

000167

witness Harris was upon the stand, the crowd laughed jeeringly when Mr. Arnold, one of the defendant's counsel, objected to a comment of the solicitor, and that, too, in the presence of the jury.

And again, during the trial, when Mr. Arnold, one of the defendant's counsel, objected to a question asked, the following colloquy took place:

" Mr. Arnold: I object to that you Honor; that is, entering the orders on that book merely; that is not the questions he is asking now at all.

The Court: What is the question he is asking now?

( Referring to questions asked by the Solicitor General).

Mr. Arnold: He is asking how long it took to do all this work connected with it. (Referring to work done by Frank the day of the murder.)

The Court: Well, he knows what he is asking him"

Upon this suggestion of the Court, that the Solicitor knew what he was doing, the spectators in the court room applauded creating quite a demonstration.

Mr. Arnold again complained of the conduct of the spectators in the court room. The Court gave no relief, except directing the Sheriff to find out who was making the noise, to which the Sheriff replied that he could maintain order only by clearing the court room.

25. Because the Court erred in admitting, over the defendant's objection, made at the time the testimony was offered, that it was illegal, immaterial and irrelevant, the introduction of certain glass bottles containing partly digested cabbage, which resulted from tests made on other parties by the witness, Dr. Harris, wherein the cabbage which he claimed to be cooked the same was as the cabbage eaten by Mary Phagan, after it had remained in the stomach of such other parties from 30 to 50 minutes were taken out by means of a stomach pump.

The purpose of these experiments was to show the state of digestion of this cabbage in comparison with the state of digestion of the cabbage taken from the stomach of Mary Phagan, so as to sustain the contention of the State that Mary Phagan was killed within 30 or 40 minutes after eating the cabbage and bread.