

or latter part of August? A No sir; I can't exactly tell you the month.

Q Well, when did you learn of the illness of your friend's wife, in June? A Well, of course, we used to talk home in the family that that woman was miscarried, the third of June.

Q What was the name of the lady? A Mrs. Incinnia.

Q Where did she live? A She used live in North Bergen, right where the road stops.

Q And with whom did you go there? A All my family.

Q Who are they? A My father, brothers, my mother.

Q And how long did you stay there? A Until June 4th, about half past nine to ten in the evening.

Q And how many rooms did that family occupy? A Well they had a barber shop, and she used to live in the back.

Q How many rooms did they have? A Well two, I think.

Q Two rooms? A Yes; besides the barber shop.

Q Two rooms besides the barber shop? A Yes sir.

Q How many were in the family of this barber? A I tthink -- I couldn't tell you. They got all small children.

Q Well, how many children? A I think four; I ain't exactly sure.

Q What room did this lady, who was ill, occupy?

A Sir?

Q What room did the woman who was sick occupy?

A On the back of the barber shop.

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Q And what room did her husband occupy? A Of course --

Q The husband, the husband of this woman, what room did he occupy? A The other room.

Q And where would the children sleep? A All together, some with us and some with the father.

Q And in what room did you sleep? A Of course, in the back room.

Q In the back room? A Yes sir.

Q And how many of your family went over there? Your father and mother? A Yes; and my brothers.

Q And how many brothers? A I have got one about my size --

Q And how many brothers? A Five.

Q There were of your family, excluding your father and mother, making seven in all? A Yes sir.

Q And the regular occupants of the place? A Yes sir.

Q And the children? A Yes sir.

Q Making 12 or 14 in all? A Yes sir.

Q And you all slept in one room? A No sir; my mother was where his wife was, and we was all standing up all night.

Q You were sitting up all night, do you mean? A Yes; pretty near.

Q Well did you go to sleep that night, at all? A Only



laying down.

Q Did you lie down on the floor? A No; only on the chair.

Q And where did your father sleep? A On a chair.

Q And where did your brothers sleep? A On a chair.

Q And where did the barber sleep? A Well, he attended to his wife a little bit, and then he laid down on a chair.

Q Were there any beds in the front room? A Beds?

Q (Question repeated)? A Yes; I don't remember if it is two or three.

Q Is that friend of yours in court? A Yes, sir.

Q Is he in the room here? A No sir; I think he is outside.

Q How many beds were in that front room? A I think three.

Q Three beds? A I am not sure, but I think three; I am not sure of that.

Q Well did anybody sleep in any of the beds? A Yes sir.

Q Who? A The two workmen.

Q Two of the workmen? A Yes sir.

Q So that there were two workmen there, besides you twelve persons in that room? A Yes sir.



Q And the two workmen, did they occupy one or two beds? A No; only two.

Q Only two? A Yes sir.

Q And then who occupied the third bed? A Well children, and all that.

Q Well, wait a while. How many children were in the second bed? A I couldn't tell you, Judge.

Q Were there four children in the second bed? A I couldn't tell you.

Q Were there more than two children in the second bed? A I know there was more than two.

Q Well, on the third bed? A Well I couldn't remember that, Judge.

Q How large a room was this? A It was a big room.

Q A room as large as the court room? A No sir.

Q Well about how many feet in length and width?

A Around fifteen feet.

Q The length of it was fifteen feet? A Yes sir.

Q And the width of it? A It was square, I think.

Q About 15 by 15? A Yes sir.

Q And what kind of beds were they? A Opening and closing beds.

Q Folding beds? A Yes sir.

Q And were the three beds all folding beds? A No sir;



one was a regular bed.

Q One was a stationary bed? A Yes sir.

Q Brass or wood? A No sir; that is iron and brass.

Q What was the color? A White I think; I don't remember sure.

Q Had you been to bed at all, that night? A No sir; I was around on the chair, a little bit laying down on the bed, but I didn't undress.

Q And what part of the night were you lying on the bed and what part of the night on the chair? A I couldn't tell you, Judge.

Q And you remember it was June 3rd? A Yes; because --

Q What kind of a day was June 3rd? A On Sunday.

Q Well, was it a clear day? A It was a clear day.

Q And Monday? A It was a clear day, too.

Q When did you go to work? A On Tuesday morning.

Q Do you know whether or not your employer keeps a time table, as to when you go to work and when you fail to appear for work? A I don't know, Judge.

Q Well was there a time book kept in this place?

A Sir?

Q Was there a time book kept in the concern where you worked? A Yes, yes, I think.

Q Well now you visited Josephine's house how often?

A Well, sometimes every night, sometimes every two nights;

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something like that.

Q And did you often take promenades or walks with her mother and grandmother and herself? A Yes sir; all the family.

Q And you kept going with her for how long? A Well I couldn't tell you that, Judge.

Q For six months? A I couldn't tell you.

Q Well about how long? A Well around six or seven months.

Q And, during the time that you were seen in her company, went with her, did you at any time see her in the company of any other young man? A No sir.

Q Sir? A No sir.

Q At no time? A No sir.

Q When did you stop calling on Josephine? A After I went to that party.

Q When did you stop? A Oh, when I stopped?

Q Yes. A Oh, after I heard she went away from her house.

Q Now when did she go away from her house? A That was in June, some time.

BY MR. SCITTA: June 16th, I think, sir.

MR. VANDIVER: Yes sir; June 16th.

THE WITNESS: A few days after that.



BY THE COURT:

Q. A few days after June 16th? A. Yes sir.

Q. And you found her in a house on 72nd Street?

A. Yes sir.

Q. Do you know who occupied the flat there? A. Yes sir; it is an Italian family.

Q. Did you know the family? A. Oh, I know them only a few times, sir.

Q. They are a respectable family? A. Yes sir.

Q. And what did Josephine say to you, at that time?

A. Well, she come down and she told me she had a fight with her mother; that's the reason she left home, and she don't want to go back home any more.

Q. And what did you say to her? A. And I said, "Well, you stay here", and, in the meantime, I went and give the address to her family.

Q. Well, now, before the 16th of June, had you seen her often? A. Well, once every two nights, and sometimes every night.

Q. And did you suspect anything wrong against her?

A. Well, of course, sometimes she used to flirt off the shop where she used to work.

Q. Who told you that? A. Oh, the little boys told me.

Q. Do you know their names? A. I know their names, but

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I don't know the second name.

Q You know the first names? A Yes sir.

Q What are the first names? A One by the name of Charles.

Q When did Charles tell you that? A Some time ago; I don't remember exactly.

Q Well was it in June or May or April? A I couldn't tell you that; no sir.

Q Was it after June? A I know it was the summer time.

Q Was it after you received the telegram or before?  
A Around that time; before that.

Q And, after they told you that, you still kept going with the young girl; did you not? A Well, I never went around with her; only in a friendly way.

Q And did you ~~well~~ believe the story that Charlie told you? A Well I tell you, I won't believe it before.

Q Well did you believe it ~~when~~ Charlie made the statement to you? A No sir.

Q Well how many times did Charlie tell you that Josephine was flirting with men? A Well, of course, one time.

Q One time? A Yes sir.

Q And who else told you? A Another fellow by the name of William.

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Q When? A That same night. They was together, that night.

Q Well did they work in the same place with her?

A No sir; but those boys hang around in Grand Street, where she worked, and they see all about that.

Q Well did you tell Josephine what they said? A No sir.

Q Why didn't you? A Well, because it isn't my business.

Q Had you any particular interest in her? A No sir.

Q Well why, then, did you call on her frequently? A Well, because they say, "if you want to come up, if you like to come up, come up."

Q And you say you talked with her about her age?

A Yes sir.

Q And what did she say? A She asked me how old I was and I said I was nineteen going on twenty, and she said she was the same.

BY MR. VANDIVER:

Q What name did you give in Vandewater Street? A Well, of course, Phillip Serio -- Harry Serio.

Q Well which was it? Phillip or Harry Serio? A Well, I got two names, you know, Phillip and Harry Serio.

Q Your name is Phillip Harry Serio? A Yes sir.

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Q And you are known there as Harry Serio? A Yes sir.

Q I understood you to say to his Honor that you had been to Fort George? A I never been to Fort George.

Q Didn't you just tell his Honor that you had never been to Fort George -- I meant to say? A No sir.

Q Didn't you tell his Honor that you went there alone, but not with Josephine? A Alone, a good many times, but not with Josephine.

Q Then you have been to Fort George? A Yes, of course.

Q Then why didn't you say so? Was there any reason why you didn't want this jury to know that you had been there? A Well, there is no man in New York City that hasn't been there.

Q Well, then, you have been there? A Well, once in a while.

Q And have you ever walked beyond Fort George a little bit? A Sir?

Q Did you ever walk up the road beyond Fort George? A Of course, yes.

Q And there is a strip of woods on the side, down by the Speedway; is there not? A Yes sir.

Q And no houses around? A Of course, no houses around



Fort George.

Q Of course not. Everybody knows that, don't they?  
You have been up there and walked along that road; haven't  
you? A Yes, along the road.

Q Yes. Where the woods are, on the right hand side?

A No; nobody seen me around the woods.

Q But you have seen the woods; haven't you? A Yes.

Q They are there? A Yes sir.

Q There is no doubt about that? A No sir.

Q And the Speedway is just below? A Sir?

Q The road where the horses trot and run? A Yes

sir.

Q And the water is just beyond that, the Harlem River?

A I don't know about that.

Q But you are sure of the woods and no houses? A Yes,  
because it is only those amusements there; that's how I  
know.

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## RE)DIRECT EXAMINATION BY MR. SCITTA:

Q Did Josephine call at your house, or see you after you had stopped making visits to her? A No, sir.

Q Did she ever write you any letters? A No, sir.

Q After you stopped visiting her the first thing you knew in November, was when you were arrested? A Yes, sir.

Q Is that it? A Yes, sir.

## RE-CROSS EXAMINATION BY MR. VANDIVER:

Q Did I understand you to say that Josephine wrote you no letters, after you stopped going there? A Sir?

Q Did Josephine write you any letters after you stopped going there? A She never wrote me any letters.

Q None at all? A No, sir.

Q You are quite sure of that? A Sure.

## BY THE COURT:

Q Just a moment. Where were you in the month of August, after you recovered from your illness? A I went to Pittsfield.

Q Pittsfield? A Yes, sir.

Q How far is Pittsfield from New York? A \$3.25 from New York.

Q The fare is \$3.25 from New York? A Yes, sir.

Q How long did you work there? A I didn't work there.

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Q How long did you remain there? A Around three weeks.

Q When did you return to New York? A Well, around three weeks after I went there.

Q And was that the early part of October? A I don't know if it was.

Q Did you remain in New York in October? A Sir?

Q Were you in New York City in October? A I think; I ain't exactly sure.

Q Well, where did you go after you returned from Pittsfield? A I went to work in New Jersey.

Q In what part of New Jersey? A Near the ferry.

Q Well, where? Hoboken, or Jersey City, or where?

A Jersey City.

Q And how long did you work there? A I couldn't tell you.

Q A week or two weeks? A More than that; around a month or more than a month.

Q A month? A Yes, sir.

Q And where did you live when you worked in New Jersey?

A 111 Cherry street.

Q From the time you left the company of Josephine, in June, on June 16th, 1906, until the time of your arrest, did you see Josephine? A No, sir.

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Q Did you make an effort to see her? A No, sir.

Q You understand what the word effort means? A Yes, sir.

Q Did you try to see her? A No, sir.

Q Did you tell Josephine on the 16th of June that you wanted to see her again the following night? A No, sir.

Q Did you tell her to go home to her mother? A That happened the 17th of June, that I told her that.

Q You told her to go home to her mother? A Yes.

Q And what did she say? A She said she won't do that, because the whole story comes out again.

Q What whole story would come out again? A Because they fight in the house all the time.

Q Did she tell you what they fought about in the house?

A No, sir.

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THEODORE HUBERT, a witness called on behalf  
of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SCITTA:

Q Mr. Hubert, where do you reside? A Brooklyn; 359  
Marion street.

Q 359 Marion street? A Yes, sir.

Q What is your business? A My business?

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Q Yes. A I am superintendent of the Skridloff Laboratory. My profession is engineer.

Q Where is your place of business? A 17 to 27 Vandewater street, New York.

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

Q Was he in your employ or in the employ of your concern, on June 1906? A On June, 1906?

Q Yes. A What year?

Q 1906, last year? A Well, he worked but not for me steady, and he was absent on Monday, June 4th, as far as I can recollect.

Q Well, how do you know that he was absent? A Because he came around some time and he wanted me to give him a character in some trouble he had, and I looked him up and I found that he wasn't working that day, and I told him so; I told him that he was absent at June 4th, according to the books and according to my recollection.

Q Now, on June 4th did anybody call to see you? A There was somebody coming in in the afternoon, asking for him.

Q And do you recollect who that lady was? A Well, I might. I only had a glance at her.

MR. SCITTA: I ask that Josephine Casioli be brought in.

MR. VANDEVER: No, I ask that several young

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women be brought in.

THE COURT: Well, you may inquire of the witness, before the prosecutrix is brought into the room, whether he has seen the complaining witness in the hallway, outside.

BY MR. VANDIVER:

Q Did you see the complaining witness outside in the hallway? A Yes, sir.

Q And has she been pointed out to you? A Yes, sir.

MR. VANDIVER: Then bring her in; bring them all in.

MR. SCITTA: I don't want anything more than is fair, Mr. District Attorney.

BY MR. SCITTA:

Q Do you recognize this young lady, Mr. Hubert (indicating the complaining witness)? A Well, I couldn't hardly swear to it. I tell you, I think it is her, but I couldn't swear to it, because I tell you she was there such a short time. I opened the door in the hall, and she asked for Serio, and I had a glance at her, as far as her figure is concerned; it might be her; I am pretty sure, but I couldn't swear to it.

Q Well, I only want your best memory, and that's all.

A Well, I am very exact, you know, and I couldn't swear with a conscience, though I am convinced it was her, because I recollected that face when I saw it the first time.

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Q Well, which one is it (indicating the two sisters at the bar)? A I think it is this one on this side (indicating the complainant).

CROSS EXAMINATION BY MR. VANDIVER:

Q Just a minute. You have seen these young girls outside, haven't you? A Yes.

Q And one of them was pointed out to you? A Both of them was pointed out to me.

Q And the one on the right, Josephine, was pointed out as the one that had called on you? A No, sir.

Q Well, who pointed them out to you? A Well, the lawyer for the defense asked me if I could recollect if I saw her, and I said I wasn't sure, and then he said "If I pointed her out to you do you think you could recollect her?" and I said, "When I see her I think so, but I am not quite sure."

Q When you saw her in the hall outside, you said you were not quite sure of her identity? A Yes, sir.

Q And it might be her sister; mightn't it? A Well, there is a difference in their appearance.

Q Well, you looked at the figure, didn't you? A Yes.

Q And when was this call that you speak of? A Between three and four o'clock in the afternoon.

Q But you are not sure whether it was either of these

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girls are you? A I can't swear to it.

Q You don't want this jury to believe that you are positive it was either one of these young girls that you saw only once? A Well, if I see any one once I am not positive anyhow.

Q No. And you hadn't ever seen that person in your life before, so far as you know? A No, sir.

Q And you have never seen her since that day until now? A Oh, yes, I have seen them, both sisters, here several times, because I was detained here for weeks.

Q Yes, but you didn't see them until you were subpoenaed in this case? A No, sir.

RE-DIRECT EXAMINATION BY MR. SCITTA:

Q Now, when I asked you to look at the young lady, I asked you to look at her and see if that would refresh your memory? A Yes, sir.

Q And I haven't seen you since? A That's right.

Q And now you say that you feel convinced that she is the one who called? A I do.

Q Serio is not in the employ of your concern now, is he? A No; he isn't.

Q While he was in the employ of the concern did you ever see or hear anything bad about him? A No, sir.

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Q What was his reputation and character as to his honesty and truthfulness? A Well, I liked him first class, because I had him two years. He was one of my old employees that was there two years uninterruptedly; and the only reason why he left was because he was sick and I had to fill his place with somebody else temporarily. And when he came back and reported that he was sick and couldn't work, he didn't ask me for the place, but simply excused himself.

RE-CROSS EXAMINATION BY MR. VANDIVER:

Q How do you know he was sick? A Because he told me so, and he looked sick.

Q That is the only reason, because he told you so?  
A Well, he looked sick. I could tell pretty well when he is sick because he is a hard worker.

Q And then he told you that he was sick? A Yes, sir.

Q And that's the only reason that you knew he was sick, or thought so? A Yes, sir.

Q Now, let's understand about this identification. You don't want to swear positively that was the young lady who called, do you? A No, I don't.

BY THE COURT:

Q Mr. Hubert, how long were you engaged in conversation with the lady who called, on June 4th? A Very short. I was

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Q You were snappy? A Yes, sir.

Q You were busily engaged with your business? A Yes, sir.

Q And what did you say to the lady and what did she say to you? A She wanted to know if Mr. Serio was there, if she could speak to Mr. Serio, and I said, "Mr. Serio is out to-day. He hasn't shown up all day."

Q At that time was there anything particular in the woman's appearance, which would impress itself upon you? A Only her figure. She was a pretty Italian girl. That I noticed then.

Q You say she was a pretty Italian girl? A Yes, sir.

Q Is there anything remarkable in this young lady's features that indicates that she is of Italian parentage? A Oh yes; I think so.

Q The prosecutrix? A Yes, sir.

Q Well, how many seconds or minutes did you have to observe her? A Well, I should think about ten or fifteen seconds.

Q And did you have any talk with Philip about this girl the next day? A I think I told him somebody was after him.

Q And what did Philip say to you? A That I don't recollect.



Q When did you learn that Philip was in trouble on this charge? A When his lawyer called on me to give him a good reference.

Q When was that? A Well, that must be a few weeks ago.

Q Well, it was in December, say? A Something like it, yes.

Q Now, from June until December, did you have occasion to endeavor to refresh your recollection as to what occurred on the 4th of June, regarding a woman calling? A I did.

Q Philip worked for you for two years? A Yes, sir.

Q During those two years did any lady call? A Not outside of that woman; I don't recollect.

Q How often has Philip been absent during the two years that he worked for you? A Up to that time, I think he was very prompt. That's what I know.

Q Well, was he ever absent prior to June 4th? A Well, he might have been absent once or twice.

Q Was he ever absent after June 4th? A Yes. Later on, after June, in July he was absent a good deal, all the time.

Q And will you tell this jury how you can fix when the lady called upon him as being on June 4th instead of on any one of the days in July that he was absent? A Well, I had my automobile broken, and I wanted him to make a round disc, and I remember I was angry because I had to make it myself, because I was short of help, and he wasn't around.

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Q And you say he was absent on other days in July?

A Yes, sir.

Q Now, I ask you how you fix the day that this woman called, when you say you were busily occupied in your business, and you were rather snappy to the visitor, how you recall that date and fix the date as June 4th that you saw this lady since you have testified on other days this defendant was absent? A Because his lawyer wanted to know from me whether Serio worked all day in the shop June 4th. At that time I told him I didn't know, but I am going to look up and refresh my memory and ask my foreman.

Q That is true, but I want you to tell the jury how you can actually remember that you saw the prosecutrix on June 4th, and that you are certain of that, to the exclusion of any other day? A Because it so happened, as I told you before.

Q Now, you say that the defendant was absent on other occasions prior to June 4th? A Yes, sir, but very seldom.

Q But he was off for some days? A Yes, sir.

Q Now, I want you to tell the jury how you fix the day as June 4th when this lady called? A Because I was requested by his counsel to refresh my memory, and find out whether he was working or absent, the boy; and I looked at the time sheets, and at the jobs that he had on hand at the time, exactly what was made and paid for; and I told his counsel that I remembered that he was absent; and also I have got

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it in the book, and also I remember incidentally that somebody was asking for him that day.

Q And you remember that it was a female? A Oh, yes.

Q Well, now, what occurred on --- where were you on Washington's Birthday, February 22nd, last year? A February 22nd?

Q Yes. A I was home.

Q Sure/about it? A Yes, sir.

Q All day? A Yes, sir.

Q And evening? A Yes, sir.

Q Where were you on the 4th of July, of last year?

A Fourth of July?

Q Yes. A I think I was in Patchogue,; I ain't quite sure.

Q Where were you last Thanksgiving, in November? A I was home.

Q Sure about that? A Well, that is, I had a little ride in the afternoon.

Q Where were you Christmas day? A Christmas day I was home.

Q Did anything occur on Christmas day that you are aware of now? A Oh, yes, I had lots of company.

Q Did you have them on Thanksgiving? A Yes, sir.

Q And on New Years? A Yes, sir. I generally take a ride in the afternoon, and I generally stay home until two o'clock.

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BY MR. VANDIVER:

Q Did Philip Serio tell you, when he got back, after the 4th of June, where he had been? A Yes, sir.

Q What did he say? A As far as I recollect he told me he wasn't well, or something; and then again I think that he told me, two or three days later that he was over in New Jersey.

Q Two or three days later? A Yes, sir, because I talked to him, and I said, "You mustn't stay away", and he said, "Well, I couldn't help it." I think he said he was around in New Jersey, or some one else, and he stayed home.

BY THE COURT:

Q And he said that he had been sick? A Yes, sir; he said once, "I was sick", and then when I questioned him again, I think he said, "I was out of New York, and I couldn't get back in time," or something, and that that time I didn't pay much attention to it.

BY MR. VANDIVER:

Q But you are positive that he said he was sick?

A Yes, sir.

Q And you think about the other proposition, do you, you thin he said he was out of town? A Yes, as far as I can recollect.

Q You are not positive about that? A No, sir; not absolutely. I give you what comes from my memory and recol-

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lection, as nearly as I can; as nearly as I can.

Q And when first questioned by you on his return, he said that he was sick? A That he didn't feel well.

BY THE FOREMAN OF THE JURY/

Q When did he tell you this? A A few days after the 4th when I questioned him. I said to him, "If you stay away again when I am so busy, I will have to get somebody else." That's how it came about.

Q And when did he go to work again? A Oh, right away; he started right in.

BY MR. VANDIVER:

Q And when did he go away again? A About a month or so later, in July or August; sometime around there.

Q But he was a round there right along for a month or so? A Yes, sir.

Q And your time records show that? A Yes, sir.

Q You have looked them up? A Yes, sir.

Q And he hadn't been absent for some time up to the 4th of June? A That's right.

Q And he wasn't absent after the 4th of June for some time? A Yes.

Q And then he was absent a long time? A Well, he was absent for two weeks and I put a man in his place.

Q And he hasn't been to work for you since? A No, sir.

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## RE-DIRECT EXAMINATION BY MR. SCITTA:

Q And that was because you had no work for him, the work had been done by somebody else? A Yes; I put somebody else in his place to finish the work which was very much in a hurry.

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F R A N K B E L L, a witness called on behalf of the defense, being duly sworn, testified as follows:

## DIRECT EXAMINATION BY MR. SCITTA:

Q Mr. Bell, where do you reside? A 159 Hester street.

Q What is your business? A Well, special officer.

THE COURT: Sit back in your chair and speak out.

THE CITNESS: Special officer.

## BY THE COURT:

Q Appointed by General Bingham? A No, not just now. I've been revoked.

Q Well, what is your business? A Just at present, well, I am doing nothing at all, just at present.

## BY MR. SCITTA:

Q Do you know the complainant in this case, Miss Josephine Casioli? A I do.

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Q And have you lived in the same house or the same building with her? A Yes, sir.

Q When did you first meet her? A Oh, about five or six years ago.

Q Do you know her family, her mother and father?

A Yes, sir.

Q And on what terms are you with the family of Josephine?

A Good terms.

Q Did you ever have a conversation with Josephine and her mother in regard to this case? A Yes.

Q When was that? A In July.

Q What year? A 1906.

Q Where was it? A At their home.

Q In their rooms? A Yes, sir.

Q What was the conversation you had with them?

A Well, all the conversation I had with them was that they wanted to give me -- they wanted to bribe me to come here and testify for them.

BY THE COURT:

Q What did they say to you?

BY MR. SCITTA:

Q What did they say to you? A They said, "I'll give you a hundred dollars if you will go to work and say that this Philip Serio wanted -- said he was going to marry the daughter". And then she wrote me a letter to state just which was on that



letter, which I told them I wouldn't do for all the money they have got.

BY MR. SCITTA:

Q Now, after you had this conversation this first time in July, did you have any other conversation? A Yes, sir.

Q When was that? A Monday night.

Q Of this week? A Of this week.

Q And who was present at that time? A There was me, Josephine, her sister, her mother, her uncle and her grandmother.

Q What did they say at that time to you? A Well, they says to me, if I would come to Court here that they would get me a subpoena, which I got from the District Attorney to come down and see him at half past ten on Monday morning, and she wrote me a note just to say what was on that note.

Q Why did she write you that note? Do you know?

A Well, so as I could just say what was on that note; she wanted me to state just what was on that note.

Q Did you tell her at the time that what she wanted you to say, on that note, wasn't so? A Yes, sir.

Q And what did she say to you? A Well, she said, "you come down and say just what is on that note, and you will be well paid for it."

Q Did you at any time hear Philip Serio say to you that

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he had been to Fort George with Josephine? A Did I ---

Q Did he ever tell you that he had been to Fort George with Josephine? A He never told me nothing at all.

Q Did he ever tell you that he was going to marry the girl? A He never told me nothing like that.

Q What other conversation did you have with Josephine, regarding her case as to the strength of her case? A No other conversation. That was all the conversation I had which we have here now.

Q Did she tell you whether her case was strong or weak?

MR. VANDIVER: I object to that as leading.

THE COURT: Sustained.

THE WITNESS: You want me to answer that one; don't you?

MR. SCITTA: No, the Court has ruled.  
BY MR. SCITTA:

Q Did she ever say anything to you about other witnesses?

MR. VANDIVER: I object to that as leading.

THE COURT: Objection sustained.

Q Did you ever have any other conversation? A No, no other conversation but what I have just ---

MR. VANDIVER: That's an answer.

BY THE COURT:

Q Have you stated all the conversation that you had with her? A No, no; I haven't said all the conversation I had with her.



Q Well, just state what other conversation you had with her? A I had a conversation with her, that she says to a lady I live with, to come down here, and say to the District Attorney that she has been with him, and he said that he was going to marry her; that they would pay her very dearly for it, if she would come down here, as long as they made a complaint against Phillip Serio.

Q Was this statement that they wanted this woman to make true? A No. This statement was made for her to come down here and to say all this, which she knew nothing about it.

Q This lady knew nothing at all about it? A She knew nothing at all about it.

Q Did they make any promise to her of any kind?

A Well they did, but I don't know what the promise is.

Q Do you know whether Josephine ever kept company with any other young man? A I do.

Q With whom? A With Donato Russo.

Q How do you know that? A Well because their family has told me, and Donato Russo himself has told me.

Q Did Josephine ever tell you that? A She did.

Q Did she tell you that she used to keep company with him? A She did.

Q How long did she keep company with him? A That I

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don't know.

Q Did she tell you she ever kept company with anybody else? A No sir.

Q Did you ever have any conversation with Josephine regarding her age? A That I didn't.

Q Do you know how old she is? A Well I know she is eighteen, just at the present time.

Q How do you know that? A Because she told me so, and her mother told me so.

Q What did her mother say regarding her age? A She says she is eighteen now; that's all I know. I was asking her how old she was, for the Assistant District Attorney here, in regard to her age, and she said, "She's eighteen just now." That is how I know it.

Q You were subpoenaed by the District Attorney in this case? A Well I was subpoenaed to go down, and see him, at half past ten, Monday morning.

Q And you went up to see him; did you? A Yes sir.

Q And you had a talk with him? A Yes sir.

CROSS EXAMINATION BY MR. VANDIVER:

Q Why didn't you come on the Monday, when you were sent for? A I did come, Monday.

Q Monday? A I did so.

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Q Now wasn't it yesterday? A Eh?

Q Wasn't it yesterday? A Certainly it was yesterday.

And there's the subpoena I got from you (indicating).

Q That is right. You did. Did you ever get another one? A No sir.

BY THE COURT:

Q What is your true name? A Francesco Ballucci.

MR. VANDIVER: I was just going to ask him that question, your Honor.

BY MR. VANDIVER:

Q Which gang do you belong to? A I don't belong to any gang at all.

Q No gang? A No gang at all.

Q Well, you use the name of Frank Bell in your business; don't you? A No sir; I use my name of Frank Ballucci, but Frank Bell is a nickname they call me in the street.

Q What are you doing just now? A Nothing, just now.

Q How do you support yourself, or who supports you?  
A Oh, I have got money saved.

Q Who do you live with? A With my mother and a friend of mine and my brother.

Q Well, just tell me the name of the friend? A Joe Shepard.

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Q And any ladies? A No.

Q Are you married? A Eh?

Q (Question repeated)? A No sir.

Q Well, how long have you lived with Rosie Bell?

A Seven and a half months.

Q In the house of this complaining witness?

A What do you say?

Q In the same house in which this complaining witness lived? A No, not all the time.

THE COURT: Who is Rosie Bell?

MR. VANDIVER: Rosie Bell is the person that he has testified that the prosecutrix wanted to bribe to come down here and lie to us.

BY THE COURT:

Q Did you live with a woman named Rosie Bell there?

A Yes I did.

Q Under what name? A Frank Bell.

Q And she accepted the name of Rosie Bell? She was known there as Rosie Bell? A Yes sir.

Q As your wife? A Yes; there she was known as my wife.

Q And, in fact, she was not? A And she was not.

Q How long were you a special officer? A One year.

Q For whom did you do special police work? A The

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New York Patrol Company. I have it here, sir (indicating a paper).

Q What kind of work did you do? A Watching stores, nights.

Q And you were familiar with the law, weren't you?, regarding a policeman's duty, and so on? A No sir.

Q Did you not know anything about your duties as a special officer? A I did.

Q And you knew something about the law of rape; didn't you? A No sir.

Q Well, suppose a person committed the crime of rape, would you have the right to make an arrest? A Well I don't know. If they had a warrant, I suppose I would have a right to make an arrest.

Q Weren't you instructed that if a man committed a burglary, you would not require a warrant to make an arrest? A Yes.

Q Did you suggest to the defendant that it would be a good thing for you to get some evidence from the complaining witness? A No sir.

Q At no time? A No sir.

MR. VANDIVER: I think I can satisfactorily show that, your Honor. I propose to see.

BY MR. VANDIVER:

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Q Where is Rosie Bell now? A Bellevue Hospital.

Q What is the matter with her? A I don't know.

Q She is a common prostitute; isn't she? A Well that is what they all told me when I left, four months ago.

Q You told me so, yesterday; didn't you? A Well I got told so, that is the reason I told you.

Q And you lived with her for seven months? A I did.

Q As man and wife? A As man and wife.

Q Last year? A Yes sir.

Q And did you tell anybody you were not married to her? A I did.

Q Who? A I told lots of people I wasn't married to her.

Q Did you tell any of the family of the prosecutrix?

A I did.

Q When? A Well, after we went away from there.

Q Yes; after you went away from there? A Yes sir.

Q But you didn't tell them while you were there?

A No sir; but they knew it.

Q (Repeated)? A No; not while I was there.

Q Did she come down when the prosecutrix asked her to? A Yes.



Q Well did she tell us anything that you know about?

A Well I don't know; I wasn't here when she said it.

Q And they asked her to come? A Yes sir.

Q And did they give her any money for coming? A Well that's her business. She told me she was getting it.

Q And did they give you any? A No; I ain't doing anything like that.

Q You ain't working; are you? A Well, I have got enough to keep me, until I get another job.

Q Well, why didn't you tell me about this, yesterday?

A Well, I didn't have to tell you, yesterday.

Q I mean, anything against the character of this girl?

A I didn't need to tell you that.

Q Well, that's all right, then, in the circles in which you move? A Well you will have to explain yourself. I don't know what you mean now.

Q Well, yesterday afternoon, you were with the witnesses for the People; weren't you? A Well, I told you that I wouldn't go to work and say nothing for nobody which I don't know; didn't I?

Q Kindly answer my questions? A Well I am.

Q Were you with the witnesses for the People yesterday; with Josephine and her family, yesterday? A I was witnesses with nobody. I come down, yesterday --

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Q Now, just answer my question. (Question repeated)?

A I was here, to come down --

Q Just answer that yes or no.

THE COURT: Answer the question.

BY MR. VANDIVER:

Q (Question repeated)? A Oh, I was outside in the hall.

Q With Josephine and her family? A I was outside in the hall. They were standing there, and I was standing there also.

Q Answer the question yes or no. Were you in company with them? A I was in company with nobody. I was standing there with everybody that was standing there.

Q Weren't you with them when they were talking to me, outside of the court room? A No sir.

Q Weren't you with them, when they were sitting outside of my office, upstairs? A I was.

Q And didn't you stay with them all the afternoon?  
A No sir.

Q Part of the afternoon? A I did, part of the afternoon.

Q Until the court adjourned? A Eh?

Q Until the court closed for the day? A Oh, I left them before that.

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Q And then you went over and saw the defendant, last night? A I didn't see nobody.

Q Didn't you see him, last night? A I seen him, as he was leaving here.

Q Didn't you see him until last night? A No sir.

Q Didn't you give him this letter, last night?

A No sir.

Q And didn't you talk with him about the letter, and about this case, last night? A No sir.

Q Then, if he says you did, he is telling an untruth? A I talked to him when we got out of here. That was half past four.

Q Did you say anything about the letter? A Yes.

Q What did you say? A I told him that I got that from Joe, which Josephine's mother has brought down to the house. Josephine's mother brought it to the house. I was asleep at the time.

Q And you gave it to him, then, yesterday afternoon? A Yes; yesterday afternoon.

Q Then, if she says that he got it, a week ago, he tells what is untrue; does he? A Well that I don't know.

Q You know when you gave it to him; don't you? A I do.

Q When was it? A Monday morning; that is, yesterday

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morning.

Q Yesterday morning? A Yes sir.

Q Then it wasn't yesterday afternoon? A Well yesterday afternoon about -- well I don't know exactly the time. I know it was yesterday, all right.

Q Well, now, try again? A Well, in fact, it was yesterday that I gave it to him.

Q What time of day? A I don't remember.

Q Was it in the morning? A I don't remember.

Q Well was it before you saw me? A Yes; it was before I seen you.

Q And you didn't tell me anything about the letter; did you? A No; I didn't tell you nothing about the letter.

Q And you didn't tell me a word about it; did you?

A No I didn't.

Q But you did volunteer the information that the girl was over age? A Yes.

Q And that I could find out, if I went down to the church where she was christened? A Yes sir.

Q And then she was asked where she was christened, in your presence and mine, and she said in Italy? A Yes.

Q And have you any information that that is untrue?

A Well I haven't, but the mother had said there -- had told me outside that she was eighteen.

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Q And you have been very busy in this case, haven't you, since you were out of a job? A No sir.

Q You haven't? A No sir.

Q Didn't you once work in Pennsylvania? A I did.

Q And Mr. Casioli got you the job; didn't he?

A Yes.

Q And, when you got down there, you wrote him letters, demanding money; didn't you? A I did not.

Q Positive of that? A I did not.

Q Quite positive of that? A I did not.

Q You didn't send him any letters, written in red ink, signed "Black Hand"? A I did not.

MR. SCITTA: Objected to.

THE COURT: Overruled.

MR. SCITTA: Exception.

BY MR. VANDIVER:

Q Well, how did you get back from Pennsylvania?

A He come over there, and took me back.

Q And he brought you back with his own money; didn't he? A Why, of course he did.

Q He befriended you; didn't he? A Eh?

Q (Question repeated) He brought you back with his own money? A Yes; he brought me back with his own money.

Q And you are now here, swearing against him and his

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daughter? A Well, that's all right. That is my business.

Q How long have you known Serio? A I made acquaintance with him at Casioli's.

Q And he knew that you were not married to Rosie Bell; didn't he? A That I don't know, whether he did or not.

Q Didn't you tell him? A I didn't tell him nothing.

Q And how did you happen to get this letter from Josie?

A From who?

Q From Josie? A I got it from her. She wanted me to say what is on that letter.

Q She did? A She did.

Q And how did she happen to ask you to say what was on that letter? A Well, now, they have been telling me this. They sent for me, uptown, where I was working, and I come down to their house; and they asked me would I go witness for them to say all this.

Q Yes. And they offered you something for it? A They did.

Q And why didn't you tell me that, yesterday? A Well, you didn't ask me, and I didn't tell you.

Q No? A You told me that there was no need of me, and I told you nothing.

Q And I told you then to go home, didn't I? A Well I didn't quite understand you, then.

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MR. VANDIVER: Call him the uncle.

Q Did you ever hear of Paul Kelly? A I have heard about him.

Q You have no personal acquaintance with him?

A No sir.

Q Do you know this gentleman (indicating Fabio capobianco?) A Yes.

Q He was present when they asked you to come and testify; wasn't he? A He was.

Q And didn't you say, when you came into Josie's house, "Josie, Serio wants me to testify for him, but I want to do the right thing"? Did you say that? A I didn't say that.

Q You didn't? A I didn't.

Q And didn't you then say, "Josie, write down what you know I know about this case"? A I said, "Josie, you write down what you want -- you write down for me whatever you want me to say."

Q Yes. A Yes.

Q And then you took it? A I took it, and then when I got home, I thought twice.

Q Yes. And then what did you do with the letter?

A Then I give it to Phillip Serio.

Q What did you do that for? A Because I didn't want

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to have nothing to do with this.

Q And you thought that was the best way to have nothing to do with it? A Yes I did.

Q And did Phillip offer you anything, too, to testify? A No sir.

Q Nothing at all? A No sir.

Q And you are just testifying here because you want to do the right thing? A What do you mean by the right thing?

Q I don't know.

BY THE COURT:

Q In the interest of justice, the District Attorney means? A Well, that's just what I want to do. What my eye sees, my heart feels.

BY MR. VANDIVER:

Q All the family was gathered there when they offered you the one hundred dollars? A No sir.

Q Well who was there? A Well just the mother has promised me this.

Q And when did the mother make this promise? A Some time ago.

Q Well how long ago? A I don't remember how long ago.

THE COURT: When was this letter written,

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Mr. Vandiver?

MR. SCITTA: There is no date, if your Honor please.

MR. VANDIVER: He has sworn that he got it, last Monday night, and we don't contradict it; but we claim that she wrote it at the instigation of this witness.

BY THE COURT:

Q When was the letter written? A I don't know when it was written. I got it on Monday morning, early.

Q Last Monday morning? A Yes sir; this Monday morning.

Q When? This Monday morning? A Yes sir.

Q Yesterday morning? A Yes sir.

Q What time? A Oh, I don't know the time. I was sleeping, and the mother come in with it, and my friend got it.

Q And when was it that you had a talk with Josephine that she should write you a letter? A I talked with her Sunday night, and I talked with her Saturday night and Friday night.

BY MR. VANDIVER:

Q Did you talk with her at the beginning of last week, about it, too? A No sir.

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Q Just yesterday and the day before and the day before that? A Yes sir.

Q You hadn't received any subpoenas for either side up to that time; had you? A No.

Q Nobody had sent for you at all? A No sir.

BY THE COURT:

Q What did Josephine say to you regarding this letter, and what did you say? State what conversation was had, at that time? A I says to her -- they sent for me, the first time and then, when I went there I says, "What do youse want with me?" And they said, to explain about this case that was coming up, see; and I talked to them about Joe, that was present at their home, one time, which heard about this, and I said, you write it down whatever you want me to say, so I and Joe can copy it.

Q And at that time were you willing to come to court and commit perjury? A Oh no. I was thinking twice, when I got home.

Q What was your object in telling this girl to write down what you were to say? A I wanted her to write down what I heard.

Q Well what did you hear? A Well there, at the house, I heard them talking about this here which they were talking --

Q Well, you said that you were going to tell what you

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heard? A Yes sir.

Q Heard from whom? A From Casioli's mother.

Q From Casioli's mother? A Yes sir.

Q What did Josephine or the mother tell you to testify to? A They told me to testify to that Phillip Serio has said that he's going to marry the girl.

Q When did the mother or the girl tell you that?

A Oh, they told me that when I was living with them, also.

Q When was that? A In July or August.

Q Did you communicate that information to Phillip Serio? A No sir.

Q As matter of fact, Serio had no such conversation with you? A No sir.

Q Nor did any such thing ever take place between you and Serio? A No sir.

Q And then you continued to go to the house of the complainant? A Where? The house of the Casioli's?

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Q Yes. A Sure; I used to go there.

Q Regularly? A Yes, sir, regular.

Q Now, last Friday night you were at the house, were you not? A Yes, sir.

Q And what was said then? A Then it was said, if I would come down as a witness for them.

Q And what did you say? A Well, I says yes.

Q You knew what was expected that you would be asked?

A Yes.

Q And you knew what you were going to testify to?

A Well, not exactly.

Q And was the promise made to give you a hundred dollars then, on that Friday night or in July or August? A It was done in July or August.

Q And what did you say when the offer was made to you?

A Well, I told them I would think it over.

Q And did you think it over? A Yes.

Q And did you give an answer? A No; I didn't want to come here, and say nothing at all. That was my answer.

Q Well, now, on Friday night, was any new offer of one hundred dollars made to you? A No, sir.

Q On Saturday night? A No, sir; I told them about my time and they said, "We'll see you for your time."

Q Well, did you demand money for your time?

A No, sir.

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Q Well, why did you suggest anything about time? A No, sir. I said, "I lose time", and they said they would see me for my time. I don't know what they meant by that.

Q Well, now, you were subpoenaed to come down here on Monday? A Yes, sir.

Q When you saw the District Attorney did you have the letter written by the complaining witness? A No, sir.

Q When did you obtain possession of that letter? A Early in the morning.

Q What time did you see Mr. Vandiver? A About eleven o'clock or later.

Q Where was the letter then? A Which letter?

Q The letter which Josephine gave to you? A Well, Philip Serio had it at that time.

Q So, at the time that you saw Mr. Vandiver Philip Serio had the letter? A Yes, sir.

Q Is that right? A Yes, sir.

Q How did you come to give Philip Serio the letter?  
A Well, he was over at the house.

Q What house? A My house.

Q Yes? A And the letter was on the table, and I and my friend was talking about it, and he said, "That letter might do me some good", and I said, "If you think it will do you some good take it".

Q And you gave it to him? A Yes, sir.

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Q Now, who subpoenaed you to come here? A Josephine.

Q Did you receive any subpoena from the defendant's lawyer? A No, sir.

Q At no time? A No, sir.

MR. VANDIVER: The only subpoena he got was the request to come here.

BY THE COURT:

Q When were you requested to come here? A Yesterday, at half past ten.

Q And did you get a subpoena for to-day? A No, sir.

Q Why did you come here to-day? A Because I thought I might be wanted.

Q Now, who was present when this letter was written?

A Oh, I don't know that. I know the mother brang it to the house. I was asleep.

Q Who told you she brought it there? A My friend.

Q What is his name? A Joe Shepard.

Q Where is he? A He is outside.

Q What business is he in? A He is in the special officer business, now.

Q Did you receive any moneys or promise to receive any moneys from this defendant for testifying? A From whom do you mean?

Q From this defendant? A No, sir, I wouldn't promise nothing at all.

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Q And you allowed him to take this letter, regarding what testimony you were to give; is that right? A Well, I didn't expect to come down here at all, because I thought it over, and thought it was best not to come down.

Q And you came down to the District Attorney? A Yes.

Q What was the first thing the District Attorney said to you? A I don't remember.

Q That was yesterday, was it not? A Yes, sir.

Q What did he ask you? A Oh, he asked me lots of questions up there.

Q Well, what did he say to you? A (No answer).

Q What is that? A Well, you have to question me on that, first.

Q No, you proceed to state. What did the District Attorney say to you? A He asked me where this Rosie Bell was, and I told him that she was at Bellevue Hospital.

Q Talk up? A I told him that she was at Bellevue Hospital. Then again we started coming to talking about the age, and I says, "I am not sure". I think she is eighteen." I says, "That can easily be found out".

Q Who suggested anything to you about the age of the prosecutrix? A The District Attorney.

Q The District Attorney asked you how old this girl was? A Yes, sir.

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Q What else did the District Attorney ask you? A Well, I don't exactly remember everything he asked me. He was asking me so many questions there.

Q Did you say anything to the District Attorney about Philip Serio having called to see you? A No, I didn't.

Q Were you friendly with Philip Serio? A No, sir.

Q Did you ever tell Philip Serio, prior to last Friday, when this case was about to be moved for trial, that the prosecutrix or her parents asked you to testify that the defendant Philip Serio, in the month of July --- that Philip Serio told you that --- A No; I didn't talk to him.

Q No, just a moment. That Philip Serio told you he was going to marry the girl? A No; I didn't talk to Philip Serio at all.

Q Now, you knew in July and August that the parents had asked you to testify against Philip Serio? A Yes.

Q And Serio had been your friend? A No; Serio wasn't my friend.

Q You knew him? A Well, I only seen him once or twice, at the house there.

Q Did you know where he lived? A I didn't; until after they told me.

Q Who told you? A Josephine Casioli.

Q Did you see Philip Serio since last summer until last Friday? A No, I didn't.

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Q Did you know where he lived? A I did.

Q Who told you where he lived? A Josephine Casioli told me.

Q Did you call on Serio? A No, sir.

Q Did he, prior to last Friday, call on you?

A Last Friday?

Q Yes. A Yes, sir; he called at the house but I wasn't there.

Q Last Friday, do you know for what purpose he called? A No, sir.

Q Did you have any prearranged plan with him? A No; I wasn't home.

Q Where were you? A I was up at the Unity Club.

Q When did you see Serio? A I seen him Monday morning.

Q The first time? A The first time.

Q Since last summer? A Since last summer.

Q What time Monday morning? A About eight o'clock, nine o'clock.

Q What did he say to you? A He said nothing to me at all, regarding to the case.

Q Did you say anything to him? A No, sir.

Q Are you friendly now with the Casiolis? A Certainly I am.

Q Very friendly? A I got nothing against them, and they have got nothing against me.

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Q Very friendly to them? A Yes.

Q Now, who suggested the writing of this letter? A Well, I was over there and I wanted to know what they wanted me to say.

Q And you could write, could you not? A Yes.

Q And you could write and read? A Yes, sir.

Q Did you suggest to Josephine that she should write out your testimony? A Yes.

Q For what purpose did you tell her you wanted it? A No, sir; I told her I was going to come here in her behalf.

Q To do what? A To come here and testify for her, but I thought it over when I got home.

Q And you were willing to do that in July and August, and when she wrote the story out for you? A Yes, sir.

Q Did you ever tell Josephine, in the presence of the District Attorney, anything regarding this letter? A No, sir.

Q And you say this letter was openly exposed on your table and that Serio looked over it? A Yes.

Q Was there any name attached to that letter? A Yes; my name is attached to the bottom of it.

Q Your name? A Not Josephine's name? A No, sir.

Q Any date to the letter? A No.

Q Did you suggest to Josephine that your name should be attached to the bottom of it? A No, I didn't; I didn't



tell her to put any name on the bottom of it.

Q Now, didn't you dictate this letter to Josephine and were you not present when it was written? A I did not.

Q Now, just a moment. Remember what you are testifying to. You understand the nature of an oath, do you not?

A Yes, sir.

Q I ask you now, were you not present when this letter was prepared by Josephine? Were you not present, actually present, and did you not see Josephine write this letter?

A I was not.

Q Sure about it? A Yes.

Q Now, that is absolutely true? A That is true.

Q When did you receive the letter? A In the morning.

Q Did you see Josephine Sunday? A Sunday night.

THE COURT: Let me have the original complaint,  
Mr. Clerk.

BY THE COURT:

Q How was this letter lying on the table? Show the jury?

A Like that (illustrating).

Q Let me see. In this way (illustrating)? A Yes, on the table.

Q And what was the first thing Serio said to you when he called at your house, Monday morning? A Well, he said, "Good morning, how are you getting along?" And he said, "Do



you know my case is coming up to-morrow?" And I said, "I know it is, I got a subpoena myself. You don't have to tell me."

Q And before that you had not seen the defendant? A I had not.

Q And what else did he say to you? A Then he looked over at the letter.

Q No, what else did he say to you? A Nothing else.

Q Nothing else? A No, sir. And then he looked at the letter, and he said, "Where is that from?", and I said, "From so-and-so", and he says, "That might do me good", and I said, "If you think it might do you good take it."

BY MR. VANDIVER:

Q Now, when was it, that conversation? A In the morning.

Q Yes, when in the morning? A When I got this here paper, the same which I was supposed to come down, the same day as this paper (indicating.)

Q Which paper? A This paper.

Q When did you receive the letter? We will straighten this out. A Monday morning.

Q That was yesterday morning? A Yes, sir.

Q And when did you give it to the defendant? Yesterday.

Q What time? A Yesterday morning.

Q What time yesterday morning? A I don't remember

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exactly the time.

Q Where were you when you gave it to him? A At home.

Q Where were you? A 159 Hester street.

Q Where was he? There with you? A He come upstairs, he was just after coming in.

Q And did you come to Court? A And I was dressing up for to appear about this here paper (indicating).

Q Well, did you come to Court with him? A No, I didn't.

Q And how long had you had this paper, this subpoena to come down and see me, at that time? A I guess it was Saturday.

Q Yes, Saturday. And then you saw Saturday night, didn't you? A No, I didn't.

Q Well, you saw him Sunday night? A I did not.

Q And you didn't see him until Monday morning? A Not until Monday morning.

Q And after you got in on Saturday night, didn't you go over to see Josie? A Yes, yes; I went over to see Josie.

Q And you told her then that you wanted to be reminded of what you had to say? A Yes.

BY THE COURT:

Q What did you say to Josie then? A I didn't say nothing at all.

Q Didn't you just answer the District Attorney that you went to Josie and asked her what you had to say that you



wanted to be reminded? A I told her, "If I am coming down here, I want to be reminded what I had to say, yes; and she wrote it down on the paper, what I had to say; and when I got home I thought it over twice, and I said, "I ain't going down to say nothing I don't know."

BY MR. VANDIVER:

Q When did you go over to see Josie? A I told you I seen her Friday, Saturday and Sunday night.

Q Why did you go over there? A I just went over to see them; that was all.

Q Did you talk about the case? A Well, every time I ever go up there they always talk about the case.

Q Then did you suggest to her on Friday night that she write out what she wanted you to testify to? A Friday night?

Q Yes. A I think I did.

Q Well, be positive about it. A Yes, Friday or Saturday night, and, I know it was before Sunday night, too.

Q And was it before you got the subpoena that you suggested it? A Yes; before I got that subpoena.

Q Well, then, how did you know, that you were to be called as a witness? A She told me she was going to have me subpoenaed.

Q Yes, and that's the reason why you had that included in what Josie wrote, was it? A I don't understand that.

Q I'll make that perfectly clear to you. This extract

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is from the letter: "Come to Court and I will get the subpoena made for you. Come to my home first."? A Well?

Q Had you received any subpoena then? A When this letter was made?

Q Yes. A Well, I had the subpoena when that letter was made.

Q Well, why was it necessary to say anything about the subpoena in the letter? A Well, I don't know why it was necessary for her to say about it. I only know I got this paper and I showed it to her on Sunday night.

Q You showed the brown paper on Sunday night? A Yes, sir, I did.

It is marked People's Exhibit 3 for identification.

THE COURT: We will conclude this witness to-morrow.

It is after half past four. Gentlemen of the Jury, do not talk among yourselves, nor permit any person to talk with you concerning any subject matter connected with the trial or form or express any opinion regarding the guilt or innocence of the defendant, until the case is finally submitted to you. You may go, Gentlemen, until 10:30 to-morrow morning.

Let the jury retire from the Court room.

(After the jury had retired from the Court room).

MR. VANDIVER: If your Honor please I desire to make an application for the commitment of this witness to



the House of Detention for witnesses, in order that I may insure his attendance here to-morrow morning, and because I wish to investigate his testimony further.

THE COURT: The District Attorney makes an affidavit in which he says that he believes that this witness, Frank Bell, will not appear when required. Now, the law provides that a person may be given an opportunity---

MR. SCITTA: Now, if the Court please I don't think there will be any trouble in producing the witness whenever he is required. I don't think that he should be subjected to such a hardship as being confined here until to-morrow.

THE COURT: No; he will be confined in the House of Detention.

MR. SCITTA: But I think it is very hard. This witness appears to have no interest whatever and to have told only what he knows.

THE COURT: In the case of the People against Hayes, the Court of Appeals sustained the action of the Court when a witness was committed for perjury, but I do not propose to do it in this case.

MR. SCITTA: Yes, I understand that it is in the discretion of the Court.

THE COURT: I only want to assure the attendance of this witness.



THE WITNESS: Well, I'll be down here, just  
the same in the morning, if I get a subpoena



THE COURT: No; there will be no subpoena given to you.

MR. VANDIVER: If your Honor please, then I ask the commitment of this man to the City Prison, on the charge of perjury, instead of his commitment to the House of Detention, as a witness. I think I can satisfactorily establish his perjury by two witnesses, at least. The rights of the defendant cannot be possibly prejudiced, in view of the fact that the jury have retired.

THE COURT: I wanted the jury to retire for that very purpose.

MR. SCITTA: I don't think that there is any evidence here that warrants such a measure. I think it is very harsh to treat this man as a criminal, when nothing has been shown on earth to charge him with a crime, except the supposition of the District Attorney.

MR. VANDIVER: It is within the discretion of the Court to commit for perjury, when the Court has reason to believe it is committed.

THE COURT: Undoubtedly. The witness told a story which, while the jury was here, I would not permit anything to be said about it to prejudice the

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jury against the defendant. But this witness has given testimony which impresses the Court as perjury.

MR. SCITTA: But there is no jury now here, and I will say a few words, if your Honor please.

THE COURT: Certainly. I will hear you.

MR. SCITTA: We were told that, if we could get this man, he would come down here and testify that they tried to bribe him.

THE COURT: You must appreciate, Mr. Scitta, that nobody makes any criticism as to you. But here is a distinguished citizen of New York County, who has certain ideals of the duties which one man owes to another, in the matter of testifying in a court of justice; and the case has developed into such a condition that the Court cannot close its eyes to what it has observed; and this witness comes here and testifies that, in the interest of justice, he has furnished the defendant with certain evidence, furnished the defence with the evidence, not you; and his manner and method of giving the testimony, and the excuse offered for the letter being on that table, at that time, it seems to me shows nothing more than a preconceived intent on this witness's part to set a trap for the prosecutrix. It may be

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