

S C O P E

overlooked, and which was not considered in said decision as 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 fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from pages 298 to 300 of the brief filed in this case.

14. Because the court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 54 of the Motion for New Trial, which reads as follows:-

"Because the Court permitted the witness Scott to testify in behalf of his Agency, over the objection of the defendant, that the same was irrelevant, immaterial and incompetent, substantially as follows:

"I got hold of the information about Conley knowing how to write through my operatives that I had investigating while I was out of town. McWorth told me in person when I returned."

The Court permitted this testimony over the defendant's objections, as above stated, and in doing so committed error. This was prejudicial to the defendant, because the solicitor contended that the failure of Frank to report the fact that Conley could write, was a circumstance against Frank's innocence, and he sought to show by the above testimony that the detectives were forced to get that information from someone other than Frank."

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 as 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 fact alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from pages 231 to 234 of the brief filed in this case.

15. Because the Court in rendering the decision in said case, overlooked the following material facts, to-wit: Ground 53 of the Motion for New Trial, which reads as follows:-

"Because the Court permitted the witness J. M. Gentt, over the objection of the defendant, made when the evidence was offered that the same was irrelevant and immaterial, to testify substantially as follows: