

J. D. FREDERICKS.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

IN AND FOR THE COUNTY OF LOS ANGELES.

Dept. No. 11.

Hon. Geo. H. Hutton, Judge.

---o---

The People of the State of California, )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 Clarence Darrow, )  
 )  
 Defendant. )

No. 7373.

---o---

REPORTERS' TRANSCRIPT.

VOL. 87

I N D E X.

	Direct.	Cross.	Re-D.	Re-C.
Fred Meyer	7051	7054		
H A Vance	7055	7059		
J E Snead	7067	7070		
H C Straub,	7077	7080	7091	
F V Owen	7092	7092		
C W Houston,	7124	7130	7153	

1 . AFTERNOON SESSION- August 8, 1912; 2 P.M.

2 -----

3 Defendant in court with counsel.

4 THE COURT. You may proceed, gentlemen.

5 MR. ROGERS. We would like to have your Honor's permission  
6 to photograph and take from the immediate custody of the  
7 clerk, under such supervision as your Honor shall suggest,  
8 two exhibits, we desire to have them photographed.

9 MR. FREDERICKS. We have no objection to having them  
10 photographed. We might have objection to having them  
11 taken from the files until the case is over.

12 MR. ROGERS. We don't want to take them from the files.

13 THE COURT. If you will take the documents and be respon-  
14 sible for their return you can have them.

15 MR. ROGERS. Very well.

16 MR. FREDERICKS. What are they?

17 THE COURT. yes, ought to designate what they are.

18 MR. DARROW. 49 and 51.

19 MR. ROGERS. That is the alleged list of jurors and the so-  
20 called receipt.

21 MR. FREDERICKS. The list of jurors has not been introduced  
22 in evidence yet.

23 MR. ROGERS. It has been marked for identification.

24 THE COURT. Counsel can have a photograph of it. The  
25 court is interested in preserving the files.

26 MR. FORD. We prefer that they be kept in the custody of the

1 clerk. The clerk can take them to any photographer that  
2 they desire to have him photograph them. We prefer they  
3 be kept in his custody.

4 MR. DARROW. We are going to send them by Mr. Dehm and  
5 Mr. Geisler.

6 MR. ROGERS. In view of the fact his Honor said I would  
7 be responsible for their return, I regard counsel's  
8 objection as a personal statement he doesn't believe I  
9 will bring them back. I don't think that he means that;  
10 do you?

11 MR. FORD. Why, I am not accepting any bids to testify  
12 here to your good reputation, Mr. Rogers.

13 THE COURT. I am satisfied with the order. Go ahead.

14 -----  
15 F R E D M E Y E R,

16 called as a witness on behalf of the People, in rebuttal,  
17 being first duly sworn, testified as follows;

18 DIRECT EXAMINATION.

19 MR. ROGERS. Would your Honor mind including Mr. Dehm  
20 in that order so Mr. Dehm may do it?

21 THE COURT. I wont duplicate it, but if Mr. Dehm wants to  
22 take them he can take them, but I want to have one man  
23 responsible for the handling of the documents and their  
24 return.

25 MR. ROGERS. Mr. Dehm can have anything I have.

26 MR. FREDERICKS. Q What is your name? A Meyer.

1 Q What is your first name? A Fred.

2 Q Where do you live, Mr. Meyer? A Colegrove.

3 Q How old are you? A 19.

4 Q What is your business? A Soda fountain dispensor--  
5 working ina drug store.

6 Q Where is the drug store located? A Corner of El Centro  
7 and Santa Monica Boulevard.

8 Q That is out in South Hollywood? A Yes, South Hollywood.

9 Q How long have you been there employed? A About a year  
10 and six months.

11 Q Do you know Mr. Frank E. Wolff? A Yes, sir.

12 Q How long have you known him? A I should say about two  
13 years.

14 Q Where does he live, do you know, with reference to the  
15 store? A Well, I don't know where he lives now.

16 Q Where did he live? A About 100--

17 Q Wait, let me finish my question. Where did he live  
18 in the month before the last city election here; that was  
19 the 5th of December, the month before that where did he  
20 live? A I am sure I don't know.

21 Q Well, where did he live ago? A He lived out at Cole-  
22 grove about a hundred feet from the store.

23 Q What time do you get to the store to go to work in the  
24 morning? A 8 o'clock.

25 MR. ROGERS. Object to that as indefinite. When?

26 THE COURT. Objection sustained.

1 MR. FREDERICKS. Q All the time.

2 MR. ROGERS Wait a moment. If counsel means a custom--the  
3 witness can testify that he came there--

4 THE COURT. I think there ought to be some approximate  
5 time fixed.

6 MR. FREDERICKS. Q Well, during the month of November, 1911,  
7 what time did you get to the store? A 8 o'clock.

8 Q And what was your first duty at that time or what did you  
9 do after you got there? A Cleaned things up.

10 MR. ROGERS. Objected to as incompetent, irrelevant and  
11 immaterial, not rebuttal.

12 THE COURT. Overruled.

13 MR. ROGERS. Exception.

14 A Cleaned up and sweeping out.

15 MR. FREDERICKS. Q And about what time did you finish  
16 sweeping up and cleaning out?

17 MR. ROGERS. The same objection.

18 THE COURT. Overruled.

19 MR. ROGERS. Exception.

20 A About 8:30.

21 MR. FREDERICKS. Q State whether or not you observed Mr.  
22 Wolff during that month coming to take the street car, if  
23 so what time?

24 MR. ROGERS. The same objection, and moreover, that it is  
25 a double question, too general and not rebuttal; incom-  
26 petent, irrelevant and immaterial.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

THE COURT. Objection overruled.

MR. ROGERS. Exception.

A between 8:30 and 9.

MR. FREDERICKS. Take the witness.

CROSS-EXAMINATION.

MR. ROGERS. Q Do you remember the 25th day of last November? A No, sir.

Q Do you remember the 26th day of last November? A No, sir.

Q Do you remember the 27th day of last November? A No, sir.

Q Do you remember the 28th day of last November? A No.

Q Do you remember the 29th day of last November? A How do you mean? Anything that happened on that day?

Q Do you remember it? A No, sir.

Q Do you remember the 30th day of last November? A No, sir.

Q Do you know what time Wolff took the car on the morning of the 28th day of November? A No, sir, I do not.

MR. ROGERS. Come down.

MR. FREDERICKS. That is all.

-----

LAW LIBRARY

1 H A. VANCE, a witness called on behalf of  
2 the prosecution, in rebuttal, testified as follows,  
3 after having been first duly sworn:

4 DIRECT EXAMINATION

5 MR FREDERICKS: What is your name? A My name is H. A.  
6 Vance.

7 Q Where do you live, Mr Vance? A At the present, I live  
8 at Ocean Park.

9 Q What was your business --- what is your business now?

10 A Conductor; P. E. Conductor.

11 Q And what was your business last November? A The same.

12 MR ROGERS: Would you mind speaking a little louder?

13 A All right; I will get my nerve first.

14 MR ROWERS: Yes, get your nerve and voice up.

15 A This is my first experience.

16 MR FREDERICKS: Now, Mr Vance, state at what time in the  
17 morning -- you are conductor in charge of a car, I take it,  
18 running through Hollywood into Los Angeles? A Through  
19 Colegrove, leaving Sherman and arriving at Fourth street  
20 station.

21 Q Through Colegrove, leaving Sherman and arriving at  
22 Fourth street station. Now, state at what time in the  
23 morning your car, referring to the month of November, state  
24 what time your car left Sherman in the morning, the various  
25 times, -- well, the first three or four. A Well,  
26 the first trip is 5:41; the next trip is 7:11, and 8:41, one

1 round-trip every hour and a half.

2 Q 8:41? A 10:11 --

3 Q 7:11, and then 10:11? A Yes.

4 Q Did you know Mr Frank E. Wolfe at that time, or had  
5 him so you knew who he was? A I had him pointed out to me;  
6 I knew who he was, yes, but not personally acquainted  
7 with him.

8 Q State whether or not he rode with you during that  
9 time on your car leaving Sherman at 8:41, coming to Los  
10 Angeles?

11 MR ROGERS: We object to that as too indefinite; irrelevant,  
12 incompetent and immaterial; no time stated, not rebuttal.  
13 Of course, we are talking about the 28th day of November,  
14 you know, and perchance, he may have ridden in at 8:41  
15 some morning --

16 MR FREDERICKS: Why make an argument on the facts now, your  
17 Honor?

18 MR APPEL: Arguing to the court.

19 MR ROGERS: And it is really not rebuttal; irrelevant, in-  
20 competent and immaterial. I presume they could produce  
21 conductor after conductor indefinitely to show that at  
22 some time in the world's history Mr Wolfe rode in from  
23 Colegrove at night; maybe at 12 o'clock. What has that got  
24 to do with it.

25 THE COURT: Objection overruled.

26 MR ROGERS: Exception.



1 MR FREDERICKS: Read the question, Mr Petermichel.

2 (Last question read.)

3 A Mr Wolfe rode quite frequently on that 8:41 trip,  
4 yes sir.

5 Q About how many times a week? did he ride with you to  
6 Los Angeles on your 8:41 trip during the month of November?

7 MR ROGERS: I object to that unless the witness will be --  
8 no foundation laid; irrelevant, incompetent and immaterial,  
9 unless the witness is willing to swear on his oath that  
10 he knows how many times he rode.

11 MR FREDERICKS: We will come to that.

12 MR ROGERS: Leading and suggestive.

13 THE COURT: Objection overruled.

14 MR ROGERS: Exception.

15 MR FREDERICKS: Read the question.

16 (Last question read.)

17 A I don't know that I could say he rode regularly,  
18 but I have had him ride as high as three times a week,  
19 at any rate.

20 Q And what time did that car get to Los Angeles.

21 A Due at the station at 9:20.

22 Q Did he ever ride with you on your earlier car, 7:11?

23 A No, I do not think he ever did. I am quite positive  
24 he never did.

25 Q Who pointed him out to you, do you remember, and  
26 what the occasion was? A No, I don't remember the occa-

1 sion. I know I was more or less interested in the election,  
2 and the campaign, and he was pointed out to me as a candidate.

3 Q Candidate for council? A Candidate for council, and  
4 I took more or less, of him, being a candidate for council.  
notice

5 Q And your best judgment is that he rode with you on your  
6 8:41 car about three times a week, is that correct?

7 MR APPEL: Now, wait a moment. We object to that --

8 THE COURT: That is answered.

9 MR APPEL: -- on the ground that the District Attorney  
10 is telling him it is his best judgment.

11 MR FREDERICKS: That is what he said.

12 MR APPEL: No, he didn't say anything of the kind, he  
13 didn't say that was his best judgment.

14 THE COURT: Objection sustained.

15 MR FORD: We object to being scolded.

16 MR FREDERICKS: I don't like to be frightened, either.

17 MR APPEL: It doesn't make any difference whether you do  
18 or not.

19 THE COURT: Mr Appel, I will hear your objection.

20 MR APPEL: He says he objects to being scolded; we are going  
21 to make a correction of his statement.

22 THE COURT: What is your objection?

23 MR DARROW: It is objected to because the same question has  
24 been answered; he told what he had to say about it and  
25 it is leading and suggestive, simply repetition of the  
26 way Mr Fredericks viewed his testimony.

1 THE COURT: Yes, the court anticipated that objection be-  
2 fore it was made and sustained the objection, if you will  
3 examine the record.

4 MR FREDERICKS: Well, then, if we have got it in, we will  
5 stop. That is all.

6  
7 CROSS-EXAMINATION

8 MR ROGERS: Who was it to whom you first told this informa-  
9 tion that you have now vouchsafed to us? A I don't know  
10 the names of the men; somebody interviewed me and asked  
11 me those questions.

12 Q Who was that? A I don't know the names of them.

13 Q Where were you when you vouchsafed the information to  
14 them? A They caught me in the Venice short line; I was  
15 working on the Venice short line, and they asked me the  
16 questions.

17 Q Have you been talking to Stewart and Ruff since they  
18 came on the stand? A They were in there now; they said  
19 so, and several other things --  
20  
21  
22  
23  
24  
25  
26

1 Q They told you how they got cross-examined and so you  
2 got hooked up, didn't you?

3 MR. FREDERICKS. We object to that as being improper,  
4 absolutely improper question to ask of a witness, "and so  
5 you got hooked up".

6 THE COURT. I don't understand exactly what it means.

7 MR. APPEL. He means Hitched up, your Honor.

8 MR. ROGERS. Fixed up. I am going on what I know.

9 Ruff and Stewart talking to this man.

10 MR. FREDERICKS. One more testimony.

11 THE COURT. You have a right to the question provided it  
12 is in a language the witness understands. I don't.

13 MR. ROGERS. Q You know what I mean by "hooked up"?

14 MR. FORD. We don't know and the court don't.

15 THE COURT. I think you had better reframe it.

16 A I don't know what you are talking about.

17 MR. ROGERS. Q Then you have talked to Ruff and Stewart  
18 since they got off the stand, haven't you? A We  
19 naturally talked together. The whole bunch of us in there  
20 together, why wouldn't we talk? All the same occupation,  
21 naturally we would talk.

22 Q yes, sir. Now, Mr. Pance, do you remember the 28th day  
23 of November? A No, sir, I do not.

24 Q Do you remember the 27th day of November? A I don't  
25 remember any particular day at all.

26 Q Do you remember the 26th day of November?

1 MR. FORD. Objected to upon the ground the question has  
2 already been answered.

3 THE COURT. Objection sustained.

4 MR. ROGERS. Exception.

5 Q Do you remember the 29th day of November?

6 MR. FORD. Objected to upon the same ground.

7 THE COURT. Objection sustained.

8 MR. ROGERS. We take an exception. Wont your Honor  
9 permit us to ask him--

10 THE COURT. I think if you read the record he has already  
11 said he did not--

12 MR. FREDERICKS. On cross-examination he said he didn't  
13 remember any particular day.

14 THE COURT. Go ahead, if there is another question.

15 MR. ROGERS. You remember the 29th day of November, Mr.  
16 Vance?

17 MR. FORD. Objected to on the ground the witness has already  
18 testified on cross-examination he didn't remember any  
19 particular day.

20 MR. ROGERS. Then his testimony don't amount to a whoop  
21 and we might as well strike it out.

22 MR. FREDERICKS. We will take that up with the jury later.

23 MR. ROGERS. Q Do you remember the 29th day of November?

24 A No, sir.

25 Q Do you remember the 26th day of November?

26 MR. FORD. We object to that upon the ground it has already

1 . been answered on cross-examination. The witness testified  
2 he didn't remember any particular day.

3 THE COURT. Overruled. Answer the question.

4 A Why, no, I don't remember any particular day at all.

5 MR. ROGERS. Q Do you remember whether Wolff took the  
6 8:41 car on the 28th day of November? A No, sir, I do not.

7 Q Do you remember whether he took the 8:41 on the 27th  
8 day of November? A I don,t remember any paritular day.

9 Nothing to bring it forward to my mind. I remember he  
10 has rode with me succeeding days, probably different days  
11 on the 8:41 trip, but a particular day I couldn't say that  
12 he rode with me.

13 Q How do you know it was in the last part of November  
14 at all? A I know that during the campaign, because I  
15 was very much interested in that election. I was rather  
16 hoping he would be elected, and I was rather an admirer  
17 of the man. I hoped he would win out, so I took a little  
18 more particular notice of him.

19 Q And now--

20 MR. FREDERICKS. Now, he is testifying to what he knows.

21 MR. APPEL. Look at that.

22 THE COURT. Wait a moment, Captain.

23 MR. ROGERS. Now, let's see whatthe court is going to do  
24 with that. Counsel had absolutely no right to make any  
25 comment about what he is doing now.

26 THE COURT. I haven't the slightest idea what Mr. Rogers is

1 . going to day. He say, "Now,"

2 MR. FREDERICKS. "And now your".

3 THE COURT. Now, Gentlemen, let's have a chance for counsel  
4 to frame their questions and propound them to the witness  
5 without interruption. There has been too much inter-  
6 ruption here today from the District Attorney's side of the  
7 table. Proceed, Mr. Rogers.

8 MR. ROGERS. Q You say you were very much interested. You  
9 don't live inthe city? A No. A man can be interested  
10 to a certain extent and hope a man will win without living  
11 in the city.

12 Q Haven't you been told to say that? A No, sir, I have not.  
13 I haven't had any conversation along those lines at all.  
14 That is my own.

15 Q You didn't live inthe city but you were very much  
16 interested inthe election? A Yes.

17 Q Very much?

18 MR. FORD. Objected to upon the ground the witness has  
19 already answered that he was.

20 THE COURT. Qverruled.

21 MR. ROGERS. So?

22 MR. FREDERICKS. That is all--I thought you said that is  
23 all.

24 MR. ROGERS. No, that is not all.

25 A I am. He was a laboring man. I have to work for my own  
26 living so I naturally like to see--

1 Q did these gentlemen with whom you conversed and/<sup>to</sup>whom  
2 you told what you say you know, did they intimate to you  
3 that you should say that on your cross-examination if you  
4 got an opportunity so to do? A I didn't know what they  
5 were driving at when they asked me the few questions that  
6 they did on the car. I hadn't the least idea. I thought  
7 maybe it might have been some witness on somebody we had  
8 run over, something like that. I hadn't any idea it was  
9 connected with this case at all.

10 Q Did you think Wolff got run over? A I thought he might  
11 have been on a car sometime that run over somebody or hit  
12 some wagon. I didn't know it was connected with this case.

13 Q When did you run over anybody that you thought it had  
14 something to do with Wolff?

15 MR. FREDERICKS' Objected to upon the ground it is not  
16 a correct recitation of the testimony. I further object,  
17 may it please the court, to the laugh and cackle of counsel  
18 as being improper, and I call the court's attention to it.  
19  
20  
21  
22  
23  
24  
25  
26



1 THE COURT: I think it is improper.

2 MR FREDERICKS: Here are witnesses brought into court, and  
3 they should not be embarrassed in that way.

4 THE COURT: I think, Mr Rogers, that the witness<sup>is</sup> embarrassed  
5 may be, perhaps, by your attitude.

6 MR ROGERS: Are you embarrassed by my laughing at you?

7 A Not very much.

8 Q How long have you known me anyhow? A Oh, I have seen  
9 you off and on for a good many years.

10 Q About 20 years we have known each other, and my laugh-  
11 ing at you don't embarrass you a bit, did it? A I can't  
12 say it embarrassed me very much.

13 MR FORD: Objected to as immaterial, and an examination on  
14 a collateral matter.

15 THE COURT: Perhaps it is. It clears up a matter.

16 MR APPEL: It was raised by the District Attorney.

17 MR ROGERS: We are getting a wful sensitive all of a sud-  
18 den.

19 MR FREDERICKS: No, always that way.

20 MR ROGERS: Mr Vance, really, you wouldn't pretend to say  
21 what Mr Wolfe came in on the morning of the 28th day of  
22 November, would you? A No sir.

23 MR FORD: Objected to upon the ground -- let us inter-  
24 pose an objection. It has been answered. I won't make an  
25 objection now.

26 THE COURT: He has answered it.

1 MR ROGERS: And you don't know whether he took the 7:11 or  
2 the 8:41 or which car he took on the morning of the 28th  
3 of November, do you?

4 MR FORD: Objected to upon the ground the witness has  
5 already answered that identical question.

6 THE COURT: Overruled. A Why, no, I don't know any par-  
7 ticular day. I know that he rode with me on the 8:41  
8 trip and he has ridden on other times, I am positive of  
9 that, or quite positive.

10 MR ROGERS: Quite positive? A Yes sir.

11 Q Not excessively so, but quite positive. A He didn't  
12 ride on the 5:41, because there was a few workmen, and the  
13 next trip was the 7:11, and there were strap-hangers all  
14 over that car, and when we got to Wolfe's house, there would  
15 hardly be any room left to get on.

16 Q You are reasoning it out? A He didn't get that one.  
17 My car was the 8:41, and I am reasonably certain it was  
18 8:41.

19 Q Just reasonably so, not excessively. A It was the early  
20 car.

21 Q You mean you are reasonably certain, but you wouldn't  
22 be excessively certain.

23 MR FORD: Objected to upon the ground the question has  
24 already been answered.

25 THE COURT: Let him answer it.

26 A Well, the 8:41 is the one he rode on. Yes, reasonably

1 certain.

2 MR ROGERS: Just reasonably so, but on the morning of the  
3 28th you wouldn't even be reasonably certain? A On  
4 the morning of the 28th, I wouldn't be reasonably certain he  
5 rode with me, no..

6 MR ROGERS: Come down.

7 THE COURT: That is all.

8

9 J. E. SNEAD, a witness called on behalf of  
10 the prosecution in rebuttal, being first duly sworn, tes-  
11 tified as follows:

12 DIRECT EXAMINATION

13 MR FREDERICKS: What is your name? A J. E. Snead.

14 Q Where do you live, Mr Snead? A Sherman.

15 Q What is your business or occupation? A Street car  
16 conductor.

17 Q What was your occupation last November? A Street car  
18 conductor.

19 Q And where were you running at that time? A From  
20 Crescent Junction to Los Angeles.

21 Q From Srescent Junction to Los Angeles. And leaving  
22 Crescent Junction -- is Crescent Junction and Sherman the  
23 same? A No sir, about 4 minutes run this side of Sher-  
24 man.

25 Q What time did your car leave Crescent Junction in the  
26 morning, the first three trips, say, during the month of  
November, last year? A 6:58; 8:29; 9:58.

1 Q Do you know Mr Frank E. Wolfe? A I know him when I  
2 see him, yes sir.

3 Q State whether or not he rode with you in the month of  
4 November, being the month prior to the city election here,  
5 on your 8:28 car? A I couldn't say --

6 MR ROGERS: I object to that as leading and suggestive,  
7 let him say when he rode.

8 THE COURT: Objection sustained.

9 MR FREDERICKS: All right. Did he ride with you coming in on  
10 any of your cars? A He rode with me, yes sir.

11 Q And on what car? A I couldn't say any certain car,  
12 but I know he rode on the 8:28 and 9:58, both, in that  
13 month.

14 Q On the 8:28 and 9:58, both? A Yes sir.

15 MR ROGERS: He says, "I couldn't say any certain car", and  
16 if counsel is going to repeat his answer, let him repeat  
17 the whole of it.

18 MR FREDERICKS: He did say two certain cars.

19 THE COURT: The answers ought not to be repeated, unless  
20 it is to straighten the record.

21 MR FREDERICKS: I presume it is a poor habit to get into  
22 to repeat an answer.

23 Q Did he ever ride with you on the car earlier than  
24 the 8:28 car during that time? A I don't remember that he  
25 ever did, no sir.

26 Q How did you get acquainted with him, or get to know

1 .who he was? A Why, he was pointed out to me by passengers,  
2 the motorman I ran with was acquainted with him.

3 A JUROR: A little louder.

4 THE COURT: You will have to speak a little louder. A He  
5 was pointed out to me by passengers and the motorman I was  
6 running with, was acquainted with him, and he called him  
7 by name when he got on the car.

8 Q During that time, state whether or not he rode oftener  
9 on one of these cars than on the other, the 8:28 or 9:58.

10 MR ROGERS: I object to that as calling for a conclusion  
11 and opinion of the witness; leading and suggestive, not  
12 rebuttal, no foundation laid, incompetent, irrelevant and  
13 immaterial.

14 THE COURT: Objection overruled.

15 MR ROGERS: Exception.

16 MR FREDERICKS: Answer the question. A It seemed to me,  
17 the best I can remember, he rode more on the 9:58 than  
18 the 8:28.

19 MR FREDERICKS: Cross-examine.

20 THE COURT: Can you hear his answers, Mr Williams?

21 JUROR WILLIAMS: Not very well.

22 THE COURT: Speak up a little bit. A It seems he rode  
23 more on the 9:58 than the 8:28.

24 THE COURT: Remember you have the same rights here that any  
25 of us have on your car? A Yes sir.

26 MR FREDERICKS: Cross-examine.

## CROSS-EXAMINATION.

1  
2 MR. ROGERS. Q But you say it (seems, as though you would  
3 not be sure about that, would you-- A Well--

4 MR. FREDERICKS. There is another question I want to ask.

5 Q What time does that 8:58 car get into the Fourth street  
6 station at Los Angeles? A I don't have any 8:58 car.

7 Q 8:28. A 9:03.

8 Q 9:03? A Yes, sir.

9 MR. FREDERICKS. All right.

10 MR. ROGERS. Q Do you remember the 28th day of November?

11 A No, sir.

12 Q Do you remember the 27th day of November? A I know  
13 there was that date, but I don't remember the date now.  
14 I don't remember anything that happened that date.

15 Q Do you remember the 26th day of November? A Yes, sir.

16 Q What? A I remember that date.

17 Q You know you passed it, but I mean do you remember it?

18 A I don't remember anything happening that day, no.

19 Q Do you remember the 25th day of November, anything that  
20 happened that day? A No, sir.

21 Q Did Wolfe ride with you on the 26th? A I don't know  
22 whether he did or not.

23 Q On the 26? A I couldn't say.

24 Q The 28th? A I couldn't say.

25 Q The 29th? A I couldn't say that.

26 Q The 30th? A No, sir.

1 Q The 31st? A No, sir.

2 THE COURT. You say "No." Do you mean he did not or  
3 you don't know.

4 A I mean he did not on the 30th and 31st.

5 MR. ROGERS: Q He did not? A No, sir.

6 Q How do you know? A Because I did not work on the 30th.  
7 and there was no 31st.

8 Q Oh, precisely so. Do you know whether he rode with  
9 you on the 29th? A No, sir.

10 Q Do you know whether he rode with you on the 28th?

11 A No, sir.

12 Q With the same certainty can you say whether he rode with  
13 you on the 27th? A I cannot say any certain date that he  
14 rode with me in the month.

15 Q Can you say he rode on the 26th?

16 MR. FREDERICKS: We object to that on the ground it has been  
17 answered in the previous answer.

18 THE COURT. Objection sustained.

19 Q When can you say he ever rode with you, any date?

20 A I cannot say any certain date he rode with me.

21 A JUROR. A little louder, please.

22 MR. ROGERS. Please read it.

23 (Last answer read. )

24 MR. ROGERS. Q Do you know what car he came in on on the  
25 morning of the 28th day of November? A No, sir.

26 Q When did he begin riding with you? A When I first took

1 the run.

2 Q Well, now, we have had four street car conductors here,  
3 five of them--

4 MR. FREDERICKS. We object to counsel making any comments  
5 on the testimony.

6 MR. ROGERS. Q Do you know whether Mr. Wolfe had the  
7 street car habit or not? He has been coming in so often  
8 in the morning, I have just wondered how many times he came  
9 in.

10 THE COURT. I will hear your objection.

11 MR. FREDERICKS. We object to it on the ground it is incom-  
12 petent, not cross-examination.

13 THE COURT. Objection sustained.

14 MR. ROGERS. He has been coming in three or four times a  
15 day on each one of them, and on every car that every con-  
16 ductor has had he has been riding in.

17 Q You don't know whether he did that as a matter of  
18 pleasure or whether he came in 5 or 6 times a day, or  
19 whether he just came in once a day, do you?

20 MR. FREDERICKS. That is objected to--

21 THE COURT. Mr. Rogers, that question is improper. You need  
22 not answer that.

23 MR. APPEL. Here is the point, your Honor will remember  
24 the person--

25 THE COURT. Argue it when the time comes.

26 MR. APPEL. --he rode with him two or three times a week,



1 and every one of these conductors--

2 THE COURT. Objection is sustained.

3 MR. FREDERICKS. There is nothing before the court--

4 MR. APPEL --multiplying 5 by 3 makes 15 times a week  
5 that the man came in--

6 THE COURT. Argue it at the proper time.

7 MR. FREDERICKS. Now, may it please the court, just see  
8 what position this puts us in. We do not want to  
9 violate the rules of the court, and yet they make an  
10 argument on facts and we are bound to reply to them.

11 MR. APPEL. Just showing the bum testimony--

12 MR. FREDERICKS. --we do not want to argue the facts, now--

13 THE COURT. Wait a moment.

14 MR. ROGERS. I will withdraw the question.

15 MR. FORD. No, let the court deal with it.

16 MR. ROGERS. Q Do you know whether Wolfe had the street  
17 car habit and rode in the morning for pleasure or whether  
18 he came in to work?

19 MR. FREDERICKS. That is objected to as immaterial,  
20 not cross-examination.

21 THE COURT. Objection sustained.

22 MR. ROGERS. Q You don't know whether he had the same car  
23 in front of you or the car back of you on the same morning  
24 you say he came in or not, do you?

25 MR. FREDERICKS. We object to that as immaterial, not  
26 cross-examination.

1 .MR. ROGERS. Now, this testimony, if your Honor pleases,  
2 shows absolutely that the man came in about 6 times a  
3 morning.

4 MR. FREDERICKS. Now, may it please the court, this testi-  
5 mony does not show anything of the kind. This testimony  
6 shows he came in--if you are going to argue the facts, so  
7 am I--

8 MR. ROGERS. I am on the floor and I propose to talk  
9 until I finish it up--

10 MR. FREDERICKS. I ask the court to stop this argument on  
11 a matter of fact at this time.

12 THE COURT. Yes, you are right about that.

13 MR. ROGERS. I have a right to argue my question.

14 THE COURT. The question propounded to the witness is an  
15 improper one, argumentative, the objection is sustained,  
16 and counsel--

17 MR. DARROW. Let me get Mr. Frederick's statement, I want  
18 to see what it was. Read the remark, Mr. Reporter, Mr.  
19 Frederick's statement.

20 (Record read.)  
21  
22  
23  
24  
25  
26

1 Q By Mr Rogers: Mr -- What did you say your name was,  
2 I forgot it? A Shead.

3 Q You don't know how many times a morning he did come in,  
4 as a matter, of fact, do you? A No sir.

5 Q You don't know whether he came in on Stewart's car or  
6 on Vance's car, or on Ruff's car on the same morning he  
7 came in on your car, or not, do you? A I know he was  
8 not on their car when he was on mine?

9 Q How do you know?

10 MR FREDERICKS: We object to that as incompetent --

11 MR ROGERS: If they have not sworn he came in now and  
12 then --

13 THE COURT: Wait a minute, Mr Rogers, until we get the  
14 objection.

15 MR ROGERS: I beg your pardon.

16 MR FREDERICKS: We object to that on the ground it is  
17 immaterial, "How do you know?"

18 THE COURT: Objection sustained.

19 MR APPEL: We take an exception.

20 Q If they have sworn he came in every once in a great  
21 while on their car, and he came in on your car at the same  
22 morning, one or the other of you is mistaken, aren't you?

23 MR FORD: We object to that as argumentative, calling for a  
24 conclusion of the witness.

25 THE COURT: Objection sustained.

26 MR FORD: A matter that counsel will have an opportunity

1 to argue to the jury.

2 MR ROGERS: At any rate, you would not attempt to give us  
3 any dates, any day of the week, any week, that Wolfe ever  
4 rode with you on the 8:28 car?

5 MR FORD: We object to that on the ground that the mat-  
6 ter has been fully covered on cross-examination.

7 THE COURT: Objection overruled. Answer the question.

8 A Yes, I remember him riding with me election week.

9 Q Election week; what week is that? A Well, it was  
10 the first week in December.

11 Q Now, what car did he come in on on the first week in  
12 December? A I don't know what car.

13 Q Was it the 8:28? A I couldn't say.

14 Q What? A I couldn't say.

15 Q You couldn't say? A No sir.

16 Q He came in on election week? A Yes sir.

17 Q Well, do you remember any day before election week  
18 that he ever came in at any time? A Not any certain date,  
19 no sir.

20 Q Not any certain date? A No sir.

21 Q You couldn't tell us anything about that? A No sir.

22 Q You would not swear that he did come in with you during  
23 that week? A Which week do you mean?

24 Q The week before election week? A No, I couldn't  
25 say that he did.

26 Q You couldn't say that he did? A No.

1 Q You don't know anything about it? A No sir.

2 Q That is the week that covers the 28th day of November,  
3 and you couldn't say whether he came in with you that week  
4 or not? A No sir.

5 MR FREDERICKS: We object to that on the ground it has  
6 already been covered.

7 MR ROGERS: That is all.

8 THE COURT: It is answered at the present time. That is  
9 all.

10 MR FREDERICKS: That is all.

11 ---

12 H. C. STRAUB, a witness called on behalf  
13 of the prosecution in rebuttal, being first duly sworn,  
14 testified as follows:

15 DIRECT EXAMINATION

16 MR FREDERICKS: What is your name, please? A H. C. Straub.

17 THE REPORTER: How do you spell it? A S-t-r-a-u-b.

18 MR FREDERICKS: Where do you live? A Sherman.

19 Q What is your business? A Conductor?

20 Q Conductor on what line? A Pacific Electric.

21 Q What was your business on November of last year?

22 A Why, Conductor on Colegrove line.

23 Q What time did your car -- or what points did your car  
24 run between? A Crescent Junction and Los Angeles.

25 Q What times did your car leave Crescent Junction coming  
26 to Los Angeles? A 8:58.

1 Q Take the first time? A 7:28.

2 Q And then the next time? A 8:58.

3 Q And then the next time? A 10:28.

4 Q Do you know Mr Frank E. Wolfe? A I know him when I  
5 see him, yes.

6 Q That is what I mean. When did you first learn who he  
7 was? A During the campaign.

8 Q During the campaign? A Yes.

9 Q State, Mr Straub, whether or not, during the campaign,  
10 Mr Wolfe rode in town with you at any time, and if so,  
11 at any time on your 8:58 A.M. run?

12 MR APPEL: We object to that upon the ground it is incompe-  
13 tent, irrelevant and immaterial, and no foundation laid  
14 and not rebuttal. The question not being directed to any  
15 specific time or to any specific item of evidence testi-  
16 fied to by Mr Wolfe.

17 THE COURT: Overruled.

18 MR APPEL: We except.

19 MR FREDERICKS: Read the question. (Last question read  
20 by the reporter.) I will add, by "during the campaign", I  
21 mean, during the month or six weeks prior to the city elec-  
22 tion on the 5th of November last -- 5th of December, last?

23 MR APPEL: Now, we make the same objection, and because and  
24 further, on the ground that the witness' attention is  
25 called to a time and to circumstances not relevant or mater-  
26 ial to this case, and not relevant or material to any issue

1 in this case, and purely collateral.

2 MR FREDERICKS: Calling the court's attention to the tes-  
3 timony --

4 THE COURT: Objection overruled.

5 MR FREDERICKS: Page 4258, in which --

6 THE COURT: You read that this morning.

7 MR APPEL: It is the same as this collateral issues I  
8 cited yesterday. I don't want to argue it again; like  
9 the San Francisco case, where they proved an alibi for the  
10 defendant, and then tried to prove he was not a certain  
11 number of years in some other county.

12 MR FREDERICKS: Do you remember the question now, Mr  
13 Witness? A How is that?

14 Q Do you remember the question? Read it. (Last ques-  
15 tion read by the reporter.) A You want to know how  
16 often he rode in?

17 Q Yes. Answer first, did he ride in with you at that  
18 time; state yes or no? A Yes, about once or twice a  
19 week.

20 Q Now, what is the car -- your car that comes by or the  
21 7:28 car; did he ever ride with you on that car?

22 A 7:28?

23 Q Yes. A Very seldom.

24 MR FREDERICKS: Cross-examine.  
25  
26

## CROSS-EXAMINATION.

1  
2 MR. APPEL. Mr. Straub, how old are you? A I am 33.

3 Q When were you born? A 1878.

4 Q And where did you reside when you were on that run?

5 A In Indiana.

6 Q Now, he was pointed out--

7 THE COURT. Just a moment. The witness didn't understand  
8 the question or I didn't.

9 A By his cards.

10 Q He was pointed out to you by his cards.

11 THE COURT. Just a moment. There is a question back there  
12 the witness didn't understand or I didn't. Read the  
13 question and answer.

14 (Question and answer read as follows: "Q And where did  
15 you reside when you were on that run? A In Indiana.")

16 MR. APPEL. You probably misunderstood my question. I  
17 thought he meant Indiana street. I know of Indiana  
18 street here and I supposed that was the answer. My  
19 question was during this election--

20 MR. FORD. We would like--does the witness desire to correct  
21 his answer.

22 MR. APPEL. I am trying to correct it.

23 MR. FORD. What does the witness say? Lived on Indiana  
24 street?

25 A No, my home town; my home state.

26 THE COURT. Mr. Appel is examining the witness.



1 MR. APPEL. I know, he misunderstood my question. I am  
2 trying to correct it. Q During the campaign, that is  
3 the military appellation of an election, of a campaign,  
4 given by Captain Fredericks. During the campaign where  
5 did you reside? A Sherman, California.

6 Q Now, what campaign do you mean? A What campaign?

7 Q Yes. A I didn't state particularly of any.

8 Q Now, he was pointed out to you by his cards? A Yes,  
9 also by passengers.

10 Q Now, what passengers pointed him out? A Well, I couldn't  
11 say. By Mr. Cole, I suppose.

12 Q Senator Cole? A Of Colegrove, yes, sir. He was  
13 talking and I asked him who he was.

14 Q Asked whom? A Mr. Cole, who it was.

15 Q Senator Cole? A No, one of the young fellows.

16 Q George Cole? A Yes.

17 Q It was George? A Yes.

18 Q It was not Mason Cole? A I don't know.

19 Q You don't know what Cole it is? A I know it is a  
20 son of Senator Cole.

21 Q Did he point him out to you on December 1st? A No, he  
22 didn't point him out at all.

23 Q But you asked him who the man was whose picture or  
24 photograph was on the back of cards, something like that?

25 A Yes, you know they pass them around, you see, just  
26 by his card, you see, he passed them around and he happened

1 to get hold of ones.

2 Q And it was about December 1st, wasn't it? A Well, I  
3 couldn't tell what time it was.

4 Q Was it before December 1st that you particularly paid  
5 attention to Mr. Wolff on account of his cards? A No, I  
6 didn't pay much particular attention to him at all.

7 Q It was-- the campaign, if any, whatever, you had in your  
8 mind, was really getting hot? A Yes.

9 Q Now, that was the last day, just before the 5th, hey?

10 A I think it was.

11 Q Then about that time just a few days before the campaign  
12 you commenced to pay more particular attention to him than  
13 before? A Oh, yes.

14 Q Or you had--before you had no reason to pay particular  
15 attention to him? A No, sir.

16 Q You didn't try before the first day of December, or  
17 four or five days before the campaign, you didn't try to  
18 remember how often he got on one car or how often he  
19 went out on another? A No, sir.

20 Q You treated him like you did any one else? A Like  
21 any one else.

22 Q In fact you become so used to seeing men going into  
23 town and coming out on your car that it becomes a matter of  
24 almost everyday occurrence, so it didn't make any particular  
25 impression on your mind, is that right? A Yes, sir.

26 Q Now, so far as Mr. Wolff was concerned, he was not an

1 exception to the general run of passengers on your car, so  
2 as to be able to fix your mind especially upon him, is that  
3 right? A Yes, sir.

4 Q Now, you say that very seldom he took the 7:28 car?

5 A Yes, sir.

6 Q Now that you say very seldom, by that you mean that he  
7 may possibly. I will put it in that way, have taken the  
8 7:28 car but say once a week? A Yes, about once a week  
9 he may have once every two weeks.

10 Q Now, you don't know--

11 MR. FREDERICKS. What car was that?

12 MR. APPEL. The 7:28 car.

13 A Because that was my heavy trip, you see.

14 Q Now, the 7:28--

15 MR. FORD. Let the witness finish his answer.

16 A It was a heavy trip and it is pretty hard to keep track  
17 of the passengers that get on.

18 MR. APPEL. The 7:28 car was a heavy trip? A Yes, sir.

19 Q That is to say it was a crowded car? A Yes, sir, about  
20 90 to 95.

21 Q 90 to 95 in the car? A When I got into Los Angeles,  
22 the Hill street station.

23 Q And there are a good many people living right down there,  
24 starting with Colegrove? A Pretty near every corner.

25 Q That would come in on that car in order--that is,  
26 business men? A Yes, sir.

1 Q Families and children going to school and so on, is that  
2 right? A Yes, sir.

3 Q So that occasionally you noticed Mr. Wolff coming in on  
4 that 7:28 car? A Yes, sir.

5 Q Now, don't you remember, my friend, that when this  
6 campaign that you spoke of was getting hot, that he was  
7 pretty much in evidence, that is, that he was moving  
8 about pretty regularly every morning. You saw him more  
9 often, didn't you?  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 A More often, I kept track of him more.

2 Q You packed him in town more often, didn't you? A I  
3 kept track of him more, but I hauled him about the same as  
4 usual.

5 Q That is, some mornings about the last two weeks,  
6 the two weeks ending with December 5th, you may have brought  
7 him in at 7:28 in the morning?

8 MR FORD: Just let me hear the preceding answer there.

9 MR APPEL: Now, let him answer, and then you can read it.

10 THE COURT: Answer the question first.

11 MR FORD: Just a moment. We may desire to object to it.

12 MR APPEL: I will withdraw the question. I will get it  
13 in another way. It is an old trick; I am on to that.

14 THE COURT: There is no occasion for that remark. The  
15 court has ruled with you.

16 MR APPEL: I have a right to say that, and I will stay by it

17 MR FORD: I desire it in order I may interpose an objec-  
18 tion to it, if the preceding answer would furnish one.

19 MR APPEL: In all fairness to the witness and counsel, he  
20 ought to pay attention to what is going on.

21 THE COURT: The court has so ruled.

22 MR APPEL: Read the last question.

23 MR FORD: I want the preceding answer.

24 THE COURT: No, you can't have the answer before. Read the  
25 last question and let it be answered, and then if you want  
26 the one prior you can have it.

1 MR FORD: Then I have no opportunity to make an objection.

2 THE COURT: I understand it.

3 (Last question read by the reporter.)

4 MR APPEL: You may have brought him in? A Yes, I may.

5 MR FORD: Now, may I have the preceding question and  
6 answer?

7 THE COURT: Yes sir, you may have it now.

8 (Preceding question and answer before last question,  
9 read by the reporter.)

10 A I didn't haul him very much at all.

11 MR APPEL: In fact, ~~he~~ didn't come in very much with you  
12 at all? A Very seldom.

13 Q But that is the very reason why you stated here to  
14 the jury that the last week or so of this campaign end-  
15 ing with December 5th, that it is possible you have some  
16 sort of a recollection that you brought him in at 7:28  
17 in the morning? A Yes.

18 MR FREDERICKS: May it please the court, the witness has  
19 not said he had some sort of a recollection; he said he  
20 may have.

21 MR APPEL: I have put the question.

22 THE COURT: No objection before the court.

23 MR APPEL: The witness has answered.

24 MR FORD: Objected to upon the ground it is stating some-  
25 thing that is not in evidence, and that it is not calling  
26 for any question that is material, and it is irrelevant

1 and immaterial.

2 THE COURT: Overruled.

3 MR FORD: And misstating the evidence.

4 MR APPEL: Now, Mr Straub, do you remember whether or  
5 not he had a mustache on at that time? A Mustache?

6 Q Yes. A I think he had.

7 Q A gray mustache, didn't he? A Gray mustache.

8 Q Now, starting there from Crescent Junction -- is Cres-  
9 cent Junction beyond Colegrove? A Yes sir.

10 Q About how many -- what distance beyond? A Oh, about  
11 5 or 6 miles.

12 Q Is Crescent Junction the other side of Sherman?

13 A It is this side of Sherman.

14 Q Then it is between Colegrove -- somewhere between Cole-  
15 grove and Sherman? A Between Colegrove and Sherman.

16 Q Now, from Crescent Junction to Colegrove, is it pretty  
17 well thickly settled there at that time? A No, it isn't  
18 very thickly settled.

19 Q What I mean, in the immediate neighborhood there ~~is~~  
20 quite a number of houses? A Yes, quite a number on  
21 out across --

22 Q Quite a number, that is, on both sides of the road?

23 A Yes, a few there, and a few on the other side, and so on.

24 Q Now, starting from Crescent Junction at 7:28 about  
25 what time would you be due at El Centro? A Well, it  
26 is about a eight-minute running time.

1 Q So it would be about 7:36? A About 7:36.

2 Q And what time would it bring you into town? A 8:03.

3 Q And it would bring you at 8:03 up to the station?

4 A At Hill street station.

5 Q Did you stop on Second street to discharge passen-  
6 gers? A We discharged passengers from Temple street  
7 clean down to Hill street.

8 Q Now, the 7:28 car being a heavy car, you carry about 95  
9 passengers; I think you said that? A Yes.

10 Q What is the capacity of one of those cars? A Seated,  
11 it will hold 48.

12 Q Sometimes you carry double, howefver? A yes sir.

13 Q That would be standing up? A Yes sir, be standing  
14 up and on the platform and all over.

15 Q Now, when that 7:28 car -- when you had a heavy  
16 load of 90 some odd passengers, you would have acrowd,  
17 and the different stopping places you would have to stop  
18 to take in passengers and let others out? A Oh, yes.

19 Q And under those conditions, sometimes, you lost time,  
20 didn't you? A Oh, yes.

21 Q So that whenever you had on the 7:28 car, you had a  
22 heavy load, and according to circumstances and conditions,  
23 you would never becertain that you would arrive at the  
24 Fourth street -- Hill street depot at the regular hour?

25 A Oh, no, we was always late that trip.

26 Q Now, as much as 10, 12 or 15 minutes late, sometimes?



1 A Oh, no, not that much; 5 or 6 minutes.

2 Q All depends on circumstances? A Yes sir.

3 Q How many cars run on that same track? A There are  
4 six.

5 Q Six cars in the morning? A Three of them at Sherman  
6 and three of them at Crescent Junction.

7 Q And where would they come on the same track, any Holly-  
8 wood cars would come up to El Centro junction? A On  
9 the same track?

10 Q yes, I mean to say, the Colegrove cars come on one  
11 track, don't they? A They come on the Colegrove line.

12 Q And then, the Hollywood? A Hollywood comes on the  
13 Hollywood line.

14 Q Do those cars meet at any place and come on the same  
15 track? A At Sanborn Junction.

16 Q Now, the morning cars were the heavily laden cars?

17 A Yes sir.

18

19

20

21

22

23

24

25

26

1 .Q Now, the time which you would arrive in Los Angeles  
2 would also depend on the fact whether or not you were inter-  
3 rupted in your stop, and the travel into town by the discharge  
4 of  
/passengers from other cars ahead of you sometimes? A yes,  
5 sir.

6 Q Now, Mr. Straub, you have no means either written or from  
7 some circumstance by which you can distinguish dates  
8 whether or not Mr. Wolff came into town on your 7:28 car on  
9 the morning of November 28, 1911, can you? A No, sir.

10 Q And you have no recollection and no circumstance and  
11 no event by which you now remember or of which you have now  
12 any recollection, by which you can state to this jury that  
13 he did not come into town on the 7:28 car on the 28th  
14 day of November, 1911?

15 MR. FREDERICKS. Objected to upon the ground that it is  
16 immaterial, in view of the testimony of Mr. Wolff as to the  
17 time that he says he did come in.

18 THE COURT. Objection overruled.

19 THE COURT. Do you want the question read?

20 A I want it read again.

21 MR. APPEL. Q You cannot state that Mr. Wolff did not come  
22 in with you-- A No, I cannot tell--

23 Q --on the 7:28 car on the morning of the 28th of November?

24 A No, I cannot tell if he did or not.

25 Q Now, I understand that you have heard passengers, in  
26 the course of your business there, refer to the 8 o'clock

1 car? A Oh, yes.

2 Q 8 o'clock car, is that right? A Yes.

3 Q Now, is there any car that really passes Crescent  
4 Junction or El Centro that is called the 8 o'clock car?

5 A No, sir.

6 MR. FORD. By conductors?

7 MR. APPEL. Or in the course of business there, by conduc-  
8 tors, or by passengers, that is, people dealing with the  
9 conductors, is there any car? A No, I do not think there  
10 is.

11 Q Did you ever hear them call it the 8 o'clock car? A Yes,  
12 sir.

13 Q You understood by that they meant any car along that  
14 hour? A Yes, sir.

15 MR. APPEL. That is all.

16  
17 REDIRECT EXAMINATION.

18 MR. FREDERICKS. Q There is a car that goes through there,  
19 however, at 8:07 in the morning, isn't there? A 8:07.

20 Q Goes through El Centro? A I believe that 7:41--

21 Q Leaves Crescent Junction at 7:58? A yes, 7:58.

22 MR. APPEL. That is in evidence here already, your Honor.

23 MR. FREDERICKS. All right, that is all.

24 THE COURT. That is all. Have you photographed the exhibits  
25 and have them back, Mr. Dehm?

26 MR. DEHM. Yes, your Honor.

F. V. OWEN,

a witness called on behalf of the People, in rebuttal,  
being first duly sworn, testified as follows:

DIRECT EXAMINATION.

MR. FREDERICKS. Q State your name to the jury, please?

A F V Owen.

Q Where do you live, Mr. Owen? A 2019 Dayton avenue in  
this city.

Q How long have you lived here in Los Angeles? A About  
7 years.

Q What is your business or occupation? A Real estate.

Q Do you know C O Hawley? A yes, sir.

Q How long have you known him? A A little over two years.

Q Do you know his general reputation in the neighborhood  
in which he resides for truth and veracity, yes or no?

A I do.

Q The witness nodded his head? A yes, sir.

Q Is that reputation good or bad? A It is bad.

MR. FREDERICKS. Take the witness.

CROSS-EXAMINATION.

MR. ROGERS. Q What personal grudge have you got against  
him? A I have none. I feel rather sorry for the man.

Q Now, you have known him two years. When you knew him  
he was Mayor Harper's Fire Commissioner, or Mayor Alexan-  
der's Fire Commissioner, wasn't he? A I believe he was

1 .appointed by Mayor Alexander, yes, sir .

2 Q When you first knew him he was Fire Commissioner under  
3 the Good Government administration? A Yes, sir .

4 Q Huh? A He was Fire Commissioner when I first knew him.

5 Q And you have only known him two years? A That is all.

6 Q You have had some real estate transactions with him, I  
7 take it? A I did not.

8 Q Had some business dealings with him? A Of no kind what-  
9 ever.

10 Q What is your trouble with Hawley? A None.

11 Q None whatever. You feel sorry for him on what account?

12 A Well, he lost out here in Los Angeles financially  
13 and otherwise, I understood.

14 Q Whom did you ever say that Hawley was not worthy of  
15 belief?

16 MR. FREDERICKS. To whom, I suppose that means?

17 MR. ROGERS. The question goes as it stands.

18 MR. FORD. Let the question be read. We object on the  
19 ground the question does not mean anything.

20 THE COURT. Objection overruled.

21 MR. FORD. May the question be read? I do not think it  
22 was complete.

23 THE COURT. I think it is, I heard it.

24 MR. FORD. We would like to hear it read.

25 THE COURT. Do you want the question read, Mr. Owen?

26 A Yes.

1 .(Question read.)

2 MR. ROGERS. Hearsay, that Hawley was not worthy of belief?

3 MR. FORD. The word "hear" was not in it.

4 MR. ROGERS. Why, certainly it was.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 A Well, I don't know that I can recollect who I ever  
2 heard say that.

3 Q You know general reputation is what people say about  
4 a man. Tell me whom you ever heard say that Hawley was not  
5 worthy of belief,-- one man? A My recollection is that  
6 Martin Betkouski, a member of the council made some simi-  
7 lar statements about that, something of that nature.

8 Q When? A About 2 years ago.

9 Q Where? A In the city hall.

10 Q That he would not believe Hawley under oath, eh?

11 A I would not say he used those words, no. That is the  
12 impression I gained, however, that he did not consider  
13 him a man of truthfulness or veracity.

14 Q Anybody else besides Martin Betkouski? A There were  
15 several who left that impression with me, without using  
16 any such language.

17 Q Who? A Well, I don't know that I could name them at  
18 the present time. I recollect that I made some inquiry  
19 and it is over two years ago, or about two years ago,  
20 and I have not tried to recall their names or the cir-  
21 cumstances.

22 Q When you testify that a man's general reputation  
23 that is what People say about him, is bad, don't you  
24 recognize you have got to do more than <sup>say</sup> one man said some-  
25 thing against him?  
26

1 MR FREDERICKS: That is objected to as speculative and  
2 argumentative, not cross-examination.

3 THE COURT: The question has some of those elements, but  
4 I think the question ought to be answered. Objection  
5 overruled.

6 A I am not an expert on a matter of evidence.

7 Q You testified that his general reputation, that is  
8 what people generally state about Hawley, for truth, hon-  
9 esty and integrity was bad. Now, tell me any man's name  
10 besides Martin Betkouski that you ever heard say that he  
11 was not worthy of belief? A I don't think I could give  
12 you the name of anyone man that ever made any such state-  
13 ment, but --

14 Q Then, how did you come to say --

15 MR FORD: Let him finish his answer. He said "but--"

16 THE COURT: Go ahead and finish the answer. A -- but  
17 the impression I gained from a number of men with whom I  
18 talked was exactly that.

19 MR ROGERS: Mention any one of the men. A If I had a  
20 list of the fire department here, I could name you several.

21 Q Never mind a list of the fire department. You have sworn  
22 his general reputation was bad. Now, tell me the name of  
23 any man, except Martin Betkouski, that says C. O. Hawley  
24 is not worthy of belief, sustain yourself.

25 MR FORD: We object to that on the ground that the wit-  
26 ness should not be told to sustain himself, that he answer-



1 .ed if he had a list of the fire department, he could name  
2 several, and he has a right to do that, and a man has a  
3 right to testify to general reputation without being able  
4 to specify the names of --

5 THE COURT: Let us have the answer. Objection overruled.

6 MR FORD: We object to the form of the question, "sus-  
7 tain yourself."

8 THE COURT: That is a harmless expression. A What is  
9 the question.

10 (Question read.)

11 A Is the answer to sustain myself or to tell some other  
12 names?

13 MR ROGERS: I will strike out the words "sustain your-  
14 self." Answer the rest of it, Mr Owen. A I would  
15 not undertake to name, at this moment, any other man that  
16 ever made any such statement.

17 Q But, do you come on this stand and swear that a man's  
18 reputation, generally, in the community, for truth ,  
19 honesty and integrity is bad, when you cannot mention the  
20 name of but one man who ever said anything against him.

21 MR FORD: We object to that on the ground that the ques-  
22 tion is incompetent, irrelevant and immaterial and argu-  
23 mentative, and the witness has not testified --

24 THE COURT: Objection sustained.

25 MR ROGERS: How did you come to say his general reputation  
26 for truth, honesty and integrity is bad when you don't

1 .know the name of a man that said anything against him, save  
2 one? A Because I made inquiry, and I failed to find any-  
3 body who would say his reputation was good, and I did --

4 Q Who did you make inquiry of -- A And I did find  
5 others who by their method of answering my questions, left  
6 the impression that his reputation was bad.

7 Q Now, seeing whom you inquired of -- who told you that  
8 his reputation was bad; give me one of their names? A I  
9 stated before I could not name any one who said his reputa-  
10 tion was bad, but I could give you the names of several who  
11 left the impression with me his reputation was not good.

12 Q What did they say? A Sometimes they didn't say very  
13 much, but they shrugged their shoulders, and that was a  
14 complete --

15 Q Mention their names? A Mr Guy Eddie, Prosecuting  
16 Attorney, is one.

17 Q Guy Eddie. Go ahead; somebody else? A Mr Robinson.

18 Q Did Guy Eddie shrug his shoulders? A--No, by the way?  
19 he went a good deal further than that.

20 MR FORD: Give him a chance to finish his answer. He said  
21 Mr Robinson --

22 MR FREDERICKS: What Robinson?  
23  
24  
25  
26

1 . A Deputy City Attorney, I believe he is. I think, also,  
2 there was some other councilmen, but I would not be quite  
3 sure about it--it was sometime ago. I also discussed him  
4 with my fellow fire commissioners and they were rather  
5 noncommittal on a subject they ought to give an answer on.  
6 I went to see--

7 Q Let us hear--

8 MR. FORD. Let him finish the answer.

9 THE COURT. Let the witness finish.

10 MR. ROGERS. Let us hear their names, a general impression  
11 and a shrug of the shoulders, to destroy a man's reputa-  
12 tion with. They ought to have said something they did not  
13 say, and I want to know who they are--

14 THE COURT. Wait a minute, the witness has not finished  
15 his answer.

16 A I went to a number of underwriters and to one or two  
17 insurance men, I recall Mr. Will Stevens, as a particular  
18 insurance man--I was not very well acquainted in the insur-  
19 ance field, and Mr. Hawley was engaged in the insurance  
20 business, and I naturally supposed I could get some state-  
21 ment of his character, so Mr. Stevens was--didn't give him  
22 a clear bill of health, but he was very conservative in  
23 his statements; he left the impression with me that Mr.  
24 Hawley--

25 Q I don't care for the impressions. Tell me what he said.

26 MR. FORD. He just asked for it.

MR. ROGERS. No, I did not. I don't care for this kind of

1 sneering stuff, let us have what he said.

2 THE COURT. Wait a minute--

3 MR. FORD. He has asked for a list of the people with whom  
4 he talked--

5 MR. ROGERS. No, I asked him what they said, your Honor.

6 THE COURT. yes, you are entitled to what they said.

7 MR. ROGERS. Q Tell us what they said? A Well, my  
8 recollection is that Mr. Stevens said that his reputation  
9 among insurance men was not good, that he personally did  
10 not know very much against him. I talked with several  
11 members of the fire department whose names I never did know,  
12 and some that I had--Mr. Perry, who was selected by Mr. Hawley  
13 as superintendent of the Fire Alarm Bureau, was one--

14 Q Who? A Mr. Perry. Mr. Manahan, he was City Electrician,  
15 I have talked with him at different times; there were  
16 so many of them that I couldn't name them, and I dismissed  
17 the matter from my mind sometime ago, and to dig up into  
18 two years ago at this time without making some effort  
19 towards it, I could not do it, to locate the names and  
20 tell what those men said.

21 Q Now, what is your general reputation, do you know?

22 A No, I do not.

23 MR. FORD. Just a moment.

24 THE COURT. Strike out the answer.

25 Q What were you prowling about Hawley's general reputation  
26 for? A I was very much interested at that time.

1 Q On what account, Mr. Owen? A Well, I had to sit along-  
2 side of him on the Fire Commission and pass upon matters  
3 that were of interest to the city.

4 Q You were a fellow commissioner of his? A Yes, sir.

5 Q And you and he mixed up about the fire alarm of the  
6 Gamewell System, didn't you? A Well, we mixed up on a  
7 good many matters.

8 Q Well, you mixed up on the Gamewell System, didn't you?

9 A No, I do not think so.

10 Q You knew there was a bunch of graft coming over on the  
11 Gamewell System proposition, you were for the Gamewell  
12 System, Hawley was against it, and you had one terrific  
13 row about it, isn't that so? A That is not true.

14 Q Well, how do you account for the tribulations that  
15 arose over the Gamewell system and your favoring it and the  
16 charges of graft that were made against you at the time?

17 A I never favored it and no charges of graft were made  
18 against me.

19 Q You mean to say charges of graft on the Gamewell system  
20 were not made against you while you were on the Fire  
21 Commission? A I never heard of it.

22 Q Weren't they published in the papers? A I never saw it.

23 Q Didn't Hawley make the charge against you in open meeting  
24 you were bought by the Gamewell system to put in the Game-  
25 well System against the Cregier system? A He did not.

26 Q You mean to say that matter was never broached in the

1 Fire Commission, Mr. Owen? A No, I don't mean to say that,  
2 that the Gamewell System was not broached in the Fire  
3 Commission. I filed reports in the Fire Commission and they  
4 are on record now, advocating throwing out everything  
5 the Gamewell people had here.

6 Q After you had been charged with graft? A No, sir,  
7 long before. No charge was made in connection with it that  
8 I ever heard of.

9 Q But you were charged with being in on the graft of the  
10 Gamewell System, weren't you? A Not that I heard of.  
11 Would have been some trouble if I was.

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

1 Q Weren't you, as a matter of fact, favoring the Gamewell  
2 system at the start? A No sir, I opposed it from the  
3 start.

4 Q Now, then, you opposed it from the start. Do you  
5 remember the accusations of graft that were made in connec-  
6 tion with the adoption of the Gamewell system of fire alarm  
7 and you and Mr Hawley splitting up over it. A That was  
8 long previous to Mr Hawley or me being on the fire commis-  
9 sion, it has not been settled yet.

10 Q It has not been settled yet? A No.

11 Q And it ran all along through your administration, Mr  
12 Owen, didn't it? A Yes.

13 Q You and Hawley mixed over that question, didn't you?

14 A Not very much.

15 Q Not much, but some. Didn't the Gamewell system charge  
16 you openly with trying to graft off of them? A Why, no,  
17 I never heard of it.

18 Q You didn't; not in the papers or anything else?

19 A Never; nowhere.

20 Q Well, your and Hawley's row came up from the graft  
21 question on the fire alarm system of this city, didn't it,  
22 Owen? A No sir, it did not.

23 Q Some of it came up over that, didn't it? A I was  
24 advocating the abolishing of the Gamewell system, and  
25 the city putting its own system in and Mr Hawley didn't  
26 favor it.

1 Q Now, seeing that I have got you opposing the Gamewell  
2 system, will you say that you were not charged with at-  
3 tempting to graft off the Gamewell system, and that was  
4 not the origin of the trouble between you and the rest of  
5 the fire commission? A I never heard of it. If there is  
6 any evidence of that fact, I would like to hear of it now.

7 Q Maybe the grand jury would also like to hear of it.  
8 I won't give it to you now, Mr Owen. You do admit that  
9 you and Hawley and the rest of the fire commission mixed  
10 over that graft proposition of the Gamewell system as  
11 against other systems, don't you? A No, that graft sit-  
12 uation was in the council, not in the fire commission. We  
13 had no more to do with it than you had. We didn't buy any  
14 fire apparatus and didn't order any, and were --

15 Q You had to recommend it, didn't you? A Yes, but our  
16 recommendations usually didn't count. If they had we would  
17 have had a fire alarm system here ten years ago, because  
18 similar recommendations have been made pretty near that  
19 long ago to abolish the system which we had.

20 Q Are you a fire commissioner now? A No sir, I am not.

21 Q When did you cease being a fire commissioner?

22 A The latter part of January, 1911.

23 Q Did you resign? A Yes sir.

24 Q By request? A No sir.

25 Q No. You just took it into your head to resign?

26 A That is right.



1 Q You are in the real estate business, you say? A Yes.

2 Q What particular firms, corporations or business inter-  
3 ests do you represent, Mr Owen?

4 MR FREDERICKS: That is objected to as being indefinite,  
5 assuming that he represents any.

6 Q Well, you now -- if your Honor please, --

7 THE COURT: Objection overruled; I think it is sufficient-  
8 ly definite.

9 A In the real estate business?

10 Q Yes sir. A I do not represent any but myself.

11 Q What business have you been in besides being in the  
12 real estate business and the fire commissioner for a spell?

13 A I don't call the fire commissioner a business.

14 Q Well, you didn't make it a business, but didn't you  
15 try to? A No sir, I did not.

16 Q All right. Aside from that, what business have you  
17 been in? A Well, I have been connected with the Merchants  
18 Fire Dispatch for about five years, something like that.

19 Q Now, you remember, Owen, don't you, that you have got  
20 a particular and special grudge against me personally,  
21 have you not? A No sir, I have not.

22 Q Don't you remember that Mrs Ford killed Mr Ford, the  
23 president of the Merchants Fire Dispatch? A yes sir.

24 Q And that I defended her and acquitted her? A Yes sir.

25 Q And that you were a witness against me on that occasion  
26 and that I cross-examined you for quite a little bit; do

1 you remember that -- don't you? A Well, I thought your  
2 cross-examination was very easy and very liberal; I was not  
3 dissatisfied with it.

4 Q No, neither was I. A I think you made the statement  
5 to the court that you were very easy on the witnesses for  
6 the prosecution at that time.

7 Q And you remember, don't you, that I represented Mrs  
8 Ford, who was trying to get her share of her husband's  
9 property out of the Merchants Fire Dispatch, when you were  
10 a beneficiary under the will to exclude Mrs Ford?

11 A I think I testified in court I thought I was not a  
12 beneficiary.

13

14

15

16

17

18

19

20

21

22

23

24

25

26

13p

1 Q You were mentioned in his will? A Yes, I was mentioned,  
2 but that does not constitute me a beneficiary--

3 Q Mr. Ford--

4 MR. FORD. Let the question be answered.

5 A I was mentioned in the will, but that does not necessarily  
6 constitute me to be a beneficiary.

7 Q Mr. Ford attempted to will you personally quite a lot of  
8 his property and his wife contested the will? A No, sir.

9 Q And I was her attorney, isn't that so-- A No, sir,  
10 that is not so--

11 MR. ROGERS. Send down for the will. A --I will state  
12 how that is if you wish--

13 THE COURT. You can explain your answer if you wish to.

14 MR. FORD. Let the witness state his understanding of it.

15 THE COURT. He has answered the question. Now, he can  
16 explain his answer.

17 A I was left in the will a very small portion of Mr. Ford's  
18 property and it was property which I had previously given  
19 to him without price and which, previous to his death, he  
20 wanted to transfer to me without mentioning anybody--

21 THE COURT. Will this cross-examination last for sometime?

22 MR. ROGERS. Yes, sir, as I am going into the Ford estate  
23 now.

24 THE COURT. We will take our recess at this time. Gentlemen  
25 of the jury, bear in mind your former admonition. We  
26 will take a recess for 10 minutes.

(AFTER RECESS.)

1  
s 2 MR. ROGERS. Q I show you what purports to be the last  
3 will and testament of Albert P Ford. You said you were  
4 not a beneficiary under his will. I call your attention  
5 to the clause on the second page marked "Fourthly" and  
6 ask you to read it, and desire to know if you still adhere  
7 to your answer?

8 MR. FORD. May we see it?

9 THE COURT. Counsel has <sup>not</sup> seen the document.

10 MR. ROGERS. I beg your pardon.

11 MR. FREDERICKS. We object further upon the ground it is  
12 incompetent, irrelevant and immaterial in view of the  
13 answers of the witness made before its production.

14 THE COURT. Read the last answer.

15  
16 THE REPORTER. Mr. Petermichel has it.

17 MR. FORD. I ask your Honor to look at this document so  
18 our objection may be intelisible to the court. We object  
19 upon the ground it is incompetent, irrelevant and immater-  
20 ial; that it is an attempt to examine the witness on matter  
21 not having any relevancy to his state of mind towards this  
22 case, his motive or his relation towards this case or to  
23 the defendant, a matter ~~that~~ is clearly collateral and  
24 having no relevancy to the matter before the court; on the  
25 further ground that it doesn't standing by itself, or any  
26 matters therein referred to, impeach or tend to impeach the  
statement of the witness that he was named there or that he

1 did not consider himself a beneficiary under it, and even  
2 if he had said he didn't consider himself a beneficiary under  
3 it, that statement is absolutely irrelevant and immaterial,  
4 and doesn't show any motive for testifying falsely in this  
5 case, or showing any bias or prejudice on his part towards  
6 the defendant in this case, or indicating a state of mind  
7 which would in any wise militate against him in this case,  
8 and the cross-examination is purely collateral and not  
9 material.

10 MR. ROGERS. I purpose to demonstrate by the cross-examina-  
11 tion that Mr. Dehm and myself defended Mrs. Caroline F.  
12 Ford for the alleged murder of Mr. Owen's partner about  
13 6 months ago. That she was acquitted and that he has an  
14 interest in the estate of A. P. Ford. That he was one of  
15 the prosecutors in that case which I defended, and Mrs.  
16 Ford is now contesting that very will.

17 THE COURT. What of it?

18 MR. ROGERS. What of it? If she had been found guilty,  
19 why, the will would have gone and she would have had no  
20 rights whatever in the estate. She was acquitted by the  
21 jury.

22 THE COURT. I can't follow you, Mr. Rogers. What has that  
23 to do with the guilt or innocence of this defendant?

24 MR. ROGERS. Not one thing in the world. It has something  
25 to do with the state of mind of Mr. Owen who was a partner  
26

1 of Mr. Ford, who I think would be delighted to get square  
2 with Mr. Dehm and myself as counsellors and attorneys for  
3 Mr. Darrow.

4 THE COURT. I didn,t catch that.

5 MR. FREDERICKS. Well, there has been no foundation laid for  
6 it.

7 THE COURT. Yes, I think there is, as I recall the testi-  
8 mony.

9 MR. FREDERICKS. This witness has not been asked what he  
10 thought about Mr. Rogers.

11 THE COURT. I think he has.

12 MR. FREDERICKS. I am quite sure he has not.

13 THE COURT. My memory has been refreshed by Mr. Rogers'  
14 statement.

15 MR. FREDERICKS. What his opinion of Mr. Rogers was?

16 THE COURT. Yes.

17 MR. ROGERS. I don,t care for his statement of his opinion  
18 of me any more than I care for his statement of his opinion  
19 of Mr. Hawley. I only purpose to show his general relation  
20 to the situation as they now exist.

21 THE COURT. Go ahead. Ask your question. Objection over-  
22 ruled.

23 MR. ROGERS. Q I show you the will of A. P. Ford and I  
24 ask you if you are the F V Owen mentioned as a devisee in  
25 that will? A Yes, sir.

26 Q So you are a devisee under the will of Albert P. Ford,

1 aren't you?

2 MR. FREDERICKS. Objected to upon the ground it is  
3 immaterial, already asked and answered.

4 MR. FORD. It doesn't impeach or tend to impeach a statement  
5 previously made by the witness. He stated that he was  
6 named in the will.

7 THE COURT. Objection sustained.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 MR ROGERS: Now, you are an intimate friend and present  
2 business associate of H. J. Coates? A I am secretary of  
3 the same corporation.

4 Q H. J. Coates is the devisee under this will, you and  
5 he being associated together in business, as you said --

6 THE COURT: Just a minute. Mr Rogers, under the circum-  
7 stances, I suggest the impropriety of your coming to the  
8 witness. The clerk will pass the paper over.

9 MR ROGERS: yes sir. Mr Clerk, will you come around and  
10 walk for me. Just show this document to Mr Owen. Mr  
11 H. J. Coate is willed in that document all the property  
12 of A. C. Ford, except what you get, isn't he?

13 MR FORD: Objected to upon the ground the document itself  
14 is the best evidence of its contents, and object to the  
15 question on the ground that it is incompetent and imma-  
16 terial and not pertinent to any issue in this case, not  
17 even collateral.

18 THE COURT: Objection sustained.

19 MR ROGERS: Now, your business associate, H.J.Coates, the  
20 man you are right in with every day, is in that will as  
21 the legatee of all the property except what you get,  
22 isn't he?

23 MR FORD: Objected to upon the same ground that we object-  
24 ed to the preceding question.

25 THE COURT: Objection sustained.

26 MR ROGERS: And you and Coates are trying to get that



1 property away from Mrs Ford, who is my client, isn't that  
2 so? A That is not true.

3 Q You are opposing that will, and Mrs Ford is contesting  
4 it, isn't she? A I don't know anything about that will  
5 at all. That is the first time I ever saw it.

6 Q You testified in the murder case, though, in which Mrs  
7 Ford was acquitted? A Yes sir.

8 MR FORD: Objected to upon the ground it has already been  
9 answered.

10 THE COURT: Objection sustained.

11 MR ROGERS: Well, you say this is the first time you saw  
12 it. It isn't the first time by a long ways; you knew its  
13 provisions, is it?

14 MR FORD: Objected to as irrelevant and immaterial and not  
15 tending to impeach any answer made by the witness, and is  
16 incompetent for any purpose, and on a matter not even col-  
17 lateral.

18 THE COURT: Objection sustained.

19 MR ROGERS: Now, in view of the fact that -- withdraw that.  
20 Don't you know the provisions of law that if you could  
21 succeed in convicting Mrs Ford of the murder of her husband  
22 that she could not get any of his property, and that you  
23 and Coates would get it all, and didn't you testify in the  
24 case in which I was counsel for Mrs Ford against her, for  
25 the purpose of convicting her and getting all that property?

26 A No sir.

1 Q Well, you did testify? A Just a moment. I would  
2 like to finish my question. Your question is quite a long  
3 one. Will you please read it. (Last question read by  
4 the reporter.) I certainly did not testify for that pur-  
5 pose. I didn't know any such provisions of the law.  
6 I didn't know -- I don't know yet. Furthermore, I was not  
7 interested in the matter in any way, shape or form, and  
8 my testimony didn't go very far in the matter towards fasten-  
9 ing any guilt on Mrs Ford; on the contrary, I have also  
10 been told it was very favorable to your side.

11 Q After I got through with you, it so appeared.

12 A You didn't ask me more than half a dozen questions.

13 Q That was enough. A Plenty. I told you the truth,  
14 and that is what you wanted.

15 Q Well, we won't dispute about that, you know now, but  
16 as a matter of fact, you and Coates are associated in the  
17 same business together right now? A As stockholders.

18 Q He and you -- he is the so-called president and you are  
19 the so-called secretary of this Merchants Fire Dispatch  
20 organization, aren't you? A Well, I have been.

21 Q In which all this property mentioned in this will is  
22 involved?

23 MR FORD: We object to that question, it may be interesting  
24 to Mr Rogers and the witness, but we object to it as  
25 incompetent, irrelevant and immaterial, and not perti-  
26 nent to any issues in this case, and not even collateral.

1 THE COURT: Objection sustained.

2 MR ROGERS: Just a moment, sir, before your Honor rules on  
3 that. I have one matter to suggest. Now, I will repeat  
4 the question, with your Honor's permission. Now, this  
5 Merchants Fire Dispatch that you are secretary of, and  
6 which is involved in the Ford litigation, in which I am  
7 counsel, the Merchants Fire Dispatch has a kind of a fire  
8 alarm system of its own, hasn't it? A It has not.

9 Q It has boxes all over everywhere, the Merchants Fire  
10 patrolmen are supposed to turn in the alarm; isn't that  
11 true?

12 MR FREDERICKS: Objected to as irrelevant and immater-  
13 ial.

14 THE COURT: Objection sustained.

15 MR ROGERS: Exception.

16 Q Now, isn't it a fact that you tried to get the city to  
17 adopt, while you were fire commissioner, to adopt the  
18 system of the Merchants Fire Dispatch for turning in  
19 alarms instead of the Gamewell system or the Cregier  
20 system, and that Hawley beat you to it? A No sir,  
21 that is not true. Not one word of it, Mr Rogers. The  
22 Merchants Fire Dispatch has no fire alarm system and no  
23 firm alarm boxes, that are ever used for fire alarm purposes  
24 in any city in the United States.

25 Q Why is it called the Merchants Fire Dispatch?

26 A I didn't name the company.

1 MR FREDERICKS: Just a moment, Mr Witness. That may be  
2 interesting, but it is immaterial, and we object to it  
3 on that ground.

4 THE COURT: Objection sustained.

5 MR ROGERS: Do you know why the Merchants Fire Dispatch  
6 has nothing whatever to do with fire dispatches?

7 MR FREDERICKS: The same objection to that question and on  
8 the same grounds.

9 THE COURT: Objection sustained.

10 MR ROGERS: Exception.

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

15a 1 MR. ROGERS. As a matter of fact you were trying to get,  
2 while you were commissioner, you were trying to get all the  
3 fire alarm systems, the Gamewell and the Criegier System  
4 and all of them out so that the Merchant's Fire Dispatch  
5 would take care of the whole shooting match? A No, sir.  
6 the Merchant's Fire Dispatch was never at any time or is  
7 now interested in any way, shape or form in any fire alarm  
8 system, either in the city of Los Angeles or any other  
9 place.

10 Q Well, you and Hawley kind of had trouble over your  
11 attempt to get the Merchant's Fire Dispatch into the city?

12 A No, sir.

13 Q Approximately, the City Treasurer? A Mr. Rogers, that  
14 is the first time I ever heard such a thing suggested.  
15 If you were at all familiar with the situation you wouldn't  
16 advance such a suggestion.

17 Q Intimately familiar with it. A I am afraid not. I  
18 would like to have an appointment with you at any time and  
19 take you down and show you you are entirely wrong or you  
20 wouldn't make such a statement here in court.

21 THE COURT. I think that would be a proper way to dispose  
22 of this matter. You are getting very far afield.

23 MR. ROGERS. Q You and Hawley mixed, anyhow, while you  
24 were on the Fire Commission, you being Secretary of the  
25 Merchant's Fire Dispatch, and the Gamewell system charging  
26 you with trying to graft off them? A Neger heard that.

1 Q What? A Never heard that.

2 Q Don't you read the papers? A I used to a little bit.

3 Q You quit about that time? A I take six yet.

4 Q You don't read them, do you? A I think I do.

5 Q You say you never heard of it? A No, sir, I never did.  
6 never heard my name connected or mentioned in any way in  
7 connection with any graft of the Gamewell Company or  
8 any other company.

9 Q Didn't Mr. Hawley publish over his own name a communica-  
10 tion to the voters of the city of Los Angeles in which he  
11 referred to your connection with fire dispatch systems,  
12 whether Merchant's Fire Dispatch or others, which brought  
13 up the row between you and Hawley?

14 A No, sir, I never saw that, nor I never heard of it until  
15 this moment.

16 MR. FORD I object and I suggest the publication would be  
17 the best evidence of its own contents, and ask it be present-  
18 ed in this court.

19 MR. APPEL We ask permission to recall him to show him the  
20 publication. I think we can get them.

21 MR. ROGERS I would like to have Mr. Owen come back tomorrow  
22 morning. Mr. Hawley is going to be here tomorrow morning  
23 and we telegraphed for him and possibly he will revive  
24 my recollection as to some incidents connected with the  
25 matter.

26 THE COURT You wish to have further cross-examination?

1 MR. ROGERS. I would like to further cross-examine upon  
2 the arrival of Mr. Hawley.

3 THE COURT. All right, Mr. Witness, you are excused.

4 MR. FREDERICKS. Just a moment. Just refresh your memory  
5 a little before Mr. Hawley's arrival. Why was it you  
6 investigated Mr. Hawley and his reputation at the time you  
7 mention? A Well, there were certain things that took place  
8 there in the Fire Commission that made me a little uneasy.  
9 I had heard--

10 Q What were they? A Well, there were what appeared to me  
11 transactions that were not exactly straight. I thought  
12 they were open to question in some respects, and considerable  
13 was involved in a financial way in relation to the purchases  
14 made by the fire department, and since the fire department  
15 had always been supposed to be in a condition of graft  
16 from various sources, I thought it was my duty to find out  
17 who the commissioners were that were sitting with me, as  
18 to their standing and reputation in the community, and I  
19 proceeded to investigate all of them.

20 Q What were those transactions?

21 MR. ROGERS. Objected to as not redirect examination and  
22 immaterial, incompetent and irrelevant.

23 MR. FORD. If the court please, they have tried to show  
24 that there was some disagreement between Mr. Hawley and  
25 this witness concerning the transactions that occurred  
26 before the fire commission, and they have intimated that

1 those charges involve the witness. Now, we want to show  
2 that they involved Mr. Hawley, and show what they were.  
3 I don't want to suggest to the witness what they were, but  
4 the witness can testify as to what Mr. Hawley had done  
5 over which they disagreed, and to show it was not over  
6 any actions of this witness; that any suggestions of graft  
7 were made, and show any connection--in connection what  
8 persons those suggestions of graft were made.

9 THE COURT. I think we have gone far afield in this  
10 investigation already. The witness has already answered  
11 the question before chance to object to them was given, and  
12 for that reason we got into the matter pretty far. I don't  
13 think that justifies the court going into it any further.  
14 Objection sustained.

15 MR. FREDERICKS. If counsel--we don't wish to be foreclosed  
16 of going into the matter of buying hose and all that  
17 sort of stuff if the other side go into it any further.

18 MR. APPEL. If there is any graft going on the District  
19 Attorney knows about it, it is his duty to prosecute.

20 MR. FREDERICKS. Q You have heard of Mr. Hawley being  
21 brought before the grand jury on this hose matter?

22 MR. APPEL. There were others that were brought up there, I  
23 can tell you, before the grand jury, that I can tell you  
24 about.

25 THE COURT. There is a time and place for that. We are  
26 trying one lawsuit here, and that is about enough. Mr.



1 Rogers, you want this witness to return for further cross-  
2 examination?

3 MR. ROGERS. Yes, Mr. Owen, be kind enough to come back.  
4 I might ask one question in addition to being a Merchant's  
5 Fire Dispatch, while it has nothing to do with fire or  
6 anything like that, the Merchant's Fire Dispatch, you do  
7 a detective business, don't you? A No, not generally.

8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

1 Q Not generally, but you do a detective business?

2 A No sir, we do not do a detective business. Q-Isn't it --  
3 I can send over there right now and get a detective any  
4 minute I want to.

5 MR FORD: Object to any statement of counsel unless he  
6 takes the stand.

7 THE COURT: Objection overruled. A I don't know as to  
8 that whether you can or not. I am not in active connection  
9 with the company, and haven't been for two years.

10 MR ROGERS: Didn't you know that Coates has been a detective  
11 all his life? A Never heard of that before.

12 MR FREDERICKS: Objected to --

13 THE COURT: Just a minute. There is a great deal in this  
14 matter that would not have been gone into if you had not  
15 answered while counsel was trying to object. A I beg your  
16 pardon.

17 MR ROGERS: You say not generally in the detective business?

18 A I didn't say we were not ever at any time in the detective  
19 business. We have done some trivial work along the lines  
20 of detecting ~~any~~ work in connection with the night watch-  
21 man. In fact we have refused at all times, and we have re-  
22 fused practically on every occasion, and we refused it on  
23 the memorable case of which you have now knowledge, we re-  
24 fused to do it.

25 Q Can you mention any occasion that I have knowledge of  
26 that you refused to do any detective work? A In the Ford

1 case. I testified to your questions to that effect in  
2 this court.

3 Q You testified that you didn't do any detective bus-  
4 iness in the Ford case? A Yes.

5 MR FREDERICKS: That is objected to and may it please  
6 the court --

7 THE COURT: The witness has answered it. That is all.

8 MR FREDERICKS: That is all.

9 MR ROGERS: just stay under subpoena.

10 MR FREDERICKS: I suppose that means Mr Owen can be call-  
11 ed on the telephone.

12 MR APPEL: No, we would like him to stay and cross-examine  
13 him tomorrow morning.

14 MR FREDERICKS: We have taken witnesses from their work --

15 THE COURT: Tomorrow morning at 10 o'clock? Counsel is  
16 asking to further cross-examine this witness tomorrow  
17 morning at 10 o'clock. That fixes a definite hour.

18 MR FREDERICKS: All right.

19 ---

20  
21  
22  
23  
24  
25  
26

1 C. W. HOUSTON, a witness called on behalf  
2 of the prosecution, in rebuttal, being first duly sworn,  
3 testified as follows:

4 DIREC T EXAMINATION

5 MR FREDERICKS: State your name to the jury? A C. W. Houston

6 Q Where do you live? A I live 1540 Myrtle avenue, Glen-  
7 dale, California.

8 Q What is your business or occupation? A Real estate  
9 and manager of the Grosse Building.

10 Q Manager of the Grosse Building, here in Los Angeles?

11 A Yes sir.

12 Q How long have you resided in this county? A 18 years.

13 Q Do you know one Charles O. Hawley? A Yes sir.

14 Q How long have you known him? A I judge about 8 or  
15 9 years.

16 Q Do you know his general reputation in the community  
17 in which he resides for truth and veracity?

18 MR APPEL: Wait a moment. We object to that upon the  
19 ground no foundation has been laid for the introduction  
20 of this evidence.

21 THE COURT: Objection sustained.

22 MR FORD: No foundation has been laid for the introduction  
23 of evidence respecting the general reputation of Mr Haw-  
24 ley in this community?

25 THE COURT: This witness doesn't even live in the same  
26 city.

1 MR FORD: He is not required to live in the same city.  
2 The point is, is he acquainted with his general reputa-  
3 tion in the community in which Mr Hawley lives, and the  
4 witness here is the manager of the Grosse Building in this  
5 city.

6 MR APPEL: That don't make any difference.

7 THE COURT: Read your question.

8 MR FORD: There is a foundation laid.

9 THE COURT: Read the question. (Last question read by  
10 the reporter.)

11 MR FREDERICKS: That is, Los Angeles County. You remember  
12 in the interrogations in regard to witnesses in regard to  
13 the defendant in this case, from Chicago, the witnesses  
14 didn't know where he lived, or anything of that kind,  
15 a great many of them, and his reputation in the neighborhood  
16 city of Chicago.

17 MR APPEL: That doesn't establish the law, nor does it  
18 establish knowledge of the law.

19 MR FREDERICKS: But it has been established since the be-  
20 ginning of time.

21 THE COURT: Have you laid the foundation?

22 MR FREDERICKS: I am asking him if he knows, yes or no.  
23 I am saying, do you know it.

24 MR DARROW: That leaves the witness the judge of it.

25 MR FREDERICKS: Certainly it does.

26 MR FORD: Your Honor, I think, is probably thinking of the

1 rule governing the reputation of the defendant. The rule  
2 as to the reputation of the defendant is prior to the time  
3 at which the alleged crime was committed, but in this case  
4 we are not interested in the time at which Mr Hawley may  
5 have committed any crimes, but we are interested in his  
6 reputation at the time he took the stand, as a matter ef-  
7 fecting his veracity as a witness in this case.

8 THE COURT: And he said he lived in San Francisco.

9 MR FORD: He lived in San Francisco only for the last  
10 few months, your Honor. Whatever reputation he has, has  
11 been made here, and our contention is that he moved to  
12 San Francisco because of his reputation here.

13 MR FREDERICKS: Do you know the general reputation of Mr  
14 Hawley --

15 MR APPEL: We take an exception to the remarks of counsel,  
16 as to his statement.

17 MR FREDERICKS: -- in Los Angeles, for truth and veracity?

18 MR ROGERS: The statute says, "Truth, honesty and integ-  
19 rity."

20 MR FREDERICKS: I can take any part of it.

21 MR ROGERS: There is no such thing as truth and veracity  
22 in the statute, if your Honor pleases. The statute must  
23 be absolutely complied with, truth, honesty and integ-  
24 rity.

25 MR FREDERICKS: All right, truth, honesty and integrity,  
26 the same thing.

1 MR APPEL: Now, we object to that upon the ground that no  
2 proper foundation has been laid for the introduction of  
3 this evidence in that -- I will point it out, that the wit-  
4 ness has not shown himself to be a person qualified to  
5 speak upon the subject; that it is not such person that is  
6 allowed to testify concerning his general reputation  
7 of a person for the traits involved in the question,  
8 that is, not one of the persons named in law as being able  
9 or qualified to speak upon that subject.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 For instance, your Honor, I may know the reputation of  
2 some man independently from newspaper talk, living in  
3 Los Angeles, who is living in San Francisco, or from having  
4 heard people here talk to me about him, who knew him.

5 THE COURT: What is the number of that section?

6 MR APPEL: It is 1881, I think it is.

7 MR FORD: Impeaching question, 2051 of the Code of Civil  
8 Procedure for the production of impeaching questions --

9 MR APPEL: Now, I could not be taken from here to San  
10 Francisco and asked where I lived and say I lived in Los  
11 Angeles, and be asked whether I know the general reputa-  
12 tion of someone whom I know, not in the community where he  
13 lives.

14 MR FREDERICKS: That would permit a man --

15 MR APPEL: I am trying to hint enough so that he cannot  
16 catch on --

17 MR FREDERICKS: That would permit a man to live here and  
18 if he is to be put on as a witness go to San Francisco,  
19 and you cannot impeach him because he only lived here a  
20 week or two.

21 MR APPEL: The gentlemen don't understand that yet.

22 MR FREDERICKS: I have been asking that question for 14  
23 years.

24 MR APPEL: Lots of people have done wrongful things, as a  
25 matter of habit.

26 MR FREDERICKS: And it has gone through the Supreme Court



1 quite a number of times.

2 THE COURT: Gentlemen; wait a minute. Address the court.  
3 Please read the question, Mr Reporter.)

4 THE REPORTER: Q Mr Smith has the question.

5 MR FREDERICKS: I will probably have to reframe it.

6 THE COURT: Better reframe it.

7 MR FREDERICKS: Do you know the general reputation of  
8 Mr Hawley in the neighborhood in which he resided, I  
9 refer to the city of Los Angeles, for truth, honesty  
10 and integrity?

11 MR APPEL: We object to that on the ground it is incompe-  
12 tent, irrelevant and immaterial, no foundation laid,  
13 in that the witness is not shown to be a person competent  
14 under the law to testify concerning the reputation of another  
15 person in the neighborhood where that person resides,  
16 among his neighbors and acquaintances, inasmuch as the wit-  
17 ness has not been shown to possess the necessary knowledge  
18 and there is a lack of evidence showing he possesses the nec-  
19 essary knowledge to qualify him in giving his opinion.

20 THE COURT: Objection overruled.

21 MR APPEL: We except.

22 MR FREDERICKS: Do you? A Yes.

23 Q Is it good or bad? A I have always found it to  
24 be bad myself.

25 Q How long have you known him --

26 MR APPEL: Wait a moment. I move to strike out the answer

1 on the ground it is not responsive.

2 THE COURT: Strike it out.

3 MR FREDERICKS: Well, is it good or bad?

4 THE COURT: Answer the question.

5 A Bad.

6 Q How long have you know Charles O. Hawley?

7 MR APPEL: We object to that as immaterial, now, your Honor.

8 MR GEISLER: Already answered.

9 MR FREDERICKS: I think it was already answered. Cross-  
10 examine.

11

12 CROSS-EXAMINATION

13 MR APPEL: You understood that he asked you a question  
14 involving the words "truth, honesty and integrity"?

15 A Yes sir.

16 Q You understood that? A Yes sir.

17 Q What is integrity? A I suppose being honest and liv-  
18 ing up to what one says or intends to do.

19 Q Living up to -- A An agreement or a debt --

20 Q Sir? A Or a debt.

21 Q You mean to say that integrity means living up to a  
22 man's paying his debts? A That is honesty and integrity.

23 Q Sir? A Yes.

24 Q That is integrity. What is honesty? A Practically  
25 one and the same thing.

26 Q What is the difference between honesty and integrity?

1 A Well, a person can be honest --

2 Q No, no.

3 MR FORD: Let the witness answer the question.

4 MR FREDERICKS: That is objected to, may it please the  
5 court, as assuming a fact not in evidence; that is that  
6 there is any difference.--

THE COURT: Objection overruled.

7 MR APPEL: The statute uses three terms, and anybody  
8 who reads -- a 15-year-old boy, can understand --

9 MR FREDERICKS: I am more than 15 years old, and I do not  
10 want to be referred to in that way in this court. I am mak-  
11 ing my objection, and according to my light --

12 MR APPEL: This is hypothetical, your Honor. I am not re-  
13 ferring to him at all; I don't know that he exists, for  
14 that matter, and do not care. It cuts no figure with me.

15 THE COURT: Mr Appel, you cannot discuss your question  
16 after the court has ruled in your favor. The court has  
17 ruled in your favor, and you cannot discuss it at all.

18 MR APPEL: I know, but he is talking and I am talking.

19 THE COURT: The court will do the talking, now. Let the  
20 witness answer the question.

21 A What is the question?

22 (Question read.)

23 A I have always looked upon it as being one and the same.

24 Q But you answer the question you knew his general repu-  
25 tation for truth, that is one element; one trait; honesty,  
26 two traits, and integrity, three traits. Now, what is

1 the difference between honesty and integrity?

2 MR FREDERICKS: We object upon the ground it has been an-  
3 swered.

4 MR FORD: And on the ground they are synonymous.

5 THE COURT: Objection overruled.

6 MR DARROW: I do not believe the witness understands your  
7 Honor ruled.

8 THE COURT: Yes. Answer the question.

9 A Well, you mean between integrity and honesty, is that  
10 the question?

11 MR APPEL: Yes, I think I said something like that.

12 A Well, I cannot see how a man can have much integrity  
13 unless he is honest, and vice versa.

14 Q Yes. Supposing a man never incurred an indebtedness, and  
15 he never was called upon to pay a debt, then you would not  
16 be able to find out whether he had any integrity or not,  
17 would you?

18 MR FREDERICKS: We object to that on the ground it is specu-  
19 lative, immaterial, hypothetical, not based upon any hy-  
20 pothesis before the court.

21 THE COURT: Objection sustained.

22 MR APPEL: We take an exception.

23 Q What do you mean by "general reputation"? A Why,  
24 the reputation that the public holds for him.

25 Q That the public holds for him? A Yes.

26

18 1 Q Now, you said that you were speaking of the general  
2 reputation of Mr. Hawley from what you know personally  
3 yourself? A And talking with others.

4 Q In the community where he lives? A In the city of  
5 Los Angeles, yes.

6 Q Where did he live in the city of Los Angeles? A Out  
7 on Hoover street, I think.

8 Q Do you know? A That is my impression.

9 Q Whereabouts on Hoover street.

10 MR. FREDERICKS. That is objected to on the ground it is  
11 immaterial as to his residence as long as it is somewhere  
12 in Los Angeles.

13 THE COURT. Objection overruled.

14 A He lives near 13th, I think 10th or 13th, out in the  
15 Westlake District.

16 Q Don't you know there is no 13th street in Los Angeles.

17 A Yes, sir, it is Pico.

18 Q Is that 13th? A Yes, sir.

19 Q Pico is 13th? A Yes, sir.

20 Q And 13th is Pico? A Yes, sir, that is right.

21 Q Now, he lived near 13th street on Hoover? A I said  
22 near 13 number on Hoover, or 10th.

23 Q When did he live there? A 5 or 6 years ago.

24 Q Did you visit him there? A No, I have been by his  
25 place and saw him sitting on the porch.

26

- 1 Q saw him sitting on the porch? A Yes.
- 2 Q And you know it was his place? A Yes, he said it was, he  
3 said it was his place.
- 4 Q What did he tell you? A He said it was his wife's.
- 5 Q When did he tell you that? A 5 or 6 years ago when I  
6 made a deal with him.
- 7 Q You made a deal with him? A Yes.
- 8 Q A deal with him concerning some property? A Yes, sir.
- 9 Q And in that deal you had some difference of opinion?  
10 A Difference of opinion.
- 11 Q Had some differences of opinion? A Yes.
- 12 Q About figures? A Not necessarily figures.
- 13 Q Not necessarily. If not necessarily did you have any  
14 at all? A It is about a note, if you want to know.
- 15 Q It is about a note. Now, he made the note? A Yes,  
16 he did.
- 17 Q And didn't pay it? A He did not.
- 18 Q And he went through bankruptcy? A Yes.
- 19 Q Now, this bankruptcy, then you come here and testify for  
20 that reason he is a man who has no truth in him, no  
21 reputation for honesty and integrity, is that it? A No,  
22 not on that alone.
- 23 Q Not on that alone, but did you take that into considera-  
24 tion? A I certainly did.
- 25 Q Now, you felt--that is a note payable to you? A Yes, sir.
- 26 Q Now, you claim he owes you something? A He owed me that

1 money, yes.

2 Q And how much was it? \$1500.

3 Q And you didn't get it? A Not a cent of it.

4 Q And you felt a man who would not pay you a note is a  
5 man of no honesty? A When he is in a position to pay it--

6 Q I say, you felt that? A I do--

7 MR. FREDERICKS. Let him finish his answer.

8 THE COURT. Have you finished your answer?

9 A Yes, sir.

10 THE COURT. He says he has finished.

11 MR. PAPPEL. Q Now, you said he was in a position to pay  
12 it? A Yes, sir.

13 Q And he was adjudged a bankrupt by the courts, wasn't he?

14 A Yes, sir.

15 Q And he was discharged from bankruptcy? A Yes, sir.

16 Q And the courts have decided that he was a bankrupt  
17 and not in a position to pay it, you still feel he was  
18 in position to pay it? A At the time, yes.

19 Q And you have no respect for the judgment of courts, then,  
20 have you? A Yes, sir.

21 Q Now, when the court says he was a bankrupt and not in  
22 position to pay it you still maintain that the man was  
23 dishonest? A He was not a bankrupt at the time he was  
24 in a position, before the court adjudged him a bankrupt.

25 Q Oh, he was in a position? A Yes.

26 Q Did you sue him? A I did.

1 Q And you got judgment? A I did.

2 Q And did you issue execution? A I did.

3 Q And did you find any property to levy on? A Yes.

4 Q And did you levy on it? A I levied on it and found it  
5 had been covered.

6 Q Covered how? A By putting it in his wife's name.

7 Q It was a home, was it not? A Yes, sir.

8 Q Worth about \$5,000, wasn't it? A I would give more  
9 than that for it.

10 Q You would now. At that time? A At that time.

11 Q Was it worth \$5,000? A It was.

12 Q And was it mortgaged? A yes, I think it was.

13 Q Now, was the mortgage and the value of the equity over  
14 the amount of the indebtedness to you? A Yes, and in  
15 taking into consideration the homestead which he filed  
16 on it afterwards--

17 Q Oh, he filed on a homestead? A Yes, sir.

18 Q And don't you know, no matter how much he owes, he is  
19 entitled to file a homestead or his wife is entitled to a  
20 homestead and keep his creditors from throwing him out  
21 on the street? A Yes, sir.

22 Q And you think if he does anything like that he is a dis-  
23 honest man? A Not necessarily that--

24 Q What do you mean by "not necessarily"? A Not that,  
25 then.

26 Q Not what? A Not that alone--you wanted me to say



1 necessarily--

2 Q After the bankruptcy proceedings he became a fire  
3 commissioner under this present city administration, didn't  
4 he? A I think not. I don't think he was adjudged a  
5 bankrupt until he was out of the fire commission, that is  
6 my recollection.

7 Q That is your best recollection? A Yes, sir.

8 Q Now, you don't like a man because he went into bankruptcy  
9 and you didn't get your \$1500? A Naturally, but that is  
10 not the only reason--

11 Q Wait a moment--

12 MR. FORD. Let the witness finish.

13 MR. APPEL. I am talking about his feelings.

14 THE COURT. He has not finished his answer, let him finish.

15 A The bankruptcy proposition is not the only thing that  
16 goes into consideration in my case, he had other money that  
17 was left to him by his mother that he turned over to  
18 another party.

19 Q How do you know that? A Because I had proof of it and  
20 he acknowledged it.

21 Q What proof have you of it? A He acknowledged it before  
22 Judge Monroe on a supplementary proceeding.

23 Q Why didn't you get it? A For the simple reason he had  
24 already turned it over to Marshall Frank of San Francisco.

25 Q Couldn't you reach it there? A I couldn't find Mr.  
26 Marshall Frank.

1 Q Did you hunt for him? A Yes, sir.

2 Q How do you know he turned it over to him? A He said  
3 he did.

4 Q Then why didn't Judge Monroe, a Judge of the Superior  
5 Court here with all the powers of the court, compel him to  
6 get that money and turn it over to you, if there was any-  
7 thing wrong about it?

8 MR. FORD. We object on the ground it was not the duty of  
9 the judge to do it, but it was the duty of the witness.

10 MR. APPEL. If there was anything wrong it was the duty of  
11 the judge to do it.

12 MR. FREDERICKS. This witness cannot say why Judge Monroe  
13 didn't do anything.

14 THE COURT. I think that is true.

15 MR. ROGERS. He has already said he took Mr. Hawley up on  
16 supplemental proceedings before Judge Monroe, whom we all  
17 have a very high respect for, and there he found that the  
18 money, in addition to putting a roof over the head of his  
19 wife and children, that he had turned over some money  
20 to a man named Franklin. Now, he claims there is something  
21 wrong with that transaction, it is a matter of judgment of  
22 the court, it is res ad judicata; if Judge Monroe  
23 did not order that money be turned over to this witness on  
24 supplemental proceedings, which he has already said were  
25 instituted by himself, it is res ad judicata that the  
26 money as a matter of fact was not to go to this witness.

1 We might prove that by the judgment of Judge Monroe in the  
2 premises, but the question is if this witness didn't know  
3 that was so. He has already said he took him up before  
4 Judge Monroe on supplemental proceedings, now, Judge Monroe  
5 found that the money was not due this witness or as a  
6 matter of fact he couldn't get it, then it is res ad  
7 judicata and neither this court, this witness, nor the  
8 District Attorney can interfere with the res ad judicata  
9 or matters which have been adjudicated in supplemental  
10 proceedings.

11 MR. FREDERICKS. We still maintain here whether he could  
12 get his money or could not get it is immaterial.

13 THE COURT. Yes, I think it is immaterial. We are getting  
14 very far afield on this matter. Objection sustained.

15 MR. APPEL. We except.

16 Q Well, now, Mr. Houston, that \$1500 transaction arose out  
17 of the real estate deal, didn't it? A Yes, sir.

18 Q In which you and others were interested? A Yes, sir.

19 Q And in which Mr. Hawley came out a loser by about \$20,000?

20 A I don't know anything about that.

21 Q That is, it was a crooked deal all around, several  
22 real estate men trying to get the best of Hawley?

23 A Absolutely not.

24 Q Wasn't crooked? A No, sir, not from our standpoint.

25 Q Well, the property was sold to him? A An option was  
26 sold to him to purchase the property.

1 Q. An option was sold to him and you took his note?

2 A. We did.

3 Q. You believed him honest when you took his note?

4 A. Yes.

5 Q. When was that note given? A. I think in 1904.

6 Q. He never got the property, did he? A. I understand  
7 that he turned it over to E I & W J--

8 Q. He got a piece of paper--

9 MR. FORD. Let the witness answer.

10 THE COURT. Have you finished your answer?

11 MR. APPEL. I am not asking him--

12 A. He turned the option over, which we sold him for \$4500  
13 and took his note in payment for that, 1, 2 and 3 years  
14 after date at 6 per cent interest, and afterwards I under-  
15 stood that it was turned over from Hawley, turned it over  
16 to E I & W J Bryant, which after was sold by W J Bryant to  
17 Doctor Schiffner.

18 Q. I see, and here is the proposition, and Hawley himself  
19 did not get any property at all? A. Yes, he acknowledged  
20 he did.

21 Q. No. That this option, you called it an option--

22 A. It was an option.

23 Q. An option is a privilege to buy? A. Yes, sir.

24 Q. And he didn't get the real estate, he got an option and  
25 turned it over to someone else? A. The simple reason he  
26 didn't get the real estate was because he didn't carry out or

1 could not carry <sup>it</sup> /out.

2 Q But he sold that option to someone else? A I don't  
3 know whether he sold the option to someone else.

4 Q He turned it over to someone else? A Evidently he did.

5 Q Anyhow, he didn't get any real estate himself? A I  
6 don't know about that.

7 Q Anyhow, he came out loser? A I don't know about  
8 that.

9 Q Didn't you ask him at the supplemental proceedings  
10 before Judge Monroe? A Yes, sir.

11 MR. FREDERICKS. That is objected to on the ground it is  
12 immaterial.

13 Q Haven't you any information--

14 MR. FREDERICKS. That is objected to on the ground it is  
15 immaterial--

16 Q It is a case of real estate men trying to do up some other  
17 real estate men through a trick of that kind? A Absolutely  
18 not.

19 Q You are in the real estate business? A I am, sir.

20 Q How long have you been in the real estate business?

21 A 8 years.

22 Q That was your commission, was it not? A Yes, sir.

23 Q That was \$1500 commission turning over a piece of paper  
24 worth \$4500? A No, the property--

25 Q From whom were you getting the commission? A Who were  
26 getting the commission?

1 Q Yes.

2 A Mr. W S Bryant and General Johnstone Jones and myself.

3 Q You three were getting the commission? A We three were  
4 selling him an option from W S Bryant, under the option, he  
5 had an option from Mr. John Crowls of San Francisco and he  
6 turned over this option to Mr. W S Bryant, Mr. Bryant gave me  
7 a 60 day option to sell this property on these terms, and  
8 the option was sold to Mr. Hawley for him to purchase the  
9 property under the same terms that Mr. W S Bryant was to--

10 Q I understand-- A --and Mr. Hawley buys this, as I say,  
11 gives us \$4500 in three notes--

12 Q Yes, anyhow--

13 MR. FORD. Let him finish.

14 THE COURT. Have you finished?

15 A Not as yet.

16 MR. APPEL. Let him go on, we will wait.

17 A It is a long story, yes.

18 MR. APPEL Yes, keep on.

19 MR. FREDERICKS. Well, well--

20 MR. APPEL. Keep right on.

21 MR. KEETCH. He will if you give him an opportunity.

22 MR. APPEL. I understand, keep right on.

23 A Well, after this we took the three notes, Mr. W S Bryant  
24 took the first note due in a year, I took the note that  
25 was due in two years, and General Johnstone Jones took the  
26 one due in three years. Mr. Hawley, in the meantime,  
before my note was due, settled with Johnstone Jones for

1 the third note of \$1500 by giving a piece of property and  
2 taking up that note, that was the three year note, later  
3 than my note came due, and I come to ask him if he could  
4 pay it and he repudiated it entirely and I brought suit  
5 against him and got judgment.

6 Q Yes. A And then after probably three or four months  
7 after that I brought him up on supplemental proceedings.

8 Q yes. A And I shook out of him a \$500 note he had--

9 Q Shook it out of him? A yes.

10 Q Good. A That was the term used at that time, that Mr.  
11 W E Rennie had given Mr. Hawley, and I took that note, and  
12 then his mother's estate left him about \$4,000 in Beaver  
13 Dam, Wisconsin.

14 Q Yes. A And I was too late to get that money back in  
15 Wisconsin, it was transferred here to the bank and I brought  
16 him up on supplemental proceedings, first he said he didn't  
17 receive any money, never did receive any money from an  
18 estate of any kind.

19 Q Yes. A And afterwards when we proved he did he  
20 acknowledged that he did receive about \$4,000.

21 Q Yes. A Then the Judge asked him what he did with it  
22 and he said he sent it to Marshall A Frank that he owed  
23 on an insurance deal of some kind.

24 Q Anyhow, did you put up any money on that transaction  
25 when you got the \$1500 note? A What do you mean by "money"?

26 Q Did you put up a cent on the transaction out of which the

1 \$1500 note grew?

2 MR. FREDERICKS. Don't answer until I get a chance to  
3 object.

4 THE COURT. Go ahead, Captain.

5 MR. FREDERICKS. We object upon the ground that it is  
6 immaterial.

7 THE COURT. I think there is very little doubt but what  
8 all this line of testimony is immaterial, it has gone  
9 in so far without objection.

10 MR. FREDERICKS. I have objected about four different times.

11 MR. APPEL. I want to show, your Honor, that this man did  
12 not lose a cent, that this \$1500 was blood money, that is all.

13 MR. FREDERICKS. That is immaterial.

14 MR. APPEL. And that when he got that \$500, that \$500 note,  
15 he came out away ahead, that Hawley repudiated that note  
16 because it was without consideration and he had found out  
17 that this man had injected himself into the transaction  
18 there and got a note out of him by false pretenses.

19 THE COURT. You are only investigating the general reputa-  
20 tion.

21 MR. APPEL. But that is the way he makes general reputation.

22 MR. FREDERICKS. Oh, no!

23 MR. APPEL. I want to show that this man's opinion as to  
24 general reputation is based entirely upon the transaction  
25 that he introduces and gives to this jury as fraudulent on  
26 the part of Hawley, when in fact it was fraudulent on his



1 part, showing his state of mind against Mr. Hawley. I am  
2 asking that question, whether he put up a single cent  
3 for whatever that \$1500 note grew out of.

4 THE COURT The matter has been opened up this far and it  
5 would be useless to stop here. Objection overruled.

6 MR. APPEL. Your Honor allowed him to go over that and we  
7 are entitled to the whole of it. Just answer that  
8 question. A Did you say that was overruled, or what?

9 THE COURT. Yes, it is overruled.

10 A No, I didn't put up any at that time.

11 Q So that that \$1500 was a sort of a compensation or com-  
12 mission that you expected in the transaction in a general  
13 way, is that right? A That is the way all real estate  
14 men do.

15 Q Now, when you were a real estate man and didn't get that  
16 commission it made you awfully sore, didn't it? A No.

17 Q Didn't make you sore? A No.

18 Q Yet you hounded the man through supplemental proceed-  
19 ings in the court here and started east after the little  
20 \$4,000 his mother had left him, you got over there too late  
21 and couldn't put your hands on it and it made you doubly  
22 sore, didn't it?

23 MR. FREDERICKS. That is objected to as assuming that a  
24 man who goes in a legal an honorable way to collect a  
25 debt which the court adjudges is justly due him is hounding  
26 a man who dodges him and refuses to pay it.

1 MR. ROGERS. It just illustrates, if your Honor please, the  
2 wisdom of Rudyard Kipling who once observed that he found  
3 everybody in California was in the real estate business  
4 and that the term "real estate business" covered everything  
5 from vagrancy to manslaughter.

6 MR. FREDERICKS. I don't know about Kipling.

7 THE COURT. We are getting still farther away.

8 MR. FREDERICKS. We object to it on the ground as stated  
9 in my objection, it is immaterial.

10 THE COURT. Your objections were sustained wherever made.

11 MR. APPEL. Objection sustained?

12 THE COURT. No, I am not sustaining this now. I say his  
13 objections were sustained until we got into this branch  
14 of the case and now it is entitled to be cleared up.

15 MR. FREDERICKS. I objected three times and the answers  
16 went in at the same time the objection did and didn't get a  
17 ruling on it and I thought it would be shorter to go on.

18 THE COURT. Go ahead and answer the question.

19 MR. APPEL. Read it.

20 (Question read.)

21 THE COURT. You cannot have the question using the word  
22 "hounded".

23 MR. APPEL. Exception.

24 THE COURT. Objection sustained.

25 MR. APPEL. Q. Didn't you get very angry because you  
26 couldn't get anything out of the supplemental proceed-

1 ings before Judge Monroe? A I couldn't say I got angry.

2 Q Didn't it make you feel awfully bad? A No, because  
3 I don't take things that way.

4 Q Didn't you have a feeling of enmity towards him?

5 A No, sir.

6 Q Didn't you think you were <sup>very</sup> much injured? A Injured, yes  
7 to the amount of \$1500.

8 Q When you felt you were injured, didn't you have pretty  
9 bad feelings, sore feelings-- A Why, in a general way,  
10 yes.

11 Q Only in a general way. All right, then. Now, when you  
12 started after the \$4,000 east that his mother had left him,  
13 and couldn't get it, and you knew that it existed, you  
14 found out there was \$4,000, didn't that make you feel sore  
15 again? A The only thing that made me feel sore was that  
16 I didn't get there in time, I will tell you that.

17 Q Exactly. Did you go after it yourself? A No, sir.

18 Q Did you send after it? A No, sir.

19 Q How did you go after it?

20 MR. FREDERICKS. We object to that upon the ground it is  
21 immaterial.

22 THE COURT. Objection sustained.

23 MR. APPEL. We except. Q Anyhow, by some means or other  
24 you tried to put your hands on that \$4,000?

25 MR. FREDERICKS. We object to that on the ground it is  
26 immaterial.

1 THE COURT. Objection sustained.

2 MR. APPEL. We take an exception. Q And you didn't get  
3 any of it?

4 MR. FREDERICKS. We object on the ground it is immaterial.

5 THE COURT. Objection sustained.

6 MR. APPEL. We except. Q And not having got it you felt  
7 sore?

8 MR. FREDERICKS. We object on the ground it is immaterial  
9 and has been fully covered.

10 THE COURT. Objection sustained.

11 Q Now, isn't it a fact that Mr. Hawley went into bankruptcy  
12 and became a bankrupt as a result of that transaction which  
13 you mixed up with? A I cannot say.

14 Q You cannot say? A Absolutely not.

15 Q Didn't you see in the petition there that he filed,  
16 asking the court to adjudge him a bankrupt, didn't you  
17 read that that he had been forced into bankruptcy by the  
18 fraudulent means and corrupt methods of three or four real  
19 estate men, including your name in it?

20 MR. FORD. We object to that on the ground--

21 A First--

22 MR. FORD. Wait a moment. We object to the question on the  
23 ground the petition in bankruptcy would be the best  
24 evidence of its contents, if there is any such language  
25 in the petition as that, let them bring it before this  
26 court.

1 THE COURT. Objection sustained.

2 MR. APPEL. Exception. Then we will ask--why, your  
3 Honor, it is concerning his state of mind, that is all,  
4 towards Mr. Hawley.

5 THE COURT. Yes. You covered a pretty broad field.

6 MR. APPEL. You allowed them a pretty broad field here to  
7 go into this transaction.

8 Q How did you happen to come here to testify?

9 MR. FREDERICKS. We object to that on the ground it is  
10 immaterial, the witness is supposed to be here in pursuance  
11 of a subpoena.

12 THE COURT. Objection overruled.

13 MR. APPEL. Answer the question.

14 A I was subpoenaed.

15 Q When? A I think on August 2nd.

16 Q August 2nd? A Yes, sir.

17 Q Were you interviewed before you were subpoenaed?

18 A In what way do you mean?

19 Q About what you knew about Hawley? A They asked me if  
20 I knew Mr. Hawley.

21 Q Who talked to you? A I don't know who the gentleman  
22 was.

23 Q Don't know the man who talked to you? A I don't  
24 know his name.

25 Q Do you know him by sight? A I do.

26 Q Do you see him here? A No.

1 Q you cannot see him here. Where is McLaren, the Burns  
2 man?

3 MR. FREDERICKS. Where is McLaren the Burns man?

4 MR. APPEL. Temporarily in the employ of the county.

5 MR. FREDERICKS. I think probably permanently employed.

6 MR. APPEL. Until the end of this case when Franklin will  
7 take Browne's place.

8 Q Now, Mr. Witness, he just simply asked you if you knew  
9 Hawley? A Yes, he asked me if I knew Hawley, that is the  
10 first question he asked me.

11 Q Did he introduce himself? A No, sir.

12 Q He didn't tell you who he was? A No, sir.

13 Q Tell you where he came from? A Told me he came from the  
14 District Attorney's office.

15 Q Did you suggest it to any one--is this the man--this  
16 gentleman with the high forehead? A No, sir.

17 Q I mean Mr. McLaren? A No, sir.

18 Q He is not the man who came to see you? A No, sir.

19 Q He didn't say that he was a Burns man? A No, sir.

20 Q Just from the District Attorney's office? A Yes.

21 Q Yes, that covers a multitude of sins, and you had not  
22 suggested to any one that his reputation was bad? A Had  
23 I suggested to any one?

24 Q Yes. A Never.

25 Q Never in your life? A No, sir.

26 Q Never talked to any one about Mr. Hawley's reputation?

1 A Yes, sir.

2 Q With respect to testifying in this case? A No, sir.

3 Q You read in the paper that he had testified in this case?

4 A That he had?

5 Q Yes. A No, sir.

6 Q You didn't read in the paper that he testified in this  
7 case? A I did not.

8 Q Well, now, to be frank, to be fair, you don't like him  
9 a bit, do you, Hawley? A I have not any love for him.

10 Q No love for him, you have no respect for him? A Abso-  
11 lutely none.

12 Q And you have no love. Have you any enmity against him?

13 A I cannot say I have.

14 Q Oh, no enmity and no love, then you are indifferent  
15 as to him? A Absolutely.

16 Q Indifferent? A Yes.

17 Q And you don't care anything about what kind of a man  
18 he is? A I don't care whether he goes to Heaven or any  
19 place else.

20 Q You don't care so long as you don't meet him in any hot  
21 place? A Yes.

22 Q But you are willing to let him go to the hot place?

23 A If he so desires, yes.

24 Q If he so desires--

25 MR. FORD. We object to that as frivolous and immaterial.

26 THE COURT. Objections sustained. Strike out the answer.

1 JUROR GOLDING. May I ask a question, your Honor, if I do  
2 not make it political or hypothetical or embarrassing?

3 THE COURT. Go ahead, Mr. Golding.

4 JUROR GOLDSHE. Q You say you are manager of the Grosse  
5 Building? A Yes, sir.

6 Q Who owns the Grosse Building? A Mr. Barham or the  
7 Development Company, and Mr. Barham owns the controlling  
8 interest in it.

9 Q Doesn't the Southern Pacific own the Grosse Building?

10 A No, sir, they have a lease on it, a ten years lease.

11 JUROR GOLDING. That is all.

12 MR. APPEL. Let me ask you just one question that is sug-  
13 gested to me, by this question. A Yes, sir.

14 Q Do you remember Mr. Hawley making some demands when he  
15 was fire commissioner upon some buildings here, that they  
16 had not complied with the ordinance of the city with  
17 respect to safety or fire escapes? A Will you ask that  
18 again, I didn't catch it?

19 Q You remember some criticism made by Mr. Hawley against  
20 some buildings here in the city, concerning their not  
21 complying with the ordinance of the city in regard to such  
22 premises? A yes, I recall seeing them in the paper.

23

24

25

26



1 Q You remember the Crosse Building was included in the  
2 criticism? A Absolutely it was not.

3 Q I was just asking; I didn't know. Now, you say that  
4 Max Goldsmidt has an interest in that building? A Yes  
5 sir, he is president of it.

6 Q The wine merchant? A Yes sir.

7 Q Max Goldsmidt? A Yes sir.

8 MR APPEL: We would like to have him come here tomorrow morn-  
9 ing so we can finish the cross-examination of the wit-  
10 ness.

11  
12 REDIRECT EXAMINATION

13 MR FREDERICKS: Did you ever talk to Max Goldsmidt before  
14 going up here as a witness? A No sir.

15 MR APPEL: That is not redirect. I ask that it be stricken  
16 out.

17 THE COURT: Strike it out.

18 MR FREDERICKS: Counsel says -- brings in the name of Max  
19 Goldsmidt as the owner of that building. He says, "I see;  
20 I see."

21 MR APPEL: Yes, I do see.

22 MR FREDERICKS: Now, let's have the testimony from the  
23 sworn witnesses, and not the performance of counsel. Now,  
24 that is an intimation that Max Goldsmidt could have had some  
25 thing to do with this witness' testimony.

26 THE COURT: It didn't occur to the court that such was the

1 case.

2 MR FREDERICKS: Well, it occurred to me.

3 THE COURT: I can see the connection. I certainly will allow  
4 the question.

5 MR FREDERICKS: Now, Mr Houston, you said that you gained  
6 your impressions in regard to this defendant -- or, in re-  
7 gard to Mr Hawley from conversations with other people, as  
8 well as your own personal dealings, and I will ask you to  
9 name the people with whom you have in the past years, who  
10 have talked to you about his reputation.

11 MR APPEL: Wait a moment. We object to that upon the  
12 ground it is incompetent, irrelevant and immaterial and not  
13 redirect; that that is a matter that cannot be gone into  
14 in chief on the part of the prosecution; that is a matter  
15 that only can be brought out on cross-examination. That  
16 is the rule, and we didn't go into that.

17 MR FORD: Counsel is endeavoring to show --

18 THE COURT: Just a moment. Are you right in assuming that  
19 this witness said that he gained information from other  
20 people?

21 MR FREDERICKS: Assuredly he said so. Said it on cross-  
22 examination.

23 MR FORD: If the court please, I would like to be heard  
24 just a moment on that matter. Character is what a man  
25 actually is --

26 THE COURT: If he said it, that is one thing.

1 MR FORD: Well, he didn't say it in those words. If he  
2 said, "I know his reputation," under the definition of  
3 reputation, it is equivalent of saying, "I know what the  
4 people in this community say," because reputation means  
5 what people say about him. Now, in addition to testifying  
6 to reputation, they have brought out the fact that the  
7 witness knows something of his own knowledge, as to the  
8 actual character, and the witness has said it again,  
9 "I am not testifying to his reputation by reason of my deal-  
10 ings with him." That is something that indicates to the  
11 witness the real character of the witness, but when he  
12 says I know this man's reputation, it is equivalent to  
13 saying, "I know what people say about him in this commu-  
14 nity", and they have tried to show now that all that this  
15 witness knows about Mr Hawley is what he has learned by  
16 reason of his personal dealings. We certainly have a right  
17 on redirect examination to show that the witness does ac-  
18 tually know the reputation of Mr Hawley from the lips of  
19 other people; that he has talked to other people in this  
20 community, and what they are and what they think about it.

21 THE COURT: Read Captain Fredericks' question. (Last  
22 question read by reporter.)

23 THE COURT: If the witness said that, it escaped my memory.

24 MR DARROW: I suggest it don't make any difference if he  
25 said it or didn't say it, if I am allowed to reply. It  
26

1 was for them to show what qualifications this witness had.  
2 They chose to ask him whether he knew his reputation, and  
3 he said yes, and they asked him the question. They could  
4 have asked him whether he had personal dealings, and who  
5 he talked with, and lay all the foundation they pleased.  
6 It was for them to do it, if they wanted to. The first  
7 answer this witness made on cross-examination was that he  
8 didn't believe in his integrity and honesty, because he  
9 didn't pay his debts; that was on cross-examination.  
10 That statement led up <sup>to</sup> this examination, and it has been  
11 fully covered. Now, if they go back and show any other  
12 conversation, of course, it involves further cross-examina-  
13 tion upon a matter which is entirely in chief, and a mat-  
14 ter which we didn't bring out at all, but volunteered by  
15 the witness in this case.

16 MR APPEL: Here is the idea. They introduce this witness  
17 and they ask him: Do you know the general reputation of  
18 so and so? That is to lay the foundation to introduce the  
19 evidence. He says yes. What is that reputation; good or  
20 bad? Bad. On cross-examination, we say to him first,  
21 what is reputation; second, what is integrity, and so on.  
22 We want to follow that line of examination. Then, we want  
23 to ascertain whether or not he speaks of the general  
24 reputation from what he knows of his own knowledge, or from  
25 what he heard others say. We asked him that; that is cross-  
26 examination. He says -- the witness says, "I make up my

1 mind not only from what I know, if such be the case, and  
2 from what others have said. Now, I didn't ask him any-  
3 thing about what others said. I am examining him on what  
4 he means. What is in his mind when he says, I know his  
5 general reputation; that is purely cross-examination. Now,  
6 then, they, themselves, cannot ask what so and so said  
7 about the man or what so and so said about him. They  
8 can't do that. We can ask him on cross-examination that,  
9 and they cannot do it themselves. We have cross-examined  
10 him entirely upon what he testified in chief. We have  
11 tested what he means by general reputation. We have test-  
12 ed what he considers general reputation. We have tested  
13 his knowledge of how he said that reputation is bad. He  
14 said from what others said to him. Now, that doesn't en-  
15 title them -- what did others say to him? Now, I submit,  
16 your Honor, I can show authorities and authorities exactly  
17 stating that rule, and I would like to have them challenge  
18 me again whether or not I can present that.

19 THE COURT: Allow me to get Captain Fredericks' views on  
20 the subject.

21 MR FREDERICKS: Under the decisions of this court, in qual-  
22 ifying a witness or asking him this impeaching question  
23 you are confined to asking him, do you know the general  
24 reputation, to which he must reply, yes, and then, what is  
25 it, to which he must reply good or bad. Now, we cannot go  
26 any further than that. Now, on cross-examination counsel

1 for the other side asked this witness, "Upon what do you  
2 found your belief that his reputation is bad? On what you  
3 think about him?", and he answered, "On what I think about  
4 him and upon what others have told me." They went into a  
5 half-hour's cross-examination here as to what he thought  
6 about him, as to his dealings with him, leaving the entire  
7 thing untouched, the great field, as to what others had  
8 told him. Now, the purpose of redirect examination, then, is  
9 to explain what is not brought out by cross-examination, and  
10 which is touched by cross-examination and left unexplain-  
11 ed.

12 THE COURT: This is a question of what the record discloses  
13 as to the examination.

14 MR APPEL: No, your Honor. Suppose I concede -- let me put  
15 myself right, so as to be fair with the court. Of course,  
16 we can only argue a proposition of law upon some admitted  
17 basis, and for the purpose of arguing that proposition of  
18 law so I will admit -- suppose we admit, your Honor, the  
19 witness says, "I made up my opinion concerning his reputa-  
20 tion; I have testified not only from what I know, but upon  
21 what others have said about it." Now, I stop right there  
22 on my cross-examination. I ascertain from the witness upon  
23 what he based his opinion that the general reputation of Mr  
24 Hawley was bad. That was pure and simple, unadulterated  
25 cross-examination. Now, if I had asked what others say  
26 about him, your Honor, and I would have opened the field

1 as to what he heard and then they would have a right to  
2 make that more specific or more general or more full,  
3 but I didn't do that, and I challenge your Honor, and I  
4 challenge the District Attorney to show me a single  
5 authority that the cross-examination I made of this witness  
6 entitles them to ask him on redirect what did Tom, Dick  
7 and Harry tell you about him.

8 MR FREDERICKS: I haven't asked that.

9 MR APPEL: I challenge any court to show me a single auth-  
10 ority, and I state to your Honor right now, that if the  
11 position taken by the District Attorney is a matter of law,  
12 is law, I am willing to quit this case now, and I am will-  
13 ing to say to your Honor, if you challenge me to show you  
14 authorities, and I say I am right, they cannot ask a man or  
15 produce a witness to impeach the general reputation of a man  
16 cannot be asked what so and so told him.

17 MR FREDERICKS: I haven't asked that.

18 MR APPEL: I don't want to state it to your Honor why  
19 I stopped my cross-examination upon that point, but if  
20 anybody thinks that I am asleep or I do things here without  
21 a purpose, he is very badly mistaken, and I have been in  
22 this game long ago, in every case where impeaching witnesses  
23 were put upon the stand, and I say that is the law, and  
24 let us not try to violate the law.

25 Now, I say they have no right to ask him. Let's keep  
26 this record clean and straight without error.

1 MR FREDERICKS: Counsel is not arguing the point before  
2 the court.

3 THE COURT: Well, read the question; let's see.

4 MR FREDERICKS: I have asked with whom did you discuss this;  
5 not what was said. That may come later, but it is not in  
6 the question now.

7 THE COURT: The only question in my mind has not yet been  
8 answered, except admitted for the purpose of argument.  
9 That is a different statement.

10 MR APPEL: Your Honor, we are -- I don't want to mislead  
11 the court. What I thought the witness said, I think the  
12 witness did state -- I said, did you make up your mind as to  
13 his reputation upon what you personally know of him.  
14 I remember asking that; that is the substance of the ques-  
15 tion. He says not only upon that, but upon what others  
16 said, or something like that. Anyhow, in effect that way.  
17 It makes no difference what language -- now, I argued then --  
18 I admitted, -- I will admit that is the intent and pur-  
19 pose and the meaning of the witness' answer to my question.  
20 I must be fair to your Honor. I must be fair in the record.  
21 I say that under those conditions, admitting that that is  
22 the case, they are not entitled to ask him, "Who did you  
23 talk to", and then say, "What did they say?"

24 MR FREDERICKS: As to what did you say, would raise another  
25 question altogether.

26 THE COURT: He answered --



1 MR FREDERICKS: And we don't attribute to counsel that he  
2 overlooked his hand in the slightest degree in the matter,  
3 and we call the court's attention to the purpose of the  
4 cross-examination, which is to avoid those things which are  
5 against you and bring out and magnify and develop those  
6 things that you want to, and it is the purpose then of the  
7 redirect examiner to bring out that which is not brought  
8 out.

9 MR APPEL: No, the only difference about it is I try to  
10 be a lawyer and I try to try my cases like a lawyer, and  
11 follow the rules of law for which I have more respect than  
12 I have for any human being.

13 THE COURT: Gentlemen, it is almost adjourning time. We  
14 will adjourn until tomorrow morning.

15 (Jury admonished. Recess until 10 o'clock August 9th,  
16 1912.)

17 ---  
18  
19  
20  
21  
22  
23  
24  
25  
26