

Q. How much after one?

A. I do not know, probably five or ten minutes.

Q. One-ten then, now, how much of the time during that time you were there did it take Conley to act what he acted, leaving out the conversation he had with the different men?

A. That would be a difficult thing for me to estimate, while he was acting, he was acting very rapidly, he kept us on the run.

Q. All right, now, leave out now the time that it took this man to answer the questions that were put to him by yourself and other men that accompanied him through there, leave that out now and give us your best opinion as to how long it took Conley to go through that demonstration?

A. There was no way to do that, there was no way to disassociate the time, and find out the difference between the two, between the time he was acting and talking; I didn't attempt to do that; in fact, the only time I was interested in was the time I would have to get back to the office.

Q. You got to the office, you say about 1:10?

A. Yes sir.

Q. What time then, you say, about, you left the Pencil Factory?

A. I left the Pencil Factory between five and ten minutes after one.

Q. You left the Pencil Factory then at about 1:10?

A. Yes, between 1:05 and 1:10

The defendant objected to this testimony, because (a) this so-called experiment made with Conley was solely an effort upon his part to justify his story, (b) the sayings and acts of Conley, testified about as aforesaid were the sayings and acts of Conley, not under oath, had and made without the right of cross examination, the net result of which is but a repetition of Conley's story to the jury, without the sanction of an oath, and without any cross examination. That Conley, ~~had~~ ~~had~~ immediately after making his last affidavit, that that last affidavit is not the way he tells the story on the stand; that he tells it wholly differently on the stand: at least differently in many particulars, that it cannot help the jury for Conley