

Solicitor General to proceed with his illegal argument which was not founded on the evidence, and erred and in not rebuking the Solicitor General, and in not stating to the jury that the Solicitor General had mis-stated the evidence in the particulars objected to, and erred in not telling the jury that there was no evidence in the case that Rogers had sworn that defendant did not look at the body of Mary Phagan or that Frank went in another room, and because of the aforesaid errors in acting and failing to act, on the part of the Court, and because of such illegal and improper argument of the Solicitor General a new trial should be granted.

100. Movant further says that a new trial should be granted because of the following.

The Solicitor General, in his concluding argument, spoke as follows to the jury, the subject under discussion being the whereabouts of the key to the elevator box on Sunday morning, April 27, the language of the Solicitor General being as follows

" Why don't they bring the fireman here who went around and gave such instructions? First, because it wasn't necessary, they could have cut the electricity off and locked the box. And second, they didn't bring him because no such man ever did any such thing, and old Holloway told the truth before he came to the conclusion that old Jim Conley was his nigger, and he saw the importance of the proposition that when Frank went there Sunday morning the box was unlocked and Frank had the key in his pocket".

Whereupon the following occurred:

"Mr. Rosser: You say Mr. Frank had the key in his pocket? No one mentioned it, that isn't the evidence: I say it was hung up in the office, that's the undisputed evidence".

"Mr. Dorsey, Holloway says when he got back Monday morning it was hung up in the office, but Boots Rogers said this man Frank--and he was sustained by other witnesses--when he came there to run that elevator Sunday morning, found that power box unlocked."

"Mr. Rosser, That's not what you said".

"Mr. Dorsey: Yes, it is".

"Mr. Rosser: You said Frank had the key in his pocket next