

J. D. FREDERICKS.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,

IN AND FOR THE COUNTY OF LOS ANGELES.

Dept. No. 11.

Hon. Geo. H. Hutton, Judge.

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The People of the State of California, )

Plaintiff, )

vs. )

No. 7373.

Clarence Darrow, )

Defendant. )

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REPORTERS' TRANSCRIPT.

VOL. 4

I N D E X.

	Direct.	Cross.	Re-D.	Re-C.
George N. Lockwood,	230	240		

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B. N. Smith,  
Official Reporter.

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4.



MAY 28, 1912, 10:00 A. M.

Defendant in court with counsel.

THE COURT. People versus Darrow, Gentlemen, are you ready to proceed.

G E O R G E N. L O C K W O O D,

resumed the stand for further direct examination:

MR. FREDERICKS. Mr. Lockwood, as you went on the stand you said you wanted to correct a statement in your testimony yesterday. I don't know, whatever it is.

A In regard to the time that I came to town on Monday morning and also in regard to the time Mr. Brown met me and consulted with regard to the case first, those two points.

Q All right, take them one at a time in order that the jury will understand, take them one at a time, whichever one you wish to.

A On Saturday.

Q Saturday, what date?

A The 25th. I receiver a verbal communication from the District Attorney to come to town as soon as I could, and came in and got to Los Angeles about 12:00 o'clock, and when I made myself known at the office he told me to come back after I had eaten lunch, and I came back at 1 in the afternoon, and it was that afternoon that Mr. Brown was first in consultation in regard to this case. I was mistaken in saying it was the first time I saw the District Attorney. Now, in regard to coming to town on Monday, the 27th, I have

1 studied the matter out and from incidents that occurred  
2 at the time, can locate the time of my arrival in Los Angeles  
3 almost exactly. I came in on the same car that morning  
4 with one of the Bailiffs that is in this court now.

5 Q Was that Monday morning or Tuesday morning?

6 A That was Tuesday morning; a car that got here at half  
7 past eight in the morning instead of later.

8 Q Now, what you mean, you have been using the word Monday  
9 morning, what you mean is Tuesday morning the 28th?

10 A Tuesday morning, the morning of the arrest.

11 Q You have not intended to say anything about Monday morn-  
12 ing?

13 A No, sir, only I think there is perhaps a chance to correct  
14 there. My appointment for telephoning to Mr. Franklin on  
15 Monday was to be about 4:00 o'clock in the afternoon.

16 Q Mr. Lockwood, did you at any time during the transaction  
17 and talk you had with Mr. Franklin or with Mr. White, touch-  
18 ing the matters about which you testified, intend or purpose  
19 to receive or accept any money or any other thing from Mr.  
20 Franklin or Mr. White or any other person as a bribe or to  
21 do anything contrary to your sworn duty as a juror in the  
22 event that you were chosen or accepted as one of the jurors  
23 in the case of People vs. McNamara?

24 A I did not.

25 MR. ROGERS. Wait a moment now.

26 A Excuse me.

1 MR. ROGERS. I move to strike the answer out until we can  
2 interpose an objection.

3 THE COURT. Strike it out for that purpose.

4 MR - ROGERS. Objected to as irrelevant, incompetent and  
5 immaterial, leading and suggestive, and counsel reads from  
6 a document and puts the words inthe witness' mouth.

7 MR. FREDERICKS. I am reading from a question that I had pre-  
8 pared in order that I might put it concisely. My own  
9 question and my own notes.

10 MR. ROGERS. Leading and suggestive. Might ask the witness  
11 what he did intend and let the witness tell it and not put  
12 the words in his mouth.

13 MR. FREDERICKS. Well, I think there is no vice in the  
14 question, your Honor, in view of the witness' testimony.

15 MR. ROGERS. I never have known, if your Honor please,  
16 in a criminal case, of counsel elaborately preparing a  
17 defense for his witness, having it all written out and  
18 asking him if that is not the fact; that is just about what  
19 it is. By getting him ready, suggesting to him just what  
20 he wants to prove; giving him the words and asking him if  
21 that is not true.

22 MR. FREDERICKS. If counsel has never known of that he has  
23 missed something. That is my universal custom in preparing  
24 a long question that I wish to cover a great many things  
25 and prepare it in writing. It is the custom possibly of  
26 most of the attorneys that I have practiced with.

1 THE COURT. Well, the only question is whether or not  
2 this question is leading. I think it is. Objection sus-  
3 tained.

4 MR. FREDERICKS. To a certain extent it is leading, your  
5 Honor, no doubt about that, but a leading question is not  
6 necessarily objectionable because it is leading.

7 THE COURT. Not necessarily, but at this time it appears  
8 that the witness ought to be interrogated as to--

9 MR. FREDERICKS. Well, it will take me about an hour to do  
10 it.

11 THE COURT. I am afraid it will.

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ete 1 Q Mr Lockwood,during the time that you have discussed  
2 here and the transactions and the talk you had with Mr  
3 White and Mr Franklin, state what was your purpose?

4 A I --

5 MR APPEL: Wait a moment.

6 MR ROGERS: No objection.

7 A My idea was that a great crime was being perpetrated --

8 MR APPEL: We don't want any speeches here, your Honor.

9 The question is "What was his purpose?" Now, his reasons for  
10 performing that purpose and that motive may be good on the  
11 part of the witness, but it doesn't call for his reasons  
12 now, what was his purpose.

13 MR FREDERICKS: I think he is answering it.

14 MR APPEL: His purpose was either to do this, or do that.

15 THE COURT: I will admonish the witness it is his duty to  
16 state his purpose clearly and as concisely as he is able to  
17 in the manner that will express that purpose.

18 A I will say, my idea was to prevent what I considered a  
19 great crime.

20 Q By Mr Fredericks -- State whether or not it was your  
21 intention to accept and keep any of the money that was  
22 offered you and talked about?

23 MR APPEL: We object to that on the ground it is leading  
24 and suggestive, the asking of the question in view of the  
25 ruling of the Court, is error on the part of the District  
26 Attorney, and prejudicial to the rights of the defendant,



1 and we except to the conduct of the District Attorney in  
2 disobeying the order of the Court; substantially the same  
3 question , with less words put to it, to which the objection  
4 was sustained by the Court.

5 MR. FREDERICKS: The question is not a leading question,  
6 except insofar as all questions are leading questions, you  
7 must direct the witness' attention to something you want  
8 the testimony about, otherwise your question will be so  
9 general you could get no answer.

10 MR. FORD: The question cannot be answered yes or no, and  
11 therefore it cannot be a leading question. He said "Did  
12 you" or did you not".

13 MR. ROGERS: That test of the question has long ago been --

14 THE COURT: Applying that test, I think it could be answered  
15 yes or no.

16 MR. FREDERICKS: I do not ask that that test be applied; I ask  
17 that the question be read.

18 THE COURT: Read the question. (Question read) Objection  
19 sustained.

20 Q By Mr. Fredericks -- What was your intention to do with  
21 the money that was offered you and talked about?

22 MR. APPEL: We object to that as immaterial.

23 THE COURT: Objection overruled.

24 MR. APPEL: We except.

25 A I intended to turn it over to the District Attorney as  
26 evidence.

1 Q Calling your attention to a portion of your testimony  
2 yesterday, Mr Lockwood, back to the time when Bert Franklin  
3 was arrested down on the corner of Third and Main Street --  
4 your testimony in regard to that -- you said that a man  
5 came across the street there to meet Franklin? A Yes sir.

6 Q Do you recognize that man here in the court room this  
7 morning? A Yes sir.

8 Q Who is it? A Clarence Darrow.

9 Q The defendant in this case? A Yes sir.

10 Q You said, calling your attention again to your testi-  
11 mony, that you once lived at 1350 Newton Street in Los  
12 Angeles a year and a half or so before. Was there any  
13 other George N. Lockwood except yourself ever lived there  
14 to your knowledge? A Not to my knowledge.

15 MR APPEL: Wait a moment,--

16 A Excuse me.

17 MR APPEL: -- please. We object to that as immaterial.

18 THE COURT: Objection overruled.

19 MR APPEL: We except.

20 A Not to my knowledge.

21 MR APPEL: I move to strike out the answer of the witness  
22 upon the ground it is not responsive to the question.

23 THE COURT: The motion to strike out is denied.

24 Q By Mr Fredericks: How long had you lived there prior  
25 to your moving? A Lived I think about five years.

26 Q During that time state whether or not you were the only

1 George N Lockwood that lived there?

2 MR APPEL: We object to that as immaterial; too remote away  
3 beyond the time mentioned in the indictment or in the com-  
4 mencement of the proceedings resulting in the indictment.

5 THE COURT: Objection overruled.

6 MR APPEL: We except.

7 A I am the only one that lived there by that name.

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1 BY MR. FREDERICKS. Q I wish to show you a card, Mr. Lock-  
2 wood, that has been marked in this case as People's Exhibit  
3 A, in another case, possibly, and ask you if you ever saw  
4 it before.

5 MR. ROGERS. Is that the same card that counsel dramatically  
6 threw in the air yesterday and said he wouldn't introduce  
7 it? I ask for information?

8 MR. FORD. We object to the question as calling for a  
9 conclusion, it was dramatic.

10 MR. FREDERICKS. There is nobody on the witness stand  
11 that is able to answer the question.

12 MR. ROGERS. Is that the same card that was tossed into  
13 the atmosphere yesterday?

14 MR. FORD. I think counsel is entitled to look at the card  
15 and decide for himself.

16 THE COURT. Yes.

17 MR. ROGERS. Before you answer, let me see if that is the  
18 same card that was tossed up in the air yesterday.

19 MR. FREDERICKS. Sure, that is the same card.

20 MR. ROGERS. Changed your mind?

21 MR. FREDERICKS. Yes, we change our minds at times.

22 MR. ROGERS. Is that what you call it?

23 MR. FREDERICKS. Yes.

24 A Yes, sir, I have seen that card before.

25 MR. FREDERICKS. Q State where and when and under what  
26 circumstances.

1 A That was given to me by Bert Franklin at my home near  
2 Covina.

3 Q And the writing on it--the red pencil writing--call  
4 your attention to the lead pencil writing, do you know  
5 who wrote that?

6 A Bert Franklin did?

7 Q Well, did you see any one write it? A I saw him write  
8 it.

9 MR. FREDERICKS. We offer it in evidence, if the Court  
10 please, as People's Exhibit 6.

11 MR. ROGERS. Objected to as no foundation laid, incompetent,  
12 hearsay, and irrelevant and immaterial.

13 THE COURT. Overruled.

14 MR. ROGERS. Except.

15 MR. FREDERICKS. The card reads--business card printed on  
16 one side, J. H. Dean, candidate for the Board of Education.  
17 On the other side is written with a lead pencil, "Main 3862  
18 A 4899". Do you know what those numbers refer to?

19 A He told me they were his -

20 MR. ROGERS. Objected to as a conclusion or opinion.

21 MR. FREDERICKS. Q What did he tell you in regard to  
22 those numbers. Withdraw the question. What did he tell  
23 you in regard to these numbers?

24 MR. ROGERS. Objected to as no foundation laid, incompetent,  
25 irrelevant and immaterial.

26 THE COURT. Overruled.

1 MR. ROGERS. Exception.

2 A I asked him for <sup>his</sup> telephone number and he gave me that  
3 card and wrote those numbers on.

4 MR. FREDERICKS. Cross-examine.

5  
6 CROSS-EXAMINATION.

7 MR. ROGERS. You say you dropped a \$500 bill on the side  
8 walk, what for? A As a matter of showing that the trans-  
9 action was closed and giving notice to people in waiting  
10 that were ready to make the arrest.

11 Q People in waiting. Who do you mean by that? A Detec-  
12 tives.

13 Q You knew they were there? A I knew that they were  
14 supposed to be there.

15 Q Did you see them? A I had not seen them at that time.

16 Q This man on the motorcycle, you knew him, did you?

17 A Well, I had seen him once before.

18 Q What is his name? A I couldn't tell you.

19 Q You knew he was a detective? A Yes.

20 Q When he rode up you dropped the bill so he would see it?

21 A Well, I presume he saw it, I don't know.

22 Q So it was your intention that he should see it?

23 A It was my intention to attract and to sh show to the  
24 officers that the money had been passed.

25 Q For the purpose of convicting somebody? A For the  
26 purpose of preventing the commission of a crime.

1 Q You were then, were you, acting for the District  
2 Attorney? A Yes, sir; under his direction.

3 Q Now, when was that, what day? A That was on the 28th  
4 day of November.

5 Q What hour? A A little after 9:00 o'clock.

6 Q Where? A Corner of Third and Los Angeles.

7 Q Right out in the open? A Yes, sir.

8 Q You could see what happened there from both streets,  
9 Third street and Los Angeles Street? A I think so.

10 Q That was your intention, wasn't it? A I don't catch  
11 the question quite to understand what you mean. My inten-  
12 tion what?

13 Q To be seen by as many people as choose to observe?  
14 A I will say that the appointment and the location of the  
15 appointment was made by the other side.

16 Q By what other side? A Bert Franklin.

17 Q Was he the other side? A So far as his dealings with  
18 me.

19 Q You know that, do you? A As far as I understand those  
20 things, I do.

21 Q You agreed with him to come there to Third and Los  
22 Angeles street at somewhat after 9 on this morning so that  
23 everybody could see what happened? A I don't know  
24 that the other bodies seen, was considered in the appointment  
25 at all.

26 Q You considered it? A I considered that possibly some-

1 body would see.

2 Q Didn't you know somebody was there and came to see it?

3 A I was under the impression that they would, yes.

4 Q Didn't you telephone to get somebody to see it? A No,  
5 sir.

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with 1 Q Did't you telephone the District Attorney on that  
2 morning before this thing happened? A I did not.

3 Q You say you didn't telephone after you got in town that  
4 morning? A I did not.

5 Q You understand exactly what I mean, do you? A I do.

6 Q That that morning you did not telephone the District  
7 Attorney? A That I did not telephone the District Attorney  
8 or anyone else.

9 Q Did you go to see him? A I did not.

10 Q Did you go into a telephone booth at any place after  
11 you got into Los Angeles that morning? A I did not.

12 Q You got off the car at what place? A Third and Los  
13 Angeles, I think -- Third or Fourth and Main.

14 Q Where did you go? A From the time I got off the car  
15 I went over to the Owl Drug Store first.

16 Q What did you do there? A Bought a little small package.

17 Q Did you telephone? A I did not.

18 Q You are sure of that? A Yes sir.

19 Q Where did you go then? A Around to Sixth and Main.

20 Q What for? A Well, I was killing time to meet the ap-  
21 pointment at the proper time.

22 Q Sixth and Main you went? A Yes sir.

23 Q Did you telephone? A I did not.

24 Q Did you come down from Sixth and Main to Third and Los  
25 Angeles? A Yes sir.

26 Q How long had you known Captain White, as you call him,  
C E White? A Some seven or eight, ten years, something  
like that.

1 Q On good friendly terms with him? A Yes sir.

2 Q He never done you any harm? A No.

3 Q You never done him any harm? A Not that I am aware.

4 Q Worked in the same office with him? A Yes sir.

5 Q After Franklin mentioned his name in this bribery

6 matter, this great crime, did you telephone White?

7 A I did not.

8 Q Did you talk with him? A I did not.

9 Q You didn't meet him until this play down at Third and  
10 Los Angeles? A No.

11 Q You didn't caution him? A No sir.

12 Q You know Henry Yonkin don't you? A Yes sir.

13 Q You worked with him? A Yes sir.

14 Q He was undersheriff while you were kind of a deputy  
15 sheriff? A Yes sir.

16 Q You suggested bringing Henry Yonkin into this thing,  
17 didn't you? A Yes sir, I did.

18 Q What for? A Because I believed that it could be ar-  
19 ranged so he would be an agent for the State and a witness  
20 in this case.

21 Q Instead of White? A Yes sir.

22 Q Did you ever talk with Yonkin to see whether he would  
23 act in that capacity? A I did not.

24 Q You were willing to see White degraded and disgraced,  
25 your friend, were you? A No sir.

26 MR FREDERICKS: Objected upon the ground it is incompetent.

1 irrelevant and immaterial.

2 THE COURT: The witness has answered the question.

3 MR APPEL: We have a right to go into his motive.

4 MR FREDERICKS: Well, I withdraw the objection. Nothing  
5 before the Court.

6 MR FORD: The question is answered. Will you read the  
7 question and answer? (Last question and answer read by the  
8 reporter)

9 MR ROGERS: And you didn't warn him or say a word to him?

10 A No sir.

11 Q You said you had been a police officer? A Yes sir.

12 Q When? A I think it was in 1877 or 8 and 9.

13 Q Here in the city of Los Angeles? A Yes sir.

14 Q Then you were a constable, weren't you? A Yes sir.

15 Q Was that before or after you were a policeman?

16 A After.

17 Q How long did you stay a constable? A Three years.

18 Q Then were you a deputy? A Constable?

19 Q Yes. A No sir.

20 Q Then, first you were a policeman, is that the first  
21 position you ever held? A Yes.

22 Q Then you were a constable? A Yes sir.

23 Q Now, after you were a constable, what position as  
24 peace officer did you hold? A Well, I was special policeman  
25 for many years, and special deputy sheriff.

26 Q Special policeman? A Yes sir.

1 Q For many years? A Yes sir.

2 Q On salary? A I was drawing a salary, not for the  
3 police part of it, but for other work.

4 Q Where were you working as special police officer for  
5 many years? A I had charge of the city prisoners for  
6 several years.

7 Q What you mean is, you were boss of the chain gang,  
8 isn't that so? A Yes sir, yes sir.

9 Q How many years were you boss of the chain gang? A Oh,  
10 several, I couldn't tell you; four or five, something like  
11 that.

12 Q Four or five? A Yes.

13 Q How long was that after you were constable that you be-  
14 came a special policeman in charge of the chain gang?

15 A I think it was some five or six years.

16 Q You were policeman about three years, weren't you?

17 A About two years.

18 Q What? A About two years.

19 Q Constable three years? A Yes sir.

20 Q Boss of the chain gang about five years? A About that,  
21 yes.

22 Q Then what did you become in the line of being an officer  
23 or detective, or one thing another of that kind?

24 A I never become a detective at all.

25 Q You never did that before? A I never did at all.

26 Q Now then, after you had spent five years, two years as  
special police officer, three years constable, five years

1 boss of the chain gang, making ten years in all, then what  
2 did you do? A I worked for the city in different capaci-  
3 ties.

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5p 1 Q In what capacities had you worked for the city?

2 A Teamster and laborer in the parks.

3 Q Well, you are a public official, or kind of one? A An  
4 employe.

5 Q Then what happened to you, what did you do then? A When  
6 I quit the city employ I went into the employ of the county  
7 as deputy in the Sheriff's office.

8 Q How long were you deputy in the Sheriff's office? A Four  
9 years.

10 Q Before that how many years had you put in in the employ  
11 of the government? A Of the city government?

12 Q Yes. A I couldn't say exactly.

13 Q Well, approximate it. A Approximately I was in the  
14 employ of the city government from 1889 up to the close,  
15 or the commencement of the White administration as sheriff,  
16 with the possible exception of about six or seven months.  
17 It would take some little figuring for me to find out how  
18 many years and months it was in that time.

19 Q Well, then, you didn't cease to be a public official  
20 when the White administration commenced, did you? A No,  
21 sir.

22 Q You kept right on working for the public? A Yes, sir.

23 Q How many years, then, have you served the government or  
24 the people? A I should judge at the time I worked for  
25 the city in different capacities and had charge of the city  
26 prisoners and worked in the county, that possibly it was 12

1 or 15 years, possibly a little more than that.

2 Q What other thing did you ever do besides working for  
3 the government? A I have raised corn and potatoes, some  
4 fruit.

5 Q You were not out of employment while you were raising  
6 fruit, were you? A No, sir, I was working hard.

7 Q Working in the city government at the time? A No, sir.

8 Q What was the interval when you were not working for the  
9 city, from '89 on, or the county? A Well, I spent 6  
10 months up at Santa Barbara working in the city department  
11 up there, that is, working for a contractor.

12 Q You were working for the government there, weren't you?

13 A No, sir, I was working for a private individual.

14 Q On public work? A Yes.

15 Q Working for the city, as a matter of fact? A No, sir.

16 Q Working for a man that was under contract with the city?

17 A Yes, sir.

18 Q Outside of that, what did you ever do? A I told you  
19 a moment ago I have raised corn and potatoes.

20 Q When was that? A Well, I did it before I was constable  
21 and I done it afterwards.

22 Q Now, when afterwards? A Well, from the time I went  
23 out of being constable until along about '89.

24 Q How long was that? A About 5 years.

25 Q Where? A Cucamonga, San Bernardino County, California

26 Q You raised potatoes in Cucamonga? A yes, sir, and corn

1 and barley on the desert.

2 Q Raised potatoes on the desert in Cucamonga? A Yes.

3 Q And barley in Cucamonga? A yes, sir.

4 Q In '89? A No, I said prior to '89.

5 Q Prior to '89. Well, start with '89 then and tell us  
6 f or whom you have ever worked except the government after  
7 that. A Lockwood.

8 Q Where? A South Mainstreet, where 48th Street cuts  
9 through.

10 Q What were you doing down there? A Living on my little  
11 home ranch, raising corn, beans and potatoes.

12 Q You are trying to pose as a farmer here, are you?

13 MR. FREDERICKS. We object to that as insulting the witness.

14 MR. FORD. Counsel should be cautioned about the kind of  
15 language he uses in court.

16 THE COURT. I don't know that the question is insulting,  
17 that is too strong a word, but I do not think it is a pro-  
18 per question to ask the witness. Objection sustained.

19 Q Prior to the time you became a policeman until you left  
20 the White administration as a deputy sheriff, how many  
21 years were you out of office or employment for the public?

22 A Why, as near as I could figure it I should say about 7  
23 or 8 years.

24 Q At intervals or all at once? A Well, there were  
25 intervals when, for instance, I was out on the ranch at  
26 Cucamonga for five years; I was at Santa Barbara for six



1 months; I worked for a street paving concern in this  
2 town month after month, Fairchilds and Gilmore; I hauled  
3 sand out of the river with my team day after day, brick  
4 from the brickyard month after month.

5 Q But out of your active life you were two years a  
6 policeman, three years a constable, five years a special  
7 policeman, four years a deputy sheriff? A yes, sir.

8 Q And the rest of the time that you were not growing  
9 potatoes and things of that kind you were working on public  
10 work, weren't you?

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1 A The rest of the time I was working for myself, either  
2 farming or teaming or something of that kind.

3 Q While you were a deputy sheriff, Franklin also was one,  
4 wasn't he? A Yes sir.

5 Q You were in the same office? A Yes sir.

6 Q For how long? A Four years.

7 Q ✓ On friendly terms with him? A Yes sir.

8 Q Never had any trouble with him? A No sir.

9 Q Never had any differences of opinion? A Oh, we differed  
10 on a great many things, but never any difficulty.

11 Q ✓ You considered yourself his friend? A Why, as far as  
12 I could remember, yes.

13 Q You considered yourself a friend of Mr White's who  
14 was also in the office at the same time? A Yes sir.

15 Q Did you ever see Mr Darrow? A I have.

16 Q Until the time you say you saw him at Third and Main?

17 A No sir, not to my knowledge.

18 Q But before you ever saw Darrow you had seen the Dis-  
19 trict Attorney, hadn't you? A Yes, a great many times.

20 Q You had seen him about this thing, hadn't you?

21 A Yes, I had talked with him in regard to this matter.

22 Q Before you ever saw Darrow? A Yes sir.

23 Q Now, before we go any further, I desire to ask you if  
24 you have any corrections more that you desire to make in  
25 your testimony? A Not that I think of at the present time.

26 Q. You will stand on it as it is now? A So far as I can  
see now, yes.

1 Q What is the first time you saw the District Attorney  
2 about this matter? A Well, the date I couldn't tell you;  
3 it was following the second visit of Bert Franklin to the  
4 ranch.

5 Q Hsve you got any note-books with it in? A No sir.

6 Q How is it you can fix those other dates so exactly and  
7 give us the day of the month and you cannot give us that  
8 day? Have you been told not to? A No sir.

9 Q Why did you make the correction in your testimony this  
10 morning?

11 MR FORD: We would like to have him ~~to~~ have an opportunity  
12 to finish that question.

13 MR FREDERICKS: I would like also an opportunity to object  
14 to the question as being an improper question, and an insin-  
15 uation or imputation that is not warranted by anything that  
16 has developed so far, at any rate, "Have you been told not  
17 to". It is an implication of subornation of perjury, if it  
18 is anything.

19 MR APPEL: We have a right to that question.

20 THE COURT: The question has been asked and answered,  
21 gentlemen.

22 MR FORD: Only a part of it.

23 MR APPEL: Only as a matter of right, it makes no difference  
24 who it hits.

25 MR FREDERICKS: We will take care of who it hits.

26 MR FORD: If the Court please, the counsel started one

1 question and without giving us an opportunity to answer it  
2 asked a second question, and I would like to have the wit-  
3 ness have an opportunity to answer the question; I would like  
4 to have the whole question read so that the witness may  
5 answer it in full.

6 THE COURT: Read it.

7 (Question read by the reporter)

8 MR FORD: That is, you are answering the latter part of the  
9 questi on. Answer the first part.

10 A I would like to answer how I can fix those dates.

11 THE COURT: Go ahead.

12 A The day that Franklin first came to my house I closed  
13 the last irrigation of the season that afternoon; was tired  
14 and weary and my water bill and so on will show that date.  
15 The other dates followed as I have described and it was easy  
16 to remember those dates.

17 MR ROGERS: Now why isn't it easy to remember the time you  
18 went to the District Attorney and became his employee?

19 A Possibly for the reason that when I went to the Dis-  
20 trict Attorney and told him this, I said to the District  
21 Attorney at that time in my judgment with your corps of  
22 detectives you will be able to uncover this matter and  
23 bring it to the light without me being mentioned in it in  
24 any way, shape or manner, and I seeked to avoid any notice  
25 in the matter whatever. Perhaps that is the reason why I  
26 cannot remember that date.

1 Q Is that the only explanation you have now for your  
2 failure of recollection? A Yes sir.

3 Q You think that explains it? A It does to my own  
4 satisfaction.

5 Q Well then, you cannot remember what day you went to  
6 the District Attorney because you didn't want to be mixed  
7 up? A Oh, I don't put it that way; I don't think that is  
8 a fair construction of it at all.

9 Q Then what is a fair construction of it?

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7s 1 A A fair construction of that is that it was sometime  
2 during the following week and I don't know the date.

3 Q What week? A I think the week following Franklin's  
4 coming to my house and I telling him that I would have  
5 nothing to do with it.

6 Q Now, when you told him you would have nothing to do with  
7 it you meant it, did you? A I did.

8 Q That was your intention? A Yes, sir.

9 Q Then you went to the district attorney without seeing  
10 Franklin again, did you? A Yes, sir.

11 Q How long after that? A Sometime during the following  
12 week. This was Saturday night and I would say that it was  
13 possibly Tuesday or Wednesday.

14 Q Well, the first part of the week-- A Somewhat along  
15 there.

16 Q --Is your indefinite recollection of it? A Yes, sir.

17 Q You remember Saturday night that Franklin came to you  
18 with expedition but you don't remember the time you  
19 went to the district attorney? A I remember that because  
20 it was by appointment he made himself, we agreed upon.

21 Q Now, supposing that Franklin made an appointment would  
22 that aid your recollection particularly? A Why, those  
23 coming one right after the other. He being there on  
24 Saturday night, I being in his office the following Thurs-  
25 day and he setting the time for the following Saturday  
26 night to be at my house, fixes them reasonably clear in

1 my mind .

2 Q Why isn't it also clear, a thing you did yourself that  
3 Franklin didn't do, that you know more about than he does?

4 A I can, that was perfectly clear in mind the first of  
5 the week, Tuesday or Wednesday, somewhere there, I went  
6 to the district attorney at that time .

7 Q You already told Franklin you wanted nothing to do with  
8 it and would have nothing to do with it? A Yes, sir .

9 Q Then you went to the distfict attorney? A Yes, sir .  
10 You want my reasons for going to him?

11 Q I have no doubt you are loaded with a speech, let's have  
12 it. A Simply I thought it was the proper thing to do,  
13 that is all the speech I have.

14 Q You made up your mind about it then? A I have .

15 Q You think it was the proper thing to do ? A I do, and  
16 still think so .

17 Q When you did that, told Franklin you wanted nothing to  
18 do with it, the next time that you saw Franklin was when?

19 A On Sunday, the 26th day of November .

20 Q How long was that after you had been to the district  
21 attorney? A Oh, a week or more .

22 Q Did you telephone him? A Who?

23 Q Franklin? A No, sir .

24 Q When did you telephone? A I telephoned Franklin on  
25 the evening of the 8th of November .

26 Q Where did you telephone him from, El Monte? A On the

1 evening of the 27th.

2 Q Where did you see him on the 26th?

3 A At my house in Covina District.

4 Q That was after you had seen the District Attorney?

5 A Yes, sir.

6 Q Did you see Franklin on the 9th day of November? A Yes  
7 sir.

8 Q Did you see Franklin on the 26th day of November?

9 A On the 26th--yes, sir.

10 Q Did you see Franklin on the 27th? A No, sir.

11 Q Did you see Franklin on the night of the 28th? A Oh,  
12 I did the night of the 27th, at night.

13 Q How did he come out there? A I telephoned him at  
14 Monte and in response to that telephone he came out.

15 Q When you telephoned him at Monte the district attorney  
16 was there? A Yes, sir.

17 Q Detectives there? A At Monte?

18 Q No, at your house. A They were there later.

19 Q How many of them? A Five or six.

20 Q You knew they would be there? A Yes, sir.

21 Q That was why you telephoned Franklin, wasn't it? A Yes  
22 sir.

23 Q To deliver your friend into the law officers' hands?

24 A To deliver the man that I thought was trying to commit  
25 a crime.

26 Q You never told Franklin at any time that you were trying



1 to trap him? A No, sir.

2 Q You never told him at any time that you thought what he  
3 was doing was wrong? A No, sir.

4 Q You never told him at any time that you were not that  
5 kind of a man? A I told him I wouldn't have anything to  
6 do with the acceptance of that bribe.

7 Q Did you mean it? A I did.

8 Q Then you telephoned him afterwards to come out there?

9 A Yes, sir.

10 Q Why didn't you leave him alone and not telephone him  
11 to come out there and try to bribe him? A Simply because  
12 after telling him, the only reason was that after telling  
13 him that I would have nothing to do with it he came to  
14 my house and increased his bribe and showed me he was  
15 actively engaged in doing that work.

16 Q You thought Franklin was a bad man? A I thought he  
17 was in disreputable business, at any rate.

18 Q Did you tell him, "Bert, this is wrong; you ought not  
19 to insult me this way?" A No, sir, I did not.

20 Q Did you tell him, "Bert, you know that you cannot bribe  
21 me; I am not that kind of a man?" A No, sir.

22 MR. FREDERICKS. Objected to upon the ground that it is  
23 irrelevant, incompetent and immaterial and not cross-  
24 examination.

25 THE COURT. He has answered the question. The objection is  
26 well taken, on the addition ground it is already answered.

1 MR. ROGERS. Who suggested you telephone Franklin that  
2 night to come out to your house?

3 MR. FORD. Just a moment, that is on the 27th?

4 MR. FREDERICKS. That is objected to unless that night  
5 is specified so the witness will know what night he is  
6 talking about.

7 THE COURT. Objection sustained.

8 MR. ROGERS. Exception. Q Who suggested to you that  
9 you telephone Franklin from the Monte? A I think it  
10 was the district attorney that talked the matter over.

11 Q Franklin would not have come out that night if the  
12 district attorney and you had not telephoned to him?

13 A Possibly not.

14 MR. FORD. Objected to--it is answered--we object to it as  
15 calling for a conclusion of the witness.

16 MR. ROGERS. You had no engagement with him, did you?

17 A I had agreed to telephone him that day.

18 Q And that is the time when you telephoned him at the  
19 suggestion of the district attorney that the engagement was  
20 made for Third and Los Angeles street, isn't that so?

21 A No, sir.

22 Q When was the engagement made to meet the next morning?

23 A About 9 o'clock at night out there at my ranch.

24 Q That was when he came in response to your telephone,  
25 wasn't it? A Yes, sir.

26 Q Now, that is exactly what I asked you--

1 MR. FREDERICKS. That is objected to--

2 MR. ROGERS. Q Isn't it true that the engagement made  
3 at Third and Los Angeles streets was made after you tele-  
4 phoned him to come out? A Yes, sir.

5 MR. FREDERICKS. Just a moment--that is objected to as  
6 being incompetent, irrelevant and immaterial and not cross-  
7 examination and as stating a fact and a question which is  
8 not in evidence. The counsel said, "Now, that is just  
9 what I asked you", and he then started something different.  
10 The question is misleading.

11 THE COURT. Oh, well, as to that part, "That is just what  
12 I am asking", is of no consequence. The question is a  
13 proper question.

14 MR. APPEL. Our theory is one and theirs is another; did  
15 this happen?

16 MR. FREDERICKS. The only thing is not to confuse the jurors  
17 as to the time.

18 MR. APPEL. We have a right to search--

19 THE COURT. I think the question is clear, if it is as  
20 clear to the witness as it is to the court he might answer.  
21 Objection overruled.

22 A Read the question. (Last question read by the reporter.)

23 MR. ROGERS. Q Now, at the time Franklin came out in  
24 response to your telephone, at the suggestion of the dis-  
25 trict attorney, you asked him where was Darrow, did you?

26 A Yes, sir.

1 Q And he said, "Well, did you think Darrow was coming  
2 out here?" A Yes.

3 Q And then what did you say to him? A I said, "I  
4 sure thought so."

5 Q And what did he say to that? A He wanted to know  
6 what made me think so.

7 Q What did you say to that? A I said, "You wanted to  
8 know if you should bring the Big One out, and I supposed  
9 that is who you meant."

10 Q You wanted to trap Darrow out there? A I had nothing  
11 to do with the trapping of Darrow out there at all.

12 Q Didn't you try to trap Darrow out there? A When he  
13 said that he--"Shall I bring the Big One?", I supposed he  
14 meant Clarence Darrow.

15 Q And he told you he didn't? A He said he didn't mean  
16 him.

17 Q And that he didn't mean Darrow at all but that he meant  
18 someone else? A Yes, sir.

19 Q And who did he mean? A Captain White.

20 Q The man that met you the next morning? A Yes, sir.

21 Q You knew White before that, didn't you? A Yes, sir.

22 Q You knew he was a big man? A Yes, sir, a good fair  
23 sized man, weighs over 200.

24 Q You call that a fair size? A Yes, a good fair sized  
25 man.

26 Q What do you call a big man?

1 MR. FORD. That is objected to as irrelevant and immater-  
2 ial and frivolous.

3 THE COURT. You want an answer to that question?

4 MR. ROGERS. Yes, sir, what he means by a big man.

5 A I have seen some very large men in my time.

6 Q In the circus and places like that? A And outside  
7 of the circus.

8 .Q Did you ever see a man bigger than White used to be?

9 A I don't know how big he used to be.

10 Q Don't you know he weighed 235 or 240 pounds when he  
11 was in the sheriff's office? A I know he weighed in that  
12 neighborhood. I have weighed more than that myself.

13 MR. FORD. Objected to as irrelevant and immaterial.

14 THE COURT. Overruled.

15 MR. ROGERS. Q Over six feet tall? A I don't know as  
16 to that.

17 Q When you got those detectives out there and the district  
18 attorney was out there you thought the Big Fellow was coming  
19 out? A I sure did.

20 Q You thought it was Darrow? A I sure did.

21 Q And you got the thing up for that purpose, didn't you?

22 A No, I couldn't say that I did.

23 MR. FREDERICKS. That is objected to, may it please the  
24 Court, unless, "the thing" is understood by all to mean  
25 the same thing. Now, "the thing" may mean one thing and  
26 it may mean another.

1 THE COURT. I think the meaning is clear.

2 MR. FREDERICKS. It is not to me. I want this jury to know  
3 just exactly what is meant, and this witness to know what  
4 he is answering.

5 THE COURT. I think if there is any doubt about that you can  
6 clear it up on redirect.

7 MR. FREDERICKS. But wrong impressions are created and it is  
8 difficult to --

9 THE COURT. Objection overruled.

10 A What is the question? (Last question and answer read  
11 by the reporter.)

12 MR. ROGERS. Q Well, you made that arrangement out there  
13 at your ranch with five or six detectives and the district  
14 attorney and all the rest of that for the purpose of catch-  
15 ing Darrow, didn't you?

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A No sir; but if Clarence Darrow had been present and that money had been turned over I am satisfied that he would have been arrested.

Q Why did you expect him? A Simply because when Franklin asked me if he should bring the big one out, I supposed that he meant Clarence Darrow, Now, that is the secret --

MR FREDERICKS: Unless the witness will tell when that conversation was with this Franklin, this matter will not be understood.

MR APPEL: Your Honor, we have a right to cross-examine this witness without any further interruption from the District Attorney. He can make his legal objection and your Honor will rule upon it, but we do object to cautioning this witness on the stand.

THE COURT: The Court agrees with you.

MR APPEL: Whatever the conversation may be must bring them out and counsel has no right to qualify --

THE COURT: Don't scold about it. It is settled. It is settled in your way.

MR APPEL: I know, your Honor, this is the witness' --

MR ROGERS: Is there a question there that has got mixed up in this thing?

MR FREDERICKS: No, there is no question.

MR APPEL: You told the District Attorney that Darrow was coming out there, that you thought he was coming, words to

1 that effect?

2 MR ROGERS: Then you told the District Attorney that you  
3 thought that Darrow would be out that night?

4 A That is at the Monte, at the telephone booth on the  
5 evening of the 26th.

6 Q You understand me correctly, then? A I told him  
7 just exactly what Franklin had said and told him that I  
8 supposed by that that he meant Mr Darrow.

9 Q Now, as a matter of fact, you told him to come right  
10 out that you had got Darrow out there, didn't you? A No sir.

11 Q Words to that effect? A No sir.

12 Q You told him what Franklin had said and that you thought  
13 Darrow was coming? A I did.

14 Q And that is why all this reception committee was there,  
15 is that not true? A No sir.

16 Q Didn't the District Attorney say, "Well, we will catch  
17 Darrow tonight"? A No sir, not in my hearing.

18 Q What did he say? A I am sure -- the arrangements were  
19 all made by --

20 Q What did he say?

21 MR FREDERICKS: Just a moment, please. We would like to  
22 have the answer of the witness.

23 MR ROGERS: And we would like to have the answer of the  
24 witness;

25 MR APPEL: Let him answer the question. What did he say?

26 MR FREDERICKS: He started to say "The arrangements were



1 all made "; I would like to have him finish that.

2 MR APPEL: Let him say what was said.

3 THE COURT: Yes, what was said; that is the question.

4 MR FREDERICKS: Let's see where we are. Let's see what the  
5 witness said.

6 A I am sure I could not repeat further than I think per-  
7 haps the District Attorney said that he would be glad to  
8 have him out there, something of the kind, --

9 Q / And then, when Darrow didn't come the play was put off  
10 until the next morning, wasn't it? A Not on that account,  
11 by any means.

12 Q It was put off until the next morning? A Yes sir.

13 Q And Darrow didn't come? A No.

14 Q And you put it off until the next morning at Third and  
15 Main, didn't you? A I didn't put it off.

16 Q You didn't put it off? A No sir.

17 Q Who did? A Mr Franklin.

18 Q You expected the money there that night, didn't you?

19 A Yes sir.

20 Q At the Monte? A No sir, not at the Monte.

21 Q At your house? A Yes sir.

22 Q You expected to get your money on the 27th? A Yes sir.

23 Q And you didn't get it? A No.

24 Q So the whole thing was put over until the next morning  
25 at Third and Los Angeles so that Darrow could be caught  
26 there, isn't that so? A No sir, not so far as I know.)

1 Q Don't you know that Darrow was telephoned for to come  
2 down to Third and Main Streets so that you could pull this  
3 play off? A No sir, I don't know anything of the kind.

4 Q Don't you know that Mr Darrow came down there in response  
5 to a telephone to get him into the vicinity of ?

6 A The only reason I have for knowing any such thing of  
7 that kind is something I read in a paper in an interview  
8 alleged to have been with Earl Rogers a few days ago. My  
9 first knowledge of any telephoning to Mr Darrow.

10 Q Well, Mr Darrow was not at Third and Los Angeles?

11 A No, not to my knowledge.

12 Q White was there? A Yes.

13 Q Former deputy sheriff? A Yes.

14 Q Franklin was there? A Yes.

15 Q Former deputy sheriff? A Yes sir.

16 Q A lot of the district attorney's people were there?

17 A I think so.

18 Q Well, you know it, don't you? A I have reason to  
19 believe they were there. I told you I didn't see any of  
20 them until afterwards.

21 Q Darrow was not there? A I didn't see him./

22 Q Now, when White showed you this money, even you said to  
23 him: "This is a funny thing, these big bills?" A Yes sir.

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Op 1 Q You thought that was a most strange thing, didn't you,  
2 they used big bills? A Well, I was filling in talk at  
3 that time, expecting that the thing would culminate right  
4 there.

5 Q What did you say about those bills, the size of them?

6 A I says, "A man would have hard work to pass one of those  
7 bills."

8 Q What else did you say about it? A That is the sum  
9 and substance of it.

10 Q Is that all? A I think I told him they ought to have  
11 been in fives or twos, or something of that kind.

12 Q Why did you say that? A Simply filling-in talk, wait-  
13 ing for the arrest to be made.

14 Q Why did you say it ought to have been fives and twos?  
15 MR. FREDERICKS. I object to that on the ground it has been  
16 asked and answered.

17 MR. ROGERS. This kind of a witness, we are at liberty  
18 to cross-examine him thoroughly.

19 THE COURT. Objection overruled.

20 A Simply because I was filling in time expecting the  
21 arrest to be made any second.

22 Q You knew, didn't you, if a man was going to really  
23 try to bribe you, he wouldn't use one thousand dollar  
24 bills and five hundred dollar bills? You said so, didn't  
25 you?

26 MR. FORD. We object to that as calling for a conclusion

1 of the witness.

2 THE COURT. Objection overruled.

3 A No, sir, I didn't say so.

4 Q What did you say to Franklin about it, or White about  
5 it? A I told him a man would have hard work in passing  
6 a five hundred dollar bill.

7 Q Is that all? A I said they ought to have been in twos  
8 or fives.

9 Q You just said that to fill time, is that all? A Yes, sir  
10 that is all.

11 Q But it did occur to you that it was most remarkable  
12 that thousand dollar bills and things of that sort should  
13 be used for such purposes, didn't it?

14 MR. FORD. We object to that on the ground it is incompetent,  
15 irrelevant and immaterial what the witness thought about  
16 its being remarkable, calling for a conclusion of the  
17 witness, not cross-examination--incompetent irrelevant and  
18 immaterial.

19 THE COURT. Objection overruled.

20 MR. FREDERICKS. This is a matter for counsel to argue to  
21 the jury, your Honor, not to get this witness' opinion  
22 on it.

23 MR. APPEL. We want to see what he thought about it.

24 THE COURT. Objection overruled.

25 A Read the question, please.

26 (Question read.)

1 MR. FORD. There is a matter I want to call to the Court's  
2 attention: There are side remarks made here and if they  
3 are only made for byplay between attorneys, still they  
4 are made loud enough, I believe, to reach the ears of the  
5 jury:

6 THE COURT. Mr. Ford, what you say is true more or less in  
7 regard to both sides, but I assume that when these remarks  
8 are made, when side remarks are made, that counsel are con-  
9 ferring with each other. I have heard nothing from either  
10 side that would be seriously improper if it did reach the  
11 ears of the jury. I have most excellent ears, and I think  
12 I would hear if any one did, but I assume it is necessary  
13 for counsel on both sides to confer more or less. But, I  
14 do think, Gentlemen, it should be done in a little less  
15 audible tone.

16 MR. APPEL. What I said was brought out in the answer,  
17 whatever I said I can say in your Honor's presence, and  
18 the Jury's presence, and it was a matter addressed to the  
19 question. I said the evidence we were seeking from this  
20 witness was for the purpose of showing on which side of the  
21 case was the conspiracy, and I say we have a right to  
22 show there was a conspiracy there, to induce a crime to be,  
23 apparently to be committed for the purpose of trapping Mr.  
24 Darrow, and I say it is upon that theory that evidence is  
25 admissible.

26 THE COURT. Let us try to proceed a little bit orderly.

1 MR. FORD. I simply ask that both sides try to make those  
2 comments and discussions outside of the hearing of the  
3 jury until the time comes for counsel to address the jury.

4 THE COURT. I want to say, it is impossible for the offi-  
5 cial reporter to get down what two gentlemen say at the  
6 same time, and when the reporter is reading the testimony  
7 back, as he was a moment ago, it was entirely improper  
8 for any counsel to make a remark that should go into the  
9 record; if it is during your council, that is all right,  
10 but it cannot go into the record at the same time. I  
11 don't think there was any necessity for this interruption,  
12 Gentlemen. If there were remarks made here, why, the Court  
13 will see to it that it is stopped, that is, the remarks  
14 that are improper, at any rate. What was the last ques-  
15 tion?

16 (Question read.)  
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te 1 A No, I cannot say it occurred to me in any such manner.

2 THE COURT: Bear in mind your former admonition, gentlemen.

3 We will take a recess for five minutes.

4

5 (After recess)

6 GEORGE N. LOCKWOOD, on the stand.

7 CROSS EXAMINATION (resumed)

8 THE COURT: The jury is present. You may proceed.

9 MR ROGERS: Q You had not in mind, when you were talking  
10 about the size of the bills, anything concerning the bribery  
11 matter at all, had you? A I did it simply killing time  
12 until that arrest would be made.

13 Q Didn't you have in your mind that in a bribery a  
14 thousand dollar bill was a very uncomfortable thing to  
15 handle?

16 MR FREDERICKS: We object to that on the ground --

17 Q Isn't that why you said it?

18 MR FREDERICKS: -- object to that on the ground it is incompe-  
19 tent, irrelevant and immaterial, not cross-examination; and  
20 further, that the question has been asked and answered a  
21 great many times, and the field entirely covered by questions  
22 and answers of this witness.

23 MR ROGERS: No sir.

24 THE COURT: I assume when you say "one thousand dollar bills"  
25 you mean five hundred dollar bills?

26 MR ROGERS: No, I mean one thousand dollar bills, which he

1 has referred to.

2 THE COURT: Objection overruled.

3 A Please read the question again, so that I can catch it  
4 again.

5 (Question read)

6 A The only thought that I had in regard to the size of  
7 those bills was simply to fill in time there, until the  
8 absolute arrest would take place.

9 MR FREDERICKS: I would like to call the Court's attention  
10 to the fact, now, that same identical question has been asked  
11 and that same identical answer has been given four times.

12 MR ROGERS: All right. Now, we will ask him another one.

13 Q How do you account, then, for your testimony of yester-  
14 day, as follows: "I told him I thought the passing of a  
15 five hundred dollar bill on a proposition of that kind was  
16 decidedly out of the way, it ought to have been twos or  
17 fives. Well, he says, 'part of the bills of this is  
18 thousand dollar bills'. Well, I says, 'That is all wrong  
19 in a case of this kind.'" Now, what do you mean by that,  
20 "in a case of this kind"?

21 MR FREDERICKS: That is objected to as being incompetent,  
22 irrelevant and immaterial, as having been asked and answered  
23 many times.

24 THE COURT: Objection overruled.

25 A Please read the question again so that I can catch it.

26 THE COURT: You have a right to see the transcript, if you  
want to, Mr Lockwood. What page is it on?



1 MR ROGERS: 219.

2 MR FREDERICKS: I do not think there is any dispute about it,  
3 your Honor.

4 MR ROGERS: Never mind; we will have the witness tell whether  
5 there is any dispute about it. <sup>A-</sup> As soon as he reads the ques-  
6 tion I will answer it.

7 MR FREDERICKS: We are talking for our side of the case, that  
8 is, there is no dispute, on our side.

9 MR ROGERS: Of course, and we would like to have him explain  
10 why he is doing this now.

11 THE COURT: Read the question, now.

12 (Last question read)

13 A I meant, in so far as any allusion to the size of those  
14 bills, just exactly what I said before, it was simply to fill  
15 in time; I was expecting the arrest would be made every  
16 minute, nothing else.

17 Q By Mr Rogers: Then you didn't tell him the truth, when  
18 you said it was all wrong to use thousand dollar bills in a  
19 case of that kind?

20 MR FREDERICKS: That is objected to on the ground it is argu-  
21 mentative, calls for a conclusion of the witness; it is not  
22 cross-examination.

23 MR ROGERS: An accomplice, framed, or otherwise, is subject  
24 to cross-examination on all his motives, why he did this,  
25 that and the other thing, in every particular.

26 MR FREDERICKS: We agree with counsel.

1 THE COURT: Let the witness answer the question.

2 A Read it again, please.

3 (Question read)

4 A I think I did.

5 Q By Mr Rogers; You meant it, then? A I think it is  
6 wrong to use any sized bills.

7 Q And you didn't have any idea of the thousand dollar  
8 bills as distinguished from twos and fives? A No sir.

9 Q Then why was it you said: "Well, he says, 'Well, I told  
10 him I thought the passing of a five hundred dollar bill on  
11 a proposition of that kind was decidedly out of the way,  
12 that it ought to have been twos or fives.'" "

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2p 1 MR. FREDERICKS. That is objected to on the ground it has  
2 been asked and answered of this witness now five times.

3 MR. ROGERS. Now, just a moment. I know these objections  
4 are made simply for the purpose of letting the witness have  
5 an opportunity to think, and suggest to him.

6 THE COURT. Let us have the answer. Mr. Rogers, I do not  
7 think you ought to say that.

8 MR. FREDERICKS. Mr. Rogers gives himself too much credit  
9 as a cross-examiner.

10 THE COURT. Let us have the question.

11 MR. ROGERS. I have beaten you every time but once.

12 MR. FREDERICKS. That is the only one time we ever had  
13 anything.

14 A The only object, the only reason I had for saying any-  
15 thing there was to fill in the time until the arrest was  
16 made.

17 Q Then you were deceiving him? A I couldn't say that  
18 I was.

19 Q You wanted Captain White to be arrested, did you?

20 A I wanted what I considered to be a crime stopped.

21 Q You wanted Captain White arrested, didn't you? A I  
22 wanted what I considered to be a crime stopped.

23 Q Answer me.

24 MR. FREDERICKS. We maintain, if your Honor please, that  
25 is an answer to the question.

26 THE COURT. An indirect answer. I think he can answer it

1 more directly.

2 A I certainly wanted the arrest made.

3 MR. ROGERS. Of white? A Of any one connected with it  
4 and White was there.

5 Q Of White, didn't you? A Yes.

6 Q And you wanted the arrest made of Franklin? A Yes, sir.

7 Q And you wanted Darrow, didn't you? A If he was con-  
8 nected with it.

9 Q You expect~~ed~~ him there the night before and wanted him  
10 arrested, didn't you? A I expected him to that extent  
11 that I supposed Franklin referred to him.

12 Q You afterwards learned that he didn't? A I afterwards  
13 learned that he said he didn't.

14 Q Did you expect Darrow there that morning? A Had no  
15 reason to expect him there at all.

16 Q I am not asking you that ; I am asking you if you did  
17 expect him. A I did not.

18 Q Franklin say anything about Darrow's being there that  
19 morning? A No, sir./

20 Q Where was it that the arrest of Franklin was made?

21 A On Main street about where the intersection of that por-  
22 tion of Third Street would intersect Main running west of  
23 Main.

24 Q How far had you gone north of the intersection when the  
25 arrest was made? A Of the street running east from Main?

26 Q yes. A I should judge nearly to the corner where  
you could cross over and could go west on the portion of

1 the street running west from Main.

2 Q Was it north of Third? A It was north of that portion  
3 of Third that is east of Main.

4 Q Had you gone north from Third Street on Main when the  
5 arrest was made? A I had gone north.

6 MR. FREDERICKS. Just a moment. That is objected to --  
7 maybe counsel is not aware of the jog in the street down  
8 there.

9 MR. ROGERS. Yes, I am.

10 MR. FREDERICKS. Then it is objected to upon the ground  
11 that the question cannot be answered because of the mean-  
12 ing of--the question in the manner it is put, because what  
13 may be north of Third street east of main might not be  
14 north of Main street west of Third street.

15 THE COURT. I think the witness can state precisely where  
16 it was. The proper answer to the question would be a  
17 statement precisely where it was.

18 A It was north of that portion of Third street running  
19 east of Main, the best of my recollection, nearly on a  
20 line with the south side of Third street running west of  
21 Main.

22 MR. ROGERS. Q Which way was Darrow coming?

23 A He was coming diagonally across that corner.

24 Q From the west side towards the east side of Main street?

25 A Yes, sir.

26 Q Did you know where Darrow's office was? A I did not.

1 Q Had you heard? A I don't think that--I think I have  
2 seen it in the newspaper; that is all.

3 Q You knew it was Second and Main at that time, did you?

4 A I did not.

5 Q Isn't that why you put this, whatever you call it, on  
6 Third and Los Angeles?

7 MR. FORD. Object to the use of that word as not a proper  
8 term to be used in court.

9 MR. FREDERICKS. Also objectionable as assuming that this  
10 witness "put" the affair anywhere.

th 1 THE COURT: Oh, it isn't the right word to use, but the witness  
2 isn't offended by it at all.

3 MR FREDERICKS: Your Honor, if I may be permitted, it isn't  
4 so much a matter of offending the witness as getting the  
5 correct idea before the jury. That is all we seek.

6 MR ROGERS: I am trying to get that correct idea before this  
7 jury, this was a performance and a fake.

8 MR FREDERICKS: Now, may it please the Court, I ask that Mr  
9 Rogers be punished for contempt of court for making that  
10 statement. If the prosecution has any right in the world  
11 in endeavoring to keep the Courts pure and decent and  
12 punish and prosecute those who try to corrupt them, if they  
13 have got any right under God's heaven, certainly they have  
14 a right to be protected from a man who comes in here and  
15 makes a statement such as that, and I ask this Court to  
16 punish Mr Rogers for contempt of court for making that out-  
17 rageous statement.

18 MR ROGERS: I say it again, and I say it in the presence of  
19 the Court: I contend this was a fake; I contend it was a  
20 frame-up; I will prove it before I get through. I will  
21 take no thing back that I have said. You brought it upon --  
22 the District Attorney brought it upon himself by objecting  
23 to my use of the word "performance" , or whatever you  
24 call it. I will not denominate it as a fact, or a thing  
25 that is honest, because I don't believe it was. Now, I stand  
26 here ready to answer for my honest conviction, in any

1 Court, and if the District Attorney doesn't want me to use  
2 what I believe, he doesn't need to ask me. My question  
3 was entirely proper and until he broke in to state that he  
4 objected to what I said I did not outline my position. I  
5 outline my position now. I believe this thing is a fake;  
6 I believe it was a trap; I believe that it was put on as a  
7 performance, and I hope to be able to prove it.

8 MR FREDERICKS: We ask that the objectionable statement be  
9 read so that if the Court has it not in mind that the matter  
10 be taken up and see whether it is a proper statement to make  
11 in Court at this time.

12 THE COURT: The jury is instructed to disregard any state-  
13 ment by the attorney for the defendant, in so far as it may  
14 be considered as evidence. It is not evidence, and it is  
15 not to be considered by them as evidence, <sup>but</sup> so far as the  
16 question itself is concerned, I know of no power of the  
17 Court to determine or direct either the defense or the  
18 prosecution as to what theory they may proceed on in this  
19 case.

20 MR FREDERICKS: That is not the point, your Honor.

21 THE COURT: If they prove it, that is another matter.

22 MR FREDERICKS: That is not the point I make.

23 THE COURT: The jury will not consider the statement made  
24 by counsel as evidence in any way, shape or form, and I  
25 now so instruct them.

26 MR FREDERICKS: That is not the point I make. The point I



1 make is this: this is a court of justice in which we must  
2 proceed according to the rules of procedure . and there is  
3 no rule of procedure which will permit counsel for either  
4 side to make such a statement as counsel made, and when a  
5 counsel does make that statement he is making them for an  
6 improper motive, and with improper intentions of improperly  
7 influencing a jury. It can have no other effect, and we  
8 only want to stop it so we can try this case according to  
9 the evidence that is brought out on the witness stand and  
10 not according to what may be said by either attorneys.  
11 We have got to obey them, and we ask that counsel obey  
12 them.

13 THE COURT: I feel sure under the admonitions of the Court,  
14 and if there were no admonitions, sense and justice would  
15 direct this jury to decide this case upon the evidence that  
16 is presented to them, and not by the statements, heated ones,  
17 or otherwise that may be made by counsel at this time.

18 I think it is unfortunate that this outbreak -- I can  
19 denominate it nothing else, has occurred; but I do not re-  
20 gard it as contempt of Court, or as being a deliberate  
21 attempt to unduly or improperly influence the jury, and if  
22 so, the jury will bear in mind the admonition the Court  
23 has given. I might at this time -- this moment, I want to  
24 say further to the jury and in connection with a matter  
25 that was just before adjournment, that if any side remarks  
26 are made by counsel in this Court on either side, or by  
any other person in this Court on either side, or out of  
Court,

1 on either side, on the street, remarks are made apparently  
 2 to other people and directed at you for your hearing. You  
 3 are being sequestered here for the purpose of keeping your  
 4 minds entirely free and unbiased and unaffected by any-  
 5 thing that may be said or done or that may appear in news-  
 6 papers or in this room, except what you hear in this court  
 7 room and from what you hear from the witness stand. That  
 8 is the thing upon which you are to decide, and if in these  
 9 matters to which I have referred, occur in the court room or  
 10 out of the court room, it is your duty to report the same  
 11 to the Court, and it will be dealt with accordingly. There  
 12 may be things said here that I wont hear, if so, call my  
 13 attention to it, or outside, or at any other time you <sup>are</sup> en-  
 14 titled to that protection. You are part of the court  
 15 and the protection that ought to be accorded it. Now,  
 16 Gentlemen, proceed with the cross-examination of this  
 17 witness.

18 (Last question read by the reporter.)

19 A I would answer that I didn't put it there.

20 MR. ROGERS. Who did? A Bert Franklin made the appoint-  
 21 ment.

22 Q And you agreed to it? A Yes, sir.

23 Q And the district attorney aided you? A I didn't see  
 24 the district attorney after the arrangement was made until  
 25 it was all carried out.

26 Q You saw various and sundry of his detectives and repre-  
 sentatives immediately afterwards, didn't you?

1 A Yes, sir.

2 Q How did they know it was going to be at Third and Los  
3 Angeles? A Bert Franklin said that was the place that  
4 he would pick out.

5 Q How did the district attorney's representatives and  
6 detectives know it? A I think they heard him say so and  
7 I told them myself afterwards.

8 Q You told who afterwards? A Told Mr. Brown.

9 Q Why did you correct your testimony this morning as to  
10 when you first saw Bron? A Simply because I discovered by  
11 thinking the matter over last night when it was that I first  
12 saw him, that is the only reason I have for correcting it.

13 Q Did you go to the District Attorney's office this morn-  
14 ing? A I did not.

15 Q Did you go there last night? A I did not.

16 Q Did you talk with the district attorney last night about  
17 your seeing Brown? A Not a word nor to any one else.

18 Q When did you tell the district attorney you were going  
19 to correct your testimony? A As I passed his seat as I  
20 came to the witness stand.

21 Q You knew he tried to correct you yesterday? A I knew  
22 that on mature deliberation last night in thinking the  
23 case over, I thought the matter out in my own mind and knew  
24 that I had made an error in that statement, and I wished  
25 to correct it.

26 Q You knew he tried to correct you yesterday, you gathered

1 that from his statement? A Well, I judged both from your  
2 statement and his that the statement I made in regard to  
3 the time when I first saw Brown was not as he thought, and  
4 I discovered where my error was and desired to make it  
5 right.

6 Q You consulted a memorandum book right here in court  
7 didn't you, yesterday? A I did not.

8 Q Didn't you have a memorandum book in your pocket? A I  
9 have one.

10 Q Has it got any entries in reference to this case? A Not  
11 an entry.

12 Q Has it got any figures or memorandum with reference to  
13 this matter? A No, sir.

14 Q Absolutely none? A Absolutely none.

15 Q From time to time as you have sat in this court room  
16 while the jury was being impaneled, while you were waiting  
17 to be called, have you consulted that memorandum book?

18 A Why, possibly, when I leave from home in the morning my  
19 wife tells me some things she wants me to do and I put it  
20 down and I refresh my memory in regard to that.

21 Q Why was it you kept refreshing your memory by looking  
22 at the book in the court room of your wife's commissions?

23 A I don't think I have looked at my memorandum book  
24 but once since I been engaged in this case in any way, shape  
25 or manner, either inside the court room or outside of the  
26 court room.

1 Q You are sure of that? A I feel positive.

2 Q Will you swear to it? A To the best of my knowledge  
3 and belief, yes.

4 Q Haven't you taken it out at least a dozen times?

5 A No, sir.

6 Q In this court room? A I don,t think so.

7 Q Outside where you sat in the hall? A And further, it is  
8 open for inspection either by your or the district  
9 attorney or the court.

10 Q You don,t expect we can read cryptogram? A I don't  
11 know, possibly a smart young man might.

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with Q I want to know why you took that memorandum book  
2 out so many times to find out what your wife wanted you to  
3 get?

4 MR FREDERICKS: Objected to upon the ground assuming facts  
5 not in evidence. The testimony before this Court, and the  
6 only testimony before this Court is that the witness took  
7 that book out once and no more, and therefore the question,  
8 "Why did you take it out so many times" is improper.

9 THE COURT: Objection sustained.

10 MR ROGERS: Now, you have deliberated over the matter,  
11 what do you want your testimony to be, as to when you saw  
12 Browne? A I saw Browne first in this case on Saturday  
13 the 25th.

14 Q Knew Browne before that? A Yes sir.

15 Q Ever see him before? A Not to my knowledge.

16 Q Never saw him before the 25th then? A No sir.

17 Q Did you see Campbell before the 25th? A Yes sir.

18 Q Where? A Oh, I have known him for a good many years.

19 Q How long before the 25th did you see Campbell first?

20 A I don't know that I saw Campbell on the 25th. I have  
21 no direct remembrance of seeing Campbell -- oh, I couldn't  
22 tell when I saw Campbell before that date, and didn't see  
23 him on that date to my knowledge.

24 Q When did you see any member of the District Attorney's  
25 office except Mr Fredericks before the 25th? A Well, I  
26 couldn't say the dates when I was up there. I saw the em-  
ployees around there, I had no conversation with them  
whatever.

1 Q Did you have any conversation with any member of the  
2 District Attorney's office before the 25th? A Oh, at  
3 different times in different years, yes.

4 Q In the year 1911? A Not that I could call to mind  
5 now, excepting with the District Attorney prior to the 25th.

6 Q How many times did you see the District Attorney be-  
7 fore the 25th? A I think just once.

8 Q Are you sure of that? A I think so.

9 Q And when was that, how long before the 25th? A Well,  
10 possibly ten days before that.

11 Q Where did you see him? A In his office.

12 Q On the 25th where did you see him? A In his office.

13 Q And you saw him those two times only? A Oh, I have  
14 seen him since, yes.

15 Q I am talking about those times? A I think so, yes;  
16 that is my memory of it.

17 Q At his <sup>office?</sup> ~~place?~~ A Yes sir.

18 Q Didn't you see him out at his house? A Afterwards,  
19 on Monday.

20 Q Afterwards on Monday? A Yes sir.

21 Q On what time on Monday? A In the afternoon.

22 Q That was the day before the alleged bribery?

23 A That was the day before the arrest.

24 Q You gathered my question, didn't you? A Yes sir.

25 Q It was the day before the alleged bribery, wasn't it?

26 MR FREDERICKS: That is objected to because it calls for a

1 conclusion of the witness, "the alleged bribery".

2 He doesn't know, may it please the Court, or may not know,  
3 when the alleged bribery -- what is meant by the alleged  
4 bribery.

5 THE COURT: I think he does. Can you answer the question?

6 A Why, it was the day before the arrest for passing this  
7 money.

8 MR ROGERS: What time did you get to the District Attorney's  
9 office on that day? A Well, it was in the afternoon. I  
10 had agreed to telephone Bert Franklin at about 4 o'clock,  
11 and I was to see the District Attorney before I telephoned  
12 him.

13 Q You were to telephone him about meeting, weren't you?

14 A Were to make appointment, yes.

15 Q And you went to the District Attorney to discuss where  
16 that appointment should be made? A Yes.

17 Q You had agreed before that with Franklin to meet him  
18 at his office? A I had met him at his office.

19 Q You had agreed, did you not, that you would meet him  
20 in town here? A I agreed to call him up over the 'phone  
21 and we would arrange a meeting.

22 Q Now when you agreed to that, you had in mind to meet  
23 him here in town, did you not?

24 A Yes.

25 Q And so when you went to the District Attorney's office  
26 it was changed to your own place for the purposes of the



1 District Attorney, was it not? A I don't know for the  
2 purposes of the District attorney; it was the purpose of  
3 taking it out some other place.

4 Q It was suggested by the District Attorney that you  
5 should take it out to your house? A Perhaps.

6 Q Well, was it so? A We talked the matter over, and the  
7 conclusion is, we concluded it was best out there, my memory.

8 Q And that is the day you told him you thought Darrow  
9 was coming out? A No sir, that is not the day I told  
10 him anything of the kind.

11 Q When was it you told him you thought Darrow would be ~~ix~~  
12 there? A I told him what Bert Franklin said over the  
13 'phone at the Monte and that I understood he meant  
14 Darrow.

15 MR FREDERICKS: That was objected to because it doesn't  
16 complete the answer to the question. The question was  
17 "when was it", and of course by going back in the testimony  
18 the jury might figure when the question was, when was it?

19 THE COURT: Well answer the question fully, if you haven't  
20 done so.

21 A Well, it was at the Monte.

22 MR ROGERS: Did you tell the District Attorney at your  
23 meeting at his house on Monday that you expected Darrow  
24 out there? A No sir.

25 Q Did you tell him that Franklin had ever mentioned  
26 Darrow? A I told him that Franklin had mentioned Darrow

1 to the extent of saying he would consult with him in regard  
2 to making sure that deferred payment.

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6s 1 Q What did you say that Franklin had said? A I said  
2 that he said he would consult Clarence Darrow and that he  
3 would be able to fix it satisfactorily.

4 Q Is that the only time Darrow's name was mentioned in it?  
5 A I think so, up to that time.

6 Q Had Darrow's name ever been mentioned at any time up  
7 to the arrest? A When I told him I supposed that he was  
8 coming out.

9 Q Well, what did he say--now, tell us all that was ever  
10 said about Mr. Darrow in any connection by Frankling of  
11 this matter? A Well, I asked him, I said, "Where is Darrow?"  
12 "Why," he said, "Did you expect Darrow outhere?" I said,  
13 "Sure did." I think he asked me why I expected him. I  
14 said, "You said should 'I bring the Big one out'?", and  
15 I supposed you meant Darrow! He said he didn't mean Darrow  
16 he meant Captain White. Then again when he said he would  
17 see Darrow and that he would arrange for that deferred pay-  
18 ment that he would be able to make it perfectly satisfactory,  
19 or words to that effect.

20 Q Now, those are the only two times that Darrow's name  
21 was mentioned in connection with it? A Yes, sir.)

22 Q Did you know that Mr. White had never seen Mr. Darrow up  
23 to that time? A I did not, no, for I haven't seen Mr.  
24 White myself.

25 Q You know Mr. Darrow never saw Mr. White in his life? A I  
26 do not know anything about it, absolutely ignorant in

1 regard to it.

2 Q Did you do anything on Monday, the day before this  
3 alleged bribery, except to go to the District Attorney's  
4 office and call up from Monte with reference to this mat-  
5 ter? A Yes, sir, I went home and waited there for  
6 Franklin.

7 Q The District Attorney go to your home with you? A He  
8 did.

9 Q Did he leave-- A Yes, sir.

10 Q --before Franklin came? A yes, sir.

11 Q Did he leave until Franklin's automobile was in sight?

12 A Yes, sir.

13 Q How long before Franklin's automobile was in sight did  
14 he go?

15 A I think long enough to have reached his own home in  
16 Los Angeles.

17 Q How long is that? A Oh, an hour or two.

18 Q Did he leave/<sup>before</sup>the representatives and detectives and  
19 agents came? A He had left my house before that but he  
20 saw them out there before he went home.

21 Q Where did he see them? A On the road.

22 Q How do you know? A Well, I was in sight. I think I  
23 was right near them when he saw them.

24 Q Did you go towards Monte with him when he left your  
25 house? A No, sir.

26 Q You didn't go with him? A No, sir.

Q But you saw them meet? A I did, I was with him at the

1 time they came up there.

2 Q Well, then, he had not left you before the detectives  
3 and agents and what not came up? A No.

4 Q Then he didn't leave until they came? A No.

5 Q Why did you say to Franklin, "No, I wont have anything  
6 to do with it at all?" A Because I meant it.

7 Q You meant it? A Yes, sir.

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1 Q Then, when you said that, your intention was not to have  
2 anything to do with it at all? A Not to act as a juror  
3 in that case, or accept any money.

4 Q You never were summoned as a juror, were you? A No  
5 sir.

6 Q Before your name ever was drawn from the box, you had  
7 been up to the District Attorney's office and told him what  
8 you said? A Yes sir.

9 Q How did you know your name was in the box? A Bert  
10 Franklin showed me a list which he said contained names  
11 that were in the jury box.

12 Q When did he show you that list? A In his office.

13 Q Did you know before that that your name was in the box?

14 A No sir. I had an idea it might be, but didn't know  
15 anything about it.

16 Q Why did you have an idea it might be? A Because I  
17 was on the assessment roll and was living in the city and  
18 in the county, that is the only reason.

19 Q Had you taken pains to solicit that your name should be  
20 in the box? A No sir.

21 Q Did anybody ask you about that, or did you ask anybody  
22 about it? A No sir.

23 Q Well, at the time you went to the District Attorney  
24 was before your name came out of the box you told him,  
25 didn't you, you would assist in trapping Franklin? A I  
26 think I gave you the conversation exactly, in my answer be-

1 fore.

2 Q Well, you might answer the question that I ask him.

3 A No sir, I didn't tell him that at that time.

4 Q <sup>11</sup>What did you tell him you would do? A I told him I  
5 would give him such information as was in my possession.

6 Q And that you would do what was necessary to complete  
7 the transaction? A No sir. I told him I thought his  
8 crew of detectives, with the information they had, ought to  
9 be smart enough to capture the man with the goods on, with-  
10 out any further information, or words to that effect.

11 Q Well, you told him if anything further happened, you  
12 would let him know? A I don't think he asked me the ques-  
13 tion, and I don't think I volunteered that.

14 Q Didn't Fredericks tell you the first time to stay in  
15 it or to stick in it, and see it through? A No sir.

16 Q Now, after you had talked with Fredericks about the  
17 matter, you had no expectation of being a juror? A No sir.

18 Q You knew you were not qualified? A Yes.

19 Q And that was long before your name was drawn from the  
20 box? A Yes sir.

21 Q So, as a matter of fact, when this money was paid to  
22 you you were not intending to be a salesman or a juror, you  
23 knew you couldn't be, and that, on the contrary, were aiding  
24 and acting under the direction of the District Attorney?

25 MR FORD: We object to that on the ground it is irrelevant  
26 and immaterial whether the witness expected to be a juror

1 or not. It is irrdelevant and immaterial whether he knew it  
2 it calls for a conclusion in regard to that matter, and the  
3 issue before this court -- I want to make the bjection first  
4 -- it is ~~irre~~levant, immaterial and incompetent and not  
5 cross-examinatkon, and I wish to state that the issue before  
6 this court is not whether this man was a qualified juror,  
7 it is not whether he was a juror -- the sole question before  
8 the court is, was he drawn as a juror and did the defendant,  
9 either himself or through his agent Franklin, attempt to  
10 bribe him, that is the sole issue before the court. Now,  
11 the jurors opinions as to whether he is qualified, as to  
12 whether he intended to act as a juror, are absolutely imma-  
13 terial, just as the question whether he intended to accept  
14 as a bribe as a bribe on his part, would be absolutely  
15 immaterial. The question is, did the defendant offer the  
16 money, if so, he is guilty of the crime of bribery, if he  
17 offered it to a man whose name was drawn as a juror. Now,  
18 the juror's opinions as to whether he was qualified, or  
19 juror's opinions as to whether he was going to be a juror, or  
20 not, his intentions as to whether he would be a juror or  
21 not are absolutely immaterial.

22 THE COURT: You were allowed to examine this witness as to  
23 the status and this is proper cross-examination on that  
24 branch of your testimony, if no other. Objection over-  
25 ruled. Read the question. A I would like to answer  
26 that and explain my answer; can I, Judge?



1 THE COURT: You may do so.

2 A I was acting under the directions of the District At-  
3 torney at that time, and if, having been served with an or-  
4 der to appear in court, and no other action having been tak-  
5 en, I should have explained to the court when my name was  
6 called the reasons why I could not be a juror.

7 MR ROGERS: But you never were served, were you? A No sir.

8 Q As a matter of fact, don't you know you never were  
9 drawn? A No sir, I do not.

10 Q Didn't the District Attorney tell you that he would  
11 get your name on the list? A No sir, he did not.

12 Q Of drawing? A No sir, he did not.

13 Q Will you explain, then, how it was that just about the  
14 time that you were going up to the District Attorney's of-  
15 fice, and this was happening, that your name came out on the  
16 next panel?

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1 MR FREDERICKS: That is objected to, may it please the  
2 court, because it/assumes a fact that is not in evidence.

3 MR ROGERS: If you know.

4 MR FREDERICKS: As the evidence is, there were about five  
5 panels that came out after he reported this to the Dis-  
6 trict Attorney's office.

7 MR ROGERS: That is not the evidence.

8 MR FORD: It certainly is not c ross-examination. Mr Monroe  
9 should have been examined.

10 THE COURT: If this witness knows, he may answer.

11 MR FREDERICKS: But, this assumes a fact not in evidence.  
12 Let the reporter read the question, I think the court  
13 will see the vice of it.

14 THE COURT: yes, I know your point. You say there were  
15 four or five panels. I have heard no evidence there were  
16 four or five panels.

17 MR FREDERICKS: I know that, but counel is assuming now  
18 there were none; he is assuming this man was drawn the very  
19 next panel after he was up to see the District Attorney,  
20 that is his question, it states that.

21 THE COURT: They were assuming it from the evidence as it now  
22 stands.

23 MR ROGERS: No, your Honor, there is no evidence on that  
24 point at all.

25 MR APPEL: Th e record shows, that is, if I read it right --

26 THE COURT: Let the witness answer the question, if he can.

A What is the question?

1 THE COURT: Read it.

2 (Question read.)

3 A I couldn't tell you anything about that.

4 Q Well, now, I show you the sheriff's certificate, your  
5 name -- your name is George N. Lockwood? A Yes sir.

6 Q Well, do you know anything about the sheriff's certi-  
7 ficate filed in court here -- I am referring to People's  
8 exhibit No.5? A I don't know a thing about it, never  
9 saw it.

10 Q That you left the county a year and a half ago?

11 A No, I don't know anything about it.

12 MR FORD: To that we object on the ground it is not cross-  
13 examination. This witness has stated he doesn't know any-  
14 thing about the sheriff's return, he is not in any ways  
15 responsible for the sheriff's return; the sheriff's failure  
16 to find the juror is something concerning which the juror  
17 has nothing whatever to do, and as to whether he is a  
18 qualified juror is a matter of fact to be determined from  
19 the records of the court and not from the mouth of this  
20 witness.

21 THE COURT: What are you addressing your remarks to, Mr  
22 Ford? There is no question before the court at this time.

23 MR FORD: I think counsel has been attracting the attention  
24 of the witness to a document. I wish to make an objection  
25 to that, that the witness -- upon further examination of  
26 that document.

1 THE COURT: Do you want his answer that he doesn't know  
2 anything about it stricken out?

3 MR FORD: No, your Honor.

4 THE COURT: What is it you want done?

5 MR FORD: If you will read the balance, that is the part  
6 I am objecting to, I think that is what occurred after-  
7 wards.

8 THE COURT: I think the question has been asked and answer-  
9 ed.

10 MR FORD: I think there is a question before the court.  
I may be mistaken.

11 THE COURT: I think you are, Mr Ford.

12 MR ROGERS: As a matter of fact, you didn't leave the  
13 county a year and a half before the 25th of November?

14 A No sir, I have not been out of the county for two  
15 years.

16 Q You are well known in the sheriff's office, aren't you?

17 A Reasonably so. The sheriff knows me, and quite a number  
18 of his deputies.

19 Q Well, Mr Reynolds knows you, doesn't he? A I don't  
20 know Mr Reynolds himself, so I couldn't tell you.

21 Q You know Bob Brain, don't you? A I think I know him  
22 when I see him.

23 Q He is Under Sheriff, isn't he? A I never spoke with  
24 him in my life, nor he with me, as far as I know.

25 Q R. T. Brain, deputy, or under sheriff, or whatever he  
26 may be, he knows you, doesn't he? A I don't know, sir.

1 MR FREDERICKS: That is objected to on the ground it has  
2 already been asked and answered.

3 THE COURT: Yes, I think it has been asked and answered.

4 MR ROGERS: You do<sup>n</sup>,t know how it came about that a man  
5 as well known as yourself -- if this was all on the level -  
6 was not served with a summons, if your name was drawn from  
7 the box?

8 MR FREDERICKS: We object to that part of the counsel's  
9 question "If this was on the level".

10 THE COURT: Objection sustained.

11 MR ROGERS: You don't know, then, why you were not sum-  
12 moned, if you were actually drawn? A No sir, I don't know  
13 why I was not summoned. I said I could only --

14 Q Were you ever told why you were not summoned? A No  
15 sir. I said to one deputy in the office at that time, on  
16 the morning of the 27th day of November, that I had noticed  
17 that I was drawn as a juror, and he said he didn't think so.

18 Q Who was the deputy? A Mr Van Vleit.

19 Q Mr Van Vleit, who stands there at the door? A Yes sir.

20 Q That was on the morning of the 27th? A Yes sir.

21 Q Where did you tell him that? A On the Covina car.

22 Q That was on the 27th? A Yes sir.

23 Q And do you know why on the 28th they certified, after  
24 you had talked to Mr Van Vleit and told him that you knew  
25 you were coming out of the box, that they filed that on  
26 the 28th, saying you were out of the county?

1 MR. FREDERICKS. May it please the Court, that is objected  
2 to as assuming a fact not in evidence, putting words in the  
3 mouth of the witness, "At that time you knew you were coming  
4 out of the box."

5 THE COURT. Objection sustained.

6 Q BY MR. ROGERS. You told Mr. Van Fleet you had been drawn?

7 A I told him I had been told so.

8 Q Who told you so? A Bert Franklin told me so.

9 Q When? A On Sunday, the day before.

10 Q Now, on the 27th you met Mr. Van Fleet, the deputy sheriff  
11 and told him you had been told your name had come out of the  
12 box? A Yes, sir.

13 Q And on the 28th you know that the sheriff certified  
14 you had been out of the county a year and a half? A I  
15 only know that from hearing you say so in this court room at  
16 this time.

17 Q I show you that--you know that--Robert T. Blain's signa-  
18 ture, don't you? A I do not.

19 MR. FORD. We object to that as incompetent, irrelevant and  
20 immaterial, calling for a conclusion of the witness.

21 THE COURT. Objection overruled.

22 Q BY MR. ROGERS. I show you--

23 MR. FREDERICKS. We further object to this question on the  
24 ground it is not cross-examination; now, if counsel wishes  
25 to establish his case, he, of course, can establish it with  
26 his witnesses and in his way, but in cross-examination of

1 our witnesses, the witness here has said, for instance,  
2 he doesn't know Blain and probably Blain doesn't know him.  
3 And counsel says, "You know Brain's signature, I show you  
4 his signature,--" that is not cross-examination.

5 THE COURT. That objection is well taken. The witness has  
6 said he doesn't think that Mr. Blain knows him or barely  
7 knows him. I think that is well taken. Objection sus-  
8 tained.

9 Q BY MR. ROGERS. Well, you know George Van Fleet, any  
10 how? A Yes, sir.

11 Q That is the man standing out there? A Yes, sir.

12 Q That handsome gentleman blocking the doorway? A Yes,  
13 sir, I see him.

14 Q Do you notice that he served the jurors out in your part  
15 of the county, for instance Cullen and Carter and Boldoffer,  
16 all out there in your immediate vicinity?

17 MR. FREDERICKS. Just a moment. That is objected to as  
18 not cross-examination. It may be a part of counsel's own  
19 case, which he should introduce with his own witnesses, but  
20 that is not cross-examination of this witness to ask him  
21 what he may know by showing him a document which prob-  
22 ably he may not understand or may.

23 MR. ROGERS. I want an explanation of how it comes that he  
24 tells Van Fleet on the morning of the 27th he has been drawn  
25 out of the box and on the 28th the sheriff's certificate  
26 says he is out of the county and was gone a year and a half.

1 when Mr. Van Fleet's name appears on this document as serving  
2 jurors out at Glendora, Covina, and Azusa, and that country  
3 where Mr. Van Fleet lives, I want to know how it has all come  
4 out, if it is on the level.

5 MR. FORD. It was not the duty of the witness to serve  
6 himself, he was not a deputy sheriff. I presume the deputy  
7 sheriff who lives in that vicinity was furnished with the  
8 names of people who appeared on their record to be living  
9 out in that vicinity, while the record here shows--

10 THE COURT. I don't think it is necessary to argue any  
11 further. I think you are right in your objection that it is  
12 not cross-examination. The question before the Court is  
13 improper in that it is not cross-examination. Objection  
14 sustained.

15 Q BY MR. ROGERS. If you had not been summoned how did  
16 you tell Franklin you had to be in Court on the 28th?

17 A He came to my house and asked me if I knew I had been  
18 drawn and I told him I didn't and he says, "Well, you have,  
19 and you will be served." That is the way I come to know  
20 anything about it.

21 Q How did you tell him then you had to be in court on that  
22 morning? A I said I would have to be if I was served.

23 Q Is that what you testified yesterday? A I think it is,  
24 or if it is not--

25 Q You told Franklin then you would have to be in court  
26 at what time? A I think it was 10 o'clock.



1 Q How did you know you would have to be there if you never  
2 had been summoned? A Well, I inferred it, merely.

3 Q How did you get your inference? A From reading the  
4 paper.

5 Q What paper? A I couldn't tell you and the time the  
6 court met, that was all.

7 Q How did you know that the venire that they said you were  
8 on had to be returned on the 28th? A I didn't know it.

9 Q Then why did you tell Franklin you have got to be in  
10 court that morning?

p 1 A Because he told me I had been drawn and would be served.

2 Q Why then did you discuss with him, when he told you  
3 that, what time you would have to be in court? A It was  
4 a question as to the hour he was fixing.

5 Q Then why did you tell him you would have to be in court  
6 when you hadn't been served? A It was an inference I drew  
7 from the fact he told me my name had been drawn and it  
8 would be returnable--I think possibly I read that in the  
9 paper that the venire would be returnable on that day.

10 Q What paper? A I couldn't tell you. I think I was  
11 taking the Tribune at that time.

12 Q And you think you read it in the Tribune? A I think so,  
13 yes. That is my best impression now. I didn't charge my  
14 mind with it at all.

15 Q That is your only explanation for telling Franklin you  
16 had to be there on the morning of the 28th? A Yes, sir.  
17 THE COURT. It is 12:00 o'clock. Bear in mind the former  
18 admonition and as to all the strictness with which it has  
19 beengiven. The court will adjourn until 2:00 o'clock this  
20 afternoon.

21  
22 (Here the court took adjournment until 2:00 o'clock PM.)  
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