; being if your Honor wishes it, I will go right back to the office.

MR. MAYNARD: Report to-morrow morning.

MORRIS GINTZLER recalled.

EXAMINATION BY THE SIXTH JUROR:

Q Mr. Gintzler, you testified that you saw this document and that it was in the handwriting of the defendant? A Yes, sir.

Q How do you know it is the handwriting of the defendant?

A I have seen innumerable samples of the handwriting of the defendant, in the course of my business transactions with his employer.

Q But you are not a handwriting expert? A I am not.

Q Do you know how many points it takes to make good on handwriting? A I know nthing about it except I recognize his handwriting and have seen him write.

THE COURT:

Q Have you seen him write? A I have seen him write.

Q How often? A Very often, I have been at Mr. Schwartz's place of business very many times and have invariably met the defendant there and had occasion to see him write.
BY MR. WEINBERGER:

Q Mr. Gintzler, what language was the letter written in?

A In German.

Q Did you see the defendant write German before? A I have seen the defendant's signature, it was written in English the letter itself was German.

THE COURT: Have you seen him write German?

THE WITNESS I have not seen him write German to the best of my recollection.

BY MR. MAYNARD:

Q The signature to this paper was written in English, wasn't it? A The signature in English, but the letters ~~was~~ forming words--

Q Lattiny? A Romany, they were like English letters.

Q Do you mean were not sherf? A No, they were not as large as scherf, but they were ~~in~~ Lattinish.

Q They were English? A That is, English letters forming