

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.)	
)	
Clarence Darrow,)	
")	
)	
Defendant.)	

No. 7373.

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REPORTERS' TRANSCRIPT.

VOL. 59

I N D E X.

	Direct.	Cross.	Re-D.	° Re-C.
Joseph Musgrove,	4736	4739		
Carl F. White,	4742	4745		
Adam Dixon Warner,	4748			
Peter Pirotte,	4750	4770		

1 Monday, July 15, 1912. 2 o'clock P. M.

2 Defendant in court with counsel.

3 THE COURT: Who is the next witness, gentlemen?

4 MR DARROW: See if Mr Musgrove is outside.

5

6 JOSEPH MUSGROVE, a witness called on behalf
7 of the defense, being first duly sworn, testified as fol-
8 lows:

9 DIRECT EXAMINATION

10 MR DARROW: Give us your name, please? A Joseph Musgrove

11 Q What is your business? A My business now -- I am
12 attorney.

13 Q Where is your office? A In the Exchange Building,
14 212.

15 Q Where do you live? A 1173 East Thirty-sixth street.

16 Q What was your business last fall? A Why, I was
17 manager for R. J. Busch, the haberdasher and clothier.

18 Q And in December? A I was.

19 Q Do you know Bert Franklin? A Yes, by reputation.

20 Q Where is Mr Busch's store? A Second and Broadway.

21 Q How long have you known Bert Franklin? A Why, I have
22 known who he was probably a year and a half.

23 Q Did you have a conversation with him shortly after his
24 arrest in reference to the affair? A Yes.

25 Q About the 5th or 6th of December? A yes.

26 Q Where was that? A It was in the store, Busch's

1 store.

2 Q What was he doing there? A He was purchasing some
3 merchandise.

4 Q At that place and time did he say this to you in sub-
5 stance, 844, bottom of the page, 843, at the bottom of
6 the page: "That he could not afford to spend much money
7 or create much indebtedness, as he was under a serious
8 charge, and stood a chance of going to the penitentiary,
9 but that he had lived in Los Angeles too long, and had too
10 many friends in town, and that he would not go but would
11 get out of it all right; that he was playing his cards, and
12 before he would go to the penitentiary that he would put it
13 on someone else? A yes.

14 MR FORD: Put it on someone else.

15 Q put it onto someone else.

16 MR FREDERICKS: That is the way you ask the question?

17 MR DARROW: put it onto someone else is the way we asked
18 it.

19 THE COURT: You object?

20 MR FORD: We object upon the ground it is not the exact
21 language.

22 MR APPEL: The transcript ain't correct.

23 MR DARROW: ours was corrected at the time, "Put it on
24 someone else", was the language used. That was the
25 language of the witness.

26 MR FORD: As the record reads --

1 THE COURT: I have the record before me, I see how it
2 reads. The question raised by counsel is whether or not
3 the transcript is correct?

4 MR DARROW: We changed our transcript at the time and it
5 was given us exactly by the witness.

6 MR APPEL: Your Honor can see, if I may be permitted to
7 state, that the question as propounded to the witness by
8 counsel would not be sensible at all. "That you were
9 playing your cards and you would not go to the penitentiary,
10 you would put in someone else -- you would put it on some-
11 one else."

12 THE COURT: I see someone else. The question is wheth-
13 er or not the foundation has been laid by the question.

14 MR DARROW: That is the way it was asked.

15 MR FREDERICKS: As far as we are concerned, if this wit-
16 ness knows whether he said "put in" or "put on" --

17 THE COURT: The objection is withdrawn.

18 MR DARROW: Well, I will read it again, just the last
19 part of it: "that he was playing his cards, and before he
20 would go to the penitentiary he would put it onto some-
21 one else." Did he make that statement to you? A He
22 made that statement in substance. I won't say he used the
23 exact words, but that was the substance and purport of
24 it.

25 Q That was on the 5th or 6th of December? A Early
26 part of December, just after he was arrested.

1 Q Just after he was arrested? A Yes.

2 Q Do you remember the occasion of his buying goods there
3 at that time? A Yes.

4 Q What was it? A Why, he was purchasing goods prepara-
5 tory for a wedding.

6 Q What? A A wedding of one of the members of his fam-
7 ily.

8 MR DARROW: That is all.

9

10 CROSS-EXAMINATION

11 MR FREDERICKS: Did you construe that to mean before he
12 would suffer by going to the penitentiary himself, he
13 would tell who actually had something to do with it be-
14 sides himself?

15 MR DARROW: Now, I object to what he construed, the
16 question is what he said.

17 MR FREDERICKS: He said in substance.

18 MR DARROW: The question is what he said in substance.

19 MR FREDERICKS: That might also be in substance.

20 MR DARROW: But what he construed.

21 THE COURT: Calling for a conclusion of the witness.

22 MR FORD: The witness said he don't remember the ex-
23 act language. The thing is to get this construction,
24 what the witness meant. He might have said something that
25 might bear a different construction on the witness's con-
26 clusion, but the construction he put on it at that

1 time, which is a fact, which may enable us to put the
2 language to him from which he draws the same conclusion
3 and would draw the same conclusion at the present time.

4 MR DARROW: To cross-examine him as to his language,
5 that is another thing, but to ask what construction he
6 put upon it is not cross-examination.

7 MR FREDERICKS: It is only cross-examination in that con-
8 struction -- might indicate what the words were.

9 THE COURT: Objection sustained.

10 MR FREDERICKS: Mr Musgrove, state in your ~~own~~ what he
11 said in that regard as you understood it? A The whole
12 conversation?

13 Q No, that before he would go himself? A Why, he
14 said that he had been a long resident here, I don't know
15 that those are the exact words, but he said he had been
16 a long resident of this city and he had too many friends
17 and that he was not going to the pen and before -- he said
18 he was playing his cards, before he would go he would put
19 it on someone else, or slip it to someone else.

20 Q Well, did you construe that to mean that he would tell
21 who else was in it with him?

22 MR DARROW: I object.

23 MR FREDERICKS: -- in order to help himself?

24 MR DARROW: That same question has been asked and objec-
25 tion sustained. I object again, it is not cross-examina-
26 tion.

1 THE COURT: Read that question. (Last question read by
2 the reporter.)

3 THE COURT: Objection sustained.

4 MR FREDERICKS: Did he say that he would tell who else
5 was in it with him in order to save himself? A No, he
6 did not.

7 MR FREDERICKS: That is all.

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2p 1 C A R L F. W H I T E,

2 a witness called on behalf of the defense, having been
3 first duly sworn, testified as follows:

4 THE COURT. Gentlemen, you will facilitate the examination
5 if you will direct my attention to the page of this matter.

6 MR. DARROW. Yes, your Honor.

7 DIRECT EXAMINATION

8 MR. APPEL. Q Mr. White, you may state your full name,
9 please? A Carl F. White.

10 Q Where do you reside? A 5533 Virginia avenue.

11 Q What is your business or occupation? A I am a news-
12 paper reporter.

13 Q Were you reporter for the Express sometime last year
14 during the examination--the preliminary examination held
15 before Judge Young in reference to a charge against Mr.
16 Franklin for the crime of bribery? A yes, sir.

17 Q Were you present there in the court room about the
18 time or immediately after the time that Mr. Lockwood
19 was examined upon the witness stand? A Yes, I was there
20 throughout the preliminary.

21 Q Do you remember whether or not Mr. Franklin was present?
22 A He was.

23 Q Do you remember whether any other newspaper men were
24 there present at that time? A Yes, there were representa-
25 tives there, I think, from all of the papers.

26 Q And with reference to the representatives of the Associa-

1 ted Press, do you remember Mr. Pursons being there?

2 A Eddie Pursons?

3 Q yes, sir. A He was.

4 Q Do you remember whether or not when Mr. Lockwood men-
5 tioned Mr. Darrow's name in his testimony-- A I beg your
6 pardon.

7 Q Do you remember Mr. Lockwood mentioning Mr. Darrow's
8 name?

9 A Yes.

10 Q Now, I will ask you whether or not at that time during
11 the examination and when Mr. Darrow's name was mentioned
12 in the course of the examination, whether or not, Mr.
13 Franklin, in your presence, ^{and} in the presence of the persons
14 already named by you, did or did not get up from his place
15 in that room and go over to that part of the room where
16 you and the other gentlemen representing the press
17 were sitting and whether or not he, leaning over, did say
18 that Mr. Darrow never gave him any money for the corruption
19 of jurors and that such a statement as that was a damned
20 lie, or words to that effect or in substance?

21 MR. FORD. What page of the transcript is that on?

22 MR. APPEL. Page 827, gentlemen. The foundation commences
23 to be laid at page 826.

24 MR. FORD. We want to look at it a moment, your Honor.
25 No objection.

26 THE COURT. Answer the question, Mr. White.

1 A Well, I think the question calls for two answers, I
2 believe, Mr. Appel. The one answer would be that Mr. Franklin
3 did make some such statement in substance.

4 Q Yes, sir. A Although those words were not used exactly
5 A JUROR. A little louder, please.

6 A Mr. Franklin did make some such statement in substance,
7 but not in those exact words.

8 MR. APPEL. Try and give-- A It occurs to me now that
9 he made that statement at the conclusion of Mr. Lockwood's
10 testimony.

11 Q That is what I say, either at the conclusion or during
12 the examination. A Yes, as I recall it, the examination
13 had been concluded and Mr. Franklin left Governor Gage and
14 came over to the press table and said that if any one said
15 that he, Franklin, had ever used Mr. Darrow's name in con-
16 nection with the bribery that he was a damned liar,
17 that he never had used Mr. Darrow's name, that Mr. Darrow
18 was innocent of any connection with the case in which he
19 was involved. That is my recollection of it.

20 Q Now, do you remember whether or not this examination
21 occurred in December, 1911? A Well, it was either on
22 December 11th, or prior thereto; I think it was prior
23 to December 11th, because as I recall it, the examination
24 on December 11th was in the court room across the way
25 while the other was down in Justice Young's court room, and
26 I have reference to that particular time.

1 MR. APPEL. Take the witness.

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CROSS-EXAMINATION.

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MR. FORD. Q You are not giving the exact language
5 but what you would call the substance? A That is as
6 nearly correct as I can quote him.

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Q Isn't this about what Mr. Franklin said at that time, when
8 Lockwood says that I mentioned Darrow's name out there he
9 is a damn liar. I never mentioned Darrow's name at all
10 and I do not want to drag any innocent man into it."

11

Isn't that what he said? A Well, he used Mr. Darrow's
12 name in saying he didn't want to drag any innocent man
13 into it.

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Q Take the question down to this part of it, he did say
15 that like this says, "I mentioned Darrow's name he is a
16 damn liar, I never mentioned Darrow's name out there or
17 anywhere else," that part is right, is it? A I would
18 not be positive whether he said Lockwood or not. My
19 impression is that he said that if any one says that
20 I mentioned Mr. Darrow's name.

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Q Then didn't he say this: "I don't want to drag any
22 innocent man into it," what I want to get at is this, Mr.
23 White, you are sure he said, "I don't want to drag Darrow
24 into it." Didn't he say, "I don't want to drag any
25 innocent man into it," and you inferred he was referring
26 to Darrow? A He was referring to Darrow, if he didn't

1 use the name, he was talking about Darrow.

2 Q You thought he wanted you to draw the inference Darrow
3 was innocence. A Just exactly, but he mentioned--and my
4 impression was that he intended that I should infer that
5 he meant Mr. Darrow.

6 Q That is just exactly what I wanted. He said it in such
7 a way that you could draw that inference and you thought
8 he intended you to draw that inference but you are not sure
9 he said it in those words, is that right? A I know that
10 he intended for me to draw that inference.

11 Q But you--

12 MR. APPEL. Let him answer.

13 A And I am almost as positive that he used Mr. Darrow's
14 name.

15 MR. FORD. Q Well, you are not absolutely positive?

16 A I wouldn't be absolutely positive, no.

17 Q You didn't publish it in your paper at that time, did
18 you? A My recollection is that we did; I would not be
19 positive about that.

20 Q You published the last part of the statement that he
21 said Darrow was innocent?

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1 A I would have to refresh my memory from the files be-
2 fore I could say whether I published that part of the state-
3 ment or not, or any part of it.

4 Q At the time he told you he was innocent, also, didn't
5 he? A Well, I don't know that he did. I don't believe
6 he did.

7 Q He was insisting, he never admitted his own guilt
8 at that time, did he? A No.

9 Q He was denying his guilt whenever you did see him,
10 wasn't he, at about that time?

11 MR DARROW: That is objected to.

12 THE COURT: Objection overruled.

13 A Well, he was denying his guilt at this particular
14 time, yes.

15 MR FORD: And when he made that statement to you, did you
16 believe him?

17 MR APPEL: That is immaterial whether he believed him or
18 not.

19 THE COURT: Objection sustained.

20 MR FORD: That is all.

21 MR APPEL: In that conversation that you referred to, who
22 was he talking about; about what person?

23 MR FORD: We object to that as calling for a conclusion.
24 He has stated it fully on direct examination. The ques-
25 tion shows he was talking about Darrow.

26 THE COURT: Objection sustained.

1 MR APPEL: That is all.

2

3 ADAM DIXON WARNER, a witness called on
4 behalf of the defense, being first duly sworn, testified
5 as follows:

6 DIRECT EXAMINATION

7 MR APPEL: State your name, please. A Adam Dixon Warner.

8 Q You reside here in the city? A Yes sir.

9 Q You are an attorney? A Yes, I have been practicing law
10 for a number of years until lately.

11 Q Mr Warner, are you acquainted with Bert Franklin?

12 A Yes sir.

13 Q Did you know Bert Franklin somewhere about the lat-
14 ter part of September or the early part of October, and
15 prior to the 10th day of October, 1911? A Yes sir, I have
16 known him for a number of years here.

17 Q A out that time, either about the time of the commence-
18 ment of the trial of the McNamaras, or shortly before that
19 time, did you have any occasion to visit him at his of-
20 fice on Broadway? A Yes sir, I was there two or three
21 times between the 15th of August and the 7th of September.

22 Q 7th of September? A I think the 7th or 10th.

23 Q September or October? A I think it was close to the
24 7th of September. About the 7th or 10th of September was
25 the last time I was there.

26 Q Did you then, you and he being alone, have a conver-
sation in his office and did he or did he not, in that

1 conversation while referring to and having then in his
2 hands a list of the names of jurors, say to you, "There
3 is an angle to this thing; I am going to win this thing my-
4 self, right here; there is an angle to this thing that
5 Mr Darrow or anyone of them, ^{don't} know anything about", or
6 words to that effect, or in substance? A "An angle
7 to this lawsuit."

8 Q I understand. A Were the words, and that was at the
9 second conversation, the second time I was there.

10 Q Well, did he make such statement in effect as I have
11 quited? A Yes sir.

12 Q What did he point to at that time, if anything?

13 A He had a list -- a paper, legal cap paper with a list of
14 names on it, and he accompanied the statement with
15 striking on the table, "I am going to win this lawsuit right
16 here," and then followed the words, "There is an angle
17 to this lawsuit that Darrow or anybody else, ^{don't} know anything
18 about."

19 Q Now, you say that was at the second conversation?

20 A Yes sir.

21 Q And was that conversation -- when was that conver-
22 sation? A Well, I received word from the railroad com-
23 pany about a lecture tour on the 7th of September, and it
24 was either a few days before I got that letter or a few
25 days afterwards; I am not sure. It was about between the
26 7th and 10th of September; however, it was a week -- just

1 about a week after the first conversation with him.

2 MR APPEL: Take the witness.

3 MR FREDERICKS: No questions.

4 ---

5 PETER PIROTTE, a witness called on behalf
6 of the defendant, being first duly sworn, testified as
7 follows:

8 DIRECT EXAMINATION

9 MR DARROW: What is your name, please? A Peter Pirotte.

10 Q How do you spell it? A P-i-r-o-t-t-e.

11 Q What is your business? A Police officer at Venice.

12 Q Whereabout? A At Venice.

13 Q How long have you been a police officer? A Nearly
14 about three years at Venice.

15 Q Where else were you a police officer? A Why, in
16 Denver for a while.

17 Q Have you been in any other business here in Los Angeles?

18 A Why, I worked up here in the sheriff's office a few
19 months, is all.

20 Q Deputy sheriff? A yes sir.

21 Q You came to this country from Denver, did you?

22 A Yes sir.

23 Q And you were a policeman there? A For a little --
24 for a while, yes.

25 Q What was your business before that? A I was with
26 the Denver & Rio Grande Railroad Company for a while.

1 Q Do you know Bert Franklin? A Yes sir.

2 Q How long have you known him? A Since last fall, I
3 think.

4 Q About what time last fall? A About December --
5 November or December, sometime.

6 Q Where did you get acquainted with him? A Why, I was
7 introduced to him up here in the court rooms.

8 Q During the McNamara case? A Yes sir.

9 Q Or later than that? A No, during the McNamara --
10 well, about that time.

11 Q And did you see him again? A Yes sir.

12 Q Whereabouts? A I seen him in Venice.

13 Q And whereabouts in Venice? A At Navy street, near
14 the Decatur Hotel on the Ocean Front.

15 Q What were you doing at that time? A I walked up there
16 to pull the box, ring in to the station.

17 Q What time of day was it, do you remember? A Some-
18 where along about 1 or 2 o'clock, I should judge.

19 Q Do you remember about the day? A I don't just
20 remember the date, but it was about the last Sunday in
21 February, I think it was the last Sunday in February.

22 Q Do you remember the time in reference to the time he
23 plead guilty? A Why, it was either a week or possibly a
24 week before he had his trial.

25 Q Did he have any conversation with you in reference
26 to his case? A He did.

1 Q What was the first subject of conversation, not the
2 conversation, but what was it about?

3 MR FORD: Just a moment. To that we object on the ground
4 it is not in proper form, no foundation laid for it, and
5 an impeaching question.

6 MR DARROW: On page 858, you will find that; the next to
7 the last question and answer.

8 THE COURT: yes. Objection overruled.

9 MR FORD: That is about the subject, but it is preliminary,
10 directing the mind of that witness to certain conversa-
11 tions, but as to this witness, it is asking whether or not
12 he had at this time, ^{at} such and such place, a certain con-
13 versation, and words as follows, to-wit --

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THE COURT. But this is a different question and a different matter. Objection overruled.

MR. DARROW. Q What was the subject that he approached you to talk about? A He come up and shook hands--

MR. FREDERICKS. The witness will not attempt to give the conversation?

MR. DARROW. Not the conversation.

THE COURT. Simply the topic.

MR. DARROW. Q What did he ask you about? A Spoke about his trial, his little trouble he had been in.

Q Previous to that had he spoken about any business matter with you? A Why, he asked me about a detective agency, in opening up a detective agency in Venice.

Q And did you say to him in reply to that, ask him if he had not been in some kind of trouble lately and that you did not think it was a good time to start an office while he was in trouble?

MR. FREDERICKS. That is objected to on the ground it is immaterial. The foundation appears to have been laid but it is not on a material matter.

THE COURT. Objection overruled.

MR. DARROW. Q Was that stated by you and by him?

A Why--

MR. FREDERICKS. The witness will answer yes or no.

THE COURT. How is that, Captain Fredericks?

MR. FREDERICKS. The witness, of course, will answer yes

1 or no?

2 THE COURT. Yes, the question should be answered yes or
3 no.

4 MR. DARROW. Q Whether he made this statement in sub-
5 stance, which I have read to you? A The question again,
6 please.

7 MR. DARROW. Cut it out, then, I will ask the question
8 again. Q Did he first speak to you about the advisability
9 of opening a detective office in Venice with you and did
10 you reply, "You were in some kind of trouble," and you
11 didn't think it was a good time to start an office while
12 he was in trouble and did he then say, "I am going to get
13 out of that all right, the District Attorney does not want
14 me, they want Darrow,"? A Not at that time.

15 Q Not at that time? A No, sir.

16 Q Did he say that at any time?

17 MR. FREDERICKS. That is objected to as immaterial, no
18 foundation laid.

19 MR. DARROW. Well, if he said it about that time at all--

20 THE COURT. Wait a minute--

21 MR. FORD. page 860.

22 THE COURT. I have the place, but I want to see how
23 closely that time is.

24 MR. DARROW. That is the second time, as you will see,
25 page 859:

26 THE COURT Definitely fixed on Sunday afternoon.

1 MR. DARROW Yes, the first conversation.

2 THE COURT. Objection sustained.

3 MR. DARROW. Then, I will ask you again, referring to that
4 conversation you had at which he referred to opening a
5 detective office, did you not? A Yes, sir.

6 Q Did you have another one with him? A yes, sir.

7 Q And when was that? A The second conversation about the
8 7th, 8th or 9th of March; I wouldn't say just exactly.

9 Q Where was it? A The Casino Cafe.

10 Q Anybody else present? A Why the Ex City Clerk, G. G.
11 Watt was present.

12 Q Did he say at that conversation, among other things,
13 in speaking in reference to opening a detective office,
14 did Mr. Watt say to him, "You are in some kind of trouble;"
15 he did not think it a good time to start an office while
16 he was in trouble. Did he then say, "Why, I am going to
17 get out of that all right, the District Attorney doesn't
18 want me, they want Darrow?" A He did. *(answer restored 4761)*

19 MR. FREDERICKS. I move the answer be stricken out.

20 THE COURT. Strike out the answer for the purpose of the
21 objection.

22 MR. FREDERICKS. Objected to upon the ground no foundation
23 has been laid. The transcript seems to show that did
24 occur at another time and not this time.

25 MR. DARROW. The question is here.

26 THE COURT. What page, Mr. Darrow?

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MR. BARROW. 860 at the top, "Did he mention then or at any of these conversations-- A- He did not, no, sir."

MR. FORD. "That you were in some kind of trouble and he did not think it was a good time to start a detective office while ^{you} were in trouble," was immediately following the foundation laid for that Sunday.

THE COURT. Wait a moment--let me read this and I will see if the foundation is laid.

MR. FORD. I want to call your Honor's attention to the fact that it occurs later in the transcript at a different conversation, was put to the witness Franklin. It is not fair to the witness Franklin to attack him in that manner and the law doesn't permit it.

THE COURT. It seems to me that the first three questions at the top of page 860 refers back to the original question, "Did he then or at any of these conversations mention this or this or this," covering those first three questions. That is the only construction I am able to place on it.

MR. FORD. The dinner conversation with Mr. Watt is an entirely different conversation. The questions at the top of page 860 refer to his conversation with this witness alone and not with other witnesses at a different time or place. Now, if counsel has been misinformed--

THE COURT. Well, "At any of these conversations," that is a pretty broad foundation, I will grant you.

1 MR. FORD: "At any of these conversations," could only
2 refer to some conversation that had been talked about.
3 They had not been talking about the conversation with
4 Watt and Stineman and consequently refer to some conversa-
5 tions held at some time in the future. Your Honor will
6 find over on page--the bottom of page 861, the information
7 that it was Mr. Watt, and I think Mr. Stineman. The conversa-
8 tion with Mr. Watt is on page 861. Manifestly the word
9 "these" cannot be referring to something in the future.
10 Franklin didn't know what was in the mind of counsel, what
11 he was going to refer to in the future. He did not know
12 what he had spoken of in the past, and "these conversa-
13 tions," refer to all such conversations as were testified
14 to prior to the asking of this particular question.

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1 Begins on page 858: "You know Pirotte? A -- Yes sir, slight-
2 ly; an officer at Venice. Q -- Did you go and ask him
3 about opening a detective agency at Venice --" page 859.

4 THE COURT: Just let me run that over, Mr Ford.

5 MR DARROW: This begins at 857.

6 THE COURT: I have it. I read it. I think my original
7 construction of that language is correct, Mr Ford.

8 MR FORD: Now, your Honor, beginning at the bottom of 857,
9 he was asked if he had ever met Mr Watt. He had, and tes-
10 tified to having a dinner with him and a policeman named
11 Pirotte at the Casino. Then they dropped that conversa-
12 tion; there was nothing said about the conversation. He
13 was then asked if he knew Pirotte, at the top of the page.
14 859 they asked this question: "Did you suggest that he
15 interest himself with you? A--I did. Not at that con-
16 versation, though, not the first time I met him." I take
17 it he had had other conversations with Mr. Pirotte, and then
18 the question was asked: "At the time you mentioned to him
19 a going into a detective office together, didn't Pirotte
20 say to you that you were in some sort of trouble? A--Par-
21 don me, he never mentioned coming with me at my office.
22 Q--Well, what was it? A--What do you mean? Q--I mean
23 the time you talked of opening that detective agency
24 down there with Pirotte. A--I spoke to Mr. Pirotte, or
25 whatever you call him, Pete. Q--They call him Pete?
26 A--Yes, Pete. Q--Pete Pirotte. A--On the walk just

1 out of the main street of Ocean Park." etc., and then he
2 said "he came up to see me at my office"- at the bottom
3 of the page-- "He came up to see me at my office sometime
4 later. Q--Did he mention then or at any of these conversa-
5 tions, this, that you were in some kind of trouble and
6 that he did not think it was a good time to start and
7 office while you were in trouble?" Now, the word "these"
8 manifestly meant the conversation concerning--

9 THE COURT. Read onto two or three questions more.

10 MR. FORD. (Reading) "Q. Did you then say to him, 'Why,
11 I am going to get out of that all right; the District
12 Attorney does not want me, they want Darrow'? A-- I did
13 not. Q--Didn't you, as a matter of fact, tell him that
14 the District Attorney's office wanted to get Darrow and
15 that you were going to get out all right? A--I did not.
16 Q--Now anything of that kind? A--I would never have
17 said it, because I knew what he was there for before he
18 said ten words, him and Mr. Watt and Mr. Stineman, that
19 you would bring up later, at Venice, it was easy, it
20 was easy for a man that was an amateur like I am. Q--You
21 mean being a smart detective do you mean easy like I am?"
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1 THE COURT: He brings in Mr Watt and Mr Steinamen there,
2 and evidently ^{the} conversations are in his mind.

3 MR FORD: But the point I am trying to make here to your
4 Honor is this, that the words "these conversations", at
5 the top of page 860 cannot refer to questions that fol-
6 low it. We cannot get any light by what was meant by
7 the word "these" by looking at the questions which fol-
8 low, because Franklin could not know what was in the mind
9 of the examiner at that time. The word "these" refers
10 to the conversations we are talking about there when at
11 his office, or the one at Ocean Park. It is manifest it
12 cannot refer to any subsequent testimony. I say to this
13 man here now on the stand, "Did you talk with Franklin
14 at ocean Park? A -- yes. Q -- Did you have a conversa-
15 tion with him here about certain matter," and he said,
16 "No, I met him another time at the office." "Well,
17 did you at either of these conversations, that is the one
18 at Ocean Park or the office."

19 THE COURT: That is not what they said. They said,
20 "any of these conversations".

21 MR FORD: "Any of the se conv ersations."

22 THE COURT: Either of these conversations might refer to
23 two, any of these conversations would refer to several con-
24 versations.

25 MR FORD: Already referred to.

26 THE COURT: Already referred to.

1 MR FORD: And the conversation with Mr Watt and Mr Stine-
2 man and Pirotte at Venice had not been referred
3 to, they had spoken of having dinner; nothing about a
4 conversation. At the beginning they dropped that sub-
5 ject, turned his mind to the conversation with Mr Pirotte,
6 back on page 857.

7 THE COURT: It is evident from the statement of the witness
8 that he had Mr Watt and Mr Stineman in mind.

9 MR FORD: From the present witness.

10 THE COURT: No, the witness Franklin, on page 860.

11 MR FORD: Now, your Honor, if the word "these" could re-
12 fer to any other conversations than what had already
13 been testified to, we would have an opportunity to ob-
14 ject to it on the ground no foundation laid, which we
15 would have a right to. If it is going to refer to some-
16 thing that is in the mind of the witness or counsel after-
17 wards, how in the world can the people tell when to ob-
18 ject and require the foundation to be laid? I don't care
19 what was in the mind of the witness after that. We sim-
20 ply claim that the foundation must be laid under the law
21 and the People are entitled to know it, and there is noth-
22 ing there that will convey any information to the people,
23 either of those conversations.

24 THE COURT: Well, it is a little bit confused, I will
25 grant you, Mr Ford, but on a careful reading of the mat-
26 ter, I think the conversation which Mr Watt and Mr Stine-
man were present, is sufficiently referred to in the lay-

1 ing of the foundation to justify this question.

2 MR FORD: And we object to it on the further ground that
3 no foundation has been laid showing persons present, be-
4 cause the question as put there, refers to a conversation
5 between him and Pirotte.

6 THE COURT: That may be true as to this particular ques-
7 tion.

8 MR FORD: No foundation laid, persons present.

9 THE COURT: Let's have the question and see if it is here.

10 MR FORD: Couldn't be here, it would have to be in the
11 original foundation which was not done.

12 THE COURT: That is too late to make that objection now.

13 MR FORD: It must be laid then, your Honor. We don't have
14 to protect their rights, and lay their foundation for them.
15 We don,t need to raise the objection until the witness
16 comes on the stand.

17 MR APPEL: We have to show they had several conversa-
18 tions.

19 THE COURT: I cannot agree with you, Mr Ford. The objec-
20 tion is overruled.

21 MR FREDERIEKS: He has already answered it.

22 THE COURT: The answer will be restored. (4755)

23 MR DARROW: Read the last question.

24 (Last question read by the reporter.)

25 MR DARROW: What was the answer?

26 THE COURT: What was the answer, MR Reporter?

1- MR DARROW: What was the last I asked him there?

2 (Answer read.)

3 MR DARROW: That is after --

4 MR FREDERICKS: That was the answer, and I asked to have it
5 stricken out.

6 THE COURT: Yes.

7 MR DARROW: Read the question, please.

8 (Last question read.)

9 MR FORD: I call to your Honor's attention on page 859,
10 Mr Franklin was asked "Did Mr Pirotte say that"? Now,
11 this question is, did Mr Watt say that.

12 MR DARROW: They were present together.

13 MR FORD: That question is, who said it? Supposing Mr
14 Watt did say that, Franklin was asked if Mr Pirotte said
15 that, and he said he didn't, and the witness said he
16 didn't.

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6p 1 MR. DARROW. He also said the other man did not. I think
2 you will find that.

3 THE COURT. Let us see if he said the other man did not.
4 The foundation must be laid, of course.

5 MR. APPEL. What we are after, substantially--it makes no
6 difference who said that to Mr. Franklin, what we are
7 after, we are after the statement of Franklin. I don't
8 care how it was brought out, whether Mr. Pirotte said this
9 at that time about Bain and the detective business, "You
10 are in trouble now, it is a very bad time to do it," or
11 whether Mr. Watt said that, this is simply for the purpose
12 of showing what brought out the statement of Franklin that
13 the District Attorney was not after him, he was going to
14 get out of the trouble, the man they wanted was Mr. Darrow--
15 that is the important part we are after.

16 THE COURT. Precisely. The question is whether the
17 record shows the foundation is laid or not, that is all
18 there is to it.

19 MR. FORD. It is before the jury, your Honor, and the
20 facts are there, and this occurred after the indictment.

21 MR. APPEL. This is no time for argument.

22 THE COURT. We are not arguing the matter now.

23 MR. FORD. The matter is not important to us in any way
24 except this, this will be used by way of impeaching Mr.
25 Franklin when, as a matter of fact, it does not impeach
26 him. in any way, shape or form, because admitting this

1 witness is telling the truth, his statement is not incon-
2 sistent with the statement made by Mr. Franklin.

3 THE COURT. When, the People's case is not injured, if
4 that is the truth.

5 MR. FORD. It is taking up ^{time} /with immaterial matter, no
6 foundation laid.

7 THE COURT. We are wasting time in this case.

8 MR. DARROW. Reading the bottom of page 860, and you will
9 see there both, I will read from the record--

10 MR. FORD. The question is answered and answered and we
11 object to any reading of the record.

12 THE COURT. All right, Mr. Darrow, the matter is disposed
13 of.

14 MR. DARROW. Q Mr. Pirotte, who besides you and Mr. Franklin
15 were present at the conversation at the Casino? Was any-
16 body present besides you and Franklin? A Mr. Watt.

17 Q And the conversation was between the three of you, was
18 it? A Yes, sir.

19 Q Did you see Franklin again at Venice? After he had
20 plead guilty in the Bain case? A Yes, sir.

21 Q Where was that? A At the Casino Cafe.

22 Q Who else was present? A Mr. Watt.

23 Q Did he say to you or Watt that they were not going to do
24 anything with him in the Lockwood case but were holding
25 it over his head to make him testify against Darrow, that
26 even if they had wanted to do anything with him they could

1 not because he had already had immunity and as a matter of
2 fact Lockwood and he and Fredericks were confederates any-
3 way, or words to that effect? A We did.

4 Q Mr. Watt was present at that conversation? A Yes, sir.

5 Q At the same conversation at the Casino, referring to page
6 864, did Mr. Franklin say that Darrow never gave him a
7 dollar of money for any corrupt purposes or to bribe any
8 jurors, or words to that effect? A He never said he gave
9 him a dollar, but he said he never gave him any money.

10 Q For any corrupt purposes or to bribe any jurors, was
11 that at the same conversation?

12 MR. FORD. I did not get any answer to that, if any was
13 given?

14 THE WITNESS. To what?

15 MR. DARROW. Q Well, what was your answer?

16 MR. FORD. Let the reporter read it.

17 THE REPORTER. I did not get any answer.

18 THE COURT. Will you repeat the question, I think it
19 was a little vague?

20 MR. DARROW. Q At that same conversation with you and
21 Watt present, did Franklin say that Darrow never gave
22 him any money for any corrupt purposes or to bribe any
23 jurors? A I don't know that he mentioned anything about
24 bribing any jurors, but he said he never gave him any
25 money.

26 Q Did he say for what purposes? A For no purpose; he

1 didn't give him any money .

2 Q What was the subject of conversation there?

3 MR. FORD. We object to that as calling for a conclusion
4 of the witness. Let him state what the conversation was,
5 by laying the proper foundation.

6 MR. DARROW. I have a right to call it to his mind what the
7 subject was.

8 MR. APPEL. In order to give meaning to these words.

9 THE COURT. Objection overruled. It is preliminary.

10 MR. DARROW. Q What was the subject of the conversation
11 in that connection? A Am I to answer this?

12 THE COURT. Yes, to the best of your recollection.

13 A Why, it was about the meeting on First and Second and
14 Main street and about the 'phoning to Mr. Darrow and about
15 the money matter, spoken of.

16 Q Well, the money matter in connection with the jurors
17 you mean? A No.

18 Q What money matter? A Well, if I am to explain it I can
19 explain it better.

20 Q Go on and explain it in your own way. A He spoke
21 about--he said that if--that he didn't 'phone to Darrow
22 that morning, that if Darrow received any message he must
23 have got it from Browne because he didn't 'phone to him
24 and I asked him if--I said, "When they got you did they
25 find any money on you," and he kind of laughed about that--"

26 I says, "They surely couldn't have found any money on you,

1 ~~because you already told me that Darrow didn't give you~~
2 ~~any money and you didn't have any money yourself." He~~
3 ~~says, "There is other money around there besides that the~~
4 ~~attorneys didn't know nothing about."~~

5 Q When he said, "I didn't give him any money," that was
6 in connection with money for the juror, was it not, in the
7 Lockwood case? A Yes, sir.

8 Q What did he say, talking about the case in that con-
9 nection? A About what?

10 Q About his talking about this case.

11 MR. FORD. We object to that on the ground it is not a
12 proper form in which to put the question, no foundation
13 laid.

14 MR. DARROW. Q Did he say at that time, "Darrow did not
15 give me any money and I must not talk about the case,"
16 because he was to be a witness?

17 MR. FORD. What page is that?

18 MR. DARROW. 867.

19 MR. FORD. At the same place in Venice?

20 MR. DARROW. At the same place in Venice.

21 A Am I to answer that?

22 THE COURT. Yes.

23 A Not at that same conversation.
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1 Q Where was the other conversation? A At the same
2 place.

3 Q Well, did he say that? A Yes, he said that.

4 Q And did he say they would do nothing about the Lockwood
5 case, they were holding it over his head to make him tes-
6 tify against Darrow?

7 MR FORD: We object to that as incompetent, irrelevant and
8 immaterial, and being at a time subsequent to Franklin's
9 testimony before the grand jury, and as not being any-
10 thing inconsistent.

11 MR APPEL: That Lockwood case is still pending, your
12 Honor, and we contend that the reason it is pending, is
13 in order to hold it over his head and make him feel that
14 unless he testifies against Darrow they would push it
15 against him.

16 THE COURT: Where is the foundation for that question?

17 MR DARROW: On page 866, at the bottom.

18 MR FORD: We withdraw the objection to save time.

19 MR DARROW: Did he say they would do nothing about the
20 Lockwood case, they were holding it over his head to make
21 him testify against Darrow? A He did.

22 Q Did he say that while he plead guilty in the Bain
23 case, it had not cost him anything, as the county had paid
24 his fine?

25 MR KEETCH: What page is that?

26 MR DARROW: 867.

1 MR FORD: We object to that as immaterial, irrelevant,
2 no foundation is laid for it; that it would not impeach
3 in anywise any facts in the case.

4 THE COURT: The objection is overruled.

5 A He said that the state had paid his fine.

6 MR DARROW: Did he at that conversation say that Mr Fred-
7 ericks was one of the best friends he had on earth?

8 MR FORD: We object to that. Franklin admitted he did
9 state that.

10 MR DARROW: He says, "I might have done it", and the
11 question was, "You don't deny it or affirm it"?

12 MR FORD: He said he had been on friendly terms with
13 Fredericks for years.

14 MR APPEL: If the stipulation is made that the witness
15 has so testified, it is virtually an admission that it is
16 true.

17 MR KEETCH: Testified as to what the record contains.

18 MR FORD: Answer the question. I will withdraw the ob-
19 j ection.

20 A What is the question, please?

21 THE COURT: Read it.

22 (Question read.)

23 A He did.

24 Q Did he say that at the time, on the morning that he
25 was arrested, he had no appointment with Darrow and did
26 not know he was to be on the street at the time, and that

1 Brown must have telephoned him to get him there? A He
2 did.

3 Q To what Browne did he refer?

4 MR FORD: That is objected to -- go ahead.

5 Q Do you know? A He said, "Detective Browne".

6 Q Did you have a conversation with him some weeks later
7 down at Venice when you were alone? A I did.

8 Q Do you remember just when that was? A About the 4th
9 or 5th or 6th of May, somewhere in the neighborhood there.

10 Q Did he at that conversation say in substance to you --

11 MR FORD: What page, please?

12 MR DARROW: Page 863, down towards the bottom, that he
13 had been worrying, you and Watt and Steinman were pumping
14 him in the Darrow case, and did you not reply that he was
15 crazy or something to that effect, and didn't he say,
16 "Well, that takes the load off of my mind?" A He did.

17 Q That was some time in May, was it? A Yes sir.

18 MR DARROW: You may cross-examine.

19 M

20 CROSS-EXAMINATION

21 MR FORD: How long have you known Mr Darrow? A Not
22 very long. I met him here when I was working in the court
23 rooms, and I met him two or three times in Venice.

24 Q Never met him before that? A No sir.

25 Q Never knew him before that? A No sir.

26 Q Do you know Mr Cavanaugh at Venice? A Yes sir.

1 Q He is an official of the department in which you are
2 working? A Yes sir.

3 Q What position does he occupy down there? A Sergeant.

4 Q You are working under him? A No sir.

5 Q Working in his department? A Working in his depart-
6 ment, yes sir.

7 Q under what Sergeant are you working? A Why, we work
8 directly under the chief, we do not -- of course, we take
9 orders from the sergeant in a way, but a sergeant has no
10 authority over us.

11 Q How many sergeants are there down there? A Two.

12 Well, we have three, two appointed ones, and then
13 they fill in.

14 Q You first got acquainted with Mr Franklin ~~during~~ the
15 McNamara case? A I did.

16 Q In the court room? A I met him once or twice, I
17 think before this trial, but just slightly.

18 Q And you never met Mr Darrow until this trial began,
19 too, the McNamara trial? A I never seen the man before.

20 Q When did you first get acquainted with him? A Oh, I
21 was introduced to him about the last of March.

22 Q 1911? A No, 1912, this year.

23 Q You never met Mr Darrow before the end of the Mc-
24 Namara case? A I just -- I never was introduced to him.
25 I spoke to him here in the room, somebody told me it was
26 Mr Darrow, and I spoke to him in the room.

1 Q Who introduced you? A Why, I think Mr Watt introduc-
2 ed me to him.

3 Q Mr Watt? A yes sir.

4 Q That is the same Watt you were talking about, the for-
5 mer City Clerk of the City of Venice? A Yes sir.

6 Q Is he at present occupying that position? A No sir.

7 Q What is he doing now? A Why, he was -- he had went
8 away for a while, he had some claims up in Montana or some-
9 thing.

10 Q Is he in Venice now? A I think so. He was auditing
11 a lot of the books there, but he has no steady position
12 there just now.

13 Q You say you worked for the sheriff for a while?

14 A Just during the McNamara trial.

15 Q During the McNamara case you were bailiff in the court
16 room? A Yes sir.

17 Q Had charge of the jury? A No sir.

18 Q Connected with that jury at all? A No sir.

19 Q You were an attendant in court, though, during the
20 time the McNamara case was on? A yes sir, I was at the
21 outer doors there, and sometimes on the inside.

22 Q And Mr Watt introduced you to Mr Darrow after that
23 case had ended? A A long time after that, about the
24 last of March.

25 Q And you never were acquainted with any of the attorneys
26 during the pendency of that case, the McNamara case,

1 while you were a bailiff for the court? A Never
2 had a conversation with anyone, just known them to speak
3 to them.

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- 1 Q You did know them? A Know them to speak to them.
- 2 Q You did speak to them? A I spoke to everybody that
- 3 came in there.
- 4 Q You spoke to Mr. Darrow? A I spoke to him, and passed
- 5 the time, is all, never talked to him.
- 6 Q Every day he came into the court? A Why, I think
- 7 so.
- 8 Q When was this conversation you had with Bert Franklin
- 9 about Browne of the District Attorney's office, that is
- 10 the Browne you mean, isn't it? A I think so.
- 11 Q Detective Browne? A Yes, sir.
- 12 Q When did you have that conversation with him? A Along
- 13 about the 10th of March, I think.
- 14 Q Before you met Darrow, or after you met Mr. Darrow?
- 15 A That conversation was after I met Mr Darrow.
- 16 Q How long after you met him? A Just, probably a few
- 17 days.
- 18 Q Wasn't the next day after you met Mr. Darrow? A No,
- 19 sir.
- 20 Q Just a few days? A Just a few days.
- 21 Q What was that conversation with Franklin about Mr.
- 22 Browne? State the whole conversation, everything that
- 23 occurred during that conversation. A About Mr. Browne?
- 24 Q No, the whole of the conversation during which that
- 25 came up. A When what came up?
- 26 Q The remarks about Browne, give us the whole of the con-

1 versation, including that? A I didn't have very much.

2 Q I don't care how much you had. Give us the whole con-
3 versation. A The conversation I had with Mr. Franklin
4 was at the Casino Cafe when he spoke about not having no
5 appointment with Mr. Darrow.

6 Q Well, now, this was at Venice, this conversation with Mr.
7 Franklin occurred at Venice? A yes, sir.

8 Q Who else was present? A Mr. G. G. Watt.

9 Q Tell us what Mr. Watt said, what Mr. Franklin said and
10 what you said, beginning at the conversation.

11 MR. DARROW I object to that question. We can tell him
12 to say as near as he can or in substance, a person
13 cannot in the world tell--

14 MR. FORD. Perhaps he can.

15 MR. DARROW Ask him to tell the substance of what he
16 remembers of it.

17 THE COURT. Well, then, your question is, "if he can."

18 MR. FORD. Certainly, every question put to a witness if
19 he can answer, if he cannot he cannot.

20 MR. DARROW. The question was put to him that he must
21 answer every word that was said to him.

22 THE COURT. Well, if you can, give us the conversation and
23 if you cannot give us the substance of it.

24 A Well, this conversation was before we left town in the
25 automobile.

26 MR. FORD. Q Who left town? A Franklin, ¹ and Mr. Stineman.

1 Q you met Franklin up town before you came down to
2 Venice, then?

3 MR. APPEL. I submit he is trying to answer the last ques-
4 tion. I submit he ought to be allowed to do it, how the
5 conversation came up and what was said. Now, he is asking
6 him to state as near as possible.

7 MR. FORD. I withdraw that question for the time being and
8 will return to it a little bit later. Where did you meet
9 Franklin up town? You mean up town in Los Angeles city?

10 A Yes, sir.

11 Q At what place did you meet him? A The Alexandria bar.

12 Q Who was with you when you met Mr. Franklin? A I was
13 with myself at the time.

14 Q Mr. Watt not with you? A Not at the time.

15 Q How did you happen to meet Mr. Franklin? A He said he
16 was coming over to see me.

17 Q When did he tell you he was coming over to see you?

18 A That morning, that day.

19 Q When, over the telephone? A I think so.

20 Q You telephone him to meet you at the Alexandria bar?

21 A I didn't telephone him to meet me. I just telephoned
22 and he said he wanted to see me.

23 Q You rang him up and had a conversation with him over
24 the 'phone and during that conversation he said he would
25 meet you at the Alexandria bar? A He did.

26 Q Very well. What time in the day did you ring him up?

1 A I don't remember, I think it was about noon.

2 Q Mr. Franklin was at his office, that is where you rang
3 him up? A I think so; yes.

4 Q And you where where when you 'phoned? A I was--I don't
5 remember.

6 Q Well, were you in Los Angeles or Venice? A I was in
7 Los Angeles.

8 Q You telephone d from some place in Los Angeles? A I
9 did.

10 Q And had a conversation with Mr. Franklin and agreed to
11 meet him at the Alexandria bar. Now, give us the whole
12 of that conversation over the 'phone. A Didn't have no
13 conversation with him over the 'phone, only just merely told
14 him I was in town and he said he wanted to see me.

15 Q Why did you ring him up and tell him you were in town?

16 A Because he had been talking to me on business.

17 Q On this detective agency business? A Yes, sir.

18 Q You didn't have any intention of going into the detec-
19 tive agency business with him? A I certainly did.

20 Q Well, after he met you at the Alexandria bar, you and
21 he being alone, how long did you stay there?

22 MR. APPEL. Now, he didn't say they were alone at the
23 Alexandria bar.

24 MR. FORD. Yes he did.

25 MR. APPEL. No, he did not.

26 THE COURT. Let's see if they were alone.

1 MR. FORD. Q Was anybody with Mr. Franklin when he came
2 to the Alexandria? A There was not.

3 Q And you and he were alone when he first came in. When
4 you were alone at the Alexandria bar what conversation did
5 you have? A Nothing, only that I said I was waiting for
6 Mr. Stineman and Mr. Watt to go to Venice.

7 Q Yes,. A And we didn't have much of a conversation
8 there because they came up shortly afterwards, because it
9 was time to go home.

10 Q Is Mr. Stineman the man that ran the saloon down there
11 in Venice? A He ran the Hotel Decatur and had a bar in
12 connection, yes, sir.

13 Q How long were you and Franklin there together before
14 Stineman and Watt did come in? A I don't just remember.
15 We had a drink, I guess, together.

16 Q What did you talk about while you two had the drink?

17 A Why, I don't remember that we talked about anything.
18 There was somebody else butting into me there and talked
19 and we didn't talk about anything.

20 Q Didn't talk about Darrow's case or anything else?

21 A No, sir.

22 Q Mr. Watt and Mr. Stineman came in and met you there, did
23 they? A Yes, sir.

24 Q What conversation did you have after they arrived?

25 A Stineman bought a drink, is about all the conversation
26 there was; had a little free lunch.

1 Q Didn't discuss the Darrow case or any phase of it or
2 the McNamara case or any other phase of it? A Not that
3 I know of.

4 Q How long did you, Watt and Stineman and Franklin
5 remain there? A Only about 15 or 20 minutes, I should
6 say .

7 Q And you cannot remember what you talked of while you
8 were there in that saloon? A No, we were eating and
9 drinking.

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1 Q From there where did you go? A Mr Stineman said he
2 had to go home, and , of course, I wanted to go home, and
3 Mr Watt wanted to go home, and Franklin says, "Well, I
4 believe I will go down to the beach with you.", and so Mr
5 Stineman had his machine there, and we got in the machine
6 and we started out together.

7 Q Mr Stineman owns a machine, does he? A Yes sir.

8 Q What time did you come up to Los Angeles that morning?

9 A I don't just remember; sometime in the forenoon.

10 Q About what date was this? A I just couldn't say,
11 but it was between the 6th and 9th and 10th of the month.

12 Q Of what month? A Of March.

13 Q Of March, 1912. What other business did you have in
14 town besides that of seeing Mr Franklin, any? A No sir,
15 only a little shopping I had to do.

16 Q That was the only business you had in town? A Yes sir.

17 Q What time did you leave for the beach in Mr Stine-
18 man's automobile? A I think it was between 5 and 6
19 o'clock, or somewhere in the neighborhood of that.

20 Q In the evening? A In the evening.

21 Q Did you remain with Mr Franklin all the afternoon?

22 A No sir. Afternoon?

23 Q Well, you met Mr Franklin that noon, did you not?

24 A I did not.

25 Q What time did you meet him? A At the Alexandria
26 about between -- just as I told you before, about 15

1 minutes before the others, before we left, about 5
2 o'clock; something like that.

3 Q Then, you didn't meet him at noon? A I did not.

4 Q You came in in the morning sometime? A Came in about
5 10 or 11 o'clock, I should judge.

6 Q Who occupied the front seat, and who occupied the back
7 seat in that machine going down to Venice?

8 MR DARROW: I object to the question. The question should
9 be if you remember. He may not remember that question.

10 THE COURT: Objection overruled.

11 MR DARROW: That is the way to ask it.

12 MR FORD: Answer the question. The court has overruled
13 the objection. A I don't remember, but I think that I
14 rode in the front seat with Mr Stineman.

15 Q And who rode in the backseat? A I think Mr Watt and
16 Mr Franklin.

17 Q What time of the day was it when you phoned to Franklin
18 to meet you at the Alexandria? A I don't remember
19 just exactly.

20 Q About how long before he met you? A I think I phoned
21 him about noon.

22 Q You are not sure about that?

23 MR APPEL: Now, your Honor, he has answered that on cross-
24 examination.

25 MR FORD: If the court please, after this witness --

26 MR APPEL: Now, he is asking him again.

1 THE COURT: One at a time.

2 MR APPEL: He is asking this man with reference to a mat-
3 ter of the phoning, three times, first on cross-examina-
4 tion once, what time he phoned to him, and he said about
5 noon; then, he asked him, your Honor, about, whether or
6 not he met him that noon, and the witness said, no, I
7 met him between 5 and 6 o'clock, a few minutes before he
8 started to the beach. Then, your Honor, he said to him,
9 didn't you -- what time did you phone to him, didn't you
10 meet him at noon, and he says, no', and he asks him what time
11 did you meet him, again, what time did you phone to him?
12 He says about noon. Now, he is asking him if he is sure.
13 Now, I submit it is three times he has asked the ques-
14 tion.

15 THE COURT: The question has already been asked and
16 answered.

17 MR FORD: One of the objects of cross-examination is to
18 test a man's story by referring him from one thing to
19 another. We had the same trouble during the examination
20 of Mr Hawley, of being interrupted so the witness would
21 know what the former testimony was, and was informed of
22 his statement. I think that is improper to repeat his
23 former testimony.

24 MR APPEL: We will interrupt counsel, with the court's
25 permission, when we think we are legally correct, if we
26 think that kind of examination is not proper.

1 THE COURT: I think you are quite right in making the ob-
2 jection, and the objection is sustained.

3 MR FORD: Now, when you got to Venice, on the way to Ven-
4 ice, did you hear any conversation of Mr Franklin at all,
5 he being in the backseat, and you in the front? A He was
6 talking to me for a while on the way.

7 Q What were you talking about? A Well, he wanted us to
8 go by his home; he said he didn't have any money; he
9 wanted to go by home and stop at his home to get some
10 money, and I said, well, if that is all you have to go home
11 for I can loan you some money, and I gave him some money.

12 Q How much did you loan him? A I loaned him \$5.

13 Q That the only topic of conversation you had on the
14 way down to the beach? A Well, we stopped at the
15 garage and got some oil and stuff on the way.

16 Q You didn't talk to Mr Franklin about Mr Darrow, the
17 McNamara case, or bribery or jurors on the way to the
18 beach? A No sir.

19 Q When you got to the beach, where did you go? A Mr
20 Stineman had an engagement. He let us out at Marine
21 street.

22 Q Where did you, Mr Watt and Franklin go? A We went
23 over to the Alexandria bar -- we went over to the Decatur
24 bar.

25 Q The Decatur bar at Venice? A Yes sir.

26 Q And what did you do there? A We got a drink there.

1 Q And then where did you go? A We went over to the
2 Casino to get some supper.

3 Q Mr Watt go with you and Mr Franklin? A Yes sir.

4 Q At the Decator hotel or on the way to the cafe to get
5 supper, did you have any conversation with Franklin?

6 MR DARROW: I want to object to the next to the last ques-
7 tion there. I think the witness didn't understand.

8 THE COURT: Read the next to the last question. (Next
9 to the last question read by the reporter.) (Last
10 question read by the reporter.) A I did not.

11 MR FORD: How long did you stay at dinner at the Casino,
12 was it? A The Casino, yes sir.

13 Q How long did you stay there? A Why, we didn't stay
14 so awful long. He had an appointment with his daughter
15 or something down there, and he only stayed a short time.

16 Q That is, Franklin did? A Mr Franklin.

17 Q Who paid for the supper? A I think Mr Watt paid for
18 the dinner. He paid for some drinks there, Mr Franklin did.

19 Q At the bar. Now, what was said during the dinner between
20 you and Mr Watt and Mr Franklin? A Why, he talked about
21 being a detective, and so on, a clever detective, and one
22 thing and another, and finally he drifted onto the Darrow
23 case himself.

24 Q What did he say about himself as a detective first?

25 A I don't know; he talked about arresting fellows and
26 when he was in the United States Marshal's office, and so

1 on. I couldn't say as to wo much he really did say.

2 Q Didn't pay much attention to that? A Well, not any
3 more than he was just talking about --

4 Q Well, go ahead with the conversation. A -- what he
5 had done and so on. He didn't say so awful much about
6 that. He drifted onto the Darrow case.

7 Q What did he say on the Darrow case, and what did you
8 say, as near as you remember, in substance and effect,
9 just as you go along, state just what Mr Franklin said
10 and what you said or Mr Watt said, as the case may be.

11 A Mr Watt asked him something about anybody phoning him,
12 making any arrangements with Darrow.

13 Q What did Mr Watt say on that subject? A He asked
14 if he phoned to him.

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1 Q. Well, did he say this, did you-- Mr. Watt turn to
2 Franklin and state, "Did you telephone to parrow on the
3 morning of the arrest?" is that what he said? A I don't
4 know; words to that effect.

5 Q Put it in that form and go right ahead with it.

6 MR. APPEL. Just put it in the form you understand it.

7 A Some--words to that effect.

8 MR. FORD. Q Was that the first thing said about the
9 Darrow case? A I think so, yes.

10 Q That was the first thing said? A Yes.

11 Q That was at the beginning of the conversation about the
12 Darrow case? A I think so.

13 MR. DARROW. I object, he says "I think so."

14 MR. FORD. Q well, that is your best recollection, in
15 other words? A yes.

16 Q What did Franklin say? A He said, "I never 'phoned
17 to Darrow or had an appointment with Darrow that morning.
18 If anybody 'phoned to him it must have been Mr. Browne."

19 Q What else did he say? A Well, I says, "When they got
20 you," I says, "they didn't find no money on you, did they?"
21 and he didn't say yes or not; kind of smiled and I says,
22 "You told me that Darrow didn't give you any money."
23 I says, "You didn't have no money yourself?" Well,
24 he says, "There was other money around there, or something
25 that the lawyers didn't know anything about."

26 Q What lawyers? A He said, "That the lawyers," he

1 didn't say what lawyers. He says, "There was other money
2 around there besides what the lawyers knew about."

3 Q That is all he said which was all that was said about
4 the Darrow case at that time? A To the best of my recol-
5 lection I think that was.

6 Q Was that all that was said about telephoning? A I
7 think so. He spoke about Lockwood and he being a great
8 friend of his and about know each other for 16 years or
9 something like that, I don't know how long, and about
10 Fredericks again and so on.

11 Q Take the Lockwood end of it, did he say that he was
12 still friends with Lockwood? A He didn't say either way,
13 only that he said he had been friends with Lockwood
14 for several years.

15 Q Didn't he say anything that indicated that he was
16 disappointed in Lockwood for turning him out?

17 A Not to my recollection.

18 Q Did he say he was surprised that Lockwood playing traitor
19 to him, Franklin, after they had been friends for so many
20 years? A I don't remember, I know that he didn't like
21 Browne. He was talking about Browne most of the time.
22 He didn't think Browne--

23 Q He didn't like Lockwood either? A He didn't say a
24 word about Lockwood.

25 Q What was it he said about Browne? A He said he didn't
26 like him. He said that he was a big four-flusher, some-

1 thing like that, and so on.

2 Q Is that all he said? A I don't remember what all he
3 did say.

4 Q Didn't he say that Browne had telephoned him to put
5 him wise--Browne had telephoned Darrow to put Darrow
6 wise to what had occurred or what was going to occur?

7 A He did not.

8 THE COURT. We will take a recess at this time.

9 (Jury admonished. Recess for 10 minutes.)

10 (After recess.)

11 THE COURT. You may proceed.

12 MR. FORD. Q You were talking with Sargeant Cavanaugh
13 during the recess, were you not, Mr. Pirotte? A During
14 the recess?

15 Q Yes. A I spoke to him as I went by, I think.

16 Q You think. Don't you know whether you did or not.

17 A I spoke to him as I went by.

18 Q You didn't talk to him? A I didn't have no conversa-
19 tion with him.

20 Q Talk with Mr. Watt? Just spoke to him, yes.

21 Q You knew Mr. Cavanaugh and Mr. Darrow have been intimate
22 friends for years? A What is it?

23 Q You know that Mr. Cavanaugh and Mr. Darrow have been inti-
24 mate friends for years? A Why, not so much, I didn't
25 know so much about it, no.

26 Q You know it, though? A Well--

Q Turning back to this conversation you say that Mr.

1 Franklin was very much incensed at Mr. Browne, didn't like
2 him? A Yes, sir.

3 Q Now, what did he say about Mr. Browne, give us all that
4 conversation, everything you can think of that he said
5 about him. A We did not have a long conversation with
6 me, he just said a few words.

7 Q What did he say?

8 MR. DARROW' I object to that. We has already answered
9 that. The question is, "Do you think of anything further
10 he said."

11 MR. FORD. He has told us some things and he has added to
12 it.

13 THE COURT. Objection overruled.

14 A I think I told you all he said, there.

15 Q Well, now, tell it to us just in the way it occurred,
16 just in the order it occurred.

17 MR. DARROW_ I object to that on the ground it has been
18 answered.

19 MR. FORD. Not in the order.

20 MR. DARROW. You mean, to relate all that was said about
21 everything, so as to bring him in proper place?

22 MR. FORD. No, all about Browne in the order it occurred.

23 MR. DARROW' He has stated all that Browne said.

24 MR. FORD' He has told us part at one time and part at
25 another and I want the order in which it occurred.

26 MR. DARROW' Well, I object to it on the ground it has been

1 answered.

2 THE COURT. Objection overruled. Answer the question, if
3 you can.

4 A Why, that is all there was to it.

5 MR. FORD. Tell it to us again and tell it to us in the
6 order in which it occurred.

7 A He said that Browne--he didn't put much stock in Browne,
8 that he was a big wind jammer, or something like that, and
9 he says, "I don't see why the District Attorney keeps him
10 around there," and so on, "he might give some good man a
11 job there." That is about all he said.

12 Q Didn't he say that Browne had telephoned Darrow?

13 A I told you that.

14 Q That is in the same conversation, isn't it? A He didn't
15 say that he telephoned to Darrow.

16 Q What did he say about that? A He says if someone
17 telephoned him it must have been Browne.

18 Q And what else did he say along that line?

19 MR. DARROW. I object to that question. He has not said he/^{said}
20 anything else along that line.

21 MR. FORD. Q Did he say why he thought it was Browne?

22 A He did not.

23 Q Didn't say anything to indicate his reasons for
24 believing it to be Browne?

25 MR. DARROW- I object to that, he has already answered it.

26 THE COURT. Objection overruled.

A not to my knowledge he did not.

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1 Q Did you ask him why he thought it was Browne? A I
2 did not.

3 Q You were not there for that purpose? A I don't think
4 so.

5 Q Now, this conversation, you say, occurred in March?

6 A Yes sir.

7 Q About what time in March? A This conversation was
8 about along, about from the 8th to the 10th of March.
9 I don't know exactly -- somewhere along there.

10 Q Was that the first time you had ever met Franklin?

11 A No sir.

12 Q When was the first time you met Franklin? A About the
13 last of February.

14 Q The last of February, and at what place? A On Navy
15 street, near the Decatur Hotel off the ocean front.

16 Q Who else was present? A Nobody but him and I.

17 Q When was the next time you met him? A About the
18 5th or 6th of March.

19 Q The 5th or 6th of March, where was that? A At the
20 Casino.

21 Q Who was present at that time? A Mr Watt.

22 Q Yourself and Mr Franklin, also? A yes sir.

23 Q When was the next time you met him? A I don't just
24 recollect, but it is between the 8th and the 10th, some-
25 thing like that, between the 10th or 12th, something like
26 that.

1 Q Where was that? A I first met him up town here.

2 Q And then went down to the beach? A Yes sir.

3 Q When was the next time you met him? A The next
4 time I met him was about the -- I should say about the
5 5th of May.

6 Q At what place? A About right at the corner of
7 the Venice Drug Store on the ocean front.

8 Q Who was present on that occasion? A Just himself and
9 I.

10 Q When was the next time you met him? A That was the
11 last time I met him.

12 Q You said a while ago you first met Mr Franklin during
13 the McNamara case? A I said that I had seen him several
14 times before to talk to him. I met him in the McNamara
15 case.

16 Q When did you meet him in the McNamara case? A The
17 day that he had his preliminary hearing.

18 Q The day that he had his preliminary hearing? A Yes
19 sir.

20 Q That Franklin had his preliminary hearing. What place
21 was that? A Judge Bordwell's court, I was one of the
22 bailiffs in that court.

23 Q And you were a bailiff in the court on that day?

24 A They borrowed us -- Woodbury -- from the sheriff's
25 office, they changed the court from down below up here,
26 and got two of the men from the office up here.

1 Q And you were a bailiff? A You might call it so, I
2 don't know, might have been an usher or something like
3 that.

4 Q That was in December, was it not? A I think so.

5 Q Did you have a conversation with Franklin on that oc-
6 casion? A Nothing more than I think Harry Wright intro-
7 duced me, and spoke to him about -- shook hands and said
8 with him and said he was sorry he got into that trouble,
9 and that is about all. I had no conversation with him.

10 Q Did not make any statement at that time at all about
11 his trouble? A No sir.

12 Q That is the first time you ever met him? A To talk
13 to, to speak to him. I have seen him several times.
14 I may have spoken to him, but not to talk to him; didn't
15 talk much to him on that day.

16 Q From that day until the day you met him at the beach,
17 you never -- to the latter part of February, you had never
18 had anything to do with Franklin? A No sir.

19 Q And when you met him there at the box, it was purely an
20 accidental meeting? A Yes sir.

21 Q When did you first report that meeting of February
22 the 9th to anybody connected with the defense?

23 MR DARROW: I object to that question, now, that he report-
24 ed it. When did he speak to anybody about it; I don't ob-
25 ject to that. There is nothing here that he reported
26 it to anybody.

1 THE COURT: Objection overruled.

2 MR FORD: Answer the question.

3 A Why, I think it was along about -- probably might have
4 been about the 7th of March.

5 Q About the 7th of March. What was your reason for report
6 ing it on the 7th of March? A Well, that is after I had
7 the second talk with Mr Franklin.

8 Q To whom did you report it? A Well, I don't remember
9 who all was present, but I think I spoke to Sergeant Cava-
10 naugh, and somebody else in the office; I don't remember
11 who the other party was.

12 Q Sergeant Cavanaugh? A Yes.

13 Q You don't remember who else was present? A I don't
14 remember, no.

15 Q When did you meet Mr Darrow? A I met him later than
16 that.

17 Q When was that? A I don't remember just when I met
18 him.

19 Q Was it before your third visit or your third meeting
20 with Franklin? A I think not.

21 Q You are not sure about that? A I am pretty sure
22 it was not.

23 Q When you met Mr Franklin in February on Navy street,
24 you and he being alone, what transpired between you at
25 that time? Just give us the conversation? A He came
26 up to me and shook hands with me, and says, "How is every-

1 thing"? and I says, "All right." He says, "What is
2 the chance of opening a detective agency here on the
3 beach, here"? He says, "Do you have very much detec-
4 tive work to do here?", and I says, "Why, quite a bit,
5 private work, and we have no plain-clothes men here at
6 the present time, and I guess there would be quite an
7 opening here.", I says, "I have been figuring on quit-
8 ting if they don't appoint any plain-clothes men, on
9 quitting and going to work myself, going into an agency.",
10 and, well, he says, "I think I will try it, we might go
11 in together, I think I will try it after I get out of
12 my little trouble", and I says, "Why, by the way, " I
13 says, "how are you getting along with that?" He says,
14 "There is nothing to that; I am going to get out all
15 right; the District Attorney don't want me; they want Dar-
16 row." I says, "All right, if you get out of it, I will talk
17 to you", and he says, "Here is one of my cards, and, come
18 up to the office and see me; come up town and see me any
19 time you come up."

20 Q That was after Mr Darrow had been indicted, was it
21 not? A Yes sir, that is just before Franklin had plead
22 guilty.

23 Q Well, Darrow was indicted in this case on January
24 29th, 1912, and this conversation with you was the latter
25 part of February, a month later? A Yes sir.

26

2p 1 Q All of these conversations you have related were after
2 Mr. Darrow had been indicted, were they not? A What is it?

3 Q All of these conversations that you have related were
4 after Mr. Darrow had been indicted by the grand jury?

5 MR. APPEL. That is a matter that must appear from the
6 evidence, the witness having no knowledge, so far as the
7 evidence shows--

8 THE COURT. What is the objection?

9 MR. APPEL. We object to that because it is calling for
10 a conclusion of the witness, calling for an opinion of
11 the witness, and a matter which must be determined from
12 the time that these conversations occurred to the time of
13 the indictment in this case.

14 MR. FORD. Assuming that the indictment, which is on file,
15 on record in this case, was on January 29, 1912, all of
16 these conversations were after that indictment, were they
17 not? A yes, sir.

18 Q Now, have you given us all the conversations you had
19 with Mr. Franklin on that first occasion? A I did.

20 Q As you have now related it? A I did.

21 Q When you asked him how he was coming out with that, he
22 said they didn't want him, they wanted Darrow, is that what
23 he said? A we says, "The District Attorney does not want
24 to prosecute me and don't want me, they want Darrow."

25 Q What else was said on that subject? A And he says,
26 I am going to get out of it all right."

1 Q Say anything else about his own guilt or innocence at
2 that time or Darrow's guilt or innocence? A He did not.

3 Q And that is all that was said? Did you ever go up to
4 his office after that? A Yes, sir.

5 Q When? A I think about a week later.

6 Q About a week later, that would be about the 5th or 6th of
7 March? A I think so, yes.

8 Q Well, now, you met him at the Casino about that same
9 date, did you not? A I did.

10 Q Which was first, the visit to the office or the
11 meeting at the Casino? A The visit to the office.

12 Q Who went up with you to the office? A Nobody.

13 Q How did you happen to go up there? A I happened to be
14 in town and he asked me any time I came up to go up, and
15 I went up to see him.

16 Q At that time you met him in the office what conversation
17 did you have with him? A Nothing, only he asked me about
18 some--if he could get any office building down there, or
19 any place where he could have a couple of office build-
20 ings, and so on.

21 Q Did you ever make any inquiries for any office build-
22 ings for him down there? A I did not.

23 Q When you told him you might go in with him, yourself,
24 did you have any intention of doing so? A I did at the
25 time; yes, sir.

26 Q You have changed your intentions since that time?

1 A Yes, sir.

2 Q And why? A I did not like his conversations, his work.

3 Q About Darrow? A Why, I didn't like the way he had done,
4 in the first place, I loaned him some money and he didn't
5 give it back to me.

6 Q That \$5. you had loaned him to go into the Casion?

7 A Yes, and he volunteered to talk so much about this case,
8 I didn't think he was the right kind of a man to go in
9 with.

10 Q Weren't you down there for the purpose of pumping
11 him about the case? A I was not, not the first two
12 times. I went out with him.

13 Q But since that time you have been? A The third time
14 I went out with him I just thought I would go and see if
15 he had anything more to say, that is all.

16 Q By whom was you detailed on that case?

17 MR. DARROW. I object to that question about being
18 detailed on that case, there is no such evidence at all.

19 MR. FORD. I have a right to assume it.

20 MR. DARROW. You have no right to assume it.

21 THE COURT. Objection sustained.

22 MR. FORD. Haven't I a right to assume he was detailed?

23 THE COURT. I think the form of the question is objection-
24 able.

25 MR. FORD. Q Who told you to go?

26 MR. DARROW. I object to that. He hasn't any right to assume

1 he was told.

2 THE COURT: Objection overruled.

3 MR. FORD: Q The objection is overruled. Answer the
4 question. A No one necessarily told me to go.

5 Q Who told you, whether necessary or not? A I told
6 Gavanaugh that it looked to me like this Franklin--that
7 he had been double crossed or some way, the way this
8 Franklin was talking, his conversation to me, he volunteer-
9 ed to me, and I spoke of things that he told me and he
10 says, "Well, go ahead and go out with him and see what he
11 has to say, see what further he has to say."

12 Q That is the reason you went up to the office? A I
13 didn't go up to the office any more after that.

14 Q You didn't go up to the office any more after that?
15 A Called him up by telephone.

16 Q When did you call him up by telephone? A A few days
17 later than that.

18 Q What place were you when you called him up by tele-
19 phone? A I can't say exactly where I was at that time;
20 I was in Los Angeles.

21 Q What conversation did you have with him over the 'phone?

22 MR. APPEL: That has been asked and answered.

23 MR. FORD: No, it has not. This is another conversation.

24 THE COURT: I think this is directed to another time.

25 Objection overruled.

26 MR. APPEL: We except.

1 A Just called him up and told him I was in town.

2 MR. FORD. What did he say? A He said he would like to
3 see me but he was busy and he couldn't see me before 4
4 or 5 o'clock, if I would make an appointment with him he
5 would see me.

6 Q Did you wait for him? A Yes, sir.

7 Q Did you see him? A I did.

8 Q Where? A At the Alexandria bar.

9 Q Who was present on that occasion?

10 MR. APPEL. That is all asked and answered.

11 MR. FORD. This is another conversation, this is one
12 shortly after the first conversation.

13 MR. APPEL. It has been asked and answered; he said he
14 was there between 5 and 6; he said he called him up at
15 noon, that he met him between 5 and 6, that he was all
16 alone by himself, that he met Franklin there that after-
17 noon.

18 MR. FORD. I withdraw the question for just a moment.

19 Q Now, you went to the office and then you telephoned
20 him and then subsequently you met him at the Casino Cafe,
21 is that correct? A I met him once at the office and I
22 telephoned him once and I went--I didn't never meet him at
23 the Casino. I went with him to the Casino.

24 Q You never met him at the Casino, but you went with
25 him to the Casino? A Yes, sir.

26 Q The first time that you were at the Casino with Mr.

1 Watt, how did you happen to meet Franklin on that occasion,
2 about the 5th or 6th of March? A That is the time I came
3 up town.
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1 Q You thought that was the 8th or 10th, you said?

2 MR DARROW: I think that is what he said, the time he came
3 up town.

4 MR FORD: If the court please, I wrote it down as he
5 gave it to me. Last February first met him on Navy
6 street, and then he went to his office, and then on the
7 5th or 6th or March, he met him at the Casino, Mr Watt,
8 himself and Franklin being present, and then about the 8th
9 or 10th of March, he met him in Los Angeles.

10 MR DARROW: That is not the way I understand; the witness
11 probably can tell.

12 THE COURT: All right, the witness can clear that up,
13 if there is any doubt about it.

14 A I said he came up town both times; one time I met
15 him at his office, met him three times ---- four
16 times, one time he came to the beach -- twice he came down
17 to the beach, and twice I came up town; once I went to his
18 office, and the next time I phoned to him.

19 Q You say about May 5th, 1912, you met him at the cor-
20 ner of the Drug store? A I did.

21 Q What conversation did you have with him on that occa-
22 sion?

23 MR APPEL: He has told all that, your Honor.

24 MR FORD: No, he has not, on cross-examination.

25 MR APPEL: Well, let him go.

26 THE COURT: No objection. Go ahead.

1 A He came up to me, I don't know whether with his wife or
2 who it was with him, but some lady with him, and he left
3 her, and I was in uniform, and he went -- he came over and
4 called me off to one side. He says, "I have had something
5 that has been worrying me quite a little bit, and I think
6 that you will tell me the truth in this matter," he
7 says, "and I want to ask you", he says, "ain't it a fact
8 that you and Stineman and Watta took me out and pumped
9 me?" I said, "You are crazy; where did you get that from?"
10 Well, he said, "I thought that", he says, "I got suspi-
11 cious of Stineman", and he says, "if you say that it
12 ain't so, " he says, "it will relieve my mind", he says,
13 "and it would be a load off of me."

14 Q That was the last time you saw him? A That was the
15 last time I saw him.

16 Q And what did you say to him when he said it would be
17 a load off of him? A He said it would be a load off him.
18 I just stood there and talked to him. He didn't wait for
19 an answer, because I had made him one answer in saying,
20 "Why, you are crazy. Where did you get that from?" That
21 is the way I spoke.

22 Q You didn't answer his question direct? A The last
23 time when he said, "I thought you fellows took me out to
24 pump me --"

25 Q That is what you did do, wasn't it? A Not necessarily.

26

1 Q Well, necessary or not, it is what you did do, isn't
2 it, what you went out for? A Not the first two times,
3 I mean.

4 Q I am talking of the last time, the one you went out
5 with him, you went out for that purpose? A I went the
6 last time, I went out to see what he had to say.

7 Q And you went out on instructions from Sergeant Cava-
8 naugh? A I did not.

9 Q Didn't you just state you told Cavanaugh all about it
10 and you went out and that on Cavanaugh's direction?

11 A I did not.

12 Q Isn't that the fact; that you did? A I went out on
13 my own accord.

14 Q Didn't Mr Cavanaugh tell you to go out? A He might
15 have told me to go out, but I would not need to do what-
16 ever Cavanaugh tells me to.

17 Q Did anybody else tell you to go out? A They did not.

18 Q You went out of your own volition? A Yes sir.

19 Q You had already seen Mr Darrow when you went out on
20 that occasion the last time? A I don't remember that I
21 did.

22 Q Didn't you state you met Mr Darrow right after the
23 same conversation?

24 MR APPEL: I submit he didn't state anything of the kind.
25 What he stated is matter of record. Counsel is evident-
26 ly misstating the evidence there for want of recollection

1 or purposely, in order to mislead the witness. I submit ,
2 your Honor, that he has not stated anything of the kind.

3 MR FORD: I have a right to ask him if he didn't so state.

4 THE COURT: Read the question. (Last question read
5 by the reporter.)

6 MR FORD: As a matter of fact that is ^{not} the record, your
7 Honor.

8 MR APPEL: That is the record.

9 THE COURT: The question calls for a statement of fact
10 from the witness which is proper. Objection overruled.

11 MR APPEL: Exception.

12 MR FORD: Answer the question.

13 A I don't remember, but I don't think that I did.

14 Q When was it that you reported to Darrow?

15 MR APPEAL: Now, your Honor, I submit that the question is
16 incompetent, irrelevant and immaterial, because it under-
17 takes to cross-examine the witness upon a matter or
18 thing assumed by counsel to have been testified to by
19 the witness, and which the witness has not testified to.

20 MR FORD: I am not assuming that he did testify, I am as-
21 suming that he reported.

22 THE COURT: Objection overruled.

23 MR APPEL: Exception.

24 A I don't remember but sometime in March it was.

25 MR FORD: Well, after which conversation? A I remember,
26 them after all conversations excepting the last he was down

1 in May.

2 Q Didn't you say you had seen Sergeant Cavanaugh after
3 the second conversation? A I did.

4 Q And that you saw Darrow a day or two later? A I said
5 I met them; I think I said I met them, but I don't think I
6 did.

7 Q Now, isn't it your best recollection? A I seen him,
8 but I don't think I said anything to him.

9 Q When was it you first said anything to him about
10 these conversations?

11 MR APPEL: I submit that has been asked and answered
12 several times.

13 MR FORD: He has answered it differently every time, your
14 Honor.

15 THE COURT: Objection overruled.

16 MR APPEL: We except.

17 A I seen him a good many times down there because he
18 lived down there, but I didn't have no conversation with
19 him, or wasn't introduced to him.

20 MR FORD: Don't you remember the question I just now asked
21 you? When did you first say anything to him about these
22 conversations?

23 MR DARROW: He has already answered that, your Honor. I
24 object to it. He said he wasn't sure. He said he thought
25 that it was.

26 MR FORD: I withdraw this question and insist on an answer
to the preceding question. Will you read it?

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1 MR. APPEL. We will insist on this objection, that the
2 witness has been asked.

3 THE COURT. Mr Appel, I don't know what you are objecting
4 to until this question is asked.

5 MR. APPEL. We withdrew his question and says he insists
6 on an answer to the other question, to the preceding
7 question. Now, since the witness has already answered we
8 object to it being reread.

9 MR. FORD. I want it read to the court so the court will
10 see it is not answered.

11 MR. APPEL. We object to it on that ground, the question
12 has been asked and has been answered. that substantially
13 the same question has been asked and answered several times,
14 that the witness has already stated in answer to several
15 questions that to the best of his recollection that when
16 he first talked to Mr. parrow about the matter, what he
17 knew was at a time after the third conversation with
18 Mr. Franklin and before the conversation of May that he
19 had with Mr. Franklin.

20 THE COURT. Read the question.

21 (Last question and answer read by the reporter.)

22 MR. FORD. Now, you see, your Honor, that is not an
23 answer to the question.

24 THE COURT. That is not an answer.

25 MR. APPEL. What comes of my objection?

26 THE COURT. The objection has already been heard and over-

1 ruled.

2 MR. DARROW. It is the same question he asked and the
3 objection was sustained.

4 THE COURT. To this particular question there was a
5 ruling and the witness has not answered the question.

6 MR. FORD. Q Please answer the question. A I think it
7 was sometime the middle of March .

8 Q Sometime the middle of March? A Yes, sir.

9 Q Now, when you went up to see Mr. Franklin at his
10 office, after your first conversation with him on Navy
11 street, what was said between you and Mr. Franklin at the
12 office?

13 MR. APPEL. We submit the witness has already been asked
14 that question and has answered it.

15 MR. FORD. Not answered yet, your Honor.

16 MR. APPEL. And that it is repetition and recross-examina-
17 tion and recross-examination and repetition of the same
18 question and that the witness is entitled not to be
19 questioned upon the same subject time and time and over
20 and over again.

21 MR. FORD. He has been examined what transpired between him
22 and Franklin at the offices. There is only two conversa-
23 tions he has given in full, or three conversations, your
24 Honor. I want to call your Honor's attention to the
25 conversations that have been given in full, the first one on
26 navy street, the last one on May 5th at the Venice Drug

1 Store and the one on March 8th to 10th where they went
2 from the Alexandria Hotel to the Casino, those three have
3 been given in full.

4 THE COURT. This conversation--

5 MR. FORD. This conversation is the one that occurred at
6 the office after the first meeting on Navy street.

7 THE COURT. Objection overruled.

8 MR. APPEL. We take an exception and we add the witness
9 in answer to that question stated that Mr. Franklin then
10 stated to him, asked him whether or not they could get
11 any offices in some building down at Venice, that is what
12 he said.

13 MR. FORD. We object to counsel testifying, your Honor.
14 He started to give the conversation, he hasn't given it
15 in full. I hadn't asked for it in full at that time.

16 MR. APPEL. We take an exception to that statement as not
17 being borne out.

18 THE COURT. I think Mr. Appel is right, he refreshes my
19 recollection as to the conversation.

20 MR. FORD. One conversation.

21 THE COURT. You can ask him if he hasn't told all--if he
22 has anything further to tell, let's have it.

23 MR. FORD. Q When Mr. Franklin asked you about a building
24 down there, about renting the building, what did you say
25 to him in reply? I went off on another subject at that
26 point? A I told him there was no offices left there at

1 present, that there were some prospects of building, they
2 were going to build some new buildings, he would probably
3 have to wait a little while, be better anyway after elec-
4 tion.

5 Q What was said about the Darrow case or the McNamara case
6 or jury bribing, Browne or any other subject at that time
7 and place? A Nothing in that office.

8 Q Nothing whatever was said on that subject at that office?

9 A At that office, no, sir.

10 Q The next time you met him was on March 5th, or 6th at
11 the Casino? A No, I met him the same day.

12 Q Met him the same day that you had seen him at the office?

13 A Yes, sir.

14 Q You met him in the evening? A Yes, sir.

15 Q Did you make an appointment at the office to meet him
16 in the evening? A I did not. We made an appointment
17 with me.

18 Q What was said about that? A He says, "I have got to
19 work this afternoon and supposing I came down to the beach
20 this evening and saw you." I said, "All right, you
21 come down and I will meet you at the Decatur."

22 Q We will meet you at the Decatur or I will meet you
23 at the Decatur? A I will meet you at the Decatur.

24 Q What is the bar? A The Decatur Hotel.

25 Q Did you meet him in the hotel or at the bar room?

26 A I meet him at the hotel.

1 Q There is a bar room there?

2 MR. APPEL. Of course, there is .

3 MR. FORD. Q Did you meet him in the bar room ?

4 MR. DARROW. I object to the evidence.

5 MR. APPEL. Why should he be asking this witness--

6 THE COURT. Make your objection.

7 MR. APPEL. Well, I am making my objection. I object to
8 the conduct of the District Attorney in trying to insinuate
9 against this witness or any one else, because the witness
10 has stated the Decatur Hotel and that there is a bar
11 attached to it and it is a fact, he said it so often and
12 he is continually bringing it up. I say it is frivolous, of
13 the most insignificant character, the smallest infinitesimal
14 frivolity, and I object to ^{the} frivolity of counsel on that
15 subject, they have no other reason.

16 THE COURT. Objection overruled. Proceed.

17 MR. FORD. Read his answer as far as it went.

18 (Last answer read by the reporter.)

19 MR. FORD. Q Then you met him at what part of the hotel
20 first before you went to the bar room?

21 MR. APPEL. I object to that, because it has been asked
22 time and time over again, and he has again brought up
23 that conversation, and it is a repetition, and he is not
24 entitled to harrass or annoy the witness with the same
25 question. This witness has as much right as any other
26 witness and it is only for that reason we are objecting,

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your Honor.

MR. FORD. Why, if the court please, with this kind of a witness who himself admits that he reported to Mr. Cavanaugh--

THE COURT. The question is has this been asked and answered.

MR. FORD. No, it has not. He first testified in full about the next meeting at the Decatur when they all went down together, but not about the first meeting at the Casino, we have just got into that now. He was at the office,

1 made an appointment to meet him in the office, and did meet
2 him at the Decatur Hotel, and I want to get at the con-
3 versation that occurred there and what occurred over at
4 the Casino hotel, at the Casino Cafe. There are two conver-
5 sations at the Casino cafe that he had testified about,
6 one of which he has given us the details of, and I am
7 seeking to get the details of the other.

8 MR APPEL: We most strenuously object to counsel comment-
9 ing upon the attitude of this witness and to his insin-
10 uation that this witness is any other kind of a witness
11 than what he appears to be upon the witness stand, and what
12 his demeanor and his testimony and his apparent candor
13 and conduct indicate him to be. I object to his com-
14 ments as being prejudicial to the rights of this defendan-
15 I object to his commenting on this witness and to his tes-
16 timony, because it is improper so to do, because he
17 should not do it, and I object to the repetition of the
18 question because it has been asked time and time over
19 again in reference to that matter, and the witness has
20 answered. I object to it because it is a manifest effort
21 on the part of counsel to so harrass the witness, and
22 so confuse the facts that neither this jury nor the court
23 nor counsel nor himself, will ever be able to know what
24 the testimony was, that it is a deliberate attempt to con-
25 fuse what the witness has stated here; that it is not to
26 extract the truth, but it is to confuse the testimony,

1 and I object to that kind of conduct, and I say, if coun-
2 sel has that in view, which I say, if he does it invol-
3 untarily, and I am not ascribing to him, as I know him
4 well, any bad motives, but it is a matter that many law-
5 yers resort to, and think it is proper to do, and we are
6 objecting to it because we think legally, it is not proper.
7 Counsel has no right to do it. I suppose one of his reasons
8 is the manner he is trying it, but we contend that legally
9 he is not entitled to do that, and that is the only reason
10 why I make the objection.

11 THE COURT: Objection overruled.

12 MR APPEL: We take an exception. He spoke of this kind
13 of a witness.

14 THE COURT: The defense has assigned error on account of
15 that statement.

16 MR APPEL: Yes sir, and what is the court going to do about
17 it? We submit, your Honor, that this jury be told that
18 such comments as that concerning this witness on the part
19 of either side, is not proper.

20 THE COURT: The District Attorney was not even permitted
21 to finish his sentence in that regard. The court inter-
22 rupted, and stopped the completion of that very sentence.

23 MR APPEL: The reporter has it, I hope.

24 THE COURT: I knew nothing further that ought to be --
25 if the report shows anything more fully, let's have it.

26 MR FREDERICKS: Why not have an answer to the question,

1 that is the point.

2 THE COURT: If there is any question about the assistant
3 District Attorney having cast any aspersions on the wit-
4 ness, --

5 MR FREDERICKS: That was a common expression, from the de-
6 fense, "this kind of a witness".

7 MR FORD: Simply illustrating the point; used it in the
8 same sense they did, absolutely.

9 MR APPEL: He is not an accomplice.

10 THE COURT: It ought not to be used in that sense. If
11 there is any comment by the District Attorney casting
12 any aspersions on this witness, it is entirely improper
13 and the jury should disregard it. I aimed to interrupt
14 him before it was completed, but if there was a comment,
15 why, disregard it. Now, go ahead and answer the question.
16 A The question, please. (Last question read by the
17 reporter.) Met him in the lobby.

18 MR FORD: Who was present in the lobby when you met him be-
19 sides yourself and Mr Franklin? A No one.

20 Q How long did you remain in the lobby before going to
21 the bar room? A Oh, we just talked probably a minute or
22 two.

23 Q On what subject did you talk? A I don't remember
24 exactly just all, one thing and another, the time of day,
25 and he says, "I am right on time", and that is about all
26 that was said.

1 Q When you got to the bar room whom did you meet if any-
2 one? A We met somebody before we got to the bar room on
3 the corner.

4 Q Who was that? A Met Mr Watt, on Navy street?

5 Q Where? A Right on the corner of Navy, as you turn
6 to go around to the bar.

7 Q The hotel is on Navy street, is it? A The hotel is
8 on Navy, between Navy -- that is, it extends to Navy
9 street, and the ocean front.

10 Q You walked out of the road of the street and around the
11 bar onto the front? A Yes sir.

12 Q And you met Mr Watt? A Yes sir.

13 Q How did you happen to meet Mr Watt there at that time?

14 A I don't know; he was coming out from the ocean front,
15 from the bath house.

16 Q That is the first time Watt had met Mr
17 Franklin? A Yes sir.

18 Q Who introduced Mr Watt to Mr Franklin? A I did.

19 Q Where did you go then? A Franklin asked us to go in
20 and have a little drink.

21 Q Did you talk about the case while you were drinking?

22 A No sir.

23 Q Or in the saloon at all? Or in the bar room?

24 A No sir.

25 Q How long did you remain in the bar room? A Probably
26 10 or 15 minutes.

1 Q How long have you known Mr Watt? A About three
2 years.

3 Q He is a married man? A Yes sir.

4 Q Lives at Venice with his family? A Has lived here
5 all the time.

6 Q Was living there with his family at that time?

7 MR APPEL: I object to this as immaterial, your Honor.

8 THE COURT: objection sustained.

9 MR APPEL: I suppose he wants to know how many children
10 he has?

11 MR FORD: No, I do not. I have an object in that.

12 THE COURT: objection sustained.

13 MR FORD: Do you know where Mr Watt's family was at that
14 time?

15 MR APPEL: I object to that as immaterial; not cross-
16 examination.

17 THE COURT: Objection sustained.

18 Q You met Mr Watt at what time of the day?

19 MR APPEL: We object to that, it is not proper cross-
20 examination; this has been asked and answered where he met
21 Mr Watt and how he came out of the lobby of the hotel,
22 and come around to the corner of the saloon.

23 MR FORD: What time of day has not been asked.

24 THE COURT: objection overruled?

25 A About 6 o'clock.
26

1 MR. FORD. Q After you left the saloon or while you were
2 in the saloon did you meet any person other than Mr. Watt?

3 A No, sir.

4 Q Then, where did you go?

5 MR. APPEL. We object to that on the ground the witness has
6 already stated, has already answered the question, from
7 there they went over to the Casino.

8 MR. FORD. Well, we will find out the way he went.

9 THE COURT. Objection overruled.

10 MR. APPEL. We except.

11 A I spoke about wanting something to eat and was hungry
12 and I says, "We will go over and get some supper."

13 MR. Watt said he didn't want to go along, he says he
14 had to go home, and I says, "You can go and have lunch with
15 us," and he spoke about his wife waiting for supper and
16 I says, "You had better come and have supper with use."

17 Q But Mr. Watt paid for the meal over there, didn't he?

18 MR. APPEL. We object to that, as immaterial, not cross-
19 examination, of no importance, does not prove anything.

20 THE COURT. Objection sustained.

21 MR. FORD. Q Well, what other conversation did you have
22 about Mr. Watt's having to go home with his family?

23 MR. APPEL. We object to that as immaterial for any pur-
24 pose whatsoever.

25 THE COURT. Objection sustained.

26 MR. FORD. Q What was the whole of the conversation

1 after that?

2 MR. APPEL. We object to that because the witness has
3 related on direct and cross-examination what was the
4 conversation at the Casino.

5 MR. FORD- This is not at the Casino, this is on the way
6 to the Casino, where they invited Mr. Watt to go and have
7 dinner with them.

8 THE COURT. Objection overruled.

9 MR. APPEL. We except.

10 A They went along, I asked them to go to supper and they
11 went along.

12 Q They went along, and you went straight from the bar
13 room then over to the Casino? A Yes, sir.

14 Q On the way to the Casino or at the bar room was there
15 anything said about Mr. Darrow or the Darrow case or the
16 Franklin case or the bribery of jurors or any other kindred
17 subjects? A No, sir.

18 Q When you got to the Casino did you meet any person
19 there? A No, sir.

20 Q The three of you went in and sat at the table together
21 and no other persons present, is that correct? A No
22 other person was present.

23 Q What was said at that time, give all the conversation
24 at that time?

25 MR. APPEL. We object to that on the ground it has been
26 asked and answered, he has been cross-examined upon that

1 conversation four times, we have kept count this time of
2 this conversation, and four times he has been asked that.
3 MR. FORD. Q The only Casino conversation is the one of
4 March 8th to the 10 th, when he went down in the machine,
5 and this is a different occasion altogether. I asked him
6 if he had such a conversation while I was making a list,
7 but I had not gone into the details of it.

8 THE COURT. All right, let us have it. Objection overruled

9 MR. APPEL. We take an exception.

10 A We sat down and ordered supper there and Mr. Franklin
11 started talking to Mr. Watt about the detective agency.
12 He said he was figuring on going in with me. He says,
13 "You have been city clerk here a long time and you have
14 known me," and he says, "What is the proposition?" He
15 says, "What do you think about it?" and Mr. Watt says,
16 "Why, Mr. Franklin, you have been in some kind of trouble
17 lately, haven't you?" and he says, "Yes," but he says,
18 "I am out of that now," he says, "I plead guilty in the
19 main case and was fined \$4,000 and the state paid my fine
20 and they are holding the Lockwood case over me in order
21 to testify, to testify against Darrow and there will be
22 nothing to that on my part."

23 Q What else was said? A Well, Mr. Watt--well, I spoke
24 up then and I says, "Mr. Franklin," did Darrow give you
25 any money?" He says, "No, but we must not talk about this
26 case, I am a witness on that case." "Well," I says, "all

1 right." and we didn't talk about the case for a few
2 minutes. He talked about his detective work and about
3 being in the United States Marshall's office, and so on,
4 and talked about Fredericks being a great friend of his,
5 the best friend he had on earth.

6 Q Now, what did he say about each of those things?

7 MR. APPEL. What he said about Fredericks?

8 MR. FORD. No.

9 MR. APPEL. Yes, he has asked him.

10 MR. FREDERICKS. We want them all.

11 MR. FORD. Yes, I asked him including that.

12 THE COURT. Go ahead.

13 A Nothing, only about, he spoke about being all over
14 the country serving warrants and arresting fellows, and
15 how he had gotten over the country while he was in the
16 United States Marshall's office, and so on.

17 Q The only words you said to him were, "Did Mr. Darrow
18 give you any money?" A That is what I spoke at that
19 time.

20 Q Did you say when and where? A I did not, I said,
21 "Did Darrow give you any money?"

22 Q You mean since Franklin appeared before the grand
23 jury or before, or did you say--

24 MR. APPEL. Your Honor, I submit, he asked what was
25 said there and the witness has given the conversation.

26 Q You never said when or where?

1 THE COURT The question is withdrawn.

2 MR. FORD. Q Is that correct? A What was that you asked
3 me?

4 Q All you said was, "Did Darrow give you any money?" and
5 you never asked him when or where or how or why, you
6 didn't refer to any particular time, that is the point
7 I want to get at? A Well, I said--I don,t know

8 whether I said, "Did Darrow give you the money?" or
9 "Did Darrow give you that money," I put it one way or the
10 other, I don,t recollect particularly how I put it, but
11 asked him, "Did Darrow give you the money," or, "Did he
12 give you that money," or "Did he give you any money."

13 Q Didn't you say a while ago--give him any money, for
14 what purpose? You didn't mention the purpose? A I either
15 said, "Did Darrow give you that money," when we were talk-
16 ing about it, or "Did he give you any money?" I cannot
17 say which I asked him.

18 Q Which is your best recollection now? A I do not want
19 to say because I don,t remember how I put it.

20 Q Did you discuss that subject at all with Sergeant
21 Cavanaugh during recess? A I did not.

22 Q Or with Mr. Watt? A I did not.

23 Q Mr. Watt was present at that conversation? A Yes, sir.

24 Q And you did not discuss it out here in the hallway?

25 MR. APPEL. Now, he has been asked that, your Honor, the
26 first thing you asked him when he came in here?

1 MR. FORD. Perhaps that is true. Withdraw the question.

2 Q You have just simply said, "Did you give him any money?"
3 without referring to the time. Now, I am asking you, did
4 you state the purpose when you asked the question?

5 MR. APPEL. Now, we object to that, your Honor, as having
6 been asked and answered. The witness has stated what they
7 were talking about and in connection with what they were
8 talking about and he asked him one thing or another--I will
9 not transgress in the rule by repeating what he said, but
10 it is for the jury to determine what money he referred to.

11 THE COURT. I think that has been asked and answered, Mr.
12 Ford.

13 MR. FORD. Q Well, did he say anything further at that
14 time about that money? A That is when he gave me the
15 answer, he says, "Yes,, but we must not talk about this
16 case, I am a witness onthis case."

17 MR. DARROW. Wha t question are you answering there, I
18 want to get that straight.

19 THE COURT. Read the question and answer.

20 MR. FORD. Q you are sure that is correct, are you?

21 MR. DARROW. You know it is not correct.

22 MR. FORD. I know it is not correct.

23 MR. DARROW. His statement.

24 THE COURT. Wait a moment, now, let us get it cleared up,
25 and I will ask the witness.

26 MR. FREDERICKS. He just said so.

1 THE COURT Listen carefully to the reading of the
2 last question and answer and state whether or not you
3 have said there what you mean to say.

4 MR. FORD I beg the court's indulgence just a moment,
5 merely because on cross-examination an answer comes out
6 that is not satisfactory to the counsel on the other
7 side is no reason why counsel should be interrupted.

8 THE COURT It is not satisfactory to the court, the
9 court does not understand what he said. Read the question
10 and answer.

11 MR. FREDERICKS. It is very plain, he asked him--

12 THE COURT Let us get it clear.

13 MR. DARROW He didn't ask the question.

14 THE COURT Read the question.

15 (Question and answer read.)

16 THE COURT That is your answer, is it, Mr. Pirotte?

17 A I don't exactly understand that answer now. Talk
18 any further about that money?

19 MR. FORD. Q You do not see anything wrong with that
20 answer, do you?

21 MR. DARROW- I object to that question. The witness says
22 he doesn't understand the question.

23 MR. Appel. It is wrong, your Honor, to ask him whether
24 he meant to say whether Mr. Franklin said one thing or ano-
25 ther, I will not suggest, but your Honor can see, in view
26 of his answers previous to this.

1 THE COURT. Yes. Now, Gentlemen, you must talk to the
2 court. I cannot interpret these comments, you must talk
3 to the court.

4 MR. FREDERICKS. The position is this: The witness has
5 answered this question two ways, he first said when he
6 asked Franklin if Darrow gave him this money he said,
7 "No," "but we must not talk about the case." Now he says,
8 "Yes, but we must not talk about the case." Now, we
9 maintain that the last answer was the truth and it came
10 out of him unconsciously, that is our position, it is not
11 dragged out at all. We maintain that is the truth and we
12 shall argue that is the truth and that slipped out of him
13 and he didn't intend to say it, but he did say it.

14 MR. APPEL. "We didn't intend to say it." Yes, your Honor,
15 that slipped out of Counsel that the witness did not
16 intend to say that and that is the truth about it, we
17 will argue it, that he is conscious of that fact and it
18 slipped out of him, that the witness did not intend
19 to say that.

20 MR. FREDERICKS. The truth slipped out.

21 MR. APPEL. How quickly that slips out of counsel.

22 MR. FREDERICKS. The truth slipped out.

23 MR. DARROW. It ought to be beneath the District Attorney
24 to try to indicate anything like that. This question
25 was not asked him, he says, "Was there anything more said,"
26 and he went on and said, "Yes", and he said he must
not talk about it any further, and it had no reference to,

1 it and counsel must know it..

2 THE COURT I will have the question and answer read once
3 more and ask the witness to pay attention to it.

4 MR. DARROW* Perhaps he had better read back a couple of
5 questions.

6 THE COURT. Read back a couple of questions and we want
7 the witness to say what he intends to say.

8 (Last question and answer read.)

9 THE COURT. Is that your answer?

10 A That is the last question that was asked?

11 THE COURT. Yes, sir.

12 A Well, the way, I answer the last question that there
13 was nothing more said about any money after the first time
14 we spoke.

15 MR. FORD. Q At that time what was the rest of the
16 conversation.

17 MR. DARROW* Now, I move to strike that answer out, which
18 is not meant as an answer to any question and which would
19 be used as counsel said he would use it.

20 MR. FREDERICKS* We certainly object to that answer being
21 stricken out, I believe that is the truth and that is
22 our position in the matter.

23 THE COURT. The jury has ^{heard it and let them} determine it.

24 MR. DARROW* It was not the answer of this witness to this
25 question, that is evident.

26 MR. APPEL. Your Honor, in view of the statement I would

1 like to be sure, your Honor--

2 THE COURT. yes, sir .

3 MR. APPEL. I do this in good faith, your Honor, I do not
4 want to insinuate, I would like to be sure whether the
5 reporter got the statement of Mr. Fredericks that the
6 witness here did not intend to say that.

7 MR. FORD. Yes, that is correct.

8 MR. APPEL. And in view of that statement we ask your
9 Honor that your Honor ask the witness whether or not he
10 intended to say by that that Mr. Franklin told him that
11 Mr parrow had given him the money , whether they talked
12 about the case any further, whether Mr. Franklin says,
13 "Yes he did," or whether he intends to say that being
14 that he is confused--now, we ought to clear that and not
15 leave it confused, because even counsel here himself has
16 said that the witness made that statement that the
17 witness did not intend to say that.

18 MR. FREDERICKS. Yes, that is what I meant and that it was
19 the truth, that his memory came back to him and he handed
20 out the answer before he thought and that he spoke the
21 truth when he said it and that it is the truth and it
22 should stand, but counsel argues it is not the truth,
23 whatever it is worth, leave it to the jury.

24 MR. DARROW. I don't care whether it is the truth or
25 a falsehood, all I want is that this witness shall under-
26 stand what he answers and it is perfectly evident he did

1 not understand this question, it was not a question at
2 all. If they cannot win this case without tricks they
3 should lose it.

4 THE COURT. I quite agree with you, Mr. Darrow and I think
5 the District Attorney agrees with you.

6 MR. DARROW. I do not care whether he is telling the
7 truth or falsehood, but I want him to understand the
8 questions that he is answering.

9 THE COURT. The court has directed the reporter to read
10 it two or three times and he has read it and he says--

11 MR. DARROW. But the question does not indicate anything,
12 it is ambiguous, the question does not say that. I would
13 like to have it read again and have the witness look at
14 it.

15 THE COURT. Read it again.

16 MR. FORD. It can be argued to the jury finally.

17 THE COURT. Read it again.

18 MR. FREDERICKS. You may take him on redirect for the
19 purpose of straightening him out.

20 MR. DARROW. I will straighten it out now.

21 THE COURT. Now, the court has asked the reporter to
22 read the question and answer and we will have the witness
23 to pay special attention to the answer and I will then
24 inquire whether the answer as read is your answer to the
25 question.

26 (Question and answer read.)

1 THE COURT. Q Is that your answer?

2 A I answer "No."

3 MR. FORD. Q What other subject did you talk about on
4 that occasion?

5 THE COURT. If your answer is "No." what is your answer
6 to that question? You have answered No to my question, I
7 asked you if that is your answer to the question that the
8 reporter read and if it is not your answer, what is your
9 answer? A I said, "No" it was not my answer.

10 THE COURT. Now, all right, answer the question; what is
11 your answer? A We did not speak about any more money.

12 MR. FORD. Q What other subject did you talk about during
13 that talk, during that time?

14 MR. DARROW. I ask to have his other answer stricken out,
15 he says it was not his answer.

16 MR. FREDERICKS. It cannot be stricken out, it is in there
17 for what it is worth, the jury has heard it.

18 MR. DARROW. I ask to have it stricken out.

19 MR. FREDERICKS. Whatever it may be worth, much or little.

20 MR. DARROW. It was not a fair question and it is not a
21 question at all and it is not an answer.

22 MR. FORD. Just imagine where counsel's request would
23 lead up. They pick up a transcript of a witness's testi-
24 mony and when he has made statements inconsistent with
25 each other and take all those statements which are ^{not} in favor
26 of them and ask the witness did you intend that answer?

1 Answer: No, I didn't intend that answer. Then they
2 move to strike out the answer merely because the witness
3 did not intend that answer. We shall argue to the jury
4 that the witness did intend that answer, that he did not
5 intend to tell the truth on the subject at all--

6 THE COURT. Now, Mr. Ford, stop right there.

7 MR. FREDERICKS. I think Mr. Ford has a right to make that
8 statement.

9 THE COURT. You cannot make that statement in the presence
10 of the witness if the witness is on the stand, as to what
11 you propose you will argue you can argue that at the pro-
12 per time but you cannot say in this court when the witness
13 is on the stand that he is not telling the truth or that
14 you intend to make that argument, although you have a per-
15 fect right to make that argument when the time comes but
16 you cannot say that--

17 MR. FREDERICKS. The court does not understand--

18 THE COURT. The court understands perfectly what is inten-
19 ded, but you cannot make that statement.

20 MR. FORD. We want to make an argument to the jury at the
21 proper time and we want the advantage of anything that
22 may be regarded as inconsistent, at the proper time.

23 THE COURT. I understand that thoroughly.

24 MR. FORD. And we do not believe this principle which
25 they have enunciated can be introduced on this question.

26 THE COURT. That is another matter.

1 MR FORD: If it can be done, it can be done on all ques-
2 tions based upon inconsistencies on witnesses' testimony,
3 and we are deprived of that advantage, and we might as
4 well be deprived of cross-examination, for one of the ob-
5 jects of cross-examination is to ask whether or not a wit-
6 ness is speaking the truth. Now, we have certain theo-
7 ries, which we will advocate with regard to this, and with-
8 out repating them, in view of your Honor's admonition ,
9 we want the advantage of all that is in the record there,
10 and we do not believe it can be stricken out.

11 MR DARROW: Just a word about that. If this witness had
12 been asked a question which could call for that answer,
13 and he had meant to give it, then, well and good, if they
14 could get advantage of it, all right, but that is not the
15 case, and that is not the question. This question has
16 not arisen before in the trial of this case. It was clear-
17 ly not a question; it was not asked upon that subject,
18 and the witness clearly never intended to answer upon that
19 subject and has said so. It is not responsive to the
20 question in any way, and the witness has said that he
21 never intended to answer it that way, and he did not reply
22 to it, and it ought not to be in this record at all.

23 MR APPEL: Your Honor ruled that it is not responsive.
24 However, we have ascertained that the witness has clear-
25 ed it up, and it is nothing but fair that we should get a
26 ruling of the court whether or not the answer given by the

1 witness is responsive to the question. Your Honor can
2 see it is not responsive to the question, and for that
3 reason we are asking that, upon legal grounds, and that
4 is all.

5 MR FORD: But, your Honor would pass upon the judgment of
6 the competency of the witness.

7 THE COURT: I do not want to hear from you, Mr Ford. I am
8 satisfied it is not within the province of the court, under
9 the circumstance, to strike out the testimony; it is for
10 the jury to determine its weight and force; it is for the
11 jury and not for the court, and the motion to strike out
12 is denied.

13 MR APPEL: We except.

14 MR FORD: Now, after that, what other subject did you dis-
15 cuss or, rather, what else was said at that conversation
16 besides what you have related?

17 MR APPEL: This is also subject to the objection that the
18 witness has been examined on that subject, upon that con-
19 versation at the Casino, and all the conversation gone over.

20 THE COURT: It seems to me that is true, Mr Ford.

21 MR FORD: Well, was there anything else said besides what
22 you have just now related that occurred at that conver-
23 sation? A yes sir.

24 Q What else? A Well, he talked about Fredericks.

25 Q yes. A He said Fredericks was one of the best friends
26 he had on earth, one of the greatest men, and he says that

1 it was Fredericks, really, that should get the credit for
2 this McNamara case.

3 Q Yes. A And he said that Fredericks would be our
4 next Governor.

5 Q That ought to help some. Now, what else?

6 MR DARROW: Ought to help who?

7 MR FREDERICKS: Not me.

8 THE COURT: Now, gentlemen, that is outside of the case.
9 Now, go on. What else? A Then, he spoke about Fred-
10 ericks being under obligations to him and one thing and
11 another.

12 MR FORD: What obligations did he say he was under?

13 A Well, through politics or some politics affairs.

14 Q Tell it all. A Well, I will tell you the way he told
15 it to me.

16 Q Yes, that is the way we want it. A He said Freder-
17 icks was under obligations to him; he helped him out in
18 politics, helped him to win this election, he says,
19 "Fredericks used to be an officer at Whittier once upon
20 a time in his younger days", and he says, "he got into
21 trouble there with the government about some mail", and
22 he says, "it went on record,", and he says, "Mr Earl at
23 the time of his election, come up there to get them records
24 so that he could publish it", and he says, "I went down
25 there and hid them so that he couldn't get it."

26 Q Hid the records of the clerk's office? A Of the

1 Clerk's office.

2 Q The United States Marshal hid the records of the clerk's
3 office, United States Clerk? A I didn't say that he
4 hid the records. He spoke about the records; I didn't
5 know whether they were county records or U.S. records or
6 what it was.

7 Q You just said it was United States mail. A United
8 States mail, yes.

9 Q At any rate, Earl didn't get them? A Earl didn't get
10 them.

11 Q What else was said? A He spoke about -- asked us
12 if we were -- he says, "Was you over to hear my trial?",
13 I says, "Yes, I happened to be up town, I was up in the
14 Sheriff's office about some business, and I went up there
15 and heard the trial", and he says, "Didn't this Judge Cabaniss
16 or whatever you call him -- "give me an awful raking,"
17 and I says, "He handed it to you pretty strong." Well,
18 he says, "I went over there to see him and he apologized
19 to me", he says, "The judge says, you know how that is; I
20 had to do it in order to make it look all right."

21 Q He said Judge Cabaniss had said to him? A Yes.

22 Q What else was said? A That is about all that con-
23 cerned the trial.

24 Q Was anything said about Darrow on that occasion,
25 aside from what you have already related?

26 MR APPEL: Now, your Honor, they have already taken him

1 over the case and the witness has gone to that point where
2 he said "We must not talk about this case any more, I
3 intend to be a witness", and then they ask him -- they
4 pass all that, and then they say to him "Was there anything
5 else said to you upon this bribery case", and the witness
6 gave that answer, and then he follows it by saying, "Did
7 they talk about any other subject", and then he goes on
8 and talks about these immaterial matters concerning Mr
9 Fredericks, and so on, and brought out things here that
10 have no place here in the record at all one way or another.

11 THE COURT: Read the question.

12 (Q^uestion rread.)

13 THE COURT: Objection overruled.

14 A No more that I remember.

15 Q The only thing, now, to be perfectly fair with you,
16 the only thing that was said about Darrow was you asked
17 him if Darrow had given him any money?

18 MR APPEL: I object to that, your Honor, because he has
19 been cross-examined as to what was said, and he stated
20 according to his recollection everything that was said,
21 all his conversation.

22 MR FORD: To be fair with the witness, we have a right to
23 be fair --

24 MR APPEL: I don't care whether you are fair or not.

25 THE COURT: Are you objecting to this question?

26 MR APPEL: Yes sir.

1 THE COURT: Upon what grounds?

2 MR APPEL: I object on the ground he has been cross-
3 examined already fully upon that subject as to what was
4 said there. Now, he is undertaking to draw a distinct-
5 ion --

6 THE COURT: I think that is a proper question. Objection
7 overruled.

8 MR APPEL: We take an exception.

9 (Last question read.)

10 MR FORD: And what reply, if any, was made by Franklin?

11 MR DARROW: Read the question.

12 (Question read.)

13 THE COURT: What is your answer?

14 MR FORD: And the reply that was made by Franklin.

15 MR DARROW: You now say "the reply", and you said "what
16 reply".

17 THE COURT: I understood that was the question, what was
18 the reply, wasn't that your question?

19 MR FORD: No, I will put it simply, and then split it up.

20 THE COURT: All right.

21 MR FORD: The only thing that was said by you to Franklin
22 about Darrow was your asking him the question, "Did
23 Darrow give you any money", is that correct? A That
24 is the only question, yes sir.

25 Q That is the only thing that was said about Darrow?

26 A By me.

1 Q And the only thing that was said by Franklin was
2 his reply to you, is that correct? Or, I will withdraw
3 it and put it in this form: what was his reply -- so that
4 we will have a record on that.
5 MR APPEL: I say, he has been asked and has answered that--
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1 THE COURT: The objection is overruled.

2 MR RAPPEL: We take an exception, and we will enter here
3 to that last objection, we object to the whole cross-
4 examination on the same point over and over again. We
5 object to the court allowing counsel to cross-examine him
6 over and over again, over the same point and over the same
7 subject, and to ask the same questions over again, and we
8 deem it useless on the part of the defense to further ob-
9 ject, or to further make a record of this. We will now
10 not object to any further cross-examining this witness, be-
11 cause we consider it absolutely useless.

12 MR FREDERICKS: Our position is just this, your Honor --

13 THE COURT: I don,t think it is necessary to state your
14 position.

15 MR FREDERICKS: Counsel said we tricked him into an answer,
16 and we want to give him a fair, square opportunity to
17 answer.

18 THE COURT: The court allowed this question in order
19 that it may clear up the confusion that arose a little
20 while ago, and for that reason and that reason alone,
21 a question that has been gone into and threshed out is
22 permitted to be answered. ^Read the last question.

23
24
25 MR FORD: What was his reply to your question. You had
26 asked -- the only thing you said ^{about} ^ Darrow was a question

1 that you asked Franklin -- you said, did Darrow give you
2 any money, and then he made a reply. Now, the present
3 question is, what reply did he make; what was his reply?

4 A Did Darrow give you any money? He says, no, but we
5 must not talk about the case.

6 Q Very well, now. That was all that was said by either
7 you or Mr Franklin or Mr Watt during that evening at that
8 dinner, about the bribery or Darrow or money or anything
9 else? A No sir, that was not all.

10 Q Who were you looking at just now before answering
11 this?

12 MR APPEL: Now, your Honor, we certainly object --

13 THE COURT: The witness has a right to look at anybody
14 he wants to.

15 MR APPEL: I object to his asking that question.

16 THE COURT: objection sustained.

17 MR APPEL: As far as I am concerned, if it is undertak-
18 ing to insinuate by counsel that he is any way getting
19 any pointers from me, I say it is not true. If he is
20 willing, I will get under the table or behind the desk.

21 MR FORD: I didn't think he was looking at Mr Appel. I
22 want to find out who he was looking at?

23 MR APPEL: I say again, it is very small.

24 THE COURT: The court has sustained the objection. That
25 disposes of the incident.

26 MR FORD: You say there was something more; what was it?

1 A What was that question?

2 MR FORD: Read the last answer. (Last answer read by
3 the reporter.) Now, what else was said? A That wasn't
4 all that was said about Darrow.

5 Q What else was said about Darrow? A I mentioned it
6 several times.

7 Q During this conversation? A During this conversation.

8 Q Yes. A I said that just during this conversation I
9 mentioned -- I don't know that I said it here, but he did
10 mention in this conversation that evening, that is all he
11 did mention about Mr Darrow, was that, "I don't think that
12 Darrow will ever go to trial. I understand he is pretty
13 feeble; he will not live to go to trial, he will never go
14 to trial."

15 Q What else did he say? A That is about all I know.

16 Q "He is pretty feeble; he will not go to trial. I don't
17 think he will go to trial?" A "He won't live to go to
18 trial."

19 Q You are sure that is all --

20 MR APPEL: Well, your Honor -- go ahead. There is no use
21 objecting.

22 MR DARROW: I object to the question, "You are sure that
23 is all". He stated the question. There might be a
24 great deal more.

25 MR FORD: That is all you recall? A Yes sir.

26 Q Do you think you recall all that occurred?

1 MR DARROW: I object to that. He said that is all he
2 recalled.

3 MR FORD: I don,t know the witness' memory. He might have
4 a vivid recollection. Have you a vivid recollection?

5 MR DARROW: To that we object, "have you a vivid recol-
6 lection".

7 MR FORD: Of the fact that date?

8 THE COURT: Objection overruled.

9 A What is the question?

10 MR FORD: You have a vivid recollection of the events of
11 that day? A I have a slight recollection.

12 Q You made memorandum of what had occurred immediately
13 after it had occurred, did you not? A I did not.

14 Q You never wrote out a report for anybody? A I did not.

15 Q Never wrote down any memorandum or in any way, shape or
16 form about this? A I did not.

17 Q But you were there at this conversation, to draw out
18 Franklin on that, were you not?

19 MR APPEL: Now, we object to that, if your Honor please,
20 because the question has been already asked and answered.

21 THE COURT: Objection sustained.

22 MR FORD: He has answered several different ways. He
23 has stated after the second conversation and now this con-
24 versation is a different time, when I think it was being
25 reported.

26 THE COURT: What is the date of this conversation?

1 MR FORD: March 5th or 6th.

2 MR DARROW: This was not the last, Mr Ford.

3 THE COURT: Let him answer. What is your answer?

4 A What is the question?

5 MR FORD: To draw Franklin out. A I was there to hear
6 what he had to say.

7 Q About the Darrow case? A Sure.

8 Q And you had no intention of going in business with him
9 at that time -- it is now 5 o'clock.

10 THE COURT: Can't you finish with this witness?

11 MR FORD: It has been quite frequently --

12 THE COURT: How long will it take you to finish up with
13 him?

14 MR FORD: I would like to examine the transcript and pro-
15 bably I will make it very short.

16 THE COURT: I think you better finish tonight.

17 MR FORD: If the court please, it has frequently, during
18 the evening that we have closed at 5 o'clock, and wit-
19 nesses have been ordered to return even though they lived
20 at Venice; some of our witnesses who lived at Venice, the
21 same way.

22 THE COURT: It seems to me the whole matter with this wit-
23 ness ought to be finished up.

24 MR FORD: There are some matters we would like to look
25 into. We would like to look over a transcript. We pro-
26 bably can save a great deal of time by having a definite

1 plan of procedure, a definite plan of questioning,
2 rather than by floundering around over matters we have
3 gone over. We would ask the same indulgence in this mat-
4 ter that has been granted by the court.

5 THE COURT: under that statement, we will adjourn.

6 (Jury admonished. Recess until 10 o'clock A.M. ,
7 July 16th, 1912.)

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