

DEFENDANT'S EXHIBIT 8/

Eight carbon copies of eight letters, all dated April 26, 1913, and addressed to

Schroder & Lombard Engraving Co., 18 Franklin St., N. Y.
Henry Diston & Sons, Philadelphia, Pa.
J.G. McGrory Co., 621 Broadway, N. Y.
Southern Bargain House, Richmond, Va.
American Zylacq Co., Inc., 8 Livingston St., Newark, N.J.
A.J. Sossner, 154 Duane St., N. Y.
The Pullman Co., Chicago, Ill.
Schroder & Lombard, 18 Franklin St., N. Y.

and signed "National Pencil Company, by _____, Supt."

On each letter are the initials "LMF:HH".

Each letter acknowledges receipt of letter received from the firm addressed and whose names are set forth above (which original letters from said firms are attached to the respective carbon copy which it purports to answer), and have to do with matters of business connected with the National Pencil Company.

DEFENDANT'S EXHIBIT 9

A large book containing all of the financial sheets of the National Pencil Company, beginning with the week ending November 25, 1909, and ending with the week ending April 24, 1913. Each of these sheets purport to cover the financial operations of the National Pencil Company for the respective week named thereon, and in form is identical with the sheet of April 24, 1913, set forth herein as "Defendant's Exhibit 2".

DEFENDANT'S EXHIBIT 10.

A small receipt book containing the following receipts:

April 19, 1913, Received of National Pencil Co. 15 cents-
Kerosene. (Signed) Nute Lee, F.

April 21, 1913, Received of National Pencil Co. 75 cents-
type. (Signed) A. Mann, F.

April 21, 1913, Received of National Pencil Co. Two dollars,
Dray. (Signed) Truman McGrary.

April 21, 1913. Received of National Pencil Co. ~~two dollars~~
\$2.50, cases. (Signed) John Glass.

April 21, 1913. Received of National Pencil Co. 35¢ -express-
Warner. (Signed) So. Express Co., F.

April 21, 1913. Received of National Pencil Co. 59¢ -postage
stamps. (Signed) A. Mann, F.

April 21, 1913. Received of National Pencil Co. 03¢-parcel
post. (Signed) A. Mann, F.

April 22, 1913. Received of National Pencil Co. \$2.00, rent
two weeks typewriter. (Signed) Underwood Typewriter Co., F.

April 22, 1913, Received of National Pencil Co., \$1.25, cases
(Signed) Dan Reid, F.

April 22, 1913, Received of National Pencil Co., \$1.70, Dray,
(Signed) Truman McGrary.

April 22, 1913. Received of National Pencil Co. 45¢ supplies.
(Signed) Mr. Schneegass.

April 22, 1913, Received of National Pencil Co. \$3.50, cases.
(Signed) John Glass, F.

April 23, 1913, Received of National Pencil Co. \$1.75, cases,
(Signed) Dan Reid, F.

April 23, 1913. Received of National Pencil Co. 85¢, inv. 2/1/13
(Signed) King Haw Co., Green.

April 23, 1913, Received of National Pencil Co. \$1.50, dray.
(Signed) Truman McGrary.

April 24, 1913, Received of National Pencil Co. 50¢ postage
stamps. (Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. 11.50, tinsmith
job. (Signed) Paul Armbrust, R.F.D. #3, Atlanta, Ga.

April 24, 1913. Received of National Pencil Co. 13¢-parcel post
(Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. 05¢ -thread.
(Signed) A. Mann, F.

April 24, 1913. Received of National Pencil Co. 1.00, dray.
(Signed) Truman McGrary.

April 25, 1913. Received of National Pencil Co. 10¢ carefare.
(Signed) A. Mann, F.

April 26, 1913, Received of National Pencil Co. \$2.00, dray

April 26, 1913. Received of National Pencil Co. 75¢-express.
(Signed) So. Express Co., F.

April 26/1913. Rec'd of N.P. Co. \$4.00 time for office work
(signed) Herbert Wright . F

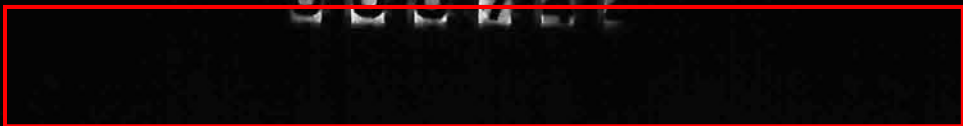
DEFENDANT'S EXHIBIT 11.

Comparison sheet, 1912-1913, being part of data for financial sheet:

Comparison 1912-13

Wk ending Apr. 24/13

(45 hrs) 1912	:	1913
Payroll	:	
1036. 15	:	1052.55
Mch. Shop	:	
47.75	:	70.00
Expense	:	
1584.55	:	1623.20
Matl. Cost	:	
1271. 46	:	1552.55
Total expenditures	:	
2856.01	:	3175.75
Net Value Productions	:	
2431.22	:	3066.31
Apparent Results -Deficit	:	
424.79	:	Def. 109.44
Value shipments	:	
3323.22	:	5438.78
	:	
2509 gr.	:	4374 Gr.
Productions: Net	:	
2132½	:	2719½
Good	:	
457½	:	700
Medium	:	
829	:	629½
Cheap	:	
546	:	599
Jobs	:	
300	:	791
Percent Jobs	:	
14%	:	29%
Remarks:	:	
19120 55 hrs .work	:	

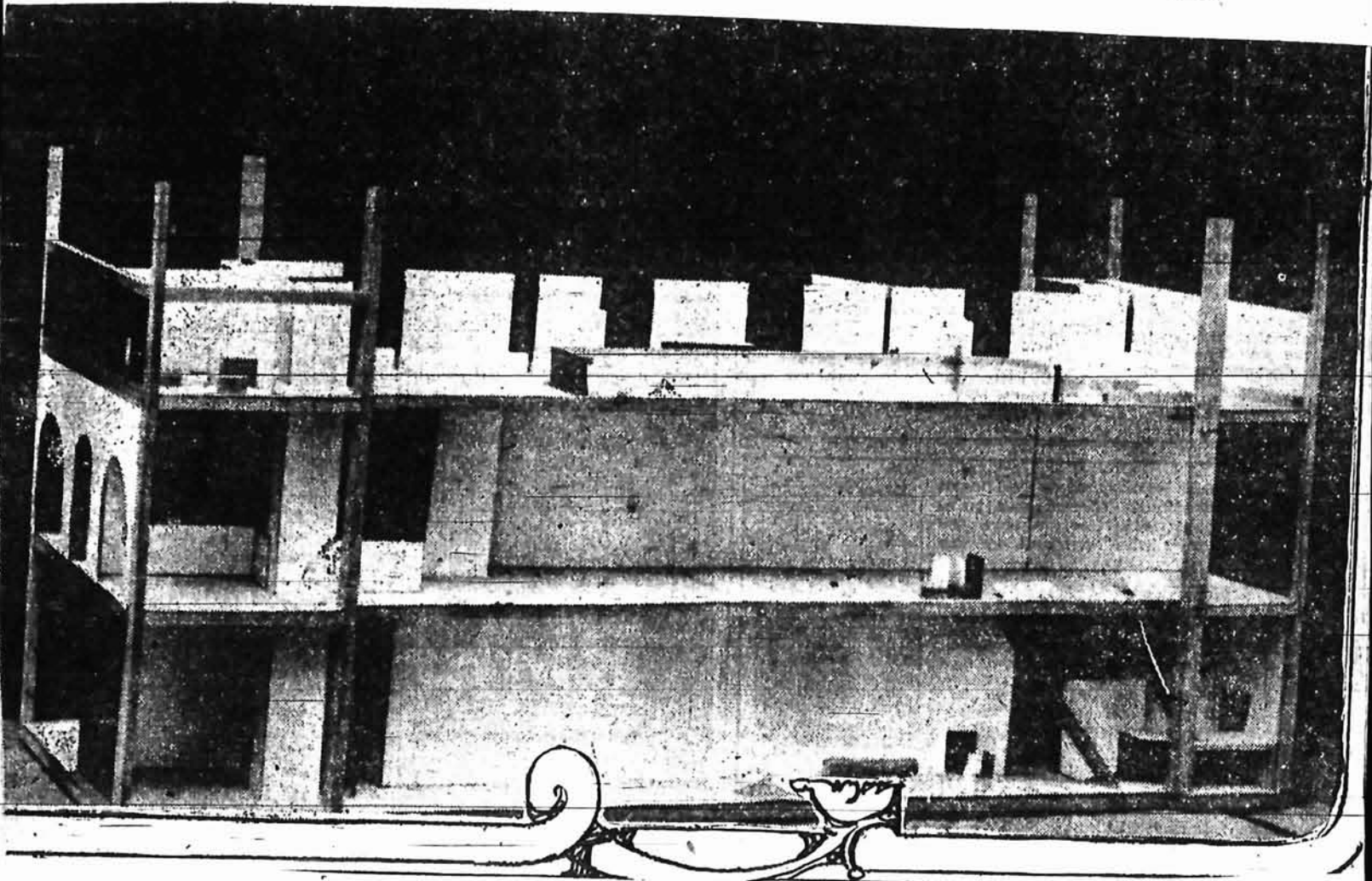


DEFENDANT'S EXHIBIT 12.

Salesman-Ship to	Kind	Order No.	City-State	date rec'd	how ship	shipped
7187-D.P. F.W.W.Co.	#57- Reg.	4/24/13-	St. Joe, Mo.	4/26/13-	at once-	4/28/13
7188-D.P.	" #68-	" 4/23/13-	Terra Haute, Ind.	4/26/13	" "	4/28/13
7189-D.P.	" #253-	" 4/22/13-	Logansport, Ind.	4/26/13	" "	4/28/13
7190-D.P.	" #585	" 4/22/13-	DeKalb, Ill.	4/26/13	" "	4/28/13
7191-D.P.	" #25	" 4/24/13-	Wilkesbarre, Pa.	4/26/13	" "	4/28/13
7192-D.P.	" 262	" 4/24/13-	Saratoga Springs, N.Y.	4/26/13	" "	4/28/13
7193-Mail, U.S. Store	-Box 5 & 10¢	" 04355-	Sault Ste Marie, Mich.	4/26/13	" "	7/9/13
7194-H.G. Beutell Bros. Co	"	" 4/23/13-	Dubuque, Iowa-	4/26/13	" "	5/6/13
7195-Facty-Montag Bros.	"	" 4/26/13-	Atlanta, Ga.	4/26/13	" "	6/9/13
7196-Jno. Lawrie-	John Magnus Co	4/26/13 134-	Chicago, Ill.	4/26/13	" "	4/28/13
7197-G.H. Kindell Co.	-Spec.	4/24/13-	Cincinnati, Ohio.	4/26/13	" "	

DEFENDANT'S EXHIBIT 13.

Model of the National pencil Company made by T.H. Willett.



40/1

DEFENDANT'S EXHIBIT 14, to 24 inclusive.

Eleven original orders addressed to the National Pencil Co., Atlanta, Ga., signed by the following firms:

F.W. Woolworth Co.	(Store #57- St. Joe., Mo.
" "	" " 68- Terra Haute, Ind.
" "	" " 253- Logansport, Ind.
" "	" " 585- DeKalb, Ill.
" "	" " 25- Wilkesbarre, Pa.
" "	" " 262- Saratoga Springs, N.Y.
See 5 @ 10¢ Store,	Sault Ste. Marie, Mich.
Beutell Bros. Co.,	Dubuque, Iowa
Montag Bros.,	Atlanta, Ga.
John Magnus Co.,	Chicago, Ill.
R.E. Kindell & Co.,	Cincinnati, Ohio.

Said orders request the National Pencil Company to ship to said respective firms, at once, certain merchandise (pencils) noted therein. Each of said orders describes the quantity of pencils desired, the style number and a complete description of the kind of pencils wanted, name, color, shape, etc. On each order is stamped the National Pencil Company's number as follows: "House No. 7187; House No. 7188; House No. 7189; House No. 7190; House No. 7191; House No. 7192; House No. 7193; House No. 7194; House No. 7194; House No. 7195; House No. 7196; House No. 7197; House No. 7198; House No. 7199." There is also stamped on each of said orders the following: "Acknowledged, April 26, 1913, by H.H.", and also "shipped complete, April 28, 1913", with the exception of the order of R. E. Kindell & Company, House No. 7197, which is marked on the face of it "cancelled June 17, 1913", the letter of R. E. Kindell & Company cancelling said order being attached thereto.

DEFENDANT'S EXHIBIT 25.

Requisition sheet in handwriting of Leo M. Frank as follows:

House No.
7187

Date April 26 1913

Salesman Bill to } D.P.

Order No. 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.,
MANUFACTURERS

Ship to F.W.W.Co. #57 At 617 Felix Str.

Ship When at once St. Joseph,

Remarks: Mo.

April 28, 1913

Sales No.	Amount	Name or Remarks
45x	4	#4 4 ✓
220x	1/2	#4 1/2 ✓
280x	1/2	#4 1/2 ✓
440x	1/2	#5 1/2 ✓
720x	1/2	W.P.
630x	1/2	1/2 ✓
910	1/2	1/2 ✓
902	1/2	1/2 ✓
430	1/2	1/2 ✓
240	1/2	1/2 ✓

O.K. Complete
HGS

Date Complete Shipment April 28, 1913

Shipped Complete
April 28, 1913
2700

DEFENDANT'S EXHIBIT 86.

Requisition sheet in handwriting of Leo M. Frank as follows:

House Order
7188

Date April 26, 1913 191

Salesman } D.P.
Bill to }

Order No. 4/23/13

NATIONAL PENCIL CO., ATLANTA, GA.,
MANUFACTURERS

Ship to F.W.W.Co. #68

At Terre Haute,

Ship When at once

Remarks:

Ind.

Sales No.	Amount	Name or Remarks	April 28, 1913
37	1		1 ✓
35	3		3 ✓
45	2		2 ✓
120	2		2 ✓
155	3		3 ✓
920	1		1 ✓
910	1		1 ✓

Complete

O.K.
HGS

Date
Complete
Shipment
Apr. 28, 1913

Shipped Complete
Apr. 28, 1913.

29.51

404

DEFENDANT'S EXHIBIT 27.

Requisition sheet in handwriting of Leo M. Frank as follows:

House No.
7189

Date Apr. 26, 1913 191

Salesman }
Bill to } D.P.

Order No. 4/22/13

NATIONAL PENCIL CO.,
MANUFACTURERS

ATLANTA,
GA.,

Ship to F.W.W.CO. #25 At Logansport,

Ship When At once

Remarks: e/o Penna Ry Ind.

Sales No.	Amount	Name or Remarks	Apr. 28, 1913
10	4		4 ✓
37	1		1 ✓
35	1		1 ✓
20	2	30 Sub.Pls.	2 ✓
45	1		1 ✓
140	1		1 ✓
155	1		1 ✓
660	1		1 ✓
630	1		1 ✓
910	1		1 ✓
1002	1		1 ✓
1003	1		1 ✓
440	1/2		1/2 ✓
280	1/2		1/2 ✓

O.K.
HGS Complete

Date
complete
shipment
Apr. 28, 1913

SHIPPED COMPLETE
Apr. 28, 1913
2703

405

DEFENDANT'S EXHIBIT 28.

Requisition sheet in handwriting of Leo M. Frank as follows:

House No.
7190

Date Apr. 26, 1913 191

Salesman } D.P.
Bill to }

Order No. 4/22/13

NATIONAL PENCIL CO., ATLANTA, GA.
MANUFACTURERS

Ship to E.W.W.Co. #585

At 347 E. Main St.

Ship When at once

DeKalb, Ill.

Remarks:

Sales No.	Amount	Name or Remarks	Apr. 28, 1913
10	4		4
20	2	30 sub.Pts.	2
37	2		2
35	2		2 ✓
45	2		2 ✓
120	2		2 ✓

O.K. Complete
HGS

Date
complete
shipment

Apr. 28, 1913

SHIPPED COMPLETE
Apr. 28, 1913
2704

DEFENDANT'S EXHIBIT 29.

Requisition sheet in handwriting of Lee M. Frank as follows:

House No.
7191

Date Apr. 26, 1913 191

Salesman /
Bill to } D.P.

Order No. 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.,
MANUFACTURERS

Ship to F.W.W.Co. #25

At Wilkes-Barre,

Ship When e/o Penna Ry

Penna

Remarks: at once

Sales No.	Amount	Name or Remarks	Apr. 29, 1913
10	5		5 ✓
35	5		5 ✓
770	2	#3	2 ✓
430	5		5 ✓
640	2		2 ✓
240	2		2 ✓
902	1		1 ✓
280	1/2	#2	1/2 ✓
280	1/2	#3	1/2 ✓
280	1/2	#4	1/2 ✓
440	1	#2	1 ✓
440	1	#3	1 ✓
440	1	#4	1 ✓
720	1	W P	1 ✓

OK
HGS

CS
Complete

date
complete
shipment
Apr. 29, 1913

SHIPPED COMPLETE
Apr. 29, 1913.

407

DEFENDANT'S EXHIBIT 30.

Requisition sheet in handwriting of Leo M. Frank, as follows:

House No.
7192

Date Apr. 26, 1913 191

Salesman Bill to { D.P.

Order No 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.,
MANUFACTURERS

Ship to F.W.W. Co/ #262

At Saratoga Springs,

Ship When at once

N.Y.

Remarks: a/o D. & H. Ry

416-18 Broadway

Sales No.	Amount	Name or Remarks	4/28
10	5		5 ✓
20	5	30 Sub Pts.	5 ✓
37	1		1 ✓
35	1		1 ✓
45	1		1 ✓
120	1		1 ✓
140	1		1 ✓
155	1		1 ✓
770	1	#3	1 ✓
660	1		1 ✓
630	1		1 ✓
920	1	930 Sub.	1 ✓
910	1		1 ✓
950	1		1 ✓
430	1		1 ✓
220.	1	#3	1 ✓
220	1	#4	1 ✓
640	1		1 ✓
1002	1/2		1/2 ✓
1003	1		1 ✓
280	1/2	#2	1/2 ✓
280	1/2	#3	1/2 ✓
480	1/2		1/2 ✓
440	1/2		1/2 ✓
720	1/2	W P	1/2 ✓

OK HCS CS

SHIPPED COMPLETE
APR 28 1913
2699

408

DEFENDANT'S EXHIBIT 31.

Requisition sheet in handwriting of Leo M. Frank, as follows:

House No. _____
7193

Date Apr. 26, 1913 191

Salesman
Bill to

Mail

Order No. G4355

NATIONAL PENCIL CO., ATLANTA, GA.,
MANUFACTURERS

Ship to 500 5 & 10¢ Store

At Sault Ste. Marie,

Ship When August 1 st

Mich

Remarks:

Sales No.	Amount	Name or Remarks
10	10	
35-37	5	Asstd
45	5	
910	5	
640	5	
1002	2	
1003	2	

Best Route to Chicago

then by water

409

DEFENDANT'S EXHIBIT 32.

Requisition sheet in handwriting of Leo M. Frank, as follows:

House No.
7194

Date Apr. 26, 1913 191

Salesman }
Bill to } H.G.

Order No. 4/23/13

NATIONAL PENCIL CO.,
MANUFACTURERS

ATLANTA,
GA.

Ship to Buetell Bros. Co.

At 819-859 Clay Str.

Ship When At once

Dubuque, Iowa

Remarks:

Sales No.	Amount	Name or Remarks	May 6, 1913
480	5		5 ✓
210	5		5 ✓
55	25		25 ✓
20	20		20 ✓
30	25		25 ✓

O.K.
HGS

Complete

(Shipping Clerk
Include all B'O's with this)

date
complete
shipment
May 6, 1913

SHIPPED COMPLETE
May 6, 1913
2733

410

DEFENDANT'S EXHIBIT 33

Requisition sheet in handwriting of Leo M. Frank, as follows:

House No.
7195

Date Apr. 26, 1913 191

Salesman {
Bill to } Faoty

Order No. 4/26/13

NATIONAL PENCIL CO., ATLANTA, GA.,
MANUFACTURERS

Ship to Montag Bros.

At Atlanta,

Ship When at once

Ga.

Remarks:

Sales No. Amount Name or Remarks May 26, 1913

135x ✓	50	Blks. sub. 35 gro.Pts.	50 ✓	
1900 ✓	10	added 4/29		8
1920 ✓	10	Transferred		5
1540 ✓	10	"	10 ✓	
k910 ✓	10	"	10 ✓	
40x ✓	50	added 5/6/13	50 ✓	
420x ✓	2	" " "	2 ✓	
420x ✓	10	" 5/26/13		10

O.K.
HGS

OK
HGS

FILE

B

May 6, 1913

May 26, 1913

DEFENDANT'S EXHIBIT 34.

Requisition sheet in handwriting of Leo M. Frank, as follows:

House No.
7196

Date Apr. 26, 1913

191

Salesman
Bill to

Wno Lawrie & Sons

Order No. 134

NATIONAL PENCIL CO.,
MANUFACTURERS

ATLANTA,
GA.,

Ship to John Magnus Co.

At 1055 W. 35th St.

Ship When at once

Remarks:

Chicago, Ill.

Sales No.

Amount

Name or Remarks

Apr. 28, 1913

155x 25

25 ✓

O.K.
HGS

Careful selection of goods.

Complete

date
complete
shipment
Apr. 28, 1913

SHIPPED COMPLETE
Apr. 28, 1913
2698

DEFENDANT'S EXHIBIT 35.

Requisition sheet in handwriting of Leo M. Frank, as follows:

House No.
7197

Date Apr. 26, 1913 191

Salesman
Bill to H.G.

Order No. 4/24/13

NATIONAL PENCIL CO., ATLANTA, GA.,
MANUFACTURERS

Ship to R.E. Kindell & Co.

At 312 Plum St.,

Ship When at once

Cincinnati,
Ohio

Remarks:

Sales No.	Amount	Name or Remarks
160x Sp. 50	F.O. 154	51 1/2

No stamp

Hold

CANCELLED
6/17/13

413

DEFENDANT'S EXHIBIT 36.

STATEMENT OF JAMES CONLEY MADE TO JOHN R. BLACK
AND H. SCOTT AT POLICE BARRACKS, ATLANTA, GA.,
SUNDAY, MAY 18, 1913.

My full name is James Conley. I reside 172 Rhodes St. with Lorine Jones, who claims to be from Marietta, Ga. This woman is not my wife, and I have been living with her a little over two years. I have been having intercourse with Lorine Jones. I have been employed as elevator man and roustabout at the National Pencil Co. factory in Atlanta for the past two years. Before going to the pencil factory, I was employed by Dr. L. Palmer at Broad and Mitchell Streets, Atlanta, as a buggy driver. I worked for him for about one year. Previous to that time I worked for the Orr Stationery Co., Atlanta, as driver of wagon. Previous to that time I worked for Adam Woodward, as a stable hand for a year and three months. Previous to that time I worked for Mr. Copes wood yard, Atlanta, for five years. I am now 27 years of age, single.

On Saturday, April 26, 1913, I arose between 9 A.M. and 9:30 A.M. and ate my breakfast. At 10:30, I left the house, 172 Rhodes St. and went to Peters Street and visited a number of saloons between Fair and Peters and Haynes and Peters St. I purchased a half pine of Rye Whiskey from a negro who was walking along Peters St. about 11:00 A.M., I paying 40 cents for this whiskey. I visited the Butt-In Saloon and went back to the pool tables and saw three colored men shooting dice, and I joined them and won 90 cents from them. I then purchased some beer, paying 15 cents. I then walked up the street and visited Early's beer saloon, purchased two beers and wine, paying ten cents for same. This was all the money I spent on Peters St. and I arrived home at 2:30 P. M. and I found L. Jones ~~at~~ there and she asked me if I had any money. I replied yes, and gave her \$3.50 (one dollar in greenback, and the rest silver money). I drew \$3.75 from the pencil factory on Friday, April 25, between 6:00 and 6:30. I spent 15 cents for meats on Friday night. Before receiving the \$3.75, I did not have any money in my pocket. At 3:30 P. M. or 4:00 P. M., Saturday, April 26, I purchased 15 cents worth of beer and then returned to the house, and sent the little girl out to get 10 cents worth of stove wood and five cents worth of pan sausage. I remained at home all Saturday night and at 12 o'clock noon, Sunday, April 27, I walked up on Mitchell St. and got a cigarette, remaining there until 12:45 P.M., and returned home, remaining until 6:30 P. M., when I went to my mother's house, 92 Tatnall St. and got my lunch and then returned home and I remained at home until Monday, April 28th.

On April 28, I reported for work at the pencil factory at 7:05 A. M.

(Signed) James Conley.

414

DEFENDANT'S EXHIBIT 37.

STATEMENT OF JAMES CONLEY OF MAY 24, 1913

STATE OF GEORGIA,
COUNTY OF FULTON.

Personally appeared before the undersigned, a Notary Public, in and for the above State and County, James Conley, who being sworn on oath says:

On Friday evening before the holiday, about four minutes to one o'clock, Mr. Frank come up the aisle and asked me to come to his office. That was the isle on the fourth floor where I was working, and when I went down to the office he asked me could I write and I told him yes I could write a little bit, and he give me a scratch pad and told me what to put on it, and told me to put on there "dear mother", "a long tall, black negro did this by himself," and he told me to write it two or three times on there. I wrote it on a white scratch pad, a single ruled. He went to his desk and pulled out another scratch pad, a brownish looking scratch pad, and looked at my writing and wrote on that himself, but when I went to his office he asked me if I wanted a cigarette, and I told him yes, but they didn't allow any smoking in the factory, and he pulled out a box of cigarettes that cost 15¢ a box, and in that box he had \$2.50, two paper dollars and two quarters, and I taken one of the cigarettes and handed him the box and I told him he had some money in the box, and he said that was all right I was welcome to that for I was a good working negro around there, and then he asked me where Gordon Bailey (Snowball they call him) was, and I told him on the elevator and he asked me if I knew the night watchman and I told him no sir, I didn't know him, and he asked me if I ever saw him in the basement and I told him no sir I never did see him down there, but he could ask the fireman and maybe he could tell him more about that than I could, and then Mr. Frank was laughing and jollying and going on in the office, and I asked him not to take out any money for that watch man I owed, for I didn't have any to spare, and he told me he wouldn't, but he would see to me getting some money a little bit later. He told me he had some wealthy people in Brooklyn, and then he held his head up and looking out of the corner of his eyes and said "why should I hang" and that's all I remember him saying to me. When I asked him not to take out any money for the watch, he said you ought not to buy any watch, for that big fat wife of mine wants me to buy her an automobile but he wouldn't do it; I never did see his wife. On Tuesday morning after the holiday on Saturday, before Mr. Frank got in jail, he come up the isle where I was sweeping and held his head over to me and whispered to me to be a good boy and that was all he said to me.

(Signed) James Conley

Sworn to and subscribed before me
this 24th day of May, 1913.

(Signed) G.C. February,
Notary Public, Fulton County, Georgia.
(Seal)

DEFENDANT'S EXHIBIT 38.

STATEMENT OF JIM CONLEY, MAY 28, 1913.

STATE OF GEORGIA,
COUNTY OF FULTON.

Personally appeared before me, a Notary Public, in and for the above State and County, James Conley, who, being duly sworn, on oath says:

I make this statement, my second statement, in regard to the statement I made the statement that I went to the pencil factory

on Friday, April 25, 1913, and went to Frank's office at four minutes to one, which is a mistake. I made this statement in regard to Friday in order that I might not be accused of knowing anything of this murder, for I thought if I put myself there on Saturday, they might accuse me of having a hand in it, and I now make my second and last statement regarding the matter freely and voluntarily, after thinking over the situation, and I have made up my mind to tell the whole truth, and I make it freely and voluntarily, without the promise of any reward or from force or fear of punishment in any way.

I got up Saturday morning, April 26, between 9 and half past 9. I was at home 172 Rhodes St. There is a clock on the Atlanta University and I looked at that clock after I put on my clothes; I went to the door and poured some water out of the wash pan and then I looked at the clock on the Atlanta University, but I forget what time it was exactly, but I remember it was between 9 and half past nine. Then I washed my face and I eat some steak and some liver and bread and drank a cup of tea, and then I sat down in a chair a little while, about ten minutes, I guess, and then I told my wife to give me back the three dollars and I would get some paper money to keep her from losing it, to pay her rent with, and she give it to me, and I told her I was going to Peters St. and I went to Peters St. and stopped at the beer saloon near the corner of Peters and Haynes St. and I bought two beers there for myself and give another fellow a beer, I don't know what his name was, but they call him Bob. I don't know where he works but he had a whip over his shoulder. I stayed in that saloon 3 or 4 minutes just long enough to drink that beer, and then I walks up to the Butten-In Saloon and walks back to the pool table, and there were 4 fellows back there shooting dice, 5 with me, one was named Joe Bobs, and one was named Bob Williams, and I won 90¢. I don't know how long we were shooting for we were shooting on the sly unbeknownst to the bar tender, I guess we were shooting about ten minutes, and then I come to the bar and bought a glass of beer there at the Butten In Saloon, and then I went to Early's beer saloon on Peters St. and I bought a glass of beer there and I walked back to the toilet and stood there and made a cigarette and then bought another glass of beer, and I come out and bought a half pint of whiskey and I ~~xxx~~ drank some of the whiskey, and then I started to the Capitol City Laundry and on my way there I met Mr. Frank, at the corner of Forsyth and Nelson Sts going to Montags, and he told me to wait a minutes, and he asked me where I was going and I told him I was going to the Capitol City Laundry to see my mother, and he didn't say nothing, only he said to wait a minute until he come back, that he was going to see the Montags and I stood there until he come back, he was gone about 20 minutes, I guess. He come back and told me to come to the factory, that he wanted to see me, and I went to the factory with him, walking behind him, and he stopped at the Curtis Drug Store at Forsyth and Mitchell St. and he got a drink, and I waited on the outside until he come out, and then he told me to come on and I went to the factory with him. He had a box with him, which he carried with him to the Montags, it has an opener to it, and after we got to the factory, Mr. Frank took the box and put it there at the trash ~~barrel~~ barrel, which was just to the right of the steps as you go in, he put a box there for me to sit on. There were some great big boxes back further. He told me to sit down there until I heard him whistle. He just took his foot and pushed a box over there for me to sit on. Then he told me not to let Mr. Darley see me, and after Mr. Frank went up the steps, in a few minutes here comes a young lady downstairs, that was Miss Mattie, I think she had on a dark red suit, and a rain cloak and a parasol in her hand, but I didn't notice her hat. Then here comes Mr. Darley down, and he had on a gray suit of clothes, didn't have any hat on his head, and he stopped Miss Mattie at the front door, and when he stopped her I saw Miss Mattie with a handkerchief wiping her eyes. it seemed to me like she had been crying

that you get that next week" and they stood there and talked a-while, but I could not hear anything else they said, then she went on out the door and Mr. Darley come back up the steps, and Mr. Darley stayed up there a good while, then he come down and left and I did not see him anymore. Then here comes Mr. Holloway down, about 5 minutes after Mr. Darley had gone; Mr. Holloway went out on the sidewalk and stood there 3 or 5 minutes and then he come and went back up the steps, and then here come another colored fellow, a pegged legged one, and he went up the steps, he had some bills in his hands, and Mr. Holloway come back down with the pegged legged one and went out on the sidewalk and looked at the fellow's wagon, but what he said to him I don't know. It was wagon that had sides to it and I didn't see the name on it. It wasn't a regular dray, I don't think, it looked like it might have come from that plate glass company on Alabama St. Then Mr. Holloway went back upstairs and it wasn't long before Mr. Holloway come back down and was gone for good. I don't know how long, but I guess he stayed upstairs long enough to put on his coat and hat. I saw Mr. Holloway turn up to his right towards Hunter St., then there comes another lady into the factory, she had on a green looking dress, she works on the fourth floor, and she walked with her head down, sort of stoop shouldered, she works for Arthur White. She stayed up there 7 or 8 minutes and then she come back down with her money in her hand, and she stood just a little opposite me and tore the envelope open right there and took her money out and counted it, and she shut her hand up and went out the door and she turned towards Hunter St. and about 15 or 20 minutes after there, there wasn't any passing at all, and I set there on the box with my head against the trash barrel. I stretched my feet out and put my hat in my lap, but I couldn't say whether I went to sleep or not, and the next thing that attracted my attention, Mr. Frank whistled for me twice, just like this (indicating), and when he whistled I went on up the stairs and the double doors on the stairway were closed and I opened them and they shut themselves, and Mr. Frank was standing at the top of the steps and he said "you heard me did you" and I said "yes sir", and Mr. Frank grabbed me by my arm and he was squeezing my arm so tight his hand was trembling. He had his glasses on, and he had me just like he was walking down the street with a lady, and like he didn't want me to look behind me at all, and I thought it was because he had me so tight that made him tremble, and he carried me through the first office and into his private office, and then he come back in there, and he didn't say nothing, he grabbed up a box of sulphur matches, and he went back in the outer office, the door was open between his office and the outer office, and then he saw two ladies coming and he said to me, "gee here comes Miss Emma Clark and Miss Corinthia Hall" and he come back in there to me, he was walking fast and seemed to be excited, and he said to me "come right in here 'im", and he motioned to the wardrobe and I was a little slow about it and Mr. Frank grabbed me and give me a shove and put me in the wardrobe and he shut the doors and told me to stay there until after they had gone and I just heard Miss Emma say "good morning, Mr. Frank, are you alone" and Mr. Frank said "yes" and I couldn't hear them say nothing else, but I didn't know it was Miss Corinthia Hall until Mr. Frank spoke and said it was but I heard Miss Emma's voice; they didn't stay there long, until they were gone, I didn't hear them. The next move was, Mr. Frank come and let me out of the wardrobe. I don't remember Miss Hall and Miss Clarke using the telephone, if they did I didn't hear them, and I didn't see them myself. I stayed in the wardrobe a pretty good while for the whiskey and beer I had drank got me to ~~sweat~~ sweating. I couldn't hear them talking only I heard Miss Emma say "good morning". If they had been talking loud I could have heard them, but if they were talking low I couldn't. If they went upstairs, Mr. Frank must have kept right behind them to see that they didn't take off anything. Then after a while Mr. Frank he come into the office and he pulled out one of those round chairs from

I said "I got too hot in there," and he said "yes I see you are sweating". When he opened the door I was fixing to step out, and his eyes were looking larger than they usually look, and he jerked the door open and I was right there in front of the door, and then Mr. Frank said to me to sit down in a chair, in the one that turns all the way around, and when I sat down he told me to get up and shut the door; that was the door between his office and the stenographer's office, and I got up and shut it, and he said "Jim can you write". He was sitting down facing me and he brushed back his hair and I said "Yes sir, I can write a little bit Mr. Frank", and then he give me a pencil that he got off the top of his desk, and there was nothing on it, he turned a sheet over for me to write, and then he told me what to put on there, he told me to put on there "dear mother, a long tall black negro did this by hisself", and when I went ~~down~~ to put down "negro" I put it "n-e-g-r-o-s" and he said don't put no "s" there, he said that means negroes and he said now rub the "s" off and I rubbed the "s" out, he said "it means just one person like yourself", and he told me to write it again and I written it, and he looked at it and slapped me on the back and said "that's all right, old boy" and he said "write it again" and I written it for him three times. Then Mr. Frank reared back in his chair and asked me if I wanted a smoke and I told him yes sir, and he taken out a cigarette for himself and handed me the box and he sort of turned around when he handed me the box and I taken out a cigarette and he handed me the box of matches, and I taken out a cigarette and lit it and saw some money in the box and I handed the box of cigarettes back and he told me that was all right to keep them, and I told him he had some money in the box and he said that was all right I could have that. I taken it and stuck it in my pocket and then Mr. Frank looked around at me and held up his head towards the top of the house and said "why should I hang, I have wealthy people in Brooklyn". I didn't know what he was talking about, I didn't have any idea in the world what he was talking about, and he was winking and rubbing his hands together and touching me on the shank with his foot and took a deep breath, he said "why should I hang" and shook his head and rubbed his hands together. Then he asked me where was Snowball (Gordon Bailey) and I told him I didn't know sir, and he asked me did I know the night watchman and I told him no sir, I didn't know the night watchman personally, I just knew him by ~~padding~~ him, and he asked me if I had seen him in the basement at any time and I told him nor sir, that he would have to ask the fireman about that for he was down in the basement more than any of us was, and when I told Mr. Frank that he stuck one finger to his mouth and said "s-s-sh" that's all right", and then Mr. Frank told me he was going to take that note I had written and send it ~~is~~ off in a letter to his people when he wrote, and recommend me to them because I was a good working negro around there, and he liked me, and when Mr. Frank said that I said "~~xxx~~ don't take out another dollar for that watchman" and he said "all right I won't," and he said "I don't see why you want to buy a watch, because that big fat wife of mine wanted me to buy her an automobile but I won't do it!" I didn't say nothing about that for it didn't concern me and I didn't seem to concern the subject he was talking about at first, and then Mr. Frank told me when he wrote that letter he would not forget about me and he said "well I will see you later about this" and I said "all right sir" and then he reached in his pocket and pulled out his watch and said "it is nearly time for me to be going to dinner", but I didn't look at the watch. Then I asked Mr. Frank was that all he wanted with me right now and he said yes, and then I asked him again "do you mean I can have what's in the box sure enough Mr. Frank" and he said "yes", but all the time though he was talking and jollyng and going on with me, and I began to think it was something, for a white man to be playing with a negro, and during the time he cast his eyes up to the top of the house and said "why should I hang, I have wealthy people in Brooklyn". I never did know where Mr. Frank's home was, I thought this was his home all the time. Then Mr. Frank said "I

said "well, is that all you want for good Mr. Frank" and he said "yes" and I saw him go to his desk and take out a brownish looking scratch pad. The one I wrote on was white and was single ruled and I saw him take out a brownish looking one from his desk and he took his pencil and made a mark on it. I took it to be an "M", but he shut the tablet up and looked at me and told me that was all he wanted with me, and he come all the way to the top of the steps and he come 3 or 4 steps down to where he could see me until I hit the sidewalk, it seems as if he was watching me to see if I would take anything as I went out, but there was nothing to take unless I took a great big box, but when I passed those two doors on the steps there, Mr. Frank told me to leave one of them open, and I taken a little piece of iron they have there, and pushed it against the door to keep it from shutting and went on out in the street, and I pulled the front doors to when I went out, and I went to the beer saloon across the street and opened the cigarette box and it had two paper dollars in there and two silver quarters, and I laughed and said "good luck has done struck me", and I bought a ten cent double header and then went back to Peters St. and hand't none of the boys got there that I run with and I walks up there to the moving picture show and looked at the pictures and they didn't seem to be any good, and I come back down Peters St. looking for that fellow I got the half pint whiskey front, but I couldn't find him, and I struck out for home, and when I got home it was about half past two o'clock, and I took the bucket and went to Joe Carr's at Mangum and Magnolia St., and got fifteen cents worth of beer in it and come back home and sent the little girl to get a dime's worth of stove wood and a nickle's worth of pan sausage, and I eat half of the pan sausage up raw, and I give my old lady \$3.50, and the other little change I kept it, and I layed down across the bed and there is where I stayed until about half past eight that night, and I got up and set in front of the fire a little while and got to swimming at the head, and then here comes her sister, and after she left I went to bed and I didn't leave home no more until 12 o'clock Sunday, in the day time, and I walk-ed up on Mitchell St. and stayed up there until a quarter to one, and I come on back home, I was ~~feeling~~ feeling bad, and I layed down across the bed and stayed there until 6 o'clock, or 6:30 that night, and I waked up to my mother's at 92 Tatnall St. and they give me a lunch up there and I brought it on back home and I stayed there and eat it up and stayed at home until 10 minutes to 7 the next morning, and when I got to the corner of Forsyth and Mitchell St. the W. & A. blowed for 7 o'clock, and then I went running on to the factory, and it was 4 or 5 minutes after 7 o'clock, the clock may have been a little fast, and when I got there I went upstairs to the dressing room and in comes Gordon Bailey, and here comes Joe Williams and then Mr. Wade Campbell, the lead inspector, and he comes in there and says "wasn't it bad about that girl being killed", and we asked him "which girl" and it seemed like he said "Mary Puckett", and we asked him whereabouts and he said "in the basement" and we asked him if it was a white or colored girl" and he said "it was a white girl" and we told him "yes it was" and we asked him how she got killed and he said he didn't know, and then he come on out the door first and I come right behind him with the sprinkler in my hand, and then he went to the toilet and I went right behind him and got a sprinkler full of water and I stayed down the isle until about 9 o'clock, and I went and got my raw stuff on the 3rd floor and brought it up to the 4th floor and unloaded it, and then I said I would go to the basement and see who that was that got killed, and when I got there there was such a crowd of white people there I couldn't go back there, and then the fireman sent me to get him a nickle's worth of onions and a loaf of bread, and then here comes Gordon and he give me a nickle and the fireman give me a nickle and told me to get them a dime's worth of beer and I got it and we all drank it. I went back upstairs and stayed up there until about 15 minutes to 10, and the whistle blowed for the factory to shut down and 7 hours

tomorrow, and I went and changed shoes and pulled off the pants and put on my hat and come down at 10 minutes to 10, and didn't go back any more until Tuesday morning and went to work at Tuesday morning and got through with my work and went downstairs about half past 9 and there was such a crowd down there I didn't stay long, and I come back up the isle and went to taking up some trash and about half past 10 or 11 o'clock, Mr. Frank come back up the isle and leaned over to me and said "Jim be a good boy" and I said "yes sir, I am Mr. Frank" and when I heard from Mr. Frank again he was arrested.

I come to work Wednesday morning and started down to the basement and there was such a crowd down there I couldn't get to use the toilet, and I goes back upstairs and finished my work and works all that day, and Thursday morning I come to work and got caught up by 10 o'clock, and I went downstairs and the fireman and another colored fellow was down there and I asked the fireman where was that they say the young lady got killed at, and he told me right around there, and I took a little piece of paper and went around there to see if I could see, but I couldn't see where anybody had been laying at, and I come on back and found he was throwing some stuff into the furnace, and I went on upstairs and stayed there until 25 minutes to 12, and the detectives were giving us all subpoenas and I got my subpoena and went back upstairs and stayed up there until 5 minutes to 12, and I come down and went out in the streets and heard the whistle when it blowed for 12 o'clock, and I went back and started to cleaning up at half past 12 and got through cleaning at half past one. Then I went down to wash my shirt so I could have a clean one to wear to court for I had been wearing this one for three weeks and when I got back there and pulled off my shirt and washed it, then here comes Mr. Quinn and I asked him where was the dry house and he showed me where it was, and he told me, he said "Jim, there aint no steam in there now" and I said to myself I will have to hang this on the steam pipe to get it dry, and by me hanging it on there I got a little rust on it, and some of them saw me back there washing my shirt and called up the detectives and when the detectives come up there I had done put on my shirt and they asked me where was the shirt I was washing and I told them this here was the shirt, and they said yes because it is not good dry, and then told me to come and go with them and I did. They brought me down here and found there was no blood on the shirt, and give me my shirt back and that's all I know.

(signed) James Conley

Sworn to and subscribed before me
this the 29th day of May, 1913.

(signed) D. C. February
Notary Public, Fulton County, Ga.

DEFENDANT'S EXHIBIT 39.

GONLEY'S STATEMENT OF MAY 29, 1913.

Atlanta, Ga., May 29, 1913.

On Saturday, April 26, 1913, when I come back to the pencil factory with Mr. Frank, I waited for him downstairs like he told me, and when he whistled for me I went upstairs and he asked me if I wanted to make some money right quick and I told him yes sir, and he told me that he had picked up a girl back there and had let her fall and that her head hit against something, he didn't know what it was, and for me to move her, and I hollered and told him the girl was dead, and he told me to nick her up and bring her to

with and he told me to go and look by the cotton box where she

get a piece of cloth, and I got a big wide piece of cloth and come back there to the men's toilet where she was, and I tied her up, and I taken her and brought her up there to a little dressing room, carrying her on my right shoulder, and she got too heavy for me and she slipped off my shoulder and fell on the floor right there at the dressing room and I hollered for Mr. Frank to come there and help me, that she was too heavy forme, and Mr. Frank come down there and told me to pick her up, damn fool, and he run down there to me and he was ~~axix~~ excited, and he picked her up by the feet, her head and feet were sticking out of the cloth and then we brought her on to the elevator, Mr. Frank carrying her by the feet and me by the shoulders, and we brought her to the elevator and then Mr. Frank says "Wait, let me get the key", and ~~he~~ went into the office and got the key and come back and unlocked the elevator door and started the elevator down. Mr. Frank turned it on himself and we went on down to the basement and Mr. Frank helped me to take it off the elevator and he told me to take it back there to the sawdust pile, and I picked it up and put it on my shoulder again, and Mr. Frank, he went up the ladder and watched the trap door to see if anybody was coming, and I taken her back there and taken the cloth from around her and taken her hat and show which I had picked up upstairs right where her body was lying, and brought them down and untied the cloth and brought them back and threwed them on the trashpile in front of the furnace, and Mr. Frank was standing at the trap door at the head of the ladder. He didn't tell me where to put the things. I layed her body down with her head towards the elevator, lying on her stomach and the left side of her face was on the ground and the right side of her face was up, and both arms were laying down with her body, by the side of her body. Mr. Frank joined me back on the first floor, I stepped on the elevator and he stepped on the elevator when it got to where he was, and he said "gee that was a tiresome job" and I told him his job was not as tiresome as mine was, because I had to tote it all the way from where she was lying to the dressing room, and in the basement from the elevator to where I left her. Then Mr. Frank hops off the elevator before it gets even with the second floor and he makes a stumble and he hits the floor and watches with both hands, and he went on around to the sink to wash his hands, and I went and out off the motor, and I stood and waited for Mr. Frank to come from around there washing his hands, and then we went on into the office, and Mr. Frank he couldn't hardly keep still, he was all the time moving about from one office to the other, then he come back into the stenographer's office and come back and he ~~told~~ told me "here comes Emma Clark and Gorinthia Hall I understood him to say, and he come back and told me to come here and he opened the wardrobe and told me to get in there, and I was so slow about going he told me to hurry up, damn it, and Mr. Frank, whoever that was come in the office, they didn't stay so very long, till Mr. Frank was gone about 7 or 8 minutes, and I was still in the wardrobe and he never had come to let me out, and Mr. Frank come ~~and~~ back and I said "goodness alive you kept me in there a mighty long time" and he said "yes, I see I did", you are sweating" and then me and Mr. Frank set down in a chair. Mr. Frank then took out a cigarette and he give me the box and asked me did I want to smoke and I told him yes sir, and I taken the box and taken out a cigarette and he handed me a box of matches and I handed him the matches back, and I handed him the cigarette box and he told me that was all right, I could keep that, and I told him he had some money in it and he told me ~~what~~ that was all right, I could keep that, and Mr. Frank then asked me to write a few lines on that paper, a white scratch pad he had there, and he told me what to put on there, and I asked him what he was going to do with it and he told me to just go ahead and write, and then after I got through writing Mr. Frank looked at it and said it was all right, and Mr. Frank looked up at the top of the house and said "why should I hang, I have wealthy people in Brooklyn," and I asked him what about me, and he told me that was all right ab out me, for me to keep my mouth

where was the money he said he was going to give me and Mr. Frank said "here, here is ~~the~~ two hundred dollars," and he handed me a big roll of green back money and I didn't count it, I stood there a little while looking at it in my hand, and I told Mr. Frank not to take another dollar for that watchman I owed and he said he wouldn't - and the rest is just like I have told it before.

The reason I have not told this before is I thought Mr. Frank would get out and help me out, but it seems that he is ~~not~~ going to get out and I have decided to ~~xxxx~~ tell the whole truth about this matter.

While I was looking at the money in my hands, Mr. Frank said "let me have that and I will make it all right with you Monday if I live and nothing happens," and he took the money back and I asked him if that was the way he done and he said he would give it back Monday.

(Signed) James Conley.

Sworn to and subscribed before me
this 29th day of May, 1913.

(Signed) G. C. February,
Notary Public, Fulton County, Ga.

DEFENDANT'S EXHIBIT 40.

Cash book of the National Pencil Company, page 197 of which
contains the following entries, in Frank's handwriting:

Page 196

Cash

1913

To balance 39.85
4/22 To check 15.00
4/24 15.00
69.85

Dr.

39.85
15.00
15.00
69.85

1913

By kerosene .15
" type .75
" Dray 61.70
" cases 10.50
" express 1.10
" postage 1.00
" Parcel post .16
" 2 wks rent typewriter 2.00
" Supplies, Schneegass .45
" King Haw. Co. .85
" Tin smith 11.50
" thread .05
" carfare .10
" Herbert Wright 4.00
omitted from payroll 39.31
Balance to fwd. 30.54
69.85

cash

page 197

Cr.

825

DEFENDANT'S EXHIBIT 4A.

Cash book items made out by Frank to balance same.

Kerosene	.15	.15
Type	.75	.75
Dray	2.00	
	1.70	
	1.00	
	2.00	
	<u>6.70</u>	6.70
cases	2.50	
	1.25	
	3.50	
	1.75	
	1.50	
	<u>10.50</u>	10.50
Express	.35 & .75	
Postage	.50 & .50	1.00
Parcel post	.03 & .13	
Rent Typer	2.-2 wks	1.00
Supplies	.45-Schn.	
King Hdw.Co.	.85	1.16
Finsmith	11.50	2.00
Thread	.05	.45
Carfare	.10	.85
Herbert Wright	4.00	11.50
		.05
		.10
	39.85	4.00
	<u>30.00</u>	<u>39.31</u>
	69.85	
	<u>30.31</u>	
	30.54	

Cash box \$4.34 short
O.K. F-2/26/13

474

DEPENDANT'S EXHIBIT 42.

Letter written by Leo M. Frank to Mr. Moses Frank. The letter
and folded to say that would get ordinary rate
was not typewritten, but was in long hand, and was as follows: *enclosed*



ATLANTA, GA., April 26, 1913.

Dear Uncle:

I trust that this finds you and dear Tanta well after arriving safely in New York. I hope that you found all the dear ones well in Brooklyn, and I wait a letter from you telling me how you find things there. Lucille and I are well.

It is too short a time since you left for anything startling to have ~~developed~~ down here. The Opera has Atlanta in its grip, but that ends to-day. I've heard a rumor that Opera will not be given again in a hurry here.

To day was "Yondef" here, and the thin gray line of veterans, smaller each year, braved the rather chilly weather to do honor to their fallen comrades.

Enclosed you will find last weeks report. The shipments still keep up well, tho' the result is not what one would wish. There is nothing new in the factory etc. to report. Enclosed please find the price list you desired.

The next letter from me, you should get on board ship. After that I will write to the address you gave me, in Frankfurt.

With much love to you both, in which Lucille, joins me, I am,

Your affectionate nephew,
(Signed) Leo M. Frank.

DEFENDANT'S EXHIBIT 43.

Weekly report forwarded to Moses Frank by Leo H. Frank, enclosed in Leo H. Frank's letter to Moses Frank, as set forth in Exhibit "42", said report being in Frank's handwriting, same being folded to the same size as envelope set forth in Exhibit "44" herein.

FINANCIAL.

Week ending April 24, 1913.

Production: Net	2719 $\frac{1}{2}$	
Good	700	Gr.
Medium	629 $\frac{1}{2}$	Gr.
Cheap	599	Gr.
Jobs	791	Gr.

29%

Net Value Prod'n	\$3066.31	
Total Expenditures	3175.75	
Result-Deficit	<u>109.44</u>	

Shipments

\$5438.78
4374 gr.

Orders received	\$3320.31	value
	1904	Gross

O.K. - F

426

DEFENDANT'S EXHIBIT 44/

Envelope in which Leo M. Frank's letter (exhibit 42) to Moses
and weekly report (Exhibit 43)
Frank was enclosed, the address on said envelope being in Leo M.
Frank's handwriting.

<p>L. M. Frank NATIONAL PENCIL CO. ATLANTA, GA.</p>	<p>Atlanta, Ga. Apr 26 8-PM 1913</p>	<p>Cancelled stamp</p>
<p>Mr. M. Frank, c/o Hotel McAlpin</p>	<p>Greely Square,</p>	<p>New York, N. Y.</p>

427

DEFENDANT'S EXHIBIT 45.

Weekly report sent by Leo M. Frank to Oscar Pappenheimer and received by the latter on April 28, 1913, said report being in the handwriting of Frank.

FINANCIAL.

Week ending April 24, 1913.

Production:- Net	2719½	Gr.
Good	700	Gr.
Medium	629½	Gr.
Cheap	599	Gr.
Jobs	791	Gr.
	29%	

Net Value Prod'n	\$3066.31
Total expenditures	3175.75
Result- Deficit	<u>109.44</u>

Shipments
\$5438.78
4374, Gr.

Orders received	\$3320.31	Value
	1904	Gross

O.K.- F

000775

DEFENDANT'S EXHIBIT 46.

Weekly financial reports of the business of the National Pencil Company sent by Leo M. Frank to Oscar Pappenheimer, for each week beginning January 18, 1912 and ending with the week ending April 24, 1913, each of said reports being identical in form with the defendant's exhibit "45" and being in the handwriting of Leo M. Frank.

DEFENDANT'S EXHIBIT 47.

Pay envelope found by detective Moworth. It is an ordinary pay envelope used by the Pencil Company with the number "186" written thereon, with the first initials of a name on it, an "M" and a "P".

DEFENDANT'S EXHIBIT 48.

Club found by detective Moworth at the factory. The club is round, about three feet long and three inches in diameter, weighs approximately three pounds and has several red blotches thereon.

DEFENDANT'S EXHIBIT 49.

Brown suit of clothes worn by Leo M. Frank on April 26, 1913. Consists of coat, pants, and vest. Suit does not appear to be new, but is clean and unspotted.

DEFENDANT'S EXHIBIT 50.

Bank book showing account of Leo M. Frank with Atlanta National Bank. Shows balance on April 1, 1913, of \$111.13, and a deposit of \$15. on April 18. It further shows that the sum of \$109.85 had been drawn out on checks (defendant's exhibit 51), leaving a balance to the credit of depositor of \$16.28.

DEFENDANT'S EXHIBIT 51.

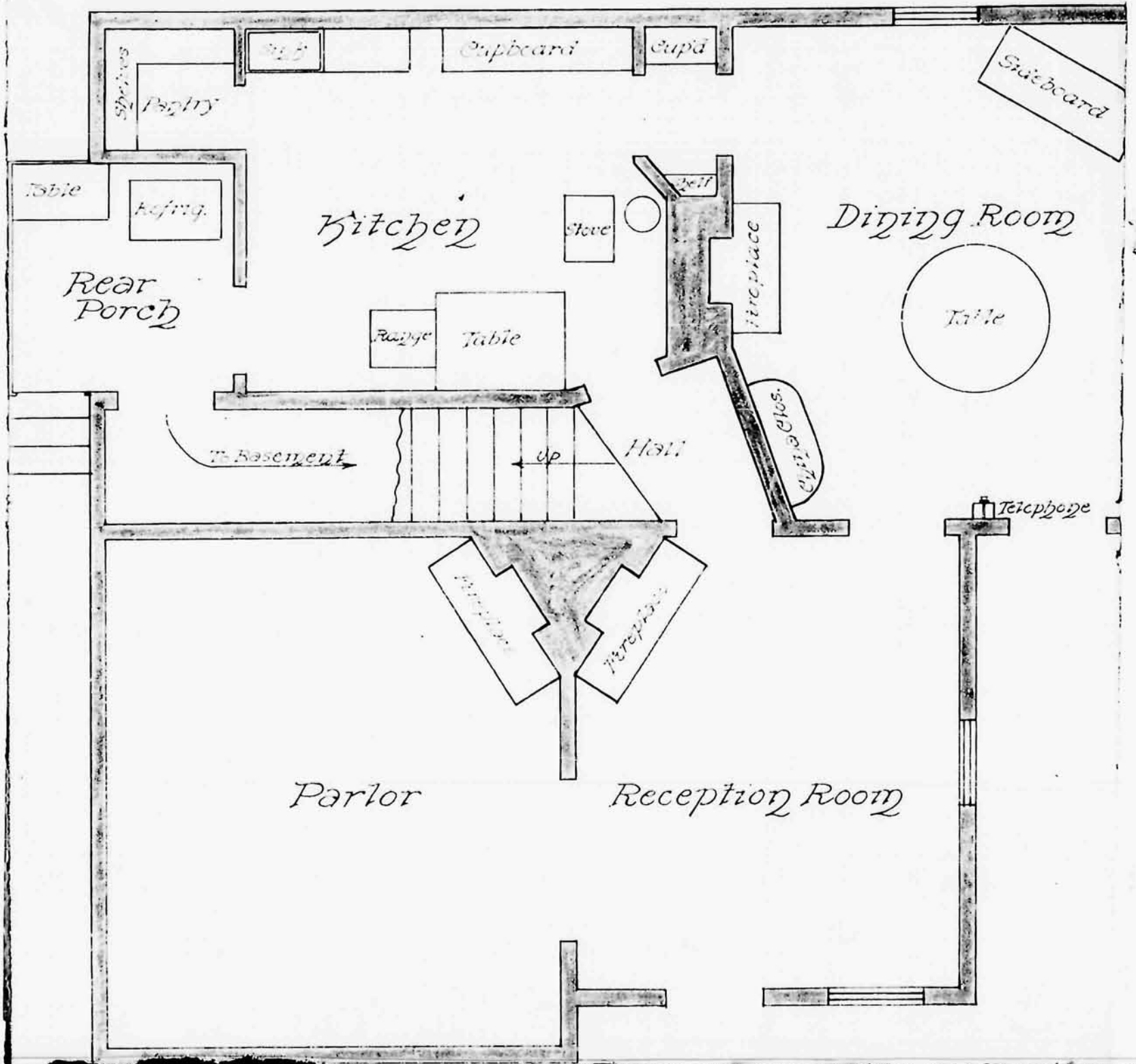
Twelve cancelled checks drawn on the Atlanta National Bank, signed by Leo M. Frank as follows:

No.	Date	Amount	Payee	Endorsements
450	4/1/13	\$20.00	Mrs. L.M. Frank	Mrs. L.M. Frank Chamberlain-Johnsen-DuBose Co.
451	4/1/13	1.50	West View Floral Co.	West View Floral Co.
452	4/1/13	12.34	Haas & Company	Haas & Company
453-A	4/9/13	32.50	Rivers Realty Co.	Rivers Realty Co. American Natl. Bank
453-B	4/9/13	8.00	Mrs. E. Selig	Mrs. E. Selig S.S. Schols Co. Travelers Bank & Tr. Co.
454	4/6/13	4.75	S.M. Truitt & Son	S.M. Truitt & Son
455	4/21/13	7.50	Alex Dittler, Secy	Alex Dittler, Secy Dittler Bros. Fourth Natl. Bank
456	4/2/13	6.26	Guthman Ldry Co.	Guthman Laundry & D.M. Co.
457	4/2/13	2.00	Maier & Berkele	Maier & Berkele
458	4/9/13	5.00	Self	Leo M. Frank
459	4/15/13	5.00	Self	Leo M. Frank
460	4/24/13	5.00	Self	Leo M. Frank

559

430

010107715



010107716



PULLMAN

3876

PULLMAN

21

311

4

5



SELLER'S RESIDENCE

UNFINISHED RESIDENCE



3873



WASHINGTON

3873

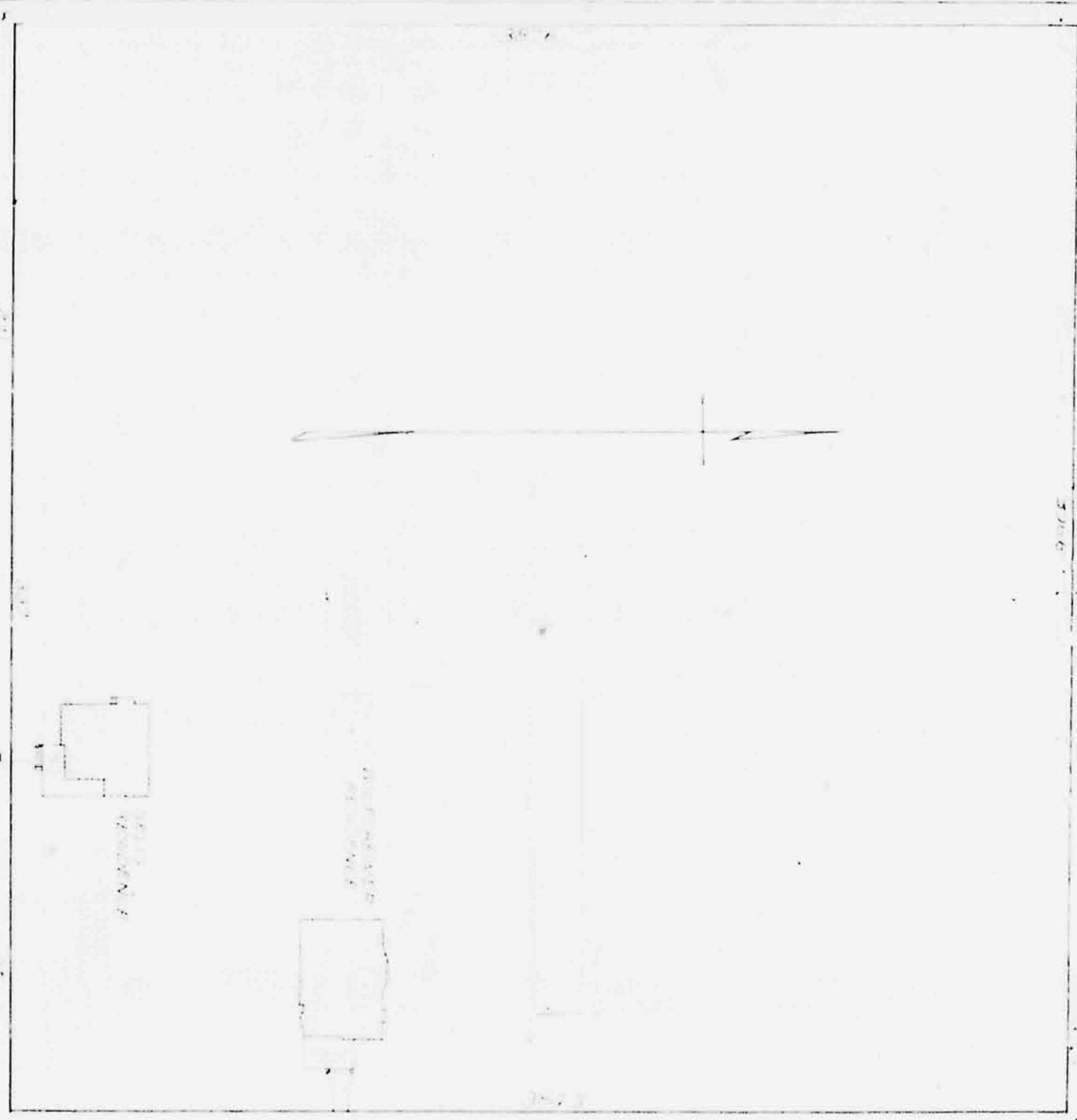


01010777



PULLMAN

ST.



PULLMAN

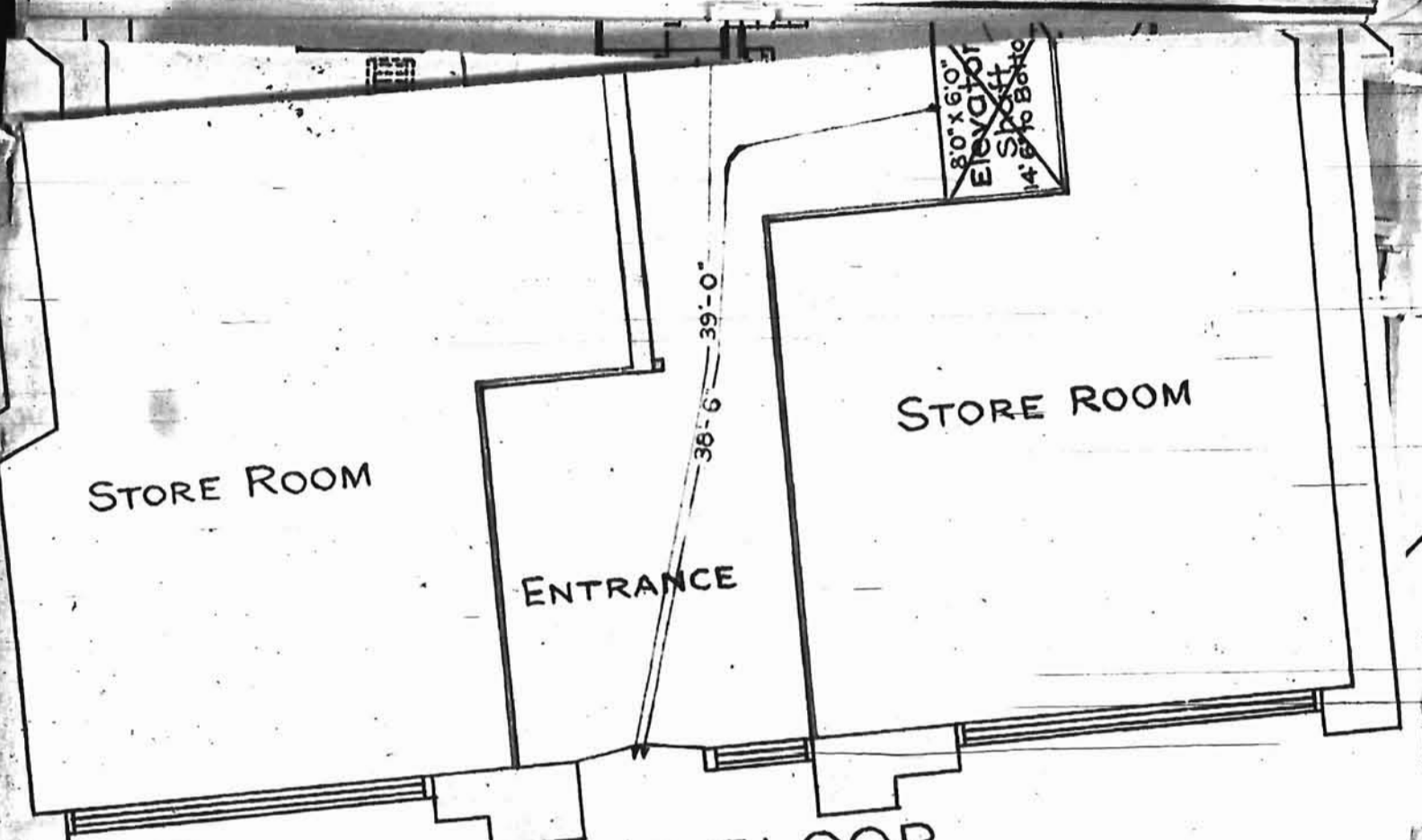
PULLMAN

PULLMAN

ST.

DEPENDANT'S EXHIBIT 61.

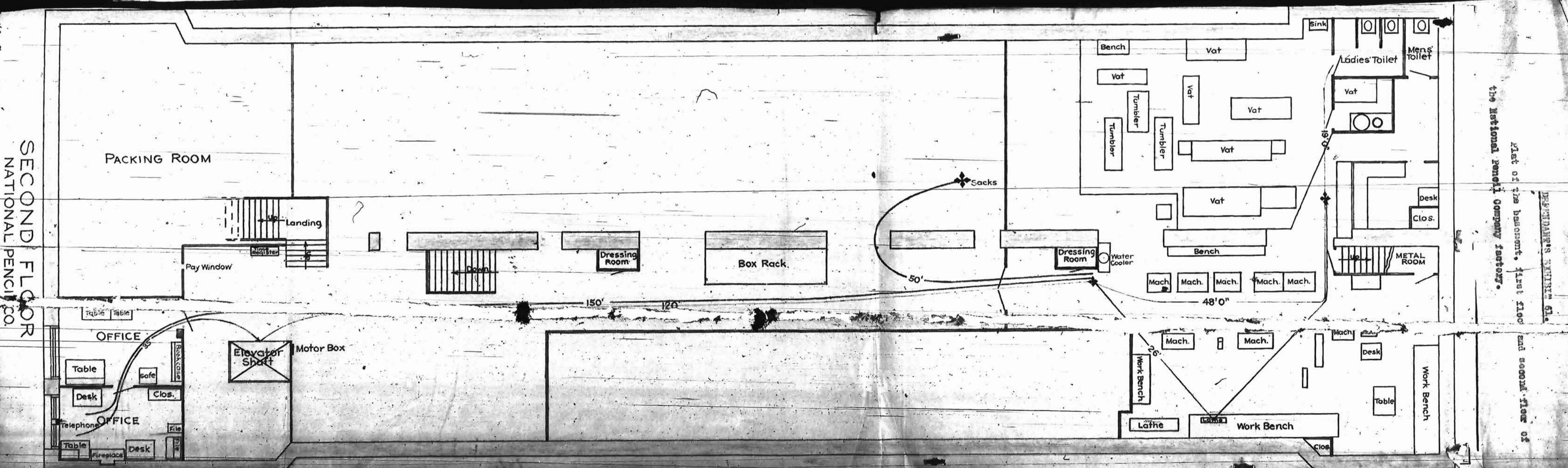
Plan of the basement, first floor and second floor of
the National Pencil Company factory.



FIRST FLOOR
NATIONAL PENCIL CO.

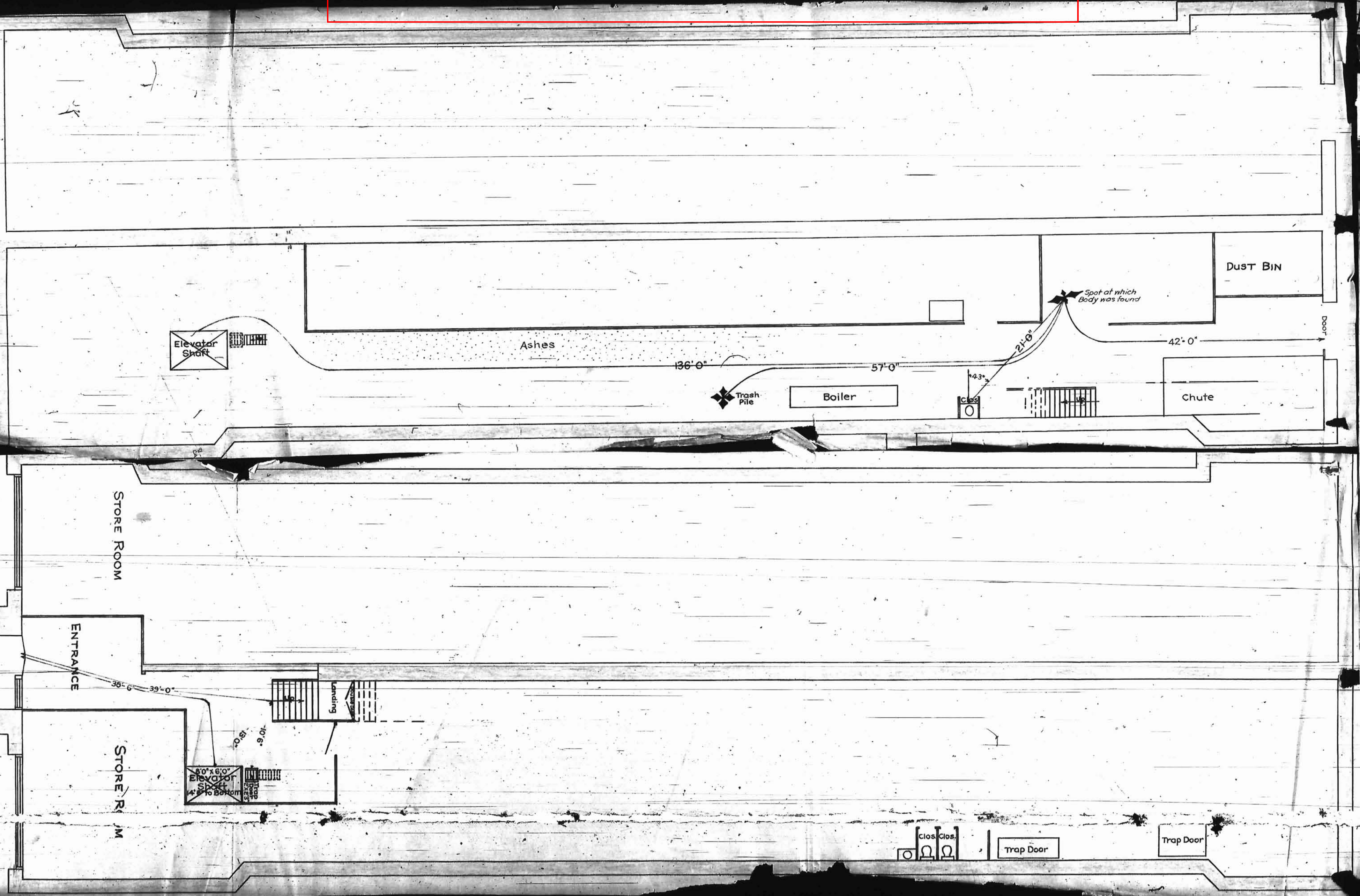
O. F. Hauffman & Bro. Civ. Eng.

$\frac{1}{8}'' = 1 \text{ ft.}$



BASEMENT
NATIONAL PENCIL CO.

FIRST FLOOR
NATIONAL PENCIL CO.



DEFENDANT'S EXHIBIT 62.

Picture of the Selig home taken from the outside of the back door of the kitchen. It shows the entire kitchen and also the door leading into the dining room. It shows nothing else in the dining room.

DEFENDANT'S EXHIBIT 63.

Picture of Selig home taken standing directly inside the back door of kitchen. Shows practically same view as last picture but shows no view at all of the dining room.

DEFENDANT'S EXHIBIT 64.

Picture of the safe with open door standing in outer office of the National Pencil Company.

DEFENDANT'S EXHIBIT 65.

Picture of the outer office of the National Pencil Company factory, showing the safe with the door wide open. Picture shows safe door shutting off any view into the inner office and shows no view of anything in the inner office.

DEFENDANT'S EXHIBIT 66.

Picture taken on the outside of the outer office looking toward the inner office with the safe door open. It shows no view at all into the inner office.

DEFENDANT'S EXHIBIT 67/

Picture showing the pay window in the office of the National Pencil Company factory.

DEFENDANT'S EXHIBIT 68.

Picture showing foot of elevator shaft in the basement of the National Pencil Company factory. Shows rubbish and trash in elevator shaft and barrels adjacent thereto.

DEFENDANT'S EXHIBIT 69.

Picture of basement of National Pencil Co. factory, looking from the elevator shaft to the back door.

DEFENDANT'S EXHIBIT 70.

Picture of the corner in the basement where body was found, around the left corner behind the partition shown on the picture.

DEFENDANT'S EXHIBIT 71.

Picture showing passage way leading to the back door in the basement of the factory. Picture shows boxes piled up on each side of the passage way to the height of the ceiling.

DEFENDANT'S EXHIBIT 72.

Picture showing entrance to the factory from the street. Shows the partition on the right immediately entering the factory, behind which is the elevator. The steps leading to the second floor of the factory are shown in the background.

DEFENDANT'S EXHIBIT 73.

Picture showing elevator shaft and trap door on the ground floor of the factory. Shows steps leading to the second floor on the left of the picture.

DEFENDANT'S EXHIBIT 74.

Picture of metal room, showing place where Conley claims to have found body.

DEFENDANT'S EXHIBIT 75.

Picture showing place where cotton sacks were kept.

DEFENDANT'S EXHIBIT 76.

Picture of the plating room.

DEFENDANT'S EXHIBIT 77.

Picture of the metal room, showing where the floor was chipped up by the detectives in front of dressing room.

DEFENDANT'S EXHIBIT 78.

Picture showing lathe where Barrett claims to have found hair.

DEFENDANT'S EXHIBIT 79.

Picture showing view from ^{second} ~~third~~ floor looking down steps to second floor. Picture shows man walking on second floor from the ~~metal~~ metal room toward the elevator.

DEFENDANT'S EXHIBIT 80.

Picture showing elevator box on the office floor.

DEFENDANT'S EXHIBIT 81.

Picture showing elevator wheel at the top of the fourth floor.

DEFENDANT'S EXHIBITS 82, 83, 84.

Pictures showing view of the metal room on the second floor.
Pictures show doors of the metal room to be partly made of transparent glass.

DEFENDANT'S EXHIBITS 85 and 86.

Pictures of the metal room closet with the door open and closed.

DEFENDANT'S EXHIBIT 87.

Blue print from which the model of the factory (defendant's exhibit ¹³) was made.

DEFENDANT'S EXHIBIT 88a, b, c, d, e

Five jars containing contents of stomach taken from different parties who had eaten cabbage and bread.

DEFENDANT'S EXHIBIT 89.

Extract from the minutes of Walton Superior Court showing three indictments for larceny from the house against C. B. Dalton, at the April Term, 1894 of said court. Pleas of guilty in each indictment and a fine of \$50. and twelve months in the chain gang sentence in each case. Also indictment of C. B. Dalton, at the February Term, 1899 of Walton Superior Court for stealing bale of cotton. Plea of not guilty, and verdict of jury finding defendant guilty, recommending punishment as for ~~misdemeanor~~ misdemeanor. Fine of \$20.00 and six months in chain gang.

900735

DEFENDANT'S EXHIBIT 90.

Testimony of Newt Lee before the Coroner's inquest as follows:

"He (Mr. Gantt) says "I would like to have them (shoes) because I got to go to work Monday." I says I can't let you in there unless Mr. Frank says so. He says 'Is Mr. Frank there?' I says, yes if you want me I will go up and ask him. By that time Mr. Frank comes down and runs right into Mr. Gantt, standing in the front door and he looked like he was frightened. I saw Mr. Frank was frightened, but I taken it this way, he and Mr. Gantt had fell out and he discharged Mr. Gantt and ~~he~~ I thought that he thought by him hanging around there that he was waiting for him and had come to do him some harm. Mr. Gantt said I got some old shoes up there and I would like to get them. Mr. Frank looked at him and said what sort were they, and he said they were tans. I says, I think I sees a boy sweep them up in the trash. He says I have some black ones up there too. Well, I says I don't know anything about any black shoes, then Mr. Gantt says I can go up there and see if I can find them, then he drops his head and looked right at me. Then Mr. Frank says, 'Newt you carry him up there, go with him around and stay with him while he is up there' and so we went in and went on up there and found the shoes like he ~~xy~~ says and then he asked me for some paper to wrap them up and I gave him some paper, and then I got him some twine....

I don't know when I ever seen him change that (time slip) before. He's put the tape in once before; it was one night. I never paid no attention to how long it took him. I didn't take him five minutes. I couldn't tell whether it took him a minute or not. On Saturday night, it took him a pretty good little bit, because he spoke about it. He says 'It's kind of hard to get in.'"

DEFENDANT'S EXHIBIT 91.

Harry Scott's testimony before Coroner's inquest as follows:

"He just told me that he had been down at the police barracks Monday morning and he talked to John Black, and John Black seemed to suspect me of the crime," and he then repeated to me his movements on the day of the murder, that is on Saturday, he reported at the office, I believe he said, at around eight o'clock in the morning, stayed there up until ten o'clock, then he went to Montag Brothers; Mr. Darley accompanied him down the street a little ways, and he continued on to Montag Bros. by himself, and returned to the factory, I believe, at 10:30, that Arthur White and Harry Denham were employed on the 4th floor of the factory, working during the morning hours, and about 12:10, this little girl, Mary Phagan, came into the office to draw her salary which he gave her (\$1.20). The nominations, which he thought, were two half dollars and two dimes, and that Mary Phagan, left his private office where he paid her off, and went into the bookkeeper's office, and when she got hear the door, she turned to him, and said, "Has the metal come yet?" And Mr. Frank replied 'NO'. Then he stated that Mary Phagan went on out, and it was about 12:50 that he went upstairs to the 4th floor, where Denham and White were working and saw Mrs. White up there talking to her husband. He made the remark that he intended closing and locking the doors, and asked Mr. White if she would leave, and also asked the men up there how near they were through with their work. They told him they didn't think they could finish up right soon at that time, and he came on downstairs, and told them he was going to lock the doors, when he went out. He stated that he left the factory about 1:10 P.M., went home to his dinner, returned to the factory then about 3 o'clock, and White and Denham were still on the 4th floor. He did not meet anyone going out or coming in. About 3:10 both White and Denham left the building; that Newt Lee reported to him about four o'clock, as he had instructed him to do on the day previous, that it was his intention to go to the ball game that afternoon, and when Newt Lee

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(Defendant's EXHIBIT 91 (cont'd))

came there, he told him that it would not be necessary for him to to work just at that particular hour, that he could go out on the street and enjoy himself for a few hours, and return about six o'clock. Frank stayed in the building from four to six and Newt Lee returned at 6 o'clock, went on duty and Frank left the building at about 6:15. On his way out he saw Newt Lee sitting on a packing box outside the door of the factory talking to a man by the name of Gantt. Lee told Frank what Gantt was staying there for, and after considering allowed Gantt to come upstairs for a pair of shoes, that is go up inside of the factory, but he instructed Newt Lee to stay with Gantt while he was up inside of the factory, until he left, which he said that Lee did. Frank then continued on to his home, and said that he became worried about Gantt's presence in the building, knowing that he had discharged him for some kind of fault. He continued to worry about Gantt's presence in the building and therefore called up Newt Lee on the telephone at 7:30, as he knew it was that time for Lee to punch the clock at that hour, and he would hear the telephone ringing inside of the office while he was there at the clock; although I am not sure, I think he said he made an effort to get Lee at seven o'clock and failed and finally got him at 7:30. When he called Lee on the telephone, he inquired if Gantt had left the building. Lee replied, 'Yes;' Frank then asked him if everything else was all right, to which Lee replied 'Yes', and he hung up the receiver and at about 9 that night he retired to go to bed; and I believe now that that's the extent of my interview with Mr. Frank.

"Yes, I am working in the interest of the National Pencil Co. . . to ferret out who is responsible for the murder. Mr. Black and I requested Mr. Frank that he go into this private room with Lee, and endeavor to get any information that he might be withholding from either of us or the detective department, and told Mr. Frank to impress upon Lee the importance of telling the whole truth in the matter, and do whatever he could to persuade Lee to tell the absolute truth in the matter. Mr. Frank said he understood, and we sent him in to talk to Lee. I have no way of knowing ~~xxx~~ what Frank said; they were both together privately in the room there, and we had no way of knowing except what Lee told us afterwards."

DEFENDANT'S EXHIBIT 92.

Harry Scott's report to the Pinkerton agency, as follows:

"Mr. Frank stated that on Saturday, April 26th, 1913, the factory of the National Pencil Company was closed down, and that only two of the employees reported for work the entire day, and these men were Harry Denham and J.A. White, who are employed on the 4th floor of the building. Mr. Frank stated that he was in the office up until about 1 P.M. and that at 12:10 P.M., a girl employee of the factory, named Mary Phagan, called at the office of Mr. Frank for her wages, and she received \$1.20, either in a one dollar bill and two dimes, or two half dollars and two dimes. Mr. Frank personally handed this girl her wages, after which the Phagan girl left Mr. Frank's office and walked towards the door of the office adjoining Mr. Frank's office, which door leads into the factory. Miss Phagan turned to Mr. Frank and asked him if the metal had arrived yet, to which Mr. Frank replied 'No;' and the girl then went on away out of the factory, as far as Mr. Frank knows, as he did not see anything of her during the afternoon. About 12 o'clock, noon, Mrs. J.A. White entered the factory and went to the top floor where her husband, J.A. White was working, and at 12:45 P.M., Mr. Frank went to the 4th floor and in the presence of Mrs. White told Denham and White that he was going to lock the doors, and Mrs. White then left the factory, but White and Denham informed Mr. Frank that they had not finished their work and Mr. Frank then told them to remain until

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Defendant's exhibit 92 (Cont'd)

they had gotten through. Mr. Frank left the factory about 1 P.M. Saturday, while White and Denham were still on the top floor. Mr. Frank then went to his home, to his dinner, returning to the factory at 3 P.M., and he saw that White and Denham were about through with their work, and both of them left the factory at about 3:09 P.M. as far as Mr. Frank knows he was the only person left in the factory after that hour. On Friday, Mr. Frank had instructed his negro night watchman, Newt Lee, to report at the factory on Saturday at 4:00 P.M. on account of it being a holiday, and none of the employees working. At 4 P.M. the negro Newt Lee arrived at the factory, reporting for work to Mr. Frank who told him that it was not necessary for him to go to work at that time, but that he could go out on the street and have a good time until about 6 P.M. and that in the meantime Mr. Frank would stay in the factory. The negro left the factory, returning again at 6 P.M. and at 6:05 P.M. Mr. Frank left the factory for his home and on his way out of the factory ~~for~~ by the Forsyth Street door he saw the negro night watchman, Newt Lee, talking to a bookkeeper named John M. Gantt, who had recently been discharged by Mr. Frank. It developed that Gantt was asking the negro watchman, Newt Lee, to allow him to go to the second floor of the factory and secure a pair of shoes that he had left there, as he wanted to go to his home at Marietta, Georgia, and do some plowing and the negro, Newt Lee, then asked Mr. Frank if he would allow Gantt to enter the building. Mr. Frank knowing that he had discharged Gantt for thievery, hesitated about allowing Gantt to enter the building, but finally told the night watchman to let Gantt in, but to stay with him until he secured the shoes and then see that Gantt left the building without taking anything that belonged to him. About 7:30 P.M. Mr. Frank states he called up the factory, as he knew that Newt Lee, the night watchman was about to punch the clock at the hour and could hear the telephone bell ringing inside the office, and Newt Lee answered the telephone. Mr. Frank states that he inquired of Lee if Gantt had left the building, to which he replied in the affirmative. Mr. Frank then asked Lee if everything else was all right, to which Lee replied 'Yes'. Mr. Frank states that this was the extent of his telephone conversation with Lee."

DEFENDANT'S EXHIBIT 936

Testimony of Policeman Anderson before Coroner's inquest, as

follows:-

where

The watchman told me ~~he was standing~~. He came out of the closet to fasten or button up his pants, and had his lantern sitting down right in front of him, where he left it when he went into the closet. While he was standing up there he saw that woman. He saw it from the closet, about twenty five feet, to where the object was. I could not see that far with the lantern that he had. With the lantern that he had I could see about ten or twelve feet, something like that."

DEFENDANT'S EXHIBIT 94.

Court proceedings under which Jim Conley was released from
Fulton County jail upon petition of solicitor Hugh M. Dorsey:

"The State,)	No.
vs.)	In Fulton Superior Court, May Term, 1913.
Leo M. Frank.)	Indictment for Murder.

The petition of Hugh M. Dorsey, Solicitor General of the
Atlanta Circuit, including Fulton County, respectfully shows:

1.-

James Connally is a material witness for the state in the
above stated case.

2.-

Petitioner is apprehensive that said Connally may not be
forthcoming as a witness at the trial of the above named defendant,
unless detained in custody.

3.-

Said Connally has been detained since May 1st, 1913, by the
police authorities of the City of Atlanta, and is now in the
custody of said officers, being detained by them as a witness.
Since said Connally was taken into custody by said officers, Leo
M. Frank has been indicted upon a charge of Murder.

4.-

Petitioner represents that the testimony of said ~~the~~ Connally
may be, and likely will be very material in said cause.

5.-

Wherefore, petitioner prays that said James Connally be
committed to the jail of Fulton County, Georgia, there to be de-
tained as a witness until said case above stated shall be termin-
ated, or until said Connally shall be otherwise released by proper
order of Court.
This May 29, 1913.

(Signed) Hugh M. Dorsey,
Sol. Gen. Atlanta Circuit.

Georgia, Fulton County.

Comes now Hugh M. Dorsey, who being duly sworn, deposes and says
the allegations in the above petition are true so far as they
come within his knowledge, and so far as derived from the information
of others he believes them to be true.

(Signed) Hugh M. Dorsey

Attested May 29, 1913.
John H. Jones, (Signed)
N.P. Fulton Co., Ga.

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The above and foregoing petition read and considered.
Let the said James Connally be taken into custody by the Sheriff of said County of Fulton, and be confined in the common jail of said County, until discharged by further order of this court.

Let the said Connally be served with a copy of this order and the petition on which it is based. Bond for the release of said Connally may be assessed in a reasonable sum upon proper application to the Court and after reasonable notice in writing to the Solicitor General of the Circuit. It appearing to me that he does not object to this order, but consents to same.
This May 29, 1913.

(Signed) L. S. Roan,
Judge S.C. Stone Mountain Circuit,
Presiding.

The State,)	No. 9410
vs.)	Indictment in Fulton Superior Court.
Leo M. Frank.)	Murder. May Term, 1913.

It appearing to the Court that James Connally has heretofore been committed to the common jail of Fulton County to be held as a witness in the above stated case, and to be released only on a proper order of Court;

And it further appearing that the ends of justice require that said James Connally be released temporarily to the Chief of Police of the City of Atlanta;

It is therefore ordered that Sheriff C. W. Mangum, of Fulton County, Georgia, deliver the said James Connally to said Chief of Police, James L. Beavers, or his lawful deputy, to be received back into custody at said jail when delivered back by said Chief of Police, the attorney for James Connally consenting and not objecting to this order, and being present.
This May 31, 1913.

(Signed) L. S. Roan,
Judge S.C. Stone Mountain Circuit,
Presiding.

This is consented to by me
(Signed) William M. Smith,
Attorney for James Connally.

Georgia, Fulton County.

To Hon. L. S. Roan, Judge of the Stone Mountain Circuit,
Presiding in the Superior Court, Criminal Division:-
The petition of Hugh M. Dorsey, Solicitor General of the Atlanta Circuit, respectfully shows:-

1:-
On May 29, 1913, this court, on petition of the above named Solicitor General, - representing that James Connally was a material witness for the State in the case of the State vs. Leo M. Frank, under indictment for Murder, and that said James Connally would probably not be forthcoming to respond to a subpoenae in said case, - ordered said James Connally held until further order of court as a witness in the above stated case, and to be confined in the county jail and subsequently upon petitioner's request made at the ~~instance~~ instance of said Connally and his attorney, said Connally was allowed held by the police authorities of the City of Atlanta.

2.-
Petitioner is satisfied that the necessity for holding said James Connally under the orders heretofore granted on the aforesaid petition as a witness in said case no longer exists.

3.-
Wherefore, petitioner prays that the orders heretofore granted in said cause be revoked, and that said James Connally be discharged from custody under said orders.

(Signed) Hugh M. Dorsey,
Sol. Gen. Atlanta Circuit.

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Georgia,
Fulton County.

Read and considered, it is ordered that this petition and order be filed and duly served upon other claimed suspects in connection with the Phagan murder, and confined in common jail of said County, to wit, Leo M. Frank and Newt Lee, both either personally or by serving their attorneys, and any other citizens of said County who may receive this notice by publication or otherwise, may show cause before me, Friday, the 13th day of June, at 10 o'clock A.M. at my chambers in Thrower Building, Atlanta, Ga. Notice to be served by the sheriff or one of his deputies by leaving copy of this petition and order, at once.
June 11, 1913

(Signed) L.S. Roan

Service acknowledged and further service waived. The confinement of said James Connally in the Police station was at my request and at the request of my client James Connally and I agree for said Connally to remain in custody of the police authorities until the trial of Leo M. Frank or until the indictment of said Connally. I agree to his confinement because he is a material witness for the State and I desire his confinement at the police station, because of repeated attempts on the part of visitors at the jail to torture and intimidate said James Connally and to safeguard said James Connally from perjured admissions, supposed to have been made by him, I waive his presence at the time of this trial.

This June 11, 1913.

(Signed) Wm.M. Smith,
Attorney for James Connally.

Georgia, Fulton County.

Comes Newt Lee, by his attorney, Bernard L. Chappell, and in pursuance of an order made by L.S. Roan, Judge of the Superior Court, Criminal Division of said County, on the 11th day of June, 1913, hereby acknowledges service of said order as referred to the said Newt Lee, who is being held in the Fulton County common jail upon the order of Paul Donehoo, coroner of said county as a suspect in the Mary Phagan murder case.
June 12, 1913.

(Signed) Bernard L. Chappell,
Attorney for Newt Lee.

Georgia, Fulton County.

I have this day served L.A. Rosser, Atty for Leo M. Frank, personally with a copy of the within order.
this June 12, 1913.

(Signed) T.A. Burdett,
Deputy Sheriff.

Georgia, Fulton County.

State of Georgia,

vs.

Leo M. Frank.

No. _____ Fulton Superior Court.

Criminal Division, Indictment for Murder.

And now comes James ~~Frank~~ Conley, and in answer to the rule nisi issued in the above case, shows to the court as follows:

1. Respondent admits that he is now held in custody under orders of this Court, at the police prison of the City of Atlanta, having been originally held in the prison of Fulton County, also under order of this Court, the cause of said commitment by this Court of respondent, being the allegation that Respondent is a material witness in the above case, in behalf of the State, and it is desired to insure the presence of Respondent at the trial of the above case.

2. Respondent admits that he is now at the City police prison at his own request and instance, and through the advice and counsel of his attorney.

3. Respondent shows to the court that the City police prison is so arranged and so officered, that Respondent is absolutely safe as to his physical welfare from any attack that might be made upon him; that he is so confined that his cell is a solitary one, there being no one else even located in the cell block with him; that the key to this cell block and the cell of Respondent is always in the possession of a sworn uniformed officer of the law; that under the instructions of Chief of Police Beavers, said sworn officers are not allowed to permit any one to approach this Respondent or come into his cell block, except the attorney of Respondent and such persons as this Respondent may agree to see and talk with; that Respondent so confined is protected from any physical harm and is protected from the possibility of legal harm by others who might seek to damn Respondent by false claims, as to statements alleged to be made by Respondent;

4. Respondent nor his counsel have made no request for the release of Respondent or his transfer to any other place of confinement.

5. Respondent is willing to remain indefinitely as a prisoner in solitary confinement, under any reasonable rules this court may direct, subject to any further order or direction of this court.

6. Respondent admits that he is a material witness in behalf of the state of Georgia in this case, and admits that in the exercise of sound discretion it is proper that Respondent be held until the final trial of this or any other case growing out of the unfortunate death of Miss Mary Phagan, but this Respondent denies that in the exercise of sound judicial discretion, it is necessary for this court to order Respondent held at any particular prison.

7. Defendant denies that this court has legal right in the exercise of sound judicial discretion to order this Respondent held as a witness in behalf of the state, when it is shown to this court, as it is shown beyond peradventure of a doubt, that there is no possibility for this Respondent not to be present and subject to call as a witness in behalf of the state, since he is held in complete and perfect imprisonment, and there being no possible theory that the ends of justice will be thwarted, and all of these facts being without the slightest possible question, there is no reason for any order of this court, committing Respondent.

8. Respondent is advised and believes that the Counsel for the Defendant in this case has been within the last few days studying the law very thoroughly bearing on the question of holding of this Respondent as a material witness in behalf of the state, at any other place than the County Prison, and also immediately finds it move on foot to have Respondent returned to the County prison, and this Respondent is advised by his counsel that it is the belief of his Counsel that the idea of transfer back to the County Prison has under it, plans laid by persons unfriendly to the interests of this Respondent and friendly to the interests of the defendant in this case.

9. Respondent denies that the law vests in this court, the right of committal as a witness in behalf of either side, under the facts and circumstances of this or any other case.

10. Respondent shows that the conditions of the County Jail are such that the interests of justice as far as this Respondent is concerned can not be well safeguarded and the interests of Respondent and the interest of justice are greatly threatened by the return of this Respondent to the County Jail.

11. Respondent shows that through no fault of the County Sheriff, a sufficient inside force of guards has not been provided by the County Authorities, only one man being paid by the County to guard twenty cell blocks distributed in twenty wings and over five floors; that it is a physical impossibility for this one man to keep up or even know what is transpiring on five different floors, or twenty separate immense wall and steel blocks distributed through a large building; that with this incase... this Respondent is advised the Sheriff of this County has com-

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plained about, it is an absolute impossibility for the best sheriff in the world or the best trained deputies to know exactly what it going on at any and all times or any reasonable part of the time; that the keys to practically all of the cell blocks are carried by "convicted criminals", known as "trusties", who turn in and out parties entering or leaving cell blocks, and while they have general instructions covering their duties, it is an impossibility for the inside deputy to know whether each is discharging his duty properly at all times; that the food is prepared and distributed in the County prison itself and practically by "convicted criminals" whose disregard for law and principle is written upon the criminal records of this State; that owing to this condition men have been known to saw through solid steel bars and cages and escape to freedom; that it would be easy for anyone to reach or harm Respondent or to poison him through his food; that the "trusty turnkeys" who are convicts ~~xxx~~ can easily swear as to admissions against the interest of this Respondent, even through such admissions might not be made; that the friends of the defendant in this case are allowed to pour constantly into the jail at all hours of the day and up to a late hour of the night, and are in close touch with many of these "trusty" turnkeys", and "trusty attaches" of the jail; that while a prisoner at the County Prison before his transfer to the City prison, a goodly number of people were admitted to the cell blocks to talk with Respondent, whose presence was not requested or desired; that among these visitors was one whom this Respondent has every reason to believe was working in the interest of the Defendant; that this party presented Respondent with sandwiches which this Respondent did not eat, that this same party also offered to present Respondent with whiskey; that Respondent was threatened with physical harm while in the County prison to the extent of the possibility of taking his life; that he was denounced as a liar, relative to his testimony in this case; and this Respondent is sure without the knowledge or through the neglect of the Sheriff or any of his men, but directly attributable to the construction physically of the county prison and the inadequate force allowed the Sheriff to oversee and care for it; that Respondent is advised and believes that one of the parties friendly to the Defendant is already priming himself to swear that Respondent made certain admissions while he was in the County prison, which this Respondent did not make, and which testimony will be false, but will be given, if given to help the defendant and damage this Respondent.

12. That this Respondent was imprisoned while in the County Prison directly over the cell block in which said Defendant is detained and was lodged among the most desperate criminals, one even being under sentence of death, and willing no doubt to swear or do anything necessary to help save or prolong his life; that these desperate criminals, with whom this Respondent was lodged, had this Respondent completely at their mercy and could swear that he admitted things most damaging, and which would be false and untrue and known by them to be false and untrue.

13. That Respondent is advised and believes that the Sheriff of this County has publicly proclaimed that the Defendant looks him in the eye like an innocent man; that the Sheriff has given said Defendant an entire cell block and has isolated him completely except from his friends; that the Sheriff has expressed himself as not desiring that nigger returned to the County Prison, meaning Respondent; that the Sheriff appears to feel that the requests made by Respondent are meant as a reflection upon the Sheriff, but same was not so intended to be construed, nor was same so represented to the Court at the time of the transfer, nor was any such allegations made before the Court, at the time of the passage of the second order transferring Respondent back to the City Prison, nor does Respondent believe that same was in mind of the Court at the time of the passage of the order or influenced the Court; but that the inadequate force allowed the Sheriff and the construction of the Jail rendered this request by Respondent necessary, and same was made with no ~~st~~ facts, other than it was requested by Respondent and in the judgment of the representative of

445

the State there was necessity for same.

Wherefore this Respondent agrees, to the passage of an order revoking former orders in this case, and waives his presence at the Court, upon a hearing of same.

(signed) Wm. M. Smith,
Attorney for James Conley.

Georgia, Fulton County.

Personally appeared before me, the undersigned attesting officer, James Conley, who after being duly sworn deposes and swears that the facts set out in the above and foregoing response so far as they come within his own knowledge are true and where derived from the information of others he believes them to be true.

(signed) James Conley

Sworn to and subscribed before me
this June 13, 1913.

C. G. Tedder,
Notary Public, Fulton County, Ga.

IN RE:

Application of Hugh M. Dorsey, Solicitor General
to release James Conley from Legal Custody.

In answer to the petition and order in the above stated cause, served upon us, as attorneys for Leo Frank, we herewith answer and show cause as follows:-

1. If the intention of the Solicitor General is to discharge this negro from custody because (a) he is in fact not a material witness against Frank or (b) although he is a material witness, his integrity and character are such that he ought to have his liberty and be trusted to obey the subpoena of this court, then considered as a witness only, he ought to be discharged and indeed he should not have been imprisoned at all. But in such case to enact the farce in the court's presence of releasing the negro and immediately return him to his wet-nurses, at the Police station would resemble child's play.

2. But if the Solicitor believes that one of a number of contradictory statements made by this negro may, if properly preserved, be made valuable in the prosecution of Frank and that the negro may destroy its value if left free to talk, and in order to stop his mouth it is necessary that the detectives should keep him in charge, then we think we have the right to protest against any order of a court of justice that winks at such a purpose.

3. We are constrained to the conclusion that it is not the purpose for any reason to release this negro, but, by obtaining the order here sought, continue the present, illegal confinement.

4. But Frank is himself deeply interested in this proceeding, that the consent of the Solicitor and the will of the negro is all that is required to reverse the will of the law, is erroneous. The State has the right in the interest of justice to put a witness in custody, but where in custody and in whose custody is of the highest importance. The law has given such custody to the Sheriff and wisely so. The Sheriff is not a prosecutor; the jail itself is not usually a place of punishment, but a temporary place of detention. The Sheriff is supposed to stand ~~impar~~ impartially between the State and his prisoners, and may be trusted neither to conjoin, threaten, nor suppress any testimony by third degree methods. The law never meant to place a witness, who, for lack of character, needs confinement under the control of a ~~partisan~~ partisan prosecutor.

5. That the detectives should wish to keep Conley in custody and entertain him at the city's expense, is not at all surprising. They have already extracted from him extravagant, unthinkable confessions, three or four in number. To these statements they have given the widest publicity, and to the credibility of the last one they have staked their reputations and hope of place.

Upon the constancy and stability of this witness, they have staked their all. They would be less than human if they did not

366

446

In Poor Condition

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bend all their power and ingenuity in holding him to his present statement, adding to and taking therefrom only such things as will aid its credibility.

Can any fair-minded man believe that Lanford is a fair man to be the custodian of this ignorant negro? What chance would he have to retract any lies he may have told, or if in a repentant mood, he should wish to tell the truth? This negro in the city prison, in the power of Lanford, apart from all questions of truth, would be just as dangerous as Lanford would wish him to be. No one knows that better than Lanford, and no one would feel it as acutely as will this negro.

How well Lanford knows can be seen from his interview in the Atlanta Georgian of June 12th. In that interview he demonstrated that he thinks he has full, unrestricted ownership of this negro. He graciously expresses his willingness for this negro to go before the Grand Jury upon such terms as he suggests. Neither the negro, nor the negro's lawyer, nor the Grand Jury, is considered. Nor was this court to be consulted - his will and not the order of this court was to determine when and under what circumstances the negro should leave the Police Station.

If Lanford vaunts in the face of jury and court, his power over this negro, what must be his bearing when he deals privately with the negro himself? What chance has he to abstract a lie or add a truth to the foolish statement which Lanford approves and wishes to maintain? If this man will, when he is holding this negro under your Honor's order, declare such ownership over this negro's person and movements, to what length would he go if the Court releases its power over him and turns him over to Lanford's unrestricted power?

6. It is just to Frank, as well as in the interest of public justice, that this negro should be detained by unbiased, fair men, whose reputations and positions are not at stake. The law recognizes this right and has put that duty upon the Sheriff. Will there be less fairness and less decency in the county jail, than in the police station? When did Lanford become a wiser, fairer, better man than the Sheriff of this County?

7. Apart from this negro's position as a witness, his detention in the custody of the detectives would be a public calamity. Many unbiased people believe this negro is the murderer of little Mary Phagan. The facts of the case, apart from his own confession, point most strongly to him as the guilty man:

(a) On the day of the murder he was drunk and concealed himself in a position where he could readily commit the murder.

(b) On Monday morning he was unduly excited, so much so as to arouse the suspicions of the employees.

(c) When the police were in the building, he was caught hiding in an obscure part of the factory where he had no business.

(d) When questioned about this conduct, he said he would give a large sum to be a white man. When asked why, he said he could then get safely past the police.

(e) He, for a long time persistently denied that he could write and did not admit that he could until longer denial was useless.

(f) He was caught washing a shirt, a thing he had never done before and when caught gave a foolish excuse.

(g) He denied all participation in, or knowledge of the crime until he was driven by the charge that he wrote the notes found near the body.

(h) On May 18, he made a signed statement outlining his actions on April 26, making no mention of the murder.

(i) On May 24, he made an affidavit. He said that on April 25th, before the murder on April 26th, he wrote the notes at the request of Frank for which Frank gave him cigarettes and \$2.50 and added statements about Frank's people in Brooklyn and an inquiry by Frank as to why he should hang.

(j) On the 28th of May, Conley made a long affidavit, full of contradictions and absurdities; beginning it as follows:

"I make this statement, my second statement in regard to the murder of Mary Phagan at the National Pencil Company factory. In

447

In Poor Condition

000795

my first statement, I made the statement that I went to the pencil factory on Friday, April 25th, and went in Frank's office at five minutes to one, which is a mistake. I make this statement in regard to Friday in order that I might not be accused of knowing anything of this murder, for I thought if I put myself there on Saturday they might accuse me of having a hand in it, and I now make MY SECOND AND LAST STATEMENT regarding the matter freely and voluntarily, after thinking over the situation, and I have made up my mind to tell the whole truth and I make it freely and voluntarily without the promise of any reward or from force or fear of punishment in any way."

(k) after this beginning he sets out with variations the writing of the notes on Saturday instead of on ~~Friday~~ Friday, and in a long rambling statement his movements at home and on Peters street ~~and~~ on Saturday and on Monday at the factory, most of which is wholly disconnected with the murder.

(l) On May 29th, 1913, although he had already sworn that he had made "his true, full and last statement", he made another statement in which he purported to aid Frank in concealing the body of Mary Phagan. This statement is full of contradictions and wholly irreconcilable with itself and with the known facts surrounding the murder.

(m) He closes this remarkable affidavit in the following words: "The reason I have not told this before is that I thought Mr. Frank would get out and help me out, but it seems that he is not going to get out and I decided to tell the whole truth about the matter."

(8) These incoherent, ~~jabbering~~ gibbering statements will, it is believed, impress the Grand Jury if the negro Conley's case is submitted to it.

(9) The Grand Jury can be trusted to scan these queer statements in the light of all the surrounding facts and circumstances and taken in connection with all the other facts implicating Conley, they proclaim his guilt beyond all reasonable doubt.

(10) The detectives, obsessed as they are with the assumption that Conley is a tool and not a murderer, are unfit to keep him in their sole and unlimited power. Under their protecting care, Conley, instead of being left to tell the truth, will at length deceive himself into the belief that instead of being a murderer he is an unfortunate victim.

(11) That Conley and his counsel wish it, is the best reason why it should not be done. As long as he sticks to a story pleasing to the detectives, or builds upon that story as additions may be needed, he is assured that the detectives will save him as far as possible from court and Grand Jury and will, so far as they can, fix upon him no greater crime than that of a misdemeanor.

(12) Conley and his counsel are wise. There is for them no other hope than for the detectives to keep Conley and save him from a confession that he committed the crime, giving him immunity, provided he continues to put the guilt on Frank.

Respectfully submitted,

Rosser & Brandon,
Attys. for Leo Frank.

Order granted that said James Conley be discharged as prayed and all orders, as set out in petition cancelled that were signed heretofore by me. This June 13, 1913.

(Signed) L. S. Roan,
J.S. St. Mt. Ct.,
Presiding.

448

In Poor Condition

The within and foregoing pages are hereby approved as
a true, correct and complete brief of the evidence in the case
herein (and at the caption thereof) referred to. . . October 31, 1913.

(Signed) L.S. Roan,

J.S.C. St.Mt.Ct.

Filed in office 31st Oct. 1913

*John H. Jones
Deputy Clerk*

449

In Poor Condition

STATE OF GEORGIA,
County of Fulton.

I Hereby Certify, That the foregoing pages, hereunto attached, contain a true Transcript of such parts of the record as are specified in the Bill of Exceptions and required, by the order of the Presiding Judge, to be sent to the.....Supreme Court of Georgia.....in the case of

LEO M. FRANK,

Plaintiff in Error.

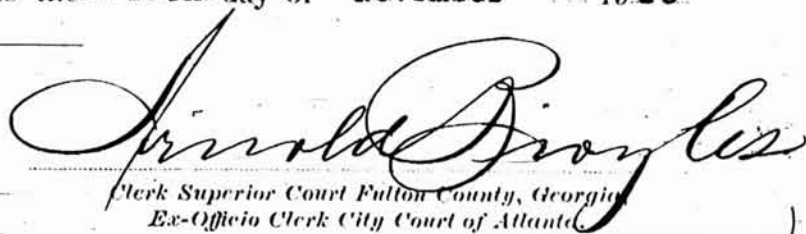
VS.

THE STATE OF GEORGIA,

Defendant in Error.

Witness my signature and the seal of Court affixed

this the.....15TH day of November.....1913.


Clerk Superior Court Fulton County, Georgia
Ex-Officio Clerk City Court of Atlanta

In Poor Condition

No. 18

10852

Criminal Docket

Term, 190

SUPREME COURT OF NEBRASKA

Frank

THE STATE.

TRANSCRIPT OF RECORD

Filed in office NOV 15 1913

W. E. Talley, D.

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Leo M. Frank, Plaintiff in Error, vs State of Georgia, Defendant in error.))))))	Bill of Exceptions, From Fulton Superior court, From Conviction of Murder and Judgment of affirmance on February 17th, 1914. Motion for Re-hearing.
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And now comes Leo M. Frank, Plaintiff in error in the case above stated, who was the losing party therein, and at the same term at which the decision was rendered, and before the remittitur in said case has been forwarded to the clerk of the trial court, and files this his motion for re-hearing, on the grounds following, to-wit:

1. Because the court in rendering the decision in said case overlooked the following material facts, ^{in the record,} to-wit: Ground 58 of the motion for new trial, which reads as follows:

"Because the court permitted the witness, Miss Cato, over the objection of the defendant that she was incompetent, illegal and immaterial, to testify substantially as follows: 'I know Miss Rebecca Carson. I have seen her go twice into the private ladies' dressing room with Leo M. Frank.'

"The court permitted this testimony over the objection of the defendant made as is aforesaid and in doing so committed error. The court stated that this evidence was admitted to dispute the witness they had called.

"It was wholly immaterial to the issues involved in the case whether Frank did or did not go into a private dressing room with Miss Carson. It did, however, prejudice the jury as indicating Frank's immorality with reference to women."

Said ground just quoted set up material facts constituting error in said case, which the court in the decision rendered, overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground was discussed in the brief filed by plaintiff in error, as will appear from pages 209 to 212 of the original brief, filed in this case.

2. Because the court in rendering the decision in said case, overlooked the following material facts, ^{in the record,} to-wit: Ground 59 of the motion for new trial, which reads as follows:

"Because the court erred in permitting the witness Maggie Griffin, to testify over the objection of the defendant made when the

testimony was offered that the same was immaterial, illegal and incompetent, to testify substantially as follows:-

'I have seen Miss Rebecca Carson go into the ladies' dressing room on the fourth floor with Leo H. Frank. Sometimes it was in the evening and sometimes in the morning during working hours. I saw them come in and saw them come out during working hours.'

"The court permitted this testimony to go to the jury over the objection of the defendant made as is aforesaid and in doing so committed error. The court stated that this evidence was admitted to dispute the witnesses they had called.

"It was wholly immaterial to the issues involved in this case whether Frank did or did not go into a private dressing room with Miss Carson; it did, however, prejudice the jury as indicating Frank's immorality with reference to women."

Said ground just quoted set up material facts constituting error in said case, which the court in the decision rendered, overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in the brief filed by plaintiff in error, as will appear from 209 to 212 of the original brief filed in this case.

3. Because the court in rendering the decision in said case, overlooked the following material facts, to-wit: ground one of the motion for new trial, which reads as follows:

"Because the court erred in permitting the solicitor to prove by the witness Lee, that the detective Black talked to him, - the witness, ~~me~~ longer and asked him more questions at the police station than did Mr. Frank the day when he talked to the witness Lee at twelve (12) o'clock at night on April 29th.

"At the request of Black and Scott, the detectives, Frank was induced to have an interview with Lee, the witness, for the purpose of eliciting information from him. The solicitor contended that Frank made no effort to find out anything from Lee, and to that end, sought to show and was permitted to prove by Lee that Black talked longer to him than did Frank at the time stated.

"The defendant, then and there at the trial, objected to such evidence upon the ground that it was irrelevant, immaterial and was a mere conclusion of the witness. The court admitted the evidence over such objections and in doing so erred, because said evidence was unwarranted, immaterial and a mere conclusion of the witness and injurious to the defendant."

Said ground just quoted set up material facts constituting error in said case, which the court in the decision rendered overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in the brief filed by plaintiff in error, as will appear from page

135 to 137 of the Brief filed in this case.

4. Because the court in rendering the decision in said case, overlooked the following material facts in the record, to-wit: ground two of the motion for new trial, which reads as follows:

"Because the court erred in permitting over objections the witness Lee to testify that Frank, on April 28th, when alone with him at the station house, talked to him a shorter time than did Mr. Arnold, one of Frank's attorneys, when he interviewed the witness just before the trial.

"The detectives had induced Frank to talk to Lee alone on April 28th at the station house for the purpose of inducing Lee to talk. Mr. Arnold, in the presence of Lee's Attorney and the jailer, had interviewed Lee just before the present trial.

"The solicitor - over the objections of Frank's attorneys that the evidence offered was immaterial, irrelevant, and the expression of an opinion, was permitted by introducing said evidence to draw a comparison of the time occupied by Frank and Arnold to their respective interviews, and, in doing so, the court erred because the evidence offered was immaterial, irrelevant and the expression of an opinion."

Said ground just quoted, set up material facts constituting error in said case, which the court in the decision rendered overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in the brief filed by plaintiff in error, as will appear from pages 135 to 137 of the Brief filed in this case.

5. Because the court in rendering the decision in said case, overlooked the following material facts in the record, to-wit: ground seven of the motion for new trial, which reads as follows:-

"Because the court, over objection made when the evidence was offered that the same was irrelevant, permitted the witness Black to testify that Frank had counsel, Messrs Rosser and Haas about eight or eight thirty o'clock Monday morning while Frank was in the station house, brought there by detectives Black and Haslett.

"Movant contends the employment of counsel, under the circumstances was no evidence of guilt; but the court's conduct in submitting the fact to the jury was greatly hurtful to the defense.

"Said evidence was illegal, irrelevant and prejudicial and its admission over objection is here assigned as error for said reasons."

Said ground just quoted set up material facts constituting error in said case, which the court in the decision rendered overlooked and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in the brief filed by plaintiff in error, as will appear from pages 140

to 141 of the brief filed in this case.

6. Because the court in rendering the decision in said case, overlooked the following material facts in the record, to-wit: ground 16 of the motion for new trial, which reads as follows:

"Because the court, over objection of the defendant, made at the time the evidence was offered, that the same was irrelevant, immaterial and not binding on Frank, permitted the witness, Mrs. White, to testify that Arthur White, her husband, and Campbell are both connected with the Pencil Company and that she never reported seeing the negro on April 26th, 1913, which she testified she did see in the pencil factory, to the City detectives until May 7th, 1913.

"For the reasons above stated, the court erred in not excluding the evidence, and for the reason that the solicitor, in his address to the jury, contended that the fact that there was a negro (which he contended was Conley) in the factory the morning of April 26th, was concealed from the authorities and that such concealment was evidence of Frank's guilt."

Said ground just quoted, set up material facts constituting error in said case, which the court in the decision rendered overlooked and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground here quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in the brief filed by plaintiff in error, as will appear from pages 213 of the brief filed in this case.

7. Because the court in rendering the decision in said case, overlooked the following material facts in the record, to-wit: ground 23 of the motion for new trial, which reads as follows:

"Because the court permitted, over the defendant's objection, made when the testimony was offered, that it was illegal, immaterial, and because it could not be binding on the defendant, the witness S.L. Rosser, to testify that since April 26th, 1913, he had been engaged in connection with this case; that he visited Mrs. Arthur White subsequent to April 26th; that the first time the witness ever claimed to have seen the negro at the factory when she went into the factory on April 26th was some time about the 6th or 7th of May.

"The court, over objections as stated, admitted the testimony just above, and in doing so erred, for the reasons herein stated.

"This was particularly prejudicial to the defendant, because the solicitor contended in his argument to the jury that the fact that factory employees did not disclose the fact that Mrs. White saw the negro on April 26th was evidence that the defendant was seeking to suppress testimony material to the discovery of the murderer."

Said ground just quoted, set up material facts constituting error in said case, which the court in the decision rendered overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is

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disclosed from an inspection of the ground here quoted, was material.

The facts alleged herein to be overlooked in this ground were discussed in the brief filed by the plaintiff in error, as will appear from pages 213 to 215 of the brief filed in this case.

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8.- Because the Court, in rendering the decision in said case, overlooked the following material facts in the record, to-wit, Ground 26 of the motion for new trial, which reads as follows:

"Because the Court, in permitting the witness, Harry Scott, to testify over the objection of defendant, made at the time the testimony was offered that the same was irrelevant, immaterial and not binding upon the defendant, that he did not get any information from any one connected with the National Pencil Company that the negro Conley could write, but that he got his information as to that from entirely outside sources, and wholly disconnected with the National Pencil Company.

"The Court permitted this testimony to be given over the objections above stated, and in doing so, for the reasons therein stated, committed error.

"This was prejudicial to the defendant, because the negro Conley at first denied his ability to write, and the discovery that he could write was as the State contended the first step towards connecting Conley with the crime, and the Solicitor contended in his argument to the jury that the fact that the Pencil Company authorities knew Conley could write, and did not disclose that to the State authorities, was a circumstance going to show the guilt of Frank".

Said ground just quoted set up material facts constituting error in said case, which the Court in the decision rendered overlooked, and which were not considered in said decision, which appears from the face thereof. Plaintiff in error says that the error committed, as is disclosed from an inspection of the ground just quoted, was material. The facts alleged herein to be overlooked in this ground were discussed in the brief filed by plaintiff in error, as will appear from pages 231 to 234 of the original brief, filed in this case.

9.- Because the Court, in rendering the decision in said case, overlooked the following material facts in the record, to-wit, Ground 27 of the motion for new trial, which reads as follows:

"Because the Court permitted the witness, Harry Scott, to testify over the objection of defendant's counsel, made when the testimony was offered, that the same was irrelevant, immaterial, illegal and not binding on the defendant, that the witness first communicated Mrs. White's statements about seeing a negro on the street floor of the pencil factory on April 26, 1913, to Black, Chief Lanford, and Bass Rosser, that the information was given to the detectives on April 28.

"The Court, over the defendant's objection, permitted the above testimony to be given, and in doing so erred for the reasons above stated. This was prejudicial to the defendant, because it was contended by the State that this witness, Harry Scott, who was one of the Pinkerton detectives who had been employed to ferret out the crime, by Frank acting for the National Pencil Company, had not promptly informed the officials about the fact of Mrs. White's seeing this negro, and that such failure was evidence pointing to the guilt of Frank".

This witness was one of the investigators for the Pinkerton Detective Agency, who was employed by Frank acting for the National Pencil Company to ferret out this crime".

Said ground just quoted set up material facts constituting error in said case, which the Court in the decision rendered, overlooked, and which