

# OBSERVATIONS FROM TIMES WATCH-TOWERS

## MURDER RIVALSFICITION

### Two Italians Found Guilty by Separate Boston Juries of Killing Same Man.

#### TRIALS 16 MONTHS APART

### One Under Death Sentence Wins Respite and Both Will Be Tried Again.

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BOSTON, March 27.—Massachusetts has another extraordinary crime mystery to solve. A murder was committed in the Italian colony in the North End on June 11, 1927. In the Superior Court on Nov. 17 following a jury found a young Italian named Gangi Cero guilty in the first degree. On the afternoon of Nov. 8, 1928, Cero, in the deathhouse at Charlestown, counted the passing hours, expecting to be executed immediately after midnight. He was reprieved, and on March 1, 1929, an Italian some years older, named Samuel Gallo, was found guilty also in the first degree of the same murder.

Only a single shot was fired in the commission of the crime, and the same weapon and the same mortal bullet were introduced in evidence in both trials. The same judge presided in both trials. That judge, Louis Sherburne Cox, on March 22, granted the motions for new trials, which had been filed in behalf of both the convicted men, on the ground that "the two verdicts are inconsistent with the course of justice." Cero and Gallo, although previously tried by separate juries, whose verdicts were separated by sixteen months, may now be tried together before the same jury.

No parallel to this remarkable situation exists in the history of Massachusetts. It may be that the case is destined to take its place in the annals of crime as a cause celebre. An orderly outline of the sequence of events will make clear how this double conviction for the firing of the same fatal shot came to pass.

#### Gallo Denied Slashing.

The victim was Joseph Fantasia, whose wife had a sister named Philomena Romano, with whom Gallo is understood to have been intimate. That Gallo had been about the North End for some days, perhaps for several weeks before the murder is known to the authorities. A story widely believed is to the effect that shortly before the crime Fantasia came upon Gallo and made a remark to the effect that "in a few minutes he would be in a hearse." Not long thereafter the Romano girl, in conversation with Gallo, suddenly produced a razor blade and slashed his cheek, the wound leaving a scar.

This incident furnished the police with the one possible motive they could discover. They questioned Gallo on the theory that the slashing might have been plotted by Fantasia, on account of some "trouble" which Gallo had with Fantasia's sister-in-law. Gallo, however, told of a motor car accident in which he had been cut by shattered glass, and the records of the official stenographer show that he denied any acquaintance with Fantasia.

The killing was done on Prince Street, a crowded thoroughfare. It chanced that on that day one Lewis Smith was in the vicinity when the crime was committed. He heard a shot, whirled about, saw a man running and dodging through the crowd and ran after him. He kept the fleeing man in sight, saw him enter a shop and request somebody to obtain a taxi. Smith telephoned for the police. The taxi and the officers arrived almost simultaneously, and the man Smith had trailed, who proved to be Gangi Cero, was arrested.

At the trial Cero was his own principal witness. The chief witness for the prosecution was Smith. A revolver found near the scene of the crime was placed in evidence and the mortal bullet was shown to have been fired from that weapon, but no direct testimony placed the revolver in the possession of Cero. The jury had to choose to believe either Cero or Smith. Cero protested mistaken identity. Smith defended his story at all points. The jury was out four and a half hours, and, apparently preferring to accept the testimony of Smith, returned the extreme verdict. Cero sought a new trial but the Supreme Judicial Court, which rules not on facts but on the correctness of the trial process, sustained the verdict. Cero was sentenced on Sept. 19, 1928.

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#### Loose Shoelace a Factor.

Some days before the date assigned for sentence Smith came to the authorities with a curious tale—in effect that attempts had been made to induce him to sign an affidavit affirming that an accusing conscience now compelled him to confess that in his testimony he had said more than the facts warranted and that he had been mistaken in his identification of Cero. The authorities instructed Smith to continue the negotiations and assigned two officers to keep him under surveillance. On the second day these officers saw two men meet Smith. One was Gallo, the other was a brother of Cero who was unable to speak English. The trio were trailed to the offices of several lawyers, none of whom, as it transpired, was willing to draw the desired affidavit. But on the following day the three men met again and found a justice of the peace before whom Smith was to make his affidavit, the substance of which was dictated by Gallo. Smith refused to sign, however, until he should have "consulted his brother" about the matter.

The three men walked together some blocks across town, trailed by the officers. A signal had been arranged; if Smith should bend over to adjust his shoelace the men with him would be arrested. Smith is said to

have stated subsequently that as a matter of fact the shoelace did happen actually to become loose, and that Gallo called his attention to it. Smith stopped to tie it and all three men were taken in charge.

The District Attorney questioned Gallo, who declared he never had seen Smith until the day of his arrest. He denied the meeting which the police had witnessed the day before. In the end he was tried for contempt of court in having undertaken to obtain the affidavit from Smith, and for thus conspiring to interfere with the course of justice he received a sentence of two years.

Thus it came about that both Cero and Gallo were in the Charles Street jail at the same time. On last Columbus Day, while a large body of prisoners were in the jail yard, Cero saw Gallo at a little distance. He broke away from the guards, flashed out some sort of knife and stabbed Gallo seriously. That the life of the wounded man was saved was due entirely to the chance that at the Massachusetts General Hospital, almost next door to the jail, there was in conference that day a group of surgeons who were available to render Gallo quick and expert help.

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### Girl Accuses Gallo.

Cero's execution now was only four weeks away. In the interval he came forward with what purported to be his first complete statement. He had been in Gallo's employ. Their practice was to obtain suits in the North End for \$8 and sell them to Italians for \$15, telling their customers the goods were stolen or smuggled. Cero received a commission of \$2 for each sale. On that fatal day in Prince Street Cero and Gallo had been walking together when they passed Fantasia. Gallo fired the mortal shot. Both ran, Cero in one direction, Gallo in another. Cero denied all knowledge of the motive for the crime and declared he had had no acquaintance with the murdered man.

Cero was removed from jail to the Charlestown prison and placed in the death house. Almost at the last hour the Romano girl came forward. Late in the afternoon she appeared at the State House and told Governor Fuller that she could not allow an innocent man to be executed, that she had seen the shooting and that the actual murderer was Gallo. About three hours later Judge Cox heard her story, with Cero's counsel and an Assistant District Attorney present. The Judge said he would hear motions for a new trial, and the Governor granted Cero a respite of thirty days.

The Romano girl promptly disappeared and for three weeks could not be found. She then came to the office of the District Attorney and repudiated the story she had told Judge Cox, affirming duress. However she shortly reiterated her tale and told it without essential change at the trial of Gallo, who was indicted in January and tried in February. Cero on the stand told essentially the same story and throughout an entire day of cross-examination he stood by it. In his own trial he had denied the evidence of Smith; in this trial he insisted that Smith had then told the exact truth. The government therefore in the Gallo trial had two witnesses who claimed to have seen the murder. Curiously enough a certain witness in both trials offered evidence that bore more strongly against Cero the second time than the first; at the Gallo trial he declared that Cero had dropped a "gun."

The present Governor some time ago granted Cero a third respite which will expire on April 8. The Romano girl was arrested for perjury and held in the Charles Street jail; but she now has been released.

There is no criticism of either jury. The questions that are being asked are: Will both men be executed in the end, one as principal and the other as accessory? Did Cero fire the shot at the behest of his "boss" and depend on Gallo to procure for him the assistance he would require to escape the penalty of his crime? Would this theory account for the stabbing in the jail yard? Did Gallo fire the shot and then allow Cero to be condemned? Would this theory account for the attempt to obtain a recantation from Smith of the evidence on which the government had depended in the trial of Cero? And would this theory account also for the attempted stabbing in the jail yard? And what were the motives of Miss Romano? Such questions might be indefinitely multiplied. The story justifies the claim that this case is perhaps without a duplicate in the history of the courts of the country.