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CONNECTION OF CERTAIN DEPARTMENT OF LABOR EMPLOYEES WITH THE CASE OF THOMAS J. MOONEY.

LETTER

FROM

THE SECRETARY OF LABOR,

TRANSMITTING

INFORMATION RELATIVE TO THE CONNECTION OF CERTAIN OF THE DEPARTMENT'S EMPLOYEES WITH THE CASE OF THOMAS J. MOONEY.

JULY 23, 1919.—Referred to the Committee on Labor and ordered to be printed.

DEPARTMENT OF LABOR,  
Washington, July 22, 1919.

SIR: I have the honor to acknowledge the receipt of attested copy of House resolution 128, dated June 27, 1919, calling upon the Secretary of Labor for information relative to the connection of certain of the Department's employees with the case of Thomas J. Mooney, now serving a life sentence for participation in the Preparedness Day bomb explosion of July 22, 1916, at San Francisco, Calif.

The resolution requests information along three separate lines:

(1) What connection in behalf of the Department of Labor, if any, has John B. Densmore, now Director of the United States Employment Service, had with the case of Thomas J. Mooney, convicted in California of crime, stating in detail the activities of said Densmore concerning said case, and the expenses of same itemized that were paid by the Government, and upon what authority of law, attaching copies of all reports concerning same made to the Department of Labor by said John B. Densmore.

In September, 1917, the case of Thomas J. Mooney had become not only a criminal case, but an international and a labor case. As long as it remained purely a criminal case it was not a matter with which the Federal Government had any right to interfere. Diplomatic correspondence indicated that the Mooney case was being used in foreign countries, particularly in Russia, as a means of destroying the friendly relations existing between this people and the people of Russia, and was affecting the conduct of the war. Labor strikes were taking place or were threatened as a means of influencing the judicial and executive authorities, thereby disturbing the industrial situation throughout the United States.



On the 29th of September, 1917, the President appointed a mediation commission to look into the disturbed industrial situation of the mountain region and the Pacific coast. The Secretary of Labor was chairman of that commission. As chairman of the commission I was directed by the President to look into the Mooney case and report to him. That is my authority.

At that time John B. Densmore was the Solicitor for the Department of Labor. He was engaged in running down criminal cases connected with the Immigration Service in San Francisco. He had assigned to him two immigration inspectors who were working in cooperation with the Department of Justice. When the commission reached San Francisco in November, 1917, it proceeded to look into the Mooney case, and at that time I instructed Mr. Densmore to get any additional information that might be of value in securing a full understanding of the case for submission to the President and, if necessary, to the governor. The two immigration inspectors assigned to him were used for that purpose. They worked in cooperation with the Department of Justice in securing evidence in the Hindu and the immigration cases and in the Mooney case. It is impossible to determine what proportion of their time was used in securing the evidence afterwards submitted in the so-called Densmore report.

In January, 1918, Mr. Densmore was appointed Director General of the newly created Employment Service, but as he was more familiar with the immigration cases than anyone else, he was directed to proceed to San Francisco when those cases came up for trial in November, 1918. At that time the immigration inspectors referred to placed in his hands a report which he transmitted to me. A copy of the report is herewith attached.

(2) What connection in behalf of the Department of Labor, if any, since the punishment of said Thomas J. Mooney was commuted to life imprisonment, has any employee of said Department of Labor had with the said case of Thomas J. Mooney, stating such activities in detail, the purposes thereof, the expense itemized in connection therewith that has been paid or is to be paid by the Government, and upon what authority of law, attaching copies of all reports made to the Department of Labor concerning said case?

The Department of Labor, through its Immigration Bureau, is authorized to deport alien anarchists. Its investigations in these cases have developed clues that lead to the Mooney case. It is continuing these investigations, and it is not deemed compatible with the public interest to disclose at this time its activities, thereby placing in the hands of alien anarchists the means of protecting themselves against deportation.

(3) What requests on the Department of Labor, if any, have been made by a grand jury or a court in California for said John B. Densmore to appear in California to give evidence, and what action concerning same was taken by the Department of Labor?

On November 25, 1918, I received a telegram from William H. McCarthy, foreman of the grand jury of the city and county of San Francisco, asking me to instruct Mr. J. B. Densmore to return to San Francisco for the purpose of assisting the grand jury in the investigation of certain charges of corruption contained in his report. On November 30, 1918, I received a telegram from Edmund P. Mogan, presiding judge of the Superior Court of San Francisco, asking me to direct Mr. Densmore to go to San Francisco immediately and report to Foreman William H. McCarthy of the grand jury and



become a witness before that body. I declined to direct Mr. Densmore to return to San Francisco for that purpose, first, because the grand jury had been in continuous session for about six months, with District Attorney Fickert as its legal adviser during that time. Fickert was reflected upon by the Densmore report. Second, because some of the members of the grand jury were referred to in the report as having had improper relations with certain alleged "jury fixers" who were mentioned. For these reasons I declined to direct Mr. Densmore to return to San Francisco.

There was no additional expense to the Government because of any services rendered by Mr. Densmore in the Mooney case.

The total salaries of the immigration inspectors referred to during the period of the investigation amounted to \$6,101.68. Only a portion of these items is chargeable to the investigation in the Mooney case. The proportion is indeterminate, as the inspectors were engaged at the same time in the investigation of the immigration cases and securing evidence in the Hindu cases, for which reason the full salaries are given.

The total of the other expenses amounts to \$1,043.02. It is not deemed compatible with the public interest to itemize this statement at this time.

Respectfully submitted,

W. B. WILSON, *Secretary of Labor.*

The SPEAKER OF THE HOUSE OF REPRESENTATIVES.

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### THE MOONEY CASE.

A REPORT ADDRESSED TO THE SECRETARY OF LABOR BY J. B. DENSMORE,  
DIRECTOR GENERAL OF EMPLOYMENT.

SAN FRANCISCO, CAL., *November 1, 1918.*

Hon. W. B. WILSON,

*Secretary of Labor, Washington, D. C.*

SIR: Pursuant to instructions received from time to time during the past six months, I have the honor to report that I have conducted a secret and altogether informal inquiry into the Mooney case, and beg leave to submit herewith the results of my investigation. Before entering into a recital of the various steps pursued in carrying out the operation, it might be well to call attention to a number of peculiar features which have characterized this case from the beginning, in order that there may be no misconception, either as to the issues involved or as to the necessity which arose for the employment on the part of the investigators, of somewhat unusual methods of obtaining information.

On the surface, and in its narrowest aspect, the Mooney case may be defined as the case of the people of the State of California against Thomas J. Mooney and certain other defendants, four in number, charged with perpetrating a bomb outrage in the city of San Francisco during the Preparedness Day parade, on July 22, 1916, thereby causing the deaths of 9 or 10 persons and the injury of numerous others. Of the five defendants, four have been tried. Two of these, Mooney and Warren K. Billings, were found guilty, Mooney now being



under sentence of death and Billings serving a life term in the penitentiary; the other two, Mrs. Thomas J. Mooney and Israel Weinberg, were acquitted. The case against the fifth defendant, Edward D. Nolan, has virtually been dropped for lack of evidence. All five of these persons have been more or less prominently identified with the union-labor movement in San Francisco.

It was charged by the prosecution that these five defendants were animated by anarchistic motives and that the bomb explosion which they were alleged to have planned and consummated was the climax of a carefully laid plot to strike a blow at existing social and political institutions and intimidate all those who were in any way concerned with placing the country in a state of military preparedness.

This is one view of the case. On the other hand, it has been urged in favor of these defendants that they are the victims of a monstrous frame-up; that the evidence against them has been manufactured out of whole cloth and cut to measure in accordance with a predetermined pattern; and that the district attorney of the city and county of San Francisco, backed by certain sinister influences antagonistic to the cause of union labor, has resolved to accomplish their ruin if it is at all possible to do so.

This, stated briefly, is the Mooney case. The full record is voluminous. As one reads the testimony and studies the way in which the cases were conducted one is apt to wonder at many things—at the apparent failure of the district attorney's office to conduct a real investigation at the scene of the crime; at the easy adaptability of some of the star witnesses; at the irregular methods pursued by the prosecution in identifying the various defendants; at the sorry type of men and women brought forward to prove essential matters of fact in a case of the gravest importance; at the seeming inefficacy of even a well-established alibi; at the sang-froid with which the prosecution occasionally discarded an untenable theory to adopt another not quite so preposterous; at the refusal of the public prosecutor to call as witnesses people who *actually saw the falling of the bomb*; in short, at the general flimsiness and improbability of the testimony adduced, together with a total absence of anything that looks like a genuine effort to arrive at the facts in the case.

These things, as one reads and studies the complete record, are calculated to cause in the minds of even the most blasé a decided mental rebellion. The plain truth is, there is nothing about the cases to produce a feeling of confidence that the dignity and majesty of the law have been upheld. There is nowhere anything even remotely resembling consistency, the effect being that of patchwork, of incongruous makeshift, of clumsy and often desperate expediency.

It is not the purpose of this report to enter into a detailed analysis of the evidence presented in these cases—evidence which, in its general outlines at least, is already familiar to you in your capacity as president, ex officio, of the mediation commission. It will be enough to remind you that Billings was tried first; that in September, 1916, he was found guilty, owing largely to the testimony of Estelle Smith, John McDonald, Mellie and Sadie Edeau, and Louis Rominger, all of whom have long since been thoroughly discredited; that when Mooney was placed on trial, in January of the year following, the prosecution decided, for reasons which were obvious, not to use



Rominger or Estelle Smith, but to add to the list of witnesses a certain Frank C. Oxman, whose testimony, corroborative of the testimony of the two Edeau women, formed the strongest link in the chain of evidence against the defendant; that on the strength of this testimony Mooney was found guilty; that on February 24, 1917, he was sentenced to death; and that subsequently, to wit, in April of the same year, it was demonstrated beyond the shadow of a doubt that Oxman, the prosecution's star witness, had attempted to suborn perjury and had thus in effect destroyed his own credibility.

The exposure of Oxman's perfidy, involving as it did the district attorney's office, seemed at first to promise that Mooney would be granted a new trial. The district attorney himself, Mr. Charles M. Fickert, when confronted with the facts, acknowledged in the presence of reputable witnesses that he would agree to a new trial. His principal assistant, Mr. Edward A. Cunha, made a virtual confession of guilty knowledge of the facts relating to Oxman, and promised, in a spirit of contrition, to see that justice should be done the man who had been convicted through Oxman's testimony. The trial judge, Hon. Franklin A. Griffin, one of the first to recognize the terrible significance of the exposé, and keenly jealous of his own honor, lost no time in officially suggesting the propriety of a new trial. The attorney general of the State, Hon. Ulysses S. Webb, urged similar action in a request filed with the Supreme Court of California.

Matters thus seemed in a fair way to be rectified, when two things occurred to upset the hopes of the defense. The first was a sudden change of front on the part of Fickert, who now denied that he had ever agreed to a new trial, and whose efforts henceforth were devoted to a clumsy attempt to whitewash Oxman and justify his own motives and conduct throughout. The second was a decision of the supreme court to the effect that it could not go outside the record in the case—in other words, that judgment could not be set aside merely for the reason that it was predicated upon perjured testimony.

There are excellent grounds for believing that Fickert's sudden change of attitude was prompted by emissaries from some of the local corporate interests most bitterly opposed to union labor. It was charged by the Mooney defendants, with considerable plausibility, that Fickert was the creature and tool of these powerful interests, chief among which are the chamber of commerce and the principal public-service utilities of the city of San Francisco. In this connection it is of the utmost significance that Fickert should have intrusted the major portion of the investigating work necessary in these cases to Martin Swanson, a corporation detective, who for some time prior to the bomb explosion had been vainly attempting to connect these same defendants with other crimes of violence.

Since the Oxman exposure, the district attorney's case has melted steadily away until there is little left but an unsavory record of manipulation and perjury, further revelations having impeached the credibility of practically all the principal witnesses for the prosecution. And if any additional confirmation were needed of the inherent weakness of the cases against these codefendants, the acquittal of Mrs. Mooney on July 26, 1917, and of Israel Weinberg on the 27th of the following October would seem to supply it.

These acquittals were followed by the investigation of the mediation commission and its report to the President under date of January 16, 1918. The commission's report, while disregarding entirely the



question of the guilt or innocence of the accused, nevertheless found in the attendant circumstances sufficient grounds for uneasiness and doubt as to whether the two men convicted had received fair and impartial trials.

This was the condition of things when I asked for and received official permission to make a further investigation of the case along certain lines which I hoped would develop information of the first importance. By this time the fate of the Mooney defendants had aroused international interest and solicitude. The Netherlands Federation of Labor, the British Trades Union Congress, the General Federation of Labor of Milan, and other similar organizations all over the world had taken official cognizance of the methods used in securing the conviction of Billings and Mooney and had entered their solemn protests against what they considered a gigantic frame-up on the part of unscrupulous capitalistic interests to discredit the whole cause of union labor. The liberal sentiment of Russia was aroused because the circumstances of Mooney's prosecution, in the language of the mediation commission, "led to the belief that the terrible and sacred instruments of criminal justice were, consciously or unconsciously, made use of against labor by its enemies in an industrial conflict."

This widespread feeling of suspicion on the part of organized labor throughout the world has in time of war a deep and peculiar significance, in order to understand which it is only necessary to point out that under the authority conferred by various legislative measures passed by Congress since the beginning of the war, supplemented by numerous proclamations of the Chief Executive, the Government itself has become the direct employer of millions of men, while the country's principal economic activities have been subordinated to the public interest in every line of endeavor connected in any way with the war. Never before in the history of the country has this partnership of Government and industry been so close or so necessary. With every resource of the country engaged in the one supreme effort; with cooperation among laborers and between labor and capital the keynote of success; and with the Government engaged in working out a labor program designed to promote the efficiency and morale of the vast army of artisans and laborers who are supplying the sinews of war, it is of the utmost importance that mutual respect should characterize the relations of all the parties concerned—that cooperation between capital and labor should be a reality and not a mere dream; that distrust and suspicion should have no place in their councils; and that in peace and harmony they should strive whole-heartedly for the one common aim—the winning of the war.

In my investigation of the Mooney case I have kept these facts well in mind and proceeded on the theory that an unwarranted attack upon labor leaders, with a premeditated and deliberate intention to injure and discredit union labor generally, and thus in effect to curtail the production of essential war materials, would constitute a virtual violation of the act of Congress approved May 16, 1918, commonly known as the espionage act, which makes it a crime punishable by fine and imprisonment to "utter, print, write, or publish any language intended to promote the cause of its (the country's) enemies \* \* \* or advocate any curtailment of pro-



duction in this country of any thing or things, product or products, necessary or essential to the prosecution of the war." This was not an idle resolution of Congress, but was a serious attempt on the part of the national legislative body to reduce to a minimum the handicap of sedition, perfidy, and the various crimes growing out of a lukewarm or misguided allegiance.

Applying these thoughts to the Mooney case, it will at once be seen that the issues involved transcend in importance the issues of the particular crime and assume proportions that appeal to the imagination. If there has been persecution, along with deliberate falsification of testimony in furtherance thereof, the frame-up becomes a monstrous offense, not only against common decency, but against the flag.

In preparing for a fresh investigation, two plans of operation naturally presented themselves for consideration. The first was to select a number of special operatives, start at the beginning, and conduct a searching and thorough inquiry into every phase of the case, including the antecedent incidents, past history of the principals, the crime itself, and then, of course, the actual handling of the case by the prosecution. In an investigation of this scope and character it would have been necessary to be clothed with the power to summon witnesses and administer oaths, and it would not have been long before the whole operation would have been handicapped by the widest publicity.

The alternative plan was to proceed secretly, with but two or three men, and make no move that would attract attention, either from the prosecution, the defense, or the corporate interests of the city of San Francisco. This second and less spectacular method had its drawbacks, which however, were more than balanced by its obvious advantages. It was therefore decided to work secretly.

I had at this time two trusted assistants in San Francisco, and to these I confided my plan of operations, leaving, however, the execution of the details very largely to their own judgment. I take this occasion to testify to their unfailing zeal, intelligence, and loyalty, without which the results attained would have been impossible.

These assistants had not been long at work before they unearthed evidence that convinced them that it was absolutely necessary to the success of the operation to install a dictaphone in the office of the district attorney, Mr. Charles M. Fickert. This task was a seemingly impossible one, owing to the fact that Fickert keeps himself barricaded behind double locked doors on the fourth floor of the Hall of Justice, in a private office to which only one other man has the keys.

The full details as to how this dictaphone was finally installed will probably never be divulged, as no good purpose could be served by a recital of the facts, interesting as they are. Some idea of the difficulties involved will be gained when it is stated that more than two months of careful and clever work were required before the installation was complete and the machine in actual operation.

Fickert's office in the Hall of Justice is a very large room in the southwest corner of the building, on the topmost floor. (See diagram, Exhibit A.) It is lighted by two arched windows, one overlooking Portsmouth Square to the west, the other fronting Merchant Street on the south. The district attorney's desk is in the extreme



southwest corner of the room, between the two windows. Besides the desk, the room contains a large oblong table; otherwise there is little furniture. On floor and table, in picturesque disarray, are countless exhibits alleged to relate to the activities of the I. W. W.'s, the Mooney defendants, and other reputed agitators and dynamiters.

For dictaphone purposes the location was by no means an ideal one. Rumbling teams and street cars, tooting automobiles, the shouts of Chinese children playing around the Robert Louis Stevenson fountain in the park opposite—these and other sounds from Kearney Street ascended and mingled with the voices of those conversing within the room. The room itself was about 25 by 30 feet, and when conversations were held in a low voice at some distance from the transmitter the results attained were not always satisfactory.

Considerable experiment was thus required to adjust the delicate microphone to the peculiar and somewhat baffling conditions. After trying out various combinations of batteries, resistance coils, amplifying valves, and receivers, and making several novel improvements never before attempted in similar lines of work, a final satisfactory adjustment was at last achieved.

I know of no better way to present the mass of valuable information secured through the use of this machine than to incorporate the full transcript in the body of this report. It is lengthy, but at the same time it is illuminating; and any digest, paraphrase, or abridgment would perhaps fail to convey either the true atmosphere of the district attorney's office or the full significance of the record itself. In view of the importance of the case it is not believed that further apologies are necessary for this introduction of what in other circumstances might justly be considered an unconscionably long and detailed account of miscellaneous and not always interesting conversations.

In order to complete these prefatory remarks, it might be well to add that the conversations given in the following transcript were all overhead by two or more persons, usually by three, though sometimes by more than three. For the sake of clearness it has been thought best to insert brief notes of explanation wherever necessary; these are invariably given in brackets. Wherever the conversation was obscure or inaudible, that fact is noted. In the telephone conversations, both voices could usually be heard. Sometimes, however, the microphone failed to transmit the voice at the far end of the line. Whenever such was the case, mention is made of the fact.

The first record is for September 5, 1918.

#### TRANSCRIPT OF DICTAPHONE RECORDS.

September 5:

At 10.48 a. m. there was a call for Fickert on his private phone, but same was not answered, showing that Fickert was not in his office. [This private office is almost invariably kept locked in the absence of the district attorney; in fact, the only other employee who possesses keys to its double locks is Thomas J. Lydon, Fickert's secretary.]

At 11.09 a. m. Fickert entered the room in company with Martin Swanson [the well-known detective who has played such an important part in the Mooney case]. Fickert was telling about some man to whom Mooney had remarked, "I may hang for this, or I may get life, but G—— d—— it, the man who gives me away will die."

Fickert then said something about the information being placed in the hands of the governor. He also spoke of a sentry at the Presidio who, he said, could be used as a witness against Mooney, provided they could locate him.

At 11.25 a. m. there was a telephone call for Fickert from a Mr. Nichol, or Nicolls. Fickert asked him to come down the next day, saying, "We have some fine new developments."



Swanson then told about a "s—— of a b——" named John Thomas McGovern, of Mountain View, and Fickert remarked that he would like to see him the next day also.

According to Swanson, this fellow McGovern had been examined by Brennan and himself. The man had asked until the next morning to make a statement, and Brennan, "like a d—— fool," had let him go. "The next day," said Swanson, "McGovern saw McNutt and stiffened up his back, so that when we sent him to Mooney he claimed that Mooney wouldn't say anything." [James F. Brennan was former assistant district attorney and very active in prosecution of the Mooney cases; he still consults with and advises Fickert. Maxwell McNutt is Mooney's attorney.]

Fickert and Swanson then discussed some boy, 16 years old, who "had been present at the meeting on June 10," and who, it was alleged, could give damaging evidence against Mooney. They talked over the advisability of sending McGovern, after Fickert had had a chance to talk to him, to Mooney, for the purpose of getting him to make damaging admissions on the strength of the appearance of this new witness. [The "meeting of June 10" evidently refers to a meeting attended by Mooney on the night of June 10, 1916, at which Mooney announced the calling of a strike of carmen.]

At 11.50 a. m. Swanson having left the room, a woman entered and held an extended conversation with Fickert on the subject of the drink evil, prostitution, etc. Fickert gradually switched the subject to the Mooney case. After remarking that he "had not been asleep" he criticized Secretary of Labor Wilson for "butting in" and "not examining into the case fairly." He said that President Wilson "isn't man enough to handle the matter," and that "what the country needs is a man like Roosevelt."

At 12.22 p. m. this woman left the office, and a moment later Assistant District Attorney Fred L. Berry came in. After greetings and a few unimportant remarks not related to official business, he and Fickert went out to lunch together.

#### September 6:

Martin Swanson arrived shortly after 9 o'clock, and at once went into conference with Fickert. The ensuing conversation was mostly the latter's; he took great pains to inform Swanson as to the best way to proceed with several persons who were to be used as witnesses. One of them was a person by the name of Yturriaga. The names of the others could not be learned, but one of them had evidently had some correspondence with this Yturriaga.

Fickert said to Swanson, "I am convinced that your lead here is absolutely correct; there was a lot of correspondence between this Mexican and himself; there was also found some revolutionary literature—a Mexican paper called 'Regeneracion'—I think the date was 1907. \* \* \* Frank Rafael \* \* \* runs a saloon in Stockton right opposite. We had a fellow in there once, but they got onto him."

Fickert then read a list of cities in South America, Mexico, Central America, and California, leading up to Los Angeles. He interrupted his reading of the list to observe, "This is all in his own handwriting." He then went on with the list, which now switched to Europe, and which included Berlin and Potsdam.

Apparently Fickert then took up another phase of the matter; after some unintelligible exchanges between himself and Swanson, he said, "His own attorney made the accusation—McNutt." He then read several questions and answers, as follows:

"Where did you first meet Mooney?"

"At the studio."

"Where did you meet him afterwards?"

"I think he came to my residence."

"Did you see Mooney on the day of the preparedness parade?"

"No; I was working."

Fickert and Swanson then had some dispute as to an address; there seemed to be a question as to whether it was 421 or 241 Downing Street. They finally decided it was 241. Evidently it was the place where the 16-year-old boy [mentioned the day before] lived, or else where he had seen the person now under discussion. This person, according to Fickert and Swanson, was seen entering and leaving the premises with books, drawings, and other papers and documents.

There was then some talk of "Goldman, Berkman, and Trotsky," but the connection between this and the conversation that went before, if there was any connection, could not be understood.

#### September 12:

At 10.30 a. m. Fickert received a visit from P. H. Johnson [assistant United States attorney, assigned to the prosecution of I. W. W. cases at Sacramento]. The evident purpose of the visit was to exchange bits of information relative the I. W. W. and Mooney cases, which Fickert and Johnson both affect to believe are linked together.

While Johnson examined some miscellaneous files and exhibits evidently handed to him from time to time by Fickert, they kept up a running conversation, snatches of which were easily made out, while other parts were not distinct.



Fickert then read aloud a statement, evidently made by a man named McGovern, or McGowan, a copy of which he stated he had already given to Judge Henshaw [F. W. Henshaw, ex-justice of the Supreme Court of California, and one of the leading attorneys of the corporate interests behind Fickert in the Mooney case. Henshaw and Frank C. Drew, the latter an attorney for the Chamber of Commerce of San Francisco, are the real brains of the antilabor forces arrayed against Mooney. These two attorneys either prepare or review all the briefs presented by Fickert in the Mooney case, Fickert himself being a man of no intellectual powers whatever]. Part of this statement was as follows: "In the latter part of December, 1917, McDonald came to my room in the Elm [?] Hotel." Fickert then switched to Col. Wood, whom he called a "son-of-a-bitch who writes for the 'Blast,'" and who "monkeyed around with Bourke Cockran."

At this point, with Johnson still in the room, Fickert sent for his stenographer. When she entered the room he said, "Good morning," and then told her that he had already secured his registration card. [This was registration day for all draft eligibles between the ages of 18 and 45.] He then began dictating, as follows: "The following is a list of persons who visited Tom Mooney after his incarceration, including Leon Trotsky, Bluma Krauss, Mrs. Skeffington, Mother Jones."

[Fickert claims that Mooney was visited while in jail by Leon Trotsky, the famous Russian radical. The fact is that Trotsky was not on the Pacific coast at any time during Mooney's incarceration. Mooney never met the Russian; never, indeed, heard of him until the Russian revolution broke out. The story is but another of the many ridiculous and clumsy inventions of the district attorney.]

After dictating the heading to this list, Fickert was interrupted to attend to a long-distance call which he had evidently put in earlier for Deputy United States Marshal Thomas Mulhall, at Sacramento. [Mulhall was the assistant to P. H. Johnson, above referred to, in working up the I. W. W. cases.] Fickert told Mulhall over the phone that he wanted to see him, and asked whether he was going to be down in a day or so. Mulhall replied that he expected to be in San Francisco on Saturday night [September 14].

Fickert said, "All right: I have some data that I'd like to take up with you." Mulhall replied that he would be glad to do what he could to be of service. Fickert then said, "If you've still got Manuel Silva, hold on to him, as I think we've got enough to hold him on—he was mixed up in the Mooney case."

He then hung up and asked the stenographer what she had written. She read aloud the list of Mooney visitors, as above, and Fickert said, "Add William McDevitt and Belle Lavin." He then said [addressing Johnson], "If there is anything else you want, let me know."

Fickert and Johnson then discussed various other persons, most of whom Fickert characterized as "s—s of b—s." He referred to one of them as "a G—— d——d Dutch s—— of a b——h," but just who was meant could not be fathomed. Fickert told of an account book of the International Workers' Defense League [the union labor organization which is defending Mooney], which he said he had somewhere, though he could not put his hands on it, and which showed that they had paid Kytka, the handwriting expert, \$1,000. [Kytka, by enlarging a photograph of a street clock 25,000 times, established an alibi for Mooney; for this work he earned the undying hatred of Fickert.]

In the course of conversation Johnson, who also has the "son-of-a-bitch" habit, told Fickert that he had a letter from Mooney [?] to Gov. Spry [of Utah], threatening to blow him up. He said he would be glad to furnish Fickert with a copy.

September 14:

At 9.45 a. m. Martin Swanson called up Fickert's office and talked to Lydon [Fickert's secretary] as follows:

S. "This is Swanson. Anybody there want me?"

L. "Hello, Martin. I believe the chief wants you."

S. "I'll drop in after while. Did you find that transcript on the appeal? Did you inquire at that office?"

L. "Not yet I haven't; but I will."

S. "All right, Tom. Tell the chief I'll be there soon."

At 9.47 a. m. Lydon called up Douglas 726 [Frank C. Drew, attorney for the chamber of commerce], and the following conversation took place:

L. "This is Mr. Lydon, of the district attorney's office. I'm looking for that transcript on appeal in the Billings case. We understood it might be over there. Can you tell me whether it is?"

GIRL. "I'll look." [Later:] "Mr. Drew isn't here, and no one else seems to know anything about it. I'll ask him when he comes in."

L. "All right. Thank you."



At 10.25 a. m. Fickert called up Franklin 5483 and talked to his wife about a bill from O'Connor Moffatt & Co. for \$127.

Shortly afterwards an unidentified assistant entered the room. Fickert asked, "Did you telegraph for that fellow?"

"Yes," replied the assistant, "they will both be here Monday at 11 o'clock."

Fickert then told of finding a couple of notebooks belonging to Billings. He said that Mulhall [deputy United States marshal at Sacramento] would be down that night. Stated that Mulhall was "sore at Shannon and some of those mutts for shooting their mouth off." [S. J. Shannon, deputy United States marshal at Fresno.]

Martin Swanson now entered and asked, "Did you get that transcript?"

"Lydon phoned over there twice," said Fickert, "but didn't get it yet. I got this list out." [This was evidently a reference to the list of persons who had visited Mooney in jail.]

Swanson apparently examined the list. "Fine," he said in a moment.

Fickert then read aloud several names: "Mother Jones, Belle Lavin, Caplan, and Schmidt." In a moment he added: "I've got more on Esmond." [These are names of radicals and agitators in the labor world.]

Some one then said to Fickert, "There are a couple of your friends out there, Schulberg and Harrington [?] trying to get a writ of error." [Schulberg and Leo Harrington were employees of the International Workers' Defense League; they were serving certain legal papers on Fickert in the interest of Mooney.]

Lydon now spoke up: "These are the originals and these are the copies," he said. "It's a writ of error in the Mooney case."

A moment later (at 10.45 a. m.) Fickert called up Douglas 1272 [Judge Henshaw]. The latter's voice could not be heard, but Fickert spoke as follows:

"Say, Judge, McNutt just served me with a notice of a writ of error. [Pause.] I don't think they can do anything. [Pause.] I just wanted to make sure. [Pause.] I ran across a notebook of Billings, and in it he has the name and address of the Federal commissioner at Seattle. That shows their acquaintanceship before the investigation. [Pause.] Yes; the fellow who investigated with Frankfurter. [Pause.] Yes; I will give them to you. Just make a note of it." [This reference is evidently to Felix Frankfurter, secretary of the mediation commission.]

A little later Fickert said, "I had several books here and they are gone. I am going to shoot somebody. I had it here on my desk and made notes in it, and it is gone. There are lots of things I forget about. There are so many things about this G—— d—— case."

There was some further talk in low tones. Swanson said, "They are all bad eggs—they all attended the meeting of June 10. I've got their statements. I've got Pete [couldn't get last name]'s statement."

"What does he say?" asked Fickert.

"He doesn't say much," replied Swanson. "Here, put it in your desk so no one will walk off with it."

After a pause Swanson began again: "I wonder if we can find out if M. J. Walsh is Frank P. Walsh, supposed to be a cousin of Mooney's. He has gone to Honolulu on a ship."

"Has he gone?" asked Fickert.

"He has either gone or is about to go."

"Can you find out if he has left yet?" asked Fickert.

"I will find out at 12 o'clock," promised Swanson. After a brief pause he added, "I think I'll go out and find out about that now. Have you got an extra list of the names of those who visited Mooney?"

"I'm going to have some copies made," said Fickert.

"I can do a lot more if I have a list," said Swanson, who then took his departure.

As Swanson left, Cunha walked in and began talking about the Roche libel suit against the Los Angeles Times. It seems that Cunha had been asked to appear in the case for the Times and could not make up his mind whether to take the job or not. Fickert advised him to let the matter rest until Monday. [This was the suit for damages instituted by Theodore J. Roche, president of the police commission, on account of alleged libelous statements published during the late gubernatorial campaign.]

Cunha then told about a young lawyer named Ed Solinsky, who, he said, would make a good assistant to take the place of Assistant District Attorney Louis Ferrari, who was about to resign. Cunha described Solinsky as "a very nice caliber of a kid."

The conversation then switched to the Dr. Card case.

This was the case of a notorious local physician who had been found guilty of performing abortions upon women—or rather, had been found guilty of murder, growing out of such malpractice. Peter McDonough, a well-known fixer of juries and a close



personal friend of Fickert's, had attempted to get Card off by corrupting the jury, but had failed, presumably because of the strength of the case against the defendant. The incident is sufficiently interesting and instructive to be made a part of this report:

Telephone calls showing how Pete McDonough and Eddie Bryant (collector of taxes) on July 3, 1918, tampered with the jury in the case of Dr. Card, notorious malpractitioner, by attempting to bribe a juror by the name of Phillips, the bribe having been offered to Phillips by Dan Anglum, a saloon keeper at 1698 Market Street:

On July 3, 1918, at 3.40 p. m., Pete McDonough called up Park 8500 (City Hall) and asked for the tax collector's office.

McD. "Is Mr. Raphael there? [Raphael is deputy collector of taxes.]

GIRL. "No, he's gone for the day—I think across the bay."

McD. "Is Mr. Bryant there?" [Bryant is collector of taxes.]

GIRL. "Yes, he's here."

B. "Hello."

McD. "Hello, Ed; this is Pete McDonough talking. I wanted to talk to Raphael, but he's not there. You know Dan Anglum, don't you?" [Anglum is a saloon keeper at 1698 Market Street.]

B. "Yes, indeed."

McD. "How well do you know him?"

B. "I've known him ever since I was a baby."

McD. "Where can I see you about 6 o'clock?"

B. "I've got an engagement at 5.30."

McD. "I'd like to see you about a little matter, but don't like to say anything over the telephone."

B. "A party is going to call me up and I have to stay here until he does, which will be about 5.30."

McD. "Can you go to an outside phone and ring me up here? The number is Sutter 8643."

B. "All right."

At 3.45 p. m. Eddie Bryant called up Pete McDonough from a public booth in the City Hall.

B. "Hello, this is Eddie."

McD. "Say, Eddie, there's a fellow named Phillips keeps the cigar stand in front of Dan Anglum's, and he's on the Card jury. We've got to get busy quick because the thing will be finished on Friday. Can you run out there now and see Dan Anglum?"

B. "You bet I can."

McD. "Tell him you are much interested. Go out now."

B. "All right."

McD. "And after you have seen him, call me up here."

B. "All right."

At 3.48 p. m. Eddie Bryant called up Pete McDonough.

B. "This is Eddie again. In case that party you just rang me up about should make a crack about a consideration, what shall I tell him?"

McD. "You might suggest a small consideration, say, about \$50. You see Dan and tell him you are much interested in the fellow that's being tried. This fellow keeps the cigar store out in front."

B. "All right, Pete."

At 4.07 p. m. Eddie Bryant called up McDonough's saloon and asked for Pete.

MAN. "Pete just stepped out."

B. "Who is this talking?"

MAN. "This is Attorney Taylor."

B. "Tell him to ring up Eddie Bryant."

T. "All right."

At 4.16 p. m. Pete McDonough called up Park 8500 and asked for the tax collector's office. Bryant got on the phone.

B. "I saw him."

McD. "And ——?"

B. "He said he would speak to the party. He is taking care of the cigar stand for him."

McD. "And ——?"

B. "He intimated that he would handle it right and that everything would be O. K. He said the party was not doing much. I said to Dan that he would make it all right with him, but he said, 'The hell with me; make it all right with the other fellow; he needs it.' He is sure it will be all right."

McD. "Very good, Eddie."



B. "He said he could talk to him and that there wasn't any question about it's being all right."

McD. "All right; I'll see you about Friday."]

Comment on this illustration of the methods used by these friends of the district attorney's would be entirely superfluous. The record of dictaphone conversations for September 14 will now be resumed:

"When a man is convicted of murder, and wants to get bail pending an appeal, what is the practice downstairs?" asked Fickert. "McDonough asked me about this Card matter this morning. Coghlan [Card's attorney] must be losing his grip, as he had a cinch on the case and lost it. He has an appeal, and I don't know whether the judge will give him bail."

"What is it, second degree murder?" asked Cunha.

"Yes," said Fickert.

"It is going to be pretty hard to get Cabaniss to give him bail," said Cunha. "Louis Ward is handling it."

"Oh, well, there isn't much chance, then," said Fickert, who then switched the conversation to the Mooney case. "I am going to have a meeting with Mulhall to-morrow," he told Cunha, "and I am going to link the Mooney case up with the Sacramento case. Mulhall has a letter from Mooney to Gov. Spry in his pocket. He says he can knock the hell out of Mooney's case for me."

After a brief pause Fickert said, "I am told on pretty reliable authority that Older is going to have charge of the whole coast."

"I wouldn't be surprised," said Cunha.

[This was a reference to Fremont Older, well-known journalist, who had just assumed charge of the Call and Post and who, in the opinion of many, was now associated with the Hearst interests.]

At 12.05 Fickert and Cunha went out together.

September 15:

In accordance with a previous agreement, made by long-distance phone on September 12, Deputy United States Marshal Mulhall arrived at Fickert's office in the Hall of Justice at 10.45 a. m., for a lengthy conference on the Mooney case and on I. W. W. matters generally. Fickert was waiting for him when he came. The conversation, which lasted for 2 hours and 20 minutes, was too long to be given here in detail. What follows is simply an outline covering the principal topics under discussion.

After a few inconsequential preliminary remarks, Fickert gave in some detail the records of certain I. W. W.'s in the hop fields which he had caused to be looked up. Much of the information seemed to be of interest to Mulhall, who evidently took notes, as he would repeat some of the names and other data which Fickert read aloud to him. Among the names mentioned was that of Miss Pollock; in referring to her Fickert mentioned that he had her address in Kentfield.

The talk then switched to a story in the Call of the day before to the effect that Washington had called for a transcript of Fickert's testimony in regard to Crowley, the convicted dynamiter of the German consulate, given in the United States court in January, 1917. [Not long after this Crowley, just out of the penitentiary, visited Fickert in San Francisco, as will appear in the sequel.] Fickert talked disparagingly of the matter, saying in an aggrieved tone, "Why, even Rathbun tried to make me out a pro-German. As for Preston's line of talk, I have repeatedly explained that Crowley said to me that he had just come back from Seattle on some business and was going to make a report to the German consulate. He then told me about the drug traffic and stated that we ought to report it to the Government." [Rathbun was the local Department of Justice man. Preston was the United States attorney.]

There was some further talk about Crowley, all of which was old and unimportant. The talk then switched to Fremont Older, whom Fickert referred to as a "four-flusher and the best friend the I. W. W.'s have."

Fickert then told Mulhall about some people named Yturriaga [mentioned on September 6 in conversation with Martin Swanson], whom he was going to use in the Mooney case. There seemed to be a father and two sons—Remedio and Arthur. Remedio was called "Ray" for short. The father was a janitor in the employ of the city, working either at the hall of justice or at the city hall. One of the sons, Remedio, was at present a street car conductor, employed by the United Railroads; in 1910 he had been a bartender. The other son's occupation seemed to be doubtful—Fickert was not sure whether he was a janitor or a driver, but said that at one time he had been a cement worker.

It seems that this Ray Yturriaga was to be used by Fickert to prove certain things about Mooney. He told Mulhall that Mooney had said to Yturriaga, "Ray, I may die for this, but if anybody squeals he will die, too."



Fickert narrated these particulars triumphantly. It was apparent from the way he talked that he considered this Yturriaga a trump card. He described him as a Mexican who claimed to be a Spaniard; said that he wore a stubby mustache. Mulhall stated that he knew him; that the girls the Yturriaga boys married came from the Livermore Valley.

Mulhall and Fickert then discussed other suspects and members of the I. W. W. They spoke of a man named Turner, who, according to Mulhall, had been suspected of the Mare Island dynamiting job. They also spoke again of McGowan [mentioned by Fickert on the 12th instant], Fickert stating that he was an ironworker. "I was told by the Burns Agency that McGowan made the batteries in the bomb of chlorate of potash," said Fickert.

They next spoke of Silva [also mentioned on the 12th], Mulhall saying that he was a Portuguese who had been up for arraignment the day before. They also mentioned a party by the name of Shebeck, a soldier who had been reported as an I. W. W., over 60 days before. Mother Jones was also spoken of.

Fickert then read a telegram. As he expressed it, "The G—— d—— thing was in code," and therefore not altogether clear in meaning:

"It is dated March 19, 1918," said Fickert, who then read the telegram aloud, as follows:

"Do you know when Bloomfield will be here? Also present whereabouts of party connected with preparedness explosion? President says Thomas must pay penalty to-morrow."

Fickert mumbled something unintelligible, and then burst forth with, "You know these G—— d—— newspaper editors are nothing but crosses between whores and second-story men." Both men laughed heartily at this witticism.

Mulhall then confidentially stated that he had a witness in view who might turn out to be a very valuable one for Fickert in the Mooney case, and who could also probably be used in the Sacramento cases. He then went on to air his views as to the best way to make this prospective witness talk, saying that he would devote a couple of weeks to winning his confidence by taking him out to dinner, getting him drunk, and gradually making him communicative.

"Does he drink?" asked Fickert.

"Oh, yes," said Mulhall; "he drinks all right."

"Do you know," said Fickert, "I've been thinking of a scheme a fellow told me about. There's a certain kind of dope you can get to put in their drink without them knowing it, and they say that if a man never told the truth before, he will tell it when he gets that dope inside of him."

They then switched to a discussion of the Sacramento cases. In the course of this discussion, which developed nothing new, Mulhall reverted to his theories on how to handle a recalcitrant witness. He said that it did not pay to use the "rough stuff." Fickert agreed with him, saying that Brennan [former assistant district attorney, prominent in the Mooney cases] sometimes spoiled a witness by his bulldog manner.

"Johnson is that way," said Mulhall. "We were questioning a man up there and Johnson had an idea he was not telling all he knew, so he suddenly turned on him and said, 'G—— d—— you, you know all about it, and I want to know, too.' The man, instead of getting scared, dried right up and said, 'You do, do you? Well, you can go right plumb to h——; I don't care if you hang me, you won't get another G—— d—— thing.' Well, to make a long story short, I put my arm around him, and walked him up and down outside, and I said to him, 'Now you don't want to talk that way, old man.' After I had given him a little taffy he said to me, 'Well, Mulhall, you have always treated me all right, but I won't take any such talk as that.' Do you know, it took me two weeks to get that bastard back in trim again."

They then talked somewhat at random about various persons, among whom were Morton, Schulberg, and McGowan. Fickert mentioned a list of street car men which he had had compiled, showing who could be depended on, who were radicals, etc. He said he thought it would come in handy.

Mulhall then warned Fickert against a man named Pat Sullivan; said that Sullivan was working in the interests of Mooney, and that there was some labor connection between them. "You want to look out for that bird," said Mulhall. Fickert promised to do so.

Fickert now brought the conversation back to Yturriaga, saying that Jimmie Carson knew Remedio Yturriaga, and that old man Carson also knew him.

He said that the trouble was he couldn't get hold of any dependable persons to work for him; that aside from Martin Swanson, in whom he had every confidence, he didn't know anyone he could absolutely rely on. Mulhall said that a good way to get the I. W. W.'s to plead guilty would be to bring in a squad of soldiers and inform the I. W. W.'s that on the report of the operatives they would be court-martialed



and shot. He claimed that this would produce the desired result. Fickert said, "The best thing to do would be to get a bunch of soldiers who have served in the Philippines and give the —— of —— the water cure."

Fickert then began a rambling résumé of the Mooney case, mentioning the testimony of Oxman and of Estelle Smith and stating that Estelle was running around with every man she could get hold of. He said that when she first came down she described Mrs. Mooney before she had ever seen her. He added that he had a Professor and Mrs. Roberts, the professor being a psychologist of the University of California, who would testify in regard to 721 Market Street.

This is the proper place to insert a word of explanation in regard to Oxman.

I have stated in the first part of this report that there is little left of the district attorney's case against the Mooney defendants save an unsavory record of manipulation and perjury. To attempt to analyze the testimony in detail would be to play into the hands of the conspirators by lending a seeming substantiality to an edifice of sand.

So thoroughly have the principal witnesses for the prosecution been discredited that practically all of them have in effect confessed their several parts in the frame up, leaving little for the investigator to look into beyond a few questions of motive and *modus operandi*.

The basic motive underlying all the acts of the prosecution springs from a determination on the part of certain employer interests in the city of San Francisco to conduct their various business enterprises upon the principle of the open shop. There has been no other motive worth talking about.

As for their plan of operations, it was simplicity itself. A terrible crime had been committed, and popular indignation and horror everywhere glowed at fever heat. From the standpoint of the unscrupulous element among the employer interests the opportunity seemed made to order. To blame the outrage on certain agitators in the labor world seemed not only possible, but, owing to various concomitant plausibilities, doubtless appealed to the foes of organized labor as possessing all the elements of a stroke of genius.

The principal moves of the prosecution from this time on are matters of record and need not be entered upon here. Such points as were doubtful have gradually been cleared up until nowhere throughout the entire fabric of misrepresentation and falsehood are there any mysteries left. The last mystery of all was the identity of the person or persons who furnished Oxman to the prosecution, to bolster up the testimony of the two Edeau women in the trial of Thomas J. Mooney. Various theories have been advanced, but one by one they have been abandoned. It has remained for the present investigation to clear up this much-discussed point.

Oxman was a cattle dealer of the State of Oregon. His discovery as a prospective witness in the Mooney case is traced to William Hough, a traveling buyer for the Western Meat Co. It is a matter of belief, founded on a long list of circumstances, that Hough brought him to the notice of Hugh M. Webster, secretary of the law and order committee of the chamber of commerce, and that Webster thereupon communicated with Frank C. Drew (an attorney of the chamber of commerce) and others who were helping to wage the fight against organized labor. Webster was somewhat ambitious, and also anxious to do what he could to justify his salary with the committee.



Supplied with a witness who would corroborate the testimony of the Edeau woman relative to the alleged presence of Mooney at Steuart and Market Streets shortly before the bomb explosion on July 22, 1916, Drew and his associates were thus in a position to do Fickert a service and themselves a larger one.

Fickert and Cunha were advised of the existence of Oxman, with the result that he was sent for. When he arrived here he was turned over by Fickert to Detectives Steve Bunner and Draper Hand, who showed him the number plate on Weinberg's automobile and otherwise acquainted him with details of the explosion. Between Fickert, Cunha, Bunner, Hand, and other witnesses and assistants of the prosecution the Oregon cattleman was pretty thoroughly coached as to the part he was to play.

It is not claimed here that either Hough, Webster, or Drew was aware, at the time they first brought Oxman forward as a witness, that he was a fraud. It is claimed, however, that after the publication of the Oxman-Rigall letters, these men, in common with the world at large, knew the cattleman for what he was—a rank impostor and perjurer. Fickert, Cunha, Bunner, and Hand knew it all along.

To return now to the dictaphone transcript for September 15:

Mulhall then said, "If you ever get in a hole send for me. I can take any of these witnesses and pull the friendly stuff on them, and generally get what I go after. I don't believe in the rough stuff."

They then talked further of the Sacramento cases, and Fickert suggested seeing Evans of the Burns Agency. Mulhall stated that he knew Evans and could get any desired information from him.

Fickert then stated, amid a stream of oaths, that McGowan's wife was committing adultery with Esmond and others. The entire conversation was very much at random, and did not long hold to one topic.

Mulhall discussed the possibility of losing out in the Sacramento cases and also in the Mooney case. Finally he said, "You know if this thing ever breaks we will go down hill so fast that all hell won't save us." Fickert merely grunted.

They then spoke of some fellow, who, according to Mulhall, was representing himself as a confidential agent of President Wilson's, and who claimed that he was superior to the other operatives. Mulhall stated that in order to prevent Preston or Duncan from blocking him he was going to subpoena this fellow, get him on the stand, and "shoot a question at him which Preston won't have the guts to stop." He tried to give Fickert the idea that Preston was a reactionary and entirely too conservative. "Why," he said, "I went to Van Fleet [judge of the United States district court] and I said, 'Judge, these fellows are a dangerous bunch of s—— of b——, and you should have this court well guarded with soldiers so they can't blow it up.' He said that he would see the marshal about it."

Fickert then gave an imitation of himself asking that the court room in the Mooney trial be cleared. He said that a bunch of burly cops had carried out his orders. This account was given to Mulhall in what Fickert evidently considered to be a very dramatic manner, his voice thundering so that it almost paralyzed the microphone. Mulhall was probably considerably impressed; he said, "That's the stuff."

After a few final remarks Mulhall took his departure at 1.05 p. m. Fickert then called up Franklin 5483, his residence, but the phone was out of order. He then left for the day—time, 1.15 p. m. At 1.16 his phone rang, but was not answered.

September 16:

Fickert arrived at his office at 9.50 a. m. and immediately called up Berry [by inside phone], telling him to come up a minute. A moment later Berry entered the room. "Say, Chief," he asked, "did you read those documents in the Examiner?"

"Do you mean those Trotsky documents?" asked Fickert.

"Yes," replied Berry.

"No, I didn't read them," answered Fickert.

"Well," said Berry, "they are good stuff; they are d——d good stuff."

"I got some d——d good information," said Fickert, "and I am waiting for a fellow from Los Angeles named William Otts, who should arrive to-day."



The conversation which ensued was carried on in a low tone and seemed to be very much at random. Fickert was in a bad humor; he cursed profusely nearly every time he spoke. He told of Preston making certain assurances to the court in regard to Miss Pollock, punctuating his remarks with oaths. Changing the subject, he then said, "G—— d—— it, I told him to get the dope for the 20th, 21st, 22d, and 23d." There seemed to be several people coming in and out of the office, but without doing much talking; evidently they were employees. Finally Berry said, "I'm going down to court a while, but will be back and see you about that. You'll be here, won't you?" Fickert replied that he "would be here all morning."

After Berry had left the room Fickert engaged in a conversation with some other man, principally about his favorite subjects—the Mooney case and the I. W. W.'s. They talked about the destruction of crops, Trotsky, passports, Fremont Older, Bopp, Capt. Matheson, Rathbun, and others, but without saying anything new or interesting.

At 10.25 a. m. Martin Swanson arrived. Fickert said, "Sit down; I want to talk to you." He told Swanson about Mulhall's visit of the day before and spoke about some one shadowing Mulhall. He said, "They've got the thing pretty well in hand; Mulhall wants you to give him a list of all the depredations committed since 1914, with names, places, and such data as you have on it."

Fickert then spoke of Tveitmoe [prominent labor leader] and of Mooney. Passing cars and low voices made the transmission indistinct. Fickert said, "\* \* \* since the beginning of the war to dynamite the hell out of everything. They have found some of the places where they manufactured some of the bombs."

"He wants a list of 1914," began Swanson, but was interrupted by the ringing of the telephone. Fickert spoke a few words into the phone; then he said, evidently to Swanson: "I told him I've got this letter from \* \* \*. He wrote it to me from the Great Western Power Co. at Plumas County."

Swanson asked when it was written, and Fickert replied, "Last year."

"Well," said Swanson, "he isn't up there now, but I will get his address for you."

A clerk came in and said there was some one outside to see Fickert. The latter announced that he was busy and could not see anyone until he got through.

"He must be one of the fellows who brought the dynamite," continued Swanson, after this interruption. "The Blast advocated murder; it was against conscription; it said that if you were forced to carry a gun, use it. If that s—— of a b—— isn't working for the Germans, I'd like to know it. It's as plain as the nose on your face."

After a pause Fickert said, "Miss Pollock lives at Kentfield."

Swanson then said, evidently referring to the information to be prepared for Mulhall, "What does he want me to do, Chief, send it up to him?"

"Yes," replied Fickert.

"I will tell him about the stuff Mooney and Billings were implicated in," said Swanson.

At this moment Lydon entered the room and Swanson spoke to him in regard to getting the required data on Mooney to send to Mulhall.

After a pause Fickert broke forth in a string of oaths about the people who take papers from his desk.

"They wouldn't get them if you didn't leave them right on top of your desk," observed Swanson.

"Well, they won't get any more," said Fickert. "Here is a fellow he told me of who lives over in Oakland. I must make notes on this G—— d—— stuff."

"What's his name?" asked Swanson.

"Ben \* \* \* [couldn't hear the last name]," said Fickert.

"That's the fellow," said Swanson. "Do you want to get him?"

Fickert ignored the question and went back to Mulhall. "He said to me that they had stool pigeons; also that he married a woman named Minnie Abbott. Do you know her? She used to be a pickpocket."

Swanson replied eagerly, "Yes, Chief, that's the man we want."

"It seems that Cline came out here four or five years ago from New York," explained Fickert. "He used to be a pickpocket and an all-round crook. She was a pickpocket; that's how he came to hook up with her."

The conversation then took another tack. Fickert evidently came across something else on his desk, for he said, "Now here's a note I made: 'Before the mediation commission was appointed Dave Smith said that Trotsky visited Mooney and that Fremont Older knew of this and knew of Lincoln Steffens too; and yet the Federal Government did nothing—they were all assured of protection.'"

At this moment an assistant entered and told Fickert that a male visitor wanted to see him in regard to a parole case in which Al Williams was connected. Swanson said, "I'll go and phone and come right back, Chief."



A man now entered and related a long story about some person who had been sentenced to jail for 18 years, then paroled after proving an alibi, and afterwards was again arrested, and again released (this time by Judge Oppenheim). He was rearrested right in court by the parole officer and taken back to prison. He was originally sentenced by Judge Lawlor. The whole story was long and involved, and not very clear. Among other things it was stated that Bill Henderson, who used to be manager at the Chutes, had had this fellow build a cottage for him. The man's name appeared to be Hagan.

After this man had told his story Fickert promised to give the matter his attention, and the visitor took his departure. Swanson came in again at the same moment.

"He will get that information for me," said Swanson.

There was silence for a few moments; then some words from Fickert in which the term "s—— of a b——" was alone intelligible.

"Why don't you throw a scare into him?" Swanson asked.

"Some people you can scare and some you can't," replied Fickert. "Mulhall says that Johnson had a fellow and was examining him, and Johnson jumped up and said, 'G—— d—— you, you tell me all you know.' The s—— of a b—— told him to go to hell and refused to say another word."

Fickert is very fond of the word whose French equivalent was immortalized by Victor Hugo in *Les Miserables*, in the episode of the sunken road at Waterloo. He uses it immoderately on all occasions, sometimes as a simple expletive and sometimes in combination with other words, such as "mud and," "slush and," and the like. On the present occasion he used it coupled with the words "mud and" to describe the confusion of papers on his desk.

Suddenly he said, "Yturriaga's brother is a janitor at the City Hall."

Swanson was evidently waiting for Fickert to find something in the mass of papers. He finally said, "I tell you, Chief, I'll come down here some day and go over those letters and charts and see if I can find that."

Fickert replied in a tone of resignation, "Well, I will put them gradually away in envelopes, all marked, so that a man can find a thing when he wants it."

Swanson then asked whether anything else was wanted.

"I want you to get that data out," said Fickert.

"We can give them Mooney's statement, in which he has an agreement with the I. W. W. order," said Swanson. "By the way, what became of the transcript, Chief?"

"I put it down there," replied Fickert. He then told again about the Mooney letter to Gov. Spry.

At 11 a. m. Fickert called up Douglas 2742 and asked for Mr. Slack, who was not in. Fickert left word with the stenographer that he wanted to see him about a matter in Kern County.

At 11.12 a. m. Cunha entered the room and began talking of getting mixed up in the suit of Theodore J. Roche against the Los Angeles Times. "I'll tell him that I will be called in the next draft," he said; "and since this case requires a man to begin at once, and to devote his entire time to it, they had better get another attorney. I'll say that in case I am here when the thing comes to trial I will handle it. That will make them think we are not turning them down flat. It's a question just what to do. Personally, I think it would be bad policy to buck the Roche-Sullivan outfit. If they were to hire me right now I couldn't take it, as next month I will probably have a uniform on, as I haven't any 'out' in this draft that I know of. Even if they wanted to give me a \$5,000 fee I'd have to turn it down."

"The whole G—— d—— thing is up in the air," said Fickert. "Say, you know the radical books of Mooney, and the German I. W. W. books he had; well, I've got a letter here on them. Did you see the Trotski business in the Examiner?"

"Yes; and I think it is all right," said Cunha.

"Let the other matter rest until to-morrow," advised Fickert. He then went on to tell about registering [for the draft]; said that he saw other fellows registering who looked older than he.

Cunha stated that if he didn't apply for the officers' training camp before October 1, and waited until he was called, he might have to go as a private before very long. "Damn it," he said, "they might grab me and hustle me over there almost any time. I wouldn't give a damn, but I'd hate to go as a private for three or four years. However, there's a chance I might not pass the physical examination."

At 11.22 Cunha took his departure.

At 11.27 a. m. a man supposed to be from the Burns agency at Los Angeles entered the room. After exchanging greetings with Fickert, he said, "I got that wire, and well, I am here, anyway."

Fickert asked an attendant whether Ferrari was in the outer office and was told that he was downstairs.



He and this new visitor then had half an hour's conversation in regard to various matters more or less closely related to the Mooney case. They talked in a low voice and much of what they said was lost. Fickert asked his caller whether he knew a certain woman—apparently some party he was grooming as a new witness. The man from Los Angeles said he knew her, and promised to see "Gus," who could tell still more about her.

At 4.30 p. m. Fickert and this man had a further conference. Fickert told of various persons who had visited Mooney.

"At the time they were trying to recall me," he said, "Dave Smith called up the recall committee and told them that Trotsky was leaving for Russia, and that he would put the matter before the Bolsheviki when he got back there, and would raise hell. This damn Fremont Older knew about his story, and also about Steffens. The idea of this country letting Steffens go into San Diego and then go back to Russia. Those fellows were assured of protection, that's all there is to it."

He then spoke of a man named Getz. "If we could only get this man Getz to talk," he said "He was up in Stockton in 1914, when Mooney was there."

The two then talked of Turner, the Mare Island suspect; of Haywood and St. John; and of Minnie Abbott. The conversation was relatively unimportant, and didn't seem to lead anywhere.

September 17:

At 9.40 a. m. Fickert arrived at his office in company with the Burns man from Los Angeles. From the abrupt way in which the conversation began, it seems that they had had some previous talk in the outer office.

"I'll feel Andy out," said the Burns man. "There ought to be some way to get Billings to tell."

There was the squeak of Fickert's revolving chair as they settled down to a further discussion of possible witnesses in the Mooney case.

"Here it is," said Fickert, evidently reading a memorandum: "Mrs. Barlow, Buenavista Terrace. Mrs. Jean Judd, 49 Park Hill Avenue. It is the very vital matter of identifying Mrs. Mooney at the preparedness parade. You understand that she says that Mrs. Mooney got out of a taxicab and waved to her—not a jitney, but a taxi, although policemen claimed to have cleared the street. She described Mrs. Mooney's peculiar hat to her friends. She knew another woman, who was just about to testify, but pressure was brought to bear and she was restrained by her attorney. Mrs. Barlow has children; Mrs. Judd has none. It's considerable of a mix-up; Mrs. Barlow says she would have got her sister to testify if she had been near the explosion, or had gone a little farther. Now if Jean would go and testify——"

"In discussing the matter with her," said the Burns man, interrupting, "I said, 'It is too late now, as Mrs. Mooney has been acquitted.' I had to play safe and change the subject, so that she wouldn't suspect eavesdropping or dictaphones."

There was then some talk about Lawlor. The Burns man said, "I don't know whether he is in their pay or not."

After a brief silence, the Burns man began again:

"There is only one way to handle cases of this kind. You've got to have three or four fellows working on them—one to do a little missionary work and the others to follow up. Now, as far as the movie people go, you never saw such a crooked bunch of people since you were born. I have investigated three exchanges myself—gone over the books—and settled one case for \$300,000. I'd rather have what's stolen out of their royalties than all the rest—it makes fellows like ourselves feel cheap. You could get up a real thriller. I have got this little fellow Wetzel [another stenographer got it "Westover"] and I can frame the damndest lot of stuff you ever heard of."

They then spoke of the McNamara case and the connection this man had with it; also the way Mrs. McManigal [?] had been treated, having been promised, according to the Burns man, \$5,000 in cash and \$25 per month for the rest of her life, as well as a chance to get her husband back.

"If this thing comes to trial again," said Fickert, "I am going to have four or five private investigators."

"The only way to do," said the Burns representative, "is to get a fellow with money to finance it; then after you get all through and win out you can sue the city to repay the people who financed it. This arouses criticism, but what do you care? They are the same kind of people who kicked about the corporations financing the McNamara case. All you've got to do is to sit tight and let either Burns or myself go into it. Of course it would be better to have him up here."

"Where is he now?" asked Fickert.

"In New York. He came near coming out here last month on some work for the Mexican Government—some case or other along that line."



"There are a lot of details which require a man I can depend on," observed Fickert.

"Sure," said the other. "As for Lawlor, I can get him myself."

"Burns would get him in about two seconds," said Fickert.

"Yes," said the man from Los Angeles, "but before you tackle Lawlor you want to tackle some of the others. You can sit down and talk to Lawlor. I'll tell you who you can talk to—a fellow named Blakemore, a good man, close to the United Railroads; has an office in the Balboa Building. He has 'accountant' on the door, but he's all right—looks up lost estates and that sort of thing. He'd make a good man for you."

They then talked politics, with particular reference to the Rolph-Heney row and its Los Angeles angles, including the attitude of labor toward the two candidates. The visitor stated that he was kept posted on San Francisco labor matters by a brother who was vice president of the teamsters' union. [The vice president of the teamsters' union is a man named Arthur Otts.]

The Burns man now prepared to take his departure.

"I could wind this thing up and come back in 10 days and arrange to put on the first picture in about three weeks," he said.

There was some further talk of plans, in which the Burns man indicated that he had already been to see either Mrs. Judd or Mrs. Barlow, and that he would try to see her again before he left, which would be at 8 p. m. He then said good-by and left, promising to let Fickert hear from him.

September 18:

Upon switching on the dictaphone at 9.20 a. m. Fickert was heard reading aloud in a pompous tone:

"Truth crushed to earth shall rise again," etc.

Berry, assistant district attorney, spoke up and said, "That reminds me I've got to get ready for to-night."

"What for?" asked Fickert.

"I'm one of the four-minute speakers," explained Berry. He added in a facetious tone, "I've heard the Red Cross is full of graft; that there is a well-defined propaganda to influence the Mexicans——"

Fickert interrupted him with, "Here's one I used to like when I was a kid," and he thereupon recited more poetry, allowing his voice to rise and fall with great expression and feeling. Suddenly he stopped and said, "This G—— d—— doctor is a Socialist right now. I picked up a letter from Mexico which had 142 Lick Building on it. We've got to keep tab on these s——s of b——s."

After talking about some case which was on the calendar for that morning, Berry left the room.

At 9.40 a. m. Martin Swanson entered.

"Good morning, Chief," he said. "I've brought those back again. I tell you, Chief, we ought to have a complete volume of the Tri-City Weekly. This fellow, Ed Gammon [publicity man for the International Workers' Defense League] wrote in there——"

At this moment Lydon butted in. "Say, Chief," he said, "Martin was asking about Emma Goldman." He said something else, but it could not be heard.

Fickert then said to Swanson, "Say, in regard to this fellow Crocks (?)—is he working for the United Railroads?"

"You mean that I. W. W. fellow?" asked Swanson.

"Yes," replied Fickert.

"I don't know," Swanson replied.

Fickert then dictated something about Yturriaga, but owing to some necessary adjustments to the microphone, all that he said could not be distinctly understood. Finally he said to Swanson, "This fellow Getz worked for Mooney in securing evidence in Stockton in 1914."

"We can get him," said Swanson. "I think he was at 24 Turk Street; he had a room there all the time."

"Do you know this fellow Goebel?"

"No," said Swanson.

Fickert then sent for Capt. O'Meara, of the neutrality squad, who arrived at 10.05 a. m., and was questioned about Goebel.

O'Meara stated that the Department of Justice wouldn't let him do anything with Goebel. "You remember that fellow I took off the ship?" he asked. "His name was Kronstadt."

Fickert said he remembered him.

"He was the one who was in with Mooney carrying letters," said O'Meara, who then went on to make some further remarks about the Department of Justice; also about the laxity of the Government in issuing passports to the Russians. He expressed



the opinion that it might be a good idea to hang all these anarchists and Russian agitators. Fickert then showed him a picture of some people and asked him if he knew any of them. O'Meara replied in the negative, but said that he would take the photograph and show it to his squad, and that probably some of the people in the picture would be recognized.

At 10.12 a. m. Capt. O'Meara took his departure.

Fickert then had Lydon call up Douglas 1272 [Judge Henshaw]. When Henshaw came to the phone, Fickert gave him an account of recent happenings. Among other things he stated that he had received a letter from Sheriff Veale about "that man," Fickert stating that the man "knew certain things," but that he [Fickert] "had to be very careful." He also told Henshaw that he had received a report on "those two women" [Mrs. Judd and Mrs. Barlow]. "You know who they are," he said to Henshaw, "and I know how to work it."

It is significant that through all of the recent conferences of those opposing Mooney and his codefendants in the Preparedness Day cases there runs a trail that leads from Fickert to Judge F. W. Henshaw, late of the Supreme Court of the State of California. An affinity is shown to exist between them, with Henshaw exercising a sinister influence over the office of the district attorney of San Francisco. Whenever there has been a legal point to be considered or a new phase of testimony, or whenever the district attorney has been puzzled in the conduct of his prosecutions he has gone to Henshaw for consultation and advice.

Judge Henshaw is shown by the transcript of dictaphone records to have had knowledge of the attempt to "make" a witness of Mrs. Judd, which will be referred to later. Always he has apparently been Fickert's main prop in the latter's efforts to build up evidence against the Mooneys. This is not surprising in the light of Judge Henshaw's past, as revealed by his associations and his activities while a member of the supreme court. For the reason that he represents that group to-day which he has always represented—the forces which have made for corruption in State and city politics—it is perhaps just as well to explain here the alliance which has sprung up between Henshaw and Fickert, and at the same time give some details as to Henshaw's career while a member of the judiciary.

By those who are in the best position to know, it is contended that Henshaw is the man who discovered Fickert and introduced him to certain officials of the United Railroads at a time when these officials were desperately casting about for a man of straw to put into the office of district attorney. The object was a dismissal of the graft indictments returned against these officials as a result of the Heney disclosures.

Henshaw was quite naturally the man to whom such defendants would turn. He had long been recognized as the bulwark of such interests on the supreme bench. He gave the kind of decisions they sought; his interpretation of the law was always on the side of the large corporate interests. He was a member of the court when the writ of rehearing in the Abe Ruef case was signed, an act which led to a discussion of impeachment proceedings in the legislature, and ultimately to the passage of the law providing for the recall of judges.

His candidate, Fickert, was by no means the ideal man for the job, but was probably the best that Henshaw could discover on the spur of the moment. Fickert is rather too slow, too obtuse, too entirely lacking in resource to be aught than the merest automaton; on the other hand, he is unscrupulous, unmoral, devoid of all knightly



and chivalrous instincts, and more lawless than the most abandoned L. W. W., all of which latter characteristics would conceivably count in his favor with a man of the caliber of Henshaw.

Backed by some of the worst elements in the public-service utilities and in the chamber of commerce, Fickert was duly elected to the position of district attorney of the city and county of San Francisco. His dismissal of the graft indictments was a simple operation, quickly performed. No one in the city misconstrued the significance of the act, or labored under any delusion as to the motives of the men who had brought it about.

Once he had fulfilled the purpose for which he had been placed in office, it might reasonably be supposed that the public-service corporations would straightway have lost interest in the new district attorney. But not so. When the Preparedness Day crime was committed, certain discerning representatives of the public-service utilities and of the chamber of commerce saw in this pliable public servant vast possibilities of further usefulness, and it was not long before they were employing him to further their designs against unionism and organized labor in the Mooney case.

In this celebrated affair, as in all Fickert's official acts connected with the graft indictments, Henshaw has supplied the brains which have controlled the awkward motions of the manikin. He has been the power behind the throne, the chief counselor and guide, the unseen master of the show. Fickert has reported to him every move, has shown him every exhibit, and has consulted with him daily in regard to prospective witnesses, new clues, general policies, and detailed manner of procedure. In view of the importance of the part played by Henshaw in this unparalleled perversion of justice, it is but fair to inquire as to what manner of man the district attorney's mentor is. If this inquiry should reveal that Judge Henshaw is a gentleman of exalted probity and virtue, that fact must be given due weight in estimating the character and motives of Fickert. If, on the other hand, it shall be shown that Henshaw belongs to the worst type of corrupt public officials, that fact also will be of the utmost significance.

A single episode in the man's history will suffice to prove his character:

In the famous Fair will case, one of the most sensational civil actions in the history of the California courts, the heirs at law sought to bring about a liquidation of the estate by dissolving the trust which had been formed under the terms of the will. The initial motion was denied, the supreme court sustaining the estate by a vote of four to three, Judge Henshaw voting with the majority.

Shortly after this decision was rendered, Henshaw was approached by his bosom friend, W. J. Dingee, with a proposition to bring about a rehearing, the latter representing that he had been spoken to in regard to the matter by George Knight, attorney for Charles Fair, one of the heirs. Attorney Knight had been brought to Dingee by Frank J. Moffitt, a crooked newspaper man of Oakland. These and subsequent statements of fact are vouched for by Dingee himself, whose confession, subject at a thousand points to the strictest corroboration, is in the hands of the present investigator and is here given, in outline at least, for the first time.



As the result of long negotiations and conferences with Judge Henshaw, the supreme court at last granted a rehearing of the case, whereupon Knight paid to Dingee the sum of \$10,000, which Dingee, according to his detailed confession, gave in turn to Judge Henshaw.

After this there were further negotiations on a larger scale, as a result of which it was agreed between Knight, Dingee, and Judge Henshaw that if the final decision of the court was favorable the heirs were to pay \$400,000. This sum represented the value of certain securities which constituted one of the lesser items of the estate and which were then in the custody of the First National Bank. It is represented by Dingee in his confession that the sum agreed upon was purely accidental; in other words, had the block of securities then reposing in the First National Bank been of the value of only \$100,000, or any other substantial sum, it would have been named as the consideration just the same, the principal idea being that it was an item near at hand and easily accessible. To insure the payment of this bribe, Herman Oelrichs, husband of one of the Fair daughters, was induced to sign a note in Dingee's favor for \$400,000, as attorney for his wife and Mrs. Vanderbilt. This note was then deposited for safe-keeping with W. F. Herrin, of the Southern Pacific Railroad.

The supreme court's final decision, as a result of the rehearing brought about through the instrumentality of Judge Henshaw, was in favor of the heirs, Henshaw having changed his vote to favor the petitioners. Payment of the \$400,000 was then made by a series of checks, of \$50,000 each, drawn by S. G. Murphy, president of the First National Bank, in favor of Dingee, these payments covering a period of some weeks. Dingee avers that in part these sums were given by him direct to Judge Henshaw; that other installments were conveyed to Henshaw by Moffitt, and that with part of the money Dingee purchased, at Judge Henshaw's direction, Alaska Packers stock, through the brokerage firm of J. Barth & Co., the account being carried under the purely fictitious name of "J. Brown."

F. A. Losh, bookkeeper for Dingee, corroborates the above facts in all essential particulars, stating that at the time he opened the "J. Brown" account Dingee informed him that "J. Brown" and Judge Henshaw were one and the same. Losh further testifies that Henshaw personally discussed with him the Alaska Packers stock purchased for the "J. Brown" account, and said that he did not want Henry Fortman, president of the packers' company, to know he was buying these stocks. (Losh's affidavit covering these facts will be found attached hereto and marked "Exhibit D.")

The above momentous facts came in time to the attention of Mr. Fremont Older, then editor of the San Francisco Bulletin, and now editor of the Call and Post. Mr. Older is a public-spirited citizen of broad vision and generous human sympathies, who from the first has taken the deepest interest in the Mooney case, and who has been instrumental in unearthing and giving publicity to many of the most glaring evidences of manipulation on the part of the prosecution. He was well aware of the relationship existing between Henshaw and Fickert, and he decided that the best interests of the public would be served by the full publication of the facts.

About this time Judge Henshaw learned of his intention and sent a request for a meeting with Older. This was granted. Older and



Judge Henshaw met in the latter's rooms at the Fairmont Hotel. It was Henshaw's first wish that they should meet in his chambers, but Older did not consent to this. The same night Henshaw, appearing at the entrance to his apartments in evening clothes, led the way to his library where both men seated themselves to discuss the whole matter in detail.

Judge Henshaw, according to Mr. Older's account, was extremely nervous, pale, and dry of mouth; he began by trying to assume a bold front, to resist the charges made in the Dingee confession. He maintained that while the money had doubtless been paid in the Fair case he had received none of it. Mr. Older interrupted to assure the judge that the proof of his guilt was conclusive and overwhelming, and that it was entirely a waste of time to attempt to deny the facts in the case.

They had proceeded thus far when the wife of Judge Henshaw entered the library, dressed for dinner. The judge made a sign to Older to say nothing further, at the same time suggesting that they continue their talk the following day.

The next morning early Mr. Older again visited the judge at his apartments. It is alleged by Older, whose veracity is above suspicion, that on this occasion Judge Henshaw cast aside all pretensions of innocence and sought to throw himself upon the mercy of his visitor. Nearly all the conversation that ensued was in the form of a plea for mercy from Judge Henshaw. He reminded Older that he was fast nearing the end of his life, that he was hard pressed financially, and that nothing but misery could ensue from an exposure of his past misdeeds. For the sake of his family, as well as for his own serenity of mind, he begged that he be allowed to go to his grave without this last public disgrace and undying infamy.

Older responded at once by saying that he did not seek wantonly to wound anyone, or to make anyone suffer.

The voluntary offer was then made by Henshaw that he would resign from the supreme bench if Older would only permit him; that he would even go to Gov. Stephens, knowing Older's interest in the Mooney case, and ask for a new trial for Mooney. Owing to the fact that Mooney's case had been before the supreme court, Henshaw was entirely familiar with it from every legal angle, and he told Older that he thought Mooney ought to have a new trial. He promised further that he would have no other association with Fickert, and that he would sever all connection with the Mooney case.

Mr. Older reminded Henshaw of Mooney and Billings, condemned on the strength of insufficient evidence, the one to death and the other to a fate tenfold worse. Judge Henshaw responded that he was firmly of the opinion that Mooney had not received a square deal, and that while the supreme court of which he was a member had been powerless to go outside the law, he, personally, would labor henceforth to see that justice was granted him.

After some deliberation, Mr. Older announced that on the two conditions named by Henshaw he would consent to abandon what he considered to be a sacred duty. The first of these, as has been stated, was that Henshaw at once break off his relations with Fickert, in so far as the prosecution of the cases against the Mooneys was



concerned; the second was that he resign from the supreme bench. Older said he would not publish the story, and it was with this understanding that they parted.

Judge Henshaw at once resigned his position as a justice of the Supreme Court of California. The present investigation discloses the fact that the other half of his agreement was not carried out. He is still the stage director of the district attorney's miserable tragedy, busily engaged in pulling the wires, shifting the scenes, sounding the tin thunder, and manipulating the demon traps. If he himself is not openly stalking up and down the boards, he is at least secretly coaching the principal actor for his stellar rôle.

The spectacle thus revealed proclaims most eloquently the sinister nature of the forces at work in the prosecution of the cases against the Mooney defendants. Men like Henshaw are bound by no moral conventions; their standard of conduct is based solely on expediency; to achieve their ends they will promise anything and hesitate at nothing.

Fickert's secret alliance with this arch scoundrel is enough to damn the cause of the prosecution in the eyes of all but the most prejudiced observers. No other single fact developed by the present investigation is more pregnant with significance than the unholy relationship still shown to exist between these two enemies of law and decency.

With this explanation the record of dictaphone conversations for September 18 will now be continued:

At 10.22 a. m. a Mr. Newberry called and discussed Mr. Levin; something in regard to a parole case.

At 11.06 a. m. Fickert called a stenographer and dictated as follows:

"The following is a list of persons who visited Thomas J. Mooney after his conviction: Leon Trotsky, who once conducted a bookstore for the sale of radical books——"

Swanson then entered and said, "I got this telegram."

After a pause, Fickert began to dictate a letter, instead of completing the list already started. The letter was addressed to F. H. Woods [?], chief of police, in reference to a party by the name of Lemare. The dictation had not proceeded very far before Swanson interrupted to say that this man, or some other man, was from the San Joaquin Valley, and that he had been trying to get in touch with him for two weeks.

Fickert continued his dictation: "This fellow Lemare is not now in my employ. He worked for me once in a case, and was at one time employed by the Thiel Detective Agency."

After some further dictation, Fickert asked the stenographer to read what he had said in the matter of the list of Mooney visitors. The stenographer read about Trotsky and the radical bookstore, and Fickert then dictated the name of Miss Pollock, saying, "Her father is now under indictment at Sacramento. She is a particular friend of ex-Congressman Kent, and was in Kentfield in 1914. At that time she was associated with Thomas J. Mooney, Blackie Ford, Esmond, Trotsky. She has been very active for Mooney."

At this point an assistant entered and told about a man named Herwiss, who had been very active for Fickert in the recent political campaign, and who had been arrested in San Mateo for an auto accident. He had been tried, found guilty, and was to come up for sentence the following day. Just now he was outside, desirous of an interview with Fickert.

"All right," said Fickert, "bring him in."

At 11.50 a. m. Herwiss entered the room and related his story of the accident in such a way as to show that he was not to blame therefor. After listening to his version of the affair, Fickert promised to see what could be done for him, and the man took his departure.

Cunha then entered the conversation. Fickert said, referring to the Trotsky expose, "We beat the Government to it. In the Billings case I made the same argument."

He then made some reference to the "report on those two women," evidently referring to Mrs. Judd and Mrs. Barlow.



This caused Cunha to exclaim, "Chief, if you can get a witness who will put Mrs. Mooney at Steuart and Market Streets, I don't give a damn if you put her there in a balloon."

Fickert said, "I think I can put her there in a taxicab. It looks as though we had the witness."

"If you have, Chief," said Cunha with real enthusiasm, "I will put that s—— of a b—— (sic) Mrs. Mooney on trial again and I will convict her by every rule of the game."

"I am going to keep everything quiet," said Fickert, so there won't be any leaks."

"That's the stuff, Chief—don't tell anybody," Cunha advised. "I never open my face about the Mooney case. If they ask me I say I don't know anything, because if they get anything from you or me they figure they are getting it from someone close. If we get that stuff on old lady Mooney, Chief, I will be on the job with you."

Fickert then asked Cunha if he was going to lunch. The latter replied, "No, Chief, I'm going to wait and see Cotton and straighten out our finances."

Fickert then left for lunch.

September 19:

The wiring connecting the dictaphone was being changed at various times throughout the day and no effort was made to keep a complete record of the conversations that took place.

In the morning, between 9 and 10, Martin Swanson dropped in and had some talk with Fickert. Just before Swanson left Fickert said to him, "Put all those letters in the safe."

At 10.50 a. m. Fickert had a visitor, who was evidently a disgruntled officer of some carpenter's union. He told Fickert of a fight he had had with P. H. McCarthy when he was secretary of the union—something about the men only receiving \$2.50 a day, and McCarthy wanting to form some sort of a club and take 10 per cent of this pay, etc.

After this man left, Fickert began to dictate to the stenographer:

"The Pacific Telephone & Telegraph Co.'s directory shows R. F. Yturriaga at 1601 Hyde Street. The Register of voters for 1915 shows R. F. Yturriaga on Masonic Avenue. As shown in the San Francisco Directory for 1918: R. Yturriaga, occupation conductor, residence 1601 Hyde Street."

The stenographer shortly afterwards left the office.

Fickert then spoke to some assistant in the room. "I got a letter from a lady to-day," he said, "and in closing the letter she said she was 'true to her flag and the soldiers.'"

He laughed heartily, the assistant joining in.

"True to her flag," he repeated. The assistant said something, but Fickert's laughter drowned out the words.

"True to her flag," said Fickert. "Say, that's pretty good, isn't it?" With painful insistence he dwelt on the word, making his smutty meaning clear by means of further vulgarities which need not be repeated in this report.

At 11.18 a. m. he called up Prospect 236 and held a conversation with Miss Clarabelle Kirby, as follows:

FICKERT. "Did you hear from my wife?"

KIRBY. "Yes; she invited me to dinner."

FICKERT. "Are you going?"

KIRBY. "Yes. Don't you want me to?"

FICKERT (hesitatingly). "Yes, of course."

KIRBY. "What I want to know is, who suggested it? Did you suggest it, or did she?"

FICKERT. "It was her suggestion entirely."

KIRBY. "Well, that's not so bad. I was afraid you had." [Miss Kirby is a dancing teacher and a favorite friend of Fickert's, who calls her up nearly every day and sees her frequently.]

At 11.21 a. m. Fickert called up Douglas 1272 and talked to Judge Henshaw, as follows:

FICKERT. "Hello, Judge, this is Fickert. Are you going to be there for a little while?"

HENSHAW. "I'll be here until 12, Charlie."

FICKERT. "As soon as I get a little data copied I'll be over."

HENSHAW. "All right, Charlie."

September 20:

At 10.15 a. m. Fickert was in his office talking about the Mooney case with some man whose voice could not be recognized. They spoke about Mooney and Weinberg; also about a man named D. J. Kearney, "a well known radical."



At 10.23 a. m. Fickert called up Park 2096 and had a talk with W. H. Schulte, whom he addressed as "William." He asked Schulte to translate a couple of German words for him, the words being "krinken" and "kasse." Schulte gave the meaning of the first as "sick," and of the second as "treasury."

"Sick treasury," said Fickert; "that doesn't seem to make very good sense."

Schulte intimated that if the two words were written as one the expression might mean a fund for the relief of sick persons.

"I'll tell you," said Fickert, "it's a dynamiting expression, used by a bunch of dynamiters, although the fellows using it are evidently not Germans. Probably it was a fund for getting them out on bail. Thank you, William."

At 10.34 a. m. a man entered the office and talked with Fickert about personal family matters, mentioning "mother," "Belle," etc. Fickert seemed very familiar with this party's affairs. After some unimportant discussion along the line indicated the visitor said, "Well, I must be going. By the way, are you still working on that case?"

"Sure," replied Fickert; "I've got a list of all those who visited Mrs. Mooney—they're all in jail and under indictment."

He then spoke of a man named Adams. "This bastard," he said, "was the manufacturer of a bomb which would asphyxiate people."

"G—— d—— it," said the visitor, "I've seen this fellow," evidently referring to some photograph or other picture. In a moment he added, "And still these G—— d—— suckers try to get Mooney out."

Fickert then mentioned that he had the translations of some code telegrams which told all about dynamiting.

At 11 a. m. Fickert was called on the telephone by Judge Lennon, who called him "Charlie" and made an appointment to see him between 2 and 3 that afternoon. Judge Lennon said, "I want to get you interested in this contest of mine. I speak to you about it at the suggestion of our very dear mutual friend, Judge Kerrigan."

Fickert now told his visitor about losing his car the night before—said it had been stolen. The visitor then left, whereupon Fickert called up Kearney 783 [his office in the Kohl Building] and asked his stenographer to look in the safe and get the number of his auto engine. The stenographer gave the number as 21570.

Cunha then entered the room. Fickert said to him, "I've got a list of 50 fellows who visited Mooney, and all of them have been indicted. That G—— d—— fellow Shannon—some people can't keep their mouths shut."

There was some unintelligible muttering on the part of Fickert. Finally, he broke forth with, "That s—— of a b—— Griffin [presiding judge at the trial of Mooney] if it wasn't for him we would have had Mooney shoved right off at the end of the trial. See that bastard there? In 1914 I find his address in Mooney's notebook."

Cunha switched the subject to the suit of Roche v. The Los Angeles Times. "I'll write him a letter," he said, "and explain that I am liable to be called on the first of the month, and that I am 33 years old, and that there is a pretty good certainty that I won't be able to finish it."

After some further talk along the same line they left for lunch.

At 2 p. m. Fickert returned, but left the room in a moment and did not get back until 2.18 p. m., when he seated himself at his desk in the squeaky revolving chair.

At 2.20 p. m. an assistant entered and told him that Mr. Levin was waiting outside to see him. Fickert went out for a moment; then at 2.22 p. m. returned, and almost immediately began dictating in regard to Alexander Berkman, editor of the Blast.

At 3.34 p. m. Bill Caubu, of Fickert's office, called up Fickert, and the following conversation took place:

CAUBU. "Did you want me, Chief?"

FICKERT. "Yes. When can I see our friend from the Shell Oil Co.?"

CAUBU. "You mean Eccles?"

FICKERT. "Yes."

CAUBU. "I'll ——"

FICKERT (interrupting). "Try and get him for me to-morrow, will you?"

CAUBU. "All right."

At 3.37 p. m. Frank C. Drew [attorney for the chamber of commerce] called up on the telephone. Lydon, Fickert's secretary, answered the phone as follows:

DREW. "Who is this?"

LYDON. "Lydon."

DREW. "I went after that transcript in the Billings case, and I find that it's here. I have it here now."

LYDON. "Fine! I'll send an officer over for it. I got that other matter, so don't bother about it."

DREW. "What other matter?"



LYDON. "The names of the President's mediation commission. I got the names of them."

DREW. "All right."

At 3.39 p. m. Fickert called up Prospect 236 and talked to Miss Kirby. He told her he had found his car out on Bennington [?] Avenue, and that it was undamaged. They carried on a long and stupid conversation, during the course of which she agreed to see him the following day—Saturday. He wanted to see her that night, but she stated that she had another engagement.

September 21:

At 10 a. m. Fickert's private phone rang. In a few minutes he came into the room and answered it. The conversation was brief and indistinct. At one point Fickert said, "I did give it to some one of the Department of Justice. She is the author of the death notes."

When he had hung up, an assistant in the room said, "I'll get in touch with Eccles right away, Chief."

Another assistant entered and told him that Jeffery James [evidently well known to Fickert] had got drunk and driven some other fellow's machine to the ferry, where he had been arrested on a charge of grand larceny. He was now up in Judge Brady's court. Fickert was asked to fix it up and explain matters to the judge, as it was only the prank of a drunken man, and not a deliberate crime.

An assistant then told him that Pete McDonough had been in to see him about the McNamara case [case of a saloon keeper who had killed one of his patrons]. Fickert stated that he had not seen him.

At 10.27 a. m. an assistant entered the room and informed him that Howard Vernon [secretary of the grand jury] would not be back until Monday.

Fickert then talked to some assistant in regard to Robert Minor [well-known cartoonist who had espoused the cause of Mooney]. He explained that a place he had mentioned in dictating was Calcitta, and not Calcutta.

An assistant then stated that Harry Stafford [corporation attorney prominent in the Mooney case] had arrived. "Have you got the stuff on Yturriaga?" asked the assistant.

"Yes," said Fickert, "I have it here."

"Have you got a copy of the railroad employees?"

"Yes," said Fickert.

The supposition is that these exhibits were given to Stafford, although the conversation did not indicate so conclusively.

At 10.52 a. m. the phone rang and Fickert answered it. Some woman on the other end of the line gave Fickert her new phone number—Prospect 6053—which he wrote down. He explained that he had tried to get her at the old number, but could not. "I will ring you up some evening," he said.

At 10.58 a. m. he rang up Prospect 236 and held a six-minute conversation with Miss Kirby, which was personal and unimportant. He promised to call her up again in the afternoon.

One of the assistants entered the room at 11.05 a. m. and said, "Mr. Hennion is on No. 20, Chief." No. 20 is a branch of the private interoffice phone. Fickert answered the phone, but spoke so low that he could not be heard.

At 11.07 a. m. Lydon used Fickert's private phone to call up Sutter 1702 and ask for Capt. Van Antwerp [of the Naval Intelligence Office], who, however, was not in. Lydon said that he would call up again on Monday.

At 11.25 a. m. Fickert held a conversation with some unidentified man who said, "I really think I can get some dope on that bastard, Johnson" [referring evidently to Bascom Johnson, now a major in the Army and head of the Military Welfare League]. "He's got an authoritative job, and if you remember he was one of those who started the Red Light Abatement Association. We had a property owners' association, and from the way this bastard acted I think he was out after the dough."

"Do you think he is an I. W. W.?" asked Fickert.

"Oh, no," replied the other, "I think he just used those people."

"I know that he and that s—— of a b—— Minor were friends," said Fickert. "He has known Minor since 1910. Minor isn't here now; he's in Russia."

"I'll go after Esmond," said the other man. "He knows all these people."

Fickert then spoke of the Mooney Defense League, the San Francisco Examiner, Rudolph Spreckels, and other persons and things, but without developing any new angles. In the course of his remarks he referred to Mooney as a "s—— of a b——" — a favorite characterization with him. He also referred to the fact that Bascom Johnson had taken Mrs. McGowan to Washington. The other man insinuated that the two were sexually intimate.



A few minutes later this man took his departure, saying, "All right, Mr. Fickert, I will get busy."

At 11.33 a. m. Fickert called up Prospect 6053—the new number given him by the woman earlier in the day. At this moment some one entered the room and Fickert hung up the receiver without waiting to get the number.

He had a few words of no importance with this man, after which they left for lunch.

September 23:

On this day Fickert had few interesting visitors. The machine was started at 9 a. m. and at 9.19 a. m. it registered a telephone call from Pete McDonough, as follows:

McDONOUGH. "Hello, Charlie; did you see Becsey?"

FICKERT. "Haven't seen him yet."

McDONOUGH. "Well, I understand my friend would like to go away in a day or two."

FICKERT. "All right, I'll see him."

McDONOUGH. "All right, Charlie."

[This McDonough is the notorious saloon keeper, politician, and jury fixer, and the case referred to is probably the McNamara murder case. Becsey is one of Fickert's assistant district attorneys.]

A little later some unidentified man came in and held a conversation with Fickert in reference to the Mooney case. Fickert spoke of Mooney's notebook; of Edward Getz; and of the Trotsky letters published in the daily papers. He also told of saying to Mooney, "You G—— d—— [unprintable epithet], you ought to have been hung long ago."

At 9.50 a. m. Fickert called up Douglas 2742 and asked for Judge Slack. Not in.

At 10.04 an assistant entered the room and said, "Did you ring, chief?"

Fickert said, "Yes. That girl always misspells Haywood."

At 10.06 a. m. Lydon called up Sutter 140 and talked to Martin Swanson as follows:

LYDON. "Hello, Martin; this is Tom Lydon. The chief wants to know whether you know Biambo Hart, a machinist."

SWANSON. "I know a fellow named Hart who used to be with the Pinkertons. He's now working for Moffitt" [local secret service agent].

LYDON. "That's not the man. All right, Martin. By the way, did you see yesterday's Examiner?"

SWANSON. "Yes; what about it?"

LYDON. "Did you see about the big symphony concert? They're going to give a big one."

SWANSON. "They had a smoker at the Red Branch Hall on Saturday. When are they going to hold the symphony?"

LYDON. "Next month."

SWANSON. "Where?"

LYDON. "I don't know."

SWANSON. "Is it a benefit? What's it for?"

LYDON. "Drop down and I'll tell you."

SWANSON. "I can't drop down now; I'm busy writing up this stuff."

LYDON. "When are you going to Sacramento?"

SWANSON. "Not until after the first."

LYDON. "All right, Martin."

["Symphony" probably means "sympathy"—referring to mass meetings in the interest of Mooney.]

After this, Berry dropped in, and he and Fickert entered upon a discussion of a plan to make Billings talk.

"He might have some resentment against you," said Berry, "and not talk as freely as he would to Mulhall."

"That's what I want," said Fickert; "I want Mulhall to get him going. Mulhall can get him there on some pretext and then talk to him."

"You didn't speak to Mulhall about it, did you?" asked Berry.

"No," said Fickert, "it just occurred to me."

"Mulhall is rushed to death," said Berry. "He is trying to do four men's work. Poor fellow, he has a certain sort of ability. You didn't talk to Billings yourself, did you?"

"No," said Fickert, "he is sore at me."

They left the room together.

At 11.10 a. m. Fickert returned and asked Lydon, "Have you a letter from Ed Nolan to Johannsen, or from Johannsen to Nolan?"

After a brief pause Lydon replied, "No, they are not here, Chief."



At 11.28 a. m. Fickert received a telephone message from Bennie Selig, former grand jury man and friend of the district attorney. The conversation was as follows:

SELIG. "Hello, Big Fellow; this is Selig."

FICKERT. "Yes."

SELIG. "Did you speak to Berry?"

FICKERT. "Yes, and now that this thing is over we can probably fix it up all right."

SELIG. "I mean about that bail money. I'd like to draw that down."

FICKERT. "Yes, all right; I'll speak to him again in a minute or two."

SELIG. "All right, Big Fellow."

[This conversation was in regard to the case of David Blaine, an automobile tire thief, and a friend of Selig's. The latter wanted the charge dismissed on the ground that Blaine would then enter the Army, and had enlisted Fickert's efforts in Blaine's behalf. Fickert and Selig both seemed to think the Army could be used as a place of sanctuary to protect criminals.]

The intimate relations existing between Selig, the butcher and case fixer, and Fickert, the district attorney, illustrate admirably the the latter's character. In this connection it might be well at this point to turn aside from the dictaphone record long enough to give several telephone conversations which show how Fickert importuned the butcher for a campaign contribution. The conversations in question took place during August, 1918.

Memorandum of telephone conversations showing how District Attorney Charles M. Fickert requested a campaign contribution from Bennie Selig in return for favors granted:

On August 6, 1918, at 11.43 a. m., Bennie Selig called up Fickert and the following conversation took place:

S. "Hello, Big Fellow."

F. "Say, I find that Lahaney [?] has contributed a thousand dollars to Rolph's campaign. He's got to put a thousand in mine. J——C——, we do all kinds of favors for that G——d—— bunch of butchers, and they've got to do something for us. Did you see Rudolph this morning?"

S. "No; not yet I haven't."

F. "How much is your firm going to donate?"

S. "I don't know."

F. "Well, you know what I told you last night."

S. "Yes; but he's got to wait to hear from Nichols."

F. "But, hell, man, the election will be over in a few days. We can't wait forever."

S. "When are you going out of town?"

F. "Going to Alameda County this afternoon. Back this evening. What time are you coming down town?"

S. "About 4 o'clock."

F. "I won't be here then."

S. "You won't be at the hall when you get back, will you?"

F. "No; I'll be at home."

S. "Will you be there to-morrow?"

F. "I don't think so; I will probably leave to go through Woodland and those places."

S. "Did that fellow see that fellow this morning?"

F. "Yes; but I haven't seen him. He is still in court."

S. "I will ring you up this afternoon and see how you came out."

F. "All right."

[Selig is here talking about a case which he wants Fickert to have dismissed—probably the case of David Blaine, a tire thief, and a friend of Selig's.]

The same day at 2.02 p. m. Bennie Selig again called up Fickert.

S. "Did Berry see that party?"

F. "Yes, he saw the judge and he thinks he'll be favorable."

S. "It comes up Friday. What will I tell Joe Taaffe?"

F. "Tell him simply to speak to Berry Friday morning and tell him he ought to throw it out. Say, you want to hurry Rudolph along as much as you can."

S. "I'll see him to-day. Where can I get in touch with you about 8 o'clock?"

F. "I'll probably be at the Olympic Club."

S. "I'll call you up."

F. "All right."

On August 7, 1918, at 10.32 a. m., Fickert called up Mission 6936 [Bennie Selig]. Line busy.



At 10.34 a. m., the same day, Fickert called up Mission 6936.

F. "Is Mr. Ben Selig there?"

MAN. "Hold the line; I'll get him for you."

S. "Hello."

F. "Hello, Ben; this is Fickert."

S. (Much pleased.) "Why, hello, Big Fellow; howdy?"

F. "Say, Berry had a talk with that fellow. I judge he wants it greased. There won't be any trouble in putting the case over. He can then go east and the case will be continued, and when the other case is disposed of the matter will be dismissed. Do you understand?"

S. "How long would you have it continued?"

F. "Oh, I should say 30 days. The judge will take our suggestion in the matter. Now, whatever you do, don't say anything to anybody."

S. "You are sure the bail won't be forfeited?"

F. "The judge says the bail won't be forfeited. As far as that goes, if he wants to go east, I'll give my written or verbal consent. The main point is to get the other disposed of first. If they want to take the boy along, all right."

S. "It sounds all right."

F. "There will be no hitch. We'll try the other case within 30 days. This one will then be dismissed. And now——"

S. "What?"

F. "Did you get hold of Rudolph?"

S. "Yes. He wrote to the boss and will hear back in a few days. It will be all right this week sure."

F. "Let me know as soon as you hear. Did you see that good boost for me in the Chronicle this morning? I am leaving town in a little while, but will be back in a few days."

S. "Would you have that continued 30 or 90 days?"

F. "Thirty. Then the boy can go away, and after the case is dismissed you can take down your money."

S. "When will you be back?"

F. "Sunday or Monday. Call me up."

S. "All right."

A little later, at 10.42 a. m., Pete McDonough called up Bennie Selig.

McD. "Hello, is this Bennie?"

S. "Yes; who is this?"

McD. "Is this Butchertown Bennie? This is Ikey. I'd like to get some schveetbreads."

S. "You don't want sweetbreads—you want pork tenderloins. Hello, Pete."

McD. "Say, about that case of yours—he doesn't have to appear any more. Taaffe saw Berry and Berry saw Griffin, and the plan is to continue it for 30 days, and in the meantime dispose of the other matters."

S. "Legs just called me up and told me about it."

McD. "He did?"

S. "Yes; I just hung up the phone. He won't have to appear Friday? Is that the idea?"

McD. "That's it. You can have the bail exonerated. Taaffe wants a hundred dollars—shall I give it to him? He's here now."

S. "All right, let him have it."

McD. "All right—I'll charge you up with a hundred bucks."

S. "Did you see the Big Fellow's boost in the Chronicle?"

McD. "Yes, but the Examiner didn't have anything about him. Heney had a big crowd last night."

S. "What time will you be in this afternoon?"

McD. "All afternoon, except around 4 o'clock. I promised Eva Marshall [stenographer to the grand jury] I'd see her about that time."

S. "I'll be there at 4.30 or 5."

On August 12, at 10.25 a. m., Fickert called up Bennie Selig.

F. "Hello, Ben Selig there?"

MAN. "Just a moment; I'll call him."

S. "Hello."

F. "Hello, Ben; this is Fickert."

S. "Hello, Big Fellow. I didn't know you were in town."

F. "I'm just here for a few minutes—going to leave in a little while."

S. "When are you coming back?"

F. "I'm coming back at 12 o'clock to-night, but going right away again in the morning. Have you seen Rudolph?"



S. "Yes; he's getting it fixed up. When he gets it, who shall I tell him to see?"

F. "Tell him to see Nagle" [one of Fickert's assistants].

S. "I'll ring him up and then ring you again inside of an hour."

F. "Never mind, Ben, I'll ring him up myself."

S. "All right, Big Fellow."

A moment later [10.30 a. m.] Fickert called up Kearney 5505 [Miller & Lux] and asked for Mr. Rudolph.

F. "Hello, Rudolph; this is Fickert. Any news?"

R. "Yes; I had a letter from [indistinct]. He said to make that donation of \$100. The Western Meat Co. will give a hundred; Moffitt will give a hundred; Isidore Selig will give fifty. This is smaller than I had counted on, but if it is acceptable I will send it in."

F. "I'm going away, but you can send it to John Nagle, care of my office."

R. "Shall I make the check payable to your order?"

F. "Make it payable to him. It doesn't make any difference."

R. "I think they would rather make it payable to you."

F. "All right, all right—he can indorse it. I'm going away to-morrow noon, and probably won't be back until the day of election."

The dictaphone record is now again taken up, the next day's transcript being for September 24.

September 24:

At 10.58 a. m. Fickert arrived and said to Lydon, "I got a telegram requesting 1,000 copies of my reply to the mediation commission, and I don't know whether I have them."

Lydon said, "I'd send them, Chief, if you had to mortgage your house. Why, G——d—— it, Chief, this Bolsheviki business is getting to be a big thing, and something has to be done."

"I wish I had those G——d—— letters which were published in connection with Mooney," said Fickert; "I'd say, 'It is now known that Mooney was visited while in jail by Trotski, Mother Jones, Minor, Esmond, and others,'—I'd put after each name 'Indicted at Sacramento,' 'Convicted at Chicago,' 'Charged with murder,' and so forth."

At 11.17 a. m. Fickert rang up Douglas 1272 (Judge Henshaw). He told Henshaw that he had some of "that data" for him, and that he would bring it right over. A moment later he left the office.

Fickert returned to his desk at 12.01, and immediately said to Lydon, "Get the bond and warrant clerk's office." When Lydon had secured the number, Fickert took the phone and asked Mrs. de Greer whether she was issuing warrants for some Alaskan fishermen. Her answer could not be heard. Fickert then said, "All right, I'll be right down," and at once left the room.

At 12.12 p. m. Fickert returned and seated himself at his desk. Lydon spoke up, saying, "They didn't get the records from Los Angeles—the 1914 records of dynamiting."

"We'll write down and get them," said Fickert.

After a pause he said, "Tom."

"Yes, Chief," returned Lydon.

"I wonder if we can get Johannsen's record over at the bureau; I am pretty sure the s—— of a b—— was indicted in connection with the Los Angeles Times affair."

After some further talk about Johannsen, during the course of which Fickert stated that he "would write a letter to Capt. Watkins about it," he went to lunch.

At 4.41 p. m. he received a long-distance call from Kelly [agent of the Department of Justice], at Sacramento. He told Kelly he would see him in Sacramento the following day.

September 25:

At 9.58 a. m. lieutenant [?], of the Army Intelligence Service, called up to ask whether Fickert still wanted a translator of the Russian or Slavic dialects. Lydon, who answered the phone, said, "Wait a minute." He turned to Fickert and asked, "Do you still want Schinosky?"

"Yes," answered Fickert.

Lydon returned to the phone. "Is it Schinosky?" he asked.

"Yes," said the lieutenant. "Do you still want him?"

"Tell him we'd like very much to see him," said Lydon.

At 10.36 a. m. Fickert called up Douglas 1272 and talked to Judge Henshaw as follows:

FICKERT. "Judge, this is Fickert. Did you want me?"



HENSHAW. "Hello, Charlie; I only rang up to ask what progress you were making in that Anton Johannsen matter. Have you anything to show me?"

FICKERT. "I have quite a few letters I am getting together."

HENSHAW. "I'd like to get the compilation just as soon as you are finished."

FICKERT. "I'll bring them over."

HENSHAW. "Do so. I'm having Van [probably Capt. Van Antwerp, of the Naval Intelligence Service] start on the same thing. He was just as much shocked as we were. Drop over any time, then, Charlie."

FICKERT. "All right; I'll be over before noon."

[Johannsen had recently received a position under the Government. It was his appointment that had shocked Henshaw and Fickert.]

At 10.58 a. m. Fickert received a phone message from Bennie Selig, as follows:

SELIG. "Hello, Big Fellow. Where have you been—in jail?"

FICKERT. "No."

SELIG. "I've got those things [sweetbreads; Selig is a butcher and frequently presents his friends, Peter McDonough and Fickert, with pork tenderloins and sweetreads] for you. Shall I leave them there this afternoon?"

FICKERT. "Yes. What time will you get around?"

SELIG. "I'll tell the teamster to leave them—our Chinatown wagon. Did you see Berry?"

FICKERT. "No; haven't had time. I had to do a day's work before I got here."

SELIG. "Will you see him this morning?"

FICKERT. "Yes; just as soon as he comes out of court."

After getting his lunch, Fickert, at 2.10 p. m., reentered his office in company with Lydon. In reply to some remark of Fickert's, Lydon said, "We have a reference to Cline [?] on page 881. There are many references to Getz and Richard Ford."

At 2.12 p. m. Lydon called up Douglas 5320 and asked a Mr. Williams whether he had any more copies of Fickert's reply to the mediation commission. The man said he had about 100. Lydon said that he would send around and get them.

At 2.16 p. m. unidentified man [Joe Adams?] called up Fickert and the following conversation took place:

MAN. "We have an inquiry from some up-State people in New York asking whether the Mooneys are Russians. Is Mooney his right name?"

FICKERT. "I'm inclined to think it is. We first got track of him in 1907. I think it's unlikely he's a Russian."

MAN. "Is she a Russian Jew?"

FICKERT. "No. I'm inclined to think she's of Irish descent. The mother's name was Brink, before she married Herman. Mooney went under a Russian name in Chicago—why, I don't know."

MAN. "Is it true that he belonged to the Russian, German, and American I. W. W.'s?"

FICKERT. "Yes; he was the king-pin of them all."

Fickert then called up Mrs. Fickert and gave directions for cooking the sweetbreads presented by Bennie Selig. Then, in response to a knock at the door, he said, "Come in." A stenographer entered, and Fickert said, "Take one more letter."

He then dictated a letter to Ralston Welsh, 109 South Fourth Street, Philadelphia, Pa. After acknowledging receipt of his telegraphic request for copies of brief in the Mooney case and Fickert's reply to the mediation commission, the dictation proceeded as follows:

"I am sending you by Wells Fargo 20 copies of the brief and 500 copies of the reply to the mediation commission. I am unable to send you the amount of copies you requested."

He then said to the stenographer, "Will you attend to the sending of that stuff to Mr. Welsh?—20 copies of the brief and one bundle of my reply to the mediation commission."

Lydon then told Fickert of reading about a meeting at Carnegie Hall, in connection with which the name of Assistant Secretary of Labor Post was mentioned. Post was either a speaker at the meeting, or else had sent his regrets—this part of the conversation was not easily understood.

"I have cut some of these pieces out," said Lydon.

"There are a lot of those things I want to keep," said Fickert.

"Well," remarked Lydon, "we can mark them and put them away; it would be quite a job if you had to go through a lot of papers to find them again."

After a pause Lydon asked, "What arrangements do you want made on Liberty bonds?"

"I want everybody to get theirs here," said Fickert.



"That's what I told everybody," said Lydon.

After some further conversation of a miscellaneous and unimportant nature there was a pause. Fickert was evidently reading the newspaper article about Assistant Secretary Post.

"G—— d—— this [unprintable epithet] Post," said Ficker.

"You mean the Assistant Secretary?" asked Lydon.

"Yes," replied Fickert, in a rage; "the G—— d—— [epithet] is an anarchist himself."

"He is in with the d—— I. W. W.'s," observed Lydon.

"G—— d—— it," said Fickert.

In a moment Lydon said: "I see that Ringolsky [?] was arrested in November, 1915. You know how it is; they get \$5 from this union, and \$10 from that, until they get hundreds of thousands of dollars."

At 3.15 p. m. Fickert received a telephone message from Bennie Selig, as follows:

SELIG. "Hello, is that you, Big Fellow?"

FICKERT. "Yes."

SELIG. "Did you see Berry?"

FICKERT. "He got away from me in court."

SELIG. "Is that so?"

FICKERT. "Oh, we'll get it straightened out."

SELIG. "All right, Big Fellow. Did you get that package?"

FICKERT. "Yes."

Shortly after this Fickert left the room. Lydon and some one in the room had an aimless conversation, mostly about the Mooney case. Lydon said he sometimes thought it did him no good to know so much about it; the other man assured him that it was this knowledge that made him valuable.

September 26:

At 9.25 a. m. Bennie Selig called up Fickert and asked him whether he had seen Berry. Fickert said no, he hadn't come yet.

At 9.50 a. m. an assistant entered the room and told Fickert that he was wanted on No. 19 of the interoffice phone. A man named Pockwitz was on the phone; he wanted to know whether Fickert could stop by the office. Fickert replied in the negative—said he had to go the Union Iron Works, and afterwards to Sacramento. Pockwitz said he would call up again.

Fickert then said to an assistant, "I want you to look up something. You know this fellow Erz [Dr. A. A. Erz] who was raided by the Federal authorities yesterday? He was on that Mrs. Mooney jury. He was the one that stampeded the jury. G—— d—— it, we should get some publicity on that."

After a few minutes' pause he added: "I may go to Sacramento this afternoon, but I don't know yet." He then said to Berry—who had entered the room—"How about that letter that fellow was going to leave you before he went to the islands?"

"I turned it over to the Federal authorities," said Berry. "I don't know what was in it. I'll get him over this afternoon. You won't be going away before night, will you?"

"I don't know yet," replied Fickert. "Did you know that Anton Johannsen had been under indictment?"

"Hell, no; I didn't know that," said Berry. "Are you sure?"

"Sure," said Fickert. "He was under two Federal indictments; one at Indianapolis and one at Los Angeles."

"Where did you get that?"

"Right from the department," answered Fickert.

"By G——, I don't believe it," exclaimed Berry. "I'd have to be shown that."

"Well, it's true," said Fickert.

"The best thing we can do is to shut our mouths," said Berry. At this point an assistant entered and informed Berry that he was wanted in department 16. He turned to Fickert and asked, "What time do you want to see that fellow?"

Fickert said, "I may go to Sacramento. I would like to see him and have a little talk with him."

"I will go around the back way and see his wife," said Berry.

Fickert then reverted to the subject of Johannsen, saying, "Johannsen is a friend of Frank P. Walsh." He added something about Paterson, N. J.

"Paterson, N. J., is the home of the reds," said Berry. "It is the biggest s—— of a b—— red town in the world."

At 10.17 a. m. Fickert called up Mission 6936 and carried on a conversation with Bennie Selig in regard to the case concerning which they had consulted before—the case of David Blaine, auto-tire thief. The conversation was as follows:

FICKERT. "Hello, Ben; this is Fickert."



SELIG. "Yes."

FICKERT. "Say, Capt. Matheson [chief of detectives] and his squad are raising hell about that fellow. He's evidently been doing some talking. Is his mother still here?"

SELIG. "Yes; she's waiting for him to enlist."

FICKERT. "You'd better get her to come down here to see me, and also to see Matheson."

SELIG. "I think Lord's the fellow that is kicking."

FICKERT. "There's some hitch somewhere. Everything was all right. I saw Matheson once—he said it was all right. I told Berry to postpone it in any event. They claim there is so much evidence against him that there is no possible escape."

SELIG. "If you'd let the bail drop and O. R. him [release him on his own recognizance] he'd enlist."

FICKERT. "If he would enlist first there would be a better chance to drop it. You'd better see me about it pretty quick. Also send his mother to see Matheson."

SELIG. "You know what kind of a fellow Matheson is—he wouldn't talk to her. Get the bail down, and he'll enlist."

FICKERT. "Let him enlist first; it's easier to fix. His record is pretty bad and it will look funny."

SELIG. "What did Berry say?"

FICKERT. "Said he'd like to see him enlist. He'd then continue it indefinitely—hold it over him like a club. As it is, you can see that the police are antagonistic."

SELIG. "You don't care for the police, do you?"

FICKERT. "I certainly do. C—— knows I'm in bad enough anyhow, without any more ill feeling."

SELIG. "Well, Big Fellow, I'll be down and see you about 3.30."

Shortly after this, Swanson arrived. Fickert said to him, "Did you see where they arrested that fellow Erz at his house?"

"They didn't arrest him," corrected Swanson, "but they did search his house. He is the fellow who was on the jury, isn't he?"

"Yes," said Fickert.

"I tell you, Chief," said Swanson, "these fellows are in the dumps. I begin to think this fellow Mulholland, this s—— of a b—— Mulholland—by the way, where was he stopping? At the Hotel Sutter, wasn't he?"

"I think so," said Fickert.

"I will drop by there," said Swanson. He added something about "showing the connection."

At this moment an assistant entered and asked Fickert whether he wanted to see Opie Warner of the "Call and Post." Fickert replied in the negative.

Swanson asked whether there was anything else that Fickert wanted, remarking that he was busy and had to go. Fickert told him that he had to leave for Martinez and Sacramento later in the day.

"Well," said Swanson, "if you want me for anything, I will be at the office [Pacific Gas & Electric Co.]. I have two volumes of the Billings and Mooney cases on my desk, and I've got one at home. I will bring it in to-morrow when I finish with it. I sat up in bed last night reading, and when I came to the part where Shortridge got up and said to the judge, 'Your honor, I don't want to appear technical, but in a conversation between two persons the time and place should be specified,' and where Brennan jumped up and said, 'Just a minute; the court has sustained you; do you want to argue the case now?'—you know I just sat there in bed and laughed, it was so funny. Well, Chief, I'll be going."

After Swanson had taken his departure Fickert called up Market 3200 [Union plant of the Bethlehem Steel Corporation] and asked for Mr. Tynan. Girl at the steel plant said she couldn't locate Tynan, so after holding the phone for some time Fickert hung up and left the room.

He returned at 11.22, the squeaky revolving chair registering to the second the time he seated himself at his desk. After sitting there a moment he said in a tone of irritation, "These G—— d—— things." Cunha immediately spoke and said, "Pay no attention to that. I haven't paid a G—— d—— cent on the third yet. I got a letter about it the other day, but will have to wait until I get paid." [The presumption is they were speaking of Liberty loan bonds, the whole city having been circularized that morning by the loan committee.]

At 11.24 a. m. Fickert called up Kearney 783 and talked to Assistant District Attorney Cotton, as follows:

FICKERT. "I sold you a first and second Liberty loan bond for \$500. Is that correct?"



COTTON. "Not quite. You sold me first Liberty loan bonds for \$500. I don't think you had any of the second issue. I am not sure, for I wasn't here."

FICKERT. "I guess I had \$500 of the first and \$300 of the third. They are sending to find out how much everybody took."

At 11.26 a. m. Fickert called up Sutter 1922 and talked to Lieut. Dion Holm, of the Army Intelligence Service, as follows:

FICKERT. "This is Mr. Fickert, the district attorney. Did you want me?"

HOLM. "I want to thank you for your report on Bascom Johnson and the Law woman. There is one further phase of the matter I would like to ask you about, and that is the condition of her case now."

FICKERT. "I am transferring to-day these letters to Sacramento, to be used in the cases starting there on the 8th. I am personally delivering these letters to the Department of Justice there; part of them were secured by me, and part by the men up there."

HOLM. "There is no indictment now against the Law woman?"

FICKERT. "No; I was asked to withhold action. They have treated me very nicely up there, and you know cooperation is always the best way to secure results. The husband is in trouble now up in Vancouver."

At 11.33 a. m. Bennie Selig called up and told Fickert to let the bail money in the Blaine case stand, but to have the case put over 30 days. Fickert said, "All right, I'll see what I can do." He then said to an assistant, "I want to see Berry when he comes in." A moment later he added, "I want to get hold of Capt. West."

At 11.38 a. m. Mrs. Fickert called up to ask when he was going. He said he didn't know yet. She told him she had put a clean shirt in his grip, and suggested that he change before he sees anyone in Sacramento.

At 11.55 a. m. Fickert, who had gone out of the room for a few minutes, returned and remarked to an assistant, "I see where this fellow Erz, who stampeded the jury for Mrs. Mooney, was searched by the Federal authorities. He was the man who worked on the feelings of that jury."

At 12.02 p. m. Capt. West, of Attorney Brennan's office, called up Fickert on the phone, and the following conversation ensued:

WEST. "Did you want me?"

FICKERT. "What did you do in that matter yesterday?"

WEST. "It was submitted on brief."

FICKERT. "Well, I have another probate matter I want you to attend to."

WEST. "I will be over to see you about it."

Cunha then entered the room and said, "I won't be here next week." Before Fickert could reply he added, evidently to Lydon, "Say, Tom, if anything comes up let me know. Call me up. I want to be on the job even though I'm not here." He then said something about Mooney and Patterson, but it could not be distinctly heard.

"There is no man knows more about dynamiting than he does," said Fickert.

"Patterson was very active in Mooney's behalf across the bay," said Cunha. "They had a defense league, organized by the Socialist local."

Fickert and Cunha then left for lunch, both still talking.

At 1.53 p. m. Lydon put in a long-distance call for either Thomas Mulhall or Fred Kelly, at Sacramento. Told operator they would be found at the Department of Justice office, at the Travelers' Hotel, or at the United States attorney's office. He said Mr. Fickert would like to talk to them.

At 1.58 p. m. some one on Fickert's phone called Douglas 20 and asked for Capt. Matheson. Not in. "Tell him that Mr. Fickert would like to see him," said the person telephoning.

At 2.09 p. m. Fickert talked to Mulhall at Sacramento, as follows:

FICKERT. "Is that Mulhall?"

MULHALL. "Yes."

FICKERT. "This is Fickert."

MULHALL. "Where are you?"

FICKERT. "In San Francisco. I'll see you to-night. Will you be there?"

MULHALL. "Yes, and I'm anxious to see you."

FICKERT. "I'll probably see you about 8 o'clock."

MULHALL. "I want to see you very much. There have been some very rapid developments up here."

FICKERT. "All right. See you at 8."

MULHALL. "Will you phone me? I want to see you very much. I have been discharged."

FICKERT. "All right." [Evidently Fickert did not hear Mulhall's last word, as it came as he was hanging up the phone.]



At 2.12 p. m. a man entered the room and requested that Fickert give him a letter of recommendation. He said, "I want to join the Field Artillery and I need three letters; I thought as long as I had been associated with you I might get one from you."

They had some unimportant talk, during the course of which Fickert dictated a brief letter of introduction. The party then told Fickert he would tell the Army authorities that he was associated with him, so as not to appear unemployed. Before leaving, this party narrated a smutty story which caused great laughter.

While this was going on there was an interruption caused by a telephone message from Walter Hettman, putting in a boost for Clarence Ogden, an employee of Fickert's office. Fickert said that Ogden was doing well and would be borne in mind when there was an opportunity to do something for him.

At 2.20 p. m. Fickert called up his wife and told her he would leave on the 3 o'clock boat. She again spoke of the clean shirt.

At 2.25 p. m. unidentified man in Fickert's office called long-distance operator and put in a call for Martinez 54, Mr. Nixon, saying to operator, "Tell Mr. Nixon that Mr. Thompson wants to talk to him." ["Martinez 54" is the telephone number of the Oil and Gas Workers' Union.]

A man now entered and told Fickert that he had quit his job and would now like to go to work with Capt. Gleason as a watchman on the water front. Fickert promised to give him a letter.

After this, Fickert started to josh the stenographer, asking her to go to Sacramento with him. She tried to leave the room, but he told her to sit down. She did not seem to take his advances seriously, and after some further bantering left the room.

At 2.35 p. m. Fickert said [the identity of the person spoken to was not established, though it was presumed to be Berry], "Don't try that case. The fact that he is going into the Army is enough. I had the kid drive me around since he was arrested. They say he comes of a fine family, but since he married this fluzie she got him in wrong." [This was Blaine, Bennie Selig's friend.]

Fickert then said, "I will stop at Martinez on the way down."

At 2.40 p. m. Fickert talked to Nixon, at Martinez, as follows:

FICKERT. "Is this Nixon?"

NIXON. "Yes."

FICKERT. "Do you know who this is?"

NIXON. "No."

FICKERT. "This is Thompson."

NIXON. "Who?"

FICKERT. "Thompson. I'll be through there on my way to Sacramento. I'm leaving on the 3.30 boat. That ought to get me through there about 5. I'll look you up at the hotel."

NIXON. "You mean the Alhambra Hotel?"

FICKERT. "Yes; I'll see you there."

[Despite the alias used, there was absolutely no doubt as to Fickert's identity. Investigation discloses that the Nixon referred to is Fred Nixon, president of the Oil and Gas Workers' Union at Martinez. This man, and another union man from Martinez by the name of M. G. Word, subsequently paid several surreptitious visits to Fickert in San Francisco.]

Fickert's alias in dealing with these men and the general air of mystery which clothed their several meetings, considered in connection with the character of the three men, makes it certain that their business was part and parcel of some further frame-up the full import of which has not yet been disclosed.]

September 28:

8.48, 8.55, 9.15, and 9.37 a. m. long-distance operator called Fickert's office and stated that Sacramento would like to talk to him. Man in the office said that Fickert had not yet arrived.

At 9.40 a. m. Fickert arrived and said to assistant, "See if Berry is down there." The assistant said, "Chief, Sacramento rang you up this morning."

At 9.47 a. m. Fickert talked with Mulhall at Sacramento, as follows:

MULHALL. "Is that you, Mr. Fickert? This is Mulhall."

FICKERT. "Yes; hello."

MULHALL. "I'm afraid I can't get down this morning. Did you get in touch with Shannon?" [Deputy United States marshal at Fresno, Calif.]

FICKERT. "No; I thought you would."

MULHALL. "I called up his office, but found he's in Mariposa County."

FICKERT. "I'll put in a call for him."

MULHALL. "I'll be down some time this afternoon."

FICKERT. "You can call me at the Bohemian Club. If I don't see you to-day, I'll see you to-morrow."



MULHALL. "I think to-morrow would be better."

FICKERT. "All right; I'll see you to-morrow at the house."

MULHALL. "All right."

At 9.50 a. m. Fickert called up Douglas 1272 (Judge Henshaw) and conversed as follows:

FICKERT. "Hello; this is Fickert."

HENSHAW. "Hello, Charlie."

FICKERT. "I've been up to Sacramento."

HENSHAW. "Good. When will you be over?"

FICKERT. "Right away."

HENSHAW. "Fine."

Fickert then said to Berry, "Mulhall just phoned me that he won't be here until this afternoon. He has got those fellows treed."

"The hitting must be done now, Chief," said Berry.

"You bet," agreed Fickert, who then read a letter or statement to Berry, but same could not be heard.

Berry then said, "You are not doing yourself justice unless you get these fellows here and get statements from them, and get it all in proper form."

"I would like to change the wording in that," said Fickert, "but it sounds so frank that it seems a pity to change it."

"There is something very earnest and compelling in that, the way it is," said Berry. "You know there is something in a man's way of talking that you can tell whether he is bulling or not."

A moment later Fickert departed for Henshaw's office to report the result of his visit to Sacramento.

At 10.59 a. m. Fickert returned, accompanied by one of the office assistants. "Are you going to show in the parade to-night?" asked the assistant.

"What parade?" asked Fickert.

"The Liberty loan parade," said the assistant. "Are you going to have your machine in line?"

"I don't know," said Fickert.

At 11.09 a. m. Fickert called up Kearney 988 and asked for John S. Partridge. Not in. Fickert said that he would try and see him the following Monday. Man in Partridge's office said that Partridge had gone to Oroville and might not be back by Monday.

At 11.12 a. m. Bennie Selig talked to Fickert over the phone as follows:

SELIG. "Hello, Big Fellow; when did you get back?"

FICKERT. "Yesterday."

SELIG. "Pretty soft for you—traveling about the country. Wish I had a job as soft as yours, so that I could draw my salary and not do anything."

FICKERT. "You do, do you? you damned profiteer. You think I don't do anything. What do you do for your salary?"

SELIG. "What's new?"

FICKERT. "I'm waiting for Berry. I guess it went over."

SELIG. "It went over one week."

FICKERT. "It ought to be dismissed. I guess it will be all right."

SELIG. "Can he enlist now?"

FICKERT. "I think so."

SELIG. "I saw Joe Taaffe (an attorney), and he told me they always asked whether you've got anything hanging over you before they take your enlistment."

FICKERT. "Maybe so. I'll try and get the thing straightened out next week."

SELIG. "I'll see you Monday or Tuesday."

At 11.15 a. m. a reporter from some local paper came in and asked Fickert who was going to get Ferrari's job.

"I haven't decided yet," said Fickert.

"Is there any new I. W. W. stuff around"? asked the reporter.

"Nothing," replied Fickert, "with the exception of this fellow Erz, who was searched by the Federal authorities. Here is a list of the Mooney jurors, and here's his name. The marshal raided his house and you fellows didn't mention about his being on the Mooney, or rather Mrs. Mooney, jury. Lydon can give you all that."

At 11.25 a. m. Fickert asked Lydon to get Judge Slack on the phone. Lydon called up Douglas 2742, but party was not in.

Lydon, or some other party in office, said he would be at the corner of California and Drumm Streets, the rendezvous agreed upon from which to start out for the parade.

Fickert then left to have lunch with Cotton.



September 30:

Fickert entered his office at 9.26 a. m.-and held unimportant conversation with assistant. There were several unimportant phone calls, one from P. H. McCarthy at 9.43 a. m.; also some talk with stenographer about a letter of recommendation which Fickert had written for a man named Cosby (or Crosby), a friend of Jim Brennan's.

An assistant then entered and told a long story about the difficulty there was in obtaining releases from the bond and warrant offices; said that the traffic squad had rung up that morning at 8.30 and complained about it. Fickert told the assistant to have man from the bond and warrant clerk's office step up stairs and he would order him to change the practice.

Another assistant then entered and said, "Chief, have you got some Liberty loan cards"?

"Yes," said Fickert, "but I want to turn them in myself."

"Well, wait until I give them a receipt," said the assistant.

"I guess it doesn't make any difference," Fickert replied, "we won't get the credit anyhow."

Man from the bond and warrant office now entered the room, and Fickert proceeded to tell him about people not being able to get releases.

The man explained matters at some length: "Bill Heggerty was there," he said, "and he acted discourteous to the fellow and lost his temper. Bill told the fellow he was only a bookkeeper and couldn't issue releases. As a matter of fact he has a regular appointment and his name is in all the prison books, so he should have signed the release. He is all right, and this is the first occasion I have had to criticize him."

After a pause, Fickert said, "All right; get after them down there." Promising to do so, the man left the room.

Fickert and the stenographer then spent some time filling out a sort of questionnaire which is sent to the sponsors for candidates for admission to officers' training camps, Fickert telling her just what to say in response to each question. They were interrupted by the entrance of Cunha.

"Say," said Cunha, "how would it be to have Aleck [Asst. District Attorney O'Grady] take my court to-day, so I can put in an application for this officers' training camp?"

"How long do you want?" asked Fickert. "We are sort of short handed."

"Just to-day," said Cunha.

"All right," agreed Fickert. He and the stenographer then continued their work on the questionnaire.

At 10.14 a. m. Fickert asked the stenographer to call up Judge Slack. She did so, but the judge was not in.

One of the assistants then came in and made some reference to Soady, one of the so-called Baker Street defendants. Fickert ignored the remark and began talking about his trip to Sacramento. "I saw Mulhall," he said, "and he has a partial confession from one fellow and a full confession from the other. They certainly pulled off some things." He then spoke of some proposition which he said had been financed by Johannsen.

"The affairs were planned in a saloon run by the brother of a policeman at Third and Howard, or Third and Harrison. Some of the things were picked up at Third and Harrison," he continued. "You saw about your friend Erz, didn't you?"

"What have you done toward apprehending those fellows?" asked the assistant, who sounded like Ferrari.

"It is a pretty hard situation," said Fickert. "I am going to spend a couple of weeks on it."

"Is there anything I can do?" asked the other. "If you want that brief rewritten, I am perfectly willing to help. Say, there was a hell of an article in Leslie's last week about what a G—— d—— shame it would be to turn Mooney loose. Damn good stuff. I will bring it over to you."

"I would like to see it," said Fickert.

"I wish we might put a little supplement onto that brief in regard to matters which have occurred since: for instance, tying them up with those German proclamations, and so forth. I think it could be worked up into good shape."

"I had a history of the operations down south," said Fickert, "but I haven't been able to find it. The same with that card of Mooney's, which we found in his clothes—I can't find it. I think I gave it to you. It's good we took photographic copies of it."

"Get out some additions to that brief, anyhow," said the assistant. "Things are happening every day."

Fickert said something about White being in the Mooney studio. The assistant then changed the subject apparently by asking, "Say, do you want to give me a check for Egan?"



Fickert's reply was unintelligible.

"Well, chief," said the assistant, who was without doubt Ferrari, "if you want me around for anything for a few days, let me know." [Assistant District Attorney Louis Ferrari had just resigned.]

At 10.48 a. m. Fickert called up Douglas 1272 and held the following conversation with Judge Henshaw:

FICKERT. "Hello, judge; this is Fickert. Say, that party we were expecting [Mulhall] didn't come. I have a letter addressed to the district attorney's office giving some additional data on Johannsen. Shall I send it over?"

HENSHAW. "Yes, Charlie; thank you."

FICKERT. "Just as soon as I hear from either of them I'll let you know."

HENSHAW. "All right, Charlie."

At 10.50 a. m. Fickert called up Lieut. Van Antwerp, of the intelligence service, and the following conversation took place:

FICKERT. "This is Mr. Fickert, the district attorney. I have a letter given to one of our boys to post. I am suspicious of it and think it ought to be censored. Is it part of your duties to do such work?"

VAN ANTWERP. "Who wrote the letter?"

FICKERT. "An alien enemy, I think; the man is in jail."

VAN ANTWERP. "We have authority to do that; suppose you send it along. By the way, at Judge Henshaw's suggestion I sent a telegram Friday requesting an immediate reply to my letter" [probably in regard to Johannsen].

FICKERT. "Good! Well, captain, I'll send the letter up; if it's all right you can post it."

After this there was a pause. Fickert then said to Lydon, "I wonder where my books are in the Mooney case—the ones that the clippings are supposed to be put in."

"I think the girls have them," said Lydon.

"I want them here," said Fickert, "both the Mooney and Billings book. I have some very good stuff I want to put in them. I want them right up to date."

A few moments later the books were evidently brought in, and the conversation indicated that Fickert and Lydon were sorting out various clippings.

"You know which is which," said Fickert. "I want them fixed up neat. Here is another from the Argonaut—you've probably got it in there already."

There was some further talk along the same line, Fickert directing Lydon's attention to certain clippings and telling him how to put them in the scrapbook.

At 11.15 a. m. Judge Slack called up Fickert and spoke to him in regard to the rental of some ranch land.

Lydon then said, "Chief, do you want Swanson to put them away?"

"Yes," said Fickert; "he has a pretty good system of filing them. By the way, did you find O'Grady?"

"No," replied Lydon, "he wasn't in court."

[O'Grady is Asst. District Attorney Aleck O'Grady, a former police commissioner. During his term of office as a member of the police board he started a scheme, in company with a Dr. Poheim, to sell glassware to saloons, and grow rich through a monopoly of the trade thus established. He organized the firm and did business until removed from office by a new mayor, for violating a city ordinance which prohibits an officer of the local government from using his official position to further an outside business venture.

O'Grady has been associated with Kid Sullivan and Francis J. Murphy in attempting to defeat the red-light abatement act. He is now prosecuting cases growing out of violations of this act. It seems unnecessary to add that the percentage of convictions is small.]

"Here is another one in the New York Times," said Fickert, evidently calling Lydon's attention to some other Mooney item; "cut it out and put it in the book with the rest."

Fickert then dictated a telegram to his brother in regard to the ranch land concerning which he had the conversations with Judge Slack.

At 11.21 a. m. an assistant entered and said, "There is a man named McGowan out here who says he has an appointment with you."

"I'll see him after bit," Fickert announced. He then said something about an affidavit which had to be put in in the Billings case.

"Shall I telephone it over?" asked the stenographer.

Fickert ignored the question. "Is Swanson out there?" he asked.

"I'll see," said the stenographer.

At 11.23 a. m. Swanson entered the room.

"Say, Martin," said Lydon, "the chief has an affidavit —"



Fickert interrupted with, "Here is another affidavit on that Patterson business. Put them all together."

After a pause Swanson said, "How are things, Chief?"

"Fine," said Fickert; "I want to talk to you before you leave."

To the assistant he said, "I'll see McGowan in a minute."

Fickert and Swanson then had a talk, Fickert telling about the confessions obtained by Mulhall. "He says to put the petition through and he will connect all these cases," said Fickert, who again told about the saloon at Third and Howard. He also talked about the dynamiting at Stockton in 1914 and 1915, which, according to the confessions, was directed by Nolan, Mooney, and Johannsen. "I told Mulhall," he said, "to get hold of Shannon and bring him back here."

Fickert then spoke of what a shame it was to relieve Mulhall from duty in Sacramento.

"You know, Chief," said Swanson, "Mulhall should sit down and write up all he knows about those cases and turn it all over to Henshaw. He should set down all he knows about each and every man, so they can't put anything over and white-wash any of those fellows: It is a hell of a thing."

"This fellow from Indianapolis is going to take charge of the prosecution," said Fickert.

"Is he an investigator," asked Swanson.

"No, damn it all; he is a lawyer," replied Fickert. "Fine business, isn't it?"

"Mulhall shouldn't stand for it, Chief," said Swanson. He talked about resigning," said Fickert, "but I told him not to."

"You can see the value of his testimony," said Swanson. "If he will write that he worked on the case so long; that he arrested so-and-so; that they said so-and-so—we can give it all to Henshaw and they (Preston and Duncan) can't possibly kill it. He'll have to give it to us if he wants us to go to the front for him. When was this fellow Thompson on Mooney's paper?"

"He is on it now," said Fickert.

"When was he first on it?" insisted Swanson. "I tell you it is very important. Thompson visited Mooney in April, 1917." He added something about Lubin.

"Berry has that letter," said Fickert. "He has a good deal of data. Do you know Bryan, of the Department of Justice? He is —"

"What is he?"

There was a pause as though Fickert was reading something. After a moment he continued, "He is with the Department of Justice. He knows McGowan and he can handle him. Mulhall has a bunch of information."

"He should write it down," advised Swanson very earnestly.

"I want to get him down here," said Fickert; "I want a session with the three of them."

At this point some visitor entered and said, "Good morning, Mr. Fickert." This man was evidently a candidate for a position as assistant district attorney. Fickert told him that three of his men would probably be drafted, and that he didn't know where he was at on the question of selecting men to take their places. At 11.43 a. m. this visitor took his departure. From what follows it was probably Al Joyce.

At 11.47 a. m. Fickert phoned for stenographer; also rang for assistant. Assistant entered and said, "Did you ring, Chief?"

"Yes," said Fickert; "is Swanson out there?"

"No, he isn't there, Chief," said the assistant.

The stenographer now entered the room. Fickert said, "These things you might put under the heading of Bascom Johnson."

Lydon then spoke up and said, "Is that the investigation of the grand jury?"

Fickert apparently made no reply to this question. Instead, he said, "Here is one on the Mooney case—'Pacific Coast Appeal,'—it is pretty good."

At 12 noon, Bennie Selig called up on the telephone and asked if Fickert was busy. Fickert replied in a joshing tone, "I am always busy except when interrupted by you and a lot of other damn loafers and busybodies." Selig then said he would be down to see Fickert between 3 and 4 o'clock that afternoon.

At 12.04 Lydon entered and said, "Did you ring, Chief?"

Fickert said, "Yes. Is Cotton out there?"

"I'll see," returned Lydon.

A moment later Cotton entered and asked Fickert if he wanted to go to lunch. They agreed to lunch together at Bergez-Frank's.

At 12.07 p. m. Lydon entered (probably bearing a visitor's card) and asked, "Have you time to talk to this gentleman?"

"Yes," said Fickert.



Cotton stepped out of the room with Lydon; the visitor entered. He and Fickert conversed in low tones. Fickert then rang for Lydon, and when the latter had entered the room said, "You take him down there now and tell him that he has additional facts regarding the fellow running the market, and so forth."

As Lydon and the visitor departed, Cotton reentered the room and announced, "Well, I am ready to go." Forthwith they went to lunch.

At 3 p. m., when the machine was again put in operation, Mrs. Fickert was in the office talking to Fickert; an aimless conversation of no interest or significance.

At 3.30 p. m. Lydon said, "I've got all those editorials together."

"It is wonderful how this stuff accumulates," said Fickert.

"It's got to be kept up," said Lydon; "we can't afford to trust to our memory."

Fickert then read aloud some statement of the salaries paid in the district attorney's office in New York: "District attorney, \$15,000; assistant, \$7,500; chief clerk, \$5,000; deputies, at \$4,000 and \$3,500; secretary, \$3,800; stenographer, at \$2,500; telegraph operators, three office boys, messenger, and so forth."

The stenographer said, "Whew!"

They continued working on the scrap books. "This book," said Lydon, "has nothing in it since January, 1918."

"Will you get me the telegraphic file?" requested Fickert. "I want to keep all these things up to date. You can put this on the file down below. I am going to keep clearing up this G—— d—— matter and get all this stuff where it belongs. There are some of these in reference to McGowan."

"Do you want to mark this 'McGowan account?'" asked Lydon.

"You can just mark it 'McGowan,'" directed Fickert. "Here are some more. You might put that one in there. I guess all these can go in there."

At 4 p. m. long distance operator called Fickert and said that Mr. Nixon, at Martinez, was not in. "You can get him at the Shell Oil Co., then," said Fickert. Operator said, "All right; I will try him there."

At 4.06 p. m. Fickert talked to Mr. Nixon, of Martinez, as follows:

FICKERT. "Is this Mr. Nixon?"

NIXON. "Yes."

FICKERT. "This is Thompson. When can you people come down?"

NIXON. "How about to-morrow?"

FICKERT. "All right—to-morrow. I'll expect you. Call me up at the district attorney's office."

NIXON. "All right."

[ "You people" evidently refers to Fred Nixon and M. G. Word, union labor men of Martinez, who were being made use of by Fickert in furtherance of his plans against the Mooney defendants.]

A moment after this Cunha entered. Fickert told him he had been to Sacramento. Cunha said something about going to the training camp. He then said to Fickert, "I tell you a s—— of a b—— of a strong fellow for an assistant, chief, and that's Al Joyce."

"He spoke to me to-day," said Fickert.

"He just passed the bar," continued Cunha, "and he belongs to the club and baseball people and is one of the best-known men in San Francisco. I asked him if he could get along on a couple of hundred a month. He says he could all right. He is very popular in the Elks and is one of the boys in the minstrels."

"I need a fellow like that," said Fickert.

"Chief," said Cunha, "it would create a hell of a favorable stink if he joined the office, and I know he likes you. No bull about it. He would be for you, and for you first. He is one of those birds who come from the country."

"I think he is well liked by the newspaper people, too," said Fickert.

"Sure, Chief; he is one of the head ones in the Press Club. Everybody knows Al Joyce."

"He is a sort of a comedian type," said Fickert.

"All the better, Chief," said Cunha. "You need a sort of a comedian around here to liven things up a bit and kind of lead things."

"He would probably get by on two hundred and fifty," said Fickert.

"I imagine he would get by on two hundred," said Cunha. "You know, Chief, there will be three of us going in about two weeks—Maundrell, Bianchi, and myself."

The conversation then switched to the Roche libel suit. Cunha stated that he had informed the court that he was not appearing as a regular attorney. In the course of his remarks he stated that Roche had double-crossed either his country or his clients.

Bennie Selig then entered the room.

"I was just going," said Fickert.



"The case was postponed until Friday," said Selig. "If he passes the physical examination, he will be in the Army in five days. But there is a clause in which you are asked, 'Have you any charge pending against you?' He is supposed to come up before the draft board Thursday. They need fellows like him. He is a hell of a good mechanic."

"And a good chauffeur," remarked Fickert.

Selig continued to talk about the case, the arrest, the boy's mother, etc., until a man entered and said, "Well, are you ready to go?"

"Yes," said Fickert; and a moment later all left the room.

[The case discussed by Selig and Fickert was the David Blaine case, already referred to.]

October 1.

Fickert entered his office at 9.25 a. m. At 9.48 a. m. Mulhall arrived and remained until 10.42. He and Fickert talked of various matters connected with the Mooney case, but without developing much that was new. Their rather desultory conversation was interrupted by several telephone talks, as follows:

At 10.09 a. m. Mr. Nixon, of Martinez, called up Fickert.

NIXON. "That party and I are at the Ferry Building."

FICKERT. "When will you be up?"

NIXON. "Right away."

FICKERT. "You can leave your machine somewhere on Montgomery Street and come around to the district attorney's office." [Montgomery Street is one square east of Fickert's office. This direction on Fickert's part was evidently given Nixon to enable the latter to avoid being seen.]

NIXON. "All right."

At 10.17 a. m. Fickert called up Douglas 1000 and asked to see Mrs. Van Auken. Douglas 1000 is the St. Francis Hotel. Clerk reported that Mrs. Van Auken was not in.

At 10.34 a. m. Fickert called up Judge Henshaw. The first part of the conversation was indistinct. There was some talk of a leak at San Jose, and of a woman named Jennie Arnold at Palo Alto. Then:

FICKERT. "Mulhall is here."

HENSHAW. "I'd like very much to see him."

FICKERT. "I'll bring him over."

HENSHAW. "All right, Charlie."

FICKERT. "I have a photographic copy of Mooney's letter to Hilstrum which I will bring with me."

HENSHAW. "Your letter yesterday had no Johannsen inclosure. You ought to have one of your men write and have a vigorous search made for that. It is extremely important."

FICKERT. "All right, Judge."

Mulhall and Fickert then continued their rather rambling discussion. They talked of John McNamara, of Preston, and of Judge Van Fleet, Fickert saying at one point, "I spoke to Henshaw and he said, 'I am very close to Judge Van Fleet.'"

After Mulhall had taken his departure at 10.42 a. m. some other man or men [probably Nixon and his companion M. G. Word], entered the room. The conversation which ensued was carried on either in low tones or else at some distance from the microphone, the transmission being extremely unsatisfactory. The conversation, judging from the few snatches which were intelligible, seemed to center around a man named Joe Young (?), a conductor, who had been taken to the Emergency Hospital with a broken arm and leg. At one point Fickert was heard to say, "I will work with you, see?" At another time he said, "You had better put up the job on him, otherwise we would have to put a detective there, see?" Later on he said, "You go over and get your car" [the machine left by Nixon on Montgomery Street].

After Nixon and his friend had taken their departure, Fickert said to some assistant, "I have had enough of McNamara. I let him out on bail on a murder charge—a murder charge." He then went out to lunch.

[This case of McNamara is one which Fickert took care of for his friend Pete McDonough, the powerful local political boss and fixer. It would be interesting to compile a list of the cases which Fickert has manipulated for his friends. He is constantly fixing them for McDonough, whose influence he both craves and fears. An excellent example of the way these things are handled will be found in the following transcript of telephone conversations relating to the Max Koenig case, which was another little affair handled by Fickert for McDonough and Selig.]

Memorandum showing the conspiracy between Charles M. Fickert, Pete McDonough, Bennie Selig, Leon Samuels, and Assistant District Attorney O'Grady, to prevent the indictment, and subsequently the prosecution, of Max Koenig, one of the "Baker Street" defendants.



On June 12, 1918, at 2.20 p. m., Pete McDonough called up Mission 6936, asked for Bennie Selig, and talked with him as follows:

McD. "Hello, Bennie."

S. "Say, I tried to see that duck at lunch, but couldn't. I saw him afterwards and mentioned about him seeing Ferrari. He said he made several efforts to see him, but couldn't catch him in." [The "duck" was evidently Fickert.]

McD. "He was stalling."

S. "He told me to see Ferrari and use his name. Said I should tell Ferrari to do whatever I wanted, same as if it was him. What would you do?—go and see Ferrari?"

McD. "Yes. See him and tell him that Koenig's name has got to be left out of the indictment."

S. "You think it is all right to see him, do you?"

McD. "Yes; but you've got to see him this afternoon. They are going to draw up that indictment to-day. Tell him not to put that name in. You'd better call him up by phone."

S. "All right; I'll call him up and let you know what he says."

At 2.30 p. m. Bennie Selig called up Pete McDonough.

S. "That fellow won't be in till 4 o'clock. I've got an appointment with the dentist, but I'll break it and see Farrari in person. I'll see you about 5 o'clock."

McD. "All right."

At 2.50 p. m. Pete McDonough called up Mission 6936 and talked to Selig.

McD. "Say, Bennie, that fellow is there now."

S. "I'll go right down. Will it be all right?"

McD. "Yes; Louis [Ferrari] will get in touch with the foreman."

S. "Maybe he will get in touch with Billy."

McD. "It will be all right. Get right down there. Then come in here."

S. "All right."

At 4.38 p. m. Howard Vernon [secretary of the grand jury] called up Pete McDonough.

V. "Hello, Pete."

McD. "Hello, Howard."

V. "Ferrari hasn't gotten in yet. Is Legs [a nick name for Fickert] going to speak to him?"

McD. "Yes; and so is Bennie."

V. "Will it be all right?"

McD. "Sure."

At 4.42 p. m. Selig called up Pete McDonough.

S. "Louis hasn't showed yet."

McD. "Howard just telephoned. You'd better try and connect. There's probably plenty of time. Tell him to leave the name out."

S. "I've telephoned all around, but can't locate him."

McD. "He'll probably show at his office. You'd better camp on him."

S. "All right."

McD. "Come in here afterwards."

S. "All right."

At 5.03 p. m. Fickert called up Pete McDonough.

F. "Did that party have a talk with Ferrari?"

McD. "Bennie is at Louis's office now, Charley."

F. "I've been out and just got in. I want to know before I step in there."

McD. "Why don't you ring up his office on another pretext and find out?"

F. "All right; I'll do it."

At 5.10 p. m. Pete McDonough called up Sutter 1126 [Fickert's private phone in his office in the Hall of Justice], but the line was busy.

At 5.15 Pete McDonough called up Kearney 783 [Fickert's phone in his office in the Kohl Building].

McD. "Did you get him, Charlie?"

F. "I rang up twice, but couldn't get him."

McD. "He's there."

F. "Is he? All right, I'll go up and see him."

At 5.25 p. m. Pete McDonough called up Kearney 5768 and talked to Leon Samuels, attorney for Max Koenig.

McD. "This is Pete McDonough."

S. "Oh, hello; how is the Centipede?" [nickname for McDonough].

McD. "All right. We are trying to accomplish that."

S. "Are you going to succeed in having his name left out?"

McD. "I think so."

S. "I had a long-distance call from him (Koenig was in hiding), and he asked about it. He is worried. I got his address and promised to wire him about it."



June 13:

At 9.05 a. m. Pete McDonough called up Park 37 [Percy L. Henderson].

McD. "Hello, Percy. What time do you meet out there?"

H. "Eleven o'clock."

McD. "I tried to get hold of Martin, but couldn't. I then suggested to Bert Kahn that he make the motion, but he thought that on account of his being a Jew, it might be a bad idea."

H. "You'd better get Martin."

McD. "I'll try again. You see, if he makes this motion in regard to Koenig, McCarthy [foreman of the grand jury] can take then it up."

H. "Try and get him. Good-bye."

June 14:

11.45 a. m. Bennie Selig called up Pete McDonough.

S. "What's new?"

McD. "I understand the whole thing went over until Tuesday."

S. "The Big Fellow [Fickert] seems to be interested. I really believe Legs [another nickname for the district attorney] will get busy all right."

McD. "Yes, he will go in and tell them he doesn't want any indictment."

S. "That Waltmeyer is a tough bird."

McD. "Legs will say that he is a —— of a ——, but that his family is a good one and ought not to suffer."

S. "By the way I see that Legs is making a great hit with the Chronicle."

McD. "The Examiner is strong for him too. And did you see that Rominger comes out indorsing him?"

S. "No; where did you get that?"

McD. "In this morning's Examiner."

S. "What do you know about that? He may have a chance after all."

3.10 p. m. Attorney Leon Samuels [attorney for Koenig] called up Pete McDonough. Not in.

3.55 p. m. Pete McDonough called up Kearney 5768 [law office of Leon Samuels.] The attorney stated that he had some clients in his office, and asked McDonough to call up later.

4.30 p. m. Pete McDonough called up Leon Samuels again. The latter said the clients were still there; he promised to call up McDonough just as soon as he could get rid of them. McDonough gave Samuels his private phone number.

So far as the record goes, Samuels did not call up.

June 17:

12 noon: Bennie Selig called up Pete McDonough.

S. "I'm going to see that party this afternoon. You know who I mean—M. A."

McD. "Yes; I know."

S. "I met Legs on Saturday."

McD. "I just left him."

S. "He wants to see me. You know what he wants. I hardly know what to do."

McD. "Certainly you know. We've got to help him."

S. "I'll see you at dinner and we'll talk it over."

McD. "All right."

(The record shows that Fickert wanted a campaign contribution.)

5.07 p. m.: Pete McDonough called up his saloon from the outside.

McD. "Anyone want me?"

MAN. "Bennie Selig rang up and said he would be here about 5.30."

5.38 p. m.: Bennie Selig called up Pete McDonough.

S. "I saw that party."

McD. "Legs?"

S. "No; the other fellow." [Ferrari, perhaps.]

McD. "And——"

S. "He says all right."

McD. "Good. Are you going to dinner?"

S. "Yes; I'll be right down."

McD. "Where are you now?"

S. "At the butcher shop, corner Larkin and Post."

McD. "All right."

6.10 p. m.: Bennie Selig called up Pete McDonough.

S. "Hello, Pete."

McD. "Where the hell are you now?"



S. "I'm still at Larkin and Post. Haven't been able to get away, but will be there in 10 minutes. You're not in a hurry, are you?"

McD. "Why, G—— d—— it, I've got to get back here at 7 to catch Fickert. He'll be here at 7. I've got to get my dinner and get back here."

S. "I'll be there in 10 minutes."

June 18:

10 a. m. Pete McDonough called up Douglas 5394 [grand jury] and talked to Howard Vernon.

McD. "Who's this?"

V. "Howard Vernon."

McD. "What time are they to be out there? Two o'clock, isn't it?"

V. "I think that's right. However, I will find out and ring you up right away."

McD. "All right, Howard."

10.10 a. m. Howard Vernon called up Pete McDonough.

McD. "Hello, Howard."

V. "That's 2 o'clock."

McD. "All right. You attend to that. Say, what happened last night [at the grand jury session]? Did the little fellow [Ferrari] go in?"

V. "He went right in, but came right out again."

McD. "Did Martin speak?"

V. "I don't think so. I heard the big fellow [Fickert] say to the little fellow [Ferrari], 'Did anybody say anything?' The little fellow said, 'No; not a word.'"

McD. "Martin was to have said something."

V. "I don't think anything was said. The big fellow must have gone right in and told them what to do. When he gave me the reports he said, 'Give these to So-and-so, to sign.' I've kept them in my desk."

McD. "How many misdemeanors were there?"

V. "I have the list here if you'll hold the phone. [Later.] There are 15 persons charged with misdemeanors."

McD. "Yes; but some of those are also charged with conspiracy. What I want to know is, how many of them are charged with misdemeanors only?"

V. "Just Kominsky and Koenig and the two peace officers."

McD. "Thanks, Howard."

V. "I'll keep you advised of any further developments."

McD. "All right."

10.15 a. m. Pete McDonough called up Kearney 5768 and talked to Leon Samuels.

McD. "That's at 2 o'clock."

S. "All right. I'll attend to it."

McD. "I went over all the indictments. There are only four misdemeanors—the two K.'s and the two officers; the rest are all misdemeanors and felonies."

S. "If it wasn't for other conditions, that would be fine."

McD. "It's all right. You'll attend to that right away, will you—at No. 11?"

S. "I don't know about right away, but I'll attend to it before 2 o'clock."

12.05 p. m. Pete McDonough called up Kearney 5768 and talked to Leon Samuels.

McD. "Say, Leon, this is the Centipede."

S. (Laughing.) "All right, Pete."

McD. "I just saw Legs [Fickert]. He's going to try to have those two stopped."

S. "You don't mean it."

McD. "He told me he had just had Howard Vernon telephone to McCarthy [foreman of the grand jury] and make a lunch engagement for him. He's going to ask him to stop both K.'s on the ground that it might be difficult to secure convictions."

S. "Had I better see the judge in the meantime?"

McD. "Yes. Listen. I don't believe it can be stopped. Can you imagine it, after going as far as it has? I said to him, 'Charlie, it will mean a lot to us if you can stop it.' He said, 'Leave it to me.' It will be very wonderful, if he does it."

S. "You bet. Meanwhile I'll arrange for the other thing."

McD. "All right, Leon."

3.25 p. m. Bennie Selig called up Pete McDonough.

S. "That fellow never showed up."

McD. "He was stalling."

S. "Stalling is right. Legs told me over the phone that he would take care of it later. You know what that means, don't you?"

McD. "Sure."

S. "It means that he'll have it dismissed."

McD. "That's the proper way to handle it, after it's gone as far as it has."

S. "All right, Peter."



5.05 p. m. Howard Vernon [secretary of the grand jury] rang up Pete McDonough.

V. "I hear that those things went through the same as they were last night."

McD. "Yes. That lunch engagement wasn't kept."

V. "I saw Cotton and he says that McCarthy's attitude was that the whole thing is in, and passed into court, and that it is too late to do anything more. I suppose you know that Goff is having it all placed on the secret file."

McD. "What does that mean?"

V. "Simply that the names won't be made public until the arrests are made. Goff came to me and wanted the names. I told him he could get the names out of the papers. He said 'I don't want them out of the papers, I want them from you.' I said, 'All right, here is the list; you can copy them.'"

McD. "What's the procedure now?"

V. "I suppose they come back to Mogan [judge of the superior court]. I will let you know if anything else occurs."

McD. "All right, Howard."

June 19:

9.27 a. m. Bennie Selig called up Pete McDonough.

S. "Say, we ought to get a calendar."

McD. "Why? What's the matter?"

S. "That lunch engagement was for to-day."

McD. "Maybe you're right."

S. "Sure I'm right. Say, they made the bail high enough, didn't they?"

McD. "Yes."

June 22:

1.08 p. m. Fickert's office called up McDonough's saloon.

F. "Is Pete there?"

MAN. "No."

F. "When he comes in have him ring up Mr. Fickert."

MAN. "All right."

June 25:

9.55 a. m. William H. McCarthy [foreman of the grand jury] called up Fickert.

McC. "I just happened to think that on Wednesday night I have to go to Larkspur to talk for the war-savings stamps. If you want me there, you'd probably better postpone it."

F. "I want you there by all means. We can make it Thursday night."

McC. "I could be there all right Thursday."

F. "All right, then. Thursday night at 8 o'clock."

June 26:

10.10 a. m. Some man at Fickert's office called up Douglas 3379 and talked to Louis Ferrari.

MAN. "Say, that matter of Max Koenig's—one of the Baker Street cases—comes up this morning before Judge Griffin. The judge wants to consult you about the bail. Will you see him?"

F. "I will be right down."

10.25 a. m. Pete McDonough called up Fickert.

McD. "Say, Charlie, Koenig's case comes up this morning before Griffin. I understand that Griffin has sent for Louis Ferrari. I wish you would see Ferrari."

F. "All right, I will. Who's representing Koenig?"

McD. "Leon Samuels."

F. "It's an outrage the way they fixed the bail in those cases."

McD. "They're trying to fix him up on a writ, and when I get that I'll bring it up to you, see?"

F. "All right, Pete."

McD. "All right, Charlie."

June 28:

11.23 a. m. Bennie Selig called up Pete McDonough.

S. "Say, I saw that party yesterday, and the best way I can dope things out is that McCarthy wants that fellow convicted. He considers that after an indictment is returned against a man if he isn't convicted it's a slam at the grand jury."

McD. "I get you."

S. "There are one or two on there I think I can talk to."

McD. "All right, Bennie. When will I see you?"

S. "Not to-day. Say, I'll have that tenderloin for you to-morrow."



McD. "All right, Bennie."

5.03 p. m. Fickert called up Pete McDonough.

F. "I want to talk to Pete. This is Mr. Fickert."

McD. "Yes, Charlie. This is Pete."

F. "I've been wanting to see you, if I could."

McD. "I'll come right over."

5.37 p. m. Pete McDonough called up Kearney 5768 and talked to Leon Samuels.

McD. "Legs just sent for me. He is going to send the Scavanger [Louis Ferrari] out of town, so he won't be there Monday—sending him away on another matter. He's going to let Aleck [Assistant District Attorney O'Grady] handle the matter—our matter."

S. "The party was in to see me to-day. He's going across the bay again and will be back Sunday."

McD. "Legs said that he instructed Aleck just what to do."

S. "I think it ought to be granted. I'll ring you up in the morning."

June 29:

9.30 a. m. Pete McDonough called up Leon Samuels.

S. "Hello, Pete. I had a phone message this morning from K. He said that that sudden member—Father R.—saw No. 11 last night and that No. 11 told him everything was all right and there would be no trouble."

McD. "The fellow I walked down Kearney Street with told me that McWood put up no fight at all, and that they had some plants on the jury."

S. "The trouble is that we are likely to get no credit for it. They will think that some one else arranged it. K. told me that he had sent that other party—G.—to see the Big Fellow, and that the Big Fellow told G. that everything was all right. [G. was probably Ike Goldman.]

12.17 p. m. Bennie Selig called up Pete McDonough.

S. "Are you going up there?"

McD. "I'm starting now. Will be at Ike's place at 12.30."

S. "I'll pick you up on the way. I have a package for you."

3.32 p. m. Pete McDonough called up Kearney 5768 and talked to Leon Samuels.

McD. "Leon Samuels, please."

GIRL. "Who is this talking?"

McD. "Mr. McDonough."

GIRL. "Just a moment; he is talking on the other phone."

S. "Hello."

McD. "This is the Centipede."

S. "All right, Centipede. Anything new?"

McD. "No."

S. "I got that record this morning. It was on the calendar for arraignment. It shouldn't have been—it should have been up for habeas corpus. I haven't looked over it yet."

McD. "I was talking to Aleck. His friend saw No. 11 and says that it is all right. Some of them think that it is going to be handled by Ferrari, but Aleck says that he is going to handle it. I told him that Charlie had promised to send L. F. away."

S. "The little Garbage Man (Ferrari) is a bad egg. The presiding gentleman may have promised all that to our friend of the cloth, but you know how those fellows upstairs talk. They say, 'We will do the best we can,' and the other fellow comes away feeling that he has been promised everything. We must bear in mind that it was repeated to a layman and that it may have been distorted in being retold. I know, and you know, that people take more out of things than we sometimes want them to take."

McD. "When anyone says that Ferrari is going to handle it, all I've got to say is that Charlie says not. Did you find out about that other business?"

S. [Talks about some other case.] "By the way, my man K. [Koenig] has gone out of this jurisdiction."

McD. "I think you'll find that Aleck will be there and handle it."

July 1:

11.58 a. m. Pete McDonough called up Leon Samuels.

McD. "Hello, Leon; what did they do?"

S. "The Garbage Man was on hand. Aleck was there, too. It went over a week so that I could present my authorities to the court."

McD. "So he didn't send the Garbage Man out of town?"

S. "No; he was there."



July 5:

4 p. m. Pete McDonough called up Fickert.

McD. "Hello, Charlie; this is Pete."

F. "Hello, Pete."

McD. "Are you very busy?"

F. "Yes; but I can see you in about five minutes."

McD. "I'll get you in the morning, then."

F. "Can't; I'm going away to-night to Los Angeles."

McD. "I'll be over in five minutes, if that's the case."

F. "All right."

July 7:

12.12 p. m. Bennie Selig called up Peter McDonough.

S. "Will you be there 15 minutes from now?"

McD. "Yes."

S. "I'll be down."

McD. "All right."

July 8:

9.36 a. m. Pete McDonough called up Leon Samuels.

McD. "Say, drop in here on your way down. Frank Daroux is here."

S. "All right."

McD. "I had quite a talk with Aleck and Legs on that other matter; I'll tell you about it when you come down."

July 18:

4.02 p. m. Pete McDonough called up Leon Samuels.

McD. "How are you, Leon?"

S. "Very fine."

McD. "I saw Aleck again to-day. He said that Groom would be up to see you. [James Groom, clerk of Judge Griffin's court.]

S. "I told Groom that he had distorted everything I said, and that I was surprised at his lack of penetration."

McD. "Surprised at Koenig's, too, ha, ha. Aleck said that he would notify Groom not to take up the transcript, and that would end it."

S. "I've got to figure the best way to handle it."

McD. "I told Aleck that Fickert told me the whole thing was killed."

S. "Groom said that he had buried the corpse. I'll figure out the best way."

This virtually ended the matter, the case never coming to trial.

According to Lieut. Charles Goff, of the San Francisco police, the officer who worked up the cases against the "Baker Street" defendants, there was no question of Koenig's guilt. [See evidence in memorandum attached to this report and marked "Exhibit B."]

After this digression the record of dictaphone conversations for October 1 will be resumed, as follows:

At 3.25 p. m. Fickert and Edward A. Cunha came in together. They were talking about some one's questionnaire; from this they switched to the war. Fickert said, "The worst person in the United States is the President of the United States; he is only playing politics—that is the whole question of the war."

At 4.47 p. m. Fickert called up Sutter 2105 [Miss Kirby] and made an engagement to see her the following night. Fickert accused her of coldness. This she denied, saying that she loved him as much as ever.

At 5.18 p. m. Fickert called up Douglas 1000 [the St. Francis Hotel] and talked to Mrs. Van Auken. Personal, silly, and unimportant. Mrs. Van Auken said she would like to buy him a drink.

At 5.22 p. m. Fickert called up Douglas 726 [Attorney Frank C. Drew], but Drew was not in.

October 2:

At 9.25 a. m. Fred Berry, assistant district attorney, entered the room, called up Market 301 [the post office], and asked for Mr. Mulhall, who, however, was not in. "Please have him call up Mr. Berry, of the district attorney's office," said Berry.

At 9.54 a. m. McWood, one of Fickert's assistants, called up the photographer of the municipal police force and told George Blum that Fickert wanted two dozen copies of the Mooney letter, instead of only four.



At 9.55 Fickert entered and sat down. A few moments later he called up his office in the Kohl Building and said to the stenographer, "I expect some people to call there—a Mr. Word [or Cord] and a Mr. Nixon. Please have them call up here when they arrive."

At 10.12 a. m. Fickert called up Douglas 1272 and talked to Judge Henshaw as follows:

FICKERT. "Can I bring that letter over now? I am having a lot of copies made."

HENSHAW. "Yes, Charlie. I will be here."

FICKERT. "Did you see Mulhall yesterday?"

HENSHAW. "Yes; he said he would come in with Shannon some time."

FICKERT. "All right; I'll bring that over right away."

At 10.13 a. m. some girl called up Fickert and asked whether he wanted to see Mr. Hennion to-day. Fickert said, "No; not to-day; I haven't seen that party yet."

Fickert then left for Judge Henshaw's, from where, at 10.35 a. m., he phoned in to his office for some information. Fickert's end of the conversation could not be heard, but one of the assistants in the office gave him a date which Fickert evidently asked for, the date being September 28. [This was the date that Oxman was acquitted of the charge of subornation of perjury.]

At 10.55 a. m. Mr. Tharp, of the Burns Agency, called up Fickert, but the latter had not yet returned from Henshaw's.

At 11.40 a. m. Fickert phoned in and made an engagement to lunch with Cotton at Bergez-Frank's at 12.10 p. m.

At 11.45 a. m. McWood, of Fickert's office, telephoned George Blum (photographer) to ask whether the two dozen copies of the Mooney letter were finished. Blum answered in the affirmative.

Fickert did not return until 3.05 p. m. Shortly after seating himself at his desk he asked, "Is Berry around anywhere?" Lydon mumbled some reply, and Fickert said, "See if you can get Al Joy." Lydon tried to get him, but could not. "Tell him Mr. Fickert rang up," said Lydon.

At 3.38 p. m. a Chinese named Lee called up Fickert, who promised to see him the following night.

At 3.41 p. m. Al Joy, of the Examiner, called up and made an engagement to play hand ball; said he would see Fickert at the Palace about 6.30 that evening.

A little later Fickert sent for a stenographer and dictated a letter to some one whose address was 451 Jefferson Street, Palo Alto. The name of the person could not be heard. The letter itself seemed to be of no importance.

At 4.03 p. m. Fickert called up Sutter 1935 and talked to Ray Benjamin, assistant attorney general, as follows:

FICKERT. "You remember I told you something the other night. Are you still interested?"

BENJAMIN. "You bet."

FICKERT. "I thought the thing had some other angles, if worked out scientifically. I am trying to get copies of those letters. If there s any cooperation in Washington it might amount to something."

BENJAMIN. "Let me know of further developments and I will come up and see you."

FICKERT. "All right, Ray."

At 4.08 p. m. Fickert called up Miss Kirby [at Sutter 2105], and held personal and unimportant conversation. She promised to call him up at the Bohemian Club between 5 and 5.30.

At 4.13 p. m. Fickert called up Douglas 726 and asked for Frank C. Drew. Stenographer said he was not in, but would be back at 5 o'clock.

#### October 3:

The record for this day consists almost entirely of phone calls, Fickert having received very few visitors, and those of no importance or interest. He arrived at his office at 9.20 a. m.

At 9.37 a. m. Martin Swanson called up and talked over the phone with Lydon, as follows:

SWANSON. "What's Nourse's name—that fellow who was in the Mooney case with Benjamin?"

LYDON. "John T., I think. Just a moment and I'll make sure. [Later.] Yes; that's right."

SWANSON. "Where is he judge now?"

LYDON. "In the superior courts of the city and county of San Francisco."

SWANSON. "Oh, is he?"

LYDON. "Sure."

SWANSON. "What's new?"



LYDON. "Everything's all right, Martin. I'm working on that World stuff."

SWANSON. "That's good. I'll bring those papers down."

LYDON. "Where'll you be if we want you?"

SWANSON. "Either at the office or at the house."

LYDON. "All right, Martin."

At 9.48 a. m. Bennie Selig called up Fickert, and the following conversation took place:

SELIG. "Hello; this is Selig. How is everything, Big Fellow?"

FICKERT. "Haven't found out yet. Ring up about 11. I think I've got the G—— d—— thing arranged to suit you."

SELIG. "Try and have it thrown out to-morrow."

FICKERT. "All right."

At 9.51 a. m. Miss Kirby called up. Fickert told her he was busy—to call up later.

At 10.17 a. m. Fickert called up Prospect 543 and talked to some woman, who asked him whether he had heard from Jack McGee lately. Fickert replied in the affirmative, stating that Jack was in Guam; that he hadn't written much about his plans, on account of the censor probably. Fickert told this party that he had been in Sacramento lately, and had thought something of asking her to accompany him there.

At 10.22 a. m. Fickert called up Kearney 783 [his office in the Kohl Building] and talked with Lewis, as follows:

FICKERT. "Did those fellows call there yet?"

LEWIS. "I don't know. The stenographer hasn't been here. She is sick."

FICKERT. "Let me know as soon as they get there."

LEWIS. "I can't—I'm going to Oakland, and there won't be anybody here."

FICKERT. "I'll have to send somebody over there then. I expect those fellows, and it's important that I see them."

At 10.27 a. m. Mrs. Fickert called up to say that Mrs. Dillon had rung up and said that her son had been drafted, and that she wanted a letter from Fickert in the son's behalf.

FICKERT. "I'm not supposed to write those letters unless I know him personally."

Mrs. F. "Shall I have her send him around to your office?"

FICKERT. "Yes, all right; that would be the best way."

A moment later Lewis, in Fickert's office in the Kohl Building, called up to tell Fickert that "those gentlemen are here now."

"All right," said Fickert, "I'll be right over."

At 2.25 p. m. some girl called up and asked whether Mr. Fickert wanted to see Mr. Hennion.

"No," said Fickert, "that party hasn't come back yet. I have been unable to see him."

October 7:

At 9.45 a. m. Fickert and Lydon entered the office together. Fickert said, "I want to see Berry before he goes to court."

In a few minutes Fickert announced that he was going away the next day, to be gone the rest of the week. He then told about some man, a former municipal railroad employee, who was now working at Mare Island, in the Ordnance Department. "They may soon have another blast up there," he remarked.

"Did you tell Mulhall about him?" asked Lydon.

"No," said Fickert; "I am going to tell Capt. Van Antwerp about him."

After some further talk, in which Fickert stated that he told some one—name not understood—to keep in touch with the Yturriaga matter, there was a knock on the door. "Come," shouted Fickert. Martin Swanson entered and said, "How are you, Chief?"

Swanson then said that he had told Mulhall that he [Swanson] would take hold of the Shannon matter. Their further conversation concerned Mooney, Trotsky, Shannon, Mrs. Mooney, and others. At one point Swanson said, "This fellow John McDonald, the s—— of a b——, could have sworn ——."

Fickert interrupted him angrily. "Get this fellow here," he said. "We'll get this proposition. We know how to quiz him."

There was some talk in a low voice. Finally Fickert said, "They are concealing her some place, and Henry Ash and Sam Berger have their foot in it somewhere. Sam Berger travels around with Older."

"Oh," said Swanson, "if we could get somebody to come through."

They then spoke about Fickert's contemplated trip by auto.

"Are you going to take anybody along?" asked Swanson.



"I am going alone," replied Fickert.

"Then I can go with you," suggested Swanson.

"Yes," said Fickert, "I've got a seven-passenger car, you know."

Fickert then dictated a statement to the stenographer, beginning as follows:

"Informant states that Remedio Yturriaga is a conductor on the Municipal Railroad and lives at No. 6 Masonic Avenue; that his father, Remedio Yturriaga, sr., resides at 1601 Hyde Street; that he first called at 1601 Hyde and visited the father, and that he was there informed where the son lived; that they called at No. 6 Masonic Avenue and that they saw Remedio, jr.; that on their first visit he was somewhat under the influence of liquor; and that on this visit he informed them that they were friendly with the Mooneys," etc.

The statement was quite long. Among other things it was alleged that Trotsky and the Mooneys were quite friendly, and that Trotsky had visited Mooney in jail. It was further stated that Yturriaga was quite communicative while under the influence of liquor. Informant described Yturriaga as a Mexican, 40 years of age, small of stature, round face, bald, very radical, and anxious to make money; said his wife was acquainted with Mrs. Mooney and knew everything about the case. Informant further stated on one occasion that he had been with Mooney on the day of the explosion. On another occasion he contradicted himself and said that he had not seen Mooney for several days before the explosion, but had visited him immediately after his arrest.

The dictation or reading of this statement was interrupted by an assistant coming in and inquiring about Liberty bonds. After some unimportant talk, the statement was again taken up, Fickert doing the reading, or dictating.

The informant, according to the statement, was strongly of the opinion that Yturriaga had guilty knowledge and could tell much. The informant and Yturriaga had attended together a moving-picture show at which McWood [of Fickert's office] had made a four-minute speech in favor of Liberty bonds.

The statement then went on to say that a certain friend of Yturriaga's had gone to work in the ordnance department at Mare Island; this man was supposed to be very bitter against the Government. [See above where Fickert told Lydon that he intended to report this man to Capt. Van Antwerp, of the Naval Intelligence Office.] One of the employees of the Municipal Railroad [where this man had formerly worked] stated that something would happen at Mare Island on account of this man's enmity to the Government.

At 10.45 a. m. some man entered and informed Fickert that he had made application through Hoover to get into the Quartermaster's Department of the Army.

At 10.54 a. m. an assistant entered and announced Pete McDonough, the saloon keeper, bail broker, fixer, and friend of Fickert's.

McDonough followed in behind the assistant, and in a brief conversation with Fickert, whom he addressed as Charlie, he endeavored to persuade the district attorney that McNamara [the saloon keeper who had killed a patron] was a staunch friend and well wisher of Fickert's; that he had worked for him not only during the recall campaign but also during the recent campaign for governor.

"I talked to O'Meara about it," said Fickert, "and he tells me that McNamara shot a fellow right here in the Hall of Justice once upon a time."

"Hell," said McDonough; "that was 20 years ago. It was in self-defense anyway."

"P. H. McCarthy has been raising hell about the case," said Fickert, who then broached the subject of David Blaine, another case in which McDonough was interested and which he had been trying to fix.

"I spoke to Cabaniss about it," said McDonough. "Blaine has got to file a questionnaire by the 10th."

After Fickert had promised to do what he could in both cases, McDonough took his departure, at 11 a. m.

At 11.03 a. m. Louis Ferrari entered and told Fickert that he had informed the judge that Fickert was working on the last page of the brief. They then discussed the possibility of getting hold of some woman as a witness against the Mooneys—some woman whom they claimed was being concealed by Sam Berger. Ferrari asked, "How about this Malloch woman?"

"I was thinking of sending Billy Proll over to Oakland to see her," said Fickert; "but I guess I'd better go myself."

The conversation then switched to what Mooney is alleged to have said to the young fellow mentioned in previous talks. As given this time by Fickert, the remark was: "I may hang for this, but there are a good many more in it; so you'll go, too, if you say anything." Then referring again to Yturriaga, Fickert said, "He first said he worked that afternoon and hadn't seen Mooney for three days previously."

Fickert then told Ferrari about the man at Mare Island.



"How about Mulhall?" asked Ferrari.

"They sent him back," said Fickert. "He says that if they had left him alone he would have had a confession." He then went on to talk about Traynor (suspected of the Mare Island explosion) and of other I. W. W.'s and suspects; also he told Ferrari of a "good editorial" in Leslie's on the Mooney case.

Ferrari then took his departure, after saying, "Any time you want me, Chief, just let me know."

At 11.15 a. m. Fickert rang for an assistant and gave him some letters to post.

At 11.18 a. m. he attempted to use the telephone, but finding it out of order, said, "This line of mine is dead. Notify the telephone company."

A moment later it seemed to be working all right. He called up his office in the Kohl Building, told the stenographer [Mrs. Dorothy Sims] he was going away, and left directions in regard to some possible callers.

At 11.23 a. m. Fickert called up Douglas 1272 and asked for Judge Henshaw. Not in.

At 11.24 a. m. he called Douglas 726 and asked for Mr. Frank Drew. Mr. Drew was also out.

Berry now entered the room and told Fickert about some case. The voices were low and could not be heard distinctly.

An assistant then entered and announced Mulhall, who came in and exchanged the usual preliminary greetings with Fickert, afterwards explaining that he came down in such a hurry that he had been unable to bring along the letters. He promised to get them later. In describing them he said, "There is one that is by Lambert that will interest you very much."

After a few more desultory remarks, Mulhall said, "If I go on the stand and tell all I know about these s——s of b——s Preston's office will be open to ridicule."

Fickert then roasted Preston's office at some length, saying, "The bunch of them are out for publicity and would blackmail a man if it would do them any good. Did you get Shannon?"

"Yes," said Mulhall, "Shannon was here Saturday. The marshal's office arrested a few more I. W. W.'s without a warrant and will take them to Sacramento. There was one fellow named Arthur Dunn who says he doesn't want anything to do with Mooney. He says Mooney was always butting in. If I can force my way on the stand I will knock the G—— d—— stuffing out of somebody and I will call several people and show them."

Fickert then called Lydon and told him to go with Mulhall and get certain letters which Mulhall had forgotten to bring with him.

At 11.57 a. m. Bennie Selig called up Fickert and said he was coming down to see him. Fickert told him to bring along some more sweetbreads. "All right, Big Fellow," said Selig.

Just before taking his departure, Mulhall asked, "Did you ever hear of ——?" [name could not be heard].

"No," said Fickert.

"He wrote a letter about blowing up Mare Island," said Mulhall. "It is a rambling G—— d—— thing, but you can get a lot of tips out of it. You ask him about it. There are a hell of a lot of things in it I can't connect up."

"All right, thanks, I will," said Fickert.

Mulhall and Lydon then took their departure.

At 12 o'clock an assistant entered and announced that he couldn't get Judge Slack on the phone.

Berry then entered the room.

"I had Mulhall down here," said Fickert, "and I want you to get through with those cases. G—— d—— it, there is so much to be done, and I can't do it all."

"I will be through to-day," said Berry.

"Mulhall just left," continued Fickert. "It seems that Preston and the marshal want a report. They are worried. Johnson [assistant United States attorney] was down and said, 'I want to know why Mulhall was removed. G—— d—— it, when I have an assistant working for me—one in whom I have great trust—I want to know what he has done to be removed. I want to know why my man was disciplined. I have more confidence in him than in any other man I know.'"

After thus quoting Johnson, Fickert changed the subject and told of some high-powered radio station in Mexico, supposed to belong to the Germans. There was further talk about an article in the last issue of the Argonaut; also about Johannsen.

At 12.15 p. m. Fickert asked some assistant, "I wonder if that G—— d—— janitor has cleaned up in here?"

"I keep the door locked," replied the assistant, "and he can't get in here in the morning."

A moment later Fickert left for lunch.



At 1.39 p. m. telephone man arrived to repair the phone. He called up the wire chief and made necessary tests; then explained cause of trouble to Lydon. At 1.43 p. m. he left the room, but returned at 1.47 with Fickert, who had him make tests on the two other phones [Sutter 2920 and 2921].

At 2.11 p. m. Lydon announced that Swanson was on the phone to talk to Fickert. The following conversation took place:

SWANSON. "That party's address is 194 Aero Squadron, Ellington Field, Houston, Tex."

FICKERT. "What are his initials?"

SWANSON. "L. S."

FICKERT. "I may get hold of him. I am going to-morrow. How about you?"

SWANSON. "I'll probably go to-night."

At 2.15 p. m. a man who gave his name as David called up and said that he would be down to see Ficket right away.

At 2.24 p. m. the stenographer called up Kearney 988 and asked for Mr. Partridge. Not in.

A male visitor entered the room at 2.30 p. m. and confided to Fickert the details of some proposed real-estate transaction involving the property at 435 Powell Street. The conversation was carried on in a low tone and could not be heard distinctly. [This is the property in which Miss Kirby teaches dancing.]

Fickert and his visitor discussed the value of the property. The man said, "Of course, this is between the two of us." Fickert asked him whether he was still living at the Baldwin House, and the man said, "No, I am living in a room on the sixth floor of the Clunie Building" [435 Powell, the building under discussion].

At 2.43 p. m. an assistant entered and asked about making out some checks. In the conversation which followed, Fickert asked the assistant whether he had found a house; the assistant said, "Yes, a dandy place on Nineteenth Avenue, right next to the playgrounds."

At 3.10 p. m. Fickert held a brief phone conversation with Judge Slack, relative to the rental of pasture land, a deal in which Fickert's brother was interested.

At 3.21 p. m. Fickert called up Kearney 783 [his office in the Kohl Building] and talked to Mrs. Sims, the stenographer, telling her to have Mr. Cotton call up as soon as he came in. He then spoke of his contemplated auto trip; said he was going the next day, and might ask Mrs. Sims to go with him. The stenographer did not seem to be averse to the suggestion.

At 3.27 p. m. an assistant placed a call for long distance, asking for S. J. Shannon, deputy United States marshal at Fresno, giving his telephone number as 3401. The assistant stated that Mr. Fickert was calling him.

At 3.31 p. m. Bennie Selig called up Fickert.

S. "Hello, Big Fellow. I got those for you, but I won't be there till 5."

F. "Well, I will let you know where I will be at that time."

S. "Are you going to see my friend Berry?"

F. "I am going to try and see him to-day. He is working on a case and will try and finish it to-day."

S. "Well, get my money back."

F. "All right."

At 3.36 p. m. long distance announces that Fresno is calling Mr. Fickert.

F. "Hello, Shannon?"

S. "Yes."

F. "This is Fickert. I may be down to Fresno."

S. "What time?"

F. "In the afternoon. I would like to see my friend [here his voice took on a cautious tone] Diamond (?) also."

S. "He is in San Francisco."

F. "Whereabouts is he?"

S. "Well, I registered at the Turpin. He is at the Turpin, but he is not under that name."

F. "Well, I guess Mulhall could find it. Had you better give it over the phone?"

S. "Yes. 'McHugh.'"

F. "All right. I will get a hold of Mulhall and see you to-morrow."

S. "I am going over to Hanford in the morning, but I will be back in the afternoon."

F. "Well, I won't be there before the afternoon."

S. "All right."

At 3.38 p. m. an assistant called Market 301 and asked for the marshal's office. After getting the marshal's office he asked if Mulhall was there. The party said just a moment and he would see.

MULHALL. "Hello."



ASSISTANT. "Hello, Mr. Mulhall, wait a moment. Mr. Fickert wants to speak to you."

FICKERT. "Hello, Tom."

MULHALL. "Yes."

FICKERT. "Say, I was talking to Shannon, and our friend is stopping in the city."

MULHALL. "Yes, he is stopping at the Turpin. I got a hold of him and he told me he would see you to-night."

FICKERT. "What time?"

MULHALL. "He didn't say."

FICKERT. "Well, I would like to see him before I go down."

MULHALL. "Well, I will get in touch with him."

FICKERT. "Ring me at the house before 7."

MULHALL. "All right."

Fickert at 3.40 p. m. asked Lydon to try and get Mulhall on the phone. In a few moments Fickert and Mulhall had a talk, in which Fickert announced that he intended to leave the city the next day. He said that he would like to see Mulhall before he went, and asked him to call him at his house that evening at 7 or 7.15.

At 3.55 p. m. Fickert called Prospect 236 [the residence of Miss Kirby, and also of Mrs. Sims, the two being roommates]. There was no answer.

A few minutes later Bennie Selig came in and began talking of the David Blaine case. He went over all the circumstances again, but without developing anything new. He also asked Fickert about his trip. The latter said that he was going to Fresno, and then on to the ranch. Much of this conversation was lost, owing to low voices and passing cars.

At 4.40 p. m. Fickert called up Sutter 2105 [Miss Kirby's studio, in the Clunie Building], but party was not in.

Shortly after this a man entered and told a story about a Mrs. Gladys Clark, wife of an officer in the Aviation Service; this lady seemed to be married to two men, according to the story. The man said he was trying to straighten out the matter for the Army officer.

At 4.50 p. m. Fickert called Sutter 2105 [Miss Kirby's studio] and asked Miss Kirby to join him on his trip to Fresno. She tried to get out of it by suggesting that he take her chum, the stenographer in Fickert's office, in the Kohl Building [Mrs. Sims]. Fickert was rather insistent and Miss Kirby rather evasive. He finally said he would ring her again.

October 8:

Fickert entered and seated himself at his desk at 9.10 a. m.

At 9.12 a. m. a man named Cords(?) called up to say that he would be right down.

At 9.43 a. m. Fickert called up Douglas 1272, and held the following conversation with Judge Henshaw:

FICKERT. "I'm going out of town about noon. Can I see you if I come over now?"

HENSHAW. "I'm tied up right now. Why didn't I see you Sunday?"

FICKERT. "They didn't come—didn't come until yesterday."

HENSHAW. "I can't see you before 10.10. I'm having a consultation now. Are you going at noon? I'd like to see you about those matters before you go. In fact, I must see you."

FICKERT. "I'll be over about 10.15."

HENSHAW. "All right, Charlie."

At 9.52 a. m. party who gave his name as Brandenstein called up Fickert. Unimportant.

After this Fickert discussed the McNamara case with some visitor, who gave his version of the shooting.

During a large part of the morning Fickert was out of the office, presumably over at Judge Henshaw's.

At 12.17 p. m. man named Hennion called him up and held an unimportant conversation.

About this time some man entered the room and began talking about some prospective witness in the Mooney case, apparently a Mrs. Henry Malloch, whose residence was given as 424 Orange Avenue, Oakland; phone number Oakland 8506. According to the story told, it was claimed that this woman had seen Mrs. Mooney on Market Street [presumably on the day of the bomb explosion], or else had known some one who did see her. The voices were low and the discussion took place at some distance from the microphone, for which reasons the transmission was extremely bad. Evidently there was some dispute as to the best way to approach this woman; whether to approach her through her husband, her attorney, or simply to subpoena her. The decision reached by Fickert and his visitor, if they came to any, could not be understood, the conversation ending abruptly.



At 2.23 p. m. Fickert called up Prospect 236 and asked for Miss Kirby, who, however, was not in.

A moment later he called her studio [Sutter 2105] and held quite a conversation with her, in the course of which he said that he was going to Fresno and the ranch, and that he would like to take Dorothy [Mrs. Sims, his stenographer in the Kohl Building, and Miss Kirby's roommate] with him, but that another man [Swanson] was going along and Dorothy had stated that she would not go if he went. Miss Kirby suggested that he send this man by train. Fickert promised to do so if he could think of some plausible excuse. He said it was pretty hard to arrange—that he had to be very careful about letting anyone know.

At 2.36 p. m. Fickert again called Miss Kirby and told her he thought he could arrange the matter; said he would tell the man that he had to take some Government officials along in the machine and send him on the train, as Miss Kirby suggested. He again stated that Dorothy had refused to accompany him if this man were in the party. "I can't blame her," said Fickert.

After this conversation, Fickert engaged in a brief talk with someone in the room [presumably Swanson]. The voices were low and indistinct.

At 2.50 p. m. Fickert called up Kearney 783 [his office in the Kohl Building] and talked to Mrs. Sims, the stenographer, telling her that he had succeeded in getting rid of the other man by saying that he had to take a couple of Federal officials with him. He then asked her how long it would take her to get ready. "About half an hour," she said. They agreed to meet on the 4 o'clock automobile ferry.

Two minutes later Fickert called up Sutter 2105 [Miss Kirby] and announced that everything was arranged, saying that he had "ducked" that other party. Miss Kirby assured him that Dorothy would not give him any trouble, and that the outing would do her good.

An operative who was sent across the bay on the 4 o'clock automobile ferry reports that Fickert and Mrs. Sims met, traveled across the bay together, and started out in Fickert's machine in the direction of Fresno. No one else was in the machine with them.

October 14:

Fickert apparently did not arrive until 10.01 a. m., when he settled back in his chair and said to some assistant who had followed him into the room, "I am going to give that to Henshaw."

Something was then said about the folly of the Government sending a man like Russell, the Socialist, to Russia, to plot with the Bolsheviks. Fickert suggested that the person to whom he was talking ought to go over the Government commission's report and "get a good line on Russell."

At 11.06 a. m. Fickert called up Franklin 5483 and talked to Mrs. Fickert about Mrs. Fennimore and others. Unimportant and personal.

Fickert then asked for Berry. Lydon went out of the room for a moment; upon returning he said, "He went out to the city hall, Chief."

An assistant then told Fickert a long story about some woman who had been beaten out of some money through a bad check given by Bill Heron. The assistant stated that Heron had promised to make good, but had been stalling the woman off. He said that the check would be sent to Fickert's office, so that he could see it for himself.

After a pause the assistant asked Fickert whether he had seen the "Blaine business" in the Call. Fickert replied in the negative. "The whole G—— d—— front page for two or three days has had a hell of a roast about it, both you and O'Grady" [assistant district attorney who made the motion before Judge Cabaniss to have the charge against Blaine dismissed].

Fickert seemed to be greatly concerned. He asked a number of questions, and said he wanted to see the articles, all of them.

The assistant then informed Fickert that Mulhall had gone to Arizona.

At 11.40 a. m. Fickert asked assistant to try and get Attorney McNoble, at Stockton, on long-distance phone.

At 11.43 a. m., Judge Slack called up in regard to rental of pasture land. He called up again 10 minutes later regarding the same subject. Fickert informed Slack that his [Fickert's] brother would take the land if the pump were fixed.

Some unidentified men then entered the room and began talking about the Mooney case. One of them said, "This work of yours may seem to have been in vain, but it is coming back to you a thousandfold." Another echoed, "By God, you are right."

After these men went out Fickert talked to some assistant about the articles in the Call and about the Blaine case. He seemed considerably disturbed and annoyed by the publicity, and at various times during the day brought up the subject.

At 3.21 p. m. Miss Kirby called up and jollied him along. This young lady pretends to be very fond of him. Fickert seems always greatly flattered by her attentions.



After talking with Miss Kirby, Fickert rang for his stenographer and dictated a letter to his brother in regard to ranch matters.

He then had the stenographer call up Kearney 988 and ask for Mr. Partridge, who, it developed, was not in.

At 4.27 p. m. Fickert received a visit from a newspaper reporter. They had a moment's talk, Fickert saying that there was no news of importance.

The reporter was followed by a man whose voice sounded like Bennie Selig's. He told Fickert that he had not expected that the matter would have caused so much notoriety. Their conversation was interrupted by an assistant announcing that Mr. McNoble was on the phone. Fickert and McNoble [the Stockton attorney for whom the call had been put in at 11.40 a. m.] then held a brief conversation, of which only Fickert's part could be understood, as follows:

"Hello, Mr. McNoble, this is Mr. Fickert, of San Francisco. I am looking for a party named Mrs. Cordova. Just wait until I get that. \* \* \* Who to? \* \* \* Oh, all right; I am sorry to have bothered you."

He then turned to Lydon and said, "I want Stockton 42."

Following this he and his visitor continued to discuss the articles in the Call.

At 4.47 p. m. Fickert called up his wife and informed her that they would dine with the Cottons, after which he called up Kearney 783 [his office in the Kohl Building] and notified Cotton that they would be on hand about 6.45.

A little after 5 o'clock Fickert left to go to his other office.

October 15:

At 9.10 a. m. Fickert entered his office and said to some one, "Those fellows will be down this morning," to which the other party replied, "Oh, will they?"

This other man then said, "Do you mind? I would like to read this." He then read or mumbled something, half to himself and half aloud, though what it was could not be distinctly understood.

A few minutes later an assistant said, "Mr. McNoble, of Stockton, on the phone." Fickert took the phone and talked as follows [Mr. McNoble's voice could not be heard very plainly]:

"Mr. McNoble? This is Mr. Fickert, of San Francisco. Say, you know Mr. Cordova [or Cardosa], who has some land out of Westley? Yes; I understand you wanted to rent it. \* \* \* Well, I heard she wanted to rent it, and I wanted to rent it myself. \* \* \* You did? \* \* \* Well, I wanted to get four or five thousand acres, if I could. \* \* \* It is according to the land, see? \* \* \* I would like to put about seven hundred or a thousand head of cattle on it. \* \* \* If you hear of anything, just let me know."

Assistant here asked about some account, and Fickert told him to change the dates to July and August, instead of May and June [the months on the account or bill]; he said there would "then be no kick about it."

Fickert then asked the assistant to get hold of Partridge. In a moment or two assistant reported that Partridge was out of town and would be gone all week.

At 10 a. m. a Mrs. Blake got Fickert on the phone and reported that her husband had tried to chloroform her while she was asleep. Fickert asked her whether she had reported the matter to the police; upon her replying in the negative he suggested that she come down and report the details.

At 10.09 a. m. Fickert called up Kearney 783 and told the stenographer that he expected two men would call there, and that when they arrived he wanted to be advised of the fact.

He then called up Prospect 236 and talked to Miss Kirby. Personal and unimportant conversation, very dull and stupid. He promised to call her again later in the day.

Several men, one of whom was Peter McDonough, then entered and began discussing the Blaine case. McDonough told about going to see Cabaniss, but as they were all trying to talk at once no connected version of what happened could be made out.

At 10.21 a. m. a man named Broyles called up to ask Fickert whether he could now get his witness fees. Fickert said that he would try and see the judge, and asked Broyles to come down the next day.

At 10.36 a. m. there was a very interesting and significant telephone call from Mrs. Edeau [one of the prosecution's star witnesses in the Mooney case] as follows:

EDEAU. "Mr. Fickert?"

FICKERT. "Yes."

EDEAU. "This is Mrs. Edeau."

FICKERT. "All right. What can I do for you?"

EDEAU (sarcastically). "I just called up to tell you what a nice place it is over here."

FICKERT. "What's the matter now?"



EDEAU. "Well, we just can't get a house or a room to put our heads in, and all on account of that Mooney case. We selected two places, but the money was handed back."

FICKERT (coaxingly). "Could you come over to see me to-day or to-morrow?"

EDEAU. "I never was in such a place."

FICKERT. "Come over and talk to me—it is more satisfactory than talking over the phone."

EDEAU. "I couldn't in the daytime—only in the evening."

FICKERT. "I'd like to have you. What's your address over there?"

EDEAU. "241 Oakland Avenue."

FICKERT. "All right; I'll try and have some one see you to-day or to-morrow."

After this there was a continuation of the talk about the Blaine case and the publicity given it by the Call. The statement was made that the Automobile Association lost \$1,950 in one month. Fickert said, "Everybody says they didn't start it. I suppose it was spontaneous combustion (sarcastically). Well, I haven't a damn bit of doubt where it started." After a pause he added, "I think we ought to get rid of it."

One of the other men then said, "I would like to see this fellow indicted just for the moral effect of the thing."

At 11.08 a. m. an assistant, whose voice sounded like Nagle's, entered the room and began to talk on the question of finances, presumably in connection with Fickert's campaign for governor. He said, "We owe \$2,100. I just came over from McCarthy's office and he told me to come back this afternoon and he would give me some money. What do you think we had better do about the \$800? Got just \$375 in the bank. It's hell."

"I thought we only owed \$1,500," said Fickert.

"I'm going to collect \$625 from what's his name," said Nagle. "We only have to borrow \$1,500. I have paid all the small bills there are around."

"The last thing I said when I left here," said Fickert, "was, 'Don't spend a G——d——cent for anything,' and they send in and order some cards at a cost of \$300. Here is another bill from——"

"Well," said the assistant, "we will leave that go now. I went after McCarthy, and he said he would try and have it for me this afternoon."

They then conversed in low tones about the Blaine case and the articles in the Call. Following this, the assistant said, "You are going to run for district attorney again—now the first thing we have got to do is to organize your office; everyone is taking it upon themselves to run here and there. Appoint some one for each court and hold them responsible for that court. Having to run around every morning to get some one causes criticism. The cases can not be tried and the witnesses lose the day, thus causing a great deal of talk. Berry is the only one that really does handle his court right."

At 11.23 a. m. Miss Kirby called up and asked if Fickert was busy. He said, "Yes, pretty busy. Better call up a little later."

At 11.26 a. m. Fickert called up Prospect 543 and talked to some woman. The conversation was personal and unimportant.

Stenographer in the Kohl Building office called up at 11.35 to say that the two men had arrived. Fickert said that he would be right over. A moment later he left his office and did not return until 3.37 p. m.

Nothing of importance transpired during the remainder of the afternoon. About 5 o'clock some visitor came in and asked Fickert to help him in the case of a friend by the name of Bill Shannon (?), who was in trouble on account of some girl and a diamond ring. After discussing the case briefly, the visitor used Fickert's phone to call up Kearney 1300 (Attorney Harry I. Stafford). He repeated the details to Stafford and made an engagement to see him in regard to the case.

October 16:

Fickert entered his office at 9.30 a. m., and during the morning held various unimportant conversations with visitors and people on the phone. The Blaine case, Mooney, some female witness whose name was not given, and other matters formed the subjects of the talks.

At about 10.35 a. m. he asked the stenographer to ring Douglas 1272 and see if Judge Henshaw was in. The stenographer reported that the judge was not there, and asked if there was any message to be left. Fickert took the phone and said, "If the judge comes in, I would like to see him. This is Mr. Fickert. There are two fellows here from out of town who want to see him. Yes, when he comes in."

A moment later he left for his private office in the Kohl Building, presumably to meet the men referred to. At 1.25 p. m. he returned, but in response to a phone call at 1.31 p. m. from unidentified party left again and did not return until 3 p. m. There were no further developments of importance during the day.



October 17:

Fickert spent a large part of this day at his private office in the Kohl Building. At 11.10 a. m. Mr. Ray Benjamin called him up, but he was not in his office at the time.

At 11.51 a. m. Louis Ferrari called him up and the following conversation took place:

FERRARI. "Hello, Chief; Spangler just called up from the Bulletin to say that the Call was ready to print a story that you were going to resign and were going to put Jack Sullivan in your place. If there was anything in it they wanted to find out so they could spring it first. I told Spangler I would let him know whether there was anything in it or not."

FICKERT. "First I've heard of it."

FERRARI. "I told him we had just been talking about the Mooney case and were getting ready to give him another jam."

FICKERT. "Never heard of it. It's all news to me."

FERRARI. "I told him I'd call up and let him know. I think the Bulletin is playing away from that Mooney stuff."

FICKERT. "Spangler seems to be a very decent chap."

FERRARI. "He is. Well, thank you, Chief. I'll spike that one right off."

At 11.55 a. m. Jack Nagle, one of Fickert's assistants, called him up at Kearney 783:

NAGLE. "I've just heard a story that you had an application in to go with the judge advocate's department. Is it so?"

FICKERT. "No."

NAGLE. "That's the rumor. Tim Reardon just rang up about it."

FICKERT. "I just heard it myself. There's nothing to it. The Bulletin is playing that story."

At 12.08 p. m. Fickert called up Sutter 4517 and talked to Ray Benjamin, telling him that he would meet him at the Palace at 12.30 p. m.

At 4.30 p. m. Mrs. Sims, Fickert's stenographer in the Kohl Building, called up Fickert, who told her to ring up again in five minutes on the private phone.

Eight minutes later she again rang up, this time calling the private number [Sutter 1126], and very coyly asked Fickert what he wanted her to do. He did not seem to know what to say, so she told him to ring her at the house if he wanted her. He said he would do so.

At 4.52 p. m. Mrs. Fickert called up and arranged to take dinner with him down town at about 6.30 p. m.

October 18:

Fickert arrived at his office at 9.27 a. m. and held brief conversation with stenographer and also with Lydon; afterwards talked with someone in regard to the case of a Mrs. Burke (?), who had been arrested for vagrancy. Fickert said that someone had phoned about her the night before, and that he had promised to see that she was let out on probation.

At 9.56 a. m. he asked stenographer to get Mulhall, at the United States Attorney's office, Market 301. After trying, the stenographer announced that Mulhall was not in. "Leave word to have him call me when he returns," said Fickert.

At 11.10 a. m. Fickert dictated a letter to William Beal, of no importance in connection with the Mooney case.

■ A moment later a man named "Charlie" entered the room and told Fickert that some Jap had stolen \$600 worth of clothing from him.

■ At 11.20 a. m. George Vandever, attorney for Haywood, called up, but Fickert had gone out. Vandever left word that he would call to see Fickert about noon. Lydon, who took this message, then called Kearney 783 [Fickert's office in the Kohl Building], got Fickert on the phone, and repeated Vandever's message. Fickert said that he would be on hand to meet him.

At 11.48 a. m. Martin Swanson called up the office and talked to Lydon, as follows:

SWANSON. "Hello, Tom, this is Swanson."

LYDON. "Hello, Martin."

SWANSON. "What's the latest about the judge advocate business?"

LYDON. "There's nothing since. You know what the job is, do you?"

SWANSON. "It's the job of prosecuting attorney for the Army. He holds all the court-martials."

LYDON. "It's more than that—it's advisory."

SWANSON. "Well, he handles all the legal matters. There's nothing new?"

LYDON. "Not a thing."

At 11.57 a. m. Fickert tried to get Judge Slack on the phone, but could not. Afterwards he spoke to Cotton, telling him that Vandever was coming at noon, and that he [Fickert] would probably not be ready for lunch before 12.20.



At 12.09 p. m. Fickert called up Prospect 236 and held personal and unimportant talk with Miss Kirby.

Vandever arrived at 12.11 p. m., bringing with him a friend by the name of Millhead, whom he introduced to Fickert. The ensuing conversation concerned Billings, Weinberg, Nolan, Miss Pollock, and others, but was held at such a distance from the microphone that only fragments of it could be heard. After this conversation Fickert went to lunch.

In the afternoon there were several telephone calls and visits, but none of any importance. At 3.18 p. m. Fickert dictated a letter to F. R. Welsh, 109 South Fourth street, Philadelphia, Pa., inclosing a photographic copy of Mooney's letter to Gov. Spry, of Utah.

At 4.48 p. m. Fickert called up Kearney 783 and talked to his stenographer, as follows:

FICKERT. "Hello, Mrs. Sims?"

Mrs. S. "Yes. What is it?"

FICKERT. "Want to take a trip?"

Mrs. S. "Where to?"

FICKERT. "Martinez."

Mrs. S. "I don't see how I can. The hair dresser is coming, and then I am going to have Mrs. Hicks for dinner. I wish I could go."

FICKERT. "I'd let you camp out."

Mrs. S. "That would be great; but I don't see how I can. Thanks for thinking of me."

October 19:

Fickert arrived in his office at 9.12 a. m. At 9.20 a. m. the stenographer in the Kohl Building office rang up and read a telegram just received from "Hammond" at Los Angeles, as follows:

"Partner expected from East any time. If he arrives to-day we may motor up. If he doesn't arrive before Sunday night I'll leave on the Lark and phone you on arrival Monday morning."

At 9.27 a. m. Fickert called for the stenographer and asked her to bring him "that letter"—evidently the one dictated the day before to Welch. When she had brought the letter, he dictated the following, to be added to it:

"Fifty I. W. W.'s under indictment at Sacramento for crimes committed in California during the year confessed that Mooney and a man by the name of Johannsen, who was appointed Federal Government mediator in a recent strike, and who is an anarchist and I. W. W., were two of the men who gave them so much for each job they committed. This man Johannsen has been under indictment for some time in the Federal courts for being an accomplice in dynamiting the Royal Iron Works," etc.

At 9.35 a. m. Fickert held a telephone conversation about the land rental in which his brother and himself were interested. A moment later he dictated a letter to E. S. White, relative to the adjustment of a bill.

During the morning Fickert received several visitors and made several telephone calls; none of them of any importance. At 11.34 a. m. he called up Prospect 236 and talked to Miss Kirby; wanted to make an engagement for that evening, but she said that she had another engagement.

At 11.41 a. m. Mrs. Fickert called up and asked how to spell Lurie's name. Fickert spelled it—"L-u-r-i-e."

At 12.30 p. m. Fickert went out to lunch, and did not return during the afternoon.

October 21:

Fickert arrived in his office at about 9.40 a. m.

At 10.04 a. m. Swanson arrived and they conversed regarding various matters connected with the Mooney case. Fickert sent for a letter he had written to Duncan, assistant to Preston [special assistant to the attorney general], and read it aloud. It was a request for certain copies of letters and telegrams. He then told of being arrested for speeding, blaming his arrest on his efforts in apprehending I. W. W.'s. He said that he had told the sheriff that he ought to spend his time going after the I. W. W.'s, instead of arresting a few automobile drivers.

Fickert then told of receiving a letter from a man named Welch, a Philadelphia broker, who wanted him to print 5,000 more copies of his reply to the mediation commission.

At 2.59 p. m. Kelly, Department of Justice man from Sacramento, called up Fickert. The latter's end of the conversation could be heard, but Kelly's was unintelligible. Fickert, among other things, said, "There's nothing very much new. I will tell you when I see you. Will be up there within 10 days; but will let you know beforehand."



At 3.34 p. m. Fickert called Douglas 1272 and asked for Judge Henshaw, but he was not in.

At 3.43 p. m. he called up Sutter 2105, Miss Kirby, but could not get her. A moment later he called Prospect 236 [Miss Kirby's residence], but she was not there.

Shortly after this [at 4.10 p. m.] Peter McDonough, notorious jury fixer and friend of Bennie Selig and Fickert, called and advised Fickert to present the David Blaine matter to the grand jury and let them throw it out.

At 4.27 p. m. the telephone rang and Fickert advised some unidentified man to see Percy Towne in regard to having the Blaine case put before the grand jury for dismissal.

At 4.31 p. m. Fickert called Sutter 2105 [Miss Kirby's dancing school], but there was no answer.

October 22:

This was a dull day. There was a multiplicity of phone calls, visits, and conferences, but few happenings of importance or interest. Fickert arrived at his desk at 10.05 a. m. and left at 11.45 a. m. for lunch. He did not return to the office in the afternoon.

At 10.50 a. m. he called up his office in the Kohl Building and asked if "that party had come from Los Angeles" [Hammond]. The answer could not be heard.

Fickert then said, "I will be around."

At 11.04 a. m. Fickert called up Douglas 1272, and asked for Judge Henshaw, but the latter was not in.

Beginning at 11.14 a. m. he had a conversation with some unidentified man regarding various aspects of the Mooney case. This man may have been Hammond. The conversation took place at some distance from the microphone and much of it was lost. At one place Fickert said, "Follow that up. The letter should be in the nature of a protest. This fellow who quit Weinstock—does he know anything about that fellow, whose name I gave you the other day?"

"I have written him, wired him, and he has not even responded," said the other. "I want to show it to Percy Long."

"Why?" asked Fickert.

"Percy Long is going East. If you do not mind I will take this letter to show Phelan."

At 11.31 a. m. Peter McDonough arrived and informed Fickert that "the fellows are are going to kick out the Blaine matter," probably meaning the grand jury.

At 11.45 a. m. Fickert left for lunch.

October 23:

Fickert arrived at his office at 9.56 a. m. and immediately got Hammond on the phone, although number called was not heard by operatives. When Hammond was on the wire Fickert said to him, "Better come to this office now."

At 10 a. m. he asked Lydon if Berry was about. The answer could not be heard.

At 10.06 a. m. he left his desk and walked out of the room, returning at 10.11 a. m. with another man [probably Hammond]. The two were talking as they entered the room.

"This woman," said Fickert, "knew Mrs. Mooney—talked about the hat she wore, and described it; and about the remarks she made in regard to the President while riding in a taxicab. Said she wanted to get an overcoat, and I suggested going to see Sam Berger." [Indistinct remark as to why party did not care to go there.]

"Sam Berger," continued Fickert, "met me and said, 'Tom Mooney is no more guilty than you are.' I said, 'Sam, I'll bet you on that, if you go out and get some money.' I told him how they tried to bribe our stenographers in order to get transcripts of testimony, and so forth."

"I wonder if we should bring her down here," said the other man.

"I am afraid some one would spot her," said Fickert, with marked anxiety, "and would want to know why she is down here. Then Sam Berger would probably get around her, and reporters would try to come in and we would have to keep them out. Berger is very friendly with Older."

"I think Berger has charge of all investigations" [for Older], said Hammond.

"Well," said Fickert, "I think you can get a statement from her. Then I think that Tom Hyland—she knows Hyland very well; both Hyland and his wife are very intimate with her—will tell about the way they went down this road."

"Sam Berger," narrated the other man, "saw me in town one day and said to me, 'What are you doing here?' He asked me to call, as he wanted to see me. Martin (?)—Fremont and Market Streets; she saw her near Fremont and Market."

[The reference here to Martin is not clear. The name may have been misunderstood by the stenographer. It might have been "Barlow." Fickert's next remark rather indicates that it refers to some man. Investigation shows that there is a



Martin connected with the California Hydraulic Engineering & Supply Co., 70-72 Fremont Street.]

"This fellow said that the machine was near Fremont and Market Streets," said Fickert; "there were people in it at that time. There was a milk wagon standing near where the bomb went off. The machine came up Fremont and stopped there. Sometimes the police have thought the machine was an official machine. The idea is that they turned down Third Street, down on to Howard, then down Howard, and then back the same way."

"Where is Fremont?" asked the other man. [This question in itself indicates that the speaker was from out of town, and lends strength to the belief that it was "Hammond."]

"Three blocks this side" [of Steuart] said Fickert. [As a matter of fact it is four blocks from Steuart to Fremont.] "She told me that she was thankful she had not gone all the way. She had two or three people with her and would not go down that far. She said, 'If we had gone down that far we would have gotten it.' When you get on this thing you want to keep her here all day, if she is willing to come through. She will be. She will warm up—she is getting too much money for it. I wouldn't do this myself for they would repudiate it—they would make her out a liar."

"We will have her taken in an automobile right down to the other office," said the other.

"Postpone it until to-morrow morning," Fickert advised. "We must have somebody on the job with a general idea of the case—somebody who will go ahead and can talk. She will say that one fellow was a Portuguese. That is another angle of the case."

"I've heard that two or three times," the other man said.

"Keep this matter a secret and do not talk until to-morrow morning," cautioned Fickert.

"Suppose the woman makes up her mind not to do it?"

"She will talk—we can make her do that all right," said Fickert. "Start out to-morrow morning at 9 o'clock."

"I will meet her to-morrow morning," said the man supposed to be "Hammond."

"I tell you," said Fickert, "I will meet you to-morrow morning at 10 o'clock. [Pause.] Didn't she also complain that some one else saw her—some one besides her attorney?"

"We should worry," said the man, "nobody will want to prove that."

"Well, I'll tell you," said Fickert, "I might call you up this afternoon."

After this the visitor evidently took his departure. At 10.57 a. m. Fickert engaged in a few remarks with some one in a far part of the room. Most of the conversation was indistinct. At one place Fickert said, "George Creel—they say he is a pimp." The man to whom he addressed this remark said, "I know him very well—he is the same fellow."

A little later an assistant came into the room and stated that Judge Sullivan wanted more help. "We are short-handed as hell here," said Fickert.

"Guess that other day out in the park was too much for him," said the assistant, referring to a session of the police court held outdoors on account of the influenza.

At 11.20 a. m. Fickert requested stenographer to bring him the letter he had written F. B. Welch, the Philadelphia broker. When the letter was produced Fickert handed it to some man who had come in, saying at the same time, "You might read this entire letter. You see he is a fellow wanting to do the right thing. I do not know him personally."

At 11.32 a. m. he began to dictate another letter to Welch, as follows:

"My dear Mr. Welch: I am in receipt of your letter of October 15 and I certainly appreciate the kind and patriotic interest you have shown in the fight. I have been waging here against [indistinct] interests. Your inclosure also was most encouraging. With the greatest excitement I have ever experienced, I have been fighting an organization that is world-wide, and which has the support of members of the Federal Government. There has been no money furnished by the city government to me in my fight and my whole year's salary [indistinct] on the case to carry on the fight. I know from letters I have in my possession that [indistinct] have been made on the part of the Government.

"Tom Mooney in 1912 published a paper here called the 'Revolt,' and in that paper is an article by a party by the name of McBrine [?], now a Government delegate to Russia. Mooney had also previously been in Europe, and consequently Mooney four or five months after his arrest in the bomb cases [indistinct]. The local authorities had gathered thousands of documents and letters, a good many of these documents having been turned over to the Department of Justice, who lost them. I still have in my possession two original letters written by a Mr. Creel. These letters speak very



favorably of methods of spreading their propaganda. One letter contains [indistinct] shows here the fact that he was organizing the I. W. W. Both these men are [indistinct] on the Federal commission.

"The report of the mediation commission on the Mooney case was written here by a man by the name of F. T. Arnold, who now holds a Federal position. Had I not contested, I believe that the whole revelation with the exposé of [indistinct]."

At 11.45 a. m. party entered the room and took up matter of Fickert making an appointment with John L. McNab, attorney for the Chinese Six Cos., to discuss a question of payment for the burning of some vessel which the China Mail Steamship Co. had recently purchased.

At 12 noon some man came in and discussed the question of fixing responsibility for the loss of packages from a delivery wagon while same were in the custody of the garage.

A moment later Fickert told the stenographer to run off the Welch letter in the rough, as he might want to change it.

At 12.10 p. m. he left for lunch, and did not return until 3.33 p. m.

At 4.03 p. m. stenographer entered the room with rough draft of the Welch letter, and Fickert, after apparently reading it over, began dictating a fresh version, in which there were several changes from the original, as given above. For instance, he said, "Independent investigations, as well as the I. W. W.'s generally, have had the tactful support of such men holding Federal commissions as Frank Walsh and George Creel." The second version also contained the statement that William Kent, "an ex-Congressman from this State, now holding a Federal position, subscribed \$500 to the defense of William Haywood. Kent is the father-in-law of F. T. Arnold, who wrote the findings for the Federal mediation commission, and of one of the I. W. W. now under indictment at Sacramento, Calif., who states that they have the assurance that if they plead guilty and do not confess, then they will be given a minimum sentence, and that if the judge who tries them gives them the maximum sentence they will be pardoned. They also have assurance that Haywood and another confederate at Chicago will be pardoned after a short sentence." In this letter Fickert also told of Mooney's friendship for Trotsky, who was alleged to have written an article for the "Revolt;" also of Mooney's acquaintance with Karl Liebknecht, the famous German Socialist.

The letter wound up by saying, "I am inclosing a copy of my pamphlet published in these cases and also descriptions of several letters [indistinct]. It is barely possible that I will go to Washington to fight the cases in the Supreme Court, and if I do I shall be pleased to call upon you and show you what evidence there is in my possession."

October 24:

At 9.30 a. m. stenographer called up on interoffice phone to ask Welch's address. Fickert gave it as 109-111 South Fourth Street, Philadelphia, Pa.

At 9.31 a. m. Bennie Selig called up Fickert, and the following conversation took place:

SELIG. "Anything new, Big Fellow?"

FICKERT. "The judge says it's got to go to trial."

SELIG. "When did you see him?"

FICKERT. "I see him every day. Got to go to trial—unless we can work it a little differently."

SELIG. "I'll see you this afternoon."

FICKERT. "I'll have Berry here and we'll have a conference. I'm going to ask something else."

SELIG. "Did you tell the judge he was going away?"

FICKERT. "I told Berry."

SELIG. "What did he say?"

FICKERT. "He said we'd better tell Matheson [chief of detectives], so there wouldn't be any kick."

At 10.20 a. m. Fickert called up his office, Kearney 783, and told the stenographer that he expected some people over there in about half an hour.

At 10.31 a. m. he called up his office again. "If those parties come," he said, "put them in my room."

A few minutes later he dictated a letter to Harry I. Stafford [an attorney prominent in the Mooney case], 780 Flood Building, relative to the filing of information in the case of J. B. McNamara, saloon keeper who shot and killed a man. [This was the case in which Peter McDonough was interested.]

At 11.07 a. m. Mrs. Sims [stenographer in Kohl Building office] called up, as follows:

Mrs. SIMS. "Mr. Hammond is here. The other people haven't arrived."



FICKERT. "I know that. When they do come I don't want them to see him. If they have a lady with them put him where they can't see him."

Mrs. SIMS. "I understand."

FICKERT. "All right."

After this, Fickert seemed to wander about the room. Evidently he was talking to some one, or to himself, but his voice was low and far off. At one time he said, as though he were reading aloud, "Efforts are being made by Federal officials to put at an end the prosecution of this fellow, making efforts to transfer prosecution."

Fickert then called up Douglas 3414 and talked to Louis Ferrari, ex-assistant district attorney:

FICKERT. "Hello, Louis,"

FERRARI. "Hello, Chief."

FICKERT. "I've sent for that lady."

FERRARI. "Has she come yet?"

FICKERT. "I'm expecting them any minute. I'll phone, and you come up to the private office."

FERRARI. "All right, Chief."

At 11.42 a. m. Howard Vernon, secretary of the grand jury, called up, as follows:

VERNON. "This is Howard. Did you want me?"

FICKERT. "Yes; I'm expecting that party to be brought in any moment. They've gone to the house to get her. When she comes I'll phone and have you come down."

VERNON. "All right."

At 11.44 a. m., Billy Proll, the detective, called up, and the following conversation ensued:

PROLL. "Say, stick there a while. The party is here but is very nervous. She wanted to phone to her husband, but of course we wouldn't stand for any stuff like that. We're now waiting for her to get dressed. You'll be there, will you?"

FICKERT. "Yes."

PROLL. "All right."

In order to be on hand when the lady arrived, Fickert left his office in the Hall of Justice and went to his private office in the Kohl Building. Shortly after he left, his wife arrived and proceeded to call him up, as follows:

Mrs. F. "Do you want the car?"

FICKERT. "Yes."

Mrs. F. "Shall I bring it down?"

FICKERT. "If Joe McShane is there you might have him bring it over to the Kohl Building. I'm over here waiting for the detectives to bring in that lady now to take her statement."

In the afternoon Fickert returned to his office in the Hall of Justice [1.52 p. m.]. There were a few phone calls, but they were unimportant. At 3.17 p. m. he exchanged remarks with some unidentified visitor, and this conversation seemed to indicate that he was surreptitiously obtaining information and confidential data from some one connected with the Department of Justice.

The visitor spoke of Duncan [assistant to Preston], and then said, "I think it worth while to make copies of that."

"Very important, and very confidential," said Fickert. "I'll have stenographer make copies of it. There is some other stuff there they can get hold of easy. I have photographic copies and nobody suspected a thing."

They evidently walked out of the room together, still talking.

At 3.55 p. m. Fickert, who had returned to his desk, called up Kearney 783—his private office in the Kohl Building—and asked if "that gentleman" was there. Stenographer said, "Yes." Fickert told her to put him on the phone, and when she had done so, said to him, "Better come over here a little bit, see?" The man [Hammond?] said he would be right over.

At 3.56 p. m. Proll, the detective, used Fickert's phone to call up the United Railroads (Sutter 5000) and talk to Mr. Jones, of the reorganization committee. The conversation was as follows:

PROLL. "Hello, this is Proll talking."

JONES. "Hello, how are you?"

PROLL. "I'm well—I just make it my business to be. Not mentioning any names or anything, would it be better for me to come down there, or would you care to tell me over the phone?"

JONES. "I guess it would be better to come down."

PROLL. "Bet you life it would. I'll be down in half an hour."

Fickert and Proll then held a conversation which, however, on account of low voices and distance from microphone, could not be heard.



At 4.03 p. m. Fickert talked to some one in Stockton. The other party's voice could not be heard distinctly, but Fickert spoke very plain. He told the party to "send it down, addressed to me, and I will take it up right away."

At 4.04 a party entered the room who was evidently the man who had been waiting over at the Kohl Building, probably Hammond. Fickert apparently went to the door to meet him, as the visitor was talking as he came in: "I showed her all my reports," he was saying; "then talked about the Mooney trial, and she said that what ought to be done to them was what you would do to the most vicious persons in the world."

Fickert said something about Josephine and Lillian. "Now to-morrow morning," he said, "we want to get hold of—[indistinct]."

"She won't kick through," said the man.

"I was led to believe that she was to stand pat because of the \$2,500 this fellow gave her," said Fickert. "But the only question is to shut her up for Nate Coghlan."

"I know if we can get the story it will be a good one," said the man. "Can we use any licorice in opening up the jackpot with her?"

"Yes, sure; that will be all right," said Fickert.

"I know that s—of-a-b—," continued the other; "I know the woman. I am going to tell her that I was up in Chinatown, and that some one heard what I said, and that they came and dragged me into your office. That is the story, you see. I am going to try and bring her up—Mrs. Barlow. She came very near being the death of those kids, if she had gone down there."

"She knows everything," said Fickert.

"I never saw Dave Barlow," said the other. "There's a brother up there; also mother and daughter; somebody at home all the time. The mother hung up the phone on me. But it will work out. What time are you here?"

"Nine thirty in the morning."

"Well, I believe that it will all work out all right," said the man, as he took his departure.

At 4.35 p. m. Fickert talked to some one relative to the Blaine case, saying that the Government had shipped him away and made him captain of the bunch.

For the sake of clearness it is deemed best at this point to summarize the story of Mrs. Judd and Mrs. Barlow, as sketched in the foregoing transcript.

It will be remembered that on September 16 Fickert told Berry that he was expecting a man from Los Angeles by the name of William Otts, "who should arrive to-day." This man, supposedly an operative from the Burns Detective Agency, made his appearance in Fickert's office at the Hall of Justice at 11.27 a. m. on the date mentioned, and, after greeting Fickert, said in effect, "I got your wire and here I am."

They at once launched into a conversation concerning some woman whose name could not be learned, but who was evidently to be used as a witness in the Mooney case. Otts stated that he knew her, and at the same time intimated that he could readily find out more about her from some unidentified friend by the name of "Gus." This first conversation was rather brief, and was simply by way of introduction to several subsequent conferences between the two.

At 4.30 p. m., the same day, Otts returned and discussed the Mooney case and kindred subjects in a sort of general way, but without again touching on the question of the women who were to be used as witnesses.

The following morning at 9.40 Fickert and Otts arrived together at the district attorney's office. As they entered the office Otts was talking about a plan to get Billings to confess.

Once settled in the privacy of Fickert's office, they immediately entered upon a discussion of a couple of new witnesses to be used in the Mooney case. Fickert pronounced the names very distinctly, evidently reading them from a memorandum taken from his desk or



pocket: "Mrs. Barlow, Buena Vista Terrace; Mrs. Jean Judd, 49 Park Hill Avenue."

He then remarked that these people were concerned in the very vital matter of identifying Mrs. Mooney on the day of the bomb explosion.

"You understand," said Fickert, referring to one of the women named, "that she says that Mrs. Mooney got out of a taxicab, notwithstanding policemen claimed to have cleared the street."

He went on to give further particulars, saying that Mrs. Barlow had children, while Mrs. Judd had none. He seemed to think that Mrs. Judd might be prevailed upon to testify.

Otts then indicated that he had spoken to her, but in a casual sort of way, so as not to arouse her suspicions. "In discussing the matter with her," he stated, "I said, 'It is too late now, as Mrs. Mooney has been acquitted.' I had to play safe and change the subject, so that she wouldn't suspect eavesdropping or dictaphones."

After some further talk, Otts aired his views as to how to get these women to testify. He had probably discussed the matter with Fickert before. "There is only one way to handle cases of this kind," he said. "You've got to have three or four fellows working on them—one to do a little missionary work, and the others to follow up."

At this point something must be taken for granted, in order properly to understand just what Otts and Fickert proposed to do. It is asserted, therefore, with small fear of contradiction, that the plan was to photograph Mrs. Judd in some sort of compromising attitude or situation, and then to hold this photograph over her as a club to make her tell the sort of story these two men needed to help them in their conspiracy to hang Mooney. If this presumption seems at all far-fetched, the sequel will nevertheless justify it in every particular.

Otts's next remarks are significant:

"As far as the movie people go," he said, "you never saw such a crooked bunch of people since you were born. I have investigated three exchanges myself, gone over the books, and settled one case for \$300,000."

He then spoke enviously of the amounts stolen from royalties—amounts, which, he said, "make fellows like ourselves feel cheap."

Then, coming to the matter at hand:

"You could get up a real thriller," he suggested. "I have got this fellow Wetzel [or Westover], and I can frame the damndest lot of stuff you ever heard of."

There was some further talk, during the course of which Fickert intimated that his present activities were prompted by a realization that Mooney might be granted a new trial.

Just before the Burns man took his departure he said that he could arrange to put on the first picture in about three weeks. He promised to try and see the party again before he left town, which would be at 8 p. m. that same night. He then said good-bye, promising to let Fickert hear from him.

The next day, September 18, Fickert called up Henshaw and told him that he had received a report on the two women. "You know who they are," he told the judge, "and I know how to work it."

A little later he told Cunha about his new women witnesses.

"Chief," exclaimed Cunha, "If you can get a witness who will put Mrs. Mooney at Steuart and Market Streets I don't give a damn if you put her there in a balloon."



Fickert said, "I think I can put her there in a taxicab. It looks as though we had the witness."

"If you have, chief," said Cunha, with real enthusiasm, "I will put that — of a — Mrs. Mooney on trial again and I will convict her by every rule of the game."

"I am going to keep everything quiet, so there won't be any leaks," said Fickert.

"That's the stuff, Chief; don't tell anybody," Cunha advised, and a moment later he added, "If you get that stuff on old lady Mooney, Chief, I will be on the job with you."

It was almost a month before anything further happened. Then, on October 19, Fickert received a wire from Los Angeles, signed by a man named Hammond, stating that this party expected to arrive in San Francisco on the following Monday.

On October 23, at 10.11 a. m., this man Hammond walked into Fickert's office. They had a long conference relative to Mrs. Judd.

"This woman," said Fickert, "knew Mrs. Mooney—talked about the hat she wore, and described it, and about the remarks she made in regard to the President while riding in a taxicab."

"I wonder if we should bring her down here?" asked Hammond.

Fickert expressed a fear that she might be recognized. "I think you can get a statement from her," he said.

They then discussed in detail the various points that the woman would testify to. "You want to keep her here all day, if she is willing to come through," said Fickert. "She will be. She will warm up—she is getting too much money for it."

He then hinted that it would be best for some one other than himself to get the statement. He seemed to think that if he got it, the attorneys for the defense would make her out to be a liar.

"We will have her taken in an automobile right down to the other office," said Hammond.

"Postpone it until tomorrow morning," Fickert advised. "We must have somebody on the job with a general idea of the case—some one who will go ahead and can talk. She will say that one fellow was a Portuguese. That is another angle of the case."

"I've heard that two or three times," the other man said.

"Keep this matter a secret and do not talk until to-morrow morning," cautioned Fickert.

"Suppose the woman makes up her mind not to do it?"

"She will talk—we can make her do that all right," Fickert assured him. "Start out tomorrow morning at 9 o'clock."

The next day, October 24, Fickert, at 10.20 a. m., called up his private office in the Kohl Building and told his stenographer, Mrs. Sims, that he expected some people over there in about half an hour.

At 10.31 a. m. he called up his office again. "If those parties come," he said, "put them in my room."

At 11.07 a. m. Mrs. Sims called up Sutter 1126 and talked with Fickert, as follows:

Mrs. SIMS. Mr. Hammond is here. The other people haven't arrived.

FICKERT. I know that. When they do come I don't want them to see him if they have a lady with them. Put him where they can't see him.

Mrs. SIMS. I understand.

FICKERT. All right.

A few moments later Fickert called up Douglas 3414 and talked to Louis Ferrari, ex-assistant district attorney and the man who handled



the case against Mrs. Mooney. Fickert told him that he had sent for "that lady," and that when she arrived he would phone again. He told Ferrari to come up to the Kohl Building office upon receipt of the second phone call.

At 11.42 a. m. Howard Vernon, secretary of the grand jury, called up Fickert, as follows:

VERNON. This is Howard. Did you want me?

FICKERT. Yes. I am expecting that party to be brought in any moment. They've gone to the house to get her. When she comes I'll phone and have you come down.

VERNON. All right.

A moment later Billy Proll, notorious municipal detective, called Fickert on the phone:

PROLL. Say, stick there a while. The party is here, but is very nervous. She wanted to phone to her husband, but of course we wouldn't stand for any stuff like that. We're now waiting for her to get dressed. You'll be there, will you?

FICKERT. Yes.

PROLL. All right.

In order to be on hand when the lady arrived, Fickert left his office in the Hall of Justice and went to his private office in the Kohl Building. Shortly after he left his wife arrived at the Hall of Justice and proceeded to call him up on the phone. In the course of the conversation he told her that he was "waiting for the detectives to bring in that lady to take her statement."

Nothing further transpired until 3.55 p. m., when Fickert, from his office in the Hall of Justice, called up his private office in the Kohl Building, got Hammond on the phone, and suggested that he "come over here a little bit." Hammond arrived at 4.04 p. m. and at once he and Fickert began laying plans to interview some other prospective witness, probably Mrs. Barlow.

For the sake of lucidity there will now be given the report of a man who was sent by me to interview Mrs. Judd in regard to her version of what happened. This man's report is as follows:

I met Mrs. Virginia Judd in the garden of her home at 49 Park Hill Avenue with her husband, Norris Judd, of the Hicks-Judd Co., publishers, printers, bookbinders, etc., at 8.10 a. m., October 30.

I introduced myself and stated that I was desirous of learning the details of her visit to District Attorney Charles M. Fickert and what she had been asked to testify to in the Mooney case.

Mention of the incident caused her some confusion. She was inclined to refuse me an answer until her husband approached and asked the circumstances that had prompted me to call. I said that we had been informed that Mrs. Judd and a Mrs. Barlow had been asked to act as witnesses in the Mooney case; that as it was the first time mention had been made of their names we wanted to find what it was they knew of the matter.

Mrs. Judd then said that she had been dragged out of the house to go down town when she knew absolutely nothing about the case; that it was an outrage; and that there was something more behind it than developed from a meeting with Fickert. She said she meant, as a taxpayer, to see that the persons responsible were made to pay dearly for their action.

Judd sought to pacify her. He told me that he had been established in business here for a number of years; that he was not the one to seek the limelight; and that while he was annoyed at the time of the happening he could understand how such things were brought about.

He said he had served on Federal and State juries. He took the question about Mrs. Judd's visit to Fickert up with the latter and seemingly was satisfied with Fickert's explanation that a mistake had been made.

When I made reference to Mrs. Barlow again Mrs. Judd said that Mrs. Barlow was her sister. There was ill feeling between them, Judd interrupted to say, and Mrs. Judd knew nothing about what Mrs. Barlow might say or do concerning the Mooney case.



Interruptions occurred from time to time in our conversation, but I am quoting here Mrs. Judd's statement of the whole affair. Naturally the thread of the story was severed at intervals as I put new questions.

"I was called up on the telephone," said Mrs. Judd, "one afternoon by a man who said his name was Otts. [I am spelling it from her pronunciation.] He said I knew him, that I might not recall him from his name, but that we had met at his sister's. He said he was going to make some moving pictures in the park up here. [She was referring to Buena Vista Park, which is only half a block from the Judd home.] He wanted me to be there, as he desired to include my picture in the film. It seemed an unusual request. I told him I did not know him, that I didn't desire to have my picture taken. I asked him the reason. He said that it was just that he was making some pictures there, and because he knew me thought it would be nice if he could include me. I said no, I wouldn't do that. Neither my husband nor I desired any such advertising. I couldn't make out why he should take my picture. I didn't agree and eventually he hung up the telephone."

"Since then," Judd said, "we have thought over this. We don't understand the purpose the man had. It was certainly strange that he would want to take my wife's picture."

Mrs. Judd resumed by saying that she thought now it was a trick of some kind. She said some one must have wanted to take the picture for some motive, to use against her or something. She said she didn't know what to think, and she appeared frankly puzzled. "It will all come out some day," she said. "There was something more than the Mooney case behind it."

A couple of days after the picture conversation, as I interpreted Mrs. Judd's remarks, a man called to have her go down to Fickert's office.

Her statement on this was:

"I was asked to go down to Fickert's office. The man who called forced his way into the house and demanded that I go with him. He threatened me that he had the power to make me go, and when I wanted to call up my husband he insisted no, that I must go then."

I would say here that Judd said something about it being time for him to get down to his place of business. I wanted to cover as much detail as I could without arousing Mrs. Judd's enmity. I was afraid the conversation might be terminated by either of them, or both, and so I asked why they had picked her as a witness.

"I don't know," she said, "I was brought into an office with five men. They all kept asking me questions."

"Were they about the Preparedness Parade?"

"They were all about that," she said.

"What do you know about the Preparedness Parade?" I asked.

"I don't know anything," she said. "I was at home all that day. We did not go down town."

"I can verify that," said her husband. "I told Fickert that afterwards."

"What happened at Fickert's office?" I asked.

"Well, when I came in," said Mrs. Judd, "one of the men stepped forward. He said he was Otts. He said, 'Oh, Mrs. Judd, we were talking over the telephone about that picture the other day. I know Mrs. Judd.'"

"Who were some of the other men?"

"I don't know. I never saw any of them before."

"Was Mr. Cunha one of them?"

"I don't know him. I couldn't say whether he was there. This man, Mr. Otts, looked to be a Jew. He was a stranger."

"Was Fickert there?"

"No; he came in afterwards. Some of the men went out of the room. I guess they told him, because when he came in he said there was some mistake—that they must have the wrong lady."

"What did they ask you about the Mooney case, or the Preparedness Parade?"

"I don't know—I can't say. They asked me a lot of questions."

"But you told them you knew nothing about it?"

"Yes. I told them that at first. They kept asking me questions, but I couldn't answer any of them."

"She knows nothing about the case," said Judd. "How could she?—we were at home all day."

"What did you think? Did they appear to be trying to make you testify to something that you didn't know?"

"It was all very peculiar. I think taxpayers should be spared from such things. I am going to have some people look into this. I have thought this matter of the moving-picture thing over. It has some connection with the other. They must



have been trying to use me in some way—to do something with me.” This was Mrs. Judd’s answer.

“I called up Mrs. Judd at noon,” said Judd, “and when she didn’t answer I became nervous. I thought there was something the matter. I came home and when I got here there was an automobile standing in front of the house. There was a man from Fickert’s office with Mrs. Judd. She was very much annoyed; she was complaining of their treatment of her. That caused me to go down to see Fickert. He explained it all by saying there was a mistake—they had called the wrong lady.”

I have set these things down here substantially as they occurred. I say substantially, because while this is the truth of this interview, the phrasing is my own, done purposely to avoid some of the awkwardness of the questions and answers.

There are several minor points about this whole episode which do not altogether explain themselves, but they are relatively so insignificant that they are scarcely worth the slight effort necessary to clear them up. Of the five men present at the grilling in Fickert’s office we are reasonably sure of four—Ferrari, Howard Vernon, Otts, and Proll. The fifth was probably either Cotton or John M. Lewis, both of whom occupy the Kohl Building office jointly with Fickert. Hammond and Fickert were concealed in an adjoining room, unless, indeed, Hammond and Otts are but two names for the same individual.

Inquiries made in Los Angeles indicate that Otts is a detective who represents himself as “Burns’s right-hand man,” and that he is also interested in moving pictures. Hammond has thus far not been identified.

In the face of its larger aspects, details such as these fade into nothingness. The episode as a whole speaks for itself and gives us a rare glimpse into the methods pursued by the district attorney of the city and county of San Francisco in his desperate efforts to fasten a horrible crime upon persons whose innocence of the particular offense has never in any way been seriously impugned.

I have said that the Judd episode speaks for itself. I should like to go a step further, if I could do so without violating the prosaic formality of a Government report, and venture the observation that the episode shouts aloud to heaven, and that its voice is the despairing cry of Justice forsaken, sinking into the quicksands and treacherous slime of violence and perjury. There is something here very heart-rending and very appealing—perhaps the very poignancy of the cry will arouse the public conscience and speed the necessary measures for rescue.

October 25:

Fickert arrived in his office at 9.37 a. m. At 9.44 a. m. a Mr. Rock called on Fickert in regard to the pardon of his [Rock’s] brother.

A moment later Berry came in. Fickert said to him, “Send that fellow around to identify her. Tom could not identify anybody at all.” He and Berry then left the office.

In a few minutes Fickert returned to his desk, talking to some one as he came in. The other party asked whether he could spare copies of certain letters, and Fickert replied, “Those are the original letters as to how he got it and how he did it. I am having photographs made of them.” He then apparently read an extract from one of the letters in question, as follows: “I have a chance to come to San Francisco as an expert witness in an important case.” He and the other man then left the room together.

At 10.09 a. m. he returned, talking to some assistant or visitor, who addressed him as Chief.

“He was a fine fellow, too,” said the assistant. “I got a deposition from him, too.”

“That woman ought to be brought here now very quickly,” said Fickert.

“I hope so, by C——. That other woman I am not satisfied with,” replied the other.

“They are going to try to shut her up before the grand jury,” said Fickert.

The assistant then left, with a final, “All right, Chief.”



At 10.14 a. m. Fickert called Douglas 1272 and asked for Judge Henshaw, who was out of town, duck hunting. Fickert asked the young lady who answered the phone to tell the judge that he had called up.

At 10.15 a. m. Attorney Stafford dropped in. Fickert read him a letter from some woman whose husband was an Army officer in France, and who stated that she had seen Fickert recently near the corner of Post and Grant Avenue, talking to another man. According to the letter, she had endeavored, though in vain, to attract his attention, and now wrote in the hope of seeing him some time "in order to talk with you for old times' sake."

In reading this letter Fickert stopped frequently to comment upon it, each comment being accompanied by roars of laughter.

At 10.23 a. m. Fickert called up the telephone company, got "Information," and asked whether there was a phone under the name of Martin at 1648 Hyde Street. He then added, "I do not know if it is in their name or not." After a little delay he was informed that there was no phone at the number given. He then passed this information to some assistant, giving directions to write a note to the party, telling about the reward. This was all said in a low tone, and not all of it could be heard. He then gave the assistant an idea as to how to begin the letter. "I would say," he said, "'Wish you would call up the district attorney's office this morning. If so, I will send a machine for you and bring you to the office.'"

At 10.29 a. m. Fickert's office in the Kohl Building rang up to say that Mr. Crowley was over there waiting for him. Fickert had Crowley put on the phone; then told him that he would be right over. [This was probably C. C. Crowley, the notorious dynamiter employed by the German consulate in San Francisco, who had just been released from the Federal penitentiary at McNeil's Island a day or two before, after serving a two years' sentence for interfering with the shipment of munitions to the Allies. Fickert's relations with this self-confessed dynamiter have been looked upon with suspicion ever since it became known that on June 14, 1915, Fickert had furnished Crowley with questionable credentials to facilitate his work in various parts of the country.]

[After what has been shown in the foregoing transcript, it seems scarcely necessary to point out the part which Fickert's private office in the Kohl Building plays in the district attorney's various activities. He seems to use it principally as a place of rendezvous for shady characters and people whose whereabouts he wishes to remain secret, such as Otts, Crowley, Nixon, Hammond, Mrs. Judd, Mrs. Barlow, and others unknown and unidentified.]

At 10.44 a. m. Fickert left the office to go to the Kohl Building to meet Crowley, returning at 11.47 a. m.

At 11.50 a. m. he tried to call up his office in the Kohl Building, but could get no response.

Bennie Selig called up at 11.56 a. m. to ask about the Blaine case. Fickert told him he had not seen the judge again, but that he would get it fixed up all right—"probably to-day."

At 12.04 p. m. he called up his wife [Franklin 5483] and stated that the car was out bringing in a witness, and that it would take about 15 or 20 minutes. He said, "I will be there about 2 o'clock if I get through with this witness."

At 12.17 p. m. a man entered the room, and at the same time Fickert left his desk to talk to him. The man was much excited, but the conversation was too far off to hear much of it. He had evidently been out in the machine looking for the witness. The name of Mrs. Barlow was mentioned distinctly. "Where did you get the number?" asked Fickert. The man's reply could not be understood.

Fickert and this party then left the office together. Fickert did not return to the Hall of Justice office during the rest of the day.

#### October 26:

At 9.27 a. m. Fickert arrived at his office, accompanied by another party, probably Hammond.

"I just wonder how we could follow that matter up," Fickert was saying as they came in.

"You know what the judge said to me," said the other man. "He knew a captain, C. G. Cattle [or Kettle], who made a study of that—a man 68 years old to-day; if you look at him he seems to be only 48 or 50."

"Mrs. Barlow takes no pains with herself," remarked Fickert.

"Had a black eye and a big spot on her jaw where somebody had hit her," said the other.

"Yes, I know," said Fickert.



"She said, 'If you had a case on me I would have gotten you the dope,'" the other man continued. "Proll knew we were bulling. When Proll asked her if the conversation in question had happened, she said 'Yes.'"

"Who was it did the talking?" asked Fickert.

Mrs. Barlow—or Mrs. Judd. She said that she would not enter into the subject—Mrs. Judd lied like h—— about it. 'Mooney's case?' she said, 'I haven't heard about it.' When a woman will come down here——

Fickert interrupted him. "I don't know——" he began.

"All you've got to do is to call me down there," broke in the man supposed to be Hammond, evidently quoting some one else; 'I am the man,' he said this to lots of people, and he knew that when I was in town I saw him on the street and said to him, 'You told such and such a story,' and he said, 'Yes.' Then he named a lot of fellows, and I asked him who he had told the story to and he told me. But I had a h—— of a time finding out who Judd and Mrs. Barlow were. Yesterday, when I went in there and said, 'Mooney,' why, J—— C——, she jumped off the chair and said, 'You bring this into it—a married man?' and asked me how I would like anyone to call upon my wife. That was all right—that was her excuse. Well, it was all bunk—between you and me, we got up to her room. 'Oh, you are a liar,' says she, 'G—— d—— a man who would stand there and lie.' I told you to tell Mr. Fickert the truth. I told nothing about the Mooney case—I told about the McNamara case.' 'Let's talk about the McNamara case, then.' 'I will say nothing,' she said, 'Oh, I will not talk. You couldn't get me into it.' "

"Well, I don't know," said Fickert dubiously.

"Why didn't I think of Josie? I did," said the other. "She said Josephine would be only too glad to get into this. I said, 'Well, I don't particularly want Josephine,' I said, 'I want to speak to you.' Why, they are crazy to get into it. I said, 'I thought I was doing you a favor.' "

"You had better let it rest," advised Fickert.

There was a brief pause. The man then apparently showed Fickert some sort of a statement. "That's the way it stands," he said. "The first bill of September 7, 661; next bill, 119; then I received 4661; from that, 6219; and 10 on the 24th."

At this point the man left the office to telephone from one of the public booths in the building. When he came back Fickert said, "You did not take very long."

"No," said the man; "when I went into the booth the girl said not to talk very long."

At 9.48 a. m. Fickert called out, "Is my friend from Butchertown out there?" [Bennie Selig, the butcher.]

"Dan O'Brien said he was just here looking for me," said one of the assistants.

"Do you think you had better go down and see that fellow?"

"They will be turning out before the grand jury on Monday," said Fickert.

The assistant then asked, "Did Berry tell Matheson?"

"A week ago. He told him he [Blaine] went away. He is kind of sore at him."

"Suppose you go down and tell Berry to see the judge about having it transferred," suggested the assistant.

"Call Aleck about it," directed Fickert.

At 9.56 a. m. Fickert called Mission 6916, but it turned out to be the wrong number. What he was probably trying to get was Mission 6936 [Bennie Selig's number].

At 9.59 a. m. Bennie Selig walked into the office. "What did the judge say?" he asked.

"What did he say? He said, 'Get the G—— d—— thing over,'" replied Fickert. "I spoke to Berry about it."

"Did you tell him that the man was out of town?"

"The judge wanted to put the case over, and now the man is in the Army," said Fickert.

"A G—— d—— good excuse," said Selig. "They had no case, see? What did Berry say?"

"Just transfer it back."

"Is Berry down there now? O. R. [own recognizance] it until after the war is over. Well, I am going out to that funeral at half-past 10 and will be back at half-past 11. I will take care of Griffin. See if you can get the d—— thing fixed up by then."

At 10.02 a. m. man arrived and greeted Fickert with, "Hello, Chief." Fickert told him about the letter he had received from the wife of the Army captain and also told about another friend of his who was the wife of a captain. Much laughter accompanied his remarks.

Berry then came in and Fickert asked his opinion on a portion of the letter he had written to Welch. At 10.17 a. m. he rang for Miss Almeda, the stenographer, and



requested her to add another sentence to the letter, the additional sentence having been written on a piece of paper which he handed to her.

At 10.37 a. m. a visitor entered and said, "Well, Charley, how have you been?" The two then talked about the Sacramento cases. Fickert stating that he did not think they would amount to much. He went on to tell about receiving a threatening letter from the I. W. W.'s and of sending it to the Post Office Department. He said that the only reply he received from them was a statement that it was the usual form of I. W. W. letter and did not warrant special investigation.

At 10.59 a. m. a woman entered and told Fickert about being bunkoed by a jeweler by the name of Goldman. She stated that the case originally was to have been handled by Assistant District Attorney O'Grady, but that O'Grady had "run out on it" and would not do anything for her. At 11.06 a. m. Fickert sent for O'Grady, and after a wordy war reprimanded the woman for "shooting her mouth off" about the way she had been treated. He then promised to take the matter up himself.

At 11.24 a. m. Fickert read aloud to some visitor the letter received from the wife of the Army captain. "I didn't know her," he said; "she was all dolled up—had a very pretty hat on—I would never have recognized her. She has a friend who lives with her whose husband is also in France."

At 11.30 a. m. he received a visitor who called in regard to the matter in which McNab, attorney for the Chinese Six Companies, was interested. Fickert told this man that the trouble was that the Six Companies were "butting in."

At 11.58 a. m. Fickert called Prospect 236 and talked to Miss Kirby, who wanted him to come to lunch, saying that Mr. Lewis and Mr. Cotton would be there. "I don't want to break up the party," said Fickert, who then went on to explain that he couldn't risk being seen coming out of Miss Kirby's house in the daytime. She told him that if he entered and left with the other two it would be all right. He did not agree with her, saying that there were too many people in the neighborhood that knew him.

At 12.08 p. m. Fickert left for the day.

For the purposes of this report no further transcript of these dictaphone conversations is deemed necessary. It can readily be understood that merely to pile up a multiplicity of incidents of the same general character would be a work of supererogation, lending increased bulk to an already long report without adding either to its strength or its lucidity. In other words, it is not the object of the present investigation to see how many instances of frame up can be laid to the account of the district attorney; what is important is the nature and quality, rather than the mere amount, of evidence adduced, and for this reason one authenticated case will serve as well as a hundred.

The record establishes three sets of facts, each one of which has a bearing upon the question at issue, namely, whether Mooney and his fellow defendants received fair trials at the hands of the district attorney. These three sets of facts are:

First. That Fickert is in constant association with men and interests of such a nature as to render it incredible that he should be either impartial or honest in the conduct of a case of this nature; that he is and has been for some time past cooperating with notorious jury and case fixers; that, for instance, he is equally guilty with Pete McDonough in conspiring to free a wealthy man charged with crimes of degeneracy; and that he has also been working with the same notoriously corrupt McDonough and Ben Selig to save from conviction Dave Blaine, an automobile-tire thief. These cases are mentioned simply to illustrate his common practice, of which abundant evidence is furnished by this report.

Second. That Fickert and his associates have within the past month framed, and conspired to frame, cases with which it was his sworn duty to deal impartially.



Third. That Fickert and his associates, within the past month, have conspired to fabricate evidence with which to convict Mrs. Mooney; and that to this end they have attempted, in the grossest manner, to intimidate and blackmail a prospective woman witness.

It will be apparent that these facts, which are all brought out exhaustively in the present report, tend to supplement the revelations already made in the Oxman letters, and that they confirm the impression, made unavoidably by the weak and conflicting nature of the testimony in the bomb cases, that practically the whole of Fickert's case against Mooney, Billings, and Mrs. Mooney was made to order.

Let us, in conclusion, touch once more on the general outline of the "evidence":

Billings, it will be remembered, was convicted on testimony that he had been seen to emerge with a companion from a saloon at the scene of the explosion, put down a suit case, and walk away through the crowd.

Mooney was convicted on testimony that he had been seen to drive an automobile to the scene of the explosion in company with Billings, Mrs. Mooney, and Isreal Weinberg, and that he had afterwards driven away in the same vehicle. Other testimony required the entire party to be near Third and Market Streets within a few minutes of the explosion, and then to reach Steuart and Market (nearly a mile away) without attracting the attention of the traffic police at a time when the streets were cleared for the preparedness-day parade. Photographs and testimony introduced by the defense showed that Mr. and Mrs. Mooney were on the roof of the Eilers Building, a mile from the scene of the explosion, at the moment that they were represented by the prosecution as being in Weinberg's automobile in lower Market Street.

Two witnesses, Mrs. Mellie Edeau and her daughter, who testified in two of the trials, altered their testimony between the two, and were shown, by the police records, to have been at first unable to identify either Billings or Mooney.

It was the theory of the prosecution that the defendants had at first intended to throw the bomb from the roof of a building at 721 Market Street; that they changed their minds when it became apparent that the United Railroads division would not pass before the bomb was due to explode; that they had then proceeded down Market Street to Steuart, where they deposited the bomb (concealed in a suit case) and fled. This whole theory was not only inherently inconsistent in its several parts, but was discredited by the exposure of every important witness, chief among them being Oxman and the Edeaus.

The methods used by Fickert in framing up the cases were revealed by the publication of the Oxman letters, by the admissions of the Edeaus, and by the exposed attempt to intimidate Estelle Smith, the dental nurse who was induced to testify to the fictitious happenings at 721 Market Street. These methods were identical with the ones still in use, as shown in detail in other parts of this report. So thoroughly were they understood by court, jury, and prosecutor that in the trials of Mrs. Mooney and Israel Weinberg, Oxman was not introduced and swift acquittals resulted. In other words, the testimony which before the Oxman exposure convinced two juries



that Mooney, Mrs. Mooney, Billings, and Weinberg were in an automobile at the scene of the crime was too weak, after the exposure, to convince anybody that either Mrs. Mooney or Weinberg were in the automobile or had a part in the crime.

Thus the cases against these defendants had already fallen to pieces before the present investigation began. It only remained to demonstrate that the weakness and dishonesty of the prosecution's testimony was not an accident, but was the result of a consistent policy of conspiracy and corruption. Fickert is seen throughout this report to be prostituting his office in other cases precisely as he prostituted it in the bomb cases, and if there was previously any doubt as to whether a prisoner whom powerful interests desired to convict would receive a fair trial at the hands of Fickert there is now no doubt about the matter whatever. The San Francisco district attorney's office, thrown wide open by this investigation, reveals the public prosecutor, not as an officer of justice, but as a conspirator against justice. Fickert is shown setting the guilty free and persecuting the innocent.

Fickert's desperate daily attempts to bolster up a cause which can not for a moment stand an unprejudiced examination; his affinity for a man who is both a discredited judge and an unblushing representative of dishonest interests; his constant association with, and dependence upon, a corrupt corporation detective; his passionate personal hatred of the various defendants, and his determination to ruin them, despite the fact that he, better than anyone else, knows that they are innocent; his openly expressed contempt, in the midst of a great war, for the President of the United States; his total disregard for law; his affiliation with, and servile truckling to, the most bitterly partisan antilabor element of the chamber of commerce; his close personal friendship for Pete McDonough, notorious briber of juries; his illegal quashing of the David Blaine indictment for Bennie Selig; his attempted frame up of Mrs. Judd to testify against Mrs. Mooney—these and similar questionable activities apparently represent the chief business and ordinary daily routine of the present district attorney of the city and county of San Francisco. In the strictest and most literal meaning of the word, anarchy reigns in the office which is supposed to be dedicated to law and order.

Ordinarily the relentless persecution of four or five defendants, even though it resulted in unmerited punishment for them all, would conceivably have but a local effect, which would soon be obliterated and forgotten. But in the Mooney case, which is nothing but a phase of the old war between capital and organized labor, a miscarriage of justice would inflame the passions of laboring men everywhere and add to a conviction, already too widespread, that workingmen can expect no justice from an orderly appeal to the established courts.

Yet this miscarriage of justice is in process of rapid consummation. One man is about to be hanged; another is in prison for life; the remaining defendants are still in peril of their liberty or lives, one or the other of which they will surely lose if some check is not given to the activities of this most amazing of district attorneys.

The issue involved is immeasurably larger than the city and county of San Francisco. On the day that the State supreme court confessed that it was without power in the premises the issue became



larger even than the sovereign State of California. The fact is that in its true proportions it is an issue not unworthy to be ranked with the other great problems arising out of the war now being waged for the rights of man and the liberation of peoples.

With these facts uppermost in mind, it seems but logical, in bringing this report to a close, to suggest that it would be well within the province and privilege of the Federal Government to devise some means by which, without giving offense to the duly constituted and honestly functioning authorities of the city and county of San Francisco, these several defendants would be assured of those rights before the law which are guaranteed by the Federal Constitution.

I have the honor to be,

Very respectfully, yours,

J. B. DENSMORE,  
*Director General of Employment.*

List of exhibits herewith:

- (A) Diagram of Fickert's office in the Hall of Justice.
- (B) Grand jury proceedings in the case of F. C. Oxman.
- (C) Confession of W. J. Dingee.
- (D) Affidavit of F. A. Losh, Dingee's bookkeeper.
- (E) Photographs of the "J. Brown" account in Dingee's ledger.
- (F) Testimony in regard to Max Koenig, showing his guilt.
- (G) Interview with Mrs. Virginia Judd on October 30, 1918.
- (H) Fremont Older's statement in regard to William Hough.

#### EXHIBIT A.

[Diagram of office of Charles M. Fickert.<sup>1</sup>]

#### EXHIBIT C.

#### CONFESSION OF W. J. DINGEE.

SEPTEMBER 10, 1917.

MY DEAR MR. BLANK: I am filled with gratitude for your kind treatment and efforts in my behalf, and I am appalled at account of your interview with Judge Henshaw at his perversion of the truth and absolute untruths he told you.

Can he deny coming to my office in Mills Building one morning years ago, telling me on account of some complications he faced in Gray estate, unless he got \$9,000 before 3 o'clock that day he would commit suicide, and that he got from me that day the \$9,000. Can he deny my indorsing his note for \$6,000 to the Nevada Bank, as doubtless their records will show, and that I paid it, and these in addition to other countless thousands he got from and through me. Can he deny my giving him as a gift 5,000 shares of the stock of Standard Portland Cement Corporation, also a gift of 2,000 shares of the Santa Cruz Portland Cement Co.? Can he deny I made him a vice president of these companies at a large monthly salary; can he contend he ever returned to me one dollar of the vast sums he got through me. Even his initiation fee in joining the Pacific Union Club I paid for him.

I seek no trouble from him or others that I feel are cruel ingrates; I ask only of those who contributed to my downfall, and who got the result of my thirty-odd years of strenuous work, that they return to me enough whereby I can get a country self-sup-

<sup>1</sup> Not printed.



porting home, where I can end my days away from those ingrates who owe so much of their prosperity to me.

While I shrink from doing anything that will bring trouble or shame to others, I will not let this letter deter me from defending myself.

I left with you this morning copy of my letter to Charley Green, also copies of two insulting telegrams McEnerney sent me. I stated nothing in my letter to Green but the absolute truth. I never retracted any statement there made, as I would had I stated what was not true.

But even taking their own statement, if I did retract, that would have been equivalent to asking forgiveness. And has not and does not McEnerney ask forgiveness—yes; I think he has much to ask forgiveness for.

Mr. Young I took from McEnerney's office and made him secretary of the various companies at a salary of \$500 per month, and he received this. In addition I gave him as a present 200 shares of the Santa Cruz Co. I expected and am sure he did discuss all the complications with McEnerney; he was secretary and nothing was done without his knowledge.

My life in California for 40 years has been an open book. I have made many mistakes and these I am heartily ashamed of, but can my enemies wish me to pay a greater price than that I have already paid for my mistakes and errors?

The copy of letters I sent McEnerney, as well as the one I did not send, explain what surely is the least he could do—return me the 250 shares of Santa Cruz stock which I gave him to appease his disappointment in not getting any of the bonds and stock bonus of this company, after which I induced Jim Smith to surrender 25,000 of his 50,000 subscription. With this McEnerney got 500 shares as a bonus. In simple justice and decency, should he not now return to me this 250 shares, when now it would mean so much to me, and this is only a fraction of the material benefits he derived from me?

My dear Mr. Blank, I need a friend, and I beg you do not get discouraged in my behalf. There is nothing in my life or what I have done that I will not truthfully tell you, so, I beg you, do not be influenced against me by what others say without at least giving me the opportunity to explain.

With gratitude for your uniform kindness to me, and with a prayer you will so continue till I get some relief, I am, with feelings of affection,

Sincerely, yours,

W. J. DINGEE.

SAN FRANCISCO, *September 12, 1917.*

MY DEAR FRIEND MR. BLANK. With heart overflowing with gratitude to you for all your kindness to me, and in response to your request for certain details and data, to better enable you to right some of the terrible wrongs done me, will say I was born of Quaker parents, July 22, 1859, in Pennsylvania. I first arrived in California in November, 1876. Through the kindness of the late J. O. Eldridge, I secured a position in Olney & Co. real estate office in Oakland, January 2, 1877; was there about one year when Olney was killed by horse running away. From there I went to the office of E. A. Heron, also in real estate. From there, I think in 1880, through the kindness of my first friend in California, Mr. Eldridge, I joined Grant I. Taggart as an equal partner in a general real estate business, and so continued until Taggart retired in about 1885, from when I continued the business alone. I married on February 15, 1884.

When I entered into partnership with Taggart, whose office was on Eighth Street between Broadway and Washington, Oakland, Wm. G. Henshaw was the clerk then with Taggart, and so continued with the firm of Taggart and Dingee. I was reputed to have made a fair success in real estate, starting with no capital. At the time Hayward had to give a big appeal bond in Hale & Norcross case, I qualified on his bond before the late Judge Beattie for \$600,000.

In 1885 I purchased the Hays property back of Piedmont, some 1,700 acres, and to get water to enable my selling some portions of this property I applied to the Contra Costa Water Co., trying to make arrangements with them whereby they would supply water through pipes and reservoirs that I would build. Failing, I started to develop water on the higher lands by means of tunnels in the hills—to the end I got more water than I had use for on my own land, and then, having quite a sum in this water venture, I built other reservoirs and continued my pipes to Piedmont, where the old company gave a very poor service, but by the time I was prepared to supply water the old company had secured contracts at vastly reduced prices with all the users, to the end I could sell no water there, so I continued down into Oakland, building two more reservoirs, and laid about 20 miles of distributing pipe in the center of Oakland.



The panic of 1893 found me there with about \$300,000 then invested, when I tried to sell to the old company. Failing, I got Mr. Hayward to join me, when we developed the wells I then had at Alvarado twenty-odd miles from Oakland, and piped the entire city. The water demanding all my attention, I gradually withdrew from the real estate. I think it was in 1899, through consolidation, I came into the control of both companies. During the years of competition we finally in most cases gave water away, and the getting rates was no small task, with the hostile opposition of the council and rate payers in Oakland, the council fixing rates so low it means confiscation. We contested the rates in a suit lasting seven months, to establish the value of the plant for rate fixing. All the judges of that county being disqualified, Judge Ogden, of Alameda County, called Judge Hart from Sacramento to try the case. The wisdom of his decision, giving a valuation of \$7,000,000 surely has been justified, where, with no water-producing features added, the present commission having now in charge the fixing of values of such utilities, has given them a value over \$15,000,000, and the citizens of Oakland and adjacent cities are now paying rates on this last-named sum.

During all my water anxieties Judge F. W. Henshaw, whom I had long known, was most useful to me, and especially so on account of the position he held as a supreme court justice. He was in touch with Judge Hart during the long trial, and he told me he wrote the decision which was rendered by Hart.

Frank J. Moffitt at this time was prominent in my affairs—did many things and caused me to do many things I regret—but what I did I felt was necessary in order to protect the large interests I represented. During this trial the effort was strong to remove Judge Hart from the case, and in one phase it went to the supreme court, when for the first time McEnerney came into my life, as I employed him, paying him \$1,500 to represent Judge Hart and in making the argument before the supreme court. Further on I will treat more at length of my transactions and association with McEnerney and Judge Henshaw and some others.

I continued in control of the water company until early in 1907, when I sold the company to Mr. Frank C. Havens at a price that was satisfactory to all interests, and for the first time in my business life I was out of debt and had large interests.

For years prior to this I put large sums into a slate quarry in Eldorado County, and through this enterprise I got interested in the manufacture of cement, building the first plant in California at Napa Junction. This company was formed by the issue of 500,000 bonds and \$2,000,000 stock. The company sold the bonds at 80, or \$400,000. Of the stock, one-half went with the bonds sold as bonus, the remaining half of stock I divided as follows: One-fourth to F. W. Henshaw, one-fourth to W. A. Winsboro (who was then associated with me in the slate), one-fourth to E. J. McCutcheon, who was the attorney in the seven months suit in the water case, and I retained one-fourth. Before this plant was completed Winsboro showed up wrong, when to get rid of him from my life I paid him \$8,000 for the interest he would have had; when, in gratitude to Mr. I. W. Hellman for his most kind and gentlemanly treatment in carrying me in vast loans enabling my making the success I did in the water, I offered him as a gift this Winsboro interest. He very graciously declined to accept it, when I gave it to W. G. Henshaw, not even requiring him to repay me the \$8,000 I paid Winsboro. Later Henshaw and I purchased the McCutcheon stock, paying him \$20,000. Henshaw and I completed the plant, sold the bonds. When the plant started operating in April, 1903, Henshaw and I had each about 6,500 shares of the stock. This company, in five years' operation, up to November, 1908, when I lost control, made over \$1,250,000. When before this Henshaw and I disagreed when he sold his stock at \$85 per share for cash and this enterprise I invited him into and the stock was all profit to him. When W. G. Henshaw joined me in the cement, my office was in the Mills Building, and through his insistence I consented removing my office to the Crocker Building, and later to my closing all the accounts I had at Nevada Bank, going to the Crocker Bank. I owed Mr. Hellman then only good will as I will always, but my leaving him savored so of ingratitude, that he has never forgiven me, and to this change I owe all my misfortunes. I was so encouraged and flattered (I must confess) over the treatment I got at the Crocker Bank—it was my later misfortune that then my credit was so good there.

During this time we were living at Redwood, and Mr. W. H. Crocker sought me out daily on the trains, sitting with me, and showing every evidence of extreme friendliness. Viewing this from this distance I feel justified in feeling his motives then were selfish.

I never owed the Crocker any money personally, but only the cement company, the obligations of which indorsed, and in the fall of 1907 (the panic) the total indebtedness to the Crocker Bank was \$732,000, when one year later, in November, 1908, it was reduced one-half, and at this time Crocker forced the issue. I was sick at Fairmont Hotel. At this time I built the Santa Cruz plant of 6,000 barrels daily



capacity. This was no mistake, but in the wild enthusiasm following the earthquake, when we all went on a financial drunk, I was induced and did indorse the cost of doubling the Santa Cruz plant. The panic following, with this load, and not wanting the companies to go into the hands of receiver, preferring to take all odium, feeling McEnerney and Judge Henshaw were my most true and loyal friends, I asked them to arrange the matters to the end I turned over the management, all my interests, and in addition my Redwood property, worth at least then \$500,000, and it was free of incumbrance except some portion that was pledged to Jeters's Santa Cruz Bank for moneys due from the cement company. I signed every paper McEnerney sent me without reading, and Dennis will tell you he asked my previous wife, then living, if she thought it wise, my signing all the papers without my reading them, when he says she answered, "Mr. Dingee is too ill to read them, and all I want to know is that they come from Mr. McEnerney and have his approval." I cite this to show the blind faith we both had in Mr. McEnerney. I, up to this time and for some time following my turning over the control, thought I was doing it to secure creditors, when, after all debts were paid my interest would revert to me. The practical result is the debts were paid from the earnings of the company and the sale of my Redwood property, and Mr. Crocker has to-day, without cost to him, and through me, 30,000 shares of Santa Cruz stock quoted at \$65 per share and now paying 5 per cent on par \$3,000,000, or \$150,000 dividends per year.

While I do not try to shirk the full responsibility of doing the things that made necessary turning over the management, at the same time McEnerney and Judge Henshaw were and are alone responsible for the arrangement they made with Crocker, and the terrible losses, sorrows, and misfortune that have since come to me are the prices I have paid for my mistakes, not the least of which was in giving my confidence to those who so brutally and cruelly betrayed me.

To better explain to you my friendship for McEnerney, I will add that following my first employing him in Hart matter he attended to some smaller matters for me for which I, as always, paid generously. I brought to him Mrs. Hayward and her daughter, Mrs. Rose, the latter being the wife of my wife's brother.

Later Mr. Hayward died. At the request of the widow and daughter I was appointed administrator. I employed McEnerney as the attorney for the estate, and I will add at even the risk of being considered egotistical, that it was my ability in handling real estate and selling it at prices that never before or since could be realized, that made it possible paying Hayward's debt of over \$3,000,000, and turning over to the heirs valuable properties. During my administration of this estate I paid him \$150,000 fees as attorney for administrator. Before the Roses came into their fortune I financed them up to \$75,000, bills paid and moneys advanced them, and at their request that I absorb this amount in the accounts of the estate and in compliance with their request as they were the only parties in interest, but when McEnerney discovered it he so disapproved of it when he gave me half of his fee—then I did not want to so take it, giving him my note for this \$75,000, which he still holds, though doubtless outlawed now.

The Roses were interested in the cement company, and having the fullest powers from them, I loaned the cement company some \$700,000 of their money which I got from the sale of People's water bonds, at \$85, and at the time of turning over the management of cement company these bonds were offered down at \$35. At this time the Roses withdrew from me, which was the hardest blow I had, and I have always felt confident McEnerney, had he wanted, could have prevented this, and his actions since surely give credence to the belief that it was then part of his plan to discredit and ruin me. I never made any charge to the Hayward estate for my five years' services in saving the estate, and never got one dollar. The only compensation I got was a valuable painting Mrs. Rose insisted on my accepting, and when the break came they demanded and got it back.

Their accounts with the cement company's were badly mixed, I will acknowledge. I had this absolute power to do everything, and feeling they owed their fortune to me and would stand by me, following a conference which Young arranged and at which he, as secretary of the cement company, was present with Merchants' National Bank when we, at their request, gave them a statement of the cement company, which showed all the indebtedness to the Roses, they suggested, and Young constantly concurred as secretary of cement company, that if I would personally assume the Rose indebtedness, and make a statement showing them eliminated, they could better finance the cement company and free our debts to Crocker Bank. The entries were made while Young was Secretary of the cement company. I can not shift the responsibility of having these entries made, though at that time Young told me he went every evening to McEnerney's home, presumably to consult with him, and I am morally now sure he did. Since this time McEnerney compromised with cement company



re the obligations to Roses, getting in cash all but \$175,000, which sum they claim I owe. I never retained for myself a dollar of their money, neither did I ever make any charge or get any compensation from them as administrator. Another phase of my relations with the Roses was my inducing Mrs. Hayward to deed to Mrs. Rose all her San Mateo and city real estate, which I afterwards sold for over \$1,000,000 for Mrs. Rose, and had it not been that Mrs. Hayward died at the psychological moment, Wm. Nelson Cromwell, the well-known New York attorney she had employed to force the reconveyance of the property, doubtless would have succeeded. This transaction of getting Mrs. Hayward to deed all to Mrs. Rose was through my efforts entirely, McEnerney having had nothing whatever to do with it. Subsequent events leave absolutely no doubt that had I not induced Mrs. Hayward to deed her property, Mrs. Rose would not have inherited it.

In the sale of Contra Costa Water Co. to Frank C. Havens, McEnerney got with my knowledge and permission in bonds and cash over \$150,000, and during all these years McEnerney lunched with me every day, I always paying, and scarcely a Sunday passed that he and his wife did not call at our home. I have never had any words with McEnerney; the last time I ever spoke to him was in August (I think), 1909. He and his wife were in a day or so starting for Europe, he phoned me he and Mrs. McEnerney were that afternoon coming to call and bid us goodbye. I told him our machine was then waiting to take us to Third and Townsend on way to Santa Cruz, when he and Mrs. McEnerney came to the depot and stood there in the passageway talking until our train was ready to go. The transaction that he was responsible for with Crocker was then nearly one year old, and surely I did not then think I was being robbed and betrayed. But his late actions leave no doubt in my mind he is vicious, and not knowing where I have done him any wrong, I can only attribute it to what I was told a year or more ago, that he said I had made disparaging remarks about Mrs. McEnerney. I never have, and the only person I ever heard say aught of Mrs. McEnerney was his friend, Jas. H. O'Brien, and what he told me I have never told. O'Brien told me he, John Drum, and the late archbishop were a committee who waited on McEnerney before he was married in effort to try to induce him not to marry, and that his only answer was "It's too late." Mrs. McEnerney to my knowledge has done me no wrong, therefore I will never repeat what O'Brien told me. This is the same O'Brien some years ago I gave \$2,500 to save his home on Hayes Street from being foreclosed by Hibernia Bank; never has he offered to return one dollar of the sum.

By reference to the copies you have of letters I have lately written McEnerney you will see my contention of the least he could do for me by returning certain stocks I gave him under conditions that later were so, that I would not then have given him the stocks. I think I have here given you all the insight you will want to read of my association with McEnerney.

I will now treat of another character who in the negotiations with Crocker presumably in my interests, knew at that time that he too was betraying me. I refer to Judge F. W. Henshaw. I knew him and was his friend from the time he was justice of the peace in Oakland, and then in small ways was helpful to him in his climb to such successes as he has made. The first substantial amount I recall giving this gentleman was just after I acquired control of the water company. I found him most dejected in my office in Mills Building one morning, when he told me unless he got \$9,000 that day before 3 o'clock he would commit suicide. I got and gave him this \$9,000 that day. He may claim this was due him, if so, it is as follows: For services in the consolidation of the water companies rendered by W. G. Henshaw I gave him 500 shares of the stock, with the understanding he was to pay Judge \$9,000, that being the amount of depreciation in the stock owned by the former wife of Judge Henshaw. W. G. Henshaw, at the date of my giving Judge this \$9,000, had gone to Europe and failed to do his part. During the years we were trying to get rates restored, Judge Henshaw was paid by me vast sums from the water company, overgenerous for any service he rendered.

It was Judge Henshaw that got Heney to sign the famous receipt for \$30,000, a voucher to the water company for moneys I had paid Henshaw. While I know there was vastly more than this paid him by me from the water company, I do not just now have the data before me.

Just after the first decision in the Fair case against Fair's children, Frank J. Moffitt brought to me George Knight, the attorney for Charley Fair, who stated he knew from Moffitt of my relations with Judge Henshaw. As the result of long negotiations and conferences with Judge Henshaw, the Supreme Court granted a rehearing when Knight paid me \$10,000, which Judge Henshaw received—then, after long negotiations, it was finally arranged if the final decision was favorable, they were to pay \$400,000, and to secure this Herman Oelrichs signed a note in my favor for this amount



by him as attorney for his wife and Mrs. Vanderbilt. This note was deposited with Mr. W. F. Herrin—I never saw it again—for after the final decision S. G. Murphy, then president of the First National Bank, gave me \$400,000 in \$50,000 payments, covering a period of some weeks.

In part these sums were given to Judge Henshaw by me; at his instance with some of it I purchased Alaska Packers' stock, the account being carried by brokers and on my books in name of "J. Brown." Moffitt insisted on taking some of these sums to Judge Henshaw, and with shame I here acknowledge the power Moffitt then had over me, that I was compelled to do so. Whether Moffitt held out some of this I know not; I know I retained not one dollar of it. What I do know, the arrangements were made between Judge Henshaw and me, and that I personally paid him a large part of the money.

While every statement made here is susceptible of proof, it is with pain I for first time have ever written it, and it would be sacred with me only that Judge Henshaw has violated every vestige of consideration for me, not only for the wrongs done me that he consented to and aided in carrying out, but the utter untruths he still tells about me, as well as the perversion of the truth, and all this I learn is so generally the belief of many who were my friends until I am shunned as if I had the leprosy, everybody seems to have been poisoned against me, until my situation is desperate. I have felt it was in the power of both Judge Henshaw and McEnerney to right the wrongs they permitted to me, to at least the extent I could get a home in which to end my unhappy and sorrowful life. The last straw was when he told you I had for the Santa Cruz Co. purchased a clay deposit for \$5,000 and turned it in to the company for \$75,000, when that transaction was solely for the purpose of covering up sums of money I had paid and given Judge Henshaw, with never a line on the books of the company where it could be traced to him. Oh, the difference in my treatment of him and his betrayal of me, when I think in addition to the vast sums of money paid him by and through me, of the 2,500 shares of original Standard Co., now 5,000 shares, as we doubled the shares; also the 2,000 shares of the Santa Cruz Co. which I gave him. Can he claim that these were not both absolute gifts from me to him?

It is the least of my wish to make the contents of this letter public, and I trust you will not think it necessary. My life has been tragic; every statement I here make is the absolute truth, and there is only one condition under which I would ask you to make public my unhappy experiences here outlined, and that is if I should die suddenly and if question arose where my honor was further assailed; in that event I beg you as my friend to give the widest publicity to what I here declare is the absolute truth.

With feelings of affection, I am,  
Sincerely and gratefully yours,

W. J. DINGEE.

PALACE HOTEL, SAN FRANCISCO, *September 16, 1917.*

MY DEAR FRIEND MR. BLANK: Supplemental to the two letters I have already written you, and in the event of your being disappointed in your expectations and in anticipation of the publication of these letters, I desire to give you in greater detail the disastrous effect to me of my confidence and trust in McEnerney and Judge Henshaw, who I trusted implicitly, and allowed to make the arrangement with Mr. Crocker whereby I lost my entire fortune, at which time I was ill at Fairmont Hotel.

Faithful Dennis, bringing the many paper for my signature, and he tells me he said to my darling wife, who was then alive, "Mrs. Dingee, do you think it wise Mr. Dingee signing all these papers without reading them?" When he tells me Mrs. Dingee said, "Dennis, Mr. Dingee is too ill to read them, and I don't understand them, all I want to know is they come from Mr. McEnerney and have his approval," and under these conditions the arrangements were made whereby I gave up control of the cement companies, deeding to Mr. Crocker my Redwood property, formerly the Moses Hopkins, 640 acres that was our home till the earthquake so shook the house it had to be torn down, and in early 1907 I sold it to a real-estate firm for \$750,000, they paying \$30,000 cash, agreeing to pay in fall of 1907 \$70,000 more, when I was to take a mortgage for \$650,000, to be paid from the sales as per a plan of subdivision. On account of the panic of 1907 they were unable to pay the \$70,000, when I deeded them a tract of 100 and odd acres nearby for the \$30,000 they paid, and canceled their contract. At this time this 640 acres was free of debt, but before November, 1908, when I deeded it to Crocker as I supposed to secure the creditors of the cement companies, I had pledged a portion of it to Jeter's Bank at Santa Cruz as security for the cement company's indebtedness to his bank.



Now the net result to-day of this transaction, engineered, conceived, and carried out by said McEnerney and Henshaw, is that Mr. Crocker has \$3,000,000 of the total \$5,000,000 capital of the Santa Cruz Cement Co., the debts of which have been paid from its earnings and the sale of my Redwood property, and this company is now and for some time past has been paying 5 per cent dividends on its capital stock, and in addition to this I am advised they recently declared a stock dividend of 13 per cent on their entire capital. This plant was conceived and built by me, and in addition to all this McEnerney made or permitted later adjustments of cement company's debts whereby a large amount of indebtedness was left to further embarrass me. This transaction had its inception November, 1908, nearly nine years ago, since which time I have made every effort to rehabilitate myself, going through enough to kill many a man, the loss of fortune, the death in March, 1914, of my precious wife, and since then undergoing serious operations in hospital. I have manfully struggled against all this, and did not realize until you told me the absolute lies that Judge Henshaw told you about me, and the perversion of the truth until it was as much a lie as what he told you without a shadow of truth in it. Realizing now for the first time the lengths to which they have been going to destroy me, I can quite understand why I have failed so many times of late in the efforts I have made.

Evidently with both McEnerney and Henshaw it's history repeating itself, where a man has robbed or wronged you his easiest justification is to quarrel with you.

As you know, I have been very loath to write the two letters I have to you, and in the event of their publication I beg the public to not condemn me for same, but to read what I have suffered and gone through, losing all that makes life worth living.

Mr. Crocker has to-day my fortune, the result of thirty-odd years of most strenuous endeavor in California, and I have nothing further to say on this phase of the matter, but I hereby charge Garret W. McEnerney and F. W. Henshaw with having deliberately and intentionally betrayed me to the end I lost my entire fortune, and Mr. Crocker is to-day in possession of it without the loss of one dollar.

I have flattered myself always that I was loyal and generous to my friends, and I think this can be justified, and in showing the wrongs these two ingrates and pirates have done me, I beg the generous public to agree with me that I have abundant justification in tearing the mask from them, until the public will see and know them in their true characters.

This letter to be fully understood I feel should be read in connection with the two previously mentioned letters.

With constant thoughts of affection and gratitude to you, my dear friend, I am,  
Sincerely,

W. J. DINGEE.

SAN FRANCISCO, *September 17, 1917.*

MY DEAR FRIEND MR. BLANK: Answering your inquiry as to my being offered the United States Senatorship, will say: Prior to the convention that nominated Gillett, my office was at southwest corner of Post and Franklin, and Mayor Schmitz's office was opposite on northwest corner. Mr. F. W. Herrin came to me, explaining there was some misunderstanding between him and Schmitz; that Schmitz controlled the delegates to the convention from San Francisco. I was then, and since, Schmitz's friend. We had several talks over the San Francisco delegation to the end Mr. Herrin also had one or more interviews, after one of which Mr. Herrin came to my office direct from his interview with Schmitz, and told me Schmitz had exacted, in consideration of his giving the vote of San Francisco delegates to Gillett, that he, Schmitz, be given the naming of the United States Senator to succeed Perkins in fall of 1908, and that Schmitz told him I was the one he wanted.

Mr. Herrin told me that he told Schmitz this was agreeable to him, and Mr. Herrin then told me he came direct from Schmitz to give me personally his assurance, leaving in my mind no doubt of Mr. Herrin's ability then to have the legislature so act.

Schmitz had never in remotest way prior to this mentioned it to me, and the first intimation I had of it was at the above-mentioned call by Mr. Herrin. Immediately after Mr. Herrin left my office, I went across the street to Mayor Schmitz's office, telling him what Mr. Herrin had told me, and asked him what it meant, when the mayor informed me that the agreement had been entered into between Herrin and himself that I should be the next United States Senator; that he had not told me before as he wished it to be his surprise to me, and it is needless to add I assured Schmitz I felt it a most unusual and unselfish compliment.

Schmitz, I later understood, made good in having the San Francisco delegates vote for nomination of Gillett, and that later Gillett was nominated and elected governor.



Mr. Herrin's promise to me so stood until November, 1908, when, after my misfortunes and losses at that time, I voluntarily went to him and released him from his promise to me, telling him I then had all the troubles I could stand under.

When the Santa Cruz Cement Co. was formed by me, I arranged a contract for oil with Matson Oil Co. for 60,000 barrels per month for 10 years at 60 cents per barrel, delivered at works at Santa Cruz. This contract was later assumed by the Associated Oil Co., and in fall of 1908 it had about 8 years to run, and then the increased price of oil made this contract worth for the 8 years it had to run fully \$2,000,000, and at this time the cement company was pressed for money, and as a means for relief I sought Mr. Herrin to intercede with the oil company to purchase about \$1,000,000 of the unsold cement bonds. These negotiations progressed to my sending Mr. Porter, the then manager of the oil company, a statement of the cement company with the understanding and agreement on my part that if the oil company purchased or caused to be purchased the cement company bonds the cement company would materially modify the contract price of oil, so long as the cement company would not pay a price for oil higher than the lowest price any other California cement company paid. After taking it up with Mr. Porter, I do not recall ever discussing it again with Mr. Herrin. A short time after this I was taken ill, confined to my bed at Fairmont Hotel, where Mr. Frank J. Woodward, my friend of long standing, came to the hotel and told me he had been credibly informed that a few evenings before Mr. George Cameron, at the University Club, in presence of several people, held up the cement company statement I had given Mr. Porter, saying, "Dingee is on his back sick; we have him where we want him, and he will soon be eliminated from the cement company." I asked Mr. Woodward to call on Mr. McEnerney and tell him what he had heard. I don't recall what Mr. Woodward reported McEnerney said, for Mr. Cameron's statement proved only too true. At this time Mr. Cameron was connected with the oil company.

Sincerely, yours,

W. J. DINGEE.

SAN FRANCISCO, *September 17, 1917.*

MY DEAR FRIEND MR. BLANK: Re your inquiry where the \$10,000 first paid when the rehearing in Fair case in Supreme Court was granted, will say George Knight gave it to me, telling me at the time that Joe Harney, the sporting man, put it up, and this same \$10,000 I gave to Judge Henshaw.

Sincerely, yours,

W. J. DINGEE.

SAN FRANCISCO, *September 19, 1917.*

MY DEAR MR. BLANK: There is one other transaction in which I alone participated wholly for the benefit of another, with absolutely no profit or benefit to myself, that may some time be criticized.

Some years ago, after Mrs. Hayward went east with her daughter, Mrs. Rafter, the former took exceptions to something Mrs. Rose did and left Mr. and Mrs. Rose's home, at 22 East Fifty-seventh Street, New York, that Mrs. Hayward had given Mrs. Rose through influence of Mrs. Dingee and me, going to live with Mrs. Henry, her niece, in Newark, N. J. Mrs. Henry's influence was entirely selfish and antagonistic to Mrs. Rose.

The split between Mrs. Hayward and Mrs. Rose got very acute, when at the earnest request of Mr. and Mrs. Rose, my wife and I went to New York, got Mrs. Hayward to come over and stop with us at Waldorf Astoria Hotel, and doing our utmost to patch up Mrs. Hayward's injured feelings. Mrs. Hayward's education was very limited, a radical spiritualist, and on account of her advanced age was, I saw, liable to be influenced to do something against Mrs. Rose's interest. By scaring her with Mr. Hayward's creditors, I got her finally where I convinced her that her only safety from said creditors was to deed all her property in San Mateo and San Francisco Counties to Mrs. Rose, and she finally did this by deed I prepared. This deed I had her give Mrs. Rose, when the latter sent it to me. McEnerney or no one had anything save myself in inducing Mrs. Hayward to make this deed. I held the deed here for some months, when Mrs. Hayward again got under the influence of Mrs. Henry, wrote to me to return the deed to her. This I ignored, when finally she employed William Nelson Cromwell, a very prominent attorney in New York to force the return of this deed, also to have returned a will I had Mrs. Hayward make in favor of Mrs. Rose the first time I introduced them to McEnerney. Mr. McEnerney had the will photographed, sending the original as demanded to Mr. Cromwell. At this same time I recorded the deed in both San Mateo and San Francisco Counties, where the properties were situated. This put the full record title in Mrs. Rose, and just before the suit



which was being prepared to force reconveyance of the lands to Mrs. Hayward, she died at home of Mrs. Henry. This saved these properties to Mrs. Rose, when later I sold for Mrs. Rose these same properties for over \$1,000,000. If Cromwell ever knew the arguments I used to get Mrs. Hayward to sign this deed in first place, he surely would think me a fool or worse. Anyway, Mrs. Hayward's death saved the lands to Mrs. Rose, and me a scandal that would have been unpleasant.

This transaction and my part in it was entirely to benefit Mrs. Rose and her husband, who was my dear wife's brother, and as it was rightfully Mrs. Rose's at Mrs. Hayward's death, and as I did not think, surrounded as she was by those selfishly trying to influence her against Mrs. Rose, that I was doing wrong to anyone by any arguments possible to get her to sign this deed, and had it not been for my efforts in this matter later developments showed clearly Mrs. Hayward would not have given the properties to Mrs. Rose, and if she finally got them it would have been at the end of a long and costly lawsuit. This is a sample of the service I rendered Mrs. Rose during the five years I had her matters in charge, and my darling wife and I always thought had she been not advised by those planning my destruction I would have my fortune to-day.

I will at any time welcome any honest criticism of any of my actions in the Hayward-Rose matters, giving me an opportunity to explain every act of mine in connection therewith.

After November, 1908, Mrs. Rose told members of my precious wife's family many things I feel confident could only have been prompted by McEnerney's influence, and by now she can't but feel and know she was deceived, and wronged me. Smarting under such unjust accusations, I wrote a report of what Mr. Hayward told me relative to Mrs. Rose's birth. This Mr. Hayward told me in presence of Mr. Land and Gen. Eagan; that this time Mr. Hayward was terribly angry with both Mrs. Hayward and Mrs. Rose, incapable of doing justice to either, and it has been and always will be a sad regret to me that I so lost my temper as to repeat it or put it in writing, for in my just thoughts and knowledge of Mr. Hayward's condition, I do not believe the matter referred to was the truth.

You have told me Judge Henshaw stated to you Mr. Young told him McEnerney has this written report of mine, and that he, Young, would give it to you, for what purpose I can't imagine, as it could serve no other purpose than to revive the painful regret of my act and bring renewed pain to Mrs. Rose, and this through the voluntary act of McEnerney, her trusted adviser, through his agent, Young.

I trust Mr. and Mrs. Rose will live long enough to realize the terrible injustice they have done me, through the advice of one who, I think, history has fully demonstrated was determined to destroy me, and I firmly believe and predict if ever the time arrives when McEnerney's selfish interests are best served by betraying Mr. and Mrs. Rose, he would do so, and in justification of this expressed opinion I can offer no more proof than the history of his deliberate and premeditated betrayal of me.

Very sincerely,

W. J. DINGEE.

SAN FRANCISCO, *September 22, 1917.*

MY DEAR MR. BLANK: In discussing Henshaw with F. A. Lash this morning, who was my bookkeeper at the time, he tells me that at time he opened the J. Brown account on my books I told him it was Judge Henshaw; also that I gave him at times checks of S. G. Murphy in \$50,000 denominations to credit of that account; that Alaska Packers' stock was bought in that name through J. Barth & Co.; that Judge Henshaw personally discussed with Lash the Alaska Packers' stock purchased in J. Brown account; and that Henshaw told Lash he did not want Fortman, president of Packers, to know he was buying these stocks.

In the summer of 1908 Cameron and Gregg were in Europe, as was also Porter, manager then of oil company.

Porter, on his return, told me while in Europe Cameron and Gregg discussed the desirability of their getting cement companies from me. At this time Cameron was connected with oil company.

In reorganization of cement company, Cameron was made president of cement companies.

With me and others Gregg has always been very insulting as to my management of cement company.

My suspicions are that both Cameron and Gregg profited largely by my downfall; I feel it was their conception, but without the strength of Mr. Crocker they were powerless to carry it out. Hence in order to enhance their chances they prejudiced Mr. Crocker all possible against me, widening the breach all possible.



Just after I conveyed to Mr. Crocker the Redwood property, Umbesen for a syndicate offered \$400,000 cash for it. Mr. Crocker was then either in New York or Europe. I had McEnerney see Mr. Gregg and urge their accepting it, as that then would substantially have repaid the Crocker Bank the cement companies' debts. But Mr. Gregg absolutely refused to accept it.

These suspicions leave little doubt in my mind that Mr. Crocker has been poisoned, possibly unconsciously, by those close to him in whom he trusted, like Gregg and Cameron. Hence I fear on approaching him he will shy away from discussing the subject even, unless you can get his ear long enough to let him get some of your viewpoint. I can not feel Mr. Crocker with his great wealth wants to harm me now. Surely he and his wife are doing charitable acts all the time; such people surely could not wish to see me done to death if they knew all the angles of this transaction. I have surely never said or acted ungentlemanly of or to Mr. Crocker, and I trust it will be conceded that the success I made in real estate and in the great water contest in Alameda County and conceiving and building the cement mills I must have some brains and should be a useful citizen to California.

SAN FRANCISCO, *September 25, 1917.*

MY DEAR MR. BLANK: Regarding Frank J. Moffitt and the last week he lived, will say in the years preceding he had by degrees acquired a power over me that he relentlessly used to his own profit. And in the last week he lived I am sure he fully realized the wrong he had done me, for he daily sent for me to forgive him, which, under the circumstances, I promptly daily did.

Father McNally, whom I well knew for years in Oakland, was in attendance, and he freely discussed Mr. Moffitt, and in answer to my inquiry why he, as his priest, did not ease his mind so he could die in peace, said, "Mr. Moffitt has been a very bad man. I am watching him and when I have him prepared I will give him forgiveness," or to this effect. Shortly after Mr. Moffitt died. McEnerney attended the funeral with me, going to the cemetery in same carriage. Standing at his grave McEnerney leaned over and whispered to me, "This is the luckiest day of your life." I quite understood, as would all who had been familiar with Mr. Moffitt's connection with me, as was McEnerney.

Sincerely,

W. J. DINGEE.

SAN FRANCISCO, *September 25, 1917.*

MY DEAR MR. BLANK: Re your inquiry when I was appointed administrator of Mr. Hayward's estate, I found in looking over the assets a note of Judge W. W. Morrow, I think it was \$9,000. I consulted McEnerney, the attorney I employed, as to the wisdom of my giving this note to Judge Morrow. He agreed with me that it would be a most wise thing to do, but feared the judge would consider such a proposition an insult. I later took the note to the judge, telling him I was Mr. Hayward's administrator, that in the assets I found his note, and feeling sure Mr. Hayward, had he lived, would not ask its payment, therefore I would be pleased if he would accept it, and at same time laid it down on his table, when he took it, putting it in his pocket.

On my return to McEnerney, he was very hilarious in his expressions of approval of what I had done.

Sincerely,

W. J. DINGEE.

SAN FRANCISCO, *September 27, 1917.*

MY DEAR MR. BLANK: I inclose herewith the celebrated Heney \$30,000 receipt, to the end that no injury shall ever be done Mr. Heney account having signed it. Mr. Heney never received \$1 of this money, but on the contrary it was wholly an accommodation to Judge Henshaw in order the Contra Costa Water Co. would have voucher for this amount which was paid by me to Judge Henshaw, and this was by no means all the money he received from the water company.

My recollection is Mr. Heney was in Arizona and signed it there at the request of Judge Henshaw; as to this latter detail he can doubtless state more positively, and what explanation Judge Henshaw gave for asking this favor of him.

Judge Henshaw may claim (and I will not here enter into that phase of it) that it was for services rendered the water company.

Sincerely, yours,

W. J. DINGEE.



SAN FRANCISCO, *September 27, 1917.*

MY DEAR MR. BLANK: Re the Heney \$30,000 receipt sent you to-day, I think it proper to say it was not the subject of criticism till the time of graft prosecution, when McEnerney, at that time my attorney, came to me in great alarm, telling me there was such a charge on Contra Costa Water Co. books and feared there was no voucher. I told him I was sure there was a voucher for every charge on water company books, and to ease his mind I had the receipt sent to me and have since kept it. I told McEnerney at the time Heney never got the money. At this time the grand jury was quite active. When McEnerney told me it was the likes of me that caused him such night sweats that he had to change three and four times every night his night dress. But considering later his deliberate and brutal betrayal of me, caused me to think he was not possessed of such loyalty to clients, and that possibly the Heney receipt recalled to his mind memories that were the real cause of his night sweats.

I kept this receipt to protect Henshaw, for if it was publicly exploited it would have involved telling that Judge Henshaw was the real beneficiary.

Had Judge Henshaw not in 1908 joined McEnerney in his traitorous acts toward me, and ever since in his attempt to justify his treachery of me, he has, in every way possible blackened my name. Only for this I would still protect him, even to the extent of assuming all odium myself, as I did for years in such transactions.

Judge Henshaw well knows he has sacrificed every right to any consideration from me, and knowing as he does my positive knowledge of his dishonesty, I can quite understand his friends saying his safety lies in his blackening my reputation till my word will not count, as against the denial of a supreme court judge, but his friends can't be well informed or they would not so express themselves.

I have lived in California for 40 years. While I have done things I regret still I am willing they should all be bared to the public. Will Judge Henshaw say the same, for I am quite willing to be judged with him as to our relative honesty, morality, and sobriety.

Sincerely, yours,

W. J. DINGEE.

SAN FRANCISCO, *October 2, 1917.*

MY DEAR MR. BLANK: Answering your inquiry as to where the meetings I had with Judge Henshaw took place, relative to the Fair decision, first permit me to say the day that the first supreme court decision, concurred in by Judge Henshaw, whereby the will was sustained, was published in the paper, that same day Frank J. Moffitt brought to my office in Mills Building George Knight, telling Knight I was the one, if any one, could influence Henshaw. Knight was terribly disheartened, saying at that time they had put up to Billy Hamilton for dining and wining Henshaw, and they thought they had Henshaw's vote. I recall Moffitt's laughing over Knight thinking such methods would win Henshaw.

Either this same day or the next Henshaw came to my office in Mills Building, where we first discussed the matter, and I can recall only two of the many conferences we had after this relative to the Fair decision that took place other than at my office, and one of these exceptions was at a cottage he and his first wife occupied at Ben Lomond, where, at his invitation, I went one Sunday and spent the day between trains there with him, and the other occasion, when I called on him at the home of Mrs. Walker here in San Francisco, where I found Henshaw ill in bed. I went there to see him at the earnest command of George Knight, to ascertain if the court would grant the rehearing, and at this meeting in Mrs. Walker's house Henshaw assured me the rehearing would be granted. With these two exceptions, every one of the many conferences I had with him relative to his changing his vote in Fair will case occurred at my office in Mills Building, and where he came voluntarily, and his presence there, as my clerks could testify, was almost a daily occurrence.

After assuring him of the money he would get, there never was any hesitation on his part to hold back manifested; what troubled him the most and gave him apparently the only concern was what the public would think and say, and it was this phase that we discussed the most.

Sincerely, yours,

W. J. DINGEE.



## EXHIBIT D.

## AFFIDAVIT OF F. A. LOSH, BOOKKEEPER FOR DINGEE.

I, Frank A. Losh, hereby certify as follows:

That at all times during the period from November, 1890, to February, 1907, I was in the employ of William J. Dingee; that during a portion of that time, particularly during the year 1901, I was employed as bookkeeper and cashier, and during said year 1901 had full and absolute charge of his books of account and of all moneys coming into his possession.

That about May 1, 1901, he directed me to open an account on his books in the name of J. Brown, telling me at the time that the account was in reality the account of Judge Fred W. Henshaw, but that he did not want it to appear so on his books. I have returned to Mr. Dingee his books (ledger and cashbook) in use during 1901, and by referring to these books this account will be found set forth in full. The two \$50,000 credits to this account, totaling \$100,000, were from two checks of \$50,000 each, signed by S. C. Murphy on the First National Bank of San Francisco in favor of Wm. J. Dingee, and in addition to these two checks of \$50,000 each I distinctly recall there were several other checks for like amounts received signed by S. G. Murphy, how many I can not say, other than that I know there were more than the two credited to the account of J. Brown, which was in reality the account of F. W. Henshaw. I never was advised what final disposition was made of the moneys coming from the other Murphy checks other than the two credited to the J. Brown account.

As can be ascertained by an examination of the J. Brown account, the credits consisted of the \$100,000 from the Murphy checks and certain dividends collected from stocks purchased, and all debits were either to J. Barth & Co. in payment of stocks purchased for this account or payments to Judge F. W. Henshaw direct or for his account, but all for his sole benefit. Judge Henshaw discussed with me the value of the Alaska Packers stock, one of the stocks purchased for this account, saying at same time he did not want his friend, Henry Fortman, who was then president of the company, to know that he was purchasing the stock.

During all this period Judge Henshaw was almost a daily visitor, sometimes twice a day, to Mr. Dingee's office, and was most demonstrative in his apparent friendship for Mr. Dingee.

That through said William J. Dingee said Henshaw acquired without any monetary consideration whatever 5,000 shares of the present Standard Portland Cement Corporation stock. He also gave to said Henshaw without any monetary consideration whatever 2,000 shares of the stock of the Santa Cruz Portland Cement Co.

That I have seen various letters from Mrs. Emma Rose to said Dingee, couched in most affectionate terms, expressing her gratitude for all Mr. Dingee was doing for her and saying only for Mr. Dingee she would have received practically nothing from the Hayward estate, and for him in all matters to act as if it was his own, and Mr. Dingee had the fullest and broadest power of attorney from Mrs. Rose.

That from my personal knowledge of the complicated condition of the estate of Mr. Hayward when Mr. Dingee was appointed administrator at the request of Mrs. Hayward and Mrs. Rose, it was so involved the general opinion was it would not pay its debts, and had it not been for the masterly and prompt way Mr. Dingee sold the real estate there would have been little or nothing left, whereas by Mr. Dingee's five years' services interests representing large values were left to Mrs. Rose.

In addition to my other duties for a portion of the time I kept the accounts of the Hayward estates; so what I here state relative to the Hayward matters is of my own knowledge.

FRANK A. LOSH.

Subscribed and sworn to before me this 30th day of November, 1917.

[SEAL.]

SID. J. PALMER,

*Notary Public in and for the City and County of San Francisco, State of California.*



## EXHIBIT E.

## PHOTOGRAPHS OF THE "J. BROWN" ACCOUNT IN DINGEE'S LEDGER.

*J. Brown.*

| 1901     |                                                                   | 1901       |                                                |            |
|----------|-------------------------------------------------------------------|------------|------------------------------------------------|------------|
| Apr. 30. | Paid J. Barth (59).....                                           | 23,777.60  | May 1. Coin (60).....                          | 50,000.00  |
| May 1.   | Paid J. Barth (61).....                                           | 5,000.00   | 21. Alaska Packers dividend (66).              | 60.00      |
|          | 2. Paid J. Barth (61).....                                        | 9,250.00   | June 1. Coin (70).....                         | 50,000.00  |
|          | 2. Cash (61).....                                                 | 20,000.00  | 15. Alaska Packers dividend (76).              | 75.00      |
|          | 17. Check F. W. Henshaw (67)...                                   | 75.00      | 5. Barth, J. (J. 158).....                     | 15.00      |
|          | 7. One-fourth of 87½ per cent interest in Cement Co. (J. 655).... | 2,375.00   | 15. C. C. Water Co. dividend No. 190 (88)..... | 84.00      |
| June 1.  | Check J. Barth (71).....                                          | 2,688.95   |                                                |            |
|          | 4. Revenue on stock transferred (71) .....                        | 4.00       |                                                |            |
|          | 11. Check F. W. Henshaw (75)...                                   | 1,000.00   |                                                |            |
|          | 11. 5,000 shares Seward Mining Co. (75).....                      | 1,500.00   |                                                |            |
|          | 29. Check F. W. Henshaw (81)...                                   | 75.00      |                                                |            |
| July 10. | Check (87).....                                                   | 5,000.00   |                                                |            |
|          | 10. Balance.....                                                  | 29,488.45  |                                                |            |
|          |                                                                   | 100,234.00 | Back to page 658.....                          | 100,234.00 |

*J. Brown.*

|       |     |                                  |          |       |                                      |             |
|-------|-----|----------------------------------|----------|-------|--------------------------------------|-------------|
| 1901  |     |                                  | 1901     |       |                                      |             |
| July  | 15. | Check to F. W. H. (89).....      | \$84.00  | July  | 10. Balance from page 736.....       | \$29,488.45 |
| Aug.  | 23. | Check to F. W. H. (101).....     | 84.00    | Aug.  | 19. C. C. W. Co. div. No. 191 (J167) | 84.00       |
| Sept. | 13. | Check to self (107).....         | 5,000.00 | Sept. | 16. C. C. W. Co. div. No. 192 (J169) | 84.00       |
|       | 23. | Check to F. W. H. (109).....     | 84.00    | Oct.  | 16. C. C. W. Co. div. No. 193 (J171) | 84.00       |
| Oct.  | 15. | Check to F. W. H. (119).....     | 84.00    | Nov.  | 26. C. C. W. Co. div. No. 194 (J173) | 84.00       |
| Nov.  | 19. | Check to F. W. H. (127).....     | 84.00    | Dec.  | 24. C. C. W. Co. div. No. 195 (J174) | 84.00       |
| Dec.  | 5.  | Check to J. Barth (133).....     | 1,000.00 | 1902  |                                      |             |
| Dec.  | 18. | Check to F. W. H. (139).....     | 84.00    | Jan.  | 18. C. C. W. Co. div. No. 197 (J177) | 84.00       |
|       | 31. | Check to F. W. H. (141).....     | 1,500.00 | Feb.  | 19. C. C. W. Co. div. No. 197 (J179) | 84.00       |
| 1902  |     |                                  |          | Mar.  | 31. C. C. W. Co. div. No. 198 (J183) | 84.00       |
| Jan.  | 16. | Check to F. W. H. (147).....     | 84.00    |       |                                      |             |
| Feb.  | 7.  | Cement Co. (J178).....           | 3,115.71 |       |                                      |             |
|       | 15. | Check, F. W. Henshaw (159)...    | 584.00   |       |                                      |             |
|       | 21. | Check, F. W. Henshaw (161)...    | 2,500.00 |       |                                      |             |
|       | 26. | Downey Harvev Oil Co. (J179)     | 1,000.00 |       |                                      |             |
|       | 24. | Check, F. W. Henshaw (161)...    | 5,000.00 |       |                                      |             |
| Mar.  | 3.  | North Buena Vista taxes (165).   | 8.47     |       |                                      |             |
|       | 14. | Henshaw, F. W. (169).....        | 84.00    |       |                                      |             |
|       | 14. | Henshaw, F. W. (169).....        | 250.00   |       |                                      |             |
|       | 20. | Henshaw, F. W. (171).....        | 2,500.00 |       |                                      |             |
|       | 20. | Barth, Jacob, interest (J181)... | 40.90    |       |                                      |             |
|       | 26. | Recording in Kern Co. (173)...   | 2.00     |       |                                      |             |

Forwarded to page 665.

Forwarded to page 665.

*J. Brown.*

| 1902     |                                                  | 1902      |                                       |
|----------|--------------------------------------------------|-----------|---------------------------------------|
| Apr. 5.  | North Buena Vista taxes (179).                   | \$4. 50   | Balance forwarded from page 658.....  |
|          | 11. Check to F. W. Henshaw (181).                | 500. 00   |                                       |
|          | 18. Check to F. W. Henshaw (183).                | 84. 00    | Apr. 23. Dividend No. 199 (J184)..... |
| May 27.  | Check to F. W. Henshaw (197).                    | 1,000. 00 |                                       |
| July 3.  | Check to F. W. Henshaw (213).                    | 3,000. 00 |                                       |
| Sept. 8. | Check to F. W. Henshaw (237).                    | 1,000. 00 |                                       |
| Nov. 13. | Com. to F. W. Henshaw (W. F. & Co. —) (263)..... | 1,000. 00 |                                       |
|          |                                                  |           | \$6,987.37                            |
|          |                                                  |           | 84.00                                 |

## EXHIBIT G.

## STATEMENT OF EDGAR T. GLEESON, OF THE SAN FRANCISCO "CALL," RELATIVE TO HIS INTERVIEW WITH MRS. VIRGINIA JUDD, OCTOBER 30, 1918.

I met Mrs. Virginia Judd in the garden of her home at 49 Park Hill Avenue with her husband, Norris Judd, of the Hicks-Judd Co., publishers, printers, bookbinders, etc., at 8.10 a. m., October 30.

I introduced myself and stated that I was desirous of learning the details of her visit to District Attorney Charles M. Fickert and what she had been asked to testify to in the Mooney case.

Mention of the incident caused her some confusion. She was inclined to refuse me an answer until her husband approached and asked the circumstances that had prompted



me to call. I said that we had been informed that Mrs. Judd and a Mrs. Barlow had been asked to act as witnesses in the Mooney case; that as it was the first time mention had been made of their names we wanted to find what it was they knew of the matter.

Mrs. Judd then said that she had been dragged out of the house to go down town when she knew absolutely nothing about the case. That it was an outrage, and that there was something more behind it than developed from a meeting with Fickert. She said that she meant, as a taxpayer, to see that the persons responsible were made to pay dearly for their action.

Judd sought to pacify her. He told me that he had been established in business here for a number of years; that he was not the one to seek the limelight; and that while he was annoyed at the time of the happening, he could understand how such things were brought about.

He said he had served on Federal and State juries. He took the question about Mrs. Judd's visit to Fickert up with the latter and seemingly was satisfied with Fickert's explanation that a mistake had been made.

When I made reference to Mrs. Barlow again Mrs. Judd said that Mrs. Barlow was her sister. There was ill feeling between them, Judd interrupted to say, and Mrs. Judd knew nothing about what Mrs. Barlow might say or do concerning the Mooney case.

Interruptions occurred from time to time in our conversation, but I am quoting here Mrs. Judd's statement of the whole affair. Naturally the thread of the story was severed at intervals as I put new questions.

"I was called up on the telephone," said Mrs. Judd, "one afternoon by a man, who said his name was Otts. [I am spelling it from her pronunciation.] He said I knew him, that I might not recall him from his name, but that we had met at his sister's. He said he was going to make some moving pictures in the park up here. [She was referring to Buena Vista Park, which is only half a block from the Judd home.] He wanted me to be there, as he desired to include my picture in the film. It seemed an unusual request. I told him I did not know him; that I didn't desire to have my picture taken. I asked him the reason. He said it was just that he was making some pictures there and because he knew we thought it would be nice if he could include me. I said no, I wouldn't do that. Neither my husband or I desired any such advertising. I couldn't make out why he should take my picture. I didn't agree, and eventually he hung up the telephone."

"Since then," Judd said, "we have thought over this. We don't understand the purpose the man had. It was certainly strange that he would want to take my wife's picture."

Mrs. Judd resumed by saying that she thought now it was a trick of some kind. She said some one must have wanted to take the picture for some motive, to use against her or something. She said she didn't know what to think, and she appeared frankly puzzled. "It will all come out some day," she said. "There was something more than the Mooney case behind it."

A couple of days after the picture conversation, as I interpreted Mrs. Judd's remarks, a man called to have her go down to Fickert's office.

Her statement on this was:

"I was asked to go down to Fickert's office. The man who called forced his way into the house and demanded that I go with him. He threatened me that he had the power to make me go, and when I wanted to call up my husband he insisted no, that I must go then."

I would say here that Judd said something about it being time for him to get down to his place of business. I wanted to cover as much detail as I could without arousing Mrs. Judd's enmity. I was afraid the conversation might be terminated by either of them, or by both, and so I asked why they had picked her as a witness.

"I don't know," she said. "I was brought into an office with five men. They all kept asking me questions."

"Were they about the preparedness parade?"

"They were all about that," she said.

"What do you know about the preparedness parade?" I asked.

"I don't know anything," she said. "I was at home all that day. We didn't go down town."

"I can verify that," said her husband. "I told Fickert that afterwards."

"What happened at Fickert's office?" I asked.

"Well, when I came in," said Mrs. Judd, "one of the men stepped forward. He said he was Otts. He said, 'Oh, Mrs. Judd, we were talking over the telephone about that picture the other day. I know Mrs. Judd.'"

"Who were some of the other men?"

"I don't know. I never saw any of them before."

"Was Mr. Cunha one of them?"



"I don't know him. I couldn't say whether he was there. This man, Mr. Otts, looked to be a Jew. He was a stranger."

"Was Fickert there?"

"No, he came in afterwards. Some of the men went out of the room. I guess they told him, because when he came in he said there was some mistake—that they must have the wrong lady."

"What did they ask you about the Mooney case, or the preparedness parade?"

"I don't know, I can't say—they asked me a lot of questions."

"But you told them you knew nothing about it?"

"Yes, I told them that at first. They kept asking me questions, but I couldn't answer any of them."

"She knows nothing about the case," said Judd. "How could she, we were home all day?"

"What did you think? Did they appear to be trying to make you testify to something that you didn't know?"

"It was all very peculiar. I think taxpayers should be spared from such things. I am going to have some people look into this. I have thought this matter of the moving picture thing over. It has some connection with the other. They must have been trying to use me in some way, to do something with me." This was Mrs. Judd's answer.

"I called up Mrs. Judd at noon," said Judd, "and when she didn't answer I became nervous. I thought there was something the matter. I came home and when I got here there was an automobile standing in front of the house. There was a man from Fickert's office with Mrs. Judd. She was very much annoyed; she was complaining about their treatment of her. That caused me to go down and see Fickert. He explained it all by saying there was a mistake; they had called the wrong lady."

I have set these things down here substantially as they occurred. I say substantially because, while this is the truth of this interview, the phrasing is my own, done purposely to avoid some of the awkwardness of the questions and answers.

EDGAR THOMAS GLEESON.

SAN FRANCISCO, CALIF., *October 31, 1918.*

#### EXHIBIT H.

##### STATEMENT OF FREMONT OLDER RELATIVE TO WILLIAM HOUGH.

The first information I received concerning who introduced F. C. Oxman in the Mooney case came from a detective named Patterson. Patterson had been employed by the chamber of commerce in the restaurant strike, and was working more or less under the direction of Frank C. Drew, attorney for the chamber of commerce. He got into trouble, was arrested and discharged from his employment. While he was at the county jail, he was brought to my office by a deputy sheriff and he told me his story.

Among other things, he said that the first he knew of Oxman was when he read his testimony in the Examiner.

"I was reading the story on a Castro Street car," he said. "Sitting next to me was a young man who was a confidential clerk in Drew's office. Of course, I knew him very well and asked him if he knew where they got Oxman from. The young man answered that he was brought to Hugh M. Webster, secretary of the law and order committee, and Frank Drew by some man connected with the Western Meat Co., whose name I don't remember."

Patterson also said that Drew's clerk told him that they passed Oxman on to Fickert and Cunha.

Since I came to the Call, George North, who holds a responsible position on the Call, told me that he had learned that the name of the man in the Western Meat Co. who discovered Oxman was William Hough.

FREMONT OLDER.





CONNECTION OF CERTAIN DEPARTMENT OF LABOR EMPLOYEES WITH THE CASE OF THOMAS J. MOONEY.

LETTER

FROM

THE SECRETARY OF LABOR,

TRANSMITTING

INFORMATION RELATIVE TO THE CONNECTION OF CERTAIN OF THE DEPARTMENT'S EMPLOYEES WITH THE CASE OF THOMAS J. MOONEY.

JULY 23, 1919.—Referred to the Committee on Labor and ordered to be printed.

EXHIBIT B.

MEETING OF THE GRAND JURY OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA.

TESTIMONY AND PROCEEDINGS BEFORE GRAND JURY IN THE MATTER OF F. C. OXMAN AND CHARLES M. FICKERT.

MONDAY, APRIL 30, 1917.

Mr. CLARKE. In this matter I demand the appointment of a stenographer to take the testimony and proceedings in shorthand and transcribe the same into typewritten longhand.

The FOREMAN. So ordered. I appoint Mr. Howard Vernon as stenographer to take the testimony and proceedings in shorthand and transcribe the same into typewritten longhand. Be sworn, Mr. Vernon.

(Howard Vernon was appointed and sworn as stenographer in the above entitled matter.)

Mr. FERRARI. At the conclusion of the day's hearing in the case of the People v. Oxman that I have been putting in Judge Brady stated that he would like a message conveyed to the grand jury asking them not to investigate the charge against Mr. Oxman. His reason for so doing, he stated, was that he had given nearly a week of his time to the hearing of that case and he did not think that it would be for the best interests of the city to have two investigating bodies taking up the same case at the same time. In answer to that suggestion I told him I would convey the message to this grand jury, but I told him that in so far as the time was concerned that I didn't think that made much difference, because at the beginning of the hearing I stood up in court and told him that the grand jury were going to hear this charge and all other charges, and therefore if he wasted any time he wasted it at his own suggestion, and I told him that I would convey the message, and I have done it just as it happened.

A GRAND JUROR. That he didn't want us to investigate the charge at all?

Mr. FERRARI. He didn't want you to investigate the charge at all. He took the position—he said that the grand jury had a lot of time to act, and they did not act, and that he is nearly through with the hearing of the charge. I think there will be probably one or two more hearings before Judge Brady, and he says that "Now that I am nearly through the grand jury is taking it up." That was the position he took, but it is a fact that upon my taking charge of the prosecution in the police court that I at first asked permission to put a proper complaint on file, the one on file being admittedly defective, and that was refused, and the next thing I suggested was that



the grand jury had undertaken to investigate this matter and that it had been the custom of police court procedure here, for a long time back, as I can remember, that whenever a grand jury sees fit to take up any felony matter—well, as soon as they have stated that they were going to take up a matter pending before a police court, that it has been the practice and the custom, and this is the only case I know of where that custom has been deviated from, for the police court to suspend and let the grand jury investigate. I called Judge Brady's attention to several other cases where at his suggestion they were taken up before the grand jury, and in every one of those cases—well, in one case the case had been heard for some 10 days down there, and he immediately suspended and let the grand jury investigate it, but notwithstanding that, he went ahead in this case. So I just wanted to state the circumstances to the jury and convey his message.

The FOREMAN. There is a question or two I would like to ask in that connection. I—

A GRAND JUROR (interrupting). Suppose we hear from Judge Clarke on that matter.

The FOREMAN. Very well.

Mr. CLARKE. My advice to the foreman and jury and assistant district attorney would be to advise Judge Brady that in due season the grand jury will communicate with him if they are so advised and so direct.

Mr. FERRARI. Very well.

Mr. CLARKE. Now, I assume, gentlemen, we are ready to proceed.

The FOREMAN. Yes.

Mr. CLARKE (to the secretary). You have noted in the minutes, Mr. Secretary—there are how many present?

The SECRETARY. Seventeen.

Mr. CLARKE. That appears in your minutes of the meeting?

The SECRETARY. Yes.

Mr. CLARKE. Now, the section of the code, Mr. Foreman, provides you shall make a statement to the jury as to what they are to proceed with. I have this in type-written form for you. You may read this to the grand jury.

The FOREMAN (to the jurors). Heretofore in the city and county of San Francisco, Thomas J. Mooney, in an action entitled "People of the State of California, plaintiff, v. Thomas J. Mooney, Criminal No. 2079," was placed on trial in department 11 of the superior court in said city and county, resulting on the 9th day of February, 1917, in a verdict of guilty.

During the course of said trial one F. C. Oxman appeared therein as a witness and gave testimony in behalf of the plaintiff and as against the defendant.

Charges have been made of the commission of a public offense by said F. C. Oxman growing out of the testimony given by him in said trial, and an attempt to procure false testimony from others in said case which matter involves one F. E. Rigall; and in connection therewith charges have been made involving the acts and conduct of District Attorney Fickert.

It is the purpose of this grand jury to consider such matters and to hear testimony in relation thereto and to take such action with respect to such charges and in connection therewith as the testimony produced before this grand jury bearing on the subject matter of the same shall warrant.

Any grand juror who has a state of mind in reference to the case or to either of the parties which will prevent him from acting impartially and without prejudice to the substantial rights of any of the parties, will retire from the grand jury room.

DUNCAN MATHESON sworn by the foreman.

Mr. CLARKE. Your name is Duncan Matheson, I believe?

A. Yes, sir.

Q. What position do you occupy in this city and county?—A. I am a police officer of the city and county of San Francisco.

Q. With what rank?—A. With the rank of captain.

Q. How long have you held such rank of captain?—A. I have been an acting captain for about four years and was appointed a regular captain the 1st of February this year, in charge of the detective bureau.

Q. What occurred of importance in this city on the 22d of last July, Captain, with reference to the peace and order of this city and county?—A. There was a patriotic parade held on that day, and during the parade there was a bomb explosion on Steuart Street near Market Street at 6 minutes past 2 in the afternoon.

Q. What connection, if any, did you have with reference to that affair?—A. I was acting captain of the harbor police district, and I was in charge of that portion of the city where the subdivisions of the parade were to form and fall in line along Market Street. I was within, I suppose, 125 or maybe 135 feet of the explosion at the time it occurred.



Q. Were you put in charge of the so-called bomb detail, or bomb bureau?—A. I was on the Monday following the explosion.

Q. At the direction of the chief of police of this city?—A. Yes, sir.

Q. You had occasion to investigate reports regarding the parties responsible for that offense?—A. I did.

Q. In the course of that investigation did you meet one F. C. Oxman?—A. I did; yes.

Q. When and where?—A. My best recollection is that I met him in the district attorney's office in this building and on this floor.

Q. What date, Captain?—A. I couldn't tell you the date.

Q. Was that after the trial of the case of the People *v.* Billings or prior to the trial of the case of the People *v.* Billings?—A. It was after the trial of Billings.

Q. And prior to the trial of the case of the People *v.* Mooney or during the trial of the case of the People *v.* Mooney?—A. It was prior to the trial of Mooney.

Q. Who presented or introduced you to him?—A. My best recollection is it was the district attorney, Mr. Fickert.

Q. Did you discuss with him at that time the fact he was a witness in the case of the People *v.* Mooney?—A. No; I did not.

Q. Did he ever discuss that with you?—A. Well, he talked with me that he was to be a witness in the case, but he never talked his testimony over with me.

Q. Was he actually a witness in the case, Captain?—A. He was.

Q. And testified before Judge Griffin in the superior court of this city and county?—A. He did.

Q. In the trial of a certain action entitled "The People *v.* Thomas Mooney, criminal No. 2079," were you present in court when he did so testify?—A. Yes, sir; I was.

Q. Did you ever meet a party by the name of F. E. Rigall?—A. I did.

Q. When did you first meet him?—A. My best recollection is it was about the latter part of 1916 or the early part of 1917. I wouldn't be sure of the date.

Q. How did you happen to meet him?—A. He was introduced to me in the harbor police station by Mr. Oxman.

Q. F. C. Oxman?—A. Yes, sir.

Q. The same gentleman you refer to as being a witness in the case of the People *v.* Mooney?—A. Yes, sir.

Q. Under what name was he introduced?—A. He was introduced to me under the name of Charles—Mr. Charles.

Q. Did you talk with him at that time?—A. No, I did not.

Q. Did you ask him whether he was to be a witness in the case, meaning the case of the People *v.* Mooney?—A. No, I did not.

Q. Did he tell you he was to be such a witness?—A. No, I can't remember he did. I wouldn't say, though, for sure he did not.

Q. What was said with reference to that matter by either Oxman or Rigall?—A. The matter was not discussed at all, and I instructed Mr. Rigall to report to the district attorney's office, because I had instructions from the district attorney if I saw him to have him report to him.

Q. Who gave you those instructions?—A. Mr. Fickert, himself.

Q. What were his instructions to you in reference to that?—A. Mr. Fickert said that he expected a man to come here who Mr. Oxman was supposed to have met on the day of the explosion at Steuart and Market Streets, and he said if he came to me or reported to me to have him report to him and I obeyed his instructions.

Q. When did you have this conversation with Mr. Fickert?—A. That was during the time that Mr. Oxman came here to the city.

Q. Had you met Mr. Oxman prior to this?—A. I had, yes.

Q. In the district attorney's office?—A. Yes, sir.

Q. I understand that Mr. Oxman brought Mr. Rigall here to your office in the Hall of Justice and introduced him to you under the name of Charles?—A. No, he brought him to the harbor police station. The harbor police station is at the corner of Drumm and Commercial Streets, near the Terminal Hotel, where they were stopping.

Q. What did he say with reference to him when he introduced him to you?—A. He just introduced him to me as Mr. Charles. There was nothing in the way of an explanation with the introduction.

Q. You have since seen Mr. Rigall. He is the same man that was introduced to you under the name of Charles?—A. Yes, sir.

Mr. CLARKE (to the jurors). Any questions of this witness, gentlemen?

The FOREMAN. Any further questions, gentlemen?

A GRAND JUROR. Gentlemen, I would like to ask this question before Capt. Matheson goes. Is there anything in connection with this case that you know of—that you have knowledge of—that you have not already stated?



A. In this testimony here?

Q. In regard to these perjury cases.—A. Well, there were some things happened afterwards, why, that I have not told of here, in connection with the case as far as Rigall is concerned.

Q. Would you mind stating what those things were?—A. The second day after Mr. Rigall came here I came up here to Mr. Fickert's office. I said to Mr. Fickert—I said, "I don't like the looks of that man." I said, "I think he is either a bunco man or a gambler, and," I said, "I am not impressed with him at all"; and Mr. Fickert didn't say anything to that, but it subsequently developed that Mr. Rigall had changed his registration at the hotel from Mr. Charles to Mr. Rigall, and when I learned that, why, I became doubly suspicious, and I went to Mr. Fickert again about it, and I told him—I said, "This man doesn't look good to me." I said, "I would advise you not to have anything to do with him in any way, shape, or form," and I spoke to him again on another occasion about Mr. Rigall. I also spoke to the chief of police about Mr. Rigall and my suspicions concerning him—what I thought of the man, and Mr. Fickert said to me one day. He said, "Rigall doesn't like you." I said, "There is nothing lost as far as I am personally concerned," and that was all the conversation I had with him.

Mr. CLARKE. The reason I have not developed this, of course, is this question as to what Capt. Matheson said to Mr. Fickert or Mr. Rigall said to Capt. Matheson, or the conclusions of Capt. Matheson, are purely his conclusions and hearsay, and under the law you are required to take the best evidence. Of course, I interpose no objection, but I am glad to have him tell the story, but as far as the evidence is concerned you understand it is not legal evidence. I am glad to have it go in, but that is the reason I did not develop it.

A GRAND JUROR. When you stated you had your suspicions as to Rigall—stated you had suspicions regarding him, what reply did the district attorney make?

A. Well, after Mr. Oxman testified in the case I asked the district attorney if he was going to put Rigall on as a witness. He said no, and he said that Mr. Oxman said that he was a crook, and he said himself that he thought Rigall was out for the coin, because he stated to him that he thought the State of California was rich.

Mr. CLARK. After Rigall had left the city and county of San Francisco did you have a talk with District Attorney Fickert in the presence of Lieut. Bunner in reference to watching the trains or putting on a detail to watch the trains with reference to Rigall?

A. I did; yes.

Q. State to the jury what that was?—A. After the trial was over—why—I don't know whether Mr. Fickert sent for me, but anyhow Lieut. Bunner and I went up to his office, and Mr. Fickert stated there that he expected Rigall to come back to the city and he wanted Lieut. Bunner to be detailed to meet him either on the Oakland side or San Francisco side.

Q. Why did he want him to meet him?—A. He said that there were some papers that he had that he wanted to get. I told Lieut. Bunner that I would not detail him for that purpose. Lieut. Bunner did not want to do that kind of work.

A GRAND JUROR. Did anyone tell you what these papers were?

A. No; I had no idea what the papers were. No idea in the world.

Mr. CLARKE. Did you at any time give any money to the witness Rigall for the State or for the district attorney's office?

A. Never at any time. I never spoke with Rigall except on two occasions, once when I was introduced to him and once at the close of the trial, and that was just merely a passing conversation; it didn't last half a minute.

A GRAND JUROR. Was Rigall registered under the name of Charles at the Terminal Hotel at one time and then later reregistered under the name of Rigall?

A. Yes, sir; the testimony disclosed that.

Q. He registered under two different names?—A. Yes, sir; he so testified in the police court.

A GRAND JUROR. You have been told by the district attorney that he did not intend to use Rigall as a witness?

A. He told me he was not going to call him as a witness at all.

Mr. CLARKE. That was after Oxman had testified.

A. Yes, sir.

Mr. CLARKE. That is all.

F. E. RIGALL sworn by the foreman.

The FOREMAN (to Mr. Rigall). This is section 1324 of the Penal Code. I will read it to you.

(Section read to witness.)

Do you wish to ask him if he understands that, Judge Clarke?

Mr. CLARKE (to Mr. Rigall). You understand that section of the code?



A. Yes, sir. Gentlemen, I am only here to tell the truth—what I know, and that is all.

Q. You desire to give your testimony, as I understand it.—A. I desire to tell what I know about this coming out here to San Francisco in answer to letters I received and what was said to me while I was out here, as near as I can remember it. I am not going to confine myself to dates, because this happened between January 6 and January 26, and my mind is not indelible. I can't remember the dates exactly. I will endeavor to give it to you as near as I possibly can.

Q. I understand, Mr. Rigall, and the jury understands, you claim no exemption by reason of that section?—A. No.

Q. What is your name?—A. F. E. Rigall.

Q. Where do you live?—A. Grayville, Ill.

Q. How long have you lived there?—A. Thirty-seven years.

Q. What is your age?—A. Thirty-seven years.

Q. I assume you were born there?—A. Yes, sir.

Q. What is your occupation?—A. I run the Manhattan Pool and Billiard Parlor, in Grayville, Ill.

Q. Locate Grayville with reference to the State of Illinois.—A. The southeast part.

Q. Near the Indiana line?—A. Yes, sir; on the Wabash River.

Q. You have spent all your life in the town of Grayville?—A. Yes, sir.

Q. A small town there?—A. About 2,000.

Q. Do you know one F. C. Oxman?—A. Yes, sir.

Q. When did you first know him?—A. Well, the F. C. Oxman I first knew was Cliff Oxman's son, and I never knew Cliff Oxman by the name of F. C. Oxman until I got to San Francisco.

Q. Well, now, may I understand—did Mr. Oxman, the F. C. Oxman, raise his family at or near Grayville, Ill?—A. Yes, sir; he was born in the country close to Grayville, I understand.

Q. And he raised his family there?—A. Yes, sir.

Q. That is the same F. C. Oxman you met in San Francisco at a later date?—A. Yes, sir.

Q. And did you know his son or family there?—A. I knew them all; yes.

Q. Did you go to school with any of them?—A. His son is younger than I am. I suppose I went to school the same time.

Q. What year did F. C. Oxman—now I refer to the older Oxman. What year, do you know, did he leave Grayville?—A. As near as I can find out, about 17 or 18 years ago.

Q. Where did he go?—A. He was supposed to have went to Oregon, I think. He first moved to Chicago, I believe. I wouldn't be sure as to that.

Q. Coming back to the little town of Grayville, Mr. Rigall—and that is the correct pronunciation of your name "Rigall?"—A. Yes, sir.

Q. I believe you say you conduct there the Manhattan Pool and Billiard Hall?—A. Yes, sir.

Q. How long have you been engaged in that business?—A. About four or five years.

Q. Where is your place located there?—A. On the corner of North and Maine Streets.

Q. You live there also in the town?—A. No; I live a block north of there.

Q. You are married?—A. Yes, sir.

Q. Your family consists of what?—A. My wife and the dog.

Q. No children?—A. No children; no, sir.

Q. I believe your mother is still alive?—A. Yes. She is in San Francisco.

Q. Does she live with you there?—A. She runs the hotel.

Q. The Grayville Hotel?—A. One of the Grayville hotels; yes.

Q. Were you in San Francisco on the 22d day of July, 1916?—A. No, sir; I was not.

Q. I refer to the date of the preparedness parade in San Francisco and a certain bomb explosion here.—A. I was not here.

Q. Where were you on that date?—A. I would not be sure whether I was in Niagara Falls or Cleveland, Ohio, or Grayville, because my wife was on a visit to Cleveland, and I left Grayville for Cleveland I think about the 10th day of July, but I stayed a couple of days in Chicago. When I got to Cleveland I don't know how long I stayed there, but my wife and I and her brother and her sister went to Niagara Falls. We left on a Saturday and came back Monday morning. We stayed over Sunday at Niagara Falls. We were on the boat both nights. Then I don't know how long I stayed in Cleveland after getting back before I came back to Grayville. So I am not sure as to that.

Q. Were you ever in California prior to January, 1917?—A. No, sir; never was.



Q. How far West have you been?—A. I think Joplin, Mo.

Q. Now, you arrived here on January 6, 1917?—A. Yes, sir.

Q. In response to a request from one F. C. Oxman you came, is that correct?—A. Yes, sir.

Q. You will have to be recalled, Mr. Rigall, to identify the letters. We have not got the clerk of the court here to-night. So your examination will not be completed; but we can go as far as possible. How did you come West?—A. I came to Chicago over the Illinois Central. I came over the Burlington, I think it was, to Denver, Denver and Rio Grande to Salt Lake City, the Western Pacific into Frisco.

Q. By the way, who, if anyone, furnished you the transportation or funds to make the trip?—A. I received a telegram from Mr. Oxman, saying, "We are sending you transportation and expenses to San Francisco and return." I don't know who he had reference to. It was "we." He afterwards told me in San Francisco that Mr. Fickert was with him. I don't know.

Q. When you first arrived in San Francisco what did you do?—A. I went to the terminal Hotel.

Q. And registered there?—A. Yes, sir.

Q. Under what name?—A. L. O. Charles.

Q. What was the occasion of that, Mr. Rigall?—A. On the way out I got looking through those letters and studying about it. I thought maybe it might be Mr. Oxman, and I knew if it was Mr. Oxman it was something crooked. So to protect myself, I thought, "I will use my friend's name, Charles, and register as L. O. Charles," which I did.

Q. Who was your friend L. O. Charles?—A. He is a friend of mine back at Grayville.

Q. What is his business?—A. He is a cook. His brother is a State Central Committee man. He comes of an awful good family. There is nothing wrong about the boy.

Q. He is a cook in one of the hotels there?—A. No; he cooks for the Walsh Construction Co. The last place he cooked at was Cairo, Ill.

Q. A friend or schoolmate of yours?—A. Yes, sir.

Q. After registering as L. O. Charles, what did you do in San Francisco?—A. I walked through there; I said, "Hello, Mr. Oxman." He looked around and he said, "I don't believe I know you. You have got the best of me." I said, "I know you all right." I said, "I am hungry. I have been riding all day. I will step out and get a bite to eat." I stepped into the restaurant next door to the Terminal Hotel. I thought it was funny he did not recognize me, because I did him immediately. I thought, "Well, I will go on upstairs and go to bed and later it will come to him that he knows me if he doesn't know me now." Well, I went upstairs and went to bed. Afterwards somebody knocked on my door and then I got up and let him in. Well, he came in and told me he figured out who I was. By looking on the register he had figured out who I was, because he told me in one of the letters to register from Evansville, Ind., a little more mileage. So when he said that I took the name "L. O. Charles." I didn't know what he wanted or anything about it. I thought I would protect myself as far as I could that way. That was my idea in using Charles's name.

Q. He came to your door, Mr. Rigall?—A. Yes, sir. He came to my door.

Q. Go ahead—right ahead from there.—A. He told me he figured out who I was, and he proceeded to tell me about this bomb explosion, which I had never heard of before in my life. I don't remember ever reading of it. It is a small town down there, and lots of times I don't look at a paper for four or five days. We get the daily papers, of course, both Chicago and St. Louis and Evansville, but I had never heard of this case before. So he told me all about this case, and I told him that I was tired and that I would see him in the morning. So in the morning I met him and we went out to breakfast, and he took me over to Steuart and Market, and he first took me on the opposite side of the street where I was supposed to have met him, don't you see, and he said, "Now, along about here is where you are supposed to meet me; I stepped over here and bought some fruit from this fruit stand, then we get across the street and while standing over on this corner an automobile drives up with five people in it and in the front seat on the right-hand side is a man sitting holding a suitcase on the outside on the running board, and that was Mr. Mooney"; but he at first told me I didn't have to identify anybody, only just say I met him there. Later he wanted me to identify all of them. I told him I could not do that. I wasn't here, I was in Niagara Falls—I thought I was in Niagara Falls. So finally—

Q. (Interrupting). What did he say when you told him you couldn't do that?—A. Right at that time? I don't remember. I know what you are referring to, I think, but I am not quite up to that yet.



Q. Yes.—A. But later—it was—he said I wouldn't have to identify anybody but Mooney—Tom Mooney. You have reference to when he told me he wasn't in San Francisco? Is that what you mean?

Q. No. When you told him you were not here at all, you were in Niagara Falls, what did he say with reference to that statement?—A. Right at that time I don't remember what he said.

Q. What did he say about it at any time?—A. Later, coming across the street—we were coming down from town, I don't know just where we had been, but I said, I will tell you about the words I said, as near as I can remember. I said, "Now, hell, Mr. Oxman, you can get on this witness stand and tell your story all right." I said, "I can't, because I was not here." He said, "Hell, you were here as much as I was." But he was a little bit—about 4 or 5 feet ahead of me crossing the street from Market over to the Terminal Hotel, and—well, so he let on ahead into the hotel, and I don't remember what was said after that in the hotel. He very often talked to me of the case.

Q. I took you off your story. Get back to your situation at Market and Steuart Streets when he told you you should identify certain people in an automobile, and proceed from there. I suppose you would rather tell it in your own way. A. I want to tell it as near as I can the way I remember it.

Q. Go ahead.—A. I wouldn't be sure whether it was that day or the next day that he took me up to Steuart and Mission Streets and showed me where this automobile had drove up Steuart Street and turned into Mission Street and drove up that way, and then we walked around the—up Mission Street and came across then to Market Street and went up to 721 Market Street. He stood me across the street. He said, "There is where they were on top of the building and there is where the Smith woman seen Billings and all of them. I don't remember all that was said. He went ahead and told me all that he could about the case. So later he said, "After it was all settled what I was to testify" and so forth, he said, "Now, if we just had somebody to get into this automobile at Mission and Steuart—Steuart and Mission—and ride up to 721 with that bitch of a woman," meaning Mrs. Mooney. I said, "Well, what is the matter with Charles?" "Well," he said, "will he do it?" I said, "Sure." Later I said, "Now, Charles wouldn't do that for, because Graysville is too small a town. Everybody knows he has never been in San Francisco. In fact, he has never been away any place." He said, "Oh, well, he won't do." I said, "I have got a friend of mine named Jones in Chicago. What about him?" He said, "Will he do it?" I said, "I guess so. I don't know him very well, but I think he will." I said, "He is a decorator and paperhanger." I said, "He is a strong union man." He said, "Hell, he won't do." He said, "I have got a woman on my ranch who is just the one for it." He said, "She is a dandy." Then he went ahead and told me about a case this woman was in. I don't remember what he did say. He told me what she had sworn, and so forth, and one day we were up at the district attorney's office—

Q. (Interrupting.) When did he first take you to the district attorney's office? You arrived here on the 6th.—A. I don't know. I am not clear about that. I couldn't tell you to save my life.

Q. On the first occasion he took you to the district attorney's office what occurred?—A. I don't remember that. I can't. I have never been able to figure out when I first met the district attorney—whether it was down at the Terminal Hotel or at the district attorney's office.

Q. Did you meet him at both places?—A. Yes, sir. He drove down to the Terminal Hotel once or twice, I think, in his car—the district attorney did.

Q. Well, were you duly introduced by Mr. Oxman?—A. I was first introduced as Rigall and later—as Charles, and later was changed to Rigall. Mr. Oxman explained to the district attorney that my father had been married once or twice or three times and there was two sets of children.

Q. Was that correct?—A. No; it was not, and Mr. Oxman knew it was not. He has known my family all his life.

Q. What did he say about your coming out, to the district attorney, in your presence?—A. He said, "This is the man that seen me that I met on Steuart and Market Streets, on July 22." He said, "This is the boy." Let's see. He said, "This is the man." Then, later, after the name had been changed from Charles to Rigall, the district attorney said, "Is this that boy you were telling us about, Oxman?" Oxman explained to me that he told him, in talking the case over with him, he had met a boy from a town he used to live in on that day, July 22. So they wanted to issue a subpoena for me. He said, "No; never mind. I will write to him. I will attend to him." That is, when I got the first letter. That is the way Oxman explained it to me.

Q. When you were presented to the district attorney did you tell the district attorney you were not here on the 22d of July?—A. No, sir; I did not.



Q. What did you say?—A. I don't remember saying anything. I let Mr. Oxman do most of the talking.

Q. What did he say in your presence and in the presence of District Attorney Fickert?—A. I don't remember what he did say.

Q. What did District Attorney Fickert say with reference to your becoming a witness or the fact you were here?—A. You mean the first time I met him?

Q. Yes.—A. I don't remember what was said the first time.

Q. Or at any other time?—A. At one time in the district attorney's office—

Q. (Interrupting.) You mean in this building, the Hall of Justice?—A. Yes, sir. We were going over the case up there. Mr. Oxman was telling about stepping over to this fruit stand and—I don't know. I said something about it, that I didn't remember about fruit, or something like that. He said, "Oh, leave out that fruit business. Never mind going into details."

Q. Who said that?—A. Mr. Fickert. He said, "Rigall will make a better witness than you will." Saying that to Mr. Oxman.

Q. Did you at any time tell the district attorney you were not here on the 22d of July?—A. I never did tell Mr. Fickert; no.

Q. Who did you tell?—A. I told Mr. Cunha the night before they were going to put me on the witness stand.

Q. Told Mr. Cunha?—A. Yes, sir.

Q. State the conversation.—A. Well, Mr. Cunha took me into one of the little private rooms up here and he said, "Now, Ed, I want to go through this case with you."

Q. Did he call you "Ed."?—A. Yes. He said, "I am going to put you on to-morrow. I want to go over the case with you." He said, "I always like for a witness to feel perfectly at home when he is on the witness stand." He said, "I am just a plain common fellow the same as anybody else." He said, "I want you to feel perfectly at home." He said, "I want you to tell me your story." I proceeded to tell him my story. I told him that I was here on July 22, and I met Mr. F. C. Oxman on Steuart and Market Streets, and while standing there an automobile drove up and I seen five people—and so on and so forth, as I have testified, and he said, "Well, when did you get into San Francisco?" I said, "Seven o'clock, July 22, in the morning." He said, "When did you leave?" I said, "The next night at 7 o'clock." "Where did you come from?" "Salt Lake City." "Where did you go?" "Back to Salt Lake City." "Where did you stay all night?" I said I dropped into the Black Cat Cafe and there I met a young lady; she had a room over at the Seattle Hotel. I went over there and stayed all night with her. "Well," he said, "that shows you too much of a rounder." "Now," he said, "Ed., I want you to come clean with me." I said, "All right, Mr. Cunha, you have been clean with me; I will come clean with you. I want to tell you I was never in San Francisco before in my life, nor don't know a damn thing about the case." He said, "Well, if that is the case, we can't use you." I said, "All right." I said, "I want you to understand now that I am a poor man. I have been out some little money of my own on this trip, and I have got to have it back." He said, "How much have you been out?" I said, "I don't know. I would have to count up in my pocket what I have before I could tell you." He said, "Will \$150 put you in the clear?" I said, "Yes." He said, "You come up to-morrow at noon and I will get you your \$150." The next day at noon I came up and hung around about two hours. Nobody said anything to me. I got tired and went back to the Sutter Hotel. About 7 o'clock the phone rang and Mr. Fickert asked me if I had been to dinner. I told him no. He said, "Wait there and we will be down for you." So they drove down in the automobile, Mr. Fickert and Mr. Oxman and Mr. Cunha, and some other gentleman I don't know, and then and there Mr. Cunha says, "Now, I will tell you why you didn't get that \$150." He said, "Mr. Oxman is going on the stand to-morrow and we wanted you to wait until he went on the stand, because we were afraid if you left he might get cold feet and not go on the stand." I said, "I will wait." We drove over to John Tait's and had dinner. But while talking to Mr. Cunha, he said, "Now, Rigall, do you think Oxman is on the square with this? Do you think he is a good, honest man?" I said, "Absolutely. The man is supposed to be worth a million dollars. I think he is on the square."

Q. Did you tell Mr. Cunha you thought he was on the square after you knew what he had tried to get you to do?—A. Yes.

Q. And did you then think Oxman was on the square about his story?—A. No; I knew he was not.

Q. How did you happen to tell Mr. Cunha that?—A. I was wanting to get away from San Francisco and I wanted to get my expense money back.

Q. Did Mr. Oxman ever say to you that he was not here on the 22d day of July, 1916?—A. In crossing the street he told me—he said, "Hell, you were here as much as I was."



Q. Well, after this interview with Mr. Cunha and Mr. Fickert and Mr. Oxman, did you get your expense money and leave the—when did you next see them?—A. I next saw them after Mr. Oxman got through testifying, and he came to the district attorney's office, and they were all congratulating him on his splendid evidence. Mr. Fickert took me into one of the private rooms and he gave me two \$50 bills and then came back into the office and started to write me his check, and Mr. Cunha stepped up and stopped him, and he then turned around and borrowed \$50 from some fellow standing there, but I don't know who it was. After I got through I took Mr. Cunha to one side and I said, "Now, listen, Mr. Cunha." I said, "Oxman promised me \$250, if I would go through with it." I said, "He has not given it to me." "Well," he said, "now, there is no danger of you fellows having a falling out and spilling all this?" I said, "No, let it go." I left the district attorney's office and went to Grayville.

Q. Now, on your way to Grayville did you have occasion to communicate with Mr. Cunha by telegram, or otherwise, with reference to this case of the People v. Mooney?—A. No. After I got home I did. I wrote him a letter. In our talk Mr. Cunha asked me how Oxman came to send for me. I told him I received a letter. He asked me if I had that letter, and I said I didn't know, that I left it at home on the library table, if my wife didn't clean the house and burn it up it was still there.

Q. Was that the fact?—A. No. I had them in my pocket.

Q. You carried the letters about here with you?—A. Yes, sir.

Q. After you got back to Grayville you communicated with Mr. Cunha. What did he say?—A. He told me to send the letters to him. I told him that on my arrival I found that Mr. Oxman had written my mother a letter. I wrote him, "Shall I send it to you or Mr. Fickert?" I received no reply. After I read in the paper of Mooney's conviction and sentenced to be hung I wired him, "Congratulations on your convictions. Think my evidence will get party new trial."

Q. Was that on your own initiative or had you consulted with Mr. Ellis?—A. I talked with Mr. Ellis before I sent the telegram. When I wrote him the letter I hadn't talked to anyone. I want you to understand, gentlemen, I am not accusing anybody in this transaction of anything wrong except Mr. Oxman. I am accusing him of attempting to bribe me to give false testimony. As far as the district attorney's office is concerned, I don't know—I don't know whether they know anything about it or not. I don't know that. I know that I told Mr. Cunha that I was not here. Whether he told Mr. Fickert, I don't know. I told him not to.

Q. Did you ever tell Mr. Fickert you were not here?—A. Never did; no, sir.

Q. Well, after you sent this telegram to Mr. Cunha did you hear from him?—A. Yes, sir.

Q. In what way?—A. I got a telegraphic letter.

Q. Is it on file with the —A. (interrupting). Yes.

Q. With Judge Brady's clerk?—A. Yes, sir.

Q. You can identify that, of course?—A. Yes, sir.

Q. By the way, I think that is a copy from the office back there, isn't it? It is not the original?—A. It is the original here.

Q. The original sent from here?—A. Yes, sir. They have all the originals.

Q. Well, after the receipt of that telegraphic letter from Mr. Cunha, what did you do?—A. I showed it to Mr. Ellis. He said, "Don't answer it." So I didn't answer it.

Q. Did you turn the letters over to Mr. Ellis?—A. No, I kept the letters, but I let him read them.

Q. Then what happened?—A. Well, Mr. Ellis asked me—he first said—he said, "That evidence ought to get that fellow a new trial." I said, "I think so too." He said, "It looks like a shame for a man to hang when he is innocent." He said, "I don't think Cliff Oxman was ever there." I said, "I don't either." Mr. Ellis was well acquainted with Mr. Oxman. He said, "Will you go to San Francisco and swear to what you have told me?" I said, "I certainly will." So a short time after that there was two gentlemen dropped into Grayville, and they stopped at my mother's hotel. One of them was from Harrisburg, Ill. I think the other one was from Benton, Ill. They commenced asking the porter about Mr. Oxman. The porter came up town and he told me there were two men down there asking about Mr. Oxman. I had him describe them to me. After a bit the two fellows dropped into the billiard hall. I was standing there. They got to talking to me and asked me if I knew Mr. F. C. Oxman. When they asked about Mr. Oxman I supposed they were detectives from San Francisco. I said, "I guess I know what you fellows are here for." I said, "I just left San Francisco a short time ago." They said, "What were you doing out there?" I said, "I ain't going to—I don't know you fellows. I ain't going to say nothing to you." I said, "You can go across the street and talk to Mr. Ellis. Perhaps you can learn something that will do you some good." They went across there and Mr. Ellis asked them what authority they had, or something. I don't know just what he did say. Anyhow, Mr. Mulholland came to Grayville.



Q. Where does he live?—A. Toledo, Ohio. He was an attorney that was out here on the case. He represented Mr. Nolan, I think. He came down there and went in to see Mr. Ellis, and Mr. Ellis proceeded to tell him what I had told him. Then they sent for me. I came up and brought the letters. Mr. Mulholland read the letters, and they questioned me quite a good deal, and I told him what I am now telling you gentlemen. He said, "I never expected to find anything like this in Grayville." He said, "I expected to come down here and find out something about Oxman's character."

Q. Then what happened?—A. So the next time I met Mr. Mulholland in Chicago with Mr. Ellis and Mr. McKenzie—

Q. (Interrupting). From this city?—A. Yes, sir, and they asked me if I would come out here. I told them I would if they would pay my expenses and show me as good a time as the district attorney's office showed me when I was here before, and if they wanted my mother she would come along also for her expenses. She has never been in California. So it was agreed I was to have my expenses and she was to have hers.

Q. Did you get them?—A. I have not got them all, no.

Q. How much were you given by Mr. McKenzie to come out here?—A. I was not given anything by Mr. McKenzie. Mr. McKenzie wired Mr. Ellis \$500 in Chicago. Mr. Ellis turned me over \$250 of it and kept \$250 of it, and that didn't any more than pay our railroad fare.

Q. Where are you stopping now?—A. The Continental Hotel.

Q. Yourself and wife and your mother?—A. Yes, sir. I don't know whether there has been any arrangements made about the settlement of the board bill or anything down there, or the room. There has not been anything said, but I am going to find out about that pretty soon.

Q. You are getting three square meals a day, I take it, Mr. Rigall?—A. I am getting them out in town; I am not boarding there. I know I have been out quite a little money of my own, so far, that I have not got back.

Q. Now, you desire the jury to understand you were never in California prior to the 5th day of January, 1917?—A. Never was; no, sir.

Q. And that you were not in California on the 22d day of July, 1916?—A. No, sir; I was not.

Q. Did you have occasion while you were here to meet Capt. Duncan Matheson, of the police department?—A. I think I was introduced to him, that is all.

Q. Under what name?—A. Mr. Charles.

Q. Did you have occasion to meet Lieut. Bunner?—A. Yes, sir.

Q. And you were introduced to him under—A. (interrupting). First as Charles, later as Rigall.

Q. Was there any explanation made?—A. It seems to me that Mr. Fickert and Mr. Bunner were together when this explanation was made, but I would not be positive about that. It seems to me it was made in front of the Terminal Hotel, but I am not sure about that. Perhaps they could tell more about it than I could.

Q. Prior to the time of leaving Grayville, Ill.—that is, Mr. Oxman leaving Grayville, Ill., some 17 years ago—had he returned to Grayville?—A. Once.

Q. What occasion was that?—A. When he buried his daughter. She went to Oregon to visit him. She was on a pony, and the pony threw her and killed her.

Q. You saw him on that occasion?—A. Yes, sir.

Q. That was the only time you had seen him after his moving away from Grayville, and then you met him here?—A. Yes, sir.

Q. Now, is there anything else? Of course, you understand you will have to be recalled. Is there anything else you want to say to the grand jury which you have not said in reference to the matter?—A. No; I don't know there is anything else I care to say. I would be glad to answer any questions any of you wish to ask.

A GRAND JUROR. I think you stated that anything that came from Mr. Oxman you thought would be crooked, in your testimony?

A. Yes, sir; I know it was, if it was from Cliff Oxman.

Q. Why, if you knew that, did you come to California?—A. I didn't know for sure it was Cliff. I thought it was his son. I even thought it after I got to Salt Lake City, because I sent him a telegram. The reason I sent the telegram the way I did was because I had got part of it from his son when he was out to Grayville on a visit. He always used the expression "let her buck." So I had a couple or three drinks in Salt Lake City and I wired "Got left. Cockeyed. Let her buck." Now, I knew if it was Frank he would know what I meant.

Q. You were actually detained in Salt Lake by reason of hoboing there?—A. I detained myself. There was no time I was out of the way or out of my head any. I met a friend I saw out to Grayville on a visit, a ticket agent for the Western Pacific. He and I had some few beers. Mr. Oxman had wired me this case would come up January 3 or 4—I think it was. I felt a little suspicious. I thought I would get in



maybe after the case was over. I delayed myself with the intention of maybe the case would be over when I got here. When I got here the case had not started. They were just getting a jury. The more I heard about it the more interesting it got to me. Mr. Oxman led me to believe all the time the thing was an absolute frame-up. He was always saying to me, "If old Jim was here. Best framer in the country." That was my father. They used to be good friends. They were in real estate deals together. One in particular that was a little bit shady.

Q. What did he say about old Jim?—A. He said, "If old Jim was here. Best framer in the country." He talked to me a number of times about that. When I showed a little weakness he would say, "Oh, hell, you are not like your dad, Jim."

Q. Is your father alive?—A. No, dead.

A GRAND JUROR. I think you remarked a short time ago that you knew if it were F. C. Oxman who communicated with you, that he was crooked?

A. I thought he was. I didn't know. I thought he was. He never did me anything.

Q. Didn't you make that statement, without qualification, that you believed if it were F. C. Oxman—A. (Interrupting). If it was Cliff Oxman I believed it was crooked; yes.

Q. Can you tell us what knowledge you had of him prior to that time that would justify the belief that you had that he was crooked?—A. Yes. He was in a crooked land deal.

Q. When?—A. I don't remember what year it was, but it is a matter of record.

Q. Was it in Grayville?—A. No; it was in Gibson County.

Q. Illinois?—A. Indiana. The case was venued to Evansville, Ind.

Q. How did you come to have knowledge of that particular case?—A. My father was mixed up in the same deal.

Q. Was that the only time that Mr. Oxman returned to the State from Oregon? You say you only saw him once and that was when he returned—A. (Interrupting.) That was when he brought his daughter home. This land deal was before he left Grayville.

Q. How did you obtain knowledge of that particular case if you had not seen him at that time?—A. This case happened before he left Grayville. The land deal you have reference to?

Q. Yes.—A. It happened before he left Grayville. That is, while he was living in Grayville.

Q. Then it was more than eight years ago?—A. About 17 or 18 years ago. He has been away from there 17 or 18 years. I don't know just how long. He has only been back there to my knowledge once since then. That was when he brought his daughter over to bury her.

Q. That is 18 years ago. What is your present age?—A. Thirty-seven years. I don't know just how long it has been since he brought his daughter back. It has been several years.

A GRAND JUROR. When he told you it was a frame-up, if old Jim was alive—who did he lead you to believe was in on this frame-up?

A. I don't know. I don't like to say.

Q. You say you don't know. You don't like to say?—A. I don't know who he meant.

Q. Who was he talking about? Who was going to put the money up? Where were you going to get your end of it?—A. I was supposed to get two or three thousand dollars reward money.

Q. Did he tell you there was anyone else in on the deal?—A. He told me there was \$17,000 to be divided among the witnesses, and the main witnesses would be Estelle Smith, himself, me, and a Honolulu man. I didn't know who he had reference to—the Honolulu man.

A GRAND JUROR. Was that a crooked transaction?

A GRAND JUROR. It is this transaction.

A GRAND JUROR. When you got a letter from Mr. Oxman, after not having seen him for seven or eight years, or whatever it was, asking you to come to California, did you pack right up and come out here? What did you do? What was your opinion?

A. I thought it was his son. I thought perhaps he had got into some kind of a little scrape out here and maybe I could do him some good, which I had done a couple of times before, and I had never been to California and I seen a chance for my expenses and a nice trip. I thought I would come out and if I could do him any good, all right; if I couldn't, all right.

A GRAND JUROR. You stated that Mr. Oxman wired you that he would send transportation and expenses?—A. Yes, sir.



Q. Did he do that?—A. Yes, sir.

Q. How much did he send?—A. I had \$27 and some odd cents above a round-trip ticket to San Francisco and return by the southern route.

Q. How much did he send you?—A. \$27 and something.

Q. He sent you the ticket and \$27?—A. Yes, sir.

Q. A round-trip ticket?—A. The ticket, I think, was \$110.

Q. You bought your own ticket?—A. They wired so much money to the Illinois Central ticket agent, and he told me that the ticket was so much and there would be so much left. There was \$27 and something. I don't know just what was the odd change.

A GRAND JUROR. You have a very good memory as to what took place—the conversation between you and Mr. Oxman, but do you—how do you explain that you have no memory of what took place between you and others connected with the case? Have you been advised not to give certain testimony?

A. No, sir.

Q. By no one?—A. No, sir.

Q. How do you account for not remembering any of the conversations that passed between you and the district attorney—the members of the district attorney's office?—

A. I just related the conversation that took place between Mr. Cunha and I.

Q. I mean in—you don't seem to remember even the occasion of this visit in the district attorney's office the first time or the second time.—A. I visited the district attorney's office a good many times. Mr. Oxman used to say—about noon he would say, "We will walk up about the Hall of Justice about the time they adjourn and some of the fellows will take us to a good dinner. It won't cost us anything." We would come up here and generally we were taken out to dinner by some member of the district attorney's office.

Q. Did anyone advise you at all upon what lines to give testimony?—A. No, sir; there is nobody. Only told me just to tell the truth. That is all I came out here for.

Mr. CLARKE. I thought maybe you referred to when you first got here. When you first got here did anybody—

A GRAND JUROR (interrupting). Or at any time during the—since you were asked to come to California has anybody asked you to tell anything but the truth in this matter?

A. No, sir; there has been nobody. They told me just to tell it as I told it to them. There was never—I am trying to do that the best I can.

Mr. CLARKE. The only time you went over your testimony that you were supposed to give before the jury trying Mooney was the time you talked with Mr. Cunha?

A. No, sir.

Q. Who else did you go over it with?—A. Steve Bunner.

Q. Did you tell him that you were here on the 22d day of—A. (interrupting.) He took me out into the Hall of Justice here—one evening I think it was—and he said, "Now, tell me again, Ed, what you know about this case." I related about the same to him as I did to Mr. Cunha.

Q. Did he take your statement in writing?—A. No, sir; not that I know of.

Q. Did you ever make any statement in writing or an affidavit for anybody?—A. No. Oh, yes, I made an affidavit for Mr. Ellis.

Q. I mean at the time you were here first?—A. No. I used to sit in my room and write down what I was supposed to swear to. I would take it into Mr. Oxman's room and he would say, "Fine, fine. All right."

Q. Did District Attorney Fickert at any time go over your testimony with you?—A. Yes, sir; I think he did.

Q. On what occasion?—A. I can't remember the date, but it was up in the district attorney's office.

Q. What did he say?—A. They were showing me the pictures there—the photographs of the parade.

Q. Now, just a minute. This was Charles M. Fickert, the district attorney of this county, that was doing this?—A. Yes, sir; Charlie, as Mr. Oxman called him.

Q. Yes. All right.—A. And one day we were going over the case and something was said about stepping over to get the fruit. He said, "Oh, let the fruit out." He said, "Don't go into details."

Q. Who said that?—A. Mr. Fickert. He said, "It seems to me as though the time was changed one day up there in the office from 10 minutes to 2 to 20 minutes to 2."

Q. That is, as to your testimony?—A. Yes, sir; as to the time I met Mr. Oxman, you see. It was—first I was to say it was 10 minutes to 2. The next time it was a little later.

Q. Who communicated that to you, it was a little later?—A. I would not be sure whether it was Mr. Oxman or Mr. Fickert.



Q. That is pretty important for this jury now.—A. I can't say. I wouldn't be sure. I don't want to say it was him when I don't know. I wouldn't want to do that, because I am not sure as to that; but I was in the district attorney's office a number of times. In fact, he showed me the exhibits they had in there, you know, the box with some batteries in. They always told me those people were absolutely guilty. No question about that. I left here with that impression. I told Mr. Ellis when I got home that those fellows were guilty; no question about it. I had only heard it that one way. I was always advised not to talk to anybody about it—not to talk to anybody in San Francisco.

Q. By whom?—A. Bunner, Fickert, and Oxman.

Q. Mr. Fickert advised you not to talk to anybody in San Francisco about it?—A. Yes, sir.

Q. When did he give you that advice and where?—A. In the district attorney's office. He said, "You can't tell who you are talking to." Mr. Bunner told me to be careful about what I said in front of anybody. Mr. Fickert said, one day—we had some kind of a little argument up in the office. I don't remember just how it came up. I know I said, "Now, here," I said, "by God, Oxman wants me to remember more than I can." Mr. Fickert says, "Well, hell, you ought to remember the automobile." I said, "I do remember lots of automobiles." I said, "A Ford is a Ford." So I turned and walked to the window and was looking out when he and Mr. Oxman talked, and after leaving there and going to the Terminal Hotel is when Mr. Oxman says, "If you go through with this thing I will give you my check for \$250." I don't think I made him any answer. But one day I said to him—I said, "What are you trying to do; get me into the penitentiary?" "Hell, no," he said, "this is different from being on the side of the defense." He said, "You are on the side of the prosecution." He said, "The State will take care of their own witnesses." He said, "The whole State of California is back of you." He said, "These people are guilty. There is no question about their guilt." So it was rehearsed with me like that for 20 days or 18 days.

A GRAND JUROR. Who was present at the time in the district attorney's office when you said—when they asked you to change the time from 10 minutes to 2 to 20 minutes to 2, or vice versa?

A. I don't think there was anyone there but Mr. Oxman and Mr. Fickert.

Q. Why did they ask you to change that time?—A. I don't know why they did.

Q. You just said a minute ago that the district attorney knew nothing about any crooked part of it at all with Mr. Oxman. You were not a bit suspicious when they talked about a change of the time?—A. Mr. Oxman led me to believe this was a frame up. I can't tell you what my thoughts were.

Q. You clearly stated that you knew the district attorney knew nothing about it. A minute ago you said he asked you to change the time.—A. I don't know whether he asked me to do it or Mr. Oxman.

Q. Mr. Fickert was there?—A. Yes, sir. I don't remember whether it was Mr. Oxman or Mr. Fickert. Mr. Oxman did most of the talking to me all the time.

The FOREMAN (to Judge Clarke). Please develop who Attorney Ellis is; what interest he has in this case?

Mr. CLARKE. You referred to Mr. Ellis, an attorney, of Grayville, Ill.?

A. Yes, sir.

Q. Mr. Ellis has been practicing attorney there for a great many years?—A. Ever since I knew him.

Q. An old-timer there?—A. Yes, sir.

Q. He is out here with you?—A. Yes, sir.

Q. And he took part of the money you were to come out here on? There was \$250 for Ellis and \$250 for you?—A. Yes, sir.

Q. And you have repeatedly advised and talked with Mr. Ellis concerning your story here or concerning your testimony?—A. Yes, sir.

Q. And have also repeatedly talked and conferred with other gentlemen in San Francisco regarding your testimony?—A. Well, Mr. McNutt more than anyone else.

Q. With Mr. McNutt—Maxwell McNutt?—A. Yes, sir.

Q. And with Mr. McKenzie?—A. Very little with Mr. McKenzie.

Q. And with Mr. Thomas O'Connor?—A. Very little with Mr. O'Connor.

Q. And with anyone else?—A. Well, I have talked to Mr. Lawlor about some things. I don't just remember what was said.

Q. Now, Mr. Rigall, I understand from you that it was Mr. Ellis that took these letters and took your statement and communicated with a man by the name of Mulholland?—A. Yes, sir.

Q. Whom you understand was an attorney for the defendant, Nolan?—A. Yes, sir.

Q. Arriving out of the bombs—this bomb explosion?—A. Yes, sir.

Q. You met Mr. Mulholland in Mr. Ellis's office?—A. Yes, sir.



Q. Do you know whether Mr. Ellis is attorney for any of the parties interested?—  
A. He told me he had been employed in the case.

Q. By whom?—A. I don't think he told me who.

Q. Has he ever told you by whom he was employed?—A. I think he told me Mr. Mulholland.

Q. Mr. Mulholland employed him?—A. Yes, sir.

Q. Did he tell you how he had come in touch with Mr. Mulholland?—A. Through these gentlemen from Harrisburg and Benton.

Q. These so-called detectives you referred to?—A. I afterwards learned they were not detectives; they were representatives of the Federation of Labor.

Q. Who were they?—A. Representatives of the Federation of Labor.

Q. Is Mr. Ellis attorney for the Federation of Labor or any of its allied interests?—  
A. Not that I know of.

Q. You understand that Mr. Mulholland is?—A. Yes, sir.

Q. You came out on the train with Mr. Ellis?—A. Yes, sir.

Q. Did you talk with him frequently about this matter and what would occur when you arrived in San Francisco and what you would be asked to do or say?—A. Oh, yes. In fact, I was a little bit scared to come.

Q. Why?—A. Oh, I didn't know what might happen. I didn't know what might happen to me.

Q. Nothing has occurred here that would make you scared since you have been here?—A. Yes, sir.

Q. What is that? What was that?—A. That little rough and tumble fight down in the court room. It didn't look very good to me.

Q. Did you take part in it?—A. I got up on the judge's bench to keep from getting hit.

Q. Is there anything about Mr. Ellis you think we should know?—A. No; nothing that I know of.

A GRAND JUROR. You mentioned that you spoke to Mr. Bunner—you told the same thing to Mr. Bunner what you said to Mr. Cunha?

A. Yes, sir; I told him the same thing.

Q. How long before you spoke to Mr. Cunha was it you spoke to Mr. Bunner, when you told him the same thing?—A. Oh, I don't know; perhaps a day or two.

Q. You told it to Mr. Cunha first?—A. No; I told it to Mr. Bunner first, because I was to go on the witness stand the next day before the night I talked to Mr. Cunha. They first were going to put me on after Mr. Oxman and finally I told them I would rather go on the stand first as the defense would not cross-question me because I would refuse to identify and they would not cross-question me so close.

Mr. CLARKE. Up to that time the only person you had been willing to identify was Mr. Oxman?

A. Yes, sir; that is all.

Q. Were you at that time ready to go on the stand to so identify him?—A. No, sir; at no time did I ever intend to go on the witness stand and swear to him. I thought that if they insisted on putting me on the stand and asking me where I was at that time I was going to say at Niagara Falls as far as I could remember. That was in my mind.

A GRAND JUROR. When you first arrived in San Francisco, who was the first man you saw?

A. The first man I saw?

Q. That you spoke to?—A. Mr. Oxman.

Q. Where?—A. The Terminal Hotel.

Q. When did you meet Capt. Matheson?—A. I don't know. I am not sure.

Q. Was it a day or a week or a month?—A. It was in the next two or three days, I would say.

Q. Where?—A. At his office.

Q. Where is that?—A. I think it is here in this building.

Q. In this building?—A. Yes, sir.

Q. Who was with you?—A. Mr. Oxman and I, I think, were alone.

Q. You think?—A. Yes, sir.

Q. What did Capt. Matheson say to you?—A. He said he was glad to meet me, or something like that. It was acknowledging an introduction—that is all.

Q. Had you met him often?—A. That is the first time I had ever met him. I don't remember ever meeting him after that.

Q. You never saw him after that?—A. No.

Q. When you first arrived in San Francisco, what time of the day was it?—A. About 7 in the evening.

Q. You had been up all that day? Had you been drinking any on the train?—  
A. What?



Q. Had you been drinking any on the train?—A. Not that day; no.

Q. At any time?—A. Yes; I drank some coming out of Chicago.

Q. Were you intoxicated while you were in San Francisco at any time?—A. I don't know what you mean by intoxicated.

A GRAND JUROR. Drunk.

A GRAND JUROR. You don't understand the question.

A GRAND JUROR. Why or how did Mr. Oxman figure you out as "Charley" when he met you in the hotel?—

The FOREMAN. I don't think the witness answered the previous question.

A GRAND JUROR. He said he didn't understand.

A GRAND JUROR. When you first met Mr. Oxman in the hotel he called you "Charley," did he?

A. When I first met Mr. Oxman he said he didn't know me.

Q. You spoke to him first?—A. Yes, sir.

Q. Now, on your second visit to San Francisco, who—you said that you received a check for \$500?—A. No. There was \$500 wired to Mr. Ellis.

Q. And how much actual money have you received since you have been here?—A. Not a penny.

Q. From nobody?—A. No.

Q. You have not taken trouble enough to inquire as to who is going to pay your expenses?—A. Yes, sir. My expenses were guaranteed by Mr. McNutt, Mr. O'Connor, and Mr. McKenzie and Mr. Ellis.

Q. Those four men?—A. Yes, sir.

Mr. CLARKE. In writing?

A. No, sir; I just took their word for it.

Q. What are they going to pay you besides your expenses?—A. Nothing I know of.

Q. Have they ever agreed to pay you anything besides your expenses?—A. No.

A GRAND JUROR. Did your father have trouble with Mr. Oxman?

A. No; they were very good friends.

Q. You said Mr. Fickert knew nothing about the frame-up?—A. I don't know whether he did or not.

Q. You said so. You said he knew nothing about it.—A. I don't know whether he did or not.

Q. You stated so before. Plainly stated so. Let me ask you this then: Why did you say when you came to San Francisco, in the statement in the paper, that you were present when Mr. Fickert—when Mr. Oxman said to Mr. Fickert, "Why, the people will never believe it—this is a frame-up." Fickert says, "Well, the people are ready to get rid of Mooney at any price." Do you believe he knew nothing about a frame-up?—A. I said that Mr. Oxman had been down to Stockton and he had told me when he got back that he talked to the leading people of Stockton, asking them if they thought all the evidence in this case was framed up, what would they think. They said the people would be glad to get rid of these people at any price or any cost, or something like that. That is as near as I can remember what was said.

Mr. CLARKE. You never at any time attributed such a statement to District Attorney Fickert?

A. No.

Q. Either by public statement or otherwise?—A. No.

Q. You do not desire your testimony to show that you at any time made such a statement made by Mr. Fickert?—A. No, sir; I don't think so.

A GRAND JUROR. Were you legally advised by Mr. Ellis the first time you left for California?

A. Mr. Ellis didn't know I was coming to California. Very few people knew I was coming. My mother knew it; my wife knew it; Charles knew it. Oh, I don't know, perhaps a dozen others. It wasn't generally known I was coming to San Francisco.

A GRAND JUROR. You had your mind impressed before you came that there was something crooked by Oxman?

A. Yes, sir. I didn't know whether it was the son or the old man.

Q. Your opinion of Mr. Oxman was he was a general crook, capable of doing anything that was crooked?—A. I thought Mr. Oxman was crooked and always did.

A GRAND JUROR. Do you think the son is crooked?

A. No; I believe the son is straight. He drinks a little. Well, about like I do.

A GRAND JUROR. You said that you knew that Mr. Oxman was crooked, and the reason was asked why do you think so, and you said you knew of one transaction he was crooked in?

A. Yes, sir.

Q. The transaction you referred to was about 18 years ago?—A. Something like that. The land deal.



Q. That transaction that he had with your father?—A. No; my father was in the case.

Q. In the case with him?—A. Yes, sir.

Q. You said the only thing you—you said the only reason you came to the conclusion Mr. Oxman was crooked was from that case. Have you any other reason why you think he is crooked?—A. I can only tell you what I have heard around Grayville.

Q. What you know?—A. No; that is the only thing I know.

Q. The only thing you know for saying Mr. Oxman is crooked?—A. Yes, sir.

A GRAND JUROR. I asked you a question a while ago when you first met Capt. Matheson; you said it was here in this building in his office?

A. Yes, sir.

Q. In this building here, and you only met him once?—A. I think so.

Q. Who was present at that time?—A. Just Mr. Oxman and I, I think.

Q. You never met Capt. Matheson after that at any other place?—A. I don't think so; no. I don't remember if I did.

Q. It was in this building you met him first?—A. Yes, sir; in his office.

A GRAND JUROR. The day before the trial I think you stated that you went to Mr. Cunha, and you told Mr. Cunha the conversation you had, as far as you being here, was not true?

A. Yes, sir.

Q. In other words, you had a kind of remorse of conscience and you wanted to square yourself?—A. I wanted him to know that I was not here, and I didn't know anything about the case.

Q. You told that to Mr. Cunha?—A. Yes, sir.

Q. For that reason he wouldn't put you on the stand?—A. Yes, sir; after I told him I was not here and knew nothing about it. I said, "You can use me if you want me."

Q. You told that to Mr. Cunha?—A. Yes, sir.

Q. Then did you also tell Mr. Fickert?—A. No. I told Mr. Cunha not to tell Mr. Fickert.

Q. Why?—A. I don't know why I told him, but I did.

Q. You knew Mr. Cunha was only an assistant district attorney and Mr. Fickert was the chief?—A. Yes, sir.

Q. You didn't tell that to Mr. Fickert?—A. No.

A GRAND JUROR. Is it or is it not true that when you made that statement to Mr. Cunha he said, "Well, we can't use you"?

A. He did.

A GRAND JUROR. He did say he could not use you?

A. Yes, sir.

A GRAND JUROR. As you testified, you are a poor man?

A. Yes, sir.

Q. You depended upon the pool room in Grayville for your living?—A. Yes, sir.

Q. What is peculiar of this thing, you leaving your position for a man you have not seen but once in 15 years and jumping on a train and coming out here, it is not reasonable that a poor man will leave his business and will come out here just on guesswork. It is peculiar. It doesn't look reasonable to me as a grand juror that you would get up and leave for a man you practically hadn't heard from in 15 years.—A. Well, I did it, just the same.

A GRAND JUROR. What are the receipts of your business in a month back there? What will it average?

A. In the month of November and up until the time that I left for San Francisco I was making \$100 a week above my living. I was banking that much money, putting it in the bank; \$100 a week, but understand, gentlemen, that that was all not from the billiard and pool room; I was playing a little short cards around there.

Q. What do you mean?—A. I was playing a little seven up and a little poker.

Q. Have a separate room for that in your billiard parlors?—A. I did at that time, but I didn't any more, because they changed the administration and I had to quit then.

Q. Did you take bets on the races?—A. No.

Mr. CLARKE. With reference to "short cards," you don't mean to say you were putting up card games?

A. No, sir; seven-up. That is what they call "short cards." All my money was made by putting it in the hole.

Q. Percentage?—A. Yes, sir; percentage. You get it. You have been there.

A GRAND JUROR. Did you fill in in the game yourself, too?

A. Yes, sir; I played in the game. In fact, I have a man that runs my billiard hall the year round. I have never worked in there three days at one time since I



have owned the place. In the summer time I had the county fairs with a Teddy-bear wheel. Sell paddles. Somebody holds the lucky number and you get a Teddy bear.

A GRAND JUROR. Sometimes they are crooked?

A. It is a percentage game, a straight percentage game. There is a winner every time.

Mr. CLARKE. Drawing your attention to what purports to be an interview given out to a local paper, this appears, Mr. Rigall, in your statement: "At a later date Oxman said to Fickert, 'If all the witnesses in this case are framed, what will the people think?' Fickert said, 'They will be glad to get rid of Mooney at any cost.'"

A. Yes; I remember that taking place in the district attorney's office. Mr. Oxman asked Mr. Fickert that. He said, "Now, Charlie, if all the testimony in this was false, what would the people of San Francisco think?" He said "They would be glad to get rid of Mooney at any price." That is as near as I can remember it.

Q. You want your testimony to show that District Attorney Fickett said, in answer to a statement by Mr. Oxman that if all the testimony in this case were framed, that in any event the people of San Francisco would be glad to get rid of Mooney at any cost?—

A. That is as near as I remember it; yes.

Q. That conversation took place with reference to some framing of testimony? Was it concerning the framing of testimony?—A. I don't know. The question was asked by Mr. Oxman.

Q. What do you understand by the use of the words, "framing testimony?"—

A. I would imagine it would be to get people to swear stuff that was not the truth.

Q. Perjured testimony?—A. Yes, sir.

Q. That is your understanding, he——A. (interrupting) That is what he wanted me to do.

Q. Who wanted you to do?—A. Mr. Oxman.

Q. You can not say Mr. Fickert wanted you to do that, or could you say that?—

A. No, I don't say that; no, sir.

A GRAND JUROR: The day you made that statement Mr. Fickert was under the impression you were in the city the day of the explosion, wasn't he?—A. Yes, sir.

Q. And Mr. Fickert didn't know anything about you not being in the city on the day of the explosion?—A. I don't think there was ever a time but what Mr. Fickert thought I was here in San Francisco. I am honest in that.

Q. The first time the district attorney's office got any information from you you were not in the city that day was the evening you went over your testimony with Mr. Cunha?—A. Yes, sir. I told Mr. Cunha not to tell Mr. Fickert.

Q. That was the time the district attorney's office told you they could not use you?—A. Yes, sir.

Mr. CLARKE: Why was it you asked Mr. Cunha not to tell Mr. Fickert?

A. Because he treated me so nice. I hated for him to know that I had been lying to him, misleading him.

Q. Did he ever give you any money?—A. \$150.

Q. Any other money?—A. No.

Q. Calling your attention to \$20 given to you?—A. Steve Bunner gave me \$20. A twenty dollar bill one day, it was.

Q. Do you know whether he got that from Mr. Fickert or not?—A. No, sir; I do not. I told him I needed a little expense money. He said "All right."

A GRAND JUROR. Did the police department know you were not here on July 22?

A. There was not anybody knew it but Mr. Oxman.

Q. Didn't you say you told Mr. Bunner before you told Mr. Cunha that you were not here on the 22d?—A. No, sir; I never did tell Bunner I was not here.

A GRAND JUROR. Did you at any time believe the police department was taking any part in any frame-up?

A. No, sir; I did not; no.

Q. Did they take you out to see an automobile and say, "That is Weinberg's automobile?"—A. I went out to the police station with Draper Hand and Mr. Bunner. Mr. Oxman and I went out to the police station, they showed us the Ford automobile and said it was Weinberg's automobile. Then we went inside the building and we went in and got the number of the plates of the machine. Mr. Oxman stepped up and looked at them closely; I stood back.

A GRAND JUROR. You never told Steve Bunner that you were not in San Francisco?

A. No, sir; I never did.



Q. I understood that you said that you told Steve Bunner in the corridor two days before you told Mr. Cunha?—A. No.

A GRAND JUROR. What did you say to Mr. Bunner?

A. Why, a couple or three days—I wouldn't say as to the time—Mr. Bunner took me to one side in the Hall of Justice here, he said, "Now, I want you to tell me what you know about this case again." I went over it with him. He slapped me on the back; he said, "Fine. That is all right. Fine."

Mr. CLARKE. Who said that?

A. Bunner. I suppose Bunner thought I was here.

A GRAND JUROR. Your opinion at that time was Mr. Bunner had the impression you were telling the truth?

A. Yes, sir.

Q. And you never made a statement to Capt. Matheson in any form, manner, or shape?—A. No.

Q. You never met him, only once?—A. Just met him once; that is all.

Mr. CLARKE. Mr. Rigall will have to come back on the stand to-morrow to identify these letters. Mr. Bunner is waiting to testify. If there is no objection we will excuse Mr. Rigall now.

STEPHEN V. BUNNER sworn by the foreman.

A GRAND JUROR. What is your name?

A. Stephen V. Bunner.

Q. Where do you reside?—A. 1460 Washington Street, San Francisco.

Q. Your occupation?—A. Police officer.

Q. What rank?—A. Lieutenant.

Mr. CLARKE. You were in San Francisco on the 22d day of July last year?

A. I was.

Q. What, if anything, occurred regarding the peace and order of the community at that time?—A. On the day in question there was held what is known as the Preparedness Day parade, and in the neighborhood of five minutes after 2 o'clock a bomb exploded on the west line of Stewart Street about 30 feet south of Market Street.

Q. What, if anything, did you have to do with that after that occurrence?—A. Immediately after the explosion I proceeded along with Lieut. Matheson, who was then in command, to take charge of the injured and the dying and sent them off in different vehicles and ambulances to various hospitals, and then proceeded to get the evidence.

Q. You were detailed to the so-called bomb bureau?—A. I was.

Q. Conducting an investigation into the causes and who were responsible for this explosion?—A. Yes, sir.

Q. Who was your superior officer?—A. My superior officer? Lieut. Duncan Matheson. He was in command then. He is now a captain.

Q. Do you remember the date that you were so detailed?—A. About the 24th day of July, I think it was. It was the 24th or 25th.

Q. Now, Lieutenant, in November, 1916, you were directed to go to the district attorney's office of this city and county?—A. Yes, sir.

Q. By whom?—A. By the chief of police.

Q. What occurred there?—A. I got in communication with the district attorney and then entered his office, and he stated that he wanted me to be prepared to go to Portland, Oreg., and from there to Durkee, Oreg., which lies about 375 miles east of Portland, for the purpose of interviewing one Oxman, who had made an affidavit in Kansas City relative to the bomb explosion. He submitted to me the affidavit, and also the letter that he had received from the railroad station agent—I think his name was Woods—at Durkee, Oreg., giving information that this man Oxman had stated that he was in San Francisco on July 22 and had seen who it was that placed the suit case, and so forth. I do not know as to whether or not that was the exact contents of the letter, but to the best of my recollection it was. It was referring to Oxman, anyway.

Q. Did you make such a trip to Durkee, Oreg.?—A. Yes.

Q. Did you there see F. C. Oxman?—A. Yes, sir. I met him as he stepped off the train.

Q. Was he the same Oxman who testified as a witness in the case of the People v. Mooney?—A. Yes, sir.

Q. Tried in the superior court of this city and county?—A. Yes, sir.

Q. Did you have your interview with Oxman?—A. I did.

Q. And did you at that time secure a statement from Mr. Oxman as to what he had seen and observed on the 22d day of July, 1916?—A. Yes, sir.

Q. What did you do with that statement?—A. On returning to San Francisco, I submitted first the statement to the lieutenant in command, Matheson, and Lieut.



Matheson and myself—I don't know as to whether or not we submitted it to the chief of police; I am not clear on that, but we most likely did. We proceeded to the district attorney's office and there I returned the statement and letter along with the affidavit made in Kansas City, Kans., and also the letter he had received from the station agent by the name of Woods, at Durkee, Oreg.

Q. While you were at Durkee, Oreg., and talking with F. C. Oxman regarding the bomb explosion on the 22d day of July, 1916, did he, F. C. Oxman, make any statement to you with reference to having been seen here by some other individual?—A. He did.

Q. What did he say about that?—A. He stated that—I will try and think of his exact words. I asked him if he had read any of the papers relative to the explosion, and so forth. He said he had not, and he said, "While at the corner of Steuart and Market Streets I met a boy"—or "a young man;" I think he used the word "boy"—that came up and said, "Hello, Mr. Oxman," and he said, "I didn't know him and I got talking to him and he told me who he was. He wanted to know if I wasn't Oxman from Chicago, and I said 'Yes,' and he said"—I said, "Have you got that boy's name? Do you know where he lives?" He said, "I have got his name some place on a piece of paper." He said, "I don't know where it is." He said, "I have been greatly upset lately. My wife is in Baker City, Oreg."—I think it was in a hospital—"and I don't know whether she is going to live over the day or not." I said, "That would be material if you could get that." He said, "I have got it some place. I will get it." I said, "If you get it, will you send it to the chief of police or district attorney?" He said, "Yes, I will."

Q. Now, did you afterwards see F. C. Oxman in San Francisco when he came here and became a witness in the case of the *People v. Mooney*?—A. Yes, sir.

Q. Did you talk with him?—A. Yes, sir.

Q. As to his testimony that he was about to give in the case of the *People v. Mooney*?—A. No, I wouldn't say I talked to him about his testimony. He was a man that didn't talk much, and while it is possible he may have said about—repeated what he had already told me in the statement he had given to me, he didn't go into any details, because he was a man that wasn't given to much talking. He was rather abrupt at times.

Q. Did he have occasion to introduce you to one F. E. Rigall?—A. Yes, sir.

Q. When and where did you first meet him, Lieutenant?—A. At the terminal Hotel. Now, I don't know whether it was the first or second day after Rigall got there. Capt. Matheson told me to keep in touch with Mr. Oxman while he was here, as we were afraid he might be harmed or something of that sort, also to keep tab on him if left the city so that we would know where he went, but I went over to the hotel one day. I don't know who told me he was here. I think Capt. Matheson might have told me he was in town. However, I went over to the hotel and I met him along with this man Rigall. He introduced me to him at that time as "Charles." He said, "This is Mr. Charles from Evansville, Ind., the young fellow I spoke to you about." So I started to talk to Charles about the—what he had seen, and so forth, and he evaded the question, he didn't seem to go into detail with me at all. So the next day, I think it was, I spoke to him and he said, "I have already seen Capt. Matheson and talked to the district attorney." Then I thought by that, that possibly being the district attorney's witness that was a cue for me to let him alone. He wasn't obliged to talk to me. So later on—I don't know how many days later on—I asked him if he he could corroborate or substantiate Oxman, if he had seen an automobile, and he said, "Yes, I seen an automobile." I said, "Where?" and he said, "When it drove drove up to Steuart and Market." "Did you see anybody in it?" I said. "I saw a fellow get out of it or standing by it." I said, "Could you identify anybody?" He said, "I have already taken this matter up with the district attorney and Mr. Cunha." So I didn't go into any further detail with him. So he said to me one day—I don't recall what day it was—he said, "Mr. Bunner, you don't seem to believe me or don't seem to like me." I said, "No; you are so evasive." I said, "I don't take much stock in you." So later on he was standing in the hall here. I used to meet him. Being in the harbor district I dropped over to the hall to keep in touch with him. I also told the hotel man that in case there should be any change—they were always wanting to go. They were complaining of being detained here so long, or they didn't expect to be detained as long as they were. So one day—it was upstairs here [indicating], and Rigall was in the corridor and I came up there, and he spoke to me. He said, "Mr. Bunner, I would like to get some money. I have been expecting a letter from my mother." Oh, I am getting ahead of my story. Later on I heard Oxman call him Rigall on one or two occasions, so I said to him, "Say, what is your name, anyhow?" I said, "What is the meaning of this? What is your name?" So he said that his name was Rigall or that his stepfather's name was



Rigall—or either he or Oxman said it was, but I think it was him said “My stepfather’s name was Rigall.” I said, “Your name is not Charles?” He said, “Yes, it is, but I go by the name of Rigall.” Then when I met him in the hallway upstairs he said he was expecting this letter and the letter was a day or two late, he expected money in it from his wife. He said “I spent the last 25 cents I had for ham and eggs this morning. I have to pay the people my hotel bill.” I said, “The police department has no money to give to you.” I said, “You are the district attorney’s witness.” I said, “Why don’t you see the district attorney?” He said, “I have been trying to see him.” I went downstairs to court again and returned in an hour and a half, or something like that. I asked him then if he saw the district attorney. He said, “Not yet.” I then went in and got talking to the district attorney. I said, “Your witness out here, Rigall, told me he spent his last 25 cents this morning for ham and eggs and the hotel people are after him for his bill.” The district attorney says, “I have no money to give him.” I said, “What are you going to do with your witness? He has got to have money for expenses. He has got no money.” The district attorney gave me a \$20 bill. He said, “Tell it to him that it comes out of his expenses.” So I then gave it to him. I think it was the next day or so that I met him again upstairs in the hall, and he said to me, “Mr. Bunner,” he said, “you don’t seem to believe me,” or some words to that effect. I said, “No; I don’t. You are a very peculiar man.” He said, “I will tell you why I have never told you anything.” He said, “I have got the best little woman in the world for a wife, and the night I came here—that is the night before the explosion—I went up to the Odeon Cafe”—I don’t know whether he used the words “I met a dame,” or something. It was a vulgar expression some way—“and went with her to the Seattle House on Sixth Street.” I said, “Sixth and what other?” He said, “Oh, just below Market there.” “Now,” I said, “this thing will have to be proved up.” I said, “I would like to prove this thing up and would like to go up there.” I said, “Did you register there?” “No.” “Who hired the room?” “Well, she went and got the key.” “Does she room there permanently?” “Well, I don’t know.” I said, “All these questions will be asked of you.” I said, “Rigall, you must understand that this man is on trial for his life. Don’t testify to anything but what you are clear upon,” and—

Q. (interrupting). Did you say to him that he must “come clean”?—A. No, I didn’t use that word. No, I didn’t use that word. So, anyhow, I made an appointment with him to go up there, and I didn’t see him after that—to go up to the Seattle House to prove up.

Q. Did he at any time tell you that he was not in San Francisco on the 22d day of July, 1916?—A. Absolutely no. Oh, I also asked him in the same conversation—that is what lead up to me to say, “Now, this man is on trial for his life.” I said, “Where did you come from when you came out here that day in question?” “From Salt Lake.” I said, “What brought you out here?” “Well,” he said, “I was just traveling around.” I said, “How did you come?” Now, I am not positive whether he said the S. P. and the W. P., or what railroads it was, but he came that way. I said, “Did you buy a round ticket?” He said, “Yes.” I said, “Where did you validate it?” He kind of hesitated. I said “What railroad office did you go to to prove up your ownership of the ticket?” He said, “I didn’t go to no railroad office.” I said “Why?” He said, “I didn’t have it in my own name.” He said, “I got it from a friend of mine in Salt Lake.” I said, “Now all these questions will be asked of you, Rigall, and this man is on trial for his life. Treat him as you would like to be treated.” I was in doubts of him all the time.

Q. Did you ever say to Mr. Oxman that you were in doubt as to his verity?—A. No, I don’t think I mentioned it to Mr. Oxman. I did mention it to Capt. Matheson after I had seen him the first or second day.

Q. Did you ever have any doubt about Mr. Oxman being here on the day of the preparedness parade?—A. Absolutely none, and for this reason: That when I was detailed by the chief of police to report to the district attorney’s office, upon receiving the affidavit from Kansas City and the letter I went to Capt. Matheson—I told the district attorney I couldn’t get away that night but would get away to-morrow. That was Sunday. I took them down and submitted them to Capt. Matheson and said what a great witness he was, etc., and asked him to prove up on Oxman while I was away. Upon my return the Captain told me he had proved up. He said he was there; that he had proved up on the train he said that he came in on. I inquired also at Durkee as to the standing and credibility of Oxman, and those I spoke to spoke very highly of him. Then when Oxman was here the first time, before the arrival of Rigall, he introduced me at the Terminal Hotel to a Western Pacific Railroad man, some official. I spoke to him about Oxman while Oxman was called to the telephone, and Oxman had prior to July 22 also stopped at the Terminal Hotel, and the people I had seen him meeting at the Terminal Hotel seemed to be very fine gentlemen and I had no cause to doubt him.



Q. Now, you remember the occasion of Rigall leaving San Francisco and returning east?—A. I don't know what day he left.

Q. Do you remember the occasion. It was during the Mooney trial?—A. Yes, sir.

Q. Were you called upon to perform any service with reference to that by the district attorney's office?—A. Well, there was one day Capt. Matheson and I were in the district attorney's office and the district attorney said that he expected Rigall in on the overland train—evidently referring to that night—and he said, "I would like to have Mr. Bunner detailed to go over and meet him; he has some papers and I want him to bring them up to the office." I then turned to Capt. Matheson, I said, "What is this? Why doesn't he send his own men?" I said, "I am not going over and watch any train." With that Capt. Matheson and I went downstairs into the Captain's office. I asked him if he knew what papers the district attorney referred to. He said he did not. I said, "That is a funny thing. You don't know what they are?" He said "No." I said "This fellow Rigall has always been a mystery to me." I said to him then, "I would like to get off the detail. I would like to get back to the Harbor Station." So he said, "Wait until to-morrow." So to-morrow I went in and spoke to the Captain again and told him I would like to be relieved—get off the detail, and again spoke about Rigall. I said, "Let's go up to the district attorney and we will have a talk with him." We went up there and the captain was the spokesman. He said, "Now, Mr. Fickert, about this fellow Rigall." He said, "If there is anything wrong with this fellow Rigall we would like to know it." He said, "What kind of a fellow is he? Is there anything wrong with him?" To the best of my recollection, I don't think there was an answer. I know I about turned around and we came out. We came downstairs again and I spoke again about getting off the detail, and I was relieved off the detail. Then a day or two afterwards—it was Sunday night, I think—my phone rang, and it was the district attorney. He said he was at the Poodle Dog, on Bush Street, and wanted me to come down there. I told him I didn't care to go down there, I was off the detail. He said he wanted to see me, Cunha and Oxman was there with him. I said if he wanted to see me he could come out to my house. He came out to my house in his machine.

Q. Who was with him?—A. Oxman and Cunha. He asked me if I could make an affidavit as to the number of times I had seen Oxman in the courtroom. That was in reference to that woman La Possee's statement, I believe, that she had seen him in there on several occasions. I said to the best of my knowledge the only time Oxman was in that courtroom was once. I think one time I passed them in through the door. The seats were at a premium there. Everybody was wanting to get in. That was as they were impaneling the jury and before the order excluding the witnesses was issued. The next morning at 9 o'clock I called and made an order to that effect, also did Detective Wiskotchill, who was on the door. That was the only time I ever saw him in there—was that one occasion. Then I think it was the next day then that Mr. Fickert phoned me and asked me if I would go up to the Fairmount Hotel and get Oxman and bring him to the Palace Hotel; he wanted to see him. I said, "I am off that detail. I am not on it any more." I don't know as to whether he made any remark or not. I can't recall it. Later on, within 15 or 20 minutes, my phone rang, and it was from the harbor station, stating that the chief of police had excused me from that midnight watch, and in about 5 minutes the phone rang again; it was the district attorney, he wanted to know if I got an excuse from the chief. I said, "Yes." He said, "You go and get Oxman. He is afraid to come alone. He wants you with him, or some one with him, and bring him down to the Palace Hotel." I brought him there and they had a conference there between themselves. Then he told me to take him out to supper and take him to the theater.

Q. You did?—A. Yes, sir.

A GRAND JUROR. You said Rigall mentioned the Odeon and also said he met a woman down there. Wasn't it the Black Cat?

A. No; the Odeon. I am positive it was the Odeon.

A GRAND JUROR. What month was that?

A. Which do you refer to?

Q. That it was the Odeon.—A. He refers to the night of July 21, 1916.

Q. He told you that?—A. Yes, sir.

Mr. CLARKE. I understand, Lieut. Bunner, at no time did Mr. Rigall ever tell you that he was not in San Francisco on July 22, 1916?

A. No. Absolutely no.

Q. You were suspicious of him?—A. Yes, sir; I was suspicious of him because he would not—generally I have found it in my line of work that if a man is a witness—of course, it is the duty of a detective to inquire into the nature of a man's evidence, and so forth, and we generally will talk over matters with him, and when I would get talking to him he would seem to want to evade everything and would say, "Now,



I have already spoken to the district attorney and Mr. Cunha about that." I thought possibly, then, that he was told not to say anything to anybody about it.

A GRAND JUROR. A few nights before, did he tell you certain evidence and you told him, "That is right. That is right"? Did you answer him to that effect?

A. What?

Q. He told you the evidence he was going to say and you said, "That is fine"?—

A. No.

Q. Never that?—A. No; never.

Q. If he said so that was untrue?—A. That was not true; no. No; I don't think he ever went into any detail of any evidence with me at all outside of mentioning, as I say, he saw a Ford automobile or a man getting out or standing there by—

Q. (Interrupting.) Then you said, "That is fine," when he mentioned that?—

A. No, no; I did not.

A GRAND JUROR. Did you ever meet him in the corridor of the building and ask him to go over the testimony and after he had gone over the testimony slap him on the back and say, "That is good. That is good?"

A. No. No; I never become that familiar with him. I never become that familiar with my friends that I would slap them on the back.

A GRAND JUROR. Did you ever know him well enough to call him "Ed."?

A. I think I did refer to him as Ed once or twice. Either Ed or Rigall, or something like that.

A GRAND JUROR. He said he took a woman to a house on Sixth Street?

A. Yes, sir.

Q. Did you ever investigate to see whether a person answering that description was there?—A. No, sir. That was the last I seen of him.

Q. There have been no investigations as to that house?—A. No. I asked Capt. Matheson if I would investigate that. He said, "No, never mind." That was after Rigall had left here. The last time I saw him was when he was telling about stopping there.

A GRAND JUROR. If he said to some one else that he went to the Black Cat Café and got a girl—If he did say to some one else that he went to the Black Cat Café and got a girl, you say it is the Odeon?

A. Yes, sir; it was the Odeon.

Q. It was not the Black Cat?

A GRAND JUROR. What difference does it make?

A GRAND JUROR. It shows the man lies.

A GRAND JUROR. Did you take him out to the station and show him Weinberg's automobile?

A. Yes, sir.

Q. How many times?—A. Only once. Oxman said one afternoon that he would like to go out and see the automobile, and I made an appointment with him. I spoke to Capt. Matheson and said I would like to have the chief's machine to take him out the next morning. I was unable to get the chief's machine. I spoke to Capt. O'Brien. He told me to go and see Lieut. Casey, and Lieut. Casey got a jitney. I went out to the North End Police Station to where Weinberg's machine was, and there both men looked over the machine very carefully and looked at the two tags that was on it containing the number of the machine, that is, the State license number, it was on two tags. I then left them and went into the North End Station, noticing the jitney tags and license and permit was off. I asked the station keeper what became of the jitney tags, license and permit. He said, "We have them here." I said "Let me see them." He brought them out and I was looking at them. As I was looking at them in came Oxman and Rigall and either one of them picked up the city and county license and permit. They wanted to know what it was. I explained it to them and left.

Q. How long did you stay out there?—A. It must have been 5 or 10 minutes.

A GRAND JUROR. Was it at Oxman's suggestion you went to look at this machine?

A. Yes, sir.

Q. He made that suggestion?—A. Oxman, yes.

A GRAND JUROR. Did he give any reason for wanting to see the machine?

A. No; no more than anybody would on any other evidence, you know. No matter what the evidence may be, if a man wants to see it we show it to him as we show it to everybody.

Mr. CLARKE. Did you observe Mr. Oxman make any notations while you were there?

A. No.

A GRAND JUROR. When you met Oxman in Oregon when you went after him, was he glad to see you? Was he a volunteer witness?



A. No. I will tell you just how I approached him. When I arrived in Durkee I went to the station agent, who the district attorney had received a letter from, and introduced myself, and asked him where Oxman lived. He said, pointing over the road, "In that big stone house with the big red roof to it." I said, "How far is that?" He said, "Two or two and a half miles." I said, "Do you think he is over there?" He said, "No, but I expect him upon the next train." I asked him what kind of a looking man he was. He said, "He generally wears a long heavy blue overcoat and a kind of dirty slouch hat. He will have his hands in his pockets and he walks kind of stooped." I made arrangements with him to let me know if Oxman got off the train. He said, "There won't be but very few people get off the train here." There was only about 10 dilapidated buildings in the town, some incorporated town. As this train came in I picked out Mr. Oxman immediately. There was only two men got off, he being the second man. He got off down below, this way [indicating]. He came walking up. I looked at the station agent and then I walked up and I said "How do you do, Mr. Oxman?" I gave him a card. He said, "I have no business with any policeman from San Francisco." I said, "I am here to see you relative to the bomb explosion of July 22"—I think I said. He said, "Why, I have told that already to some of you detectives." He said, "If you want to see me you will have to wait awhile." He then went up to where there was a lot of cowboys. There was a lot of them dismounted there at the time, and he spoke to them, gave them some orders, started to walk away. I went after him. He said, "If you want to talk to me you will have to walk." I walked with him. I told him that there was something in the Kansas City statement about Main Street and Front Street. He said, "Now, I have been all over that." I then walked over with him and he went to the general merchandise store. I think before we got there there was two or three cowboys drove up on a horse and said, "Say, Mr. Oxman, when are you going to make that round-up?" He said, "What business is that of yours, boy?" He said, "You said you would let us in on the round-up." He said, "What is your name?" He said, "Yes, you report a quarter to 5 to the foreman," calling his name. He then went over to the post office. We then started to walk up the road toward his house and some fellow drove up in a buggy and told him something about 5 or 10 head of cattle he had to sell. Mr. Oxman said, "You bring them over to the corral in the morning." We walked over, and he didn't touch much upon the subject nor I either. I saw he was a peculiar sort of fellow, a man you had to handle very particularly. We had walked along quite a distance without saying anything. I asked him who owned the land. He told me all this was his. This section of it he made a present of to his wife. We arrived at his home and we went into his house and we got talking about the case. I told him I thought it was Front and Main Streets the affidavit read. "Now," I said, "I would like you to describe to me those streets. I am trying to get it right." So he called to the housekeeper—I think it was—to bring him in the pad book. She brought it in and he turned it upside down. He then drew off Market Street, Steuart Street, and Sacramento Street, and the Embarcadero. We term the water front the Embarcadero. I don't know whether it was Market or Steuart or Sacramento that he had called the main street. "This is the hotel I stopped at. This is the bakery I ate at. This is the way I walked here," and he went over it all. I then, after straightening that out, took out the pictures. He said, "Those are the ones I have seen already in Kansas City." I said, "Can you identify anybody now?" Then he went over and picked out Mooney, Mrs. Mooney, and Weinberg and Billings. He said, "This is the little fellow that bumped me with the suit case. I remember him from the apple in his throat. This little fellow bumped against me." "This fellow," he said, "I don't know," [pointing to Nolan's picture.] "This fellow with the straggly mustache it was another fellow, not this fellow." Then he goes to work and called in his girl and his little boy and showed them the pictures. Then at nighttime, when we sat down at the table and we had something to eat, he said, "If I had a little more time to think over this—I am upset on account of my wife's condition—I think I could tell more." He wanted me to remain that night. I told him no, I had to get back to the city. I asked him if he would come to California and testify. He said, "I think a man is taking his life in his hands." He said, "I don't care about going to California in this matter." He said, "I think a man is taking his life in his hands that goes and testifies against any of these people." We had supper and he rode me over in his automobile to the railroad station. I saw him no more until I saw him here.

A GRAND JUROR. What day was that?

A. This was along about the 21st or 22d of November, 1916.

A GRAND JUROR. Did you have any time while you were there to get a line on the character of Mr. Oxman? Did you interrogate any witnesses?

A. Only from a cowboy there and from the railroad station agent.



Q. Just from those two people alone?—A. Yes, sir. His home surroundings are fine. He has a fine big stone house up there, steam heated, and he has an automobile there. Everything looked as though he was a man of some standing.

A GRAND JUROR. What did the station agent say about him?

A. The station agent was very much alarmed about anything getting out about him tipping him off. He said, "He is one of our largest cattlemen up here." He said, "If he finds out I tipped him off he has influence enough with the railroad to have me fired." They were his exact words.

A GRAND JUROR. Do you mean to say that he didn't know at all that information was given here about him?

A. Who?

Q. Oxman. Did Oxman know that the evidence he had—did he give, himself, the evidence after he saw it?—A. He had made an affidavit prior to me getting there. I went up with the affidavit that he had made a month or more before in Kansas City to the Burns Detective Agency.

Q. What induced him to make the affidavit?—A. I don't know anything about that. I got that from the district attorney's office. I went up to prove the streets—the Main and Front Streets.

A GRAND JUROR. Who sent you after Mr. Oxman?

A. The district attorney.

Q. You don't know where the district attorney became acquainted with Mr. Oxman?—A. No.

A GRAND JUROR. How did Mr. Oxman come to come and testify? When you left him he didn't promise to come, did he?

A. He said he didn't want to come here and testify, he thought a man was taking his life in his hands. Then I spoke to him and told him about the clear evidence, and so forth, and then he said, "By God, I will go to California." Then the district attorney got into communication with him thereafter.

The FOREMAN. Any further questions, gentlemen? That is all.

TUESDAY, MAY 1, 1917.

J. J. GROOM sworn by the foreman.

Mr. CLARKE. What is your name?

A. A. J. Groom.

Q. Where is your place of residence?—A. 2265 Post Street.

Q. What is your business?—A. 2265 Post Street.

Q. What is your business?—A. Deputy county clerk.

Q. And assigned to what department of the superior court?—A. Department 11.

Q. Presided over by Judge Franklin A. Griffin?—A. Yes, sir.

Q. Have you a copy of the indictment returned in the case of the People v. Thomas Mooney?—A. This is the original indictment. [Showing.]

Mr. CLARKE. No objection, Mr. Foreman, to having this original indictment copied into the stenographic notes and considered as read—or do you want it read, gentlemen?

The JURORS. No.

The FOREMAN. You will see that Mr. Vernon has an opportunity to so copy it?

Mr. CLARKE. Yes. It is to be copied into the record. I may say, gentlemen, this is an indictment wherein the people of the State of California charge Warren X. Billings, Israel Weinberg, Thomas J. Mooney, Rena Mooney, and Edward D. Nolan with the crime of murder, as set out in the indictment which is herewith read.

Q. Now, Mr. Groom, was the defendant there named, Thomas J. Mooney, afterwards brought to trial in the superior court of this city and county?—A. Yes, sir.

Q. In Department 12 thereof?—A. Department 11.

Q. Eleven, yes.—A. Yes, sir.

Q. Before Judge Franklin A. Griffin?—A. Yes, sir.

Q. Have you the minutes of the court?—A. Yes, sir.

Q. Of the trial of the case of the People v. Thomas J. Mooney?—A. I have.

Q. When did the trial commence?—A. The actual trial commenced on January 3, 1917.

Q. And how long did it proceed?—A. It proceeded along until February 9, 1917, the day of the verdict.

Q. Now, on a certain date there was one F. C. Oxman called as a witness on behalf of the people?—A. Yes, sir; he was.

Q. On what date?—A. On January 26, 1917, F. C. Oxman was sworn.

Q. Was F. C. Oxman sworn by you as such clerk of the court?—A. Yes, sir.

Q. And in the manner usual in such cases?—A. Yes, sir.

Q. Was he thereafter examined for both the people and the defendant?—A. Yes; he was.



Q. And gave testimony in that proceeding?—A. And gave testimony.

Q. For the purpose of the record, will you read your minutes of that day?—A. Of that day?

Q. Yes.—A. (reading): "January 26, 1917. Title of court and cause. Pursuant to a continuance heretofore had the trial of this cause was refused this day, defendant and respective counsel being present as heretofore. The names of the jurors were called and all answered. John McDonald was recalled and examined as a witness for the people and F. C. Oxman was sworn and examined as a witness for the people."

Q. Is that the conclusion of the entry?—A. (reading): "The court thereupon admonished the jurors and continued this cause until January 29, 1917, at 10 a. m., for further trial."

Q. Just state what the result of this trial of the case of the People v. Mooney was?—A. On February 9, 1917, the jury returned a verdict finding the defendant guilty of murder in the first degree without any recommendation.

Q. Was the defendant thereafter sentenced?—A. The defendant was thereafter sentenced.

Q. By judgment of the court of what date?—A. That runs into another volume. I can give it to you here [indicating] from the back of the indictment. [Examining indictment.] No.

Q. Well, it is a fact—A. (interrupting). It is a fact that he was subsequently sentenced by Judge Griffin to be executed according to law.

Q. I think that is all, Mr. Groom. Any questions? That is all.

EDWARD T. BURKE, sworn by the foreman.

Mr. CLARKE. What is your name?

A. Edward T. Burke.

Q. You are the clerk of a police court in this city?—A. Department No. 3.

Q. Presided over by Judge Matthew Brady?—A. Yes, sir.

Q. Is there now pending in that court, Mr. Burke, a proceeding entitled the "People of the State of California v. F. C. Oxman?"—A. Yes, sir.

Q. As clerk of that court have you taken into your possession certain exhibits?—A. I have, sir.

Q. Specifically, letters alleged to have been written by one F. C. Oxman to F. E. Rigall?—A. I have, sir.

Mr. CLARKE. Now, gentlemen, I understand these are in the custody of the court below, and Mr. Burke has come here for the purpose of exhibiting these letters, a copy of which letters will be later made for our record. They are now in the custody of the law. [To the witness:] Now, calling your attention to—

A. (interrupting). "People's Exhibit 13."

Q. "People's Exhibit No. 13." That has been filed in this proceeding?—A. Yes, sir; it has been filed as "People's Exhibit No. 13, in evidence."

Mr. CLARKE. Now, gentlemen, I will read this exhibit to you, then pass it around so that you can all look at it, if that is agreeable to you. [Reads.] It is inclosed in an envelope addressed to "Mr. Ed. Rigall, Grayville, Ill.," postmarked "San Francisco, December 14, 1.30 a. m., 1916," upon an envelope appearing to be "Hotel Terminal." Gentlemen, for your guidance later we can introduce photographic copies of these if you want them. I suggest as this testimony proceeds they be passed to the foreman and secretary and then around to you gentlemen to look at. I will continue with the examination of this witness, if it is agreeable to you. [To the witness:] Now, Mr. Burke, referring to the next exhibit in order.

A. No. 14, "Peoples Exhibit No. 14 in evidence," another letter.

Mr. CLARKE. Now, I will read "People's Exhibit No. 14," introduced in evidence in the police court. It appears to be a letter dated December 18, 1916. [Reads.] That is inclosed in an envelope addressed to "F. E. Rigall, Grayville, Ill.," postmarked "San Francisco, December 18, 1916, 12.30 p. m., Hotel Terminal." [To the witness.] This is "People's Exhibit No. 15" in the police court? [Showing.]

A. Yes, sir.

Q. A telegram?—A. Yes, sir.

Mr. CLARKE. The stenographer will make a full copy of it, gentlemen, for the record, but it is as follows. [Reads.] It is dated December 22, 1916.

The WITNESS. Here is the Pullman ticket and the railroad ticket. [Showing.]

Mr. CLARKE. I will read you "People's Exhibit No. 17," purporting to be a copy of a telegram, "Chicago, Ill., 6.50 p. m. 301." [Reads.] Pass that to Mr. Spreckels, please, Mr. Burke. Is there an answer to that?

A. There is No. 18, a telegram.

Q. The answer?—A. Mr. Cunha's answer. This is No. 18, People's exhibit in evidence.



Mr. CLARKE. I will read People's Exhibit No. 18 in the case in the police court. [Reads.] It is dated San Francisco, Calif., 5 p. m., 301, January 1. I think it is 12.27.

The WITNESS. This is No. 18. "People's Exhibit No. 18 in evidence."

Mr. CLARKE. This is 19? [Showing.]

A. 19.

Mr. CLARKE. People's Exhibit No. 19 in evidence in the court below. It is January 4, 7.30 p. m. [To the witness.] Let me see the letter to Mr. Cunha.

The WITNESS. That is "Defendant's Exhibit No. 2 in evidence."

Mr. CLARKE. Defendant's Exhibit No. 2 being a letter from F. E. Rigault to Edward A. Cunha. [Reads.] It is in an envelope addressed "Edward A. Cunha, Hall of Justice, Kearny and Washington Streets, San Francisco, Calif.," and postmarked "Grayville, February 5, 6.30 p. m."

The WITNESS. Now, there are two telegrams of the defendant's. It is Exhibit No. 1 in evidence.

Mr. CLARKE. Defendant's Exhibit No. 1 in the police court, "Grayville, Ill., February 12, 1917." [Reads.]

The WITNESS. Then there is "Defendant's Exhibit 3 in evidence," telegram.

Mr. CLARKE. "San Francisco, Calif., received 9.50, Grayville, Ill., 13.17." [Reads.]

Q. You have with you, Mr. Burke, pages from the register of the Hotel Terminal?—

A. Yes, sir.

Q. Showing the registration therein of—A. (interposing). L. O. Charles, I think is the first name.

Q. "L. O. Charles." This is marked "People's Exhibit 11" [showing], on which there appears the registration "L. O. Charles, Evansville, Ind." Assigned to room 437. That is People's Exhibit 11.

A GRAND JUROR. What date was that, please?

Mr. CLARKE. That date does not appear there, does it, Mr. Burke?

The FOREMAN. January 6.

Mr. CLARKE. On People's Exhibit 12 and appearing on the register of the Hotel Terminal, Wednesday, January 10, registration "F. E. Rigall, Evansville," assigned to 437. [To the witness.] Now, Mr. Burke we excused Mr. Rigall last night for the purpose of recalling him to identify these letters.

A. Yes, sir.

Q. Now, I understand full well your obligation with reference to them and, of course, we calling him, it is not highly proper for you to be present in the jury room. How do you suggest—would you be willing to turn them over to Mr. Spreckels?—

A. At the present moment I will state that the judge ordered me to return with those exhibits to court as soon as I was finished, so if you wish I will return with them to the court and have the court take it up immediately and ask him if there is any objection and come back and give you the court's answer. I don't really think there will be any.

Q. We simply want to have—A. (interposing). I will notify the court immediately.

Q. You might also say to Judge Brady there is no disposition on the part of the grand jury to interfere with his proceeding there, but that it now appears we have arrived at that stage where the identification of these letters is necessary and we would like to have you return with them for that purpose and deliver them to the foreman of the grand jury, temporarily, and when you return ask him also if he will advise us as to what time he will suspend so that we may call the witness Oxman.—A. All right. I will do that, Judge.

HENRIETTA RIGALL.

Mr. CLARKE. You are Mrs. Rigall, the mother of Mr. Rigall, who was here?

A. Yes, sir.

Q. The foreman wants to read to you a section of the Penal Code. [Section read to witness.] You understand that section?—A. Yes, sir.

Mr. CLARKE. And you now desire to be sworn?

A. Yes, sir.

Q. Then just be sworn. You understand the meaning of the section?—A. Yes, sir.

Q. You are now willing to become a witness in this proceeding?—A. Yes, sir.

Q. Notwithstanding the fact the foreman has read this to you?—A. Yes, sir.

Q. All right, Mrs. Rigall, just be sworn.

HENRIETTA RIGALL sworn by the foreman.

Mr. CLARKE. What is your name?

A. Henrietta Rigall.

Q. What is your husband's name?—A. James D.



- Q. What is your residence?—A. Grayville.
- Q. Illinois?—A. Yes, sir.
- Q. Your business there?—A. I keep a hotel.
- Q. The name of the hotel?—A. The Rigall Hotel.
- Q. The Rigall Hotel. That is the same town that one F. E. Rigall lives?—A. Yes, sir.
- Q. What relation, if any, does he bear to you?—A. He is my son.
- Q. How long have you lived in Grayville, Ill.?—A. Ever since I was 3 years old.
- Q. Well, I will not ask you how long that is.—A. I wouldn't tell you if you did.
- Mr. CLARKE. It appears, Mr. Foreman, the witness is over 18 years of age.
- The WITNESS. Yes.
- Q. How long have you been a widow?—A. Four years the 18th of June.
- Q. Did you ever know a man by the name of F. C. Oxman?—A. I knew Clifton Oxman. I didn't know him by the name of "F. C." He went by the name of "Clifton." Everybody called him "Cliff Oxman" in Grayville.
- Q. Grayville, Ill.?—A. Yes, sir.
- Q. When did he leave there?—A. I couldn't exactly say; 18 or 20 years ago.
- Q. Have you seen him since?—A. No. He was there at his daughter's funeral, but I didn't see him.
- Q. How many years ago was that?—A. I couldn't just exactly tell you.
- Q. Did he ever communicate with you, Mrs. Rigall?—A. I had one letter from him a little after he wrote to Ed. Ed was on his way out here when I received my letter.
- Q. You knew that he had written to your son Ed?—A. Yes, sir; I suspicioned it was him. Ed thought it was his son that wrote the letter. He thought probably he got into some little scrape, he wanted to help him out, but I had suspicioned it was Cliff wrote the letter.
- Q. You did receive a letter from him?—A. Yes, sir.
- Q. Have you the letter?—A. It is out here [indicating corridor.] I have not it. It is in the hands of the attorneys, or somewhere. I don't know where it is. Ed brought it out with him.
- Q. Who did you give it to?—A. I gave it to Ed, my son.
- Q. Do you know what attorney's hands it is in?—A. No, I do not. I do not know who has it.
- Q. Will your son probably know?—A. My son will probably know. He has it.
- Q. This letter from Mr. Oxman to you. Did you act upon the letter or do what was suggested therein?—A. No, sir. I answered the letter, and then when I received his letter I thought probably it might be something in reference to his son because he said he could use me—he could use another witness. I said—I can't tell you exactly how I began the letter, but I think I began it with a question asking him why he didn't send me transportation so I could come the same time with Ed; that I wouldn't undertake the trip alone under any circumstances; that if I could be of any assistance to him I would be glad to—if I consistently could.
- Q. Where did you address him?—A. To San Francisco, Terminal Hotel.
- Q. And you have not—you didn't keep a copy of; your letter to him?—A. No; I didn't, but that is as near as I can remember it.
- Q. Have you ever been in California before?—A. No, sir.
- Q. This is your first trip out here?—A. Yes, sir.
- Q. You came on this occasion with your son and his wife?—A. Yes, sir.
- Q. And one Mr. Ellis, an attorney of Grayville?—A. Yes, sir.
- Q. Have your expenses been paid?—A. My son said they would be.
- Q. Did you advance the money for your ticket originally?—A. I don't know. My son paid the expenses, sir; is all I know. I don't know whether the money was advanced to him or not. He paid the expenses, and, of course, I was glad to come to get to see beautiful California and to be of any service I could, because I knew that Mr. Oxman had tried to get Ed to perjure himself, and before Ed came I made him promise that he would not swear a lie, and there is a boy that never told a lie to a mother in his life—not a willful lie.
- Q. You knew of Mr. Oxman by his reputation in the community in which he had lived?—A. Oh, yes; I knew his reputation.
- Q. Did you have any reason to believe this might result in charges of perjury or—
- A. (Interrupting.) Yes; I did. I thought there was something crooked about it.
- Q. Why?—A. Well, by the general character of the man around home.
- Q. You mean around Grayville?—A. Yes, sir; around Grayville.
- Q. You have seen him since you came to San Francisco?—A. Only in passing. I saw him on the street. I was in a car, but I knew him.



Q. Mrs. Rigall, you are stopping at, I think your son said, the Continental Hotel. Are you? We do not care to ask you to do anything particularly out of the way, but would you locate that letter so that you can present it here before the grand jury?

A. Well, I will tell Ed. to locate it.

Q. You see, it is your property.—A. Yes; I could identify it if I saw the letter.

Mr. CLARK (to the jurors). Have you any questions to ask the witness? Do you know where your son, F. E. Rigall, was on the 22d day of last July?

A. He was in Niagara Falls.

Q. Were you with him at that time?—A. No, sir; his wife was; and I had a letter from him stating that he was there; that he had gone with his wife and brother-in-law and sister-in-law to see the Falls.

Q. By the way, his wife is here, is she not?—A. Yes, sir.

Q. Being his mother, you know whether or not he visited California on any other occasions prior to his coming here in January?—A. He never did.

Q. He never did?—A. He never did.

A GRAND JUROR. When he was in Niagara Falls, how long was he away from home at that time?—A. Well, I couldn't just exactly say; a week or 10 days.

Q. A week or 10 days?—A. Yes, sir; maybe not quite so long.

Q. Wasn't it possibly 14 days? Do you think it was more than 10 days?—A. I don't think so. His wife was up there most of the summer. Her parents live over in Cleveland. He went up there to visit. While he was at Cleveland they went over to the Falls—took a trip over there.

Q. Do you know the day he returned to his home—the date?—A. No; I do not.

A GRAND JUROR. When did your son first tell you he had received information from Mr. Oxman—or a letter?

A. Just as soon as he got the letter.

Q. What was the conversation between you and your son regarding that letter?—

A. I told him not to pay any attention to it, and he said—well, that his expenses would be paid out here and he would want to see what it was. He said he wanted to see what Mr. Oxman wanted with him and he would get a trip to California. He said, "My expenses will be paid and I have always wanted a trip west, and he said "I will go." I said, "Ed., you may get into trouble," and he said, "No;" he said, "I won't." I said, "They want you as a witness, and maybe he will want you to swear a lie." He said, "I won't do it, mother. I promise you I will never swear a lie." Then I rested easy, because, as I said before, he never told me a willful lie in his life.

Q. Who was present when you had that conversation?—A. No one but ourselves.

Q. Did he tell you how much money he expected to receive outside of his expenses?—A. I don't think he knew then. I know he told me afterwards he would get \$250, Oxman told him, and his expenses.

Q. Right from the beginning he understood and you understood there was some sort of crooked deal; is that the idea?—A. No; I thought so. Ed did not. I was afraid it was. He didn't think so. He thought it was some little scrape the young Oxman had got into and he wanted him to help him out. I said, "I don't see what you can do." He said, "I can have the trip anyhow." He was anxious to make the trip.

Q. Do you know when he first decided to expose these letters?—A. When he came home and told me all about it, then I said—

Q. (Interposing). When he came home from California?—A. Yes, sir; when he came home from California he told me all about it. I said, "Ed, it looks awful to let an innocent man hang, but I am afraid for you to go back there," and I don't know—well, he worried about it a great deal and finally he decided—he said "Mother, I am going to let them know that I can save that man."

Q. Did he ever intimate to you that he could get money if he testified?—A. Oh, no; there was no consideration of money about it. He just felt like, you know, that he could clear that man; that is, get him a new trial. Not clear him, but get him a new trial.

A GRAND JUROR. You said Mr. Oxman; you thought he was doing something crooked. You had an opinion he was not straight?

A. Yes, sir; I had an opinion Mr. Oxman was not straight.

Q. What did you base your opinion on?—A. From his general character at Grayville when he was there.

Q. Was there anything in particular?—A. He was in a crooked land deal that I knew of.

Q. How long ago was that?—That has been 20 years ago or more. I don't know exactly.

Q. Who was connected in that crooked land deal with him?—A. Well, I am sorry to say my husband was with him. They were in the real estate business together at that time.



Q. And is there any other crooked thing besides that you know of?—A. I don't know. He was always considered—well, a kind of a tough character in Grayville.

Q. Was he ever convicted of any felony or anything?—A. No; not that I know of.

Q. In what way do you mean he was a tough character? Was he a gambler or a drunk?—A. Not that I know of.

Q. Or did he do anything wrong against any one in particular? What was there wrong about him?—A. That he would beat anybody if he could in a trade or anything that way.

Q. Has he beaten anybody in a trade that you know of?—A. Well, I don't know; only just the general reputation there.

Q. Did he not pay his debts, or anything like that—his obligations?—A. I suppose he paid his debts. He had plenty of money always. His father was wealthy.

A GRAND JUROR. You are speaking of Frank Oxman?

A. I am speaking of Cliff Oxman.

A GRAND JUROR. The gentleman who was here? You don't know anything really wrong of that man at all, as far as you know?

A. No; not as far as I know. Only the crooked land deal. I know about it.

Q. That was 20 years ago—which he had with your husband in a land deal, which you think was not straight?—A. Yes.

Q. And that is the only thing you know about it?—A. Well, I don't know it is the only thing. It is the only thing I positively know. Of course, you know, hearsay—you can't swear to that.

Q. Is there anything what you know hearsay about him that you can place?—A. Well, the—

The FOREMAN (interrupting). I don't think that is competent. Is it?

Mr. CLARKE. It is not, but the juror seems to want it. Let it go in. [To the juror:] Go on. Hearsay questions are not competent.

A GRAND JUROR. We would like to know something, you know, about that man. [To the witness:] As far as you said, I would invite that man to my house. The man happened to have a land deal, which is a question whether it is right or wrong. I would like to find out the character of that man.

Mr. CLARK. Maybe I can assist the juror. [To the witness:] Is Mr. Oxman about your age?

A. I think he is two or three years older.

Q. You never knew him until he moved into that country?—A. I never met him until he became connected with my husband in land deals.

Q. You refer to the fact—his reputation in that community. Do you mean his reputation for good morals and clean living, or what do you refer to?—A. It was all right until after he came into Grayville, then he didn't have the reputation of clean living.

Q. You refer to something with reference to his private life?—A. Yes, sir. That is not necessary to bring that up. It has no bearing on the case. That proves the character of the man in a way.

Q. That gives you the impression you have with reference to him?—A. Yes, sir.

A GRAND JUROR. When you were first asked to come to California, who asked you to come?—A. Ed, my son.

Q. What did he say to you?—A. He asked me if I would like a trip to California. I told him there was nothing in the world I would like better. He said, "Well, you will get to go on account of that letter, because," he said, "you will have to identify that letter."

Q. That letter?—A. That my expenses would be paid. The letter I received from Mr. Oxman.

Q. That you have not got now?—A. It is not in my possession now.

Q. Then did you ask him about expenses?—A. Yes, sir. He said, "Your expenses will be paid."

Q. By whom?—A. He didn't say by whom.

Q. Had you talked with him about how much it would cost to bring you three people out here?—A. Yes, sir.

Q. How much?—A. (interrupting). He said it would be three or four hundred dollars.

Q. Three or four hundred dollars.—A. Yes, sir; between three and four hundred dollars.

Q. Have you received any money whatever since the time you left until now?—A. No.

Q. How long have you been in San Francisco?—A. Two weeks last Wednesday. No. Yes; two weeks last Wednesday.

Q. Have the hotel people said anything to you about paying your bill there?—A. Nothing to me. Ed told me all about it.



A GRAND JUROR. Did any gentlemen visit you back in Grayville? Did two men call upon you in Grayville?

A. No, sir.

Mr. CLARKE (to the witness). In connection with this case.

A GRAND JUROR (to the witness). Yes; in connection with the case, of course.

A. No, sir.

Q. Nobody interviewed you there at all with reference to the particular case outside of your son?—A. No; only Mr. Ellis, and I never talked any to him about it—only since we have been out here.

A GRAND JUROR. Now, you will excuse me for being so inquisitive, but I would like to know when you first got acquainted with Mr. Oxman?

A. Well, when he first—

Q. (Interrupting.) How many years ago?—A. It must be 23 or 24 years ago. I couldn't tell you exactly, but it must be 23 or 24 years ago. My husband and he were in the race-horse business, too.

Q. Was he a married man then?—Yes, sir. He was living with his first wife then.

Q. Did he have plenty of money at that time?—A. Seemed to have. The Oxmans always had plenty of money. His father was very wealthy.

Q. How long is it since he left there?—A. Well, it is between 18 and 20 years. I don't know exactly. I never made any note of it.

Q. It is 20 years since he left there.—A. Eighteen. I don't know exactly. Somewhere about there.

Q. How long had you been acquainted with him before he left there?—A. Several years.

Q. Two years?—A. Oh, yes; longer than that, I guess.

Q. Had you seen him often?—A. Oh, yes. He was at our house nearly every day when he was in with Mr. Rigall.

Q. You had an opportunity to meet him very often?—A. Oh, yes. He was very rough and uncouth in his language. He had no regard—in a lady's presence he would say anything. He would swear before a lady; stick his feet up on the piano. He was uncouth. My husband used to bring him into our living room. That is the reason I know he would do that. They wanted to talk privately, you know, and didn't want to sit where anything they might say would be overheard.

Q. His reputation there, as you had heard it, was not very good?—A. No.

Q. He was a very bad man?—A. Well, I—

Q. (Interrupting.) He was not very well liked there?—A. Yes. I wouldn't call him a good man.

Q. His reputation was bad?—A. Yes, sir.

Q. Yet in those two years you can not tell us one instance of what he had done that caused that bad reputation?—A. Well, just his rough, uncouth manner and—well, I can not describe just how he was.

A GRAND JUROR. You spoke of a crooked land deal in which Mr. Rigall and your husband was involved, didn't you?

A. Yes, sir.

Q. Do you know any of the particulars?—A. No; I don't. I don't know the particulars.

Q. Do you know in what respect the land deal was irregular or crooked?—A. Well, I think that Mr. Oxman took the man and showed him a piece of land and then traded him another piece of land—showed him a piece of land and then traded him something that was not very good. That is what it was.

Q. Was there any suit, civil or otherwise, growing out of the transaction?—A. No; I think it was settled some other way. I don't think it came to a suit.

Q. Then really there was no crime committed in the transaction excepting, perhaps, the deception?—A. Yes, sir.

Q. That is frequently employed in deals of that nature?—A. Yes; that is true, too.

A GRAND JUROR. Since you have been in San Francisco, have you been interviewed by different people here?

A. No, sir.

Q. As to what testimony you must give in San Francisco?—A. No, sir.

Q. You have not had any conversation with anybody?—A. No; no one at all.

A GRAND JUROR. Did your husband and Mr. Oxman have a falling out over this land deal?

A. Oh, no.

A GRAND JUROR. Can you tell me how you fix the date as July 22, your son being at Niagara Falls—how that impresses itself upon your mind?

A. Because he told me he was there then.

Q. How do you remember that particular date? What impresses it on your mind?—



A. Nothing, only it was a trip to Niagara Falls. He wrote and told me he was there. When he came home he told me he was there, too.

Q. But how do you fix the date of July 22 in your mind?—A. Because he told me. I have no reason to doubt his word, because, as I told you before, he never told me a willful lie in his life.

Q. You are answering the question on what your son told you since. What I want to get is how you fix it.—A. He wrote to me.

Q. How do you remember this date so far back in regard to an inconsequential visit there?—A. I know he wrote me a card from Niagara Falls.

A GRAND JUROR. Is a trip to Niagara Falls in your country a good deal like a trip to the Yosemite in California?

A. Yes, sir.

Q. Is that an event of one's life back there?—A. Well, yes.

A GRAND JUROR. Did your son when answering the letters that he had received from Mr. Oxman show you the answers before he sent them?

A. No.

Q. Did he mail them himself?—A. Yes; mailed them himself.

A GRAND JUROR. As far as the deal is concerned he had with your husband, as far as your husband was concerned everything was all right?

A. Well, no; my husband always claimed he never paid him what he agreed to.

Q. So, of course, you have certain grievances against Mr. Oxman on account of that time he never paid your husband?—A. I never had a grievance against him at that time.

Q. A man doesn't do the right thing, you have no feeling toward him?—A. I had no ill feeling toward him, because I never approved of the deals in the first place.

Q. You say your husband wasn't paid what he thought he should receive?—A. I never thought much about it, you know.

Q. Is it a fact he did get paid or did not get paid?—A. That is what he claimed—that he wouldn't pay him, but that never made any difference between me and Mr. Oxman, none in the least.

Q. He did not pay your husband?—A. What he agreed to.

Q. What he agreed to?—A. That is what my husband said.

Q. Your son knows that, too, of course, that he didn't pay?—A. My son was just a child at that time.

Q. He knows since then?—A. I suppose so, but we never cared anything about it.

The FOREMAN. Any further questions, gentlemen? That is all.

F. C. OXMAN.

The FOREMAN (to Mr. Oxman). This is section 1324 of the Penal Code I am going to read to you: "A person hereafter offending against any of the provisions of this code or against any law of this State, is a competent witness against any other person so offending and may be compelled to attend and testify and produce any books, papers, contracts, agreements, or documents upon any trial, hearing, proceeding, or lawful investigations or judicial proceeding, in the same manner as any other person. If such person demands that he be excused from testifying or from producing such books, papers, contracts, agreements, or documents on the ground that his testimony or that the productions of such books, papers, contracts, agreements, or documents may incriminate himself, he shall not be excused, but in that case the testimony so given, and the books, papers, contracts, agreements, and documents so produced, shall not be used in any criminal prosecution or proceeding against the person so testifying, except for perjury in giving such testimony; and he shall not be liable thereafter to prosecution by indictment, information, or presentment, or to prosecution or punishment for the offense with reference to which his testimony was given, or for or on account of any transaction, matter, or thing concerning which he may have testified or produced evidence, documentary or otherwise.

"No such person shall be exempt from indictment, presentment, by information prosecution, or punishment for the offense with reference to which he may have testified, as aforesaid, or for or on account of any transaction, matter, or thing concerning which he may have testified, as aforesaid, or produced evidence, documentary or otherwise, where such person so testifying or so producing evidence, documentary or otherwise, does so voluntarily, or when such person so testifying or so producing evidence fails to ask to be excused from testifying or so producing evidence on the ground that his testimony or such evidence, documentary or otherwise, may incriminate himself; but in all such cases the testimony or evidence, documentary or otherwise, so given may be used in any criminal prosecution or proceeding against the person so testifying or producing such evidence, documentary or otherwise.



"Any person shall be deemed to have asked to be excused from testifying or producing evidence, documentary or otherwise, under this section unless before any testimony is given or evidence, documentary or otherwise, is produced by such a witness the judge, foreman, or other person presiding at such trial, hearing, proceeding, or investigation shall distinctly read this section of this code to such witness; and the form of the objection by the witness shall be immaterial if he, in substance, makes objection that his testimony or the production of such evidence, documentary or otherwise, may incriminate himself; and he shall not be obliged to object to each question, but one objection shall be sufficient to protect such witness from prosecution for any offense concerning which he may testify, or for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, upon such trial, hearing, proceeding, or investigation."

Mr. CLARKE. Mr. Oxman, in addition to that I may say to you that the constitution of this State provides that a person charged with crime shall not be compelled to be a witness against himself. Likewise section 1323 of the Penal Code, being the section preceding the one read to you by the foreman of this jury, provides a defendant in a criminal action or proceeding can not be compelled to be a witness against himself, but if he offers himself as a witness he may be cross-examined by counsel for the people as to all matters about which he was examined in chief. His neglect or refusal to be sworn and testify can not in any manner prejudice him nor be used against him on any trial or proceeding. Now, this grand jury, Mr. Oxman, is investigating a charge here arising out of the case of the People v. Thomas Mooney, recently tried in the superior court of this city and county, in which you appear to have been a witness. The result of this investigation may or may not result in your indictment by this grand jury.

Mr. OXMAN. I am here to testify and tell what I know about it. If it is against myself, why, I am not going to shield myself any more than anybody else. I have nothing to tell only the truth—only what I know.

Mr. CLARKE. Well, we want to surround you, Mr. Oxman, with every caution that a man is entitled to in your position.

Mr. OXMAN. I understand. There is a whole lot about those sections I don't understand; but I presume there will be no harm brought on.

Mr. CLARKE. Well, now, if you do not understand this, we want you to thoroughly understand it, because we do not want to take your testimony against any objection on your part.

Mr. OXMAN. Well, I am willing to testify. I shan't make any objection.

Mr. CLARKE. Now, we understand that you are desirous of testifying before this grand jury with full knowledge of the fact that they are investigating your conduct.

Mr. OXMAN. Certainly, I understand by those affidavits.

Mr. CLARKE. And you offer no objection?

Mr. OXMAN. No.

Mr. CLARKE. And willingly submit yourself as a witness?

Mr. OXMAN. Yes, sir; and I want you gentlemen to understand before you commence that I am a man without any education whatever, and I might tell you some things and mean it a little different way. I might get the front end backwards; you understand. So I don't want you to think you have an attorney up here to answer questions, because I am no attorney.

Mr. CLARKE. We understand that, Mr. Oxman. The preliminary question, of course, is one resting entirely with yourself as to whether or not in view of all the circumstances and the safeguard which the constitution and the law gives you, you now desire with full knowledge of what may result to submit yourself as a witness.

Mr. OXMAN. Certainly. Yes.

Mr. CLARKE. You understand that?

Mr. OXMAN. Yes.

Mr. CLARKE. And do now desire to be sworn and act as a witness herein?

Mr. OXMAN. Yes.

F. C. OXMAN sworn by the foreman.

Mr. CLARKE. What is your name?

A. Well, I go by the name of F. C. Oxman. My name is Frank Clifford really, but for the last 20 years I have always been known as F. C. I signed my name as F. C.

Q. Where is your residence?—A. It is in Durkee, Oreg.

Q. What is your business?—A. Live stock dealer and—

Q. How long have you lived in Durkee, Oreg?—A. About 10 years.

Q. Where did you live prior to that?—A. I lived in Chicago.

Q. For how long a time?—A. About 9 or 10 years.

Q. And where did you live prior to that?—A. I lived in Grayville, Ill.



Q. And how long did you live in Grayville?—A. About 10 years.

Q. May I ask where you were born and raised?—A. I was born in Illinois.

Q. In the town of Grayville?—A. North of Grayville, Ill., about 5 miles, in Edwards County.

Q. What county in Oregon is Durkee?—A. Baker County.

Q. Is Baker City the county seat?—A. Yes, sir.

Q. You are a man of family?—A. Yes, sir.

Q. Consisting of what?—A. Wife and one child. I have had two families. I have two daughters down at Grayville, Ill.

Q. You mean living or—A. (Interrupting.) Yes. I have a dead daughter there and one married daughter and one single daughter. I have not seen them for a good many years. I have not been there—only once in a great many years.

Q. Do you know one F. E. Rigall?—A. Yes, sir.

Q. How long have you known him?—A. Well, I used to know him—I guess I used to know him when he was a small boy, then I didn't know him any more until along in January of this year.

Q. Did you ever see him in the city and county of San Francisco, State of California, prior to January, 1917?—A. No, sir; I did not.

Q. Were you in the city and county of San Francisco, State of California, on the 22d day of July, 1916?—A. I was.

Q. And I refer to the date of the preparedness parade.—A. Yes, sir.

Q. And the bomb explosion.—A. Yes, sir.

Q. Did you see in the city and county of San Francisco, F. S. Rigall at that time?—A. No, sir; I did not.

Q. Did you see any other person from Grayville, Ill.?—A. Well, I saw a young man that I thought was from Grayville, Ill.; that is, he led me to believe he was from Grayville, Ill. As to know him, I didn't recognize him. He told me who he was and I might have misunderstood his name. I asked him how long he knew me. He said he knew me when I shipped stock from Grayville, Ill., to Chicago.

Q. Where did you meet him, Mr. Oxman?—A. I met him near—about a little, probably, up the street from the Alameda Café on the other side of Market Street. I was going up toward Stuart Street.

Q. Now, how did you come to be in San Francisco on the day of the preparedness parade, on the 22d day of July, 1916?—A. I came here to sell some lambs that I and Mr. Becknell then owned over on the mountains this side of the Sierra Nevada somewhere. I am not acquainted with the names of all those mountains. That was my business here that day.

Q. Where did you come from—what point?—A. I came from—I came from Oregon—Portland.

Q. You took the train in Portland on what date?—A. Well, I disremember the date, now, it was.

Q. What was the date of your arrival in San Francisco?—A. I suppose the 22d, was on a Saturday—the preparedness parade.

Q. What time in the morning did you arrive?—A. I think it was afternoon, probably.

Q. What particular train did you come on?—A. I don't know the number of the train that I arrived here on.

Q. Over the Southern Pacific line?—A. Yes; I think it was due here at 12.50. That is my recollection.

Q. You occupied a Pullman sleeper from Oregon here?—A. No, sir.

Q. Did you occupy a tourist sleeper?—A. Part of the way.

Q. What part, may I ask?—A. Well, it was the northern part.

Q. The rest of the time where did you ride?—A. Well, I rode in the—sometimes in the smoker, I suppose, and sometimes in the chair car. I usually just buy a sleeper during the night. I suppose I did that time, but I don't know.

Q. You have no independent recollection of it?—A. No, sir.

Q. After your arrival in San Francisco what did you first do?—A. I went to the Terminal Hotel.

Q. Did you register?—A. I don't remember whether I registered then or not. I know there was a very big crowd in there, and the clerk told me he couldn't give me a room until night, as he was crowded, and I disremember whether I put my name down then or whether I put it down later. I know I got my mail and proceeded to go out and get something to eat, and the places were all so full I couldn't get anything to eat. I first went to the Terminal Restaurant and then I went to the Ferry and then to the California Café. They were all full. Then I proceeded across the street to the opposite side of Market Street. Then I proceeded—I suppose it is up (indicating). It is from the Ferry Building, at any rate, coming up from the Ferry Building toward



Steuart, and there I met this party, and he had on shipping clothes, and he told me he was in the stock business. He looked like a shipper. I walked up there, there was quite a crowd, and I bought some fruit, some peaches, I think they were, and then we proceeded across—I proceeded across—I was going back to the hotel soon, and we proceeded across to the corner of Steuart and Market Streets.

Q. Now, that man that you met you understand was not F. E. Rigall?—A. No, he was not F. E. Rigall; I know he was not, but it was my understanding that he gave me the name as Ed. Rygals.

The REPORTER (to Mr. Oxman). How do you spell it?

A. I don't know how to spell it. I can't tell you how to spell it, because I don't know.

Q. Without going into what you saw, you, I believe, testified, substantially, in the trial of the case of *The People v. Thomas Mooney*, that you saw the defendant, Thomas Mooney, at the corner of Steuart and Market Streets on that day in question?—A. I did.

Q. When did you first communicate that fact to anyone?—A. The next morning I remarked that there was a crowd of men around there; that I had seen two gentlemen leave a suit case near these steel doors. There were two steel doors up, as I understand it, on the sidewalk near the building that this suit case was kind of put back of.

Q. Who were these people?—A. I don't know. They were strangers to me. There was a crowd there. There was a rope stretched across the street and there was quite a number of men there.

Q. Did you say anything at that time as to having met anybody who knew you on that occasion?—A. No; I did not.

Q. When did you next convey the intelligence to anyone you had been there?—A. I remarked in the hotel that I pretty near got blown up myself, and the next I conveyed it, I remember of, was up in a lawyer's office on the other side of Market Street. I left a stock claim there to be collected, and I remember telling it to a man there, because I thought he was an attorney. He wouldn't have anything to say about it.

Q. What lawyer was that?—A. Why, I have no—I disremember the name; I probably have it here [indicating]. I left a claim there. There was a cattle shipment, and they were in the collection business. There [showing], maybe you can read it. I can't.

Q. A GRAND JUROR. "J. O. Brackenbo," is it?—A. I don't—

Q. "656 Pacific Building."—A. I understand—

Q. (Interrupting.) "J. O. Bracken Co."—A. This is it here. [Indicating.] I think there was a young man by the name of Baker there when I was there.

Q. Well, who was the next person?—A. I couldn't remember. I told it to my folks when I got home. I can't remember. I avoided telling it where I thought it would get to the authorities, because I didn't want to appear as a witness in the case.

Q. Did you tell this story in Kansas City?—A. What?

Q. Did you tell this in Kansas City?—A. Which?

Q. Did you make any statement about what you saw?—A. I made a kind of offhand statement there some months afterwards.

Q. To whom?—A. I don't know who he was. He said he represented the district attorney's office.

Q. Did you sign the statement you made him?—A. Yes, sir. I signed something; I don't know what it was.

Q. You don't know what it was?—A. I couldn't tell you now altogether what it was, because my mind was a little off and I didn't want to tell him.

Q. In that statement did you refer to the fact you had met some one from— A. (Interrupting.) I don't know whether I did or not. I don't know whether I did or not.

Q. Who was the next person you told this to?—A. The next person? Lieut. Bunner.

Q. At what place?—A. My home ranch in Baker County, Oreg.

Q. Do you remember the date?—A. No; I don't.

Q. How long prior to the trial of Thomas Mooney?—A. Oh, it was something like two months, I guess. I really don't know.

Q. State the circumstances under which you told Lieut. Bunner?—A. Well, now, I might not get this just right. My wife had been very sick, she had two very serious operations performed on her, and I had some little correspondence with Mr. Fickert's office, and I had expected to go to California to see about some cattle, and so Mr. Bunner came up there. I didn't know who he was. I got off the train at Durkee. He met me. He said, "Hello! Is this Mr. Oxman?" I said, "Yes." He said, "Hy name is Bunner. I am from San Francisco, from the district attorney's office, and I want to question you in regard to some matters that we have in San Francisco." Something to that effect. "Well," I said, "it is only about a mile and a quarter



over to the ranch, and I have not got any automobile, and if you don't mind walking we will walk on over. We can put in the time better there than we can here." So we went on over. He questioned me very closely in the house about it, and I told him what I could remember about it—what I knew about it and everything, and I did tell him about seeing the young man and that I couldn't call his name but I thought I could find his name on some papers probably that I had, and I told Mr. Bunner practically the same as I testified to. That is all I know about it, just what I testified to, and I want to tell you gentlemen I can't change that testimony any that I put in.

Q. Now, did you come to San Francisco?—A. Yes, sir. I told Mr. Bunner that I did not want to come, I had to come to California to see about some cattle, but I didn't want to have anything to do with it, and he seen I had a little boy there that I thought a great deal of. He said, "Now, if some of these dynamiters would blow up your wife and your child, wouldn't you feel like some person that seen it ought to testify and help prosecute the criminals?" I said, "Yes, looking at it that way, I will go." I said, "You needn't subpoena me. I will go."

Q. You afterwards did come to San Francisco?—A. I came on down to San Francisco, yes; I met Mr. Fickert and his assistant, Mr. Cunha.

Q. What date did you arrive here?—A. As near as I can think, I arrived here about the morning of the 13th.

Q. December, 1916?—A. Yes, sir.

Q. December?—A. Yes, sir.

Q. Where did you go?—A. I went to the Hotel Terminal.

Q. And did you thereupon visit Lieut. Bunner or District Attorney Fickert?—A. Yes, sir.

Q. That same day in this building, the hall of justice?—A. Yes, sir: Mr. Fickert—well, I had wired Mr. Fichert when I was leaving home—the district attorney's office at their request, and I think Mr. Fichert met me at the hotel very shortly after I arrived there.

Q. Did you talk with him at all?—A. Yes, sir.

Q. Did you tell him what you had seen and heard?—A. Yes.

Q. As to the occurrences of July 22, 1916?—A. Yes, sir.

Q. Now, I show you, Mr. Oxman, what appears to be "People's Exhibit No. 13" in the case now pending against you in the police court—A. (Interrupting). Yes, sir.

Q. With the envelope.—A. Well, this is good as far as it goes, but there is one sheet of it left out.

Q. One sheet left out?—A. Yes, sir. I wrote it, all right; I ain't denying anything. I wrote that at the suggestion of Mr. Fickert and Edward Cunha. I told them about that on my arrival here. They had written me something about this other man, and Mr. Bunner had impressed it that it was a very important matter, if I could think who it was, to get him here and indentify me as being at that certain place at that time, and I told him I would do the best I could to the best of my recollection in placing this man, and I hadn't seen the boys since they were little. I knew one of their names was Ed. and one of them was something like Clyde, I believe, and there was another also. I thought Ed. was the youngest one, but it appears since they came here Ed. is the little one, and we talked over the matter and they wanted to know if I could suggest any way to get him here, because you gentlemen probably don't understand that people don't like to come here and testify to what they know about these people, because it is very annoying, and I did write that letter, and I wrote it under Mr. Cunha's request and instruction to write him and get him here. He said, "It will cost us a couple of hundred dollars to send a man there, and you can have him come out here and he can see California if he has never been here. I don't know whether he has or not. You know people coming from the East, who come here to California, see something that interests them."

Q. That is what Mr. Cunha said?—A. And so I wrote the letter. Now, I will explain that letter if you care to have it explained.

Q. Yes.—A. You see, now, I don't know—I know nothing about writing, you know. I can't write. I can write a business letter, but a social letter I don't know anything about. If I want to buy some cattle or sheep from a man, I say, "Dear Sir: I understand you have so many sheep or cattle for sale," in my rough way. "Please price me the same." This here [indicating letter], I was in a hurry this day. This was written on the 13th day of December, to my recollection. Why I call those dates, I was looking at some cattle down on the Chow Chilla ranch. The party owned the cattle was here and leaving that evening for the Chow Chilla. Now, this is not dated there [indicating], you see. That is not dated [indicating]. I wrote that. Now, if you care, I will tell you what was on the other page, but if you don't care I will omit it.



Q. Tell it.—A. On the second page—you see they are small. I seen that the letter—I had written over it and didn't exactly like it, because we had talked over that I must not say anything about the bomb outrage here, because the man wouldn't come, you see. Now, mind you, I didn't tell these people that I was absolutely sure that this was the man, but the best I could size him up in my mind that it was one of the Rigall boys back there, you understand. So I said here—I put the dates in up here [indicating]. I said, "P. S." and underlined the "P. S." "If you were not in San Francisco on July 22 can not use you as a witness. Answer by wire. F. C. O." and all that was underlined. Now, you have it straight, gentlemen—that letter.

A GRAND JUROR. May I see that again, please [referring to letter.]?

Mr. CLARKE. Now, I show you a letter marked "People's Exhibit 14" in the police court, addressed to F. E. Rigall—

A. (Interrupting). Yes, sir; because I had—

Q. (Continuing). "Grayville, Ill."—A. I think I had got a wire from him then that he would come. I supposed that he was the man. I think there is a telegram in evidence somewhere.

Q. I don't want to confuse you—and far be it from me. This letter you first identified was dated on the 13th, mailed to him at Grayville, Ill. This letter is dated on the—postmarked here on the 18th.—A. Yes.

Q. You are probably correct. Well, you say there—A. (Interrupting.) My recollection now is I had this, because—or I had seen Wallace Whitney in the meantime. He probably told me—I asked him about the Rigall boys. He told me they were all dead but Ed. Yes; I wrote this letter also. This is all here—all of it.

Q. That is all there?—A. Yes, sir.

Q. There is nothing left out there?—A. No; I have nothing to add to that at all. I wrote it. I told you gentlemen, when you swore me, I didn't have anything to keep back.

A GRAND JUROR. In connection with this letter. You state that you initialed that second page "F. C. O."?

A. Yes, sir.

Q. Why did you do that?—A. That is my initials.

Q. Was that indicating the letter was finished—or you finished the letter?—A. It is a postscript to this other letter; I just said "P. S." on top and dated it. "P. S.," you know. It is a part of this letter [indicating].

Q. It would have been the third page, not the second?—A. No; the third page.

Q. You said a page is left out?—A. I tell you, I am no letter writer; I am no clerk; I never went to school in my life.

Q. You put that on as a postscript?—A. Yes, sir; in my rough way of doing, you know.

Mr. CLARKE. Did you afterwards write to Mrs. Rigall, the mother of Ed?

Answer. Yes, sir; I did.

Q. Had you seen her in San Francisco?—A. No, sir. I had seen her the day that I took my daughter down to be buried—the day she was buried, I done that, you know—I thought, you know, that—I wasn't altogether sure that this man Ed Rigall would come, and I talked to Mr. Cunha and Mr. Fickert, and he told me anything I thought to get him out here, why, to get him here, and I thought I would probably have to have some character witnesses, that they would probably break me down and swear they wouldn't believe me under oath, or something. I thought probably I would have to bring some from where I lived and some from Chicago and some from Grayville. I didn't see any reason why, if Mrs. Rigall came out, she couldn't be one of those character witnesses as well as anything else. It was more to blarney them along to get the boy here, but when he got here he was a gray-headed man. That is as good an explanation as I can give.

Q. You say, "blarney them along."—A. Blarney them along. Mr. Cunha said, "Bull him. We will talk to him when he gets here."

Q. When did Mr. Cunha make that statement to you?—A. I know he made that statement on the 13th day of December, before the first letter was written. Then I spoke to him when I got the telegram. Probably Mr. Cunha and Mr. Fickert will remember that more distinctly than I do.

A GRAND JUROR. They thought that that was the boy that you had seen?—A. Yes; on Market Street.

Mr. CLARKE. In your letter of December 13, what do you refer to when you refer to Mr. Ed Rigall as an expert witness?

A. Well, sir, probably I ain't able to tell you, but I can tell you what my mind is. I thought that he would have to—you see, I have been used as an expert witness in railroad claims, assessing damages; they always put me on as an expert witness, but I have to qualify first. I thought Mr. Rigall would have to qualify that he was in San Francisco that day, what hotel he was staying at, and that he was at that place, before



he could testify that he seen me. That is what I class as an expert witness. Other times over in Illinois we used to call a character witness an expert witness. I did say to Mr. Cunha, "Couldn't we use this fellow as a character witness?"

Q. After the receipt of his telegram you did proceed to get transportation?—A. Yes, sir.

Q. Who furnished the money?—A. Mr. Fickert.

Q. In currency or in cash or in what manner?—A. I think he gave a check to the railroad for it—to the S. P. Railroad. It was sent to the Illinois Central.

Q. Who arranged for that? You?—A. I and Mr. Fickert were together.

Q. You personally went and arranged for the transportation for Rigall?—A. Yes, sir. I told him where to send it and who to send it to—who to deliver it to. I had the telegram. Probably I had given it to Mr. Fickert then. I mean the telegram that I had got from Rigall at that time.

Q. In this letter you refer to the fact that he will have to say that he saw you on July 22d. Using your language, "and you will have to say you seen me on July 22d in San Francisco."—A. I meant if he couldn't swear that—if he hadn't seen me he couldn't be a witness, of course.

Q. "And that will be easy done."—A. I presumed the way he wired he had seen me. I told him there that—my wording of those letters, you understand—I am not a letter writer. I don't suppose you will find it all spelled right.

Q. Oh, well, we all make those mistakes, Mr. Oxman. "You know the silent road is the one, and say nothing to anybody. The fewer people know it the better."—A. Do you want me to explain that?

Q. Yes.—A. I was instructed by Capt. Matheson—I had told Capt. Matheson that I was to send for a witness that I thought that I had seen, or something to that effect, and it is my recollection he had told me not to tell any of what I knew about this transaction—not to talk to any witnesses, tell any of his men, Mr. Bounner, or any of them, anything I knew or done. So I inferred from that that these authorities didn't want everybody to know what the man was coming out here for.

Q. "Better when you arrive register as Evansville, Ind." "A little more mileage."—A. Evansville, Ind. Well, I had about three reasons for that. If it would be proper, I will try to explain. One was that Mr. Bounner had told me that a witness would get 10 cents a mile for coming here. But I found out after I came that it wasn't the case. Mr. Bounner was mistaken, and he would get more mileage from there.

Q. Just a minute. Just a minute. You want the grand jury to understand that you wanted this man to get more money out of the State of California than was coming to him?—A. Well, I don't exactly want them to understand that, but while a ticket that will cost—Evansville is a big place, while Grayville is only a little bigger than a flag station, 3,000 people. A ticket will usually—there will be tickets on sale in Evansville, you know, there western tickets, when there won't be at Grayville, and I thought there would be a cheaper rate from Evansville than there would be from Grayville. That is what I had in mind. There is usually a cheaper rate from a place like Evansville than Grayville. Something like \$20 or \$30 saved.

Q. You don't want it understood that you were making a suggestion to him that he should charge a greater sum than he actually—A. (Interrupting). I will tell you the main thing I was thinking of now: That if the fellow had registered from Evansville, Ind., and testified, these anarchists couldn't trace him as easy and poison his well, like they do mine and everything in Evansville as they could in Grayville, and then Mr. Whitney told me he didn't know whether the fellow lived in Evansville or Grayville. He thought he was part of the time in both places. Mr. Whitney told me he done some business in Evansville.

Q. Who is Whitney?—A. A young man from down in Grayville, who works for the Western Meat Co. here. I seen him—I happened to see him a day or two here after I wrote the first letter. I seen him Sunday after I wrote the first letter. He was on the bay with Mr. Bunner, Rigall, and myself of the 7th day of January. We went out on the police boat. And then there are two roads from Evansville. One would be further than this and the other would be shorter the way he came.

Q. Well, did you meet Mr. Rigall upon his arrival here?—A. I did.

Q. Where?—A. The Terminal Hotel.

Q. State the circumstances under which you met him.—A. He came into the hotel—blustering, you know. He looked like he was drinking. I don't know whether he was or not. I never took a drink in my life. I don't know these men when they drink at all. He came in and he said "Hello! Are you Mr. Oxman?" I said, "Yes." "Well, I don't know you." He said, "My name is Stone from Kalamazoo, Miss." "Oh," I said, "where did you know me?" He said, "I know you from Chicago." He turned and went to the desk and registered. Then he came back and he said, "Where is Frank?" I said, "What Frank do you have reference to?" "Why,"



he said, "your boy Frank." I said, "I think he is up at Kimberly, Idaho." He said, "I must go and get something to eat," and he went out.

Q. Then what occurred?—A. I went to a show that night. When I came back there was a notice in my key box. One of the bell boys gave it to me—that the gentleman by the name of Charles—Mr. Charles had left a note for me that he wanted to see men in his room. Mr. Charles. So I went to the boy that was running the telephone, you know, in the house, and I said, "Call up 437 and see if Mr. Charles is in." He answered that he was in, and one of the boys went up to his room, and he kind of smiled and he said, "You don't know me yet, do you?" I said, "No, I don't know you." I said, "This ain't Ed Rigall, is it?" He said, "Yes, this is Ed Rigall." "Well," I said, "this ain't the Ed Rigall I am looking for," and then he laughed and "Well," he said, "I didn't come out here to see you. I came out here to see your son." I said, "You came out here to see me, but," I said, "I am disappointed. You are not the Ed Rigall I am looking for. You are not the man I sent for."

Q. Well, what further occurred in that conversation that evening?—A. And then he said, "I might be any Ed Rigall if there was anything in it." And I said, "Well, how is all the folks down there? Have you seen my little girl lately?" He went on to talk about the folks. I asked him about who died and about my mother and everything, and by that time the time had passed and I retired.

Q. On that occasion did you tell him of the bomb explosion?—A. No. He told me he had been reading about it. He knew all about it. I didn't go into any details about it that night.

Q. When did you next see him?—A. I saw him the next morning after breakfast.

Q. There at the hotel?—A. Yes, sir.

Q. What occurred then?—A. Well, he asked me what I had sent for him for, and I told him that I had expected that—I was trying to—I had seen a boy there and I was trying to locate him, and I had made a mistake; that he was not the man at all; and he smiled and said he was a long way from home. He intimated that he could be the man. "No," I said, "not in this case." Then I told him what I had seen and what I wanted this boy to testify for, what we had sent for him for. I didn't tell him I sent for him any more than the district attorney had sent for him. I went over the question of what I was expecting of him when I sent for him; that I was expecting him to prove the details. Well, then I went up to Capt. Matheson's office, and I was in an embarrassing position. I had told these people his name was Rigall. He came there and registered as "Charles." Then I had something on my hands to get rid of him. How to get rid of him was the next thing. I went up to Capt. Matheson's office. The captain had promised to take me out on the bay some day with one of the boys. I asked him if it would be too much to let Mr. Bunner go out on the bay with us that afternoon. He said all right. We went out on the bay. That afternoon—

Q. (interrupting). Did you introduce Mr. Rigall to Capt. Matheson?—A. I did.

Q. How?—A. I introduced him the way he was registered, as "Mr. Charles," at his request. I asked him if he was going to go under that name. He said yes.

Q. What explanation did you make to Capt. Matheson?—A. I don't remember, but he told me to tell people that he had a stepfather by the name of Charles and there was two sets of boys, and sometimes he went by the name of "Charles" and sometimes by the name of "Rigall," I don't know whether I told Capt. Matheson that or whether I didn't. I was ashamed of the transaction and I didn't want to talk very much. I didn't know whether he was going under the name of "Charles" at that time. I couldn't tell the way he was registered there, and—

Q. You were ashamed of the transaction. What do you mean by that?—A. I had brought a man here supposed to be Rigall, and then having to tell people his name was "Charles," why, it looked like something was wrong on the face of it. See. It didn't look right to me. So then the next person I heard about this "Charles" business—I introduced him, I think, to Mr. Bunner as "Charles," too, and I told Mr. Bunner to tell Mr. Fickert I would like to see him as soon as he could get an opportunity, and Mr. Fickert dropped down to the hotel, he was busy selecting the jury, and I introduced him as "Mr. Charles," and I said, "I told you I was going to bring a boy, but I have got an old man, and I have made a bad mistake, and I am in trouble about it."

Q. You told who that?—A. Mr. Fickert, in the presence of Mr. Rigall. Mr. Fickert said, "I thought his name was Rigall." He said, "We sent the money to a man by the name of Rigall." I said, "Yes," but Rigall said, "My mother has been married twice and there is two sets of boys. Part of the time I go by the name of 'Charles' part of the time I go by the name of 'Rigall.'"

Q. He said that to Mr. Fickert?—A. Yes, sir; in the Terminal Hotel. Then I put up some time in the noon hour that day. I came to the Hall of Justice and went into



Mr. Fickert's private office and told him this was not the man and that I guessed I was in bad; I supposed as I made the mistake I ought to put up the money and pay his expenses; and Mr. Fickert said, "That will be all right. We all make bigger mistakes than that." And that day Rigall became uneasy about his expenses, and he said, "Now, if you ain't going to use me," he said, "how the hell am I going to get my expenses?" I said, "I guaranteed them, didn't I?" He said, "Well, not exactly." "Well," I said, "I will protect your expense. We have sent you \$135. I will protect them with my own check up to \$250 for expenses, providing the State doesn't pay them, but if the State pays them you have got them anyhow." "All right," he said, "that will be all right." So, then, that same day that I told Mr. Cunha I had made a mistake, that this wasn't the man I had seen on Market Street, and I said, "Mr. Cunha, I think that probably we ought to let him go." "No," he said, "that won't do, Mr. Oxman. That won't do." He said, "These fellows know. They have been shadowing you ever since you have been here." He said, "They know this man has been here. If we send him away it will make a great bit—" I don't know what word he said—"out of it." He said, "We will hold him here now until after you testify; then," he said, "you can tell them on cross-examination how he came to come out here and everything, and if necessary we can put him on to tell the same story as to how he came here." So Mr. Cunha told me—he said, "Go on." He said, "Go on, and treat him nice and entertain him pretty well. Help him to have a good time," or something. He said, "You are lonesome and want to get away from here. You kind of know him—have known him" or something. "You will have to entertain him."

Q. You took him around with you then, from time to time?—A. Yes, sir; I asked him to go out to San Jose with me, one day.

Q. Did he go?—A. Yes, sir; he went.

Q. Did he make a trip out with you to see the automobile?—A. Yes, sir; he did. I asked him to go that time.

Q. Where was the automobile?—A. I think it was at the North End police station, or something. I can't remember the streets. Mr. Bunner was along.

Q. Who else?—A. I believe a young man drove the automobile by the name of Hand, a police officer or something. I don't know. I won't be sure as to that. Would I be permitted to make any comments on what he testified?

Q. You can make any statement that you think you should make, Mr. Oxman, if you care to.—A. Now, he testified that Mr. Fickert and Mr. Cunha and myself and himself went over certain testimony that he was to give. Now, gentlemen, I will say that there was no such conversations when I was there with Mr. Fickert or Mr. Cunha or Mr. Rigall. There never was no testimony went over and all this blarneying about me being the star witness, I never have seen or heard Mr. Cunha or Mr. Fickert ever mention one word about a star witness about me or anybody else in these cases, and I will say in behalf of Mr. Fickert and Mr. Cunha that as far as they have treated me they have been absolutely on the square; they have never intimated that they wanted me, or any other witness, to swear one thing that was not right, not one single word in this case at all.

Q. During your stay here, Mr. Oxman, did you become acquainted with another witness for the prosecution by the name of Estelle Smith?—A. Not until after I had testified.

Q. Did you make a visit to her at her place of business?—A. I was up there. I went up to see the roof garden, yes.

Q. What?—A. That place where they claim that Billings had been up there on the roof. I was anxious to see what kind of a place it was. I was in there to see that. Then there is a doctor of dentistry, I met him, and I went there one time to see if he could make me some teeth—you know, I ain't got very many—and I didn't have time to wait for the teeth.

Q. Did you invite Miss Smith out to dinner with you?—A. No, sir, I did not.

Q. Did you ever say anything to her about her testimony producing for her an amount that you could count by five figures?—A. What?

Q. Did you ever say anything to her about the fact if she continued a witness for the prosecution in these cases she would have a sum that could be counted in five figures?—A. I have no recollection of it, because as far as this reward, gentlemen, is concerned, I have never understood that there was any reward. I don't need any reward. I have lost more in this case now than all the reward ever will be, and as far as the reward is concerned, I don't know anything about it, and Miss Estelle Smith—she told me that she didn't want any reward, and Mr. Fickert never told me there was any reward, and Mr. Bunner or anybody that way. There was a question brought up there that I suppose this leads out of. If I will be allowed to tell it, I will tell it to you.



Q. Go ahead.—A. Now, the doctor of dentistry—I don't know his name. He is an auburn-haired man—he told me that there was no question but what the fifth man in that party was the Alexander Berkman, and that he wasn't yet arrested; that he knew in reason it was him, and I remarked that if he could—if the evidence—the evidence he had ought to be sufficient to cause his arrest—his identifications, and if it was the city of San Francisco should pay him a nice reward for the identification of the man. That is all I ever remember saying about rewards to any of the witnesses. In fact, I didn't talk to any of the witnesses. I didn't want to know what they were going to swear, as I knew what I seen, and I didn't care about what other people had seen or say. I didn't know what they were going to say about it. I didn't read any of her testimony.

Q. I show you an exhibit, marked "People's Exhibit No. 18," purporting to be a telegram to F. E. Rigall [showing].—A. Yes, sir.

Q. You sent that telegram?—A. Yes, sir.

Q. To Mr. Rigall in response to a telegram from him to the effect he had been delayed?—A. Yes, I think so.

Q. This is the telegram, apparently, "People's Exhibit 4," a copy of the telegram to which that was a reply [showing].—A. I can't read it.

Q. I will try to read it for you, Mr. Oxman. "F. C. Oxman, care Terminal Hotel, San Francisco. Unavoidable delay. Impossible before Friday. Wire instructions. F. E. Rigall." You received such a telegram from him?—A. I don't remember. I—

Q. (Interposing). Now, Mr. Oxman, of course it has occurred to you—it must have occurred to you as a reasonable man that these letters which you have identified as having written to F. E. Rigall, Grayville, Ill., are rather unusual letters. Have you any further explanation for the language employed by you there and your connection in this matter that you desire to give this jury?—A. I was informed by the district attorney's office to get him here. Get the man. To use anything I thought that was any way reasonable. And then, you must understand, I am a man without any education. I am not very much of a letter writer.

Q. Well, what is your explanation of the letter to Mrs. Rigall, the mother of Ed Rigall?—A. To Mrs. Rigall?

Q. Yes.—A. I thought probably that she would induce him to come, you know.

Q. Had you known her quite well and intimately in Grayville, Ill.—A. I had known her. I hadn't seen her very many times in the last 15 or 16 years, because I had only been there about twice, I think, but I used to know her very well.

Q. Been in business with her husband?—A. No.

Q. How?—A. No.

Q. You were never associated with her husband in the real estate business?—A. Not that I know of. I suppose I have done business with everybody in that country. Not any more with him than anybody else.

Q. By the way, what was his name?—A. Whose?

Q. Mrs. Rigall's deceased husband.—A. Jim Rigall. We called him "Jim Rigall."

Q. Born and raised there in that community?—A. I think so.

Q. You knew him practically all your life?—A. No; I hadn't known him all his life. He was a kind of town boy and I was a country boy, you know. I was raised up in the country.

Q. You never were associated in real estate with him—real estate transactions?—A. No; not that I remember of.

Q. In Grayville or in Indiana?—A. I don't remember. I have given him some commissions sometimes on selling something—some way that way.

Q. You have, you say?—A. I may have.

Q. Do you remember any specific instance of that?—A. No.

Q. Any litigation or lawsuits developing by reason of your operations with or without Mr. Rigall?—A. I know of a lawsuit I and my brother had with a party, but I don't remember that Mr. Rigall was in it. If he was, my brother and he did the business, I didn't.

Q. What is your brother's name?—A. Clarence.

Q. Where does he live?—A. He lives in Oregon.

Q. At Durkee?—A. No.

Q. What part of Oregon?—A. Jamison.

Q. You moved, I understand, from the farm in Edwards County down to Grayville and lived in the town some years?—A. Yes, sir.

Q. How long?—A. I don't know; five or six years, I guess.

Q. You say that you had two sets of children?—A. Yes, sir.

Q. One by the first wife and one by the second?—A. Yes, sir.

Q. Did your first wife die or were you divorced?—A. Divorced.



- Q. In Grayville?—A. Yes, sir.
- Q. Is that the county seat?—A. No.
- Q. What is the county seat of the county?—A. Carmi.
- Q. What is the county seat of Carmi County?—A. Carmi is the county seat of White County.
- Q. Grayville is in White County?—A. Yes, sir.
- Q. What year were you divorced in?—A. I don't know.
- Q. After you had left or while you were still a resident of that county?—A. After I had left.
- Q. What State were you a resident of when this proceeding took place?—A. This proceeding?
- Q. The divorce proceeding.—A. Illinois.
- Q. You were living in Chicago?—A. I think I was. I won't be sure as to that.
- Q. When did you next marry or remarry?—A. About a year after I was divorced.
- Q. In Chicago?—A. I was married in Portland.
- Q. Portland, Oreg.?—A. Yes, sir.
- Q. Now, Mr. Oxman, at the time—you testified that you were here on the 22d day of July, 1916. It appears from the testimony given in the case of the People v. Mooney that you made a memorandum as to the number of the automobile.—A. Yes, sir.
- Q. That you saw on that day.—A. Yes, sir.
- Q. What was that number?—A. I think it was 5187.
- Q. What kind of a car?—A. Ford car.
- Q. What was the occasion of that action on your part?—A. Well, I thought that was the best—I thought they were a set of people—they seemed to me—they didn't act right to me, and they seemed to me to be trying to get away with a suit case, and I thought probably that they were a bunch of—that it had been stolen. They were excited, and everything that way, and so I thought the best thing I could do was to take the number of the automobile, as men do in Oregon in the stock business—sheep men, and I have been in the sheep business. We instruct all the herders and everybody that when an automobile is driven through the sheep too fast to take the number of the car.
- Q. Just a minute. Just step outside, Mr. Oxman.  
(Witness retired from the grand jury room.)

TUESDAY EVENING, MAY 1, 1917, 8 P. M.

(Pursuant to adjournment the hearing in this matter was continued as follows:)

Edwin N. Cooper was sworn as stenographer.

Mr. CLARKE. Better call F. E. Rigall.

(F. E. Rigall, recalled:)

Mr. CLARKE. Mr. Rigall, you have already been sworn before this body?

A. Yes, sir.

Q. And the section has been read to you regarding your rights, and you are still prepared and willing to testify?—A. Yes, sir.

Q. By the way, have you a brother?—A. Not living.

Q. Your brother is dead; was your brother younger or older than yourself?—A. One younger and one older.

Q. Both dead?—A. Yes. My youngest brother died about three or four years ago.

Q. You testified to the receipt of a letter by you from Mr. F. C. Oxman. I show you people's Exhibit 13 in the police court and ask you if that is the letter you received?—A. Yes, sir; that is the first letter I received from Mr. Oxman.

Q. Now, is that all of the letter that you received?—A. Yes, sir; that is all the letter.

Q. Was there any postscript to that letter?—A. No, sir; not that I know of.

Q. To this effect, that if you were not here July 22 your testimony will not be of any assistance?—A. No, sir; nothing of that kind.

Q. There was no such postscript to this letter?—A. No, sir; there was not. That was the letter I received from him and all of it.

Q. That is the letter in full?—A. Yes, sir; that is the letter in full.

Q. Now, I show you people's Exhibit 14, filed in the justice's court, and ask you if that is the letter that you referred to in your testimony as having been received by you from F. C. Oxman?—A. Yes, sir; this is the second letter I received from Mr. Oxman.

Q. Is that all the letter you received?—A. That is the letter complete.

Q. There was no postscript to it?—A. No, sir.



Q. Those were the only two letters you received from Mr. Oxman while this matter was pending?—A. Yes, sir; the only two letters I remember ever receiving from Mr. Oxman in my life.

Q. I understand, Mr. Rigall, that one Ellis—what are his initials?—A. C. O.

Q. Is your attorney?—A. No, sir; he is not my attorney.

Q. He is not your attorney?—A. No, sir.

Q. Not employed by you?—A. No, sir; but I did tell Mr. Mullen that I would not come to San Francisco without I had some kind of protection, because I did not know what I would be up against. If Mr. Ellis was employed in the case I would go on and tell what I knew about it. If Mooney was hung, I was partly responsible for it, if I did not tell anybody anything about this.

Q. In the event that Mr. Ellis is called before this body, do you—if it appears that he is your attorney—do you waive your rights as client to permit him to testify here?—A. He is not my attorney.

Q. He is not your attorney?—A. No, sir; he is not.

Q. If he claims to be your attorney?—A. If he claims to be my attorney, he is not. I told you all that. I have not employed Mr. Ellis.

Q. At any rate, you have no objection to his testifying before this body?—A. Not a particle; no, sir.

Mr. CLARKE. Now, are there any further questions?

A JUROR. I would like to ask a question: You told us that you said you went to the Seattle House and stayed there that night and that was the only time you went to the Seattle House?

A. No, sir. I said that I told Mr. Duke and Mr. Bunner and Mr. Cunha when they asked me how I came to San Francisco the 22d of July. I told them I came from Salt Lake City and arrived here at 7 in the morning, and they said, "When did you leave?" I said, "The next evening." "Where did you stay?" I said, "I stepped into the Black Cat and there I met a woman and I stayed all night with her at the Hotel Seattle and did not register." That is the part that they did not like very much.

Q. That was not true?—A. No, sir. I was not here. I just told them that.

ANOTHER JUROR. Mr. Rigall, have you any animosity against Mr. Oxman?

A. Not the least.

Q. I thought you said that you did not go after anybody but Mr. Oxman, didn't you—something to that effect?—A. I said I am not here to prosecute anybody. I am just here simply to tell what I know in regard to this case.

Q. I think you said you were after Mr. Oxman.—A. I don't remember of saying I was after Mr. Oxman. I said I did not accuse anyone only Mr. Oxman, but I said I did accuse him of attempting to bribe me in the Mooney trial.

Q. No animosity against him?—A. None whatever.

ANOTHER JUROR. Q. Did you ever visit the Seattle Hotel afterwards with a woman?

A. Yes, sir.

Q. About how long a time was that after your arrival in San Francisco; was that on the night you arrived?—A. Oh, no. That was some little time after I was here. Mr. Oxman was with me.

Q. That was after you learned the lay of the town?—A. Mr. Oxman was with me. He took me to the Black Cat. I didn't know where the Black Cat was.

Q. That woman was not your wife, was she?—A. No. My wife has never been in San Francisco before in her life.

Q. Mr. Rigall, if Mr. Ellis is not your attorney, how is it you insisted he come here?—A. I wanted some one along in case anything was framed up on me—I wanted some one that would stay with me. I did not and I do not know anybody in San Francisco. In case anything happened to me I could call on him.

Q. There was an understanding between you and Mr. Ellis?—A. There was an understanding he would stay with me in San Francisco if anything happened to me. As far as employing Mr. Ellis, I have not.

Q. You have not personally paid him any money?—A. Not a nickel.

Q. You stated that \$500, that it was sent to you?—A. No, sir.

Q. Pardon me—that you could see Mr. Ellis?—A. I said it was wired to Mr. Ellis in Chicago, and he gave me \$250 and took \$250.

Q. They sent \$500 and he took \$250 and you took \$250. How did the money come—just as a present?—A. It was sent from the defense fund.

Q. To whom was it sent?—A. Mr. Ellis.

Q. The whole \$500?—A. Yes.

Q. And he gave you \$250?—A. Yes, sir.

Q. That was to pay your fare out here?—A. Yes, sir.

Q. Why did you wait after the sentence of Mr. Mooney before making this exposure?—A. I did not. I exposed it the minute I got to Grayville. I not only told Mr. Ellis, but I told 20 other people in Grayville about it.



Q. What date was that you got back to Grayville?—A. I am not certain as to that, but I think it was along about February 3. I would not be sure about that.

Q. You telegraphed to Cunha, did you not, in Chicago that you had some evidence?—A. I told Mr. Cunha that I thought my evidence would get Mooney a new trial.

Q. And you said you would give him all the particulars?—A. Yes.

Q. And, of course, you naturally wanted to know that the money would be furnished?—A. Yes, sir.

Q. Did you answer his telegram?—A. No, sir. On advice of Attorney Ellis I did not answer it.

Q. Did you answer it in a letter; did you answer him in any way?—A. I never answered his telegram.

The JUROR. Is the telegram here?

Mr. CLARKE. Yes; the telegram is here.

The JUROR. Mr. Rigall, when you informed those parties that desired your presence in San Francisco again that you would not come here unless you had protection, did you tell that to Mr. Ellis, or, rather, to whom did you make that statement?

A. I think Mr. Mulholland and Mr. Ellis were together in Mr. Ellis's office in Grayville when I made that statement.

Q. You knew then, of course, that Mr. Ellis was counsel for the defense, did you not?—A. I don't know whether he was employed at that time or not; no, I am not sure as to that.

Q. Mr. Rigall, you went over the testimony in the office with Mr. Fickert and Mr. Oxman; what testimony did you agree to give on the trial?—A. I met them here once or twice.

Q. You agreed to give the testimony which they gave you—that is, you agreed to give that testimony?—A. Mr. Oxman did that. Mr. Fickert and the district attorney never drilled me on that.

Q. You told Oxman that you would give that?—A. Yes, sir.

Mr. CLARKE. And Mr. Oxman knew that you were not here at that time?

A. Yes.

Q. Defendant's Exhibit 3 is the telegram you received?—A. Yes, sir.

Q. And that is the telegram that you did not reply to?—A. That is the one I did not reply to.

Q. In that he called upon you to give any information that you had?—A. Yes, sir. I gave him the information before I left here that I was not here and did not know anything about it.

A JUROR. Didn't you intimate to Mr. Cunha that you had some other information that would get Mooney off?

A. Not any more than I told him before I left here that I did not know anything about the case and I wasn't in San Francisco July 22. This case had been gone over by me with Mr. Cunha, and then I told him I did not know anything about the case, and then how could I answer that telegram?

Q. You sent him a telegram; what was the object of sending that wire—you sent a wire to Mr. Cunha?

Mr. Clarke. About congratulations.

The JUROR. No. There is a wire here. Cunha sent that in answer.

Mr. CLARKE. Mr. Rigall sent Mr. Cunha wire congratulations. "I have testimony that will grant Mooney a new trial."

The JUROR. What was the object for him to say that he has; merely that he could answer it?

Mr. CLARKE. Why was it that you sent Mr. Cunha that telegram?

A. I meant just what the telegram says. If you understand what the telegram says, you will understand the meaning of it. What does "congratulate" mean?

The JUROR. I am not speaking about that. I am speaking about the other part.

A. I said my evidence will get party new trial, and I think it will.

Q. And he answered you immediately to this effect, that he is quite willing to have all the evidence given?—A. I am now here telling it, telling all the evidence I know in this case.

Q. Why didn't you answer the telegram?—A. On the advice of Attorney Ellis I did not answer. Perhaps he can tell you more about it.

Mr. CLARKE. Now, Mr. Rigall, showing you people's Exhibit A, directing your attention to it, being "Hotel Terminal Register, January 6th, L. O. Charles, Evansville, Ind."; is that your writing?

A. Yes, sir.

Q. Is that your writing?—A. Yes, sir.

Q. Calling your attention to the Terminal register, January 17, registration of F. E. Rigall, Evansville, did you write that?—A. Yes, sir.



A JUROR. When you arrived at the Terminal Hotel and you met Mr. Oxman in the lobby—

A. Yes, sir.

Q. Did you address him and he asked you who you were; did you assume any other name besides Charles to Mr. Oxman?—A. No, sir. I registered at the hotel and Mr. Oxman was sitting not any further from me here than to the gentleman right there. I walked over to him and I said, "Hello, Mr. Oxman." He looked around and said, "I don't believe I know you. You have the best of me." "All right," I said, "I know you. I have been riding all day and I am hungry, and I will get something to eat," which I did. I came back and went to my room and the next time I saw Mr. Oxman he knocked at my door and came in.

Q. You did not assume any other name?—A. No, sir. I am telling you every word.

Q. Did you leave any note in Mr. Oxman's box at the office asking him to call at your room?—A. No, sir; I did not.

Q. Used no expression like this, "I am so and so, from Kalamazoo, Mississippi?"—A. No, sir; I did not. I am telling you gentlemen just exactly the words I said to him. The minute I laid eyes on him I became suspicious.

Q. Everything you say is conscientious?—A. As nearly as I remember.

Q. Did you go up to Capt. Matheson in the waterfront office of the police court?

The FOREMAN. The harbor police station?

A. I do not know where I met Capt. Matheson, but it was supposed in his office.

The JUROR. You said it was here?

A. I am not sure whether it was here. Mr. Oxman can tell you where it was.

Q. Was it here or there?—A. I don't know San Francisco; I don't know anything about San Francisco.

Q. I asked you very pointedly on that question; I put it to you three different times if it was in this building, and each time you said it was?—A. I think it was.

Q. That was my reason, just to test your memory and your truthfulness on the matter. That is the reason I asked you these questions. Now, I want to ask you a question: How old was your oldest brother when he died?—A. He has been dead, I judge, 10 or 12 years.

Q. How old are you now?—A. Thirty-seven.

Q. And how much younger was he, your oldest brother—how much older was he than you?—A. About five or six years.

Q. And you had a brother died two years ago?—A. Three or four years, yes.

Q. What was his age?—A. He would have been about 32 or 33 years old now.

Q. Mr. Rigall, you said that the only one present when you went over your testimony was Mr. Oxman when you agreed to testify, is that correct?—A. No; I think it was generally understood around the district attorney's office that I was a witness in the case and I was going to testify.

The JUROR. Didn't he so testify a few minutes ago?

Mr. CLARKE. I don't remember the testimony.

The JUROR. You remember you said to him if only Mr. Oxman was present and he said yes. Now I ask you if anybody was present outside of Mr. Oxman when you agreed to give it. You said the only one present was Mr. Oxman?

Mr. CLARKE. I believe you said Mr. Oxman was the only man that drilled you along on this testimony?

A. That is what I said.

Q. That neither Mr. Fickert or Mr. Cunha went over the details of the testimony with you?—A. Yes, sir.

Q. You did, however, relate an incident last night in which someone said "Forget about the banana wagon or fruit wagon;" who said that?—A. Mr. Fickert.

Q. That that was a little detail that you did not need to worry about?—A. Yes, sir.

Q. Do you remember a statement in which you said that Mr. Fickert and Mr. Oxman were present and went over your testimony with you?—A. Mr. Fickert and Mr. Oxman were both present time and time again when the case was mentioned in the district attorney's office.

Q. No; when you agreed to testify who was present—in getting up your testimony which you agreed to, which you knew was the bunk?—A. Mr. Oxman done most of the drilling of that testimony to me.

Q. Did Mr. Fickert have anything to do with it at any time?—A. I won't be sure as to that.

Q. Did Mr. Oxman tell you you were an honest man and he could not have you as a witness?—A. No, sir; he didn't tell me that.

A JUROR. And did you tell him, "Who is going to pay my expenses?" and didn't he answer you, as he was the cause of bringing you, that you should receive \$250?

A. No, sir; nothing of the kind.



Q. Was there any kind of a conversation to this effect at all?—A. No, sir. Mr. Oxman did not know that I was not going to testify in this case, unless Mr. Fickert or Mr. Cunha told him. He didn't know I was not going to testify unless Mr. Fickert and Mr. Cunha told him. No one knew it except Mr. Cunha, because I told him I was not here and did not know anything about the case.

Q. But you had agreed to testify in the case, you were prepared, you were trained?—A. I made him feel I was going to testify, but I had no intentions to testify.

Q. But you did rehearse it?—A. Yes, and told Mr. Bunner what I was going to swear.

Q. At your first meeting with Mr. Oxman in the Terminal Hotel did he say to you he did not know you?—A. Yes; "I do not believe I know you."

Mr. CLARKE. Is there anything further?

A JUROR. You said that Mr. Cunha was the only man that knew you were not here in San Francisco?—A. He is the only man that I told that I was not here, and I was not going to testify, and I did not know a damn thing about the case.

Q. When was that that you told him that?—A. The night before; they were to put me on the stand the next day.

Mr. CLARKE. You want to be correct about this; you did say to Oxman, though, that he knew you were not here?

A. I certainly did.

Q. Then there was somebody else besides Cunha that knew you were not here?—A. He did.

A JUROR. Did you ever contradict any of those articles in the newspapers attributed to you?

A. I don't know whether I did or not.

Q. You do not know whether you contradicted them or not?—A. I don't know what they were.

Mr. CLARKE. You have read the newspapers?

A. I have read them every day I have been here, but I don't remember what was in them.

The JUROR. Was there anything in the paper that was not true?—A. I don't know whether there was or not. I suppose there were some things.

A JUROR. Mr. Rigall, I would like to ask you a question.

A. All right, sir.

Q. You testified here that it was your intention not to testify at all?—A. Yes, sir.

Q. What was your idea of going over this examination with Mr. Cunha and Mr. Oxman and rehearsing yourself, if you did not have any intention of testifying?—A. I wanted to see how far they would go to get testimony to hang people in San Francisco. It was a rather funny experience to me, and I could not imagine people would do anything like that, and Mr. Oxman led me to believe all the time this thing was framed up. One day I said, "Mr. Oxman, this thing that you think is all framed up—Fickert knows I was not here. I am not going to tell him I was not here. Do you mean to tell me Steve Bunner thinks I was here?" He said, "Sure." I said, "I think Steve Bunner is too smart a man for that." He said, "He does not know you were not here, and he must not know it." That is the line of talk Mr. Oxman gave me for 20 days.

Q. Who is your legal adviser now?—A. Mr. O'Connor, Mr. McNutt, Mr. Brennan, Mr. McKenzie, and Mr. Ellis.

Q. Well, now, you say you are a stranger here?—A. Yes, sir.

Q. You wanted to see how far they would go to hang a man—what interest had that to you as a stranger in San Francisco?—A. Why, for humanity's sake. For the sake of humanity a man ought to do it, oughtn't he?

Q. And you would let him hang? I never heard any of your humanitarian qualities before.—A. You never heard about me before? You come back to Grayville and you might find out about me.

Q. When you received \$20 from Steve Bunner, where was it you received the \$20?—A. I would not be sure, but I think it was right down here on the next corner.

Q. What made you ask him for the \$20?—A. Because I wanted it.

Q. Did the hotel people dun you for their bill?—A. No; I don't think they did.

Q. Did you have any change in your pocket besides that?—A. I might have had.

Q. Did you have?—A. Yes; I had money in my pocket all the time I was here in San Francisco and could get plenty money when I wanted it.

Q. Did you make the remark to Steve Bunner you had nothing to eat on?—A. No. We stepped in to take a drink and I pulled out 60 cents and I said, "A man can't go very far on 60 cents."

Q. Had your hotel people asked you to pay your bill?—A. No, sir.

Q. How long had you been there?—A. I must have been there 15 or 16 days.



Mr. CLARKE. By the way, Mr. Rigall, do you know anything about the relations existing between Mr. Ellis and Mr. Oxman, dating back some years ago in Grayville, Ill.?—A. No, sir; I do not.

Q. You know that Mr. Oxman was divorced there some years ago?—A. I know that Mr. Ellis got his divorce.

Q. As his attorney or his wife's attorney?—A. I think as his attorney.

Q. Don't know whether there has been any trouble between the men at any time or not?—A. Oh, I think not. I think they talked since they have been here in San Francisco.

Q. Haven't been out to the theater together, have they?—A. I do not suppose they have been to the theater.

Q. By the way, you asked that Mrs. Rigall and your mother be called?—A. My wife is not feeling very well and my mother is getting along in years.

Q. You will remain, of course, if we want you?—A. Yes, sir.

Mr. CLARKE. Any further questions of Mr. Rigall? I think you might send in Mrs. Rigall.

The WITNESS. My wife?

Mr. CLARKE. Yes.

CATHERINE RIGALL, called as a witness; sworn.

Mr. CLARKE. I do not suppose you have ever been a witness before, Mrs. Rigall?

A. No, sir.

Q. Well, you just be at home. You are with a lot of men here, but they are perfectly harmless, I am sure—mighty good fellows, as far as I have been able to find out. What is your name?—A. Mrs. Catherine Rigall.

Q. You are from Grayville, Ill.?—A. Yes, sir.

Q. And you are the wife of F. E. Rigall?—A. Yes, sir.

Q. When did you arrive in San Francisco?—A. Two weeks ago to-morrow.

Q. And came out with your husband?—A. Yes.

Q. And Mr. Ellis?—A. Yes, sir.

Q. And your mother-in-law?—A. Yes, sir.

Q. Can you say, Mrs. Rigall, where you were on the 22d day of July, 1916?—A. Well, I was either at Niagara Falls or Cleveland. I spent four months with my people there that summer. Mr. Rigall came up about some time around the middle of July, and my sister and brother and he and I went to Niagara, and he was either there or in Cleveland, I don't remember just what day; I don't remember, without writing to my people; I suppose they would remember exactly the date.

Q. You are quite sure he was not in San Francisco?—A. I know he was not.

Q. How long have you been married?—A. Seven years.

Q. And had he been in California you would have known it?—A. Yes, because I have always lived in Grayville.

Q. You were born and raised there?—A. Yes.

Q. Then, I understand your testimony to be that your husband, F. E. Rigall, was either in Cleveland or at Niagara Falls on the 22d of July, 1916?—A. Yes.

Q. And you understand that was the day of the preparedness parade and the bomb explosion?—A. That is what I heard since. I knew nothing about it until this winter.

Q. Your husband is engaged in conducting a pool room in Grayville?—A. Yes, sir.

A JUROR. Were you at home when your husband received a letter from Mr. Oxman?—A. Yes, sir.

Q. Did you open the letter?—A. No. He came home and says, "I have a letter from Frank Oxman." I had been raised next door to Mr. Oxman. I was real small when they moved there, and I was raised up with their children, and, of course, Frank was a little younger than I, but, of course, I had always known him, and he showed me the letter, of course. He had only known him as Cliff, had never heard him called Frank before, and that was the reason he thought it was his son.

Mr. CLARKE. You read the letter through?

A. Yes, sir.

Q. Do you remember how many pages in that letter?—A. Well, I couldn't tell—one or two.

A JUROR. You do not remember?

A. No, sir.

Mr. CLARKE. Do you remember the substance of the postscript?

A. No; I do not. I tell you I really did not think anything about it, much about it, because first I did not think anything about coming.

Mr. CLARKE. In fairness to you, Mrs. Rigall, just look over this letter and state whether or not that is all the letter as you remember it, of course [showing people's Exhibit 13 in police court].



A. Yes; I think that is all the letter.

Q. Was there any postscript to that letter signed F. C. O., or another page to the letter?—A. I couldn't tell you; I don't remember.

Q. Having refreshed your memory, Mrs. Rigall, with reading the letter, and we do not want possibilities, but give us your best judgment if you can whether or not there was any postscript.—A. I couldn't say, because I don't remember at all. I didn't think enough about the letter at the time.

A JUROR. Did your husband comment on that letter to you?

A. No; he did not. He just came home and read it to me and turned around and went out. That is all there was said about the letter at that time.

Q. It was not discussed in the household?—A. No; it was not discussed.

Mr. CLARKE. Did you advise with him as to whether or not you should go to San Francisco?

A. I told him I would not go because I had heard of things Mr. Oxman did. He said, "You don't need to be afraid, because I won't do anything wrong."

Q. That is what husbands always say?—A. Of course, I know that.

A JUROR. Mrs. Rigall, you say the Oxman family lived next door to where you lived?

A. Yes, sir.

Q. Ever see Oxman's—the old gentleman's—family?—A. Yes, sir.

Q. You were acquainted with his daughters and his wife?—A. Yes, sir.

Q. Were they a congenial and happy family?—A. Well, yes, as far as I know—not in later years; I think they were years ago.

Q. You visited his house a great deal?—A. Yes; quite a great deal. His daughter and I were chums all our lives.

Q. What was Mr. Oxman's general feeling around the neighborhood; was he a well-liked man?—A. I think so.

Q. Had no enemies?—A. No, sir.

Q. You were quite a girl at that time?—A. Yes, sir.

Q. How old were you?—A. I was real small.

Q. But you were familiar—going in and out of his house—family with his family?—

A. All of his children.

Mr. CLARKE. I think that is all. Thank you very much.

Mr. CLARKE. Call Mr. Fickert.

CHARLES M. FICKERT called as a witness.

The FOREMAN. I believe you made the request that you wanted to have the section read to you?

A. If that is agreeable.

Q. Do you want it read?—A. I believe it should be.

Mr. CLARKE. Yes; go ahead.

The FOREMAN (reading):

(Section 1324 read to witness.)

Q. After the reading of the section, do you desire to be sworn?—A. Yes.

Q. Have no objections?—A. No objections.

(The witness was here sworn.)

Mr. CLARKE. Your name is Charles M. Fickert?

A. Yes, sir.

Q. And you are the district attorney of the city and county of San Francisco?—A. I am.

Q. Have been since what date?—A. Since 1910.

Q. And as such officer were you charged with the prosecution of one Thomas Mooney in the superior court of the city and county of San Francisco?—A. Yes; I was.

Q. Do you remember the date that trial commenced?—A. January 3, 1917.

Q. When did it conclude, Mr. Fickert?—A. It concluded some day in February; I am not positive as to the date.

Q. Mr. Mooney was prosecuted on an indictment returned by the former grand jury of this court?—A. By the grand jury that preceded this one.

Q. And prosecuted on a charge of murder?—A. Murder.

Q. Before Judge Franklin A. Griffin, of the superior court?—A. Yes, sir.

Q. And he was adjudged guilty of murder?—A. Yes, sir.

Q. And he was thereafter sentenced to death?—A. Yes, sir.

Q. During the course of the trial of Thomas Mooney did you cause to be brought to the city and county of San Francisco one F. C. Oxman?—A. I did.

Q. Please state to the jury how you came in touch or contact with F. C. Oxman and knew that he had testimony to offer in that case?—A. First there was a rumor of somebody staying at the hotel down there stating that he had seen the placing of a



suitcase. We endeavored to find him, but could find no trace of him. After the trial and conviction of Billings, a codefendant, I received a letter, which I have here.

Q. By the way, I asked Mr. Cotton for copies of those.—A. I have copies of them, if you want them; and I have the originals here, and the copies are easier read than the others.

Q. You can give me the copies afterwards for the record. That is the first information you received regarding F. C. Oxman, a letter from the station agent in Oregon?—

A. Yes. He was station agent for the Oregon-Washington Railroad & Navigation Co. [Reading]:

OREGON-WASHINGTON RAILROAD & NAVIGATION CO.,

OFFICE OF AGENT,

*Durkee (Oreg.) Station, September 21, 1916.*

Mr. C. M. FICKERT,

*District Attorney, San Francisco, Calif.*

DEAR SIR: Referring to trial of W. K. Billings in connection with the preparedness day bomb explosion.

On July 28, six days after the explosion took place, I was in conversation with a reputable Oregon business man who was returning home from San Francisco. He told me he was an eye witness to placing of the suitcase containing the fatal bomb on sidewalk near corner Steuart and Market Streets, day of parade, July 22. He assured me he could identify parties implicated, also driver of the jitney. He reviewed the whole performance as he saw it, going into detail as to circumstances which caused him to take notice of the parties' actions, the jitney, its driver, and occupants.

Account neglecting his business by remaining in San Francisco to give evidence, this gentleman did not tell anyone what he knew of the case while there, and I don't believe he intends yet to offer his testimony. So if his testimony in this case will be of service to you I will put you in touch with this party for \$2,500 payable upon conviction of the guilty parties.

Yours, very truly,

FRANK WOODS, *Agent.*

Thereafter I wrote him a letter in reply to that and he answered, but he did not in that letter mention the name of the man and I wrote him again as follows:

CITY AND COUNTY OF SAN FRANCISCO,

*October 9, 1916.*

Mr. FRANK WOOD,

*Durkee, Oreg.*

DEAR SIR: I received your communication of September 27. In some particulars the information you give corresponds with the evidence given by witnesses in the trial of the case. Of course, it will be impossible for me to tell what this information might lead to until I have a talk with the man who informed you. We have heard of a man from Oregon by the name of Oxman, who has stated that he knew something about the explosion, and also a man by the name of Compton from Chicago, but we have been unable to locate them. If you would give us the name and address of your informant there would not be likelihood of your getting into trouble on that account, as no good citizen would complain about your taking such action. We would also not reveal the source of the information.

In reference to the reward offered for information leading toward the arrest and conviction of the perpetrators of the bomb outrage, I have nothing to do with the disposition of that money. Those who have charge of it no doubt will rely upon my recommendations as to who shall receive it, and should the information you give be of benefit to the State, I would recommend that you receive your share. I want it positively understood that no witness in the case should under any circumstances receive any part of the reward because I believe it is very bad policy and sometimes would tend to fabricate testimony. As district attorney I have no personal interest in the case other than to see that justice is done, not only to the people who lost their lives, but also to see that the defendants are only convicted upon truthful testimony. One of the defendants has been already convicted, but we are nevertheless anxious to get additional evidence against his codefendants.

If you feel like giving me the name and address of your informant mentioned in your letter, I wish you would send his name, address, and employment to me so that I can get into communication with him. Any information you give will be treated as confidential.

Trusting that you see your way clear to give me this information, I remain,

Very truly, yours,

C. M. FICKERT, *District Attorney.*



In reply to that I received a letter dated Durkee, Oreg., October 13, 1916, addressed to C. M. Fickert, District Attorney:

"DURKEE, OREG., *October 13, 1916.*

"Mr. C. M. FICKERT,  
"District Attorney,  
"San Francisco, Calif.

"DEAR SIR: Replying to yours 9th instant, am pleased to advise you the name of my informant is F. C. Oxman, a big cattle owner and buyer of this vicinity. He can be reached at Durkee, Oreg., until October 18, on which date he will ship a bunch of cattle from here to Chicago and I understand will accompany them. I note you speak of a man named Oxman from Oregon. Mr. Oxman is evidently the man. I have had business transactions with him since July 28, but have never mentioned the bomb explosion, neither has he; so you may rest assured that no agreement exists between us regarding a division of any reward that may be received. But I ask you to please keep confidential the information I have given because am sure he would feel ill toward the informer if he should be called to San Francisco and away from his business.

"Hoping this information will be of value to you, of which I feel reasonably certain, I am,

"Yours, very truly,

"FRANK WOODS."

And thereafter I talked to the secretary of the Western Meat Co., and he informed me that he had some business transactions with Mr. Oxman, that he had told him of the facts of the case, about the same in general as he testified to at the explosion.

Q. Have you got the name of the secretary of the Western Meat Co.?—A. Yes, sir, William Hough, and we tried to get in touch with Mr. Oxman, and Mr. Berry of my office was in Salt Lake City and we tried to get in touch with him there, but we missed him; and afterwards he replied to my telegram stating that he would be at Durkee, Oreg., for a certain time, and we could send a man there to interview him, and that later he would be in San Francisco; so I requested the chief of police and he sent Mr. Bunner.

Q. In the meantime did you have him located at Kansas City, Mo.?—A. We had him traced along the line.

Q. By what agencies?—A. By the Burns Agency.

Q. Did you get a statement from him made at Kansas City, Mo.?—A. Yes; we had statements.

Q. Have you them with you?—A. I have it, but I haven't it with me.

Q. You have it in your office?—A. Yes.

Q. Who procured them for you?—A. I forget. I have never seen the man that procured it, an agent there.

Q. And sent it on here?—A. Yes.

Q. A satisfactory statement?—A. Yes—brief.

Q. You discharged Mr. Bunner later to Durkee, Oreg.?—A. Yes.

Q. And Bunner reported to you his interview and gave you another statement?—A. He did not give me a statement; he gave me a note.

Q. Signed by himself?—A. No; no statement signed by Oxman. His statement consists mostly of verbal statements and Mr. Bunner's and myself.

Q. Then later he was brought on here for the trial at your suggestion?—A. No, he came here on business.

Q. Some time in December?—A. Some time in December, about the 14th of December, and at that time I personally interviewed him.

Q. Did you go to the Terminal Hotel to see him?—A. I went to the Terminal Hotel to see him, afterwards accompanied him up to the office here, and then accompanied him out to the Branch County Jail with police officer—not Bunner, but Proll, where he made his identification of Mr. Mooney, and he came back, I think it was the afternoon of the same day, and he went with Officer Proll to the Branch County Jail and made identification of the other defendant.

Q. At the time you first visited him at the Terminal Hotel was anybody with you?—A. No; not at that time. I saw him there and then saw him later on several occasions at the Palace Hotel. At that time there was some Stockmen's Association there and he knew most of them, and I met him there several times.

Q. And he was later used as a witness in the trial of the case of *People v. Mooney*?—A. Yes, sir.

Q. Did he at any time communicate the fact that he was seen on the 22d day of July, 1916, by some other person here?—A. Yes, to Mr. Bunner; he told Mr. Bunner



that he had seen a man on that day, a boy, he said, but he had forgotten his name, and that he probably could locate him. If he could he would let us know the boy's name.

Q. When did he first communicate that fact to you?—A. When he came down here. He first communicated that to Mr. Bunner.

Q. And after coming here he communicated that to you?—A. Yes. He said he did not know where he could find that boy, he had not seen him for years.

Q. What directions did you give to him with reference to that matter?—A. I told him to look him up if possible, if he could get another witness we would like to have him.

Q. And by "another witness" did you mean another witness to the placing of the suitcase?—A. No; he did not tell me he saw that part of it at all. He told me he met him at the corner.

Q. Did he give you his name?—A. He did not know his name at that time. He told me he could not recollect it. He said he would try to recollect it, he might have some way of referring to it.

Q. Did you give him any directions or authorize him to write to anybody and procure him as a witness?—A. The second time, when he came back the latter part of December he told me he had remembered the name of the boy—he thought he did.

Q. Did he say who it was?—A. He said his name was Rigall.

Q. And his residence?—A. (Interrupting.) His residence was Grayville, Ill.

Q. And what did he say with reference to it?—A. He says, "If that is the fellow, I can get him out." I said, "Go ahead and get him out."

Q. Did he afterwards advise you that he had written to him?—A. Yes, he told me he had written to him.

Q. Ever exhibit to you any letter that he wrote to him?—A. No.

Q. You had knowledge of the nature?—A. He told me this, however, that he did write and tell him what he wanted him for. Some of his talk was with my assistant, Mr. Cunha.

Q. Did you ever see this letter that he wrote?—A. No, I have never seen it.

Q. You have never seen it until this time?—A. No, I have never seen that letter.

Q. (Showing witness People's Exhibit 13.) This is said to be the letter, Mr. Fickert, that he wrote to Mr. Rigall.—A. The first time I have ever read that letter.

Q. Do you recognize the handwriting of Mr. Oxman?—A. That looks like his writing. That is his signature. I have seen his signature a number of times.

Q. As a lawyer and independent of your experience as a lawyer, you observe that is rather a peculiar letter to write?—A. Yes.

Q. I understand that you had nothing to do or did not direct the writing of any letter of that kind?—A. No. I told him generally to get him out.

Q. Did you use the word "expert witness"?—A. No.

Q. Did you give him any authorization as to what his payments would be or expenses?—A. No, nothing further than this: I said, "Get him out. If we have to send a man back there it does not make any difference. Get him out and tell him we would pay his actual expenses out and back."

Q. Now I show you another letter alleged to have been written by Frank C. Oxman to F. C. Rigall at a later date, marked here "People's Exhibit 14." Did you ever see that letter before, Mr. Fickert?—A. No, sir.

Q. You have never seen this letter before?—A. No.

Q. Did you direct that it be written to F. E. Rigall?—A. No. I did not direct it any more than requesting him to send for him.

Q. Yes?—A. And told him that I would pay his expenses.

Q. Now, it appears, Mr. Fickert, that an additional letter was written to Mr. Rigall's mother—the letter, however, is not yet in evidence here. Did you direct or did he ever discuss with you the proposition of securing the testimony of a lady, a woman?—A. No, sir, nothing ever said about a lady.

Q. No; in due season did this man Rigall arrive?—A. Yes; he arrived after the case had been commenced.

Q. How did you meet him?—A. I met him—I think he arrived here—I get this from looking up the record—on the 6th. Mr. Oxman sent word to him by Mr. Bunner that he wanted to see me, asked him to call at the hotel either the 8th or the 9th; I am not positive of the day, and I went down to the hotel and saw both of them for about five minutes.

Q. Did you talk with Mr. Rigall about that time?—A. Yes. I came in at that time and was sitting in the lobby of the hotel. Mr. Oxman came up and spoke to me and I said, "Is your boy here"—he generally referred to him as a boy. "No," he said, "I have a man here"; he said, "I have made a mistake," and he said, "I will pay his expenses." He called over Mr. Rigall and Mr. Rigall came over. He said, "This is Mr. Charles." I said, "You thought it was Mr. Rigall. Did you make a



mistake?" Well, Mr. Rigall spoke up; he says, "I generally go under my stepfather's name. I am also known as Rigall," and he says, "Generally when I am traveling around I register as Charles. I registered here as Charles."

Q. Did you at that time discuss with Mr. Rigall or Mr. Charles his testimony or such testimony as he might give in reference to—A. (Interrupting.) No, I did not. He informed me at that time that he had not been in the State.

Q. Mr. Rigall so informed you at that time?—A. Yes, sir. He told me he was in Niagara Falls.

Q. That was on his first appearance here?—A. First appearance, the first time I ever saw the gentleman.

Q. Now, did he remain here?—A. Yes; he remained here until after Mr. Oxman testified.

Q. During that time did you talk with him and hold conversation with him?—A. Oh, casually, yes; had probably half a dozen conversations with him.

Q. Advanced him any expense money or funds?—A. There was some money advanced him, \$150, I think, he got altogether.

Q. While he was here?—A. Yes; while he was here.

Q. Did you know at that time, Mr. Fickert, that you were not going to use him as a witness in the case of *People v. Mooney*?—A. Yes, sir.

Q. Why did you advance him money?—A. I kept him here for this reason: It was known at the hotel that he came out as a witness; it was known among the members of the police department, and after getting him here it would not do to send him home. We expected Mr. Oxman would be cross-examined as to this particular man, as he was shadowed all the time, and even during the trial they brought in a man that they thought was Rigall and I had him present at that time in court expecting that that question would be asked this witness, and it was not asked, much to my surprise, and after the examination and cross-examination was over, I think it was the next day afterwards, I had a talk with Mr. Rigall in my office, and he says his expense would be \$150. At that time I paid him, and he left that night. I believe he told me he was to leave that night.

Q. Do you remember an occurrence when Mr. Oxman and Mr. Rigall were talking over their testimony, the testimony of Mr. Oxman in particular, with reference to the occurrence of July 22, when reference was made to a fruit stand or banana cart?—A. I remember no such incident.

Q. In which you might or might not have said the banana cart and these little details?—A. I never made the statement; in fact, in reference to Mr. Oxman's testimony, after the trial had started, I personally did not take much part in it. We divided the case into the conspiracy end and the direct testimony. I was pursuing the conspiracy part and Mr. Cunha was to handle the direct testimony, and most of the talking was done by Mr. Cunha and not by myself, but there was no such statement ever made by me at any time. There is, I believe, in the testimony some testimony to that effect, that Mr. Oxman testified to the statement about the fruit stand across the street.

Q. After Mr. Rigall left San Francisco, returning ostensibly to his home—strike that out, Mr. Reporter. When did you first discover that Mr. Oxman had written these series of letters to Mr. Rigall?—A. Not until the receipt of a telegram that he sent Mr. Cunha.

Q. On that occasion did you make request of the police department that Mr. Bunner be detailed to watch overland trains for Rigall?—A. Not at that time. It was after we had waited a couple of days and he did not come.

Q. That telegram received by Mr. Cunha was to what effect, Mr. Fickert?—A. The telegram received from Mr. Cunha read this way, "Congratulations on conviction. Think my evidence will get him a new trial."

Q. Was Mr. Oxman here at that time?—A. No, I think not; in fact, I know he was not.

Q. Then, you never conferred with Mr. Oxman regarding these letters at that time?—A. Not at that time.

Q. And that had nothing to do with the detail of an officer to watch the incoming trains?—A. I did detail an officer to watch, because after we received that and received no reply from him, we became suspicious, because it looked like he was making a demand for money or something, and thought it would be best to see if we could get him and follow him and see where he went to.

Q. At that time did you have any knowledge or information regarding the writing of these letters?—A. I had only from hearsay, but Mr. Cunha had those—but not any personal knowledge.

Q. Mr. Cunha had some knowledge as to what transpired between Rigal and Oxman?—A. Some knowledge, yes.



Q. And knew, as you understand it, that Mr. Oxman had written some letters to Mr. Rigall that were of a damaging character?—A. Not damaging character—did not know their character.

Q. Did not know their character?—A. No, sir.

Q. Did Mr. Cunha in his conversation with you purport to recite what was in the letter?—A. No; only that he had received a letter. Mr. Rigall spoke to him one time about the letter.

Q. Now, when was the first time that you knew of the contents or character of these letters?—A. Not until they were published.

Q. Recently?—A. Recently.

Q. After this matter developed?—A. Yes, sir.

Q. And Mr. Rigall came on the second time?—A. Yes, sir.

Q. That was the first information you had as to the contents of these letters passing between Mr. Oxman and Mr. Rigall?—A. Positively the first.

Q. After that occurred and after the arrest of Mr. Oxman, what, if any position or attitude did you take with reference to Mr. Oxman?—A. Well, when this matter came, we telegraphed for Mr. Oxman to come down from Oregon and he replied that he would.

Q. And he did come?—A. He came down, yes, and at our request, and we intended to have an investigation for to find out the truth of it.

Q. Was he soon placed under arrest?—A. Yes. He arrived here in the evening and the next morning he was arrested.

Q. Did he furnish bail?—A. Yes.

Q. Who furnished the bail?—A. I think it was furnished through some people here.

Q. Do you know who?—A. I am not positive; no.

Q. What is your best judgment as to that?—A. I think it was some of the bond brokers.

Q. McDonough Bros.?—A. I think so; I am not certain as to that.

Q. Who engaged counsel for him, do you know, Mr. Fickert?—A. Well, I spoke something about the counsel for him myself.

Q. Did you go with him to engage counsel?—A. No. I spoke to a certain man to look after him.

Q. Who was that?—A. Mr. Samuel Shortridge. I considered that he came down here at my request to appear before the grand jury, and that he had a right to a hearing before he was placed under arrest. I had telegraphed for him to come and he came upon my request, and I considered it was my duty to look after him and see that he had the same treatment as any other man would have, and particularly as several judges had turned him down, as they considered that the application made in person was not in accordance with law.

Q. What do you refer to there?—A. The warrant and the affidavit accompanying it; and it was desired to present the matter to the jury here, in fact, before we had known that the matter had been turned down by one of the judges.

Q. You had been determined to present it before the grand jury?—A. Yes; that was the reason of getting him here. We thought as he came of his own request here and we believed that he should at least be accorded decent treatment.

Q. What arrangements did you make with reference to the compensation of Mr. Shortridge, if any?—A. I made none at all.

Q. And none have been made?—A. No.

Q. Have any been made?—A. No; not that I know of.

Q. Since Mr. Oxman has been here on these last comings, have you detailed an officer from your office to be with him?—A. No; I think Capt. Matheson has.

Q. Capt. Matheson has?—A. Yes; I have not.

Q. He has had surveillance and company and been looked after?—A. I don't think so; I know he came up here several times with Officer Bailey.

Q. Stationed here?—A. Yes; connected with the station; but I did not detail him because I thought he could take care of himself.

Q. That is your reason—Mr. Oxman could take care of himself?—A. Yes.

Q. Did you at any time request Officer Bunner to go with him?—A. No. I think Officer Bunner was out more with him to take him around, and so on. He looked after all of them. A number of witnesses were being assaulted from time to time, and for that reason they did more or less, but Officer Bunner looked after him and several of the others. He took them around more as a matter of entertainment than protection.

Q. Did you ever have occasion to telephone Officer Bunner asking him to take charge of Mr. Oxman and take him from one place to another?—A. I don't know that I ever telephoned to him. I know it was understood that he was to look after him.

Q. Well, to be specific about it, Mr. Fickert, did you at one time request Officer Bunner to accompany Mr. Oxman from the Fairmont Hotel to the Palace Hotel, there to meet you?—A. Yes; I think I did. That was during another time after the trial.



Q. That was after the trial?—A. That was after the trial; on a motion for a new trial.

Q. You extended courtesies, the courtesies of your club, to the witness Oxman?—A. Yes.

Q. And to the witness Rigall?—A. Yes.

Q. After you knew that a mistake had been made in the matter?—A. Yes. I had the two witnesses there and we had about 250 of them, and he was complaining all the time about getting away. I did not go to the club with him, but the officer went up with him and took a card out in my name.

Q. Did he occupy quarters at the Olympic Club?—A. I just gave him the privileges so that he could see the boxing matches and one thing and another. I might say that I had become fairly well acquainted with Oxman during that time. They had a live-stock association meeting, and I looked him up, as I looked up every other witness, very cautiously. I also talked with a number of people about him, and he told them this same—gave this same story about the placing of the bomb—Mr. Jastro, of Bakersfield, Miller & Lux. He said he had sold them 5,000 head of sheep. I looked that up. I looked up Mr. Washburn, Mr. Hough, of the Western Meat Co., and various other people who were there and knew him very well, as to whether he was all right, because we were very cautious in looking up our witnesses. A number had been sent to me and to the police department who had framed up, as they use the expression, to testify, and then fell down on cross-examination. We were very cautious about that, and I was particular in looking him up, because I never had met him until he arrived. Mr. Hough was the first man I spoke to, and Mr. Fry, of Seattle, to whom Mr. Oxman had sold cattle.

Q. You did not care to have any witness round on you?—A. Yes; we had to be very cautious, because we found several witnesses that went back to the Defense League, and afterwards they were alibi witnesses for the defense. That is the game in these classes of cases. They have their defense fixed up beforehand and they have their witnesses, and there are quite a number of witnesses that appear as alibi witnesses. Mr. Oxman I did not know, and that was one reason in writing this letter, which was written Wood, was to guard against any man running in on us, and we were careful of each witness with reference to whether they thought they would get any of this reward or not.

Q. By the way, while you are there, will you please pick out those copies for me, if you have made them for me, so that I can give them to the reporter?—A. The ones I read?

Q. Yes; your correspondence with Wood. These are in order?—A. There are a number of telegrams here, too, if you would like them?

Q. Telegrams passing between yourself and F. C. Oxman?—A. Oxman and Wood.

Q. Is there anything else, Mr. Fickert, that occurs to you that you feel should be given to this jury?—A. I might state this, since Mr. Oxman has testified we have five other witnesses who corroborated statements given under oath. We attempted to get that in in rebuttal and could not do it—that is, the coming of a machine there. Their descriptions varied in certain ways; one man saw the Oxman machine come at that time, three others saw the machine go through at that time and place, the same kind of machine. They did not observe the placing of the suitcase, however.

Q. You mean you have those witnesses to testify?—A. To corroborate Mr. Oxman as to that fact.

Q. The main story of the Mooney case?—A. Yes; and three of those witnesses were dug up by the defense in trying to find the witness to discredit him.

Q. To discredit—A. (Interrupting). To discredit Oxman's testimony, and they are residents of this city.

Q. Now, after you discovered, Mr. Fickert, that Rigall had no testimony for you and that a mistake had been made by Mr. Oxman, why did you continue to keep him here and converse with him and talk with him? Have you any other explanation to make?—A. I thought it was absolutely necessary to keep him here. If we sent him away at that time, what explanation could we make? If we sent him away at that time, if Mr. Oxman was cross-examined as to him—it was commonly known by a number of people that he came out here, a number in the police department and in the hotel knew it, and I thought the best thing was to have him here and cross-examine him fully. There probably would not be one chance in a thousand that an attorney would ask that question.

Q. Then, as I understand, so far as you are concerned, he was about to be called as a witness in this case—the case of People v. Mooney?—A. No; never had any intention of calling him.

Q. You kept him for the purpose of calling him?—A. As a matter of identification, if he was cross-examined; that was all.

Q. If the occasion should arise, you had him here?—A. I did not intend to call him. If the other side wanted him they could call him.



Q. You, as a lawyer, understand the brunt of my questioning? I understand that you kept him here because he was originally brought?—A. He was originally brought here for the reason that Mr. Oxman thought, and so informed us, that he was the man he saw that day on that corner and could, to a certain extent, corroborate his testimony.

Q. Therefore, you thought it important that he be retained here and not sent away, because people knew that he was brought here for that purpose?—A. Yes. I thought it would look bad for the prosecution if we sent him away, and then they would cry that we brought a man out here and then sent him back.

Q. He was not under subpoena?—A. No, and we had him here just to avoid the criticism of sending him away.

Q. Did it not appear in your mind, didn't you have a condition of mind in reference to him that he was about to be called as a witness?—A. I would not say that because I certainly had no intention of calling him.

Q. You had the intention of calling him if certain conditions arose, Mr. Fickert; that is correct, isn't it?—A. No. I had him as a matter of identification in court.

Q. Of course, to identify him you would have to put him on the stand and have him sworn?—A. Not necessarily.

Q. By having him stand up in court?—A. Yes.

Q. Of course, Mr. Fickert, we understand each other and you understand the line of my questions, and, of course, I understand your answers. If a man appears personally in court and arises in court and is viewed by the judge and jury, he is to that extent a witness?—A. To a certain extent, yes, sir.

Q. Now, at all times you intended to use him for that purpose, if occasion required?—A. To prevent any criticism about sending him away.

Q. Then, Mr. Fickert, don't you agree with me that he was about to be called as a witness in this matter?—A. I can not say that.

Q. Don't you agree with me—A. (Interrupting.) Under certain conditions he could be called.

Q. And that was the reason that you retained him?—A. I retained him, yes.

Q. Whether we agree about the use of the words "about to be called," Mr. Fickert—and I quote from section 137; he was kept here by you because a condition might arise in the case when it would be necessary for him to physically appear in court or perhaps give testimony?—A. On the happening of certain conditions.

Q. And that was the reason you retained him?—A. That was the reason.

Q. And did you check him up and have him report to you from day to day?—A. No. I did not pay particular attention; the police department looked after him, him and Oxman; practically wherever the one was the other was.

Q. Oxman being a sort of cattleman, they herded together?—A. They herded together.

Q. Now, Mr. Fickert, is there anything else that you think you should state to this jury with reference to the matter now under investigation?—A. I do not know. I have some of these telegrams here, of course, but they are just locating Mr. Oxman, where he was and so forth.

Q. By the way, Mr. Fickert, while I have it in mind, I would like to have that original statement made by Mr. Oxman in Kansas City.—A. Yes; I will get that for you.

Q. And perhaps you can get that for us this evening. Any questions?

A JUROR. You kept him here for fear if he goes away that may weaken your case?

A. I thought it might open it to this criticism, that they might have some testimony beneficial to the defense, and to be fair to both sides I thought it best to keep him here.

Q. And when you send him away the other side would say that is the reason we would like him to stay, merely so that the other people should not take advantage of your sending him away?—A. Yes, just to avoid criticism. That is the only reason we retained him here.

Q. To have him there for that very purpose?—A. Because all the witnesses were shadowed and they knew who he was, and they had as good a line on him as we had. They had his name and during the trial they made a mistake and shadowed another man, a fellow named Roder.

A JUROR. Mr. Fickert, these letters and telegrams that Mr. Oxman sent to Mr. Rigall in Grayville, Ill., you knew nothing about those?

A. No, not until afterwards.

Q. Did you dictate anything in the letters?—A. No, only that I would pay his expenses out. I thought it would be cheaper than to send a man back, and if he would come out here we could find out better. I thought if necessary we would send for a number of witnesses under the same circumstances, and after we got them we found



they were not the same persons; I guess we have hundreds in here in this particular case and the great majority of them were not any use; they had nothing that would be beneficial to us.

Q. They did not intend to call him as a witness for you?—A. I would not say that I did not intend to call him. My intention was only this, to avoid the criticism.

Q. But not to have him as a witness?—A. Because a contingency might arise, as Judge Clarke says, when he would become a witness.

Q. I wanted to know if he was intended for a witness, suppose, for a case in court, and I bring a witness; I find that that man is not my witness; I would not send him away for fear the other fellow would say that I found out that is not my witness; that would weaken my case, and I told him to remain there; for that very purpose, I do not send him away—not that I know that I would not use him as a witness, but I would not want the other side to know he was not my witness if I send him away——

Mr. CLARKE (interrupting). We won't have any argument about that.

A JUROR. That is what I want to find out, if it is true.

A. The answer is that he was not to be called to give any testimony that was material.

Mr. CLARKE. Now, just a minute. As a lawyer, Mr. Fickert, you do not differ with me. A man directed to stand up in court to be viewed——

A. (interrupting). I was giving the definition of witness in the case of *People v. Magee*.

Q. Do you remember it?—A. I don't remember it, but in reference to this section——

Q. (interrupting). You understand that testimony might be the judicial knowledge of the court, or it might be the right or the ability to see, or hear, or observe, or feel; you understand that. Now, to that extent, certainly——

A JUROR (interrupting). He might be a witness the same as the automobile.

Mr. CLARKE. To that extent.

A. The same extent as an inanimate object, a man might be, but the question of giving testimony is different proposition.

Q. But you kept him here for that purpose?—A. Kept him here for that purpose, to avoid criticism.

Q. And if necessary he might arise in the courtroom and be seen?—A. I did not have him in the courtroom, but if necessary to bring him should cross-examination be necessary. As it later developed, they were shadowing a man and lost him and brought a man named Weil in.

A JUROR. Supposing he would be called as a witness, then, would you allow him to testify?

A. There was nothing he could testify to except he was brought out here by mistake.

Q. He could do that?—A. The difference between a material witness, a man that could give material testimony, and a man that was brought here by mistake—there was nothing he could say. I want to say this in reference to Mr. Oxman. I met him with Mr. Jastro, of the Kern County Land Co., a particular friend of my father before I was born, knew him, and he advised me to go to college, and all that. They met and he said, "Hello, Frank. I am interested in the cattle business myself and have a large ranch in Yolo County, there." And I rather liked to talk to the old fellow about cattle, and we did. The first time he was down here he bought seven or eight hundred head of cattle from the Western Meat Co., and the old fellows used to meet down there at a restaurant, and I know them all, and we got sociable in that way. He is a peculiar fellow. I felt that he was here and that Capt. Matheson felt the same way, that he should be entertained a little. Capt. Matheson sent Bunner around with him to take him around to the prize fights, and there were some witnesses like McDonald and the Smith woman that were continually being assaulted. We had to have police protection with them all the time. McDonald being a feeble man was unable to resist the attack. The Smith woman had been attacked several times, and several of the others, and we had to have the officers there more or less to keep them under guard.

Mr. CLARKE. You have spoken about your interest in Mr. Oxman and the fact that he appeared to be a man well acquainted in the cattle business. How do you account for the writing of such letters as written by Mr. Oxman?

A. A man without any education, the way he spells words, there is a construction there of a child about 6. The explanation of one letter seems very plausible, that he did want to get this fellow out without mentioning the question of what he was needed here for, because it is very difficult to get people to testify in this class of cases, in fact, there are people here, three or four, that have left the State.

Q. You never had any doubt as to his integrity or his honor?—A. I never felt that, and after this has arisen we have made particular inquiries in Oregon about



him. The governor of the State up there said that "there is one man up there that can buy a hundred thousand dollars worth of property on his word." He has a credit I believe, of a million dollars on the stock exchange. Mr. Jastro told me he was one of the most honest and trustworthy men he had ever known. I rang up Miller & Lux and talked with Mr. Rudolph. Mr. Rudolph said, "We have done a thousand dollars' worth of business with him without a scratch of the pen." On that kind of testimony I placed the utmost confidence in him.

Q. Did you observe this in his letters—"Better when you arrive register from Evansville, Ind., a little more mileage?" Now, what is the interpretation of that?—

A. That needs explanation.

Q. It does?—A. Yes.

Q. A suggestion of Mr. Oxman to a witness that he might falsify his expense account would cause you to have some doubt?—A. Yes.

Q. Now with reference to the letter to Mrs. Rigall, the mother of Mr. F. E. Rigall, your attention is directed to that letter?—A. That is something I never said, about any woman being brought, Rigall's mother or any one else.

Q. He never had any talk with you about bringing a woman here?—A. No; never mentioned it.

Q. Or that he could procure a woman here to be a witness?—A. No, sir.

Q. Did you have any explanation for such conduct on the part of Mr. Oxman?—

A. No. I think it is up to him to make such explanation. I have not. In this particular case I was cautious, and as fair, I think, more fair than the average prosecutor is, and over cautious with every witness. I even had 10 or 15 witnesses I did not use because I was a little afraid of them. I was very cautious indeed to have people only that I could rely upon, and I am as confident as I am sitting here that his testimony in the trial was the absolute truth.

Q. And you are also cognizant of the fact that his evidence in the trial had a convincing effect upon the jury?—A. I can not say that, because the jury is the best judge of that.

Q. How did you regard the effect of his testimony?—A. Well, I considered him a very material witness.

Q. A strong witness?—A. I considered McDonald a better witness, and we did not need his testimony. We had ample without it.

Q. Mr. Oxman's?—A. Yes—convicted Mr. Billings without it, and, in fact, we did not go through the list of witnesses, thought we had a complete case and quit. Furthermore, I abandoned the conspiracy theory, in which we have letters and documents by the thousands—resolutions passed—another thing that demonstrates his guilt.

Q. Well, of course, this grand jury is not passing on that.—A. No. You were making some general observations on that.

A JUROR. Mr. Fickert, did you discuss with Mr. Oxman the letters since they have been published in the newspapers?

A. I have not to any extent. I thought when he was down it was better for him to have his counsel.

Q. Did he make any comment upon the letters?—A. He has in a way; yes.

Q. Would you mind stating what it is?—A. Well, his general proposition was that he could not, was not good in composing, that he wanted to get the man out here to be a witness and did not want to tell him that he was needed in the bomb case.

Q. Did not say that either of these letters were not in their entirety, or that there was any part missing?—A. Yes, he said there was one.

Q. What did he say?—A. He said if he was not here that his case would not need him.

MR. CLARKE. Did he make any explanation with reference to his letter to Mrs. Rigall?

A. No.

Q. Never quizzed him about it?—A. No; in fact, I was reluctant to talk to him about it, on that phase.

A JUROR. Did you ask him about that letter which he wrote to Mrs. Rigall?

A. No; I tried to avoid it. He wanted to talk about it a good deal but I tried to avoid talking to him. I believe in reference to his particular testimony and in reference to Mr. Rigall my assistant had more of the details of that than myself. I met him daily like anywhere—we had anywhere from 150 to 250 witnesses, and it was like a theater to come out here in the morning; they were all after me, complaining and wanting to be put on the stand, and so forth.

Q. Did you say that Mr. Oxman wrote a letter to Mr. Rigall that if he was not here on a certain day he would not need him?—A. Something to that effect. He said he did not have all the letters.

(A short recess was here taken, after which the hearing continued as follows:)

MR. CLARKE. Call Mr. Cunha.



EDWARD A. CUNHA, called as a witness.

Mr. CLARKE. Do you want section 1324 read to you?

A. I am satisfied to have it read. It is up to you gentlemen.

A JUROR. Reading of section 1324 is superfluous in this case.

Mr. CLARKE. I prefer to have it read.

(Section read to witness.)

Mr. CLARKE. Mr. Cunha, your full name is Edward A. Cunha?

A. Yes, sir.

Q. After reading the section do you desire to testify?—A. Yes.

Q. No objection?—A. No.

(The witness was here sworn.)

Mr. CLARKE. Your name is Edward A. Cunha?

A. Yes, sir.

Q. And you are a deputy district attorney of the city and county of San Francisco?—

A. Assistant district attorney is the title of it.

Q. And how long have you held such position?—A. I went into office just a few months before the end of Mr. Fickert's first term.

Q. And you have been there ever since?—A. Yes.

Q. You, of course, are acquainted with the fact that one Thomas Mooney was prosecuted on an indictment returned by a former grand jury to the superior court of this city and county?—A. Yes. I conducted the trial principally myself.

Q. You were the trial attorney, as I understand it?—A. Yes, I was.

Q. And that trial resulted in the conviction of Thomas Mooney?—A. Yes.

Q. By a jury, and thereafter the defendant was sentenced to suffer the penalty of death?—A. Yes.

Q. During the course of the trial—and I may say that he was charged with murder growing out of an incident occurring in the city and county of San Francisco on July 22, 1916, known as the bomb explosion, during the preparedness parade?—

A. Correct.

Q. During the trial did you have occasion to use a witness on behalf of the people—one F. C. Oxman?—A. Yes, sir.

Q. And he was sworn, examined, and testified in behalf of the people in that case?—A. Yes, sir.

Q. The direct examination being conducted by you?—A. Yes.

Q. Cross-examination by one W. Bourke Cockran, of New York?—A. Yes, sir.

Q. Do you remember the date that Mr. Oxman testified?—A. I do not. I think it was about a week, though, before the completion of the trial.

Q. The people's main case?—A. A week before the completion of the whole trial.

Q. Not in rebuttal?—A. The people's main case; yes.

Q. Do you know anything of your own knowledge about how Mr. Oxman happened to come into the case?—A. Yes, I think I do.

Q. You did not conduct the negotiations leading to it?—A. I did to a certain extent; yes.

Q. Just explain, Mr. Cunha?—A. To my present recollection, about the time we started on the hunt for Mr. Oxman across the continent, when he was taking some cattle back East, Mr. Fickert was away for a day or so, and I think I myself conducted the negotiations with the Burns people largely, in the matter of locating him back there. I had before me at that time the letter which had been received from Mr. Wood—I think his name is—from Durkee, Oreg., and perhaps some other telegram or data—I am not sure, but I remember that I had something to do with directing it; in fact, if I remember it correctly, I took the responsibility that we should go after this man and try to get him.

Q. Did Mr. Fickert send in to you a statement made by Mr. Oxman in Kansas City?—A. No, sir.

Q. You did procure a statement from him in Kansas City?—A. I did not procure it.

Q. Do you know if such a statement was procured?—A. I think so.

Q. Thereafter you knew that Lieut. Bunner was sent to get him?—A. Yes.

Q. And Lieut. Bunner afterwards reported to you?—A. I had a talk with Mr. Bunner, either with him or some one who had talked with him; I am quite sure I talked to Lieut. Bunner himself.

Q. Thereafter Mr. Oxman arrived in the city and county of San Francisco, and you had occasion to interview him with reference to his testimony?—A. Yes, sir.

Q. Did he ever state to you that there was any other person who discussed or had seen him while he was here on the 22d day of July, 1916?—A. Yes; it is my recollection that I spoke to him about the matter first, Mr. Bunner having spoken to me about it.



Q. What did he say?—A. I don't remember the exact nature of the conversation, but I remember he was indefinite about his identity. He was rather definite, of course, about the occurrence of having seen some one there, but I remember he stated that it was his opinion that it was a man that he had not seen for a great number of years, in fact, since he was a boy; in fact, he referred to him as a young man: he might have used the expression "boy," too, but said he was quite positive that he knew who it was.

Q. Did he state to you what his name was?—A. I believe he stated what he thought the name was.

Q. And what was that?—A. Rigall, as I recall it. I paid no attention to it at the time—the name itself, but I am testifying now from what has occurred since.

Q. Did he afterwards produce anybody whom he represented had seen him on that day?—A. No, sir.

Q. Did he produce Rigall?—A. I would not put it that way, that he produced him.

Q. Well, did he present him to you, introduce him to you?—A. I don't—I can't say that he did—I know that he spoke to me about Mr. Rigall.

Q. How did you first meet Mr. Rigall, if you met him?—A. I will tell you. As I recall it, a day or so after Mr. Rigall arrived in town Mr. Oxman was in the office in the morning and wanted to see me. I was very busy getting a jury at the time. It took us two weeks to get the jury, and I think I examined something like 300 men before we got a jury, and we had lots of fighting in court; and I put him off—in fact I paid no attention to him at the time. He told me at that time he wanted to see me, and the next morning he told me what he wanted to see about was the man that he wanted from the East. He said he made a mistake. He seemed to feel very badly about it and offered to pay the man's expenses out here. I told him that was not necessary, that the State would pay the expenses. He wanted to know what to do about it. I said, "You just keep your business to yourself and I suppose things will take care of themselves. We will keep Mr. Rigall. The only occasion for you to speak about it is when you take the witness stand when you are on cross-examination, you will tell all about Mr. Rigall coming here. You will be under oath. They will see Mr. Rigall and undoubtedly one of the first questions on cross-examination will be, Did you see anybody down there that you knew or thought you knew? and, Who was this man that was walking around town? and then you tell all about it, and in the meantime do not tell anybody about your business."

Q. Did you tell him to have Mr. Rigall here for that purpose?—A. No, I did not tell him to have him here.

Q. Why was Mr. Rigall kept here?—A. That was my principal reason for keeping him here, because I confidently expected—in fact, there was only one chance in a thousand that Mr. Oxman was not asked something about something of that kind on cross-examination, and that would complete the explanation about any frame; either there was not, or I was insane for putting Mr. Oxman on the witness stand—because there was only a chance in a thousand that he would not be cross-examined as to who Mr. Oxman was and why he came here and all about it, and if he was cross-examined he would have told the absolute truth.

Q. I do not know whether that is an answer to my question, Why did you keep Mr. Rigall here?—A. I kept him here for the reason I have indicated. If that matter came out on cross-examination I wanted the man here.

Q. So that you could put him on the witness stand?—A. Not necessarily. I thought they might want to call him as a witness on the other side of this case. That was going to be my attitude.

Q. Then, you desired to use him as a witness?—A. I did not; no, sir.

Q. Did you want to have him pointed out in the courtroom?—A. No, sir.

Q. Well, it is not quite clear to me, Mr. Cunha, why you should have kept Mr. Rigall here.—A. For this reason—

Q. (Interrupting.) I may be dense about this thing.—A. (Continuing.) I expected if Mr. Oxman was cross-examined about any matter of that kind, that he would tell all about it, and after they asked him where was Mr. Rigall, he could say, "Here in town right now." "Where is he?" "The last time I saw him was this morning." "Where is he living?" "He is living at such and such a hotel." If they wanted to subpoena him they could subpoena him and call him as their witness, but I had intention of calling him as my witness.

Q. Under any circumstances that might arise?—A. No, sir. I had no intention at that time, Mr. Clarke.

Q. I understand; but had it occurred that Mr. Cochrane or whoever was conducting the cross-examination, had developed the fact that such a man as Rigall was here in company with Mr. Oxman, you then desired Mr. Rigall to be here for the purpose of permitting him to be called?—A. I wanted him in San Francisco so that it would be apparent that there was no matter of covering anything up.



Q. I understand that.—A. I wanted him right here so that in case they wanted him as their witness they could call him and ask him such questions as they wanted to.

Q. You were conducting the prosecution; you were not providing witnesses for the defense?—A. Not providing them, but I was protecting myself from any possible criticism that might come up on the matter of this man going from San Francisco or sending him away from here.

Q. Therefore you thought it well to have him about?—A. I thought it well to have him about, that is correct, yes, sir.

Q. For any purposes that might develop that you needed him for?—A. I did not conceive of any reason why I should need him.

Q. Did you have him attend court?—A. I did not; no.

Q. Was he present in court when Mr. Oxman testified?—A. I don't believe he was. If he was, he was not to my knowledge.

Q. Did you give him any directions for him to be in court a certain day?—A. No, sir.

Q. Did you ever have any talk with him as to whether or not he would be a witness in behalf of the people?—A. Not in that way. It is my recollection that just the same day or the next day or so after Mr. Oxman told me about the fact that he was not here, I mentioned it to him quite casually—"Well, I hear the old man made a mistake about you." I said, "You stay here and we will keep you here until we are through with all the examination."

Q. Did you ever have any occasion to talk with him in reference to any testimony that he was proposing to give in which he made the statement, "Well, Cunha, I was not here at all on July 22"?—A. No, sir.

Q. Did he ever make such a statement to you?—A. He did; yes, sir.

Q. The night before Mr. Oxman was called as a witness?—A. I won't say whether it was the night before Mr. Oxman was called or not.

Q. Up to that time, Mr. Cunha, had you advised him that he was not to be used as a witness on behalf of the people?—A. Oh, yes; I told him he would not be called as a witness—that is, I did not tell him in so many words, but that was assumed, because I said to him, "The old man made a mistake about you, but you remain here anyhow." That was my remark to him. I can not say that I specifically said to him, "You will not be called as a witness." I took it for granted that he was an honest man, and knew he would not be called. I will tell you how the subsequent conversation came up. After Mr. Rigall had stayed here, why, I got to know him, you might say, in a personal way, joshing with him as a young man about my age or a little older, and sometime before Mr. Oxman testified he made a remark to me apparently in what I took to be a joking way; he said, "Well, as long as I am here, I might as well testify." And in the meantime I had observed it and come to the conclusion he was a sort of a sport, a kind of a good fellow, and not taking things seriously; and taking this as a joke, I said, "I know you are only fooling," or something of that sort, and passed it off that way. Finally, maybe the night before or just before Mr. Oxman testified, I did take Mr. Rigall into the room and I sat him down and I said to him, "Now, you made a rather peculiar remark to me once or twice about you would testify anyway"; I said, "Is there any possibility that you were here on that day and that you did not want to testify, and that the old man and yourself—that you got cold feet about testifying and was lying?" He said, "No, sir; I want to come absolutely clean to you. As I have told you right along, I was not here." "Then," I said, "Of course, we can not use you." Then at that time I went into a discussion with him finally about old man Oxman and got to talking to him about him when I had him in that rather frank state of mind, and he told about Mr. Oxman and what a fine, honorable man he was. Finally—I forget how it came up—but he said in a rather sort of naive sort of way, "Maybe you would like to see the letters he wrote to me to get me to come out here?" I said, "Do they amount to anything?" He said, "No, but maybe you would like to get a look at them?" I said, "Maybe;" have you got them with you?" He said, "No." I said, "When you get back, send them out to me." He went home and he wrote me a letter saying that he had found the letters at home and wanted to know if he should send them to myself or to Mr. Fickert; then and there I began to get a little suspicious about Mr. Rigall, because it really did not make any difference whether he sent them to me or Mr. Fickert. The trial was going on and practically in a day or two I received this telegram congratulating me on a conviction and then going on with a sort of veiled threat or hint that he thought his evidence might get him a new trial. I took the combination of the congratulation on the conviction and the suggestion that his evidence might get a new trial, and also together with his statement in the letter when he landed home, that he hoped I was getting along with the trial as well as when he left here, and I did not know what to make of it. Then I sent him the telegram in which I asked him for the slightest information on the case



or the slightest data he had, and to the telegram I never received an answer; and I understand now that Mr. Rigall testifies that at the time he received that telegram he had consulted his attorney, Mr. Ellis, and Mr. Ellis advised him not to send me any letter. Mr. Ellis is now an attorney for the defense, and they are responsible for the fact that the letters are not here.

Q. I understand that you would do whatever any other attorney would do, but I suggest in all kindness that the question is not to argue the case, but to testify. I am trying to conduct it as orderly as possible.—A. I beg your pardon, if I have overstepped.

Q. That is the letter you refer to?—A. Yes. I received this letter from him as I told you.

Q. That is dated January 6, whereas the postmark is February 6?—A. It should be February 6, as I take it.

Q. You are satisfied of that?—A. Yes.

Q. And your telegram, heretofore in evidence before the jury, is what you said to him in reply to his telegram of congratulation?—A. It was in reply to both this telegram and this letter. I received the letter and telegram about the same time, a few days' difference.

Q. You regarded the telegram, the congratulatory telegram, at least as a veiled threat, or, rather, as a peculiar communication?—A. Yes, sir; I did not know what to make out of it.

Q. As a sort of left-handed compliment?—A. I didn't know what to make out of it, so I wired to get what he had.

Q. And you never received any reply? You are familiar with the letters written from Mr. Oxman to Mr. Rigall?—A. I am now.

Q. You were not at any other time?—A. No.

Q. Prior to the arrival of Mr. Rigall?—A. No, sir.

Q. You have seen them?—A. I have seen photographs of them.

Q. Do you care to see the originals?—A. No, sir.

Q. You, of course, had no knowledge of the contents of those letters at the time Mr. Oxman was here and Mr. Rigall was here originally?—A. I had a general knowledge only.

Q. That letters had been written?—A. That letters had been written to Mr. Rigall, or whoever the man was, to get him out here, and did not tell him about the bomb case.

Q. But you gave no directions as to the character or manner in which the letters should be written or the language used?—A. Yes, I did, to that extent, because, as I recall, I told Mr. Oxman to get his friend out here but not to tell him about the bomb case, because he realized what a hard time we had to get him here, but to use his judgment, but the main idea was to get him out here.

Q. Did you at any time direct the sending of a letter to Mrs. Rigall, the mother of Mr. Rigall?—A. No, sir.

Q. And you did not know anything about that?—A. No, sir.

Q. Mr. Oxman never communicated to you the fact that he was going to send such a letter?—A. I am a little bit hazy on that, Mr. Clarke. I tried to go back over my memory and figure out whether or not he did say something of the kind to me, but my attitude at that time was that I was delegating everything I could to somebody else; I was as busy as I could be working up this case and getting ready for it, and the old man might have said something about writing the old lady.

Q. You have no independent recollection of that?—A. No.

Q. You certainly gave him no direction about writing her?—A. My recollection is very indefinite.

Q. You observed in the copy of the letter to Mrs. Rigall that he invited her also to come out as a witness?—A. Yes. That did not bother me a bit so far as Mr. Oxman's honesty is concerned.

Q. But you did observe that?—A. Yes, sir.

Q. But you never heard anything about Mrs. Rigall being a witness or having been here on the 22d of July?—A. You mean about his claims—oh, no. He never claimed to me that there was anyone excepting the one man. He never mentioned there was any woman here on that day. That is true.

Q. Did he introduce Mr. Rigall to you under any other name than Rigall?—A. If I remember the matter correctly, Mr. Clarke, I walked up to Mr. Rigall myself. I don't think anybody introduced Rigall to me. I just walked up to him, and it is my recollection that he gave me his real name at the time; in fact, if there was anything said in my presence about the name "Charles," I don't remember it. I believe he introduced himself to me when I walked up and said his name was Rigall.

Q. Called you Mr. Cunha?—A. Well, I told him who I was.



Q. Now, Mr. Oxman was an important witness on behalf of the People in the trial of the case of *People v. Mooney*?—A. I did not consider he was very important; told the jury so in my argument.

Q. You used him, of course?—A. Yes, I told the jury very distinctly that I banked on McDonald a very great deal more than on Oxman, and I banked on the evidence. The evidence was overwhelming of this man's guilt without Oxman at all.

Q. Now, referring again to the position that you took in keeping Mr. Rigall here?—A. Yes, sir.

Q. I understand that you desired this jury to understand that you did not intend to call him as a witness.—A. I did not intend to; no, sir.

Q. You just wanted him to be sticking around here to be around?—A. I wanted him here, as I said before, because I confidently expected that Mr. Oxman would be cross-examined about his identity. There were a number of plain-clothes men around the courtroom who were working for the other side, watching everything that was going on, so I naturally expected Mr. Oxman would be cross-examined about him. If they had conducted a cross-examination at the trial this thing would be a mere incident, instead of a big thing as it is now.

Q. But at no time you expected to use him as a witness?—A. No, sir.

Q. Either as an identity witness, to stand up in court, or to corroborate Mr. Oxman if he should testify that he had made a mistake?—A. No, I wanted him here so that if they wanted him they could call him.

Q. Mr. Cunha, of course, you understand the kind of testimony that I am trying to elicit?—A. I do not know whether I do.

Q. I think you do. May I ask, did you keep any other witnesses around for the benefit of the defense?—A. I must stop and think for a minute. No, but I told several witnesses that they could go and report to the defense—told several of them.

Q. Well, those were witnesses that you had reason to believe were trying to frame on you?—A. No, sir. I remember I told Mr. Prendergast, who was a man that testified that he saw some man walk into a saloon; that is, he told me he saw some man walk into the saloon, did not see him put the suitcase down, but saw him leaving in that direction and go into the saloon. I said, "You will make a good witness for the defense."

Q. As a matter of fact, a number of people that came to see you became witnesses for the defense?—A. I can not say how many did. I can not recall anyone in particular. Mr. Smith was over here from Oakland, I believe, and saw Mr. Fickert. I think Mr. Fickert told him he would be a good witness for the defense.

A JUROR. The judge just asked you were there any other witnesses that you wanted to remain there. You said, yes; do you mean to say that Rigall was your witness then?—A. No. He asked—

Q. (Interrupting.) "Any other witnesses."—A. No, sir.

Q. That is what the judge said?—A. No; I did not mean to imply that he was our witness at all. He asked if there were any other people came to see me, or witnesses. I do not suppose he meant the word as a conclusion of law. I supposed it was descriptive that he used the term generally.

Q. Do you mean to say Rigall was your witness?—A. No, sir.

Q. And, Mr. Cunha, after Mr. Rigall told you, acknowledged to you, which I understand he did voluntarily, that he was not there at all on the 22d day of July, and could give no evidence, as I understand it, or do I correctly understand you to have said to him, "Then, we can not use you?"—A. Yes, sir.

Q. Well, is it a fact or not that the prosecution could have dispensed with the evidence of Oxman and yet have a case that would be successful?—A. Why, you mean a case in this case?

Q. In this case.—A. Well, the answer to that is this, that Mr. Billings was convinced without Oxman at all, on the same evidence, without Oxman.

Q. I see; so that Oxman's testimony was at all times dispensed with?—A. No; because Oxman testified. But the point I make is this, when Mr. Clarke asked me if I considered Mr. Oxman our principal witness, my reply was that I did not, and I am of the opinion the jury did not so consider him.

MR. CLARKE. When Mr. Rigall was first brought out here at the suggestion of Mr. Oxman and with your concurrence and advice, he was then brought out to testify, as you understood?

A. No, sir.

Q. He was coming here to lay before you what if anything he knew about this case?—A. That is not so because, as a matter of fact, the question was undetermined as to whether he was here or not. He would not have become a witness until that was determined, and simultaneously with determining that question, why he was not a witness.



Q. Was there any time or any stage of these proceedings when Mr. Rigall was about to become the witness for the people?—A. No, sir.

Q. You are quite clear about that?—A. Yes, sir.

Q. And the only purpose that you had in retaining him here was for the purpose of providing him for the defense in the event they wanted him?—A. My purpose, as I have indicated before, was that I figured that Mr. Oxman would undoubtedly be cross-examined on that question. It would have been the most natural question in the world to come up, whether he had seen anyone that day whom he knew or whom he thought he knew, and when that question was brought up, he would tell the absolute truth about it, and I wanted Mr. Rigall here.

Q. Is there anything further, Mr. Cunha, that you desire to state to this grand jury that I have not asked you regarding this matter?—A. Well, lots of things I would like to tell them.

Q. Which might not be germane to this investigation, but in relation to your connection with Oxman and Rigall?—A. I do not know of anything else. Well, Mr. Clarke, just one or two things. The first one is this: As bearing conclusively upon the discussion between Mr. Rigall and myself about Mr. Oxman, as to whether there was anything wrong about his bringing him out or anything, I would like to call the jury's attention to the statement made by Mr. Rigall to me immediately upon his arrival home to the effect that, "I hope you are getting along with the case as well as when I left." That is not the statement of a man that thought that anybody was framing anybody up. If he is an honest man he would say, "You are trying to convict a man on framed-up testimony," not "I hope you are getting along as well," well at all. I want to tell this jury, as far as I am concerned—I want them to remember that Mr. Oxman came here in the first place to testify reluctantly; in the second place, he came here voluntarily at the time this motion for a new trial was pending. By the way, when I received this gentleman's telegram, congratulations on your conviction, and the rest of it, I went up to Portland, saw Mr. Oxman, and went over the thing with him at that time, as I was in this position: I would not have been justified in going to any judge or any one else and pointing the finger of suspicion at Mr. Oxman unless I had something to base it on. If I had done that, I would have made a big fool out of myself. However, when I received this telegram I had a conversation with Mr. Oxman and asked him what this man could mean by this thing. He said, "Nothing that I know of." I said, "How about sending for him and getting him out here?" He said, "I did just as you told me to—sent the letters to get him out here." He said, "I will come down to San Francisco with you and I will be right there in case this matter comes up." And he came to San Francisco with me at that time, while the motion for a new trial was pending, voluntarily. And at that time I expected myself that Mr. Rigall would probably come here to this town and would probably do just exactly what he finally did in this case, after he had failed after my last telegram. I figured that he might have something like this that might look a little bit bad, that might be explained, and that he would use it on the other side of the case, and so I made the suggestion if he came back to San Francisco he should be trailed to see where he went; and I am sorry, I want to say, we did not do that to see where he went when his attorney advised him not to send the letters to me, to see when the circumstances were when he gave up the letters back there.

A JUROR. Mr. Cunha, have you any knowledge of any fund that has been raised since the conviction of Mooney, for the defense?

A. Now that you have asked me that question, I will have to answer you. Of course, I am under oath here. Mr. O'Connor, in conversation with me, told me that when Mr. McKenzie was back East on this trip to get these letters, that he wired him a thousand dollars by postal telegraph, and that it was his intention that Mr. McKenzie should use that if necessary to buy the letters, and he said it was not necessary to use money to buy the letters, and the thousand dollars came back. He said he would wire him a thousand dollars, and I asked him at that time if he expected to make money out of the case, and he said, "Yes," he expected plenty of money to come in. I want to say right here, in response to your suggestion, along that line, in reference to my attitude toward Mr. Mooney and anything of that kind, I refer you to my opening statement which I made to the jury.

The JUROR. I do not think that is an answer at all.

A. It is along the lines of collecting funds or anything of that sort.

Q. I want to find out if you had any knowledge of any funds of any proportion being used in the case since the conviction of Mooney for any purpose, to anybody?—

A. Yes; but it is in the nature of a report; merely hearsay. It is not anything first hand. It is reports which I received from the East.

ANOTHER JUROR. It is generally understood that the Defense League are supplying funds to pay to the attorneys and one thing and another on the defense of this case; it



is generally understood—that is, coming from some league or body of men that are putting up the money to defray the expenses of their witnesses; is that generally understood?

A. I do not know about that. I suppose so. As I understand it, the system is, funds are collected at meetings and different organizations.

Q. Do you think if those letters the jury have here before them were introduced in Judge Griffith's court at the time the motion for a new trial was made they would have made any difference with the judge?—A. It would not have made any difference with me.

Q. You think the judge would have given him a new trial?—A. I do not know. My attitude is that Mr. Mooney was convicted with an abundance of evidence, leaving Mr. Oxman out of it altogether, and as far as he is concerned being responsible for this telegram, I can prove that the same as I can prove that this gentleman has a pencil in his hand right now; and he did not give the people that were killed one trial or two trials, and as far as I am concerned he will simply get what the law gives him, and that is my attitude. I do not want to be misunderstood as being bloodthirsty or anything of that sort, because I am not. If the thing might be taken up in the proper channels, I would be as fair with him as anybody else, but the point I want to make is this, I am paid by the people to represent them as their attorney. I will admit the argument that I am representing one side of the case, but that is what I am being paid for.

Q. What was the idea of sending Mr. Bunner and Capt. Matheson, as long as you were not going to use him as a witness, with Mr. Rigall out in an automobile to give him the once-over inspection?—A. I will explain that, but along that line I want you to understand that I never told Mr. Bunner and never told Capt. Matheson about Mr. Oxman's mistake, and I, of course, supposed that Mr. Bunner assumed that Mr. Rigall was to be a witness.

ANOTHER JUROR. It is not entirely clear in my mind—who was present when Mr. Oxman said that, "This is not the boy; I have got a man here; I have made a mistake"—who was present, and how soon after his arrival did that occur?

A. It is my recollection, as far as I am concerned, that it occurred within a day or so after the man arrived, and practically as soon as he arrived in town.

Q. Then at no subsequent time, then, did you go over the testimony that he was to give at the trial, with Mr. Oxman and Mr. Fickert and yourself?—A. No, sir.

Q. Because you had already found out that he was the wrong man two days after he got here?—A. Absolutely, as far as I am concerned; up to the time he left San Francisco he was absolutely on the square with me.

Q. But you say now that you did not rehearse that testimony with Rigall?—A. Absolutely not, never at any time.

A JUROR. Mr. Cunha, you made the statement here a little while ago that you went over the testimony that Mr. Rigall was about to give the day previous to the day that Oxman was to be called?

A. No; I did not say that.

Q. Well, now, wait a minute; probably I might recall to your mind; when Mr. Rigall informed you that he was not in San Francisco on the day of the parade, you made the statement to him, "Well, I can't use you?"—A. No; that is not the way it came up first. The way it came up was this, that I think I opened up the conversation myself by saying, "The old man tells me he has made a mistake about sending for you, but you stay here anyway."

Q. Where did that conversation take place?—A. It came up in this way——

Q. (Interrupting). Where did it take place?—A. In the Hall of Justice.

Q. In one of your offices?—A. Yes, sir.

Q. In the presence of Mr. Rigall and yourself?—A. Yes.

Q. Previous to that remark you went over the testimony, did you?—A. No, sir. If you will pardon me, I will rehearse the thing again. Rigall, after Oxman told me practically at the time of Rigall's arrival, or apparently as soon as he could, that Rigall was not here; that he had made a mistake in the man. I then spoke to Rigall practically right away and said, "The old man tells me that he has made a mistake about you being here, but you stay here anyway." In the meantime several days went by. It took us longer to get the jury than we expected; we did not get it until practically the 15th of the month. In the meantime, I had become quite friendly with him, and he made remark to me towards the last, before Mr. Oxman testified, to the effect, well, in a sort of joking way, "As long as I am here I might as well testify." I did not take him seriously at all. I joshed it off. I said, "Of course, that is out of the question." But, as I recall it, I finally did take him in and sit down, and I said, "Is there any possibility that you were here, and you got cold feet, and the old man is trying to protect you?" and he said, "The absolute truth is, I was not here." And I thought that settled it finally.



A JUROR. When the motion was made before Judge Griffin for a new trial, do you think you could explain it the same way as you explained here how that letter was written, and that the judge would not give him a new trial—you could explain then the same as you could now about that letter?

A. I think so.

Q. And you think that Judge Griffin would give him a new trial?—A. No; I don't think so. I think practically all the jurors in the case will testify they would have convicted him without Mr. Oxman's testimony.

Q. I mean, if the letter came up before Judge Griffin, in the face of your explanation, do you think he would give him a new trial?—A. I don't think he would.

A JUROR. When did this name "Charles" first come to your attention?

A. As I said before, I have no recollection of the name Charles particularly.

Q. I know, but you have got acquainted with it since?—A. You mean since?

Q. I said, when did the name Charles first come to your attention?—A. Well, now, let me see—I couldn't say.

Q. It was since the trial?—A. Yes, I think so.

Q. You did not know then, until he came back that he was registered under the name Charles?—A. I don't believe I did. I did not pay much attention to anything of that sort. I was pretty busy trying the case.

A JUROR. You do not know why Mr. Oxman told him to take the train at Evansville—

A. (Interrupting.) Except and along the same line that he was told to get him out here, and perhaps he thought that might appeal to him in the way of getting him out here. I might say that at that time the crime was such a terrible thing that I was willing myself to go to the expense of sending for 12 men if I could get one witness out of them. The whole thing was magnified; it was such a different situation than the average case, and my idea was to get the man out here and not take any chances of him being afraid to come out, or anything of that sort.

(An adjournment was here taken until to-morrow evening, May 2, 1917, at 8 o'clock p. m.)

WEDNESDAY EVENING, MAY 2, 1917.

HENRIETTA RIGALL, recalled.

Mr. CLARKE. How did you give your name before? Mrs. J. D.?

A. I usually give it that way, and my right name—of course, my given name is Henrietta. Sometimes I give my name "Mrs. J. D." Other times "Henrietta." I knew that he would know me better as "Mrs. J. D.," because I always used to sign my name that way.

Q. J. D. Rigall was your husband?—A. Yes, sir.

Q. I show you a certain letter, addressed to "Mrs. J. D. Rigall," and signed "F. C. Oxman, San Francisco, December 25, 1916." I show you the letter, Mrs. Rigall [showing].—A. Yes, sir. That is the letter Mr. Oxman wrote me.

Q. Did you receive such a letter through the United States mail?—A. Yes, sir.

Q. In this envelope? [Showing].—A. Yes, sir.

Q. The letter is as follows: It is on the Hotel Terminal stationery. James H. Hoyle, 60 Market Street [reads]. "See nothing."—A. It is "see nothing." He means, "say nothing."

Q. Mrs. Rigall, did you make any reply to that?—A. Yes.

Q. Did you keep a copy of the reply?—A. No, sir; but I can tell you the substance of it—of what I replied.

Q. Yes.—A. I began my letter by asking a question why he didn't send me transportation when he sent Ed's. I received this letter the day after Ed left Grayville for San Francisco, and then I said, yes, it had been a long time since I had seen him and that I would be glad to be of service. Let's see, I would be glad to be of any assistance I consistently could to him. That was it. The word "consistently" you know meant a good deal.

Q. Did you know at that time the letter was from F. C. Oxman, known as "Cliff Oxman," or—A. (interrupting). I thought it, and I thought—I suspicioned when Ed got his letter it was from him, but Ed didn't think so, but Ed was gone then, and I had no way—I wouldn't show it to any one, because I considered it—well, kind of an insult to send me that kind of a letter. I knew equally there was something crooked about it. I thought he must have a poor opinion of me if he would think I would swear a lie for him or anybody else.

Mr. CLARKE. I think that is all with this witness, as far as I am concerned.

A GRAND JUROR. Why, if you thought there was something crooked, did you come out here?



A. I didn't come out here for Mr. Oxman nor at his bidding. My son paid my expenses out here. That was long before the trial.

Q. You said when you got this letter you thought there was something crooked. I wondered why you came out here if you thought there was something crooked.—A. I didn't come out then. I had never been in San Francisco before.

A GRAND JUROR. You said in your letter about the transportation. You began your letter by saying, "Why didn't you send transportation along with Ed's?"

A. Yes, sir; I thought that was strange if he wanted me to come the same time Ed did, why didn't he send transportation so I could come with Ed. Furthermore, I had it in my letter I wouldn't make the trip alone under any circumstances. I said that. I remember that. Now, that is the substance of the letter, as far as I can remember.

A GRAND JUROR. I think your testimony showed before when you were here that you were never in California until your recent arrival.

A. No.

Q. You did not make any trip in response to that letter?—A. No.

Q. That letter was mailed here December 25, 1916. That would be Christmas Day?—A. Yes, sir.

Q. When was it received by you, do you remember?—A. I don't remember whether it was Christmas Day or not I received it. I think it was between Christmas and New Year's. I don't just remember.

Q. After your son left?—A. The day after my son left I received the letter.

Q. What did you do with the letter, show it to anybody?—A. No one, only my daughter.

Q. Later on you turned it over to your son?—A. Yes, sir.

Q. And he delivered it to Mr. Ellis?—A. Yes, sir.

Q. And it was delivered by Mr. Ellis to me here to-night?—A. Yes, sir.

Q. The letter, Mrs. Rigall, will go into the possession of the secretary, Mr. Dillon, of the grand jury.

Mr. CLARKE. Yes. Any further questions?

A GRAND JUROR. Why do you consider the letter was in any way insulting? The letter tells you on account your son is coming. You told us the other day you knew him very well, when your husband was living he used to be there in your place daily, and you were very friendly with him.

A. Yes, sir; we were always very good friends.

Q. What is there in that letter that you should construe that it was written in any other way but in a friendly way?—A. I had read my son's letter, and he wanted him as a witness. He said in my letter he wanted to use us as a witness. I knew neither one of us knew anything about his business in California, Oregon, or anywhere else, for years and years. It looked like it was something crooked.

A GRAND JUROR. Was the probability he wanted you to be a witness as to his standing in the community?

A. I don't think so.

A GRAND JUROR. If you thought so, why did you say to him why didn't he send you the money before?

A. Because I wanted to come with Ed. I would have come for the trip.

Q. In one way you say that this letter—you consider it was not the right letter to send. You answer him in that letter why he has not sent you before. That shows your anxiety that you felt—that you were pleased with getting from him a communication; in fact, you regretted that he didn't send you such a communication before he sent this.—A. I didn't mean in my letter to express any regret. It was curiosity. I wondered why he didn't send me transportation at the time he sent Ed's, if he wanted to see me. I wondered why he would write to me that he sent—that he had sent Ed transportation.

Q. The second day, you know—the time—— A. (Interrupting.) It was a good while between letters, because Ed had started for California and he didn't start as soon as he got Mr. Oxman's letter.

A GRAND JUROR. Did your son suggest to you it would be a nice trip for you?

A. No.

Q. Did you say your son wrote Mr. Oxman relative to your coming?—A. Why, no. He never did. He was very much surprised when he came home and found I had a letter from Mr. Oxman.

A GRAND JUROR. What makes you think he didn't want you as a character witness?

A. Well, I don't think he did. I don't know that I can answer that question.



A GRAND JUROR. Is there anyone knew him longer or better in that time than you did?

A. Oh, yes; there is quite a number of people in Grayville knew Mr. Oxman longer than I knew him. I never knew him until he moved into the town—until several years after he moved into the town. I knew him when I saw him, and that was all. After he became intimate with my husband he was at home a great deal and I learned to know him pretty well.

Q. Didn't it look natural to you being there in the business you were and still keeping the same address, if he knows anyone he knows you were in the place there and you kept the hotel?—A. Yes, sir.

Q. Don't you think he would rather select a person that he is sure they are alive and still there, he being so many years away, than to look for some one else who may know him and may not be there; that that was one of the reasons he selected you more than anyone else?—A. I don't think that was what he wanted with me at all.

A GRAND JUROR. Did you have any intimation from the letter what you were supposed to testify to as a witness?

A. Oh, no. The letter speaks for itself. It doesn't say why he wanted me, only he could use another witness; it would be a good chance for me to see California.

Q. Not in connection with this bomb matter?—A. No; I never knew anything about it. I didn't even know what Ed. came out here for. We live in a little town. I don't remember ever hearing anything about the bomb business until Ed. came back from California and told me.

A GRAND JUROR. How long before you got the letter from Mr. Oxman was it that you had really seen Mr. Oxman—about how many years, approximately?

A. About 18, I guess; somewhere along there. I wouldn't be positive.

Q. It seemed a little bit strange to you that Mr. Oxman should come to you as a character witness when he had a lot of other neighbors he had mingled with for 18 years?—A. Yes, sir; and people who had mingled with him more than I did.

A GRAND JUROR. You had three sons?

A. I have had three sons.

Q. What were their names?—A. The oldest one was named Clyde; the youngest one, Gordan.

Q. This young man is Ed.?—A. Yes, sir; he is the middle one. My oldest and youngest are both gone.

Q. Is there a resemblance between the boys that are gone?—A. Not very much.

Q. Family resemblance?—A. Yes, sir; the youngest and oldest resemble one another, but Ed. didn't.

Q. How did they compare in regard to stature?—A. Ed. was the smallest. The other two were large. My oldest son weighed 190 pounds when he took sick; my youngest, 180.

Mr. CLARKE. When did your oldest son die?

A. Fourteen years ago next fall. He was buried at Grayville. My younger son died two years ago this June. He is buried there.

A GRAND JUROR. How closely associated was Mr. Oxman with your husband in business?

A. I couldn't tell you. I never paid much attention to their business. They traded in the real estate business together.

Q. Were they partners?—A. I don't know. I couldn't say as to that.

Q. Mr. Rigall worked for Mr. Oxman?—A. I think so. He helped him in his land deals, and of course would always get a share.

A GRAND JUROR. Of the commission?

A. Yes, sir.

A GRAND JUROR. Did Mr. Oxman have a brother?

A. Yes; he had a brother.

Q. Your husband was associated with Mr. Oxman's brother in the real estate business?—A. With Mr. Oxman.

Q. There is no question about that?—A. No.

Q. They were not partners, though?—A. No; I think not. I don't know you would call them partners.

Q. I believe you stated they were associated together as partners?—A. Associated together? I don't know there was any partnership business between them. Really, I don't know just how it was, but I know that they made trades together in real estate. Mr. Rigall was away from home most of the time. I don't know what they did.

A GRAND JUROR. Living in Grayville, are there two daughters of Mr. Oxman—living there at the present time?

Q. Do you know the ladies?—A. Yes, sir.



Q. Both nice ladies?—A. Yes, sir; there are not nicer girls in town. There is not a nicer woman than Mr. Oxman's first wife.

Q. You are intimately acquainted with them?—A. Not intimately.

Q. Are they married?—A. One of them is married. One is single and at home with her mother.

Q. But they occupy a very good position in society as far as Grayville is concerned?—A. Yes, sir.

Q. Now, you are just after saying it is 18 years since you have seen Mr. Oxman?—A. I think so. I wouldn't be sure exactly I know. It is a long time.

Q. Do you remember saying the last time on the stand it was the time when you saw him when he was there attending to the funeral of his daughter?—A. I beg your pardon. I didn't see him at all on that occasion.

A GRAND JUROR. She testified to that, I think.

A GRAND JUROR. I am entitled to ask my questions and have the answer. You hadn't seen Mr. Oxman for 18 years?

A. About that time. About that length of time; I wouldn't say just exactly.

Q. You further said the other night that his reputation there at the time he had been in Grayville was rather shady?—A. Yes, sir.

Q. Very bad, in fact?—A. Yes, sir.

Q. Will you please state one single instance in which his—he had acquired that reputation? One occasion?—A. I will; yes.

Q. What was it, please?—A. Do I have to state that?

Mr. CLARKE. The witness does not have to state anything that would incriminate them or would embarrass them.

The WITNESS. This wouldn't incriminate me in any way, but it would embarrass me.

A GRAND JUROR. Then I will withdraw the question. I am anxious to know, Mrs. Rigall, why this man's reputation was so bad.

Mr. CLARKE. Mrs. Rigall, of course you understand that these are all gentlemen here, and we regard you, of course, as a lady. Now, it developed, I think, in your examination, that he, perhaps, according to your testimony, or some one's testimony, that, perhaps, his private life was not proper. Is that what you refer to?

A. That is what I have reference to.

Mr. CLARKE (to the grand juror). Do you want the witness to tell about that?

A GRAND JUROR. That is all right. As long as there is any embarrassment I will withdraw the question.

Mr. CLARKE. Is there any embarrassment?

A. Yes, sir. In a way there would be. It does not incriminate me or anyone connected with me, but I would rather not speak of—

Q. (Interrupting.) A matter of local scandal there?—A. Yes, sir.

Q. It is well known in Grayville?—A. Yes, sir; you can go there and any of the old residents can tell you about it. The sympathy of the people was all with Mrs. Oxman.

Q. You mean the first Mrs. Oxman?—A. Yes, sir.

A GRAND JUROR. Does Mr. Oxman's brother still reside there?

A. No; he resides in Oregon somewhere.

Q. How long is it since he left Grayville?—A. He left since Clifton Oxman did.

Q. They had been associated together there then?—A. Yes, sir.

Q. They were associated together in land deals there in Grayville?—A. To a certain extent they were. In some of them, I don't think Clarence was interested in all of them. He was in some.

Q. Your husband was intimately acquainted with the two men?—A. Yes, sir.

A GRAND JUROR. You know his daughters well?

A. Yes, sir.

Q. They are very nice ladies?—A. Just as nice ladies as can be.

Q. You wouldn't mind being associated with them at any time?—A. Certainly not—any time.

Q. You feel friendly toward them?—A. Yes, sir; I have nothing against Mr. Oxman, only I consider his letter almost an insult, and I think it was wrong to try to persuade my son to swear a lie.

Q. But if you feel very nice toward the daughters, naturally, you know, you wouldn't say anything against the father that you know would hurt the girls? You feel friendly toward the girls?—A. Yes, sir; I feel friendly toward the girls. I wouldn't do anything to harm them. But I don't think they care very much about it.

Q. Mr. Oxman knew that you were very friendly—that you knew his daughters.—A. Yes, sir; I suppose he would know it. His daughters are so much younger than I am. Of course, I just know them. I have no speaking acquaintance with them. I



am friendly and all that with them, but I am a woman who does not go into society and visit. I have enough to do at home.

Q. This is not a very large place?—A. No; not quite 2,000.

Q. He knew the people are friendly toward his daughters?—A. Yes, sir; and know everybody else's business.

Q. He knew you felt kindly toward his daughters?—A. Yes, sir.

Q. He felt you would be kindly disposed toward him?—A. No; I don't think so.

A GRAND JUROR. Why do you consider that letter an insult?

A. Because I think he wanted me to come out here and swear a lie.

Q. You can't say that positively?—A. No; but I think it. He wanted Ed to. That is positive.

Q. If he wanted to use you as a character witness he did not want you to come out here and swear a lie?

A GRAND JUROR. You take umbrage at the fact he wrote you a letter asking you to come out, and then you say that you were piqued because he didn't send transportation?

A. No; I said I was surprised he didn't send the transportation so I could come with Ed; that he would send for a woman of my age.

























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