CHAPTER VII

THE fortunate few who gained entrance to the court room were somewhat disappointed in Anthony Sommers. He was not living up to his reputation. This wasn't the man in the Ashenden case, shaking the truth out of reluctant witnesses by artful questions. This wasn't "the poor man's champion," with the flaming eyes and the cutting tongue. This was a stranger who sometimes rose to question a witness but oftener kept his seat and said "no questions."

And the questions he did ask—there seemed no sense in them at all. Had the old man lost his mind? Or was he wiser than they thought? He looked just a nice old man, an old-fashioned gentleman with a funny white tie and congress gaiters—and the odds were three to two that even though it was nearly August he wore red flannels beneath his old gray suit.

But he seemed to be enjoying himself—and the crowd was entertained even if it was disappointed.

Dr. Korn, the roly-poly medical examiner, was the first witness; and when he had done with his testimony, which concerned the nature of the wound,

and the results of the post mortem, Sommers arose slowly, shook his mane, and asked solemly;

"Doctor, what would happen if I should hit you on the nose?"

Dr. Korn sputtered with indignation, and could not speak. Keen leaped up with an objection. Judge Ingersoll recoiled as though he had been shocked.

"Mr. Sommers, are you threatening this witness?"

"Not at all, your honour. I merely asked a medical question of a medical man—but in view of the objection I shall not press it. That is all, Doctor."

Flat Wheel, the waiter who had discovered the body, followed Dr. Korn on the witness stand. His real name was Paul Aiello. One newspaper spelled it right. Keen labelled him "the startled rabbit," and if one saw how he wiggled his ears, and how he worked his nose and mouth as he talked, one knew the label was apt. He was a gay rabbit this day, in a new pin-striped blue suit, tan shoes, white spats, and an orange tie and shirt. He was a waiter only when his dickey covered his chest. He might be anything now—even a dancing master.

"Mist' Carozzo, he say, 'Tell Sommers I want to know pretty damn quick if he has bought that rock.' I go. The music is play. You know, swift, nice. The girls are dance. So pretty! I open the door. There I see poor Spots, and the spindle is stick out of his neck. It turn me sick. Sommers I don't see. I hurry out. The music is stop. Like-a-that!" The witness

snapped his finger to illustrate his words. "The dance is stop, too. I tell Mist' Carozzo."

"Why do they call you Flat Wheel?" Sommers asked on cross-examination. "Because you're flat-footed?"

The witness grinned, and thrust out his hands to signify that such an explanation might be logical enough.

"How's your cold?"

"Cold? Oh—I have the cold no more."

"Of course not. That was last May. My rock and rye prescription cured you, I see. By the way—didn't I give you something else for that cold, Paul?"

"Object," shouted Keen. "Incompetent, immaterial, and irrelevant. Not proper cross-examination. I don't see what this line of inquiry has to do with the case, or what this witness's cold has to do with a spindle in the throat of another man."

"Objection sustained," said Judge Ingersoll.

"Exception," said Sommers mildly. "That's all." And he asked no more questions until he cross-examined Marcia Caponi, toward the close of the afternoon session.

Marcia was the newspaper sensation of the day. "The Queen Cobra" was whispered all over the room as her name was called. Hidden cameras began to click as she walked to the stand. Afternoon reporters wrote feverish bulletins to catch their last editions.

Marcia was dressed in a neat black suit that was piped with white at the edge of collar and cuffs. A black toque ornamented with a crescent set with rhinestones covered her short black hair, and almost covered one of her eyes. Her left forearm, from wrist to elbow, was covered with twinkling bracelets, and there was a ring on every finger of her hands. She sat with her silk legs crossed, her little patent-leather slippers quiet, her hands in her lap. She stared at the court room with unwinking black eyes.

Her voice was soft and low, and rather sweet. Her teeth, in contrast with her voluptuous red mouth, seemed whiter than they were. And every little while her tongue darted out and in—and women nudged each other and whispered, "That's why they call her a snake."

"What is your name?" Keen began.

"Marcia Caponi."

"Where do you live?"

"I have a room in the Allegheny Building."

"In the roof garden, the bungalow on the roof?"

"Yes."

A vision of the bedroom opening off Carozzo's office came to the prosecutor as he looked into those unwinking eyes. He thought of the bars on the windows, the mirrors in the ceiling. He thought of Captain O'Malley's disgust.

"You are a singer and dancer in the cabaret which takes up a part of the penthouse; and among

the other girls who use your dressing room you are known as Snake Eyes—is that correct?"

"You can't talk to me like that," Marcia said, her eyes smarting with venom. "I'm a lady."

"Of course, of course you are, my dear Miss Caponi. It was only necessary for me to identify you by that name, and you must answer yes or no."

"Yes. They call me that. They're jealous of me."

"Thank you. You know the defendant, Sommers?"

"Of course."

"And you knew Larkin, too, did you not?"

"Him? Yes, I knew him."

"Now on the morning that Larkin was murdered did you see them together anywhere, and did you have a conversation with them? Answer yes or no."

"Yes."

"Now tell the Court and jury all the circumstances, all that was said and done, in the presence of yourself and the defendant."

"I might object on the ground that what was said and done at that particular time—what time was it? —is no part of the *res gestæ*," Sommers said, not looking up from his pad. "Not in the picture at all. But I won't object."

Marcia sneered at him.

"It was near the cloakroom, at the foot of the steps leading up to the balcony, about twelve-thirty o'clock that morning, May 14th. I was going up to sing from the balcony. Larkin said, 'Hello, Snake

Eyes, give us a little kiss.' Sommers said, 'I've known men to get their throats cut for less than that.' I said, 'Go to hell,' and went up and did my stuff."

Keen looked at his jury of "doggies" as though he had thrown them a basket of juicy bones.

He let them gnaw at the bones a little before he continued.

"I see. Now, Miss Caponi, during the course of the evening—or rather morning—not referring now to the morning of the murder, but to every morning—is it your custom to go up on this balcony and pose—well—in the nude? Is it?"

"It is." A little colour came into the swarthy cheeks.

"The lights go out, a spotlight is turned on you. You emerge like the—the moon out of wisps of clouds, let us say—and you stand there a moment while someone sings a few lines about a 'beautiful lady.' Then the lights go out, and you run to your dressing room. Is that correct?"

"Yes, sir."

"The announcer creates a sort of atmosphere for you before the spotlight discovers you, does he not? He claims, for instance, that the most beautiful shape in all New York—and—and—all that sort of stuff—and——"

"And then I unveil. Yes, sir."

"Thank you." Keen wiped his brow. "Now, do you remember anything that happened in the

dressing room, after you had unveiled on the balcony, and had run downstairs in the—in the dark?"

"You mean when Larkin came in? Oh! It was about a week or so before the murder. I don't remember exactly. I had just put on my stockings. I looked up, and there was Larkin, and he was drunk. I—I believe I screamed. Anyway, Sommers came running in, and took Larkin out with him."

"Was anything said, at this time, by either Larkin or Sommers?"

"No, not at that time. But later, when I was all dressed, I saw Sommers. He looked at me like an old fool——"

"Strike out 'the old fool,'" said Judge Ingersoll sternly.

"They've got two strikes on me now, your honour," said Sommers, without rising; "but I'm onto their curves, and they won't strike me out."

The court room laughed, and the clerk rapped loudly for order.

"Miss Caponi, tell what Sommers said, not how he looked."

"He said, 'Marcia, how is it that you can bare your body to a whole room full of drunken men and look so unconcerned, and yet be so frightened when one man sees you in your stockings?'"

Again there was laughter in the court. Again the clerk rapped with the gavel. Judge Ingersoll threat-

ened to clear the court room. Keen finished with the witness, and Sommers stood up.

"Miss Caponi," he said, "are you still troubled with insomnia?"

For the first time the witness blinked. The crowd seemed as surprised as she. What was back of this question? Here was a girl who had given damaging evidence against this man, and he was not trying to shake her testimony a whit. He was merely solicitous about her sleep! Could it be true that he loved the girl, that he really was jealous of Larkin?

Keen had started to object, but the question was answered before he could find his voice.

"Why, why—yes," she said. "Why do you ask?"

"And you still take sleeping powders?"

"Occasionally. Yes."

"That's all, Miss Caponi."

"Have I made a mistake in calling this man a lion?" Keen asked himself. "Maybe he's just an ass in a lion's skin. Well—we'll find out—my Airedales and I."

CHAPTER VIII

Big Joe Carozzo was the first witness called on the third day of the trial, and Keen suspected that Sommers would tear him apart on cross-examination. Keen would like to do that himself. He envied Sommers the opportunity.

Big Joe's little black moustache points glittered as though they had been shined with hours of hard work. His black eyes were smiling as he sat in the witness chair. He had incased his fat body in a neat suit of tweed. A watch chain with a large diamond hanging from its middle stretched across his abdomen. Three fat diamonds gleamed on either hand, and one smiled in his soft baby-blue tie.

In perfect English he described the penthouse on the Allegheny roof, the cabaret, his den, the bedroom leading off it, the rooms occupied by Pio Mora and his wife, the dressing rooms, the kitchen, the service bar, the cloakroom. He described his business connection and friendship with Sommers, and his slight acquaintance with Larkin. Slowly Keen led him up to the morning of the murder.

"Sommers," Carozzo testified, "was going to

leave me. He said he was going to New Orleans on an early train. I begged him to do me a last service, to see Larkin, to look at the diamond Larkin wanted to sell, to examine the bill of sale carefully, and, if he found everything aboveboard, to buy me the diamond as cheaply as he could. Sommers arrived about midnight, Larkin a few minutes later. I talked to them a few moments, near the cloakroom, and saw them go into my office. I began to get impatient after a while, because I heard nothing from Sommers. So, about two o'clock, I called a waiter and sent him in to see if Sommers had any news for me. The waiter reported that Larkin was dead, and Sommers was gone."

"You had seen the diamond?"

"No. I never saw it."

"That's all."

Keen sat back and waited.

"Now, fox," he said to himself, "sit and suffer, for the lion is ready to pounce on you. I can hear him roaring already. Sit and suffer, and I hope his teeth are sharp. Good heavens, I wish Geoff Platt were here to enjoy this."

"Mr. Carozzo!" Sommers shot the name at him with such scorn that Big Joe bristled, and his black eyes blazed.

"Did you ever see me when I was chewing gum?"

Carozzo looked puzzled, and a bit relieved. He laughed.

"No. I never saw you do anything but drink raw whisky."

"That's all."

Keen stared at Sommers as at a ghost. He simply could not believe that this was Sommers. The thing almost unnerved him. The lion had backed away from the fox? Well, then, try him on the tiger.

"Call Pio Mora," he said.

CHAPTER IX

Pio came slowly down the aisle, every footfall a new menace, the hollow hoops of gold that dangled from his ears making shivery music. He walked with a rolling gait, in a tight-fitting blue suit—an atrocious colour and an atrocious cut. His muscles threatened every moment to burst the shiny fabric. A red bandana handkerchief was stuck in the breast pocket of his coat. An anchor of rubies was fastened to his pale green tie. His red hair, parted in the centre, and his long red moustachios, and the scar that ran across his brown left cheek, caused delicious shivers to run down the spines of the women in the room. One woman suddenly clutched her child and held her firmly in her lap.

Mora talked in broken English. And though in the cabaret he sang in a voice that numbed the ear, he spoke from the witness chair as though he were awed, and Judge Ingersoll had several times to remind him he must talk loudly enough for all the jurors to hear.

The newspaper men found him almost as much a sensation as Marcia—and they whispered to each

other that he was Carozzo's "chief killer," that he had been the mate who helped Carozzo smuggle chinks and rum.

"You are Pio Mora," Keen said. "You live with your wife in a room above the cabaret. You sing 'Sixteen men on a dead man's chest' during the pirate number in the show, and are associated with Carozzo in the management of the cabaret. Is that correct?"

"Correct. I go upstairs to the balcony. I go up ladder from the balcony. *Sapristi!* There I am."

The court stenographer asked him to repeat the answer. Mora's sea-green eyes glared at him. Mora's teeth gleamed. Mora's voice repeated the answer docilely.

"You were just about to sing your song on the morning of Friday, May 14th, when you were interrupted by the announcement that Larkin had been murdered."

Mora put his hairy paws on the arms of his chair.

"Correct," he whispered.

"Did you see the defendant, Sommers, at any time that morning, before the murder, and did you have a conversation with him?"

"Correct."

He said that he had seen Sommers and Larkin together at the foot of the balcony steps. He was going up to dress. Marcia was singing. Sommers told him he was leaving in a little while for "San Diego,

Califor'." He testified that he offered Sommers money, and Sommers refused it saying he had more than enough to take him there, and "would have lots more after these so little time." He had shaken hands with Sommers, and gone up to his room to dress for the pirate number. Had he talked to Larkin? He had not.

"That's all," Keen said; and to Sommers:

"Take the witness."

"Take him and shake him," he added under his breath. And for a little while he thought Sommers would shake him.

"You began your career in New York by pushing a little cart around the East Side, did you not?" Sommers asked. "A little cart that held bananas?"

This man an ex-banana peddler? Oh, how funny! How unbelievable!

"Correct!" said Mora. He had found his voice at last. The court room echoed and reëchoed with it. The livid scar seemed to leap across his cheek and lie panting.

"You live with your wife, and you're good to her. But she suspects you of taking too much interest in the cabaret girls."

"Correct!"

"You carve holy pictures on spindles, even on knives and revolver handles. You sing. You dance. You pose as a pirate—but you're a sham."

"You betcha my life. Thees ees true. Correct!"

Great beads of sweat came out on Mora's brow. The scar writhed. The ends of the moustaches quivered. The hairy paws were rolled into great balls of fists.

"And it was you, was it not, who gave me the bottle of whisky that morning of the murder—before you went up to dress?"

"Correct!"

"That's all."

"The tiger didn't spring," Keen thought. "And the lion has turned lamb. Call Mrs. Mora."

Theresa Mora was squat and dark and bulky. She had on at least four bright petticoats. Her ankles were large—but they had to be large to support her tremendous legs. She waddled, and Keen classified her as a goose, not only by her walk but by her eyes and her bill-shaped nose.

She bent her head, when she had taken the oath, and seemed to shrink from the interpreter who helped her into her seat. Her hands made little motions that might indicate despair, wrinkled hands that bore but the one ring, the thick wide yellow wedding band. Women looked to see if she wore earrings as her husband did. But her black hair covered her ears.

Mrs. Mora explained she was the mistress of the wardrobe. She took care of the costumes, and did little things for the girls, such as washing and ironing their handkerchiefs and stockings and underwear,

helping them to dress when they were incapable of dressing themselves.

Keen had called her to corroborate Marcia's story of what had occurred in the dressing room the morning Larkin had violated its sanctity. She talked volubly, and with many gestures. The interpreter gave her answers in a singsong voice.

Sommers, on cross-examination, stood before her silent for so long that the nervous tension could be felt. The witness seemed to be holding her breath, and pleading for pity. What was he going to ask, that she should look at him like that?

"Mrs. Mora," he said suddenly, "you have testified that some of the girls are occasionally too drunk to dress themselves. Do any of them use opiates?"

Keen objected. Sommers waved him away, angrily it appeared.

"I didn't expect to get an answer," he said. "That's all, Mrs. Mora."

The old man questioned only two other witnesses during the long day. One of these was Mickey Finn, who was the weasel of Keen's imaginary zoo. He asked only if the diamond Finn sported in his tie was a real one. Finn blushed when he admitted it was but glass.

The other witness was Captain O'Malley of the homicide squad.

O'Malley told how he had found Sommers's

handkerchief in the wastebasket near the card table on which the body of Larkin rested. He identified the handkerchief. He gave a description of the room, related all the incidents of Sommers's arrest. He described how the finger prints had been taken, under his direction, and identified a map of the room and pictures of the body and the furniture. He went into details concerning the examination made of the spindle.

"You were satisfied that Sommers was the man you wanted, Captain?" Keen asked, "after a thorough examination you were convinced? Then, and only then, you placed him under arrest?"

"Yes, sir. I was that convinced that I didn't have to ask him a thing—even if he wanted to answer any of the questions I put to him."

The captain's testimony had been the most damaging given by any witness. Keen saw that even the jury realized this. Ah, they were in full cry now. "Good doggies!" The panel—or should it be kennel? —seemed, too, to recognize a blood brother in the captain's bulldog figure. "On, hounds! The chase is coming to its end."

Sommers broke in on the deputy district attorney's musing with the most tantalizing question of the trial.

"Captain, did you have eggs for luncheon or for breakfast? I see by your vest that you have had at least one egg—but when did you have it?"