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CASE

SECRET

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COURT OF GENERAL SESSIONS OF THE PEACE
CITY AND COUNTY OF NEW YORK. PART IV.
.....

THE PEOPLE OF THE STATE OF NEW YORK:

-against-

WILLIAM KENT.

BEFORE:

:HON. WARREN W. FOSTER,
Judge,

: and a Jury.
.....

New York May 18, 1911.

Indicted for assault in the first and second degrees

Indictment filed July 22, 1910.

A P P E A R A N C E S:

For People: Robert E. Manley, Esq., Assistant District
Attorney.

For Defendant: M. Jesse Henry, Esq.

A Jury is duly empanelled and sworn.

S A M U E L S A M U E L S, called as a witness on behalf
of the people, being first duly sworn, testifies as follows

DIRECT EXAMINATION BY MR. MANLEY:

Q Where do you live now? A 173 East 119th Street.

Q Where did you live upon the 11th day of July of last
year? A In 302 East 33rd Street---32nd Street.

Q Are you acquainted with this defendant, William Kent?

A Yes sir.

Q Did you know Mr. Kent before the 11th of July of last year? A Yes sir.

Q How long before that day had you known Mr. Kent?

A About three years.

Q Just answer this yes or no--did you ever work for Mr. Kent? A Yes sir.

Q How long was it that you worked for Mr. Kent? A The latter part of October ~~xx~~ ~~th~~ to the early part of November 1908.

Q And for how long did you work for Kent? A About two or three weeks--- three weeks.

Q From that time down to the 11th of July 1910 did you see Kent occasionally? A Yes sir.

Q Upon the 11th day of July 1909 did you see this defendant Kent in the City and County of New York? A Yes sir.

Q Where? A In Prince Street, in a saloon.

Q Do you remember the number of the saloon? A No sir, I do not.

Q Was it 52 Prince Street? A 52, I think.

Q It was between what other streets? A It was Lafayette Street and Mulberry---Lafayette and Mulberry, or Howard.

Q What time did you go into that saloon on that morning? A Around 11 o'clock.

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Q In the forenoon? A Yes sir.

Q Was Kent there when you got there? A Well, I didn't see him. I was trying to sell some stuff to the bar tender?

Q You didn't see him when you first got in there? A No.

Q What was it you were selling? A Floor mops and bar towels.

Q Did you have any floor mops with you? A Yes, I had a bundle that weighed about twenty two pounds.

Q Were you carrying that when you got into the saloon? A Yes.

Q When you got in there did you have a talk with somebody in your endeavor to sell something? A With the bartender.

Q You said something to the bartender, did you? A Yes sir.

Q After you had talked with the bartender did you at any time while in the saloon see the defendant Kent? A No sir, just when I was going out somebody---

Q Now, you said you did not. How long do you think you were in the saloon before you started out? A About a minute, not quite a minute.

Q Where was it that you saw Kent first that morning? A As I was coming out somebody said "Hello." I turned around and I seen Kent.

Q Was Kent behind you when you heard this remark

"Hello"? A Yes sir.

Q At the time when you heard that remark were you on the sidewalk or still in the saloon? A Still in the saloon.

Q How close to the door of the saloon going out to the sidewalk, were you? A About a foot.

Q When you heard this remark behind you, "Hello", what did you do? A I turned around and I said "Hello".

Q You saw Kent when you turned around? A Yes sir.

Q How close to you was Kent when you turned around? A Well, I couldn't really say.

Q Well, he was in the saloon? A He was in the saloon.

Q Tell us what happened from that time on? A I went outside and Mr. Kent followed me out. As I got outside he said "I suppose you got a thousand dollars to testify against that case---against me".

Q He said "I suppose you got a thousand dollars to testify in that case against me"? A Yes sir.

Q What else? A And I told him I didn't get a cent or car fare. He started to holler and curse and I called him a liar.

Q Just state what he said when you cursed? A I don't remember. He just hollered and cursed, I can't remember, my memory is bad since I got hurt.

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Q When you say he cursed do you mean he swore? A Yes sir.

Q What occurred next? A After I called him a liar he said "You are going to get trimmed before you get off the block." As he said that he made a grab for my glasses. I grabbed him with my left hand and he pulled something out of his ---I had the bundle in my right and I grabbed my glasses---he made a grab and I made a grab and got the glasses and he pulled something out of his back pocket and hit me on the jaw and broke it in five places.

MR. HENRY: I move to strike out "Broke it in five places;" He is not competent to testify to that.

MR. MANLEY: I am willing to strike out the latter part, "broke it in five places".

THE COURT: Strike it out by consent.

Q You say you were carrying a bundle under your right arm? A Yes sir.

Q Did you see from what pocket he drew this something?

MR. HENRY: Objected to as improper and illegal?

THE COURT: Objection overruled.

A His back pocket.

Q Hip pocket? A Yes sir.

Q On which side? A Right hand hip pocket.

Q Could you see what it was he pulled from that pocket?

A No sir, I had my glasses off.

Q What took place after you were struck in the jaw?

A I waited around---

Q Did you stand up or go down? A Well, as I got hit I got grabbed by some more people, that was ~~there~~ all---I got dizzy and I got grabbed.

Q Did you see what became of Kent after he struck you?

A No sir. He ran away.

Q Did you see him run away? A Yes sir.

Q Did you go to a hospital? A Yes sir.

Q What hospital did you go to? A To the New York Polyclinic.

Q That is on what street? A 34th Street, between 3rd and 3rd Avenues.

Q Were you treated there? A Yes sir, just got bandaged up there.

Q What doctor treated you there? A Dr. Hancock.

Q What did Dr. Hancock do? A Put me in a plaster Paris cast.

Q Put what in? A My face.

Q Your jaw? A Yes sir.

Q Did you go back there again? A No sir. I went home to my brother where I could get some care taken of me, and I had the family doctor.

Q Where was your brother when you got the family doctor?

A 151 Montgomery Street, Jersey City.

Q Did you stay up in New York or at your brother's house-

A I stayed till Saturday and I went to police headquarters.

Q How long were you laid up? A About seven weeks.

Q What is the name of the private doctor that treated you at your Brother's house? A William Hetherington.

Q For two or three weeks he treated you? A Yes sir.

Q How often did you see him a week? A Sometimes every day. The first day twice, sometimes every day and sometimes three times a week.

Q That bandage which was put on by Dr. Hancock in the Polyclinic Hospital, was that a plaster of Paris cast? A Yes sir.

Q How long did that stay on? A About four weeks.

Q Then you had another bandage put on, I suppose? A Another plaster of paris bandage, by the doctor.

Q Was your jaw straight or crooked before this happened
A Straight.

Q I notice now it seems to be inclined towards your left? A Yes sir.

Q Is that since it was broken? A Yes sir.

Q It was perfect before I suppose on the left side?

A Yes sir.

Q Do you know in how many pieces it was broken?

Objected to; objection overruled; exception.

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A It was broken in four or five places.

Q After you got medical treatment when was it that you reported the matter to the police? A On a Saturday, five days after.

Q Where did you go? A Police headquarters.

Q That is here in New York? A Yes sir.

Q Did you there report it to the police officer? A I met officer Mangin coming downstairs and he asked me what was the matter.

Q Did you report it to a police officer? A Officer Mangin.

Q Of the detective bureau? A Yes sir.

Q Did you accompany mangin anywhere to look up the defendant? A Yes sir, but I went up as far as Prince Street, and Mangin went in and got him.

Q Were you present when the defendant was arrested by Mangin? A I was outside.

Q Did you identify Kent to the officer? A Yes sir.

Q You say that just before you were struck by the defendant the defendant said "How much did you get for testifying in that case"? A "I suppose you got a thousand dollars".

Q Now had you testified in a case in which the defendant Kent was a witness? A Yes sir.

Q That was about how long before the 11th day of July of last year? A I think it was March or April of last year.

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Q March or April of 1910? A Yes sir.

Q What was that, a civil or a criminal case? A A criminal action.

Q In the Court of General Sessions? A Yes sir.

Q Was the defendant Kent at that time a witness for the people or for the defense? A For the people.

Q Were you a witness for the people or for the defense? A For the defense.

Q And was the defendant Kent the complaining witness in that case? A Yes sir.

CROSS EXAMINATION BY MR. HENRY:

Q Where do you live? A 173 East 119th Street.

Q One time you lived in Jersey, didn't you? A Yes sir.

Q When did you live in Jersey? A I lived in Jersey on and off.

Q The question put to you by the District Attorney---you say you lived at 173 East 119th Street? A Yes sir, at the time we moved to New York.

Q When did you move to Jersey? A Well, I am a single man---

Q When did you move to Jersey? A The 11th day of ---the last time I moved to Jersey was the 11th day of July 1910.

Q And where did you move from? A 302 East 33rd Street.

Q Who were you living with in 33rd Street? A I had a furnished room.

Q What time did you move to Jersey City on July 11th?

A In the afternoon.

Q About what time? A Well, after I got bandaged up.

Q Did you have a trunk in 33rd Street? A No sir.

Q A hand bag? A I had a bundle.

Q Well you kept wearing apparel, didn't you---you had suits of clothes? A Well, I lived ---I am a single man and lived with my brother.

Q Didn't you have a grip or a satchel? A No sir, I had a bundle of shirts.

Q After this thing happened at Prince Street you went up to 33rd Street? A I went to the hospital to get bandaged up.

Q From the hospital you went to 33rd Street? A I went to 33rd Street, yes sir.

Q At what time? A At about around half past one or two o'clock.

Q This trouble that you are supposed to have had with Kent happened about half past eleven. A Eleven o'clock.

Q Then you went up and got the bundles and went over to Jersey City? A No sir, I didn't take bundles---I couldn't take no bundles.

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Q How long did you live in Jersey? A Since three weeks ago?

Q Up to three weeks ago you have been living in Jersey?
A Yes sir.

Q Where did you live in the month of October and November 1910? A Either 19 Stuyvesant Place or 213 East 13th Street.

Q Didn't you say a minute ago you lived continuously from the 11th day of July 1910 up to three weeks ago in Jersey City? A Yes sir.

Q Which is correct? A Jersey City.

Q Did I understand you to say you lived in Stuyvesant Place at another address you gave just now, in the months of October and November? A I misunderstood you. I lived in Jersey City from July 11 1910 till three weeks ago.

Q You know number 19 Stuyvesant Place, don't you? A Yes sir.

Q Are you a citizen of the United States? A Yes sir.

Q Isn't it a fact that you registered and voted from 19 Stuyvesant Place in the City of New York? A Yes sir, that is two years ago.

Q That is 1910 I am speaking of? A I didn't vote in 1910.

Q Did you remember you are under oath? A I didn't vote in 1910.

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Q When did you live at 19 Stuyvesant Place? A 1909.

Q You say you lived at 19 Stuyvesant Place in 1910?

A No sir, I did not.

Q In 1909? A 1909. Yes sir.

Q When did you live there? A Well, I couldn't exactly say when I moved there.

Q Your memory was good then, wasn't it? A My memory is bad since I got hurt.

Q Was your memory good then? A Yes sir.

Q Can you tell us when you moved to 19 Stuyvesant Place?

A I couldn't tell.

Q Are you sure it was 1909? A No. I voted there before

Q What year did you vote there?

MR. MANLEY: I object to this as being incompetent and immaterial, whether he voted in a certain place in 1909.

MR. HENRY: I want to show the credibility of the witness as to his residence.

THE COURT: Objection sustained.

Q What was the other address that you gave besides Stuyvesant Place? A 218 East 13th Street.

Q How long did you live there? A Well, I couldn't tell--about four months, five months.

Q Did you move from 13th Street to Stuyvesant Place?

MR. MANLEY: Objected to as incompetent and immaterial.

MR. HENRY: Question withdrawn.

Q Now, you were a witness in the Halahan case? A Yes sir.

Q And Mr. Kent was the complainant, wasn't he? A Yes sir.

Q And you know all about that case, didn't you? A I didn't know nothing about the case.

Q You know that Mr. Kent's house was entered and robbed?
A No sir, what he told me.

Q And Of diamonds, jewelry and so forth?

MR. MANLEY: Objected to as incompetent, and immaterial.

MR. HENRY: Question withdrawn.

Q You testified in the Hallahan case to the effect that you had never work for Mr. Kent? A I testified that I worked for Mr. Kent.

Q Are you sure of that? A Yes sir.

Q And where did you give that testimony, if you recollect? A In the court.

Q In the Magistrate's Court? A No sir.

MR. MANLEY: Objected to as incompetent and immaterial.

THE COURT: I will allow the question.

Q In what proceeding was it that you testified you had worked for Mr. Kent?

MR. MANLEY: Objected to as incompetent and immaterial.

MR. HENRY: Question withdrawn.

Q But you did testify on behalf of Hallahan, didn't you? A I testified that Mr. Hallahan--

Q You did testify, you said, I remember? A Yes sir.

Q And you know what Hallahan was charged with, don't you?

MR. MANLEY: Objected to as incompetent, and immaterial.

MR. HENRY: Question withdrawn.
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Q Now, Hallahan case was the cause of your argument at 52 Spring Street? wasn't it? A Yes sir.

Q And Morelli was the defendant, wasn't he? A Well, there was four defendants.

Q Your business at that time took you around to various saloons, didn't it? A Yes sir.

Q And you were selling goods? A Yes sir.

Q And did you did meet on that day in question many people who had known you and done business with you before?
A Yes sir.

Q As a matter of course they would treat you and you

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would treat them? A No sir, I don't drink at business.

Q How? A I don't drink when doing business.

Q You don't drink when doing business? A No sir.

Q If you had drank would you make a statement in the court to-day? A Yes sir, I would.

Q And you want to tell this jury---how many places were you in that morning before you entered the place at 52 Prince Street? A Might have been in ten or might have been in twenty five. I had business in candy stores, barber shops, butcher shops.

Q I mean particularly about saloons---your trade lies particularly in saloons? A No sir.

Q Well, the majority of it? A No sir.

Q Less than 50% of it? A Yes sir, less than 50%.

Q But some of it does go to saloons? A Some of it does go to saloons.

Q And during all your travels, not along on this day, the 11th of July, but other days prior to that you never took a drink during the day? A After, evenings.

Q And your business closes at eight or nine o'clock, at night? A No sir.

Q Around 12 or half past twelve.

Q You don't do any more business after that any day? A No sir.

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Q For how many years back? A Well, two years, or two years and a half.

Q And you make enough money to support and maintain yourself from what time in the morning? A From 7 o'clock in the morning.

Q From 7 o'clock to what? A From 7 o'clock to one, yes sir.

Q At no time have you purchased a drink during those business hours? A Oh, purchased a drink now and then, but I don't make a habit of drinking during business hours.

Q This morning in question about 11 o'clock did you go to the saloon 52 Prince Street, didn't you? A Yes sir.

Q Was anybody in the saloon outside of the bartender? A Oh, a few of them in there.

Q Did you see the bartender? A I asked the man behind the bar did he need any mops.

Q You saw the bartender, didn't you? A Yes sir.

Q Now how long had you been in there before you left the store? A Less than a minute.

Q Just had a talk with the bartender and walked right out? A Well, I go in and say "Do you"---

Q Isn't it a fact that you saw Mr. Kent at the bar at that time? A No sir.

Q That Mr. Kent was drinking a glass of beer? A No sir.

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Q That you walked up to him and asked him to come outside of the premises on Prince Street? A No sir.

Q Do you mean to tell this jury that you didn't see Kent in the saloon there? A I seen him after he said "Hello"

Q You didn't see him in the saloon? A I seen him after he said "Hello".

Q Where was that? A In the door, near the saloon.

Q You didn't see him while drinking the beer? A No sir.

Q How many people were with you at that time? A Nobody

Q Isn't it a fact you had two men with you? A No sir.

Q You say no? A No sir.

Q Did you see Mr. Kent leave the premises? A He followed me out.

Q You went out first? A I did.

Q Had you spoken to Mr. Kent in the saloon at all? A No sir, only said "Hello".

Q Then you had spoken to him? A Well, he said "Hello", and I turned around and seen him and said "Hello," and walked out.

Q Up to this time there had never been any trouble between you and the defendant, had there? A No sir.

Q There were never any angry words spoken? A No sir.

Q There were never any threats made against you? A No sir.

Q As a matter of fact you had been more or less friend-

ly? A Yes sir.

Q When you got out into the street the street was pretty crowded---it is in that neighborhood, isn't it?

A No sir.

Q No people on the street at all? A There might have been a few.

Q Isn't it a fact that it is one of the most densely populated districts downtown? A Around 12 o'clock it is.

Q This was between 11 and half past wasn't it? A No sir, a little before 11.

Q Well, between 11 and half past 11? A A little before 11.

Q Didn't you testify ~~that~~ when you went to the saloon it was about 11 o'clock? A Around eleven.

Q You don't want to change that, do you? A No sir.

Q You know what you signed in the affidavit, don't you?

A Yes sir.

Q What was it? A Around eleven o'clock.

Q Didn't you sign that it happened at 11 o'clock, or after 11? A No sir, around eleven o'clock I said.

Q Then the Morelli case came up in the argument between you and Kent? A No argument at all.

Q Isn't it a fact that you told Kent "Well, we done you and got Morelli to do you up again," or words to that effect?

A No sir.

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Q You are sure that you didn't tell Kent that Morelli would do him up again the same as he done him up the last time in his house? A No sir. I wouldn't know Morelli if I fell over him.

Q Still you testified in his behalf--- you proved an alibi, didn't you? A I testified---the only thing that I testified was that I worked for Mr. Kent, and Mr. Hallahan was in the saloon the time me and Mr. Kent went up there, that is all I testified---nothing for the prisoners at all. Mr. Kent took an oath that I never worked for him and swore he didn't know me.

Q What did you testify in the Morelli case? A Mr. Kent swore that he didn't know me or he wasn't in the policy business.

Q You know that Morelli was the one that was charged with assault, you know that? A Only what I heard.

Q And you know that Moreilli was arrested and charged with that crime? A Yes sir.

Q And you were the one that testified in his behalf? A I testified that I worked with Mr. Kent and I knew Mr. Kent, that was all I testified. He took an oath that I never worked for him, and he didn't know me. That is all I testified---nothing for the prisoners at all.

Q Then you practically said nothing against Mr. Kent, according to what you say now?

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MR. MANLEY: Objected to as incompetent and immaterial; Mr. Kent was not on trial there.

MR. HENRY: Question withdrawn.

Q When you got outside did Mr. Kent follow you? A He followed me out of the saloon.

Q And was he near to you? A Well, he was right in front of me.

Q Where were your friends? A I didn't have no friends.

Q You didn't have two friends with you? A I didn't have no friends when I am working.

Q You remember having a knife in your hand? A No sir.

Q You remember attempting to cut Kent? A No sir.

Q You don't remember that? A No sir, I didn't have no knife.

Q Do you remember when you drew the knife?

MR. MANLEY: " I thought you said you had no self-defense.

Q Do you remember at that time that Mr. Kent ran away?

A I didn't have no knife.

Q You say that Mr. Kent drew something from his pocket?

A From his back pocket, yes sir.

Q That something, can you tell the jury what it was?

A I couldn't see, I had my glasses off.

Q Are those the same glasses that you had on? A Yes sir.

Q And those are the glasses that you use in your daily walk of life? A Yes sir.

Q In your business transactions? A Yes sir.

Q Those glasses were not hurt, were they? A No sir. I had them in my hand.

Q But when he, as you allege, the defendant---pulled something from his back pocket you had them on, didn't you? A No sir, I had them off in my hand.

Q Did you have the glasses off before he pulled something out of his pocket? A He made a grab for the glasses. He said "You are going to get trimmed before you get off the block," and he made a grab for me.

Q Did you have the glasses on at the time that he attempted to take something from his back pocket, yes or no? A I had the glasses on when he said "You are going to get trimmed before you get off the block". He made a grab for the glasses and I grabbed them and he takes out something and hits me with it.

Q Are you far sighted or near sighted? A Near sighted.

Q And you can tell objects from this point, can't you?

A No sir. With my glasses on, I can.

Q At what distance can you tell objects without glasses?

A Well, I don't know---two feet two or three feet, four feet--I couldn't really tell.

Q Can you tell me what I have got in my hand now? A Yes

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sir.

Q What is it? A A fountain pen.

Q Take your glasses off. Can you tell me what I have got up now? A You have got up your hand.

Q And my fingers apart, is that right? A I can't tell-- it is blurred.

Q Can you tell me what I have got in my hand now? A I see something shining.

Q Something shining? A Yes sir.

Q But you can tell possibly three or four feet from where you stand? A Yes sir.

Q So there is hardly any question in your mind, if you had seen anything in the hand of this defendant that you would be able to tell the jury what it was, is that right?

A Well, I couldn't tell what I got hit with.

Q But this defendant as you said was then two or three feet away, is that correct? A Yes sir.

Q So naturally if he had anything in his hand you would positively have seen it? A He didn't have anything in his hand, he pulled it out of his pocket and went that way (Indicating).

Q At that time how far away was the defendant from you?

A About three feet.

Q And at that time you could see plainly what he had?

Couldn't you? A I couldn't see what he had, it was done too quick.

Q Was it covered up or sticking out? A I couldn't say.

Q Are you prepared to swear he had anything in his hand? A I couldn't see, I couldn't tell really what he had in his hand.

Q Are you prepared to say he had anything in his hand, of your own knowledge. A I know I got hit with something hard.

Q But are you prepared to swear that this defendant at the time that he is alleged to have assaulted you have anything in his hand, of your own knowledge, yes or no? A He took something out of his back pocket.

Q Won't you answer my question? I think it is pretty plain. Of your own knowledge are you prepared to swear that at the time that this defendant is alleged to have assaulted you that he had any thing in his hands? A I will swear he took something out of his pocket and hit me with it.

Q Did you see the something he took out of his pocket? A I did see something, but I couldn't tell you what it was.

Q Could it have been a handkerchief? A I couldn't say what it was.

Q Did it extend outside of the ~~market~~ palm of his hand? A I can't say.

Q This defendant was within two or three feet of you, wasn't he? A Yes sir.

Q You tell this jury you are able to distinguish objects within three or four feet of you, is that right? A Yes sir.

Q And at the same time you cannot tell us what he had in his hand? A It was done too quick.

Q Are you prepared to say now of your own knowledge that this defendant had anything in his hand? A Yes sir, he hit me with something.

Q After you, as claimed by this defendant, drew this drive and attempted to stab him, isn't it at that time that a crowd collected around you and then you got hit? A I didn't draw no knife, I didn't have a knife.

Q You know a name by the name of McMara? A No sir.

Q Do you know a man named Donovan? A No sir.

Q Do you know "Piggy Donovan", don't you? A I know him by the name only.

Q See if you cannot try to refresh your memory and bring back the name of McMara to your mind? A No sir, I don't know him?

Q You have got a brother too, haven't you? A Yes sir, I have got several brothers.

Q And isn't it a fact that this McMara through your brother told you that he was the man that struck you that day?

MR. MANLEY: Objected to as incompetent, immaterial and irrelevant.

Q You say you don't know McMara? A No sir.

Q You had never met him? A No sir.

Q You also say there was no crowd of people there? A No sir.

Q There was no collection of people grouped--- A After I got hit there was a crowd.

Q How long did this whole transaction take place? A Well, I couldn't really tell you?

Q Wasn't it done like that (Counsel snapping fingers)? A No sir.

Q In a second? A No sir.

Q How long were you fighting around there? if it was not done like that? A I wasn't fighting.

Q How long were you quarreling around there? A Well, Mr. Kent says to me "I suppose you got a thousand".

Q How long were you quarrelling around there?

MR. MANLEY: Objected to, nothing to show that the witness was quarrelling.

THE COURT: Objection sustained.

Q How long were you disputing or talking with Mr. Kent at that time? A About fifteen or twenty seconds.

Q Then that is the time the assault took place? A Yes sir.

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Q And there was not a living soul around the door of 52 Prince Street ? A (No answer)

Q There was not a living soul outside of you and Mr. Kent that was there at the time of this quarrel or at the time Mr. Kent is alleged to have drawn this here something out of his pocket and struck you? You were the only two living persons at that time? A Standing at that spot, yes sir.

Q How far out from the store door, did this trouble take place? A About twenty feet from the saloon.

Q Then you were right near the gutter, weren't you? A No sir, close up to the wall, close to the wall.

Q Close to the wall of the premises? A Close to the next house. I was facing towards Mulberry Street.

Q You have got a brother by the name of Billy Samuels, haven't you? A Yes sir.

Q I suppose that means "William"? A William, yes sir.

Q Isn't it a fact that you sent your brother Billy or William Samuels to a place in Houston Street with a proposition if Mr. Kent would pay you \$500. you would drop this action? A I don't speak to my brother William.

Q Or Billy? A No sir, I don't speak to him.

Q What does he do for a living? A He sells linens and

towels.

Q He is in the same line of business you are? A No sir, he sells linens; I sell cotton goods.

Q He frequents saloons? A No sir.

Q What then? A I don't know where he sells his goods.

Q But you deny sending your brother to offer a settlement on a payment of \$500.? A Yes sir.

RE-DIRECT EXAMINATION BY MR. MANLEY:

Q At the time when you were struck by Mr. Kent did you see any one on the street that you knew at that time? A No sir.

Q And I understood you to say that this was on Prince Street, this saloon? A Yes sir.

Q Do I understand you that it was between Lafayette and Mott? A Lafayette and Mulberry.

Q Was it on the north or south side of Prince Street? A South side.

Q Was it near Mulberry or Lafayette? A It was nearer to Mulberry.

Q About how far was it from the corner of Prince and Mulberry Street, roughly. A About 80 or 75 feet.

Q Now you say that the spot where you were assaulted was about twenty feet away from that saloon? A Yes sir.

Q Now was that spot twenty feet away from the saloon

nearer Mulberry Street or towards Lafayette Street? A

Nearer Mulberry.

Q Are you acquainted with a man named Morelli who has been spoken of on cross examination? A I only know him by name.

Q You have heard the name? A I have heard the name, yes sir.

Q Now in that case which you have testified that you testified in the Court of General Sessions, was the man who was tried named Hallahan or was it Morelli? A Morelli.

Q Did you testify in a case against a man named Hallahan either on the side of the defense or the people, or was it just Morelli? A Well, it come up on account of Hallahan.

Q Did you testify in the Court of General Sessions in more than one case in which Kent was a witness? A One case.

Q And that was a case against a man named Morelli? A Morelli, yes sir.

Q Are you able to state to us, counsel having asked you whether you saw anything in the hands of the defendant when you were hit---are you able to testify what it felt like when you got that blow upon your jaw? A It was hard.

RE-CROSS EXAMINATION BY MR. HENRY:

Q You know how many people were arrested charged with the

crime of robbery in the first degree and assault in the first degree against Mr. Kent, the defendant here?

MR. MANLEY: Objected to as incompetent and immaterial.

MR. HENRY: Question withdrawn.

Q Did you know there were three men arrested at that time

MR. MANLEY: Objected to as incompetent and immaterial.

THE COURT: Objection sustained.

Q But you did testify in the Hallahan case? A No sir, in the Morelli case.

Q Never testified in the Hallahan case? A In the Magistrate's Court.

Q And you testified also in the Morelli case? A Not in the Magistrate's Court.

Q No, in the Court of General Sessions? A Yes sir.

Q But you knew what these people were charged with at that time? A Only what Mr. Kent told me.

MR. MANLEY: Objected to as incompetent and immaterial.

MR. HENRY: Question withdrawn.

BY THE SECOND JUROR:

Q You say you worked for Mr. Kent? A Yes sir.

Q What did you do for Mr. Kent when you worked for him? A Writing policy.

Q How long did you work for him? A About three weeks.

Q Never had any quarrel at that time? A No sir.

J O H N S A M U E L S called as a witness on behalf of
the people, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. MANLEY:

Q Are you a brother of the last witness, Samuel Samuels

A Yes sir.

Q Where were you living in July of last year? A 151
Montgomery Street, Jersey City.

Q Did you upon that day or the following day see your
brother Samuel? A The same day.

Q About what time of the day, do you recollect? A
About half past six.

Q Will you state his condition at that time when you
saw him?

MR. HENRY: Objected to as improper, immaterial
and irrelevant.

Objection overruled; exception.

A When I come that evening from my work I came in the house
and I seen my brother all bandaged up in a plaster of paris
and I asked him what was the matter.

Q Don't state any conversation? Now, I understand you
to state that there was a plaster of paris cast around his

A Yes sir.

Q Did you see your brother for several weeks after that?

A Yes sir.

Q Where was it that you saw him? A In my house.

Q For how long a time did he remain in your house after his injury, about? A I think about five months, six months.

Q How long did it take him to recover from the injury, that is what I had reference to? A Well, we had the doctor sometimes once a day, othertimes twice, sometimes every other day.

Q For how long a period of time? A About six or seven weeks, I guess.

Q Was that your family physician? A Yes sir. Dr. Hetherington.

Q Where is his office? A Varick Street, Jersey City.

Q What was the condition of your brother's jaw before this injury; had it been straight, or crooked the way it is now? A An ordinary jaw, nothing the matter with it.

Q This crook towards the left has happened since it was broken? A Since it has been broken, yes sir. It has formed.

CROSS EXAMINATION BY MR. HENRY:

Q What is your business? A Driver.

Q Employed in the City of New York or in Jersey? A
Now in the City of New York.

Q Do you live in the City of New York? A Yes sir.

Q In July and August of 1910 where did you live? A
Jersey City.

Q Who lived there with you at that time? A In July?

Q Yes? A My brother came there on the 11th of July,
when he was injured.

Q How long did he stay in your premises? A About five
or six months, I guess.

Q Did he ever live there prior to that date? A Yes,
he came there on and off. You see, he is the only single
man in the family; he comes there on and off.

Q And also, as far as you know, keeping a residence
in the city of New York? A While he was with me he didn't
keep no residence in the City of New York.

Q Did you ever visit him at 19 Stuyvesant Place?

MR. MANLEY: Objected to as incompetent and imma-
terial.

THE COURT: Objection sustained.

Q He never lived steadily with you at Jersey City? A
No; on and off.

Q Beginning what year? A Beginning with what year?

Q Yes? A 1902.

Q Up to the present time? A Yes sir, on and off.

Q He lived there periodically? A Yes.

MR. MANLEY: With the exception of calling the Doctor when he arrives, if your Honor will give me that privilege, I rest.

THE COURT: Yes.

Mr. Henry now opens to the jury on behalf of the defendant.

T H O M A S J. L A R N E Y, called as a witness on behalf of defendant, being first duly sworn, testifies as follows.

DIRECT EXAMINATION BY MR. HENRY:

Q What is your business? A Bartender.

Q In July 11, 1910 was that your occupation? A Yes sir.

Q And where did you work? A Michael J. Manning.

Q At number what? A 52 Chrystie Street.

Q In the City of New York? A Yes sir.

Q Were you on duty between the hours of---

MR. MANLEY: I object to that as leading. Let him state it.

Q At what time did you go to work on the day in question?

A I opened about six o'clock that morning.

Q How long did you continue in that employment, on that particular day? A I worked from six o'clock to three o'clock in the afternoon.

Q So you were there about 11 o'clock, is that right? A Yes sir.

Q And did you see the first witness, the man Samuel Samuels on that day? A Yes sir.

Q Did you see the defendant Mr. Kent? A Yes sir.

Q At what hour? A Well, Kent was there some time in the morning---I couldn't say how long,

Q Around 11 o'clock? A Oh, he was there before that.

Q Who? A Mr. Kent.

Q What time did you see Samuel Samuels? A Well, we were pretty busy then and Samuel came in, he was selling bar mops, and the next I seen of Samuels was that Mr. Boyd calling me out and he said---

MR. MANLEY: I object to what he said.

Q Never mind what he said. Did you see Samuels, the complainant, and the defendant, in the store at one and the same time if you recollect? A Yes sir.

Q Did you hear any conversation between them? A No sir.

Q Did you see Samuels go out of the premises? A Yes sir.

Q Did you see Kent leave the premises? A Kent? Yes sir, I see him going out after Samuels.

Q After you saw the two leave the premises did anything unusual happen to attract your attention? A No sir.

Q What did you see next? A After they had left I didn't know where they went or anything, and I had been in there, and we was pretty busy at the time, and the first thing that Boyd came in, opened the swinging doors and he called me, he says "A fellow with a light suit"---

Q Don't tell the conversation. As the result of the conversation that you had with Boyd what did you do, if anything? A I just walked out and pushed the swinging door out.

Q When you walked out and pushed the swinging door aside and walked out what did you see if anything? A Well I seen a man with a knife in his hand.

Q Do you mean by a man, do you mean Samuels?

MR. MANLEY: I object to that as leading, and ask to strike it from the record; let him testify.

THE COURT: Yes.

Q Do you see the man in court to-day that you saw on the day in question? A Yes sir.

Q Can you identify that man? A Well, yes, I can, certainly.

MR. HENRY: Mr. Samuels, will you stand up.

MR. MANLEY: I object to that.

Q Do you see him in Court? A I see him down there.

Q Well, point him out; what location? A The man with the glasses on, down there.

Q Where is he sitting? A Sitting down behind that policeman, down there (indicating complainant)

Q Do you know that man's name? A I know it after the thing had happened.

Q You know that he was the complainant in this action?
A Yes sir.

Q What did you see? Tell the court and jury what you saw? A Well, Mr. Boyd, he called me out.

Q Don't say any conversation? A Mr. Boyd came in and he hollers---

Q No, only what you saw? A When I went over to the door and Mr. Boyd called me, I seen a man with a knife was plunging at Kent. I know Kent---

Q Is that man in Court? A Yes sir.

Q You have identified the complainant, Mr. Samuel Samuels? A Yes sir.

Q Now he had a knife in his hand doing what? A Plunging at Kent.

Q At the defendant? A As I was going to the door there were three or four in the back room that ran out.

Q After this man, the complainant in this action attempted to stab or cut the defendant with the knife what happened then if you know? A Three or four in the back room

ran out and Mac McMorrow, he went out. This man's back was toward him.

Q You mean the defendant? A Samuels. And he hit Samuels---his back was towards the saloon---he was facing towards the Bowery side.

Q What happened after that? A He hit him and that was all.

Q Whom did you see hit him? A Mat McMorrow.

Q The man that came from the rear end of the saloon?

A Yes sir.

Q You saw him strike him? A Yes sir.

Q Did you see what he had in his hand? A He had his fist, that's all.

Q Did he have any weapon, if you know sir.

Q At the time that he was struck did he fall to the ground? A No sir.

Q Are you positive that he had nothing else in his hand?

A Positively, no.

Q Are you positive that he had nothing else in his hand?

A Yes sir.

Q Sure of that? A Positive.

Q Did you see anything in the hands of this defendant? A No sir.

Q Are you sure of that? A I seen nothing but him backing away from him, that's all.

Q You saw the defendant backing away? A Yes, backing away from him.

Q No question or doubt about that in your mind? A No.

Q And you are positive that you saw a knife in the hands of the complainant? A Yes sir.

Q Attempting to stab this defendant? A Yes sir.

CROSS EXAMINATION BY MR. MANLEY:

Q Now I suppose that is a pretty hard blow that was dealt by McMara? A Well, he just hit him, that's all. He didn't knock him down.

Q Of course he hit him, because he Samuels, had the knife in his hands, and do I understand you to say that Samuels back was turned towards McMara? A Yes sir, towards the saloon.

Q You are positive he had nothing in his hand? A No Morrow?

Q Yes? A No sir.

Q And you saw his hands then, didn't you? A I saw his when hand he hit him.

Q Well, that's it. A Yes sir.

Q You say he had nothing in his hands and of course you couldn't tell unless you saw the hands? A I am positive he did not.

Q You saw the hand, and of course it was his right hand, wasn't it? A It was his right hand, yes sir.

Q How long have you known Mr. Kent? A Well, I know Kent a good many years.

Q About how many years have you known Mr. Kent? A Well twenty years anyway.

Q Haven't you known him longer? A Well, I was brought up in the neighborhood with him.

Q Haven't you known him longer than twenty years? A No, I don't think twenty years.

Q How long have you been in that saloon at 52 Prince Street as bartender? A Why, Doing bartending for Manning in the place---I have been there for over a year, I guess.

Q Did you do other work in there besides bartending? A Well, I was waiting in the back.

Q What is there in the back? A Well, lunches, you know. --business men's lunch.

Q Was Kent in the habit of coming in there quite often before the 11th of July of last year? A Well, not a whole lot.

Q Well, occasionally? A Yes sir.

Q Dropped in there quite often? A At times, yes sir.

Q Hadn't he stopped in there off and on, Mr. Larney, about all the time that you had been working there? A Not since I have been tending bar he has been in there lately on

and off.

Q Was he acquainted with the owner of the place? A
Yes sir.

Q What is the name of the owner? A Michael Manning.

Q Do you know how long Kent has known Michael Manning?

A I don't think Kent knows him long. He is acquainted with
the Kent family, but not with Billy.

Q Has this man owned the saloon during all the time that
you have been there? A Oh, he is there twelve years.

Q Have you seen other people in that saloon who knew
Kent, from time to time when Kent has been in there? A
Yes sir.

Q Quite a few of them? A Well, all the neighbors
around.

Q Will you give me the names of some of them? A Well,
Jeff Rafferty---all the old timers around knows him.

Q Well, give them to me, I may know some of them? A
Jeff Rafferty---there is a whole lot of them---there is John
Kenny.

Q Anybody else? A McMorrow.

Q McMara was a friend of Kent's? A Yes sir.

Q What is McMara's first name? A Matthew.

Q How long have you known Matthew? A I was born and
brought up with Matthew.

Q Then you and Matthew McMara came from the same neighborhood? A Yes sir.

Q And did you come from the same neighborhood as Kent?
A Altogether.

Q Anybody else who come in there who knew --- A Mr. Someriva---Oh, there is a whole lot of them.

Q I don't suppose any policy was written in there by Mt. Kent? A Not as I know of.

Q Don't you know? A Not that I know.

MR. HENRY: Objected to as immaterial and improper.

MR. MANLEY: Question withdrawn.

THE COURT: I believe it is answered.

Q Now you say that upon the day in question you saw Mr. Samuel Samuels go into the saloon, did you? A Yes sir.

Q Had you ever seen him before that day? A No sir.

Q Do you recollect whether he said anything to you about whether or not you wanted to buy any of his wares which he was carrying? A Yes sir.

Q He said something to you, did he? Were you behind the bar at the time? A Yes sir.

Q Did you buy anything? A No sir.

Q Did he then turn right around and go out? A Yes sir.

Q And you saw Kent go out after him? A Went out after

him, yes.

Q About how long was it after the defendant Kent and Samuels had gone out on to the street before anything attracted your attention? A Well, I couldn't tell you, not until Boyd---

Q About how long was it---half an hour or five minutes?

A No, maybe five minutes or maybe a couple of minutes; I was pretty busy at the time.

Q Well, do you think it was a couple or five minutes?

A I couldn't exactly say.

Q Which was it? A Maybe a couple of minutes, perhaps five minutes.

Q Could it have been more than ten minutes? A No.

Q Well, it was about five minutes then? A About five minutes.

Q It couldn't have been more than five minutes? A No sir, two or three.

Q How long had Kent been in the saloon prior to the time when Samuels came in? A Well, that I don't remember.

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

Q Of course it is all conjecture and assumption? A Well, perhaps maybe an hour or so before---

Q Had he come in alone? A Yes sir.

Q Now as I understand it, that is on the south side of Prince Street, that saloon? A Yes sir.

Q And it is between Mulberry and Lafayette Street? A e
Yes sir.

Q And it is about 80 feet from Mulberry, some where
along there? A About seventy five feet.

Q Is there a back room there? A Yes sir.

Q Is there a hallway from the street going into the
back room? A Yes sir.

Q And a door, I suppose, from the hallway going into
the place where the bar is? A Yes sir.

Q How wide is the front of that saloon facing on
Prince Street? A Well, about twenty five or thirty feet, I
guess.

Q How, this was the 11th of July. I suppose there were
Summer doors on that swung in and out each way, weren't there?
A Yes sir.

Q Are those doors very wide? A No, ordinary doors;
it was a saloon, you know.

Q Probably five or six feet you would say? A Yes,
about that.

Q Now I think you said that at that time McMara was
in the back room, is that right? A Yes sir.

Q Was he seated at a table drinking, or talking with
somebody at the table? A I guess in there talking.

Q That back room is about how far from the line of
Prince Street? A Well, I guess about 40 feet.

Q Was there anybody with McMara in the back room at the time? A Yes sir.

Q Who was ~~xxx~~ with him? A John Daly.

Q Who else? A Thomas Gilfeather.

Q Who else? A That's all I remember that was in there with him.

Q Was Boyd there? A Inside in the saloon?

Q Yes? A No, Boyd was outside.

Q Had you seen Boyd before he came to the door that morning? A I don't know exactly whether Boyd had been in there or not.

Q You have no recollection upon that? A No, I have not.

Q The first thing that attracted your attention was when Boyd came in, is that so? A Yes, Boyd pushed the door open.

Q I asked you if the first thing that attracted your attention was when Boyd came in? A Yes sir.

Q And he came in from Prince Street through the front swinging door? A Just shoved the door in and hollered.

Q Didn't he come in through the door? A Yes sir.

Q Were you at that time behind the bar? A Yes sir.

Q And McMara is in the back room? A He is in the back room.

Q Did he holler very loud when he came in---McMara? A

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No, Boyd hollered loud.

Q What did you do after he hollered? A I went around from behind the bar to go to the door to see what was the trouble was. He said "There is a feller out here stabbing that feller with the light--".

Q Did he say anything besides that? A No.

Q Now you are positive he said that---"There is a feller out here stabbing at the feller with the light suit"?

A Yes sir.

Q Was he running or was he walking at the time when he said that---Boyd? A He just pushed the door in, that's all, and told me it.

Q Well, he stood right there? A Stood there.

Q You are behind the bar at the time, you come right out? A I came right out when Boyd hollered in.

Q Ddd you go out on to the street? A No sir.

Q Where did you stand? A Stood at the door and pushed the swinging doors aside and looked out.

Q Did you look towards Lafayette Street? A No, Mulberry Street.

Q What did you see? A I seen this man Samuels with a knife going at Kent and Kent backing away from him.

Q How far was that from the corner of Mulberry Street?

A About fifty five feet.

Q That would bring it right in front of the saloon, wouldn't it? A No, it wouldn't.

Q How many feet was it west of Mulberry Street, do you think? A Well, about, about seventy five feet.

Q I thought you said a moment ago the saloon was seventy five feet west of Mulberry? A No, the saloon is more than that.

Q Well, what is it? A The saloon must be eighty or ninety feet, I suppose, away from Mulberry Street.

Q Well, it is about fifteen or eighteen feet east of the saloon? A Well on the outside, next to the saloon.

Q Samuel had this knife in his hand and he was making a motion like this, was he, with his right hand? (Indicating)? A Yes.

Q And Kent was backing away? A Backing away.

Q I suppose that Samuel came at Kent so that Samuels had to cover several feet in walking towards Kent, didn't he? A I suppose so. When I got there---

Q Don't you know? I am asking what you saw? A What I saw, when I got there I suppose he must have been backing away from him.

Q Did you see Kent backing away from Samuels? A Yes sir.

Q Did Samuels cover several feet in advancing towards him? A I suppose so.

Q What did you see? A I seen him with the knife going at Kent and Kent backing away from him.

Q Did you see Samuels cover several feet? By that I mean did he walk several feet towards Kent? A I guess he did.

MR. HENRY: I don't the witness understand what you mean?

MR. MANLEY: Well, I am the best judge of that myself.

Q About how far did he back away? About how many feet do you think? A Well, we will say from here over to the table.

Q Well, about four feet? Did Samuels come right over towards Kent? A Yes sir.

Q That was a pretty good sized knife, wasn't it? A Well, I couldn't see that.

Q Well, describe the knife, how long was the blade? A I don't know---just seen the blade in the hand, that's all.

Q Was it a pretty good sized blade? A Long enough.

Q Oh, all blades are long enough. How long was it? A I couldn't say.

Q Well, about how long? I know you can't say definitely, but I want your estimate? A Well, I suppose the blade was as long as that (Indicating about three inches in length).

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Q Did it look like a jack knife? A I don't know.

Q Well, what did it look like? A I only seen the blade.

Q Did you see the flash of it, or did you see the steel? A Just seen the steel.

Q And it looked as if it was about three inches long?
A That is about it.

Q Who was nearest the curb, Kent or Samuels? A Well, the both of them was out on the sidewalk.

Q Who was nearest the curb line of the sidewalk? A I guess Kent was.

Q Can't you tell us? A Kent was the nearest.

Q Well, was he nearest? A He was the nearest.

Q Well, he was backing away then, wasn't he? A Backing away from him.

Q That would bring Samuels of course nearer the house line, wouldn't it---nearer the line of the saloon, of the house? A Yes.

Q And they were both between the saloon and Mulberry Street, weren't they? A Yes sir.

Q Now you stood of course right in the entrance of your saloon? A Right in the entrance.

Q Anybody else on the street at the time be sides Kent and Samuels? A Not as I seen then.

Q Can't you tell whether you saw anybody else or not?

A There was nobody, on the sidewalk where they were until those people went of the saloon.

Q Were they alone at the time you first saw them on the street? A Yes sir.

Q You are positive as to that? A Positive of that fact.

Q Well, now when you saw Samuels was he in the act of going towards Kent in this way? A Yes sir.

Q And Kent is backing away? A Yes sir.

Q Did Kent go around in a circle? A No sir.

Q Did he at any time while he was pursued by Samuels stop and stand still? A Not as I know.

Q While you were there looking? A I just went out when they started.

Q Did Kent at any time while you were looking at him stand still while being pursued by Samuels? A No sir.

Q Did he go around in a circle there or had he stood on the street? A He kept on the sidewalk.

Q Only on the sidewalk? A Yes sir.

Q Can you tell us about how many feet you think Kent covered in backing away from Samuels? A Four or five.

Q No further than that? A No sir.

Q At all events when you came out on the street and saw Samuels there did Samuels have the knife in his hand? A Yes sir.

Q At all times? A Yes sir.

Q Did he succeed in cutting Mr. Kent? A No sir.

Q Was there anything to stop him from getting hold of Mr. Kent? A When Mr. McMorrow hit him that stopped him.

Q McMorrow at this time hasn't come out on the street?

A McMorrow was out on the street just as soon perhaps as I was.

Q Who got there first you are McMara? A I got there first.

Q Did McMara come out ahead of you or behind you? A Right behind me.

Q So you are there first, aren't you? A Yes sir.

Q Now when McMara came out after you what did McMara do? A Well, he hit Samuels.

Q Did he run right over to Samuels? A Run right over and hit him.

Q Did he run or walk? A Run.

Q He had to cover then about twenty feet, didn't he, to get to where Samuels was? A Well, not exactly.

Q Well about how many feet did he have to cover? A Well, say from here over to that table there (Indicating).

Q And he got right behind Samuels? A Yes sir.

Q Now at that time did you see Mr. Samuels with his glasses on? A No sir, he had no glasses on.

Q Did you see the glasses in his hand? A No sir.

Q He didn't have any glasses in his hand then, did he?
A Not that I know of.

Objected to; objection overruled.

Q He didn't have any glasses in his hand, did he? A Not as I seen.

Q You saw his hands, didn't you? A I saw the hand with the knife.

Q Didn't you see the left hand too? A I didn't pay no attention to it.

Q Are you able to tell us whether or not Mr. Samuels had his glasses in neither hand? A Not as I know of.

Q Now let us see, this is probably about five minutes after Samuels came into the saloon, isn't it? A About that time.

Q Was it a mop that he wanted to sell you? A Floor mops yes sir.

Q Did you buy a bar mop? A No sir, we had plenty.

Q He showed some to you did he? A No sir.

Q He was carrying some, wasn't he? A Yes, carrying them.

Q About how many was he carrying? A I couldn't say; I was pretty busy.

Q Did it make a pretty good sized bunch? A I couldn't say.

Q You saw him carrying a bundle? A He had something.

Q Did it have a handle to them? A No, I mean a bar mop, to wipe the bar up.

Q Did it have a handle to it? A No sir.

Q You saw him carrying a bundle? A He had a bundle, yes sir.

Q Was he carrying the bundle at the time when he had this knife in his hand? A No sir.

Q Where was the bundle? A I don't know.

Q Did you see it? A No sir.

Q Did you see it on the sidewalk? A No sir.

Q Did you see it in his hand? A No sir.

Q You can't tell us where it was then? A No sir.

Q Now at the time that McMara struck Mr. Samuels did McMara say anything before he struck him? A No sir.

Q Did you testify in the police court at the time when Mr. Kent was arrested and came up for examination? A No sir.

Q You were working at the saloon all through July, I suppose? A Yes sir.

RE-DIRECT EXAMINATION BY MR. HENRY:

Q From the time that you left from behind the bar to go to the swinging door leading to the street, how long did that take? A It wouldn't take a second---a second or two, I suppose, to jump around to the door.

Q And then as I understand you were called by Boyd? A Yes sir.

Q And immediately thereafter you went out into the street is that correct? A No sir, I didn't go in the street---I just pushed the door open.

Q You looked out into the street? A Yes sir.

Q Did McMara, or whatever his name is, pass? A Passed right out the swinging door---two swinging doors.

Q From the time you saw Samuels in the street until the time that you saw McMara strike Samuels, what was the lapse of time? A Oh, just to run out and hit him.

Q You understand, I ask, how long it took? A Only a few seconds.

RE-CROSS EXAMINATION BY MR. MANLEY:

Q After Mr. Samuels was struck did you go over to where he was? A No, I went immediately back to my work.

Q Did McMara immediately come back? A He stood a while outside.

Q How long? A I suppose maybe a few minutes.

Q Did Kent come back into the saloon? A Kent? I don't recollect whether he did or not---not right away.

Q Did you see Samuels go away after he got this injury? A Yes sir. I went behind the bar and see Samuels across the way at the pump.

Q What was he doing near the pump? A He was putting his eye glasses on.

Q Doing anything else? A No sir.

Q Were you ever convicted of any crime? A Why?

Q You? A No sir.

Q Sure? A I am positive.

Q Why do you smile about it? Why do you look at me that way? Were you ever convicted of any crime? A No sir, never been arrested in my life.

BY MR. HENRY:

Q From the time, say about 11 o'clock in the morning until four o'clock in the afternoon of the 11th of July, the time of this trouble did you see Mr. Kent around the saloon? A I aint positive whether I did or not.

Q But you saw him after that, after that day? A Yes sir.

Q Did you see him that day? A Yes sir.

Q How long after? A I don't know how long after.

Q Did he go away at all? A I don't think so.

Q Isn't it a fact that he was there all day? A He was there, yes sir, until---

BY MR. MANLEY:

Q The afternoon? A Until the officer---it was a few days after I guess, the officer came

E D W A R D B O M Y D, called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. HENRY:

Q What is your business? A Embroidery.

MR. MANLEY: If your Honor please, I ask that all witnesses on each side be excluded.

THE COURT: Yes.

Q You say your business is embroideries? A Embroideries.

Q What was your business in the year 1910, on July 11--- the same business? A Embroideries, yes sir.

Q Where was your place of business? A At that time I was out of business.

Q You recollect the 11th day of July 1910? A Yes sir.

Q Now I want you to tell what you saw on that day about 11 o'clock in the morning in front or near by the premises 52 Prince Street in the City of New York---exactly in your own words? A Well, I was standing outside the door of 52 Prince Street and I saw a man with a knife in his hand. I saw a man with a knife in his hand plunging it at a man that was after leaving the saloon. I knew neither the one nor the other of both men. I went into the saloon or called into the saloon, I called "Tommy, that man that is just after leaving the saloon a man is plunging a knife at him," and he came out, and with that several people from the back room ran out. After that

I followed him down the street about three doors. This here same man had a knife in his hand still plunging it at him. So this party by the name of McMara came along and he said "Take that knife out of your hand," and he used a vile name---if you want me to repeat the name I will repeat it. He used a vile name, and with that he punched him in the jaw. This man is an ex-fireman. Since that time I heard he died. That is about what I saw of it.

Q This man whom you say you saw him hit, is the complainant in this case is the man by the name of Samuels? A Yes sir.

Q You saw him testify, the first witness? A Yes sir.

Q And that is the man that you speak of with the knife in his hand? A Yes sir; I never saw him from that day until this morning.

Q And you saw him plunging the knife at him? A Yes.

Q At that time did Mr. Samuels have his eye glasses on or off? A He had his eye glasses off, to the best of my knowledge.

Q Do you remember in which hand he had the knife? A Yes sir, the right hand.

Q Do I understand you to say that the defendant was backing away from him? A Mr. Kent was backing towards Lafayette Street.

Q How long had the complainant Samuels and the defendant been talking or manoeuvring or wrestling around the street or struggling around the street? A I didn't take any particular notice until I looked down the street and I saw the knife in this man's hand and I knew there was some trouble.

Q You ran in and called Tommy Larney out? A I did, yes sir; the bartender.

Q And then at the door you Larney? A I seen this man with ~~xxxx~~ a knife in his hand trying to plunge the knife in Kent. I saw several people came out from the back out the saloon---one was McMara, who struck the blow afterwards.

Q You saw the blow struck by him, did you? A I did no doubt.

Q At any time did you see anything in the hands of this defendant? A His hands were both up like this, up in front, trying to ward the knife away, upward.

Q He was not standing that way (Indicating)? A Up there that way (Indicating); he was afraid the knife would be plunged in his heart of something--- heart or side or some portion of the body.

Q At any time did you see the defendant put his hand into his back pocket as if to draw anything? A I did on one occasion. He was trying to make a bluff ~~xxxx~~ rather that he had something there, but he had nothing more than a handker-

chief; he pretended to have something.

Q And then immediately afterwards he came out and you saw his hand open? A Positively open.

Q At any time during all this trouble did you see anything in any hands of this defendant? A Nothing in his hands whatsoever.

Q Positive? A Positive.

Q Did you know the defendant Kent on that day? A Never saw him before that date in my life.

Q That was the first time you ever saw him? A The first, to my knowledge, that was; I didn't know the man.

CROSS EXAMINATION BY MR. MANLEY:

Q As far as you know you are an absolutely disinterested witness, aren't you, as between the people and the defendant.

A Yes sir.

Q You have no bias or prejudice either way? A No sir, one way or the other.

Q You are merely stating what you saw upon that day? A Merely stating the facts I saw.

Q And you have recited all the facts, to the best of your ability? A Yes sir.

Q Have you given us your right name? A Edward Boyd is the only name I ever went under in my life.

Q Have you give us your right name? A That is the

only name I ever knew.

Q Have you given us your right name? A Yes, positively.

Q You are positive as to that, are you? A That is the only name I ever knew of.

Q Are you positive you have given us your right name?

A Yes sir.

BY THE COURT:

Q That is the name of your mother and father? A Yes sir.

BY MR. MANLEY:

Q You never saw Mr. Kent before that day? A To the best of my knowledge I don't remember ever seeing him?

Q Can't you tell us? A I couldn't say yes or no? I don't remember seeing him in my life before. I may have seen him but never knew him before.

Q Is your best answer that you may have seen him before? A I would't know him to know him---I never knew who the gentleman was.

Q Can you tell us, had you ever seen Kent before that day? A I don't remember ever seeing him.

Q You are not positive on that? A I may have seen him but not know him.

Q Do you think you have seen him before that day? A No sir, but I must have seen him. My best impression is that

I never saw him before in my life.

Q You had been standing out there for some time, had you? A Yes sir.

Q About how long had you been standing out there? A Probably a half hour.

Q What was your business at that time? A I wasn't doing anything. I had been in business for myself and failed.

Q When had you worked last before the 11th of July? A I had been in business for myself.

Q When had you worked last? A man can be in business for himself and work? A Last March I failed in business, March 1910.

Q What was your business at that time? A Embroideries, 265 Lafayette Street, corner of Prince.

Q Then you had been out of business practically from March until the 11th of July, hadn't you? A Yes sir.

Q How long were you in the embroidery business? A For fourteen years.

Q Where was your place of business? A 265 Lafayette Street.

Q Were you in the habit of going to this saloon at 52 Prince Street? A Yes sir.

Q You had been in the habit of going there how long? A Probably eight years. They used to cash my checks there.

Q What was the name of the proprietor of the saloon

at the time? A Michael Manning.

Q And you want to say that after going there for eight years you can't tell whether you ever saw Kent before that day? A I never saw that man before, to the best of my knowledge.

Q Did you see Samuels go into the saloon? A No sir.

Q How close to the entrance were you standing? A Right at the door.

Q Right at the swinging door? A Right in front, yes sir.

Q And you had been standing there about half an hour? A Yes sir.

Q And you didn't see Samuels go in? A I don't remember seeing him going in.

Q Did you see him come out? A No sir.

Q Did you see Kent come out? A Yes sir.

Q Now as I understand it there are swinging doors there or were at that time? A There were at that time.

Q Swinging either way on Prince Street? A Yes sir.

Q As I understand it between those swinging doors and Mulberry Street there is a side door going into a hall which goes into the back room, is that so? A Yes sir.

Q You were standing in front of the swinging doors? A Yes sir, right at the side of the swinging doors.

Q Would that bring you to the side toward Lafayette Street or towards Mulberry Street? A Toward Lafayette Street.

Q Did you see anybody else going in or out at about that time, into the saloon? A I didn't take any particular notice.

Q Did you see Kent come out? A Yes sir.

Q Did Kent come out ahead of or behind Samuels?

A I didn't see Samuels.

Q You saw Kent come out? A I saw the man with the light suit come out, yes sir.

Q Was that Kent? A Yes sir.

Q That man here sitting at the bar (Indicating Defendant)

A Yes sir.

Q What was there about him that attracted your attention so that you can remember when he came out? A I knew---I thought that he knew the bartender, that he had been in there.

Q What made you think that? A Because he came out of there and this here Tom Larney was after serving him, as I thought.

Q What made you think it? A Well, because he was inside there in the saloon.

Q Is it the fact then that you thought the man with the

light suit who came out knew the bartender, and the fact that you thought he had been served by the bartender because he came out---are those the things that made you remember Kent coming out? A I remembered Kent with the light suit coming out.

Q Are those the things which you mention that make you remember? A Because I saw him come out.

Q Now I want to know what there was about his coming out that makes you remember that he came out? A Well, he was dressed, you know with a light suit.

Q If you noticed him you of course noticed where he went? A Towards Mulberry Street.

Q Walking alone? A Well, I didn't notice him walking by the saloon. After he left the saloon I didn't notice him walking down the street.

Q Were you smoking at the time? A I don't remember.

Q You saw him go towards Mulberry Street? A Yes sir, I saw him go toward Mulberry Street, but I didn't watch him walking down towards---

Q What was the next thing that attracted your attention? A I saw this here man with the knife plunging it at him.

Q How did you happen to look at that time, do you know?

A I looked towards Mulberry Street.

Q Did any noise cause you to look around? A Well, I thought they were fooling.

Q Did any noise cause you to look toward Mulberry Street? A No, I just turned my head that way.

Q You are positive you didn't hear any noise? A I didn't hear any noise. I just turned my head or something like that.

Q At the very time when you ~~just~~ turned your head what did you see? A I saw this man plunging the knife at him.

Q You saw Mr. Samuels with a knife? A Yes sir.

Q When you saw Mr. Samuels with a knife will you explain his position upon the street with reference to the curb and with reference to the building line? A Well, I judge about three doors or two and a half doors east of 52 Prince Street, towards Mulberry.

Q Was his back toward the building line, was he facing north? A Samuels back was, as near as I can remember, towards Mulberry Street.

Q Whereabouts was Kent. A Kent had his back towards Lafayette Street.

Q Positive as to that? A Yes sir, positive.

Q So that would bring Kent between you and Samuels, wouldn't it? A No, I was up by the door at that time--- I never left the door at that time.

Q Well, after Samuels was over toward Mulberry Street and Kent was over toward Lafayette Street, and each of them were east of you, that would bring Kent between you and

Samuels, wouldn't it? Both of them were towards Mulberry Street, yes sir; both of them.

Q Then neither of them were standing between you and the other one? A No, I was two doors now about away at this time.

Q Neither one of them, Kent nor Samuels, were between you and the other one---do you get my meaning? A No sir.

Q Were the two men Samuels and Kent standing in a line which would be north and south or were they standing in a line which would be east and west? A Mr. Kent had his back towards Lafayette Street and Mr. Samuels had his back towards Mulberry Street.

Q And farther east of you? A Plunging a knife at him from the time---

Q Oh, we will get to the plunging in a minute. And they were all east of where you were standing? A Yes sir.

Q Wouldn't that bring Mr. Kent between you and Samuels? A Well, I don't know what you mean by "Between".

Q Who is nearest to you Kent or Samuels? A Mr. Kent.

Q That was the position in which they were in when you first looked around, wasn't it? A Yes sir.

Q Of course that attracted your attention, you thought something had happened or was to happen? A Yes sir, that attracted my attention.

Q Who was nearest the curb line, that is, the north side of the sidewalk---Kent or Samuels? A I think Samuels, to the best of my knowledge, was nearer to the curb line, and Mr. Kent toward the stoop line, ~~draving~~ trying to back up, to the best of my knowledge.

Q Then Kent is backing right towards that stoop line?

A He is backing towards 52 Prince Street.

Q Backing right toward the saloon? A Yes sir.

Q Now you say that Samuels is plunging the knife at him? A He is trying to get at him, yes.

Q Walking at him, or running? A He is trying to spar at him, to get an opening with the knife.

Q What sort of a motion did he make with that knife in his hand? A Well, he made several motions, as near as I can remember.

Q Supposing you illustrate? A He had the knife this way and that way, trying to get at him. I didn't know but what Mr. Kent did have something in his hand.

(The Court now declares a recess until 2 P. M.
first duly admonishing the jury as usual)

After recess.

T R I A L R E S U M E D.

E D W A R D B O Y D, resumes the stand, and further testifies.

CROSS EXAMINATION BY MR. MANLEY: (Continued)

Q Now as I understand you, just as soon as you looked over toward Mulberry Street you saw Samuels with a knife in his hand, is that right? A Yes sir.

Q And you saw that just as soon as you looked? A Yes sir.

Q From the time that Kent had gone over to Mulberry Street there was nothing to attract your attention at all until you finally looked and saw Samuels with a knife in his hand, is that so? A Yes sir.

Q Now do I understand that Kent is backing toward the saloon? A At the time I first saw him?

Q Yes; then he continued to back towards the saloon? A No sir.

Q Did he stop at any time? A No sir: What do you mean by stop.

Q Stop and stand still upon ones' feet? A Well, he was within a few feet all the time.

Q At the time when Samuels is walking toward Kent is Kent standing still or backing away all the time? A When I first saw him Kent was backing away.

Q And does he continue to back all the time until some one strikes Samuels? A No sir, they turned around.

Q He finally stopped then? A They turned around in the opposite direction.

Q Kent did? A Yes sir.

Q That would bring him then upon the other side of Samuels, wouldn't it? A Yes sir.

Q That would bring Kent finally more towards Mulberry Street than Samuels? A Yes sir, Kent at that time looking towards Broadway.

Q Looking towards Broadway---that would be towards Lafayette Street? A Yes sir.

Q Of course Samuels followed him still with the knife?
A Yes sir.

Q That would bring Samuels back towards Lafayette Street, wouldn't it? A Samuels back?

Q Yes? A After they turned?

Q Yes? A Samuels back was facing---his back? Samuels?
Let me see now---his face was back towards Manning's at that time.

Q What? A His back was towards Mannings at that time; they reversed positions.

Q The back of Samuels was towards Mannings' which is the saloon? A Yes sir, at that time.

Q And the back was also toward Lafayette Street? A They reversed positions from the first ~~at~~, yes sir.

Q At the start out when you first saw them you saw Samuels with his back toward Mulberry Street? A That's right.

Q With a knife in his hand. At that time he had his back towards the saloon? A Towards Lafayette Street.

Q And the saloon, and backing? A Yes sir.

Q They reversed their positions? A They reversed the position.

Q Kent comes nearer Mulberry Street than Samuels? A Yes sir.

Q Kent had his back towards Mulberry Street and his face towards the saloon? A Kent has his back towards Mulberry? Yes sir.

Q Well, does he? A Yes sir. And his face towards the saloon.

Q And Samuels faces again and so Samuels has his back to the saloon and to Lafayette Street? A Samuels is facing in the opposite direction.

Q Is Samuels facing at that time Mulberry Street? A At the time---at which time? A After they have reversed their position? A After they reversed their position they almost turned around.

Q After they have reversed their position and Kent is in the position that I have just asked you about and which you have described, at that time did Samuels have his back towards the saloon? A Samuels? Yes sir.

Q Now there is no doubt about that, is there? A No sir, no doubt about it.

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Q You understand me thoroughly? A Yes sir.

Q And I understand you? A Yes sir, back toward the saloon at that time, reversed.

Q And at that time then I suppose this man comes out of the saloon? A At that time he was standing alongside of him.

Q What was the name of the man that comes out of the saloon? A I knew him byt the name of Matt.

Q Matt comes out of the saloon when Samuels and Kent are in the positions I have indicated? A Possibly he was there before.

Q Where was Matt when you first saw him? A In the crowd there.

Q The crowd where? A About two and a half doors from 52 Prince Street.

Q East or west? A East of 52 Prince Street.

Q Did a crowd gather when those two men had reversed their postions and were in the position I have described? A Not a big crowd---quite a few there.

Q Where was Matt when you first saw him? A When he went out of the saloon.

Q You are still at the door, aren't you? A No, I moved my position then.

Q Where is your position at this time? A I was towards Mulberry Street then, I walked down to see what the

trouble was.

Q Didn't you see Matt come out of the saloon? A Yes; I didn't watch him.

Q Didn't you see him pas you? A Yes sir, coming out of the saloon.

Q What did Matt do? A He says "Put that knife down", and he hauled off and struck him in the jaw.

Q And there those two men, I suppose, Samuels and Kent are still facing each other, Samuels still has the knife? A He has the knife when he got struck, yes sir.

Q Well now what Matt said that to Samuels did Samuels say anything in reply? A He didn't have time to say anything, he got struck.

Q He got struck right away by Matt, did he? A He got struck without knowing where it came from.

Q Now if he got struck without knowing where it came from, he got struck from behind, didn't he? A Oh well, the man didn't tell him he was going to hit him; he only said "Put that knife down".

Q Struck him from behind? A He struck him with his right hand?

Q From behind? A Well, pretty near behind.

Q Did Samuels have his back turned towards him at the time? A Samuels didn't know he was going to get hit by this man.

Q Then he must have had his back turned, didn't he?

A Well, I don't remember.

Q Now you are there and you are telling what happened, and you tell me you don't remember? A I was not interested enough to remember those things, I never thought I would be down here on this.

Q What happened after Samuels was struck? A I don't remember anything more happened, any more than I see him struck.

Q Did he fall down or remain standing up? A He remained standing up.

Q Did Matt go back into the saloon? A I heard him say he would give him another clout.

Q Did he give him another clout? A No sir.

Q Well now at the time when Mr. Samuels was struck did Samuels turn around to see who it was that struck him?

A I suppose he knew who hit him then---he must have.

Q I want you to tell me whether you saw him turn around?

A He knew very well, and I don't see how he could stand up and say that Mr. Kent struck him.

MR. MANLEY: I move to strike that out?

THE COURT: Motion granted.

Q Did you see Samuels turn around after he was struck? A Well, I don't remember.

Q Well, it happened so plainly that Samuels surely

ought to have known who struck him. A I saw the blow but I don't know whether he turned around or didn't.

Q Did you see Matt attempt to strike him again or go at Samuels just as if he intended to strike him again? A Well, he might have---he might have made an effort for it.

Q No, not what he might have---did he do it? A He struck him the one blow.

Q Did you see him lift his hand up as if to strike another? A Well, I suppose he got away, I think he walked away, to the best of my knowledge.

Q Do you know whether he walked away or not? A To the best of my knowledge I think he moved away a few feet.

Q Did you see him walk away? A Well, I won't say positive I know he didn't hit him the ~~same~~ second time.

Q Matt didn't have anything in his hands, did he? A Well, clenched fist.

Q You are positive of that? A I couldn't see what was inside the first.

Q Did you see anything inside the fist? A I don't know, I didn't see nothing, no sir.

Q Did Kent walk back into the saloon? A I didn't keep my eyes on Kent.

Q Do you know where he went? A No sir.

Q You had no further interest in it at all? A No sir.

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Q Do I understand you to say at the time when Kent is backing away from him he has his hands up in that position (Indicating)? A Like this.

Q Fingers stretched apart? A Yes sir.

Q So you could see his hands very plainly? A Well, Up in front of him, absolutely bare.

Q And he kept his hands going like this, back and forth?

A Not as high as that---I would judge down below.

Q At no time did he make a move towards his back pocket?

A Yes sir, he did, back hip pocket.

Q Did he pull out anything? A He made an attempt but brought out nothing.

Q Did you see him drawing out his hand? A He made out what we call a bluff?

Q After you had seen him make that bluff did you see his right hand? A I saw both hands.

Q And nothing in either hand after the bluff? A Absolutely bare.

Q No doubt about it? A No doubt about it.

Q Positive? A Positive.

Q You saw it and you know? A Positive, I know that.

Q And at that time I suppose of ~~course~~ course that Mr. Samuels is facing Kent? Isn't he? A Facing?

Q Right where he could see the hands of Mr. Kent? A Yes, yes sir, he is, yes sir.

Q Did you see any bundle in the hands of Mr. Samuels?

A Yes sir.

Q He was carrying a bundle, wasn't he? A Yes sir.

Q A pretty good sized bundle? A A bundle, a wide bundle. It looked to me to be white cord. I heard it testified here to-day it was mops but it looked like white cord to me.

Q A pretty good sized bundle? A I thought it was cord.

Q A pretty good sized bundle? A It was under his arm.

Q Had you ever seen Samuels before that day? A No sir.

Q And you haven't seen him from that day to this, is that right? A No sir, I never saw the man before.

Q And you are positive Samuels is the man you saw with the knife? A Yes sir.

Q You have no doubt about it? A I can remember.

Q And you can remember since the time this happened upon the 11th day of July 1910? A Yes sir.

Q Recognize him as soon as he got in the witness chair, didn't you? A Yes sir.

Q Did you testify for the defendant Kent in the Magistrate's Court at the time of the examination? A No sir.

Q Did you see Kent again that ~~Ken~~ day? A I don't remember.

Q What is your best recollection? A I don't think so.

Q You were not acquainted with him to speak to him at that time, were you? A No sir.

Q How long was it after the 11th day of July before you met Mr. Kent? A Well, I might have seen him in Mannings after that on one occasion, perhaps a few months---

Q How long after do you think it was before you met him? A A few months.

Q You didn't meet him then until after he was indicted by the grand jury? A I never knew he was indicted.

Q I don't you ever talked this matter over with Kent? A No sir, never in my life.

Q When is the first time you talked it over with Kent? A Mr. Kent sent a postal card for me to call down.

Q When how many days ago? A Two days---I beg your pardon, not a post card, but a letter.

Q Was it two days ago? A Yes sir.

Q That is the first time that Mr. Kent in any manner communicated with you as to this? A In regard to the case?

Q As to what you had seen? A Yes sir.

Q This is the 18th day of May; it must have been then about the 15th of 16th of May, wasn't it? A Two days ago, yes sir, this week.

Q Before you got the letter you had never had any talk with Kent about what you had seen? A No sir, not with regard

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to the case.

Q You are positive as to that? A Yes sir.

Q Did you have any talk with his attorney prior to the time of receiving the letter? A Never met the gentleman before this morning.

Q After getting the letter did you have a talk with Kent? A No sir, not on the case.

Q I don't suppose you ever said anything to anybody in Manning's about it, did you? A Not that I can remember.

Q If you did you could remember it? A Yes.

Q Your best recollection is you never did talk about the case? A I never did talk about the case.

Q Can you explain to us how Mr. Kent got your name? A Well, I suppose somebody around there knew me. Mr. Jarney I know for some number of years, he had worked for me at different times, him and his brother when I was in business.

Q At the time when you saw the complaining witness with the knife in his hand do you recollect whether he had his glasses on or off? A Had them off.

Q Was he holding them in his hand? A I didn't see them in his hand. He had a knife in one hand and the cord in the other, as near as I can remember.

Q You are positive he didn't have any glasses on? A Not at that time.

Q Did he have any glasses on at that time when you saw

him in there? A I don't remember seeing the man before.

Q Tell me this, are you positive he had no glasses on? Or can't you remember whether he had any on or not. A He had no glasses on when he was struck.

Q You are positive as to that? A Yes sir.

Q Now will you tell us what there was about having seen Samuels once upon the 11th of July 1910 that to-day you can testify positively that he did not at the time when he was struck have glasses on. A How I can remember him?

Q Yes? A To the best of my knowledge I think he had ---they turned out and before he was struck by McMara the same day--

MR. MANLEY: I move to strike that out as irresponsible.

THE COURT: Motion granted.

A (Witness continuing) I have already said he had no glasses on.

Q The question is this. You have testified, if I understand you correctly, that you were positive that at the time when Samuels was struck he had no glasses on? A He had no glasses on, you are right, yes sir.

Q You had testified that you never seen Samuels from that day until you saw him here in court? A Never in my life.

Q Can you tell me how it is that after this lapse of

time you are so positive that the time when Samuels was struck he had no glasses on? A Because I remember it.

Q What makes you remember. A Because McMara wouldn't have hit him, I don't think--he wouldn't be that kind of a man; I knew McMara.

Q Is that the only reason you can give us why he had no glasses on because otherwise McMara wouldn't have hit him?

A No, I was there at the time and saw no glasses on.

Q Now I want to know how it is that you can remember and testify positively now after all this lapse of time that he had no glasses on? A Well, I didn't see them on.

Q Don't you understand my question? A Yes.

Q Was there anything about the attitude of Samuels anything about the demeanor of Samuels, was there anything peculiar about what you saw so that you can testify positively that Samuels had no glasses on? A I know it is unlawful to strike a man with glasses on and I would remember it. I should think it a very cowardly act to strike him with glasses.

Q There is no doubt in your mind that it is against the law to strike a man with glasses on? A Yes, I have heard so.

Q How long have you heard that is so? A All my life, for years and years.

Q That being so and you also knowing McMara you are positive that McMara wouldn't have struck him with glasses on? A I don't think he would, I don't think he would be

that kind of a man.

Q The fact that you know that it is unlawful to strike a man with glasses on his face, and the fact that you know McMara and know his character and so forth, those things convince you that at the time Samuels was struck he had no glasses on? A Well, I would remember if you were struck with glasses on---I could remember it ten years afterwards.

Q I guess that will do, Mr. Boyd.

RE-DIRECT EXAMINATION BY MR. HENRY:

Q How old a man is this McMara? A Well, I aint got not idea.

Q How big a man is he, how many pounds does he weigh? A He is not a heavy man.

Q How many pounds does he weigh, about? A Probably 130 or 140, I am not positive.

Q A fireman? A Oh, McMara was a big fellow, yes sir; he was a powerful man, a strong man.

Q About how high was he? A Probably five feet nine.

Q How many pounds is your idea that he weighed? A Possibly 170 to 180 pounds, he was a strong man.

Q Heavy built? A Yes sir, very strong.

Q I understand he was a fireman in the fire department? A Yes sir, that is what I heard. I never knew him as a fireman.

Q You spoke to me this morning about the case, didn't you? A You gave me the details of what you knew? A Yes sir.

Q And at that time this morning you saw the complainant on the stand with and without glasses on, didn't you? A I don't remember seeing him with glasses on.

Q On this morning I am speaking of. A No, I never mentioned the glasses.

Q This morning, did you see him on the witness stand with or without glasses? A Up here?

Q Yes? A I saw him with and without glasses.

Q And there is no question of doubt in your mind that that is the same individual, the same person, that was there on the 11th day of July 1910? A Positive; he is a man I would remember for years.

RE9 CROSS EXAMINATION BY MR. MANLEY:

Q Will you tell me why Samuel Samuels is a man you would remember for years? A Yes sir, because his chin is kind of pointed towards the side.

Q He had that chin pointed towards the side when you saw him there, didn't he. A I am not positive, but I thought I saw a scar on him before he was hit.

Q Didn't the fact that he had that chin strewn away

around towards the left shoulder---wasn't that one of the very things that led you to remember him to-day? A One of the things, yes sir.

Q Wasn't that one of the main things? A One of the main things.

Q Because anybody that looks at him can tell that that is peculiar, can't they? A Well, it is to me---I thought so at the time.

Q And you can remember to-day when you saw him that he had that peculiar cast of features upon the day you saw him? A I didn't think I would remember him, but when I saw him I could tell him right away.

You say

Q You had known Matt McMara some time prior to the time this happened? A Probably three years.

Q Where was it that you used to see Matt very frequently? A Mike Mannings, 52 Prince Street.

Q You had seen him in Mr. Manning's for how long? A quite a time.

Q For how long had you been in the habit of seeing McMara in Manning's place before the 11th of July? A Probably a couple of years.

Q Pretty steadily for that time? A Well, I could say positively over a year.

Q There can be no doubt about that? A No sir.

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Q And he was a man that weighed 170 pounds, or thereabouts? A To the best of my knowledge.

Q About how tall was he? A I think about five feet nine.

Q As I recollect, you had been in the habit of going into Mannings very often before the 11th of July? A Yes, on and off about nine years.

Q When was the first time you saw McMara after the 11th of July? A Well, I think I saw him the same afternoon.

Q Did you see him after that? A Yes sir.

Q For how long a period of time did you continue to see him after the 11th of July? A For a few months.

Q About how many months? A A few months.

Q About how many? A Well, say positively four or five months.

Q In Manning's saloon, steadily? A Not in the saloon but thereabouts in the neighborhood or in the saloon, yes sir; not all the time in the saloon.

Q Didn't you know at that time that Kent had been arrested? A I never knew Kent was arrested.

Q Until you got the letter two days ago? A Yes. There was some trouble but I never knew he was arrested.

Q When was it you first knew Kent was arrested? A When I got the letter off him.

Q Two days ago? A Yes sir.

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Q You hadn't had then, I suppose, any occasion to think of what had happened there on that day? A No sir.

Q Until you got this letter of his? A Nothing in particular. Neither one of them interested me that much, that I cared any more for one than for the other, any more than to tell the truth.

Q Your attention not having been drawn to it of course there was nothing to call your attention to it until you got the letter of Mr. Kent, was there? A Some of the other boys might have a knowledge of it a little bit---that he was going to be brought up, but I never knew him to be arrested.

Q When was the last time you saw Matt McMara? A I saw him in his coffin when he was dead.

Q Where was that, and when? A On First Avenue, in the neighborhood of 18th and 19th Street, I don't really know the month.

Q Oh, you ought to be able to tell me that? A I don't know the month.

Q First Avenue and 19th Street. A Around that neighborhood.

Q In the Winter or Spring? A Well, a few months ago, I know it was this winter past.

Q Can't you tell me what month? A No sir, I never mixed in with McMara, much. I only knew him.

Q Can't you tell me the month? A No sir.

Q Can't you give me an estimate or idea of what month? A No sir.

Q Give me your best judgment as to the month when you saw McMara in his coffin? A I couldn't tell you the month.

Q Give me your best estimate as of what month it was? A Well, it would only be just guessing at it.

Q Well, give me a guess. You know there are not many months in the Winter---I would like to investigate this? A December---I wouldn't say positive but I think December.

Q Is that your best judgment? A Yes sir.

Q Will you tell me the number where it was that you saw him? A I never did know the number, I went there with several people.

Q Can't you give me an idea where the house is? A No. I went with several people---I was led to the place---I didn't know where he lived until I went up stairs. I know it was on First Avenue.

Q Near what Street? A Possibly from 17th to 19th Street or thereabouts.

Q On the east or west side of the Avenue? A On the west side of the Avenue.

Q With whom did you go there to the funeral? A Oh, a party---lets see now, some young fellow I was slightly acquainted with.

Q You said you went there with several; now give me some of their names? A Well, I don't know their names, I knew them by sight. I didn't know mCmRa's name till this morning, not positively.

Q I don't think I have any other questions to ask?

A I knew him by the name of Matt.

S A V A T O R E M A C C A R O N I, called as a witness for defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. HENRY:

Q Do you understand English? A I would like to have an interpreter, I can explain myself better.

Q Your occupation is a barber? A Barber, yes.

Q On July 11, 1910 where were you working? A 49 Prince Street. In the City of New York? A Yes sir.

Q And you were working there as a barber? A Four years I worked there.

Q Are you working there still? A Yes sir.

Q The same place? A Yes sir.

Q Now do you remember the 11th day of July 1910? A That was on a Monday.

Q You remember that day? A Yes sir, I do.

Q Do you remember about the hour of eleven o'clock, or a little after? A About half past ten or eleven o'clock.

Q You remember that morning, do you? A Yes sir.

Q Now, number 49 Prince Street--- A Is across the street.

Q (Continuing) Is almost directly opposite 52, is that right? A Right opposite, like that.

Q At aslight angle? A Yes sir.

Q Did anything in particular attract your attention on the street that morning? A No, I was in the barber shop.

Q Tell me in your own way exactly what you know concerning this matter of Mr. Samuels and Mr. Kent, the complainant and defendant? A I don't know either one of the names, because I never seen them before that morning. I was in the barber shop. While I was in the barber shop a customer came in for a shave and I gave him, see? And I was waiting for the boss to go out because Monday is my day off. Finally I got through shaving the customer, I washed my face, and while I was drying my face with a towel I was talking with the customer---we were talking about the weather; he asked where I was going to-day, because I was off. So while we were talking I looked across the street from the shop and I see two gentlemen talk.

Q Are these the men that you speak of the two gentlemen--the defendant Mr. Kent was one? A He is one, yes.

Q Did you see the other man in court? Do you see him in court? A If I see him, I know him.

Q See if you can see him in court? A I don't see him,

no.

Q Have you seen him to-day? A Yes, I met him outside.

MR. HENRY: I will ask the Assistant District Attorney to produce Mr. Samuels for identification.

MR. MANLEY: Just call his name right out.

(Samuel Samuels is brought to the bar)

Q Is that the other gentleman that you saw on the eleventh of July (Pointing to the complainant Samuels) A He didn't have no glasses.

Q But is that the same party? A Yes, it looks like him, yes that is him.

Q You saw Mr. Samuels with his glasses off? A I see him with glasses now but he didn't have no glasses when I seen him.

Q Is there any question of doubt in your mind that that is the same man you say in July, in front of 52 Prince Street?

A About half past ten or eleven.

Q No question of doubt about that? A Because I was waiting for the boss to come.

Q There is no question about it? A No no.

Q You say you were standing outside? A No, I was standing in front of the store. Nobody was in the barber shop, I couldn't go out.

Q Tell the jury what you saw, if anything? A Well, I

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was in front of the barber shop and I see them two gentlemen talk.

Q You mean the defendant and Mr. Samuels? A Yes, they were talking for a minute or two. All of a sudden I seen that man with a knife in his hand, don't you know? That man that come along---he had a knife in his hand, he walked two steps backwards, while he walked two steps backwards three or four fellers came, you see, and one of the fellers hit him and punched him in his face, that's all I see.

Q Now in which hand, if you know, did the complainant Samuels have the knife? A With his right.

Q The right hand?

MR. MANLEY: There is no testimony to that effect, I object to it as leading.

THE COURT: Objection sustained.

Q Can you tell the court in what hand you saw the knife?

A The right hand.

Q You saw the knife in the right hand? A Sure.

Q What was Mr. Samuels doing with it, as regards the defendant? A When he see the knife in the hand he got scared himself.

Q Was he making any motions? A No, he was backing.

Q Was he making some motions to him? A No, he only went backwards.

Q Do you mean to go? A I mean the other way.

Q What was the man doing with the knife? A When I seen the knife, he went backwards, he went backwards too (Kent), and when he went backwards the crowd came in.

Q Did you see him flashing it? A No, I didn't see that at all, but I saw the knife.

Q You saw the defendant go back? A Yes, he went back too.

Q How long after the knife was in the hands of Samuels did you see the man---how long after was it that the man got the blow in the face by this other man? A Oh, about a second.

Q What happened after that? A I don't know, because I went out, because the boss came in.

Q Was there a big crowd of people collected? A Oh, yes, there was a whole lot of fellers, because I went out and then I was off---the boss came in and say "All right, go off". Because I generally get off on a Monday on my day off.

CROSS EXAMINATION BY MR. MANLEY:

Q Monday is your regular day off? A Yes.

Q Had it been your regular day off for a long time?

A Since I worked in that place.

Q How long have you worked in the place? A Pretty near four years.

Q Do you still work there? A Yes sir.

Q You don't usually come down to the barber shop on Monday, do you? A Oh, sure, I have to go down every Monday morning.

Q You go down every morning? A Well, I have to clean the place on Monday.

Q Are you the porter there---the man that cleans up? A The barber does that kind of work.

Q Are you the barber, the man that cuts hair and shaves
A Yes.

Q And you open up the store sometimes? A Sometimes I do, sometimes when the boss comes down first he opens.

Q On the day you are off have you to go to the barber shop?
A Yes sir.

Q To do what? A To clean the chair and the glass.

Q Do you have to do that every morning of your day off? A Every morning. Monday is an extra job because the place gets dirty on Sunday.

Q Why don't you finish it up on Sunday night so you can have your entire day off on Monday? A Sunday we have to go and eat. We get through about half past one in the afternoon. When you get through you don't want to clean the place before you go and eat, I guess; everybody is tired of work.

Q I don't suppose you ever saw Mr. Kent before that day?

A I don't know nobody only Tom Larney.

Q Do you know which man in Court is Mr. Kent? A I know over here this man.

Q Where? A I don't know nobody only Mr. Tom Larney.

Q Do you know which man in Court is Mr. Kent? A Mr. Kent is over there.

Q Where? A This man.

Q Down in the audience? A No, this is Mr. Kent.

Q Right here (Indicating defendant)? A Yes.

Q Did you see him before the day this happened? A Only the day there was the fight.

Q That is the first time you ever saw him? A That's all. And the second day I see him now. I see him outside and I see him inside.

Q You haven't seen him from the day you ~~haven't~~ saw them until you came to court? A Since that time.

Q Are you sure now that you haven't seen Kent only that day when it took place and to-day here in court? A That's all. That is the only twice that I see him, that day when---

Q You haven't seen Mr. Samuels before that day? A Who is Samuels, the man with the glasses?

Q Yes, the man you picked out in court when he stood up a little while ago? A I only saw him that day and to-day, I never seen him before.

Q You didn't have any connection with him? A No, not at all.

Q When you saw Samuels the day this happened, that is the first time, and then you have seen him to-day, and you haven't seen him from that day to this day? A That's all.

Q You were standing right in front of the barber shop, across the street, weren't you? A No, outside.

Q Right outside the barber shop? A No sir.

Q Inside? A This is a door, you see.

Q Were you standing in the doorway? A In the doorway.

Q And this is across the street that you saw this, wasn't it? A Yes.

Q You saw a man with a knife in his hand, A He had a knife in his hand.

Q You saw another man backing away from him? A Him (Defendant) backing up, he went two steps back.

Q Did you see one man with a knife in his hand? A Yes sir.

Q You saw another man backing off, didn't you? A Yes sir.

Q And you saw another man come out of the saloon, didn't you? A I see three or four fellers.

Q One of them that came out of the saloon came right over and hit the man with the knife? A In the face.

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Q Then they went away? A Then I went out.

Q And had your holiday and laid off all day? A That was my day off.

Q Is that right? QA Sure, that's right; I can't say a lie.

Q When did you first have a talk with Mr. Kent? A I don't know him at all, I never talked with him.

Q Didn't you ever talk with Mr. Kent here at all? A No sir, I only know him because I met him over here, Tommy came and called me to-day.

Q Did he come over and see you in your barber shop? A No sir.

Q How did you happen to come here to-day? A Tommy came along and called me. I know Tommy since I am in this country.

Q Who was it that came to see you? A Tommy Larney.

Q How long have you known him? A Since I am in this country.

Q How long have you been here? A Six years.

Q And you have known Tommy Larney for six years? A I know him since the first day I came here.

Q Did Tommy come over to see you to-day? A Yes.

Q Around what time? A He was at the barber shop around ten Minutes after 11.

Q Tommy told you to come down to court? A Sure.

Q That is the first you knew you were coming down here to-day to testify. A Well, I was down stairs once before.

Q How long before? A When he got arrested.

Q You say you have known Tommy for six years.

Q Are you positive that you can remember that the man who stood up in court and said his name was Samuel Samuels that that is the man that had the knife---Positive about it?
A That is the man I seen.

Q You are positive this is the man here who was backing away? A Yes sir. They were talking together.

Q Did they talk together very long? A No sir, about a minute or two.

Q Could you hear anything they said? A How can I hear r from across the street?

Q I shouldn't think you could, but I was just wondering. did you hear anything? A No sir.

Q You didn't hear a word? A Not at all.

Q What did Tommy say to you when he saw you to-day?

A Mr. Tommy Larney?

Q Yes? A I told him I see the fight.

Q What did Tommy say to you when you say him to-day? A He said did you see the fight? I said "Yes, I did".

Q You hadn't thought about it before, had you--before to-day? A I don't understand.

Q You hadn't thought about it--there wasn't anything

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to make you think about it until Tommy spoke to you? A Well, he spoke to me the first day there was a fight because he came in for a shave and he said "What do you think about the fight? I said "I don't know", and then he told me he got arrested---I don't know.

Q I guess that's all? A And I said "All right".

Q That's all.

W I L L I A M K E N T, the defendant herein, called in his own behalf, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. HENRY:

Q Where do you reside? A 563 West 173rd Street.

Q In the City and county of New York? A Yes sir.

Q Are you a married or single man? A Married.

Q Have you a family? A Yes.

Q Are you engaged in any business at the present time?

A Yes sir, I work for the Brooks & Brooks corporation, 45 West 34th Street.

Q What is their business? A Real Estate.

Q At one time you were in the policy business? A Not for a number of years.

Q How many years back? A I was arrested for the policy business nine or ten years ago this fall.

Q You were in it. When did you give up that business?

A Oh, a few years afterwards.

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Q At one time you were arrested, weren't you? A Yes sir

Q And convicted? A Yes sir.

Q And you got three months, did you? A Yes sir.

Q For dealings in policy? A Lottery tickets.

Q Now you know the complainant in this case, don't you? A Yes sir.

Q Samuel Samuels? A Yes sir.

Q How long have you known him? A Why, probably 1909, sometime--it might have been 1908---1908, I guess.

Q You heard him testify that he was in your employ? A Yes sir.

Q In the year 1908, is that true? A No sir, it is not true.

Q Did he ever work for you? A No sir,

Q Never in your employ? A No sir.

Q At any time, under any circumstances or any conditions?

A He so testified.

Q But you testify he has not? A In the police court he testified differently.

Q I am only asking you---he has never been in your employ? A No sir.

Q You were the complainant in the case, weren't you, of three men, Hallahan, Redmond and Morelli, charged with robbery in the first degree and grand larceny in the first degree and assault? A They entered my house at 12 o'clock

and assaulted and robbed me in my own home.

Q And as a result these three men were arrested? A Yes sir.

Q This man Morelli was tried in General Sessions, was he not? A Yes sir.

Q And the complaining witness in this case was he a witness in favor of Morelli? A He was called but I was excluded from the room.

Q You don't know whether he testified in favor of Morelli or if he testified at all, of your own knowledge? A No sir, I do not.

Q At the time that you met him on the 11th of July 1910 and prior to that time did you ever have any feeling against him or any quarrel or any dissention or any trouble of any kind with him? A No sir, his brother and I were pals for a number of years.

Q But you never travelled with the complainant in this case? A I have only met him three or four times.

Q There was never any feeling against him by you or against you by him so far as you know? A No sir.

Q You remember distinctly July 11 of 1910? A Yes sir.

Q About the hour of eleven o'clock do you remember where you were on that day in question? A Yes sir.

Q Where was it? A 52 Prince Street.

Q In the City of New York? A Yes sir.

Q I want you to tell in your own way, Mr. Kent, exactly what transpired or took place between you and the complainant and what you saw and what you heard? A Well, possibly a half an hour before Mr. Samuel entered I entered Mannings Cafe.

Q At number what? A 52 Prince Street, ordered a glass of beer, possibly talked to two or three people in the place. While in there Mr. Samuels came in and says "Hello, Bill, I want to see you." He walked outside and he said something, the drift of which was talking about some trouble-- he said I had had him arrested at 40th Street and 10th Avenue, by William Hamilton, Superintendent of the Goddard Anti-Policy Society. I says to him "You are mistaken, and if you are around here for trouble, I know you are connected with this gang that held me up, I don't want to have nothing to do with you", and I started to walk away. With that I see him come at me with a knife and I backed away. Well, in a couple of seconds People separated us and I believe Manning and some friends of Manning's walked down to the corner of Lafayette Street and Prince. He stood there and while standing there an officer come up to me and says "What is the trouble"? Mr. Manning says "Oh, it is only a little argument among friends," and that is all I thought of it. At the time I was living in Spring Valley and I went home on the 4.59 train.

Q You were living at Spring Valley at that time? A

Yes sir.

Q At the time as you say Samuels attacked you with this knife did you have anything in your hand? A No sir.

Q Are you positive? A Absolutely positive.

Q In what manner did you try to shield yourself? A In backing away I put up my hands, in case, I could ward it off with my hands.

Q And your hands were? A Free and clear.

Q Guarding you? A I never even carried a pen knife.

Q Did you see the knife in his hand? A Yes sir.

Q Any question of doubt? A No question or doubt.

Q And you are certain that you did not strike him in any part of the body? A No sir, I did not. I even didn't see him struck.

Q You have been out on bail since July 11, 1910? A Yes sir.

Q And this case has been on the calendar once or twice before? A Once, to my knowledge.

CROSS EXAMINATION BY MR. MANLEY:

Q Now do I understand you to say that Samuels didn't work for you at any time? A No sir.

Q Did he work at the same place where you did? A No sir.

Q Now you have occasionally written policy on the street

haven't you? A I never was a policy writer.

Q What department of the game were you engaged in?

A I was a clerk.

Q Did you ever run a game yourself? A Personally, no. I had the reputation but I never did.

Q You have been connected with the game a great many years? A Not lately, not this last---

Q How long has it been since you have been? A Oh, it is previous to 1908.

Q Before that you were connected with the game of policy, were you, or policy possession, for how long? A Oh, off and on; sometimes I would work at it a year and some times in the office and then I would quit and go at something else, do better.

Q Were you acquainted with Samuels before the 11th of July? A I was.

Q How long had you known him? A Around a year and a half or two years.

Q Didn't Samuels work for you about three years ago, for about two or three weeks? A Not to my knowledge.

Q Well, you would know it if he did, wouldn't you? A I will tell you who he did work for, he didn't work for me.

Q Did he work in connection with any policy game any time though in your interest? A No sir.

Q Did he ever write policy for you at that time? A

No sir.

Q Weren't you at that time running a ~~max~~ book at that time on the street? A No sir.

Q And at that time while you were running a book on the street didn't Samuels collect the money for you? A No sir.

Q From those who purchased policy slips? A No sir.

Q If it was so you would have no motive for denying it? A No sir, I would acknowledge it.

Q Now you say that you saw Samuels upon the 11th day of July in this saloon ~~at Rixner~~ of Manning's is that so? A Yes sir.

Q Were you in there at the time when he came in? A Yes sir.

Q That was 52 Prince Street, wasn't it? A Yes sir.

Q Hadn't you bee in the habit of going in there for a long time? A Well, I never went in there. The year before was the first time I ever went in, about a year before, and then probably sometimes once in three weeks I would come down, and sometimes twice a week.

Q When he went into the saloon on that morning who spoke first you or Samuels? A To the best of my recollection he said "Hello, Bill".

Q Did you see him carry a bundle of mops? A He had a small bundle under his arm, I don't know what it was.

Q He had a bundle? A Yes.

Q Did you see him try to sell anything to the bartender?

A Well, I didn't hear him ask the bartender, what he said to him.

Q What did he say to you? A He said "Hello, Bill".

Q He said "Hello, Bill, I want to see you"? A Yes.

Q You had seen him how long before that day---when was the last time? A The last time I see him when Morelli was on trial in part three.

Q When was that? A Probably three or four months, I don't remember the date.

Q You think it had been three or four months? A About that, it might have been two.

Q Did you see Samuels at the time of the trial in General Sessions? A I went down in the elevator with him one day.

Q You saw him then, didn't you? A Yes sir.

Q When he said "Hello, Bill, I want to see you," what else did he say besides that at that time? A We walked outside together.

Q Who walked out first? A He might have been first.

Q Well, who was first? A I guess he was.

Q Did he say he wanted to see you on the street? A No, but we both walked out together.

Q How near to the door was he when he said he wanted to

see you? A The door is right at the end of the house, and there is a small wooden house next door.

Q How close to the door was he when he said he first wanted to see you? A About a couple of feet, then he walked out and I walked out after him.

Q You wouldn't have gone out if he hadn't said he wanted to see you, would he? A No sir.

Q When you got outside did you and he walk toward Mulberry Street or toward Lafayette Street? A Toward Mulberry Street.

Q How far did you walk? A Well, possibly twenty or twenty five feet.

Q You and he were walking side by side during that twenty feet, weren't you? A Yes.

Q Who spoke first? A Well, that I can't say. He mentioned something about this trouble.

Q What did he say? A He said that I caused him some trouble and no man had ever caused him trouble that he didn't get even with.

Q He said that the trouble was that you had him arrested by William Hamilton? A Yes sir.

Q Did he say when it was you caused him to be arrested by William Hamilton? A He mentioned the street, 40th Street and 10th Avenue, he didn't say when.

Q Did he say when at all? A No sir.

Q Did he claim it was before or after the trial of Morelli? A Before---1908 he claimed.

Q Then he did tell you when, didn't he? A He claimed that it was about a year before, a year ago, he said.

Q 1908? A Something like that?

Q And that was before the trial of Morelli? A Before the trial of Morelli.

Q He testified on that trial, didn't he in behalf of the defendant? A Yes sir.

Q You were a witness for the people in that case weren't you? A Yes sir, I was the man held up.

Q You are the man that said you were held up. Now did he tell you anything about the details of that case where he claimed he had been arrested by Hamilton? A No, he didn't detail anything.

Q What was it he said, to the best of your recollection? A He said he would get even with anybody who done him an injury, and then I see the knife.

Q Did he say anything at all before he produced the knife? A No sir, not to my recollection.

Q Well, he claimed you had given the information to Hamilton whereupon he was arrested? A He said I had him arrested.

Q He didn't say anything else? A No sir.

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Q How many days did you see Samuels down here in this court at the time of the trial of Morelli? A I might have seen him half a dozen times.

Q The case was on the calendar several times, wasn't it?
A Yes sir, it was.

Q From the middle of 1908 down to the time of this occurrence on the 11th of July, I suppose you had seen Samuels several times, hadn't you? A Outside of this court house I never seen him.

Q Do you intend to tell this jury that as soon as he said he would get even with a man that harmed him he drew a knife? A Yes sir, I do.

Q And at that time he was carrying a bundle, was he? A He had a small bundle under his left arm.

Q Did you see him draw the knife? A Yes sir, I did.

Q What kind of a knife was it? A A pen knife. I didn't see the handle, but an ordinary affair.

Q A knife about like that (Indicating)? A Show me the blade? A little larger than that.

Q Did he draw it from his pocket and open it? A Yes sir.

Q You saw him open it? A Yes sir, I did.

Q What pocket? A Right hand pants pocket.

Q After he drew it what next? A He opened it and said "I have got this if any man does me an injury," and made a

step toward me and I backed away from him and as I backed away from him it seems the outsiders interfered and that's all I saw. I was walking down the street.

Q Who were the outsiders who interfered? A Manning and a friend of his walked me down the street. I don't know who interfered with him, but with me it was Mr. Manning and his friend.

Q Do you know Tom Larney? A Yes sir.

Q How long do you know him? A He was a boy worked for my brother.

Q Was he there at the time? A He was tending bar.

Q He was the bartender? A Yes sir.

Q Did you see him at the time of this occurrence? A No sir.

Q Did you know Boyd? A Boyd, I never met him in my like to talk with.

Q Never have seen him in your life? A Not to my recollection.

Q How about McMara, did you know him? A McMara, I did speak to three or four times.

Q Had you seen McMara in that saloon from which you had just come? A Not that day; he must have been in the back room.

Q You didn't see him at all? A No sir, I didn't.

Q Did you see him come out and strike Mr. Samuels? A

No sir, I didn't see the blow struck.

Q You were facing Samuels all the time? A At that time there was people in between us.

Q At the time you and Samuels started down towards Mulberry Street is there anybody else near you? A Samuels, when I walked back---we walked to Lafayette corner.

Q Did you go to Lafayette first? A After Manning took me down to Lafayette corner.

Q At the time when you and Samuels started toward Mulberry Street was anybody beside you? A Well, I didn't take notice.

Q You didn't notice anybody? A No.

Q As far as you know, you and Samuels were walking towards Mulberry? A Yes sir.

Q Having a conversation? A A conversation.

Q Suddenly he says "I will get even with the man who does me an injury," drew the knife and made a lunge at you? A Yes sir.

Q I ask you was anybody around you that you can remember at that time? A Well, in about a couple of seconds after there was. That I remember at the time being, no sir.

Q Who was nearest the curb, you or Samuels? A I was nearest the curb.

Q In other words, he was on your right---the house side? A He was to the house side.

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Q When he made this motion you backed towards the curb, did you? A Yes sir.

Q Did he follow you up? A Yes sir.

Q Did he keep on following you up? A A couple of steps and then the interference.

Q The interference came pretty soon then after he got the knife out, didn't it? A Yes sir, very soon.

Q This whole thing didn't take more than half a minute, did it? A Well, it took more than half a minute.

Q Did you see the man who struck Samuels? A No sir. I didn't know it until ten or fifteen minutes after.

Q You didn't know even that Samuels had been struck? A No sir, I did not.

Q There is this knife in the hands of Samuels? A Yes sir.

Q Aren't you watching that knife? A Yes sir, but then there is an interference---the people between us, and people got hold of me, and what happened to him---I didn't see the blow.

Q You didn't see anything done to Samuels? A Not at the time, I heard about it afterwards.

Q I ask you if you saw it? A No sir, I did not.

Q What was the next thing you saw become of Samuels?

A When we came back and walked towards the saloon he was standing---

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Q Oh no, when you are trying to get out of the way of the knife. You see the knife in Samuels hand---when was the first time you missed Samuels? A When the crowd jumped between us.

Q A lot of them jumped between you? A It seemed quite a lot to me.

Q You Didn't see anybody strike Samuels in the jaw or face then, did you? A No sir, I did not.

Q Did somebody come between you and Samuels? A Yes sir.

Q More than one? A Yes sir.

Q When ~~you~~ they got between you and Samuels could they still see Samuels? A In the excitement I didn't ~~know~~ pay no attention.

Q Wasn't he the very man that came after you with a knife Do you intend to say you didn't pay any attention to him?

A People interfered, kind of drawin g the argument up, and I thought it was over.

Q What did the argument consist of? A Separation.

Q Did anybody put their hands on you? A They did, and got ~~me~~ and pulled me back.

Q Did anybody pull Samuels back? A That I couldn't say, I didn't see what occurred to Samuels .

Q You eventually then lost track of Mr. Samuels and somebody got between you and Samuels? A For the time being, yes sir.

Q You didn't have anything in your hands, did you? A No sir.

Q You didn't have anything in your pockets, did you? A No sir.

Q You didn't strike Mr. Samuels at all or attempt to strike him? A No sir, I did not.

Q Now when these people pulled you back where did they take you or pull you to? A Corner of Lafayette and Prince Street.

Q Did they walk you away down there? A Yes sir, they did.

Q Who was it that walked you down there? A Mr. Michael Manning, the proprietor, and some friend of his.

Q Do you know why they walked you, when you hadn't done a solitary thing, away to that corner? A That I can't say what their object was only to save a disturbance and trouble, I suppose.

Q Did you see anybody take Samuels away? A No sir, I see him standing on the corner.

Q When was it before you knew Samuels had been hurt? A About ten minutes afterwards, or five minutes afterwards, that he was hit, I didn't know he was hurt till Saturday when I came down Saturday and they arrested me in the same place, 52 Prince Street.

Q Do I understand that somebody representing Samuels

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came to see you and made a money proposition? A Billy Samuels his brother.

Q About how long was it after the 11th of July that Samuels came? A Some considerable time.

Q There is no doubt about that? A He spoke of what it cost him and what he gave his doctor and he said \$500. would square it.

Q Tell me everything that Billy said? A Said it took all the money he could hustle and borrow to pay doctor's bills.

Q And he wanted to call the thing square for \$500.?

A Yes sir.

Q What did you tell him? A I told him I didn't hit his brother and his brother started the argument and in fact I wasn't giving up. I told him I didn't hit his brother and there was no call for me to pay his brother's expenses.

Q Now, Mr. Kent, I don't want to take any advantage of you at all. Do you intend to tell this jury that Billy Samuels did come to you and ask you for \$500. A Positively. I know the man. He slept in my house and everything.

Q Did you say upon the street to Mr. Samuels "I suppose you got a thousand dollars for testifying in that case", meaning the Morelli case? A No sir, I never mentioned the Morelli case.

Q Didn't say anything about that? A No sir.

Q You felt pretty sore, to use that slang expression, about the Morelli case? A I didn't use no slang expression.

Q I didn't say you did, but you felt very indignant about the Morelli case---the manner in which you claim you had been assaulted? A Against who, Samuels?

Q No, against Morelli? A Morelli, personally? I was satisfied as long as he got a square deal---a square trial, I was satisfied.

Q Did you feel pretty indignant about Morelli having assaulted you in your home? A Personally, I did, and assaulted my wife---for abusing my wife, more.

Q The complaining witness Samuels you say was a witness for the defendant in that case? A He was called and testified in the Morelli case too.

Q And the defendant was acquitted by a jury, by the direction of the court? A Yes sir.

Q Did you say to Mr. Samuels upon the street there that day "You are going to get trimmed before you leave the block".
A No sir, that is a word I never used.

Q Weren't you somewhat hostile against a witness who had testified for a defendant whom you claimed had assaulted you and robbed you in the dead of night in your house? Weren't you a little bit hostile against him?

MR. HENRY: Objected to, it has not been shown he testified, and on direct examination it was brought out that Mr. Kent didn't know whether he testified or

not.

THE COURT: He may answer.

A No sir, I had no feeling against him.

Q You didn't have any ill-feeling against Samuels at all? A No sir.

Q You are positive as to that? A Yes sir.

Q Did you testify in that case in General Sessions against Morelli? A Yes sir.

Q Did you testify on the trial that you didn't know Samuels? A Yes sir, he didn't work for me.

Q No, that is not it. I asked if you testified you didn't know him? A Not to my best recollection.

Q What do you think? A I couldn't do it because I had known him a couple of years.

Q Then you didn't, did you? A No, I didn't.

Q When was it you first spoke to Tom Larney about this matter? A I didn't have much to say to Larney until I came down the next time.

Q Then you talked to Larney about it, didn't you? A Yes sir.

Q You talked to Boyd about it? A No sir.

Q At no time have you ever talked to Boyd about it? A No sir.

Q Did you ask Boyd to come down here as a witness? A I got his address off Mr. Larney and I wrote him a letter

asking him to see me, please---to come down and state what he saw.

Q Do you know Matt McMara? A Only a couple of times I have spoken to the man in 52 Spring Street.

Q Have you met him in that saloon? A Yes sir.

Q Did he use to frequent that saloon? A Yes sir.

Q Was there any policy going on in that saloon? A No sir, not to my knowledge.

Q Positive? A The proprietor wouldn't allow gambling or any woman in his place.

Q When did you see McMara last? A Probably a month before he died.

Q Did you see him in his coffin too? A No sir, I didn't know he was dead.

Q When did you find out he was dead? A A couple of days afterwards.

Q After what? A After he was buried.

Q How many times did you see McMara after the 11th of July? A Probably once a week, sometimes twice a week---probably once in three weeks, just the way it varied.

Q Did you talk this matter over with him on the street that day? A No sir, he came personally to me and was coming down on the stand when he heard about it.

Q You probably knew McMara had delivered this blow? A Yes sir.

Q You probably knew it? A Yes sir.

Q Did you have him in the police court? A He was not around Saturday when I was arrested?

Q Did you have him at the time of the examination in the police court? A I didn't have time to locate him.

Q Did you ever bring him to the District Attorney's office prior to the indictment? A They wouldn't entertain a complaint against Samuels with those witnesses.

Q That is not the question. Did you ever bring McMara to the District Attorney's office? A No sir, I did not.

Q Have you got anybody here in court who can testify that McMara ever existed? A Oh yes sir. The police department and the fire department---the records will show.

Q Have you anybody in court who will testify that McMara is dead and where he died? A Yes, over in St. Vincent's hospital.

Q I say, have you anybody in court? A No sir, but the records will show. It takes money---

RE-DIRECT EXAMINATION BY MR. HENRY:

Q At the time that Samuels testified in the case in which you appeared as the complainant ^{wherein} ~~wherein~~ you charged Morelli, Red and Hallahan with assault in the first degree and robbery in the first degree, did you know to your own knowledge if he testified against you or not? A No sir.

Q Or testified in the case at all? A Only that he

testified in the police court.

Q But you never knew if he testified in General Sessions? A In the morelli case, no sir, I don't know whether he testified or not.

Q Never brought home to you? A No sir.

Q On the day in question there was no ~~any~~ feeling as far as you are concerned against this man Samuels? A I answered that, that we were friendly.

RE-CROSS EXAMINATION BY MR. MANLEY:

Q Didn't you ever hear that he testified in that action on behalf of the defense? A What he testified in the police court, he told the truth.

Q Did you ever hear what he testified in that action in General Sessions? A No sir.

Q Never even heard of it? A No sir.

Q Is that so? A That is a fact.

Q So at the time when you had this man Samuels on the street you didn't even know he testified in behalf of the defense? A No sir, I did not.

DEFENDANT RESTS.

SAMUEL SAMUELS, the complainant herein, recalled in rebuttal, testifies as follows:

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DIRECT EXAMINATION BY MR. MANLEY:

Q Have you told us about how long it was that you worked for Mr. Kant? A Yes.

Q Did you tell us this morning how long you worked for Kent in the policy game? A About three weeks.

Q And I think you testified that was 1908? A Yes sir.

Q In what part of the City, was it that you worked for him? A Around 40th Street, between 9th and 10th Avenues.

Q Inside of a house or on the street? A On the street.

Q Was it a book game that was being worked?

Objected to.

Question withdrawn.

Q In what capacity did you work for Kent and what did you do? A Writing policies.

Q That is writing--- A The numbers, getting the play, getting the money for it.

Q During that time you were working for Kent were you arrested? A I was. Mr. Hamilton got hold of me, searched me in a hallway, didn't find anything on me, takes me to the station house, shows me to the captain and the captain says --

MR. HENRY: Objected to.

THE COURT: Objection sustained, at this time, ask another question.

Q You were simply taken to the station house then? A Yes sir.

Q Do I understand then you were not placed under ar-

rest? A No sir.

Q And that is the time that you were working for Kent?

A Yes sir.

Q Did you continue to work for Kent after that? A
No sir.

Q You worked for him about how long? A About three
weeks.

Q Who was Mr. Hamilton? A The anti-policy man.

Q He is one of the agents of the anti-policy society?

A Yes sir.

Q Can you tell me of your own knowledge whether he is
acquainted with Kent? A I can't really tell.

Q Mr. Hamilton saw you where, in what part of the City?

A 41st Street and 9th Avenue.

Q Was Mr. Kent in that vicinity at that time? A In
the morning.

Q For how long a period of time did you and Kent remain
on the street at that time? A Well, about a half an hour.

Q Each day? A No, he wouldn't be there every day.

CROSS EXAMINATION BY MR. HENRY:

Q This episode with Mr. Hamilton, when you were placed
under arrest---

MR. MANLEY: I object to that on the ground that
there is no evidence here that he was placed under ar-

rest.

Q Didn't you say you were placed under arrest? A I was not placed under arrest.

Q But you were taken in custody by Mr. Hamilton? A Yes sir.

Q Don't you consider that an arrest?

THE COURT: Never mind that, you have the fact.

Q At the time that you were taken into custody by Mr. Hamilton, the Superintendent of the Vice Society, you were working for the defendant?

THE COURT: He told us that he was.

Q You want the jury to understand that Mr. Kent was the man that caused your arrest when you were working for him? A No sir.

Q Isn't it a fact that you were working for a man by the name of Charles DeAngelo? A No sir.

Q You know Charles DeAngelo? A I was introduced to the man.

Q Isn't it a fact that you were working for him at that time? A No sir.

RE-DIRECT EXAMINATION BY MR. MANLEY:

Q If I understand you then, no charge was made against you at that time by Hamilton? A No sir.

Q As far as I understand it you don't claim the defend-

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ant had anything to do with your being searched by Hamilton?

A No sir.

Q Did you upon the day in question, the 11th day of July, say anything to Kent about being detained at any time by Hamilton in 1908? A No sir.

P E O P L E R E S T.

MR. MANLEY: If your Honor please, I withdraw first degree absolutely.

Counsel now close to the Jury.

The Court now charges the Jury.

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C H A R G E O F T H E C O U R T.

FOSTER, J.

THE COURT: Gentlemen, the question to be submitted to you is whether or not the defendant is guilty of assault in the second degree. Assault in its second degree is defined in the law as wilfully and wrongfully wounding or inflicting grievous bodily harm upon another. It is contended here that at the time and place in question this defendant wilfully (that means purposely and intentionally) and wrongfully (that means without color of right, as when one acts in self-defense), wounded and inflicted grievous bodily harm upon the complaining witness. If he did, convict him of assault in the second degree, and if he did not, acquit him. That is all there is in the case, but in determining this question you must have regard to all the evidence in the case. It is for you to weigh it and ascertain the truth. Do not accept as true anything that any witness says unless what he says impresses you as being true, and in determining its truth have regard to all the facts and surrounding circumstances that have been brought to your attention. Use your good, common sense. In other words, give both the defendant and the people, represented by the complaining witness, a square deal.

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If you have any reasonable doubt of the defendant's
the benefit of
guilt, of course that belongs to the defendant.

MR. HENRY: I will ask your Honor to charge that
the jury must be satisfied in the first instance beyond a
reasonable doubt that at the time of the alleged
assault by the defendant upon the complainant---that
they must be satisfied that the defendant had in his
possession or in his hand a weapon of some kind, and
if they are not satisfied that they cannot consider
it as assault. They must be satisfied on that point
first.

THE COURT: Well, gentlemen, if the defendant
wilfully and wrongfully wounded or inflicted grievous
bodily harm upon the complaining witness, whether he
used a weapon or didn't is immaterial ---then he is guilty
of assault in the second degree. You have heard the
testimony touching a weapon. Now give it the weight
and credence that you think it ought to have. I merely
tell you that as matter of law the infliction of these
injuries wilfully and wrongfully, whether with or without
weapon, constitutes assault in its second degree.

MR. HENRY: Now I ask your Honor to charge assault
in the third degree.

THE COURT: Oh yes, gentlemen; you have the power

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to convict this defendant of a misdemeanor. Assault in its third degree is a misdemeanor. That relates to a slapping of the face or a twitching of the nose, or a kicking of the shins--a tenement house brawl, a clothes line fight---a mere misdemeanor.

MR. HENRY: I ask your Honor to charge that the benefit of the reasonable doubt is for the defendant.

THE COURT: I have. You didn't listen. I said that.

MR. HENRY: All right, your Honor, that's all.

THE COURT: Gentlemen, you may retire.

The Jury now retires and upon its return renders a verdict of guilty of assault in its second degree.

(Defendant remanded for sentence)

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COURT OF GENERAL SESSIONS OF THE PEACE
CITY AND COUNTY OF NEW YORK. PART IV

.....
THE PEOPLE OF THE STATE OF NEW YORK :

-against- :

WILLIAM KENT. :

New York June 6, 1911.

Indictment filed

The defendant is arraigned for sentence before

HON. WARREN W. FOSTER, Judge.

MR. MOORE: (Defendant's Counsel) May it

please the Court in the Kent matter I have procured a
copy of the record and I find that the formal motion
to set aside the verdict has not been made, and I desire
at this time to make the motion, and I do it not merely
formally but seriously, believing that the motion
will be granted, and, therefore, I now move that the
verdict be set aside upon the ground, first, that it is
contrary to law, and, second, that it is contrary to
the evidence and, third, upon the rulings and excep-
tions taken.

THE COURT: I of course allow you to make the
motion, and if you will point out the particular alleged

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errors which you think are worthy of attention I will hear you.

MR. MOORE: I am about to say, your Honor, that I am frank to say after an examination of the record that I find no exceptions in the record worthy of consideration, but I do believe upon the general proposition that the verdict is contrary to the evidence and that it should be set aside.

THE COURT: Well, I recall case distinctly. The multitude of witnesses that was produced by the defense might lead one to that view, but there was a clear conflict of testimony, and the weight was for the jury to determine. Now, they have determined against your client and I don't feel that as the judge I should set my individual judgment against that of the jury.

MR. MOORE: Unless clearly against the weight of evidence. Now, if your Honor please, in ~~that~~ a civil action I can cite to your Honor an abundance of authorities

THE COURT: The rule is very different.

MR. MOORE: I understand, but it is more stringent
(Counsel and Court now indulge in a colloquy)

THE COURT: The point I want to make is that the weight of that evidence went to the jury. I do not feel

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as a matter of law that I can interfere with their verdict. The time for me to have interfered, if at all, was before I submitted to them on your motion to direct an acquittal. I felt that there was evidence sufficient to require the submission of the case to the jury, I did submit it and I think I must abide by their verdict.

MR. MOORE: Very well then, I take an exception to your Honor's ruling.

(Sentence postponed indefinitely to permit Mr. Moore, counsel for defendant, to have Mr. Manley, the Deputy Assistant District Attorney who tried the case, present).

Stewart Liddell,
Official Stenographer.

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