

## In the Supreme Court of Georgia

OCTOBER TERM, 1913

LEO M. FRANK,

Plaintiff in Error

VS.

STATE OF GEORGIA,

Defendant in Error

} From Fulton Superior Court.

### BRIEF OF THE EVIDENCE.

MRS. J. W. COLEMAN, sworn for the State.

I am Mary Phagan's mother. I last saw her alive on the 26th day of April, 1913, about a quarter to twelve, at home, at 146 Lindsey Street. She was getting ready to go to the pencil factory to get her pay envelope. About 11:30 she ate some cabbage and bread. She left home at a quarter to twelve. She would have been fourteen years old the first day of June, was fair complected, heavy set, very pretty, and was extra large for her age. She had on a lavender dress, trimmed in lace, and a blue hat. She had dimples in her cheeks.

### CROSS EXAMINATION.

The blue hat that is seen here is the hat the little girl had on that day. It had some pale blue ribbon and some flowers when she left home. It was a small bunch of little pink flowers right in the center. We live two blocks from the street car line. There is a store there, at the place she usually gets on the car, kept by Mrs. Smith. Epps is a neighbor of ours. He was a friend of Mary's. He wasn't no special friend of hers.

### RE-DIRECT EXAMINATION.

These are the clothes that she wore on the day (State's Exhibit "M".)

GEORGE EPPS, sworn for the State.

I am fourteen years old. I live right around the corner from Mary Phagan's home. I have known her about a year. The last time I saw her was Saturday morning coming to town on the English Avenue car. It was about ten minutes to twelve when I first saw her. I left her about seven minutes after twelve at the corner of Forsyth and Marietta Street. She had on that hat, parasol and things when I left her. She was going to the pencil factory to draw her money. She said she was going to see the parade at Elkin-Watson's at two o'clock. She never showed up. I stayed around there until four o'clock and then I went to the ball game. When I left her at the corner of Forsyth and Marietta, I went under the bridge to get papers and she went over the bridge to the pencil factory, about two blocks down Forsyth Street. I sat with Mary on the car.

**CROSS EXAMINATION.**

I know what time it was when I met Mary because I looked at Bryant and Keheley's clock at the corner of Oliver and Bellwood, where I caught the car. She caught the car at Oliver and Lindsey and I caught the car at Oliver and Bell Street. She got on before I did, just one block before. I didn't say anything before the Coroner's jury about seeing a clock there, but I did see one. I know it was about seven minutes after twelve when I got off at Marietta Street because I can tell by the sun. I lived in the country and when I got off I looked at the sun. Mary got off the street car with me. No, she didn't ride on to Hunter Street. I am sure of that. She walked on down to the pencil factory on the right-hand side of Forsyth Street.

NEWT LEE (colored), sworn for the State.

On the 26th day of April, 1913, I was night watchman at the National Pencil Factory. I had been night watchman there for about three weeks. When I began working there, Mr. Frank carried me around and showed me everything that I would have to do. I would have to get there at six o'clock on week days, and on Saturday evenings I have to come at five o'clock. On Friday, the 25th of April, he told me "To-morrow is a holiday and I want you to come back at four o'clock." "I want to get off a little earlier than I have been getting off." I got to the factory on Saturday about three or four minutes before four. The front door was not locked. I pushed it open, went on in and got to the double door there. I was paid off Friday night at six o'clock. It was put out that everybody would be paid off then. Every Saturday when I get off he gives me the keys at twelve o'clock, so that if he happened to be gone when I get back there at five or six o'clock I could get in, and every Monday morning I return the keys to him. The front door has always been unlocked on previous Saturday afternoons. After you go inside and come up about middle ways of the steps, there are some double doors there. It was locked on Saturday when I got there. Have never found it that way before. I took my keys and unlocked it. When I went upstairs I had a sack of bananas and I stood to the left of that desk like I do every Saturday. I says like I always do, "Alright, Mr. Frank," and he come bustling out of his office. He had never done that before. He always called me when he wanted to tell me anything and said "Step here a minute, Newt." This time he came up rubbing his hands and says, "Newt, I am sorry I had you come so soon, you could have been at home sleeping, I tell you what you do, you go out in town and have a good time." He had never let me off before that. I could have laid down there in the shipping room and gone to sleep, and I told him that. He says, "You needs to have a good time. You go down town, stay an hour and a half and come back your usual time at six o'clock. Be sure and be back at six o'clock." I then went out the door and stayed until about four minutes to six. When I came back the doors were unlocked just as I left them

and I went and says, "Alright, Mr. Frank," and he says, "What time is it?" and I says, "It lacks two minutes of six." He says, "Don't punch yet, there is a few worked to-day and I want to change the slip." It took him twice as long this time than it did the other times I saw him fix it. He fumbled putting it in, while I held the lever for him and I think he made some remark about he was not used to putting it in. When Mr. Frank put the tape in I punched and I went on down-stairs. While I was down there Mr. Gantt came from across the street from the beer saloon and says "Newt, I got a pair of old shoes that I want to get upstairs to have fixed." I says, "I aint allowed to let anybody in here after six o'clock." About that time Mr. Frank come busting out of the door and run into Gantt unexpected and he jumped back frightened. Gantt says, "I got a pair of old shoes upstairs, have you any objection to my getting them?" Frank says, "I don't think they are up there, I think I saw the boy sweep some up in the trash the other day." Mr. Gantt asked him what sort they were and Mr. Frank said "tans." Gantt says, "Well, I had a pair of black ones, too." Frank says, "Well, I don't know," and he dropped his head down just so. Then he raised his head and says, "Newt, go with him and stay with him and help him find them," and I went up there with Mr. Gantt and found them in the shipping room, two pair, the tans and the black ones. Mr. Frank phoned me that night about an hour after he left, it was sometime after seven o'clock. He says "How is everything?" and I says, "Everything is all right so far as I know," and he says, "Good-bye." No, he did not ask anything about Gantt. Yes, that is the first time he ever phoned to me on a Saturday night, or at all.

There is a light on the street floor just after you get in the entrance to the building. The light is right up here where that partition comes across. Mr. Frank told me when I first went there, "Keep that light burning bright, so the officers can see in when they pass by." It wasn't burning that day at all. I lit it at six o'clock myself. On Saturdays I always lit it, but weekdays it would always be lit when I got there. On Saturdays I always got there at five o'clock. This Saturday he got me there an hour earlier and let me off later. There is a light in the basement down there at the foot of the ladder. He told me to keep that burning all the time. It has two little chains to it to turn on and turn off the gas. When I got there on making my rounds at 7 p. m. on the 26th of April, it was burning just as low as you could turn it, like a lightning bug. I left it Saturday morning burning bright. I made my rounds regularly every half hour Saturday night. I punched on the hour and punched on the half and I made all my punches. The elevator doors on the street floor and office floor were closed when I got there on Saturday. They were fastened down just like we fasten them down every other night. When three o'clock came I went down the basement and when I went down and got ready to come back I discovered the body there. I went down to the toilet and when I got through I looked at the dust bin back to the door to see how the door was and it being dark I picked up my lantern and went there and I

saw something laying there which I thought some of the boys had put there to scare me, then I walked a little piece towards it and I seen what it was and I got out of there. I got up the ladder and called up police station. It was after three o'clock. I carried the officers down where I found the body. I tried to get Mr. Frank on the telephone and was still trying when the officers came. I guess I was trying about eight minutes. I saw Mr. Frank Sunday morning at about seven or eight o'clock. He was coming in the office. He looked down on the floor and never spoke to me. He dropped his head right down this way. Mr. Frank was there and didn't say nothing while Mr. Darley was speaking to me. Boots Rogers, Chief Lanford, Darley, Mr. Frank and I were there when they opened the clock. Mr. Frank opened the clock and said the punches were all right, that I hadn't missed any punches. I punched every half hour from six o'clock until three o'clock, which was the last punch I made. I don't know whether they took out that slip or not. On Tuesday night, April 29th at about ten o'clock I had a conversation at the station house with Mr. Frank. They handcuffed me to a chair. They went and got Mr. Frank and brought him in and he sat down next to the door. He dropped his head and looked down. We were all alone. I said, "Mr. Frank, it's mighty hard for me to be handcuffed here for something I don't know anything about." He said, "What's the difference, they have got me locked up and a man guarding me." I said, "Mr. Frank, do you believe I committed that crime," and he said, "No, Newt, I know you didn't, but I believe you know something about it." I said, "Mr. Frank, I don't know a thing about it, no more than finding the body." He said, "We are not talking about that now, we will let that go. If you keep that up we will both go to hell," then the officers both came in. When Mr. Frank came out of his office that Saturday he was looking down and rubbing his hands. I have never seen him rubbing his hands that way before.

#### CROSS EXAMINATION.

I don't know how many times I told this story before. Everybody was after me all the time down there at the station house. Yes, I testified at the coroner's inquest and I told them there that Mr. Frank jumped back like he was frightened when he saw Mr. Gantt. I am sure I told them, and I told them that Mr. Frank jumped back and held his head down. I didn't say before the coroner that he said he had given one of the pair of shoes of Mr. Gantt to one of the boys; they got that wrong. On Saturdays I had to wake up usually and get to the factory at twelve o'clock. This time Mr. Frank told me to get back at four. I did say before the coroner that he was looking down when he came out of his office. I told them also that there was a place in that building where I could go to sleep, but they didn't ask me where.

When you come in the front door of the factory, you can go right on by the elevator and right down into the basement, anybody could do it. The fact that the double doors on the steps were locked wouldn't prevent anybody from

going in the basement. That would only prevent anybody from up stairs from going into the basement unless they went by the elevator or by unlocking those double doors. All of the doors to the factory were unlocked when I got back there Saturday afternoon about six o'clock, the first floor, the second floor, the third floor and the fourth floor. Anybody could come right in from the street and go all over the factory without Mr. Frank in his office knowing anything about it. The doors are never closed at all. That is a great big, old, rambling place up there. The shutters, the blinds to the factory were all closed that day because it was a holiday, excepting two or three on the first floor which I closed up that night. It's a very dark place when the shutters are closed. That is why we have to burn a light. There is a light on the first floor near the clock, it burns all the time because that is a dark spot. There are two clocks, one punches to a hundred, the other punches to two hundred, because there are more than a hundred employees. I punch both of them. About Mr. Frank and Mr. Gantt, they had had a difficulty and I knew that Mr. Frank didn't want him in there. Mr. Frank had told me "Lee, I have discharged Mr. Gantt, I don't want him in here, keep him out of here," and he had said, "When you see him hanging around here, watch him." That is the reason I thought Mr. Frank was startled when he saw Mr. Gantt. Mr. Gantt is a great big fellow, nearly seven feet. When he went out I watched him as he went to the beer saloon and I went on upstairs. He left the factory about half past six. I went through the machine room every time I made a punch that night. I went to the ladies dressing room every half hour that night until three o'clock. I went all over the building every half hour, excepting the basement. I went down to the basement every hour that night, but not all the way back. Mr. Frank had instructed me to go over the building every half hour and he said go down in the basement once in awhile. He said go back far enough to see the door was closed. He told me to look out for the dust bin because that is where we might have a fire and to see that the back door is shut and to go over all the building every half hour. No, he didn't give me any different instructions on that Saturday, he didn't tell me not to go in the basement or in the metal department. He allowed me to carry out the instructions just like I had been doing before. Yes, if I had gone back to find out whether that door was closed or not, I would have found the body, but I could see if the door was open, because there was a light back there. No, it wasn't open that night. It was shut when I found the body. It was about ten minutes after I telephoned the police that they arrived. When I was down there I was close enough to the door to see it was shut, there was a light in front of it. There was no light between the body and the door. It was dark back there. The body was about sixty feet from that door. If the back door had been open I could have seen that big light back there in the alley. The back door was closed when I found the body. The first time I went down the basement that night was seven o'clock. I went just a little piece beyond the dark, so I could see whether there was any fire down there. That's what I was looking for. Yes, I could tell whether the door was open

from there. No, I didn't go back as far as they found the body, I didn't go back that far at all during the night. The reason I went that far back when I saw the body was because I went to the closet. There are two closets on the second floor, one on the third floor and one on the fourth floor. I didn't see the lady's hat or shoe when I went down to that little place with my lantern, nor the parasol. My lantern was dirty. I was sitting down there, after I had punched, on the seat, set my lantern on the outside. When I got through I picked up my lantern, I walked a few steps down that way, I seed something over there, about that much of the lady's leg and dress. I guess I walked about three or four feet, or five or six. I guess the body was about ten feet from the closet. As to what made me look in that direction from the closet, because I wanted to look that way. I picked up the lantern to go down there to see the dust bin, to see whether there was any fire there. The dust bin was to the right of me. When I was sitting down there the dust bin was not entirely hid behind the partition. I could see where the dust came down. The balance of the night in order to see whether there was any fire in the dust bin or not I went twenty or twenty-five feet from the scuttle hole, and when I was down in the closet I had to go at least ten feet to see whether or not there was any fire in the dust bin. I would have gone further if I hadn't discovered the body. When I saw the body, the closest I ever got to it was about six feet. I was holding my lantern in my hand. I just saw the feet. When I first saw it I was about ten feet from it. As to how far the body was from where I was sitting in the closet, it was not less than ten feet and not more than thirty. I stood and looked at it to see whether or not it was a natural body. When I first got there I didn't think it was a white woman because her face was so dirty and her hair was so crinkled and there were white spots on her face. When the police came back upstairs they said it was a white girl. I think I reported to the police that it was a white woman. She was lying on her back with her face turned kinder to one side. I could see her forehead. I saw a little blood on the side of her head that was turned next to me. The blood was on the right side of her head. I am sure she was lying on her back. Mr. Frank had told me if anything serious happened to call up the police and if anything like fire to call up fire department. I already knew the number of the station house. I did say at the coroner's inquest that it took Mr. Frank longer to put the tape on this time than it did before. I did not say it took twice as long at the coroner's inquest, because they didn't ask me. I didn't pay any attention to him the first time he put the tape on. The reason the last time I know it took him longer because I held the lever and had to move it backwards and forwards. When I was in the basement one of the policemen read the note that they found. They read these words, "The tall, black, slim negro did this, he will try to lay it on the night" and when they got to the word "night" I said "They must be trying to put it off on me." I didn't say, "Boss, that's me."

**RE-DIRECT EXAMINATION.**

The first time I saw Mr. Frank put any tape on, he didn't say anything about it being any trouble. The last time he put it on, he said something about that he wasn't used to putting it on. I was holding the lever there and he got it on twice and he had put it on wrong and he would have to slip it out and put it back. When Mr. Frank came out rubbing his hands, he came out of his inner office into the outer office and from there in front of the clock. I did not go down in the basement as far as the boiler during the night, except when I discovered the body.

The officers talked to me the whole time. I didn't get to sleep hardly, day or night. Just the time I would get ready to go to sleep, here they was after me. Then I would go back to my cell, stay a while and then another would come and get me. They carried me where I could sleep, but they wouldn't let me stay there long enough to sleep. I didn't get no sleep until I went over to the jail, and I didn't get no sleep at jail for about two weeks. That was before the coroner's inquest, when I was first arrested. When I went back to the jail I was treated nicely. As to who talked to me longer Mr. Frank or Black, Mr. Black did. Mr. Arnold talked to me longer than Mr. Frank did on April 29th. In the southwest corner is some toilets for men and women

L. S. DOBBS, sworn for the State.

I am a sergeant of police. On the morning of April 27th, at about 5:25 a call came from the pencil factory that there was a murder up there. We went down in Boots Rogers' automobile. When we got there the door was locked. We knocked on the door and in about two minutes the negro came down the steps and opened up the door and said there was a woman murdered in the basement. We went through a scuttle hole, a small trapdoor. The negro lead the way back in the basement, to a partition on the left, leading from the elevator. The basement is about twenty feet wide. The negro lead the way back about one hundred fifty feet and we found the body. The girl was lying on her face, not directly lying on her stomach, with the left side on the ground, the right side up just a little. We couldn't tell by looking at her whether she was white or black, only by her golden colored hair. They turned her over and her face was full of dirt and dust. They took a piece of paper and rubbed the dirt off of her face, and we could tell then that it was a white girl. I pulled up her clothes and we could tell by the skin of her knee that she was a white girl. Her face was punctured, full of holes and was swollen and black. She had a cut on the left side of her head as if she had been struck and there was a little blood there. The cord was around her neck, sunk into the flesh. She also had a piece of her underclothing around her neck. The cord was still tight around her neck. The tongue was pro-

truding just the least bit. I began to look around and found a couple of notes. The cord was pulled tight and had cut into the flesh and tied just as tight as it could be. The underclothing around the neck was not tight. There wasn't much blood on her head. It was dry on the outside. I stuck my finger under the hair and it was a little moist. This scratch pad (State's Exhibit "H") was also lying on the ground, close to the body. The body was lying with the head towards Forsyth Street, the head being near the partition. I found the notes under the sawdust, lying near the head. The body was that of Mary Phagan. The scratch pad was lying near the notes. They were all right close together.

(Witness indicates on diagram of the State where body was found and identifies different parts of the building on the diagram. Witness states that diagram is a (State's Exhibit A) fair representation of the parts identified by him, i. e., main floor and stairs, basement, boiler, partition in basement, spot where notes and body were found, and of the entire building.

#### CROSS EXAMINATION.

We arrived at the factory about 3:30. Lee told us it was a white woman. It took us some time to determine whether it was a white woman or not. We didn't know until the dust was removed from her face and we pulled up the clothes and looked at the skin. We did not know it prior to that time. We had a lantern with us. One of the officers had a flashlight. Both of the notes were near her head. I don't think they were over six or eight inches apart. No, the one written on the scratch pad was not attached to the pad when I found it. It was laying about ten or twelve inches from it, right close together, and about eight or ten inches from her head was the furthest note. I found the white one first, on the white pad. I discovered the notes on the white paper and the scratch pad about the same time. It was possibly five or ten minutes before I found the other. There was a pile of trash near the boiler where this hat was found, and paper and pencils were down there, too. The hat was on the trash pile, so was the shoe. They were right close together on the trash pile. Everything was gone off of it, ribbons and all. It looked like she had been dragged by her feet on her face. I thought I found indications that she had been dragged in the basement, but I couldn't be positive. As to whether Newt Lee could have seen the body from where he was standing I would think that he could have seen the body from where he was standing; I would think that he could have seen the feet and the bulk of the body, he couldn't hardly have seen the head. I don't think he could have seen enough of it to have seen what it was without coming up to it. I made an experiment in the day time to see whether he could see the body or not, and I found he could see the feet, you could see the bulk. Unless he was looking directly for someone. I don't think he could see it. The place where I thought I saw someone dragged was right in front of the elevator, directly back. It began immediately in front of the elevator, right at the bottom of the shaft. The



hat was possibly nearer the elevator than the shoe. That was a dirt floor and cinders on it scattered over the dirt. I thought the places on her face had been made from dragging. I think I saw a little blood on the underclothing. I did not testify before the coroner that the blood ran a little when we moved the body, I didn't say it was liquid. The blood was dry. The little trail where I thought showed the body was dragged went straight on down where the girl was found. It was a continuous trail. The finger joints on her hand worked a little. Back door was shut, staple had been pulled. The lock was locked still, but the staple had been drawn out. It was a sliding door with a bar across the door, but the bar had been taken down. It looked like the staple had been recently drawn. I was reading one of the notes to Lee, with the following words: "A tall black negro did this, he will try to lay it on the night" and when I got to the word "night," Lee says, "That means the night watchman." I had just said the "night" and he said "That means the night watchman." I think the underclothes were torn, not cut, but I am not positive.

#### **RE-DIRECT EXAMINATION.**

It was about one hundred fifty feet from the ladder to where we found the body. The ribbon I found was not on the hat, it was on the hair. We made another experiment at night to see whether Newt Lee could have seen the body from where he stood. We placed a bulk about the size of an ordinary body about the same position that this body was found in and you could see the bulk of the body by looking carefully by standing at the spot Newt Lee said he had seen it. A man couldn't get down that ladder with another person. It is a difficult matter for one person to get through the scuttle hole. The signs of dragging that I saw was right at the bottom of the elevator shaft, on the south side of the elevator. The signs of dragging came right around the elevator straight back east of the ladder, it started east of the ladder. A man going down the ladder to the rear of the basement would not go in front of elevator where dragging was. The hasp appeared to have been pulled straight out of the door, on the inside, it was not bent. The body was cold and stiff. Hands folded across the breast. I didn't find any blood on the ground or on the sawdust around where we found the body. Yes, the hasp is bent the least bit. When we got there Sunday morning, I think the elevator was on the second floor. We tried to make Lee run the elevator, but he said he couldn't do it.

#### **FURTHER RE-DIRECT.**

I found the handkerchief about ten feet towards the rear beyond the body on a sawdust pile.

#### **RE-CROSS EXAMINATION.**

I found it possibly ten or fifteen minutes after we found the body. The handkerchief was bloody just like it is now.

**RECALLED FOR THE STATE.**

The trap door leading up from the basement was closed when we got there. There were cobwebs and dust back there.

J. N. STARNES, sworn for the State.

I am a city officer. Went to the pencil company's place of business between five and six o'clock, April 27th. The pencil company is located in Fulton County, Georgia. That is where the body was found. The staple to the back door looked as if it had been prized out with a pipe pressed against the wood. There was a pipe there that fitted the indentation on the wood. I called Mr. Frank on the telephone, and told him I wanted him to come to the pencil factory right away. He said he hadn't had any breakfast. He asked where the night watchman was. I told him it was very necessary for him to come and if he would come I would send an automobile for him, and I asked Boots Rogers to go for him. I didn't tell him what had happened, and he didn't ask me. Mr. Frank appeared to be nervous; this was indicated by his manner of speaking to Mr. Darley; he was in a trembling condition. I was guarded with him in my conversation over the phone. About a week afterwards I went to the factory and had the night watchman there, Mr. Hendricks, to show me about the clock. He took a new slip and put it in the clock and punched the slip all the way around in less than five minutes (State's Exhibit P). I got some cord on the second floor of the pencil factory, the knots in those cords are similar to the knots in this cord (State's Exhibit C). On the floor right at the opposite corner, what might be called the northwest corner of the dressing room, on Monday morning, April 28th, I saw splotches that looked like blood about a foot and a half or two feet from the end of the dressing room, some of which I chipped up. It looked like splotches of blood and something had been thrown there and in throwing it had spread out and splattered. There was no great amount of it. I should judge that the area around these spots was a foot and a half. The splotch looked as if something had been swept over it, some white substance. There is a lot of that white stuff in the metal department. It looked like blood. I found a nail fifty feet this side of the metal room toward the elevator on the second floor that looked like it had blood on the top of it. It was between the office and the double doors. I chipped two places off on the back door which looked like they had bloody finger prints. I don't know when Frank was arrested. I don't think he was arrested on Monday. He was asked to come to the station house on Monday. It takes not over three minutes to walk from Marietta Street at the corner of Forsyth across the viaduct and through Forsyth Street down to the pencil factory. Lee was composed at the factory; he never tried to get away. The door to the stairs from the office floor to the third floor was barred when I first went up there.

**CROSS EXAMINATION.**

I am guessing about the time. It wouldn't take over five minutes to get off the car, walk to the pencil factory, walk in, walk up the stairs and back into Mr. Frank's office. The hasp is bent a little. I heard Boots Rogers testify at the coroner's inquest and I testified twice. I did not correct any statement at the coroner's inquest that Boots Rogers made. I am the prosecutor in this case. I can not give the words of the conversation of the telephone message between myself and Mr. Frank. I could be mistaken as to the very words he used. It was just a casual telephone conversation. I don't know that the splotches that I saw there were blood. The floor at the ladies dressing room is a very dark color. I saw cord like that in the basement, but it was cut up in pieces. I saw a good many cords like that all over the factory. I never found the purse, or the flowers or the ribbon on the little girl's hat. This diagram (State's Exhibit A) is a correct diagram of second floor and basement of pencil company and other places. No. 11 on diagram (State's Exhibit A) is the toilets.

**RE-DIRECT EXAMINATION.**

I was guarded in what I said over the phone to Mr. Frank though it was just a conversation between two gentlemen. These pieces of wood look like what I chipped off the floor. I turned them over to Chief Lanford. (Referring to State's Exhibit E.)

**RECALLED FOR THE STATE.**

I saw Mr. Rosser at the coroner's inquest. I never heard him say anything throughout the hearing.

W. W. ROGERS, sworn for the State.

I am now connected with Judge Girardeau's court. I was at the station house Saturday night, April 26th, and went to the National Pencil Company's place of business. It was between five and five thirty that I heard Mr. Starnes have a conversation over the phone. I heard him say, "If you will come I will send an automobile after you." It took us five or six minutes to get out to Mr. Frank's residence at 86 E. Georgia Avenue. Mr. Black was with me. Mrs. Frank opened the door. She wore a heavy bath robe. Mr. Black asked if Mr. Frank was in. Mr. Frank stepped into the hall through the curtain. He was dressed for the street with the exception of his collar, tie, coat and hat. He had on no vest. Mr. Frank asked Mr. Black if anything had happened at the factory. Mr. Black didn't answer. He asked me had anything happened at the factory. I didn't answer. Mr. Frank said, "Did the night watchman call up and report anything to you?" Mr. Black said, "Mr. Frank, you had better get your clothes on and let us go to the factory and see what has happened." Mr. Frank said that he thought he dreamt in the morning

about 3 a. m. about hearing the telephone ring. Mr. Black said something about whiskey to Mrs. Frank in Mr. Frank's presence. Mrs. Frank said Mr. Frank hadn't had any breakfast and would we allow him to get breakfast. I told Mr. Black that I was hungry myself. Mr. Frank said let me have a cup of coffee. Mr. Black in a kind of sideways, said, "I think a drink of whiskey would do him good," and Mrs. Frank made the remark that she didn't think there was any whiskey in the house. Mr. Frank seemed to be extremely nervous. His questions were jumpy. I never heard him speak in my life until that morning. His voice was a refined voice, it was not coarse. He was rubbing his hands when he came through the curtains. He moved about briskly. He seemed to be excited. He asked questions in rapid succession, but gave plenty of time between questions to have received an answer. Mr. Frank and Mr. Black got on the rear seat and I took the front seat and as I was fixing to turn around, one of us asked Mr. Frank if he knew a little girl by the name of Mary Phagan. Mr. Frank says: "Does she work at the factory?" and I said, "I think she does." Mr. Frank said, "I cannot tell whether or not she works there until I look on my pay roll book, I know very few of the girls that work there. I pay them off, but I very seldom go back in the factory and I know very few of them, but I can look on my pay roll book and tell you if a girl by the name of Mary Phagan works there." One of us suggested that we take Mr. Frank by the undertaking establishment and let him see if he knew this young lady. Mr. Frank readily consented, so we stopped at the telephone exchange, Mr. Frank, Mr. Black and myself got out and went in the undertaking establishment. I saw the corpse. The corpse was lying in a little kind of side out room to the right of a large room. The light was not lit in this little room where the body was laying, and Mr. Gheesling stepped in ahead of me and went around behind the corpse and lit the light above her head and her head was lying then towards the wall. I stepped up on the opposite side of the corpse with a door to my left. Mr. Gheesling caught the face of the dead girl and turned it over towards me. I looked then to see if anybody followed me and I saw Mr. Frank step from outside of the door into what I thought was a closet, but I have afterwards found it was where Mr. Gheesling slept, or where somebody slept. There was a little single bed in there. I immediately turned around and came back out, in front of the office. I didn't see Frank look at the corpse. I don't remember that Mr. Frank ever followed me in this room. He may have stopped on the outside of the door, but my back was toward him and I don't know where he stopped. Mr. Gheesling turned the head of the dead girl over towards me and I looked around to see who was behind me and I saw Mr. Frank as he made that movement behind me. He didn't go into the closet as far as I could see, but he got out of my view. He could have looked at the corpse from the time that Mr. Gheesling was going around behind, but he could not have seen her face because it was lying over towards the wall. The face was away from me and I presume that was the cause of Mr. Gheesling turning it over. There was some question asked Mr. Frank if he knew the girl, and I think he replied

that he didn't know whether he did or not but that he could tell whether she worked at the factory by looking at his pay roll book. As we were leaving Mr. Frank's house, Mr. Frank asked Mrs. Frank to telephone Mr. Darley to come to the factory. Mr. Frank was apparently still nervous at the undertaking establishment, he stepped lively. It was just his general manner that indicated to me that he was nervous. I never saw Mr. Frank in my life until that morning. After we got out of Mr. Frank's house and was in my car, was the first time Mr. Frank had been told that the young lady was named Mary Phagan and that there had been any murder committed at the factory. From the undertaker's we went to the pencil factory in my car. We went into Mr. Frank's office, he went up to the safe, turned the combination, opened the safe, took out his time book, laid the book down on the table, ran his finger down until he came to the name Mary Phagan, and said, "Yes, Mary Phagan worked here, she was here yesterday to get her pay." He said, "I will tell you about the exact time she left there. My stenographer left about twelve o'clock, and a few minutes after she left the office boy left and Mary came in and got her money and left." He said she got \$1.20 and he asked whether anybody had found the envelope that the money was in. Frank still seemed to be nervous like the first time I seen him. It was just his quick manner of stepping around and his manner of speech like he had done at the house that indicated to me that he was nervous. He then wanted to see where the girl was found. Mr. Frank went around by the elevator, where there was a switch box on the wall and Mr. Frank put the switch in. The box was not locked. Somebody asked him if he was used to keeping the switch box locked. He said they had kept it locked up to a certain time until the insurance company told him that he would have to leave it unlocked, that it was a violation of the law to keep an electric switch box locked. We then stepped on the elevator. He still stepped about lively and spoke up lively, answering questions, just like he had always done. After we got on the elevator, he jerked at the rope and it hung and he called Mr. Darley to start it and we all stepped out of the elevator. Mr. Darley came and pulled at the rope two or three times and the elevator started. As to whether anybody made any statement down in the basement as to who was responsible for the murder, I think Mr. Frank made the remark that Mr. Darley had worked Newt Lee for sometime out at the Oakland plant and that if Lee knew anything about the murder that Darley would stand a better chance of getting it out of him than anybody else. After we came back from the basement it was suggested that we go to the station house and as we started out Mr. Frank says, "I had better put in a new slip, hadn't I, Darley?" Darley told him yes to put in a slip. Frank took his keys out, unlocked the door of the right-hand clock and lifted out the slip, looked at it and made the remark that the slip was punched correctly. Mr. Darley and Newt Lee was standing there at the time Mr. Frank said the punches had been made correctly. Mr. Frank then put in a new slip, closed the door, locked it and took his pencil and wrote on the slip that he had already taken out of the machine, "April 26, 1913." I looked at the slip that Mr. Frank took out

(Defendant's Exhibit I), the first punch was 6:01, the second one was 6:32 or 6:33. He took the slip back in his office. I glanced all the way down and there was a punch for every number. While we were walking through the factory Mr. Frank asked two or three times to get a cup of coffee. As to what Mr. Frank said about the murder, I don't know that I heard him express himself except down in the basement. The officers showed him where the body was found and he made the remark that it was too bad or something to that effect. When we left the factory to go to police headquarters, Newt Lee was under arrest. I never considered Mr. Frank as being under arrest at that time. There had never been said anything to him in my presence about putting him under arrest. Mr. Frank's appearance at the station house was exactly like it was when I first saw him. He stepped quickly, when the door of the automobile was open, he jumped lightly off Mr. Darley's lap, went up the steps pretty rapid.

#### CROSS EXAMINATION.

I never saw Mr. Frank until that morning. I don't know whether his natural movements or manner of speech were quick or not. We didn't know whether the girl was a white girl or not until we rubbed the dirt from the child's face and pulled down her stocking a little piece. The tongue was not sticking out, it was wedged between the teeth. She had dirt in her eye and mouth. The cord around her neck was drawn so tight it was sunk in her flesh and the piece of underskirt was loose over her hair. I don't know whether Mr. Frank went upstairs or not after we reached his house. I think he called to his wife to get him his collar and tie. He got his coat and vest some place, but I don't know where. At the time Mrs. Frank was calling Mr. Darley. Mr. Frank was putting on his collar and tie down in the reception hall. We were at the house 15 or 20 minutes. After Mrs. Frank had said something about Mr. Frank getting his breakfast before he went, Mr. Black said something about a drink would do good. Mrs. Frank then called her mother, who said that there wasn't any liquor in the house, that Mr. Selig had an acute attack of indigestion the night before and used it all up. Mr. Frank readily consented to go to the undertaker's with us. When we got in the car we told him it was Mary Phagan and he said he could tell whether she was an employee or not by looking at his book, that he knew very few of the girls. Yes, anybody facing the door of the little chapel at the undertaker's could have seen the corpse. As to whether I know that Mr. Frank didn't see the corpse, he could have got a glance at the whole corpse, but when Mr. Gheesling turned the face over no one could have got a good look at the face unless they stepped in the room. Mr. Gheesling turned the young lady's face directly toward me, Mr. Frank was standing somewhere behind me, outside of the room. I turned around to see if Mr. Frank was looking. I don't know that he didn't get a glance at the corpse, but no one but Mr. Gheesling and I at this moment stepped up and looked at the little girl's face. What Mr. Frank and Mr. Black saw behind my back, I can't say. I don't say that Mr.

Frank stepped into that dressing room, but he passed out of my view. So did Mr. Black. Mr. Gheesling had a better view of Mr. Black and Mr. Frank than I did, because my back was to them and Mr. Gheesling was looking straight across the body at them. Mr. Frank had no difficulty in unlocking the safe when we went back to the factory. The elevator we went down on is a freight elevator, makes considerable noise. It stops itself when it gets to the bottom. I don't think it hits the ground. She was lying on her face with her hands folded up. Her face was turned somewhat toward the left wall. A bruise on the left side of her head, some dry blood in her hair. One of her eyes were blackened. There were several little scratches on her face. Somebody worked her arms to see if they were stiff. The arms worked a little bit. The joints in her arms worked just a little bit. When we first went down the basement we stayed down there about 20 or 25 minutes. During that time neither the shoe, the hat, nor the umbrella had been found. In the elevator shaft there was some excrement. When we went down on the elevator, the elevator mashed it. You could smell it all around. It looked like the ordinary healthy man's excrement. It looked like somebody had dumped naturally; that was before the elevator came down. When the elevator came down afterwards it smashed it and then we smelled it. As to the hair of the girl any one could tell at first glance that it was that of a white girl.

**RE-DIRECT EXAMINATION.**

The body wasn't lying at the undertakers where it could have been seen from the door.

**RE-CROSS EXAMINATION.**

At the moment the face was turned towards me, I didn't see Mr. Frank but I know a person couldn't have looked into the face unless he was somewhere close to me. I was inside and Mr. Frank never came into that little room.

**RE-DIRECT EXAMINATION.**

When the face was turned towards me, Mr. Frank stepped out of my vision in the direction of Mr. Gheesling's sleeping room.

MISS GRACE HICKS, sworn for the State.

I knew Mary Phagan nearly a year at the pencil factory. She worked on the second floor. I identified her body at the undertaker's Sunday morning, April 27th. I knew her by her hair. She was fair skinned, had light hair, blue eyes and was heavy built, well developed for her age. I worked in the metal room, the same room she worked in. Mary's machine was right next to the dressing room, the first machine there. They had a separate closet for men and a separate one for ladies on that floor. There was just a partition between them. In going to the office from the closets they would pass the

dressing room and Mary's machine within two or three feet. Mr. Frank, during the past twelve months, would pass through the metal department looking around every day. Sometimes I would see him talking to some of the men in the office at the clocks. He came back to the metal room to see how the work was getting on. The metal is kept in a little closet back under the stair steps. I asked Mr. Quinn, not Mr. Frank, if the metal had come. Saturday at twelve o'clock is the regular pay-day, but the week of April 26th most of the employes got paid off on Friday night between six and seven o'clock. I hadn't worked there since Wednesday. Mr. Quinn called me up and told me that pay-day would be Friday. The metal had not come from Monday to Saturday. Mary didn't work after Monday of that week.

#### CROSS EXAMINATION.

Standing at the time clock you can't see into Mr. Frank's private office. A person wouldn't see from Mr. Frank's office any one coming in or out of the building. I worked at the factory five years. In that time Mr. Frank spoke to me three times. Mary Phagan worked at the factory with me for about a year in the same department and I never saw Mr. Frank speak to Mary Phagan or Mary Phagan speak to Mr. Frank. When Mr. Frank came through the metal department he never spoke to any of the girls; just went through and looked around. The three times Mr. Frank spoke to me were as follows: He was showing a man around and I was laying on my arm mighty near asleep and he says "You can run this machine asleep can't you," and I said, "Yes, sir." Then another time I asked him for a quarter and he loaned me a quarter. The next time I met him on the street he tipped his hat to me. Mr. Frank knew my face or he wouldn't have spoken to me on the street. The floor in the metal department is awful dirty. The white stuff that they use back there gets all over the floors. Mr. Darley is general manager and foreman who employes the help. Mary Phagan's hair was darker than mine. She weighed about 115 pounds. Sometimes we sit over at the machine and comb our hair and sometimes when I want to curl my hair with a poker or anything, I go over there to the table right by the window and light the gas and curl my hair. Magnolia Kennedy's hair is nearly the color of Mary Phagan's. The pay is given employes from a window in the packing department. There is paint in the polishing room, just across from the dressing room. The door of the polishing room is a few feet across from the dressing room. No paint is kept in the metal room. I have seen drops of paint on the floor. I have seen it leading from the door straight across from the dressing room out to the cooler where the women come out to get water. The floor all over the factory is dirty and greasy. And after two or three days you can't hardly tell what is on the floor after it gets mixed with the dirt and dust. I saw Helen Ferguson Friday, April 25th, when we were paid off.



JOHN R. BLACK, sworn for the State.

I am a city policeman. I don't know the details of the conversation between Mr. Starnes and Mr. Frank over the 'phone. I didn't pay very much attention to it. I went over to Mr. Frank's house with Boots Rogers. Mrs. Frank came to the door. Mrs. Frank had on a bath robe. I stated that I would like to see Mr. Frank and about that time Mr. Frank stepped out from behind a curtain. His voice was hoarse and trembling and nervous and excited. He looked to me like he was pale. I had met Mr. Frank on two different occasions before. On this occasion he seemed to be nervous in handling his collar. He could not get his tie tied, and talked very rapid in asking questions in regard to what had happened. He wanted to know if he would have time to get something to eat, to get some breakfast. He wanted to know if something had happened at the pencil factory and if the night watchman had reported it, and he asked this last question before I had time to answer the first. He kept insisting for a cup of coffee. When we got into the automobile as Mr. Rogers was turning around Mr. Frank wanted to know what had happened at the factory, and I asked him if he knew Mary Phagan and told him that she had been found dead in the basement of the pencil factory. Mr. Frank said he didn't know any girl by the name of Mary Phagan, that he knew very few of the employes. I suggested to Mr. Rogers that we drive by the undertaker's. In the undertaking establishment Mr. Frank looked at her. He gave a casual glance at her and stepped aside. I couldn't say whether he saw the face of the girl or not. There was a curtain hanging near the room and Mr. Frank stepped behind the curtain. He could get no view from behind the curtain. He walked behind the curtain and came right out. Mr. Frank stated as we left the undertaking establishment that he didn't know the girl but he believed he had paid her off on Saturday. He thought he recognized her being at the factory on Saturday by the dress that she wore but he could tell by going over to the factory and looking at his cash book. At the pencil factory Mr. Frank took the slip out, looked over it and said it had been punched correctly. On Monday and Tuesday following Mr. Frank stated that the clock had been mis-punched three times. This slip was turned over to Chief Lanford on Monday. I saw Mr. Frank take it out of the clock and went back with it toward his office. I don't know of my own personal knowledge that it was turned over to Chief Lanford Monday. When Mr. Frank was down at police station on Monday morning Mr. Rosser and Mr. Haas were there. About 8 or 8:30 o'clock Monday morning Mr. Rosser came in police headquarters. That's the first time he had counsel with him. That morning Mr. Haslett and myself went to Mr. Frank's house and asked him to come down to police headquarters. About 11:30 Monday Mr. Haas demanded of Chief Lanford that officers accompany Mr. Frank out to his residence and search his residence. Mr. Haas stated in Frank's presence that he was Mr. Frank's attorney and demanded to show that there was nothing left undone, that we go out to Mr. Frank's house and search for

anything that we might find in connection with the case. On Tuesday night Mr. Scott and myself suggested to Mr. Frank to talk to Newt Lee. Mr. Frank spoke well of the negro, said he had always found him trusty and honest. They went in a room and stayed from about 5 to 10 minutes alone. I couldn't hear enough to swear that I understood what was said. Mr. Frank stated that Newt still stuck to the story that he knew nothing about it. Mr. Frank stated that Mr. Gantt was there on Saturday evening and that he told Newt Lee to let him go and get the shoes but to watch him, as he knew the surroundings of the office. After this conversation Gantt was arrested. Frank made no objections to talking to Newt Lee. Mr. Frank was nervous on Monday. After his release Monday he seemed very jovial. On Tuesday night Frank said at station house that there was nobody at factory at 6 o'clock, but Newt Lee and that Newt ought to know more about it, as it was his duty to look over factory every thirty minutes. Also that Gantt was there Saturday evening and he left him there at 6 o'clock and that he and Gantt had some trouble previous to discharge of Gantt and that he at first refused to allow Gantt to go in factory, but Gantt told him he left a pair of shoes there.

**CROSS EXAMINATION.**

When I said that Mr. Frank was released I spoke before I thought. I retracted it on cross-examination. I don't know that Mr. Rosser was at the police station between 8 and 8:30 Monday morning, I said that to the best of my recollection. I wouldn't swear Mr. Rosser was there. I heard Mr. Rosser say to Mr. Frank to give them a statement without a conference at all between Mr. Frank and Mr. Rosser. I said that we wanted to have a private talk with Mr. Frank without Mr. Rosser being present. I wanted to talk to Mr. Frank without Mr. Rosser being present. While I was at the coroner's inquest Mr. Frank answered every question readily. I wouldn't swear positively, but to the best of my recollection I had a conversation with Mr. Frank on two previous occasions. When I met Mr. Frank on previous occasions I don't remember anything that caused me to believe he was nervous, nothing unusual about him. I heard the conversation Mr. Starnes had over the telephone with Mr. Frank early that morning. It was about a quarter to six, or a quarter past six. I think we got to the undertaker's about 6:20. As to the reason why I didn't tell Mr. Frank about the murder when I was inside the house, but did tell him as soon as he got in the automobile, I had a conversation with Newt Lee and I wanted to watch Mr. Frank and see how he felt about the murder. Mr. Frank didn't go upstairs and put his collar and cravat on. Mrs. Frank brought him his collar and tie, I don't know where she got them. He told her to bring his collar and tie and he got his coat and hat. I don't know whether he went back to his home or not. He put his collar and tie on right there. I don't know where he got his coat and vest at. I don't know what sort of tie or collar he had. He put his collar and tie on like anybody else would; tied it himself. I don't know

whether Mr. Frank finished dressing upstairs or not. I couldn't see him when he went behind those curtains. We stayed at the Frank home about ten minutes. At the undertaking establishment I was right behind Mr. Frank. He was between me and the body. I saw the face when the undertaker turned her over. Yes, Mr. Frank being in front of me had an opportunity to see it also. No, Mr. Frank didn't go into that sleeping room. Mr. Frank went out just ahead of me. When we went back to the pencil factory Mr. Frank went to the safe and unlocked it readily at the first effort. He got the book, put it on the table, opened it at the right place, ran his finger down until he came to the name of Mary Phagan and says, "Yes, this little girl worked here and I paid her \$1.20 yesterday." We went all over the factory that day. Nobody saw that blood spot that morning. I guess there must have been thirty people there during that day. Nobody saw it. I was there twice that day. Mr. Starnes was there with me. He didn't call attention to any blood spots. Chief Lanford was there, and he didn't discover any blood spots. Mr. Frank was at the police station on Monday from 8:30 until about 11:30. Mr. Frank told me he had discharged Mr. Gantt on account of shortage and had given orders not to let him in the factory. As regards Mr. Frank's linen, Mr. Haas said he was Mr. Frank's attorney and requested that we go to Mr. Frank's house and look over the clothes he had worn the week before and the laundry too. Yes, we went out there and examined it. Mr. Frank had had no opportunity to telephone his house from the time we mentioned it until we got out there. He went with us and showed us the dirty linen. I examined Newt Lee's house. I found a bloody shirt in the bottom of a clothes barrel there on Tuesday morning about 9 o'clock.

#### RE-DIRECT EXAMINATION.

Mr. Frank had told me that he didn't think Newt Lee had told all he knew about the murder. He also said after looking over the time sheet and seeing that it hadn't been punched correctly that that would have given Lee an hour to have gone out to his house and back. I don't know when he made this last statement. I don't remember whether that was before or after I went out to Lee's house and found the shirt. We went into his house with a skeleton key. It was after Frank told me about the skips in the punches. The shirt is just like it was the day I found it. The blood looks like it is on both sides of the shirt.

#### RE-CROSS EXAMINATION.

I don't know whether I went out to Lee's house before or after Mr. Frank suggested the skips in the time slips. I don't like to admit it, but I am so crossed up and worried that I don't know where I am at, but I think to the best of my knowledge it was Monday that Frank said that the slips had been changed.

MRS. J. W. COLEMAN, re-called for the State.

Mary carried a little silver mesh bag the day she left her home, made of German silver. This looks like the handkerchief that she carried. (State's Exhibit "M.")

J. M. GANTT, sworn for the state.

From June last until the first of January I was shipping clerk at the National Pencil Company. I was discharged April 7th by Mr. Frank for alleged shortage in the pay roll. I have known Mary Phagan when she was a little girl. Mr. Frank knew her, too. One Saturday afternoon she came in the office to have her time corrected, and after I had gotten through Mr. Frank came in and said, "You seem to know Mary pretty well." No, I had not told him her name. I used to know Mary when she was a little girl, but I have not seen her up to the time I went to work for the factory. My work was in the office and she worked in the rear of the building on the same floor in the tip department. After I was discharged, I went back to the factory on two occasions. Mr. Frank saw me both times. He made no objection to my going there. One girl used to get pay envelopes for another girl with Mr. Frank's knowledge. There was an alleged shortage in the pay roll of \$2.00. Mr. Frank came to see me about it and I told him I didn't know anything about it, and he said he wasn't going to make it good, and I said I wasn't, and he then discharged me. Prior to my being discharged Mr. Frank told me he had the best office force he ever had. I was the time keeper. Mr. Frank could sit at his desk and see the employees register at the time clock if the safe door was closed. Mr. Frank did not fix the clock frequently, possibly two or three times. On April 26, about six o'clock I saw Newt Lee sitting out in front of the factory and I remembered that I left a pair of shoes up there and I asked Newt Lee what about my getting them, and he said he couldn't let me up. I said Mr. Frank is up there, isn't he? because I had seen him in the window from across the street, and while we were standing there talking, in two or three minutes, Mr. Frank was coming down the stairway and got within fifteen feet of the door when he saw me and when he saw me he kind of stepped back like he was going to go back, but when he looked up and saw that I was looking at him he came on out, and I said "Howdy, Mr. Frank," and he kind of jumped again. I told him I had a pair of shoes up there I would like to get and he said, "Do you want to go with me, or will Newt Lee be all right?" and he kind of studied a little bit, and said, "What kind of shoes were they?" and I said, "They were tan shoes," and he said, "I think I saw a negro sweeping them up the other day." And I said, "Well, I have a pair of black ones there, too," and he kind of studied a little bit, and said "Newt, go ahead with him and stay with him until he gets his shoes," and I went up there and found both pair right where I had left them. Mr. Frank looked pale, hung his head, and nervous

and kind of hesitated and stuttered like he didn't like me in there somehow or other.

**CROSS EXAMINATION.**

I testified at the coroner's inquest. I admit I did not testify about Frank's knowing Mary very well there, that has been recalled to my mind since I was arrested on Monday, April 28th, at 11 o'clock and held until Thursday night about six.

°MRS. J. A. WHITE, sworn for the State.

I saw my husband at the pencil factory at 11:30. I stayed there until about 10 minutes to 12. I left him there and came back about 12:30 and left again about 1 o'clock. When I got there at 11:30 I saw Miss Hall, the stenographer, Mr. Frank and two men. I asked Mr. Frank if I could see my husband Mr. White. Mr. Frank was in the outside office then. He said I could see him and sent word by Mrs. Emma Freeman for him to come downstairs. My husband came to the foot of the stairs on the second floor. I talked to him about 15 minutes and went on out. I returned about 12:30. Mr. Frank was in the outside office standing in front of the safe. I asked him if Mr. White had gone back to work. He jumped like I surprised him and turned and said, "Yes." It wasn't much of a jump. I went upstairs then to see Mr. White. Harry Denham was with him working on the fourth floor. They were hammering. It was not a continuous noise they were making. I heard the hammer not more than once or twice. Mr. Frank came upstairs while I was up there, somewhere about 1 o'clock. I know it was before one because at one I was at McDonald's furniture store, four or five blocks from the factory. I got there a few minutes after one. Mr. Frank told Mr. White if I wanted to get out before 3 o'clock, to come on down because he was going to leave and lock the door, that I had better be ready to go as soon as he got his coat and hat. I went on out and as I passed he was sitting in the outside office writing at a table. As I was going on down the steps I saw a negro sitting on a box close to the stairway on the first floor. Mr. Frank did not have his coat or hat on when I passed out.

**CROSS EXAMINATION.**

I left the factory about 1 o'clock. I wouldn't say that it was positively ten minutes to one. While I was talking to my husband at the factory, Miss Corinthia Hall, May Barrett and her daughter were there. Mrs. Barrett had been upstairs and her daughter came down afterwards. Miss Hall and Mrs. Freeman left first, Mrs. Barrett and her daughter left next and then I went. That was about ten minutes to twelve. I saw the negro sitting between the stairway and the door about five or six feet from the foot of the stairway. I wouldn't be able to identify him.

HARRY SCOTT, sworn for the state.

I am Superintendent of the local branch of the Pinkerton Detective Agency. I have worked on this case with John Black, city detective. I was employed by Mr. Frank representing the National Pencil Company. I saw Mr. Frank Monday afternoon, April 28, at the pencil factory. We went into Mr. Frank's private office. Mr. Darley and a third party were with us. Mr. Frank said, "I guess you read in the newspapers about the horrible crime that was committed in this factory, and the directors of this company and myself have had a conference and thought that the public should demand that we have an investigation made, and endeavor to determine who is responsible for this murder." And Mr. Frank then said he had just come from police barracks and that Detective Black seemed to suspect him of the crime, and he then related to me his movements on Saturday, April 26th, in detail. He stated that he arrived at the factory at 8 a. m., that he left the factory between 9:30 and 10 with Mr. Darley for Montag Bros. for the mail, that he remained at Montag Bros. for about an hour; that he returned to the factory at about 11 o'clock, and just before twelve o'clock Mrs. White, the wife of Arthur White, who was working on the top floor of the building that day with Harry Denham, came in and asked permission to go upstairs and see her husband. Mr. Frank granted her permission to do so. He then stated that Mary Phagan came in to the factory at 12:10 p. m. to draw her pay; that she had been laid off the Monday previous and she was paid \$1:20; that he paid her off in his inside office where he was at his desk, and when she left his office and went in the outer office, she had reached the outer office door, leading into the hall and turned around to Mr. Frank and asked if the metal had come yet; Mr. Frank replied that he didn't know and that Mary Phagan then he thought reached the stairway, and he heard voices, but he could not distinguish whether they were men or girls talking, that about 12:50 he went up to the fourth floor and asked White and Denham when they would finish up their work and they replied they wouldn't finish up for a couple of hours; that Mrs. White was up there at the time and Frank informed Mrs. White that he was going to lock up the factory, that she had better leave; Mrs. White preceded Mr. Frank down the stairway and went on out of the factory as far as he knew, but on the way out, Mrs. White made the statement that she had seen a negro on the street floor of the building behind some boxes, and Mr. Frank stated that at 1:10 p. m. he left the factory for home to go to luncheon; he arrived at the factory again at 3 p. m., went to work on some financial work and at about four o'clock the night watchman reported for work, as per Mr. Frank's instructions the previous day; that he allowed Newt Lee to go out and have a good time for a couple of hours and report again at six o'clock, which Newt did and at six o'clock when Lee returned to the factory, he asked Mr. Frank, as he usually did, if everything was all right, and Mr. Frank replied "Yes" and Lee went on about his business. Mr. Frank left the factory at 6:04 p. m. and when he

reached the street door entrance he found Lee talking to Gantt, an ex-book-keeper who Frank had discharged for thieving. Mr. Frank stated that he had arrived home at about 6:25 p. m. and knowing that he had discharged Gantt, he tried to get Lee on the telephone at about 6:30; knowing that Lee would be in the vicinity of the time clock at that time and could hear the telephone ring; that he did not succeed in getting him at 6:30, but that he got him at seven; that he asked Lee the question if Gantt had left the factory and if everything was all right, to which Lee replied "Yes," and he hung up the receiver. Mr. Frank stated he went to bed somewhere around 9:30.

After that Mr. Frank and Mr. Darley accompanied me around the factory and showed me what the police had found. Mr. Darley being the spokesman. We went first to the metal room on the second floor, where I was shown some spots supposed to be blood spots, they were already chipped up, and I was taken to a machine where some strands of hair were supposed to have been found. From there we went down and examined the time clock and went through the scuttle hole and down the ladder into the basement, where I was shown where everything had been found. As to Mr. Frank's manner and deportment at the time we were in his office, he seemed to be perfectly natural. I saw no signs of nervousness. Occasionally between words he seemed to take a deep breath, and deep sighs about four or five times. His eyes were very large and piercing. They looked about the same they do now. He was a little pale. He gave his narrative rather rapidly. As to whether he stated any fixed definite time as to hours or minutes, he didn't state any definite time as to when Mary Phagan came in, he said she came in at about 12:10. We furnished attorneys for Frank with reports. After refreshing my memory I now state that Mr. Frank informed me at the time I had that conversation with him that he heard these voices before 12 o'clock, before Mary Phagan came. He also stated during our conversation that Gantt knew Mary Phagan very well, that he was familiar and intimate with her. He seemed to lay special stress on it at the time. He said that Gantt paid a good deal of attention to her. As to whether anything was said by any attorney of Frank's as to our suppressing any evidence as to this murder, it was the first week in May when Mr. Pierce and I went to Mr. Herbert J. Haas' office in the 4th National Bank Building and had a conference with him as to the Pinkerton Agency's position in the matter. Mr. Haas stated that he would rather we would submit our reports to him first before we turned it over to the public and let them know what evidence we had gathered. We told him we would withdraw before we would adopt any practice of that sort, that it was our intention to work in hearty co-operation with the police.

I saw the place near the girls' dressing room on the office floor, fresh chips had already been cut out of the floor and I saw white smeared where the chips had been cut out and there were also some dark spots near the

chipped out places. It was just as though somebody had taken a cloth and rubbed some white substance around in a circle, about eight inches in diameter. This white stuff covered all of the dark spots. I didn't note any unusual signs of nervousness about Frank in his office. There wasn't any trembling or anything of that sort at that time. He was not composed. On Tuesday night, April 29, Black, Mr. Frank and myself were together and Mr. Black told Mr. Frank that he believed Newt Lee was not telling all that he knew. I also said to Mr. Frank that Newt knew more than he was telling, and that as he was his employer, I thought he could get more out of the nigger than we could, and I asked him if he would consent to go into a room as employer and employee and try to get it out of him. Mr. Frank readily consented and we put them in a private room, they were together there for about ten minutes alone. When about ten minutes was up, Mr. Black and I entered the room and Lee hadn't finished his conversation with Frank and was saying, "Mr. Frank it is awful hard for me to remain handcuffed to this chair," and Frank hung his head the entire time the negro was talking to him, and finally in about thirty seconds, he said, "Well, they have got me too." After that we asked Mr. Frank if he had gotten anything out of the negro and he said, "No, Lee still sticks to his original story." Mr. Frank was extremely nervous at that time. He was very squirmy in his chair, crossing one leg after the other and didn't know where to put his hands; he was moving them up and down his face, and he hung his head a great deal of the time while the negro was talking to him. He breathed very heavily and took deep swallows, and sighed and hesitated somewhat. His eyes were about the same as they are now. That interview between Lee and Frank took place shortly after midnight, Wednesday, April 30. On Monday afternoon, Frank said to me that the first punch on Newt Lee's slip was 6:33 p. m., and his last punch was 3 a. m. Sunday. He didn't say anything at that time about there being any error in Lee's punches. Mr. Black and I took Mr. Frank into custody about 11:30 a. m. Tuesday, April 29th. His hands were quivering very much, he was very pale. On Saturday, May 3, I went to Frank's cell at the jail with Black and I asked Mr. Frank if from the time he arrived at the factory from Montag Bros. up until 12:50 p. m., the time he went upstairs to the fourth floor, was he inside of his office the entire time, and he stated "Yes." Then I asked him if he was inside his office every minute from 12 o'clock until 12:30 and he said "Yes." I made a very thorough search of the area around the elevator and radiator and back in there. I made a surface search. I found nothing at all. I found no ribbon or purse, or pay envelope, or bludgeon or stick. I spent a great deal of time around the trap door and I remember running the light around the doorway right close to the elevator, looking for splotches of blood, but I found nothing.



**CROSS EXAMINATION.**

Yes, I sent you this report as to what happened between Mr. Herbert J. Haas and myself: "This afternoon Supt. H. B. Pierce and myself held a conference with Mr. Herbert Haas, at which the agency's position in the matter was discussed, and Mr. Haas stated they wanted to learn who the murderer was, regardless of who it involved." Mr. Haas told me that after I had told him we would withdraw from the case before we would not co-operate with the police. No, I did not report that to you. I reported the motive of our conference. No, I did not say anything about Mr. Haas wanting us to do anything except locate the murderer. Yes, I talked to you afterwards and you also told me to find the murderer, even if it was Frank. Mr. Haas had said to Mr. Pierce and me that he would rather that we submit our reports of evidence to him before we turned it over to the police. No, there was nothing said about not giving this to the police. I testified at the coroner's inquest as to what conversation I had with Mr. Frank. I did not give you in my report the details of Mr. Frank's morning movements, when he left home, arrived at the factory and went to Montag Bros., and returned to the factory. As to my not saying one word about Gantt being familiar with this little girl, that was just an oversight, that is all. No, I did not testify to that either at the coroner's inquest. I didn't put it in the report to you, because Gantt was released the next day and I didn't consider him a suspect. There was no reason for my not giving it to you. It was an oversight. I am representing the National Pencil Company, who employed me, and not Mr. Frank individually. It is true in my report to you with reference to the interview between me and Mr. Frank that I stated "I had no way of knowing what they said because they were both together privately in a room there and we had no way of knowing except what Lee told us afterwards." I now state that I did hear the last words of Lee. I didn't put in my notes that Gantt was familiar with Mary Phagan, I don't put everything in my notes and the coroner didn't examine me about it either. No, I didn't tell the coroner anything about Frank crossing his legs and putting his hands up to his face. I never went into detail down there. No, I didn't mention his hanging his head. We always work with the police on criminal cases. No, I did not testify before the coroner about any white stuff having been smeared over these supposed blood spots. I am not sure whether I got the statement about Mary Phagan being familiar with Gantt from Mr. Darley or Mr. Frank. Mr. Frank was present at the time. Mr. Frank told me when the little girl asked if the metal had come back that he said "I don't know." It may be true that I swore before the coroner that in answer to that question from Mary Phagan as to whether the metal had come yet that Frank said, "No," and it is possible that I so reported to you. If I said "No," I meant "I don't know." I say now that Mr. Frank told me he left the factory at 1:10 p. m. If I reported to you that he told me he left at one o'clock, I made a very

serious mistake. That is an oversight. Yes, I reported to the police before I reported to Mr. Haas or Mr. Montag.

**RE-DIRECT EXAMINATION.**

Yes, our agency reported to the police about finding the club. I find it is in our report of May 15th. I don't know when it was reported; I was out of town. I worked all through this case with Detective Black and every move he made was known to both of us. As to the stairway from the basement to the upper floor, there was a great deal of dust on the stairs and the dust didn't seem to be disturbed. This stairway is not in the picture but is near the back door. It was nailed and closed.

MISS MONTEEN STOVER, sworn for the State.

I worked at the National Pencil Company prior to April 25th, 1913. I was at the factory at five minutes after twelve on that day. I stayed there five minutes and left at ten minutes after twelve. I went there to get my money. I went in Mr. Frank's office. He was not there. I didn't see or hear anybody in the building. The door to the metal room was closed. I had on tennis shoes, a yellow hat and a brown rain coat. I looked at the clock on my way up, it was five minutes after twelve and it was ten minutes after twelve when I started out. I had never been in his office before. The door to the metal room is sometimes open and sometimes closed.

**CROSS EXAMINATION.**

I didn't look at the clock to see what time it was when I left home or when I got back home. I didn't notice the safe in Mr. Frank's office. I walked right in and walked right out. I went right through into the office and turned around and came out. I didn't notice how many desks were in the outer office. I didn't notice any wardrobe to put clothes in. I don't know how many windows are in the front office. I went through the first office into the second office. The factory was still and quiet when I was there. I am fourteen years old and I worked on the fourth floor of the factory. I knew the paying-off time was twelve o'clock on Saturday and that is why I went there. They don't pay off in the office, you have to go up to a little window they open.

**RE-DIRECT EXAMINATION.**

The door to the metal room is sometimes closed and sometimes open. When the factory isn't running the door is closed.

R. P. BARRETT, sworn for the State.

I am a machinist for the National Pencil Company. I have been there about eight weeks. On Monday morning, April 28th, I found an unusual spot

that I had never seen before at the west end of the dressing room on the second floor of the pencil factory. That spot was not there Friday. The spot was about 4 or 5 inches in diameter and little spots behind these from the rear—6 or 8 in number.—I discovered these between 6:30 and 7 o'clock Monday. It was blood. It looked like some white substance had been wiped over it. We kept potash and haskoline, both white substances, on this floor. This white stuff was smeared over the spots. It looked like it had been smeared with a coarse broom. There was a broom on that floor, leaning up against the wall. No, the broom didn't show any evidence of having been used, except that it was dirty. It was used in the metal department for cleaning up the grease. The floor was regularly swept with a broom of finer straw. I found some hair on the handle of a bench lathe. The handle was in the shape of an "L." The hair was hanging on the handle, swinging down. Mell Stanford saw this hair. The hair was not there on Friday. The gas jet that the girls sometimes use to curl their hair on is about ten feet from the machine where the hair was found. Machine Number is No. 10. It is my machine. I know the hair wasn't there on Friday, for I had used that machine up to quitting time, 5:30. There was a pan of haskoline about 8 feet from where the blood was found. The nearest potash was in vats in the plating department, 20 or 25 feet away. The latter part of the week I found a piece of a pay envelope (State's Exhibit U) under Mary Phagan's machine. I have examined the area around the elevator on the main floor and I looked down the ladder and I never saw any stick. I did not find any envelope or blood or anything else there.

#### CROSS EXAMINATION.

I never searched for any blood spots before, until Miss Jefferson came in and said she understood Mary had been murdered in the metal department, then I started to search right away; that was the only spot I could find; I could tell it was blood by looking at it. I can tell the difference between blood and other substances. I found the hair some few minutes afterward—about 6 or 8 strands of hair and pretty long. When I left the machine on Friday I left a piece of work in there. When I got back the piece of work was still there. It had not been disturbed. The machine was in the same position in which I left it Friday night; there was no blood under this machine. There is no number or amount on the envelope I found, and no name on it, just a little loop, a part of a letter. Yes, I have been aiding Mr. Dorsey and the detectives search the building. Yes, Mr. Dorsey subpoenaed me to come to his office; it was a State subpoena. I gave him an affidavit.

MELL STANFORD, sworn for the State.

I have been working at the National Pencil Company a little over two years. I swept the whole floor in the metal room of Friday, April the 25th. On Monday there after I found a spot that had some white haskoline over it

on second floor near dressing room. That wasn't thereon Friday when I swept between 9 and 12 o'clock. I use a small broom in sweeping. I saw a big cane broom standing by the waste metal room on Monday about six feet from where the blood was found. The spot looked to me like it was blood, with dark spots scattered around. It looked like the large broom had been used in putting the haskoline on the floor by the impressions or scratches of the cane in the floor.

**CROSS EXAMINATION.**

I was a sweeper in the metal room. Yes; they have regular negro sweepers there for the building. I swept it all up because the negro wasn't there. It took me from 9 till 12 to sweep the whole floor. I moved everything and swept everything. I swept under Mary Phagan's and Barrett's machine. Next to the ladies' closet they store a lot of different things, mineral paints, barrels, boxes, all sort of things. That's part of the metal room where they are kept. I swept clear up to the doors of the toilets and clear up to the paint shop. It wasn't my duty to sweep where the machines are and where Mary worked but I did sweep there anyhow. I have done that several times before. There were paint spots in several different places up there when I swept up Friday. These blood spots were right in front of the ladies' dressing room. They led right up to the door.

MRS. GEORGE W. JEFFERSON, sworn for the State.

I work at the National Pencil Company. We saw blood on the second floor in front of the girls' dressing room on Monday. It was about as big as a fan, and something white was over it. I didn't see that blood there Friday. Yes, there are cords in the polishing room, used to tie pencils with. They are hung up on a post in the polishing room. The spots were dark red in color. These cords are taken off the pencils and we throw them on a nail. We don't untie the knots. This loop right here is in all of the cords. I work in the polishing room, polishing lead pencils. I have been working there five years. We use paint in there, maroon red, red line and bright red. Of course you can tell the bright red from maroon red and the red line from maroon red. That spot that I saw was not one of these three paints.

**CROSS EXAMINATION.**

Mr. Barrett and I discovered that spot there together. Yes, that is a dirty, greasy floor. You can see grease, but you don't see anything red on the floor—not in the metal room. You do in the polishing room. The paints don't come from the metal room. They are kept back in the other room. We carry the paint back in bottles. Of course if a bottle would break the paint would get all over the floor. The white stuff there didn't hide the red at all. You could see it plainly.

**RE-DIRECT EXAMINATION.**

The pencils are painted on the third floor. There isn't any paint used at all in the factory only in the polishing room, except on the third floor.

B. B. HASLETT, sworn for the State.

I went to Mr. Frank's house Monday morning after the murder, about 7 o'clock. I went out there and got him and took him to the station house. He was at the station house two or three hours. I told him Chief Lanford wanted to see him.

**CROSS EXAMINATION.**

I saw Mr. Rosser and Mr. Haas at the station house about 8:30 or 9 o'clock. Mr. Black and I both went out for Mr. Frank Monday morning. We took him to the station house and turned him over to Chief Lanford. They had Mr. Frank in there and a half dozen detectives, and Mr. Haas and you were there. When we went out to Mr. Frank's house he went with us. As to whether he had to go or not, I suppose if he had resisted we would have taken him. It was not a question as to whether he wanted to go or not, but he didn't know he had to go. As to why two of us went out after him—two of us generally go together after anybody, because if he don't go voluntarily, he would go anyhow,—we would take him.

E. F. HOLLOWAY, sworn for the State.

I am day watchman at the National Pencil factory—worked there two years. I was there on April 26th, from 6:30 a. m. till 11:45. I look after the elevator and freight that come in and out and people that come in and out. As to what I did to the elevator on that Saturday, I didn't do anything except that when Mr. White and Mr. Denham were working on the top floor, I started the elevator up and ripped up a plank for them. The elevator was locked when I sawed that plank for them, but when I left it was unlocked. I locked it Friday night when I left there. But I went off from there Saturday and forgot to lock it. When I made that affidavit for you on May 12th, 1913, I forgot to tell you that I did some sawing for Mr. White and Mr. Denham. The elevator was standing on the office floor when I left there Saturday. I left it standing right there. I had done some sawing for Mr. White and Mr. Denham just before I left and in talking to them I went off and forgot to lock it. In affidavit signed May 12th, 1913, in presence of Starnes, Campbell and others, in answer to question, "Is the power box left locked or unlocked?" I will say I locked it Friday when I left there. I don't remember saying in this affidavit that if the elevator box was kept unlocked on account of insurance companies requiring it that I never heard of it, that they always told me to lock it. I don't remember any questions being asked me about any keys. I read and signed my name to that paper before I signed it. I don't remember stating

that I locked it Saturday. I did say in that affidavit it is kept locked all the time. The reason I said at the coroner's inquest that the elevator box was always locked and that I left it locked on Saturday was because I forgot to tell about that sawing. I did that sawing just before I left there Saturday. Friday evening I never heard Mr. Frank say anything to Newt Lee. When I left the factory at 11:45 on Saturday Mr. Frank said to me "You can go ahead if you want to; we will all go at noon." At about 9:30 Mr. Frank and Mr. Darley went over to Montag Bros. I have seen Gantt talking to Mary Phagan frequently. The stairs leading from the first floor into the basement are in good condition. They haven't been used this year. They have been nailed up all the year. The area on first floor around trap-door down there was cleaned up about two weeks after the insurance people came over and went through the building.

#### CROSS EXAMINATION.

Mr. Denham and Mr. White were working there Saturday, up on the fourth floor. They were up there when I left the building. Anybody could have walked from the fourth floor to the second floor all day long; there was no obstruction. A man at the stairway on the third floor can see the second floor in front of the clock. The front doors were unlocked all the morning and they were still unlocked when I left. When Mr. Denham and Mr. White asked me to saw some timber for them that morning, I went and got the key and unlocked the motor that runs the elevator. I left it unlocked after that. Anybody could have started the elevator running then by throwing in the switch. I am familiar with the floor back there in the metal department. It is a very dirty, greasy, stained up floor—there isn't a worse one in town. Whenever you walk along there you will fall down if you are not very particular. The floor has never been washed the three years that I have been there. You see the analines and white stuff scattered all over the floor every day and the sweepers just sweep it along together. You see spots on the floor quite frequently. We work about 100 girls in the factory. Four or five of them work in the metal room. There is a lady's dressing room right there where they chipped up the spots, and right across from there is the toilet, not over six feet from it. I have seen blood spots frequently ever since I have been working there around the ladies toilets and the ladies dressing rooms; the foreladies would always tell me about it and I have often noticed it when we were working or sweeping or anything of the kind, and I would know what it meant. I would go back and have it cleaned. These spots that Barrett claims to have found I don't recall having noticed before; they would not have attracted my attention. They were right on the way to the ladies dressing room. Yes, this man Barrett discovered mighty near everything that was discovered in the building—hair, blood, and pay envelope. That is what he says. No, I have never seen Mr. Frank speak to Mary Phagan. I was at the factory at 6:30 Saturday morning. I was the first man that got there. Denham and White came in about 7 o'clock and went up on the fourth floor. They were doing some work

up there. I had to saw that plank for them. They told me that it would take them until about 3 o'clock. The office boy, Alonzo Mann, 13 or 14 years old, came in next. Mr. Frank came in about 8:30 or 8:45. He went right in his office, unlocked his safe and got out his books and went to work on them. Mr. Darley was the next one that came in and Miss Mattie Smith the next. She stayed about 10 minutes and went out again. I met Miss Corinthia Hall and Miss Emma Clark at the corner of Hunter and Broad coming toward the factory just as I was leaving. Miss Clark asked me if anybody was there—said she wanted her wrap, it was turning cold, and I said, "Yes, Mr. Frank will let you have it." There were several others came in that morning, but they came in while I was up stairs with Mr. White and Mr. Denham. There was no lock at all on the metal room door. Newt Lee closed up the building Friday. He looks after all the doors and windows plumb back to the back door in the basement. There were 7 or 8 negroes about the building, elevator boys and sweepers. On Saturday they paid off at 12 o'clock, right at the clock. Mr. Frank would always be in his office attending to his books when they paid off. We put up a sign saying that the paying off would be done Friday night instead of Saturday, because Saturday was a holiday. We put four signs on every floor. Elevator shaft is closed by sliding doors. Anybody can raise them, they are not locked. It is very dark around the elevator shaft on the first floor, filled with boxes all around there. We have two clocks. One runs to 100 and the other runs from 100 to 200. Each employe has a number. That is the reason we have two clocks. When Miss Mattie Smith came in she discovered a mistake about her time by the time she reached the clock. Mr. Frank and Mr. Darley corrected it in the office and then she left. Mr. Frank got back from Montag's about 11 o'clock. He had with him the folder in which he carries his papers. Nobody was with him when he came back. He went right up into his office. The stenographer was in the outer office when he got there. These cords here are found laying around everywhere in the building. They come on every bundle of slats that come into the building. The pencils are tied up with those slats at the top floor, brought down by elevator, carried in the packing room and those strings are then put on them. They get in the trash every day and into the basement. It is impossible to keep them out. I did not see Mary Phagan or Monteen Stover. The negro Conley was familiar with the whole building, every part of it.

#### RE-DIRECT EXAMINATION.

White and Denham were working on the fourth floor about thirty feet from the elevator. On May 12, 1913, I told you that the elevator was locked because I forgot to tell you I done some sawing. I took the key out, left the elevator unlocked and took the key back and put it in the office. Mr. Darley got to the factory about 9 o'clock Saturday. Miss Mattie Smith got there about 9:10.

**RE-CROSS EXAMINATION.**

When I gave Mr. Dorsey that affidavit about locking the elevator I was telling more about my habit, the way I usually did it. I forgot to tell him about sawing those planks that Saturday morning and the fact that I sawed those planks makes me know that I left the elevator unlocked. The elevator makes a good deal of noise when it starts and when it stops.

**RE-DIRECT EXAMINATION.**

I was on the second floor when all of these people came in the factory. Mr. Frank worked on his books until he got ready to go to Montags, I think it was about an hour. I checked freight with a one-legged drayman about 10:30; his wagon was right in front of the door.

N. V. DARLEY, sworn for the State.

My name is N. V. Darley. I am manager of the Georgia Cedar Company, a branch of the National Pencil Company. I have charge of the manufacturing and labor in the Forsyth Street plant. Mr. Sig Montag is my superior. Mr. Frank and I are of equal dignity in the factory. I was at the National Company's factory on Saturday, April 26th. I saw Mr. Frank and left about 9:40 in the morning. I was there Sunday morning at about 8:20. I saw Mr. Frank that morning. Observed nothing unusual when I first saw him. When we started to the basement I noticed his hands were trembling. I observed that he seemed still nervous when he went to nail up the back door. When we started down to nail up the back door he made some remark about having on new clothes or some more clothes and he pulled his coat off to keep it from getting soiled. When we left the station house and started towards Bloomfields he told me why he was nervous. He said that he had not had breakfast and didn't get any coffee and that they had rushed him by Bloomfields, carried him in a dark room and turned the light on and he saw the girl instantly and that was why he was nervous. The elevator was unlocked. I don't know where the key was. Newt Lee seemed to be thoroughly composed. Mr. Frank stated to me in the basement that he thought that the murder was committed in the basement. Mr. Frank stated that it looked easy for the staple to be pulled out and I agreed with him, because the staple looked black and it looked to me as if it had been pulled out before. On Monday Mr. Frank explained again about why he was nervous on Sunday morning. I heard him speak of the murder numerous times. When we started down the elevator Mr. Frank was nervous, shaking all over. I can't say positively as to whether his whole body was shaking or not, but he was shaking. Newt Lee seemed to be composed when I saw him at the factory. Mr. Frank could have driven the nails in the back door, but I thought I could do it with more ease. Mr. Frank looked pale Sunday morning. I think he seemed upset, but he did some things around the factory there that a man who was completely upset could not have



done, I don't think. When riding down to the police station from the pencil factory Mr. Frank was on my knee, he was trembling. I saw the financial sheet on Mr. Frank's desk. Mr. Frank picked it up in his hand. Gantt was at the factory three or four times after he was discharged. My recollection is that Frank said something about the financial sheet on Sunday. It was on May 3rd that Mr. Haas, the insurance man, asked that the factory be cleaned upon the Malsby side and on the other side. When my attention was called to it I noticed something that looked like blood with something white over it at the ladies dressing room on Monday morning.

#### CROSS EXAMINATION.

Mr. Quinn called my attention to the blood spots, Barrett called Quinn's attention to it. Barrett showed me some hair on a lever of the lathe. It was 20 or 30 feet from Mary Phagan's machine on the north side of the room. There were no blood spots on it. I don't think anybody could answer how many strands of hair Barrett found. They were wound around the lever. I don't think there were over 6 or 8 at the outside. It was pretty hard to tell the color. It is my understanding that Barrett has been doing most of the discovering done in the building. He has lost quite some time since the murder, and buys quite some extras and reads them. The white stuff practically hid the spots. It looked like there had been an attempt to hide them, but you could see the spots. It looked like the man who tried to hide them, if anybody did, made a smearing motion and left the spots showing. I saw no blood spots on Mary Phagan's machine. There are hundreds of pay envelopes distributed every week in the factory. The rule is that if a person goes outside of the factory and finds an envelope short we do not correct it. As the pay envelopes are distributed they take them and tear them off, just like this one. The employees take the money out and scatter the envelopes all over the factory. On the second floor where the metal room is is the main place where you find the pay envelopes. I was present on Sunday morning when the time slip was taken out. I was looking over Mr. Frank's shoulder. Mr. Frank run it down the number side. This time slip (Defendant's Exhibit "I") looks like the one. Mr. Frank looked down the number side and said it was all right and I verified it. I didn't notice between 9:32 and 10:29 if there was any punch, or between 11:04 and 12, or between 2:03 and 3:01. I identify this (Exhibit "1" defendant) by the numbers 6:01 and 6:32. I look over the financial sheets every Saturday afternoon. The factory week runs from Friday morning till Thursday night. The financial sheet is usually completed about 5:30 Saturday afternoon. The financial sheet shows the week's operation of the factory; the production of the factory, the different kinds of pencils that were produced. There are perhaps 75 or 80 different kinds, besides the special imprint pencils. Mr. Frank had to get all the data from the various departments of the factory, particularly the packing room. The cost of production was estimated most of the time as to the merchandise. The other things were real figures. Merchandise is bought by the month and

he had to figure it up at the end of the month to get the average. To arrive at the profit that was made during the week he took the actual value of the pencil and the amount of expenses that was paid out for material, labor, etc. He had to get all the data, all the reports and make all those calculations. It usually took him from about half past two or three o'clock on Saturday until five-thirty, and some times later. This financial sheet (Defendant's Exhibit "2") is in Frank's handwriting and is the one I saw on his desk Sunday morning. I left the factory at 9:40 and he hadn't started the financial sheet then. He usually started the financial sheet from 2:30 to 3 o'clock. I am familiar with Frank's handwriting. All of this financial sheet is in his handwriting. To get the figure 2765½, net 2719½, under material cost, he had to look at how many labels had been used, how many boxes, whether they were carton or plain ones, partition, rubbers, amount of lead used and amount of slate used. He got the reports that gave him that data from the different departments of the factory. To arrive at that result is quite a calculation. It is my opinion that it took a skillful, clear-headed man to calculate that. Yes, I am familiar with the elements that enter into that calculation. To arrive at the net results of the figures just named, you have to get the amount of rubbers, tips, lead, wrappers, labels, boxes, whether carton or plain boxes, partition, whether it is cheap or good lead. The 2765½ means 2765½ gross. Further on down you find the different items that make up that figure under the head of wrappers, leads, tips, etc. The next figure is under rubber, 720 gross at 6½c. Those figures come from the plugging department or he can get them from the goods as they are delivered to the packing room, by knowing the styles and numbers, you can tell whether it is a tipped or untipped pencil. You get that from the shipping room and the other from the metal room. He arrives at the figures on the reports turned in. It requires a good deal of calculation, mostly multiplying. The next figure is under tips, 1374 gross at ten cents. He gets that from the packing room. The ten cents means what the tips cost to produce. That's a stipulated price. The next heading is lead, 747 gross at 15c. and 1955 gross at ten cents. He has to go through these reports the same way except he doesn't have to work the cost of that, it's taken care of in the account. He has to arrive at the number of gross, but the cost is fixed. The next item is supplied at 5c. per gross, boxes 3771 at 2c., assortment boxes 279 at 10c., wrappers 2535 at 1c. He gets those reports from the boxes of the pencils in the packing room. He gets the reports as to the rubbers and the labels from the packing room. The cost per gross is fixed, but he has to figure out the quantity. The next item is assortment boxes, wrappers, skeletons. The next item, cartons. The next item is pay roll, Bell Street. The next, slats from the slat mills. As the slats are delivered from the slat mill, a report comes with it, and those reports are taken at the end of the week and added up. There are about five of those shipments during the week. He has to take the data that accompanys each shipment and adds all that up at the end of the week. The next item is "pencils packed," (top of sheet). There are 24 itemized here, and the word

"jobs" implies I don't know how many different kind of jobs. There are 24 different kind of pencils. He puts them there as having been produced that week. He got the reports as to the quantity of each kind of pencil and had to tabulate all those reports and arrive at the total of each kind. No, I don't think he had to figure out the cost of production of each kind, but he figures the quantity of each kind of pencil and shows its value on the sheet. Starnes and Black and Anderson and Dobbs were there on Sunday morning. We went all over the factory. I don't remember about hearing of any blood being found on Sunday at all. There was a great deal of excitement there that morning. We see spots all over the factory floor. We have varnish spots, and people get their fingers cut, we have every color spots you can think of. I have been working in factories for 24 years. It is a frequent occurrence in establishments where a large number of ladies work that you will see blood spots around dressing rooms. I have seen them a good many times. I have seen it at this factory. Mr. Frank had on a brown suit on Saturday and Monday. On Sunday he had a different suit on. I never noticed any scratches, marks or bruises on Mr. Frank on Sunday. There was a little girl in Mr. Frank's office on Saturday morning, by the name of Miss Mattie Smith, and her sister-in-law's time was wrong and Mr. Frank told her to wait a few minutes and he would straighten it out for her. She had been paid \$3.10 too much, and she gave me back the money when she found it was wrong and I gave it to Mr. Frank and he said he was glad because it balanced his cash. She then started out of the factory and got to the stairway and she came back again and said that her time was wrong the other way, and I said "Little girl will it do all right to straighten it Monday," and she said "Yes." I then asked her how was her father, and she said, "My father is dying, I think." Then she spoke to me about getting some assistance from the office for burial expenses, and she commenced to cry and I walked down the steps with her to the front door. That was about 9:20. Mr. Frank stayed at the factory until 9:40, when we left together. We went on up to the corner of Hunter and Forsyth, took a drink of sodawater at Cruickshank's at the corner of Forsyth and Hunter. He left me then and started towards Montag's. That's the last I saw of him until Sunday morning. The elevator box was unlocked Sunday morning, and anybody could have pulled it open and started the elevator. The elevator makes some noise. It is driven by a motor. It makes more noise when it stops at the bottom than when it starts. There is nothing to stop it except when it hits the bottom. I have seen these cords that we tie up slats and pencils with in every part of the factory. I have raised sand about finding them in the basement; they go down in the garbage. There are several truck loads of waste and debris every day. The general cleaning up of the premises was had on Tuesday after the murder. The factory is five stories high, between 150 and 200 feet in length and 75 or 80 feet wide. It is an extremely dirty place. In some places the floor is gummed an inch thick, and in some parts of the metal room it is one-eighth of an inch thick, it might not average that all over. It is always dark on the first floor, through the hall toward the elevator.

On a cloudy day it is very dark. We keep a light burning there most of the time. I couldn't say whether we had cleaned up all the trash and rubbish around the factory, because there are corners and crevices which we don't usually get to. Saturday, April 26, was a dark, bad, misty day, until about 9:30. It was cloudy most of the day. It was dark there around the elevator on the first floor and we had big heavy boxes piled up there. One of them must have been almost as large as a piano box. If a man got between those boxes, we would have had to hunt to find him. It is very dark on the second floor between the clock and the metal room. It is dark behind the ladies dressing room and on the side next to the ladies toilet. As you go to the stairs from the metal room, it is very dark. A person sitting at Mr. Frank's desk in his office could not see anyone coming up those stairs. It would be impossible to see anyone coming up those steps from anywhere in Mr. Frank's inner office, you would have to go outside of it. There is no lock on the metal room doors. In the metal room there are a great many vats and a great many boxes and things containing stock and goods just south of the ladies dressing room. It is piled up very bad back there. Averaged anywhere from 2 to 6 or 8 feet in height. It isn't used at all except for storage. The metal room contains three or four large vats that have got lids on them. They are shallow, but they are large inside. They are about a foot and a half deep. Nobody is supposed to be in any part of the building on Sunday, that is the only time we don't have a watchman. The factory is supposed to be locked entirely. The elevator steel cables have some slack in them. It isn't like a stiff iron in them. It would shake when you catch hold of it. There are two cables, you pull the right one to come down and the left one to go up. You can catch it and shake it in your hand. Yes, Mr. Frank is a small, thin man, about 125 or 130 pounds. Yes, Mr. Dorsey served a subpoena on me to come down to his office. I didn't know that he did not have any right to subpoena me. Yes, I thought I was being subpoenaed to come into court. They served two subpoenas on me and sent for me one time. The first time I went there, Chief Sanford, Mr. Dorsey, Mr. Stephens and the stenographer was there. They all asked me questions. One would ask me a question and before I got that answered, another would ask me a question. The next time I went there, Mr. Dorsey, Mr. Starnes, Mr. Campbell and the stenographer were there. Mr. Dorsey did all the questioning this time. When Mr. Frank was engaged on his work in the factory he was very intent on his work, very earnest and industrious. I don't think a day passed at the factory that Mr. Frank did not get nervous. When anything went wrong he would wring his hands and I have seen him push his hands through his hair. When things went wrong it would upset him. If anything out of the ordinary happened I have seen him a thousand times, I suppose, rub his hands. At a factory like this things don't usually go right all day, there is something wrong all the time. When anything went wrong it rattled him and he would frequently call on me to straighten it out. He would show the most nervousness when he would go over to Montag's with the mail, and he would raise sand about something and he would come back very nervous. If

Mr. Frank saw anything going wrong inside the factory, he would refer the matter to me. I never saw Mr. Frank speak to Mary Phagan. I don't know whether he knew her or not. I didn't know we had a girl by that name in the factory until I found it out afterwards. The two men working up in the fourth floor all day Saturday could have come to the second floor into the metal room and down into the basement if they wanted to, they had the whole run of the factory. Yes, I have seen all kinds of papers down in the basement. The paper that note is written on is a blank order pad. It is either the carbon or white sheet, one is white and one is yellow. That kind of paper is liable to be found all over the building for this reason, they write an order, and some times fail to get the carbon under it, and other times they have to change the order and tear it out and throw it in the waste basket in the office and from there it gets into the trash. That kind of little pad is used all over the factory. The foreladies make their memorandum on that kind of tablet. You will find them all around. It is one of the biggest wastes around the place. They are all over the building, and any man that worked around the factory or ran the elevator or swept up the different floors would be more likely to come across them than any one else, because they are thrown on the floor. There was an order to keep the clock door locked, but on this occasion the key was lost and the clock door was open. When I got there Sunday morning the clock door was unlocked. Mr. Frank could not have unlocked it because the key was lost. With the clock door unlocked, any one who understands the clock, could have punched for all night in five or ten minutes. I made the same mistake Mr. Frank made in thinking that all the punches had been made all right. I looked over the factory at noon to-day and compared it with some points on this picture (Exhibit "A" for State). This big space in the cellar appears to be short. Those steps in the cellar are much longer in reality. The platform itself is about 15 feet long, and the incline is 17 feet, making 32 feet the length of it. The distance between the walls of Mr. Frank's office and the elevator shaft is 5 feet to 5½ inches. The elevator shaft is ten feet, but on the picture the space between the elevator shaft and Mr. Frank's office looks almost as wide as the elevator shaft itself. One is ten feet and the other is 5½. As to what occasions I recall seeing Mr. Frank nervous, I recall once that he came in one afternoon on a street car when it ran over a little child. He came in about 2:30 and he couldn't work any more on his books until a quarter after four. He trembled just as much on that occasion as he did on the Sunday after Mary Phagan was killed. Another time I remember when I went over to the main factory and he and Mr. Montag had a fuss on the fourth floor. Mr. Montag hollered at him considerably and he was very nervous the rest of the evening, he shook and trembled. He says "Mr. Darley I just can't work," and some of the boys told me he took some spirits of ammonia for his nerves. Everybody was excited in the factory that morning after Mary Phagan was killed. Starnes and Black and Rogers were there and it seems like they were all excited. Looked like everybody was worried. As to another mistake in the picture (State's Exhibit A), the bottom of the

ladder in the basement is much closer to the elevator than what is shown on the picture. It is about 6 feet. On the picture it looks to be about 10 feet and the toilet in the basement is closer to the wall than the picture shows, it is right up against the wall. The picture doesn't show the Clarke Woodenware partition back of the elevator. The door to the Clarke Woodenware Company also is closer to the elevator than the picture shows. On the stairs from the first to the second floor there are double doors instead of single doors as shown on the picture. The picture shows up Frank's inner office a good deal larger than the other office. As a matter of fact the outer office is larger. The outer office is 12 feet 4 inches wide. The inner office ten feet 3. The picture shows a great big wide place for a door between the inside office and the outside office, making it look like a double door. That is a representation to show a full view from Frank's desk into the hall, as a matter of fact it is a single door, standard size. It looks like it was drawn to open up a space to give as much view as possible out into the hall. The safe is shown to be about half its real size on this picture. On the picture it is shown to be about one-third the width of the door, as a matter of fact it is about the same size. When the safe door is open, it shuts off three-fourths of the view from Frank's office out into the hall, unless you stand up high enough to look over it. The picture also shows the south wall of the outer office on a line with the clock. The picture doesn't show up the wardrobe in the inner office, nor the two cabinets that are in there. I don't think it is a very accurate picture. It opens up Frank's inner office a whole lot better than it really opens up. Sitting at Frank's desk and looking out through the door towards the clock, in reality you have a looking space of only 25 inches. You can just see about four numbers on clock number 2. You could not see anywhere near the stair case, or in the neighborhood of it.

#### RE-DIRECT EXAMINATION.

I felt nervous from the time they told me the girl was dead, until I left the building. I was not trembling, I was simply excited and worried. Well, Starnes was nervous. He looked as if he were worried. He seemed nervous both in talk and manner. I can say the same thing of the rest of the officers who were there. Mr. Frank was more nervous than the others. The men were all about as nervous on Monday and Tuesday. Everybody seemed to be in a turmoil and shaking. Mr. Holloway and Mr. Schiff were shaking. I noticed Mr. Schiff's hands shaking Monday morning. Mr. Holloway was about in the same shape. Mr. Frank was very nervous Tuesday after the extra came out saying that they were going to arrest him. That was about 15 or 20 minutes before they arrested him. As to who gets up the data for Mr. Frank for the financial sheets, Mr. Loeb some times, and Mr. Gantt used to get up some, and Mr. Schiff gets it up some times. Mr. Frank got it up himself, some times. No, I do not know that Mr. Schiff furnished it to him all the time. I never noticed whether Lee was nervous or not at any time, but of course, he looked bothered and worried. Mr. Frank told me that the slip he took out

of the clock Sunday morning had been punched regularly. I made the same mistake standing right there by his side. I didn't see Mr. Frank date the slip. It ought to have been dated the 26th. The slip I saw didn't have any time on it except the watchman's time. I don't know whether I would know it or not, to identify. The slips are not made in duplicate. As to whether there is any mark on the slip to enable any one to identify it, as the one taken out that night, my memory is that it was started at 6:01 or 6:32. Of course nobody could tell who punched the clock, one man's punch is just like another. That diagram or picture (State's Exhibit A) is a fair representation of the building as a whole, it is not a fair representation of the interior. I never knew there were any stairs in the basement until this matter came up. They are never used to my knowledge. There is a way of closing the door in rear of second floor from upstairs. The regular place of keeping these order blank books is in the outer office. There is no regular place in the basement to keep paper, but it is thrown out in the waste basket and gets down in the trash. There is no use for that paper anywhere but in the office, but that doesn't prevent it from being scattered around. I have scratch pads of that shape scattered around even in the basement. That scratch pad is used all over the factory, everywhere there is a foreman or a forelady. No, not in the area around the elevator there. The trash is carried downstairs right in front of the boiler. Sometimes if they are in a hurry they leave it around the elevator for a little while, and when I go down I make the negro move it to the boiler. It is usually burned. Some of it may stay there for a week, some of it burned right away.

**RE-CROSS EXAMINATION BY DEFENDANT.**

As to people being nervous, Montag and Frank merely had some words when Frank became so nervous, Schiff was trembling Monday, Holloway also, I noticed Miss Flowers began to cry and scream and I had to go in there and get hold of her myself. That was Tuesday morning. The whole factory was wrought up. I couldn't hardly keep anybody at work. I had to let them go on Monday, and I wished I had let them go for the rest of the week, for I couldn't get any work out of them. I wouldn't say that I couldn't get any work out of Christopher Columbus Barrett, since, but he has lost a good deal of time. I would have to look to the pay roll to fill.

W. F. ANDERSON, sworn for the State.

I was at police headquarters Saturday, April 26. I got a call from the night watchman at the pencil factory. He said a woman was dead at the factory. I asked him if it was a white woman or a negro woman. He said it was a white woman. We went there in an automobile, shook the door and Newt Lee came down from the second floor and carried us back to the ladder that goes down through the scuttle hole. About 3:30 I called up Mr. Frank on the telephone and got no answer. I heard the telephone rattling and buzzing.

I continued to call for about five minutes. I told Central that there had been a girl killed in the factory and I wanted to get Mr. Frank. I called Mr. Haas and Mr. Montag, too. I got a response from both, I think a lady answered the telephone. I got them in a few minutes. I tried to get Mr. Frank again about four o'clock. Central said she rang and she couldn't get him. There was some blood on the girl's underclothes.

**CROSS EXAMINATION.**

There was a wound on the left-hand side of the girl's head. The blood was dried up. It was wet right next to the skin. Lee said over the telephone that it was a white girl. It took us about three minutes to get to the factory from the police station, just as quick as the automobile could get us there. We got there inside of five minutes after I received his telephone message. Lee had a smoky lantern. You couldn't see very far with it. It was smoked up right smart. Lee said he had been to the closet and had his lantern sitting down there and he looked over and saw the lady. He said he saw her while he was standing up. I said he couldn't see her. You could see the bulk of anything that far, but you couldn't tell that far whether it was a person. He told me when I first got him that he had his lantern sitting down right in front of him. The body was lying sort of catecornered and on the left side of the body I saw a number of tracks which lead from the body to the shaving room. There is an opening from the place where the body lay into the shaving room. I found a pencil down there. There are plenty of pencils and trash in the basement. The trash was all up next to the boiler.

H. L. PARRY, sworn in behalf of the State.

I reported the statement of Leo M. Frank before the coroner's jury. I have been a stenographer for thirty years and considered an expert.

**CROSS EXAMINATION.**

Newt Lee was asked the following questions and gave the following answers at the coroner's jury: "Q. Had you ever seen him change that before? A. Well, he put the tape in once before. Q. When was that? A. I don't know, sir, when it was, it was one night. Q. How long did it take him the first time you ever saw him put the tape on? A. I never paid any attention to him. Q. Well, about how long did it take him, five minutes? A. No, sir, it didn't take him that long. Q. Did it take him a minute? A. I couldn't tell exactly how long. Q. How long did it take the other night, on Saturday night? A. Well, it took him a pretty good little bit, because he spoke about it. He said it's pretty hard, you know, to get on." I don't know whether he swore anything else on that particular subject without examining the record.



G. C. FEBRUARY, sworn for the State.

I was present at Chief Lanford's office when Leo M. Frank and L. Z. Rosser were there. I took down Mr. Frank's statement stenographically. I don't remember Frank's answers in detail, Mr. Rosser was looking out of the window most of the time. He didn't say anything while I was in there. This (Exhibit B, State), report is correct report of what Mr. Frank said. It was made on Monday, April 28th.

**CROSS EXAMINATION.**

I believe Mr. Rosser and Mr. Frank were in the room when I came in. It was sometime in the forenoon. I have never been a court stenographer except in Recorder's court. I am Chief Lanford's private secretary. Mr. Black was in there during the latter part of Mr. Frank's statement. Chief Lanford asked Mr. Frank if he changed clothes. He showed part of his shirt and opened his trousers. He showed his clothing to Chief Lanford at the end of the statement. I wrote the statement out in longhand the same day. I don't remember exactly when.

ALBERT McKNIGHT, sworn for the State.

My wife is Minola McKnight. She cooks for Mrs. Selig. Between 1 and 2 o'clock on Memorial Day I was at the home of Mr. Frank to see my wife. He came in close to 1:30. He did not eat any dinner. He came in, went to the sideboard of the dining room, stayed there a few minutes and then he goes out and catches a car. Stayed there about 5 or ten minutes.

**CROSS EXAMINATION.**

Mrs. Selig and Mrs. Frank were present when Mr. Frank came in. I was in the cook room. There is a swinging door between the dining room and the cook room. The dining room door was open. The door swings back and forth, but they don't keep it shut. You can see from the kitchen into the dining room. You can look in the mirror in the corner and see all over the dining room. I looked in the mirror in the corner and saw him. You can look in that mirror and see in the sitting room and in the dining room. I have no idea how big the kitchen or dining room is. I was never in the dining room in my life. I was sitting at the back door in the kitchen, at the right side of the back door, up against the wall. Minola went into the dining room, and stayed a minute or two, no more than two minutes. She came back into the kitchen. I don't know whether the other folks ate dinner or not, I did not see Mr. Selig. I came to the house from my house in the rear of 318 Pulliam Street. After coming to the sideboard Mr. Frank went into the sitting room where Mr. Selig was. I didn't see Mr. Selig, but heard him talking. I told about Mr. Frank not eating after I came back from Birmingham, I told it to Mr. Craven of the Beck & Gregg Company. It was before Minola went down to the jail.

Mr. Starnes, Mr. Campbell, Mr. Morse, Mr. Martin and Mr. Dorsey all talked to me. I didn't go down to see Minola at the station house. I didn't see Mrs. Frank or Mrs. Selig that Saturday through the mirror. I didn't keep my eye on the mirror all the time. I couldn't tell who was in the dining room without looking in the mirror. Mr. Frank got there not later than 1:30. Mr. Frank came on back to Pulliam Street and caught the Georgia Avenue car at the corner of Georgia Avenue, and Pulliam Street. I am certain that he caught the Georgia Avenue car at Pulliam Street and Georgia Avenue.

**RE-DIRECT EXAMINATION.**

The Selig residence is on East Georgia Avenue between Pulliam and Washington Streets. I don't know exactly the nearest place for Mr. Frank to have gotten on the car, Washington Street or Pulliam Street. I suppose Pulliam Street is nearer to town than Washington. I certainly saw Mr. Frank that day, from the kitchen where I was sitting.

**MISS HELEN FERGUSON**, sworn for the State.

My name is Helen Ferguson, I worked at the National Pencil Company on Friday the 25th. I saw Mr. Frank Friday, April 25, about 7 o'clock in the evening and asked for Mary Phagan's money. Mr. Frank said "I can't let you have it," and before he said anything else I turned around and walked out. I had gotten Mary's money before, but I didn't get it from Mr. Frank.

**CROSS EXAMINATION.**

When I got Mary's money before I went up there and called my number and called her number, and I got mine and hers. I didn't ask the man that was paying off this time to let me have it. I don't remember whether Mr. Schiff was in the office or not when I asked Mr. Frank for Mary's money. Some of the office force were there, but I can't recall their name. I worked in the metal department about two years. I never saw little Mary Phagan in Mr. Frank's office. I don't think Mr. Frank knew my name, he knew my face. It has been some time since I asked for Mary's pay by number. I do not believe that I ever saw Mr. Frank speak to Mary Phagan.

**RE-DIRECT EXAMINATION.**

I don't know who paid off on Friday, April 25th.

**R. L. WAGGONER**, sworn for the State.

I am a city detective. On Tuesday, April 29th, from ten thirty until a little after 11 in the morning I was in front of the pencil factory on the other side of the street. I would continually see Mr. Frank walk to the window and look down and twist his hands when he would come to the window looking down on the sidewalk. He did this about 12 times when I was there in about

30 minutes. I was in the automobile with Mr. Frank and Mr. Black and his leg was shaking. He was under arrest at the time.

**CROSS EXAMINATION.**

I don't know what he was doing in the office. I saw some other people up there that I didn't recognize. I was sent to the pencil factory to notice Mr. Frank and the pencil factory. I thought Mr. Frank would be arrested.

J. L. BEAVERS, sworn for the State.

I am Chief of police of the City of Atlanta. I was at the pencil factory on Tuesday, April 29th, and saw what I took to be a splotch of blood on the floor right near this little dressing room on office floor, seemed to be as big as a quarter in the center and scattered out in the direction of this room near the door. There was one spot and some others scattered around that.

**CROSS EXAMINATION.**

It may have been Monday that I was at the pencil factory. I don't know whether it was blood or not. It looked like blood.

R. M. LASSITER, Sworn for the State.

I am a city policeman. On Sunday morning, April 27th, I found a parasol in the bottom of the elevator shaft. It was lying about the center of the shaft. I also found a ball of rope twine, small wrapping twine, and also something that looked like a person's stool.

**CROSS EXAMINATION.**

I noticed evidence of dragging from the elevator in the basement. As I passed the rear door at 12 o'clock, the door was closed. The umbrella was not crushed. I found it between 6 and 7 o'clock in the morning. The elevator comes down there and hits the ground plump at the bottom of the basement.

**RE-DIRECT EXAMINATION.**

I don't know whether the elevator shaft has a cement bottom or not. There is a whole lot of trash at the bottom.

L. O. GRICE, Sworn for the State.

My name is L. O. Grice. I was at the National Pencil company's place on Sunday morning, April 27th. A small sized man, defendant here, attracted my attention, on account of his nervousness.

**CROSS EXAMINATION.**

I was called as a witness in this case one week after it started. I told some of my friends about Mr. Frank's nervousness and they advised me to go to Dorsey. I never knew or saw Mr. Frank before. When we were told of how the little child was murdered, it excited me some.

**RE-DIRECT EXAMINATION.**

I don't recall trembling any. I am pretty sure I didn't because my friend that I went to Opelika with that morning suggested that I was trembling when I went through there, and I told him I was not. He was not there when I went through the factory and when I told him about it he said I bet you were scared. He walked around this way a little bit. He was kind of shaking like that (illustrating). His fingers were trembling.

MELL STANFORD, Sworn for the State (recalled).

The door in the rear part of the factory on the second floor on Friday evening was barred. There is no way in the rear of the building to come down to the second floor when the door is barred except the fire escape, and you have to be on office floor to undo the door. The area around the elevator shaft on the first floor near the hole and radiator was cleaned up after the murder. It was the early part of the week after the murder.

**CROSS EXAMINATION.**

I didn't clean it myself. I saw it cleaned. I passed by as it was being cleaned up.

W. H. GHEESLING, Sworn for the State.

I am a funeral director and embalmer. I moved the body of Mary Phagan at 10 minutes to four o'clock April 27, in the morning. The cord (Exhibit C, State) was around the neck. The knot was on the right side of the neck and was lying kind of looped around the head. It wasn't very tight at the time I moved it. There was an impress of an eighth of an inch on the neck. The rag (Exhibit D—State) was around her hair and over her face. The tongue an inch and a quarter out of her mouth sticking out. The body was rigid, looking like it had been dead for some time. My opinion is that she had been dead ten or fifteen hours, or probably longer. The blood was very much congested. The blood had settled in her face because she was lying on her face. Blood begins to settle at death or a very few minutes after death. After Dr. Hurt examined her nails, I did. I found some dirt and dust under the nails. I discovered some urine on her underclothes and there were some dry blood splotches there. The right leg of the drawers was split with a knife or torn right up the seam. Her right eye was very dark; looked like it was hit.

before death because it was very much swollen; if it had been hit after death there wouldn't have been any swelling. I found a wound  $2\frac{1}{4}$  inches on the back of the head. It was made before death because it bled a great deal. The hair was matted with blood and very dry. If it had been made after death, there would have been no blood there. There is no circulation after death. The skull wasn't crushed; the scalp was broken. The indication was that it was made before death. There was a scar over each eye about the size of a dime. I didn't notice any scratches on her nose. I can't state whether the defendant ever looked at the body or not. There was some discharge on her underclothes which was very dry and if she had been dead a short time, it would have been wet yet.

#### **CROSS EXAMINATION.**

I judge the length of time the corpse had been dead by the rigor mortis. This is very indefinite at times. It begins before death. If she died of strangulation, I would expect rigor mortis to begin within an hour. I have never had any experience about as a case of strangulation so as to determine when rigor mortis began and when it broke. There is no certainty about how long a corpse is dead. All the blood was dry when I examined the body. Mr. Rogers and Mr. Black came with Mr. Frank and asked me to take him back to where the girl was. I took them back there, pulled a light, pulled the sheet back, and moved the revolving table and walked out between them. Mr. Frank was near the right-hand going in. Mr. Black was at the left. I took a half gallon of blood from the little girl's body, enough to clear up the face and body. I injected one gallon of the formula into the corpse. Formaldehyde is a constituent part of the embalming fluid used. I prepared the little girl properly for burial. There was no mutilation at all on the body. I judge she died of strangulation because the rope was tight enough to choke her to death and her tongue being an inch and a quarter out of the mouth, showed she died from strangulation.

#### **RE-DIRECT EXAMINATION.**

I don't think the little girl lost much blood.

**DR. CLAUDE SMITH**, Sworn for the State.

I am physician and City Bacteriologist and Chemist. These chips (Exhibit E—State) appear to be the specimen which the detectives brought to my office and which I examined. They had considerable dirt on them and some coloring stain. On one of them I found some blood corpuscles. I do not know whether it was human blood. This shirt (Exhibit E for State) appears to be the same shirt brought to my office by detectives which I examined. I examined spots and it showed blood stain. I got no odor from the arm pits that it had been worn. The blood I noticed was smeared a little on the inside in places. It didn't extend out on the outside. The blood on shirt was somewhat

on the inside of the garment high up about the waist line which to my mind could not have been produced by turning up the tail.

**CROSS EXAMINATION.**

I found grit and stain on all of the chips. I couldn't tell the one that I found blood on. I did the work in the ordinary way. The whole surface of the chips was coated with dirt. I couldn't tell whether the blood stain was fresh or old. I have kept blood corpuscles in the laboratory for several years. I found probably three or four or five blood corpuscles in a field. I don't know how much blood was there. A drop or half drop would have caused it, or even less than that. Rigor mortis begins very soon after death. Sometimes starts quicker, but usually starts very soon. I could not say when rigor mortis would end.

DR. J. W. HURT, Sworn for the State.

I am County Physician. I saw the body of Mary Phagan on Sunday morning, the 27th of April. She had a scalp wound on the left side of her head about 2½ inches long, about 4 inches from the top to the left ear through the scalp to the skull. She had a black contused eye. A number of small minor scratches on the face. The tongue was protruding about a half an inch through the teeth. There was a wound on the left knee, about 2 inches below the knee. There were some superficial scratches on the left and right elbow. There was a cord around the neck and this cord was inbedded into the skin and in my opinion she died from strangulation. This cord (Exhibit "C" for State) looks like the cord that was around her neck. There was swelling on the neck. In my opinion the cord was put on before death. The wound on the back of the head seemed to have been made with a blunt-edged instrument and the blow from down upward. The scalp wound was made before death. It was calculated to produce unconsciousness. The black eye appeared to have been made by some soft instrument in that the skin was not broken. I think the scratches on the face were made after death. I examined the hymen. It was not intact. There was blood on the drawers. I discovered no violence to the parts. There was blood on the parts. I didn't know whether it was fresh blood or menstrual blood. The vagina was a little larger than the normal size of a girl of that age. It is my opinion that this enlargement of the vagina could have been produced by penetration immediately preceding death. She had a normal virgin uterus. She was not pregnant. I made no examination of the blood vessels of the uterus or womb.

**CROSS EXAMINATION.**

The body looked as if it had been dragged through dirt and cinders. It is my impression that she was dragged face forward. If she had fallen on the corner of the floor that was sharp edged, or the corner of an elevator

shaft with an edge, it might have produced the wound. I do not know of the kind of instrument that produced the wound. There was no contusion on the inside of the skull, but the skull wasn't fractured. Neither the brain nor the meninges were affected. There was a little contusion on the inner lining of the skull. There was no bleeding on the brain tissues. I don't know whether it would produce unconsciousness or not. I was never asked before to examine the inside of anybody's skull to determine the fact whether death or unconsciousness resulted from the wound. It is my impression that this lick did produce unconsciousness, but I won't swear it, I don't know. The hemorrhage which we discovered in the skull caused no pressure on the brain. That was no sign that unconsciousness resulted. Where a person is strangled to death the lungs ought to show congestion. I never examined this girl's lungs. When I saw the body on April 27th I gave it as my opinion that she had been dead from 16 to 20 hours at 9 o'clock Sunday morning. Rigor mortis was complete. It is a very variable thing. I couldn't tell whether the blood on her underclothes was menstrual blood or not. The hymen was not intact, and I was not able to say when this hymen was ruptured. I saw no indication of an injury to the hymen. The appearance of the blood on the parts was characteristic of a menstrual flow. There was no laceration on the vagina, and no mutilation on this girl's body except those wounds on the face, head and legs. The size of the vagina is no indication of anything except the anatomy and the natural build of the person. It is no indication of rape. I found no outward signs of rape. I have formed no opinion whether this little girl was raped or had ever had intercourse with anybody. There was no external marks of violence. I told Col. Rosser at the Coroner's inquest that this little girl had her monthly period on, but I got that from somebody else. I did not conclude that from my examination. The monthly period causes some inflammation and congestion in the blood vessels of the ovaries and uterus. The vagina itself might have some different appearance. I was present when Dr. Harris made the post mortem examination of this girl. Cabbage is digested better by some people than others. It depends on the individual very much. It is considered hard to digest. It depends largely on mastication. You can chew up so thoroughly that it would go down into the stomach almost a liquid, but it would not be digested until the stomach took up that chewed mass. It would take a much longer time to digest and assimilate unmasticated cabbage than if it had been thoroughly chewed. It takes about 3½ hours to digest cabbage properly masticated, and it would take longer if the cabbage had been taken into the stomach actually or practically whole. Digestion continues partially in unconsciousness. It is a guess to say whether the girl was conscious or not. I would not undertake to give an opinion how long she remained unconscious. I would not undertake to give an opinion and don't know of any way of telling ten days after death how long a distended condition of the vagina existed before death.

**RE-DIRECT EXAMINATION.**

I could not detect the hymen from a digital and ocular examination. Ordinary normal menses would produce a dilation of the blood vessels in the womb. The blood, flowing over the hymen I think would produce a little inflammation at the hymen, but if the hymen was broken down, I don't know that menstruation would have any affect upon the hymen. If the menstruation was about off, then I would say that any undue excitement might produce the flow again, or increase the flow that was already there. The contents of this bottle didn't (Exhibit "G"—State), stay in the stomach very long.

**RE-CROSS EXAMINATION.**

I wouldn't undertake to say how long that cabbage (Exhibit "G"—State) had been in the child's stomach. A blow on the back of the head might blacken one or both eyes.

**RE-DIRECT EXAMINATION.**

~~I think excitement could produce flow from the uterus. I don't think it would cause any discoloration of the walls of the vagina except from the blood.~~

DR. H. F. HARRIS, Sworn for the State.

I am a practicing physician. I made an examination of the body of Mary Phagan on May 5th. On removing the skull I found there was no actual break of the skull, but a little hemorrhage under the skull, corresponding to the point where the blow had been delivered, which shows that the blow was hard enough to have made the person unconscious. This wound on the head was not sufficient to have caused death. I think beyond any question she came to her death from strangulation from this cord being wound around her neck. The bruise around the eye was caused by a soft instrument, because it didn't show the degree of contusion that would have been produced by a hard instrument. The outside cuticle of the skin wasn't broken. The injury to the eye and scalp were caused before death. I examined the contents of the stomach, finding 160 cubic centimeters of cabbage and biscuit, or wheaten bread. It had progressed very slightly towards digestion. It is impossible for one to say absolutely how long this cabbage had been in the stomach, but I feel confident that she was either killed or received the blow on the back of the head within a half hour after she finished her meal. I have some cabbage here from two normal persons. Here was same meal taken of cabbage and wheaten bread by two men of normal stomach, and contents taken out within an hour. We found there was very little cabbage left. I made an examination of the privates of Mary Phagan. I found no spermatozoa. On the walls of the vagina there was evidences of violence of some kind. The epitheleum was pulled loose, completely detached in places, blood vessels were dilated immediately beneath the



surface and a great deal of hemorrhage in the surrounding tissues. The dilation of the blood vessels indicated to me that the injury had been made in the vagina some little time before death. Perhaps ten to fifteen minutes. It had occurred before death by reason of the fact that these blood vessels were dilated. Inflammation had set in and it takes an appreciable length of time for the process of inflammatory change to begin. There was evidence of violence in the neighborhood of the hymen. Rigor mortis varies so much that it is not accurate to state how long after death it sets in. It may begin in a few minutes and may be delayed for hours. I could not state from the examination how long Mary Phagan was dying. It is my opinion that she lived from a half to three-quarters of an hour after she ate her meal. The evidence of violence in the vagina had evidently been done just before death. The fact that the child was strangled to death was indicated by the lividity, the blueness of the parts, the congestion of the tongue and mouth and the blueness of the hands and fingernails. The lungs had the peculiar appearance which is always produced after embalming when formaldehyde is used. I am of the opinion that the wound on the back of the head could not have been produced by this stick (Exhibit 48 of Defendant). I made a microscopic examination of the vagina and uterus. Natural menses would cause an enlargement of the uterus, but not of the vagina. In my opinion the menses could not have caused any dilation of the blood vessels and discoloration of the walls. From my own experiments I find that the behavior of the stomach after taking a small meal of cabbage and bread is practically the same as taking some biscuit and water alone. I examined Mary Phagan's stomach. It was normal in size, normal in position, and normal in every particular. I made a microscopic examination of the contents in Mary Phagan's case. It showed plainly that it had not begun to dissolve, or only to a very slight degree, and indicated that the process of digestion had not gone on to any extent at the time that this girl was rendered unconscious. I found that the starch she had eaten had undergone practically no alteration. The contents taken from the little girl's stomach was examined chemically and the result showed that there were only slight traces of the first action of the digestive juices on the starch. It was plainly evident that none of the material had gone into the small intestines. As soon as food is put in the stomach the beginning of the secretion of the hydrochloric acid is found. It is from the quantity of this acid that the stomach secretes that doctors judge the state and degree of digestion. In this case the acid had not been secreted in such an excess that any of it had become what we call free. In this case the amount of acid in this girl's stomach was combined and was 32 degrees. Ordinarily in a normal stomach at the end of an hour it runs from 50 to 70 or 80. I found none of the pancreatic juices in the stomach which are usually found, about an hour after digestion starts.

#### **CROSS EXAMINATION.**

I don't remember when Mr. Dorsey first talked to me about making this autopsy. As long as the heart was beating you could have put a piece of rope

around the neck of this little girl and produced the same results as I found. I took about five or six ounces altogether out of the stomach. It was all used up in making my experiments. I know of no experiments made as to the effect of gastric juices where the patient is dead. The juices of the body after death gradually evaporate. The chemical analysis of each cabbage varies, not only in the plant but from the way it is cooked. It is a very vague matter as to what influences may retard digestion. Every individual is almost a law unto himself. To a certain extent different vegetables affect different stomachs different ways, but the average normal stomach digests anything that is eaten within reason. Some authorities claim that exercise will retard digestion. I don't know that mental activity would have very much effect in retarding the digestion. It is the generally accepted opinion that food begins to pass out of the stomach through the pylorus in about a half an hour. A great many things pass out of the stomach that are not digested. The juices of the stomach make no change in them. The stomach does not emulsify a solid. I never knew a normal man who could digest a solid. The science of digestion is rather a modern thing. I did not call in any chemist in making this examination. I said it was impossible for any one to say absolutely how long the cabbage had been in the stomach of Mary Phagan before she met her death, not within a minute or five minutes, but I say it was somewhere between one-half an hour and three-quarters. I am certain of that. Of course, if digestion had been delayed this time element would change. The violence to the private parts might have been produced by the finger or by other means, but I found evidence of violence. It takes a rather considerable knock to tear epithelium off to the extent that bleeding would occur. I found the epithelium completely detached in places and in other places it was not detached. A digital examination means putting the finger in. The swelling and dilation of the blood vessels could be seen only with a microscope. It is impossible to say how much they were swollen. A scalp wound is very prone to bleed.

C. B. DALTON, Sworn for the State.

I know Leo M. Frank, Daisy Hopkins, and Jim Conley. I have visited the National Pencil Company three, four or five times. I have been in the office of Leo M. Frank two or three times. I have been down in the basement. I don't know whether Mr. Frank knew I was in the basement or not, but he knew I was there. I saw Conley there and the night watchman, and he was not Conley. There would be some ladies in Mr. Frank's office. Sometimes there would be two, and sometimes one. May be they didn't work in the mornings and they would be there in the evenings.

#### CROSS EXAMINATION.

I don't recollect the first time I was in Mr. Frank's office. It was last fall. I have been down there one time this year but Mr. Frank wasn't there. It was Saturday evening. I went in there with Miss Daisy Hopkins. I saw

some parties in the office but I don't know them. They were ladies. Sometimes there would be two and sometimes more. I don't know whether it was the stenographer or not. I don't recollect the next time I saw him in his office. I never saw any gentlemen but Mr. Frank in there. Every time I was in Mr. Frank's office was before Christmas. Miss Daisy Hopkins introduced me to him. I saw Conley there one time this year and several times on Saturday evenings. Mr. Frank wasn't there the last time. Conley was sitting there at the front door. When I went down the ladder Miss Daisy went with me. We went back by the trash pile in the basement. I saw an old cot and a stretcher. I have been in Atlanta for ten years. I have never been away over a week. I saw Mr. Frank about two o'clock in the afternoon. There was no curtains drawn in the office. It was very light in there. I went in the first office, near the stairway. The night watchman I spoke of was a negro. I saw him about the first of January. I saw a negro night watchman there between September and December. I lived in Walton County for twenty years. I came right here from Walton County. I was absent from Walton County once for two or three years and lived in Lawrenceville. I have walked home from the factory with Miss Laura Atkins and Miss Smith.

**RE-DIRECT EXAMINATION.**

I gave Jim Conley a half dozen or more quarters. I saw Mr. Frank in his office in the day time. Mr. Frank had Coca-Cola, lemon and lime and beer in the office. I never saw the ladies in his office doing any writing.

**RECALLED FOR CROSS EXAMINATION.**

Andrew Dalton is my brother-in-law. John Dalton is a first cousin. I am the Dalton that went to the chain gang for stealing in Walton County in 1894. We all pleaded guilty. The others paid out. I don't know how long I served. I stole a shop hammer. That was in case No. L. There were three cases and the sentences were concurrent. One of the other Daltons stole a plow and I don't know what the other one stole. I was with them. In 1899 at the February term of Walton Superior Court I was indicted for helping steal bale of cotton. In Gwinnett County I was prosecuted for stealing corn, but I came clear.

**RE-DIRECT EXAMINATION.**

It has been 18 or 20 years since I have been in trouble. I was drunk with the two Dalton boys when we got into that hammer and plow stock scrape.

**CROSS EXAMINATION.**

I don't know whether I was indicted in 1906 in Walton County for selling liquor. I know Dan Hillman and I know Bob Harris. I don't know whether I was indicted for selling liquor to them or not.

**RE-DIRECT EXAMINATION.**

Miss Daisy Hopkins knows Mr. Frank. I have seen her talking to him and she told me about it.

S. L. ROSSER, sworn for the State.

I am a city policeman. On Monday, April 28th, I went out to see Mrs. White. On May 6th or 7th was the first time I knew Mrs. White claimed to have seen a negro at the factory on April 26th. These are the same chips we had at factory. The club was not on floor by elevator the day I searched the place. I had a flash light and searched for everything. I would have seen it had it been there.

**CROSS EXAMINATION.**

I made no inquiry of her about this before. She volunteered the information when I came out the second time.

~~JAMES CONLEY, sworn for the State.~~

I had a little conversation with Mr. Frank on Friday, the 25th of April. He wanted me to come to the pencil factory that Friday morning that he had some work on the third floor he wanted me to do. All right, I will talk louder. Friday evening about three o'clock Mr. Frank came to the fourth floor where I was working and said he wanted me to come to the pencil factory on Saturday morning at 8:30; that he had some work for me to do on the second floor. I have been working for the pencil company a little over two years. Yes, I had gone back there that way for Mr. Frank before, when he asked me to come back. I got to the pencil factory about 8:30 on April 26th. Mr. Frank and me got to the door at the same time. Mr. Frank walked on the inside and I walked behind him and he says to me, "Good morning," and I says, "Good morning, Mr. Frank." He says, "You are a little early this morning," and I says, "No, sir, I am not early." He says, "Well, you are a little early to do what I wanted you to do for me, I want you to watch for me like you have been doing the rest of the Saturdays." I always stayed on the first floor like I stayed the 26th of April and watched for Mr. Frank, while he and a young lady would be upon the second floor chatting, I don't know what they were doing. He only told me they wanted to chat. When young ladies would come there, I would sit down at the first floor and watch the door for him. I couldn't exactly tell how many times I have watched the door for him previous to April 26th, it has been several times that I watched for him. I don't know who would be there when I watched for him, but there would be another young man, another young lady during the time I was at the door. A lady for him and one for Mr. Frank. Mr. Frank was alone there once, that was Thanksgiving day. I watched for him. Yes, a woman came

there Thanksgiving day, she was a tall, heavy built lady. I stayed down there and watched the door just as he told me the last time, April 26th. He told me when the lady came he would stomp and let me know that was the one and for me to lock the door. Well, after the lady came and he stomped for me, I went and locked the door as he said. He told me when he got through with the lady he would whistle and for me then to go and unlock the door. That was last Thanksgiving day, 1912. On April 26th, me and Mr. Frank met at the door. He says, "What I want you to do is to watch for me to-day as you did other Saturdays," and I says, "All right." I said, "Mr. Frank, I want to go to the Capital City Laundry to see my mother," and he said, "By the time you go to the laundry and come back to Trinity Avenue, stop at the corner of Nelson and Forsyth Streets until I go to Montags." I don't know exactly what time I got to the corner of Nelson and Forsyth Streets, but I came there sometime between 10 and 10:30. I saw Mr. Frank as he passed by me, I was standing on the corner, he was coming up Forsyth Street toward Nelson Street. He was going to Montag's factory. While I was there on the corner he said, "Ha, ha, you are here, is yer." And I says, "Yes, sir, I am right here, Mr. Frank." He says, "Well, wait until I go to Mr. Sig's, I won't be very long, I'll be right back." I says, "All right, Mr. Frank, I'll be right here." I don't know how long he stayed at Montag's. He didn't say anything when he came back from Montag's, but told me to come on. Mr. Frank came out Nelson Street and down Forsyth Street toward the pencil factory and I followed right behind. As we passed up there the grocery store, Albertson Brothers, a young man was up there with a paper sack getting some stuff out of a box on the sidewalk, and he had his little baby standing by the side of him, and just as Mr. Frank passed by him, I was a little behind Mr. Frank, and Mr. Frank said something to me, and by him looking back at me and saying something to me, he hit up against the man's baby, and the man turned around and looked to see who it was, and he looked directly in my face, but I never did catch the idea what Mr. Frank said. Mr. Frank stopped at Curtis' Drug Store, corner Mitchell and Forsyth Streets, went into the soda fountain. He came out and went straight on to the factory, me right behind him. When we got to the factory we both went on the inside, and Mr. Frank stopped me at the door and when he stopped me at the door he put his hand on the door and turned the door and says: "You see, you turn the knob just like this and there can't nobody come in from the outside," and I says, "All right," and I walked back to a little box back there by the trash barrel. He told me to push the box up against the trash barrel and sit on it, and he says, "Now, there will be a young lady up here after awhile, and me and her are going to chat a little," and he says, "Now, when the lady comes, I will stomp like I did before," and he says, "That will be the lady, and you go and shut the door," and I says, "All right, sir." And he says, "Now, when I whistle I will be through, so you can go and unlock the door and you come upstairs to my office then like you were going to borrow some money for me and that will

give the young lady time to get out." I says, "All right, I will do just as you say," and I did as he said. Mr. Frank hit me a little blow on my chest and says, "Now, whatever you do, don't let Mr. Darley see you." I says, "All right, I won't let him see me." Then Mr. Frank went upstairs and he said, "Remember to keep your eyes open," and I says, "All right, I will, Mr. Frank." And I sat there on the box and that was the last I seen of Mr. Frank until up in the day sometime. The first person I saw that morning after I got in there was Mr. Darley, he went upstairs. The next person was Miss Mattie Smith, she went on upstairs, then I saw her come down from upstairs. Miss Mattie walked to the door and stopped, and Mr. Darley comes on down to the door where Miss Mattie was, and he says, "Don't you worry, I will see that you get that next Saturday." And Miss Mattie came on out and went up Alabama Street and Mr. Darley went back upstairs. Seemed like Miss Mattie was crying, she was wiping her eyes when she was standing down there. This was before I went to Nelson and Forsyth Streets. After we got back from Montag Brothers, the first person I saw come along was a lady that worked on the fourth floor, I don't know her name. She went on up the steps. The next person that came along was the negro drayman, he went on upstairs. He was a peg-legged fellow, real dark. The next I saw this negro and Mr. Holloway coming back down the steps. Mr. Holloway was putting on his glasses and had a bill in his hands, and he went out towards the wagon on the sidewalk, then Mr. Holloway came back up the steps, then after Mr. Darley came down and left, Mr. Holloway came down and left. Then this lady that worked on the fourth floor came down and left. The next person I saw coming there was Mr. Quinn. He went upstairs, stayed a little while and then came down. The next person that I saw was Miss Mary Perkins, that's what I call her, this lady that is dead, I don't know her name. After she went upstairs I heard her footsteps going towards the office and after she went in the office, I heard two people walking out of the office and going like they were coming down the steps, but they didn't come down the steps, they went back towards the metal department. After they went back there, I heard the lady scream, then I didn't hear no more, and the next person I saw coming in there was Miss Monteen Stover. She had on a pair of tennis shoes and a rain coat. She stayed there a pretty good while, it wasn't so very long either. She came back down the steps and left. After she came back down the steps and left, I heard somebody from the metal department come running back there upstairs, on their tiptoes, then I heard somebody tiptoeing back towards the metal department. After that I kind of dozed off and went to sleep. Next thing I knew Mr. Frank was up over my head stamping and then I went and locked the door, and sat on the box a little while, and the next thing I heard was Mr. Frank whistling. I don't know how many minutes it was after that I heard him whistle. When I heard him whistling I went and unlocked the door just like he said, and went on up the steps. Mr. Frank was standing up there at the top of the steps and shivering and trembling

and rubbing his hands like this. He had a little rope in his hands—a long wide piece of cord. His eyes were large and they looked right funny. He looked funny out of his eyes. His face was red. Yes, he had a cord in his hands just like this here cord. After I got up to the top of the steps, he asked me, “Did you see that little girl who passed here just a while ago?” and I told him I saw one come along there and she come back again, and then I saw another one come along there and she hasn’t come back down, and he says, “Well, that one you say didn’t come back down, she came into my office awhile ago and wanted to know something about her work in my office and I went back there to see if the little girl’s work had come, and I wanted to be with the little girl, and she refused me, and I struck her and I guess I struck her too hard and she fell and hit her head against something, and I don’t know how bad she got hurt. Of course you know I ain’t built like other men. The reason he said that was, I had seen him in a position I haven’t seen any other man that has got children. I have seen him in the office two or three times before Thanksgiving and a lady was in his office, and she was sitting down in a chair (and she had her clothes up to here, and he was down on his knees, and she had her hands on Mr. Frank. I have seen him another time there in the packing room with a young lady lying on the table, she was on the edge of the table when I saw her). He asked me if I wouldn’t go back there and bring her up so that he could put her somewhere, and he said to hurry, that there would be money in it for me. When I came back there, I found the lady lying flat of her back with a rope around her neck. The cloth was also tied around her neck and part of it was under her head like to catch blood. I noticed the clock after I went back there and found the lady was dead and came back and told him. The clock was four minutes to one. She was dead when I went back there and I came back and told Mr. Frank the girl was dead and he said “Sh-Sh!” He told me to go back there by the cotton box, get a piece of cloth, put it around her and bring her up. I didn’t hear what Mr. Frank said, and I came on up there to hear what he said. He was standing on the top of the steps, like he was going down the steps, and while I was back in the metal department I didn’t understand what he said, and I came on back there to understand what he did say, and he said to go and get a piece of cloth to put around her, and I went and looked around the cotton box and got a piece of cloth and went back there. The girl was lying flat on her back and her hands were out this way. I put both of her hands down easily, and rolled her up in the cloth and taken the cloth and tied her up, and started to pick her up, and I looked back a little distance and saw her hat and piece of ribbon laying down and her slippers and I taken them and put them all in the cloth and I ran my right arm through the cloth and tried to bring it up on my shoulder. The cloth was tied just like a person that was going to give out clothes on Monday, they get the clothes and put them on the inside of a sheet and take each corner and tie the four corners together, and I run my right arm through the cloth after I tied it that way and went to put it on my shoulder, and I

found I couldn't get it on my shoulder, it was heavy and I carried it on my arm the best I could, and when I got away from the little dressing room that was in the metal department, I let her fall, and I was scared and I kind of jumped, and I said, "Mr. Frank, you will have to help me with this girl, she is heavy," and he come and caught her by the feet and I laid hold of her by the shoulders, and when we got her that way I was backing and Mr. Frank had her by the feet, and Mr. Frank kind of put her on me, he was nervous and trembling, and after we got up a piece from where we got her at, he let her feet drop and then he picked her up and we went on to the elevator, and he pulled down on one of the cords and the elevator wouldn't go, and he said, "Wait, let me go in the office and get the key," and he went in the office and got the key and come back and unlocked the switchboard and the elevator went down to the basement, and we carried her out and I opened the cloth and rolled her out there on the floor, and Mr. Frank turned around and went on up the ladder, and I noticed her hat and slipper and piece of ribbon and I said, "Mr. Frank, what am I going to do with these things?" and he said, "Just leave them right there," and I taken the things and pitches them over in front of the boiler, and after Mr. Frank had left I goes on over to the elevator and he said, "Come on up and I will catch you on the first floor," and I got on the elevator and started it to the first floor, and Mr. Frank was running up there. He didn't give me time to stop the elevator, he was so nervous and trembly, and before the elevator got to the top of the first floor Mr. Frank made the first step onto the elevator and by the elevator being a little down like that, he stepped down on it and hit me quite a blow right over about my chest and that jammed me up against the elevator and when we got near the second floor he tried to step off before it got to the floor and his foot caught on the second floor as he was stepping off and that made him stumble and he fell back sort of against me, and he goes on and takes the keys back to his office and leaves the box unlocked. I followed him into his private office and I sat down and he commenced to rubbing his hands and began to rub back his hair and after awhile he got up and said, "Jim," and I didn't say nothing, and all at once he happened to look out of the door and there was somebody coming, and he said, "My God, here is Emma Clarke and Corinthia Hall," and he said "Come over here Jim, I have got to put you in this wardrobe, and he put me in this wardrobe, and I stayed there a good while and they come in there and I heard them go out, and Mr. Frank come there and said, "You are in a tight place," and I said "Yes," and he said "You done very well." So after they went out and he had stepped in the hall and had come back he let me out of the wardrobe, and he said "You sit down," and I went and sat down, and Mr. Frank sat down. But the chair he had was too little for him or too big for him or it wasn't far enough back or something. He reached on the table to get a box of cigarettes and a box of matches, and he



takes a cigarette and a match and hands me the box of cigarettes and I lit one and went to smoking and I handed him back the box of cigarettes, and he put it back in his pocket and then he took them out again and said, "You can have these," and I put them in my pocket, and then he said, "Can you write?" and I said, "Yes, sir, a little bit," and he taken his pencil to fix up some notes. I was willing to do anything to help Mr. Frank because he was a white man and my superintendent, and he sat down and I sat down at the table and Mr. Frank dictated the notes to me. Whatever it was it didn't seem to suit him, and he told me to turn over and write again, and I turned the paper and wrote again, and when I done that he told me to turn over again and I turned over again and I wrote on the next page there, and he looked at that and kind of liked it and he said that was all right. Then he reached over and got another piece of paper, a green piece, and told me what to write. He took it and laid it on his desk and looked at me smiling and rubbing his hands, and then he pulled out a nice little roll of greenbacks, and he said, "Here is \$200," and I taken the money and looked at it a little bit and I said, "Mr. Frank, don't you pay another dollar for that watchman, because I will pay him myself," and he said, "All right, I don't see what you want to buy a watch for either, that big fat wife of mine wanted me to buy an automobile and I wouldn't do it." And after awhile Mr. Frank looked at me and said, "You go down there in the basement and you take a lot of trash and burn that package that's in front of the furnace," and I told him all right. But I was afraid to go down there by myself, and Mr. Frank wouldn't go down there with me. He said, "There's no need of my going down there," and I said, "Mr. Frank, you are a white man and you done it, and I am not going down there and burn that myself." He looked at me then kind of frightened and he said "Let me see that money" and he took the money back and put it back in his pocket, and I said, "Is this the way you do things?" and he said, "You keep your mouth shut, that is all right." And Mr. Frank turned around in his chair and looked at the money and he looked back at me and folded his hands and looked up and said "Why should I hang? I have wealthy people in Brooklyn," and he looked down when he said that, and I looked up at him, and he was looking up at the ceiling, and I said, "Mr. Frank, what about me?" and he said, "That's all right, don't you worry about this thing, you just come back to work Monday like you don't know anything, and keep your mouth shut, if you get caught I will get you out on bond and send you away," and he said, "Can you come back this evening and do it?" and I said "Yes, that I was coming to get my money." He said, "Well, I am going home to get dinner and you come back here in about forty minutes and I will fix the money," and I said, "How will I get in?" and he said, "There will be a place for you to get in all right, but if you are not coming back let me know, and I will take those things and put them down with the body," and I said, "All right, I will be back in about forty minutes." Then I went down over to the beer saloon across the street and I took the cigarettes out of the box and there was some money in there and I took that out and there was two

paper dollar bills in there and two silver quarters and I took a drink, and then I bought me a double header and drank it and I looked around at another colored fellow standing there and I asked him did he want a glass of beer and he said "No," and I looked at the clock and it said twenty minutes to two and the man in there asked me was I going home, and I said, "Yes," and I walked south on Forsyth Street to Mitchell and Mitchell to Davis, and I said to the fellow that was with me, "I am going back to Peters Street," and a Jew across the street that I owed a dime to called me and asked me about it and I paid him that dime. Then I went on over to Peters Street and stayed there awhile. Then I went home and I taken fifteen cents out of my pocket and gave a little girl a nickle to go and get some sausage and then I gave her a dime to go and get some wood, and she stayed so long that when she came back I said, "I will cook this sausage and eat it and go back to Mr. Frank's," and I laid down across the bed and went to sleep, and I didn't get up no more until half past six o'clock that night, that's the last I saw of Mr. Frank that Saturday. I saw him next time on Tuesday on the fourth floor when I was sweeping. He walked up and he said, "Now remember, keep your mouth shut," and I said, "All right," and he said, "If you'd come back on Saturday and done what I told you to do with it down there, there wouldn't have been no trouble." This conversation took place between ten and eleven o'clock Tuesday. Mr. Frank knew I could write a little bit, because he always gave me tablets up there at the office so I could write down what kind of boxes we had and I would give that to Mr. Frank down at his office and that's the way he knew I could write. I was arrested on Thursday, May 1st, Mr. Frank told me just what to write on those notes there. That is the same pad he told me to write on (State's Exhibit A). The girl's body was lying somewhere along there about No. 9 on that picture (State's Exhibit A). I dropped her somewhere along No. 7. We got on elevator on the second floor. The box that Mr. Frank unlocked was right around here on side of elevator. He told me to come back in about forty minutes to do that burning. Mr. Frank went in the office and got the key to unlock the elevator. The notes were fixed up in Mr. Frank's private office. I never did know what became of the notes. I left home that morning about 7 or 7:30. I noticed the clock when I went from the factory to go to Nelson and Forsyth Streets, the clock was in a beer saloon on the corner of Mitchell Street. It said 9 minutes after 10. I don't know the name of the woman who was with Mr. Frank on Thanksgiving day. I know the man's name was Mr. Dalton. When I saw Mr. Frank coming towards the factory Saturday morning he had on his raincoat and his usual suit of clothes and an umbrella. Up to Christmas I used to run the elevator, then they put me on the fourth floor to clean up. I cleaned up twice a week on the first floor under Mr. Holloway's directions. The lady I saw in Mr. Frank's office Thanksgiving day was a tall built lady, heavy weight, she was nice looking, and she had on a blue looking dress with white dots in it and a grayish looking coat with kind of tails to it. The coat was open like that and she had on white slippers and stockings. On Thanksgiving day Mr.

Frank told me to come to his office. I have never seen any cot or bed down in the basement. I refused to write for the police the first time. I told them I couldn't write.

#### CROSS EXAMINATION.

I am 27 years old. The last Job I had was working for Dr. Palmer. I worked for him a year and a half. I worked before that for Orr Stationery Company for three or four months. Before that I worked for S. S. Gordon. Before that I worked for Adams Woodward and Dr. Honeywell. Got my first job eleven years ago with Mr. S. M. Truitt. Next job was with W. S. Coates. I can't spell his name. I can't read and write good. I Can't read the newspapers good. No, sir; I don't read the newspaper. I never do, I have tried, I found I couldn't and I quit. I can't read a paper right through. I can't go right straight down through the page, and that's the reason I don't read newspapers, I can't get any sense out of them. There is some little letters like "dis" and "dat" that I can read. The other things I don't understand. No, I can't spell "Dis" and "dat". Yes, I can spell "school," I can't spell "collar," I can spell "shirts." I can spell "shoes," and "hat." I spell "cat" with a "k". I can spell "dog," and most simple little words like that. I don't know about spelling "mother." I can spell "papa." I spell it p-a-p-a. I can't spell "father" or "jury" or "judge" or "stockings." I never did go to school further than the first grade. I went to school about a year. I can spell "day," but not "daylight," I can spell "beer" but not "whiskey." I couldn't read the name "whiskey." No, I can't read any letter on that picture there (Exhibit A—State). I can't figure except with my fingers. I know the figures as far as eight, as far as twelve. I knows more about counting than I do about figuring. I don't know what year it was I went to school. I worked for Truitt about two years, for Mr. Coates five years, for Mr. Woodward and Mr. Honeywell about a year and a pressing club about two years, Orr Stationery Company three or four months, Dr. Palmer about a year and a half, and then I went to work for the pencil factory. Mr. Herbert Schiff employed me at the pencil factory. Sometimes Mr. Schiff paid me off, sometimes Mr. Gantt, sometimes Mr. Frank. I don't remember when I saw Mr. Frank pay me off or how many times. I drawed my money very seldom. I would always have somebody else draw it for me. I told Mr. Holloway to let Gordon Bailey draw my money mostly. He's the one they call "Snowball." The reason why I didn't draw it myself I would be owing some of the boys around the factory and I didn't have it to pay, and I would leave the factory about half past eleven so that I didn't have to pay it, and then I would have Snowball draw my money for me mostly. I would see him afterwards and he would give me the money. Sometimes I would go down through the basement out the back way to keep away from them. The reason I let them draw my money I owed some of them, and some of them owed me and I wanted them to pay me first before I paid them. I didn't want to get my money on the inside because I didn't want them to see such a little I was drawing to what they were drawing. I wasn't drawing

but \$6.05. Snowball was drawing \$6.05. As to who it was I didn't want to see what I was drawing, there was one named Walter Pride; he's been there five years. He said he drew \$12.00 a week. Then there was Joe Pride, he told me he drew \$8.40 a week. They were down in the basement and asked me how much I was drawing. I told them it wasn't none of their business. Then there was a fellow named Fred. I don't know how much he drew. The next one was the fireman. I don't know how much he drew. There were two or three others, but I didn't have no talk with them. I was just hiding what I drew from Walter Pride. As to whether I couldn't draw my money after Walter drew his without his knowing it, well he would always be down there waiting for me. As to whether I couldn't get my money without his being behind me and seeing what I got, he could see if I tore open the envelope. I had to open it to pay them with. That's the reason I didn't go and draw my money. I know I could have put it in my pocket, but I couldn't tear it open unless I took it out. Yes, the reason I didn't draw my money was because I didn't want to pay them. That's the reason I let Snowball draw my money. They could have slipped up behind me and looked. As to whether I couldn't walk off and keep them from seeing it, if I didn't tear it open, then they would keep up with me until I did. He would follow me around. No, I wasn't trying to keep out of paying them. As to what I was trying to do, if they paid me then I would pay them. The way I liked to settle with them, I liked to take them to the beer saloon and buy twice as much as they get. If I was there when they come in on me, I would say, "I owe you, let's drink it up." Yes, I would get out of it if I could, but if they saw me walk up and pay them that way. I paid Waltel Pride sometimes that way and sometimes the other way. I would say, "I owe you fifteen cents, I buy three beers, and you owe me fifteen cents, and that be three beers." I say if I would be in the beer saloon when they come in there, I would do that, but if I could get out before they saw me, I would be gone. I never did know what time the watchman come there on Saturday, or any Saturday. I never have seen the night watchman in the factory. I have seen young Mr. Kendrick come and get his money. He always comes somewhere about two o'clock to get his money. I have seen him lots of times Saturday and get his money. He always got it from Mr. Frank at two o'clock. No, I didn't know Newt Lee. I heard them say there was a negro night watchman, but I never did know that he was a negro. I knew they paid employees off at twelve o'clock. I don't know what time the night watchman would come there to work. Mr. Holloway stays until 2:30. I couldn't tell the first time I ever watched for Mr. Frank. Sometimes during the last summer, somewhere just about in July. As to what he said to get me to watch for him that was on a Saturday, I would be there sweeping and Mr. Frank come out and called me in his office. I always worked until half past four in the evening. I would leave about half past twelve, ring out and come back about half past one or two. Sometimes I would ring in when I came back and sometimes I wouldn't. I ringed in every morning when I came. I never did ring in much. I would do it after they got after me about it. It was

my habit not to do it. As to how they would know how much to pay me if I didn't ring in, I knew they paid me \$1.10 a day, all the time. No, they didn't pay me by the clock punches, they paid me by the day, they paid me 11c. an hour. Sometimes I would punch the clock when I got there; that was my duty. Sometimes I was paid when I didn't work, I don't know how that happened. but Mr. Frank would come and tell me I didn't take out that money for the time you lost last week. I don't know on what date he ever did that on. Yes. I always got my money in envelopes. As to how they would know how much to put in the envelope, when I didn't punch, they would come and ask if I was here every time I didn't ring in, and they would ask Mr. Holloway if I was here. If the clock didn't show any punch, they would ask me if I was here at that hour. No they wouldn't ask how many hours I was here, they would just ask if I was here a certain hour and then they would pay me for the full day, whether I punched the clock or not, just so I punched it in the morning. The lady that was with Mr. Frank the time I watched for him some time last July was Miss Daisy Hopkins. It would always be somewhere between 3 and 3:30. I was sweeping on the second floor. Mr. Frank called me in his office. There was a lady in there with him. That was Miss Daisy Hopkins. She was present when he talked to me. He said "You go down there and see nobody don't come up and you will have a chance to make some money. The other lady had gone out to get that young man, Mr. Dalton. I don't know how long she had been gone. She came back after a while with Mr. Dalton. They came upstairs to Mr. Frank's office, stayed there ten or fifteen minutes. They came back down, they didn't go out and she says, "All right, James." About an hour after that Mr. Frank came down. This lady and man after she said "All right, James" went down through the trap door into the basement. There's a place on the first floor that leads into another department and there's a trap door in there and a stairway that leads down in the basement, and they pull out that trap door and go down in the basement. I opened the trap door for them. The reason I opened the trap door because she said she was ready, I knew where she was going because Mr. Frank told me to watch, he told me wherethey were going. I don't know how long they stayed down there. I don't know when they came back. I watched the door all the time. Mr. Dalton gave me a quarter and went out laughing and the lady went up the steps. Then the ladies came down and left, and then Mr. Frank came down after they left. That was about half past four. He gave me a quarter and I left and then he left. The next Saturday I watched was right near the same thing. It was about the last of July or the first of August. The next Saturday I watched for him about twelve o'clock he said "You know what you done for me last Saturday, I want to put you wise for this Saturday." I said, "All right, what time?" He said, "Oh, about half past." After Mr. Holloway left, Miss Daisy Hopkins came on in into the office, Mr. Frank came out of the office, popped his fingers, bowed his head and went back into the office. I was standing there by the clock. Yes, he popped his fingers and bowed to me, and then I went down and stood by the door. He stayed there

that time about half an hour and then the girl went out. He gave me half a dollar this time. The next time I watched for him and Mr. Dalton too, somewhere along in the winter time, before Thanksgiving Day, somewhere about the last part of August. Yes, that's somewhere near the winter. This time he spoke to me on the fourth floor in the morning. Gordon Bailey was standing there when he spoke to me. He said, "I want to put you wise again for to-day." The lady that came in that day was one who worked on the fourth floor; it was not Miss Daisy Hopkins. A nice looking lady, kind of slim. She had hair like Mr. Hooper's. She had a green suit of clothes on. When Miss Daisy Hopkins came she had on a black skirt and white waist the first time. I don't know the name of that lady that works on the fourth floor. Yes, I have seen her lots of times at the factory, but I don't know her name. She went right to Mr. Frank's office, then I went and watched. She stayed about half an hour and came out. Mr. Frank went out of the factory and then came back. I stayed there and waited for him. He said, "I didn't take out that money." I said, "Yes, I seed you didn't." He said, "That's all right, old boy, I don't want you to say anything to Mr. Herbert or Mr. Darley about what's going on around here." Next time I watched for him was Thanksgiving Day. I met Mr. Frank that morning about eight o'clock. He said "A lady will be in here in a little while, me and her are going to chat, I don't want you to do no work, I just want you to watch." In about half an hour the lady came. I didn't know that lady, she didn't work at the factory. I think I saw her in the factory two or three nights before Thanksgiving Day in Mr. Frank's office. She was a nice looking lady. I think she had on black clothes. She was very tall, heavy built lady. After she came in that Thanksgiving Day morning, I closed the door after he stamped for me to close it. She went upstairs towards Mr. Frank's office. Mr. Frank came out there and stamped, and I closed the door. Mr. Frank said, "I'll stamp after this lady comes and you go and close the door and turn the night latch." That's the first time he told me about the night lock. And he says, "If everything is all right you kick against the door," and I kicked against the door. After an hour and a half Mr. Frank came down and unlocked the doors and says, "Everything is all right." He then went and looked up the street and told the lady to come on downstairs. After she came down, she said to Mr. Frank, "Is that the nigger?" and Mr. Frank said, "Yes," and she said, "Well, does he talk much?" and he says, "No, he is the best nigger I have even seen." Mr. Frank called me in the office and gave me \$1.25. The lady had on a blue skirt with white dots in it and white slippers and white stockings and had a gray tailor-made coat, with pieces of velvet on the edges of it. The velvet was black and the cloth of the coat was gray. She had on a black hat with big black feathers. I left a little before 12 o'clock. I didn't see anybody else there that day at the office. The next time I watched was way after Christmas, on a Saturday about the middle of January—somewhere about the first or middle. It was right after New Year, one or two, or three or four days after. It was on a Saturday. He said a young man and two ladies would be coming. That was that Saturday morning at half past seven. I was

standing by the side of Gordon Bailey when he come and told me, and he said, I could make a piece of money off that man. Yes, Snowball could hear what he said. The man and ladies came about half past two or three o'clock. They stayed there about two hours. I didn't know either one of the ladies. I can't describe what either one of them had on. The man was tall slim built. a heavy man. I have seen him at the factory talking to Holloway, he didn't work there. I have seen him often talking to Holloway, through the week. You asked me what I did the second Saturday after I watched for him, well, I don't remember. As to what I did the Saturday I watched for him the second time, I disremember what I did. The Saturday after that, I think about the first of August, I did some more watching for him. I don't remember what I did the Saturday before Thanksgiving day. I don't remember what I did the Saturday after Thanksgiving day. I don't remember what I did the next Saturday. I don't know, sir, what I did the next Saturday. The next Saturday I did some watching for him. I watched for him somewhere about the last of November after Thanksgiving Day. No, I don't remember any of those dates. Couldn't tell you to save my life what time I left home the first time I watched for him. I couldn't tell you what time I got to the factory the second time I watched for him, nor what time I left home. I don't know whether I drew my money on the first Saturday I watched for him. I disremember whether anybody else drew my money for me the second Saturday I watched for him. I don't know how much I drew. I couldn't tell you whether I drew my money Thanksgiving Day or not. I don't know how much I drew. I don't remember what time I got down or what time I left. I don't know when I got to the factory the day before Thanksgiving, or how long I worked there. I don't remember how many hours I worked the first Saturday I watched for him or the second, or the third, or Thanksgiving Day. No, I don't know how much I drew on those days. The first time I was in prison was in September. The next time was sometime before Christmas, I can't remember the date. I was there thirty days. It was somewhere along in October. A year before that I was in prison too, about thirty days. I have been in prison three times since I have been with the pencil company. I have been in prison about three times within the last three or four years. I have been in prison seven or eight times within the last four or five years. I can't give you any of the dates, nor how long I stayed there any of the times that I was there. I don't know what month or what day it was, nor how long I stayed there. I knew the factory was not going to be run on April 26th. Yes, Snowball and I drink beer together sometimes in the building. Yes, we used to go down in the basement and drink together, but he aint the only man. I never was drunk at the factory. Snowball wasn't there the first Saturday I watched for Mr. Frank. I think he laid off. I don't know whether he was there the second or third Saturdays, I didn't see him Thanksgiving morning, but I saw him the day before Thanksgiving. That was the time that Mr. Frank told me to watch for him. He talked to me before Snowball. I don't know whether Snowball was there in January when I watched. Snowball was there in January in the box room when Mr. Frank

told me to watch for him. I don't know whether Mr. Frank knew he was there or not. There were eight niggers in all working in the factory. Snowball, the fireman and me did just plain manual labor, the rest of the negroes had better jobs. Snowball, the fireman and I were the last negroes to get jobs there. We were the new darkies; the others had been working there before we went there. Mr. Frank used to laugh and jolly with me. I couldn't tell you the first time he did this. Mr. Darley has seen him jollying me. They would jolly me together. They would play and go on around there with me. It has been so long ago I can't tell you any of the jokes. Mr. Schiff and Mr. Holloway has seen him joking with me. He would say, "Come on I am going to make a graveyard down there in the basement if you don't hurry and bring that elevator back up here." Mr. Holloway heard him say that. Mr. Schiff has seen him playing with me. He would goose me and punch me and tell me I was a good negro. I don't remember anything else he said. Yes, Mr. Darley would goose me and kick me a little bit, just playing with me. Mr. Schiff would crack jokes with me. I don't remember the time. The time Mr. Frank came in the elevator and told me about watching for him, he didn't know Snowball was in there. Snowball was standing right there by me. Mr. Frank could have seen him and he could have heard anything that was said. He saw Snowball standing there, I have been at the factory over two years. I don't remember the day or month I went there. It was some time in 1910. I don't remember whether it was summer or winter. Miss Daisy Hopkins worked on the fourth floor in 1912. I don't know when she quit. I saw her working from June, 1912, up until about Christmas. Yes, I worked on the same floor with her. I don't know whether she worked there in 1913. Miss Daisy was a low lady, kind of heavy, and she was pretty, low, chunky kind of heavy weight. I don't know what color hair she had or eyes, or her complexion. She was light skinned. She looked to be about twenty-three. I know she was there in June, because she gave me a note to take down to Mr. Schiff. I remember that because the note had June on it. Mr. Schiff said it had "June" on it when he read it. I can't read but he read that note and he read "June something," it was on the outside of the note. It was on the back of the note. "June" was written on the back of that note. She wrote the note and folded it up and he read "June" on the back of it and he laughed at it. The reason I know she left the factory during Christmas because Mr. Dalton told me she wasn't coming back. He told me that one Saturday coming down to the factory. I never have seen Mr. Dalton except at the factory. No, he doesn't work there. I saw him somewhere along in January. He came out that time by himself. He and a lady had been down in the basement. The last time I saw him the detectives brought him down at the station house and asked if I had ever seen him in there. I saw Mr. Holloway at the factory the first Saturday I watched for Mr. Frank. The next Saturday I watched, he was sick and wasn't there. He was sick two Saturdays in June. I disremember whether I saw Mr. Schiff and Mr. Darley. I remember seeing Mr. Darley at the factory on Thanksgiving Day. I don't remember what time he left. I



couldn't tell you anybody who came to the factory the first Saturday I watched. The second time I think there were some young ladies working up on the fourth floor. I don't know about the third time. I don't know whether anybody was working there Thanksgiving or not. I didn't see Mr. Schiff at all. I will swear that he was not in the office with Mr. Frank. I don't know whether any ladies were working there the next time or not. I have been back in the metal department, but I never have been on the right hand side where the machines are. I have swept on the second floor, but not in the metal department. I don't know where those vats are back there. I don't know what you are talking about. I don't know anything about the plating room. I never have been in Mr. Quinn's office. I have put disinfectants in the ladies and gentlemen's closets back there. I wouldn't go inside. I would only go to the door. I stood outside of the door and sprinkled it in a little way. Outside of that, and going to Mr. Quinn's office I have never been on the left hand side of the factory. I have been there where they wash the lead at, and I have stuck bills in Mr. Quinn's office. Yes, I have been back in there where that dark place is. I don't know how many times I have stacked some boxes back in there. I have been back there three times altogether. Sometime before Christmas. Yes, sir, you can see from the top of the stairway back in there. I have been back there three times altogether. Sometime before Christmas. Yes, sir; you can see from the top of the stairway to Mr. Frank's inside office. A man sitting at Mr. Frank's desk can see people coming up the stairway if he is watching for them. If the safe door is open I don't hardly think he can see them. If it is shut he can. I am certain of that. I thought you were talking about the third floor. He couldn't see people coming up from the first floor. He can see them after they get along by the clock. I left the factory 5:30 Friday afternoon, before the factory stopped. I think I punched when I went out. One of them was ten minutes fast. That was the one on the right. I left there without drawing my money because I knew I wasn't going to draw but \$2.75 and I owed the watchman a dollar and I knowed I wouldn't have enough for me and to pay him and I told Mr. Holloway to let Snowball draw it for me. Snowball drew it for me and met me at the shoe shop at the corner of Alabama and Forsyth Street. He gave me \$3.75. I wasn't supposed to draw but \$2.75, and Mr. Frank taken that dollar for the watchman and stuck an extra dollar in my envelope and that made \$3.75. I don't remember how many beers I drank Friday. Yes, I told Mr. Scott I got up at 9 o'clock that morning. That wasn't true. I ate breakfast about seven. Yes, I told Mr. Black I ate at 9:30. That wasn't true. I left my house between 7 and 7:30. I told Mr. Scott I left somewhere between 10 and 10:30. No, that wasn't true. I got to Peters Street about 25 minutes to 8. I don't know how long I stayed there. Some things in my affidavit that I made that are true. Yes, there are some things in my last affidavit that are true. I was arrested on the first of May. I sent for Mr. Black to come down when I made my first statement on May 18th. Yes, I denied I had been to the factory in that statement. I made

that statement in the detectives' office. Mr. Black and Mr. Scott were present. They didn't question two or three hours. I did some writing before then, before that statement was made. Yes, I know I did some writing before May 18th. I did some writing in Chief's office that Sunday. I told Black I bought whiskey on Peters Street at about 10:30. I told them I paid forty cents for it. I don't remember telling them that I bought the whiskey at 11 o'clock. Yes, I told them I went into the Butt-In Saloon after I went to Earley's for the whiskey. Some of it I told them was the truth and some of it wasn't. They asked me if I was lying and I held my head down. I held back some of the truth, and when they asked me if that was the truth I hung my head down. I didn't want to give the man away, but I wanted to tell some and let him see what I was going to do and see if he wasn't going to stick to his promise as he had said. I told them I went into Butt-In Saloon and saw some negroes at tables shooting dice and I won ninety cents and bought a glass of beer. I told them that I went to three beer saloons. I told them after I went home at 2:30, I went to Joe Carr's saloon and got 15c. worth of beer. I don't remember telling them that I went there between 3:30 and four o'clock. The detectives talked to me nearly every day after I made my first statement. Sometimes hours at a time. No, they didn't cuss me. Yes. I sent for Black on May 24th. When the statement came out in the papers that's the time I sent for him. As to how I knew it came out in the papers, I heard the boys across the street hollering extra papers. Mr. Black came down after I sent for him and I told him it's awful hot in here, and I told him I was going to tell him something, but I wasn't going to tell him all of it now. I told him that I would tell him part and hold part back. Scott and Black were both there. Yes, I told Mr. Black on May 24th, the time I made the second statement, that I helped tote the little girl. I sure remember that. I think I told them about Mr. Frank getting me to watch for him, that he told me he struck a girl and for me to go back and get her. I didn't give Mr. Frank clear away that time. I kept some things back. I don't remember now whether I told them at that time or not. I don't know whether I told them about going down the basement or not. The first time I told them I wrote the notes on Friday. They didn't tell me my story wouldn't fit. I don't remember them telling me anything about changing my statement. I told them that was all I had to say. They never told me they wanted me to tell anything else. They didn't say anything to me that it didn't sound right. Mr. Black talked to me right smart and Mr. Lanford talked to me a little. No, they never talked to me a whole day. As to why I changed my statement from Friday to Saturday, I put it on Saturday, because I was at the factory on Saturday. As to why I didn't put myself there on Saturday, the blame would be put on me. I didn't want them to know that I had written any notes for Mr. Frank. Yes, in that statement I told the officers I was going to tell the whole truth. I told them that I got up at nine o'clock, because there was nothing doing at the factory that day at the time. I said I was there at 9 o'clock, because he had done told me where to meet him at. Yes. I told them that I was going to tell the whole truth. Yes, the

reason I told them I left home at 9 or 9:30, because there was not anything doing at the factory at that time. I told them it was about 9 o'clock when I looked at the clock, because I don't know what time it was when I looked at the clock, and I told them I had some steay and some sausage for breakfast and a piece of liver and I drank some tea and bread. Well, there was some sausage, but I don't know whether I ate it or not. Yes, I had steak, liver and sausage for breakfast. I know I ate the steak and a piece of liver, and drank a cup of tea and ate some bread. I got up that morning at six o'clock. Yes. I told the officers I got up at 9 or 9:30. I don't remember anything else I told them. Yes, I told them that I went straight to Peters Street and went in the first beer saloon there, and drank two beers and gave a fellow a beer, that had a whip around his neck. I told them three saloons and I called two names. I don't know whether I told them about this whiskey or not. I told them I bought it between 10 and 10:30. No, that is not true. I told them that on account of my saying I didn't leave home until about 9 or 9:30. I bought it about a quarter to eight. The reason I told these lies about the time was because I didn't want to put myself at the factory twice, because there wasn't anything doing at the factory that morning. That is the only reason I told that story. I don't know when the first time was I told them I got there at 8 o'clock instead of 10 or half past, it was after I got out of jail up there. I guess I made most of these changes after I got out of jail. I don't know who the detective was I told about my not leaving home at 9 o'clock. Four of them were talking to me, all at the same time. I think it was Starnes and Campbell that I told that to, about changing the time. I don't remember whether I told them then that I was going to tell the whole truth. I told them that after I got out of jail, after I got back to headquarters. If you tell a story you know you've got to change it. A lie won't work, and you know you've got to tell the whole truth. Yes, I knew it was bound to come when I told it the first time. I didn't tell the whole truth then, because I didn't want to give the whole thing away then. In the statement where I told about my moving the little girl for Mr. Frank, the reason why I didn't correct it then about the time I bought the liquor, I don't know whether I did it then or not, but I did tell them. I told them I drank four or five beers that morning. I told them at the first saloon I bought two beers. I didn't tell them I bought any wine at that time. I told them I had some wine put in my beer. What they call wine. It wasn't any wine though. I don't know whether I told them that in the statement I made about moving the little girl or not. The wine was put in my beer at Mr. Earl's beer saloon on Saturday morning. I told that to Mr. Black and Mr. Scott, I don't remember when. As to my not testifying about that yesterday, you didn't ask me that. I remember telling you that yesterday. I remember saying I didn't buy any wine. No, I didn't say anything about putting beer in wine yesterday, but I remember I said something about putting wine in beer. I know I told you that yesterday. I don't remember telling them I started straight from Peters Street to Capital City Laundry. I told them I started for the Laundry after leaving Mr. Frank at the factory. If they have got it down

there, I must have said so. I don't remember saying it. I told them I met Mr. Frank at the corner of Nelson and Forsyth Street before I went to the factory. Yes, I told them I went from Peters Street and met him at the corner of Nelson and Forsyth before I went to the factory. As to why I told them that story, because I did meet him there. No, I didn't go straight from Peters Street to meet him at the corner of Nelson and Forsyth as I told them. I went straight from Peters street to the pencil factory. I don't remember when the first time I told the truth about it. I told it either to Mr. Starnes, Mr. Campbell, Mr. Black or Mr. Scott. I told it after I got out of jail, I remember telling the officers when he said "Ah, ha," when I met him at the corner. I don't remember telling the officers that he asked me where I was going and I told him I was going to the Capital City Laundry to see my mother. I don't remember saying that to the officers. If I did say that it was not the truth. As to why I lied about that, because I did tell Mr. Frank down there when I left the factory that I was going to see my mother. I told the officers he stayed at Montag's about twenty minutes. I did tell you yesterday that I didn't have any idea how long he stayed there, because I haven't any idea now. As to why I didn't say yesterday that it was twenty minutes, because you didn't ask me. I didn't tell Mr. Dorsey how long it was, because he didn't ask me what I told the detectives about it, but I told the detectives that. I told them that story because I didn't have any idea how long he stayed there. I don't know how long Mr. Frank stayed there. I told the officers twenty minutes as that was the best I could do about it, so I just told him twenty minutes. I told the detectives about wanting me to watch for him when I got back to the factory. I don't know why I didn't tell them that at the time I told them about moving the body. I don't remember who I told it to or when, but I told them. I did tell them about Mr. Frank stamping his foot. I don't know whether I told them at the time I told about helping move the body. I told it to Mr. Scott, Mr. Black, Mr. Campbell, Mr. Starnes and Mr. Dorsey. Mr. Starnes and Mr. Campbell wasn't in there sometimes when I told it. No, I didn't tell it to Mr. Scott and Mr. Black. They dropped the case and Mr. Starnes and Mr. Campbell taken it up. They came down and was talking to me for a month or more in my cell. Yes, I told Mr. Black about Frank stomping his foot and Mr. Scott. I told them all about it. Yes, I told the detectives that the first party I saw going up the factory after I got back from Montag's was Miss Mattie Smith. That was a mistake. I didn't see Mr. Darley go up after I got back from Montag's. No, I didn't say yesterday that I saw him go up after I got back from Montag's. I don't know whether Mr. Darley saw me or not. I was sitting right there at the box. He could have seen me if he had looked, so could Miss Mattie Smith. The rest of them could have seen me if they had looked. Yes, I told the officers the first time I saw them go up was after I got back from Montag's. That was not so. I was just mistaken about it. Don't know when I corrected the mistake or to whom. Yes, I stated it to Mr. Dorsey. It was after I came from jail. I have corrected it to Mr. Starnes and Mr. Campbell too. It was about 11:30 when Mr. Darley left the factory, right after we got

back from Montag's. It may have been about 11 o'clock. Miss Mattie Smith left the factory somewhere about 9:30. It was after we got back from Montag's that I saw Mr. Darley leave. Mr. Holloway and the peg-legged negro went upstairs and came down before Mr. Darley left the factory. They could have seen me sitting on the box, as they came out the factory. Mr. Holloway left about 10 or 15 minutes after Mr. Darley left. It may have been four or five minutes. After Mr. Holloway left, I told them Mr. Quinn came in. I may have told them that a lady dressed in green was the next one. That wasn't true. A lady in green did go up before Mr. Darley came down. She came down before Holloway and Darley left. If I told the officers that she went up after they left, I made a mistake. Mr. Quinn was the next man that went up after Mr. Holloway came down. Yes, I said that yesterday. Yes, I said yesterday Mr. Quinn was the last man I saw come down. No, I didn't say yesterday Miss Monteen Stover came down after Mr. Quinn came down. I might have told the officers that I saw Mr. Holloway return upstairs, turn to the right toward Hunter Street and go in the factory. If I did, I made a mistake. I don't remember all the mistakes I made. No, I have never told about a lady going up there after them six or seven minutes, I was mistaken. I don't know whether I have ever corrected that mistake or not. She went upstairs and Mr. Quinn went up and came down before she did. If I told the officers she stayed there 7 or 8 minutes and came right down, I made a mistake. I don't think I corrected that mistake at all. I don't know how long it was after she came down before any body else went up and down. If I told the officers it was 10 or 15 minutes that was a mistake. I don't think I corrected that mistake at all. I haven't got any idea at all how long before the lady in green came down that anybody else went up. Yes, I told Mr. Scott and Mr. Black that the only people who went up at all were Miss Mattie Smith, Darley, Holloway and the woman in green, and nobody went up and down until Mr. Frank whistled. No, that wasn't true. The reason why I told that story was because I didn't want them to know that these other people passed by me, for they might accuse me. The reason why I didn't tell them was because I didn't want people to think that I was the one that done the murder. I told them that I saw those four men go up because I didn't think they saw me sitting there, and I didn't tell of seeing the other people for fear they would report on me. The reason why I told the police about those four going up there, because that is all I could remember that went up and down. I don't know when my memory got fresher about other people going up and down. I think it was after I got out of jail. I think I corrected that with Mr. Starnes, Mr. Campbell and Mr. Dorsey, at police headquarters. After I corrected with the detectives down at headquarters, they took me to Mr. Dorsey's office. I have been in Mr. Dorsey's office three times. Mr. Dorsey was down at headquarters with me I think about four times. As to whether it took Mr. Dorsey about seven times to get my testimony straight, it didn't take him that long to get it straight, it took that long for me. As to why I didn't tell it all, I didn't want to tell it all. I was intending to hold back some. I didn't want