

J. D. FREDERICKS.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

IN AND FOR THE COUNTY OF LOS ANGELES.

Dept. No. 11.

Hon. Geo. H. Hutton, Judge.

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The People of the State of California,)

Plaintiff,)

vs.)

No. 7373.)

Clarence Darrow,)

Defendant.)

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REPORTERS' TRANSCRIPT.

VOL. 35

I N D E X.

Direct. Cross. Re-D. Re-C.

John R. Harrington

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1 AFTERNOON SESSION. June 21, 1912; 2 P.M.

2 -----
3 Defendant in court with counsel.

4
5 JOHN R. HARRINGTON,

6 on the stand for further direct examination.

7 MR. FREDERICKS. Q Let me have that telegram exhibit and
8 the dictionary. Never mind for the present ; maybe I can
9 get along without it. You testified just before adjournment
10 in regard to a telegram that you said you received
11 from Mr. Johannsen from Reno. I will ask you if you ever at
12 any time had discussed with Mr. Johannsen--had a discussion
13 with Mr. Johannsen in reference to that telegram? A I did.

14 Q When? A Sometime later, probably a month afterwards,
15 in the Higgins Building, Los Angeles.

16 Q And who was present? A Johannsen and myself.

17 Q Any one else? A No.

18 Q What was said so far as referred to that telegram?

19 MR. ROGERS. That is objected to as no foundation laid, in-
20 competent, hearsay, irrelevant and immaterial.

21 THE COURT. Overruled.

22 MR. ROGERS. Except.

23 A I asked Mr. Johannsen what he meant by sending me a tele-
24 gram.

25 MR. FREDERICKS. Q What did he say, if anything? A He
26 said he sent it--

1 MR. ROGERS. The same objection.

2 THE COURT. Overruled.

3 A -- to test the code.

4 MR. FREDERICKS. Q Now, after you returned to Los Angeles-
5 or did you return to Los Angeles after being at San Francisco
6 at the time you have referred to along about the 31st of
7 July? A I did.

8 Q After you returned to Los Angeles, after that time, state
9 whether or not you had a conversation with Clarence Darrow
10 the defendant in this case, in regard to that telegram and
11 in regard to Mrs. Caplan? A I did.

12 Q Who was present? A Mr. Darrow and myself.

13 Q Where was the conversation? A In his office in the
14 Higgins Building.

15 Q How soon after you returned was it? A My recollection
16 is that it was the day I returned.

17 Q And what day was it when you returned? A I got back
18 on the morning of the first of August.

19 Q What was that conversation? ✓

20 MR. ROGERS. That is objected to as incompetent, irrelevant
21 and immaterial and no foundation laid.

22 THE COURT. Have you fixed the time and place and persons
23 present?

24 MR. FREDERICKS. Yes, I think I have, being on the first of
25 August, the defendant and the witness alone being present.

26 THE COURT. Objection overruled.

1 MR. ROGERS. Exception.

2 A I told Mr. Darrow that Johannsen went to Chicago with
3 Mrs. Caplan and told him that I thought if these things
4 were discovered it would create a great deal of trouble
5 for the defense.

6 MR. FREDERICKS. Q Well, what did he say, if anything?

7 MR. ROGERS. The same objection.

8 THE COURT. Overruled.

9 A He said that he understood the circumstances that she
10 went east, and he talked the matter over with Tveitmoe and
11 Johannsen when he was in San Francisco and it was all right,
12 there were reasons for her going.

13 MR. FREDERICKS. Q Was anything said about the telegram?

14 A Yes, sir.

15 Q What was that?

16 MR. ROGERS. The same objection.

17 THE COURT. Overruled.

18 MR. ROGERS. Exception.

19 A I asked Mr. Darrow if he would not tell these men not
20 to be communicating with me when they were doing any work
21 for him.

22 MR. FREDERICKS. Q What did he say?

23 MR. ROGERS. The same objection.

24 THE COURT. Overruled.

25 MR. ROGERS. Exception.

26 A He said that is all right.

1 MR. FREDERICKS. Q Was there anything else you can think
2 of in that conversation? A I don't recall of anything
3 else.

4 Q Do you know a witness for the state in the case of the
5 People vs McNamara by the name of Diekelman, or did you
6 know of such a witness? A I never met the man, I never
7 saw him, I never heard of him until I heard that he was
8 down in Albuquerque, New Mexico.

9 Q All right, calling your attention to the witness Diekel-
10 man, I will ask you whether or not you had a conversation
11 with Mr. Darrow in regard to Mr. Diekelman and Mr. Hammer-
12 strom? A I did.

13 MR. ROGERS. I object to that as leading and suggestive.

14 THE COURT. Overruled.

15 MR. ROGERS. Exception.

16 MR. FREDERICKS. About when was that conversation?

17 A In the latter part of September.

18 Q 1911? A 1911.

19 Q Who was present? A Mr. Darrow and myself.

20 Q Any one else? A No, sir.

21 Q Where did that conversation occur? A In Mr. Darrow's
22 office.

23 Q What was the conversation?

24 MR. ROGERS. Object to that as incompetent, irrelevant and
25 immaterial and no foundation laid.

26 THE COURT. Objection overruled.

1 A It was in reference to Mr. Hammerstrom taking the witness
2 Diekelman to Chicago.

3 MR. ROGERS. I move to strike the answer out as not respon-
4 sive and the conclusion or opinion.

5 MR. FREDERICKS. Yes, strike out the answer.

6 THE COURT. It is stricken out.

7 MR. FREDERICKS. Q Give the conversation in substance,
8 state what Mr. Darrow said in substance? A Mr. Darrow--

9 MR. ROGERS. The same objection.

10 THE COURT. Overruled.

11 A --Mr. Darrow said that he had Hammerstrom go down to
12 Albuquerque, New Mexico and take Diekelman to Chicago so
13 as to get him away that he could not be a witness for the
14 state.

15 MR. FREDERICKS. Q Anything further? A No.

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1 Q Anything said about a telegram?

2 MR ROGERS: I think the witness ought not to be led.

3 THE COURT: Leading questions ought to be avoided, but
4 the witness can answer this question. A That was sub-
5 sequent to that time.

6 MR ROGERS: Wait a moment. There is an objection.

7 MR FREDERICKS: All right; withdraw the question.

8 Q Did you have a conversation with Mr Darrow here in Los
9 Angeles in the Higgins Building, you and he alone, in re-
10 gard to sending a telegram to Hammerstrom; yes or no?

11 A yes sir.

12 Q When was that conversation? A That was early in
13 October.

14 Q What was that conversation, insofar as it referred to
15 the matter I have referred to? ✓

16 MR ROGERS: We object to that as leading and suggestive,
17 irrèlevant, incompetent, immaterial, no foundation laid.

18 THE COURT: Objection overruled.

19 MR ROGERS: Exception. A Mr Darrow asked me to tele-
20 graph Hammerstrom, who was on his way out to the coast, to
21 Los Angeles, at the time to get off at Salt Lake City and
22 stay away from California until the Diekelman matter
23 blew over.

24 Q Did you know a young man by the name of Cooney?

25 A Yes sir.

26 Q Was he working there for Mr Darrow at that time?

1 A Yes sir.

2 Q With reference to the time, did you know of Mr Cooney's
3 ever going East? A Yes sir.

4 Q With reference to the time Mr Cooney went East, when
5 was the conversation with Mr Darrow which he has just re-
6 lated in regard to sending a telegram? A It was at
7 that time and the telegram asked him to meet Cooney in
8 Salt Lake City.

9 MR ROGERS: Wait a moment. That answer is not responsive
10 from that on.

11 MR FORD: It is explanatory.

12 MR FREDERICKS: It saves another question.

13 THE COURT: Counsel may want an objection to that ques-
14 tion. Strike out the answer.

15 MR FREDERICKS: All right. Was anything said in regard
16 to Mr Cooney in your conversation with Mr Darrow at the
17 time and place above referred to? A Yes sir.

18 Q What was it? A With Cooney?

19 Q No. What was said with Mr Darrow about Mr Cooney,
20 what did Mr Darrow say about Cooney, if anything?

21 MR ROGERS: The same objection.

22 THE COURT: Overruled.

23 A He told me to arrange that Cooney and Hammerstrom
24 would meet at the Utah Hotel in Salt Lake City.

25 Q Did you ever hear of a man by the name of Skillen
26 in connection with the defense of the McNamara case?

1 A I did.

2 Q Did you have a talk with Mr Darrow in regard to Mr
3 Skillen? A I did.

4 Q About when was that? A My recollection is that that
5 would be about the first week in October; in there some-
6 where.

7 Q And who was present when you had the conversation?

8 A There was nobody but Mr Darrow and myself.

9 Q And what was the conversation?

10 MR ROGERS: That is objected to as incompetent, irrelevant
11 and immaterial; not within the issues; no foundation laid.

12 THE COURT: Objection overruled.

13 MR ROGERS: Exception.

14 A I told Mr Darrow I was trying to locate this man Skillen
15 and he told me that Skillen had already called to his of-
16 fice; that he gave him \$100 and sent him off to Salt Lake
17 City so as to keep him out of the state.

18 Q Did you ever hear of a man by the name of Long, who
19 was a witness for the state in the case of People versus
20 McNamara, one of the men in the Times building? A I didn't
21 know --

22 MR ROGERS: We object to that as irrelevant, leading and
23 suggestive; no foundation laid.

24 THE COURT: Objection overruled.

25 MR ROGERS: Exception. A I didn't know that Long
26 was a witness for the state.

1 MR ROGERS: I move to strike out the answer as not respon-
2 sive.

3 MR FREDERICKS: No objection.

4 THE COURT: Strike it out.

5 Q Do you know where Mr Darrow was on the 2nd day of
6 September, 1911? A Yes sir.

7 Q Where was he? A In Chicago -- in San Francisco.

8 Q State whether or not you sent any telegrams to him on
9 that day in San Francisco? A I did.

10 Q Now, after he returned from San Francisco, some time
11 after he returned from San Francisco, state whether you
12 had a conversation with him in regard to a roll of bank
13 bills?

14 MR ROGERS: We object to that as irrelevant, incompetent
15 and immaterial; leading and suggestive; no foundation
16 laid, the time and place and persons present not mentioned.

17 MR FREDERICKS: I am going to lay it.

18 THE COURT: Well, the time and place and persons present,
19 I think ought to be fixed.

20 MR FREDERICKS: I am going to ask that; I have got to
21 specify some certain conversation, and then I will ask
22 him where it was, before I ask him what it was.

23 THE COURT: All right; if you want it that way; objection
24 overruled. A I did.

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3p 1 Q And when was that conversation and where? A It was
2 between the 20th and 30th of September, 1911,
3 at his house on Bonnie Brae avenue.

4 Q Here in Los Angeles? A In Los Angeles.

5 Q What time of day or night? A It was in the evening.

6 Q Who was present? A Mr. parrow and I were there together
7 there on the porch.

8 Q State that conversatn, in so far as it relates to the
9 subject I have inquired about.

10 MR. ROGERS. We object to that as irrelevant, incompetent
11 and immaterial; manufactured; no foundation laid.

12 MR. FORD. Objection that it is manufactured?

13 THE COURT. Objection overruled.

14 A Mr. Darrow showed me a roll of bills there in which he
15 stated there was \$10,000 and that if he could arrange ^{to reach} a
16 couple of jurymen that J. B., would never be convicted.

17 MR. ROGERS. Let me hear that just a moment.

18 (Last answer read by the reporter.)

19 MR. FREDERICKS. Q What was the rest of the conversation
20 so far as it relates to that matter, what you said and
21 what he said? A I told Mr. Darrow not to attempt such a
22 thing, it would be his ruin; be the ruin of the case;
23 ruin everybody connected with the case. That his conduct
24 would be repudiated by the labor leaders all through the
25 country and by the union people all over.

26 Q What, if anything, did he say further? A He then says,

1 "I guess you are right, I wont do it."

2 Q Now, coming down to the 28th of November, you remember
3 the day on which Bert Franklin was arrested? A Yes, sir.

4 Q In the morning of the 28th of November, state whether
5 or not on the morning of the 28th of November and at a
6 time an hour or so after Bert Franklin had been arrested,
7 or sometime after it, state whether or not you had a con-
8 versation with Mr. Darrow in his office, you and him alone
9 together, in which the subject of bribing a juror was
10 discussed? A Yes, sir.

11 Q Relate that entire conversation.

12 MR. ROGERS. Object to it as incompetent, irrelevant and
13 immaterial and no foundation laid, not within the issues.

14 THE COURT. Overruled.

15 MR. ROGERS. Exception.

16 A I was sitting in my office when Mr. Darrow came in and
17 he called me into his office.

18 MR. ROGERS. Pardon me, let's see what time this was.

19 MR. FREDERICKS. What time was this?

20 A It was in the forenoon; I couldn't tell the exact time,
21 somewhere about 10 o'clock.

22 Q All right, go ahead. A He told me Bert Franklin was
23 arrested and I asked him what for. He says, "Jury bribing."

24 MR. ROGERS. Just a moment--let me hear that answer as to
25 what time he said it was.

26 MR. FORD. If the Court please, I think the counsel heard

1 it distinctly. He is interrupting this testimony con-
2 tinually to ask what was said.

3 MR. ROGERS. I can't hear half of it for some reason or
4 another.

5 THE COURT. Read the answer.

6 (Last answer read by the reporter.)

7 MR. FREDERICKS. Q Go ahead. A Mr. Darrow seemed to be
8 very nervous--

9 MR. ROGERS. I move to strike that out.

10 MR. FREDERICKS. Q How did he appear? A He appeared
11 to be very nervous.

12 MR. ROGERS. The same thing. I move to strike that out as
13 not responsive.

14 MR. FREDERICKS. It may not be responsive to the question
15 but I will add that to the question, what was his appear-
16 ance.

17 THE COURT. Motion to strike denied.

18 MR. ROGERS. Exception. Then it is a double question.

19 A He appeared to be very nervous. I then asked Mr.
20 Franklin could involve him in the matter in any way.
21 He says, "Yes, My God, if he speaks I am ruined."

22 MR. FREDERICKS. Q Remember anything further that was
23 said? A No, sir.

24 Q How long were you there? A Mr. Darrow left the office
25 then, first; and I went to my room afterwards.

26 Q Was anything said at that time in regard to what Mr. Dar-

1 row had previously told you or promised you? A No, sir.

2 MR ROGERS. Objected to as calling for a conclusion or
3 opinion. I don't care for the answer but the question
4 includes something I don't care to have in the record;
5 calling for a conclusion.

6 MR. FREDERICKS. Well, I will withdraw it.

7 THE COURT. Strike out the answer.

8 MR. FREDERICKS. Q Was there anything further said at
9 that conversation that you think of now, in that conversa-
10 tion on the morning of the 28th? A No, sir.

11 Q Do you remember having a conversation with Mr. Darrow
12 up at his house in which Mrs. Caplan's taking away and
13 Schmidt, one of the co-defendants with the McNamaras,
14 was mentioned? A Yes, sir.

15 Q Who was present at that conversation? A Mr. Darrow and
16 myself. It was from the house.

17 Q Where was it? A Between the house and the city. We
18 were walking downtown.

19 Q On the street? A On the street.

20 Q What time of the day or night was it? A It was in the
21 morning.

22 Q And about when was it? A It was in the holiday season

23 Q You mean Thanksgiving Holiday? A No, Christmas Holidays.

24 Q Relate the conversation in so far as it relates to the
25 matters I have referred to.

26 MR. ROGERS. Objected to as incompetent, irrelevant and

1 immaterial and no foundation laid, and not within the
2 issues .

3 THE COURT. Overruled .

4 MR. ROGERS . Exception.

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1 A He said under no circumstances to tell anybody where
2 Mrs Caplan was, as it might involve him.

3 MR FREDERICKS: Coming back to the conversation with Mr
4 Darrow in which he showed you the roll of bills, I will
5 ask you if he said anything about where he got that money
6 and how?

7 MR ROGERS: Object to that as leading and suggestive. I
8 think that under the circumstances the witness better be
9 allowed to tell the conversation without suggestion or in-
10 timation.

11 MR FORD: Under the circumstances whenever anything has
12 been overlooked in the examination we go back and call it
13 to the attention of the witness and ask him about it.
14 We don't suggest the answer or anything of the sort.

15 MR FREDERICKS: Let's have a ruling.

16 MR ROGERS: Under the circumstances, by that, I mean the
17 most extraordinary circumstances.

18 THE COURT: Read the question. (Last question read by
19 the reporter.)

20 MR ROGERS: If the witness, when called upon for that
21 conversation had anything to relate, he certainly would
22 have related it if it were not a created conversation,
23 it would not need to be put in the witness' mouth;
24 wouldn't need to be suggested.

25 MR FREDERICKS: That is an argument that memories are
26 always infallible.

1 MR ROGERS: He couldn't help remember.

2 MR FORD: I don't think this form of the objection should
3 be made at this time, that anything is created.

4 THE COURT: over ruled.

5 MR FREDERICKS: Answer that question. Read the question.

6 (Last question read by the reporter.)

7 A He told me that he got it from Tveitmoe's bank in San
8 Francisco.

9 Q Give the conversation in regard to that just as you
10 remember it; the substance of it.

11 MR ROGERS: That is objected to as incompetent, irrelevant
12 and immaterial. He has already put the words in the wit-
13 ness' mouth. Now, he wants him to relate the conversation.
14 Why didn't he do that in the first place.

15 THE COURT: Objection overruled.

16 MR FREDERICKS: Now, what words did he put in the witness'
17 mouth?

18 MR ROGERS: Exception.

19 MR FREDERICKS: Read the question.

20 (Last question read by the reporter.)

21 A It was in connection with my warning him to be care-
22 ful about what he was doing, and the chances he was tak-
23 ing in trying to reach jurors improperly.

24 MR ROGERS: I move to strike out the answer as a conclusion
25 or opinion.

26 THE COURT: Strike it out.

1 Q BY MR FREDERICKS: Go ahead and state what he said.

2 A He said that he had the check cashed in Tveitmoe's
3 bank in San Francisco, so that the money could not be
4 traced through the Los Angeles banks.

5 MR FREDERICKS: Cross-examine.

6
7 CROSS-EXAMINATION

8 MR ROGERS: Mr Harrington, do you say that Mr Darrow told
9 you out at his house that he had a roll of bills that he
10 got at Tveitmoe's bank in San Francisco? A He showed me
11 a roll of bills which he stated he got there.

12 Q What were you doing out at his house? A I was out
13 there for supper and to discuss the case with him, the
14 McNamara case.

15 Q You ate at his table? A Yes sir.

16 Q With his wife? A Yes sir.

17 Q Your daughter with you? A Yes sir.

18 Q You say that Darrow told you he got \$10,000 at Tveit-
19 moe's bank at San Francisco and showed you the roll of
20 bills? A Yes sir, showed me a roll of bills.

21 Q A roll of bills. Just out of the spirit of bravado,
22 to show you he had the roll of bills, eh? A I think it
23 was more buffoonery.

24 Q Buffoonery? A Yes sir.

25 MR FORD: Just a moment.

26 Q That it was foolishness?

1 MR FREDERICKS: We move to strike out the answer in order
2 that we may object to the question.

3 THE COURT: Strike out the answer for the purpose of the
4 objection.

5 MR FREDERICKS: We object to the question on the ground it
6 calls for a conclusion of the witness, and it is argumen-
7 tative.

8 THE COURT: The objection is overruled, and the answer
9 is restored. Now, gentlemen, we will have to observe the
10 same rule both ways, counsel for the prosecution want time
11 to get in their objection.

12 MR ROGERS: Very well, sir. What is the record?

13 (Last three questions and answers read.)

14 MR FORD: We object to that as calling for a conclusion
15 of the witness; irrelevant and immaterial; not cross-
16 examination and argumentative.

17 THE COURT: Objection overruled. What is your answer?

18 A He showed me a roll of bills, yes sir.

19 MR ROGERS: You said it was buffoonery. A yes sir.

20 Q And he told you he had a roll of bills to buy jurors
21 with, in the spirit of buffoonery?

22 MR FORD: We object to that as argumentative.

23 MR ROGERS: He said so.

24 MR FORD: Will you let me make my objection, please.

25 MR ROGERS: yes, go on.

26 MR FORD: I will when you quit commenting and grunting.

1 That is objected to on the ground it is calling for a
2 conclusion of the witness, it is argumentative, incompe-
3 tent, irrelevant and immaterial, not cross-examination.
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5p 1 THE COURT. Objection overruled.

2 A He showed me a roll of bills, yes, sir.

3 Q You said out of a spirit of buffoonery, you mean by
4 that fun? A No.

5 Q What do you mean by "buffoonery"? A A spirit of
6 bravado.

7 Q Do you know the difference between bravado and buffoon-
8 ery?

9 MR. FORD. We object to that as irrelevant and immaterial,
10 not cross-examination.

11 THE COURT. Objection overruled.

12 A I don't know that I could explain the difference.

13 BY MR. ROGERS. Q You are a lawyer, aren't you? A Yes,
14 sir.

15 Q You understand the English language pretty well?

16 A Yes, sir.

17 Q What do you mean by "buffoonery"?

18 MR. FREDERICKS. We object to that on the ground it has
19 already been asked and answered.

20 THE COURT. Objection overruled.

21 A Just showing how smart he was.

22 BY MR. ROGERS. Q Showing you how smart he was? A Yes,
23 sir.

24 Q That he had \$10,000 to bribe jurors and show you how
25 smart he was, a kind of a joke? A I didn't regard it
26 as a joke.

Q Now, don't you know that buffoonery is joking?

1 MR. FORD. Just a moment-- object to that on the ground it
2 is argumentative.

3 THE COURT. Objection sustained.

4 BY MR. ROGERS. Q Do you know the definition in the
5 dictionaries of buffoon or buffoonery? A I cannot say
6 that I do.

7 Q Well, then, why did you use the word? A It is an
8 ordinary, commonplace word.

9 Q By that you mean what? A Bravado.

10 Q Bravado? A Yes.

11 Q That he was showing off? A Yes, sir.

12 Q Didn't you say a while ago it was not bravado but
13 buffoonery? A No, sir.

14 Q You did not. Now, so far as Mrs. Caplan was concerned,
15 he told you not to say one single, solitary word about
16 where Mrs. Caplan was or it would get him in trouble?

17 A He didn't use that expression, "one single solitary
18 word."

19 Q Well, words equivalent to that, Mr. Harrington?

20 A Substantially.

21 Q Substantially so. Did you know where Mrs. Caplan
22 was? A I knew she was in Chicago the last I heard of her

23 Q You were a lawyer connected with the case? A Yes,
24 sir.

25 Q Did you need any caution not to tell where Mrs. Caplan
26 was? A Not while the case was pending, while the

1 McNamara case was pending .

2 Q This was said while the case was pending, wasn't it?

3 A No, sir.

4 Q You are testifying for immunity, aren't you? A No,
5 sir .

6 Q You are testifying to get yourself out of a hole,
7 aren't you? A No, sir .

8 Q You went out there to Mr. parrow's house, ate his bread
9 and salt and slept in his house, didn't you? A Yes, sir .

10 Q Now, you go on the stand to supply the missing links,
11 don't you?

12 MR. FORD. We object to that as argumentative.

13 MR. FREDERICKS. Further, it assumes a fact not in evidence,
14 that there are any missing links .

15 MR. FORD. And not cross-examination .

16 THE COURT. Objection sustained.

17 MR. FORD. Q You went out to Mr. Darrow's house and lived
18 there quite a little time, didn't you? A Yes, sir, five
19 or six days .

20 Q Five or six days . Ate his food and slept in his bed?

21 MR. FORD. We object to that on the ground it has already
22 been answered.

23 MR. ROGERS. Two weeks, wasn't it?

24 THE COURT. Objection overruled.

25 A No, sir, it was not two weeks .

26 Q Well, it was along about that time? A No, sir.

1 Q When was it? A From Friday to the following Thurs-
2 day, is my recollection.

3 Q You accepted his hospitality? A Yes, sir.

4 MR. FREDERICKS. That is objected to, may it please the
5 court, as being immaterial and we ask that the answer be
6 stricken out first.

7 THE COURT. Strike out the answer for the purpose of the
8 objection.

9 MR. FREDERICKS. Whether he accepted his hospitality and
10 afterwards testified against him is not a matter that
11 counsel is entitled to inquire into on cross-examination.
12 There may be in his mind some ethical reason which would
13 justify a man in protecting another in the commission of
14 crime, if he had accepted some favor from the other, but
15 I do not think there is any provision in law that gives
16 him any right to assume that another would do it or
17 should do it.

18 THE COURT. I think counsel is entitled to it upon the
19 theory of searching his motives. Objection overruled.

20 MR. ROGERS. Q Answer it, please. A What is the ques-
21 tion, please.

22 MR. FREDERICKS. I suppose his answer can be restored,
23 he did answer it.

24 THE COURT. Yes, the answer is restored.

25 Q Do you know Fremont Older of San Francisco? A I do.

26 Q How long have you known Mr. Fremont Older of San Fran-
cisco?

1 A I met him for the first time, I think, about the last
2 week in July, or the last half of July.

3 Q Known him ever since? A Occasionally.

4 Q Ever have any conversations with him? A Yes sir.

5 Q Talk with him rather freely? A No sir.

6 Q Talk with him on the subject of the McNamara case?

7 A Somewhat.

8 Q Do you mean to say that Mr Darrow showed you a roll of
9 bills and told you that he was going to bribe witnesses
10 with it, or jurors with it? A He didn't use the word "bribe"
11 he used the word "reach".

12 Q Was there any reason why he should do that, take you
13 into his confidence? A No sir.

14 Q Nothing, except to enable you to testify to it in
15 case you were called on?

16 MR FORD: Objected to as argumentative, and not cross-
17 examination.

18 THE COURT: Objection sustained.

19 MR ROGERS: Any reason why he should tell you he was
20 going to reach jurors with a roll of bills that he showed
21 you except to enable you to testify?

22 MR FORD: Objected to on the same ground the preceding
23 question was objected to.

24 THE COURT: Objection overruled.

25 A I thought at the time there was.

26 MR ROGERS: What was it? A I didn't know but what he

1 might want me to do it. Feeling me out on it.

2 Q Did he suggest to you that you should do it? A No
3 sir, I put a damper on that, right away.

4 Q What did you say when you put a damper on it? A I
5 told him it would be foolish to attempt such a thing;
6 it would be his ruin.

7 Q And when was that, Mr Harrington? A Between the
8 20th and 30th of September, 1911.

9 Q Was any living human being ever present at any of
10 these conversations between you and Darrow?

11 MR FORD: Objected to as not the proper form of cross-
12 examination. Let him ask for each one. The question is
13 impertinent.

14 MR ROGERS: At any of them.

15 MR FREDERICKS: I suppose it refers to the ones he has tes-
16 tified to?

17 MR ROGERS: Yes.

18 MR FORD: It is only the form of the question that is ob-
19 jected to, not the matter, your Honor, and the tone and
20 language in this question.

21 THE COURT: This court is not going to spend any time on
22 the tone or language. Objection overruled.

23 A No sir.

24 MR ROGERS: Then, nobody ever heard Darrow say any of
25 these things to you that you testified to? A Not that I
26 know of.

1 Q It is just your word for it?

2 MR FORD: Objected to as irrelevant and immaterial, and
3 not cross-examination and argumentative.

4 THE COURT: Objection sustained.

5 MR ROGERS: Did you say you were a lawyer? A Yes sir.

6 Q You have been a lawyer how long? A Ten years.

7 Q You have been a corporation lawyer, haven't you?

8 A Yes sir.

9 Q A lawyer for the railroads of Chicago? A Yes sir,
10 one railroad.

11 Q One of the railroad companies in Chicago? A Yes sir.

12 Q What was your position with them? A Claims attorney.

13 Q You are an assistant in the office of the General
14 Counsel? A Yes sir, whenever they had a general council.

15 Q What railroad was that? A The Chicago City Railway
16 Company.

17 Q Do you know Franklin? A Yes sir.

18 Q How many times did you meet Franklin while you were out
19 here? A Probably two or three times during the whole
20 time he was employed there.

21 Q Is that all? A That is all.

22 Q Didn't you meet him pretty much every day? A I did
23 not.

24 Q Didn't you talk with Franklin very often? A I did
25 not.

26 Q Didn't Mr Franklin meet you in your office from time

1 to time? A Very, very seldom.

2 Q And you are sure of that? A I am. Had no business
3 relations whatsoever with Mr Franklin.

4 Q And you are sure of that? A Yes sir, absolutely.

5 Q Did you visit his office? A No sir, I was never
6 there in my life.

7 Q Did you meet anywhere else than in your office?

8 A Yes sir.

9 Q Where? A Mr Darrow and he and I went to Mt Lowe to-
10 gether.

11 Q Any other place? A I was at his house one night.

12 Q At Mr Franklin's house one night? A Yes sir.

13 Q Before you came into this case had you been attorney
14 for anybody else or anything else but the railroad com-
15 pany? A Yes sir.

16 Q For whom? A I have a private practice in Chicago;
17 at least, I did.

18 Q Did you ever have any private practice at all, except as
19 an attorney for the railroad company? A Yes sir.

20 Q Now, commence about the 1st of November, and tell
21 us your whereabouts, where you were and what you did. Not
22 so much what you did, but where you were? A November,
23 1911?

24 Q Yes. A I spent all my time in the office at the Hig-
25 gins Building.

26 Q You were nowhere else, so far as you know, except

1 incidentally outside occasionally? A I understand what
2 you mean. No sir.

3 Q And when Mr Franklin came up to meet Mr Darrow, did he
4 sometimes stop in your office? A Very, very seldom, if
5 at all. He always spent his --

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7s 1 Q And you fix that number as three times? A I say not
2 over three times.

3 Q All of the time you were there? A All the time that
4 I was there.

5 Q Was anybody present when you say Mr. Darrow told you
6 if Franklin talks I am gone, or something of that sort?

7 A No, sir, he called me into his office; there was no-
8 body there.

9 Q How long were you there? A Not over five minutes.

10 Q And when was it? A On the morning that Franklin was
11 arrested.

12 Q About what time? A In the forenoon, I would say
13 about 10 o'clock.

14 Q Well, now, then, why can't you fix the time? A I
15 can't fix it any closer than that.

16 Q Are you unwilling to fix it because you know we
17 know Mr. Darrow's whereabouts all the time? A No, sir, I
18 am not.

19 Q Well, then, do the best you can? A I am giving
20 you my best recollection of the time that that interview
21 took place.

22 Q Well, then, say whether it was 9, 10, 11, 12 or at
23 what time.

24 MR. FORD. Objected to on the ground the question has
25 been fully answered. The witness has answered several
26 times it was in the forenoon and about 10 o'clock was

1 his best recollection as to the time .

2 MR. ROGERS. We have Mr. Darrow's whereabouts.

3 MR. FREDERICKS. When you come to put Mr. Darrow on the stand
4 let him swear to what you want him to.

5 THE COURT. What is the question?

6 (Last question read by the reporter.)

7 THE COURT* Objection sustained.

8 MR. ROGERS. Q You can't give us any sort of time except
9 that it was in the forenoon.

10 MR. FORD. About 10 o'clock he answered. We object to the
11 question on the ground it has been fully answered.

12 MR. ROGERS. Counsel doesn't need to prompt the witness.

13 MR. FORD. It has been fully answered.

14 THE COURT. What is your objection?

15 MR. FORD. Object to it upon the ground the question has
16 been fully answered and the court just sustained a objec-
17 tion like it in the question before.

18 THE COURT. Objection overruled.

19 A I gave you my best recollection as to the time.

20 MR. ROGERS. What was that?

21 MR. FORD. Objected to on the ground the question has
22 been fully answered.

23 THE COURT. Overruled.

24 A About 10 o'clock.

25 MR. ROGERS. Q Before court time or after court time?

26 A I do not know what time court convened that day.

1 Q Did he come to your office or you to his? A He came
2 to me first, then I accompanied him into his office.

3 Q Did you go into his office by his request? A Yes,
4 sir.

5 Q What did he say to you? A At what time?

6 Q Oh, at the time I am talking about.

7 MR. FREDERICKS. Now, counsel is talking about two times,
8 when he requested him to come in or after he got in?

9 THE COURT. I think he ought to have that statement.

10 MR. ROGERS. Q At the time he came into your office and
11 requested you to go into his. A He said, "John, I
12 would like to see you in my office," or words to that
13 effect.

14 Q And you went in? A I did.

15 Q And then what did he say to you? A He said, "Franklin
16 has been arrested this morning."

17 Q Well? A I asked him what for and he said for jury
18 bribing. I then asked Darrow if he could get involved in
19 it in any way and he said, "Yes, My God, if Franklin speaks
20 I am ruined."

21 Q Is that all? A Substantially.

22 Q Is that what he took you into his office to tell you?

23 A I don't know.

24 Q Did he tell you anything else? A No.

25 Q What did you say? A I said nothing. After that he
26 went out.

1 Q And he called you into his office to tell you that,
2 did he? A I do not know.

3 Q Well, that is all he told you after he had called you
4 into his office? A yes.

5 Q Who was in your office when he came in? A There
6 was nobody there that I recall.

7 Q Then, why didn't he tell you, "My God, I am ruined,"
8 in your office, couldn't he have done it there just as
9 well as in his?

10 MR. FORD. We object to that as argumentative, calling
11 for a conclusion of the witness.

12 THE COURT. Objections sustained.

13 MR. ROGERS. Q Do you know why he did not tell you in
14 your office instead of his?

15 MR. FREDERICKS. The same objection, for the same reason.

16 THE COURT. Objection overruled.

17 A I do not know.

18 MR. ROGERS. Q Was there any reason observable by you
19 why he called you into his office to tell you he was
20 ruined? A I don't remember of any.

21 Q Where was his stenographer at that time? A She, if
22 I remember rightly, she was in her room, which was the
23 room between Mr. Darrow's and mine.

24 Q Did you pass through the office where she was? A yes.

25 Q Where was Mr. Harriman at that time? A I don't know.

26 Q Well, after he told you that he was ruined, did he go

1 out or did you go out? A He left first.

2 Q Whom did you ever tell that to first? A To Mr. Lawler.

3 Q Who? A (No response.)

4 MR. FORD Read the record.

5 BY MR. ROGERS. Q Oscar Lawler? A Yes, sir.

6 Q The United States District Attorney? A yes, sir.

7 Q When? A About the end of December.

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1 Q Where were you living then? A I had left Mr Dar-
2 row's house the day before, and I was down town.

3 Q Just left Mr Darrow's house the day before you went to
4 Mr Lawler's and told that to Mr La wler? A Yes sir.

5 Q Weren't you talking to Mr Lawyer while you were at
6 Darrow's house? A No sir.

7 Q Are you sure of that? A That is my best recollection.

8 Q Now, don't you know, as a matter of fact, you were talk
9 ing to Lawler all the time you w ere at Darrow's house?

10 A It is not a fact.

11 Q You came back here on a subpoena from the Federal
12 Court, didn't you? A I did.

13 Q How soon after you came here on that subpoena, did
14 you see Mr Lawler? A About 5 days after, 5 or 6 days.

15 Q How soon after you came back did you go to Mr Darrow's
16 house? A I went there the night I came back.

17 Q Didn't you stay there until Mr Darrow was ready to
18 move away, and go just because he was moving? A They
19 were about to move, but I didn't stay --

20 Q And you moved because they were about to move?

21 A That is right, but I didn't stay until the last day.

22 Q And you moved the same day that you went to Lawler?

23 A No sir. My recollection is I moved the day before. }

24 MR FREDERICKS: May it please the court, I am a little
25 in doubt as to which time is being referred to. It is
26 possible that the witness may have come back twice on a

1 Federal subpoena, and I am in doubt as to which time this
2 refers to.

3 THE COURT: The court will entertain a motion to strike it
4 out unless the time is fixed.

5 MR FREDERICKS: I do not wish to make a motion to strike
6 it out, but I wish to ask. MR APPEL: The question was when
7 and he fixed the time as being at the time Mr Darrow was
8 moving, and he said it was in the month of December.

9 MR FREDERICKS: He came back twice on a Federal subpoena,
10 I don't know which time he is talking about.

11 THE COURT: Did he say the month of December?

12 MR APPEL: Yes, so we got the time and the occasion.

13 MR FORD: Counsel had been asking him about two different
14 occasions that he talked to Mr Lawler, once in December
15 and once when he came back on a Federal subpoena, then, he
16 took him back to moving from the house, and I suppose that
17 is in December he is referring to.

18 MR DARROW: December, he is referring to.

19 MR FORD: If that shows in the record, he is referring
20 to the fact in December --

21 THE COURT: Yes.

22 MR FREDERICKS: If that is clear, all right; it was not
23 clear in my mind.

24 MR ROGERS: You were at Mr Darrow's house on Christmas,
25 weren't you? A Yes sir.

26 Q When did you get back?

1 MR FREDERICKS: Is this the first time or the second
2 time. A I came back twice on a Federal subpoena, I
3 was brought back from Albuquerque once, and from Chicago
4 once.

5 MR ROGERS: The first time.

6 MR FREDERICKS: That is the first time, he says. A The
7 first time.

8 MR FREDERICKS: All right.

9 MR ROGERS: When did you get back the first time? A My
10 recollection is it was the Friday before Christmas.

11 Q A long before Christmas? A The Friday, on Friday.

12 Q You went straight to Mr Darrow's house? A No, I went
13 straight to the office.

14 Q Mr Darrow's office? A Yes sir.

15 Q But you lived at Mr Darrow's house, didn't you?

16 A I did, yes sir.

17 Q Now, when was it you saw Mr Lawler? A If I remember
18 rightly it was the following Friday.

19 Q Are you sure of that? A That is my best recollection.

20 Q Didn't you report on your subpoena when you came?

21 A No sir.

22 Q Are you sure of that? A Yes sir, I found out --

23 Q When did your subpoena call for your attention?

24 A It was a forthwith subpoena.

25 Q Then when you came back why didn't you report forth-
26 with? A The grand jury had adjourned, and I didn't go

1 near Lawler until they reconvened again.

2 Q Now, the first person you told about this, telling
3 to you about this spirit of bravado and showing you this
4 money was Lawler? A Yes sir.

5 Q You say he said to you he got it out of Tveitmoe's
6 bank? A Yes sir.

7 Q How did you come to put that word "Tveitmoe's" in
8 there? Wasn't it because Lawler wanted to get Tveitmoe?

9 MR FORD: We object to that in the first place, on the
10 ground it is not proper cross-examination to ask how he
11 came to say it --

12 THE COURT: Objection sustained.

13 MR ROGERS: I do not have to assume he is telling the
14 truth, sir, I may assume he is putting words in for par-
15 ticular purposes.

16 MR FORD: Sure.

17 MR ROGERS: In cross-examination I may assume --

18 MR FREDERICKS: The objection is sustained. There is
19 nothing before the court.

20 MR ROGERS: I shall ask it again, then. Didn't you put
21 in that word "Tveitmoe" to please Mr Lawler?

22 MR FREDERICKS: The same objection, for the same reason.

23 THE COURT: Objection overruled. A No sir. ✓

24 MR ROGERS: Is there any reason on the face of the earth
25 why Mr Darrow should show you \$10,000 and tell you he was
26 going to bribe jurors? A I know of no reason except what

1 I have already said.

2 Q That is, a spirit of buffoonery? A No, that he was
3 trying to feel me out to see how I would stand for it.

4 Q That is what you say now, and a while ago, you said it
5 was bravado, or buffoonery, didn't you?

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1 MR. FREDERICKS. He said that same thing a while ago.

2 MR. ROGERS. No, he did not.

3 MR. FREDERICKS. I will bet you he did and it is in the
4 record.

5 MR. FORD. I object to it on the ground it is argumentative
6 and already answered.

7 THE COURT. The record will support you both. The objec-
8 tion is it is already ^{asked} / answered and I think that objection
9 is well taken.

10 BY MR. ROGERS. Q Now, how did he come to talk to you
11 about Mrs. Caplan? Did you know anything about Mrs. Caplan's
12 whereabouts?

13 MR. FREDERICKS. We object to that as a double question.
14 Two questions in one.

15 THE COURT. Overruled.

16 A I knew nothing definitely about her whereabouts at that
17 time.

18 Q Why was he talking to you about Mrs. Caplan's where-
19 abouts if you didn't know anything about them? A I was
20 talking to him about it and we were talking about Caplan
21 and Schmidt at the time.

22 Q Why didn't you give the whole conversation when you are
23 asked for it then?

24 MR. FORD. We object to that as not being proper cross-
25 examination. He was not asked for the whole of it. He
26 responded to the question as it was asked. If they want it

1 they can get the whole of it.

2 MR. ROGERS. Is counsel trying to conceal something?

3 THE COURT. Objection overruled.

4 MR. FORD. We thought it was not pertinent.

5 MR. FREDERICKS. No, we thought we would let you bring it
6 out.

7 THE COURT. Answer the question.

8 A What is the question?

9 (Question read.)

10 A I thought to be responsive.

11 Q Then you knew you were asked for just a little of the
12 conversation?

13 MR. FORD. We object to that as not cross-examination,
14 irrelevant and immaterial. The witness has answered
15 properly, he should respond, and it is up to us; if we
16 didn't ask for the whole of the conversation it is
17 because we didn't consider the whole of it pertinent.
18 We simply ask the questions to bring out what we desire to
19 put before this jury. Now, we make no objection to
20 counsel getting out the whole of it, that is what the
21 purpose of cross-examination is to get at it and we do not
22 object to that.

23 THE COURT. Objection overruled.

24 MR. APPEL. We do not ask for permission on the part of
25 counsel. If he wants to take the stand as a witness--

26 A What is the question?

1 (Question read.)

2 THE COURT. Answer the question.

3 A I answered what I thought they wanted to know by the
4 question.

5 Q Mr. Harrington, when you first came out here what time
6 did you arrive? A I arrived on Sunday night about 8 o'clock,
7 my recollection is that it was the 25th of June.

8 Q Did you come alone? A Yes, sir.

9 Q Was your office provided for you already? A No, sir.

10 Q How soon after you came here did you get your office?

11 A The room was at my disposal when I came here but it
12 was not furnished for two or three weeks.

13 Q Did you procure the furnishings of your office? A Not
14 altogether; I was present when they were picked out.

15 Q Did you cause cards to be printed? A Yes, sir.

16 Q John R. Harrington, Attorney at law? A Yes, sir.

17 Q Did you expect to enter the general practice of law?

18 A No, sir.

19 Q What was your object in having your cards printed,
20 "John R. Harrington, Attorney at law?" A So the investi-
21 gators could give a card to any witness that they wished
22 to send into the office that I would like to see and when
23 they came to the suite they would know who to ask for.

24 Q Did you spread those cards out generally? A No, sir.

25 Q To whom did you give those cards? A To the investiga-
26 tors that were working for me at the time.

1 Q And who were they? A First there was Mr. Belcher
2 and Mr. Collier and Mr. Sullivan, and later on Mr. Hammerstrom
3 and later on came--Mr. Cooney came next and later on Fitz-
4 patrick.

5 Q Now, Mr. Cooney and Mr. Fitzpatrick worked for you a
6 part of the time; what other name, Sullivan? A Sullivan.

7 Q Had you ever lived down at Ocean Park? A Yes, sir.

8 Q Where have you lived at Ocean Park? A At the--I think
9 the number is 309 Ocean Front.

10 Q Have you ever lived at Larry Sullivan's place? A No,
11 sir.

12 Q Have you met Larry Sullivan down there? A Yes, sir.

13 Q Associated with him? A No, sir.

14 Q You have not associated with him? A I said so.

15 Q Have you lived down there with Cooney? A We roomed
16 in the same house, but not together.

17 Q With Fitzpatrick? A He lives in the same house.

18 Q With Behm? A No, sir.

19 Q How close to you did Behm room? A He lives on Rose
20 avenue, No. 24, that is about a block from where I do.

21 Q Do you meet occasionally? A Yes, sir.

22 Q Did you see Cooney from time to time? A Yes, sir.

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1 Q Before he went on the stand?

2 Q Did you see Fitzpatrick from time to time before he
3 went on the stand? A Yes sir.

4 Q Did you see Behm from time to time before he went on
5 the stand? A Yes sir.

6 Q Did you see Cullivan from time to time? A I hadn't
7 seen Sullivan until, I think it was last Friday night, I
8 hadn't seen him for probably three or four months prior to
9 that time.

10 Q Do you and Cooney belong to any association to-
11 gether? A We belong to one society, yes sir.

12 Q Do you belong to any association with Fitzpatrick?

13 A I think he belongs to the same society.

14 Q Have you met in that society from time to time?

15 A Never met there. We belong to different Parishes al-
16 together, in Chicago.

17 Q Who brought Cooney here? A He was employed by Mr
18 Darrow at my request.

19 Q Who brought Fitzpatrick here? A The same answer will
20 apply to him.

21 Q That is, Darrow brought him at your request?

22 A No sir, employed him at my request.

23 Q Employed him at your request? A Yes sir.

24 Q You knew that Cooney had been a witness here? A Yes
25 sir.

26 Q You knew that Fitzpatrick had been a witness here?

1 A Yes sir.

2 Q Cooney ever work with you in the East? A Yes sir,
3 worked for me.

4 Q Fitzpatrick ever work for you in the East? A No sir.

5 Q But Cooney had? A Yes sir.

6 Q You spoke of meeting Mr Tveitmoe and Mr Johanneson
7 at San Francisco? A Yes sir.

8 Q Was that your first acquaintance with them? A No sir.

9 Q Where did you first know them? A I saw Mr Tveitmoe in
10 Chicago, but I had no conversation with him.

11 Q I am speaking of your acquaintance with him. A I met
12 him here in San Francisco about the week between the 15th and
13 22nd of July, 1911.

14 Q Where? A In his office in San Francisco.

15 Q Did you go there yourself? A I did.

16 Q Did you meet him with anybody? A Yes sir.

17 Q Did you ever go to San Jose? A Yes sir.

18 Q With anybody? A Yes sir.

19 Q With whom? A Went with Mr Tveitmoe and Mr Gompers,
20 I think these were the only two I went down with, and Mr
21 Gompers' secretary.

22 Q At whose invitation or suggestion did you go to San
23 Jose? A Mr Tveitmoe's.

24 Q How long did you remain at San Jose? A Went down in
25 the morning and I came back that same night.

26 Q Did you come back with anyone? A No sir.

1 Q Alone? A Alone.

2 Q Where were Mr Tveitmoe and Mr Johannsen? A Mr
3 Johannsen was not there.

4 Q Mr Johannsen was not there? A No.

5 Q Do you know Walter Mathhewson? A Yes sir, I think
6 that is the gentleman's name, if you refer to the gentle-
7 man in San Jose.

8 Q Did you meet him there? A Yes sir.

9 Q And left him at San Jose? A Yes sir.

10 Q Did you meet Mr Tveitmoe at San Francisco after the
11 San Jose trip? A I think so, yes sir. X

12 Q How many times? A Oh, two or three times, I don't
13 recall the number exactly.

14 Q Where? A In his office.

15 Q Anywhere but his office? A At his house one time.

16 Q At his house? A Yes sir.

17 Q At whose invitation? A Mr Tveitmoe's.

18 Q Were you his guest on that occasion? A No sir.

19 Q How did you come to go? A He asked me to go.

20 Q Well, if you were invited to go and went to his house,
21 didn't you consider yourself his guest? A In that sense
22 of the word, yes. I think --

23 Q Take dinner or something of that sort?

24 MR FORD: Let the witness explain his answer.

25 A That explains it.

26 MR ROGERS: How long did you stay? A Probably half an

1 hour.

2 Q Did you see Mr Johannsen at his house? A No sir.

3 Q Where did you meet Mr Older at San Francisco? A In
4 his office.

5 Q Did you go there of your own accord or by invitation?

6 A I went there by my own accord, I think, the first time,
7 and then Mr Older invited me back again.

8 Q Then you saw him more than the once? A Yes sir.

9 Q How many times in all? A Probably three or four
10 times.

11 Q Anyone with you when you went to see Mr Older? A Yes
12 sir.

13 Q Who was with you? A My recollection is that Mr Hammer-
14 strom was there on one occasion.

15 Q On any other occasion? A Mr Darrow and I went to the
16 office one night, to Older's office, but we didn't meet
17 Mr Older there.

18 Q I am speaking of the times, of course, when you met
19 him. A Yes. I have no recollection of going there with
20 anybody else.

21 Q And you went with Mr Hammerstrom but once? A That is
22 my recollection.

23 Q And by yourself more than once? A I don't recall that
24 I went there more than once.

25 Q Have you any recollection of the date? A No sir.

26 THE COURT: Gentlemen of the jury, remembering the admoni-
tion, we will take a recess for ten minutes.

lp 1 (After recess. Jury returned to court room.)
2

3 JOHN R. HARRINGTON,

4 on the stand for further examination:

5 THE COURT. Proceed whenever you are ready, gentlemen,

6 MR. ROGERS. Q Do you remember Mr. Older being in Los
7 Angeles a day or two before the McNamaras pleaded guilty?

8 A I cannot fix the date, whether it was prior to their
9 pleading guilty.

10 Q Well, do you remember it was very shortly before?

11 A I do not.

12 Q Do you remember that it was a long time before?

13 A I do not.

14 Q Do you remember that it was a short time before?

15 A I do not.

16 Q Do you remember anything about the time that it was?

17 A I remember the occasion, but I cannot fix the time.

18 Q Well, supposing that it is asserted to you that it
19 was about two days before the McNamaras entered their plea
20 of guilty, would you deny that? A No, sir.

21 Q Does that impress you as being approximately the correct
22 time? A No, sir.

23 Q Does it impress you as being the incorrect time? A No,
24 sir.

25 Q Then you don't remember anything about it? A Nothing
26 definite; no, sir.

1 Q You would not deny that it was two days before? A No,
2 sir. A day before Thanksgiving?

3 Q About two days before the McNamaras pleaded guilty.

4 MR. FREDERICKS. That would be the day before Thanksgiving.

5 A No, sir, I do not remember it.

6 MR. ROGERS. Q Well, would it impress you say about two
7 days before Franklin's arrest? A No, sir.

8 Q Would you say it was more than that? A I cannot asso-
9 ciate it with anything, Mr. Rogers.

10 Q You cannot give us any idea of when it was? A No, sir.

11 Q Would you go so far as to say it was in the year 1911?

12 A Oh, yes.

13 Q Would you say it was in the latter part of the year?

14 A I presume it was. I cannot fix the time, I have nothing
15 to fix it by.

16 Q Would you say it was a short time before the case
17 closed?

18 MR. FORD. Now, if the court please, if counsel are seeking
19 an impeaching question, they can lay the foundation them-
20 selves, the time, place and persons present and ask him
21 if he didn't have a conversation at that time and such a
22 place and such persons present, all in one question.

23 THE COURT. Apparently they want to have the witness fix
24 the time if he can and they have that right.

25 MR. ROGERS. Yes. His recollection of circumstances seems
26 to be good in some things and I think it ought to be good

1 in others .

2 MR. FREDERICKS • It seems to have been pretty good ^{so} far
3 on cross-examination .

4 MR. ROGERS • Let us see. Q Would it have been in
5 November? A I have nothing to fix the time by at all.

6 Q Can you fix it any closer than you can the time you
7 say you saw the money out at Darrow's house? A That
8 made an indelible impression on my mind, the seeing him
9 have the money and his declaration that he was going to
10 use it to reach jurors.

11 Q If it is so indelible perhaps you can tell us what time
12 that was.

13 A That was between the 20th and 30th of September.

14 Q And was that before Older was down here? A I do not
15 associate Older's visit with anything.

16 Q Was that before Older was down here? A I do not recall.
17 I gave you that date but I do not recall when Mr. Older was
18 here.

19 Q Was it before or after Older was down here? A I cannot
20 recall.

21 Q Wouldn't you even go so far as to say that the time
22 Older was here was after the time you say you saw the money
23 out at the house of Mr. Darrow? A I think I would be safe
24 in saying that, but as I told you before, I have nothing
25 to associate it by at all, or associate it with.

26 Q What is the reason you won't fix it? A I am unable to

1 do so.

2 Q Isn't it because you are afraid to? A It is not.

3 Q Then I will put the question to you: Now, about two
4 or three days before the plea of guilty was entered, did
5 you not see Mr. Older at the office of the defense of the
6 McNamaras in the Higgins Building; at that time did not
7 Mr. Older ask you how you came out in your contempt case
8 and didn't you say then to him that the case had been dis-
9 missed, or words to that effect; then did you not say
10 the prosecution was only trying to find out the ~~evi~~ evidence
11 for the defense in the McNamara case, did you not fur-
12 ther say there never had been any bribery of any sort,
13 any illegal practices in connection with the case and
14 that you had been instructed by Mr. Darrow and cautioned
15 that everything in connection with the McNamara case must
16 be done according to law and that you had carried out
17 Mr. Darrow's instructions in every particular and that there
18 had been no bribery or corruption of any sort connected with
19 the case?

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1 That being said to Mr Older, the editor of the San Francisco
2 Bulletin, you and he being present and conversing together,
3 others possibly being in hearing, but you and he talking
4 together?

5 MR FREDERICKS: We object to that question on the ground
6 that the persons are not sufficiently stated, if there were
7 any others within the knowledge of counsel, or within his
8 claims, present, we maintain they should be specified
9 in order that it may assist the witness in fixing the
10 time and place.

11 MR FORD: We are entitled to know who the witnesses were
12 as well as the witness, your Honor.

13 MR ROGERS: I say, Mr Older and he being in the conversa-
14 tion; I am unable to say who else, perhaps heard it, but
15 he and Older being in the conversation. That will bring
16 it to his recollection.

17 THE COURT: I think that cures any defects.

18 MR FREDERICKS: Yes, I think so, your Honor; if it does
19 recall it to his recollection.

20 THE COURT: There is no objection now, I think.

21 MR FREDERICKS: No objection now.

22 A No sir, I did not.

23 MR ROGERS: Or anything to that effect or purpose or in
24 substance to that effect? A No sir.

25 Q Or any part of it? A No sir.

26 Q You know Mr Older, do you? A Yes sir.

1 Q You were arrested once in San Francisco, weren't you?

2 A Yes sir.

3 Q What was the time of that; maybe you can remember that?

4 A On the 19th of September.

5 Q How do you remember that date? That is indelibly
6 fixed in your recollection? A Because I was put in jail.

7 Q And when you were put in jail, did you seek Mr Older's
8 aid in getting you bail? A No sir.

9 Q Did you talk with Mr Older at the time you were put in
10 jail and had it indelibly fixed on your recollection?

11 A Yes sir, I remember meeting Mr Older at the jail.

12 Q Who was present? A Johannsen was there. He got Older
13 to go on my bond.

14 Q Johannsen was there? A Yes sir.

15 Q Did you have a talk with Mr Older on that occasion?

16 A Yes sir.

17 Q Do you remember where that conversation was? A It
18 was on the way from the jail to his office, and in his of-
19 fice for a minute or two.

20 Q On the way from the jail to Mr Older's office, that
21 is the editor of the San Francisco Bulletin, part of the
22 conversation being on the way and part in the office, do
23 you remember saying to -- that Mr Older asked you whether
24 there had been any bribery or corrupt practices in refer-
25 ence to witnesses, or any other matter connected with the
26 case, and you thereupon replied that all the prosecution

1 was trying to do was to put one of the attorneys for the
2 defendant on the stand in order to find out what they
3 could about the evidence for the defense in the McNamara
4 case. That Mr Darrow had instructed you especially and
5 everyone connected with the case, that there should be
6 no violation of the law in any way, either in the prepara-
7 tion or conduct of the case, and that you knew of no brib-
8 ery or other corrupt practices in the conduct of the case,
9 and did not believe it was possible there was any, and you
10 did not know of any intention on the part of any person in
11 that behalf, or words to that effect or substance or any
12 part of it?

13 ✓ MR FREDERICKS: Is that time fixed as the 19th of Sept-
14 ember?

15 MR ROGERS: Thereabouts? A No sir, there was no such
16 conversation took place there.

17 Q Did you talk to Mr Older about the subject at all?

18 A In a general way, not about that subject. I did about
19 my arrest, contempt proceedings against me.

20 Q Did you tell him of anything in the matter of which
21 you were arrested? A I told him there was nothing in it.

22 Q I beg your pardon? A Read the answer.

23 (Last answer read by the reporter.)

24 Q What were you arrested for? A Contempt proceedings,
25 not answering questions.

26 Q On what? A Not answering questions before the grand

1 jury.

2 Q What grand jury? A County.

3 Q What county? A Los Angeles.

4 Q And where were you arrested? A In San Francisco.

5 Q You told him there was nothing in it? A Yes sir.

6 Q Do you know Frank Wolf? A Yes sir.

7 Q How long have you known him? A Since I came to Los
8 Angeles.

9 Q Do you know what his business is? A Newspaper man.

10 Q Do you know he used to manage -- was managing editor
11 of the Herald, the Los Angeles Herald? A No sir.

12 Q You didn't know that? A No sir.

13 Q Did you know where his office was since you came to
14 Los Angeles? A Part of the time it was in the Higgins
15 Building, on the same floor we were on.

16 Q And approximately the same floor, the same place that
17 you were? A Approximately across from my office.

18 Q Did you see him occasionally? A Occasionally, yes.

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13s 1 Q Know him pretty well? A No, sir.

2 Q Ever go to San Francisco with him? A Yes, sir.

3 Q When was that you went to San Francisco with him?

4 A I do not recall the trip. I remember he went up there
5 one time and I was on the same train.

6 Q Was it June, July, August, September, or when? A It
7 was not July. I will fix it in September, I think.

8 Q The latter part or fore part of September? A If it is
9 the trip I think it is, I think it was about the middle
10 of September.

11 Q Did you make more than one trip?

12 MR. FREDERICKS. To San Francisco.

13 MR. ROGERS. Q With Mr. Wolf? A No, sir.

14 Q So there was but one trip and you think that was about
15 the middle of September? A About the 12th of September }
16 if this is the trip I have in mind.

17 Q Did you talk with Wolf going up? A Yes, sir.

18 Q Talk about Darrow? A No, sir.

19 Q Talk about the case? A I do not remember that we did.

20 Q On the trip up there did you tell Mr. Wolf that Darrow
21 was very particular that everything should be done on the
22 square with reference to the case or words to that effect
23 or substance? A No, sir.

24 Q Or anything of that kind? A No, sir.

25 Q Now, you saw Wolf from time to time thereafter up in
26 the building, didn't you? A Yes, sir.

1 Q And talked with him from time to time? A Very
2 seldom.

3 Q Did you see him soon after Franklin's arrest? A No,
4 sir.

5 Q Didn't talk to him? A I don't remember talking to
6 Wolf after Franklin's arrest.

7 Q I am not mentioning the day. A I know what you refer to.

8 Q But approximately? A No, sir.

9 Q Didn't have any talk with him at any time close to
10 Franklin's arrest? A I might have, passing the time of
11 day with him, something like that. We met in the hall
12 once in a while. His office was across the hall from
13 mine. I had no business relations with him, we didn't
14 meet often.

15 Q Now, very ^{shortly} after you say, within a few days after
16 the arrest of Franklin did you and Mr. Wolf have a talk at
17 the offices of the defense or your offices or in the
18 Higgins Building or in the hall, meet in front thereof, in
19 which you told Wolf that it was all nonsense to talk of
20 Darrow's being connected in any way with the bribery of
21 Lockwood; that you had known Darrow too
22 long and been too intimately connected with him and that
23 you had never seen the slightest sign of any crooked prac-
24 tice or any bribery around the office and that you knew
25 Darrow could not have known anything about it, or words
26 to that effect, or substance or purport? A No, sir.

1 Q Nothing like it or any part of it? A No, sir, that
2 is absolutely untrue.

3 Q You know the Wolf I mean, do you? A I do, I think it
4 is that gentleman that had a newspaper office at 925,
5 if I remember the number correctly.

6 Q You saw him about that time from time to time, did you?

7 A I wont say about that time. I saw him around a good
8 deal.

9 Q You know Belding? A Yes, sir.

10 Q W. P. Belding? A Yes, sir.

11 Q How long have you known him? A A few months prior to
12 the termination of that case, the McNamara case.

13 Q When did you first become acquainted with him? A I
14 couldn't tell you. It was within a few months, probably
15 early October; might fix it about October.

16 Q About October? A Yes; I do not remember the time he
17 showed up around the offices.

18 Q How often did you meet him? A Very very frequently.

19 Q Very frequently; and had frequent talks with him?

20 A I wouldn't say that.

21 Q Well, had occasional talks with him? A Had occasion-
22 al talks with him.

23 Q Well, you saw him around the offices of the defense on
24 occasion? A Yes, sir.

25 Q You know the man I mean, at any rate? A I think so.

26 Q Now, a day or two or three after Franklin's arrest, that

1 is, within a few days after Franklin's arrest, did you talk
2 with Mr. Belding about the matter? A I do not recall any
3 particular talk. It was general talk around the office.
4

5 Q You remember talking with Belding about it? A I spoke
6 to Belding about a good many things. I might have incident-
7 ally spoken to him about what you refer to.

8 Q You may have. Do you say you did or did not? A I don't
9 know.

10 Q You are neither denying or affirming? A No, sir.

11 Q Then I will ask you if you didn't tell this to Belding
12 at the office within a very short time after Franklin's
13 arrest?

14 MR. FREDERICKS. Whose presence?

15 MR. ROGERS. You and Mr. Belding being present.

16 MR. FORD. Alone?

17 MR. ROGERS. That is enough to fix the conversation.

18 MR. FORD. We are entitled to know it, your Honor.

19 MR. FREDERICKS. Save us making an objection. Of course,
20 that is irregular we should ask counsel to do that.

21 MR. FORD. We want to guard against any manufacturing of
22 witnesses too, you know.

23 MR. ROGERS. Manufacturing too is a very good word.

24 MR. FORD. We want to guard against it.

25 MR. ROGERS. Manufacturing too means manufacturing also.
26 I don't object to that.

1 MR. FORD. We also wish to guard against manufactured testi-
2 mony .

3 MR. ROGERS. Is that an admission?
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1 MR FORD: Oh, don't get childish.

2 MR ROGERS: At that time did you say to Belding that a man
3 was a fool who would think that Darrow would have anything
4 to do with bribing a juror or anybody else, and that you
5 knew Darrow had nothing to do with it? A I did not.

6 Q Or words to that effect? A No sir.

7 Q Or in substance or purport that? A No.

8 Q Or anything like it? A No sir.

9 Q At any time or place? A No sir.

10 Q If I -- Have I got the time or place wrong? A No sir.

11 Q Now, a few weeks before that, while Belding was work-
12 ing in the matter of gathering evidence, did you say this
13 to Belding --

14 MR FORD: What place and persons present?

15 MR ROGERS: At the office of the witness, John R. Harring-
16 ton, you and he being present, did you say to Belding - -

17 MR FORD: Two weeks before?

18 MR ROGERS: A few weeks before; I cannot give the exact
19 time. That he, Belding, was not to get anyone to testify
20 anything except the truth, that the boss would not stand
21 for any such thing, namely, Darrow, meaning Mr Darrow?

22 A No sir.

23 Q Or any words to that effect or purport? A No sir.

24 Belding was not collecting evidence there in my department
25 at all.

26 Q Or anything like it? A No sir. Belding was a powder

1 expert and had nothing to do with the collection of evidence
2 outside of his own line, and I had nothing to do with that.

3 Q Do you know Mr Dias of the Tribune? A No sir.

4 Q Do you know a reporter for the tribune, rather small
5 man, dark, who works on the Tribune? A I don,t know him
6 by name and not by description.

7 Q Do you remember a man who talked to you -- do you
8 remember the circumstance that the Tribune of this city had
9 published a statement that you had returned from Chicago
10 sometime during the month of March, and that you were going
11 to testify in the Federal grand jury against Mr Darrow. Do
12 you remember the circumstance? A I returned from Chicago
13 in February. I don't remember the conversation that you
14 refer to.

15 Q Call it February, then. We won't quarrel about the
16 month. Sometime during the month of February, do you rem-
17 ember Mr Dias, a reporter for the Tribune, coming to you
18 and asking you about that matter? A No sir.

19 Q Do you remember any such circumstance at all? A I do
20 not recall it from your description of it.

21 Q Do you remember saying, when Mr Dias -- do you remember
22 Mr Dias asking you whether the story you were going to
23 testify against Mr Darrow was true or not? A I was not
24 asked such a question by anybody.

25 Q And you remember saying to Mr Dias that you were not,
26 that you knew nothing to testify to, that you had no knowl-

1 edge of any bribery or corruption in the case, and no infor-
2 mation of any kind against Mr Darrow that you could give
3 if you wanted to? A That is not quite true. I used
4 the word "jury bribing". I remember such a conversation
5 that I had no knowl edge of any jury bribing.

6 Q Now, what was it you said? A That I had no knowl-
7 edge of any jury bribing in connection with the McNamara
8 case.

9 Q Now, does the conversation come back to you?

10 A Not specifically.

11 Q Not specifically? A N^o sir.

12 Q Then, how is it that you remember so particularly
13 the use of the words "Jury bribing"? A I remember that
14 there was some reporter spoke to me, but I don't connect
15 it with Mr Dias because I don't know the man.

16 Q Didn't you tell him you didn't have any information
17 against Mr Darrow that you could give, or suspicion that
18 you could give if you wanted to? A As regards the jury
19 bribing, that is true, and it is true now.

20 Q Did you say as regards jury bribing? A Yes sir, up
21 to the time that Mr Darrow admitted it to me.

22 Q Was that after the alleged time that you alleged that
23 you saw the alleged roll of bills out at the house? A Why
24 yes.

25 Q Wasn't that after the time that you say that Darrow
26 told you in the office, "My God, if Franklin talks, I am

1 ruined." A Yes sir.

2 Q Then, why do you say then, that you didn't have
3 any information about any jury bribing? A Because I had
4 no personal information about any jury bribing.

5 Q Is that what you mean? A Yes sir.

6 Q Is that your explanation for it? A That is my expla-
7 nation for it, and that was what was in my mind.

8 Q Did you know that was competent evidence for the grand
9 jury? A What?

10 Q Those statements that you made that you have made here,
11 if they are true?

12 MR FORD: Object to the question; that is, the last addi-
13 tion, "if they are true", as not proper question.

14 THE COURT: Overruled.

15 A I didn't understand your question.

16 MR ROGERS: Mr Harrington, you stated you told Mr Dias
17 that you had no information or suspicion about any jury
18 bribing. You say that was after Mr Darrow had told you
19 that if Franklin says anything, he was ruined, and after
20 he had shown you a roll of bills out at his house? Now,
21 what was true?

22 MR FREDERICKS: Now, the witness has not said he had no
23 suspicion.

24 MR ROGERS: yes, he did.

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1 MR. FORD. He said he had no knowledge of jury bribing.

2 MR. FREDERICKS. He said he had no personal knowledge.

3 MR. DARROW. Let's have the reporter read it.

4 (Testimony read by the reporter.)

5 MR. FREDERICKS. That was in the question of counsel.

6 MR. ROGERS. As regards jury bribing there you answer you
7 didn't have any information or suspicion concerning jury
8 bribing, is that true, or was it not?

9 A Up to the time of Franklin's arrest it was absolutely true

10 Q But this was after Franklin's arrest that you told Dias?

11 A I did not say--

12 Q Was it true what you told Dias or not? A I don't know
13 Mr. Dias.

14 Q Was it true what you told this reporter for the Tribune,
15 or not? A I don't know the reporter for the Tribune.

16 Q Was it true what you told this reporter, whether for the
17 Tribune or not, or was it a lie? A It was not a lie,
18 whatever conversation I had I told him, I told the truth.

19 Q Then when you said you had no suspicion or information
20 of any jury bribing you told the truth? A Up to the time
21 of Franklin's arrest.

22 Q This was after Franklin's arrest along in February.

23 A Yes, but I was fixing the time of my knowledge up to
24 Franklin's arrest.

25 Q You told him in February? A Yes, and I related that
26 up to the time of Franklin's arrest, during the pendency
of the trial.

1 Q Did you say, "I never had any up until Franklin's ar-
2 rest," when you were talking to this reporter? A I do
3 not remember .

4 Q What is the matter, can't you recall?

5 MR. FREDERICKS. I object to that, he had no suspicion of
6 it then--

7 MR. ROGERS. Q You were talking then about giving testimony
8 before the grand jury? A I was not.

9 Q Weren't you talking over in the corridor of the Federal
10 Building? A I was not.

11 Q You were not talking in the corridor of the Federal
12 Building? A No, sir, I was trying to avoid these men,
13 not to talk to them at all.

14 Q Did you know Mr. Boram of the Record at that time? A I
15 cannot recall him by name .

16 Q He is a rather youngish man with light hair, somewhat
17 small. A I may know him if I saw him, I cannot recall
18 him by name or description.

19 Q He does not chance to be here, but I will bring him in
20 for your enlightenment tomorrow morning. Did you tell
21 Mr. Boram, while you were waiting over there before the
22 grand jury that you knew absolutely nothing against Mr.
23 Darrow and could not tell anything against him of any kind,
24 that you knew of no corruption or bribery of any sort, or
25 words to that effect? A No, sir, I did not.

26 Q In the corridor of the Federal Building while waiting

1 to be called before the grand jury. A No, sir, I did not.

2 Q I will put it to you in this way: Did you tell Mr.
3 Boram, in February, while you were in the office of the United
4 States District Attorney waiting to be called before the
5 grand jury, in February or the early part of March, when
6 Mr. Boram asked you if you were going to testify against
7 Darrow, "It will be impossible for me to testify against
8 Darrow as I know nothing corrupt about his connection with
9 the case and all I could testify to would be minor details
10 of no importance whatever", or words to that effect?

11 A No, sir; absolutely not.

12 Q Now, coming back to the time you say at that time in
13 March, or late in February, you say you referred to jury
14 bribing, you said you knew nothing about any jury bribing?

15 A During the pendency of the trial.

16 Q Did you say, "During the pendency of the trial" to this
17 reporter you were talking to? A Up to Franklin's arrest.

18 Q Did you say so? A Yes, sir.

19 Q Did you say that, "I knew nothing about any jury bribing
20 during the pendency of the trial" to this reporter?

21 A No, sir, I mentioned it that I fixed it up to Franklin's
22 arrest.

23 Q Did you say so? A Yes, sir.

24 Q To the reporter? A That is my recollection.

25 Q Will you swear to it? A I am under oath.

26 Q Will you swear that you said it.?

1 MR. FORD. Just a moment--the witness has more knowledge
2 of law than counsel. We object to the question on the
3 ground that all the testimony that is given is under oath.

4 MR. ROGERS. You can shake all the prosecution and you won't
5 get a knowledge of law. Will you swear to that?

6 THE COURT. Objection sustained.

7 A I object to that insult also, your Honor.

8 THE COURT. The objection of the witness and counsel are both
9 sustained.

10 Q Do you say you said that to the reporter, that you had
11 no knowledge of it until Franklin's arrest, or words to
12 that effect?

13 MR. FORD. We object to that question as already answered,
14 and we object to it on that ground.

15 MR. ROGERS. It has not.

16 MR. FORD. Read the record.

17 THE COURT. Objection overruled.

18 A I always said I had no knowledge of jury bribing up
19 to the time of Franklin's arrest.

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1 MR ROGERS: I move to strike out the answer. I want an
2 answer to my question.

3 THE COURT: Read the question.

4 (Question read.)

5 A I might have.

6 MR ROGERS: You might have. Did you? A I probably
7 did.

8 Q Did you? A I probably did.

9 Q Will you say that you did? A I say, I probably did.

10 Q Well, if Darrow had shown you the money in September,
11 before, and then in November had told you that if Frank-
12 lin said anything he was ruined, did you then tell the
13 truth, or did you tell a falsehood? A I remember the time
14 that Darrow showed me the money and also his promise that
15 he would not bribe the jury, and then I remembered the
16 morning Franklin was arrested where he told me he would
17 be involved in this if Franklin --

18 MR ROGERS: We object to that -- move to strike it out.
19 Anybody who knows anything about law knows that is not
20 an answer, and I would like to have it stricken out as not
21 being an answer to the question.

22 MR FORD: counsel has asked the question calling for an
23 explanation as to what the witness' understanding is and
24 he is giving it to him, and he is shutting him off.

25 THE COURT: Mr Ford, the court does not require any assist-
26 ance. The only way we can proceed orderly at all here is

1 to let the witness have a clear field to make the answer as
2 he sees fit, and if it is wrong, it will be stricken
3 out.

4 MR ROGERS: I move to strike it out, and would like to have
5 an answer.

6 THE COURT: Read the question, not the answer, just the
7 question.

8 (Question read.)

9 A I don't know what you refer to.

10 THE COURT: Strike out the answer.

11 MR FORD: I think the question ought to be stricken out
12 also, as argumentative.

13 THE COURT: Let the witness answer the question if he can.

14 A I told the truth as regards Darrow showing me the
15 money, and I also told the truth as regards Darrow's ad-
16 mission to me the morning Franklin was arrested; I also
17 told the truth when I said I knew nothing about jury brib-
18 ing prior to that time, up to the time of Franklin's
19 arrest.

20 MR ROGERS: And you told the truth when you told the re-
21 porter these things? A I certainly told the truth in what-
22 ever I said to them.

23 Q Whether you said it or not. A I said, what I said
24 to them.

25 Q Do you know Judge McNutt? A Yes sir.

26 Q Did you see Judge McNutt after Franklin's arrest?

1 A No sir -- I saw him, yes sir.

2 Q Did you talk to him? A No sir. I presume you mean --

3 Q On the afternoon of the day of Franklin's arrest, did
4 you talk to Judge McNutt? A I do not recall.

5 Q What? A I do not recall.

6 Q On the afternoon of Franklin's arrest, did Judge
7 McNutt see you in your office in the Higgins Building,
8 and ask you whether you had any knowledge or information
9 or suspicion that there was anything corrupt in connection
10 with the jury, or any other matter in the McNamara case,
11 or that any bribery had been used in any way, and did you
12 not then reply to Judge McNutt that you had no more sus-
13 picion or knowledge of such a thing than one of the dead?

14 ^{answer}
Now, ~~is that~~, that? A No sir, I did not.

15 Q You know Judge McNutt is dead, don't you? A Yes sir.

16 Q Is that why you are answering it --

17 MR FORD: We object to that, counsel knew he was dead.

18 MR ROGERS: yes, and I know what he told me before he died.

19 MR FORD: Yes, there is more of your testimony, which is
20 characteristic of counsel to put stuff of that sort in,
21 characteristic of him to put stuff in that he knows is
22 incompetent, with what little knowledge of law he has.

23 THE COURT: What is the objection?

24 MR FORD: Our objection is to the conduct of counsel in
25 asking a question of that sort as absolutely improper, his
26 statement at the present time, making a statement as to

1 what Judge McNutt said is absolutely improper and he
2 knows it, and with the high regard he has for ethics he
3 ought to quit it.

4 MR ROGERS: Yes, there were seven of us heard it.

5 MR FREDERICKS: More testimony from counsel.

6 MR ROGERS: I would not have said that if counsel had not
7 done it --- if counsel had not jumped up and said it.

8 MR FORD: If the court please, the point I made was, when
9 counsel asked a question predicating it on something this
10 witness is alleged to have told Judge McNutt, he knew him-
11 self that Judge McNutt was dead, and couldn't be brought
12 here before this court.

13 THE COURT: We all knew it.

14 MR FORD: And he wanted to convey to the jury the fact he
15 had some knowledge from Judge McNutt, which he knew was
16 absolutely hearsay, could not be introduced in the case,
17 whether his information is true or false, he knew it
18 could not be introduced in the case.

19 MR ROGERS: I didn't know but what he had the grace to
20 admit it.

21 THE COURT: We all knew Judge McNutt was dead, and there
22 was no objection made to the question at that time.

23 MR FORD: The objection was to this question, "Don't you
24 know Judge McNutt is dead"? It was an improper question
25 and addressed to the witness on the stand, because it was
26 an insinuation he was so testifying because Judge McNutt

1 couldn't take the stand and impeach him, and counsel knew
2 Judge McNutt couldn't.

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17p 1 THE COURT. I think that is a strained constfuction, I don't
2 think the witness understood that.

3 MR. APPEL. We simply ask the witness if such a conversa-
4 tion didn't occur, and in view of the answer he made--

5 THE COURT. You inquired if he knew Judge McNut was dead and
6 he said that he did and there is no question for the court
7 at this time. Proceed with your cross-examination.

8 MR. APPEL. There is no occasion for getting mad here.

9 MR. FREDERICKS. Well, ^{while} counsel is connubiating about the
10 next question, I would like to know if the record shows that
11 Mr. Appel is appearing in the role of a peacemaker.

12 MR. APPEL. I said there was too much malice without a
13 fight, and I am referring to you.

14 MR. FREDERICKS. I withdraw the insinuation.

15 MR. ROGERS. Q Do you Mrs. Hartenstein? A Yes, sir.

16 Q How long have you known her? A Since I came to Los
17 Angeles.

18 Q Do you know what her business is? A Yes, sir.

19 Q Do you know she was a stenographer employed in the
20 offices of the defense? A Yes, sir.

21 Q She did work on occasions for you? A Yes, sir.

22 Q Did you have a conversation with her from time to time?

23 A Yes, sir.

24 Q Did you have a conversation with her on the afternoon
25 after the arrest of Franklin? A I probably did.

26 Q I beg your pardon? A I probably did. I spoke to Mrs.

1 Hartenstein every day.

2 Q What did you say? A I usually spoke to Mrs. Harten-
3 stein several times every day.

4 Q On that afternoon did you tell her that you had no know-
5 ledge or intimation of any kind of bribery or corruption
6 in the McNamara case or suspicion of it? A I probably
7 did up to that morning.

8 Q Did you tell her that? A If you fix the exact time
9 I will give you the answer.

10 Q On the afternoon of the day of Franklin's arrest?

11 A Did I tell her I had no suspicion of any jury bribing
12 in the McNamara case?

13 MR. FREDERICKS: Read the question. It is an impeaching
14 question and it ought to go into the record.

15 (Question read.)

16 A Up to the time of Franklin's arrest, yes, sir.

17 MR. APPEL: That is not an answer to our question, we asked
18 him simply, the law requires us to put the language of our
19 witness to the witness here, for the purpose of calling
20 his attention to his statements. Now, he always get in
21 here lawyer-like, cunning as he is, he gets in here, "Up
22 to the time of Franklin's arrest." We ask him whether he
23 used that language only and nothing more and he has been
24 doing that time and time and over and over again over
25 our objections. We ask your Honor to instruct the witness
26 to say whether or not he said that.

1 THE COURT. Read that answer and see whether he said it or
2 not. Read it.

3 MR. APPEL. He didn't say it.

4 THE COURT. Read it.

5 (Last answer read.)

6 THE COURT. I think that is a proper answer. He said,
7 yes, sir, and he made the explanation before the answer,
8 but he says, "Yes, sir."

9 MR. APPEL. He says, "Up to Franklin's arrest", your
10 Honor.

11 THE COURT. He said "Yes, sir", and explained it.

12 MR. ROGERS. Q Do you mean to say you said to her, "I never
13 had such suspicions up until Franklin's arrest?" Is
14 that your answer? A I wouldn't say that I added that
15 to her.

16 Q What did you say to her? A I had no suspicion that
17 they--

18 MR. FREDERICKS. "What did you say to her?" That is
19 objected to as hearsay.

20 MR. ROGERS. After the answer, we are entitled to it.

21 MR. FREDERICKS. No, we are, you are not.

22 THE COURT. Objection overruled.

23 MR. FREDERICKS. Why, the whole world had a knowledge and
24 suspicion of jury bribing at the time he was arrested.
25 How absurd it would be to ask if he had any suspicion of
26 it after Franklin was arrested.

1 THE COURT. The witness has been asked an impeaching
2 question and has given a modified answer. Now, counsel
3 has a right to inquire what it was.

4 MR. FORD. He just stated he didn't add the words, "Frank-
5 lin's arrest," to her, if you will read back about three
6 questions.

7 MR. ROGERS. Possibly it will be well enough to let the
8 witness do his own testifying.

9 MR. FORD. If you read back the record you will find he
10 admits probably this conversation with Mrs. Hartenstein
11 saying he did not relate the conversation to her.

12 THE COURT. Counsel asked for the exact words.

13 MR. FREDERICKS. I think the question is "What did you
14 say to her", and that is objected to because it is hear-
15 say, and the court overruled the objection.

16 THE COURT. The objection is overruled.

17 MR. FREDERICKS. If you remember any such conversation.

18 A Is there any question pending?

19 (Question read.)

20 MR. FREDERICKS. We object to it on the ground it assumes
21 he did have a conversation whereas he has not stated he
22 had a conversation with her at that time, but, if he
23 had one he probably said what was said there.

24 THE COURT. Objection overruled.

25 A I told Mrs. Hartenstein I had no knowledge that there
26 was any corruption going on with the jury during the
pendency up to the time of Franklin's arrest.

1 Q And that was true? A I had no knowledge of any cor-
2 ruption with the jury up to the time of his arrest.

3 Q Did you use "knowledge"? A I know not.

4 Q Did you use the word "suspicion"? A I might have.
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1 Q Well, then, if you used the word "suspicion" how do
2 you account for the fact that you are telling us you saw
3 \$10,000 in Darrow's hands, and he told you he was going
4 to use it for that purpose?

5 MR FREDERICKS: That is objected to as assuming a fact not
6 in evidence.

7 MR ROGERS: How do you reconcile those two things?

8 MR FREDERICKS: The witness has never said he saw \$10,000 ;
9 he said he saw a roll of bills.

10 MR ROGERS: That is too technical for me to fuss with.

11 THE COURT: Objection overruled.

12 A I had no suspicion that there was jury bribing going
13 on in the case.

14 Q Then, when Darrow told you that he had that amount
15 to fix jurors with, and you told him it would ruin every-
16 body and so forth and so on, you had no suspicion?

17 A I thought he cut it out that night.

18 Q You thought he cut ~~it~~ out on your advice, is that so?

19 A I don't know whether it was on my advice, but I was
20 positively certain he cut it out; I was sure of it.

21 Q But, on the morning of Franklin's arrest, before you
22 talked to Mrs Hartenstein, you say that Darrow said, "My
23 God, if he opens his mouth, I am ruined"? How do you
24 reconcile that, Mr Harrington? A It does not need recon-
25 ciliation.

26 Q When you told Mrs Hartenstein you didn't have any sus-

1 picion of jury bribing, you already had in your mind that
2 Darrow, you say, had told you that if Franklin opened his
3 mouth he was ruined? A Yes, but that conversation with
4 Mrs Hartenstein referred to a time prior to Franklin's
5 arrest.

6 Q I said the afternoon after Franklin's arrest?

7 MR FREDERICKS: Your Honor, we object to the question
8 on the ground it is absolutely immaterial and absurd. The
9 world had suspicion that jury bribing was going on when
10 Franklin was arrested. Of course, everybody had sus-
11 picion of it, it needs no reconciliation, but before he
12 was arrested, the man says he didn't know anything about
13 any jury bribing.

14 MR FORD: What he said to her was before he was arrested.

15 MR FREDERICKS: How absurd it would be for him to say he
16 didn't suspect any jury bribing after the arrest.

17 MR APPEL: We take an exception to the statement of the
18 District Attorney in the presence of the jury that the
19 whole world had suspicion there was jury bribing, because
20 on its face, it is absolutely false; it is untrue.

21 MR FREDERICKS: There might have been some dark spots
22 didn't know about it.

23 MR APPEL: It is absolutely false, and not true, if your
24 Honor please, and we don't think that the District Attor-
25 ney has any right to say that in the presence of the jury.
26 I know courts would not tolerate that statement except

1 for their kindness and benevolency; that is the only excuse
2 they would allow that statement in the record, and the
3 only excuse for allowing such misconduct on the part of
4 the District Attorney. It is absolute benevolent toler-
5 ence on the part of the court. I don't think it is pro-
6 fessional; I don't think it is right. I think it is pre-
7 judicial to the rights of this defendant; the District
8 Attorney occupying the high position of District Attorney
9 of this great county, with a jury before him, even if the
10 mere office -- I am speaking of the respect that is due
11 to the office, I am not speaking of the respect that is
12 due to the incumbent, to make such a statement as that
13 in the presence of the jury, it is not well timed; it is
14 not right. He knows I am correct in that statement. If
15 I appeal to his manhood, if I appeal to his reason, he
16 will admit that is not a proper statement to make to this
17 jury. We are simply trying to get at the condition of
18 the witness' mind, on the afternoon of Franklin's
19 arrest. The arrest, as your Honor knows, occurred at
20 somewhere around 9 o'clock in the morning. If this man
21 talked to Mr Darrow at 10 o'clock, and Mr Darrow says,
22 "My God, if Franklin opens his mouth, I am ruined", if
23 it is true, we say that it is improbable that he knew
24 that at that time, because in the very afternoon of that
25 day he says to this young lady, "I have no suspicion at
26 all; I have no knowledge at all of any jury bribing,"

1 and it is an inconsistent statement, and all we want to
2 know is how it is possible that if he knew on the morning
3 of Franklin's arrest what he claims Mr Darrow told him,
4 how it was possible for him to say that, and to say the
5 truth to this young lady on the afternoon of that day,
6 and that is all the matter at issue; it is not a question
7 whether it was true or not, or anything of that kind. It
8 is concerning the condition of the mind of this man upon
9 that day.

10 THE COURT: Read the question before the reporter leaves.

11 (Last question read by the reporter.)

12 MR FORD: If the court please, our objection goes to this:
13 The witness didn't say in the afternoon, "I have no sus-
14 picion", but he says, "I had no suspicion up until the
15 time Franklin was arrested of jury bribing."

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191 That is the testimony that was put to him, the impeaching
2 question put to him was as follows: Did you in the
3 afternoon of the day that Franklin was arrested say to Mrs.
4 Hartenstein I had no suspicions of jury bribing. Now, the
5 witness admits that he did. He didn't say that is an
6 entirely different thing from saying I have no suspicion,
7 if he had said, "I have no suspicion," in the light of
8 what occurred on the morning and in the light of Franklin's
9 arrest, in the light of what Darrow had said to him, in
10 the light of his recollection of the event sometime pre-
11 vious to that, it would be inconsistent, but what he said
12 was, "I had no suspicion of jury bribing."

13 MR. ROGERS. The question is useless now and I will with-
14 draw it, after counsel has made this statement there is
15 no use of asking the question at all. The answer has been
16 given, it has been put in the witness's mind and I with-
17 draw the question.

18 MR. FORD. The answer is in the record, read the record.

19 THE COURT. Question withdrawn, there is nothing before the
20 court.

21 MR. FORD. The answer is in the record, we will read it
22 to the jury later on.

23 THE COURT. Proceed, gentlemen.

24 MR. FREDERICKS. Just one moment in this matter of conduct.
25 I think the matter should be put fairly. Mr. Franklin, on the
26 morning before this conversation, had been publicly arrested

1 the whole town was agog at that time and it is absolutely
2 absurd to ask the witness, did you have any suspicion that
3 there was bribery going on or have you any suspicion that
4 there was bribery going on. I maintain my position was
5 proper and correct.

6 THE COURT. The court is not disagreeing with you about
7 that at all.

8 MR. ROGERS. I take an exception.

9 MR. APPEL. To the court's remarks in approving the remarks
10 of the district attorney here, that is, we construe his
11 statement as that.

12 MR. ROGERS. Q I will ask you this: Did you not on the
13 same occasion at different times, after the arrest of
14 Franklin in the month of December, at the offices of the
15 defense in the Higgins Building before they were closed,
16 say that you did not believe that Mr. parrow ever had any-
17 thing to do with trying to bribe jurors, to Mrs. Harten-
18 stein--

19 MR. FREDERICKS. Objected to on the ground no foundation is
20 laid.

21 MR. ROGERS. The lady sitting right over here.

22 MR. FORD. She ought not to be in court here under the rule

23 THE COURT. Fix the time and place there with certainty.

24 MR. ROGERS. I can't fix the time.

25 MR. FORD. Just a moment.

26 MR. ROGERS. The court has asked me a question and I will

1 reply. During the month succeeding the arrest of Frank-
2 lin, during the month of December and up to the time of
3 the closure of the offices, of course I cannot give the
4 days of the week and the days of the month; there was
5 several occasions and the person is Mrs. Hartenstein who
6 was in the office.

7 MR. FORD. If the court please, counsel has said Mrs.
8 Hartenstein is in here and under the circumstances she
9 will be used as a witness and counsel has prepared a
10 number of impeaching questions here in which he must con-
11 template the possibility, at least of calling them as
12 witnesses, and they are here in court in violation of the
13 rule.

14 THE COURT. I think that objection seems to be well taken.

15 MR. DARROW. Your Honor, I didn't think about that when
16 she came in, and she probably had no notice of it herself
17 but this is the only question with reference to it.

18 MR. ROGERS. Mrs. Hartenstein, I guess you will have to go
19 out. I didn't know she was here until she handed up the
20 question.

21 MR. APPEL. No announcement was made to me of the young
22 lady's arrival.

23 THE COURT. All right, let's have the question.

24 (Last question read by the reporter.)

25 MR. FREDERICKS. I object to that on the ground that no
26 foundation is laid and I believe the court ruled.

1 THE COURT. Objection overruled.

2 A No, sir, I did not.

3 MR. ROGERS. You know Mr. Timons a structural iron worker?

4 A Yes, sir.

5 Q How long have you known Mr. Timons? A I got acquainted
6 with him since I came to Los Angeles.

7 Q Well, how long since you came to Los Angeles? A Oh,
8 I don't remember exactly how long, probably a month or two.

9 Q Can you be anywheres sure about it? A I would say
10 somewhere about the month of August, 1911.

11 Q Did you meet him from time to time after that?

12 A Yes, sir.

13 Q Talk with him? A Yes, sir.

14 Q Talk with him about the case? A Yes, sir.,

15 Q Talk about various aspects of the matter? A Yes, sir.

16 Q After your return from Albuquerque inthe latter
17 part of December did you have a talk with Mr. Timons
18 about the McNamara case or any aspect of it? A Yes, sir.

19 Q Did you tell him then that the whole thing was a
20 scheme to involve the defense in trouble? A No, sir.

21 Q And that if there was any/^{thing}crooked about it you cer-
22 tainly would have known it or would have seen it, and
23 that you knew of no evidence of anything of the sort
24 that Mr. parrow or anybody else had been connected with in
25 bribery of any jurors and that you never had any suspicion
26 of any such thing and that you wæ e sure that everything

1 done in the case was on the square, or words to that
2 effect?

3 MR. FREDERICKS. We object upon the ground that no founda-
4 tion has been laid, the time and place and persons present.
5 I think the time was laid properly, but the place and
6 persons present was not.

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1 THE COURT: Do you want to fix that time and persons pre-
2 sent?

3 MR ROGERS: It was after his return from Albuquerque. I
4 think it was the latter part of December.

5 MR FREDERICKS: I think the time is sufficient, but the
6 place.

7 MR ROGERS: I am quite sure the place is the Higgins
8 Building, or thereabouts.

9 MR FORD: Persons present?

10 MR ROGERS: You and Timmons being present, others may have
11 been present, but the conversation between the witness
12 and Timmons.

13 THE COURT: You are unable to state any others?

14 MR ROGERS: I am not able to state any others at the pre-
15 sent time.

16 THE COURT: Do you withdraw the objection?

17 MR FREDERICKS: Yes, your honor.

18 THE COURT: Objection withdrawn? A No sir, I had no such
19 conversation.

20 MR ROGERS: Or anything like it? A No sir.

21 MR ROGERS: Or anything to that effect or purport? A No
22 sir.

23 Q Nothing in substance like that? A No sir.

24 Q You came back from Albuquerque when? A My recollec-
25 tion is that I landed in Los Angeles the Friday before
26 Christmas.

1 Q That would be -- you were over in the corridor of
2 the United States building, the Federal Building? A At
3 what time?

4 Q When you were over there to attend the sessions of the
5 Federal grand jury? A My recollection is that the first
6 visit I made to the Federal Building was on the following
7 Friday.

8 Q I didn't ask you what time. I asked you if you were
9 not over there in the corridor of the Federal Building?

10 A Yes sir.

11 Q Did you talk with the newspapermen over there? A No
12 sir.

13 Q Not at all? A I might have passed the time of day
14 with them.

15 Q Talk about the case? A. No sir.

16 Q Did you not say to a group of newspapermen there,
17 none of whom you knew, none of whose names you knew, but
18 were newspapermen attached to the Federal Building, that
19 you didn't know a solitary thing against Mr Darrow and
20 could not testify to a thing against him or words to that
21 effect or purpose?

22 MR FORD: To that question we object upon the ground that
23 the names of the persons present are not put in the ques-
24 tion. The object of an impeaching question is to produce
25 the person.

26 THE COURT: Objection sustained.

1 MR ROGERS: The object of an impeaching question, if
2 your Honor please, is not to inform the other side of
3 the persons present, but to inform the witness so as to
4 define, and we have the right to contradict the state-
5 ments, upon stating the circumstances.

6 THE COURT: In the nature of things it occurs to me how
7 can counsel know that this witness did not know these per-
8 sons?

9 MR APPEL: We have two methods of bringing out contradic-
10 tory statements. One method we have is of asking him if
11 he did not say at any particular time, without naming any
12 person at all, such and such a thing. Now, if he denies
13 that, we cannot impeach him at all. We call his atten-
14 tion to it, for the purpose of impeachment, to time,
15 place and circumstances. Now, we have a right --

16 THE COURT: You say this particular question is not for
17 the purpose of impeachment?

18 MR APPEL: We are asking for statements from him whether
19 or not he made statements and if he denies them, the wit-
20 ness says he did not, then we have a right to say, did
21 you not say in the presence of so and so, make such and
22 such statements. In the first instance we would have no
23 right to impeach the witness; in the second instance, we
24 would have a right to impeach the witness, after laying
25 the foundation, but the rule that an impeaching question
26 must contain the time, place and persons present and circum-

1 stances, and the thing --

2 THE COURT: In order to lay the foundation.

3 MR APPEL: They must be laid for that purpose. That
4 doesn't preclude us from asking the witness whether or
5 not he made contradictory statements at any time at any
6 other place or any other circumstances.

7 MR FORD: This section of the code states it so clearly that
8 there cannot be any room for discussion on it. It states
9 the manner in which witnesses may be impeached, a wit-
10 ness may be impeached by the party against whom he was
11 called, by contradictory evidence. That is the evidence
12 he gives on the stand as to the facts concerning the
13 case, and he may be impeached by other witnesses, who
14 will testify that those facts were not true. For instance,
15 he has testified -- those are things concerning the case.
16 Another way in which he may be impeached, is by evidence
17 that his general reputation for truth, honesty and integ-
18 rity is bad. That is the second way. Then, it goes on
19 with the exception: no act or evidence ^{of} particular wrongful
20 acts, except it may be shown by the examination of the wit-
21 ness or the record of a judgment that he has been convict-
22 ed of a felony, that is one way he may be impeached. Now,
23 there is one other way possible, and that is in this sec-
24 tion, to ask impeaching questions, and whenever an impeach-
25 ing question is asked counsel has no right to ask an im-
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1 peaching question unless he intends to put the witness
2 on the stand to state the conversation, in case the wit-
3 ness denies it, and if he does, if he knows the name of
4 his witness, he is required to name his witness, and we
5 are entitled to know it, so if it is a fake, we can pro-
6 duce the witness and show this witness is telling the
7 truth -- I object to these characteristic grunts that have
8 been going on here all day --

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21s1 MR. APPEL. I want to know what kind of a grunt he means.
2 My grunt is a cough grunt. If it is a grunt that comes
3 from the lower part, below my lungs, then, of course, I
4 will sustain the objection, but any that comes from my
5 lungs your Honor, I cannot avoid.

6 MR. FORD. I wasn't talking about you.

7 MR. ROGERS. If you are talking about me--

8 MR. FORD. Yes, I was.

9 MR. ROGERS. All right, we will take that up later.

10 MR. FORD. Section 2052 provides as follows: (Reading)
11 "A witness may also be impeached by evidence that he has
12 made at other times, statements inconsistent with his
13 present testimony;" now, that is what they are trying to
14 do in the present instance: They are trying to show
15 at other times outside of this court he has made state-
16 ments inconsistent with his present testimony, and this
17 is the method provided. (Reading) "But before this can
18 be done the statements must be related to him, with the
19 circumstances of times, places, and persons present, and
20 he must be asked whether he made such statements, and if
21 so, allowed to explain them. If the statements be in writ-
22 ing, they must be shown to the witness before any ques-
23 tion is put to him concerning them."

24 MR. FREDERICKS. I suppose the ruling still stands?

25 MR. FORD. The time, place, persons present must be stated-

26 THE COURT. Mr. Ford, I dislike to interrupt you. The court

1 has sustained your objection before this argument was
2 made, and I really see no purpose in it.

3 MR. APPEL. Then, your Honor, what I said is all of no
4 avail?

5 THE COURT. The court sees no reason for changing its
6 ruling.

7 MR. ROGERS. Q Do you know Mr. LeCompte Davis? A Yes, sir.

8 Q How long have you known him? A Since I came to Los
9 Angeles in June.

10 Q Met him early after your coming? A I think so.

11 Q You had frequent conversations with him? A Yes, sir.

12 Q What was the last conversation you had with him about
13 the time of the arrest of Franklin? A I had conversations
14 with Mr. Davis right along.

15 Q How soon after the arrest of Franklin? A I don't
16 remember.

17 Q The same day? A I don't remember.

18 Q Would you say yes or no? A I wouldn't say either way,
19 I don't remember. I spoke to Mr. Davis very frequently.

20 Q At his office and at your office? A In our office
21 principally.

22 Q Did you ever go to his office? A Yes, sir.

23 Q Did you have a conversation with him on your return
24 from Albuquerque about Christmas? A No, sir.

25 Q Did you see him? A I saw him on the street one day.

26 Q Did you talk with him? A Yes, sir.

1 Q Did you have a conversation with him after you returned
2 from San Francisco? A At what time?

3 Q When you were arrested in the contempt proceedings?

4 A Yes, sir, he was one of my attorneys when I got back.

5 Q That is in September? A Yes, sir.

6 Q Now, at what time did you come back from Albuquerque.

7 You said about Christmas, as I understand you? A The
8 Friday before Christmas.

9 Q I am now calling your attention to the time of your
10 return from Albuquerque about Christmas. I think the
11 place was at Mr. Davis's office but it might have been at
12 your office. Did you tell Davis that you were satisfied
13 there was no foundation for any charges of bribery against
14 Mr. parrow or any one else connected with the case, that you
15 had known parrow for years and had been closely associated
16 with him all through the case, and had never had--never
17 seen the slightest suspicious thing connected with any
18 bribery or any corrupt practice, or words to that effect
19 in connection with the case, and that you were sure Darrow
20 had never anything to do with the matter that you knew of,
21 no illegal acts either in connection with jurors or wit-
22 nesses or with any matter connected with the case?

23 A No, sir; I did not.

24 Q Or words to that effect? A None whatever.

25 Q Or that in purport or substance? A No.

26 Q Or anything like it or even a part of it? A No.

1 MR. ROGERS. I can't finish tonight. I think I can
2 finish tomorrow in a very short time.

3 MR. FREDERICKS. About how long, Mr. Rogers, so we can
4 figure?

5 THE COURT. Captain Fredericks and Mr. Rogers I will confer
6 with you a moment. Just step aside, Mr. Witness.

7 (Jury admonished. Recess until 10 o'clock Saturday
8 morning, June 22, 1912.)

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