

were not considered in the decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the grounds here quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in this brief filed by plaintiff in error, as will appear from pages 213 to 215 of the original brief, filed in this case.

10.- Because the Court, in rendering the decision in said case, overlooked the following material facts in the record, to-wit, Ground 32 of the motion for new trial, which reads as follows:

"Because the Court erred in declining to allow the witness, Miss Hall, to testify that on the morning of April 26, and before the murder was committed, Mr. Frank called her over the telephone, asking her to come to the pencil factory to do stenographic work, stating at the time he called her that he had so much work to do that it would take him until six o'clock to get it done.

"Defendant contends that this testimony was part of the res gestae and ought to have been heard by the Court, and failure to do so committed error".

Said ground just quoted set up material facts constituting error in said case, which the Court, in the decision rendered, overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the grounds here quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in the brief filed by plaintiff in error, as will appear from pages 289 to 292 of the original brief, filed in this case.

11.- Because the Court, in rendering the decision in said case, overlooked the following material facts in the record, to-wit, Ground 34 of the motion for new trial, which reads as follows:

"Because, while Mrs. Freeman was on the stand, after testifying as to other things, she testified that while she and Miss Hall, on April 26, were at the restaurant immediately contiguous to the pencil factory, and after they had left the factory at 11.45 o'clock a. m., and had had lunch that Lemmie Quinn came in and stated that he had just been up to see Mr. Frank.

"Upon motion of the Solicitor, this statement that he had been up to see Mr. Frank was ruled out as hearsay.

"This statement of Lemmie Quinn was a part of the res gestae, and was not hearsay evidence, and was material to the defendant's cause. Lemmie Quinn testified that he saw Mr. Frank in his office just before he went down to the restaurant and had the conversation with Mrs. Freeman and Miss Hall; this testimony was strongly disputed by the Solicitor. Lemmie Quinn's statement that he was in Mr. Frank's office just before going into the restaurant was of the greatest moment to the defendant, because it strongly tended to dispute the contention of the State that Mary Phagan was killed between twelve and half past.

"The Court erred in ruling out and declining to hear this, for the reasons above stated. The testimony was relevant, material and part of the res gestae, and should have been sent to the jury".

Said ground just quoted set up material facts constituting error in said case, which the Court in the decision rendered, overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground, were discussed in the brief filed by plaintiff in error, as will appear from pages 289 to 292 of the original brief, filed in this case.

12. Because the court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 55 of the motion for New Trial, which reads as follows:

"Because the Court permitted the witness L. T. Kendrick over the objection of the defendant, made at the time the evidence was offered that the same was irrelevant, immaterial and incompetent, to testify substantially as follows:

'The clock at the pencil factory, when I worked there, needed setting about every 24 hours. You would have to change it from about three to five minutes, I reckon.'

The Court permitted this testimony to be heard over the above stated objections of the defendant, and in doing so committed error.

Kendrick had not worked at the factory for months and whether or not the clock was correct at that time was immaterial and tended to confuse the jury in their effort to determine whether or not the clock was accurate upon the date of the tragedy."

Said ground just quoted sets up material facts constituting error in said case - which the court in the decision rendered overlooked, and which was not considered in said decision as appears from the fact thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from page 46 of the reply brief filed in this case.

13. Because the court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 67 of the Motion for New Trial, which reads as follows:

"Because the Court erred in failing to charge the jury that if a witness knowingly and wilfully swore falsely in a material matter, his testimony shall be rejected entirely, unless it be corroborated by facts and circumstances of the case or other creditable evidence.

The Court ought to have given this charge, although no written request was formally made therefor, for the reason that the witness Jim Conley, who testified as to aiding Frank in the disposal of the body, was attacked by the defendant as utterly unworthy of belief, and he admitted upon the stand that he knew that he was lying in the affidavits made by him, with reference to the crime and before the trial.

Especially ought this charge to have been given, because the Court, in his charge to the jury, left the question of the credibility of witnesses to the jury, without any rule of law to govern them in determining their credibility."

Said ground just quoted set up material facts constituting error in said case - which the court in the decision rendered

overlooked, and which was not considered in said decision as appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from pages 298 to 300 of the brief filed in this case.

14. Because the court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 54 of the Motion for New Trial, which reads as follows:-

"Because the Court permitted the witness Scott to testify in behalf of his Agency, over the objection of the defendant, that the same was irrelevant, immaterial and incompetent, substantially as follows:

'I got hold of the information about Conley knowing how to write through my operatives that I had investigating while I was out of town. McWorth told me in person when I returned.'

The Court permitted this testimony over the defendant's objections, as above stated, and in doing so committed error. This was prejudicial to the defendant, because the solicitor contended that the failure of Frank to report the fact that Conley could write, was a circumstance against Frank's innocence, and he sought to show by the above testimony that the detectives were forced to get that information from someone other than Frank."

Said ground just quoted set up material facts constituting error in said case - which the court in the decision rendered overlooked, and which were not considered in said decision as appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from pages 231 to 234 of the brief filed in this case.

15. Because the Court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 53 of the Motion for New Trial, which reads as follows:-

"Because the Court permitted the witness J. M. Gantt, over the objection of the defendant, made when the evidence was offered that the same was irrelevant and immaterial, to testify substantially as follows:

"The clock of the pencil company was not accurate. They may vary all the way from three to five minutes in 24 hours." The Court admitted this testimony over the objections made and in doing so committed error, for the reasons stated. This was prejudicial to the defendant, because whether the clocks were or were not accurate on April 26th was material to his defense. The witness Gantt had not worked at the factory for three weeks and the fact that the clocks were not keeping accurate time three weeks before the trial was immaterial, and the evidence thereon tended to mislead and confuse the jury. Gantt had not worked at the factory during the three weeks just prior to the crime, and his testimony as to the clocks related to the time he did work at the factory."

Said grounds just quoted set up material facts constituting error in said case - which the court in the decision rendered overlooked, and which were not considered in said decision as appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from page 46 of the reply brief, filed in this case.

16. Because the Court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 42 of the Motion for New Trial, which reads as follows:

"Because the Court permitted McWorth, at the instance of the Solicitor-General to testify over the objections of the defendant, made when the evidence was offered, that the same was irrelevant, immaterial, and illegal:

"I reported it (the finding of the club and envelope) to the police force about 17 hours afterwards. After I reported the finding, I had a further conference with the police about it about four hours afterwards. I told John Black about the envelope and the club. I turned the envelope and club into the possession of H. B. Pierce."

The Court heard this testimony over the objection of the defendant, made as above stated, and in doing so committed error, for the reasons herein stated.

This was prejudicial to the defendant, because the Solicitor-General contended that his failure to sooner report the finding of the club and the envelope to the police were circumstances against Frank. These detectives were not employed by Frank, but by Frank for the National Pencil Company, and movant contends that he is not bound by what they did or failed to do. The Court should have so instructed the jury."

Said ground just quoted set up material facts constituting error in said case - which the court in the decision rendered overlooked, and which were not considered in said decision as appears from the face thereof. Plaintiff in error says that the

error committed, as is disclosed from an inspection of the ground here quoted, was material. The fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from page 45 of the reply brief filed in this case.

17. Because the court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 35 of the Motion for New Trial, which reads as follows:

"Because the Court permitted, at the instance of the Solicitor-General, the witness Sig Montag, to testify over the objection of the defendant, made when same was offered, that same was irrelevant, immaterial and incompetent; that the National Pencil Company employed the Pinkertons; that the Pinkertons have not been paid, but have sent in their bills; that they sent them in two or three times; that, otherwise, no request has been made for payment, and that Pierce, of the Pinkerton Agency, has not asked the witness for payment.

In permitting this testimony to go to the jury, over the objections above stated, the Court erred.

The introduction of this evidence was prejudicial to the defendant, for the reason that the solicitor contended that the pay due the Pinkertons by the Pencil Company was withheld for the purpose of affecting the testimony of the agents of that Company."

Said ground just quoted set up material facts constituting error in said case - which the Court in the decision rendered overlooked, and which were not considered in said decision as appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from page 45 of the reply brief filed in this case.

18. Because the court in rendering the decision in said case, and in the 17th head note and in the 17th division of the opinion, held (as the head note reads): "From the evidence, the court is authorized to find that the jury was not influenced to render other than true answers to the questions propounded," by a loud cheering from persons on the outside of the courthouse which took place while the polling of the jury was being taken; and further on, in the body of the opinion, under division 17, the court use the following language upon this same subject: "We think that the affidavits of jurors submitted in regard to this occurrence was sufficient to show that there was no likelihood that there was any such result. Under such circumstances we do not think that the occurrence complained of amounts to more than an irregularity which was not prejudicial to the accused."

The plaintiff in error respectfully submits that the court ⁱⁿ rendering this decision, overlooked the case of Collier vs the State, reported in 115 Ga., page 803; and in said Collier case the disorder occurred in the hearing of the jury, and in the language of the Collier decision: "Each one of the jurors who tried the case testified by affidavit and they all agreed in the statement that they were not influenced by any demonstration; that the noise in the courthouse yard had no effect upon them as jurors; and that they were controlled alone by the evidence in the case and endeavored to return a proper verdict and they continued of the opinion that they had done so." The Collier case proceeds to recite further evidence of the jurors, - all tending to show that they were not influenced by the demonstration, - and the two court bailiffs likewise made affidavits. In the Collier decision it was held broadly, as the head note reads - that the plaintiff in error did not have a fair and impartial trial in the manner contemplated by law, which is guaranteed to him by the constitution of this state; and that whether the verdict was or was not supported by the evidence, it should, for that reason be set aside, and the court on page 808 of the decision, say: "It would be mere idle talk to say that the jurors did not understand that the demonstration was against the prisoner on trial. It is true that each of the jurors testified that the noise and demonstration made by this crowd did not affect his verdict." Further on, in the same decision, on the same page, the court say: "We have no reason to, and do not doubt that each member of the jury who testified was sincere and honest

in his belief that his verdict was in no way affected by the demonstration during the progress of the trial or by that which subsequently occurred while the jury were considering their verdict. But the question is not whether in effect the jurors were influenced by this demonstration, but were the demonstrations calculated to influence the jurors in their action." And the court proceed to cite the Wolfolk case, 81st Ga., 551 and the case of Smith vs Lovejoy, 62nd Ga., 392, in which the court held in fact that the affidavits of jurors did not clear up such a matter, as it was impossible for them to tell what had influenced their minds.

Plaintiff in error submits that the decision in the case at bar is contrary to the decision in the Collier case, in the Wolfolk case and in the case of Smith vs Lovejoy, and as neither of said decisions are quoted or referred to in the opinion, - plaintiff in error respectfully submits that they were overlooked by the court.

19. Plaintiff in error respectfully submits that the court overlooked the facts stated in ground 89 of the motion which was referred to and argued on page 198 of the printed brief of plaintiff in error, which refers to the testimony of the witness Owens, to the effect that he ran on route 8 of the street railway in Atlanta, from White City to Howell Station; that he was due in town at 12:05, this being ahead of the schedule of Cooper Street and English Avenue two minutes; that he has known the English Avenue and Cooper Street cars to get to the junction of Marietta and Broad Streets ahead of his car; that the English Avenue car is due there at 12:07 and the witness' schedule was due at 12:05; that he has known the English Avenue car to get there as much as two minutes ahead; that he has known this to occur after April 26th, which was the day of the tragedy; but that he did not know whether it ever occurred prior to that time.

Plaintiff in error submits that this testimony of Owens stands on a ground distinct and apart from the testimony of the other street car men to the effect that at and prior to the day of the tragedy, the street cars on this line may have run ahead of schedule time. Head note 6 of the decision and the corresponding portion of the opinion deals with this subject, and it uses the language that it was competent for the state to show that in fact the car on the line traveled by the girl in going from her home to the factory frequently arrived at the point in question several minutes

ahead of schedule.

In the body of the opinion, the testimony of the state which was introduced as showing the time of arrival of cars was that of an inspector who testified that once or twice he called attention to the motor-man running in ahead of schedule time, and two other witnesses who testified that they were operatives on the line in question and that they had known the car to come in several minutes ahead of schedule time. There is ^{no} distinct notice in the opinion of the witness Owens whose only testimony related to a period after April 26th.

Counsel for the defendant conclude that the court overlooked the special point made on the testimony of Owens to the effect that whether ^{the} testimony is generally admissible or not, showing this car to have come in ahead of schedule time at and before the day of the tragedy, - that after the date of the tragedy, it could have no possible bearing on the case, - the criticism in the brief of Plaintiff in error, on pages 198 and 199 being as follow: "Owens' testimony deals wholly with transactions occurring after the murder. Whether the English Avenue car scheduled for Broad Street at 12:07 - ~~got there on time~~ on April 26th was the issue. When it got ~~there on any other day after April 26th~~ was of no possible moment; that a given car broke its schedule after a given date in no way illustrates whether it did or did not break it at any prior date."

20. Plaintiff in error contends that the court in deciding such case, overlooked the following material proposition in deciding upon the admissibility of the witness Conley's testimony. The court decided ~~that~~ ^{to} as counsel for plaintiff in error ~~considered~~ ^{construe} the decision that Conley having said that Frank remarked "Of course, you know, I ain't built like other men" - and from the condition of the body, - it being inferable that the person who did the killing sought to have a sexual relation, natural or un-natural, with the deceased, - that it was relevant to explain the expression quoted by showing previous transactions of the accused known ^{and} to him ~~xx~~ the witness, which indicated that his conduct in sexual matters differs from that of other men.

Plaintiff in error submits that the remark quoted as to being built like other men is no evidence of any connection, natural or un-natural, with any female and is no evidence that any transaction occurred between the deceased and the defendant of any kind or description; and further ~~sub-~~ ^{mits} that there is no evidence in the record ^{at} whatever showing any kind of sexual relation between the deceased and any person at or just before the time of the killing.

Plaintiff in error submits that in as much as the alleged remark made by the accused according to Conley's testimony, was no evidence of any sexual act and was indeed no evidence of any transaction between the accused and deceased; that it could not be explained by or made the basis for the evidence of other un-natural crimes as testified to by the witness Conley.

21. Plaintiff in error shows that in the 19th head note, the court recites that where the order overruling the motion for new trial contains nothing which could indicate that the judge was dissatisfied ~~xxx~~ with the verdict or that he failed to exercise discretion "The Supreme court will not in determining whether the judge has exercised such discretion consider oral remarks by him, pending the disposition of the motion."

Plaintiff in error contends that the remarks made ~~upon~~ by the judge which form the basis of the ground under consideration, were not merely made pending the disposition of the motion for new trial but were part of the oral judgment delivered by the court, disposing of the motion. They were as much a part of the decision of the motion for new trial as that part of the decision which denied the new trial, and it so appears in the Bill of Exceptions, ~~as~~ ^{and} plaintiff in error contends that the court overlooked this feature of the record.

Respectfully submitted,

L. J. Rosser,
Reuben P. Arnold,
Herbert Haas
Leonard Haas,
Attorneys for Plaintiff in Error.

The undersigned, L. Z. Rosser, Reuben R. Arnold, Herbert Haas and Leonard Haas, do hereby certify that they are counsel for plaintiff in error in the case above stated, and that upon careful examination of the opinion of the Supreme Court therein, - they and each of them believe that the facts set forth in the foregoing motion for re-hearing have been overlooked.

This 24th, day of February, 1914.

L. Z. Rosser

Reuben R. Arnold

Herbert Haas

Leonard Haas

Attorneys for Plaintiff in Error.

In Supreme Court of Georgia.

10 Remitted (1914)
October Term, 1913.

Leo L. Frank,

Plaintiff in Error

vs

State of Georgia,

Defendant in Error.

Motion for Re-Hearing.

Filed in office.

W. B. Miller, D. C. S. C. Ga.

Motion for re-hearing

overruled February 25th

1914.

I. Z. Rosser,
Reuben R. Arnold,
Herbert Hays,
Leonard Hays,
Attorneys for Plaintiff
in Error.

LEO M. FRANK,
Plaintiff in error.

Vs.

THE STATE OF GEORGIA.
Defendant in error.

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ORIGINAL MOTION FOR NEW TRIAL

STATE OF GEORGIA }
vs. } CONVICTION OF MURDER
LEO M. FRANK } IN FULTON SUPERIOR COURT,

MOTION FOR NEW TRIAL.

And now comes the defendant in the above stated case and moves the court for a new trial upon the grounds following, to-wit:

1. The verdict is contrary to the evidence.
2. The verdict is contrary to the law.
3. The verdict is against the weight of the evidence.
4. The court, over the objection of the defendant, heard evidence of other transactions and tending to establish other crimes and offenses, wholly separate and distinct from the charge in the Bill of Indictment, to the injury and prejudice of the defendant.

Wherefore, for these and other good grounds to be urged upon the hearing, the defendant, Leo M. Frank, moves that said verdict be set aside and a new trial granted.

REUBEN R. ARNOLD,
L. Z. ROSSER,
HERBERT J. HAAS,
Attorneys for Leo M. Frank, Movant.

—Read and considered. Let the foregoing motion for new trial be filed and let a copy thereof be served upon the Solicitor General. It is ordered that the State show cause before me on the fourth day of October 1913, at my Chambers, Throver Building, Atlanta, Ga., why the verdict should not be set aside and a new trial granted. In the meantime, and until after this motion may be heard, it is ordered that the movant have the right to prepare and have approved and filed a proper brief of the evidence in said case; and that should said motion be postponed, that such right to prepare and have approved and file such brief of the evidence shall exist and remain in the movant until such time as the motion may be finally heard. In the meantime let the execution of the court's sentence be suspended. It is further ordered

that until such time as this motion may be heard and decided, that the movant have full leave to amend this motion for new trial.

This 26th day of August, 1913.

L. S. ROAN,

Judge S. C. Stone Mountain Circuit,

Presiding.

GEORGIA, FULTON COUNTY:

Service acknowledged. Copy received. All other and further service waived.

This Aug. 27, 1913.

F. A. HOOPER,

HUGH M. DORSEY,

E. A. STEPHENS,

Solicitor General, Fulton County, Georgia.

We further agree to the order within giving time to prepare and file a legal brief of the evidence. Aug. 27, 1913.

HUGH M. DORSEY,

Solicitor general.

AMENDED MOTION FOR NEW TRIAL.

GEORGIA, FULTON COUNTY.

State of Georgia,

vs.

Leo M. Frank.

No.

Fulton Superior Court,

July Term, 1913.

And now comes the defendant in the above stated cause, Leo M. Frank, and amends his motion for new trial heretofore filed in this case, and says:

That the verdict in the above stated case should be set aside and a new trial granted for the following reasons, to-wit:

1. Because the Court erred in permitting the solicitor to prove by the witness, Lee, that the detective Black talked to him, the witness, longer and asked him more questions at the police station than did Mr. Frank the day when he talked to the witness Lee at twelve (12) o'clock at night on April 29th.

At the request of Black and Scott, the detectives, Frank was induced to have an interview with Lee, the witness, for the purpose of eliciting information from him. The solicitor contended that Frank made no effort to find out anything from Lee, and to that end, sought to show and was permitted to prove by Lee that Black talked longer to him than did Frank at the time stated.

The defendant, then and there at the trial, objected to such evidence upon the ground that it was irrelevant, immaterial, and was a mere conclusion of the witness. The Court admitted the evidence, over such objections, and in doing so erred, because said evidence was unwarranted, immaterial and a mere conclusion of the witness and injurious to the defendant.

2. Because the Court erred in permitting, over objections the witness Lee to testify that Frank, on April 29th, when alone with him at the station house, talked to him a shorter time than did Mr. Arnold, one of Frank's attorneys, when he interviewed the witness just before the trial.

The detectives had induced Frank to talk to Lee alone on April 29th at the station house for the purpose of inducing Lee to talk. Mr. Arnold, in the presence of Lee's attorney, and the jailer, had interviewed Lee just before the present trial.

The solicitor, over the objections of Frank's attorneys that the evidence offered was immaterial, irrelevant, and the expression of an opinion, was permitted by introducing said evidence to draw a comparison of the time occupied by Frank and Arnold to their respective interviews, and, in doing so, the Court erred because the evidence offered was immaterial, irrelevant and the expression of an opinion.

3. Because the Court permitted the solicitor over the objection of defendant made at the time the evidence was offered that the same was irrelevant and immaterial, to show by the witness J. N. Starnes that the witness Lee, the morning the body was found, while in the office of the pencil factory and when under arrest was composed. Said evidence was objected to as illegal, unwarranted and hurtful to the defendant and movant now says that its admission was error for the same reasons.

This evidence was hurtful, because used by the solicitor in his address to the jury in contrasting the deportment of Frank, who was claimed to be nervous and excited.

4. Because the Court erred in permitting the witness Starnes, over objection of the defendant, made when the evidence was offered, because it was a conclusion, to say that his conversation with Frank over the telephone the morning of the finding of the body, was guarded—that he was guarded as to what he said.

This evidence was objected to as unwarranted and a conclusion, and movant here assigns its admission as error for the same reasons.

Movant contends this was hurtful to the defendant, and there was a dispute as to what Starnes said to Frank in that conversation, and the solicitor contended that Frank's words and conduct in connection with that conversation was evidence of his guilt. Starnes' statement that he was guarded in that conversation as to what he said, tended to impress the jury that he was accurate in his memory as to the words of the conversation.

5. Because the Court admitted what purported to be a picture of the second or office floor, the street floor and basement of the factory. On this picture was traced red dotted lines extending from the back of the office floor, down the elevator to the basement, and down the basement near the back of the building. There were, also, Greek crosses on the picture. It was con-

ceded by the State that these dotted lines and crosses were no part of nor represented any part of the building but were put in the picture for the purpose of illustrating the theory of the State, as showing where the body was found and where it was carried.

The admission of the picture in evidence, with the lines and crosses thereon, was, when offered, objected to because, as movant contends, it was argumentative, representing and illustrating the State's view of the case by means of red lines and crosses, which was no part of, nor illustrated any part of the building.

The admission of said diagram and drawing was error for the same reasons as set out in the above objections, the objection being that the same was illegal and prejudicial, and movant assigns error in their admission for the same reason.

6. Because the Court, over objection made when the evidence was offered, that the same was a conclusion, permitted the witness Black to testify that in a conversation had with Frank months before the tragedy that he didn't remember anything that caused him to believe that Frank was nervous, the hurtful purpose being to compare his then conduct with that after the tragedy.

This evidence here objected to was illegal, a conclusion, and prejudicial, and movant says its admission was error for said reasons.

7. Because the Court, over objection made when the evidence was offered that the same was irrelevant, permitted the witness Black to testify that Frank had counsel, Messrs. Rosser and Haas about eight or eight thirty o'clock Monday morning while Frank was in the station house, brought there by detectives Black and Haslett.

Movant contends the employment of counsel, under the circumstances was no evidence of guilt; but the Court's conduct in submitting the fact to the jury was greatly hurtful to the defense.

Said evidence was illegal, irrelevant and prejudicial and its admission over objection is here assigned as error for said reasons.

8. Because the Court refused to permit the witness Black to testify on cross-examination that when he found a bloody shirt in the bottom of a barrel in Newt Lee's house, that he carried the shirt to the station house, showed it to Lee, and, when Lee was asked by the witness if the shirt was his, the solicitor objected that the witness should not be allowed to answer the question: "Did he (Lee) say that the shirt was his?"

The Court would not permit the witness to give Lee's answer that the shirt was his.

This answer of Lee's was, as movant contends, part of the res gestae of the shirt transaction, and Lee's answer ought to have been heard.

The Court erred, as movant contends, in ruling out the answer of Lee and not allowing it to come out as a part of the entire transaction.

9. Because the Court, over objection made by the defendant at the time the same was offered, that it was immaterial and irrelevant, permitted the witness Darley to testify that on the morning the body was found Newt Lee was composed.

Defendant objected to this evidence as illegal, irrelevant and prejudicial to defendant which objection was overruled and movant assigns its admission as error for said same reasons.

This evidence was not only irrelevant and immaterial, as movant contends, but hurtful, because this evidence was heard upon the theory of comparison between the conduct of Lee and Frank.

10. Because the Court erred in failing, refusing, and declining, upon motion of the defendant made while the witness Conley was on the stand, to rule out, withdraw and exclude from the jury each and all of the following questions and answers of the witness Conley:

Q. What did he mean?

A. Well, what I taken it to be, the reason he said he wasn't built like other men, I had seen him in a position I hadn't seen any other man in that has got children.

Q. What position?

A. I have seen Mr. Frank in the office there about two or three times before Thanksgiving and a lady was in the office, and she was sitting down in a chair and she had her clothes up to here (up to her waist) and Mr. Frank was down on his knees, and she had her hands on Mr. Frank, and I found them in that position.

Q. When you came into the office before Thanksgiving day, now, when the lady was sitting in the chair?

A. Yes, sir; he saw me when he came out of the office, he saw me.

Q. What was said when they saw you?

A. When Mr. Frank came out of the office Mr. Frank was hollering "Yes, that is right, that is right" and he said, "That is all right, it will be easy to fix it that way."

Q. Well, did you ever see him on any other occasion?

A. Yes, sir; I have seen him on other times there.

Q. What other occasions?

A. I have seen Mr. Frank in the packing room there one time with a young lady lying on the table.

Q. How far was the woman on the table?

A. Well, she was on the edge of the table when I saw her.

The motion was made while the witness Conley was on the stand, and before any cross-examination had been had upon either of the circumstances referred to in said questions and answers, but after cross-examination upon other subjects had progressed a day and a half. The motion to rule out, withdraw and exclude was made because, as stated to the Court when the motion was made, said questions and answers were immaterial, irrelevant, illegal, prejudicial, and dealing with other matters and things and crimes irrelevant and disconnected with the issue in the case then on trial.

Movant contends this evidence was highly prejudicial, and the failure of the Court, upon proper motion, to rule it out was a great injury to the defendant. And the failure of the Court to rule out said prejudicial and irrelevant and immaterial evidence is here assigned as error and a new trial should be granted because said evidence was illegal, irrelevant and highly prejudicial and involved other transactions not legitimately under investigation, and the same amounted to accusing the defendant of other and independent crimes.

11. Because the witness Conley, at the instance of the solicitor, was permitted to testify that he had seen Frank in a position with women that he had not seen any other man in that has children; that he had seen Frank in the office of the Pencil Company about two or three times before Thanksgiving and a lady was in the office and she was sitting down in a chair and she had her clothes up about her privates, and Frank was down on his knees, and she had her hands on Frank; that Frank saw Conley when he came out of the office, that when Frank came out of the office he was hollering "Yes, sir, that is right, that is right" and he said "That is all right, it will be easy to fix it that way;" that at another time he saw Frank in the packing room of the factory with a young lady lying on a table—she was on the edge of the table when he saw her.

While Conley was on the stand, and before he was crossed about seeing the circumstances testified about, and after cross examination upon other subjects had been had for a day and a half, counsel for the defendant moved the Court that the next above stated testimony of the witness Conley be ruled out, withdrawn and excluded from the jury, stating at the time that such motion ought to be granted, because the testimony was irrelevant, immaterial, illegal, prejudicial, and dealing with other matters and things, and crimes, irrelevant and disconnected with the issues in this case.

The Court declined to rule out, withdraw, or exclude this testimony from the jury, but permitted the same to remain before the jury.

The action of the Court was erroneous and highly prejudicial to the defendant, and demands a new trial.

Such action of the Court was error because said evidence was illegal, irrelevant and hurtful to the defendant and involved other transactions not legitimately under investigation, and the same amounted to accusing the defendant of other and independent crimes.

12. Because the witness Conley, when on the stand, testified that he watched for Frank, at the Pencil Factory, four times on Saturdays, not on the day of the murder, and once on Thanksgiving day, 1912, while Frank was with women in his office, detailing certain signals by which the witness Conley was to lock and open the door.

When the first question was asked by the solicitor seeking to elicit whether witness had ever seen Frank up there in his office doing anything with young ladies before April 26, 1913, the defendant objected on the ground that the

evidence sought was irrelevant and immaterial. The Court ruled that the evidence would be immaterial, but further questions were asked by the solicitor and elicited the evidence here complained of.

While Conley was still on the stand, and after cross examination a day and a half on other subjects, defendant's counsel moved to rule out, exclude and withdraw from the jury all the testimony, both direct and on cross, detailing Frank's associations with women and Conley's watching at other times than the Saturday of the murder, to-wit: April 26, 1913. Said motion was made upon the grounds stated and argued at the time the motion was made, that such testimony was immaterial, irrelevant, illegal, prejudicial, and dealt with other matters and things and crimes irrelevant to, and disconnected with, the issues on trial in this case.

The Court declined the motion made at the time upon the grounds, as stated, and in doing so erred, because the evidence sought to have been ruled out for the reasons stated, and the same amounted to accusing the defendant of other and independent crimes.

13. Because the Court, upon motion made when the witness Conley was still on the stand, declined to rule out, exclude and withdraw from the jury each and all the below questions propounded to witness Conley, and his answers thereto:

Q. Now, tell what kind of work you had done for him the other Saturdays.

A. I always stayed on the first floor, like I stayed on the 26th of April, and watched for Mr. Frank, while he and a young lady would be on the second floor chatting.

Q. You say chatting. Do you know what they were doing?

A. No, sir, I don't know what they were doing. He only told me they wanted to chat.

Q. Did you ever see him up there doing anything with young ladies?

A. Well, I have—

Q. Well, what would you do before when young ladies come there?

A. I would sit down on the first floor and watch the door for him.

Q. And watch the doors for him?

A. Yes, sir.

Q. How many times did you watch the door previous to Saturday, the 26th of April, 1913?

A. Well, I couldn't exactly tell you; it has been several times I watched for him.

Q. Who was there when you were watching the door?

A. Well, I don't know, sir, who would be there when I watched the door, but there would be another young man and another young lady there during the time I was at the door; a lady for him and one for Mr. Frank.

Q. Now, was Frank ever there alone?

A. Mr. Frank was there alone once, and that was Thanksgiving Day, that I watched for him.

Q. Well, do you know or not the lady—did any woman come there that day?

A. Thanksgiving Day?

Q. Yes.

A. Yes, sir.

- Q. What kind of a looking woman?
A. She was a tall, heavy built lady.
Q. What did you do on that occasion?
A. I stayed down there and watched the door, just as he had told me to do this last time.
Q. Then what was done?
A. Well, after the lady came and he stamped for me, I went and unlocked the door as he said. He told me when he got through with the lady he would whistle, and when he whistled for me to go and unlock the door.
Q. That was on Thanksgiving day of what year?
A. Of last year, 1912.
Q. He says: "What I want you to do, I want you to do, I want you to watch for me to-day as you have on other Saturdays."
A. And I says: "All right."
And he says: "Now, when the lady comes, I will stamp as I did before."
Q. What did he mean?
A. I have seen Mr. Frank in the office there about two or three times before Thanksgiving, and a lady was in the office, and she was sitting down in a chair, and she had her clothes up to here (indicating), and Mr. Frank was down on his knees, and she had her hands on Mr. Frank, and I found them in that position.
Q. Well did you ever see him on any other occasion?
A. Yes, I have seen him another time there.
Q. What other occasion?
A. I have seen Mr. Frank in the packing room one time with a young lady laying on the table.
Q. How far was the woman on the table?
A. Well, she was on the edge of the table when I saw her.
Q. Do you know the name of the woman that was up there with Mr. Frank?
A. Thanksgiving day?
Q. Yes.
A. No, sir. I don't know her name.
Q. Do you know the name of the other woman?
A. No, sir. I know the young man's name that was with one of the ladies, but I don't know the other lady's name. I know where she lives at.
Q. What is the name of the man?
A. That man's name is Mr. Dalton.
Q. Now, what kind of looking woman was it that you saw there Thanksgiving day in Mr. Frank's office?
A. Well, she was a tall built lady, heavy weight, she was nice looking, she had on a blue looking dress with white dots in it, and she had on a grayish looking coat with kind of tails to it. The coat was open like that (indicating), and she had on white slippers and stockings.
Q. Did Mr. Frank see you that time?
A. Thanksgiving day?
Q. Yes.
A. Yes, sir, he told me to come to the office—to come to the factory.
Q. When you come up into the office before Thanksgiving day now, when the lady was sitting in the chair?
A. Yes, sir. He saw me when he come out of the office, he saw me.
Q. What was said when they saw you?
A. When Mr. Frank come out of the office he was hollering: "Yes, that is right, that is right," and he said: "That is all right, it will be easy to fix it that way."

CROSS EXAMINATION.

- Q. Now, you said you watched for Mr. Frank?
A. Yes, sir.
Q. When was the first time you ever watched for Mr. Frank?
A. The first time I ever watched for Mr. Frank alone and knowed he was in the office—
Q. When was the first time you ever watched for Mr. Frank alone or with somebody else? Don't make any difference.
A. I couldn't exactly give you the—
Q. Tell us the best you can?
A. Some time during last summer, when I was watching for him.
Q. That was the first time, now?
A. Yes, sir.
Q. Whereabouts in the summer; what part of the summer did you do that watching that time?
A. Somewhere about in July.
Q. That's the first time; there was somebody with him that time?
A. Yes, sir. Somebody was with him all the time, off and on.
Q. Let's take the first time, now; what did Mr. Frank say to you that time; what did he say—what did he say to get you to watch for him?
A. I would be there sweeping, and Mr Frank come out and call me in the office.
Q. What?
A. I would be there sweeping and Mr. Frank come out and call me in the office.
Q. When was the first time he ever did that?
A. That was on Saturday he done that.
Q. He never had called you in there before when you were sweeping, except on Saturday?
A. He called me in there but never talked to me about that matter.
Q. Did he talk to you about anything?
A. Yes, sir.
Q. About what?
A. Sometime about the work, something like that.
Q. You mean during the week?
A. No, sir; he talked to me them Saturdays about it.
Q. When was the first time he called you in there to talk about the work or anything else?
A. How do you mean?
Q. On Saturday, when was the first time he called you in there to talk to you about the work or anything else on a Saturday?
A. I don't know about that.
Q. Tell us about that?
A. That was right after I started work there when he called me and talked to me about the work.
Q. And that was on Saturday?
A. Yes, sir; that was on a Saturday.
Q. About what time, now?
A. I don't know, somewheres about three o'clock, though.
Q. Sometime about three o'clock?
A. Yes, sir.
Q. What was your Saturday hours, Jim?
A. I always generally have to work from the time I get back there until half past four that evening.

- Q. What time would you usually get back there?
A. I would leave away from there about half past twelve, ring out the clock, and come back about half past one or two o'clock.
- Q. Would you ring in again?
A. Yes, sir; sometimes I would and sometimes I wouldn't.
- Q. The first time you say you ever watched, you say you watched for Frank and somebody else last July?
A. Yes, sir.
- Q. You don't know who the man was?
A. Yes, sir, I know who the man was.
- Q. Who was he?
A. A man named Mr. Dalton.
- Q. Where is he?
A. I don't know where he is now.
- Q. How do you spell that?
A. I don't know how you spell it.
- Q. What did he do?
A. A young lady that worked at the factory—I don't know what her name was—she would go off and get him and bring him in there.
- Q. You don't know where he lived?
A. No, sir; I don't know where he lived, but I know where she lived.
- Q. How come him to tell you who she was?
A. She was the one told me his name.
- Q. Where is the young lady?
A. I don't know, sir, if she's anywhere in the room and if she'll stand up I can tell you if it is her.
- Q. Give us her name?
A. I don't know, sir, what her name is; the detectives know her name; I don't.
- Q. Did the detectives tell you who she was?
A. No, sir; they didn't tell me who she was, I described to them where she lives at.
- Q. Where does she live?
A. She lives on West Hunter Street.
- Q. Where?
A. Between Hunter and Haynes Street, around about Magnolia Street, down there.
- Q. How come you to know she lived there?
A. Because I passed her house every morning.
- Q. And the man was named Dalton?
A. Yes, sir.
- Q. Who was with Mr. Frank?
A. The lady that was with Mr. Frank was Miss Daisy Hopkins.
- Q. Where did she live?
A. I don't know, sir, where Miss Daisy Hopkins lived.
- Q. Where did she work?
A. She worked up on the fourth floor.
- Q. Do you know where she is now?
A. No, sir.
- Q. Now, what time of day was that?
A. It would always be somewhere about three or three-thirty.
- Q. Where did Mr. Frank tell you to watch, that time?
A. I would be up there sweeping, and Mr. Frank—

- Q. That time—that particular time, I mean?
A. Well, I would be sweeping.
Q. I'm talking about that time—that particular time?
A. When he told me to watch?
Q. Yes, what did he say to you when he told you?
A. I'm going to explain to you now—
Q. That particular time, now?
A. Yes, sir.
Q. Give it to me, now?
A. I would be there sweeping—
Q. Oh, don't give me what you would be doing. I want to know about that particular time?
A. I was at the factory.
Q. Where?
A. Sweeping on the second floor.
Q. Now, what time was that?
A. Somewhere about three o'clock or three thirty.
Q. Somewhere about three or three-thirty?
A. Yes, sir.
Q. Then what happened?
A. Well, there would be one lady in the office.
Q. I am talking about that particular time, Jim—the first time he ever talked to you there, you were in the pencil factory?
A. Yes, sir.
Q. When Mr. Frank called you?
A. Yes, sir.
Q. You were on the second floor?
A. Yes, sir.
Q. Then Mr. Frank called you and then you went to Mr. Frank's office?
A. Yes, sir.
Q. Was there a woman in there with him?
A. Yes, sir, a lady was in there with him.
Q. Called you in the presence of the lady?
A. Yes, sir.
Q. Talked to you in the presence of the lady?
A. Yes, sir. He talked to me in the lady's presence.
Q. And that was Miss Daisy Hopkins
A. Yes, sir.
Q. And that was about three o'clock?
A. Or half past three.
Q. In July last?
A. Yes, sir.
Q. What did Mr. Frank say to you in that lady's presence? That's the time (first) time he ever talked to you about that matter, what did he say to you?
A. Yes, sir; he says: "Did you see that lady go out there?"—
Q. Why, I thought you said the lady was present?
A. Yes, sir. That lady was present. He would say: "Did you see that lady go out there?" I say: "Yes, sir," and he says: "You go down there and see nobody don't come up here, and you'll have a chance to make yourself some money."
Q. And the lady was present?
A. Yes, sir.
Q. Where was the other lady?
A. The other lady gone on out and to get that young man.

- Q. She went with the man?
A. No, sir, she went out by herself to get the man and come back with the man.
Q. How long was she gone?
A. I don't know, sir, how long she was gone.
Q. And that was about half past three?
A. Yes, sir.
Q. The beginning of that transaction was about half past three?
A. Yes, sir.
Q. How long was she gone?
A. I don't know, sir, how long she was gone.
Q. You don't know how long she was gone?
A. No, sir; I don't know how long she was gone.
Q. Was she back after awhile?
A. Yes, sir.
Q. She came back after awhile and brought a man with her, and that man was Dalton?
A. Yes, sir.
Q. And Dalton's name you don't know?
A. Yes, sir; his name was Mr. Dalton.
Q. I know, but you don't know where he lives—nothing of that kind?
A. No, sir.
Q. When this young lady went off and came back and brought Dalton back, where did you see her again?
A. I saw her and Mr. Dalton when they come in at the door.
Q. You were watching then?
A. Yes, sir.
Q. Then where did they go?
A. Upstairs to Mr. Frank's office.
Q. Did you see them go to Mr. Frank's office?
A. I heard them walking in Mr. Frank's office.
Q. Then how long did they stay in Mr. Frank's office?
A. They didn't stay in there long, ten or fifteen minutes, I reckon.
Q. Then where did they go?
A. They came back down, and she says: "All right, James."
Q. Then his name was James Dalton?
A. No, sir; that was talking to me—said all right to me.
Q. You saw them go in the factory and heard them go to Mr. Frank's office, and how long did they stay there?
A. About fifteen minutes, I reckon.
Q. Then all of them came down together?
A. No, sir. They didn't all come down together—just this lady and Mr. Dalton.
Q. Then how long before Mr. Frank came down?
A. He was the last one that came down.
Q. How long?
A. About an hour after that.
Q. You never heard any of them come out of Mr. Frank's office after they went in?
A. Yes, sir; this lady and this man come back down.
Q. They came back and went down?
A. No, sir; they didn't go out. She came down and say: "All right, James," and I would say: "All right; and a place on the first floor that leads into another department, and after you get into this other department, there's

a trap door and stairway that leads down in the basement, and they pull out that trap door and go down in the basement.

Q. And that time, she came down and says: "All right, James?"

A. Yes, sir.

Q. She knew you?

A. Yes, sir.

Q. Because she worked in the office?

A. No, sir; she didn't work in the office; she worked on the fourth floor.

Q. Then you went through that door—a door right behind the elevator?

A. No, sir; there isn't a door back of the elevator; there's a big wooden door, just a step there.

Q. I know; but it goes back in the back there?

A. Yes, sir.

Q. Then you opened that door?

A. Yes, sir.

Q. Then came back and opened that trap door?

A. I came and pulled up the trap door.

Q. And then they went down there?

A. Yes, sir.

Q. She said "All right, James?"

A. Yes, sir.

Q. Then you went and opened that door?

A. Yes, sir.

Q. She didn't tell you to open it?

A. Yes, sir; she said, "All right, James"—something like that.

Q. She said "All right," and then you opened the door?

A. Yes, sir.

Q. What made you open the door?

A. Because she said she was ready. I knowed where she was going;

Mr. Frank told me to watch.

Q. Mr. Frank told you to watch?

A. Yes, sir.

Q. But he didn't tell you where they were going?

A. Yes, sir, he told me where they were going.

Q. How came him to tell you that?

A. I don't know, sir.

Q. When did he tell you that?

A. That day.

Q. That they were going to the basement?

A. Yes, sir.

Q. That he was going to stay in his office?

A. He didn't say where he was going to stay.

Q. Well, he stayed there?

A. As long as I stayed there I didn't see him go out.

Q. She said all right, and went through that door?

A. Yes, sir.

Q. Opened it and they went down?

A. Yes, sir.

Q. You shut that trap door?

A. Yes, sir.

Q. And that was in July?

A. Yes, sir.

Q. And the first time that ever happened?

A. Yes, sir.

- Q. First time anybody ever asked you or talked to you about it?
A. Yes, sir.
- Q. Now, they went down the basement?
A. Yes, sir.
- Q. How long did they stay there?
A. I don't know, sir, how long they stayed there.
- Q. What became of them?
A. Well, they came back up.
- Q. About what time?
A. I couldn't give no time, because I don't know what time it was when they went down there.
- Q. Well, about what time?
A. I don't know, sir; I couldn't give you what time they came back up.
- Q. It was after 3:30 when this whole thing started?
A. Yes, sir, it was after 3:30 when this whole thing started.
- Q. He told you to go down; they came up after a while?
A. Yes, sir, they came up after a while.
- Q. Came up the same way they went down?
A. Yes, sir.
- Q. Up through the same door?
A. Yes, sir.
- Q. You kept that door locked all the time?
A. No, sir, I didn't keep it locked; I just kept it shut and stayed there by it.
- Q. Stayed there the whole time?
A. Yes, sir.
- Q. And never left?
A. No, sir.
- Q. Well, what did they do after they came up through the door?
A. After they came up through the door me and Mr. Dalton stood and talked at the steps. Mr. Dalton gave me a quarter and he went out laughing, and she went up the steps.
- Q. Where did she go?
A. She went and stood at the top of the steps a little while first, before she ever went to the office.
- Q. Did she go to the office?
A. Yes, sir, she went to the office.
- Q. How do you know she did; you couldn't see her go there, could you?
A. No, sir, I couldn't see her go in the office, but I could hear her go there. I heard her walking in there.
- Q. How long did they stay before they came down?
A. Didn't stay very long before they came down.
- Q. What next happened?
A. They came down and left, and then Mr. Frank come down after they left away.
- Q. What time did Mr. Frank leave?
A. I don't know, sir, what time Mr. Frank left—
- Q. Give us the best you can?
A. Frank left some time about half past four, I believe.
- Q. Then they stayed there an hour?
A. I don't know sir; I guess so.
- Q. Then Mr. Frank left, and you locked the door and you left?
A. No, sir, I left before he did. He came down and gave me a quarter out of his pocket. He says: "Is that all right?" and I says, "That's all right," and then left.

- Q. Then he came out behind you and left?
A. Yes, sir.
Q. Now, that's the first time?
A. Yes, sir.
Q. Now, when was the next Saturday?
A. The next Saturday was mighty near the same thing.
Q. Well, what was the next Saturday; I didn't ask you whether it was the same thing or not?
A. That was about two weeks after that.
Q. Was that in August or in July?
A. Well, it was about the last of July or the first of August.
Q. Well, do you remember the date?
A. No, sir, I don't remember the date at all.
Q. Where did you get your money that time; did you draw it?
A. Yes, sir, I drew my money that time.
Q. Go up and draw it yourself?
A. I disremember whether I drew it myself or not.
Q. Can't remember anything about that?
A. No, sir.
Q. The first time it happened, did you draw it yourself?
A. I can't remember whether I did or not.
Q. You can't remember that?
A. No, sir.
Q. Tell us the next Saturday. You think it was about two weeks after that?
A. Yes, sir.
Q. Now, when did Mr. Frank first mention it to you that Saturday? When did he first mention it, that Saturday, to you?
A. Mr. Frank mentioned it to me the same Saturday I was there.
Q. About three o'clock?
A. I don't know, sir, what time it was.
Q. About half past two, was it?
A. About half past two, I guess, that Saturday.
Q. About half past two, you think, that Saturday?
A. Yes, sir.
Q. Where were you then?
A. At the factory.
Q. Where?
A. I was through sweeping, up on the fourth floor.
Q. Mr. Frank came and got you?
A. No, sir, he told me that morning before ever they paid off.
Q. What time was that he told you?
A. I don't know, sir, it was near twelve o'clock when he did tell me.
Q. Where did he tell you that?
A. In the box room.
Q. Anybody else present?
A. No, sir, not as I knows of.
Q. What were you doing in there?
A. What was I doing in there, I was looking after the boxes.
Q. What did he tell you then?
A. He told me: "Now you know what you done for me last Saturday—"
Q. He told you: "You know what you done for me last Saturday?"
A. The other Saturday. I says: "Yes, sir, I remember." He says: "I want to put you wise to this Saturday." I says: "All right, sir, what time?" He says: "Oh, about half past" (?) I says: "All right, sir."

- Q. You remember that distinctly?
A. Yes, sir.
Q. What time did he go to dinner that day?
A. I don't know, sir, what time he went to dinner that day; I wasn't there when he went to dinner.
Q. What time did he get back that day?
A. That was somewhere about quarter past two. I saw him going up the steps with his clothes and his hat on. I don't know where he had been.
Q. What was the next that happened?
A. He went in his office next that happened.
Q. Then what was the next that happened?
A. Mr. Holloway, he came on out.
Q. Mr. Holloway was there?
A. Yes, sir.
Q. That was half past two o'clock?
A. No, sir, it wasn't half past two.
Q. I thought you said he always left about half past two?
A. No, sir, I didn't say he always done it.
Q. Now, when was that; give us the best estimate about it?
A. It's pretty hard to give the best estimate about the time, because I wasn't looking at the clock at all.
Q. What was the next?
A. After Mr. Holloway left away Miss Daisy Hopkins come on in there.
Q. What happened next?
A. She came into his office.
Q. You heard her come into his office?
A. I saw her that time.
Q. Did she see you?
A. Yes, sir.
Q. Then what happened?
A. Well, Mr. Frank come out and popped his finger and bowed his head like that and went back in the office.
Q. Where were you at?
A. I was standing there by the clock.
Q. He popped his hand?
A. No, sir, he popped his finger.
Q. He popped his finger and bowed to you?
A. Yes, sir.
Q. Then you went down?
A. Yes, sir, then I went down.
Q. And stood by the door?
A. Yes, sir.
Q. Didn't lock it?
A. No, sir, I didn't lock it; I shut it.
Q. Then what next happened?
A. I don't know, sir, what next happened.
Q. Did you hear Mr. Frank come out of his office at all?
A. No, sir, I didn't hear Mr. Frank come out of his office at all.
Q. You could have heard him if he went out?
A. No, sir, I couldn't have heard him if he went out.
Q. Well, how comes it you could hear him go in there and not hear him come out?
A. Because I was up there on the floor when she went in there, in the office.

- Q. When you went down, she was in Mr. Frank's office?
- A. No, sir, I was standing at the clock and saw her go into Mr. Frank's office.
- Q. Then you went down and watched?
- A. Yes, sir, I went down and watched.
- Q. Did you hear her come out of his office?
- A. No, sir.
- Q. Didn't you say a while ago that, while you were at the door, you heard these other people coming out of his office?
- A. No, sir, I said this—this was what I said: after I got to the top of the steps I could hear them going into his office.
- Q. I know but you said this lady went and got a fellow; you stood by the door and heard them going into his office.
- A. No, sir, I said her and this man's footsteps I heard them go into Mr. Frank's office. I said I stood down at the door and watched.
- Q. You were watching when they came in, didn't you say?
- A. Yes, sir, I said I was watching when they came in.
- Q. You could see them when they came in there?
- A. Yes, sir, I could see them when they came in there, and I said I went up and heard the footsteps going in Mr. Frank's office.
- Q. Didn't you sit there and watch all the time?
- A. I didn't sit there at the door until he notified me to do that.
- Q. I'm talking about the time she went and got that man and came back?
- A. I was standing by the door, yes, sir.
- Q. Stood there from that on?
- A. No, sir, I didn't stand there from that on.
- Q. What did you do?
- A. I stood there about the trash barrel then.
- Q. On the first floor?
- A. Right there by the side.
- Q. And then you heard them going back?
- A. I heard them go to Mr. Frank's office, yes, sir.
- Q. When you were standing at the door, you couldn't see them going into Mr. Frank's office?
- A. No, sir, I couldn't see them go into Mr. Frank's office.
- Q. Wasn't you at Mr. Frank's office at that time?
- A. Not at the door, no sir, when you are at the door you ain't there at Mr. Frank's office.
- Q. When do you hit his office?
- A. When you hit that trash barrel.
- Q. Now, did anybody else come that day?
- A. This second time?
- Q. Yes.
- A. No, sir, nobody else didn't come.
- Q. How long did Mr. Frank stay there that time?
- A. I don't know, sir, how long he stayed there that time.
- Q. About how long?
- A. Stayed there that time about a half an hour, I reckon—something like that.
- Q. Then the girl went out?
- A. Yes, sir; then the girl went out.
- Q. Mr. Frank came and went out?
- A. No, sir, he called me up there then, asked me was I there; I told him yes sir, I was about through now.

- Q. Did he know whether you were through or not?
A. I don't know, sir, whether he did or not.
Q. He gave you some money?
A. He gave me half a dollar.
Q. And the other time they didn't give you but a quarter.
Q. Then you left?
A. Yes, sir.
Q. Give the next time?
A. Pretty hard for me to remember.
Q. It was Thanksgiving Day, the next time, wasn't it?
A. No, sir, it wasn't Thanksgiving Day, the next time; I had watched for him and Mr. Dalton, too, before that Thanksgiving Day.
Q. Give us the best you can, of the next time?
A. That was somewhere along in the winter time; I don't know, sir, the exact time.
Q. Well, Thanksgiving time is winter time, ain't it, Jim?
A. Yes, sir, but this is before Thanksgiving.
Q. How many times before Thanksgiving?
A. I watched for him three times before Thanksgiving day.
Q. Well, you've given me two of these times?
A. Yes, sir.
Q. When was the next one—about when?
A. I don't know, sir; I couldn't exactly tell. Somewhere about the middle of August, I guess, or the last part of August.
Q. You said it was winter, didn't you?
A. Well, that's somewhere near the winter, ain't it?
Q. Mighty cold about the middle of August, ain't it?
A. I said it was somewhere—
Q. Beginning to be mighty cold about the middle of August, ain't it?
A. No, sir, not so cold.
Q. Pretty cold, though, ain't it?
A. No, sir, not so cold.
Q. But it's obliged to be cold, though, ain't it?
A. No, sir, not so cold.
Q. Pretty cool though?
A. No, sir, not so cold. Some days is cool.
Q. What made you say it was near winter, though, Jim?
A. It's near winter.
Q. All right, how did that happen. Just give it to me like it happened.
What time did that happen?
A. I don't know, sir, what time it was that it happened.
Q. About what time?
A. Sometime after Mr. Frank come back from dinner; I don't know what time it was.
Q. About what time?
A. I don't know, sir.
Q. What did he tell you—he wanted you to watch that time?
A. He told me that time on the fourth floor.
Q. What time was that?
A. This was somewhere—I don't know, sir, what time; I couldn't exactly tell.
Q. It was morning or evening?
A. It was in the evening.
Q. About what time?
A. I don't know, sir, I couldn't tell you exactly.

- Q. Where was you when he told you?
A. Right at the elevator.
Q. Was it before twelve o'clock?
A. I don't know, sir, whether it was twelve o'clock or not.
Q. After twelve?
A. I don't know whether it was after twelve or not.
Q. You don't know anything about that; you can't remember that?
A. No, sir.
Q. Anybody standing around there then?
A. There was Gordon Bailey standing there.
Q. That's Snowball?
A. Yes, sir.
Q. Anybody else there?
A. Not to my knowing, it wasn't.
Q. Wasn't the office force there at that time?
A. They were not standing at the elevator; they were back at work.
Q. It must have been before twelve o'clock then, if they were back at work?
A. I guess so; I don't know whether it was twelve or not.
Q. What did he tell you then?
A. He told me: "I want to put you wise again for to-day."
Q. "I want to put you wise again for to-day?"
A. Yes, sir.
Q. That is the same words he used every time?
A. He didn't use that every time, but he used that more often than anything else.
Q. What else did he say. He hadn't seen you but three times; hadn't watched for him but three times—two times before that?
A. Yes, sir.
Q. You say that's the word he usually used?
A. I don't know about the usual, but he used that the other two times.
Q. Up to that time he used the same words every time, that: "I want to put you wise." Is that correct?
A. Yes, sir, but he said sometimes in a funny way—
Q. Well, sometimes. But you said you hadn't watched but three times; and every time he said then: "I want to put you wise." He done that, didn't he, Jim?
A. And he would say that and say it in another way, too.
Q. But the three times, he said: "I want to put you wise?"
A. Yes sir, the three times he said: "I want to put you wise."
Q. And that was the three times—say it the three times up to that time?
A. Well, yes sir, to my remembrance it was.
Q. You don't know that then?
A. No, sir, I don't know that.
Q. Well, you said that though?
A. Yes, sir. I said it.
Q. Did he say anything else to you but "I want to put you wise" at that time and place?
A. Yes, sir, "I want to put you wise like I been doing the other Saturdays down there." I said: "All right, sir."
Q. All right, now, what time did that happen?
A. Well, just happen in the evening.
Q. About what time?
A. I don't know, sir, what time it happen.

- Q. Give us the best estimate you have got?
A. Well, some time half past, I reckon.
Q. Sometime half past; half past what—half past two or half past three?
A. It was half past two, I reckon.
Q. He came back you say. What made him come; did he come back and hunt you?
A. No sir, he didn't hunt me.
Q. Where were you?
A. I was standing by the office when he got there.
Q. Then he came in there with you?
A. Yes, sir.
Q. What did he say to you?
A. He told me, he says: "She be here in a minute."
Q. Then where did you go?
A. I stayed there at the office.
Q. Did you see her come in there?
A. Yes, sir; I seed her come in there.
Q. Who was she?
A. She was a lady what worked on the fourth floor, but I don't know her name.
Q. The same woman?
A. No sir, she's not the same woman.
Q. Miss Daisy had been there twice, and this was a new woman?
A. Yes, sir.
Q. Does she work there now?
A. I don't know, sir, whether she is or not. I'm not working there, and I don't know who all's working there now.
Q. What kind of looking lady was she?
A. Nice looking lady, kinder slim.
Q. What kind of eyes did she have?
A. I don't know, sir, I never paid no attention to her eyes.
Q. What kind of hair?
A. I don't know, sir, exactly—had hair like Mr. Hooper there got.
Q. How do you know Mr. Hooper so well; you seem to know him pretty well, don't you, Jim?
A. No sir, I don't know, sir; I have seen Mr. Hooper before.
Q. He had a good deal to do with you down there?
A. No sir; I seen him once when he come down to the cell to see me.
Q. Was she grey-haired, like Hooper—you say she had hair like Hooper's?
A. Yes, sir, she had hair like Mr. Hooper's.
Q. Ain't that a grey-headed fellow, sorter measley and broken down with age?
A. Don't look like he's grey to me.
Q. You have been right close to him, too, haven't you?
A. I've been right close to him, but not to pay no attention to his hair.
Q. Well, she had hair like Hooper?
A. Yes, sir.
Q. If he's grey-haired, she had too?
A. Well, she had hair like Mr. Hooper's.
Q. Was she blonde or brunette?
A. I don't know, sir, what you mean by that?
Q. You don't know what a blonde is?
A. No, sir.

- Q. You don't know what a brunette is?
A. No, sir.
- Q. Did she have light hair?
A. She had hair like Mr. Hooper's.
- Q. What sort of clothes did she have on?
A. She had on a green suit of clothes.
- Q. Green all over?
A. As far as I could see.
- Q. What kind of shoes and stockings did she have on?
A. I didn't pay no attention to her shoes and stockings.
- Q. But Miss Daisy Hopkins, what sort of clothes did she have on the first time she came down there?
A. The first time that she came there she had on a black skirt and a white waist.
- Q. What kind of shoes and stockings?
A. I didn't pay no attention to what kind of shoes and stockings she had on.
- Q. Didn't you tell Mr. Dorsey what kind of shoes and stockings she had on?
A. No, sir, I told him the lady that was there Thanksgiving Day had on white shoes and stockings.
- Q. Now the next day what did she have on?
A. The next day she had on the same thing, black skirt and white waist.
- Q. She had on exactly the same thing?
A. Yes, sir.
- Q. And this other—there was a girl dressed in green all over?
A. Yes, sir, there was a girl dressed in green all over, this last one.
- Q. And you don't know who she is?
A. No, sir; she worked up there on the fourth floor, but I don't know her name.
- Q. You don't know whether she works there now or not?
A. No, sir, I don't know whether she works there now or not. I haven't been there—
- Q. She worked there when you left?
A. She had been there that morning; I don't know whether she was there that evening.
- Q. And you saw her there?
A. Yes, sir.
- Q. Did she have on a green dress that morning?
A. No sir, she didn't have on a green dress that morning.
- Q. What kind?
A. A dirty black dress with paints on it.
- Q. Well, they all have that, don't they?
A. Yes, sir, when they are at work.
- Q. You didn't see her when she had her working dress off?
A. No, sir, I didn't see her that day when she had her working dress off.
- Q. You never inquired who she was?
A. No, sir, I never inquired who she was because it wasn't none of my business.
- Q. Did she speak to you?
A. No, sir.
- Q. Well, she's the one, anyway?
A. Yes, sir.
- Q. She was the other one?
A. Yes, sir.

- Q. Now, Jim, don't everybody in that factory know Jim Conley?
A. No, sir, didn't everybody in that factory know me.
Q. Give me one of them?
A. I don't know, sir, I don't know whether they all knew me or not.
Q. Didn't the lady go up and down on the elevator at all?
A. No, sir, the girls never did.
Q. You swept on the fourth floor?
A. Yes, sir, I swept on the fourth floor a while.
Q. How long did you sweep on the fourth floor?
A. Been sweeping up there ever since last January.
Q. You saw that little girl every day, that went to meet Mr. Frank, didn't you?
A. This last one?
Q. Yes?
A. I didn't see her every day, but I seen her there.
Q. Saw her many times and didn't ask who she was?
A. No, sir, I didn't ask who she was.
Q. Don't know who she was?
A. No, sir, I don't know who she was.
Q. Now, when she came in, did she see you when she came in?
A. Yes, sir, she seen me when she come in.
Q. Where did she go?
A. She went to Mr. Frank's office.
Q. Then you went and watched?
A. Yes, sir, then I went and watched.
Q. You didn't see them leave nor hear them leave Mr. Frank's office?
A. No, sir, I didn't see them leave and I didn't hear them leave Mr. Frank's office.
Q. How long did you stay there?
A. Half an hour, I reckon.
Q. And she came out?
A. Yes, sir.
Q. What became of Mr. Frank?
A. He came out and left me up in the office and he went out somewhere, I don't know where he went, and then he came back and says: "That's all right, I didn't take out any money."
Q. He went out somewhere?
A. Yes, sir.
Q. You mean he went out in town somewhere?
A. I don't know whether he went out in town or not.
Q. Didn't you open the door?
A. Yes, sir, I opened the door.
Q. Well, he went out of the factory?
A. Yes, sir.
Q. And then went back?
A. Yes, sir.
Q. And you stayed there waiting for him?
A. Yes, sir.
Q. What did you say he said?
A. He said: "I didn't take out that money, didn't you see I didn't?"
I says: "Yes, sir, I seed you didn't." He said: "That's all right, old boy, I don't want you to have anything to say to Mr. Herbert or Mr. Darley about what's going on around here."
Q. He told you he didn't want you to tell Darley?
A. Yes, sir.

- Q. And then the next time, now, was Thanksgiving Day?
A. Yes, sir, the next time was Thanksgiving Day.
Q. What hour was it Thanksgiving Day?
A. I don't know, sir, what hour; I met Mr. Frank there that morning about eight o'clock.
Q. Anybody else there?
A. I didn't see anybody else there.
Q. Where did you meet him, then?
A. I met Mr. Frank right at the door; I was sitting on the box when he come in.
Q. That's when he mentioned it to you again?
A. That's when he taken me on the inside and told me—
Q. Tell me the words.
A. After he went on the inside, he says: "How are you feeling?" I says: "I'm feeling all right, Mr. Frank." He says: "Come here," he says, "a lady will be here a little while, me and her going to chat. I don't want you to do no work; I just want you to watch."
Q. About what time was that?
A. Somewhere between eight and half past eight.
Q. Nobody there then?
A. I didn't see nobody.
Q. Where did you go then?
A. He went upstairs.
Q. He went upstairs?
A. Yes, sir.
Q. Where did you go?
A. I stayed down on the first floor.
Q. How long was it before the lady came?
A. I don't know, sir, somewhere about half an hour.
Q. Something about nine o'clock, that morning?
A. I don't know, sir, what time it was; it was about half a hour.
Q. Well, you said you got there about half past eight?
A. I said somewhere about eight and half past eight.
Q. Well a half hour, then, would be somewhere between half past eight and nine, the lady came?
A. Yes, sir, it was a half hour.
Q. Did you know that lady?
A. No, sir, I didn't know that lady. I had never seen her around the factory.
Q. She had never worked there?
A. No, sir.
Q. And you never saw her before nor since?
A. I think I saw her in the factory two or three nights before the Thanksgiving Day, in there in Mr. Frank's office.
Q. You didn't have any talk with her that night?
A. No, sir.
Q. Nor with Mr. Frank either?
A. No, sir; I had some talk with Mr. Frank about explaining about that clock.
Q. But about the lady?
A. No, sir, didn't say nothing at all about the lady.
Q. Now, you had, you say, seen her there a few nights before?
A. Yes, sir.
Q. Sitting in Mr. Frank's office, was she?
A. Yes, sir.

- Q. What time?
A. Somewhere near eight o'clock.
Q. What did you have to do there?
A. I had to stack some boxes up on the fourth floor.
Q. Eighth floor? You had to stack some boxes?
A. No, sir, I said fourth floor.
Q. That was about Thanksgiving Day?
A. Yes, sir.
Q. Was it the same week of Thanksgiving you saw her up there?
A. I don't know, sir, whether it was the same week of Thanksgiving,
but somewhere near Thanksgiving; it wasn't many days.
Q. How was she dressed that night?
A. I disremember how she was dressed that night.
Q. What sort of looking face did she have?
A. She was a nice looking lady.
Q. What kind of hair did she have?
A. I didn't pay no attention, because I didn't go that close.
Q. What sort of complexion?
A. I don't know, sir, I didn't get that close.
Q. You don't know what sort of clothes, nor what sort of shoes?
A. I think she had on black clothes.
Q. How tall was she?
A. She was a very tall, heavy built lady.
Q. You are certain of that?
A. Yes, sir.
Q. Then, between half past eight and nine, she came to the factory?
A. Yes, sir, between half past eight and nine o'clock.
Q. Where were you?
A. I was standing down on the first floor.
Q. Standing down on the first floor?
A. Yes, sir.
Q. Was the door open when she came?
A. The front door was open when she came.
Q. You closed it?
A. I closed it after he stamped for me to close it.
Q. He stamped that time?
A. Yes, sir.
Q. He didn't do it before?
A. No, sir, because I would be down there and know.
Q. You heard her go into his room?
A. Yes, sir, I heard her go (into his office).
Q. Where was he standing?
A. Standing by the trash barrel, smoking a cigarette.
Q. She went upstairs and went into Mr. Frank's office, and you heard
her?
A. I heard her going towards Mr. Frank's office.
Q. You heard her go in there?
A. I couldn't hear them go in; I heard her going towards it.
Q. Didn't you say you heard those others go in?
A. No, sir, I said I heard them going towards the office.
Q. You didn't say you saw them go in?
A. No, sir, I said I heard them go toward it.
Q. And you didn't say you heard them go in?
A. No, sir, I said I heard them go towards the office.

- Q. You didn't say you saw them go in?
A. No, sir, I said I heard them go towards it.
Q. And you didn't say you heard them go in?
A. No, sir, I said I heard them go towards his office.
Q. But you didn't see the others?
A. I don't remember saying I seen the others.
Q. Now she came, and she went up and went towards Mr. Frank's office, and he stamped?
A. Mr. Frank came out there and stamped.
Q. Where did he come to and stamp?
A. Came to the trash barrel where he told me—
Q. You mean upstairs?
A. Yes, sir, he was up on the second floor stamping.
Q. And you were on the first floor?
A. Right about the trash barrel.
Q. And you were on the first floor?
A. Right about the trash barrel.
Q. And he told you he was going to stamp?
A. Yes, sir, two times.
Q. And then he stamped?
A. Yes, sir.
Q. And then you closed the door?
A. Yes, sir, like he said so.
Q. How long did you stay there?
A. I didn't stand in the door after I closed the door. I came back and sat down on the box.
Q. How long did you stay there?
A. About a hour and a half.
Q. That would have been until about 10:30—about 10 o'clock that you stayed there?
A. I reckon so; I don't know how long exactly it was.
Q. Then the lady came down?
A. No sir, Mr. Frank says: "I'll stamp after this lady comes, and you go and close the door and turn that night latch."
Q. That was the first time he ever told you about the night lock?
A. Yes, sir.
Q. The other times, he told you just to close it?
A. Yes, sir.
Q. But that time he told you to put the night lock on?
A. Yes, sir; and he says: "I'll stamp, and if everything is all right, you take and kick against the door."
Q. And that time you kicked against the door?
A. Yes, sir, I kicked on the door.
Q. You didn't kick against the door the other times?
A. No, sir, because the ladies always went upstairs—
Q. Well, she went up then, too, didn't she?
A. Yes, sir.
Q. But he told you to stamp and everything would be all right?
A. No, sir, he didn't tell me to stamp and everything would be all right, he didn't say that. He said he would stamp, and for me to kick the elevator door if everything was all right.
Q. And then you stayed an hour and a half that time?
A. Yes, sir.

- Q. Then the lady came down?
A. No, sir, Mr. Frank come down—
Q. He left the lady up there?
A. No, sir, Mr. Frank come down to the two doors and unlocked the doors and went on—come back, and says: "Everything all right?" I says: "Yes, sir." He went to the front door and fixed it hisself, unlocked the front door hisself, he went and looked up the street like that (illustrating) and come to the steps and taken the knob and turned it, there at the head of the stair door, and told her to "come on."
Q. He turned the knob and told her to come on down?
A. Went to the stair doors.
Q. Told her to come down?
A. Yes, sir.
Q. And she left?
A. No sir, she come down; and after she got to me, she says to Mr. Frank, "Is that the nigger?"; and he says: "Yes"; and she says: "Well, does he talk much"; and he says: "No, he's the best nigger I've ever seen."
Q. She stopped there and looked at you?
A. No, sir.
Q. Didn't you say she stopped and asked Mr. Frank: "Is that the nigger?"
A. She asked Mr. Frank that.
Q. She stopped and said to Mr. Frank: "Is that the nigger?"
A. No, sir, she didn't stop.
Q. She just kept walking?
A. Yes, sir.
Q. Neither stopped, neither of them stopped?
A. No, sir, neither of them stopped at all; she just said that—
Q. Said: "Is that the nigger," and just kept walking on?
A. Yes, sir, she kept on walking.
Q. And kept on walking off?
A. Yes, sir, she kept on walking, and—
Q. Just kept on walking, and Mr. Frank said: "Yes, that's the best nigger I ever saw?"
A. Yes, sir.
Q. You didn't see them stop at all?
A. No, sir, I didn't see them stop at all.
Q. Went out together?
A. No, sir, they never went out together.
Q. What did Mr. Frank do then?
A. Mr. Frank went up and opened the door and come back up stairs.
Q. How long did he stay there?
A. I don't know, sir, how long he stayed there.
Q. You left there?
A. He told me to go back in the office—
Q. You went in the office?
A. Yes, sir; he called me. I went in the office, and Mr. Frank come and gave me a dollar and a quarter.
Q. Give you \$1.25 that time?
A. Yes sir, he gave me \$1.25 that time.
Q. You went out then?
A. No, sir, I stayed there a little bit. He asked me where I was going that day. I says: I ain't going nowhere; I'm going on home." He says: "I'm going home directly, too." I says: "Is that all, Mr. Frank." He says: "Yes," and I left away.

- Q. Where did you go when you left?
A. I went to the beer saloon over there on Hunter and Forsyth Street.
Q. How long did you stay there?
A. I don't know, sir; about an hour, I reckon.
Q. Then went home?
A. No, sir, I went to Peters Street and stayed a good while.
Q. Drank some more beer over there?
A. No, sir, I didn't drink no beer over there.
Q. Didn't drink but one beer that day?
A. I don't know, sir, how many I drank at that saloon on Forsyth and Hunter.
Q. About what time did you leave the factory?
A. I don't know, sir, it was a little before twelve o'clock, but I don't know what time.
Q. So the girl didn't come out of the factory that day until a little before twelve o'clock.
A. I don't know, sir, what time she come out of the factory that day?
Q. You said you saw her leave?
A. I said she stayed about an hour and a half.
Q. Well, what time did she leave?
A. I don't know, sir, what time.
Q. What kind of dress did she have on?
A. Blue skirt with white dots in it.
Q. She had on a blue skirt with white dots in it?
A. Yes, sir, and white slippers and white stockings, and had a grey tailor-made coat—what I call a grey tailor-made coat—looked to me like with pieces of velvet on the edges of it.
Q. What kind of velvet was it?
A. Black velvet.
Q. What color was the cloth that made the coat?
A. It was grey.
Q. Did she have on any jewelry?
A. I didn't notice her hands.
Q. What sort of a hat?
A. Had a black hat, with big black feathers over.
Q. What else?
A. That's all I paid any attention to.
Q. She had white shoes and white stockings?
A. Yes, sir.
Q. Then Mr. Frank said he was going to dinner, and you didn't go back any more that day?
A. No, sir, I didn't go back any more that day; I left him there at the office.
Q. You left him at about twelve o'clock?
A. Yes, sir, a little before that.
Q. And wasn't anybody else there that day?
A. No sir, not while I was at the office, I didn't see nobody else there that day.
Q. The next time, now?
A. Next time was Saturday when I watched.
Q. How long was that after Thanksgiving?
A. That's somewhere after Christmas, way after Christmas, when I watched for him.

- Q. That was in the dead of winter, then?
A. Yes, sir, in the dead of winter.
Q. About when?
A. About January, I reckon.
Q. About the middle of January, or when?
A. I don't know, middle, first or last, I can't say—somewhere in January.
Q. How do you know it was somewhere in January?
A. Because it was right after the first of the year.
Q. Well, if it was right after the first of the year, you know what time it was in January?
A. I said somewhere about the first or middle.
Q. Well, was it in middle, or first, or last?
A. I don't know, sir, somewhere one of them parts; it was right after New Year, I don't know whether one or two days after.
Q. You couldn't tell any better than that?
A. No, sir, I couldn't tell any better than that.
Q. That was another Saturday?
A. Yes, sir, that was another Saturday.
Q. When did he first talk to you about that?
A. Well, I disremember when he first talked to me about that.
Q. You don't remember what he said to you?
A. No sir, I don't remember what he said to me.
Q. But you know you were down there watching; that's the only thing you can remember about that?
A. I can remember one thing,— He said—
Q. You said a minute ago you couldn't remember anything.
A. I couldn't remember anything about him telling me about the watching, but I can remember about him telling me about who was coming.
Q. What did he tell you?
A. Said it be a young man with two ladies.
Q. When did he tell you that?
A. That was Saturday morning.
Q. What time?
A. Soon Saturday morning.
Q. About what time?
A. I reckon about half past seven o'clock.
Q. Was Mr. Holloway there at that time?
A. No, sir, I had seen him, but I was on the elevator.
Q. He came and got on the elevator with you?
A. No, sir, I was standing by the side of Gordon Bailey, and he come and told me.
Q. You can't remember what he told you except he was going to have a man and two ladies after awhile?
A. Said: "A man and two ladies will be there this evening," and said I may can make some money off this man.
Q. Said what?
A. That I could get to make a piece of money off this man.
Q. That was all he said to you about that?
A. Yes, sir.
Q. Didn't tell you when they would come?
A. Said be there this evening about the same time.
Q. You didn't say that awhile ago when I asked you what he said, did you?
A. You cut me off so quick I didn't have time to say it.

- Q. Well, I'm sorry I cut you off, I'll open it again and give you a better chance. That was about half past seven?
- A. Yes, sir.
- Q. What floor of the factory?
- A. I can't remember now just what floor it was on.
- Q. You didn't see anybody at the time, except Mr. Holloway?
- A. I saw Gordon Bailey; me and him was on the elevator together.
- Q. He was talking to you so Gordon Bailey could hear him?
- A. I don't know, sir, I reckon he could hear; he was talking so he could hear.
- Q. He was talking so Snowball could hear it?
- A. Yes, sir.
- Q. Just talking to you about meeting a woman and let Gordon hear it?
- A. He said them words, yes sir.
- Q. Right before Gordon?
- A. Yes, sir.
- Q. And you remember what floor it was on?
- A. No, sir, I don't remember what floor it was on.
- Q. He didn't say anything more to you after that?
- A. No, sir, he didn't say anything more to me after that.
- Q. Then what did you do that evening?
- A. I went and got through cleaning up about quarter after two, and I went and stood at the door.
- Q. He hadn't told you to stay at the door—just told you some woman was coming?
- A. Told me two ladies and a young man coming, and I could make myself some money off this man.
- Q. All right. Then you went and stood at the door.
- A. Yes, sir.
- Q. Was the door open?
- A. One door was.
- Q. Broad, open daylight?
- A. Yes, sir.
- Q. What time did the man and the ladies come?
- A. Somewhere about half past two or three o'clock.
- Q. About half past two or three o'clock they came?
- A. Yes, sir.
- Q. They come right in?
- A. No, sir, they didn't come right in. The two ladies stayed back; the young man, he come in. He asked me was Mr. Frank in the office; he says: "Mr. Frank put you wise?" I says, "Mr. Frank put me wise, how?" He says: "Didn't he tell you to watch the door, two ladies and a young man would be here?" I says: "He didn't tell me to watch the door." He says "Two ladies and a young man would be here," and, he says, "Well, I'm the one."
- Q. Him and Mr. Frank used the same terms, then. Frank says: "I'll put you wise"; and he said: "I'll put you wise"?
- A. Mr. Frank didn't say it that day.
- Q. Well, but he said it the other times?
- A. Yes, sir.
- Q. And the two ladies stayed out there and talked to you?
- A. Yes sir; then he come and told them to come on.

- Q. They went up to Mr. Frank's office?
A. I don't know, sir, where they went after that, after they went upstairs, I don't know where they went after they got upstairs.
Q. You were near enough, wasn't you, to see?
A. No, sir, I was at the door.
Q. You don't know which way they went?
A. I saw them when they turned that way, towards the clock.
Q. You say it was about half past two?
A. Yes, sir, it was about half past two or three o'clock.
Q. How long did they stay there that time?
A. Stayed there, looked like to me, about two hours, I reckon.
Q. Then half past two and that would make it half past four o'clock?
A. I don't know, sir, what time it would make it.
Q. Did you lock the door?
A. No, sir, I stood just inside the door.
Q. Nobody came in while you were there and nobody came out?
A. No, sir, didn't anybody come in while I was there and didn't nobody come out.
Q. Did you know either one of those ladies?
A. No, sir, I didn't know either one of those ladies.
Q. Give me a description of those young ladies?
A. Well, I disremember what the ladies did have on.
Q. Can't you remember what either of them had on?
A. No, sir, I can't remember what either of them had on; I didn't pay much attention.
Q. Can't describe either one of those women at all, can you?
A. No, sir.
Q. What sort of looking man was he?
A. He was tall, slim built, heavy man.
Q. Ever see him before?
A. I have seen him there talking to Mr. Holloway.
Q. Did he work there?
A. No, sir, he didn't work there.
Q. When did you ever see him there talking to Mr. Holloway?
A. Seen him quite often talking to Mr. Holloway through the week.
Q. Seen him quite often?
A. Yes, sir.
Q. Quite often?
A. Yes, sir, through the week, come there talking to Mr. Holloway.
Q. Give us a description of him?
A. Well, I said he was a tall man.
Q. Well, did he have black hair?
A. I couldn't see his hair; he had on a hat.
Q. Had light eyes?
A. I don't know, sir, what you mean by that.
Q. Did he have grey eyes or blue or black?
A. I didn't pay much attention to his eyes.
Q. You had seen him there frequently talking to Mr. Holloway, though?
A. Yes, sir.
Q. Where did he talk to Mr. Holloway at?
A. Sitting out on the bench up there.
Q. Did you hear any conversation between him and Mr. Holloway?
A. No, sir, I couldn't hear anything between them.

- Q. Ever seen him since then?
A. I seen him since he was talking to Mr. Holloway then.
Q. But you don't know who he was?
A. No, sir.
Q. Ever saw the girl before or since?
A. No, sir, never saw the girls before or since, to my remembrance I haven't.
Q. Now, Jim, you were talking to me when we left off about the time you say you watched for Mr. Frank.
A. Yes, sir.
Q. Did you watch for him again?
A. In January, yes sir.
Q. Well I am talking about January. Is that the last time you watched for him until this time?
A. Yes, sir, I think it was—if I am not mistaken.
Q. Well, you ain't mistaken about it, are you Jim?
A. I don't know, sir, I couldn't tell you about that.
Q. You have no recollection of any other time?
A. No sir, no recollection of any other time.
Q. You have got no recollection, you can't remember it, if you did?
A. Well, I don't know, sir.—
Q. Now let us take that time about the middle of July you say you watched for him the first time. What did you do the Saturday before you watched for him the first time?
A. The Saturday before I watched for him the first time?
Q. Yes.
A. I disremember now, went ahead with my work, I guess.
Q. You have no recollection of that at all?
A. No, sir.
Q. Now, let us take the Saturday before you say you watched for him, what did you do that Saturday?
A. Well, I thought you said to take the Saturday before I had watched for him.
Q. Well, I did, and I will now take the Saturday after you watched for him the first time?
A. Well, the Saturday I watched for him the first time—I disremember.
Q. You can't remember what happened that day?
A. No, sir.
Q. Nothing on that day?
A. No, sir.
Q. Well, the next Saturday?
A. Well, I watched for him that Saturday.
Q. You say you didn't watch for him until three weeks?
A. That would make three weeks.
Q. One Saturday and two Saturdays make three?
A. That is what I call three, three times that I watched for him.
Q. One Saturday would be one week?
A. Yes, sir.
Q. The next Saturday would be two weeks?
A. Yes, sir.
Q. And the next Saturday would be three weeks?
A. Yes, sir, and the next Saturday would be three weeks.

Q. But I am not asking about that. I am talking about the second Saturday?

A. You asked me what I did the second Saturday, well, I don't remember.

Q. You mean you watched for him one Saturday and then the second Saturday you watched for him again?

A. Then the second Saturday after that I watched for him.

Q. You missed a Saturday?

A. Yes, sir.

Q. And then you watched the next Saturday?

A. Yes, sir.

Q. That is what you say about it now?

A. Yes, sir, that is what I say about it now and what I said before.

Q. Now the Saturday after you watched for him the second time, what did you do?

A. I don't know sir; I disremember what I did.

Q. You don't remember anything about what you did at all now that day, do you?

A. No, sir, I don't remember.

Q. And the Saturday after that. Do you remember anything about that?

A. Well, I don't know, sir, about the Saturday after that.

Q. Nor the Saturday after that?

A. Yes, sir, the Saturday after that, I think about the first of August, I did some more watching for him, somewhere along there.

Q. You did some more?

A. Yes, sir.

Q. Then you watched about the middle of July?

A. About the middle of July.

Q. And about the first of August; three times?

A. Yes, sir.

Q. Right there together?

A. Yes sir, not one Saturday right after the other Saturday, though.

Q. One Saturday after that you didn't watch?—

A. Yes, sir.

Q. And the next Saturday you didn't watch?

A. My best memory, the next Saturday, then I watched again, yes sir.

Q. That is the way you remember it now?

A. Yes, sir. That is the way I had it before.

Q. But that is the way you now remember it?

A. Yes, sir.

Q. Now let me see if I have got that right. You watched one Saturday in July; the next Saturday you watched?

A. Yes, sir.

Q. And the next Saturday you did?

A. Yes, sir.

Q. And the next Saturday you didn't watch, and the next Saturday you did?

A. Yes, sir.

Q. That is the way you remember it now?

A. Yes, sir.

Q. You are certain that is the way it happened; that is your best recollection?

A. Yes, sir.

- Q. Of course, you don't know except from your best recollection. Then you didn't watch for him until Thanksgiving Day?
- A. Until Thanksgiving Day.
- Q. What did you do the Saturday before Thanksgiving Day?
- A. I don't remember what I did.
- Q. What did you do the Saturday after Thanksgiving Day?
- A. I don't know what I did.
- Q. And the next Saturday?
- A. Well, the next Saturday, I could tell you what I did that Saturday.
- Q. And the next Saturday?
- A. Well, I don't know, sir, what I did the next Saturday.
- Q. And the next?
- A. The next Saturday I did some watching for him, then.
- Q. Let me see if I get that now. You watched Thanksgiving Day?
- A. Yes, sir.
- Q. The next Saturday you didn't watch, and the next Saturday you did?
- A. I watched somewhere along about the last of September.
- Q. That is your recollection?
- A. Yes, sir, somewhere about the last of September, somewhere like that.
- Q. That is your recollection?
- A. Yes, sir, about the last of September—somewhere like that.
- Q. Well, now, that is your best recollection?
- A. I say somewhere about the last of September.
- Q. Well, I gave it right, didn't I?
- A. I don't know, sir, I can't count by the week.
- Q. Well, did you say that?
- A. No, sir.
- Q. What did you say?
- A. I said something like that.
- Q. Well, that means you are doing the best you can to give me the best memory you have?
- A. All right, sir.
- Q. Isn't that correct, Jim? You and I don't want to misunderstand each other, now?
- A. No, sir, we won't misunderstand each other.
- Q. Well, is that correct?
- A. I say some time about the last of September I did the last watching.
- Q. That was after thanksgiving?
- A. Yes, after Thanksgiving.
- Q. In September after Thanksgiving is your recollection?
- A. Yes, sir, after Thanksgiving Day.
- Q. About the last of September?
- A. After Thanksgiving Day, yes, sir.
- Q. About the last of September?
- A. After Thanksgiving Day, yes, sir.
- Q. Now, Jim, you don't remember any of these dates?
- A. No, sir, I don't remember any of these dates, I can't tell about them.
- Q. Let us see how much money you drew that Saturday that you watched for him; how much money did you draw that day?
- A. I don't know, sir.
- Q. What time did you draw it?
- A. I don't know, sir, what time I drew it.
- Q. Did you draw it at all, or did somebody draw it for you?
- A. Well, I don't know, sir, whether somebody drew it for me or I drew it.

- Q. You don't remember about that?
A. No, sir.
Q. You have no memory at all about that?
A. No, sir.
Q. What time did you get home the first morning you watched for him?
A. I couldn't tell you to save my life.
Q. Nor what time you went home, you couldn't tell me?
A. No, sir, I couldn't tell you.
Q. You couldn't tell me anything at all about that?
A. No, sir.
Q. The second time you watched for him. Can you remember the time you got back to the factory?
A. No, sir, I couldn't tell you what time I got to the factory.
Q. Or what time you left to go home?
A. Well, I don't know, sir, what time I left to go home.
Q. You can't remember?
A. No, sir, I don't know what time I left to go home.
Q. Now the second Saturday did you draw your money—the second time you watched for him—did you draw your money on that day or not?
A. I disremember now.
Q. Did you draw it, or did somebody draw it for you?
A. I disremember.
Q. How much did you draw?
A. I don't know, sir.
Q. Now, that third time, on the day before Thanksgiving; that is, three times before Thanksgiving, according to your recollection?
A. Yes, sir.
Q. Now, did you draw your money that week?
A. Before Thanksgiving I couldn't tell you about that.
Q. You don't know whether you drew your pay or whether somebody drew it for you?
A. No, sir.
Q. Or how much you drew?
A. No, sir.
Q. You don't remember that, do you?
A. No, sir.
Q. When did you draw your pay, before or after Thanksgiving, that week of Thanksgiving?
A. The week of Thanksgiving when did I draw my pay?
Q. Before or after Thanksgiving Day?
A. Well, to tell you the truth, I disremember.
Q. You don't remember?
A. No, sir.
Q. You can't remember whether you drew your pay before or after Thanksgiving?
A. No, sir.
Q. Can you remember what day of the week Thanksgiving was?
A. No, sir, I don't remember.
Q. And you don't remember what time you got down in the morning or what time you left?
A. No, sir.
Q. You have no memory at all about that, have you?
A. No, sir.

- Q. The day after Thanksgiving. Do you remember what you had been doing that day?
- A. No, sir, but to my remembrance I think I came back to work the day after Thanksgiving.
- Q. Are you certain about that, or have you any memory at all about it?
- A. I think I came back to work.
- Q. What time did you get there?
- A. I don't know, sir, what time I got there.
- Q. What time did you leave that day?
- A. I don't know, sir.
- Q. You can't remember anything about that?
- A. No, sir.
- Q. The day before Thanksgiving, what time did you go down to the factory that day?
- A. I don't know, sir, what time I got to the factory that day.
- Q. How many hours did you make that day?
- A. I don't know, sir.
- Q. When did you leave that day?
- A. I don't know, sir.
- Q. Who did you see at the factory that day, that you remember?
- A. Well, I saw, I reckon, most everybody there.
- Q. Well, who do you remember seeing there?
- A. I remember seeing Mr. Frank.
- Q. You do remember seeing Mr. Frank?
- A. Yes, sir.
- Q. The day before Thanksgiving?
- A. Yes, sir.
- Q. Did you see him the day after Thanksgiving?
- A. Yes, sir, I saw him the day after Thanksgiving.
- Q. You remember those two facts well?
- A. Yes, sir, I remember those two.
- Q. You saw Mr. Frank the day before Thanksgiving when you got there?
- A. Yes, sir.
- Q. And you saw him the day after Thanksgiving?
- A. Yes, sir.
- Q. Who else did you see?
- A. Well, I don't remember now, who else I did see.
- Q. You don't remember who else you saw?
- A. No, sir.
- Q. Did you see Mr. Darley?
- A. I don't think I saw Mr. Darley.
- Q. Who is the foreman in the place where you work?
- A. Well, they have got foreladies there.
- Q. Who is the forelady?
- A. One was Miss Clark and Miss Willis.
- Q. In the place where you work, where is that?
- A. On the fourth floor.
- Q. Did you see either one of them there that day?
- A. I don't remember.
- Q. Let us take the first Saturday you said you watched for him. How many hours did you make that day?
- A. I don't know, sir, how many hours.
- Q. You can't remember anything about that?
- A. No, sir.

- Q. Or the second day, do you know how many hours?
A. No, sir.
Q. Nor the third?
A. No, sir.
Q. Or Thanksgiving?
A. No, sir.
Q. Do you know how much you were paid for either one of those days?
A. Yes, sir, I can tell you what I was paid Thanksgiving Day when I watched for him.
Q. Well, you know that was \$1.50?
A. No, sir, I said it was \$1.25.
Q. Well, outside of the factory, do you remember what you got for your services?
A. Outside of the factory, I remember once I got a half a dollar; then, again, I remember getting half a dollar.
Q. That is when you were watching for him, you say?
A. Yes, sir.
Q. And you got how much on Thanksgiving Day?
A. I got \$1.25.
Q. The day before that?
A. The day just before that, I don't remember just how much I got from him that day.
Q. The Saturday before that?
A. You mean for watching?
Q. Yes.
A. Well, the Saturday before that I don't know, sir, what I got that Saturday. I don't think I done any watching that Saturday.
Q. Well, you watched three Saturdays before Thanksgiving?
A. Yes, sir.
Q. And then you watched again about the last of September?
A. Yes, sir.
Q. How much did you get the first time?
A. The first—
Q. But let us take them up the other way. How much did you get the first Saturday before Thanksgiving? How much did he pay you then?
A. I remember getting 75 cents then; 50 cents from him and a quarter from the other man.
Q. Well, the next time?
A. The next time I remember getting 50 cents.
Q. The next time?
A. I remember getting 50 cents then.
Q. But you don't know how much you got for your regular work for any of those days?
A. No, sir.
Q. You can't remember anything about that?
A. No, sir—
Q. The first day you said you watched for Mr. Frank, was Snowball there that day?
A. No, sir, Snowball was not there.
Q. You didn't see him?
A. No, sir, I didn't see him. I think he laid off.
Q. How about the next day?
A. I don't remember about the next day. I don't remember whether I seen Snowball there on the next day or not. I don't remember about where he was.

- Q. Well, the third one; was Snowball there that day?
A. I disremember about the third Saturday.
Q. Well the next one was Thanksgiving. Did you see him Thanksgiving morning?
A. I didn't see him Thanksgiving morning, but I saw him the day before Thanksgiving.
Q. That is the time when you heard Mr. Frank talking in the presence of Snowball?
A. Yes, sir.
Q. He didn't hesitate to talk for Snowball?
A. No, sir.
Q. He talked before Snowball just like he did before you?
A. Yes, sir.
Q. The first time he did that was Thanksgiving Day, that he talked before Snowball?
A. Not Thanksgiving Day, no, sir.
Q. The day before Thanksgiving?
A. Yes, sir, the day before.
Q. When was that when you and him and Snowball were talking together?
A. I don't know what time it was.
Q. You don't know what time that was?
A. No, sir, I don't know what time it was.
Q. You don't know what time that was?
A. No, sir; I don't know what time it was.
Q. Was it in the morning?
A. Yes, sir, somewhere along in the morning.
Q. Or in the afternoon?
A. It was somewhere in the morning.
Q. About what time in the morning?
A. I don't know, sir, what time it was; I reckon somewhere before 12 o'clock.
Q. Was Snowball the elevator man?
A. Yes, he was running the elevator that day.
Q. The date you don't remember, but it was sometime in September, before Thanksgiving Day?
A. Yes, sir.
Q. The day before Thanksgiving?
A. Yes, sir.
Q. And Snowball was the elevator man at that time?
A. No, sir.
Q. How came him to be running the elevator?
A. Because he wanted me to swap places with him, and I wouldn't do it; and he went to work and swept some trash in the box, and I had to sweep it out.
Q. You were the elevator man?
A. Yes, sir.
Q. But he was running it?
A. Yes, sir, he was running it then.
Q. Did Mr. Frank say anything about Snowball running it instead of you?
A. No, sir, he didn't say a word.
Q. It didn't attract his attention at all?
A. No, sir, didn't attract his attention at all.

- Q. How long had Snowball worked at the factory?
A. I don't know, sir—
- Q. Now, that time when you watched in January, was Snowball there that day—I believe you said it was in January?
A. Yes, sir, I said I watched one time in January.
- Q. Well, was Snowball there?
A. I don't know whether he was or not?
- Q. Now, the only time you ever heard Mr. Frank say anything in front of Snowball was that time you have just mentioned? Thanksgiving, is that what you said?
A. Yes, sir.
- Q. You heard him say something before Snowball then?
A. One time was in January.
- Q. Where was that, in January?
A. He said that in the box room. In the box room, he told me.
- Q. Snowball was in there?
A. Yes, sir, he was helping me to stand the boxes.
- Q. Snowball was in there?
A. Yes, sir, he was helping me to stand the boxes.
- Q. He walked up there and told you before Snowball?
A. I don't know whether he knew Snowball was there or not.
- Q. Was he close to Mr. Frank?
A. No, sir, Snowball was sitting up in the rack.
- Q. Was he in sight, or not?
A. Yes, sir, he was in front of the little partition, between me and Mr. Frank.
- Q. You could see him, could you?
A. No, sir, I couldn't see him from where he was standing, but I knowed he was there.
- Q. Mr. Frank wouldn't hide it from Snowball; he would talk before Snowball all right?
A. I don't guess he would if he had seen him.
- Q. Tell a single one he has ever talked to you about, except business, before that first time you watched for him. Give us the day and time he ever talked to you, and what he talked about?
A. I couldn't give you the day or time about that at all.
- Q. Give the day when he ever jollied with you, prior to the time he talked to you the day before he talked to you the day before you watched for him?
A. I couldn't give you the date. I couldn't tell you the date about it at all—
- Q. How long was that before the day you watched for him?
A. I don't know, just directly after Mr. Darley had come there.
- Q. That was after he had that talk with you that you are talking about?
A. After he had what talk with me?
- Q. The one that he had with you in the elevator?
A. Yes, sir, that was after that time.
- Q. The first time you ever saw him have any talk at all with Snowball, except on business, was that day he talked about that girl right before you and Snowball?
A. Yes, sir, that was the first day.
- Q. That is the first time?
A. Yes, sir, the first time I saw him talk in front of Snowball.

Q. He just come in there and commenced talking to you, and paid no attention to Snowball?

A. He didn't know Snowball was in there.

Q. In the elevator. How could he help seeing him if he was in the elevator?

A. The elevator was gone down. Whenever I would get ready to work at night, he would send the elevator to the basement, and we would go in the back room.

Q. You were not on the elevator when you had that talk?

A. No, sir, that talk was in the back room.

Q. I am talking about just before Thanksgiving. You were in the elevator that day?

A. Yes, sir, we were in the elevator then. I was standing right there beside the elevator.

Q. Well, Snowball was standing right there by you?

A. Snowball was standing right there by me, yes, sir.

Q. He could have seen him, Mr. Frank, couldn't he?

A. Yes, sir, he was where he could have seen him, and he was where he could have heard anything that was said.

Q. And Mr. Frank knew that he could have heard anything that was said?

A. Yes, sir, he knew he could have heard anything that was said.

Q. He saw Snowball standing there?

A. Yes, sir, he saw Snowball standing there.

Q. Well, take last Thanksgiving Day. How many was there?

A. This gone Thanksgiving?

Q. Yes.

A. I don't know; there was a big crowd.

Q. When did Miss Daisy Hopkins work there?

A. Oh, she worked in 1912.

Q. 1912?

A. Yes, sir.

Q. You are certain of that?

A. Yes, sir, I am certain she worked there in 1912.

Q. What floor did she work on?

A. She worked on the fourth floor.

Q. The fourth floor?

A. Yes, sir.

Q. And she worked there in 1912?

A. Yes, sir.

Q. What time in 1912 did she quit there?

A. I don't know what time.

Q. About when, Jim?

A. I don't know when she quit there.

Q. What time of the year did you see her working there?

A. I saw her working there in 1912.

Q. What part of the year?

A. Well, I saw her working there from June on up.

Q. June on up?

A. Yes, sir, up until about near Christmas.

Q. All right, you saw her working there from June or July of 1912 until Christmas?

A. Yes, sir.

Q. Or about that time?

A. Yes, sir.

- Q. And she worked on the fourth floor?
A. Yes, sir, she worked on the fourth floor.
Q. Has she worked there in 1913?
A. I don't know; I don't remember seeing her there; I don't know whether she has worked there in 1913 or not.
Q. You can't remember that?
A. No, sir, I can't remember that.
Q. You worked on the same floor with her, didn't you?
A. I didn't work with her at all. I worked on the same floor.
Q. And you don't know whether she worked there in 1913 or not?
A. No, sir, I don't remember.
Q. But you know she worked there from June until about Christmas?
A. Yes, sir, I know she worked there from June until about Christmas.
Q. You are very certain of that?
A. Yes, sir.
Q. Do you know when Miss Daisy left—Miss Daisy Hopkins?
A. No, sir.
Q. You don't remember when she left?
A. No, sir, I don't remember that.
Q. Was she married or a single lady?
A. I don't know.
Q. Now, describe Miss Daisy to us?
A. Well, Miss Daisy she was low lady, kind of heavy, and she was pretty; low, chunky, kind of heavy weight, and she was pretty.
Q. Can't you give a better description of her than that?
A. No, sir, that is the best I can give of her.
Q. What sort of color hair did she have?
A. Well, I don't remember what color hair she had.
Q. What color eyes?
A. I didn't pay no attention to her eyes.
Q. What sort of complexion?
A. What do you mean by complexion?
Q. Well, don't you know what complexion means?
A. No, sir, not complexion.
Q. You don't?
A. No, sir.
Q. You are dark complexion and I am white?
A. Yes, sir.
Q. Well, with that definition?
A. She was white complexion.
Q. Well I know, but was she fair, or brunette, or was she blonde, or what was she?
A. I don't know nothing about no brunette.
Q. Was she dark skinned, or fair skinned, for a woman. I know, of course, she was a white woman; but there are some dark skins and some light skins, aren't there?
A. Yes, sir, there is some dark skins and some light skins.
Q. Which was she?
A. She was light skinned.
Q. She was light skinned?
A. Yes, sir.
Q. But you don't remember what sort of hair; what sort of nose did she have?
A. I didn't pay any attention to her nose.

- Q. What sort of ears did she have?
A. She had ears like people.
- Q. Like folks?
A. Yes, sir.
- Q. I didn't expect her to have them like a rabbit; and she didn't have, did she?
A. No, sir, she didn't have ears like a rabbit.
- Q. Well, did she have large or small ears? —Do you remember that?
A. No, sir, I didn't pay any attention to her ears, whether they were large or small.
- Q. You can't give any description of her at all now, can you, Jim?
A. I can't give a description of her, except she was a white lady.
- Q. You say she was a white lady?
A. Yes, sir, and she was low and chunky.
- Q. How old was she?
A. I don't know how old she was.
- Q. How old did she look to be?
A. She looked to be like about 23 years old.
- Q. About 23 years old?
A. Yes, sir.
- Q. Was she working there when you went there or not?
A. I don't know.
- Q. You don't know.
A. No, sir.
- Q. The only time you can remember was that she worked from June, 1912, until Christmas, 1912?
A. Yes, sir, that is it.
- Q. You can remember that?
A. Yes, sir, or near about Christmas.
- Q. You can remember that?
A. Yes, sir, or near about Christmas.
- Q. Now, the very first time you ever saw Miss Daisy Hopkins was some time in June, 1912?
A. Yes, sir.
- Q. The first day you ever knew she was there was the day that note was sent down?
A. Yes, sir.
- Q. The first day you ever knew she was there was the day that note was sent down?
A. Yes, sir.
- Q. You don't remember ever to have seen her there before that?
A. Yes, sir, I remember seeing her there after that time.
- Q. I said before?
A. No, sir, I don't remember seeing her there before that time.
- Q. That is the way you fix it now, how do you fix the time she left there?
A. How do I fix the time she left there during Christmas?
- Q. That is what I want to know?
A. Because Mr. Dalton told me she wasn't coming back.
- Q. Mr. Dalton told you?
A. Yes, sir.
- Q. Did Mr. Dalton work there?
A. No, sir, he didn't work there.
- Q. Where does Mr. Dalton work?

- A. I don't know where Mr. Dalton works at.
- Q. When Mr. Dalton told you Christmas that she was going away, where was Mr. Dalton?
- A. He was there.
- Q. I know, but where was he when he told you that?
- A. He was coming out of the factory.
- Q. When was that?
- A. It was Saturday; I don't know the date.
- Q. You don't remember the date?
- A. No, sir.
- Q. You don't remember the date now?
- A. No, sir.
- Q. You don't remember his name?
- A. I know his name was Dalton.
- Q. What else besides Dalton?
- A. No, sir, I don't know his first name.
- Q. You don't know where he lived?
- A. No, sir.
- Q. Or where he works?
- A. No, sir.
- Q. Describe Mr. Dalton to me?
- A. Do what?
- Q. Tell me what kind of a looking man Mr. Dalton was?
- A. He was a slim looking man, and tall with it.
- Q. A slim looking man, and tall with it?
- A. Yes, sir.
- Q. And what else?
- A. That is all I can tell you about him.
- Q. You can't give any other or better description?
- A. No, sir; his eye lashes seemed to be a little thick.
- Q. Eye lashes thick?
- A. Yes, sir.
- Q. What was the color of his eye lashes?
- A. I disremember now what color his eye lashes was.
- Q. What was the color of his hair?
- A. His hair was black, I think; I am not sure.
- Q. Are you certain?
- A. No, sir, I am not.
- Q. You are not certain about that?
- A. No, sir.
- Q. What sort of complexion did he have?
- A. What kind of complexion?
- Q. Was he light complexion, or dark complexion? Was he darker or lighter complexion than I am?
- A. He was just about your complexion.
- Q. About my complexion?
- A. Yes, sir.
- Q. Well, would you call me a light complected man or a dark complected man?
- A. I could call you a light complected man.
- Q. Light?
- A. Yes, sir.
- Q. How much did Mr. Dalton weigh—about how much?
- A. I don't know; about 135 pounds.

- Q. About how tall was he—would you say he was?
A. Well, he was tall; I guess he was about as tall as that young man sitting there.
Q. About as tall as this man (indicating Mr. Arnold)?
A. Yes, sir.
Q. Weighing about as much?
A. I don't know whether he would weigh as much as that man, or not.
Q. Does he look like he would weigh about that much?
A. Yes, sir, he looks like he would weigh about that much.
Q. Then he was about the size of Mr. Arnold, Mr. Dalton was?
A. Yes, sir, just about that size.
Q. How old a man did Mr. Dalton look to be?
A. He looked to be a man somewhere about 35 years old.
Q. About 35 years old?
A. Yes, sir.
Q. You don't know where he lived?
A. No, sir.
Q. You don't know anything about that?
A. No, sir, I don't know where he lived at.
Q. How many times did you ever see him?
A. I don't know about that.
Q. Did you see him around the factory?
A. I saw him around there, coming around the factory after a girl.
Q. Did you ever see him any other place except around the factory?
A. No, sir, I never saw him anywhere except around the factory.
Q. How many times did you see him around the factory?
A. Several times I saw him there.
Q. About how many?
A. I don't know.
Q. You saw him one time coming out with a girl; what was he doing the other times you saw him?
A. The first time I saw him he was going out with a lady that he brought in there.
Q. That is the time you have done told about?
A. Yes, sir.
Q. What date was that, about when?
A. That was on Saturday.
Q. Well, about what month?
A. Somewhere along in June.
Q. Somewhere along in June or July?
A. July.
Q. Sometime in July?
A. Yes, sir.
Q. That is the first time you ever saw him?
A. Some time about the last of July.
Q. Where did you see him then?
A. Around at the factory.
Q. What was he doing then?
A. He come there with a lady.
Q. That same one?
A. Yes, sir.
Q. That same lady?
A. Yes, sir.
Q. You have done told about that this morning?
A. Yes, sir.

- Q. When did you see him again?
A. I saw him again about two weeks after that.
Q. What was he doing then?
A. I just met him in the door then.
Q. Met him in the door?
A. Yes, sir.
Q. What date was that, about when?
A. I don't know; it was on a Saturday; I disremember the time.
Q. That is the time you have already talked about. You have done told about that?
A. Yes, sir, I have done told about it.
Q. This morning?
A. Yes, sir.
Q. What month was that?
A. I don't know; somewhere about the last of August, I reckon.
Q. About the last of August, you reckon?
A. Yes, sir.
Q. When did you see him again?
A. I didn't see him no more, I don't reckon, until along about up to that Thanksgiving time.
Q. Where did you see him then?
A. I saw him there, coming in there with a lady.
Q. That is the same Thanksgiving Day you have already told about?
A. Yes, sir.
Q. He come in there Thanksgiving?
A. No, sir, I didn't say Thanksgiving; it was before Thanksgiving. I said before Thanksgiving.
Q. When did you see him again?
A. No more then until after Christmas.
Q. Then where did you see him?
A. I saw him there to the factory with a lady.
Q. Did you ever see him anywhere else, except those times coming out of the factory?
A. No, sir, that is all.
Q. You saw him about Christmas?
A. Yes, sir, I saw him coming into the factory.
Q. You said until after Christmas?
A. I said this last time, I didn't see him no more until after Christmas.
Q. It was Christmas?
A. I didn't see him on Christmas day.
Q. About what time did you see him?
A. Sometime along in January.
Q. Somewhere along in January?
A. Yes, sir.
Q. Who did he come out with?
A. He came out that time by himself.
Q. By himself; where had he been?
A. Him and the lady was down in the basement.
Q. Down in the basement?
A. Yes, sir.
Q. Do you know who she was?
A. I don't know her name, but I know her face, and I know where she lives.
Q. How long since you have seen Mr. Dalton?
A. Well, I haven't seen Mr. Dalton now in about a month or more.

- Q. Where did you see him the last time?
A. The detectives brought him down there to the station house, and said had I ever seen him about in there.
Q. And you told them what you knew?
A. Yes, sir, I told them about what I knew.
Q. And you haven't seen Mr. Dalton since then?
A. No, sir.
Q. Now, Jim, how was Mr. Dalton dressed the first time you ever saw him?
A. Well, I disremember now how he was dressed.
Q. Can't you give us any help about that at all?
A. All I can remember him having on, I think, was a brownish looking suit of clothes.
Q. What sort of hat did he have on?
A. I didn't pay no attention to his hat.
Q. What sort of shoes did he have on?
A. I didn't pay no attention to the shoes.
Q. When was the next time you happened to see him?
A. The next time I saw him.
Q. What sort of clothes did he have on then?
A. I disremember. I didn't pay no attention to his clothes.
Q. The next time, what did he have on?
A. I don't know what he had on the next time; I didn't pay no attention to that.
Q. And the next time?
A. I didn't pay no attention to his clothes that time.
Q. The last time you saw him, what did he have on?
A. I didn't pay no attention to his clothes the last time.
Q. You can't tell me anything about what sort of clothes he ever wore, except the one time that he had on a brown suit?
A. Yes, sir, he looked like a man that had just got off from work and put on clothes enough so as to go through the streets.
Q. He had on a brownish suit?
A. Yes, sir.
Q. Did he have any mustache the first time you ever saw him?
A. No, sir, he didn't have any mustache.
Q. Did you ever see him with any mustache?
A. Not to my knowing.
Q. You know you saw him?
A. Yes, sir, I know that I saw him, but I didn't pay no attention to his mustache.
Q. Did he have any whiskers?
A. No, sir, he didn't have any whiskers.
Q. And you don't remember whether he ever had any mustache?
A. No, sir, I can't remember whether he had a mustache or not.
Q. You wouldn't want to say about that?
A. No, sir, I wouldn't want to say about that, because I don't remember about that.
Q. Now, take the first day you said you waited there for Mr. Frank. Did you see anybody, Mr. Darley, that day about the factory, or Mr. Holloway?
A. The first Saturday?
Q. Yes.
A. Yes, sir, I saw Mr. Holloway there on the first Saturday.

- Q. What time did he leave there?
A. Well, I don't know. He left away from there somewhere about two or half past two, I reckon.
Q. Well, don't reckon, please; tell what you remember?
A. He left away from there about two or half past two, all right; I couldn't say just what time it was.
Q. You don't know what time it was?
A. He generally stayed—
Q. Not what he generally did; but on that particular day—that day, what time did he leave—the first time you said you waited for Mr. Frank?
A. He left away from there somewhere about two or half past two.
Q. Do you remember it?
A. Yes, sir, I can remember it.
Q. Did you see Mr. Darley that day?
A. I saw him that morning.
Q. Well, now, what time did he leave?
A. I don't know what time he left.
Q. Well, now, why can't you tell when he left the factory, if you know when Mr. Holloway left?
A. Because I always met Mr. Holloway when he was leaving, because he was always leaving, too.
Q. Always leaving?
A. Yes, sir.
Q. You don't know how late he stayed there that day, do you, nor whether he came back or not?
A. No, sir, I don't know whether he came back or not.
Q. The next time you watched, did you see Mr. Holloway that day?
A. The next Saturday I watched, I don't think Mr. Holloway was there; the next Saturday he was sick.
Q. You don't think you saw him?
A. No, sir, I don't think I saw him.
Q. He was sick?
A. He was sick that Saturday.
Q. He was sick on that Saturday?
A. Two Saturdays in June.
Q. He was sick one Saturday when you watched?
A. Yes, sir.
Q. About what date was it; about what date was it when you watched, when he was sick?
A. It was somewhere about three o'clock, I reckon.
Q. What month was it that old man Holloway was sick when you watched?
A. I don't know whether he was sick or not; they told me he was sick.
Q. You said he was sick?
A. They told me he was sick.
Q. They reported to you that he was sick?
A. Yes, sir.
Q. What date was that?
A. It was about the last of July, the first or last—or something like that.
Q. What date was it?
A. It was the last of July or first of August, or something like that.
Q. You said he was sick again. When was he sick again?
A. He was sick again up in this year.