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COURT OF GENERAL SESSIONS OF THE PEACE,  
City and County of New York, Part III.

----- x  
THE PEOPLE

vs.

ANTONIO SIRIO.  
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:  
: Before  
:

Hon. RUFUS B. COWING, J.,

:  
: and a Jury.  
:

Tried, New York, February 8th-9th, 1905.

Indicted for Assault in the First Degree.

Indictment filed January 27th, 1905.

A p p e a r a n c e s;

ASSISTANT DISTRICT ATTORNEY KEYRAN J. O'CONNOR, for the People.

OSCAR J. HOCHSTADDER, Esq., for the Defense.

Frank. S. Beard,  
Official Stenographer.

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## THE PEOPLE'S TESTIMONY.

J O H N J. H A G G E R T Y, a witness called on behalf of the People, being duly sworn, testified that he, the witness, lived at 634 West 149th Street, in the County of New York.

He, the witness, was superintendent for J. C. Rogers, contractor.

On the 21st of January, 1905, he, the witness, was on Riverside Drive, between 146th and 147th Streets, in the County of New York.

At that place, Mr. J. C. Rogers, the contractor, for whom he, the witness, was acting as superintendent, was building an extension of Riverside Drive.

The defendant was employed there at that place by Mr. Rogers, and was his, the witness's, orders, as superintendent for Mr. Rogers.

The defendant was employed as a laborer at that place.

On that morning the laborers employed at that place, on Riverside Drive, between 146th and 147th Street, were



ordered to put in concrete.

In putting in the concrete a small locomotive, weighing about fifteen tons, was used, together with two small cars.

The locomotive and the cars were used to convey the concrete from the dock to the place where it was to be laid down.

After about three trains loaded with concrete had been run from the dock to the place where the concrete was being laid down, he, the witness, assumed that everything would go right, and went away to another part of the work.

But when he, the witness, had got about two hundred feet away from where the concrete was being laid, he, the witness, heard a loud noise.

He, the witness, thought that the train, had been in wrecked, the train that was carrying the concrete.

He, the witness, went back to where the concrete was being laid, and found that the two cars drawn by the locomotive, had jumped the track.

It was then his, the witness's, duty to see that the wreck was made right, and that everything was cleared up so that the work could go on again.



So he, the witness, sent a man, one of the brakeman on the little train, after a foreman, who was working about two hundred feet from that place.

The foreman came to the place where the wreck had occurred, with seven or eight laborers, to clear up the wreck and the defendant was one of the men that the foreman brought down with him.

The foreman set to work with his men to clear up the wreck and to set the two cars back on the track.

The foreman was using a crowbar, instead of making one of his men use it.

He, the witness, saw that the foreman's end of work was all right, but that the other end was not, and so he, the witness, got a crowbar and attempted to move the other end of the car at which the foreman was working.

But he, the witness, was not strong enough to do it alone.

So he, the witness, called the defendant to come and help him.

But he, the witness, saw that the defendant elbowed another man near him, as if to send that man to help him, instead of going to help, him, the witness, himself.

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So he, the witness, said to the defendant, "No, I want you to get up on this car and help me."

After all of the work was over he, the witness, saw that the cars were on the track again, and he walked around the cars, to see that they were well on the track.

He, the witness, walked around the south end of the cars, and toward the north end of the cars, inspecting them.

Meanwhile the defendant had picked up a crowbar, and had it in his shoulder, and was standing on the side of the road on a little embankment.

As he, the witness, passed the defendant, inspecting the cars to see that they were properly on the track, the defendant struck him, the defendant, on the head with the bar, an 18-pound iron crowbar.

He, the witness, was knocked down, and was unconscious for a few minutes.

After he, the witness, recovered consciousness, he, the witness, went to the J. Hood Wright Hospital, and was attended there by a physician.

Then he, the witness, went to his own home, called in his own physician.

The scar upon his, the witness's, head, which was



covered by plasters, was the scar made by the wound which the defendant inflicted upon his, the witness's, head with the crowbar.

The crowbar was a piece of iron about 5 ft. 9 in. long, and square on one end.

IN CROSS EXAMINATION, the witness testified that he, the witness, had from three to four hundred <sup>men</sup> under his, the witness's, command, as superintendent for J. C. Rogers, at work upon the extension of the Riverside Drive, at the place indicated, between 146th and 147th Streets, in the County of New York.

To his, the witness's, knowledge, he, the witness, had never seen the defendant before the day in question, and had never had any trouble with him, the witness, before that day, so as far he, the witness, recollected.

In fact, he, the witness, was positive that he, the witness, had never seen the defendant before that date.

He, the witness, believed that the defendant was an Italian.

He, the witness, judged that the defendant was an Italian from his appearance.

Mr. Rogers, the contractor, for whom he, the witness,

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was superintendent, employed mostly Italian laborers.

The Italian laborers employed By Mr. Rogers were designaed both by numbers and by their names.

When he, the witness, called to the defendant to come up to assist him, he, the witness, did take hold of the defendant and pushed him slightly toward the stop where he wanted him to stand and work.

He, the witness, did not handle the defendant very gently, nor did he handled him roughly.

He simply gave him a push towards the place where he, the witness, wanted him to stand.

He, the witness, pushed the defendant very slightly, and did not push him roughly at all.

He, the witness, simply pushed the defendant because he thought the defendant did not understand what he wanted, and pushed him towards the place where he wanted him to work.

He, the witness, didwant the jury and Court to believe that because he, the witness, gave this defendant this slight push, to indicate where he, the witness, wated him to work, that the defendant sometime afterwards, laid in wait for him, the witness, and struck him upon the head with the bar, and knocked him to the ground unconscious.

He, the witness, had been perfectly frank with the Court and Jury, and had told everything that occurred on the day

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in question between the defendant and himself.

Nothing else had occurred between the defendant and himself, so far he, the witness, recollected, before the defendant struck him, the witness, with the crowbar, and felled him to the ground.

He, the witness, did not push the defendant gently, but took hold of him in the manner which he, the witness, indicated, as he would take hold of any other man, who did not seem to understand him, and give him a slight push towards the place where the witness wanted him to work.

It was about twenty-five minutes after he, the witness, pushed the defendant in the manner that he, the witness, had described towards the place where he, the witness, wanted him to work, in putting the cars back on the tracks, that the defendant struck him, the witness, as he had described, upon the head with the crowbar.

JAMES COLEMAN, a witness called on behalf of the People, being duly sworn, testified that he, the witness, lived at 139 East Williamsbridge, in the County of New York.

He, the witness, was a reefer by occupation.

He, the witness, was in the employ of Mr. Rogers,

the contractor

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the contractor, and was under the orders of the preceeding witness, as superintendent for Mr. Rogers.

On the 21st of January, 1905, he, the witness, was working on Riverside Drive, between 146th and 147th Streets, in the County of New York, for Mr. Rogers, in building an extension of Riverside Drive.

He, the witness, saw John J. Haggerty, the preceeding witness, the superintendent for Mr. Rogers, at that place, on the day in question.

He, the witness, also saw the defendant at that place, on the day in question.

He, the witness, saw what occurred between Mr. Haggerty, the superintendent, and the defendant, who was one of the laborers employed on that work, on that day.

At that time a wreck occurred on the little railroad which carried the concrete from the dock to the place where it was used.

Apparently the defendant did not understand when the superintendent told him, the defendant, to get up on the car, with the other laborers, in order to get the cars back on the track by prying them with crowbars.

At last, the superintendent caught the defendant by the coat, and motion to him to get up on the with the

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laborers and the superintendent.

Then the defendant got up on the car and worked with the superintendent.

After the cars had been put on the tracks, fully twenty-five minutes after that, he, the witness, and Mr. Haggerty, the superintendent, walked around the cars to see that it was securely on the track.

The complaining was on his, the witness's, left hand side.

As he, the witness, was walking with the superintendent, he suddenly saw the superintendent fall at his, the witness's, feet, and he, the witness, saw the crowbar in the hand of the defendant coming down again upon the superintendent who lay upon the ground, unconscious.

He, the witness, ran under the bar, as it was up-lifted by the defendant, and was coming down again upon the superintendent, and caught the bar upon his shoulder, and prevented the defendant from striking the superintendent, Mr. Haggerty, again with the bar.

Then he, the witness, wrenched the bar out of the defendant's hand, and kept it until the defendant was put under arrest.

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IN RESPONSE TO QUESTIONS BY THE COURT, the witness testified that at the time that the complaining witness was struck by the defendant, the complaining witness was not doing anything whatever to the defendant.

The complaining witness was walking around the cars with him, the witness, to see that they were properly adjusted on the tracks, when he was knocked down by a blow from the crowbar in the hand of the defendant.

The knocking down of the complaining witness by the defendant, was fully twenty-five minutes after the superintendent, Mr. Haggerty, had compelled the defendant to get up on the car, and assist him, the superintendent, in the work, of putting the cars back on the tracks.

IN RESPONSE TO FURTHER QUESTIONS BY THE DISTRICT ATTORNEY, the witness testified that at the time the defendant struck the complaining witness on the head with the crowbar, the defendant was standing upon an embankment on the side of the road, and was standing fully three feet higher than the superintendent.

He, the witness, would swear positively that the defendant struck another blow at the superintendent and that he, the witness, saw the blow coming in time to rush under the bar and catch the bar on his shoulder, and

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so prevent the defendant from sticking the complaining witness again.

At that time the complaining witness was lying upon the ground at his, the witness's, feet, and was unconscious.

The first that he, the witness, knew of the striking of the complaining witness by the defendant was when the complaining witness fell at his, the witness's, side and he, the witness, turned quickly and saw the defendant about to strike the complaining witness again with the crowbar.

It was then that he, the witness, rushed under the bar, and caught the blow intended for the superintendent upon his, the witness's, shoulder.

Then he, the witness, took the crowbar away from the defendant, and kept it until it was turned over to the officer, after the arrest of the defendant.

IN CROSS EXAMINATION, the witness testified that he, the witness, had been in the employ of Mr. Rogers, as a reefer for about eight years.

He, the witness, had worked under the orders of Mr. Haggerty, the complaining witness, for about



three years.

He, the witness, saw all that he, the witness, had testified to.

He, the witness, saw the complaining witness take hold of the defendant by the collar of his overalls, the collar of his overalls jacket, and pull him up on the car where he, the superintendent, was at that time working.

The superintendent had spoken to the defendant several times before that, and had directed him to get up on the car, and help in the work of putting the car back on the tracks.

When the superintendent caught hold of the defendant's jacket, and pulled him up towards the car, and pointed out where he wanted the defendant to work, the defendant seemed to understand the superintendent, and got upon the car and went to work.

He, the witness, did not know whether or not the defendant understood what the superintendent wanted but, at all events, he got upon the car and went to work.

That was all that took place, so far as he, the witness, knew or saw, between the complaining witness and the defendant, until, about twenty-five minutes later, the defendant struck the complaining witness with the crowbar.

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He, the witness, was a foreman rigger or reefer.

He, the witness, was employed constantly on the work of extending Riverside Drive.

He, the witness, was using the crowbar in question himself, in helping to put the cars back on the track.

After the cars were back on the track, he, the witness, threw down the crowbar near the car, and the defendant picked up the crowbar after all of them, all the men engaged on the work had walked away from the cars.

He, the witness, did not actually see the defendant pick up the crowbar but he, the witness, saw him with it on his shoulder, before the complaining witness was struck.

He, the witness, would swear positively that it was twenty-five minutes after the little difficulty that he, the witness, described between the superintendent and the defendant that the defendant struck the complaining witness, or superintendent with the crowbar.

He, the witness, estimated the time at fully twenty-five minutes because between that time, between the time of the little difficulty between the complaining witness and the defendant, until the complaining witness was struck

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down by the crowbar, three cars were put upon the track.

It was about nine o'clock when the trouble occurred, and it was when about half-past nine when the defendant struck the complaining witness upon the head with the crowbar.

There were a number of other Italians employed on the Riverside Drive at that place, working for Mr. Rogers, the contractor.

He, the witness, had a number of Italians in the gang of which he, the witness, was foreman.

It was his, the witness's, gang that came down with him, the witness, to work upon the wreck.

The defendant was in his, the witness's, gang of workmen that went down to where the wreck occurred, to assist in getting the cars back upon the track, under the orders of the superintendent, Mr. Haggerty, the complaining witness.

DAVID OWENS, a witness called on behalf of the People, being duly sworn, testified that he, the witness, live at 217 West 63rd Street, in the County of New York, and was a laborer by occupation.

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He, the witness, was employed by Mr. Rogers, the contractor.

He, the witness, was working for Mr. Rogers, the contractotr, on the 21st of January, 1905.

He, the witness, on that morning was working on Riverside Crive between 146th and 147th Streets, in the County of New York.

On that morning, at the place where he, the witness, was working, he, the witness, saw the complaining witness, Mr. Haggerty.

He, the witness, also saw the defendant at that place.

He, the witness, was <sup>not</sup> standing exactly at the place where the complaining witness and the defendant were, but he, the witness, was standing within a short distance.

The superintendent, the complaining witness, had stationed him, the witness, nearby, to give signals to another man who was working there.

He, the witness, was close enough to see what went on where the complaining and defendant were.

He, the witness, while he was giving the signals, looked over where the complaining witness and defendant were.



Certainly he, the witness, saw the defendant put the crowbar on his shoulder, and go up the hillside a little way above where Mr. Haggerty was standing.

Then he, the witness, saw the defendant suddenly break the crowbar down upon the head of the complaining witness, who was standing about three feet below him, the defendant.

He, the witness, distinctly saw the iron crowbar on the shoulder of the defendant when the defendant walked around to the hillside, back of where Mr. Haggerty, the complaining witness, standing.

He, the witness, distinctly saw the defendant bring down the crowbar upon the head of the complaining witness.

Mr. Haggerty fell upon the ground as soon as the crowbar struck him, Mr. Haggerty, upon the head.

As soon as the defendant had struck Mr. Haggerty, the previous witness, Goldman, took the crowbar away from the defendant.

Then the defendant ran away, just as he, the witness, was running over to where the assault occurred, to assist Mr. Haggerty.

After Mr. Haggerty

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After Mr. Haggerty had fallen to the ground he, the witness, saw the defendant make another attempt to strike Mr. Haggerty with the crowbar.

But Mr. Goldman, the preceeding witness, sprang forward, and dodged under the crowbar, and caught the crowbar upon his shoulder, so preventing the defendant from striking the complaining witness again.

At the time that the complaining witness was again struck at by the defendant, the complaining witness, was lying upon the ground, where he had been knocked down by the first blow that the defendant gave him, the complaining witness, upon the head.

IN CROSS EXAMINATION, the witness testified that he, the witness, did not know how many Italians were off the stop where the assault occurred, because he, the witness, was working at some little distance from where the assault occurred.

He, the witness, therefore, did not know what occurred between Mr. Haggerty, the complaining witness, and the defendant, before the first blow of the crowbar was struck by the defendant.

He, the witness, did not see Mr. Haggerty, the complaining witness, strike and knock down the defendant,



before the defendant struck Mr. Haggerty with the crowbar.

His, the witness's, attention was first attracted to where the complaining witness and the defendant were, when he saw the defendant walk around behind Mr. Haggerty, with the crowbar upon his shoulder, and, almost immediately after he got behind him, strike him down with the crowbar.

He, the witness, was employed as a laborer by Mr. Rogers, the contractor, and he, the witness, was under the orders of the complaining witness, as superintendent of the work upon which he, the witness, was working.

He, the witness, was still working at the same place, under the orders of the superintendent, or Mr. Haggerty, working for Mr. Rogers, the contractor.

J O H N    B R O W N,    a witness called on behalf of the People, being duly sworn, testified that he, the witness, lived at 613 West 146th Street, in the County of New York.

He, the witness, was a retired police officer.

He, the witness, was a member of the Police Force of the City of New York for twenty-eight years and some

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months, and retired about nine years before the day in question.

He, the witness, knew Mr. Haggerty, the complaining witness, as the superintendent of the work that was going on at Riverside Drive, for Mr. Rogers, the contractor.

He, the witness, had lived at 613 West 146th Street for thirty-eight years.

He, the witness, remembered the 21st of January, 1905.

He, the witness, saw John J. Haggerty, the complaining witness on that morning.

He, the witness, also saw the defendant on the morning in question.

A fountain was to be built in the block above the house where he, the witness, lived, and two gentlemen, on that morning, came to see him, and said they would like to see the plan of the fountain.

So he, the witness, went to the engineer's office, or, rather started for the engineer's office, with his two friends, to see the plan of the fountain.

As he, the witness, and his two friends were passing the place where the cars were run off the track,

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he, the witness, suddenly saw a commotion, and two or three Italians started to run away.

He, the witness, looked across the car track and saw Mr. Haggerty, the complaining witness, lying upon the ground near the bank.

The blood was running down fast from his, Mr. Haggerty's head, and over his clothing.

He, the witness, said to some of the men there, "Go to the J. Hood Wright Hospital, for a doctor and an ambulance, and I'll take care of him here," meaning the complaining witness.

Then he, the witness, went after the defendant, and caught him, and told one of the bystanders telephone for a police officer, to come and arrest the defendant.

He, the witness, did not see the blows struck upon the head of the complaining witness, as alleged by the defendant, with the crowbar.

But he, the witness, saw Mr. Haggerty lying on the ground, bleeding profusely from his head, just after the blow was struck.

His, the witness's, attention was first attracted to where Mr. Haggerty was, by seeing a commotion there, and suddenly seeing two or three Italians start to run

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away.

He, the witness, did not know what had occurred before he saw Mr. Haggerty lying upon the ground bleeding.

IN CROSS EXAMINATION the witness testified that he, the witness, did not appear as a witness against the defendant in the Police Court.

He, the witness, was not a witness for the People, against the defendant, in the Police Court.

He, the witness, knew Rogers & Compay, the contractors, because they were building the Riverside Drive right past his, the witness's, door.

He, the witness, was not any more a friend of the complaining witness, Mr. Haggerty, than he was of anybody else in the Court room.

He, the witness, simply knew Mr. Haggerty as the superintendent of the work that was going on in front of his, the witness's, door, in extending the Riverside Drive.

To his, the witness's, knowledge, he, the witness, had never seen Mr. Haggerty more than four or five times in his life, before the day in question.

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After he, the witness, arrested the defendant he, the witness, kept him in a room there, until the police officer came and took charge of the defendant.

He, the witness, did not see the complaining witness, Mr. Haggerty, caught hold of the defendant by the coat collar, before the defendant struck the complaining witness with the crowbar.

FRANK A. HAGGERTY, a witness called on behalf of the People, being duly sworn, testified that he, the witness, lived at 636 West 149th Street, in the County of New York.

He, the witness, was a brother of the complaining witness, John J. Haggerty.

He, the witness, was present, on the 21st day of January, 1905, on the Riverside Drive, between 146th and 147th Streets, where his brother, the complaining witness, was superintending the building of the extension of the Riverside Drive, for Mr. Rogers, the contractor.

He, the witness, saw his brother, the complaining witness, on that morning.

He, the witness, also saw the defendant, at that



place, on that morning.

He, the witness, saw his brother standing along side of the car track, just after the wreck of the cars had been cleared up, and the defendant was standing on the bank, about three feet higher than him, the witness's brother.

At that time the defendant was holding the crowbar on his, the defendant's shoulder.

He, the witness, thought that the defendant was going on about his work, with his crowbar on his shoulder, when, suddenly he, the witness, saw the defendant catch hold of the crowbar with both hands, and strike the complaining witness upon the head with the crowbar.

He, the witness, was the locomotive engineer of the little railroad that carried the concrete from the dock to where the concrete was laid down.

He, the witness, was on the locomotive of the little railroad at that moment, and he, the witness, jumped off his engine, to run to where his brother had been assaulted.

But he, the witness, had to get his engine in a safe condition, before he could leave it.

He, the witness, could not leave his engine, at once

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at once, after he, the witness, saw the defendant strike his brother down with the crow bar, because he, the witness, had to leave his engine in such a condition that would not be any explosion of the engine.

While he was adjusting the engine, so that he could leave it safely, he, the witness, saw the defendant raise the crowbar again to strike his brother again.

Just then, as the defendant raised the crowbar to strike the complaining witness again, the witness Coleman ran in under the bar and caught the blow upon his shoulder, and so preventing the defendant from striking his, the witness's, brother, the complaining witness, again, with the crowbar.

IN RESPONSE TO QUESTIONS BY THE COURT, the witness testified that at the time that he, the witness, saw the defendant strike his, the witness's, brother, the complaining witness, with the crowbar, his, the witness's, brother, the complaining witness, was nothing whatever to the defendant.

His, the witness's, brother, the complaining witness, was not even looking at the defendant at that time.

The complaining witness stood with his side toward the defendant, and was not even looking at him, the witness, at the time that the defendant struck the first blow with the crowbar.

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The complaining witness was doing absolutely nothing to the defendant at the time that the defendant struck him, the complaining witness, with the crowbar.

IN CROSS EXAMINATION, the witness testified that he, the witness, could not give any reason at all for the defendant's striking the complaining witness with a crowbar, in the manner in which he, the witness, had described, other than he, the witness, had given in his direct examination.

To his, the witness, knowledge he, the witness, had never seen the defendant before that morning.

He, the witness, could not exactly say how many Italians were working at the place where the assault occurred, but he, the witness, should judge that there were about 80 Italians working at the place where the assault occurred at the time that the assault occurred.

JOHN SLATTERY, a witness called on behalf of the People, being duly sworn, testified that he, the witness was a member of the Municipal Police of the City of New York, and was attached to the 33rd Police Precinct.

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He, the witness, arrested the defendant on the morning in question, the 21st of January, 1905.

He, the witness, arrested the defendant on that morning, in the office of J. C. Rogers & Co., at foot of West 151st Street, in the County of New York.

At the time that he, the witness, reached the office of the Rogers Company, the defendant was in the custody of Frank Haggerty, the brother of the complaining witness, Coleman, the foreman, and Mr. Brown, the retired police officer.

He, the witness, asked the defendant why he had assaulted the complaining witness.

The defendant did not seem to understand him, the witness, when he, the witness, spoke to him in English.

He, the witness, then took the defendant to the station house.

At the time that he, the witness, arrived at the office of the Rogers Company, the complaining witness was not there.

By that time the complaining witness had been taken to the J. Hood Wright Hospital.

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IN CROSS EXAMINATION, the witness testified that when he, the witness, asked the defendant why he had assaulted the complaining witness, the defendant did not answer.

Apparently, the defendant did not understand him, the witness.

Apparently, the defendant did not understand any English, but only spoke Italian.

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## THE DEFENSE.

A N T O N I O   S I R I O, the defendant, being duly sworn, and examined through the same official interpreter, testified that he, the witness, had been in the United States about six years.

He, the witness, was married, but his wife was in Italy.

He, the witness, was a laborer by occupation.

On the 21st of January, 1905, he, the witness, was working for the Rogers Company, contractors, as a laborer.

He, the witness, had never before been arrested, and had never before been charged with any crime, whatever.

He, the witness, had been working for fifteen days previous to the day in question, on the job on the Riverside Drive.

He, the witness, had been working for about twenty minutes on the job of putting the cars back on the

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track, when the trouble occurred between him, the witness, and the complaining witness.

He, the witness, was in a gang of men, trying to put the cars back on the track.

The men were trying to left one of the small cars back on the track with crowbars.

Then the complaining witness told him, the witness, that he must get on the car, and stand on the car and work on the car.

He, the witness, did not understand English, and therefore, at the time he did not understand what the complaining witness wanted him to do.

Then the complaining witness advanced upon him, the witness, and struck him in the breast with his fist and kicked him.

While the complaining witness was striking and kicking him, in this manner, he, the witness, took up the crowbar from the ground, and struck the complaining witness on the head.

There had been a disturbance between the complaining witness himself some time before, but he, the witness, did nothing at that moment.

But when the complaining witness came up to him again

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again, and assaulted him, in the manner that he, the witness, had described, he, the witness, struck the complaining witness with the crow bar.

It was not true that he, the witness, struck the complaining witness fully twenty-five minutes after the trouble between the complaining witness and himself occurred.

It was at the very moment when the trouble was occurring, and when the complaining witness was kicking and striking him, the witness, that he, the witness, caught up the crowbar from the ground and struck the complaining witness with the crowbar.

The complaining witness struck him, the witness, and kicked him, the witness, so violently that at the moment he, the witness, could hardly stand on his feet or walk.

He, the witness, took up the crowbar from the ground while he, the witness, was being assaulted by the complaining witness and struck the complaining witness with it.

He, the witness, did not attempt to strike the complaining witness again, and the crowbar was not taken away from him, the witness, by the witness Coleman.

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IN CROSS EXAMINATION, the witness testified that when the complaining witness began the assault, he, the witness, was not facing the complaining witness.

He, the witness, was bending over, doing his work, when the complaining witness came behind him, and kicked him.

He, the witness, straightened up and faced the complaining witness and then the complaining witness struck him with his fist in the chest.

when  
At that time, the complaining witness was striking him, the witness with his fist, he, the witness had the crowbar in his hand.

At the very moment, however, that he, the witness, struck the complaining witness upon the head, the complaining witness had turned his face away from him, the witness, and that was the reason why the blow was on the back of the complaining witness's head.

LO U I G I M A Z E L L A , a witness called on behalf of the defense, being duly sworn, and examined through the same official interpreter, testified that he, the witness, was a laborer by occupation.

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He, the witness, was working on the same job with the defendant, on the Riverside Drive, between 146th and 147th Streets, for the Rogers Company, on the morning of the 21st of January, 1905.

At that time and place he, the witness, saw the complaining witness, Mr. Haggerty, the superintendent for the Rogers Company.

He, the witness, at the same time and place also saw the defendant, who was working there as a laborer, in the same gang with him, the witness.

He, the witness, was the a witness for the defendant, when the defendant was arraigned in the Police Court, and an examination was held.

After he, the witness, appeared as a witness for the Defense he, the witness, was discharged from the employ of the Rogers Company.

While he, the witness, and other men including the defendant were working at the wreck of the cars the complaining witness came upon the scene.

The superintendent ordered him, the witness, and the rest of the gang of laborers, Italians, of which gang the defendant was a member, to leave the cars back upon the track.



He, the witness, and the other members of the gang, including the defendant, worked on the cars.

The complaining witness gave the defendant an order, and the defendant, not understanding English, did not understand what the complaining witness said.

Thereupon the complaining witness struck the defendant in the chest with his fist, and kicked him besides.

The complaining witness struck the defendant twice in the chest, and kicked him several times.

The complaining witness not only struck and kicked the defendant, but pushed him along to the track where the cars were off the track.

In the meanwhile, the defendant and the rest of the gang went to work and replaced the cars on the track.

Then the superintendent sent to him, the witness, to another part of the work with another man, and at the moment that he was bending down over his work, he heard an outcry.

He, the witness, looked up, and saw that the complaining witness was lying upon the ground.

Then he, the witness, saw Mr. Coleman, the boss



of the gang, in which he, the witness, worked, wrestling with the defendant, to take the crowbar out of the defendant's hand.

IN CROSS EXAMINATION, the witness testified that he, the witness, did not see the defendant strike the complaining witness with a crowbar.

At that time he, the witness, was working at another part of the work, by order of the superintendent, the complaining witness, with another man.

He, the witness, was bending down over his work with another man when he heard a noise, an outcry.

He, the witness, straightened up, and saw the complaining witness lying upon the ground.

He, the witness, did not know what had caused the complaining witness, the superintendent, to fall upon the ground.

At the time that he, the witness, saw the superintendent upon the ground he, the witness, saw Mr. Coleman, the foreman of the gang in which he, the witness, worked, struggling with the defendant, and taking the crowbar out of the defendant's hand.

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B I A G I O    M A Z E L L A, a witness called on behalf of the defense, being duly sworn, and examined through the same official interpreter, testified that he, the witness, was working on the Riverside Drive, between 146th and 147th Streets, early on the morning of the 21st of January, 1905.

He, the witness, saw the complaining witness at that time and place.

He, the witness, also saw the defendant there.

He, the witness, had worked for the Rogers Company for two years, the whole time that he, the witness, had been in the United States.

He, the witness, was a witness in the police force, on behalf of the defendant, at the examination of the defendant, before the defendant was held for trial in the Court of General Sessions.

After he, the witness, appeared as a witness for the defendant in the Police Court, he, the witness, was discharged from the employ of the Rogers Company.

On the morning in question, the 21st of January, 1905, he, the witness, was working in a gang of Italian laborers.

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They were working to put back on the track several cars that had got off the track.

He, the witness, worked by the side of the defendant when the defendant was trying to help to put the cars back on the track.

The superintendent gave the defendant some order, which the defendant, not understanding English, did not understand.

Then the complaining witness, the superintendent, struck the defendant two or three times in the chest, and knocked him down from the car on which he was working, and kicked him from behind several times.

He, the witness, continued to work, because he was afraid to stop, because of the furious temperament of the superintendent.

So he, the witness, did not raise his head up until he heard a noise, and then he turned around and saw the complaining witness, the superintendent, lying on the ground.

He, the witness, then saw the defendant run away, and saw that he was pursued, and captured.

IN CROSS EXAMINATION, the witness testified that he, the wit-

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ness, did not see who struck the blow with a crowbar.

He, the witness, did not see the defendant strike the complaining witness with the crowbar.

Because, he, the witness, being afraid of the superintendent, because of his violent temperament, did not dare to look up, after he saw the superintendent beat and kick the defendant off the car.

But, when he heard a noise, shortly afterwards he, the witness, did look up and saw the superintendent lying upon the ground and saw the defendant running away.

But he, the witness, did not see whether or not the defendant struck the complaining witness with a crowbar upon the head or attempted to strike him again, with the same crowbar, but was prevented by the boss of the gang, Mr. Coleman, from doing so.

IN RE-DIRECT EXAMINATION, the witness testified that he, the witness, did see the defendant run away, as he, the witness heard the noise, and looked around and saw the complaining witness lying upon the ground.

At the time that he, the witness, saw the superintendent strike and kick the defendant and knocked him



off the car, he, the witness, was engaged in his work, but he, the witness, knowing the violent nature of the superintendent, was afraid to stop working, and to straighten up and see what occurred.

Therefore, he, the witness, being afraid of the superintendent, particularly after his violence with the defendant, kept on with his work, looking down again at his work.

It was when he, the witness, heard some noise near him that he, the witness, looked up, and saw the superintendent lying upon the ground, and saw the defendant run away.

He, the witness, just looked up at this moment.

He, the witness, saw that the defendant ran away, but that he was immediately overtaken and arrested.

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## REBUTTAL.

J O H N S L A T T E R Y, the police officer, being recalled by the District Attorney, testified that the crowbar which he, the witness, produced, and handed to the District Attorney, was the crowbar with which the complaining witness was assaulted, as he, the witness, was informed.

(The crowbar was then admitted in evidence, without objection, and marked People's Exhibit 1.)

(The Jury found the Defendant Guilty, as charged in the indictment.)

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