

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. 61

I N D E X.

	Direct.	Cross.	Re-D.	Re-C.
F. L. Stineman,	4902	4907	4925	
D. V. Nicholson,	4948	4951		
Jordan G. Watt,	4952	4977		

B. N. Smith,  
Official Reporter.

AFTERNOON SESSION. July 15, 1912; 2 P.M

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1 THE COURT. Mr. Jones was on the witness stand.

2 MR. FREDERICKS. We don't care anything about that.

3 MR. APPEL. Before we take up the examination of other  
4 witnesses here, I would like very much to request the  
5 court for an order, ordering the transcript of the testimony  
6 given by Mr. Tveitmoe before the grand jury, in reference  
7 to the matter of \$10,000 which is claimed to have been  
8 obtained by him in one of the banks in San Francisco.

9 THE COURT. You want this for the same reason that similar  
10 testimony was wanted, I think, in the case of Mr. Cooney?

11 MR. APPEL. Yes.

12 MR. FREDERICKS. I don't know what case Mr. Tveitmoe  
13 testified before the grand jury.

14 MR. DARROW. Testified in this case.

15 MR. FREDERICKS. Yes, you mean for the defnednat?

16 MR. APPEL. No.

17 MR. DARROW. It seems to me that I have seen it but I can't  
18 find it.

19 MR. FREDERICKS. Well, when do you want it?

20 MR. DARROW. I would like it today.

21 THE COURT. Perhaps the District Attorney has an extra  
22 copy.

23 MR. FREDERICKS. I understand the situation. Mr. Tveitmoe  
24 testified before the grand jury on this investigation after  
25  
26

1 the indictment. Mr. Tveitmoe said he wanted it written up,  
2 is that the idea?

3 MR. DARROW' that is it.

4 MR. FREDERICKS. Mr. Tveitmoe is their witness. I don't  
5 know of any proceeding by which such an order can be made.  
6 It is a matter I have not considered any. Of course, Mr.  
7 Tveitmoe is their witness--he can tell them--well, I don't  
8 know that he could either. I doubt if it will be proper to  
9 order it written up.

10 MR. APPEL. It is a matter for the court entirely.

11 THE COURT. Well, this is a matter that ordinarily might  
12 come up in chambers--it was mentioned in chambers and I  
13 told Mr. Appel I could see no reason at that moment why it  
14 should not be done. I thought it better to have the  
15 application made in open court and make the inquiry. Here  
16 is a witness who has testified on some pertinent issue  
17 in this case.

18 MR. FREDERICKS. Well, if he had testified--

19 THE COURT. Whether their witness or not makes no difference.

20 MR. FREDERICKS' I think that is all the difference. If he  
21 had testified against them they would have a right, probably,  
22 if they had a right at all they would have a right, based  
23 on the idea that they should know what he testified at  
24 previous times, I don't know, being their witness I can  
25 see no reason why they should know what he testified to at  
26 a previous time. He is their witness, not ours.

1 MR. DARROW. He was called by the State.

2 MR. FREDERICKS. Not in this case.

3 MR. DARROW. In that matter, he was called by the state.

4 MR. FREDERICKS. We have a right to use that on cross-  
5 examination to see if he testified the same thing that he  
6 testified there.

7 MR. DARROW. He was called by the state and then you didn't  
8 examine him.

9 MR. FREDERICKS. Oh, yes, but he is not our witness.

10 MR. DARROW. He isn't anybody's witness so far.

11 MR. FREDERICKS. No.

12 THE COURT. I don't know, Captain Fredericks has raised  
13 the question as to the power of the court to order it.

14 Now, if that comes within the purview of statements that  
15 cannot come out I will hear from you. If it is privi-  
16 leged or for any reason, legal reason, the defense could  
17 not have it. My present mind is they are entitled to it.

18 MR. FREDERICKS. As the court is probably aware, I was not  
19 familiar with the matters in the inception of this trial.

20 I was not familiar with the grand jury work. I was in the  
21 east. I don't know, if I did know I would know what to

22 say, but I simply know from what counsel says that he

23 was a witness before the grand jury at some time. Now, I

24 don't know any more about it. I think probably the matter

25 can be taken up between Mr. Ford and Mr. Appel and your

26 Honor and determine it in that way, what is right and what

1 is proper, what should be done.

2 MR. Appel. The peculiar position about it is this, your  
3 Honor, I will be frank, with your permission. He has been  
4 advised that he ought not to disclose to us what he testi-  
5 fied there. We have not got the information. There  
6 are matters which will be necessary to inquiry of him here  
7 in court, not to get all of the facts from him, but there  
8 were matters which they inquired of him, as I understand,  
9 that is, I imagine so, I can't see any reason why he should  
10 have been examined on this branch of the case except to  
11 get information that they might use against Mr. Darrow here.  
12 Now, these matters will probably come out here on cross-  
13 examination, and upon redirect examination and in that view  
14 we certainly ought to have the testimony on both sides,  
15 that we might properly introduce all of his statements that  
16 were made properly and wholly get all the information  
17 that he may have revealed in reference to this matter.  
18 Your Honor will see that it will be very convenient for  
19 both sides to examine the witness if we have what he  
20 testified to. Here is the idea: We know--I don't know  
21 whether it was stated here in open court or not, but we  
22 know there are matters which are pending in some other  
23 court. The witness may very well on the stand refuse to  
24 testify to certain matters, if they in any way affect any  
25 case pending against him. Now, your Honor, we are en-  
26 titled to have that testimony so that we may not unduly and

1 improperly examine the witness with reference to any mat-  
2 ter which may affect some other case. Now, we are not con-  
3 cerned about any other case as far as we are concerned, but  
4 we are concerned concerning which information there is  
5 there concerning this case and we cannot from a mere  
6 questioning ask him to disclose any matter which he may  
7 say, "why, it may affect some other proceeding, I decline to  
8 testify to it."

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1 Having the record here, we don't go into it. Your Honor  
2 can see -- we can see, and counsel can see, we might deter-  
3 mine whether the witness' rights are in anyway violated.  
4 It is, in fact, very convenient, and very proper we  
5 should have it.

6 MR FREDERICKS: As I take it, the situation is like this:  
7 it doesn't make any difference what Mr Tveitmoe said be-  
8 fore the grand jury, whether he said anything or whether  
9 he didn't say anything before the grand jury would not be  
10 a matter of evidence here, unless it could be used on cross-  
11 examination of a party against which he was called. Now,  
12 any fact that he testified to before the grand jury can  
13 be inquired into, if it is pertinent here, by the defense,  
14 just the same as it was inquired into there. The only ad-  
15 vantage that -- well, there would be advantage to the ad-  
16 verse party in having a previous statement, such as the  
17 grand jury statement, in order to use it and test the wit-  
18 ness' recollection and test his veracity, perhaps, see if  
19 he didn't testify differently at another time. Of course,  
20 we are not assuming that he would, or anything of that  
21 kind, but that would be an advantage to the prosecu-  
22 tor, if we have such a statement, I think we are entitled  
23 to that advantage, and if the witness testifies now he  
24 should be required from his memory to tell the same story  
25 that he did when he went before the grand jury, and should  
26 not be permitted to see what he testified to before the

1 grand jury. He is supposed to be relating facts here  
2 which occurred. He was supposed to have been relating facts  
3 before the grand jury which occurred, and if he relates  
4 here facts just as he related them before the grand jury,  
5 all well and good, but if he does not, here is the grand  
6 jury testify, and he doesn't know what it is and it could  
7 be used on cross-examination. Now, that would be the  
8 notion I would see in the whole proposition; it seems to me  
9 if a witness is going to testify to certain facts, why,  
10 he remembers them, he can testify to them. That is, gen-  
11 erally, our position here.

12 MR DARROW: Your Honor, if I may say a word about it --  
13 of course, there is no question of privilege here, that  
14 is not involved here, and a witness before the grand jury,  
15 in this case we have received, as far as the court could  
16 get it, the testimony of other witnesses whose testimony  
17 was taken, and there is no reason why we should not re-  
18 ceive this.

19 MR FREDERICKS: Is his name on the indictment?

20 MR DARROW: I think not.

21 MR FREDERICKS: Then he did not testify.

22 MR DARROW: I told you, Mr Fredericks, I thought he tes-  
23 tified after the indictment was brought, but in this case,  
24 however.

25 MR FREDERICKS: Oh, that would be impossible.

26 MR DARROW: Oh, no, there were a number of witnesses call-



1 ed.

2 THE COURT: What you want is the testimony of Mr Tveit-  
3 moe in this case, either before or after?

4 MR DARROW: Yes sir; that is all.

5 MR FREDERICKS: There can be no testimony after the case.

6 THE COURT: I don't know as to that. Mr Darrow says he  
7 thinks there was.

8 MR DARROW: I am sure it was.

9 MR FREDERICKS: It must have been in another case, if it is  
10 after the indictment.

11 THE COURT: If it is in another case, then the applica-  
12 tion has no force, if it is made in another case.

13 MR DARROW: There is testimony in reference to this mat-  
14 ter.

15 THE COURT: You can take an order for the transcription  
16 of Mr Tveitmoe's testimony in this case.

17 MR FREDERICKS: Well, then, will not the court assume any  
18 testimony that was given after the filing of this indict-  
19 ment was not in this case, must have been in some other  
20 case?

21 MR DARROW: Your Honor, it was the testimony in reference to  
22 this transaction of his, upon which other witnesses have  
23 testified in this case.

24 THE COURT: The record of the reporter will cover that,  
25 and if the reporter is in any doubt as to whether the tes-  
26 timony was in this case or not, he will naturally refer the

1 matter back to the court, but if the reporter is told to  
2 take that order and comply with it, it is his duty to do so,  
3 and if he is in doubt as to whether or not it is in this  
4 case, he will refer the matter back to the court.

5 MR FREDERICKS: We would like the reporter to get the order  
6 directly from the court.

7 THE COURT: The order is now made that he will transcribe  
8 the testimony in this case before the grand jury; there is  
9 no application for any testimony in any other case, and  
10 of course, no order is given for the testimony in any oth-  
11 er case than the testimony in this case.

12  
13 F. L. STINEMAN, a witness called on behalf  
14 of the defendant, being first duly sworn, testified as fol-  
15 lows:

16 DIRECT EXAMINATION

17 MR APPEL: What is your name, please? A F. L. Stineman.

18 Q Where do you reside, please? A Now at Ocean Park  
19 Heights.

20 Q Yes sir. How long have you resided in this county?

21 A Well, the last time about three years; maybe very near  
22 four.

23 Q And prior to that time, you used to reside here in  
24 this county? A Off and on coming here for the last ten  
25 years, I think.

26 Q How old are you, Mr Stineman? A 40.

1 Q Mr Stineman, what was your business or occupation dur-  
2 ing the last three years, in a general way? A I have  
3 been a hotel-keeper.

4 Q At what place, please? A Hotel Decatur, Ocean Park,

5 Q Any other business or occupation? A No sir.

6 Q Were you connected with one of the banks here? A Yes  
7 sir.

8 Q What bank was it? A The Merchants Commercial.

9 Q And did you hold any office there? A One of the di-  
10 rectors.

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3p 1 Q And do you hold any office there now? A No, sir.

2 Q Are you acquainted with Mr. Pirotte? A Yes, sir.

3 Q And with Mr. Watt? A G G Watt?

4 Q Yes. A Yes, sir.

5 Q How long have you been acquainted with Mr. Pirotte?

6 A I don't know exactly, I guess about two years or some-  
7 thing like that.

8 Q And with Mr. Watt? A Well, ever since I have been in  
9 Ocean Park, for the last three years, I think.

10 Q Mr. Stineman, are you acquainted with the defendant  
11 here? A I have met him three or four times, I think.

12 Q Recently, or a long time ago or when? A No, it has  
13 been recently since I knew Mr. Darrow.

14 Q Were you intimately or socially acquainted with him?

15 A No, sir.

16 Q Just in a passing way? A I was introduced to him  
17 one evening by Mr. Cavanaugh when I was in the hotel business,  
18 about two minutes, I guess, and the next time I was brought  
19 into it was after this come up, I never met him until after  
20 that.

21 Q Are you acquainted with one, Bert Franklin? A Well, I  
22 know him.

23 Q Do you remember when you first met him, Mr. Stineman?

24 A Yes, sir.

25 Q About when? A Well, I think it was in March, it was  
26 at the Alexandria.

1 Q At the Alexandria? A Yes, sir.

2 Q Do you remember who, if any one, was present at that  
3 time? A Why, Mr. Watt and Mr. Pirotte and I don't know, I  
4 think there was somebody else that was sitting there  
5 talking to him, and I had an appointment with Mr. Watt,  
6 they came up with me in my car that morning and I told  
7 them I would meet them there, when I came in about 12 o'clock  
8 I met them in the Alexandria there and was introduced to Mr.  
9 Franklin.

10 Q Did you continue to see Mr. Franklin any portion of that  
11 evening? A He rode down in my car to the beach with Mr.  
12 Watt and Mr. Pirotte?

13 Q Did you see him again? A Not until he telephoned  
14 to me to meet him up town on a little business and I met  
15 him, I think it was three or four days after that.

16 Q And you met him at his office? A No, sir, I met him  
17 at the Alexandria.

18 Q Do you know whether or not on that day you and he and  
19 any other persons dined together at any place here in the  
20 city? A Yes, sir, I met him; he telephoned me and ask me  
21 to come up town to take lunch with him and on my way up I  
22 met Mr. Watt at Venice and he came up with me and we met Mr.  
23 Franklin at the appointed time at the Alexandria and he  
24 wanted us to go out to have lunch, so we went over to the  
25 Bristol Cafe.

26 Q Now, there at the Bristol Cafe you and Franklin and Mr.

1 Watt, I believe, being present, in this city, sometime the  
2 early part or the middle part of March of this year, and  
3 no other persons to my knowledge being then present, you  
4 may state whether or not at a conversation then had between  
5 you and Mr. Franklin and the other persons I have named, and  
6 in your presence and in your hearing, whether or not Mr.  
7 Ffranklin, speaking concerning the subject of this case and  
8 concerning Mr. Darrow, did or did not say as follows: "That  
9 if Darrow would give up certain evidence that he had against  
10 Gompers that he would be released, that Gompers was the  
11 man they wanted because Gompers was the head of the union  
12 and that Burns wanted to break that up or break the unions  
13 up, and that Burns would get Gompers before they got  
14 through", and then upon his making that statement did you  
15 or did you not say to him, "Why do they want to get Darrow?"  
16 and didn't he say, "Oh, he has been defending the unions  
17 and is a prominent man on their side," and didn't you then  
18 say to him, "Wheredid you get the money for Lockwood,"  
19 or "to pay Lockwood," and didn't he say, "Outside parties  
20 furnished it, Darrow never gave me any money to fix  
21 jurors or anything of that kind," and didn't he further  
22 say, after some other conversation, "For God's sake, don't  
23 repeat this conversation," or words to that effect or in  
24 substance or meaning the same thing? A He never men-  
25 tioned Mr. Lockwood's name. He said Mr. Darrow never gave  
26 him the money, that a Frisco man gave him the money and he

1 never mentioned Lockwood's name.

2 Q In other respects how would you answer the balance of  
3 that question, yes or no? A Yes.

4 Q Now, in order to make your answer last given and the  
5 modification that you have made in reference to what I  
6 have asked you, did he in speaking of the money being given  
7 to him by a Frisco man or words to that effect, did he  
8 mention for what purpose that money had been given to  
9 him? A I don't believe he did.

10 Q This conversation, if I may be allowed to ask you,  
11 occurred, that is, the conversation I am asking you about,  
12 occurred about the 21st day of March, as well as I can  
13 remember it, am I correct upon that? A Well now I couldn't  
14 just exactly say the date, it seems to me like it was  
15 earlier than that. I thought it was about around the 14th  
16 or 15th of March.

17 MR. APPEL. Take the witness.

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CROSS-EXAMINATION.

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MR. FREDERICKS. Q How long after your first introduction  
to Mr. Franklin was this meeting in the Bristol Cafe, Mr.  
Stineman? A It must have been about three or four days.

Q And had you seen Franklin in the meantime? A No, sir.

Q When you met him in the Alexandria Hotel there was  
several people present and there was no conversation in  
regard to the Darrow matter at all, was there? A When I

1 first met him?

2 Q Yes, in the Alexandria hotel. A None that I heard.

3 Q None that you remember? A No.

4 Q Then you and he and Mr. Watt and Mr. Pirotte went down  
5 in the automobile and you left them ~~out~~ at Venice? A No,  
6 at Ocean Park.

7 Q Or at Ocean Park. You had no conversation, then, of a  
8 private nature? A Not I. Mr. Watt sat in the front  
9 seat with me.

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1 Q And then thesecondtime you met Mr Franklin in the  
2 Bristol Cafe, and this time you met him up in the Bristol  
3 Cafe was the very next time after the Alexandria meeting?

4 A Yes sir.

5 Q You had not gotten any better acquainted with him  
6 than that. Now, how did you come to go to the Bristol?

7 A Why, to have lunch there. Mr Franklin says, "Where do  
8 you go?" I says, "Sometimes to the Hoffman", and he says,  
9 "Do you ever go to the Bristol?", and I said, "Sometimes."

10 Q Who invited you? A Mr Franklin.

11 Q Franklin invited the party? A Yes sir, and he paid  
12 for the lunch.

13 Q And he paid for the lunch? A Yes sir.

14 Q It was noon time? A Yes sir.

15 Q How soon in the conversation did this matter come up,  
16 the matter of your asking Mr Franklin whether Mr Darrow  
17 had given him that money or not? A That was after we had  
18 had lunch, and I had went away and came back again. Well,  
19 we were there then about three-quarters of an hour, and  
20 during that time.

21 Q After lunch? A Yes sir.

22 Q Were you drinking anything particularly, excessively?

23 A As far as I know I think they were about three gin  
24 fizzes drank.

25 Q Three all around? A I don't know.

26 Q You mean three to each person? A Well, I don't

1 remember whether Mr Franklin drank three or not.

2 Q Well, he appeared to be sober, did he? A I think  
3 so.

4 Q Why was it you asked Franklin whether Darrow had given  
5 him any money or not? A Well, he said Mr Darrow would  
6 never be tried, and I asked him why, and naturally, any-  
7 body would ask him that question, and he said Mr Darrow,  
8 would not live to be tried. He said he was a sick man, now,  
9 and he says, if he does live, if he will go to the Dis-  
10 trict Attorney and give certain evidence against higher-  
11 ups, a man by the name of Gompers, he said, that he would not  
12 be tried, and then I says to him, I says, "Well, did he  
13 give you the money?" And he says, "No, he didn't give  
14 me the money, that a Frisco man gave me the money", and  
15 immediately after that, he says, "I am talking too much",  
16 he says, now, he says, "boys; don't repeat what I have  
17 told you."

18 Q And that was along about the forepart of March? A Well  
19 as near as I can remember, it was around about the 14th or  
20 15th, around in there.

21 Q Mr Darrow had already been indicted? A I don't know  
22 as to that.

23 Q Mr Franklin had also been held to answer  
24 by the Justice's court, and his trial was pending? A I  
25 never paid much attention to that. I just happened to drop  
26 into this there, you know, and I didn't pay much attention

1 to the trials at all.

2 Q Were you there for the purpose of getting some kind  
3 of a statement out of Mr Darrow in regard to this matter?

4 A I was not.

5 Q Had you ever talked with Pirotte and -- at that time  
6 in regard to the Darrow matter, in regard to getting Mr  
7 Franklin to make a statement in regard to it? A I did  
8 not.

9 Q At no time? A No.

10 Q What were you doing up in town that day, how did you  
11 come to be up here? A I was coming up quite often just  
12 then. I was just buying the La Petite theatre, and I had  
13 quite a good deal of business up town there, and every time  
14 I would come up, I would always come through Venice and  
15 ask some of the boys down there, if they didn't want to  
16 come up town, take a ride.

17 Q And you brought Mr Watt with you this day? A Mr Watt.

18 Q No one else? A I don't think so.

19 Q Did you at that time know that Mr Watt and Mr Darrow  
20 were great friends? A I did not.

21 Q Mr Watt never told you that? A No sir.

22 Q Mr Cavanaugh introduced you to Mr Darrow, did he?

23 A Yes sir.

24 Q Was that after this? A Oh, no, that was -- that was  
25 in February, I think, when I met Mr Darrow.

26 Q Isn't this what Mr Franklin told you -- Franklin

1 told you that Mr Davis told him that he, Davis, probably  
2 could get him, Franklin, off with two years, and Franklin  
3 said that he went home to Mrs Franklin and told her that,  
4 and told her that if he got off with two years, and served  
5 his time, which he thought it was his duty to do, that  
6 she would be taken care of and the family would be taken  
7 care of by Mr Darrow, and that his wife hereupon remarked  
8 at that time that she admired the stand he was taking and  
9 agreed with him on the matter, but if he brought a dollar  
10 of dishonest money into the house, that she would have him  
11 in 24 hours. Isn't that what he said about the Darrow mat-  
12 ter at that time?

13 MR APPEL: Wait a moment. We object to that as not cross-  
14 examination; it is incompetent, irrelevant and immaterial  
15 for any purpose whatsoever. We only laid the found-  
16 ation, your Honor, in regard to what Mr Franklin denied  
17 having said.

18 MR FREDERICKS: Well, if this conversation did occur, and  
19 this witness remembers it, it would have a further bear-  
20 ing, probably on the testimony that he has already given,  
21 and if he doesn't remember it, it would have another bear-  
22 ing.

23 MR APPEL: No, your Honor, here is the proposition: here  
24 is the stand I take. We asked the witness, your Honor,  
25 whether or not --

26 THE COURT: I think I have your point, Mr Appel, and

1 don't see the District Attorney's theory in asking that  
2 question on cross-examination.

3 MR FREDERICKS:" I will state the witness has said that  
4 a certain conversation transpired --

5 THE COURT: This is solely an impeaching witness.

6 MR FREDERICKS: I understand that. Now, we are preparing  
7 to question his memory and veracity, which we have a right  
8 to do. We don't have to take his statements as true.

9 MR APPEL: They can't introduce any hearsay against this  
10 defendant.

11 MR FREDERICKS: Can't I finish?

12 THE COURT: yes.

13 MR FREDERICKS: Now, then, Mr Franklin says in his testi-  
14 mony -- this is what happened, this is what he said --

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5s 1 THE COURT. That is what I am trying to get at, if you  
2 will give me the book page, that is what I am trying to get  
3 at.

4 MR FREDERICKS. I am reading from notes, page 871, '72 and  
5 '73 is where it is extracted from. It is our notes, bot-  
6 tom of page 872.

7 THE COURT. That may change the situation a little, Mr.  
8 Appel.

9 MR. APPEL. Your Honor will see this, if you will permit me  
10 to state our position. We put a witness upon the stand and  
11 we ask him whether or not he made a certain statement to  
12 another, which statement, if he made it, would be statements  
13 out of court tending to contradict the witness in some  
14 particular, to which he has testified to in court. We ask  
15 him whether or not he made certain statements and the  
16 witness says "No, I did not," but he volunteers a state-  
17 ment, your Honor, not pertinent to the question. It is  
18 hearsay, and it should not be allowed where he denies the  
19 conversation in toto, he should not be allowed to substitute  
20 some other statement; it would be hearsay as against the  
21 defendant or concerning his relation to the case. Now, we  
22 say that that is hearsay. If a witness says I made a state  
23 ment not exactly like that, and I will explain, and he makes  
24 his statement coming close to or with respect to the subject  
25 of the inquiry of the cross-examiner, it may be allowed for  
26 the purpose of explaining his answer as not being an entire

1 denial of the conversation, but tending in some way or  
2 other to modify and explain it, but the witness has no right  
3 to go and say, "I didn't make that statement at all." Now,  
4 that is the end of that. That is a period to that, that is  
5 the end of the subject. He denies that conversation; he  
6 didn't deny having had the conversation, it is not denied  
7 in that, but he denies that he said these things which he  
8 is asked concerning. Now, when the other witness comes  
9 on the stand he says yes he made that statement, that is  
10 what he said. Now, is it proper on cross-examination to  
11 introduce some other different statement that the witness  
12 who was questioned concerning that statement is alleged to  
13 have made? Would it not be the introduction of evidence  
14 by way of cross-examination which would be irrelevant and  
15 immaterial, not only to the inquiry but irrelevant and imma-  
16 terial to the case. Here is the subject he said con-  
17 cerning Darrow, concerning the fact whether or not he got  
18 the money from Mr. Darrow. Here is this other statement  
19 which they ask him, is not what his relations were with Mr.  
20 Darrow in respect to the consummation of the alleged crime  
21 and the participation of Mr. Darrow in relation to the con-  
22 summation of the particular crime or his relation to the  
23 witness, but here is the statement that he says Mr. Dugis  
24 told him that somebody else told him. Isn't that the  
25 highest class of hearsay, and isn't that the highest kind  
26 of error to introduce in a case of this kind? I submit,

1 your Honor, that the elements of cross-examination sur-  
2 rounding an impeaching witness must be close, must be  
3 limited, must be limited to the inquiry, must be limited  
4 to the point under discussion, must be limited to the  
5 denial of the witness whose testimony is undertaken to be  
6 impeached. He must not ask him whether or not he made  
7 other statements concerning other persons or concerning  
8 other subjects, he should not be allowed to do that. If  
9 the witness is upon the stand he is asked--now, in a  
10 case of larceny he goes upon the stand and testifies that  
11 he saw a certain person steal something and he is asked  
12 upon the stand, isn't it a fact you are the one who stole  
13 it? No. Didn't you tell Mr. Stineman down there that  
14 you and somebody else went over there and while you were  
15 watching on the outside this other person went in there  
16 and stole the articles in question, and he said, No I did  
17 not say that, I said this: I went over to my wife and I  
18 said to her that a third party had told me this and that  
19 and that. Can it be, then, introduced in evidence when  
20 the impeaching witness is upon the stand? I submit, if  
21 your Honor please, under the guise of cross-examination a  
22 statement of this kind should not be allowed in evidence.  
23 It is not proper; it is not cross-examination.

24 MR. FREDERICKS. I can make it very plain.

25 THE COURT. Just a moment, let me read this portion of the  
26 transcript.



1 MR. APPEL. If your Honor please--

2 THE COURT. As soon as I have read this, Mr. Appel. I want  
3 to get this. All right.

4 MR. APPEL. Mind you, if your Honor please, what I was  
5 going to say is this: That we are not asked--we are not  
6 permitted under the rules of law and under the rules of  
7 procedure in this case to say to Mr. Stineman on the stand,  
8 Now, Mr. Stineman you met Mr. Franklin there, go on and state  
9 all that he said to you. We are not permitted to do that.  
10 We are not permitted to say to Mr. Franklin, Now, Mr. Franklin  
11 you met Mr. Stineman at such and such a place, go on and  
12 state all you said to him. The rule for impeachment is  
13 restricted to two questions: One, did you or did you not at  
14 a certain time and certain place, and certain persons being  
15 present, make this particular statement, no matter how many  
16 other statements he may have made, but the particular state-  
17 ment which is pertinent to the inquiry. No. Then we must  
18 strictly follow that question when we put the impeaching  
19 witness on the stand and we are not again permitted under  
20 the law to say to him, state all that was said. We must call  
21 the attention of the witness to the particular language  
22 that we used in the impeaching question, and those rules  
23 are adopted for the proper, regular and logical way of  
24 proving a point in the case, which is the point in issue,  
25 not that he may have said that the president of the United  
26 States said to him this and that,

1 or that anyone else said to him this and that, but the  
2 question is, did you or did you not say this, and nothing  
3 else and nothing more. So I say in this kind of an in-  
4 quiry, he cannot, either on cross-examination or in any  
5 other way, introduce hearsay statements. It is just as  
6 much error to have it introduced in that way, as if the  
7 witness were asked directly the question to state all that  
8 Mr Franklin said.

9 MR FREDERICKS: Cross-examination, your Honor, which is  
10 entirely different --

11 THE COURT: I don't care to hear from you, Captain.

12 The foundation question is on page 872, and '3. A little  
13 broader scope than the ordinary foundation questions.  
14 In respect to the question this matter was brought out, I  
15 think counsel has a right to meet it in this way. Ob-  
16 jecton overruled.

17 MR APPEL: We take an exception.

18 MR FREDERICKS: Does the witness remember the question?

19 A I remember some conversations that he was having there  
20 at the time, but I don't just exactly remember all of it.

21 THE COURT: Would you like to have Captain Fredericks'  
22 question read? A I would.

23 THE COURT: Read it.

24 (Last question read by the reporter.)

25 A No sir, he didn't say all of that. He said part of it.

26 MR FREDERICKS: What part did he say?

1 MR APPEL: We object to that, now, your Honor please, upon  
2 the ground it is incompetent, irrelevant and immaterial,  
3 and hearsay and not pertinent to the inquiry, and not per-  
4 tinent to the impeaching question or to the matter in-  
5 volved in the impeaching question, and hearsay.

6 THE COURT: Objection overruled.

7 MR APPEL: We take an exception.

8 MR FREDERICKS: What did he say? A He never mentioned  
9 anything about Mr Davis. He was saying something about  
10 he ought to stand pat and take his -- and take his sen-  
11 tence, and that his family would be taken care of.

12 Q Didn't he tell you that Mr Darrow had agreed to take  
13 care of his family under those circumstances? A He did  
14 not.

15 Q He said they would be taken care of? A They would be  
16 taken care of, yes.

17 Q Did he say by whom? A He did not.

18 Q And do you know how long Mr Franklin had known Mr Watt  
19 at that time? A I never knew he knew him until we met  
20 at the Alexandria.

21 Q Well, was he introduced to him at the Alexandria?

22 A He was in there talking to him, I expect, before I  
23 came in.

24 Q And then you two men who had known Franklin just  
25 three or four days, and this was the second time that you  
26 had met him, he unbosomed himself and told you all of the

1 secrets -- the secret manner in which he had gotten the  
2 money to pay over to Lockwood, is that what you wish us to  
3 understand?

4 MR APPEL: Wait a moment. We object to the question, your  
5 Honor, because it assumes Mr Watt only knew Franklin for  
6 two days, and furthermore, it assumes a condition of facts  
7 not testified to by the witness, and he asked the witness  
8 for his opinion or what he wants him to be understood, and  
9 what manner he would desire himself to be understood here,  
10 as testifying. We object to that as argumentative?

11 THE COURT: Objection sustained.

12 MR FREDERICKS: How long did you say you had been in charge  
13 of the Decatur Hotel? A Well, I guess very near a little  
14 over two years, I think.

15 Q Who had it before you? A Mr Evans.

16 Q Were you employed there before you had charge of it?

17 A No sir.

18 Q How long have you known Cavanaugh? A Ever since I  
19 have been in the hotel business.

20 Q And how many times did you meet Mr Darrow down there  
21 after you were introduced to him, on the average? A Well,  
22 sir, I met him three -- four times, altogether, until I met  
23 him here yesterday -- no, it was Saturday, I think, or Fri-  
24 day, when I was summoned to come up here. I met him  
25 there when I was introduced to him, and then when I was asked  
26 to go up to his apartments to tell him all this conversa-

1 tion.

2 Q How often did you meet Mr Cavanaugh down there?

3 A Well, I couldn't say as to that, you know, him being  
4 an officer down there, coming up often onto the hotel and  
5 around that way.

6 Q He hangs around the Decatur a good deal, doesn't he,  
7 that is, spends a great deal of his time around there?

8 A Not that I ever knew of.

9 Q Did you ever meet Mr Franklin again after this time,  
10 down at the -- that is the restaurant, the Bristol?

11 A Did I ever meet him at the Bristol?

12 Q Again, anywhere? A Yes sir, I met Mr Franklin on  
13 the street one day, and he stopped and shook hands with me,  
14 and said he had some business or some words that he wanted  
15 to tell me about some day, and that was all.

16 Q The Bristol Cafe, was the Bristol here in Los Angeles,  
17 and not the Bristol Pier? A No, it was here in Los  
18 Angeles.

19 Q How long were you in there altogether? A Well, I  
20 guess we were in there I guess, three-quarters of an hour,  
21 before I left, and I was gone, probably, half an hour,  
22 and then I came back -- we were there probably three-quar-  
23 ters of an hour longer.

24 Q Did you go out in connection -- did your going out  
25 have any connection with Mr Franklin, and your visit  
26

1 there? A No sir, I had an appointment with my attorney.

2 Q I don't inquire into your private business.

3 MR APPEL: He has a right to explain.

4 MR FREDERICKS: I didn't care to go into it against his  
5 wishes. A I had an appointment with an attorney

6 in regard to the property I was buying at Ocean Park.

7 Q What did you say to Mr Franklin, that started him  
8 in the sentence, that you have narrated here.

9 A What sentence do you mean? Q That Mr Darrow had noth-  
10 ing to do -- that Mr Darrow didn't give him the money?

11 A That was when he was telling about Mr Darrow would  
12 never be tried, and during that time, why, he was talk-  
13 ing, making these remarks, I asked him those questions.

14 Q Did you at that time, or have in your mind at that  
15 time, that Mr Franklin had already made a statement in re-  
16 gard to the entire matter to the District Attorney? A I  
17 did not. I didn't pay much attention.

18 Q Didn't have that in your mind? A N<sup>o</sup> sir.

19 MR APPEL: Wait a moment. Do I understand that you mean  
20 no, that he did know or that he didn't know, or that he  
21 had notice.

22 MR FREDERICKS: I took it to mean that he didn't know.

23 A Will you please ask that question again?

24 Q You didn't know that Mr Franklin had made a statement  
25 in regard to the Darrow matter to the District Attorney  
26 prior to the time when he was talking to you? A No sir,

1 I never knew that at all.

2 Q Did you know that he had been before the grand jury  
3 prior to that? A No, I hadn't read anything about it.

4 Q Did you have any special interest in finding out from  
5 Mr Franklin whether Mr Darrow had given him the money or  
6 not? A I had not.

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7s 1 Q was there anything that prompted you to ask that ques-  
2 tion of him? A No, I just asked him because he was making  
3 those remarks about he would not be tried.

4 Q That was on account of his health he was saying that?

5 A Yes, sir.

6 Q Why was it that you came into the matter as to who gave  
7 him the money? A I don't know; I was just simply  
8 sitting there and I just asked him that question. I had  
9 heard him talking about that.

10 Q Well, Franklin appeared to you perfectly rational at  
11 the time he was talking, did he? A I think so, the second  
12 time I had ever met him.

13 Q Never had met him before but one time and the first  
14 time you had ever talked to him about this Darrow matter?

15 A Yes, sir.

16 Q Had you ever talked to Mr. Cavanaugh about the Darrow--  
17 the charge against Mr. Darrow before this? A I don't  
18 believe I ever did.

19 Q And you were not at all interested in the matter in  
20 any way shape or form? A None whatever.

21 Q Simply idle speculation and curiosity on your part that  
22 prompted you to ask a man for a secret, that prompted you  
23 to ask a man a question as to who gave him the money to  
24 bribe another one, that was simply idle curiosity? A I  
25 didn't ask him who gave it to him to bribe him? I asked  
26 him who gave him the money. I didn't say bribe.



1 Q You meant that? A I didn't mean it. I didn't say it,  
2 I just asked him who gave him the money.

3 Q You referred to the money that was given to Lockwood?

4 A I don't know what he was going to do with the money. I  
5 just asked him who gave him the money.

6 Q The money you were referring to was the \$4,000 that  
7 Lockwood was supposed to have gotten? A In their conversa-  
8 tion.

9 Q That is what you meant? A That is the money they  
10 had reference to while they were talking. His conversa-  
11 tion was all to Mr. Watt, you know, and I was just sitting  
12 there probably--

13 Q Did he say anything further--you were out for half an  
14 hour? A My business with him there was altogether of a  
15 different nature.

16 Q You were out half an hour? A Yes.

17 Q You don't know, of course, what Mr. Watt and Mr. Franklin  
18 were talking about while you were out, they didn't refer  
19 to that again after you came back? A They may have taken  
20 it up again; I don't know whether they repeated it or  
21 not, I don't know that.

22 MR. FREDERICKS. That is all.

23

24 REDIRECT EXAMINATION.

25 MR. APPEL. Q Mr. Stineman, isn't it a fact that in a  
26 general way, the reason of you having seen Mr. Franklin

1 at the times and in the manner you have indicated here is  
2 because he had solicited some collections from you?  
3 MR. FREDERICKS. That is objected to upon the ground it is  
4 leading. This is their witness.

5 MR. APPEL. He has asked him, your Honor.

6 THE COURT. It is leading but harmless. Objection over-  
7 ruled.

8 A That was my business up there with him, he was going  
9 to open a detective agency with Mr. Pirotte and I was  
10 going to try to help him out a little if I could, give  
11 him a little business. Mr. Franklin was going to collect  
12 a note for me, and that was my business with Mr. Franklin,  
13 and I was just simply a drop-in there.

14 MR. FREDERICKS. Q What kind of business were you going to  
15 give him? A I had some notes that I told him that if he  
16 could collect them, the party lived uptown, I would be  
17 glad to get the money on them.

18 Q You would be glad to have him collect the notes?

19 A Why, yes.

20 Q This man who had been bribing jurors?

21 MR. APPEL. That is argumentative.

22 THE COURT. Objection sustained.

p 23 MR. FREDERICKS. That is all.

24

25

REDIRECT EXAMINATION.

26 MR. APPEL. Q He represented to you he was a great collec-

1 tor, didn't he? A Yes, he represented quite a good many  
2 things, he was a great man.

3 Q Mr. Stineman, did you ever see Mr. Darrow at any time  
4 in your life any more than two minutes before you talked to  
5 Mr. Darrow in reference to what you had heard Mr. Franklin  
6 say at this time? A I never met him--I don't think it  
7 was two minutes--just introduced to him by Mr. Cavanaugh  
8 and I was called back into the hotel.

9 Q And that was before this thing occurred? A Oh, yes; yes,  
10 that is quite a long time ago.

11 MR. APPEL. That is all.

12 MR. FREDERICKS. That is all.

13 MR. FORD. If the court please, I understand that your  
14 Honor has made an order that the testimony of Mr. Tveitmoe  
15 be written up, provided it had been taken during the ex-  
16 amination of the witnessess which resulted in the present  
17 indictment?

18 THE COURT. Yes.

19 MR. FORD. Or during that investigation.

20 MR. DARROW. He said in that case.

21 MR. FORD. Or in that case or in that investigation?

22 THE COURT. Yes.

23 MR. FORD. The indictment shows that investigation ended  
24 and the indictments were returned on the 29th day of  
25 January, 1912. I want to state to your Honor the fact is  
26 Mr. Tveitmoe was never a witness before the grand jury up to

1 that time and did not at any time appear before the  
2 grand jury until the 16th day of February, 1912, and we  
3 therefore ask that your Honor vacate the order.

4 THE COURT. There is no order to vacate. The application  
5 was for an order for the transcription of the testimony  
6 given in this case. Now, if there was no testimony given  
7 in this case there is nothing for the reporter to trans-  
8 cribe.

9 MR. FORD. I understood there was--

10 MR. APPEL. That is a matter which we will have a right to  
11 introduce evidence on.

12 THE COURT. yes, sir.

13 MR. APPEL. And we will ask the process of this court to get  
14 every grand juror here and your Honor should not, I most  
15 respectfully urge, should not take the mere statement of  
16 counsel here.

17 THE COURT. Mr. Appel, I am afraid you do not catch my  
18 statement, I say, there is no order to be vacated.

19 MR. APPEL. I am anticipating the trouble such a proposi-  
20 tion as that will make--your Honor will see right at the  
21 outset, and I do not wish to state it, but if they have a  
22 copy of that, your Honor, they have a right to ask Mr.  
23 Eweitmoe upon the stand whether or not he said so and so  
24 and so, and the moment they say that we would have a right  
25 to ask him whether or not he said the balance that may  
26 appear in the transcription of that testimony, under the

1 rule announced in the Supreme Court of this state, concern-  
2 ing the deposition of testimony of witnesses with reference  
3 to the subject,

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1 once being called into court, and once being alluded  
2 to, the portions of it read, and portions of it used, the  
3 other side, the side producing the witness, have a right  
4 to introduce the whole of it, and how can we be placed  
5 here in position, upon an equality with the other side?  
6 Why, your Honor should extend the process of this court,  
7 with equal liberality to one side as to the other, and  
8 I know your Honor has that principle of law in your mind  
9 when you made that order, that we should be, under the law  
10 and under the constitution, that we should have the pro-  
11 cess of the court, and get all the information that is with-  
12 in the breast of the court, and within the knowledge of  
13 the District Attorney, to get such matters as are perti-  
14 nent to the issues here, and no more than the District  
15 Attorney is entitled to.

16 THE COURT: You have your order, and if the reporter is  
17 unable to comply with the order already made, then I will  
18 hear from you further on the matter.

19 MR DARROW: Your Honor, Mr Ford's statement, and your  
20 Honor's statement following are probably confusing. This  
21 evidence was taken in this case, it was taken after the  
22 indictment was found, but was taken in this case, and  
23 I think a copy of it is right here, and your Honor can  
24 see in the meantime the character of it, and what case it  
25 was in, and we have just as much right to be told now as  
26 if it was taken before the indictment. Where is the dif-

1     ference?

2     MR FREDERICKS:   It is an impossibility.

3     MR DARROW:        The defendant has a right to know what there  
4     is, what there is against him, and this man is not so far a  
5     witness for anybody.

6     THE COURT:       That may become a question of fact to be de-  
7     termin ed whether or not it was taken in this case.  Of  
8     course, I could not order, and you would not ask that the  
9     testimony of a witness who might be subpoenaed as a wit-  
10    ness here, who testified in some other matters which might  
11    be an entirely foreign matter.

12    MR DARROW:        But your Honor could tell in a moment by  
13    looking at this transcript.

14    THE COURT:        It becomes a question of fact, if the reporter  
15    is unable to deliver the transcript; then it becomes a mat-  
16    ter of fact.

17    MR DARROW:        But it is first to be written up and submitted  
18    to the court, and it is before your Honor, and you can see  
19    it.

20    MR FORD:           It will not be written up on the order, if it was  
21    taken after the investigation closed, and the indictment  
22    was returned.

23    THE COURT:        Mr Petermichel, did you take the testimony ?  
24    Did you examine your notes?

25    MR PETERMICHEL:   Yes, I think I did, your Honor.   Mr Ford  
26    would know positively.

1 MR FORD: He took it on the 16th of February, 1912.

2 THE COURT: And the indictment was returned when?

3 MR FORD: January 29th.

4 THE COURT: Then, that raises the question of fact whether  
5 or not it was taken in this case.

6 MR FREDERICKS: There is nothing before the court now.

7 Mr Tveitmoe may never be a witness, he may want to get  
8 this stuff for some other reason.

9 MR DARROW: It will come to us, not Mr Tveitmoe.

10 MR FREDERICKS: Mr Tveitmoe, I mean, may want it for some  
11 other reason.

12 THE COURT: It is a very warm day, and as long as there is  
13 a matter to be worked out here, that is a matter for  
14 chambers, I will dispense with the jury and take it up  
15 with counsel.

16 MR APPEL: No, your Honor, this is a matter which we de-  
17 mand as a matter of right in this case; it is  
18 a matter which we intend to introduce evidence here upon  
19 the stand concerning that money, about which Mr Tveitmoe  
20 testified before the grand jury; that is a matter, your  
21 Honor, which we intend to use here upon the trial, and it  
22 is a matter which we demand as a matter of right, your  
23 Honor, because we ask your Honor's discretion, to place  
24 us, and to place this defendant, who was not a party to  
25 that proceeding there before the grand jury, not being  
26 present, being ex-parte, which is information in the hands



1 of the other side, because some of their representatives  
2 were present there, we ask your Honor to furnish us with  
3 it. It is not right, your Honor; they have no business  
4 to object to that. We are here pleading with your Honor  
5 to allow us to do that, and they have no right to object.  
6 Can it be possible, your Honor, that it lies in the mouth  
7 of the District Attorney to say that when we appeal to a  
8 court with reference to a record made here in this case,  
9 the grand jury acting under the orders in this court,  
10 empaneled by this court to look into these matters, comes  
11 in and makes a record and that record becomes a matter of  
12 this court, the grand jury is a part of this court, and  
13 we are asking your Honor to furnish that record. Can  
14 it be said that it lies in the mouth of any party to a  
15 suit to say that we shall not have that?

16 THE COURT: Mr Appel, you and I are not a part in this  
17 matter. The court has made its order, and the only ques-  
18 tion is whether or not the issue of fact has been raised  
19 by Mr Ford's statement. That must be tried and disposed  
20 of, and whether or not it is necessary to keep the jury  
21 here during that time --

1 MR. APPEL. That is what I am addressing myself to: That  
2 that issue of fact cannot be raised by the other side  
3 All we have to do is to satisfy your Honor of the fact that  
4 he testified in reference to this case.

5 THE COURT. In reference to this case, yes.

6 MR. APPEL. And to reasonably satisfy your Honor that there  
7 was reasonable ground to believe that that statement which  
8 he made there concerning this case may be necessary to be  
9 used in the examination of this witness, either by one side  
10 or the other.

11 THE COURT. But I cannot presume, particularly in view of  
12 Mr. Ford's statement, I cannot presume that the testimony  
13 given a fortnight after the indictment was returned was  
14 in the case.

15 MR. APPEL. Well, shall we try that issue now? We will ask  
16 for a subpoena to get the grand jury here, the Secretary  
17 and everybody else.

18 THE COURT. It seems to me that is a matter we will have to  
19 try.

20 MR. FORD. If the Court please, just a moment. The  
21 defendant is entitled only to the transcript of the testi-  
22 mony that was taken before the grand jury at the time the  
23 indictment was returned, that is all they are entitled to.  
24 Now, if we have gone on and made other investigations, it  
25 matters not what they may be, whether made in the grand  
26 jury room or made out of the grand jury room; if we have

1 some statements from witnesses it matters not whether  
2 they were made in the grand jury room or out of the grand  
3 jury room, we cannot use those statements as evidence in  
4 this case if Mr. Tveitmoe is called by the defense as a  
5 witness in this case, we cannot use this transcript, it  
6 will be absolutely valueless to us in every way if he  
7 tells the truth when he is on the stand, and if he told  
8 it when he was before the grand jury, and if the matters  
9 covered the same matters upon which he was examined while  
10 he was before the grand jury. Mr. Tveitmoe, if called by  
11 the defense as a witness in this case, takes that stand  
12 and tells the truth, and it is presumed he did tell the  
13 truth on any occasion when he appeared before the grand  
14 jury, and tells the truth here, that his statement is abso-  
15 lutely valueless to us, of no value whatever; a witness is  
16 not entitled to a record merely to aid him in framing his  
17 testimony upon the stand, in guarding his answers against  
18 impeachment, there is no such privilege attaching to any  
19 witness. If Mr. Tveitmoe takes the stand and tells the  
20 truth he does not need any guards against his testimony  
21 given on any other occasion if he has told the truth, and  
22 the only object of this, your Honor could be, the only  
23 object there could possibly be in getting testimony that  
24 he might have given on some other occasion is to enable him  
25 not to tell the truth, because he can tell that without  
26 any record, but to enable him to avoid the pitfalls that

1 people are led into when they tell falsehoods; to avoid  
2 saying something that will not be in entire harmony with  
3 something he may have said on some other occasion. As a  
4 matter of law, on the 29th day of January, 1912, the  
5 investigation of this case ended, as far as this indictment  
6 was concerned, and whatever the labors of the District  
7 Attorney might have been in other matters to ascertain  
8 whether other people had any connection with it, or to  
9 ascertain any other phases of the situation or to inquire  
10 into the guilt or innocence of any other persons is abso-  
11 lutely no concern of this defendant. All he has got to  
12 do--it is in evidence here, your Honor, there is a check  
13 endorsed by Mr. Darrow and Mr. Tveitmoe, that is an exhibit  
14 in this case--

15 THE COURT. I don't care anything about the merits of the  
16 evidence, Mr. Ford, or who it hurts or whom it benefits.

17 The only question is, whether or not the testimony as given  
18 by Mr. Tveitmoe before the grand jury was in this case.

19 MR. FREDERICKS How could that be, that is an impossibility.  
20 The case is closed.

21 MR. FORD. The case ended, as far as this defendant was  
22 concerned. There might have been other phases of the  
23 same case, there might have been other phases of other  
24 crimes committed upon which he was examined; he might  
25 perhaps have covered even the same ground to a certain  
26 extent. Three or four men commit a crime, the testimony

1 in one case will be almost identical to that in the other  
2 case, but when one defendant has been indicted and his  
3 investigation closes; the grand jury does not, when it  
4 starts out to investigate somebody else's complicity in  
5 that matter, the grand jury does not have to furnish the  
6 defendant with the other testimony because the testimony  
7 ended when the indictment returned. And your Honor could  
8 not lawfully make an order requiring the testimony to be  
9 divulged which was given after the 29th day of January .  
10 THE COURT. The court would not make an order in some  
11 other case and counsel, of course, would not ask it. The  
12 question is whether or not this was given in this case.  
13 The defendant has offered to show it was given in this  
14 case.

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1 MR FORD: They offered to show it by the subject matter,  
2 which is absolutely improper, if the case ended on the  
3 29th day of January, and the testimony was not given until  
4 the 16th day of February, it is absolutely improper to go  
5 into the subject matter, and they cannot go into the sub-  
6 ject matter to show it.

7 THE COURT: When was this indictment returned?

8 MR FORD: The 29th day of January, 1912, and the indict-  
9 ment is here, the clerk has it.

10 THE COURT: 29th day of January.

11 MR FORD: The 29th day of January, and it was 17 or 18 days  
12 later that Mr Tveitmoe appeared as a witness before the  
13 grand jury. Now, our contention is that they cannot show  
14 that he was a witness in this case, because this case  
15 absolutely ended, and they cannot go into the subject mat-  
16 ter of Mr Tveitmoe's testimony before the grand jury, be-  
17 cause the grand jurors are bound by the provisions of sec-  
18 tion 926 to keep secret whatever they may have learned dur-  
19 ing the sessions of the grand jury, and they cannot dis-  
20 close it under any circumstance whatever, except two; one  
21 of them, in an indictment for perjury against a witness,  
22 and the other for perjury committed before the grand jury,  
23 and the other where the witness has made a statement be-  
24 fore the grand jury that is inconsistent with the testimony  
25 given by him upon the stand. Now, if they call Mr Tveit-  
26 moe as a witness or, put it on the other hand, if we call

1 Mr Tveitmoe as a witness and put him on the stand and he  
2 testified to a state of facts that was inconsistent with  
3 what he gave before the grand jury, then, if they know  
4 that to be a fact,-- I don't know how they are going to  
5 find it out -- if they should know it, they could call the  
6 members of the grand jury, and show he made an inconsis-  
7 ent statement before the grand jury. Right here and now,  
8 we avow our intention of not calling Mr Tveitmoe; we are  
9 not going to vouch for him as our witness; we must vouch  
10 for our witnesses, if we call him to the stand, and if  
11 they call him as a witness, and he makes statements incon-  
12 sistent with his testimony before the grand jury, and then  
13 we put in the testimony given before the grand jury, they  
14 are entitled to have it, and not before that, not until  
15 that foundation has been laid, not until that contingency  
16 arises, and they cannot, merely upon the mere possibility  
17 that something might occur in the future, demand that  
18 the secrecy of the grand jury be violated in order that a  
19 witness may frame his testimony to fit with that given be-  
20 fore the grand jury upon some other occasion.

21 MR APPEL: Your Honor, the very argument of counsel seems  
22 to show very forcibly the importance of this matter, and  
23 the necessity that the order should be made. The basis for  
24 this order, your Honor, they contend, and they have contend  
25 ed all along here, that this money was obtained by Mr  
26 Tveitmoe, given by Mr Tveitmoe to Mr Darrow, that Mr Dar-

1 row should give it to Mr Franklin, and so far as the evi-  
2 dence is concerned on the part of the prosecution, forms  
3 one link in the chain going to show the circumstances and  
4 going to show who the participants in this alleged affair  
5 were concerned; his very statement that he would not  
6 vouch for the word of this witness Tveitmoe, shows the  
7 attitude in which Mr Tveitmoe is intended to be placed be-  
8 fore this jury. Of what? Of having had a criminal knowl-  
9 edge, and a criminal design and having performed a crimi-  
10 nal act with the intention to foster the commission of a  
11 crime, the crime for which this defendant stands here to be  
12 ~~tried~~ now. Now, they disavow all intention of putting  
13 Tveitmoe on the stand; they have put everybody else on  
14 the stand, all the malactors, and all those who have dip-  
15 ped their dirty fingers in this mess, have been put upon the  
16 stand here, as willing witnesses to crucify the good name  
17 of this defendant, and this avowal to vouch for them, and  
18 their disavowal that they will vouch for the veracity  
19 and the truth of the witness Tveitmoe, and yet, they hold,  
20 your Honor, within their grasp, and they hold within  
21 their possession, the very thing and the very informa-  
22 tion to which, under all the rules of decent procedure  
23 and proper dealing with a defendant who is being tried  
24 for his libery here, should be given to him, that he may  
25 stand upon an equal footing with the prosecution. The  
26 prosecution ought, always, under <sup>any</sup> and all circumstances,



1 be fair to a defendant; they should withhold nothing from  
2 him, especially when it is a matter of record; they  
3 should withhold nothing from him which they themselves  
4 have found it possible to get into a record; they call him  
5 before the grand jury, and they vouch then for his truth  
6 and veracity, and we have a right to show, your Honor,  
7 that when they closed this case,-- and it is an item of  
8 evidence, and it is a circumstance to which we are entitled  
9 to show under the rules of law and under the rules adopt-  
10 ed by the principles and maxims of jurisprudence, as they  
11 have been codified and clarified by the legislative  
12 enactments of this state, that he who withholds information  
13 from a jury withholds it because if he would produce it,  
14 it would have been against him. They mentioned Tveitmoe  
15 as a link in the chain of evidence against Mr Darrow; they  
16 put their witnesses upon the stand to show; here this wit-  
17 ness Tveitmoe was here upon the stand once; he was here  
18 in the court room, they didn't dare call him, and we have  
19 a right to show affirmatively, your Honor, what evidence  
20 he gave before that grand jury, and we have a right to  
21 show to this jury here, that because it was against them  
22 that they suppressed it just as much as they have suppress-  
23 ed any other piece of evidence.

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lp 1 We are entitled to that. There are two parties to this  
2 case, one upon the one side, the People of the State of  
3 California represented by counsel upon the other side as  
4 a public prosecutor of this county, upon the other side--  
5 if this were a case between two individuals, if your Honor  
6 please, if I was upon one side and one of these counsel  
7 was upon the other and we were trying a case before your  
8 Honor and our side should show that a certain witness had  
9 knowledge of certain facts which indicated that they  
10 should be material to my side of the case and I should pur-  
11 posely leave that witness off the stand, I should suppress  
12 that evidence, I should say that I do not want the state-  
13 ment of this witness, would not the other side have a right  
14 to show your Honor what that witness knows, what he had  
15 informed the other side about, what this witness here in-  
16 formed the People of the State of California through his  
17 examination before the grand jury and that they purposely  
18 suppressed it? Then we would be entitled to the instruc-  
19 tion under this code to this jury as a rule of law to be  
20 followed by them that he who suppresses a fact, suppresses  
21 the testimony of a witness does it at his own peril as a  
22 matter of law, that if he would have produced it it would  
23 have been against him. We are entitled to that, to the  
24 benefit of the situation, and for the purpose of making  
25 more effective that point here in this court we have a  
26 right to show what the <sup>witness's</sup> information was to them. Now, is  
there any question upon that? If there is any question

1 upon that, your Honor, I can cite the authorities bearing  
2 my construction of the law with reference to that and that  
3 we are entitled to show that the suppression of evidence  
4 has taken place here in this court, that that man Tveitmoe  
5 went before the grand jury and in the presence of the prose-  
6 cutors there testified in reference to this case and to  
7 the participation of Mr. Darrow in reference to the handling  
8 of that money, if he ever handled it at all. We have a  
9 right to show that they did not put that evidence in  
10 because they knew it was favorable to this defendant and  
11 we have a right to show the nature and quality and weight  
12 and degree of that evidence as an item tending to show that  
13 they are conscious of the fact that had they produced that  
14 evidence here we would have been entitled, your Honor,  
15 legally, to a motion on our part to have this jury instruct-  
16 ed to acquit this defendant. And I say that we are  
17 entitled to that record for the purpose of showing here, and  
18 there is no use disguising this fact here, we must be frank  
19 and plain and honest with all sides, there is no use dis-  
20 guising our position and every position that we take and  
21 every advantage that we may gain from the situation with  
22 that record furnished to us. They are doing the same thing  
23 right now, they are pleading, your Honor, that that record  
24 be not made up, they are putting here the evidence before  
25 this jury. Now, your Honor, their same course of suppres-  
26 sion which they did when they closed this case without

1 putting a material and important witness who should have  
2 been put upon the stand, and who should have told this  
3 jury, if it is true, "I did go there to that bank, at the  
4 request of Mr. Darrow, and I drew that money from there,  
5 those \$10,000 and I gave it to Mr. Darrow," if that is a  
6 fact, so that this man could come here upon the stand and  
7 meet that fact manfully and honestly, but, if on the con-  
8 trary Tveitmoe should have made a statement directly  
9 opposite to that situation we are entitled to that state-  
10 ment. Fair dealing, any fact known to this prosecution in  
11 favor of this defendant. It was as much their duty to  
12 introduce it in evidence before the close of the case as  
13 it is to introduce any facts known to them that was against  
14 him, and the issue is now, was there a suppression or was  
15 there not; that can only be explained thoroughly to the  
16 satisfaction of this jury and to this court by the record  
17 of what Tveitmoe stated before the grand jury in the  
18 presence of the representatives of the people of the  
19 great State of California. We have a right to say to  
20 this jury they knew these facts, it is there in the record  
21 and they dare not put that witness upon the stand. I  
22 submit, your Honor, we are entitled to that record upon  
23 all those conditions named.

24 MR. FREDERICKS. What an absurd thing, your Honor, it would  
25 be for us to put witnesses on the stand whom we did not  
26 believe, that is, to put witnesses upon the stand whom we

1 believed were not going to tell the truth. What an  
2 absurd thing it would be. Is that concealing evidence?  
3 If we believe a man is not going to tell the truth--and  
4 we must put on the stand, we put the people on the stand  
5 who we believe are going to say the truth, we do not put  
6 the people on the stand for the defense. Mr. Tveitmoe is  
7 here and they can call him. He will tell them what he is  
8 going to swear to, he will tell them perhaps more freely  
9 than he will to us. The evidence shows Mr. Tveitmoe is not  
10 an entire stranger to them, in fact, he is better acquainted  
11 with them than he is with us.

1 he will tell them what he is going to say, and he will  
2 swear to.

3 MR FORD: Mr Tveitmoe is under subpoena here. We are  
4 criticized for not calling him to the stand. He was under  
5 subpoena by the defense, and they made a statement they  
6 were going to call him, and Mr Johannsen to the stand.

7 THE COURT: I don't care to go into that matter.

8 MR FORD: We are charged with not daring to put him on  
9 the stand, and we certainly ask the same privilege to reply.  
10 Counsel has gone on here for 15 minutes absolutely unlim-  
11 ited, and unrestricted in any way, and out of order, they  
12 were allowed to call two witnesses, they were given per-  
13 mission to call Mr Tveitmoe and Mr Johannsen, and after  
14 putting Mr Johannsen on the stand, they decided not to put  
15 Mr Tveitmoe on the stand. We called Mr Tveitmoe to the  
16 stand, but decided we preferred to take him on cross-  
17 examination, rather than direct examination at any time, be-  
18 cause of the restrictions placed upon us upon direct ex-  
19 amination would be such we would be only doing our own  
20 side harm, because we would be limited, and would not be  
21 allowed to impeach our own witness if we made him our wit-  
22 ness. Now, I thought your Honor, Mr Tveitmoe was except-  
23 ed from the general rule excluding witnesses on the ground  
24 that his assistance was necessary to the defendant in this  
25 case, and day after day he sat here, presumably giving them  
26 all the assistance that lay within his power, and I have

1 not any doubt but what he did do that; I believe that  
2 counsel, when they asked that he be excepted from the rule  
3 upon that ground, were stating the actual facts to your  
4 Honor.

5 THE COURT: MR Ford, we are getting too far from the ques-  
6 tion involved here, which is whether or not the defense is  
7 entitled to that transcript. I think the matter has been  
8 fully presented at this time. The time for usual afternoon  
9 recess has arrived, and I want to reflect on the applica-  
10 tion for a short time, and will rule as soon as the court  
11 convenes.

12 (Jury admonished. )

13 We will take a recess for 15 minutes.

14 (After recess.)

15 THE COURT: In regard to the application of the defense  
16 for the testimony of MR Tveitmoen given before the grand  
17 jury on the 16th of February, it now appearing that the  
18 indictment was returned on the 29th of January, the pre-  
19 vious order of the court will be modified to this extent:  
20 the reporter is instructed to write up any testimony that  
21 may appear as given prior to the date of the indictment;  
22 that is to say, the 29th day of January, but not there-  
23 after.

24 MR APPEL: We take an exception and we offer to show that  
25 the testimony called for by us in our application, was tes-  
26 timony taken by the grand jury concerning this case, and

1 concerning the offense upon which the defendant is now  
2 being tried, and we ask permission of the court to call wit-  
3 nesses to the stand to show the nature and the character of  
4 their testimony, and -- we object to the ruling of the  
5 court on the ground there is no testimony in this case or  
6 before the court, no legal evidence, tending in any manner  
7 to show that the testimony in question was not taken in  
8 this case, and during the sessions of the grand jury when  
9 the subject matter of the indictment here against this  
10 defendant upon which he is being tried, was not investi-  
11 gated; on the contrary, we offer to show that the testimony  
12 which we call for was taken during the sessions of the  
13 grand jury when the subject matter of the indictment upon  
14 which this defendant is being tried, was then under investi-  
15 gation before the grand jury.

16 THE COURT: The offer is denied.

17 MR APPEL: We take an exception.

18 --

19 D. V. NICHOLSON, a witness called on behalf  
20 of the defense, being first duly sworn, testified as  
21 follows:

22 DIRECT EXAMINATION

23 MR APPEL: You may state your name, please.

24 A D. V. Nicholson.

25 Q Mr Nicholson, how old are you, please? A I will be  
26 20 in January.



1 Q January of the year 1913? A Yes sir.

2 Q What is your business or occupation? A Reporter on  
3 the Examiner.

4 Q Where is your place of residence? A I live at  
5 Venice, California.

6 Q Do you know Bert H. Franklin? A Yes sir.

7 Q Were you acquainted with Bert H. Franklin on or about  
8 the 15th day of December of last year? A I was.

9 Q And did you then know where he office was? A I did.

10 Q Did you on or about that time see him in his office  
11 in this city? A I did.

12 Q In the Chamber of Commerce Building, on Broadway?

13 A Yes sir.

14  
15 THE COURT: Will you kindly give me the page, Mr Appel, and  
16 I can follow you.

17 MR APPEL: Commencing with page 831, your Honor please.

18 Did you also see him at his house? A I did, sir.

19 Q In what orders, were those interviews, if any, with  
20 respect to which <sup>one</sup> came first, and which one came last, the  
21 one at his house first, or the one at the Chamber of Com-  
22 merce first? A The one at his office in the Chamber of  
23 Commerce came first.

24 Q At the Chamber of Commerce, at the office of Mr Franklin  
25 on on about the times stated by me in my previous ques-  
26 tion, you and Mr Franklin being present, and you and he  
alone engaging in the conversations that I am going to re-

present

1 fer to, there possibly being other persons, but not in the  
2 immediate hearing, and whose names I cannot state, did he or  
3 did he not, at that time and place, in the course of your  
4 conversation with him, say to you that Mr Darrow never gave  
5 him any money to bribe any jurors, and that Mr Darrow never  
6 knew anything about any bribery of any jurors at any time;  
7 in words to that effect or substance or meaning the same  
8 thing? A He did.

9 MR FORD: The date is fixed December 15th?

10 MR APPEL: Yes. He did? A Yes sir.

11 Q That was at his office? A That was at his office.

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13s 1 Q Did you subsequent to that time speak to him at his  
2 home in relation to the same subject? A I did.

3 Q How long after that conversation at the Chamber of Com-  
4 merce? A That I recall perhaps two weeks.

5 Q About two weeks after December 15th and on or about the  
6 last days of December, 1911, did you have a conversation  
7 with Mr. Franklin at his home, you and Mr. Franklin alone  
8 joining in that conversation and in that conversation did  
9 he or did he not say to you substantially or in effect or  
10 in words meaning the same thing, that Mr. Darrow had never  
11 given him any money to bribe any jurors and that Mr. Darrow  
12 did not know anything about any bribery of jurors at any  
13 time? A No, not at that time. Mr. Franklin at that time  
14 refused to discuss the case in any way whatsoever.

15 Q Wait a moment. Did you ask him any question pertaining  
16 to that subject? A I did.

17 Q Did he at that time then say he would not answer that  
18 question? A Yes sir; he did.

19 MR. APPEL. Take the witness.  
20

21 **CROSS-EXAMINATION.**

22 MR. FREDERICKS. Q Did you ask him that question? A I  
23 did.

24 Q Why did you ask him that question if a few weeks before  
25 he had told you down in his office that Darrow had not  
26 given him the money? A I desired, if possible, to get

1 further information in regard to that.

2 THE COURT: Read that last answer, I didn't hear it.

3 (Last answer read by the reporter.)

4 MR. FREDERICKS. Q How long was it after you interviewed  
5 him in the office before you asked him the question out  
6 to the house? A About two weeks I should say.

7 Q You asked him the same question out at the house he had  
8 answered you down at the office two weeks before? A Words  
9 to that effect.

10 Q And you were gathering news? A Yes, sir.

11 MR. FREDERICKS. That is all.

12  
13 J O R D A N G W A T T,

14 called as a witness on behalf of the defense, being first  
15 duly sworn, testified as follows.

16 DIRECT EXAMINATION.

17 MR. APPEL. Q Where do you reside? A Living in the  
18 city at present, Los Angeles.

19 Q How old are you, Mr. Watt? A I am in my 53rd year.

20 Q What is your present business or occupation? A Why, my  
21 business interests are in the north largely at the present  
22 time. I have been connected with the City of Venice for  
23 the past 6 or 7 years, though. Not at present.

24 Q How long have you resided in this county? A Why, since  
25 1905.

26 Q And mostly at what place in this county? A Ocean Park

1 or Venice it is called now.

2 Q And what business or occupation did you follow at  
3 Ocean Park, Venice, now? A I was tax collector and  
4 Marshall for pretty nearly a year, deputy city clerk and  
5 city clerk.

6 Q And those different occupations, what length of time  
7 did they cover in all? A Why, the city clerk I was  
8 elected two times for city clerk, four years.

9 Q After severing your connection with the city administra-  
10 tion of the city of Venice, what business did you engage  
11 in then? A Why, I resigned my position as city clerk last  
12 August to go north on account of the illness of my son-in-  
13 law at that time and he and I were interested in the drug  
14 business together. I went to look after the business  
15 during the time he was sick.

16 Q At what place, Mr. Watt? A That was in Montana; Dixon,  
17 Montana.

18 Q When did you return to the county of Los Angeles?

19 A The last week in February last.

20 Q When you returned where did you go to reside? A Venice.

21 Q And you continued to reside there up to what time?

22 A A short time ago, about three weeks.

23 Q In February last were you acquainted with Mr. Darrow?

24 A Yes, sir.

25 Q How long had you been acquainted with him prior to that  
26 time? A About three years, personally acquainted, 2 or 3

1 years, I am not sure.

2 Q And had that acquaintance continued after February--  
3 continued up to the present time? A Yes, sir .

4 Q I want you to state to the court and the jury whether  
5 or not that acquaintance was of an intimate and friendly  
6 character? A Surely was.

7 Q Were you acquainted with Mr. Pirotte last February?

8 A Yes, sir .

9 Q And with Mr. Cavanaugh? A Yes, sir .

10 Q How long had you known Mr. Cavanaugh? A I think about  
11 4 or 5 years from the time he first came to the city of  
12 Venice.

13 Q And you know Mr. Steineman? A Yes sir .

14 Q How long have you been acquainted with Mr. Stineman?

15 A 3 or 4 years .

16 Q When you returned in February last to Venice, do you  
17 remember having heard of the past incidents concerning the  
18 McNamara case and the arrest of Mr. Franklin? A I read  
19 of them in the newspapers here. Heard of them incidentally  
20 as they were talked on the street.

21 Q Do you know Bert H. Franklin? A I met him three or  
22 four times .

23 Q When was the first time you met him, as nearly as you  
24 can remember? A The first week in March .

25 Q And whereabouts did you meet him? A I met him purely  
26 accidentally, one evening I was walking up the ocean

1 front, I think it was near the Decatur Hotel, Marine street.  
2 Mr. Pirotte and he were together, right at the corner, I  
3 think. Pirotte was standing near the telephone--police  
4 telephone box.

5 Q Were you then introduced to him? A Mr. Pirotte intro-  
6 duced me to Mr. Franklin.

7 Q After that introduction did you go anywhere with him or  
8 in company with any one else, if there were more than one?

9 A We went into the Decatur bar and Mr. Franklin--I am not  
10 sure who it was, somebody bought some light drinks.

11 Q From there did you go anywhere else? A Went over to  
12 the Casino restaurant and had dinner.

13 Q The Casino is almost diagonally in front of the Decatur  
14 Hotel? A Diagonally across.

15 Q Diagonally across the ocean front? A Front walk,  
16 yes.

17 Q Now, while there at the Casino you and Mr. Pirotte and  
18 Mr. Franklin being present, you remember whether or not  
19 the subject of opening a detective agency was discussed?

20 A It was.

21 Q Was then any suggestion or any statement made by Mr.  
22 Franklin or any one else in your presence with reference  
23 to your interesting yourself in such a business as that  
24 of a detective agency or not?

25 MR. FORD. Objected to upon the ground that no foundation  
26 has been laid, incompetent, irrelevant and immaterial in

1 that the impeaching question, if there is any, must be  
2 put to the witness the same in form as it was put to the  
3 witness who he seeks to impeach.

4 THE COURT. This is for the purpose of fixing the time and  
5 place and circumstances.

6 MR. APPEL. Not only that but for the purpose of showing  
7 how or in what manner the conversation that I am going to  
8 ask him about came about. Throw light around the con-  
9 versation for the purpose of showing its probabilities or  
10 improbabilities.

11 THE COURT. I think you are entitled to the question.

12 MR. FORD. Then they should have put that to Mr. Franklin.

13 MR. APPEL. We did.

14 MR. FORD. What page?

15 MR. APPEL. Well, I will read it to you.

16 MR. FORD. What page?

17 MR. APPEL. 859, "Did you suggest that he interest him-  
18 self with you," etc.

19 MR. FORD. He just answered that question.  
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1 THE COURT: The court has held that counsel is entitled  
2 to the question.

3 A The question was, was it suggested to me the proposi-  
4 tion of going into the detective agency?

5 MR APPEL: At that time? A It was.

6 Q By whom? A Why, Mr Franklin. I wouldn't be sure  
7 which one it was, but the subject came up this way. Mr  
8 Franklin passed me his card, and said that he was a de-  
9 tective, and said that he and Mr Pirotte had been talk-  
10 ing of going into the detective business together, and ask-  
11 ed me what I thought of it.

12 Q You say that he passed over his card to you? A yes  
13 sir.

14 Q Have you got that card? A I think it is here somewhere  
15 about my old clothes. There is the card.

16 Q Is this the card? A That is the same card, the one --  
17 the only one I ever had from him. Maybe a little memoran-  
18 dum on the back of it, I disremember that.

19 Q It was not on the card when it was given to you?

20 A No.

21 Q With reference to this card I am attracting your at-  
22 tention to the printed portion of it, that is, what I would  
23 call the face of it and not the back of it, that is the  
24 front of it, and not the opposite side of the front. You  
25 recognize that card as the one he then passed over to you?  
26

1 A That is the card, yes sir.

2 Q And is that the card-- that is the printed portion  
3 of it, in the same condition now that it was then, that is,  
4 without reference to a little wear and tear? A I think it  
5 is. I certainly didn't change it any.

6 Q Did you read the card then? A I did.

7 MR APPEL: I offer this in evidence.

8 MR DARROW: You better see what the memorandum is.

9 MR APPEL: The memorandum is not in evidence.

10 MR FORD: I would ask permission to ask him one question  
11 about the memorandum. Whose handwriting is that on the back?

12 A It is in mine.

13 Q It was not on the card when you got it? A No sir.

14 MR FREDERICKS:  
15 There is no reference to the memorandum on  
16 the back of it.

17 MR APPEL: No.

18 MR FREDERICKS: No objection.

19 MR APPEL: If you should afterwards think it is material,  
20 you may inquire. What exhibit will this be?

21 THE CLERK: Defendant's exhibit K.

22 MR APPEL: I will read it, with your permission. I am read-  
23 ing that portion of the card on this side, that is --

24 "Phones, Main 382. Home A-4899. Night phone, West 2454. Bert  
25 H. Franklin, Detective Agency, 531-A Chamber of Commerce  
26 Building, Los Angeles, Cal. Formerly United States Deputy  
Marshal." on the left side of that portion which I have

1 read is as follows: "We are in a position to give all bus-  
2 iness entrusted to us our personal attention. For a  
3 numb er of years in charge of criminal investigation  
4 in the Sheriff's office, Los Angeles County."

5 THE COURT: Defendant's exhibit K.

6 MR APPEL: Now, when that card was produced, and when  
7 you noticed the name and read it, you may state whether or  
8 not in the discussion concerning the opening of a detec-  
9 tive agency at that place, whether or not Mr Pirotte,  
10 in your presence and in the presence of Mr Franklin, did  
11 or did not state to Mr Franklin that he, Franklin, was in  
12 some trouble?

13 MR FORD: just a moment. What page?

14 MR APPEL: Page 859.

15 MR FORD: 859 refers to the first meeting with Pirotte,  
16 doesn't it?

17 MR APPEL: 859 --

18 THE COURT: Any objection?

19 MR FORD: yes. 859 refers to a meeting between Franklin  
20 and Pirotte. The objection is that no foundation is laid.

21 MR APPEL: that is the conversation with Mr Pirotte.

22 This is a question, your Honor, that I put to the wit-  
23 ness, mistaking the occasion. This refers to a conver-  
24 sation with Mr Pirotte.

25 THE COURT: You withdraw the question?

26 MR APPEL: Yes sir.

1 Q Well, you may state whether or not in speaking with  
2 reference to the opening of a detective agency, whether or  
3 not anyone there, either you or Mr Pirotte, mentioned the  
4 fact that Mr Franklin was then in some trouble.

5 MR FORD: Object upon the ground no foundation has been  
6 laid showing the time, place and persons present where  
7 Franklin was asked such a question.

8 MR DARROW: If the court will wait a minute, I think we  
9 will find it.

10 THE COURT: We will wait.

11 MR FREDERICKS: I think you will find something of it at  
12 page 865, according to my notes.

13 MR APPEL: Now, I will again reframe my question. At  
14 that meeting at the Casino, after the opening of the de-  
15 tective agency was commenced to be discussed and in the  
16 course of the discussion of the opening of the detective  
17 agency, did you or did you not at that time say to Mr  
18 Franklin, you have been in some trouble lately, that might  
19 affect it, meaning the opening of the detective agency,  
20 did you or did you not? A I did.

21 Q Then, didn't he say, why, I have been in a little  
22 trouble, but I am out of it already, and then didn't you  
23 say, why, they have got another case against you,  
24 haven't they, in the same matter, and then didn't he  
25 reply, they will do nothing about the Lockwood case, or  
26 something to that effect, they are holding it over my head

1 to make me testify against Darrow, or words to that ef-  
2 fect or in substance or meaning the same thing? A That  
3 is the substance of the conversation.

4 Q Mr Watt, did you have any other conversation or meet-  
5 ing with Mr Franklin there at the Casino at any other time?

6 A . Yes sir.

7 Q How long aft er that first conversation at the Casino,

8 A Three or four days; I am not sure; very shortly.

9 Q Who, if anyone, was present then? A Mr Pirotte, Mr  
10 Franklin and myself.

11 Q If I may be allowed to ask you a question so as to  
12 fix the day -- was it in the evening? A In the evening.

13 Q Was that the occasion or the evening of the day when  
14 Mr Stineman, Pirotte, yourself and Mr Franklin went from  
15 Los Angeles in Mr Stineman's auto to the beach? A It is.

16 Q Now, I will ask you whether or not either at the Casi-  
17 no on the occasion last named, you and Mr Franklin and Mr  
18 Pirotte then being together, and being the only three per-  
19 sons joining in the conversation, I will ask you whether  
20 or not at that time the subject of Mr Darrow's connection  
21 with the case was discussed? A It was.

22 Q Now, I will ask you whether or not in the course of  
23 that discussion concerning that subject, whether or not  
24 Franklin in your presence and in the presence of  
25 Mr Pirotte stated to you that Mr Darrow had never given  
26 him a dollar or any money for any corrupt purpose or to

1 bribe any jurors, or anything else or words to that effect?

2 MR FREDERICKS: just a moment.

3 MR APPEL: yes, just a moment. I will give you the page;  
4 page 864, commencing with line 16.

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15p 1 MR. FORD. That is the first dinner or the second dinner?

2 MR. APPEL. The second dinner.

3 MR. FREDERICKS. Are you sure that does not go back into  
4 the second dinner?

5 MR. APPEL. We will find out.

6 MR. FORD. That is relating to the first dinner.

7 MR. APPEL. Well, the witness can answer.

8 MR. FORD. But the foundation relates to the first dinner  
9 and that is part of the same.

10 MR. APPEL. I am asking him whether or not it was at the  
11 second dinner.

12 MR. FORD. We object on the ground no foundation has been  
13 laid. This question was asked Franklin concerning the  
14 first dinner.

15 MR. APPEL. I submit the question. I am not very particu-  
16 lar, your Honor, at which conversation it was, so that  
17 any ruling made by the court will be satisfactory to us.

18 THE COURT. Well, let us have the answer, the objection is  
19 overruled.

20 A What was the question, again, please?

21 MR. APPEL. I will repeat it again. I refer to the second  
22 meeting which you said occurred 3 or 4 or such a number of  
23 days after the first conversation at the same place, at  
24 the Casino, and I have referred to that, being the occasion  
25 when you and Mr. Stineman and Mr. Pirotte and Mr. Franklin  
26 went into Mr. Stineman's auto to the beach and I will ask

1 you if at that conversation at the Casino in the evening,  
2 whether or not then there was a discussion in which Mr.  
3 parrow's complicity in the matter of the bribing of jurors  
4 was discussed and whether or not at that time and place,  
5 and the persons named, Mr. Franklin did or did not make the  
6 statement to you or in your presence that Mr. parrow never  
7 gave him a dollar of money for any corrupt purposes to  
8 bribe any jurors, or anything else, or words to that  
9 effect? A That is the substance of the--

10 MR. FORD. Pardon me--I want to add the objection now, that  
11 unless it is understood that this is the dinner at which  
12 Watt and Pirotte and Franklin were present--

13 MR. APPEL. Yes, that is what I said.

14 MR. FORD. All right. Then there is no objection.

15 A That was the substance of the latter part of a conversa-  
16 tion relative to Mr. parrow meeting Franklin on the street  
17 on the day of the arrest of Franklin following that.

18 MR. FORD. We move that that be stricken out on the ground  
19 it is not responsive to the question. The question was,  
20 "Did you say that," then if he didn't say that counsel has  
21 a right to put it in substance or effect, and we are en-  
22 titled to a yes or no answer as to whether or not  
23 Franklin said that and whether it was the substance; he is  
24 stating it was the substance.

25 THE COURT. I think you are entitled to a yes or no answer  
26 before you have the substance.



1 THE WITNESS. Yes .

2 MR. APPEL. Yes, I think it should be yes.

3 MR. FORD. He said it or those words, then.

4 MR. APPEL. That is subject to his cross-examining .

5 THE COURT. No.

6 MR. FORD. That is the understanding .

7 A No.

8 THE COURT. Strike out the answer. Now, what is your  
9 answer .

10 MR. FORD. The question was, did he say those words?

11 THE COURT. I instructed you to say yes or no and then  
12 you can make such explanation as you desire .

13 A Yes, sir . Can I explain it now?

14 THE COURT. You may explain it if you want to .

15 A My answer is that was the substance and effect .and  
16 as near the words as I recall, that were used .

17 MR. APPEL. Q Now, you may state whether or not in that  
18 conversation, and as part of the same conversation,  
19 whether or not Mr. Franklin in addition to the matter  
20 you already have testified to did or did not say that he  
21 was smart enough or lawyer enough, one or the other, to  
22 know that they could not convict him for the Lockwood  
23 case?

24 MR. FORD. pardon me, if you will give me the page.

25 MR. APPEL. Page 866, commencing with line 11: For he,  
26 Franklin, and Lockwood and Fredericks were confederates

1 in that case, or words to that effect or meaning.

2 A Yes, sir; he said that.

3 Q And didn't he, in addition to that, also say "Unless  
4 it is corroborated they cannot convict me," or words  
5 to that effect? A Yes, sir.

6 Q Didn't he, at the same time and place, and in that  
7 conversation and as part of the conversation I have been  
8 questioning you about and in addition to the matters or  
9 things you have already testified to, that is, didn't  
10 Franklin say that he and Lockwood had been friends for  
11 15 years, or some such time as that? A Yes, sir, I  
12 think that was at the first meeting.

13 MR. FORD. Well, now, that is not impeaching Franklin, he  
14 says, "I might have done so", he testified on the stand  
15 he had done that.

16 MR. APPEL. All right, withdraw the question if that is  
17 the case.

18 MR. FORD. Well, let it go.

19 MR. APPEL. I will withdraw it. I do not want to ask  
20 him anything that counsel says Mr. Franklin admitted.

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1 MR FORD: I presume counsel can read the record when he  
2 asks the question.

3 MR APPEL: Did he not then say that Mr Fredericks was one  
4 of the best friends he had on earth? A He did.

5 MR FORD: What page is that on?

6 THE COURT: Strike out the answer.

7 MR FORD: Let us have an opportunity to object. I don't  
8 care now, your Honor; the witness is too willing to  
9 answer.

10 MR APPEL: All right; let it be stricken out. They are  
11 entitled to their objection.

12 MR FREDERICKS: It is further objected to on the ground  
13 no foundation has been laid as Franklin admitted he might  
14 have said it.

15 MR APPEL: Yes. He wouldn't say he did say it or wouldn't  
16 deny or affirm he did.

17 MR FREDERICKS: Well, go ahead. We don't care.

18 THE COURT: All right; the objection is withdrawn,  
19 answer the question.

20 MR FREDERICKS: He has answered, your Honor.

21 THE COURT: The answer was stricken out, I believe. It  
22 will be restored.

23 MR APPEL: Did he say that? A Yes sir.

24 Q In addition to what you have already testified to in  
25 reference to that conversation, Did or did not Mr Franklin  
26 also say in your presence that while he had pleaded guilty

1 in the Pain case that it had not cost him anything, as the  
2 county had paid his fine? A Yes sir.

3 Q Did or did not Mr Pirotte then say to Mr Franklin --

4 MR FORD: The page, please.

5 MR APPEL: 867, commencing with line 11. -- did or did  
6 not, Mr Pirotte then say to Mr Franklin in your presence,  
7 or propound the question to him, that if Mr Darrow had  
8 given him any money, that if Mr Darrow had given him the  
9 money, that had been taken away from him when he was ar-  
10 rested, and didn't Mr Franklin then reply to Pirotte's  
11 question, "Darrow didn't give me any money, but you or we  
12 must not talk about the case", or words to that effect,  
13 saying, "because I am to be a witness" or words in substance  
14 or in effect, or meaning the same thing? A Yes sir.

15 MR FORD: Let me have the question read.

16 THE COURT: Read the question.

17 (Question read.)

18 MR APPEL: Strike out the words "you or we," but "I".

19 MR FORD: The question is answered now.

20 MR APPEL: But I want to correct the question, your Honor.

21 MR FORD: Ask a new one.

22 MR APPEL: "But I must not talk about the case, for I am  
23 to be a witness."

24 THE COURT: All right, if you want to ask the question  
25 over again in the corrected form.

26 MR DARROW: Your Honor can understand how it is, the ques-

1 tion was put to Franklin, "you"; that meant Franklin when  
2 it was put to him; it is "I".

3 THE COURT: Yes -- what is your answer to that? A Yes sir.

4 Q BY MR APPEL: You may state whether or not in that con-  
5 versation that you had with him at the Casino, in the pre-  
6 sence of Pirotte, and I mean the same conversation that we  
7 are now talking about --

8 MR FORD: What is the page?

9 MR APPEL: Page 870.

10 MR FORD: That is the second conversation?

11 MR APPEL: Yes, that is the one we are talking about now.

12 Did or did not Mr Franklin say in your presence and in the  
13 presence of Pirotte, that when he, Franklin, was arrested,  
14 that he had no appointment with Mr Darrow, and that Mr  
15 Darrow didn't know that he, Franklin, was to be on the  
16 street at that time? A He did.

17 Q Did he not, in addition thereto, and as a part of  
18 that subject and conversation say, in your presence, that  
19 Browne, must have telephoned to get him, Darrow, there?

20 A He did.

21 Q And didn't you then say to Mr Franklin, or ask him  
22 how much money was taken from him, Franklin, when he was  
23 arrested, and where he got it from, and didn't Franklin,  
24 in response to that question propounded by you say, then,  
25 that there was plenty of money circulating around that  
26 the lawyers in the case knew nothing about, or words to

1 that effect? A That was his answer in response to the  
2 question, that either I or Mr Pirotte asked him, I wasn't  
3 sure which one of us.

4 MR FREDERICKS: What is the answer, Mr Petermichel?

5 (Answer read.)

6 MR APPEL: Now, after that conversation that we have been  
7 speaking about, did you again at another time and place in  
8 the city of Los Angeles, to-wit, at the Bristol Cafe, hear  
9 any conversation or have any conversation with Mr Frank-  
10 lin, on or about the 21 day of March of this year? A Some-  
11 where near that date; I wouldn't be sure; I wouldn't be  
12 sure as to the day.

13 Q These conversations you had with him, were they all in  
14 the month of March? A Yes sir.

15 Q Of this year? A Yes sir.

16 Q And they succeeded each other in the order in which I  
17 have named them or not? A Yes sir.

18 Q Now, attracting your attention, solely now, in asking  
19 you to place your mind upon the conversation at the Bris-  
20 tol Cafe in this city, you may state whether or not at the  
21 Bristol Cafe, you and Mr Steineman were present with Mr  
22 Franklin? A We were.

23 Q You may state whether or not the case of Mr Darrow and  
24 the case of Mr Franklin was then brought into discussion,  
25 between you three? A It was.

26 Q Now, in the course of that discussion, and in the pre-

1 sence of Mr Stineman and at the place already named by  
2 me, did or did not Mr Franklin say that if Darrow would  
3 give up certain evidence that he has against Gompers,  
4 that he, Darrow, would be released, that Gompers is the  
5 man they wanted, because he, Gompers, is the head of the  
6 unions, and Burns wants to break that up, and Burns will  
7 get Gompers before they get through, or words to that ef-  
8 fect or the same meaning? A He did.

9 Q And when that statement was made, did or did not Mr  
10 Stineman ask Mr Franklin, "Why do they want to get Darrow?",  
11 and didn't Franklin respond, "Oh, he has been defending  
12 the unions and is a prominent man on their side?" A He  
13 did.

14 Q And as a part of the same discussion and conversa-  
15 tion and concerning the subject matter of the conver-  
16 sation, didn't Mr Stineman then say or ask Franklin, rather,  
17 where Franklin got the money for the bribing of Lockwood,  
18 or words to that effect, and didn't Franklin say, "Out-  
19 side parties have furnished it"; that a San Francisco man  
20 had furnished it, had given it to him; that Mr Darrow nev-  
21 er gave him any money to fix jurors, or anything of that  
22 kind?

23 MR FORD: You are reading now from page 872?

24 MR APPEL: Yes, and after continuing the conversation at  
25 some length, and some other things and matters being re-  
26 ferred to him in connection with the subject and of which

1 I am not informed, didn't he then wind up that subject of  
2 the conversation at that period only, and say, "For God's  
3 sake, don't repeat this conversation"?

4 MR FORD: Now, if counsel will show me what line has  
5 reference to the San Francisco man, wherein he has read that  
6 it will save my making an objection.

7 MR APPEL: Absolutely none, except I have corrected my  
8 question in order to conform to my recollection.

9 MR FORD: It was not put to Franklin, was it?

10 MR APPEL: In order to conform to my recollection now,  
11 what statement was made, as I remembered it.

12 MR FORD: The question was not put to Franklin, then?

13 MR APPEL: Not in reference to the San Francisco man, but  
14 we used this expression, "outside parties had furnished  
15 that."

16 MR FORD: We object to that on the ground the question was  
17 not put to Franklin, no proper foundation was laid, the  
18 same identical question must be put and counsel knows it,  
19 and he is inserting something into therecord which does  
20 not belong there.

21 MR APPEL: Yes sir, only to correct my motive.

22 MR FORD: I don't care what his motives are.

23 MR APPEL: I submit it, and I will take the ruling.

24 THE COURT: ~~The objection is sustained.~~

25 MR APPEL: Exception.

26 MR APPEL: I will ask you now; I will correct my ques-



1 tion, did he or did he not say in effect or in words mean-  
2 ing the same thing, or in substance what I have asked you,  
3 in my question, except that he did not say "a San Francisco  
4 party or parties gave me the money", and instead thereof  
5 said, "outside parties gave me the money"?

6 MR FORD: That is such a mixed up question now, I object  
7 to it on the ground it is not intelligible.

8 THE COURT: I think that is plain. Is that plain to you,  
9 Mr Watt? A yes sir, it is perfectly plain.

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18<sup>5</sup> 1 There was those conversations and added that a Frisco  
2 man--

3 MR. FORD. Just a moment now, he is putting in--

4 MR. APPEL. He is explaining his answer.

5 MR. FORD. The witness should be cautioned to answer just  
6 what questions are put to him and not volunteer anything.

7 MR. DARROW. If your Honor will read the next page, on page  
8 872 where Franklin said he didn't state anything of the  
9 kind, page 872.

10 MR. APPEL. Here, your Honor, here is the proposition:  
11 We are asking the witness whether or not he made that  
12 statement in substance or in effect--

13 MR. FORD. There is no objection before the court.  
14 We simply asked your Honor to admonish the witness not to  
15 volunteer anything, that is all.

16 THE COURT. The witness answered "Yes" and made a slight  
17 explanation of his answer, that is in the record.

18 MR. APPEL. We want that in there for that reason.

19 MR. FREDERICKS. Let it stay, we are not asking to get  
20 it out.

21 THE COURT. It is all right. It is there.

22 MR. APPEL. Now, in giving your answer you seemed to try  
23 to give us an inference that the language I had used and  
24 which is included in my question as the matter stated  
25 by Mr. Franklin were in substance as I have stated, but you  
26 were about to make some explanation as to the language used

1 by him having the same meaning as my question indicates.  
2 Will you be kind enough to state now in explanation of  
3 your answer what were actually the words of Mr. Franklin  
4 in that respect.

5 MR. FORD\_ Objected to upon the ground the question has  
6 already been answered, and object to the long statement  
7 or lecture on the part of counsel as having no place in  
8 the record.

9 THE COURT. Before I rule on that I will ask the witness,  
10 had you finished your explanation of the answer?

11 A Practically.

12 MR. APPEL. Then, as I understand --

13 THE COURT. That is scarcely an answer to my question.  
14 Is there something else you want to say in explanation?

15 A Not in regard to that question; no, sir.

16 THE COURT. Then the objection is sustained.

17 MR. APPEL. Q Then as I understand, in addition to saying  
18 outside parties that he particularized the parties that  
19 gave him the money as being a party or parties from San  
20 Francisco?

21 MR. FREDERICKS. I understand the witness so stated?

22 A Yes, sir.

23 THE COURT. The witness has again stated it.

24 MR. APPEL. I am very dull of comprehension. You will  
25 excuse me for asking for information. Q Now, Mr. Watt,  
26 you have spoken here of three conversations, one that you

1 had with Mr. Franklin and Mr. Pirotte somewhere in the  
2 early part of March this year at the Casino; the second  
3 one a few days after at the Casino and a third one at the  
4 Bristol Cafe. The last conversation we have just gotten  
5 through. Now, between the first conversation that you had  
6 at the Casino and the second conversation you had at the  
7 Casino, you may state whether or not you reported the  
8 first conversation to any one connected with the defense?

9 MR. FORD. Objected to as cross-examination, incompetent,  
10 irrelevant and immaterial, it is a proper question on  
11 cross-examination.

12 THE COURT. objection overruled.

13 A After the first meeting I reported it to Mr. Darrow.

14 MR. APPEL. Q What you had heard? A What I had heard.

15 Q Now, then, at the second meeting you may state here to  
16 the jury why and for what reason you were there at that  
17 second meeting at the Casino.

18 MR. FREDERICKS. Objected to as entirely cross-examination  
19 of their own witness.

20 THE COURT. Overruled.

21 A The second meeting I purposely sought with Mr. Franklin  
22 from the fact I was a friend of Mr. Darrow's and I believed  
23 he was innocent and I wanted to do him all the good I  
24 honestly could.

25 Q And you went there purposely? A Went there purposely.

26 MR. APPEL. That is all.

## CROSS-EXAMINATION.

1  
2 MR. FREDERICKS. Q Well, did you arrange the first meeting  
3 for the same reason, Mr. watt? A No, sir.

4 Q You were a friend of Darrow's? A Yes, sir.

5 Q And you knew Franklin--you knew Darrow had been indicted?

6 A Yes, sir.

7 Q You knew Franklin must have testified against him?

8 A I had no intention of meeting Mr. Franklin whatever; had  
9 no thought in my mind that I would ever meet him when I  
10 met him the first time.

11 Q Where did you meet Mr. Darrow first? A I met Mr. Darrow  
12 the first time after he came out of the hospital here in  
13 Los Angeles.

14 Q Did you ever know him anywhere else except in California?

15 A Only by reputation.

16 Q I didn't refer to that. Did you ever know him anywhere  
17 else personally? A No, sir.

18 Q Except in California? A That is all.

19 Q And where did you meet him the first time? A I met him  
20 at Ocean Park.

21 Q Was he living there? A No, sir.

22 Q What were the circumstances? A He was in company with  
23 Mr. Cavanaugh.

24 Q Mr. Cavanaugh, that is the policeman down there? A No,  
25 sir, he is sergeant.

26 Q Police sergeant? A Yes.

- 1 Q Mr. Cavanaugh introduced you? A He did.
- 2 Q And did you become quite intimately acquainted with
- 3 Mr. Darrow? A We took several long walks up and down
- 4 the ocean front, talking over various things.
- 5 Q You and Mr. Darrow and Mr. Cavanaugh? A The three of
- 6 us.
- 7 Q The three of you, several times? A Well, once or twice.
- 8 Q Beg pardon? A I wouldn't say many times.
- 9 Q About how many? A I remember two occasions meeting
- 10 him down there.
- 11 Q Meet him anywhere else except on the beach? A No, sir.
- 12 Q You became quite friendly with him? A Yes, sir.
- 13 Q By on the beach you may mean one thing and I may mean
- 14 another. On the sand? A I mean city of Ocean Park.
- 15 Q Did you meet him anywhere else except on the water front
- 16 where you walked? A It was on Windward avenue where I
- 17 first met him.
- 18 Q Did you meet him in anybody's house down there?
- 19 A No, sir.
- 20 Q Didn't you meet him in anybody's house? A You mean
- 21 the first time that I ever met Mr. Darrow?
- 22 Q No, any time, then we will come back. A I have met
- 23 him at peoples houses a good many times.
- 24 Q A great many times? A Yes, sir.
- 25 Q And along about that first time? A No, I didn't say
- 26 along about that first time.

1 Q When was it? A During this present year.

2 Q During this year, 1912? A Yes, sir.

3 Q And while you were working on this matter here that  
4 you have been testifying about? A Long before that; some  
5 time before that.

6 Q And long before that? A Not very long, no.

7 Q And what was it Franklin told you the first time he  
8 met you there at the Casino about Mr. Darrow? A Why, in  
9 response to the question as--

10 Q No, what did he tell you, if you can give it that way?

11 A Talking about detective agencies.

12 Q Yes, I know, what did he tell you? A And Mr. Pirotte,  
13 the conversation was between the three of us, Mr. Pirotte  
14 asked him if Darrow gave him <sup>the</sup> money that was taken from  
15 him at the time of his arrest. He said that Darrow did  
16 not give him that money.

17 Q That was the first time you had ever met him wasn't it?

18 A The first time I had ever met Franklin?

19 Q Yes. A Yes, sir.

20 Q You was a perfect stranger to him? A Yes, sir.

21 Q Sitting there at the table with him? A Yes, sir.

22 Q In the fore part of March? A Yes, sir.

23 Q After Darrow had been indicted? A Yes, sir.

24 Q On Franklin's testimony, partly? A I don't know.

25 MR. APPEL. We object to that.

26 MR. FREDERICKS. You knew Franklin was the man that was

1 supposed to have passed the money, and if Darrow was  
2 indicted at all he must have been indicted partly on Frank-  
3 lin's testimony.

4 MR. APPEL. We object to that as being very argumentative  
5 and asking for a conclusion and opinion of the witness.

6 MR. FREDERICKS. I withdraw the question.

7 THE COURT. Question withdrawn. I presume the last objec-  
8 tion is also withdrawn. It was not ruled on.

9 MR. FREDERICKS. Q But you were a stranger to him? A I  
10 was asked to loan my assistance in the incorporation of the  
11 business.

12 Q you were? A Yes, sir.

13 Q What was that, the detective business? A Yes, sir.

14 Q And you were a stranger to Franklin? Franklin, as far  
15 as you know, didn't know who you were? A No, I presume  
16 not.

17 Q He didn't/<sup>know</sup>you were a friend of Darrow's, did he?

18 A No, sir.

19 Q And he didn't know but what you were a friend of  
20 Darrow's, as far as you know?

21 MR. APPEL. That is objected to as mere speculation.

22 A I don't know what he knew in regard to these matters.

23 MR. FREDERICKS. As far as you know?

24 MR. APPEL. Wait a moment--that is asking him concerning  
25 mental speculations and guesses and we object to that.

26 THE COURT. Objection sustained.



1 MR. FREDERICKS. Q And he opened right up there and  
2 told you, a perfect stranger, a vital piece of testimony  
3 in the case, that all the officers in the country had been  
4 trying to find out, that Darrow never gave him that money?

5 MR. APPEL. We object to the question on the ground it is  
6 argumentative and is not in the form of a question but is  
7 in the form of an argument and in the form somewhat of a  
8 speech.

9 THE COURT. Objection sustained.

10 MR. FREDERICKS. Q Well, now, Mr. Watt, between the times  
11 that you saw him the first time at the Casino, that was  
12 on the 7th of March, was it? A I think so.

13 Q The next time was on the 10th, was it? A A few days  
14 after that, probably the 10th.

15 Q Well, you made a note of it, didn't you? A It was  
16 on this card, that was the only note of those meetings.

17 Q That is now on the back of the card? A Yes, sir.

18 Q That was the 7th and 10th, between those two dates,  
19 you didn't meet him at all? A Saw him momentarily one  
20 evening.

21 Q But not to talk to him? A Exchanged the time of day.

22 Q When did you put those dates down there, did you put  
23 them down at the time? A Yes.

24 Q Did you put the one of the 7th down at the time on the  
25 7th? A I presume I did.

26 Q Do you remember? A I don't remember directly when I

1 put it down but I presume it was at that time.

2 Q When did you go and tell Mr. parrow about this?

3 A I saw him the nig't after, the first meeting.

4 Q Franklin and you and the other gentleman were simply  
5 having an ordinary dinner there, were you? You were all  
6 in your right minds? A Yes.

7 Q Sober? A It was ordinary in some respects.

8 Q So far as eating and drinking was concerned? A Yes.

9 Q You were not intoxicated any of you? A No.

10 Q You were talking and remember what you said? A Yes.

11 Q Franklin didn't appear to be intoxicated? A No.

12 Q You lived in Ocean Park at that time? A Yes, sir.

13 Q Have a home there? A I had a home; yes, sir.

14 Q Married man, are you? A Yes, sir.

15 Q Family live there, lived there at that time? A My  
16 wife did.

17 Q You didn't go hom that night to dinner? A I went  
18 home that night.

19 Q To dinner, I say? A No, sir.

20 Q Didn't go home that night to dinner? A No.

21 Q It is your usual custom to go home to dinner? A Yes,  
22 I have dinner some place; I don't usually eat two  
23 dinners.

24 Q No, but you didn't go home that evening? A No, sir.

25 MR. APPEL. To dinner.

26 MR. FREDERICKS. I mean to dinner, yes. Q Well, you never

1 notified your wife you were not coming home to dinner that  
2 night? A I got home before it was very late.

3 Q You had arranged that beforehand to try to get  
4 Pirotte--how do you pronounce that name? A Pi-rotte'.

5 Q To have Pirotte bring Franklin down there and you  
6 would get him together and get him off and have a dinner  
7 with him, hadn't you fixed that up with Pirotte?

8 A Absolutely not.

9 Q But the second time, how about that? You had told  
10 Mr. Parrow in the meantime? A Yes.

11 Q You arranged that, did you? A No, I didn't arrange  
12 the dinner.

13 Q Well was it --do you know whether anybody else arranged  
14 it? A Why, the dinner was not suggested. I think Mr.)  
15 Franklin was responsible for the next meeting.  
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1 Q And he invited you out to dinner again? A Well, he  
2 invited himself to come down to Venice from Los Angeles in  
3 the machine.

4 Q Yes, you came down in the machine. I mean, after  
5 you were at Venice, he invited you out to dinner? A It  
6 was raining that night. Mr Stineman told us good night, and  
7 went home, and somebody suggested -- might have been me,  
8 to go over to the Casino and have a lunch. We went over  
9 and had lunch and some beer.

10 Q Was that at your invitation or Franklin's? A Might  
11 have been me and might have been his.

12 Q Who paid for it? A I think Mr Franklin paid for  
13 that one.

14 Q Then, Mr Franklin was the one that invited you? A Yes  
15 sir, probably did.

16 Q But at that time, although Mr Franklin invited you  
17 over, you tried to get him to talk for Mr Darrow?

18 A It was no trouble to get Mr Franklin to talk on this  
19 question at any time, because he was always talking about  
20 it.

21 Q He was always talking about it? A That was the one  
22 thing in his mind.

23 Q Three separate times you met Mr Franklin and three  
24 separate times he told you Darrow didn't give him the  
25 money? A Yes, he added a great many things to it.

26 Q Yes, but he did that three separate times? A Yes.

1 sir.

2 Q And those were the only three times that you ever met  
3 Mr Franklin to talk to him for any length of time? A It  
4 doesn't require a very long time to become acquainted  
5 with Mr Franklin; he is of convivial and sociable habits.

6 Q He gives up his secrets pretty easy? A He seemed to  
7 talk pretty easy.

8 MR. FREDERICKS: I am not going to be able to get through,  
9 your Honor, and I can probably read this testimony and  
10 finish very quickly in the morning.

11 THE COURT: I was about to ask you if you wanted to finish  
12 now; if not, we will adjourn.

13 (Jury admonished. Recess until 10 o'clock, July 17,  
14 1912.)

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