

and believes, being pursued and followed in reference to other matters in connection with this extraordinary motion for new trial in behalf of the defendant, Leo. M. Farnk. The State will be able to show that this transaction is in keeping with other similar transactions, viz, the Mincey incident and the Fisher incident, not to mention other transaction in the course of this case of less importance. Hence the State submits that under no circumstances should a new trial be granted by reason of these perjured affidavits.

3. A third amendment embodies a claim on the part of the defendant, set forth through affidavits signed by Mrs. May Barrett and her daughter, Mrs. Maud Bailey.

It will be noted that the contention of the State originally was that Jim Conley was sitting in the area near the elevator down stairs. The State introduced the evidence of Jim Conley to that effect, and showed by Mrs. Arthur White that a negro man was seated exactly where Jim Conley claimed he was seated at about the time the murder was committed. Furthermore, it was shown, by Tillander and Graham, two unimpeached white men, that a negro man was sitting at the place where Conley claims he was sitting, waiting for the defendant, Leo M. Frank. By an abundance of circumstantial evidence, the State was able to show a state of facts which the State submitted corroborated Jim Conley in his evidence, but it remained for the defendant himself to produce in the affidavit of Mrs. Maud Bailey conclusive evidence that the negro Jim Conley was sitting at this particular place, as he contends. This said witness in her affidavit, says: "Deponent further says that when she entered the pencil factory, that day, Jim Conley was sitting on a box between the stairway and the elevator on the first floor.

Deponent says she would not have noticed Conley but for the fact that he made a noise with his foot upon the box upon which he was sitting, which attracted her attention and caused her to look up and see him. "But The State insists that the affidavit of the said Bailey, as to seeing Jim Conley there is unworthy of belief, because the State will show that among the first people sent for and examined fully as to everything that they knew about this transaction was this said Mrs. Maud Bailey, and her