

Q Did you see anybody else? A No; see nobody at all at that time.

Q What did you do? A I helped Lepaglio to pick him out, and I led him near a basement there.

Q You helped Lepaglio to pick him out? A Yes, from---

Q Pick what out? A You know; take him up.

Q Oh, you helped Lepaglio pick himself up? A Yes, sir.

Q Now, where was he shot? A I don't know where he was shot, because I saw him all full of blood.

Q He was all full of blood? A Yes.

Q Did you wait until an ambulance came to take him?

A Yes, sir.

Q Now, did you speak to Lepaglio? A I spoke to Lepaglio, yes; I asked him who done that.

Q Now, had Brancato been brought back at that time?

A Yes, by the policeman.

Q The policeman had brought Brancato back? A Yes.

Q And where was Brancato? A In front---

Q In front of Lepaglio? A Lepaglio, with the policeman; yes.

Q The policeman was holding him in front of Lepaglio?

A Yes.

Q Now, what did you say to Lepaglio, and what did he say

CASE # 600

to you? A What I said?

Q Keep your voice up now? A What I say. The policeman asked him who does that, and he said "It is Brancato."

Q Was the policeman holding Brancato in front of Lepaglio at that time? A Yes.

Q Now, was anything else said? A Then they take him in the ambulance, and that is all I know.

Q Take him in an ambulance? A Yes.

Q Did the defendant say anything when Lepaglio said that?

A No, sir; nothing at all.

CROSS EXAMINATION BY MR. KEIR:

Q Mr. Frangipane, when you had the conversation with Brancato, you and Brancato were standing in front of the saloon? A Not in front of the saloon; aside.

Q Aside of the saloon? A Yes.

Q What saloon? What number of what street? A Christie street.

Q On Christie street? A Yes.

Q Do you know where that saloon on Christie street is?

A Yes, between Stanton and Houston.

Q Between Stanton and Houston street? A And Houston street; yes, sir.

Q Is it half way between the two streets? A No, nearer---

CASE # 600

Q Well, is it nearer to Houston? A Nearer to Stanton street.

Q Is it about one third of a block away from Stanton street? A What?

Q About what distance from Stanton street is it to the saloon in front of which, or alongside of which you had this conversation? A Well, about three doors; I don't know; something like that.

Q Well, is it 211? A Yes, 211.

Q It is about five or six doors from Stanton street?

A Well, something like that; yes.

Q On the west side? A Yes, sir.

Q Now, the grocery store that you took Brancato to, is around the corner? A On the corner of Stanton street; yes.

Q On Stanton street? A Yes.

Q Then, after the conversation, you took Brancato down Christie street to Stanton street? A Yes, sir.

Q And down Stanton street? A In Stanton street, yes; I leave him in Stanton street.

Q How far below the corner of Stanton and Christie streets did you take him to the grocery store, over the grocery store? He lives over the grocery store, doesn't he? A Sure, he lives there, yes.

CASE # 600

Q How far is that below Christie on Stanton street?

A Well, it is near the corner, only past the street; that is all.

Q wasn't it down near Rivington street that you took Brancato? A Rivington street?

Q Rivington street? A No.

Q A street below Christie, crossing Stanton? A Corner Stanton and Christie; yes, sir.

Q No, but I mean where you took Brancato was down Stanton street about half a square or three quarters of a square?

A Right on the corner Stanton street.

Q Well, that grocery store is not at the corner of Christie and Stanton street, is it? A On the corner; yes.

Q This was around the corner of Stanton street, then, you took Brancato? A Yes.

Q Yes. You took him off Christie street? A No, it was on Christie, and I bring him in Stanton street.

Q Yes; but did you take him around the corner into Stanton street? A Yes.

Q Now, when you had this conversation with Brancato, where was Lepaglio? A Lepaglio?

Q Yes. A He was talking with my brother. I left him there.

Q Well, was that right at the saloon there? A Right

CASE # 600

in front of the saloon, yes.

Q And a few feet from this man? A Yes.

Q Now, I want to understand that. You and this man, this defendant-- A Yes.

Q Were in conversation alongside of the saloon on Christie street? A Yes.

Q 211 Christie street, and right a few feet from you was Lepaglio talking to your brother? A Yes.

Q Where this man could see him? A This man is not with me, you know. We go right over to Stanton street. We don't stay there stopping.

Q Yes, that is true, but while he is having this conversation with you, this Lepaglio is right there a few feet from him. How many feet? A Well, about the same as from me to you.

Q About as far as from you to me? A Yes, that is right.

MR. TRAIN: Better have that distance on the record.

Q Well, say about fifteen feet? A Yes, something like that.

Q And then the defendant went on down, did he?

A Yes.

Q And left this man Lepaglio? A Yes, in front of the

CASE # 600

saloon.

Q Yes, and went down to this grocery store at Stanton and Christie street? A Yes, sir.

Q Then, after you left him there, where did you go?

A I go back in the saloon.

Q You went into the saloon? A Yes.

Q Into that saloon in front of which or alongside of which you had had the conversation? A Yes, sir.

Q All? A Yes, sir.

Q Now, then, what did Lepaglio do? A I didn't see Lepaglio no more when I come back in the saloon.

Q Didn't you see Lepaglio follow Brancato down? A No, I didn't see at all.

Q Now, when you went in Lepaglio was in front of this saloon? A Yes.

Q And was standing there? A Yes.

Q You didn't see then whether he followed him down or what he did? A No.

Q Then you went in and had a drink? A Yes, sir.

Q More than one? A No, I have no time to drink one.

Q When you heard the shot? A Yes, sir.

Q But there is no doubt about it that you took this defendant all the way down Christie street to Stanton and around the corner? A Yes, sir.

CASE # 600

Q And then came back? A Who?

Q Didn't you come back to the saloon? A Me, yes.

Q Yes, and when you came back to the saloon, after taking the defendant down to the grocery store, this Lepaglio was up at the saloon then, when you went in? A No, he didn't was at the saloon; no.

Q Where was he, on the other side? A No, I don't see Lepaglio at all when I came back.

Q Oh, when you came back you didn't see him? A I don't see him; no, sir.

Q You didn't meet him coming up, then? A No, sir.

Q Now, when you first met the defendant, he didn't attempt to do anything to Lepaglio there? A No.

Q And he was right a few feet from him? A When?

Q 15 feet you said? A Yes, the first time; yes.

Q This conversation took place in front of Michael's saloon? A Yes, sir.

RE DIRECT EXAMINATION BY MR. TRAIN:

Q Where was Lepaglio lying when you came out of the saloon? A On the sidewalk like that (indicating).

Q Now, with reference to what number or place, where was he lying? A In front of the saloon; 211.

Q In front of the saloon? A Yes.

Q Have you any idea whether Lepaglio followed the defendant fighting, and they came back to the saloon?

A I don't know anything about it, if they was fighting.

Q When did the defendant come back to the saloon?

Did he come back in order to begin again the fight? A I don't know; I don't know. I left him on the corner, and I don't know what he did.

Q And you don't know where Lepaglio was in the meantime when you stopped in the saloon? A No, sir; I didn't see Lepaglio.

Q I repeat, you don't know whether Lepaglio followed him? A No, sir.

BY THE SECOND JUROR:

Q Did this Lepaglio have any conversation with your brother? A The conversation was before.

Q Yes. A We were talking about music.

Q Yes; and then you left your brother and Lepaglio together, and took the defendant to the grocery store?

A Yes.

Q And while you were away Lepaglio and your brother were talking together? A Yes, sir; and then a party came and called my brother in the saloon, and Lepaglio has gone, but I don't know where he has gone.

Q How do you know somebody called your brother into

CASE # 600

the saloon when you weren't there? A Because my brother was to make arrangements for music, you know.

Q But you were not there. How do you know that your brother was called into the saloon? A Because I have been in the saloon together with my brother and the man.

Q Oh, you found them there when you came back? A Yes, sir.

FRANK FRANGIPANE, called and sworn as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Do you speak English? A A little; not much.

Q Where do you live? A I live just now in Kingsland, New Jersey.

Q Kingsland, New Jersey? A Yes.

Q Now, what is your business? A professor of Music; I am a leader of a band.

Q Professor of Music and leader of an orchestra?

A Yes, sir.

Q What do you call your orchestra? A Well, it is a string orchestra.

Q But has it not a name? Do you call it Frangipane's

CASE # 600

Orchestra? A Frangipane's band; San Vito Frangipane's Band.

Q San Vito Frangipane's Band. Now, do you have an office here in New York or just over in Kingsland? A Yes, Prince street, I have got; 15, No. 15 Prince street I have got an office.

Q 15 Prince street you have got an office? A yes.

Q Were you over here on the 1st day of last June?

A Yes.

Q What time did you come over? A I was here six o'clock, you know, for having an arrangement for Bedford Park, you know.

Q You arrived in New York at six o'clock P. M.

A Six o'clock; yes.

Q Where did you go? (Question repeated by the Interpreter)? A (English) I went to Elizabeth street.

Q Go ahead and tell your story. A (Through Interpreter) Then I went to Bedford Park, and then I went to Christie street, No. 211, Michael's saloon; and there I was waiting for Mr. Giordano, who was to hold a banquet and wanted a band. In the meantime, I saw Lepaglio, and he said to me, "How do you do, Professor"? "All right", I says. Then I asked him how his family is. Then Giordano came up,

CASE # 600

and we entered the saloon. While drinking, Giordano ordered the drinks and he treated my brother, and two others persons, and hardly had we put the glass at the lips, I heard a report. I went to the door of the saloon, still holding the glass in my hand, and saw there a crowd assembled. Then I went into the saloon and put down the glass and came out again and saw the deceased lying on the ground. And he said to me "I recommend to you my two children." That is all. Then I conversed with the man who was to hold the banquet, and I and my brother went home.

Q Well, now, did you see Brancato at any time? A No.

Q And when did you first see your brother Joseph, the last witness? A It was before, when we were waiting for Giordano. Then Giordano came and we entered the bar room.

Q Now, when you and Giordano entered the barroom what became of Joseph and Lepaglio? A My brother Frangipane was in company with me. I left Lepaglio outside. My brother was inside.

Q Yes. Well, did your brother go inside with you?

A yes.

Q Well, do you mean that your brother was with you all the time from the time that Giordano came up, up to the time---

A There was only one moment when I was talking with Lepaglio that he distanced me, my brother, but I didn't see what di-

CASE # 600

reaction he had taken.

Q What do you mean by "he distanced me"? A He went a little distance from me.

Q Well, did you see where he went? A No, I did not; I was just talking to Lepaglio.

Q Well, then, did you go into the saloon and leave Lepaglio outside? A (In English) Yes.

Q Leaving Lepaglio outside? A Yes.

Q When did your brother come back? A Just the same time when Giordano came up.

Q What were you doing when your brother went away?

A (Through Interpreter) I told you already, I was talking with Lepaglio, because ~~ix~~ he was an intimate friend of mine.

Q Well, how long was your brother gone away? A A few minutes.

Q And were you still talking with Lepaglio when he came back? A Yes, and then Giordano came and we entered the saloon.

Q Then you three, your brother, yourself and Giordano went into the saloon leaving Lepaglio on the outside; is that right? A Yes; and there were two other musicians that came into the saloon with us.

Q What were their names? A The name of one is Stephan Pasentino.

CASE # 600

Q What is the other one? A And the other one's name is Francesco Russo; all musicians.

MR. TRAIN: There is no objection to the diagram being marked in evidence, is there?

MR. TOWNSEND: Certainly not.

(The diagram offered in evidence by the District Attorney is received and marked People's Exhibit 1).

MR. TRAIN: I would like to recall the previous witness to identify some of the points on this diagram.

GIUSEPPE FRANGIPANE, recalled, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Will you look at this diagram, Mr. Frangipane? This (indicating on diagram) is Christie street, and this is Stanton street, and this is Houston street. Now, on which corner is that grocery store that you took Brancato down to? A Here (indicating on diagram People's Exhibit 1) is the corner.

Q You are sure of that? A Sure, yes.

Q That is the southwest corner? A Southwest; yes.

MR. TRAIN: I will mark the place indicated with a large X. That is 112 feet from the door of Michael's

to the northerly curb outside the grocery store.

FRANK FRANGIPANE, a witness for the People,
resumes the stand:

CROSS EXAMINATION BY MR. KEIR:

Q Mr. Frangipane, you didn't see Brancato in front of
the saloon when you were talking to Lepaglio? A (In English)
Oh, no; I don't see Brancato at all.

Q Was he there?

MR. TRAIN: I object to that question.

Q Do you know where he was? A No.

Q You saw your brother there in front of the saloon?

A (Through the interpreter) Yes, my brother I saw.

Q And Lepaglio? A Yes; I talked also with him about
music.

Q Were you in front of Michael's saloon talking to
Lepaglio? A Yes, sir.

Q When your brother was there and you didn't see Brancato?
A No, I don't see Brancato.

Q Who else did you see around there, if anybody at that
time? A Oh, I saw a great many people that were passing
by.

Q But you didn't see Brancato? A No, I don't see him.

BY THE SECOND JUROR:

CASE # 600

Q Do you know Brancato? A (In English) Yes.

Q Don't you come from the same town in Sicily? A Yes, the sameplace; same town; from Climina.

Q And you are no more friendly with Brancato than with Lepaglio? A (Through the Interpreter) Just the same.

BY MR. KEIR:

Q Did you and your brother, going into the saloon, leave Lepaglio on the outside? A Yes, I said to Lepaglio, "Excuse me for a while, because I had just to talk about an engagement."

J O S E P H J. S H A R P, a witness for the People, recalled, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Mr. Sharp, we didn't have the diagram here when you testified. Now, here (indicating on diagram, People's Exhibit 1) is Stanton street, and here is Christie and here is Houston. Now, you were walking in which direction, on which side of the street? A I was walking this way (indicating on diagram) I had come down this way (again indicating on diagram).

Q Come down Stanton street and turned the corner, and where was it you saw these two men fighting first, exchanging blows? A I was, I imagine, three or four doors-- if that

CASE # 600

is 207, that must be somewhere around here (indicating on diagram).

Q Where what happened? A Where they were fighting.

Q Somewhere around here (indicating on diagram)?

A Somewhere around there.

Q You mean the partition between 209 and 211?

A Yes, sir.

Q Now, where was it the actual shot was fired? A The actual shot was just before you come to the saloon; I think there is a saloon on the corner there.

Q The saloon is 211? A Isn't there a saloon on the corner also of Christie and Stanton street?

Q That I don't know. I will find out? A I think so.

Q Well, anyhow, you came up this way? A Yes, sir.

Q And you saw blows exchanged, and you stopped?

A yes.

Q And then one man walked towards Stanton and the other man walked towards Houston street? A That is right.

Q Which walked towards Stanton street, and which walked towards Houston? A The deceased walked towards Houston, and the defendant walked towards Stanton street.

Q yes; and then the deceased came back, did you say towards Stanton street? A Yes, sir.

Q Now, whereabouts did they meet? A They met, I should

CASE # 600

judge, about here (indicating on diagram).

Q About in front of 207? A Yes; there is a basement, because when he was shot and fell over, he came almost falling down the basement.

Q Well, there is the flight of steps going down? A Yes, sir.

BY MR. KEIR:

Q What kind of a stair is it? A I couldn't say what kind of a stair it is.

BY MR. TRAIN:

Q But there is an area there? A yes, a kind of a basement, and those stone steps alongside here (indicating on diagram); it was very close to where them steps are.

Q Was he standing about there then when the shot was fired? A Standing about there; yes, sir.

Q Well, I will put a circle there. Now, where was the defendant when he fired the shot? A The defendant when he fired the shot, he was on the curbstone, right off the curbstone.

Q Well, put your finger at the spot on this diagram?
A Right there (indicating on diagram).

Q Well, I will draw another circle there. Now, where was this peacemaker? A He was between the two.

Q Between the two, here (indicating on diagram)?
A Yes, sir.

CASE # 600

Q I will put a circle there. I will label them, 1, 2 and 3. 1 is the deceased, 2 is the friend, the peacemaker, and 3 is the defendant, and there ought to be a fourth one to indicate yourself. Show us where you were standing? A At that time I was standing about the distance-- a little distance the other side of those steps (indicating on diagram). There were some high steps there, I suppose some five or six steps, where you go up to the first floor of the house there.

Q Yes; put your pencil where you were standing.

A About there (indicating on the diagram).

Q I will make that No. 4.

BY THE FIRST JUROR:

Q Can you tell me whether Lepaglio came back from here--- you say he was in this direction here (indicating on the diagram), and the defendant was here, and you say Lepaglio came back? A Who was Lepaglio?

Q The deceased? A Yes.

Q Do you know whether the deceased came back to attack the defendant? A Yes, he did.

Q He ran against the defendant? A Yes.

Q In order to attack him again? A Yes.

Q And the defendant, you say, was brought around somewhere to this grocery? A No, no; he was brought here from--

MR. TRAIN: possibly I can explain that to you.

CASE # 600

BY THE FIRST JUROR:

Q But we know that Frangipane took the defendant away somewhere around the corner to the grocery store. Now, I would like to know-- but you don't know that? A No.

BY MR. TRAIN:

Q Now, the two men took the deceased up in this direction towards Houston street? A yes; that is right.

Q And one man took Brancato down in that direction (indicating on diagram)? A Yes.

Q Now, you say that the deceased left these two men and came down in this direction? A Yes.

Q Now, what did the defendant do? A The defendant, he was still, he was with this peacemaker.

Q Yes, he was with the peacemaker? A He was with the peacemaker.

Q And you saw him turn around, I believe? A He was going to go--- he saw the deceased coming towards him, don't you know, he was going to make ready to give him a fight.

Q Yes. A But the peacemaker was quieting him, and the deceased made a spring at him, and the peacemaker avoided his being hit, and then the deceased kicked at him.

Q That all occurred right there (indicating on diagram)? A That all occurred right there.

BY THE FIRST JUROR:

CASE # 600

Q Then the peacemaker intervened twice? A Well, he intervened twice, to bring him down.

Q The first time he separated them? A Well, there was three of them separated them.

Q But he was one of the three? A Yes.

Q And did he try to make peace also then, when he shot him? A Yes, he was standing right between them when he shot.

Q That peacemaker was in that twice, was he? A Yes.

Q The first time when he separated him? A Yes.

Q After he left him, we understand that Frangipane went to the saloon with the idea that he went home, as he promised him, and suddenly we see him here shooting. Then he went again north, and that other fellow came south, and so they met each other, and then we see the peacemaker was again between them when he shot him?

MR. TRAIN: Well, that is the testimony, but there will be other witnesses, and that will all be cleared up.

BY MR. KEIR:

Q Hewant 20 feet after him, didn't he, Mr. Sharp?

A I surmise it is near that. I am not accurate on the question of feet.

CASE # 600

J O S E P H F R A N G I P A N E, recalled, testified as follows:

BY THE FOURTH JUROR:

Q What I want to find out is, at the time the defendant was at the saloon, at 211, the defendant, I understand you to say, said that he wanted to shoot this Lepaglio?

A Yes.

Q And then you said to the defendant, "No, you better go home," and you took him home? A Yes.

Q Around the corner on Stanton street? A Yes.

Q Into the grocery store? A Yes.

Q And at that time you went back into the saloon?

A Yes.

Q You went into the saloon? A Yes.

Q And at that time you had a glass of beer? A Yes.

Q And just as soon as, you just had raised the glass to your lips when you heard the shot? A Yes, sir.

Q But you didn't see this defendant? A No.

BY MR. KEIR:

Q Mr. Frangipane, when you were talking to the defendant Brancato, your brother was talking right alongside of you to Lepaglio, wasn't he? A Yes, sir.

THE COURT: Wait. Wait a moment.

Q Right alongside of you? A Right alongside of me.

CASE # 600

THE COURT: Stop!

Q Where you could touch him.

THE COURT: Stop, counsellor.

MR. KEIR: Oh, pardon me, your Honor.

THE COURT: You see the questions of the fourth juror were directed to clear his mind of any ambiguity that may have rested there; is that not right, sir?

THE FOURTH JUROR: That is it.

THE COURT: Now, to reopen this matter, except upon the questions asked by the jury, would simply lead to confusion and complication. I think the position is quite clear now, sir?

THE FOURTH JUROR: Yes, sir.

G I O V A N N I P A S E N T I N O, called and sworn

as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

(Testimony taken through the Official Interpreter Morossi).

Q Where do you live? A 165 Forsyth street.

Q And your business? A Musician.

Q Who employs you? A Frank Frangipane.

Q You belong to the Frangipane band? A Yes.

CASE # 600

Q Did you know Frank Lepaglio? A Yes.

Q Do you know the defendant? A Yes.

Q Are you a townsman of both the deceased and the defendant? A Yes.

Q Did you know them before you came to this country?

A Yes.

Q How long have you been in America? A I am here three years.

Q Do you remember the Friday, the 1st of June, 1906?

A Yes, I remember.

Q The night Lepaglio was shot? A Yes.

Q Did you have an appointment with Frank Frangipane on Christie street?

Q Did you see Frangipane in Christie street? A Yes.

Q Where did you see him? A In front of the saloon.

Q Michael's? A Yes.

Q Who was there? A Joe Frangipane, Frank Frangipane, Giordano, and a certain Frank Russo.

Q A certain who? A Frank Russo.

Q How about Angelo Varisco; was he there? A Yes, sir.

Q How many in all? A I cannot exactly remember the number of people.

Q Well, there was the two Frangipanes? A Yes.

CASE # 600

Q There was yourself? A Yes, Russo, Giordano.

Q Russo, Giordano, Varisco? A Varisco.

Q And was there anybody else? A No.

Q Was Lepaglio anywhere there? A He came subsequently.

Q How long after you met these gentlemen at Michael's did Lepaglio arrive? A About half an hour later.

Q Did you see Brancato? A Some three quarters of an hour, I saw him.

Q How long after Lepaglio got there did Brancato get there? A The difference is not a long time.

Q How long? A About a quarter of an hour.

Q When Brancato came, from what direction did he come?

A He came from the direction of where he lived.

Q Where is that? A 203 Christie street.

Q Now, is that a grocery store? A The grocery is near by.

Q That is on the corner of Stanton, isn't it? A Yes.

Q Now, when Brancato came up had Varisco gone away?

A Yes.

Q Had Russo gone away? A I couldn't exactly remember.

Q But were the others present? A Some one standing in front of the barroom were present.

Q Now, you were standing in front of Michael's at 211 Christie street when Brancato came up? A No. Brancato

I saw when he was far away from me.

Q Well, what did you do when you saw him? A Well, as Frangipane had a contract pending, I wanted to talk with him in order to see how the affair concluded.

Q Well, how about Brancato? A What about Brancato?

Q Did you talk to Brancato? A No. I don't remember rather. Because I have been ill-- pardon me.

MR. KEIR: Never mind the rest of that, Interpreter; never mind the because. The answer is that he does not know.

MR. TRAIN: Well, finish the answer, Mr. Interpreter.

MR. KEIR: Pardon me; I object to the "because", your Honor.

THE COURT: I sustain the objection.

BY MR. TRAIN:

Q When Brancato came up, where did he go? A A distance from where we were standing.

Q How far distant? A About as far as from here to the opposite wall.

Q What happened next? A Since the time that I spoke about, I don't remember anything, because I am troubled in my head.

Q What time do you refer to? A It is about the time.

Q Well, we want to know what happened that night?

A They say that Brancato---

MR. KEIR: Wait a moment. I object to that.

"They say."

THE COURT: Objection sustained.

BY MR. TRAIN:

Q Tell us what was the next thing that happened after Brancato came up and took the stand at the distance from you that you have mentioned? A Well, we went inside to have a drink, and when we were about drinking, we heard a report.

Q Did you speak to Brancato, or Brancato speak to you?

MR. KEIR: Pardon me. He said "I don't remember speaking to Brancato", and before that he said "I didn't speak to Brancato at all." I think that has been answered enough.

THE COURT: I will allow the question.

A We had a talk before the trouble.

Q When did you talk with Brancato? A Before; a long time before the killing took place.

Q Well, how long before? A On the same evening.

Q Where was it that you talked to Brancato? A At the corner of Stanton and Christie.

Q How long before the killing? A Some hours before.

Q What did you talk about? What did you say to him and

CASE # 600

what did he say to you? A He told me that he had a quarrel with Lepaglio, but I was entirely unconcerned about that.

Q Is that all he said to you? A Only that he had said that on that night, he would have talked about with Lepaglio.

Q Ask him to say that again (to interpreter). There must be something wrong with it. A He said those words, "I will show him whether in Brancato's family there are Canutos-- cuckolds."

Q Well, did he say how he would show him? A He said that on that night he wanted to kill him.

Q What Italian words, did he use, the defendant? A That on that night he would have confronted Lepaglio in order to show him whether in his family there are Canutos or cuckolds or not.

Q Did he say how he was going to kill him?

MR. KEIR: I object to that. The question is very leading and suggestive.

THE COURT: Yes; I sustain your objection.

(To Mr. Train) Ask him this: Did he say anything further about the killing?

BY MR. TRAIN:

Q Did he say anything further about the killing? A Nothing.

0480
CASE # 600

Q Now, was this while there was still daylight, or was it evening when he had this talk with you? A Well, they had just lit the lights on the block. It was about nine o'clock.

Q Now, when you saw Brancato at nine o'clock, when he was standing in front of the saloon of Michael's, did you turn and speak to Frangipane? A Yes, afterwards.

Q And did you see Frangipane do anything before you went into the saloon? A He moved away from us and went to talk with Brancato.

Q Now, did you hear what Frangipane said to Brancato or Brancato said to him? A No.

Q Well, what was the manner of Frangipane and what was the manner of Brancato as they spoke on the sidewalk?

MR. KEIR: I object to that, your Honor, that is entirely a matter of opinion.

THE COURT: I sustain the objection.

BY MR. TRAIN:

Q Describe the appearance of the two? A It appeared that Brancato was angry and that Frangipane---

MR. KEIR: Wait a moment; I object to that.

A (Continuing) -- was trying to calm him down.

MR. TRAIN: It seems to me that is competent; not a matter of opinion.

THE COURT: I will allow it to stand.

BY MR. TRAIN:

Q Now, what did Frangipane and Brancato say if anything?

A Well, then it happened that we entered the barroom for the drink.

Q Yes. Well, go on? A And then the report was heard.

Q Well, go on. A Well, we went outside and saw Lepaglio on the ground.

Q Well, did you see Brancato brought back by the Officer, and brought in front of Lepaglio? A Yes.

Q Is there anything the matter with you? Are you sick?

A (No answer).

Q Has your memory been impaired since you signed this affidavit in last June (showing paper to witness)?

MR. KEIR: I object.

THE COURT: Objection sustained.

(To Mr. Train) You may inquire from this witness if he has undergone any sickness or sustained any accident since he signed the paper last June.

BY MR. TRAIN:

Q Have you undergone any injury or sustained any accident since you signed this paper on the 6th of July?

A Yes, I have been sick.

Q What is the nature of the sickness? A I had a fever.

Q Is your memory as good now as it was on the 6th of July?

MR. KEIR: I object to that question.

THE COURT: I overrule the objection.

MR. KEIR: I will take an exception, if your Honor please.

A It seems to me that it is just the same.

Q Well, is it not a fact that you did here---

THE COURT: (Interposing) We will suspend here. Gentlemen, I caution you not to talk about the case, or form or express any opinion concerning it, until it is finally submitted to you.

Adjourned to Tuesday morning, October 16, 1906,
at 10:30 o'clock.

CASE # 600

TRIAL RESUMED.

New York, October 16th, 1906.

G I O V A N N I P A S E N T I N O , a witness for the People,
resumes the stand.

DIRECT EXAMINATION CONTINUED BY MR. TRAIN:

Q Now, Pasentino, you had just stated that you had a
fever and that your memory was just as good. Now, Mr. Pasentino,
you stated, during your direct examination that you had some
trouble with your head, what was that trouble? A When I was a
boy I fell down at a castle and I broke my face, my eye was
injured (indicating the right eye).

Q Well, what we want to know is whether his memory is just
as good now in regard to what happened on the 1st of June as it
was on the 6th day of July? A I confirm what I have declared
in my statement on the 6th of July, but when time passes then I
am no more able to remember, for instance, I could not remember
even what I had said yesterday.

Q Well, ask the witness if it would refresh his recollection
to read over a statement which he made on the 6th of July?

MR. KEIR: Objected to.

THE COURT: Strictly speaking the rule of evidence is
that a person should not be permitted to refer to any

CASE # 600

paper to refresh his recollection unless it is a memorandum made by him at the time of the transaction or made under his direction. I do not know that it would be proper, even under the exceptional circumstances here, to diverge from that rule, since counsel insists upon his objection.

Objection sustained.

BY MR. TRAIN:

Q Isn't it a fact that when Brankado,-- when Frangipani went up to Bronkado on the street in front of the saloon you heard Frangipani say to him--

MR. KEIR: I object to that as leading.

MR. TRAIN: It is simply for the purpose of refreshing his recollection. There is no rule of law that prevents a witness having his memory refreshed.

Q (Continuing) That you heard Frangipani say to Bronkado--

MR. KEIR: I object to that as being leading.

THE COURT: Have you exhausted this witness' memory?

BY MR. TRAIN:

Q Have you stated everything that you now recollect that transpired in front of the saloon when Bronkado came over?

A Bronkado did not come up to us.

Q But you saw him on the street? A Yes, sir.

Q You said that you saw Joseph Frangipani go over and speak to the defendant? A Yes, sir.

Q Now, have you stated everything that you recollect of

CASE # 600

what transpired between Joseph Frangipani and Bronkado?

A I have nothing more to say.

Q Well, that is not the question. The question is whether you have told everything that you know? A Yes, sir.

Q Now, is it not a fact that you heard Frangipani say to Bronkado, "Let him go. We are countrymen."

MR. KEIR: I object to that.

MR. TRAIN: I have a right to refresh the witness' recollection.

THE COURT: I sustain the objection to the form of the question. Wherever a question is predicated upon the term "is it not a fact" that renders it objectionable.

Q Was anything said with reference to Frangipani and Bronkado being countrymen? A No, sir.

Q Now, was anything said about Lapaglia and Bronkado being countrymen? A Yes, sir.

Q What was it? A Yes, sir; this was said by the people there.

Q Was anything said between Frangipani and Bronkado about letting Lapaglia go? A No, sir.

NO CROSS EXAMINATION.

The Court admonished the jury according to Section 415 of the Code of Criminal Procedure and took a recess until 2.15 o'clock.

CASE # 600

AFTER RECESS.

PHILIP F. O'HANLON, a witness for the People,
having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Dr. O'Hanlon, you are one of the Coroner's Physicians
of the Borough of Manhattan? A Yes, sir.

Q You are a regularly licensed and practicing physician
and surgeon? A Since 1886.

Q Now, you performed the autopsy in this case on the body
of Francesco Lapaglia, didn't you? A Yes, sir.

Q Can you tell us when and where you performed the autopsy
and what you found, as a result, and the cause of death in your
opinion? A I went to the Morgue on the 8th day of June, 1906,
and there found the body of Francesco Lapaglia which was identified
by his wife, Burnadette Lapaglia. I proceeded to make an
autopsy on the body and determine the cause of death. The
autopsy showed that the deceased died from a bullet wound of the
spinal cord and pneumonia, traumatic pneumonia.

Q What do you mean by traumatic? A A pneumonia caused
by the introduction of violence from without.

Q Where was that bullet wound? A I think it ended a
little to the left of the scapula on this side, the left side
of the neck.

CASE # 600

Q Passed through? A Yes, sir; and lodged in the seventh cervical vertebrae.

Q Would you mind pointing out on this subject the spot at which the bullet struck? A It is impossible to do that because the spot is covered, in both instances, where it entered and where it came out.

Q Approximately. A If his collar were removed it struck a little to the left of this position there (indicating), and was found in that protruding part of the spine, which is the seventh spine in the cervical vertebrae.

Q And the direction was upward? A Yes, sir; slightly upwards towards the seventh, almost on a level, pretty near on a level.

CROSS EXAMINATION BY MR. TOWNSEND:

Q Did you notice the skin, whether there was discoloration?

A The body, the clothing had been removed when I saw it, and therefore the powder marks were not noticeable; I could not tell the range, you mean the range at which the bullet was fired?

Q I don't mean that particularly, I mean with reference to any powder marks which might have been upon the skin? A No, sir.

Q You say it was some time after the death that you examined the body? A Yes, sir; and the body had been disrobed.

Q The body had been disrobed? A It was a naked body when I saw it. It died on the 6th and I made the autopsy two days later.

Q So what marks might have been occasioned by powder could have been removed? A Yes, sir; by the clothing, yes, sir.

BY MR. TRAIN:

Q There would not have been any marks because the man was dressed, anyhow? A No, sir.

CHARLES B. LANDER, a witness called on behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. PINCHOT:

Q Mr. Lander, you are a patrolman, are you not, attached to the Twelfth Precinct? A Yes, sir.

Q You were doing duty in plain clothes on the 1st of June, last,? A Yes, sir.

Q On the night of the 1st of June, at half past ten you saw the defendant? A Yes, sir.

Q In your precinct? A Yes, sir.

Q Now, did you have a conversation with him, and if so, what was it? A I had no conversation at the station house with him.

Q Well, will you describe to the jury what happened at the station house at that time? A Well, the prisoner was brought in by an officer charged with felonious assault.

Q A little louder. A And by order of Captain Murtha,

CASE # 600

Officer Gallagher and I accompanied him to Gouverneur Hospital to have him identified by the deceased. We took him down to Gouverneur Hospital in the patrol wagon and brought him to the bedside of the deceased.

Q Now, when you got there did you have any conversation with the defendant? A Yes, sir.

Q Will you state what it was? A The defendant said he could not speak English and we took along with us an interpreter by the name of Dominick Masseno.

MR. KEIR: Objected to.

Q What is his name? A Dominick Masseno.

Q Tell what happened there? A We asked the interpreter--

MR. KEIR: I object to that.

Q What did you say to the interpreter?

Objected to. Question withdrawn.

Q You then had a conversation, did you not, with the deceased? A Yes, sir.

Q This boy that you spoke of acted as interpreter?

A Yes, sir.

Q Is that the boy (pointing to a boy in the courtroom)?

A Yes, sir.

Q Then you proceeded and you had a conversation through the interpreter with the deceased? A Yes, sir.

DOMINICK MASSENO, a witness called on behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Your name is Dominick Masseno? A Yes, sir.

Q You live at No.280 Mott Street, New York? A Yes, sir.

Q Now, on Friday night, do you remember Friday night the 1st of June, last summer? A Yes, sir.

Q Do you remember that night? A Yes, sir.

Q Now, on that night you went with Officer Lander to Gouverneur Hospital? A Yes, sir.

Q And there you had a conversation? A Yes, sir.

Q With the deceased? A Yes, sir.

Q Now, will you state what that conversation was?

MR. KEIR: I object to that.

(Witness withdrawn.)

JOSEPH LE BARBARA, a witness called on behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q Do you speak English? A A little bit.

Q Speak it the best you can. You live at No.209 Christie street? A Yes, sir.

0491
CASE # 600

Q Your business is what? What do you do for a living?

A Shoemaker.

Q Now, do you sleep in the basement of 209 Christie street?

A Yes, sir.

Q In your shop? A Yes, sir.

Q You are not married? A No, sir.

Q You come from the town of Ventemili in the province of Palermo, Sicily? A Yes, sir.

Q You are a friend of the defendant? A No, sir.

Q Do you know him? A No, sir; he is no friend of mine.

Q Do you know the defendant? A Yes, sir; I did not say he is my friend, I know him.

Q Isn't he a friend of yours? A No, sir.

Q No? A No, sir.

Q Was Lapaglia a friend of yours? A No, sir; I never seen neither of them, I don't know, I seen him, I know him, I don't know Lapaglia.

Q You know the defendant but you did not know Lapaglia?

A Yes, sir.

Q Did you know the defendant in Sicily before you came over here? A No, sir; because he belonged to a different part of it.

Q How long have you known him over here? A Who?

Q The defendant, this man? A Well, I don't know, I

CASE # 600

seen him from seven or eight or nine months, I don't know right.

Q Now, do you remember the night of Friday, the 1st of June, 1906? A Well, I no remember the first Friday--

Q Do you remember the day, do you remember that day?

A Yes, sir.

Q In the evening. What were you doing in the evening?

A Well, I know, I remember it was nine or ten o'clock when these arrived there and they had a fight.

Q About ten o'clock what were you doing? A Well, I was passing; I go in to buy a pint of beer.

Q You went to buy a pint of beer? A Yes, sir.

Q What happened while you were buying the pint of beer?

A I was buying the pint of beer and I was there and I have the can for the pint of beer when I saw the two men fighting together.

Q Where were the two men fighting? A Between 209 and 211.

Q How were they fighting? A Well, Lapaglia was fighting one man and a man was in the middle and afterwards--

Q There was a man in the middle? A Yes, sir.

Q Between them? A Yes, sir; and they fight, the two together, and that man, the middle man gets that one-- I saw the two men who were fighting and another man who was trying to separate them, and the man who was separating the two grabbed hold of one, and Lapaglia was striking against his opponent Bronkado, and Bronkado was striking back against Lapaglia.

Q Go on? A Then I went in front of my basement and then

the man who separated them moved away and Lapaglia said that he was not afraid because he had a revolver with lead-- he had a revolver with bullets.

Q Didn't he say a leaden revolver? A He had a revolver of lead.

Q Now, wait a minute and we will see. What did Lapaglia say? A Very naturally the revolver was of lead and that he was not afraid.

Q Well, whose revolver was Lapaglia talking about? A The revolver, he meant the revolver of Leonardo Bronkado.

Q What did he say? Give us his exact language. You are putting it into indirect discourse. Just what did Lapaglia say?

A I am not afraid. When they were fighting each other, Lapaglia said, "I am not afraid because the revolver is of lead." And both said, one to the other, Cornuto.

Q Now, did each of these men call the other cornuto?

A Yes, sir; they called each other cornuto.

Q Now, go back a minute and tell us which of these men when they were fighting, was towards Houston street and which was towards Stanton street? Ask him if he remembers that?

A None were standing at Houston street.

Q Which was standing to the north and which was standing to the south? A (No answer.)

Q Who was the man who was trying to separate them?

A A man whose name I did not know.

Q Is he in the court room? A Yes, sir.

Q Is that the man? (Pointing to a man in the court room)

A Yes, sir.

Q How many blows did you see struck? A I did not see.

Q Did you see any blows land upon the body of the men?

A I did not see that.

Q Now, when the blows were being struck, was this third man between the two men? A Yes, sir; in that moment he was between the two.

Q Now, did he say anything to them? A He said Nardo, which means Leonardo, "You go away" and then to the other one, "You go away too."

Q Was it then that Lapaglia made the remark that you have testified to? A Yes, sir; he said, "I am not afraid because it is a leaden revolver."

Q Will you give us the Italian for that? A "Perca."

THE INTERPRETER: That means because the revolver was of lead.

Q Was or is of lead? A He said, "Era" and that means was.

Q When Lapaglia said this, whatever it was, in Italian, what did Bronkado say? A Nothing.

Q Did anybody say anything? A They have tried to separate them, the third person moved away and I could not see in that moment of confusion.

Q Did you see the third person go away or did he remain there? A I did not see.

Q Well, were there any other persons there besides this third party? A No, sir; there was not.

Q Now, what was the next thing that occurred? A I was just in front of the door of the basement and Lapaglia passed right in front of me, and Broncado from the street came to the sidewalk and so we were three in front of my basement. (Indicating with the finger the position of the three, Broncado, the witness and Lapaglia.) Broncado said, "Let us go elsewhere to continue our fight."

Q The defendant said that? A Yes, sir. In answer Lapaglia said to Broncado, "Go away, you cornuto, I don't want to have anything to do with you." And at the same time he gave him a kick in the groin.

Q Who did that? A Then Broncado took this position (indicating) and drew a pistol and discharged it.

Q Did Broncado do or say anything when Lapaglia kicked him? A He did not say anything. He took this position, produced the revolver and fired (illustrating).

BY THE COURT:

Q He said that he kicked him in the groin or on the ground?

A In the groin (indicating the left side.).

BY MR. TRAIN:

Q Now, did you see the defendant--

CASE # 600

MR. KEIR: Did he say in the testicles?

THE INTERPRETER: No, sir, he said here. (Indicating the groin.)

THE WITNESS: I did not know just where he kicked him; I don't know just where he kicked him.

Q Did you see the defendant put his hand in his pocket and draw out the revolver or pistol, level it and fire it at the deceased? A Yes, sir.

Q At what part of the body of the deceased did the defendant aim the pistol? A He didn't take any aim; he took the pistol out of the pocket and fired.

Q Now, was there any other person near them except yourself, that you saw? A I cannot remember. These are moments of confusion and it is difficult to remember.

Q Now, did Lapaglia have any weapon in his hand? A I did not see.

Q Did the defendant have any other weapon in his hand? A I did not see anything.

Q Now, was the defendant still in the crouching position when he fired or shot or had he straightened up to his normal position? A He had straightened up himself.

Q How long after he received the kick in the groin did he fire? A Well, just at that time he straightened up and fired.

Q How long, after you first saw the two men striking at each

CASE # 600

other do you think it was that the shot was fired? A No more than three minutes or five minutes or six minutes.

Q How far were you when they were standing in front of your store from the place where the two men were trying to strike each other with the peacemaker in between, that is the first time you saw them? A The first time do you mean?

A Yes, the first time? A As near as from here to there. (Indicating about ten feet.)

Q Now, after the peacemaker had said, "You go away and you go away" you testify that Broncado came from the street and stood by you. Now, ask this witness if he means that Broncado was out in the street and came to the sidewalk or whether he means that both men came down and stood near him. What we want to know is the movements of the two men. A They were, at the beginning of the fight, on the sidewalk, and as the movements were they went to the street first and then they came back where I was.

Q Now, when the peacemaker had succeeded in getting them to stop fighting, did they stop fighting and both come over to where you were? A Yes, sir.

Q Now, where did the defendant get this gun or revolver? A He took it out from the pocket of his jacket.

Q Do you know whether it was his jacket, his trousers or what? A Well, I could not exactly say; I saw him putting his hand in sideways.

Q Now, after the shot was fired, what did he do with the revolver, did you see? A I don't know; I just looked one second and went away.

Q What did the defendant do after he fired the shot?
A After firing the shot Lapaglia fell down and he went away. Broncado went away.

Q How did he go away? A Just walking away.

Q He walked away? A Yes, sir; he went walking.

Q Asking him if he was walking or running? A Walking.

Q Slow or fast? A In a regular way.

Q As if he had nothing on his mind at all?

MR. KEIR: I object to your statement.

Q Ask him the question: As if he had nothing on his mind?

Objected to. Question withdrawn.

Q How did he walk? A Well, step by step.

Q What is that? A Then I went away from where I stood and subsequently I do not know whether he started running or not.

Q How far did you see him walk? A Ten or fifteen.

Q Steps or what? A Steps.

Q Now, do you testify that after the defendant shot the deceased that he quickly walked away ten or fifteen steps and that is all you know about what became of him? A I did not say anything else.

Q Did you ever see a man shot before? A Yes, sir; he turned on the corner.

Q Did he walk to the corner? A Yes, sir.

Q Was he walking deliberately and slowly? A Well, I saw him turn the corner and in that confusion I cannot remember.

Q Now, you did not know Lapaglia by name at all, did you?

A No, sir.

Q You did not know him by name? A No, sir.

Q You found out who it was afterwards? A Yes, sir.

Q You have been down to the lawyer's office, the advocate's office? A No, sir; I did not go anywhere.

Q Haven't you given your evidence or given an affidavit?

A No, sir; none at all. After eight days I have been called down to appear on the top floor of this building.

Q That is your signature, isn't it? (Showing witness papers.) A Yes, sir. It may be that I do not remember right, but I confirm what I said before, because after eight days I had forgotten something; I said the whole truth of what I had seen.

CROSS EXAMINATION BY MR. TOWNSEND:

Q How long had you known Broncado before this night?

A Some eight or nine months before; I cannot exactly state the length of time.

Q Had you ever known the dead man Lapaglia? A No, sir.

Q When you first saw them fighting, as you say, how far were you from them? A As if from here to there, from 209 to 211,

CASE # 600

because I live at 209 and they were at 211; it was between 209 and 211; they were in the middle there.

Q Did their fighting attract your attention to them?

A Of course.

Q Did you walk up towards where they were or did you go up near them? A No, sir.

Q Could you distinctly hear, could you hear plainly everything that the two men said? A Sure, because we were so near as that. (Witness indicates.)

Q Were the two men alone at that time when you first saw them? A Yes, sir; they were them two alone and the third man tried to separate them.

Q Well, then there were three men there? A Yes, sir.

Q Were they striking blows at one another and the third man stood between them? A Yes, sir; while he was trying to get one of them the other one struck against him and while he was trying to shove away the other one then the other one struck against the other.

Q Which one of the two men, Lapaglia or Broncado, did the third man take hold of? A He was trying to get now the one and now the other.

Q What did you hear Lapaglia say about a lead pistol?

A He said he was not afraid at all because the pistol was a leaden pistol; they abused themselves by calling each other cornuto.

CASE # 600

Q Then Broncado said nothing about a lead pistol, did he?

A No, sir; he did not say anything.

Q Did you say that you saw Lapaglia kick Broncado, this man, in the groin? A Yes, sir.

Q Then this man Broncado doubled up with pain, apparently with pain? A yes, sir.

Q Just after Lapaglia kicked Broncado did you see what Lapaglia did? A Just after he kicked him?

Q Did you see what he did? A No, sir; he kicked him and withdrew one step.

Q Then what did he do, when he withdrew one step, did he make another attack upon him? A No, sir.

Q What did he do at that time when he moved one step?

A Well, he stood there in a standing position.

Q About how long were these men fighting before you saw Broncado take the pistol from his pocket? A Not more than six or eight or ten minutes, something lieke that.

BY MR. TRAIN:

Q I want to have it perfectly clear as to whose pistol Lapaglia was referring to. What is the Italian for "my pistol"?

THE INTERPRETER: La Mia pistole.

MR. TRAIN: What is the Italian for his pistol?

THE INTERPRETER: La sua pistole.

BY MR. TRAIN:

Q Now, ask the witness whether when Lapaglia said he was not

CASE # 600

afraid on account of the pistol being of lead, whether Lapaglia said, "La mia pistole" or "La sua pistole"?

Objected to. Objection overruled. Exception.

A Of course, naturally, the pistol of Broncado.

S A L V A T O R E D A M M A , a witness called on behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TRAIN:

Q You speak some English? A Italian.

Q You speak English a little, yes or no, you can say yes or no? A No, sir.

Q Don't you understand? A Just a little bit for the business.

Q We will do a little business right off now. Do you live at 216 Christie street? A Yes, sir.

Q Up one flight in the rear? A Yes, sir.

Q You are the owner of the saloon at 216 Christie street?

A Yes, sir.

Q Now, do you remember Friday the 1st of June? A Yes, sir.

Q Did you know Frank Lapaglia? A Yes, sir.

Q Do you know the accused, Broncado? A Yes, sir.

Q How long have you known Broncado? A One year.

Q Now, did you know Lapaglia? A Before I know him in my

CASE # 600

country, he is my cousin, Francesco Lapaglia is my cousin.

Q He was your cousin? A Yes, sir.

Q You come from the same town in Sicily? A No, sir.

Q Where did you come from? A I come from Baucherno.

Q Is that in Palermo? A Yes, sir; the Province of Palermo.

Q Did you see Lapaglia on the evening of the 1st of June?

A Yes, sir.

Q Tell what occurred on Friday the 1st of June, in the evening? A Yes, sir; I saw him.

Q Well, tell us what happened? A On the 1st of June there came Lapaglia and a certain Angelo Varisko and they invited me to a drink and Varisko gave to me fifteen cents and he said that his wife was sick and he had to go home.

Q What time of the night was this? A This was between half past seven and eight o'clock.

Q Go on? A Then Varisko went after his affairs and I was engaged in conversation with my cousin.

Q Lapaglia? A yes, sir. We were just conversing about business and work, and after fifteen minutes or so I offered another glass to him and then he left.

Q What happened then? A After some half an hour Leonardo Broncado returned.

Q You have not mentioned him before? A In my house, to my house.

CASE # 600

Q Had he been there before? A No, sir.

Q Well, then, he came. Go on? A And he said to me that he had to shoot, but I did not know anything about whom he had to shoot.

Q What did he say? A That he had to shoot.

Q What words did he use? A Nothing except that he said, "I must shoot."

Q Did he say any words?

MR. KEIR: I object to that.

THE WITNESS: But he didn't say anything about the person that he intended.

Q Now, how do you know he meant a person at all?

Objected to. Objection sustained.

Q Did he use any abusive language?

Objected to.

Q Give us in Italian the words that Broncado used, give it to us in Italian? A Broncado he said, that he had to shoot, but as in that moment I had four glasses in my hand that I had to bring to people in the back so I did not understand whether he meant to shot me or to shoot anybody else.

Q Now, what words did he use when he said that he had to shoot? A He said, "I don't shoot him out of respect for you."

Q I won't shoot him"? A I won't shoot him out of respect for you (meaning the witness).

Q What I want to know is whether this is something new or

whether it is a repetition of what the defendant said when he came into the saloon of the witness. A It is exactly as I told in my first declaration.

Q Now, tell us everything that this defendant said when he came in there?

Objected to. Objection overruled. Exception.

Q Give us everything the defendant said? A Well, Broncado when he entered into my saloon he said to me, "I don't shoot him out of respect for you", and when I heard those words, knowing that Broncado is an ignorant fellow I did not mind what he said and I went ahead on my business.

BY THE FIRST JUROR:

Q You said previous to this that Broncado entered the saloon and said, "I have to shoot". He did not say then, "I would not do it in regard to you". You did not even understand whom he meant or who he is going to shoot. Now he says that the defendant said, "I would not shoot out of respect for you". I would like to understand that contradiction. The first time he says, "I have to shoot" and then he says, "I won't shoot out of respect for you."

MR. TRAIN: That is what I was trying to bring out myself.

BY MR. TRAIN:

Q Explain to the witness that the foreman of the jury understood the witness to say when he first testified that the

defendant came in and said that he had to shoot, and that the witness did not know to whom he referred or anything about it, and that he now says that the defendant came in and said, "I will not shoot out of respect for you". That is a contradiction. Now, ask him if he said both those things or if he said only one and if he only said the one which one? A I already said without having the head of Solomon-- I already said that he came in and said what I repeated before, and that he added that he did not do the shooting out of respect for me.

Q He added that? A Yes, sir.

Q Did he say, "I have to shoot but I will not shoot out of respect for you" or did he stop talking and then say, "Well, I shall not do it out of respect for you?" A He said it after an interval-- between the two expressions.

Q Did you say anything to him? A No, sir; because knowing that he is an ignorant fellow I simply laughed and said good by.

Q Did you call him an ignorant fool? A I did not say anything to him only I laughed and went along.

Q What became of Brncado? A When I came back for the glasses I did not see him any more.

Q How long after that did anything attract your attention?

A From one moment to another.

Q What is that? A From a moment to another.

Q Then did you hear a shot? A Well, it was a quarter of

CASE 77 600

an hour after I heard a report and we all went to the door.

Q What then did you see-- Lapaglia lying on the street?

A Yes, sir.

Q Just yes or no? A Yes, sir; I saw Lapaglia lying on the ground and there was a crowd of people around.

NO CROSS EXAMINATION.

DOMINICK MASSENO, a witness for the People,
recalled.

DIRECT EXAMINATION BY MR. TRAIN:

Q Now, Masseno, you live at 280 Mott street? A Yes, sir.

Q What is your business? A Electrician.

Q Who do you work for? A Walter L. Trask.

Q 489 Fifth avenue? A Yes, sir.

Q How long have you been an electrician? A Seven months.

Q Been in school in New York? A Two years.

Q Did you graduate? A No, sir.

Q What school did you go to? A The Catholic school on Elizabeth street.

Q Elizabeth street? A yes, sir.

Q How long have you been in this country? A Eight years.

Q Eight years? A yes, sir.

CASE # 600

Q You speak English? A Yes, sir.

Q Plainly? A Yes, sir.

Q Of course; Italian is your native tongue? A Yes, sir.

Q On Friday night, the 1st of June, 1906, did you happen to be near the Twelfth Precinct Station House? A We was three fellows, we was going to take a walk to the Bowery.

Q You were one of them that started to take a walk?

A Yes, sir.

Q When you got near the police station-- A No, sir; we seen him run and we stopped there and when they brought him to the station house I stayed outside.

Q Did you see the shooting? A No, sir.

Q Did you hear the shots? A No, sir; I seen him run.

Q Did you see this defendant running on the Bowery?

A Yes, sir.

Q Did you see Sharp catch him? A Yes, sir.

Q Did you see Sharp and the officer take him back to the station house? A (No answer.)

Q You went back to the station house? A Yes, sir.

Q Did they ask you to act as interpreter? A Yes, sir.

Q Did you go to the Hospital? A Yes, sir.

Q Who did you go with? A I go with the officer and another fellow inside, the patrolman.

Q You went with the officer? A Yes, sir.

Q Did the defendant go with you? A Yes, sir; the de-

CASE # 600

defendant and another fellow.

Q And another fellow? A Yes, sir.

Q When you got to the hospital, where did you go? A We go upstairs.

Q All of you? A Yes, sir.

Q Who did you see up there? A I seen the man who got shot.

Q You saw the man who was shot? A Yes, sir; lying in bed.

Q What did the officer do with the defendant? A He brought him up.

Q When you say he brought him up where do you mean?

A He brought him up to the room.

Q When he got him in the room what did they do with him?

A Put him on the side.

Q How near to the man in the bed? A About four feet.

Q Four feet away? A Yes, sir.

Q Was he facing the bed? A Yes, sir.

Q Where did you stand? A I stand aside of him, near his head.

Q Near the man on the bed? A Yes, sir.

Q Where did the officer stand? A Near me.

Q Near you? A Yes, sir.

Q Now, did you say anything to the defendant? A No, sir.

Q Did you translate any questions to him? A No, sir.

Q Did you say anything to the man on the bed Lapaglia?

CASE # 600

A Yes, sir; I did.

Q Did you say that in Italian? A yes, sir.

Q Now, that was the first thing you did? A Yes, sir.

Q What did you say in Italian to the man on the bed?

Objected to. Objection overruled. Exception.

Q Did you converse with this defendant in Italian?

A Yes, sir.

Q In the Italian language? A yes, sir.

Q Broncado? A No, sir; not with him.

Q You talked to Lapaglia? A yes; talked to Lapaglia,
that is all.

Q Didn't the defendant say anything up there? A No, sir;
the officer told me to ask him--

Q Wait a minute. Now, on your way downstairs, going back
to the station house, did you talk to the defendant? A In the
patrol wagon I did.

Q With the defendant? A Yes, sir.

Q In Italian? A Yes, sir.

Q We will go back to the room. What did you say to the
deceased, to Lapaglia in the presence of the defendant? A I
asked him if that man shot him.

Q What did he say? A He said yes, and so the cop wrote
it down.

Q All you asked Lapaglia was if the defendant shot him?

A Yes, sir.

CASE # 600

Q And he said yes? A Yes, sir.

Q Now, when you left the room and went downstairs did you say anything to the defendant in Italian on the staircase?

A I went after--

Q On the staircase walking downstairs? A No, sir; I did not.

Q When you got down in the patrol wagon did you say anything to the defendant? A He talked to me.

Q What did you say to him? A I did not say anything to him; he talked to me first.

Q What did the defendant say? A He told me that Lapaglia called him names.

Q Did he say what names? A Son-of-a-bitch.

Q Anything else? A Well, yes, sir.

Q What else? A Fuck, and that is all; he said, "As long as he died I don't care for the electric chair," he told me.

Q He said as long as who died? A Lapaglia.

Q That he didn't care? A He don't care.

Q Who don't care? A Broncado.

Q That he didn't care? A As long as he died he don't care for the electric chair.

Q As long as Lapaglia died he didn't care whether he got the chair or not? A No, sir.

Q Did he say anything else? A No, sir.

Q Did he say why he shot him? A Because he called me a

CASE # 600

cornuto.

Q A cornuto? A Yes, sir.

Q Did he say anything about what happened when the shot was fired? A No, sir.

Q Didn't you say something about kicking? A Oh, he said that when they took him downstairs in the hospital, he said he got kicked.

Q That is what I am talking about. In the hospital before you got in the patrol wagon, when the officer and you and the defendant went down from the room? A They took him in a little room.

Q They took the defendant in a little room? A Yes, sir.

Q What did the defendant say? A We said he got kicked.

Q Did he say anything else? A No, sir; the doctor examined him and he had nothing, no marks at all.

Q Was there anything said about choking? A He had been choking him; they had him on the floor when they caught hold of him.

Q Did the defendant say anything about being choked before he fired the shot? A Yes, sir; he said Lapaglia had him by the neck.

Q Did he show you how he had him by the neck? A Yes, sir.

Q He showed you that? A Yes, sir.

Q In the little room? A Yes, sir.

Q Did he say anything else that Lapaglia did? A No, sir.

CASE # 600

Q Anything said about a knife? A He said in the patrol wagon he had a knife.

Q In the little room in the hospital, do you understand?

A Yes, sir.

Q In the little room in the hospital tell us everything the defendant said? A Well, he said he got kicked and got choked.

Q He said he got kicked and choked? A Yes, sir.

Q Did he show how he was choked? A Like this (illustrating).

Q Did he say where he got kicked? A No, sir; he did not say; he got kicked up here some place (indicating).

Q He took his clothes off? A Yes, sir; and the doctor examined him, pulled everything but no marks at all.

Q Did you look at his body? A Yes, sir.

Q Did you see any marks on his body? A I didn't see nothing.

Q When you got into the patrol wagon, what did he tell you?

A He told me that as long as that fellow Lapaglia died I don't care if I get the electric chair.

Q Did he say anything about a knife? A He said Lapaglia pulled out a knife.

Q Pulled out a knife? A Yes, sir, and he shot him because he called him a son-of-a-bitch, fuck, and other kinds of names, cornuto.

Q He said Lapaglia pulled out a knife because he called him

CASE # 600

son-of-a-bitch, fuck and other names? A Yes, sir.

Q What other names did he say he had called him? A He said he didn't want that man to call him a son-of-a-bitch because, he said, that his mother is the best name in the country.

Q His mother is the best name in the country? A Yes, sir.

Q Did he say anything else? A No, sir; that is all.

Q Now, what did you say to him when you got to the station house? A The sergeant told me.

Q Keep your voice up. A The sergeant told me to tell him that everything that he would say goes against him; he said yes; and after that the sergeant told me to tell him if he has got anything to say and he said yes, and the sergeant told me, "Why he shot that man" and he said, "My heart told me to shoot him." After a while he says, "I didn't shoot him." The sergeant asked me to ask him again if he shot the man and he said, "No."

Q Now, did you have any further talk with him? A Afterwards he told me that he was kind of crazy and wanted to talk it over in the morning.

Q What is that? A He told me that he was kind of crazy.

Q The defendant told you he did not shoot finally? A Yes, sir.

Q Was it at that time that he told you that he was a little crazy? A Yes, sir; and wanted to talk it over the next morning.

CASE # 600

BY THE FIRST JUROR:

Q Didn't you say that the sergeant told you to state to him that everything that he will state will go against him?

A Yes, sir.

Q Then he says that he was-- A That he shot that man.

Q They he denied. Did he say that he didn't shoot him right away? A First he said that he shot him and afterwards he said no.

Q Did he admit he shot him there in the hospital or in the station house? A No, sir; he didn't say nothing in the hospital.

Q Where was it he was asked whether he shot him-- did he admit it in the station house? A The first time he did.

Q Then when he said he didn't shoot him that he was a little mixed up that was only a private remark to you? A yes, sir.

Q Where were you at that time when he said that to you?

A I was in the station house.

Q Did the sergeant hear that when he said it to you? That he shot him while he was mixed up? A No, sir; he did not say he was mixed up; he says something about crazy in the station house, didn't know what he was doing.

Q Did he say that he was mixed up after he shot him, or that he admitted that he shot him? A He shot him.

Q He said that to you? A Yes, sir; and I told the

CASE # 600

sergeant.

Q Then you said it to the sergeant? A Yes, sir.

Q But first he admitted he shot him? A Yes, sir.

BY MR. TRAIN:

Q Now, what I want to know is how many times he told you that the deceased pulled the knife before he shot? A Once.

Q Where was that? A In the patrol wagon.

Q And the reason that he gave in the station house for having shot was because his heart told him to shoot? A yes, sir.

CROSS EXAMINATION BY MR. TOWNSEND:

Q Did he say what Lapaglia did with the knife? A No, sir.

Q What did he say about the knife? A He said Lapaglia pulled out a knife.

Q Pulled out a knife? A Yes, sir.

Q Did he say where he pulled it from? A No, sir; just told it me he pulled out a knife.

Q Then what did he say he did when Lapaglia pulled the knife out? A Lapaglia did not tell me anything.

Q Did Broncado say what he did when Lapaglia pulled out the knife? A No, sir; he did not tell me anything; he only told me he pulled out a knife.

Q Just before he told you that had you asked him any questions? A I had not asked him anything; he told it to me first.

Q Tell what he said then? A He only told me he pulled out

CASE # 600

a knife, that is all .

Q Pulled out a knife? A Yes, sir.

Q Did you ask him what he did with the knife? A No, sir;
I did not tell him any other thing about the knife.

Q Do you recollect whether the doctor examined Broncado?

A Not that I seen.

Q Did you hear the doctor, when he examined Broncado, say,
"Get out of here you Ginny"? A He didn't say nothing; the
doctor didn't say nothing.

Q The doctor did not? A The doctor didn't say nothing.

Q He didn't say anything? A No, sir.

Q Did Broncado say how many times Lapaglia had kicked him?

A Once.

Q Did he say where he kicked him? A Up here . (In-
dicating)

Q Right in the leg there? A Yes, sir.

Q The groin. Did the doctor just look at him to see it?

A He looked all over him and he did not have no marks at all.

Q I did not ask you that. I asked you if the doctor ex-
amined him to see it? A He had a rag over here.

Q He had a rag around there? A yes, sir. (Indicating)

BY MR. TRAIN:

Q You say that the doctor did not say, "Get out of here you
Ginny"? A No, sir.

Q What did the doctor say? A He said you ain't got

CASE # 600

nothing, there is no mark on you at all.

THE COURT: Strike that out.

CHARLES B. LANDER, a witness for the People,
recalled.

BY MR. TRAIN:

Q You were up in the hospital when you confronted Lapaglia
with the defendant? A Yes, sir.

Q Did you hear the questions in Italian which this boy put
to the deceased? A Yes, sir.

Q Lapaglia? A yes, sir.

Q Did you hear him make replies in Italian? A Yes, sir.

Q Now, did you go downstairs to a small room? A yes, sir.

Q Was Broncade examined there? A Yes, sir.

Q Did you hear him say various things to this boy? A Yes,
sir.

Q Now, you do not understand any Italian, do you? A No,
sir; I do not understand Italian.

Q Now, did the defendant make any motions indicating what
was on his body? A Yes, sir.

Q What did he do? A He motioned to his privates and his
shin. The doctor told him to take off all his clothing; he
did take off his clothing and the doctor examined him thoroughly
and he had an old sore on the right shin.

CASE # 600

Q An old sore? A Yes, sir. The doctor looked him over.

THE COURT: Strike out "an old sore."

Q Describe it. Was there any mark on the body of the defendant that you saw? A Yes, sir.

Q How many marks? A One mark.

Q Where was it? A On the right shin.

Q What was it like? A An ulcer.

Q What is that? A An old sore, it was a sore, a regular sore.

Q A sore? A Yes, sir.

Q Was there anything on it, a bandage or anything like that? A An old rag on it.

Q An old rag on it? A Yes, sir.

Q Was that underneath his outside clothes? Where was this rag? A Over the wound.

Q Over that did he have underdrawers? A Yes, sir.

Q Was this rag under the drawers? A Yes, sir.

Q Now, was there any other mark on his body? A No, sir.

Q Any mark on his testicles? A No, sir.

Q On his groin? A No, sir.

Q You are unable to testify to anything that the defendant said? A We did say when we brought him back--

Q Are you able to testify to anything that he said?

A Yes, sir.

Q Now, what is it?

MR. KEIR: I object to that, your Honor, this man is an Italian and the witness says he does not speak Italian.

THE COURT: According to the witness' statement he says he does not understand Italian.

Q What language did this defendant speak in to you? A He spoke English.

Q Go on and tell us what the defendant said in English and where? A We, Officer Gallagher and I brought him back to the Captain's office and Capt. Murtha was in the office and he asked the interpreter to ask him whether he shot Frank and the defendant answered in English, "I did shoot him, I shot him."

Q Did he say anything else in English?

MR. KEIR: I object to that, if your Honor please.

This officer should not be led.

BY THE COURT:

Q State all that was said? A He also stated that "He called me names, son-of-a-bitch, whore and kicked me."

Q He said that in English? A yes, sir; but indistinctly, not good English, good enough to be understood.

Q Did he say anything else? A That is about all.

Q Anything said about a revolver? A No, sir.

BY MR. TOWNSEND:

Q Did he say that he called his mother vile names too?

A Yes, sir; the whole family.

CASE # 600

Q Called his mother a whore? A Yes, sir.

Q And his sister, called her names too? A "My mother and the whole family."

Q What did he say about that? A He called them bad names, whore and a son-of-a-bitch.

Q And fuck one another, didn't he say that? A He did not mention that, he mentioned whore and son-of-a-bitch.

BY THE SECOND JUROR:

Q Was that carried on in the English language? A yes, sir; he mentioned it in English in the captain's office.

H A R R Y D I C K E S , a witness called on behalf of the

Peoples, having been duly sworn, testified as follows:

MR. TRAIN: If your Honor please, it is conceded by the defense that as the defendant ran up the Bowery he threw the revolver into the gutter and that a revolver was picked up and that the revolver now marked in evidence is the one with which the defendant shot the deceased. It is also conceded that one shot has been discharged and the other four were still undischarged and that the cylinder contained one empty and four loaded cartridges. I think that is all the evidence the Prosecution has.

THE PEOPLE REST.

MR. TOWNSEND: We ask that your Honor take the case

CASE # 600

from the jury and direct a verdict of acquittal upon the ground that the people have failed to make out a case against the defendant.

Motion denied. Exception.

THE DEFENSE.

DAMIANO GRAZIANO, a witness called on behalf of the Defendant, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A No.46 First street.

Q What do you do for a living? A I am a laborer.

Q Do you recollect the night of the first of June of this year? A Yes, sir.

Q Where were you between seven and eight o'clock that night? A At 216 Christie street.

Q What is that place there? A A saloon, a lager beer saloon.

Q Did you know a man by the name of Lapaglia on that day? A Yes, sir.

Q Did you know the defendant Broncado? A yes, sir.

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

Q Where were you when you first saw them? A At 216 Christie street.

Q What were they doing? A There was one man whose name is Manfred Danazio. We were four of us and then we saw Leonardo Broncado and Lapaglia. When Lapaglia became aware of

our presence he said to us, meaning Broncado, "See here, the first dishonored man of the place of Ciminia." Then Leonardo Broncado said to Lapaglia, "That is not true. I am not dishonored." And he added also, "I do not belong even to the place of Ciminia." Lapaglia said, "You have not the honor to belong to the place of Ciminia", and then Lapaglia said, "You are dishonored also because you are a cuckold outside of your uncle and of your two sisters."

Q What further was said? A Broncado never said anything else. Then Lapaglia narrated these occurrences to the wife of Salvatore Damma.

Q What happened then? Where did they go? A Then we-- I remained in the saloon with the four friends, in that place, to play the game of prescette and after a quarter of an hour we heard a report and I did not see anything else.

Q When this conversation was finished does he know where these two men went, if they went out or not? A No, sir; I do not know where the two went.

Q Did you see them go out? A Oh, when these words were said they were not staying inside in the saloon; they were staying outside of the saloon.

Q Outside? A Yes, sir.

Q Then he left them outside? A Yes, sir; I left them outside and I went inside, into the room.

CROSSEXAMINATION BY MR. TRAIN:

Q Where do you come from? A Italy.

Q What part of Italy? A Ciminia.

Q Is that where the defendant comes from? A Yes, sir.

Q Did you know him in Italy before you came to this country?

A Yes, sir.

Q Have you continued your acquaintance here? A Yes, sir.

Q Did you know Lapaglia? A yes, sir.

Q In Italy? A yes, sir.

Q Have you continued his acquaintance here? A yes, sir.

Q Now, ask him if the defendant is married? A No, sir.

Q Are you any relation to the defendant? A No, sir; I am
not a relation of Broncado's; I am nothing with Broncado.

Q Are you connected by marriage with him in any way?

A No, sir; not me; my brother is, he has married a sister of
Broncado's.

Q Your brother-- now, what is your brother's name?

A Vito Graziano. Vito is the Christian name.

Q What is the name of the defendant's sister?

A Catherine Broncado.

Q Now, where does your brother live? A No.46 First
street.

Q What is his business? A A barber.

Q What is your business? A A laborer.

Q Where do you live? A No.46 First street.

Q Now, was this brother of yours in the saloon at the time

CASE # 600

that these insults were heaped upon the head of the defendant?

A No, sir; I did not see him.

Q Now, who was in that saloon? A The wife of Salvatore Damma and himself, Salvatore Damma was there too, and Manfred Danazio and a certain Warisko; I do not know his other name.

Q Was anybody else there? A There was another Vito Cartalone who was playing prescette with me but he went to Italy.

Q Any one else? A There was another fellow of our, but I do not know his name.

Q What do you mean by "of yours"? A He was a fellow player with us at the prescette game.

Q Was the defendant playing this game? A No, sir.

Q Where was he? A Before the door.

Q Standing up? A Yes, sir.

Q On the sidewalk? A In front of the door.

Q On the sidewalk or inside? A No, sir; he was just standing outside the door.

Q Was he outside the saloon or inside the saloon?

A Lapaglia was inside of the stoop and Broncado on the outside.

Q Inside the stoop? A Yes, sir; on the step, there was a step.

Q Were either of them inside the saloon? This was the 1st of July? - A This is the saloon, for instance, and on one side was Lapaglia and the other side was Broncado.

Q Well, the other side of what? A Outside.

Q These men were on the outside of the saloon, the

defendant was? A One was on top of the step and the other was on the outside.

Q Ask this man if he knows the difference between the inside of a room and the outside? A Lapaglia as it were was here and Broncado was more outside, was the outer man.

Q Ask the gentleman if the door of the saloon was shut or if it was open? A Open.

Q Now, you were inside. Ask this gentleman if he was in the saloon or was outside? A I was outside but subsequently I went inside to play the game of prescette.

Q Was it outside or inside that you saw the defendant?

A He was at the outer side.

Q Now, it was outside that this conversation took place?

A Yes, sir.

Q Did he come inside at any time? A Who?

Q The defendant? A No; I did not see.

Q Now, who was present when these words were spoken?

A Manfred Canazio and the wife of--

Q Ask him were all the persons whom you have mentioned outside the saloon and did they hear, so far as you know, this conversation? A Yes, sir.

Q Now, what did Lapaglia say? A He said, "It is a fact that you are a dishonored fellow and I have the proof of your uncle."

Q Now, do you know why Lapaglia said that? A I do not

know because I heard him first say, "See here, this is the first dishonored man of the place."

Q Had you ever heard of there being any quarrel between the two men? A No, sir; I never became aware of that.

Q Now, when Lapaglia said these things to the defendant and called him and his family whores and bastards and so forth, did the defendant do anything at all? A No, sir.

Q He didn't even deny the fact, did he? A No, sir.

Q He didn't show any sign of anger or anything? A Yes, sir; he was excited because of these vile words.

Q Well, didn't he call Lapaglia any names? A No, sir.

Q Didn't he say he was a bartard? A No, sir; he did

not.

Q He didn't say anything at all? A No, sir; he did not say anything at all.

Q Was Lapaglia still calling the defendant names when you went into the saloon? A I entered and Lapaglia said other words but I could not any more understand what he said.

Q Were you listening to Lapaglia calling the defendant vile names-- how long were you listening to Lapaglia calling the defendant vile names? A Something about ten minutes.

Q Ten minutes? A Yes, sir.

Q During all that time the defendant didn't answer one word? A Yes, sir; they said both nasty words.

Q Well, what did the defendant call Lapaglia? A He said vile words against him, nasty words against Lapaglia but not to such a degree objectionable as Lapaglia said against Broncado.

Q Then the words were not quite so bad as Lapaglia's?

A No, sir.

Q What did the defendant say to Lapaglia? A He said, "You nasty fellow, you are a dishonored man", but that is what Broncado said back to Lapaglia who already had insulted him before in the same way.

Q Didn't the defendant call Lapaglia just the same things that Lapaglia called him? A Yes, sir, but Lapaglia was heaping heavier insults against Broncado.

Q What insults did he heap that the defenant did not reply to? A He said that he had proofs of the dishonor of his uncle.

THE COURT: I think you have gone far enough with this witness.

THE FIRST JUROR: May I put a question to this witness? He states that he knew the deceased Lapaglia for a great many years. I would like to ask him whether he considered him, as an Italian, as a man of violent, dangerous temperament.

THE COURT: That is sufficient of this witness.

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal Procedure and adjourned the further trial of the case until

180

114

tomorrow, Wednesday morning, October 17th, 1906, at
10.30 o'clock.)

CASE # 600

New York, October 17th, 1906.

TRIAL RESUMED.

M A M F R E D O N A S I O , a witness for the defendant,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A 210 Forsythe street.

Q What do you do for a living? A Laborer.

Q Do you recollect the night of the 1st of June last?

A Yes, sir.

Q Do you remember where you were about eight o'clock that night? A In a bar room, 216 Christie street.

Q Did you know a man by the name of Lapaglia at that time?

A Yes, sir.

Q Look at the defendant Broncado, did you know him?

A Yes, sir.

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

Q Where were you when you saw them? A Broncado stood before the door of the bar room, and Lapaglia was inside in the bar room.

Q Where were you? A Near Leonardo Broncado.

Q Did you hear any conversation that took place between these two men, Broncado and Lapaglia? A When I arrived

CASE # 600

Lapaglia stepped on the step of the bar room and he said, addressing the defendant, "This is the most dishonored man in Ciminio."

Q What further took place? A Broncado then said, "You are a nasty fellow, and I am not such as you say in Ciminio."

Q Well, what further took place? A Lapaglia then answered, "You are such a fellow that is not accepted or recognized in Ciminio."

Q Go on? A Then Broncado moved away.

Q Did you see which way he went? A No, sir, because I stepped further in the bar room and I did not see.

Q You did not see? A No, sir.

Q Did you see Lapaglia again? A Yes, sir; he was yet there at the door of the bar room.

Q Did you hear a pistol shot that night about that time? A I heard a report but I was inside in the bar room.

Q About how long was that after he had heard the talk between Broncado and Lapaglia? A Some ten or fifteen minutes after.

Q Now, ask him if he has told all that he heard Lapaglia say to Broncado at that time? A Yes, sir.

CROSS EXAMINATION BY MR. TRAIN:

Q Ask him if he is related to this defendant? A No, sir.

Q Or connected by marriage? A No, sir.

CASE # 600

Q Does he come from the same town in Italy? A Yes, sir.

BY THE SECOND JUROR:

Q I want to ask him how old a man the deceased was?

A I have known him since we were boys.

Q Was he a large man or a small man? A My size.

FERDINAND GOTILLA, a witness called on behalf
of the Defendant, being duly sworn, testified as
follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A 25 Stanton street.

Q What is your occupation? A Broker.

Q A married gentleman? A Yes, sir.

Q Did you know Lapaglia in his lifetime? A No, sir.

Q You knew there was such a man as Lapaglia? A No, sir.

Q Do you recollect the night of the 1st of June?

A Yes, sir.

Q About nine o'clock do you recollect where you were?

A In a grocery, No. 33 Stanton street.

Q Look at Broncado, the defendant sitting here, you saw him
there about that time? A No, sir; only in the morning at
work.

Q Did you see Broncado in the street that night?

A No, sir.

Q Did you see anything that attracted your attention, out of the ordinary, that night as you were standing in the street where you said you were? A I was inside in the grocery.

Q Did you see any trouble across the street? A I heard the report of firing.

Q Afterwards, when he went out, did he see what it was?
A No, sir; I did not see anything; I was inside engaged in conversation.

Q Did you know Broncado? A Yes, sir.

Q Did you know other people who knew him from the place where he lives? A Oh, yes.

Q Do you know his reputation for peace and quiet?
A He enjoys a good reputation in this behalf.

BY MR. TRAIN:

Q Do you know of anybody in that neighborhood that has not got a good reputation for peace and quietness? A No, sir.

G A E T A N O B A L L I S T A , a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A 197 Mulberry street.

Q What is your occupation? A Carpenter.

Q Do you remember the night of the 1st of June, about 9 o'clock? A Yes, sir.

CASE # 600

Q Where were you about that hour? A I was at Christie and Stanton street. I was walking in the direction of Christie street in order to go for a glass of beer at No.111.

Q Up to that time had you known a man by the name of Lapaglia or Broncado? A Yes, sir.

Q State what happened when you were at that point in the street? A While I was turning Christie street I saw Leonardo Broncado in the middle of the street and Lapaglia standing on the sidewalk with a man that had hold of him.

Q What was he doing with that man that had hold of him, if anything?

MR. TRAIN: I object to that as leading.

Q Was he doing anything?

Objected to.

Q What was Lapaglia doing on the sidewalk? A He was held by a man and he was ejaculating foul words against Broncado.

Q Do you know the name of the man that was holding him?

A No, sir; I do not know.

Q Did you hear anything that this man that was holding Lapaglia said to him? A Yes, sir.

Q What was said by Lapaglia at that time? A "Cornuto", that is cuckold, dishonored fellow, "I am not afraid of you with your leaden pistol."

Q Well, did he say anything more? A Well, he was always continuing calling him a cuckold and such words as I said before.

CASE # 600

Q Did he say anything to Lapaglia-- did Lapaglia say anything to the man who was holding him? A He said to the man, "Let me go, let me alone."

Q What else did he say? A "Let me go, I must break the head, I must break the horns of this dishonored fellow."

Q Did you hear Broncado say anything at that time? A Broncado said, "I am an honorable man, I am not dishonored in such a way."

Q Did he say anything further? A No.

Q What happened then? A Then the man who held Lapaglia loosened his grab on him.

Q What did Lapaglia say? A Hardly had he got loose that he rushed against Broncado.

Q Who did? A Lapaglia and delivered a kick on him and a blow with the fist on the head.

Q Did you see where he kicked him? A (Indicating the region of the left groin.)

Q Well, when Broncado was kicked there did Broncado do anything? A He bent, he doubled.

Q He doubled up? A Yes, sir.

Q Did you hear Lapaglia say anything to Broncado when, as you say, he rushed at him? Did you hear him say anything to him at that moment? A "I want to break your horns." And he was clenching the fist in that moment.

Q He clenched his fist? A Yes, sir; he clenched his

fist in that moment and rushed against him.

Q Did you see how many times Lapaglia kicked Broncado?

A One kick and one blow with the fist.

CROSS EXAMINATION BY MR. TRAIN:

Q Ask the witness if that is all that happened? A While he, Broncado, doubled up, Lapaglia struck the attitude of striking him again and then I heard the report of a pistol.

Q Where did the report come from, out of the clouds?

A It came from Broncado.

Q Well, didn't you see the pistol? A No, sir.

Q You saw Lapaglia's foot when he kicked Broncado, didn't you? A Yes, sir.

Q Well, was there anything to prevent your seeing Broncado's pistol when he shot Lapaglia? A Because I was in a position behind Lapaglia.

Q Were you in such a position that you could not see the pistol in the hands of Broncado? A No, sir; because as soon as I heard the report I went into the bar room.

Q You went into what? A Into the bar room.

Q Didn't you see Lapaglia fall down? A Yes, sir; it was instantaneous, hardly had he fallen down than I went in to the bar room.

Q Did you see Broncado run away? A While entering the bar room I turned my head and I saw Broncado walking towards

Stanton street.

Q Did you see a pistol in his hand then? A No, sir; I did not see.

Q Now, are you any relation of Broncado? A No, sir; not even a countryman, that is to say, from the same place, not from the same place.

Q Well, you heard Lapaglia say that, "I am not afraid of your pistol?" A Yes, sir; the lead pistol, yes, sir.

Q Now, did you see Broncado's leaden pistol? A I did not see the pistol; I heard the report but I didn't see the pistol.

Q Now, you say that Lapaglia called the defendant a dishonored man and a cuckold, did he also call him other vile and opprobrious names? A Yes, sir; a dishonored man.

Q Well, didn't he call him all kinds of vile names?

A He was going on and insulting him; in that moment I wasn't so with my head, so composed as to understand everything that was said.

Q But Broncado merely denied that he was a dishonored man and that is all he said? A No, sir; he did not say anything else; that is the only word, "I am not a dishonorable man."

Q Did Broncado seem angry? A I could not exactly tell what was going on on his face because I was on the sidewalk leaning against a railing.

Q But the man who was angry was Lapaglia? A Yes, sir.

Q Now, had you seen anything done by Broncado to make him,

CASE # 600

Lapaglia, angry? A No, sir; it was Lapaglia who was inciting Broncado.

Q Now, had you seen anything, or do you know of any reason why Lapaglia was so angry with Broncado? A I cannot say, because I was not present at the beginning of the quarrel.

Q Do you know of any person who saw Broncado's leaden pistol before this occurrence in the street that you have described? A I do not know anything.

Q Do you know how Lapaglia knew that Broncado had a pistol? A I do not know if there was any difference between them before, because I was only present at that moment.

Q But you swore that when Lapaglia said, "I am not afraid of your leaden pistol" that at that moment there was no leaden pistol which Lapaglia could see? A No, sir.

SALVATORE GUARIANO, a witness called on behalf of the Defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q Where do you live? A On Ridge street, but I don't remember the number.

Q What do you do for a living? A I am selling wines and oils.

Q Do you remember the night of the 1st of June, about 9 o'clock? A Yes, sir.

CASE # 600

Q Where were you about that time? A I had been in Elizabeth street, and from Elizabeth street I went to Christie street.

Q What happened, if anything, while you were in Christie street? A While walking from Elizabeth to Christie street I saw a crowd of people; I seen this crowd and I approached it and I saw Broncado in the middle of the street and I asked him, "What is the matter here?"

Q Just a moment. Did you see, or did you know a man by the name of Lapaglia? A Yes, sir.

Q How near was he to Broncado at that time, this man Lapaglia? A Some twenty steps distance.

Q At that time had you known Broncado? A Yes, sir.

Q And Lapaglia, had you known him? A Yes, sir; also.

Q What further did he see at that time or hear? A I asked Broncado what was the matter.

Q never mind that. Just tell us what happened?

A Lapaglia walked towards Broncado and I was in that moment just reaching there when Lapaglia gave him, delivered him a kick and a blow in the face to Broncado.

Q Well, what happened then? A I heard the report of a pistol but I did not know who fired it.

Q Where did you go then? A I continued my walk; I went on my way.

Q Did you hear anything said by Lapaglia or by Broncado

before they got together, before they clinched? A While I was inquiring of Lapaglia what is the matter, he said, "Let me alone, I am not afraid of that lead pistol."

Q Are you related in any way to the defendant Broncado?

A No, sir.

Q Did you see where Lapaglia kicked the defendant? A I saw him deliver only this kick and the blow in the face and I saw also Broncado bend double, but I did not see where that struck.

CROSS EXAMINATION BY MR. TRAIN:

Q Why did you not see the pistol?

Objected to. Objection sustained.

MR. TRAIN: This man says he was there and I ask him why he did not see the pistol. He said the shot was fired.

THE COURT: I sustain the objection to the form of the question.

Q How do you know a shot was fired? A Because I heard it; I am not deaf.

Q Well, did you merely hear the report, is that all you heard or saw? A I heard and went along on my way.

Q Where did this report come from? A In the middle of the street.

Q Near any person? A I did not see where it come from; I heard it in the middle of the street; I was too much afraid of being hit myself.

CASE # 600

Q Now, when Lapaglia, as you say, struck Broncado, where was Broncado standing? A In the street.

Q How far from the curb? A Two feet from the sidewalk.

Q Which sidewalk? A Well, this sidewalk of the street.

Q I know, but from which curb, the curb in front of the saloon or the curb on the other side of the street? A In front of the shemaker's basement.

Q Well, what number is that? A I don't know the number.

Q What number is that? A I don't know the number.

Q Where was Lapaglia standing? A Lapaglia was off the sidewalk.

Q Was he in front of the shoemaker's shop? A It was Lapaglia who stood before the shoemaker's basement.

Q Where was Broncado? A In the street.

Q How far from Lapaglia? A Two feet.

Q In the street? A Yes, sir.

Q Two feet in the street? A Two steps.

Q But two steps from the curb in from Lapaglia? A From the sidewalk.

Q Now, did Lapaglia get off the sidewalk or did he stay on the sidewalk when he kicked Broncado? A He bent over and I heard the report.

Q Now, ^{the} ~~answer~~ question: : Did Lapaglia remain on the sidewalk or did he go into the street to kick Broncado?

A Yes, sir; Lapaglia moved from the sidewalk towards Broncado.

CASE # 600

Q Did he step off the curb? A No, sir; he did not descend from the sidewalk.

Q Now, was there any other man between these two?

A I was between the two.

Q Between them? A Yes, sir; I was just between the two.

Q Were you trying to prevent Lapaglia from attacking Broncado? A But it was too sudden.

Q What is that? A (No answer.)

Q Now, how close to Broncado were you? A Broncado was in the street and I was after Lapaglia.

Q Now, when Lapaglia went over to kick Broncado, where were you? A I was between him when he made the movement against me because I tried to prevent the kick.

Q How do you know that he kicked? A Because I saw it with my eyes.

Q Did you see with your eyes the foot of Lapaglia strike the body of Broncado? A I saw him kick and I saw also the blow in the face.

Q Did you see the foot of Lapaglia strike the body of Broncado? A I saw the movement of the leg but I did not see exactly where he struck.

Q Now, when Lapaglia kicked Broncado, did his foot go past you? A Sure; he pushed me by the chest and moved the kick again-- delivered the kick against Broncado.

Q Now, did he strike with his fist before or after he kicked

with his foot? A First he delivered the blow with the fist.

Q Well, did you succeed in preventing his striking the blow? A I could not, because I, in that moment, I was merely passing accidentally there and I could not imagine what should happen.

Q Did he push you when he struck the blow in the face?

A Sure.

Q Come down here and illustrate how it was done. You be Broncado and this is Lapaglia. Now, just arrange these men and show us how it was done. A Broncado was like this gentleman here in the street. (Illustrating) I was in this position as I am now and Lapaglia was opposite me. Lapaglia came near me and I asked him, "What is the matter". He then pushed me away and kicked Broncado.

Q But you said first that he struck him. A Yes, sir; first the blow with the fist and then the kick.

Q Did he push you when he struck with his fist? A It was all of a sudden, pushing me away and striking with the fist and then the kick.

Q Now, do you know who fired the shot? A No, sir.

Q Did you see any one fall down? A I saw Lapaglia fall down.

Q You swear you did not see any pistol? A No, sir; I did not see at all.

Q Was this report which you heard near you or at a great

distance from you? A I heard it near me.

Q Was it right by your head? A It was near.

Q Well, how near? A Well, I am not an engineer to establish the distance, it was between three steps distance.

Q Did the report come from Broncadero? A I do not know, I heard it from behind.

Q Now, do you think it came from Broncadero?

Objected to. Objection sustained.

MR. TRAIN: I have a right to get at the witness' state of mind.

THE COURT: No.

Q Was there any other person who could have fired this shot?

A How could I know? I heard the report.

Q Have you any desire not to testify that the defendant fired the shot? A Oh, no, sir, I did not see who fired, and I cannot attest anything that I did not see with my eyes.

BY THE COURT:

Q How long a time elapsed when he saw the deceased kick towards the defendant was the shot fired? What time elapsed?

BY MR. TRAIN:

Q How much time elapsed between the kick which the witness testified he saw delivered and the report which he heard?

A It was simultaneous, nearly.

LEONARDO BRONCATO, the defendant, being duly sworn and examined through Official Interpreter Morrossi, testified as follows:

DIRECT EXAMINATION BY MR. TOWNSEND:

Q You live where, Broncato? A 185 Christie street.

Q Married or single man? A I am single, with my father and mother.

Q Who do you live with? A With my father and mother.

Q Have you any sisters living? A Yes, sir; I have sisters

Q What do you do for a living? A I was-- I am an apprentice painter.

Q You knew Lapaglia, the deceased? A Yes, sir.

Q How long have you known him? A Since Italy, he worked for us, we gave work to him for his living.

Q How long have you been in this country? A Not entirely three years.

Q Now, do you know how long Lapaglia was here? A I do not know, I think some nine or ten years.

Q Do you recollect the night of the 1st of June? A Yes, sir.

Q What time did you leave your home that night? A It might have been half past seven or so.

Q Where were you going? A The boss having said to me, "You must excuse me, Broncato, but for a few days the work is too slack and try, in the meantime, to find some other job, and I

0547
CASE # 600

hope to take you back again soon." And I went out just to find, to see a friend of mine because I did not like to stay idle, as I have to assist my family.

Q Who was the friend you went to see? A Dominick Graziano.

Q Did you see him? A I did not find him in that bar room; I went out then immediately.

Q What bar room? A 216 Christie street.

Q So from there where did you go? A I stood outside in the hope to see him come, waiting for him.

Q Outside of what place? A I stood outside of the same bar room. So here is the bar room and there is a bench there-- here was the bar room and there was a banking business near there and I stood there.

Q What happened then? A Well, while I was standing there, just in coming out from the bar room, I was taking that position there a man who was nearby said, "Oh, this is he, the best fellow of Ciminio". Ciminio is the place where I came from. If Ciminio, the place where I came from, had belonged to me, I would not have abandoned it and come here to oil.

Q Who said that, do you know? A He said it.

Q Who said it? A I said that if Ciminio had been mine I would not have left Ciminio to come here to toil.

Q Who did he say that to? A This to the fellow what had talked to me.

CASE # 600

Q Well, at that time, was Lapaglia there? A Just while this word had been said Lapaglia came out from the bar room and said, "You are the most dishonored fellow of the place."

Q What did you say and what did Lapaglia say to you? A I asked him, "What for am I dishonored?" "Because," he said, "thy sister is a whore and she had allowed herself to be used by your uncle."

Q What further was said? A And he said, "And thy father is also and also thy relatives are all dishonored people."

Q What further was said? A Well, hearing such words inflicted upon my honor, in the presence of all these people, I cried and moved away.

Q Which way did you go? A I went to the bar room of 211 Christie street.

Q This was what number that you were standing in front of? A (No answer.)

Q What number were you standing in front of? A Just exactly 209.

Q You moved up to 211, you say? A I stood near the door of 209, near 211.

Q How long was it before this night that you had seen Lapaglia? A Some three weeks before. He never ceased insulting and teasing me.

Q Now, while you were at 209, what happened there, if anything? A Lapaglia came up.

CASE # 600

Q Came from where? A Where I was.

Q Were you alone where you were? A I was alone and weeping on account of the shameful treatment.

Q Lapaglia came up to where you were? A Yes, sir.

Q Was he alone or with somebody else? A He was also alone.

Q When he came up to you what, if anything, did he do or say? A He grabbed me by the-- by the chest and pushed me inside of the hall; "Go there, you dishonored fellow."

Q He grabbed you by the coat, he was facing you, wasn't he? A Yes, sir; he was near the hall and was pulling me in.

Q Into the hallway of 209? A Yes, sir.

Q How large was that hallway that he pulled him into?

A That I could not exactly remember; I am four months locked up and I cannot remember everything.

Q Was there a light in there? A There was some light.

Q What happened when he pulled him into the hallway?

A While in the hall he took a knife that he had in the sleeve and said, "You nasty fellow, I with this knife I have not used this knife against Ciccio Palermintano, but I will use it against you, you cuckold, and if you say a word I will kill you with this knife."

Q Has he told everything that was said by the deceased at that time? A He insulted me and said, "Your sister is a whore, your sister is a whore, your mother is horned and yourself, and your sister is for fifty cents."

Q What did you do then, if anything? A I did not say anything; I tried to push him away and I tried to run away out of the hall.

Q Did he get away? A Yes, sir; I tried hard to disentangle myself from his grasp because I was afraid that he would kill me.

Q Which way did he go when he got clear of him? A To the corner of Stanton street.

Q How far was that, about, from the point where he had been hauled into the hall? A I cannot exactly remember, five or six steps, six good steps.

Q You recollect where 209 was in Christie street, don't you?
A (No answer.)

Q You know where 209 is, its location in the street?
A I know the corner of Stanton street, some five or six steps distance.

Q How far was 209 from the corner of Stanton street, if you recollect? A Some five or six steps .

Q What does he mean by steps? A (Witness illustrates about a metre.)

Q Did anyone go with you to the corner of Stanton street?
A Nobody; I was alone.

Q Up to the time that he had been called into the hallway of 209, was anybody right about there besides Lapaglia?

A Absolutely nobody.

Q While he was going up Stanton street did he pass anybody but Lapaglia? A I did not; I go alone to the corner and was weeping and I was thanking God that I had saved my life.

Q When you got to the corner of Stanton street, what did you do? A I wasn't there five minutes when Vincenzo Gottilla came.

Q What did Vincenzo Gottilla do? A He said, "What is the matter with them."

Q He spoke to you? A Yes, sir.

Q Well, what happened then? A I said to him, "Lapaglia he told me to go with him--"

Q What did you do when Gottilla came to you? A He moved away, he was ahead of me and I was following him.

Q Who do you mean by "him", Gottilla? A Yes, sir.

Q Which way did you go? A Towards 211 Christie street.

Q What happened there? A We met this Lapaglia there, near 211, just near 211, past 209.

Q Anyone with Lapaglia? A I did not see anybody.

Q How near did you get to Lapaglia? A Just one opposite to the other.

Q What happened then? A "You honorless fellow, come here, you son-of-a-whore and brother-of-a-whore."

Q What else, if anything, was said? A Then he struck with the fist at my head.

Q What then happened, if anything? A Then he kicked me once on the thigh, on the fore part of the thigh, and once (indicating the region of the groin.)

Q What happened then? A The kick was just here (indicating).

Q What effect did it have? What did you do then? A I went immediately after receiving the kick, I compressed with my hands my body and bent over and I said, "He has killed me."

Q What happened then? A While I was under the pain and crying for that blow, I drew the pistol and fired.

Q Just before you fired, what was Lapaglia doing? A He was again in a striking attitude against me, while I was bent down and I thought this time he kills me, and then I drew the pistol.

Q What did you do immediately after firing or discharging the revolver? A I went away.

Q What did you do with the revolver? A I threw it away.

Q Where? A I cannot think where it went when I threw it.

Q Do you know what happened to Lapaglia immediately upon the discharge of the revolver? A He fell.

Q Had you had any conversation with Lapaglia three weeks before? A Yes, sir.

Q What was it he said to you at that time? A I was walking along Elizabeth street, and very near the street where

there are the Chinese, and he said to me, "You mangy dog, you nasty creature, why don't you put stones in your pocket in order that the wind may not blow you away."

Q Had he ever made any threats against him? Had Lapaglia ever made any threats to him? A He always threatened me without any reason.

Q Saying what when he threatened him? A "Sometime" he said, "you will die by my hand."

Q How many times had he said that to him? A Whenever we met.

Q Any other expressions of that character that he has made to him? A He always said dishonorable things without reason against my family.

Q But I asked you with reference to threats, threatening. A Some years ago there was a certain Salvatore Rena, and this Rena one day said to me, "Let us have a glass together."

Q Never mind that. I asked you how many times did he meet the deceased, about, within the past year? A Well, in this last year some five or six times; I cannot remember exactly.

Q On how many occasions had he made threats against you to take your life? A Every time, and I was compelled to get out of his way in order to avoid him; I tried not to make any trouble; I tried to avoid him.

Q Now, did you, at the time you discharged this revolver, believe that the deceased was about to take your life or to do

CASE # 600

you serious bodily harm? A If I had not fired he would have killed me sure.

Q Did you believe that at that time? A Yes, sir, sure I believed that.

BY THE FIRST JUROR:

Q What did he believe?

THE INTERPRETER: He believed that the other was going to kill him.

BY MR. TOWNSEND:

Q And kill him at that moment of time? A Sure, in that moment.

CROSS EXAMINATION BY MR. TRAIN:

Q How old was Lapaglia? A I don't know.

Q How old are you? A 24, perhaps 25.

Q Was Lapaglia an old man or a young man? A He was a strong young man.

Q Was he a young man? A Yes, sir.

Q Was he older or younger than you? A No, sir; he was older than I.

Q Well, how much older? A Well, some ten years older than I; I could not say exactly, though.

Q Now, did you both come from the same place in Cicily?

A Yes, sir.

Q Had you known him all your life? A Well, yes, sir, I knew him.

CASE 77 600

Q Did you play with him as a boy? A Newer.

Q Was he a friend of yours and of your family? A I had no-- I never approached him.

Q Where did he live in the town, in Ciminio? A A great distance from where I lived.

Q Did he live in the town or in the country? A Inside the city.

Q And you lived in the city? A (No answer.)

Q Did you also live in the city? A Yes, sir.

Q How large a town is Ciminio? A Some 6,000 inhabitants.

Q What did you do for a living in Ciminio? A My father was sending me to school to study.

Q What did Lapaglia do in Ciminio? A He was a mason.

Q Did he live with his father and mother in Ciminio, Lapaglia? A I do not know that.

Q Did he have brothers or sisters? A Yes, sir.

Q Were you acquainted with his brothers and sisters in Ciminio? A Only one.

Q What? A I know a brother, two brothers of Lapaglia and only one sister.

Q Now, what is the sister's name? A I do not know her name exactly; I do not know, but she had for a husband a man of another place called Calaminia.

Q Did she live in Calaminia? A yes, sir.

Q Now, did you know the two brothers of Lapaglia?

A Yes, sir.

Q Were they older or younger than Lapaglia? A They were older.

Q Did you ever go to Lapaglia's house? A No, sir.

Q Did he ever come to your house? A Newer.

Q Now, what was your father's business? A We have there a real estate place.

Q What is that? A Real estate, a homestead; we have acres of land.

Q A farm? A Yes, sir.

Q Outside the city? A Yes, sir; a distance from the city.

Q Have you also a house in the city? A Yes, sir; we own a house.

Q What is your father's means of livelihood, a farm?

A Yes, sir.

Q Now, did Lapaglia ever work on the farm for your father?

A No, sir; he worked-- the father of Lapaglia worked for us as a mason in the city.

Q Did the father of Lapaglia work regularly for your father? A Whenever we needed work done.

Q Now, how did you become acquainted with Lapaglia in your native town? A Well, we are all acquainted together as of the same place.

Q Did you ever go to social gatherings where he was?

CASE # 600

A Newer; I did not at that time belong to any associations or did not go to places where people gathered.

Q Did you have mutual friends? A I could not know that there were people that I knew who were friends of Lapaglia.

Q When did Lapaglia conceive this hatred for you?

A Here in America.

Q Why? A It was one morning, I was going to work and I had an overcoat on because it was cold and then this Torina which I have mentioned before-- I went in this bar room, he called me aside and said, "Come in and let us have a glass together", and so I accepted to drink a glass with him. I drank at that time a small glass of light brandy, of mild brandy, and there were several friends there, and they asked me, "How long you have before starting work", and it was at that time 7 o'clock and I said, "I start to work at 8 o'clock."

Q When did this occur? A It must have been in the month of December, I could not exactly remember the date.

Q Well, what happened that made this man Lapaglia have this dislike for you? A Well, then, I was requested to play tuccho, an Italian game with the fingers, and we played that game and there resulted two people, whom I do not remember now, who were the masters of the play, became the masters in the play, and they came to take a drink and he had been left.

Q Lapaglia had been left? A Yes, sir.

THE INTERPRETER: He had received no drink.

CASE # 600