

Before Pollikofskey was called, one Chester Manzetto had been called for the Crown. He testified that he was present and saw Hoban stabbed. On examination-in-chief he said that he and the prisoner were the only Italians present, and that he (Manzetto) did not do the stabbing. On cross-examination he was asked: "Did De Marco do the stabbing? A. No, I never saw. I see the other fellow that ran away. Q. The fellow who ran was the fellow who did the stabbing? A. Yes. Q. I will put the question through the interpreter; ask him was De Marco the man who did the stabbing? A. No, he is the other man. Q. Who did the stabbing? A. I do not know. Q. What sort of a looking man, was he a tall man who did the stabbing? A. A short man, a big man? Q. Not a thin man? A. No. Q. You are sure it was not De Marco? A. De Marco never have a knife? Q. This other man who did the stabbing? A. He ran away and De Marco jumped up in a minute or two in the street, he used a little bit of bluff, but De Marco never used a knife." He was then asked by counsel for the Crown: "Do you say De Marco ran away? A. Yes, I never saw him any more. Q. Why did he run away? A. I don't know. Q. There were only two Italians present, you and De Marco? A. Yes."

Mr. Godfrey (counsel for the prisoner) "Q. (through the interpreter): Ask him might this other fellow have been an Italian for all he knows? A. He was an Italian. Q. So then there were three Italians? A. Yes, three Italians."

The learned Judge in his charge to the jury, commenting on Manzetto's testimony, seems to have overlooked this final statement, for he said in part: "Although Manzetto seems to convey the idea that there was a third Italian there, still when he is cross-examined he says there were only 'he and Charlie there,' and he is asked if he was the person that committed the offence, if he was the man who made the attack upon Hoban, and he says no. Well, if there were only two Italians there and he did not make the attack, who was the other Italian?" Further on he said: "As I have already stated, Manzetto said there was a third man, an Italian, there, but he does not say who he was, if he knew him; but he says in cross-examination that he and the prisoner were the only ones present, and that Manzetto did not do the stabbing."