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Thursday, Oct. 5, 1911.

Present: Mr. Davis, Judge McNutt, Mr. Darrow, Mr. Scott and Judge Bordwell.

Mr. Davis to Judge Bordwell -- We come to talk with you concerning the trial of the McNamara brothers. They have more at stake than any one else in the world. They feel that they would rather have some judge other than yourself preside in their case. Whether or not they have any legal grounds on which to base a request of change, we feel that we must represent them, and state that they desire that you should not try the case, and that this is based upon what they have seen since they arrived in Los Angeles and what their friends have told them. They feel that this is a very little thing to ask of you, and we should like your judgment upon the matter, bearing in mind that this application is presented irrespective and aside of all questions of bias or prejudice.

Judge McNutt says (in substance) -- These men have felt, as Mr. Davis remarks, this way from a time soon after they arrived in Los Angeles.

Mr. Davis -- It is not a new thing. They appealed to us to make this request from the very beginning. And we feel that we should be censured if we did not represent the matter to you, and seek a change of judges. If there were only one judge in this county, there would be no question about what decision you should come to upon this request. But there are twelve judges, and it would seem that the defendants are entitled, for sentimental reasons, to make this request, and to urge that it be granted as between man and man.

Judge Bordwell -- I presume I should consider only the question of what is my duty in the premises.

Mr. Darrow -- Yes; that is one matter.

Judge Bordwell -- And what is the other -- matter of sentiment?

1 Mr Darrow -- Yes.

2 Judge Bordwell -- I can see no personal advantage to be obtain-
3 ed by the judge who sits in the trial of this case. It is not
4 at all a matter of personal desires, but must be treated solely as
5 a matter of duty to both sides.

6 Judge McNutt -- It is hardly to be considered that any one
7 connected with the trial of this case will derive personal benefit
8 therefrom, except educationally -- an opportunity to learn some-
9 thing that he did not know before.

10 Mr Davis -- This matter has been on reflection for something
11 like two months. In the ordinary course of things, if it is to be
12 left to a person to decide which one of two or more shall pass upon
13 matters involving his rights, he would, naturally, and ought to be
14 permitted to state his preference. And, in our judgment, the in-
15 terests of justice will not suffer, in any way, by granting this
16 request.

17
18 Saturday, October 7th, 10:15 a. m.

19 Present -- Mr Darrow, Mr Davis and Judge Bordwell.

20 Judge Bordwell -- I wish to express to you my appreciation of
21 the politeness with which you have presented this matter. It has
22 added somewhat to the difficulty of denying the request.

23 However, upon consideration, I am unable to see my way clear
24 to grant the request.

25 Mr Darrow -- Very well. We will then file an affidavit of
26 the McNamara brothers. We will endeavor to get it ready and
27 file it this morning.

28 Judge Bordwell -- As far as I know it would be sufficient to file
29 it on Monday, if it is not convenient for you to file it today.

30 Mr Darrow -- We can probably file it today; but if, for any
31 reason, you prefer to have us hold it over until Monday, we will do so.

32 Judge Bordwell -- It will be all right with me for you to file

1 it today or Monday, as may be convenient to you.

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3 Mr. Darrow -- We will, probably on Wednesday morning, present a
4 formal motion for a change of judges, but will submit the matter
5 without argument.
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