

The said Harris was sworn, as the record shows, long after counsel for the defense had cross examined Miss Grace Hicks, as shown by the record, and the State submits that the record itself shows that counsel for the defense are shown by this record to have been lacking in diligence in reference to the subject matter involved in Ground 1.

GROUND 2.

The State contends that the record of questions and answers given under Ground 1 and the other evidence contained in the brief of evidence approved by the court when the motion for a new trial was had, shows that the evidence of Miss Jimmie Mayfield, as referred to in Ground 2, is merely cumulative. In no event should a new trial be granted because of this evidence. Under the record, even if at all material, it is not of sufficient materiality to produce a different result upon another trial of this case, if it should be granted.

Frequently during the trial of the case, Mr. Reuben R. Arnold stated that the defense were putting on the stand and asking certain questions of all the ladies employed in the National Pencil Company's place of business.