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EDITORIAL

WHOSE THE BLAME?

By DANIEL DE LEON

FROM Los Angeles come the tidings that the first venire of 125 men has been exhausted in the McNamara case, without a single juror being quite agreed upon; that a new panel of 3,000 is to be ordered; and that in all likelihood it will take months before the preliminary step to a trial, a jury, has been reached.

Difficulties in securing juries arise mainly from difficulty to secure men with "open minds." This is the difficulty in the path of the McNamara trial. Most of the veniremen have made up their minds; at any rate, if they have not absolutely made up their minds that McNamara is guilty, they admit it will take strong evidence to overcome the impressions that they have.

Whence the impression? Were those veniremen "there"? No! Have they had any opportunity to investigate for themselves, or to acquire inside information? No! Have they any personal knowledge of the parties concerned, thus giving them a cue to the truth? Yet, again, No! Whence, then, their "impressions"? They have acquired their impressions from the lurid articles that proceed from detective Burns mainly.

This is the rub—and a pointer it is.

Of the many indications that the prosecution has no case, their rush to the press is among the strongest.

It ever is the ear-mark of a poor case to seek "trial in the papers." A case that is strong reserves itself for the Court House. The case that knows it can not stand cross-examination rushes to the witness-stand where no cross-examination is possible—newspapers' and magazines' columns.

The case of the prosecution in the McNamara trial is of this nature. They took the center of the public stage from the start, and held it ever since. They had all the say; uninterrupted; unstinted; above all, uncross-examined. Small wonder that the

“public,” engaged in its own occupations, and having the prosecution’s yarns dinned in all manner of keys into its ears, should, to a very large extent, have formed an opinion that militates against jury service.

Of course, it is no evidence of thoughtfulness on the part of a man to be “impressed” by one-sided stories; of course, many are not, and eventually a fairly fair jury will probably be empaneled. In the meantime, the blame for the difficulties encountered in the selection of a jury lies wholly with the prosecution. Had their conduct been as dignified as that of McNamara and of most of his supporters, the trial would be over by this time—and the truth ascertained.

Is not the conclusion justified that it is in order to put off this dread consummation that the prosecution has conducted itself in the “Windy Burns” style which renders so hard the selection of a jury?

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