

Mr. Arnold: That's absolutely incorrect, they never saw Quinn there then, and never swore they did.

Mr. Dorsey (resuming): No, they didn't see him there; I doubt if anybody else saw him there, either.

Mr. Arnold: If a crowd of people here laughs every time we say anything how are we to hear the Court? He has made a whole lot of little misstatements, but I let those pass, but I am going to interrupt him on every substantial one he makes. He says those ladies saw Quinn,—says they say Quinn was there before 12, and I say he wasn't there, and they didn't say that he was there then.

The Court: What is it you say, Mr. Dorsey?

Mr. Dorsey: I was arguing to the jury the evidence.

The Court: Did you make a statement to that effect?

Mr. Dorsey: I made a statement that those two young ladies say they met Holloway as he left the factory at 11:05—I make the statement that as soon as they got back down to that Greek cafe, Quinn came in and said to them, "I have just been in and seen Mr. Frank."

Mr. Arnold: They never said that, they said they met Holloway at 11:45, they said at the Busy Bee Cafe, but they met Quinn at 12:30.

Mr. Dorsey: Well, get your record,—you can get a record on almost any phase, this busy. Quinn was blowing hot and blowing cold, no man in God's world knows what he did say, but I got his affidavit there.

Mr. Arnold: I have found that evidence, now, Mr. Dorsey, about the time those ladies saw Quinn.

Mr. Dorsey: I'll admit he swore both ways.

Mr. Arnold: No, he didn't either. I read from the evidence of Miss Corinthia Hall: Then Mr. Dorsey asked her: "Then you say you saw Lemmie Quinn right at the Greek cafe at five minutes to twelve, something like that?"

A. "No, sir, I don't remember what time it was when I saw him, we went into the cafe, ordered sandwiches and a cup of coffee, drank the coffee and when we were waiting on the change he came in." And further on, "All he said (Quinn) was he had been up and had seen Mr. Frank, that was all he said?" A. "Yes, sir," and so on. Now the evidence of Quinn: "What sort of clock was that?"—he's telling the time he was at DeFoor's pool parlor—"What sort of clock was that? A. Western Union clock. Q. What did the clock say when you looked at it? A. 12:30." And he also swore that he got back to the pencil factory at 12:20, that's in a half dozen different places.

The Court: Anything contrary to that record, Mr. Dorsey?

Mr. Dorsey: Yes, sir, I'm going to show it by their own table that didn't occur—that don't scare anybody and don't change the facts.

The Court erred, under the foregoing facts, in not restraining the solicitor-general from making the erroneous statements of fact objected to by defendant's counsel, which the evidence did not authorize, and in permitting him to proceed, and in not rebuking the solicitor-general, and in not stating to the jury that there was no such evidence as the solicitor-general had stated, in the case, and defendant says that for this improper argument, and for this failure of the Court, there should be granted a new trial.

97. Movant further says that a new trial should be granted because of the following:

In his concluding argument Solicitor-general Dorsey, referring to the defendant's wife, and referring to the claim made by the solicitor-general that