

J O S E P H I N E C A S I O L I, the complaining witness, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. VANDIVER:

Q Josephine, what was the condition of this article (indicating) when it was put in the pipe in Fort George?

A It was all full of blood.

Q Had it blood on it? A Yes sir.

Q And what was its condition when you went up and got it? A It was all wet, damp, from being in the pipe.

Q And did it have any other stains on it, besides blood stains? A Yes; there were yellow stains.

Q And what was the condition of the article when you delivered it to your mother? A It was wet, and my mother put it to dry.

Q It was just as you found it, when you delivered it to her? A Yes sir.

Q And you did nothing to it from the time you found it in the pipe, until you delivered it to your mother?

A No sir.

CROSS EXAMINATION BY MR. SCITTA:

Q Josephine, you have stated yesterday, in your examination, that you were lying on the ground; is that so?

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MR. VANDIVER: Objected to, as improper cross examination. The witness's cross examination was exhausted on yesterday, and this counsel has all night, and part of the day, to prepare new questions, apparently.

THE COURT: Well, what is the object of the examination?

MR. SCITTA: To show the impossibility of the thing.

THE COURT: Well, that is your argument.

MR. SCITTA: I understand that.

THE COURT: You may ask her the question.

Objection overruled.

MR. VANDIVER: Well, I submit, your Honor, that defendant's counsel had ample opportunity to cross examine, yesterday.

(The question is repeated by the stenographer.)

A Yes.

BY MR. SCITTA:

Q And that Phillip was holding a hand over your face?

MR. VANDIVER: Objected to.

THE COURT: Excluded, because it is repetition.

MR. SCITTA: Well, this one isn't.

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BY MR. SCITTA:

Q And that he held the revolver in the other hand;
is that so?

MR. VANDIVER: I object, on the ground that
the court has excluded the evidence as to the revolv-
er.

THE COURT: The witness testified yesterday,
and I see no necessity of having testimony repeated. If
You intend to follow up a new thought, I would permit
you to do so.

BY MR. SCITTA:

Q This is the writing, "Fort George," which you made on
that paper? A Yes sir.

(It is marked defendant's Exhibit 2 for identi-
fication.)

Q Did you ever have any conversation, Miss Casiloli,
with a man named Frank Bell?

MR. VANDIVER: Objected to, unless it is to im-
peach the witness's credibility.

THE COURT: Overruled.

A No sir.

BY MR. SCITTA:

Q Did you ever have any conversation with Mrs. Bell?

A Mrs. Bell?

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Q Yes? A Yes; she was at my house.

Q But you never had a conversation with Frank Bell?

A No sir.

Q Did you ever have a conversation with one Joe Scheek?

A No sir.

Q Were they ever up at your house? A Yes, they were up at my house, to see my father.

Q Did you ever correspond with Frank Bell? (No answer.)

THE COURT: The question is too indefinite,
counsel.

BY MR. SCITTA:

Q Did you ever write any letters to him? A No sir.

Q Did you ever ask him to be a witness for you, upon this trial? A No sir, I never asked him.

Q Did you ever suggest to him at any time as to what he should say, if he was a witness on this trial?

MR. VANDIVER: Objected to, as immaterial.

THE COURT: Overruled.

A No sir.

BY MR. SCITTA:

Q Are you sure that you never wrote to him? A No sir; I never wrote to him.

Q Positive? A No sir.

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THE COURT: She says so, and has repeated it.

BY MR. SCITTA:

Q I show you a letter, and ask you if that is in your handwriting?

MR. VANDIVER: I object to the characterization of the paper as a letter.

THE COURT: Well, it is cross examination. Objection overruled. You may ask questions which are leading, and which are suggestive, or even argumentative, on cross examination.

MR. VANDIVER: Yes; but I understood, yesterday, your Honor, that the cross examination of the witness was concluded.

MR. SCITTA: No; I said I was through, for the time.

THE COURT: Well, if the interests of justice require further cross examination, I will allow it.

BY MR. SCITTA:

Q Is that your handwriting (indicating)? A Yes, it is my handwriting.

Q Did you write this letter to Mr. Frank Bell?

A He wrote it himself, up to my house; yes.

Q Didn't you say that this was your handwriting?

A I copied that for him. He told me to tell him how I had my testimony down here; but I didn't ask him to come up and

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testify.

Q Didn't you have him served with a subpoena in this case by the People? A No sir.

MR. VANDIVER: I will concede that she did.

Yes, I will concede that she did.

BY MR. SCITTA:

Q Didn't you write this letter for him, simply for the purpose of telling him just exactly what to say, in case he became your witness? A Yes.

MR. SCITTA: I offer the letter in evidence.

MR. VANDIVER: No objection.

(It is admitted, and marked Defendant's Ex.

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(Mr. Scitta reads the Exhibit to the jury.)

RE DIRECT EXAMINATION BY MR. VANDIVER:

Q Just tell the jury the circumstances under which you wrote this note; just tell the jury all about it? A He come up -- he says he knows Phillip Serio, and had conversation with him, and my mother left me out without a guider, and Phillip Serio told Frank Bell all about it; and he told me I should please write it down for him, so he couldn't forget it.

Q And did he come to your house? A Yes sir.

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Q And was this written there, in his presence?

A Yes sir.

RE CROSS EXAMINATION BY MR. SCITTA:

Q And you wrote it for the purpose of refreshing his memory? A Yes sir.

Q As to what he should testify to? A Yes sir.

BY MR. VANDIVER:

Q And at that time Frank Bell lived in your house; didn't he? A Yes sir.

M A R I A C A S I O L I, being recalled by the District Attorney, and examined through the official interpreter, Phillip Dollin, testified as follows:

DIRECT EXAMINATION BY MR. VANDIVER:

Q Madam, when you received this article from your daughter, what was its condition?

MR. SCITTA: I object, if your Honor please.

THE COURT: Objection overruled.

MR. SCITTA: There is no evidence here, if your Honor please, that those articles, those garments were not soiled before she put them on.

THE COURT: The prosecutrix testified, I believe, that there was no blood on the garment be-

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fore.

MR. SCITTA: But, if my memory serves me right, there is no testimony as to the condition of the garments before she went to Fort George, and that must be shown before the condition of the garments can be shown afterwards.

MR. VANDIVER: I thought that testimony was there, sir.

J O S E P H M N E C A S I O L I, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. VANDIVER:

Q What was the condition of these drawers, when you put on, on the morning when you went to Fort George with the defendant? A Pure white.

Q And what was their condition, at the time this defendant pulled up your skirts, if you know? A A Pure white.

BY THE COURT:

Q Were there any marks on the garment at all? A No sir.

Q And on what day did you put this garment on? A I put it on on Sunday morning.

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Q And on what day was this? A This was on Monday.

CROSS EXAMINATION: None.

M A R I A C A S I O L I, being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR VANDIVER:

Q Madam, what was the condition of this garment, when your daughter gave it to you? A Well, when she gave it to me back, it was dirtier than it is now.

Q Well, is it in the same condition now that it was then?

MR. SCITTA: I object to that, as leading, after the testimony she has just given.

THE COURT: Sustained.

BY MR. VANDIVER:

Q Well what did you do with the article? A I didn't do anything.

THE FOURTH JUROR:

Q I am an Italian. She said that it was more dirty because there was more black earth on it. The interpreter doesn't give the answer right.

BY MR. VANDIVER:

Q Well, what did you do with it? A I didn't do any-

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thing with it. Just as she gave it to me, the way it is now.

Q Did you hang it up? A Well it remained there. It was in the house.

Q And it is now as it was when you received it?
A Well it was dirtier when she gave it to me back, full of earth, mud.

Q And, with that exception, it is now as it was then; is that right? A Yes sir.

MR. VANDIVER: I offer it now, sir.

MR. SCITTA: I object to it as immaterial, irrelevant and incompetent.

THE COURT: I will receive it.

(It is marked People's Exhibit 1 in evidence.)

MR. VANDIVER: That is the People's case, sir.

CROSS EXAMINATION BY MR. SCITTA:

Q Mrs. Casioli, your daughter was in the habit of going out alone; wasn't she? A No sir; she was always with me.

Q Didn't your daughter run away from home once? A He took her away from the house; he made her leave the house.

BY THE COURT:

Q When? A On the 4th of June, he dishonored her; he took her away there.

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BY MR. VANDIVER:

Q On the 4th of June, the day alleged in the indictment? A My daughter goes out in the morning, to work, and he took her to Fort George.

BY MR. SCITTA:

Q After this 4th day of June, did she ever leave the house and stay away from the house all night? A Well, on a Saturday, he took her away, and she didn't sleep in the house then, that time.

Q How do you know that he took her away?

THE COURT: You see, counsel, you are proceeding along the line which the District Attorney was not allowed to proceed on.

MR. SCITTA: If your Honor please, I only got this this morning.

THE COURT: But you are travelling along a line outside of the indictment, which the District Attorney would not be allowed to pursue, and you are bound by her testimony.

MR. SCITTA: And I am anxious to show the conflicting testimony of these witnesses.

THE COURT: But the witness testified that the defendant took her away.

MR. SCITTA: And I am asking her how she knows

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that.

MR. VANDIVER: I have no objection to the testimony, sir.

A He gave the direction to the girl, he gave to us the address where he will take her.

BY MR. SCITTA:

Q Did he give the address to you or to your daughter?

A To my mother.

RE DIRECT EXAMINATION BY MR. VANDIVER:

Q And he gave this address to your daughter?

A Yes sir.

Q Did she go with your permission? A No sir.

Q And did you know where she was? A No sir; I knew that she went to work.

Q You know, though, that the defendant had taken her out, all night? A He took her to a good family.

Q How long did she stay? A One night.

Q Did you know where your daughter had gone? A Yes sir. He gave me the direction.

Q But you don't know whether he took her to that address or not; do you? A He took her.

Q That is where he said he took her? A Yes; he gave the directions of that place.

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RE CROSS EXAMINATION BY MR. SCITTA:

Q Now, Mrs. Casioli, isn't it fact that your daughter sent a telegram to Phillip Serio, telling him to call where she was topping? A I don't know.

Q And isn't it a fact that, when you called on Phillip Serio, that he said he didn't know where your daughter was, but he had received this telegram, and probably, if you went there, you could find her? A No sir; he took her there. That is the truth. He took her there.

Q Did you see him take her there? A No sir.

MR. VANDIVER: The People rest, if your Honor please.

MR. SCITTA: If the Court please, I move to dismiss, upon the ground that the People have failed to make out a case as required by law, for the reason that the only evidence of support in this case is the testimony of the grandmother, where she said that she was dishonored.

As far as the other witnesses are concerned, there is no doubt in mind, and I hope the Court will uphold me, that they have not only not made out a case -- but their testimony is so full of contradictions and falsity that it shouldn't be believed, and this case shouldn't go to the jury.

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I think that, when the prosecutrix positively swears that she wrote that letter, telling the witness what he should say, it is sufficient to take this case away from the jury, to show the whole story is a concocted scheme upon which to fasten this crime upon this poor defendant.

THE COURT: Any other reason?

MR. SCITTA: Reason? There isn't sufficient corroboration.

THE COURT: Why not? What authority have you?

MR. SCITTA: Well, as I understand it, cases of this kind must be supported by some kind of evidence, upon which the story of the complaining witness must be corroborated to a certain degree; and in this case there isn't anything, outside of the grandmother, and the grandmother's testimony is so uncertain as to the times of their occurrences that it is very peculiar that she is certain about this one single thing, that he told her that he had dishonored her granddaughter.

Now, outside of that, what testimony is there that ought to be believed? The girl certainly ought not to be believed. Her story isn't true. The mother, she contradicted herself.

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THE COURT: How about the mother's testimony as to the conversation ~~that~~ this defendant had with her?

MR. SCITTA: Why, the mother only testified that he had deceived her, and he would marry her. There is no evidence that the mother said that he had dishonored her, or had had sexual intercourse with the daughter.

THE COURT: My recollection is that she used the word "ruined", that he had ruined her.

MR. SCITTA: Well, even assuming that. I don't recollect it, but I am willing to take the Court's word for that. But even ~~if~~ the word "ruin" would not mean that he had had sexual intercourse.

THE COURT: How about the father's testimony?

MR. SCITTA: The father doesn't corroborate anything.

THE COURT: Was there not a conversation testified to between the defendant and the father?

MR. SCITTA: No sir; none whatever.

THE COURT: What do you say, Mr. vandiver?

MR. VANDIVER: We have, sir, the testimony of the complaining witness, unshaken by any matter of any kind.

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THE COURT: Eliminate her, for the purposes of this case.

MR. VANDIVER: The corroboration that we have, sir, is the testimony of the mother and the grandmother, conversations with the defendant in which he stated through Mr. Barra's interpretation, as I understand it, using the same word, each of them, that he had dishonored the daughter, and would marry her. We have, also, the garment, of the complaining witness, which is some evidence.

THE COURT: Produced several months thereafter.

MR. VANDIVER: No sir; several weeks thereafter.

THE COURT: The offence was committed on June 4th, and the garments were found in August, were they not?

MR. VANDIVER: That's right, sir.

THE COURT: What proof is there, that the garment contains blood, and, if it does contain blood, how can the Court indulge in the speculation that the blood on the garment was the complainant's blood?

MR. VANDIVER: I have given the complainant's testimony as to that.

THE COURT: The rule of corroboration in rape by force is entirely different from the rule in rape

by consent. In a case of rape by force, where a girl makes an outcry, and nobody comes to her rescue, and she emerges from a place on a public highway, and her hair is in a ruffled condition, and her clothing torn, evidence of violence being apparent, and upon her garments blood, and the defendant is in the building or at the place, these circumstances the law regards as corroboration.

But where, months thereafter, the complaint is made, in rape in the second, the disclosure is not permissible.

Now, in this case, you have the testimony of the girl, and the alleged admissions made by the defendant.

MR. VANDIVER: Yes sir.

THE COURT: Now, the importance of the conversation was apparent, in view of the decision of the Court of Appeals in the case of the people against Page, 162nd N. Y. That is an important case for you to consider, Mr. District Attorney. Of course, my views are pronounced in this class of cases, but nevertheless, my experience has taught me, because I have tried so many cases as a prosecutor and an attorney and a Court, my experience teaches me that

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we are always better off, when we approach a case of this character coolly; because, after all, we are all human, and sometimes we allow our opinions to govern our conduct, and that is highly improper, and I will not allow that ever to be done.

In this case, you have the testimony of the girl, and of an alleged admission made by the defendant, ^{to} two people who are near and dear to the prosecutrix. What other fact is there in the case, tending to support the testimony of the prosecutrix?

MR. VIGARVENA: That is all we have, sir. Of course, I agree with your Honor that the relationship would have to be considered by the jury.

THE COURT: Well I think it would be advisable for you to examine the case of the People against Page, 162nd N. Y.

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MR. VANDIVER: Your Honor is undoubtedly familiar with the case of the People against Grauer, as to the opportunity and the ruptured hymen.

THE COURT: Well, I disagree with you that the Court of Appeals or the Appellate Division ever so held. In the case of the People against Hasher, in that case, the Appellate Division there held (reads). Now, that case disposed of the question of opportunity.

MR. VANDIVER: Now, your Honor, that case was ---

THE COURT: Now, pardon me. That case disposed of the question of opportunity; although they were seen in each other's company, and there was even a more forcible circumstance, the pregnancy of the woman; and the Court of Appeals there held that it was evidence of sexual intercourse being held with her, but not that the defendant was the responsible agent (reads).

MR. VANDIVER: But now, will your Honor hear me?

THE COURT: Just a moment. Let me give you the cases, and then you may distinguish them. In the case of the People against Swasey (reads). That is insufficient. In other words, the mere fact that there is a ruptured hymen does not prove that the defendant was the person responsible for the commission of the offense.

Now, in the Page case, the Court of Appeals says: (reads).

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In the case that you refer to, Mr. Vandiver, the People against Grauer -- that is the Appellate Division case you mean?

MR. VANDIVER: Yes, sir; and it was affirmed in the Court of Appeals, in the 156th New York.

THE COURT: 12th Appellate Division?

MR. VANDIVER: Yes, sir.

THE COURT: I have an entry here on a different ground. What point do you desire to refer to in the Grauer case?

MR. VANDIVER: Now, if your Honor please, the Grauer case is a case decided by the Appellate Division of this Department, and passed upon by the court of Appeals. I will show you the affirmance.

THE COURT: Well, my record shows ---
submitted

MR. VANDIVER: I ~~submit~~ the affirmance to your Honor in the last term in the Max Block case, tNew, the Kessler case, was decided in the Second Division and never taken up to the Court of Appeals. The Grauer case was taken up to the Court of Appeals. The testimony there was the testimony of the complainant and of the physician, as to the absence of the hymen.

THE COURT: There must be more than that. The Department does not control my action.

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MR. VANDIVER: But that was passed upon by the Court of Appeals.

THE COURT: Because I think we have as good judges up the State as down here, possibly better, with all due respect to the judges here. I have a high regard for the judges up the State, as I think that some of their decisions are very instructive and full of learning. I have this citation from the Grauer case: (reads).

The difficulty is that all these rape cases cannot be determined as matter of law. The Judge cannot express his opinion as a matter of law until he gets all the facts before him. Now, undoubtedly, an admission to a stranger is more forcible than an admission to a relative.

MR. VANDIVER: Well, I should look with more suspicion upon an admission to a stranger, than to a member of the family, with all due respect; although I agree with your Honor entirely, that the relationship is a matter for the jury to consider.

THE COURT: It seems to me that the statement that he had dishonored her, and that he would marry her is important, but strike that out and what evidence have you in the case?

MR. VANDIVER: We have nothing besides the admission and the testimony of the physician and these garments,

which I, of course, recognize as not as strong corroboration as I would like to have. But your Honor is familiar from the very nature of the offense, with the inability of the People, sometimes, to produce any more corroborative evidence in such a case. I may be in error as to the citation as to the ruptured hymen and the testimony of the complainant.

THE COURT: But the Swasey case holds that, as a matter of law, is not corroboration. There is the hairpin or hatpin case, the People against Kerwin.

MR. VANDIVER: If your Honor will take the motion under advisement I will submit the authorities to you.

THE COURT: One is the Kerwin case, where a man accompanied the woman to the woods, and a hatpin or hairpin was found. There are two cases by that name, one an attempted rape, and the other a rape.

MR. VANDIVER: Yes, sir, I will submit all the authorities to you, sir.

THE COURT: Look up the case of the People against McKeon, 64 Hun, '69. Examine the case against Terwilliger, also 142nd New York. Send for that case.

MR. VANDIVER: Yes, sir, that was the case I had in my mind.

THE COURT: And, Mr. Vandiver, there is a recent case in the Appellate Division, a case which you will

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find of great interest, 114th Appellate Division, the People against Smith. I think you will find that in the advance sheets. I think you will find the Smith case almost covering your proposition. Will you send for the Smith case immediately? It is in the advance sheets, 114th Appellate Division, in the advance sheets.

MR. VANDIVER: Now, if your Honor please, in the People against Grauer, the testimony was that of the complaining witness alone, supported by the testimony of the mother, to the effect that, two years before the offense alleged in the indictment, she had found the complaining witness, who was her daughter, and the daughter of the defendant, in the room, with the door locked.

THE COURT: Well, that is pretty substantial evidence.

MR. VANDIVER: They were father and child. He would certainly be entitled to the innocence ---

THE COURT: No, he was the stepfather.

MR. VANDIVER: Yes, sir, but he was the father in the eyes of the law. The child was fifteen and they lived together, sir.

THE COURT: I knew there was something else in the Grauer case.

MR. VANDIVER: But that case held that the evidence of prior acts was admissible, and there was there,

in that case, the testimony only of the complaining witness and the mother to that effect.

THE COURT: No, the Grauer case would not control my decision. But I think you will find the Smith case holds that very slight evidence is sufficient, and it is sustained.

Have you the Terwilliger case here?

MR. VANDIVER: Yes, sir. It is merely the affirmance in the Court of Appeals. Has your Honor the Appellate Division citation?

THE COURT: 74th Hun. And it might be as well to excuse the jury while this question of law is being argued.

Gentlemen of the jury, do not talk among yourselves nor permit any one to talk with you, on any subject matter connected with this case, or form or express any opinion regarding the guilt or innocence of the defendant, until this case is finally submitted to you.

And I admonish you that the argument between the counsel and Court, as to the law of this case, must not influence you one way or the other. The Court is now considering, as matter of law, whether there is evidence for the jury to determine upon; and, when the Court performs such function, and determines that there is such evidence, it is your duty to determine whether it is credible and sufficient, and such as satisfies

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you, beyond a reasonable doubt of the guilt of the defendant.

THE COURT: I deny the motion.

MR. SCITTA: I take an exception, if your Honor please.

(The Court then took a recess until 2 o'clock.)

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AFTER RECESS.

JOSEPHINE CASIOLI, being recalled by the District Attorney, testified as follows:

MR. VANDIVER: If your Honor please, I find, on consultation with the stenographer, that I have omitted to prove that the complaining witness is not the wife of the defendant, and I ask your Honor's permission to re-open the case for the purpose of supplying that defect in the proof.

THE COURT: Let me look at the indictment. Proceed to ask your questions.

DIRECT EXAMINATION BY MR. VANDIVER:

Q Josephine, are you the wife of this defendant?

A No, sir.

MR. SCITTA: Now, if the Court please, I object to that question at this stage of the proceedings.

THE COURT: Objection overruled. It is purely within the discretion of the Court to allow the District Attorney to present such evidence at this time, and at any time before the summation; and the decisions are even that, at the time that the case is being summed up, if it is discovered that there is a failure in the technical line of proof, it may be supplied.

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BY THE COURT:

Q What is your answer? A No, sir.

BY MR. VANDIVER:

Q When did you receive Defendant's Exhibit 3 --- when did you deliver Defendant's Exhibit 3 to Frank Bell? A On the day that the case was going to be up.

Q What day was that, Josephine? A I don't remember that; it was Tuesday or Wednesday.

Q Of what week? A Of last week.

Q Of last week? A Yes, sir.

Q You had received subpoenas to come to Court, had you? A Yes.

Q And the witness Frank Bell came to see you; did he?
A Yes, sir.

Q And you then had a certain conversation with him; had you? A Yes, sir.

Q And, as the result of that conversation, you wrote that letter? A Yes, sir.

Q Last week? A Yes, sir.

Q Do you remember the day? A No, sir, I don't remember the day; it was either Tuesday or Wednesday.

Q Of last week? A Yes, sir.

MR. VANDIVER: That is the People's case, your Honor.

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CROSS EXAMINATION BY MR. SCITTA:

Q Just a moment. Do you remember when you sent Philip Serio a telegram, sometime in the month of June? A No, sir, not I.

Q Did you direct any one to send a telegram to him?

A Yes, sir; one of the girls that I was at her house.

Q At that time you were away from your home, weren't you? A Yes, sir.

Q And stayed away all night? A Yes, sir.

Q Was Serio with you then? A Sir?

Q He wasn't with you? A No, sir.

Q And that was after this alleged charge that you made against the defendant? A Sir?

Q It was after he had been with you up to Fort George? A Yes, sir.

Q Did he come to see you after you sent him that telegram? A Yes, sir, he was up there the next morning.

Q He came up the next morning? A Yes, sir.

Q Isn't it a fact that your mother came up? A First he came up, and he told me to wait for him until the afternoon, and he would take me out, and the next day he would marry me; and, in the meantime, he went down and telephoned and made my mother come up and take me.

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RE-DIRECT EXAMINATION BY MR. VANDIVER:

Q You didn't have any intercourse with him then?

A No, sir.

Q How did you happen to go up there, then? A He told me, the day before. He said, "You go up to that girl's house, that I know that she is a respectable and decent girl, and Monday we'll get married." That was on Saturday.

Q Yes. A And he told me on Monday he would marry me.

Q And you went up and stayed one night? A Yes, sir.

Q Away from home? A Yes, sir.

Q With your young girl friend? A Yes, sir.

Q And the defendant didn't come up there at all? A No, sir.

Q And that's the only night that you ever spent away from home since you have known him? A Yes, sir.

RE-CROSS EXAMINATION BY MR. SCITTA:

Q Just one question, did you ever keep company with any other young man? A No, sir.

Q Did you ever keep company with a young fellow named Donato Russo? A No, sir. He came up to the house, and my mother was pleased, but I wasn't, and I never went with him.

Q Does he come up to your house sometimes? A Yes; comes up to see my father, but not me.

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Q Did you ever keep company with Frank Bell's brother?

A No, sir; I don't know Frank Bell's brother.

BY MR. VANDIVER:

Q Donato Russell worked for your father, did he? A Yes, sir.

Q At your father's place of business as a taylor? A Yes, sir.

MR. VANDIVER: The People rest.

MR. SCITTA: Of course it is unnecessary to renew my motions, your Honor, as your Honor has decided them.

THE COURT: No, it is not necessary.

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THE DEFENSE.

P H I L I P S E R I O, the defendant, being duly sworn,
testified as follows:

DIRECT EXAMINATION BY MR. SCITTA:

Q Philip, how old are you? A Twenty.

Q Talk loud so that the jurors can hear you, and plain.

Where do you reside? A What do you say, sir.

Q Where do you live? A 111 Cherry street, second floor.

Q And live with whom? A My parents.

Q What is your business? A Machinist.

Q What was your business in the month of June 1906?

A Machinist.

Q And were working for whom? A For the Skridloff Laboratory.

Q Now, do you know the complainant in this case, Josephine Casioli? A Yes, sir.

Q When did you first meet her? A Well, I don't remember exactly the day, but I met her on a Friday.

Q And was that in the same house that you were residing? A No; over on 203 Grand street, on the fourth floor.

Q Now, when was it that you met her, see if you can place it? A I can't exactly tell you.

Q She testified, I think, that you met her in January?

A I don't know. I can't exactly tell you because I give all

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my head to my work and I don't want to bother about anything like that.

Now, after you met her on this occasion, did you call upon her to see her? A Yes; she invited me up on her house.

Q Now, during the time that you called upon the house, did you use to see her or the family? A All the family.

Q All together? A Yes, sir.

Q Now, did you ever have any conversation about marrying? A No, sir.

Q And were you out with her on the 4th of June, 1906?
A No, sir.

Q Were you up at Fort George, on that day? A No, sir.

Q Were you ever out with her alone? A No, sir; I never did. Sometimes I used to go walking with her mother, with the whole bunch.

Q Now, did you, either on the 4th of June, or at any time, commit an act of rape upon that girl? A No, sir.

Q Did you ever have intercourse with her in any way, shape or form? A No, sir.

Q Did you ever tell her after the 4th of June that you would marry her? A No, sir.

Q Did you ever tell her mother --- A No, sir.

Q Just wait. That you had deceived or dishonored her

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daughter, and that you would marry her? A No, sir.

Q Did you ever tell any such thing to her grandmother?

A No, sir.

Q Did you ever have any conversation with her at any time regarding her age? A Yes.

Q How old did she tell you she was when you first met her?

MR. VANDIVER: I object.

THE COURT: Objection sustained. It is necessary for you, in order to contradict the witness as to what was said regarding the age, to specifically call the attention of the prosecutrix to such conversation that you now seek to contradict, with a view to impeaching the testimony of the witness. You may recall the complainant and ask her if she at any time stated to this defendant her age.

MR. SCITTA: Well, I shall have to do that, if the Court please, if I am overruled on that point.

THE COURT: Yes, you may do that now. As matter of law the Court is bound to sustain the objection.

MR. SCITTA: Well, I will ask the witness to step down for a minute and ask to have Josephine Casioli, the complaining witness recalled.

THE COURT: You may do so.

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J O S E P H I N E C A S I O L I, the complaining witness,
being recalled by counsel for the defendant for further
cross examination, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. SCITTA:

Q Josephine, did you ever tell Philip Serio how old you
were? A Yes, sir.

Q And did you ever tell him that you were about the same
age as he was? A No, sir; I never told him so.

Q Did you ever tell Frank Bell how old you were?
A No, sir.

MR. SCITTA: All right.

THE COURT: Now, ask the specific question.

BY MR. SCITTA:

Q Well, did you ever tell Philip Serio that you were
over eighteen years of age when he first met you? A No, sir.

Q Did you ever tell that to Frank Bell? A No, sir.

MR. VANDIVER: I think, if your Honor please,
that the specific time ought to be fixed when she had
the conversation with the defendant. I don't wish to
impose any technical objection.

THE COURT: Yes, you should ask for some specific
time, when and where.

MR. SCITTA: I asked her when she first met him.

BY MR. SCITTA:

Q You said that you met him in January, 1906? A Yes, sir.

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Q And did you at that time or within a few days thereafter have any conversation regarding your age? A No, sir.

Q Didn't you tell him then that you were eighteen years of age? A No, sir.

RE-DIRECT EXAMINATION BY MR. VANDIVER:

Q Did you ever have any conversation with him about your age? A No, sir. My mother did, but not I.

PHILIP SERIO, the defendant, being recalled to the stand by counsel for the defendant, for further direct examination testified as follows:

DIRECT EXAMINATION CONTINUED BY MR. SCITTA:

Q What did she tell you, how old she was? A Eighteen.

Q Do you recollect the month of June, on about the 16th, when you received a certain telegram? A Yes, sir.

Q Did you --- I show you the telegram and ask you if that is the telegram that you received (indicating)? A Yes, sir; that's the one.

Q Did you go up there that day in response to that telegram? A No, sir; I went the next day.

Q And did you see her? A Yes, sir.

Q Did you ask her what she wanted in response to this telegram?

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THE COURT: Ask who?

BY MR. SCITTA:

Q Ask Miss Casioli? A Yes, sir.

MR. SCITTA: I would like to offer the telegram in evidence, if your Honor please.

THE COURT: Whose telegram is it?

MR. SCITTA: She admits it.

MR. VANDIVER: She does not do anything of the kind, sir.

THE COURT: Was her attention directed to it?

MR. VANDIVER: Yes, sir; she testified that a friend of hers sent the telegram, but she didn't do it.

MR. SCITTA: But by her direction.

MR. VANDIVER: And I have no objection to its being admitted.

(It is admitted and marked Defendant's Exhibit 4.)

(Mr. Scitta reads the telegram to the jury.)

BY MR. SCITTA:

Q What did she tell you she wanted to see you for?

A Because she used to fight all the time with her mother, and that's the reason she left home.

MR. VANDIVER: I object to that and move to strike that out.

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THE COURT: Objection sustained. Strike it out.

BY MR. SCITTA:

Q Well, what did she say to you? A Well, she said she had a fight with her mother.

Q Did she say anything else? A No, sir.

Q Did you remain there or go away? A What's that?

Q What did you do? Did you stay there? A No, sir, I went right back, downtown.

Q Did you afterwards see any of her parents? A Yes, her grandma.

Q And did you tell her then where she was? A Yes, sir.

Q Now, on the 4th of June, Philip, where were you?

A North Bergen; what they call Little Coney Island.

Q North Bergen? A Yes, sir; New Jersey.

Q And when did you go there? A On the 3rd of June, in the afternoon; it was Sunday afternoon.

Q And who were with you? A All my family.

Q And who were you stopping with there, at whose house? A A friend of mine, a barber.

Q And how long did you remain there? A All the night of the 3rd of June and I come home on the 4th of June, about half past ten at night.

BY THE COURT:

Q you came back when? A At half past ten at night, on the 4th of June.

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BY MR. SCITTA:

Q Miss Casioli testified that you took her up to Fort George and there assaulted her, or, rather, took advantage of her and had sexual intercourse with her, and that you unbuttoned her garments, and afterwards you took those garments and put them in a pipe? A I never was in Fort George, your Honor.

Q Were you ever at Fort George with her at all? A No, sir.

CROSS EXAMINATION BY MR. VANDIVER:

Q Where do you work now? A I don't work now, sir.

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

Q What do you do for a living? A Because my father works, but I don't work on account of this trouble I been having.

Q Then your father supports you? A Of course.

Q How long is it that has been going on? A Well, since - I don't know, since a month or so.

Q Just about a month or so? A Yes, sir.

Q Where was your last job? A Last job?

Q Yes. A In Vandewater street. And then ---

Q All right. In Vandewater street? A Yes; that was the last place I worked.

Q And since then, for the last month or two, you have

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been doing nothing but attend to your case? A Yes; I don't know if it is exactly two months but around that time.

Q And during that time you have been to see me once or twice? A Once, yes.

Q Now, wasn't it twice? A Yes, but I didn't talk to you twice.

Q And where was the Vandewater place? A Vandewater street, 17 to 27.

Q What was the business? A The Skridloff Laboratory.

Q When did you go to work for them? A In 1905, I think.

Q And do you remember the month? A No, sir.

Q How long did you work for them? A Two years.

Q And you were working for them in June of last year?

A I was working for them last June.

Q Were you working there in July? A I couldn't tell you.

Q In August? A I couldn't tell you because I don't exactly remember.

Q But you do remember that you were over in Jersey on the 4th of June? A Why, sure, because I know I was working in the place, because I received that telegram, and I know I was working there.

Q How do you remember the date that you were in Jersey?

A Well, because I remember it happened on the 3rd of July. I went there with my mother and all the family, and

was there over a day.

Q Now, was it July or June? A June.

Q Now wasn't the day before the 4th of July a holiday?

A No; I went in June.

Q Well, where were you on the 4th of July? A The 4th of July?

Q Yes. A I don't remember. I think I was in Passaic, somewhere.

Q Then you remember that? A Yes, sir.

Q You were in Passaic on the 4th of July? A Yes, sir.

Q And you were in North Bergen on the 3rd and 4th of June? A Yes, sir.

Q Were you anywhere else out of town in June? A Sir?

Q Did you go out of town any other times in June?

A No; I was staying in New York.

Q And did you work the rest of the month of June?

A I think; I can't remember.

Q Did you work regularly at your job? A What do you say, sir.

Q Did you work at your job every day in the week, except Sundays? A Well, sometimes I worked regular and sometimes I took half a day, according to what business I had to attend to.

Q Did you take a day off whenever you wanted to? A Well, sometimes.

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Q And you can't tell me how regularly you worked, can you? A No, sir.

Q You worked when you felt like it? A (No answer).

Q Do you understand that? I want to be fair to you?

A Sir?

Q Do you understand what I say, or do you wish an interpreter? A (No answer).

Q Had you rather talk to me in English or in Italian?

A Well, anyway.

BY MR. SCITTA:

Q You understand the question, don't you? A Sure I do.

BY MR. VANDIVER:

Q Then tell me whether you worked regularly or only when you wanted to? A No, sir; I worked right steady, but sometimes I take the day off. That's the rule in that place.

Q And how did you happen to leave that job? A Because I was sick.

Q Were you discharged or not? A I was discharged; yes.

Q And you were not there, were you, as matter of fact, in July or August, isn't that right? A I couldn't tell you that.

Q And you were not there in October? A I couldn't tell you.

Q And you were not there in September, were you? A I couldn't exactly tell you.

Q Well, where were you during those months? You know where you were? In October and September and August?

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A I don't remember. I know that I was sick, and I went out in the country; and I went back to the shop to get a job, and my place was taken, they discharged me; and, after that, I went to the country, and I stood there about three weeks; and I be'd back again and my mother show that call from the Court, and I take it with a laugh, because I know I never do nothing, and I looked for another job.

Q Now you received a piece of brown paper, like that (illustrating)? A Yes sir.

Q And it was delivered to you by a sister of Josephine?

A I don't know. It was there when I come back.

Q And had it my name on it, and told you to come down and see me; didn't it? (No answer.)

THE COURT: Well, to be fair with the witness, unless the subpoena required the witness to appear before the Grand Jury on a particular charge the witness was not required to appear.

MR. VANDIVER: That is perfectly true, sir; and what he received was merely a request to come down and see me.

THE COURT: Then do not let the jury infer that he disobeyed an order of the Court. A brown subpoena or any other subpoena, requiring a witness to appear in the private room of the District Attorney,

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is a matter that the witness may or may not honor, at his pleasure. Unless the subpoena commands a witness to appear before the Grand Jury, or before a court of competent jurisdiction, then the witness is not obliged to do so.

MR. VANDIVER: Exactly, sir. And what he received was a request from me. He states that he received a brown paper, and I will state, for your Honor's information, that that was merely a request to come down and see me.

BY MR. VANDIVER:

Q After you got the brown paper, you didn't come down to see me.

MR. SCITTA: He didn't say that he got the paper.

MR. VANDIVER: Oh, yes, he did.

BY THE COURT:

Q Did you get a brown paper? A Well I don't remember exactly the paper, but I know it is a call from the Court, and I find it in the house, when I come back from the country.

BY MR. VANDIVER:

Q After you received the paper, you didn't come down to see me? A Well I never do nothing, so I don't come down to see you.

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Q You read it; didn't you? A Yes.

Q And, after you read it, you didn't come down to see me; did you? A Well, of course, I never did anything, and --

Q Just answer that yes or no? A Give me that again, sir.

Q You didn't come down to see me? A No sir.

Q Did you go out of town again? A No sir.

Q Where did you go? A Around in my neighborhood all the time, and I went to work over in New Jersey, and I used to come every evening around in my house.

Q Yes? A And I used to be around all my blocks.

Q And working in New Jersey? A Yes sir; because I couldn't get --

Q After you read this notice?

MR. SCITTA: Objected to.

THE COURT: Objection sustained.

BY MR. VANDIVER:

Q Where did you live when you were working in New Jersey? A 111 Cherry Street.

Q Did you go there every night? A Yes sir.

Q Well how long did you work over in New Jersey?

A Oh, I couldn't tell you how long I worked there.

Q You remember when you were arrested; don't you?

A No sir; I don't remember the day.

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Q It was in New York; wasn't it? A I don't remember, sir.

Q Where were you when you were arrested? A A friend of mine's house.

Q What number and what street? A 75 Division Street.

Q What were you doing there? A Well, of course, I went to see a friend.

Q Man or woman? A Well, of course, sir, all the family.

Q What is the name? A Demenser.

Q Which particular one of the family did you go to see there? A Sir?

Q Which one of the family did you go to see? A All the family.

Q How many are there in the family? A Five children and the mother, four -- six.

Q Any girls? A Yes sir.

Q How old are they? A I couldn't tell you that.

Q As old as eighteen? A I couldn't tell you that.

Q Is your memory good? Can you remember well? A No; I don't remember.

Q Well, how do you remember that you were in New Jersey, on the 4th of June?

BY THE COURT:

No. Answer the question. You remember well? The

District Attorney wants to know.

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A I don't understand.

BY MR. VANDIVER:

Q Do you understand what I mean? Have you got a good memory? A Well I think I have, but I don't remember all the things like that.

Q What is that? A I don't remember all these things like that.

Q You don't remember all these dates? A No sir.

Q But you do remember that you were at Little Coney Island, on the 3rd of June? A Yes sir; because a friend of mine's wife was sick in bed, and that is why I go.

Q When did you go? A On the 3rd of June, in the afternoon.

Q And what road did you take? A The Brooklyn ferry, and then I take Washington Street, and then I transferred for the North Bergen car.

Q You got on a trolley car; did you? A Yes sir.

Q How long did you stay there? A From the third of June, in the afternoon, until the 4th of June, about half past ten in the night.

Q Well, why didn't you go to work on the 4th of June? A Because all my family stood there, and so I stood there.

Q It was a holiday; wasn't it? A No sir, it was on a Monday.

Q And then you came back on the 4th; did you? A Yes;

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about half past ten in the evening.

Q Did you go to work? A The next day; yes.

Q And did you work on the next day? A I think so.

Q Will you swear that you did? A I couldn't tell you. I don't know for sure. I know the second day I've been working.

Q And you are sure that you stayed two days in Bergen?

A Sunday afternoon and all Monday, until half past ten at night.

Q But you can't tell whether you worked all the rest of the week or not? A No sir.

Q How long have you known Josephine? A Since that time I met her in the party.

Q And that was on the 31st of December, 1905? A Oh, I don't know; I don't remember.

Q It was the last day of the year; wasn't it? A I can't tell you.

Q Well, after you met her at the party, you called to see her frequently? A She asked me to come up to the house.

Q (Question repeated)? A Yes sir.

Q You met her father? A Sir?

Q You became acquainted with her father? She introduced you to her father? A No; it was months after.

Q And did she introduce you to her mother? A Yes

sir.

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Q And her grandmother? A Yes; all the family.

Q All the family? A Yes sir.

Q And you went up often, in the evening? A Yes; that is the only time I could go, in the evening.

Q And how long did you stay when you called there?

A Until about half past nine or ten o'clock.

Q Did you ever take her out to any balls or pic-nics?

A No sir; only once, when her mother and her sister and everybody was along.

Q And you went out to walk with Josie and her mother and grandmother and the rest of the family? A Yes sir.

Q And you gave her presents, sometimes? A Yes sir.

Q And you gave her a ring? A Yes sir.

Q And why did you give her the ring? A Because she gives me some of those Italian round cheeses, and so I give her the ring.

Q And what did you say to her, when you gave her the ring? A Well I said, "Here, Josie, you give me that cheese, and I give you that ring".

Q Well you liked her; didn't you? A Yes, I guess I liked her, because she was nice to me. I liked all the family.

Q You liked all the family? They were a nice family?

A Yes; they are a nice family.

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Q And is Josephine a good girl, to your knowledge?

A Well I thought she was, but now I heard she left home, and I don't think she is; because the Italian style is this, if a decent girl is home, she must stay home; that's the Italian style.

Q Do you know of anything that Josie ever did that reflects upon her character? A No sir.

Q Do you know of any man that ever had intercourse with Josie? A Only I knew a couple of fellows that used to go with her; that is all.

Q Did either one of them ever tell you that they had had sexual relations with Josie? (No answer.)

Q Did either of them ever tell you that they had had intercourse with Josie? (No answer.)

Q Do you understand that? A Give me that again.

Q Did anybody that you know, man, woman or child, ever tell you that Josie was a bad girl? A No sir. Of course I --

Q That is an answer? A Because I never asked anybody.

Q And these two men that you say kept company with her. Did they ever tell you that they had anything to do with her? A I never spoke with them fellows.

Q And then you don't know anything reflecting on her character? A No sir.

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Q And do you know of any reason why she should come here, and testify that you had intercourse with her, when you did not? A Yes sir.

Q What reason? A Well I think she knows I get good wages, and that is the reason.

Q You told her that you got good wages? A Yes sir.

Q And how much did you get? A \$19.50 a week.

Q And her father is well to do; isn't he? A (No answer.)

Q He is rich; isn't he? A I don't know.

Q Did you ever give Josie any money? A No sir.

Q Or any presents, except the ring? A No sir; but I used to give the family things; a push button that I made.

Q And also this attachment for a phonograph (indicating)?
A Yes sir.

Q You were very much pleased with the family; weren't you? A Yes sir.

Q Do you know Frank Bell? A I know him, the last few times; yes.

Q How long have you known him? A I couldn't tell you how long.

Q You met him after you were arrested; didn't you?
A I don't remember, sir; I don't remember.

Q Is he a friend of yours? A No sir. Just I know him

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because I see him up at her house.

Q Yes. He lived there; didn't he? A Sir?

Qx He lived in her house; didn't he? He lived in the same house that Josie lived in? A Who?

Q Frank Bell? A No. I think he only lived there some nights.

Q Now where did you get this letter (indicating the defendant's exhibit)? A Over at Frank Bell's house.

Q And how did you get it there? A Because I happened to go there.

Q What did you go there to see him about? A Because there is some business between me and him, and I find that letter on the table, and I see it is something about her, and I read it, and I keep it.

Q Now, as matter of fact, didn't you tell Frank Bell to go and get that letter from her? A No sir.

Q Didn't you tell Frank Bell to go and see Josie, and get that letter from her, and bring it to you? A No sir.

Q What did Frank Bell tell you that he knew about Josie? A He didn't tell me anything.

Q Did he ever tell you anything reflecting upon her? A No sir.

Q Didn't he tell you that he knew that you had been to Fort George with her? A No sir.

Q How does he happen to be here as a witness? A I

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don't know.

Q Didn't you ask him to come down? A No sir.

Q You are positive about that? (No answer.)

Q Are you sure about that? A Yes sir.

Q Didn't you ask Frank Bell to go over to Josie, and ask Josie to have him subpoenaed here? A No sir.

Q Didn't you talk to Frank Bell, last night? A Sir?

Q (Question repeated)? A Yes sir.

Q What did he say about that letter, last night?

A Well, we didn't talk about the letter.

Q Now didn't he tell you that he had been around with Josie and all her witnesses, all day long, out here, in front of the door; didn't he? A No sir; I don't know that.

Q And didn't you ask him to come here and swear that Josie had sent him that letter? A Well, of course, when I seen that, that was last night.

Q Oh, last night? A Yes sir.

Q That was the first time you saw it? A Well I seen it before, but I thought of that last night.

Q You had seen the letter before, but you talked to him about it, last night? A Yes sir.

Q And what did you say to him about the letter?

A I wanted him to come here, and tell what he knows.

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Q You wanted him to come here and tell what he knows?

A Yes sir.

Q Did he tell you that seen her, yesterday? A No sir.

Q Did he tell you that he had talked with her, yesterday? A No sir.

Q Did he tell you that he had told me this story, yesterday? A No sir.

Q When did you take the letter? The first time you saw it? A The first time I went up in his house.

Q And you kept it in your possession until last night? A Until I give it to the lawyer.

Q And you didn't ask him to come down here and tell what he knew, until last night; is that right? A Yes sir.

Q Why didn't you ask him before? A Well, because I thought the letter was good enough.

Q Is there a word in that letter that isn't true? Answer it? A Sure it ain't the truth.

Q Well what is there that isn't true in the letter? A Because she wants to say a lot of lies in the letter.

MR. VANDIVER: And I desire to move to strike that out, if your Honor please.

THE COURT: Proceed.

BY MR. VANDIVER:

Q Point out in that letter anything that is untrue?

A Well, there is several things untrue.

Q Well, point them out? A Well several things is untrue, because I read that before.

Q Well, then, I will ask you, didn't you have any conversation with Josie about marrying her? A No sir.

Q But you gave her a diamond ring? A I don't know if it was a diamond. I took that in my house.

BY THE COURT:

Q Did you give her a ring? A Yes sir.

Q What kind of a ring? A I don't know what kind of a ring it is, because that is lying down in my house.

Q Well, was there a stone in the ring? A Yes sir.

Q What color was the stone? A A white stone.

BY MR. VANDIVER:

Q Didn't you have a conversation with Frank Bell and the father of Josephine? A No sir.

Q Never? A No sir.

Q Didn't you have a conversation with Frank Bell and the father of Josephine, in which Frank Bell said to the father of Josephine that you were already married? A No sir.

Q No. A No sir.

Q Did you ever see the mother at her house, when there

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was nobody there but the mother? A Sir?

Q Did you ever see Josephine's mother at her house?

A Yes, sure; all the time.

Q Did you ever talk to her about Josephine's age?

A No sir.

Q Did you ever talk with her about marrying Josephine?

A No sir.

Q And yet you called on Josephine for seven months;
is that right? A Yes sir.

Q And you never once mentioned marriage to Josephine's
mother? A No sir.

Q What is the answer? A No sir.

Q Did you ever talk to the grandmother? A No sir.

Q Never did? A No sir.

Q Now you said to your counsel that you did. Which
is true? A No sir; I never talked anything like that.

Q Did you ever talk to the grandmother about marry-
ing Josephine? A No sir.

Q What did you call the grandmother, when you addressed
her? A (No answer.)

Q When you spoke to her, what did you say? A I never
called her even a name.

Q You never did? A No sir.

Q You are positive that you never talked to the grand-

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mother? A No sir.

Q Didn't you say to your counsel that you saw the grandmother, and told her where Josephine was, in regard to that telegram? A Well, of course, I been speaking to her about things like that, but not about marriage.

Q Then you did speak to the grandmother about Josephine? A Of course. But you told me, a while ago, about marriage.

Q Now, what did you say to the grandmother, at that time? A Well, I give her the address, that's all; I told her I've got the telegram.

Q Yes. A That's all.

Q And had you been up there to see Josephine? A I went up in the morning.

Q Yes? A And I didn't know who it was, and I stood on the station, and I saw her on the window somewhere.

Q And did you see Josephine? A Yes sir.

Q And what did she tell you? A Well her mother had a fight with her, and that's the reason she left home.

Q Did she tell you how long she had been there?

A Yes sir.

Q How long? A One night.

Q One night? A Yes sir.

Q And then you went down, and told the grandmother where she was? A Over in Baxter Street, somewhere.

Q (Question repeated)? A Yes sir.

Q What did you say to her, when you told her? A I told her I received a telegram, last night, signed with my name, that says she is in 72nd Street somewhere; I don't know where it was.

Q Well why did you go and tell the grandmother where she was? A Because she come around in the night before I saw her, the same night when she sent me the telegram, about eight o'clock, and she wants to know where she was, and I don't know anything about it.

Q Didn't you think it was strange for them to come and ask you where Josephine was? A Well, I stood at East Broadway and Catherine Street, and I was buying a trunk, and she come down that way, and she asked me --

^{you}
Q Yes; and I know the people with whom she was stopping; don't you? A Yes.

Q Friends of yours? A Well, friends like that, I only been up there a few times.

Q But you knew them; didn't you? A Yes.

Q Did you introduce Josephine to them? A No sir.

Q Well how did she happen to know them? A I don't know. Q She was there one night; is that right? A Yes sir.

Q Did Josephine ever ask you to marry her? A No sir.

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Q Did you ever have any conversation with her about marrying? A No sir.

Q Did you ever have any conversation with your parents about marrying her? A My parents?

Q Yes. A No sir; because I know well they said I ain't going to get married until I am 25 years old, and there is no use of talking about it.

Q And how old are you now? A Twenty-one.

Q And your parents told you that you must not get married until you are twenty-five? A Yes; they always say that.

Q Do you know Elisa Orienta? A No sir.

MR. VANDIVER: Call the lady in, please.

BY MR. VANDIVER:

Q Do you know this lady (indicating Elisa Orienta)?

A Yes; because that's a good dear friend of Josephine's and her family.

MR. VANDIVER: I ask to have that stricken from the record, all except "Yes sir."

THE COURT: Yes; strike it out.

BY MR. VANDIVER:

Q Did you ever tell that lady, Elisa Orienta that you would not marry Josephine, because your people didn't want you to marry until you were twenty-five years old?

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A No sir.

Q Did you tell her that, in Josephine's house, prior to the 4th of June? A No sir.

Q Quite positive about that; are you? A Sir?

Q You are positive about that? A Sure; because I never tell her.

Q You never told her? A No sir.

Q Now you are quite certain that you never had any sexual relations with Josie, are you? A No sir.

Q And you don't know anybody else who ever did?

A No sir.

Q Then why on earth should she come here and swear that you had had relations with her? A I don't know.

Q Do you know? A I don't know.

Q And, can you give the jury any reason at all?

A Well, it is only the reason what I give you, a while ago, about my week's wages; because, among Italian people, there is a good many that don't get that price.

Q And do you think that she wants to marry you? A I don't know.

W Well, then why should she be interested in your wages? A Sir?

Q Why should she be interested in the amount of money that you get, per week, if she doesn't want to marry you?

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A I don't know.

Q You don't know? A No sir.

Q And you are not getting anything per week now; are you? A Of course not.

Q And you haven't been since you were arrested?

A No sir.

Q And yet the only reason that you can give for her swearing here that you raped her is that she is interested in your week's wages? A Well, that is what I think.

BY THE COURT:

Q Just a moment. Sit down. Had you ever been to Fort George Park? A I been, but alone, Judge; not with Josephine Casioli.

Q When did you leave your last employment? When did you stop working? A I can't exactly tell you, Judge; but I know I was sick, and that's the reason I stood home.

Q Well when were you sick? A That I can't exactly remember that.

Q About when? A I know it is August sometime, the last of August; I can't exactly tell you.

Q Was there any Italian holiday in the early part of June, of last year? A I can't tell you, because I don't recognize such a thing.

Q Well how do you remember that it was June 3rd that

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you went to North Bergen? A Because I remember; because a friend of Mine's wife was in bed sick; she had a miscarriage; that is the reason I know.

Q And when was she sick? A That time.

Q What time? A The third of June, and we all know it happened to that woman, and we all talked about that day, the third of June.

Q What day in August were you sick? A I couldn't tell you.

Q Did you have any physician attend you? A Yes; over in Vandewater Street.

Q Did you go to the dispensary, or have a physician call at your house? A I had a physician call at my house.

Q Did he prescribe medicine for you? A Yes sir.

Q Did you obtain your medicine on that prescription?
A Yes sir.

Q You remember from what pharmacist? A Yes sir.

Q Where? A Oak and Oliver, on the corner.

Q You remember what part of August you were ill?
A No sir; I don't remember that.

Q Do you remember the date when you first went to bed?
A No sir.

Q Were you confined to bed? Were you sick in bed?
A Yes; fifteen days I was right in bed.

Q And you don't remember whether it was the early part