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or at the time the motion for new trial was heard, that Harris <sup>made</sup> had any such examination or had made any such report, or that the Solicitor General had stated to Harris that he would let the investigation as to the hair end there.

Notwithstanding the foregoing facts, this defendant shows that upon the trial of the case, as appears from the record, reference to which is hereby had, one of the chief facts relied on by the state to corroborate the witness James Conley was the alleged finding of said hair by the witness Barrett. The Solicitor General proved by the witness Barrett that, on Monday following the murder, he found several strands of hair on a lathe in the metal room on the second floor, where the negro Conley claims to have found Mary Phagan's body. The Solicitor General proved on the cross examination of the witness Magnolia Kennedy, that the hair alleged to have been found on the lathe resembled the hair of Mary Phagan. The Solicitor General argued that the finding of this hair was one of the circumstances against Frank, that it had been found by Barrett and had been identified by Magnolia Kennedy as the hair of Mary Phagan, and four times in his argument to the jury he alluded to it as a circumstance in the evidence against Frank. The Solicitor General likewise alluded to it in his brief filed with the Supreme Court of Georgia.

Defendant further shows that one of the strong contentions of the state was that Frank had inveigled the little girl into the metal room on the second floor of the factory and there murdered her.

As one of the facts sustaining this theory, the Solicitor contended that the witness Barrett had found on a lathe in the metal room certain hair which he contended was the hair of Mary Phagan. Whether or not the hair was that of Mary Phagan was a matter therefore, of the highest importance and this evidence of Harris, if it had been known, would have concluded the question and shown the hair was not the hair of Mary Phagan.

The defendant here and now offers to show and prove to the court all of the facts herein set forth, and asks the court to investigate them in this extraordinary motion.

The defendant further submits that the discovery of the