

had thought about this cause more than any other he had ever tried; that he was not certain of the defendant's guilt; that with all the thought he had put on this case, he was not thoroughly convinced that Frank was guilty or innocent, but that he did not have to be convinced; that the jury was convinced; that there was no room to doubt that; that he felt it to be his duty to order that the motion for a new trial be overruled. This defendant says that under the provisions of the Fourteenth Amendment to the Constitution of the United States, no State could deprive this defendant of his life or liberty without due process of law, nor deny him the equal protection of the laws, and that he has not been afforded due process of law, and that he has been denied the equal protection of the laws, in that the said Judge, in so as aforesaid denying to him a new trial in said cause, did not, as shown by his said statement, give to this defendant the judicial determination of said motion to which defendant was entitled by law; that said Judge being constituted by law as one of the triors did not afford to this defendant the protection which the law guarantees, the law being that defendant is entitled to the benefit of every reasonable doubt, the presumption of innocence being in defendant's favor, and the trial judge, though entertaining the doubt which he felt as to this defendant's guilt, and nevertheless denying to him a new trial, by said action denied to this defendant the fair and lawful trial he is entitled to, and thereby this defendant has been denied the due process of law.

7.

Because that fair and impartial trial was not accorded defendant which is guaranteed to him by the Constitution of the United States, as contained in the Fourteenth Amendment to said Constitution, to-wit: "nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws." In support of this ground movant alleges that the court room wherein this trial was had had a number of windows on the Pryor Street side looking out on a public street of Atlanta, and furnishing easy access to any noises that might occur upon the street; that there is an open alley way running from Pryor Street on the side of the court house, and there