

REPLY TO FIFTH AMENDMENT TO EXTRAORDINARY MOTION FOR NEW TRIAL.

oooOooo

STATE OF GEORGIA, (). No. 9410.
 Vs. (). Fulton Superior Court.
Leo M. Frank. (). Extraordinary Motion for New
 (). Trial.

:-----:

State of Georgia, responding to the fifth amendment to the extraordinary motion for new trial, as allowed on May 1, 1914, says:

1. With reference to the alleged newly discovered evidence disclosed in affidavit of Georgia Denham, the State says:

The contention of the State was that Conley had assisted Leo M. Frank in removing the body. Even if it should be conceded that the said Conley had blood on his shirt, it would, the State insists, be another fact corroborating the State's contention that said Conley assisted the real murderer of Leo M. Frank in removing said body, and in no event would it be a material fact, if it be a fact, showing that Conley had himself committed the crime.

The State introduced as a witness Holleway, an employee of the National Pencil Company. Said Holleway entrapped and misled the State in several particulars. With reference to said Conley and the shirt worn by the said Conley, the brief of evidence shows that said Holleway swore as follows: "On Monday morning I saw Conley. Instead of being upstairs where he ought to be, sweeping, he was down in the shipping room, watching the detectives, officers and reporters. I caught him washing his shirt. Looked like he tried to hide it from me. I took it up and looked at it carefully and looked like he didn't want me to look at it at all".

The State insists that had there been any blood on said shirt that said Holleway undoubtedly would have seen the same, because he says he looked at the shirt carefully. The brief of