

Saturday afternoons, frequently during the past twelve months. I was there while Mr. Schiff was off on his trip. I was up at the office on the Saturday afternoon before Mr. Schiff went away. Mr. Holloway, Mr. Schiff, Mr. Frank and the office boy were there. I have never seen any women in Mr. Frank's office on the Saturdays I have been there.

CROSS EXAMINATION.

I have always found Mr. Schiff there on Saturday afternoons with the exception of the time when he was off on his trip during January and February. The only specific Saturday afternoons that I remember being at the factory, was the Saturdays during the month of January, 1913, when Mr. Schiff was off on the road. Got to the factory at three o'clock on the first Saturday in January. I went through the front door of the factory. It was unlocked and the door was open. Mr. Holloway was on the second floor in his usual place. Mr. Frank was in his office sitting at his desk. I didn't see any stenographer. I stayed there until nearly four o'clock. I have been to the factory on an average of two Saturdays every month. On the second Saturday in January, I got to the factory at three o'clock. Mr. Frank, Mr. Holloway and the office boy were there. The front door was open. The inside door was open. Mr. Frank was at his desk, in the inside office. I stayed there about a half or three quarters of an hour, about half past three or a quarter to four. I talked to Mr. Frank about ten minutes, and the rest of the time I just noticed things around the office. I saw Mr. Frank at the factory the third Saturday in January I was there. I don't know who else was there. I went to inquire about Mr. Schiff who was in the Ohio flood. Mr. Frank was in his office. I remember seeing Mr. Frank in his office on the fourth Saturday in January I called there. He was working in his office. I don't remember seeing anybody else there.

GORDON BAILEY, sworn for the Defendant.

I work at the factory. I am sometimes called "Snowball." I never saw Jim Conley talk to Mr. Frank the Friday before the murder. I have never, at any time, heard Mr. Frank ask Conley to come back on any Saturday. I have never seen Mr. Frank bring in any women into the factory. I have never seen Jim Conley guarding or watching the door. I have seen Jim take newspapers and look at it, but I don't know if he read them or not. I have seen him have papers at the station house like he was reading them.

CROSS EXAMINATION.

I was arrested Monday, April 28th, about half past nine. I saw Mr. Frank before I was arrested. He was on the second floor.

HENRY SMITH, sworn for the Defendant.

I work at the pencil factory in the metal department. I work with Barrett. He has talked to me about the reward offered in this case. He said it was \$4,300, and he thought if anybody was to get it, he was to get it, because he found the blood and hair, and he said he ought to get the first hook at it. He said it six or seven different times.

CROSS EXAMINATION.

He would come out of the room counting it off on his hands. He did that two or three times and sort of laughed, counting that imaginary money.

MILTON KLEIN, sworn for the Defendant.

I saw Mr. Frank last Thanksgiving evening at a dance given by the B'nai B'rith at the Hebrew Orphan's Home. I also saw him that same afternoon between half past four and six o'clock. The dance lasted from eight to half past eleven. Mr. Frank helped Mr. Copelan and myself give the dance. We were the committee in charge.

CROSS EXAMINATION.

I was down at the jail to see Mr. Frank when the detectives brought Conley down there. I sent word down that Mr. Frank didn't care to see Conley, that he didn't care to see anyone at that time. He knew that Conley was there. I was the spokesman for Mr. Frank. He wouldn't see any of the detectives either. Mr. Frank said that he would see Conley only with the consent of his attorney, Mr. Rosser. He said for them to send and get Mr. Rosser. Frank's manner was perfectly natural. He considered Conley in the same light that he considered any of the city detectives. He said he would not see any of the city detectives, or Mr. Scott without the consent of Mr. Rosser. He considered Scott as working for the city. He included Scott with the rest of the detectives. Mr. Frank looked very much disappointed because the grand jury had just indicted him when he had expected to be cleared. Mr. Frank has a great many friends who constantly visited him in jail.

NATHAN COPLAN, sworn for the Defendant.

I remember last Thanksgiving Day was a very disagreeable day. I don't remember whether it snowed. The B'nai B'rith is a charitable organization here composed of young men. They gave a dance out at the Jewish Orphans Home Thanksgiving evening. Mr. Frank had charge of it. Mr. Frank and his wife were there. I got there about eight o'clock. They were there at that time. They stayed there until about ten o'clock.

JOE STELKER, sworn for the Defendant.

I have got charge of the varnishing department at the pencil factory; about sixty people work under me. I saw the spot that Mr. Barrett claimed he had found in front of the young ladies dressing room. It looked like some one had some coloring in a bottle and splashed it on the floor. Chief Beavers asked me to find out whether it was varnish or not. I saw the white stuff on it. It looked like a composition they use on the eyelet machine or face powder. They carry that stuff around in buckets in the metal room. It gets spilled on the floor and looks something like face powder. The spots look like some varnish. The floor in the metal room is swept once a week. It is never washed. The spots look as if it had been made three days before. I would not have noticed it had not my attention been called to it. The floor is a greasy one. The white stuff looked like it come from the eyelet machine. The alleged blood spots could have been made with a transparent red varnish. If it is that kind of varnish it will soak in and look something like blood. If it is pigment it will show up right red. They use this kind of varnish in bottles in the metal room. I tried a stain on the floor there and it looked just like that spot that Barrett found. Everybody was nervous and shaky on Monday. The varnish I experimented with soaked in the floor and looked the same as the blood spot. I have seen paint all over the floor, it splashes out of the bucket and they just sweep it up. I was at the undertaker's Sunday afternoon at two o'clock when Frank was there. Mr. Quinn, Mr. Ziganke, Mr. Darley and Mr. Schiff were there. I looked at the body with Mr. Ziganke. No one else was present. I have known Jim Conley about two years. His general character for truth and veracity is very bad, therefore. I would not believe him on oath.

CROSS EXAMINATION.

Frank came from Brooklyn. I am no kin to Mr. Frank or any of his people. I do not belong to his society. I have never heard anything said against Conley, except since Frank was indicted. I also heard he was in the chaingang. I saw him in the chaingang on Forsyth Street. I saw him with shackles on. I don't know what he was sent up for. I sent him out for 25 cents worth of beer and he filled it half full of water and he denied doing it. I could tell it was filled up by the taste of it. I know he did it because he had a suspicious look about him. That was last summer. Ziganke helped me drink beer. That's about all the drinking I have ever seen there. At the undertaker's Mr. Frank had on a dark suit of clothes. He had no raincoat with him. We went to the undertaker's for the purpose of seeing the body. Mr. Frank did not ask me to meet him there. I went in to view the body and then came out. Mr. Frank came there ten minutes after we got there. While we were in there Mr. Frank had come and was speaking to Mr. Darley. I don't know how long I was sitting there. I was too nervous to know. I felt nauseated and nervous before I went in to see the body. When I went

in to view the body Mr. Frank was standing outside talking with Mr. Schiff and Mr. Darley. Mr. Frank went in to view the body later on, ten or twenty or thirty minutes later. I was sitting down waiting for the rest of the men while he went there. Ziganke was sitting with me. I don't know whether Mr. Frank went in the room to see the body or not. Mr. Frank was nervous when he got there, and when he came out just the same. Just the same expression he has got on his face now. The room was full of people when Mr. Frank went in there. I went down to the undertaker's to see who was murdered. I did not know that she had already been identified as Mary Phagan. I only heard when I got to the undertaker's. I didn't see the impress of the cord on the neck. I just took one look and then came right out again. I saw the discoloration of the eye and that bruise and I sort of felt sick and I walked right out.

RE-DIRECT EXAMINATION.

I am a German and I am accustomed to drinking my beer. I have never trusted Jim Conley after he put water in my beer.

HARLEE BRANCH, sworn for the Defendant.

I work for the Atlanta Journal. I had an interview with Jim Conley on two occasions. On May 31, he told me he didn't see the purse of this little girl. He said that it took about thirty-five minutes after going upstairs until he got out of the factory. He said he finished about 1:30 and then went out. He said that Lemmie Quinn got into the factory about 12 o'clock and remained about 8 or 9 minutes.

CROSS EXAMINATION.

I am sure about his saying he saw Lemmie Quinn at the factory at that interview. He was in jail when I had that interview. It was a few days after he went through the factory. As to Conley's movements at the factory, I was there a few minutes after twelve. Conley arrived there about 12:10 or 12:15. The detectives told him what he was there for. After a few minutes' brief conversation, Conley started telling his story. When he reached the point at the rear left side of the factory, he described the position of the body, and described what he did with the body, and how Mr. Frank helped him. He enacted the whole story and talking all the time. After he had reached the point of disposing of the body, and writing the notes, I found it was time for me to go back to the office and I left. Conley began the enactment of the story a few minutes after he got there, which was a quarter past twelve, and he went through very rapidly. We had to sort of trot to keep behind him. I left the factory at 1:10. In estimating the time Conley devoted to acting and how much to telling the story would be a guess. There is no way of disassociating the time between the two. I didn't attempt to do that. It would be a pure guess because I see no way of dividing the time. I

should say that perhaps he was talking and not acting for about fifteen minutes. Of course he was talking all the time that he was acting. I did not say that I thought he was talking half of the time.

RE-DIRECT EXAMINATION.

In going through his performance he walked very rapidly. We were almost on a trot behind him. I was at the factory fifty minutes while he enacted his story. I left him after he had written one note in Mr. Frank's office. He wrote the note very rapidly. It took him about two minutes. He didn't stay in the wardrobe over a minute. He just got in, closed the door and got right out. In approximating the time of his performance I gave a minute to his staying in the wardrobe and two minutes to writing the one note. If you add six minutes to writing the other notes and eight minutes to the time he said he stayed in the wardrobe, that would be fourteen minutes added to the fifty minutes, which would be sixty-four minutes for the time of the performance. If you deduct the fifteen minutes which I say he was talking, would leave forty minutes net which he took to enact the story.

RE-CROSS EXAMINATION.

That is just an estimate. The only time I had was the time I left my office and the time I got back. Conley got to the factory 12:15 and I left there between 1:05 and 1:10. I saw Conley pick up a paper in the newspaper room and he looked like he was reading it. It had pictures on the front page and I judge he looked at them first, because afterwards he folded it. He had several minutes while I was telephoning.

JOHN M. MINAR, sworn for the Defendant.

I am a newspaper reporter for the "Atlanta Georgian." I visited George Epps Sunday night, April 27th. I went there to ask him and his sister when was the last time either of them had seen Mary Phagan. George Epps and sister were both present. I asked them who had seen Mary Phagan last, and the little girl Epps said she had seen her on the previous Thursday. George Epps was standing right there and he said nothing about having seen her Thursday. He said he knew the girl, that he had ridden to town with her in the mornings occasionally when she went to work. He said nothing as to having seen the girl on Saturday and coming in on the car with her. I directed my questions to both the children.

CROSS EXAMINATION.

I was not seeking evidence for the defendant. There was no defendant at that time. This was on Sunday, the day the body was found. I have been working under the direction of Mr. Clofein, city editor. Clofein visited Frank in jail. At that time Mr. Frank had not been mentioned in connection with

the case at all. At the time of the interview with the little girl and the little boy they were both in the room with their father. Their father took me out there.

W. D. McWORTH, sworn for the Defendant.

I am a Pinkerton detective. I worked for fifteen days on the Frank case. For three days I took statements from the factory employees and on May 15th, I made a thorough search of the ground floor. I found near the front door on the ground floor, stains that might or might not have been blood. All the radiators in the factory had trash, dirt and rubbish behind them. Behind one of the radiators near the Clark Woodenware place, where the partition is, I found much trash, behind the trap door, up against the partition, and on top of the radiator were pipes and about eight or nine lengths of that rope that they tie pencils with. One length—the only one that came loose—was pulled straight away from the radiator and I saw signs of it having been cut recently with a sharp knife. Among the trash I found papers there dated February, 1911. That rubbish had been there some time, because the rest of the floor around there was clean. About six or eight inches from the left side of the radiator, there was a small pile of dirt and sweepings. When I took Mr. Whitfield, another Pinkerton detective, back there to show him the spots I had found, we looked behind the radiator and as I was sticking my hand around the dust and dirt, I discovered a pay envelope. (Defendant's exhibit 47). It was covered with granulated dust. I opened it and looked at it and saw the number 186 there. And the first initials of the name an "M" and a "P." I handed it to Whitfield and said: "Take it to the door and see what it is." It was pretty dark in there. Right in the same corner, I also found a club (defendant's exhibit 48). It was standing up on the doorway with some iron pipes. The club is used by the drayman as a roller to roll boxes and barrels on. The iron pipes there were used for the same purpose. The stains on the club were either paint or blood, I don't know which. I found this little stick back of the front door. (State's exhibit L).

CROSS EXAMINATION.

I saw the spots in front of the ladies dressing room. It just looked as if the floor had been stained. There are half a dozen places. There was no difference in appearance between the dark spots by the water cooler and the other spot in the metal room. I did not make any special search on the office floor for a pay envelope. I was looking for the mesh bag under the instructions of Mr. Scott. Mr. Whitfield joined me in the search. In my report to the Pinkertons I reported that I found what I took to be blood stains around the trap door. They were dark discolorations. There were seven of them, averaging about seven inches in diameter. The gas was turned on and I used matches in examining them. I had found the stains first and

while Mr. Whitfield and I were back there looking behind the radiator, we found the cord and twine about the radiator. Whitfield was examining the stains when I picked up the envelope which was all rolled up. I found the envelope about three o'clock on May 15, within eight or ten inches of the trap door. The name was written in lead pencil. So far as I know the envelope has not been changed any since I saw it last. I did not see any "5" on the envelope. We went out to see Mr. and Mrs. Coleman on May 17th, and showed them the envelope. There was no "5" on it at that time. There was no conversation about any five. I had talked to Mr. Schiff before I saw Mr. Coleman. In my report I stated that the stains might have been blood as well as stains. I reported the finding of this club to the police 17 hours after finding it. And within four hours thereafter, I had a conference with them about it. I never showed that whip to anybody (State's exhibit L) I didn't show it to Mr. Black. I showed him the club and the envelope. I turned them over to Mr. Pierce, the superintendent of our agency. I don't know where he is, nor Whitfield either.

JOHN FINLEY, sworn for the Defendant.

I was formerly master machinist and assistant superintendent of the pencil factory. I have known Mr. Frank about five years. His character was good.

CROSS EXAMINATION.

I am now superintendent for Dittler Bros. They are not related to the Franks. I left the pencil company about three years ago. I have never heard anything about women going up in the factory after work hours. Mr. Frank and I usually left together about six o'clock. Mr. Frank went to lunch usually about one o'clock. I would sometimes work at the factory all Saturday afternoon. I did that most of the time that I was there. The elevator box was kept closed when I was there. I generally kept one key and we kept one key in the office. The rule was to lock it and keep one key in the office. It has been left unlocked. The elevator doesn't make much noise that I know of. It doesn't shake the building; not when I was there. The wheels on the top floor are closed in on the fourth floor. You might be able to see them on the fourth floor if you stand on the west side of the elevator. They didn't make any noise. The power box don't make any noise.

RE-DIRECT EXAMINATION.

The motor makes a tremendous noise. You can hear it and the shafting anywhere in the building.

A. D. GREENFIELD, sworn for the Defendant.

I am one of the owners of the building occupied by the Pencil Company on Forsyth St. I have owned it since 1900. When we bought the building

it was occupied by Montag Bros. They used it as a manufacturing plant. The Clarke Woodenware Company subleased part of the first floor from Montag Bros. They used the front door on Montag Bros. in going in there. We have not put in any new floor on the second story of the building. I have known Mr. Frank four or five years. His character is good.

CROSS EXAMINATION.

I have come in contact with Mr. Frank in business and I have heard my associates talk about him. I have seen him twenty or thirty times during the past five years. I have not contributed anything to any fund for his defense. I have not heard of any such fund.

DR. WM. OWENS, sworn for the Defendant.

I am a physician. I am also engaged in the real estate business. At the request of the defense I went through certain experiments in the pencil factory to ascertain how long it would take to go through Jim Conley's movements relative to moving the body of Mary Phagan. I kept the time while the other men were going through with the performance. I followed them and kept the time. Mr. Wilson of the Atlanta Baggage Co. also kept time with me. Mr. Brent and Mr. Fleming enacted the performance. The performance enacted was as follows: "12.56 o'clock, Conley goes to cotton box from elevator stairs, gets piece of cloth, takes cloth back to where body lay and ties it just like a person that was going to give out clothes on Monday, ties each corner, draws it in and ties it, ties the four corners together, and runs right arm through cloth, went to put it up on his shoulder and found he couldn't get it up on shoulder, it was too heavy, and he carried it that way on his arm, when close to little dressing room in the metal department, he let the body fall; he jumped, and he was scared and said: "Mr. Frank, you will have to help me with this girl, she is heavy;" Frank comes and runs down from the top of the steps, and after he comes down there he caught her by the feet, and Conley laid hold of her by the shoulders, and when they got her up that way, they backed, and Frank kind of put her on Conley, Frank was nervous and trembling, too, and after walking a few steps, Frank let her feet drop; then they picked her up and went to the elevator and sat her on the elevator, and Frank pulled down the cords, and the elevator wouldn't go, and Frank said: "Wait, let me go in the office and get the key;" and Frank goes in the office and gets a key and comes back and unlocks the storage box, and after that he started the elevator down; the elevator went down to the basement, and Frank said, "Come on," and he opened the door that led direct to the basement in front of the elevator, and carried it out and laid her down, and Conley opened the cloth and rolled her out on the floor, and Frank turned around and went on up the ladder, and Conley carries the body back to where the body was found; Conley goes around in front of the boiler, and notices her hat and slipper and a piece of ribbon; and Conley said: "Mr.

Frank, "what am I going to do with these things?" and Mr. Frank said: "Leave them right there;" and Conley threw them in front of the boiler; Conley goes to the elevator, and Frank come on up and stepped off at the first floor, and Frank hits Conley a blow on the chest which run him against the elevator; Frank stumbles out of elevator as it nears second floor, Frank goes and washes his hands, and comes into the private office, and they sit down in the private office, Frank rubbing his hands on the back of his hair; Frank happened to look out of the door, and said: "My God, there is Emma Clarke and Corinthia Hall;" Frank runs back; Frank says: "Come over here, Jim. I have got to put you in this wardrobe;" Frank puts Conley in wardrobe; Conley stayed there quite a while; Frank: "You got in a tight place;" Conley: "Yes, sir;" Frank: "You did very well;" Frank goes in the hall and comes back and lets Conley out of the wardrobe; Frank made him sit down; Conley sits down; Frank reaches on table and gets a box of cigarettes and matches, takes out cigarette and match, and hands Conley box of cigarettes; Conley lights cigarette, and commenced smoking, and hands Frank back box of cigarettes, Frank puts cigarettes back in his pocket and takes it out; Frank: "You can have these;" Conley reaches over and takes box of cigarettes and sticks them in his pocket; Frank: "Can you write?" Conley: "Yes, sir, a little bit;" Frank takes out his pencil and sits down; Conley sits down at table; Frank dictates notes, Conley taking paper that Frank gave him; Conley writes one note; Frank says, "Turn over and write again;" Conley turns over paper and writes again; Frank: "Turn over again;" Conley turned over again and writes on next page; Frank: "That is all right." Frank reaches over and gets green piece of paper and tells Conley what to write; Conley writes, Frank then lays it on his desk, looks at Conley smiling and rubbing his hands, runs his hands in his pocket and pulls out a roll of bills; Frank says: "There is \$200.00." Conley takes the money and looks at it a little bit; Conley: "Mr. Frank, don't you pay another dollar when that watchman comes, I'll pay him myself." Frank: "All right, I don't see what you want a watch for, either; that big fat wife of mine, she wanted me to buy her an automobile, and I wouldn't do it; (pause) I will tell you the best way. You go down in the basement; you saw that package that is on the floor in front of the elevator; take a lot of that trash and make up a fire and burn it." Conley: "All right, Mr. Frank, you come down with me and I will go." Frank: "There is no need of my going down there, and I haven't got any business down there." Conley: "Mr. Frank, you are a white man and you done it, and I am not going down there and burn it myself." (Pause). Frank: "Let me see that money." Frank takes money and puts it in his pocket. Conley: "Is this the way you do things?" (Pause) Frank turned around in his chair, looks at money, and looks back at Conley, and throws his hands and looks up. Frank: "Why should I hang, I have wealthy people in Brooklyn." Conley: "Mr. Frank, what about me?" Frank: "It is alright about you, don't you worry about this thing; you must go back to your work on Monday, like you have never known anything, and keep your mouth shut,

if you get caught, I will get you out on bond and send you away." Conley: "That is all right, Mr. Frank." (Pause) Frank: "I am going out home; can you come back this evening and do it?" Conley: "Yes, sir, I am coming to get my money." Frank: "Well, I am going home to get my dinner now; you come back here in about forty minutes from now; it is near my dinner hour and I am going home to get my dinner;" picks up money. Conley: "How will I get in?" Frank: "There will be a place for you to get in all right, but listen, if you are not coming back, let me know, and I will take these notes and put them down with the body." Conley: "All right, I will be back in forty minutes." Conley looks at Frank, Frank looks up. Then Conley gets up and stands by chair and looks down at Frank; Frank grabs scratch pad from typewriter table and starts to make memorandum upon paper, but his hand trembles so he couldn't; Frank gets up to go. Frank: "Now, Jim, you keep your mouth shut, do you hear?" Conley: "All right, I will keep my mouth shut, and I will be back here in forty minutes." Conley goes out. It took us eighteen and a half minutes by the watch to go through the movements and conversation (as above set forth), which Conley says took place between him and Frank on Saturday, April 26th. The experiment was made as rapidly as the dialogue could be read. The eighteen and a half minutes did not include the eight minutes that Conley said he was in the wardrobe and also the time it took him to write the notes. Including the eight minutes he remained in the wardrobe and the ten minutes estimated for writing the notes, the whole performance would have taken 36 1-2 minutes.

CROSS EXAMINATION.

We started the experiment at the entrance of Mr. Frank's office at the top of the stairs. We had the copy of Conley's movements and the conversation in our hands all the time. Mr. Haas and Mr. Wilson read the directions. Mr. Brent took the part of Conley. As they would read out the things that Conley did, Mr. Brent would do them. I went with him all the time. I don't think the giving of the directions lengthened the time very much, because the directions were being given while the enactment of each scene was going on. It wasn't done slowly and deliberately. When they dropped the body, those knots did not come untied. The sack that they carried, to represent the body, contained wet sawdust and cinders, and was supposed to weigh 107 pounds. It was tied up tight. There was only one point in the enactment where there might have been a loss of time, and that was where Mr. Frank was supposed to have paused in the office, and I suppose five or ten seconds were lost there. Mr. Fleming took the part of Mr. Frank. When they took the body down on the elevator, Mr. Brent, representing Conley, opened the cloth and rolled the corpse out on the floor, on the cloth, then dragged her back to where the body was found. Mr. Brent dragged it back. He simply picked up the sack by the end and pulled it along. He dragged the sack with the enclosed sawdust weighing about 107 pounds, back.

Mr. Brent enacted everything that was supposed to have been done by Conley. Mr. Fleming played the part of Mr. Frank. Neither one of these gentlemen are connected with the pencil factory. In putting the cloth around the corpse I think they actually gained time. They did it really faster than it could have been done. Mr. Herbert Haas did most of the reading of the directions. There were no feet hanging out of the sack like the body would. As to whether it isn't much easier to handle the sack as it was than it would be to handle a human body in a sack, with the head and shoulders and arms exposed at one end and the feet and the legs up to the knees exposed at the other, I believe you could pick up a body just as quickly as you could a sack. Corpses are pretty hard to handle. Fleming acted nervous and agitated like Frank was supposed to have done. He didn't tremble. I think he gained time there. In picking her up and putting her on the elevator I think they did that fully as quickly as a person could have taken a body, probably faster. I don't think Mr. Fleming really unlocked the elevator box like Mr. Frank was supposed to do it. He went through the motion. It probably takes longer to actually unlock it than it would to go through the motion of doing it. He probably gained time there. In going down the elevator, I think Mr. Schiff ran the elevator. He was in the building when we got there and let us in. He ran it because none of the rest of us knew how to run it. He brought us back up again in the elevator. That's the only part he took in the performance. Mr. Brent, impersonating Conley, carried the body out of the elevator. He is a large man and had no trouble carrying 107 pounds. Whatever the instructions called for we followed to the letter. Mr. Wilson and I had the paper in our hands and checked Mr. Haas as he read the directions. These directions furnished us were supposed to be Conley's testimony on the stand. It was furnished to us as a copy of the evidence as given by Conley. When we got to the basement I am not sure whether Mr. Brent impersonating Conley, carried the body or dragged it. It could be dragged as quickly as it could be carried. I had my eyes on the paper all the time. Mr. Brent didn't get in the wardrobe, he was too big. He went to wardrobe and we eliminated the time he was supposed to be there. A small man could have got in it. They did not write out the notes. We eliminated that also. Staying in the wardrobe and writing the notes was not included in the eighteen and a half minutes it took. It was said that Conley's testimony was to the effect that he was in the wardrobe eight minutes. The notes were supposed to have taken from 12 to 16 minutes to write, but we didn't add that in our estimate. Mr. Wilson and I set our watches together when the performance started. The only thing that we omitted from the entire performance was writing the notes and concealing Conley in the wardrobe. Yes, I wrote that letter. I wrote it partially at the instance of myself, and partially at the instance of Mr. Leonard Haas, my personal attorney.

RE-DIRECT EXAMINATION.

I wrote that letter as a matter of conscience. It is as follows: "To the Grand Jury of Fulton County, W. D. Beattie, foreman. Gentlemen: Among a number of people with whom I have discussed the unfortunate Phagan affair, I have found very few who now believe in the guilt of Leo M. Frank, and I have felt a deep conviction growing in my heart that a terrible injustice might be inflicted upon an innocent man. While we are all still mystified by the published evidence now at command, I am impelled by a sense of duty to ask that you carefully weigh the testimony of all persons connected with the crime, and the accumulating evidence, and if further indictments are warranted, that the Honorable Body, of which you are the foreman, will not hesitate to find them. If I am exceeding the privilege which perhaps might be accorded citizens in thus addressing your Honorable Body, it is your privilege to ignore what I have said. Whatever may be your conclusion in the matter, I wish to assure you in thus addressing you, that I am discharging a duty which has weighed heavily on my conscience, the performance of which I could not forego. I do not even know Mr. Frank, and have no personal interest in the case whatever. Very truly, your fellow-citizen, William Owens." The pantomime that we enacted at the factory was the story as told by Jim Conley on the stand.

ISAAC HAAS, sworn for the Defendant.

I know Leo M. Frank for over five years. His character is very good. I did not hear my telephone ring on Sunday morning, April 27th. My wife heard it. The telephone is twenty-two feet from my bed.

CROSS EXAMINATION.

My wife waked me up when she answered the telephone.

A. N. ANDERSON, sworn for the Defendant.

I work at the Atlanta National Bank. That is the original pass-book of Leo M. Frank (Defendant's exhibit 50).

CROSS EXAMINATION.

I don't know that that's the only bank account that he had. He may have had others. Yes, the pencil company does business with the Atlanta National Bank. I don't know anything about how much money they had on April 26. Mr. Frank's bank book was balanced August 11. These are all the checks that he drew (defendant's exhibit 51) during April.

RE-DIRECT EXAMINATION.

These cancelled checks are the ones that have been paid since April 1, 1913. Mr. Frank had drawn no others since then.

RE-CROSS EXAMINATION.

On the first of April he had \$111.13, on the 18th of April he deposited \$15.00. That is all he deposited that month, and these checks were drawn against that \$111.13 and \$15.00.

R. P. BUTLER, sworn for the Defendant.

I am the shipping clerk of the pencil company. I am familiar with the doors leading into the metal room. They are wooden doors, with glass windows. There is no trouble looking through those windows into the metal room, even when the doors are closed. The glass in the door is about fifteen inches by eighteen inches. Any one of ordinary height can see through them easily.

CROSS EXAMINATION.

The doors are six feet wide together. The passageway from the elevator back to the metal room is ten feet wide with the exception of that part where we have some boxes piled up, where it is about six feet wide. The boxes go to the ceiling on the one side. It is not particularly dark there. I measured the width of the metal room doors. They were six feet wide exactly from jamb to jamb. The doors are usually open. If any one came up the stair case and turned to the office, they could see through the metal room doors. The floors of the metal room are very dirty. I don't know if the windows are clean, but you can see through them.

I. U. KAUFFMAN, sworn for the Defendant.

I made a drawing of the Selig residence on Georgia Avenue, in this city, showing the kitchen, dining room, the reception room, parlor and passageway between the kitchen and dining room. The mirror in the dining room is in the sideboard as shown on the plat (defendant's exhibit 52). It is fourteen feet from the kitchen door to the passageway in the dining room and the passageway is a little over two feet. Standing in the back door of the kitchen room against the north side of the door, I could not see that mirror, because of the partition between the passageway and the dining room. On the south side of the kitchen door you would have less view than on the north side and could not see the sideboard wherein the mirror is located at all. It is 175 feet from the Selig home to the corner of Washington and Georgia Avenue and 271 feet from the Selig home to corner of Pulliam St. and Georgia Avenue, as shown on the plat (Defendant's exhibit 53). I made a plat of the National Pencil company plant on Forsyth St. (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 1-2 by 17 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 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 St. 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 26.

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. Exhibit 67 for defendant 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. Defendant's exhibit 69 shows the basement looking to the back door to the 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, behind 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 exhibit 76 is a view of the plating room. Defendant's exhibit 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 the 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 the 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 St. 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 St., about ten minutes from Whitehall and Alabama to Georgia Avenue and Washington St. The Washington St. car leaves Broad and Marietta two minutes after the hour and every ten minutes. It gets to the corner of Whitehall and Alabama St. in two minutes and it takes ten minutes from Whitehall and Alabama to Washington and Georgia Avenue and ten minutes from Glenn and Washington Sts. 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 St. 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 St. to the pencil factory on Forsyth St. 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 3 1-2 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 St. to the upstairs of the National Pencil Factory on S. Forsyth St. at a moderate gait. It took me

4 1-2 minutes. I walked from the same place in the pencil factory to the corner of Whitehall and Alabama Sts., 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 unmasticated 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 4 1-2 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 inter-

ference with the brain or any pressure on the brain, no doctor could tell that long after death whether or not the 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 carbo-hydrates 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 dead 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 micro-

scopic 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 before 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 signs 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 emanation 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 ptyalin 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 can not 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, testified 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 two 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 26. 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 and putting his hands on the 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 for about six 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 Street. 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 \$15.00,—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 25, 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 26th, 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 Exhibit 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 Exhibit 25-34); 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, 111 $\frac{1}{4}$ 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 came 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 three. I then took my folder and returned to Forsyth Street alone. On arrival at Forsyth Street, I went to the second or office floor, and I noticed the clock, and it indicated five minutes after 11 o'clock. 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-Lombardt Company being in New York, one to Henry Disston & 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 Exhibit 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 looked 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 Butell 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 Exhibit 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 Exhibit 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 Exhibit 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, Illinois (Defendant's Exhibit 28), and Logansport, Indiana (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, address, 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 hand-writing,—everything except that amount there and the subsequent date, that is in my hand-writing 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 continue 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 up stairs 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 can not 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.' 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 up stairs 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 (Defendant's Exhibit 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 pro-

duction 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 Exhibit 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 one and a half 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, one 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 40 cents, of course, is \$72.00 (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 cost 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, by the way, one of the most important sheets is this very little 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 retip as a production. Now, this was made out (Defendant's Exhibit 7) for the week ending April 24th 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



Ben M. Harrison, Jr.
SECRETARY OF STATE
(404) 656-2881

Department of
Archives and History
330 Capitol Avenue
Atlanta
30334



MISS CARROLL HART, DIRECTOR
(404) 656-2358
INFORMATION (404) 656-2381

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Ben W. Fortson, Jr.

SECRETARY OF STATE

Ann T. Adamson

ASSISTANT

SECRETARY OF STATE

(404) 656-2881

Secretary of State

214 State Capitol

Atlanta

30334

DEPARTMENT OF
ARCHIVES AND HISTORY
330 CAPITOL AVENUE, S.E.
ATLANTA, GEORGIA 30334

MISS CARROLL HART, DIRECTOR

(404) 656-2358

INFORMATION (404) 656-2382

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