

135 to 137 of the Brief filed in this case.

4. Because the court in rendering the decision in said case, overlooked the following material facts in the record, to-wit: ground two of the motion for new trial, which reads as follows:

"Because the court erred in permitting over objections the witness Lee to testify that Frank, on April 28th, when alone with him at the station house, talked to him a shorter time than did Mr. Arnold, one of Frank's attorneys, when he interviewed the witness just before the trial.

"The detectives had induced Frank to talk to Lee alone on April 28th at the station house for the purpose of inducing Lee to talk. Mr. Arnold, in the presence of Lee's Attorney and the jailer, had interviewed Lee just before the present trial.

"The solicitor - over the objections of Frank's attorneys that the evidence offered was immaterial, irrelevant, and the expression of an opinion, was permitted by introducing said evidence to draw a comparison of the time occupied by Frank and Arnold to their respective interviews, and, in doing so, the court erred because the evidence offered was immaterial, irrelevant and the expression of an opinion."

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 were discussed in the brief filed by plaintiff in error, as will appear from pages 135 to 137 of the Brief filed in this case.

5. Because the court in rendering the decision in said case, overlooked the following material facts in the record, to-wit: ground seven of the motion for new trial, which reads as follows:-

"Because the court, over objection made when the evidence was offered that the same was irrelevant, permitted the witness Black to testify that Frank had counsel, Messrs Rosser and Haas about eight or eight thirty o'clock Monday morning while Frank was in the station house, brought there by detectives Black and Haslett.

"Movant contends the employment of counsel, under the circumstances was no evidence of guilt; but the court's conduct in submitting the fact to the jury was greatly hurtful to the defense.

"Said evidence was illegal, irrelevant and prejudicial and its admission over objection is here assigned as error for said reasons."

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 were discussed in the brief filed by plaintiff in error, as will appear from pages 140