

within the court room signifying their feelings by applu<sup>a</sup>se and other demonstrations; and on the trial, and in the presence of the jury, the trial Judge in open court conferred with the Chief of Police of Atlanta, and the Colonel of the Fifth Georgia Regiment, stationed in Atlanta, which had the natural effect of intimidating the jury, and so influencing them as to make impossible a fair and impartial consideration of Defendant's case; indeed, such demonstrations finally actuated the Court in making the request of Defendant's counsel, Messrs. Rosser and Arnold, as detailed in paragraph three of this motion, to have Defendant, and the counsel themselves to be absent at the time the verdict was received in open court, because the Judge apprehended violence to Defendant and his counsel; and the apprehension of such violence naturally saturated the minds of the jury so as to deprive this Defendant of a fair and impartial consideration of his case, which the Constitution of the United States in the Fourteenth Amendment hereinbefore referred to, entitled him to.

On Saturday, August 23, 1913, previous to the rendition of the verdict on August 25th, the entire public press of Atlanta appealed to the Trial Judge to adjourn Court from Saturday to Monday, owing to the great public excitement, and the Court adjourned from Saturday, 12:00 o'clock M., to Monday morning, because he felt it unwise to continue the case that day, owing to the great public excitement, and on Monday morning the public excitement had not subsided, and was as intense as it was on Saturday previous. X And when it was announced that the jury had reached a verdict, the Trial Judge went to the Court Room and found it crowded with spectators, and fearing violence in the Court Room, the Trial Judge cleared it of spectators, and the jury was brought in for the purpose of delivering their verdict. When the verdict of guilty was announced, a signal was given to the crowd on the outside to that effect."

Wherefore the State insists that said special demurrer should be sustained, and said quoted paragraphs stricken from the petition of said Leo M. Frank, herein referred to, if and in the event the Court refuses to dismiss the entire petition, as the State insists should be done under and by reason of the general