

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,)
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 Plaintiff,)
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 vs.)
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 Clarence Darrow,)
)
 Defendant.)

No. 7373.

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REPORTERS' TRANSCRIPT.

VOL. 31

I N D E X

	Direct.	Cross.	Re-D.	Re-C.
George Behm,		2445	2498	2501
" " Before Grand Jury	2575			

1 AFTERNOON SESSION. June 19, 1912; 2 P.M.

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3 Defendant in court with counsel.

4
5 G E O R G E B E H M,

6 on the stand for further cross-examination:

7 THE COURT. You may proceed with the cross-examination.

8 MR. DARROW. Q. You said this forenoon that you didn't
9 hear anything that Mrs. McManigal said down to the house
10 in Chicago? A Well, I was to go along with Mrs. McManigal
11 but she was sent out ahead of me.

12 Q That is not the question, Mr. Behm. Did you hear any-
13 thing that Mrs. McManigal said at my house in Chicago?

14 MR. FREDERICKS. That is objected to upon the ground that
15 it has already been asked and answered and gone into on
16 cross-examination of this witness.

17 THE COURT. I think that is true, but there is some con-
18 fusion in my mind and evidently in the mind of counsel
19 just what the witness meant to say in that regard, and
20 I think it ought to be cleared up.

21 MR. FREDERICKS. I withdraw the objection, then.

22 MR. DARROW. Q Now, answer it, please. A What was that
23 question?

24 (Last question read by the reporter.)

25 Q Is that right? I heard a good many things she said, yes.

26 Q Can you recall anything? A Well, recall that there was
an understanding I was to go along with her, yes.

1 Q Can you recall anything that she said or that I said
2 to her in Chicago at my house? A Well, there was a word
3 spoken about my going out there, yes, with her.

4 Q What was spoken by her? A Well, as near as I remember
5 I was to go along out there with her.

6 Q Anything else? A For the purpose of seeing Ortie, her
7 husband.

8 Q Anything else by her? A And going to change his testi-
9 mony.

10 Q Did she say that? A Yes.

11 Q Didn't you say to the jury this morning that she didn't
12 say anything that you could remember? A Well, I will tell
13 you, there was a great many things said, you had me con-
14 fused in a great many places.

15 Q Did you tell the jury this morning that you could not
16 remember anything that Mrs. McManigal said?

17 MR. FREDERICKS. That is objected to, may it please the
18 Court; the record is the best evidence of what he told
19 the jury.

20 THE COURT. Yes, I think that is so, Mr Darrow. I think they
21 remember the answer.

22 MR. DARROW. Q This question asked and did you make these
23 answers this forenoon, page 2413: "Q--You can't tell a
24 word that any other person spoke in that house, is that cor-
25 rect, except myself? A--Not as I remember. Q--Was there
26 anything said about Mrs. McManigal going to Los Angeles?

1 A--That was spoken of before we entered that room. Q--Was
2 there anything said there at that time about Mrs. McManigal
3 coming to Los Angeles, at my house? A--She had told me
4 that before we entered that room.

5 Q--Excuse me, I don't mean to be impatient. Will you read
6 that answer? You mean before you entered the house?

7 A--Before we entered the second room where we talked.

8 Q--Was there anything said at the time about Mrs. McManigal
9 coming to Los Angeles? A--You told me that, she didn't

10 tell me. Q--Did she say anything about it there? A--I
11 don't remember. Q--Was anything said about her being sick?

12 A--"I don't remember of her being sick." Were those
13 your answers this morning?

14 MR. FORD. Object on the ground the record itself is the
15 best evidence, and the purpose in asking it is purely argu-
16 mentative.

17 THE COURT. Objection overruled.

18 MR. DARROW. Q Those were your answers this morning? A Yes.

19 Q Were they true? A Yes, they are true.

20 Q What? A They are true.

21 Q They are true, are they? Was there any conversation
22 between me and Mrs. McManigal about her going to Los Angeles,
23 at that time, that you heard? A Between you and her?

24 Q yes. A Not as I remember of.

25 Q You don't remember any? A No.

26 Q When you testified before the grand jury, I refer to page

1 47 of the grand jury testimony, was this question asked
2 and did you make this answer: "Q--Did Mr. Darrow ask her
3 to go? A--Yes, sir." A Asked her to go?

4 Q Yes, to Los Angeles. Do you want to look at it? Do
5 you remember whether you made any such answer or not?

6 A If the question is in there and the answer I most
7 certainly did.

8 Q Now, before you ever met me Mrs. McManigal had asked
9 you to come to Los Angeles, hadn't she?

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1 A She asked me that first time I ever met her, if I
2 would come down with her.

3 Q When was that? A That was along in the spring,
4 after the arrest of her husband.

5 Q Before the time when you went down there when you saw
6 me? A Yes sir.

7 Q Did you tell her whether you would go or not? A I
8 told her I didn't know whether I could or not.

9 Q Did she tell you why she wanted you to go? A She
10 thought I might be with her down there, she would be all
11 alone.

12 Q Say anything about her health? A She was not very
13 well then.

14 Q Did she say anything about her health? A She was aw-
15 fully nervous about her trouble her husband was in.

16 Q Will you answer the question?

17 THE COURT: Did she say so? A Anything about her health?

18 A Yes. A She said she was not very strong.

19 Q And asked you to go with her on that account or partly
20 on that account, didn't she? A That was the time I met
21 her before I met you.

22 Q Well, did she ask you to go with her on that account,
23 because she was not very strong at that time? A And to
24 see her husband.

25 Q And that was before you ever met me? A Yes.

26 Q A couple of weeks before? Or more, perhaps? A Some

1 thing like that.

2 Q Did you talk with her again before you saw me, on
3 the same day that you saw me, about coming to Los Angeles?

4 A No, I didn't see her before ^{I saw} you.

5 Q Aren't you mistaken? Did you go to her house? A She
6 was not at home.

7 Q You didn't see her that morning at the house? A No
8 sir, she was at your place that morning before I came.

9 Q You are sure you didn't see her at her house that
10 morning? A I am sure of that.

11 Q Now, when you were talking with Mr Davis and with me
12 and were discussing the questions that had been asked
13 which you had refused to answer, you remember the
14 evening session? A Yes.

15 Q Was any question asked you about having seen any
16 confession of Ortie McManigal? A Well, not to my knowl-
17 edge. I can't exactly say whether I seen it then or before.

18 Q Don't you remember of any such thing? A I had seen
19 one; I don't remember whether it was before or after.

20 Q I asked you whether anything was said by us at that
21 time, or by you about any confession of Ortie McManigal?

22 A Not as I remember of.

23 Q Were you asked about that when you went before the
24 grand jury the second time? A I cannot remember that,
25 either.

26 Q You cannot remember that? A No.

1 Q And you cannot remember what you said if you were asked,
2 of course? A I cannot remember all that was said.

3 Q Can you remember anything that you said upon that sub-
4 ject? A No, I cannot.

5 Q When you were before the grand jury, were those ques-
6 tions asked and did you make these answers, question read
7 on page 69: "Q -- Well, did you ever talk about the alleg-
8 ed confession of McManigal at all at any of these visits",
9 referring to visits to him -- "A -- I didn't know anything
10 about the confession until after I quit visiting him.

11 Q -- Well, you testified this morning you had seen some-
12 thing in the papers? A -- That was after I had visited

13 him. Q -- No, but before you came to California, you had
14 seen something? A -- Well, I had seen something back in
15 the paper -- I didn't see anything about anything before.

16 Q -- Some statement about his having told Burns that he
17 had done it. A -- No, I never seen anything like that.

18 There was nothing in our papers back East there. Q -- But
19 you were, in fact, aware, there was a rumor McManigal had
20 made a confession? A -- Not until after I came here. I
21 seen the paper after I quit visiting him. That was the
22 first time I seen the confession." Did you answer that
23 way, sir? before the grand jury? A I did.

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1 Q Was it true? A If I remember right it came out in the
2 paper after I had visited with him, his confession.

3 Q Were those statements I have read to you true that you
4 answered before the grand jury? A Them questions in there
5 that I answered before the grand jury is true, yes, but
6 there was lots of things put to me to answer and not to
7 answer.

8 Q Now, I object. Were those statements you made before
9 the grand jury true?

10 THE COURT. The answer is "Yes". Strike out all the
11 answer except "Yes."

12 MR. DARROW. Q Did you testify yesterday in answer to
13 Mr. Fredericks that you saw Ortie McManigal's confession
14 before you saw me in Chicago? A Well, I saw what the
15 newspaper had there.

16 Q What? A I saw the talk that was in the newspaper but
17 I don't know whether it was a full confession or not.

18 Q Well, if you saw it in the newspaper there were those
19 statements I read to you from the grand jury, were they
20 true or untrue? A The confession I made there, some of
21 it was true and some of it untrue.

22 Q All of these statements I have just asked you about
23 upon which you answered, were those true or untrue?

24 A That is the way I swore before the grand jury.

25 Q Were they true or false? A Some of them were false.

26 Q Which ones were false? A I can't pick out all of them.

1 Q Were some of those false that I have just read to you?

2 A Some false and some true.

3 Q And you just told the jury about two minutes ago they
4 were all true.

5 MR. EORD. Objected to as argumentative.

6 THE COURT. Objection sustained.

7 MR. DARROW. Q Listen to this, Mr. Behm. If I read too
8 fast I will read slower, and you tell me when I come to
9 one that you say is false: "Q--Well, did you ever talk
10 about the alleged confession of McManigal at all at any
11 of these visits? A--I didn't know anything about a confes-
12 sion until after I quit visiting, " Was that true
13 or false?

14 MR. FORD. Just a moment, if the court please. The context
15 of this about this confession, I think that refers to the
16 visits of the witness.

17 THE COURT. Is there any question about it, let the witness
18 take the document.

19 MR. DARROW. To McManigal.

20 MR. FORD. If counsel states that--

21 MR. DARROW. Q To the visit you made to McManigal in jail.
22 Now, was this question asked you: "Q--Well, did you ever
23 talk about the alleged confession of McManigal at all at
24 any of these visits? A I didn't know anything about a
25 confession until after I quit visiting." Now, change
26 my question. was that statement true or false? A Well,

1 I don't deny anything that is in there.

2 Q But tell me, was it true? You told me a moment ago
3 some of it was true and some false. Is this true, or don't
4 you know? A I know you got me confused, I know you got
5 me all muddled up.

6 Q Do you know whether that statement is true or false, Mr
7 Behm. I don't see why I got you confused. Is it true
8 or false?

9 MR. FORD. I just want to offer a suggestion--

10 A I know he is walking all over me.

11 MR. FORD. (Continuing) --I might be wrong in this, I am
12 not doing this for the purpose of pointing out to the
13 witness--I think there is some confusion in the mind of the
14 witness whether counsel is asking him, did you so testify
15 or is that a fact.

16 THE COURT. That might be.

17 MR. DARROW. Well, let me clear it up. I am willing to
18 take any suggestion.

19 Q Now, Mr. Behm, you have already said you did so testify
20 and I think counsel concedes that. Now, this is what you
21 said before the grand jury, and what I say is, was that
22 statement true or false when you testified to it, was it
23 true or false, or don't you know? A Well, it was false.

24 Q Then, did you make this statement: "Q--But you were in
25 fact aware that it was rumored that McManigal had made a
26 confession? A--Not until after I came here, I seen the
paper after I quit visiting ^{him} that is the first time I seen

1 the confession." Was that true or false? A That is
2 false.

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1 Q --Now, this statement, "When you came out to see McManigal
2 you had heard it rumored that he had told a story wherein
3 he had implicated the McNamaras, and all that, hadn't you?

4 A -- I hadn't heard no story." Is that true or false?

5 A That is false.

6 Q "Q -- But you had seen it in the papers, and it was
7 rumored the statements had been made in the papers and
8 it was that McManigal had made a confession that he had
9 implicated the McNamaras, especially J. J. McNamara; you
10 had seen that in the paper, I believe? A -- Well, I had
11 seen that after I quit visiting him." Was that true or
12 false? A That was false.

13 Q Now, first, you said every statement was true, and
14 next said part of them were true, and part false, and now
15 you say they are all false; is that right?

16 MR FREDERICKS: No, the witness doesn't say they are all
17 false.

18 MR DARROW: What one of the statements I have read are true?

19 A Well, them I answered now, is false, to some other one
20 is true.

21 Q I will read you every one. A I know you got me tangled
22 up but there is so many places you have had me --

23 MR ROGERS: A man can always tell a true story,
24 your Honor.

25 THE COURT: One at a time.

26 MR ROGERS: I move to strike out the answer.

THE COURT: Mr Darrow is examining the witness.

1 MR ROGERS: I have a right to that; I move to strike out
2 the answer.

3 MR FORD: The witness has a right to explain his answer.

4 THE COURT: The witness has a right to be examined
5 by one counsel. The court will not entertain a motion to
6 strike.

7 MR DARROW: He has made a response to the question and I
8 don't ask to have it stricken out. I don't know whether
9 his statement is worth anything, but we will leave it.

10 MR FORD: We object to counsel's comments.

11 MR DARROW: I will withdraw the comment.

12 Q Now, I will read all the rest of the questions and
13 answers I read you before.

14 MR FREDERICKS: Just a moment. I think counsel -- that
15 won't clear the matter up, simply going over it. Now, the
16 witness said somethings were true and some were false. Now,
17 I don't understand he said that some of the things that
18 counsel read him were true and some of the things were
19 false. Some of the things he testified to.

20 MR DARROW: Here are 12 men, I think will understand. I
21 asked him --

22 THE COURT: I think your examination is proper. There
23 is not any objection.

24 MR DARROW: Now, you say there were some of them true.
25 Now, I will read you all the rest I have read.

26 MR FREDERICKS: We object to it on the ground that it, as

1 sumes a fact not in evidence, that the witness said some
2 of them were true, referring to some of the things that
3 he read, whereas he said some of the things he testified
4 to were true and some false.

5 THE COURT: Overruled.

6 MR DARROW: Page 69: "Q -- Well, you testified this morn-
7 ing that you had seen something in the papers, well --

8 A -- That was after I visited him. Q -- No, but before
9 you come to California, that you had seen something.

10 A -- Well, I seen something back in the paper; I didn't
11 see anything about anything before. Q -- Some statement

12 about his having told Burns what he had done? A -- No, I
13 never seen anything like that. There was nothing in our

14 papers back East there. Q -- But you, in fact, are aware,
15 that it was rumored that McManigal had made a confession?

16 A -- Not until after I came here. I saw it in the paper
17 after I quit visiting him; that was the first I seen the
18 confession." Now, that is all of it. Is it all false?

19 A That is false.

20 Q All that I have just read you? A Things there that
21 I seen in the paper back East; I read in the paper about
22 him being arrested.

23 Q What I mean, Mr Behm was, everyone of those statements
24 that I have read to you that you swore to before the grand
25 jury, were they false? Were they everyone of them false?

26 A What you just read?

1 Q Yes. A Yes, they was false.

2 Q Now, Mr Behm, how did you happen to come to see McMani-
3 gal the first time, the first time you saw him and visited
4 him? A Here?

5 Q Yes, here. A I was sent over there by you.

6 Q Didn't he ask you to come to see him first? A That
7 is what you told me. You told me to go over and see him.

8 Q Now, is that the first you heard of it?
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5s 1 MR. FREDERICKS. That is not a question, the first you
2 heard of him, might be entirely different matter.

3 MR. DARROW. Q Was that the first request you had to visit
4 after I told you to go to see him after you came to Los
5 Angeles? A He invited me up himself.

6 Q That is what I supposed. He invited you? A Yes.

7 Q You were walking along the street? A Yes.

8 Q He saw you and invited you? A Yes.

9 Q And then as you understood it he sent a note by the
10 jailer to my office which I gave to you? A You told me--
11 you didn't give me anything. You just told me.

12 Q And you went up and got in? A Yes.

13 Q Now, he invited you every time to come again? A To come
14 back to see him.

15 Q And you went every time by his invitation, didn't you?

16 A Yes.

17 Q Now, was anything said in this conversation between
18 Mr. Davis and you and me as to what you told Mr. McManigal
19 in reference to whether he was guilty or what he should do
20 if he was guilty? Maybe that is a little hard to under-
21 stand. When Mr. Davis and I had the talk with you was any-
22 thing said by either of us or by you as to what you were
23 to tell him if he said he was guilty? A No, I don't
24 remember anything about that.

25 Q No. Now, do you suppose you could do any better about
26 it if you thought about it? A How is that?

1 Q Do you suppose you could do any better if you thought
2 about it a few minutes? A I cannot now.

3 Q You don't recall that that subject was talked about at
4 all? A Well, as I stated before, this subject was always
5 talked about me what my intention was to visit with her.

6 Q You don't recall the subject I asked you the question
7 about was talked of at all, do you, is that right?

8 A No, you got me muddled there, I cannot--

9 Q Take all the time you want.

10 MR. FORD. We object to what counsel suggests ought to be
11 done.

12 THE COURT. There is only one counsel speaking in the
13 record, and there is no objection to Mr. Rogers making sug-
14 gestions.

15 MR. FORD- It is loud enough to be heard.

16 MR. ROGERS. If there is any objection, I simply told him
17 to ask him to take all the time he needs.

18 THE COURT. No, no, no, there is no occasion for that, the
19 reporter does not get everything that is said here.

20 BY MR. DARROW. Q was anything at all said on that subject
21 by Mr. Davis or by me or by yourself?

22 MR. FREDERICKS. So far as Mr. Davis is concerned, the ques-
23 tion is objected to because that is not cross-examination;
24 no time in the direct examination did this witness
25 testify that Mr. Davis had ever said anything to him about
26 his conversation with McManigal or his dealings with Mc-

1 Manigal, and the putting of Mr. Davis into the question
2 might tend to confuse the consideration of it. Therefore,
3 it is not cross-examination.

4 MR. DARROW. The record will speak for itself that far.

5 THE COURT. Read the question.

6 (Question read.)

7 MR. DARROW. That makes it certain, that is all.

8 THE COURT. Objection overruled.

9 MR. FORD. As to when and where?

10 MR. DARROW. As to the conversation we have been speaking
11 about all the time, before he went before the grand jury.

12 MR. FREDERICKS. Now, if the court please, that makes the
13 thing awfully indefinite, "The conversation we have been
14 speaking about all the time."

15 MR. DARROW. I will make it definite, Mr. Fredericks.

16 MR. FREDERICKS. Make it definite.

17 THE COURT. Counsel says he will make it definite.

18 MR. DARROW. I have said it so many times, but I will make
19 it definite again: Mr. Behm, in all these questions I am
20 referring to the conversation in my office between you and
21 Mr. Davis and myself while we went over these questions that
22 were asked the first time before the grand jury. You
23 understand that, don't you? A Yes, I understand that.

24 Q That is what I am referring to all the while. Now,
25 was anything said at that conversation either by you or by
26 Mr. Davis or by me as to what you were to say that McManigal-

1 as to what you were to say you told McManigal in case he
2 said he was guilty, or anything of that kind.

3 MR. FORD: Now, if the Court please, I think the question
4 is objectionable on the ground it is indefinite. If counsel
5 means by the question, "what you were to tell the grand
6 jury about any conversation you had with McManigal and the
7 advice the attorneys had given me", in regard to that matter
8 it would be an entirely different question from the ques-
9 tion as to what he or Davis should say to McManigal at the
10 time Mc Manigal told him those things. I think the
11 question is fairly indefinite.

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1 THE COURT: The question is broad enough to include all
2 that. The question is: "Was anything said?"

3 MR DARROW: That is what it is. If it is not definite
4 enough or simple enough for the witness or counsel to un-
5 derstand it, I will change it.

6 THE COURT: Objection overruled.

7 MR FREDERICKS: I cannot say that I understand it.

8 MR DARROW: Do you want it read?

9 MR FREDERICKS: No, I do not. I understand it now.

10 A The only drift I can get to answer that question was
11 what the instructions to say in case the grand jury asked
12 me about having McManigal change his testimony.

13 Q I am not asking that at all. A That is as near as I
14 can get at that point.

15 Q I am not asking about that at all. Haven't you got
16 any other expression or series of catch words besides
17 "McManigal changing his story"?

18 MR FORD: That is objected to as not a proper question
19 to address to a witness.

20 THE COURT: Objection sustained.

21 MR DARROW: Who has talked to you about using that expres-
22 sion "changing your story"? Now, can you answer the
23 other question -- I will withdraw that question -- go
24 back to the other question. A Who talked to me?

25 Q I have asked you the question. A What is it, now?

26 (Question read as follows: "Q -- Now, was anything said

1 at that conversation either by you or by Mr Davis or by
2 me as to what you were to say that McManigal -- as to what
3 you were to say you told McManigal in case he said he
4 was guilty, or anything of that kind.") A No, not at
5 that time.

6 Q Was there at any other time?

7 MR FORD: I think that question is subject to the vice
8 I was trying to make and point out, it didn't say to whom,
9 whether it was before the grand jury or not.

10 MR DARROW: Was there anything said to you at any other
11 time about that? A Yes, you asked me to change his testi-
12 mony.

13 MR ROGERS: Your Honor, I move to strike out the answer
14 as not responsive.

15 THE COURT: Strike it out.

16 MR DARROW: Is that all you know, to repeat that parrot-
17 phrase?

18 MR FORD: We object to that as not a proper question .

19 THE COURT: Objection sustained.

20 MR DARROW: I have got tired of hearing that over and over
21 again; one thing he learned like a parrot, Polly wants a
22 cracker.

23 MR FORD: We object to the comment.

24 MR DARROW: Just answer that question as I gave it. A What
25 is the question?

26 (Question read.)

1 A About my changing that testimony?

2 MR ROGERS: I move to strike that out, if your Honor
3 pleases.

4 MR FREDERICKS: It is a question the witness is asking
5 him for information.

6 MR ROGERS: That seems to be all he can say.

7 MR DARROW: Don't you know what I was asking about, Mr
8 Behm? A What you asked me before that?

9 Q I asked you whether there was anything said to you or
10 by you about the subject or what you were to say if Mc
11 Manigal said he was guilty or anything.

12 MR FREDERICKS: That is, what he was to say to the grand
13 jury?

14 MR DARROW: We will put it to the grand jury, that will
15 make it more definite -- was anything of that sort said?

16 A Well, I cannot say there was just exactly at that
17 time.

18 Q Well, anything at any other time of that sort, was
19 that told you at any time; if so, where? A At any time?
20 What do you mean, before the grand jury or when I first
21 went over there?

22 Q Was anything said to you at any time in reference to
23 what you should say to the grand jury upon that subject?

24 A Why, yes, there was things asked me at other times.

25 Q What was it? A Why, I was told to ask him to change
26 his testimony by you.

1 MR ROGERS: I move to strike that out, if your Honor please.
2 We might as well get a phonograph, as far as this witness
3 is concerned.

4 THE COURT: Mr Rogers, that comment is not --

5 MR FORD: We object to the comment "We might as well get
6 a phonograph as far as this witness is concerned."
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1 THE COURT. The motion to strike out is denied.

2 MR. FREDERICKS. I am frank to say, I have lost the question
3 myself, I don't know what the question is myself, I couldn't
4 answer it.

5 MR. DARROW. Q Now, Mr. Behm, when you were before the
6 grand jury--withdraw that--I will see whether I can get an
7 answer. I am sorry to weary the court with it, but I will
8 see whether I can get an answer. Mr. Behm, was anything
9 said at any time by me or by Mr. Davis as to what you should
10 say to the grand jury in case they asked you whether Mc-
11 Manigal had said he was guilty or not guilty? A Now, I
12 cannot explain that point?

13 Q Well, can you answer the question? A There was noth-
14 ing said there that evening, as I remember of.

15 Q Do you remember anything said at any other time as to
16 what you were to tell the grand jury in case that question
17 was asked you? A Well, there was at other times.

18 Q How? A There was at other times.

19 Q Where? A Well, the first time I went to visit with
20 him.

21 Q When was that, the first time you visited him? A Yes,
22 before I went to the grand jury.

23 Q Who told you anything to say? A You.

24 Q What? A You told me to ask him to change his testimony.

25 MR. FREDERICKS. I am not surprised that counsel should
26 smile as the gaff goes in.

MR. DARROW I think the jury has enough brains, talking

1 about his smiling at the gaff.

2 MR. FREDERICKS. I certainly do, and if those questions
3 were asked in a simple fashion they would get the answer.

4 MR. DARROW. You cannot carry that bluff through alone.

5 MR. FREDERICKS. Very well.

6 THE COURT. Now, gentlemen.

7 MR. DARROW. Q Mr. Behm, let me try you once more: Was
8 anything said to you by anybody at any time as to what
9 answer you should make the grand jury in case they asked
10 you whe ther McManigal said he was guilty or not?

11 A That is all right.

12 THE COURT. What is the answer?

13 (Answer read.)

14 THE COURT. Mr. Behm? A Huh?

15 BY THE COURT. Q Did the grand jury ask you whether or
16 not Ortie McManigal had told you he was guilty?

17 A Yes, they did.

18 BY THE COURT.

19 Q And what answer did you make? A As near as I can say
20 that I told them I was awfully sorry he was guilty.

21 BY THE COURT. Q Did any one tell you to make that
22 answer? A No.

23 MR. DARROW. Your Honor got at it simpler than I could.
24 Will you read that record?

25 (Last four questions and answers read.)

26 MR. DARROW. Q Did anybody tell you to make any other
answer? A You told me lots of things I should not answer

1 and I should answer.

2 Q Did anybody tell you to make any other answer to that
3 question? A I cannot remember just at that question.

4 Q Can you remember whether anybody told you to make that
5 answer to that question or any other answer to that ques-
6 tion? A No.

7 Q If you cannot, say you cannot and let it go at that.
8 A No, I don,t remember.

9 Q Well, that is a good way . Now, Mr. Behm, when you were
10 before the grand jury, did this take place, page 71:

11 "Q--Mr. Behm, didn't you come out here for the purpose of
12 having McManigal tell the truth about this case? A--How
13 do you mean, tell the truth? I didn't go to him and
14 tell him to tell the truth. Q--You didn't go to him to tell
15 him to tell the truth? Did you tell him to tell anything?
16 A--I told him if he was guilty he should be-- say guilty,
17 whatever, he had done, I was not going to change his testi-
18 mony." Now, wait a minute and I will read some more of it.
19 Turn to page 78--

20 MR. FORD. I would ask right here that the witness be
21 permitted to look at the transcript so that he can see
22 what is immediately preceding and following it.

23 THE COURT. yes, he may have that privilege.

24 MR. FORD- I will hand him the transcript. (Transcript
25 handed to witness.)

26 THE COURT. Take your time, Mr. Behm, and read it over

1 carefully.

2 MR. FORD. Read what precedes and follows the other, with
3 the context--I mean read what comes before and immediately
4 afterwards.

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1 MR DARROW: I guess you have read that, haven't you?

2 A Yes.

3 Q Now, I will read that over. "Q -- Mr Behm, didn't
4 you come out here for the purpose of having McManigal tell
5 the truth about this case? A -- How do you mean to tell
6 the truth? I didn't go to him and tell him to tell the
7 truth. Q -- You didn't go to him and tell him to tell the
8 truth? Did you tell him to tell anything? A I told him
9 if he was guilty, he should be -- say guilty. Whatever
10 he done I wasn't going to change his testimony." Did
11 you answer that way at the grand jury? A Yes sir.

12 Q I will read you some over on page 78.

13 MR FORD: I will hand that to the witness.

14 THE COURT: Yes, let the witness see it.

15 MR DARROW: 78, down towards the bottom of the page.

16 THE COURT: You can indicate to him anything, Mr Ford.

17 MR DARROW: "Q -- You never at any time told him to tes-
18 tify ^{on} one side or the other? A -- No. Q -- Never dis-
19 cussed his testimony at all? A -- No. He has told me
20 that he thought he was right. I said, 'All right, if you
21 think you are right, that is the way to do.'" Did you
22 answer that way? A Yes sir.

23 Q Turn to page 79 -- turn to page 81: "Q -- You understood
24 he was going testify for the prosecution, was going to say
25 the same things he said in his confession, didn't you?
26 A -- I didn't see that confession until after I quit going

1 to see him. Q -- But you understood he was going to tes-
2 tify for the prosecution, and that is what he meant when
3 he said he thought he was going right? A He told me he
4 thought he was right, and I said, "All right, if you think
5 you are right, that is up to you". Q -- When he said

6 that you understood he meant he was going to testify for
7 the prosecution, because that is what he thought he was
8 doing right? A -- As near as I can remember. Q -- You
9 didn't think that was right, and you wanted him to change
10 it, did you not? A -- I never asked him to change it.

11 Q -- Well, that is not the question I asked you. I have
12 asked you what you thought about it, Mr Behm, just to show
13 your relation to the case. A -- All I thought, I thought
14 if he was right, it was right for him to go ahead and do
15 as he saw fit." Did you make those answers? A I did.

16 Q When you told him -- you told the grand jury that
17 you told Ortie McManigal, page 81, that if he thought he
18 was right, and I said, all right, if you think you are
19 right, that is up to you.

20 MR FORD: what line is that?

21 MR DARROW: Well, it is --- it is counting questions and
22 answers, both, 6.

23 MR FORD: It is numbered out to the left, what line?

24 MR DARROW: 10. Well, you have found it? A yes.

25 Q That was your testimony, wasn't it? A Yes sir.

26 Q Now, turn back to 78 and read the last paragraph on

1 it. Two pages back, or three. Did you tell the grand
2 jury, in answer to the question, "Never discussed his tes-
3 timony at all. No, he has told me that he thought he was
4 right, and I says, all right, if you think you are right,
5 that is the way to do." Did you swear to that before the
6 grand jury? A I did.

7 Q Was it true? A It was true, as near as I can under-
8 stand the way you instructed me.

9 Q I ask to have that last part of it stricken out of
10 this record.

11 MR FREDERICKS: Let's see what it is.

12 MR DARROW: All right, I am willing to let you see what
13 it is. (Last answer read by the reporter.) I ask
14 to have that last part stricken out.

15 THE COURT: Strike out the entire answer.

16 MR DARROW: Was that true, that statement that you made to
17 the grand jury? A Yes sir.

18 Q Can't you tell the truth without being instructed?

19 MR FORD: That is not a proper question.

20 THE COURT: That is not a proper question. I think the
21 witness is very much confused.

22 MR DARROW: I am trying to be patient with him.

23 THE COURT: It is true you are very patient.

24 MR APPEL: We take an exception to the statement of the
25 court the witness is very much confused, as a construction
26 on the manner and testimony of the witness.

1 MR DARROW: Mr Behm, you have^{had} many conversations with
2 other people about what happened between you and Ortie Mc-
3 Manigal, didn't you? A Well, yes, somewhat.

4 Q I wasn't the only one you talked to, was I? A No.

5 Q About what happened up there in the jail? A There
6 was nothing that came back that I was to keep secret for
7 you.

8 Q Was I the only one you talked to about your conver-
9 sations in the jail, about your interview? A Oh, his wife
10 might have asked me questions.

11 Q Didn't you talk to other people? A Not as I remember
12 of.

13 Q Talk to Mr Davis? A Oh, that was -- some, more or
14 less.

15 Q Talk to Mr Scott? A No.

16 Q Talk to Mr Harriman? A No, not on them questions.
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1 Q You lived in Mr. Harriman's house, the same building?

2 A Part of the time.

3 Q Talk to Mr. Shober? A Not that I remember of.

4 Q You remember him? A I remember he was watchman up
5 there.

6 Q To guard your place against the Burns detectives? A That
7 wasn't my place, I had a room down--

8 Q To guard that place? A yes, to guard that place. I
9 understood he was there for that.

10 Q Mrs. McManigal was there and you were living there?

11 A I wasn't living there all the time.

12 Q You were there part of the time? A Backwards and
13 forwards there, yes.

14 Q Didn't you say to Mr. Davis and me repeatedly during the
15 month you were here, that Ortie McManigal was not the man
16 you used to know, that you believed he was crazy or had
17 been bought?

18 MR. FORD. To that we object upon the ground, that no founda-
19 tion has been laid as to the time and place and persons
20 present.

21 MR. DARROW. I can't give every time.

22 THE COURT. Objection overruled.

23 MR. FORD. If the court will instruct the witness to answer.

24 MR. DARROW. Q The court means you should answer.

25 A I might have said something.

26 Q Well, did you? A I did; yes.

Q You told all of us that you thought he was crazy or

1 doped, didn't you? A Them words have been brought to me
2 by somebody else.

3 Q You stated it, didn't you, sir. A Yes, I didn't
4 understand why he should do so.

5 Q And you said he was not the man that he used to be in
6 any way, didn't you? A Yes.

7 Q And you thought he had either been hypnotized or paid
8 by the Burns people, you stated that? A Oh, I stated
9 that.

10 Q And said it repeatedly, didn't you? A I made the
11 remark several times.

12 Q Did you believe it?

13 MR. FORD. Just a moment--we object upon the ground it is
14 not impeaching or tending to impeach any testimony the
15 witness has given; it is incompetent, irrelevant and
16 immaterial and not cross-examination.

17 THE COURT. Objection overruled.

18 A Well, I might have made those remarks.

19 MR. DARROW. Q Did you believe them when you said them?

20 A I didn't just exactly believe them.

21 Q You lied about it? A Not any more than what the
22 influence was around me to talk about the same subject.

23 Q Were you lying about it? A Enough to say I thought
24 he was crazy.

25 Q What? Were you lying about these conversations when you
26 made them? A I think I was, yes.

1 Q You also said you would like to have him in front of
2 your engine when you was coming down at a high rate of
3 speed? A No.

4 Q Didn't say that? A No.

5 Q Didn't say it to Mr. Davis? A No.

6 Q You are sure about that? A I never wished anybody like
7 that.

8 Q You also said, didn't you, that there wasn't a drop of
9 your blood in him, that everything that he got was not
10 from his mother, who was your sister, but from his father?

11 A Yes, I might have said that.

12 MR. FREDERICKS. Just a moment--that is objected to as not
13 impeaching, incompetent, irrelevant and immaterial and
14 not cross-examination and no foundation laid whether he
15 had a drop of his blood in him.

16 MR. DARROW. Shows whether this man was acting sincerely,
17 your Honor, what he thought himself at the time.

18 THE COURT. All right, objection overruled.

19 A Well, I might have said that--because--

20 MR. DARROW. Did you say it? A Yes, I said it.

21 MR. FORD. The witness started to finish the answer.

22 MR. DARROW. Now--

23 THE COURT. Finish your answer.

24 A Well, I made that remark, yes.

25 MR. FORD. He started to give the reason, the court please.
26 He said he might have made that remark because, and

1 counsel choked him off with another question.

2 THE COURT. He has a good chance now.

3 MR. FORD. I am going to ask your Honor to give him a
4 chance by reading that question and answer.

5 THE COURT. All right, read the question and answer.

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

7 A What I meant by that there wasn't anything on our side
8 or the people to cause him to do any such work he had been
9 doing.

10 MR. DARROW. Q What you mean and what he said was there
11 was nothing on your side of the house that would cause him
12 to make any such statements and put him ⁱⁿ the position
13 with the Burns men, and that is exactly what you said.

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1 A I meant if he had our family blood in him he would not
2 go and do such work he had been doing.

3 Q You referred to his work here in Los Angeles, as
4 well as everywhere else, didn't you, after you came back
5 from the jail? A Crookedness, yes.

6 Q That you referred to in jail, didn't you, and his at-
7 titude in jail? A Yes sir.

8 Q You and his father hadn't been friends for years?

9 A His father?

10 Q Yes. A I hadn't met him for a good many years.

11 Q You hadn't been friends? A I hadn't met him for a
12 good many years.

13 Q You hadn't been on friendly terms with him?

14 MR FREDERICKS: Objected to as immaterial, whether he had
15 been on friendly terms with McManigal's father.

16 THE COURT: Overruled.

17 A I ain't got nothing against his father.

18 MR DARROW: Didn't you say his father had murdered your
19 sister? A Oh, I didn't say that.

20 Q You said practically that, didn't you?

21 MR FREDERICKS: Objected to as incompetent, irrelevant and
22 immaterial, and not cross-examination.

23 THE COURT: Overruled.

24 MR DARROW: How is that? A He didn't treat my sister
25 right.

26 Q Then didn't you say that this boy was his father's boy

1 and not your sister's boy, in speaking of his treatment up
2 here to you in the jail? A Well, he was my sister's
3 child, yes, but he didn't take after his mother.

4 Q You said he took after his father, didn't you? A Yes.

5 Q Now, Mr Behm, you say the first time you saw me,
6 what ^{was} the first words I said to you about coming to Los
7 Angeles, what is the purpose of it?

8 MR FREDERICKS: That is objected to, what the purpose of
9 it was, as calling for a conclusion of the witness.

10 MR DARROW: I didn't mean the purpose of it.

11 MR ROGERS: One can always call for a conclusion on cross-
12 examination. A The purpose of coming out here to see
13 Ortie McManigal.

14 MR DARROW: The first thing I asked you to do, then, was
15 to come out here and see Ortie McManigal; is that right?

16 A Well, that and be with his family.

17 Q And be with his family? A yes. But his family was
18 sent ahead of me.

19 Q Now, I am talking about the conversation with you in
20 my house? A All right.

21 Q I asked you to come out here and see Ortie McManigal
22 and be with his family? A Yes.

23 Q What else did I say to you? A Well, to see Ortie Mc-
24 Manigal after I got out here.

25 Q yes. What else? A To see if I could get him to change
26 his testimony.

1 Q Had I told you what his testimony was there? A I don't
2 know as you did just exactly.

3 Q Had I told you anything about his testimony? A No,
4 you alluded to his work that he had been doing there,
5 through the country.

6 Q Had I told you anything about his testimony? A Not
7 exactly.

8 Q Had I told you anything about his testimony? A "Only
9 you said he was in a petty bad fix out here.

10 Q Had I told you anything about his testimony? A I
11 don't know as you did.

12 Q Had I told you what I wanted him to testify to?

13 A No, I don't know as you did then.

14 Q But I said ^{I wanted} you to change his testimony; is that it?

15 A Yes.

16 Q All right. Where did you get that phrase, "change your
17 testimony"? Do you know who gave it to you? A Why, I
18 heard you repeat it so many times, that is all I could
19 say .

20 Q Did you ever hear anybody else repeat it, ever hear
21 anybody else repeat it? A Oh, I might have heard other
22 people, yes.

23 Q What people?

24 MR FREDERICKS: We submit that is immaterial, your Honor.
25 He has given quite a sufficient ^{source} saying that he got
26 it from counsel.

1 MR DARROW: Well, he didn't get it from counsel.

2 MR FREDERICKS: He says he did.

3 THE COURT: Objection overruled.

4 MR DARROW: Didn't you -- Don't you know I never used such
5 an expression in my life anywhere except following your
6 questions and answers, "change your testimony"?

7 MR FREDERICKS: That is objected to as calling for a conclu
8 sion of the witness as to what Mr Darrow has used in his
9 life. This witness don't know what he has used in his
10 life.

11 THE COURT: Objection sustained.

12 MR DARROW: Who else did you ever hear use that expression,
13 "change your testimony."? A Oh, I have heard lots of
14 people say that.

15 Q Who? A I have heard you.

16 Q You mentioned me before. Who else, I say? A I have
17 heard his wife speak about it.

18 Q Who else? A I think Mr Davis.

19 Q Who else? A Well, I can't bring up everybody.

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11s 1 Q You heard Mr. Davis speak about McManigal changing his
2 testimony? A That has been spoken about?

3 Q Where was that?

4 MR. FORD. Object upon the ground it is irrelevant and
5 immaterial and not cross-examination.

6 THE COURT. Overruled.

7 MR. DARROW. Q Where was that, sir? A I can't mention
8 all those people that spoke about changing testimony.

9 Q Where did you hear Mr. Davis speak about it?

10 MR. FORD; That is objected to as irrelevant and immaterial
11 and not cross-examination.

12 THE COURT. Overruled.

13 MR. FREDERICKS. Make the further objection, your Honor,
14 that he just answered it.

15 MR. DARROW. He has not answered it.

16 MR. FREDERICKS. Yes, he did. He said, "I don't know."

17 MR. DARROW. Can you tell me where you heard Mr. Davis say
18 it? A No, I can't say just where.

P 19 Q Did you hear the grand jury use it or the attorney
20 before the grand jury?

21 MR. FORD. We object to that as irrelevant and immaterial,
22 and on the further ground that the record of the grand
23 jury is the best evidence.

24 THE COURT. Objection overruled.

25 MR. DARROW. Q Did you hear that attorney use it before
26 the grand jury? A Why, it was asked me.

1 Q What? A That question was asked me.

2 Q Did you hear Mr. Fredericks use it?

3 MR. FREDERICKS. When?

4 MR. DARROW. Q At any time, sir. A Only in the court room,
5 grand jury.

6 Q Have you heard him use it outside of the court room?

7 A Heh?

8 Q Have you heard him use it outside of the court room?

9 A Not as I remember of.

10 Q You reported to him when you got here, didn't you?

11 A I went to his office to let him know I was here.

12 Q Did he say anything to you about any conversation about
13 changing testimony? A No.

14 Q He did not? A No.

15 Q Did anybody?

16 A He only asked me to come out here to tell the truth.

17 Q Did anybody, before you went on the witness stand, talk
18 to you about what you were to testify about?

19 MR. FREDERICKS' That is objected to on the ground it has
20 already been gone into on cross-examination.

21 MR. DARROW. I have not asked him that question before.

22 MR. FREDERICKS. It was asked this morning and he stated--

23 THE COURT. Objection overruled.

24 MR. FORD. And yesterday he testified about Mr. Keetch's
25 visit to him at the very beginning at Portage, Wisconsin.

26 MR. DARROW. Yes, and I didn't get through with that, and
I have not asked this question or anything like it.

1 THE COURT. Objection overruled.

2 MR. DARROW. Q How about that? A What is the question,
3 again?

4 (Question read.)

5 A No, any more than to tell the truth.

6 Q You didn't know what you were to be asked before you
7 went on the witness stand, is that right? A Not--

8 Q What? A Well, I didn't tell them any of this story.

9 Q Did you know anything about what you would be asked, sir,
10 before you went on this witness stand? A Oh, I knew some
11 things, yes.

12 Q Who told you? A Nobody told me, as I know of.

13 Q How do you know, then? A I know what I had been telling.

14 Q Who did you tell it to? A What I had told before the
15 grand jury.

16 Q Did anybody talk to you about the questions you would
17 be asked, before you went on the stand in this case? A No,
18 not exactly.

19 Q What? A No, not exactly.

20 MR. FREDERICKS. Not exactly.

21 MR. DARROW. Q Mr. Behm, are you trying to conceal anything
22 here? A I am trying to tell the truth.

23 MR. FORD. We object to that as not a proper question to
24 ask the witness.

25 THE COURT. Objection overruled.

26 MR. DARROW. Q Mr. Behm, I want you to answer me squarely

1 and honestly, did anybody talk to you about what questions
2 would be asked you before you went on this witness stand?

3 A No.

4 MR. FORD. We object to that question.

5 MR. DARROW. Q Nobody?

6 MR. FORD. We object to that question--

7 MR. DARROW. He has answered it.

8 MR. FORD. I don't care whether he has or not. I am
9 addressing the court.

10 MR. DARROW. Thank you, I am glad you are not addressing me

11 MR. FORD. --on the ground of its form, "Answer me
12 squarely and honestly." All the answers of the witness
13 are supposed to be given squarely and honestly and I do
14 not think counsel has a right to refer or say to the witness,
15 "Answer me squarely and honestly" any more than he has
16 a right to say, "Will you swear that?" I don't think it
17 is a proper form of question.

18 THE COURT. Probably you are right about that, but the
19 question has been asked and answered.

20 MR. DARROW. I guess he is right about it.

21 MR. DARROW. Who gave you this copy and told you to read
22 it? A It was given to me in the district attorney's office.

23 Q I asked you who? A (No response.)

24 Q Now, did anybody tell you not to answer questions here?

25 A No, they didn't tell me not to answer.
26

1 Q Do you know who gave it to you? A It was handed to
2 me in the office.

3 Q Do you know who handed it to you? A Why, the Dis-
4 trict Attorney, as near as I can remember.

5 Q Mr Fredericks? A Yes.

6 Q Well, don't you know whether he did or not? A Yes.

7 Q Why didn't you say so? What did he tell you he handed
8 it to you for? A Just to look it over.

9 Q For what purpose? A I don't know.

10 MR FREDERICKS: I suppose the record will show, that is,
11 the record of the grand jury testimony that has been intro-
12 duced in evidence about which I asked the witness if he
13 had read it over.

14 MR DARROW: It has not been introduced in evidence.

15 MR FREDERICKS: On August 3rd, 1911.

16 MR DARROW: August 3, 1911.

17 Q Why didn't you tell me Mr Fredericks delivered it to
18 you when I asked you about it?

19 MR FREDERICKS: May it please the court, he did tell it.

20 MR DARROW: He had it pulled out of him.

21 THE COURT: He did tell it.

22 MR DARROW: Was there any reason why you didn't tell?

23 MR FREDERICKS: We object to that on the ground it assumes
24 a fact not in evidence.

25 THE COURT: Objection sustained.

26 MR DARROW: Did he tell you why he gave it to you? A No.

1 he didn't tell me why he gave it to me.

2 Q Did you have any conversation with him about what you
3 were to do with or what reason it was given to you for?

4 A He just gave it to me to read it over.

5 Q And did he talk to you any about this case?

6 A No.

7 Q Not a word? A He just asked me if I remembered those
8 questions and answers.

9 Q What, all of them? A I cannot remember all of them.

10 Q What questions and answers did he refer to? A That
11 was in the grand jury.

12 Q He asked you if you remembered all of those, didn't
13 he? A Well, he asked me if I remembered all of them,
14 and I cannot remember all them that is in that book.

15 Q Did he talk to you about the questions and answers,
16 singly? A No, he didn't drill me on anything, but just
17 handed it to me.

18 Q Did he talk to you about that and ask you if you remem-
19 bered those questions and answers? A I don't remember his
20 talking to me.

21 Q What did he say to you? A Just handed it to me and
22 told me to look it over.

23 Q Is that all the conversation you had with the Dis-
24 trict Attorney? A That is all the conversation I had
25 with the District Attorney as I remember it.

26 Q Did you have any with anybody else before you went to the

1 District Attorney? A Not outside of the District Attor-
2 ney.

3 Q That is all you had with him? A Just about all.

4 Q And you came down here from Portage, Wisconsin, and went
5 to the District Attorney without any more conversation
6 than that, did you? A I talked about different things.

7 Q I mean, sir, about the things you have testified to
8 in this case, did you come down and go on the stand without
9 any more conversation than you have just told us? A Only
10 with him; I have not talked with anybody else.

11 Q And you have not talked any more than you have told
12 this jury; is that right ?

13 MR FREDERICKS: The witness has not said that; the witness
14 said he talked with me about it.

15 MR DARROW: The record there shows --

16 THE COURT: All right; let us have the answer.

17 MR DARROW: Did you ever have any other conversation besides
18 that you have repeated to this jury with Mr Fredericks
19 about this case?

20 MR FORD: If the court please, I think that question is
21 subject to a double interpretation.

22 MR DARROW: Well, just let me change it.

23 THE COURT: All right.

24 MR FREDERICKS: Let him ask what did happen.

25 MR FORD: Let him tell what occurred.

26 MR APPEL: No, no --

1 THE COURT: Mr Darrow says he will reframe the question.

2 MR DARROW: Yes, I will reframe it so that everybody can
3 understand it.

4 Q Did you have any other conversation with Mr Fredericks
5 about your testimony in this case, besides what you have
6 told us? A No, not as I know of.

7 Q And you had none with nobody else? A No.

8 Q And you didn't know what was going to be asked you
9 when you went on the stand? A Not exactly.

10 Q What? A No, only what was to be the truth, as near
11 as I can remember.

12 MR DARROW: Will you read that? (Answer read.)

13 Q And when you were up in Wisconsin, Mr Keetch came to
14 see you. Did he talk with you about the case? A He just
15 asked me if I would come out here.

16 Q Is that all he asked you? A Well, nothing in parti-
17 cular; he was only there just a few minutes with me.

18 Q How long was he there? A Must have been there about
19 15 minutes.

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13p 1 Q Did he ask you what you knew about it? A No, he asked
2 me if I would come.

3 Q Did you tell him what you knew about it? A No, I didn't
4 tell him what I knew about it.

5 Q You didn't have any conversation with him about this
6 case? A Only any more than I would come out, volunteered
7 to come out.

8 Q Did you volunteer to come? A I had to come by subpoena

9 Q Why did you volunteer to come out here? A I was sub-
10 poenaed.

11 Q What made you volunteer to come out here, sir?

12 A Any more than to state the truth, as near as I could
13 remember it.

14 Q You wanted to tell the truth, to come 3,000 miles to
15 state the truth? A I wanted to clear myself up for what
16 I had been doing here.

17 Q Was anything said about clearing yourself up?

18 MR. FREDERICKS _ We object to that on the ground it was
19 gone into on cross-examination.

20 MR. DARROW * No, I have not, I want to ask him a few
21 more questions.

22 MR. FREDERICKS. He covered it at great length on cross-
23 examination of this witness yesterday.

24 MR. DARROW. I want to ask one or two more questions and I
25 want to follow that up a little.

26 THE COURT * All right, go ahead.

1 MR. DARROW Q was anything said to you about clearing
2 yourself? A I knew I was in bad out here with the courts.

3 Q Was anything said to you, sir, by anybody? A Mr. Keetch
4 didn't say anything to me.

5 Q I said, "By anybody", can't you tell us? A Why,
6 "anybody" means a whole lot.

7 Q Are you trying to hold anything back? A No, I am not
8 trying to hold anything back.

9 Q Was anything said to you by anybody about that subject,
10 about your being in bad out here? A Well, I knew that my-
11 self.

12 Q Mr. Behm, is there any reason why you wont answer my
13 question?

14 MR. FORD We object to that as not a proper form of a ques-
15 tion.

16 MR. DARROW I think it is entirely proper.

17 MR. ROGERS. He has not answered three questions.

18 THE COURT. Do you understand the question counsel has
19 asked you last? A Not exactly, no.

20 MR. DARROW. Q Now, watch, and I will ask it over.

21 MR. FREDERICKS. Why not let the reporter read it.

22 MR. DARROW Let the reporter read it if it satisfies the
23 other side better, let him read it.

24 THE COURT. He can.

25 (Last two questions and answers read.)

26 A Well, they didn't say anything to me, Mr. Keetch didn't
say anything to me.

1 Q Who did say it.

2 MR. FREDERICKS That is objected to as assuming a fact
3 not in evidence.

4 MR. DARROW. I have tried to drag it out of him and if I
5 use that method that is all--did anybody ever say to you
6 anything about your being in bad out here?

7 A Oh, yes.

8 Q Well, who? A Mrs. McManigal and Mr. Terrill told me
9 back in Chicago I was in bad out here.

10 Q Did anybody else ever say that? A No, I don't think
11 they were.

12 Q When was that? A That is when we were on our way going
13 home.

14 Q On your way going home? A Yes.

15 Q That was nearly a year ago, wasn't it? A pretty near,
16 yes.

17 Q Had anybody ever said anything since? A (No response.)

18 Q What? A Nothing back there was ever said to me.

19 Q Had they anywhere, until you got here? A No.

20 Q Did you ever talk with Mr. Harrington about it? A Where
21 back east?

22 Q Back east. A I never seen Mr. Harrington back east.

23 Q Did you here? A Oh, I seen him here, yes, meet him
24 every day.

25 Q Do you want to say to the jury or do you say to the
26 jury--you saw him every day down here, Mr. Harrington?

1 A Yes, he was staying down at OceanPark.

2 Q You say to the jury from the time you went back east
3 with Mrs. McManigal and Mr Terrill, up to the present time,
4 nobody told you you were in bad down here? A No, I
5 never met anybody down there to tell me.

6 Q Did anybody ever say anything to you about your
7 having committed perjury out here? A I knew that myself.

8 Q Did anybody ever say anything about it? A No, not
9 here.

10 Q Anywhere? A I had not met anybody at all from here
11 until I come out here.

12 Q Did anybody in the world ever say anything to you
13 about it? A No, I don't know as they did.

14 Q Are you positive they did not?

15 MR. FREDERICKS' We submit, your Honor, that is an answer.

16 "I don't know as they did."

17 MR. DARROW' We submit it is not an answer.

18 THE COURT. Is that your best recollection you have stated?

19 A It is.
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1 Q Can you state positively nobody ever did say anything
2 to you about your having committed perjury out here? A I
3 don't remember of anybody ever telling me.

4 Q Or about your having done out here any violation of the
5 law? A Not after I left here.

6 Q Or about any trouble you would have out here? A Well,
7 I knew I was in trouble out here.

8 Q Did anybody ever tell you anything about your trouble?
9 A No.

10 Q How did you know? A I knew I had interfered with a
11 state witness, and I knew I was in bad.

12 Q And you just knew it yourself? A Yes.

13 Q Did you ever talk with anybody about it, any of your
14 friends? A Not more than in the family.

15 MR FREDERICKS: We object to that as already covered.

16 THE COURT: Objection overruled.

17 MR DARROW: Did you talk to your family about it? A I
18 told them I was in bad out here, interfering with a state
19 witness.

20 Q And you came out here, you knew you were not obliged
21 to come, in answer to a subpoena, didn't you? A I knew
22 they could take me up for perjury, unless I did.

23 Q And you thought if you came here to testify they would
24 not take you up for perjury? A Yes sir.

25 Q Did you pay your own expenses this time? A No sir,
26 I was sent transportation.

1 Q Who sent it? A I cannot say who.

2 Q Why? A Well, I was ordered by the District Attorney
3 when he sent me my advice, to call for my transportation
4 at the Northwestern depot.

5 Q And how much did you get? A I got my transportation
6 out here, a ticket, that is all I got.

7 Q A ticket? A That is all.

8 Q Any money? A No.

9 Q Any promise of money? A No.

10 Q Did you get a letter with it? A Just asked me to come
11 on out, and my transportation was --

12 Q Have you got that letter with you? A No.

13 Q Now, since you have got here you have been in consul-
14 tation with MR Harrington every day, practically? A Oh,
15 I have been meeting him back and forth and talked to him
16 and went inbathing with him.

17 Q Talked to him about these matters? A Not all of them.

18 Q Talked to him about any of them? A No.

19 Q Any of them? A No.

20 Q MR Behm, do you mean to say you have not discussed
21 this question of your testimony with MR Harrington since
22 you got out here? A Yes sir.

23 Q How? A I mean to tell you I have not discussed
24 this matter at all with him.

25 Q Anything in reference to this case? A Yes sir. Our
26 talk was about general things, about our trip out here be-

1 fore.

2 Q Have you ever made any written statement, either be-
3 fore you came or since? A What is that?

4 Q Have you ever made any written statement to the Dis-
5 trict Attorney's office, or anyone else, either before
6 you came out here or since? A Witness statement?

7 Q A written statement, any writing? A No sir.

8 Q Never signed anything? A No sir.

9 MR DARROW: That is all.

10

11 REDIRECT EXAMINATION

12 MR FREDERICKS: Mr Behm, do you know a woman by the name
13 of Sadie McGuire? A I do.

14 Q Did you know her in Chicago? A I did.

15 Q Has she any connection with Mrs McManigal, Ortie Mc-
16 Manigal's wife? A What do you mean, in relative?

17 Q Yes. A No, not in relative, only as a friend.

18 Q Did she come out here with Mrs McManigal when Mrs
19 McManigal came out here to California? A Yes sir.

20 Q Stayed with her all the time she was out here? A Up
21 to within about ten days, or so. Mrs McManigal went back;
22 shewent back first, with the two children.

23 Q With the two children? A Yes sir.

24 Q You didn't come out with Mrs McManigal? A No.

25 Q Did you go back with Mrs McManigal? A I went home
26 with her, yes.

1 Q What was Mrs McGuire doing here?

2 MR ROGERS: We object to that as calling for a conclusion
3 or opinion.

4 MR FREDERICKS: Withdraw the question and ask it a little
5 differently. I will cover the matter a little differ-
6 ently.

7 Q Where did Mrs McGuire live, did she live with Mrs Mc-
8 Manigal? A She lived with Mrs McManigal.

9 Q Where did you live? A My room was down on Third
10 street up until after Mrs McManigal went to the hospital,
11 and then I went up there to stay with the children.

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15p 1 Q Yes, and all the time Mrs. McManigal and Mrs. McGuire
2 was here they lived together? A Yes, sir.

3 Q And you didn't live with her? A Not until after Mrs.
4 McManigal went to the hospital, then I went up to stay
5 with the children.

6 Q Mrs. McGuire lives in Chicago? A Yes, sir.

7 Q And is back there now? A Back there now.

8 Q Do you know what Mrs. Guire was out here for?

9 MR. APPEL. Wait a minute, that is calling for an opinion
10 or conclusion of the witness, incompetent, irrelevant and
11 immaterial.

12 THE COURT. Objection sustained.

13 MR. FREDERICKS. I am asking him if he knows ~~Mr. Darrow~~

14 MR. DARROW. How could he know except by hearsay and your
15 Honor, it is not redirect.

16 MR. FREDERICKS. Q Do you know who paid Mrs. McGuire's
17 expenses out here?

18 MR. DARROW. I object to that unless he knows.

19 A She had money--

20 THE COURT. Objection sustained.

21 MR. FREDERICKS. Q Do you know whether Mrs McManigal had
22 already talked to Mr. Darrow before you met Mr. Darrow?

23 MR. DARROW. I object to that question.

24 MR. APPEL. That is calling for a mere opinion or guess,
25 largely, on the part of the witness, he couldn't know
26 the fact except whatsomebody else told him, because he has
stated already he was present at the first interview with

1 Mr. Darrow .

2 THE COURT. Let me have that question again.

3 (Question read.)

4 THE COURT' Objection sustained.

5 A Shall I answer?

6 MR. FREDERICKS . No, you don't answer that . That is all.

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RE CROSS-EXAMINATION.

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10 MR. DARROW. Q You lived very close to Mrs. McGuire and
11 Mrs. McManigal when you were upon Third street? A Did I
12 live pretty close to them?

13 Q Yes. A Only a few blocks, yes.

14 Q You were up there every day? A More or less, yes.

15 Q Looking after the children? A Yes .

16 Q Keeping out detectives? A No, I wasn't keeping out
17 detectives.

18 Q You were watching them? A No, I was not a watchman.

19 Q You saw them, didn't you? A Why, I saw--who?

20 Q The detectives surrounding the house and following the
21 automobile and following them around? A Yes, those men
22 rode around behind us, yes.

23 Q And you had an altercation with one of them one night
24 when they ran over Mrs. McManigal's child, didn't you?

25 A Well, they came along behind us .

26 Q You had some trouble with them yourself? A No, what
trouble I had was picking up the children after the children

1 fell out.

2 Q You swore at them considerably? A Yes, I would
3 swear at anybody.

4 Q I mean, at them? A Yes, I can't tell/^{them}men.

5 Q Are you especially fond of them now? A I can't swear
6 those men were Burns detectives or any detectives, I can't
7 swear they were any detectives.

8 Q Mr. Behm, you were here day after day and saw them
9 following Mrs. McManigal? A Yes.

10 MR. FORD. Just a moment--

11 MR. DARROW. Q Day after day, all over Chicago?

12 MR. FORD. We object to that on the ground it is not
13 recross-examination.

14 MR. DARROW. All over Los Angeles, I mean.

15 MR. FORD. We object to that on the ground it is argumen-
16 tative, calls for a conclusion of the witness and is not
17 recross-examination.

18 MR. DARROW. They were asking what he was doing here.

19 THE COURT. Objection overruled.

20 MR. DARROW. Q You were here day after day in Los Angeles
21 and they had guards in their rooms, detectives on every
22 side of it and on the street corners, you saw them
23 every place around this town, both on foot and automobile,
24 didn't you?

25 MR. FORD. Just a moment--we object to that on the ground
26 it is not recross-examination; that it is calling for a

1 conclusion of the witness as to whether or not these people
2 whom he assumes exist around there were detectives, and
3 I want to call your Honor's attention to the redirect ex-
4 amination. The redirect examination concerned a lady
5 named Sadie McGuire, I think that was all, and her mission
6 out here. Counsel now is going into an entirely different
7 subject.

8 THE COURT. The question of where Mrs. McGuire resided,
9 and where this witness did--

10 MR. FORD. That is true, he says he resided two or three
11 blocks away. Now, because they allege that the Burns
12 detective ran over a child, I think they made a bald
13 statement they ran over the child.

14 THE COURT. I think the objection on the ground it calls
15 for a conclusion is good.

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MR. APPEL. Now, he is asking whether or not he saw these people which we assume and which we ask the witness to assume, that they were following her, and when we can say that they were following her and standing on the corners we will allow the jury to determine, or any person of reasonable intelligence determine whether they are detectives or not.

THE COURT. The question assumes a fact not in evidence.

MR. DARROW. I will fix that, your Honor. Let the question be withdrawn.

THE COURT. All right.

MR. DARROW. Q You knew that day after day men were standing at various street corners and watching that house, didn't you, and you saw it?

MR. FORD. We object to that on the ground it is not re-cross-examination, whether he saw men or not, it is immaterial, irrelevant and incompetent. Suppose he did see detectives, suppose he did not, in either event what does that establish about Sadie McGuire or her business? What possible relevancy can it have to the answer of the witness that Sadie McGuire came out here with Mrs. McManigal and took care of her and her children until she went to the hospital and then the witness moved to her house and stayed with the children. That is what he testified to on re-direct examination. What possible relevancy has it as to whether he saw detectives in the neighborhood, on that

1 point?

2 THE COURT. Objection overruled.

3 MR. DARROW. Q Answer the question. A Now, I cannot
4 turn around here and swear those men were detectives or
5 not.

6 MR. ROGERS. Read the question.

7 (Question read.)

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1 MR DARROW: I said, did you see --

2 MR ROGERS: Read the question.

3 MR DARROW: Now, listen to the question. (Last question
4 read by the reporter.)

5 THE COURT: That was the question that was objected to.

6 MR FREDERICKS: And the objection was overruled.

7 A Well, I was only told them was detectives. I had
8 nothing to show me that they was.

9 MR DARROW: Can't you answer my question. Did you see
10 the men? A I saw the men standing around on different
11 corners, yes.

12 Q What -- Watching them and the house? A I can't say
13 they was watching them and the house.

14 Q Do you mean to say you don't know whether they were
15 watching them and the house; is that your answer?

16 MR FREDERICKS: Objected to as irrelevant and immaterial.
17 I think I understand the situation, and the redirect exam-
18 ination of Mr Behm was justified by the inference of
19 counsel in his cross-examination that Mr Behm was brought
20 out here to nurse and look out for Mrs McManigal because
21 she was sick. I then went into the fact and showed by
22 this witness that Mrs McGuire was brought out here and
23 was with Mrs McManigal all that time, but presumably taking
24 care of her. Came with her on another train, didn't come
25 with this man, and therefore the inference that she had
26 been brought out here to care for Mrs McManigal was not

1 tenable. Now, counsel endeavored to combat that with the
2 theory that this man's presence was necessary out here
3 because there were detectives around bothering Mrs McMani-
4 gal. Now, that position is untenable, because it could
5 not have been known in Chicago at the time that he was
6 brought out here, or whether out here that there was
7 going to be any detectives out here looking after Mrs
8 McManigal, therefore we maintain, that the examination
9 of the witness in regard to whether Mrs McManigal was
10 being watched by detectives or not is not material.

11 MR APPEL: Now, your Honor, that is not the proposition.
12 We might argue --

13 THE COURT: I think I understand the situation.

14 MR APPEL: We want to show the situation of Mrs McMani-
15 gal here --

16 THE COURT: That is the theory upon which I am allowing --

17 MR FREDERICKS: How does it become material?

18 MR APPEL : If four or five or ten people were there
19 in attendance upon Mrs McManigal, that was justified by
20 the conduct of persons apparent, if not real -- I don't know,
21 were surrounding her, and they had a right to have Mrs
22 McGuire there with her; they had a right to have any
23 number of Mrs McGuires there.

24 MR FREDERICKS: But this man was brought from Chicago be-
25 fore that situation arose.

26 MR APPEL: The very theory of --

1 THE COURT: I am admitting this evidence on the theory
2 it meets the evidence brought out on redirect.

3 MR FORD: As we understand the situation i f the court
4 please, that is immaterial at the present time. The
5 ultimate fact that it is material is what was the purpose
6 for which this witness was brought out here. That is the
7 only thing we are inquiring into. We are not inquiring
8 into the ultimate fact, we are trying to arrive at as far
9 as this witness is concerned, is not what Mrs McManigal
10 was doing, or what Mrs McGuire was doing, or what Mr
11 Behm was doing, but what was his object in being down here.
12 How can the fact he may have seen some detectives around
13 where he was, wandering, throw any light upon his mission
14 here; the fact is that he was here, and there was some-
15 body else taking care of Mrs McManigal, brought out for
16 that purpose.

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18s1 How can the fact that he may have seen detectives or may
2 have picked up a little girl out of their own automobile
3 when she fell out of their own automobile, how can that
4 throw any light on the situation as to the mission of this
5 witness?

6 THE COURT. The objection will be overruled. I see no
7 occasion to change that ruling.

8 MR. DARROW. Now, what is the question?

9 (Last question read by the reporter.)

10 A I can't say that they was watching the house.

11 MR. DARROW. Q Do you know whether they followed Mrs.
12 McManigal and the children when they went away from the
13 house?

14 MR. FORD. Objected to as calling--objected to on the
15 ground no foundation laid, time, place and persons present,
16 not cross-examination.

17 MR. DARROW. I gave him when and where enough. You know
18 that every time they went out of their house that they
19 were followed by these people?

20 MR. FREDERICKS. What people, your Honor? We object upon
21 the ground--

22 MR. DARROW. By people who were stationed around the house,
23 by people. A I don't know as they was exactly stationed
24 around the house.

25 Q Were they following? A Well, there was autos following
26 us,

1 Q Now, Mr. Behm, you mean to tell the jury you don't know
2 whether those were detectives or not? A I ain't got
3 no reason to swear--

4 MR. FORD' Objected to as incompetent, irrelevant and
5 immaterial, calling for a conclusion of the witness.

6 THE COURT. Objection sustained.

7 MR. DARROW. Sometimes they would go out in an automobile
8 and you would go to?

9 MR. FREDERICKS. Objected to as incompetent, irrelevant,
10 and immaterial.

11 MR. DARROW. That is the same question.

12 MR. FREDERICKS' The court sustained the last objection.

13 THE COURT' The court has allowed it sometime go.

14 MR. DARROW. Sometimes they went out in an automobile
15 and you went along? A Yes.

16 Q There was an automobile stationed upon the corner ready
17 to follow them whenever they went, and did follow them
18 wherever they went? A Yes, but they never molested us.

19 Q Did they follow them?

20 MR. FREDERICKS. He has answered it, he said, yes.

21 MR. DARROW. I ask that the last part be stricken out.

22 MR. FREDERICKS' Let it be stricken out, we don't care.

23 THE COURT' Strike out the answer except yes.

24 MR. DARROW_ if they would turn a corner anywhere, the one
25 that followed then turned the corner? A Sure.

26 Q Do you know whether they were following your automobile

1 and her's?

2 MR. FORD' Objected to as irrelevant and immaterial,
3 the fact is that they followed them. It don't make any
4 difference ehether this witness knew it or not.

5 THE COURT' overruled.

6 MR. DARROW' Do you know whether they did? A There was
7 an automobile followed, I can't always say the same people
8 were in it.

9 Q Was there alwaysone following? A Yes, there was always
10 one following.

11 Q And there was one stationed on the corner ready to go?

12 A They wouldn't always be stationed on the corner.

13 Q Most always? A They did sometime.

14 Q And you say you didn't know whether that was detectig es
15 or not? A I can't swear they were.

16 MR. FORD' Objected to as incompetent, irrelevant and
17 immaterial.

18 THE COURT. Objection sustained.

19 MR. DARROW' That is all, except that I don't want this
20 witness to go. Ishan't keep him here an unreasonable
21 length of time, perhaps tomorrow I can arrange it, my im-
22 peaching questions, perhaps one or two more.

23 THE COURT. All right. Gentlemen of the jury, remember-
24 ing the admonition heretofore given you we will take an
25 afternoon recess of ten minutes.

26 (After recess.)

1 THE COURT' You may proceed.

2 MR. FORD. Mr. Williams, we sent for him.

3 MR. DARROW. What is it, to prove this transcript?

4 MR. FREDERICKS' Yes.

5 MR. ROGERS. If your Honor please, in the interest of
6 saving time, it is not necessary to call Mr. Williams the
7 shorthand reporter. The transcript here may be considered
8 to be the longhand extension of the shorthand notes. We
9 do not raise any objections as to its admissibility, but
10 as to its competency, relevancy or materiality, otherwise
11 than the production of Mr. Williams to produce the shorthand
12 notes.

13 MR. FORD' You waive the objection that the transcript
14 is not the best evidence. Of course, we know that the
15 notes are the best evidence of what was said by the witness
16 before the grand jury. Now, you do waive the objection
17 as to its competency upon that ground, and reserve your
18 objection upon the other ground as to competency, relevancy
19 and materiality?

20 MR. APPEL' We stipulate this is a correct transcript
21 of the notes of Mr. Williams of the testimony of the witness
22 therein named, given before the grand jury, we admit that.

23 MR. FORD. I put it in this form: You admit that this is
24 a correct statement of Mr. Behm's testimony before the
25 grand jury but reserve your objections to the competency
26 of that kind of testimony as to what he did testify to?

1 MR. APPEL: We stipulate that this is a correct transcript
2 of the notes taken by Mr. Williams of the notes of the
3 witness Behm.
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1 MR FORD: And further stipulate that the notes taken by
2 Mr Williams are a correct account of what transpired be-
3 fore the grand jury.

4 MR ROGERS: Stipulate Mr Williams will so testify.

5 MR APPEL: We will stipulate that he took down correctly
6 the testimony of Mr Behm and transcribed it correctly.

7 MR FORD: We will stipulate to that. It has been stipu-
8 lated that Mr Williams reported the testimony of George
9 Behm taken before the Grand Jury on August 3rd, 1911,
10 that he took notes of what he testified, in shorthand cor-
11 rectly, and that the document heretofore identified as
12 exhibit 24, People's exhibit 24 for identification, is a
13 correct transcription of those notes. With that stipula-
14 tion we will offer the testimony heretofore identified as
15 exhibit number 24 in evidence, as people's exhibit 24.

16 MR ROGERS: We merely object upon the ground it is incom-
17 petent, irrelevant and immaterial, and no foundation has
18 been laid, not taken as part of our objection, there is no
19 foundation laid, with which we just stipulated to, and
20 waiving the presence of Mr Williams on the stand, and not
21 the best evidence, and in that particular, we waive the
22 fact that it is a transcription and not the shorthand
23 notes.

24 THE COURT: Objection overruled. It will be marked
25 people's exhibit in evidence.

26 MR ROGERS: Exception.

1 MR FORD: I will read it into the record. (Reading:)

2 "Thursday, August 3rd, 1911. George Behm,
3 recalled, and examined by Mr Ford -- "

4 MR FORD: With regard to that, I want to call Mr Williams
5 unless I get another stipulation -- unless you understood
6 it covers all of it.

7 MR APPEL: That first part you introduced there in the af-
8 fidavit of Mr -- you remember the foreman of the grand jury;
9 he was on the stand, he said that was correct; that was
10 what transpired before the grand jury. That is in evidence

11 MR FORD: I only read this one but I refer now to people's
12 exhibit No.21, which has already been read into the re-
13 cord. It is stipulated that the account of the testimony
14 given beginning with the words, "What is your name?--
15 George Behm", which has already been read into the record,
16 it is stipulated that that which has already been written
17 is a correct transcript of the notes of Mr Williams and
18 Mr Williams was present and took down the testimony of
19 George Behm in shorthand, and did so correctly, that has
20 already been read into the record. I don't want to read
21 it again. I understand the stipulation covers that as
22 well as the exhibit?

23 MR DARROW: You have got that all in already.

24 MR FORD: We want to call Mr Williams to testify to that
25 also.

26 MR APPEL: Testify to what? You mean to testify as to the

1 matter --

2 MR FORD: As to the questions and answers of George
3 Behm contained in People's exhibit No.21. We intend
4 to call Mr Williams for that purpose, also, but I can
5 return to that later, and discuss it with you later.

6 MR ROGERS: All right.

7 MR FORD: At this time we will read this, read from
8 people's exhibit 24. "Thursday, August 3rd, 1911.
9 George Behm --"

10 MR APPEL: Just a moment. In connection with our stipu-
11 lation, I suppose it will be stipulated that what you are
12 going to read and what the court has just ruled could be
13 admitted in evidence, the name of the witness there is the
14 same witness who was present here upon the stand and tes-
15 tified a little while ago?

16 MR FORD: Yes, we so stipulate.

17 THE COURT: This testimony, I take it, is offered in con-
18 nection with the testimony of George Behm.

19 MR FORD: Yes, your Honor. (Reading:)

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1 Thursday, August 3, 1911.

2 GEORGE BEHM, recalled.

3 Examined by Mr Ford:

4 Q Mr Behm, you have already been sworn? A Yes sir.

5 Q As a witness. You have been informed of the nature
6 of the investigation that is being conducted by the grand
7 jury and informed of your rights, and section 1324, has
8 been read to you. There are some of these jurors that are
9 a little hard of hearing, so I will ask you to speak up so
10 that they can all hear you, if you please. A All right.

11 Q I believe you said that there are no street numbers
12 in Portage, Wisconsin, where you reside? A I just live
13 in the city there.

14 Q You have a ranch or farm there? A Yes sir.

15 Q How far from the city is that? A Just a mile out of
16 the city.

17 Q What kind -- A I just live on a farm.

18 Q Out here we are not familiar with eastern farms.
19 It is a fruit farm? A No, just a grain farm.

20 Q How many acres there? A 100 acres I have got.

21 Q Grow wheat? A Corn.

22 Q What direction from Portage is that? A It is north-
23 east.

24 Q Have you any occupation other than that of farming?
25 or had you, back there? A Yes sir; I am a locomotive engi-
26 neer.

1 Q Employed at that occupation ? A Yes sir.

2 Q By what railroad? A Chicago, Milwaukee & St Paul.

3 Q How long have you been employed by them as an engineer?

4 A About thirty years, employed by the company.

5 Q What is your run, I believe you call it? A I have a
6 passenger run between Milwaukee and La Crosse, but I live
7 at Portage.

8 Q Between Milwaukee and La Crosse -- that is in Wisconsin. A Yes sir.

10 Q Are you still in their employ, or have you resigned?

11 A Yes sir; I am still in their employ.

12 Q What is your average -- you are not paid a stated
13 salary, but your salary depends upon the run, does it not ?

14 A Just depends on the run.

15 Q What is your average income from the railroad? A About
16 \$180 a month.

17 Q And from your farming? A Well, I don't get much
18 off of that, because it is small. I don't raise much.

19 Q Well, what is your average income from the farm?

20 A I couldn't say exactly, just outside of the living.

21 Q You raise aoll your living? A Yes sir. Thirty acres
22 plowed land is all I have got.

23 Q At what place are you staying in Los Angeles?

24 A I was staying at 919 West Third street. At the present
25 time I am staying at 1216 West Fourth street.

26 Q Is that an apartment house there? A Yes sir.

1 Q What is the name of it? A I can't call the name now.

2 Q That is the Bunner apartments, isn't it? A I think
3 it is. I am not sure.

4 Q That is the same apartments, same apartment house,
5 that is occupied by Mr Harriman and his family? A I
6 don't know.

7 Q You know Mr ^{Job} Harriman, the attorney? A Oh yes --
8 Harriman -- that is right.

9 Q That is the same apartment house he lives in? A Same.

10 Q When did you come to California, Mr Behm? A Well,
11 it was about four weeks ago, I should judge.

12 Q Do you remember the exact date you arrived in Cal-
13 ifornia? A No.

14 Q From what place did you come to California? A From
15 what place? Q Yes. A I came from Portage.

16 Q Well, you came direct from Portage, or did you stop
17 in Chicago? A No, I came direct.

18 Q Direct from Portage to Los Angeles? A Yes.

19 Q Do you know Artie E. McManigal? A Yes sir.

20 Q What relation, if any, are you to Mr McManigal? A He
21 is my nephew.

22 Q A sister's son? A Yes sir.

23 Q When did you last see Mr McManigal before coming to
24 Los Angeles? A I saw him last May.

25 Q At what place? A In Chicago.

26 Q At his home in Chicago? A Yes sir.

1 Q 414 Sangamon street? A Yes sir.

2 Q May, 1911? A This last May.

3 Q I don't want to take any advantage of you, Mr Behm.
4 I think that Mr McManigal had been taken to California
5 in April. A Oh, May -- excuse me, I made a mistake.
6 It was in March.

7 Q March, 1911? A Yes sir; this last March.

8 Q Do you remember what time in March? A No, I don't.

9 Q Who else was present when you met him in March at
10 his home? A Just him family.

11 Q His wife? A Yes sir.

12 Q Was that in the daytime or night-time? A In the day-
13 time.

14 Q How long did you stay there at their home that time,
15 Mr Behm? A I stayed there over night.

16 Q Was it near the beginning of March, or towards the
17 end of March? A I can't say exactly what time it was in
18 March.

19 Q I will see if you can fix it by any other event. Do
20 you remember an explosion taking place at Milwaukee,
21 Wisconsin, about the 16th of March, 1911, reading
22 about it in the papers? A Well, there was an explosion
23 there, but I can't say what time it was.

24 Q Well, I only thought perhaps you might have read it
25 in the papers. Do you remember whether it was before of
26

1 after that explosion that you met Mr McManigal at his
2 home on South Sangamon street? A I refuse to answer
3 that. That don't concern this case, to have McManigal
4 change his testimony.

5 Q Now, my only object in asking it, Mr Behm, is to
6 fix the date that you saw McManigal at his home. I thought
7 perhaps you had read of this explosion in the papers, and
8 you could fix the date of your meeting with McManigan and
9 his family, either before or after that date. If there is
10 any other event that you can remember, why, fix it, for it
11 is only for the purpose of fixing the time. A That is
12 more than I can do.

13 Q Did anybody else come to the residence of Mr McManigal
14 the time during that you were staying at his house in March? A No
15 sir.

16 Q What was the purpose of your visit to him at that
17 time, Mr Behm? A Well, I can't say that there was --

18 Q Just a friendly visit. A A friendly visit.

19 Q You don't remember anything that occurred at that time
20 that would fix it in your memory -- fix the date? A No,
21 I often visited him.

22 Q How frequently did you visit him at his residence?

23 A Well, I can't say.

24 Q Well, approximately. Was it as often as once a year,
25 once a month, or once a week? A Well, I had been to see
26 him several times.

1 Q How many times have you called approximately, at his
2 residence in South Sangamon street? A Well, I don't know
3 as any more than twice, to my recollection.

4 Q You had known McManigal since his boyhood, had you not?

5 A Yes sir.

6 Q Did he ever live with you as a boy?,, A He lived
7 with me a while, yes.

8 Q Just tell the jury about that. A He just lived
9 with me in Milwaukee, that was all.

10 Q How long ago? A I should judge about ten years ago.

11 Q About ten years ago. That is, ten years ago since he
12 left your home? A About ten years ago from now, that he
13 lived there with me.

14 Q How long did he live with you then, living there?

15 A I don't understand that.

16 Q How long had he lived with you ar Milwaukee? A Oh, I
17 should judge about eight months.

18 Q Had he ever lived with you prior to that time? A Be-
19 fore that?

20 Q Yes. A Well, no, not with me.

21 Q With whom had he lived before coming to live with you?

22 A Well, he lived in the east.

23 Q You mean in Ohio? A Yes.

24 Q Did you live near him? A In Ohio?

25 Q Yes. A No.

26 Q When did you first meet Ortie McManigal? How old was

1 he when you first met him? A When I first met him was
2 at his birth.

3 Q You were present at the time he was born? A He
4 was a baby a couple of hours old.

5 Q Where was that? A In Ohio.

6 Q Did you live in Ohio at that time yourself?

7 A I did when I was a boy.

8 Q At the time when McManigal was born? A I lived in
9 Ohio.

10 Q Were you a neighbor of his family at the time? A He
11 was born at the house where our family was.

12 Q How long a time did he continue to stay with you
13 after his virth, you and your family? A I left there a
14 number of years -- a short time after he was born.

15 Q A short time you mean a year or it may mean a week.

16 A I should judge he was about seven years old when I left
17 home.

18 Q You didn't see him again, that is, to live with him,
19 or to have him live with you, until he lived with you in
20 Milwaukee? A Oh, I visited back and forth, to home and
21 back.

22 Q How frequently did you visit back and forth? A Every
23 three or four years.

24 Q How old was he when he lived with you in Milwaukee?

25 A Well, he could not have been more than twenty.

26 Q The relations between you and McManigal were always

1 very friendly, were they not, up until this year? A With
2 who?

E.

3 Q With Ortie, ^AMcManigal and yourself -- they were always
4 very friendly? A Oh, yes.

5 Q The reporter can't get your nod in the record; you
6 will have to say either yes or no. A All right.

7 Q What is your answer? A yes.

8 Q He had ~~always~~ had a very high opinion of you, and you
9 always had a very high opinion of him? A Yes sir.

10 Q Never had any trouble of any kind? A No sir.

11 Q No disagreement from the conduct of Mr McManigal
12 during the time you knew him? A No sir.

13 Q Nothing you observed about him that you wanted to
14 criticize? A No sir.

15 Q Some of these jurors are pretty hard of hearing,
16 Mr Behm, and if you will just try to speak loud enough,
17 so that they can hear you. A All right.

18 Q What occupation was McManigal engaged in at the time
19 you knew him, as far as you know -- what was his business?

20 A What do you mean -- from boyhood?

21 Q During all the time you knew him. A Well, no more
22 than labor. He worked at all kinds of work.

23 Q How long had he been a structural ironworker? A I
24 couldn't say.

25 Q Had you known him during the time he was a structural
26 ironworker, or had any opportunity to observe his business,

1 or the conduct of his business?

2 A No more than just he told me he was a structural
3 ironworker, is all I know.

4 Q You didn't know anything about his ability to perform
5 his work, or what kind of work he was doing? A No.

6 Q Do you remember meeting Mr McManigal at Bloomfield,
7 Ohio, at the time of the death of some relative?

8 A I refuse to answer that question. It don't concern the
9 case.

10 Q Just for the purpose of fixing the time, Mr Behm. I
11 will withdraw that question. You had a relative that
12 died at Bloomfield, Ohio, did you not? A I had several
13 that died there, yes.

14 Q When did you first learn that Ortie E. McManigal had
15 been arrested, Mr Behm? A Well, I can't say just when
16 it was.

17 Q How did you learn it? A Only in the newspapers.

18 Q What, if anything, did you do when you learned that
19 he had been arrested? A I don't know as I done anything.

20 Q Were you consulted by any other person after that in
21 reference to his arrest, or advised by any other person of
22 his arrest, other than the newspapers? A I don't know
23 as I was.

24 Q Did you receive any communication from Mrs McManigal
25 in reference to his arrest? A Well, I only went down to
26 see her at Chicago. That is once I went down there.

1 Q You went down to see Mrs McManigal shortly after the
2 arrest of Mr McManigal? A Yes.

3 Q Had you talked with any other person in reference to
4 your going down? A No.

5 Q You had not received any communication from any
6 other person? A No.

7 Q Nor from Mrs McManigal herself? A No.

8 Q You went down of your own volition? A The first time
9 I went to see her, I did.

10 Q The first time after the arrest of McManigal that
11 you went down to see Mrs McManigal, you went of your own
12 volition? A Yes.

13 Q Now, when was that, Mr Behm? A Well, I can't exactly
14 say just exactly when it was.

15 Q Well, about how long after you had learned of his arrest
16 from the newspapers? A It must have been some time in
17 April, as near as I can remember.

18 Q I think the first newspaper accounts, Mr Behm,
19 were on April 23rd of this year, 1911. Now, how long after
20 that do you think it was before you went down to Mrs McMan-
21 ighal's house? A It must have been some time in May, then.
22 It must have been some time in May, then, because I know it
23 was quite a while before I went down there.

24 Q It was more than a week after the news had become pub-
25 lished? A Yes sir.

26 Q Do you think it was more than two weeks? A It must

1 have been about two weeks that I went down there.

2 Q Meanwhile you had received no letters whatever from
3 Mrs McManigal? A Not from Mrs McManigal, no sir.

4 Q Or from Ortie E. McManigal? A No.

5 Q Or from any other person in reference to McManigal's
6 arrest? A Why, I got a message from Mrs McManigal, that
7 was all, to come to Chicago.

8 Q What kind of a message? A Just a telegraph message
9 to come to Chicago.

10 Q How long after the receipt of that telegram was it
11 before you went to Chicago? A I think it was the next day

12 Q You were in Portage at the time you received that tele-
13 graph message? A Yes.

14 Q So that the first time after McManigal's arrest
15 then, that you went down to Mrs McManigal's house, was in
16 response to a telegram from her? A Not the first time, no.

17 Q You had gone down before you received that telegram?

18 A Yes. I said so before.

19 Q I so understood you, but I want to know. That
20 was the second visit, then? A Yes sir.

21 Q The second visit was two weeks after his arrest? A About
22 that time.

23 Q It was in response to a telegram from Mrs McManigal?

24 A Hold on. I don't understand that question.

25 (Last question read by the reporter.)
26

1 MR FORD: I will withdraw the question, to make this clear.
2 I understand from you that you made a visit to Mrs McMani-
3 gal in response to a telegram, and that that visit was
4 about two weeks after the 23rd of April, when the news of
5 McManigal,s arrest had become public; is that correct?

6 A Well, it was about twoweeks after I had been down there
7 the first time, as near as I can remember.

8 Q Now, the first trip you made down there was the one
9 that you made of your own initiative?

10 A Yes.

11 Q And the first trip that you made -- between the
12 time you made your first trip and the time that tje news
13 had become public of McManigal's arrest, you had received
14 no communications from anybody in reference to McManigal's
15 arrest? A I can't get that question clear.

16 Q I am trying, Mr Behm, to fix the date of your first
17 visit after McManigal's arrest. A I couldn't tell you no
18 certain date, because I didn't keep no track of any-
19 thing like that. I just went when I had a chance.

20 Q Have you the telegram which you received from Mrs Mc-
21 Manigal? I don't want to see it; I just simply want
22 to refresh your memory. A I don:t know whether it is at
23 home or not. It ain't with me.

24 Q Was there anything else in that telegram except the
25 words to come to Chicago? A No.

26 Q Now, you have testified that at the time you made your

1 first visit, up to that time you had received no communi-
2 cations from anybody? A No.

3 Q How long did you stay there on your first visit? A Jus
4 a few hours.

5 Q Was it in the daytime or night-time? A Daytime.

6 Q Whom did you meet there on the first visit? A Just
7 her and the family.

8 Q The children were there, I presume? A Yes sir.

9 Q Were there any other persons present? A No sir.

10 Q Any other persons come there while you were there?

11 A No.

12 Q Did you meet Mrs Sadie Maguire there at that time?

13 A No.

14 Q Do you know Mrs Maguire? A I do.

15 Q Had you met her previous to that time? A Yes. Early
16 last spring I met her there.

17 Q Well, this trip, this first trip that you made, was at
18 the latter end of April, was it? A It was later than that,
19 when I come to figure up the time, what I seen in the paper
20 about the case.

21 Q What other persons did you meet in Chicago? We will
22 say this was about the 1st of May, this first visit, within
23 a few days one way or the other -- is that correct?

24 A How is that?

25 Q I say, this first visit was within a few days after the
26 1st of May? A The first visit, yes.

1 Q On that first visit did you meet any other persons in
2 Chicago connected with this matter in any way? A What
3 do you mean -- with her?

4 Q Well, either at her house or any other place. A Not
5 the first visit, I didn't meet anybody.

6 Q How long did you stay in Chicago on that first visit?
7 A Just a few hours.

8 Q You went to no other place in Chicago except McManigal's
9 residence? A The first time, I did not.

10 Q What conversation did you have with Mrs McManigal
11 at that time in reference to the arrest of Mr McManigal?

12 A I refuse to make any statement about that. It don't
13 have anything to do with the case, in regard to McManigal
14 changing his testimony.

15 Q Did you at that time discuss the question of coming
16 to Chicago? A Not the first time.

17 Q Did you at that time discuss the question of whether
18 or not McManigal had confessed to anything whatever?

19 A No sir.

20 Q Was there anything said at that conversation about an
21 alleged confession of Ortie E. McManigal? A No sir.

22 Q Did Mrs McManigal at that time tell you what her
23 husband's attitude was in regard to the case? A No sir.

24 Q Did Mrs McManigal at that time tell you what her
25 husband proposed to do? A No sir.

26 Q Did Mrs McManigal at that time tell you she had seen her

1 husband before he left Chicago, out where he had been de-
2 tained before being taken away? A Ask that again.

3 Q Let me change it in this way: Did Mrs McManigal
4 tell you at that time that she had been to see Mr McManigal
5 where he was confined immediately prior to his leaving
6 Chicago for Los Angeles? A I don't remember.

7 Q She told you nothing at that time in reference to
8 any conversation she had with Mr McManigal? A No, she
9 didn't tell me.

10 Q You did not discuss the question then of McManigal's
11 r elation to the case at all, at your first visit?

12 A No sir.

13 Q Didn't discuss any alleged confession that he had made?

14 A No.

15 Q Didn't discuss his attitude towards the case in any
16 way, shape or form? A No.

17 Q Didn't discuss his mental condition at that time?

18 A No.

19 Q Nothing was said about that at all? A No sir.

20 Q I am not seeking to go into the conversation, if you
21 will just tell me generally what the conversation was about;
22 I mean, what subject, without telling me the details.
23 It may save any further inquiry. You have already stated
24 you did not wish to tell me what the conversation was. If
25 you tell me what it was about, perhaps I won't be inter-
26 ested anyway -- about the subject generally. Do I make

1 myself clear to you? A I don't understand how that comes
2 out.

3 Q Without telling me what was actually said and done
4 at the conversation, can you tell me what it was about in
5 general terms? What was the subject of your conversa-
6 tion? A I refuse to answer that, because it don't con-
7 cern the case of McManigal giving his testimony.

8 Q Mr Behm, I have asked you a number of different sub-
9 jects already that you might have been talking about, and
10 you said you were not talking about them. Now, it may be
11 that I would not be interested in that first conversa-
12 tion at all, if you will just tell me the general subject ,
13 without going into details. A Well, all I ever remember
14 of speaking to her anything at that time, was her future.

15 Q It was about general family affairs not connected
16 with the case -- is that the idea? A yes. I wanted her
17 to come home to my place.

18 Q And her future. By her future, you mean merely her
19 future living, without reference to her future conduct
20 in reference to the case? Well, I will get it in another
21 form. You did not at that time discuss her future con-
22 duct in reference to any cases that were pending in Cal-
23 ifornia? A No.

24 Q The only things you talked about were her future
25 living, taking care of her and her children? A yes sir;
26 that was it.

1 Q And discussing what arrangements you personally would
2 make in reference to that matter; is that the idea?

3 A Yes sir.

4 Q And that was the only subject of your conversation at
5 that time? A Yes sir.

6 Q At that time had Mrs McManigal told you anything about
7 receiving any income from either Mr Burns, J. J. McNamara,
8 or any other persons? A No sir.

9 Q She had made no statements to the effect that she
10 would receive any money from any person? A No sir.

11 Q She had not told you at that time that she expected
12 any income from J. J. McNamara or any persons connected
13 with the defense? A Well, I refuse to answer that
14 question. It don't concern the case.

15 Q Well, I don't want to have any disagreement if I can
16 avoid it, Mr Behm. I will put the question in this form:
17 Nothing was said about any testimony she would give one
18 way or the other, at that time, at your first conver-
19 sation? A Not that I can remember about.

20 Q And nothing was said about her receiving any income
21 from any persons whatever, or any moneys from any persons
22 whatever? A No.

23 Q And in discussing what arrangements you would make
24 for the future, those arrangements were confined merely
25 to what you yourself would be able to do for her out of
26 your own personal means? A That was all.

1 Q You did not at that time discuss the possibility of
2 your securing money from any other persons, other than your-
3 self? A No sir.

4 Q So that the conversation did not cover any subjects
5 other than what you have indicated to this grand jury?

6 A In regards to her -- yes. Just in regard to her.

7 Q Or with regards to McManigal; did you discuss Ortie E.
8 McManigal's future at that time? A I refuse to answer
9 that; because I don't understand the question.

10 Q Well, if you don't understand it is only necessary
11 to say that you don't understand, and I will try to re-
12 frame it. Did you talk about Ortie E. McManigal, what he
13 was going to do out here, or what would become of him?

14 A I don't know as ~~we~~ I did.

15 Q Did you at that time, either you or she, talk about
16 what could be done, or would be done, for or with or
17 against Ortie E. McManigal? A That is a long question.
18 I don't know how to answer it.

19

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1 Q Well, I will split it up. Did you discuss the question
2 as to whether or not anything could be done for him, Ortie
3 E. McManigal? Did you discuss his future? A I don't
4 know as we did.

5 Q Did either one of you say anything about his future?

6 A No.

7 Q Now, it was about two weeks--I beg your pardon, did
8 you come to any definite conclusions at that time, what
9 you would do? A No.

10 Q About two weeks after that then you received a telegram
11 from Mrs. McManigal telling you to come to Chicago?

12 A Yes, sir.

13 Q Was there anything else in that telegram besides that?

14 A No, sir.

15 Q Had you received any other letters or communications
16 from Mrs. McManigal besides that telegram? A No, sir.

17 Q Had you talked with any other persons about the case
18 meanwhile, or mentioned any other arrangements with any
19 other person, either in reference to McManigal himself or
20 Mrs. McManigal, or any other persons connected with the case?

21 A What do you mean? The time I got the message, or
22 after I got the message?

23 Q No, before you got the message. I will make myself
24 clear. At the time you went to Chicago you had received
25 a communication from Mrs. McManigal, telling you to
26 come to Chicago, the second time? A Oh, the second

1 time I came, yes.

2 Q Now, up to the time you went to Chicago the second
3 time, had you received any communications from any other
4 persons in reference to the matter? A No, sir.

5 Q Had you talked with any persons claiming or pretending
6 to represent the defense in this case before you went to
7 Chicago, the second time? A No, sir.

8 Q You had formed no plans whatever? A No, sir.

9 Q Had you up until the time you made your second visit
10 to Chicago to visit Mrs. McManigal, formed any intention of
11 coming to California? A Not up to the second time, no.

12 Q You had not talked with any person about being a
13 witness in the case yourself at that time? A No, sir.

14 Q You had not talked with any person claiming to repre-
15 sent the defense or claiming to represent anybody in the
16 case? A Not up to that time.

17 Q Mrs. McManigal was the only person connected with
18 the case, as far as you know, with whom you talked, up to
19 the time you went to Chicago the second time? A Yes, sir.

20 Q You had never thought of coming to California up to
21 the time you went to Chicago the second time? A No.

22 Q Now, when you went to Chicago the second time did
23 anybody else go with you, Mr. Behm? A To Chicago?

24 Q To visit Mrs McManigal. I mean, any person associated
25 with you? A No.

26 Q You went alone? A I went alone.

1 Q Paid your own fare on both of these occasions, I
2 presume? A I have transportation.

3 Q Received no compensation from anybody for either one
4 of those visits? A No, sir.

5 Q Now, when you got to Chicago the second time, you went
6 to Mrs. McManigal's house direct, did you? A Yes, sir.

7 Q Whom did you meet there the second time? A I only met
8 Mrs. McManigal there.

9 Q Did you not meet Mrs. Maguire there on that occasion?

10 A No, sir; not that time.

11 Q Did you meet any other persons there at all besides
12 Mrs. McManigal? A His father came there. Mr. McManigal's
13 father came there while I was there.

14 Q What is his name? A James McManigal.

15 Q Where does he live? A He lives at Tiffin, Ohio

16 Q You got there before he did? A Well, I was at the
17 place before he came there.

18 Q You left Mrs. McManigal's house before he came to the
19 house? A I was there before he came.

20 Q How long did you stay there at the house with Mrs.
21 McManigal and Mr. McManigal's father, James McManigal?

22 A Not very long.

23 Q Well, fifteen minutes, or half an hour? A Oh, a
24 couple of hours. About an hour, I should say.

25 Q Did you meet any other person at the house besides
26 James McManigal and Mrs. McManigal? A No, sir.

1 Q Where did you go after leaving the house? A We went
2 out to Mr. Darrow's place.

3 Q To his office or residence? A To his residence.

4 Q At what time was that? A You mean ⁱⁿ the day?

5 Q Yes. A Well, it was in the forenoon.

6 Q At whose suggestion did you go to Mr Darrow's house?

7 Who proposed going there? A I don't know as anybody only
8 except her.

9 Q Mrs. McManigal? A Yes.

10 Q What other matters did you discuss at the house before
11 going to Mr. Darrow's house? A Nothing particular.

12 Q What was the object of going to Mr. Darrow's house?

13 A Well, she just asked me to go there with her, that was
14 all.

15 Q Did she tell you at that time why she was going to
16 Mr. Darrow's house? A Not that I remember.

17 Q Did she tell you at that time anything about Ortie E.
18 McManigal's alleged confession? A No.

19 Q Did you discuss the alleged confession at all? A No.

20 Q Did you discuss his alleged mental condition at that
21 time? A I refuse to answer that question, because it
22 has nothing to do with the case in regard to his testimony.

23 Q Did you discuss the question of giving testimony with
24 regard to his mental condition at that time? A I refuse
25 to answer that question, because it has nothing to con-
26 cern with the case, of his testimony.

1 Q. Did you discuss the question of getting McManigal
2 to withdraw any alleged confession he might have given?

3 A I refuse to answer the question, because it has noth-
4 ing to do with the case in regard to his testimony.

5 Q The section, Mr. Behm, which this grand jury is inves-
6 tigating now is this, as to whether certain persons, or
7 any of them had been or were guilty of, or chargeable of,
8 or chargeable by indictment in the Superior Court, and so
9 forth, with the crime of giving, or offering, or promising
10 to give, to any witness, or person about to be called as
11 a witness, any bribe, upon any understanding or agree-
12 ment that the testimony of such witness shall be thereby
13 influenced, or who attempts by any other means fraudulent-
14 ly to induce any person to give false or withhold true
15 testimony, is a felony. This inquiry is to find out
16 whether or not any persons were engaged, either singly
17 or in conspiracy with others, to get any witnesses, includ-
18 ing Ortie E. McManigal, to withhold true testimony or to
19 give false testimony. Now, bearing that in mind, so that
20 the materiality of it may appear to you--do you wish to
21 see the affidavit containing that part? A No. I think
22 you have got it there.

23 Q Bearing that in mind, I now ask, you, did you discuss
24 the question of getting Ortie E. McManigal to change any
25 confession that he might have made, or to withdraw his con-
26 fession? A I don't understand the question.

Q Putting it in ordinary language, did you discuss the

1 question of getting Mr. McManigal to go back on any alleged
2 confession he had made to one Burns? A No, sir; I did
3 not.

4 Q You knew at that time that it was rumored that Ortie
5 E - McManigal had made a confession to one W. J. Burns?

6 A I didn't know anything about it until I saw it in the
7 paper.

8 Q You had seen some statements to that effect in the
9 papers, had you not? A Not as I remember of.

10 Q Did you discuss the question with Mrs. McManigal at
11 the house, in reference to Ortie McManigal having made a
12 confession or alleged confession? A No, sir.

13 Q You did not discuss the question of getting him to
14 change any alleged confession? A No, sir.

15 Q Or to go back on any alleged confession? A No, sir.

16 Q You did not discuss that question at all, Mr. Behm?

17 A No, sir.

18 Q Did you discuss McManigal at all at the house? A How
19 do you mean? McManigal or Mrs. McManigal?

20 Q No--Ortie McManigal. A At the house?

21 Q Yes. A No, sir.

22 Q Did you talk about him at all? A No, sir.

23 Q You didn't ask about McManigal, or anything that
24 McManigal had said or done, while you were at the house
25 on this second visit? A No, sir.

26 Q You indicate to the jury generally what you did talk
about, other than going to Mr. Darrow's house. A I

1 refuse to answer that question. It don't concern the
2 case of his testimony.

3 Q Well, perhaps it don't, Mr. Behm. If it don't, we
4 are not interested in it. Was it about family affairs
5 again? I don't care to go into it if it was not connected
6 with the case, myself. I don't know whether it was or not -
7 you say it was not. Now, if you can say it was not,
8 we will abandon it. If you will tell us generally what the
9 subject of the conversation was, without going into
10 the details of it. A Well, it was nothing concerning
11 the case, that I know of.

12 Q Was the conversation confined to Mrs McManigal's future,
13 and her children's future? A I don't understand that.

14 Q Did you discuss at the house the question of Mrs. McManigal
15 or yourself being a witness in the case? A No, sir.

16 Q Did you discuss the case at all? A No, sir.

17 Q Did you discuss the question as to whether McManigal
18 himself, Ortie E. McManigal, would be a witness in the
19 case? A No.

20 Q Did you discuss at the house anything that would be
21 done in case McManigal was a witness? A No, sir.

22 Q Did you at that time know anything about any visit
23 Mrs. McManigal had made to her husband while he was in
24 Chicago in the custody of Burns and his detectives? A No.

25 Q She had never up to that time told you anything about
26 that? A No, sir.

1 Q What is the answer? A No, sir.

2 Q Did she tell you why she wanted to go to Mr. Darrow's
3 house? A Not in particular.

4 Q Well, did she tell you anything in general? A No.

5 Q Didn't tell you anything other than she was going
6 there? A No. I went with her--that was all.

7 Q Did she tell you Darrow wanted to see you? A Yes, sir.

8 Q Did James McManigal also go, the father of Ortie
9 McManigal? A Yes, sir.

10 Q Did she tell him that Darrow wanted to see him also?

11 A I believe she did.

12 Q Now, when you went to Mr. Darrow's house whom did
13 you meet at Mr. Darrow's house? A I met Mr. Darrow.

14 Q Any other persons? A Some strangers in the house;
15 I don't know who they were.

16 Q There were other persons there at the conversation
17 that occurred? A Not with us.

18 Q Did Mr. Darrow talk to you and Mrs. McManigal and
19 James McManigal all together, in the presence of each
20 other, or did he take you and talk to you separately?

21 A No, we talked in the room.

22 Q All together? A yes, sir.

23 Q Before you went to Mr. Darrow's house, or while you
24 were at Mr. Darrow's house, was anything said at that time
25 about your coming to California as a witness? A Not as
26 I remember of.

1 Q The question of your being a witness was not dis-
2 cussed on that occasion? A No.

3 Q Was anything said about James McManigal coming to
4 California as a witness? A No.

5 Q Was anything said about Mrs McManigal coming to
6 California as a witness? A Not as I know of.

7 Q Well, I mean in your presence--you would know, of
8 course, wouldn't you? Nothing was said in your presence,
9 you mean? A No.

10 Q You heard no_thing? A No.

11 Q Did Mrs McManigal tell you at that time that she
12 was going to California? A Yes.

13 Q When did she tell you--at Mr. Darrow's house, or at
14 her own house before she went to Mr. Darrow's? A At
15 Mr. Darrow's house.

16 Q Was there anything said at that time about her
17 seeing her husband and getting her husband to change his
18 alleged confession? A No, sir.

19 Q Or to withdraw his alleged confession? A No, sir.

20 Q What was her object in coming to California? Did she
21 state it? A No more than to see him.

22 Q Nothing was said in your presenee about the purpose
23 for which she would see him? A No.

24 Q No arrangement was made, and nothing was said about
25 your coming to California to see Ortie E. McManigal?

26 A I was to come with her, that was all.

1 Q To come with Mrs. McManigal? A Yes.

2 Q For what purpose? A Any more than to be with her,
3 on account of her ill health.

4 Q Arrangements made at that time by Mr Darrow, were
5 there, for the payment of your expenses? A No, sir.

6 Q Was there anything said about your expenses? A No,
7 sir.

8 Q Did you expect to pay your own expenses if you came on
9 that trip? A I had to.

10 Q You expected to pay your own expenses? A Yes.

11 Q As a matter of fact, however, subsequently other ar-
12 rangements were made by which your expenses were paid;
13 isn't that the fact? A Paid by whom?

14 Q Well, I don't know. A Why, no, I paid my own.

15 Q You paid your own expenses? A Yes, sir.

16 Q Anybody reimburse you for your expenses? A No, sir.

17 Q Or promise to reimburse you? A No, sir.

18 Q Did you get transportation from the railroad company,
19 or did you have to pay your fare? A I paid my own fare.

20 Q How long did you stay at Mr. Darrow's house? A Not very
21 long.

22 Q Did you make any definite agreement at that time as to
23 what date you were to go to California? A No, I don't
24 think we did.

25 Q Were any arrangements made at that time by which
26 you were to see other persons connected with the case in

1 Chicago or elsewhere before coming to California? A No,
2 sir.

3 Q Were any arrangements made as to what persons you were
4 to meet in California? A Nothing more than her, that I
5 know of.

6 Q Was anything said about the payment of Mrs. McManigal's
7 expenses? A No, sir.

8 Q That question was not discussed? A No, sir.

9 Q Did you discuss it yourself with Mrs McManigal? A No,
10 sir.

11 Q Was anything said or arranged at that time about Mrs
12 Maguire coming to the Coast? A No.

13 Q Mrs Maguire was not present at Mr. Darrow's house?

14 A No, sir.

15 Q Nor at Mrs McManigal's house. You didn't see her in
16 Chicago at all at that time? A Not at that time.

17 Q How long did you stay in Chicago on that occasion?

18 A Just a few hours.

19 Q You went back to Portage? A I went back to Milwaukee.

20 Q When next did you see any one connected with the case,
21 and who was it that you saw next, after this second visit?

22 A I don't understand that.

23 Q We have got several of them that you have told us about,
24 that were connected with the case, either as witnesses or
25 attorneys, or otherwise--Mr. Darrow, Mrs McManigal, James
26 McManigal. Now, when was the next time that you saw

1 anybody connected with the case, and who was it that you
2 saw? A At the time I was in Chicago?

3 Q yes. I mean any other persons there in Chicago that
4 day while you were there visiting Mrs McManigal and the
5 people you met at Mr. Darrow's house? A Not as I remember
6 of.

7 Q You did not see any detectives or lawyers at all?

8 A I met a man by the name of Harrington in the house, is
9 all.

10 Q At whose house? A At Mr Darrow's house.

11 Q Did you have any conversation with Mr. Harrington? A No,
12 sir.

13 Q Had Mr. Darrow told you to see Mr. Harrington? A No, sir.

14 Q Did Mr Darrow tell you who Harrington was? A No, he did
15 not, only an attorney--that is all.

16 Q Now, on that day you saw no other person in Chicago--
17 I mean, connected with this case in any way, or connected
18 with the McNamara cases in any way, or the McManigal
19 cases in any way, other than those you have told us about?

20 A That is all I remember of; just those parties.

21 Q Now, when was the next time that you saw anybody con-
22 nected with the case, Mr. Behm? A Not until I came but here.

23 Q How long after this second trip to Mrs McManigal's
24 house, at the time you went to Mr. Darrow's house--how long
25 after that was it before you started to California? A Well,
26 it was about a week.

1 Q About a week afterwards? A yes, sir.

2 Q When did you meet Mrs McManigal the next time? A I
3 didn't meet her until I got here. She went ahead of me.

4 Q I mean, after the second visit to her house, at the
5 time you went to Mr. Darrow's house--when did you next
6 see her again--the same day she started to California?

7 A No, I didn't see her until I got to California.

8 Q Oh, you did not go to California with her? A No,
9 she went ahead of me.

10 Q How long after you visited Mr. Darrow's house was it before
11 she started to California? A I couldn't say exactly
12 what day she did leave there. A couple of days before
13 I did, I know.

14 Q And you left about a week after-- A Oh, no.

15 Q You did not go down to see Mrs McManigal off on the
16 train to California, did you? A No.

17 Q Were you informed before she went as to the date she
18 was going? A No. She wrote a letter back, but I did not
19 get it.

20 Q She wrote a letter back, but you didn't get it. You
21 did not know she had gone then until after she had gone?

22 A No.

23 Q And you did not--at the time you left Chicago, left Mr.
24 Darrow's house, and left Chicago, you did not know definite-
25 ly what date she was going? A No, I did not.

26 Q But you did know she was going to California? A I knew

1 she was going, yes .

2 Q As far as you know, the only purpose for which she
3 left, was merely to visit her husband? A As far as I know:

4 Q And as far as you know, therewere no arrangements made
5 by Mr. Darrow or any persons to pay her expenses to come
6 to California? A No.

7 Q You did not pay them? A No.

8 Q You didn't know anything about her expenses to Cali-
9 fornia? A No, I don't.

10 Q And what she was going for, other than to visit her
11 husband? A That is all.

12 Q Did Mr. Darrow discuss with her, or any person there at
13 Mr. Darrow's house discuss with her, what she should say
14 to her husband when she got here? A No, sir.

15 Q Or what she was going to try to get him to do here?

16 A No, sir .

17 Q Or what she was going to do? A No, sir .

18 Q Or what she was to testify to? A No, sir .

19 Q Did not discuss her husband at all? A No, sir.

20 Q Did not discuss her husbands physical or mental condi-
21 tion? A I don't know. I didn't hear her say anything
22 about that.

23 Q Did not discuss the question of her getting him to go
24 back on his confession, or alleged confession? A No.

25 Q Did you return to Mrs McManigal's house with her on
26 Sangamon street after going to Mr. Darrow's house? A Yes, sir.

1 Q How long did you remain there? A Just a little while.
2 About fifteen or twenty minutes.

3 Q Did she at that time tell you she was going to Cali-
4 fornia? A That arrangements was made out at Mr. Darrow's
5 house. They said she was going--that is all I knew.

6 Q Who said she was going? A She said she was going.

7 Q Did Mr. Darrow ask her to go? A Yes, sir.

8 Q He said nothing about expenses, one way or the other?

9 A No.

10 Q When you got back to her house on South Sangamon street,
11 did you say anything about her expenses? A No.

12 Q Did she tell you anything about having the money to pay
13 her way? A No, she didn't say.

14 Q You didn't ask her whether she had money to pay her way?

15 A No.

16 Q As a matter of fact, you expected that somebody would
17 pay her expenses, and that it was not necessary to inquire;
18 is that it? A That is the way I looked at it.

19 Q But you did not hear any arrangements made? A No, sir.

20 Q Didn't she tell you about it? A No, sir.

21 Q Now, you say it was a week after that before you started
22 for California? A About a week.

23 Q About a week after this conversation at Mr. Darrow's
24 house? A Yes.

25 Q Did you see Mr. Darrow before you came to California?

26 A No.

Q

1 Q Did you see Mr. Harrington again before you came to
2 California? A No, sir.

3 Q What persons connected with the case did you see before
4 you came to California, again? A How do you mean--after
5 I left Mr. Darrow's residence?

6 Q Yes. A I didn't see nobody.

7 Q Did see anybody? A No.

8 Q Did you receive any letters or communications from any-
9 body--telegrams, telephone calls? A No.

10 Q Talk with anybody at all? A No.

11 Q Well, now, what prompted you to come to California at
12 the time you did? Why did you come to California at that
13 particular time you did? A I wanted to be with her while
14 she was here, on account of her being sick and ill.

15 Q You got a letter she had previously addressed to you,
16 did you? A No, I didn't get the letter.

17 Q You said that when she left for California she sent
18 you a letter, but you did not receive it? A I did not
19 get that.

20 Q You never got it? A No.

21 Q You have never received that at all? A No.

22 Q All you know about it is she told you since she sent
23 you a letter? A That is all. She said, "I wrote a let-
24 ter." I said, "I didn't get it."

25 Q You never have got it? A I never have got it.

26 Q Before you started for California you didn't go to see
Mr. Darrow, Mr. Harrington, or anybody else--just bought a

1 ticket and started out? A Yes, that is all I done--
2 bought a ticket and came right straight thru.

3 Q You got a leave of absence, I presume, from the rail-
4 road, did you? A Yes, sir.

5 Q When did you get that leave of absence--immediately
6 on your return from Mr. Darrow's house? A Just a few days
7 after.

8 Q Did you get a leave of absence before Mrs McManigal
9 had left? A Well, it was in that same week after I had
10 seen her. I asked for a layoff.

11 Q When did you first learn that Mrs McManigal had started
12 west, and how did you learn that? A Any more than I
13 called at her house, and she was not at home. She said she
14 was going, is all I knew. That Sunday we met there to-
15 gether, she said she was going during the week.

16 Q You called at the house, and learned that she was not
17 at home. Did anybody tell you she had gone away? A Any
18 more than a neighbor there said she had gone to California.

19 Q Then you went back and got your leave of absence after
20 that? A No, sir.

21 Q You had got your leave of absence already? A Yes, sir.

22 Q At the time you got your leave of absence had you made
23 any agreement with anybody to do any work in California?

24 A No, sir.

25 Q Had you made any arrangements with respect to compensa-
26 tion, pay for coming to California? A No, sir; I didn't.

1 Q You since that time have made arrangements to be paid
2 for your time and your expenses, have you not? A What is
3 that?

4 Q You since then have been paid for your time and expenses,
5 haven't you? A No, sir .

6 Q Or promises have been made to pay you? A No.

7 Q You expect to be paid, don't you? A No, sir .

8 Q You are here at your own expense? A Yes, sir .

9 Q You have no understanding or arrangement of any kind
10 that you are to be paid for anything that you can do?

11 A No, sir .

12 Q How long do you expect to remain here? A As quick
13 as the grand jury is done with me .

14 Q What is that? A As quick as you people get thru with
15 me.

16 Q Then you are to go away, are you? A I am going home .

17 Q When does your leave of absence expire? A The 10th
18 of this month .

19 Q Now, you never thought of coming to California until
20 you had gone to Mr. parrow's house, and when you went to Mr
21 parrow's house, why you did determine to come to California?

22 A She just asked me to come, to be with her here--that
23 was all. I am about the nearest relative she has got.

24 Q Are you a married man, Mr. Behm? A Yes, sir .

25 Q Have a wife and children living back east? A Yes, sir .

26 Q How old are your children? A I have got a boy twenty-

1 four years old. My daughter is twenty-two. Another boy
2 fourteen.

3 Q They are back east? A Yes, sir.

4 Q At Portage? A Yes, sir.

5 Q And you came to California at Mr. Darrow's request?

6 A By her request, really.

7 Q Mrs McManigal's request? A yes.

8 Q But Mrs. McManigal came at Mr. Darrow's request? A I
9 don't know about that.

10 Q Now, did Mrs. McManigal say anything about paying you
11 for your expenses herself? A No, sir.

12 Q Did you discuss Mr. McManigal's case at Mr. Darrow's
13 house? A No, sir.

14 Q Did you discuss the McNamara case at Mr. Darrow's house?
15 A No, sir. I didn't know anything about that case.

16 Q What did you talk about--just about her coming to
17 California to see her husband? A Only just to come to
18 California. We was only there a few minutes.

19 Q Had Mrs McManigal told you that she had been in confer-
20 ence with Mr. Darrow and others before that time? A No,
21 sir.

22 Q Had she told about her seeing any persons other than Mr.
23 Darrow? A No, sir.

24 Q Did she tell you about seeing Mr. Burns? A I don't remem-
25 ber.

26 Q Or about seeing any of the Burns detectives? A No.

1 Q Didn't tell you she had \$50 from Mr. Burns at one time?

2 A No, sir.

3 Q Or any sum of money? A No, sir.

4 Q Did you pay any part of her expenses, Mr. Behm? A No,
5 sir.

6 Q Now, since coming to Los Angeles you have lived at
7 only two places? A That is all.

8 Q And since coming here, I presume you have had con-
9 ferences with the attorneys for the defense. Have you
10 had conferences with any persons other than Mr. Parrow,
11 Mr. Davis, Mr. Scott or Mr. Harriman? A No, sir.

12 Q You have not talked with any other persons about the
13 case except those four? A No, sir.

14 Q Have you met Mr. Harrington here? A I met him here, yes
15 sir.

16 Q Did you talk with him about the case? A No, sir.

17 Q Or about what you were doing? A No, sir.

18 Q The only persons that you made any report to then
19 were the attorneys--Mr. Harriman, Mr. Parrow, Mr. Scott and
20 Mr. Davis? A They are the only ones I have talked to.

21 Q What is that? A They were the only ones I have had
22 any talk with.

23 Q You have not talked with any other persons? A No, sir.

24 Q You don't know the exact date that you arrived in Los
25 Angeles? A Why, no, I can't say. I did not put it down.

26 Q You have seen McManigal since you arrived here? A Yes,

1 I have visited him a couple of times .

2 Q How frequently have you visited him?

3 A Oh, I should judge four times, I think .

4 Q How long after your arrival was it, the first time
5 you saw him? A I think it was a couple of days .

6 Q Who else went with you to the jail? A I went all alone.

7 Q At whose request? A By his request.

8 Q By whom had that request been conveyed to you? A From
9 whom? ~~A~~ Well--

10 Q Well-- A He sent word by the sheriff over to Mr.
11 Parrow, that he wanted to see me.

12 Q He sent word by the sheriff, and from the sheriff to Mr.
13 Parrow, that he wanted to see you? A Yes, sir .

14 Q It was in response to that request that you went to see
15 him? A Yes, sir .

16 Q You expect to go east the 10th of this month? A I
17 would like to go home . If I don't I will have to
18 telegraph for a longer lay-off.

19 Q I will try to get through with you this afternoon, Mr.
20 Behm. A I wish you would.

21 Q There are some matters, if you will be excused until
22 two o'clock.

23 Mr. Wier -- All right, Mr. Behm, we will excuse you until
24 two o'clock. A All right .

25

26

1 THE COURT: Well, I think we had better convene at
2 9:30 tomorrow morning, and finish up the reading, unless
3 that will greatly inconvenience somebody -- oh, I find I
4 have another matter at 9 o'clock up here.

5 MR DARROW: If it would not be improper to consider it
6 read, and let the jury read it tonight.

7 (Discussion.)

8 THE COURT: We will adjourn until 10 o'clock tomorrow.

9 (Jury admonished, recess until 10 o'clock A.M., June
10 20th, 1912.)

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