

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.

---o---

The People of the State of California,)

Plaintiff,)

vs.)

Clarence Darrow,)

Defendant.)

No. 7373.

1917

---o---

REPORTERS' TRANSCRIPT.

VOL. 36

I N D E X.

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

John R. Harrington,

2853

B. N. Smith,
Official Reporter

scanned by U.S. GOVERNMENT LIBRARY

SATURDAY, JUNE 22, 1912; 10 A.M.

Defendant in court with counsel. Jury called; all present. Case resumed.

J O H N R. H A R R I N G T O N,

on the stand for further cross-examination:

JUROR GOLDING. I would like to ask how many jurors had been accepted up to September 20th?

MR. FREDERICKS. None--excuse me--the trial didn't begin until October 10th.

MR. FORD. 11th.

MR. DARROW. The first jurors were accepted--

MR. FREDERICKS. The trial had not begun yet.

MR. DARROW. I think the first jurors were accepted--you got the date?

MR. FREDERICKS. The first jurors were called--the first venire was served--

MR. FORD. September 29th.

MR. ROGERS. I think Mr. Golding means sworn in.

MR. DARROW. I think the first were sworn in about the 1st of November.

MR. JUROR GOLDING. As I understand it, the witness made a statement about the jurors on the McNamara trial on September 30th; as I understood, there had been no jurors accepted.

1 MR. FREDERICKS. No jurors accepted and the trial had not
2 started.

3 MR. JUROR GOLDING. I don't like to ask questions, but I
4 like to have more detail on this witness's testimony from
5 12 o'clock November 27th to 12 o'clock November 28th, 1911;
6 more detail who he saw, who he talked to and where he was.

7 MR. FREDERICKS. The witness understands the question?

8 MR. ROGERS. Before we get through, Mr. Golding, I will take
9 that all up.

10 MR. JUROR GOLDING. It don't make any difference if you did
11 or Mr. Fredericks, I wanted to clear it up.

12 MR. ROGERS. Q Now, on yesterday, Mr. Harrington, you
13 testified as follows, page 3779: "Q--You are testifying
14 for immunity, are you? A--No, sir." A Yes, sir, I so
15 answered yesterday.

16 Q And as follows: "Q--You are testifying to get yourself
17 out of a hole, aren't you? A--No, sir." You testified
18 that way, didn't you? A Yes, sir.

19 Q Now, I will ask you if Mr. Fredericks didn't say to you
20 or if you didn't know of Mr. Fredericks saying this:

21 "Mr. Harrington will be a state witness in the Darrow case
22 without doubt, and he'd better tell all and the truth, if
23 he don't it will go hard with him. We know absolutely all
24 he knows, and if he veers from the truth it may be he
25 will be called upon to face a serious charge."

26 MR. FREDERICKS. That is objected to as incompetent,

1 irrelevant and immaterial and not cross-examination.

2 I suppose counsel is reading from some newspaper account
3 of something the District Attorney is supposed to have said.

4 MR. ROGERS. Makes no difference where I get it.

5 MR. FREDERICKS. I will say I never said it.

6 MR. ROGERS. Possibly. It is in quotation marks.

7 MR. FREDERICKS: Oh, yes, we have all been quoted world
8 without end.

9 MR. ROGERS. Here is what Mr. Fredericks is said to have said

10 "District Attorney Fredericks said Harrington will be a
11 state witness in the Darrow case, without doubt, and he'd
12 better tell all," and so forth.

13 MR. FORD. If the court please, if what Mr. Fredericks said
14 is important in the examination of this witness there is
15 a proper way to prove it, not from newspapers. We don't
16 even know the newspaper it is from.

17 MR. FREDERICKS. What is the question?

18 THE COURT. Read that question.

19 (Last question read by the reporter.)

20 MR. FREDERICKS. Now, the question is if this witness ever
21 heard that I had said that, is that the idea?

22 MR. ROGERS. Yes, if it came to his knowledge.

23 MR. FREDERICKS. I have no objection.

24 THE COURT. Objection withdrawn.

25 A No, sir, I never heard of that.

26 MR. ROGERS. Then you never knew anything about Mr.

1 Fredericks saying that you would be called on to face a
2 serious charge under certain contingencies?

3 MR. FREDERICKS. That is objected to as incompetent, irre-
4 levant and immaterial. Every witness will be called upon
5 to face a serious charge if he doesn't tell the truth,
6 that is the charge of perjury, a man doesn't tell the
7 truth.

8 THE COURT. Objection sustained as to the form of the
9 question.

10 MR. ROGERS. Q Didn't Mr. Fredericks say this to you, or
11 words to this effect?

12 MR. FREDERICKS. The time and place?

13 MR. ROGERS. The same place, in the city of Los Angeles, at
14 Mr. Fredericks's office or at the Federal Building: "Harr-
15 ington's fear that such steps might be taken by the Dis-
16 trict Attorney's office induced him to agree to act as a
17 state witness against his former chief."

18 MR. FREDERICKS. Now, what is the question?

19 MR. ROGERS. I will ask him if that is not true.

20 MR. FREDERICKS. Will the court indulge me to have the
21 question read.

22 MR. ROGERS. I will withdraw the question. Q Isn't it
23 true that your fear of prosecution induced you to agree to
24 be a witness in this case against Mr. Darrow?
25
26

1 MR FREDERICKS: Object unless it appears prosecuted by
2 what?

3 MR ROGERS: That doesn't make any difference.

4 MR FREDERICKS: I withdraw the objection. A No sir, it
5 is not.

6 MR ROGERS: Did you read that in the paper that I have just
7 now outlined to him? A No sir.

8 Q Were you here on March 11th? A Yes sir.

9 Q Did you read the papers on March 11th? A I presume I
10 did; I do not recall.

11 Q Did you read the Herald on March 11th? A I don't
12 remember.

13 Q You do not remember. You do not deny reading this
14 paper on March 11th, do you? A I deny I ever saw that
15 article you read now.

16 Q Do you recognize that that article is on the front
17 page with a very large head?

18 MR FREDERICKS: That is objected to, may it please the
19 court, as being incompetent, irrelevant and immaterial.
20 The purpose of it being, as I understand it, to show why
21 this witness testified as he did, and the witness has al-
22 ready said that he told substantially this same story
23 about the money and all, to Oscar Lawler in December, 1911,
24 three or four months before the interview in the newspaper.

25 MR ROGERS: If your Honor please, that is not correct prac-
26 tice, to give the witness the answer, but it does it, it

1 does it. I am asking him if he read that article and
2 if he does not recognize this front page of the Evening
3 Herald, March 11th.

4 MR FORD: Objected to on the ground it is immaterial.

5 MR FREDERICKS: My argument is it is immaterial, because
6 the only reason why such a question would be material
7 would be for showing why this witness has testified as
8 he has when the testimony already shows that he had told
9 this same story to Oscar Lawler four months before.

10 THE COURT: I think the objection is good.

11 MR ROGERS: Oh what ground, its immateriality?

12 THE COURT: Upon the ground it is immaterial.

13 MR ROGERS: I am not bound to take his statement for
14 anything; I am not bound to take his statement that
15 anything happened. I am showing now any motive he may
16 have had at any time, and I am not bound by any statement
17 he may have told Oscar Lawler at that time.

18 THE COURT: Irrespective of that, you are showing him a
19 newspaper; he has already stated he doesn't know whether
20 he remembers seeing it or not.

21 MR FORD: He stated definitely he never read it, your
22 Honor.

23 MR ROGERS: He said he was here in town.

24 Q Now, don't you remember, Mr Harrington, reading your
25 name in large, black type in the very heading of this
26 article, "J.R.Harrington must testify in bribery case or

1 take the consequence."? Did you read that part of the
2 heading of this article on the front page of the evening
3 paper of March 11th? A I never saw that article before.

4 Q Did any of your friends call your attention to the
5 fact that in large, black type, the statement was made
6 that you must testify or take the consequences? A No
7 sir.

8 Q Where were you on March 11th, 1911; in the city of
9 Los Angeles, where you could get the papers? A I presume
10 so.

11 Q Are you in the habit of reading papers? A Yes sir.

12 Q Are you in the habit of reading papers, the evening
13 papers, as well as the morning papers? A Some of them.

14 Q Did you read the Herald, usually? A Not usually, I
15 did occasionally.

16 Q Occasionally? A Yes sir.

17 Q Do you know what papers you did read on March the
18 11th? A No sir.

19 Q Do you say you did not see the Herald on March 11th?

20 A I do not say that. I say I didn't read it. I didn't
21 see that article.

22 Q Didn't anyone call your attention to the following:
23 "J.R.Harrington must testify in bribery case or take the
24 consequences."? Didn't any of your friends call your at-
25 tention to that in the heading of that article as coming
26 from the District Attorney?

1 MR FORD: We object to that on the ground it has been fully
2 gone into and answered.

3 THE COURT: Objection sustained.

4 MR ROGERS: Exception.

5 Q Wasn't your attention ever called to that?

6 MR FREDERICKS: The same objection, the same question.

7 MR ROGERS: At any time.

8 THE COURT: Objection sustained.

9 MR ROGERS: Exception.

10 Q Well, then, the statement made in that article --

11 THE COURT: Just a moment. It is possible I am mistaken
12 about that being fully covered, and I am going to let you
13 have that question, resolving the doubt in your favor.

14 Read it and change the ruling. I think it has been fully
15 covered, but I will resolve the doubt in your favor.

16 MR APPEL: The last question propounded --

17 THE COURT: I sustained the objection on the ground I
18 thought it was already answered. I may be mistaken. Let
19 us have the question again and change the ruling.

20

21

22

23

24

25

26

3p 1 (Question read.)

2 A No, sir.

3 MR. FORD. Just a moment--"at any time" was included.

4 A That is how I understood the question.

5 MR. ROGERS. Q That is the way you answer it? A Yes, sir.

6 Q Didn't you say, after your attention was called to it,
7 "I had better get under the tent," or words to that effect?

8 MR. FREDERICKS. We object to that as incompetent, irrele-
9 vant and immaterial, no foundation laid, time, place and
10 persons present.

11 MR. ROGERS. "I do not want any trouble," or words to
12 that effect?

13 MR. FORD. It is an impeaching question and the time, place
14 and persons present--

15 THE COURT. Objection sustained.

16 MR. ROGERS. Q Let us see. You had already told Oscar
17 Lawler what you have told upon the stand here, or some
18 of it, do you say in December? A Yes, sir.

19 Q And practically all you have told here in December, is
20 that right? A A good deal of it.

21 Q A good deal of it? A Yes, sir.

22 Q What date in December? A I don't remember the exact
23 date.

24 Q Had you any idea of being prosecuted at that time or
25 about that time? A No, sir.

26 Q At any time? A No, sir.

Q Did you ever have any idea they were after you or trying

1 to get you in trouble about that time or afterwards?

2 A No, sir.

3 Q Is this your handwriting? (Handing witness document)

4 MR. FORD. Wait a moment. We are entitled to see the
5 document before it is exhibited to him or before any ques-
6 tions are asked him.

7 MR. ROGERS. I shall show it to you.

8 A Yes, sir, that is--

9 MR. FORD. Just a moment--(document handed to Mr. Ford)

10 MR. FREDERICKS. What is the question?

11 (Last two questions read.)

12 MR. FREDERICKS. I object to that as incompetent, irrelevant
13 and immaterial, no foundation laid, not serving in any way
14 to impeach anything the witness has said.

15 MR. ROGERS. I offer this letter in evidence.

16 THE COURT. The witness has not stated it was his handwrit-
17 ing.

18 MR. ROGERS. He has, yes, sir.

19 THE COURT. I didn't hear it.

20 MR. ROGERS. He says that is his handwriting.

21 THE COURT. Let me see it. (Examining document.) Mr

22 MR. FREDERICKS. Our objection is it does not serve to
23 impeach anything the witness has already said.

24 MR. ROGERS. Will you read me what you read to Mr. Fredericks?

25 (Question before last read.)

26 THE COURT' Objection overruled.

1 MR. FORD. Identify it.

2 THE COURT. Defendant's Exhibit what, Mr. Clerk?

3 MR. FREDERICKS. We would like to have it read now to the
4 jury.

5 THE CLERK. 28.

6 MR. FORD. No, this is defendant's exhibit.

7 THE COURT. Defendant's exhibit.

8 MR. ROGERS. (Reading) "Law Office John R. Harrington,
9 1309 Fort Dearborn Building, Telephone Randolph 712,
10 Chicago, January 20th, 1912. Dear Darrow. Cooney got
11 subpoenaed before the grand jury at Indianapolis and I am
12 afraid he has talked a good deal. I have been shadowed since
13 my return and one evening the fellow called to my house and
14 tried to get some information from me. I let him do all
15 the talking. Burns men are making great cracks here that
16 they are going to get you, and some of your friends are
17 worrying and quite a few lawyers spoke to me and expressed
18 sympathy for you. You are, according to the enemy, in
19 their grasp. This Burns fellow also mentioned about
20 Hammerstrom and it seems they are after him too. I do not
21 like to put too much in this letter as it may be tampered
22 with. They know a good deal and are certainly after us.
23 They think if they got you they would be doing a good
24 thing. If I could see you I would be able to tell you lots
25 more. My business has gone to the dogs, and if you will
26 I think you ought to send me a check for the loss I sus-

1 tained. I thought maybe I would be subpoenaed by the
2 Indianapolis grand jury. Very truly yours, John R.
3 Harrington."

4 MR. ROGERS. Q Now, Mr. Harrington, in this letter you say
5 here--

6 MR. FORD. pardon me just a moment, Mr. Rogers, what number-
7 THE COURT. Yes, correct the designation of this exhibit.
8 This is defendant's exhibit F instead of 28.

9 MR. ROGERS. Q Now, in this letter, you say here, "They
10 know a good deal and are certainly after us." Do you desire
11 to change your testimony that you gave just before I showed
12 you this letter? A No, sir.

1 Q Well, then, when you said a minute ago you didn't think
2 they were after you or trying to get you in trouble, did
3 you tell the truth, or did you tell the truth in the let-
4 ter?

5 MR FREDERICKS: That is not what the witness said, may it
6 please the court.

7 MR ROGERS: We don't care for any explanation, if your
8 Honor please, from the District Attorney, in order to help
9 the witness out.

10 THE COURT: The District Attorney is making his objec-
11 tion.

12 MR FREDERICKS: I don't think the witness testified as to
13 what he said.

14 MR ROGERS: I had it read three times.

15 MR FREDERICKS: I would like to have it read.

16 THE COURT: Read it. The question just before the letter
17 was introduced.

18 MR FREDERICKS: The question Mr Rogers and I had re-read.

19 (Question and answer read by the reporter.)

20 MR FORD: If the court please, we object to the question
21 on the ground that it doesn't --

22 THE COURT: Wait a moment before you put in your objec-
23 tion. Read the question just before that; I want to fix
24 that time.

25 MR FREDERICKS: The time he talked to Oscar Lawler.

26 MR ROGERS: And he says, "or afterwards".

1 (Question and answer referred to read by the reporter.)

2 MR FREDERICKS: Now, we submit the question is a double
3 question and the answer, "No sir", might mean no sir to
4 part of it, and be perfectly correct. It is a very skillful
5 method, your Honor, of directing a witness' mind to a cer-
6 tain thing and nailing it down to a certain time and then
7 asking something about what happened at that time, and then
8 slipping in "or afterwards". The witness' mind probably
9 does not follow the, "or afterwards" part of it, and there
10 are two questions, and he answers one of them.

11 THE COURT: Read the question, now before the court.

12 MR FORD: Just a moment.

13 THE COURT: Read the question before the court. (Last
14 question read by the reporter.)

15 MR FORD: Objected to on the further ground, your Honor,
16 that it doesn't in anywise repeat the testimony already
17 given by the witness, the two statements are absolutely
18 consistent. When he says, "I did not think they were
19 after me", it was in the singular, and the question shows
20 that the answer of the witness means, "I did not think
21 they were after me". This letter says, "They are cer-
22 tainly after us", the defense, which is certainly.

23 MR APPEL: That includes him, doesn't it?

24 THE COURT: Objection overruled.

25 MR APPEL: Might include all of us.

26 MR FREDERICKS: Yes.

1 MR ROGERS: The objection has been overruled; will you be
2 kind enough to answer my question. A What is the ques-
3 tion.

4 (Last question read by the reporter.)

5 A I told the truth in both.

6 Q You told the truth when you said -- you told the
7 truth both ways.

8 MR FORD: We object to that as not a proper question.

9 THE COURT: Objection sustained.

10 MR ROGERS: I guess that is right.

11 MR ROGERS: Now, when you used these words, "and they are
12 certainly after us", addressing it to Darrow and signing
13 it Harrington, you kind of meant they were after you and
14 Harrington and Darrow, too, didn't you? A After the
15 defense.

16 Q And of which you were a component part? A I was con-
17 nected with the defense at one time.

18 Q And what did you mean when you said to the jury a
19 while ago you didn't think they were after you, I never
20 had any fear of it, or idea of it? A I still repeat
21 that answer.

22 Q Were any detectives after you? A I think so.

23 Q I think so.

24 Q What? A Yes sir; that is, I presume they were detec-
25 tives.

26 Q What were they after you for? A I have no idea.

1 Q Haven't any idea at all. What did you write a letter
2 to Darrow for, then? A Is that your question?

3 Q That is a question, Mr Harrington? A To give him my
4 suspicions.

5 Q Then you had some suspicions? A Oh, yes.

6 Q As a matter of fact, you had more than suspicions;
7 you knew a Burns man had been to you, didn't you? A I
8 took it for granted he was a Burns man.

9 Q Been at your office? A Yes, they were all around,
10 they were at the house and the office.

11 Q All around. Well, then, it got to be more than a sus-
12 picion, didn't it? A They didn't introduce themselves as
13 Burns men; that was a conclusion of mine.

14 Q Now, if you didn't know they were Burns men when you
15 were writing to Darrow, why did you say this: "Burns men
16 are making great cracks here that they are going to get
17 you", and so forth. "This Burns fellow also mentioned
18 about Hammerstrom", and so forth. Why did you use those
19 words, instead of saying, "I think they are Burns men"?
20
21
22
23
24
25
26

5s 1 A That was on information.

2 Q Why did you say to Darrow absolutely that they were
3 Burns men, then? A That was on information.

4 Q On information?

5 MR. FREDERICKS. The witness has answered he assumed it,
6 he didn't know.

7 MR. ROGERS. Possibly it would be wise enough to let the
8 witness answer. I assume that he needs help--

9 MR. FREDERICKS He did state that very thing, that he
10 assumed they were Burns men but he didn't know it. He said
11 that long ago.

12 MR. ROGERS. Q Then it was a fact that the Burns men were
13 making great cracks around Chicago that they were going
14 to get Darrow? A That was on information.

15 Q That was on information. This letter was written after
16 you had been out here and told what you say you told to
17 Lawler, wasn't it? A It was.

18 Q You intended this to be a friendly letter, did you?

19 A I can't say that I did.

20 Q When you said to him that Burns men are making great
21 cracks here that they are going to get you, and told him
22 about their going to get Hammerstrom, and that they
23 are certainly after us, you didn't mean to say that you
24 were intending it to be a friendly letter? A No, sir.

25 Q Didn't you say you could tell him more if you could see
26 him but you were afraid the letter would be tampered with?

1 MR. FREDERICKS. Objected to as the letter is the best
2 evidence.

3 THE COURT. yes, sustained.

4 MR. ROGERS. Q Was that a part of your friendship or your
5 friendly letter?

6 MR. FREDERICKS. Objected to as a fact not in evidence. He
7 has not said it was a friendly letter.

8 THE COURT. Objection sustained.

9 MR. ROGERS. Q Did you mean that as a friendly thing or
10 not, "that you could tell him a lot more if you were not
11 afraid the mail would be tampered with?"

12 MR. FREDERICKS. Objected to as incompetent, irrelevant
13 and immaterial as to whether he meant it for a friendly
14 thing or not. The letter stands for itself.

15 THE COURT. Objection overruled.

16 A No, sir, I meant that letter to Darrow just to keep
17 him in hand until such time as I was purged of jury bribing
18 business, on account of being associated with him I didn't
19 propose that my reputation should be in his hands. I didn't
20 want to break with him until such time.

21 Q You didn't want to break with Darrow? A No.

22 Q And all the time you had an idea that as soon as you got
23 an opportunity you would do him some harm? A No, sir;
24 that is not the idea.

25 Q You had already done it, hadn't you? A No, sir.

26 Q Whom did you mean by this sentence, "They know a great

1 deal and are certainly after us. They think if they got
2 ~~you~~ you they would be doing a great thing." Whom did you
3 mean by "they"? A Nobody in particular.

4 Q Nobody in particular? A Somebody connected with the
5 prosecution, just led him to believe that.

6 Q You just led him to believe that? A Just wrote to
7 him to believe that.

8 Q You just wrote him to believe it? A Yes, sir.

9 Q Was it Darrow? A I don't know.

10 Q Why did you write it if it was not true? A So as to
11 keep him in hand.

12 Q So as to keep whom in hand? A Darrow.

13 Q Then you were writing to him just for the purpose of
14 keeping him in hand and not for the purpose of telling the
15 truth? A Until such time as I was purged or clear out of
16 the suspicion of having anything to do with the jury bribing.

17 Q I will now call your attention briefly--I will return
18 to the letter shortly, but for a moment I call your atten-
19 tion to some statements by yourself, direct your attention
20 to those. Do you know Mr. Dunn of the Herald? A Yes, sir.

21 Q In March when you were called before the Federal grand
22 jury up in either the District Attorney's office or the
23 corridor of the Federal building about the grand jury--
24 MR. FREDERICKS. That refers to the United States District
25 Attorney?

26 MR. ROGERS' Yes. Q Did you see Mr. Dunn and talk to him?

1 A I don't remember, I might have.

2 Q You do not deny that you did? A No, sir.

3 Q At that time and place did Mr. Dunn ask you, "Are you
4 going to testify against Darrow?", and did you then reply,
5 "I know of no evidence of bribery against Darrow and could
6 not testify to anything except some immaterial matters,"
7 or words to that effect or substance? A No, sir.

8 Q What is that? A No, sir.

9 Q You did--do you know Mr. Coleman? A From Seattle,
10 Portand?

11 Q I reckon so, he is not in the room. The gentleman who
12 was sitting here the other day--yes, he is. Stand up,
13 Mr. Coleman. This gentlamm right here with the red necktie?
14 A Yes, sir.

15

16

17

18

19

20

21

22

23

24

25

26

1 Q How long have you known him?

2 MR FORD: If the court please, if he is going to be called
3 as a witness for impeachment, I think he ought to be kept
4 out of the room.

5 MR ROGERS: Yes, that is true.

6 MR APPEL: Mr Ford, I was going to suggest that he can go
7 out of the room. This matter only applies to him as an
8 impeaching witness. As to the balance of the testimony we
9 don't intend to use him.

10 MR FORD: Just the kind of witnesses we want the rule
11 applied to, are those impeaching witnesses.

12 MR APPEL: That is all right.

13 MR FORD: That is the object of the rule.

14 MR APPEL: It is only concerning one statement, supposed
15 to have been made somewhere; that is all the testimony
16 will be, confined to that. As to hearing the balance of
17 the testimony the rule ought not to be enforced.

18 MR FORD: I ask him to be cautioned, not to read any
19 transcript, what purports to be the testimony of this
20 witness.

21 MR APPEL: Now, you ain't going to do anything of the kind.

22 MR FORD: That is the rule, not to read any transcript
23 of what purports to be the testimony of this witness.

24 THE COURT: Do not take any more time. There are matters
25 about to be inquired into, and he will have to retire.

26 MR ROGERS: The witness comes and hears things and comes

1 and tells us about it.

2 THE COURT: He will have to leave at this time. Mr Cole-
3 man, you will have to leave the court room.

4 MR ROGERS: Did you see Mr ^{Pohlsman} Coleman in December, 1911?

5 A Yes sir.

6 Q Over at the grand jury -- Federal grand jury? A Yes
7 sir.

8 Q -- in the Federal Building? A In an ante-room
9 to the District Attorney's office.

10 Q Did you have a conversation with him from time to time?

11 A Yes sir.

12 Q And talk with him? A Yes sir.

13 Q At that time did you and he have about the following
14 conversation, that is, by about, I mean the following
15 conversation in substance and effect and in purport, you
16 and he being engaged in the conversation, although other
17 persons were in the room, but I cannot say the other per-
18 sons were in hearing: that you could not see how Mr Darrow
19 could in any manner be charged with jury bribing; that
20 you were acquainted with every detail and particular of
21 the defense in the McNamara case, and that you knew that
22 Darrow had nothing to do with any bribery, or words to
23 that effect? A No sir, I did not.

24 MR FORD: If the court please, I notice Mr Ed Hockels is
25 in the court room and I would like to ask if he is going
26 to be called as a witness.

1 THE COURT: The court will repeat the admonition, that all
2 persons who are under subpoena or who know they will be
3 witnesses in this case, will keep out of the court room.

4 MR FORD: We will object to Mr Ed Nockels taking the
5 stand if he is called as a witness.

6 MR DARROW: We do not expect to call Mr Nockles. If any-
7 thing happens in the future that makes it necessary, we
8 will have to determine it at that time.

9 THE COURT: The admonition is given now, and if witnesses
10 disregard it it will have to be taken up.

11 MR DARROW: We do not expect to call him.

12 MR FORD: We want to be fair and we called their atten-
13 tion to it.

14 THE COURT: That is quite proper to call attention to it.

15 MR DARROW: We told you our intention, if anything arises
16 in the future, we will present that matter.

17 MR FORD: Are there any other impeaching witnesses in the
18 court room?

19 THE COURT: The general admonition has been given, and if
20 they come in in disregard of that, the action will be
21 taken when the time comes.

22 MR FORD: Frequently we do not know them.

23 THE COURT: I presume counsel on the other side will
24 govern themselves accordingly.

25 MR ROGERS: Yes, we cannot tell. Most of them have never
26 been in the court room. As far as the newspaper men are

1 concerned --

2 THE COURT: They have been excluded from the general order,
3 all newspaper men engaged in their professional capacities
4 in the court room, have been excluded from the order.

5 MR ROGERS: Now, on a subsequent day, by "subsequent day",
6 I mean just a few days, three or four days subsequent to
7 your first conversation with Mr Pullman at the same place
8 and under the same circumstances, when the matter came up
9 in conversation again, did you not further say at that time
10 that you knew Darrow was innocent of any such charge or any
11 other corruption in the McNamara case, or words to that ef-
12 fect?

13 MR FREDERICKS: That is objected to on the ground no founda-
14 tion has been laid. The question was, "a few days after
15 this conversation"; the witness has said he never had a con-
16 versation referred to.

17 THE COURT: Yes, I think you will have to fix that time
18 and place a little more definitely.

19 MR ROGERS: I have already said in December for the first
20 conversation and he said he talked with Mr Pullman in De-
21 cember over in the ante-room of the grand jury sometime in
22 December. Now, I am asking him a few days subsequent to
23 the first conversation; I am unable to give him the day in
24 December.

7p 1 THE COURT. If you are fixing the time and place in
2 December, in the ante-room--

3 MR. ROGERS. Yes, sir.

4 MR. FREDERICKS. If that is the meaning of it I will with-
5 draw the objection.

6 MR. APPEL. He said a few days after, under the same cir-
7 cumstances.

8 MR. FREDERICKS. It simply means the same conversation.

9 MR. ROGERS. The same conversation, at the same place.

10 THE COURT. It is fixed in the ante-room of the grand
11 jury.

12 MR. ROGERS. Yes, sir.

13 THE COURT. Let us have it.

14 A No, sir, I did not.

15 Q MR. ROGERS. Did you know Mrs. Eargott? A No, sir,
16 I cannot place her.

17 Q The wife of a Baptist Minister, or something of that
18 sort? A No, sir.

19 Q Your acquaintance does not extend in that direction?

20 A No, sir.

21 Q At that time? A I cannot recall who she is, Mr. Rogers.
22 If you can refresh my memory it is barely possible I can
23 say, but I don't know her.

24 Q I believe at that time she was a newspaper woman, a
25 newspaper correspondent. Now, very shortly after the
26 close of the McNamara case, I am unable to give you the
number of days, but between the close of the McNamara case

1 and the closing of the offices of the defense in the
2 Higgins Building, in your office, no one but yourself and
3 this lady being present, did she not inquire of you what
4 you thought of the charges about bribing jurors and other
5 corruption in the McNamara case, did you not then reply that
6 you did not understand the matter but that you were posi-
7 tive that Darrow had nothing to do with any such matter,
8 that you had known Darrow 15 years and you were sure he
9 would not do anything of the kind, and you believed that
10 you would have known something about it if it had been
11 going on, or words to that effect or purport? A No, sir;
12 I did not.

13 Q Did you further say at that time and place, before this
14 lady whose name I have given you, and under the circum-
15 stances I have mentioned, that Darrow had always told every
16 one in connection with the case that it must be run hon-
17 estly and on the square, whichever word was used, and that
18 you had seen nothing out of the way or corrupt in connec-
19 tion with the case, or words to that effect or purport?

20 A No, sir; I did not. I think I remember that lady now.
21 She was one of two sisters that was down here reporting
22 at the time.

23 Q You remember whom I mean? A I think I do, but I do
24 not recall the name.

25 MR. FREDERICKS. She is a sister of May Field, isn't she?

26 MR. ROGERS. I am not aware.

1 A I don,t remember her by name, but I think it was one
2 of two sisters that was down here reporting the case.

3 MR. ROGERS. Q Well, then, you remember one of two sis-
4 ters? A There were two sisters there and I don't rem-
5 ember which one was Mrs. Eargott and which was not, I do not
6 recall which was which.

7 Q Do you know a Mr. Cavanaugh, Sergeant of Police at
8 Venice? A Yes, sir.

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

11 Q Have you talked with him? A Yes, sir.

12 Q And he with you? A Yes, sir.

13 Q Did you ever meet him at Mr. Darrow's house as a guest?
14 A Yes, sir.

15 Q While you were Mr. Darrow's guest, living at his house
16 in December, did Mr. Cavanaugh come in of an evening?

17 A I think so; yes, sir.

18 Q Was there a conversation there while Mr. Cavanaugh came
19 in of the evening, while you were Mr. Darrow's guest, in
20 which you and Cavanaugh took part? A yes, sir.

21 MR. FREDERICKS. Was the time fixed?

22 MR. ROGERS. Well, it was just before Christmas, or it is
23 after, it is at the time Mr. Harrington was living at Mr.
24 Darrow's house.

25 MR. FREDERICKS. All right.

26 MR. ROGERS. Q And that is the time that you were here as

1 a witness before the Federal grand jury, isn't that true?

2 A Yes, sir.

3 Q And that is the time you were living at Mr. Darrow's
4 house? A Yes, sir, the first subpoena.

5 Q That is the first time you were here as a witness before
6 the Federal grand jury, you were living here at Mr. Darrow's
7 house? A Yes, sir.

8 Q Now, did you not say to Mr. Cavanaugh, during the course
9 of that conversation at Mr. Darrow's house, that evening,
10 substantially this: I cannot give you the exact words,
11 but the substance and purport of it: That you did not
12 know of a lawyer in the United States that would have per-
13 mitted a plea of guilty in the case because the cases could
14 have been kept up for at least two years and everybody
15 could have made plenty of money out of them, but that Darrow
16 had never looked out for his own interests in any of his
17 business, and, further, that the idea that he had been
18 connected or known of any bribery of jurors or corrupt
19 work was absurd;

1 that it never could have happened unless you had known some-
2 thing about it, and you had never seen anything that would
3 raise a suspicion or anything of the kind, and that you
4 could not understand it unless the whole thing was a job,
5 or words to that effect, to Mr Cavanaugh. A No sir, I
6 did not.

7 Q Nor anything like it? A Oh, no, nothing at all like
8 it.

9 Q Did you ever visit Mr Cavanaugh at his home in Venice ?

10 A Yes sir.

11 Q Did you ever talk there with Mr Cavanaugh about the
12 matter? A Yes sir.

13 Q Did you ever make, not in the same words, but in sub-
14 stance, the same statement to Mr Cavanaugh at his home in
15 Venice? A I did not. Both Cavanaugh and I agreed to it
16 that Darrow was guilty.

17 Q What is that? A Both Cavanaugh and I said down there
18 Darrow was guilty.

19 Q Tell me what Cavanaugh said? A Cavanaugh said that
20 Darrow was guilty.

21 Q Was anybody present? A His wife.

22 Q Mrs Cavanaugh? A Yes.

23 Q When was that that that happened? A It was about
24 the 18th of December.

25 Q That is before you told Lawler? A Yes sir.

26 Q And while you were living at Darrow's house? A No

1 sir.

2 Q While you were in the offices? A No sir.

3 Q Weren't you in the offices day after day there? A No
4 sir.

5 Q Now, you were Mrs Darrow's guest at her house, weren't
6 you?

7 MR FREDERICKS: We object to that as incompetent, irre-
8 levant and immaterial.

9 THE COURT: Overruled.

10 A At what time?

11 Q At the time we have spoken of, Mr Harrington.

12 MR FORD: The 18th of December; you have spoken of several
13 different times, that is the last date mentioned.

14 THE COURT: I will sustain the objection unless you fix
15 that time a little more definitely.

16 MR ROGERS: I have a right to ask him as to the fact, and
17 then I can ask him as to what time; I don't have to fix
18 the time in the first question.

19 THE COURT: Your inquiry is generally?

20 MR ROGERS: yes sir.

21 THE COURT: All right.

22 A At one time, yes sir.

23 Q Now, when was that? A That was after I came back on
24 the first Federal subpoena.

25 MR FREDERICKS: May it please the court, we would like
26 to have Mr Darrow keep his seat. I do not want to say why.

1 MR APPEL: We do not propose to have it done. Mr Darrow
2 is an attorney.

3 MR FREDERICKS: Then I will say why.

4 MR ROGERS: If counsel does not want to say why, I will
5 say why:

6 MR FREDERICKS: All right.

7 MR ROGERS: I have been trying to get this man to look at
8 me for two days, now, ever since he has been on the stand;
9 I have walked over there, I stood here, and I sat here,
10 and I walked around yonder, and I tried to catch his eye
11 once, and I have never succeeded. I have moved around with
12 the hope and purpose of seeing if I could not get him to
13 look me in the eye or look Mr Darrow in the eye, and he
14 has never done it, and that is why I moved around for
15 this question; I hoped to get him to look me in the eye.

16 MR FREDERICKS: We have no objection to his looking counsel
17 in the eye, but counsel said, right here back of me, when
18 Mr Darrow came over, said to Mr Darrow, "Make him look
19 you in the eye", and we maintain that Mr Dar row is at-
20 tempting to use hypnotism on this witness.

21 MR APPEL: Oh, oh --

22 MR FREDERICKS: yes, and they -- and the fact is right here,
23 he did it when he had Behm on the stand. Let Mr Darrow
24 keep his eyes to himself. We know somethings about this
25 case. This is for the jury. I know what I am talking
26 about.

1 MR APPEL: This is the most childish --

2 MR FREDERICKS: Absolutely know what I am talking about.

3 MR APPEL: -- this is the most childish statement made by --

4 THE COURT: Now, gentlemen --

5 MR FORD: Aside from that, no witness is compelled to look
6 at anybody.

7 THE COURT: We have spent enough time on this one thing. I
8 want to say right here --

9 MR DARROW: I want to make a statement.

10 THE COURT: I do not think it is necessary, Mr Darrow.

11 MR APPEL: We have a right to make that statement.

12 THE COURT: Mr Rogers is interrogating the witness, and
13 Mr Darrow approached him and spoke to him. I can see no
14 serious impropriety in that. Of course, it is the rule,
15 and that is proper --

16

17

18

19

20

21

22

23

24

25

26

Sp 1 MR. FREDERICKS. And Mr. Rogers said to Mr. Darrow, that is
2 the point I am getting at, Mr. Darrow had no business over
3 here.

4 THE COURT. Gentlemen, so far as this question ^{of} hypnotism
5 is concerned, it is not a science that this court will
6 recognize.

7 MR. FREDERICKS. It is a science the medical profession
8 recognizes.

9 THE COURT. There may be such a thing as occasional in-
10 stances of hypnotism, but it is not a matter that is
11 reduced to a scientific basis, and the court will take
12 no notice of the existance of such a science, it is not
13 recognized as a science.

14 MR. FREDERICKS. Before we get through, perhaps the court
15 will.

16 MR. DARROW. I want to state about twenty words, I do not
17 want to reply, I want to state the circumstances.

18 THE COURT. I do not think it is necessary, under the
19 circumstances.

20 MR. DARROW. I think it is only fair.

21 THE COURT. Go ahead.

22 MR. DARROW. I simply spoke to Mr. Rogers, whispered to
23 him that he was the guest of our house many times, that
24 is all. I didn't tell him to ask the witness to look at
25 him and Mr. Rogers made no such remark to me.

26 MR. FREDERICKS. Mr. Rogers said, "Make him look you in
the eye", and I heard that remark right at my ear. I leave

1 it to Mr. Rogers if he didn't say that.

2 MR. DARROW. If he did, I didn't hear it.

3 MR. FREDERICKS. I leave it to Mr. Rogers.

4 MR. ROGERS. I made the remark, if your Honor please, but
5 Mr. Darrow didn't hear me. He was walking away, because
6 I wanted to see if this man dare look Darrow in the eye
7 or dared look me in the eye, I just wanted to see if he
8 could for once.

9 MR. APPEL. Well, did he?

10 MR. ROGERS. He did not, and he never has and he dare not
11 do it now.

12 MR. FORD. He might as well challenge him to fight and
13 because he would not fight, put that in the record.
14 Counsel has no right to compel a witness to look him in
15 the eye, the witness is not compelled to address himself
16 to anybody but the jury, and counsel may have an idea that
17 his particular physiognomy may be pleasing to this parti-
18 cular witness and may have some effect on this witness,
19 but whether it has or has not is absolutely immaterial;
20 the witness is not required to look at him nor, if the
21 witness does not like, to look at either one of them,
22 that is a matter for the witness to decide upon.

23 THE COURT. Gentlemen of the jury, bear in mind the
24 admonition. We will take a recess for five minutes.

25 (After recess.)

26 THE COURT. Proceed.

1 MR. ROGERS. Q I am calling your attention to the time
2 when you were a guest at the Darrow house, approximately
3 Christmas time, and from then on until you went east--
4 until the Darrows moved. I will ask you if you talked
5 with Mrs. Darrow during that time about these matters?

6 A Yes, sir.

7 Q How many conversations did you have with Mrs. Darrow?

8 A Oh, several.

9 Q As many as three? A Yes, sir.

10 Q Can you distinguish one from the other, that is, rem-
11 ember what you said in one conversation from what you
12 said in the other conversation? A No, sir.

13 Q Now, in one of these conversations at Mrs. Darrow's
14 house, while you were her guest, did you say this, or
15 words to this effect or substantially this: that you
16 believed that no other lawyer in the country would have
17 allowed the defendants to plead guilty, because the case
18 could have been run on for at least two years until every-
19 body had enough money, or words to that effect. That you
20 had known Darrow for fifteen years and that you knew he
21 was fairly honest and never considered his own interests,
22 and you were sure there was no truth whatever in any
23 rumors concerning his connection with any bribery, or
24 words to that effect or substance? A That is partly
25 true and partly not.

26 Q What part is true and what is not true? A I said the

1 reputation he bore before he went to Los Angeles, that was
2 one.

3 Q Now, what did you say in that regard? A That it was
4 excellent.

5 MR. FREDERICKS. That is objected to as incompetent, irre-
6 levant and immaterial and hearsay, and not cross-examina-
7 tion.

8 MR. ROGERS. It is conversation.

9 THE COURT. Objection overruled.

10 MR. FREDERICKS. It is not conversation tending to impeach
11 --what did you say--
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1 THE COURT: The witnesss said it was partly true and part-
2 ly false.

3 MR FREDERICKS: Then it is up to counsel to ask him the
4 impeaching part, and segregate his question and ask him
5 his question segregated until he gets what he wants.

6 MR ROGERS: No sir.

7 MR FORD: If the court please, if you pardon me just a
8 moment; counsel is not entitled on direct examination to
9 put in the whole of a conversation; he is only entitled
10 to put in that part which is material, then, if the other
11 side, cross-examining on that side, desires the whole of
12 the conversation, under the law, they are entitled to the
13 whole conversation.

14 THE COURT: No doubt about that.

15 MR FORD: But when counsel puts an impeaching question,
16 he is only entitled to put that part which impeaches. Now,
17 he is seeking to ask him about a part which does not im-
18 peach. It is done merely for the purpose of trying to
19 prove reputation, which they have a right to recall him as
20 a witness to prove his reputation was good, if they desire
21 to do so. They can recall Mr Harrington as their witness
22 and prove that his reputation before he came to Los Angeles
23 was good in the community in which he lived, if they de-
24 sire so to do, but it is not impeachment. It is not a
25 proper question on cross-examination. All they have a
26 right now is simply that part which relates directly --

1 which is directly impeaching of the witness' present
2 testimony, namely, that part which refers to a conversation
3 about not bribing jurors.

4 MR ROGERS: It will take two or three questions to show
5 the situation.

6 THE COURT: Read the question. (Last question read by
7 the reporter.) Objection overruled. (Last answer read
8 by the reporter.)

9 MR FREDERICKS: I move to strike the answer out on the
10 ground it is hearsay, not part of the cross-examination,
11 a part, if anything, of counsel's case in chief.

12 MR ROGERS: I haven't asked him if that were true, I
13 have asked him what did he say.

14 MR FREDERICKS: Then it is incompetent, irrelevant and
15 immaterial.

16 THE COURT: Motion to strike is denied.

17 MR ROGERS: Now, what other part of that conversation that
18 I related to you as happening with Mrs Darrow, as a matter
19 of fact, did happen, you say part happened and part did
20 not. A I cannot carry the question in my mind like that.

21 Q You cannot carry it in your mind? A No sir.

22 Q Well, then, did you say that you had known Darrow
23 15 years? A Yes sir.

24 Q Did you tell her that he was -- that there were no
25 other lawyers in the country would have allowed the de-
26 fendants to plead guilty because the case could have been

1 run on for at least two years until everybody had enough
2 money? A No sir.

3 Q Did you say that you knew Darrow was thoroughly hon-
4 est, and never considered his own interests? A No sir.

5 Q Or words to that effect? A Nothing like that, no sir.

6 Q Did you say that you were sure there was no truth what-
7 ever in any rumors concerning Darrow or words to that effect?

8 A No sir.

9 Q Did you further say in one of those conversations that
10 nothing of the kind could have happened around the office
11 without your knowing it, and that you knew nothing of the
12 kind did happen, and that you need not be worried what-
13 ever, for you were confident that there could not be any-
14 thing connected with Mr Darrow that was illegal? A No
15 sir.

16 Q Or anything to that effect or purport? A No sir.

17 Q I now direct your attention to a matter where you say
18 that Darrow showed you a roll of bills. When was that?

19 A That was between the 20th and 30th of September, 1911.

20 Q How do you fix it? A It was after my return from
21 San Francisco.

22 Q You returned from San Francisco when? A On the 20th.

23 Q So it was between the 20th and the 30th? How long
24 were you up in San Francisco? A I left Los Angeles on
25 the 1 th.

26 Q And returned on the 20th? And you were therefore, in

1 San Francisco approximately a week? A yes sir.

2 Q Where did Darrow take this roll of \$10,000; out of his
3 shoe or his pocket or where?

4 MR FREDERICKS: That is objected to as assuming a fact
5 not in evidence. There is no evidence that this roll was a
6 \$10,000-roll; simply a roll of bills, is all the witness
7 testified to.

8 THE COURT: Objection sustained.

9 MR ROGERS: Where did Darrow take this roll out from,
10 and waived around in front of you and tell you that was
11 the bribery roll, or words to that effect?

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

18 1 MR. FREDERICKS. That is objected to as assuming a fact
2 not in evidence, that he waved it around in front of him.
3 THE COURT. Objection overruled.

4 A Read the question.

5 (Last question read by the reporter.)

6 A Mr. Darrow did not wave the roll, it was in his hands
7 when I first saw it.

8 MR. ROGERS. Q You didn't see where he got it from?

9 A No, sir.

10 Q Did you see what he did with it? A No, sir.

11 Q How long did you see him have this roll, this bribery
12 roll he was going to bribe jurors with? A How long did
13 I see it?

14 Q Yes. A Oh, a couple of minutes; a minute or two;
15 very short time.

16 Q You were out on the porch, I understand you say? A Yes,
17 sir.

18 Q Anybody else out there? A No, sir; not at that time.

19 Q Anybody in the house? A Aside from the maid, I sup-
20 pose you are speaking?

21 Q Anybody in the house, the persons that were in the
22 house? A The maid was there.

23 Q And anybody else? A Not that I remember.

24 Q Just you and Mr. Darrow? A Yes, sir.

25 Q Mrs. Darrow and your daughter, where were they?

26 A They were around the garden.

1 Q In the garden of the house? A Yes, sir.

2 Q Did you know where they were? A No, sir.

3 Q What did Darrow say to you when he took this roll out,
4 to use a common expression, when he flashed this roll?

5 A He says, "I have got \$10,000 and if I can arrange to
6 reach a couple of jurors, J. B., will never be convicted."

7 Q So you did know something about the \$10,000 roll?

8 MR. FREDERICKS. That is objected to as assuming a fact
9 not in evidence.

10 MR. ROGERS. It is cross-examination.

11 MR. FREDERICKS. He didn't say he had \$10,000 in his hand--
12 I withdraw it.

13 THE COURT. Objection overruled. Answer the question.

14 A He said he had the \$10,000.

15 MR. ROGERS. Q And what did you say you thought he did

16 that for? A One reason was I thought probably he wanted
17 to see if I would stand for it and help him to reach the
18 jurors.

19 Q The only reason was you thought he was trying to
20 induce you to stand in on it, see if you would help him?

21 A To help him, yes.

22 Q You regard^{ed} that as^a pretty serious thing, to try to induce
23 you to help him bribe jurors, didn't you? A I would if
24 he come out and was explicit about it.

25 Q Well, the mere suggestion to try, to a lawyer, would
26 be serious, would it not? A Yes, sir.

1 MR. FORD. Objected to as argumentative.

2 THE COURT. Overruled.

3 MR. ROGERS. You said Yes, didn't you? A Yes.

4 Q And he did sort of intimate the idea?

5 MR. FORD. Objected to as argumentative.

6 THE COURT. Overruled.

7 A Intimate what idea?

8 MR. ROGERS. Q The one you have just expressed, that
9 you thought he was trying to get you into the idea?

10 A No, he didn't intimate that idea.

11 Q Now, you thought that it was a very serious thing
12 to sound you out and see if you would fall in with the
13 idea and help him? A Yes, sir

14 Q Now, why on Friday did you answer as follows: "Q--
15 You say that parrow told you he got \$10,000 at
16 Tveitmo'e's bank in San Francisco and showed you the roll
17 of bills? A Yes, sir, showed me a roll of bills. Q--A
18 roll of bills. Just out of a spirit of bravado, to
19 show you he had the roll of bills? A--I think it was
20 mere buffoonery."

21 MR. FREDERICKS. "More buffoonery."

22 MR. ROGERS. " It was more buffoonery." Why did
23 you answer it was, "More buffoonery", if you thought
24 he was trying to sound you out to commit a crime?

25 MR. FORD. Objected to on the ground it is argumentative
26 and that counsel went into that definition fully yes-

1 terday.

2 MR. ROGERS. Yes, sir. It is cross-examination under
3 the circumstances. I have a right to cross-examine as
4 to motives.

5 MR. FORD. We admit that.

6 THE COURT. No doubt about that. Wasn't that matter fully
7 gone into yesterday?

8 MR. ROGERS. No, sir, not in this light. I didn't have
9 this before me.

10 THE COURT. If you are going into a different question--

11 MR. APPEL. In view of his present answer--

12 THE COURT. All right; objection overruled.

13 A I made that answer yesterday about his reasons, and I
14 also made it about his buffoonery because I didn't think
15 anybody but a buffoon would make such declarations what
16 he was going to do with \$10,000.

17 MR. ROGERS. You understand, do you, that buffoonery
18 is a man who practices low--who makes a practice of amusing
19 others by low comics, antics and gestures and drollery and
20 mimicry and chicanery, a clown, a merry-maker, do you?

21 MR. FORD. Objected to as irrelevant and immaterial and
22 not cross-examination.

23 MR. ROGERS. If your Honor pleases--

24 THE COURT. Overruled.

25 A No, sir, I didn't use it in that sense.

26 MR. ROGERS. Q Did I not ask you yesterday, "Q--You under-
stand the English language pretty well? A--Yes, sir.

1 Q--What do you mean by buffoonery? A--Just showing how
2 smart he was." Did you so answer? A Probably did.

3 Q Well, then, if he were buffooning, jesting, just showing
4 how smart he was, why did you answer this morning that
5 you thought he was trying to get you to participate in a
6 felony?

7 MR. FREDERICKS. We object to the part which says, "This
8 morning", because it assumes that he answered --he did not
9 answer it yesterday, whereas this shows he gave the same
10 answer yesterday that he gave this morning, "he thought he
11 was trying to sound him out."

12 MR. FORD. Objected to on the further ground it was fully
13 gone into yesterday, all down on there: "Q--Showing you
14 how smart he was? A--Yes, sir. Q--That he had \$10,000 to
15 bribe jurors and show you how smart he was, a kind of a
16 joke? A--I didn't regard it as a joke. Q--Now, don't
17 you know that buffoonery is joking? Do you know the
18 definition in the dictionaries of buffoon or buffoonery?

19 A--I cannot say that I do. Q--Well, then, why did you
20 use the word? A--It is an ordinary, commonplace word.

21 Q--By that you mean what? A--Bravado. Q--Bravado? A--Yes"
22 I am simply showing to the court the matter has been fully
23 gone into.

24 MR. ROGERS. Just simply protecting the witness and leading
25 him out of a most absurd contradiction. Is it possible,
26 if your Honor please--

1 MR. FORD. I am addressing the court.

2 MR. ROGERS. --If this is a situation which ought--

3 MR. FORD. I object to being interrupted.

4 THE COURT. Have you finished?

5 MR. FORD. No, sir.

6 THE COURT. Go ahead.

7 MR. FORD. "Q--That he was showing off?" I wont go on.

8 Your Honor can see for twenty lines more that same sort of
9 testimony, telling what he understood what he meant by the
10 use of the word. This was all done on cross-examination.
11 The matter has been fully gone into and there is no use
12 going over and over the same situation time and time again
13 on cross-examination. He had answered yesterday that he
14 was trying to feel him out and counsel had just the same
15 information then that they have now with regard to that, and
16 I think that the matter has been fully exhausted and
17 there is no use going over and over the same thing. Just
18 simply a third degree police method.

19 MR. ROGERS. I don't use those here. Now, if your Honor
20 please, here is a witness comes on the stand and on being
21 interrogated as to what he thought the reason was for the
22 showing of these bills, he gives a most serious reason.
23 He gives the reason first that he believed Mr. Darrow was
24 going to commit a felony, a felony of a high degree, and
25 was trying to induce this man to participate in it; was
26 trying to induce him to join him in the felony, and on

1 yesterday he said it was a buffoonery, just to show how
2 smart he was, a spirit of low mimicry, as I have just read
3 from the dictionary. Now, if your Honor please, is it
4 possible I cannot examine a man who makes an answer do
5 absolutely, diametrically opposed as that? Yesterday I
6 didn't have this transcript before me, yesterday I didn't
7 fully have before me just what he had said, and now when the
8 transcript is written up I have a right to contrast, if I
9 may, which I did not do yesterday, I have a right to con-
10 trast his answers. They both cannot be true. Darrow could
11 not have been serious in trying to get this man to com-
12 mit a felony and at the same time jesting, buffooning.
13 Why, it is so absurd, that the mere statement of it shocks
14 the ordinary man. The answer is it didn't happen, that is
15 the matter with the whole thing; the incident could not
16 have happened and didn't happen, and what is the matter
17 with it and his efforts to give reasons, shows it, if
18 your Honor please, and therefore I have a right to show
19 how diametrically opposed he makes his explanations, and
20 if a man cannot explain why a thing happened and give so
21 many different reasons for it, it goes to whether it did
22 happen or not, in the minds of the jury. I have a right
23 to cross-examine--

24 THE COURT. You have a right to cross-examine him once.

25 MR. FREDERICKS. He said yesterday right in the transcript--

26 THE COURT. I have it in mind.

1 MR. FREDERICKS --that he thought Darrow was trying to
2 feel him out. He said also the statement about buffoonery,
3 he said it yesterday, but explained it.

4 MR. FORD. I have the exact transcript here, pages 2794
5 and 95.

6 THE COURT. I have it.

7 MR. FORD. Page 2794 and 95.

8 MR. ROGERS. Here is the situation, yesterday: 2794: "Is
9 there any reason on the face of the earth why Mr. Darrow
10 should show you \$10,000 and tell you he was going to bribe
11 jurors? A--I know of no reason except what I have already
12 said. Q--That is, a spirit of buffoonery? A--No, that he
13 was trying to feel me out to see how I would stand for it.
14 Q--That is what you say now, and a while ago you said it
15 was bravado, or buffoonery, didn't you." Now, previous
16 to that he has said over here that it was a spirit of
17 buffoonery, and a spirit of jest, and to show how smart he
18 was. Now, today, having these answers in front of me, I
19 have a right to contrast them. They both cannot be
20 true. On his cross-examination of yesterday I asked him,
21 "That is, a spirit of buffoonery? A--No, that he was trying
22 to feel me out to see how I would stand for it." On
23 yesterday he said in another place--

24 THE COURT. Mr. Rogers, the court wants to give you every
25 latitude in a matter of this kind, but if your contention
26 be correct you have a right to cross-examine a witness on

1 any given subject on one day and then the next day when
2 you get the transcript, you have a right to go over that
3 same cross-examination again, if I understand your posi-
4 tion?

5 MR. ROGERS. No, sir, that is not my position but when I
6 get two different answers taken at two different times as
7 far apart as these answers were--I have a right to speak
8 the court. The court has asked me a question.

9 THE COURT. Yes.

10 MR. ROGERS. On two different occasions, at least, an hour
11 apart, he said on one occasion it was a spirit of buffoonery,
12 a spirit of jest, just to show how smart he was, and then
13 finding that didn't work, after I had cross-examined him
14 on that, then along way along he takes the position indicated
15 by counsel, "No, not a spirit of buffoonery, but a spirit
16 of--he wanted to feel me out." Now, with those two
17 answers, it is an element of cross-examination you may
18 take two divergent answers and ask him which he desires to
19 choose from.

20 MR. FREDERICKS. He made them both yesterday.

21 MR. FORD. I call your Honor's attention to the ruling of
22 the court--the court said that the objection that it was
23 already asked and answered, "I think the objection is well
24 taken."

25 MR. ROGERS. I am not a very long cross-examiner; I don't
26 cross-examine, as a rule, very elaborately. I do cross-

1 examine with certain ideas in view. Now, on yesterday at
2 one page he said this, let me call your Honor's attention
3 to it.

4 MR. FREDERICKS. Let's submit it and let the court rule on
5 it.

6 MR. ROGERS. No, we will not submit it, if your Honor
7 please. "Q--A roll of bills"-- page 2774--"just out of
8 the spirit of bravado, to show you he had the roll of bills,
9 eh? A--I think it was more buffoonery. Q--Buffoonery?
10 A--Yes, sir." Now, at 2794 he says this--2795 it is, "Is
11 there any"-- 2794--"Q--Is there any reason on the face of the
12 earth why Mr. Darrow should show you \$10,000 and tell you
13 he was going to bribe jurors? A--I know of no reason
14 except what I have already said. Q--That is, a spirit of
15 buffoonery? A--No, that he was trying to feel me out to
16 see how I would stand for it." Now, if your Honor please,
17 those two things cannot be true, and I have a right now
18 to confront the witness with his lame explanations, in
19 order to show that the incident never happened at all, and
20 that he was trying to get some sort of an explanation, and
21 realizing that his buffoonery explanation would not go, he
22 tried to make another.

23 MR. FORD. The court please, we deny that there is any-
24 thing inconsistent in the two propositions. The witness
25 characterized his opinion of the transaction as being
26 buffoonery, but when asked if that was the reason why Mr.

1 Darrow said it, out of a spirit of buffoonery, he said
2 "No," the reason is he was trying to feel me out to see if
3 I would stand for it, or words to that effect. I will get
4 the exact language. The witness is not characterizing
5 the motives which prompted Mr. Darrow, as being buffoonery.
6 He said the reason which he thought Mr. Darrow--that he
7 was trying to feel the witness out, but his characteriza-
8 tion of it is that it was buffoonery. Now, I think
9 those two things are entirely consistent, but if they are
10 inconsistent the record is here, counsel has it and can
11 argue it to the jury at the proper time. The matter has
12 been fully gone into, was gone into yesterday so fully
13 that your Honor on page 2796, after it had been put in
14 the record from page 2778 down to 2797, finally ruled that
15 the cross-examination had been sufficient upon that sub-
16 ject, after page after page of the record is taken up
17 with the witness's idea of what is meant by buffoonery, and
18 he explains that he didn't consider it a joke, and he didn't
19 consider that Darrow was joking, but he considered the
20 fact that he made such a proposition to be buffoonery, to
21 be ridiculous, to be preposterous, to be something that a
22 man of Darrow's intellect ought not to try to indulge in.
23 That will be our argument to the jury. If the record
24 shows something to the contrary, they have gone into it
25 so fully, they have an advantage in arguing.

26 MR. ROGERS. Here is what the transcript shows: "Just

1 showing--" that is, Mr. Darrow, "just showing how smart he
2 was." We understand what the word "smart" means. It
3 is a spirit of buffoonery. Mr. Darrow was just showing how
4 smart he was. "Q—Showing you how smart he was? A Yes,
5 sir." Of course Mr. Darrow--he is giving what Mr. Darrow
6 was doing, not how he thought of it.

7 MR. FORD. If the record shows all that--

8 MR. FREDERICKS. Let's take a ruling.

9 THE COURT. I want to inquire of counsel--does the statement
10 appear in the record that "he was trying to feel me out to
11 see if I would stand for it", or words to that effect,
12 appear before page 2795?

13 MR. ROGERS. Not to my knowledge. I haven't a memorandum of
14 it, at any rate.

15 THE COURT. If it does not--

16 MR. FORD. I think I can find it in just a minute.

17 THE COURT. I am unable to find it in the record.

18 MR. FORD. I can find it, I think, your Honor, in just
19 a minute, page 2781.

20 THE COURT. Now, don't read, just let me have the page.

21 MR. FORD. Page 2781, down at the bottom of the page, the
22 first line is 14 and 15, and then down to the bottom,
23 25 and 26, he used the words which your Honor is looking
24 for; at the top of page 2782 he uses the words--

25 MR. ROGERS. But at 2781 he uses the words--

26 THE COURT. I want to examine that. I don't think you have

1 a right to interrogate the witness on that matter any
2 further . I think it has been fully asked and answered.

3 The objection is sustained.

4 MR. ROGERS. Take an exception.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 MR ROGERS: ¹Mr Witness, when you gave this answer at line
2 21, page 2777, "just showing how smart he was", you
3 used the word "smart" in a slang sense, did you not?

4 MR FREDERICKS: That is objected to on the ground it has
5 already been covered on cross-examination.

6 THE COURT: Objection sustained.

7 MR ROGERS: Did your Honor sustain the objection?

8 THE COURT: Objection sustained.

9 MR ROGERS: Exception.

10 MR FREDERICKS: It is the same proposition we have
11 been arguing about for a half an hour.

12 MR ROGERS: I regard it as error and I would like to put
13 it in in such form as to get the benefit of it.

14 Q Did you have anything to do with looking up jurors?

15 A No sir.

16 Q Did you have anything to do with investigating venires?

17 A No sir.

18 Q Was a copy of any venire ever given you? A No sir.

19 Q Did you know any Los Angeles people before you came
20 here? A I cannot recall any.

21 Q Stranger in town, weren't you? A Stranger in town,
22 yes sir.

23 Q All the people you knew were people that you met after
24 you came here? A Mostly, yes sir.

25 Q Now, on this evening when you say Darrow showed you
26 the \$10,000 roll, you say your daughter and Mrs Darrow

1 were out in the grounds? A Yes sir.

2 Q Do you remember Mrs Darrow's whereabouts; did you
3 know where she was? A No sir.

4 Q Did you keep track of her? A No sir.

5 Q Did you see her when you were out on the porch at
6 all? A I do not recall seeing her.

7 Q Did you see the two of them while you were out on the
8 porch at all? A I might have; I do not recall; I was not
9 paying much attention.

10 Q Paying no attention to them? A Not much, no sir.

11 Q What other subject of conversation was there between
12 you and Darrow on the porch? A The whole matter of the
13 McNamara case was gone over.

14 Q Tell me another thing that was said. A That took up
15 most of our time, sir.

16 Q Tell me another thing that was said.

17 MR FREDERICKS: The question is apparently not intelligible
18 "any other thing aside from the whole McNamara case".

19 Any other thing aside from the whole McNamara case --

20 MR ROGERS:" That is to give him time to think.

21 MR FREDERICKS: No, it is not.

22 MR ROGERS: That is all that objection is for. The wit-
23 ness understands perfectly what I mean. Tell me another
24 thing that was said aside from what he has given.

25 THE COURT: The question is correct now.

26 MR FORD: I would like to have the preceding question read.

1 THE COURT: What is the difference; it is a good question
2 now.

3 MR FORD: What is the question?

4 THE COURT: Aside from what has been given.

5 MR FREDERICKS: That is also objected to as not intelligi-
6 ble, because the witness has said that they talked about
7 the \$10,000 and talked about the entire matter of the Mc-
8 Namara case. Now, the witness may understand that that
9 is given and he wants to know if anything aside from those
10 two was talked about, or the witness may understand that
11 he wants anything aside from the \$10,000. We maintain
12 the question is not intelligible.

13 THE COURT: Mr Harrington, do you understand the question?

14 A I think I do, your Honor.

15 THE COURT: All right, answer it.

16 A yes.

17 MR ROGERS: I will withdraw it now, that you have had plenty
18 of time to think. Tell me something else that was said
19 besides with reference to the \$10,000 roll.

20 MR FORD: We object to that question on the ground it is
21 not a proper question to address to the witness, "Now, that
22 you have had plenty of time to think."

23 THE COURT: Objection overruled.

24 A That matter about the money came up after we had dis-
25 cussed the McNamara case.

26 MR ROGERS: Answer me, please, sir? A I don't know how

1 to answer you. I thought that was responsive.

2 THE COURT: Read the question.

3 (Last question read.)

4 A There was nothing else said while Mr Darrow and I were
5 on the porch.

6 Q How is it that you can tell us precisely what was
7 said and precisely what happened about this and you cannot
8 tell us even after deliberation and thought and plenty of
9 time and suggestion, cannot tell us any other thing
10 that was said there besides that.

11 MR FREDERICKS: That is objected to as being unfair,
12 not cross-examination; assuming a fact that is not in
13 evidence. The witness has said in addition to the
14 \$10,000 business, that they talked over the entire Mc-
15 Namara case, and aside from that, nothing else was talked
16 about. Now, he is asking what the witness has said, and
17 has said it at length.

18 MR FORD: We move to strike out that portion of the ques-
19 tion in which it was said he was given any suggestion.

20 MR APPEL: He said, your Honor --

21 MR FORD: If your Honor please, I was addressing the
22 court and making a motion --

23 MR APPEL: What is the motion?

24 MR FORD: I move to strike out that portion in which he
25 intimates he was given any suggestion.

26 THE COURT: Yes; strike it out and let him answer the

1 question.

2 MR APPEL: He cannot move to strike out any portion of the
3 question.

4 THE COURT: If counsel desires to eliminate that part of
5 the question, he may answer the question.

6 MR APPEL: We assume, after argument by counsel and he hav-
7 ing thought here, and heard the argument and after hear-
8 ing the discussion by counsel on both sides, that those
9 words used in the argument, they are suggestions. Now, we
10 are saying, "after suggestion", meaning in the argument,
11 your Honor, and the record shows what was said, and if
12 we are wrong about it that they are doing any suggesting
13 there, the question may be answered with reference to our
14 poor interpretation of what was said here, and I submit,
15 your Honor, there is no rule under the sun by which any
16 matter may be stricken out of the question.

17 THE COURT: There is no doubt about that.

18 MR APPEL: We put our questions as we frame them, in ac-
19 cordance with the practice of the law, and I was simply
20 saying to your Honor what the witness said, that the whole
21 McNamara case was discussed, and that the only thing was
22 said out on the porch was with reference to this \$10,000.
23 Now, he has said that before, but we want to find out
24 whether there was anything else said in connection with
25 the matter outside of what he is testifying there upon the
26 porch. Now, it is very important to us, as we regard the

1 situation.

2 THE COURT: All right, let us have it.

3 MR APEL: It is very important for us to find out what
4 led up to the remarks of this remarkable conversation.

5 THE COURT: Objection overruled.

6 A I didn't say that the money matter was the only thing
7 that was spoken of on the porch; I meant to be understood
8 as saying that we discussed the McNamara case on the porch.

BY MR ROGERS:

9 Q Tell me another thing that was said besides this
10 \$10,000, if you can? A We are talking -- we were talking
11 about the evidence in the case.

12 Q Tell me another thing that was said. A I refuse
13 to tell that, because that is a professional matter.

14 Q You refuse because you cannot? A I can, and I can rep
15 peat it.

16 Q Why don't you when I ask you? A Because you have
17 made no reference to it. Now, I refuse to, because that
18 was a matter connected with the McNamara def ense.

19 Q And your idea of ethics has come to your rescue?

20 A My ideas of ethics are just as good as yours are.

21 Q Undoubtedly; that is what you are on the stand
22 testifying -- A No, because I never divulge what I
23 learned while I was assistant district attorney.

24 Q Go on and tell me anything that was said that evening.

25 A Better not burn my fingers, it might react.

26 Q Are you endeavoring to threaten me? A No, but

1 I will meet you at every point of ethics.

2 MR FORD: Now, we object to any remarks of that sort.

3 A And you cannot smile me out of it.

4 MR ROGERS: By the way, do you know what the District
5 Attorney meant when he said that he would prosecute you
6 if you didn't come through? A No sir.

7 MR FORD: We object to that as irrelevant and immaterial.

8 MR FREDERICKS: Further, assuming a fact that is not in
9 evidence.

10 MR ROGERS: Now, Mr Harrington, tell me anything else
11 that was said there on the porch, if you can --

12 THE COURT: Just a moment, Mr Rogers --

13 A I refuse to discuss what was said there at the porch
14 for the simple reason it was a privileged matter.

15 MR ROGERS: How long were you out there? A About half
16 an hour.

17 Q Half an hour? A Yes sir.

18 Q Mr Harrington, where were you on the 27th day of
19 November? A In my office.

20 Q Who saw you there? A The investigators.

21 Q What investigators? A I suppose Mr Collier and
22 Mr Belcher and Mrs Hardenstein, who was the stenographer,
23 and anybody that had business or to come on that occasion.

24 Q Do you remember anything that happened on the 27th
25 day of November? A Nothing particular, except the regular
26 grind of the office.

1 Q Do you know anything that happened on that day that
2 you recall? A Nothing that I can recall.

3 Q Was there anything? A Let me finish my answer.

4 Q Go ahead and finish. A Nothing outside of the ordinary
5 grind of the office.

6 Q Can you name any persons you saw outside of these persons
7 you say you think you saw on that day? A I have no re-
8 collection.

9 Q Can you tell me where you were at 12 o'clock on that
10 day? A Yes sir. A I was home.

11 Q Home? A Yes sir.

12 Q How do you know? A I went home every day at noon.

13 Q Are you testifying because you remember it or because
14 you had a habit of being away. A I remember I went every
15 day.

16 Q Do you remember that occasion? A How?

17 Q Do you remember that occasion? A No sir.

18 Q You don't remember it, but you are testifying from
19 habit, aren't you? A I am testifying because I know it
20 is correct, that I did not miss any day.

21 Q Where were you at 11 o'clock? A I don't recall,
22 but I presume in my office.

23 Q You presume. Do you know who was there at 11 o'clock?

24 A No sir.

25 Q Do you know who was there at half past one o'clock?

26 A No sir.

1 Q Do you know who was there at 3? A No sir.

2 Q Do you know who was there at 4? A No sir.

3 Q Do you know who was there at half past 4? A No sir.

4 Q Do you remember any solitary person that you saw that
5 day, outside of your habit of seeing Collier and some of
6 those men? A There was nothing happened to fix my mind
7 on anything specially that day, nothing special.

8 Q Nothing special? A Not on the 27th, no sir.

9 Q What time did you get to the office? A I usually got
10 there in the morning, if you refer to the morning, about
11 9 o'clock.

12 Q You usually got there? A Yes sir.

13 Q Do you know whether you got there that morning about
14 half past 9 or 9, or what time? A About 9, I may have
15 ten minutes leeway, either way.

16 MR FREDERICKS: That is, Monday, the 27th, we are talking
17 about. A The 27th.

18 MR ROGERS: Do you know what time you left in the evening,
19 except from habit? A Not that day, no sir, nothing happen-
20 ed to fix my mind on the evening.

21 Q Do you know where you were on the 28th? A In the of-
22 fice.

23 Q Are you sure? A Yes sir.

24 Q Do you remember coming that morning? A No, only in a
25 general way.

26 Q Well, you mean you are testifying from habit? A No

1 sir, I mean in a general way.

2 Q Have you a recollection of coming there on the morn-
3 ing of the 28th? A I couldn't tell you exactly what
4 streets I came down that morning.

5 Q Answer me. A I am trying to make it plain.

6 Q Read the question. (Question read.)

7 MR FORD: I ask that counsel take a seat.

8 THE COURT: Yes, I think that is quite proper.

9 MR ROGERS: I will get him to look at me after a while.

10 MR FREDERICKS: He is looking at you and he will look
11 through you before you get through.

12 MR ROGERS: He will see more than he ever saw before, if
13 he does.

14 THE COURT: Go ahead.

15 MR APPEL: I will sit down so that he won't look through
16 me, your Honor; I am too fat, anyhow.

17 MR ROGERS: Now, Mr Harrington, answer the question,
18 please sir. A Please read the question. In order to
19 save time, if I remember coming down that morning?

20 Q Yes sir. A No sir.

21 Q You don't remember coming down that morning? A No
22 sir.

23 Q Do you remember whether you saw Franklin that morn-
24 ing or not? A I remember absolutely that I did not.

25 Q How do you come to have such a specific recollection
26 that you did not see Franklin that morning? A We were

1 talking about the morning of the 28th?

2 Q Yes sir. A That was the morning of the arrest, and I
3 know I didn't see Franklin that morning

4 Q Now, I asked you if you remembered coming down that
5 morning, and you said you didn't remember coming down that
6 morning? A Yes sir, that is true.

7 Q Do you remember anybody you saw that morning till
8 10 o'clock? A Outside of the office help.

9 Q Now, whom did you see of the office help that morning?

10 A I do not recall.

11 Q Did you see Collier? A I do not remember.

12 Q Did you see Cooney? A I don't remember Cooney -- no,
13 Cooney was not in town that day.

14 Q Did you see Fitzpatrick? A I don't remember.

15 Q Did you see Miss Hartenstein? A I presume I did,
16 but I have no distinct recollection of seeing her.

17 Q Did you see Wolf that morning? A I don't remember.

18 Q You don't remember? A No.

19 Q You say you didn't see Franklin that morning? A Oh,
20 absolutely positively not.

21 Q Did you see Franklin the day before? A I don't
22 remember.

23 Q Will you say you did not? A No sir.

24 Q Why won't you say you did not when you swear you
25 didn't see him that morning? A Because I remember the
26 morning he was arrested that I know I did not see him,

1 and I couldn't say whether I saw him the day before when
2 there was nothing to fix it on my mind.

3 Q Did you see Belcher the day before? A I presume I did.

4 Q You presume you did. Do you know? A I don't remember
5 exactly, but he was around every day.

6 Q Did you see Belcher that morning? A I don't remember
7 that morning particularly seeing Belcher. There was noth-
8 ing about his absence that would fix it on my mind.

9 Q But you are absolutely sure you didn't see Franklin
10 that morning? A Oh, I know I didn't see Franklin.

11 Q You know that? A Yes sir.

12 Q But you would not know whether you didn't see him the
13 day before? A No sir, because there was nothing to
14 fix it on my mind the day before; on the 28th he was ar-
15 rested, so that makes it definite.

16 Q Now, Mr Harrington, will you swear that you did not
17 see Mr Franklin --

18 MR FORD: We object to the word "swear". All his testi-
19 mony is under oath.

20 MR ROGERS: Well, that is a word that we use by meaning,
21 being able to testify positively under oath. If he desires
22 the Latinized form of it instead of the Anglo-Saxon, I
23 will use it.

24 MR FORD: We prefer the proper form to the improper form.

25 THE COURT: What is the question, Mr Rogers?

26 MR ROGERS: Will you take your oath positively that on the

1 afternoon of the 27th, Franklin was not in your office,
2 accompanied by one other man?

3 MR FORD: We object to that part of it which says, "will
4 you take your oath" on the ground that all the testimony
5 is under oath.

6 MR ROGERS: Now, give him time to think about it.

7 THE COURT: Objection overruled.

8 MR FORD: You know better than that; you know I am the
9 one that is objecting, and I am doing it because it is not
10 the proper form, and I have been always objecting to that
11 question.

12 THE COURT: I do not think it is quite the proper form
13 for the question, but I think it is harmless. Let him
14 answer.

15 A I have no recollection of whether I saw Franklin on
16 the 27th, none whatsoever. He may have been in my office,
17 and he might have not; I wouldn't say one way or the
18 other about it.

19 Q What was the time you were out at Franklin's house?

20 A It was about the last part of October.

21 Q Do you know Foster?

22 THE COURT: You are getting into another subject now --

23 MR ROGERS: I just want one answer to this, and I will be
24 content.

25 THE COURT: All right.

26 MR ROGERS: Do you know Foster? A Yes sir.

1 Q The detective for the Erectors' Association? A Yes
2 sir.

3 MR ROGERS: That is all for the present.

4 THE COURT: Gentlemen of the jury, you are admonished.
5 (Jury admonished.)

6 The Court will now adjourn until 1:30 o'clock Monday
7 afternoon.

8 Here the court took an adjournment until Monday, June
9 24, 1912, at 1:30 o'clock P.M.

10 ---
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26