

Leo M. Frank, )  
 Plaintiff in Error, ) Bill of Exceptions,  
 vs ) From Fulton Superior court,  
 State of Georgia, ) From Conviction of Murder and Judgment of affirmance on February 17th, 1914.  
 Defendant in error. ) Motion for Re-hearing.

And now comes Leo M. Frank, Plaintiff in error in the case above stated, who was the losing party therein, and at the same term at which the decision was rendered, and before the remittitur in said case has been forwarded to the clerk of the trial court, and files this his motion for re-hearing, on the grounds following, to-wit:

1. Because the court in rendering the decision in said case overlooked the following material facts, <sup>in the record</sup>, to-wit: Ground 58 of the motion for new trial, which reads as follows:

"Because the court permitted the witness, Miss Cato, over the objection of the defendant that the same was incompetent, illegal and immaterial, to testify substantially as follows: 'I know Miss Rebecca Carson. I have seen her go twice into the private ladies' dressing room with Leo M. Frank.'"

"The court permitted this testimony over the objection of the defendant made as is aforesaid and in doing so committed error. The court stated that this evidence was admitted to dispute the witness they had called.

"It was wholly immaterial to the issues involved in the case whether Frank did or did not go into a private dressing room with Miss Carson. It did, however, prejudice the jury as indicating Frank's immorality with reference to women."

Said ground just quoted set up material facts constituting error in said case, which the court in the decision rendered, overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from pages 209 to 212 of the original brief, filed in this case.

2. Because the court in rendering the decision in said case, overlooked the following material facts, <sup>in the record</sup>, to-wit: Ground 59 of the motion for new trial, which reads as follows:

"Because the court erred in permitting the witness Maggie Griffin, to testify over the objection of the defendant made when the