

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.

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The People of the State of California,)

Plaintiff,)

vs.)

Clarence Darrow,)

Defendant.)

No. 7373.

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REPORTERS' TRANSCRIPT.

VOL. 23

I N D E X.

	Direct.	Cross.	Re-D.	Re-C.
✓ Samuel L. Browne,		1682	1710	
✓ George K. Home	1710	1726	1757	1764
✓ Dana D. Ong,	1768	1772		

1
2 Defendant in court with counsel.

3
4 S A M U E L L. B R O W N E,

5 on the stand for further cross-examination:

6 MR. ROGERS. Q Mr. Browne, how soon after the blowing up of
7 the Times Building were you engaged in an effort to detect
8 the perpetrators of the crime? A About 6 hours.

9 Q From that time on state whether or not you devoted your
10 self for some months to the effort to discover who, as a
11 matter of fact, did blow up the Times and where they were?

12 MR. FREDERICKS. Objected to upon the ground it is not
13 cross-examination.

14 MR. ROGERS. Preliminary to some other matters.

15 THE COURT. All right--overruled.

16 A The Times was blown up on the first of October, 1910,
17 midnight. I received orders from Mr. Ford who was then
18 acting district attorney, Captain Fredericks being absent
19 from the city, to take up the matter of this explosion.
20 I also received a telegram from Captain Fredericks from, I
21 think it was Arizona, somewhere in Arizona, that he was
22 on his way here and for me to get in touch with the situa-
23 tion and procure such evidence as I could to assist the
24 police and so forth, and acting upon that I started to in-
25 vestigate, and Mr. Ford directed me to, at that time, to
26 report to you.

1 Q Meaning who? A To you.

2 THE COURT. You mean Mr. Earl Rogers?

3 A Mr. Rogers.

4 THE COURT. Say so so the record will indicate who you mean.

5 MR. ROGERS. Well, after that, did you or not devote your
6 time exclusively for months to looking up the perpetrators
7 of the Times disaster?

8 MR. FREDERICKS. Objected to upon the ground it is not
9 cross-examination.

10 THE COURT. Overruled.

11 A I did.

12 MR. ROGERS. Q Well, as a matter of fact, who was it who
13 found out who did blow up the Times?

14 MR. FREDERICKS. Objected to upon the ground it calls for a
15 conclusion of the witness and not cross-examination.

16 THE COURT. Objection sustained.

17 MR. ROGERS. In that behalf, your Honor--will your Honor
18 withdraw the ruling for a moment?

19 THE COURT. I haven't any doubt but what it is calling for a
20 conclusion of the witness, Mr. Rogers.

21 MR. ROGERS. Q State whether or not you discovered yourself
22 the evidence showing that J. B. Brice, as he was then
23 known, as one of the persons who blew up the Times?

24
25 MR. FORD. Objected to upon the ground it is not cross-
26 examination and it is immaterial. I can't see what bearing

it has on--

1 MR. ROGERS. I will state just exactly what I am going
2 after if there is no objection to its being stated. I can't
3 state it partially, I will have to state it in full.

4 MR. FORD. Withdraw the objection; go ahead.

5 A What was the question?

6 (Last question read by the reporter.)

7 A I discovered some of it with the assistance of others.

8 MR. ROGERS. Q What others?

9 MR. FORD. We object to that as irrelevant.

10 MR. ROGERS. Q Those working under your direction, weren't
11 they? A Yes, sir.

12 Q Now, as a matter of fact, the evidence that was produced
13 before the grand jury, which led to the indictment of
14 Brice, Schmidt, Caplan and others, as a matter of fact was
15 produced and procured by yourself?

16 MR. FORD. Objected to as irrelevant and immaterial. I
17 can't see what bearing that has got on anything this witness
18 has testified to.

19 THE COURT. Exactly the same question that was presented
20 before.

21 MR. ROGERS. Discovered and produced the evidence before
22 the grand jury upon the indictment of Brice, upon the
23 indictment of Schmidt, upon the indictment of Caplan and
24 others for blowing up the Times.

25 MR. FREDERICKS. We would be willing to go into it and
26 let the matter go into the record, except it doesn't seem to

1 be pertinent or material.

2 THE COURT. I do not see the materiality.

3 Mr. ROGERS. It goes to this, Your Honor: We will show
4 that Mr. Browne, as a matter of fact, to the knowledge of
5 the defendant Darrow, as he well knew, was the man who ran
6 down the perpetrators of the Times horror. He was the
7 man who discovered J. B. Brice, he was the man who discover-
8 ed Schmidt; he was the man who discovered Caplan; he was
9 the man who produced the evidence and procured the evidence
10 which went before the grand jury upon which Brice, after-
11 wards known as McNamara, was indicted, and which led to the
12 fact that Mr. Darrow, as attorney for the McNamaras, advised
13 them to plead guilty, that such evidence was insurmountable,
14 and we further purpose to show that the defendant Darrow
15 knew all the time, when he made his statement to Mr. Browne,
16 and when he did all the talking that he did to Mr. Browne
17 that he was talking to the very man, the very chief of them
18 all, the man who most was interested in the conviction of
19 the McNamaras, the man whom most knew about it and ^{the man} whose
20 efforts did, as a matter of fact, land J. B. McNamara and
21 J. J. McNamara in the penitentiary upon a plea of guilty.
22 We purpose to show that, and we will produce Mr. Darrow to
23 say beyond question that he was aware from the transcript
24 before the grand jury which he had delivered to him and
25 in his possession, that he read from this transcript and
26 that that led to the plea of guilty, and for the purpose

1 of showing that it would be most unlikely, knowing as he
2 did that this was the very chief of them all, the very
3 man whom he had to fight and whose work he had to combat
4 all the time, that it was most unlikely that he would say
5 anything corrupt to him,
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1 or that he would say anything to him that was not -- we
2 might say, in his own behalf, that he would attempt to
3 say to him, "I will take care of you, Mr Browne." Why,
4 he might just as well have talked to the very chief of them
5 all, as Mr Browne was. Now, there cannot be any doubt
6 about it; there cannot be any question about the truth of
7 what I said, because we all know it to be true, who are hon
8 est with ourselves, and who knew something about it.

9 MR FREDERICKS: We will stipulate all of the things which
10 Mr Rogers has recited as facts, are facts.

11 MR ROGERS: Very well.

12 MR FREDERICKS: In regard to what Mr Browne had to do
13 with the apprehension and arrest -- apprehension and the
14 securing of the evidence against the McNamaras, I still
15 maintain that it is immaterial.

16 MR ROGERS: I have a right to show whether or not Mr Darrow,
17 knowing that, would be likely to say to him, "I will take
18 care of you."

19 THE COURT: It is a stipulated fact in the record now, for
20 whatever it may be worth.

21 MR ROGERS: Now, Mr Browne, let me ask you if your recol-
22 lection as to the place, the precise place where you met
23 Mr Darrow on the occasion of this conversation is very
24 clear in your mind. I want to ask you if it was not close
25 to the corner of New High and Franklin and approaching
26 the door of the Hall of Records here, this building itself,

1 that you saw? A I can tell you exactly where it was.

2 Q All right, tell us where it was. A It was on the
3 north side of Franklin street near the corner of New High
4 and east of New High, right near the entrance, the old
5 entrance to the old post-office, on the Franklin street
6 side.

7 Q After the conversation did you see whether Mr Darrow
8 then went right straight on up to the court room? A After
9 he left me he turned and started across the street, across
10 back to Franklin street, like he was going across to the
11 south side and I went around the corner and went directly
12 into the Hall of Records. I first came here --

13 Q Directly into the Hall of Records? A Yes.

14 Q Mr Darrow was here in the Hall of Records in the court
15 room of Department 9 very shortly afterwards, wasn't he?

16 A Yes sir.

17 Q How many moments?

18 MR FREDERICKS: The witness is stating from his own knowl-
19 edge, of course.

20 THE COURT: If he knows.

21 MR ROGERS: Yes, I didn't want Mr Browne to say what he
22 does not know. A I came to this room first, I
23 thought this was the room the trial was held in.

24 Q The other room? A Yes, that room. I came to that
25 room first, expecting to find Captain Fredericks. He
26 wasn't there and I went right up to his office. My recol-

1 lection is as I got on the elevator to go up there, Mr
2 Darrow got off the elevator to come in.

3 Q It was just about court time that you met Mr Darrow
4 down on Franklin and New High, wasn't it? A It was
5 shortly before 10 o'clock, just about court time.

6 Q Just before court time?

7 MR FREDERICKS: I think the expression "court time" might
8 be a little misleading as the hour was not always 10
9 o'clock. I think it was 10 o'clock on that morning, but
10 I am not sure.

11 MR ROGERS: I suppose the record will show -- he says
12 about court time -- whatever it may have been.

13 Q Do you remember whether it was half past 9 or 10 that
14 morning? A Oh, it was after half past 9, because I
15 didn't get Franklin until about that time.

16 Q Well, at any rate, you went into the court room, ex-
17 pecting to meet Mr Fredericks, because you thought he would
18 be there in attendance on the trial? A That is where I
19 expected to find him, because it was just about court time,
20 10 o'clock in the morning.

21 Q About court time. Now, I want to begin back with the
22 first time you went out to Lockwood's, and I will direct
23 your attention to that. Did I understand you to say that
24 was Saturday, the 25th of November? A Yes sir.

25 Q You had been told by someone to go there, had you not?

26 A I had received my instructions, yes sir.

1 Q Did you see Lockwood on that occasion? A I did. That
2 night?

3 Q No, at the time you received your instructions? A I
4 did.

5 Q Did he tell you where to go? A No, he did not.

6 Q Well, I mean to say, did he tell you where it was, did
7 he give you the directions as to finding the place?

8 MR FREDERICKS: That is objected to on the ground it is
9 hearsay -- it was impossible for us to go into that be-
10 cause it was hearsay, and certainly if we cannot go into
11 it the defense cannot go into it.

12 MR ROGERS: We most assuredly can.

13 THE COURT: Objection overruled.

14 A What is the question? (Question read.) He did not.

15 MR ROGERS: Did Mr Lockwood say anything about where his
16 house was situated, to you? A Yes, he did.

17 Q Now, going out there that evening, I understood you to
18 say some persons accompanied you. I am speaking now of the
19 night of Saturday, -- who was it, who accompanied you?

20 A It was Miss Hitchcock and Mr Ong and Mr Allison.

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1 Q The gentleman sitting here, Mr. Ong? A Yes, sir, and
2 Mr. Allison, and the chauffeur, a stranger that I cannot recall
3 his name.

4 Q The driver of the car? A He was driving the car.

5 Q Who is Mr. Allison? A He was then working out of the
6 district attorney's office.

7 Q Is he working there now? A Yes, sir.

8 Q When you got out there that evening, where did you dis-
9 pose yourself, where did you place yourself? A Why, we
10 passed Lockwood's house to a road that cuts across a big
11 field there and we drove out in that road and stopped, and
12 that gave me a sight up and down the road leading to Lock-
13 wood's house both ways, and we stopped over in the field
14 there and we stayed there for a while and finally I decided
15 there was no use to stay any longer, and we left.

16 Q No one came? A No one came that I know of.

17 Q When did you next go out to Lockwood's? A Monday.

18 Q Did you get any directions on that occasion? A Yes,
19 sir.

20 Q When were your directions given to you to go out on that
21 occasion? A The same day.

22 Q During the afternoon or forenoon? A During the afternoon;
23 yes, sir.

24 Q During the afternoon? A Yes, sir.

25 Q That was before Mr. Fredericks went out to the Monte, wasn't
26 it, that he gave you the directions to go out? A Yes, sir.

1 Q And that was before Franklin was telephoned to go out,
2 was it not? A Yes, sir .

3 Q At about what time inthe afternoon was it you were directed
4 to go out there? A I was at Captain Fredericks's house
5 about 2 o'clock .

6 Q And it was there and at that time you received directions
7 to go out? A I received my instructions from Captain
8 Fredericks at that time.

9 Q Did he tell you they were going to telephone to Franklin
10 to get him out there that night? A He did not.

11 Q Well, you went out there in pursuance of directions
12 received at 2 o'clock and disposed yourselves about the
13 place. Would you mind telling me again who went out with
14 you on this occasion, on Monday night? A Mr. Carey, drove
15 the machine, Mr. Allison and Mr. Ong and Mr. Campbell and my-
16 self were the balance of the party .

17 Q Mr. Carey has been inthe district attorney's office for
18 a long time, he is one of the attaches there, or whatever
19 you call them? A Yes, sir .

20 Q Detective or what not? A Yes, sir .

21 Q Mr. Allison is in the same capacity? A yes, sir .

22 Q Mr. Ong is also a detective? A yes, sir .

23 Q And Mr. Campbell is the same Mr. Campbell you spoke about
24 being down at Third and Los Angeles, that is Jim Campbell?

25 A yes, sir .

26 Q And you are chief of detectives? A Yes, sir .

1 Q Now, when you all got out there who was it that went
2 up on the water tank? A Allison.

3 Q And did anybody go up on the water tank with him?

4 A No, he went up alone.

5 Q Who was it went out and hid in the hay? A Carey and
6 Ong and Constable Hicks.

7 Q The gentleman here went in and hid in the hay? A Yes,
8 sir.

9 Q You know whether that was barley hay or not?

10 MR. FORD. We object to that as irrelevant and immaterial.

11 MR. ROGERS. I just wanted to know if he got any burrs
12 in his hair or not.

13 THE COURT. Objection sustained.

14 MR. ROGERS. I withdraw it.

15 Q Who was it--and Campbell went with you into the back
16 screen porch? A Yes, sir.

17 Q Was there an effort to get Franklin out in the barn
18 where Mr. Ong in the hay and the few others could hear him?

19 A I wanted to place him where he could see and hear what
20 was going on.

21 Q Let me call your attention to the question again: Do
22 you know of any effort that was made or was going to be made
23 to get Mr. Franklin out into the barn where Mr. Ong and others
24 of the hay brigade could hear him? A Yes, sir.

25 Q Well, you didn't get Franklin into the barn then so Mr.
26 Ong didn't hear it? A No, sir.

1 MR. FREDERICKS. Whether Mr. Ong heard anything, your Honor,
2 we move to strike out the answer.

3 THE COURT. I don't understand the answer, which question
4 is answered?

5 MR. FREDERICKS. He can't testify what Mr. Ong heard or
6 didn't hear.

7 THE COURT. Strike out the answer.

8 MR. ROGERS. Answer the question.

9 A What is the question?

10 THE COURT. I don't see how he can answer the question, Mr.
11 Rogers.

12 MR. ROGERS. I will put it in another form: You never did
13 get Franklin in close proximity to the hay loft where Mr.
14 Ong and others were?

15 MR. FORD. Objected to upon the ground incompetent--

16 THE COURT. Overruled.

17 A We got him right close to the barn under the water tank.

18 MR. ROGERS. Q Did you get him inside the barn? A No, sir.

19 Q Well, then, he turned around and went outside to the
20 road, that is, Franklin did? A Yes, sir.

21 Q And got into his machine and went away? A Yes, sir.

22 Q The next morning you came to the district attorney's
23 office at 8 o'clock, approximately, did you? A Yes, sir.

24 Q Who told you what time to go down to Los Angeles and
25 third? A That morning?

26 Q Yes. A No one that morning.

1 Q No one that morning--someone did the night before,
2 then? A Yes.

3 Q Who was it? A Mr. Lockwood.
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1 Q Told you where to go and at what time to go, didn't
2 he? A Yes sir.

3 Q Did you have any information that the "big fellow" so-
4 called, was coming out to Lockwood's that night? A I
5 did not, until after I got out there.

6 Q After you got there, did you get some? A Yes sir.

7 Q From whom? A Lockwood.

8 Q Then, you had a talk with Lockwood before Franklin
9 arrived? A Yes sir.

10 Q You told Lockwood where all these men would be, or
11 approximately, did you? A Yes sir.

12 Q So that he could conduct Franklin around into their
13 vicinity, that so? A Yes sir.

14 Q Then, when you ^{were} told by Lockwood the time and the place,
15 namely, Third and Los Angeles, and the time, quarter before
16 9 the next morning, did you notify your men that night to
17 be down at Third and Los Angeles, or did you notify them
18 the succeeding morning to be down there? A I notified
19 some that night and some the next morning.

20 Q Who, as a matter of fact, did go down to Third and Los
21 Angeles on that morning, or Third and Main, or that vi-
22 cinity? A Why, there was Mr Allison, Mr Ong, Henderson
23 and Rockwell and Campbell and myself.

24 Q Henderson and Rockwell? A Rockwell.

25 Q Well, in view of the fact that Henderson and Rockwell
26 were not out to Lockwood's the evening before you got them

1 that morning? A Yes sir.

2 Q Where; at the office? A Yes sir.

3 Q Do you know where Henderson and Rockwell disposed them-
4 selves that morning? A No, I do not.

5 Q Did you tell them where to dispose themselves? A I
6 did not.

7 Q Did you tell them what was coming off, as it were? A I
8 did, partially.

9 Q Did you intimate to them where they should go? A Yes
10 sir.

11 Q What did you say to them with that in view? A I in-
12 structed them to go to Third and Los Angeles street and get
13 in a position where they could watch the four corners and --

14 THE COURT: Have you finished that answer? A And see
15 what transpired.

16 MR ROGERS: Now, did you tell them that there was any
17 place they could esconce themselves and where they could
18 place themselves so they could see? A I left that to
19 their judgment.

20 Q So easy to say, wasn't any necessity for telling them
21 where to go. A Well, I hadn't been there to that corner
22 myself yet.

23 Q Well, did you tell Ong where to go that morning, where
24 to dispose himself so he could see the four corners of two
25 streets? A I told him the night before.

26 Q Where did you tell him to go? A To go in the bar-

1 room.

2 Q Go in the bar-room. That is, at the northwest corner?

3 A Northwest corner.

4 Q That is where Franklin went in? A Yes sir.

5 Q Why did you tell him to go in the bar-room? Do you re-
6 call it? A I thought it would be a good place to go.

7 Q Well, under ordinary circumstances, yes, but under the
8 circumstances, did you tell him to go into the bar-room?

9 Did you know Franklin? A Yes sir.

10 Q Did you look for Franklin to show up in the bar-room
11 during the proceedings? A Well, I understood he would be
12 in that vicinity.

13 Q Are you testifying now from your knowledge of Franklin,
14 or just from your knowledge of human nature? A Both.

15 Q Well, did you tell anybody else to go in the bar-room
16 and wait for Franklin to show up in the bar-room?

17 A I did not.

18 Q Now, that is Mr Henderson and Mr Rockwell and Mr Ong.
19 Who else was down there? A Allison.

20 Q Did you tell Allison where to esconce himself? A No
21 sir.

22 Q You left that to his judgment? A We discussed what
23 he should do; he was riding a motorcycle.

24 Q We have found the man with the motorcycle. He was the
25 man with the motorcycle, was he? A Yes sir.

26 Q Where was he at the time this came off? A He was there

1 in the street.

2 Q Well, Mr Browne, when you went down on the street car
3 with Campbell, did you see Allison in the street there any-
4 where? A Didn't see any of them.

5 Q What is the first time you saw Allison show up with the
6 motorcycle? A The first I saw Allison was when he went
7 across the street.

8 Q What street, please? A He went across Third street
9 towards the corner of Third and Los Angeles, towards the
10 northeast corner.

11 Q But was his motorcycle thereabouts? A It was on the
12 curb.

13 Q Standing on the curb. For once it was quiet, I assume.
14 Well, now, you and Mr Campbell, after you had made this
15 circuitous trail around from Third and Wall through the
16 vacant lot -- the alley -- the vacant lot, the hardware
17 store, around Fourth street and up into a building, you
18 went into a room, as I understand you, in a lodging house,
19 and looked out the window? A No sir, I went on a landing.

20 Q Landing. What do you mean by a landing; fire-escape
21 landing? A Landing of the first floor and the stairway.
22 The stairway comes up spirally, and there is a landing
23 that leads to this window.

24 Q What window was that; window in a room or in the hall-
25 way? A In the hallway off the landing.

26 Q Had you been there before? A Never had.

1 Q Had Mr Campbell? A Not that I know of.

2 Q How did you know that you could see the corner of
3 Third and Los Angeles from this window? A I saw that
4 window in that place when I first went down there.

5 Q Sized it up as a place you could see from. How far
6 was that from the corner of Third and Los Angeles? A Just
7 a block.

8 Q Now, you say that you saw Mr White pass something to
9 Mr Lockwood. Would you be kind enough to describe what
10 you saw at that time, immediately before and immediately
11 surrounding the act of passing something from White to
12 Lockwood?

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1 A Mr. Lockwood came up Los Angeles street coming from the
2 south and walked over to the northeast corner of Third and
3 Los Angeles street and stood there. Mr. White crossed,
4 from the other corner, from the northwest corner, and
5 walked over to him, and they both went right together, went
6 right up together, just for a few minutes, and Lockwood put
7 his hand in his pocket.

8 Q You mean Lockwood? A Lockwood. White's back was to me
9 sideways. Lockwood put his hand in his pocket and then taken
10 it out again, and let this hand this way. By this time
11 White--they had switched around, White had his back north on
12 Los Angeles street and Lockwood had his back south on Los
13 Angeles street.

14 Q That would be sideways to Third? A Sideways to me, and
15 I was looking down Third street. Lockwood held his hands
16 this way a few moments and put his hand back in his pocket
17 like that, and White backed away from him towards--there is
18 a store there on the corner, and he walked away from him
19 just a few feet with his two hands in front of him. I could
20 see his back as he walked with his back from me. He turned
21 around and came back and he had his hands together and he
22 said something to Lockwood, and they both came across the
23 street, and White put his two hands down in his pants
24 pocket this way--put both hands down in his pocket, and he
25 still had them in his pocket when I got him and turned him
26 over to George Home.

1 Q Now, the first motion you noticed when Lockwood and
2 White came up there was that Lockwood put his hand in his
3 own pocket? A I couldn't see White's hands.

4 Q The first motion you noticed when the two met, was that
5 Lockwood put one hand in his pocket? A Yes, sir.

6 Q And then held his hands up in front of him this way
7 (indicating)? A Up in front of him.

8 Q Then you saw White walk away? A Walk away from him a
9 short distance.

10 Q What did you see Lockwood do while he had his hands
11 up in front of him this way, or was White between you and
12 him part of the time? A No, he turned sideways.

13 Q Who did the first turning, Lockwood or White, do you
14 know or can't you recall? A I cannot recall that.

15 Q Then, after Lockwood had put his hands in his pocket or
16 hand in his pocket, in his own pocket and pulled his hands
17 out and held them in front of him, White turned away and
18 came back--do you know what Lockwood pulled out of his pocket
19 on that first occasion, the first motion that was made? A I
20 do not.

21 Q Do you know what pocket he put his hand in, the first
22 thing he came up to White? A He put it in his right hand
23 pants pocket.

24 Q And then drew it out and held his hands together, as
25 you have illustrated. Did you see White--then you saw White
26 go away, did you? A I did. White left him at that time.

1 Q And where did White go? A He walked away from him a
2 few paces.

3 Q And looked at something, didn't he? A I don't know, his
4 back was to me, his hands was in front of him, I couldn't
5 see his hands at his side.

6 Q Do you know what Lockwood put his hand in his pocket for
7 the first thing he come up there before White turned around
8 and walked away? A I do not.

9 Q Do you know what he had in his hand? A I do not.

10 Q Do you know why he did it? A No, sir.

11 Q Now, when Lockwood put his hand in his pocket, then app-
12 roached, came up to White and they stood there a moment,
13 together a brief time, after Lockwood put his hand in his
14 pocket White's back was towards you, wasn't it? A Yes, sir.

15 Q And wasn't he between you and Lockwood for a few seconds?

16 A When he first went to Lockwood his back was to me and I
17 couldn't see what he did, but they went right together, the
18 two of them.

19 Q They went right together after Lockwood put his hand
20 in his pocket? A All at the same time.

21 Q Then Lockwood put his hand in his pocket and the two of
22 them were together and White's back was towards you, then
23 White walked over to one side. Was White looking at his
24 hands then when he walked away? A I couldn't say; I
25 couldn't see his hands. His hands was in front of him this
26 way. (Indicating.)

1 Q His hands were in front of him, as you illustrate,
2 across your chest. Then after White walked away for a few
3 minutes did he appear to have his head turned down looking
4 at his hand? A He appeared to me as looking at something.

5 Q In his hand? A I should judge so, yes, sir.

6 Q Then White turned around and came back to Lockwood and
7 handed him something, so? A No, sir.

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1 Q What happened then? A When White came back, Lockwood
2 had put his hand back in his pocket, whatever he had in his
3 hands, Lockwood put his hand back in his pocket, after
4 he had left him. When White came back, he didn't hand him
5 anything.

6 Q When was it Lockwood dropped the bill? A I never saw
7 him drop it.

8 Q Didn't see Lockwood drop a bill at all? A No sir; no
9 sir.

10 Q Didn't Lockwood stoop over and pick something up?

11 A I never seen him do it.

12 Q Where did you say White went, Mr Browne? A He walked
13 away from him just a few feet.

14 Q Which way, Mr Browne? A Well, he walked a little
15 north on Los Angeles street.

16 Q Would you be kind enough to illustrate with me, if you
17 please, sir -- I dislike it, but I will try to impersonate
18 Mr Lockwood.

19 MR FORD: I suppose he dislikes it, too, just as much, I
20 expect.

21 MR ROGERS: That is a very cheap come-back.

22 MR FORD: That was a very cheap start.

23 (Counsel and witness illustrate on floor.)

24 A Well, this is coming up Los Angeles street, south.

25 MR ROGERS: yes sir. A I am over in that corner.

26 Q A block away. A A block away. Lockwood come over

1 here and stopped, White walked across the street to him
2 this way (illustrating).

3 Q At that time Lockwood had put his hand -- A Right
4 at the time.

5 MR FREDERICKS: No sir, that is not what the witness said.

6 MR ROGERS: He tells me, I am asking a question.

7 MR FREDERICKS: But, don't you tell him; don't you tes-
8 tify.

9 MR ROGERS: I can ask him questions.

10 THE COURT: Let the witness answer.

11 A White walked up to Lockwood this way; just as we got
12 together, I saw Lockwood's arm and shoulder come down to
13 his right-hand side this way, when White come back this
14 way Lockwood was standing like this, and White was stand-
15 ing about like that (illustrating); whatever Lockwood had
16 in his hand he had taken and put it back in his pocket,
17 he stood about in this shape (illustrating.)

18 Q Now, what did White do then? A White was up beside
19 of him, walked, I will show the distance he walked --
20 White walked like this away from me, and when he was turned
21 he put his hands in both pockets like that, he walked right
22 back to Mr Lockwood and they both come across the street.

23 Q Now, did you know that Mr White says that he went over
24 there to count a \$3500-roll, when he went away from Mr
25 Lockwood.

26 MR FREDERICKS: We think that question is immaterial and

1 we will object to it on that ground, which is, he knows
2 that Mr White says.

3 THE COURT: Objection overruled.

4 A I don't know what Mr White said.

5 MR ROGERS: You were not here. Now, after White went over
6 there, turned away and went over to one side of Lockwood,
7 did Mr White hand Lockwood anything after he went over
8 there by himself separately? A Not that I seen.

9 Q So any handing that was done between the two was be-
10 fore Mr White walked away a little ways up Los Angeles
11 street, wasn't it? A As far as I could see.

12 Q And you were looking at them, I take it, rather intent-
13 ly? A I was looking at them pretty close.

14 Q Now, Mr Browne, do you have any recollection of the
15 name of the house you went into, and out of the window of
16 which you looked? A I don't think I ever knew its name.

17 Q Could you give us the number on Third? A No, but I
18 can tell you it is right on the corner.

19 Q Corner of which street? A It is on the corner of
20 Third and Main.

21 Q And in the second story? A It would be on the south-
22 east corner.

23 Q Southeast corner. Which stairway did you go up?

24 A We went in from the Main street side.

25 Q Did you pass to the east or to the west when you went
26 up the stairway? A My recollection is that stairway

1 goes east.

2 Q Now, was Campbell there during the time you were look-
3 ing out of the window? A Yes sir.

4 Q Now, previous to this occasion at Third and Los Angeles
5 street, did Mr Lockwood tell you whether he had picked
6 the corner to meet Franklin on, or whether Franklin had
7 picked the corner? A He told me Franklin had.

8 Q Did Mr Darrow or Mr Franklin say one word to each other
9 on Main street that morning when you say Darrow came
10 across the street to Franklin, turned around from Lock-
11 wood and stepped over towards him? A I didn't hear any-
12 thing.

13 Q How close were you to Mr Franklin when Mr Darrow came
14 across the street? I understood you to say he was coming
15 diagonally, didn't I? A Yes sir.

16 Q That would be in the southerly direction? A Yes sir.

17 Q From the northwest towards the southeast? A Towards
18 the southeast.

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1 Q How close were you to Franklin when he stepped up to
2 Mr. Darrow? A About 10 feet, I should judge. I was right
3 there.

4 Q Was anybody between you and Mr. Darrow then? A Only
5 Franklin.

6 Q What? A Only Franklin.

7 Q Anybody between you and Franklin? A Not that I remember.

8 Q Mr. Darrow's office was right at the corner of Second and
9 Main, wasn't it, in the Higgins Building? A I believe so.

10 Q And Mr. Harriman's office, campaign headquarters,--if I may
11 illustrate what I mean--

12 MR. FREDERICKS. Get a blackboard and draw the whole thing
13 out if you want to.

14 MR. ROGERS. That is a fairly good suggestion. Q Mr. Darrow's
15 office, we will say, is in the Higgins Building at the north
16 west corner of Second and Main, isn't it, that is correct, is
17 it not? A Yes, sir.

18 Q And Mr. Harriman's campaign headquarters were down on
19 Main street a block and a little more, just by Third and
20 on the opposite side of the street, weren't they? A I
21 believe so.

22 Q Well, practically the direct route from Mr. Darrow's office
23 to Mr. Harriman's campaign headquarters and office was right
24 down right diagonally across Main street and then down the
25 east side of Main to Mr. Harriman's office, and about a block
26 and a quarter? A Yes, sir.

1 Q Oh, I forgot to ask you, when you said, "You will have
2 to see the Big Smoke," did you mean Jack Johnson? A No,
3 sir.

4 Q Well, what "Big Smoke", did you mean? A Captain Freder-
5 icks.

6 MR. ROGERS. That is all.

7

8 REDIRECT EXAMINATION.

9 Mr. FREDERICKS. Mr. Browne, did Mr. Lockwood hand anything to
10 Captain White that morning when they were standing on the
11 corner of Third and Los Angeles street? A No, sir.

12 MR. FREDERICKS. That is all.

13

14 G E O R G E K. H O M E,

15 called as a witness on behalf of the prosecution, having
16 first been duly sworn, testified as follows:

17 DIRECT EXAMINATION.

18 BY MR. FREDERICKS. Q What is your name? A George K.
19 Home.

20 Q Now, Mr. Home, what is your business? A Police officer,
21 City of Los Angeles.

22 Q Are you a Burns detective? A Sir?

23 Q Are you a Burns detective? A I am not; no, sir.

24 MR. ROGERS. I object to that as an insult to the witness,
25 your Honor please.

26 MR. FREDERICKS. Well, it isn't an insult to belong to the

1 detective agency that is doing more to clear up crime
2 in this country than any other one agency .

3 THE COURT. I suppose Mr. Rogers was facetious, which is out
4 of place.

5 MR. FREDERICKS. Q Mr. Home, how long have you been a Los
6 Angeles police detective? A I been in the detective bureau
7 between five and six years.

8 Q How long have you lived here in Los Angeles? A About
9 25 or 26 years, somewhere along there.

10 Q What was your business in the month of November, 1911?

11 A I was a police detective, City of Los Angeles.

12 Q Do you know Bert Franklin? A I do, yes, sir.

13 MR. FREDERICKS. Your Honor, there is an exhibit I am
14 looking for to use with this witness and if the Court is
15 going to take a recess at all this afternoon, it should be
16 taken now for five minutes while I am hunting for it. I
17 will go along until--I can use up a good deal of time.

18 THE COURT. I would rather divide up the afternoon.

19 MR. FREDERICKS. Q Calling your attention to the 28th day of
20 Last November, Tuesday, in the morning, state whe ther or
21 not you came--where you went when you first went to work that
22 morning? A I went to the district attorney's office in the
23 Hall of Records.

24 Q State whether or not you had been detailed temporarily or
25 otherwise to work with the district attorney's office at
26 that time? A I had been; yes, sir.

1 Q Do you remember what time you got to the district attor-
2 ney's office that morning? A About 25 minutes of 9, I
3 think.

4 Q And do you remember who you saw when you got to the dis-
5 trict attorney's office that morning? A I do; yes, sir.

6 Q Who? A Mr. Fredericks, district attorney.

7 Q How long did you remain there in the district attorney's
8 office that morning at that time? A Just a moment or so,
9 probably two minutes.

10 Q State whether or not you got any directions from the
11 district attorney at that time as to where to go, where
12 you should go? A I did; yes, sir. ✓

13 Q Now, up to that time, Mr. Home, state whether or not you
14 had ever received any information or intimation of any
15 kind or description that there was--as to what you were
16 going to be assigned to do that morning? A I had none. ✓

17 MR. APEEL. Wait a moment--the witness knows better than
18 that. We object to that on the ground it is incompetent,
19 irrelevant and immaterial for any purpose whatsoever; has
20 no bearing in this case by reason of this witness's mind
21 at that time, what prior thereto, has nothing to do with
22 this case, it is not--

23 THE COURT. Objection sustained. Strike out the answer.

24 MR. FREDERICKS. Q Now, Mr. Home, after you had talked or
25 had been talked to there, after conversing in the district
26 attorney's office, which you have narrated, where did you go?

1 A I went down to the corner of Third and Los Angeles streets,
2 this city.

3 Q And what route did you take on the way down there? A I
4 think I went down Spring street to Second, down Second to
5 Los Angeles, down Los Angeles to Third.

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1 Q On what side of Los Angeles street did you go when you
2 went down Second or Third? A On the west side of the
3 street.

4 Q Do you know what building there is on the northwest
5 corner of Los Angeles and Third, what business there is
6 there? A There is a saloon directly on the corner.

7 Q Now, when you got to the corner of Third and Los Angeles
8 where did you go? A I went immediately into the saloon.

9 Q On what entrance did you go in? A The side entrance.

10 Q Is that the entrance on the corner or the entrance on
11 Los Angeles street? A Well, it is on the corner, it is a
12 corner entrance.

13 Q Do you know George Lockwood? A I do, yes sir.

14 Q Did you see him there that morning when you got to the
15 corner? A When I got to the corner Mr Lockwood was stand-
16 ing on the northeast corner of Third and Los Angeles
17 street near the curb line.

18 Q What did you do when you went in the saloon? A I
19 walked back near the back end of the saloon and saw Mr
20 Franklin. I went over to the telephone booth, or not booth-

21 Q Did Mr Franklin see you at that time? A He did not,
22 no sir.

23 Q Where was he? A He was in the gent's toilet.

24 Q And after you saw Mr Franklin, where did you go?

25 A Immediately walked back about at the end of the bar,
26 and behind the ice chest or at the side of the ice chest

1 where there is a shelf with two telephones place thereon.

2 Q What did you do? A I stood there a few minutes until
3 Mr Franklin passed out of the side door of the saloon on
4 Third street.

5 Q What way were you facing when Mr Franklin passed out of
6 the side door on Third street, with reference to the wall
7 of the saloon? A I was standing against or partially
8 towards the west, and my body was towards the wall on the
9 north.

10 Q Was your face in view of Mr Franklin when he went
11 by? A No, it was not.

12 Q Well, after Mr Franklin went out of the --

13 MR APPEL: I think he ought to tell where his face was at
14 that time and let the jury determine whether it was in evi-
15 dence or not.

16 MR ROGERS: How can he tell what was in Mr Franklin's view?

17 MR FREDERICKS: Very well.

18 THE COURT: Gentlemen, there is no objection. Proceed
19 with the examination.

20 MR FREDERICKS: When Mr Franklin went out of the door lead-
21 ing on to Third street, where did you go? A I walked
22 into the recess -- there is a wall on the east side of
23 this little runway that leads to this side door; I walked
24 in there where I could see Mr Franklin's back.

25 Q Where was he then? A He was standing near a telegraph
26 pole on the sidewalk near Third street and facing towards

1 the east.

2 Q Did you observe anybody over on the other corner or
3 any of the corners at that time? A Not at that very time,
4 no sir. I couldn't see from there. I couldn't see the
5 corner from there.

6 Q What did you observe from then on? A Mr Franklin
7 took a few steps east, and I walked down through the saloon
8 to the front door and out onto the sidewalk.

9 Q Which sidewalk? A Well, it is really right on the
10 corner, right next to the building. I could see that Mr
11 Lockwood had left the northeast corner, and I looked around
12 the building and Mr Lockwood and Mr Franklin and Captain
13 White were standing together, about middle way between
14 the front entrance of the saloon and the side entrance, out
15 of which Mr Franklin had just come.

16 Q Do you know when Mr Franklin first --

17 MR ROGERS: May I have that answer, just a moment; who was
18 standing together? (Last answer read by the reporter.)

19 MR FREDERICKS: When did Mr Franklin first see you?

20 MR ROGERS: That is objected to as a conclusion or opin-
21 ion; incompetent, irrelevant and immaterial. This man can-
22 not say by any peradventure, when Mr Franklin saw him first.

23 THE COURT: Objection sustained.

24 MR FREDERICKS: When did you first notice Mr Franklin
25 looking at you? A Shortly after I came out of the saloon,
26 and stood there on the corner.

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1 Q Where was White and Lockwood at that time? A Right
2 nearly with their backs towards me.

3 Q Then what occurred? A The three turned and started
4 to walk west on Third street, and Mr White dropping slightly
5 behind.

6 Q What did you do then? A I followed them.

7 Q Then what occurred? A Mr Browne and Mr Campbell came
8 across the street up near -- pretty close to Main street
9 and motioned to me to arrest Mr White, but he being a lit-
10 tle slightly in advance of me he touched Mr White on the
11 arm and turned him over to me, and then went ahead.

12 Q And at the time you arrested White, where had Frank-
13 lin and Lockwood gone? A They just turned north on Main
14 street.

15 Q Around the corner? A Around the corner, north on
16 Main.

17 Q Then, what did you do? A I brought Mr White over
18 Third street to Spring and we took a car and rode to
19 Franklin street, took him up in the elevator to the Dis-
20 trict Attorney's office.

21 Q State who was present in the District Attorney's of-
22 fice -- I withdraw that -- State whether or not there was
23 any money turned over to the District Attorney in that of-
24 fice at that time by anybody? A There was, yes sir.

25 Q By whom, and how much? A There was a \$500-bill
26 turned over by Mr Lockwood. There was three thousand dol-

1 lars first turned over by Mr White, and then 500 -- and
2 then another \$500-bill turned over to the District Attorney.

3 Q By Mr White? A By Mr White, yes sir.

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1 MR. FREDERICKS. We think there is another exhibit in
2 the case that we have been hunting for.

3 THE COURT. Gentlemen of the jury, bear in mind the admoni-
4 tion given you. We will take a recess at this time for
5 ten minutes.

6 (Here the court took a recess. After recess. Jury returned
7 to court room.)

8
9 G E O R G E H O M E,

10 on the stand for further examination:

11 THE COURT. You may proceed, gentlemen.

12 MR. FREDERICKS. The clerk is not present.

13 THE COURT. It is not necessary for the clerk to be pre-
14 sent at this moment, unless you have some particular pur-
15 pose.

16 BY MR. FREDERICKS. Q Mr. Home, that day, that morning, the
17 28th of November, up in the district attorney's office as
18 you have described, a certain amount of money was handed
19 over by Captain White and a certain amount was handed over
20 by Mr. Lockwood, to whom was this money given? A To the dis-
21 trict attorney.

22 Q State whether or not you could identify those bills
23 that were handed by Captain White to the district attorney.

24 A I could, through a memorandum that I made at that time.

25 Q Did you make a memorandum at that time? A I did; yes,
26 sir.

1 Q of what did that memorandum consist? A It was made
2 on an envelope which was handed to me by the district attor-
3 ney, and the district attorney called off the numbers on the
4 different bills to me, and I put them down.

5 Q Did you also observe the numbers of the bills to ascertain
6 whether the correct numbers were called off? A I did;
7 yes, sir.

8 MR. FREDERICKS. We have shown ^{to} counsel for defense a docu-
9 ment. Q I now ask you, Mr. Home, showing you a document,

10 and ask you if you know what it is? A I do; yes, sir.

11 Q What is it? A It is a memorandum of the numbers, of the
12 different bills called off to me in the district attorney's
13 office that morning.

14 Q Now, I hand you, Mr. Home, what purports to be a thousand
15 dollar bill, and ask you if you can identify that? A That
16 is one of the bills that was in the district attorney's office
17 that morning.

18 Q And gotten from whom? A That one came from Mr. White.

19 Q From Mr. White? A I t did; yes, sir.

20 MR. FORD. Read the number in the record.

21 MR. FREDERICKS. Well, I have not introduced it in evidence
22 yet. I hand you another bill and ask you if you can iden-
23 tify that? A I can; yes, sir. That is one of the
24 bills that was in the district attorney's office that morning.

25 Q Handed to the district attorney by whom? A Handed to
26 the district attorney by Mr. White.

1 Q I show you another bill and ask you if you can identify
2 that. A That is also one of those bills Mr. White had,
3 handed to the district attorney.

4 Q I hand you another bill and ask you if you can identify
5 that? A That is also one of them.

6 Q I hand you another and ask you if you can identify that.
7 A That is also another.

8 MR. ROGERS. Is the witness making a memorandum on the memo-
9 randum? A I am just checking them off.

10 BY MR FREDERICKS. Q I hand you another bill and ask you
11 if you can identify that? A That is also one.

12 MR. FREDERICKS. We now, may it please the court, offer these
13 bills in evidence in this case. Do you want to see them?

14 MR. ROGERS. Are they any different from those I had myself?

15 MR. FREDERICKS. A little bigger, possibly. I will read the
16 numbers of the bills and the denominations: \$1000 bill,
17 A 6335; \$500 bill, C, 60895; \$500 bill, No. C 72583;
18 another \$500 bill, No. C, 62865; another \$500 bill No. C,
19 20406; another \$500 bill, No. C 23172.

20 MR. FORD. What is the exhibit number?

21 THE CLERK. People's Exhibit No. 12.

22 MR. Fredericks. We offer those bills, amounting to \$3500 as
23 People's Exhibit No. 12.

24 THE COURT. Unless there is objection, I will direct the
25 clerk to put them in an envelope and seal them and put a
26 piece of sealing wax on them and deposit them in the clerk's

1 office subject to be called upon at any time, in the vault
2 of the clerk's office.

3 MR. ROGERS. Yes, sir.

4 (Bills above referred to handed by counsel to the clerk.)

5 MR. FREDERICKS. Q I now show you another bill and ask
6 you if you can identify that? A I can, yes, sir.

7 Q What is it? A That is a bill given to the district
8 attorney by Captain Lockwood on that morning.

9 Q On that morning? A Yes, sir.

10 MR. FREDERICKS. Q We now offer this bill in evidence, may
11 it please the court.

12 MR. ROGERS. Captain Lockwood, did you say?

13 A I said, "Captain Lockwood". I used to know him by that
14 title.

15 MR. FREDERICKS. We offer this bill in evidence, may it
16 please the court.

17 THE CLERK. People's Exhibit 13.

18 THE COURT. The bill will likewise be placed in an envelope
19 and sealed and put in the vault in the Clerk's office subject
20 to call by either party when needed for the purpose of this
21 trial.

22 MR. FREDERICKS. And the number is C 61827, for \$500.

23 MR. ROGERS. I will withdraw my objection, if your Honor
24 please, to the question, "Did Mr. Franklin see you before he
25 left the saloon," or words to that effect--I objected to the
26 question.

1 THE COURT: The question was, "When was the first time Mr
2 Franklin saw you that morning?"

3 MR ROGERS: No sir, as I recall it --

4 THE COURT: That is my recollection of the question.

5 MR FREDERICKS: The objection is withdrawn; it is all right,
6 but we have covered the matter with other questions and
7 answers, to our satisfaction.

8 MR ROGERS: I would like the question read.

9 (Record read.)

10 MR ROGERS: We withdraw the objection.

11 MR FREDERICKS: We withdraw the question. We have covered
12 it.

13 THE COURT: The question is withdrawn.

14 MR ROGERS: Do you withdraw the question?

15 MR FREDERICKS: Yes.

16 MR FREDERICKS: Mr Home, do you know a young man by the
17 name of Diekelman? A Yes sir.

18 Q State whether or not you made a trip East the latter
19 part of September last year?

20 MR ROGERS: Just a moment.

21 MR APPEL: We object to that upon the ground it is incom-
22 petent, irrelevant and immaterial, and hearsay, and not
23 tending to prove any issue in this case and no foundation
24 laid.

25 THE COURT: Just read that question. (Last question read
26 by the reporter.)

1 MR FREDERICKS: Preliminary question.

2 THE COURT: Objection overruled.

3 MR APPEL: We except.

4 A I did, yes sir.

5 MR FREDERICKS: Do you remember the date when you left Los
6 Angeles? A I can't recall the date now, no sir. Not the
7 exact date.

8 Q Well, state whether or not you went straight through
9 at one trip, and how far you went? A I went to Kansas
10 City ; from there to Chicago; back to Kansas City the next
11 day.

12 Q State whether or not you met Mr Diekelman on that trip,
13 if so, where?

14 MR APPEL: Wait a moment. We object upon the ground it
15 is incompetent, irrelevant and immaterial, hearsay, no
16 foundation laid, not tending to prove any issue in this
17 case; collateral to any issue in this case.

18 THE COURT: Overruled.

19 MR APPEL: We except. A I first met him in Kansas City.

20 MR FREDERICKS: And after you met him in Kansas City,
21 where do you both go?

22 MR APPEL: That is objected to upon each and all of the
23 grounds stated in our last objection to the previous ques-
24 tion.

25 THE COURT: Overruled.

26 MR APPEL: We except.

1 A I put him on the train.

2 MR FREDERICKS: Did you come with him? A I came with him.

3 Q Where did you come to? A On the Santa Fe train leav-
4 ing there about 8:30 in the morning, I came straight
5 through to Los Angeles.

6 Q How long were you gone from the time you left Los
7 Angeles until you got back?

8 MR APPEL: The same objection.

9 THE COURT: Overruled.

10 MR APPEL: We except.

11 A With the exception of about 12 hours, I was on the train
12 continuously. I couldn't state the number of days.

13 MR FREDERICKS: Going and coming? A Going and coming.

14 Q What did you go back to Chicago for?

15 MR APPEL: We object upon the ground it is incompetent,
16 irrelevant and immaterial for any purpose, hearsay, con-
17 clusion of the witness, not binding upon the defendant:

18 THE COURT: Objection sustained.

19 MR FREDERICKS: Did you have any other business in the East
20 except to bring Mr Diekelman back?

21 MR APPEL: Wait a moment. We object upon the same ground
22 stated, and upon the ground he is asking the question
23 virtually to avoid the ruling of the court. It is imma-
24 terial for any purpose.

25 THE COURT: Objection sustained.

26 MR FREDERICKS: Did you do anything else on your trip ex-

1 cept to bring Mr Diekelman back?

2 MR APPEL: The same objection as last.

3 THE COURT: Objection sustained.

4 MR FREDERICKS: Cross-examine.

5

6 CROSS-EXAMINATION

7 MR ROGERS: Mr Home, did I understand you to say that Mr
8 Franklin didn't see you before you left that saloon that
9 morning? A To the best of my knowledge, and belief, he
10 did not.

11 Q How long have you been a detective, Mr Home? A About
12 six years, between 5 and 6 years.

13 Q How long have you known Bert Franklin? A Probably
14 15, 18 or 20 years; somewhere around there.

15 Q Bert Franklin had met you in your professional capacity
16 had he not, from time to time? A Yes sir.

17 Q Bert Franklin knew you were a detective, did he not?

18 A I believe he did.

19 Q Mr Home, you had been engaged in the McNamara case, had
20 you not? A To some little extent, yes sir.

21 Q When did you first commence to be engaged in that Mc
22 Namara Case? A About 6 o'clock on the morning of October
23 1st.

24 Q That is the morning of the tragedy? A Yes sir.

25 Q You were up in San Francisco a long time, alone with
26 Mr Browne, weren't you? A And Mr Rogers, yes sir.

1 Q I didn't ask you for that, but along with Mr Browne,
2 weren't you? A Yes sir.

3 Q And from that time on, the time you went to San Fran-
4 cisco with Mr Browne and others, you were engaged most of
5 the time connected with the McNamara case? A Off and on,
6 yes sir.

7 Q When you got back to Kansas City or Chicago on that
8 occasion that you have referred to, did you meet Mr Bitt-
9 inger? A Not in Chicago.

10 Q You met him in Kansas City, didn't you? A I did, yes
11 sir.

12 Q Did you meet anybody else in Kansas City along with Mr
13 Diekelman? A Yes, I met two or three men, I don't just
14 recall their names.

15 Q Along with Mr Diekelman? A And Mr Bittinger and Mr
16 Diekelman came into an office where I was, I believe they
17 were alone.

18 Q What office was that where they were? A The office
19 of William J. Burns Detective Agency.

20 Q Office of whom? A William J. Burns, Detective
21 Agency.

22 Q When you went to Chicago, did you go to the Burns De-
23 tective Agency? A I did, yes sir.

24 Q When you went to Kansas City, you went to the Burns
25 Detective Agency, did you? A I did, yes sir.

26 Q And when Mr Diekelman showed up, he showed up with

1 Mr Burns, a Burns detective, didn't he? A I understand
2 Mr Bittinger is a detective sargeant of the city of
3 Chicago.

4 Q Since when? A Ever since I have known him.

5 MR FREDERICKS: Mr Bittinger will be on the stand; I sup-
6 pose he can testify to his position.

7 MR ROGERS: Very well, we will interrogate Mr Bittinger
8 on that subject. Now, what did you go to the Burns Detec-
9 tive Agency for in Kansas City, to get Mr Diekelman? A I
10 got a telegram while I was on the train Mr Diekelman would
11 meet me at the Midland Building, giving the number of the
12 room, Kansas City.

13 Q Who sent you that telegram? A I cannot just recall
14 at the present time, but I think it was Raymond J. Burns.

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11s 1 Q He telegraphed you that Mr. Diekelman would meet you at
2 the Midland Building in Kansas City, giving a certain
3 number and subsequent developments proved that was the office
4 of the Burns detective agency, so? A That is correct.

5 Q Did Mr. Bittinger or any of the Burns men come west with
6 you on that occasion with Mr. Diekelman? A They did not,
7 to my knowledge.

8 Q Coming from the Burns Detective Agency from Kansas City
9 down to Third and Los Angeles street, I attract your mind
10 therefor a moment. You say that not to your knowledge
11 Bert Franklin--did Bert Franklin see you before you went
12 in the saloon? After you went in the saloon did you go back
13 to the toilet? A I went back to the toilet but I did not
14 go in.

15 Q Went back to the toilet. Are you very sure you didn't
16 enter the door of the toilet? A I am perfectly sure.

17 Q Who was inside the toilet? A Bert Franklin was the only
18 man I saw.

19 Q Did you see Franklin elsewhere than in the toilet in
20 that saloon? A I saw him as he passed out the side door
21 onto Third Street.

22 Q Well, now, you say you don't think to the best of your
23 knowledge he didn't see you. I will ask you if this is not
24 a fact. I read from page 540 of the transcript of Bert
25 Franklin at this trial, volume No. 7, page 540, "I walked
26 about 50 feet farther and turned around and stood there

1 until I saw Mr. Campbell pass the center of the block between
2 Main and Los Angeles street, when I turned and walked back.
3 --rather, I walked back towards Third and Los Angeles,
4 crossing the street west, going east about 50 feet on Third
5 street from Los Angeles on the south side of the street. I
6 crossed over and about that time I saw Mr. Home, a detective
7 from the police station. I walked straight across the
8 street and into the rear entrance of the saloon at the north-
9 west corner of Third and Los Angeles, coming out quickly
10 and looking to the corner I saw Mr. Home looking around the
11 corner in that direction." So when you said Bert Franklin
12 didn't see you before you went into the saloon you were
13 flattering yourself some, weren't you?

14 MR. FORD. Objected to as not tending to impeach any
15 testimony the witness gave on this occasion. All he can
16 testify to is the first time he noticed Bert Franklin look-
17 ing at him. What Franklin knows is not a matter of knowledge
18 within this witness's knowledge, and whether or not he is
19 flattering himself is absolutely irrelevant and immaterial
20 and not cross-examination.

21 MR. ROGERS. Your Honor please, the question is directed
22 to a number of questions asked by the district attorney
23 endeavoring to get this witness to say that Mr. Franklin
24 could not by any peradventure have seen him in the saloon
25 or before Franklin went out of the saloon. You will
26 remember he said he was around at the telephone booth and

1 that his face was in a certain place.

2 THE COURT. Mr. Rogers, I think the form of the question--

3 MR. ROGERS. The form of the question may be, I will change
4 the question. Then the objection may be good to that.

5 Q So when you said that Bert Franklin, to the best of your
6 knowledge, didn't see you until after he left the saloon,
7 you were not aware of what Bert Franklin had testified at
8 this trial?

9 MR. FREDERICKS. Objected to upon the ground it is incompetent,
10 irrelevant and immaterial and I call the court's attention
11 to the testimony of this witness where he says that he came
12 down on Los Angeles street and at the time he, walking south
13 on Los Angeles street, got to the corner, Lockwood was already
14 on the other corner. The testimony shows that when Lockwood
15 was already on the other corner, White was coming across the
16 street to meet him.

17 THE COURT. Objection overruled.

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1 THE COURT: Can you answer the question without its being
2 read? A No, I cannot. Please read the question.

3 THE COURT: Read it. (Question read.)

4 MR FREDERICKS: We make the further objection: it is in-
5 competent, irrelevant and immaterial, because it is only
6 a part of what Mr Franklin testified at the trial.

7 Franklin said he went up East or west on Third street and
8 passed the intersection of Third street, and Los Angeles
9 before Lockwood got there. This man didn't get to the
10 saloon until after Lockwood got there, so there is a great
11 deal more testimony in there in regard --

12 MR ROGERS: I offer him the transcript, read anything you
13 please.

14 MR FREDERICKS: Mr Franklin was on the stand for 7 or 8
15 days, and he was taken back and forth over this thing,
16 but the general substance and tenor of his testimony is to
17 the effect that he didn't see this man until after he had
18 been in the saloon and been out again.

19 MR ROGERS: Just a moment. Mr Franklin was not on the
20 stand several days, nor had he been cross-examined at all
21 when he said this. This is in response to Mr Ford's own
22 question.

23 THE COURT: I think you are right with the question.

24 MR FORD: Assuming it is correct, what difference does it
25 make whether Franklin saw him before the witness thought
26 he did or not? What materiality was there to it? This

1 witness can only testify to his own beliefs or his own
2 observations; he has testified the first time he noticed
3 Mr Franklin looking at him was on a certain occasion
4 and it is safe to say he could not know any more than that.
5 Perhaps Franklin did see him before that, but how does that
6 tend to impeach this witness' testimony in any way, what
7 materiality has it.

8 THE COURT: I think, under the circumstances, counsel
9 have a right to know whether he knew Franklin had testi-
10 fied.

11 MR FORD: That is not the question. The question is,
12 "You were not aware", and it is apparent he was not aware.
13 What difference does it make?

14 THE COURT: Objection overruled.

15 A No, I was not aware of anything at all, Mr Franklin tes-
16 tified to here.

17 MR ROGERS: Was Franklin in the saloon before you, or were
18 you in there before Franklin came in? A Franklin came in
19 there when I came in.

20 Q Then you were not outside on the street when Franklin
21 came across, do you mean to say that?

22 MR FORD: We object to that as argumentative.

23 THE COURT: Objection overruled.

24 A I will have to ask you what street you mean?

25 MR ROGERS: Across Third street, or across Los Angeles
26 street, either one.

1 MR FORD: I want to add a further objection; it certainly
2 assumes something that is purely hearsay. This witness
3 cannot testify as to when Franklin went in there, if he
4 didn't see him, he doesn't know of his own knowledge
5 when Franklin went in there, and if he saw Franklin in-
6 side and Franklin was inside, it would be purely his con-
7 clusion how he got there. The question is not only argu-
8 mentative, but it also calls for hearsay, it calls for a
9 conclusion of the witness and it certainly is not cross-ex-
10 amination.

11 THE COURT: Objection overruled.

12 A I was not on Third street that morning at any time
13 until after Mr Franklin left the saloon.

14 Q How big a place is that bar-room in that saloon?

15 A Probably the room is probably 30 feet or 35 foot across
16 by about 50 or 60 foot long, probably.

17 Q Do you say that saloon is 50 feet long? A No, I
18 didn't say that.

19 Q Do you say that bar-room is 50 feet long? A I did,
20 yes sir.

21 Q And 30 feet wide? A Probably, yes sir, just about
22 30 feet wide.

23 Q Were there any people in there? A There were a num-
24 ber of people in there, yes sir.

25 Q Is the toilet in the rear of the saloon? A It is,
26 yes sir.

1 Q How is it shut off from the remainder of the saloon?

2 A Well, there is a partition up and there is two
3 swinging doors there as you step up on a little step,
4 there is two swinging doors there, as I remember it.

5 Q The doors go clear to the floor or are they half doors?

6 A I think they are about half doors.

7 Q Then one can easily see over the top of them and one
8 on the outside can easily see a portion of the man below
9 from the knees down, sir. A Well, I rather thing so.

10 Q How high up at the top are those swinging doors?

11 A I think they are too high up to see until you step up
12 further, from the top.

13 Q From the inside looking out, how are they? A I
14 have not ever been in there to my knowledge, so I cannot
15 say; I really don't remember.

16 Q Did you go up there and look through the swinging doors
17 or over them? A I did.

18 Q Over them or through them? A Through them.

19 Q What do they consist of, lattice work? A I don't
20 know as I remember. They are red painted doors, I think
21 they are wood -- they might be lattice, I don't remember.

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1 Q You mean, they swing back and forth, they don't close
2 like an ordinary door? A As I remember it, yes, I think
3 they swing both ways. I didn't pay any attention, however,
4 to those particular doors; I don't remember; I cannot say
5 accurately; I don't remember.

6 Q Did you actually telephone that morning when you say
7 you went over to the corner? A I did not; no, sir.

8 Q You were endeavoring to conceal yourself from Mr. Franklin?

9 A Yes, sir.

10 Q What did you hide behind? A There is quite a large
11 ice chest there, and I walked--there is a small shelf
12 where there is two telephones, I walked right alongside
13 that ice chest and up to the wall and stood there.

14 Q Where were you when you say Franklin came into the saloon?

15 A I didn't say Franklin came into the saloon--oh, you mean
16 from the toilet into the saloon?

17 Q Yes. A I was right there.

18 Q Right where? A At the telephones, sir.

19 Q Where was Franklin when you went into the saloon? A I
20 couldn't say, he must have been in the toilet.

21 Q The first time you saw him was as he came from this
22 toilet room out? A No, he was in the toilet.

23 Q The first time you saw him in the saloon was after he had
24 been in the toilet, is that so? A Yes, after he had been
25 in the toilet.

26 Q Which end of the room are the telephones in, front or

1 rear? A They are just at the end of the bar and pretty
2 close to the rear of the saloon.

3 Q How/^{far}from the toilet door? A Probably 12 feet.

4 Q Are they concealed from a person who comes out of the
5 toilet door? A I would think they were; yes, sir.

6 Q Do you say so? A I would say so; yes, sir.

7 Q Then how could you see him your self? A I saw him--

8 Q If there was an obstacle so you--he could not see you,
9 how did you see him? A I didn't see him make the actual
10 steps down from the toilet. The first time I saw him

11 after he was in the toilet he was going out there through
12 the small entranceway, or through the ^{third} street door.

13 Q If he had even glanced in your direction, as he came
14 out of the toilet doors, and stepped towards this entrance,
15 he could have seen you readily enough? A After he got
16 in this hallway he could have, yes, sir.

17 Q You kept your face to the wall, did you? A No, sir, I
18 kept my face towards the corner.

19 Q Then if your face was so that you could see him, how
20 could it be he could not see your face? A Because he
21 had his back to me, he came from the toilet and walked
22 directly through this entrance, there is about three steps
23 up to the entrance, and walked up and down Third street, I
24 could see him.

25 Q But if he saw you before you went in there quite a
26 little spell, do you say then he didn't glance over his

1 shoulders to see what you were doing? A I don't believe
2 I get your question.

3 Q Read it. (Question read.) A He couldn't have seen
4 me any space of time.

5 Q Please answer that question. A I thought I did answer
6 it.

7 Q Try again, if you please. Read it.

8 (Question read.)

9 A I don't know whether he glanced over his shoulders or
10 not, I didn't see him.

11 Q Well, at any rate, he didn't pay any attention to you
12 inside? A No, he didn't.

13 Q He didn't look around for you or try to hunt you up
14 anywhere? A No.

15 Q And you didn't seem to give him the slightest concern
16 while he was inside? A I did not, no, sir.

17 Q Well, now, if you didn't give him the slightest concern
18 while you were inside that saloon and he didn't pay a bit
19 of attention to you, didn't look for you, didn't glance
20 around trying to spot you and he had already seen you before
21 he went into the saloon, wasn't it because you and he were
22 understanding each other before you went in? A Sir?

23 Q You got my question, if not, read it. A Will you
24 read it, please.

25 (Question read.)

26 MR. FREDERICKS. That is objected to as assuming a fact not

1 in evidence, your Honor. The point is this: This witness
2 says that he walked straight down Los Angeles street until
3 he came to the entrance of that saloon and then he turned
4 and went into the saloon and found Franklin in the toilet.
5 Now, then, how could Franklin have seen him before he got
6 into the saloon if Franklin was in the toilet when he got
7 into the saloon? An absolute impossibility.

8 THE COURT. Objection overruled.

9 MR. ROGERS. Just a moment, sir, there is a statement before
10 the jury as to what the testimony is, and I desire to show
11 what the testimony is.

12 MR. FREDERICKS. This witness's testimony.

13 MR. ROGERS. This witness's testimony is, if your Honor
14 please, that he went into that saloon and found Franklin
15 there. Mr. Franklin's testimony is he saw George Home before
16 he walked across the street and into the saloon, and here
17 it is right before me.

18 THE COURT. I will instruct the jury to disregard the state-
19 ment of counsel on either side as to the testimony. They
20 have heard the testimony and know what it is, and they are the
21 sole judges.

22 MR. ROGERS. Here is the record, I have it right here to
23 read.

24 THE COURT. Objection overruled.

25 MR. FREDERICKS. There is a record of this man's testimony,
26 also.

1 MR. APPEL. But, your Honor will see that the record
2 is before the jury.
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1 THE COURT: I am not directing the jury to disregard the
2 record, but disregard the statement of counsel as to
3 what the record contains, unless it is read to them.
4 Now, the objection is overruled, and the witness will
5 answer the question.

6 MR ROGERS: Yes sir. A The only time that Mr Franklin
7 could have seen me was after I went into that saloon ;
8 prior to that time I had not been on Third street that
9 morning.

10 Q Then, how is it that Mr Franklin saw you when he "walked
11 back on Third street from towards Wall across the street,
12 going east about 50 feet on Third street from Los Angeles
13 on the south side and then crossed over, and about that
14 time saw Mr Home, a detective from the police station.

15 I walked straight across the street and into the rear en-
16 trance of a saloon at the northwest corner of Third and
17 Los Angeles, coming out quickly and looking around the
18 corner I saw Mr Home looking around the corner in that di-
19 rection." How can that be true if Franklin was in the
20 saloon when you went in there.

21 MR FREDERICKS: We maintain if that means anything at
22 all it is susceptible of the meaning he saw him looking
23 at the corner saloon, that he came out of the door and
24 that is just what this witness said.

25 THE COURT: No objection. Answer the question. A I
26 don't see how he could have seen me as I came down Los

1 Angeles street and went immediately into the saloon. I
2 did not see him. I was not on Third street.

3 MR ROGERS: Now, Mr Ong was there, too, wasn't he, that
4 morning? A I don't remember, Mr Rogers, whether he was
5 or not.

6 Q You knew Mr Ong at that time, didn't you? A I don't
7 think I did.

8 Q Well, did you know he was one of Detective Browne's
9 detectives down there that morning, detecting? A No sir.

10 Q You didn't know that? A I did not.

11 Q Well, ^{will} you say he was in the saloon or not? A I
12 will not say. I didn't see him; I don't remember the man.

13 Q Describe anybody that was in there that morning aside
14 from the bartenders that I will not ask you about your
15 previous acquaintance at all, but anybody you remember
16 outside of the bartenders. A I only saw Mr Franklin
17 whom I knew, in there at that time.

18 Q Out of how many people? A I didn't pay any atten-
19 tion to who the people were or anything about them.

20 Q Describe anybody you saw outside of Captain Lockwood
21 and Captain White that morning, and Mr Franklin? A I
22 saw a man with a motorcycle around there. I don't just
23 exactly place him, on the street, but I remember seeing a
24 motorcycle man there. I don't remember whether it was
25 before I went in the saloon or afterwards. I think it
26 was afterwards, however, for I thenent around on Third

1 street, and I don't remember seeing anyone as I came down
2 to the saloon except Captain Lockwood.

3 Q You don't know who this man was with the motorcycle?

4 A No, I don't remember him.

5 Q Ever seen him since? A I remember that the thought
6 came to me that he was one of the men from Captain Fred-
7 ericks' office; I believe I had seen him around there.
8 Who he was I didn't know. I don't know that I have seen
9 him since. I think, however, that he was in the Captain's
10 office the morning -- that same morning a little later on,
11 but who he is, I don't know.

12 Q You say he was one of the men from Captain Fredericks'
13 office? A Yes sir.

14 Q Now, outside of Captain Lockwood, Captain White and a
15 man from Captain Fredericks' office, do you remember any-
16 body else? A No, I don't think I do. I don't recall any-
17 one else right now.

18 Q How long were you down there altogether, Mr Home?

19 A Probably 4 or 5 minutes.

20 Q What time did you get there? A I can't exactly tell,
21 but I believe it was a quarter of nine.

22 Q Got any way you can fix any time that morning? A I
23 remember that I was going to meet Mr Carroll that morning
24 and I came down to come to Mr Fredericks' office a little
25 bit early, when I was sent down there. I know it was be-
26 fore a quarter of 9, for I was going to meet him at a

1 quarter of nine at the show-up at the city jail.

2 Q Going to meet whom? A Mr Carroll. Captain Freder-
3 icks sent me down immediately to Third and Los Angeles
4 street, so I presume it was between 20 minutes of 9 and
5 9 o'clock. I can't give you the exact hour, because I
6 didn't look at my watch.

7 Q When you got -- you went to the police station first
8 that morning, didn't you? A No, I did not.

9 Q Did you go to the District Attorney's office first?

10 A I came to the District Attorney's office first.

11 Q Had you been sent for? A No, I had been working there
12 for some little time.

13 Q Been working there for some little time on the McNamara
14 case? A I had.

15 Q How long before this occasion was the last time you
16 had seen Bert Franklin? A I can't say; I don't remember;
17 possibly been -- might have been a week or might have
18 been one day, but I hadn't talked with him for probably
19 a month, maybe two months; I don't remember.

20 Q Fixing your mind on that a little bit and see if
21 you can remember the last time you saw Bert Franklin be-
22 fore that, and where? I ask you to take such times
23 you need to consider the matter and deliberate on it and
24 recall if you can? A I am unable to recall it because I
25 often met Bert around in our travels both out in the
26 street. I don't fix any particular time that I had seen him

1 previous to that.

2 Q At any place on Broadway between First and Second,
3 along in those days, do you remember to have met Franklin?

4 A I don't remember, no sir.

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15s 1 Q Would you say you did or did not? A I wouldn't say
2 either; I can't recall any meeting but almost a daily
3 occurrence to meet him some place on the streets. I am
4 out on the streets all the time and he was.

5 Q Almost a daily occurrence to meet him, so much so you
6 cannot recall the circumstance of any meeting, I take it,
7 is that right? A That is it exactly.

8 Q Now, when you met him on daily occurrences now and then
9 you say you met him on the street, see if you can recall
10 meeting him anywhere except on the street within those
11 days. A I cannot.

12 Q During the time the jury was being impaneled in the
13 McNamara case, I understand you were working out of the
14 district attorney's office largely? A I did some work
15 out of the district attorney's office at that time, yes, sir.

16 Q On the jury? A No, sir.

17 Q Well, Bert Franklin ever show you a list of jurors any
18 place? A Not to my knowledge; I don't remember; no,
19 sir.

20 Q Well, Mr. Home, can't you say absolutely that he never
21 did? A To the very best of my knowledge and belief he
22 never did.

23 Q Why are you unwilling to say absolutely and positively
24 that he never did? A Because my mind was not fresh upon the
25 matter.

26 Q It is not fresh upon the matter. Well, now, bring your

1 mind to these circumstances, here is Bert Franklin working
2 for the defense, you are working for the prosecution. You
3 are not willing to say that Bert Franklin never showed you a
4 list of jurors in the McNamara case with marks on? A I am,
5 yes, sir.

6 Q Why didn't you do that before I called your attention to
7 what it meant? A I think I did as near as a man can answer
8 a question.

9 Q Are you quite sure that you never talked with Franklin
10 about the jury list in the McNamara case? A I am positive
11 on that score; yes, sir.

12 Q When you came out of that saloon at Third and Los Angeles
13 did Franklin see you? A I think he did.

14 Q Did he speak to you? A He did not.

15 Q What did he do? A He talked there a minuted or two
16 before he looked up and saw me, he immediately turned to
17 the other two gentlemen and started west on Third street.

18 Q All of them together? A Yes, all started together.
19 Mr. White, or Captain White, dropped slightly in the rear of
20 Mr. Lockwood and Mr. Franklin.

21 Q They passed you or going away from you when they walked
22 away? A They went away from me.

23 Q When Franklin looked at you and you looked at him did
24 either of you salute each other and pass the top of the morn-
25 ing? A Oh, no. Quite a little ways apart.

26 Q you had known each other 20 years, why not? A Well, I

1 don't really know why not. I don't know that either one
2 of us wished to be seen by the other.

3 Q What is the matter, why didn't you wish to be seen by
4 him? A I was sent down there to arrest him.

5 Q Sent down there to arrest him? A Yes.

6 Q Did you have a talk with Mr. Browne? A I did not.

7 Q Did you have a talk with Mr. Rockwell? A I did not.

8 Q Mr. Henderson? A I did not.

9 Q Mr. Long? A I did not.

10 Q Mr. Campbell? A No, sir.

11 Q Mr. Allison? A No, sir.

12 Q Have a warrant for him? A I did not.

13 Q Well, how many of you—you say you went there to arrest
14 Franklin? A To participate in the arrest of Mr. Franklin,
15 yes, sir.

16 Q They told you that he was going to do something there
17 for which he might perchance be arrested? A No, sir.

18 Q Did they tell you what he was going to get arrested for
19 with your participation? A A felony.

20 Q What kind of a felony? A I do not know.

21 Q You didn't know anything about it? A I did not.

22 Q You mean to say they sent you down there with a warrant
23 to arrest Franklin and you didn't even know or have an idea
24 whether it was murder, arson, horse stealing, sheep stealing
25 or what it was? A That is exactly what I mean to say.

26 Q Well, did they tell you with whom you were going to par-

1 ticipate in the arrest? and for something you didn't know
2 what it was? A They did not; no, sir.

3 Q Did they tell you who was down there? A They told me
4 Mr. Browne would be there.

5 Q Anybody else? A No, sir.

6 Q Did they tell you when you were to arrest him, when you
7 first saw him or after awhile?

8 MR. FREDERICKS. Object to the question in the use of the
9 word "they", unless it is specified whom he has reference
10 to.

11 MR. APPEL. That is what the witness said, "They told him."

12 MR. FREDERICKS. That is the question.

13 MR. APPEL. We are simply using his language.

14 THE COURT. Objection sustained.

15 MR. ROGERS. Q Were you told when to arrest him, at what
16 stage of the proceedings? A No, sir.

17 Q Were you told to arrest him on first sight, at first
18 glance, or wait until something came off? A I was told
19 to go down there and see what took place and to help arrest
20 Mr. Franklin.

21 Q Well, you saw him in the water closet, why didn't you
22 arrest him then? A I also saw Mr. Lockwood and I thought
23 I would wait a little while and see what happened.

24 Q If you didn't know what you were sent down there for or
25 whether it was rape, arson, sheep stealing or murder, why
26 was it that Mr. Lockwood caused you to pause when you saw

1 chim? A I saw Mr. Lockwood in Captain Fredericks's office
2 once or twice several days prior to that time. I presume
3 that he had been sent there to make the arrest himself,
4 thought I would wait a little while and see who would take
5 the lead.

6 Q Captain Lockwood, you thought he had been sent there to
7 make the arrest, did you? A That was the thought that came
8 into my mind, yes, sir.

9 Q Do you mean to tell us or to say that you went down there,
10 you didn't know what it was about, you didn't know what
11 was to be done, you didn't know what the crime was, whether
12 Lockwood had anything to do with it, and yet the moment you saw
13 Lockwood you thought you would wait and see what Lockwood
14 did, is that it? A I meant to say exactly that, yes, sir.

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1 Q What was there about Lockwood aside from the fact
2 that you had seen him in the District Attorney's office,
3 that made you pause and not carry out the arrest of Frank-
4 lin for which you had been sent there? A Because Mr
5 Lockwood had been an officer for a good many years. I had
6 known him as a n officer. I presumed he was working out
7 of the District Attorney's office.

8 Q When you saw Lockwood --

9 MR FREDERICKS: Wait a minute. The witness started to
10 finish the answer.

11 THE COURT: Had you finished the answer? A No sir.

12 MR ROGERS: I beg your pardon. I desire to have you
13 finish it. A I thought probably Mr Lockwood had fuller
14 instructions than I had received.

15 Q Well, when was it -- you supposed he was an officer
16 working out of the District Attorney's office just as you
17 were, and that is the reason you wanted for Lockwood to
18 take the lead in arresting Franklin? A That is exactly
19 what I said.

20 Q Well, now, what was it that led you to think, you, who
21 were familiar with the District Attorney's office, working
22 out of there a long time, what was it that led you to think
23 that Lockwood was also one of their officers?

24 MR FREDERICKS: Objected to as assuming a fact not in
25 evidence, that is, that he was familiar with the District
26 Attorney's office.

1 THE COURT: Overruled.

2 A I only knew the way that Captain Fredericks did bus-
3 iness there, and I knew that what I knew no one else knew,
4 and what Mr Lockwood would know, I wouldn't know. I was
5 sent on many errands not knowing exactly all about them.

6 MR ROGERS: But you were told to arrest Franklin, you were
7 not told to wait for anybody else, were you? A I was told
8 to go down and watch what happened and to participate in
9 the arrest of Bert Franklin, yes sir.

10 Q Where was Lockwood, Captain Lockwood, I beg your par-
11 don -- where was Captain Lockwood at the time that you saw
12 him and you paused and hesitated and waited for your super-
13 ior officer to give you sign as to when you were to arrest
14 Franklin?

15 MR FREDERICKS: Objected to as assuming something not in
16 evidence; that is, that there was anyone that was his su-
17 perior officer.

18 MR ROGERS: He said before that Lockwood was.

19 MR FREDERICKS: No, he didn't.

20 MR ROGERS: I gathered that.

21 MR FREDERICKS: You gathered wrong.

22 THE COURT: Objection overruled.

23 A Where was Lockwood?

24 MR ROGERS: Where was Lockwood? A As near as I rem-
25 ember the Captain was standing near the curb line on the
26 northeast corner of Third and Los Angeles street.

1 Q Did you salute him as you passed? A No, I did not.

2 Q Was he alone? A He was alone.

3 Q Now, leaving Captain Lockwood at Third and Los Angeles,
4 when did Captain White show up? A I first saw Captain
5 White after I came out of the saloon, talking with Mr Lock-
6 wood and Bert Franklin on Third street.

7 Q You didn't see Captain of Detectives Browne down there
8 that morning? A Not until we were ready to make the ar-
9 rest.

10 Q What made you ready to make the arrest, Mr Lockwood
11 give you the sign? A No, Mr Browne gave me --

12 Q Gave you the sign. Where was Captain of Detectives
13 Browne when you first saw him?

14 MR FORD: We think this is just simply an attempt at wit.
15 It has got rather threatbare, and there is no such office
16 and counsel knows it.

17 THE COURT: Objection overruled.

18 MR ROGERS: Go ahead. A Mr Browne was coming across Third
19 street. I think it was almost opposite to what was for-
20 merly known as the Bisbee Inn.

21 Q Now, Mr Home, in whose particular charge was Captain
22 White walking up? A He came up in my charge.

23 Q Did he stay with you all the time? A He did, yes
24 sir.

25 Q Where was Mr Franklin and Captain Lockwood?
26

1 A They started up Main street, then I lost sight of
2 them; I don't know.

3 Q Did White talk to you on the way up? A He didn't
4 say a word, no sir.

5 Q Did he ask why you had ^{arrested} him or anybody else had
6 arrested him? A He did not.

7 Q Did he ask why he was going up to the District
8 Attorney's office instead of to the city jail with a city
9 detective? A He did not.

10 Q Did you tell him? A I did not.

11 Q Did you know what he had been arrested for? A I did
12 not.

13 Q Did you know what Franklin had been arrested for?

14 A I did not.

15 Q Well, then, how did you come to be the man who had the
16 money in his possession up in the District Attorney's of-
17 fice? A It never was in my possession.

18 Q When you came into the office, you remained while
19 those gentlemen were there? A I did.

20 Q Who else remained in the office? A Mr Browne and two
21 or three other men that I don't know, besides Mr Franklin,
22 Mr Lockwood, and I think there was a supervisor there --
23 I was told he was a supervisor -- I don't know the man my-
24 self.

25 Q Was it before you went into the saloon that you saw
26 Captain Lockwood across the street? A It was, yes sir.

1 Q Did you see anybody else over there on the corner?

2 A I don't remember of seeing anyone else over there.

3 Q Did you search Mr White, Captain White, directly after
4 his arrest? A I did not, no sir.

5 Q Did you make any effort to ascertain what he had in
6 his possession? A I did not, no sir.

7 Q Before he went to the District Attorney's office?

8 A I did not.

9 Q And you didn't know for what you had arrested him?

10 A I did not.

11 Q And didn't know whether it was for killing his wife
12 or what? A I did not.

13 Q Didn't know but what he had a deadly weapon in his
14 possession with which he had done murder? A I did not.

15 MR FREDERICKS: That is objected to as assuming a fact
16 not in evidence, the fact is MR Browne arrested him and
17 turned him over to Mr Home.

18 THE COURT: Objection overruled.

19 MR ROGERS: Was anybody else sent down there besides your-
20 self about that time, independently? A I don't know.

21 Q You don't know anything about it? A I do not.

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1 Q Did you see Campbell down there at all that morning?

2 A Mr. Campbell came across the street with Mr. Brown at the
3 time Mr. White was arrested.

4 Q Were you there immediately present? A In their imme-
5 diate presence?

6 Q Were you there immediately present when White was arrested?

7 A Yes, within 10 feet away.

8 Q Did you see Mr. Browne go over his person to ascertain
9 what he had on him? A I don't remember whether he did or
10 not, I don't think he did.

11 Q Did you see Mr. Campbell do it? A I did not; I do not
12 remember it.

13 Q Did you see any effort made to ascertain what Mr. White
14 had in his possession? A No, I don't remember of any.

15 Q By any person? A I did not see any.

16 Q Until you reached the district attorney's office there
17 was not the slightest effort to find out what Mr. White had
18 in his possession? A Mr. Browne told me, at the time he
19 turned him over to me, not to let him throw anything away.

20 Q You didn't handcuff him, did you? A I did not.

21 Q Walked up with him through the crowd? A Walked up to the
22 street car and put him on the street car.

23 Q Went up on the street car with him? A I did-

24 Q All alone? A All alone.

25 Q Just you and Captain White? A Just Captain White and
26 myself.

1 MR. Rogers. That is all.

2
3 REDIRECT EXAMINATION.

4 BY MR. FREDERICKS. Q Now, Mr. Home, state just what was
5 said to you and by whom, in the district attorney's office
6 when you were sent down to the corner of Third and Los
7 Angeles on the morning of the 28th of November, 1911?

8 MR. APPEL. Wait a moment. We object to that on the ground
9 it calls for hearsay, and it is incompetent, irrelevant
10 and immaterial; Not redirect; does not tend to prove any
11 issue in this case.

12 THE COURT. Objection overruled.

13 MR. APPEL. We except.

14 A The district attorney, Mr. Fredericks, asked me if I knew ✓
15 Bert Franklin. I told him I did and he asked me if I would
16 arrest him on a felony charge. I said I certainly would.
17 He said the word. He then told me to go at once to Third and
18 Los Angeles street, see what took place and to help make the
19 arrest of Bert Franklin.

20 Q And how long were you therewith the district attorney
21 getting those instructions? A Not any longer than I have
22 taken to tell it, probably.

23 Q Did any one else ever talk to you or give you any instruc-
24 tions in regard to this matter?

25 MR. APPEL. Wait a moment--we object to that on the ground
26 it is incompetent, irrelevant and immaterial for any pur-

1 pose whatsoever, not redirect.

2 MR. FORD. An effort has been made to show this witness had
3 an understanding with Franklin--

4 THE COURT. Objection overruled.

5 MR. APPEL. We except.

6 A No one ever did.

7 Q Did you ever tell Franklin at any time prior to that
8 that you were working occasionally out of the district
9 attorney's office? 7/20/28 ✓

10 MR. APPEL. Wait a moment-- we object to that on the ground
11 it is incompetent, irrelevant and immaterial for any pur-
12 pose whatsoever, calling for hearsay statements, declarations,
13 actions and conduct of third parties, not binding upon the
14 defendant in any way, shape or manner.

15 THE COURT. Objection overruled.

16 MR. APPEL. We except.

17 A I never did; no, sir. ✓

18 Q Do you know of any way Bert Franklin would have known or
19 could have known that you were working out of the district
20 attorney's office on the McNamara case at times at that time?

21 A I do not know of any way he would have known it; no, sir.
22 I don't, no, sir.

23 Q Now, did you-- what kind of work was assigned to you out of
24 the district attorney's office at that time, about that
25 time?

26 MR. APPEL. Just a moment-- it is immaterial, not redirect,

1 not material for any purpose whatsoever.

2 THE COURT. I do not think it is redirect.

3 MR. FORD. The relation of the witness to the case. They
4 have gone into that quite fully, we would like to show his
5 relations to this case, to show he was working on matters
6 entirely different and had no interest in any work Franklin
7 was engaged in or in trapping him.

8 THE COURT. Objection overruled.

9 MR. APPEL. Exception.

10 A I had been taking care of the witnesses, just prior to
11 the arrest.

12 BY MR. FREDERICKS. Q Prior to that, what kind of work had
13 you done?

14 MR. APPEL. The same objection as last.

15 THE COURT. Overruled.

16 A I looked up some documentary evidence around--

17 Q I will ask this question: Were you investigating evidence
18 or were you working on another matter? A I had been
19 investigating evidence most of the time.

20 Q Did you have anything whatever to do with the matter of
21 selecting a jury? A None whatsoever.

22 Q Now, Mr. Home, did you know, prior to the time, prior to
23 the morning of the 28th of November, 1911, that George
24 Lockwood had been drawn as a jurymen?

25 MR. APPEL. We object to that as incompetent, irrelevant
26 and immaterial for any purpose whatsoever, it is not redirect,

1 it would make no difference whether this witness knew this
2 fact or not; the sum and substance of the testimony of
3 this witness is this, your Honor: That he went down there
4 and he went down there to do what he was told to be done,
5 the others went down there to do something which they were
6 told to do, and the plan had been made as to what was going
7 to happen there, and what difference does it make?

8 THE COURT. I think you are right.

9 MR. APPEL. Send one officer to arrest others, it is an
10 apparent condition.

11 THE COURT. I think you are right, but if they want it in--

12 MR. FREDERICKS. It was brought out on cross-examination.
13 this witness met Mr. Lockwood and he was asked if he met
14 his superior officer or if he saluted him and if he knew he
15 was an officer, and all that. Now, it is proper he should
16 say whether or not he knew he had ever been drawn as a
17 juror.

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1 MR APPEL: He said he had seen Captain Lockwood in
2 your office two or three times before, and thought he was
3 connected with the office, and he was an officer, and he had
4 been drawn as a juror.

5 MR ROGERS: That is, he testified, if your Honor please,
6 that the appearances were such that he thought he was just
7 like himself, an officer working out of the District
8 Attorney's office, he judged that from appearances, not what
9 he was told.

10 MR FORD: He formed a conclusion that Lockwood had been for-
11 merly an officer, he saw him in the District Attorney's
12 office, and he concluded he was doing some work, how could
13 he assume he was a juror.

14 THE COURT: Objection overruled.

15 MR APPEL: Exception.

16 A I didn't know it, no sir.

17 Q BY MR FREDERICKS: Did you ever directly or indirectly
18 have any understanding of any kind, shape or manner with
19 Bert Franklin in regard to the transaction which occurred
20 on the corner of Third and Los Angeles streets at the time
21 you have been testifying about?

22 MR APPEL: We object to that as incompetent, irrelevant and
23 immaterial, not redirect.

24 THE COURT: Objection overruled.

25 MR APPEL: We except.

26 A I did not at any time, no sir.

1 MR FREDERICKS: Now, Mr Home, how many city detectives
2 working in the same way you do, are there in Los Angeles?

3 MR APPEL: We object to that as immaterial.

4 MR FREDERICKS: The object being this, your Honor: to show
5 there are a great number of men working just as Mr Home
6 does, that he is one of them; that they go about all over
7 the city and that it would create no suspicion or comment
8 whatever to see one of these detectives at any part of
9 the city at any time; that is the purpose of the examination
10 on that point.

11 MR ROGERS: Suppose he says, if your Honor pleases, there
12 were 20 or 40 detectives; that has that got to do , if
13 your Honor pleases -- Mr Franklin said he knew that Home
14 was a detective, a city detective and had worked on the
15 case.

16 MR FREDERICKS: No sir.

17 MR ROGERS: Yes sir.

18 MR FREDERICKS: No sir. Mr Franklin never said he knew
19 Home worked on this case.

20 MR FORD: Mr Franklin testified the first thing that
21 aroused his suspicions was when Home, whom he knew was
22 a city detective, was peeking around the corner, that is
23 the first time his suspicion was aroused.

24 MR ROGERS: That is not the testimony.

25 MR FORD: He may not have stated it in those exact words,
26 but that is the effect of his testimony. Now, we want to

1 show that was perfectly natural.

2 THE COURT: Objection overruled.

3 MR APPEL: We except.

4 MR FREDERICKS: Read the question. (Question read.)

5 A There is about -- 23 regular men, and there is 8 or
6 10 men detailed in the uniform force as detectives.

7 MR APPEL: To save cross-examination, you say regular ones,
8 assistants, regular detectives, and some assistants --

9 MR FREDERICKS: I didn't get the first of counsel's state-
10 ment.

11 MR APPEL: Well, all right.

12 MR FREDERICKS: Do I understand counsel wishes to make a
13 stipulation?

14 MR APPEL: Oh, no.

15 MR FREDERICKS: You have been in that business for 5 or
16 6 years, you say? A I have, yes sir.

17 Q You are familiar with the way that these associates of
18 yours work and the places they go in the city, are you?

19 MR APPEL: We object to that as immaterial, incompetent,
20 irrelevant. That will entail the finding out where they
21 go and what places and they would not like very much to
22 state where they go, and perhaps would not state.

23 THE COURT: It seems to me it does.

24 MR FREDERICKS: No, it is a very simple matter for this
25 witness to be examined on this point to show there was noth-
26 ing unusual or out of the way of seeing maybe the 25 or 30

1 other men in the same occupation down there at the corner
2 of Third and Los Angeles streets at that time in the morn-
3 ing, or at any other time in the morning, that they were
4 all over the city all the time day and night, and the mat-
5 ter of seeing one of them here and there and everywhere is
6 not a matter calculated to create any comment what-
7 ever.

8 THE COURT: Well, he has stated the number, and I think
9 that has gone as far as we can go. Objection sustained.

10 MR FREDERICKS: All right. That is all.
11

12 RE-CROSS-EXAMINATION

13 MR ROGERS: Mr Home, you said you didn't know George Lock-
14 wood had been drawn as a juror, on the contrary, you
15 thought he was a workman out of the District Attorney's
16 office, working outside, and, at any rate, nothing to
17 arouse your suspicion or give you a moment's thought
18 that George Lockwood could possibly be a juror? A Nothing
19 at all.

20 Q You didn't expect to see a juror in the McNamara case
21 up in the District Attorney's office, taking orders, did
22 you? A I didn't know he was a juror.

23 Q Mr Home, don't you know as a matter of fact that it
24 was published in the papers on a number of occasions that
25 you were working on the McNamara case, and that your picture
26 appeared as a detective in the McNamara case on numerous

1 occasions? Do you want me to go and get the clippings
2 and show them to you, or do you remember that? A Oh, I
3 know it appeared once or twice, yes.

4 Q Didn't it appear twenty times?

5 MR FREDERICKS: Just a moment, your Honor. That is ob-
6 jected to, unless the time is specified a little closer.
7 The McNamara case had then been going on for over a year,
8 and as counsel has said, George Home was working on the
9 McNamara case at the same time counsel was working on it,
10 but his picture may possibly have been in the paper at
11 that time, I don't know, but that had nothing to do with a
12 year later.

13 THE COURT: Objection overruled.

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1 A I never kept a scrap book, so I don't know how many
2 times it appeared.

3 Q Too many for you to remember right now, was it not?

4 A I don,t remember, really; I cannot say. I know it
5 has been in the papers, but what about, I never paid much
6 attention to that.

7 Q Well, it has been inthe paper and you don't know how many
8 times, you cannot remember the circumstances, but you know
9 it was a matter of common knowledge, wasn't it, all around
10 the station,you were working onthe McNamara case and had
11 been for months and months?

12 MR. FORD. We object to that kind of evidence as not being
13 competent. Counsel knows that newspaper accounts are not
14 competent evidence,--they had the opportunity of asking Mr.
15 Franklin.

16 THE COURT. It is entirely a proper question in response
17 to your redirect, only in response to your redirect. Objec-
18 tion overruled.

19 A I think that earlier inthe case it had appeared several
20 times.

21 BY MR. ROGERS. Q You have observed Mr. Franklin reading a
22 newspaper during your 20 years acquaintance with him?

23 MR. FORD. We object to that--it is ridiculous, I think it
24 is entirely proper for them to ask Mr. Franklin, but I don't
25 see whatbearing it has on this witness.

26 MR. ROGERS. Then it ought not to have been asked in re-
direct.

1 THE COURT. Objection overruled.

2 A I do not redall any instance where I saw him read a
3 newspaper.

4 Q BY MR. ROGERS. Don,t you remember, even as late as your
5 trip east, that you have referred to, that your name was
6 mentioned as going for the district attorney after Diekel-
7 man came back, don't you remember that? A No, I don:t
8 remember it.

9 Q Don,t you remember that after you got back, why, the
10 reporters interviewed and got your account of the matter and
11 don't you remember that a paper published your picture?

12 A No, sir .

13 Q That is, only a little while, just a little while before
14 that? A No, sir, I don:t remember it.

15 MR. FREDERICKS. That is objected to onthe ground that the
16 newspaper itself is the best evidence.

17 THE COURT. Objection overruled.

18 A I thought that was a secret.

19 Q You thought that was a secret? A Yes, sir .

20 Q Well, as a matter of fact, Mr. Home, you done practically
21 nothing else for months but work on the McNamara case, isn't
22 that true? A I did some work out of there off and on, yes.

23 Q You meam to say Franklin didn't know that? Didnd't
24 everybody in town know that?

25 MR. FREDERICKS. Just a moment. I submit that is not an
26 answer to the question. He says, "I did some work, yes. "

1 Well, now, counsel's question went as to the approximate
2 amount of time that he put in in the district attorney's
3 office.

4 THE COURT. Did you fully answer the question, Mr. Home?

5 A Why, I can't state just how much time I put in but I
6 didn't put in--I think I put in the major portion of my
7 time at the detective bureau, however, I might have done
8 a little work today and a little work tomorrow, take an
9 hour or two different days, that I did considerable work.

10 MR. ROGERS. You have seen Franklin in the United States
11 Marshall's office? A Yes.

12 Q You saw him when he was deputy sheriff, you were on quite
13 terms of considerable acquaintance with him, weren't you?

14 A Yes, sir.

15 Q And you also knew Captain Lockwood, on terms of considerable
16 acquaintance for a number of years? A No, I simply known
17 him for--just know who he was, a long time.

18 Q And know he was Captain Lockwood and a deputy sheriff?

19 A I did; yes, sir.

20 MR. ROGERS. I think that is all.

21 MR. FREDERICKS. That is all, Mr. Home.

22

23 D A N A D. O N G,

24 called as a witness on behalf of the prosecution, having
25 first been duly sworn, testified as follows:

26

DIRECT EXAMINATION.

1 BY MR. FREDERICKS. Q What is your name? A Dana D. Ong.

2 Q what is your business? A District attorney's office.

3 Q And work in what capacity? A In the detective depart-
4 ment.

5 Q How old are you? A I am 37.

6 Q How long have you been employed in the district attorney's
7 office? A 2 years.

8 Q Prior to the 28th day of November, state whether or not
9 you knew Bert Franklin when you would see him, or not?

10 A I did not.

11 Q You know whether he knew you by sight? A I don't
12 think he did.

13 MR. APPEL' I move to strike that out as this gentleman's
14 thoughts don't amount to anything.

15 THE COURT. Strike it out. Proceed with the examination.

16 MR. FREDERICKS. Mr. Ong, state whether or not you ^{were} sent
17 down to the corner of Third and Los Angeles street on the
18 morning of the 28th of November? A I was.

19 Q where did you go? A I went into a saloon on the north-
20 west corner of Third and Los Angeles.

21 Q How long did you stay there? A I was in there probably
22 10 minutes.

23 Q State whether or not you saw Mr. Franklin in there that
24 morning or a man that you afterwards learned to be Mr. Frank-
25 lin? A I saw a man there that I afterwards knew to be Bert

26 Franklin.

1 Q Now, just state what you saw him do, whether you saw
2 him come in and go out or just state what you saw him do?

3 A He was in the saloon when I went in, this man, and he
4 was drinking at the bar, and I walks up right alongside of
5 him, and I had something too, and my attention was called
6 to his going over to the door, looking out as if expecting
7 someone across the street. Well, as I was expecting some
8 one myself, I commenced to watch him, not knowing who he was,
9 but I thought he was my man. I thought it was Franklin.
10 Then he came back to the bar again and presently he goes
11 to the door a second time and I walked over after him to
12 see who he was looking at across the street, and I saw Mr
13 Lockwood standing on the northeast corner of Third and Los
14 Angeles street. Then I wanted to get out of there, so I
15 went out the corner entrance at Third and Los Angeles, walked
16 north on Los Angeles street about half a block, crossed the
17 street and came down on the east side in order to get in
18 closer to where Mr. Lockwood was.

19 Q Where did you leave Mr. Franklin when you went out of the
20 saloon? A He was in the saloon.

21 Q Whereabouts in the saloon? A I think he started towards
22 the rear of the saloon, went back there somewhere.

23 Q Up to the time when you went out of the saloon had you
24 seen George Home? A No, I didn't know Mr. Home.

25 Q Have you seen him now? A Yes;--no, I didn't see him.

26 Q Up to the time when you went out of the saloon did you see

1 him, Mr. Home at all? A I don't recall him.

2 Q Did you see him that morning before--did you see him
3 that morning down in that locality at all? A I did.

4 Q Where? A I first saw him-- well, I will have to go
5 back a ways--after Franklin--after Mr. Lockwood and Captain
6 White got through on the corner, north east corner of Third
7 and Los Angeles street, they crossed the street, walking west
8 on Third street, and I cuts across the street and takes
9 the east side of the street almost directly opposite them,
10 follows them up the street, then I discovered there was a
11 man probably 10 or 15 feet back of Lockwood and White but I
12 didn't know who he was, afterwards that turned out to be Mr.
13 Home.

14 Q That the first time you saw him? A That is the first I
15 recall him.

16 Q Now, when you went out of the saloon door where did you
17 go? A I went north on Los Angeles street.

18 Q How far? A About half a block.

19 Q And then where? A I crossed the street to the east side.

20 Q And then where? A And then came south on Los Angeles
21 to the corner where I had seen Lockwood standing.

22 Q And during your walk up Los Angeles street and across
23 Los Angeles street and down again on the east side, you
24 didn't encounter George Home? A No, I don't recall him.

25 Q Do you know whether Franklin--that is all.

26

CROSS-EXAMINATION.

1
2 MR. APPEL. Mr. Ong, you are 37 years of age?

3 A Yes, sir.

4 Q And how long have you followed the profession of a detec-
5 tive? A Well, I never followed it much until I came out
6 to this city. I done a little work in New York City one
7 time.

8 Q Well, you commenced your--commenced the business in New
9 York on a small scale? A I worked a while out of 300
10 Mulberry street, New York City. It was not very small.

11 Q When did you come to Los Angeles? A I came here in the
12 fall of 1909.

13 Q What did you engage in, what was your business then, in a
14 general way? A Well, I didn't do anything the first six
15 months. My first employment was in the district attorney's
16 office.

17 Q After you arrived here and was here about 6 months you
18 got in the district attorney's office and commenced the
19 detective business? A No, I didn't commence that business.
20 I done a great many things in the office.

21 Q What did you do? A Well, I was in the stenographic
22 department a while, stenographer.

23 Q You were a stenographer? A Yes, sir.

24 Q Well, as time progressed you branched out as a detec-
25 tive? A I afterwards got in the detective department. I
26 served papers and worked on difference cases.

1 Q Now, on this day did you receive any orders from any
2 person in particular to go down there to Third and Los
3 Angeles? A I did.

4 Q From whom? A Mr. Browne.

5 Q Mr. Browne told you what was going to happen there?

6 A I knew what was going to happen.

7 Q You had heard that before? A Yes, sir.

8 Q You knew that there was going something occur there; and
9 you people were to make an arrest? A Yes, sir.

10 Q Were you to make more than one arrest or more than two?

11 A I wasn't to make any.

12 Q You were just to watch? A yes, sir.

13 Q Now, I understand then, that your specific line of
14 business at that time, upon that occasion, was to shadow?

15 A Yes, sir.

16 Q Now, in order to shadow, the first thing you did was to
17 go down to Los Angeles street, walk south on Los Angeles
18 street on the west side of it and you landed in a saloon?

19 A No, I didn't go down that way at all.

20 Q Anyhow you landed in a saloon? A yes, I stopped at a
21 saloon; yes.

22 Q Well, you got in there? A Yes.

23 Q Well, we got you in there now. Now, the next thing you
24 did was to go up to the bar and take a smile, being early
25 in the morning, necessary to recuperate? A Yes.

26 Q You took whiskey? A Well, I don't know as I recall now.

1 Q Well, you had been up there in the hay stack the night
2 before, am I right or wrong? A Well, I had been home
3 and had some sleep.

4 Q All right, you had some sleep but you took something?

5 A I had something to drink.

6 Q Yes, took a little whiskey? A I don't believe I recall.

7 Q Now, you saw a man standing there by you by the bar taking
8 something, you thought that was very suspicious and you com-
9 menced to watch him? A No, my attention was first called
10 to his movement, as I said before, his movement and his
11 going over to the front door looking across the street.

12 Q Didn't they describe to you Mr. Franklin before you went
13 out? A Yes, I knew in a general way but I was not sure.

14 Q The moment you saw him drinking at the bar you thought
15 you had your man? A Not on account of his drinking particu-
16 larly, but the reason the man that I thought was Franklin,
17 I had heard was Franklin.

18 Q You took that fact into consideration that he was at
19 the bar there in the saloon where you were at the bar
20 taking a drink and his going to the door and looking out
21 both ways and one way, you thought then that is suspicious,
22 you said, "I have got my man", that is, you thought that?

23 A Well, I thought he would bear watching.

24 Q The moment you saw him looking out of the door you thought
25 he would bear watching? A No, it was his movements.

26 Q How did he move? Did he move on fours, or on twos? A His

1 movements--

2 Q What was his movement? A His movement.

3 Q Did he go backwards or forward? A He went over to the
4 door and looked across the street as if expecting someone.

5 Q The fact that he went to the door and looked across the
6 street that made you suspicious, did it? A It did; yes.

7 Q You thought that the man--that was suspicious, walking
8 to the door and looking across the street?

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1 A Thought he resembled the man that I was looking for.

2 Q You were looking for him, were you? A Yes, I wanted
3 to locate him.

4 Q Now, you located him looking out of the door and then
5 after he looked out of the door across the street, he came
6 back into the bar? A Yes.

7 Q Well, now, he took another one, did he? A Well, I
8 can't say as to that.

9 Q Well, now, don't you remember that he took another one?
10 A No.

11 Q What did he drink, a small one or a large one? A I
12 think it was something small, but I am not sure.

13 Q But you added the fact that he took something small,
14 and looked out the door, looked across the street and came
15 back, and his actions made you still more suspicious,
16 didn't it? A Well, he struck me as being rather nervous
17 over something; I was watching him.

18 Q You thought he was taking something to straighten up?

19 A No, I didn't think anything about the drink part of it.

20 Q Well, he was nervous? A Appeared so.

21 Q How was he dressed? A Dark clothes of some kind.

22 Q Dark clothes; you mean dark brown, or dark blue?

23 A I can't say as to the color. It was some kind of
24 dark clothes.

25 Q Have a white shirt on or what kind of a shirt did he
26 have on? A I can't say.

1 Q Couldn't tell. Patent leather shoes, or what colored
2 shoes? A I don't know.

3 Q Business coat or a frock coat, or what was it?

4 A Business suit.

5 Q Now, how many others were there at the bar at the time?

6 A There were several in there.

7 Q Did you see them go out the front door or back door,
8 or the door on Los Angeles street, or the corner door?

9 A Well, I didn't pay much attention to them after I saw
10 Franklin.

11 Q Yes, after you saw the suspicious man? A Yes.

12 Q Now, you came down and where did he go then? A When?

13 Q Franklin; he came back to the bar, and then what did
14 he do? He looked out of the door, across the street, came
15 back to the bar, and then what did he do? A As I recol-
16 lect it, I think he went to the door the second time.

17 Q Yes, or went to the door a second time. Did he look then
18 when he went to the door the second time or not? A Did he
19 look?

20 Q Yes. A He appeared to be looking across the street.

21 Q Which way did he look? A He looked towards Third
22 and Los Angeles corner -- I mean the northeast corner of
23 Third and Los Angeles.

24 Q Where were you, behind him? A No, I was still stand-
25 ing over by the bar.

26 Q You were still standing by the bar? And he went to the

1 door and the door was wide open? A No, I think they were
2 glass.

3 Q He stuck his head right through the swinging doors and
4 looked in that direction? A Glass in the doors.

5 Q Glass doors? A Yes.

6 Q Well, you were looking at the back of his neck? A I
7 turned around.

8 Q Well, you were looking at him? A It wouldn't be the
9 back of his neck; it would be on the side.

10 Q The side of his neck? A And his face.

11 Q And by looking at the side of his neck you could tell
12 what he was looking at? A I could see the side of his
13 face. I could tell he was looking across the street.

14 Q Then what did he do? A Then he came back again.

15 Q He came back to the bar? A No, I think he went to-
16 wards the back of the room that time, then I left.

17 Q Well, you were watching him? A I went over to see
18 who he was looking at and I saw Mr Lockwood, as I mentioned
19 before.

20 Q You were watching this man, this was your man you were
21 after? A Yes, but I wanted to see something else, too.

22 Q You wanted to look at someone else. What did you want
23 to look at Mr Lockwood for? A I wanted to see who met him.

24 Q Didn't you know whom he was going to meet? A I had
25 heard.

26 Q So you didn't want everybody to know that, did you?

1 A Everybody to know what?

2 Q Whom he was going to meet. You knew beforehand whom
3 he was going to meet? A I went to see if they would
4 meet.

5 Q Hadn't you seen Lockwood before? A Yes, I knew Mr
6 Lockwood. You mean, had I seen him before that morning.

7 Q Yes. A No. I had ^{not} seen him before that morning.

8 MR FREDERICKS: That is an ambiguous answer. If it is
9 read in the record that way it may mean two things.

10 MR APPEL: He means that morning.

11 MR FREDERICKS: He had not seen him that morning before.

12 THE COURT: I guess the answer is clear.

13 MR APPEL: We understand.

14 A Just a moment. Do you mean that I seen Mr Lockwood
15 that morning before I looked out the door?

16 Q Oh, no; at any time that morning. I know you mean
17 that. There is no mistake about that. Well, you knew
18 Lockwood, didn't you? A I knew him from seeing him the
19 night before.

20 Q Over at his place? A Over at his house.

21 Q And heard him talk? A I heard him talk, and saw him.

22 Q You knew very well he was going to meet Franklin down
23 there at that corner the next day, either from information
24 given you by Mr Lockwood himself or by someone connected
25 with the District Attorney's office? A Well, it was
26 announced in my instructions that he was to be there.

1 Q Now, who gave you those instructions? A Mr
2 Browne.

3 Q When? A The night before, 1:30, in Captain Frederic
4 icks' house.

5 Q You were at Mr Fredericks' house? A Yes sir.

6 Q Let me see; you and Mr Fredericks and Mr Browne and Mr
7 Jim Campbell and some others were there? A Yes sir.

8 Q Those who were not there were instructed at their
9 homes where they should be? A I don,t know about the
10 others. I only know my own instructions.

11 Q Now, the arrangements were made about half past one or
12 two o'clock in the morning over at Captain Fredericks' home
13 somewhere over on Union or Belmont streets? A That is
14 where I received my instructions.

15 Q A little off Temple street, just south of Temple.
16 You went home to bed and the next morning you were ready
17 for what was going to happen? A Yes sir.

18 Q For the seance. What time did you go in that saloon?

19 A I think I got down there about -- I think it was
20 around 9 o'clock.

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1 Q I know, around 9 o'clock means a whole hour around it,
2 comparatively that is a relative statement. Was it half
3 past eight? A I think it was later than that.

4 Q Was it closer to half past eight than to nine? A No.

5 Q Was it twenty minutes past eight?

6 MR. FREDERICKS. Now, we submit that is an ambiguous ques-
7 tion. It is like asking a man if you stopped beating your
8 wife yet. Anyway he answers it he answers it wrong.

9 THE COURT. He said it was twenty minutes after eight. He
10 answered that.

11 MR. FREDERICKS. Was it twenty minutes, that is, had it come
12 to be twenty minutes past eight yet or was it twenty minutes
13 past eight, means two things.

14 MR. APPEL. No, I said was it twenty minutes after eight.

15 THE COURT. I think the witness can answer the question.

16 MR. APPEL. I want to get the time he saw Franklin there.

17 A I can't say what time it was when I reached the saloon.

18 Q What time did you leave to come there? A I left the
19 house about--I lived at that time, I lived out on 9th and
20 Blaine. I left the house around somewhere a few minutes
21 after 8 o'clock, as I remember.

22 Q 9th and Blaine? A 9th and Blaine.

23 Q On the 9th street car? A Yes, sir.

24 Q That is about a mile or a little over from Third and Los
25 Angeles? A Takes about 15 minutes to come down, that time
26 in the morning.

1 Q Must have been somewhere in the neighborhood of 8:15 or
2 8:20? A No, it was around 9 o'clock. I got off the car
3 downtown and walked--

4 Q Walked from where? A I think I got off at Fifth and
5 Spring and I walked from Fifth over to Los Angeles and
6 walked north on Los Angeles.

7 Q Well, the 9th Street car runs clear up to the Temple
8 Block, doesn't it? A Yes.

9 Q And, you got off at Fifth and Spring in order to walk that
10 distance to Third? A I had an object in walking.

11 Q you had an object in walking. What was your object?

12 A I wanted to look over the territory down there.

13 Q Look over the territory from Fifth and Spring, look
14 over the territory to Third and Los Angeles, that correct?

15 A No, that is not.

16 Q Well, what territory did you want to look over? A Well,
17 I would come in the vicinity of Third and Los Angeles
18 street, I wanted to know the conditions all around those
19 corners.

20 Q So you started at Fifth and Spring? A I walked up
21 from there.

22 Q You came up Spring street? A No, I didn't say that.

23 Q Well, did you come up Main street? A No.

24 Q Well, did you come up Los Angeles street? A Los
25 Angeles.

26 Q Then you went from Fifth and Spring over to Los Angeles

1 and walked north on Los Angeles? A yes, sir.

2 Q Then you crossed Third Street into the saloon, or didn't
3 you come up from the north on Los Angeles street south on
4 Los Angeles into the saloon?

5 MR. FORD. If the Court can understand it I can't.

6 MR. APPEL. I will withdraw that question if it is too
7 complicated.

8 Q Anyhow, when you were in the saloon and Franklin was
9 in there, Home was not in there, was he, that is, therein.

10 MR. FORD. If the question is read--

11 A I will have to hear that question.

12 MR. APPEL. All right, you were in the saloon, Mr. Franklin
13 was in there, you went--you were in the saloon until Mr. Frank-
14 lin went to the back part of the saloon and then you went
15 out? A Yes, sir..

16 Q Now, during all the time that you were in the presence
17 of Mr. Franklin and seeing him do all of the things that you
18 have said here, that he did, and up to the time that he
19 went to the back part of the saloon, you didn't see Home
20 in that saloon, detective Home.?

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1 A I didn't know him, no sir, I did not.

2 Q You didn't see him? A Not to my knowledge.

3 Q Did you see a man there with his head under a shelf
4 where the telephones were by the ice chest, up there close
5 to the back of the saloon, close to the door that leads out
6 to the toilet? A No, I did not.

7 Q You didn't see that man there? A No sir.

8 Q You didn't see Home, did you, at all, you didn't know
9 Home at that time? A I did not know him.

10 Q You had not seen him in and out of the District
11 Attorney's office during the McNamara case? A There was
12 so many out, I didn't know --

13 Q I mean him? A I do not recall him.

14 Q You had been in the detective service in the Dis-
15 trict Attorney's office and didn't see Home coming out
16 of there in the assistance of the District Attorney's of-
17 fice in the prosecution of cases and he happened to be en-
18 gaged in as a police detective in the city? A No sir.

19 Q You are a police detective of the county. Did you see
20 a man that looked like Home there where Franklin was in the
21 saloon there? A I don't recall anyone that looked like
22 him.

23 Q Didn't you see Home in the District Attorney's office
24 immediately after the arrest? A In the District Attorney's
25 office?

26 Q Yes. A Yes.

1 Q Now, looking back to a few moments back, t racing back
2 your memory to the time you were in the saloon and Frank-
3 lin was in there, didn't you then determine whether or
4 not Mr Home had been there in the saloon when Franklin
5 was in there? A No, I do not recall seeing Home in that
6 saloon at all.

7 Q You did not reason back then as to whether you had
8 seen him there or not, it didn't impress itself upon you?

9 MR FREDERICKS: We object to that; it has been gone tho-
10 roughly into.

11 THE COURT: I think it has.

12 MR APPEL: You didn't impress it upon your mind as remember
13 ing "I saw this man down there", or anything like that?

14 A No, it did not.

15 Q You went up and got out of the saloon on the Los
16 Angeles street side, am I right? A The corner entrance,
17 yes sir.

18 Q You walked on the west side of Los Angeles street north
19 about half a block, then turned east across Los Angeles
20 street to the east side of Los Angeles street, did you?

21 A Yes sir.

22 Q Now, whom did you meet going north on the west side of
23 Los Angeles street after you left the saloon, describe
24 a single person you met there, tell what color he is and
25 what shape he is. A I will tell you one person I saw.

26 Q All right. A He was very close to -- he was probably

1 within 30 feet of the corner, and that was Mr Rockwell.

2 Q Yes. Now, after you left going north, as you went
3 north on the west side of Los Angeles street, leaving
4 Rockwell behind, you understand -- after you passed Rock-
5 well -- A No, no.

6 Q Did you meet anyone else, I wanted to know. A No,
7 You asked me after I had crossed the street and started
8 south on Los Angeles, whom did I meet.

9 Q No, I am keeping you on the same side as the saloon,
10 for a while. A You will have to go back.

11 Q You got out of the saloon on the Los Angeles street
12 side; is that right? A Yes.

13 Q And you kept on the west side of Los Angeles street
14 going north? A Yes sir.

15 Q Now from the time you left the saloon on the Los
16 Angeles street side, and kept on the west side of Los
17 Angeles, going north, whom did you meet, outside of Mr
18 Rockwell? A I didn't pass anyone I knew.

19 Q Did you meet anyone you didn't know? A There were
20 several people on the street.

21 Q Describe a single one. A I cannot describe them,
22 they were probably people going to business, and one thing
23 and another.

24 Q Now, you crossed the street? A Yes.

25 Q Over to the east side of Los Angeles? A Yes.

26 Q About half a block away? A Yes.

1 Q That is a very long block there, isn't it, from Third
2 up to Second, is a very long block? A I don't know as
3 it is any longer than the other blocks.

4 Q You don't know it is any longer? A It didn't strike
5 me that way.

6 Q All right. We will let it go at that. At any rate,
7 as you crossed the street, you went on the east side of
8 Los Angeles? A I crossed to the east side.

9 Q Very well; then you started south? A I did.

10 Q Now, whom did you meet on the way as you were going
11 south on the east side of Los Angeles street towards Second?

12 A I don't believe I met anyone.

13 Q No one at all? A Until I passed Mr Rockwell.

14 Q Yes. I know. You met no one. A I said a few words
15 to him.

16 Q You met no one you remember, outside of Mr Rockwell?

17 A I don't remember that I met anyone.

18 Q You swear you passed no one there? A No, I won't.

19 Q That is a wholesale part of the city? A It didn't
20 strike me I had passed anyone on that side of the street.

21 Q And the wholesale houses were open? A They were open-
22 ing.

23 MR APPEL: It is 5 o'clock, your Honor.

24 THE COURT: Do you wish to finish?

25 MR APPEL: No, I cannot finish.

26 THE COURT: All right, I thought you would finish in a
few minutes. Gentlemen of the jury, bear in mind your
admonition. (Jury admonished.) We will take an adjournment
until 10 o'clock tomorrow morning.