

and defendant's counsel having no access thereto.

15. Defendant further shows that he should be granted a new trial because of newly discovered evidence of Ivy Jones, which has come to the knowledge of the defendant and his counsel since the original motion for new trial was heard and passed upon. Upon the trial said Jones testified ^{for} the state as follows:

That he saw Jim Conley at the corner of Forsyth and Hunter streets on April 26, 1913, in a saloon between ^{one} and two o'clock on the opposite corner from the factory; that he and Conley went towards Conley's home at the corner of Hunter and Davis streets a little after two o'clock.

This witness will now testify to the following: that on April 26th, 1913, he was employed by Walker Brothers, wholesale grocers in the Louisville and Nashville Terminal Building; that he was released from his work that day at one thirty o'clock P. M. and, after being released, he went at once to the corner of Forsyth and Hunter streets to a saloon at the corner, where he had a glass of beer; that, while he was drinking the beer in the saloon, he did not see anyone he knew, that he did not remain in the saloon but a short time in fact, only long enough to drink a glass of beer, then left the saloon by himself and walked up Forsyth street to Mitchell street and out Mitchell street to Davis Street; that he was not joined on the way by anyone, and did not meet any one he knew until he reached Davis street; and, at Davis street, he met Buddy Perry, a friend of his who worked for the L. W. Rogers Grocery Company; that he did not meet any one else but Buddy Perry; that he and Buddy Perry walked to his home at No. 8 Electric Ave., and thereafter went to a ball game, but not together; that he did not meet any other man he knew while on his way with Buddy Perry from the corner of Davis and Hunter streets; and that he did not meet any other man he knew other than Buddy Perry at his home that day.

The testimony of this witness Jones was introduced by the State, for the purpose of corroborating Conley's testimony that he left the factory at one thirty o'clock and went to the corner of Forsyth and Hunter streets, for the purpose of getting him a