

DARROW TRIAL

Lincoln Steffens Testified He Tried to Save McNamara

The trial at Los Angeles, Cal., of Clarence Darrow, for an alleged attempt at bribing a juror in the McNamara trial, continued through July, Darrow taking the stand toward the end of the month in his own behalf. There was some talk that there might be a mistrial owing to the illness of a juror, who was twice ill with appendicitis, but this juror was replaced by another juror and the trial proceeded.

Dora M. Bain, wife of Robert F. Bain, a juror in the McNamara case, testified that Bert H. Franklin, former detective for the McNamara defense, called at her home and told her that if her husband would agree to sit in the McNamara panel, he would give him \$500 at once and \$3,500 more if he voted for acquittal.

Under cross-examination by Rogers, Mrs. Bain said Franklin had been openly to the house on several occasions and had given his card to a neighbor to be given to Mrs. Bain when the latter returned home.

"Franklin told me he had a chance to feather his own nest," said the witness, "and take life easy."

She said when Franklin first told her about the advance payment it did not strike her as being a bribe, but merely "easy money".

She said since then she had had many occasions to reflect upon her conduct.

"My husband showed me it was a crime, but I kept on coaxing," said she, almost in tears.

She explained she never thought her husband would qualify and that they could keep the \$400 to help pay on their mortgage. She said she made one \$100 payment on the house and later gave \$300 to the district attorney.

Juror Bain himself testified that Detective Bert Franklin had told him that Darrow had furnished him with \$20,000, to be used in "reaching" jurors.

"Franklin told me I was getting old

and had but little laid up," said the witness. "He told me both sides had done dirty work in hiring witnesses and 'getting' jurymen. When he gave me the \$400, he said others were in the same boat. After Franklin left, I gave the money to my wife and told her never to mention it to me again. The money was in \$20 bills."

The witness also said that Franklin cautioned him about freely spending money. He told him to run up bills and wait for a time so he could get some fees for jury service. He said the detective told him he would be put through a stiff examination as to his qualifications to sit on the panel and that Darrow would probably ask the questions.

The prosecution offered in evidence testimony by a bank teller that Darrow gave Lecompte Davis a \$10,000 check, which was cashed and the proceeds used as bail for Bert H. Franklin, the McNamara detective. This angered Attorney Appel, for Darrow, to such an extent that the court finally fined him \$25 for contempt of court.

At another stage of the trial the court fined Assistant District Attorney Ford and Attorney Rogers for the defense for contempt of court; Rogers \$10, and Ford \$25. The two attorneys insisted on talking at the same time. Later both fines were remitted.

Lincoln Steffens, the writer, who has been credited by some with having effected the settlement by which the McNamara brothers pleaded guilty, testified in Darrow's behalf to the effect that Darrow and the McNamaras had consented to the plan before the arrest of Detective Bert H. Franklin for the alleged attempt to bribe Juror Lockwood. Steffens testified that it was then agreed to continue negotiations with a view to saving the elder McNamara brother, if possible, and that to this end Attorney Lecompte Davis was sent to the district attorney's office to keep up the "bluff" by issuing an ultimatum that there would be no settlement if John J. McNamara had to plead guilty. This testimony was directed to showing what the defense will try to prove as its strongest card; namely that Darrow had agreed

to let the McNamaras plead guilty before the alleged attempted bribery of Lockwood.

Fremont Older, editor of the *San Francisco Bulletin*, testified in behalf of Darrow. He gave evidence somewhat along the same lines as Steffens.

Charles O. Hawley, former fire commissioner of Los Angeles, testified for the defense that the reason why Darrow was in the neighborhood on the night of the alleged attempt by Bert Franklin to bribe Juror Lockwood was because he, the witness, had sent for Darrow to attend a conference near by concerning the good government organization and the liquor interests. Hawley was subjected to a severe cross-examination, in which he admitted that he had friendly relations with Darrow, Harri-man and others connected with the McNamara defense, and also that he had promoted damage suits against the *Los Angeles Times* owners on the part of relatives of those who were killed when the *Times* building was blown up.

F. L. Stineman, a hotel keeper, and G. G. Watt, formerly city clerk of Venice, Cal., testified for the defense that Bert Franklin had volunteered the information that the ultimate object of the Darrow prosecution was to "get" Samuel Gompers; and to break up organized labor by "landing" Gompers and that the prosecution of Darrow was actuated by a desire to injure a man who had been a great friend of the unions. The defense also produced witnesses who said that Bert Franklin had declared that he alone was responsible for the bribery and attempted bribery of McNamara jurors.

In connection with his defense, Darrow produced affidavits from a number of Chicago men bearing on his good reputation in that city, where he lives.

Lincoln Steffens on cross-examination admitted that in the part he took in the negotiations leading up to the plea of guilty by the brothers McNamara, he hoped up to last Thanksgiving day to get J. J. McNamara off.

"When did you first learn that the

McNamaras were guilty?" Steffens was asked.

"Soon after reaching Los Angeles, somewhere about November 10."

"And in spite of this knowledge you were trying to let J. J. go free?" asked Capt. Fredericks, incredulity in his voice.

"I certainly was," replied Steffens. "I believe it was a social crime and that these two men were merely individuals in a revolution or warfare."

Steffens argued that both labor and capital had done wrong, that there were many serious problems to be solved, and that he wanted to see some basis of agreement reached.

"Do you believe jury bribery is justifiable?" asked Capt. Fredericks, sharply.

"No," replied Steffens. "I feel about it as I do about murder, bribery of legislatures or any other thing of that sort." He said he thought the machinery of the courts was ineffectual to solve problems such as those produced by the McNamaras.

"And, knowing J. J. guilty, you still tried to save him?"

"Yes, I tried hard. It was not possible that the community would have had its problem solved by the punishment of the two men."

The defense put on Attorney Tom Johnson, and others, to testify that Bert Franklin had said, when arrested, that Darrow did not know anything about what was going forward with the McNamara jurors. On this point, the state will argue that Franklin talked this way at a time when he was facing serious charges, and had every motive to protect one who had put up a \$10,000 cash bail for him.

The weakness of workmen's compensation carried on and administered by the state was attacked by Elmer H. Dearth, former commissioner of insurance for Minnesota, at Sioux City, at the meeting of the Iowa State Manufacturers' Association. He declared that it was the worst sort of co-operative mutual insurance with no responsibility behind it and no possibility of it reaching economic averages because the distribution of risks would be too limited.