

32. Because the Court erred in declining to allow the witness Miss Hall to testify that on the morning of April 26th, and before the murder was committed, Mr. Frank called her over the telephone, asking her to come to the pencil factory to do stenographic work, stating at the time he called her that he had so much work to do that it would take him until six o'clock that day to get it done.

The defendant contends that this testimony was part of the res gestae and ought to have been heard by the Court, and failure to do so committed error.

33. Because, while Philip Chambers, a youth of 15 years of age, and a witness for the defendant, was testifying the following occurred.

Q. You and Frank were pretty good friends, weren't you?

A. Well, just like a boss ought to be to me.

Q. What was it that Frank tried to get you to do that you told Gantt about several times?

A. I never did complain to Mr. Gantt.

Q. What proposition was it that Mr. Frank made to you and told you he was going to turn you off if you didn't do what he wanted you to?

A. He never made any proposition to me.

Q. Do you deny that you talked to Mr. Gantt and told him about these improper proposals that Frank would make to you and told you that he was going to turn you off unless you did what he wanted you to do?

A. I never did tell Gantt anything of the sort.

(Objection was here made by the defendant that the answer sought would be immaterial.)

The Court: Well, I don't know what it is, ask him the question.

Q. Didn't you tell Gantt the reason why Frank said he was going to turn you off.

A. No sir.

Q. Didn't you tell you was going to turn you off unless you would permit him to do with you what he wanted to do.

A. No sir.

Q. No such conversation ever occurred?