# Heney's Great Speech Convinces Every Hearer That Schmitz Conspired With Ruef to Hold Up Restaurateurs

*"WE shall not stop until the whole situation has been cleared up. Again may we repeat the statement made at the inauguration of this campaign: No innocent man need fear the law, no guilty man may hope to escape it"—District Attorney Langdon.*

*"I DO not desire to say anything at this time. I believe that the developments of the day speak more eloquently than could any words. It is not our desire to talk, but rather to act. There is much to be done, and the prosecution will not pause in its work."—Rudolph Spreckels*

*"IT'S all over now—this quick? Well, I have nothing but sorrow and sympathy for Mayor Schmitz now. If he had taken my word, my advice, he'd not be where he is now. And I feel sorry for him—yes, and for his family."—Ex-Police Commissioner Thomas Reagan.*

*"I KNEW from the first that with an honest jury no other result than the verdict of guilty were possible in this case. The presentation of the cause of the state by Francis J. Heney and Hiram W. Johnson was superb."—William J. Burns.*

## Ruef Expresses Sorrow for Schmitz

"I AM sincerely sorry for the verdict, both for Mayor Schmitz himself and for his family. Further than this I have nothing to say at present."—Comment of Abe Ruef on the verdict of the jury that convicted Mayor Schmitz.

## Rise and Fall of Mayor Schmitz

August 22, 1864—Born in San Francisco.
June, 1871—Graduated from boys' high school.
June 10, 1891—Married to Miss Julia Driscoll of Watsonville.
November, 1901—Elected Mayor of San Francisco.
November, 1903—Elected Mayor of San Francisco for second term.
November, 1905—Elected Mayor of San Francisco for third term.
October, 1906—Left for European trip.
November 15, 1906—Indicted for extortion.
May, 1907—Indicted for bribery.
May 22, 1907—Trial for extortion begun.
June 13, 1907—Convicted of extortion.

punishment that the majesty of the law may be upheld. So Ruef comes here and testifies and the evidence corroborates his statement.

When Ruef had the money in his pocket Schmitz knew it. There was a complete understanding between these men from the time they began until they divided the money. I would pause here a moment to tell you a story.

There was an Irishman, newly arrived, who was made a policeman in Broadway, New York. He saw a man in front of a jewelry store and asked him what he was doing. "I am going to open the store," replied the man, and the policeman passed on. The next day the captain asked him where he had been, as a jewelry store on his beat had been robbed. The policeman scratched his head and said: "That fellow may have been a robber, but he was no liar."

When did Ruef get this habit of extorting money? Was it 1905? If Ruef had this habit (Joe Barrett knows he was a Napoleon of crime), what criticism has he to make on the mayor for not having one eye open before this? Maybe the mayor heard of the other $500 that Ruef hadn't split and was simply waiting. I don't know and it doesn't appear here.

### HARD TO CONVICT RICH MAN

Now, gentlemen, that's our case. That's the case of the people of the state of California on which you must decide the guilt or innocence of this man. I want to be serious with you for a few minutes and show you why I think you must convict him and urge upon you the realization that in this evidence there is no room for the existence of a reasonable doubt as to this defendant's guilt.

You all know it is hard to convict a rich man. There is something in human nature that makes it so and we all feel the same thing at times. It was that same thing which caused a physician to hesitate to perform a simple operation on President McKinley—an operation which might have saved McKinley's life when he was struck down by the hand of an assassin. That physician hesitated to act, not because of doubt of his own skill, but because the man on whom his knife would fall was the president of the United States.

It is this something in human nature which makes it well nigh impossible to convict a rich man of crime, or to convict a man high in politics of crime.

Take the evidence. Follow the actions of Mayor Schmitz and then, if you have any doubt of his guilt, if there is the slightest belief that he might be innocent of this charge, vote for an acquittal. It is your duty to do so.

But if after weighing the evidence no such doubt remains, I say to you it is your duty under the law to convict. If you have no such doubt after hearing this evidence you have the right to conclude that the whole people have no such doubt; you have the right to conclude that the whole people of the United States have no such doubt. If you have no such doubt you cannot permit upon your oath any feeling of friendship, partisanship or any feelings on earth to come between you and your duty. This country boasts of its republican form of government, the fact that liberty flourishes here. That can only be maintained without regard to the power or financial standing of the man brought into court.

But that liberty, gentlemen, is based more on the integrity of the jury system than on anything else in the constitution of the United States. That liberty can only be maintained by a fair judgment in every criminal case, without submitting to influence, wealth or anything else. Mr. Langdon and myself are here as the representatives of the public. We are here to prosecute without fear where prosecution is deserved. We are not urged on by any influence; we are not backed by any interest.

Now, gentlemen, it remains with you. I am confident that you have followed the case carefully and are prepared to do your duty as you see it. Whatever way your verdict, you have my confidence.

If it is "innocence" or if you declare Schmitz guilty you have my confidence, provided that is your honest conviction.

## Campbell's Final Speech for Schmitz Vitriolic

### Bitterly Arraigns Ruef for Testifying Against the Accused Mayor

At 10:05 o'clock at the morning session J. C. Campbell began his address to the jury, concluding at 5 minutes of 12. He said:

"If your honor please and gentlemen of the jury: I, too, ask that you give conscientious, careful consideration to this case. It is not my province (I could not if I would, and I would not if I could) to indulge in pyrotechnic flights of fancy.

"You have been selected to perform the highest duty a citizen is ever called upon to perform—to adjudicate between the law and the liberty of this defendant; that liberty inviolate to which all are entitled; that liberty which can only be taken away from a person for violating the law and by a jury of his countrymen who had considered his case after every reasonable doubt had been precluded.

"It doesn't do to say that a system of government is on trial. You are here to try this case and to have it proven beyond a reasonable doubt—to try this case and no other case. I join in that statement with the gentlemen of the prosecution—you have not been selected to try Mr. Heney or Mr. Johnson or Mr. Langdon or Mr. Spreckels, or any of the counsel. You are here to try Eugene E. Schmitz on a charge of extorting money, and for nothing else.

"It is charged that January 15, 1905, the defendant and Abe Ruef extorted $1,175 from Joseph Malfanti; that he extorted that sum by means of threats. They said that Ruef and Schmitz would prevent Malfanti from obtaining a license for his French restaurant. The threat, with the use of fear, to obtain money was not an injury to property alone, but a threat to do an unlawful injury—I crave your attention to the language of the statute. It was not a verbal threat; that portion of the case is away from us; that is out of the case.

"But it is claimed by the prosecution that this defendant, Schmitz, so operated on Commissioner Reagan that the license was held up. To prove that you must find beyond a doubt that the mayor controlled Reagan. From Reagan's own testimony that claim of the prosecution is false. Reagan acted of his own volition and without fear or the exercise of intimidation. I am going to keep within the testimony—there would be no gain to me to misstate it, for you may have the transcript in the jury room with you and may have it read to you or read it yourself if you so desire.

"There is no testimony that a threat was made to extort the money from these restaurant men. Mr. Blanco testified that no person made a threat against him; Malfanti testified that no person made a threat against him; Loupy testified that no person made a threat against him; Debret, the partner of Priet, testified that no person made a threat against him; Adler testified that no person made a threat against him.

"Let us, if we can, judiciously and carefully look at Reagan's testimony and see whether or not he was acting under the defendant's intimidation. In March, 1904, Hutton, we don't know with what motive, started—a war we might call it—on the French restaurants. Reagan goes to the mayor and says that Hutton is opposing the restaurants and wants Reagan's co-operation. But the mayor says, 'But they are all bad, Tom; go and see for yourself.'

"Reagan investigated and found nothing evil.

### HOW THEY VOTED

"After that see what was done. Licenses were renewed.

"The licenses of Delmonico's, the Pup, the Poodle Dog, Marchand's, and the Bay State, all were renewed twice. Reagan voted for the renewals and Hutton against them. And Reagan is the man who, the prosecution says, was the agent for the defendant in the plot to hold up the restaurants in order to extort money from them.

"The testimony, you see, is that in March, 1904, Reagan was told to investigate the French restaurants; he did investigate and found nothing wrong. Then, between March and November, there came up the Tortoni business. Reagan says he went to the mayor and the mayor told him that all were bad and that all should be closed. That was in November. After that time he says he voted against them until such time as they would comply with the law.

"The mayor said to him, 'If these places are immoral and are sending out for women for the purpose of prostitution, then you stop it.' When the question of Tortoni's came up, not only Mr. Reagan but every member of the commission voted to take away that license. No mother's son above earth controlled Reagan. The mayor did not. He could not even control Reagan on the vote for chairman of the police board.

"It will not do here, gentlemen, to point your finger at the mayor and say, 'San Francisco has been good to that man.' I do not appeal to your passions or prejudices in this case. I take the sworn testimony in the case and ask you to consider it.

"This brings us to the question, gentlemen of the jury, Why did the mayor control only Reagan? If the parties to the fraud planned to scare these French restaurant men to pour money into the lap of Abe Ruef, why did they influence only Reagan? Why not Hutton? Why not Drinkhouse? Why not Howell? Why not Poheim?

"This brings me to another point in the case. Let us assume for the sake of argument, which we do not, that Reagan carried out the mayor's orders. Did he go to the places and say, 'You cannot run?' Did he say, 'If you do not pay money, your license will be taken away?' What does Mr. Reagan say? He says that he only wanted to see that the laws of the city were not violated in regard to doors and the like. When he told on the stand, the last time he testified, of the conversation with Scott, he said that the defendant told him that if any of the places were immoral and if the restaurants did not take off the doors of the rooms, they would take away the licenses."

### REAGAN'S TESTIMONY

Campbell then read from the testimony of Reagan, quoting that part where the witness said that he would have voted for the Poodle Dog any time that it would have complied with the law. He continued:

If that were a threat then it was not a threat to do an unlawful injury; if that were a threat it was only a threat that the restaurant must comply with the law of the state and the municipality.

After Reagan became a police commissioner he did not remain a paver, but became an insurance agent, and there flew to him 11 per cent of the insurance on all saloons. Then when Reagan was removed by the defendant he became the witness against the man who removed him. Now Reagan does not remember that the defendant told him that if any of the places were immoral he must close them. We cannot go out of the record in this case by saying that the defendant is sleek and fat.

The restaurant keepers did not deny the statement of Reagan that the places would be closed if they were immoral. If it is true that the places were immoral they had no right to operate, and if Reagan said he would close them if they did not comply with the law that was not a threat.

Gentlemen, take the testimony of Reagan, read it line by line, then on your oath can you say that there was any threat, real or implied, by the mayor to do anything that would be a violation of his oath of office?

It will not do to say that the defendant was thrice elected mayor, elected by the labor people and then turned to the rich—that is not argument, but an appeal to your prejudice or an attempt to appeal to them in this case.

Reagan is contradicted by three gentlemen who come on the stand and say that it was at their instigation that he started his war on the restaurants. They are Scott, Smith and Condrotte. They went and got Reagan evidence against Tortoni's and Reagan sent them with it to the secretary of the board of police commissioners and the secretary filed a complaint before the board and the license was then taken from that place.

All this time, from March on, the Poodle Dog, Marchand's and the Pup had not been touched and the license of Delmonico's and the Bay State had just been held up for one week. This is the evidence they ask you to convict this defendant on.

Mind you, gentlemen of the jury, there is not a scintilla of evidence that either one of the defendants ever spoke a word about a threat. You can't presume against the liberty of a man; you can't presume they did. It was the duty of the prosecution to prove that and they have not done so.

The gentleman who opened says, "Don't you believe that Loupy was the agent for Ruef?" But what is the evidence? They ask you to consider the facts which fit into their theory of the case.

### LOUPY'S TALK WITH RUEF

Loupy had a talk with Ruef and Ruef said: "If you want to employ me as your attorney I'll take the case and charge you so much." What is there about Loupy's testimony that you'd take it to deprive a man of his liberty?

Does the great fundamental principle of our government require that you should do that? Do the great people thirst for a victim so that they urge you to take half the testimony of a witness, disjoining the other half? Is that giving the defendant the presumption of innocence? I care not who he is, whether he is the president of the United States or the man who sweeps the streets, before the law, when he comes into a court of justice, he stands with every other man.

What was it moved these French restaurant people to fear? What did Malfanti say? Did these people not say when they saw Hutton and Drinkhouse voting it was all up?

Reagan and Hutton had said that they intended to vote against the places so long as the present conditions prevailed. All that shows that the entire campaign was against the manner in which the places were conducted. That is the testimony in this case, that is the testimony on which they ask you to find the defendant guilty of making a threat to do an unlawful injury to the business.

The defendant went on the stand and he met the case brought by the people; he told you just what his conduct had been.

On the second or third of January Pierre Priet, Blanco and Malfanti went to see him. What did he say? "I have enjoyed eating in your places and will see that you get your licenses."

A few days later Reagan called on the mayor, who said, "Mr. Reagan, I think that to make war on these places and to keep it up will injure us politically. A great many big men have come to me and asked me to do what I could for these people. Give them their licenses and see that they comply with the law."

They say there was a meeting at the mayor's house. Yes, there was. It was shown that the mayor could not control Reagan when the question of the presidency of the board came up. Mr. Reagan himself tells you that the mayor worked himself into a towering passion because the men refused to take orders from him. If the mayor could not even get Reagan to vote as he wanted for the chairman how could he control him in other matters?

Ruef was there as attorney for the French restaurants. The mayor said to Ruef: "I am going to remove Hutton." They say that this showed the mayor's motive. Read the record; you will see why Schmitz removed Hutton. Hutton for years had stood out fighting the policy of the mayor, and the mayor had a right to remove him as a political measure.

Gentlemen of the jury, was there anything in that meeting at the mayor's house that makes you believe him guilty of extortion?

We must upbuild San Francisco; we must rehabilitate San Francisco. But is the way to build up, to rehabilitate San Francisco, to convict this defendant?

### PROSECUTION'S CASE

Let us build up San Francisco, rehabilitate San Francisco, but let us be moved in all our building as God made us, in truth and honesty. Let it go forth to the world that the rebuilding is founded on law and right; on law which is just to the rich and poor, the young and the old, the great and the small. Let us not build up as Paris was built after 1700, with the mortar of the blood and liberty of the people. Let us not build by trampling down the liberty of the citizens.

The prosecution would establish its case on the evidence of Michael Debret, the partner of Pierre Priet. Priet told him, Debret said, that he had made a contract with Ruef, that he had paid Ruef in money; there was no check or no receipt. Ruef, on the stand yesterday, produced the contract. Mind you, they said he was paid in currency; there was no check, nothing to incriminate any one. If a man will sign a contract, though, why will he not sign a check? Ruef took the contract signed by Priet. Is there any extortion, anything illegal, gentlemen, if for $5,000 this man agrees to prosecute and defend any and all actions brought against these men? One had $400,000 invested in his business; Blanco had $200,000. They say there is something wrong because this man would not take a check; he would not take a check, but he signed his name to a contract. If this contract is proved the case ends here.

What would become of the case if it were a civil action and we were bound to establish the fact of this contract? Now the other side is bound to establish beyond a doubt the fact that there was no such contract.

Ruef was a political boss, they say. Suppose he was. Did he go out as a political boss and tell the restaurant men to come to time? They went to him and asked him to take charge of the case.

The crime of extortion is akin to robbery. To convict this defendant you must believe that the French restaurant men paid money under threat of unlawful injury.

### RUEF'S CONFESSION

They tell you that Ruef pleaded guilty and that this was equal to a plea of guilty on the part of the defendant. Gentlemen of the jury, we have heard of confessions wrung by various means through the ages of time. Gentlemen of the jury, there is today in London, down three pairs of stairs in a room so dark that you can feel the darkness, and on the walls of this dungeon you can see the thumb screws, the old instruments of torture, the knee masher, the rack, by which men have been torn limb from limb. By these tortures men, strong and great, innocent as on the day they were born, have made confessions.

They have adopted an entirely different method in this day and age. In this day and age we have a form of espionage by men called detectives which has been used against this man, under so many indictments that he could not tell you exactly how many there were. This man, Ruef, poor, insignificant creature, under the complete domination of one man and eight guards, has been subjected to these modern tortures. There is the man who crawled into his bed chamber at dead of night until his mind gave way and he shrieked with despair: "I will plead guilty, but I am not guilty."

Fie on such an argument; away with such a plea. Every self-respecting man and government should put foot upon such proceeding.

Ruef may be guilty, but the man who violates the law in the name of the law is doubly guilty. He brings into disgrace the foundation of American rights—the law. In the name of justice, in the name of decency, will you stand this?

Then they ask you to believe him when he goes upon the stand with sallow smile, and when asked "How many indictments have been found against you?" replies, "I do not know how many; there are a great many."

"So many you haven't counted them?"

"No, I haven't counted them."

"Mr. Ruef, what has this prosecution promised you?"

"Oh, they told me that if I told the truth Burns would see what he could do for me."

Who, in the name of heaven, is William I. Burns? What position has Burns under the law of California? What power has Burns to usurp the functions of justice? What right has he to say "No matter what thou hast done, if thou dost testify against Eugene E. Schmitz thou shalt go free?"

"Who else told you that you could go free?" was asked of Ruef.

"Heney and Langdon."

If those men are under oath of office they are misapprehending the law if they think they can give liberty to one man because he swears away the liberty of another.

Graveyards on the sides of many green bills are filled with the bleaching bones of the victims of a common informer.

Ruef was swearing to pull himself from under 100 indictments by testifying here as he was told to do. Do you believe in a midnight vigil Burns kept with him? How, like the frogs of Egypt, Burns would climb into his chamber, into the bread bowl, to instruct this man as to what he was to swear to in this case. Do you believe him? It suits his purpose now to swear to what he says is true. Gentlemen, we were castigated yesterday in language so loud and eloquent that I should think the very shingles would fly away to heaven—and the gentleman who follows me will shake the rafters.

Ruef said if he testified to what he told these people about this case it would have been favorable to the defendant. These people are the sworn officers of the law. It is as much their duty to see that the innocent is acquitted as that the guilty is convicted.

### RUEF ON THE STAND

It is their duty to have Ruef on the stand tell the full story. Did they do it? Did they attempt to do it? No, they closed their case without the slightest pretense of putting Ruef on the stand, without showing by any evidence that the defendant got a single dollar from Ruef. When the defendant was on the stand he was asked, "Did you get any money from Ruef?" "No," he replied.

Then Ruef went on the stand and gave his testimony. It was false, false as hell, and you know it. The exigencies of the case that Burns set up at night, dragging from that pitiful soul the story of holding up the French restaurants, by putting over that poor soul the shadow of a hundred years in the penitentiary! You do not have to believe his testimony. You may have a reasonable doubt of its truth. That will be sufficient. We asked:

"Mr. Ruef, before you were placed in custody under Mr. Burns, did you not always say you had never given the mayor a dollar of money in your life?"

"Yes, I said that," he answered.

Gentlemen, if at that time it suited his purpose to tell a falsehood, then the testimony here was the truth. If it suited his purpose here to tell a falsehood, then the other statement was true.

Then they came back with the poor, miserable subterfuge of every liar since Munchausen:

"Mr. Ruef, you were not under oath then."

If a man is a willful and malicious falsifier, what is the need of an oath?

Gentlemen, you are asked to convict an innocent man on testimony of that kind. You are asked to convict a man on the testimony of such a creature; you are asked to deprive a man of his liberty under such testimony of such a man and under such circumstances. I leave you with Mr. Ruef's testimony.

But one more point, and then I will have done all that I can. It is charged that there was a threat. Who made such a threat? I asked the prosecution to tell you in what words Reagan made the threat. Assuming that there was a threat, was it to do an unlawful act?

This is the last word that can be said. When you go to the juryroom it will be with the

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