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## Criminal Law—Evidence—False Testimony of Witness

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was used only for purposes of lending strength to other and more tangible evidence.<sup>45</sup>

In this case there was no other and more tangible evidence, but merely the vague and inconclusive statement that defendant made to the interrogating officer,<sup>46</sup> which was made under the strain of continual interrogation, coupled with severe sinus pains and emotional instability resulting from shock over the recent murder of his parents. Under these circumstances the inferences from such admissions tend to show that defendant was troubled, distracted, floundering and confused, searching for an explanation to an unknown question. It was not the kind of unequivocal and conclusive statement which would give rise to strong, logical inferences of defendant's guilt. The inferences drawn by the jury were not grounded on concrete and directly proved facts but were based on conjecture and therefore the Court of Appeals rightly reversed the conviction.

#### Evidence—False Testimony of Witness

In *People v. Savvides*,<sup>47</sup> a witness for the prosecution falsely testified that no agreement existed between him and the District Attorney under which he was to receive lenient treatment in return for his testimony against the Defendant. The Court of Appeals held that it was substantial and reversible error for the District Attorney not to have exposed this lie.<sup>48</sup>

The fact that the falsehood bore upon the credibility of the witness rather than the defendant's guilt is immaterial. Nor does the quantum of evidence indicating the Defendant's guilt make this error insubstantial. "It is for jurors, not judges of an appellate court such as ours, to decide the issue of guilt."<sup>49</sup>

The Court, taking a dim view of the ultimate value of such agreements, points out that its revelation to the jury would have had substantial bearing on their determination of the witness' veracity. The agreement in itself could suggest to the jury that the witness' testimony could well exceed the bounds of veracity in order to put himself in a better position. Further, the knowledge that the witness had deliberately lied under oath would have lowered the jury's estimate of his regard for the truth.

Thus where a witness for the prosecution falsely testifies to the existence of an agreement between himself and the prosecuting attorney, it is incumbent upon the prosecuting attorney to reveal this lie.

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45. *Commonwealth v. Webster*, 5 Cush. 295 (Mass. 1850).

46. You know what that means Captain? It means me. Who else could it be?

47. 1 N. Y. 2d 554, 136 N. E. 2d 853 (1956).

48. *Accord, People v. Creasy*, 236 N. Y. 205, 221, 140 N. E. 563, 569 (1923).

49. *People v. Mieczko*, 298 N. Y. 153, 163, 81 N. E. 2d 65, 70 (1948).