

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1946

No. 102

ADMIRAL DEWEY ADAMSON, APPELLANT,

vs.

PEOPLE OF THE STATE OF CALIFORNIA

APPEAL FROM THE SUPREME COURT OF THE STATE OF CALIFORNIA

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., SEPT. 25, 1946.

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[fol. 1]

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF LOS ANGELES

S. C. No. 98734

INFORMATION

Murder—Count I.

Burglary—Counts II, III, IV and V.
2 Priors.

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

vs.

ADMIRAL DEWEY ADAMSON, Defendant

INFORMATION

Count I

The said Admiral Dewey Adamson is accused by the District Attorney of and for the County of Los Angeles, State of California, by this information, of the crime of Murder a felony, committed as follows: That the said Admiral Dewey Adamson on or about the 24th day of July, 1944 at and in the County of Los Angeles, State of California, did willfully, unlawfully and feloniously and with malice aforethought murder one Stella Blauvelt, a human being.

Count II

For a further and separate cause of action, being a different offense from, but connected in its commission with, the charge set forth in Count I hereof, the said Admiral Dewey Adamson is accused by the District Attorney of and for the County of Los Angeles, State of California, by this information, of the crime of Burglary, a felony, committed as follows:

That the said Admiral Dewey Adamson, on or about the [fol. 2] 24th day of July, 1944, at and in the County of Los Angeles, State of California, did willfully enter the room and apartment occupied by Stella Blauvelt, located at number 744 South Catalina, in the City of Los Angeles, County

and State aforesaid, with the intent then and there and therein to unlawfully and feloniously commit theft.

Count III

For a further and separate cause of action, being a different offense of the same class of crimes and offenses as the charge set forth in Count II hereof, the said Admiral Dewey Adamson is accused by the District Attorney of and for the County of Los Angeles, State of California, by this information, of the crime of Burglary, a felony, committed as follows:

That the said Admiral Dewey Adamson, on or about the 10th day of June, 1944, at and in the County of Los Angeles, State of California, did willfully enter the house and building occupied by Frank Hokr, located at number 1962 West 27th Street, in the City of Los Angeles, County and State aforesaid, with the intent then and there and therein to unlawfully and feloniously commit theft.

Count IV

For a further and separate cause of action, being a different offense of the same class of crimes and offenses as the charges set forth in Counts II and III hereof, the said Admiral Dewey Adamson is accused by the District [fol. 3] Attorney of and for the County of Los Angeles, State of California, by this information, of the crime of Burglary, a felony, committed as follows:

That the said Admiral Dewey Adamson, on or about the 16th day of May, 1944, at and in the County of Los Angeles, State of California, did willfully enter the house and building occupied by Mrs. Lloyd Goble, located at number 961 South Oxford, in the City of Los Angeles, County and State aforesaid, with the intent then and there and therein to unlawfully and feloniously commit theft.

Count V

For a further and separate cause of action, being a different offense of the same class of crimes and offenses as the charges set forth in Counts II, III and IV hereof, the said Admiral Dewey Adamson is accused by the District Attorney of and for the County of Los Angeles, State

of California, by this information, of the crime of Burglary, a felony, committed as follows:

That the said Admiral Dewey Adamson, on or about the 10th day of August, 1944, at and in the County of Los Angeles, State of California, did willfully enter the house and building occupied by C. E. Mourning, located at number 1566 West 27th Street, in the City of Los Angeles, County and State aforesaid, with the intent then and there and therein to unlawfully and feloniously commit theft.

That before the commission of the offenses hereinabove [fol. 4] set forth in this information, said defendant Admiral Dewey Adamson was, in the Circuit Court of the State of Missouri, in and for the County of Jackson, convicted of the crime of Burglary and Larceny, and the judgment of said Court against said defendant, in said connection, was, on or about the 3rd day of February, 1920, pronounced and rendered, and said defendant served a term of imprisonment therefor in the State Prison.

That before the commission of the offenses hereinabove set forth in this information, said defendant Admiral Dewey Adamson was, in the Circuit Court of the State of Missouri, in and for the County of Jackson, convicted of the crime of Robbery, a felony, and the judgment of said Court against said defendant in said connection, was, on or about the 30th day of June, 1927, pronounced and rendered, and said defendant served a term of imprisonment therefor in the State Prison.

The former convictions herein alleged against said defendant, Admiral Dewey Adamson, are hereby charged against him with respect to each of the counts hereinbefore set forth, and by reference the same are hereby made a part of said counts.

Fred N. Houser, District Attorney, of and for the County of Los Angeles, State of California. By Kenneth J. Thomas, Deputy.

[fol. 5] (Endorsed) S. C. No. 98734. D. A. No. 115823. In the Superior Court of the State of California in and for the County of Los Angeles. The People of the State of California, Plaintiff vs. Admiral Dewey Adamson, Defendant. Information Murder—Count I. Burglary—Counts II, III, IV, V. 2 Priors. Filed in open Superior Court of the County of Los Angeles, State of California, on motion of

the District Attorney of said Los Angeles County. Dated: Sep. 14, 1944. J. F. Moroney, Clerk. By G. E. Hubbard, Deputy. Fred N. Howser, District Attorney.

[fol. 6] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—September 18, 1944

Deputy District Attorney Charles Matthews and the defendant without counsel, present.

The Public Defender is appointed by the Court as counsel for the defendant.

The defendant is duly arraigned, states his true name to be as charged in the information, waives reading of the information and time to plead, regularly enters his plea of "Not Guilty as charged in each count of the information", denies each prior conviction as alleged therein and the trial of the action is thereupon set for November 9, 1944 at 9:00 A. M. and transferred to Department 43.

[fol. 7] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—October 3, 1944

Deputy District Attorney S. Ernest Roll and the Defendant with his counsel, Deputy Public Defender R. F. Bird, present.

The Public Defender is allowed to withdraw as counsel for the defendant.

[fol. 8] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 14, 1944

Cause is called for trial as to Counts 1 and 2 of the information.

Deputy District Attorney S. Ernest Roll and the Defendant with his counsel, Morris Lavine by Milton B. Safier, present.

Defendant admits each prior conviction as alleged in the information as follows: Burglary and Larceny, convicted in the Circuit Court of the State of Missouri, Jackson County, upon which judgment was rendered on or about February 3, 1920 and admits having served a term of imprisonment in the State Prison and Robbery, convicted in the Circuit Court of the State of Missouri, Jackson County, upon which judgment was rendered on or about June 30, 1927 and admits having served a term of imprisonment therefor in [fol. 9] the State Prison.

Jury is in process of impanelment.

Prospective Jurors are admonished and trial is continued to November 15, 1944, at 9:30 A. M.

[fol. 10] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 15, 1944

Trial is resumed.

Deputy District Attorney S. Ernest Roll and the Defendant with his counsel, Milton Safier, present.

It is stipulated that the prospective jurors are in attendance.

The following jurors are sworn to try the cause:

Mrs. Frances F. McKellar, Mrs. Luella M. Dooley, Mrs. Elizabeth K. Frohman, Mrs. Dorothea J. Schommer, Mrs. Doris L. Hayden, Mrs. Ruth M. Wilton, Mrs. Elizabeth Welsh, Mrs. Flora D. Smith, Mrs. Iva B. Dickie, Mrs. Lorene Yates, Mrs. Dorothy M. Mathis, Mrs. Gladys M. Faulkner.

It appearing to the Court that this case is likely to be a protracted one, It Is Ordered that two alternates be selected and Ralph W. Hickey and Mrs. Hazel B. Stewart are sworn as alternates.

[fol. 11] The Court now orders a daily transcript of the testimony.

Information is read and plea is stated.

The following witnesses are sworn and testify on behalf of the People: John W. Maurer, Dr. Frank R. Webb, Mrs. Maude B. Watts and Mrs. Eulalie Massey.

The Court now orders that Sgt. Harry Rogers of the Sheriff's Fingerprint Section, be and he is appointed under Section 1871 C. C. P. to examine certain fingerprints in this case.

Jury is admonished and trial is continued to November 16, 1944 at 9:30 A. M.

[fol. 12] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 16, 1944

Trial is resumed.

Deputy District Attorney S. Ernest Roll and the Defendant with his counsel, Milton Safier, present.

It is stipulated that the Jurors and Alternates are in attendance.

The following witnesses are sworn and testify on behalf of the People: Frank H. Heck, Mrs. Mabel B. Vandiver, Ray H. Pinker, Robert Frick, Kenneth Osmon, James R. Ferguson, Mrs. Lillie H. Bailey and Mrs. Francis Jean Turner.

Jury is admonished and trial is continued to November 17, 1944 at 9:30 A. M.

[fol. 13] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 17, 1944

Trial is resumed.

Deputy District Attorney S. Ernest Roll and the defendant with his counsel, Milton B. Safier, present.

It is stipulated that the Jury and alternates are in attendance.

The defendant moves orally for a new trial on Counts 3, 4 and 5. Hearing on said motion is continued to November 24, 1944 at 9:00 A. M.

The following witnesses are sworn and testify on behalf of the People: John B. Larbaig, Mrs. Catherine E. May and Harry W. Rogers.

Jury is admonished and trial is continued to November 20, 1944 at 9:30 A. M.

[fol. 14] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 20, 1944

Trial is resumed.

Deputy District Attorney S. Ernest Roll and the Defendant with his counsel, Milton B. Safier, present.

It is stipulated that the jury and alternates are in attendance.

Harry Rogers resumes his testimony, John B. Larbaig is recalled and the following witnesses are sworn and all testify on behalf of the People: E. J. Long, Miss Marie Massey, Mrs. Isabel Turner, William H. Brennan and G. H. Wiseman.

People's Exhibits Nos. 1 and 2 (each a diagram), 3, 4, 8, 9, 10, 11, 12, 17, 18, 19, 21, 24, 25, 26, 27, 28, 29, 31, 32, 33, 34, 36 and 37 (each a photo), 5 (electric cord), 6 (small door), 7 (beads), 13 (stocking foot), 14 and 15 (each a Handkerchief), 16 (napkin), 20 (negatives), 22, 23 and 30 (each a [fol. 15] fingerprint card) and 35 (stockings) are admitted and filed. The People rest.

Defendant rests.

Defendant's motion for an advised verdict of acquittal is denied.

Cause is argued. Jury is admonished and trial is continued to November 21, 1944 at 9:30 A. M.

[fol. 16] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 21, 1944

Trial is resumed.

Deputy District Attorney S. Ernest Roll and the defendant with his counsel, Milton B. Safier, present.

It is stipulated that the Jurors and Alternates are in attendance.

The argument is resumed and completed. The Court instructs the Jury. The Sheriff is sworn to take charge of the Jury, which retires to deliberate at 3:30 P. M. At 5:00 P. M. the Jury not having arrived at a verdict, the Sheriff is ordered to escort the Jurors to the Rosslyn Hotel for the night to return to the Jury Room for further deliberations on November 22, 1944.

[fol. 17] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 22, 1944

Trial is resumed.

Deputy District Attorney S. Ernest Roll and the defendant with his counsel, Milton B. Safier, present.

At 8:45 A. M. the Jury returns to the Jury room from the hotel for further deliberations and returns into Court at 2:35 P. M. with the following verdicts to-wit:

Title of Court and Cause

“We, the Jury in the above entitled action, find the defendant Guilty of Murder, a felony, as charged in Count #1 of the information, and find it to be Murder of the First Degree”.

This 22nd day of November, 1944.

Iva B. Dickie, Foreman.

[fol. 18] “We, the Jury in the above entitled action, find the defendant Guilty of Burglary, a felony, as charged in Count #2 of the information, and find it to be Burglary of the First Degree”.

This 22nd day of November, 1944.

Iva B. Dickie, Foreman.

Verdicts and Instructions are filed. Jury is polled and each Juror answers in the affirmative. Jury is excused.

Defendant makes motion for a new trial. The hearing on said motion and the pronouncing of judgment and sentence are set for November 27, 1944 at 9:00 A. M.

Defendant is remanded.

[fol. 19] IN SUPERIOR COURT OF LOS ANGELES COUNTY

INSTRUCTIONS TO JURY—Filed November 22, 1944

General Instruction

Jury To Be Governed Solely By Evidence

You are here, ladies and gentlemen, for the purpose of trying the issues of fact that are presented by the allegations in the *information* filed by the *District Attorney* and the defendant's pleas thereto. This duty you should perform uninfluenced by pity for the defendant or by passion or prejudice on account of the nature of the charges against him. You are to be governed therefore solely by the evidence introduced in this trial and the law as given you by the Court. The law will not permit jurors to be governed by mere sentiment, conjectures, sympathy, passion or prejudice, public opinion or public feeling. Both the public and the defendant have a right to demand, and they do so demand and expect, that you will carefully and dispassionately weigh and consider the evidence and the law of the case and give to each your conscientious judgment; and that you will reach a verdict that will be just to both sides, regardless of what the consequences may be, and which will express the individual opinion of each juror.

Given [as modified Refused]*

Fricke, Judge.

[fol. 20]

General Instruction

Jury To Consider Evidence Only

You are the sole and exclusive judges of the weight of evidence and the credibility of witnesses, and it is your function to determine all questions of fact arising from the evidence in the case. It is the right of court and counsel to comment on the failure of defendant to explain or deny any evidence against him, and to comment on the evidence, the testimony and credibility of any witness; yet the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of witnesses.

But while you are the sole and exclusive judges of the facts and of the weight of evidence, you are to judge of the

[*Words enclosed in brackets erased in copy.]

facts upon the testimony and other evidence produced here in court. If any evidence has been admitted and afterwards stricken out, you must disregard entirely the matter so stricken out, and if any counsel has intimated by questions which the court has not permitted to be answered that certain things are, or are not true, you must disregard such questions and refrain from any inferences based upon them. If counsel, upon either side, have made any statements in your presence concerning the facts in the case, you must be careful not to regard such statements as evidence, and must look entirely to the proof in ascertaining what the facts are. If, however, counsel have stipulated or agreed to certain facts, you are to regard the facts so stipulated [fol. 21] to as being conclusively proven. If either party has during the trial admitted any fact or facts material to the matters involved in this case, such admission is to be deemed by you as proven against the party making such admission.

Given [as modified Refused]*

Fricke, Judge.

Evidence—Susceptible of Different Constructions

If the evidence in this case as to any particular count is susceptible of two constructions or interpretations, each of which appears to you to be reasonable, and one of which points to the guilt of the defendant, and the other to his innocence, it is your duty, under the law, to adopt that interpretation which will admit of the defendant's innocence and reject that which points to his guilt.

You will notice that in this instruction this rule of law is made applicable to cases in which there are two opposing interpretations, each of which appears to you to be reasonable.

This rule of law does not apply in a case where there are two opposing constructions sought to be placed upon the evidence, one of which appears to you to be reasonable and [fol. 22] the other appears to you to be unreasonable.

In the latter case it would be your duty, under the law, to adopt the reasonable construction and reject the one which, in your judgment, appears to be unreasonable.

Given [as modified Refused]*

Fricke, Judge.

[*Words enclosed in brackets erased in copy.]

Presumption of Innocence

A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to an acquittal but the effect of this presumption is only to place upon the state the burden of proving him guilty beyond a reasonable doubt. Reasonable doubt is defined as follows: "It is not a mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of the jurors in that condition that they cannot say they feel an abiding conviction, to a moral [fol. 23] certainty, of the truth of the charge."

Given [as modified Refused]*

Fricke, Judge.

Witness—Credibility of

The jury are the sole and exclusive judges of the effect and value of evidence addressed to them and of the credibility of the witnesses who have testified in the case. The character of witnesses, as shown by the evidence, should be taken into consideration for the purpose of determining their credibility and the facts as to whether they have spoken the truth. And the jury may scrutinize not only the manner of witnesses while on the stand, their relation to the case, if any, but also their degree of intelligence. A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies; his interest in the case, if any, or his bias or prejudice, if any, against one or any of the parties, by the character of his testimony, or by evidence affecting his character for truth, honesty, or integrity, or by contradictory evidence. A witness may also be impeached by evidence that he has made, at other times, statements inconsistent with [fol. 24] his present testimony as to any matter material to the cause on trial [; and a witness may also be impeached by proof that he has been convicted of a felony.]*

A witness willfully false in one material part of his or her testimony is to be distrusted in others; that is to say,

[*Words enclosed in brackets erased in copy.]

the jury may reject the whole of the testimony of a witness who has willfully sworn falsely as to a material point; and the jury, being convinced that a witness has stated what was untrue as to a material point, not as a result of mistake or inadvertence, but willfully and with the design to deceive, may treat all of his or her testimony with distrust and suspicion, and reject all unless they shall be convinced that he or she has in other particulars sworn to the truth.

Given as Modified [Refused]*

Fricke, Judge.

Experts

Duly qualified experts may give their opinion on questions in controversy at a trial. To assist the jury in deciding such questions, the jury may consider the opinion with the reasons stated therefor, if any, by the expert who gives the opinion. The jury is not bound to accept the opinion of [fol. 25] any expert as conclusive, but should give to it the weight to which they shall find it to be entitled. The jury may, however, disregard any such opinion, if it shall be found by them to be unreasonable.

Given [as modified Refused]*

Fricke, Judge.

Circumstantial Evidence

In order to convict the defendant upon the evidence of circumstances it is necessary not only that all the circumstances concur to show beyond a reasonable doubt that a crime was committed as alleged in the information, but that the defendant was the one who committed such crime and that they are inconsistent with any other rational conclusion. It is not sufficient that the circumstances prove, coincide with, account for, and therefore render probable the theory sought to be established by the prosecution, but they must exclude to a moral certainty every other theory but the single one of guilt, or the jury must find the defendant not guilty.

People v. McClain, 115 Cal. App. 505.

Given [as modified Refused]*

Fricke, Judge.

[*Words enclosed in brackets erased in copy.]

[fol. 26] Circumstantial Evidence—Effect of

There are two classes of evidence recognized and admitted in courts of justice, upon either of which juries may lawfully find an accused guilty of crime. One is direct evidence, which is the direct testimony of any eyewitness to a transaction, and the other is circumstantial evidence, which includes all evidence other than that of an eyewitness. Such evidence may consist of any acts, declarations or circumstances admitted in evidence tending to prove the crime charged or tending to connect the defendant with the commission of the crime.

If upon consideration of the whole case you are satisfied to a moral certainty and beyond a reasonable doubt of the guilt of the defendant, you should so find, irrespective of whether such certainty has been produced by direct evidence or by circumstantial evidence. The law makes no distinction between circumstantial evidence and direct evidence in the degree of proof required for conviction but only requires that the jury shall be satisfied beyond a reasonable doubt by evidence of either the one character or the other, or both.

Given [as modified Refused]*

Fricke, Judge.

[fol. 27] If you believe from all the evidence, beyond a reasonable doubt, that on or about the 24th day of July, 1944 at and in the County of Los Angeles, State of California, the defendant, Admiral Dewey Adamson was engaged in the commission of the crime of burglary, and that while in the commission of the said crime of burglary, he killed one Stella Blauvelt a human being, then you should find the defendant guilty of murder as charged in the information, and you should find it to be murder of the first degree.

Given [as modified Refused]*

Fricke, Judge.

Murder —— Defined ——

The defendant is charged in coun- 1 with the crime of murder.

Murder is the unlawful killing of a human being with malice aforethought.

Penal Code Sec. 187.

[*Words enclosed in brackets erased in copy.]

Such malice may be expressed or implied. It is express when there is manifested a deliberate intention unlawfully to take away the life of a fellow creature. It is implied when no considerable provocation appears, or when the [fol. 28] circumstances attending the killing show an abandoned and malignant heart.

Penal Code Sec. 188.

All murder which is perpetrated by means of poison or lying in wait, torture, or by any other kind of willful, deliberate and premeditated killing, or which is committed in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, or mayhem, is murder of the first degree, and all other kinds of murder are of the second degree.

Penal Code Sec. 189.

In dividing murder into degrees the legislature intended to assign to the first as deserving of greater punishment, all murders of a cruel and aggravated character, and to the second all other kinds of murder which are murder at common law, and to establish a test by which the degree of every case of murder may be readily ascertained. That test may be thus states; Is the killing wilful (that is to say, intentional), deliberate and premeditated? If it is, the case falls with- the first, and if not, within the second degree. There are certain kinds of murder which carry with them conclusive evidence of premeditation; these the legislature has enumerated in the code definition already given you, and has taken upon itself the responsibility of saying that they shall be deemed and held to be murder of the first degree. These cases are of two classes:

First. Where the killing is perpetrated by means of [fol. 29] poison, torture or lying in wait. Here the means used is held to be conclusive evidence of premeditation.

Second. Where the killing is done in the perpetration, or attempt to perpetrate, burglary or some one of the other felonies enumerated in the statute, here the occasion is made conclusive evidence of premeditation. Where the case comes within either of these classes the test question: Is the killing willful, deliberate and premeditated? is answered by the statute itself, and the jury have no option but to find the prisoner guilty in the first degree. Hence so far as these two cases are concerned, all difficulty as to the question of degree is removed by the statute.

In determining the intention of the defendant at the time of the transaction complained of, it is important to consider the means used to accomplish the killing. The intent or intention is manifested by the circumstances connected with the offense, and the sound mind and discretion of the accused. All persons are of sound mind who are neither idiots, nor lunatics, nor affected with insanity.

Penal Code Sec. 21.

A person must be presumed to intend to do that which he voluntarily and willfully does in fact do, and must also be presumed to intend all the natural, probable and usual consequences of his own acts.

Given as Modified [Given as modified Refused]*
Fricke, Judge.

[fol. 30] The defendant is charged in Count 2 with burglary.

Any person who enters any house, room or apartment, with intent to commit grand or petty theft is guilty of burglary.

Penal Code, Section 459.

Given as Modified [Given as modified Refused]*
Fricke, Judge.

Murder—Penalty

The law of this State provides that every person guilty of murder in the first degree shall suffer death, or confinement in the state prison for life, at the discretion of the jury.

If you find that the defendant is guilty of murder in the first degree it will be your duty to fix the penalty. It is entirely for the jury to determine which of the two penalties is to be inflicted in case of murder in the first degree, the death penalty or confinement in the state prison for life. If the jury should fix the penalty as confinement in the state prison for life, you will so indicate in your verdict. If, however, you fix the penalty at death, [fol. 31] you will say nothing on this subject in your verdict, nor will you specify the death penalty in your verdict. In the exercise of your discretion as to which punishment

[*Words enclosed in brackets erased in copy.]

shall be inflicted you are entirely free to act according to your own judgment.

190 P. C.

Given [as modified Refused]*

Fricke, Judge.

Burglary—Degrees

You are instructed that every burglary of an inhabited dwelling-house or building committed in the night-time, and every burglary, whether in the daytime or night-time, committed by a person armed with a deadly weapon, or who while in the commission of such burglary arms himself with a deadly weapon, or who while in the commission of such burglary assaults any person, is burglary of the first degree. All other kinds of burglary are of the second degree.

Sec. 460, Penal Code.

If you should find the defendant guilty of burglary, it will be your duty to determine the degree thereof, and to state such degree in your verdict.

Given [as modified Refused]*

Fricke, Judge.

[fol. 32] [File endorsement omitted.]

[fol. 33] IN SUPERIOR COURT OF LOS ANGELES COUNTY

DEFENDANT'S REQUESTED INSTRUCTIONS—Filed November
22, 1944

Defendant's Instruction No. —

You are instructed that the evidence in this case is circumstantial evidence. Where circumstantial evidence is relied upon the circumstances must not only be consistent with guilt but they must be inconsistent with any other rational hypothesis, and if from the evidence in this case there is a rational hypothesis of innocence you must acquit the defendant.

[Given as modified Refused]* Refused Covered.

Fricke, Judge.

[*Words enclosed in brackets erased in copy.]

Defendant's Instruction No. —

You are instructed that the evidence in this case is circumstantial evidence and that where the evidence is circumstantial evidence and there are two reasonable theories which you may adopt, one leading toward innocence and the other leading toward guilt, you must adopt that one leading toward innocence and reject that one leading toward guilt.

[Given as modified Refused]* Refused Covered.
Fricke, Judge.

[fol. 34] Defendant's Instruction No. —

You are instructed that where circumstantial evidence is relied upon as to any fact in the case and those circumstances are equally compatible with innocence or guilt, you must adopt those circumstances leading toward innocence and reject those circumstances leading toward guilt.

[Given as modified]* Refused Covered.
Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the law is not vindictive. Its policy is to protect the innocent. It deems it better that many guilty should escape than that one innocent person should be convicted and suffer punishment for a crime which has not been committed. Therefore the law encourages jurors and requires them to give the defendant the benefit of every reasonable doubt and to acquit him if the jurors, as reasonable men and women, conscientiously can find a [fol. 35] reasonable doubt in the case.

[Given as modified]*
Refused Argumentative and instructions on fact as far as first two sentences are concerned. Reasonable doubt covered by instruction given.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that where expert testimony is relied upon by either side, it is your right to consider any interest which the expert may have in the case. You have the right to reject the testimony of such expert if you believe

[*Words enclosed in brackets erased in copy.]

that by reason of his interest in the case his testimony is unreliable.

[Given as modified]*
Refused Covered.

Fricke, Judge.

[fol. 36] Defendant's Instruction No. —

You are instructed that you cannot convict the defendant in this case upon the opinion testimony of experts but must determine this case from facts introduced in evidence, and if the facts introduced in this case, exclusive of the testimony of experts, are insufficient to establish the offenses [of burglary]* charged as to any count in the information, you must acquit the defendant of such count or counts.

[Given as modified]*
Refused Not the law. There is no such rule as that in arriving at a verdict the jury must disregard the testimony of experts.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that a reasonable doubt may arise from the unsatisfactory nature of the prosecution's evidence and if the evidence is of such character as to leave a reasonable doubt in your mind you must acquit the defendant, irrespective of whether the defendant took the stand or [fol. 37] offered any proof.

[Given as modified]*
Refused Covered—1096a P. C.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that it is not necessary for the defendant in any event to prove his innocence if the defendant has elected in this case to rest upon the weakness of the prosecution's case, and if you find after a consideration of the prosecution's case that there is a reasonable doubt in your minds as to the guilt of the defendant, you must acquit him.

[Given as modified]*
Refused Covered 1096a P. C.

Fricke, Judge.

[*Words enclosed in brackets erased in copy.]

Defendant's Instruction No. —

You are instructed that the defendant is presumed to be innocent until his guilt is clearly established by the evidence [fol. 38] beyond a reasonable doubt. All presumptions of law are in favor of the innocence of persons accused of the commission of crimes and every person so accused is presumed to be innocent until the contrary is shown and until his guilt is established by the preponderance of evidence in the trial of the case, and this presumption of innocence remains with the defendant at every stage of the trial unless and until the evidence convinces you to the contrary beyond all reasonable doubt.

[Given as modified]*

Refused Covered 1096a P. C.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that if you entertain a reasonable doubt as to the guilt of the defendant as to [any or all]* either of the counts in the information, you must give him the benefit of that doubt and acquit him, on such count or counts.

[Given as modified]*

Refused Covered—1096a P. C.

Fricke, Judge.

[fol. 39] Defendant's Instruction No. —

You are instructed that it is not sufficient to warrant the conviction of the defendant for the prosecution to awaken in your minds a suspicion that the defendant did any of the things alleged in the information. Neither is it sufficient for the prosecution to satisfy your minds that it is more probable that the defendant committed the offense or any of the offenses mentioned in the information than that he did not; before you are justified in finding him guilty the prosecution must go further and prove such facts against the defendant beyond a reasonable doubt.

[Given as modified]*

Refused Covered by general and reasonable doubt instructions.

Fricke, Judge.

[*Words enclosed in brackets erased in copy.]

Defendant's Instruction No. —

You are instructed that a reasonable doubt is that state of the case which, after a comparison and consideration of all the evidence, leaves your minds in that condition that you cannot say you feel an abiding conviction to a [fol. 40] certainty that the accused committed the offense.

[Given as modified]*

Refused Covered—1096a P. C.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that you cannot convict on mere suspicion, conjecture or guesswork, and if the evidence in this case leaves your minds in that state where you have to guess at the verdict or conjecture upon it or if it is based merely on suspicion, you must acquit the defendant.

[Given as modified]*

Refused Covered—1096a P. C.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that specific intent to commit larceny is an essential element of the crime of burglary and that whenever specific intent is an essential element of the offense, no presumption of law can arise as to the existence [fol. 41] of such intent, for it is a fact to be proved, like any other fact in the case.

[Given as modified]*

Refused Covered by definition of burglary given.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that if weaker and less satisfactory evidence is offered, when it appears that stronger and more satisfactory evidence was within the power of the people to produce, the evidence offered should be viewed with distrust.

[Given as modified]*

Refused Abstract—not supported by evidence.

Fricke, Judge.

[*Words enclosed in brackets erased in copy.]

[fol. 42] Defendant's Instruction No. —

You are instructed that mere suspicion is not sufficient to justify a conviction.

[Given as modified]*

Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the burden of proof is upon the prosecution to prove each and every element of the crime of burglary beyond a reasonable doubt. Specific intent is an essential element of the crime of burglary and the burden of proof is upon the prosecution to prove specific intent beyond a reasonable doubt.

[Given as modified]*

Refused Covered.

Fricke, Judge.

[fol. 43] Defendant's Instruction No. —

You are instructed that before you can convict the defendant of the crime of burglary you must find that he actually entered the premises with intent then and there to commit larceny. Unless you find that the defendant did actually enter the premises and also that he did so with intent to commit larceny you must acquit the defendant. The burden of proof is upon the prosecution to prove such intent beyond a reasonable doubt; that burden never shifts, and remains upon the prosecution throughout the whole case and if you believe from the evidence [as to any count or counts]* that the defendant did not enter the premises involved or that he did not have the specific intent to commit larceny, or if there is a reasonable doubt as to such entry and intent in your minds, then you must acquit the defendant of burglary.

[Given as modified]*

Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that you cannot convict the defendant [fol. 44] of burglary unless you believe to a moral certainty

[*Words enclosed in brackets erased in copy.]

and beyond a reasonable doubt that the defendant entered the premises described in the information with the intent to commit grand or petty larceny.

[Given as modified]*

Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that you cannot convict the defendant on mere suspicion, conjecture, guesswork, or surmise.

[Given as modified]*

Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that a reasonable doubt may arise from the unsatisfactory nature of the prosecution's evidence and if the evidence is of such character as to leave a reasonable doubt in your mind you must acquit the defendant, [fol. 45] ant, irrespective of whether the defendant took the stand or offered any proof.

[Given as modified]*

Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

If you believe beyond all reasonable doubt that the defendant was guilty of some crime necessarily included in the information, but have a reasonable doubt as to whether the crime was murder or manslaughter, you must give him the benefit of that reasonable doubt and acquit him of murder and find him guilty of manslaughter only.

[Given as modified]*

Refused Defdt. is either guilty of murder (P. v. Fountain 170 Cal. 460) or not guilty.

Fricke, Judge.

[fol. 46] Defendant's Instruction No. —

You are instructed that if you believe that the defendant killed the decedent as charged in the information and that the killing was not excusable or justifiable and believe all

[*Words enclosed in brackets erased in copy.]

this to be proved to a moral certainty and beyond a reasonable doubt, but entertain a reasonable doubt as to whether the killing was murder in the first degree as defined in the instructions, you must acquit the defendant of that grade of the offense and you can only find him guilty, if you find him guilty at all, of murder in the second degree or of manslaughter, which are offenses included in the charge contained in the information, for the jury may find the defendant guilty of any offense, the commission of which is necessarily included in that with which he is charged.

[Given as modified]*

Refused Killing was first degree as death by strangulation is a killing by torture and first degree murder P. v. Fountain, 170 Cal. 460—no reasonable inference but that killing was in perpetration of burglary P. v. Witt, 170 Cal. 104;

Fricke, Judge.

[fol. 47] Defendant's Instruction No. —

You are instructed that you are not bound to accept the opinion of any expert as conclusive but should give to it the credibility and weight to which you find it to be entitled. You also have a right to consider such evidence, together with your own inspection of the physical evidence and then form your own opinion, because you are the sole judges of the facts in this case.

[Given as modified]*

Refused Covered by statutory instruction—1127b.
Penal Code.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that it is the policy of the law to zealously protect the innocent. In a criminal case the law clothes the defendant with a presumption of innocence and casts upon the people the burden of proving guilt beyond a reasonable doubt. The defendant is not obliged to prove his innocence or offer any proof thereon, and if the defendant elects not to take the witness stand but to rest upon what he believes to be the weakness or insufficiency of the [fol. 48] people's case, he has a right to so do and no infer-

[*Words enclosed in brackets erased in copy.]

ence or presumption of guilt arises from his failure to take the witness stand.

[Given as modified]*
Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the fact that the prosecutor has a right to comment on the failure of the defendant to take the stand does not relieve the prosecution of the burden of establishing guilt beyond a reasonable doubt and by competent and legal evidence.

People v. Sawaya, 46 Cal. App. 2d, 466.

[Given as modified]*
Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the right of the prosecution to [fol. 49] comment on the failure of the defendant to take the stand cannot be used to supply a failure of proof by the prosecution.

People v. Zoffel, 35 Cal. App. 2d, 215
[Given as modified]*
Refused.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the burden of proof rests on the prosecution and the failure of the defendant to take the stand raises no presumption or inference of guilt.

People v. Zoffel, 35 Cal. App. 2d 215.
[Given as modified]*
Refused.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that if you find and are satisfied beyond a reasonable doubt that the defendant committed the [murder]*, homicide and that he was not in the act of [fol. 50] burglarizing the apartment, but that the [mur-

[*Words enclosed in brackets erased in copy.]

der]* homicide was committed upon a sudden quarrel or in the heat of passion, or in the commission of an unlawful act not amounting to a felony, then you cannot convict the defendant of anything greater than manslaughter.

[Given as modified]*

Refused Abstract—also under 1105 P. C. Burden was upon defdt. to show crime only amounted to manslaughter. Furthermore killing by strangulation, a fact here conclusively established makes the crime first degree murder so the law says death by torture is first degree murder. P v. Fountain, 170 Cal. 460.

Fricke, Judge.

Defendant's Instruction No. —

If you believe beyond a reasonable doubt that the defendant killed the deceased as charged in the information, and further believe that the killing was done while in the perpetration or attempt to perpetrate a felony, to-wit, burglary, and further believe that the killing was not manslaughter, nor justifiable, nor excusable, nor murder of the second [fol. 51] degree, but that it was murder of the first degree, it is within your discretion to determine whether he shall suffer death or confinement in the state prison for life. This discretion, however, should not be exercised by you arbitrarily, and its exercise should not be based upon passion or anything other than *than* a calm consideration of the evidence.

If, upon such consideration of the evidence, you doubt that the defendant should suffer the death penalty, then you should give him the benefit of that doubt and fix his punishment at imprisonment for life, provided, of course, you believe beyond all reasonable doubt that he is guilty of murder of the first degree.

[Given as modified]*

Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that if you find that the killing in this case did not take place during the commission or attempted commission of burglary, and that the killing was done with-

[*Words enclosed in brackets erased in copy.]

out malice on the part of the defendant, then you can find him guilty only of manslaughter, if you find him guilty of [fol. 52] any crime.

[Given as modified]*

Refused Not the law—a killing by strangulation is first degree murder. P. Fountain, 170 Cal. 460.

—, Judge.

Defendant's Instruction No. —

You are instructed that the finding of the defendant's fingerprints on the door to the garbage disposal compartment, alone and of itself, is insufficient to justify a verdict of murder.

[Given as modified]*

Refused Comment on fact which the court does not desire to make. Since the evidence conclusively shows the commission of murder and there is other evidence such an instruction tends to mislead the jury. We are not dealing with a case of only fingerprint evidence. Defense not entitled to an instruction as to every bit of evidence.

Fricke, Judge.

[fol. 53] Defendant's Instruction No. —

You are instructed that mere suspicion, no matter how strong that suspicion may be, is not sufficient to justify a conviction.

[Given as modified]*

Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the finding of the defendant's fingerprints on the door to the garbage disposal compartment does not give rise to any inference that the defendant committed murder, or killed the deceased.

[Given as modified]*

Refused Fallacious—also a comment on a matter of fact which the law does not permit counsel to make (1127 P. C.).

Fricke, Judge.

[*Words enclosed in brackets erased in copy.]

[fol. 54] Defendant's Instruction No. —

You are instructed that all murder which is perpetrated by means of poison or lying in wait, or torture, or by any other kind of willful, deliberate and premeditated killing, or which is committed in the perpetration or attempt to perpetrate arson, rape, robbery, burglary, or mayhem, is murder of the first degree; all other kinds of murder are of the second degree.

Manslaughter is the unlawful killing of a human being without malice. It is of two kinds, (1) voluntary—upon a sudden quarrel or heat of passion, and (2) involuntary—in the commission of an unlawful act not amounting to a felony; or in the commission of a lawful act which might produce death, in an unlawful manner or without due caution or circumspection.

You are instructed that before you can convict the defendant of murder in the first degree you must find and be satisfied beyond a reasonable doubt that the murder was committed in the perpetration or attempt to perpetrate burglary; unless you find and are satisfied beyond a reasonable doubt that the defendant unlawfully entered the apartment of the deceased with the intent to commit larceny, which is one of the elements of burglary, and that the defendant committed the murder while in the commission or attempt to commit such burglary, then you cannot find him [fol. 55] guilty of murder in the first degree, and your verdict, if you find that the defendant committed the homicide at all, would have to be murder in the second degree, or manslaughter.

[Given as modified]*

Refused Not the law—wholly ignores that a killing by torture is first degree murder by statute (P. C. 189) and this is a killing by torture (P v Fountain, 170 Cal. 460.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the presumption of innocence goes with the defendant throughout the whole trial, even until the verdict is rendered, and this presumption of innocence outweighs and overbalances all suspicion and sup-

[*Words enclosed in brackets erased in copy.]

position and can only be destroyed by proof of guilt beyond a reasonable doubt.

[Given as modified]*
Refused Covered 1096a P. C.

Fricke, Judge.

[fol. 56] Defendant's Instruction No. —

You are instructed that the gravamen of the crime of burglary is the unlawful entry with intent to commit theft. If you find as to the burglary count in the information that the accused entered the premises and that the intent to commit theft did not occur until after the entry, you must find him not guilty of the crime of burglary, for then the crime would be theft and not burglary.

[Given as modified]*
Refused.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that the defendant is presumed to be innocent until his guilt is clearly established by the evidence beyond a reasonable doubt. All presumptions of law are in favor of the innocence of persons accused of the commission of crimes and every person so accused is presumed to be innocent until the contrary is shown and until his guilt is established by the preponderance of evidence in the trial of the case, and this presumption of innocence remains with [fol. 57] the defendant at every stage of the trial unless and until the evidence convinces you to the contrary beyond all reasonable doubt.

[Given as modified]*
Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that it is not necessary for the defendant in any event to prove his innocence if the defendant has elected in this case to rest upon the weakness of the prosecution's case, and if you find after a consideration of the prosecution's case that there is a reasonable doubt in

[*Words enclosed in brackets erased in copy.]

your minds as to the guilt of the defendant, you must acquit him.

[Given as modified]*
Refused Covered—1096a P. C.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that if weaker and less satisfactory [fol. 58] evidence is offered when it appears that stronger and more satisfactory evidence was within the power of the People to produce, the evidence offered should be viewed with distrust.

[Given as modified]*
Refused Abstract.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that you cannot convict upon mere suspicion, conjecture or guesswork, and if the evidence in this case leaves your minds in that state where you have to guess at the verdict or conjecture upon it, or if it is based merely upon suspicion, you must acquit the defendant.

[Given as modified]*
Refused Covered.

Fricke, Judge.

Defendant's Instruction No. —

You are instructed that in weighing the evidence of witness [fol. 59] nesses you have the right to consider their intelligence, their appearance on the witness stand, their apparent candor and fairness in giving their testimony, or the want of such candor and fairness, their interest, if any, in the result of the trial, their opportunities of seeing and knowing the matters concerning which they testify, the probable or improba-le nature of the stories they tell, and from these things, together with all the facts and circumstances surrounding the case as disclosed by the testimony, to determine where the truth of the matter lies.

[Given as modified]*
Refused Covered.

Fricke, Judge.

[File endorsement omitted.]

[*Words enclosed in brackets erased in copy.]

[fol. 60] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

VERDICT—Filed November 22, 1944

We, the Jury in the above entitled action, find the Defendant guilty of Murder, a felony, as charged in Count #1 of the information and find it to be Murder of the First Degree.

This 22 day of November, 1944.

Iva B. Dickie, Foreman.

[File endorsement omitted.]

[fol. 61] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

VERDICT—Filed November 22, 1944

We, the Jury in the above entitled action, find the Defendant guilty of Burglary, a felony, as charged in Count #2 of the information and find it to be Burglary of the first degree.

This 23 day of November 1944.

Ivan B. Dickie, Foreman.

[File endorsement omitted.]

[fol. 62] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 24, 1944

Deputy District Attorney S. Ernest Roll and the Defendant with his counsel, Milton B. Safier, present.

Defendant moves orally for a new trial.

The hearing on said motion for new trial and the pronouncing of judgment and sentence are continued to November 27, 1944 at 9:00 A. M.

[fol. 63] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MOTION FOR A NEW TRIAL—Filed November 27, 1944

Comes now the defendant, Admiral Dewey Adamson, and moves for a new trial in the above-entitled case upon the following grounds:

I

The verdict is contrary to the law.

II

The verdict is contrary to the evidence.

III

The evidence is insufficient to sustain the verdict.

IV

The jury received evidence out of court other than that resulting from a view of the premises.

V

The jury separated without leave of Court after retiring to deliberate upon their verdict.

VI

The jury was guilty of misconduct by which a fair consideration of the case was prevented.

[fol. 64]

VII

The verdict was decided by lot.

VIII

The verdict was decided by means other than a fair expression of opinion on the part of all the jurors.

IX

The Court misdirected the jury in matters of law and erred in decisions of questions of law arising during the course of the trial.

X

The Deputy District Attorney prosecuting the case was guilty of prejudicial misconduct during the trial before the jury.

XI

The Court erred in denying defendant's motion for an advised verdict.

XII

New evidence has been discovered material to the defendant which he could not with reasonable diligence have discovered and produced at the trial.

XIII

The Court erred in instructing the jury.

XIV

The Court erred in refusing to give the jury instructions requested by the defendant.

[fol. 65]

XV

The defendant was denied due process of law guaranteed by the Fourteenth Amendment to the Constitution of the United States.

Dated: November 24, 1944.

Morris Lavine and Milton B. Safier, Attorneys for Defendant.

(Endorsed) Received copy of the within Motion this 27 day of Nov., 1944. S. E. Roll, Attorney for P.

[File endorsement omitted.]

[fol. 66] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

MINUTE ENTRY—November 27, 1944

Deputy District Attorney S. Ernest Roll and the Defendant with his counsel, M. B. Safier, present.

Motion for a new trial is denied as to all counts of the information.

No legal cause appearing why judgment should not be pronounced, the Court pronounces judgment and sentence as to Counts 1, 2, 3, 4 and 5 of the information as follows: Defendant is sentenced to the State Prison for the term prescribed by law as to each count but on Count 1, defendant is to be put to death. Defendant is adjudged to be an habitual criminal.

Defendant is remanded into the custody of the Sheriff of the County of Los Angeles, to be by him delivered into the custody of the Warden of the State Prison of the State [fol. 67] of California at San Quentin.

Sentences as to Counts 3, 4 and 5 are ordered to run consecutively with each other and consecutively with sentence in Case No. 98859 and sentences on Counts 1 and 2 are ordered to run concurrently with each other; concurrently with sentences on Counts 3, 4 and 5 and also concurrently with sentence in case No. 98859. These sentences are entered in Judgment Book No. 57, Pages 121 and 122.

Count 1 of the information is automatically appealed.

[fol. 68] IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

Present: Hon. Charles W. Fricke, Judge.

THE PEOPLE OF THE STATE OF CALIFORNIA

vs.

ADMIRAL DEWEY ADAMSON

JUDGMENT—November 27, 1944

Whereas the said Admiral Dewey Adamson having been duly found guilty in this Court of the crime of Murder, a felony, as charged in Count 1 of the information, which the Jury found to be Murder of the first degree without recommendation and Defendant having admitted prior convictions of felonies as alleged in the information, to-wit: Burglary and Larceny, a felony, convicted in the Circuit Court of the State of Missouri, Jackson County, upon which judgment was rendered on or about February 3, 1920 and

having admitted that he served a term of imprisonment therefor in the State Prison and Robbery, a felony, convicted in the Circuit Court of the State of Missouri, Jackson County, upon which judgment was rendered on or about June 30, 1927 and having admitted that he served a term of imprisonment therefor in the State Prison
 [fol. 69] The Court adjudges the Defendant to be an Habitual Criminal.

It is the judgment and sentence of this court for the crime of murder in the first degree, of which you, the said Admiral Dewey Adamson, have been convicted by the verdict of a jury, carrying with it the extreme penalty of the law, that you, the said Admiral Dewey Adamson, be delivered by the Sheriff of Los Angeles County, State of California, to the Warden of the State Prison of the State of California at San Quentin, to be by him executed and put to death by the administration of lethal gas, in the manner provided by the laws of the State of California, and the Sheriff is directed to deliver you, the said Admiral Dewey Adamson, to the said Warden of the State Prison at San Quentin within ten days from this date, to be held by said Warden pending the decision of this case on appeal.

Done in open Court this 27th day of November, 1944.

[fol. 70] IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 IN AND FOR THE COUNTY OF LOS ANGELES

Present: Hon. Charles W. Fricke, Judge.

THE PEOPLE OF THE STATE OF CALIFORNIA

vs.

ADMIRAL DEWEY ADAMSON

JUDGMENT—November 27, 1944

Whereas the said Admiral Dewey Adamson having been duly found guilty in this Court of the crime of Burglary, a felony, as charged in Count 2 of the information, which the Jury found to be Burglary of the first degree and Defendant having admitted prior convictions of felonies as alleged in the information, to-wit: Burglary and Larceny, a felony, convicted in the Circuit Court of the State of Mis-

souri, Jackson County, upon which judgment was rendered on or about February 3, 1920 and having admitted that he served a term of imprisonment therefor in the State Prison and Robbery, a felony, convicted in the Circuit Court of the State of Missouri, Jackson County, upon which judgment was rendered on or about June 30, 1927 and having admitted that he served a term of imprisonment therefor in the State Prison

[fol. 71] It Is Therefore Ordered, Adjudged and Decreed that the said Admiral Dewey Adamson is adjudged to be an Habitual Criminal and that he be punished by imprisonment in the State Prison for the term prescribed by law, which sentence is ordered to run Concurrently with sentences in Case No. 98734, Counts 1, 3, 4 and 5 and Concurrently with sentence in Case No. 98859.

It is further Ordered that the defendant be remanded to the custody of the Sheriff of the County of Los Angeles, to be by him delivered into the custody of the Warden of the State Prison of the State of California at San Quentin.

Done in open Court this 27th day of November, 1944.

[fol. 72] IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

Department 43. Hon. Charles W. Fricke, Judge Presiding

No. 98734

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,

v.

ADMIRAL DEWEY ADAMSON, Defendant

COMMITMENT DEATH SENTENCE—November 27, 1944

To the Sheriff of Los Angeles County, and to the Warden of the State Prison of the State of California at San Quentin:

Be It Remembered that on the 14th day of September, 1944, an information was filed against the defendant, Admiral Dewey Adamson, by the District Attorney, charging him with having, on the 24th day of July, 1944, murdered

Stella Blauvelt. That the defendant entered a plea of not guilty to the charge contained in the information, and that the cause came on for trial on the 14th day of November, 1944, before a jury. After hearing the evidence and instructions of the court, the jury retired and returned a verdict on the 22nd day of November, 1944, finding the defendant guilty of the crime of murder, as charged in the information, finding it to be murder of the first degree, and making no recommendation in their verdict as to the matter of penalty. That at the request of the defendant, further proceedings and the passing of judgment and sentence were continued [fol. 73] to and set for the 27th day of November, 1944, at the hour of 9:00 o'clock a. m. That on the 27th day of November, 1944, the defendant, by his counsel, moved for a new trial on all the grounds set forth in the Penal Code. That said motion for a new trial was on the 27th day of November, 1944, denied, whereupon the court pronounced judgment as follows:

"It is the judgment and sentence of this Court for the crime of murder in the first degree, of which you, the said Admiral Dewey Adamson, have been convicted by the verdict of a jury, carrying with it the extreme penalty of the law, that you, the said Admiral Dewey Adamson, be delivered by the Sheriff of Los Angeles County, State of California, to the Warden of the State Prison of the State of California at San Quentin, to be by him executed and put to death by the administration of lethal gas, in the manner provided by the laws of the State of California, and the Sheriff is directed to deliver you, the said Admiral Dewey Adamson, to the said Warden of the State Prison at San Quentin within ten days from this date, to be held by said Warden pending the decision of this case on appeal."

Now, Therefore, this is to command you, the Sheriff of said County of Los Angeles, as provided in said judgment, to take the said Admiral Dewey Adamson to the State Prison of the State of California at San Quentin and deliver him into the custody of the Warden of said State Prison; and this further is to command you, the said Warden of the [fol. 74] said State Prison of the State of California at San Quentin, to hold the said Admiral Dewey Adamson pending the decision of this cause on appeal, and upon the judgment herein becoming final to carry into effect the said judgment of said Court at a time and on a date to be here-

after fixed by order of this Court, within the said State Prison, at which time and place you shall then and there put to death the said Admiral Dewey Adamson by the administration of lethal gas.

In Testimony Whereof, I have hereunto set my hand as Judge of the Superior Court, and caused the seal of said court to be hereto affixed this 27 day of November, 1944.

Chas. W. Fricke, Judge of the Superior Court.

Attest: J. F. Moroney, County Clerk and Clerk of the Superior Court of the State of California, in and for the County of Los Angeles, by A. W. Moore, Deputy. (Seal.)

[fol. 75] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

NOTICE OF APPEAL

Comes now the defendant above named and gives written notice of appeal from the verdicts, judgments pronounced, and orders denying the motion for a new trial, to the Supreme Court of the State of California.

Dated: November 30, 1944.

Milton B. Safier, Morris Lavine, Attorneys for Defendant.

[fol. 76] IN SUPERIOR COURT OF LOS ANGELES COUNTY

[Title omitted]

REQUEST FOR PREPARATION OF RECORD ON APPEAL AND FOR INCLUSION OF ADDITIONAL MATTERS IN CLERK'S AND REPORTER'S TRANSCRIPTS: STATEMENT IN GENERAL OF GROUNDS OF APPEAL—Filed December 1, 1944

Comes now the defendant and appeals to the Supreme Court of the State of California from the verdicts rendered and judgments pronounced and from orders denying motion for new trial, which judgments were pronounced and orders entered on the 27th day of November, 1944, and requests that the clerk's and reporter's transcripts on appeal be

prepared and filed. Appellant states that upon said appeal it will be necessary that the record on appeal in addition to the normal record include the following:

I

That the clerk's transcript on appeal, in addition to the normal record, include the following:

1. All minutes of the court;
2. All minutes showing motion for an advised verdict; [fol. 77]
3. All minutes showing motion for a new trial and order denying same;
4. All instructions given and refused, requested both by the People and the defendant and all instructions modified by the Court and given to the jury.
5. All written pleadings.

II

That the reporter's transcript on appeal, in addition to the normal record, include the following:

1. All proceedings had on the motions for an advised verdict;
2. All proceedings had on motion for a new trial, and order denying same;
3. All motions, objections, arguments of counsel, and rulings of the Court during the trial of the case;
4. All instructions given to the jury and all instructions refused or modified.
5. All remarks and statements of the Court and of the District Attorney during the trial of the case.
6. All proceedings had at the bench or elsewhere out of hearing of the jury.
7. All proceedings had relative to appointment of finger print expert.

III

Defendant states that the foregoing additional record on appeal will be necessary in addition to the normal record [fol. 78] in order to support the following grounds for appeal;

1. The question of the guilt or innocence of the defendant and the degree of offence or offences, if any, or included offence or offences if any.

2. The insufficiency of the evidence to sustain or justify the verdicts;
3. Errors of the Court in sustaining and overruling objections to the admission of evidence.
4. Errors of the Court in denying defendant's motions for an advised verdict.
5. Errors of the Court in denying defendants motion for new trial.
6. Errors of the Court in giving certain instructions to the jury.
7. Errors of the court in refusing defendant's requested instructions.
8. Misconduct of the Deputy District Attorney trying the case.

Dated; November, 30, 1944.

Milton B. Safier, Morris Lavine, Attorneys for Defendant.

Approved: Fricke, J.

[fol. 79] (Endorsed:) Received copy of the within — this 1st day of December, 1944. Fred N. Howser by James Gibbons, Attorney for Plaintiff.

[File endorsement omitted.]

[fol. 80] Clerk's Certificate to foregoing transcript omitted in printing.

[fols. 81-82] IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF LOS ANGELES

Department 43

Hon. CHARLES W. FRICKE, Judge

No. 98734

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff,
vs.

ADMIRAL DEWEY ADAMSON, Defendant

Reporter's Transcript

APPEARANCES:

For the People: S. Ernest Roll, Esq., Deputy District Attorney of Los Angeles County;

For the Defendant: Milton B. Safier, Esq.

[fol. 83] Tuesday, November 14, 1944; 11:40 o'clock A. M.

Upon the above date the defendant personally appeared in open court with his counsel, Milton B. Safier, Esq., The People being represented by S. Ernest Roll, Esq., Deputy District Attorney of Los Angeles County, whereupon the following proceedings were had and the following testimony was taken, to-wit:

The Court: Call this case of People vs. Adamson. The clerk may draw a jury.

(Selection of a jury was thereupon commenced and concluded at 10 o'clock a. m. on November 15, 1944.)

The Court: You may swear the jury.

(Jury sworn to try the cause.)

Mr. Roll: May I suggest one alternate, if your Honor please?

The Court: Yes. I think we will draw two alternates.

Mr. Roll: All right.

(Two alternates were thereupon impaneled and duly sworn in the case.)

The Court: In view of the nature of the case, the court will order a daily transcript. The clerk may read the information.

(Information read by the clerk.)

The Court: You may proceed, counsel.
[fol. 84] Mr. Roll: Call Mr. Maurer.

John W. Maurer, called as a witness on behalf of the People, was duly sworn and testified as follows:

The Clerk: State your full name, please.

A. John W. Maurer.

Direct examination.

By Mr. Roll:

Q. Will you state your full name again, please, sir?
A. John W. Maurer.

Q. Mr. Maurer, what is your business or occupation?
A. I am Police Surveyor.

Q. How long have you been engaged in that work?
A. Fifteen years and over.

Q. You are the gentleman that goes out, at the request of various law-enforcement agencies, to make maps and diagrams of premises, and things of that kind and character?

A. Make surveys and transcribe the survey notes to maps.

Q. Did you have occasion in the case which is now pending here in court to make a diagram of certain premises located at 744 South Catalina Street in the city of Los Angeles?

A. That is right.

Mr. Roll: At this time, if the court please, I have two diagrams here, a large one, which I ask be marked People's [fol. 85] Exhibit 1 for identification, and the smaller one, People's Exhibit 2 for identification.

The Court: They may be so marked.

Mr. Roll: With the permission of the court, I would like to—if we could get some thumb tacks—to put them on the board here.

The Court: Yes.

(Diagrams put on the blackboard.)

Mr. Safier: I will stand back here so I can follow it.

By Mr. Roll:

Q. Now, Mr. Maurer, with reference to this address at 744 South Catalina Street, this diagram was made on the 31st day of October, 1944, is that right?

A. That is right.

Q. With reference to that address there, that is a four-story stucco or brick apartment building, is that not correct?

A. Yes, that is right.

Q. And the location of the diagram that is depicted on People's Exhibit 1 is located on what floor of that apartment?

A. Well, that drawing—the scale of that drawing is one inch equals 2 feet, and that shows the rear two apartments on the fourth floor at 744 South Catalina Street.

Q. And the apartment here at the bottom of the map is known as 410; is that right?

A. That is right.

[fol. 86] Q. And the apartment across the hall is known as 409; is that right?

A. That is right.

Q. Now, with reference to the dark lines, these black lines on the outside, that is the outside wall of the building, is that true?

A. That is right.

Q. With reference to the lines in here, the small lines, those indicate windows; is that correct?

A. That is right.

Q. Roughly, can you tell us the approximate size of this living room here?

A. Yes; it is 14 feet square.

Mr. Roll: Just put that in there, if you will.

(Witness does as requested.)

Q. Also put the distances in, on the inside, of the bathroom, hall, closet, kitchen and dinette there.

(Witness does as requested.)

Q. You have indicated the bathroom is 5 feet 3 inches across?

A. The bathroom is 5.3 feet across.

Q. The bathroom is 5.3 feet across?

A. East and west, and the kitchen is 7.7 feet wide, and, of course, 14 feet long.

Q. And the hallway?

A. The hallway between the kitchen and living room is 2.8 feet.

[fol. 87] Q. Now, without going into too much detail, with reference to this other apartment——

A. That is identical.

Q. That is identical in dimension?

A. Absolutely.

Q. Now, with reference to the door which is shown here of the premises, that enters the apartment, is this the door here indicated by this dark line?

A. That is right. I will indicate that by "D-3", if you wish.

Q. All right. With reference to the kitchen and dinette here, you have indicated over in this corner a stove; is that right?

A. That is right; in the northeast corner of the kitchen is a stove, a gas stove.

Q. What is located over on the other side?

A. Along the west wall of the kitchen, starting from the north partition, there is a garbage—there is a garbage compartment beneath the level of the sink, and above the sink level there is a refrigerator; then, moving in a southerly direction, you come to the drainboard.

[fol. 88] Q. That is down here?

A. Yes, and the sink proper. Then, there is a small kitchenette—there are small cabinets that divide the kitchen from the dinette.

Q. With reference to what you have between these two black areas, that is, 410 and D-4, will you explain what is this area here?

A. Yes. You ascend the stairs—those are the rear stairs to what we call a landing, which would be this rectangular area here; that would be called a landing, stair landing. Then, there is a hall leading to the west, that would be to the rear of the building, to a window that has an exit onto a fire escape which leads on down to the ground; to the west of this landing is a hall—main hall of the apartment build-

ing, and there are two doorways leading into separate apartments.

Q. Now, will you give us the approximate distance across the hall from D-4 to D-3?

A. It is 9 feet.

Q. And I notice going into the apartment which you have designated as 409 you have depicted here a divan?

A. That is right.

Q. It is one of these folding down beds that you pull out and goes back in the closet when it is not in use?

A. Yes. The same type of bed is depicted here in apartment 410, folded in the closet.

[fol. 89] Q. You have also depicted in 409, Mr. Maurer, a divan; is that correct?

A. Yes, a divan in the living room against the north wall, from the windows.

Q. That was the condition of apartment 410 on the day you were out there?

A. That is right.

Q. That is, the 31st of October?

A. Yes.

Q. Now, with reference to this fire escape; as you go down the fire escape what is there on the first floor or ground? Is there a ladder? Can you walk all the way down, or what?

A. That I don't know.

Q. Do you have any measurements there made from her apartment door to apartment 409 or 410, to the nearest door to the next apartment on towards the west?

A. Yes, I made that measurement. It is 31 feet from 409, going along the north side of the hall to apartment 407; 31 feet from door to door, the distance between the doors.

Q. When you say "407" irrespective of the number you took the first door there?

A. Yes.

Q. To get the distance from the first door to 409; is that correct?

[fol. 90] A. The first door west.

Q. It is on the same side as 410 is. Is that door just across the hall from the first one there?

A. That is right, they are the same distance from either 409 or 410 and directly opposite each other in the hall.

Q. Now, you have over here indicated a garbage compartment?

A. That is right.

Q. You have a "D-1" there. What does the "D-1" indicate?

A. That is a door in the landing or hallway itself leading into the garbage compartment from the outside of the apartment or from the hallway.

Mr. Roll: I see Dr. Webb is here. May we put him on and call Mr. Maurer back?

The Court: Yes, you may do so.

[fol. 91] FRANK R. WEBB, called as a witness on behalf of the people, was duly sworn and testified as follows:

The Clerk: State your name, please, Doctor.

A. Frank R. Webb.

Direct examination.

By Mr. Roll:

Q. Your name is Dr. Frank R. Webb?

A. Yes, sir.

Q. You are a physician and surgeon?

A. Yes, sir.

Q. Licensed to practice in the State of California?

A. Yes, sir.

Q. A graduate of a medical school?

A. A graduate of Columbia University, New York City.

Q. What year, Doctor?

A. 1902 from the College of Physicians and Surgeons.

Q. And you served an internship thereafter?

A. I did in Washington, D. C.

Q. After that what type of practice did you engage in?

A. Private practice until 1912 when I came west.

Q. All right, what happened when you came west?

A. I was surgeon for the Pacific Great Eastern in British Columbia until 1915; then after that I came to Los Angeles and was associate professor in the University of Southern California Medical College.

[fol. 92] Q. You have been connected with the County of Los Angeles in an official capacity for how long?

A. I have been associated with the Coroner's office since 1917.

Q. In what capacity, Doctor?

A. As Autopsy Surgeon.

Q. And you have performed several thousand autopsies; is that correct?

A. I have, at least thirty thousand.

Q. How many?

A. Over thirty thousand.

Q. Over thirty thousand. Now, directing your attention to one Stella Blauvelt, did you, Doctor, on the 26th day of July, 1944, perform an autopsy on one Stella Blauvelt?

A. I did.

Q. And do you have a photograph here which shows a fair representation of the person upon whom you performed this autopsy?

A. I have.

Q. May I see it, please (receiving photograph)?

The Court: Mark that 3 for identification.

Mr. Roll: Yes.

Q. This is a fair representation, Doctor?

A. It is.

Q. I am going to show you, Doctor, another picture here which I believe is a police photograph and I will ask it be [fol. 93] marked People's Exhibit 4 for identification.

The Court: 4 for identification.

By Mr. Roll:

Q. Is that a different view of the same individual upon whom you performed the autopsy?

A. It is a different view of the same individual and shows the neck region where the wire was tied three times around the neck.

Mr. Roll: At this time, if the court please, I will offer the two photographs, 3 and 4, into evidence.

The Court: So marked.

By Mr. Roll:

Q. Now, Doctor, will you explain to the court and to the ladies and gentlemen of the jury—I should say ladies and gentleman, what examination you made and also the conclusion you came to as to the cause of death?

A. My examination of Stella Blauvelt was made on the 26th day of July, 1944, at 11:48 a. m., and showed the party

to be a female of the white race, aged sixty-four years, height 4 feet 10½ inches, weight 126 pounds, blue eyes, gray hair and light complexion. Further examination showed that there was a slight contusion over the back of both hands. The left humerous was dislocated at the shoulder. There is extensive ecchymosis around the left eye, over the left side of the face extended upward into the left side front of the head and over the left ear. The skull is thick and is intact. The brain tissue is markedly [fol. 94] injected with some subpia hemorrhage. The larynx appears normal, and there is no signs of bruising. The lips are bruised and have a swollen appearance. The lungs are intensely congested and hemorrhagic in consistency and appearance. The heart is normal for her age. The liver of moderate size is pale drab, homogeneous in structural appearance on cut sections and fibrous in consistency. The gall bladder is filled with calculi; the spleen is fibrous and grayish in color. The kidneys are small, shrunken with granular surface and narrowed cortex. The uterus and ovaries, vagina and rectum are normal. The stomach mucosa is normal. There are three superficial bruised grooves, 3/8ths of an inch across, extending around the upper neck region. An electric extension cord was removed from around the neck. On the left side the groove is slightly excoriated; on the right side the neck was a reddened and bruised appearance. From these findings it was determined that the immediate cause of death was strangulation due to constriction around the neck. Other conditions contusion of the brain due to trauma to the head. [fol. 95] Q. Now, Doctor, with reference to what you say you found around her neck, what was that, please?

A. It appeared to be an electric cord, insulated wire.

Q. And the primary cause of death was strangulation?

A. Strangulation, yes, sir.

Q. Doctor, I believe you testified that you saw her on the 26th of July at what time, please?

A. I saw the body on the 26th day of July at 11:48 a. m.

Q. And, Doctor, could you express an opinion based on your experience as to how long, approximately, at that time Stella Blauvelt had been dead, in hours?

A. The body was in pretty fair condition and she had been dead possibly close to 48 hours.

Q. Now, you mentioned the term "ecchymosis." Will you state to the ladies and gentleman of the jury what you mean by ecchymosis?

The Court: Well, that is with reference to the region of the eye?

Mr. Roll: Yes, your Honor.

The Court: All right, Doctor.

A. I stated there is extensive ecchymosis around the left eye, over the left side of the face extending upward into the left side front of the head and over the left ear. By that I refer to a darkened area due to hemorrhage into the tissues of the skin, in other words, commonly spoken of as a bruise, [fol. 96] but really more extensive than the ordinary superficial bruise.

Q. And have you expressed any opinion as to how a bruise of that type or character might have been caused, Doctor?

A. It is very hard to state the method of causing a bruise like that which is extensive over that side. All that I can state is that either some object hit that head or the head hit some object, and that object was not a sharp or cutting object.

Mr. Safier: I didn't understand you.

A. The object was not a sharp or cutting object.

Mr. Safier: It was not.

A. It was not a cutting object. There was no cut on the skin.

By Mr. Roll:

Q. Doctor, you mentioned something about contusion of the hands, I believe.

A. On the back of the hands.

Q. Could you explain a little more in detail what you observed in reference to that?

A. I stated there that the contusion over the back of the hands,—by that I refer exclusively to the back of the hands and not to the knuckles,—it was over the back of the hands, both hands, that showed contusions.

Mr. Roll: You may cross examine.

[fol. 97] Cross-examination.

By Mr. Safier:

Q. Doctor, your autopsy was made on July 26th at 11:48 a.m.; is that correct?

A. Yes, sir.

Q. Where was that made, Doctor?

A. At the Los Angeles County morgue, Hall of Justice.

Q. And you made that autopsy yourself, did you, Doctor?

A. I did.

Q. Now, you read from a report that you have in your hand, Doctor. Is that a report made out by you or dictated by yourself?

A. That is a report dictated to my secretary at the time of the autopsy right at the operating table.

Q. Dictated by yourself, Doctor?

The Court: Do you use the custom, Doctor, of dictating as you are proceeding, step by step?

A. Yes, sir, step by step.

By Mr. Safier:

Q. Doctor, have you an independent recollection of this particular autopsy or is your testimony solely from the written report that you have in your hand?

A. The recollection that I have particularly was a cord, which was still around the neck, left in place for my observation.

Q. Was that cord around the neck the first time you saw the body, Doctor?

[fol. 98] A. Yes, sir.

Q. Was it removed by yourself?

A. No, I think it was removed by my assistant, Mr. Coad, who was working with me.

Q. At the time of the autopsy?

A. At the time, yes, sir.

Q. Would you mind telling me again, Doctor, what the height of this woman was?

A. Her height was 4 feet 10½ inches, weight 126 pounds.

Q. Doctor, you testified at the preliminary hearing in this case in the Municipal Court, did you not, on September 1, 1944?

A. I don't recall the exact date; I haven't a record of that here, but I did testify, yes, sir.

Q. Doctor, I will ask you to read your testimony on page 47, lines 8, 9 and 10.

(Witness does as requested.)

A. Yes, sir.

Q. Did you so testify?

A. I did.

The Court: Just a minute. Let us follow the regular procedure.

By Mr. Safier:

Q. I will ask you, Doctor, if this question was asked you and whether you gave this answer:

"Q. Will you give us the further results of your examination?

[fol. 99] "A. My examination showed the body to be a female of the white race, age sixty-four years, height 5 feet 10½ inches."

Mr. Safier: Now, the answer, your Honor, is very long, it goes on—

The Court: I appreciate that is the only point you want?

Mr. Safier: That is the only point.

The Court: It is not necessary, in proceeding by way of refreshment or impeachment, to read the entire answer if a part of it satisfies the examiner.

Mr. Safier: I want it understood it is only a part of the answer.

Q. Was that question asked and was that your answer?

A. I read my answer from my report here, which definitely states 4 feet 10½ inches. I do not see how I could have said 5 feet 10 inches, when it is written right here in front of me.

Q. I want to know whether this woman's height was 5 feet or 4 feet.

A. 4 feet, 10½ inches.

Q. Now, you testified, Doctor, that the woman had been dead, in your opinion, close to 48 hours?

A. Yes, sir.

Q. Could it have been longer than that?

A. Well, the indications wouldn't lead you to suspect longer, other than it might have been an hour longer or an [fol. 100] hour or two less. But I couldn't state right to the minute.

Q. It wouldn't vary within an hour or two either way?

A. I wouldn't think so.

Q. Now, I believe you testified, Doctor, there were some bruises on the hands?

A. On the back of the hands.

Q. On the back of the hands?

A. Yes.

Q. Was that on the back of both hands?

A. Yes, sir.

Q. Which part of the hand was it, Doctor?

A. Directly over the back of the hands; not over the knuckles, but over this area of the hand, the back of the hand.

Q. Not over the fingers—not over the back of the fingers?

A. No, sir.

Q. That appeared on both hands, I believe you said?

A. Slight contusions on the back of both hands.

Q. Did they appear to be—strike that.

Mr. Safier: That is all, Doctor. Thank you very much.

Mr. Roll: May the doctor be excused, your Honor?

The Court: Yes, the doctor may be excused.

(Witness excused.)

The Court: I think we will take our morning recess at this time. During this recess the jury keep in mind the [fol. 101] admonition not to talk about the case or form or express any opinion. During the conduct of the trial the alternates are a part of the jury and go to the jury room with the jury. But after the jury retires for its deliberation, only the original twelve, or who happen to constitute the original twelve, go to the jury room.

(Recess.)

(The following proceedings were had in the absence of the jury:)

Mr. Roll: If the court please, I would like to make a motion at this time, your Honor, in reference to some testimony which will be introduced in this case. Your Honor knows when we tried the other case against this defendant

it involved fingerprint testimony and Mr. Larbaig was called as an expert in that case, and counsel, in commenting to the jury in that case, mentioned the fact that fingerprint experts were expensive. I would like to state Mr. Larbaig will testify in this case, and I would like to make the motion that the court appoint an additional expert to make an examination of the negatives in this case, which will be turned over by Mr. Larbaig to any experts your Honor should appoint, the negatives of the various prints which were taken at 744 South Catalina Street, and also the negative of the enlargement of the rolled print of this defendant.

The Court: Have you any person to suggest, Mr. Safier? [fol. 102] Mr. Safier: No, I haven't, offhand, your Honor. I might make some inquiry during the noon hour.

The Court: We are rather limited on the question of fingerprint men. Those closely available are connected with law-enforcement agencies.

Mr. Roll: The remainder of them are in the Armed Services.

Mr. Safier: Yes, I have a suggestion, your Honor, on second thought. Capt. Allen—I believe he is retired now, but he used to be at one time with the Bureau of Investigation in the Sheriff's office. As a matter of fact, I talked to him and asked if he had an opportunity to look at these prints. Of course, his time has been rather limited.

The Court: Well, I am a member of the Fingerprint Association, and I do not know just—Is there someone here who knows anything about Capt. Allen's experience? Do you know anything about Capt. Allen's experience?

Mr. Billings: I do, your Honor.

Mr. Roll: Mr. Billings—

Mr. Billings: Capt. Allen worked in the Department along about 1922 or 1923.

The Court: You have reference to Chester Allen now?

Mr. Billings: Yes, Chester Allen.

The Court: He has since retired from the Sheriff's Department. He has been a captain for the last nineteen or [fol. 103] twenty years. He hasn't had the experience in fingerprint work that an expert should have. I recognize him now. I know Chet Allen very well. I would hardly want to take a man who has been out of the work as long as that, if we could get somebody who is more up to date on the matter.

Mr. Roll: I am willing to take—

The Court: I do not hesitate to make the statement the advance in fingerprint technique has changed very radically. As a matter of fact, I just found out something the other day with reference to black fingerprint powder that is being used, that was new to me.

Mr. Roll: I appreciate the situation. We are limited, if your Honor please, in whom we can select. They do have several fingerprint men in the Sheriff's office. I would prefer having one, if possible, who has not made any examination of the prints.

The Court: I think, unquestionably, we should utilize somebody who has never seen these prints at all.

Mr. Roll: That was my thought.

The Court: Merely submit the questioned prints to him and the fingerprint card to him and then let him form his conclusions and let the chips fall where they may. I think that is the only fair way of doing it.

Mr. Roll: Mr. Billings has—I don't know whether counsel was here in court—has rolled the prints of the defendant [fol. 104] and made a comparison of those prints between the—on the priors, the question of the priors.

The Court: I don't think we should use Mr. Billings, to be very frank with you.

Mr. Roll: I wanted to call your Honor's attention to that situation.

Mr. Safier: I think it should be somebody foreign to the Sheriff's office.

The Court: The Sheriff's office is not connected with this case in any way, as far as I know. This is a police case.

Mr. Safier: Except it is a law-enforcement body.

The Court: I am not going to get any amateur fingerprint man here.

Mr. Safier: No, I do not think it should be an amateur, but I think it should be somebody independent of the prosecution and independent of the defendant.

The Court: If you have anybody who comes anywhere near the qualifications, I will be glad to appoint him. It does not make any difference to me who is appointed.

Mr. Safier: Well, I suggest your Honor wait until this afternoon, and I will make some inquiries.

The Court: All right. Suppose, when we take our recess, we come back here a little bit earlier, come back here at twenty minutes to 2 instead of a quarter to 2, and we will take the matter up at that time.

[fol. 105] Mr. Roll: I might suggest, if your Honor please, in so far as the Sheriff's office is concerned, I understand that Mr. Rogers is head of the Fingerprint Department down there. Is that correct?

Mr. Billings: It is.

Mr. Roll: Harry Rogers. I think he is probably qualified.

The Court: He is qualified. The men that I am intimately acquainted with are not men who are at all closely available. A number of them have gone out, some in the Armed Forces and some of them are tied up with occupations that make it impossible for them to take the matter over. We will leave it until that time and see if Mr. Safier has any suggestion to make. I think the value of the testimony, whichever way it breaks, is definitely increased by getting a person who has not had any connection with the case.

Mr. Roll: That was my thought, your Honor.

The Court: I will say, very frankly, I do not think it makes any difference, because this is not one of these opinion sciences. It is a question of whether he is familiar with the work or not. I think the results upon the same product, of any two men who are fingerprint experts, of necessity must be the same.

Mr. Roll: We will have Mr. Larbaig come back at about twenty minutes to 2 and turn the negatives over.

[fol. 106] The Court: Yes. Can you get those negatives for us, Mr. Larbaig?

Mr. Larbaig: Yes, sir.

Mr. Roll: Then, you come back at twenty minutes to 2. I would like to call Dr. Webb back.

The Court: Yes. The record will show the jury, counsel and defendant present.

Frank R. Webb, recalled:

Direct examination (resumed).

By Mr. Roll:

Q. Dr. Webb, in testimony this morning you referred to the light cord and one of the photographs depicted that light cord. During the recess did you go downstairs and bring up the light cord that you found around the neck?

[fol. 107] A. I did.

Q. Is that the light cord there, Doctor (handing light cord to the witness)?

A. I called it an electric cord. It could be for a radio or for a light, but that is the cord that was around the neck.

Q. And that is the cord which is depicted in the photograph which has been introduced here into evidence?

A. It is.

Mr. Roll: I now offer that cord, if the court please, into evidence as People's exhibit next in order.

The Court: I will mark it for identification at the present time. 5 for identification.

Mr. Roll: You may cross-examine.

Cross-examination.

By Mr. Safier:

Q. Dr. Webb, in making that examination of the deceased did you make an examination of the vagina to determine whether or not there was any evidence of criminal attack?

A. We did make that examination and found no abnormality or evidence of spermatozoa from attack.

Mr. Safier: That is all.

The Court: The doctor may be excused.

Mr. Roll: At this time, if the court please, with the court's permission, I would like to have the jurors view the two pictures which Dr. Webb has identified, to supplement [fol. 108] his testimony.

The Court: Yes.

(Photographs handed to the jurors and examined by them.)

Mr. Roll: Thank you, Doctor.

John W. Maurer, recalled:

Direct examination (resumed).

By Mr. Roll:

Q. Mr. Maurer, with reference to—we were discussing this garbage compartment here on People's Exhibit No. 1, and this "D-1" indicating a small door which is hinged over on this side; is that correct?

A. That is right.

Q. And that leads right out into the hallway; is that true?

A. Yes, from the hallway into the garbage compartment.

Q. And in so far as the area that you have indicated as "D-2" is concerned, right here, at the time you were out there on the 31st of October, 1944, at that time there was no actual door there; is that correct?

A. No, the door was not there, but the hinges, part of the hinges, were attached to the compartment.

Q. Now, with reference to People's Exhibit 2, will you explain to the court and ladies and gentleman of the jury what that is and how that ties in with People's Exhibit [fol. 109] No. 1?

A. Yes. This is a—this drawing over here is a detailed drawing of the garbage compartment in the kitchen of apartment No. 410 at 744 South Catalina Street. The scale of this drawing is larger than in the drawing of Exhibit 1, in that it is a scale of one inch equals 6 inches. It is quite a larger scale than in the other drawing. Now, there are three views on this drawing as indicated in Exhibit No. 2, the first drawing. View 1, I shall call it, is a planned view of the garbage compartment in the kitchen of Apartment 410. Now, a planned view is a view whereby the eye is directly above the objects or the compartment as you are looking down, right down, therefore this "D-1" in View 1 is the same as the door in "D-1" in the Exhibit No. 1, showing it swinging out into the public hall of the apartment building. Now, "D-2" is the door indicated by "D-2" in the garbage compartment in Exhibit 1. Now, this also shows part of the drainboard leading to the sink here, looking down. Now, the actual dimensions, the inside dimensions of that garbage compartment are 2 feet 3 inches along the north and south and is 1 foot 9 inches wide or east and west. That is the dimension. Now, the dimension of this door, the width of the door "D-1" is 1 foot 2 inches, the width of it, the opening. The width or opening of "D-2" is 1 foot 7 inches. The doors swing as indicated on View 1 in Exhibit No. 2. Now, [fol. 110] view No. 2 is the front elevation of the garbage compartment. In other words, if we were standing in front of the stove in the kitchen of apartment 410 and looking forward or at the garbage compartment, you would have a view something like the view here as No. 2, showing the elevation or the heights. Now, we have this

opening in the white space here as the opening in "D-2," and the height of the door is 2 feet 6 inches. It also is 1 and 7 inches wide.

Q. Wait a minute. When you say the height of the door, do you mean the height of the door or the height of the opening?

A. The height of the opening in which—which the door goes into, yes.

Q. Go ahead.

A. Now, there is a shelf, horizontal shelf, naturally, in this compartment, and that shelf is 1 foot 3½ inches above the floor level. This shaded portion here on the right indicates the partition, the main partition from the kitchen out into the landing or hallway of the apartment building.

The Court: For the record, that is the gray shaded portion?

A. Yes, this cross section area. In other words, in view 3, it is called the hall elevation. Standing in the hall looking at the wall, you would see the opening in the wall [fol. 111] on the outside of the apartment or in the hallway or landing. This shaded portion here indicates the wall on the outside of the apartment.

The Court: You are now referring to the yellow shaded portion?

A. Yes. And white rectangular section here indicates the opening corresponding to "D-1" on Exhibit No. 1. Now, the width of that door is 1 foot 2 inches, the same as in view No. 1. The height of the door is 2 foot 6 inches, and also shows this same shelf, under view of the shelf, looking out into the hall, the same elevation as in view No. 1, of 1 foot 3½ inches high above the floor level. The dotted cross sectional part here indicates this partition here running back, the garbage compartment separating the kitchen of 410 and the adjacent apartment to the west.

The Court: There is one question that occurs to me, Mr. Maurer, and that is, you refer to the shelf there. Now, is the garbage compartment area both above and below the shelf, or only the area below the shelf?

A. This whole compartment is—this cross section dotted line here—the top of the entire garbage compartment extends up to this line, which is about the same level as the drainboard of the sink. It is a matter of 3 or 4 inches above

the height of the doors. It is just like a box, a rectangular box, being divided upper and lower, by this shelf, as I have [fol. 112] indicated here.

The Court: The upright height, vertical height of the opening is the sum of the height of the lower compartment plus the height of the other compartment?

A. Yes, sir, this distance above to the dotted line.

The Court: I am referring to the size of the opening.

A. The opening on both "D-1" and "D-2" are the same, being 2 feet 6 inches.

The Court: I see.

[fol. 113] A. And the width of the opening into the kitchen or D-2, is 1-foot 7 inches. The opening of D-1 out into the hallway is 1-foot 2 inches. Incidentally, this shelf is loose on the south edge of it; that is, one can lift the shelf up from the stringer that it rests on.

By Mr. Roll:

Q. What do you mean "stringer"?

A. Well, it is just a small board across there that you nail the shelf to.

Q. Now, in so far as this opening is concerned, this merely indicates the space where the door is; this indicates the space where the door is; is that right?

A. That is right.

Q. The area on the inside is depicted by these lines, outside lines right here?

A. You have the actual inside area and dimensions.

Q. Going back to People's Exhibit 1, you indicated here stairs down, and you pointed this way. In other words, here is the fourth floor coming from the third, and this is the top of your stairs?

A. That is the landing here.

Q. If you want to go down, you go down here?

A. Seventeen stairs down.

Q. Now, while you were out there, Mr. Maurer—it is not depicted on that diagram—but did you make some measurement concerning some light sockets in 410, particularly the living room?

[fol. 114] A. I did.

Q. Can you locate those, from your memory?

A. Approximately, as I recall it, it is approximately on the west wall of the living room and between the south wall to the hallway, as indicated here.

Q. Do you recall whether there is one there on the opposite side somewhere?

A. There is also one over on the east wall of the living room, just about in between the two windows, as indicated.

The Court: There is just a little question in my mind. Do you mean for light sockets? In other words, are there plugs in the baseboard where you can plug in a light, or just a place to plug in?

A. They are in the wall.

The Court: They are not the kind of sockets that you screw a light bulb into?

A. No, you plug in.

Mr. Roll: You may cross examine.

Cross-examination.

By Mr. Safier:

Q. You first went to the premises at 744 South Catalina Street on October 31, 1944; is that correct?

A. That is right.

Q. That was the first time you had been on those premises?

A. That is right.

[fol. 115] Q. Now, is that a brick building?

A. It is—yes, I think it is. It is a class-A building.

Q. Is it on a corner or in the middle of the block?

A. It is in the—between blocks, yes, between streets.

Q. That would be on the east or west side of Catalina?

A. It would be on the east side of the street, facing west.

Q. Between what streets?

A. Between Eighth—Seventh and Eighth, I believe. I imagine it would be approximately 100 feet from—north of Eighth Street.

Q. Between Seventh and Eighth, you said?

A. Yes, I think so. I know it is about 100 feet north of Eighth Street.

Q. Is there also an elevator in the building?

A. There is, an automatic elevator.

Q. Now, the outer walls indicated by the heavy black lines, in the large drawing, are brick—are they brick walls?

A. They are—I think they are. I think it is a brick building.

The Court: At any rate, they are the extreme outside walls of the building?

A. That is right. They are quite a bit thicker than the inside partitions.

[fol. 116] By Mr. Safier:

Q. This side of the drawing, where the fire escape appears, is the east side of the building, is it not?

A. That is the rear; that is the rear of the building; on the east side, yes.

Q. That would be the east side?

A. Yes.

Q. Now, are these the only two apartments of that building of which you made drawings?

A. That is the only two I was in, yes.

Q. What time of day was it you went out there?

A. In the morning, before noon; about 10:30.

Q. Referring to apartment 410, were people living in there when you were there?

A. 410? Yes, it was occupied.

Q. It was occupied?

A. Yes.

Q. Was 409 occupied?

A. I didn't see anyone there. I understood it was.

Q. It appeared to be occupied?

A. Yes.

Q. 409 also appeared to be occupied?

A. Yes.

Q. Now, how many light sockets did you indicate, just two?

A. Yes, that is the only two I saw. I have the exact location in my initial survey, but that is approximately the [fol. 117] location of them, being 7 or 8 or 10 inches above the floor.

Q. They are along the baseboard, aren't they?

A. They are above the baseboard, I think.

Q. Above the baseboard?

A. Yes.

Q. They are sockets which you plug into?

A. That is right.

Q. Now, there is no bedroom in either apartment 409 or 410, is there?

A. Bedroom?

Q. Bedroom.

A. No, it is a living room where the bed pulls out from the—pulls out from the closet and you let it down, as indicated in apartment 409 there.

Q. Now, referring to the garbage compartment, is it directly under the refrigerator, as it appears on that view 2?

A. Yes. The dividing line is indicated there in view 2. It is an inch or so below the level of the drainboard, and above is the refrigerator, and below is what I call the garbage compartment.

Q. What does this line above the white portion indicate?

A. That indicates the ceiling of the garbage compartment.

The Court: I do not know whether the record shows the line you are indicating. Counsel is pointing to the middle elevation on Exhibit 2, the dotted line slightly below the level of the drainboard. Just for the record, that is all.

[fol. 118] Mr. Safier: Yes.

Q. Now, Mr. Maurer, the yellow portion between the line I have just indicated and the top line, or the white section of view 2 is solid, is it not, that is, it is not open from the inside, it is a solid wall, isn't it?

A. Yes, yes. The shaded part there as you look at it, that is all solid.

Q. And view 2 is the opening of the garbage disposal section into the kitchen?

A. That is right.

Q. And view 3 is the opening of the garbage disposal section into the hall?

A. That is right.

Q. Now, you have indicated that the door to the garbage disposal section leading into the hall is hinged on the—

A. East end.

Q. (Continuing)—east end?

A. That is right, it is.

Q. And the door to the garbage compartment on the inside of the kitchen is hinged on the north end?

A. That is right.

Q. Is that correct?

A. That is right.

Q. Now, were both doors on there at the time you went out to this place on October 31st?

A. No, "D-1" was there; "D-2" had been removed. [fol. 119] However, the hinges as I have indicated in view 2 and view 3 or, rather, view 2, were quite evident.

Q. I see. Now, you indicated that there is a shelf in the garbage compartment?

A. That is right.

Q. I believe you testified it rested on a stringer?

A. A cleat, yes, sir.

Q. On one side?

A. Well, it rested on the cleats on both sides, that is the north end of the compartment and the south end. The south, it was loose from the south cleat, I could raise it up.

Q. Well, I am not sure that I understand exactly what you mean by a cleat.

A. Well, that is a cleat here.

Q. Will you explain just what a cleat is, so we will all understand it?

A. Well, here is the wall, two walls, and you want to put a shelf across there. Well, you can't, it is not good practice, or they don't rather, nail this shelf into the wall itself. They will take a piece of lumber, probably a 1-inch by 2-inch cleat and nail it to the wall and to this cleat they will nail the shelf.

Q. I see.

A. And here on the south of the compartment, south of the garbage compartment, that was loose. In other words, I could raise this up.

[fol. 120] Q. How was it on the other side?

A. It apparently was fastened so I could not raise it up.

Q. You could not raise it up?

A. No, sir.

The Court: By the way, did you make any examination so you could tell us whether or not there were any indications of nail holes on the south end of that shelf?

A. No, sir, I didn't notice that.

The Court: I see.

By Mr. Safier:

Q. Now, when you say you could raise it up, how far could you raise that shelf due to the fact it was fastened on the other side?

A. Well, I could raise it up a couple of inches.

Q. A couple of inches?

A. Yes, sir.

Q. Now, this garbage compartment is—"D-1" and "D-2" is sort of an L-shape, isn't it?

A. Well, right here it is in view No. 1, it gives you a large view of it looking down. You would have this offset in here from the door here to this partition here. That would be an L, a matter of 6 or 8 inches.

The Court: I think it is a rather exaggerated L, isn't it?

A. Sir?

The Court: I think it is rather an exaggerated L.

A. Yes, it is a—

[fol. 121] The Court: I think the shape indicated by the diagram is not what we call an L-shape. An L-shape would be very much misleading in the record.

By Mr. Safier:

Q. Now, does the shelf extend all the way to the door indicated by "D-1" and all the way to the door indicated by "D-2"?

A. It does to "D-2," that is the inside.

Q. Yes.

A. On view 1 I think it would be—it would end with a prolongation on the inside of the—

Q. Wall?

A. Wall. I think, and I am sure that on "D-2" it ends over at the inside of the compartment.

Q. Now, the space below the shelf, that is 1 foot $3\frac{1}{2}$ inches?

A. That is right.

Q. And the shelf—

A. From the floor to the shelf, yes.

Q. And the space above the shelf $2\frac{1}{2}$ feet to the top of the opening?

A. Yes, from the floor up. To find this you would subtract 1 foot 3 inches from 2 feet 6 inches and you would get this dimension here.

Q. Now, can you tell me the width of the shelf, the height of the shelf, or dimensions of the shelf?

A. That is approximately one inch.

[fol. 122] One inch?

A. A plain inch board.

Q. Now, you have indicated, referring to "D-2," that the door did not come—is not fastened at the wall but that there was some space on the wall to the hinge of the door; is that correct?

A. Yes, a matter of about 2 or 3 inches.

Q. That space is about 2 or 3 inches, you say?

A. That is right.

Q. You have also indicated the same space on "D-2" from the point where the door meets the wall to the end of the apartment?

A. That is right.

Q. What is the measurement of that space?

A. It is about the same, 3 inches—I will get the exact scale in a minute. Well, this distance of which you speak here to the north of "D-2" is $3\frac{1}{2}$ inches and the distance to the south is $4\frac{1}{2}$ inches. That is outside measurements.

Q. I see. Do you have the actual measurement of the door space itself?

A. Well, that is 1 foot 7 inches, approximately.

Q. And the part indicated by "D-1" is 1 foot 2 inches?

A. That is right.

Q. That is the actual opening?

A. That is right.

[fol. 123] Q. Now, referring to the door at "D-1": how far out does that door open? How far does it swing?

A. This door?

Q. "D-1."

A. "D-1." Well, "D-1" will swing out at right angles, if necessary, to the wall.

Q. How far will "D-2" swing?

The Court: There wasn't any door there when he looked at it, so it would be pure speculation.

A. There wasn't any door there and there is no obstruction there.

By Mr. Safier:

Q. Now, there were some refrigerator pipes in this garbage compartment, any plumbing or piping in that compartment?

A. I do not recall any. There might have been in the upper, above the shelf. I was mainly interested in the

part below the shelf there. There might have been some in the upper portion here.

Q. Could there have been some plumbing in the lower portion, too?

A. I don't think so.

Q. You are not positive?

A. I do not recall seeing any.

Q. But there might have been some, Mr. Maurer?

A. Well, as I say, I do not recall seeing any. I looked in there pretty thoroughly. However, I did not have a [fol. 124] light in there. There might have been some over here along a dark corner that I could not see, but I do not recall seeing any.

Q. But there were some that you do recall in the upper section?

A. No, I did not say that. I did not see any at all. There could have been some in the upper section. I did not give that as close a scrutiny as I did the lower half. There could have been some, as I say, over in this dark corner here that I did not observe.

Q. Now, is the garbage compartment right up flush to the drainboard, right up nearer to the sink?

A. Yes, it is just annexed. There is no gap between the drainboard and the garbage compartment; it adjoins right up against it.

Q. Of course, this living room was furnished, was it not? There was some furniture in there when you were out there?

A. Yes, sir, that is right.

Q. Now, have you the dimensions of the hall from the kitchen to the living room?

A. It is right there. The apartment is 6 feet from outside wall to outside wall.

[fol. 125] Q. Tell me how far it is from the sink portion of the kitchen to the entrance to the living room.

A. 12 feet.

Q. Now, Mr. Maurer, how far is it from the point indicated by D-1 on this large drawing to the next apartment going down the hall in a westerly direction?

A. Well, I will make some calculations here. It is approximately 13 feet from—I will take it center to center—it is approximately $14\frac{1}{2}$ feet from the center of D-1 to D-3, or the door of 410. $14\frac{1}{2}$ feet, and it is 31 feet

from 410 to the next door to the apartment to the west. So I will subtract that. 16½ feet from D-1 to the next door west.

Q. I see. Now, this portion indicated by white, that I am now indicating, which is west of the kitchen of apartment 410, that is one of the rooms of the next apartment, is that right?

A. Yes.

Q. Do you know which room it is?

A. Yes, it is 408. It is directly opposite to 407.

Mr. Safier: I think that is all.

The Court: Anything further from Mr. Maurer?

Mr. Roll: While he is here and has his good measuring instruments, there is an exhibit which I intend to introduce later on—he might give us the outside measurements of that door, if the court please.

[fol. 126] The Court: All right. We will go back to the direct examination for that purpose, however.

Mr. Roll: Yes, your Honor. To identify it for the record, I will offer it as—

The Court: Mark it 6 for identification.

Direct examination (resumed).

By Mr. Roll:

Q. Mr. Maurer, I will ask you to give us the measurements of that door, if you will, please?

A. Do you want with the flange?

Q. Take the inside measurements and then with the flange.

A. 1-foot 7½ inches—the width of it is 1-foot, 7¾ inches.

Q. Now, the width with the flange, if you will give us that, please?

A. The over-all width is 1-foot 8⅝ inches.

Mr. Roll: May the record show he has marked those on there, too?

The Court: Yes.

The Witness: Now, the height of the door is 2-feet 6 inches.

By Mr. Roll:

Q. Will you give us the height of the door with the flange?

A. With the flange—the flange is $\frac{1}{4}$ -inch. So that would make it 2-feet, $6\frac{1}{4}$ inches.

[fol. 127] Mr. Roll: No further questions. Do you have any questions, counsel?

Mr. Safier: No, I have no further questions.

The Court: Mr. Maurer may be excused.

(Witness excused.)

Mr. Roll: Does your Honor desire to call a new witness or take the noon recess?

The Court: I don't think we would gain very much by barely starting and then picking up all the loose ends when we come back. We will take our recess at this time until 1:45. The jury keep in mind the admonition not to talk about the case or form or express any opinion.

(Whereupon a recess was taken until 1:45 o'clock p. m. of the same day, Wednesday, November 15, 1944.)

[fol. 128] Wednesday, November 15, 1944; 1:40 o'clock P. M.

(The following proceedings were had in the absence of the jury:)

The Court: Take up this preliminary matter in the Adamson case. What have you found out in the interim?

Mr. Safier: During the noon hour, your Honor, I telephoned the office and spoke with Mr. Lavine and I asked him concerning a fingerprint expert. He said he would endeavor to suggest somebody, make some inquiries during the noon hour. I telephoned him a little later during the noon hour and he said he had not heard yet; he was making some inquiries but had not got a report back yet as to who was available. So I have no one to suggest at this time. He did say, however, that we had the rest of the afternoon, and perhaps by tomorrow morning we would be able to suggest somebody. At this time I have no one to suggest. It is rather difficult to locate one.

The Court: Well, I am not at all surprised.

Mr. Roll: If the court please, this is the situation: I do not think this case will take terrifically a long time to

try, and I think they should have the benefit of having the prints to make a study of them as soon as possible.

The Court: I haven't the slightest idea as to where you would get any fingerprint experts outside of the sheriff's office, the District Attorney's office or the Police Department. [fol. 129]

(Discussion off the record.)

The Court: I will tell you what I will do. We will just let the matter ride until the afternoon recess, and if there is not any other suggestion I will do the best I can to try and find somebody that does know the situation. It is not because of the difficulty of identifying fingerprints. I think a person who has had just a very short experience in fingerprint identification could come up here and make the identification. But I think when we put a man on the witness stand, especially where the charge is murder, it should be somebody who has had years of experience.

Mr. Safier: Of course, Chester Allen did have a good many years' experience.

The Court: Well, now, if you had said "Chester Allen" when you started, I would have immediately recognized him.

Mr. Safier: I did not remember his first name offhand.

The Court: But his work was largely photographic work in the Department. At that time the fingerprint work in the Sheriff's office was entirely different than it is today. There are many things we have learned in the interim. Things that were considered absolutely impossible those days are perfectly possible now.

Mr. Safier: However, I think, your Honor, that he did some work in comparison. I think he has qualified himself as an expert.

[fol. 130] The Court: That is true. So have I in some matter of the business. But I will be perfectly frank, if I wanted to decide the question of whether two fingerprints were alike, I might look at them and come to a conclusion, but before I acted on it I would have somebody who had some more practical experience look at them. Of course, our California rule as to who is an expert, I think, is wholly unsatisfactory. An expert is a man who knows something more about a subject than a layman.

(The following proceedings were had in the presence of the jury:)

The Court: In the case on trial the record will show the jury, counsel and defendant present. You may proceed.
 Mr. Roll: Mrs. Watts.

Mrs. MAUD B. WATTS, called as a witness on behalf of the people, was duly sworn and testified as follows:

The Clerk: What is your name, please?
 A. Mrs. Maud B. Watts.

Direct examination.

By Mr. Roll:

Q. Your name is Maud B. Watts?
 A. Yes.

Q. Where do you live, Mrs. Watts?
 A. 1801 Bentley Avenue, West Los Angeles.

Q. I take it your occupation is that of a housewife?

[fol. 131] A. Yes.

Q. Is there a Mr. Watts?
 A. There is, my husband.

Q. Mr. Watts is ill at the present time?
 A. Yes, sir.

Q. Confined to the home?
 A. Yes.

Q. Did you, Mrs. Watts, know a Mrs. Stella Blauvelt during her lifetime?

A. I have known her for forty-five years.

Q. And about how large a woman was she?

A. She was a very small woman, short, barely 5 feet, small-boned and a very well-preserved woman for her years; she was of a long-lived family.

Q. Now, Mrs. Watts,—

Mr. Safier: I did not get the last.

Mr. Roll: She said, "She was of a long-lived family."

Mr. Safier: I move to strike that as being a voluntary statement, and not responsive.

The Court: I will allow it to remain in the record. It would require another question to bring out the matter, merely showing the degree of acquaintanceship, if it is material.

By Mr. Roll:

Q. Mrs. Watts, did you know where she was living at the time of her death?

A. Yes, 744 South Catalina Street.

[fol. 132] Q. Had you seen her there?

A. Yes.

Q. With reference to the date of the 24th of July, 1944, which date, I believe, was on a Monday, when had you last seen her previous to that time?

A. On Saturday, the 22nd, we were together—

Q. Saturday, the 22nd of July?

A. Yes, all day.

Q. Where did you meet her that day?

A. At Bullock's, up in the tearoom, and we had lunch together, went across the street and saw a Mark Twain picture and then visited afterward.

Q. About what time did you leave her on that day?

A. I left her about 4:30 or a quarter to 5.

Q. Where did you leave her?

A. At the corner of—we went over to Sheetz and had ice cream and I left her at the corner of Seventh and Hill.

Q. In Los Angeles?

A. Yes.

Q. Now, at that time she was in good health?

A. Very good health.

Mr. Safier: Objected to as calling for a conclusion and opinion of the witness.

The Court: Overruled.

By Mr. Roll:

Q. So far as Mrs. Blauvelt was concerned, did you know her husband?

[fol. 133] A. I had met him, yes, in Chicago.

Q. Was he living or was he deceased, if you know?

A. He was deceased.

Q. On this date of the 24th—strike that. On this date of the 22nd of July, the day you say you spent most of the day with her and went to the picture show, did you notice on that day whether or not she was wearing any jewelry?

A. Yes, she was wearing her gold wedding ring and two diamond rings, her engagement ring was a solitaire, and then that was next to her wedding ring, and then on top

of that was a platinum ring with a large solitaire surrounded by diamonds, and she always wore them, never took them off.

Mr. Safier: I move to strike that as being an opinion and conclusion of the witness.

[fol. 134] The Court: I think you will have to reframe the question for that purpose.

Mr. Roll: Yes, your Honor.

Q. Now, with reference to the rings which you have described—

The Court: That latter part "She always wore them" will be stricken, because the witness will have to limit her answer to those occasions she is familiar with. You may ask her whether she saw her on other occasions or not.

Mr. Safier: I want to move to strike the entire answer, if your Honor please, on the grounds it is incompetent, irrelevant and immaterial what jewelry she was wearing on the 22nd.

The Court: I think the question as to what property a person owns under the statutory charge is material. That portion of the motion is denied.

Mr. Roll: The only portion that is stricken out was the answer, "She always wore them"?

The Court: Yes. I think the witness can only testify as to how frequently she saw—how frequently she wore the rings.

By Mr. Roll:

Q. How frequently, Mrs. Watts, would you say you have seen her during the period of the last two or three years?

A. Well, she was out at our home very often—I cannot just tell. And then we would meet down town and have [fol. 135] our visits. We averaged about—always about once a week being together.

Q. And that was over what period of time?

A. Well, the last six years, since we have been in California.

Q. Do you remember any occasion during that last six years—withdraw that. What would you say with reference to the rings that you have described in your previous answer, on the occasions that you saw her approximately

once a week during the last six weeks, was wearing them or wasn't she wearing them?

Mr. Safier: I object to that as incompetent, irrelevant and immaterial.

The Court: Overruled.

By Mr. Roll:

Q. Do you understand my question?

A. Yes.

Q. You may answer.

The Court: You may answer.

A. I only saw her once without the large ring.

By Mr. Roll:

Q. When was that?

A. That was in mid-winter, because it was being repaired.

Q. Now, with reference to the rings, so we may have a little better description of them——

Mr. Safier: Just a moment. I move to strike out "being repaired".

The Court: It may be stricken.

[fol. 136] By Mr. Roll:

Q. With reference to the rings, so we may have a little better description of them, from your previous answer I believe the ones you have testified to were three in number; is that correct?

A. Yes.

Q. And one was a wedding ring?

A. Yes.

Q. That had no mounting or diamond in it?

A. No, in gold.

Q. Gold wedding ring?

A. Yes.

Q. Will you describe the next ring, please?

A. The next ring was a large solitaire, and I judge, by my own ring that I had, that it was about a carat and a half or a carat and a quarter. It was gold underneath, but the setting, the prongs were platinum.

Q. You have some diamonds of your own?

A. Yes.

Q. You describe this stone you call a solitaire as being a diamond?

A. A diamond, a very blue, white, very clear diamond.

Q. That covers two rings. Now, with reference to the third ring?

A. Well, the solitaire in the center, that was all platinum, the whole ring was platinum and had been designed so that it was raised a little, and the center stone was about the [fol. 137] same size as the engagement or the other stone, the single; and then the surrounding stones were not chips; they were whole diamonds, but smaller.

Q. Are you able to tell the court and the members of the jury how many smaller stones there were in this ring that you are now describing?

A. Well, I know there were at least six, perhaps seven.

Q. Now, Mrs. Watts, after the decease of Mrs. Blauvelt was your husband appointed administrator of the estate?

A. Yes.

Q. Did you some time after she was found, I believe, on the 25th of July, go to her apartment, 410, some time after the 25th of July?

A. Yes, at 744—410, the number of the apartment. I was thinking of the street.

Q. Yes.

A. Yes, I went in the presence of Mr. Wiseman and Mr. Brennan.

Q. Two police officers. This gentleman here (indicating) is Mr. Wiseman?

A. Yes.

Q. Do you remember what date that was?

A. I think it was following the Coroner's hearing.

Q. The Coroner's inquest?

A. Yes. That was about—I don't know; about the 30th or along in there. I cannot—

[fol. 138] Q. Just a minute. Probably we can fix that date.

A. We went in the afternoon after lunch.

[fol. 139] Mr. Roll: Counsel has informed me—I have in front of me, if the court please, a copy of the Coroner's inquest, and it says on the face of it that the inquest was held on the 31st day of July, 1944. I take it, from this statement on the Coroner's inquest, that you will stipulate that is the date of the Coroner's inquest?

The Court: It is already indicated by her answer about the 30th of July.

Mr. Roll: Yes, I just wanted to fix it.

Q. The day the inquest was held, some time that day, is that the day you went to the apartment?

A. Yes.

Q. Did you make a search of the apartment?

A. Yes, we did. They thought that perhaps I knew some—

Mr. Safier: No.

Mr. Roll: You cannot relate what somebody thought.

The Witness: Yes, I did.

By Mr. Roll:

Q. Will you just tell the members of the jury and the court what search you made, and if you did find any rings?

Mr. Safier: Just a moment, Mrs. Watts. We object to that as incompetent, irrelevant and immaterial; what happened on the 31st day of July in regard to searching the apartment has no bearing upon any issue in the case.

The Court: Objection overruled. It would go to the [fol. 140] weight but not the admissibility.

By Mr. Roll:

Q. Go ahead.

A. We, with the help of everyone, why, we gave a very thorough search—

Mr. Safier: I move to strike—just a moment. I move to strike—

The Court: Strike out the word "thorough."

Mr. Safier (Continuing):—"very thorough" as being a conclusion.

The Court: That will be stricken out.

By Mr. Roll:

Q. Go ahead.

A. And found no rings.

Q. Had you secured one of her rings from the Coroner's office, either you or your husband?

A. Yes, her wedding ring.

Q. The wedding ring, that is the one without the diamond or stone in it?

A. Yes.

Q. About how long would you say you spent in making a search of the apartment there?

A. Well, I should judge an hour at least.

Q. And, Mrs. Watts, did either you or your husband as a friend of hers, and your husband being later appointed as administrator of the estate, take into your possession some of her personal belongings?

A. Well, only what the Coroner——

[fol. 141] Q. Well, I mean later on you took some of her furniture and some of her little things out of the apartment?

A. Well, her niece—may I say that—her niece came and I helped dismantle the apartment.

Q. Now, from the Coroner did you also get a wrist watch?

A. Yes, a small gold wrist watch and some beads.

Q. Do you have those beads here with you?

A. Yes.

Mr. Roll: May I see those, please? (Receiving envelope.) I would like at this time, if the court please, to have this envelope marked as an exhibit for identification.

The Court: You mean the envelope and contents?

Mr. Roll: Yes, your Honor.

The Court: 7 for identification.

Mr. Roll: You may cross examine.

Cross-examination.

By Mr. Safier:

Q. Mrs. Watts, you reside in West Los Angeles?

A. Yes.

Q. And you have testified you had known Mrs. Blauvelt how long?

A. Very nearly forty-five years.

Q. How long did she live on Catalina Street, at 744 South Catalina Street?

A. Well, that is a little hard for me to say.

The Court: Just your best judgment.

[fol. 142] A. She sold her home and—

Mr. Safier: Your best recollection.

A. Well, I would say four or five years.

Q. Four or five years. How long have you lived in West Los Angeles?

A. I have been there six years.

Q. How far is it from your home in West Los Angeles to 744 South Catalina Street?

A. Well, I could not say. I should judge about 10 miles, perhaps.

Q. Now, have you seen less of Mrs. Blauvelt during the year 1944 than you did in a few years preceding 1944?

A. No.

Q. I understood your testimony to be that you saw her on an average of once a week?

A. Yes, about an average of once a week.

Q. Would that be in her home or at your home?

A. In my home more, because it gave her the—more at my home and downtown we would meet and have lunch. She would shop and I would shop.

Q. Was it generally on a Saturday that you would meet her?

A. No particular day.

Q. Now,—

A. Because of Red Cross work and all those things our days changed.

[fol. 143] Q. All right. When you would go over to see Mrs. Blauvelt at either her house or go downtown, would you drive?

A. No, I took the bus.

Q. Always?

A. Uh-huh.

Q. Now, you testified on July 31st you went to Mrs. Blauvelt's, to the apartment where Mrs. Blauvelt had been living at 744 South Catalina. What apartment number was that?

A. Well, four hundred and—I don't remember the exact number. It was on the fourth floor, the back apartment.

Q. You do not recall the number?

A. It is four hundred and—I could not remember whether it is twelve or fourteen, because I knew the location so well I just did not—

Q. Well, do you remember it was on the north side of the building?

A. The south side back, east and south, the fourth floor.

Q. Now, when you went to that apartment on July 31st of this year, nobody was living there; is that true?

A. What did you say?

Q. I say, When you went to the apartment, at Mrs. Blauvelt's apartment, the apartment she had occupied on July 31st of this year, was anyone living in the apartment at the time?

A. Oh, no, it was sealed.

[fol. 144] Q. It had been unoccupied for several days, had it not?

A. Yes, since the death of the——

Q. Since the death of Mrs. Blauvelt it had not been occupied?

A. Since the death of Mrs. Blauvelt.

Q. But the furniture was in there, was it not?

A. Yes.

Q. The carpets on the floor?

A. Yes.

Q. Now, in your search of the apartment did you look under the carpets?

A. No, I did not. The men did that. I looked through——

Q. Well, who looked under the carpet?

A. (Continuing:) —the more intimate things of a woman.

Q. Mrs. Watts, who looked under the carpet?

A. I could not tell you that. They were all busy, three men.

Q. Did you specifically see anybody look under the carpets?

A. I was working at the desk——

Q. You can answer yes or no: Did you specifically see anybody look under the carpets?

A. No.

Q. Did you look between the pillows of any of the furniture yourself?

A. No, I did not.

[fol. 145] Q. Did you specifically see anybody taking the pillows out of the furniture and looking through them?

A. Yes.

Q. Who did you see doing that?

A. Well, my husband did it and there were some pillows had been disturbed.

Q. Now, did you see anyone beside your husband looking among the pillows in the furniture?

A. Well, the detectives were all busy.

Q. Now, I did not ask you that. I said, did you see anyone else looking among the pillows of the furniture other than your husband?

A. There were only two pillows.

Q. Well, did you see anyone other than your husband looking into any of the furniture between the pillows or under the pillows?

A. And in the desks, yes.

Q. Let's just stay with the pillows first.

A. Yes.

Q. All right. Who besides your husband did you see doing that?

A. Well, Mr. Wiseman and Mr. Brennan.

Q. You saw them both doing that?

A. They moved the pillows.

Q. All right. Now, on which piece of furniture did you see your husband examining any of the pillows?

[fol. 146] A. Which piece of furniture? A large chair and the pillow was not in place, it was down, it had been disturbed.

Q. On which piece of furniture did you see Mr. Wiseman examining among the pillows?

A. I could not tell you. I was working at the desk part of the time.

Q. Well, which piece of furniture did you see Mr. Brennan examining?

A. Well, they all looked at that chair.

Q. Well, isn't it a fact, Mrs. Watts, that you don't know whether Mr. Wiseman or Mr. Brennan looked under any pillows in connection with any of the furniture in the house?

A. The two pillows—there were only two pillows and they were not in place. One pillow was on the floor and the other was just resting on this chair out of place.

Q. Well, is there a davenport in the living room?

A. Yes.

Q. Has that got some cushions on it?

A. I presume so.

Q. Do you know?

A. Yes, I know.

Q. How many cushions has it?

A. Well, I think it had the three across the bottom.

Q. Now, who did you see, if anybody, looking under those cushions?

[fol. 147] Mr. Roll: Just a moment. I don't know whether they are removable or whether they are stationary. Let's find that out first, otherwise I will have to object to it.

Mr. Safier: I withdraw it.

Q. Are they removable cushions?

A. I don't know about those cushions.

Q. Did you see anybody lifting up any cushions from the davenport and looking underneath them?

A. No, I did not.

Q. What other piece of furniture is there in the living room?

A. There was just a straight guest chair, that pull-up chair that was silent, and the upholstering was not a pillow, and then there was a great big lounge chair.

Q. Has that got a cushion on it?

A. Yes.

Q. Is it a removable cushion?

A. Yes.

Q. Who did you see lift up that cushion, if anybody?

Mr. Roll: Just a moment. I am going to object to that on the ground it assumes something not in evidence.

The Court: Just reframe the question.

By Mr. Safier:

Q. Did you see anybody lifting up the cushion on the chair or making an examination underneath it?

A. There was a loose cushion, the bottom was a loose cushion, and then there was a back pillow, but that wasn't [fol. 148] in place.

Q. Well, did you see anybody handling those cushions and examining around them?

A. No.

Q. Now, on July 22nd, on Saturday, which was the last time you saw her alive; is that correct?

A. Yes.

Q. On that day you testified that she was wearing three rings?

A. She was what?

Q. Wearing three rings?

A. Yes.

Q. Now, on which finger was she wearing the large solitaire, as you have described it?

A. They were all—the three were on the third finger of her left hand.

Q. All three rings were on the same finger?

A. Yes.

Q. What time did you separate from Mrs. Blauvelt on July 22nd?

A. About 4:30.

Q. In the afternoon?

A. In the afternoon.

Q. Where?

A. At the corner of Seventh and Hill, right in front of Sheetz.

[fol. 149] Q. Did you say 4, about 4 o'clock?

A. About 4:30.

Q. About 4:30?

A. Yes.

Q. Might it have been later than that?

A. No.

Q. Might it have been earlier?

A. No.

Q. You are positive it was—

A. It is approximately that time.

Q. Well, when you say approximately that time do you mean it would not vary 15 minutes one way or the other?

A. No.

Q. By "No" you mean it would not vary 15 minutes one way or the other; is that correct?

A. Yes.

Q. Was Mrs. Blauvelt wearing beads on that day?

A. Yes. She generally wore beads.

[fol. 150] The Court: Do you mean this particular string of beads or do you mean—you said she generally wore beads?

A. No, wore beads.

The Court: Different kinds?

A. Different kinds, custom beads.

By Mr. Safier:

Q. Did she wear the beads that you brought in here today, that were marked for identification, that you handed to Mr. Roll; were those the beads that she was wearing?

A. That day she had on a shorter strand, but they—

Q. Mrs. Watts, you can answer yes or no.

Mr. Roll: No, let her—

The Court: Let her finish her answer. It may be a qualification of her answer. Go ahead, Mrs. Watts, please.

Mr. Roll: Go ahead.

A. That strand, or the beads I gave, were her favorite beads; she wore them more than any other.

Mr. Safier: I move to strike the answer as not being responsive. My question was if she wore the string of beads that she brought to court.

The Court: She has answered by describing the set of beads which she wore, which I think is responsive. I do not think a question necessarily must be answered yes or no.

Mr. Safier: Then, I did not understand the answer.

Q. Is the string of beads you have brought to court, which have been marked for identification, the beads that [fol. 151] Mrs. Blauvelt wore when you were with her on July 22nd of this year?

A. No, not that day.

Q. I see. When had you seen Mrs. Blauvelt prior to July 22nd?

A. Well, I don't know as I can tell you that.

Mr. Safier: That is all. I have no further questions.

Mr. Roll: That is all. May this lady be excused, if the court please?

The Court: Yes.

Mr. Roll: I think as far as we are concerned, she may be permanently excused. She has something she can take care of tomorrow. She will be on 'phone call if you need her later.

Mr. Safier: Very well.

(Witness excused.)

Mr. Roll: Mrs. Massey.

MRS. EULALIE MASSEY, called as a witness on behalf of the People, was duly sworn and testified as follows:

The Clerk: What is your name, please?
 A. Mrs. Eulalie Massey.

[fol. 152] Direct examination.

By Mr. Roll:

Q. Your full name, please?
 A. Mrs. Eulalie Massey.
 Q. Where do you live, Mrs. Massey?
 A. 744 South Catalina.
 Q. That is here in the City of Los Angeles?
 A. City of Los Angeles, yes.
 Q. Are you the manager of the apartment house there?
 A. Yes, sir.
 Q. What is the name of that apartment?
 A. Pandora Apartments.
 Q. How do you spell that?
 A. P-a-n-d-o-r-a.
 Q. Are you of French extraction or nationality?
 A. Yes.
 Q. How long have you been the manager there of the apartment, Mrs. Massey?
 A. Going on six years.
 Q. Six years?
 A. Five years and a few months.
 Q. Were you the manager there of the apartments during the month of July, 1944?
 A. Yes.
 Q. Did you know Mrs. Stella Blauvelt during her lifetime?
 A. No, just when she came to the apartment.
 [fol. 153] Q. Well, how long ago did she come to the apartment, about?
 A. I am not sure, but about three years.
 Q. She lived there for about three years?
 A. Three years.
 Q. Did she live in the same apartment all those three years?
 A. No. She had 308, apartment 308; then she went to Chicago, and when she came back she couldn't get that same apartment, so we gave her 410.

Q. You gave her 410?

A. 410.

Q. About how long had she lived in apartment 410, roughly?

A. Well, I suppose over a year.

Q. Over a year?

A. Yes.

Q. Now, with reference to your apartment, Mrs. Massey, that is, the whole apartment there, there are four floors in the apartment, correct?

A. Yes.

Q. And how many separate apartments are there, including the one that you occupy?

A. Do you mean in the whole house?

Q. Yes.

A. Forty.

[fol. 154] Q. Forty?

A. Yes.

Q. How are they divided as to floors?

A. Ten in each apartment—I mean ten apartments on each floor.

Q. We will take the fourth floor. Are those all what you call single apartments?

A. No.

Q. The ones in the back are singles?

A. Yes.

Q. How many singles are there?

A. About eight in each apartment.

Q. You mean eight on each floor?

A. Yes, on each floor. Then, the doubles in front.

Q. The front of the apartment faces on Catalina Street?

A. On Catalina Street.

Q. Those are double apartments?

A. Yes.

Q. When you say a double apartment you mean an apartment that has a bedroom?

A. Yes.

Q. Is that right?

A. Yes.

Q. Now, with reference to the month of July, 1944, with reference to maid service there—we will take apartment 410, was there any daily maid service furnished there or not?

[fol. 155] A. No.

Q. What was the situation with reference to any maid service there in apartment 410? Did anyone go in and clean up the apartment?

A. Just once every two weeks.

Q. Once every two weeks, is that right?

A. Yes.

Q. What day of the week, if you know, was service furnished there for apartment 410?

A. I think it was on Wednesday.

Q. Every second Wednesday?

A. Every second Wednesday.

Q. Now, you just tell the ladies and gentleman of the jury and the court where your elevator is located with reference to the premises there.

A. It is located almost in the front of the building.

Q. As you come in from the front of the building, which side is it on? Is it on the lefthand side or on the righthand side?

A. If I face north it would be on the right side. If I face south or east, it would be on the left side.

Q. Well, let me ask you this: Your apartment faces—I will put it this way: Is the elevator on the north side or the south side?

A. On the north side.

Q. What type of elevator is it?

[fol. 156] A. What type?

Q. Yes, what kind?

A. What kind? I think it is a Hercules.

Q. It is one of those you operate yourself, an electric elevator?

A. Yes.

Q. Is there a stairway leading up anywhere so you can walk up if you want to?

A. Yes, you got the front stairway and a back stairway of the building.

Q. Where is the front stairway?

A. The front stairway, you take it before you get to the elevator, to the right side.

Q. You can go from the first floor to the fourth floor that way?

A. Yes, sir.

Q. You also have a stairway in the back of the building?

A. The same thing.

Q. With reference to the entrance at the front door, as you enter into the apartment itself, do you have a lobby in there?

A. Yes.

Q. Now, with reference to the door there to the apartment, coming out from the street, is that door kept open or shut in the daytime?

[fol. 157] A. It is always open.

Q. I mean, when I say "open", I mean it is not locked?

A. No, no.

Q. How about nighttime?

A. We close it about 10:30; I mean we lock it.

Q. Your tenants have keys which fit the outside door?

A. Yes, and the back door too.

Q. Now, there is a door in the back downstairs, is there not?

A. Yes.

Q. If you go out the back end of your apartment, there on the first floor, what do you come to, an alley?

A. Yes, an alley.

Q. If you go down that alley to the south, you come to what street? Eighth Street?

A. Eighth Street.

Q. Now, with reference to that back door in the daytime, what is the situation with reference to it?

A. Sometimes it is locked and sometimes it is not locked. But at nighttime we lock it early, between 6 and 7.

Q. Where is your apartment there?

A. In the front part of the building on the first floor.

Q. Do you have a linen closet near there somewhere?

A. Near the elevator.

Q. Near the elevator?

A. Yes, opposite.

[fol. 158] Q. Opposite the elevator?

A. Yes.

Q. Now, directing your attention, Mrs. Massey, to the date of Monday, the 24th of July, 1944, did you have occasion on that day to see Stella Blauvelt?

A. Yes.

Q. About what time would you say that you saw her?

A. I saw her once at 10 o'clock; she was ready to go down—to come downtown, and about 3 to 3:30 she came back.

Q. She came back?

A. And I talked to her.

Q. Now, will you state where you were when she came back?

A. Right opposite the elevator, counting the linens, the laundry and linens, and putting it in the closet, in the linen closet. And I talked to her. I opened the elevator—she had a few packages, so I opened the door of the elevator so she could get in easy. That is the last I saw her.

Q. Where were you at the time she came in?

A. Right in front of the elevator door.

Q. With reference to her attire—I am not going to ask you what color dress or anything of that kind or character she had on, but do you recall the—

A. Well, I can tell you. She was dressed up in blue.

Q. She was dressed what?

[fol. 159] A. In blue. She was dressed, and a coat.

Q. A coat. What kind of coat did she have on?

A. Well, it was something like this, but blue.

Q. That is over her dress?

A. Yes.

Q. Would you describe her dress as being a silk dress, rayon or something like that?

A. No, I could not describe it, but it must have been some kind of silk because I never have seen her with anything else.

Q. What time do you fix that as being?

A. About 3 to 3:30; I did not look at the clock, but it must have been about 3:30.

Q. Now, if I understand the answer you gave, that is the last time you saw her alive?

A. Yes, sir.

Q. And do you have a tenant there by the name of Mrs. Vanderveer?

A. Yes.

Q. Do you know what apartment Mrs. Vanderveer was living in as of that date?

A. Yes.

Q. Which apartment?

A. 108, in the first floor.

Q. I do not want you to relate any conversation that you had with Mrs. Vanderveer, but did you see Mrs. Vanderveer sometime on Tuesday, the 25th day of July, 1944?

A. No, except in the evening.

Q. Well, that is what I am getting at, some time in the evening?

A. Yes.

Q. About what time did you see her?

A. It must have been between 7:30 and 8 o'clock.

Q. Don't tell us what the conversation was, but did you have some conversation with her?

A. Yes.

Q. Did she say something to you?

A. She told me——

Q. Oh, no, no, you cannot tell that.

A. Yes, she had.

Q. Then, after talking to her, did you go some place with her?

A. I took the key and I went to Mrs. Blauvelt's apartment with her.

Q. You went to Mrs. Blauvelt's apartment with her?

A. Yes, sir.

Q. Now, do you know whether or not Mrs. Blauvelt subscribed for a newspaper?

A. Yes, she had; she had one.

Q. Do you know whether that was a morning paper she subscribed for or an evening paper?

A. Yes, a morning paper.

[fol. 161] Q. Do you know which paper it was?

A. I am not sure, it is the Times or Examiner.

Q. As you went to Mrs. Blauvelt's apartment there on the evening of the 25th of July, 1944, what did you do?

A. Well, I opened the door. I looked at her bed and I looked all around and I could not see her, so I lit the apartment and I saw her dead right on the floor.

Q. Now, do you recall whether or not on that occasion, either immediately after going into the apartment or coming out, or while you were waiting to go in, did you notice any newspaper there?

A. No.

Q. You are not able to say?

A. Well, I don't remember; it could have been there but I don't remember.

Mr. Roll: All right. I have here a photograph which I will ask be marked People's Exhibit, I believe, 8, your Honor, for identification.

The Court: Yes.

By Mr. Roll:

Q. With reference to the scene which is depicted in People's Exhibit 8, with the exception of the lower portion of the man which is shown in the picture there, is that a fair representation of the scene you observed when you turned the light on in the room?

(Handing photograph to the witness.)

A. Yes, sir, just exactly.

[fol. 162] Q. I am going to direct your attention to this photograph which has been identified by the autopsy surgeon, Dr. Webb. Do you recognize the lady whose picture is shown there as being Stella Blauvelt, a person you knew during her lifetime?

A. I do.

Mr. Roll: Did you get the answer?

(Answer read.)

A. Yes.

The Court: Which numbered photograph is that?

Mr. Roll: I showed her People's Exhibit No. 3, your Honor.

Q. Now, after you got in the room there and turned the light on and saw what you have testified concerning, what was the next thing you did? Don't tell any conversation, but what did you do?

A. I went out right away.

Q. Did you either 'phone the police yourself or call someone there in your apartment to 'phone the police?

A. One lady was in my apartment and she say, "I will call the police for you, Mrs. Massey," because I was a little nervous, and she did.

Q. How long would you say, to the best of your recollection, after you were up there in the room and saw what you testified here, was it until the police arrived there?

A. Well, I don't think it took five minutes. Of course, [fol. 163] it might take two or three minutes to go down, but the minute I called the police, the police was there in no time.

Q. Now, as the manager of the apartment house there had you been in Mrs. Blauvelt's apartment at some time a short time before the date of the 24th of July?

A. I was there on Friday.

Q. On the Friday before?

A. Before, Friday evening.

Q. Friday evening. And was Mrs. Blauvelt there herself?

A. Yes.

Q. And did you spend some time there with her?

A. About an hour.

Q. About an hour. With reference to this apartment that she had rented, in so far as I—I am not going to go into a lot of details with you, but I want you to turn around, if you will, and look at the diagram here. So far as the kitchenette is concerned, and this garbage disposal unit—

The Court: Just back a little, Mr. Roll.

Mr. Roll: Yes, I am sorry.

Q. —which is shown over here in a larger scale, so you know what I am referring to—

A. Yes.

Q. —at the present time, this door is off of there; is that right?

[fol. 164] A. Yes.

Q. With reference to the apartment No. 410, that apartment did have a door—we have that “D-1” here and “D-1” here, and it still does have a door on the outside; is that right?

A. Yes.

Q. And it did have a door on this inside “D-2”; is that right?

A. Yes.

Q. Did you ever give this defendant permission—that is this man over here, Mr. Adamson, seated at the end of the counsel table, permission to enter that apartment house?

A. I have never seen him before—no.

Q. And any entry by him was without your consent and against your will; is that correct? In other words, you did not tell him he could come in there or consent to his coming in?

A. No.

Mr. Roll: You may cross examine.

Cross-examination.

By Mr. Safier:

Q. Mrs. Massey, lots of people went in and out of this Pandora Apartment building without getting any consent from you, didn't they?

A. Uh-uh, no.

[fol. 165] Q. Now, you mean if some tenant had some friend calling on him or on them, that they would have to go and get your permission to enter first?

A. Well, I ask them where are they going and they tell me—unless I don't see them.

Q. Then, is it your testimony that—strike that. How many tenants do you have in this building?

A. Between 60 and 65.

Q. And is it a rule of the house that you have to give permission to everybody that goes in and out of the house?

A. It is not the rule but I watch that.

Q. You mean you stay at the front door all the time and watch who goes in and out?

A. To a certain extent, yes.

Q. How long do you stand by that front door during the day watching?

The Court: Just a minute. She did not say she stood at the front door.

By Mr. Safier:

Q. Well, do you stand at the front door and watch who goes in and out?

A. No, but my apartment is in front.

Q. Your apartment is in front?

A. I open the door and I see everything.

Q. You mean every time you hear the front door open you go and see who is coming?

A. If I do not recognize the steps, yes.

[fol. 166] Q. Now, do you instruct your—oh, strike that. Is it one of the rules of the apartment house that the tenants may not have guests unless such guests first obtain your permission to enter?

A. No, I am not that severe, but I want to know who comes just the same. I want the right kind of people.

Q. Well, do you make any—if somebody should come in the front door that you don't recognize do you ask them where they are going?

A. I ask them what I can do for them so they have to tell me where they want to go.

Q. I see, and if they tell you where they want to go is that sufficient, or do you make some further inquiry to determine who they are?

A. Well, if they look pretty good to me, I can trust them, I let them go, but if it is somebody I don't they take the door and go out.

Mr. Safier: I did not get the last part.

The Witness: If it is somebody that—

The Court: Did you get the answer, Mr. Kennelly?

The Reporter: Yes.

The Court: Just a minute. Will you read the answer, Mr. Kennelly?

(Answer read.)

By Mr. Safier:

Q. The front door is kept unlocked during the daytime, you said?

[fol. 167] A. Yes.

Q. And the back door is kept unlocked until about 6 or 7 in the evening; is that correct?

A. No, later than that, about 9 or 9:30, sometimes 10 o'clock. When some of our tenants ask me to leave it open until 10 o'clock, they are expecting somebody, some company, then I do it because they have no key to come in.

Q. Are you referring now to the front door or the back door?

A. How was that?

Q. Are you referring now to the front door or back door?

A. To the front door. The back door is closed early.

Q. The back door is closed between 6 and 7 in the evening; is that right?

A. Yes, sometimes—

Q. That is, it is locked between 6 and 7 in the evening?

A. Yes, uh-huh.

Q. Now, do various people come into the building and deliver meat?

A. No.

Q. And groceries and things like that to the tenants?

A. No, not during the war.

Mr. Roll: I did not hear you.

Mr. Safier: "Not during the war."

The Witness: They have got to carry their own packages.

By Mr. Safier:

[fol. 168] Q. Does the paper boy come and leave papers?

A. Yes.

Q. Does he go up and down the steps and leave papers wherever he has to leave papers—

A. Sure.

Q. On the different floors?

A. Sure.

Q. Now, are you home every day, Mrs. Massey, or are you away sometimes during the day?

A. Very seldom; in five years I have gone three or four times. I always leave somebody at home.

Q. Now, you had known Mrs. Blauvelt about three years, I think you said?

A. Yes.

Q. When did she move into apartment 410?

A. Well, I don't remember exactly. She went to Chicago and then when she came back—I don't know if it was in September or October—I should have the book here.

Q. You mean October or November, 1943?

A. 1943.

Q. Now, tell me again when was the last time you saw Mrs. Blauvelt alive?

A. On Friday, the week before—the week before she was killed.

Q. On Friday?

A. Yes.

[fol. 169] Q. That was the last time you ever saw her alive?

A. The last time I ever saw her—no, I saw her on Monday at 10 o'clock, on Monday, she was ready to come downtown, and then I saw her at 3 to 3:30. That is when I opened the elevator door for her to come to the apartment, to her apartment.

Q. Now, is Monday, July 24th, between 3 and 3:30 o'clock in the afternoon the last time you saw Mrs. Blauvelt alive?

A. Yes.

- Q. Are you certain it was between 3 and 3:30?
- A. Yes, I am certain.
- Q. Might it have been earlier than 3 o'clock?
- A. No.
- Q. Might it have been later than 3:30?
- A. No.
- Q. You are positive?
- A. I am positive.
- Q. Very well. Where were you at the time you saw her?
- A. In front of the elevator door counting the linens.
- Q. You were counting the linens?
- A. Yes.
- Q. Did Mrs. Blauvelt come in the front door or back door?
- A. She came in the front door.
- Q. I think you said she had some packages in her hands?
- A. Yes, very small, little ones that she had.
- Q. How many?
- [fol. 170] A. Well, I don't count them; two or three.
- Q. She had her coat on, you said?
- A. Yes.
- Q. And hat?
- A. Yes.
- Q. And shoes?
- A. Shoes.
- Q. Stockings?
- A. Yes.
- Q. You are certain of that?
- A. How is that?
- Q. Are you sure she had stockings on?
- A. Yes, she did, but she didn't have them when I found her dead. Somebody got away with those stockings.

Mr. Safier : I move to strike the last part of the answer as not being responsive and a voluntary statement.

The Court: I will strike the latter portion of the answer.

By Mr. Safier:

- Q. Then where did Mrs. Blauvelt go?
- A. When?
- Q. After you saw her come into the building. Did she go some place?
- A. No, she took the elevator. I opened the door for her to go to her apartment.
- Q. She took the elevator and went up?

A. To the fourth floor.

[fol. 171] Q. That is the last you saw of her?

A. That is the last.

Q. That is the last you saw her alive?

A. Yes.

Q. What day did you say you had maid service on the fourth floor in July of this year?

A. Wednesday.

Q. Are you certain about that?

A. Yes.

Q. Positive about it?

A. Yes.

Q. Every Wednesday?

A. Every other Wednesday.

Q. I see. Now, what time on July 25th was it that Mrs. Vandiveer came to your apartment?

A. Between 7:30 and 8 o'clock.

Q. In the evening?

A. Yes.

Q. On Tuesday?

A. On Tuesday.

Q. You are certain of that time, too?

A. Yes, sir.

[fol. 172] Q. Now, between the time you last saw Mrs. Blauvelt alive—strike that. You had some conversation with Mrs. Vandiveer the day you went up to room 410; is that right?

A. Any conversation? Yes.

Q. Then you went up to her apartment, apartment 410?

A. Yes.

Q. With Mrs. Vandiveer?

A. Yes.

Q. Was the door to apartment 410 locked or unlocked?

A. It was locked.

Q. It was locked?

A. Yes.

Q. Are you certain about it being locked, Mrs. Massey?

A. It was locked.

Q. Do you remember testifying in this matter on September 1, 1944, at the preliminary hearing?

A. I don't remember.

Q. Well, you did testify at the preliminary hearing?

A. Yes, I did.

Q. You remember that, don't you?

A. Sure.

Q. Well, I will ask you to read——

Mr. Roll: What page, counsel, please?

Mr. Safier: 5.

Mr. Roll: Line?

Mr. Safier: 3 to 4.

[fol. 173] Q. I show you a transcript of your testimony, page 5, lines 3 and 4, and ask you to read that question and answer.

(Witness does as requested.)

A. Well, that is——

Q. Just a minute. Have you read this?

A. I just read it now.

Q. I will ask you if this question was asked and whether you gave this answer:

“Q. Was the door unlocked?

A. Yes.”

Was that question asked you and did you give that answer?

Mr. Roll: Just a moment. I am going to ask counsel to read the next two lines in the transcript.

The Court: All right, you can clear it up on redirect. The word “unlocked” may mean it was not unlocked or somebody locked it.

The Witness: I used a passkey to open it.

Mr. Safier: Do you stipulate that the reporter will testify, Mr. Roll, that that question was asked and that answer given?

Mr. Roll: I will so stipulate providing, counsel, you will stipulate that in the same testimony, at lines 6 and 7 on page 5, there is an additional answer on that subject. And if you will look at page 8, lines 18 to 20, there is a full explanation of it. I will stipulate to that if you will stipulate to this.

Mr. Safier: Yes, I will stipulate to whatever testimony [fol. 174] there is there.

The Court: I presume that stipulation means all the testimony may be read?

Mr. Roll: Yes, your Honor.

The Court: Is that correct, Mr. Safier?

Mr. Safier: Yes, that is correct, your Honor.

Q. Now, was there a newspaper in front of the door at that time?

A. I don't remember.

Q. You don't remember whether you picked up a paper?

A. No, I didn't pick it up.

Q. You didn't pick any paper up; you don't remember whether there was one there or not?

A. No.

Q. Now, was the door locked or was it unlocked?

A. I used a passkey to open it. I don't remember if I tried to open it without the passkey, but I don't think I did.

Q. Did you knock at the door first?

A. Yes.

Q. But you don't remember whether you tried it before you put your key into the lock?

A. I must have tried it.

Q. You are not certain?

A. No, I am not certain.

Q. Did you just look into the room—you did open the [fol. 175] door?

A. Yes.

Q. Did you just look into the room or did you go into the room?

A. First I look in the room; I opened the door about that much (indicating). I was kind of scared and nervous.

Q. I understand that.

A. Then I opened it a little bit more. When I didn't see her—I didn't see anything, I open it altogether and I put the light—I light the lights.

Q. Did you walk into the room?

A. Yes, I walked into the room.

Q. Mrs. Vandiveer walked into the room with you—

A. With me.

Q. —or did she remain in the hall?

A. No, she came in with me.

Q. You walked into the room. Did you say you turned the light on?

A. I turned the light on and then I walked into the room.

Q. When you looked into the room what did you see?

A. I saw her laying down on the floor, covered, two pillows over her face, and then that lamp cord. I didn't touch the pillows; I didn't see what it was under—I didn't see if the cord was on her neck, but I saw the cord start to it. I didn't have the courage to look to see whether [fol. 176] it was, how that cord was going in there.

Q. Did you touch anything at all?

A. No.

Q. You did not see any cord around her neck?

A. No, I didn't lift—I didn't touch the pillows; she was covered.

Q. What was she covered with?

A. Two pillows; one on top of the other, and a coat.

Q. Now, which portion of the body did the coat cover?

A. All of her except her feet.

Q. Did it cover her hands?

A. No, I could see one hand this way; I could see the wrist watch there too.

[fol. 177] Q. Which hand was it?

A. I think it was the left.

Q. In what position did you see the left hand?

A. A little bit out.

Q. Straight out from the body like this (indicating)?

A. Yes.

Q. Indicating a position directly horizontal to the body?

A. Yes.

The Court: No, I would say at right angles to the body.

Mr. Safier: Right angles to the body.

Q. Did you see the other hand at all?

A. I think I did, but I got nervous and didn't look so much.

Q. You don't remember seeing the other hand at all?

A. Not so very well, but it seems to me I see it, but not as plain as the other.

The Court: I think we will take our recess at this time. We have gone a little over our recess time. Apparently we cannot finish, anyhow. During this recess, ladies and gentlemen, keep in mind you are not to talk about the case or form or express any opinion. Take our afternoon recess.

(Recess.)

The Court: Give me that full name again.

Mr. Roll: Lieut. Harry Rogers.

The Court: Under the provisions of the Code of Civil [fol. 178] Procedure Harry Rogers, the head of the Finger-print Department of the Sheriff's Office, is appointed as expert to make the examination of the fingerprints in this case and report the matter to the court, to be available as a witness for either party, under Section 1871 of the Code of Civil Procedure.

Mr. Roll: May counsel and I approach the bench?

The Court: Yes.

(Conference at bench between court and counsel.)

(The jurors returned into the courtroom and resumed their seats in the jury box.)

The Court: The record will show the jury, counsel and defendant present. You may proceed. Mrs. Massey, please.

By Mr. Safier:

Q. Mrs. Massey, I will show you your testimony at the preliminary hearing in this case page 5, lines 10 to 17, and I will ask you to read it to yourself.

(Handing transcript to the witness.)

A. What is it, please?

Q. Lines 10 to 17. Have you now read that to yourself?

A. Yes, sir.

Q. I will ask you if these questions were asked and if you gave these answers:

“Q. Now, will you describe how she was lying there?

“A. Yes.

“Q. Was there anything close to her?

“A. She was lying on the floor with her hands this way (indicating).

[fol. 179] “Q. With her hands outstretched above her head; is that right?

“A. Yes.” Were those questions asked and did you give those answers at the preliminary hearing?

A. Well, I might have done it, yes.

Q. Mrs. Massey, how long did you stay in the apartment at that time?

A. Not two minutes.