

coming out he saw Hoban, who had been stabbed. He had not seen Hoban before. The Englishman he had seen was one who was drunk. He could not say how many Italians there were there.

From the evidence of previous witnesses it appeared that the trouble had originated in the actions of a man named Brown, who was intoxicated, and it would seem that he was the Englishman seen by Pollikofsky. He did not see Hoban, but there is no question that Hoban was present. The trial Judge told the jury in substance not to take Pollikofsky's evidence into consideration, but to leave it out of the case.

The following are his observations as set forth in the stated case: "And here, just in parenthesis as it were, I wish to eliminate from the consideration of this case the evidence of Pollikofsky, the last witness called, in regard to what was thought to be the attack upon Hoban. You remember, gentlemen of the jury, that Clark spoke of a man by the name of Brown coming to the door of the hotel in an intoxicated condition, and saying that there were three or four people outside who were about to maltreat him. He says that Brown was very much intoxicated, and they went out. There was no one there apparently but Hoban and the prisoner that he saw just at that time. Hoban told Brown he had better go home, and made some observation not of a complimentary character to Brown, and Brown became angry, and an altercation took place between Brown and an Italian, with which Hoban was not mixed up apparently in any way. But, from Pollikofsky's evidence, the big Italian who was there while Brown was present, and who had this difficulty with Brown, pulled out a knife, that is, if you believe Pollikofsky's evidence. He says that the Englishman he saw was the man who was drunk, it was not Hoban at all; he did not see Hoban; did not know anything about Hoban; and he says the man he saw, and the man against whom the knife was pulled, was the Englishman who was drunk; so that, as far as his evidence is concerned, it may be eliminated altogether from your consideration, as far as this tragedy is concerned, because he appears to know nothing about it. The man who had this difficulty with Brown left immediately, and apparently was not there when Clark speaks of the occurrence between the Italian or Italians who were standing there and Hoban."