This was prejudicial to the defendant, because the crew on the English Ave., car upon which the little girl, Mary Phagan, came to town, testified that she got on their car at ten minutes to twelve. That under their schedule they should reach the corner of Broad and Marietta Street at 7-1/2 minutes past twelve. That they were on their schedule time on April 26th and did reach that place at 12-07 or 12:07-1/2. What other crews did at other times or even what this crew did on other occasions was wholly immaterial and in no way illustrated just what took place on the trip wherein Mary Phagan came to town. That other crews often came in ahead of time or that this particular crew often came in ahead of time was wholly immaterial.

38. Because during the examination by Mr. Arnold counsel for the defendant, of V. H. Kreigshaber a witness for the defendant, there was laughter in the audience, sufficiently generally distributed throughout the audience and loud enough to interfere with the examination. The testimony elicited from Kreigshaber was that Frank was a young man, and that Kreigshaber was older, but he didn't know how much older. Mr. Arnold called the Court's attention to the interruption for the purpose of obtaining some action from the Court thereon.

The Court stated that if there was other disorder no one would be permitted in the court room on the following day and requested the Sheriff to maintain order.

The defendant says that the Court erred in not then taking radical steps to preserve order in the court room and to permit the trial to proceed orderly and that a threat to clear the court room upon the following day and the request for the Sheriff to keep order was not sufficient for the purpose.

This was prejudicial to the defendant because the laughter was directly in derision of the defendant's defense being made by his counsel.

39. Because the Court permitted, at the instance of the Solicitor, the witness Triton Klein to testify, over the objection of the defendant made when the evidence was offered that the same was immaterial, as follows: