

J. D. FREDERICKS.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

IN AND FOR THE COUNTY OF LOS ANGELES.

Dept. No. 11.

Hon. Geo. H. Hutton, Judge.

---o---

The People of the State of California,)

Plaintiff,)

vs.)

No. 7373.

Clarence Darrow,)

Defendant.)

---o---

REPORTERS' TRANSCRIPT.

VOL. 22

I N D E X.

	Direct.	Cross.	Re-D.	Re-C.
--	---------	--------	-------	-------

✓ C. E. White,		1629		
----------------	--	------	--	--

✓ Samuel L. Browne,	1634	1671		
---------------------	------	------	--	--

10 o'clock A. M.

1
2 Defendant in court with counsel. Jury called; all
3 present. Case resumed.

4 -----
5 C. E. W H I T E ,

6 on the stand for further cross-examination:

7 BY MR. ROGERS. Q Mr. White, when Franklin came to your
8 house at 6:30, or about that time of the evening, did he
9 tell you any reason why he had not brought the money with
10 him? A Yes.

11 Q What was it? A He stated that he had reached either
12 the bank or safe deposit too late to draw it.

13 MR. ROGERS. That is all.

14 REDIRECT EXAMINATION.

15 BY MR. FREDERICKS. Q Do you know why you were not pro-
16 secuted, Mr. White, for this offense?

17 MR. ROGERS. Objected to as incompetent, irrelevant and
18 immaterial and calling for a conclusion or opinion, no
19 foundation laid; hearsay.

20 THE COURT. Objection sustained.

21 MR. FREDERICKS. Q Did you have a talk with the district
22 attorney up in the office at the time that you were arrested
23 and before you were permitted to go?

24 THE COURT. Now, just a moment--Mr. Darrow stepped into
25 the 'phone and we will have to wait a moment. He left
26 the court room with my permission to use the 'phone and you

1 will have to wait a few moments until he returns .

2 MR. ROGERS. All right, go ahead.

3 MR. FREDERICKS. Q Is that question finished?

4 (Last question read by the reporter.)

5 MR. APPEL. We object upon the ground it is incompetent,
6 irrelevant and immaterial, hearsay, not admissible for any
7 purpose.

8 MR. FREDERICKS. The position is this: Counsel has asked
9 the witness whether he had ever been prosecuted or whether
10 he had ever been informed against, and all that, now we want
11 to show why.

12 THE COURT. I think the district attorney is entitled to
13 make a showing. Objection overruled.

14 MR APPEL. We take an exception.

15 A I did.

16 MR. FREDERICKS. Q In regard to --and did you make a
17 statement while you were up there in regard to the facts
18 which had occurred between you and Franklin so far as
19 you knew them?

20 MR. APPEL. Wait a moment--we object to that upon the ground
21 it is incompetent, irrelevant and immaterial for any purpose;
22 that the question calls for acts, declarations and conduct
23 of the witness upon the stand after the alleged commission
24 of the offense, if any, and that his acts and declarations
25 after that time are not admissible in evidence either against
26 Franklin or anyone else; they are hearsay, not binding upon

1 the defendant, no foundation laid; leading and suggestive.

2 THE COURT. Overruled.

3 MR. APPEL. We take an exception.

4 MR. FREDERICKS. Read the question.

5 (Question read by the reporter.) A I did.

6 Q And state whether or not you said at that time--any-
7 thing was said by you at that time as to your willingness
8 to testify to those facts?

9 MR. APPEL. Wait a moment--we object to that upon the
10 ground that the question is leading and suggestive; it is
11 incompetent, irrelevant and immaterial; calls for hearsay
12 testimony, not in the presence of the defendant; not binding
13 upon the defendant; calls for declarations and acts of this
14 witness and for conduct in response to said declarations of
15 this witness by other persons and after the commission of the
16 alleged offense.

17 THE COURT. Objection overruled.

18 MR. APPEL. We take an exception.

19 MR. FREDERICKS. Read the question.

20 (Last question read by the reporter.)

21 A I stated at that time to the district attorney that I
22 was willing to testify for the state. ✓

23 Q And before you made the statement, Captain, state what
24 was said to you in regard to whether or not you would be
25 prosecuted provided you told the true story?

26 MR. APPEL. We make the same objection upon each and all of

1 the grounds stated in our last objection to the last ques-
2 tion propounded to the witness.

3 THE COURT. Overruled.

4 MR. APPEL. We take an exception.

5 A What was the question?

6 (Last question read by the reporter.)

7 A The district attorney stated to me if I went on the
8 stand and told the true story I would not be prosecuted. ✓

9 MR. FREDERICKS. Q State the, whether or not you made a
10 statement taken down by a shorthand reporter before you
11 left the office of the district attorney?

12 MR. APPEL. We object to that upon the ground it is incom-
13 petent, irrelevant and immaterial, calling for hearsay
14 evidence; no foundation laid; not binding upon the defend-
15 ant; not tending to prove the remotest element of the
16 offense charged in the indictment here.

17 THE COURT. Overruled.

18 MR. APPEL. We take an exception.

19 A I did make such statement. ✓

20 MR. FREDERICKS. Now read the question and answer.

21 (Last question and answer read by the reporter.)

22 Q From the time you left Franklin down--or parted with
23 Franklin down near the corner of Third and Los Angeles
24 until the time when you made this statement in the district
25 attorney's office, had you seen Franklin--I will not say had
26 seen him, but had you any conversation with him at all?

1 A No, sir .

2 MR. Appel. Just a moment--we object to that as not redirect;
3 it is incompetent, irrelevant and immaterial, and upon the
4 further ground that was a matter that should have been
5 brought up in his examination in chief, and the witness
6 having testified to all the circumstances in connection or
7 relating to the matter, he was questioned upon, and we
8 object to it on the further ground it is leading and sugges-
9 tive.

10 THE COURT. Overruled .

11 MR. APPEL. We take an exception.

12 MR. FREDERICKS. The answer then, I presume is what?

13 A No.

14 Q Were you with Franklin at any time between the time
15 when you parted with him down near Third and Los Angeles
16 street that morning and the time when you made this state-
17 ment at any time except when you were in the presence and
18 custody of officers?

19 MR. APPEL. We make the same objection made to the last
20 question propounded to the witness upon each and all of the
21 grounds stated in said objection.

22 THE COURT. Overruled .

23 MR. APPEL. We take an exception .

24 A No, sir .

25 MR. FREDERICKS. That is all.

26

1 MR ROGERS: That is all.

2

3 SAMUEL L. BROWNE, a witness called on behalf
4 of the People, being first duly sworn, testified as fol-
5 lows:

6 DIRECT EXAMINATION

7 THE CLERK: Samuel L. Browne? A That is my name.

8 MR FREDERICKS: What is your name? A Samuel L. Browne.

9 Q Where do you live, Mr Browne? A Los Angeles City.

10 Q What is your business? A Employed in the District
11 Attorney's office.

12 Q How long have you been so employed? A Since March,
13 1908.

14 Q What, in general, is your employment? A Detective.

15 Q Do you know George Lockwood? A Yes sir.

16 Q When, if ever, did you first learn that George Lockwood
17 had been drawn as a juryman in the case of the People
18 versus McNamara and others? A On a Saturday afternoon,
19 November 25, 1911.

20 Q And where were you when you learned that? A In your of-
21 fice.

22 Q After learning that, state where you went?

23 MR APPEL: We object to that upon the ground that it is im-
24 material. The Supreme Court has stated in one decision,
25 at least, very forcibly, too, that the perambulations of a
26 man in the course of his business, investigating matters

1 of this kind, his own acts are immaterial. Why can't he
2 come square to the point what Mr Browne saw or heard in
3 relation to the case and his history as to how a man went
4 from one place to another is immaterial. Mr Browne can
5 state the acts he saw anyone doing, or which were done by
6 anybody in the matter in dispute.

7 MR FREDERICKS: We are trying to avoid leading.

8 THE COURT: The objection is the question is not confined
9 to what he did with reference to Juror Lockwood, or anything
10 in relation to this case?

11 MR APPEL: No, your Honor, what he did is immaterial, and
12 what he --

13 MR FORD: I think the witness is an intelligent witness.

14 THE COURT: I think the question is too broad. Objection
15 sustained.

16 MR FREDERICKS: What did you do, if anything, Mr Browne,
17 after receiving that information in regard to making obser-
18 vations concerning Mr Lockwood and Mr Franklin and any deal-
19 ings that they might have had together, what did you do in
20 regard to that, if anything? A I went out to Mr Lockwood's
21 house, that is, in the vicinity of it.

22 Q What time did you leave to go out to Mr Lockwood's
23 house? A I left -- it was after dark, possibly between
24 7 and 8 o'clock.

25 Q And who went with you, Mr Browne? A Why, Mr Allison.

26 Q Who is Mr Allison? A He, at that time, was a detective

1 employed in my office.

2 Q Mr Allison. Who else? A Miss Hitchcock.

3 Q Who is she? A She is the same capacity in my office,
4 and Mr Ong.

5 Q Who is he? A He is employed in the District Attor-
6 ney's office.

7 Q Anyone else? A And another young man who drove the
8 machine; I just cannot recall his name.

9 Q Was anyone in charge of the party? A I was.

10 Q At what time did you get to the vicinity of Mr Lock-
11 wood's house? A We got out to Mr Lockwood's house be-
12 tween 8 and 9 o'clock.

13 Q At night? A At night.

14 Q Yes. And what did you do -- that was Saturday night,
15 the 25th? A That was Saturday night, the 25th, we passed
16 Lockwood's house on -- got the location of it, ran down
17 the road a short ways and went over in a small private
18 road, apparently in a bean field, and sat for a little
19 while and watched the road leading back and forth and left
20 and came to Los Angeles.

21 Q Who were you watching for?

22 MR APPEL: We object to that as immaterial.

23 THE COURT: Objection sustained.

24 Q Did you see Mr Franklin come there that night? A I ✓
25 did not.

26 MR APPEL: Your Honor will see the absolute immateriality

1 of those things, of his sitting in a bean patch and watch-
2 ing around. We want to get down to the point where he saw
3 something.

4 MR FREDERICKS: Well, we have our own peculiar way of do-
5 ing things.

6 THE COURT: There is no objection before the court.

7 MR FREDERICKS: What were you doing out there at that time,
8 what was the purpose of your being there?

9 MR APPEL: We object to that as immaterial, what his pur-
10 poses were. How can that be material?

11 THE COURT: Objection sustained.

12 Q How long did you stay there, you and this party? A Oh,
13 I guess something less than a half hour. I didn't take
14 the exact time, I satisfied myself as to the purpose I went
15 for and left.

16 Q Well, did you see anybody come to Lockwood's house while
17 you were there? A I did not.

18 Q On Monday, the 27th of November, state whether or not
19 you went out there to Mr Lockwood's again? A I did.

20

21

22

23

24

25

26

1 Q What time? A In the evening.

2 Q Had you seen Mr Lockwood that day before you went out?

3 A I saw him that day in Los Angeles.

4 Q Where? A At your residence. ✓

5 Q And who went with you that night when you went out to
6 Lockwood's house, that is, the night of the 27th, Monday
7 night? A There was Mr Ong, Mr Carey, Mr Allison, and Jim
8 Campbell and myself.

9 Q Who was in charge of the party? A I was.

10 Q What time did you go out to Mr Lockwood's house that
11 night? A Got there a little before 9 o'clock.

12 Q And state whether or not you saw Mr Lockwood there when
13 you got there? A I saw Mr Lockwood.

14 Q Who else did you see, if anybody? A I saw Mr Hicks.

15 Q Who is Mr Hicks? A Constable, I think his name is
16 Hicks.

17 Q How soon after you got there did I have. A Immed-
18 iately.

19 Q Now, after that what did you do with the men you had
20 there under your charge? A I placed them in different
21 positions around Mr Lockwood's premises.

22 Q Well, where did you place them? A Well, I put Allison
23 up on the water tank. ✓

24 Q Where was the water tank? A That was in the rear of Mr.

25

26

1 Lockwood's house between the house and the barn.

2 Q How far is the house from the barn, about? A Oh, I
3 should judge 100 feet.

4 Q Where did you put the others? A I put Mr. Garey and
5 Mr. Ong on one side of the door.

6 Q The door of what? A The door of the barn, inside of the
7 barn. I put them on one side of the door and Hicks on the
8 other side, both up in the loft in the hay, and Jim Camp-
9 bell and myself were in the back screen porch of Mr. Lockwood's

10 Q State whether or not anybody came to Mr. Lockwood's that
11 night, if so who? A A little while after I had the men
12 placed Bert Franklin came there. ✓

13 Q And state what he did in your observation and what he said
14 in your hearing, if anything? A As Lockwood came around
15 the side of his house he had to pass the back screen porch.
16 He said to Franklin, said, "Bert, I want to be sure this is
17 safe." Franklin said, "It is all right; I will assure
18 you it is all right." That was right within a few feet of us;
19 they were walking slow around the back of the house.

20 Q Coming in which direction? A Going towards the barn.
21 They then walked down and stood under the water tank and
22 they stood there a few minutes and talked. I couldn't tell
23 what they said, I catch a word now and then. Then they
24 moved further down under the tank towards the barn and then
25 they switched and went out towards the road leading out
26 from Lockwood's house on the other side of the house. All

1 the time they were walking very slow and talking, then they
2 walked out to the main road and Franklin left.

3 Q How long did they remain by the water tank? A Oh, several
4 minutes.

5 Q And how long did they remain talking together after
6 they left the water tank and went out towards the north?

7 A About the same length of time.

8 Q What was the condition of the night as to being dark or
9 moonlight? A The moon at that time had not come up very
10 well; it was quite dark.

11 Q Did you have any conversation with Mr. Lockwood in regard
12 to any signals of any kind that he was to give you in case of
13 a happening of any event?

14 MR. APPEL. Your Honor, we don't like to object, your Honor,
15 but we would like to know what is the purpose of this ques-
16 tion. Whether they had a signal or not is simply to
17 illustrate the method of catching people or is it to
18 prove any fact against this defendant. We object to it as
19 immaterial. I just want to know.

20 THE COURT. Objection overruled.

21 MR. APPEL. Take an exception.

22 A I had arranged a signal with Mr. Lockwood. ✓

23 MR. FREDERICKS. Q What was it and under what circumstances
24 was it to be given?

25 MR. APPEL. We object to that now as calling for hearsay
26 evidence, incompetent, irrelevant and immaterial for any

1 purpose whatsoever, any arrangement made between the detec-
2 tives themselves, any statement between themselves as to how
3 they were going to proceed or what manner, is immaterial for
4 any purpose whatsoever; it is hearsay.

5 THE COURT. Objection overruled.

6 MR. APPEL. We take an exception.

7 A I had arranged a signal with Mr. Lockwood that when Frank-
8 lin passed him any money he was to give him this signal.

9 MR. FREDERICKS. Q The signal was to light a match. ✓

10 Q Did he light a match that night while Franklin was there?

11 A He did not.

12 Q About how long was Franklin there altogether? A Well,
13 I should say about ten minutes.

14 Q Did you notice how he came? A No, I didn't see how he
15 came; I heard it.

16 Q Well, could you tell from what you heard how he came?

17 A Just before he came around/^{behind}the house I heard an automobile
18 come down the road and it stopped.

19 Q Where did it stop, in front of the house or further--

20 A Well, from where I was I couldn't tell. It sounded like
21 it was sort of off the corner of the house, came down the
22 road, stopped right there, because the road leading into
23 the house is a little bit from Lockwood's house.

24 Q And did you come out from the porch at any time while
25 Franklin and Lockwood were there?
26

1 A After Franklin and Lockwood started away from the
2 water-tank and started out towards the road leading to the
3 main road I came out of the porch around in the shadow of
4 the house and got under an orange tree; as they passed me
5 they passed along the road, out, and I followed them out so
6 as to keep them both in sight. If I had stayed in the
7 porch, they would have gotten out of my sight after going
8 to the main road, because I was in back of the house.

9 Q Did you overhear any other conversations except what
10 you have given here that you remember? A I heard Frank-
11 lin say one time, "I will see the Captain".

12 Q Now, did you know Captain White? A I do now; I did
13 not at that time.

14 Q After he left there, how long did you remain at Lock-
15 wood's place? A I left Lockwood's house about half past
16 ten.

17 Q State whether or not you had a talk with Lockwood
18 after Franklin left the house?

19 MR APPEL: We object to that as incompetent, irrelevant
20 and immaterial, calling for hearsay statements between two
21 persons then and at that time not connected with this case.
22 Insofar as affecting the defendant is concerned, it is in-
23 competent, irrelevant and immaterial for any purposes what-
24 soever, hearsay.

25 THE COURT: Let me have that question again. (Question
26 read.)

1 MR FORD: The purpose is to show that Lockwood was only a
2 feigned accomplice.

3 THE COURT: Objection overruled.

4 A Yes sir.

5 MR APPEL: Exception.

6 MR FREDERICKS: And state whether or not in that conversa-
7 tion Mr Lockwood recounted to you what he said had occur-
8 red between him and Franklin while Franklin was there?

9 MR APPEL: We object to that on the ground it is incompe-
10 tent, irrelevant and immaterial, hearsay, not binding upon
11 the defendant.

12 MR FREDERICKS: Hearsay testimony, your Honor, is one wit-
13 ness saying what another witness said. I am not asking
14 for that; I am asking this witness whether he had a conver-
15 sation with Lockwood in which Lockwood told him what Frank-
16 lin, -- what had occurred. I am not asking to state what
17 Franklinsaid to him, but simply asking the fact.

18 THE COURT: This question calls for an answer yes or no?

19 MR FREDERICKS: Yes sir.

20 MR ROGERS: If your Honor please, might I suggest that he
21 asked the witness for the substance of the conversation
22 and the subject matter of it.

23 THE COURT: If I thought he did, I would sustain the objec-
24 tion.

25 MR FREDERICKS: There is no doubt about that, and the ques-
26 tion does not call for that.

1 MR APPEL: The question is as has been demonstrated by
2 that fact --

3 THE COURT: Read it (Question read).

4 MR FREDERICKS: I am not asking for any of that conver-
5 sation at all.

6 THE COURT: Objection overruled. Answer the question yes
7 or no.

8 MR APPEL: Exception.

9 A Yes sir.

10 ~~MR~~ FREDERICKS: Now, after you left -- you left Lockwood's
11 that night -- where did you go? A I returned to Los
12 Angeles and went to your residence.

13 Q What time did you get there to my house? A About a
14 quarter past one in the morning.

15 Q How long did you stay there?

16 MR APPEL: We object to that as immaterial, hearsay;
17 we object to any acts or declarations or statements or any
18 other facts, time, place, circumstance of any kind or
19 nature which occurred at any time, when Mr Browne and Cap-
20 tain Fredericks were together, either at his home or else-
21 where and not in the presence of the defendant, as hear-
22 say.

23 MR FREDERICKS: I am not going to ask for any conversation.

24 MR APPEL: The worst kind of hearsay, absolutely incompe-
25 tent, irrelevant and immaterial for any purpose, and nat
26 admissible in any court anywhere.

1 THE COURT: Objection sustained.

2 MR FREDERICKS: The question was not for the conversation,
3 your Honor, the question was, "How long did you stay there"?

4 THE COURT: The objection is it is immaterial. I cannot
5 see any materiality.

6 MR FREDERICKS: State whether or not all of the men who were
7 with you out at the Lockwood house, with the exceptions of
8 Hicks, were with you when you came into my house that
9 night.

10 MR APPEL: We make the same objection whether all were
11 there or whether Hicks was not there, or whether anybody
12 was there; it is immaterial. How does it make any fact
13 admissible here? It could not affect the issues here. It
14 is hearsay.

15 MR FREDERICKS: Well, the point is this --

16 MR APPEL: It is hearsay. It is just rot, attempting to
17 show and illustrate what these men were doing for their own
18 satisfaction here; that is all there is to it.

19 MR FREDERICKS: Oh, no.

20 MR APPEL: It does not tend to prove the guilt or innocence
21 of the defendant.

22 THE COURT: Let me hear Captain Fredericks, perhaps he
23 will advance some reason, and I will hear from you, then.
24 I have just sustained an objection along that same line.
25 Now, Captain Fredericks has advanced the matter and I will
26 hear from him and if he advances some reason, and I see it

1 his way --

2 MR APPEL: Your Honor sustained one objection --

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

5p

1 MR. FREDERICKS. Well, any time--

2 MR. APPEL. Go ahead.

3 MR. FREDERICKS' Thank you. We are making no attempt, and
4 have no desire to get anything before the court for our own
5 self-satisfaction. Counsel has made a claim here that this
6 matter was all a frame up. That might be. I don't know.
7 That might be one of his arguments to this jury and we wish
8 to show this jury every step that was taken in this matter
9 so that they can determine for themselves whether there was
10 any frame up or whether or not it was the earnest effort of
11 the law officers to apprehend those committing crime. That
12 is the purpose, of showing every infinitesimal step that
13 was taken, and that is the only purpose.

14 MR. APPEL. Your Honor, that is a collateral issue and if it
15 were a matter which was directly in issue here as a sub-
16 stantive issue, it would not allow the district attorney
17 or ourselves to go out of the rules of evidence to prove or
18 disprove by hearsay and incompetent evidence, because our
19 argument may be one way from the proper facts admitted in
20 evidence. We have a right to draw our own theories and our
21 own conclusions from legitimate evidence only; that would
22 not give counsel here the right to show that the fellow
23 who was up there in the hay stack had the bottom part of
24 his anatomy above the top of the hay stack or his head up;
25 that would be perfectly immaterial. It would not allow
26 him to show that one of Mr. Browne's men got into the water

1 tank or out of it, perfectly immaterial; It would not
2 allow them to show that Mr. Browne went out there certain
3 times that night and didn't see anybody, because that would
4 not prove any fact; it would not be right to show that Mr.
5 Fredericks put one of his men in a chicken coop or any-
6 thing of that sort. We draw arguments, we draw conclusions,
7 first from legitimate evidence and the way to prove a fact
8 is to prove it by legitimate evidence, you cannot prove any
9 fact by self-serving situations or self-serving conditions
10 or self-serving statements. A man might as well say upon
11 the witness stand he made a statement to so and so to show
12 he didn't commit a crime. You would not allow that to be
13 done. Now, these gentlemen are defending themselves--

14 MR. FREDERICKS. No, we are not defending ourselves.

15 MR. APPEL. You are exactly defending yourselves.

16 MR. FREDERICKS- We are not defending ourselves.

17 MR. APPEL. Get it out of your system.

18 THE COURT. Mr. Appel has the floor.

19 MR. APPEL. Let us see if he is not defending himself. He
20 just got up here and told this jury that someone has been
21 accused of a case of absolute frame up. Now, before we
22 are trying to show that fact by legitimate evidence he is
23 trying to defend himself, perhaps in some way or another he
24 has become impressed with the idea that a man, district
25 attorney or any one else, accused of work, or allows another
26 one to put up a job on another one who is undertaking to

1 commit a crime, it is as much/aⁱⁿ legal sense a frame up--
2 it as much an instigation to commit a crime for self-
3 satisfaction and for vain glory as if another one stands by
4 and allows another one to commit a crime in his presence
5 and does not raise his finger and he ought to raise it and
6 prevent the commission of that crime; and for fear that we
7 should argue these matters to the jury, he is undertaking
8 to show, "What did you tell me Browne, what did I tell you?"
9 MR. FREDERICKS. Now, I have not asked any such question,
10 your Honor.

11 MR. APPEL. "Did you bring all your men with you except
12 Hicks? Did this man Lockwood tell you what had trans-
13 pired between him and Mr. Franklin? And did you go over
14 there to my house at half past one in the morning?" Oh, it
15 cannot be possible he says, that this was a frame up,
16 because, forsooth, Browne came to his house at half past
17 one in the morning. Why, gentlemen of the jury, you cannot
18 even imagine for a moment--that is his argument--
19
20
21
22
23
24
25
26

1 THE COURT: Mr Appel --

2 MR APPEL: I say, that is his argument he has made to the
3 jury, which is right on the face of it "you, gentlemen of
4 the jury, cannot say this is a frame-up, because I was
5 taken out of my bed at half past 1 in the morning, and you
6 would not suppose I would frame up anything at half past
7 one in the morning", and he wants to show these acts and
8 declarations between themselves. What has this defendant to
9 do with the acts and declarations between themselves? I
10 say, that the testimony does not approach the dignity of
11 being not in any court, and we have heard nothing but that
12 hearsay evidence here all morning.

13 THE COURT: Read the question, Mr Reporter. (Last question
14 read by the reporter.) Objection overruled.

15 MR APPEL: We except.

16 A The same party that went out with me came in.

17 MR FREDERICKS: Well, that doesn't quite answer the ques-
18 tion, Mr Browne. Might answer it yes or no. State whether
19 or not the same persons whom you have described as going
20 out with you, came in with you to my house that night.

21 MR APPEL: Wait a moment. We object upon the ground that
22 it is incompetent, irrelevant and immaterial, hearsay;
23 not binding upon the defendant; no foundation laid; and
24 upon the further ground that it is very leading and very
25 suggestive.

26 THE COURT: Overruled.

1 MR APPEL: We except.

2 A Yes sir.

3 MR FREDERICKS: Now, the next morning, Tuesday, the 28th
4 day of February, state whether or not you -- state what
5 time you came down to your office, if at all.

6 MR APPEL: We object to that as immaterial, hearsay, ir-
7 relevant and incompetent.

8 THE COURT: Overruled.

9 A Got there about 8 o'clock in the morning.

10 MR FREDERICKS: Now, just describe, Mr Browne, what you
11 did -- I will ask you first to state whether or not you
12 went down to the corner of Third and Los Angeles streets,
13 in that vicinity, in this city, with others, that morning?

14 A I did.

15 Q Now, state just what you did in regard to that trip
16 down there, who went with you and where they were placed
17 and so on, without, of course, repeating any conversation
18 that you had with any of your men. A The night previous
19 to that I arranged with two of my men to go to Third and
20 Los Angeles and gave them instructions what to do.

21 MR APPEL: We move to strike it out as immaterial and hear-
22 say.

23 THE COURT: Strike it out.

24 MR FREDERICKS: All right: take up the answer to the
25 question, and come to that again. A That morning I in-

26

1 structured --

2 MR APPEL: We object --

3 THE COURT: Don't tell what instructions you gave. Just
4 answer the question that has been propounded to you.

5 (Last question read by the reporter.)

6 MR FREDERICKS: Where did you go and who went with you and
7 where were these other men placed? A I went with one man,
8 Campbell. The other men had been sent ahead.

9 Q Whowere the other men? A Allison, Ong, Rockwell and
10 Henderson.

11 Q And where did you and Campbell go? A We went to the .
12 corner of Third and Main street and took a car going east,
13 and rode past the corner of Third and Los Angeles streets,
14 down to Wall. We got off the car there at the corner of
15 Third and Wall, near the corner of Third and Wall, and
16 stood on the south side of Third street andwatched the cor-
17 ner of Third and Los Angeles streets. There was standing
18 on the corner of Third and Los Angeles streets, a tall man,
19 with a light suit of clothes, smooth-faced man, and I ask-
20 ed Campbell if he knew who he was, and Jim says, "He looks
21 to me --"

22 MR APPEL: Those declarations, of course, are admissible
23 in evidence?

24 THE COURT: Don't state what the conversation was.

25 MR FREDERICKS: Don't say what was said.

26 MR APPEL: We just wish to be informed, that is all.

All

1 MR FREDERICKS: The counsel had to do was to object.

2 MR APPEL: I have objected all the time until I feel ashamed
3 ed to do it any more.

4 A We stood there on the corner and watched this man standing
5 ing on the corner, and Campbell walked up Third street
6 going west, and just before he got to Los Angeles street
7 he met Bert Franklin.

8 MR FREDERICKS: Where were you at that time? A I was
9 standing on Third street.

10 Q Third and what? A Third street between Wall and
11 Los Angeles, near the corner.

12 Q Well, you were standing whereabouts in the street?

13 A I was standing right at the corner -- there is a bar-
14 room on the corner; I believe I was standing right at the
15 corner of it, cuts off a square across the corner.

16 Q Third and Wall? A Yes.

17 Q You were saying -- A Campbell went west on Third
18 street, and he got up near the corner of Los Angeles and
19 he met Franklin.

20 Q Is that the first time you had seen Franklin that
21 morning? A That is the first time I saw him at all.

22 Q And then what did Campbell do? A Campbell continued
23 up Third street to Main, and turned south on Main and
24 Franklin turned around and followed up slowly to the
25 corner of Third and Los Angeles and walked across the
26 street and went into a saloon on the corner.

78

1 Q Which entrance to the saloon did he go, the entrance on
2 the corner or the entrance up on Third street, if you noticed?

3 A I don't remember which one; I know he went in that
4 saloon.

5 Q Then what did you do? A Then I went down the street and
6 went to Wall street and went through an alley.

7 Q Went down what street? A Well, I think that is the
8 name of the street, and went through the alley and through
9 a lot and through a hardware store leading out on Los Angeles
10 street. I then turned south on Los Angeles and went to Fourth
11 and went west on Fourth/^{and}just as I got to the corner of
12 Fourth and Main Campbell was getting on a street car going
13 north on Main. I jumped on the same car with him. I rode
14 half way down the block and Jim and I got off the car and
15 went into a rooming house on the corner of Third and Main
16 street, went upstairs and looked out of a window that is
17 leading--the window is facing on Third street, and looked
18 down towards the corner of Third and Los Angeles street.

19 Q And state what you saw down on the corner of Third--
20 what you saw when you looked out of the window, if anything?

21 A Well, we were in the window, saw Captain White, he was
22 walking up and down right on the corner, just pacing back and
23 forth a short distance. Finally Lockwood came up Los
24 Angeles street, he came from the south, and he walked over
25 on--it would be the northeast corner, and he stood there a
26 minute and Captain White walked across the street to him, and

1 they stood there just for a few moments and Captain White
2 walked close up to Lockwood and Lockwood put his hand down
3 in his pocket and took something out of his pocket and
4 held something in his hand, then he put it back in his
5 pocket, changed his hands this way, and put them back in,
6 and White walked a little ways away from him, a few feet, and
7 came back and said something to Lockwood and Lockwood and
8 White walked up Third street going west, and as they got
9 on the corner by the saloon--

10 Q What corner was that? A The corner--the saloon which
11 would be on--it is on the north--it would be on the north
12 west corner.

13 Q Of what street? A Of Third and Los Angeles, and there
14 is an entrance, going north of the Third street side.

15 When Lockwood and White got just on the pavement on the north
16 west corner Franklin came out of the Third street entrance
17 of this saloon and met him, and they stood there awhile;
18 the three of them stood together. Then Franklin and Lockwood
19 walked ahead and left White standing there and Lockwood
20 and Franklin walked slowly up Third street towards Main and
21 White, he came along behind them. He was, I guess, oh,
22 20 or 30 feet behind them. When they parted and started
23 up the street we came down out of the upstairs to the side
24 entrance on Third street side and stepped around into a
25 little alley that is right back of the rooming house.

26 Q Wait a moment--I didn't get that. Will the reporter

1 read that last part. (Last part of answer read by the
2 reporter.)

3 A Franklin and Lockwood passed us right directly across the
4 street from us on Third and turned the corner of Main street
5 going north.

6 Q Where were you when they passed you across the street?

7 A I was on the south side of Third street in this little
8 alley.

9 Q In a little alley? A Right across the street. Captain
10 White was coming behind them and George Home, detective
11 George Home was coming along behind Captain White. I went
12 across the street and placed Captain White under arrest and
13 turned him over to Home. Then I turned and took Campbell
14 and went up Third Street and around the corner of Third and
15 turned north on Main and Lockwood and Franklin were then
16 about--well, twice the length of this room from us going
17 down Main street.

18 Q Well, let's get that in the record. About how many yards
19 were Lockwood and Franklin ahead of you when you turned the
20 corner into Main street? A Well, I would say about twice
21 the length of this room.

22 Q That won't show in the record. How many yards? A I say
23 about 60.

24 Q What did you do? A I went down the street, hurried
25 down after them. They were walking together and just--

26 Q They were walking in which direction on Main street?

1 A They were going north on Main; they were on the east
2 side of Main.

3 Q Going north and you were on the same side? A I was on the
4 same side behind them.

5 Q Go ahead. A I hurried down behind them and when I got
6 within about 10 feet of them I seen Mr. Darrow coming across
7 Main street from the west side of Main coming diagonally
8 across the street this way.

9 Q Well, now, a man might come diagonally and come from two
10 different directions. Just explain that a little more clearly
11 to the jury whether he was coming southerly across the street
12 or northerly across the street? A He was coming from the
13 north going south.

14 Q Across the street? A Crossing the street.

15 Q Now, about where in Main street was that? A It was
16 nearly in the center of the block.

17 Q You know where the cathedral is? A I do not.

18 Q The cathedral on Main street? A Yes, sir.

19 Q Do you have it in mind now? A Yes, sir, it is near the
20 corner.

21 Q About how far from the cathedral was it where Mr. Darrow
22 was coming across? A Oh, it was quite a ways this way.

23 Q This way? A South.

24 Q Now, what occurred? A Just as Mr. Darrow stepped upon the
25 sidewalk Franklin turned to Lockwood and said something and
26 turned like that and stepped out towards the curb, and just

1 as Mr. Franklin and Mr. parrow met I stepped in between them.
2 They just met right on the sidewalk. I stepped in between
3 them and pushed Bert back into the middle of the sidewalk,
4 pushed him back like that. (Indicating.)
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

1 Q What was said by either parties, if any? A I said to
2 Bert, I said, "Bert, I want you." He said, "What for?"
3 I says, "You have been an officer long enough to know what
4 I want you for; you know what you have been doing."

5 Q Where was Darrow at that time? A Well, at that time
6 I don't know where he was because my back was to him.

7 Q Well, what, if anything, did Darrow do when you step-
8 ped in between them -- Mr Darrow? A After I got Frank-
9 lin back into the sidewalk and I had started with him, and
10 came down Mainstreet with him I looked over my shoulder
11 and Mr Darrow was out in the middle of the street going
12 south, and east -- going south and west -- going back across
13 the street.

14 Q Going towards Third street or towards Second street?

15 A Going towards Third street.

16 Q In the middle of the street, you mean the carriageway?

17 A I mean between the curbstone and the car-track.

18 Q Well, did you overhear whether Mr Darrow or Mr Frank-
19 lin said anything to each other; did you overhear that?

20 A I did not.

21 MR ROGERS: Wait a moment. That question assumes -- I
22 don't know whether counsel means it to assume -- that
23 question assumed that something was said as a matter of
24 fact.

25 MR FREDERICKS: No.

26 MR ROGERS: I don't think the witness' testimony has said

1 that.

2 MR FREDERICKS: I don't think the question assumed that
3 "whether".

4 MR ROGERS: Let me see whether it is.

5 THE COURT: Read the question and answer. (Last question
6 and answer read by the reporter.)

7 MR FREDERICKS: I think it is clear that the witness didn't
8 hear anything. Then what did you do? A I walked down
9 Main street with Franklin a short distance.

10 Q Don't repeat anything, now, that Franklin may have
11 said to you after you arrested him, unless I ask you for it.

12 A I walked down Main street with Franklin a short way
13 and turned him over to Campbell and Allison, and I went
14 ahead. Lockwood had continued on down the street. He
15 was then nearly down to the Cathedral at that time, and I
16 went up to him and picked him up and walked along with him
17 until we got nearly to the corner of Second street.

18 Q Second and what? A Main; Second and Main. At that
19 time Mr Henderson, I think it was, came along, and I turned
20 Lockwood over to Henderson, and I went back to Franklin
21 and Campbell and we then came on to the Hall of Records
22 to your office.

23 Q Which way did you come? A We came up Main street to
24 First and out First and Spring and up Spring to Franklin
25 and turned in to Franklin and around New High.

26 Q State whether or not you saw this defendant, Mr Darrow,

1 again that morning before you got to the Hall of Records?

2 A I did.

3 Q Where? A On Franklin street between Spring and New
4 High.

5 Q And what, if anything, was said and done by him at that
6 time? A Mr Franklin --

7 Q Mr who? A Mr Darrow came across from the south
8 side of Franklin street over to the north side that I was
9 on and spoke to me right near the old post-office, that is
10 on the north side, just around the corner from Franklin
11 street; he said to me, he says, "My God, Browne, what is
12 all this?", and I turned to him and said, "Bribery".
13 He says, "Isn't there anything that can be done?" He says,
14 "This is terrible." I says, "I don't know of anything
15 that can be done, you will have to see Captain Freder-
16 icks." He says, "Isn't there anything you can do?" I
17 says, "I cannot do anything." He says, "If I had known
18 this was going to happen, I never would have allowed it
19 to have been done." I then said to Mr Darrow, "You ought
20 to have better sense than to hire a man like this to do
21 this work." He says, "This is terrible." I says, "You
22 ought to know Franklin." He says "Franklin came to me"
23 he says, "very highly recommended by Mr McCormick and
24 others." I says, "Mr Darrow, I don't know what I can do."
25 He says, "My God, Browne, this is terrible."
26 A JUROR: We cannot hear very well.

1 MR FORD: Read that last, Mr Reporter.

2 MR ROGERS: Suppose you read it all.

3 (Last answer read.)

4 MR FREDERICKS: Now, go ahead. A He says, "This is
5 terrible, you do the best you can for us", he says, "and
6 I will take care of you."

7 MR FREDERICKS: How is that; read that. (Last answer
8 read.) What else did he say, if anything? A That was
9 about all he said.

10 THE COURT: Gentlemen of the jury, bear in mind the usual
11 admonition. We will take a recess for five minutes at
12 this time.

13

14 (After recess. Defendant in court with counsel. Jury
15 returned to court room.)

16

17

18

19

20

21

22

23

24

25

26

9p 1 S A M U E L L. B R O W N E,

2 on the stand.

3 THE COURT. You may proceed, gentlemen.

4 BY MR. FREDERICKS. Q Mr. Browne, state whether or not you
5 dictated the conversation that you had with Mr. Darrow at
6 that time on that day? I am referring to the time you have
7 been talking about when he came to you down here on Spring
8 and Franklin street, and you were coming to the Hall of
9 Records on November 28. State whether or not you dictated
10 a statement of that conversation to anybody immediately
11 afterwards.

12 MR. APPEL. We object to that as immaterial, incompetent,
13 irrelevant and immaterial, hearsay, self-serving.

14 THE COURT. Answer the question yes or no. Objection over-
15 ruled.

16 MR. APPEL. Except.

17 A Yes, sir.

18 BY MR. FREDERICKS. Q State whether or not the statement
19 that you dictated, of that conversation, was written up and
20 whether you afterwards read it.

21 MR. APPEL. We object to that upon the same grounds as
22 stated, incompetent, irrelevant and immaterial for any
23 purpose whatsoever, hearsay, not binding upon the defendant,
24 self-serving.

25 THE COURT. Objection overruled.

26 MR. APPEL. We except.

1 A Yes, sir .

2 Q State whether or not what you read over after it was
3 written up was correct as to what transpired and as to what
4 you had dictated?

5 MR. APPEL. We object to that as incompetent, irrelevant and
6 immaterial, hearsay, calling for a conclusion and opinion
7 of the witness, it is leading and suggestive, not binding
8 upon the defendant .

9 MR. FORD. Simply laying a foundation for a memorandum .

10 THE COURT. Objection overruled .

11 A What was the question?

12 (Last question read by the reporter .)

13 A It was .

14 MR. APPEL. Your Honor please, we think that the record
15 would not be complete so far as the rights of this defendant
16 are concerned, unless we follow our objections to this
17 examination with a motion. We move to strike out the
18 evidence of the witness with reference to the document or
19 writing or transcription of any dictation of the witness
20 referred to by the district attorney, and referred to by the
21 witness in his answers, upon the ground that the directions
22 required by law to be followed with reference to the
23 examination of a witness concerning a document were not
24 observed by the district attorney in that the provisions of
25 Section 2054 of the Code of Civil Procedure were not observed
26 either by the court or by the district attorney. We ask that

1 the whole evidence of the witness upon the matter in question
2 be stricken out.

3 THE COURT. Motion to strike out denied.

4 MR. APPEL. Now, your Honor please--that is all right.

5 MR. FREDERICKS. Q Now, Mr. Browne I show you a document
6 here, referring you to page 7 of the same and ask you if
7 you know what that page contains?

8 MR. ROGERS. Before any answer is made, your Honor please,
9 we call for the enforcement of the rule.

10 THE COURT. Yes, counsel is entitled to see it.

11 MR. FORD. Before it is introduced.

12 MR. ROGERS. Before any questions are asked.

13 THE COURT. Yes, counsel is entitled to see it.

14 MR. FREDERICKS. The only part of the report or memorandum
15 in controversy or use is the part referring to this con-
16 versation. Counsel has taken the opportunity to read the
17 entire report over. I don't think he is entitled to it.

18 THE COURT. He has that right.

19 MR. ROGERS. I would not if I didn't think I had the right.
20 I hope Mr. Fredericks don't think I am peaching.

21 THE COURT. I think counsel has that right.

22 MR. FREDERICKS. I don't think he has that right to take a
23 long report and read it. I don't think he has the right.
24 I don't make any particular objection to it only the time
25 it takes up.

26 MR. ROGERS. Counsel has seen the document.

1 MR. Fredericks. What was the question now?

2 (Last question read by the reporter.)

3 MR. ROGERS. That is a very infelicitous form of getting
4 at it. I think I know what counsel wants to do, but the
5 form of it is not proper. legal way, it occurs to me, to
6 do it. I think we will object upon the ground that what
7 counsel must do is ask the witness if that is the document
8 referred to and if it is call his attention to certain parts
9 of it.

10 MR. FREDERICKS. I will do that. I thought if I did that
11 would call forth an objection.

12 Q Is that the document to which you referred to, which you
13 made out as you have testified, referring you to page 7?

14 A Yes.

15 Q Now, will you refresh your memory from the notes there as
16 to the conversation--as to what Mr. Darrow said to you. Now,
17 what was the first thing he said to you, Mr. Browne?

18 A He said, "My God--"

19 MR. ROGERS. I haven't the slightest objection to Mr. Browne
20 reading the conversation from that document as his statement,
21 not a particle.

22 MR. FREDERICKS. Q Go ahead and read it.

23 MR. ROGERS. Read it clearly so the jury can hear it, Mr.
24 Browne.

25 A (Reading) "My God, Browne, what is all this?" "I an-
26 swered, 'you ought to know what it is, it is bribery.' Darrow

1 then said, 'My God, I wouldn't have had this happen for the
2 world; if I had known that this was going to happen this
3 way I never would have allowed it to be done. Isn't there
4 anything that you can do? This is terrible.'"

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 I said, "You will have to talk to Captain Fredericks."
2 Darrow then said, "Browne, this is terrible; for God's
3 sake, can't you do anything for us?" I answered, "You
4 ought to have known better than employ a man like Frank-
5 lin, as he is always drunk. I don't know what I can do for
6 you." Darrow then said, "He came to me highly recommend-
7 ed from Mr McCormick and others. Browne, do the best you
8 can and I will take care of you." I answered, "Mr Darrow,
9 you will have to see the Big Smoke." I then turned and
10 left him and came direct to your office.

11 MR ROGERS: Will you be kind enough to ask him so we will
12 understand it, who is the "Big Smoke"?

13 MR FREDERICKS: Counsel can ask that on cross-examination,
14 if he wants to.

15 Q Now, Mr Browne, what did you do after you had this
16 conversation with Mr Darrow? A I came direct to your of-
17 fice.

18 Q And who did you see there or meet there in the office?

19 A When I came into your office, Mr Pridham, a super-
20 visor, was in there.

21 Q Who else? A No one at that time.

22 Q Where were the others, Franklin and White and the
23 other officers? A They were out in the hall and out in
24 the outer office.

25 Q Well, then, what did you do?

26 MR APPEL: Wait a moment. We object to any acts or decla-

1 rations or the conduct of any person or persons not in the
2 presence of the defendant at this time, as incompetent,
3 irrelevant and immaterial, and hearsay and not binding
4 upon the defendant.

5 MR FREDERICKS: Tracing money, your Honor.

6 THE COURT: Let me have that question again. (Last
7 question read by the reporter.) This is for the purpose
8 of tracing money?

9 MR FREDERICKS: For the purpose of tracing money.

10 THE COURT: Objection overruled.

11 MR APPEL: Exception.

12 A I brought Mr Franklin and Captain White and Mr Lock-
13 wood into your office.

14 Q State whether or not anybody received a sum of money
15 from anyone of those present, and if so, how much and from
16 whom?

17 MR APPEL: We make the same objection, upon the same grounds
18 stated in our last objection to the last question before
19 this asked of the witness, on the same grounds.

20 THE COURT: Objection overruled.

21 MR APPEL: Take an exception. A Captain White turned over
22 to you \$3500.

23 Q In what denomination of bills, if you remember --
24 well, I will ask you, did you take down the numbers of those
25 bills? A I did not.

26 Q Do you know who did? A I do.

1 Q Who? A George Home.

2 Q And did anybody else turn over any money? A Mr Lock-
3 wood.

4 Q How much? A \$500.

5 Q Did you notice in what denomination of bills that was?

6 A That was a \$500 bill.

7 Q Do you know what the other bills, what denomination
8 the ones that White turned over were? A I know there was
9 one \$500 bill, because we had a little argument over that.

10 Q Yes. Do you know what the bills were? A I don't
11 remember what the others were.

12 MR FREDERICKS: Cross-examine.

13 MR ROGERS: May I have the statement, please, shown to the
14 witness?

15 MR FREDERICKS: No, I do not think counsel can use that
16 on cross-examination.

17 MR ROGERS: Let me have section 2047.

18 MR FREDERICKS: We are perfectly willing that counsel
19 should have the page that was used in refreshing the
20 witness' memory.

21 MR ROGERS: Where a witness is allowed to refresh his mem-
22 ory, section 2047, in respect to the fact of anything that
23 he has said --

24 MR FREDERICKS: Rather than to get into an argument --

25 MR FORD: Here, take it. (Handing document to Mr Rogers.)

26 MR ROGERS: You didn't know that was the law, did you?

CROSS-EXAMINATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

MR ROGERS: Mr Browne, I want to call your attention first, in order of the testimony, to the incident of you and Campbell walking east or being at Third and Wall getting off a car there. Now, starting your memory at that point --

MR FORD: We thought they wanted to examine on this memorandum.

MR APPEL: We will take our own time about it.

MR FORD: Then wait until they need it.

MR APPEL: We are entitled to it.

THE COURT: What is the objection to this, Mr Ford?

MR FORD: Our objection is this -- I have no objection to cross-examining on it when the witness is allowed to refresh his memory from a memorandum, they have a right to cross-examine the witness with regard to that memorandum, but they have no right to use our property for the purpose of cross-examining him on other matters. Now, if they desire to cross-examine with regard to this memorandum, we are glad to let them have it, but let them do it, but we do not propose to let them have it for other purposes.

11p 1 MR. ROGERS. (Reading) But in such case the writing must
2 be produced and may be seen by the adverse party, who may,
3 if he choose, cross-examine on it, or may read it to the
4 jury.

5 MR. FORD. Sure, and I am perfectly willing they should do it,
6 but they are now going off on other matters.

7 MR. ROGERS. You don't know what I am going on.

8 MR. FORD. They can read this memorandum, if they want to,
9 but if they do not want to do that--they can have the memo-
10 randum, but they are not doing that. I will call your
11 Honor's attention to the fact that the question asked of the
12 witness is not on cross-examination concerning this document.
13 THE COURT. I presume they will reach the cross-examination
14 concerning this memorandum when they get ready.

15 MR. FORD. Sure, your Honor, but I propose to keep the
16 memorandum until they are ready to do so.

17 MR. APPEL. This is going to lead up to it.

18 THE COURT. Yes. Objection overruled. Counsel for the
19 defendant can read the entire memorandum without order of the
20 court on the same condition as you have. The court does
21 not know what is in the memorandum, outside of the particular
22 page, and it has not been called to the court's attention.

23 MR. FORD. But, this document contains notes which we desire
24 to have for our own use during the examination of this
25 witness, except during such portion of the time as they are
26 examining it directly concerning that document.

1 THE COURT. Counsel has stated he will get to it immediately.

2 MR. FORD. I think we are entitled to it.

3 THE COURT. Objection overruled.

4 MR. FORD. We are not making an objection, we are asking for
5 our document until such time as he needs it.

6 THE COURT. Counsel says he needs it in consulting it for the
7 purpose of cross-examination.

8 BY MR. ROGERS. Q I direct your attention, Mr. Browne, to
9 the corner of Third and Wall when you and Mr. Campbell, as I
10 recall it, got off the car, Mr. Campbell walked west on
11 Third, did he not? A Yes, sir.

12 Q You remained at Third and Wall? A yes, sir.

13 Q Mr. Campbell in his walk up towards Los Angeles, as he
14 approached Los Angeles, met Mr. Franklin? A Yes, sir.

15 Q Give me your best recollection as to how far Bert Franklin
16 was from the corner of Third and Los Angeles when you observed
17 him to meet Campbell? A I would say about 25 yards.

18 Q Then when Bert Franklin met Campbell, what happened between
19 them? A They shook hands.

20 Q Shook hands, and did they talk? A Yes, sir.

21 Q Then what happened? A Then they parted and Campbell
22 went on up Third street to Main.

23 Q Was it possible, owing to the contour of the ground, for
24 you to observe Campbell going all the way? A Yes, sir.

25 Q Now, directly, or shortly--I don't think you said direct-
26 ly, but shortly after you saw Campbell and Franklin talk with

1 each other, you went around through an alley, didn't you,
2 a vacant lot, a hardware store, and came out on Main street?

3 A After I seen Campbell turn south on Main street--

4 Q Yes. A --then I seen the direction he went in and I
5 tried to head him off.

6 Q About as long as it took Campbell to go from Los Angeles
7 to Main on Third, you remained at Third and Wall, then as
8 soon as you saw Campbell turn to go south and leave Third
9 and Wall, went through an alley, a vacant lot, a hardware
10 store and came out on some street. What street was it, Mr.
11 Browne? A Los Angeles street.

12 Q Then did you go around that Fourth street block, come
13 over to Fourth and go around on Main street? A I went up
14 to the corner of Fourth and went west on Fourth to the corner
15 of Fourth and Main.

16 Q Now, how long would you think from your recollection it
17 took you to go from Third and Wall where you were through the
18 alley through the vacant lot, through the hardware store,
19 around Fourth on Main and into the lodging house? A Well,
20 I went from Wall and Third to Fourth and Main pretty fast.

21 Q Well, of course, but I am speaking about your best judgment
22 of the time. A Less than ten minutes.

23 Q Then you went up into a lodging house? A Yes.

24 Q Climbed the stairs to the first story and into a room?

25 A Yes, sir.

26 Q Locked out of the window and Franklin was -- and White had

1 not yet passed anything to Lockwood, had he? A Not at
2 that time .

3 Q Therefore, after Campbell and Franklin met and talked,
4 Franklin was in that vicinity for about 10--about 10
5 minutes before White passed anything to Lockwood, isn't that
6 so? A Must have been .

7 Q The last you saw of him was right there at that corner,
8 wasn't it? A Going towards that saloon .

9 Q We will get to that in a moment, probably as he did .
10 That saloon was right there at the corner, wasn't it, Mr.
11 Browne, the northwest corner, isn't it? A Yes, sir .

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1 Q Third and Los Angeles. In the meantime, where was Home,
2 do you know? A Who?

3 Q George Home? A I didn't know he was there at all.

4 Q You didn't know he was there at all? A No.

5 Q Did you have anything to do with Home going there?

6 A I did not.

7 Q Don't know who sent him, who or how he got there?

8 A I did not.

9 Q Did you know that Franklin and Home went before Lock-
10 wood -- before White passed the money?

11 MR FREDERICKS: Objected to as assuming a fact not in evi-
12 dence. There is no evidence that Franklin and Home met.

13 MR ROGERS: I don't have to have evidence. I am asking if
14 he don't know that is a fact, which I may do and lead him
15 on cross-examination always.

16 THE COURT: Overruled.

17 A Knew it at that time?

18 Q Yes. A I did not.

19 Q Have you heard it since, if you did not at that time?

20 MR FORD: Whether he heard it since or not is hearsay.

21 I object to it on that ground.

22 MR ROGERS: That is right.

23 THE COURT: Question withdrawn?

24 MR ROGERS: Yessir. Now, after Franklin met Campbell
25 and had a little talk with him, did Franklin turn right
26 around and walk right back to Los Angeles, or did he walk

1 a little further down toward Wall and then turn and come
2 back? A After Campbell left Franklin , he hesitated,
3 and he started to come towards me, and I backed back in the
4 shadow of that corner there, and he stopped and turned and
5 walked out toward the curb and watched Jim go up the street,
6 and I watched the pair of them, and when Campbell turned
7 the corner of Main street, by the time he got to Main
8 street, and Franklin had got up and was coming across the
9 street to this corner.

10 Q Now, George Home, is that the same man that went East
11 after Diekleman, do you know? A Yes sir.

12 Q Do you know whether George Home was working with the
13 Burns men at that time?

14 MR FORD: Objected to as irrelevant and immaterial and
15 hearsay.

16 THE COURT: Objection overruled.

17 A George Home was not working with the Burns people to my
18 knowledge.

19 MR ROGERS: He was detailed off the City Department and
20 worked with the Burns men on the McNamara case.

21 MR FREDERICKS: We object to that being a statement from
22 counsel. If counsel wants to know who George Home was work-
23 ing for, that is another matter, but he is making a state-
24 ment here.

25 THE COURT: Read the question.

26 MR FREDERICKS: He says George Home was detailed off the

1 City Department and working for Burns.

2 MR ROGERS: Let's have the question.

3 (Last question read by the reporter.)

4 MR ROGERS: Wasn't he?

5 THE COURT: I heard it that way.

6 MR FORD: He didn't say it that way. He now has added
7 the words, "Wasn't he", himself.

8 MR ROGERS: If I didn't say it, I can say it with a rising
9 inflection of the voice, and any man with a knowledge of
10 the English language and oratory could understand what I
11 meant?

12 MR FREDERICKS: We object to it as dual in its character.

13 THE COURT: Overruled.

14 MR FREDERICKS: Two questions there.

15 MR FORD: Objected to on the further ground it is immaterial
16 and not cross-examination whether he was detailed on the case
17 has got nothing to do with the cross-examination of this
18 witness. He has asked him about George Home, if he was a
19 city detective. He said yes. He asked him if he was a Burns
20 man, and he said he was not to my knowledge. Now, counsel
21 asked him another question, "Was he detailed to work on the
22 case, and didn't he work with the Burns people." That is
23 the question he asked, in effect, and whether he was or
24 whether he worked with the Burns people, doesn't make
25 him a Burns man, nor doesn't throw any light upon anything
26 this witness has testified to.

1 THE COURT: Objection overruled.

2 MR ROGERS: Please read it including the "wasn't he" with
3 the interrogation point and rising inflection. (Last
4 question read by the reporter.) A Not to my knowledge.

5 MR ROGERS: Mr Browne, at any rate, you didn't know,
6 although you were in charge of that situation down there at
7 the corner of Third and Los Angeles streets, placing the
8 men, you didn't know that George Home was there, for what
9 purpose he was there or how he came there?

10 MR FREDERICKS: That is objected to as assuming a fact not
11 in evidence, that being -- the statement being, "Although
12 you were in charge of that situation down there". He said
13 he was in charge of a certain number of men who were down
14 there. Whether he was in charge of the situation has not
15 been in evidence.

16 THE COURT: Overruled.

17 A The first that I knew that George Home was there, was
18 when I saw him following Captain White up Third street. I
19 knew he was an officer and I turned him over to him.

20 MR ROGERS: Mr Browne, you were at that time, and are now,
21 the chief detective for the District Attorney's office,
22 isn't that your title? A Yes sir.

23 Q Well, now, those were detectives down there who were
24 working with you on that occasion, were they not, so denom-
25 inated on the books of the District Attorney's office?

26 A Yes sir.

13s

1 Q And you were their chief, weren't you? A Yes, sir.

2 Q And you were in charge of them? A I was.

3 Q Now, did you know who sent Home down there on that occasion?

4 A I do.

5 Q Who?

6 MR. FORD. Just a moment--

7 MR. FREDERICKS. Let him alone.

8 MR. Ford. All right. It is hearsay--

9 MR. FREDERICKS. Let him alone.

10 THE COURT. Go ahead, answer the question.

11 A Captain Fredericks.

12 MR. ROGERS. Q But he didn't tell you anything about it?

13 A Didn't have a chance.

14 Q Well, he didn't tell you anything about it? A He didn't.

15 Q When did you see Captain Fredericks that morning?

16 A A little after 8 o'clock.

17 Q This happened about--you got down there about half past
18 eight, didn't you? A Yes, sir.

19 Q Who else did you see down there on that occasion?

20 THE COURT. I think this is a good time to adjourn.

21 MR. ROGERS. I offer, before we conclude, I ask that this
22 be marked for identification and be placed in the custody
23 of the clerk.

24 MR. FORD. Just a moment--that is our private document. If
25 they want to introduce it in evidence that is their right,
26 but it is not going to be marked for identification to keep

1 it out of our hands.

2 THE COURT. Just a moment.

3 MR. FORD. We have no objections to it being marked for
4 identification but it is not going to be placed in the cus-
5 tody of the clerk until it is all offered in evidence. If
6 counsel desires to introduce it in evidence let them go
7 and introduce it in evidence and be read to the jury, but
8 it is not in the custody of the clerk yet. It is ours and
9 we desire to have it during the noon hour.

10 MR. APPEL. We are placing it in the hands of the court for
11 the purpose of using it after adjournment.

12 THE COURT. I cannot see what your objection is. I cannot
13 see your point.

14 MR. FORD. My objection is that it is our document and we
15 are entitled to it during the noon hour. We have a right
16 to read that over and go through it as we are working
17 every day, and they cannot simply take our document from
18 us and have it marked for identification.

19 THE COURT. It will not be taken away from you.

20 MR. FORD. But he wants it placed in the custody of the
21 clerk.

22 THE COURT. As much as any paper that is in the custody of
23 the clerk, is available to either counsel.

24 MR. FREDERICKS. Have you a copy of that up in your office?

25 MR. BROWNE. I have.

26 MR. FREDERICKS. Let them have it.

(Jury admonished. Recess until 2 o'clock P.M.)