

J. D. FREDERICKS.

The Los Angeles County Law Clerk

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. 64

I N D E X.

	Direct.	Cross.	Re-D.	Re-C.
Fremont Older,		5141		
x John R. Harrington,		5150		
M. S. Schrader,	5157	5177	5195	
H. W. Pohlman,	5197	5202		

1 Thursday, July 18th, 1912. 10 o'clock A.M.

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

4 FREMONT OLDER on the stand for further cross-  
5 examination:

6 MR FREDERICKS: Mr Older, coming back to the time in San  
7 Francisco when you -- you went on Mr Harrington's bail  
8 when he was arrested on a charge of contempt of court,  
9 you were asked in regard to a conversation with him, and  
10 you took the transcript, and as I remember it, read the  
11 questions that were asked Mr Harrington -- you read a por-  
12 tion of it -- which you said that he, Harrington, had said  
13 at that time? A Yes.

14 MR ROGERS: Pardon me. I think the witness said sub-  
15 stantially. A I said in substance.

16 MR FREDERICKS: I don't mean word for word, but that did  
17 not include all that was in that question which was put  
18 to Mr Harrington, did it? A What include all? I don't  
19 quite understand you. Q I have got to get the record  
20 here. I thought maybe you might remember it. I thought  
21 I had it right here where I could put my hand on it, but  
22 it seems it has got mixed. Well, as I remember it, the  
23 part that you did not state that he said -

24 THE COURT: I have it right here, Captain, if you want it.

25 MR FREDERICKS: I turned the page down and marked it, as I  
26 went over it.

1 THE COURT: here it is.

2 MR FREDERICKS: Thank you.

3 MR DARROW: 2809 is where that question is. ~~XXXXXXXXXX~~

4 MR FREDERICKS: Now, as I remember it on your testimony,  
5 the part that you did not say here on the stand that he  
6 said was as follows: "That Harrington said that he knew  
7 of no bribery or corrupt practices in the conduct of the  
8 case, and did not believe it was possible there was any,  
9 and that he did not know of any intention on the part of any  
10 person in that behalf," or words to that effect. Now,  
11 did Mr Harrington say that, also? A He said it in a  
12 stronger way than that.

13 Q Did he say that? A Yes, he said that he would know if  
14 there was any; that he had charge of the getting up of  
15 the evidence, and that he would know if there was anything  
16 wrong. He was not allowed to do anything wrong. He said  
17 that frequently. ~~XXXXXXXXXX~~

18 Q How did you come to be talking of the question of  
19 whether or not Mr Harrington or the defense had been en-  
20 gaged in bribing witnesses? A Why, it came about through  
21 my going over the meeting I had with Ingersol. Ingersol  
22 came to me with a lot of fake reports that he had -- that  
23 he said he had opened a letter in Ingersol's house.

24 Q That was the conversation with Harrington? A Yes  
25 sir. This was what I opened this up with; went over with  
26 him again this Ingersol call upon me -- Ingersol called

1 upon me at the Bulletin office and said that he wanted to  
2 be taken into the case, that his wife was engaged -- that  
3 she had been promised a house and lot, so she told him,  
4 by the prosecution, and that he thought he ought to come  
5 in on it, and that he thought he could show me something  
6 that would be valuable to the defense, and he produced a  
7 number of reports. He said he got them out of an envel-  
8 ope addressed to a man living in his wife's house. He  
9 said that this man was intimate with his wife, and that  
10 he was living there with her, and he happened to be there  
11 one day and opened this envelope, and in it he found a  
12 letter from a man named Browne here, written on the Dis-  
13 trict Attorney's letterhead, which he showed me, to this  
14 man, saying to sign these reports and put his expenses in  
15 and send them to him, and that he would get his money, and  
16 he said he thought that that was valuable information. He  
17 showed them to me, and later on I told him I would tell Mr  
18 Darrow about it.

19 Q Well, the only portion of it I want now, is what you  
20 talked with Harrington. A I talked with Harrington,  
21 I told him I thought that this was a frame-up on me, I  
22 thought Ingersol was -- I thought Burns had sent him to  
23 me in order to involve me in some way in the case, and I  
24 said that the whole thing seems to me to be a frame-up,  
25 this whole Ingersol matter. I said now, "Ingersol is  
26 now where he was originally, he is in the open with the

1 prosecution; I believed he was in the beginning." And  
2 Harrington replied, "Yes," he said, "of course Mrs Inger-  
3 sol is on the pay-roll of the prosecution, and this fellow  
4 is undoubtedly working with them", but he said, "Of  
5 course, I am not allowed to do anything except in an order-  
6 ly way, and the other side is doing all kinds of things  
7 on me, and I am terribly handicapped. I am shadowed wher-  
8 ever I go, wherever I go to see anyone that I think possi-  
9 bly may become a witness, I am shadowed by Burns men and  
10 terribly handicapped, and now they got me arrested."  
11 That was the substance of the talk. That is what led  
12 up to it.

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2p 1 Q Did he say that Mr. Darrow had instructed him especially  
2 and everyone connected with the case that there should be  
3 no violation of the law in any way, did Harrington state  
4 that to you? A Over and over again, many times he said  
5 that.

6 Q In words and-- A Yes, he said it definitely, that  
7 he was instructed to do things in an orderly way and had  
8 to do them that way.

9 Q And you were going on his bail up there at that time?

10 A I drew the thousand dollars out of the bank and placed  
11 it in the hands of the bond and warrant clerk at the city  
12 prison.

13 Q And he at that time protested to you he had done nothing  
14 wrong? A Why, yes. We revived the old Ingersoll story,  
15 that, of course, was the basis of it and--

16 Q That started it-- A That is how we came to talk  
17 about it at that time, it was based on Ingersoll's testi-  
18 mony before the grand jury, as I understand it.

19 Q This was about the 19th of September? A I couldn't  
20 give you the date. I am sure it was in September.

21 Q It was in September, at any rate? A Yes.

22 Q And the warrant on which Mr. Harrington had been arrested  
23 was one coming from Los Angeles County? A That was my  
24 understanding.

25 Q And he was admitted to bail up there so that he could  
26 come down here without coming down in the custody of an

1 officer? A Yes.

2 MR. FREDERICKS. I think that is all of this witness.

3 Of course, we understand this entire matter is going to  
4 be opened up in regard to the negotiations which brought  
5 about or were alleged to have brought about a plea of  
6 guilty, and there are other witnesses, other than this  
7 witness's testimony who know more about it than he does  
8 and we will wait until they come. No further cross-  
9 examination.

10 THE COURT. That will be the effect of the ruling of the  
11 court yesterday.

12 MR. FREDERICKS. Yes, sir. I was not in yesterday and I  
13 wanted to make sure.

14 THE COURT. Yes, sir.

15 THE WITNESS. Is that all?

16 THE COURT. Unless there is some further redirect examina-  
17 tion. Mr. Darrow may want to ask you some further questions.

18 MR. ROGERS. That is all. I desire to ask your Honor's  
19 leave to examine Mr. Harrington in respect to one impeaching  
20 statement, which has come to my knowledge since the examina-  
21 tion of Mr. Harrington. I understand from Mr. Darrow it is  
22 a correction about a matter that I asked which I did not  
23 ask as I should have done.

24 MR. FORD. On what page is the impeaching question you  
25 desire to correct?

26 MR. ROGERS. We will try and find it for you.

1 THE COURT. Yes. Any objection?

2 MR. FREDERICKS. Of course, it is simply a matter of making  
3 a correction, although we closed our case and Mr. Harrington  
4 has gone off the stand, and he is supposed to have finished  
5 his cross-examination and if it is only to correct some  
6 error or something of that kind, we will not raise any  
7 technical objection.

8 MR. APPEL. Correcting a date.

9 MR. FREDERICKS. We would like to know further about it.

10 THE COURT. Counsel says he will give you the page.

11 MR. DARROW. There is nothing to it except to correct  
12 the place.

13 MR. FORD. What page is that?

14 MR. DARROW. Page 2851.

15 MR. FORD. What is the correction?

16 MR. FREDERICKS. It is out of order and we may want to  
17 object to his taking the stand at this time, but that mat-  
18 ter is now before the court.

19 MR. ROGERS. I propose to ask the witness with respect  
20 to a conversation which I adverted to in cross-examination  
21 but which it seems I did not have the time or the place  
22 correctly stated, nor the entire substance of the conver-  
23 sation, in all the impeaching matters that I was trying to  
24 carry in my mind I seemed to slip up on this one.

25 MR. FREDERICKS. Will counsel call my attention to it?

26 MR. APPEL. page 2851.



1 MR. FORD. Do you want to substitute another question?

2 MR. APPEL. No, we want to restate it to the witness so as  
3 to be fair.

4 MR. DARROW. Page 2851.

5 MR. FORD. Is the question the same?

6 MR. DARROW. Substantially the same, it is not the same but  
7 substantially the same.

8 MR. ROGERS. You will find the question at line 9, page  
9 2851. I desire to correct it so I may be sure of the  
10 foundation.

11 MR. FORD. Counsel is desirous of making a change in the  
12 time, and do not desire to make any change in the question--

13 MR. ROGERS. It does not affect the substance of it but  
14 changes some phraseology--

15 MR. DARROW. Suppose he did, what of it?

16 THE COURT. The court inquired of the District Attorney  
17 whether they wanted to object or not.

18 MR. FORD. That is what we would like to know; we may not  
19 have any objection at all, if they inform us of the ques-  
20 tion.

21 MR. APPEL. We have told them.

22 MR. FORD. Not the phraseology.

23 MR. APPEL. They can hear the question and they can see  
24 if it is harmful. We can recall him to the stand to correct  
25 his testimony.

26 THE COURT. They have a right to it.

1 MR. APPEL. I say, we ask the question, we are giving  
2 our best information.

3 THE COURT. Very well, the witness shall be recalled.

4 MR. FORD. We are not willing that he be recalled, but  
5 we are willing the witness shall take the stand.

6 THE COURT. Let the witness take the stand. The witness  
7 has already been sworn and he now takes the stand.

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1 JOHN R. HARRINGTON, recalled for further  
2 cross-examination:

3 MR ROGERS: On the afternoon of the 28th day of November,  
4 1911, at your office in the Higgins Building, or there-  
5 abouts, did you tell Le Compte Davis, you and he and Judge  
6 Cyrus S. McNutt, now dead, being present, did you tell  
7 Davis that you were satisfied that there was no founda-  
8 tion for any charges of bribery against anyone connected  
9 with the case, that you had known Darrow for years and  
10 had been closely associated with him all during the case,  
11 and had never seen the slightest suspicious thing connect-  
12 ed with any bribery or any corrupt practice, or words to  
13 that effect, in connection with the case, and that you  
14 were sure that no one connected with the case had anything  
15 to do with the matter that you knew of, no illegal acts,  
16 either in connection with jurors or witnesses, or with any  
17 matter connected with the case, or words to that effect or  
18 in substance?

19 MR FORD: No, if the court please --

20 MR FREDERICKS: There is a change in the time and a change  
21 in the place, and the addition of "anyone", instead of  
22 "Mr Darrow". We will make no objection if the witness has  
23 his mind called now.

24 THE COURT: All right. Mr Harrington, answer the question.

25 A No sir, I did not.

26 MR ROGERS: That is all.

1 MR DARROW: just a moment.

2 MR ROGERS: When, on cross,-I called your attention on  
3 cross-examination to the conversation between yourself  
4 and Mr Dyas, and in that connection in laying the founda-  
5 tion, that is, in putting the place, time and persons pre-  
6 sent, I find I have fallen into an error, so I will ask  
7 you if you bear in mind the matter to which I called your  
8 attention and if you made any such statement to Mr Dyas  
9 at the headquarters or meeting place of the county grand  
10 jury instead of the Federal grand jury, and the place be-  
11 ing in the county building, instead of the Federal  
12 building, as I outlined to you in the question put to you  
13 on your cross-examination.

14 MR FORD: If the court please --

15 MR FREDERICKS: I think the question ought to be re-  
16 stated.

17 THE COURT: Yes, I think the witness ought to have his at-  
18 tention called.

19 MR ROGERS: I called his attention to the circumstances.

20 MR FORD: The witness is entitled to see his testimony  
21 on that matter.

22 THE COURT: Counsel says he is going to read it to him.

23 MR FORD: On the previous occasion at that time, and now  
24 he is putting the question about Mr Dyas; at that time  
25 Mr harrington said he didn't know Mr Dyas. "Q -- Do you  
26 know Mr Dyas of the Tribune?" The answer is, "No sir."

1 THE COURT: Let's have the question.

2 MR ROGERS: Did you, during the month of February, at  
3 the time you were attending upon the county grand jury,  
4 in the County Building, I am not able to give you the ex-  
5 act date, but it was at the time you were waiting in at-  
6 tendence upon the county grand jury in the old county  
7 building, did you state to MR Dyas, a reporter for the  
8 Tribune, who came to you and had a talk with you, something  
9 to the following effect, or this in substance or purport:  
10 that you knew nothing to testify to; that you had no knowl-  
11 edge of any bribery or corruption in the case, and no in-  
12 formation of any kind against MR Darrow, which you could  
13 give if you wanted to, or words to that effect?

14 MR FORD: Now, we object upon the ground that the an-  
15 swer of the witness to the same question on page 2819 is ,  
16 "That is not quite true. I used the word 'jury bribing'.  
17 I remember such<sup>a</sup> conversation, that I had no knowledge of  
18 any jury bribing in connection with the McNameara case,"  
19 but that time and place, your Honor, the witness said he  
20 didn't remember MR Dyas; didn't recognize him either by  
21 name or description, and I think Mr Dyas is here.

22 MR ROGERS: Wouldn't it be well, if your Honor please, if  
23 the witness did the testifying and not have his recollec-  
24 tion refreshed by reading the transcript.

25 MR FORD: I think the witness is entitled to have his recol-  
26 lection refreshed from reading the transcript, if you make

1 a change.

2 MR ROGERS: If He asks for it.

3 MR FORD: I think as long as Mr Dyas is here, I think  
4 the witness ought to be confronted by Mr Dyas.

5 MR ROGERS: If counsel can show me any rule for calling  
6 a man in here and confronting him -- I never heard of  
7 such a thing.

8 MR FORD: We submit it. Withdraw our objection. Go ahead.

9 THE COURT: Answer the question. A I will still say that  
10 I don't know Mr Dyas.

11 MR ROGERS: The question is did you have such a conv ersa-  
12 tion.

13 MR FREDERICKS: Well, I think, your Honor, that is not  
14 the entire question. The question is also including  
15 the person of Mr DYas -- did he have it with Mr Dyas.

16 THE COURT: What is the question now before the court?  
17 Did you have such a conversation, I believe is the question.

18 MR FREDERICKS: We object to that, because the persons  
19 present are not named.

20 THE COURT: The witness says he doesn't know Mr Dyas.

21 MR APPEL: That doesn't answer the other part of the conver  
22 sation. We described a man whom we called Mr Dyas, being  
23 a reporter for a paper. Now, we ask him if he had such a  
24 conversation at that time with the person whom we have  
25 described as MR Dyas, and who was -- who purported to  
26 be a reporter of a paper.

1 THE COURT: That is not quite the question as propounded,  
2 Mr Appel.

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1 MR. APPEL. All right, then, an answer to that I should  
2 say would be, I had such a conversation with a person but  
3 I don't know whether it was Mr. Dyas, I don't know him.

4 THE COURT. If you propound the question as suggested I  
5 think you are entitled to it.

6 MR. APPEL. If a man can get out of answering a question  
7 by saying he didn't know the person and not answer the  
8 balance of the question.

9 MR. ROGERS. The question is now, Did you have such a con-  
10 versation.

11 THE COURT. Might be with anybody.

12 MR. FREDERICKS. There the foundation would not be laid.

13 MR. ROGERS. Time, place and persons present, absolutely.

14 MR. FREDERICKS. With the person whom I have described or  
15 some way identified--we don't care to ask him to go very  
16 far in the matter.

17 THE COURT. I will have to sustain the objection to the  
18 form of the question.

19 MR. APPEL. Exception.

20 MR. ROGERS. You say you do not know Mr. Dyas, a reporter  
21 of the Tribune? A No, sir.

22 Q You did not know him at that time? A Not by name,;  
23 no, sir.

24 Q Did you have such conversation with any person purporting  
25 to be a reporter for the Tribune or any other paper at the  
26 time and place mentioned and to the effect I gave you?



1 A What is the question?

2 (Impeaching question read by the reporter.)

3 A No, sir.

4 MR. ROGERS. That is all.

5 MR. FREDERICKS. That is all.

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7 MR. FREDERICKS. I suppose somewhere in this testimony  
8 of Mr. Warrington's this testimony is linked back by giving  
9 the page in the old transcript?

10 MR. DARROW. 2818.

11 MR. FREDERICKS. While we are waiting for a witness, your  
12 Honor, I don't ordinarily pay much attention to newspaper  
13 reports of the trial, and don't think we should, yet I  
14 notice that one of the evening papers yesterday made it  
15 appear that I had made certain statements in regard to Mr.  
16 Lincoln Steffens, and I did not make such statements, and  
17 I wish the record to show I did not, and have no such  
18 sentiments. I was using a hypothetical proposition as a  
19 proposition of law: Suppose a man is a butter-in; suppose  
20 a man is a busybody; but I did not use that in reference  
21 to Mr. Steffens and I wish the record to so show.

22 MR. DARROW. This was a hypothetical man you were talking  
23 about?

24 MR. FREDERICKS. Exactly.

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1 M. H. S C H R A D E R,

2 called as a witness on behalf of the defense, being first  
3 duly sworn, testified as follows:

4 DIRECT EXAMINATION.

5 MR. APPEL. Q Mr. Witness, just be kind enough to give  
6 your name loud so the jury can hear. A M. H. Schrader.

7 Q Mr. Schrader, where do you live? A I live at 3820 Budlong.

8 Q In this city? A Yes, sir.

9 Q How long have you resided here in this city? A About  
10 12 years.

11 Q And how old are you, Mr. Schrader? A 32.

12 Q And what has been your business or occupation? A Well,  
13 I been in the saloon business ever since I been here.

14 Q Are you still engaged in the saloon business? A Yes,  
15 sir.

16 Q At what place? A Third and Los Angeles.

17 Q What corner? A Northwest. Called 259 South Los  
18 Angeles street.

19 Q Is there any other saloon at the intersection of Los  
20 Angeles and Third? A No, sir.

21 Q That is the only one there? A Yes, sir.

22 Q And how long have you been engaged there? A Well, I  
23 been there over two years--three years in November.

24 Q Now, in November of 1911 what were your hours there?

25 A I was there from 11 to 2 and then from 6 to 1.

26 Q Will you be kind enough to describe to this jury where

1 in what room or describe the room where the bar is or  
2 was on that day, on the 28th day of November, 1911?

3 A Well, it was on the right side as you go in.

4 Q It was on the right hand side of the room as you go  
5 into the room? A Yes.

6 Q And which way would that bar face? A Well, face out  
7 towards Third street.

8 Q towards Third street, it would face south? A Yes.

9 Q Now, how many entrances to that saloon? A Two.

10 Q Where are those entrances? A There is one right on the  
11 corner of Third and Los Angeles and there is one on Third  
12 Street.

13 Q There is one right on the corner at Third and Los Angeles  
14 and another one on Third street? A Yes.

15 Q Now, you remember of an electric pole being there on  
16 the sidewalk? A Electric pole?

17 Q Yes, either car pole or electric wire pole out on the  
18 street, on the sidewalk? A Yes, there is on the Third street  
19 side, right there at the entrance.

20 Q That is what I mean. How far from the corner is that  
21 pole or how near to it? A I should judge about 25 feet.

22 Q And how far from the--about what distance from the door  
23 that you gain entrance into the saloon from Third, I am not  
24 talking of the corner door but the other door? A About  
25 7 feet, just the width of the sidewalk, about 7 feet.

26 A JUROR. Is that the corner of the saloon or the corner

1 of the street?

2 MR. APPEL. The corner of the street is the corner of the  
3 saloon.

4 MR. FREDERICKS. He is asking is it the corner of the saloon  
5 or the corner of the street?

6 MR. APPEL. Just state again how far is that pole from the  
7 corner of the street of Third and Los Angeles, that is  
8 the northwest corner.

9 MR. FORD. From the curb line?

10 MR. APPEL. Yes, from the curb line to the pole, about?

11 A I should judge about 25 feet.

12 Q Now, immediately west of the bar what is there there  
13 or was at that time? A Lunch counter.

14 Q Inside of the saloon. A A lunch counter.

15 Q And describe that lunch counter, what size is it?

16 A Oh, it is about 12 feet long.

17 Q And following that, what was there there at that time,  
18 right following the lunch counter? I don't want to lead  
19 the witness, I will ask him, then.

20 MR. FREDERICKS. A juror made a suggestion.

21 A JUROR. Just use the blackboard, I think would be  
22 better.

23 MR. APPEL. All right, if I am permitted.

24 MR. FORD. The last question is unanswered as to who was  
25 following the lunch counter.

26 MR. APPEL. I went in there and I couldn't find any lunch

1 counter and I gave it up.

2 THE COURT. The question is withdrawn?

3 MR. APPEL. Yes, sir.

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1 MR APPEL: I take it my friend here is more acquainted with  
2 the free lunch there than I am.

3 (Blackboard produced in court.)

4 MR APPEL: Now, Mr Witness, you are more familiar with the  
5 conditions there. Will you be kind enough to draw a dia-  
6 gram showing the streets and the building where the saloon  
7 is, and leave a space enough so that you can show in there  
8 where the bar is and the furniture of the saloon? A What  
9 do you want -- where the bar is?

10 Q Yes. Make the building there first -- suppose you  
11 permit me to draw the building in that way; see? (Draw-  
12 ing.) And I understand that the bar is here, for instance.  
13 Now, I wish you would be kind enough to tell the jury what  
14 that is, if there is the bar in this direction? A The  
15 telephone sits right back here.

16 Q That is what I want to get. A Here is about where  
17 the telephone is, and here is the ice-box here, and the  
18 lunch-counter runs about like this, over to the side  
19 entrance on Third street.

20 A JUROR: Which is Third street, and which is Los Angeles?

21 A This is Los Angeles street up here.

22 MR APPEL: Wait a moment. Sit down here. This is Third  
23 street, is it? A Yes sir.

24 Q Is that right? A Yes sir.

25 Q And this is Los Angeles? A Yes sir.

26 Q Third street comes this way towards Main and Main  
is over here? A Yes sir.

1 Q Los Angeles runs along -- this will be Third street  
2 and this will be Los Angeles, is that correct? A Yes  
3 sir.

4 Q And the saloon is on this corner? A Yes sir.

5 Q And here is the corner entrance where I mark with an  
6 X? A Yes sir.

7 Q And the other entrance is right about here? A And  
8 the other entrance is right about there, yes sir.

9 Q You say this is the bar, isn't it? A Yes sir.

10 Q And on this side is the lunch counter? A Yes sir.

11 Q And here is the telephone? A Yes.

12 Q And here is the ice-box? A Yes.

13 Q And along here is the entrance? A Yes, that is the  
14 entrance to the place.

15 Q And then you go in that direction, do you? A Yes sir.

16 Q And in this direction to the toilet? A Yes sir.

17 Q Am I correct, in a general way? A Yes sir, and then  
18 you come back in here.

19 Q And then you come back in here to the toilet? A Yes  
20 sir.

21 Q Now, is there any door of any kind at this point  
22 where you come from the saloon proper into this hall lead-  
23 ing up to the toilet? A Yes sir, there is a pair of  
24 swinging doors there, but they are not in use.

25 Q Now, how were those swinging doors kept on that day?

26 A They were spiked back on that day.

1 MR FREDERICKS: There has been no day referred to.

2 MR APPEL: I refer him to the 28th day of November, 1911.

3 MR FREDERICKS: That has not been mentioned.

4 MR APPEL: yes, I did, and my examination as far as we have  
5 gone, has been in reference to that day, in order to make  
6 my examination proper. They were swinging doors? A Yes  
7 sir, they were swinging doors.

8 Q About how high are they? A Oh, they are about 6 foot  
9 high, I guess, but they do not run clear to the floor.

10 Q They do not run clear to the floor, nor clear up to  
11 the ceiling? A No.

12 Q How were those doors on that day, the 28th day of  
13 November, 1911? A They were just put back.

14 Q Put back against what? A Against the side of the  
15 wall there.

16 Q Against the wall? A Yes sir.

17 Q And how were they kept there? A I spiked them  
18 there.

19 Q You mean you nailed them there? A Yes sir.

20 Q How long before that did you nail them there? A I  
21 was there only about two weeks, and I put them back myself.

22 Q When was it? A I went there the 1st of November.

23 Q November of what year? A 1911.

24 Q And were they used after that? A No sir.

25 Q Kept swinging after that? A No sir.

26 Q And they were nailed right to the wall? A Yes sir.



1 Q Now, could a person, any person, on that day, assuming  
2 that those doors were swinging and being used, could a  
3 person stand here at these doors, and open those doors and  
4 see anyone sitting in the toilet? A No sir.

5 MR FORD: We object to that. Did you answer the question?

6 MR APPEL: yes, he answered it.

7 THE COURT: Strike out the answer. A You mean, was  
8 it possible to see anyone back there?

9 MR FORD: Well, just a moment. Give us an opportunity to  
10 object hereafter. Go ahead, the question is answered now,  
11 and I do not care to object.

12 THE COURT: All right.

13 MR APPEL: Now, can a person standing here at this door,  
14 the one where you say the swinging doors were spiked, or  
15 nailed to the sides of the wall there, could he see anyone  
16 in the toilet? A NO sir.

17 MR FORD: Wait. I just asked you, Mr Schrater, to give  
18 us an opportunity to object.

19 MR APPEL: Strike out the answer.

20 MR FORD: No, there is no use doing it now.

21 THE COURT: Mr Schrater, you will have to give counsel a  
22 chance to object.

23 MR APPEL: You may state whether any person on that day  
24 standing in the hall, in any one of these halls leading  
25 from the saloon proper, standing there, could see any per-  
26 son in the toilet.

1 MR FORD: We object to that as irrelevant, and immater-  
2 ial, idle and speculative, calling for a conclusion of  
3 the witness, that the jury can draw themselves from the  
4 diagram.

5 THE COURT: Objection overruled.

6 MR APPEL: Answer the question.

7 MR DARROW: Better have it read to him.

8 MR APPEL: Read the question.

9 (Question read.)

10 A No sir, he could not.

11 Q Now, this place where that telephone was on that day,  
12 about what kind of a structure was it, what is it, a  
13 table or board, or what is there? A Just a board.

14 Q And about how wide is that board? A About two foot.

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1 Q Now, standing right here at the telephone could any  
2 person conceal himself at any point there where that tele-  
3 phone is and where the ice box stands, and conceal himself  
4 from being seen by a person coming from the toilet into  
5 the saloon?

6 MR. FREDERICKS. That is objected to--

7 Q Is there anything there to conceal his person?

8 MR. FREDERICKS. --On the ground it calls for a conclu-  
9 sion of the witness. I think he may state whether there  
10 is anything intervening, but to say whether a person could  
11 conceal himself is going into the ability of someone else  
12 concealing himself, possibly in the open. If there is  
13 anything between the two, that is a fact, and he may  
14 state, but this witness cannot say that a man can conceal  
15 himself.

16 THE COURT. Objection sustained.

17 MR. APPEL. I take an exception. We offer to show by the  
18 witness that the testimony given by the witnesses for the  
19 prosecution in reference to their having concealed them-  
20 selves at that time so that Franklin could not see them,  
21 that it was impossible for Franklin to see them, that they  
22 concealed them, that the appearances there are such and the  
23 conditions are such that it was absolutely impossible for  
24 any person to stand at the telephone and near the ice box  
25 so that Franklin could not see him as he came into the  
26 saloon there from the toilet as described by the witnesses

1 for the prosecution.

2 THE COURT. You may show that, Mr. Appel, but not by the  
3 question in the form propounded.

4 MR. FREDERICKS. And knowing counsel is an able lawyer and  
5 knows how to do those things, we assign his argument in  
6 regard to the matter as error.

7 MR. APPEL. And knowing that counsel--

8 THE COURT. Counsel has a right to make his offer and his  
9 offer has been accepted.

10 MR. FREDERICKS. Yes, he can prove it and he knows how to  
11 prove it.

12 MR. APPEL. That is the first time I have been given  
13 credit for knowing anything, your Honor. Really, I am  
14 very proud of the compliment, I finally got a compliment  
15 from the District Attorney's office and I consider it a  
16 great endorsement.

17 Q Now, Mr. Witness, assuming that a person on that day  
18 was in the act of coming into the saloon proper from the  
19 toilet or did go into the saloon proper from the toilet,  
20 as he stepped in on the floor of the saloon proper, was  
21 there anything between him and any portion of where the  
22 telephone is or the ice box that would obstruct his view  
23 so as to obstruct him from seeing a person at the telephone  
24 or at the ice box?

25 MR. FORD. We object to that as no foundation laid showing  
26 this witness was there at the time Home and Franklin were

1 there; there might have been men, there might have been a  
2 number of different objects there at that time. If he  
3 wants to confine it to any permanent fixtures of the saloon  
4 intervening we have no objection.

5 THE COURT. Objection overruled.

6 MR. APPEL. Just answer the question.

7 A No, they could not, they would be bound to be seen there

8 MR. FREDERICKS' I could not hear the answer.

9 (Answer read.)

10 MR. FREDERICKS' I move to strike it out as not responsive  
11 to the question.

12 THE COURT. All of the question except "No" will be  
13 stricken out.

14 MR. APPEL. We take an exception.

15 Q is there any projection or anything in the ice box  
16 behind which a person could stand without being the subject  
17 of being seen from any portion of the saloon?

18 MR. FORD. We object to that as calling for a conclusion of  
19 the witness and counsel has already been instructed to  
20 state whether or not there were any objects in the saloon  
21 intervening and now he is coming back to the old proposi-  
22 tion whether they could be seen or not.

23 MR. APPEL. That objection is childish.

24 THE COURT. Objection is overruled. Now, Mr. Appel there  
25 is no necessity for making any comments.

26 MR. APPEL. I will make them--

1 THE COURT. The objection is overruled and that settles it.

2 MR. APPEL. I will make that. It is foolish. I wouldn't  
3 train any of my children to make such objections as that.

4 MR. FORD. I call upon Your Honor to protect counsel from  
5 any such language.

6 THE COURT. Mr. Appel, I cannot let this case go on in this  
7 way. The objection is overruled and you are entitled to go  
8 ahead.

9 MR. APPEL. Your Honor, it is apparent--

10 THE COURT. These personal comments--

11 MR. APPEL. --I asked him whether there was any projection  
12 there, I didn't ask him for his opinion.

13 THE COURT. And the court overruled their objection and the  
14 matter should have proceeded without these personal com-  
15 ments. Personal comments certainly will not be permitted  
16 here.

17 MR. APPEL. I am going to express my opinion here, your  
18 Honor, that is all there is to it.

19 Q Now, Mr. Witness answer the question. A What is the  
20 question you want me to answer.

21 MR. APPEL. Go ahead and read the question.

22 (Question read.)

23 MR. APPEL. The objection, read it.

24 (Objection read.)

25 MR. APPEL. Instructed by whom? I do not want to violate  
26 the order of the court, if I do not know how to ask a ques-

1 tion--

2 MR. FREDERICKS. The objection is overruled, as I remember  
3 it and there is nothing before the court.

4 MR. APPEL. May he answer the question, your Honor?

5 THE COURT. The objection was overruled before any of this  
6 discussion took place.

7 MR. APPEL. All right, answer the question. A No, sir,  
8 there cannot any one conceal themselves in this or hide  
9 behind anything, because he is bound to be seen from any  
10 part of the saloon if he is standing at the 'phone.

11 Q About what is the distance from this door leading from  
12 the saloon proper into the toilet, what is the distance  
13 from that point to the ice box and to the telephone?

14 A About 10 feet.

1 Q And at that time and upon that day, how was that sa-  
2 loon lighted; was it a well-lighted saloon, or dark?

3 A Well, it is pretty well lit up.

4 A JUROR: You say those doors were nailed back about the  
5 1st of November? A No, it must have been about the 10th.  
6 I was there about two weeks when I put them back.

7 THE JUROR: I thought you said the 1st of November. A No,  
8 I went to work there the 1st of November, and I was there  
9 about two weeks, and I nailed the doors back, because  
10 there is a kind of a stoop there, you know, and people  
11 coming out of the toilet thinking they would be walking  
12 on the level, and down they would go, and a fellow fell  
13 down --

14 THE JUROR: You say you had been there about two weeks?

15 A I had been there about two weeks, and I nailed them  
16 back.

17 MR APPEL: What had been the condition with respect to  
18 those doors ever since you have been there, from the time  
19 you nailed them back? A They have been nailed back all  
20 the time.

21 Q Are they in that condition now? A Yes sir.

22 Q When you returned to that saloon on the morning of the  
23 28th -- were you there on the morning of the 28th? A Yes  
24 sir.

25 Q Of November, 1911? A Yes sir.

26 Q You came there about what hour in the morning?



A

1 11 o'clock.

2 Q All right. When you came there at that hour, did  
3 you notice the conditions were any different than you had  
4 left them the day before? A No sir.

5 Q Were they in the same condition when you came back?

6 A Sure.

7 Q Have those conditions existed, insofar as you were  
8 able to observe during the hours you were there up to the  
9 present time? A Yes sir.

10 JUROR WILLIAMS: Is that a pretty accurate drawing of the  
11 entrance to the saloon, to go in? A Yes sir.

12 MR APPEL: One thing I wish to ask you, so as not to mis-  
13 lead the jury. The floor of the saloon here, is lower  
14 than the floor of this hall, is it? A Yes sir.

15 Q And you go up one step? A Yes sir, it is pretty near  
16 like that there (indicating witness stand).

17 A JUROR: Mark that the northeast corner.

18 MR APPEL: The northwest corner?

19 THE JUROR: No, the northeast corner.

20 MR APPEL: I am asking the witness. Of course, we intend  
21 to have a diagram here. I should think you could explain  
22 that to the jury -- I said, we expect to have an accurate  
23 diagram of dimensions and everything in order to obviate  
24 the testimony of this witness as to guess-work. I simply  
25 make that statement.

26 MR APPEL: In respect to this hall, suppose I draw it over

1 here. Now, let me attract your attention to this other  
2 diagram. Assume the saloon proper is here, and this is  
3 this entrance in here, am I correct now, in the direction  
4 which you have to go into the toilet, to come down this  
5 way, turn that way, and turn this way into the toilet or  
6 that way in the urinal. A Yes.

7 A JUROR: Is there small swing<sup>ing</sup> doors to the toilet?

8 MR APPEL: Is there swinging doors to this toilet?

9 A No.

10 Q Is it open? A To the urinal. There is doors to the  
11 toilet.

12 Q What kind of doors are there to the toilet? A Well,  
13 regular, ordinary door.

14 Q Not swinging? A No, no.

15 Q There is a door at this toilet? A Yes sir.

16 Q Is that a swinging door or swinging doors? A No.

17 Q It is an ordinary, common door? A Yes.

18 Q And there is no door to the urinal on the other side?

19 A The door is up above.

20 Q There? A No right there. There is where the door is.

21 Q There is a door there? A Yes.

22 Q Is that a swinging door? A That is the ordinary door  
23 that we lock every night.

24 A JUROR: Extends clear to the floor? A Yes.

25 MR APPEL: And up -- A No, just like that one there.

26 A JUROR: About whereabouts would be that pole on third

1 street?

2 MR APPEL: Just mark it. Now, this is the entrance on  
3 Third street into the saloon. About where would that  
4 pole be? A There.

5 Q The pole would be on the curb about here? A Yes.

6 Q Well, mark that P; is that correct? A On this  
7 side over here.

8 Q You mean the door is --- A Right near the side en-  
9 trance.

10 Q Well, this is the side entrance? A Yes.

11 Q Now, which side of the side entrance, the side near Main  
12 street? A Near Main street.

13 Q Suppose I put it over here? A It isn't down so far,  
14 right near the door.

15 Q Right up about there? A Yes.

16 A JUROR: I would like to know if a man drinking at the  
17 bar there could see over another man's shoulder who was  
18 looking out at the corner door, what was doing on the north-  
19 east corner by still staying at the bar.

20 MR APPEL: yes, I will ask that question with your permis-  
21 sion. Suppose a man was standing here at any portion of this  
22 bar in front of it anywhere, and a man was standing here  
23 at this corner door, looking out of that door, as you know  
24 the conditions there; assuming that this man is looking  
25 at his back, would it be possible for him to determine in  
26 which direction the man at the corner door is looking?

If

1 MR FREDERICKS: The question was not asked by one of the  
2 jurors we would object to it upon the ground it is immater-  
3 ial, as there is no testimony or hypothesis in the evidence.

4 MR APPEL: Oh, yes there is.

5 MR FREDERICKS: The testimony of Mr Ong is that he was  
6 not standing at the bar. He was standing over further.

7 THE COURT: There is no objection.

8 MR FREDERICKS: I will not make any objection.

9 MR APPEL: The juror asked it.

10 MR FR EDERICKS: We will read it over when that comes up  
11 and see who is right.

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1 MR. FORD. It will be calling for a conclusion, at any  
2 rate.

3 THE COURT. Let's get an answer to the question. There is  
4 no objection to it.

5 THE WITNESS. What was your question?

6 MR. FREDERICKS. Let the reporter read it.

7 A JUROR. He did not understand the question?

8 THE WITNESS. No, I didn't get that.

9 Q BY THE JUROR. You see the northeast corner up there,  
10 maybe that is not a correct diagram, I don't know. A Yes.

11 Q BY THE JUROR. If a man was standing at the door and  
12 still stayed at the bar, or in the vicinity of the bar,  
13 could he tell what was doing on the northeast corner of  
14 Third and Los Angeles by glancing over another man's  
15 shoulder, still staying around the bar? A At the corner  
16 of the place there, you mean, out--

17 THE JUROR. While he was drinking at the bar and glancing  
18 over another man's shoulder could he tell what was doing  
19 on the other side or tell what this other man was looking  
20 at? A Well, he could see out there, all right.

21 THE JUROR. The northeast corner, could he from that  
22 diagram? It would not be possible there.

23 MR. APPEL. This corner over here.

24 THE JUROR. That is the northeast.

25 MR. APPEL. Could a man standing inside looking over  
26 another man's shoulder, standing at this corner door, could

1 he see over to this corner? A No, he could not.

2 MR. DARROW. Ask him about the curve in the street.

3 MR. APPEL. How about the curb of the street on the  
4 corner, is it exactly on the same line as the corner of  
5 your saloon is?

6 MR. FORD. I think counsel is going to submit a map; it  
7 would be far better evidence as to the street. I suppose  
8 one from the city street department or some authoritative  
9 source.

10 MR. APPEL. We will have our own survey; give every fact  
11 and inches and so on.

12 THE COURT. It is time for the usual morning intermission.  
13 (Jury admonished, recess for 5 minutes)

14 (After recess.)

15 MR. APPEL. Mr. Schrader, you stated that you first went  
16 there about the first day of November, 1911, is that cor-  
17 rect? A 1910.

18 Q And you nailed the doors about two weeks after you were  
19 there? A Yes, sir.

20 Q So I assume you intend to say by that those doors had  
21 been nailed from somewhere in November, 1910 to the pre-  
22 sent time? A Yes, sir.

23 MR. APPEL. That is all.

24

25 CROSS-EXAMINATION.

26 MR. FREDERICKS. Mr. Schrader, suppose that a man standing

1 in the saloon, the saloon you have been talking about,  
2 will say that he was in the saloon, "When I went in this  
3 man was drinking at the bar and I walk<sup>ed</sup>/right alongside of  
4 him and I had something too, and my attention was called  
5 to his going over to the door looking out as if expecting  
6 someone across the street. Well, as I was expeding some-  
7 one myself I commenced to watch him, not knowing who he  
8 was, but I thought he was my man. I thought it was Frank-  
9 lin. Then he came back to the bar and presently he goes  
10 to the door a second time, and I walked over after him to  
11 see who he was looking at across the street, and I saw Mr.  
12 Lockwood standing on the northeast corner of Los Angeles  
13 street--third and Los Angeles street." Well, now if he  
14 walked, if the man walked over after another man, goes to  
15 the door, I suppose he could look out and see what occurred  
16 on the northeast corner, couldn't he? A If he was  
17 standing at the bar?

18 Q Yes. A Oh, yes, he could see over on the northeast  
19 corner.

20 MR. APPEL. Standing at the bar, you say? A Yes.

21 MR. FREDERICKS. I read from page 1770 of the testimony of  
22 Mr. Ong. Q Now, Mr. Schrader, that is quite a narrow saloon  
23 isn't it, long and narrow? A Yes, sir.

24 Q And let us see if we can get in feet about how wide it  
25 is from this corner, this cutoff here, see? A Yes.

26 Q From this corner over to the bar. Now, you have been

1 down there several times--

2 THE COURT' I think you had better get in this side of the  
3 board so the jurors can see.

4 MR. ROGERS. I want to suggest to your Honor and to Mr.  
5 Fredericks as well, that that diagram is not correct. It  
6 doesn't correctly represent the conditions at the street  
7 corner, and I think that Los Angeles street south from  
8 Third is narrower than it is north from Third. I think  
9 Third street east of Los Angeles is wider than it is  
10 west of Los Angeles, and that map doesn't show it to be  
11 that way.

12 MR. FREDERICKS. That is, this street is wider here?

13 MR. ROGERS. Than at the other side, and Los Angeles  
14 street north is wider than Los Angeles street south, very  
15 much.

16 MR. FREDERICKS' I don't know, in view of the testimony  
17 it makes a great amount of difference, but I don't know  
18 just what counsel's argument may be so we will--now, from  
19 this corner here over to the bar, you know, getting it  
20 down to feet? A About 8 foot, I should judge.

21 Q And from the corner here clear back to the end of the  
22 saloon, a long ways, about how long is it? A About 40  
23 foot, I guess.

24 Q Well, then, let's see. That pencil will do for a  
25 measure of 8 feet, then, 1, 2, 3, 4, 5, the saloon, then,  
26 according to its width, the saloon would be about that



1 long down to there, or taking the width of the saloon,  
2 taking the width of the saloon the way you have it there.  
3 MR. APPEL. No, Mr. Fredericks, you see your measurements  
4 are wrong, 8 feet from the bar to the corner, not from  
5 the entire width.

6 MR. FREDERICKS. From here to here?

7 MR. FORD. No, he didn't.  
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1 MR AP EL: All right, I will withdraw my remarks because  
2 counsel says he didn't say that.

3 THE COURT: Mr Ford, I think your contradiction is entire  
4 ly out of place. Captain Fredericks is handling this.

5 MR FORD: I desired to correct counsel. Mr Fredericks  
6 pointed from the bar to the corner door, and my remark was  
7 addressed to him and not to the court.

8 MR FREDERICKS: Counsel has no objection to my rubbing  
9 this out and trying my hand at it. Now, then, we get a  
10 measure of eight feet here, which we will assume is eight  
11 feet. Now, we will get five times that. About how long  
12 is the bar? A 27 feet. Now, there is an office up  
13 there in the corner.

14 Q You remember that, and we will get it in a moment.  
15 27 feet. A Yes.

16 Q Now, where is the office, in back of the bar? A No,  
17 the bar comes right up against the office.

18 THE COURT: Remember your testimony<sup>is</sup> for the benefit of  
19 the jury and not for the benefit of counsel.

20 MR FREDERICKS: Now, I want to put this door in back here.  
21 When you go to the back of the saloon is this door the  
22 Third street door, is it right at the back line? A Yes.

23 Q Right at the back line; all right. Ju st rub it out  
24 there. Now, we will make the curb line. I think I have  
25 got the cubb line a little wide in proportion, maybe, now.  
26 How does that strike you there, now, as about the propor-  
tions of the saloon, as to length and width? A It is

1 all right.

2 Q That look about right? A Yes.

3 A JUROR: Where is the lunch-counter?

4 MR FREDERICKS: yes, there was a lunch-counter. I have  
5 forgotten. Down here? A No.

6 Q Did it come clear up here? A No.

7 Q Down here? A Yes.

8 Q How long was the lunch-counter? A That goes clear  
9 to the door.

10 Q Now, this door goes down here; how many feet is it  
11 from -- going over to your old diagram from the side here,  
12 down to where there is a turn, about how many feet is  
13 there? A Oh, about 18 foot, I guess; might be 20.

14 Q Is it that far? 18 or 20 feet? All right. I will  
15 try to get my measure back in my eye again; that we had  
16 for 8 and 16, and about half of another, for good measure--  
17 and how wide is that alley? A About 6 foot.

18 Q 6 feet. Is it as wide as that? A Yes.

19 Q pretty wide alley then, for the width of the saloon?

20 A Yes.

21 Q Down like that? A Yes sir.

22 Q Now, here is where you say the swinging doors were;  
23 you say you nailed back? A Yes sir.

24 Q Right here? A Yes sir.

25 Q Now, then, is this a square turn here? A Yes sir.

26 Q How many feet does that turn go off before it turns  
again? A Why, it goes over about square with the build-

1 ing.

2 Q Goes over about square with the building? A Yes.

3 Q Now, you have got this little business off there,  
4 that does not go off the property line? A No.

5 Q So it would not go quite over to the building, that  
6 is, would not go quite over to the line of the building.

7 Allow me to assist you. What is there in here? A A store  
8 room.

9 Q A store-room? A Yes.

10 Q Well, we will get it about right. Now, you say  
11 there is a little cubby-hole off here. A No, there is no  
12 cubby-hole; there is where the urinal is.

13 Q Yes, I know there is where the urinal is, and how deep  
14 is that, in that way? A What, the urinal place?

15 Q Yes. It is an off-set. How far in does it go?

16 A About a foot.

17 Q Well, then I have given it too much. And how long is  
18 it? A About four foot.

19 Q About four foot. All right. Now, over here is the  
20 toilet proper; is that right, and does that extend back  
21 into here, about a straight line? A No, here is where  
22 it is.

23 Q Yes, I know. A Over here.

24 Q I know, but does this toilet room extend clear  
25 over to the street line? A Yes sir.

26 Q Clear over. How many recesses are there in there?

- 1 A Three.
- 2 Q And which way are they? A This way.
- 3 Q This way? A Yes sir.
- 4 Q This way, like that? A Yes sir.
- 5 Q All right. Now, there is a door here, is there?
- 6 A No, no, there is no door there.
- 7 Q I thought you said there was a door there. A No,
- 8 the door is right in here.
- 9 Q Now, where is the door here? A Across this way.
- 10 Q Across this way? A Yes sir.
- 11 Q I see; I see. And there is the door? A Yes sir.
- 12 Q That is the door? A Yes sir.
- 13 Q Now, that, you say, is an ordinary House door? A Yes.
- 14 Q These doors up here are two doors, swinging doors?
- 15 A Two swinging doors.
- 16 Q In that toilet, is there a door in front of each
- 17 recess? A Yes sir.
- 18 Q What kind of a door is that, one of these slat doors?
- 19 A They do not close at the top or bottom, they are open
- 20 at the top and bottom.
- 21 Q Open at the top and bottom. Are there two doors in front
- 22 of each recess or one? A One.
- 23
- 24
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- 26

1 Q Swings either way? A No, it does not, swings out.

2 Q Which way does it swing? A Swings out.

3 Q Swings out, all of them, all three of them? A Yes, sir.

4 Q Can you look out of any of those toilets down the hallway?

5 A No, sir.

6 Q Well, down to the door going into the toilet can you  
7 look out of any of them? A Yes, if you open the door,  
8 because they run to the ordinary door there.

9 Q Yes. If you open the door? A Yes.

10 Q Now, about the time when you say you nailed these doors  
11 back, I have the testimony in mind, I don't know whether  
12 it is of any importance or not, but we will cross-examine  
13 on it and then see later. You went to work there on the  
14 first of November? A Yes, sir.

15 Q Of 1911? A 1910.

16 Q 1910? A Yes, sir; it will be three years this November  
17 I have been there.

18 Q Oh. This is 1912. Was it last year? A No, year  
19 before last.

20 Q Well, then, you nailed those back and they have been  
21 nailed back for a couple of years? A Yes, sir.

22 Q Well, then, practically, there has been no doors there  
23 for two years? A They might as well not have been there.  
24 They were nailed back and they were not in use.

25 Q They were nailed back and it was an open runway. Now,  
26 how wide from the ice box that stood there--get the thing

1 figured over in your mind--I am going to ask you the width  
2 and depth of it--let the width of it be from the property  
3 line out into the room, about how far did it extend?--

4 A You see, it is right up against the store room, it is  
5 right up in here (indicating).

6 Q Right up in the corner? A Yes.

7 Q Did it extend--excuse me-- A It is about a five foot  
8 box.

9 Q Five foot each way? A No, it is about three feet that  
10 way.

11 Q Three feet deep? A Yes.

12 Q Five feet wide, you mean?

13 MR. APPEL. No, he didn't say that.

14 THE COURT. Let us see what he did say.

15 MR. APPEL. Three feet deep.

16 A Three feet deep.

17 MR. FREDERICKS. Three feet deep and five feet wide?

18 A Yes.

19 Q Now, how far out into the room --withdraw the question.  
20 Where the alleyway comes up in there did the ice box  
21 set right in the corner? A Yes, sir.

22 Q And did it extend clear over to the alleyway? A Yes,  
23 sir, right up against the store room, you see.

24 Q No, I show you here what I mean. (Indicating on black-  
25 board) The ice box stood right in here? A Yes, sir.

26 Q Did not extend clear over to here? A No, sir.

1 Q Did not extend over that far? A Oh, no You see,  
2 there is a door leads in here to the store room.

3 Q There is a door leads into the store room here?

4 A Yes.

5 Q And the door is on this side. Put a door in. A yes,  
6 you see, it does not run clear to the alley.

7 Q Well, 5 feet, and does this extend clear over to the  
8 door, does the ice box extend from the property line over  
9 to the door of the storeroom? A No, sir, not quite.

10 Q Not quite. Well, how near to it? A Oh, about a foot,  
11 I suppose.

12 Q 5 by 3. I have tried to make those proportions right,  
13 I wont gamble on it. Where is the telephone? A Right  
14 in against there.

15 Q right against the ice box? A Yes. There is a little  
16 plank where it sits on, a little stand where the 'phone  
17 is on.

18 Q It is a stand, it is not nailed to the wall? A yes, it  
19 is nailed to the wall, it is a kind of a shelf.

20 Q So that when you use it you talk facing the wall?

21 A yes, sir.

22 Q Talk facing the wall so that anybody standing here  
23 using the 'phone would be right against the ice box, you  
24 say? A Yes, sir.

25 Q Like that? A Yes, sir.

26 Q And if they are using it they would be facing the wall?



1 A Yes, sir.

2 Q It is not a desk 'phone? A No.

3 Q It is not a desk 'phone, one of the kind you pick up?

4 A Yes, sir, you can pick it up.

5 Q It is one of the kind you pick up? A Yes.

6 Q But the desk that it sits on is against the wall?

7 A Yes, sir.

8 Q The only way of approach is either from this side or

9 this side? A Yes, sir.

10 Q And is there a chair there or stool or anything?

11 A No, sir.

12 Q Just pick it up and stand and use it? A Yes, sir.

13 Q BY A JUROR. Is that ice chest down in the corner?

14 A Yes, sir, right down in the corner.

15 MR. FREDERICKS. Q Now, what do you think of this artistic

16 effort of mine here, do you think I have got the propor-

17 tions about right? A Yes, sir.

18 A JUROR. Isn't the ice chest any bigger than that?

19 ANOTHER JUROR. The ice chest runs the other way?

20 A Runs the same as the bar.

21 MR. FREDERICKS. I have got it the other way then, I see.

22 MR. FORD. In proportion to your eight feet it ought to be  
23 about four times as big.

24 MR. FREDERICKS. I see, I will get it. I see, the ice  
25 chest runs the long way that way? A Yes, sir.

26 MR. FORD. That is not 5 feet, Captain. It is longer than

1 that.

2 MR. FREDERICKS. All right, we will get it a little longer  
3 than that.

4 A Longer than that.

5 MR. FREDERICKS. Q Longer still? A Yes.

6 Q It is a big boy? A Yes.

7 Q Over like that? A Yes, sir.

8 Q And the telephone sits right in there? A Yes, sir.

9 Q Right against it? A Yes, sir.

10 A JUROR. Q How wide is it from the lunch counter and how  
11 far from the front door does it start? A Oh, it is 7 or  
12 8 feet, I guess from the front door to the lunch counter.

13 Q Starts in 7 or 8 feet from the front door? A Yes.

14 Q How wide is it? A The lunch counter?

15 Q Yes. A It is about 3 feet wide--2 feet.

16 Q About 3 feet? A 2 feet.

17 Q BY ANOTHER JUROR. How high is the ice chest? A About  
18 7 feet.

19 Q It is taller than a man, is it? A Oh, yes, it is  
20 taller than a man.

21 MR. FREDERICKS' Q Just one other question and then we are  
22 through. Suppose a man came right out of there (marking  
23 on blackboard) turned and went down there, and a man was  
24 standing right back of there facing the wall, he would be  
25 behind the corner of the ice box, wouldn't he, if he came  
26 out of here?

1 MR. APPEL. We object to that because counsel is asking  
2 him something that does not appear anywhere in the record,  
3 he is putting a hypothetical question to the witness without  
4 stating the facts which appear in the record, your Honor,  
5 and furthermore , we object to that because the diagram is  
6 absolutely misleading and it is not correct, even on the  
7 statement of the witness on the stand drawn by Mr. Fredericks,  
8 that is not in accordance with the statement of the witness  
9 on the stand.

10 MR. FREDERICKS. Well, I will withdraw the question in  
11 order that I may be right about it.

12 MR. APPEL. We will offer, your Honor, for the better  
13 information--

14 MR. FREDERICKS. This is my witness and you cannot make an  
15 offer now, Mr. Appel.

16 MR. APPEL. I understand, but I was going to suggest some-  
17 thing that might avoid further cross-examination on either  
18 side. I offer--we ask that the jury be taken there at any  
19 convenient time by any one that the court may appoint and  
20 let them see for themselves.

21 MR. FREDERICKS. It is almost a year afterwards.

22 MR. APPEL. We can prove that the conditions are the same  
23 before they go there.

24 MR. FREDERICKS. I think a plat will probably serve the  
25 purpose.

26 MR. APPEL. I ask that the jury be allowed to go there,

1 your Honor, and let them see for themselves.

2 THE COURT. I will make an inquiry first of the witness.

3 MR. FREDERICKS. We can take that up at another time.

4 MR. DARROW. No, this is a good time.

5 THE COURT. Q Mr. Witness, are the premises in substantially  
6 the same condition now that they were last November?

7 A Yes, sir.

8 Q There has been no change in the arrangement of the ice  
9 box or location of the telephone? A No, sir, it is just  
10 the same way.

11 Q And the rooms and the toilet are the same? A Yes, sir.

12 MR. FREDERICKS. We would like to consider that matter.  
13 The taking of a jury to the premises is one of the most  
14 dangerous things, so far as reversible error is concerned,  
15 than anything else, and more cases have been reversed upon  
16 it.

17 MR. APPEL. Not when the defendant asks it.

18 MR. FREDERICKS. That may be true.

19 MR. APPEL. And we will stipulate, your Honor, in order  
20 to avoid any objection, that the defendant on his side  
21 with his counsel and Mr. Fredericks and any one of his  
22 representatives go there and the jury be in charge of any  
23 person that your Honor may suggest, and we will stipulate  
24 your Honor, that the jury may go in there and do anything  
25 that they want to in order to get the information themselves  
26 and we will agree to waive any error of any kind, absolutely

1 of any kind. It is only to get a fair idea of both sides  
2 here.

3 MR. FREDERICKS. I think that becomes, if there is any  
4 doubt in the minds of the jury as to the location, that  
5 probably will be all right under the circumstances and we  
6 wont raise any objection.

7 MR. APPEL. It is only to get the very best information,  
8 that is about all.

9 THE COURT. I expect the best time for them to visit the  
10 premises would be before court convenes in the morning, any  
11 way, if it is determined that they should do so--

12 MR. FREDERICKS. Yes.

13 THE COURT. --And if counsel have anything further to sug-  
14 gest they will have all afternoon to think of it.

15 MR. FORD. Counsel expressed the intention of offering an  
16 accurate drawing of the saloon and it might not be necessary  
17 after they get the accurate drawing.

18 MR. APPEL. No, your Honor.

19 MR. FORD. It is all right.

20 MR. APPEL. There are the physical facts there, your Honor,  
21 and we want them to see it, we want to use the diagram more  
22 especially for the purpose of showing the relative posi-  
23 tions of these corners and showing the window at which Mr.  
24 Browne is alleged to have stood and also the distance  
25 there and the amount of space covered by the transacitions  
26 that occurred there on that day, that is about the idea.

1 MR. FREDERICKS. Well, we would have to have a distinct  
2 understanding as to what we are going to do.

3 THE COURT. If the jury goes down there the court will  
4 instruct them that they are not going there for the pur-  
5 pose of gathering independent evidence but for the purpose  
6 of observing the premises in order that they may under-  
7 stand more thoroughly the premises.

8 MR. APPEL. We will agree, in the instructions to the jury,  
9 that your Honor may instruct the jury to look where Wall  
10 street is, for instance, and look at Los Angeles street  
11 from Wall on Third street from Wall to Main and so on.

12 MR. FREDERICKS. I think we can agree on all those things.

13 THE COURT. It is quite likely you can and if they go they  
14 will probably go at 9 o'clock tomorrow morning.

15 MR. FREDERICKS. But, I hope your Honor will make no order  
16 in regard to the matter.

17 THE COURT. I am not making any order.

18 MR. FREDERICKS. Because if your Honor does there will be  
19 a crowd down there to interfere.

20 THE COURT. Yes, there will be no time fixed for their  
21 going at the present time, I will leave that matter, when  
22 they go, in charge of Bailiff Van Vliet and such assistants  
23 as he may select.

24

25

26

1 MR FORD: And accompanied by counsel on each side.

2 THE COURT: If counsel on either side wish to go they  
3 will have that right. Do you wish to ask any more ques-  
4 tions on cross-examination.

5 MR DARROW: The records ought to show --

6 MR FREDERICKS:" If the jury is going down there -- I was  
7 going to ask him about the windows. There might be some-  
8 thing they would not go down. Is there a window --  
9 show the windows there in that room. A There is one window  
10 right up here facing Los Angeles street, but then it is  
11 -- it has got a sign on it. You can't see through it.

12 Q Right in here? A Takes up that whole space.

13 Q But you cannot see through it? A No sir.

14 Q At that time it was the same way, you couldn't see  
15 through it -- was it? A Sir?

16 Q Couldn't see through it at that time, on the 28th of  
17 November? A No sir.

18 Q It has been that way? A Yes sir.

19 Q Any other windows? A There are two small windows  
20 facing Third street. They are away up, they are more like  
21 a transome.

22 Q Are you the proprietor of the saloon? A No sir.

23 Q Who is the proprietor? A Why, it is in partners.

24 The fellows named Jake Vitzelsberger & Buldhry.

25 Q Were they the proprietors at the time -- on the 28th  
26 of November last? A No sir.

1 Q They were not? A No sir.

2 Q You have just simply been bar-keeper working through  
3 this time? A Yes sir.

4 Q You are not the proprietor? A No sir.

5 Q Well, is your position anything in the way of manager,  
6 or anything of that kind? A I was at that time.

7 Q You were the manager at that time? A Yes sir.

8 Q Did you say who the proprietors were at that time?

9 A Valentine.

10 Q Do you know what his initials are? A Geroge.

11 Q Where is he now, do you know? A He lives out at  
12 Garvanza.

13 MR FREDERICKS: That is all.

14

15 REDIRECT EXAMINATION

16 MR APPEL: Just a moment. We want to ask you this so as  
17 to lay further foundation for our request only, your Honor.  
18 These doors here at the corner of the saloon that I am  
19 pointing to, were those swinging doors? A Yes sir.

20 Q And do they extend from the top to the bottom? A Yes  
21 sir.

22 Q And what is their condition now; is it just the  
23 same as it was then? A Yes.

24 Q Now, when you said 8 feet from this point on Los  
25 Angeles street here to this point, 8 feet, you mean 8 feet  
26 from the bar or the width? A From the office, over to the



1 door.

2 Q But I know, the office utilizes quite a little space?

3 A Yes, and extends out.

4 Q How wide is that room there -- how wide is the room,  
5 say, from the -- A From wall to wall?

6 Q From wall to wall?

7 MR FORD: If the court please, counsel have expressed  
8 their intention of offering an accurate diagram. I  
9 should think it would be probably more satisfactory to  
10 all of us.

11 THE COURT: Just to clear up this point on cross-examina-  
12 tion.

13 MR APPEL: How wide is it? A Oh, about 25 or 30 feet; I  
14 never measured it out.

15 MR FREDERICKS: Well, I suppose that diagram doesn't  
16 show over 16 feet in width, according to the proportions.

17 MR APPEL: I Don't wish to go and make other corrections,  
18 your Honor. I just asked to show that the diagram was  
19 not proportionately correct; that is about all.

20 THE COURT: Is that all.

21 MR APPEL: Now, your Honor, as I understand, it is under-  
22 stood that this question of taking the jury down there  
23 will be left to such orders of the court as your Honor may  
24 make upon stipulation that we will hereafter enter into.

25 THE COURT: Yes sir.

26 MR APPEL: That is all.

1 H. W. POHLMAN, a witness called on behalf  
2 of the defense, being first duly sworn, testified as fol-  
3 lows:

4 DIRECT EXAMINATION

5 MR FORD: We object to any testimony being given by the  
6 witness on the ground that he has violated the order of  
7 the court heretofore made with regard to the exclusion  
8 of witnesses, and that the witness had knowledge of that  
9 order.

10 THE COURT: What is your name? A H. W. Pohlman.

11 Q The question of the violation of the order, if any, will  
12 will be taken up at the close of the testimony, but the ob-  
13 jection to his testifying --

14 MR FORD: We don't care to have the witness punished. We  
15 simply object to his testifying at all after the rule,  
16 so the testimony of the witness may be excluded, because  
17 he has violated the order of the court, and we will submit  
18 abundant authorities, but it is a matter entirely within  
19 your Honor's discretion, and your Honor may examine him.

20 THE COURT: The court will take up that feature at the  
21 close of his testimony, but will not permit him not to tes-  
22 tify.

23 MR DARROW: I think there is a misapprehension with this  
24 witness; he is here from Portland with his little child.  
25 He asked counsel several weeks ago -- several days ago,  
26 anyhow, that he had no occupation here, and whether he

1 would be permitted to stay in the court room, and it was  
2 taken up, but not in the regular way. I think the witness  
3 understood that it had been done.

4 THE COURT: I think that feature of it will have to be  
5 disposed of --

6 MR DARROW: This witness is simply an impeaching witness  
7 and he could hear everybody testify.

8 MR FREDERICKS: Unless he heard the man testify whom he  
9 has come to testify against --

10 MR DARROW: He has read his testimony.

11 MR FREDERICKS: He shouldn't have read his testimony; that  
12 is the point. We should rely on our memories.

13 THE COURT: That is not the question. The question before  
14 the court is whether or not this particular witness has  
15 violated the order. That feature of it will be taken up  
16 at the close of his testimony.

17 MR APPEL: Let's make the record clear. We except now, to  
18 counsel on the other side, having called the attention of  
19 the court to this alleged violation of the ruling of the  
20 court by the witness as soon as we call him upon the wit-  
21 ness stand, because and for the reason that we alleged  
22 that it was done only for the purpose of placing the wit-  
23 ness in a bad light before this jury, and for no other  
24 reason whatsoever, or at all. We assign his conduct as  
25 error.

26 MR FREDERICKS: What is the use of having a rule, your

1 Honor, if we are to pay no attention to it.

2 THE COURT: Mr Fredericks; you misunderstood the court's  
3 order entirely: The court did not say there would be no at-  
4 tention paid to it. Counsel has a right to state what he  
5 deems to be error in the record, and he has done so, for  
6 the purpose of the record, I take it.

7 MR DARROW: I want to make another statement in reference to  
8 Mr Fredericks' statement, that this witness had no right  
9 to read the testimony of Harrington. Before you can ask  
10 Harrington a question or any witness a question, you have  
11 got to go to your own witness and find out what their  
12 conversation was, and then read it to the other witness.

13 MR FREDERICKS: Certainly.

14 MR DARROW: Some must have got the conversation from this  
15 witness in advance, so he had a right to read Harrington's  
16 testimony.

17 MR FREDERICKS: That doesn't follow.

18 MR FORD: Section 2043 of the Code of Civil Procedure pro-  
19 vides for the exclusion of witnesses as follows: "If  
20 either party requires it, the judge may exclude any  
21 witness of the adverse party not at the time under ex-  
22 amination, so that he may not hear the testimony of other  
23 witnesses."

24 THE COURT: Yes sir.

25 MR FORD: That he may not hear, and is permitted to read  
26 it after it is given, as counsel has said, he has to get

1 the impeaching question from this witness in advance, but  
2 he has no right to hear the testimony or to read the tes-  
3 timony afterwards.

4 THE COURT: Let's cross that bridge when we have come  
5 to it.

6 MR DARROW: There isn't anything in this except he said  
7 no to the question the witness read.

8 THE COURT: He may testify if counsel desire to ask him  
9 questions.

10 MR DARROW: What is your name? A W. H. Pohlman.

11 Q Where do you live? A Seattle.

12 Q What is your business? A Business agent of the  
13 Bridge & Structural Iron Workers.

14 Q How long have you been the business agent for them?

15 A Two years.

16 Q What was your occupation previously? A Working at  
17 the business, iron worker.

18 Q Constructing buildings? A Yes sir.

19 Q And how long have you worked at that? A About ten  
20 years.

21 Q You were called as a witness before the Federal grand  
22 jury, sometime in February or March, were you not? A Yes  
23 sir.

24 Q Did you meet John R. Harrington there? A I first met  
25 him in the ante-room of Mr Darrow's office, and later  
26 met him in several places, and one was the District Attor-

1 ney's office.

2 MR FREDERICKS: United States? A Yes.

3 MR DARROW: You mean you first met him at my office some-  
4 time before? A Yes sir.

5 Q You got acquainted with him there? A Yes sir.

6 Q Then you met him at the United States grand jury room?

7 A Yes sir.

8 Q Did you have a conversation with him in reference  
9 to -- this is 2874 -- did you have a conversation with him  
10 with reference to what he knew about this case? A I had,  
11 sir.

12 Q Covering how many separate days? A About two weeks.

13 Q You remember about the time the conversations began?

14 A They began just before christmas, about two or  
15 three days.

16 Q And ran up to New Years or -- A After.

17 Q And you both were in attendance under subpoena?

18 A Yes sir.

19 Q Did he at that time --

20 MR FREDERICKS: No time mentioned.

21 MR DARROW: He said the conversations began about two days  
22 before Christmas, covered a period of about ten days, so  
23 it was during that space. Did he say to you at that time  
24 that he did not see how Mr Dar row could in any manner be  
25 charged with jury bribing, that he was acquainted with  
26 every detail and particular of the defense in the McNamara

1 case and knew that Darrow had nothing to do with any  
2 bribery, or words to that effect? A Yes sir.

3 Q Now, when did this information come to us; to whom did  
4 you convey this information?

5 MR FORD: Objected to as incompetent, irrelevant and imma-  
6 terial.

7 MR DARROW: All right; take the witness.  
8

9 CROSS-EXAMINATION

10 MR FREDERICKS: What is your name? A Pohlman.

11 Q Now, Mr Pohlman, I want to ask you some questions in  
12 regard to your relation to this controversy. You are ac-  
13 quainted with J. B. McNamara, were you not? A No sir.

14 Q You knew him as J. B. Brice, didn't you? A No sir.

15 Q Did you meet him up in Seattle under the name of J. B.  
16 Brice? A No sir.

17 MR ROGERS: Objected to as not cross-examination.

18 MR FORD: Showing his relation to the case.

19 MR APPEL: Transactions of a third party; what has that  
20 to do with the defendant?

21 THE COURT: The interest of the witness, I suppose.

22 MR APPEL: I know. You cannot show interest of the wit-  
23 ness that he knew someone a period away anterior to the  
24 date in the charge of the indictment here; that he knew a  
25 third party; you cannot ask him specific acts, not only  
26 that, but it is not permissible to ask concerning speci-  
fic acts until you have asked the witness whether he is

1 interested in the case here, and on which side he is inter-  
2 ested, whether he has feelings of friendship for one side  
3 or feelings of enmity against the other. If he says he  
4 has not -- he has no feeling of enmity against either side,  
5 then they can ask him whether or not he did some act or  
6 say some thing that shows that feeling. If he says he has  
7 no feelings of friendship for the defendant, then they can  
8 ask him if he didn't do something that indicated feelings  
9 of friendship. That foundation must first be laid.

10 THE COURT: You object to it because the foundation is  
11 not laid?

12 MR ROGERS: And not cross-examination.

13 MR FREDERICKS: To show the witness' relation. I can't  
14 show it all at once.

15 THE COURT: I think the foundation ought to be laid. Ob-  
16 jection sustained.

17 MR FREDERICKS: I am laying, it, your Honor. All right.

18 MR Pohlman, you remember --

19 THE COURT: I think while there is an interruption, there  
20 ought to be a correction in the record. I notice page  
21 2874, line 4, the name, I presume of this witness is spel-  
22 led C-o-l-e-ma-n. You spell your name how? A P-o-h-l-m-a-n

23 THE COURT: I will assume that is a clerical error and  
24 direct that it be corrected in that respect, unless  
25 there is objection.

26 MR FORD: No, your Honor, that is intended for Pohlman.



1 I noticed that.

2 THE COURT: It seems to be obvious -- All right, proceed.

3 MR FREDERICKS: Do you remember a time in the fore part  
4 of September, 1910, when there was a building in the course  
5 of erection, blown up in Seattle by dynamite? Fixing  
6 the time and preliminary.

7 MR ROGERS: Objected to as not cross-examination, incom-  
8 petent, irrelevant and immaterial. I object to the ques-  
9 tion, and moreover, I take an exception to its being asked  
10 as not cross-examination, the intention being to prejudice  
11 the defendant and the witness with ulterior and anter-  
12 ior matters and specific acts which the law does not per-  
13 mit.

14 MR FREDERICKS: The intention being to place him and the  
15 jury in possession of the facts as to his relation to the  
16 case, in order they may weigh his testimony.

17 MR ROGERS: They haven't asked him if he knew Mr Darrow or  
18 how long he has known him, or anything about that. He  
19 is prowling around Seattle with J. B. Brice.

20 MR FREDERICKS: I do not have to confine myself to that  
21 question. This is cross-examination.

22 MR ROGERS: To ask him if he committed murder, it would  
23 be reversible error.

24 MR FREDERICKS: I haven't asked him if he committed mur-  
25 der yet.

26 MR FORD: This is a case where the defendant is charged

1 with bribery, conducting a case in which J. B. McNamara  
2 was charged with the crime of murder. We want to show that  
3 this witness has a direct personal interest in that mat-  
4 ter. I don't care to state the facts before the jury or  
5 make any offers to show at the present time, because we pre-  
6 fer to have it come from the lips of the witness, and we  
7 believe that is the proper way to do it.

8 MR APPEL: Yes; now, we take an exception to his making any  
9 such statement as that, because it doesn't conform with  
10 the law. He ought to know he cannot ask for specific  
11 acts. If he don't know the code says that, and he  
12 should have read that. The code says you cannot impeach  
13 a witness by questions concerning specific acts, no founda-  
14 tion laid for this question. His relation to a building  
15 in Seattle is so far removed, not only by space and length  
16 of time, and all that as to be absolutely so remote it  
17 would not cut any figure whether or not Harrington did  
18 tell him -- this man might as well admit, if it were true,  
19 that he was the most wicked man and had done wicked things  
20 and yet that would not show that parrington didn't tell  
21 him what he said. You can't go to work and ask a man for  
22 all his acts from the time he was born up to the present  
23 time, in order to impeach him or show his relation to the  
24 party.

25 THE COURT: The objection is sustained on the ground no  
26 foundation has been laid, with leave to renew it if the

1 foundation is laid.

2 MR FREDERICKS: I don't understand what the court  
3 means by laying the foundation.

4 THE COURT: I mean interrogating the witness as to  
5 whether he is friendly or unfriendly to the defense or  
6 prosecution.

7 MR FRIEDERICKS: Well, your Honor, I cannot be bound by what  
8 he says in that regard.

9 THE COURT: Quite true.

10 MR FREDERICKS: Your official position is what? A Bus-  
11 iness agent.

12 Q Business agent of what? A Of local 86.

13 Q Of what? A Of the International Association of Bridge  
14 & Structural Iron Workers.

15 Q And Mr Darrow is your attorney representing you; you <sup>were</sup> con-  
16 tributing money to his fee in the case of People versus  
17 McNamara and others, isn't that correct?

18 MR ROGERS: Objected to as not a cross-examination and a  
19 double question. Your Honor observes two questions in  
20 the one. He was your attorney, and you were contributing  
21 money.

22 THE COURT: Objection overruled.

23 MR ROGERS: Exception.

24 MR DARROW: Does he mean the witness' attorney?

25 A I would like to have the question divided. I will  
26 have to answer one in the negative and one in the affir-

1 mative.

2 MR FREDERICKS: All right. Answer one in the affirmative  
3 and one in the negative and specify which you do.

4 A He was not my attorney, and we contributed money to-  
5 wards the defense.

6 Q Money that <sup>he</sup> was in charge of, and money that he  
7 was using.

8 MR ROGERS: Objected to as not cross-examination and a  
9 double question; incompetent, irrelevant and immaterial.

10 THE COURT: Overruled.

11 MR ROGERS: Calling for a conclusion or opinion.

12 THE COURT: Overruled.

13 MR ROGERS: Exception.

14 A What is the question.

15 (Last question read by the reporter.)

16 A It isn't to my knowledge that he was in charge of  
17 money or using it.

18 MR FREDERICKS: Who did you send it to?

19 MR APPEL: That is immaterial. We object to it as incompe-  
20 tent, irrelevant and immaterial, and not cross-examina-  
21 tion and asking for specific acts, asking for specific  
22 acts concerning the relation of the witness to other par-  
23 ties.

24 THE COURT: Objection overruled.

25 MR APPEL: We except.

26

1 A We sent it to our international.

2 MR. FREDERICKS. Who is that?

3 MR. ROGERS. The same objection.

4 THE COURT. Overruled.

5 MR. ROGERS. Exception.

6 A International Association of Bridge and Structural Iron  
7 Workers.

8 MR. FREDERICKS. Q Of which J J McNamara was formerly the  
9 Secretary? A yes, sir.

10 MR. ROGERS. The same objection.

11 THE COURT. Overruled.

12 MR. ROGERS. Exception.

13 MR. FREDERICKS. Q The J J McNamara that was charged with  
14 the offenses that Mr. Darrow was defending? A Who?

15 MR. ROGERS. The same objection.

16 THE COURT. Overruled.

17 MR. ROGERS. Exception.

18 MR. FREDERICKS. Read the question.

19 (Last question read by the reporter.)

20 A Yes, sir.

21 Q And you were much interested in the success of Mr.  
22 Darrow in those cases, were you not? Mr. Pohlman?

23 A What do you mean by being interested?

24 Q Well, I don't know, it seems like a plain question.

25 If you specify what part you don't understand. A I don't

26 know whether I should be interested in the conviction or

1 acquittal.

2 Q Oh, I see. Read the question.

3 (Last question read by the reporter.)

4 Q The success of Mr. parrow? A I was.)

5 Q And that was a direct personal interest on your part,  
6 wasn't it, by reason of your affiliation and feelings and  
7 official position.

8 MR. ROGERS. Wait a moment.

9 A Not a personal--

10 MR. ROGERS I object to that as not cross-examination,  
11 calling for a conclusion or opinion, moreover, a double  
12 question. The question is ambiguous in its present form.

13 THE COURT. Objection overruled.

14 MR. ROGERS. Exception.

15 MR. FREDERICKS. Finish your answer.

16 (Last answer read by the reporter.) A That is all.)

17 Q Not a personal question with you? A Yes.

18 THE COURT. It is 12 o'clock, gentlemen. We will take a  
19 recess now.

20 (Jury admonished. Recess until 2 P.M.)

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