

Q. Why, Mr. Schiff, if this is the door right here and—

A. Mr. Dorsey I know that factory.

Q. Well, I am trying to get you to tell us if you know it; you have no objection to telling it, have you?

(Here objection was made by defendant's counsel that Schiff had shown no objection to answering the questions of the Solicitor and that such questions as the one next above, which indicated that the witness did object to answering was improper.)

Mr. Dorsey: I have got a right to show the feeling.

The Court: Go on, now, and put your questions.

Mr. Dorsey: Have you any objections to answering the question, Mr. Witness?

A. No, sir; I have not.

These comments of the Solicitor, reflecting upon the witness were objected to and the Court urged to prevent such reflections. This the Court declined to do and allowed the Solicitor to repeat the insinuation that the witness was objecting to answering him.

This was prejudicial error. The witness deserved no such insinuations as were made by the Solicitor and in the absence of the requested relief by the Court, the jury was left to believe that the reflections of the Solicitor were just.

This witness was one of the main leading witnesses for the defendant, and to allow him, movant contends, to be thus unjustly discredited was harmful to the defendant.

32. Because the Court erred in declining to allow the witness Miss Hall to testify that on the morning of April 26th, and before the murder was committed, Mr. Frank called her over the telephone, asking her to come to the pencil factory to do stenographic work, stating at the time he called her that he had so much work to do that it would take him until six o'clock to get it done.

The defendant contends that this testimony was part of the res gestae and ought to have been heard by the Court, and failure to do so committed error.

33. Because, while Philip Chambers, a youth of 15 years of age, and a witness for the defendant, was testifying, the following occurred:

Q. You and Frank were pretty good friends, weren't you?

A. Well, just like a boss ought to be to me.

Q. What was it that Frank tried to get you to do that you told Gantt about several times?

A. I never did complain to Mr. Gantt.

Q. What proposition was it that Mr. Frank made to you and told you he was going to turn you off if you didn't do what he wanted you to?

A. He never made any proposition to me.

Q. Do you deny that you talked to Mr. Gantt and told him about these improper proposals that Frank would make to you and told you that he was going to turn you off unless you did what he wanted you to do?

A. I never did tell Gantt anything of the sort.