

jury had the right to consider, and that is as to whether, even though they did not believe his plea of not guilty the truth, still if they had a reasonable doubt in their minds of his guilt they should acquit him.

92. (qqqq) Movant further says that a new trial should be granted because of the following:

Mr. Dorsey, the solicitor general, in the concluding argument, made the following statement.

"Now, gentlemen, (addressing the jury) Mr. Arnold spoke to you about the Durant case. That case is a celebrated case; It was said that that case was the greatest crime of the century. I don't know where Mr. Arnold got his authority for the statement that he made with reference to that case. I would like to know it."

Whereupon the following colloquy occurred:

" Mr. Arnold: I got it out the the public prints, at the time , Mr. Dorsey, published all over the country: I read it in the newspapers, that's where I got it."

Mr. Dorsey (resuming): "On April 15, 1913, Mr. C. W. Pickett, the District Attorney of the City of San Francisco, wrote a letter"

Mr. Arnold: I want to object to any communication between Mr. Pickett and Mr. Dorsey, it's just a personal letter from this man, and I could write to some other person there and get information satisfactory to me, no doubt, just as Mr. Dorsey has done, and I object to his reading any letters or communications from anybody out there."

"Mr. Dorsey: This is a matter of public notoriety, Here's his reply to a telegram I sent him, and in view of his statement, I have got a right to read it to the jury".

" Mr. Arnold: You can argue a matter of public notoriety, you can argue a matter that appears in the public prints,- my friend can, but as to his writing particular letters to particular men, why, that's introducing evidence, and I must object to it; he has got a right to state simply his recollection of the occurrence,

~~but he can't read~~
any letters or telegrams from any particular people on the subject."