

Avenue car reached Broad Street at 12:07. The Court permitted this and other like testimony to be introduced as tending to discredit their statements that the car was on schedule time that day. In doing this the Court erred, for the fact that the English Avenue car was ahead of time as much as four minutes on other days did not indicate that it was ahead of time on the day of the murder.

89. Because the Court erred, over the objection of the defendant that the same was irrelevant and immaterial and prejudicial to defendant, in permitting the witness, W. D. Owens, to testify as follows:

"I run on what is known as Route Eight, White City to Howell Station, for the Georgia Railway & Power Co. We were due in town at 12:05. My schedule is ahead of the Cooper Street and English Avenue schedule two minutes. I have known the English Avenue and Cooper Street car to get to the junction of Marietta and Broad Streets ahead of my car. The English Avenue car is due there at 12:07; my schedule at 12:05. I have known the English Avenue car to get there as much as two minutes ahead of us. That would make the English Avenue car four minutes ahead of time. I have known this to occur after April 26th. I don't know whether it occurred prior to that time."

The Court permitted this testimony over the objection before stated, and in doing so erred for the reasons stated. This was prejudicial to the defendant because it tended to show that at times other than on the day of the murder, the English Avenue car, which on that day was run by the witness, Motorman Matthews, had reached Marietta and Broad Streets four minutes ahead of time. It became material to determine what time this English Avenue car reached Broad Street on the day of the murder. The Motorman Matthews and the conductor, swore that on that day the English Avenue car reached Broad Street at 12:07. The Court permitted this and other like testimony to be introduced as tending to discredit their statements that the car was on schedule time that day. In doing this the Court erred, for the fact that the English Avenue car was ahead of time as much as four minutes on other days did not indicate that it was ahead of time on the day of the murder.

90. Because of the following colloquy which occurred during the trial and while the witness, John Ashley Jones, was on the stand, during the cross-examination of Jones by the solicitor:

Q. You never heard anybody down there say anything about Mr. Frank's practices and relations with the girls.

A. Not in the Pencil Factory.

Q. Not at all? You never did talk to any of these young girls, did you?

A. No, I don't happen to know any of them.

Q. Or any of the men?

A. No.

Q. You don't know what kind of practices Mr. Frank may have carried on down there in the Pencil Factory?

A. No.