

START

368

CASE

CASE # 368

- I N D E X -

	Direct	Cross
Louis Simon	126	
Charles Murray	128	133
Emil Jlanella	135	139
Louis Aymo	143	147
Antonio Zucca	152	
Cesare Conti	154	
Thomas Graham	154	157
John Anderson	162	164
Emil Gioggi	168	171
Henry Torelli	185	187
Giovanni Bonini	190	191
Castruccio Geminiani	192	193
Ehrlo Ribori	194	196
Marcello Baretti	198	200
Batista Barna	203	204
Angela Torelli,	205	208
Michael Gorman, recalled,	210	212
John L. Sullivan, recalled,	222	227
The Court's Charge,		231

893 368
CASE #

I N D E X.

	Direct.	Cross.	Re-D.	Re-C.
Michael Gorman,	2	12		
Joseph W. Carroll,	42	46		
Jerold B. Garrigan,	48	50		
William F. Kiernan,	51	53		
John Lawrence Sullivan,	60	63		
Philip Oppenheimer,	68	69		
Frank McCoy,	75	79		
Henry Marquet,	79			
Herman Weiller,	80	82		
James A. Russell,	84			
Gerolamo Cella	87			
Louis V. Fugazy	89			
Louis Lavaggi,	90			
Antonio A. Cella,	91			
Louis Bonezzi,	92	94		
Marcus Simon,	94			
Angelo Torelli,	97	103		
William Parentini,	113	115		
Dr. Simplicio Rhigi,	122			

CASE # 368

#992

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

-----X	:	
THE PEOPLE, etc.,	:	Before
	:	
vs.	:	McMAHON, J.,
	:	
ANGELO TORELLI and WILLIAM	:	and a jury.
PARENTINI.	:	
-----X	:	

New York, June 4th, 1903.

Indictment filed April 22nd, 1903.

Charge: Assault in the Second Degree.

Appearances:

For the People, Assistant District Attorney Robert Townsend.

For the Defendant, Louis Steckler, Esq.

A jury was impanelled and sworn.

Mr Townsend opened the case on behalf of the People.

CASE # 368

THE PEOPLE'S CASE.

MICHAEL GORMAN, called as a witness on behalf of the People, being duly sworn, testified as follows:

MR. TOWNSEND: I ask that all the witnesses be excluded.

THE COURT: The witnesses on both sides will be excluded from the court room and remain outside until called.

MR. STECKLER: Does that refer to character witnesses?

THE COURT: No. Witnesses who will testify as to the character of the defendant may remain in the court room.

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Your occupation is what? A Policeman.

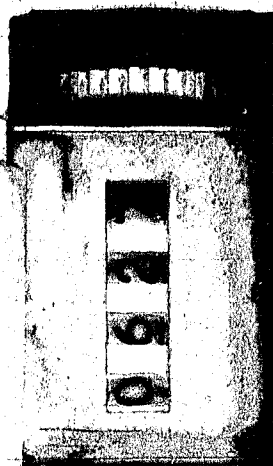
Q You are a captain of Police? A Captain of Police.

Q You are connected with what precinct? A I am connected with the 4th Precinct now. At the time of the assault I was connected with the 16th Precinct.

Q When was that? A On the 12th of April, 1903.

Q You were then connected with the 16th Precinct? A Yes, sir.

Q How long have you been on the Force? A This is my 30th year.



CASE # 368



Q You have been captain how long? A This is the 3rd year that I have been captain.

Q Do you recollect the night of the 12th of April, 1903?

A Yes, sir.

Q Did you see the defendants that night? A Yes, sir.

Q Where were they? A They were in the bar in a saloon at 149 Bleecker Street.

Q County of New York? A Yes, sir, County of New York, at 12:15 A. M.

Q 12:15 in the morning? A Yes, sir.

Q That was the morning of the 13th? A 12th, Saturday night and Saturday morning.

Q State clearly to the jury what happened, what was the occasion of you going there and what happened there, with relation to these two defendants? A I went out on patrol duty that night and had been into different places, and on my way through Bleecker Street, at about ten minutes past twelve, I passed this place, 149 Bleecker Street, looked through the window, and I saw it in full operation-- three bartenders.

MR. STECKLER: I ask that that be stricken out, "full operation". Let him state what he saw.

THE COURT: Strike out the words "in full operation".

Q You saw three bartenders? A Yes, and about fifteen men.

CASE # 368



lined up at the bar. I went into the place and asked who was in charge, and Torelli was pointed out to me .

MR. STECKLER: I ask that that be stricken out. I don't know whom he asked.

THE COURT: Leave out "I asked who was in charge".

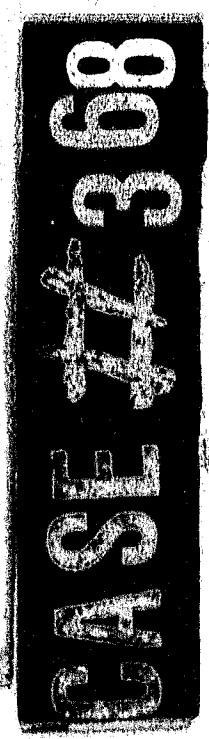
THE WITNESS: I asked Torelli if he had charge.

BY MR. TOWNSEND:

Q Which is Torelli? A That is the person, (Pointing to defendant).

Q Where was Torelli when you first saw him? A Behind the bar, at the centre part of the bar.

Q You stepped up to him and said what? A I asked him, "Are you in charge?" He says, "I am the boss, who are you?" I says, "I am captain of this precinct and I want you to close up and clear out your bar." He says, "Oh, you go to hell; I am going on". I then went down to the lower end of the bar where this Parentini was, towards the door, he was serving drinks behind the bar, and asked him for a glass of whiskey, which he served to me. I paid him ten cents for it and tasted the liquor, and told him that he was a prisoner and I placed him under arrest. Then it was necessary to go to the other end of the room, to get behind the bar, where the entrance was, and I went up there and I started towards that end. Torelli started also and anticipated me, impeded me, and he says, "You can't arrest nobody here".



And he shoved me back, and he picked up a tumbler--

Q Who did? A Torelli.

Q Torelli the proprietor? A Yes, sir. That is the man (Pointing to defendant). He said he was the boss, and he threwed it at me, throwed it at my head. And I put up my left hand before my face, and the tumbler broke on my hand. It cut me severely. There is a slight scar here yet. That being the graver offence, then--

MR. STECKLER: Objected to.

THE COURT: Leave out your comments. State what you did.

THE WITNESS: As soon as he struck me with the tumbler I closed in on me, and grabbed him by the neck. I says, "I arrest you". And I dragged him out from behind the bar, and as I dragged him out I was struck on all sides by the people in the place.

BY MR. TOWNSEND:

Q About how many were in there? A Thirty.

Q What happened to you? A I was pulled away and shoved away from Torelli. And then he picked up the second tumbler and he throwed it at me. I saw it coming and I dodged it, throwed my head to the right, and it struck me here at the side of the head a glancing blow. I went towards Torelli again and closed in on him, and tried to take him towards the door so that

803-368
CASE 77-368

I could get him outside, and they surrounded me, and would strike me; one of the prisoners struck me in the face, and another--

Objected to.

THE COURT: Is it this defendant here?

THE WITNESS: The one charged in the indictment.

MR. STECKLER: I ask that it be stricken out as incompetent, irrelevant and immaterial.

THE COURT: It is part of the res gestae.

Defendant excepts.

BY MR. TOWNSEND:

Q Can you state his name? A I don't know his name; I know him by sight. Torelli and another person grabbed me and drewed to towards the bar. As they did that Parentini jumped up on the bar--

THE COURT: Who is Parentini?

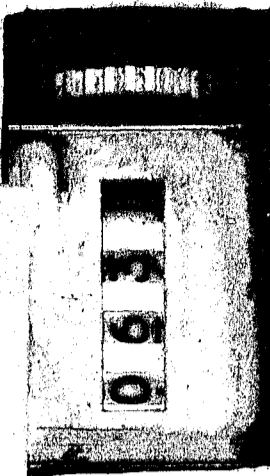
THE WITNESS: This other defendant.

THE COURT: That man there (Indicating defendant)?

THE WITNESS: Yes, sir-- and he struck me on the head with a club. I have the club here.

BY MR. TOWNSEND:

Q Produce the club? A (Witness produces the club.) He got on his knees on the bar with this club, and Torelli had me on one side, and another man that was arrested at the time, on the other. And this Parentini struck me on the top of the head



CASE # 368

twice with this. He held it in about this position (illustrating). This thing was hanging down like this. I broke away from them and went towards the door, and I was struck on the right side of the eye with another tumbler by the person that had hold of me with Torelli.

MR. STECKLER: I object to testimony as to other assaults.

Objection overruled.

Defendant excepts.

THE WITNESS: They were striking me all around, and several others that got away struck me.

MR. STECKLER: I make the same objection.

THE COURT: I allow it as part of the transaction. Defendant excepts.

THE WITNESS: I got to the door with the crowd around me, striking and hitting me and kicking me; and I tried to force open the door and found it had been fastened. They were glass panel doors, double doors, and I put my foot through a glass panel, first on one side and then on the other, and put my shoulder to the door, protecting myself as much as I could while I was doing so from the blows of the different people; and I forced that door and got outside, and they followed me between-- there was an outside door and an inside

CASE 77-368

door; they followed me out there and still commenced to beat and assault me, and I found that the outside door was also fastened, one door I forced with my foot, and the other door I threw some person through it, and in throwing him through the door that forced the second door open, and I got to the street. And I asked for somebody to go and get me assistance, and in a few minutes, two policemen, some that will be present here today, came to my assistance.

BY MR. TOWNSEND:

Q Do you remember what officer it was? A There was officer Kiernan, O'Brien, Convey and Fitzsimmons, and Detective Sullivan.

Q They came to your assistance. Then what happened?

A We went into the place again and it had been deserted; everybody had left the place, and I gave orders--

MR. STECKLER: Never mind what orders you gave.

BY MR. TOWNSEND:

Q What happened then? A The officers that came to my assistance searched the house and brought--

MR. STECKLER: I object to what they did.

BY MR. TOWNSEND:

Q Did they make an arrest? A Yes, sir.

Q Searched the house and arrested whom? A Torelli.

CASE # 368

Q Where did they find him? A They told me they found him up in his room.

Objected to.

BY MR. TOWNSEND:

Q That is hearsay. They can testify to that. They brought Torelli, and who else was arrested? A Torelli and nine others were brought into the saloon.

Q Was Parentini one of those? A He was brought in that time, but he was not arrested until the following day.

Q When Torelli was brought into the saloon what happened there? A I identified him as one of the persons that assaulted me, and ordered him to be taken to the station house in the patrol wagon.

Q Did he say anything in English? A No, not that I remember.

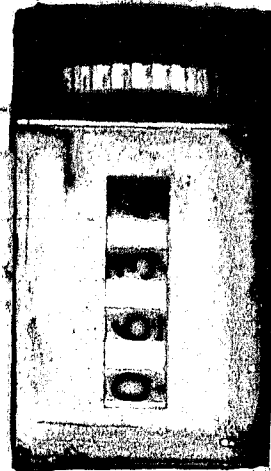
Q When did you next see Parentini. You say you saw him that night? A I saw him that night.

Q Was he identified that night? A No. He had changed his clothes. He was partly identified.

MR. STECKLER: I ask that that be stricken out.
Let him state the circumstances.

THE COURT: He is stating the circumstances.
Defendant excepts.

THE COURT: What do you except to?



CASE # 368

MR. STECKLER: I except to the fact that he says that this man changed his clothes, to the fact that your Honor allows this testimony to stand, that this man says he was partly identified.

THE COURT: He can state the fact how he was partly identified, and whether he wore the same clothes he did before, and whether he was the same person. He is stating the circumstances.

Defendant excepts.

BY MR. TOWNSEND:

Q You say he was then in a different suit of clothes from what he was when he attacked you?

Objected to as leading.

Objection sustained.

Question withdrawn.

BY MR. TOWNSEND:

Q He had different clothes on?

THE COURT: Was the man who was brought there the same man who assaulted you in the saloon?

THE WITNESS: He was the same man.

THE COURT: Did he wear the same clothes that he did when he assaulted you?

THE WITNESS: No.

BY MR. TOWNSEND:

Q What was the difference? A He had only his undershirt

893 368
CASE # 368

on, and a different coat, no hat on.

Q Had he trousers on? A I don't know anything about the trousers. My right eye was almost closed at the time, and my eyes were full of blood, and I could not properly see him at the time.

Q He is the man now you say? A He is the man.

Q The man that assaulted you that night? A Yes, sir; he is the man.

Q About that club-- where did you get that? A I got it behind the bar.

Q Where did you get it? A I ordered one of the officers to go and get it from behind the bar.

Q You identify that as the club that Parentini struck you with? A Yes, sir.

Q You had no further talk with this man at any time-- you didn't talk with these two defendants again? A No, no further talk with them.

THE COURT: Were you present when they were brought before the sergeant?

THE WITNESS: Yes, sir; I identified them at the station house again, and made the charges against them.

THE COURT: Did they make any statement there, either of them?

CASE # 368

THE WITNESS: No. But they made a statement to--

MR. STECKLER: I object.

THE COURT: Did they make a statement in the
Police Court?

THE WITNESS: No-- to Detective Sullivan.

THE COURT: In your presence?

THE WITNESS: No.

THE COURT: Then don't state it.

BY MR. TOWNSEND:

Q Do you know Mr Carroll? A Yes, sir.

Q Did you see him that night? A Yes, sir.

Q When for the first time? A In the station house.

Q Had you known him before? A Never saw him before.

Q He came into the station house when these men were under
arrest? A Yes, sir.

CROSS EXAMINATION BY MR STECKLER:

Q Were you in uniform that night? A No, sir.

Q What kind of clothes did you wear? A Clothes that
are generally worn at that season of the year, dark clothes.

Q Was it the suit you have on now? A No.

Q What color coat was it? A Kind of a dark coat.

Q Have you got it here with you? A No. I could get it.

Q What sort of a vest did you have? A Same as the coat.

CASE # 368

Q Rather shabby, both of them? A No.

Q How about the trousers, what kind of trousers did you have on? A Stripe trousers, dark stripe.

Q You had a derby hat, a black derby hat? A Yes, sir.

Q And a colored shirt? A Not a colored shirt.

Q What kind of shirt was it? A One of these negligee shirts.

Q With stripes in it? A Stripes in it.

Q Colored stripes? A Colored stripes.

Q Had you ever seen this defendant before that night, either of them? A Not that I know of.

Q You didn't know them? A No.

Q You don't know whether they knew you or not? A Yes, sir. I know Torelli knowed me.

Q You never saw him before, did you? A I told him who I was.

Q Before you came in the place do you know whether Torelli knew who you were? A No, I don't.

Q What time did you leave the station house that night? A Near ten o'clock.

Q What time? A Between nine and ten o'clock.

Q A little after nine, was it not? A Something around that time.

Q About a quarter past nine? A Later than that.

CASE 77-368

Q And did you return again after you left the station house? A Not until I went in after the assault.

Q Where had you been before nine o'clock that night?
A Been patrolling the precinct.

Q Before nine? A Before-- I had been in the station house.

Q From what hour? A I guess up from six o'clock or so up to seven o'clock, when I turned out the platoon.

Q Did you go out then? A After nine o'clock I went out-- yes, sir.

Q Did you go out between six and nine? A No.

Q At nine o'clock you went out and you patrolled the precinct? A Yes, sir.

Q Until what hour? A About the time I went in this place, about 12:15.

Q Before you went in this place you went in a concert hall?
A Yes, sir.

Q What time did you get in the concert hall? A 12:05 A. M.

Q (Question repeated.) A. 12:05 A. M.

Q Sure about that? A Yes, sir-- oh-- which do you mean by the concert saloon?

Q You know the concert saloon I mean, don't you? A Do you mean the theatre?

CASE # 368

Q The theatre, if you call it such? A I got in there after ten o'clock.

Q And you stayed in that place until about twelve?

A No; it was about 11:50

Q That is about twelve? A About twelve-- yes, sir.

Q You stayed in that concert hall or theatre about two hours? A Very near it.

Q Where was that concert hall or theatre? A In Sullivan Street.

Q And you sat in the audience? A Yes, sir.

Q Did the people in that place know that you were a police captain? A I don't think they did. I didn't make myself known.

Q You paid your admission to go in there? A No admission.

Q You went in there and sat down? A Sat down.

Q And looked at the performance? A Yes, sir.

Q Are you a drinking man? A No.

Q You do drink, don't you? A No, I don't drink.

Q Never? A I taste a drink once in a while, but I don't drink at all. I will take a drink but that is all.

Q You stayed in there until ten minutes to twelve?
A Yes, sir.

Q When you say you went in at ten and stayed until ten minutes to twelve you base that time on your own watch, don't

CASE # 368

you? A Yes, sir.

Q You had a watch in your pocket and you looked at the time? A Yes, sir.

Q And according to your watch it was ten minutes to twelve when you left that place? A Yes, sir.

Q And you walked from there up to where? A To Bleecker Street.

Q How long did it take you to walk up to Bleecker Street? A It took me until twelve o'clock.

Q About what time did you get in front of Mr Torelli's place? A About ten minutes past twelve. But there is one place you didn't ask me about. I went into another place.

Q Another bar room? A Another bar room.

Q Did you make any arrests there? A No.

Q Did you make any attempt to make arrests? A No.

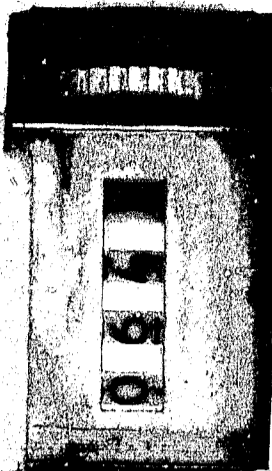
Q What time did you get into that other bar room? A Five minutes past twelve.

Q It was open? A It was open.

Q There were other saloons open besides that one that you passed? A Not that I see.

Q You got in there five minutes past twelve? A Yes, sir.

Q How long did you stay there? A Long enough to tell him to close the place.



CASE # 368

Q What time did you leave there? A About eight minutes past twelve.

Q That was half a block away from Torelli's place?

A Yes, sir.

Q What time did you get in front of Torelli's place?

A Ten minutes past twelve.

Q That was according to your watch, ten minutes past twelve, is that correct? A Yes, sir.

Q Torelli keeps No. 149 Bleecker Street? A Yes, sir.

Q And his house runs through into Sullivan Street or Thompson Street? A I don't know anything about the rear.

Q I say or into Thompson Street? A I don't know anything about the rear of the house.

Q Describe if you will the kind of place that Torelli keeps there? A It has two or three steps down from the sidewalk, and he has double doors at the entrance, and a big plate glass window.

Q One or two? A One window, on the left of the entrance.

Q Is it a private house remodeled, is it not? A Yes, sir; it is a private house.

Q And there are four or five stories? A Four, I judge.

Q He keeps hotel there? A Yes, sir.

Q And up to that time you knew that was a respectable place, didn't you? A I knew nothing about the place.

Q How long were you captain of that precinct? A Three

896 368
CASE 47-368

months.

Q During that time you had some knowledge of the place?

A Not at all.

Q Didn't you know whether it was a place of respectability or not? A I judge so or I would have had complaints against it.

Q You had had no complaint against it on any account whatsoever? A None.

Q And Torelli had a hotel license? A Yes, sir.

Q How long to your knowledge was that place in existence there run by Torelli? A Three months.

Q Haven't you known that it was there for many years prior to that time? A I knew nothing about it.

Q You had no information on that subject? A None at all.

Q When you got to the place the curtain was all up?

A Yes, sir.

Q The lights were lit in the saloon? A Yes, sir.

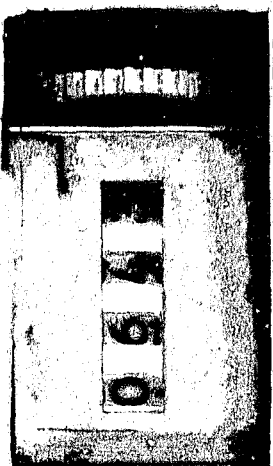
Q There were about fifteen men as you say standing along the bar? A Fifteen-- yes, sir.

Q Drinking? A Drinking.

Q In open sight of the street? A Yes, sir.

Q And there were men in the bar room, in the back, drinking at tables? A Yes, sir.

Q Altogether how many people would you say a person could



CASE # 368

see from the street drinking at the bar or at the tables?

A Thirty.

Q Thirty, including the men at the bar? A Yes, sir--
all.

Q Did you see any screens up in the rear? A No.

Q None at all? A No.

Q How far back could you look from the street? A I could
look back to the end of the bar, thirty-five feet.

Q How deep was this saloon itself, how far back did it
run? A I judge the saloon run back about sixty feet.

Q Could not you see the other thirty feet? A No.

Q Why? A From the position the saloon is, down.

Q If a person would go down those two steps they could
see through? A Yes, sir, when you got on a level.

Q You didn't go down to a level? A Not until I went
in.

Q You stood on the street? A Yes, sir.

Q And looked down? A I looked down and looked in.

Q And saw these drinking people standing at the bar and
sitting at the tables? A Yes, sir.

Q When had you looked at your watch before you got to
Torelli's? A When I was at this Vesuvius place.

Q It was then eight minutes past twelve? A Yes, sir.

Q Did you look at your watch again? A Yes, sir, in

8937368
CASE 17368
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front of Torelli's place.

Q What time was it then? A Ten minutes past twelve.

Q How long did you stand in front of this place before you made an attempt to go in? A Two or three minutes.

Q And you stood on the sidewalk? A Yes, sir.

Q And after standing there two or three minutes what did you do then? A I went in and asked who was in charge.

Q You went in? A Yes, sir.

Q You walked down those three steps? A Yes, sir.

Q And walked through the door? A Yes, sir.

Q It was wide open? A Yes, sir.

Q Front doors open? A Front doors open.

Q And the vestibule doors open? A Two doors open.

Q There is a vestibule right from the entrance? A There are two doors.

Q They were both open? A Yes, sir.

Q And you walked in? A Walked in.

Q Do you remember at the Police Court you testified that you stood in front of Torelli's about five minutes? A No, I don't remember that.

Q If you did testify in the Police Court that you stood there five minutes it must have been five minutes? A I didn't testify only to what I am testifying here.

Q If I read^{to} you your testimony-- you state-- A That

CASE 77-368

was never read to me after the stenographer took the notes.

Q Did you testify in the Police Court? A Same as I am testifying here.

Q Were you sworn there? A Yes, sir.

Q Did you give your testimony? A Yes, sir.

Q Was this question put to you and did you make this answer: "Q. How long did you stay outside of Torelli's and look in that window? A. About five minutes." A That is not correct.

Q You did not swear to that? A I didn't swear to that.

Q You had on a blue coat, did you not? A Black.

Q Blue trousers? A Stripe, gray stripe, very dark.

Q Did you testify in the Police Court in answer to this question as follows: "Q. What colored coat? A. I call it black. Q. Sort of black ribbed? A. Yes, sir. Q. Same sort of vest? A. Same material. Q. And blue trousers? A. Blue trousers."-- did you swear to that? A That is wrong.

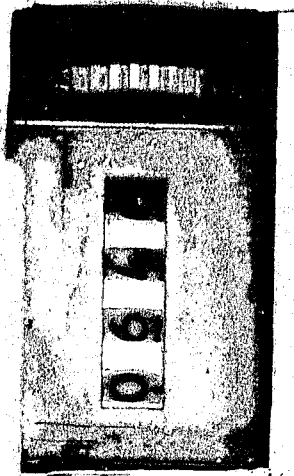
Q You did not swear to that? A I did not swear to that.

Q What sort of a tie did you have on? A Gray.

Q You walked in that place and what was the very first thing, if anything, that you did when you got in that place?
A I asked who was in charge.

Q Do you remember who you asked? A No.

Q Did you ask that loudly? A No, in an ordinary tone of voice.



CASE # 368

Q Of whom did you ask? A I said to Torelli, "Are you in charge?"

Q Whom did you first address your conversation to? A One of the people or persons that was in the place.

Q At the bar, somebody that was drinking there? A Back from the bar.

Q Somebody that was drinking there? A Some that were standing there; as soon as I entered the place at the door there was people around there.

Q Was it somebody that was drinking there? A No; the person was not drinking.

Q Was he the bartender? A No.

Q He was a man outside of the bar? A Yes.

Q And he told you Torelli? A He didn't speak at all; he pointed to Torelli.

Q What did you do then? A I went up to Torelli and I asked him if he was in charge.

Q What part of the bar was Torelli in? A The centre part.

Q When you asked him that question what did he say to you?
A He said he was the boss.

Q What was the next thing you said? A I told him to close up his bar and stop his business in the bar.

89-77-368
CASE 77-368

Q What was the language that you used to him? A I says, "Clear out your bar and stop business in the bar".

Q What did he say? A He says, "Who are you?" I says, "I am the captain of this precinct".

Q Did you say it so that he could hear it? A I was talking to him-- yes, sir.

Q What else did you say or do? A Then he said to me, he says, "Oh, you go to hell".

Q After you told him you were captain of the precinct the next answer he gave was, "You go to hell"? A Yes, sir. And he says, "I will go on". Then I stood and looked at him serving drinks and receiving the money for it.

Q You stood there all this time? A Yes, sir, for a minute or half a minute. And then I went down to the end of the bar.

Q Towards which end? A Towards the door.

Q Towards the front? A The front or the window-- where another bartender, Parentini, was serving drinks; and I asked him for a drink of whiskey.

Q When you say Parentini, you mean this defendant here (Pointing to defendant)? A Yes, sir.

Q What did he have on? A He had a sack coat, and a polo cap. I could not see any other part of his clothing.

Q Did he have on an apron? A No.

CASE 44-368

Q Did Torelli have an apron on? A Yes, sir; and he was in his shirt sleeves.

Q You said there were three men behind the bar? A Yes, sir.

Q Did the other man have an apron? A Yes, sir.

Q The only man that had no apron was parentini? A Yes, sir-- Parentini.

Q What else happened when you walked to the end of the bar?

A I asked him for a drink of whiskey, which he served. I gave him ten cents for it, and tasted it.

Q Who served it to you? A Parentini.

Q And that was after you told Torelli you were captain of the precinct and to close up? A Yes, sir.

Q Then you walked to the front of the bar and asked Parentini for this whiskey? A Yes, sir.

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

Q Torelli saw him give it to you? A I don't know.

Q He was behind the bar? A I didn't pay attention to that. I was not looking at him at all. I can't tell whether he seen me or not.

Q You got your whiskey? A I got my whiskey.

Q You paid ten cents? A I paid ten cents.

Q And Parentini took it? A Parentini took it-- yes, sir.

Q Put it in the drawer? A In one of the cash registers.

CASE 77-368

Q Go on. A And then I told him he was under arrest, I arrested him.

Q Told who? A Parentini.

Q Did Torelli hear that? A He must when he stopped me.

Q Did you show your badge that time? A I showed it to Torelli.

Q When? A When I told him who I was.

Q The moment you got in you told him to close up, that you were captain of the precinct? A When he told me he was the boss.

Q That was the first conversation? A With him-- yes.

Q You then took up your coat and showed that badge?

A Yes, sir.

Q Your badge that you have here? A Yes, sir.

Q That is what you testified to at the Police Court?

A Yes, sir.

Q Right at the back of your vest? A Right here (indicating).

Q You pulled it open and said, "Close up, I am the captain of the precinct"? A I said to close up his bar.

Q Did you say, "I am captain of the precinct"? A Yes, sir.

THE COURT: But he did not say it in that connection. He testified that the defendant asked him, "Who

CASE # 368

are you?"

BY MR. STECKLER:

Q You said, "Close up your bar", and he said, "Who are you?"

A Yes.

Q You said, "I am captain of the precinct, here is my shield",-- is that right? A When I said, "I am captain of the precinct", I displayed my shield at the time. I didn't say, "Here is my shield".

Q You displayed it? A Yes, sir.

Q He said, "You go to hell"? A Yes, sir.

Q Anything else? A Only what I told you. He said, "I will go on".

Q When he said that to you did you go behind the bar?

A I attempted to.

Q Did you take the drink? A No-- afterwards.

Q You knew when you came into that place, according to your watch ten minutes past twelve, he was then violating the law? A Yes, sir.

Q You knew it was not necessary to take a drink? A I have had a good many excise cases. That was part of the evidence I wanted to get.

Q Didn't you know as a police officer that if you saw this man selling after twelve o'clock that was all the evidence you needed that he was violating the law then? A I knew that.

CASE # 368

Q Then he told you to go to hell, and you made no attempt to arrest him, but walked to the other end of the bar and took a drink? A Yes, sir, because there was more than one--

MR. STECKLER: Never mind that.

THE COURT: He may explain.

MR. STECKLER: I object to that.

THE COURT: Go on.

MR. STECKLER: Exception.

BY MR. STECKLER:

Q When you told him you were captain of the precinct you said it loud enough for everybody to hear it? A For Torelli to hear it.

Q Loud enough for the people around the bar to hear it too? A It was a pretty big room.

Q You were right amongst the fifteen people drinking there? A They were very intent upon their business.

Q Were you among those fifteen persons? A You are asking my opinion. I don't know whether everybody in the place heard me.

Q You did not whisper it? A I was not talking to them any louder than I am talking to you.

Q You were talking as loud, weren't you? A In an ordinary conversational tone of voice. He was only about two or three feet away from me-- just as I would talk to a person about three

CASE # 368

feet away from me I told him.

Q You testified in the Police Court, did you not: "Q. If you did say that you are under arrest, anybody around the bar ten feet away might have heard you? A. They might." Did you testify to that? A They might.

Q "Q. If they had good hearing they could have heard? A. Yes, sir." Did you testify to that? A What is that?

Q "Q. If they had good hearing they could have heard? A. Yes, sir." A That is right.

Q When you then took your drink and said to Parentini, "You are under arrest", you started to walk towards the rear end of the saloon, didn't you? A Yes, sir.

Q In order to get as you testified around the bar? A Yes, sir.

Q The opening was about twenty-five feet from the front? A Twenty-five or thirty feet.

Q When you got to that opening did you go in behind the bar? A I was interfered with, I could not get in.

Q Who interfered with you? A Torelli.

Q Where was he when you got there? A At the end of the bar, the opening.

Q When you got there what did he do? A He shoved me back and says, "You can't arrest anybody here". Then he picked up the tumbler, threw it at me.

803 74 368
CASE 74 368

Q When he said, "You can't get in behind here",-- A He says, "You can't arrest anybody".

Q When he said that did you try to push your way by him?
A Yes, sir.

Q Did you take hold of him? A No, I tried to edge by him.

Q You jammed your elbow up against him? A Yes, sir.

Q Did you jam them up against the bar? A I don't know.

Q Was it a gentle jam that you gave him? A I was intent upon one purpose, to get my prisoner.

Q Was it a gentle jam that you gave him? A I was not judging them things, whether it was gentle or not.

Q You made up your mind to get behind the bar? A Yes, sir, to get my prisoner-- yes, sir.

Q You didn't take particular notice what efforts you made to get behind the bar? A I will make any effort to get a prisoner.

Q Did you hit the man? A Not until he struck me.

Q Did you hit him at that time? A No.

Q Did you ever put your hand on him until you saw he threw a glass at you? A No, not until I made a prisoner of him.

Q When you pushed yourself against him what did Torelli say, if anything, to you? A He said, before that, "You can't

893-77368
CASE 77368

arrest anybody here".

Q When you pushed him, tried to get by him with your elbow, what did he say to you? A I don't remember his saying anything.

Q Did he say anything? A Not that I know of.

Q What did he say to you before you started to push him with your elbow-- what did he say to you? A He says, "You can't arrest anybody here".

Q Is that the language he used? A Yes, sir.

Q Is that all he said? A All I heard him say.

Q Nothing more violent than that? A Nothing more.

Q Did you testify in the Police Court to this question: "Q. Where did he shove you? A. On the breast. Q. Away from the bar? A. Away from the bar. Q. Give us exactly what he said. A. He said, "You son of a bitch, you ain't going to arrest nobody".-- did he say that, did you testify to that? A That is right.

Q You left that part out today? A I didn't think of it, but that is true. You put me in mind of it.

Q This testimony in the Police Court was correct? A That part is correct.

Q The other part that you testified to before as not having sworn to was incorrect? A Which part?

Q The questions which you denied? A About the five

CASE # 368

minutes?

Q Yes. A That was wrong.

Q And about the blue trousers-- that was wrong? A That was wrong-- blue trousers.

Q But this part is right, you had forgot that today?

A I didn't remember the "son of a bitch".

Q When he pushed you what sort of a push was it he gave you? A Pretty violent.

Q What happened to you? A As soon as he pushed me he picked up a glass and throwed it at me.

Q What kind of a glass was it? A A small beer glass.

Q When he threw that at you where did it hit you?

A Left hand.

Q You testified here when he threw the beer glass you put up your hand to ward it off? A Yes, sir.

Q When you did that you said he closed in on you? A No, I closed in on him.

Q Show us the way you closed in on him? A Shall I show you like I did in the Police Court?

Q Yes-- just as violently and just as gently as you did it then. A (Witness illustrates) I got him by the neck like this, and tried to pull him out from behind the bar.

Q Did you do it? A No, because there were too many in the place.

CASE # 368

Q You were not quite as gentle as that? A Just about like this.

Q Didn't you take a glass and hit him in the face?

A No-- had no chance to.

Q Did you strike him in the face? A I did.

Q Did you cut his eye? A His eye was cut.

Q Did you cut his cheek? A I only noticed his eye was cut.

Q Didn't you cause the blood to flow from it? A I don't know. I think it was my blood was on him.

Q Did he bleed? A I didn't see any blood from him.

Q But you cut him? A I hit him in the eye, I remember that.

Q You cut his eye? A I don't know whether it was cut or not. My hand was bleeding at the time.

Q You didn't cut him until he pushed you? A No.

Q But you did hit him? A I hit him with my left hand.

Q Clenched fist? A Yes, sir.

Q Did you have a ring on? A I never wear one.

Q Did you have a glass or instrument in your hand?

A No.

Q You caught him by the neck? A By the collar, on both sides, by the collar, not the neck, both hands.

Q Did you testify before: "Q. What do you mean by closed

893-368
CASE #

in? A. I caught him by the neck." A Yes, sir, round the neck, the collar.

Q Didn't you demonstrate in the Police Court that you grabbed him this way (illustrating) with one hand, and the neck by the other? A Both hands.

Q And started choking him? A No.

Q Didn't you have a man and took hold of him this way (illustrating)? A Just the same way I done here.

Q Sure of that? A Sure of that.

Q You didn't say at that time "by the neck"? A I say now I got him by the neck.

Q After you grabbed him that way you let go afterwards?
A I was pulled away from him.

Q And then you saw Torelli take up another glass and throw it at you again? A Yes, sir.

Q Is that correct? A That is right.

Q Where did that second glass hit you? A Side of the head.

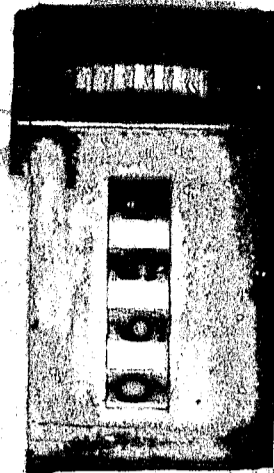
Q What sort of a glass was that? A Small beer glass.

Q Small? A Yes, sir.

Q Sure about that? A Sure.

Q You didn't say it was a large one in the Police Court?
A I think the Judge drew a diagram of the glass.

Q Did you say it was a large or a small glass in the Police



893 77 EST
CASE 3388

Court? A About four inches.

Q Did you say it was large or small? A I said an ordinary beer glass. The Judge asked me the question--

Q I didn't ask that.

THE COURT: He has a right to explain his answer.

MR. STECKLER: Not upon my examination, if your Honor please.

THE COURT: Oh, yes.

MR. STECKLER: But this is cross examination.

THE COURT: Go on then.

BY MR. STECKLER:

Q When you did get away from all these people that you say were assaulting you, you say that the door was locked and you could not get out? A I could not get out.

Q How did you get out? A Put my foot through the panel of the door, both panels, on the inside door, and put my shoulder to it, and then they fought me between the outside doors.

Q Did you break the first one open? A Yes, sir.

Q When you got out into the vestibule it was a storm door, was it not, one of these box doors? A Same as the other.

Q Was it not a box door, that leads out into the street?

A In my judgment it was on a line with the house.

Q Was it not a storm door, a winter storm door, covered on the top and on all sides? A No, not that I know of.

CASE # 368

Q Will you swear it was not?

BY THE COURT:

Q Give your best recollection of the door? A It was two ordinary doors going in on a line with the house, the first door was, then there was an inside door and a kind of a vestibule; it was more of a vestibule than a storm door.

BY MR. STECKLER:

Q Was it not a storm door you had to go out of? A No. The window caused--

Q Was there a storm door there? A I don't know whether it was or not.

BY THE COURT:

Q Do you know what a storm door is? A Yes, sir.

Q What is it? A A storm door is an extension built out from the house, with a roof or shed over it, and sides on it, which you can disconnect from the house altogether; it can be used in inclement weather.

BY MR. STECKLER:

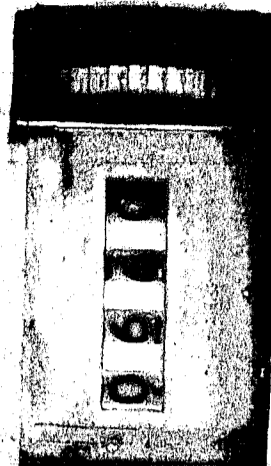
Q Was that the door you had to get out of? A Not that kind of a door, not a storm door.

Q Sure of that? A In my judgment it was not.

Q Are you sure of that? A I am not sure of it-- no.

Q If that was the door you had to break that open too?

A I broke both doors open too.



803 77 368
CASE 77 368

Q What other doors were there you had to break open?

A I broke them both open.

Q Because they were both locked? A Both locked-- yes, sir.

Q Who was the officer on post that night? A Officer Kiernan.

Q Was he the first man that came to your assistance?

A Yes, sir.

Q Where had you seen Kiernan before you went into that saloon? A It might have been two or three days before that.

Q Had you seen him that evening? A No.

Q Now is it not a fact that you got out of that saloon without breaking open any doors, without breaking open any windows or kicking them in, and that all the kicking and breaking that was done was done by you when you got into that storm door, and then you kicked from the outside into the place? A That is not true.

Q It is not a fact that while you were kicking in the doors this very officer Kiernan or some other officer came up and wanted to club you, not knowing who you were, and you said, "Hold up, I am captain of this precinct"? A That is not true.

Q Have you got Torelli's shirt there? A Yes, sir.

Q How did you get that? A Detective Sullivan got it up in his room that night. (Witness produces shirt.) It was on

893-77-368
CASE 77-368

him. He had charge of the shirt himself.

Q That is his shirt all right? A That is his shirt.

Q You may put it down? A (Witness lays shirt on the floor at his feet.)

Q You had a pistol, club and knife with you that night, did you not. A I had a pistol and a pocket knife.

Q And a club? A Here is the pocket knife. (Shows knife.)
No club.

Q You claim this man hit you on the head with a club?
A Yes, sir.

Q During all the time that you were hit with this glass and this club were you ever knocked senseless? A No.

Q You always retained your senses during the entire time?
A Yes, sir.

Q Have you got scars now on your head or any part of your body from the effect of the blows you got? A I think there is a scar here (indicating). I cannot see it myself.

Q Did you ever look in the glass to find it? A There is a scar on the head here (indicates).

Q Sure of that? A I can feel it.

Q You know where you were hit? A On the head.

Q There is a scar there? A I can feel this.

Q Didn't you testify in the Police Court there was not?
A There was indications of it at the Police Court.

803 734
CASE # 368

Q Did you testify: "Q. Was there any scar? A. No scar; only my eye blackened".-- did you swear to that? A I showed the Judge my hand.

Q You walked to the station house from there? A Yes; there was an officer with me.

Q When the officers came to your assistance from the street you remember men being brought down from the different parts of the hotel? A Yes, sir.

Q You ordered everybody in the building to be brought down to you? A Yes, sir.

Q And your men, so far as you know, went up and obeyed your orders? A Yes, sir.

Q And when you ordered them to be brought down was this young man brought down (indicating one of defendants)? A Yes, sir.

Q And when he was brought before you didn't you say, "This is not one of the men"? A I said--

Q Did you say that-- yes or no? A No, I did not.

Q He was brought before you? A Yes, sir.

Q Were you asked by any of the officers, "Is this one of the men"? A No.

Q And you answered that it was not? A No.

Q You did not order his arrest that night, did you?

A No.

Q At the time he was brought down was there any other young boy brought with him? A Yes.

Q Had you seen that boy before? A No.

Q Do you identify him now as one of the boys, or any of the men in the place that hurt you? A The other boy?

Q Yes. A I judge he was about fourteen years old.

THE COURT: What boy?

MR. STECKLER: They are all out in the hall.

BY MR. STECKLER:

Q Do you know whether that other boy was in the place when this assault was taking place? A I don't know.

Q Did you see him there? A I did not.

Q What did he have on when he came down and was brought before you? A An undershirt.

Q Did he have anything over his undershirt? A Yes, sir; he had a sack coat on, and was bare headed.

Q Did he have any shoes on? A I didn't look at his feet.

Q Did he have a hat on? A No.

Q Why didn't you make a charge against him that night?
A Because I was not confident.

Q You were not confident? A No.

Q It happened within a few minutes of that time? A Yes, sir, a few minutes.

Q What made you so confident the next day that this was

CASE # 368

the man? A Because his appearance was so changed when they brought him down that night.

Q How was it you brought him the next day-- or when was it you discovered he was the man? A The next afternoon in the St. Vincent Hospital.

Q How did you discover him then? A Because I had a chance to think of who he was, and his appearance was similar or very near to that of the time he was behind the bar when he sold me the drink.

Q You gathered from his appearance when he was brought before you the next day that he was the man? A Yes, sir.

Q Only from his appearance? A Yes, sir, from his general appearance.

Q You saw him the night before, the night when the assault took place, when he was brought down to you then, you saw his face that night? A Yes, sir.

Q And you did not identify him then? A One eye was closed up, and both of my eyes were full of blood.

Q But you were able to identify nine other men that night, weren't you? A Yes, sir.

Q And you identified the other nine men as men who had assaulted you? A But he had changed his appearance, went upstairs.

Q Changed his clothes? A His appearance.



CASE 77-368

Q Did you identify the nine other men that night? A Ten.

Q And you were positive that those ten men had assaulted you? A Yes, sir.

Q And this man was brought down when the other ten were, and you said he was not one of the men? A I didn't say he was not.

Q What did you say? A That I didn't know sure.

Q And the next day in the afternoon when you saw him in a different suit of clothes you said you thought he was the man?

A I said I was positive he was the man.

Q You had never seen him in your life before? A Not before that night.

Q And you didn't see him after that until he was brought to you? A No.

Q When you identified him next day was there anybody else beside him there when you identified him? A Only the officer that brought him.

Q The officer brought him to you and you said, "That is the man"? A Yes, sir.

Q You did not pick him out of a lot of men? A No.

Q He was brought to you and you were asked whether that was the man, and you said yes? A That is right.

BY MR. TOWNSEND:

Q Do you think of any correction that you want to make in

CASE # 368

your testimony? A I don't know of any.

Q Or any explanation? A Only in relation to this shirt, that this blood is my blood on the shirt.

BY MR. STECKLER:

Q All your blood? A All my blood.

Q None of his? A None of his.

Q You didn't see him bleed at all? A Only my blood was on his face.

Q But you cut his face a little bit? A I hit him in the face.

Q You didn't cut him? A I hit him in the face.

J O S E P H W. C A R R O L L, called as a witness on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live, Mr Carroll? A At the present time at the Majestic Hotel in the Bowery.

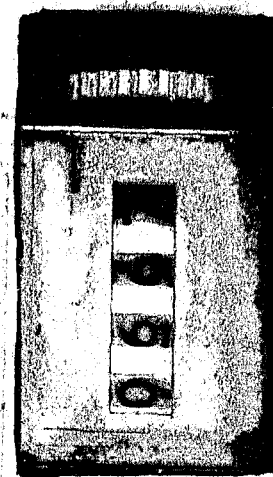
Q What is your business? A Salesman.

Q For what company? A The Blue Trading Stamp Company.

Q Where is their place of business? A 32 East 23rd Street.

Q Do you know the saloon 149 Bowery? A No, sir, I do not.

Q I mean the southeast corner of Bleecker Street and



CASE 77-368

West Broadway? A I do.

Q Were you there on the night of 11th of April? A Refresh my memory as to the date.

Q It was the date of the occurrence in question. A Yes, sir.

Q About what time were you there? A Until the place closed up at twelve o'clock that night.

Q What portion of the block is this place? A On the southeast corner of West Broadway.

Q Is it the corner store? A The corner store-- yes, sir.

Q You went out of there, did you? A Yes, sir.

Q About what time? A About five minutes after twelve o'clock.

Q Where did you go then? A Walked down the street towards the Mills House.

Q Did you pass 149 Bleecker Street? A Yes, sir.

Q That is the point in question. What place is that, what kind of a place is it? A It is a saloon.

Q What time were you there about? A Possibly ten minutes after ~~at~~ twelve. It may only have been five minutes after twelve.

Q Where were you, what were you doing there? A Walking up the street, when I saw Capt. Gorman come by, that is all, and stop.

89377368
CASE 77368

Q Did you see what he did? A Yes, sir.

Q What did he do? A I saw him go into Torelli's saloon.

Q What did you do just after he went in? A I stood there. I thought there was going to be some fun.

Q How near were you to the windows? A Then I was on the opposite side of the street.

Q When the Captain went in? A Yes, sir.

Q What did you do-- change your position? A When I heard some noise on the opposite side, glasses being broken, front windows, door windows being broken, I ran across the street.

Q And did what? A I first watched for a while.

Q Through the window? A Yes, sir, double doors there.

Q Did you see the Captain in the place? A Yes, sir.

Q What position was he in? A He was in one end of the bar, and had his hand up like that (illustrating) over his head, and the glasses or something was being thrown at him, and once in a while I would hear a glass hit up against the window, right up against the front door.

Q Could you see his face? A Yes, sir.

Q Anything on it? A I could not see anything on it-- no, sir. His back was towards the door.

THE COURT: You were looking through the windows

CASE # 368

of the door?

THE WITNESS: Yes, sir.

THE COURT: Not the ordinary windows?

THE WITNESS: The double doors.

BY MR. TOWNSEND:

Q Did you say anything? A Yes. I said to the people round there assembled--

MR. STECKLER: I object to what he said to the people around there.

THE COURT: No matter what he said.

BY MR. TOWNSEND:

Q Then what happened to you, if anything?

MR. STECKLER: I object to what happened, if anything.

THE COURT: Let him state what he did and saw.

A The next thing I got hit, that is all.

BY MR. TOWNSEND:

Q Did you fly or run? A I ran like a soldier, I got away as soon as I could.

Q What were you hit with?

Objected to.

A I could not tell you.

MR. STECKLER: You were hit in the street?

THE WITNESS: Yes, sir.

CASE # 368

MR. STECKLER: I submit that that is incompetent.

THE COURT: It will not harm your case.

MR. STECKLER: Exception.

CROSS EXAMINATION BY MR. STECKLER:

Q You had some man arrested for hitting you? A No.

Q Didn't you make any charge against a man in the Police Court? A No.

Q Weren't you up in the Jefferson Market Court? A I was.

Q Didn't you have a complaint against a man up there? A Yes, sir.

Q What is the man's name? A I could not tell you.

MR. STECKLER: Will Mr Townsend give me the name of the defendant in that case?

MR. TOWNSEND: I have not it.

BY MR. STECKLER:

Q You had some man from the street arrested? A No. You must make a better statement than that.

Q There was nobody from the saloon hit you? A No, not that I know of.

Q Some stranger in the street hit you? A Yes, sir.

Q And that man whom you made a charge against was discharged in the Police Court? A I was in the hospital.

893 368
CASE 17

Q Was this man discharged in the Police Court? A He was discharged in the Police Court.

Q You made a complaint against him, testified against him?

A The police officer brought that man up to me, I was in the bed, and I could not identify him.

MR. STECKLER: I object to all this testimony, your Honor.

THE COURT: I rule it out. I rule out all about the person assaulting him; that is stricken out; not his testimony as to what he saw in the saloon.

BY MR. STECKLER:

Q While you were on the other side of the street you heard the front door glass breaking? A Yes, sir.

Q And the windows, you saw those being smashed in?

A No, I saw none of them smashed in.

Q What did you see broken? A The front doors.

Q You saw those windows broken in? A Yes, sir.

Q Then you came across the street? A Yes, sir.

Q And you saw the Captain at the other end of the bar?

A No. He was near the front door, on the south side of the saloon.

Q Were there storm doors there? A Yes, sir; two glass doors.

Q Was there a cover or shed over them? A Yes, sir.

896-7368
CASE 7368

Q They were ordinary storm doors, like these would be, here was the inside part going in (illustrating)-- there were two doors? A Yes, sir.

Q And the outside door was a storm door? A Yes, sir.

Q And there was a hood over it? A No, I don't think there was.

Q It was the ordinary storm door? A The ordinary door you find in any saloon.

Q You know what I mean by storm door? A Yes, sir. There would be a projection out. There was no projection out that I can recollect.

Q Was there any projecting storm door? A That I could not recall. I am not familiar with the place at all.

JERROLD B. GARRIGAN, called as a witness in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q What is your occupation? A I am a doctor of medicine.

Q Are you a surgeon? A At the hospital.

Q What hospital? A St. Vincent.

Q Were you on the night of the 12th of April? A Yes, sir.

CASE # 368

Q Did you see Capt. Gorman, the complainant in this case?

A I saw Capt. Gorman one night in April; I don't know whether it was the 12th.

Q This is the gentleman who sits over here (Indicating witness Gorman). A Yes, sir.

Q What time of night was it? A It was in the early morning; I don't know the exact time; about one o'clock I think.

Q Who was with him? A There was another man there named Carroll.

Q The last witness? A Yes, sir.

Q Was there any other officer that you recollect? A In the police station 16th Precinct there were several.

Q You made an examination? ^{there} A Yes, sir.

Q Of Capt. Gorman? A Yes, sir.

Q State what you found in such examination? A The Captain was conscious. He seemed confused and very nervous. He had a wound over the outer angle of the right eye. The right pupil-- I think it was the right pupil-- I am not sure which pupil, was larger than the left. He had several wounds on his hands, and they looked like they were made with glass. They were abrasions more than wounds. And his pulse was slow. That is about all. It was slow and somewhat feeble.

Q Did you examine the scalp? A Well, yes, but I don't



893 368
CASE 77

recollect what was on his scalp.

Q Do you know where the Captain went from there? A I took him into the hospital.

Q Did you take him from the station house to the hospital?

A Yes, sir.

Q Was he treated there? A Yes, sir.

Q Did he stay there over night? A Yes, sir, he stayed there several days afterwards.

CROSS EXAMINATION BY MR STECKLER:

Q These cuts that he received he could have received from any kind of breaking glass? A Why, yes.

Q Ordinary contusions, were they not? A No, they were not contusions; they were abrasions.

Q That is a cut, it could be made by any sharp instrument?

A An abrasion can be done without a sharp instrument. It is a rubbing off of the superficial layer.

Q It could be done by breaking glass? A Yes.

BY THE COURT:

Q Did he remain in the hospital in consequence of those injuries that you speak of? A Yes, sir.

Q For treatment for those injuries? A Yes, sir.

CASE # 368

WILLIAM F. KIERNAN, called as a witness in
behalf of the People, being duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Are you connected with the Police Force? A Yes, sir.

Q What precinct? A 16th.

Q Do you recollect the night of the 12th of April, 1903?

A Yes, sir.

Q About 12:15 that morning where were you? A West
Broadway and Bleecker Street.

Q Patrolling? A Patrolling-- yes, sir.

Q What happened while you were there? A While I was on
the corner I heard a crash of glass and ran down Bleecker
Street and saw a man in the doorway, that is the storm door.

Q What number Bleecker Street? A I think it is 149.

Q It was this saloon in question? A Yes, sir.

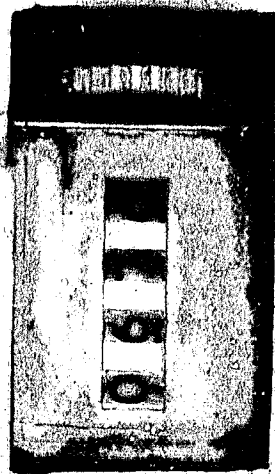
Q Who was the man you saw there? A The Captain.

Q Capt. Gorman, the complainant in this case? A Yes,
sir.

Q What was he doing? A Well, he appeared to be kicking
at the doors or something. I know there was glass falling,
and I opened the door and said, "What is the matter with you?"

MR. STECKLER: Who said that?

THE WITNESS: I said it. He says, "I am captain



CASE 368

of this precinct". He says, "I have been assaulted".

And I immediately entered with him.

BY MR. TOWNSEND:

Q You entered the place? A Yes, sir, with the Captain.

Q You and the Captain went in there, and what did you find? A I saw Torelli behind the bar.

Q The defendant in this case? A The defendant.

Q Anybody else did you see? A Near the side entrance there were several men.

Q What did you do? A I said, "You are under arrest". And the Captain says, "Go get assistance". They were running just like--

MR. STECKLER: I can't hear you.

THE WITNESS: They were running through the hallway. It sounded to me as if they were ascending stairs. I went out and rapped my stick, and when I returned another officer--

THE COURT: You rapped for assistance?

THE WITNESS: Rapped for assistance-- yes, sir.

BY MR. TOWNSEND:

Q Then another officer came in and you went upstairs?

A Yes, sir.

Q What did you do then? A We entered the doors. I told them they were under arrest. I took a couple of men down, and

CASE # 368

other officers came in the meantime and brought others down.

Q What about Torelli? A When I returned after rapping for assistance I didn't see Torelli in the saloon.

Q Who arrested Torelli, do you know? A I think Officer Sullivan.

Q Did you notice the Captain's appearance, his face and so forth at that time? A Yes, sir.

Q State what it was. A He had no hat on, his collar was torn open, tie and so forth, and his face covered with blood.

Q Did you see Parentini, the co-defendant, at that time?
A I am not positive. I have often seen him, but I am not positive whether he was there at the time.

CROSS EXAMINATION BY MR. STECKLER:

Q Describe this storm door, will you please? A They project from the building I judge a couple of feet.

Q Are they covered, is there a top to them? A I think so.

Q And sides? A Sides-- yes, sir-- glass sides.

Q And that door and the entrance to the saloon are the only two doors there are that go into that saloon? A I believe there is a door underneath the stoop that enters a hallway.

Q That is on the side? A Yes, sir.

Q I mean the front entrance; there is only two doors,

CASE # 368

-- the storm door and the other door that leads into the place? A Yes, sir.

Q Where was capt. Gorman when you saw him? A In the storm door there.

Q What was he doing? A He appeared to be kicking or something. I could hear the crash of the glass.

Q Which way was he facing when he was kicking? A At the time I opened the door his head was-- I could not see his face, that is, part of it, that is all. I could see his hair.

Q He was facing in the saloon? A Like facing in the saloon.

Q And he was kicking into the saloon? A I could not say that. He was kicking at something.

Q And was he not kicking that storm door towards the inside and glass was breaking as he was doing it? A I don't know whether it was the storm door or the side.

Q If it was not the storm door was it not the inside door that he was kicking from the outside, and was not the glass breaking in that way? A That I am not positive about.

2
BY THE COURT:

Q Did you see him or did you only hear the breaking of glass? A I only heard the breaking of glass.

Q Did you see him break that glass? A No.

BY MR. STECKLER:

CASE # 368

Q He was facing towards the inside? A Yes, sir.

Q Didn't you see him kick? A Yes, sir, he was kicking.

Q What was he kicking? A I am not sure whether he was kicking the door or part of the partition.

Q Was he kicking with his face towards the inside?

A Yes, sir.

Q Then he must have been kicking towards the inside?

A Yes, sir.

Q Did you have any trouble to get in those storm doors?

A No.

Q Were those storm doors locked from the outside or from the inside? A They were not locked when I got there.

Q In order to get in the storm door you had to come in from the street? A Yes, sir.

Q And you had to open that door to get in? A Yes, sir.

Q Did you open it and get in? A Yes, sir.

Q And there is where you found the Captain? A Yes, sir.

Q With his feet kicking inside? A He was kicking at something.

Q You told us that you saw Capt. Gorman's condition that night. Will you tell us what Mr Torelli's condition ^{was} that night when you saw him behind the bar? A His face was covered with blood, and the collar was torn, something like the Captain's; it was open and the shirt was covered with blood. He had his

893-368
CASE 7-368

hand up to his face.

Q Was he cut on his face? A Yes, sir; he appeared to be bathing it. He had his hand to his face like that (illustrating). It appeared to be he was bathing it or something.

Q Behind the bar? A Behind the bar.

Q And there were other men in the place on the side?

A Yes, sir.

Q What were they doing? A Near the side entrance they seemed to be trying to effect an escape.

Q You were a police officer and in that precinct?

A Yes, sir.

Q How many days or weeks or months were you in that precinct? A Over six years.

Q Was that your precinct or post? A Yes, sir.

Q Where this man Torelli's place is? A Within twenty-five feet of it.

Q Have you patrolled that post for the past six years?

A No.

Q How long have you patrolled that post? A A few months.

Q Before that few months had you been there before that?

A Yes, sir.

Q I mean patrolled in that neighborhood? A Yes, sir.

Q Do you know the reputation that Mr Torelli's place has in that neighborhood?

CASE 44-368

Objected to as immaterial.

Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q Did you ever see any violation of law of any kind or character in Mr Torelli's place while you were patrolling that post?

Objected to.

Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q Do you know what the reputation of Mr Torelli is personally?

Same objection, ruling and exception.

THE COURT: You have laid no foundation.

BY MR. STECKLER:

Q How long have you known Torelli? A I didn't know him.

Q Didn't know him that night? A I didn't know it was Torelli, but I know his brother and he resembles him.

Q How many years or days do you know Mr Torelli? A I have not known him only since that night.

Q You didn't know him before that at all? A No.

Q You knew his brother? A I knew his brother-- yes, sir.

CASE # 368

Q How long was that place kept there by Torelli and his brother?

Objected to as immaterial.

BY MR. STECKLER:

Q Have you during the time you patrolled that place ever had any complaint of any kind of character against the place?

Objected to.

Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q Or against Torelli?

Objected to.

Objection sustained.

Defendant excepts.

BY THE COURT:

Q Can you fix the exact time when you got to the vestibule door of this saloon? A I knew that the other saloons were closed, and I was on the other corner, what they call Quinn's corner. And as a rule they have quite a crowd in nights, and the bartender asked me--

Objected to.

BY THE COURT:

Q Never mind that. I want you to reason from those things without stating them, and state if you can fix about the minute,

CASE 368

how many minutes of twelve it was, when you reached this saloon of the defendant? A I heard a party in the corner-- I ordered this bartender to clear the saloon, and it was after twelve then, and I heard a party--

Q That is Quinn's corner? A Yes, sir.

MR. STECKLER: I submit that this is incompetent.

BY THE COURT:

Q Now, without telling us why you came to the conclusion, reason it all out in your own mind, and think over the things that occurred so that you can fix the exact minute of the time you reached there. That is all I want? A I think it must have been about 12:15.

Q That is your best recollection of it? A Yes, sir.

BY MR. STECKLER:

Q That was when you reached the outside? A Yes, sir.

Q You don't know how long the Captain had been in that place prior to that time? A No.

Q And you figured that 12:15 from your own reasoning, is that it? Did you look at any watch? A I heard a party in the corner--

Q Did you look at any watch? A I looked at the clock in the corner before I went to the other side. It was 12:10 then, and when I arrived there a party was asking another one the time, and he said 12:10.

Q You base it all on that? A Yes, sir.

Q Usually it takes ten or fifteen minutes for all those saloons to close-- they usually close about ten or twelve minutes after twelve?

THE COURT: That is enough of re-cross, and it is immaterial.

J O H N L A W R E N C E S U L L I V A N, called as a witness on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q What precinct are you connected with? A 16th.

Q Do you recollect the night of the 12th of April?

A Yes, sir.

Q About midnight where were you? A At the station house.

Q What happened while you were there? A A telephone message came to the station house sergeant, telling him that the Captain was being assaulted on Bleecker Street.

Objected to.

THE COURT: You got a telephone message. What was done?

THE WITNESS: I went right there on a run.

BY MR. TOWNSEND:

CASE # 368

Q What did you find when you got there? A I found a crowd in front of the door, and I jumped through the plate of glass in the door that was broken. The door was closed and the glass broken, and I jumped through the door into the bar room of the saloon and saw Capt. Gorman. I recognized him standing at the bar, and the first thing I asked him what was the matter, and he told me--

Objected to.

THE COURT: Was Torelli there?

THE WITNESS: No, sir.

BY MR. TOWNSEND:

Q You spoke to the Captain? A Yes, sir.

Q Don't state what you said. Then what did you do?

A I did what he told me.

Q What was that?

Objected to.

THE COURT: State what you did.

BY MR. TOWNSEND:

Q What did you do in consequence of what he said? A Went upstairs and brought the man down that I found in the house.

Q Did you arrest Torelli the defendant? A Yes, sir.

Q Where did you find him? A In his bed room.

Q What was he doing? A He was in the act of changing his shirt.

893-77368
CASE 77-368

Q Did he say anything to you? A Yes.

Q What was his condition, was there blood on him? A Yes, sir, he looked to have been mussed up a little; he had a shirt there that was bloody.

Q Did he say anything to you about the Captain or anybody else? A Yes, sir; he told me he was sorry it occurred.

Q What did he say in speaking about the Captain? A He first said, "I didn't know he was the Captain", or words like that. I says, "Come on downstairs".

Q Had you known Torelli before? A Yes, sir.

Q Did you hear him make some statement to the Captain?
A He was so excited he could not say anything.

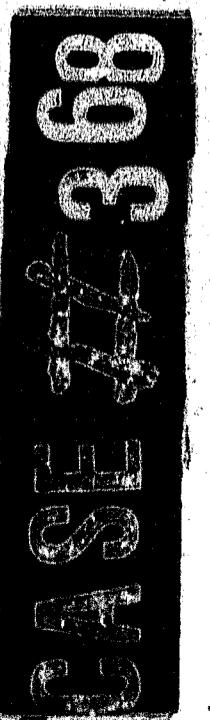
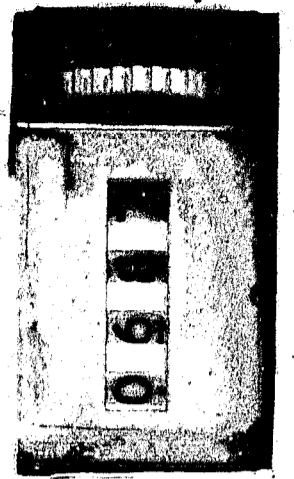
BY THE COURT:

Q When you first went into this room what did you say?

A I told Mr Torelli, "You are under arrest". I first had to knock on his door; he didn't answer that first knock; and he asked me who was there. I says, "Sullivan". "All right", he says. And I opened the door, and he was in the act to take his shirt off. I says, "Come downstairs; you are under arrest, every man in the house".

BY MR. TOWNSEND:

Q Did he say anything then? A He didn't say anything. He said something, mumbled something. I can't recollect what he said. There were half a dozen talking, and everybody was excited.



He didn't say anything particular.

CROSS EXAMINATION BY MR. STECKLER:

Q He said he was sorry it occurred? A Yes, sir.

Q And that he didn't know it was the Captain? A Yes, sir.

He made a remark to that effect.

Q How long have you known Torelli? A About nearly six years now.

Q Do you know his place there? A Yes, sir.

Q Are you in the habit of meeting and seeing Torelli daily?

A Not meeting him personally. I have seen him at a distance when he passed.

Q Do you know the reputation of his place there?

Objected to.

Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q Do you know what Torelli's reputation is?

Same objection, ruling and exception.

THE COURT: You must lay the foundation.

BY MR. STECKLER:

Q Do you know people that know Torelli? A Yes, sir.

Q Have you heard Torelli talking about or discussed by the neighbors or any people in the neighborhood? A Only since this

893 368
CASE 77

case occurred.

Q You have since then? A Yes, sir.

Q And what was it?

MR. TOWNSEND: I object to anything since the case occurred.

Objection sustained.

Defendant excepts.

THE COURT: If you want to prove good character you must proceed to lay the basis by showing that the witness knows other people, his neighbors, and others in the neighborhood, who have had opportunities of seeing and knowing him.

BY MR. STECKLER:

Q Prior to the night of this occurrence had you heard Mr Torelli discussed by people in the neighborhood, the kind of place he keeps, and the reputation he has?

Objected to.

THE COURT: Leave out "the kind of place".

BY MR. STECKLER:

Q And the reputation Torelli has for the keeping of the place?

Objected to.

THE COURT: The reputation of the place has nothing to do with the case. You can ask this, if he has known

people who knew the defendant prior to this occurrence, who have known him as neighbors, and have known him for a reasonable length of time, and what is reputation among them is.

BY MR. STECKLER:

Q Do you know or have you heard his reputation discussed?

A Yes, sir.

Q And do you know what his reputation is among people who have discussed Mr Torelli and his reputation?

Objected to.

THE COURT: He may answer that.

THE WITNESS: It is good.

BY MR. STECKLER:

Q What sort of a place does Torelli keep there? I don't mean whether it is good or bad or indifferent. Is it a hotel?

A It is a hotel.

Q A restaurant? A A restaurant.

Q What kind of people frequent the saloon and hotel?

Objected to.

Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q Is his place not largely composed of labor union bodies that meet and have meetings at his hall and place there?

893-368
CASE 77-368

Objected to.

Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q Is not that the class of people? Do you know the kind and character of people?

Objected to.

THE COURT: I have sustained so many objections in that line it seems to me you ought to refrain from going further.

Defendant excepts.

BY MR. STECKLER:

Q Did you bring down this man? A Yes, sir.

Q Where did you find this man? A Found him in bed.

Q In what room? A Third floor, in the room back.

Q Who was there with him? A Him and another young boy.

Q Do you know Mrs Torelli? A Yes, sir.

Q And you know the young boy's mother, the other Mrs Torelli? A Yes, sir.

Q Were they in the room or either one of them? A I think they were-- yes, sir.

Q You brought him down? A Yes, sir.

Q What did he have on when you brought him down? A His pants and shoes. I think his cap was off-- just shirt and suspenders on.

893 # 368
CASE # 368

Q Did he have a coat on? A No.

Q When you brought him down did you bring him before Capt. Gorman? A Yes, sir.

Q What did you say, if anything, when he was brought before Capt. Gorman? A I brought him down, as I did everybody else, for the Captain to look at him, and the Captain could not positively identify him at that time.

Q What did he say? A I says, "Do you know him?" He says, "That looks like him, but I can't tell; we will give him the benefit of the doubt now", or words to that effect.

Q He said something but he did not identify him? A He did not identify him at that time.

The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure and took a recess.

CASE # 368

AFTER RECESS.

PHILIP OPPENHEIMER, called as a witness on behalf of the People, sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q What precinct are you connected with? A The 16th Precinct.

Q Do you recollect the midnight of the 12th of April, 1903? A Yes, sir.

Q Where were you about that time? A I was at the corner of Bleecker and Sullivan.

Q What time of day, about? A I was there about 12.16; between 12.16 and 12.18, when I heard a rap of a stick.

Q You heard a rap of a stick and what did you do?

A I went towards where I heard the sound.

Q Where did it take you? A At Torrelli's saloon.

Q 149 Bleecker street? A 149 Bleecker street.

Q When you got there what did you find? A I found a crowd in front of the door.

Q What did you do? A I ran inside in the saloon.

Q Did you see Captain Gorman in there? A I seen the Captain holding himself at the bar.

Q What was his condition in reference to scars, wounds, blood, or anything else? A He was cut in the hand, his hand was bleeding; he had a mark across the bridge of the nose, he

was hurt at the time.

803-77368
CASE 77368

was bleeding at the bridge of the nose, and he had a lump on the side of his head. I asked him what was the matter ---

Objected to.

Q Never mind that. What happened while you were in there?

A There was nothing happened while I was in there. That is all I have seen. He was up against the bar when I came in there.

Q Did you see either of the defendants while you were there? A I didn't see them until after they brought them down from upstairs.

Q State what you saw? A I saw Torelli and six or seven others brought down from upstairs. And he had a cut across the right eye.

THE COURT: Torelli?

THE WITNESS: Yes, sir, Torelli had a cut across the right eye; he was bleeding at the right eye.

Q Did you see the other defendant? A I see the other defendant, yes, sir.

Q Where was he when you saw him? A They just all came down stairs in the barroom together.

Q Nothing happened while you were there? A Nothing happened while I was there.

CROSS EXAMINATION BY MR. STECHLER:

Q Were you there when Parentini was brought down?

A I was.

Q What happened when he was brought down? A I didn't

803 77 ESW
CASE 77 368

see anything happen when he was brought down.

Q What did the Captain say when he was brought there?

A I didn't hear. I was standing at the door.

Q He was brought to the Captain? A Yes, sir.

Q And the Captain said he was not one of them?

THE COURT: He said he didn't hear. He said he was standing in the door.

THE WITNESS: I didn't hear what the captain said.

Q Did you see the man brought to the captain? A I saw him brought down there.

Q Did you hear what the captain said? A No.

Q Was he arrested? A Yes, sir.

Q Parantini? A Yes, sir.

Q Right away? A There was eight or ten put in the patrol wagon.

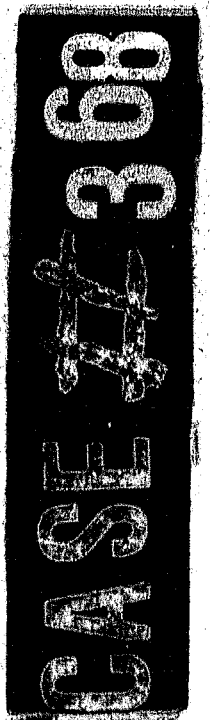
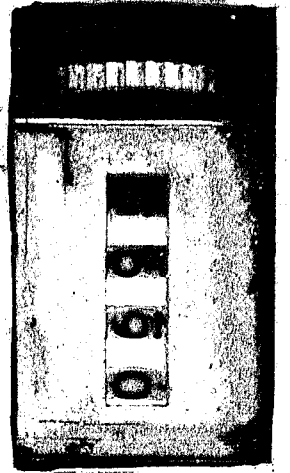
Q He is one of the men that was arrested (pointing to defendant Parentini)? A I could not positively identify him.

Q Was there any one brought down that the Captain failed to identify? A That I could not say either.

Q Are you positive this man (indicating) was arrested that night? A No, I am not positive.

THE COURT: Can you fix by your own recollection, without stating how, about the time when you got there?

MR. STECKLER: One moment. I do not care to object to your Honor's Question; I prefer not to. But unless



this officer can in some way enlighten us how he fixes the hour, I shall object.

THE COURT: When he starts out to inform us you object at once.

MR. STECKLER: I object to the form of the question your Honor puts.

THE COURT: With your last witness, the objection was the reverse. Now I ask him to fix it according to his recollection, and then you can question him as to how he fixes it. (To witness) Now, without stating what was said, state if you can, and fix it within a few minutes when you got there.

THE WITNESS: I am pretty near positive as to the time.

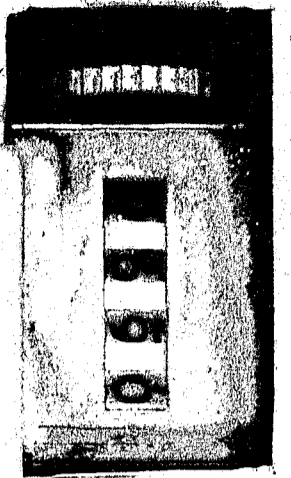
MR. STECKLER: I ask that that be stricken out. I object to this man's conclusion, and I ask that that be stricken out.

THE COURT: I want him not to give his conclusions, but to state according to his own recollection of the time he came there, and then you insist that he must give his reasons.

MR. STECKLER: I don't want his reasons but how he bases it.

THE COURT: Fix within a few minutes how you got there, so many minutes after twelve or before twelve, as nearly as you can recall.

THE WITNESS: It was between 18 and 20 minutes after



CASE # 368

twelve.

BY MR. STECKLER:

Q What time did you go on post? A Eleven o'clock.

Q Did you go by your own watch? A Yes, sir.

Q When did you look at your own watch? A When I went around closing up the saloons.

Q What time was that? A Twelve o'clock.

Q What saloon had you looked at first? A I only got three places on my post, three or four places.

Q What saloon had you looked at before you got to Torelli's?
A One on Bleecker street.

Q How far from Torelli's place was that? A About 600 feet.

Q What time was it then? A About three minutes after twelve.

Q How many minutes elapsed before you heard this knock?
A I walked down as far as Mill's Building, and came back.

Q How long time elapsed? A I suppose eight or ten minutes.

Q You are guessing at it? A It was about eight or ten minutes.

Q Are you guessing at it, yes or no? A No.

THE COURT: He is giving his recollection.

MR. STECKLER: I insist that my question shall be answered. Are you guessing at it?

THE WITNESS: Yes, sir, I am.

CASE 368

THE COURT: Explain what you mean by guessing at it?

THE WITNESS: I should think it was about that from the time I seen the last place closed up, it was between ten and twelve minutes.

MR. STECKLER: I ask that that be stricken out as not responsive.

Motion denied, and exception taken.

MR. STECKLER: I ask that that be stricken out on the ground that it is guess work, from the witness's own testimony.

Motion denied. Defendant excepts.

THE COURT: That is your recollection?

THE WITNESS: That is my recollection.

Same objection, ruling and exception.

THE COURT: It was ten or twelve minutes after you went to this last place before you heard this alarm?

THE WITNESS: Yes, sir.

Same objection, ruling and exception.

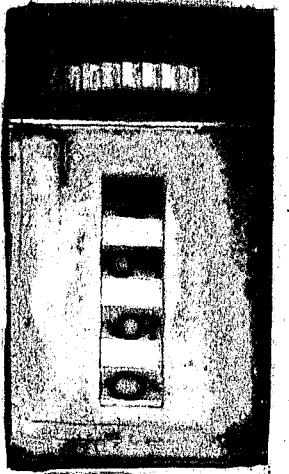
THE COURT: And when you heard the alarm what did you do?

THE WITNESS: I ran where I heard the sound.

THE COURT: That was how far?

THE WITNESS: About six hundred feet.

Q You are basing all these conclusions upon guess work, are you not, as to the time?



803 368
CASE # 368

Objected to. Objection sustained. Defendant excepts.

THE COURT: What is guess work?

THE WITNESS: I am judging about the length of the block, about the size of the block.

BY MR. STECKLER:

Q How long would it take you to walk up and down that?

A It was about the size of a block.

Q And you are estimating the time it would take you to walk? A Yes, sir.

Q You don't know what time the Captain got into that place? A No, sir.

MR. TOWNSEND: I offer the stick and the shirt in evidence.

MR. STECKLER: I object to the club going in evidence, inasmuch as it has not been identified.

THE COURT: There is some testimony identifying it; I don't say whether it is identified. The jury will pass upon the sufficiency of the testimony, but there is testimony tending to identify it.

MR. STECKLER: I except. I make no objection to the shirt.

MR. TOWNSEND: That is the case for the People.

MR. STECKLER: I ask your Honor to direct the District Attorney to elect upon which count of the indictment he intends to go to the jury, the first or the second

806 368
CASE #7

MR. TOWNSEND: I don't think we are compelled to elect.
Motion denied. Defendant excepts.

MR. Steckler opened the case on behalf of the defendant.

F R A N K M c C O Y, called on behalf of the defendant,
sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 45 West 35th street, New York City.

Q What is your business? A The manufacturing of cigars.

Q Where is your place of business? A 182 to 190 Avenue C, New York City.

Q How long have you been in business there? A Twenty-five years in that place.

Q What is your firm name? A McCoy & Company.

Q You are the owner of the premises 149 Bleecker street?

A Yes, sir.

Q Are you also owner of the premises in the rear, in Thompson street? A No, sir.

Q That is rented By Mr' Torelli from some one else?

A I believe so.

Q You rented 149 Bleecker street? A Yes, sir.

Q Describe the kind of building that is to the jury?

MR. TOWNSEND: I object. I don't see how it is material.

803 368
CASE # 368

MR. STECKLER: I don't mean as to respectability.

THE COURT: It has been said that it was a four story house, with a saloon at the bottom, three or four steps down; is that correct?

THE WITNESS: Yes, sir.

BY MR. STECKLER:

Q Is it a private house? A It was formerly the Delancey Kane mansion.

Q Was it renovated? A Yes, sir.

MR. TOWNSEND: If you are calling him for character let him testify as to character. Counsel is trying to bring into the case matter which is not material.

THE COURT: This is irrelevant, calling this witness as to his own personal business.

MR. STECKLER: I am asking him to describe the condition.

BY MR. STECKLER:

Q Is there a storm door there?

Objected to. Objection overruled.

A Yes, sir.

Q Describe how many doors there are which lead into that saloon? A The storm door and the door for the main building.

Q Are those the only doors? A All that I know of that enter the saloon.

CASE # 368

Q Will you describe this storm door, how it is built?

A One of these temporary doors that seem to be put in front of public places during the Winter; they can be removed during the summer.

Q How long have you known Mr. Torelli, the defendant?

A Since I first leased him the building about nine years ago.

Q During that time how often have you been in the habit of seeing this defendant? A Hundreds of times.

Q How often a week or a month? A Half a dozen times a month, on an average, I suppose, during all those years.

Q In which way would you come to meet him? A Sometimes I would go to see him in reference to the condition of my building, collect my rent, but more frequently to dine in his restaurant.

Q Do you know other people that know him? A Yes, sir.

Q And have you had occasion to discuss the character of Mr. Torelli with these other people? A I naturally had, when I let him the building. Since then my own opinion has been sufficient.

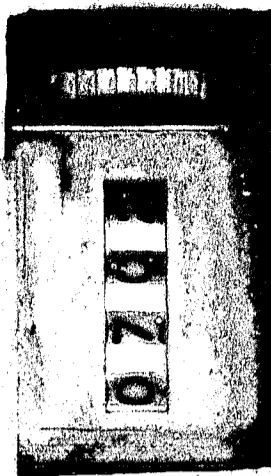
Objected to.

THE COURT: Your own opinion is not sufficient here.

BY MR. STECKLER:

Q You have talked with other people about his character?

MR. TOWNSEND: For peace and quiet -- not merely his character.



CASE # 368

11

THE COURT: That is correct. The objection is sustained.

Defendant excepts.

THE COURT: You will proceed on the basis as to his character for peace and quiet and orderly conduct.

Q Do you know what his reputation for peace and quietude is in this community?

THE COURT: Do you know it?

A Yes, sir.

Q What is it? A Very good.

Q In all the years that you have known him have you ever heard anything derogatory to his character for peace and quietude?

Objected to. Objection overruled.

A No, sir.

MR. TOWNSEND: You got your rent out of him regularly?

THE WITNESS: Yes, sir.

MR. TOWNSEND: You want to keep him there?

THE WITNESS: Yes, sir.

BY MR. STECKLER:

Q He is a good tenant? A Very good.

Q And has been a good tenant? A Always.

BY THE COURT:

Q Have you ever visited him at his house socially? A No, sir.

803 77 368
CASE 77 368

Q Has he visited you socially? A No.

Q You only know him in connection with your business transactions? A And also as a customer in his restaurant.

Q Who are the people you refer to? A When I let him the place I called on several people, his previous landlord and other people as to his respectability; also because it is a liquor saloon, and I have to be careful as to the sort of man I rent to.

Q You see a respectable man may be very respectable and yet quarrelsome? A He might be, but in the hundreds of times I saw him there was no evidence of it.

BY MR. TOWNSEND:

Q You look to his financial responsibility? A I look to his decency. It would not do for me to let him establish a hotel, if he was a disreputable man.

BY MR. STECKLER:

Q Have you ever heard he was in any way quarrelsome?

A No.

BY MR. TOWNSEND:

Q You never heard about this case? A Yes, sir, I read lots about this case.

H E N R Y M A R Q U E T, called in behalf of the defendant,

sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

893-7368
CASE # 368

Q What is your business? A Pharmacist.

Q Where is your place of business? A 142 Bleecker, corner of West Broadway.

Q How far is that from Mr. Torelli's business?

A About fifty feet; It is on the other side of the street.

Q How long have you known Mr/ Torelli, the defendant?

A About seven years.

Q Have you during those seven years come in contact with Mr. Torelli frequently? A Every day.

Q Doyou know other people that know him? A Yes, sir.

Q Have you talked about other people with Torelli?

A About his good character, yes, sir.

Q What is his character for peace and quietude? A Very good -- no question of it.

Q And you have seen it daily? A Yes, sir, either him or members of his family.

Q In the ten years you have known him have you heard anything derogatory to his character for peace and quietude?

MR. TOWNSEND: Objected to. He has already answered.

No cross examination.

H E R M A N W E I L L E R, called as a witness on behalf

of the defendant, sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A In Philadelphia.

9701
CASE # 368

Q Did you come on from Philadelphia this morning to testify in this case? A I didn't know I had to testify. I was told that the trial was coming up to-day.

Q And you came on? A I came on -- yes, sir.

Q How long have you known Torelli? A Twelve or fifteen years.

Q What is your business? A Liquor business.

Q And in the twelve or fifteen years how often have you come in contact with him or met Mr. Torrelli, the defendant? A I guess hundreds of times.

Q Have you talked with other people about Mr. Torelli during those years? A Oh, yes.

Q What is his reputation, if you can tell, as to peace and quietude?

THE COURT: You must lay the right foundation.

His talking to other people that perhaps did not know him, does not lay it. You have to lay the foundation as to what his reputation is among those who had the opportunity of knowing what it was, and show whether they availed themselves of that opportunity and did know what it was.

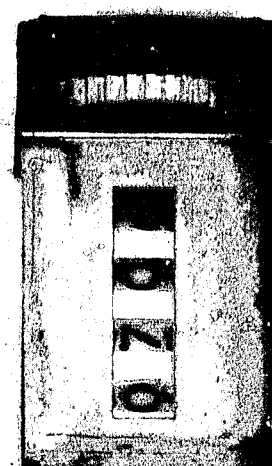
BY MR. STECKLER:

Q Do you know other people that know Torelli? A I do.

Q Have you talked with them in reference to Torelli?

A Yes.

Objected to. Objection overruled.



CASE 77-368

Q During all those years, and during those various talks, have you discussed the character as to peace and quietude of Mr. Torelli? A The very best.

THE COURT: Very bad?

THE WITNESS: The very best.

CROSS EXAMINATION BY MR. TOWNSEND:

Q Whom did you talk with about his character and reputation? A People in the neighborhood.

Q In Philadelphia? A No.

Q Neighborhood of what? A Bleecker street.

Q Mention some of the gentlemen you talked with? A I remember one distinctly, that is Mr. Bertini.

Q When was that you talked with him? A I can't remember the time.

Q How long ago? A Maybe four or five years ago.

Q What was the occasion of your talking with him about it? A One occasion was when his brother died.

THE COURT: Whose brother died?

THE WITNESS: Torelli's brother.

BY MR. TOWNSEND:

Q Then it was necessary to talk to him as to whether he was a peaceful man or not? A That he was a very good man.

Q He went to church regularly, I suppose? A I don't know that.

8937368
CASE 77368

Q How did the question come up as to whether he was good or bad at that time? A The circumstances I remember very well, when his brother died, we talked about Mr/ Torelli and his brother.

THE COURT: Why did you talk about Torelli and his brother?

THE WITNESS: It was in the family, sympathizing with the family when the brother died.

THE COURT: Had you any business relations with the brother or Torelli?

THE WITNESS: Yes, sir.

THE COURT: State what they were?

THE WITNESS: I sold them goods.

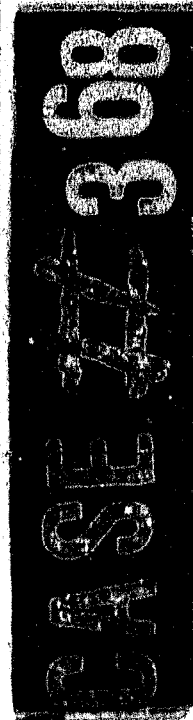
BY MR. TOWNSEND:

Q You never talked as to whether he was a peaceable or quiet man, that never came up for discussion -- there was no occasion for it? A That he was a peacable, quiet man.

Q That never came up for discussion -- those questions? A Oh, yes; we talked about that. We talked about his being a peaceful and quiet man and a good man.

BY MR. STECKLER:

Q Is it not a fact that at that time when his brother died his brother was the active man in the business, and when he died this Mr. Torelli took up the reins of the business? A Yes, sir.



Q Is not that how the subject was broached? A Yes, sir.

Q How many years ago was it that Louis Torelli, his brother, died? A I guess three or four years ago.

Q Around that time? A Yes, sir.

Q Did the subject come up then? A Yes, sir.

BY MR. TOWNSEND:

Q It was more particularly whether he could pay his debts or not? A He paid his debts.

Q Were you not interested in whether he was going to pay for what goods he got? A That didn't come up at all.

Q Only whether he was a peaceful and quiet man? A Yes, sir -- that he was a good man.

BY MR. STECKLER:

Q As a matter of fact, he does pay his debts? A Oh, yes.

MR. TOWNSEND: We don't question that.

J A M E S A . R U S S E L L, called in behalf of the defendants
being duly sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q What is your business? A Stenographer.

Q And you are stenographer in what Police Magistrate's Court? A The First Division, Second District.

Q Did you on the 18th of April take the stenographer's minutes of the testimony of Michael Gorman in the case of the

6798

803 368
CASE 47

People on the complaint of Michael Gorman against Torelli?

A Yes, sir.

Q Have you got the minutes with you? A I have a transcript of the minutes -- yes, sir.

Q Are they a correct transcript of the minutes taken by you that day? A Yes, sir.

Q Does that contain all the testimony given by Captain Gorman at that time? A Yes, sir.

Q Will you look at page 14 and state whether Captain Gorman at that time testified as follows: "Q How long did you stay outside of Torelli's and look at that window? A About five minutes"? Did he testify to that?

MR. TOWNSEND: I object to that. I would like to ask the witness whether he made that transcript.

THE COURT: Do you remember whether he testified to that?

THE WITNESS: I do not.

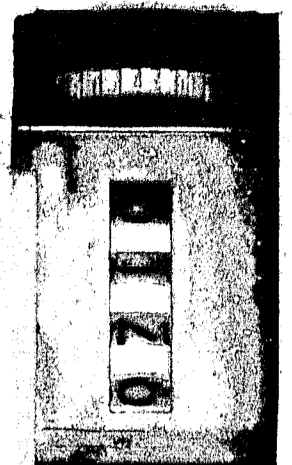
BY MR. STECKLER:

Q Did you take down in shorthand a transcript of his testimony? A I did.

Q Did you transcribe it from shorthand to longhand? A I either transcribed or dictated it.

Q And when you transcribed it or dictated it, did you dictate it from the shorthand notes that you yourself took?

A Yes, sir.



CASE # 368

Q Was that a correct translation of the dictation? A It was.

THE COURT: As far as your dictation was concerned?

THE WITNESS: Yes, sir.

BY MR. STECKLER:

Q Did you read it over? A Yes, sir, in comparison.

Q Did you find it was correct? A Yes, sir.

Q You found it a correct translation and a correct interpretation, as your dictation showed, from what you transcribed? A From my shorthand minutes -- yes, sir.

Q Will you swear whether he answered that question in the manner I have now read to you -- did he? A I will swear that this is the record -- yes, sir.

Q Will you also look --

MR. TOWNSEND: I object to his testifying from any transcript he did not make.

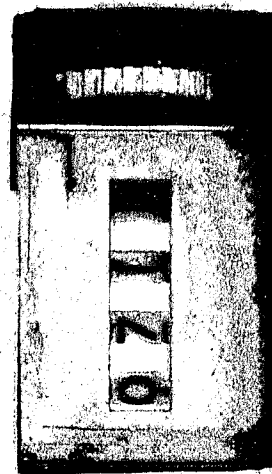
THE COURT: Go on.

BY MR. STECKLER:

Q Will you look at page 15; will you look at the first question on the top of page 15 and the answer, and tell us whether he testified as follows: "Q And blue trousers? A Blue trousers" -- did he swear to that? A Yes, sir.

THE COURT: Do you remember that he swore to that?

THE WITNESS: I do not remember. I only know that that is the record I made.



BY MR. STECKLER:

Q You took the minutes? A Yes, sir.

Q You took them in shorthand? A Yes, sir.

Q Are you a stenographer? A Yes, sir.

Q Can you read your own minutes, your own writing?

A Yes, sir.

Q They were correct as you read them? A Yes, sir.

Q When you read them off and dictated them to a stenographer, were they correct? A Yes, sir.

Q Did you make a comparison to see if it was correct?

A Yes, sir.

Q And it was correct? A Yes, sir.

BY THE COURT:

Q Did you ever make a mistake in putting down figures?

MR. STECKLER: I object to that upon the ground that it is incompetent, irrelevant and immaterial.

Overruled. Defendant excepts.

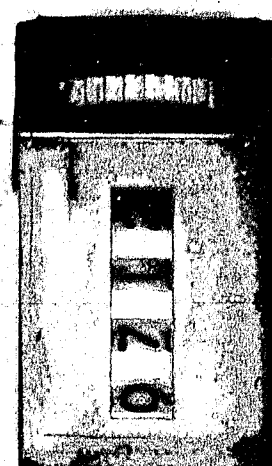
A Yes, sir; I have made a mistake.

GEROLAMO CELLA, called on behalf of the defendant,
sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q What is your full name? A Gerolamo Cella.

Q What is your business? A Grocer.



Q What is your firm? A Cella Brothers.

Q Where do you keep? A 528 to 530 West Broadway.

Q How long have you been in business there? A I have been in business there sixteen years, but we are in business thirty-seven years ago.

Q And in this particular place sixteen years? A About sixteen years.

Q How far away is your place of business from Mr. Torelli's place? A About half a block, in West Broadway, and about half a block in Bleecker street, we are just in the rear.

Q How many years have you known Mr. Torelli? A Over ten years.

Q Do you know other people that know him? A Many people I know that know him.

Q Have you talked with other people about Torelli?
A Sometimes in conversation I do.

Q As to his character for peace and quietude? A Yes, sir.

Q What is his reputation for such? A It is good, for me.

Q Have you ever heard anything against his character?

A No, sir.

BY THE COURT:

Q What is your business? A Wholesale and retail grocery store.

Q Was your acquaintance with Torelli a business acquaintance? A Well, yes; sometimes he buys of me.

893-368
CASE 77-368

L O U I S V. F U G A Z Y, called in behalf of the defendant,
sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q What is your business? A Broker and banker.

Q Where is your place of business? A 153 Bleecker street.

Q How close are you, how far is your place from Torelli's
place? A One house between.

Q How long have you known Mr. Torelli? A About eleven
years.

Q Have you lived together in that neighborhood for eleven
years? A No, for nine years he has been near me.

Q During those nine or eleven years how often have you
had occasion to meet Mr. Torelli? A All the time; I know he
is a good man.

Q How many times a day or week would you see him? A I
saw him every day and hour.

Q Have you been into his place often? A Yes, many times.

Q You go there and eat? A No.

Q You live at home? A Yes, sir.

Q Have you ever talked with other people about Torelli?
A Yes, sir.

Q What is his reputation for peace and quietude? A His
reputation is a good reputation.

Q In all the years you have known him do you know anything
derogatory to his character? Have you ever heard anything against
him? A No.



CASE # 368

Q Do you know what kind of a place he keeps there?

Objected to. Objection sustained. Defendant
excepts.

MR. TOWNSEND: We are not going to attack his
reputation for peace and quiet; we don't know anything
about it.

THE COURT: The easiest way is to go on with it.

LOUIS LAVAGGI, a witness called in behalf of the
defendant, being sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q What is your business? A Artificial flowers.

Q Where is your place of business? A 50 to 52 West 3rd
street.

Q Where do you live? A 147 West 4th street.

Q How long have you known Angelo Torelli, the defendant?
A About twelve years.

Q During those twelve years have you visited his family
and has he visited yours? A Not mine; but I have visited his.

Q Are you a married man? A Yes, sir.

Q He is not acquainted with your family? A Yes, sir;
he knows my family.

Q You visit his house? A Yes, sir.

Q Do you visit there with your wife? A Yes, sir.

89377368
CASE 77-368

Q You don't do any business with him? A No.

Q During the many years you have known him how often have you seen him? A Mostly I can say every day. I go there to have my lunch there every day.

Q Have you during those years talked with other people about Mr. Torelli? A Sure -- yes.

Q Do you know what his character is for peace and quietude? A Very good as far as I know.

Q Have you ever heard anything against his character?
A No.

No cross examination.

A N T O N I O A. C E L L A, called as a witness in behalf of the defedant, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 139 McDougal street.

Q What is your business? A Artificial flowers.

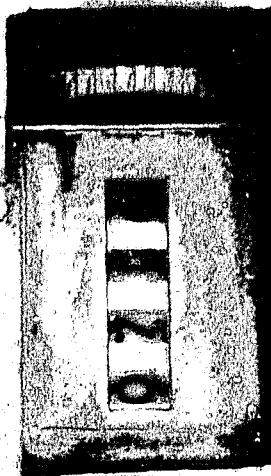
Q Are you related to Torelli? A Not at all.

Q How long have you known Torelli? A I know him before he started in business.

Q How many years? A About eighteen years.

Q Do you visit his house, go to see him? A I go to see him very often.

Q And your family? A No, not with my family. It is too



CASE # 368

small; I can't take my family out.

Q During all these years that you have known him, do you know other people that know him too? A Yes, sir.

Q Do you know what his reputation is for peace and quietude? A Yes, sir.

Q What is his reputation? A Good.

Q Did you ever heard anything against him? A No, sir.

Q In those eighteen years how often would you see him?
A Three or four times a week.

Q All that time? A Yes, sir.

MR. STECKLER: I would like to call a witness from the outside.

THE COURT: Call him.

LOUIS BONNEZZI, called as a witness in behalf of the defendant, being duly sworn and examined, testified as follows: (Through the Italian interpreter)

DIRECT EXAMINATION BY MR. STECKLER:

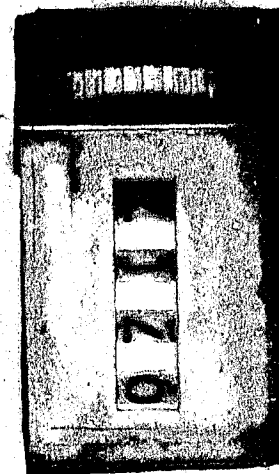
Q Where do you live? A 354 Pearl street.

Q What is your business? A I am foreman in the house, 26, 28 and 30 North William street, New York.

Q What business? A Drug business.

Q How long have you been foreman there? A Seventeen years.

Q Do you know William Parentini, this defendant? A Sure.



893-7368
CASE 77-368

Q How long has he been in the employ of that firm?

A Over three years.

Q What does he do in your business? A He is head in the cellar, over three boys. He is the head man in the cellar, and he has three boys that work under his orders.

Q He is a foreman in the cellar? A In the cellar, but he is under my orders.

Q For three years? A Over that.

Q Has he worked during that time every day? A Every day.

Q What time did he come to work? A Eight o'clock in the morning.

Q What time does he leave? A Five o'clock in the afternoon.

Q During all that time have you had occasion to see what his character for peace and quiet is?

Objected to.

BY MR. STECKLER:

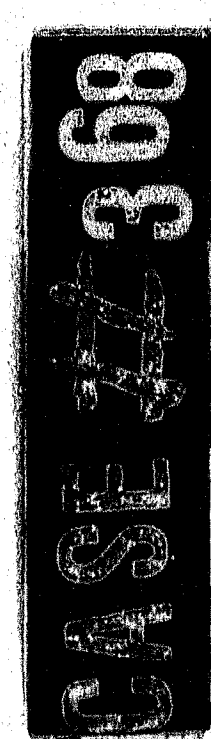
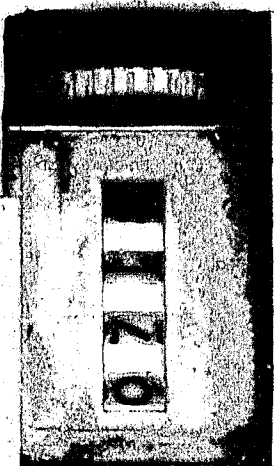
Q Do you know other people that know him? A Yes, sir.

Q And do you know, have you talked with other people about him, at the time you took him in the employ, and at other times?

A I know it from a little boy, nine or ten years.

MR. TOWNSEND: I object to that as irresponsible and immaterial.

THE COURT: He asks you, do you know other people who are acquainted with him, and who know him?



THE WITNESS: I know lots of people who know this young man.

BY MR. STECKLER:

Q Do you know what his reputation for peace and quiet is among them? A Very good; like a child.

Q He is a good, honest, hardworking boy? A Yes, sir.

Q He works every day? A Never once absent.

CROSS EXAMINATION BY MR. TOWNSEND:

Q Are you related to him? A Oh, no, no; not at all.

M A R C U S S I M O N, a witness called on behalf of the defendant, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 32 King street.

Q Where is your place of business? A 143 Bleecker.

Q Where is that? A The corner of West Broadway.

Q Is it on the same block and the same side as Mr. Torellis business is? A Yes, sir.

Q What do you keep there? A Cigars.

Q How long have you known Torelli? A I think about six or seven years.

Q During that time how often have you come in contact with him, how often would you see him?

CASE # 368

Objected to as immaterial.

A Most every day.

Q Do you know other people that know him -- do you know what his reputation is for peace and quietude -- what is it? A All right. I never heard anything wrong.

Q Do you recollect the night of the 12th of April, 1903?

A I do, the row.

Q Were you in your place of business that night? A Yes, sir.

Q What time of the night did you close your store?

A About ten minutes to twelve.

Q Who was with you? A Both my sons.

Q When you closed your store which way did you go?

A I went past the Torelli's.

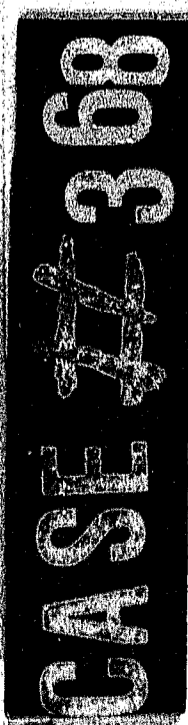
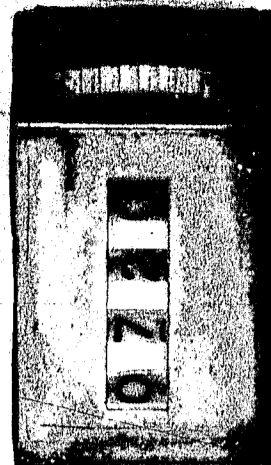
Q On the same side? A Yes, sir. I went toward Thompson street.

Q How far did you go before anything attracted your attention? A Just about the corner.

Q Of what? A Of Thompson street -- and I heard glass breaking.

Q When you heard the glass breaking what, if anything, did you do? A I thought it was my own.

Q What did you do? A We went back, and as I turned around -- it was raining -- and as I turned around I see the crowd running towards Torelli's place, and I knew it was not mine.



When I see the crowd running we passed the opposite side.

Q You didn't go in? A Didn't go in -- no.

BY THE COURT:

Q You say you closed your place at what hour? A About ten minutes to twelve. Opposite me is two liquor stores, and they were open when we closed.

Q Does that prove anything as to the time? A No, but when we closed the store I seen both of them open yet.

Q Therefore you think it was before twelve o'clock?

A It was before twelve o'clock, I am positive.

Q How are you positive? A Through my clock.

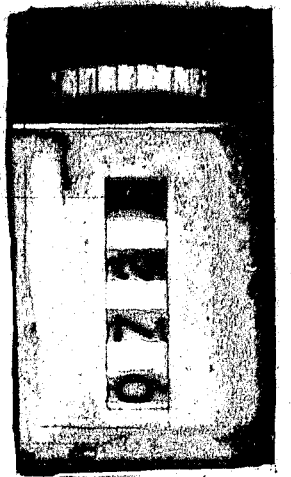
Q Did you look at your clock? A We generally close by the clock.

Q Why do you close ten minutes before twelve? A It was raining that night, and there was nothing doing. We generally close about ten minutes to twelve Saturday, and eleven o'clock every other night.

Q And you say you looked at your clock? A Yes, sir -- generally look at it every night.

Q And you also saw the liquor stores on the other side of the street were open? A Yes, sir -- open about closing.

Q Have you any business relations with the defendant Torelli? A No.



CASE # 368

ANGELO TORELLI, called in behalf of the defendants,
sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Talk out loud. What is your business? A Saloon keeper.

Q What do you keep there in 149 Bleecker street? A Hotel,
bar room, wholesale wine business.

Q And a restaurant? A And a restaurant.

Q Do you import wines? A I import wine myself.

Q You import wines from the other side? A From the other
side.

Q Then you are in the saloon, restaurant, importing
wine, and doing a hotel business? A Yes, sir.

Q What other buildings have you got besides 149
Bleecker street, in connection with 149 Bleecker street?

Objected to as immaterial.

Objection sustained. Defendant excepts.

BY MR. STECKLER:

Q Have you got an L which runs through to Thompson
street.

Objected to as immaterial.

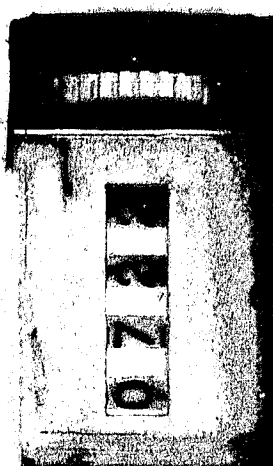
Objection sustained. Defendant excepts.

BY MR. STECKLER:

Q Is that one building?

Same objection, ruling and exception.

MR. STECKLER: My idea is, I want to show the



CASE # 368

character of this man, and the kind of business he keeps, and this has a bearing on the case.

THE COURT: You cannot show it by the extent of the building he does business in.

MR. STECKLER: I am going to call witnesses that are boarders and lodgers in this house.

THE COURT: You had better get down to the trial of this case.

Q Do you remember the night in question? A Yes, sir.

Q About what hour was it -- was it around the hour of five minutes to twelve o'clock? How many people were in your place?

MR. TOWNSEND: I object to anything that took place prior to the entrance of the captain to that place, and his words with this man?

THE COURT: I will allow that.

BY MR. STECKLER:

Q How many people were in? A About twenty-five or thirty or thirty-five, I could not tell.

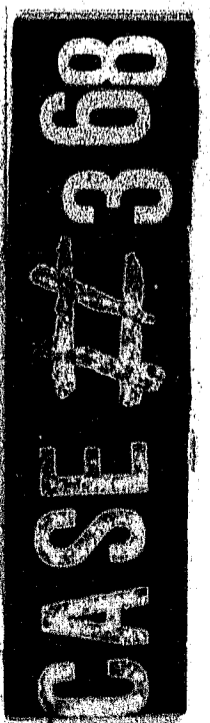
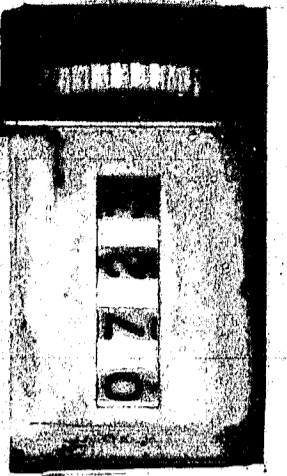
Q Was there upon that evening, in your place, any meeting of any body of men?

Objected to. Objection sustained.

MR. STECKLER: I submit that it is absolutely necessary.

THE COURT: It is not necessary.

Defendant excepts.



BY MR. STECKLER:

Q Was there an association of Range Workers who had a meeting at your place?

Objected to. Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q When for the first time did you know this complainant, Michael Gorman, was in your place of business -- what was the first thing you knew? Tell your own story from beginning to end? A The first is this: That gentleman there (pointing to the witness Gorman) I don't know whether it is the captain or not ---

Q Did you ever know him? A No, I never knew him before.

THE COURT: Let him answer the question.

THE WITNESS: He asked me, "Why don't you close up?" I says, "What?" He says, "Why don't you close up?" I took out my watch, and I show him it is five minutes of twelve, and I says, "Anyway, I don't know you." He says, "I am a Mills House man." And I says, "What do I care for a Mills House man? If my time is up I know better than you know", and I took out a few glasses of beer, and at the same time my nephew came down and I looked for a bottle of magnesia.

Q Who is the nephew? A Andrea Torelli.

Q How old is he? A Fourteen years going on to fifteen. He asked me for a bottle of magnesia. I said, "I have no time,

CASE # 368

33

I am in a hurry to close up." And at the same time that gentleman there, (indicating the witness Gorman) he called for whiskey. My nephew turned to me and said, "Uncle, this gentleman wants whiskey." I says, "Please pass that bottle with the glass." He did, and at the same time I gave him a bottle of magnesia, and he should bring it to his mother.

Q Was anybody behind the bar but you and the little boy?

A No, sir, nobody else. Then I see the gentleman, who will drink the whiskey in a hurry, trying to get behind the bar.

Q Which way did he go? A From here, right here, (illustrating).

Q In the rear where the opening is for the bar?

A No.

Q Is it this way (illustrating)? A Yes, sir. At the same time I seen this man come behind the bar, and I holler, "Hold out, boys, it is twelve o'clock", and I turned the light over the bar, and then I tried to turn the other lights, and the man tried to come behind the bar. And I says, "Where do you go?" He didn't say a word, but the man grabbed me by the collar.

Q What man? A That gentleman there (indicating the witness Gorman). I didn't know he was the captain. If I know he was a captain --- I call him a gentleman, because I didn't know he was captain.

Q What did he do? A He grabbed me here with one hand, and with the other hand he struck me with the glass, and I see a

898-77368
CASE 77368

flame in my eye, and I said "Holy Jesus!", that way, and a boy grabbed it and took it away from him.

Q Who? A Some people there. And he tore my tie. And then I run behind the bar right away, and took a towel, and I put some whiskey and put in my face, and I had my face covered, don't and I know anything about it after.

Q Did you hit him? A No.

Q Strike him? A No.

Q Did you take a glass and hit him on the head? A No.

Q Did you fire a glass at him, and cut his hand?

A No.

Q Did you fire anything at him? A No, I didn't do anything to him.

Q Did he ever come into the place and say to you, "I am the Captain of this precinct"? A No, sir.

Q And take his coat and pull it back and show his shield? A Never did anything like that.

Q Did he ever show you his shield? A No.

Q Did he ever tell you he was the captain? A Never.

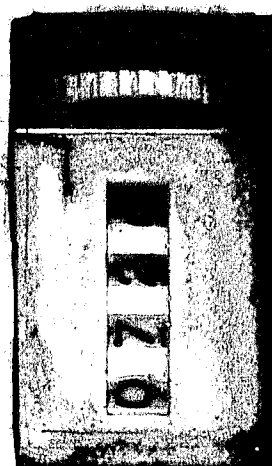
Q Did you know he was the captain? A No.

Q Did you know he was a police officer?

THE COURT: You had better let your principal witness testify.

MR. STECKLER: I am contradicting the testimony of the complainant.

THE COURT: From beginning to end you are dictating



803-77368
CASE 77-368

His answers. Let him state what occurred.

MR. STECKLER: He has told what occurred. Now I am contradicting the complainant.

THE COURT: You are saying did he do this and did he do that? Let him give his statement. I would much prefer you would go on regularly.

Q After the captain struck you in the face with the glass did you ever talk with the captain? A I never opened my mouth.

Q Did you hit him or assault him, or have anything to do with him? A No, sir.

Q After he struck you what became of the captain?
A He was broken away outside.

Q Do you know how he got out? A I don't know anything about that.

Q When for the first time did you know he was captain?
A The first time was when I was upstairs changing my shirt, someone came up and says, "What are you doing?" I says, "Nothing." He says, "Don't you know he is the captain?" I says, "I never knew that." Anyway, I says, "If he was the President of the United States, it is the same thing, I don't do anything to that man."

Q How old a man are you? A Thirty-four.

Q Where were you born? A Italy.

Q How long have you been in this country? A Since 1886.

Q And have you been in business ever since that time?

803-7368
CASE #

36

A I always was in business since the time I was working.

Q How long have you been in business? A About twelve years.

Q For yourself? A Yes, sir.

Q In your entire life has there ever been a charge of any kind against you?

Objected to. Objection sustained.

Defendant excepts.

BY MR. STECKLER:

Q Have you ever been arrested or convicted of any crime?

Objected to. Objection overruled.

A Never.

Q Were you ever arrested or convicted of violating the Excise Law, or any other law?

Objected to. Objection sustained.

Defendant excepts.

Q Are you a married man? A Yes, sir.

Q Have you a wife? A Yes, sir.

Q A family? A Yes, sir.

Q Do they live with you in the house there? A Yes, sir.

Q How long have you lived together with your wife? A Eleven years I have been married.

Q Is Parentini, the other defendant -- what relation if any, is he to you? A Step-brother-in-law.

Q He is the step-brother of your wife? A Yes, sir, step-

CASE 368

brother of my wife.

Q Was Parentini in the saloon that night at the time the Captain came in? A No, sir. Parentini never put his foot behind my bar.

Q Did he hit the captain, so far as you know, with a club? A I didn't see Parentini there that night.

Q Was the complainant in citizen's clothes, in uniform or what? A Citizen's clothes.

Q Had you ever seen the man in your life before that night? A Never before.

CROSS EXAMINATION BY MR. TOWNSEND:

Q You saw the Captain there? A I see him now, yes, sir.

Q He came up and told you to close that place? A Yes, sir.

Q You did not close it? A I was in my times; it was five minutes to twelve, and I showed him the watch.

Q You said he went to the end of the bar, and there he called for whiskey and got it? A At the same time and place that he asked me to close up he didn't move; he stood there.

Q Stepped to the end of the bar? A Afterwards.

Q Did he ask you for a drink? A Yes, sir.

Q What did you say? A He asked for whiskey, and the boy told me, "Uncle, that gentleman wants some whiskey."

Q I asked you if he didn't ask you? A I didn't hear him ask for a drink.

Q He stepped to one side? A No, he stand in the same

CASE # 368

place.

Q And you didn't hear him ask? A No.

Q What did the boy say to you that he said? A He says, "That gentleman wants some whickey."

Q And so he got the whiskey, did he? A He got the whiskey.

Q And he paid for it? A I don't know. I didn't receive the money.

Q You would have been apt to know if he had not paid for it? A I don't know; there is lots of men come there drinking and I don't know if they pay.

Q How long had this boy been behind the counter? A He just came that time from upstairs; he never came into the counter.

Q Why did you ^{not} serve him with whiskey? A I had no time.

Q Anybody else talking to you at the time? A Sure. I took out three or four glasses of beer in that time.

Q Yet you let this boy, who had nothing to do with the place help him to whiskey? A That is right.

Q He had nothing to do but serve him whiskey? A No.

Q You let him collect the money? A I don't know if he did.

Q You didn't try to collect it? A No.

Q You generally try to collect every cent for whiskey you sell? A Yes, sir, if I see it.

803 368
CASE 27

Q And for beer? A Yes, sir.

Q And you see it goes into the register? A We have to pay a heavy license -- that is right.

Q So you watch that pretty carefully? A Yes, sir.

Q He could not get behind the bar by going round in the way the young man was where he got the whiskey, could he?

A Who?

Q The captain? A Of course when I stopped him ---

Q He could not get in there at the other end, could he, of the bar? A No, -- I don't know what you mean.

BY THE COURT:

Q The entrance behind the bar is at one end, is it not?

A Yes.

Q Is there one also at this end as well as that end?

(illustrating) A This end.

Q Is there one at this end? A Only one end.

MR. STECKLER: Only one end -- that is conceded.

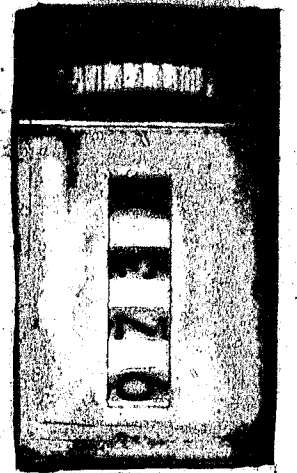
BY MR. TOWNSEND:

Q He could not enter behind the bar at that end?

A There is only one place.

Q When the Captain told you to close up you said to him -- What did you say when the Captain told you that? A I told him this is five minutes to twelve, and I showed the watch.

Q What did he say? A He didn't open his mouth. He didn't say a word.



Q What did you say to him then? A I went away.

Q I thought you asked him who he was? A I did, and he says -- I told him, "It is five minutes to twelve and I don't know you." That is what I say.

Q What did he say? A He says, "I am a Mills House man."

Q What did you say? A I says, "To hell with the Mills House men." I says, "When my time is up I will close up, and I know better than you know." That is what I told him.

Q He didn't look like a Mills House man, did he? A Yes, sir, he did that night.

Q Was he drunk? A I don't know if he was drunk; I could not tell you; I am no doctor.

Q You can't tell whether a man is drunk or not? A No, after you see a man ---

Q Did he act as if he was drunk? A The way he did, - yes, sir

Q What did he do? A He tried to go behind that bar, and he had to be drunk or crazy, one of the two.

Q Who hit him? A I don't know.

Q Did anybody hit him? A Maybe so.

Q You didn't? A No, sir, I did not.

Q Was there any blood on him? A I didn't see any blood on him. I know I have big blood here (indicating); I had a big scar; I have got it yet.

Q You would not let him go behind the bar? A No, I

893 368
CASE 77

would not / If I knew it was the Captain ---

Q How did Parentini get out? How did he go? A He never put his foot in my bar.

Q The one that was in there, how did he get out? The one you say was there? A My nephew?

Q Your nephew. A He went out of the door.

Q How did he get by you with the Captain? A My nephew went out before the captain tried to come behind the bar.

Q The captain says he went behind the bar to arrest that man. Now you say there was nobody behind the bar when he went there? A I was alone.

Q What did he try to do? A I told you before. He tried to come behind the bar.

Q What did he say? A In a rush he tried to get behind the bar. Then I stopped him, and the first thing he grabbed me by the collar.

Q Did you asked him what he wanted? A Yes, sir.

Q Why didn't you tell that? A I says, "What do you want here?"

Q Did he say anything? A Nothing.

Q He made no reply? A That is all.

Q Go on. A And then he grabbed me by the collar, and he smashed me in the face right here (indicating) this way.

THE COURT: Anything in his hand?

THE WITNESS: He must have a glass or something.



8937368
CASE 77-368

Q Did you see anything in his hand? A No, I did not.

Q He smashed you in the face? A Yes, sir.

Q What became of you? A I went this way (illustrating), and the other people grabbed him.

Q Then you ran upstairs? A I ran, and I put some whiskey in my scar -- and I ran back in the kitchen and put some hot water and salt on, and I put it on and ran up stairs, and my wife was up; she heard the noise, and said "What is the matter?" and seen me all covered with blood and started to cry. I said, "Don't cry. Give me a shirt; it is nothing." I thought it was a tramp. I never thought it was a captain. I says, "The policemen have got him, and I will go to the station house and make a charge."

Q Who attends bar with you? A My bartender.

Q Where was he that night? A He was there putting up the partition.

Q Was he not behind the bar at that time? A No, sir.

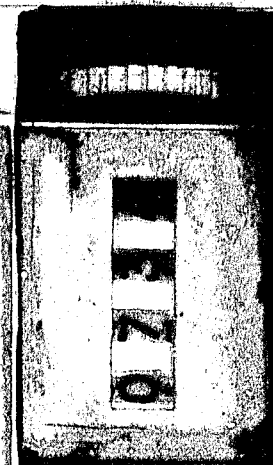
Q What time did he leave from behind the bar? A Twenty-five minutes to twelve.

Q You heard the captain testify that there were three men standing behind the bar? A He says lots of lies. Everything he says is a lie.

Q You ran upstairs. Did you go to bed? A No.

Q Where did you go? A To change my shirt.

Q Why? A You think I go around with a shirt like that?



CASE 77 368

Q It was time to go to bed? A No, because my place was open, after the trouble down there; the Captain broke every window and every door.

Q Busted in every door and every window? A Yes, sir -- not window -- it is a door -- five panes of glass he broke down.

Q Did you offer to make a complaint in the station house?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained.

RE-DIRECT EXAMINATION BY MR. STECKLER:

Q There are storm doors there? A Yes, sir.

Q Is there any lock or any key, or anything to the storm door? A No key, no lock.

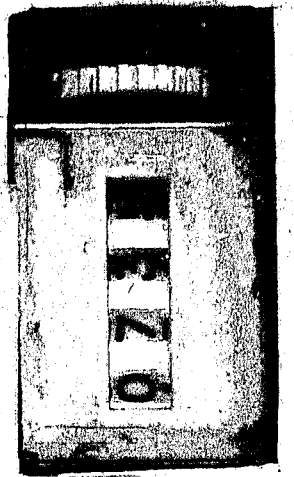
Q Is there any way in which you can lock those storm doors at all? A No; we never lock the storm doors.

Q Is there any lock or anything on it? A Never.

BY THE COURT:

Q You say when the captain tried to come in behind the bar that you were the only person behind the bar at that time?
A Nobody else, only me.

Q And when you asked, - when he tried to come behind the bar, - what he wanted, he replied by striking you with his clenched fist? A With his fist. And I didn't know what he had in his hand.



893 # 368
CASE # 368

Q You testified a little while ago he had a glass in his hand? A It must be a glass or something.

Q It is what it was, not what it must be. A I could not say.

Q That is all the answer he made when you said, "What do you want here?" A That is right.

Q Before that he had not told you he was captain or displayed his shield? A No; never did.

BY MR. STECKLER:

Q Did you at my request, have your pictures taken?

Objected to. Objection sustained.

MR. STECKLER: We have the photograph.

Objection sustained. Defendant excepts.

Q Were you treated by a doctor for your injuries afterwards?

MR. TOWNSEND: Objected to. That has nothing to do with the case.

THE COURT: I will allow that.

A Yes, sir.

Q Who was the doctor that treated you? A Dr. Riggi.

Q Is he in Court? A Yes, sir.

MR. STECKLER: Will the gentleman stand up?

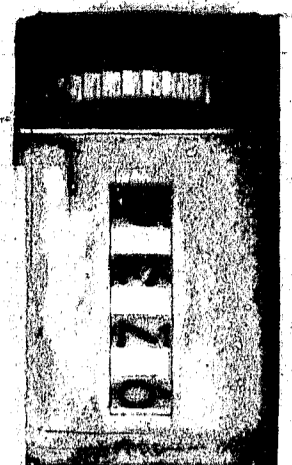
(A per son stands up.)

THE WITNESS: That is the doctor.

BY MR. STECKLER:

Q How many days did the doctor treat you?

Objected to as immaterial.



CASE # 308

THE COURT: The doctor can testify as to the character of the injuries.

MR. STECKLER: That is all.

MR. STECKLER: I want to offer in evidence the portrait mentioned in the testimony just now, and ask that it be marked in evidence.

Objected to.

THE COURT: It may be marked for identification.

Marked Defendant's exhibits 1 and 2 for identification.

MR. STECKLER: Does your Honor rule them out even though the photographer is here?

THE COURT: Certainly. The photographer cannot tell anything about them except that he took the photographs; and you offer the photographs and they are rejected, and you have your exception.

MR. STECKLER: I will have to prove the various degrees by which we produce these.

THE COURT: You can make the offer that you propose to produce photographs taken by the photographer.

MR. STECKLER: Showing bruises and injuries to this man's face a day or two days after the alleged assault.

THE COURT: I exclude the evidence.

Defendant excepts.

THE COURT: There is no evidence of what might



CASE 77-368

have happened between the occurrence on which the indictment is laid, and the time of the photograph. I exclude them as they stand.

MR. STECKLER: I had better put him back to show that the injuries which appear on his pictures ---

THE COURT: I will not allow him to be recalled for that purpose. You can take your exception. If you want to show the character of any injuries he received, you can show it.

WILLIAM PARENTINI, called as a witness in behalf of the defendants, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

- Q How old are you? A Twenty-one.
- Q What is your full name? A William Parentini.
- Q Where do you live? A 149 Bleecker street, I board there, but my mother lives in Hoboken. I board at Torelli's place.
- Q Your home is with your mother in Hoboken? A Yes, sir.
- Q Whereabouts in Hoboken? A 606 John street, West Hoboken.
- Q With whom do you work now? A Fugler & Co.
- Q What business? A Drug business.
- Q How long have you been in that business? A Over three years.
- Q Where did you work before that? A At a machine shop.



CASE # 368

Q Where? A On 12th street.

Q How long did you work there? A A year.

Objected to as immaterial.

THE COURT: Go on. He may answer.

BY MR. STECKLER:

Q How long were you working for a living altogether?

A Five years.

Q Have you been working steadily? A All the time, yes, sir.

Q Did you go to school before that? A Yes, sir.

Q On the night of the 12th of April, 1903, the day that Mr. Torelli and you got into this trouble, where were you that night? A I was home. I got out of the shop at half past twelve. We worked half a day on Saturday. I went over to Hoboken to see my mother, and I had supper with my mother, and after supper I left there and I came right over.

Q You left your mother's about what time? A Seven or half past seven.

Q When you left your mother's where did you go? A Straight home, went straight to bed.

Q What time did you get home about? A About ten o'clock.

Q When you got home at ten o'clock where did you go?
A Right upstairs to bed.

Q What room; and what part of the house was your room in?

A On the top floor.

8037368
CASE 77-368

Q Who, if anybody, slept in the room with you? A Mr. Bonini.

Q How long had you and he been rooming together? A About six months.

Q Did you each have separate beds? A Yes, sir.

Q Did you go to bed, or were you sitting up, or what were you doing? A Went right upstairs to bed. He was in bed, and he asked me for some tobacco, and I gave it to him, and he started to smoke; and I went right to bed. I stayed just a little while there, after falling to sleep, and I heard a crash of glass, and I looked out and seen a lot of people, and ran down and thought there was a fire.

Q Were you dressed when you ran down? A Only an undershirt, vest, pants, and shoes were not laced. I didn't know what happened.

Q As you got down stairs where did you go? A I went to the second floor, and my sister was there. I says, "What is the matter?"

Q Which sister? A Jennie.

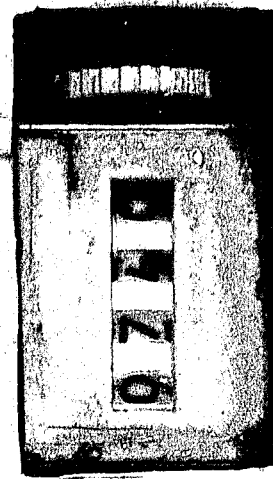
Q Is that the wife of this defendant? A No.

Q It is the widow? A Yes, sir.

Q What did she do? A I said, "What is the matter?"

I heard a crash of glass. I was going to go down, she stopped me. She said, "Don't do it."

Objected to.



893-368
CASE # 368

THE WITNESS: So she pulled me in her room. I was there about fifteen minutes and Officer Sullivan came up and grabbed me and took me down stairs.

Q That is this gentlemam (indicating)?

THE COURT: Officer?

THE WITNESS: Yes, sir. He brought me down in front of this man and says, "Is this one of the fellows?" He says "No". And then he let me go. And the next day they arrested me and they brought me to the hospital. And he says I gave him a drink, and I never worked in the place.

Q Were you in that bar room that night? A No.

Q Did you serve any drinks? A No.

Q Did you ever serve any drinks? A No.

Q Had you anything to do with the business? A No; I have nothing to do with the business.

Q Did you see this man come into the saloon? A I didn't see him at all.

Q Did you hit him with a club? A No, sir.

CROSS EXAMINATION BY MR. TOWNSEND:

Q Where does your mother live? A 606 John Street, West Hoboken, New Jersey.

MR. STECKLER: Is your mother here?

THE WITNESS: Outside.



893-7-ESW3
CASE #368

BY MR. TOWNSEND:

Q What time did you leave there? A Seven or half past seven.

Q Which way did you go? A Right home.

Q What time did you get home? A About ten o'clock.

Q Did it take from half past seven to ten? A I took the car and the boat, and then I walked ---

Q How many hours does it take to come from West Hoboken to your House? A Takes me an hour or an hour and twenty minutes, but I might have talked to some body.

Q Did you stop? A No, I went right home and went right to bed.

Q Did you go to bed with your shoes on? A No, sir.

Q How did you come to conveniently wake up at ten o'clock? A I heard the crash of the glasses down stairs, -- the crashing, and I got up.

Q You like to go to bed early? A I always do go to bed early.

Q And yet you woke up at ten o'clock? A I don't say ten o'clock. I woke up when I heard the noise of the glass. I didn't know what time it was.

Q Don't get excited. A I am in the right.

Q You heard the sound of glass? A Yes, sir.

Q So you popped up? A Yes, sir.

Q How many shoes did you put on? A Both shoes.

CASE # 368

Q What else did you put on? A My pants and vest. I left my shirt and hat and coat upstairs.

Q You ran down stairs and your sister pulled you into her room? A She stopped me. I says, "What is the matter -- I heard such a noise down stairs?" She says, "I don't know." I says, "I am going down to see what is the matter", and she pulled me into her room.

Q You were satisfied to let it go at that? A I didn't know what happened. I would have went down if she hadn't stopped me.

Q Then you didn't care what happened? A No.

Q How old are you? A Twenty-one.

Q You got up out of bed when you heard the sound of breaking glass? A Yes, sir.

Q How old is your sister? A About thirty-three, I think.

Q She pulled you in her room? A Yes, sir.

Q How long did you stay there? A About fifteen minutes.

Q Sure you were not in hiding in that room? A No, sir, I was not.

Q Did you run up in your sister's room first? A No.

Q The officer said when he got upstairs you were under the bed clothes? A No, sir; there was a little boy in the room with me.

Q He said your head was under the clothes. Was it cold? A I was sitting down there, but I was under no clothes.

CASE # 368

MR. STECKLER: There is no such evidence.

BY MR. TOWNSEND:

Q He says you pretended to be asleep?

MR. STECKLER: I object to that as not the testimony.

THE COURT: I don't think the officer testified to that. Go on, and let the stenographer see during the recess what the testimony of the officer was.

MR. TOWNSEND: I withdraw the question.

Q What did you do when he shook you; how did he wake you up? A I was sitting down. He says, "Come down stairs."

Q Where were you sitting? A On the bed.

Q On the bed? A Yes, sir.

Q You were not under the bed clothes? A No, sir.

Q Sitting on the bed? A Yes, sir.

Q When the officer came in the room? A Yes, sir.

Q And woke you? A Yes, sir.

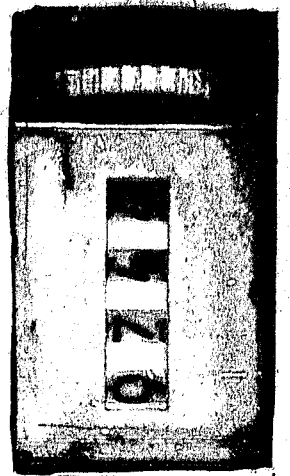
Q Not covered up with all the clothes? A No.

Q What did the officer say to you? A He brought me down stairs.

Q What did you say to him? A Nothing.

Q Did you laugh at him? A No.

Q When he woke you up? A No. He grabbed me by the neck and brought me down stairs. He caught me here. He grabbed me and said, "Come on down stairs", and I went down stairs with him, and he told this gentleman was I to follow, and he says no.



CASE # 368

Q Where did you work? A With the E. Fugier Company.

Q What time did you leave there after work? A Five o'clock; half past twelve on Saturday I leave.

Q What time do you get through with your work? A Half past twelve on Saturdays, five o'clock on week days.

Q What do you do evenings? A Walk out.

Q Do you ever go into this bar room in the evening?

A Which bar room?

Q Torelli's bar room? A Sometimes I would be in there and have a drink and pay for it.

Q Would you ever sit in the bar room? A Sit down and have a drink -- yes, sir.

Q Did you ever give a drink to anybody in your life?
A Lots of people.

Q Did you ever serve the liquor? A No.

Q Ever go behind the bar in your life? A No, sir, never did.

Q Would you spend most evenings in that bar room? A No.

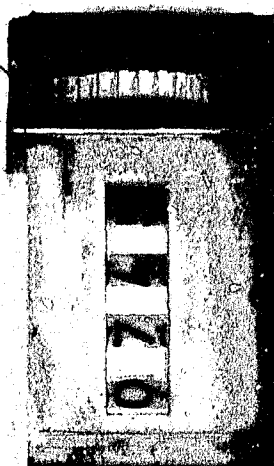
Q Where? A Outside, walking around.

Q Where? A With friends taking a walk; go to the theatre sometimes.

Q The night you did not go to the theatre, where did you go? A Sit and rest awhile and then go to some other place.

Q What other places? A On the corner, perhaps.

Q Cold nights? A On a cold night I would go to the club.



CASE 368

Q You always kept shy of this bar room? A Yes, sir.

Q Always kept out of it? A Sometimes I would be in having a drink.

Q You do drink? A Yes, sir, I do drink.

Q How many times a week would you go in the bar room

A I have got to pass the bar room every night, because I sleep up stairs; I have to go through.

Q How many nights would you sit in the bar room? A Maybe two or three nights.

Q How are you related to this man? A He is my step-brother-in-law.

Q Who was the bartender there? A I don't know; I can't say.

Q Don't you know who the bartender was that night? A No.

Q Who was usually the bartender? A The steady bartender?

Q Yes. A Mr. George, I think his name is.

Q Did they have any other man that night? A I don't know.

Q Do they have other men there than him? A I never seen any.

Q Don't you know who is the bartender? A Yes, sir, but I am not the bartender.

MR. STECKLER: He is here.

MR. TOWNSEND: I don't say he is not.

9776
CASE # 368

BY MR. TOWNSEND:

Q Did Captain Gorman identify you next day without any doubt? A He identified me, - yes, sir.

Q What did he say the next day? A He said, "That was the fellow that served me a drink", and that I hit him on the head with a club.

Q There was no doubt in his mind next day? A He says I done it, but I didn't.

Q He didn't have any doubt then, did he?

Objected to. Objection sustained.

BY THE COURT:

Q Your room is on the top story? A Yes, sir, up in the garret.

Q Is it front or rear? A Front.

DR. S I N P L I C I O R I G H T, called as a witness in behalf of the defendant, sworn and examined, testified as follows: (Partly through the Italian interpreter.)

DIRECT EXAMINATION BY MR. STECKLER:

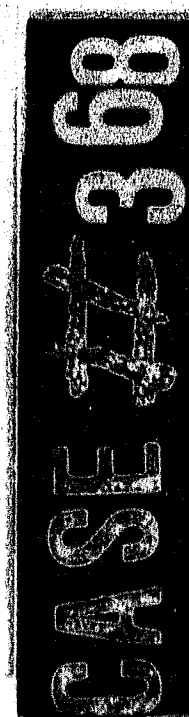
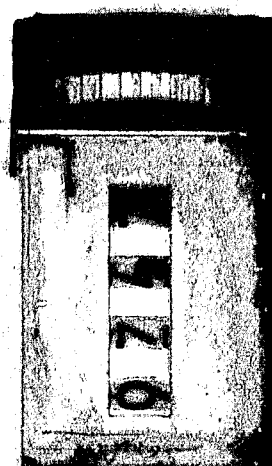
Q You are a physician and surgeon? A Yes, sir.

Q You practice medicine? A Yes, sir.

Q A graduate of what school? A New York.

Q University? A New York State.

Q Do you recollect on the 14th of April treating Mr. Torelli



for any injuries? A Yes, sir, I remember.

Q Describe where his injuries were?

MR. TOWNSEND: I object. How does this aid the jury in determining whether or not this man assaulted the Captain. We have nothing to do with this man was injured or not.

MR. STECKLER: It brings home the circumstances and the probabilities of the story.

MR. TOWNSEND: I submit it has nothing to do with the case.

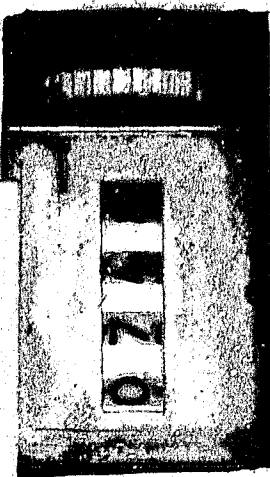
THE COURT: I will allow the simple question to be asked and answered as to whether he treated him for injuries and what those were. I allow the defendant to testify, notwithstanding my own view as to its materiality, as to the fact that he was struck by the complaining witness. Now, as to the seriousness of that blow this doctor can testify but that is all. Ask him to describe the injuries.

Q Describe the injuries where they were? A He had about four or five little wounds on the right side near the eye.

Q Can you tell us whether they were made by the hand or by a blunt instrument or a sharp instrument?

Objected to.

THE COURT: Ask if he can tell by what they were



made .

BY MR. STECKLER:

Q Can you tell by what they were made? A My opinion is that it was done with a glass or with a bottle, a tumbler or a bottle. If I had any doubt about it my doubt was all cleared up when I put the bandage on, and I found a little piece of glass there.

BY THE COURT:

Q What date did you make this examination? A I don't remember; one day or two days after the trouble. I don't remember exactly. He belongs to a society and I belong to the Society.

Q He belongs to a Society that you belong to? A Yes, sir I am the doctor of that Society.

Q What did you do in treatment of that injury? A I made only a strong local disinfectant, and I wrote him a prescription for local disinfection.

Q That is the only time you saw him in connection with that? A Twice I saw him.

Q When did you next see him? A Three or four days after the first.

Q Did you treat him any further? A I went only twice to treat him.

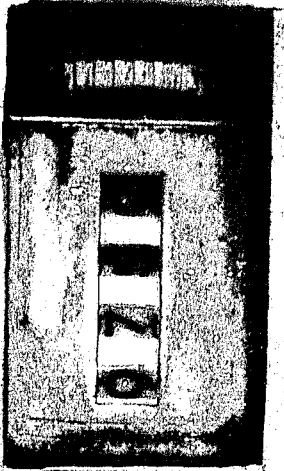
The Court then admonished the jury, calling their



893 77 ESW
CASE 77 368

attention to Section 415 of the Code of Civil Procedure,
and adjourned the further trial of the case until to-
morrow, Friday morning, June 5th, 1903, at 10:30 o'clock.

CASE 368



The people vs. Angelo Torelli
and William Parentini.

New York, June 5, 1903, 10.30 A.M.

LOUIS SIMON, called as a witness on behalf of defendant, sworn and examined, testified as follows:

MR. TOWNSEND: I ask that all the witnesses be excluded.

The Court directs that all witnesses on both sides in this case shall leave the Court room, and remain outside until called; and that all witnesses who have already testified may remain in Court.

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 32 King street.

Q What is your business? A Cigar business.

Q Where do you keep your place of business? A 143 Bleecker street.

Q Where is that? A Corner of West Broadway and Bleecker street.

Q How many houses from Mr. Torelli's place, the defendant? A Three.

Q On the same block with him? A Yes, sir.

Q On the same side? A On the same side.

Q How long have you known Mr. Torelli? A About seven or

CASE # 368

eight years.

Q Do you know other people that know him? A Yes, sir.

Q What is his reputation among those who know him for peace and quietness? A Very good.

Q You remember the 12th of April, 1903? A Yes, sir.

Q Saturday? A Yes, sir.

Q Do you remember what time you closed your place of business that night? A About ten minutes of twelve.

Q Who left that place of business with you? A My father and brother.

Q How do you fix the time? A It was a rainy night, and by the time we had closed up and got on the sidewalk my brother says to me, he says---

MR. TOWNSEND: I object to what he said.

THE COURT: You cannot give the conversation you had with your brother.

Q What impressed you outside of what he said? A The saloons on the other side were still open, two of them.

Q Where did you walk to? A Down through Bleecker street.

Q To what street? A We passed Thompson street.

Q When you got down in that neighborhood what attracted your attention, if anything? A We walked down another half block and we heard the glass crash. We turned around and we

803 368
CASE #

saw a crowd running.

Q What did you do? A We walked back and in walking back we heard more glass crash, and when we got down to the corner of Thompson street we stood still, and we ~~in~~ see the crowd running and that impressed us; we thought it was ours, because the crowd started from Thompson towards West Broadway, and we thought it was our windows being broke, but when we reached the corner we seen the crowd gather in front of Tor-elli's place in the basement.

Q That is all you know? A That is all I know about it.

No cross examination.

C H A R L E S M U R R A Y, called on behalf of the defendants, sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q What is your full name? A Charles Murray.

Q Where do you live? A 35 West 8th street.

Q What is your business? A Waiter.

Q How long have you been a waiter? A Eight years.

Q Where are you waiting now? A At Coney Island.

Q Where were you before that? A 25 Park Row.

Q What restaurant? A Dennett's.

803-368
CASE # 368

Q How long were you with those people? A I worked there six months.

Q How long have you been a waiter altogether? A Eight years.

Q Do you know Mr. Torelli? A Yes, sir.

Q Do you know his place of business? A Yes, sir.

Q Where is it? A 149 Bleecker street.

Q Have you been in the habit of going to that place?

A Yes, sir.

Q Is that headquarters for waiters?

Objected to.

Objection sustained. Defendant excepts.

Q Were you in Mr. Torelli's place on Saturday the 12th of April, the night of this trouble? A Yes, sir.

Q What were you doing there? A I was sitting down watching a game of cards.

Q How many people were playing cards at this table where you were looking on? A Four.

Q What were they playing? A Euchre.

Q Were you playing? A No.

Q What if anything attracted your attention at that time while you were watching this game?

Objected to.

Q Around ten minutes to twelve o'clock?

MR. TOWNSEND: That is objected to. It took

893 368
CASE 77
FBI

place before twelve. Let him state what he saw.

Q Please state what you saw? A I was sitting down watching a game of cards, and I was next the bartender; the bartender was putting up the door and the door kind of fell down on me.

Q You mean the partition? A A partition.

Q Where were those partitions being put? A At the end of the bar, the fore end of the bar.

Q You mean at the door or the end where the entrance is to the bar? A Way down, the entrance around the bar.

Q Go on. A I got up and I see Mr. Torelli wiping the blood off his face. He had a towel to his face wiping blood up. Then I seen some kind of a shuffle or scrap going on over the door, and I went back to the toilet and I came out again and going out of the door an officer stopped me. He says "You have to wait here".

Q Never mind what he said. Were you arrested? A Yes, sir.

Q Were you discharged? A Yes, sir.

Q While you were in there, do you recollect a policeman bringing down this young boy Parentini? A Yes, sir.

Q And another boy? A Yes, sir.

Q What if anything did you see done there when they were brought down?

CASE # 368

Objected to.

THE COURT: I will allow it.

A Mr. Sullivan brought him down. He asked the Captain, he stood him up and says "Has any of these two boys hit you" ? at He looked at them. And Sullivan says "Look at them good". And he looked them over for about two minutes and he said "Neither one". And Sullivan told him to go upstairs again.

Q And they both went up? A They both went up.

Q What else? A The Captain says to the officer "Go behind the bar and see what you can find there for evidence." He went behind there and picked up an ice pick. He asked the Captain if he hit him with this. He said no. He picked up the bung out of a barrel, I should say a foot and a half long---

Q Is that the club here which is in evidence? A This was a bung which he picked up.

(The club produced).

Q Was that what he brought out? A No.

Q He brought out a bung first? A Yes, sir.

Q Go on. A He says "Take that along"; "lay it down and take it along".

Q What did he say about the bung? A Nothing. He looked at it and said "Take it along." He said that was what he hit him with.

CASE 71 368

THE COURT: Then why did you say he said nothing?

THE WITNESS: He looked at it. He says "Take that along." He made a few remarks about the club.

Q Tell us what he said. A He said "Take it along"; it is what he hit me with".

THE COURT: He said that was what he hit him with?

THE WITNESS: Yes, sir.

Q What did he say about the bung? A He said "Take it along."

Q What else. A I didn't hear him say anything else that I remember now.

Q What about the club? A A few minutes after the officer found a club away down in the corner; he was seeking round in the corner among some rubbish and found the club. He showed it to the Captain and asked him if he hit him with this. He said "Yes." And he said "Take and throw the bung away and take the club along." And they threw the bung back behind the bar and took the club along.

Q Are you related in any way to Torelle? A No.

803-77-368
CASE 77-368

CROSS EXAMINATION BY MR. TOWNSEND:

Q How long have you known Parentini? A Four years.

Q How often would you see Parentini? A What do you mean? I don't know Parentini at all. I only know him by sight; I don't know him to speak to him.

Q Where did you ever see him? A I have seen him on the street once in a while when he passed through Bleecker street, by sight, that is all.

Q Were you ever introduced to him? Did you ever know what his name was? A No, sir.

Q Do you know that he is the man that was brought down that night? A Yes, sir.

Q How do you know? A By sight, by looking at him.

Q How many times have you seen him to know him? A Half a dozen times.

Q And did not know his name? A No.

Q And yet you are willing to swear he was the man they brought down that night? A Yes, sir.

Q Do you go in there every night? A Not every night.

Q How often? A Some nights I go in there two or three times a week, sometimes four times a week.

Q Do you sit in there every night as a rule or three or four times a week? A I go in there for an hour, sometimes two hours.

CASE 368

Q Sometimes three hours? A Well, yes.

Q Do you drink any there? A I take a drink once in a while.

Q You are a good friend of Torelli's? A No.

Q Are you not friendly with him? A Friendly with him, not a great friend.

Q How long have you known him? A Four years by going in the place.

Q And have seen him three or four nights a week?

A Yes, sir.

Q Yet you are not friendly with him? A I am not a great friend of his; I am friendly with him.

BY MR. STECKLER:

Q Are you friendly enough to come here and commit perjury for him?

Objected to.

Objection sustained.

Defendant excepts.

BY THE COURT:

Q You say the first thing^{that} attracted your attention there out of the usual course was that the partition that somebody was putting up fell over on you? A Yes, sir.

Q Then you got up from where you were? A Yes, sir.

Q And then the next thing that attracted your attention was you saw Torelli wiping blood off his face? A Yes, sir.



CASE 77-368

Q And the next thing was a scrap near the door? A Yes, sir.

Q And the breaking of glass? A Yes, sir.

EMIL JIANELLA, called on behalf of defendants,
sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 56 Amblet Place, West Hoboken.

Q Do you know Mr. Torelli? A Yes, sir.

Q How long have you known him? A About 12 or 13 years.

Q Do you know Parentini? A I know him.

Q Did you know him before that night? A I knew him before-- yes, sir.

Q Did you ever see him wait, act behind a bar, or wait in any way?

Objected to as leading.

Objection sustained. Defendant excepts.

Q Was Parentini in that place that night waiting at the bar or attending the bar so far as you know?

MR. TOWNSEND: Did you see him?

A No, sir.

Q Who was in the place that you knew? A My friend Aymo.



Q Where does he live? A West Hoboken.

Q What is your business? A Waiter.

Q Where do you wait? A In a couple of places, downtown and uptown.

Q Where? A In the Mutual Life.

Q In the cafe? A Mutual Life Insurance Company; it is a club upstairs.

Q Where do you wait in the night time? A 41st street, at Maria's.

Q How long have you been a waiter altogether? A About seven or eight years.

Q Do you know Mr. Torelli? A Yes, sir.

Q Have you been in the habit of going into his place?

A Yes, sir, every day sometimes.

Q Do you remember the night this trouble took place on the 12th of April? A Yes, sir.

Q Tell us in your own way exactly what you saw of this whole trouble. Just tell us all about it from beginning to end? A That is what I saw. I was playing billiards with my friend, like we used to, and when it was about half past eleven-

MR. TOWNSEND: I object to anything that

took place at half past eleven. The Captain was not there.

Q Tell us what you heard after that. Tell us the first

8937368
CASE #

you heard of any trouble? A About the trouble-- we were right up to the bar, we had the last drink ---

Q Had you stopped playing billiards? A Of course .

Q You were at the bar drinking what?

THE COURT: Let him testify.

Q Tell us when you were at the bar what you saw? A I was up to the bar and took the last drink and said to my friend---

Q Never mind what you said to your friend. Tell us what happened when you were at the bar? A When I was drinking the last drink, then all at once I turned myself, and I see a man smashing a glass in Torelli's face.

Q Where was that, what part of the bar? A The other end of the bar. I was about the middle of the bar, and it was right at the other end of the bar, the opening.

Q Towards the door, or where you go in the bar? A Where you go in the bar.

Q Up to the time you saw this man hitting Torelli with a glass was there any trouble of any kind that you saw? A I see four or five men, they jumped on him and started to push the man out.

Q Before you saw this man hit the glass in Torelli's face, did you see any trouble? A No.

Q The first you saw that this man hit Torelli's face with a glass? A Yes, sir.

CASE # 368

Q What happened then? A Torelli went with his hands right up to his face like that (illustrating), and my friend went to him. I don't know what he said to him; he just went to him and then I seen a crowd pushing the fellow out.

Q Which fellow? A I don't know-- that man.

Q The man that hit Torelli? A The same man. Afterwards, in at the front door, I heard smashing glasses front and I turned back and said to my friend "Now, there will be trouble; we had better sneak." And we walked out in the back door.

Q Where did you go? A I went out in Thompson street and then we came right in Bleeker street; and even there we were hearing smashing glasses yet. Then I said to my friend "Well, let us go and catch our boat". We live in West Hoboken, far away. And he said "Let us go, there will be trouble." We seen so many people running, policemen and one thing and another, and we went home, we walked down.

Q Walked to where? A To the Christopher street ferry.

Q What boat did you go on?

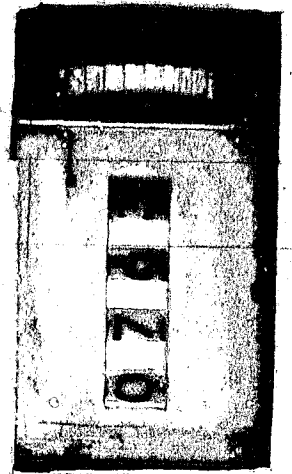
Objected to.

Objection sustained. Defendant excepts.

Q What hour boat did you go on?

Objected to as immaterial.

THE COURT: I will allow that.



A The 15 minutes past 12 boat. We used to take that boat many times.

Q Did your friend go with you? A He was with me of course.

CROSS EXAMINATION BY MR. TOWNSEND:

Q What kind of a glass did this man have? A A small glass, whiskey glass; I hardly noticed about that.

Q Which hand did he have it in? A That is one thing I can't remember now.

Q You can't tell what kind of a glass it was, or what hand he had it in? A It is one thing I can't remember. That business came up all at once.

Q In the evening how many bartenders were there there ?
A One.

Q And Mr. Torelli? A Occasionally helping him out.

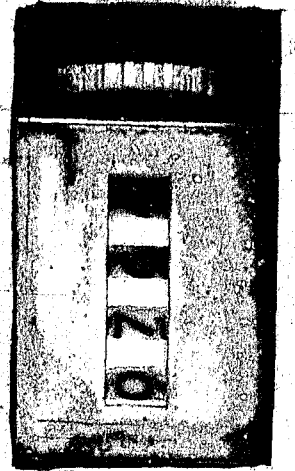
Q Don't they usually have three bartenders? A He never had three bartenders since I knew him.

BY THE COURT:

Q What time did you see this man strike Torelli with a glass ? A It is pretty hard to tell.

Q Say as nearly as you can? A It was about 12. It was the time; that was the time we generally took, me and my friend to take the boat.

Q Never mind about that. Tell me the time, not the gen-



CASE # 368

eral time. You say it was about 12 when he hit him? A About 12 o'clock.

Q And then your friend went and talked to Torelli?

A Yes, sir.

Q Then you went out through the sneak, through the back door and out on Thompson street? A I am used to that house.

Q What did you do that night? A I did-- yes, sir.

Q You went around into Bleecker street again? A Yes, sir.

Q And went in front of Torelli's place? A Yes, sir.

Q Did you look into the place? A I didn't look. I see so much confusion, men running from one side to the other. I said to my friend "Let us go and catch our boat."

Q Where does the boat start from? A Christopher street.

Q How did you go to Christopher street? A We walked down. It is not far.

BY MR. STECKLER:

Q How long did it take you to walk from there to Christopher street ferry? A Ten or 12 minutes.

Q Have you walked it often? A Many many times.

Q You didn't take a car? A We walked. There is no car to be taken. We walked down.

BY THE COURT:

Q No cars running at that hour? A Yes, sir; but there is no car to the ferry. When we go to the 14th street, there



893 77 368
CASE 77 368

is the Bleecker street car that goes there.

BY MR. STECKLER:

Q You have timed yourself often in taking that boat?

A Yes, sir.

Q Is that the usual boat you take? A Yes, sir, when we stay out late.

BY A JUROR:

Q How do you know you took a 12:15 Boat? A We used to do that.

Q How do you know that boat didn't leave at 12:30?

A I am sure of it. I reached home, and when I reached home my wife says "You are pretty late to night". I says "No; it is about ten minutes to one, so it can't be late."

Q Is there a clock at the ferry house, Christopher street ferry? A I didn't look at the clock; I have got a watch myself.

Q You go very often; you ought to know? A I didn't notice that much.

Q How do you know it was the 12:15 boat? A I am sure of it.

BY ANOTHER JUROR:

Q Have you got a watch? A Yes, sir.

Q Did you take that watch and look at it at the time you took the boat? A Yes, sir; I did.

CASE 368

Q You did look at the clock? A Yes, sir.

Q You said you did not? A I say, before I take the boat, I said before I leave the place there, I said to my friend----

Q I asked you did you pull out your watch when you got to the ferry, did you pull out a watch? A At the ferry boat, do you mean?

Q You said there was a clock and you didn't look at it. Did you pull out your watch and look at the time?

A Not in the ferry boat.

Q When you got to the ferry house? A Not in the ferry house. I pulled it out in Bleecker street.

Q You didn't pull out the watch at the ferry house to see it was the 12:15 boat? A No, not at the time there. I pulled out my watch on Bledcker street and said "We have just about 15 minutes walk."

BY ANOTHER JUROR:

Q How often do the boats run? A Every 15 minutes.

BY MR. STECKLER:

Q After the hour, for instance, 12:15, 12:30, 12:45, 1 o'clock? A Every 15 minutes.

Q From the hour? A 15 minutes.

BY MR. TOWNSEND:

Q Your wife said you were pretty late that night?

893-7368
CASE # 368

A Yes, sir.

Q Later than usual? A No. Many times I am out. I am not an early bird.

THE COURT: You don't take that 12:15 boat every night?

THE WITNESS: Not every night.

BY MR. STECKLER:

Q You take it when you are out late? A Yes, sir.

Q When you work nights how late do you work? A I am working until half past nine or ten.

Q It is a supper restaurant? A Yes, sir.

Q Early dinner restaurant? A Yes, sir.

LOUIS A Y M O, called on behalf of defendants, sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 228 Clinton avenue, West Hoboken.

Q What is your business? A Waiter.

Q Where do you wait? A I work in No. 13 Broadway, and 143 41st street evenings.

Q What restaurant Broadway? A Braguglia's.

Q At what on 41st street?

Objected to as immaterial.

893 77 368
CASE 77 368

A Maria's.

Q How long have you been a waiter? A 14 years.

Q Do you know Mr. Torelli? A Yes, sir.

Q Were you in his place on the night of the 12th of April, at the time this occurred? A Yes, sir.

Q This trouble. Will you please tell us in your own way exactly what you saw there? A I was with a friend of mine, Mr. Emil Jianella, in the bar room. We were playing a game of billiards, and we got through with the game about ten minutes to twelve, and we went to the bar room and had a last drink. We were going to catch the 12.15 boat; and so while we were getting our last drink all at once suddenly we heard trouble going on. We looked and we see a man who wanted to go to Torelli's bar room, back of the bar, and Torelli was there and tried to stop him, and all at once---

Q What did he do, show us what he did? A Torelli was stopping the man to go behind the bar.

Q What did he do? A Torelli didn't do any move.

Q How did he stop him?

THE COURT: Did he put his hand on him or what?

A I only see when Torelli is stopping him, he says--- well, I didn't exactly hear what he says, but I all at once see a man strike him in the face with a glass.

Q This man struck Torelli in the face with a glass?

CASE 77 368

A With a glass. And Torelli put his hand up to his face and says "Oh, my God." After that I went to Torelli myself. I went there to see what was the matter and of course the man that was alongside of me took hold of this man and tried to grab him out, take him out.

Q What was the condition of Torelli's shirt? A Torelli was all bleeding. And Torelli asked me, he says, "Louis, have I got my tie on, have I got my diamond stud in it?" And I found his tie between his tie between his vest and his shirt, all bled. And I told Mr. Torelli, I says, "You had better wash yourself right away quick."

Q What did you do? A All at once my friend Mr. Emil Jianella came to me and he says "Louis, there is trouble going on, let us go away." And so we went. I left Torelli and we went through Thompson street entrance, we went down to the street in Thompson street and then went down Bleecker street, and we went to the ferry and we got the 15 minutes after 12 boat.

Q When you left Thompson street and came to Bleecker street, did you come up to Bleecker and stand in front of the place a few minutes? A No.

Objected to as leading.

Q Did you hear breaking of glass? A I heard it when we were at the corner of Thompson and Bleecker.

CASE # 368

Q What did you do then? A We didn't pay any notice, we only seen a man running towards Torelli's place, policemen and so on, and we walked down to the ferry.

Q Did you walk or ride? A We walked to the ferry.

Q Have you often walked to the ferry from that place ?

A Always.

Q How long does it take you to walk from that place to the ferry? A Ten to twelve minutes.

Q What boat did you get, if you know? A 15 minutes after 12 boat.

Q How do you know it was the 12:15 boat? A We usually catch the 12:15 boat, especially on Saturday, me and my friend.

Q Usually on Saturday nights? A Yes, sir.

Q Did you look at your watch? A Yes, sir.

Q When? A Just at the time I got to the ferry.

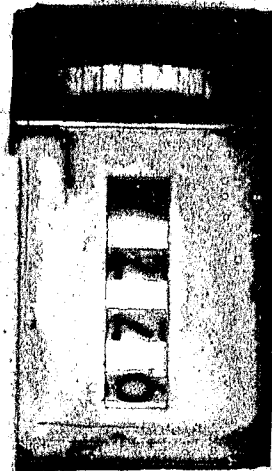
Q What time was it then? A It was 14, 13 or 14 minutes after 12.

Q And you got that 12:15 boat? A 12:15 boat-- yes, sir.

Q Are you related to Torelli any way? A No.

Q You simply go into his place? A Yes, sir.

Q Have you any interest in this case at all? A No, sir, not any.



893-368
CASE 77-368

CROSS EXAMINATION BY MR. TOWNSEND:

Q Who was behind the bar that night with Torelli?

A Nobody was behind the bar with Torelli. Torelli served us the last two drinks, me and my friend.

Q The Captain swore he got a drink served to him from behind the bar by another man. Did you see the Captain get a drink there? A No.

Q And another man give it to him? A No. There was so many men I didn't notice.

Q And Torelli testified there was another man behind the bar? A I didn't notice no other man behind the bar.

Q There was not any? A I didn't notice any.

Q Would you have seen him if he had been there?

A We were taking our drink and didn't pay any notice if there was any man behind the bar.

Q How do you know it was ten minutes to 12 when you got through billiards? A We finished the game and wanted to get that boat.

Q You say this man tried to get behind the bar and Torelli would not let him? A Of course.

Q What did Torelli do? A He didn't make any move.

Q Stood still? A Torelli tried to stop the man. He says---

Q How did he stop him? What did he do? A I didn't see.

803-368
CASE 44-368

Q You didn't see what he did? A No, sir.

Q Did you see what he did with his hands? A No, sir.

Q You could not see? A Of course I seen Torelli was there; he just tried to stop the man.

Q What did he do? A Just to take the man and say "What do you want to do behind the bar?"

Q Took him by the coat or how? A No, no, I didn't see that.

Q He says "What do you want to do?" What did the man say? A I didn't hear that.

Q What kind of a glass did the man have in his hand?
A I didn't notice.

Q How do you know it was a glass? A It was glass; I heard it smash on his face.

Q You heard the glass smash? A Yes, sir.

BY THE COURT:

Q Did you notice whether the man who did that whether it was his right or left hand he struck it with? A Left hand.

Q Did you notice whether his left hand was cut at all or bleeding? A No, I didn't notice that. There was two or three men alongside of me in the bar and they took hold of him and took him away.

Q Took hold of whom? A Of the man that struck Torelli.

Q Did you see any of them strike him? A Strike who?



89377368
CASE 77-368

Q Strike this man? A I see that he was taken away, and I went towards Torelli.

Q Did you see anybody strike him? A No. I went to Torelli and tried to fix up his tie.

Q Get his diamond pin and fix up his tie? A Yes, sir.

Q Then you told him he had better wash the blood off?
A Yes, sir.

Q Did he wash it off? A I didn't see him. I was away.

Q Did he take a towel and wet it with whiskey? A I didn't
A I didn't see it.

Q Now I will ask you again. You say you didn't hear what he said, but that he stopped his going behind the bar. How did he stop him. Did he put up a bar across it, or what did he do? A He went towards the man, the man was coming this way (illustrating) and said "What are you doing here?" You heard that? A No, I didn't hear it, but I see him move.

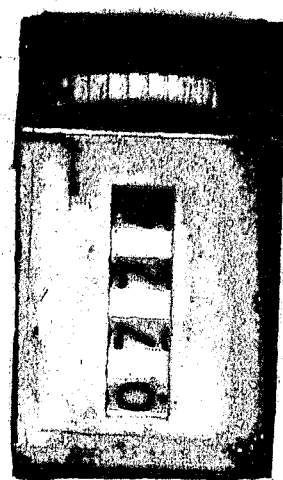
Q How do you know he said that? A He would have said it.

Q You say you didn't hear him say it? A Who?

Q Didn't hear him? A No, sir, I didn't hear him.

Q Then why do you say he said "What are you doing here"? Did he push the man back? A He stopped him from going behind the bar.

Q You have said that a number of times. How did he stop



CASE 77-368

him, by putting his hands against him? A Well, I can't
tell.

150

Q You didn't see it? A No.

Q All you did see was that this man struck Torelli
with a glass? A Yes, sir.

A JUROR: The question was put to this
witness if he saw anything behind the bar. He said
he didn't see anything. I would like to know how
him
could he see that man strike with a glass?

MR. STECKLER: He didn't say that.

A JUROR: He said he saw him strike him with
a glass. How did he see him if he didn't see
anybody behind the bar.

MR. STECKLER: He does not understand.

A JUROR: He told the District Attorney he
didn't see anybody behind the bar and he testified
he saw the Captain strike Mr. Torelli with a glass.
I would like to know how did he see it if he saw
nobody behind the bar?

THE WITNESS: I didn't notice anybody behind the
bar because we were having a drink with a friend of
mine, Mr. Emil Jianella.

A JUROR: How did he see him strike him with
a glass when he didn't notice anybody behind the
bar?

CASE # 368

THE COURT: I think he does not understand.

(To witness) Did you see Torelli then?

THE WITNESS: In the bar-- yes, sir.

THE COURT: Was he behind the bar?

THE WITNESS: Yes, sir.

THE COURT: He meant there was nobody else behind the bar.

A JUROR: If he didn't see anybody, how did he see him strike him with a glass.

THE WITNESS: I saw Torelli making a move.

BY MR. STECKLER:

Q Did you see the man hit with a glass? A I seen it right away that the man had his hand yet on Torelli's face, and the glass fell on the floor, the glass that smashed in his face.

BY A JUROR:

Q You didn't see him struck with the glass you said. You judged by the noise of the glass, did you? A Between the noise and the look of the man.

Q Did you see the glass in his hand? A No, sir.

BY MR. STECKLER:

Q Did you see the man put up his hand to strike him?
A To strike Torelli.

Q The juror is in doubt whether you saw anybody behind

CASE 77-368

the bar. Did you see anybody outside of Torelli behind the bar?

A JUROR: He testified he didn't see anybody.

Q Did you say anybody was behind the bar? A I didn't notice anybody.

Q Was anybody else behind the bar but Torelli? A I didn't see anybody.

Q This stroke he struck Torelli-- did he go behind the bar or on the side of the bar? A On the side of the bar.

Q This did not happen behind the bar? A No, sir; right on the side of the bar, like this (illustrating.) This is the bar and there it was, on one side.

A JUROR: He said he went to the end of the bar and Torelli stopped him there.

A N T O N I O Z U C C A, called on behalf of the defendant, sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 2402 Seventh avenue.

Q What is your business? A Fruit and Italian produce.

Q For years you were Coroner of this county? A Four years-- yes, sir.

Q Do you know Mr. Torelli, the defendant? A I know him -- yes, sir.

CASE # 368

Q How long have you known him? A probably eight or nine years, or seven years.

Q Do you know what his reputation is, do you know other people that know him? A Yes, sir.

Q Do you know what his reputation is for peace and quiettude? A We think he is a good man.

Q And he is known as such among all the people that know him? A By the Italian colony, yes, sir.

BY THE COURT:

Q How long have you known him? A Seven or eight years.

Q He is a member of the Italian Society, is he not?

A I don't know. We meet in his place, all the Italian societies meet in his place, in the back of his place. He has a kind of headquarters for Italian societies.

BY MR. STECKLER:

Q His place is headquarters for Italian societies?

A For a good many.

Q Has he got a respectable place?

Objected to.

THE COURT: That will not do. It has nothing to do with the issue whether he assaulted the officer or not.

CASE 368

C E S A R E C O N T I, called on behalf of the defendant,
sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you reside? A 215 East 61st street.

Q What is your business? A Banker, 35 Broadway.

Q I believe you are the correspondent of the Bank of
Naples? A Yes, sir.

Q And as such for how many years have you known Mr.
Torelli? A 15 years, 14 or 15 years.

Q Have you been into his place often? A Yes, sir.

Q Do you know other people that know him? A Lots of
them.

Q What is his reputation for peace and quietude in this
community? A Very good.

Q Is his reputation of the best among the Italian com-
munity? A It is, sir.

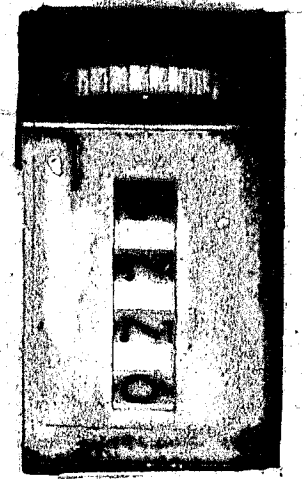
T H O M A S G R A H A M, called on behalf of the defendant,
sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 160 Bleecker street.

Q What is your business? A Bottler.

Q Whom do you work for, what firm? A G. B. Seely &



Sons.

Q How long have you been in that business altogether working at it? A About five years.

Q Do you know Mr. Torelli? A Yes, sir.

Q Have you been in his place, were you in his place on the night of the 12th of April, the night of this trouble?

A Yes, sir.

Q What were you doing there? A Playing cards.

Q What were you playing? A Euchre.

Q Who was playing with you? A Mr. Anderson was one.

Q That is one of the men that were here? A Yes, sir; and Lang, and another fellow, I don't know his name.

Q Do you recollect anything occurring around the hour of 12 o'clock? What if anything attracted your attention around that time? Tell your own story in your own way, please? A About ten minutes to 12 we were told to get out, to stop playing cards, to get out.

Q How was it? Who announced it, who told you that? How was it announced? A Torelli says "Get out boys"; it is time to close up".

MR. TOWNSEND: Objected to, unless it is shown that the Captain was in there.

MR. STECKLER: I want to show what was done.

THE COURT: I will allow it, as to the fixing



CASE # 368

of the time.

MR. STECKLER: I claim that it has nothing to do with whether he was violating the law or not.

Q After you heard that what happened? A We heard a scuffle in the front bar, front of the room. The bartender had just put up the partitions-- one of the partitions was knocked down, I looked around to see what was the trouble and I see a lot of men around an old man trying to push him towards the door. They had hold of him. The old man was fighting and striking, and they got him through the door, to the outside, then he began to kick the panels of the door in.

Q How did he kick them-- from where? A From the outside.

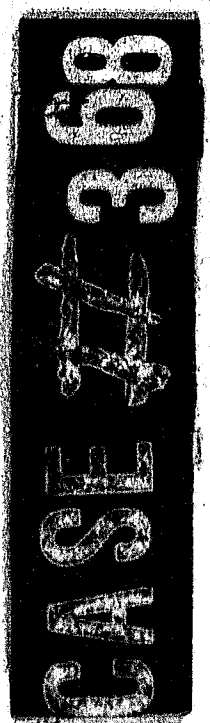
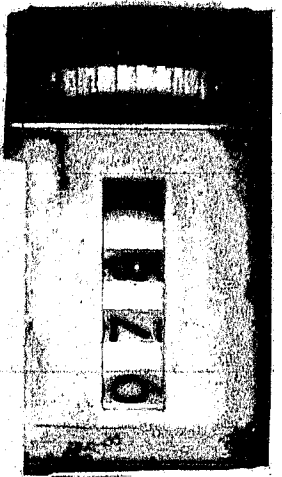
Q Kicking in? A Kicking in.. I went on the outside then. We got out and went on the sidewalk, and in about two or three minutes an officer came and grabbed this man by the back of the neck.

Q Grabbed which man? A The old man that was kicking in the panels. He asked him what he was doing there.

Q You can use the language he used? A He says "Hey, you old son of a bitch, what are you doing here?" He grabbed him and shook him by the back of the neck.

BY THE COURT:

Q The officer grabbed him and said that?



A Yes, sir, he shook him by the back of the neck, and he looked around and says "I am Captain of this precinct; I want you to go in here and make an arrest". The officer looked at him for a second and walked in the place. He came out afterwards and rapped on the sidewalk with his club and two of the other policemen came to his assistance.

CROSS EXAMINATION BY MR. TOWNSEND:

Q You had your hands in your pockets all the time?

A I was standing on the sidewalk.

Q Looking on? A Yes, sir.

BY MR. STECKLER:

Q Did you know Parentini before that night? A No, sir.

Q Did you ever see him until after the arrest? A No.

Q Was he waiting that night or tending the bar, so far as you know? A No.

Q Did you see him there at all? A No.

BY MR. TOWNSEND:

Q Who was the bartender that night? A A fellow called Emilio.

Q He attended the bar? A Yes, sir.

Q What did you first hear? A I heard a scuffling.

Q Where was that scuffling? A Out in the front bar.

Q Front of the bar. Did you see Torelli then? A I was



CASE 368

behind the partition.

Q Behind the partition? A Behind a partition.

Q You were not in the bar room at all? A Not where the bar is, after the partition was put up; I was back of the partition playing cards.

Q Always play euchre, do you? A Yes, sir.

Q Never played any other game? A I have always played euchre there.

Q Never played any other game in there? A I never played any other game in there.

Q Did you ever see any other game played there but euchre? A I have seen pinochle played there.

Q Is not poker played there? A No.

Q Do you play it? A I can play it.

Q You didn't take any hand in this proceeding at all?

A No.

Q You saw this old man being pushed out by the crowd?

A I saw part of it-- yes.

Q Was he in the saloon when you first saw him and they had hold of him? A In the saloon-- yes.

Q Were the doors open? A The doors of the saloon?

Q Yes. A I could not say.

Q Did they shove him through the doors? A The door was open when he went through the door.

CASE 77 368

Q Who opened the door? A I don't know.

Q Then you say you went out? A I went out-- yes, sir.

Q And he turned around, the Captain did, and broke in the panes of glass? A He was between the two doors, the storm door and the inside door when I went out--- kicking in the panels.

Q Did he say what he was doing it for? A No.

Q Did he make any statement at all? A No.

Q He was just breaking in the doors? A Breaking in the panels of the door.

Q Was he under the influence of liquor? A I don't know.

Q Can't you tell when a man is drunk or not? A Not all the time.

Q How many drinks had you that night? A I didn't have any.

Q You don't drink? A Not very much.

Q What do you do for a living? A Bottler,-- soda water.

Q In that neighborhood? A No.

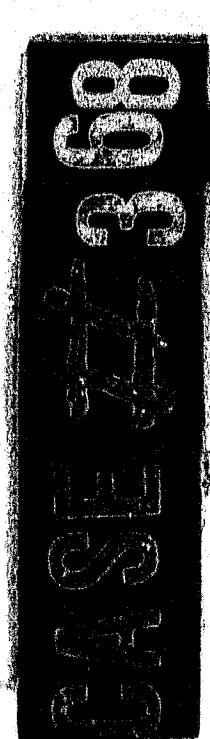
Q Where? A The last place was Seely's.

Q How many times have you been talked to about this case? A Twice.

Q By whom? A By the lawyer.

Q Did you go down to the station house that night?

A No.



Q Did you go to the police court? A Yes, sir.

Q Did you testify there? A No.

Q Why not? A I was not asked.

MR. STECKLER: There was no testimony there except the Captain's. I object. The record is here.

THE COURT: Counsel is questioning the witness.

BY MR. TOWNSEND:

Q Who first talked to you about this case? A The lawyer.

Q Where did he meet you? A I went to his office.

Q Did he send you word? A I was told to go down.

Q By whom? A By Torelli.

Q What did Torelli say to you? A He told me to go down there and give my statement of what I saw.

Q Did he ask you what you saw before you went down?

A No.

Q What time did this happen? A Which?

Q This trouble? A About five minutes to 12.

Q How do you know it was five minutes to 12? A I was sitting opposite the clock, same as opposite that clock there.

Q What did you want to take any note of the time for?

A My partner wanted to go home, and he called my attention first to the fact that it was five minutes to 12. He said it

CASE # 368

was time we were home.

Q Did you ever stay in there after 12 o'clock at night? A No, sir.

Q Never? A On week nights-- yes, sir.

Q You stayed in there how late week nights? A Until closing time.

Q Five minutes of one? A Yes, sir.

Q Never stayed there after one o'clock? A No, sir..

Q Never stayed there on Sunday morning after 12 o'clock? A No, sir.

Q You have not any watch? A No. I only go by the clock.

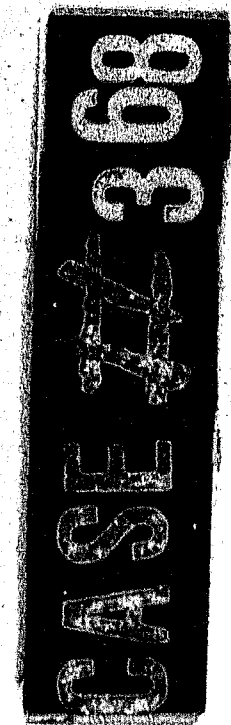
Q Did the Captain have any blood on him? A I didn't notice it.

Q You saw him being pushed out of the door? A I saw him being pushed out of the door.

Q Couldn't you see whether there was any blood on his face? A I didn't notice any.

Q Did you look on his face? A I saw the man, but didn't notice anything wrong with his face.

Q Didn't see any blood on him? A No, sir.



J O H N A N D E R S O N, called on behalf of the defendants, sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q What is your business? A Waiter.

Q Where do you live? A 51 Greenwich avenue.

Q Who do you work for? A 352 Third avenue.

Q How long have you been a waiter? A Nine or ten years.

Q Do you know Mr. Torelli? A I do.

Q Do you go to his place occasionally? A About three or four times in the week on the average.

Q Were you there on the night of this trouble the 12th of April? A Yes, sir.

Q Tell us in your own way exactly what you saw? A At the time of the trouble we were behind a partition.

Q Were you playing cards? A Yes, sir; we were playing cards, a party of four or five of us, behind the partition.

Q Was this last witness playing cards with you? A Yes, sir.

Q Mr. Graham? A Yes, sir.

Q Go on. A About 12 minutes to 12, as near as I can fix the time, some one in our party called our attention to the fact that we had just finished a game and it was then about 12 minutes to 12; and somebody said "We can't play any more, it is too late." Just about that time somebody called out,

893-77-368
CASE 77-368

"All out-- twelve o'clock." But we still made up our minds we thought we could play another game. So we started to play another hand. And with that we hear a noise inside, and someone in our party spoke up and said "Boys, there is trouble inside; let us go out." And with that all the rest of the party got out, outside of me and I stopped to put on my overcoat. I had an overcoat with me; and they all got out perhaps two or three minutes ahead of me. We got out on the sidewalk. In the meantime the glass was being smashed and there was a noise inside; and as soon as I got out on the sidewalk I discovered that one of our party was left behind, and we all consulted, and somebody said "We ought to try and do something for Murray." And with that I went up and spoke to one of the officers on the sidewalk. And the officer said "Were you in there?" And with that he pushed me inside and I was arrested. And we all stayed inside and he brought down people from upstairs, two young men, Parentini is one, I believe.

Q This young man here (indicating)? A Yes, sir, Officer Sullivan was the one that brought him down and he said to the Captain "Is that one of them?" The Captain says "No". The Captain points him out and says "That is not him". Officer Sullivan says "You can go upstairs again."

Q Was Parentini in that saloon at all that night, so far as you know? A Never seen him in my life till he was

CASE # 368

was brought down.

Q Were you discharged from the Police Court? A I was.

CROSS EXAMINATION BY MR. TOWNSEND:

Q You commenced to play a second game of cards, A Yes, sir.

Q How far had you got along in that game? A We had just dealt the hand out, that is all.

Q That was after somebody had announced to you it was 12 o'clock? A Yes, sir.

Q So you didn't go out promptly at 12? A As near as I could figure the time it was about three or four minutes before 12.

Q You said somebody says "Get out of here, it is 12 o'clock", and yet you went on playing cards another game? A It is our custom to do that. The proprietor every night announces a few minutes before 12 to give an opportunity to finish a game.

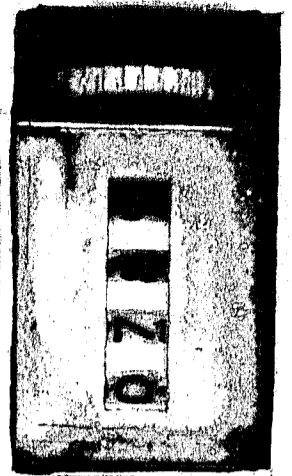
Q That place is running on railroad time, is it, Western Union time?

Objected to.

Q Do they have an electric clock there? A No.

Q Do you carry a watch? A No. They had a clock over the door.

Q Had you looked at the clock? A I did.



CASE 47 308

Q Everybody could see the clock up there? A Yes, sir.

Q All eyes were turned on the clock at 12 o'clock?

A Not just about twelve, a few minutes before twelve.

Q Is there a gong that rings at 12 o'clock precisely?

A No.

Q You go in there every night? A Not exactly every night, three or four times a week.

Q What do you do for a living? A I am a waiter.

Q Spend your evenings in there? A As I say on the average three or four times a week.

Q Spend your money in there? A Some-- yes, sir.

Q What do you drink? A It depends how I feel; sometimes I drink whiskey, sometimes beer, sometimes soda.

Q Did you drink anything that night? A Very little; perhaps one glass of beer all evening; I was not feeling very well.

Q Did you see this gray haired man hit Torelli with a glass? A I did not.

Q You could not see because you were behind the partition? A Yes, sir.

Q How many were in there at the time? A Eight or nine in our party and perhaps fifteen or twenty men as near as I can figure, outside of our party.

Q How many had hold of the old man putting him out?



CASE 77-368

A I don't know.

Q Did you see them putting him out? A No.

Q Where did you go to? A I was behind the partition.

This took place inside of the partition.

Q Did you hear a noise? A Yes, sir.

Q Did you keep on playing cards? A No. It broke up the game.

Q What did you do then? A Started to go out, put up the cards, put my coat on and got outside as quick as I could.

Q What for? A I didn't want to get mixed up in any trouble.

Q Did you go to where the trouble was? A No.

Q Which way did you go? A Outside.

Q Which door did you go out at? A At the side entrance.

Q Did you see anybody hit the Captain? A I did not.

Q Who had hold of him? A I don't know; I didn't see.

Q Did you see anybody have hold of him? A No.

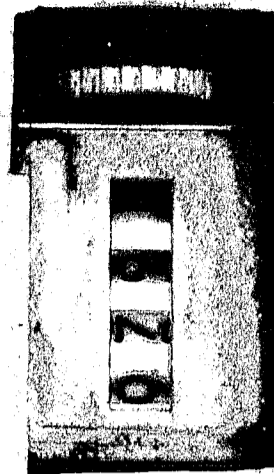
Q How do you know they had hold of him? A I don't know.

Q Did you see them put him out? A No.

Q Did you see him do anything? A No.

Q How many bartenders have they got there? A One bartender, one waiter.

Q What is the waiter's name? A I don't just know exact-



896 368
CASE 368

ly, Castruccio, or something like that.

Q Does he ever go behind the bar? A Occasionally.

Q On a rush? A Yes, sir.

Q You have seen him help out there? A I wouldn't say I have. I wouldn't say he has been behind the bar. I can't recollect that I ever ^{did} seen him there.

BY THE COURT:

Q Do you know Emil? A Gioggi? -- yes, sir.

Q What does he do? A He is bartender.

Q Was he there that night? A He was there that night, putting up a partition.

Q Had he been serving drinks? A He had been serving them to the waiter and the waiter served them to the tables.

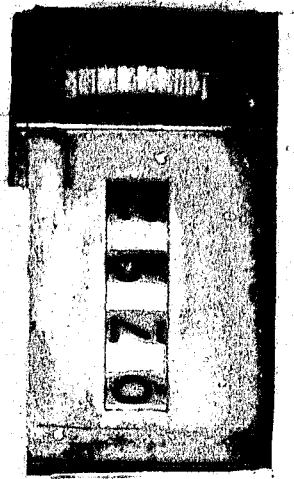
Q He was not behind there? A He was previous to his work in putting up the partitions.

BY A JUROR:

Q It was testified that the partition was just being put up. You and your companion said you were playing behind the partition. Where was the bar room? Was the bar room back of the partition or front of the partition? A The bar was back of the partition-- in front of the partition, I mean, towards the street.

Q You didn't see the bar room? A We could not see it.

BY THE COURT:



Q You were playing cards? A Yes, sir.

Q What were you playing? A Euchre.

BY MR. STECKLER:

Q A part of the partition was put up, part of it was being put up? A It was just about finished as this occurred.

THE COURT: Don't lead him.

Q What did you notice the bartender do that time?

A He was putting up the partition.

Q Was the partition up where you were or down? A It was just finished as this thing occurred.

EMIL GIOGGI, called on behalf of defendants,
sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 47 Carmine street.

Q What is your business? A bartender.

Q For whom? A Torelli.

Q How long have you been bartender for him? A Four years and a half.

Q Still bartender for him? A Certainly.

Q Do you remember the night of this trouble, the 12th of April? A Yes, sir.

Q What were you doing at the time this trouble took

CASE 77 368

place? A Putting up the partitions.

Q How many had you put up, or had you put any up yet?

A Two of them.

Q What were you doing with the third one? A Carrying the partitions from the yard to the bar.

Q Who was helping you? A The waiter.

Q What is his name? A Gastruccio.

Q Was there any other barkeeper or any other waiter there besides you and him? A No.

Q Do you know Parentini here? A Yes, sir.

Q Does he ever wait or attend bar there? A Never.

Q Did he wait or tend bar there that night? A Never.

Q While you were putting up these partitions what happened? A When I finished putting up the partition, I see an old man come in the bar stop at the front of the bar, speak to Torelli, but I could not hear what he said, because there was ^{people} near. I could not hear what he said to Torelli. I see the old man walking down the bar, and I see some fellows playing cards and after he walked up again and went in front of the bar, I suppose to have a whiskey, I don't know, but I heard afterwards.

Q You didn't see that? A No.

Q Tell us what you saw? A I seen the old man come there to Torelli and get him by the neck; and he had in his hand a

893 368
CASE # 368

glass of whiskey, and he smashed the glass in the face of Torelli.

BY THE COURT:

Q The glass of whiskey? A A regular glass of whiskey, a whiskey glass.

Q Not a glass of whiskey? A There was whiskey in the glass.

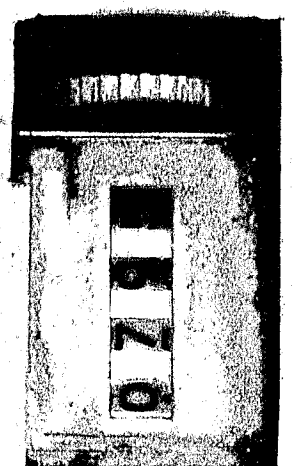
Q And he hit him in the face? A Hit him in the face. And the partition fell on me and another on Murray; and Murray helped me pull the partition up.

BY MR. STECKLER:

Q Murray helped you put the partition up? A I told the other people to get out and I walked to the back yard in the other saloon to see if anybody was there to tell those members who were at the place it is twelve o'clock, to go outside. I didn't notice anybody in there. I put out the lights, closed the windows and the door. And when I was in the yard again I heard the breaking of the window of the glasses. I didn't know what was the matter, and as soon as I reached the front of the bar, I seen the Captain grab him by the neck.

Q The Captain grabbed you? A No. One of the policemen grabbed me, an officer grabbed me by the neck and said "You are arrested."

Q Are you any relation to him, Torelli? A No.



893-77368
CASE 77-368

CROSS EXAMINATION BY MR. TOWNSEND:

Q Did you see anybody touch the Captain? A No, I am inside the dining room. It is separate, the saloon and the dining room.

Q Was anybody else tending bar besides you and Torelli?
A Only Torelli and me.

Q You say you saw the Captain come in? A Yes, sir.

Q And went up to Torelli? A Spoke in front of Torelli.

Q Did you watch him from that time on? A No; I see the old man speak, that fellow, but I didn't bother with that, I was so busy.

Q Then what did he do after that? A After that he walked through the bar and see some fellows playing a card, and he stopped a few minutes and walked up in front of the bar again.

Q The Captain did? A The old man. He went-- I don't know if he asked for a whiskey or not.

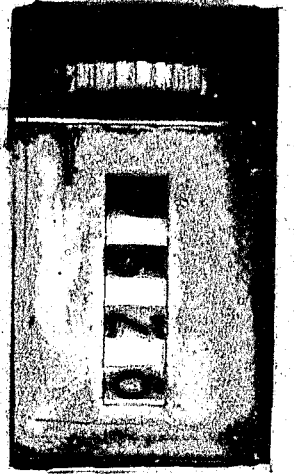
Q Who helped him to whiskey? A I don't know.

Q Did anybody help him to anything? A Nobody; I didn't see anybody.

Q Did you hear him call for whiskey? A No.

Q Did you see him drink any whiskey? A No.

Q Was there anybody behind the bar beside Torelli at



CASE 368

that time? A Only Torelli at that time behind the bar.

Q Was there anybody behind the bar when the Captain first went in and spoke to Torelli? A Only Torelli behind the bar at the time he came in.

Q What about the young boy that helped ^{him} to whiskey?

A I didn't see the boy.

Q You saw no boy behind the bar? A I saw no boy behind the bar.

Q You could see behind the bar? A Certainly. It is only about five feet from the partition to the bar.

Q You swore there was nobody behind the bar when the Captain was talking to Torelli, and when the Captain walked up and down and in front of the bar only Torelli was behind the bar? A Only Torelli behind the bar.

Q Will you swear the Captain didn't get a drink of whiskey there that night? A I see the Captain come by and take up the whiskey---

Q Who helped him to the whiskey? A I don't know, only I saw him get Torelli by the neck.

Q Did you see the Captain drink the whiskey? A No.

Q See him helped to the whiskey? A No.

Q Did you see any whiskey? A I see whiskey inside the glass and in his hand. He was walking through the bar to get inside of the bar.

CASE 368

Q You have a cash register there? A Yes, sir.

Q Did you see the Captain after this trouble was over?

A Never.

Q Did you see him when they put him out? A I don't see him. I am inside the partition, and went in the back of the house to see if anybody was in there. I was afraid some policeman would come and be trouble there and bring trouble into the house.

BY THE COURT:

Q Did you ever see that stick (referring to Exhibit)?

A Yes, sir.

Q Where did you keep it? A In the front behind the bar.

Q Was it there that night? A Certainly. It was in the same place. The policeman came and took it.

Q Hanging behind the bar? A Hanging on a nail.

BY MR. TOWNSEND:

Q Did you see Torelli speak to the Captain? A No, I didn't see Torelli speak-- I heard him say "All out". And I see the old man walking quick to get behind the bar.

Q Did you see Torelli do anything to ~~an~~ the old man?

A Only he spoke to him. I don't know what he said. I saw him grab him around the neck and mash the glass in his face.

BY THE COURT:

Q Was the Captain there when Torelli said "Boys get



CASE 77-368

out of here, the time is up"-- was the old man in the room then? A Yes, sir; the old man was in the room.

BY A JUROR:

Q You saw the Captain smash Torelli with a glass in his face? A Yes, sir.

Q Where did you go after that? A The last piece of the partition was in my hand.

Q And nobody touched the Captain then? A Nobody touched the Captain, only him touched Torelli with the glass.

BY MR. STECKLER:

Q Could you see whether anybody touched him? A I didn't see anybody touch the Captain.

Q Didn't the partition?

Objected to.

Q What happened to the partition when you saw that?

A The partition fell on me.

Q Towards the back?

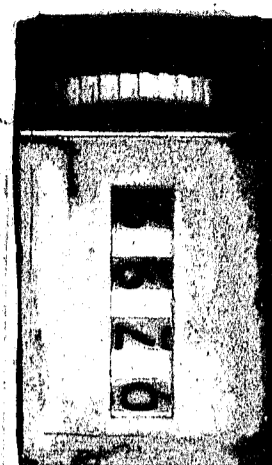
Objected to.

THE COURT: I cannot allow you to put such a question. You are leading him right along.

MR. STECKLER: I insist on putting my question in that way.

THE COURT: I insist that you shall not.

Defendant excepts.



CASE # 368

BY A JUROR:

Q How far was this partition away when the captain struck Torelli? A A few feet.

Q Was that partition in front of the bar towards the street or towards the entrance? A Right to the front--- at the last of the bar, not to the front. The partition is right here (illustrating), and the bar here, and about seven feet from the bar it was the last piece to put up.

Q When you go behind the bar do you enter the bar from the front or the rear end? A I go to the rear end.

Q How long is that bar? A Eight or ten feet.

Q And the partition is to the front of the bar? A To the front of the bar.

Q Two feet from the front of the bar? A No, seven feet.

Q The bar is about 25 feet? A Yes, sir.

Q Seven and 25 makes 32 feet from the partition, the entrance to the bar from the back end? A It might be that much.

BY MR. STECKLER:

Q Was this partition in front of where you go behind the bar or behind that? A Behind.

Q Here is the front entrance, say, (illustrating)?
A Yes, sir.

Q Then the bar runs back? A Yes, sir-- this way

CASE 368

(illustrating).

Q Then there is a way to go in the bar? A This side--
right here.

Q Were you in the front of that side or was your partition behind that? A Right in the corner like that, on the front of the bar.

Q Was it in front of where you go in the bar or behind where you go in the bar? A On the front.

Q What do you mean by the front? A The partition is like that (illustrating) and you go across here; and that corner they put the last pieces in.

Q Behind where you go in---

THE COURT: I will get it out for you.

BY THE COURT:

Q The place where you go inside the bar that is towards the back of the building and not towards the front? A Yes, sir.

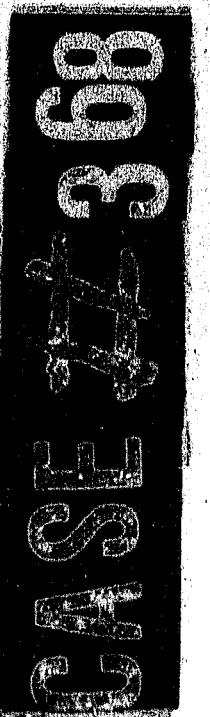
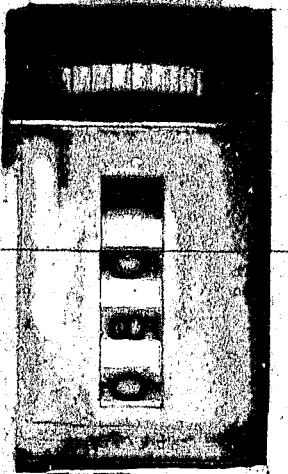
Q When you put up this partition it goes all around the bar, does it not? A It goes all around the bar.

Q Which end of the bar did you commence to put it up?
A Mr. Torelli's.

Q Near where you go into the bar? A Yes, sir.

Q How many pieces had you put up? A There was about fourteen pieces.

Q How many had you put up? A We had the last pieces to



put up.

Q Did you say 14 or 4? A 14.

Q How many of these had you put up already? A All-- I had only the last piece to put up.

Q Where did you commence? A At the side door.

Q Near where you go into the bar? A No.

Q You put up a partition that covered the bar? A Yes, sir.

Q Did you commence nearer the street or back of the house? A Near the street and coming towards the bar, because here (illustrating) is a door to come inside the bar.

Q When you put up all these pieces does the screen cover the place where you go into the bar? A Yes, sir.

Q Or is that left open for people to get inside? A That is to cover the bar and you make a hole for people to go inside of the dining room.

Q There is a place to get inside? A Yes, sir.

Q There is no part of the screen that covers the place where you get inside the bar? A No.

BY A JUROR:

Q How many entrances are there to that bar? A Only one.

Q You start from the street? A Yes, sir.

Q Is that bar a circle? A Square.

Q Was it a cigar case on it? A No.

Q You can't get in that entrance, you jump over the bar, don't you? A It has an entrance.

Q Only one entrance, from the rear of the bar? A The rear of the bar.

Q You don't enter from the front? A No.

Q Did you put the partition across the front or all the way round the bar? A All around the bar.

Q You started from the front entrance? A From the front entrance.

Q By the time you got near the end the Captain struck Torelli? A The first partition I got to put up is right in the front, I went towards the other end.

Q You were down near that end when the Captain struck Torelli? A When I got the last piece I saw the Captain walk in.

Q And the partition fell on you? A Yes, sir.

Q It didn't strike the Captain? A No.

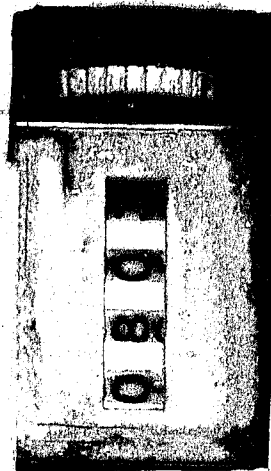
MR. STECKLER: We have here a diagram?

MR. TOWNSEND: I object.

BY MR. STECKLER:

Q Mark it out for us. Suppose this is the front of the house (referring to diagram)? A Yes, sir.

Q That is the bar. Show us, if you walk in that door, where you turn into the bar? A This is the entrance. This



CASE 44-368

is the side door. This comes through here. The partition comes here and goes away down here. That is the entrance to the bar. I pulled out this partition, and after I came here I got here and I see the Captain walking down here and he got Torelli here.

Q You were not in front of this part where you go in?

A I am right there (indicating).

Q Right there in the back? A In the back of the partition.

BY THE COURT:

Q Did the Captain walk down between the partition and the bar? A The front of the bar.

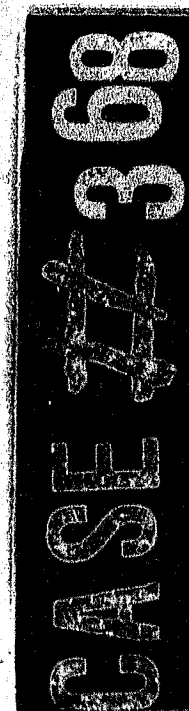
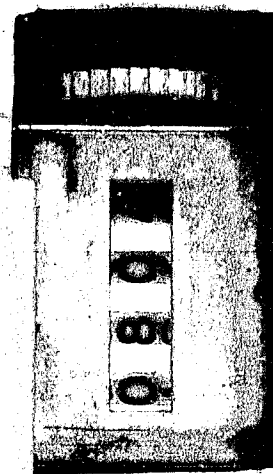
Q And between the partition and the bar? A Between the partition and the bar because he had to close up.

Q It was testified that the Captain went to the front of the bar and spoke to Torelli? A Yes, sir.

Q How could the Captain get to the bar when he could not get through the partition? A The front door is open.

Q You said the partition is around the bar. How did he get in front of the bar? A When the captain spoke to Torelli then I have about four pieces to put up.

Q You didn't see him in the front of the bar? A I saw him come in and speak to Torelli and he went through the bar.



Q Where was Torelli? A Behind the bar.

Q Did he speak through the partition to Torelli?

A No; the Captain is in front of the bar.

MR. STECKLER: I object to this juryman asking the questions and confusing the witness on the question as to where this partition is.

THE COURT: You have no right to impugn the juryman's motive.

BY MR. STECKLER:

Q You have the diagram here. where is that partition, is it on this side of the entrance or on the other side of the entrance? (Referring to diagram.) A The other side of the entrance.

Q Where is the door? A The door is front and there is a side door on the corner.

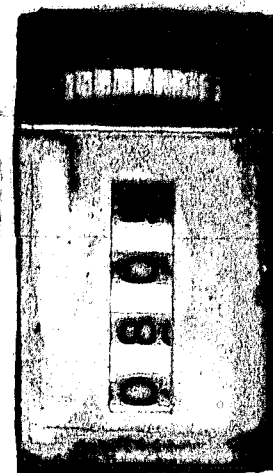
Q What side of the door is the bar as you walk in?
A In the front.

Q As you go in the door, what side, as you walk in, what side is the bar? A From the partition?

Q No. As you come in from the street what side is the bar? A This side (indicating).

Q Left side? A On the left side.

Q What side is the partition? A That side. (indicating).



Q Is the partition on the other side of the door? A On the other side of the door-- yes, sir.

Q And there is nothing between the door and the bar?

A Nothing between the door and the bar.

THE COURT: I must insist again that in examining your witnesses you must not suggest the answers. I have told you that a number of times.

MR. STECKLER: This jurymen apparently is prejudiced.

THE COURT: You have no right to cross examine your own witness.

MR. STECKLER: It is in the interests of justice.

THE COURT: You must comply with the rules of the law and you cannot comment on the juror. Are you through with this witness?

MR. STECKLER: No, your Honor.

BY MR. STECKLER:

Q Does the partition as you go into that bar room hide the entrance of the bar at all?

Objected to.

THE COURT: I will sustain the objection.

Defendant excepts.

THE COURT: It is a leading question and you have no right to put it.

CASE # 368

Q Tell us how many feet there are between the partition and the bar as you come in from the front door?

MR. TOWNSEND: I object to that. He has already answered it.

THE COURT: He may answer that.

A How many feet from the partition from the bar?

Q (Through the Interpreter) How many feet is there between the partition and the bar? A Seven or eight feet.

Q And where is the entrance when the partition is up?

A The side door?

Q The front entrance-- is that between the bar and the partition, or is it not? A It is between the partition and the bar.

CROSS EXAMINATION BY MR. TOWNSEND:

Q What is your name? A Emil Gioggi.

Q You were not discharged at the Police Court? A No.

BY A JUROR:

Q Where is that side entrance? A Corner of the house.

Q You say there is seven feet of room between that bar and the partition? A About that much.

Q So there is a side door through the partition, or is it from the house? A Through the partition.

Q From the side or front? A From the side.

893 77 368
CASE 77 368

Q Side door-- and the Captain went through that side door? A No, he came through the front door.

Q And the partition was not up when the Captain came in? A The front of the bar is all up. There is only a few pieces to put up at the end.

Q And the Captain had to go round the side door to get to the bar room? A No, came in the front door.

MR. STECKLER: He could walk right in---

THE COURT: Counsel must not testify.

BY A JUROR:

Q The witness said the partition was up and he had a few pieces on the end. The side door was on the side. He must have come through the side door? A He came in the front door.

Q If he entered the house by the front door, how did he pass the partition?

(No response).

BY MR. STECKLER:

Q What side of the room is the side entrance, this side of the bar or the other side of the bar? (Referring to diagram.) A On the other side of the bar.

BY THE COURT:

Q On the other side of the bar or on the other side of the room?

CASE 77-368

MR. STECKLER: On the other side of the room.

THE COURT: I asked the witness, do you mean on the other side of the bar or the other side of the room, and you interject, on the other side of the room.

MR. STECKLER: It is both, your Honor.

BY THE COURT:

Q The side entrance you say is the other side of the bar? A The other side of the bar.

Q Which do you mean, the other side of the room or the other side of the bar? A On the corner of the house there is a---

Q Is it on the other side of the room? A On the other side of the room-- yes, sir.

Q And not on the other side of the bar? A No.

Q It is outside of the bar? A Yes, sir.

Q And on the other side of the room?

(No response).

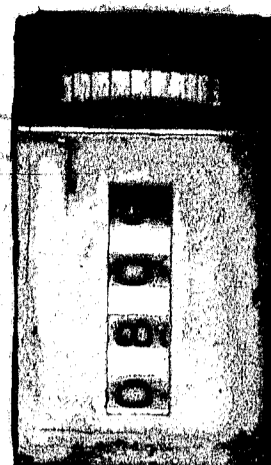
BY MR. STECKLER:

Q Does that entrance you speak about--- is there a hallway that goes upstairs? A It goes upstairs.

Q And that is the side entrance you are speaking of?

A Yes, sir.

Q Is that the only side entrance? A The only side entrance.



CASE 368

H E N R Y T O R E L L I, called on behalf of the defendants, sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q How old are you? A 14.

Q Do you go to school? A Yes, sir.

Q Is Mr. Torelli, your uncle? A Yes, sir.

Q And is Mr. parentini here your uncle also? A Yes, sir.

Q And your mamma is the widow of Louis Torelli? A yes, sir.

Q He was the brother of the defendant Angelo Torelli?
A Yes, sir.

Q Now you live at the house there 149 Bleecker street? A Yes, sir.

Q What time that night did you go to bed? A Nine o'clock.

Q Around 12 o'clock, or about that time, did anything happen, was anything said to you? If so, by whom, and what did you do? A My mother woke me up and sent me downstairs and says "Hurry up and go downstairs before the bar closes and get some magnesia." I went down and see my uncle was busy behind the bar. I walked behind the bar and I asked my uncle

896-368
CASE 368

for magnesia. He says "Look around for it". I went the other side of the bar. I saw an old man call for whiskey. I said "Uncle, that man wants whiskey". He said "Take that bottle and glass and put it over there." I put it over there and went the other side of the bar and my uncle handed me the magnesia and I went up to bed.

Q Did you take it to your mother? A Yes, sir.

Q Did you see any trouble in the place? A No, I was up in bed.

Q When you got upstairs how long after did anything happen? A About five minutes afterwards my uncle came---

Q Your uncle who? A Will Parentini, and he came and sat on my bed.

Q Do you know who brought him in? A He came down himself.

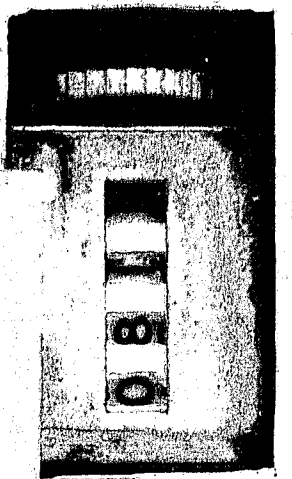
Q Do you know who brought him in from the hall? A My mother brought him in from the hall.

Q Were you in bed at that time? A Yes, sir.

Q Do you remember what happened to you and him afterwards? Where were you taken, if any place, after that? A I was taken downstairs by Mr. Sullivan.

Q Who else was taken besides you? A Will.

Q When you got down there what happened? A They drewed me in front of the old man and after he looked at me he sent me upstairs again.



CASE 368

Q What did he say about you and Willie? A He says "You are all right; go on up."

Q Did you go up to bed then? A Yes, sir.

Q Where did Willie go? A I didn't see. I went right away up to bed.

CROSS EXAMINATION BY MR. TOWNSEND:

Q How much did this man pay for his whiskey? A I didn't collect no money. I went right away up to bed.

Q How much did he pay for it? Did you see how much he paid? A No, sir. I went right away up.

Q You let him take the whiskey without taking or collecting any money? A My uncle told me to give him the whiskey. I knew my uncle will collect the money.

Q How old are you? A Fourteen.

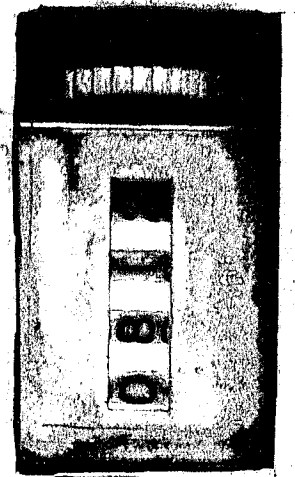
Q When were you fourteen? A December 15th.

Q What time did you go to bed that night? A Nine o'clock.

Q Who woke you up? A My mother.

Q Who was in bed with you when you woke up? A Nobody was in bed with me. I sleep alone.

Q What time did parentini come to bed? A About five minutes after I came to bed he came to my room; I don't know what time he went to bed.



803 368
CASE # 368

Q He didn't sleep with you? A No; upstairs in the attic.

Q Was he sleeping with you that night? A No, sir.

Q What room was he in when he was arrested? A He was in my room; he was taken down with me.

Q He went into your room? A When he was arrested I don't know what room he was in. He was arrested on Sunday.

Q That night didn't the officer take you and he down?
A Yes, sir.

Q Were you both in bed together? A No, he was sitting on the bed and I was lying down.

Q In your room? A Yes, sir.

Q Sitting on the bed? A Yes, sir.

Q Where had he been to sleep that night? A Up in the attic.

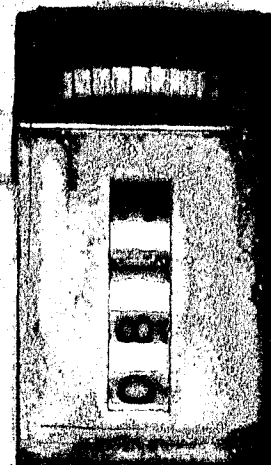
Q Why did he go into your room at that time of night?
A He came down to see what was the matter. My mother went in the hall and brought him inside.

Q What became of him then? A Then Mr. Sullivan came up and took me downstairs and sent me up again.

Q Your mother brought him inside of your room? A Yes, sir.

Q What did she say? A She said "Stay in here."

Q When was that-- before you had gone downstairs?



CASE # 368

A No, sir.

Q Were there any partitions around the bar when you were there? A There was a part of the partition up.

Q Only one? A Two, about two of them, two big pieces.

Q Sure there were only two? A Yes, sir.

BY THE COURT:

Q What time did you go to bed that night? A Nine o'clock.

Q When your mother called you to go down do you know about what time it was? A No, sir, I could not tell you what time it was.

Q Who did you say told you to give the man this whiskey? A My uncle.

Q Which uncle? A Angelo.

Q Which is Angelo? A Angelo Torelli.

Q He is your uncle? A Yes, sir.

Q What relation are you to Parentini? A He is my uncle.

Q When did you see your uncle parentini first that night? A I didn't see him at all that night. I went to bed at nine o'clock.

Q You said he came into your room and sat on your bed? A After I came up with the magnesia.

Q When did you see him first that night? A After I came with the magnesia he came into my room, after the glass was broken.

CASE # 368

Q Was that where Officer Sullivan found him? A Yes, sir-- took me and him downstairs.

Q When he came into your room, what did he have on?

A His shoes, stockings, pants and a vest, but no shirt on.

G I O V A N N I B O N I N I, called on behalf of the defendants, sworn and examined, testifies, through the Interpreter, as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you reside? A 149 Bleecker street.

Q Do you board or lodge there, or what? A I regularly board there, live there.

Q In the hotel with Mr. Torelli? A Yes, sir.

Q Where is your room? A On the top floor.

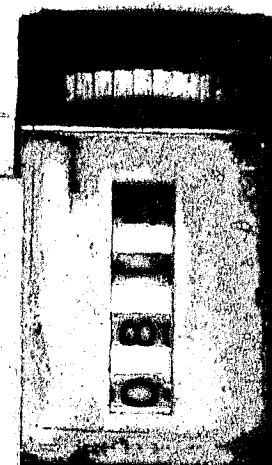
Q Who sleeps with you, if anybody, in the room with you? A Parentini.

Q The defendant here (indicating)? A Yes, sir.

Q About what time that night did you go to bed, if at all? A Half past nine.

Q What time, if you can tell, about what time was it that Parentini came to bed, if he came to bed at all? A Half an hour after I went.

Q Have you got separate beds or one bed? A Separate beds.



Q What, if anything, do you know about this trouble?

A Nothing.

Q Do you recollect Parentini leaving the room, if he left at all, and if so, about what time, and what attracted your attention, if anything around that time? A He never retired from the room after he came in, and when it was midnight we heard the clicking of broken glass. We went to the window and saw a great crowd around outside, and fearing there was some fire we quickly dressed and went downstairs. parentini went downstairs at once and I tarried, and the policeman came up and arrested me. That is all I am able to say.

CROSS EXAMINATION BY MR. TOWNSEND:

Q Did parentini go down to the barroom? A This I do not know.

Q How far did he go down? A Two stories.

Q What did he do there? A This I do not know.

BY THE COURT:

Q You say you went to bed at nine o'clock that night?

A At half past nine.

BY MR. TOWNSEND:

Q Did you have a watch? A There is an alarm clock there.

Q Did you look at the clock? A Yes, sir.

893 77 368
CASE 77 368

Q Did you look at the clock? A Yes, sir.

BY THE COURT:

Q Did you fall asleep at once? A No. parentini came up and I asked him for a smoke.

BY MR. STECKLER:

Q Did you give him a smoke? A Yes, sir.

Q What were you and Parentini doing in the room around the time you heard the clicking of the glasses?

THE COURT: What difference does it make?

BY MR. TOWNSEND:

Q You were not discharged at the Police Court?

Objected to as incompetent, immaterial and irrelevant.

MR. TOWNSEND: It is to show interest.

Q You are a co-defendant in this case? A Yes, I have been accused.

C A S T R U C C I O G E M I N I A N I, called on behalf of the defendants, sworn and examined, testifies as follows: (through the Interpreter):

DIRECT EXAMINATION BY MR. STECKLER:

Q What is your business? A Waiter.

Q For whom? A With Mr. Torelli.

CASE # 368

Q How long have you been waiter for him? A I was there only five or six days.

Q What were you doing, if anything, around the time that this trouble occurred on the 12th of April of this year? A I was helping the barkeeper to carry around the partition pieces.

Q Where did you have to go to get those and carry them? A To the yard.

Q Where were you at the time this trouble took place? A I was in the yard just carrying the pieces of the partition to the door.

Q Did you see any of this trouble at all? A Nothing at all.

CROSS EXAMINATION BY MR. TOWNSEND:

Q You are a co-defendant in this case? A Yes, sir.

Q You didn't see anything at all? A Nothing.

Q All the others who are not co-defendants they saw it all?

Objected to.

MR. STECKLER: Objected to; and I ask that the remarks of the District Attorney be stricken out.

THE COURT: The objection is sustained and the remark stricken out.

Q You ran out into the yard, did you? A Yes, sir.

CASE 77-368

Q What did you run out into the yard for? A I didn't
run.

Q What did you walk out for? A No-- I was coming
from the yard carrying the pieces towards the door.

E H R I O R I B O R I, called on behalf of the defen-
dants, sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A I have moved; I live now at
913 Hancock street, New York.

Q What is your business? A Range mounter.

Q You mean working on ranges? A Working on ranges, put-
ting them together.

Q Whom do you work for? A Duparquet.

Q How long have you been working for them? A 16 years.

Q Do you belong to any association which meets at Tor-
elli's?

Objected to as immaterial.

Objection sustained.

Q Were you there that night? A Yes, sir.

Q What were you doing that night? A I was at the
meeting.

Q Where was the meeting held? A In the back of the
house.

89677368
CASE 77-368

Q In Torelli's house? A In Torelli's house.

Q Will you tell us about what time of the night that meeting adjourned?

Objected to as immaterial.

Objection sustained.

Q About what time did you leave the meeting room?

Objected to as immaterial.

Objection sustained.

MR. STECKLER: I ask an exception to all these rulings.

Q Tell us what you did? A I came out of the meeting room shortly before twelve o'clock. I go ahead of the bar and near the door to have a drink with a friend of mine.

Q Who was your friend? A Marcello Baretti.

Q Is he here? A Right by the door.

Q Where is Baretti? A He is over there (indicating).

Q Outside or inside? A Outside in the hallway waiting.

Q Go on. A Shortly after I was there I saw a man come in there and have a drink. As soon as he had the drink he took the glass along and walked towards the bar, near Torelli, between that partition and the space where you go between the bar and Torelli stopped him. And this man he was speaking, I don't know what he said, and he grabbed Torelli

CASE 77-368

by the collar, gave him a good shake with the right hand and with the left hand he struck him with the glass in the hand. As soon as I saw Torelli bleeding, all the other people grabbed hold of that fellow, and I thought there was going to be trouble and I walked out with my friend.

BY MR. TOWNSEND:

Q Why didn't you help Torelli? A I didn't want to be in trouble.

Q You were afraid? A No, I was not afraid, but I don't like to be in a scrap. That is the reason I walked out.

BY MR. STECKLER:

Q Did you ever have any trouble in your life? A No, no.

Q Were you ever arrested in your life? A No, never.

BY MR. TOWNSEND CROSS EXAMINATION:

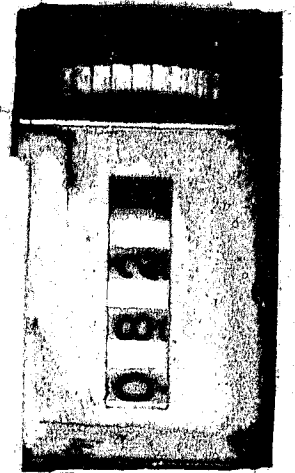
Q What did you drink that night? A I drank a soda and wine.

Q What kind of wine? A Regular California wine.

Q How many drinks did you have? A I had one drink, and ordered a second and I could not get it.

Q Who served the gray haired man, who gave him the drink? A I can't hardly say. I saw him drink, and I can't say who gave him the drink.

Q Why not? A I didn't pay attention to that, I saw a man drinking there. When I saw him he had a drink there al-



CASE # 368

ready.

Q Who was behind the bar? A Torelli served me.

Q Who was behind the bar at that time? A I saw Torelli there.

Q Only Torelli? A I saw Torelli, nobody else.

Q Didn't see anybody else? A No.

Q Was there any boy there? A He was up ahead of the bar.

Q What boy? A One little boy.

Q Did you see the gray haired man speak to Torelli before he got the liquor? A No, not at all.

Q You didn't see much, did you? A I see just what I told you.

Q Did you see Torelli take hold of the Captain?

A I see when he stopped him.

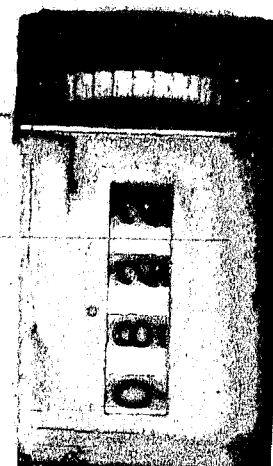
Q How did he stop him? A It looked like he wanted to go between the bar and he stopped him there.

Q How? A With his hands.

Q Show it? A He gave him kind of like this (illustrating.)

Q Pushed him back? A Pushed back like that.

Q Did you see him tear the Captain's collar and shirt? A I was out then. I got away as soon as the trouble began.



CASE # 368

BY THE COURT:

198

Q You saw him strike Torelli with the glass? A Yes, sir, I did.

Q Was there any liquor in that glass when he struck him? A No. There was nothing in it. He drank it before.

MARCELLO BARETTI, called on behalf of the defendants, sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Where do you live? A 19 John street.

Q Where do you work? A Monash & Co.

Q What is his business? A Range mounter.

Q How long have you been working for him? A About 18 months.

MR. TOWNSEND: Do you make good wages?

THE WITNESS: Yes, sir.

MR. STECKLER: I object to any such remark.

MR. TOWNSEND: It is absolutely immaterial.

THE COURT: It is immaterial.

Q How long have you been in the range business?

Objected to as immaterial.

Objection sustained.

Defendant excepts.

Q Were you at a meeting that night?



Objected to as immaterial.

Objection sustained.

Defendant excepts.

Q Where were you on the night of this trouble the 12th of April? A I am just in the front of the bar.

Q Where were you that night? A I was in the meeting.

Q Where was that meeting held?

Objected to.

THE COURT: Ask him if he was in this place.

Q Were you at this meeting of the range workers?

THE COURT: Don't speak of the meeting. Ask was he in the bar room at the time of this occurrence.

Q Where were you that night?

THE COURT: At 12 o'clock.

A (Through the Interpreter) At midnight I was already out away from there.

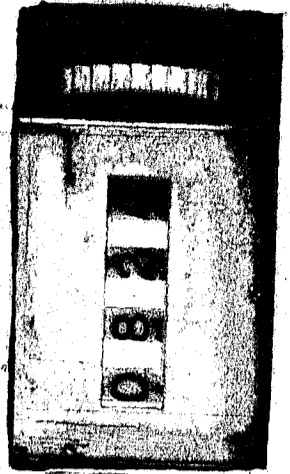
Q Before midnight where were you?

Objected to.

THE COURT: Immediately before.

(To Witness) What time did you leave that place?

THE WITNESS: About ten minutes before 12.



CASE 77-368

BY MR. STECKLER:

Q Tell us what you saw? A I see--- I stay just in the front in the bar, just around the door and I see the man coming, I didn't see very well, the man. I see the man is drinking from the bar. And I have a drink in there. I see that man go to speak with Mr. Torelli and Torelli said "Get out". I didn't hear that very well. And he put his hands like that (illustrating). I don't know what he said very well. I didn't hear, and I seen that man take the glass. He held the glass in this hand (indicating) and the other hand he took him like that and he throwed the glass right in his face on this side, the left side, on the right side from Torelli.

Q Were you with Ribori that evening? A Yes, sir.

Q You were drinking with him? A Yes, sir.

Q What happened after that? A After that I seen trouble was coming and I walked out.

Q With Ribori? A With Ribori.

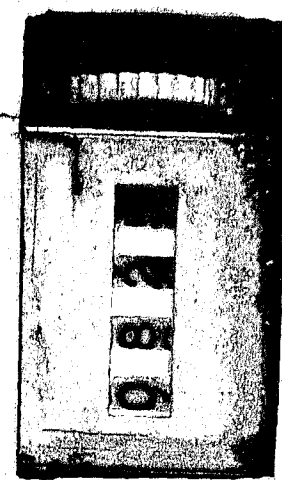
CROSS EXAMINATION BY MR. TOWNSEND:

Q Where did you go then? A I go in the street.

Q In the street? A Yes, sir, in the street.

Q Did you stay in the street? A No.

Q Where did you go? A I stayed there a few minutes and afterwards went home.



CASE 77-368

Q What were you doing that few minutes? A I was looking.

Q Looking at what? A Looking at the people out in the street.

Q Did you see them put the old man out? A No.

Q See anybody touch the old man? A No, I don't see anything of that.

Q When the old man struck Torelli, as you say, did anybody take hold of the old man? A No, I didn't see nothing of that. I see the trouble is coming and I take the door and went out.

Q What did you see? A I see when that man caught Torelli from the right hand.

Q Then what happened to the old man? Who touched him? Did anybody pull him off Torelli? A I see the other boys catching him-- I don't know.

Q You became suddenly blind? A I took the door and walked out.

Q Did the lights go out? A Certainly.

Q The lights all went out? (No answer.)

MR. STOCKLER: (To Interpreter) Ask him in Italian.

(The Interpreter asks in Italian.)

THE WITNESS: I saw the lights put out.

9831
CASE 37-368

Q Were they altogether out or was there any burning?

A They were all out.

BY THE COURT:

Q What kind of glass was it that the old man struck Torelli with? A I don't see the glass very well; it was a small glass.

Q Was it a beer glass or whiskey glass or wine glass?

A Whiskey glass.

Q Did you notice when he struck him whether there was any whiskey in it? A No, I didn't see nothing.

BY MR. STECKLER:

Q At the time you saw this man hit Torelli were the lights burning or were they out? A The lights were burning.

BY MR. TOWNSEND:

Q Who put the lights out? A I don't know.

Q When did they turn them out?

(No answer.)

MR. STECKLER: Ask him in Italian.

The Interpreter puts the question in Italian.

THE WITNESS: The lights were already put out when the occurrence took place.

BY MR. STECKLER:

Q When this man hit Mr. Torelli were the lights all out then or burning then?

893 368
CASE 77
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Objected to as already answered.

THE COURT: He may answer it again.

A There were yet lights, those in front of the bar.

B A T I S T A B A R M A, called on behalf of the defendants, sworn and examined, testifies as follows:

DIRECT EXAMINATION BY MR. STECKLER:

MR. TOWNSEND: I will concede that he will swear to the same facts-- that the Captain hit him with a glass, and it was a whiskey glass.

Q Do you work for Duparquet? A Yes, sir.

Q How many years have you worked for him? A Nine or ten years.

Q You were at that meeting?

Objected to.

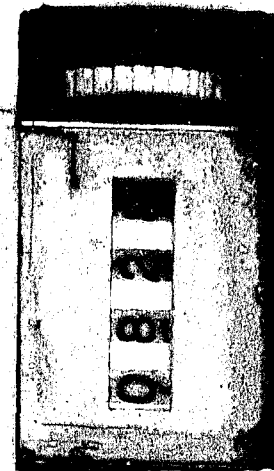
THE COURT: I insist that you shall not ask such a question.

MR. STECKLER: I will take the concession of the District Attorney.

MR. TOWNSEND: Go on with your examination.

BY THE COURT:

Q Were you in the saloon of Torelli at or about 12 o'clock on the night of the 12th of April? A Yes, sir.



CASE # 368

Q At what hour? A A few minutes before 12.

BY MR. STECKLER:

Q Tell us what you saw there? A I speak Italian.

(Through the Interpreter):--- I was at Torelli's and had a glass of wine and took a cigar and after drinking my wine I just wanted to light the cigar when I saw the man who came in through the door and he was drinking some whiskey. Then he took his glass into his hand, went behind the bar, when he met Mr. Torelli--- went around to the bar room.

Mr. Torelli then asked him where he was going. I could not hear all the words that were exchanged, but I saw Mr. Torelli make a deprecatory motion with the hand. Then the Captain grabbed hold with one hand of Mr. Torelli and with the other struck him with the glass. I saw that blood was flowing from Torelli's face, and believing that that would start a fight, I immediately left.

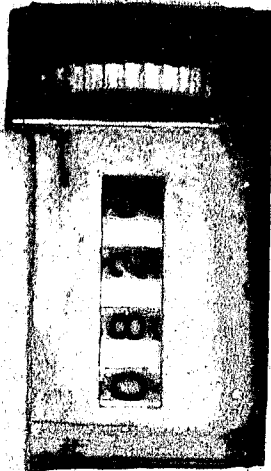
Q Have you ever been arrested before this for any trouble? A No.

Q Where do you live? A 436 West Broadway.

CROSS EXAMINATION BY MR. TOWNSEND:

Q Who was behind the bar at the time the man got the drink of whiskey? A Mr. Torelli.

Q Who beside him? A Nobody else.



CASE 368

Q Who serve him with liquor? A I saw the bottle on the counter.

Q Where was the bottle taken from? A I can't say because I was engaged in lighting my cigar and could not in the moment see who served that bottle.

BY THE COURT:

Q Who served you with the glass of wine? A Mr. Torelli.

Q At the bar? A Yes, sir.

Q Was anybody else behind the bar at that time? A No, sir, I didn't see anybody.

Q Who was the barkeeper there? A I don't know the name.

Q Was it Emil? A Yes, sir.

Q Was Emil there? A Yes, sir.

Q At the time you saw this was the screen up around the bar? A They were just engaged in putting it up.

Q Who was engaged in putting it up? A The bartender.

Q That is Emil? A Yes, sir.

MR. STOCKLER: That is Emil Gioggi.

1 P.M. The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure and took a recess until 2 P. M. of this day.

803 77 368
CASE #7 368

AFTER RECESS.

A N G E L A T O R E L L I , called as a witness on behalf
of the Defense, duly sworn and examined, testified as
follows:

DIRECT EXAMINATION BY MR. STECKLER:

Q Mrs. Torelli, will you please talk up loudly, so the
last gentleman here (indicating jury-box) can hear what you
have to say? A Well, I put--

Q Now, one moment. Where do you live, Mrs. Torelli?

A 144 Bleecker street.

Q And you are the wife of Henry Torelli, the little boy
that was called? A The wife?

Q The mother, I should say. A Yes, sir; the mother.

Q Your husband died several years ago? A My husband
died; yes, sir.

Q And the defendant, Angelo Torelli, is your brother-
in-law? A Yes, sir.

Q He married your sister? A Yes, sir.

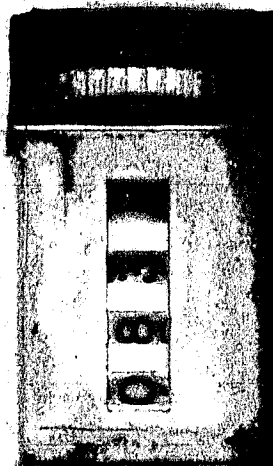
Q And the defendant Parentini is your stepbrother, is he
not? A My stepbrother; yes, sir.

Q Now, you live in the house, do you not,-- A Yes.

Q --where the store is? A Yes, sir.

Q Now, do you remember the night of this trouble, the
12th of April, 1903? A Yes, sir.

Q Do you remember about what time at night your boy



89C 368
CASE 77

went to bed? A Yes, sir.

Q What time? A I put all my children to bed at nine o'clock, sir.

Q And now tell us if this boy got out of bed at any time afterwards; how he happened to get out; what you did; what he did, and what you know about this entire transaction from beginning to end.

A All right, sir. I put all my children to bed that night at nine o'clock, and I wasn't feeling good that night; I had a very bad headache. Later on I seen that I felt so bad I called my big boy-- I went in his room which adjoins my bedroom, and I called him. I says, "Henry, hurry up and go downstairs and get me a bottle of magnesia, before they close because," I said, "I feel sick." He went downstairs, and he brought the magnesia up; and very short after he brought up the magnesia to me, I heard a crack of glass. I ran out in the hall to see what was the matter, and I met my brother William coming from upstairs, and he said, "What is the matter?" I said, "I don't know."

Q How was he dressed, Mrs. Torelli? A He had his pants his undershirt and his vest and his shoes. He wanted to go down. I says, "No," I said, "don't you go down, William; because," I says, "there must be trouble;" and I made him come in the bedroom with my boy, and I closed the door.

89377368
CASE #7368

Q Now, while he was in the bedroom, afterwards did anybody come up? A Yes, sir; an officer come up.

Q An officer; and where was your brother at the time?
A In the bedroom with my boy.

Q Well, where was he? A Sitting on my boy's bed.

Q And were they both taken down by this officer?
A Yes, sir; by the officer.

Q And how soon afterwards did anybody-- did anybody come back afterwards? Who came up afterwards? Did the boy come back? A My boy came right up and went to bed; yes, sir.

Q How about Willie Parentini? A Well, Willie-- I don't know; he didn't come back in my room.

Q He didn't come back in your room? A No, sir. That is all I know.

Q About the trouble itself you don't know anything?
A No, I don't know; because I didn't move from my room.

Q Now, you are living in the house there with your children with Mr. Torelli since your husband died? A Yes.

Q And he is taking charge of the entire family? A Yes.
CROSS EXAMINATION BY MR. TOWNSEND:

Q What time did Parentini come home? A I don't know, sir, what time he come home.

Q Where were you when he came home that night? A I was up in my room. I don't know, sir, what time William came

803 7368
CASE 7368

home.

Q You don't know whether he was in the bedroom that night or not, do you? A No, sir; I don't know.

BY THE COURT:

Mrs. Torelli, at the time you called your boy to go down in the bar, can you give the time precisely? A Well, sir, I guess it must ~~also~~ have been about ten minutes of twelve.

Q Ten minutes of twelve? A Yes; about that time.

Q And then, how long after that was it that you heard the crash of glass? A Very shortly after, sir; very shortly.

Q Could you give any idea as to the time? A Well, about five minutes.

Q Five minutes? A Yes, sir.

Q And at this time the boy had returned to you with the magnesia? A Yes, sir.

Q And had taken it to your bedroom? A Yes, sir.

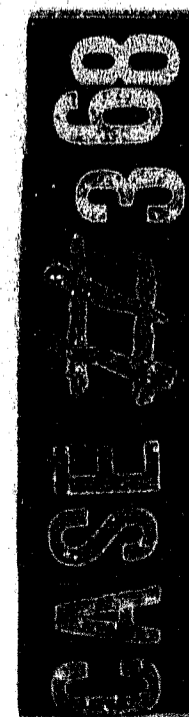
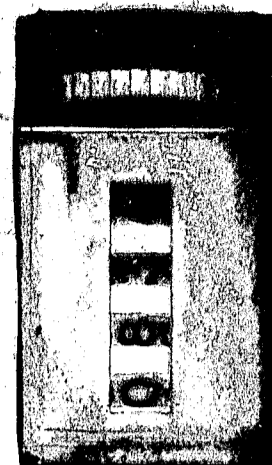
Q Then what did he do? A He went back to bed.

Q Yes? A Yes, sir.

Q And it was, you say, about five minutes after that that you heard this crash of glass? A Just as soon as he brought up the magnesia; very shortly after.

Q Very shortly? A Yes, sir.

Q You couldn't fix the time? A No, I couldn't exactly



say, but it was right after he brought up the magnesia I heard the crack of glass.

Q And then, how soon after that did your brother come down? A Well, sir, I went right out in the hall, and he come-- he was coming down from upstairs. He wanted to go downstairs, and I says, "No," I says, "Don't go," I says, "because there must be trouble downstairs;" and I made him come in my room; and so he didn't go downstairs at all, sir.

THE DEFENSE RESTS.

REBUTTAL TESTIMONY.

M I C H A E L G O R M A N, recalled as a witness for the People, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Torelli, the defendant, Captain, testified here that you said to him that night, "I am a Mills House man." Did you make any such statement to him? A No, sir.

Q Or anything like that? A Nothing like it.

Q It has been testified here by the defendant and other witnesses that you took a glass in your hand and you struck the defendant Torelli on the side of the head with that glass.

MR. STECKLER: One moment. Objected to, as already testified to.

THE COURT: What is the question? (Question read

CASE # 368

by stenographer.) Well, that is not a question.

MR. STECKLER: I object to it, on the ground that it calls for a repetition of testimony already in evidence.

THE COURT: But there is no question there at all, as yet. I want to hear the rest of the question. Will you finish the question, Mr. Townsend?

Q (Continuing) Did you do anything of the kind?

A No, sir.

MR. STECKLER: One moment!

THE COURT: Objection overruled.

MR. STECKLER: Exception, upon the ground that it has already been testified.

THE COURT: He has already testified, and now he is testifying again, in rebuttal of witnesses that denied his statements or asserted the contrary.

MR. STECKLER: Very well. I except. Your Honor, if the District Attorneys want to consult, I think they ought to do it, not in the hearing and presence of the jury.

THE COURT: What is it?

MR. STECKLER: I say, I think if the District Attorneys want to consult, it ought not to be in the presence of the jury, loud enough for them to hear.

893 72 ES 43
CASE 72 368

THE COURT: Oh, I do not think they do that.

MR. STECKLER: Perhaps not intentionally.

THE COURT: Well, I do not think they do it, even as a fact.

Q Captain, it has been testified here that when you were at the door of the place, going out, that one of the officers, one of your officers, came in and took hold of you and said to you, "You old son of a bitch, what ^{are} you doing here?" Was anything like that said to you by any of the officers? A He didn't use that language, but he didn't recognize me at first, the condition I was in.

CROSS EXAMINATION BY MR. STECKLER:

Q A policeman did take hold of you, didn't he? A No, he didn't.

Q Made an attempt to take hold of you? A No.

Q Didn't do anything? A Only spoke to me. He says, "What are you doing here?"

Q You were kicking at the doors then? A No.

Q You weren't? A No.

Q You heard officer Keenan yesterday testify, did you not? A Yes; he testified to something that was not so.

Q He did, eh? A Yes.

BY THE COURT:

Q At the time that this officer accosted you in that

893 368
CASE 77-368

way, where were you? A I was in front of the door, facing the street, and asking the people in front to get me assistance.

Q In front of the outer door? A In front of the outer door, facing the street.

Q When this officer came? A Yes, sir.

Q You weren't between the doors? A No, sir.

Q Kicking at the inner door? A No, sir. I was at the outer door, facing the crowd in the street, and asking somebody to go and get me assistance.

BY MR. TOWNSEND:

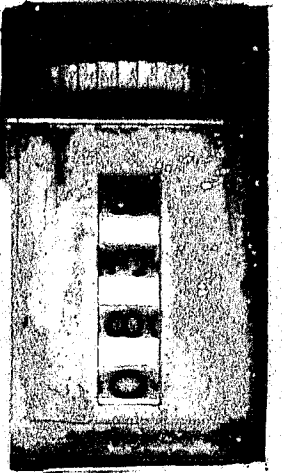
Q Captain, was the whiskey passed to you from in front of the bar or from somebody behind the bar? A Behind the bar. Q From behind the bar. At that time, how many were behind the bar? A Three.

MR. STECKLER: Objected to, as having been already testified to.

THE COURT: It is absolutely proper in rebuttal; because you have brought a number of witnesses here to swear there was nobody behind the bar.

MR. STECKLER: But he has already testified to that. Therefore it is not rebuttal.

THE COURT: He can repeat it in view of your contradiction.



893 77 368
CASE 27 368

MR. STECKLER: Exception.

THE COURT: That is what rebuttal is intended for.

MR. STECKLER: Exception.

BY THE COURT:

Q Go on, Captain. There were three behind the bar?

A Three, sir; yes, sir.

Q Now, Captain, at the time that you came in there, was the screen or any portion of it, which is put up to conceal the bar on Sundays, in position? A No, sir.

Q That you are positive of? A Positive; yes, sir.

Q When you ordered this glass of whiskey, and you paid for it, I understand-- A Yes, sir; ten cents.

Q --did you taste the whiskey? A Yes, sir.

MR. STECKLER: One moment!

THE COURT: He testified to that.

MR. STECKLER: I don't like to object to your Honor's question.

THE COURT: That is all right.

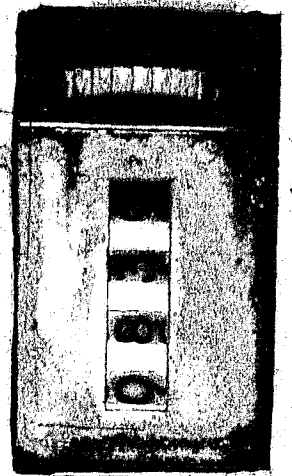
MR. STECKLER: But I must submit that this is not regular and proper on rebuttal.

THE COURT: It is absolutely so.

MR. STECKLER: Very well, then. I except.

THE COURT: Very well.

Q And did you go to the other end of the bar where the



CASE 368

defendant was--

MR. STECKLER: Same objection.

Q --with the glass in your hand?

Same objection, ruling and exception.

A No, sir.

Q When you went to the other end of the bar where he was, did you pass between the screen and the bar?

Same objection, ruling and exception.

A No, sir. There was no screen there.

Q And when he stopped you from going behind the bar, please state in what manner he stopped you; whether verbally or by any other means?

Same objection, ruling and exception.

A He placed his body there, and put his hand and shoved me back.

Q Shoved you back? A Yes, sir.

Q Now, when had you informed him that you were captain of the precinct and showed him your shield?

Same objection, ruling and exception.

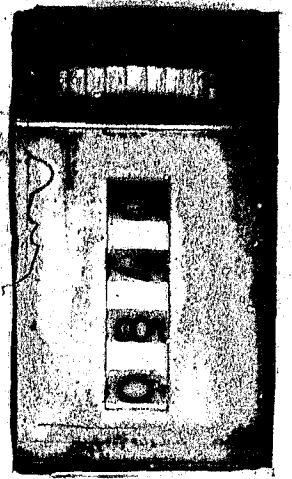
A When I asked him who was in charge-- if he was in charge.

Q And his reply was?

Same objection, ruling and exception.

A That he was the boss.

Q Then what next did you to say to him?



893 368
CASE 77-368

Same objection, ruling and exception.

A I told him--

MR. STECKLER (Interrupting:) Upon the ground that it is going into the People's case again.

THE COURT: Well, you have made your objection and your exception, and you have preserved all your rights without arguing on the subject.

MR. STECKLER: Exception.

THE COURT (To witness): Go right on, captain.

A (Continuing) I told him to close up his bar and clear out the people in the bar.

Q What was his reply?

Same objection, ruling and exception.

A He says, "You go to hell; I don't care for you. I will go on."

Q Were there any people in that room then?

Same objection, ruling and exception.

A Yes, sir.

Q And were they entirely visible from the place where you conversed with the defendant?

Same objection, ruling and exception.

A Yes, sir.

Q And were they entirely visible from the place where he prevented you from going behind the bar?

803 368
CASE 77

Same objection, ruling and exception.

A Yes, sir. It is all one room.

Q And you are positive that no portion of the screen had been put up at that time?

MR. STECKLER: Objection and exception, to the form of the question.

A Yes, sir.

Q Was the screen or any portion of it put up before you left that room and got into the street?

Same objection, ruling and exception.

A Yes, sir. There was a portion of it put up.

Q There was a portion of it put up between the time of this occurrence with the defendant and your going to the street?

Same objection, ruling and exception.

A Yes, sir.

BY MR. STECKLER:

Q Were the screens being put up before you were hit?

A Afterwards.

Q Not before? A Not before.

Q While this scuffle was going on somebody was putting up the screens? A Yes.

Q That is the first time you noticed the screens being put up? A That is the first time they commenced to put them



893-368
CASE 368

up.

Q While the scuffle between you and Torelli was going on? A Yes.

Q And you say that the testimony of officer Keenan that he saw you in there kicking the doors from the front is untrue? A Untrue; yes.

Q He was under your-- he was one of your policemen upon that night? A Yes.

Q And you sent him in to make arrests, did you not?

A What is that?

Q You sent him in to make arrests, did you not? A I did; yes.

Q He is still connected with the same precinct? A He is; yes, sir.

Q You are not? A No.

BY THE COURT:

Q Are you still connected with the police force, Captain? A Yes, sir.

Q Retired? A No. I am an active member.

Q Active member? A Yes, sir.

BY MR. STECKLER:

Q This whiskey was sold to you after you say Torelli told you to go to hell? A Yes, sir.

Q And after you told him you were a police captain?

CASE 77-368

A Yes, sir.

Q And after you showed him your shield? A Yes, sir.

BY MR. TOWNSEND:

Q Captain, do you recollect what you said to Parentini at the time you bought the whiskey from him? A What I said to him, sir?

Q Yes. A I told him he was my prisoner.

MR. STECKLER: Same objection as not being in rebuttal.

(No ruling.)

Q Use your words as near as you can?

Same objection, ruling and exception.

A I says, "You are a prisoner--" those were my words-- "You are a prisoner;" and I went around to go behind the bar to take charge of him.

BY THE COURT:

Q Did you see a small boy, the boy that appeared here, young Torelli? A Not until after all the trouble was over and he was brought downstairs.

Q That was the first time you saw him? A That was the first time; yes, sir.

Q Did he hand out a bottle of whiskey to you?

Same objection, ruling and exception.

A No, sir.

Q And when you ordered the shiwkey from the defendant

CASE 368

there it was at the other end of the bar from where Torelli was? A Yes, sir; towards the door or window.

Q And did Torelli say anything about putting out the bottle? A No; he didn't speak at all.

Q Was he near enough to hear your order? A I don't think he was; he was about twelve feet away.

MR. STECKLER: I ask that that be stricken out.

THE COURT: Strike it out.

BY MR. TOWNSEND:

Q Were there others between you and the defendant at the bar? A About eight or ten men.

Q Eight or ten men, right up against the bar? A Right up against the bar.

Q At the time you ordered the liquor from Torelli?
A Yes, sir. I had to force myself between two men to get to the bar.

MR. STECKLER: I object to all this.

THE COURT: I see you do; and your objections are overruled, and you can have your exceptions.

MR. STECKLER: Exception, on the same ground.

BY THE COURT:

Q You say you are still on the active force of police?
A Yes, sir.

Q In what capacity? A I am a police captain.

89 & 368
CASE 77-368

Q But where are you situated? A I am in the Fourth Precinct; what is called the Bridge police now.

Q Bridge police? A Yes; Brooklyn Bridge.

MR. STECKLER: What was that last?

THE WITNESS: The Brooklyn Bridge.

MR. STECKLER: Oh, in Brooklyn.

Q Now, did one of the officers there, when these men were brought from upstairs, being out from behind the bar a bung-starter? A He didn't bring it out. He showed it over the bar.

Q Showed it over the bar? A Yes, sir.

Q In what connection was that? A Nothing at all. I told him to go behind the bar and get the club that they had used on me.

Q Simply to get the club? A Yes, sir.

Q And what did he do then?

Same objection, ruling and exception.

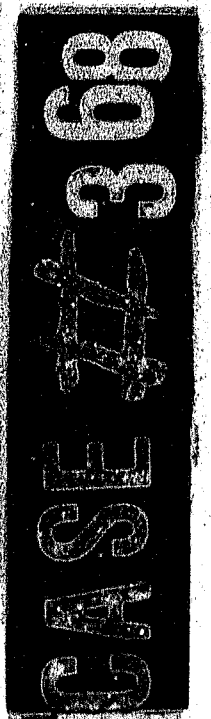
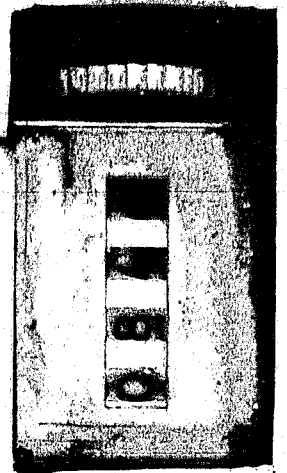
A Well, he went-- he showed different things. He showed this bung starter and then he showed me this (indicating.) I said, "That is a weapon."

MR. STECKLER: Same objection and exception.

A (Continuing:) The blood was still fresh on it.

Q And did you tell him to bring the bung starter along?

Same objection, ruling and exception.



A No, sir; nothing said about a bung starter at all.

Q When you were struck on the head with that, did you make any attempt to avert those blows?

Same objection, ruling and exception.

A Not with the club; no, sir; because they had me on both sides, Torelli on one side and that witness with a light mustache and whiskers, Bonita I think his name is, he had me on the other; so that I couldn't use my arms.

Q Well, can you explain-- You say there was blood on that club; can you explain how that blood got on it? A It is my blood.

Same objection, ruling and exception.

Q Your blood? A Yes, sir.

Q From the wound in your head? A Wound in my head; yes, sir.

Q He struck you twice, you say?

Same objection, ruling and exception.

A Yes, sir.

JOHN LAWRENCE SULLIVAN, a witness for the People, recalled on rebuttal, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q How long were you in that precinct, officer?

Objected to on the same ground as before.

893-368
CASE 2-368

Objection overruled.

Exception.

Q How long? A Six years.

Q Six years. Do you know Parentini? A Yes, sir.

Q Did you know him before he was arrested? A Yes, sir.

THE COURT: Speak loud enough for the jury to hear you.

Q Have you ever seen Parentini in that barroom prior to that night?

Same objection, ruling and exception.

A Yes, sir.

Q You have? A Yes, sir.

Q On how many occasions?

Same objection, ruling and exception.

Q Well, I saw him there on several occasions.

Q What, if anything, was he doing when you saw him?

Same objection, ruling and exception.

A Well, I saw him running around in the barroom there and back into an alley, and working generally in the barroom.

Q How was he dressed?

Same objection, ruling and exception.

A Well, he usually had his coat off, in his shirt sleeves or shirt, and I have seen him on their wagon, driving for Mr. Torelli.

8937368
CASE 77-368

Q Was he acting as a waiter, at all, at any time that you saw him there? A Yes. He was working in the barroom there, and in a kind of a dining-room and restaurant, where they served drinks and lunch, and so forth.

Q Ever see him go behind the bar?

Same objection, ruling and exception.

A Well, I saw him at the end of the bar once, bending over by the bar working, but I never saw him back of the bar.

Q Now, when you arrested him that night, where was he?

Same objection, ruling and exception.

A He was upstairs.

A Upstairs? A Yes, sir.

Q What doing? A He was in bed.

Q In bed? A Yes, sir.

Q Was he sitting on the side of the bed?

Same objection, ruling and exception.

A No, sir.

Q How about the coverings? A Well, I think there was a quilt or blanket or something over him.

MR. STECKLER: I object to his thinking.

THE COURT: One moment, Mr. Steckler. I allow the whole examination on this point. It is in direct rebuttal, and you can have the benefit of one exception to all of these questions, without continually interrupting.

893 77 ESW
CASE 77 368

the examination.

MR. STECKLER: Exception.

BY THE COURT:

Q He was in bed in what room? A I think it is the third floor up, your Honor, in a room on the right hand side. There were two ladies in the room and I think they had a bed on this side, and there was another bed on the other side.

Q Was it a front room? A No; a kind of a back room.

Q A back room? A Yes; about the middle of the house, I should think. There was another room back of it and one in front.

Q Was there any other person in the room when you were there? A There was another boy, smaller than this young man here (indicating defendant Parentini).

BY MR. TOWNSEND:

Q How was he dressed, this Parentini? A He had his trousers on, and I think it was a shirt or an undershirt; I won't be positive of that; and shoes.

Q And shoes on? A Yes.

Same objection, ruling and exception.

Q And were they in bed at that time?

Same objection, ruling and exception.

A Yes, he was laying on the bed.

Q Under cover? A Yes; there was a quilt partly pulled over him like this (indicating) up on his face; and I touched

CASE 77 368

him on the shoulder like this (indicating).

Q What did he do when you touched him? A He rose up in that manner (indicating), and said, "What is the matter, Sullivan?" and I said, "Get up and come downstairs."

Same objection, ruling and exception.

A (Continuing) He said he hadn't done anything. That is the only thing he said to me.

Q Well, on the way down, when you were taking him down, did you take the small boy with him? A Yes, I took both boys down.

Q Did you stop on your way down?

Same objection, ruling and exception.

A No; I walked right downstairs.

Q Did you meet Mrs. Torelli? A Oh, Mrs. Torelli was in the room there when I was getting the boy up.

Q She was there when you were getting the boy up?

A Yes, sir.

Q She was in the room? A Yes. Now, let us see. There was another lady-- there is two Torelli ladies.

Q I know, but the mother of the small boy? Mrs. Torelli, stand up. A This was a Mrs. Torelli talking to me, but I am not positive whether it was this woman or the other. I saw two women there at the time.

Q In the room where you made the arrest? A Yes. This

893 368
CASE 77-368

woman was telling me not to take him down, that he hadn't done anything. She was excited and talked in that manner.

Q And you took them both down? A Yes.

Q You say there were two beds in that room? A No, there was a bed, I think-- I won't be positive of that. I know those two ladies were standing on the left of the room, and on the right was this bed, and the two boys were in it.

Q What two boys, this defendant Parentini and the small boy? A And the smaller boy, yes; and the two ladies were on this side here (indicating); and they were both excited and talking to me, and I am not positive whether there was a bed on the left or not, but there was a bed on this side, on the left.

BY MR. STECKLER:

Q Was the little boy in the bed? A Yes, the little chap was in bed.

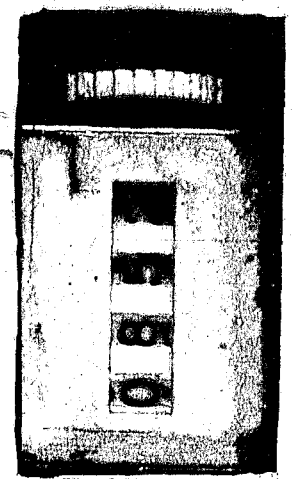
Q Was he under covers? A Yes, I think he was.

Q Were they both in one bed? A Both in one bed; yes.

Q Now, are you positive that there was a cover over this boy, or are you just thinking that? A Well, he was lying on the inside; the little fellow was on the outside.

Q Where were his feet? A They were on the bed.

Q They were dangling over the side, weren't they?
A Well, it was dark in there where he was lying, and I



CASE 11-368

couldn't be positive.

Q You don't know where his feet were? A I don't know that, but he was lying on the bed, I know.

Q Did he have his shoes on? A Yes, sir.

Q Was he in bed with his shoes, or were his feet dangling over the side of the bed? A He was in bed with his shoes, I take it.

Q Will you swear that he was? A I will swear that he was in bed, yes.

Q Will you swear that his feet were in bed? A Well, it was dark in the room, and--

Q You won't swear his feet were in the bed? A Well, evidently they were when he was in there.

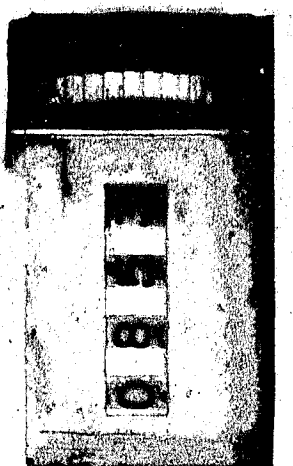
Q You won't swear to that, will you?

MR. TOWNSEND: I object to that form of question. The witness is under oath, anyhow, and is swearing to all the statements he makes.

MR. STECKLER: I object to the District Attorney making any comments while the witness is on the stand.

THE COURT: Well, you make more comments than the District Attorney does. The witness has sworn to it a number of times. Now, you can get at it very easily without putting questions of that kind.

Q Will you swear that this man's feet were in the bed?



CASE # 368

A Well, he was lying on the bed, and if his feet were over a little to the left they might be sticking out. I wouldn't swear to that positively, but I know he was lying on the bed and the blanket pulled over him.

Q Was the boy up against the wall? A I think he was.

Q And was he on the inside or on the outside? A He was on the outside; because I had to touch him on the shoulder-- had to reach over to touch him.

BY MR. TOWNSEND:

Q The young fellow was on the outside, and he had Parentini on the inside; is that right? A Yes, sir.

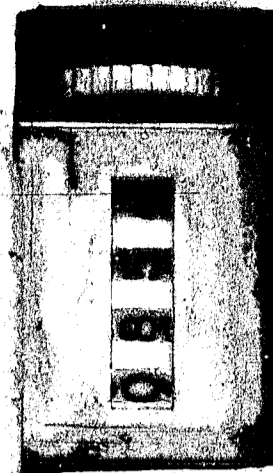
THE PEOPLE REST.

TESTIMONY CLOSED:

MR. STECKLER: I now renew my motion to make the District Attorney elect on which count of the indictment he intends to go to the jury.

Motion denied; exception.

I now move for the discharge of the prisoner, upon the ground that the evidence shows-- the preponderance of evidence shows that the defendants in this case are not guilty of the offense charged; also upon the further ground that the evidence, uncontradicted, is that the defendants did not assault the complainant, and that,



893 368
CASE 77

on the contrary, the evidence affirmatively shows that the complainant was the aggressor.

Motion denied. Exception.

And upon the further ground that the People have failed to make out a case under the Statute.

Motion denied. Exception.

Mr. Steckler closed the case on behalf of the defendants.

Mr. Townsend closed the case on behalf of the People.

THE COURT: I will not give the case to the jury to-night unless they prefer it. I dislike to give a case to a jury at so late an hour in the evening; so I will let it go over ~~it~~, if you desire, until Monday morning at eleven o'clock, and will charge you then.

In the meantime, I must renew the statutory caution that you are not to converse with one another, or with any one else, about this case, especially as the evidence is now complete, and not to come to any decision upon it until it is finally submitted to you.

ADJOURNED, to Monday, June 8, 1903, at Eleven A.M.

THE JURY FOUND DEFT. TORELLI GUILTY OF ASSAULT IN THE THIRD DEGREE AND ACQUITTED DEFT. PARENTINI.

803 # 368
CASE # 368

THE PEOPLE vs. TORELLI and PARENTINI.

June 8th, 1903.

THE COURT'S CHARGE.

McMAHON, J.- Gentlemen of the Jury: The two defendants at the Bar have been jointly indicted with five others, for assault in the second degree. You have heard the case, so well and clearly summed up, and the testimony has been so carefully presented to you that it is not necessary for to refer to the testimony in detail, but simply to state to you the provisions of law which apply to the case.

Now, one count in the indictment charges assault in the second degree, in this, that these defendants did make an assault upon an officer while in the discharge of his duty, and the defendant Torelli, in making that assault, did it for the purpose of preventing the arrest of the other defendant who is jointly indicted with him.

That would constitute assault in the second degree, unlawfully resisting an officer in the discharge of his duty, or any assault perpetrated for the purpose of prevent a legal arrest, or rescuing a prisoner arrested by the officer, ^{as attempting to escape} whether it is the person committing the assault ~~himself, or another.~~

The other count in the indictment charges an assault in this, that these two defendants unlawfully assaulted the

CASE 368

officer, not knowing that he was an officer, but unlawfully assaulted him with a weapon likely to produce serious bodily injury. Now that constitutes also assault in the second degree, an assault wilfully and wrongfully committed with a dangerous weapon, or other thing likely to produce serious bodily harm, ~~and that would be assault in the second degree~~ whether any harm was or was not produced, if the instrument or thing by which the assault was made was of a nature calculated to produce grievous bodily injury.

This ~~same~~ indictment charges these two defendants *also* with assault ^{whereby} ~~because~~ grievous bodily harm ^{actually} was inflicted, and ~~that~~ ^{this} also constitutes assault in the second degree, if the defendants unlawfully and wrongfully inflicted grievous bodily harm upon another, whether with or without a weapon.

Now, those are all the three definitions that it is necessary for you to know in connection with the offense charged in this indictment.

The People contend that the complaining witness in this case, a Captain of Police, who had been for thirty years, I think, upon the Force, entered this place on a Saturday night, a few minutes after twelve o'clock, at a time when it should have been closed; that he asked for the person in charge and the defendant Torelli was pointed out to him.

CASE # 368

You have heard the conversation as detailed by the Captain, Captain Gorman, and also the same conversation as detailed by the defendant in his own behalf.

Captain Gorman swears positively that he informed the defendant upon that occasion that he was the captain of the precinct, and that he displayed his shield. He was, you will remember, in citizen's clothes at the time; and he directed them to close up .

The defendant answered him insolently and defiantly, he testified. That he then went to the other end of the bar and ordered a glass of whiskey, which was served by a person behind the bar, who, he claims, was the defendant Parentini.

The contention of the defense is that the Captain was still within his rights, in obtaining evidence such as would authorize him in making the arrest, as it was after the closing hour fixed by law. That he thereupon arrested Parentini and proceeded to the other end of the counter or bar where the entrance was, behind the place, and attempted to go in to secure his prisoner. That there he was resisted by the defendant Torelli.

Now, Gentlemen, no matter how forcible that resistance was, if it was any resistance whatever, whereby an assault was committed; no matter how harmless the assault in itself; if that was done for the purpose of

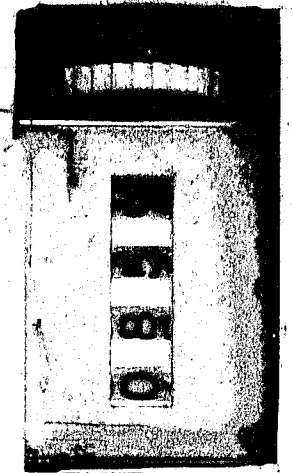
CASE # 368

preventing the arrest, or trying to detain the defendant Parentini after his arrest by the officer, then it would constitute assault in the second degree, provided the defendant knew, or had good reason to know, that the complaining witness was an officer, in which case he was acting within his rights after he had duly made an arrest.

Now, in that view of the case, the main thing for you to pass upon is, Had this defendant knowledge, or did he know or believe, at the time that Captain Gorman was in fact a police officer and acting in the discharge of his duty?

Neither he nor the other defendant had any right to determine as to the legality of the arrest, and the fact that their watches might differ by a few minutes would not justify an assault made upon an officer while engaged in the discharge of his duty. The remedy is otherwise.

If you are satisfied that this assault was committed by the defendant, and that he was aided or assisted by the co-defendant, Parentini, in order to effect the escape of the defendant Torelli, and that he was taken into actual custody, and that they or either of them knew or had fair reason for knowing that this complaining witness was an officer and a Police Captain, then that would bring it within the definition of the Statute, as assault in the second degree, resisting an officer in the dis-



CASE # 368

charge of his duty, and for the purpose of preventing an arrest.

If you are satisfied that these defendants did not know that he was an officer, and that they believed that he was going behind that bar as a trespasser, they had a right to resist trespass, even by force, provided the force used was not more than sufficient to prevent the apprehended trespass or injury.

If, actually believing that an intruder was endeavoring to go behind that bar, where he had no business, they attempted to prevent him, and used no more force than was actually necessary to prevent him, then they were acting within their rights.

Now, it is for you to say, if you believe the testimony offered by the People, whether these injuries which the complaining witness claims to have received by being struck, not once, but several times, with glasses, and so forth, whether that indicates a greater degree *of* force than was necessary to prevent his going behind that bar.

Again, if you find that a greater degree of force was used than was necessary to prevent a trespass or injury to the premises of the defendants, and was made without the use of a weapon, but did inflict grievous bodily injury, then, again, it would bring the offense

CASE # 368

within the definition of the Statute, as assault in the second degree.

Of course there is a conflict in this as in all other similar cases, and it is for you, Gentlemen of the Jury, to determine as best you may on which side lies ^{the} truth.

The stories in their essential features cannot be reconciled. There are many discrepancies of a minor kind, which may arise from a defective memory, or lack of observation. Very few witnesses in an affray like this ever tell precisely the same story, but if you are satisfied that any one of the witnesses, whether for the People or for the defense, has wilfully sworn falsely here, in any particular whatever, then you are at liberty to disregard his entire testimony. And that rule applies both to witnesses called for the People and to witnesses called for the defense.

You must remember that "weight" does not necessarily mean numbers of witnesses, nor preponderance in that respect. It may happen in cases that two witnesses may outweigh with a jury the testimony of twenty others. In this case the complaining witness was alone in this establishment, where there were, according to the lowest computation, I believe, about thirty persons. What occurred there was witnessed by all these persons who were associates of this establishments, and who appear, as far

CASE # 368

as they were called, for the defense. But if you find, that any of these witnesses, or that Captain Gorman himself, in recounting what occurred when he was alone in that saloon with those people who frequent it, that in any single point any of them has wilfully departed from the truth in giving his testimony here, you may disregard his entire testimony.

Now witnesses have been called here as to the good character of the defendants. There are cases, and it is for you to say, Gentlemen, whether this is one of them, where good character may itself inspire such reasonable doubt as would call for an acquittal. That is a question for the jury. You must bear in mind, however, that good character, no matter how well established, is no excuse for crime, and gives no license to commit it, although, even in such cases, it may be considered in mitigation of punishment.

Good character is only useful to the jury in determining whether or not the defendant did commit the crime.

Now, the People are obliged to make out their case beyond a reasonable doubt. In other words, they have got to satisfy you of the guilt of the defendant beyond a reasonable doubt before you can convict; and if any reasonable doubt remains in your mind, after a careful consideration of all the testimony in the case, the defendants, one or

CASE 77 368

both, are entitled to the benefit of that doubt, and to an acquittal.

The law presumes the defendant to be innocent, and that presumption remains with him until the verdict of a jury removes it. You will bear in mind, however, that the doubt must be just what the words imply -- a reasonable doubt. That is, a doubt based upon reasons, necessarily upon good reasons; such a doubt as would control your action in the important business affairs of your daily lives; such a doubt as an intelligent person could give a sufficient reason for entertaining.

Therefore, if such a doubt remains in your minds, after a careful consideration of all the testimony, the defendant will be entitled to an acquittal.

It is unnecessary, I take it, Gentlemen of the jury, to caution you against being influenced either by prejudice or by sympathy, or by a consideration of the serious consequences that might follow your verdict, if it were against the defendants. I will say that that rests with the Court, and with the Executive, as to what may follow should your verdict be that of "Guilty."

Neither must you sympathize with the officer, because of the fact that he claims he was seriously injured, and in the discharge of duty. You will pass upon the facts independent of all those circumstances, and determine the

CASE # 368

one fact: Was he engaged in the discharge of his duty, and within his rights, and was that known to the defendant, or to the defendants, and had they good reason for knowing it?

The case is in your hands.

MR. STECKLER: I ask your Honor to charge the jury that, if the jury believe from the evidence that the complaining witness was assaulted without announcing who he was, and while he was attempting to go behind the bar, and while the defendant Torelli was protecting his property, and person, the jury must acquit the defendant Torelli.

THE COURT: I have sufficiently charged upon that subject. I have charged it in substance, but more in the words of the Statute.

MR. STECKLER: And that the defendant Torelli had a right to use force in ejecting him from the place under those circumstances.

THE COURT: I have already charged upon that subject.

MR. STECKLER: I except to your Honor's refusal to charge as requested.

THE COURT: I have not refused.

MR. STECKLER: As requested.

THE COURT: Oh, in the words. I prefer the words of

CASE # 368

the Statute.

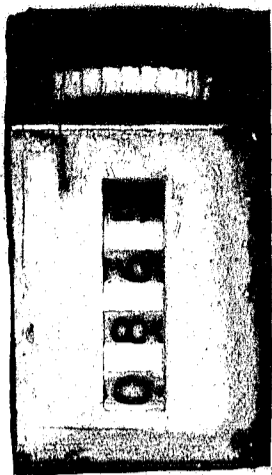
MR. STECKLER: Very well. I ask your Honor to charge the jury that, before they can convict these defendants, they must find from the evidence that it was the defendants that assaulted the complaining witness; and if the jury are in doubt that the defendants did commit this assault, their verdict must be "Not Guilty."

THE COURT: If they were acting in concert it is immaterial who struck the blow.

MR. STECKLER: I ask your Honor to further charge the jury that it is the duty of the prosecution to show who it was that struck the complaining witness, if he was struck.

THE COURT: I will charge on that point that, no matter who struck the defendant, if these defendants were there acting in concert for a common purpose, it makes no difference who inflicted the injury -- if they were acting there for the purpose of preventing this arrest and preventing the officer from discharging his duty.

MR. STECKLER: I except to your Honor's refusal to charge as requested, and to your modification. I ask your Honor to charge that, if the jury believe from the evidence that the defendants were not violating any law, that the hour of twelve o'clock had not arrived when the complaining witness attempted to make an arrest, and that



893-77 ESCH
CASE # 368

the complaining witness did not make his identity known, the defendants would not be guilty of the crime charged in the indictment, even if the jury find that they so resisted the complaining witness.

THE COURT: I have charged sufficiently upon that. If the jury find that the defendants were not aware and had no reason to be aware of the fact that he was an officer engaged in the discharge of his duty, then they cannot be held under that count of the indictment; but they may be held upon the other count, provided the force used to prevent what was attempted to be a trespass was ~~was~~ more than sufficient to prevent it.

MR. STECKLER: I except to your Honor's refusal to charge as requested, and except to your modification. I ask your Honor to charge the jury that before they can convict the defendants they must find that these defendants were violating a law, and that the complaining witness was attempting to make an arrest for such violation, and that the defendant, knowing him to be a police officer, interfered with him in the performance of his duties.

THE COURT: I have already charged upon that subject.

MR. STECKLER: I except to your Honor's refusal to so charge. I ask your Honor to charge that, unless there was a violation of the law in the presence of the complaining witness, Captain Gorman, he was not justified in making an

CASE 77-368

arrest without a warrant.

THE COURT: I will charge that.

MR. STECKLER: I ask your Honor to charge that Officer Kiernan having been called upon the stand as a witness for the prosecution, the prosecution is bound by his testimony.

THE COURT: I won't charge that.

MR. STECKLER: I except to your Honor's refusal so to charge.

THE COURT: The prosecution is bound by his testimony -- so is the jury -- provided they believe him. The same applies to every other witness.

MR. STECKLER: I ask your Honor to charge that, inasmuch as your Honor did quote some of the testimony of Officer Gorman -- I ask your Honor to charge that the defendant in this case, Parentini, was not identified by any person, not even by the Captain, on the night of this occurrence.

THE COURT: I charge that that is a question of fact for the jury.

MR. STECKLER: I except to your Honor's refusal to so charge.

THE COURT: I will further charge that, whether employed or not, made no difference; if he was engaged in violating the law in the presence of the officer the

893-368
CASE 77-368

officer had a right to make the arrest.

MR. STECKLER: I except to the modification. I ask your Honor to charge that the People must produce evidence for the State to show that the defendants are guilty beyond a reasonable doubt?

THE COURT: I will charge that.

MR. STECKLER: And that simply a preponderance of evidence will not convict.

THE COURT: I have charged that sufficiently. Preponderance of evidence does not mean numbers of witnesses.

MR. STECKLER: I except to your Honor's refusal to charge as requested.

THE COURT: I have charged it already. I have charged it more in your favor than you request.

MR. STECKLER: But in the language I put.

THE COURT: I know, but I prefer the language of the Statute.

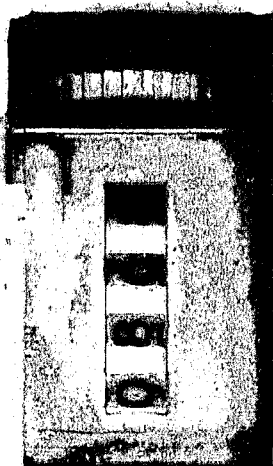
MR. STECKLER: I ask your Honor to charge the jury that, if they reach the conclusion that the defendants' previous character has been good, it is their duty to take that into account in forming a determination as to guilt.

THE COURT: I have charged that.

THE COURT: You have charged that they may!

THE COURT: I have charged that sufficiently.

MR. STECKLER: Very well. I want to except to your



CASE 77 368

Honor's charge in which you state as to the degree of guilt that the jury must find the defendants guilty of.

THE COURT: In what respect?

MR. STECKLER: In your Honor's charge your Honor states that, even though the defendants did commit an assault, with or without an instrument, they must find the defendants, if they find them guilty at all, guilty of assault in the second degree.

THE COURT: I did not charge that.

MR. STECKLER: I ask your Honor to charge that it is within the province of the jury to find them guilty of any assault.

THE COURT: I did not charge that. I charged that, if they find that these defendants wilfully and wrongfully committed an assault, acting together, and in concert, and in that assault produced or inflicted serious bodily injury upon the person of the complaining witness, whether done with or without a weapon, that it was an assault in the second degree.

MR. STECKLER: I ask your Honor, in view of what your Honor has just said, and your charge, that your Honor must submit to this jury all the various degrees of assault.

THE COURT: Well, what, for instance? Assault in the first degree? That is not charged.

CASE 77-368

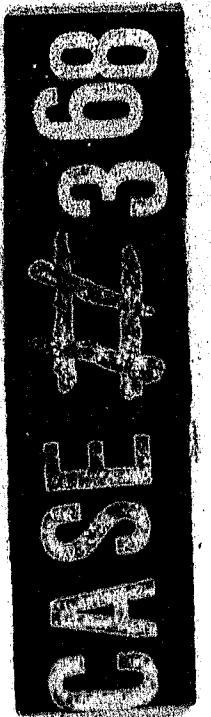
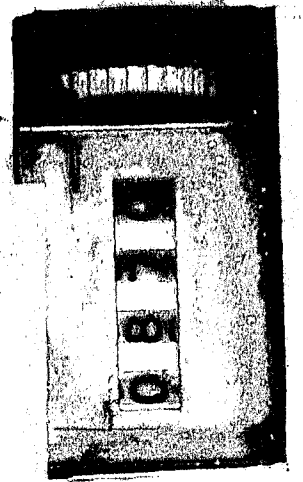
MR. STECKLER: No, sir, there is no indictment for that.

THE COURT: Assault in the third degree is simple assault and battery, Gentlemen. Merely putting your hand upon another for a hostile purpose, no matter what degree of injury is inflicted, is simple assault in the third degree.

MR. STECKLER: I accept to your Honor's refusal.

THE COURT: And I will say further, that where a particular offense is charged in the indictment, the jury, if the testimony warrants it, may find the defendant, or defendants, guilty of any lesser degree of that offense, or of any offense included in it. Now, of course, assault in the third degree is included in assault in the second degree. The only difference is this: Assault in the second degree must be made by a dangerous weapon, or other thing likely to produce grievous bodily injury, whether it does produce grievous bodily harm or not, whether it produces serious bodily injury or whether it was made with or without a weapon. Now, if you find that the defendants did make an unlawful assault upon the person of the complaining witness, and did produce grievous bodily harm, why then you would be justified in finding them or either of them guilty of assault in the third degree.

MR. STECKLER: Unless they find that the assault was,



justified.

THE COURT: I say that where the assault is wrongful, of course. There is no assault if it is justified.

MR. STECKLER: Now, I desire to take some exceptions. I presume I can take those when the jury retires, unless your Honor prefers I should take them now.

THE COURT: No, not after the jury retire, because if there is anything there that you are entitled to have charged, I will give you the benefit of it.

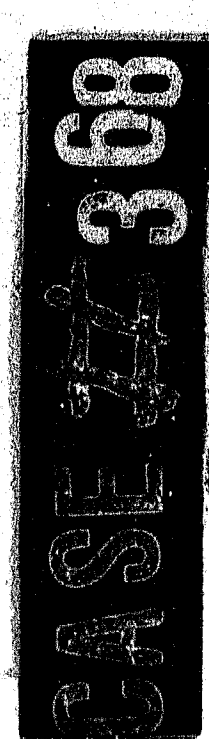
MR. STECKLER: I take exception to your Honor's charge in that you say that all of the witnesses for the defendant --, or, if your Honor did not use the word "all," that some of the witnesses for the defendant were associated with the defendant Torelli's place.

THE COURT: What I meant to say was were frequenters of the place.

MR. STECKLER: I except to the charge as made, and to the modification. I also except to that part of your Honor's charge in which you say that apparently it is a question between the complaining witness and the defendant as to whether their watches differed or not.

THE COURT: I did not charge anything of that kind.

MR. STECKLER: Well, on the subject of the watches in question, whether the watches differed between them. Your Honor did use language of that character.



THE COURT: I say this: If an officer is engaged in making an arrest, and any bystander thinks he is not acting within the law, and interferes, he does so at his peril.

MR. STECKLER: If, however, it was prior to the time for the closing up, the defendants would not be guilty of any offense.

THE COURT: It does not excuse the interference with that officer, because a bystander or citizen thinks he knows the time better than the officer, or anything else that goes to the essence of the crime. The aggrieved person has his remedy, and it is his duty to submit to the authority of the law, and any outsider who questions it does so, I say, at his peril.

MR. STECKLER: I ask your Honor to charge the jury that, if the jury find from the evidence in the case that the complaining witness used a glass in assaulting the defendant, that the defendant was justified in protecting his person from such assault, if he used no more force than was necessary.

THE COURT: Well, as a simple proposition I see no objection to that, provided the complaining witness was not an officer engaged in the performance of his duty, and used no more force than was necessary to discharge that duty.

CASE # 368

MR. STECKLER: Even though he was the aggressor -- if he was the aggressor, the defendant was justified in protecting his person.

THE COURT: I charge simply that an officer is entitled to use force to accomplish an arrest, but that he is bound by the ordinary rules of justice not to use more than the necessary force.

MR. STECKLER: Very well.

The jury retired at 11:30 a. m.

The jury returned to Court at 3 p. m.

THE COURT: Gentlemen, in reply to the inquiry submitted through your foreman, I desire to say that in a case of this kind, where defendants are jointly indicted, you are at liberty to convict one and acquit the other, if the testimony warrants it.

The jury then, without leaving the box, returned the following verdict through their foreman: "The jury find the defendant Torelli guilty of assault in the third degree, and desires to acquit Parentini."

