

- Q. Well, he pushed the door open and stood in the door, did he?  
 A. Stood in the door.  
 Q. Looked in and smiled?  
 A. Yes, sir.  
 Q. Didn't you say that?  
 A. I don't remember now, he smiled or made some kind of a face which looked like a smile, like smiling at Ermilie Mayfield.  
 Q. At Ermilie Mayfield, that day she was undressed?  
 A. But he didn't speak, yes sir.  
 Q. He didn't say a word, did he?  
 A. No, sir.  
 Q. Did he say anything about any flirting?  
 A. Not to us, no, sir.

These questions and answers were objected to for the reasons above stated, and for the further reason that a statement showing improper conduct of Frank in going into the dressing rooms with girls, while improper, was intended to create prejudice against him and in no way elucidated the question as to whether he was or was not the murderer of Mary Phagan.

Movant contends that the act that the defendant had put his character in issue is no reason why reported or actual facts of immorality should be admitted in evidence over his objection. The defendant's reputation or character for immorality or loose conduct with women are not relevant subjects for consideration in determining whether the defendant has or has not a good character when such good character is considered in connection with a charge for murder.

44. Because the Court permitted the Solicitor to ask and have answered by the witness Harlee Branch the following questions, said questions and answers dealing with an incident occurring at the pencil factory, wherein Conley, after having made the third affidavit in the record purported to re-enact the occurrence between himself and Frank on April 26th, wherein the body of Mary Phagan was taken from the office floor to the cellar of the factory:

Q. Now, Mr. Branch, take this stick and that picture, and take up Conley now, and give every move he made?

A. Am I to give you the time he arrived there? (Pencil factory.)

Q. Yes, give the time he arrived.

A. I will have to give that approximately; I was to be there at 12 o'clock, and I was a few minutes late, and Conley hadn't arrived there then, and we waited until they brought him there, which was probably ten or fifteen minutes later; the officers brought Conley into the main entrance here and to the staircase, I don't know where the staircase is here—yes, here it is, (indicating on diagram) and they carried him up there, and they told him what he was there for, and questioned him, and made him understand that he was to re-enact the pantomime.

Q. Just tell what Conley did?

A. After a few minutes conversation, a very brief conversation, Conley led the officers back here and turned off to his left to a place back here, I guess this is it (indicating on diagram) right where this is near some toilets, and he says: