

open the door. When the first question was asked by the solicitor seeking to elicit whether witness had ever seen Frank up there in his office doing anything with young ladies before April 26, 1913, the defendant objected on the ground that the evidence sought was irrelevant and immaterial. The Court ruled that the evidence would be immaterial, but further questions were asked by the solicitor and elicited the evidence here complained of.

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

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

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

Q. Now, tell what kind of work you had done for him the other Saturdays. A. I always stayed on the first floor, like I stayed on the 26th of April, and watched for Mr. Frank, while he and a young lady would be on the second floor chatting.

Q. You say chatting. Do you know what they were doing? A. No, sir. I don't know what they were doing. He only told me that he wanted to chat.

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

A. Well, I have---

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