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Citation: 1 Leo M. Frank Leo M. Frank Plaintiff in Error vs.
of Georgia Defendant in Error. In Error from Fulton
Court at the July Term 1913. Brief of the Evidence 149

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shown on the plat (Defendant's Exhibit 53). I made a plat of the National Pencil Company plant on Forsyth Street (Defendant's Exhibit 61). The page one of this plat is the basement. Page two is the first floor; the dimensions of the elevator shaft are six by eight and back of the trap door, as shown on the plat, is a ladder going to the basement. The size of the trap door is 2 feet by 2 feet and 3 inches. It is 136 feet from the elevator shaft to the place where the body of the young lady is said to have been found, and 80 feet from the front of the elevator shaft to the trash pile and 90 feet from the elevator shaft to the boiler, and 116 feet from the elevator shaft to the colored people's toilet. It is 135 feet from the elevator to the back stairway. The chute as shown on the page 2 of the plat is five feet wide and 15 or 20 feet long. It empties upon a platform in the basement about eight or ten feet from the back steps and about 32 feet from where the body is said to have been found. The back door is 165 feet from the elevator and the total length is 200 feet. I saw no furniture, except a bunk with old dirty sacks, which were very filthy. The floor of the basement is dirt and ashes. The trash pile is 57 feet from where the body was found and it is 21 feet from where the body was found to the colored toilet, and 42 feet from where the body was found to the back door. The angle from the colored toilet to where the body was found is 43 degrees and the partition in the basement cuts off the vision. I should say that it would cut off about half of the body. It is very dark in the basement. These diagrams are accurate, made according to accurate instruments. On the first floor there is an open areaway, extending to the west end of the building. It has a door about five feet wide. There are two toilets in this open areaway, about 90 feet from the front. This part of the first floor is directly above where the young lady's body was found. The size of the packing room is shown on page 2 of the plat, is about 33 by 80. The inner office of Mr. Frank is $12\frac{1}{2}$ by $17\frac{1}{2}$. When the safe is open, you can see nothing from the inner office to the outer office, or the outer office into the inner office, unless you stand up, and the safe is about $4\frac{1}{2}$ feet high. A person five feet and 2 inches tall could not see over the safe. There are no shades in the windows and a person on the opposite side of the street could look into the office. It is 150 feet from Mr. Frank's desk to the dressing room. There is no view from Mr. Frank's desk to the stairway to the first floor. Looking from Mr. Frank's desk towards the clocks you can see about one-fourth of the east clock. You can not see the bottom of the stairway which leads from the second to the third floor. The doorways in the metal rooms are about six feet wide. They have glass in them. It is ten feet from the door to this dressing room. It is 26 feet from the dressing room to the place marked "lathe," and 37 feet from the lathe to the point where Conley said he found the body. It is 19 feet from the place where Conley found the body to the ladies' toilet.

CROSS EXAMINATION.

There are ashes and cinders along the walk in the basement. Mr.

Schiff showed me the point where the body was found. I made every calculation from the point that Mr. Schiff showed me. I made my diagrams within the last month. About two feet of the wall prevents seeing from the desk in Mr. Frank's office to the stairway. You can only see a part of the east clock and doesn't take in the west clock at all.

RE-DIRECT EXAMINATION.

There will be no difficulty about one person going down the scuttle hole back of the elevator.

RE-CROSS EXAMINATION.

If the Washington Street car had passed the nearest corner, it would be at Pulliam and Georgia Avenue.

FURTHER EXAMINATION.

Sitting near the back door, he could not see the mirror.

FURTHER EXAMINATION.

I do not know what the arrangement was in the Selig home on April 26th.

J. Q. ADAMS, sworn for the Defendant.

I am a photographer. I took photographs of the Selig home at 68 E. Georgia Avenue from the inside and the outside of the back door, looking toward the passageway that leads in the dining room. The door into the dining room was open, for me. This view (Exhibit 62) is view made from the outside of the rear door. I was about three feet outside of the door. The picture does not extend to the mirror, or the sideboard. You could not see them from the outside. This (Exhibit 63 for Defendant) is a photograph taken standing directly in the door. You could not see the mirror with the naked eye or in the picture. The following are views taken at the pencil factory: (Defendant's Exhibit 64) is a picture of the safe, showing a view of the safe, standing just inside of the door of the office, looking toward the inner office. (Defendant's Exhibit 65) is another view of the safe and office made standing in door. You could not see any part of Mr. Frank's desk in inner office, or a man sitting at desk, or a telephone or a window. (Defendant's Exhibit 66) is a photograph taken on the outside of the outer office, looking toward the inner office, with the safe door open. You could not see into the inner office, to Mr. Frank's desk, or a man sitting there. (Defendant's Exhibit 67) shows the pay window. (Defendant's Exhibit 68) shows foot of the elevator shaft, showing the rubbish and barrels in and adjacent to the elevator shaft. (Def.'s Ex. 69) shows basement looking to back door to elevator shaft. (Defendant's Exhibit 70) represents the corner of the place where the body was found, the body being found just about the left corner, be-

hind the partition. (Defendant's Exhibit 71) shows the exit to the back door of basement. (Defendant's Exhibit 72) shows the entrance on the street floor. The elevator is behind the partition on the right of this photograph. (Defendant's Exhibit 73) shows the elevator and trap door and stairway on the first or street floor. (Defendant's Exhibit 74) shows the place where Conley says he found the body. The (Defendant's Exhibit 75) shows the place where the cotton sacks were kept. (Defendant's Ex. 76) is a view of plating room. (Def.'s Ex. 77) is a view of the metal room showing where the floor was chipped by the detectives in front of the dressing room. On the left is the ladies' dressing room. (Defendant's Exhibit 78) shows the lathe. (Defendant's Exhibit 79) shows a view from the third floor looking to the second floor. You can see a man walking from the metal room towards the elevator, just as is shown in this picture. (Defendant's Exhibit 80) shows the elevator box on the second floor. (Defendant's Exhibit 81) shows the wheels at top of the fourth floor. (Defendant's Exhibits 82 and 83) show views of the metal room. (Defendant's Exhibit 84) shows the doors of the metal room. These doors have glass in them. They do not lock. You can push them together, but the locks do not match. (Defendant's Exhibits 85 and 86) show the metal closet with the door open and closed. All these photographs are fair representations and are as accurate as a photograph can be. I have had 20 years' experience. A slight change in the mirror would have made the corner of it visible and would have thrown part of the room in view.

CROSS EXAMINATION.

The mirror could be turned so as to see a reflection in the hall. These photographs were made about a month ago. Sitting in the back door you could not see very near the mirror at the Selig residence.

T. H. WILLET, sworn for the Defendant.

I am a pattern maker. I made the pattern of pencil factory from a blue print. This is the model (Exhibit 13 for Defendant).

CROSS EXAMINATION.

The height of the floors is not made according to scale. The floor plan is a correct representation, according to the blue print. The windows in Mr. Frank's office were not put in by me.

RE-DIRECT EXAMINATION.

I was given no instructions except to follow the ground floor plan as shown on the blue print. This is the blue print (Defendant's Exhibit 87), from which I made the model.

C. W. BERNHARDT, sworn for the Defendant.

I am a contractor and builder. This (Defendant's Exhibit 52) fairly

represents the back porch of the Selig home, as well as the first floor of the house. Standing in the kitchen door you can't look through the passage way and see into the mirror. If you move up a little distance you can see about 18 inches of the mirror. You could see nobody sitting on the south side of the table in the dining room, or on the north side of the table, in fact you can not see the table at all, or the door leading from the dining room to the sitting room. Sitting in a chair against the jamb of the kitchen door, you could not see a man in that mirror. You would have to be a foot or more inside of the door before you get any view of the mirror at all.

CROSS EXAMINATION.

Taking a point between the door and the back porch and a point about the pantry you could see about half of the mirror. The floor in the dining room showed that this furniture had been standing in the same position for some time. You could see the top of a man's head if he were sitting at the table. If the mirror were turned you might get a view. It depends on the angle of reflection. It is easy to move the furniture. The mirror is rigid in the furniture.

H. M. WOOD, sworn for the Defendant.

I am the Clerk of the Commissioners of Roads and Revenues of Fulton County. Standing in the back kitchen door of the Selig residence that enters on the back porch and undertaking to look into the dining room, I could not see the mirror in the corner of the dining room at all. Moving up into the kitchen, near the passageway, I could see nothing but but top of one chair by looking in the mirror.

CROSS EXAMINATION.

The view that I could get of the mirror would depend upon where I stood in the kitchen. I can only speak from the conditions that existed as I saw them as to the arrangement of furniture.

JULIUS A. FISCHER, sworn for the Defendant.

I am a contractor and builder. I looked at the house of the Selig's at 68 E. Georgia Avenue. Standing in the kitchen door, I had very little view of the sideboard. You could see possibly an inch in the mirror. You can get no view from the mirror. The test was made sitting down and standing up. The mirror is four feet high from the floor. You could get no view of the dining room table, nor see a man sitting at the table. The mirror is fixed straight up and down. The view you get depends on the angle of the mirror. If properly adjusted you might see a man standing up.

CROSS EXAMINATION.

I had the mirror turned around, but I couldn't see anything. The mirror was too high from the floor. I don't know what the conditions were on April 26th.

J. R. LEACH, sworn for the Defendant.

I am division superintendent of the Ga. Ry. & Power Co. I know the schedule of the Georgia Avenue line and the Washington Street line. The Georgia Avenue line leaves Broad and Marietta on the hour and every ten minutes. It takes two minutes to go from Broad and Marietta to the corner of Whitehall and Alabama. It takes 12 or 13 minutes to run from Broad and Marietta to the corner of Georgia Avenue and Washington Street, about ten minutes from Whitehall and Alabama to Georgia Avenue and Washington Street. The Washington Street car leaves Broad and Marietta two minutes after the hour and every ten minutes. It gets to the corner of Whitehall and Alabama Streets in two minutes and it takes ten minutes from Whitehall and Alabama to Washington and Georgia Avenue and ten minutes from Glenn and Washington Streets into center of the city.

CROSS EXAMINATION.

The men come in ahead of the schedule time. I suspended a man last week for coming in ahead of time. It happens that cars come in ahead of time. You sometimes catch the men in ahead of time when they are going to be relieved. It isn't a matter of impossibility to keep the men from coming in ahead of time, but we do have it. The English Avenue line is a hard schedule. It frequently happens that the English Avenue car cuts off the River car, and the Marietta car. I have seen the English Avenue car cut off the Fair Street car, which is due at five after the hour.

K. T. THOMAS, sworn for the Defendant.

I am a civil engineer. I measured the distance from the intersection of Marietta and Forsyth Streets to the pencil factory on Forsyth Street. It is 1,016 feet. I walked the distance, it took me four and a half minutes. I measured the distance from the pencil factory to the intersection of Whitehall and Alabama; it is 831 feet. I walked the distance and it took me 3½ minutes. I measured the distance from the pencil factory to the corner of Broad and Hunter; it is 333 feet. I walked it in a minute and three quarters. I walked at a fair rate.

CROSS EXAMINATION.

I could have walked it more rapidly and made it in three minutes. A man would have to walk slower than I walked to take him 6 minutes to go from Marietta and Forsyth to the factory.

L. M. CASTRO, sworn for the Defendant.

I walked from the corner of Marietta and Forsyth Streets to the upstairs of the National Pencil factory on S. Forsyth Street at a moderate gait. It took me 4½ minutes. I walked from the same place in the pencil factory to the corner of Whitehall and Alabama Streets, and it took me three minutes and twenty seconds. I walked from the corner of Hunter and Broad Streets to the same place in the pencil factory and it took me one minute and a half.

PROF. GEO. BACHMAN, sworn for the Defendant.

Prof. of Physiology and Physiological Chemistry Atl. Col. Phys. & Surgeons. Bomar says it takes 4 hours and a half to digest cabbage. That's for the cabbage to pass from the stomach into the intestines. The gastric digestion takes 4 hours and a half. That is the time it is supposed to be in the stomach. More digestion occurs in the small intestine. The pancreatic juice helps digestion mostly in the small intestine. It consists of water in organic salts of which sodium carbonate is the most important, and a number of ferments. The ordinary time that it takes wheat bread to pass out of the stomach is not less than three hours. The time for a meal consisting of cabbage cooked for about an hour and wheat biscuit to pass out of the stomach depends a great deal upon the mastication of the food. The times given above have reference to the most favorable conditions. If the cabbage is not well chewed it would take considerably longer. It is impossible to tell exactly how long. There is no regular rules about how long such substances as cabbage and wheat bread will be found in a person's stomach. It depends upon too many different factors. Even in a healthy normal stomach the digestion might be arrested or retarded at any stage, as by strong emotion such as fear and anger or violent physical exercise, or in the state of mastication. The pylorus prevents passage of food to the intestines except when it is liquid and when there is free hydrochloric acid in the stomach. If solid food touches the pylorus it closes immediately and nothing passes for a time. If there were particles of cabbage in the stomach unchewed in which you can see part of the leaf, they are liable to keep the contents of the stomach in it seven or eight hours or longer by coming into contact with the pylorus. The liquid contents would pass into the intestines. The solid part would be retained for a very long time. The pylorus works mechanically, and unless a chemist knows to what extent those unchewed portions have affected the pylorus he can give no reliable estimate as to how long such food has been in the stomach. It's a guess. The acid in the stomach is hydrochloric, consisting of one atom of hydrogen and one of chlorine. It combines with protein; only one per cent. of cabbage is protein, and only about one per cent. of the cabbage is acted upon in the stomach; the balance is acted upon in the small intestines, and in the mouth, where digestion begins to a certain extent. The salts in the saliva act on the starch in the cabbage. This cabbage (State's Exhibit G)

I don't think has been masticated at all so far as these pieces are concerned. There can be no doubt that these pieces would retard the digestion and the passage from the stomach into the small intestines. The presence of such cabbage would make it very uncertain as to how long before the food would pass out of the stomach. I couldn't say, and I don't think anybody could say, how long cabbage and wheat bread in such condition would stay in the stomach. As far as wheat bread and water are concerned the acidity of the stomach with reference to hydrochloric acid may go between 40 and 60 degrees, which is the average height of the acidity. With wheat bread in the same shape of biscuit it would take the acidity about an hour to reach that height. With cabbage we don't know how long it would take it to reach that height. The acidity may rise very quickly and decline slowly. It would not necessarily take it one-half of the 4½ hours necessary for digestion. When the acidity reaches a certain height it begins to descend. The longer it stays in the stomach it decreases. If you find 32 degrees in the body of a corpse you cannot tell whether it is on the ascending or decreasing scale. There is no data on how long it would take the acidity to reach its height in case of cabbage. If a gallon of the juices of a corpse are taken from the body and a gallon of embalming fluid, which is 8 per cent. formalin, is put in, it would destroy the ferments in the pancreatic juices. There would be no way to tell by testing such a body whether any of that pancreatic juice had been in the lower intestine or not, for the only way to tell that is to find the action of the ferment, and if the formalin has destroyed it you can't tell anything about that at all. After formalin has been in the body it is difficult to tell how long food has been in the stomach. Formalin destroys the pepsin in the stomach. I never heard of hydrochloric acid being measured by drops before, because it is vapor. If I investigated a stomach and found wheat bread and cabbage, some of which was in that condition (State's Exhibit "G") and approximately a drop and a half or two drops of combined hydrochloric acid, the stomach being taken out during a post mortem on a subject that has been interred nine of ten days, a gallon of the liquids of the body having been taken out and a gallon of embalming fluid put in it, and if I further found the acidity of the stomach to be 32 degrees and practically no pepsin, and practically nothing in the lower intestine, the body having been embalmed with formaldehyde, it would be impossible for me or any other chemist or physician to tell anything about the time it had been in the stomach. The acidity of the stomach does not suffice to show it, because it may have been higher than that. There may have been considerable free hydrochloric acid, and that may have disappeared after the body had been embalmed, or even before that some of it will combine with the walls of the body and some passes out. Not finding anything in the lower intestine would be of no value at all, because the ferments would be destroyed entirely.

CROSS EXAMINATION.

If I took the contents of an absolutely normal stomach and made a positive test and found starch there, and there was nothing to indicate that anything was stopped up, and the intestines six feet below were absolutely clear, and nothing has moved out of the stomach, that would show me nothing as to how far digestion had progressed, for starch is found in the stomach from the beginning of digestion until the last particle of bread has passed out of the stomach and that may be three or four hours. Medical men are able to compile tables showing how long it takes to digest cabbage and other things by testing for protein, but not for starch, because proteins are the only substances which combine with the hydrochloric acid and which are digested in the stomach, and that can be done only within certain limits and not with mathematical certainty. If the starch digestion is not interrupted, maltose would be found in the stomach, but if I made a test and found starch, but no maltose, I could express no opinion unless the food had been well masticated, and unless I knew how soon after the food entered the stomach that free hydrochloric acid appeared, because free hydrochloric acid stops the starch digestion. Finding starch and no maltose would not necessarily mean that digestion had not progressed very far, because free hydrochloric acid may have appeared soon after the food entered the stomach and stopped starch digestion. In the average case I would say the starch had not been in the stomach very long. In an ordinary normal stomach you might find maltose before the food reaches the stomach, even in the mouth. It depends on mastication. If I did not find it in the mouth or stomach I could not say how long digestion had progressed. If I was told that these samples (State's Exhibit "G") were taken from a normal stomach within from 40 to 60 minutes after they were taken in it, I would answer that they might have been in the stomach 7 or 8 hours. When it is said in the books that it takes four hours to digest cabbage it means cabbage which has been well chewed, not cabbage of that kind. (State's Exhibit "G").

RE-DIRECT EXAMINATION.

Cabbage, like this (State's Exhibit "G") could pass from the body whole. Before it could be told with any degree of certainty how long after eating a meal of bread and cabbage 32 degrees of hydrochloric acid would be found, numerous observations would have to be made.

DR. THOMAS HANCOCK, sworn for the Defendant.

A doctor for 22 years. Engaged in hospital work 6 or 7 years. Have treated about 14,000 cases of surgery. Have examined the private parts of Leo M. Frank and found nothing abnormal. As far as my examination disclosed he is a normal man sexually. If a body is embalmed about 8 or 10 or 12 hours after death, a gallon of the liquids of the body

removed, a gallon of embalming fluid, containing 8 per cent. formaldehyde is injected, the body buried and a post mortem examination made at the end of 9 or 10 days, and the doctor finds back of the ear a cut which is opened and which extends to the skull about an inch and a half long and finds on the inside of the skull no actual break of the skull, but a slight hemorrhage under the skull corresponding to the point where the blow had been delivered and there is no interference with the brain or any pressure on brain, no doctor could tell that long after death whether or not wound would have produced unconsciousness, because the skull may be broken and considerable hemorrhage and depression occur without any loss of memory even. There is no outside physical indication of any sort that a man could find that can tell whether it produced unconsciousness or not. If the body was found 8 or 10 or 12 hours after death with that wound and some blood appears to have flowed out of the wound, that wound could have been inflicted before or after death, the blood might flow from a wound inflicted after death from one to six or eight or ten hours by gravity. If the wound was made during life by a sharp instrument I would expect it to bleed. A live body bleeds more than a corpse. If under the above conditions only a visual examination of the lungs was made and no congestion was found, it could not be stated with certainty whether or not the person died from strangulation. If in such a subject I removed the stomach and found in it wheat bread and cabbage partly digested like that (State's Exhibit "G"), and 32 degrees of acidity in the stomach and very little liquids or anything in the smaller intestine and feces some 5 or 6 feet further down, and if the stomach was taken from the body 9 days after death, after it had been embalmed with a preparation containing 8 per cent. formaldehyde, neither I nor anybody else could give an intelligent opinion of how long that cabbage and wheat bread had been in the stomach before death. The digestion of carbohydrates begins in the mouth. The more cabbage and wheat bread are masticated the more easily it is digested. Cabbage chewed like that (State's Exhibit "G") would take longer to digest. It is liable to stay in the stomach 3, 4 or 5 hours, and longer if it is stopped up by the pylorus, and when food is not chewed thoroughly, it causes irritation and constriction, and so the stomach would retain the food longer. Sometimes cabbage passes out of the body whole. No dependable opinion could be given as to the time that cabbage had been in the stomach from the conditions of acidity or lack of acidity, starch or the lack of starch, maltose or the lack of maltose. The conditions are too variable. A great many things retard digestion, such as excitement, anger and grief. Formaldehyde stops all fermented processes of the pancreatic juices, and after a body was embalmed with it I would not expect to find the pancreatic juices. It also destroys the pepsin, so that 10 days after death in the case of a body embalmed with formaldehyde no accurate opinion could be given as to how long the cabbage (State's Exhibit "G") had been in the stomach. Each stomach is a law unto itself. Cooked cabbage is more difficult to digest than raw cabbage. I recently made

tests with one man and four women with normal stomachs, giving them cabbage and wheat bread, and removing it from the stomach a little later to determine how the contents of the stomach looked. The first woman, age 22 (Defendant's Exhibit 88A) ate loaf bread and cabbage, chewed it well and vomited it 60 minutes later. She ate it at 12 o'clock approximately. It took her 9 minutes to chew it. None of them were supposed to have eaten anything since 6:30 o'clock that morning, but she had drunk some chocolate milk at 9:30, and that gives this specimen the chocolate brown color. The next one (Defendant's Exhibit 88B) has in it the hot water and the entire vomit and embalming fluid added to it, that is formaldehyde. This cabbage was not well chewed, and looks like it did before it was eaten. She ate it at 5 minutes after 12, and it stayed in her stomach 45 minutes. The next one (Defendant's Exhibit 88D) was a man 25 years old. He did not chew his well. He ate it in 5 minutes. I took it from his stomach 1 hour and 15 minutes later. It was not digested. This next one (Defendant's Exhibit 88C) was a woman, aged 21. She chewed it well, and held it from 30 to 45 minutes. There seems to be something like tomatoes in it which she ate at 6:30 that morning. This last one (Defendant's Exhibit 88E) was a woman, aged 25. She ate cabbage and bread. She did not chew it well, and kept it 2 hours and 28 minutes. You can see cabbage in there. No dependable opinion resulting from the condition of the contents of the stomach irrespective of acidity or the other chemical qualities as to how long cabbage and wheat bread were in the stomach can be given where particles like that (State's Exhibit "G") are found. Where a young lady 13 or 14 years old died, her body is embalmed as above described, and a post mortem performed 9 or 10 days after death, and the physician finds epithelium detached from the walls of the vagina in several places, nothing being visible to the naked eye and he takes several parts of the wall of the vagina away and examines them with a microscope and discovers that the blood vessels are congested, that is, there has been a hemorrhage in a number of instances, the blood from those microscopic vessels getting into tissues, the removal of the epithelium could be accounted for by the fact that there has been a digital examination the day after death by inserting the fingers, but in that length of time I would expect the epithelium to shed off. Finding the epithelium missing in several places or separated from the wall of the vagina would not indicate any violence done to the subjects in life. The condition of the blood vessels above described I would expect to result from other causes than violence. The embalming might force the blood through the small capillaries. If the subject had just had her menstrual period and that had come back on her at about the time of death or before, that would account for those distended blood vessels and hemorrhage; but even if violence caused them, you could not tell how long before death that violence had been inflicted, or that it had been inflicted within from 5 to 15 minutes before death. Death by strangulation might have an effect on those blood vessels. If there was no more damage than what I have described I would say certainly there was no

violence on the young woman. A bruise or discoloration could be produced on the eye or face any time before the blood coagulated utterly, which may be as long as 8 or 10 or 12 hours after death. A blow on the back of the head can discolor the eye. Death can be produced by a blow on the outside of the head by concussion without any appreciable lesion on the outside of the head.

DR. WILLIS F. WESTMORELAND, sworn for the Defendant.

DIRECT EXAMINATION.

A practicing physician for twenty-eight years, general practice and surgery. A professor of surgery for twenty years, and formerly president of the State Board of Health. If the body of a girl between thirteen and fourteen years old was embalmed about ten hours after death, after taking out a gallon of fluid and putting in a gallon of embalming fluid, of which 8 per cent. is formaldehyde and the body was buried and nine or ten days after upon a post mortem examination a cut an inch and a half long cutting through to the skull in some places was found by the ear, and the skull was opened and on the inside of the skull no actual break of the skull was found, but a little hemorrhage under the skull corresponding to this point where the blow had been delivered and no pressure on the brain was caused, and no injury to the brain occurred it would be impossible to tell whether or not that would have produced unconsciousness before death. Skull may be fractured without producing unconsciousness. Death may be produced by a blow on the head that leaves very little outward signs. From looking at such a wound without any knowledge of the amount of blood lost, one could not tell whether it was inflicted before or after death. One could not tell from looking at a wound of that sort from which direction it was inflicted. [In answer to question as to whether he had any personal feeling against Dr. Harris, witness answered "No," but that he had preferred charges with State Board of Health charging Dr. Harris with professional dishonesty]. A blunt surface can produce a wound that would look like a cut. If in the case of the same patient the stomach was taken out and in it was found wheat bread and cabbage, some of the cabbage looking like that (State's Exhibit "G," and thirty-two degrees of combined hydrochloric acid and substantially nothing in the small intestine, and feces some five feet away, it would be impossible to form a reliable opinion that cabbage and bread had been in that stomach before death, on that data or any other data, that could be found by looking at the stomach nine or ten days after death. Many things retard digestion. Much depends upon the particular stomach, and its affinity for particular foods. There is a cycle of acidity and in the progress of digestion that increases, and then later it goes down. Food that is not thoroughly emulsified will remain in the stomach indefinitely. Cabbage like that (State's Exhibit "G") and wheat bread might remain in the stomach until the process of digestion is complete, which ordinarily would be from three and a half to four

hours. They might pass through the body undigested. A formaldehyde embalming preparation would destroy the pancreatic juices, and also the pepsin in the stomach. The probability is that some of the hydrochloric acid and maltose found upon an examination of the stomach in such a case would in no way determine how long food has been in the stomach. If upon the post mortem above described, it was found that the epithelium had been so effected that it had been removed from the wall of the vagina in several places, and upon a microscopic test of the wall of the vagina it was found that some of the small blood vessels had congested blood in them, these facts would not necessarily indicate violence of any kind during life, it being also known that there had been a digital examination by the physician just after death and before embalming, and that the physician performing the post mortem had removed the wall of the vagina with his hand and scissors. Any epithelium can be very easily stripped after death. The digital examination could have stripped it. So could the removal for purposes of post mortem examination. If the subject had had a menstrual period a day or two before death and she was found in the act of menstruating at the time of death, this would account for the congested blood vessels, and it would also make the epithelium much easier to strip. Even if an opinion could be expressed as to violence before death, it would be impossible to say that it occurred from five to fifteen minutes before death. From an examination of the private parts of Leo M. Frank he appears to be a perfectly normal man. A black eye could be inflicted after death. As long as the blood is not coagulated. A lick on the back of the head could produce a black eye.

CROSS EXAMINATION.

There are sexual inverts who are absolutely normal in physical appearance. If I had a subject where there was a blow on the head, going practically to the skull, with no injury to the brain, and the face was livid, the tongue hanging out, with deep indentation in the neck, the flesh pushed out of place, with blue nails and lips, I would say that death was produced by strangulation, in the absence of other facts. A blow on the eye could produce a swollen condition after death. Even assuming that the doctor who went into the uterus and vagina with his fingers was very careful and did not rupture or injure the parts or cause dilation, and if the microscopical examination showed a dilation of the blood vessels of the vagina, discoloration of the walls, and swelling of the parts, the menses could have brought about this condition, and it would not necessarily be due to violence. Menstruation would not produce discoloration except there would be an increased reddening on account of the increased amount of blood. This change of color will be found wherever epithelium was, in the uterus and in the vagina. It would produce swelling wherever the mucous membrane was. A doctor could not look at cabbage in various stages of digestion and venture an opinion as to how long it had been in a woman's stomach. Doctors do not know, even approximately, how soon after a stomach receives a certain substance be-

fore hydrochloric acid is found in a free state. It may be delayed for hours, it may be found earlier. Digestion has no fixed rule at all. The usual rule is the hydrochloric acid is found within a range of about half an hour. The time when it begins to descend depends upon the character of the food in the stomach and as to how the glands are acting.

RE-DIRECT EXAMINATION.

The human tongue could not produce any sigus of violence in the vagina. Where there is a skull wound an inch and a half long cutting through the little arteries like the wound described above, it would bleed and if the body lay in one place 30 or 40 minutes there would be bleeding and if the body is picked up and carried about 40 feet and dropped at another place I would expect to find blood there. Skull wounds bleed very freely and there would be blood wherever the body was.

DR. J. C. OLMSTEAD, sworn for the Defendant.

Practicing physician for 36 years. Given the facts that a young lady 13 or 14 years old died and 8 or 10 hours after death the body was embalmed with a preparation containing 8 per cent. formaldehyde, and the body is exhumed at the end of 9 or 10 days, and a post-mortem examination shows a wound on the left side of the back of the head about an inch and a half long, with cuts through to the skull, but no actual fracture of the skull, but a hemorrhage under the skull corresponding to the point where the blow was delivered, with no injury to the brain, it would not be possible for a physician to determine whether or not that wound produced unconsciousness before death. Such a wound could have been made within a short while after death. It is impossible to tell from the mere fact of discoloration whether an eye was blackened before or after death. If the post-mortem made on the same subject 9 or 10 days after death showed upon an examination of the contents of the stomach a mixture of wheat bread and cabbage like this (State's Exhibit G), it being possible to distinguish a cabbage leaf, and 32 degrees of acidity, it would not be possible to determine from these facts or any other chemical facts that might be found there how long that had been in the stomach with any degree of accuracy. It is impossible to tell when hydrochloric acid begins to be secreted in a given case. The hydrochloric acid follows a curve; as a rule it ordinarily begins slowly until it reaches a certain point and then gradually goes off according to the character of the food and the amount in the stomach. After death free hydrochloric acid and pepsin do not remain in such a state in the stomach that you could tell 9 days afterward the exact time of death. The hydrochloric acid disappears after death, and neither it nor the pepsin would be present in any degree 9 or 10 days after death. Embalming fluid destroys the pancreatic juices so that it would be impossible to find them. Cabbage like that (State's Exhibit G) is liable

to obstruct the opening of the pylorus, and to delay digestion. Food of that character might remain in the stomach undigested for 10 or 12 hours irrespective of the acid found there. If shortly after death a doctor makes a digital and visual examination of the vagina, opening the walls of the vagina with his hand and finds no signs of violence and then 9 or 10 days after death a post-mortem examination shows the epithelium detached from the walls of the vagina in a number of places, and a microscope shows on parts of the vagina removed from the body that the blood vessels are congested, this may be due to menstruation or the natural gravitation of blood to those parts and is not necessarily indicative of violence. Manipulation of the membrane would account for the displacing of the epithelium. The use of embalming fluid would make a diagnosis of violence utterly unreliable. Strangulation might result in a distension of the blood vessels. The entire pelvic vessels are always more or less congested during menstruation. No one could make a digital examination of the vagina of a corpse without disturbing the epithelium. It would be impossible for a doctor finding those conditions in the vagina by means of a microscope 9 or 10 days after death to tell that violence had been inflicted from 5 to 15 minutes before death.

CROSS EXAMINATION.

There are medical tables showing that wheat bread digests in about 2 1-2 hours and cabbage in about 4 1-2 hours. If cabbage cooked in the same way and bolted down in the same way is taken from the stomach of a living person within 30 or 50 minutes after having been eaten and is found in a similar condition to that of cabbage taken from the dead person's stomach 10 days after death, that would not necessarily mean that the latter cabbage had been in the stomach an equal length of time.

DR. W. S. KENDRICK, sworn for the Defendant.

I have been a practicing physician for thirty-five years. I was Dean of the Atlanta Medical College. I gave Dr. Harris his first position there. If a young lady between thirteen and fourteen years of age died and a post-mortem examination was made within eight or ten days after death, by a physician who makes a digital and visual examination to determine whether there is any violence to the vagina or not, and inserts his fingers for the purpose of deciding, and the body is embalmed, and after nine days it is disinterred and another post-mortem performed and the physician performing the post-mortem takes a half dozen strips and sees nothing with his naked eye by way of congestion, but by the use of a microscope finds that some of the epithelium is stripped from the wall of the vagina, I don't think that the finding of the epithelium stripped from the wall would indicate anything unusual. I don't think that would indicate any act of violence. A female's menstrual periods brings about congestion and hemorrhages of the blood vessels every time. The congestion gradually subsides within two or three

days. That would not be any indication of violence, nor could you tell how long before death the violence had been inflicted. If a young lady had a wound on the back of the head about an inch and a half long cutting to the skull and the skull was open and a small hemorrhage was found, that did not involve pressure on the brain and the brain itself was not injured, I am positive that no man examining the body nine or ten days after death could have any way of telling whether that wound would produce unconsciousness or not. It would be a pure conjecture if he said anything on that subject. Skulls are sometimes fractured without unconsciousness. Each stomach is a law to itself. It is a known fact that some stomachs will digest different substances quicker than others. I don't think that there is an expert in the world who could form any definite idea by either chemical analysis of the liquids of the stomach or by the condition of the cabbage lodged in the stomach as to how long it had been in the stomach.

CROSS EXAMINATION.

I am not a specialist of the stomach, but I am and have been teaching diseases of the stomach and all these cases come under my jurisdiction. Dr. Westmoreland is a surgeon, not a stomach specialist. Dr. Hancock is not a stomach specialist. If you find starch granules in the stomach undigested and cabbage undigested and thirty-two degrees of hydrochloric acid in the stomach and no dextrose and no maltose, the small intestines for six feet absolutely empty, the sides and glands of the stomach all normal, I would not have an opinion as to how long that cabbage was in the stomach for the reason that each case will order itself. Yes, there are certain general principles dealing with these matters. Hydrochloric acid appears early during digestion and in small quantity, and goes up. The main things in the stomach are pepsin and hydrochloric acid. As soon as a piece of cabbage or bread gets into the stomach the hydrochloric acid begins to attack it and works until it has a clear field and leaves nothing in the stomach, and thereafter the hydrochloric acid descends. I have made no effort whatever to find out how rapidly hydrochloric acid descends and ascends. I should think though that whenever you find no hydrochloric acid the process of digestion is ended and that if you find undigested things in the stomach and hydrochloric acid in a small degree, that the process of digestion had not been finished. That's the general rule. That does not apply in all cases. For instance, I can't digest cabbage at all. It will put me in bed. Each stomach is a law unto itself, so far as digestion goes, any statement to the contrary is incorrect. There are certain basic laws that apply to most people. I haven't read a work on digestion in ten years. If there be four different stages of digestion, I think it would be impossible for an expert to tell by an examination what stage of digestion certain things were in. There are so many exceptions to the rule. As to whether the cabbage had been digested or not, if whole pieces of

cabbage were there I could tell, but if you could not find the cabbage either with the naked eye or the microscope, I would say that it had been digested. I don't know how long it takes an ordinary stomach to digest turnips. If a 13-year-old child ate cabbage and bread on Saturday and her body is found that night about three o'clock, with the tongue out, deep indentations in the neck, a small flow of blood from a wound in the back of the head, a discolor of blood over her pantlets, one of the drawers legs torn, the stocking supporter torn loose rigor mortis had set in since 16 to 20 hours, all blood had settled down in that part where gravity had taken it according to the way the body was lying and the small intestine was clear six feet below the stomach, the stomach was normal, and there was no mucous and every indication was that the digestion was progressing favorably and this cabbage was found with the naked eye in the stomach and unmistakable evidences of undigested starch granules and thirty-two degrees of hydrochloric acid, I say emphatically that no man living in my judgment could say how long that cabbage had been in the stomach. If Mary Phagan was alarmed concerning her surroundings, or knew that certain facts were upon her, digestion then and there would have almost been completely arrested. If she lived six or eight hours after this alarm, I say that no digestion could have continued up to the time of her death. Any kind of mental or physical excitement would largely arrest digestion, probably completely. I could tell by looking into the stomach that day, but if I examined that ten days afterwards, and found the cabbage in that state and I had said that death or excitement had arrested its digestion I would consider that I had stated one of the greatest absurdities of the day. I don't believe it is possible to tell a thing in the world of the contents of the stomach of a person that had been dead six or eight or ten days. Yes, that looks like cabbage (State's Exhibit G).

RE-DIRECT EXAMINATION.

That cabbage doesn't look (State's Exhibit G) as if it had been chewed at all. Cabbage chewed that way would be hard to digest.

JOHN ASHLEY JONES, sworn for the defendant.

I have known Mr. Frank about a year or eighteen months. His general character is good.

CROSS EXAMINATION.

I am resident agent for the New York Life Insurance Company. I don't know any of the girls at the pencil factory. I have never heard any talk of Mr. Frank's practices and relations with the girls down there. Mr. Frank has a policy of insurance with us. It is our custom to seek a very thorough report on the moral hazard on all risks. The report on him showed up first class, physically as well as morally. I

went to him in January, 1912, and tried to write him additional insurance, and on April 8th I went to the factory to take his application, where I met him and his wife. After a thorough examination of him by our physician and a very satisfactory report, covering his moral reputation, we issued him a standard policy. I have never heard of Mr. Frank going out to Druid Hills and being caught there, but it was the business of our inspector to find out that and he certainly would not have issued such a policy if he had found it out. Two or three of us in the office signed a long letter to the Grand Jury in the interest of justice. Mr. Robert L. Cooney, Mr. Hollingsworth, Mr. Clark and myself signed it. We decided this was a matter of persecution. I think Mr. Cooney started it. No, I have never heard of Mr. Frank's kissing girls and playing with their nipples on their breasts. I have never known Mr. Blackstock. I never heard that Mr. Frank would walk into the dressing room when the girls were dressing, nor that he tried to put his arms around Miss Myrtis Cato and tried to shut the door on her, or going in the dressing room with Lula McDonald and Rachael Prater, nor that Mrs. Pearl Darlson about five years ago threw a monkey wrench at him when he put his hand on her and held money in one hand. I have never seen any nude pictures hanging in his office, although I have been there a number of times. I have never heard that he smiled and winked at young girls.

RE-DIRECT EXAMINATION.

This is the letter I wrote to the Grand Jury: Mr. W. D. Beatty, Atlanta, Ga. My Dear Sir: Without having the slightest intention of interfering in any way in matters which do not concern me, I believe that the interest which any good citizen has in impartial justice warrants my saying that the business men to whom I have talked, commend very strongly the attitude of the Grand Jury in its disposition to at least investigate the merits of the situation as regards the negro Conley in the present matter which has interested the city of Atlanta so much that it is not necessary to describe it, and I sincerely hope that the Grand Jury will go into the matter exhaustively, knowing from the character of several of its members with whom I am acquainted that, to the best of their ability, the right thing will be done."

DR. LEROY CHILDS, sworn for the Defendant.

I am a surgeon. If a person dies and the body found three o'clock in the morning, rigor mortis not quite complete, embalmed the next day about ten o'clock, the body disinterred nine days later and a post-mortem made, and a wound is found on the back of the head behind the ear, almost two and a quarter inches long going through the skull, there was perhaps a drop of blood under the wound, no pressure on the brain, no fracture of the skull, it would be impossible to determine absolutely at that time whether or not that wound produced unconsciousness. You

might hazard a guess. The presence of the blood on the skull would have no effect. It is the force that produced the drop of blood that is material. It would be purely a guess to say whether that produced unconsciousness or not. The wound would bleed if inflicted within an hour after death and would have the same appearance as if inflicted just before death. With such a wound it would be a guess for a doctor to say whether it was inflicted just immediately before death, or within an hour or two after death. Such a wound could be inflicted and a person remain perfectly unconscious. Fractured skull does not necessarily produce unconsciousness. Cabbage is a carbohydrate. It is considered the hardest food to digest among carbohydrates, because it has so much cellulose which is a woody fibre. The older the cabbage is the more cellulose it has. Cabbage gets its digestion in the mouth. That cabbage (State's Exhibit G) has not been masticated thoroughly. They have been swallowed almost whole. Raw cabbage is easier digested than cooked cabbage. Cooked cabbage is the most indigestible form of it. It is the ptyaline in the saliva that acts on the cabbage in the mouth. It acts on the carbohydrate part of the cabbage. The carbohydrate digestion ceases after it leaves the mouth until it reaches the small intestines. The only thing that the stomach does is the churning movement by muscular action. As soon as gastric juice of the stomach strikes the cabbage it neutralizes the ptyaline and renders it inactive. It stops any further digestion of the carbohydrate. The balance of the digestion of the cabbage takes place in the small intestines by the pancreatic juices. The shortest time for boiled cabbage to pass into the small intestines is four and a half hours after it is eaten. The stomach does not digest the cabbage. A person may swallow cabbage and it will come out of him whole completely undigested, and it will appear less changed than that appears (State's Exhibit G). Psychic influences will retard digestion as excitement, fear, anger, also physical or mental exercise. Substances may be in the stomach quite a while and show very little evidences of digestion. Each stomach has its own peculiarities. If a human body is disinterred at the end of nine days and the stomach is taken out and among the contents you find cabbage like that (State's Exhibit G) and fragments of wheat bread slightly digested, you could not by looking at the cabbage hazard an opinion as to how long before death that had been taken into the stomach. I don't think it is possible to state within a period of hours how long that cabbage had been in the stomach. I have seen cabbage less changed than that cabbage you exhibited to me (State's Exhibit G) that has remained in the stomach 12 hours. Bread and cabbage will not begin to pass out of the stomach until 2 1-2 to three hours. A blow on the back of the head could blacken the eye. It would be perfectly possible for the epithelium of the vagina to be ruptured by the fingers in making a digital examination it would be more liable to rupture it ten hours after this than immediately before this. Decomposition destroys the epithelium. It is a very delicate membrane. Decomposition develops very rapidly on such epithelium. In

cases of death by strangulation all the mucous membranes throughout the body are congested by blood. It is not unusual to find those blood vessels congested where death is by strangulation. In such a case I would expect to find congestion in the vagina, especially if a person had just had her monthly periods. Menses may be brought back by excitement. Violence would not be necessary to produce the conditions of congestion of the blood vessels that you have stated. The digital examination would be sufficient violence to produce the changes in the epithelium that you have stated. The congestion of the blood vessels could be entirely accounted for by natural causes, or from death by strangulation. If the epithelium stripped in some places and the blood vessels are found congested under the microscope, there is no possible way to determine if violence had caused it instead of natural causes, unless there is a sign of bacterial inflammation. It would be impossible to tell how long violence was inflicted before death, where the body is disinterred nine days after death. I could not hazard a guess within two days of the time. I think I might in two weeks.

CROSS EXAMINATION.

The amount of digestion in the mouth depends on the amount of mastication in the mouth. If the food is bolted there is no digestion. I am not familiar with Dr. Crittendon's table. If he states that boiled cabbage is as easy to digest as raw cabbage he is at issue with the generally accepted authorities. Normal stomachs have certain idiosyncracies. Digestion in normal stomachs is supposed to go along certain stipulated rules. You find free hydrochloric acid in any stomach that has food at any stage of digestion. As to whether you could ever find free hydrochloric acid in the stomach immediately after taking Ewald's test breakfast, would depend entirely on the state of the glands, and how long previous digestion had been in the stomach. As to the total acidity in a stomach after such a test, that is for a laboratory man. If you take cabbage out of a stomach like that (State's Exhibit G), the size of the stomach is normal, no obstruction to the flow of the stomach, and you find hydrochloric acid combined to about 32 degrees, no free hydrochloric acid, that the starch of the wheat bread is slightly digested, and the state of the starch corresponds exactly to the state of the cabbage, I don't think you could tell inside of two hours or an hour and a half as to how long these things have been in a normal stomach. I have taken cabbage from a stomach by forced emesis twelve hours afterward and it did not show as much digestion as this cabbage (State's Exhibit G). The patient had a normal stomach, but the cabbage produced indigestion. That is the only experiment I have ever made with cabbage. If the little girl was found 16 to 20 hours after she was murdered, and there is a wound on the back of the head, with a small blood clot nine days after the thing happened, and 16 to 20 hours after her death the blood underneath the hair is still moist and there is a deep

indentation in the neck, showing where a cord had been put around the throat and the tongue is out and the face livid and the nails blue and the lips blue and an injury to the wind pipe, I would say that the blow on the head did not cause death.

ALFRED LORING LANE, sworn for the Defendant.

I am a resident of Brooklyn, N. Y. I have known Leo Frank about 15 years. I knew him four years at Pratt Institute which we both attended. I also knew him after he returned from Cornell University. His general character is good.

PHILIP NASH, sworn for the Defendant.

I live in Ridgewood, N. J. I am connected with the New York Telephone Company, in New York City. I knew Leo Frank four years at Pratt Institute. I was in his class. His general character is good.

RICHARD A. WRIGHT, sworn for the Defendant.

I live in Brooklyn, N. Y. I am a consulting engineer, with offices in New York City. I knew Leo Frank four years at Pratt Institute. I also knew him three years at Cornell. His general character is good.

HARRY LEWIS, sworn for the Defendant.

I live in Brooklyn, N. Y. I am a lawyer. I was formerly Assistant District Attorney of Brooklyn. I have known Leo Frank about twelve years. I have been a neighbor of his until he came South. His general character is good.

HERBERT LASHER, sworn for the Defendant.

I live in New York State. I manage my father's estates. I knew Leo Frank at Cornell University, during the years 1903-4-5-6. I was in his class, and we roomed together for two years. His general character was very good.

CROSS EXAMINATION.

He associated with the finest class of students at the University. I kept up a correspondence with him a couple of years after he left Cornell.

JOHN W. TODD, sworn for the Defendant.

I reside in Pittsburg. I am assistant purchasing agent for the Crucible Steel Co. I attended Cornell University with Leo Frank. I knew him for years during the time I was in College. I am the life treasurer of our class. His general character was good.

PROF. C. D. ALBERT, sworn for the Defendant.

I am professor of machine designs in Cornell University. I have held that chair for five years. I knew Leo M. Frank for two years while he attended the University. At that time I was instructor in mechanical laboratory, and as such I came in contact with him. His character was very good.

PROF. J. E. VANDERHOEF, sworn for the Defendant.

I am foreman of the foundry at Cornell University. I knew Leo Frank for two years when he attended the University. His character was good.

CROSS EXAMINATION.

I have been at Cornell 25 years. As to what caused me to take any special notice of Leo Frank I come in contact with him every alternate day while he was there. I know the characteristics of the boys very well. No, I cannot tell what Frank did when he was in the class-room.

V. H. KRIEGSHABER, sworn for the Defendant.

I live in Atlanta. I have known Leo Frank for about three years. His general character is good.

CROSS EXAMINATION.

I did not come in contact with him frequently. I am a trustee of the Hebrew Orphans' Home and Mr. Frank is also. I met him once a month there. I don't know how long he has been on the board. I have met him there probably twice. He also came quite frequently to the Orphans' Home with his uncle, before he was elected to the board. I did not come in contact with him socially.

M. F. GOLDSTEIN, sworn for the Defendant.

I practice law in Atlanta. I have known Leo Frank about three and a half years. His character is very good.

CROSS EXAMINATION.

We used to live on the same street together. I would see him nearly every day. I would see him at the Progress Club a few times every month. During the last two years, he was the next ranking officer to me in the Lodge.

DR. DAVID MARX, Jewish Rabbi, and R. A. SONN, Superintendent of the Hebrew Orphans' Home, being sworn for the Defendant, tes-

tified that they had known Leo Frank very well ever since he came to live in Atlanta and that his character was good.

ARTHUR HEYMAN, sworn for the Defendant.

I practiced law about nineteen years in Atlanta. I have known Leo Frank for three or four years. His general character is good.

CROSS EXAMINATION.

I have been with him seven or eight times in three years. I have been with him alone, I suppose, five or six times, probably for fifteen or twenty minutes at a time. I have never heard any reference made to his relation with the girls in the factory.

MRS. H. GLOGOWSKI, sworn for the Defendant.

I keep a boarding house in this city. I have known Mr. Frank more than three years. He and his wife boarded with me for seven months. His character is good.

MRS. ADOLPH MONTAG, sworn for the Defendant.

I am a sister of Mr. Sig Montag. I have known Mr. Frank five years. His character is very good.

CROSS EXAMINATION.

I have heard of his character through the ladies he has lived with. Mrs. Meyers has told me how nice he always was to her. My husband has always spoken well of him. I have heard a great many people speak well of him. I heard his uncle speak well of him. My husband has told me what a fine, intelligent gentleman he was.

MRS. J. O. PARMELEE, sworn for the Defendant.

My husband is a stockholder in the National Pencil Company. Mr. Frank's general character is very good.

CROSS EXAMINATION.

I have seen Mr. Frank at the jail twice. I have only come in contact with him once at the factory. I am a member of the Board of Sheltering Arms, and I have heard a great deal of Mr. Frank in matters of charity and in a social way. I have heard different people speak of him, a great many people. I have heard the Liebermans, the Montags, the Haases, Mrs. Bauer, Mr. Parmalee and the employees at the factory speak of him.

MISS IDA HAYS, sworn for the Defendant.

I work at the pencil factory on the fourth floor. I have known Mr. Frank for two years. His general character is good. I have known Conley for two years. His general character for truth and veracity is bad. I would not believe him on oath.

CROSS EXAMINATION.

Conley borrowed money and promised to pay it back, but he didn't do it. We would get it after awhile. He tried to borrow money from me, but I refused to let him have it.

MISS EULA MAY FLOWERS, sworn for the Defendant.

I work on the second floor of the pencil factory. I have known Mr. Frank for three years. His general character is good. I have known Conley for 2 years. His general character for truth and veracity is bad.

CROSS EXAMINATION.

His borrowing money and not paying it back is one thing. He has promised and he has never paid back anything he has ever borrowed from me. I had Mr. Gantt take it out of his envelope. I have never met Mr. Frank anywhere for any immoral purpose.

MISS OPIE DICKERSON, sworn for the Defendant.

I have worked at the pencil factory for 17 months. Mr. Frank's general character is good. I have never met Mr. Frank for any immoral purpose. I have known Jim Conley ever since I have been at the factory. His general character for truth and veracity is bad. I would not believe him on oath.

CROSS EXAMINATION.

I know Mr. Darley and Mr. Wade Campbell. I don't remember if I was with them on the night of April 26th. I don't remember where I was.

MRS. EMMA CLARK FREEMAN, sworn for the Defendant.

I have worked at the pencil factory over four years. Mr. Frank's general character is good. I am a married woman. I have known Conley ever since he has been at the factory. His general character for truth and veracity is bad. I would not believe him on oath.

CROSS EXAMINATION.

I have never heard any suggestion of any wrongdoing on the part of Mr. Frank, either in or out of the factory. I was forelady at the factory for about three years.

MISS SARAH BARNES, sworn for the Defendant.

I worked at the pencil factory over four years. His character is good. I have never heard anything bad. He has been the best of men.

CROSS EXAMINATION.

No one has talked to me about what I was going to swear. I have told Mr. Arnold what I have told here. I never went with Mr. Frank for any immoral purpose anywhere.

MISS IRENE JACKSON, sworn for the Defendant.

I worked at the pencil factory for three years. So far as I know Mr. Frank's character was very well. I don't know anything about him. He never said anything to me. I have never met Mr. Frank at any time for any immoral purpose.

CROSS EXAMINATION.

I am the daughter of County Policeman Jackson. I never heard the girls say anything about him, except that they seemed to be afraid of him. They never would notice him at all. They would go to work when they saw him coming. Miss Emily Mayfield and I were undressing in the dressing room once when Mr. Frank came to the door. He looked, turned around and walked out. He just came to the door and pushed it open. He smiled or made some kind of face. Miss Mayfield had her top dress off and had her old dress in her hand to put it on. I told Mr. Darley I would not quit unless my father made me, and he said if the girls would stick to Frank they won't lose anything. I heard some remarks two or three times about Mr. Frank going to the dressing room on different occasions, but I don't remember anything about it. The second time I heard of his going to the dressing room was when my sister was laying down there. She had her feet on a stool. She was dressed. I was in there at the time. He just walked in, and turned and walked out. Mr. Frank walked in the dressing room on Miss Mamie Kitchens, when I was in there. He never said anything the three times he walked in when I was there. The dressing room has a mirror and a few lockers for the foreladies. That's the only thing that I have ever seen Mr. Frank do, go in the dressing room and stare at the girls. I have heard them speak of other times when I was not there.

RE-DIRECT EXAMINATION.

My father made me quit, after the murder. There are two windows in the dressing room opening on Forsyth Street. I think there had been some complaints of the girls flirting through the windows. I have heard of some of the girls flirting through the windows. The orders were

against the girls flirting through the windows. Mr. Frank never came into the room at all, he pushed the door open and just looked. My sister and I were both dressed when Mr. Frank looked in the door. The other time he came in I was fixing to put on my street dress. I was not undressed.

RE-CROSS EXAMINATION.

I don't know if Mr. Frank knew the girls were in there before he opened the door or not. It was the usual hour for them to be in there. He could have seen the girls register from the outer office, but not from the inner office. I have never heard any talk about Mr. Frank going around putting his hands on girls. I have never heard of his going out with any of the girls. My sister quit at the factory before Christmas. I have never flirted with anybody out of the window. I have heard them say that they didn't want the girls to flirt around the factory. I have heard Mr. Frank say that to Miss McClellan, after she told him that she knew of some of the girls flirting.

MISS BESSIE FLEMING, sworn for the Defendant.

I worked as stenographer at Mr. Frank's office from April, 1911, to December, 1911. Mr. Frank's character was unusually good.

CROSS EXAMINATION.

I am just talking about my personal relations with him. I have never seen him do anything wrong there in the factory. He never made any advances to me or anyone else. I worked right in the same office with him. The foreladies came to the office, the other girls did not very much. I never did see any flirting. I never heard about any. Mr. Frank worked on his financial sheet in the afternoons, he didn't have time Saturday morning. I didn't stay there very often on Saturday afternoons, but I knew that he didn't have time to do it Saturday morning. I saw him on Saturdays during the mornings making out the financial sheet. The girls work by the hour and piece work. She has a right to go in there when she wants to dress to go out.

MRS. MATTIE THOMPSON, sworn for the Defendant.

I work on the fourth floor of the pencil factory. I have been there three years. Mr. Frank's general character is good. I have never heard anything against him. I have never met Mr. Frank anywhere or at any time for any immoral purpose. I have made complaint about girls flirting out of the windows with men on the outside. After seven o'clock, the girls are not supposed to be in the dressing room. There is no toilet or bathtub in the dressing room. There is no lock on the door.

CROSS EXAMINATION.

They were all complaining up there on the fourth floor about the girls flirting out of the window, and some of us elderly ladies put a stop to it by reporting it to Mr. Darley. The girls were not fast, but they would flirt. Mrs. Carson, I and some of the other ladies reported it to Mr. Darley last spring, about a year ago. The girls simply said they were standing at the windows, flirting out of the windows with men in the street. Girls did not go into the dressing room to rest, they would go to change their clothes before work time, and after finishing work. I have never heard any talk about Frank taking a girl off in a dark place and putting his arms around her.

MISS IRENE CARSON, sworn for the Defendant.

I worked for fifteen months on the fourth floor of the pencil factory. I have known Mr. Frank during that time. His character is good. I am a sister of Miss Rebecca Carson, and a daughter of Mrs. E. H. Carson. I was with my sister on Whitehall Street on April 26th and recollect seeing Mr. Frank there. I have never met Mr. Frank at any time or place for any immoral purpose.

MRS. J. J. WARDLAW, sworn for the Defendant.

I worked at the pencil factory four years. I worked on the fourth floor. Mr. Frank's character is good. I have never met Mr. Frank at any time or place for any immoral purpose.

CROSS EXAMINATION.

I have never heard of any improper relation of Mr. Frank with any of the girls at the factory. I have never heard of his putting his arm around any girl on the street car, or going to the woods with them.

LEO M. FRANK, the Defendant, made the following statement:

Gentlemen of the Jury: In the year 1884, on the 17th day of April, I was born in Quero, Texas. At the age of three months, my parents took me to Brooklyn, New York, and I remained in my home until I came South, to Atlanta, to make my home here. I attended the public schools of Brooklyn, and prepared for college, in Pratt Institute, Brooklyn, New York. In the fall of 1902, I entered Cornell University, where I took the course in mechanical engineering, and graduated after four years, in June, 1906. I then accepted a position as draftsman with the B. F. Sturtevant Company, of Hyde Park, Massachusetts. After remaining with this firm about 6 months, I returned once more to my home in Brooklyn, where I accepted a position as testing engineer and draftsman with the National Meter Company of Brooklyn, New York. I remained in this

position until about the middle of October, 1907, when, at the invitation of some citizens of Atlanta, I came South to confer with them in reference to the starting and operation of a pencil factory, to be located in Atlanta. After remaining here for about two weeks, I returned once more to New York, where I engaged passage and went to Europe. I remained in Europe nine months. During my sojourn abroad, I studied the pencil business, and looked after the erection and testing of the machinery which had been previously contracted for. The first part of August, 1908, I returned once more to America, and immediately came South to Atlanta, which has remained my home ever since. I married in Atlanta, an Atlanta girl, Miss Lucile Selig. The major portion of my married life has been spent at the home of my parents in law, Mr. and Mrs. Selig, at 68 East Georgia Avenue. My married life has been exceptionally happy—indeed, it has been the happiest days of my life. My duties as superintendent of the National Pencil Company were in general, as follows: I had charge of the technical and mechanical end of the factory, looking after the operations and seeing that the product was turned out in quality equal to the standard which is set by our competitors. I looked after the installation of new machinery and the purchase of new machinery. In addition to that, I had charge of the office work at the Forsyth Street plant, and general supervision of the lead plant, which is situated on Bell Street. I looked after the purchase of the raw materials which are used in the manufacture of pencils, kept up with the market of those materials, where the prices fluctuated, so that the purchases could be made to the best possible advantage. On Friday, April 15th, I arrived at the pencil factory on Forsyth Street, at about seven o'clock—my usual time. I immediately started in on my regular routine work, looking over papers that I had laid out the evening before, and attending to any other work that needed my special attention that morning. At about 9:30 I went over to the office of the General Manager and Treasurer, Mr. Sigmond Montag, whose office is at Montag Brothers, on Nelson Street. I stayed over there a short time, got what papers and mail had arrived over there—all the mail for the Pencil Company comes over there to their office—I got that mail and brought it back to Forsyth St. I then separated the mail and continued along my usual routine duties in the office on Forsyth Street. At about eleven o'clock, Mr. Schiff handed me the pay roll books covering the plants at Forsyth Street and at Bell Street, for me to check over to see that the amounts and the extensions were correct. Of course, this work has to be very carefully done, so that the proper amount of money is drawn from the bank. This checking took me until about 12:30 P. M., when I made out the amount on a slip of paper that I wished to have drawn from the bank, went over to Montag Brothers, had the checks drawn and signed by Mr. Sigmond Montag, after which I returned to Forsyth Street and got the leather bag in which I usually carry the money and coin from the bank, and got the slip on which I had written the various denominations in which I desired to have the pay roll made out, accompanied by Mr. Herbert Schiff,

my assistant, went to the Atlanta National Bank, where I had the checks cashed. Returning to the factory in company with Mr. Schiff, I placed this bag containing the money for the pay roll in the safe and locked it. At this time, my wife called for me and in her company and that of Mr. Schiff, I went over to the car and took my wife home to lunch. After lunch, I returned to the factory and took a tour for about an hour through the factory, after which I then assisted Mr. Schiff in checking over the amounts on the pay envelopes—checking the money against the duplicate slips that we had gotten from the bank, to see that the correct amount had been given us, and I helped Mr. Schiff checking over the money and in filling the envelopes. This took us approximately until a quarter to six, to fill the envelopes, seal them and place them in the box that we have over there, with two hundred pigeon holes, and which we call our pay-off box. While I was so occupied with Mr. Schiff in filling these envelopes, a young man by the name of Wright, who had helped us out as a clerk in the office during the past week, came in and I paid him in cash, as Mr. Schiff, I found, neglected to put his name on the pay roll; I just made out a ticket for the amount of money he drew and put it in the cash box and charged it to the cash box and not to the pay roll. At a quarter to six, payment of the help took place, Mr. Schiff taking all the envelopes that were due the help who had worked from April 18th to 24th, inclusive, out to the pay roll window, which is entirely outside of either my inner office or the outer office and out in the hall beyond—a little window that we have built. I sat in my office checking over the amount of money which had been left over. This amount was equal—or should have been equal, to the amount that had been loaned out in advance to help and had been deducted when we were filling the envelopes. In checking this amount over—as near as I can recollect it, there was about \$15—I noticed a shortage of about \$1.20—something over a dollar, at any rate, and I kept checking to see if I couldn't find the shortage, going over the various deductions that had been made, but I couldn't locate it that evening. After the help had been paid off, during which time as I sat in my office, no one came into my office who asked me for a pay envelope or for the pay envelope of another. After the paying off of the help had taken place, Mr. Schiff returned and handed me the envelopes which were left over, bound with an elastic band, and I put them in the cash compartment—which is different from the cash box—a certain cash compartment in the safe, the key to which is kept in my cash box. I placed them in the safe, and Mr. Schiff busied himself clearing up the books and the files and placing them in the safe. While he was doing that, I placed in the time clocks, the slips to be used next day. I took out the two time slips which were dated April 25th, which had been used by the help on Friday, April 25th, and took two slips out to the clock, the ends of which I creased down so that they would fit into the cylinder inside of the clocks; and I noticed that I had neglected to stamp the date on them, so I just wrote on them "April 26, 1913"—in other words, I put the date of the day following, which is the way we usually do with the time clock.

After placing these slips in the clock and bringing those back in the office, Mr. Schiff and myself left for home, it being about 6:30. I neglected to state that while I was sitting in the office, Mr. Schiff was paying off Newt Lee—these are the two time slips I took out—

Gentlemen, as I was saying, these two slips that had April 26, 1913, written at the bottom are the two slips I put in the clock on the evening of Friday, April 25th, to be used on the day following, which, of course, was April 26th. I neglected to mention also, in going over my duties at the factory, that Mr. N. V. Darley was superintendent of labor and of manufacture, it fell to his duty to engage the help and to distribute the help throughout the plant, and to discharge the help in case it was necessary; it was also due to him whether their wages were raised or not. In other words, he was the man that came directly in contact with the help. Moreover, he saw that the goods progressed through the factory without stopping, easily, quickly and economically manufactured. On Friday evening, I got home at about 6:30, had my supper, washed up, then went with my wife to the residence of her uncle, Mr. Carl Wolfsheimer, on Washington Street, where my wife and Mr. Wolfsheimer and his wife and myself played a game of auction bridge for the balance of the evening. My wife and I returned home and retired at about eleven o'clock. On Saturday April 26th, I rose between seven and seven-thirty and leisurely washed and dressed, had my breakfast, caught a Washington Street or Georgia Avenue car—I don't recall which—at the corner of Washington and Georgia Avenue, and arrived at the factory on Forsyth Street, the Forsyth Street plant, at about 8:30, is my recollection.

On my arrival at the factory, I found Mr. Holloway, the day watchman, at his usual place, and I greeted him in my usual way; I found Alonzo Mann, the office boy, in the outer office, I took off my coat and hat and opened my desk and opened the safe, and assorted the various books and files and wire trays containing the various papers that were placed there the evening before, and distributed them in their proper places about the office. I then went out to the shipping room and conversed a few minutes with Mr. Irby, who at that time was shipping clerk, concerning the work which he was going to do that morning, though, to the best of my recollection, we did no shipping that day, due to the fact that the freight offices were not receiving any shipments, due to its being a holiday. I returned to my office, and looked through the papers, and assorted out those which I was going to take over on my usual trip to the General Manager's office that morning; I then turned to the invoices (Defendant's Exhibits 25 to 34) covering shipments which were made by the pencil factory on Thursday, April 24th, and which were typewritten and figured out on Friday, April 25th, by Miss Eubanks, the stenographer who stays in my office; she had hurried through with her work that day, previous to going home, so she could spend the holiday in the country where she lived; I didn't get to checking over those invoices covering

these shipments on Friday, due to the fact that Mr. Schiff and myself were completely occupied the entire day until we left the factory, with the pay roll, so naturally, as these invoices covering shipments which were made on April 25th, ought to have been sent to the customers, I got right to work in checking them. Now, I have those invoices here (Defendant's Exhibits 25 to 34); these papers have not been exhibited before, but I will explain them. You have seen some similar to these. Of all the mathematical work in the office of the pencil factory, this very operation, this very piece of work that I have now before me, is the most important, it is the invoice covering shipments that are sent to customers, and it is very important that the prices be correct, that the amount of goods shipped agrees with the amount which is on the invoice, and that the terms are correct, and that the address is correct, and also in some cases, I don't know whether there is one like that here, there are freight deductions, all of which have to be very carefully checked over and looked into, because I know of nothing else that exasperates a customer more than to receive invoices that are incorrect; moreover, on this morning, this operation of this work took me longer than it usually takes an ordinary person to complete the checking of the invoices, because usually one calls out and the other checks, but I did this work all by myself that morning, and as I went over these invoices, I noticed that Miss Eubanks, the day before, had evidently sacrificed accuracy to speed, and every one of them was wrong, so I had to go alone over the whole invoice, and I had to make the corrections as I went along, figure them out, extend them, make deductions for freight, if there were any to be made, and then get the total shipments, because, when these shipments were made on April 24th, which was Thursday, this was the last day of our fiscal week, it was on this that I made that financial sheet which I make out every Saturday afternoon, as has been my custom, it is on this figure of total shipments I make that out, so necessarily it would be the total shipments for the week that had to be figured out, and I had to figure every invoice and arrange it in its entirety so I could get a figure that I would be able to use. The first order here is from Hilton, Hart & Kern Company, Detroit, Mich., here is the original order which is in the file of our office, here is the transcription which was made on March 28th, it hadn't been shipped until April 24th, this customer ordered 100 gross of No. 2 of a certain pencil stamped "The Packard Motor Car Company," 125 gross of No. 3 and 50 gross of No. 4; those figures represent the grade or hardness of the lead in the pencils; we shipped 100 gross of No. 2, 111¼ gross of No. 3 and 49 gross of No. 4, the amount of the shipment of No. 3 is short of the amount the customer ordered, therefore, there is a suspense shipment card attached to it, as you will notice, the first shipment on this order took place on April 24th, it was a special order and a special imprint on it, and therefore, the length of time, order received at the factory on March 18th. In invoicing shipments made by the Pencil Company, our method is as follows: We make out in triplicate, the first or original is a white sheet, and that goes to the customers; the second is a pink sheet

and that goes over to the General Manager's office and is filed serially, that is, chronologically; one date on the top, and from that the charges are made on the ledger, and the last sheet or third sheet is a yellow sheet, which is here, those are placed in a file in my office, and are filed alphabetically. These yellow sheets I have here are not the yellow sheets I had that day, because they have since been corrected, I am just taking the corrected sheets, I made the corrections. Miss Eubanks returned on Monday and saw the corrections I had made in pencil on the white sheets, and made another set of triplicates afterwards, and I presume made them correct, I was not there, and I don't know. These orders are respectively Hilton, Hart & Kern Company, L. W. Williams & Company of Fort Worth, Tex., the Fort Smith Paper Company of Fort Smith, Ark., S. O. Barnum & Sons, Buffalo, N. Y., S. T. Warren & Company, South Clarke St., Chicago, Ill., S. H. Kress Company, warehouse at 91 Franklin St., New York, N. Y.; there is an order that we have to be particularly careful with, because all these five and ten cent syndicates have a great deal of red tape. These invoices, though they were typed on April 25th, Friday, were shipped on April 24th, and bear date at the top on which the shipment was made, irrespective of the date on which these are typewritten; in other words, the shipments took place April 24th, and that date is at the top typewritten, and a stamp by the office boy at the bottom, April 24th. Among other things that the S. H. Kress Company demands is that on their orders, you must state whether or not it is complete, the number of the store, and by which railroad the shipment goes. Here is one from F. W. Woolworth & Company, Frankfort, Ind., take the following illustrations: Less 95 lbs., at 86 cents per hundred lbs., freight credit; in other words, we had to find out what the weight of that shipment was, and figure out the amount of credit that they were entitled to on the basis of 86 cents for every 100 lbs. shipped. Then here comes one to Gottlieb & Sons, one of our large distributors in New York, N. Y., they have a freight allowance of 86 per hundred lbs. also, and their shipment amounted to 618 lbs., on Thursday, April 24th. That was a shipment of throwouts, or jobs.

I started on this work, as I said, and had gone into it in some detail, to show you the carefulness with which the work must be carried out, I was at work on this one at about 9 o'clock, as near as I remember, Mr. Darley and Mr. Wade Campbell, the inspector of the factory, came into the outer office, and I stopped what work I was doing that day on this work, and went to the outer office and chatted with Mr. Darley and Mr. Campbell for ten or fifteen minutes, and conversed with them, and joked with them, and while I was talking to them, I should figure about 9:15 o'clock, a quarter after nine, Miss Mattie Smith came in and asked me for her pay envelope, and for that of her sister-in-law, and I went to the safe and unlocked it and got out the package of envelopes that Mr. Schiff had given me the evening before, and gave her the required two envelopes, and placed the remaining envelopes that I got out, that were left

over from the day previous, in my cash box, where I would have them handy in case others might come in, and I wanted to have them near at hand without having to jump up and go to the safe every time in order to get them; I keep my cash box in the lower drawer on the left hand side of my desk. After Miss Smith had gone away with the envelopes, a few minutes, Mr. Darley came back with the envelopes, and pointed out to me an error in one of them, either the sister-in-law of Miss Mattie Smith, she had gotten too much money, and when I had deducted the amount that was too much, that amount balanced the pay roll, the error in the pay roll that I had noticed the night before, and left about five or ten cents over; those things usually right themselves anyhow. I continued to work on those invoices, when I was interrupted by Mr. Lyons, Superintendent of Montag Brothers, coming in, he brought me a pencil display box that we call the Panama assortment box, and he left it with me, he seemed to be in a hurry, and I told him if he would wait for a minute I would go over to Montag Brothers with him, as I was going over there; and he stepped out to the outer office, and as soon as I come to a convenient stopping place in the work, I put the papers I had made out to take with me in a folder, and put on my hat and coat and went to the outer office, when I found that Mr. Lyons had already left. Mr. Darley left with me, about 9:35 or 9:40, and we passed out of the factory, and stopped at the corner of Hunter and Forsyth Streets, where we each had a drink at Cruickshank's soda water fount, where I bought a package of Favorite cigarettes, and after we had our drink, we conversed together there for some time, and I lighted a cigarette and told him good-bye, as he went in one direction, and I went on my way then to Montag Brothers, where I arrived, as nearly as may be, at 10 o'clock, or a little after; on entering Montag Brothers, I spoke to Mr. Sig Montag, the General Manager of the business, and then the papers which I collected, which lay on his desk, I took the papers out and transferred them into the folder, and took the other papers out, which I had in my folder, and distributed them at the proper places at Montag Brothers, I don't know just what papers they were, but I know there were several of them, and I went on chatting with Mr. Montag, and I spoke to Mr. Matthews, and Mr. Cross, of the Montag Brothers, and after that I spoke to Miss Hattie Hall, the Pencil Company's stenographer, who stays at Montag Brothers, and asked her to come over and help me that morning; as I have already told you, practically every one of these invoices was wrong, and I wanted her to help me on that work, and in dictating the mail; in fact, I told her I had enough work to keep her busy that whole afternoon if she would agree to stay, but she said she didn't want to do that, she wanted to have at least half a holiday on Memorial Day. I then spoke to several of the Montag Brothers' force on business matters and other matters, and after that I saw Harry Gottheimer, the sales manager of the National Pencil Company, and I spoke at some length with him in reference to several of his orders that were in work at the factory, there were two of his orders especially that he laid special stress on, as he said he desired to ship

them right away, and I told him I didn't know how far along in process of manufacture the orders had proceeded, but if he would go back with me then I would be very glad to look for it, and then tell him when we could ship them, and he said he couldn't go right away, he was busy, but he would come a little later, and I told him I would be glad for him to come over later that morning or in the afternoon, as I would be there until about 1 o'clock in the morning, and after 3. I then took my folder and returned to Forsyth St. alone. On arrival at Forsyth St., I went to second or office floor, and I noticed the clock, it indicated 5 minutes after eleven. I saw Mr. Holloway there, and I told him he could go as soon as he got ready, and he told me he had some work to do for Harry Denham and Arthur White, who were doing some repair work up on the top floor, and he would do the work first. I then went into the office. I went in the outer office, and found Miss Hattie Hall, who had preceded me over from Montag's, and another lady who introduced herself to me as Mrs. Arthur White, and the office boy; Mrs. Arthur White wanted to see her husband, and I went into the inner office, and took off my coat and hat, and removed the papers which I had brought back from Montag Brothers in the folder, and put the folder away. It was about this time that I heard the elevator motor start up and the circular saw in the carpenter shop, which is right next to it, running. I heard it saw through some boards, which I supposed was the work that Mr. Holloway had referred to. I separated the orders from the letters which required answers, and took the other material, the other printed matter that didn't need immediate attention, I put that in various trays, and I think it was about this time that I concluded I would look and see how far along the reports were, which I use in getting up my financial report every Saturday afternoon, and to my surprise I found that the sheet which contains the record of pencils packed for the week didn't include the report for Thursday, the day the fiscal week ends; Mr. Schiff evidently, in the stress of getting up, figuring out and filling the envelopes for the pay roll on Friday, instead of, as usual, on Friday and half the day Saturday, had evidently not had enough time. I told Alonzo Mann, the office boy, to call up Mr. Schiff, and find out when he was coming down, and Alonzo told me the answer came back over the telephone that Mr. Schiff would be right down, so I didn't pay any more attention to that part of the work, because I expected Mr. Schiff to come down any minute. It was about this time that Mrs. Emma Clarke Freeman and Miss Corinthia Hall, two of the girls who worked on the fourth floor, came in, and asked permission to go upstairs and get Mrs. Freeman's coat, which I readily gave, and I told them at the same time to tell Arthur White that his wife was downstairs. A short time after they left my office, two gentlemen came in, one of them a Mr. Graham, and the other the father of a boy by the name of Earle Burdette; these two boys had gotten into some sort of trouble during the noon recess the day before, and were taken down to police headquarters, and of course didn't get their envelopes the night before, and I gave the required pay envelopes to the two fathers, and chatted with them at some

length in reference to the trouble their boys had gotten into the day previous. And just before they left the office, Mrs. Emma Clark Freeman and Miss Corinthia Hall came into my office and asked permission to use the telephone, and they started to the telephone, during which time these two gentlemen left my office. But previous to that, when these two gentlemen came in, I had gotten Miss Hattie Hall in and dictated what mail I had to give her, and she went out and was typewriting the mail; before these girls finished their telephoning, Miss Hattie Hall had finished the typewriting of those letters and brought them to my desk to read over and sign, which work I started. Miss Clark and Miss Hall left the office, as near as may be, at a quarter to twelve, and went out, and I started to work reading over the letters and signing the mail. I have the carbon copies (Defendant's Exhibit 8) of these letters which Miss Hall typewrote for me that morning here, attached to the letters from the customers, or the parties whose letter I was answering; they have been introduced, and have been identified. I see them here—Southern Bargain House, there was a letter from Shode-Lombard, dye makers, 18 Franklin Street, the American Die Lock Company, Newark, N. J., another letter to Shode-Lombard Company being in New York, one to Henry Diss-ton & Sons, in reference to a knife which they sent us to be tried out, a circular knife, one to J. B. McCrory, Five & Ten Cent Syndicate, one to the Pullman Company, of Chicago, Ill., in reference to their special imprint pencils, which they were asking us to ship as soon as possible, one to A. J. Sassener, another die maker; these letters are copies of the ones I dictated that morning; I signed these letters, and while I was signing, as Miss Hall brought these letters in to be signed, I gave her the orders (Defendant's Exhibits 14 to 24) which had been received by me that morning at Montag's office, over at the General Manager's office, I gave her these orders to be acknowledged. I will explain our method of acknowledgment of orders in a few minutes. I continued signing the letters and separating the carbon copies from the letters, and putting them in various places, I folded the letters and sealed the letters, and of course I told Miss Hall I would post them myself. Miss Hall finished the work and started to leave when the 12 o'clock whistle blew, she left the office and returned, it look to me, almost immediately, calling into my office that she had forgotten something, and then she left for good. Then I started in, we transcribed, first we enter all orders into the house order book (Defendant's Exhibit 12), all these orders which Miss Hall had acknowledged, I entered in that book, and I will explain that matter in detail. There has been some question raised about this, but I believe I can make it very clear. Here is an order from Beutell Brothers Company (Defendant's Exhibit 32); the very first operation on an order that is received by the pencil factory at Forsyth Street in my office is the acknowledgment; that is the first operation, because the acknowledgment is the specific second part of the contract, the first part is when they send us the order; that is the party of the first part, and the party of the second part is when we write them an acknowledgment card and agree to fill the

order, and enter the order which they send us, and so necessarily, to satisfy our customers, it must be the very first thing that is done, and is the first thing. The acknowledgment stamp, which you have already seen here below, shows first two things; first, who acknowledges the order, and second, the date it was received in the office on Forsyth Street. Here is one from Beutell Brothers (Defendant's Exhibit 32); that bears the date April 23rd, up at the top; that was the date when Beutell Brothers in Dubuque, Ia., had that letter typewritten, we didn't know when they mailed it, but that is the day it was written, it was received at the General Manager's office, might have been received Friday, on Friday April 25th, after I had gotten the mail that day there, and remained there until April 26th, when I went over and got the mail again. Here is one from John Laurie & Sons, and here is one I think Mr. Dorsey did some questioning about, because of the fact that up here at the top was 4-22, this order was written in pencil, of course it is written in pencil; this is an order from F. W. Woolworth & Company (Defendant's Exhibit 28), that is a Five & Ten Cent syndicate, as you know, probably the largest in the world, that has over 700 stores, and these stores would be so bulky for one office to handle that the 700 stores are divided into different groups or provinces, and in charge of each group there is a certain office; for instance, there is one at Toronto, for the Canadian stores; one in Buffalo, one in Boston, one in New York, there is one at Wilkesbarre, one at St. Louis, one at Chicago, and one at San Francisco. Now, this order, by looking at it, I can tell, because I have had reason to look into and know the system of orders used by this syndicate, and I most assuredly have to know it, you notice Chicago, Ill., 4-22, down here, and also store No. 585 (Defendant's Exhibit 28), the Woolworth Company, 347 E. Main St., here again is DeKalb, Ill. In other words, DeKalb, Ill., is in the jurisdiction of the Chicago office. These blanks are distributed among these various five and ten cent stores, and the manager of one store, when he wants to order goods, he finds his stock is getting a little low, he makes that out and sends his order in to the Chicago office, at the Chicago office, the buyer looks over it, and sees that the manager has carefully and economically ordered the goods, and then you will notice that little stamp punched through; you see up there, that says: "Valid, 4-23," in other words, of course, we couldn't have put that on there at our office, but the validation stamp, with 4-23, the date of it, shows it took a day to travel from DeKalb, Ill., to Chicago, Ill., and that stamp shows the validation of the order on that date by the head office, and that order is then forwarded by the head office to us. Now, this order is usually made out by the Manager or by the clerk of the Manager or some one in that F. W. Woolworth store. Here is one from Wilkesbarre (Defendant's Exhibit 29), itself, that is from the head office itself. Here is one from St. Joseph, Mo., (Defendant's Exhibit 25), via St. Louis, that bears the validation stamp of the St. Louis head office. You gentlemen understand these people are great big people, a great big syndicate, and they have to do their clerical work according to a system that is correct. Now, then, that was

the first operation on these orders after we separated them from the other mail, and we hand that on to our Superintendent. I am showing you about the acknowledgment stamp, because it is important first because it shows the acknowledgment of the order, and who acknowledged it, and secondly, shows the date on which the orders were received at my office. To the best of my recollection, these acknowledgment cards were given to the office boy to post, after Miss Hall had made them out.

Now, in reference to the work that I did on these orders, starting here with order 7187 (Defendant's Exhibits 25 to 35), and continuing through 7197, that is not such an easy job as you would have been led to believe; in the first place, next to the serial number, there is a series of initials, and those initials stand for the salesman who is credited with the order; in other words, if a man at the end of the year wants to get certain commissions on orders that come in, we have to very carefully look over those orders to see to whom or to which salesman or to which commission house or which distributing agent that order is credited, so, therefore, it takes a good deal of judgment and knowledge to know just to which salesman to credit, and sometimes, I can't say that it was incorrect that morning, but it might have been, sometimes I have to go through a world of papers to find just to whom a certain order is to be credited. Then I enter in (Defendant's Exhibit 12) the various orders here, too, the next column shows to whom the goods are to be shipped; of course that is not very difficult to do, that is just a mere copy. The store numbers are put down in case the stores have numbers, and then one must look over the order; I notice that one of the orders is one to R. E. Kendall (Defendant's Exhibit 34), at Plum St., Cincinnati, O., calling for a special, and that has to be noted in this column here, you will notice regular or special, notice here the word special out here opposite R. E. Kendall, that thing has to be very carefully noted also. Now, in this column (Defendant's Exhibit 12) is the order number, and that order number is the customer's order number, to which we have to refer always when we ship that order. Now, in these cases like on these Woolworth orders, when there is no order number, we put down the date with the month, so in that way that gives it, 4-22, that was the date the order was made out, so we can absolutely refer to it; in this column (Defendant's Exhibit 12), is the shipping point and the date we are going to ship it, and in this column represents the date on which the order was received, and the month, which is April 26th, according to the acknowledgment, corresponding to the acknowledgment stamp. Now, after that work, after the order was acknowledged and entered in here (Defendant's Exhibit 12), the next step is the filling in on the proper place on this sheet (Defendant's Exhibit 2), which has already been tendered and identified. Now, the work done by me on that day right here, that was Saturday, Saturday is the second day of the fiscal week, Friday, Saturday, Sunday, Monday, Tuesday, Wednesday and Thursday—Saturday is the second day, and you will notice, gentlemen, there are only two entries there (Defendant's Ex-

hibit 7), the work not having been done since I left the factory, there are only two entries there, and the last entry is April 26th, which was Saturday. Now, then, the information on this sheet is as follows: I go through the orders and find out the number of gross of pencils which our customers order which fall in certain price groups, that is, to find the number of gross of pencils for which the pencil factory gets 60 cents a gross, and I put them down under the first column, the second under the column RI, which means rubber inserted, and for which we get an average price of 80 cents, I go through the same thing and put the figures all out, in this case, it was 102; then we have a price group on which we get an average of \$1.25, and it covers a range in price from \$1.00 per gross to \$1.40; there were 116 gross of such pencils ordered with these orders which were received that morning. The next price group are those on which we figure on an average price of \$1.75 a gross, and falling within those limits of \$1.50 to \$1.95 inclusive; in this case, there were 34½ gross; then there is a group between \$2.00 and \$2.95, averaging \$2.50, and there was 100½ gross that day, then \$3.00 and over, which we always figure at just \$3.00, we have goods that we get \$3.25 for, and some that we get \$3.50 for, but we figure them all at \$3.00, so it is a conservative estimate. The reason this is done is this; in the pencil business, just like in all manufacturing businesses, that is manufacturing an article that has to be turned out in large quantities, it behooves the sales department to sell as much of your high priced goods as possible, and as few of your cheap goods, and therefore, if you know how many of the cheap goods and how many of the better grade of goods you are selling, it serves as a barometer on the class of goods that is being sold. You can see that this job takes quite a little figuring and quite a little judgment.

After finishing that work, I went on to the transcription of these orders to these requisitions (Defendant's Exhibits 25 to 35), and notwithstanding an answer that has been made, I wrote these requisitions myself. That is my handwriting and you can read every one of them through. Here is one F. W. Woolworth (Defendant's Exhibit 25), I wrote that one, and another one F. W. Woolworth (Defendant's Exhibit 26), I wrote that one, and another one F. W. Woolworth (Defendant's Exhibit 29). Here is one 5 and 10 Cent Store, Sault Ste Marie (Defendant's Exhibit 31), I wrote that one, and here is F. W. Woolworth, DeKalb, Ill. (Defendant's Exhibit 28), and Logansport, Ind. (Defendant's Exhibit 27). That is all my handwriting; excepting the amounts that are placed down here under the dates when the shipment of these orders were made, which is in the handwriting of my assistant, Mr. Schiff. This part, the amount, date, numbers, addresses, salesman, date April 26th, and the order number, taking the date in lieu of the order number, as I explained previously, that is all my handwriting—everything except that amount there and the subsequent date, that is in my handwriting and the work on all of those was done on the morning of April 26th.

Miss Hall left my office on her way home at this time, and to the best of my information there were in the building Arthur White and Harry Denham and Arthur White's wife on the top floor. To the best of my knowledge, it must have been from ten to fifteen minutes after Miss Hall left my office, when this little girl, whom I afterwards found to be Mary Phagan, entered my office and asked for her pay envelope. I asked for her number and she told me; I went to the cash box and took her envelope out and handed it to her, identifying the envelope by the number. She left my office and apparently had gotten as far as the door from my office leading to the outer office, when she evidently stopped and asked me if the metal had arrived, and I told her no. She continued on her way out, and I heard the sound of her footsteps as she went away. It was a few moments after she asked me this question that I had an impression of a female voice saying something; I don't know which way it came from; just passed away and I had that impression. This little girl had evidently worked in the metal department by her question and had been laid off owing to the fact that some metal that had been ordered had not arrived at the factory; hence, her question. I only recognized this little girl from having seen her around the plant and did not know her name, simply identifying her envelope from her having called her number to me.

She had left the plant hardly five minutes when Lemmie Quinn, the foreman of the plant, came in and told me that I could not keep him away from the factory, even though it was a holiday; at which I smiled and kept on working. He first asked me if Mr. Schiff had come down and I told him he had not and he turned around and left. I continued work until I finished this work and these requisitions and I looked at my watch and noticed that it was a quarter to one. I called my home up on the telephone, for I knew that my wife and my mother-in-law were going to the matinee and I wanted to know when they would have lunch. I got my house and Minola answered the phone and she answered me back that they would have lunch immediately and for me to come right on home. I then gathered my papers together and went upstairs to see the boys on the top floor. This must have been, since I had just looked at my watch, 10 minutes to one. I noticed in the evidence of one of the witnesses, Mrs. Arthur White, she states it was 12:35 that she passed by and saw me. That is possibly true; I have no recollection about it; perhaps her recollection is better than mine; I have no remembrance of it; however, I expect that is so. When I arrived up stairs I saw Arthur White and Harry Denham who had been working up there and Mr. White's wife. I asked them if they were ready to go and they said they had enough work to keep them several hours. I noticed that they had laid out some work and I had to see what work they had done and were going to do. I asked Mr. White's wife if she was going or would stay there as I would be obliged to lock up the factory, and Mrs. White said, no, she would go then. I went down and gathered up my papers and locked my desk and went

around and washed my hands and put on my hat and coat and locked the inner door to my office and locked the doors to the street and started to go home.

Now, gentlemen, to the best of my recollection from the time the whistle blew for twelve o'clock until after a quarter to one when I went up stairs and spoke to Arthur White and Harry Denham, to the best of my recollection, I did not stir out of the inner office; but it is possible that in order to answer a call of nature or to urinate I may have gone to the toilet. Those are things that a man does unconsciously and cannot tell how many times nor when he does it. Now, sitting in my office at my desk, it is impossible for me to see out into the outer hall when the safe door is open, as it was that morning, and not only is it impossible for me to see out, but it is impossible for people to see in and see me there.

I continued on up Forsyth to Alabama and down Alabama to Whitehall where I waited a few minutes for a car, and after a few minutes a Georgia Avenue car came along; I took it and arrived home at about 1:20. When I arrived at home, I found that my wife and my mother-in-law were eating their dinner, and my father-in-law had just sat down and started his dinner. I sat down to my dinner and before I had taken anything, I turned in my chair to the telephone, which is right behind me and called up my brother-in-law to tell him that on account of some work I had to do at the factory, I would be unable to go with him, he having invited me to go with him out to the ball game. I succeeded in getting his residence and his cook answered the phone and told me that Mr. Ursenbach had not come back home. I told her to give him a message for me, that I would be unable to go with him. I turned around and continued eating my lunch, and after a few minutes my wife and mother-in-law finished their dinner and left and told me good-bye. My father-in-law and myself continued eating our dinner, Minola McKnight serving us. After finishing dinner, my father-in-law said he would go out in the back yard to look after his chickens and I lighted a cigarette and laid down. After a few minutes I got up and walked up Georgia Avenue to get a car. I missed the ten minutes to two car and I looked up and saw in front of Mr. Wolfsheimer's residence, Mrs. Michael, an aunt of my wife who lives in Athens, and there were several ladies there and I went up there to see them and after a few minutes Mrs. Wolfsheimer came out of the house and I waited there until I saw the Washington Street car coming and I ran up and saw that I could catch the car. I got on the car and talked to Mr. Loeb on the way to town. The car got to a point about the intersection of Washington Street and Hunter Street and the fire engine house and there was a couple of cars stalled up ahead of us, the cars were waiting there to see the memorial parade; they were all banked up. After it stood there a few minutes as I did not want to wait, I told Mr. Loeb that I was going to get out and go on as I had work to do. So I went on down Hunter Street, going in the direction of Whitehall and when I got down

to the corner of Whitehall and Hunter, the parade had started to come around and I could not get around at all and I had to stay there fifteen or twenty minutes and see the parade. Then I walked on down Whitehall on the side of M. Rich & Bros.'s store towards Brown and Allen; when I got in front of M. Rich & Bros.' store, I stood there between half past 2 and few minutes to 3 o'clock until the parade passed entirely; then I crossed the street and went on down to Jacobs and went in and purchased twenty-five cents worth of cigars. I then left the store and went on down Alabama Street to Forsyth Street and down Forsyth Street to the factory, I unlocked the street door and then unlocked the inner door and left it open and went on upstairs to tell the boys that I had come back and wanted to know if they were ready to go, and at that time they were preparing to leave. I went immediately down to my office and opened the safe and my desk and hung up my coat and hat and started to work on the financial report, which I will explain. Mr. Schiff had not come down and there was additional work for me to do.

In a few minutes after I started to work on the financial sheet (Defendant's Exhibit 2), which I am going to take up in a few minutes. I heard the bell ring on the time clock outside and Arthur White and Harry Denham came into the office and Arthur White borrowed \$2.00 from me in advance on his wages. I had gotten to work on the financial sheet, figuring it out, when I happened to go out to the lavatory and on returning to the office, the door pointed out directly in front, I noticed Newt Lee, the watchman, coming from towards the head of the stairs, coming towards me. I looked at the clock and told him the night before to come back at 4 o'clock for I expected to go to the base ball game. At that time Newt Lee came along and greeted me and offered me a banana out of a yellow bag which he carried, which I presume contained bananas; I declined the banana and told him that I had no way of letting him know sooner that I was to be there at work and that I had changed my mind about going to the ball game. I told him that he could go if he wanted to or he could amuse himself in any way he saw fit for an hour and a half, but to be sure and be back by half past six o'clock. He went off down the stair case leading out and I returned to my office. Now, in reference to Newt Lee, the watchman, the first night he came there to watch, I personally took him around the plant, first, second and third floors and into the basement, and told him that he would be required, that it was his duty to go over that entire building every half hour; not only to completely tour the upper four floors but to go down to the basement, and I specially stressed the point that that dust bin along here was one of the most dangerous places for a fire and I wanted him to be sure and go back there every half hour and be careful how he held his lantern. I told him it was a part of his duty to look after and lock that back door and he fully understood it, and I showed him the cut-off for the electric current and told him in case of fire that ought to be pulled so no fireman coming in would be electrocuted. I explained everything to him in detail and told him he

was to make that tour every half hour and stamp it on the time card and that that included the basement of the building.

Now, this sheet here is the factory record (Defendant's Exhibit 7), containing the lists of the pencils in stock and the amount of each and every number; the amount of each and every one of our pencils which we manufacture at the end of any given week. There are no names there. We make the entries on this sheet by trade notes. Here is a sample case containing the pencils which are manufactured at the Forsyth Street plant. That is just as an explanation of what these figures are.

Well, I expect you have gotten enough of a glance at them for you know that there are a great many pencils and a great many colors, all sorts and styles; all sorts of tips, all sorts of rubbers, all sorts of stamps—I expect there are 140 pencils in that roll. That shows the variety of goods we manufacture. We not only have certain set numbers that we manufacture, but we will manufacture any pencil to order for any customer who desires a sufficient number of a special pencil, into a grade similar to our own pencil. Now, this pencil sheet (Def.'s Ex. 7) when I looked at it about half past eleven or thereabouts on Saturday morning, was incomplete. It had the entry for Thursday, April 24th, omitted. Mr. Schiff had entered the production for April 18th, 19th, 22nd and 23rd, but he had omitted the entry for the 24th, and the 24th not being there, of course it was not totaled or headed, so it became necessary to look in this bunch of daily reports (Defendant's Exhibits 4a, 4b, 4c, 4d) which was handed in every day by the packing forelady, sort out the various pencils noted on there, and place them in their proper places. Before proceeding further on that, I want to call your attention to the fact that we use this sheet (Defendant's Exhibit 7) for two weeks. You notice two weeks ending down there April 27th, April 17th, and one ending the week later, April 24th. Mr. Schiff, I notice, put April 17th at the top and the date corresponds to the entries here on the side; these are the dates alongside of each entry. Now, where we have any special pencil, as a general rule—for instance, take two 10-X special up there; we manufacture two 10-X special for the Cadillac Motor Company. Now, there is a 660-X pencil (Defendant's Exhibit 7); that 660-X pencil we call Panama, but in this entry it is called Cracker-Jack. Now, here is another 660-X special (Defendant's Exhibit 7), ours being Panama and this the Universal 660-X special. In other words, gentlemen, we put the name of the customer, if he wants business in a sufficient quantity. Well, I had to go through this report for Thursday (Defendant's Exhibit 4a), handed in by Miss Flowers, the forelady of the packing department, as she said, on Friday; I had to go through it and make the entries. Now, after I made the entries, I had to total each number for itself; that is, the number of 10-X, 20-X, 30-X, etc. Now, I notice that both of the expert accountants who got on the stand, pointed out two errors. While those errors are trivial, yet there is enough of human pride in me to explain

that those errors were not mine. Those errors, one of 1½ gross and one of one gross, in totalling up, these totals here on the 18th and 19th—those entries were made by Mr. Schiff. I don't expect he meant to make an error, but they happen to be in his handwriting. Those totals were already down there for the various days when I got the sheet and I always take them as correct without any checking of his figures. The only figures that I check are my own figures. I add my correct figures to his figures and, of course, not having checked the figures, I had to assume he entered it correctly, so I would not have known it. As I say, my usual method is to take his figures as correct *per se*. Now, after I entered them in the total, the next thing I did was to make out the job sheet; the job or throw-outs. Now in regard to these jobs, if I recall it correctly, was the only error that the expert accountant found in my work on the financial sheet for that day, but it really was not an error, as I will show you. He didn't know my method of doing that, and therefore, he could not know the error. When I explain to you fully the method in which I arrived at these figures you also will see they are not in error. Now among the packing reports that are handed into the office just like Miss Eula May handed this (Defendant's Exhibit 4a) in from the packing room proper, there is another room where pencils are packed, viz.: the department under the foreladyship of Miss Fannie Atherton, head of the job department. The jobs are our seconds or throw-outs for which we get less money, of course, than for the first. You see that Fannie A. (Defendant's Exhibit 4b), that is Fannie Atherton. That is the job department. Now, I took each of those job sheets (Defendant's Exhibit 4b) and separated them from the rest of those sheets, finding out how many jobs of the various kinds were packed that week. Now, this sheet (Defendant's Exhibit 3) shows that there were 12 different kinds of jobs packed that day. Each of them, you will notice, has a different price. That is the number of jobs 0-95, or the number of job 114 (Defendant's Exhibit 3); that is the number of the job, not the amount, but the number by which it is sold. Out here (Defendant's Exhibit 3) you see the amount of that job which was packed; 180 gross, 1 gross, six gross, 24 gross, etc. Then you will find the actual price we received for each. Then I make the extensions and find the number of gross of pencils, 180 gross at 40c, of course, is \$72 (Defendant's Exhibit 3). In other words, there is the actual number of jobs packed that day, the price we actually got for them, and the extensions are accurate and the totals are correct; the total amount of gross is totaled correctly, the total gross packed and the total amount of the value of those gross are the two figures that are put on that financial report (Defendant's Exhibit 2), 792 gross jobs, \$396.75 (Defendant's Exhibit 3), being absolutely correct, but in getting the average price, you notice 50.1 cents down below here (Defendant's Exhibit 3), I just worked it approximately, because nobody cares if it costs so small a fraction—the average price of those jobs, 50.1 cents, and six hundredths—that six hundredths was so small I couldn't handle it, so I stopped at the first decimal. Now, in arriving at the total number of gross and the total value

of pencils, which are the two figures really important, I divided one by the other. I also used, in getting up the data for the financial sheet here, by the way, one of the most important sheets is this sheet here. (Defendant's Exhibit 3). It looks very small, but the work connected with it is very large. Now, some of the items that appear on here are gotten from the reports which are handed in by the various forewomen. Now, you saw on the stand this morning Mr. Godfrey Winekauf, the superintendent of the lead plant; there is a report (Defendant's Exhibit 4c) of the amount of lead delivered that week, two pages of it; the different kinds of lead, No. 10 lead, No. 940, No. 2 and No. 930, and so on. Now, here is a pencil with a little rubber stuck on the end; we only put six inches of lead in that, and stick rubber in the rest. Now here (Defendant's Exhibit 4d) is the report of L. A. Quinn, foreman of the tipping plant. He reports on this the amount of work of the various machines, that is, the large eyelet machine, the small eyelet machine and the other machines. Then he notates the amount of the various tips used that he had made that week. Now, we have, I expect, 22 different kinds of tips, and one of them is a re-tip, and we never count a re-tip as a production. Now, this was made out (Defendant's Exhibit 7) for the week ending April 24 by Mr. Irby, the shipping clerk, that is, the amount of gross of pencils that he ships day by day. There were shipped 266 gross the first day, which was Friday in this case, Friday the 18th of April, 562 gross the 2nd day, which was Saturday, a half day, the 19th of April; 784 gross on Monday which was April 21; 1232 gross (that was an exceptional day) were shipped on Tuesday April 22nd; 572 gross shipped on Wednesday, April 23rd, and 957 gross, also a very large day, shipped on April 24th, a total of 4374 gross. Now, there is another little slip of paper (Defendant's Exhibit 4aa) here that requires one of the most complicated calculations of this entire financial, and I will explain it. It shows the repack, and I notice an error on it here, it says here 4-17, when it ought to be 4-18; in other words, it goes from 4-17 through 4-24. That repack is gotten up by Miss Eula May; you will notice it is O. K'd by her. Miss Eula May Flowers, the forelady, packed that; that is the amount of pencils used in our assortment boxes or display boxes. That is one of the tricks of the trade, when we have some slow mover, some pencil that doesn't move very fast, we take something that is fancy and put some new bright looking pencils with them, with these slow movers. That is a trick that all manufacturers use, and in packing these assortment boxes, which are packed under the direction of Miss Flowers, we send into the shipping room and get some pencils which have already been packed, pencils that have been on the shelf a year for all we know, and bring them in and unpack them and re-pack them in the display box. Therefore, it is very necessary in figuring out the financial sheet to notice in detail the amount of goods packed and just how many of those pencils had already been figured on some past financial report. We don't want to record it twice, or else our totals will be incorrect. Therefore, this little slip showing the amount of goods which were repacked is very necessary. That was

figured by me, and was figured by me on that Saturday afternoon, April 22nd. There were 18 gross of 35-X pencils selling for \$1.25; 18 gross for \$22.50. It shows right here, I figured that out. That is my writing right down there. Eighteen gross 35-X, \$1.25, \$22.50; 10 gross of 930-X figuring at \$25.00; that added up, as you will see, to \$70.00. In other words, there were 46 gross of pencils, 36 gross of which sell in our medium price goods; 86 gross 35-X; 10 gross 930-X, \$2.50, that is a high price goods. Therefore, the repack for that week was 36 gross medium priced goods and 10 gross of high price goods. I will show you now where the \$70.00 is and where the 36 gross is, and where the 10 gross figured in the financial sheet. There is a little sheet (Defendant's Exhibit 7a) stuck up here in the corner attached to the record—the factory record of pencils manufactured during that week. That shows the production, divided into the following classes (Defendant's Exhibit 7a); cheap goods, the very cheapest we make, outside of jobs, those we figure at 60 cents a gross. Then there is the rubber insert, those we figure 85 cents a gross, and then the job and then the medium; the medium being all goods up to a certain grade that contains the cheap lead, and the good being all those that contain a better class of lead. In this case, Mr. Schiff had entered it up to and through Wednesday, and had failed to enter Thursday, and I had to enter Thursday, and to figure it. This sheet (Defendant's Exhibit 7a) shows the total of the three classes of goods packed from day to day. Now, I have had very few clerks at Forsyth Street, or anywhere else, for that matter, who could make out this sheet (Defendant's Exhibit 2) successfully and accurately. It involves a great deal of work and one has to exercise exceptional care and accuracy in making it out. You notice that the gross production here (Defendant's Exhibit 2) is 2765½. That gives the net production. The gross production is nothing more than the addition, the total addition, the proven addition of those sheets containing the pencils packed. This other little sheet (Def.'s Ex. 7a) behind here represents the pencils packed the week of April 17—that week's production. Now, this little sheet I had to work on, showing pencils that were repacked, going into display boxes, and the numbers, and subtracted that from total amount 46 from 2765½, which leaves 2719½; in other words, I just deducted the amount that had been taken out of the stock room and repacked from the total amount that was stated to be packed, showing the amount of repacked goods. Now all I had to do was to copy that off, it had been figured once. The value of the repack was \$70.00; that was mere copying. Now, the rubber insert entries, I got those that morning, the number of pencils packed during the week ending April 24th; that is Thursday, April 24th; that insert rubber is a rubber stuck directly into wood with a metal tip or ferret to hold it in. I have to go through all of this data, that being an awfully tedious job, not a hard job, but very tedious; it eats up time. I had to go through each one of these, and not only have to see the number, but I have to know whether it is rubber insert or what it is, and then I put that down on a piece of scratch paper, and place it down here, in this case it was 720 gross. Then the rubber

tipping, that means tipped with rubber; that is the rubber that is used on the medium priced pencils that have the medium prices, we ship with the cheap shipping. I had to go through this operation again, a tedious job, and it eats up time; it is not hard, but it is tedious. I had to go through that again, to find out the amount of tip rubber that was used on this amount of pencils. Then I had to go through the good pencils. Now, it has been insinuated that some of these items, especially this item, if I remember correctly—that when I have gotten two of the items, I can add it all up and subtract from the total to get the third by deduction, but that is not so. Of the pencils that still remain unaccounted for, there are many pencils that don't take rubber at all. There are jobs that don't take rubber on them, plain common pencils, going pencils that don't have rubber on them at all, and I have to go through all of that operation, that tedious operation again that eats up so much time. Then there is the lead of the various kinds that we use; there is a good lead and cheap lead, the large lead and the thick or carbon lead, and the copying lead. That same operation has to be gone through with again. Now this sheet (Defendant's Exhibit 3) (exhibiting) is where the expert accountant said I made a mistake. I had to go through with each of those pencils to see if they were cheap rubber or if they were good lead or copying lead. So I had to go through this same operation and re-add them to see that the addition is correct before I can arrive at the proper figure. The same way to find the good lead and the cheap lead, the large lead and the copying lead; that operation had to be gone through in detail with each and every one of those, and the same with each of the boxes, and that is a tough job. Some of the pencils are packed in one gross boxes and some in half-gross boxes, and, as I say, we use a display box, and there are pencils that are put in individual boxes, and we have to go through carefully to see the pencils that have been packed for the whole week, and it is a very tedious job. Now in these boxes there is another calculation involved, and then I have to find the assortment boxes, but that is easily gotten. Then I have to find out whether they are half-gross boxes or one-gross boxes, and then reduce them to the basis of boxes that cost us two cents apiece; reduce them to the basis of the ordinary box that we paid two cents a box. After finding out all the boxes, then I have to reduce that to some common factor, so I can make the multiplication in figuring out the cost at two cents. That involves quite a mathematical manipulation. Then I come to the skeleton. Skeletons are no more than just a trade name. They are just little cardboard tiers to keep one pencil away from the other, that is all a skeleton is. I have to go through and find out which pencils are skeletons. If it is a cheap pencil they are just tied up with a cord, and there are pencils in a bunch, and there are pencils that we don't use the skeleton with. That must all be gone through and gotten correctly, or it will be of no worth. Then comes the tip delivery, which is gotten from this report from Mr. Lemmie Quinn that I showed you before. Then there is another entry on this sheet of the tips used and I can give you a clear explanation of the manner that I arrive at that.

You can't use tips when you don't have some rubber stuck in it, so I just had to go through the rubber used to find that. Then we have what we call ends; there are a few gross of them there. Then the wrappers. Pencils that are packed in the individual one-dozen cartons don't take wrappers; they are in a box. Pencils that are packed in the display boxes don't take a wrapper; they just stick up in a hole by themselves. The cheap pencils are tied with a cord and they don't take any wrapper, so the same operation, the same tedious operation, had to be gone through with that to get at the number of wrappers, and then the different number of gross and the number of carton boxes used in the same way. On the right hand side of this sheet you notice the deliveries. There is the lead delivery from the Bell Street plant and the Forsyth Street plant. This doesn't mean the amount of lead used in the pencils packed for this week only, but it shows the amount of our lead plant delivery, for information. Then the slat delivery, that is not worked out that week; that is not worked out simply because that is Mr. Schiff's duty to work that out and that is a very tedious and long job and when I started in to do that I couldn't find the sheet showing the different deliveries of slats from the mill, so I let that go, intending to put that in on Monday, but on Monday following I was at the police station.

I took out from this job sheet (Defendant's Exhibit 3), the correct amount of gross packed—791 as figured there—correct value \$396.75, as shown on this sheet, and the average is that one, that I didn't carry out to two decimal places; I didn't carry it to but one. Then from the pay roll book I got the pay roll for Forsyth Street and Bell Street, and then as a separate item took out from the pay roll book total, separate the machine shop, which that week was \$70.00. The shipments (Defendant's Exhibit 6), were figured for the week ending April 24th on this sheet, as far as I—oh, you notice the entry of the 24th; those are those invoices, the first piece of work that I explained to you, sitting up there; I explained that from the chair, and couldn't come down here; that's the piece of work that I explained to you how we did it in triplicate. That's the work that I did that morning, and completed, as I told you, that each of the invoices was wrong, and I had to correct them as I went along, simply because I needed it on the financial, and there's where I entered it on the sheet as shipments; (Defendant's Exhibit 6); I needed that so as to make the total; and that's where I entered it—(Defendant's Exhibit 6—shipments, the 24th, on this sheet (Defendant's Exhibit 6), during the afternoon \$1,245.57, and totalling it up, the pencil factory shipped that week \$5,438.78. Those amounts you see are entered right in there, and the amount of shipments is gotten from this report \$4,374.00 handed in by Mr. Irby, and the value of the shipments are gotten from this sheet, the last entry on which I had to make.

Then the orders received. The entry of the orders received that day involved absolutely no more work on my part than the mere transfer

of the entries. On this big sheet (Defendant's Exhibit 2), I have here the orders received are in terms of "total gross" and "total value," and we need that to compare the amount of shipments with the amount of orders we are receiving to see whether we are shipping more than we are receiving, or receiving more than we are shipping. That amount is given here. Down there it tells you the total amount of dollars and cents of all the orders received, total gross, and the average. The average is important, though it is usually taken over on a separate paper on Friday morning to Mr. Sig Montag so that he knows how sales for the week have come out long before he receives the financial. He didn't receive the financial usually until Monday morning, when I go over there.

Now one of the most intricate operations in the making up of the financial report is the working out of the figures on that pencil sheet, as shown by that torn little old sheet here, (Defendant's Exhibit 3), that data sheet. Now with this in hand, and with that pencil sheet record of pencils packed (Defendant's Exhibit 7), the financial report is made out. This sheet (Defendant's Exhibit 2), the financial, I may say is the child of my own brain, because I got it up. The first one that ever was made I made out, and the fact that there is a certain blue line here, and a certain red line there, and a black line there, and certain printing on it, is due to me, because I got this sheet up myself. On one side you notice "Expense," or two main headings "Expense," "Materials." Together they comprise the expense for the week. On the other side, like the debit and credit sides of a ledger, is the "Value," "Gross Value" of the goods, which have been packed up during a given week. Down here below you will notice "Less Repacked." You remember the repacked, that I told you about, the pencils taken out of stock and re-packed to make them move better. That value is deducted, so that it won't allow error to enter into this figure. Then we take off 12 per cent. down at the bottom. That 12 per cent. allows for freight allowances, cash discounts, and possibly other allowances, and gives us the net value or the net amount of money for those pencils, which the treasury of the Pencil Company receives in the last analysis.

On the other side is the materials, the cost of materials, that went into the making of those pencils, based on the amounts and kinds of pencils, which, of course, as in this instance, comes from the data sheet.

The first item under "Expense" items is "Labor," and the labor is divided, as you all know, into the two classes, direct and indirect. The direct labor is that which goes directly into the making of the pencils themselves, and the indirect constitutes the supervising, shipping, office, clerical help, and so forth. These figures are brought directly from the pay roll. The indirect labor, however—as in this case \$155.00—is an empirical figure, a figure, which we have found out by experiment to be the correct figure, and we arbitrarily decide on it, and keep it until such

time as we think we ought to change it and then change. The burden that a business has to carry is the fixed charges, the expense that it carries, irrespective of whether it will produce two gross or 200,000 gross, like rent, insurance, light, heat, power and the sales department. The sales department expense usually goes on whether the salesman sells little or big bills; his salary goes on and his expense goes on. Rent, heat, light, power, sales department men, and all that, is figured out, as you could find by looking back, continuously from week to week, and there is no work other than jotting it down to figure in this total.

The repair sundries is also arbitrary at \$150.00. The machine shop, however, is available. It appears alongside of "Investment." "Investment" is crossed out, and "Machine Shop" written in. There is a reason for that. The time was at the inception of our business when every machine built by us was so much additional added to the value of our plant. In other words, it was like investing more money in it, in the plant, but the time came, when we quit making machines, and then we simply kept them in repair, and we charged that to expense, crossing out "Investment" and putting down "Machine Shop" as an expense item.

The material is arrived at on the basis, gross, net. The gross basis is the total amount of pencils packed, as per the packing reports handed in by Miss Eula May Flowers, and the net basis is the total amount, total gross, packed by report of Miss Eula May Flowers less the amount of re-packed, of which I have spoken. In this case the gross amount was 2,851 gross, net 2,830½ gross, the smaller being the net figure. The slats are figured at 22 cents per gross, and that's simply taking the 2,830½ gross down to the slat item, and multiplying that by 22 cents, and putting it down to the materials. Then from the figures derived from the packing reports we figure rubbers used according to the character or grade of the pencil manufactured; 6½ cents cheapest, 9 cents medium, 14 cents high grade. Then comes the tips. The tips is simple, gotten by adding together the amounts of rubber used in ferrules, the medium rubber, and the better class of rubber. In other words, it's gotten by adding together the rubber at 9 cents a gross, and the rubber at 14 cents a gross, and adding together the total amount of gross used. And you see it says "materials," and it is reckoned at 10 cents; in other words, the materials used in making the tips in that tip plant we figured at 10 cents a gross, and the labor is included in that pay roll item up above. Then there is 25 gross of these medium ends.

Then the lead, which is used, is taken from this sheet, multiplying 15 cents for the better lead and 10 cents for the cheaper lead. Then 5 cents a gross has been figured out after months of careful keeping track of what we use to include such materials as shellac, alcohol, lacquer, aniline, waxent, and oils—that's oils used in manufacture, not for lubrication of transmission or machinery. It also includes that haskolene com-

pound, of which we have heard so much. That's included in this 5 cents per gross.

Then comes the boxes at 2 cents a gross, then assortment boxes at an average of 4 cents a gross; then come wrappers at one cent a gross; that is the number of wrappers used in wrapping up one gross of pencils are worth one cent. Then cartons, boxes, holding one gross of pencils, figured at 28 or 18 cents. Then down below "pay roll Bell Street, \$175.21." Then show what was delivered, just a plain copy of what I have on this sheet. I have been looking at the sheet for the week ending April 17th, but it is practically the same way. I have here down on the bottom of this financial (Defendant's Exhibit 2) made out on the 26th what's delivered, good and cheap. There is no entry there. You will remember I said I didn't work that out. I put that out there preparatory to working that out Monday morning before I would take it over. Then it tells tips delivered from Mr. Quinn's report.

Now on the right side you will notice this entry, "Better grades, gross, net." From this small sheet we get total of better grades, 710 gross. Then right below it says 700 gross net. There are 710 gross, and on that repacked sheet I called out there 10 gross good goods repacked, therefore the difference of 10 gross. Then we look on down this pencil sheet, cut down each and every one of the items accordingly—you will notice in some places I marked some items, "142 1-2 2-10-X"—and so on down the sheet. In this case there were 29 or 30 different items, all of which had to have the prices correctly traced down, extensions correctly made, checked, re-checked, added up, and totaled, and checked back, and there pack had to be deducted, after which the 12 per cent. had to be figured out, and deducted, giving net value of the production for that week. Then we take the net value of the production that week, and from it take the total amount of expense, and materials used, the expense including labor, rent, light, insurance, and so forth, and, if this expense is greater than the value of the pencils, then the factory has operated that week at a loss. In this case a deficit shows, showing that that week we operated at a loss. The shipments were gotten off down there from this sheet. Those are my initials on the top.

Now, besides the making of this large sheet (Defendant's Exhibit 2) proper, there is in the making of the financial report three other sheets, that I usually make out. Now one of those little sheets, that are usually made—and I want to call your attention to the fact that I didn't typewrite this; I just filled these figures in; I am no typewriter; I cannot operate a machine; I have two or three dozen of those every now and then typewritten together, and keep them in blank in my desk; I didn't typewrite those on that day, or any other day; I just filled those figures in those blanks—this is the sheet (Defendant's Exhibit 11), called the comparison sheet between 1912 and 1913, which is nothing more nor less

than taking the vital figures, the vital statistics of one week of 1913, and comparing them with the same week of 1912, to see how we have improved or gone backward every week one year apart. Of course the putting of these down involves going back into the proper week in this folder, and getting that out. However, I noticed the week in 1912 corresponding with the week of April 24th in 1913, was a week of 45 hours instead of 50 hours.

In addition to that, I made out two condensed financial reports, (Defendant's Exhibits 43 and 46), that is, give the main figures. I didn't typewrite this sheet, either; as I say, I cannot operate a machine. I just filled in the figures, which have to be picked out from this large financial report, fill them in for the week ending—that does not show the date it was made, but it shows for the week ending April 24th, the production in dollars, the total expenditure in dollars, the result, which in this week, as I wrote in "deficit" in dollars; shows the shipments, which in this week were very good, and the orders received, which were gotten from that great big sheet. These were enough figures for a director or stockholder of the company to receive, and are practically the only figures he is interested in. He don't care to hear how much we make of this pencil or that pencil. The only thing he is interested in is dividends, if we are able to give them to him. One of these sheets I always make out and mail to Mr. Oscar Pappenheimer (Defendant's Exhibit 46), who was formerly a member of the Board of Directors, though he is not now. The other sheet (Defendant's Exhibit 43), I always invariably send to my uncle, Mr. M. Frank, no matter where he is, who is president of the company. On this particular Saturday, my uncle had during the week ending April 26th, gone to New York, stopping at Hotel McAlpin, preparatory to taking his annual trip abroad for his health, he being a sick, feeble old man. When I made out that financial, I really made out two small ones, and I put one (Defendant's Exhibit 46), in an envelope, addressed it to Mr. Oscar Pappenheimer, care Southern Furniture Company, Atlanta, Georgia; the other one (Defendant's Exhibit 43) was put in this envelope, which you see right here, and sent to my uncle, Mr. M. Frank, together with a letter, (Defendant's Exhibit 42), which I wrote him, after having finished the financial sheet, the sheet showing the comparison of vital statistics for the same weeks of 1912 and 1913, and after having completed these two small condensed financial reports. I wrote that letter (Defendant's Exhibit 42) to my uncle, and I sent him that report (Defendant's Exhibit 43), and also sent a price list, to which I referred in that letter; hence the size of the envelope, (Defendant's Exhibit 44). I am going to show you one of those price lists. Its a great big sheet when it is folded up, it is much too large for the ordinary size; hence the reason I used a great big envelope like that. I addressed that letter to my uncle, Mr. M. Frank, care Hotel McAlpin, Greely Square, New York, N. Y., as has been identified.

This ends practically the work on the financial. After finishing the

financial, I wrote these letters, and sealed them, and placed them aside to post. After finishing the financial, I folded this big report up (Defendant's Exhibit 2), and put it with the comparison sheet (Defendant's Exhibit 11) for the week of 1912 and the same week of 1913 in a large envelope, addressed it to Mr. Sig Montag, General Manager of the Pencil Company, and put it under my inkwell, intending to take it over on the morning of Monday following.

I then came to the checking up of the cash on hand and the balancing of the cash book. For some reason or other there are no similar entries in this book after those of that date. That's my handwriting (Defendant's Exhibit 40), and I did that work on Saturday afternoon, April 26th, as near as might be between the hours of 5:30 and 5 minutes to 6:00. Now in checking up it didn't take me an hour and a half. I did that in about 25 minutes. In checking up the cash the first thing to do is to open the cash box. We have a little coin bag in there, and there was in cash actually on hand that day about \$30.54; that's all there was. That's all there could have been, and that \$30.54 was to the best of my recollection composed of about three dollars in one dollar bills, about four or five dollars in quarters and halves, and the balance dimes, nickels, and one-cent pieces. That's some job to count that, not only to count it, but to separate the different denominations, and stack it up into stacks of a dollar. I did that, stacked them up, checked them, and re-checked them, and I took a piece of paper—haven't that paper—and jotted down the amounts. To that had to be added the amount that was loaned. In this case there was only one loan, that which I loaned to Mr. White that afternoon. That would eventually come back to the cash box. If there had been any errors in the pay roll the night previous, I would have had to make it good from the cash box, and it would have gone under the item of "extra pay roll." I don't know whether that occurred this week or not. However, I added up the total cash I actually had on hand then—\$28.54—and that \$2.00 loaned to Mr. White brought it up to \$30.54, the actual amount which the cash book showed. Now on the left-hand side of this book, the debits for the week between April 21st, which was Monday, previous to April 26th, it being a record simply of the petty cash used by us, showed that we had a balance on hand the Monday morning previous of \$39.85. On April 22nd we drew a check for \$15.00, and on April 24th we drew another one for \$15.00. I mean by that that we would draw a check for \$15.00, and go over to Mr. Sig Montag to sign it; so that during that week all we got from the treasury was \$30.00, and \$39.85 already on hand, made \$69.85, which was the total amount we had to account for. When we spend, of course we credit it. There once was a time, when, as we paid out money, we would write it down on this book. We found it was much better, however, to keep a little voucher book (Defendant's Exhibit 10) and let each and every person sign for money they got, and we have not only this record (Defendant's Exhibit 40) but this record on the receipt book (Defendant's Exhibit 10). The first entry on this is 15 cents there—on the

19th of April the National Pencil Company gave 15 cents to Newt Lee for kerosene (Defendant's Exhibit 10). Newt Lee's name is there, but he didn't write it. I wrote it; my initials are on it. He was there when he got the money, but I thought he couldn't write, and I signed his name. Whenever I sign anybody's name, my initials are under it. The next item is 75 cents for typewriter rent (Defendant's Exhibit 10); next item \$2.00 drayage 24th of April. That is Truman McCrary's receipt—he has a very legible handwriting, and one of the little stamps stamped on there. The next item is for cases; some negro signed his name down there. So on throughout the book (Defendant's Exhibit 10), cases, express, drayage, postage, parcels post, etc. Now, after counting the money, finding how much actual cash there was in the cash box, the next thing I do is to take this little voucher book, and lumped the different items that were all alike together. This sheet (Defendant's Exhibit 41) has been identified and explained, and you notice that there were four items of drayage grouped together, the total being \$6.70. I just extend that over to the right there \$6.70. Then I don't have to put drayage down in this book (Defendant's Exhibit 40) four times; just make one entry of drayage for the four times we paid drayage together, which gives the same total, and makes the book a great deal neater. So on throughout, five items of cases, two items of postage, two items of parcels post, one item of two weeks' rent on an extra typewriter, 45 cents for supplies for Mr. Schneegas' department, foreman on the third floor, 85 cents for the payment of a very small bill to King Hardware Company, \$11.50 to a tinsmith for a small job he had done, 5 cents for thread, and ten cents for carfare one item. Then this young man, Harold Wright, of whom I spoke, omitted from the pay roll. I added this up, and that was \$39.31, and transferred it from here (Defendant's Exhibit 41) to there (Defendant's Exhibit 40). I then made the balance in the usual way, checking it against the money on hand, that I had in the cash box that night, and after checking and re-checking it, and finding no money missing from any source that we could trace, found that it was \$4.34 short of the cash box, which was due to shortage in pay roll in the past three months.

4:35 P. M.

I finished this work that I have just outlined at about five minutes to six, and I proceeded to take out the clock strips from the clock which were used that day and replace them. I won't show you these slips, but the slips that I put in that night were stamped with a blue ink, with a rubber dating stamp, "April 28th (Defendant's Exhibit 1), at the bottom, opposite the word "date." Now, in reference to these time slips and the reason that the date April 28th was put on these slips, which was put in the clocks that night—Saturday night—no one was coming down to the factory on Sunday, as far as I knew, or as far as custom was, to put the slips into the clocks, and, therefore, we had to put the slips into

the clock dated with the date on which the help were coming into the factory to go about their regular duties and register on the Monday following, which, in this case was April 28th. Now on one of these slips, Newt Lee would register his punches Saturday night, and on Sunday night he would register his punches on the other. His punches on Monday night would be registered on two new slips that would be put into clock on Monday night. As I was putting these time slips into the clock, as mentioned, I saw Newt Lee coming up the stairs, and looking at the clocks, it was as near as may be six o'clock—looking straight at the clock; I finished putting the slip in and went back to wash up, and as I was washing, I heard Newt Lee ring the bell on the clock when he registered his first punch for the night, and he went down stairs to the front door to await my departure. After washing, I went down stairs—I put on my hat and coat—got my hat and top coat and went down stairs to the front door. As I opened the front door, I saw outside on the street, on the street side of the door, Newt Lee in conversation with Mr. J. M. Gantt, a man that I had let go from the office two weeks previous. They seemed to be in discussion, and Newt Lee told me that Mr. Gantt wanted to go back up into the factory, and he had refused him admission, because his instructions were for no one to go back into the factory after he went out, unless he got contrary instructions from Mr. Darley or myself. I spoke to Mr. Gantt, and asked him what he wanted, he said he had a couple of pairs of shoes, black pair and tan pair, in the shipping room. I told Newt Lee it would be alright to pass Gantt in, and Gantt went in, Newt Lee closed the door, locking it after him—I heard the bolt turn in the door. I then walked up Forsyth Street to Alabama, down Alabama to Broad Street, where I posted the two letters, one to my uncle, Mr. M. Frank and one to Mr. Pappenheimer, a few minutes after six, and continued on my way down to Jacobs' Whitehall and Alabama Street store, where I went in and got a drink at the soda fount, and bought my wife a box of candy. I then caught the Georgia Avenue car and arrived home about 6:25. I sat looking at the paper until about 6:30 when I called up at the factory to find out if Mr. Gantt had left. I called up at 6:30 because I expected Newt Lee would be punching the clock on the half hour and would be near enough to the telephone to hear it and answer it at that time. I couldn't get Newt Lee then, so I sat in the hall reading until seven o'clock, when I again called the factory, this time I was successful in getting Newt Lee and asked him if Mr. Gantt had gone again, he says, "Yes," I asked if everything else was alright at the factory; it was, and then I hung up. I sat down and had supper, and after supper, I phoned over to my brother-in-law, Mr. Ursenbach, to find out if he would be at home that evening, I desired to call on him, but he said he had another engagement, so I decided to stay home, and I did stay home reading either a newspaper or the Metropolitan magazine that night. About eight o'clock I saw Minola pass out on her way home. That evening, my parents in law, Mr. and Mrs. Emil Selig, had company, and among those present were Mr. and Mrs. Morris Goldstein, Mr. and Mrs. M. Marcus,

Mrs. A. E. Marcus and Mrs. Ike Strauss; Mr. Ike Strauss came in much later, something after ten o'clock, I believe. I sat reading in the hall until about a quarter to ten, when I lighted the gas water heater preparatory to taking a bath, and then continued reading in the hall; at 10:30 I turned out the gas, went into the dining room, bade them all good night, and went upstairs to take my bath, a few minutes later my wife followed me upstairs.

(Here the jury took a recess).

I believe I was taking a bath when you went out—on Saturday night; and after finishing my bath, I laid out my linen to be used next day, my wife changed the buttons from my old shirt to the shirt I was to wear the following morning, and I retired about eleven o'clock. The next day, Sunday, April 27th, I was awakened at something before seven o'clock, by the telephone ringing. I got out of bed—was tight asleep, it awakened me—but I got out of bed, put on a bath robe and went down to answer the telephone, and a man's voice spoke to me over the phone and said—I afterwards found out this man that spoke to me was City Detective Starnes—said "Is this Mr. Frank, superintendent of the National Pencil Company?" I says "Yes, sir," he says, "I want you to come down to the factory right away," I says, "What's the trouble, has there been a fire?" He says, "No, a tragedy, I want you to come down right away;" I says, "All right," he says, "I'll send an automobile for you," I says, "All right," and hung up and went upstairs to dress. I was in the midst of dressing to go with the people who should come for me in the automobile, when the automobile drove up, the bell rang and my wife went down stairs to answer the door. She had on—just had a night dress with a robe over it. I followed my wife—I wasn't completely dressed at that time—didn't have my trousers or shirt on, and as soon as I could get together—get my trousers and shirt on—I went down stairs—followed my wife in a minute or two. I asked them what the trouble was, and the man who I afterwards found out was detective Black, hung his head and didn't say anything. Now, at this point, these two witnesses, Mr. Rogers and Mr. Black differ with me on the place where the conversation occurred—I say, to the best of my recollection, it occurred right there in the house in front of my wife; they say it occurred just as I left the house in the automobile; but be that as it may, this is the conversation: They asked me did I know Mary Phagan, and I told them I didn't, they then said to me, didn't a little girl with long hair hanging down her back come up to your office yesterday sometime for her money—a little girl who works in the tipping plant?" I says, "Yes, I do remember such a girl coming up to my office, that worked in the tipping room, but I didn't know her name was Mary Phagan." "Well, we want you to come down right away with us to the factory;" and I finished dressing, and as they had said they would bring me right away back, I didn't have breakfast, but went right on with them in the automobile, made the trip to the undertaking establishment very quickly—I mean,

they made the trip down town very quickly, and stopped at the corner of Mitchell and Pryor Streets, told me they were going to take me to the undertaker's first, that they wanted me to see the body and see if I could identify the little girl. I went with them to the undertaking establishment, and one of the two men asked the attendant to show us the way into where the body was, and the attendant went down a long, dark passageway with Mr. Rogers following, then I came, and Black brought up the rear; we walked down this long passageway until we got to a place that was apparently the door to a small room—very dark in there, the attendant went in and suddenly switched on the electric light, and I saw the body of the little girl. Mr. Rogers walked in the room and stood to my right, inside of the room, I stood right in the door, leaning up against the right facing of the door, and Mr. Black was to the left, leaning on the left facing, but a little to my rear, and the attendant, whose name I have since learned was Mr. Gheesling, was on the opposite side of the little cooling table to where I stood—in other words, the table was between him and me; he removed the sheet which was covering the body, and took the head in his hands, turned it over, put his finger exactly where the wound in the left side of the head was located—put his finger right on it; I noticed the hands and arms of the little girl were very dirty—blue and ground with dirt and cinders, the nostrils and mouth—the mouth being open—nostrils and mouth just full of saw-dust and swollen, and there was a deep scratch over the left eye on the forehead; about the neck there was twine—a piece of cord similar to that which is used at the pencil factory and also a piece of white rag. After looking at the body, I identified that little girl as the one that had been up shortly after noon the day previous and got her money from me. We then left the undertaking establishment, got in the automobile and rode over to the pencil factory. Just as we arrived opposite the pencil factory, I saw Mr. Darley going into the front door of the pencil factory with another man, whose name I didn't know; we went up to the second floor, the office floor, I went into the inner office, hung up my hat, and in the inner office I saw the night watchman, Newt Lee, in the custody of an officer, who I think was detective Starnes—the man who had phoned me. I then unlocked the safe and took out the pay roll book and found that it was true that a little girl by the name of Mary Phagan did work in the metal plant, and that she was due to draw \$1.20, the pay roll book showed that, and as the detective had told me that someone had identified the body of that little girl as that of Mary Phagan, there could be no question but what it was one and the same girl. The detectives told me then they wanted to take me down in the basement and show me exactly where the girl's body was found, and the other paraphernalia that they found strewed about; and I went to the elevator box—the switch box, so that I could turn on the current, and found it open. In reference to that switch box being open or shut—it was open on that occasion, however—I had given instructions to the factory to keep it open, and those instructions were given because a member of the fire department had gone through all that part of the city, and the

National Pencil Company, among others, and told us that no switch box, no box in which an electric switch was situated, could be locked up, but had to be open, so it could be easily accessible in case of fire, so they wouldn't run any risk of electrocuting anybody, or if they wanted to move quickly, they could throw it on and start the elevator—you couldn't lock it up, the firemen wouldn't know where the key was. However, I turned on the switch, started the motor, which runs the elevator, going, then Mr. Darley and a half dozen more of us and the detectives got on the elevator; I got on the elevator and I started to pull the rope to start the elevator to going, and it seemed to be caught, and I couldn't move it, I couldn't move it with a straight pull, and couldn't get it loose, so I jumped out, we all got off, and I asked Mr. Darley to try his hand—he's a great deal larger man and a great deal stronger man than I was—so he was successful in getting it loose—it seemed like the chain which runs down in the basement had slipped a cog and gotten out of gear and needed somebody to force it back; however, Mr. Darley was successful in getting it loose, and it started up, and I got on and the detectives got on and I caught hold of the rope and it worked alright.

In the basement, the officers showed us just about where the body was found, just beyond the partition of the Clark Woodenware Company, and in behind the door to the dust bin, they showed us where they found the hat and slipper on the trash pile, and they showed us where the back door, where the door to the rear was opened about 18 inches. After looking about the basement, we all went back upstairs and Mr. Darley and myself got some cords and some nails and a hammer and went down the basement again to lock up the back door, so that we could seal the factory from the back and nobody would enter. After returning upstairs, Mr. Darley and myself accompanied Chief Lanford on a tour of inspection through the three upper floors of the factory, to the second floor, to the third floor and to the fourth floor, we looked into each bin, and each partition, and each dressing room and each work room, and even passed through the metal room and looked into that very dressing room that has figured so prominently in this trial, and neither Mr. Darley nor myself noticed anything peculiar on that floor, nor did Sergeant Lanford, Chief of the Atlanta detectives, notice anything peculiar. We then returned to the front, and took out of the clock the slip on which Newt Lee had punched the evening previous, and that clock slip, of course was dated April 28th (Defendant's Exhibit 1).

I removed the clock slip from the clock, and in the center of the sheet, between the top and bottom, I remember the No. 133 and the number 134, I wrote on it "Taken out 8:26 A. M." (Defendant's Exhibit 1), and two lines under it, with a casual look at that slip, you can't see it.

I can see it. When looking casually at that slip (Defendant's Exhibit 1), you see nothing, and by the way, this sheet has been identified, it

is the one to which reference has been made so many times, and if you will look at it, you will see the date, April 28th, which we put on there on the evening of Saturday, April 26th, but if you will look opposite those numbers 133 and 134 (Defendant's Exhibit 1), and look very carefully, you can see where there has been erased from it what I put on there that morning in pencil to identify it, the words "taken out 8-26," and two lines, which it seems has been erased, but they couldn't erase it carefully enough, they even erased some of the printed line which runs across that sheet. This is the sheet that I took out on Sunday morning, and looked at the clock to notice what time it was, and I laid it up against the dial of the clock, the glass face of the clock, and wrote down there the time which the clock then registered. I told them the sheet was just like you see it there, and I brought it to the office and Chief Lanford put it in his pocket; I then went into the office and got another time slip and dated it April 28th, similar to this one which was taken out, and which one it would replace, and I put it back into the time clock to be used by the night watchman that night and by the help when they came to work on Monday morning. After taking this slip out, Mr. Darley and myself casually looked over the slip to see if there were any errors, and we noticed over there that no successive numbers had been skipped, that is, the numbers on that slip are arranged successively, one, two and three, and the time alongside of each one, and there was no single line skipped, but we didn't notice the actual time shown by the punch, we only noticed that the successive punches were made at the time which the punches themselves showed. After putting a new slip in the clock, we all went out of the factory and went downstairs and locked the door, and I was going to go down to the office, to police headquarters, because the officers said they wanted to show me some notes which they said were found near the body and the padlock and staple which they showed me had been withdrawn, and which they said had been taken down to the station the first time they had Newt Lee down there.

Now, gentlemen, I have heard a great deal, and so have you, in this trial, about nervousness, about how nervous I was that morning. Gentlemen, I was nervous, I was very nervous, I was completely unstrung, I will admit it; imagine, awakened out of my sound sleep, and a morning run down in the cool of the morning in an automobile driven at top speed, without any food or breakfast, rushing into a dark passageway, coming into a darkened room, and then suddenly an electric light flashed on, and to see the sight that was presented by that poor little child; why, it was a sight that was enough to drive a man to distraction; that was a sight that would have made a stone melt; and then it is suspicious, because a man who is ordinary flesh and blood should show signs of nervousness. Just imagine that little girl, in the first blush of young womanhood, had had her life so cruelly snuffed out, might a man not be nervous who looked at such a sight? Of course I was nervous; any man would be nervous if he was a man. We went with the officers in the automobile, Mr.

Rogers was at the driving wheel, and Mr. Darley sat next to him, I sat on Mr. Darley's lap, and in the back was Newt Lee and two officers. We rode to headquarters very quickly and on arrival there Mr. Darley and I went up to Chief Lanford's office where I sat and talked and answered every one of their questions freely and frankly, and discussed the matter in general with them, trying to aid and to help them in any way that I could. It seemed that, that morning the notes were not readily accessible, or for some other reason I didn't get to see them, so I told them on leaving there that I would come back that afternoon, which I ultimately did; after staying there a few minutes, Mr. Darley and myself left, and inasmuch as Mr. Darley hadn't seen the body of the little girl, we went over to Bloomfield's on Pryor Street and Mitchell, and when we went into the establishment, they told us somebody was busy with the body at that time and we couldn't see it, and we started to leave, when we met a certain party with whom we made arrangements to watch the building, because Newt Lee was in custody at that time. Mr. Darley and I then went over to Montag Brothers to see if any of the Montags had come down town that morning, we arrived at their place, and found the same was locked, and that nobody was down there. We walked from Montag's place on Nelson Street down to Mitchell and Forsyth Streets, where I bade Mr. Darley good-bye, and I walked down Mitchell Street to Pryor, where I caught a Georgia Avenue car and rode to the house of Mr. Sig Montag, our General Manager, corner of Glenn and Pryor Streets, and called on Mr. Montag and discussed with him at length and in detail what I had seen that morning and what the detectives had to say. After my conversation with him, I returned to my home at about a quarter to eleven, my home was 68 E. Georgia Avenue; I washed up and had my breakfast in company with my wife, in the dining room, and while I was eating breakfast, I told my wife of the experience I had had that morning. After I finished my breakfast, I left the house and went around to the home of Mr. Wolfsheimer, and at Mrs. Wolfsheimer's house we found quite a company of people, and the conversation turned largely on what I had seen that morning; also, among those who were present, were Mrs. L. G. Cohen, Mrs. M. G. Michael, Mrs. Carl Wolfsheimer, Julian Michael, Philip Michael, Miss Helen Michael, Miss Virginia Silverman, Miss May Lou Liebman, Julian Loeb and Herman Loeb. After staying there about an hour with my wife, I went in her company to visit the home of my brother-in-law, A. E. Marcus, whose home is situated on Washington Street opposite the Orphans' Home; on our arrival there, the nurse Lucy told us that no one was at home, and we could find them probably at the home of Mrs. Ursenbach; we then went over to the Ursenbach house, which is situated on the corner of Washington and Puliam Streets, and visited at that place, and saw Mr. and Mrs. A. E. Marcus, Mr. and Mrs. Chas. Ursenbach, Harold Marcus, Mr. and Mrs. Ben Wiseberg. Of course, the conversation was about the little girl that had been killed in the pencil factory basement that morning, of which they had heard, and we discussed it generally, although it was at that time as

much a puzzle to me as it was apparently to everybody else. After staying here until about one o'clock or a little after, I returned with my wife to my home at 68 E. Georgia Avenue, where we took our lunch together with my parents-in-law, with Minola McKnight serving. After dinner, read a little while, and finally caught the ten minutes of three Georgia Avenue car going down town. I got off at the corner of Pryor and Mitchell Streets, and went into the undertaker Bloomfield's, where I saw a large crowd of people nearby on the outside; on entering I found quite a number of people who were working at the pencil factory, among whom were Mr. Schiff, Herbert Schiff, N. V. Darley, Wade Campbell, Alonzo Mann, Mr. Stelker, and Mr. Zyganke. I chatted with them a few minutes, and I noticed that the people who were going in to see the body were standing in line and moving in, and that others from the factory were going in and I thought I would go in too and pay my respects, and I went and stood in line, and went into the room again and staid a few minutes in the mortuary chamber; the little girl had been cleaned up, her hair had all been cleaned and smoothed out, and there was a nice white sheet over the rest of her body. I returned to the front of the undertaking establishment, and stood chatting with Herbert Schiff and Mr. Darley until the party with whom we had made arrangements came up, and we gave them the keys with instructions as to watching the plant that night. Then Mr. Darley and Mr. Schiff and myself went down to police headquarters and went up into Chief Lanford's office, and the three of us stood talking there, answering all sorts of questions that not only chief Lanford, but the other detectives would shoot at us, and finally Mr. Darley said he would like to talk to Newt Lee; then he went into another room, and I presume they brought Newt Lee up from the cell, so he could talk to him. After Newt Lee was gone, the detectives showed us the two notes and the pad back with still a few unused leaves to it, and the pencil that they claimed they had found down in the basement near the body. Of course, Mr. Schiff and myself looked at those notes and tried to decipher them, but they were written exceedingly dim, and were very rambling and incoherent, and neither of us could recognize the handwriting, nor get any sense out of them at all. One of these notes (State's Exhibit Y) was written on a sheet of pencil pad paper, the same kind as that of this sheet which still remained on the pad back; the other (State's Exhibit Z) was written on a sheet of yellow paper, apparently a yellow sheet from the regulation order pad or order book of the National Pencil Company; this sheet was a yellow sheet with black ruling on it, and certain black printing at the top. These are the two notes (State's Exhibit Y and Z) (indicating papers). At the top of these notes where it showed the series and date, and you can see it has either been worn out or rubbed out (Defendant's Exhibit Z), but the date was originally on there, and down below here is the serial number; now, both of those notes were written as though they had been written through a piece of carbon paper and the date said Jan. 8, 1911; the order number is so faint or erased here that I can't even see what that is, but there is no trace of a date on this one at

all, but it was there distinctly visible when Mr. Schiff and myself looked at it. We continued answering any questions that the detectives wished to put to us looking to a possible solution of the mystery, when Mr. Darley came in and said if they didn't want him any further, he would go off, that he had an appointment. A few minutes thereafter, Mr. Schiff and myself left police headquarters, and went down Decatur Street to Peachtree Street, and down Peachtree Street over the viaduct to Jacobs' Alabama and Whitehall Street store, and went in, and each of us had a drink, and I bought a cigar for each of us at the cigar counter. Mr. Schiff had an appointment to meet some friends of his at the Union Depot that afternoon, and it was a little too early, so we took a walk around by the pencil factory, walking up Alabama to Forsyth Street and down Forsyth Street on the side opposite from the factory, to the corner of Hunter and Forsyth, where we noticed the morbid crowd that had collected out in front of the factory; we stood there about a minute or two and then continued walking, and then went up East Hunter Street back to Whitehall Street, and back Whitehall to the corner of Whitehall and Alabama, where Mr. Schiff waited until I caught an Alabama Street or Georgia Avenue car and returned to my home. I returned to my home about a quarter to four, and found there was no one in, as my wife had told me that if she wasn't at home, she would probably be at the residence of Mr. Ursenbach, I proceeded over there, coming up Washington Street in the direction of the Orphans' Home, and on Washington Street, between Georgia Avenue and the next street down, which I believe is Bass Street, I met Arthur Haas and Ed Montag and Marcus Loeb, who stopped me and asked about things they had heard about the little girl being dead in the pencil factory, and I stopped and discussed it with them, and I was about to leave them when Henry Bauer came along in his automobile and stopped where I was and he asked me what I knew about it, and I had to stop and talk with him; and I finally got loose from him and went over to the home of Mr. Ursenbach on the corner of Pulliam and Washington Terrace, and when I arrived there, I found Mr. and Mrs. A. D. Marcus, Mr. and Mrs. Charlie Ursenbach, and my wife, and a little later Mr. and Mrs. Sig Selig came in. Here again the subject of conversation was what I had seen that morning and what the detectives had told me, and what I had told them and how the little girl looked, and all about it, as far as I knew. I stayed there until about 5 o'clock, when Mr. Ike Haas, the Vice-President of the pencil factory, telephoned me to come over to his house, and I thereupon went over there, and on arriving at Mr. Haas' home, which is situated on Washington Street right across the way from the Orphans' Home, I talked to him about what I had seen that morning, and what I could deduce from the facts that were known and what the detectives had told me. I stayed there until about 6 o'clock. On arrival at Mr. Haas' I saw there his wife, Mrs. Haas, his son, Edgar Haas, and a cousin of my wife's, Montefiore Selig. My wife had left word with Mrs. Haas that I should call for her at the residence of Mr. Marcus, which is next door, or just a few doors away, and I went by and called

for my wife at six o'clock and a few minutes before seven my wife and I left the residence of Mr. Marcus and started down Washington Street towards Georgia Avenue on our way home. On our way home, we met our brother-in-law, Mr. and Mrs. Ursenbach, going to the house from which we had just left. We reached home about seven or a little after for supper. After supper, I started to read the paper; between 8 and 8:30, I phoned up to my brother-in-law, Alex Marcus, and asked him if he would come down, but he said he thought he would not that evening, on account of the rain. I continued reading there in the hall that night or evening. There was company at the house of my father and mother-in-law, among the company being the following people, to the best of my recollection, Mr. and Mrs. Paul Lippman, Mr. and Mrs. Ike Strauss and Mr. and Mrs. Carl Wolfsheimer. About ten o'clock, all the company left, and I went upstairs with my wife and retired about ten o'clock.

The next morning, I arose about seven o'clock, and washed and shaved and dressed, and while I was so occupied, the door bell rang, and my wife again answered the door, and there were two detectives down there, one was John Black, and the other, I believe, Mr. Haslett, Haslett of the city detectives; I finished dressing and went downstairs, and they told me they wanted me to step down to headquarters with them, and I told them I would, but I stopped and got my breakfast, finished dressing and got my breakfast before I went with them. We walked from my home on Georgia Avenue down to Washington Street down to police headquarters, walking the whole way. On the way down, I asked detective Haslett what the trouble down at the station house was, and he said: "Well, Newt Lee has been saying something, and Chief Lanford wanted to ask you a few questions about it;" and I said: "What did Newt Lee say;" "Well, Chief Lanford will tell you when you get down there." Well, I didn't say anything more to him, went right along with him, and when I got down to police headquarters, I sat in one of the outer offices that the detectives use, it wasn't the office of Chief Lanford, he hadn't come down yet, that was about between 8 and 8:30 when I got down there. Well, I waited around the office possibly an hour, chatting and talking to the officers that came in and spoke to me, but I still didn't see anything of Chief Lanford; and bye and bye, probably after an hour, half past nine perhaps, Sig Montag and Herbert Haas, a couple of my friends, came up and spoke to me; I was conversing with them, and possibly at 10 o'clock I saw Mr. Luther Rosser come up, and he said: "Hello boys, what's the trouble?" And Mr. Haas went up to him and spoke to him, and they were talking together and a few minutes later Chief Lanford, who had in the mean time arrived and who seemed to be very busy running in and out answering telephone calls, came in and says: "Come here," and beckoned to me; and I went with him and went into his room, in his office, and while I was in there, to the best of my recollection, anyhow it is my impression now, that this very time slip (Defendant's Ex. 1), on which at that time that "taken out at 8:26," with the two lines under it, had not been erased, was shown to me, and in looking over it and

studying it carefully, I found where the interval of an hour had occurred three times during the time that Newt Lee had been punching on that Saturday night, April 26th. When I had first looked at it, I only noticed that every line had a punch mark on it, but I didn't notice what time the punch marks themselves were on; this time I studied the slip carefully, it was the same slip I had taken out of the clock, Chief Lanford or one of the officers handed it to me at police headquarters, which I absolutely identified with the writing which was on it, which you can readily see if you look now, even though it has been erased. There seemed to be some altercation about Mr. Rosser coming in that room, and I heard Mr. Rosser say: "I am going into that room, that man is my client;" that was the first intimation I had that Mr. Rosser was going to look after my interests in this matter. Chief Beavers stated that he wanted me to give him a statement, and he said: "Mr. Frank, will you give us a statement?" And I said: "Certainly, I will give them a statement," I considered it only right that anybody that was at that factory that day should give the police a statement, telling who he had seen, where he had gone and what he had done; and I gave them a statement freely and unreservedly, while I had no idea that I had to make a statement at that time, I did give it to the very best of my ability, freely, and answered every question that was put to me. Mr. February was sitting on the opposite side of the table from where I was sitting, Chief Lanford was sitting at a desk, and Mr. Rosser was sitting quite a distance away, probably twenty-five feet, sitting in the front window with his back to us. After I had given the statement, several of the officers came into the room, among them being Chief Beavers, and Chief Beavers and Chief Lanford and Mr. Rosser were apparently having a sort of conversation, and I overheard Mr. Rosser say: "Why, it is preposterous, a man who would have done such a deed must be full of scratches and marks and his clothing must be bloody." I imagine Mr. Rosser must have had an inkling that they were suspicious of me, and as soon as I heard that, I turned and jumped up and showed them my underclothing and my top shirt and my body, I bared it to them all that came within the range of their vision, I had everything open to them, and all they had to do was to look and see it. After that, Mr. Rosser insisted that two of the detectives, Mr. Black and another detective, accompany Mr. Haas, Mr. Herbert Haas, and myself to my home and look over my soiled clothing for the past week, which I anticipated had not been given to the washwoman. They complied with this request; Mr. Black and another detective and Mr. Haas and myself went over to the corner of Hunter and Washington Streets, and caught the Washington Street car and rode to Georgia Avenue and went to my home, and on this car my mother-in-law was sitting, returning to her home from town. On reaching 68 E. Georgia Avenue, I found there my wife's grandmother, Mrs. Cohen, and my father-in-law, Mr. Selig. The detectives immediately went upstairs to my room with Mr. Haas and myself, and I took the laundry bag in which my soiled laundry is always kept and emptied it out on the bed, and they

examined each and every article of clothing that I had discarded that past week, and I again opened the clothing which I was then wearing, and which was the brown suit which I have here, this brown suit (Defendant's Exhibit 49) is the same suit I wore that Saturday, April 26th, and Monday April 28th, and I have worn that suit continuously since then until the weather became so hot, and it has neither been pressed nor cleaned since then, and I show it to you for your examination. The detectives were evidently perfectly well satisfied with what they had seen there, and of course they left without any further remarks with Mr. Haas. I went downstairs and conversed with my folks down there until dinner time, which was served to my father-in-law and my mother-in-law and my wife and myself by Minola McKnight. About that time, Mr. and Mrs. Wolfsheimer came in and conversed with us, Mr. Wolfsheimer telling me that he would take me down town that afternoon in his automobile. After dinner, I telephoned down to the office and telephoned to Mr. Schiff, and told him to get Mr. Montag's permission for the Pencil Company to put on a detective, preferably a Pinkerton detective, to work with and assist the city detectives in ferreting out the crime, as an evidence of the interest in this matter which the National Pencil Company was taking, I thought it was no more than we ought to do, and I also told Mr. Schiff I would be down town between half past two and three. After conversing with my folks, I went around the corner to Mr. Wolfsheimer's house and got in his automobile, and he took me down town to his place of business, which is situated on Whitehall Street near Mitchell, and I got out of the automobile there and walked over to the Forsyth Street plant of the pencil factory, and on going into the office, I saw the following men there: Mr. Herbert Schiff, Mr. Wade Campbell, Mr. Darley—Mr. Holloway was out in his place in the hall, and Mr. Stelker and Mr. Quinn and Mr. Ziganke, these foremen were sitting around there because we had shut down there, as they told me, due to the fact that the plant was wholly demoralized, the girls were running into hysterics, they couldn't stick at their work, they were crying and going on over what had happened there. I spoke to the boys who were there in the office about the happenings of that morning, of course, at more or less length. Then Mr. Quinn said he would like to take me back to the metal department on the office floor where the newspapers had said that Mr. Barret of the metal department had claimed he had found blood spots, and where he had found some hair. Mr. Quinn took me to the little lathe back in the metal department, and explained to me that Mr. Barrett had told him just the same as he said here, that those strands of hair were so few in number that he didn't see them until he turned the handle and they wound around his fingers, and moreover that the position of the handle of the tool which that handle actuates on that tool, that small lathe, was in the same relative position to the work in the lathe as when they left it on Friday evening previous to that Monday. They then took me over to the place in front of the dressing room where it was claimed the blood spots were found. Now, I examined those spots, I didn't ex-

amine them standing up, I didn't depend on the light from the windows, but I stooped right down to those spots, and I took a strong electric flash lamp that we had around there and looked at them and examined them carefully, and I made a certain conclusion after that examination. Now, gentlemen, if there is anyone thing in and about a factory, after my seven years of practical experience in factories, that I do know, it is the care and condition of factory floors. Now, take that metal plant, for instance, that plant, as you know, is a place where we reform and shape and spin sheet brass, and of course, of necessity, we use a great deal of lubricant there; now, the lubricant that is used on this eyelet machine, these large machines that change the sheet metal from a ribbon into a shape, we use that form of lubricant which is known as haskoline compound; now, the main ingredients of that compound are, for practical purposes, soap and oil, and in use, it is diluted to a great extent with water so it can flow easily onto the tools or onto the metal, so that the tools that they use it on won't get brittle or smeared up, and that haskoline compound is carried to these little machines in the metal room, right almost up to that dressing room, and that haskoline remains on them and sticks to them, and you are apt to find that haskoline compound on the floor there anywhere around in that metal room near any of those machines, and when it is spilled on the floor, it is not scoured up, but it is just swept up with a broom. Moreover, a point that has not been brought out, so far as I know, right opposite that dressing room is kept the scrap brass, the scrap barrels in which the scrap metal from the eyelet machines is put, and that is full of haskoline compound, that metal being put into the barrel of course, with the fluid on it, it flows to the bottom and is apt to get out of the bottom of that barrel onto the floor. But, getting back to the floor of the metal room, there is a constant spilling of lubricants, and, as I say, it is composed largely of soap and oil, and that floor, by actual experiment, is covered to a thickness varying from a quarter to a half inch, that is, you can scrape away that much before you get down to the original color of the wood; moreover, on top of that grease soaked floor, there is dirt more or less, and then somebody comes along with a water sprinkler and sprinkles it to sweep it up, and they go over the top of that, it don't sink into the floor, and the result is there is coat after coat of grease and dirt on that floor. Now, with reference to those spots that are claimed to be blood that Mr. Barrett found, I don't claim they are not blood, they may have been, they are right close to the ladies' dressing room, and we have had accidents there, and by the way, in reference to those accidents, the accidents of which we have had records, are not the only accidents that have happened there; for instance, a person cuts a finger; that is an accident, we give first aid to the injured in the office, and we don't have any report on that, the only reports we have are of those accidents that incapacitates the health, where they demand the money for the time that they have lost due to the accident, and we will have our Employers' Liability Insurance Company to pay the employees, but where people just cut their fingers and they go back to

work, we don't make any record of that, and we have people cutting their fingers there very often, and when they cut their fingers, their line of travel is right by that place where Mr. Barrett found those spots, right to the office. Now, we use paint and varnish around there, a great deal of it, and while I don't say that this is not blood, it may be, but it could also have been paint, I have seen the girls drop bottles of paint or varnish and have them break there on the floor, I have seen that happen right close to that spot, but the main point about it is this, gentlemen: when I got down and looked at it, you could have scratched away from the top of those dark stains an accumulation of dirt that was not the accumulation of a day or two days or three days or three weeks, but it was at least three months, from off the top of those spots, without touching the spot itself. Moreover, that white stuff was unquestionably, in my opinion, haskoline compound, and it was dry and it had to be put on, because it showed all evidences of having been swept, so it had to be put on the wood in a liquid state; if that had been fresh red paint, or if that had been fresh red blood, and that haskoline compound, that soap in it, which is a great solvent, should have been put on there in a liquid state, it would not have showed up white, as it showed up then, but it would have showed up either pink or red, and where the spot of blood was, or whatever it was, that stuff was white, and not pink or red.

I returned after making this examination from which I noticed two or three or four chips had been knocked up, the boys told me, by the police that morning; I returned to my office and gathered up what papers I had to take over to Montag Brothers, and I took over the financial report which I had made out the Saturday afternoon previous, and I talked it over with Mr. Sig Montag. I had a good long conversation with Mr. Montag with reference to the occurrences that morning and we decided that since the papers had stated that I was being detained at headquarters, it would be best to let my uncle, who was ill, and who is an elderly man, being over 70 years of age, and who was on the point of taking a trip to Europe, and I didn't want him to be unnecessarily alarmed by seeing in the papers that I was detained, and I wrote a telegram to Mr. Adolph Montag informing him that I was no longer in custody, that I was all right, and that he could communicate that to my uncle. That was so that my uncle should not get hold of an Atlanta paper and see that I was in custody and be unnecessarily alarmed.

I returned from Montag Brothers to the pencil factory, being accompanied by one of the traveling men, Mr. Hein, Mr. Sol Hein, and on my arrival at the factory I went up into the office and distributed the various papers all over the factory to be acted on the next day. In a few minutes Mr. Harry Scott of the Pinkerton detectives came in and I took him aside into my office, my private office, and spoke to him in the presence of Mr. N. V. Darley and Mr. Herbert Schiff. I told him that I expected that he had seen what had happened at the pencil factory by

reading the newspapers and knew all the details. He said he didn't read the newspapers and didn't know the details, so I sat down and gave him all the details that I could, and in addition I told him something which Mr. Darley had that afternoon communicated to me, viz.: that Mrs. White had told him that on going into the factory at about 12 o'clock noon on Saturday, April 26th, she had seen some negro down by the elevator shaft. Mr. Darley had told me this and I just told this to Mr. Scott. After I told Mr. Scott all that I could, I took him around the building, took him first back to the metal room and showed him the place where the hair had been found, looked at the machinery and at the lathe, looked at the table on which the lathe stands, and the lathe bed and the floor underneath the lathe, and there wasn't a spot, much less a blood spot underneath. I showed him the other spot in front of the dressing room, and I took him to the fourth floor and showed him where I had seen White and Denham a little before one the first time and about three the second time. Then I took him down into the basement and made a thorough search of the basement, and that included an examination of the elevator well which was at bottom of elevator shaft, and I noticed Mr. Scott was foraging around down there and he picked up two or three or may be four articles and put them in his pocket, and one of them I specially noticed was a piece of cord exactly like that which had been found around the little girl's neck. We then went back and I showed him where the officer said the slipper had been found, the hat had been found and the little girl's body was located. I showed him, in fact, everything that the officers had showed us. Then I opened the back door and we made a thorough search of the alleyway and went up and down the alleyway and then went down that alleyway to Hunter Street and down Hunter to Forsyth and up Forsyth in front of the pencil factory. In front of the pencil factory I had quite a little talk with Mr. Scott as to the rate of the Pinkerton Detective Agency. He told me what they were and I had Mr. Schiff to telephone to Mr. Montag to find out if those rates were satisfactory. He phoned back the answer that he would engage them for a few days at any rate. Mr. Scott then said: "Well, I don't need anything more," and he says "The Pinkertons in this case, according to their usual custom in ferreting out the perpetrator of this crime will work hand in hand with the city officers." I said: "All right, that suits me." And he went on his way. About that time my father-in-law joined the group over in front of the factory and after talking for some time my father-in-law and I left and we arrived home about 6:30 I should judge, and found there my mother-in-law and my wife and Minola McKnight, and we had supper. After supper my two brothers-in-law and their wives came over to visit with us and they stayed until about 10 o'clock, after which my wife and I retired. On Tuesday morning I arose sometime between seven and seven-thirty, leisurely dressed and took my breakfast and caught the 8:10 car coming towards town, the Georgia Avenue car, and when I went to get on that car I met a young man by the name of Dickler and I remember paying the fare for

both of us. When I arrived at the pencil factory about 8:30, I immediately entered upon my routine work sending the various orders to the various places in the factory where they were due to go, and about 9:30 I went on my usual trip over to Montag Brothers to see the General Manager. After staying over there a short while I returned in company with another one of their traveling men, Mr. Jordan. At the corner of Forsyth and Hunter Street I met up with a cousin of my wife's, a Mr. Selig, and we had a drink at Cruickshank's soda fount at the corner of Hunter and Forsyth. Then I went up into the factory and separated the papers I had brought back with me from Montag Brothers, putting them in the proper places, and sending the proper papers to the different places. I was working along in the regular routine of my work, in the factory and about the office, and a little later detectives Scott and Black came up to the factory and said: "Mr. Frank, we want you to go down to headquarters with us," and I went with them. We went down to headquarters and I have been incarcerated ever since. We went down to headquarters in an automobile and they took me up to Chief Lanford's office. I sat up there and answered any questions that he desired, and I had been sitting there some time when detective Scott and detective Black came back with a bundle under their arm. They showed me a little piece of material of some shirt, and asked me if I had a shirt of that material. I looked at it and told them I didn't think I ever had a shirt of that description. In the meantime they brought in Newt Lee, the night watchman brought him up from a cell and showed him the same sample. He looked at it and immediately recognized it; he said he had a shirt like that, but didn't remember having worn it for 2 years, if I remember correctly, that is what he said. Detectives Scott and Black then opened the package they had and disclosed the full shirt (State's Exhibit F) of that material that had all the appearance of being freshly stained with blood, and had a very distinct odor. Newt Lee was taken back to the cell. After a time Chief Langford came over to me and began an examination of my face and of my head and my hands and my arms. I suppose he was trying to hunt to see if he could find any scratches. I stayed in there until about 12 o'clock when Mr. Rosser came in and spoke to the detectives, or to Chief Beavers. After talking with Chief Beavers he came over to me and said that Chief Beavers thought it better that I should stay down there. He says: "He thinks it better that you be detained at headquarters, but if you desire, you don't need to be locked up in a cell, you can engage a supernumerary policeman who will guard you and give you the freedom of the building." I immediately acquiesced, supposing that I couldn't do anything else, and Mr. Rosser left. Now, after this time, it was almost about this time they took me from upstairs down to the District Sergeant's desk and detective Starnes—John N. Starnes, I think his name is, came in and dictated from the original notes that were found near the body, dictated to me to get a sample of my handwriting. Have you got those photographs there? (Photographs handed to the defendant). I wrote this note (State's Exhibit K) at the dictation of

Mr. Starnes, which was given to me word by word, and of course I wrote it slowly. When a word was spelled differently they usually stopped—take this word “buy” for instance, the detective told me how that was spelled so they could see my exact letters, and compare with the original note. Now I had no hesitation in giving him a specimen of my handwriting. Now, this photograph (State’s Exhibit K), is a reproduction of the note. You see, J. N. Starnes in the corner here, that is detective Starnes, and then is dated here, I put that there myself so I would be able to recognize it again, in case they tried any erasures or anything like that. It is a photographic reproduction of something that was written in pencil, as near as one can judge, a photographic reproduction of the note that I wrote. Detective Starnes then took me down to the desk sergeant where they searched me and entered my name on the book under a charge of suspicion. Then they took me back into a small room and I sat there for awhile while my father-in-law was arranging for a supernumerary police to guard me for the night. They took me then to a room on the top of the building and I sat in the room there and either read magazines or newspapers and talked to my friends who came to see me until—I was about to retire at midnight. I had the cover of my cot turned back and I was going to bed when detective Scott and detective Black, at midnight, Tuesday, April 29th, come in and said: “Mr. Frank, we would like to talk to you a little bit. Come in and talk to us.” I says: “Sure, I will be only too glad to.” I went with them to a little room on the top floor of the headquarters. In that room was detective Scott and detective Black and myself. They stressed the possibility of couples having been let into the factory at night by the night watchman, Newt Lee. I told them that I didn’t know anything about it, that if I had, I certainly would have put a stop to it long ago. They said: “Mr. Frank, you have never talked alone with Newt Lee. You are his boss and he respects you. See what you can do with him. We can’t get anything more out of him, see if you can.” I says: “All right, I understand what you mean; I will do my best,” because I was only too willing to help. Black says: “Now put it strong to him, put it strong to him, and tell him to cough up and tell all he knows. Tell him that you are here and that he is here and that he better open up and tell all he knows about happenings at the pencil factory that Saturday night, or you will both go to hell.” Those were the detective’s exact words. I told Mr. Black I caught his meaning, and in a few minutes afterwards detective Starnes brought up Newt Lee from the cell room. They put Newt Lee into a room and hand-cuffed him to a chair. I spoke to him at some length in there, but I couldn’t get anything additional out of him. He said he knew nothing about couples coming in there at night, and remembering the instructions Mr. Black had given me I said: “Now, Newt, you are here and I am here, and you had better open up and tell all you know, and tell the truth and tell the full truth, because you will get us both into lots of trouble if you don’t tell all you know,” and he answered me like an old negro: “Before God, Mr. Frank, I am telling you the truth and I have told you all I know.”

And the conversation ended right there. Within a minute or two afterwards the detectives came back into the room, that is, detective Scott and detective Black, and then began questioning Newt Lee, and then it was that I had my first initiation into the third degree of the Atlanta police department. The way that fellow Black cursed at that poor old negro, Newt Lee, was something awful. He shrieked at him, he hollered at him, he cursed him, and did everything but beat him. Then they took Newt Lee down to a cell and I went to my cot in the outer room.

Now before closing my statement, I wish to touch upon a couple of insinuations and accusations other than the one on the bill of indictment, that have been leveled against me so far during the trial. The first is this, the fact that I would not talk to the detectives; that I would not see Jim Conley. Well, let's look into the facts a few minutes and see whether there was any reason for that, or if there be any truth in that statement.

On Sunday morning, I was taken down to the undertaker's establishment, to the factory, and I went to headquarters; I went to headquarters the second time, going there willingly without anybody coming for me. On each occasion I answered them frankly and unreservedly, giving them the benefit of the best of my knowledge, answering all and any of their questions, and discussing the matter generally with them. On Monday they came for me again. I went down and answered any and all of their questions and gave them a statement which they took down in writing, because I thought it was right and I was only too glad to do it. I answered them and told them all that I know, answering all questions. Tuesday I was down at police station again, and answered every question and discussed the matter freely and openly with them, not only with the police, but with the reporters who were around there; talked to anybody who wanted to talk with me about it, and I have even talked with them at midnight when I was just about to go to bed. Midnight was the time they chose to talk to me, but even at such an outlandish hour I was still willing to help them, and at their instigation I spoke to Newt Lee alone, but what was the result? They commenced and they grilled that poor negro and put words into his mouth that I never said, and twisted not alone the English, but distorted my meaning. I just decided then and there that if that was the line of conduct they were going to pursue I would wash my hands of them. I didn't want to have anything to do with them. On the afternoon of May 1st, I was taken to the Fulton County Tower. On May 3rd detectives Black and Scott came up to my cell in the tower and wanted to speak to me alone without any of my friends around. I said all right, I wanted to hear what they had to say that time. Then Black tore off something like this: "Mr. Frank, we are suspicious of that man Darley. We are watching him; we have been shadowing him. Now open up and tell us what you know about him." I said: "Gentlemen, you have come to the wrong man, because Mr. Darley is the soul of honor and is as true as steel. He would not do a crime

like that, he couldn't do it." And Black chirped up: "Come on, Scott, nothing doing," and off they go. That showed me how much reliance could be placed in either the city detectives or our own Pinkerton detectives, and I treated such conduct with silence and it was for this reason, gentlemen, that I didn't see Conley, surrounded with a bevy of city detectives and Mr. Scott, because I knew that there would not be an action so trifling, that there was not an action so natural but that they would distort and twist it to be used against me, and that there was not a word that I could utter that they would not deform and twist and distort to be used against me, but I told them through my friend Mr. Klein, that if they got the permission of Mr. Rosser to come, I would speak to them, would speak to Conley and face him or anything they wanted—if they got that permission or brought Mr. Rosser. Mr. Rosser was on that day up at Tallulah Falls trying a case. Now, that is the reason, gentlemen, that I have kept my silence, not because I didn't want to, but because I didn't want to have things twisted.

Then that other implication, the one of knowing that Conley could write, and I didn't tell the authorities.

Let's look into that. On May 1st I was taken to the tower. On the same date, as I understand it, the negro Conley was arrested. I didn't know anybody had any suspicions about him. His name was not in the papers. He was an unknown quantity. The police were not looking out for him; they were looking out for me. They didn't want him, and I had no inkling that he ever said he couldn't write. I was sitting in that cell in the Fulton County jail—it was along about April 12th, April 12th or 14th—that Mr. Leo Gottheimer, a salesman for the National Pencil Company, came running over, and says "Leo, the Pinkerton detectives have suspicions of Conley. He keeps saying he can't write; these fellows over at the factory know well enough that he can write, can't he?" I said: "Sure he can write." "We can prove it. The nigger says he can't write and we feel that he can write." I said: "I know he can write. I have received many notes from him asking me to loan him money. I have received too many notes from him not to know that he cannot write. In other words, I have received notes signed with his name, purporting to have been written by him, though I have never seen him to this date use a pencil." I thought awhile and then I says: "Now, I tell you; if you will look into a drawer in the safe you will find the card of a jeweler from whom Conley bought a watch on the installment. Now, perhaps if you go to that jeweler you may find some sort of a receipt that Conley had to give and be able to prove that Conley can write." Well, Gottheimer took that information back to the Pinkertons; they did just as I said; they got the contract with Conley's name on it, got back evidently to Scott and then he told the negro to write. Gentlemen, the man who found out or paved the way to find out that Jim Conley could write is sitting right here in this chair. That is the truth about it.

Then that other insinuation, an insinuation that is dastardly that it is beyond the appreciation of a human being, that is, that my wife didn't visit me; now the truth of the matter is this, that on April 29th, the date I was taken in custody at police headquarters, my wife was there to see me, she was downstairs on the first floor; I was up on the top floor. She was there almost in hysterics, having been brought there by her two brothers-in-law, and her father. Rabbi Marx was with me at the time. I consulted with him as to the advisability of allowing my dear wife to come up to the top floor to see me in those surroundings with city detectives, reporters and snapshotters; I thought I would save her that humiliation and that harsh sight, because I expected any day to be turned loose and be returned once more to her side at home. Gentlemen, we did all we could do to restrain her in the first days when I was down at the jail from coming on alone down to the jail, but she was perfectly willing to even be locked up with me and share my incarceration.

Gentlemen, I know nothing whatever of the death of little Mary Phagan. I had no part in causing her death nor do I know how she came to her death after she took her money and left my office. I never even saw Conley in the factory or anywhere else on that date, April 26, 1913.

The statement of the witness Dalton is utterly false as far as coming to my office and being introduced to me by the woman Daisy Hopkins is concerned. If Dalton was ever in the factory building with any woman, I didn't know it. I never saw Dalton in my life to know him until this crime.

In reply to the statement of Miss Irene Jackson, she is wholly mistaken in supposing that I ever went to a ladies' dressing room for the purpose of making improper gaze into the girls' room. I have no recollection of occasions of which she speaks but I do not know that that ladies' dressing room on the fourth floor is a mere room in which the girls change their outer clothing. There was no bath or toilet in that room, and it had windows opening onto the street. There was no lock on the door, and I know I never went into that room at any hour when the girls were dressing. These girls were supposed to be at their work at 7 o'clock. Occasionally I have had reports that the girls were flirting from this dressing room through the windows with men. It is also true that sometimes the girls would loiter in this room when they ought to have been doing their work. It is possible that on some occasions I looked into this room to see if the girls were doing their duty and were not using this room as a place for loitering and for flirting. These girls were not supposed to be dressing in that room after 7 o'clock and I know that I never looked into that room at any hour when I had any reason to suppose that there were girls dressing therein.

The statement of the negro Conley is a tissue of lies from first to

last. I know nothing whatever of the cause of the death of Mary Phagan and Conley's statement as to his coming up and helping me dispose of the body, or that I had anything to do with her or to do with him that day is a monstrous lie.

The story as to women coming into the factory with me for immoral purposes is a base lie and the few occasions that he claims to have seen me in indecent positions with women is a lie so vile that I have no language with which to fitly denounce it.

I have no rich relatives in Brooklyn, N. Y. My father is an invalid. My father and mother together are people of very limited means, who have barely enough upon which to live. My father is not able to work. I have no relative who has any means at all, except Mr. M. Frank who lives in Atlanta, Ga. Nobody has raised a fund to pay the fees of my attorneys. These fees have been paid by the sacrifice in part of the small property which my parents possess.

Gentlemen, some newspaper men have called me "the silent man in the tower," and I kept my silence and my counsel advisedly, until the proper time and place. The time is now; the place is here; and I have told you the truth, the whole truth.

MISS EMILY MAYFIELD, sworn for the Defendant.

I worked at the pencil factory last year during the summer of 1912. I have never been in the dressing room when Mr. Frank would come in and look at anybody that was undressing.

CROSS EXAMINATION.

I work at Jacobs' Pharmacy. My sister used to work at the pencil factory. I don't remember any occasion when Mr. Frank came in the dressing room door while Miss Irene Jackson and her sister were there.

MISSES ANNIE OSBORNE, REBECCA CARSON, MAUDE WRIGHT, and **MRS. ELLA THOMAS**, all sworn for the Defendant, testified that they were employees of the National Pencil Company; that Mr. Frank's general character was good; that Conley's general character for truth and veracity was bad and that they would not believe him on oath.

MISSES MOLLIE BLAIR, ETHEL STEWART, CORA COWAN, B. D. SMITH, LIZZIE WORD, BESSIE WHITE, GRACE ATHERTON, and **MRS. BARNES**, all sworn for the Defendant, testified that they were employees of the National Pencil Company, and work on the fourth floor of the factory; that the general character of Leo. M. Frank was good; that they have never gone with him at any time or place for

any immoral purpose, and that they have never heard of his doing anything wrong.

MISSES CORINTHIA HALL, ANNIE HOWELL, LILLIE M. GOODMAN, VELMA HAYES, JENNIE MAYFIELD, IDA HOLMES, WILLIE HATCHETT, MARY HATCHETT, MINNIE SMITH, MARJORIE McCORD, LENA McMURTY, MRS. W. R. JOHNSON, MRS. S. A. WILSON, MRS. GEORGIA DENHAM, MRS. O. JONES, MISS ZILLA SPIVEY, CHARLES LEE, N. V. DARLEY, F. ZIGANKI, and A. C. HOLLOWAY, MINNIE FOSTER, all sworn for the Defendant, testified that they were employees of the National Pencil Company and knew Leo M. Frank, and that his general character was good.

D. I. MacINTYRE, B. WILDAUER, MRS. DAN KLEIN, ALEX DITTLER, DR. J. E. SOMMERFIELD, F. G. SCHIFF, AL. GUTHMAN, JOSEPH GERSHON, P. D. McCARLEY, MRS. M. W. MEYER, MRS. DAVID MARX, MRS. A. I. HARRIS, M. S. RICE, L. H. MOSS, MRS. L. H. MOSS, MRS. JOSEPH BROWN, E. E. FITZPATRICK, EMIL DITTLER, WM. BAUER, MISS HELEN LOEB, AL. FOX, MRS. MARTIN MAY, JULIAN V. BOEHM, MRS. MOLLIE ROSENBERG, M. H. SILVERMAN, MRS. L. STERNE, CHAS. ADLER, MRS. R. A. SONN, MISS RAY KLEIN, A. J. JONES, L. EINSTEIN, J. BERNARD, J. FOX, MARCUS LOEB, FRED HEILBRON, MILTON KLEIN, NATHAN COPLAN, MRS. J. E. SOMMERFIELD, all sworn for the Defendant, testified that they were residents of the city of Atlanta, and have known Leo M. Frank ever since he has lived in Atlanta; that his general character is good.

MRS. M. W. CARSON, MARY PIRK, MRS. DORA SMALL, MISS JULIA FUSS, R. P. BUTLER, JOE STELKER, all sworn for the Defendant, testified that they were employees of the National Pencil Company; that they knew Leo M. Frank and that his general character is good.

EVIDENCE IN REBUTTAL FOR STATE.

J. R. FLOYD, R. M. GODDARD, A. L. GODDARD, N. J. BALLARD, HENRY CARR, J. S. RICE, LEM SMITH, all sworn for the State, testified that they knew Daisy Hopkins; that her general character for truth and veracity was bad and that they would not believe her on oath. J. R. Floyd testified that he heard Daisy Hopkins talk about Frank and said there was a cot in the basement.

J. T. HEARN, sworn for the State.

I have known C. B. Dalton from 1890 to 1904. At first his general character was bad, but the last I knowed of him, it was good. I would believe him on oath.

CROSS EXAMINATION.

I heard of his being indicted for stealing and selling liquor, but the last year he was in Walton County he joined the church and I never heard a word against him after that.

R. V. JOHNSON, sworn for the State.

I have known C. B. Dalton for about 20 years. His character for truth and veracity is good, and I would believe him on oath.

CROSS EXAMINATION.

I didn't hear he was indicted for liquor selling before he left my county. He was in good standing when he left the church. I knew he was in the chaingang for stealing about 18 or 20 years ago.

W. M. COOK, W. J. ELDER, A. B. HOUSTON, J. T. BORN, W. M. WRIGHT, C. B. McGinnis, F. P. HEFNER, W. C. HALE, LEON BOYCE, M. G. CALDWELL, A. W. HUNT, W. C. PATRICK, all sworn for the State, testified that they knew C. B. Dalton; that his general character for truth and veracity was good, and that they would believe him on oath.

MISS MYRTIE CATO, MAGGIE GRIFFIN, MRS. C. D. DONEGAN, MRS. H. R. JOHNSON, MISS MARIE CARST, MISS NELLIE PETTIS, MARY DAVIS, MRS. MARY E. WALLACE, ESTELLE WINKLE, CARRIE SMITH, all sworn for the Defendant, testified that they were formerly employed at the National Pencil Company and worked at the factory for a period varying from three days to three and a half years; that Leo M. Frank's character for lasciviousness was bad.

MISS MAMIE KITCHENS, sworn for the State in rebuttal.

I have worked at the National Pencil Company two years. I am on the fourth floor. I have not been called by the defense. Miss Jones and Miss Howard have also not been called by the defense to testify. I was in the dressing room with Miss Irene Jackson when she was undressed. Mr. Frank opened the door, stuck his head inside. He did not knock. He just stood there and laughed. Miss Jackson said, "Well, we are dressing, blame it," and then he shut the door.

CROSS EXAMINATION.

Yes, he asked us if we didn't have any work to do. It was during business hours. We didn't have any work to do. We were going to leave. I have never met Mr. Frank anywhere, or any time for any immoral purposes.

MISS RUTH ROBINSON, sworn for the State in rebuttal.

I have seen Leo M. Frank talking to Mary Phagan. He was talking

to her about her work, not very often. He would just tell her, while she was at work, about her work. He would stand just close enough to her to tell her about her work. He would show her how to put rubbers in the pencils. He would just take up the pencil and show her how to do it. That's all I saw him do. I heard him speak to her; he called her Mary. That was last summer.

MISS DEWEY HEWELL, sworn for the State in rebuttal.

I stay in the Home of the Good Shepherd in Cincinnati. I worked at the pencil factory four months. I quit in March, 1913. I have seen Mr. Frank talk to Mary Phagan two or three times a day in the metal department. I have seen him hold his hand on her shoulder. He called her Mary. He would stand pretty close to her. He would lean over in her face.

CROSS EXAMINATION.

All the rest of the girls were there when he talked to her. I don't know what he was talking to her about.

MISS REBECCA CARSON, re-called by the State in rebuttal.

I have never gone into the dressing room on the fourth floor with Leo M. Frank.

MISS MYRTICE CATO, **MISS MAGGIE GRIFFIN**, both sworn for the State, testified that they had seen Miss Rebecca Carson go into the ladies' dressing room on the fourth floor with Leo M. Frank two or three times during working hours; that there were other ladies working on the fourth floor at the time this happened.

J. E. DUFFY, sworn for the State in rebuttal.

I worked at the National Pencil Company. I was hurt there in the metal department. I was cut on my forefingers on the left hand. That is the cut right around there (indicating). It never cut off any of my fingers. I went to the office to have it dressed. It was bleeding pretty freely. A few drops of blood dropped on the floor at the machine where I was hurt. The blood did not drop anywhere else except at that machine. None of it dropped near the ladies' dressing room, or the water cooler. I had a large piece of cotton wrapped around my finger. When I was first cut I just slapped a piece of cotton waste on my hand.

CROSS EXAMINATION.

I never saw any blood anywhere except at the machine. I went from the office to the Atlanta Hospital to have my finger attended to.

W. E. TURNER, sworn for the State in rebuttal.

I worked at the National Pencil Company during March of this year. I saw Leo Frank talking to Mary Phagan on the second floor,

about the middle of March. It was just before dinner. There was nobody else in the room then. She was going to work and he stopped to talk to her. She told him she had to go to work. He told her that he was the superintendent of the factory, and that he wanted to talk to her, and she said she had to go to work. She backed off and he went on towards her talking to her. The last thing I heard him say was he wanted to talk to her. That is all I saw or heard.

CROSS EXAMINATION.

That was just before dinner. The girls were up there getting ready for dinner. Mary was going in the direction where she worked, and Mr. Frank was going the other way. I don't know whether any of the girls were still at work or not. I didn't look for them. Some of the girls came in there while this was going on and told me where to put the pencils. Lemmie Quinn's office is right there. I don't know whether the girls saw him talking to Mary or not, they were in there. It was just before the whistle blew at noon. Mr. Frank told her he wanted to speak to her and she said she had to go to work, and the girls came in there while this conversation was going on. I can't describe Mary Phagan. I don't know any of the other little girls in there. I don't remember who called her Mary Phagan, a young man on the fourth floor told me her name was Mary Phagan. I don't know who he was. I didn't know anybody in the factory. I can't describe any of the girls. I don't know a single one in the factory.

W. P. MERK, sworn for the State in rebuttal.

I have been a motorman for about three years, in the employ of the Georgia Railway & Electric Company. I know Daisy Hopkins. I have met her at the corner of Whitehall and Alabama Street between 2:30 and 3:30 on a Saturday. She said she was going to pencil factory. I made an engagement with her to go to her room to see her that Saturday. I was in a room with her at the corner of Walker and Peters Street about 8:30 o'clock. She told me she had been to the pencil factory that afternoon. Her general character for truth and veracity is bad. I would not believe her on oath.

GEORGE GORDON, sworn for the State in rebuttal.

I am a practicing lawyer. I was at police station part of the time when Minola McKnight was making her statement. I was outside of the door most of the time. I went down there with habeas corpus proceedings to have her sign the affidavit and when I got there the detectives informed me that she was in the room, and I sat down and waited outside for her two hours, and people went in and out of the door, and after I had waited there I saw the stenographer of the recorder's court going into the room and I decided I had better make a demand to go into the room, which I did, and I was then allowed to go into the room and I found Mr.

February reading over to her some stenographic statement he had taken. There were two other men from Beck & Gregg Hardware store and Pat Campbell and Mr. Starnes and Albert McKnight. After that was read Mr. February went out to write it off on the typewriter and while he was out Mr. Starnes said, "Now this must be kept very quiet and nobody be told anything about this." I thought it was agreed that we would say nothing about it. I was surprised when I saw it in the newspapers two or three days afterwards. I said to Starnes: "There is no reason why you should hold this woman, you should let her go." He said he would do nothing without consulting Mr. Dorsey and he suggested that I had better go to Mr. Dorsey's office. I went to his office and he called up Mr. Starnes and then I went back to the police station and told Starnes to call Mr. Dorsey and I presume that Mr. Dorsey told him to let her go. Anyway he said she could go. You (Mr. Dorsey) said you would let her go also. That morning you had said you would not unless I took out a habeas corpus. In the morning after Chief Beavers told me he would not let her go on bond and unless you (Mr. Dorsey) would let her go, I went to your office and told you that she was being held illegally and you admitted it to me and I said we would give bond in any sum that you might ask. You said you would not let her go because you would get in bad with the detectives, and you advised me to take out a habeas corpus, which I did. The detectives said they couldn't let her go without your consent. You said you didn't have anything to do with locking her up. As to whether Minola McKnight did not sign this paper freely and voluntarily (State's Exhibit J), it was signed in my absence while I was at police station. When I came back this paper was lying on the table signed. That paper is substantially the notes that Mr. February read over to her. As they read it over to her, she said it was about that way. Yes, you agreed with me that you had no right to lock her up. I don't know that you said you didn't do it. I don't remember that we discussed that. You told me that you would not direct her to be let loose, because you would get in bad with the detectives. I had told you that the detectives told me they would not release her unless you said so. I took out a habeas corpus immediately afterwards and went down there to get her released, and she was released.

CROSS EXAMINATION.

I heard that they had had her in Mr. Dorsey's office and she went away screaming and was locked up. I knew that Mr. Dorsey was letting this be done. She was locked in a cell at the police station when I saw her. They admitted that they did not have any warrant for her arrest. Beavers said he would not let her out on bond unless Mr. Dorsey said so. He said the charge against her was suspicion. They put her in a cell and kept her until four o'clock the next day before they let her go. When I went down to see her in the cell, she was crying and going on and almost hysterical. When I asked Mr. Dorsey to let her go out on bond, he said

he wouldn't do it because he would get in bad with the detectives, but that if I would let her stay down there with Starnes and Campbell for a day, he would let her loose without any bond, and I said I wouldn't do it. I said that I considered it a very reprehensible thing to lock up somebody because they knew something, and he said, "Well, it is sometimes necessary to get information," and I said, "Certainly our liberty is more necessary than any information, and I consider it a trampling on our Anglo-Saxon liberties." They did not tell me that they already had a statement that she had made, and which she declared to be the truth.

RE-DIRECT EXAMINATION.

You (Mr. Dorsey) did not tell me that you had no right to lock anybody up. I told you that, and you agreed to it, but you would not let her go. I told you that Chief Beavers said he would do what you said and then I asked you to give me an order. You said you wouldn't give me an order. When I told Starnes that I thought I ought to be in that room while Minola was making the statement, he knocked on the door, and it was unlocked on the inside and they let me in. They let me into the room at once after I had been sitting there two hours. I was present when she made the statement about the payment of the cook. I don't remember what questions I asked her at that time. I was her attorney. I didn't go down there to examine her; I went there to get her out. Starnes and Campbell were in and out of the room during the time. Mr. Starnes stayed on the outside of the door part of the time. I don't know who was in the room and who was not while I was outside.

ALBERT McKNIGHT, sworn for the State in rebuttal.

This sideboard (Defendant's Exhibit 63) sets more this way than it was at the time I was there.

CROSS EXAMINATION.

I don't know if the sideboard was changed, but it wasn't setting like that is in the corner. I didn't see the sideboard at all, but I don't like the angle of this plat.

R. L. CRAVEN, sworn for the State in rebuttal.

I am connected with the Beck and Gregg Hardware Co. Albert McKnight also works for the same company. He asked me to go down and see if I could get Minola McKnight out when she was arrested. I went there for that purpose. I was present when she signed that affidavit (State's Exhibit J). I went out with Mr. Pickett to Minola McKnight's home the latter part of May. Albert McKnight was there. On the 3rd day of June, we were down at the station house and they brought Minola McKnight in and we questioned her first as to the statements Albert had given me; at first she would not talk, she said she didn't

know anything about it. I told her that Albert made the statement that he was there Saturday when Mr. Frank came home, and he said Mr. Frank came in the dining room and stayed about ten minutes and went to the sideboard and caught a car in about ten minutes after he first arrived there, and I went on and told her that Albert had said that Minola had overheard Mrs. Frank tell Mrs. Selig that Mr. Frank didn't rest well and he came home drinking and made Mrs. Frank get out of bed and sleep on a rug by the side of the bed and wanted her to give him his pistol to shoot his head off and that he had murdered somebody, or something like that. Minola at first hesitated, but finally she told everything that was in that affidavit. When she did that Mr. Starnes, Mr. Campbell, Mr. February, Albert McKnight, Mr. Pickett, and Mr. Gordon were there. When we were questioning her, I don't remember whether anybody but Mr. Pickett and myself and Albert McKnight were there.

CROSS EXAMINATION.

We went down there about 11:30 o'clock. I didn't know that she had been in jail twelve hours then. I suppose she was in jail because they needed her as a witness. I was in Mr. Dorsey's office only one time about this matter, the same morning I started out to see if I could get her and I went to see Mr. Dorsey about getting her out. Her husband wanted her out of jail and I went to see Mr. Dorsey about getting her out. At first she denied it. I questioned her for something like two hours. I didn't know she had already made a statement about the truth of the transaction. Mr. Dorsey didn't read it to me. He said she was hysterical and wouldn't talk at all. I went down to get her to make some kind of a statement; I wanted her to tell the truth in the matter. I wanted to see whether her husband was telling the truth or whether she was telling a falsehood. Yes, she finally made a statement that agreed with her husband, and I left after awhile. As to why I didn't stay and get her out, because I didn't want to. I went after we got her statement. No, I didn't get her out of jail. I did not look after her any further than that. I don't think Mr. Dorsey told me to question her. He wanted me to go out to see her. He said Mr. Starnes and Mr. Campbell would be up there and they would let us know about it, and we went up there and Mr. Starnes and Mr. Campbell brought her in. They let us see her all right. I did not ask Campbell or Starnes to turn her out. I didn't ask anybody to turn her out. I never made any suggestion to anybody about turning her out. Nobody cursed, mistreated or threatened this woman while I was there. I don't know what took place before I got there.

E. H. PICKETT, sworn for the State in rebuttal.

I work at Beck & Gregg Hdw. Co. I was present when that paper was signed (State's Exhibit J) by Minola McKnight. Albert McKnight, Starnes, Campbell, Mr. Craven, Mr. Gordon was present when she made that statement. We questioned her about the statement Albert had made

and she denied it all at first. She said she had been cautioned not to talk about this affair by Mrs. Frank or Mrs. Selig. She stated that Albert had lied in what he told us. She finally began to weaken on one or two points and admitted that she had been paid a little more money than was ordinarily due her. There was a good many things in that statement that she did not tell us, though, at first. She didn't tell us all of that when she went at it. She seemed hysterical at the beginning. We told her that we weren't there to get her into trouble, but came down there to get her out, and then she agreed to talk to us but would not talk to the detectives. The detectives then retired from the room. Albert told her that she knew she told him those things. She denied it, but finally acknowledged that she said a few of those things, and among the things I remember is that she was cautioned not to repeat anything that she heard. We asked her a thousand questions perhaps. I don't know how many. I called the detectives and told them we had gotten all the admissions we could. We didn't have any stenographer and Mr. Craven began writing it out, and Mr. Craven had written only a small portion when the stenographer came. She did not make all of that statement in the first talk she had with us. She didn't say anything with reference to Mrs. Frank having stated anything to her mother on Sunday morning. The affidavit does not contain anything that she did not state there that day. Before she made that affidavit, she said he did eat dinner that day. She finally said he didn't eat any. At first she said he remained at home at dinner time about half an hour or more. She finally said he only remained about ten minutes. At first she said Albert McKnight was not there that day. She finally said he was there. She said she was instructed not to talk at first. At first she said her wages hadn't been changed, finally said her wages had been raised by the Seligs. As to what, if anything, she said about a hat being given her by Mrs. Selig, the only statement she made about the hat at all was when she made the affidavit. We didn't know anything about the hat before. Nobody threatened her when she was there. When the first questioning was going on Campbell and Starnes were not in there. They came in when we called them and told them we were ready. Her attorney, Mr. Gordon, came in with the detectives.

CROSS EXAMINATION.

As to why we didn't take her statement when she denied saying all those things, because we didn't believe them. We were down there about three hours. We went down there to try and get Minola McKnight out, if we could. We asked Mr. Dorsey to get her out. He said he would let us stand her bond, and he referred us to the detectives to make arrangements. As to why we didn't get her out then, we wanted a statement from her if we could get it. No, I didn't know that whenever the detectives got the story they wanted, they would let her out. As to my going to get her out and then grilling her for three hours, I didn't tell her I was

going to get her out; I went down there to get her out, but she left there before I did. She went out of the room. The detectives treated her very nice. They let her go after she made the statement. I knew they were holding her because she did not make a statement confirming her husband. It was not my object to make her statement agree with her husband's statement, but it was my duty as a good citizen to make her tell the truth.

DR. S. C. BENEDICT, sworn for the State in rebuttal.

I am president of the State Board of Health. I was a member of the Board when Dr. Westmoreland preferred charges against Dr. Harris. Those minutes (State's Exhibit N) are correct. I desire to say that we do not wish to open up that question again. Dr. Westmoreland's charges are not recorded here. I don't think they were put on the minutes. The reply to the charges were put in the minutes and the action of the Board. The minutes would show what action the Board took.

CROSS EXAMINATION.

Dr. Harris' reply is not entered on the minutes. The reply of the Board to the charges is on the minutes.

J. H. HENDRICKS, sworn for the State in rebuttal.

I am a motorman for the Georgia Railway & Electric Company. On April 26th I was running a street car on the Marietta line to the Stock Yards on Decatur Street. I couldn't say what time we got to town on April 26th, about noon. I have no cause to remember that day. The English Avenue car, with Matthews and Hollis has gotten to town prior to April 26th, ahead of time. I couldn't say how much ahead of time. I have seen them come in two or three minutes ahead of time; that day they came about 12:06. Hollis would usually leave Broad and Marietta Streets on my car. I couldn't swear positively what time I got to Broad and Marietta Streets on April 26th. I couldn't swear what time Hollis and Matthews got there that day. I don't know anything about that. Often they get there ahead of time. Sometimes they are punished for it.

J. C. McEWING, sworn for the State in rebuttal.

I am a street car motorman. I ran on Marietta and Decatur Street April 26th. My car was due in town at ten minutes after the hour on April 26th. Hollis' and Matthews' car was due there 7 minutes after the hour. Hendricks car was due there 5 minutes after the hour. The English Avenue frequently cut off the White City car due in town at 12:05. The White City car is due there before the English Avenue. It is due 5 minutes after the hour and the Cooper Street is due 7 minutes after. The English Avenue would have to be ahead of time to cut off the Cooper Street car. That happens quite often. I have come in ahead of time

very often. I have known the English Avenue car to be 4 or 5 minutes ahead of time.

CROSS EXAMINATION.

I don't know when that happened or who ran the car. I don't know whether they ran on schedule time on April 26th, or not. When one car is cut off, one might be ahead of time, and one might be behind time. It's reasonable to suppose that the five minutes after car ought to come in ahead of the one due seven minutes after. If it was behind it would be cut off, just as easy as the other one would be cut off by being ahead.

M. E. McCOY, sworn for the State, in rebuttal.

I knew Mary Phagan. I saw her on April 26th, in front of Cool-edge's place at 12 Forsyth Street. She was going towards pencil company, south on Forsyth Street on right hand side. It was near twelve o'clock. I left the corner of Walton and Forsyth Street exactly twelve o'clock and came straight on down there. It took me three or four minutes to go there.

CROSS EXAMINATION.

I know what time it was because I looked at my watch. First time I told it was a week ago last Saturday, when I told an officer. I didn't tell it because I didn't want to have anything to do with it. I didn't consider it as a matter of importance until I saw the statement of the motorman of the car she came in on, and I knew that was wrong. She was dressed in blue, a low, chunky girl. Her hair was not very dark. She had on a blue hat.

GEORGE KENDLEY, sworn for the State in rebuttal.

I am with the Georgia Railway & Power Co. I saw Mary Phagan about noon on April 26th. She was going to the pencil factory from Marietta Street. When I saw her she stepped off of the viaduct.

CROSS EXAMINATION.

I was on the front end of the Hapeville car when I saw her. It is due in town at 12 o'clock. I don't know if it was on time that day. I told several people about seeing her the next day. If Mary Phagan left home at 10 minutes to 12, she ought to have got to town about 10 minutes after 12, somewhere in that neighborhood. She could not have gotten in much earlier. The time that I saw her is simply an estimate. That was the time my car was due in town. I remember seeing her by reading of the tragedy the next day. I didn't testify at the Coroner's inquest because nobody came to ask me. No, I have not abused and villified Frank since this tragedy. No, I have not made myself a nuisance on the cars by talk-

ing of him. I know Mr. Brent. I didn't tell him that Mr. Frank's children said he was guilty. Mr. Brent asked me what I thought about it several times on the car. He has always been the aggressor. As to whether I abused and villified him in the presence of Miss Haas and other passengers, there has been so much talk that I don't know what has been said. I don't think I said if he was released I would join a party to lynch him. Somebody said if he got out there might be some trouble. I don't remember saying that I would join a party to help lynch him if he got out. I talked to Mr. Leach about it. I don't remember what I told him. I told him I saw her over there about 12 o'clock. That was the time the car was due in town. I know I saw her before 12:05. My car was on schedule time. I couldn't swear it was exactly on the minute.

HENRY HOFFMAN, sworn for the State in rebuttal.

I am inspector of the street car company. Matthews is under me a certain part of the day. On April 26th he was under me from 11:30 to 12:07. His car was due at Broad and Marietta at 12:07. There is no such schedule as 12:07½. I have been on his car when he cut off the Fair Street car. Fair Street car is due at 12:05. I have compared watches with him. They vary from 20 to 40 seconds. We are supposed to carry the right time. I have called Matthews attention to running ahead of schedule once or twice. They come in ahead of time on relief time for supper and dinner.

CROSS EXAMINATION.

I don't know anything about his coming on April 26th. We found out he was ahead of time way along last March. He was a minute and a half ahead. I have caught him as much as three minutes ahead of time last spring, on the trip due in town 12:07. I didn't report him, I just talked to him. I have known him to be ahead of time twice in five years while he was under my supervision.

N. KELLY, sworn for the State in rebuttal.

I am a motorman of the Georgia Railway & Power Co. On April 26th, I was standing at the corner of Forsyth and Marietta Street about three minutes after 12. I was going to catch the College Park car home about 12:10. I saw the English Avenue car of Matthews and Mr. Hollis arrive at Forsyth and Marietta about 12:03. I knew Mary Phagan. She was not on that car. She might have gotten off there, but she didn't come around. I got on that car at Broad and Marietta and went around Hunter Street. She was not on there.

CROSS EXAMINATION.

I didn't say anything about this because I didn't want to get mixed up in it. I told Mr. Starnes about it this morning. I have never said

anything about it before. That car was due in town at 12:07. The Fair Street car was behind it.

W. B. OWENS, sworn for the State in rebuttal.

I rode on the White City line of the Georgia Railway & Electric Co. It is due at 12:05. Two minutes ahead of the English Avenue car. We got to town on April 26th, at 12:05. I don't remember seeing the English Avenue car that day. I have known that car to come in a minute ahead of us, sometimes two minutes ahead. That was after April 26th. I don't recall whether it occurred before April 26th.

LOUIS INGRAM, sworn for the State in rebuttal.

I am a conductor on the English Avenue line. I came to town on that car on April 26th. I don't know what time we came to town. I have seen that car come in ahead of time several times, sometimes as much as four minutes ahead. I know Matthews, the motorman. I have ridden in with him when he was ahead of time several times.

CROSS EXAMINATION.

It is against the rules to come in ahead of time, and also to come in behind time. They punish you for either one.

W. M. MATTHEWS, sworn for the State in rebuttal.

I have talked with this man Dobbs (W. C.) but I don't know what I talked about. I have never told him or anybody that I saw Mary Phagan get off the car with George Epps at the corner of Marietta and Broad. It has been two years since I have been tried for an offense in this court.

CROSS EXAMINATION.

I was acquitted by the jury. I had to kill a man on my car who assaulted me.

W. C. DOBBS, sworn for the State in rebuttal.

Motorman Matthews told me two or three days after the murder that Mary Phagan and George Epps got on his car together and left at Marietta and Broad Streets.

CROSS EXAMINATION.

Sergeant Dobbs is my father.

W. W. ROGERS, sworn for the State in rebuttal.

On Sunday morning after the murder, I tried to go up the stairs leading from the basement up to the next floor. The door was fastened

down. The staircase was very dusty, like it had been some little time since it had been swept. There was a little mound of shavings right where the chute came down on the basement floor. The bin was about a foot and a half from the chute.

SERGEANT L. S. DOBBS, sworn for the State in rebuttal.

I saw Mr. Rogers on Sunday try to get in that back door leading up from basement in rear of factory. There were cobwebs and dust there. The door was closed.

O. TILLANDER, sworn for the State in rebuttal.

Mr. Graham and I went to the pencil factory on April 26th, about 20 minutes to 12. We went in from the street and looked around and I found a negro coming from a dark alley way, and I asked him for the office and he told me to go to the second floor and turn to the right. I saw Conley this morning. I am not positive that he is the man. He looked to be about the same size. When I went to the office the stenographer was in the outer office. Mr. Frank was in the inner office sitting at his desk. I went there to get my step-son's money.

E. K. GRAHAM, sworn for the State in rebuttal.

I was at the pencil factory April 26th, with Mr. Tillander, about 20 minutes to 12. We met a negro on the ground floor. Mr. Tillander asked him where the office was, and he told him to go up the steps. I don't know whether it was Jim Conley or not. He was about the same size, but he was a little brighter than Conley. If he was drunk I couldn't notice it, I wouldn't have noticed it anyway.

CROSS EXAMINATION.

Mr. Frank and his stenographer were upstairs. He was at his desk. I didn't see any lady when I came out.

J. W. COLEMAN, sworn for the State in rebuttal.

I remember a conversation I had with detective McWorth. He exhibited an envelope to me with a figure "5" on the right of it.

CROSS EXAMINATION.

This does not seem to be the envelope he showed me. (Defendant's Exhibit 47). The figure "5" was on it. I don't see it now. I told him at the time that Mary was due \$1.20, and that "5" on the right would not suit for that.

J. M. GANTT, sworn for the State in rebuttal.

I have seen Leo Frank make up the financial sheet. It would take him an hour and a half after I gave him the data.

IVY JONES (c), sworn for the State in rebuttal.

I saw Jim Conley at the corner of Hunter and Forsyth Streets on April 26th. He came in the saloon while I was there, between one and two o'clock. He was not drunk when I saw him. The saloon is on the opposite corner from the factory. We went on towards Conley's home. I left him at the corner of Hunter and Davis Street a little after two o'clock.

HARRY SCOTT, sworn for the State in rebuttal.

I picked up cord in the basement when I went through there with Mr. Frank. Lee's shirt had no color on it, excepting that of blood. I got the information as to Conley's being able to write from McWorth when I returned to Atlanta. As to the conversation Black and I had, with Mr. Frank about Darley, Mr. Frank said Darley was the soul of honor and that we had the wrong man; that there was no use in inquiring about Darley and he knew Darley could not be responsible for such an act. I told him that we had good information to the effect that Darley had been associating with other girls in the factory; that he was a married man and had a family. Mr. Frank didn't seem to know anything about that. He said it was a peculiar thing for a man in Mr. Darley's position to be associating with factory employees, if he was doing it.

CROSS EXAMINATION.

We left after about two hours interview.

L. T. KENDRICK, sworn for the State in rebuttal.

I was night watchman at the pencil factory for something like two years. I punched the clocks for a whole night's work in two or three minutes. The clock at the factory needed setting about every 24 hours. It varied from three to five minutes. That is the clock slip I punched (State's Exhibit P). I don't think you could have heard the elevator on the top floor if the machinery was running or any one was knocking on any of the floors. The back stairway was very dusty and showed that they had not been used lately after the murder. I have seen Jim Conley at the factory Saturday afternoons when I went there to get my money.

CROSS EXAMINATION.

I generally got to the factory about a quarter of two to two-thirty. The clock was usually corrected every morning. The clock would run slow sometimes and sometimes fast.

VERA EPPS, sworn for the State in rebuttal.

My brother George was in the house when Mr. Minar was asking us about the last time we saw Mary Phagan. I don't know if he heard the questions asked. George didn't tell him that he didn't see Mary that Saturday. I told him I had seen Mary Phagan Thursday.

C. J. MAYNARD, sworn for the State in rebuttal.

I have seen Burtus Dalton go in the factory with a woman in June or July, 1912. She weighed about 125 pounds. It was between 1:30 and 2 o'clock in the afternoon on a Saturday.

CROSS EXAMINATION.

I was ten feet from the woman. I didn't notice her very particularly. I did not speak to them.

W. T. HOLLIS, sworn for the State in rebuttal.

Mr. Reed rides out with me every morning. I don't remember talking to J. D. Reed on Monday, April 29th, and telling him that George Epps and Mary Phagan were on my car together. I didn't tell that to anybody. I say like I have always said, that if he was on the car I did not see him.

J. D. REED, sworn for the State in rebuttal.

Mr. Hollis told me on Monday, April 28th, that Epps had gotten on the car and taken his seat next to Mary, and that the two talked to each other all the way as though they were little sweethearts.

J. N. STARNES, sworn for the State in rebuttal.

There were no spots around the scuttle hole where the ladder is immediately after the murder. Campbell and I arrested Minola McKnight, to get a statement from her. We turned her over to the patrol wagon and we never saw her any more until the following day, when we called Mr. Craven and Mr. Pickett to come down and interview her. We stayed on the outside while she was on the inside with Craven and Pickett. They called us back and I said to her, "Minola, the truth is all we want, and if this is not the truth, don't you state it. And she started to put the statement down. Mr. Gordon, her attorney, was on the outside, and I told him we could go inside without his making any demand on me, and he went in with me, and Mr. February had already taken down part of the statement and I stopped him and made him read over what he had already taken down, and after she had finished the statement, Attorney Gordon went to Mr. Dorsey's office and then he came back to the police station. After he returned the affidavit was read over in the presence of Mr. Pickett, Craven, Campbell, Albert McKnight and Attorney Gordon

and she signed it in our presence. You (Mr. Dorsey) had nothing to do with holding her. You told me over the phone that you couldn't say what I could do, but that I could do what I pleased about it.

CROSS EXAMINATION.

No, I did not lock her up because she didn't give us the right kind of statement; as to the authority I had to lock her up, it was reasonable and right that she should be locked up. I did that for the best interest of the case I was working on. No, I didn't have any warrant for her arrest. She was brought to Mr. Dorsey's office by a bailiff by a subpoena. I took her away from Dorsey's office and put her in a patrol wagon. I expect Mr. Dorsey knew we were going to lock her up, but he did not tell us to do it. No, he didn't disapprove of it. I didn't know anything about her having made a previous statement to Mr. Dorsey. I think Mr. Dorsey said she had made such a statement. I saw her the next day in the station house. She didn't scream after leaving Dorsey's office until she reached the sidewalk. And then she commenced hollering and carrying on that she was going to jail; that she didn't know anything about it, or something like that. No, I had no warrant for her arrest. She had committed no crime. I held her to get the truth. Mr. Dorsey told me I could turn her loose as I pleased. That was after she made the statement. I told him as to what had occurred and that her attorney, Gordon, was coming up there to see him. I told Col. Gordon that if it was agreeable with Col. Dorsey, that Minola could go as far as we were concerned. Well, Mr. Dorsey had more or less to do with the case that I was working on and I wanted to act on his advice and consent. He called me on the telephone and told me that if the chief thought it best or if we thought it best after conferring, to just let her go.

DR. CLARENCE JOHNSON, sworn for the State in rebuttal.

I am a specialist on diseases of the stomach and intestines. I am a physiologist. A physiologist makes his searches on the living body; the pathologist makes his on a dead body. If you give any one who has drunk a chocolate milk at about eight o'clock in the morning, cabbage at 12 o'clock and 30 or 40 minutes thereafter you take the cabbage out and it is shown to be dark like chocolate and milk, that much contents of any kind vomited up three and a half hours afterwards would show an abnormal stomach. It doesn't show a normal digestion. If a little girl who eats a dinner of cabbage and bread at 11:30 is found the next morning dead at 3 a. m., with a rope around her neck, indented and the flesh sticking up, bruised on the eye, blood on the back of her head, the tongue sticking out, blue skin, every indication that she came to her death from strangulation, her head down, rigor mortis had been on her twenty hours, the blood had settled in her where the gravity would naturally take it in the face, she is embalmed, formaldehyde is used and injected in the various cavities of the body, including the stomach, a pathologist takes her

stomach a week or ten days after, finds cabbage of that size (State's Exhibit G) in the stomach, finds starch granules undigested, and finds in the stomach that the pylorus is still closed, that there is nothing in the first six feet of the small intestines; that there is every indication that digestion had been progressing favorably, and finds thirty-two degrees hydrochloric acid, and if the pathologist is capable and finds that there was only combined hydrochloric acid and that there was no abnormal condition of the stomach the six feet of the intestines was empty, I would say that the digestion of bread and cabbage was stopped within an hour after they were eaten. That would not be a wild guess in my opinion.

CROSS EXAMINATION.

The bruises on the head, the evidence of strangulation and other injuries about the head are other possible factors which must be taken into consideration. Anything which disturbs the circulation of the blood, or hinders the action of the nerves controlling the stomach, especially the secretion, prevents the development of the characteristics found in normal digestion one hour after a meal. I mean by mechanical condition of the stomach, no change in the size or thickness, or opening into the intestines, or size or thickness of intestines. The test should be made with absolute accuracy with these acids. The color test is generally accepted. A man's eye has to be absolutely correct to make the color test. The degree of acidity in a normal stomach varies from 30 to 45 degrees, according to the stomach and what is in it. The formaldehyde would make no change on the physical property on the pancreatic juice found in the small intestine after death. There would be hardly any change on its chemical property. When it comes in contact with the formaldehyde it is supposed to be preserved. It has some neutralizing effect on the alkali present. That decomposes in time after death, unless hindered by some preservative. The hydrochloric acids in the stomach also disappear if the stomach has disintegrated and the preservative has disappeared. It disappears like the other fluids and tissues of the body unless hindered by some preservative agent. Sometimes digestion is delayed a good deal even in a normal stomach by insufficient mastication, too much diluting of the juices, or anything that hinders the operation of the mechanical effect. Insufficient mastication is one of the commonest causes, also the taking of too much liquid. Fatigue occasioned by extensive walking would hinder it. If the walking was not too extensive to produce fatigue, it would help digestion in a normal stomach. Insufficient mastication is the worst cause of delayed digestion. My estimate was that the cabbage was found an hour after the process of digestion had begun. I did not undertake to say when the digestion began. You can't tell by looking at food in a bottle how much the failure to masticate it delayed digestion in hours and minutes. It would be just an estimate. The physical appearance of that cabbage (Defendant's Exhibit 88) shows indigestion by the layer, character and size, and area of separa-

tion between, and the character and arrangement of the layers below. The mere fact that it was vomited up would be proof positive that no scientific opinion could be made about it. To make a scientific test I would have to test the mechanism of the stomach, the time it was in there and the degree and presence of the different acids. The chocolate milk would not naturally stay in a normal stomach five or six hours. The cabbage would stay in a normal empty stomach where there was a tomato also three or four hours. I never made any test of Mary Phagan's stomach and examined the contents of it.

RE-DIRECT EXAMINATION.

160 cubic cc. of liquid in the stomach taken out nine days afterwards would be a little in excess of what I would consider normal under the conditions already named.

DR. GEORGE M. NILES, sworn for the State in rebuttal.

I confine my work to diseases of digestion. Every healthy stomach has a certain definite and orderly relation to every other healthy stomach. Assuming a young lady between thirteen and fourteen years of age at 11:30 April 26, 1913, eats a meal of cabbage and bread, that the next morning about three o'clock her dead body is found. That there are indentations in her neck where a cord had been around her throat, indicating that she died of strangulation, her nails blue, her face blue, a slight injury on the back of the head, a contused bruise on one of her eyes, the body is found with the face down, rigor mortis had been on from sixteen to twenty hours, that the blood in the body has settled in the part where gravity would naturally carry it, that the body is embalmed immediately with a fluid consisting chiefly of formaldehyde, which is injected in the veins and cavities of the body; that she is disinterred nine days thereafter; that cabbage of this texture (State's Exhibit G) is found in her stomach; that the position of the stomach is normal; that no inflammation of the stomach is found by microscopic investigation; that no mucous is found, and that the glands found under this microscope are found to be normal, that there is no obstruction to the flow of the contents of the stomach to the small intestine; that the pylorus is closed; that there is every indication that digestion was progressing favorably; that in the gastric juices there is found starch granules that are shown by the color test to have been undigested, and that in that stomach you also find thirty-two degrees of hydrochloric acid, no maltose, no dextrin, no free hydrochloric acid (there would be more or less free hydrochloric acid in the course of an hour or more in the orderly progress of digestion of a healthy stomach where the contents are carbohydrates), I would say that indicated that digestion had been progressing less than an hour. The starch digestion should have progressed beyond the state erythro-dextrin in course of an hour. There should have been enough free acid to have stimulated the pylorus to relax to a certain extent, and there should

have been some contents in the duodenum. I am assuming, of course, that it is a healthy stomach and that the digestion was not disturbed by any psychic cause which would disturb the mind or any severe physical exercise. I am not going so much on the physical appearance of the cabbage. Any severe physical exercise or mental stress has quite an influence on digestion. Death does not change the composition of the gastric juices when combined with hydrochloric acid for quite awhile. The gastric juices combined with the hydrochloric acid are an antiseptic or preservative. There is a wide variation in diseased stomachs as to digestion.

CROSS EXAMINATION

There are idiosyncracies in a normal stomach, but where they are too marked I would not consider that a normal stomach. I wouldn't say that there is a mechanical rule where you can measure the digestive power of every stomach for every kind of food. There is a set time for every stomach to digest every kind of food within fairly regular limits, that is, a healthy stomach. There is a fairly mixed standard. There is no great amount of variation between healthy stomachs. I can't answer for how long it takes cabbage to digest. I have taken cabbage out of a cancerous stomach that had been in there twenty-four hours, but there was no obstruction. The longest time that I have taken cabbage out of a fairly normal stomach was between four and five hours. That was where it was in the stomach along with another meal. I found the cabbage among the remains of the meal four or five hours after it had been eaten. Mastication is a very important function of digestion. Failure to masticate delays the starch digestion. Starch and cabbage are both carbohydrates. I would say that if cabbage went into a healthy stomach not well masticated, the starch digestion would not get on so well, but the stomach would get busy at once. Of course, it would not be prepared as well. The digestion would be delayed, of course. That cabbage is not as well digested as it should have been (State's exhibit G), but the very fact of your anticipating a good meal, smelling it, starts your saliva going and forms the first stage of digestion, and digestion is begun right there in the mouth, even if you haven't chewed it a single time. Any deviation from good mastication retards digestion. I couldn't presume to say how long that cabbage lay in Mary Phagan's stomach. I believe if it had been a live, healthy stomach and the process of digestion was going on orderly, it would be pulverized in four or five hours. It would be more broken up and triturerated than it is. I wouldn't consider that a wild guess. I think it would have been fairly well pulverized in three hours. Chewing amounts to a great deal, but there should be an amount of saliva in her stomach even if she hadn't masticated it thoroughly. Chewing is a temperamental matter to a great extent. One man chews his meal quicker than another. If it isn't chewed at all, the stomach gets busy and helps out all it can and digests it after awhile. It

takes more effort, of course, but not necessarily more time. What the teeth fail to do the stomach does to a great extent. The stomach has an extra amount of work if it is not masticated. You can't tell by looking at the cabbage how long it had been undergoing the process of digestion. If that was a healthy stomach with combined acid of 32 degrees, and nothing happened either physical or mental to interfere with digestion, those laboratory findings indicated that digestion had been progressing less than an hour. I never made an autopsy or examination of the contents of Mary Phagan's stomach.

RE-DIRECT EXAMINATION.

The first stage of digestion is starch digestion. This progresses in the stomach until the contents become acid in all its parts. Then the starch digestion stops until the contents get out in the intestines and become alkaline in reaction; then the starch digestion is continued on beyond. The alfacatories act as a stimulant to the salivary glands.

DR. JOHN FUNK, sworn for the State in rebuttal.

I am professor of pathology and bacteriologist. I was shown by Dr. Harris sections from the vaginal wall of Mary Phagan, sections taken near the skin surface. I didn't see sections from the stomach or the contents. These sections showed that the epithelium wall was torn off at points immediately beneath that covering in the tissues below, and there was infiltrated pressure of blood. They were, you might say, engorged, and the white blood cells in those blood vessels were more numerous than you will find in a normal blood vessel. The blood vessels at some distance from the torn point were not so engorged to the same extent as those blood vessels immediately in the vicinity of the hemorrhage. Those blood vessels were larger than they should be under normal circumstances, as compared with the blood vessels in the vicinity of the tear. You couldn't tell about any discoloration, but there was blood there. It is reasonable to suppose that there was swelling there because of the infiltrated pressure of the blood in the tissues. Those conditions must have been produced prior to death, because the blood could not invade the tissues after death. If a young lady, between thirteen and fourteen years old eats at eleven thirty a. m. a normal meal of bread and cabbage on a Saturday and at three a. m. Sunday morning she is found with a cord around her neck, the skin indented, the nails and flesh cyanotic, the tongue out and swollen, blue nails, everything indicating that she had been strangled to death, that rigor mortis had set in, and according to the best authorities had probably progressed from sixteen to twenty hours, and she was laying face down when found, and gravity had forced the blood into that part of the body next to the ground, that it had discolored her features, that immediately thereafter, between ten and two o'clock she was embalmed with a fluid containing usual amount of formaldehyde, this being injected into the veins in the large cavities, she is interred

thereafter and in about a week or ten days she is disinterred, and you find in her stomach cabbage like that (State's Exhibit G) and you find granules of starch undigested, and those starch granules are developed by the usual color tests, and you also find in that stomach thirty-two degrees of combined hydrochloric acid, the pylorus closed, and the duodenum, and six feet of the small intestines empty, no free hydrochloric acid being present at all, nor dextrin, or erythro-dextrin being found in any degree, and the uterus was somewhat enlarged, and the walls of the vagina show dilation and swelling, I would say that under those conditions that the epithelium was torn off before death, because of the changes in the blood vessels and tissues below the epithelium covering, and because of the presence of blood. I would not express an opinion as to how long cabbage had been in the stomach, from the appearance of the cabbage itself, taking into consideration the combined hydrochloric acid of thirty-two degrees, the emptiness of the small intestine, the presence of starch granules, and the absence of free hydrochloric acid, one can't say positively, but it is reasonable to assume that the digestion had progressed probably an hour, maybe a little more, maybe a little less.

CROSS EXAMINATION.

Dr. Dorsey asked me to examine the sections of the vaginal wall last Saturday. The sections I examined were about a quarter of an inch wide and three-quarters of an inch long. It was about nine twenty-five thousandths of an inch thick, that is, much thinner than tissue paper. I examined thirty or forty little strips. That was after this trial began. I was not present at the autopsy. As soon as a tissue receives an injury, it reacts in a very short time. The reaction shows up in the changes of the blood vessels. You can tell by the appearance of the blood vessels whether the injury was before death or not, and you can give an approximate idea as to the length of time before death. I do not know from what body the sections were taken. I know that it was from a human vagina.

THE STATE CLOSES.

EVIDENCE FOR DEFENDANT IN SUR-REBUTTAL.

T. Y. BRENT, sworn for the Defendant in sur-rebuttal.

I have heard George Kendley on several occasions express himself very bitterly towards Leo Frank. He said he felt in this case just as he did about a couple of negroes hung down in Decatur; that he didn't know whether they had been guilty or not, but somebody had to be hung for killing those street car men and it was just as good to hang one nigger as another, and that Frank was nothing but an old Jew and they ought to take him out and hang him anyhow.

CROSS EXAMINATION.

I have been employed by the defense to assist in subpoenaing witnesses. I took the part of Jim Conley in the experiment conducted by Dr. Wm. Owens at the factory on Sunday.

M. E. STAHL, sworn for the Defendant, in sur-rebuttal.

I have heard George Kendley, the conductor, express his feelings toward Leo Frank. I was standing on the rear platform, and he said that Frank was as guilty as a snake, and should be hung, and that if the court didn't convict him that he would be one of five or seven that would get him.

MISS C. S. HAAS, sworn for the Defendant, in sur-rebuttal.

I heard Kendley two weeks ago talk about the Frank case so loud that the entire street car heard it. He said that circumstantial evidence was the best kind of evidence to convict a man on and if there was any doubt, the State should be given the benefit of it, and that 90 per cent. of the best people in the city, including himself, thought that Frank was guilty and ought to hang.

N. SINKOVITZ, sworn for the Defendant, in sur-rebuttal.

I am a pawnbroker. I know M. E. McCoy. He has pawned his watch to me lately. The last time was January 11, 1913. It was in my place of business on the 26th of April, 1913. He paid up his loan on August 16th, last Saturday, during this trial. This is the same watch I have been handling for him during the last two years.

CROSS EXAMINATION.

My records here show that he took it out Saturday.

S. L. ASHER, sworn for the Defendant in sur-rebuttal.

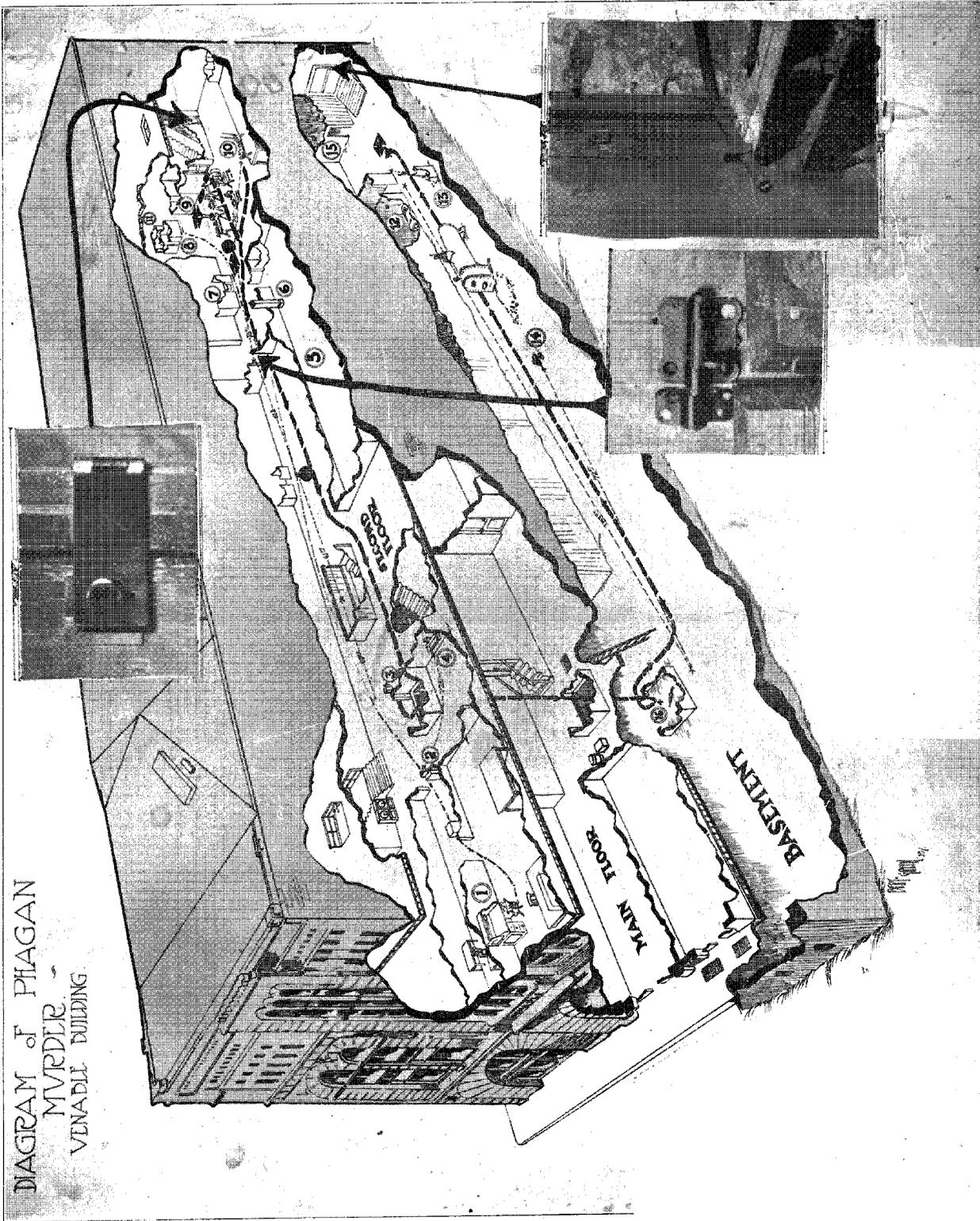
About two weeks ago I was coming to town between 5 and 10 minutes to 1 on the car and there was a man who was talking very loud about the Frank case, and all of a sudden he said: "They ought to take that damn Jew out and hang him anyway." I took his number down to report him.

CROSS EXAMINATION.

I have not had a chance to report since it happened.

STATE'S EXHIBIT A
Diagram of National Pencil Company Factory.

DIAGRAM OF PHAGAN
MURDER -
VENABLE BUILDING.



**ADDITIONAL STATEMENT MADE BY DEFENDANT,
LEO M. FRANK.**

In reply to the statement of the boy that he saw me talking to Mary Phagan when she backed away from me, that is absolutely false, that never occurred. In reply to the two girls, Robinson and Hewel, that they saw me talking to Mary Phagan and that I called her "Mary," I wish to say that they are mistaken. It is very possible that I have talked to the little girl in going through the factory and examining the work, but I never knew her name, either to call her "Mary Phagan," "Miss Phagan," or "Mary."

In reference to the statements of the two women who say that they saw me going into the dressing room with Miss Rebecca Carson, I wish to state that that is utterly false. It is a slander on the young lady, and I wish to state that as far as my knowledge of Miss Rebecca Carson goes, she is a lady of unblemished character.

DEFENDANT CLOSES.

STATE'S EXHIBIT B.

Frank's statement made before N. A. Lanford, Chief of Detectives, on Monday morning, April 28, 1913, this statement being unsigned:

"I am general superintendent and director of the National Pencil Company. In Atlanta I have held that position since August 10, 1908. My place of business is at 37 to 41 S. Forsyth St. We have about 107 employees in that plant, male and female. I guess there are a few more girls than boys. Saturday, April 26th, was a holiday with our company and the factory was shut down. There were several people who came in during the morning. The office boy and the stenographer were in the office with me until noon. They left about 12 or a little after. We have a day watchman there. He left shortly before 12 o'clock. After the office boy and the stenographer left, this little girl, Mary Phagan, came in, but at the time I didn't know that was her name. She came in between 12:05 and 12:10, maybe 12:07, to get her pay envelope, her salary. I paid her and she went out of the office. I was in the inner office at my desk, the furthest office to the left from the main office. It was impossible to see the direction she went in when she left. My impression was that she just walked away. I didn't pay any particular attention. I didn't keep the door locked downstairs that morning because the mail was coming in. I locked it at 1:10 when I went to dinner. Arthur White and Harry Denham were also in the building. They were working on the machinery, doing repair work, working on the top floor of the building, which is the fourth floor, towards the rear or about the middle of the building, but a little more to the rear. They were tightening up the belts; they are not machinists; one is a foreman in one department and the other is an as-

sistant in another, and Denham was assisting White, and Mrs. White, the wife of Arthur White, was also in the building. She left about 1 o'clock. I went up there and told them I was going to dinner and they had to get out, and they said they had not finished and I said, 'How long will it take?' and they said until some time in the afternoon, and then I said, 'Mrs. White, you will have to go, for I am going to lock these boys in here.' Anyone from the inside can open the outside door, but not the inside door, which I locked. You can go in the basement from the front through the trap door. No, sir, they could get up the steps if I was out. I locked the outer door and the inner door. I got back at 3 o'clock, and maybe two or three minutes before, and I went to the office and took off my coat and then went upstairs to tell those boys I was back, and I couldn't find them at first, they were back in the dipping room in the rear, and I said, 'Are you ready,' and they said, 'We are just ready,' and I said, 'All right, ring out when you go down to let me know when you go out,' and they rang out, and Arthur White come in the office and said, 'Mr. Frank, loan me \$2.00,' and I said, 'What's the matter; we just paid off,' and he said, 'My wife robbed me,' and I give him \$2.00 and he walked away, and the two of them walked out. I locked the outer door behind them. When I am in there is no need of locking the inner door. There was only one person I was looking for to come in, and that was the night watchman. He got there at 20 minutes to four. I had previously arranged for him to get there. On Friday night I told him, after he got his money. I give him the keys and I said, 'You had better come around early to-morrow because I may go to the ball game,' and he come early because of that fact; I told him to come early and he came 20 minutes to 4. I figured that I could leave about 1 o'clock and would not come back, but it was so cold I didn't want to risk catching cold and I come back to the factory as I usually do. He come in and I said 'Newt, you are early,' and he said, 'Yes, sir,' and he had a bag of bananas with him and he offered me a banana; I didn't see them but he offered me one and I guess he had them. We have told him once he gets in that building never to go out; I told him he could go out; he got there so early and I was going to be there. He come back about 4 minutes to six; the reason I know that I was putting the clock slips in and the clock was right in front of me. I said, 'I will be ready in a minute,' and he went downstairs and I come to the office and put on my coat and hat and followed him and went out. When I went out, talking to Newt Lee was J. M. Gantt, a man I had fired about two weeks previous. Newt told me he wanted to go up to get a pair of shoes he left while he was working there, and Gantt said to me, 'Newt don't want me to go up,' and he said, 'You can go with me, Mr. Frank,' and I said 'That's all right, go with him, Newt,' and I went on hime, and I got home about 6:25. Nothing else happened; that's all I know. I don't know what time Gantt came down after he went up. I saw him go in and I locked the door after him, but I didn't try them. I telephoned Newt. I tried to telephone him when I got home; he punches the clock at half hour intervals, and the clock and the phone is in the office, and I

didn't get an answer and at 7 o'clock I called him and asked him if Gantt got his shoes and he said yes, he got them, and I said is everything all right and he said yes, and the next thing I knew they called me at 7:30 the next morning. I don't know that our watchman has been in the habit of letting people in the factory at any time. I have never heard of it. I never had any trouble with the watchman about it. As to whether any of our employees go there at night, Gantt did when he was working there; he had a key and sometimes he would have some work left over. I never have seen him go out until I go out. I go out and come back, but he has come back before I left, but that is part of his duty. I took a bath Saturday night at my home. I changed my clothes. The clothes that I changed are at home, and this is the suit of clothes I was wearing Saturday. After I left the shop I went to Jacob's Pharmacy and bought a box of candy for my wife and got home about 6:25."

STATE'S EXHIBIT C.

Piece of cord found around Mary Phagan's neck, about size of a heavy twine, with a knot in it.

STATE'S EXHIBIT D.

Rag that was found around Mary Phagan's neck, with blood on it. White piece of cloth, soiled. Looked as if it was a piece torn off from petticoat.

STATE'S EXHIBIT E.

Four or five chips of wood, with red splotches on them, chipped up from the second floor of the National Pencil Company factory in front of ladies dressing room.

STATE'S EXHIBIT F.

Shirt found by detectives in trash barrel at Newt Lee's home. Shirt was very bloody; blood was on both sides of shirt and high up on arm-pits on the inside.

STATE'S EXHIBIT G.

Jar containing cabbage extracted from the stomach of Mary Phagan by Dr. Harris. Cabbage was not disintegrated, but was in a whole piece.

STATE'S EXHIBIT H.

Scratch pad that Conley wrote on. Ordinary white scratch pad.

STATE'S EXHIBIT I.

Portion of the signed statement of E. F. Holloway given to Solicitor H. M. Dorsey:

"I don't know C. B. Dalton. I do know Daisy Hopkins. She worked

at the factory not less than eight or ten months. I never did see any man go in the factory with Daisy Hopkins after the employees had gone on a Saturday. If they ever came there, they came after I left. I never did know of Daisy Hopkins or other girls going up in the factory on Saturday afternoon with any men. . . .

“This power box that runs the elevator is kept locked all the time. I keep it locked. The key is kept in the office. I locked it Saturday. I put the key back in the office. I always lock it and unlock it. I didn’t go to the factory on Sunday. The key was hanging on the same nail on Monday.”

STATE’S EXHIBIT J.

Affidavit executed by Minola McKnight for Solicitor Dorsey, as follows:

“State of Georgia,
County of Fulton.

Personally appeared before me, a notary public in and for the above State and county, Minola McKnight, who lives in the rear of 351 Pulliam St., Atlanta, Ga., who being duly sworn deposes and says:

“On Saturday morning, April 26, 1913, Mr. Frank left home about eight o’clock, and Albert, my husband, was there Saturday, too. Albert got there I guess about a quarter after one and he was there when Mr. Frank come for dinner, which was about half-past one, but Mr. Frank did not eat any dinner, and he left in about ten minutes after he got there. Mr. Frank come back to the house at seven o’clock that night, and Albert was there when he got there. Albert had gone home that evening but he come back. I don’t know what time he got there, but he come sometime before Mr. Frank did, and Mr. Frank eat supper about seven o’clock, and when I left there that night about eight o’clock, I left Mr. Frank there.

“Sunday morning I got there about eight o’clock, and there was an automobile standing in front of the house and I didn’t pay any attention to it. I saw a man in the automobile get a bucket of water and pour into it. Mr. Frank’s wife was downstairs and Mr. and Mrs. Selig were upstairs. Albert was there Sunday morning, but I don’t remember what time he got there. I called them down to breakfast about half past eight and I found out that Mr. Frank was gone. Mr. and Mrs. Selig eat breakfast, but Mrs. Frank didn’t eat until Mr. Frank come back and then they eat breakfast together. I didn’t hear them say anything at the breakfast table. After dinner I understood them to say that a girl and Mr. Frank were caught at the office Saturday. I don’t know who said it, Miss Lucile (Mrs. Frank) and Mr. and Mrs. Selig and Mr. Frank were standing there talking, after dinner when they said it; I understood them to say it was a Jew girl.

STATE'S EXHIBIT K.

Specimen of Frank's handwriting made by Frank for the detectives at the police station.

he said he would
love me laid down play
like the night which did
it but that long tall
black negro did buy
himself

Man that negro fire
down here did that when
I went to make water and
he pushed me down a hole
a long tall negro black that
had it

J.N.S.

H. N. S.

“On Tuesday, Mr. Frank says to me, ‘It is mighty bad Minola, I might have to go to jail about this girl, and I don’t know anything about it.’

“Sunday, Miss Lucile said to Mrs. Selig that Mr. Frank didn’t rest so good Saturday night; she said he was drunk and wouldn’t let her sleep with him, and she said she slept on the floor on the rug by the bed because Mr. Frank was drinking. Miss Lucile said Sunday that Mr. Frank told her Saturday night that he was in trouble, and that he didn’t know the reason why he would murder, and he told his wife to get his pistol and let him kill himself. I heard Miss Lucile say that to Mrs. Selig, and it got away with Mrs. Selig mighty bad; she didn’t know what to think. I haven’t heard Miss Lucile say whether she believed it or not. I don’t know why Mrs. Frank didn’t come to see her husband, but it was a pretty good while before she would come to see him, maybe two weeks. She would tell me, ‘Wasn’t it mighty bad that he was locked up,’ she would say, ‘Minola, I don’t know what I am going to do.’

“When I left home to go to the solicitor general’s office, they told me to mind how I talked. They pay me \$3.50 a week, but last week they paid me \$4.00, and one week she paid me \$6.50. Up to the time of the murder I was getting \$3.50 a week and the week right after the murder I don’t remember how much she paid me, and the next week they paid me \$3.50, and the next week they paid me \$6.50, and the next week they paid me \$4.00 and the next week they paid me \$4.00. One week, I don’t remember which one, Mrs. Selig gave me \$5, but it wasn’t for my work, and they didn’t tell me what it was for, she just said, ‘Here is \$5, Minola.’ I understood that it was a tip for me to keep quiet. They would tell me to mind how I talked and Miss Lucile gave me a hat.”

Q. “Is that the reason you didn’t tell the solicitor yesterday all about this, that Miss Lucile and the others had told you not to say anything about what happened at home there?”

A. “Yes, sir.”

Q. “Is that true?”

A. “Yes, sir.”

Q. “And that’s the reason you would rather have been locked up last night than tell?”

A. “Yes, sir.”

Q. “Has Mr. Pickett or Mr. Cravens or Mr. Campbell or myself influenced you in any way or threatened you in any way to make this statement?”

A. “No, sir.”

Q. “You make it of your own free will and accord in their presence and in the presence of Mr. Gordon, your attorney?”

A. “Yes, sir.”

(Signed) MINOLA McKNIGHT.

Sworn to and subscribed before me, this 3d day of June, 1913.

(Signed) G. C. FEBRUARY,
Notary public, Fulton County, Ga.

STATE'S EXHIBIT L.

A small whip handle found by detective McWorth at the pencil factory.

STATE'S EXHIBIT M.

Clothes worn by Mary Phagan consisting of hat, hair ribbon (2), dress, corset with hose supporters attached, one broken, corset cover, knit undervest, underskirt, drawers (right leg torn and soiled with blood), pair of silk garters, pair of hose, pair of low shoes, handkerchief, parasol.

STATE'S EXHIBIT N.

Copy of the Minutes of the State Board of Health, found on pages 144-145 thereof, reading as follows:

"The President then addressed the Board at length on his reasons for thinking that the Secretary should be requested to resign, the subjects dealt with being too enormous and too lengthy to be included here in their entirety. After the President's address, the Board adjourned and re-assembled again at four o'clock in the afternoon, at which time Dr. Harris' side of the controversy was heard.

"The Secretary not having been present at what transpired following this was not in a position to take note as to the proceeding, but was informed by members on adjournment that it was their wish that he should still continue as Secretary and Director of the laboratories.

"The President then made a short statement in support of his protest against the Secretary, and reiterated some of the charges made at the previous meeting, and in addition, made objection against the Secretary's action in sending out antitoxin No. 64, which had been shown by tests made in Washington to be of less potency than it was originally labeled, and also condemning the Secretary for replacing Dr. Paullin and personally taking up the investigation of the malarial epidemic around the pond of the Central Georgia Power Company. The President then stated that he would publish the charges against the Secretary if the Board did not take such action regarding them as he thought right and proper. At the conclusion of the President's address, a talk was made by Dr. Doughty, in which he took exception to the former's attitude, and insisted that every member of the Board wished to do what was best for the State Board of Health and the people of Georgia, and that every one connected with the Board of Health should be willing to bow to the decision of this body. He deprecated strongly the idea of giving to the press charges, the publication of which could do no good, and which could only result in harm.

"On the President and Secretary being recalled an hour later the President pro tem, Dr. Benedict, read the following resolution, which has been unanimously adopted by the Board on motion of Dr. Harbin, seconded by Dr. Brown, the resolution having been drawn by a commit-

tee appointed by the Board, consisting of Drs. Benedict, Taylor and Doughty.

“ ‘That the committee appointed to frame a resolution expressing the opinion of the Board with regard to the charges preferred against the Secretary by the President of the Board in a report to the Governor, and upon which they are called upon to act, beg to report as follows:

“ ‘Resolved, That the members of the Board present, after carefully considering the charges and all evidence in its possession, unanimously agree that while there have been certain slight irregularities in the conduct of some departments of the laboratories of the State Board of Health, which should be corrected, these irregularities have not been so important in character or result as to call for or warrant the discontinuance of Dr. Harris as Secretary and Director of laboratories as demanded by the President. The Board further directs that a copy of this resolution be transmitted to the Governor.’ ”

STATE'S EXHIBIT O.

Telegram sent by Leo M. Frank:

“Atlanta, Ga., April 28, 1913.

“Mr. Adolph Montag,

Care Imperial Hotel, New York.

“You may have read in Atlanta papers of factory girl found dead Sunday morning in cellar of pencil factory. Police will eventually solve it. Assure my uncle I am all right in case he asks. Our company has case well in hand.
LEO M. FRANK.”

STATE'S EXHIBIT P.

Time slip punched for Solicitor Dorsey by L. T. Kendrick:

1	5.01
2	5.30
3	6.00
4	6.29
5	6.58
6	7.38
7	8.01
8	8.29
9	9.00
10	9.30
11	10.00
12	10.30
13	10.58
14	
15	11.59
16	12.30
17	12.59
18	1.29

19	2.00
20	2.31
21	3.00
22	3.30
23	3.59
24	4.30
25	5.00
26	
27	
28	
29	
30	

STATE'S EXHIBIT Q.

Miss Hattie Hall's testimony before coroner's inquest, as follows:

"He (Mr. Frank) came to Montag's before I went to his office. I went to his office after he went back, somewhere between 10:30 and 11. I didn't notice the clock. As to whether I got any financial sheet on Monday, or not, I remember the previous Saturday I was at the pencil factory and I helped him make up the financial sheet. I filled in part of it. I suppose by that he must have got it up. I transferred some of the things to that sheet. Mr. Frank made up most of the work and I transferred some of the things to that sheet. I really don't remember whether it was morning or afternoon. It was morning. I don't work on Saturday afternoons. I don't remember that I was in the inner office with him at any time except when I was taking the letters. He was pretty quiet in there. I suppose he was at work."

STATE'S EXHIBIT R.

Accident report to the Insurance Company relative to Duffy's injury.

Claim Division, Branch Office, The Travelers Insurance Company,
608-609 Fourth National Bank Building, Atlanta, Ga.

Immediate Report of Accident.

Employee of National Pencil Company.

Address, 37-41 S. Forsyth St. City, Atlanta. State, Georgia.

Date and hour of accident, Oct. 4th, 1912, 9:30 a. m.

Date of this report, Oct. 4th, 1912.

Injured Person	{	Name, J. E. Duffy. Address, 237 E. Fair St.
		Age, 21. Occupation, Running eyelet machine.
		Weekly wages, \$6.60. Married or Single? Married.
		General duties, Running machine.

The Machine, Appliance, or Thing Immediately Causing Accident { What was it? A piece of brass on machine.
 In whose control at the time. His own self.
 Was it sound and in good working order? Yes.

Place of Accident { Room or Dept. No. 18-A. No. Street. City or town.

Contributing Causes { Carelessness of injured person? No. Viola-
 tion or negligence of fellow workman?
 No. Rules? No.

The Accident { Description. Said party was putting a roll of brass
 on his machine. This brass is very sharp, and
 same cut into flesh, nearly to the bone.
 Name and addresses of witnesses: L. A. Irwin, fore-
 man; Charlie Lee, machinist.

The Injury { Nature and extent? Very painful cut to the bone,
 not serious if this brass does not cause poison
 to set in.
 Was surgical aid rendered? Yes. When? At once.
 By whom? Dr. Hancock. Where? Atlanta Hospital.

Notice received by employer 10-4-12.

H. G. SCHIFF, Employer.

STATE'S EXHIBIT S.

Portion of the affidavit made by Lemmie Quinn for Solicitor Dorsey as follows:

“The doors that lead up to the back stairs, after work hours are locked, but this door at the back of my department, the lock had been broken off and we placed a bar across it. The idea of that was to keep employees from the fourth floor going down from that department and ringing out and getting their money before it was ready. Customarily it was closed. That was the purpose. There is no exit from the office to the street floor, except the front, there is a stairway leading from the office floor to the floor above. The back stairway is ordinarily closed with that bar, which makes it impossible for anybody to come from the upstairs down to the office floor. A man on the office floor could lift the bar and walk out, but I should not think that a man could come down to the office from above at all. . .

“I went uptown when I left home between 12 and 12:20. I got to the pool room about 12:30. . . He (Frank) said he didn't know that he would mention it, but he would mention it to his lawyers and see if they thought it was favorable to mention it. That must have been Wednesday of last week.”

STATE'S EXHIBIT T.

Court papers with reference to the police records of Jim Conley, being seven in number.

Jas. Connally, Disorderly Conduct, fined \$1.75 7/22/1904—Paid
 Jas. Connally, same, fined \$15.75, 10/15/07—Paid
 Jim Connally, same, fined \$1.75, 7/18/05 G. G. B.
 James Connally, same, fined \$10.75, 12/11/1907, G. G. B.
 James Connally, same, fined \$3.75, 11/14/1906—Paid
 Jimmie Connally, same, fined \$3.75, 3/5/1906—Paid
 James Connally, same, sentenced 30 days, 9/10/1912

STATE'S EXHIBIT U.

Pay envelope found by Barrett under his machine on the second floor of the factory. Ordinary pay envelope used by factory officers in paying off employees.

STATE'S EXHIBIT V.

Portion of the testimony of Emil Selig before coroner's inquest as follows:

"As to who else was present, my wife and his wife. They went to the opera before, probably, dinner was over, before he and I left. I stayed in the house. There was no one else there when he got there except me and my wife and him and his wife. The servant was there also. I am speaking about dinner time. I laid down a little while after dinner. I am sure about that. It was directly after dinner was over. Mr. Frank was in the hall. I think he laid down himself. My room is upstairs over the dining room. The telephone is in the dining room. Mr. Frank stayed quite a little while at dinner. I don't know exactly how long he stayed. No, he didn't leave before I got up. Yes, I took a nap. He came a little after one and we ate dinner and I laid down and took a considerable nap."

STATE'S EXHIBIT W.

Portion of testimony of Mrs. Josephine Selig before the coroner's inquest, as follows:

"As to what he (Mr. Frank) said about this affair, I don't know if he made any reference to it. She (Mrs. Frank) had told me. I don't remember that he said anything at all about this crime. He probably spoke of it in a general way. He is superintendent of the pencil factory. I think I would have remembered such a remark if he had made it. He said that there was a little girl found dead in the pencil factory that day. I didn't ask what her name was. I don't know that I asked any question at all, because I never really thought that it had any bearing on anything that I was interested in. It was not of interest to me. Naturally he would be concerned about it. I think he did seem unconcerned about it. I don't think he seemed to attach any great importance to it. I don't think he had anything to say about getting anybody to see what was the matter, or see who did it. I don't know what was the occasion of the first remark that Mr. Frank made about the thing. I suppose he had been there only a few minutes. Yes, he spoke about it before dinner. He mentioned the fact that a woman had been found down there. He mentioned

STATE'S EXHIBIT Y.

Note found by policemen in sawdust beside body of Mary Phagan,
written on white paper.



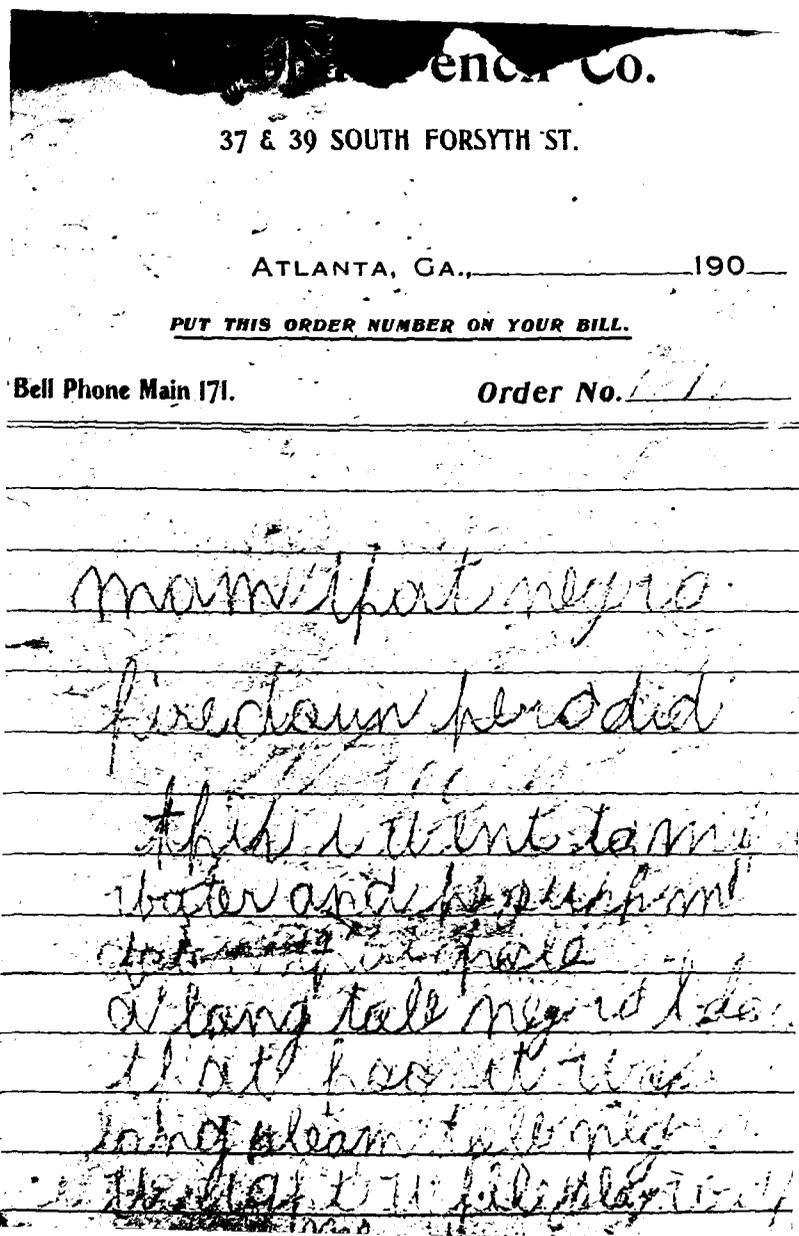
for a while for some time
laid down play like the
night witch did it
but that long tall black
negro did boy hisself



(He said he would love me, laid down play like the night witch did
it but that long tall black negro did boy hisself).

STATE'S EXHIBIT Z.

Note found by policemen in sawdust by side of the body of Mary Phagan, written on yellow paper.



(Mam that negro fire down here did this when i went to make water and he push me down a hole a long tall negro black that did (had) it. i right while play with me).

that just casually. He didn't remark about the youth of the child or about the brutality of the crime, or describe any of the wounds, or wonder who was suspected, or give any theory as to how it happened. I don't think he expressed any anxiety or curiosity, or advance any theory as to how the thing had happened. He read the paper. There was no article about that in the paper. I cannot say that he dwelt on any article. Yes, he read the paper just as steadily and studiously as the night before. I don't think he made any difference at all. He did not seem to be a bit impressed on account of the thing having happened in the pencil factory."

DEFENDANT'S EXHIBIT 1.

Time slip, dated April 26th, taken out of clock by Frank:

101.....	601	135.....	
102.....	632	136.....	
103.....	700	137.....	
104.....	732	138.....	
105.....	800	138.....	
106.....	831	139.....	
107.....	906	140.....	
108.....	932	141.....	
109.....	1029	142.....	
110.....	1104	143.....	
111.....	1200	144.....	
112.....	107	145.....	
113.....	135	146.....	
114.....	203	147.....	
115.....	301	148.....	
116.....	330	149.....	
117.....		150.....	
118.....		151.....	
119.....		152.....	
120.....		153.....	
121.....		154.....	
122.....		155.....	
123.....		156.....	
124.....		157.....	
125.....		158.....	
126.....		159.....	
127.....		160.....	
128.....		161.....	
129.....		162.....	
130.....		163.....	
131.....		164.....	
132.....		164.....	
133.....	(Erasure made here)	165.....	
134.....		166.....	

167.....	184.....
168.....	185.....
169.....	186.....
170.....	187.....
171.....	188.....
172.....	189.....
173.....	190.....
174.....	191.....
175.....	192.....
176.....	193.....
177.....	194.....
178.....	195.....
179.....	196.....
180.....	197.....
181.....	198.....
182.....	199.....
183.....	200.....

Date April 28, 1913.

Solicitor Dorsey stated in open court that he had made the erasure noted on this time slip, supposing it to have been put there by the detectives, the words erased being "Taken out 8:26 a. m."

DEFENDANT'S EXHIBIT 3.

Data sheet, being part of financial sheet.

		PRODUCTIONS:
		WEEK ENDING 4/24/13
Gross Production	2765½	Lead deliveries
Net Production	2719½	940/2- 1045 -852/7-964
Repacked good	10	940/3- 260 852/6- 794
Repacked cheap	36	930/2- 724
Value repacked	\$70.00	Slats delivered, Gr.:
Rubber inserted	720	Good
Rubber cheap	667½	Cheap
Rubber good	706½	Jobs Gr. 791
Lead good	747	Jobs value 386.75
Lead cheap	1955	Jobs average .50
Lead large	1	Payroll, Forsyth St. 1,060.05
Lead copy	16½	Payroll, Bell St. 114.75
Boxes	3771	Payroll, Mch. Shop 70.00
Assortment boxes	279	Shipments Gr. 4374
Skeletons	642	Shipments \$5,438.78
Tips delivered good 512		Orders received Gr. 1904
Tips delivered cheap 830—1342		Orders received \$3,320.31
Protectors, ends ½		
Wrappers	2535	
Cartons	88	

DEFENDANT'S EXHIBIT NO. 3—(Continued)**Average of Jobs (part of data sheet).**

		@	
180-	095-	.40	\$72.00
1-	114-	1.10	1.10
16	90	.70	11.20
44	111	.70	30.80
169	7x	.50	84.50
33	090	.40	13.20
29	006-	.65	18.85
178	3's	.35	72.30
13	75	1.00	13.00
38	70	.90	34.20
87	504	.50	43.50
3	112	.70	2.10
<hr/>			<hr/>
991			396.75

50-;/10c av.

DEFENDANT'S EXHIBIT 4a.

Packing room reports, being part of data for financial.

NATIONAL PENCIL CO.
Atlanta, Ga.

NATIONAL PENCIL CO.
Atlanta, Ga.

Daily Report.

Daily Report.

	Monday		Tuesday
Dept. Packing	Dept. No. 13	Dept. Packing	Dept. No. 13
264-55 Oxford	46	86-510 Packard No. 2	46
383-37 Trumps	52½	97-420 Surety No. 2	29
385-35 Trumps	1	271-950 Genius	21
No. 1 Ass't	6	199-910 N Emblem	18
	<hr/>	116-210 Bowers Prog	5
	105½		<hr/>
939-20 G Wash	121		119
688-40 J Monroe	7	264-55 Oxford	83
	<hr/>	150 Mystic N. T.	1
	128	155 Mystic N. T.	4
315-10 P Cedar	16		<hr/>
Med	105½		88
Good	136½	Date 4/22/13	Signed EULA
	<hr/>		
	386		
Date 4/41/13	Signed EULA		

DEFENDANT'S EXHIBIT 4a—(Cont'd)

NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.		NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.	
	Wednesday		Wednesday
Dept. Packing	Dept. No. 13	Dept. Packing	Dept. No. 13
86-510 Packard No. 2	5	264-55 Oxford	98½
274-T.O. Bell Lee Drug Co.	8	120 Broadway	5
199-910 N. Emblem	24	34-45 Trumps	16
271-950 Genius	25	No. 110 Asst Smith Paper	25
90-210 Cadillac No. 2	31½		_____
71-630 Worth 2752	28½		Cr 144
	_____	939-20 G. Wash	78
	122	688-40 J. Monroe	3
Date 4/23/13	Signed EULA		_____
			81
			144
			122

			347
		Date 4/23/13	Signed EULA

DEFENDANT'S EXHIBIT 4aa.

Repack—

Apr. 25, 1913—Repack from Apr. 17, to Apr. 24			
18 gross	22.50	-35x	
18 gross	22.50	37x	
10 gross	25.00	930x O. K. (Signed) EULA	

46	70.00		

DEFENDANT'S EXHIBIT 4a—(Continued).

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Friday	
Dept. Packing	Dept. No. 13
725 N. Copying	1/2
91-210 Cadillac No. 3	35
87-510 Packard No. 3	2
199-910 Nat. Emblem	60 1/2
62-660 University School	52 1/2
117-450 Luxury No. 2 N. T.	1
326-210 Khedive No. 2	2 1/2
No. 1920 Ass't Nat. Flyer	2 1/2
	<hr/>
	156 1/2

Date 4/18/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Saturday	
Dept. Packing	Dept. No. 13
271-950 Genius	9 1/2
91-210 Cadillac No. 3	3 1/2
199-910 N. Emblem	3
116-210 Bowers Prog No. 2	6
760 Thesis Writing No. 2	1
	<hr/>
	23
	Good
264-55 Oxford	66
378-155 Mystic	99 1/2
	<hr/>
	165 1/2
939-20 G. Wash.	69
315-10 P. Cedar	53
Good	23
	<hr/>
	310 1/2

Date 4/19/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Monday	
Dept. Packing	Dept. No. 13
397-430 Sitting Bull	12 1/2
86-510 Packard No. 2	34 1/2
91-210 Cadillac No. 3	6
116-210 Bowers Prog	29 1/2
120-210 Khedive No. 2 N. T.	6
271-950 Genius	32 1/2
97-420 Surety No. 2	9 1/2
No. 1920 Ass't N. Flyer	6
	<hr/>
	136 1/2

Date 4/21/13 Signed EULA

NATIONAL PENCIL CO.
Atlanta, Ga.
Daily Report.

Tuesday	
Dept. Packing	Dept. No. 13
939-20 G. Wash	94
688-40 J. Monroe	11
	<hr/>
	105
R. I.	
Med.	89
Good	119
	<hr/>
	313

Date 4/21/13 Signed EULA

DEFENDANT'S EXHIBIT 4a—(Cont'd)

NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.		NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.	
	Thursday Dept. No. 13		Thursday Dept. No. 13
Dept. Packing		Dept. Packing	
90-210 Cadillac No. 2	6½	939-20 G. Wash.	34
91-210 Cadillac No. 3	2	688-40 J. Monroe	20
116-210 Bowers Prog	15½		
271-950 Genius	71		54
274-470 Thoroughbred	43	R. I.	54
No. 15 Ass't Princely Cards	15	Med.	136
		Good	153
	153		
34-45 Trumps	36		343
Ass't No. 48 S. Bgn Hse Sp	50	Date 4/24/13	Signed EULA
Ass't No. 53 Southwestern			
No. 115	50		
	136		
Date 4/24/13	Signed EULA		

DEFENDANT'S EXHIBIT 4b.**Job Department reports, being part of data for financial sheet**

NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.		NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.	
Dept. Job.	Dept. No. 22	Dept. Job.	Dept. No. 22
504 Pol sec	59	504 Pol sec	12
090 " "	20	3's " 3's	69
506 " "	10	74 " sec	111
3's " 3's	12	111 " "	25
90 " sec	10	112 " "	3
095 " 3's	133	90 " "	3
7x " sec	30	506 " "	8
		70 " "	16
		75 " "	3
	274		
			250
Date 4/21/13	Signed FANNIE A	Date 4/23/13	Signed F. L. A.

DEFENDANT'S EXHIBIT 4b—(Cont'd)

NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.		NATIONAL PENCIL CO. Atlanta, Ga. Daily Report.	
Dept. Job.	Dept. No. 22	Dept. Job.	Dept. No. 22
111 Pol see	19	90 Pol see	3
74 " "	28	114 " "	1
090 " "	13	095 " 3's	47
506 " "	11		<hr/>
3's " 3's	97		51
75 " see	10		216
70 " "	22		<hr/>
504 " "	16		267
	<hr/>	Date 4/24/13 Signed FANNIE A	
	216		
Date 4/24/13	Signed FANNIE A		

DEFENDANT'S EXHIBIT 4c.

Daily report of lead deliveries from lead plant, part of data for financial sheet.

1 Box 3992	910/No 2	127 Gross
2 " 3993	"	247 "
2 " 3994	-	254 "
2 " 3995	-	254 "
2 " 3996	2	163
<hr/>		<hr/>
9 Box		1045 Gross
3 Box 3863	940/No. 3	260 "
2 " 3910	940/No. 3	197
3 " 3911		335
3 " 3912		292
<hr/>		<hr/>
19 Box		2192 Gross
2 Box 3976	852/7	260 "
4 " 3978	852/7	347
4 " 3979	"	347
<hr/>		<hr/>
29 Box		3787 Gross
4 Box 3980	852/7	352 "
4 " 3981		352
<hr/>		<hr/>

704 Gross

(Signed)

G. WEINKAUF.

Apr/21, 1913

DEFENDANT'S EXHIBIT 4d.

Report of tip deliveries from tip plant, being part of data for financial sheet.

Weekly report of Metal Dept., No. 18, April 24, 1913.

Large Eyelet Mach.	404	Tips delivered—	
Small Eyelet Mach.	440	No. 6	830
Trimming Mach.	644	No. 10	448
Knurling Mach.	835	No. 12—Re-dipped	35
		No. 17	64

1,377

(Signed) L. A. QUINN.

DEFENDANT'S EXHIBIT 5.

Average (of orders) sheet, being a complete record (beginning with the week ending Jan. 16, 1913) of the number of orders received each week, classified as to price under different headings, said number being totaled at the end of each week and the average price ascertained. The following is a record only of orders for the factory month of April, 1913:

WEEK ENDING 4/3/13.

			100 thru	150 thru	200 thru	300 and over
	60 cts.	R. I.	140	195	295	
Friday 28	159	413	307	117	453	105½
Saturday 29	3	28	30	2	6	5
Monday 31	5	258	81	7½	126	35
Tuesday 1	10	17	47	14	78	15½
Wednesday 2	12	165	132½	7	122	30½
Thursday 3	24	154	621	6½	70	15
Total gross	213	1035	1218½	154	855	206½
Price per gross .....	.60	.80	1.25	1.75	2.50	3.00
Total value	127.80	828.00	1,523.13	269.51	2,137.50	619.50
	\$5,505.43		3682 gr.		1.50 av.	

DEFENDANT'S EXHIBIT 5—(Continued).

WEEK ENDING 4/10/13.

	60 cts.	R. I.	100 thru	150 thru	200 thru	300 and over
Friday 4	33	162	140	195	295	51½
Saturday 5	31	19	38½	12	47	16
Monday 7	106	101	188	118	154½	86
Tuesday 8	10	30	48	10	67	74
Wednesday 9	5	..	2	8	4	2
Thursday 10	15	156	232	28	90	67½
Total gross	200	468	788½	696	325½	286½
Price per gross ...	.60	.80	1.25	1.75	2.50	3.00
Total value	120.00	374.40	985.62	128.00	833.75	889.50
	\$4,428.27		2774½		1.60 av.	

WEEK ENDING 4/17/13.

	60 cts.	R. I.	100 thru	150 thru	200 thru	300 and over
Friday 11 .....	..	..	..	..	..	..
Saturday 12 .....	..	..	..	..	250	5
Monday 14	6	104	9	5	26	10
Tuesday 15	5	11	30	8	26	1
Wednesday 16 ...	10	10	7	4	14	6
Thursday 17	55	173	276	217½	365	198½
Total gross	76	298	322	234½	681	220½
Price per gross...	.60	.80	1.25	1.75	2.50	3.00
Total Value	45.60	238.40	8,412.50	410.38	1,702.58	661.50
	1852 gr.	\$3,460.88			\$1.89 av.	

WEEK ENDING 4/24/13.

	60 cts.	R. I.	100 thru	150 thru	200 thru	300 and over
Friday 18	9	103	65	9½	122	95
Saturday 19 .....	..	26	81	13	52½	16
Monday 21	53	118	79½	20	83	17
Tuesday 22	28	205	115	101	9½	153½
Wednesday 23	15	5	28	5	16½	..
Thursday 24	10	29	11	..	110	100
Total gross	115	486	379½	148½	393½	381½
Price per gross...	.60	.80	1.25	1.75	2.50	3.00
Total value	69.00	388.80	474.38	259.88	983.75	1,144.50
	\$3,320.31		1904 gr.		\$1.74 av.	

DEFENDANT'S EXHIBIT 6.

Value of shipments for week ending April 24, being part of data for financial sheet.

					11.35
					38.37
					27.00
					23.40
					40.00
			18th		124.80
					14.20
					38.82
					23.39
					17.50
					14.66
					27.00
					10.90
					8.90
					107.50
Shipments Week Ending 4/24/13					14.86
Apr. 18	400.75		19th		14.92
" 19	482.00				73.04
" 21	1146.06				43.90
" 22	1457.95				21.25
" 23	706.63				135.10
" 24	1245.57				51.63
	<hr/>				
	5438.78				69.55
					24.34
					114.00
					29.39
			21st		17.84
					15.07
					75.99
					13.70
					740.55
					33.25
					12.38
					12.00
					16.67
			22nd		10.00
					13.70
					138.30
					1267.28

DEFENDANT'S EXHIBIT 7.

Three pencil sheets (the last two lines of which are in Frank's handwriting), part of data for financial sheet.

FACTORY RECORD

NATIONAL PENCIL COMPANY, Atlanta, Ga.

PENCIL STOCK

Week Ending

April 17, 1913

DATE	10 Ex	20 Ex	30 Ex	40 Ex	Jobs	135x	120x	130x	120 Ex SPL	35x 37x	45x 55x	140x	155 N Tip	150x N Tip	160x	170x	180x	1002	1003	910x	230x	500x	330x	630x	640x	210x	660x	220x	210x SPL	660x SPL	150x	155x SPL	260x SPL	920x	930x	620x	Princely Cords No. 225	TOTAL						
PENCILS PACKED																																												
April 11		204				28				14		46	13½														6½																	
12		32				65						64	40																															
14		19		21		42					61	36												13		8																		
15		53										13								8				10½																				
16				35	x	3														22½				15				14																
17	100	10		38	574		10		10		4		7½							16½								15½	45															
TOTAL	100	318		94	734	138	10		24	61	163	53½	7½							47				38½		14½		29½	45															
PENCILS SHIPPED																																												
April 18		17	58	18							25									60				2½				35	52½															
19		53	69								66		99½							33								9½																
21		16	121	7	274					53½	46																	35½																
22			94	11							83½		4½	1						18								5																
23			78	3				5			114½									24								31½																
24			34	20	517						36																	24																
TOTAL	86	454		59	791			5	53½	371		104	1						105					2½			140½	52½																
In Stock End Last Week																																												
Made This Week																																												
TOTAL Shipped This Week																																												
In Stock End This Week																																												

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DEFENDANT'S EXHIBIT 7—Continued.

Three pencil sheets (the last two lines of which are in Frank's handwriting), part of data for financial sheet.

FACTORY RECORD

NATIONAL PENCIL COMPANY, Atlanta, Ga.

PENCIL STOCK

Week Ending

April 17, 1913

DATE	620x SPL	510x	430x SPL	431x	800x	240x	911x	260x	901x	902x	903x	904x	280x	280x SPL	Type	Asst. 110	#1	#2	#145	#105	#3	#115	#1900	#1910	#1920	#1640	#110 Sp	950x	270x	950x SPL	260x SPL	20th Century	Pan American	210x	Gate City	TOTAL			
April 11				4			36 1/2				8 1/2													42 1/2												1 1/2			
12							4																													6 1/2			
14							8 1/2																														8 1/2		
15				7			36 1/2																		5	5													
16				35			38																															2	
17													14 1/2		50								4		15	10													
TOTAL				46			123 1/2				8 1/2		14 1/2		50								4	42 1/2	20	15											18 1/2		
April 18																									2 1/2														
19																																							
21				12 1/2													6								6														
22																																							
23															8	25																							
24																												100	71										
TOTAL				12 1/2											8	25	6								8 1/2		100	159											
In Stock End Last Week																																							
Made This Week																																							
TOTAL Shipped This Week																																							
In Stock End This Week																																							

HeinOnline -- 1 Leo M. Frank. Leo M. Frank. Plaintiff in Error. vs. State of Georgia. Defendant in Error. In Error from Fulton Superior Court at the July Term, 1913. Brief of the Evidence [vii] 1913

DEFENDANT'S EXHIBIT 6—(Continued).

23rd	183.70
	13.04
	23.95
	29.45
	29.18
	28.80
	260.00
	20.00
	23.04
	18.49
	14.13
	30.00
27.70	
5.13	

24th	204.32
	644.40
	145.00
	63.33
	28.00
	27.75
	13.48
	119.29

DEFENDANT'S EXHIBIT 8.

Eight carbon copies of eight letters, all dated April 26, 1913, and addressed to

Schroder & Lombard Engraving Co., 18 Franklin St., N. Y.

Henry Diston & Sons, Philadelphia, Pa.

J. G. McCrory Co., 621 Broadway, N. Y.

Southern Bargain House, Richmond, Va.

American Zylacq Co., Inc., 8 Livingston St., Newark, N. J.

A. J. Sossner, 154 Duane St., N. Y.

The Pullman Co., Chicago, Ill.

Schroder & Lombard, 18 Franklin St., N. Y.

and signed "National Pencil Company, by, Supt." On each letter are the initials "LMF:HH."

Each letter acknowledges receipt of letter received from the firm addressed and whose names are set forth above (which original letters from said firms are attached to the respective carbon copy which it purports to answer), and have to do with matters of business connected with the National Pencil Company.

DEFENDANT'S EXHIBIT 9.

A large book containing all of the financial sheets of the National Pencil Company, beginning with the week ending November 25, 1909, and ending with the week ending April 24, 1913. Each of these sheets purport to cover the financial operations of the National Pencil Company for the respective week named thereon, and in form is identical with the sheet of April 24, 1913, set forth herein as "Defendant's Exhibit 2."

DEFENDANT'S EXHIBIT 10.

A small receipt book containing the following receipts:

April 19, 1913. Received of National Pencil Co. 15 cents—kerosene. (Signed) Nute Lee, F.

April 21, 1913. Received of National Pencil Co. 75 cents—type (Signed) A. Mann, F.

April 21, 1913. Received of National Pencil Co. two dollars—dray. (Signed) Truman McCrary.

April 21, 1913. Received of National Pencil Co. \$2.50—cases. (Signed) John Glass.

April 21, 1913. Received of National Pencil Co. 35 cents—express, Warner. (Signed) So. Express Co., F.

April 21, 1913. Received of National Pencil Co. 50 cents—postage stamps. (Signed) A. Mann, F.

April 21, 1913. Received of National Pencil Co. 3 cents—parcel post. (Signed) A. Mann, F.

April 22, 1913. Received of National Pencil Co. \$2.00 rent two weeks typewriter. (Signed) Underwood Typewriter Co., F.

April 22, 1913. Received of National Pencil Co. \$1.25—cases. (Signed) Dan Reid, F.

April 22, 1913. Received of National Pencil Co. \$1.70—dray (Signed) Truman McCrary.

April 22, 1913. Received of National Pencil Co. 45 cents—supplies. (Signed) Mr. Schneegass.

April 22, 1913. Received of National Pencil Co. \$3.50—cases. (Signed) John Glass, F.

April 23, 1913. Received of National Pencil Co. \$1.75—cases. (Signed) Dan Reid, F.

April 23, 1913. Received of National Pencil Co. 85 cents—inv. 2-1-13. (Signed) King Hdw. Co., Green.

April 23, 1913. Received of National Pencil Co. \$1.50—dray. (Signed) Truman McCrary.

April 24, 1913. Received of National Pencil Co. 50 cents—postage stamps. (Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. \$11.50—tinsmith job. (Signed) Paul Armbrust, R. F. D. No. 3, Atlanta, Ga.

DEFENDANT'S EXHIBIT 10—(Continued).

April 24, 1913. Received of National Pencil Co. 13 cents—parcel post. (Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. 5 cents—thread. (Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. \$1.00—dray. (Signed) Truman McCrary.

April 25, 1913. Received of National Pencil Co. 10 cents—care-fare. (Signed) A. Mann, F.

April 26, 1913. Received of National Pencil Co. \$2.00—dray. (Signed) Truman McCrary.

April 26, 1913. Received of National Pencil Co. 75 cents—express. (Signed) So. Express Co., F.

April 26, 1913. Received of National Pencil Co. \$4.00 time for office work. (Signed) Herbert Wright, F.

DEFENDANT'S EXHIBIT 11.

Comparison sheet, 1912,-1913, being part of data for financial sheet:

Comparison 1912-13.

	(45 hrs.) 1912	Week Ending Apr. 24/13	1913
Payroll	\$1,036.15		\$1,052.55
Machine Shop	47.75		70.00
Expense	1,584.55		1,623.20
Material Cost	1,271.46		1,552.55
Total Expenditures	2,856.01		3,175.75
Net Value Productions.....	2,431.22		3,066.31
Apparent Results—Deficit	424.79	Def.	109.44
Value shipments	3,323.22		5,438.78
	2,509 Gr.		4,374 Gr.
Productions: Net.....	2,132½		2,719½
Good	457½		700
Medium	829		629½
Cheap	546		599
Jobs	300		791
Per cent. Jobs.....	14%		29%

Remarks:

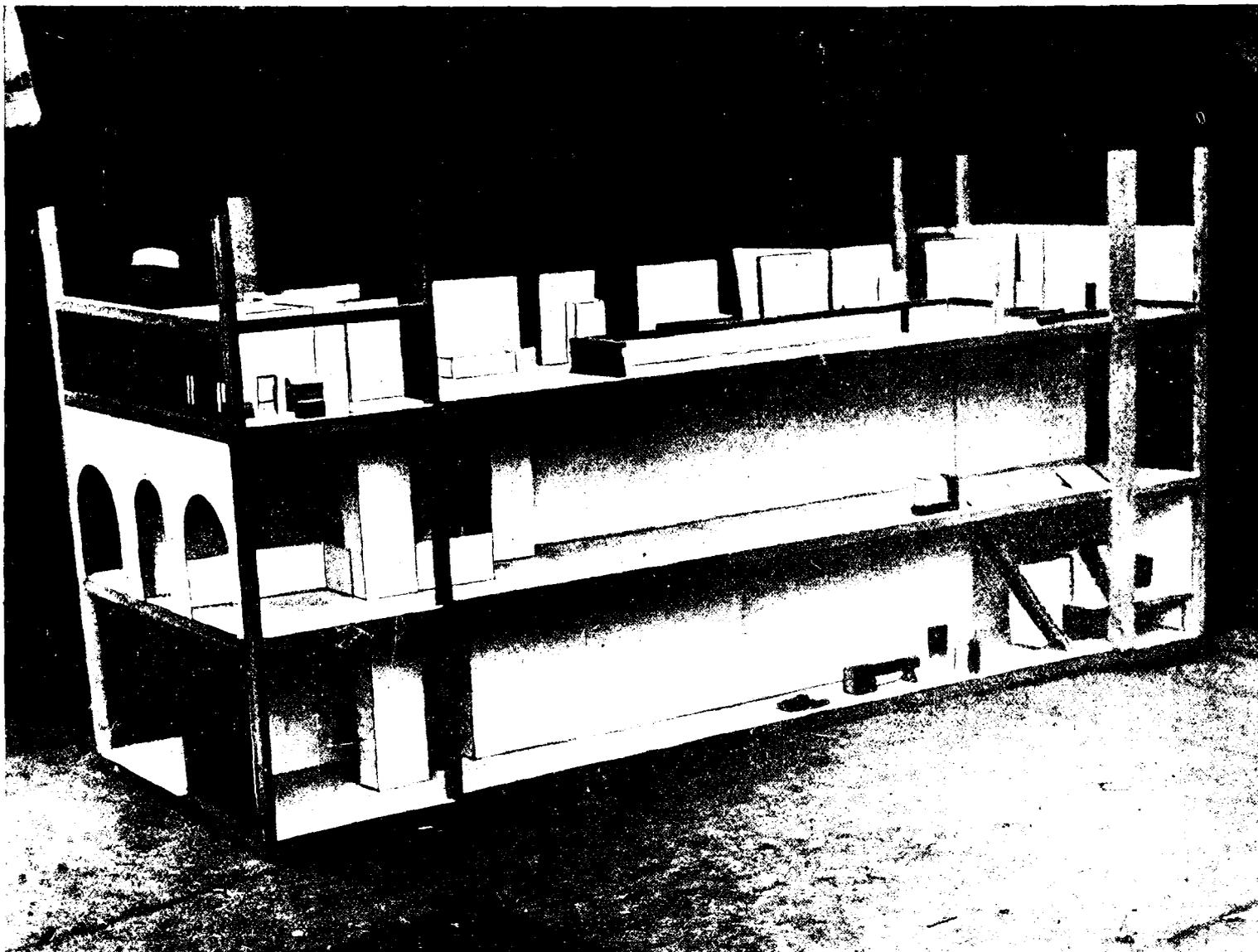
19120 55 hrs. work.

DEFENDANT'S EXHIBIT 12.

Page 56 of House Order Book of National Pencil Company

Salesman	Ship to	Kind	Order No.	City—State	Date Rec'd	How ship	Shipped
7187—D. P.	F. W. W. Co. No. 57	Regular	4/24/13	St. Joe, Mo.	4/26/13	At once	4/28/13
7188—D. P.	F. W. W. Co. No. 68	Regular	4/23/13	Terre Haute, Ind.	4/26/13	At once	4/28/13
7189—D. P.	F. W. W. Co. No. 253	Regular	4/22/13	Logansport, Ind.	4/26/13	At once	4/28/13
7190—D. P.	F. W. W. Co. No. 585	Regular	4/22/13	DeKalb, Ill.	4/26/13	At once	4/28/13
7191—D. P.	F. W. W. Co. No. 25	Regular	4/24/13	Wilkesbarre, Pa.	4/26/13	At once	4/28/13
7192—D. P.	F. W. W. Co. No. 262	Regular	4/24/13	Saratoga Spgs., N. Y.	4/26/13	At once	4/28/13
7193—Mail, U. S.	Soo 5 and 10c Store	Regular	C4355	Sault Ste. Marie, Mich.	4/26/13	At once	7/9/13
7194—H. G.	Beutell Bros. Co.	Regular	4/23/13	Dubuque, Iowa	4/26/13	At once	5/6/13
7195—Factory	Montag Bros.	Regular	4/26/13	Atlanta, Ga.	4/26/13	At once	6/9/13
7196—Jno. Lawrie	John Mangus Co.	Regular	134	Chicago, Ill.	4/26/13	At once	4/28/13
7197—G. H.	R. E. Kindell Co.	Special	4/24/13	Cincinnati, Ohio	4/26/13	At once	

DEFENDANT'S EXHIBIT 13.
Model of the National Pencil Company made by T. H. Willett.



DEFENDANT'S EXHIBITS 14 to 24, INCLUSIVE.

Eleven original orders addressed to the National Pencil Co., Atlanta, Ga., signed by the following firms:

F. W. Woolworth Co., Store No. 57, St. Joseph, Mo.
F. W. Woolworth Co., Store No. 68, Terre Haute, Ind.
F. W. Woolworth Co., Store No. 253, Logansport, Ind.
F. W. Woolworth Co., Store No. 585, DeKalb, Ill.
F. W. Woolworth Co., Store No. 25, Wilkesbarre, Pa.
F. W. Woolworth Co., Store No. 262, Saratoga Springs, N. Y.
Soo 5 and 10 Cent Store, Sault Ste. Marie, Mich.
Buefell Bros. Co., Dubuque, Iowa.
Montag Bros., Atlanta, Ga.
John Magnus Co., Chicago, Ill.
R. E. Kindell & Co., Cincinnati, O.

Said orders request the National Pencil Company to ship to said respective firms, at once, certain merchandise (pencils) noted therein. Each of said orders describes the quantity of pencils desired, the style number and a complete description of the kind of pencils wanted, name, color, shape, etc. On each order respectively is stamped the National Pencil Company's number as follows: "House No. 7187; House No. 7188; House No. 7189; House No. 7190; House No. 7191; House No. 7192; House No. 7193; House No. 7194; House No. 7195; House No. 7196; House No. 7197; House No. 7198; House No. 7199." There is also stamped on each of said orders the following: "Acknowledged, April 26, 1913, by H. H.," and also "Shipped complete, April 28, 1913," with the exception of the order of R. E. Kindell & Company, House No. 7197, which is marked on the face of it "Cancelled June 17, 1913," the letter of R. E. Kindell & Company cancelling said order being attached thereto.

DEFENDANT'S EXHIBIT 27.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No. 7189 Date April 26, 1913 191
 Salesman } D.P. Order No. 4/22/13
 Bill to }

NATIONAL PENCIL CO., ATLANTA, GA.
MANUFACTURERS

Ship to F.W.W.CO. #25 At Logansport
 Ship When At once
 Remarks: c/o Penna Ry Ind.

Sales No.	Amount	Name or Remarks	April 28, 1913		
10	4		4		
37	1		1		
35	1		1		
20	2	30 Sub.Pls.	2		
45	1		1		
140	1		1		
155	1		1		
660	1		1		
630	1		1		
910	1		1		
1002	1		1		
1003	1		1		
430	1/2		1/2		
240	1/2		1/2		
		O.K.			
		HGS		Complete	
Date					
Complete					
Shipment					
April 28, 1913					
		Shipped Complete			
		April 28, 1913			
		2703			

DEFENDANT'S EXHIBIT 30.

Requisition sheet in handwriting of Leo. M. Frank, as follows:

House No. 7192 Date Apr. 26, 1913 1913
 Salesman } D.P Order No. 4/24/13
 Bill to }

NATIONAL PENCIL CO., ATLANTA, GA.
MANUFACTURERS

Ship to F.W.W.Co. #262 At Saratoga Springs,
 Ship When at once N.Y.
 Remarks: c/o D. & H. Ry. 416-18 Broadway

Sales No.	Amount	Name or Remarks	4/28		
10	5		5		
20	5	30 Sub Pts.	5		
37	1		1		
35	1		1		
45	1		1		
120	1		1		
140	1		1		
155	1		1		
770	1	#3	1		
660	1		1		
630	1		1		
920	1	930 Sub.	1		
910	1		1		
950	1		1		
430	1		1		
220	1	#3	1		
220	1	#4	1		
640	1		1		
1002	1/2		1/2		
1003	1		1		
280	1/2	#2	1/2		
280	1/2	#3	1/2		
480	1/2		1/2		
440	1/2		1/2		
720	1/2	W P		OK	OS
				HGS	Complete
		SHIPPED COMPLETE			
		APR. 28, 1913			
		2699			

DEFENDANT'S EXHIBIT 36.**Statement of James Conley Made to John R. Black and H. Scott at Police Barracks, Atlanta, Ga., Sunday, May 18, 1913.**

My full name is James Conley. I reside 172 Rhodes Street with Lorine Jones, who claims to be from Marietta, Ga. This woman is not my wife, and I have been living with her a little over two years. I have been having intercourse with Lorine Jones. I have been employed as elevator man and roustabout at the National Pencil Co. factory in Atlanta for the past two years. Before going to the pencil factory, I was employed by Dr. L. Palmer at Broad and Mitchell Streets, as a buggy driver. I worked for him for about one year. Previous to that time I worked for the Orr Stationery Co., Atlanta, as driver of wagon. Previous to that time I worked for Adam Woodward, as a stable hand for a year and three months. Previous to that time I worked for Mr. Copes' wood yard, Atlanta, for five years. I am now 27 years of age, single.

On Saturday, April 26, 1913, I arose between 9 a. m. and 9:30 a. m. and ate my breakfast. At 10:30 I left the house, 172 Rhodes Street, and went to Peters Street and visited a number of saloons between Fair and Peters and Haynes and Peters Street. I purchased a half pint of rye whiskey from a negro who was walking along Peters Street about 11:00 a. m., I paying 40 cents for this whiskey. I visited the Butt-In saloon and went back to the pool tables and saw three colored men shooting dice, and I joined them and won 90 cents from them. I then purchased some beer, paying 15 cents. I then walked up the street and visited Earley's beer saloon, purchased two beers and wine, paying ten cents for same. This was all the money I spent on Peters Street, and I arrived home at 2:30 p. m. and I found L. Jones there and she asked me if I had any money. I replied yes, and gave her \$3.50 (one dollar in greenback, and the rest silver money). I drew \$3.75 from the pencil factory on Friday, April 25, between 6:00 and 6:30. I spent 15 cents for meats on Friday night. Before receiving the \$3.75 I did not have any money in my pocket. At 3:30 p. m. or 4:00 p. m., Saturday, April 26th, I purchased 15 cents worth of beer and then returned to the house, and sent the little girl out to get ten cents worth of stove wood and five cents worth of pan sausage. I remained at home all Saturday night and at 12 o'clock noon, Sunday, April 27th, I walked up on Mitchell Street and got a cigarette, remaining there until 12:45 p. m., and returned home, remaining until 6:30 p. m., when I went to my mother's house, 92 Tattnell Street, and got my lunch, and then returned home and I remained at home until Monday, April 28th. On April 28th I reported for work at the pencil factory at 7:05 a. m.

(Signed) JAMES CONLEY.

DEFENDANT'S EXHIBIT 37.**Statement of James Conley of May 24, 1913.**STATE OF GEORGIA,
COUNTY OF FULTON.

Personally appeared before me, the undersigned, a Notary Public, in and for the above State and County, James Conley, who being sworn on oath says:

On Friday evening before the holiday, about four minutes to one o'clock, Mr. Frank come up the aisle and asked me to come to his office. That was the aisle on the fourth floor where I was working, and when I went down to the office he asked me could I write and I told him yes I could write a little bit, and he gave me a scratch pad and told me what to put on it, and told me to put on there "dear mother," "a long, tall, black negro did this by himself," and he told me to write it two or three times on there. I wrote it on a white scratch pad, single ruled. He went to his desk and pulled out another scratch pad, a brownish looking scratch pad, and looked at my writing and wrote on that himself, but when I went to his office he asked me if I wanted a cigarette, and I told him yes, but they didn't allow any smoking in the factory, and he pulled out a box of cigarettes that cost 15 cents a box, and in that box he had \$2.50, two paper dollars and two quarters, and I taken one of the cigarettes and handed him the box and I told him he had some money in the box, and he said that was all right I was welcome to that for I was a good working negro around there, and then he asked me where Gordon Bailey (Snowball they call him) was, and I told him on the elevator, and he asked me if I knew the night watchman and I told him no sir, I didn't know him, and he asked me if I ever saw him in the basement and I told him no sir, I never did see him down there, but he could ask the fireman and maybe he could tell him more about that than I could, and then Mr. Frank was laughing and jollying and going on in the office, and I asked him not to take out any money for that watch man I owed, for I didn't have any to spare, and he told me he wouldn't, but he would see to me getting some money a little bit later. He told me he had some wealthy people in Brooklyn, and then he held his head up and looking out of the corner of his eyes and said "Why should I hang?" and that's all I remember him saying to me. When I asked him not to take out any money for the watch, he said you ought not to buy any watch, for that big fat wife of mine wants me to buy her an automobile but he wouldn't do it; I never did see his wife. On Tuesday morning after the holiday on Saturday, before Mr. Frank got in jail, he come up the

aisle where I was sweeping and held his head over to me and whispered to me to be a good boy and that was all he said to me.

(Signed) JAMES CONLEY.

Sworn to and subscribed before me this 24th day of May, 1913.

(Signed) G. C. FEBRUARY,
Notary Public, Fulton County, Georgia.

(Seal)

DEFENDANT'S EXHIBIT 38.

Statement of Jim Conley, May 28, 1913.

STATE OF GEORGIA,
COUNTY OF FULTON.

Personally appeared before me, a Notary Public, in and for the above State and County, James Conley, who being duly sworn, on oath says:

I make this statement, my second statement, in regard to the murder of Mary Phagan at the National Pencil Factory. In my first statement I made the statement that I went to the pencil factory on Friday, April 25, 1913, and went to Frank's office at four minutes to one, which is a mistake. I made this statement in regard to Friday in order that I might not be accused of knowing anything of this murder, for I thought that if I put myself there on Saturday, they might accuse me of having a hand in it, and I now make my second and last statement regarding the matter freely and voluntarily, after thinking over the situation, and I have made up my mind to tell the whole truth, and I make it freely and voluntarily, without the promise of any reward or from force or fear of punishment in any way.

I got up Saturday morning, April 26th, between 9 and half past 9. I was at home, 172 Rhodes Street. There is a clock on the Atlanta University and I looked at that clock after I put on my clothes; I went to the door and poured some water out of the wash pan and then I looked at the clock on the Atlanta University, but I forgot what time it was exactly, but I remember it was between nine and half past nine. Then I washed my face and I eat some steak and some liver and bread and drank a cup of tea, and then I sat down in a chair a little while, about ten minutes, I guess, and then I told my wife to give me back the three dollars and I would get some paper money to keep her from losing it, to pay her rent with, and she gave it to me, and I told her I was going to Peters Street, and I went to Peters Street, and stopped at the beer saloon near the corner of Peters and Haynes Street and I bought two beers there for myself and give another fellow a beer, I don't know what his name was, but they call him Bob. I don't know where he works, but he had a whip over his shoulder. I stayed in that saloon 3 or 4 minutes, just long enough to drink that beer, and then I walks up to the Butt-In Saloon and

walks back to the pool table, and there were four fellows back there shooting dice, five with me, one was named Joe Bobs, and one was named Bob Williams, and I won 90 cents. I don't know how long we were shooting for we were shooting on the sly, unbeknownst to the bar tender. I guess we were shooting about ten minutes, and then I come to the bar and bought a glass of beer there at the Butt-In Saloon, and then I went to Earley's beer saloon on Peters St. and I bought a glass of beer there and I walked back to the toilet and stood there and made a cigarette and then bought another glass of beer, and I come out and bought a half pint of whiskey and I drank some of the whiskey, and then I started to the Capitol City Laundry and on my way there I met Mr. Frank, at the corner of Forsyth and Nelson Streets going to Montags, and he told me to wait a few minutes, and he asked me where I was going, and I told him I was going to the Capitol City Laundry to see my mother, and he didn't say nothing, only he said to wait a minute until he come back, that he was going to see the Montags, and I stood there until he come back, he was gone about 20 minutes, I guess. He come back and told me to come to the factory, that he wanted to see me, and I went to the factory with him, walking behind him, and he stopped at the Curtis Drug Store at Forsyth and Mitchell Streets and he got a drink, and I waited on the outside until he come out, and then he told me to come on and I went to the factory with him. He had a box with him, which he carried with him to the Montag's; it has an opener to it, and after we got to the factory, Mr. Frank took the box and put it there at the trash barrel, which was just to the right of the steps as you go in, he put a box there for me to sit on. There was some great big boxes back further. He told me to sit down there until I heard him whistle. He just took his foot and pushed a box over there for me to sit on. Then he told me not to let Mr. Darley see me, and after Mr. Frank went up the steps, in a few minutes here comes a young lady downstairs, that was Miss Mattie. I think she had on a dark red suit and a rain cloak and a parasol in her hand, but I didn't notice her hat. Then here come Mr. Darley down, and he had on a gray suit of clothes didn't have any hat on his head, and he stopped Miss Mattie at the front door, and when he stopped her I saw Miss Mattie with a handkerchief wiping her eyes, it seemed to me like she had been crying, and then I heard Mr. Darley say to her, "Don't worry, I will see that you get that next week," and they stood there and talked awhile, but I could not hear anything else they said, then she went on out the door and Mr. Darley came back up the steps, and Mr. Darley stayed up there a good while, then he come down and left and I did not see him anymore. Then here comes Mr. Holloway down, about five minutes after Mr. Darley had gone; Mr. Holloway went out on the sidewalk and stood there three or five minutes and then he come and went back up the steps, and then here come another colored fellow, a pegged-legged one, and he went up the steps, he had some bills in his hands, and Mr. Holloway come back down with the pegged-legged one and went out on the sidewalk and looked at the fellow's wagon, but what he said to

him I don't know. It was a wagon that had sides to it and I didn't see the name on it. It wasn't a regular dray, I don't think, it looked like it might have come from that plate glass company on Alabama street. Then Mr. Holloway went back upstairs and it wasn't long before Mr. Holloway come back down and was gone for good. I don't know how long, but I guess he stayed upstairs long enough to put on his coat and hat. I saw Mr. Holloway turn up to his right towards Hunter Street, then there comes another lady into the factory, and she had on a green looking dress, she works on the fourth floor, and she walked with her head down, sort of stoop shouldered, she works for Arthur White. She stayed up there 7 or 8 minutes and then she come back down with her money in her hand, and she stood just a little opposite me and tore the envelope open right there and took her money out and counted it, and she shut her hand up and went out the door and she turned towards Hunter Street, and about 15 or 20 minutes after there, there wasn't any passing at all, and I sat there on the box with my head against the trash barrel. I stretched my feet out and put my hat in my lap, but I couldn't say whether I went to sleep or not, and the next thing that attracted my attention, Mr. Frank whistled for me twice, just like this (indicating), and when he whistled I went on up the stairs and the double doors on the stairway were closed and I opened them and they shut themselves, and Mr. Frank was standing at the top of the steps and he said, "You heard me, did you?" and I said "Yes, sir," and Mr. Frank grabbed me by my arm and he was squeezing my arm so tight his hand was trembling. He had his glasses on, and he had me just like he was walking down the street with a lady, and like he didn't want me to look behind me at all, and I thought it was because he had me so tight that made him tremble, and he carried me through the first office and into his private office, and then he come back in there, and he didn't say nothing, he grabbed up a box of sulphur matches, and he went back in the outer office, the door was open between his office and the outer office, and then he saw two ladies coming and he said to me, "Gee, here comes Miss Emma Clark and Miss Corinthia Hall" and he come back in there to me, he was walking fast and seemed to be excited, and he said to me, "Come right in here, Jim," and he motioned to the wardrobe and I was a little slow about it and Mr. Frank grabbed me and gave me a shove and put me in the wardrobe and he shut the doors and told me to stay there until after they had gone, and I just heard Miss Emma say "Good morning, Mr. Frank, are you alone?" and Mr. Frank said "Yes," and I couldn't hear them say nothing else, but I didn't know it was Miss Corinthia Hall until Mr. Frank spoke and said it was, but I heard Miss Emma's voice; they didn't stay there long, until they were gone. I didn't hear them. The next move was Mr. Frank come and let me out of the wardrobe. I don't remember Miss Hall and Miss Clarke using the telephone, if they did I didn't hear them and I didn't see them myself. I stayed in the wardrobe a pretty good while, for the whiskey and beer I had drank got me to sweating. I couldn't hear them talking, only I heard Miss Emma say,

“Good morning.” If they had been talking loud I could have heard them, but if they were talking low I couldn’t. If they went upstairs, Mr. Frank must have kept right behind them, to see that they didn’t take off anything. Then after awhile Mr. Frank he come into the office and he pulled out one of those round chairs from under the desk. The first thing, he let me out of the wardrobe and I said, “I got too hot in there,” and he said, “Yes, I see you are sweating.” When he opened the door I was fixing to step out, and his eyes were looking larger than they usually look, and he jerked the door open and I was right there in front of the door, and then Mr. Frank said to me to sit down in a chair, in the one that turns all the way round, and when I sat down he told me to get up and shut the door; that was the door between his office and the stenographer’s office, and I got up and shut it, and he said, “Jim, can you write?” He was sitting down facing me and he brushed back his hair and I said “Yes, sir, I can write a little bit, Mr. Frank,” and then he give me a pencil that he got off the top of his desk, and there was nothing on it, he turned a sheet over for me to write, and then he told me what to put there, he told me to put on there “dear mother, a long tall black negro did this by hisself,” and when I went to put down “negro” I put it “n-e-g-r-o-s” and he said don’t put no “s” there, he said that means negros and he said now rub the “s” off and I rubbed the “s” out, and he said, “It means just one person like yourself,” and he told me to write it again and I written it, and he looked at it and slapped me on the back and said “That’s all right, old boy,” and he said “write it again,” and I written it for him three times. Then Mr. Frank reared back in his chair and asked me if I wanted to smoke and I told him “Yes, sir,” and he taken out a cigarette for himself and handed me the box and he sort of turned around when he handed me the box and I taken out a cigarette and he handed me the box of matches, and I taken out a cigarette and lit it and saw some money in the box and I handed the box of cigarettes back and he told me that was all right to keep them, and I told him he had some money in the box and he said that was all right, I could have that. I taken it and stuck it in my pocket and then Mr. Frank looked around at me and held up his head towards the top of the house and said “Why should I hang, I have wealthy people in Brooklyn.” I didn’t know what he was talking about, I didn’t have any idea in the world what he was talking about, and he was winking and rubbing his hands together and touching me on the shank with his foot and took a deep breath, he said “Why should I hang?” and shook his head and rubbed his hands together. Then he asked me where was Snowball (Gordon Bailey), and I told him I didn’t know sir, and he asked me did I know the night watchman, and I told him no sir, I didn’t know the night watchman personally, I just knew him by passing him, and he asked me if I had seen him in the basement at any time and I told him no sir, that he would have to ask the fireman about that, for he was down in the basement more than any of us was, and when I told Mr. Frank that he stuck one finger in his mouth and said “S-s-s-h, that’s all right,” and then Mr. Frank told me

he was going to take that note I had written and send it off in a letter to his people when he wrote, and recommend me to them, because I was a good working negro around there, and he liked me, and when Mr. Frank said that I said "Don't take out another dollar for that watchman," and he said "All right, I won't," and he said, "I don't see why you want to buy a watch, because that big fat wife of mine wanted me to buy her an automobile but I won't do it." I didn't say nothing about that for it didn't concern me, and didn't seem to concern the subject he was talking about at first, and then Mr. Frank told me when he wrote that letter he would not forget about me and he said "Well, I will see you later about this," and I said "All right, Sir," and then he reached in his pocket and pulled out his watch and said, "It is nearly time for me to be going to dinner," but I didn't look at the watch. Then I asked Mr. Frank if that was all he wanted with me right now, and he said yes, and then I asked him again, "Do you mean I can have what's in the box sure enough, Mr. Frank," and he said "Yes," but all the time though he was talking and jollyng and going on with me, and I began to think it was something, for a white man to be playing with a negro, and during the time he cast his eyes up to the top of the house and said, "Why should I hang, I have wealthy people in Brooklyn." I never did know where Mr. Frank's home was, I thought this was his home all the time. Then Mr. Frank said "I will see you Monday, if I live and nothing happens, James," and I said "Well, is that all you want for good Mr. Frank?" and he said "Yes," and I saw him go to his desk and take out a brownish-looking scratch pad. The one I wrote on was white and was single ruled and I saw him take out a brownish-looking one from his desk and he took his pencil and made a mark on it. I took it to be an "M," but he shut the tablet up and looked at me and told me that was all he wanted with me, and he come all the way to the top of the steps and he come three or four steps down to where he could see me until I hit the sidewalk, it seems as if he was watching me to see if I would take anything as I went out, but there was nothing to take unless I took a great big box, but when I passed those two doors on the steps there, Mr. Frank told me to leave one of them open, and I taken a little piece of iron they have there, and pushed it against the door to keep it from shutting and went on out in the street, and I pulled the front doors to as I went out, and I went to the beer saloon across the street and opened the cigarette box and it had two paper dollars in there and two silver quarters, and I laughed and said "Good luck has done struck me," and I bought a ten-cent double header and then went back to Peters street, and hadn't none of the boys got there that I run with and I walks up there to the moving picture show and looked at the pictures and they didn't seem to be any good, and I come back down Peters Street looking for that fellow I got the half pint whiskey from, but I couldn't find him, and I struck out for home, and when I got home it was about half past two o'clock, and I took the bucket and went to Joe Carr's at Mangum and Magnolia Street, and got fifteen cents worth of beer in it and come back home and sent the little girl to

get a dime's worth of stove wood and a nickle's worth of pan sausage, and I eat half the pan sausage up raw, and I give my old lady \$3.50, and the other little change I kept it, and I layed down across the bed and there is where I stayed until about half past eight that night, and I got up and set in front of the fire a little while and got to swimming at the head, and then here comes her sister, and after she left I went to bed and I didn't leave home no more until twelve o'clock Sunday, in the day time, and I walked up Mitchell Street and stayed up there until a quarter to one, and I come on back home. I was feeling bad, and I layed down across the bed and stayed there until 6 o'clock or 6:30 that night, and I walked up to my mother's at 92 Tattnell Street, and they gave me a lunch up there and I brought it on back home and I stayed there and eat it up and stayed at home until 10 minutes to 7 the next morning, and when I got to the corner of Forsyth and Mitchell Street, the W. & A. blowed for 7 o'clock, and then I went running on to the factory, and it was four or five minutes after 7 o'clock, the clock may have been a little fast, and when I got there I went upstairs to the dressing room and in comes Gordon Bailey, and here comes Joe Williams and then Mr. Wade Campbell, the lead inspector, and he comes in there and says "Wasn't it bad about that girl being killed," and we asked him "which girl" and it seemed like he said "Mary Puckett," and we asked him whereabouts and he said "in the basement," and we asked him if it was a white or colored girl," and he said "It was a white girl," and we told him "Yes it was," and we asked him how she got killed, and he said he didn't know, and then he come on out the door first and I come right behind him with the sprinkler in my hand, and then he went to the toilet and I went right behind him and got a sprinkler full of water and I stayed down the aisle until about 9 o'clock, and I went and got my raw stuff on the third floor and brought it up to the fourth floor and unloaded it, and then I said I would go to the basement and see who that was that got killed, and when I got there there was such a crowd of white people there I couldn't go back there, and then the fireman sent me to get a nickle's worth of onions and a loaf of bread, and then here comes Gordon and he give me a nickle and the fireman give me a nickle and told me to get them a dime's worth of beer and I got it and we all drank it. I went back upstairs and stayed up there until about 15 minutes to 10, and the whistle blowed for the factory to shut down, and I heard Mr. Joe Stelker say the factory was going to close and to come back tomorrow, and I went and changed shoes and pulled of the pants and put on my hat and come down at 10 minutes to 10, and didn't go back any more until Tuesday morning, and went to work at Tuesday morning and got through with my work and went down stairs about half past 9 and there was such a crowd down there I didn't stay long, and I come back up the aisle and went taking up some trash and about half past 10 or 11 o'clock, Mr. Frank come back up the aisle and leaned over to me and said "Jim be a good boy" and I said "Yes, sir, I am, Mr. Frank," and when I heard from Mr. Frank again he was arrested.

I come to work Wednesday morning and started down to the base-

ment and there was such a crowd down there I couldn't get to use the toilet, and I goes back upstairs and finished my work and works all that day, and Thursday morning I come to work and got caught up by 10 o'clock, and I went downstairs and the fireman and another colored fellow was down there and I asked the fireman where it was that they say the young lady got killed at, and he told me right around there, and I took a little piece of paper and went around there to see if I could see, but I couldn't see where anybody had been laying at, and I come on back and found he was throwing some stuff into the furnace, and I went on upstairs and stayed there until 25 minutes to 12, and the detectives were giving us all subpoenas and got my subpoena and went back upstairs and stayed up there until 5 minutes to 12, and I come down and went out in the streets and heard the whistle when it blowed for 12 o'clock, and I went back and started to cleaning up at half past twelve, and got through cleaning at half past one. Then I went down to wash my shirt so I could have a clean one to wear to court, for I had been wearing this one for three weeks and when I got back there and pulled off my shirt and washed it, then there comes Mr. Quinn and I asked him where was the dry house and he showed me where it was, and he told me, he said "Jim, there ain't no steam in there now," and I said to myself I will have to hang this on steam pipe to get it dry, and by me hanging it on there I got a little rust on it, and some of them saw me back there washing my shirt and called up the detectives and when the detectives come up there I had done put on my shirt and they asked me where was the shirt I was washing and I told them this here was the shirt, and they said yes, because it was not good dry, and then told me to come and go with them, and I did. They brought me down here and found there was no blood on the shirt, and give me my shirt back, and that's all I know.

(Signed) JAMES CONLEY.

Sworn to and subscribed before me this the 28th day of May, 1913.
G. C. FEBRUARY,
Notary Public, Fulton County, Georgia.

DEFENDANT'S EXHIBIT 39.

Conley's Statement of May 29, 1913.

Atlanta, Ga., May 29, 1913.

On Saturday, April 26, 1913, when I come back to the pencil factory with Mr. Frank I waited for him downstairs like he told me, and when he whistled for me I went upstairs and he asked me if I wanted to make some money right quick and I told him "Yes, sir," and he told me that he had picked up a girl back there and had let her fall and that her head hit against something, he didn't know what it was, and for me to move her, and I hollered and told him the girl was dead, and he told me to pick her up and bring her to the elevator and I told him I didn't have nothing to pick her up with and he told me to go and look by the cotton box there and

get a piece of cloth, and I got a big wide piece of cloth and come back there to the men's toilet where she was, and I tied her up, and I taken her and brought her up there to a little dressing room, carrying her on my right shoulder, and she got too heavy for me and she slipped off my shoulder and fell on the floor right there at the dressing room and I hollered for Mr. Frank to come there and help me, that she was too heavy for me, and Mr. Frank come down there and told me to pick her up, damn fool, and he run down there to me and he was excited, and he picked her up by the feet, her head and feet were sticking out of the cloth and then we brought her on to the elevator, Mr. Frank carrying her by the feet and me by the shoulders, and we brought her to the elevator and then Mr. Frank says, "Wait, let me get the key," and he went into the office and got the key and come back and unlocked the elevator door and started the elevator down. Mr. Frank turned it on himself and we went on down to the basement and Mr. Frank helped me take it off the elevator and he told me to take it back there to the sawdust pile, and I picked it up and put it on my shoulder again, and Mr. Frank, he went up the ladder and watched the trap door to see if anybody was coming, and I taken her back there and taken the cloth from around her and taken her hat and shoe which I had picked up upstairs right where her body was lying, and brought them down and untied the cloth and brought them back and threw them on the trashpile in front of the furnace, and Mr. Frank was standing at the trap door at the head of the ladder. He didn't tell me where to put the things. I layed her body down with her head towards the elevator, lying on her stomach and the left side of her face was on the ground and the right side of her face was up, and both arms were laying down with her body, by the side of her body. Mr. Frank joined me back on the first floor. I stepped on the elevator and he stepped on the elevator when it got to where he was, and he said "Gee, that was a tiresome job," and I told him his job was not as tiresome as mine was, because I had to tote it all the way from where she was laying to the dressing room, and in the basement from the elevator to where I left her. Then Mr. Frank hops off the elevator before it gets even with the second floor and he makes a stumble and he hits the floor and catches with both hands, and he went on around to the sink to wash his hands, and I went and cut off the motor, and I stood and waited for Mr. Frank to come from around there washing his hands, and then we went on into the office, and Mr. Frank he couldn't hardly keep still, he was all the time moving about from one office to the other, then he come back into the stenographer's office and come back and he told me "Here comes Emma Clark and Corinthia Hall," I understood him to say, and he come back and told me to come here and he opened the wardrobe and told me to get in there, and I was so slow about going he told me to hurry up, damn it, and Mr. Frank, whoever that was come in the office, they didn't stay so very long, till Mr. Frank was gone about 7 or 8 minutes, and I was still in the wardrobe and he never had come to let me out, and Mr. Frank come back and I said, "Goodness alive, you kept me in there a mighty long time," and he said,

“Yes, I see I did, you are sweating,” and then me and Mr. Frank set down in a chair. Mr. Frank then took out a cigarette and he gave me the box and asked me did I want to smoke and I told him yes, sir, and I taken the box and taken out a cigarette and he handed me a box of matches and I handed him the matches back, and I handed him the cigarette box and he told me that was all right, I could keep that, and I told him he had some money in it and he told me that was all right, I could keep that, and Mr. Frank then asked me to write a few lines on that paper, a white scratch pad he had there, and he told me what to put on there, and I asked him what he was going to do with it and he told me to just go ahead and write, and then after I got through writing Mr. Frank looked at it and said it was all right, and Mr. Frank looked up at the top of the house and said, “Why should I hang, I have wealthy people in Brooklyn,” and I asked him what about me, and he told me that was all right about me, for me to keep my mouth shut and he would make everything all right, and then I asked him where was the money he said he was going to give me and Mr. Frank said, “Here, here is two hundred dollars,” and he handed me a big roll of greenback money and I didn’t count it; I stood there a little while looking at it in my hand, and I told Mr. Frank not to take another dollar for that watch man I owed and he said he wouldn’t—and the rest is just like I have told it before.

The reason I have not told this before is I thought Mr. Frank would get out and help me out, but it seems that he is not going to get out and I have decided to tell the whole truth about this matter.

While I was looking at the money in my hands, Mr. Frank said: “Let me have that and I will make it all right with you Monday if I live and nothing happens,” and he took the money back and I asked him if that was the way he done and he said he would give it back Monday.

(Signed) JAMES CONLEY.

Sworn to and subscribed before me this 29th day of May, 1913.

(Signed) G. C. FEBRUARY,
Notary Public, Fulton County, Ga.

DEFENDANT'S EXHIBIT 40.

Cash book of the National Pencil Company, page 197 of which contains the following entries, in Frank's handwriting:

Page 196			Page 197	
Cash.			Cash.	
1913	Dr.	1913	Cr.	
To balance	39.85	By kerosene	.15	
4/22 To check	15.00	“ type	.75	
4/24	15.00	“ dray	6.70	
	<hr/>	“ cases	10.50	
	69.85	“ express	1.10	
		“ postage	1.00	
		“ parcel post	.16	
		“ 2 wks rent typewriter	2.00	
		“ supplies, Scheegas	.45	
		“ King Hdw. Co.	.85	
		“ tinsmith	11.50	
		“ thread	.05	
		“ carfare	.10	
		“ Herbert Wright	4.00	
			<hr/>	
		Omitted from payroll	39.31	
		Balance to fund	30.54	
			<hr/>	
			69.85	

DEFENDANT'S EXHIBIT 41.**Cash book items made out by Frank to balance cash book.**

Kerosene .15	.15
Type .75	.75
Dray 2.00	
1.70	
1.00	
2.00	
<hr/>	
6.70	6.70
Cases 2.50	
1.25	
3.50	
1.75	
1.50	
<hr/>	
10.50	10.50
Express .35 & .75	1.10
Postage .50 & .50	1.00
Parcel post .03 & .13	.16
Rent typewriter, 2 wks	2.00
Supplies .45-Sch.	.45
King Hdw. Co. .85	.85
Tinsmith 11.50	11.50
Thread .05	.05
Carfare .10	.10
Herbert Wright 4.00	4.00
	<hr/>
	39.31
39.85	
30.00	
<hr/>	
69.85	
30.31	
<hr/>	
30.54	
Cash box \$4.34 short	
O K. F. 3/26/13	

DEFENDANT'S EXHIBIT 42.

Letter written by Leo M. Frank to Mr. Moses Frank. The letter was not typewritten but was in long hand and folded to a size to fit ordinary size envelope, and was as follows :

Atlanta, Ga., April 26, 1913.

Dear Uncle :

I trust that this finds you and dear Tante well after arriving safely in New York. I hope that you found all the dear ones well in Brooklyn and I await a letter from you telling me how you find things there. Lucile and I are well.

It is too short a time since you left for anything startling to have developed down here. The opera has Atlanta in its grip, but that ends today. I've heard a rumor that opera will not be given again in a hurry here.

To-day was "Yondef" here, and the thin gray line of veterans, smaller each year, braved the rather chilly weather to do honor to their fallen comrades.

Enclosed you will find last week's report. The shipments still keep up well, tho' the result is not what one would wish. There is nothing new in the factory, etc., to report. Enclosed please find the price list you desired.

The next letter from me, you should get on board ship. After that I will write to the address you gave me in Frankfurt.

With much love to you both, in which Lucile joins me, I am

Your affectionate nephew,
(Signed) LEO M. FRANK.

DEFENDANT'S EXHIBIT 43.

Weekly report forwarded to Moses Frank by Leo M. Frank, enclosed in Leo M. Frank's letter to Moses Frank, as set forth in exhibit "42," said report being in Frank's handwriting, same being folded to same size as envelope set forth as Exhibit 44.

FINANCIAL.

Week ending April 24, 1913.

Production: Net	2719½	
Good	700	Gr.
Medium	629½	Gr.
Cheap	599	Gr.
Jobs	791	Gr.
		29%
Net Value Prod'n	\$3066.31	
Total Expenditures	3175.75	
	<hr/>	
Result—Deficit		109.44
Shipments		
\$5438.78		
4374 gr.		
Orders received		
\$3320.31 Value		
1904 Gross		
O. K. F.		

DEFENDANT'S EXHIBIT 44.

Envelope in which Leo M. Frank's letter (Exhibit 42) to Moses Frank and weekly report (Exhibit 43) were enclosed, the address on said envelope being in Leo M. Frank's handwriting.

L.M. Frank
c/o NATIONAL PENCIL CO.
ATLANTA, GA.

Atlanta, Ga.
Apr 26
8-PM
1913

.....
Stamp
Cancelled
.....

Mr. M. Frank,
c/o Hotel McAlpin,
Greely Square,
New York, N.Y.

HeinOnline -- 1 Leo M. Frank, Leo M. Frank, Plaintiff in Error vs. State of Georgia, Defendant in Error. In Error from Fulton Superior Court at the July Term, 1913. Brief of the Evidence 296 1913

DEFENDANT'S EXHIBIT 45.

Weekly report sent by Leo M. Frank to Oscar Pappenheimer and received by the latter on April 28, 1913, said report being in the handwriting of Frank.

FINANCIAL

Week ending April 24, 1913.

Production: Net	2719½	Gr.
Good	700	Gr.
Medium	629½	Gr.
Cheap	599	Gr.
Jobs	791	Gr.
	29%	

Net Value Prod'n	\$3066.31
Total Expenditures	3175.75
Result—Deficit	109.44

Shipments
 \$5438.78
 4374 gr.

Orders received
 \$3320.31 Value
 1904 Gross
 O. K. F.

DEFENDANT'S EXHIBIT 46.

Weekly financial reports of the business of the National Pencil Company sent by Leo M. Frank to Oscar Pappenheimer for each week beginning January 18, 1912, and ending with the week ending April 24, 1913, each of said reports being identical in form with the defendant's Exhibit "45" and being in the handwriting of Leo M. Frank.

DEFENDANT'S EXHIBIT 47.

Pay envelope found by detective McWorth. It is an ordinary pay envelope used by the Pencil Company with the number "186" written thereon, with the first initials of a name on it, an "M" and a "P."

DEFENDANT'S EXHIBIT 48.

Club found by detective McWorth at the factory. The club is round, about three feet long and three inches in diameter, weighs approximately three pounds and has several red blotches thereon.

DEFENDANT'S EXHIBIT 49.

Brown suit of clothes worn by Leo M. Frank on April 26, 1913. Consists of coat, pants, and vest. Suit does not appear to be new, but is clean and unspotted.

DEFENDANT'S EXHIBIT 50.

Bank book showing account of Leo M. Frank with Atlanta National Bank. Shows balance on April 1, 1913, of \$111.13, and a deposite of \$15 on April 18. It further shows that the sum of \$109.85 had been drawn out on checks (Defendant's Exhibit 51), leaving a balance to the credit of depositor of \$16.28.

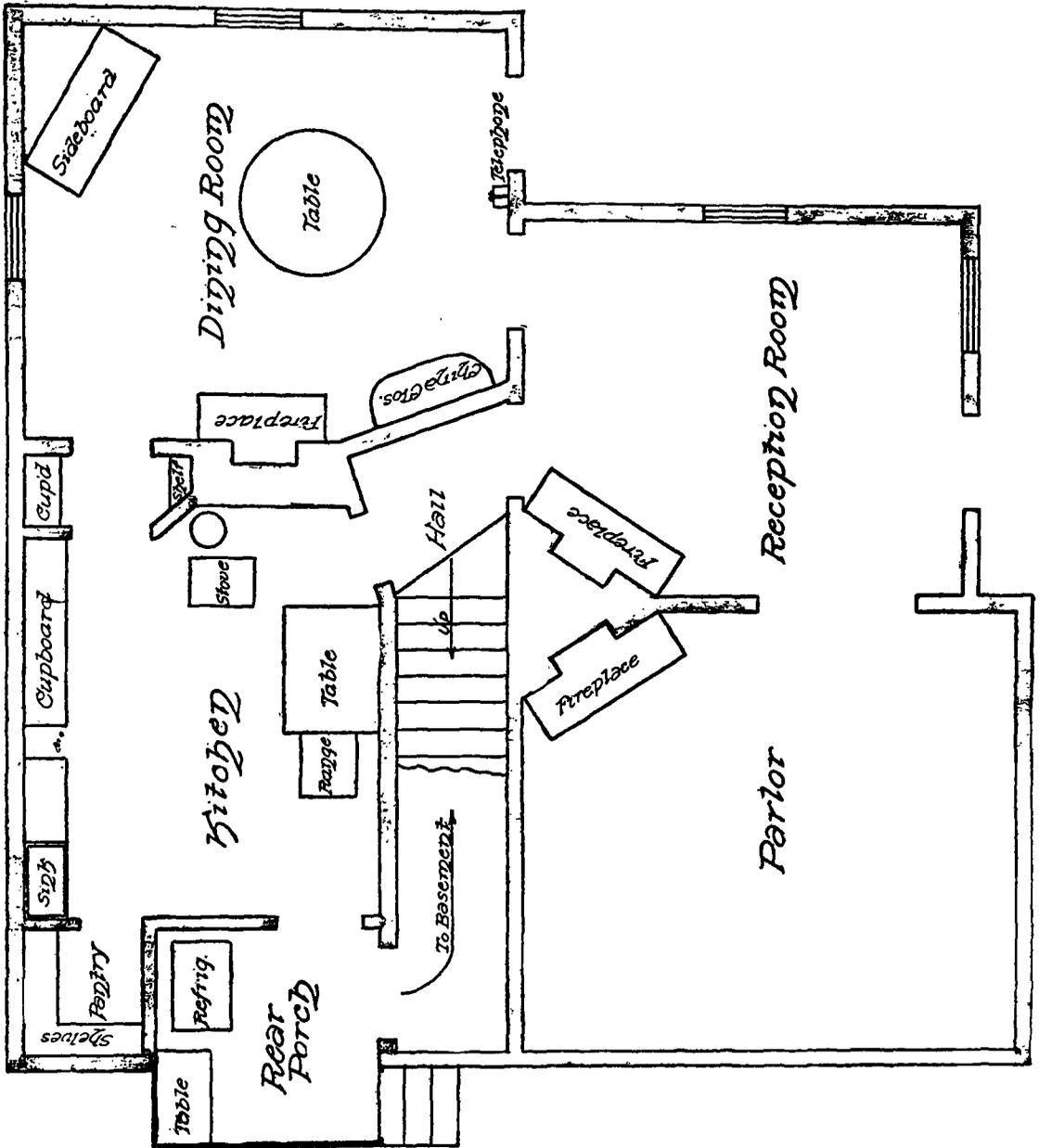
DEFENDANT'S EXHIBIT 51.

Twelve canceled checks drawn on the Atlanta National Bank, signed by Leo M. Frank as follows:

No.	Date	Amount	Payee	Endorsements
450-4/1/13		\$20.00	Mrs. L. M. Frank	Mrs. L. M. Frank Chamberlain-Johnson-DuBose Co.
451-4/1/13		1.50	Westview Floral Co	Westview Floral Co.
452-4/1/13		12.34	Haas & Co.	Haas & Co.
453-A-4/9/13		32.50	Rivers Realty Co.	Rivers Realty Co. American Natl. Bank
453-B-4/9/13		8.00	Mrs. E. Selig	Mrs. E. Selig S. S. Echols Co. Travelers Bank & Tr. Co.
454-4/6/13		4.75	S. M. Truitt & Son	S. M. Truitt & Son
455-4/21/13		7.50	Alex Dittler, Sec'y	Alex Dittler, Sec. Dittler Bros. Fourth Natl. Bank
456-4/2/13		6.26	Guthman Ldry Co.	Guthman Ldry. & D. Cl. Co.
457-4/2/13		2.00	Maier & Berkele	Maier & Berkele
458-4/9/13		5.00	Self	Leo M. Frank
459-4/15/13		5.00	Self	Leo M. Frank
460-4/24/13		5.00	Self	Leo M. Frank

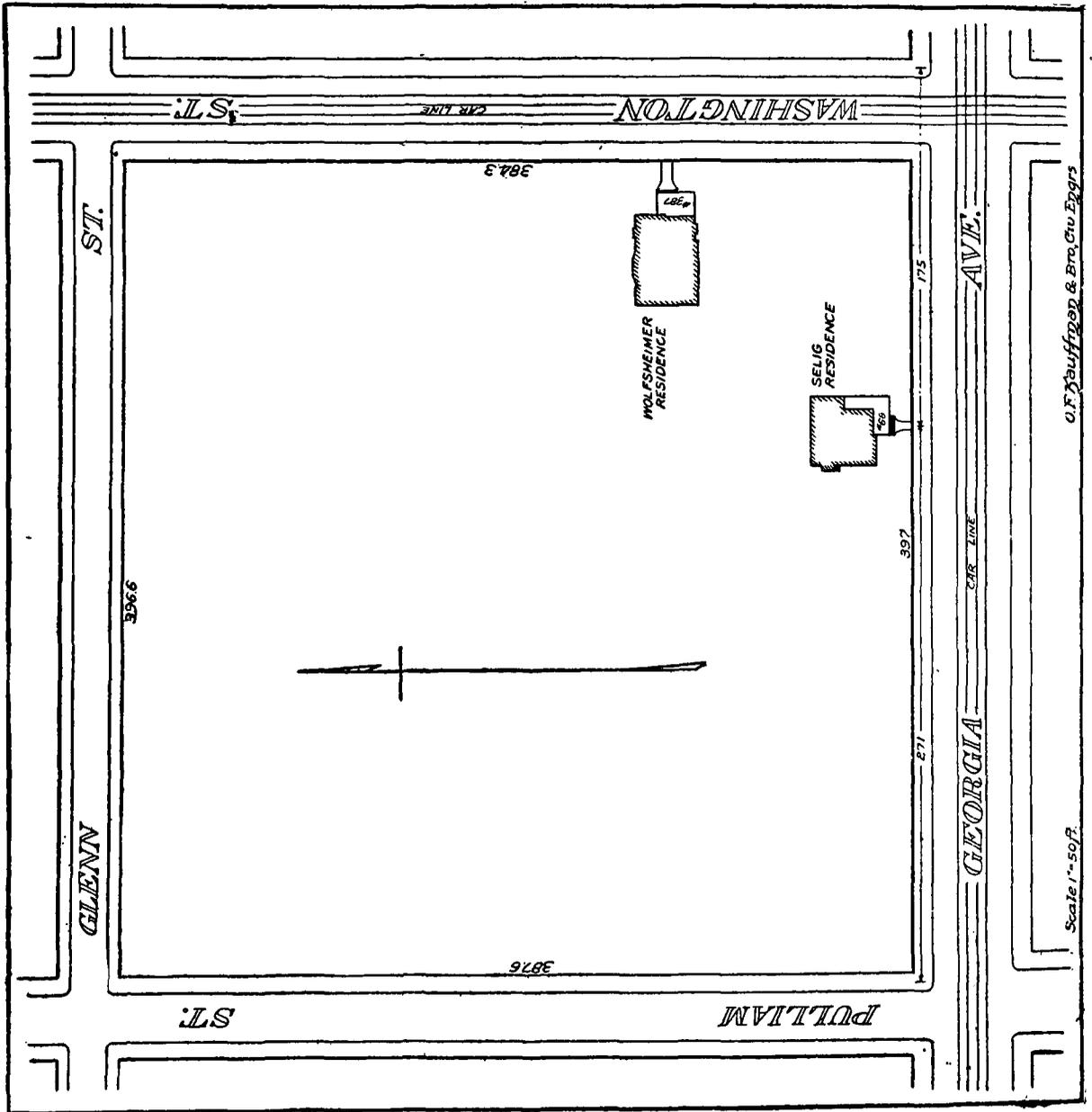
DEFENDANT'S EXHIBIT 52.

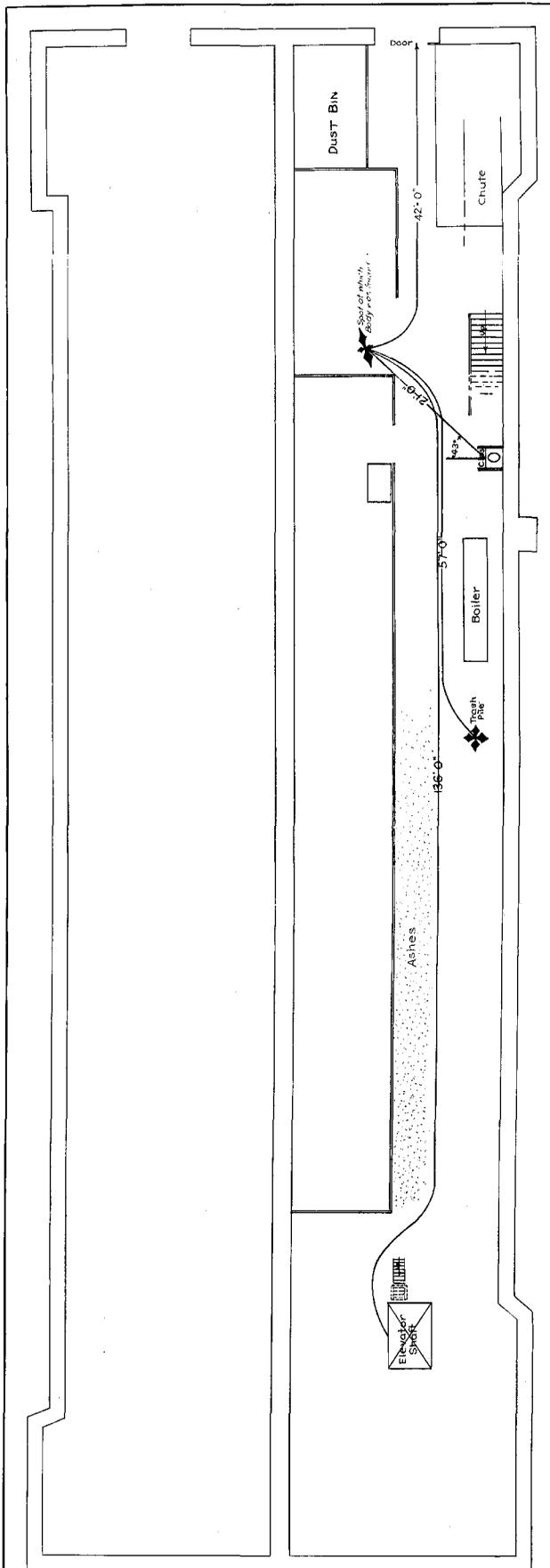
First floor plan of the Selig residence.



DEFENDANT'S EXHIBIT 53.

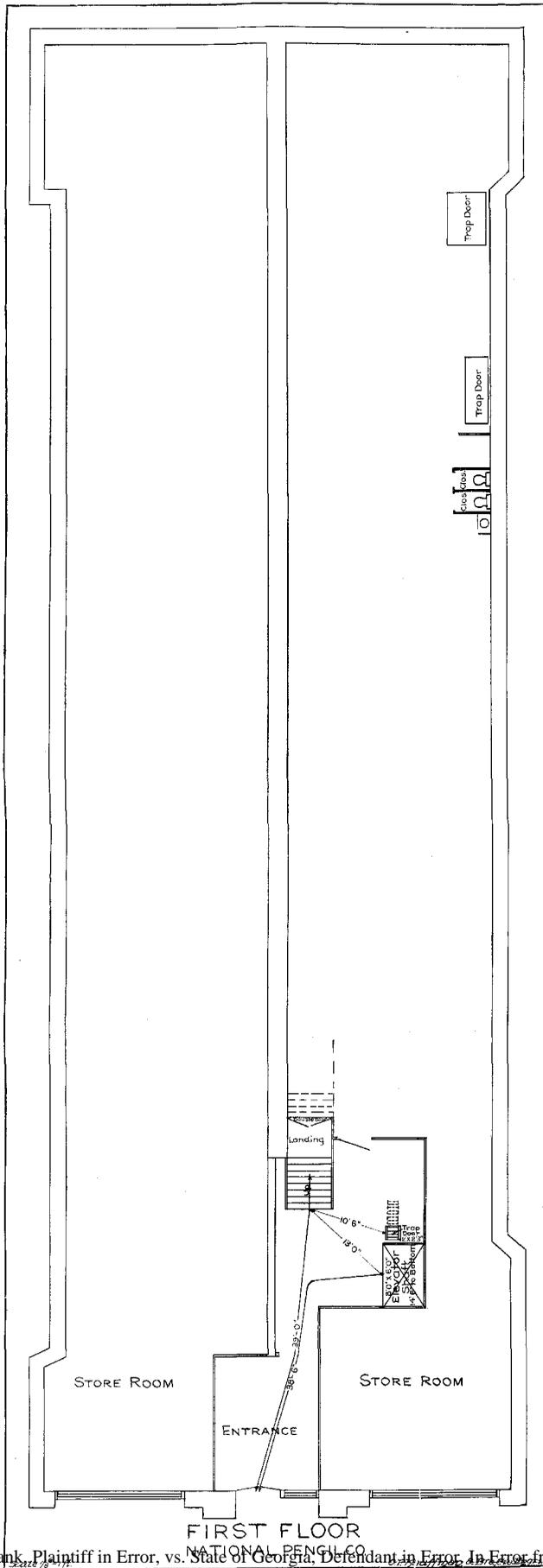
Plat of Washington Street and Georgia Avenue, showing the relative positions with respect to each other of the Selig residence at 68 E. Georgia Avenue and the Wolfsheimer residence at 387 Washington Street.

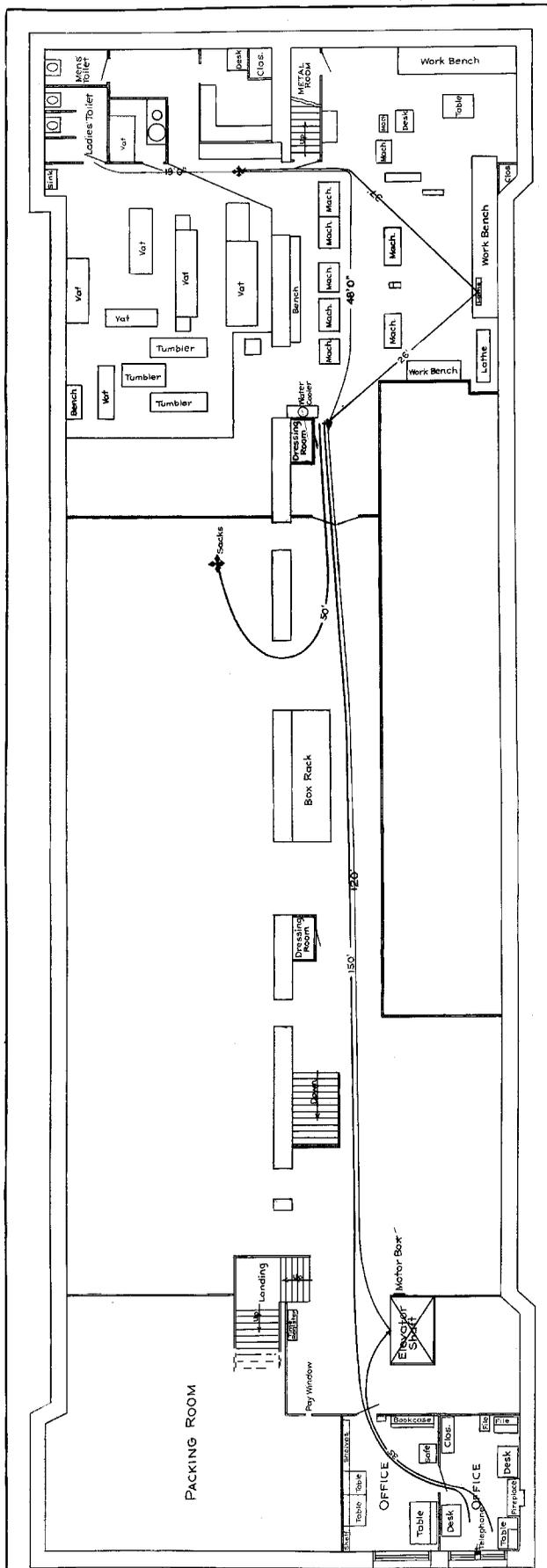




BASEMENT
NATIONAL PENCIL CO.

DEFENDANT'S EXHIBIT 61—Continued.
 Plat of the First Floor of the National Pencil Company Factory.





SECOND FLOOR

DEFENDANT'S EXHIBIT 62.

Picture of the Selig home taken from the outside of the back door of the kitchen. It shows the entire kitchen and also the door leading into the dining room. It shows nothing else in the dining room.

DEFENDANT'S EXHIBIT 63.

Picture of Selig home taken standing directly inside the back door of kitchen. Shows practically same view as last picture but shows no view at all of the dining room.

DEFENDANT'S EXHIBIT 64.

Picture of the safe with open door standing in outer office of the National Pencil Company.

DEFENDANT'S EXHIBIT 65.

Picture of the outer office of the National Pencil Company factory, showing the safe with door wide open. Picture shows safe door shutting off any view into the inner office and shows no view of anything in the inner office.

DEFENDANT'S EXHIBIT 66.

Picture taken on the outside of the outer office looking toward the inner office with the safe door open. It shows no view at all into the inner office.

DEFENDANT'S EXHIBIT 67.

Picture showing the pay window in the office of the National Pencil Company factory.

DEFENDANT'S EXHIBIT 68.

Picture showing foot of elevator shaft in the basement of the National Pencil Company factory. Shows rubbish and trash in elevator shaft and barrels adjacent thereto.

DEFENDANT'S EXHIBIT 69.

Picture of basement of National Pencil Co. factory, looking from the elevator shaft to the back door.

DEFENDANT'S EXHIBIT 70.

Picture of the corner in the basement where body was found, around the left corner behind the partition shown on the picture.

DEFENDANT'S EXHIBIT 71.

Picture showing passage way leading to the back door in the basement of the factory. Picture shows boxes piled up on each side of the passage way to the height of the ceiling.

DEFENDANT'S EXHIBIT 72.

Picture showing entrance to the factory from the street. Shows the partition on the right immediately entering the factory, behind which is the elevator. The steps leading to the second floor of the factory are shown in the background.

DEFENDANT'S EXHIBIT 73.

Picture showing elevator shaft and trap door on the ground floor of the factory. Shows steps leading to the second floor on the left of the picture.

DEFENDANT'S EXHIBIT 74.

Picture of metal room, showing place where Conley claims to have found body.

DEFENDANT'S EXHIBIT 75.

Picture showing place where cotton sacks were kept.

DEFENDANT'S EXHIBIT 76.

Picture of the plating room.

DEFENDANT'S EXHIBIT 77.

Picture of the metal room, showing where the floor was chipped up by the detectives in front of dressing room.

DEFENDANT'S EXHIBIT 78.

Picture showing lathe where Barrett claims to have found hair.

DEFENDANT'S EXHIBIT 79.

Picture showing view from third floor looking down steps to second floor. Picture shows man walking on second floor from the metal room toward the elevator.

DEFENDANT'S EXHIBIT 80.

Picture showing elevator box on the office floor.

DEFENDANT'S EXHIBIT 81.

Picture showing elevator wheel at the top of the fourth floor.

DEFENDANT'S EXHIBITS 82, 83, 84.

Pictures showing view of the metal room on the second floor. Pictures show doors of the metal room to be partly made of transparent glass.

DEFENDANT'S EXHIBIT 85 AND 86.

Pictures of the metal room closet with the door open and closed.

DEFENDANT'S EXHIBIT 87.

Blue print from which the model of the factory (Defendant's Exhibit 13) was made.

DEFENDANT'S EXHIBIT 88a, b, c, d, e.

Five jars containing contents of stomach taken from different parties who had eaten cabbage and bread.

DEFENDANT'S EXHIBIT 89.

Extract from the minutes of Walton superior court showing three indictments for larceny from the house against C. B. Dalton, at the April Term, 1894, of said court. Pleas of guilty in each indictment and a fine of \$50 and twelve months in the chain gang sentence in each case. Also indictment of C. B. Dalton, at the February term, 1899, of Walton superior court for stealing bale of cotton. Plea of not guilty, and verdict of jury finding defendant guilty, recommending punishment as for misdemeanor. Fine of \$20.00 and six months in chain gang.

DEFENDANT'S EXHIBIT 90.

Testimony of Newt Lee before the coroner's inquest as follows:

“He (Mr. Gantt) says, ‘I would like to have them (shoes) because I got to go to work Monday.’ I says ‘I can't let you in there unless Mr. Frank says so.’ He says, ‘Is Mr. Frank there?’ I says, ‘Yes, if you want me I will go up and ask him.’ By that time Mr. Frank comes down and runs right into Mr. Gantt, standing in the front door and he looked like he was frightened. I saw Mr. Frank was frightened, but I taken it this way, he and Mr. Gantt had fell out and he discharged Mr. Gantt and I thought that he thought by him hanging around there that he was waiting for him and had come to do him some harm. Mr. Gantt said ‘I got some old shoes up there and I would like to get them.’ Mr. Frank looked at him and said, ‘What sort were they,’ and he said they were tans. I says, ‘I think I sees a boy sweep them up in the trash.’ He says ‘I have

some black ones up there, too. 'Well,' I says, 'I don't know anything about any black shoes.' Then Mr. Gantt says 'I can go up there and see if I can find them,' then he drops his head and looked right at me. Then Mr. Frank says, 'Newt, you carry him up there, go with him around and stay with him while he is up there,' and so we went in and went on up there and found the shoes like he says and then he asked me for some paper to wrap them up and I gave him some paper, and then I got him some twine. . . .

'I don't know when I ever seen him change that (time slip) before. He's put the tape in once before; it was one night. I never paid no attention to how long it took him. It didn't take him five minutes. I couldn't tell whether it took him a minute or not. On Saturday night, it took him a pretty good little bit, because he spoke about it. He says, 'It's kind of hard to get in.' ''

DEFENDANT'S EXHIBIT 91.

Harry Scott's testimony before coroner's inquest as follows:

"He just told me that he had been down at the police barracks Monday morning and he talked to John Black, and 'John Black seemed to suspect me of the crime,' and he then repeated to me his movements on the day of the murder, that is on Saturday he reported at the office, I believe he said, at around eight o'clock in the morning, stayed there up until ten o'clock, then he went to Montag Brothers; Mr. Darley accompanied him down the street a little ways, and he continued on to Montag Bros. by himself and returned to the factory, I believe, at 10:30; that Arthur White and Harry Denham were employed on the 4th floor of the factory, working during the morning hours, and about 12:10 this little girl, Mary Phagan, came into the office to draw her salary which he gave her (\$1.20). The denominations, which he thought, were two half dollars and two dimes, and that Mary Phagan, left his private office where he paid her off, and went into the bookkeeper's office, and when she got near the door, she returned to him, and said, 'Has the metal come yet?' And Mr. Frank replied, 'No.' Then he stated that Mary Phagan went on out, and it was about 12:50 that he went upstairs to the 4th floor, where Denham and White were working and saw Mrs. White up there talking to her husband. He made the remark that he intended closing and locking the doors, and asked Mrs. White if she would leave, and also asked the men up there how near they were through their work. They told him they didn't think they could finish up right soon at that time, and he came on downstairs, and told them he was going to lock the doors when he went out. He stated that he left the factory about 1:10 p. m., went home to his dinner, returned to the factory then about 3 o'clock, and White and Denham were still on the 4th floor. He did not meet anyone going out or coming in. About 3:10 both White and Denhan left the

building; that Newt Lee reported to him about four o'clock, as he had instructed him to do on the day previous, that it was his intention to go to the ball game that afternoon, and when Newt Lee came there, he told him that it would not be necessary for him to work just at that particular hour, that he could go out on the street and enjoy himself for a few hours, and return about six o'clock. Frank stayed in the building from four to six and Newt Lee returned at 6 o'clock, went on duty and Frank left the building at about 6:15. On his way out he saw Newt Lee sitting on a packing box outside the door of the factory talking to a man by the name of Gantt. Lee told Frank what Gantt was staying there for, and after considering allowed Gantt to come upstairs for a pair of shoes, that is, go up inside of the factory, but he instructed Newt Lee to stay with Gantt while he was up inside of the factory, until he left, which he said that Lee did. Frank then continued on to his home, and said that he became worried about Gantt's presence in the building, knowing that he had discharged him for some kind of fault. He continued to worry about Gantt's presence in the building and therefore called up Newt Lee on the telephone at 7:30, as he knew it was that time for Lee to punch the clock at that hour, and he would hear the telephone ringing inside of the office while he was there at the clock; although I am not sure. I think he said he made an effort to get Lee at seven o'clock and failed and finally got him at 7:30. When he called Lee on the telephone, he inquired if Gantt had left the building. Lee replied, 'Yes;,' Frank then asked him if everything else was all right, to which Lee replied, 'Yes,' and he hung up the receiver and at about 9 that night he retired to go to bed; and I believe now that that's the extent of my interview with Mr. Frank. . . .

'Yes, I am working in the interest of the National Pencil Co. to ferret out who is responsible for the murder. Mr. Black and I requested Mr. Frank that he go into this private room with Lee, and endeavor to get any information that he might be withholding from either of us or the detective department, and told Mr. Frank to impress upon Lee the importance of telling the whole truth in the matter, and do whatever he could to persuade Lee to tell the absolute truth in the matter. Mr. Frank said he understood, and we sent him in to talk to Lee. I have no way of knowing what Frank said; they were both together privately in the room there, and we had no way of knowing except what Lee told us afterwards.'

DEFENDANT'S EXHIBIT 92.

Harry Scott's report to the Pinkerton Agency, as follows:

"Mr. Frank stated that on Saturday, April 26th, 1913, the factory of the National Pencil Company was closed down, and that only two of the employees reported for work the entire day, and these men were Harry Denham and J. A. White, who are employed on the 4th floor of the building. Mr. Frank stated that he was in the office up until about 1 p. m.,

and that at 12:10 p. m., a girl employee of the factory, named Mary Phagan, called at the office of Mr. Frank for her wages, and she received \$1.20, either in one dollar bill and two dimes, or two half dollars and two dimes. Mr. Frank personally handed this girl her wages, after which the Phagan girl left Mr. Frank's office and walked towards the door of the office adjoining Mr. Frank's office, which door leads into the factory. Miss Phagan turned to Mr. Frank and asked him if the metal had arrived yet, to which Mr. Frank replied 'No,' and the girl then went on away out of the factory, as far as Mr. Frank knows, as he did not see anything of her during the afternoon. About 12 o'clock, noon, Mrs. J. A. White entered the factory and went to the top floor where her husband, J. A. White was working, and at 12:45 p. m., Mr. Frank went to the 4th floor and in the presence of Mrs. White told Denham and White that he was going to lock the doors, and Mrs. White then left the factory, but White and Denham informed Mr. Frank that they had not finished their work and Mr. Frank then told them to remain until they had gotten through. Mr. Frank left the factory about 1 p. m. Saturday, while White and Denham were still on the top floor. Mr. Frank then went to his home, to his dinner, returning to the factory at 3 p. m., and he saw that White and Denham were about through with their work, and both of them left the factory at about 3:09 p. m. As far as Mr. Frank knows he was the only person left in the factory after that hour. On Friday, Mr. Frank had instructed his negro night watchman, Newt Lee, to report at the factory on Saturday at 4:00 p. m. on account of it being a holiday, and none of the employees working. At 4 p. m. the negro Newt Lee arrived at the factory reporting for work to Mr. Frank, who told him that it was not necessary for him to go to work at that time, but that he could go out in the street and have a good time until about 6 p. m., and that in the meantime Mr. Frank would stay at the factory. The negro left the factory, returning again at 6 p. m., and at 6:05 p. m. Mr. Frank left the factory for his home and on his way out of the factory by the Forsyth Street door he saw the negro night watchman, Newt Lee, talking to a book-keeper named John M. Gantt, who had recently been discharged by Mr. Frank. It developed that Gantt was asking the negro watchman, Newt Lee, to allow him to go to the second floor of the factory and secure a pair of shoes that he had left there, as he wanted to go to his home in Marietta, Georgia, and do some plowing and the negro, Newt Lee, then asked Mr. Frank if he would allow Gantt to enter the building. Mr. Frank knowing that he had discharged Gantt for thievery, hesitated about allowing Gantt to enter the building, but finally told the nightman to let Gantt in, but to stay with him until he secured the shoes, and then see that Gantt left the building without taking anything that belonged to him. About 7:30 p. m. Mr. Frank states he called up the factory, as he knew that Newt Lee, the night watchman, was about to punch the clock at the hour and could hear the telephone bell ringing inside the office, and Newt Lee answered the telephone. Mr. Frank states that he inquired of Lee if Gantt had left the building, to which he replied in the affirmative.

Mr. Frank then asked Lee if everything else was all right, to which Lee replied 'Yes.' Mr. Frank states that this was the extent of his telephone conversation with Lee.'

DEFENDANT'S EXHIBIT 93.

Testimony of Policeman Anderson before Coroner's inquest, as follows:

"The watchman told me where he was standing. He came out of the closet to fasten or button up his pants, and had his lantern sitting down right in front of him, where he had left it when he went into the closet. While he was standing up there he saw that woman. He saw it from the closet, about twenty-five feet, to where the object was. I could not see that far with the lantern that he had. With the lantern that he had I could see about ten or twelve feet, something like that."

DEFENDANT'S EXHIBIT 94.

Court proceedings under which Jim Conley was released from Fulton County jail upon petition of Solicitor Hugh M. Dorsey:

The State,

vs.

Leo M. Frank.

No.

In Fulton Superior Court, May Term, 1913.

Indictment for Murder .

The petition of Hugh M. Dorsey, Solicitor General of the Atlanta Circuit, including Fulton County, respectfully shows:

1.

James Connally is a material witness for the State in the above stated case.

2.

Petitioner is apprehensive that said Connally may not be forthcoming as a witness at the trial of the above named defendant, unless detained in custody.

3.

Said Connally has been detained since May 1st, 1913, by the police authorities of the City of Atlanta, and is now in the custody of said officers, being detained by them as a witness. Since said Connally was taken into custody by said officers, Leo M. Frank has been indicted upon a charge of murder.

4.

Petitioner represents that the testimony of said Connally may be, and likely will be very material in said cause.

Wherefore, petitioner prays that said James Connally be committed to the jail of Fulton County, Georgia, there to be detained as a witness until said case above stated shall be terminated, or until said Connally shall be otherwise released by proper order of Court.

This May 29, 1913.

(Signed) Hugh M. Dorsey,
Sol. Gen. Atlanta Circuit.

Georgia, Fulton County.

Comes now Hugh M. Dorsey, who being duly sworn deposes and says the allegations in the above petition are true so far as they come within his knowledge, and so far as derived from the information of others he believes them to be true.

(Signed) Hugh M. Dorsey.

Attested, May 29, 1913.

John H. Jones, (Signed)
N. P. Fulton Co., Ga.

The above and foregoing petition read and considered.

Let the said James Connally be taken into custody by the Sheriff of said County of Fulton, and be confined in the common jail of said County, until discharged by further order of this court.

Let the said Connally be served with a copy of this order and the petition on which it is based. Bond for the release of said Connally may be assessed in a reasonable sum upon proper application to the Court and after reasonable notice in writing to the Solicitor General of the Circuit. It appearing to me that he does not object to this order, but consents to same.

This May 29, 1913.

(Signed) L. S. Roan,
Judge S. C. Stone Mountain Circuit.
Presiding.

The State,

vs.

Leo M. Frank.

No. 9410

Indictment in Fulton Superior Court.

Murder. May Term, 1913.

It appearing to the Court that James Connally has heretofore been committed to the common jail of Fulton County to be held as a witness in

the above stated case, and to be released only on a proper order of Court;

And it further appearing that the ends of justice require that said James Connally be released temporarily to the Chief of Police of the City of Atlanta;

It is therefore ordered that Sheriff C. W. Mangum, of Fulton County Georgia, deliver the said James Connally to said Chief of Police, James L. Beavers, or his lawful deputy, to be received back into custody at said jail when delivered back by said Chief of Police, the attorney for James Connally consenting and not objecting to this order, and being present.

This May 31, 1913.

(Signed), L. S. Roan,
Judge S. C. Stone Mountain Circuit,
Presiding.

This is consented to by me
(Signed) William M. Smith
Attorney for James Connally.

Georgia, Fulton County.

To Hon. L. S. Roan, Judge of the Stone Mountain Circuit,
Presiding in the Superior Court, Criminal Division:—

The petition of Hugh M. Dorsey, Solicitor General of the Atlanta Circuit, respectfully shows:—

1.

On May 29, 1913, this court, on petition of the above named Solicitor General,—representing that James Connally was a material witness for the State in the case of THE STATE vs. LEO M. FRANK, under indictment for murder, and that said James Connally would probably not be forthcoming to respond to a subpoena in said case,—ordered said James Connally held until further order of court as a witness in the above stated case, and to be confined in the county jail and subsequently upon petitioner's request made at the instance of said Connally and his attorney, said Connally was allowed held by the police authorities of the City of Atlanta.

2.

Petitioner is satisfied that the necessity for holding said James Connally under the orders heretofore granted on the aforesaid petition as a witness in said case no longer exist.

3.

Wherefore, petitioner prays that the orders heretofore granted in

said cause be revoked, and that said James Connally be discharged from custody under said orders.

(Signed) Hugh M. Dorsey,
Sol. Gen. Atlanta Circuit.

Georgia, Fulton County.

Read and considered, it is ordered that this petition and order be filed and duly served upon other claimed suspects in connection with the Phagan murder, and confined in common jail of said County, to wit, Leo M. Frank and Newt Lee, both either personally or by serving their attorneys, and any other citizen of said County who may receive this notice by publication or otherwise, may show cause before me, Friday the 13th day of June, at 10 o'clock A. M., at my chambers in Thrower Building, Atlanta, Ga. Notice to be served by the sheriff or one of his deputies by leaving copy of this petition and order, at once.

June 11, 1913.

(Signed) L. S. Roan.

Service acknowledged and further service waived. The confinement of said James Connally in the Police station was at my request and at the request of my client James Connally and I agree for said Connally to remain in custody of the police authorities until the trial of Leo M. Frank or until the indictment of said Connally. I agree to his confinement because he is a material witness for the State and I desire his confinement at the police station, because of repeated attempts on part of visitors at the jail to torture and intimidate said James Connally and to safeguard said James Connally from perjured admissions, supposed to have been made by him, I waive his presence at the time of this trial.

This June 11, 1913.

(Signed) Wm. M. Smith,
Attorney for James Connally.

Georgia, Fulton County.

Comes Newt Lee, by his attorney, Bernard L. Chappell, and in pursuance of an order made by L. S. Roan, Judge of the Superior Court, Criminal Division of said County, on the 11th day of June, 1913, hereby acknowledges service of said order as referred to the said Newt Lee, who is being held in the Fulton County common jail upon the order of Paul Donehoo, coroner of said county as a suspect in the Mary Phagan murder case.

June 12, 1913.

(Signed) Bernard L. Chappell,
Attorney for Newt Lee.

Georgia, Fulton County.

I have this day served L. Z. Rosser, Atty. for Leo M. Frank, personally with a copy of the within order.

This June 12, 1913.

(Signed) T. A. Burdett,
Deputy Sheriff.

Georgia, Fulton County.
State of Georgia,
vs.
Leo M. Frank.

No. Fulton Superior Court.
Criminal Division, Indictment for Murder.

And now comes James Conley, and in answer to the rule nisi issued in the above case, shows to the court as follows :

1. Respondent admits that he is now held in custody under orders of this Court, at the police prison of the City of Atlanta, having been originally held in the prison of Fulton County, also under order of this Court, the cause of said commitment by this Court of respondent, being the allegation that Respondent is a material witness in the above case, in behalf of the State, and it is desired to insure the presence of Respondent at the trial of the above case.

2. Respondent admits that he is now at the City police prison at his own request and instance, and through the advice and counsel of his attorney.

3. Respondent shows to the court that the City police prison is so arranged and so officered, that Respondent is absolutely safe as to his physical welfare from any attack that might be made upon him; that he is so confined that his cell is a solitary one, there being no one else even located in the cell block with him; that the key to this cell block and the cell of Respondent is always in the possession of a sworn uniformed officer of the law; that under the instructions of Chief of Police Beavers, said sworn officers are not allowed to permit any one to approach this Respondent or come into his cell block, except the attorney of Respondent and such persons as this Respondent may agree to see and talk with; that Respondent so confined is protected from any physical harm and is protected from the possibility of legal harm by others who might seek to damage Respondent by false claims as to statements alleged to be made by Respondent;

4. Respondent nor his counsel have made no request for the release of Respondent or his transfer to any other place of confinement.

5. Respondent is willing to remain indefinitely as a prisoner in solitary confinement, under any reasonable rules this court may direct, subject to any further order or direction of this Court.

6. Respondent admits that he is a material witness in behalf of the State of Georgia in this case, and admits that in the exercise of sound discretion it is proper that Respondent be held until the final trial of this or any other case growing out of the unfortunate death of Miss Mary Phagan, but this Respondent denies that in the exercise of sound judicial

discretion, it is necessary for this Court to order Respondent held at any particular prison.

7. Respondent denies that this Court has legal right in the exercise of sound judicial discretion to order this Respondent held as a witness in behalf of the State, when it is shown to this Court, as it is shown beyond peradventure of a doubt, that there is no possibility for this Respondent not to be present and subject to call as a witness in behalf of the State, since he is held in complete and perfect imprisonment, and there being no possible theory that the ends of justice will be thwarted, and all these facts being without the slightest possible question, there is no reason for any order of this Court, committing Respondent.

8. Respondent is advised and believes that the Counsel for the Defendant in this case has been within the last few days studying the law very thoroughly bearing on the question of holding of this Respondent as a material witness in behalf of the State, at any other place than the County Prison, and also immediately finds move on foot to have Respondent returned to the County prison, and this Respondent is advised by his Counsel that it is the belief of his Counsel that the idea of transfer back to the County Prison has under it, plans laid by persons unfriendly to the interests of this Respondent and friendly to the interests of the Defendant in this case.

9. Respondent denies that the law vests in this Court, the right of committal as a witness in behalf of either side, under the facts and circumstances of this or any other case.

10. Respondent shows that the conditions at the County Jail are such that the interests of justice as far as this Respondent is concerned can not be well safeguarded and the interest of Respondent and the interest of justice are greatly threatened by the return of this Respondent to the County Jail.

11. Respondent shows that through no fault of the County Sheriff, a sufficient inside force of guards has not been provided by the County authorities, only one man being paid by the County to guard twenty cell blocks distributed in twenty wings and over five floors; that it is a physical impossibility for this one man to keep up or even know what is transpiring on five different floors or twenty separate immense wall and steel blocks, distributed through a large building; that with this inadequate force, which this respondent is advised the Sheriff of this County has complained about, it is an absolute impossibility for the best sheriff in the world or the best trained deputies to know exactly what is going on at any and all times or any reasonable part of the time; that the keys to practically all of the cell blocks are carried by "convicted criminals," known as "trusties," who turn in and out parties entering or leaving cell

blocks, and while they have general instructions covering their duties, it is an impossibility for the inside deputy to know whether each is discharging his duty properly at all times; that the food is prepared and distributed in the County prison itself and practically by "convicted criminals" whose disregard for law and principle is written upon the criminal records of this State; that owing to this condition men have been known to saw through solid steel bars and cages and escape to freedom; that it would be easy for anyone to reach or harm Respondent or to poison him through his food; that the "trusty turnkeys" who are convicts can easily swear as to admissions against the interest of this Respondent, even though such admissions might not be made; that the friends of the defendant in this case are allowed to pour constantly into the jail at all hours of the day and up to a late hour of the night, and are in close touch with many of these "trusty turnkeys," and "trusty attaches" of the jail; that while a prisoner at the County Prison before his transfer to the City Prison, a goodly number of people were admitted to the cell block to talk with Respondent, whose presence was not requested or desired; that among these visitors was one whom the Respondent has every reason to believe was working in the interest of the Defendant; that this party presented Respondent with sandwiches which this Respondent did not eat, that this same party also offered to present Respondent with whiskey; that Respondent was threatened with physical harm while in the County prison to the extent of the possibility of taking his life; that he was denounced as a liar, relative to his testimony in this case; and this Respondent is sure without the knowledge or through the neglect of the Sheriff or any of his men, but directly attributable to the construction physically of the county prison and the inadequate force allowed the Sheriff to oversee and care for it; that Respondent is advised and believes that one of the parties friendly to the Defendant is already priming himself to swear that Respondent made certain admissions while he was in the County prison, which this Respondent did not make, and which testimony will be false, but will be given, if given to help the defendant and damage this Respondent.

12. That this Respondent was imprisoned while in the County Prison directly over the cell block in which said Defendant is detained and was lodged among the most desperate criminals, one even being under sentence of death, and willing no doubt to swear or do anything necessary to help or prolong his life, that these desperate criminals, with whom this Respondent was lodged, had this Respondent completely at their mercy and could swear that he admitted things most damaging and which would be false and untrue and known by them to be false and untrue.

13. That Respondent is advised and believes that the Sheriff of this County has publicly proclaimed that the Defendant looks him in the eye like an innocent man; that the Sheriff has given said Defendant an

entire cell block and has isolated him completely except from his friends; that the Sheriff has expressed himself as not desiring that nigger returned to the County Prison, meaning Respondent; that the Sheriff appears to feel that the requests made by Respondent are meant as a reflection upon the Sheriff, but same was not so intended to be construed, nor was same so represented to the Court at the time of the transfer, nor was any such allegation made before the Court, at the time of the passage of the second order transferring Respondent back to the City Prison, nor does Respondent believe that same was in mind of the Court at the time of the passage of the order or influenced the Court; but that the inadequate force allowed the Sheriff and the construction of the Jail rendered this request by Respondent necessary, and same was made to this Court, with no statement of facts, other than it was requested by Respondent and in the judgment of the representatives of the State there was necessity for the same.

Wherefore this Respondent agrees, to the passage of an order revoking former orders in this case, and waives his presence at the Court, upon a hearing of same.

(Signed) Wm. M. Smith,
Attorney for James Conley.

Georgia, Fulton County.

Personally appeared before me, the undersigned attesting officer, James Conley, who after being duly sworn desposes and swears that the facts set out in the above and foregoing response so far as they come within his own knowledge are true and where derived from the information of others he believes them to be true.

(Signed) James Conley.

Sworn to and subscribed before me
this June 13, 1913.
C. C. Tedder,
Notary Public, Fulton County, Ga.

IN RE:

Application of Hugh M. Dorsey, Solicitor-General to release
James Conley from Legal Custody.

In answer to the petition and order in the above stated cause, served upon us, as attorneys for Leo Frank, we herewith answer and show cause as follows:

1. If the intention of the Solicitor General is to discharge this negro from custody because (a) he is in fact not a material witness against Frank or (b) although he is a material witness, his integrity and character are such that he ought to have his liberty and be trusted to obey the subpoena of this court, then, considered as a witness only, he ought to be discharged and indeed he should not have been imprisoned at all. But in such case to enact the farce in the court's presence of

releasing the negro and immediately return him to his wet-nurses, at the Police Station, would resemble child's play.

2. But if the Solicitor believes that one of a number of contradictory statements made by this negro may, if properly preserved, be made valuable in the prosecution of Frank, and that the negro may destroy its value if left free to talk, and in order to stop his mouth it is necessary that the detectives should keep him in charge, then we think we have the right to protest against any order of a court of justice that winks at such a purpose.

3. We are constrained to the conclusion that it is not the purpose for any reason to release this negro, but, by obtaining the order here sought, continue the present, illegal confinement.

4. But Frank is himself deeply interested in this proceeding. That the consent of the Solicitor and the will of the negro is all that is required to reverse the will of the law, is erroneous. The State has the right in the interest of justice to put a witness in custody, but where in custody and in whose custody is of the highest importance. The law has given such custody to the Sheriff and wisely so. The Sheriff is not a prosecutor; the jail itself is not usually a place of punishment, but a temporary place of detention. The Sheriff is supposed to stand impartially between the State and his prisoners, and may be trusted neither to cajole, threaten, nor suppress any testimony by third degree methods. The law never meant to place a witness, who, for lack of character, needs confinement under the control of a partisan prosecutor.

5. That the detectives should wish to keep Conley in custody and entertain him at the city's expense, is not at all surprising. They have already extracted from him extravagant, unthinkable confessions, three or four in number. To these statements they have given the widest publicity, and to the credibility of the last one they have staked their reputations and hope of place.

Upon the constancy and stability of this witness, they have staked their all. They would be less than human if they did not bend all their power and ingenuity in holding him to his present statement, adding to and taking therefrom only such things as will aid its credibility.

Can any fair-minded man believe that Lanford is a fair man to be the custodian of this ignorant negro? What chance would he have to retract any lies he may have told, or if in a repentant mood, he should wish to tell the truth? This negro in the city prison, in the power of Lanford, apart from all questions of truth, would be just as dangerous as Lanford would wish him to be. No one knows that better than Lanford, and no one would feel it as acutely as will this negro.

How well Lanford knows it, can be seen from his interview in the Atlanta Georgian of June 12th. In that interview he demonstrated that he thinks he has full, unrestricted ownership of this negro. He graciously expresses his willingness for this negro to go before the Grand Jury upon such terms as he suggests. Neither the negro, nor the negro's lawyer, nor the Grand Jury is considered. Nor was this court to be consulted—his will and not the order of this court was to determine when and under what circumstances the negro should leave the Police Station.

If Lanford vaunts in the face of jury and court, his power over this negro, what must be his bearing when he deals privately with the negro himself? What chance has he to abstract a lie or add a truth to the foolish statement which Lanford approves and wishes to maintain? If this man will, when he is holding this negro under your Honor's order, declare such ownership over this negro's person and movements, to what length would he go if the court releases its power over him and turns him over to Lanford's unrestricted power?

6. It is just to Frank, as well as in the interest of public justice, that this negro should be detained by unbiased, fair men, whose reputations and positions are not at stake. The law recognizes this right and has put that duty upon the Sheriff. Will there be less fairness and less decency in the county jail than in the police station? When did Lanford become a wiser, fairer, better man than the Sheriff of this County?

7. Apart from this negro's position as a witness, his detention in the custody of the detectives would be a public calamity. Many unbiased people believe this negro is the murderer of little Mary Phagan. The facts of the case, apart from his own confession, point most strongly to him as the guilty man:

(a) On the day of the murder he was drunk and concealed himself in a position where he could readily commit the murder.

(b) On Monday morning he was unduly excited, so much so as to arouse the suspicions of the employees.

(c) When the police were in the building, he was caught hiding in an obscure part of the factory where he had no business.

(d) When questioned about this conduct, he said he would give a large sum to be a white man. When asked why, he said he could then get safely past the police.

(e) He, for a long time persistently denied that he could write and did not admit that he could until longer denial was useless.

(f) He was caught washing a shirt, a thing he had never done before, and when caught, gave a foolish excuse.

(g) He denied all participation in, or knowledge of the crime until he was driven by the charge that he wrote the notes found near the body.

(h) On May 18th, he made a signed statement outlining his actions on April 26th, making no mention of the murder.

(i) On May 24th, he made an affidavit. He said that on April 25th, before the murder on April 26th, he wrote the notes at the request of Frank for which Frank gave him cigarettes and \$2.50 and added statements about Frank's people in Brooklyn and an inquiry by Frank as to why he should hang.

(j) On the 28th of May, Conley made a long affidavit, full of contradictions and absurdities, beginning it as follows:

"I make this statement, my second statement in regard to the murder of Mary Phagan at the National Pencil Company factory. In my first statement, I made the statement that I went to the pencil factory on Friday, April 25th, and went in Frank's office at five minutes to one, which is a mistake. I make this statement in regard to Friday in order that I might not be accused of knowing anything of this murder, for I thought if I put myself there on Saturday they might accuse me of having a hand in it, and I now make MY SECOND AND LAST STATEMENT regarding the matter freely and voluntarily, after thinking over the situation, and I have made up my mind to tell the whole truth and I make it freely and voluntarily without the promise of any reward or from force or fear of punishment in any way."

(k) After this beginning he sets out with variations the writing of the notes on Saturday instead of on Friday, and in a long rambling statement his movements at home and on Peters Street on Saturday and on Monday at the factory, most of which is wholly disconnected with the murder.

(l) On May 29th, 1913, although he had already sworn that he made "his true, full and last statement," he made another statement in which he purported to aid Frank in concealing the body of Mary Phagan. This statement is full of contradictions and wholly irreconcilable with itself and with the known facts surrounding the murder.

(m) He closes this remarkable affidavit in the following words: "The reason I have not told this before is that I thought Mr. Frank would get out and help me out, but it seems that he is not going to get out, and I decided to tell the whole truth about the matter."

8. These incoherent, jibbering statements will, it is believed, impress the Grand Jury if the negro Conley's case is submitted to it.

9. The Grand Jury can be trusted to scan these queer statements in the light of all the surrounding facts and circumstances and taken in

connection with all the other facts implicating Conley, they proclaim his guilt beyond all reasonable doubt.

10. The detectives, obsessed as they are with the assumption that Conley is a tool and not a murderer, are unfit to keep him in their sole and unlimited power. Under their protecting care, Conley, instead of being left to tell the truth, will at length deceive himself into the belief that instead of being a murderer he is an unfortunate victim.

11. That Conley and his counsel wish it, is the best reason why it should not be done. As long as he sticks to a story pleasing to the detectives, or builds up that story as additions may be needed, he is assured that the detectives will save him as far as possible from court and Grand Jury, and will, so far as they can, fix upon him no greater crime than that of a misdemeanor.

12. Conley and his counsel are wise. There is for them no other hope than for the detectives to keep Conley and save him from a confession that he committed the crime, giving him immunity, provided he continues to put the guilt on Frank.

Respectfully submitted,
Rosser & Brandon,
Attys. for Leo Frank.

Order granted that said James Conley be discharged as prayed and all orders, as set out in petition cancelled that were signed heretofore by me. This June 13, 1913.

(Signed) L. S. Roan,
J. S. St. Mt. Ct., Presiding.

The within and foregoing pages are hereby approved as a true, correct and complete brief of the evidence in the case therein (and at the caption thereof), referred to.

Oct. 31, 1913.

(Signed) L. S. ROAN,
J. S. C. St. Mt. Ct.