

absence of his own counsel, was evidence of guilt.

40. (jj). Because the court permitted Miss Mary Pirk to be asked the following questions and to make the following answers on cross examination made by the Solicitor.

Q. You never heard of a single thing immoral during that five years-- that's true? (Referring to the time she worked at the Pencil Factory)

A. Yes sir, that's true.

Q. You never knew of his (Frank's) being guilty of a thing that was immoral during those five years--is that true?

A. Yes sir.

Q. You never heard a single soul during that time discuss it?

A. No sir.

Q. You never heard of his going in the dressing rooms there of the girls?

A. No sir.

Q. You never heard of his slapping them as he would go by?

A. No sir.

Q. Did you ever see Mr. Frank go back there and take Mary off to one side and talk to her?

A. I never seen it.

Q. That never occurred?

A. I have never seen it.

Q. You never heard about the time that Frank had her off in the corner there, and she was trying to get back to her work?

A. No sir.

Q. You didn't know about that?

A. No sir.

Q. That was not discussed?

A. No sir.

These questions were asked over the objection of the defendant, because even if the Solicitor's questions brought out that the witness had heard charges of immorality against Frank, that her answers there about would have been irrelevant and immaterial in this trial of Frank for murder. The fact that Frank might have been frequently guilty of immorality could not be held against him on a trial for the murder of Mary Phagan. Nor,