

April 28

Honorable C. N. Andrews  
Judge Superior Court  
San Diego, California

My dear Judge Andrews:

My attention has been called today for the first time to your remarks before the Grand Jury on Tuesday, March 18, 1930. I cannot thank you enough for your confidence in me as well as the compliment that you paid me. At least I have done the best according to my lights to be a clean citizen in this community.

Neither directly nor indirectly did I ever own a dollar's worth of stock in the Land Buyers' Syndicate. They had me confused with my son who became a director when the concern was organized while I was in Europe. On my return I begged Ed Junior to resign. I told him that it was hard to get dividends on an 80¢ dollar in real estate operations and the men on that board were not smart enough to do it. My son would not resign and the only real row I ever had with my wife was when she accused me of being jealous because he was a director.

I gave positive orders that, directly or indirectly, never was the Ed Fletcher Company or Ed Fletcher to have any dealings whatever with the Land Buyers' Syndicate, and we never did. It has cost me hundreds of dollars and any amount of grief. Even bankers in the East, believing in me as a director, bought stock in the Land Buyers' Syndicate, although it was my son who was on the board.

All I can say is that every director on that board was honest but dumb, this to be charitable. The man who was not on the board was too smart to be; His name was Stewart and he got his share, only to lose it and eventually go to the Pen.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN DIEGO

Department No. 4

In the Matter of the  
Empaneling of the GRAND JURY,  
Tuesday, March 18, 1930.

2:00 o'clock P.M.

THE COURT: Call the Grand Jury:

THE CLERK: Charles F. Brummett, Ed. Crolie, H.L. Bonham,  
E.N. Curtis, William Darby, Carl Heilbron, Matt F. Heller,  
John A. Held, Charles J. Holliday, William Kettner,  
Paul Martin, Glenn Mitchell, Mrs. Beryl C. Munkelt,  
F.F. Tabor, Harry Turner, Frank Von Tesmar, Bruce R.  
Stannard, Arthur C. Wells, Mrs. Cleo J. Zweck.

(All respond and take seats)

(The jury is sworn to answer questions as to their qualifications)

THE COURT: I will appoint Mr. Kettner foreman of the grand jury. Swear the foreman. (Foreman sworn under #903 P.C.)  
(Jury sworn under #904 P.C.)

THE COURT: Upon the empaneling of the grand jury it becomes the duty of the court to charge the jury himself, and to lay before them such matters of the law as is appropriate to their service and upon such matters as may properly come before it upon which the court may have knowledge.

The institution, I might say, of the grand jury, has come down to us through all the vicissitudes of history, and it is a body of distinguished and high responsibilities and purposes. It remains the same body today that it was some years ago, but the changing civilization and new surroundings, methods of transportation and information have made its functions somewhat



Hon. C. N. Andrews  
#2

Well, my friend, I am having the time of my  
life up here. Will have something to tell you when I come  
back.

Take good care of Charles, and more power to  
you.

I don't see you often enough but my love for you  
is strong and, if anything, growing stronger, for I appreciate  
your holding the fort without compensation and helping my son  
to carry on in a way that will be an honor and a credit to all  
of us.

With kind personal regards,

Sincerely yours,

EF:RC



different, as you will discover, and as I shall refer to as I go along.

I don't know whether the word "grand" refers to the character of the men who are supposed to be selected on the jury, as distinguished from the trial or petit jury but I suspect it was because that the number was 19 instead of 12 which distinguished it, there being more on the grand jury than on the trial jury. However, it is but fair to say that the tribunal of the grand jury is composed of the outstanding citizens of the county and it has always been a very distinguished and prominent body.

It is now summoned by and with the leave of the court as it was when the courts were held in terms. Courts in California have no terms. They grind away from one year's end to the other. In the middle west where a great many of us come from, the meeting of court in your county was quite an affair. The judge came there for two or three weeks and the jurors came together and it was the occasion for a renewal of acquaintances, and it went on for two or three weeks, and it was a very distinguished event in the middle west, and then it was all over until the next term. With us here, if we can succeed in keeping our heads above water, we are doing pretty well.

The court, though, is chargeable with calling the grand jury into existence. That duty is imposed by law upon the judge. It is provided in the law that there shall be one grand jury, at least, called each year, and that when it is called and in action, it is part of the court. But its functions are such that it meets separately from the court; it meets when it sees fit; it adjourns when it sees fit and it carries on its business without reference to the sessions of the court and without any direct connection with the court. However, it reports from time to time as the exigencies of its business requires, and it makes its final report at the end of the year or whenever it sees fit to ad-

journ. They may adjourn before the end of the year and if they wish to continue their labors to the end of the year, they may go to the end of the year.

Now quite often I call them in what we call the "odd numbered years" (didn't hear as court dropped voice) I did that for the reason that the jury took up its work from September on and did a great deal of very important work. Perhaps it will come to your attention because there was some of it that they intended that you should follow up, and I desire to say that a reading of the other report will be very instructive and it will afford you some information which you will want and which you will appreciate in connection with your labors.

Formerly the grand jury functioned with, or was an arm of the court all the time because of the necessity that it should find indictments where there were felonies committed, but that function is now carried on very largely by the district attorney's office. And that former duty which was imperative upon the grand jury for years and years of our history has, in California at least, and in some other states, been taken over very largely by the district attorney's office and it can take and present all of the offences that can be tried by simply presenting the matter in a bill, the same as the grand jury presented an indictment to the court. They do it, of course, much more efficiently than it can be handled by a large body and it is not at all necessary in most cases that the jury should give attention to criminal matters which can be handled by the district attorney's office much better. But there are certain kinds of investigations which the grand jury can carry on which the district attorney's office cannot, and that is where you are compelled to summon witnesses, and the complaining witnesses are not willing, perhaps, and there is some reluctance to make complaint under oath on the part of



those who know that things exist that should be investigated, - and there are a lot of circumstances that make it imperative that some matters should be handled by the grand jury, and that they should lay indictments before the court.

Their purpose in handling those kind of things, with reference to the investigation of crimes, is to ascertain whether a crime has been committed, and which if they find has been committed, to lay a charge or indictment before the court.

In the even numbered years, - in any of the years for that matter, they are charged with the necessity of inquiring into the public officers of the county - the different offices of the county, their management and anything that relates to them and to investigate wherever it is suggested, it would seem, that investigation is necessary or advisable, and generally to have supervision, and they are the only ministerial body that does exist which may come between the people and the state, and it is a very important function because while in the main our public business is kept within the law it is very greatly improved by recommendations and suggestions, and in some cases it develops it has not been honestly done in some ways, and all of those things are subject to investigation by the grand jury.

In the even numbered years we have always called the grand jury somewhat earlier because they then take up from the very beginning of their organization the investigation of the needs of the different county officers and departments and everything connected with the management of the county which depends upon the action of the Legislature for amendment and change. Our County Government Bill as it is known, is in their keeping for the purpose of recommendation to the legislature, and the legislature very much insist on the support of the grand jury in taking any action that they take and the grand jury is under the necessity of making that investigation.

So also you are under the necessity of ascertaining about the commission of a crime that needs your investigation. Ordinarily you will not be imposed upon by persons who simply want to come before the grand jury to put up a wail. They may have a grievance, - many grievances, and many of them are in matters, for instance we will say the so-called Mattoon Act. It would not follow in those cases because the results of the act have failed to meet expectations, that anybody has committed a crime. There is nothing can be done about it. If you would investigate it during your entire term, perhaps it would develop that somebody had committed a crime in connection with it. But I believe it is an unfortunate situation which has to be worked out along legislative lines rather than criminal. However, if those matters have your attention, and your attention be called to a criminal action entering into the problem, you can, no doubt, investigate it.

So with those two functions, that of doing such criminal work as the District Attorney generally speaking, brings before you to do and that of investigating public affairs, we now regard the duty of investigating public affairs a much more serious and important duty of the grand jury than any other.

The District Attorney is your law officer and very largely will guide you in matters of any technical importance that will come to you for the purpose of getting witnesses, issuing subpoenas, examining witnesses and preparing indictments and you may take his advice on legal matters, but in general you have a right to do as you please in sending for witnesses.

The duty is further imposed upon the court of calling to the attention of the grand jury any matter that may be required, so far as the knowledge may come to the court for their attention. The grand jury at this time was called immediately, perhaps a little before it would have been called, at the request of the



District Attorney, because there was the possible necessity for an investigation into the affairs of the Land Buyers' Syndicate Corporation which has been under investigation by the State, and of which, no doubt, all of you have a general knowledge. An investigation has been in progress, I am informed, by an officer of the Corporation Commission and it is still in progress, and there has been in connection therewith the co-operation of the District Attorney's office. The matters that have been laid before the commission or discovered by the commission may be ready to be laid before the grand jury with such matters as have been developed, - and maybe it will be necessary to call witnesses for the further development and full investigation of the affairs of this institution. That will, I am sure, receive your full and careful attention.

I seem also to have been recently compelled to give attention to another matter that I think will have to require the attention of the grand jury. We have in the city a newspaper called the San Diego Herald. The Herald has been published for some years in a general way, and no doubt the jury are familiar with its stand and activity in the community. At the time of the drawing of the names for the grand jury, the Herald was pleased to give us some notoriety, and referred to me as having selected a hand picked jury, - a hand picked bunch of "hollyhocks," for the purpose of white-washing the Land Buyers' Syndicate, or words to that effect, favoring me with certain views and certain criticisms of my functions in the selection of the grand jury.

Now, so far as any names that may have been called the grand jury, I am not dictating, because I believe the grand jury is fully able to take care of itself. But there are certain matters in this regard that I am compelled to regard as of a degree of importance which justifies me in calling the jury's attention to the activities of the Herald.

The jury, of course, is drawn by the clerk and not by the judge, and the names are drawn from a box which has had the names put in there some months ago for the purpose of use, long before the Land Buyers' Syndicate was known to be in trouble, - if it is in trouble. So I really was not doing anything at all toward drawing the jury to protect the Land Buyers' Syndicate, or to attempt to protect anybody in any way. But the serious part of the article is this: The article finally concludes with the statement or charge, or the necessary inference, that Judge Sloane, the presiding judge of the Fourth District Court of Appeals, and Mr. Ed. Fletcher, a citizen active in business and public affairs, and myself conspired together to loot the treasury of the Syndicate, - by allowing it to do an unlawful thing in permitting it to take back its stock and pay out its money in preference of one stockholder over another, and the charge amounts to a charge of criminal conspiracy by the three gentlemen named, - which is of the most serious import.

If that is true, then there should be an indictment returned against Judge Sloane, Ed. Fletcher and myself, and I should be bound that that matter should be called to your attention for that purpose.

Of course, as I have peculiar and special knowledge of the subject involved I am really not anticipating that it will take that turn, inasmuch as I never had any stock and never had any interest or investment of any kind in the Land Buyers' Syndicate. I never was interested remotely or otherwise. I never talked with Judge Sloane about the matter or with Mr. Fletcher about the matter, and the whole story is laid without the slightest semblance of foundation.

Now there is, if that turns out to be the case, a statement on the part of this paper which throws very great suspicion, criticism and opprobrium upon county officials, which really



destroys public confidence in the courts and in the officials of the courts, and it is injurious to the public service, to public confidence in the officials and to the work of the court. But if it turns out that these persons ought not to be indicted, by the same evidence it should turn out that that paper and its management who represent it, should be indicted for libel.

This is not an uncommon circumstance on the part of the Herald. I think it may be truly said that its policy has been hostile; without any justification it has condemned all public officials; the mayor, the city council, the chief of police, the police officers, all of the judges of the courts have been under his condemnation; the sheriff and the various public officers and the prominent institutions of the city and behind them the responsible factors of the city, all have been those kind of continual charges. I asked one of the persons who had been under fire for some time why he didn't have him arrested for libel. He said, "I will tell you judge, we did try it once or twice, and we talked it over and we concluded that when you meet a skunk in the road, and if you have to have a contest with him over the road way, that it is the best part of discretion to go around and leave him in possession because of his superior equipment for conflict," and so, he said, "I have permitted the matter to go along not knowing what to do." He continued,

"The grand jury had indicted him several times and it came to nothing. In the justice court it came to nothing, and we concluded that it was like lice on a dog, that he had to stand it because he couldn't get rid of them."

Coming down the street, to illustrate this, last night, there was a newsboy peddling the Herald, and he was crying out in a voice that was loud enough to be heard a block away; "San Diego Herald: All about Ed. Fletcher and all the other crooks."

If they can release stuff of that kind in a community, is it possible that we are helpless? It may be that jurors have not convicted; it may be that the next jury will be perfectly willing to convict. The measure of our duty is not what somebody else may do. The grand jury in its deliberations upon this problem will take such action as it thinks will be appropriate to the situation without worrying what becomes of it before a petit jury.

I may have unnecessarily enlarged upon this problem but as long as I had to go into it at all I thought that I would be perfectly candid with the jury so that they might take such action as they would find advisable. The fact of it is that the juries do sometimes pay more attention to the results than they need to. A member of the last grand jury came to me and he said, "Judge, it is rather discouraging. A grand jury takes up these public questions and it investigates them carefully and it makes its recommendations and perhaps the papers refer to one or two sentences, or to one or two of the sensational recommendations filed, and then nobody ever sees it, and perhaps half a dozen read it, and nothing ever comes of it and it is really discouraging. I turned philosopher for him and I said to him, "That is not really the true situation. The public have to be educated in matters that they don't know about and can't understand perhaps. Before you served on the jury you didn't understand thoroughly the bearings of things, and I can tell you that a lot of things have come about, that would not have come about, that were the results of grand jury investigations. If you will remember, the road camp out here, which is such a fine thing now, was recommended by two different grand juries, and finally it got under the hides of the supervisors and we have this road camp. The grand jury recommended the last time that the sheriff's office and the Public Administrator be put on a salary basis; that it would be a saving



to the county, and, at least, the Legislature took cognizance of their recommendation. Recommendations have originated with grand juries that have finally landed, although at first they seemed to receive little attention.

In the case of a hospital out here, we needed additional rooms so very badly. We put on a bond election and they voted it down. We put it on again, and there had been agitation, and it carried. The public had kind of thought things over and had a different view of the matter.

School bonds, so badly needed, were voted down; water bonds were voted down, and we had to put them up over and over again until people were educated to an understanding of the needs. Now I believe like this: In this kind of public service the ones who plow the ground and who plant the seed and who work in the heat and the burden of the day they are just as much doing service and working out results as the ones who finally reap the harvests when the time comes. So it is not a matter of discouragement that because you have made a recommendation it is not immediately carried out.

Now, there are certain sections of the code that I really am enjoined to read to the jury which set forth some of the things which are your duties.-

(Whereupon the courts reads sections 905, 906, 908, 919, 920, 921, 922, 923, 925, 928, 926, P.C. (Referring to 926, - Secrecy.)) That is a very important provision. Most of the provisions speak for themselves, but secrecy on the part of the grand jury is very important for the safe and certain carrying on of their business and affairs. If it is known that things leak out and some part of the jury or some member of the jury is disclosing what is said and done in the grand jury room it slows up things and discourages action. One of the earlier ideas in having grand

juries, in a cruder time of our civilization when men hardly dared to make complaint because of the revenge that would be taken, to clothe the grand jury with this cloak of secrecy so that the individual could feel safe in coming before it to make his disclosures.

The last grand jury, I believe, did make a contract with an expert accountant to work for them on the books of the county's various officers and I remember to have approved the contract for that service, and it was thought that while it was incurred during the life of that jury and that it was benefitted by it, that it would be available to this jury if they wished to take advantage of it, so that there is continuity of life and action running through the successive grand juries and the actions taken with public affairs.

I have nothing further that I might say to you. As I have said before, you are your own 'bosses' and may do pretty much as you please. While I have a fatherly interest in you and a fatherly oversight, and I can dissolve you under certain circumstances, I do not anticipate much trouble along that line. And so if you desire to meet this afternoon you may now retire and take up your duties with the good wishes and congratulations of the court, - - to this bunch of "hollyhocks."

STATE OF CALIFORNIA     )  
County of San Diego    ) ss.

I, Pat. D. Madden, do hereby certify, that I am the shorthand reporter who took down in shorthand the proceedings had and the charge of the court, upon the occasion of the empaneling of the 1930 grand jury, and that the foregoing 15 pages constitute and is a full, true and accurate transcription of the shorthand notes to taken.

Dated, San Diego, California, March 20th, 1930.

P.D. MADDEN



**Ed Fletcher Papers**

**1870-1955**

**MSS.81**

**Box: 1 Folder: 9**

**General Correspondence - Andrews, C.N.**



**Copyright:** UC Regents

**Use:** This work is available from the UC San Diego Libraries. This digital copy of the work is intended to support research, teaching, and private study.

**Constraints:** This work is protected by the U.S. Copyright Law (Title 17, U.S.C.). Use of this work beyond that allowed by "fair use" requires written permission of the UC Regents. Permission may be obtained from the UC San Diego Libraries department having custody of the work (<http://libraries.ucsd.edu/collections/mscl/>). Responsibility for obtaining permissions and any use and distribution of this work rests exclusively with the user and not the UC San Diego Libraries.