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# THE FRANK CASE



Inside Story of Georgia's Greatest  
Murder Mystery

Complete History of The Sensational Crime and  
Trial, Portraits of Principals

PRICE 25c

Published By  
THE ATLANTA PUBLISHING CO.  
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## PREFACE.

The sensational case of Leo M. Frank is undisputedly Atlanta's and the south's greatest murder mystery of modern years.

The story of how little Mary Phagan was foully murdered as she went to get her pay at the National Pencil factory, revolting and horrible as it is in its details, naturally interests every working man and every working woman.

The mystery of the crime compels the interest of everyone who hears about it.

"The Mary Phagan murder mystery," however, lost its identity when Leo M. Frank, superintendent of the big factory, where the humble little employe met her death, was arrested and it became the Frank case.

In no other murder case in the south has there been such intense interest. It has become more than the ordinary murder mystery; more than the story of a man of position charged with slaying in lustful passion a little factory girl. The reason of the unusual importance of the case is that, it is charged, that Frank is being persecuted because he is a Jew.

The story of the fearful crime; of the principal developments of the four months that followed it, and finally the story of the great trial, where for a solid month the two greatest criminal lawyers in the south battled against the keen wits of Atlanta's solicitor general to save Frank, has been told by press reports.

Many of the interesting features about the Frank case, however, have never been printed, because the newspapers dared not embody them in their accounts.

This work ends with the conviction of Frank in the superior court of Fulton (Atlanta) county. Trial did not end the case, for immediately after the young defendant was sentenced to pay the death penalty, a motion for a new trial was made, and it will be months, probably years, before he hangs, if he ever does. From the day of his conviction, however, the fight for Frank's life became a technical legal battle. The real story ends with the trial and every essential feature is given here.

THE AUTHOR.

### Chronology of the Crime.

April 27—The dead body of Mary Phagan is found in basement of National Pencil factory at 3 a. m. by Newt Lee, negro night-watchman. Police hold Lee.

April 27—Leo M. Frank, superintendent of the Pencil factory, called from bed to view Mary Phagan's body.

April 27—Arthur Mullinax arrested.

April 28—Blood splotches found in metal room on second floor lead police to believe the girl was killed there.

April 28—Coroner Donehoo empanels jury for inquest. It meets, views body and scene of crime and adjourns.

April 28—J. M. Gantt former bookkeeper at the factory, arrested at Marietta.

April 28—Pinkertons hired by Pencil factory to find slayer.

April 29—Frank taken from factory to police station. Chief Lanford announces he will be held until after the inquest.

April 29—Experts declare Newt Lee wrote notes found by dead girl's side.

April 29—Luther Z. Rosser announces he has been retained by Frank and is present when his client is questioned in Chief Lanford's office.

April 29—Discovery of what is apparently a blood stain near elevator leads police to believe girl's body was dragged to the conveyance shaft and dropped to the basement.

April 30—Frank and Lee closeted together in office of Chief of Detectives Lanford for an hour.

April 30—Coroner's jury reconvenes. Lee tells his story.

May 1—James Conley, negro sweeper, arrested while washing shirt in factory. Considered unimportant at time.

May 1—Satisfied with alibis, police liberate Gantt and Mullinax.

May 1—Frank and Lee taken to county jail to be held until outcome of coroner's jury probe.

May 2—Solicitor General Dorsey enters actively into the case.

May 5—Frank tells of his actions on the day of the crime. On the stand for three and one-half hours, he tells a straightforward story.

May 6—Paul Bowen arrested in Houston, Tex.

May 7—Bowen released upon proving alibi.

May 8—Frank and Lee ordered held for grand jury by coroner's jury.

May 12—Mrs. Frank visits her husband for first time since his incarceration.

May 17—Colonel Thomas B. Felder announces that Burns detective is at work on the mystery.

May 21—P. A. Flak, New York finger print expert, makes investigation. Result unknown.

May 24—Conley unexpectedly makes startling confession in which he says he wrote notes found near body at instigation of Frank.

May 24—Frank indicted by grand jury for murder; Lee held as material witness.

May 26—Burns officials announce their investigation terminated.

May 27—Conley makes another sensational affidavit in which he says he helped Frank carry Mary Phagan's body to basement.

May 30—Conley taken to pencil factory and re-enacts in pantomime carrying of body to basement. Taken to tower.

June 3—Minola McKnight makes sensational affidavit in which she says she overheard Mrs. Frank tell of strange conduct on Frank's part on the night of the murder.

June 7—Mrs. Frank scores Solicitor Dorsey, declaring that the room in which Minola McKnight made her incriminating affidavit was a "torture chamber."

June 8—Attorney Rosser accuses Chief Lanford of insincerity in search for slayer.

June 23—Solicitor Dorsey sets trial for June 30.

June 24—Date of trial changed to July 28 at conference between Superior Court Judge Roan and defense and prosecution attorneys.

July 9—Public is told of a portion of Mary Phagan's pay envelope being found at bottom of flight of stairs leading from office by Pinkerton detectives soon after the murder.

July 18—Call issued for grand jury to meet and consider indictment of Conley as principal.

July 21—Grand jury, after hearing statement of Solicitor Dorsey, agrees to suspend action in Conley matter.

July 22—The discovery of a bloody stick near where Conley sat on day of murder is announced.

July 28—Trial of Frank commences.

August 25—Case goes to jury and verdict of guilty is returned.

August 26—Frank sentenced to death on October 10th and attorneys move for new trial.

## CHAPTER I.

### Crime Discovered.

Newt Lee, nightwatchman, yawned and stretched his legs. Far off in the silent city a clock boomed once. The negro listened intently. It was half-past two o'clock of a Sabbath morning, April 27th, 1913; and he must make his rounds.

It was chilly there on the second floor of the National Pencil factory, and Newt passed the palms of his black hands across the dusty glass surface of his lantern to warm them. The shadows in the corners danced and crept closer. Before him the lantern light revealed the face of the big time clock which it was his duty to punch every thirty minutes.

In a little while Newt would have made the rounds of the deserted factory building, could punch the clock, would sit down again for another rest.

And he was tired, too, he thought. He needed rest.

"Yasser," he muttered to himself. "I'se some tiahed."

As Newt started down the stairs to the first floor, the darkness swallowed up behind him and only a narrow path of light showed the flight of steps down which he must clamber. Another man at the same place and hour would have felt cold shivers wriggle up his spine, but not Newt.

Night after night for many months he had been that same round, had seen those same shadows flicker on the bare walls, watched the lantern make the same ghostly tracings on the steps.

But tonight he was tired, despite the fact that Mr. Frank, the superintendent of the factory, had given him nearly the whole afternoon off. He talked to himself as he reached the foot of the steps and began to throw his lantern light back and forth on the empty first floor. Many lonely nights spent as this one, had taught Newt the value of silent communion and much sleep.

"Hiah Ah comes down at three 'clock 'cause Mister Frank says it 'us holliday an' he wanted ter git off early," he muttered thickly. "'An' fust thing he says is fer me ter git and have er good time, not ter come back till six. Dat's a swell time Ah had, ain't it? Trampsin' 'round town when Ah'd lots rather been a-sleepin' at home. Wondah what 'us de



matter wid Mister Frank today, anyhow? 'Peared to be moughty nervous der, rubbin' his han's and comin' bustin' out de doah when Ah hollered to 'im. An' mekkin' me go upstairs wid Mister Gantt ter git his shoes, just like he was skeered dat Gantt man 'ud steal somethin'. Huh, white folks don' steal nothing'. Not lak niggers, anyhow."

By this time Newt had made his examination of the first floor. All serene as usual. Gloomy, of course, with none of the busy workers that were there in the day time, none of the men feverishly packing pencils, none of the scores of little factory girls bent over the machines. There were the machines, gleaming and still. Newt liked them still, for stillness and the common-place meant safety to a night-watchman.

One more floor, and he would be through. One more floor, the basement, darkest of the dark, always silent, always sinister.

He raised the trap-door over the scuttle-hole. A dim light shot up. The gas-jet was burning as usual, but it was turned down mighty low, thought Newt to himself. Orders are orders, thought Newt, and Mr. Frank's orders were to always have that light burning brightly. Well, he would see.

Down the ladder he climbed, his feet fastening gingerly on each round, his lantern swaying, its light spearing the dimmer light of the basement with faint gleams, really enhancing the silence and the gloom.

His feet touched the bottom round. He was on the basement floor. To each corner the lantern flecked its yellow rays. All right here, all right there. But stay, over there by the boiler, on that pile of saw-dust.

Newt advanced three steps forward, and stopped. Steady the light burned, shining on a little pile of clothes and something else, something that Newt had never seen before. His heart thumped. He could hear it beat. His ears strained to catch some other sound, but from the sleeping city without all was silent as a tomb, nothing stirring but the quick hard thump, thump, of his heart. The silence pressed around him, gripping him, and for the first time in his life the negro was seized with deadly, nauseous, fear. He tried to throw it off. He swallowed something in his throat and tried to laugh.

"Sho," muttered aloud. "Dem factory boys is des tryin' to scare me. Des a lil' holliday joke, dat's all."

His voice sounded harsh and grating in the stillness.

"Des a little joke," he repeated fearfully, and then his voice trailed off into silence.

One more step forward, one more flicker of the lantern, and Newt Lee stumbled back. He had seen something that caught his blood like an icy dam, and with one bound he was sobbing his way up the ladder. That thing by the boiler was no joke, no holliday prank. Jokes were not smeared with blood, jokes did not have hair, nor staring eyes, nor faces bruised and scarred.



The Victim.  
MISS MARY PHAGAN.

## CHAPTER II.

### Police Reach Scene.

The same clock that boomed the hour that sent Newt Lee off on his rounds of the factory building, boomed freedom from the night's work for three men at the Atlanta police station.

It had been an easy night for police reporters, but easy nights are weary nights and the welcome hour meant that the big presses up in the office were grinding out pages of printed matter for the citizens of the city to while away the Sunday hours between breakfast and time to go to church.

"Good-night, chief," they shouted, as they clattered down the stone steps of the station-house.

"Good-night, boys."

The two of them turned up Decatur street, foggy with the night mist, free from the throngs of merry, laughing colored people that had crowded them a few hours earlier. Only the lingering smell of fried fish and the reek of "hot-dogs" remained of the jostling mass of humanity that had filled the street from curb to curb such a little while ago.

"Where's Britt?" said one.

"Out in Boots Rogers' automobile, I guess," said the other, and the two laughed.

So the third reporter was left in the automobile, while inside the station-house the officers lolled back in their chairs to drone away the remaining hours till the first light of morning.

Already over the smoky sky-line to the east a thin smudge of light was appearing. The arc-lights in the street burned blue and the hands on the station-clock were crawling toward the hour of three.

Somewhere off in the cells to the rear of the station the gulping sobs of a negress reached the officers. Brought in earlier in the evening on the charge of disorderly conduct, she had continued to moan and yell throughout the night until exhaustion brought only those racking sobs.

"Sergeant," growled a thick-set man near the door, whose chevrons proclaimed him a head of a department. "Make that woman shut up, will you?"

The sergeant sighed and clumped off toward the rear, swinging his keys. Boots Rogers, deputy, opened his mouth to begin the 'steenth exposition of the Grace case when the telephone bell jangled.

"Well," said Officer W. T. Anderson. "Wonder who's ringin' up this hour o' the night."

He rose wearily, strode to the door of the telephone booth and swung it open. His brother officers looked up for a moment with passing interest and sank back in their seats.

"Hello, hello," came from the booth. "Yes, this is the police station. What?—You'll have to speak slower, old man. I don't get you."

Then he got the message, the message from that negro, many blocks away, crouching fearful in the gloom of the pencil factory, telling in a shaky voice of a dead girl found in the basement of the National Pencil factory on Forsyth street.

As Officer Anderson crashed out of the 'phone booth with his news, the sleepy officers leaped to their feet, wide awake in a minute, to the emergency.

"My machine's in front," yelled Rogers. "Let's go!"

In a flash he was out on the sidewalk, Anderson on his heels. Together they sprang into the car, woke the sleeping reporter, and the three of them were up the silent street with a sputter and roar, leaving the other officers gaping after a trail of dust and a winking red light.

As the machine neared the corner of Pryor and Decatur streets, two men were seen standing on the corner. They were Officers Dobbs and Brown. The automobile slowed down.

"Jump in!" yelled Rogers, and with hardly a perceptible pause, the big car rocked on up Marietta street, slewed into Forsyth and stopped, panting, at the black pile that they knew was the National Pencil company.

The four men alighted. Each was breathing hard with excitement, as Officer Anderson pounded on the door with his clenched fists.

A muffled tread sounded from within, the latch grated harshly, and the frightened face of Newt Lee peered out at them. The whites of his eyes were rolling and his teeth chattered. The picture of fear, each officer thought to himself.

Before he could speak, "Where's the body?" they shot at him; and had entered the gloomy portal of the factory.

With Lee in advance and Anderson right behind with his hand clenched over a revolver, the men advanced single file to the scuttle-hole. Backed by "white folks," Newt Lee led them down the ladder into the darkness and pointed fearfully to the thing in the corner.

"Dat's it," he whispered.

The officers bent and looked upon the fearfully mutilated body of a girl. She lay inert in the saw-dust, her head toward the front, her feet diagonally across toward the right rear corner. The face, bruised and cut, black with grime, was turned toward the wall. The body was face-downward, and as the men stooped for a further examination, the extent of the injuries was revealed to them. They could see her hair in shreds, the unmistakable hair of a white person, stained dark with blood that had oozed from a wicked blow on the back of the head; the blue ribbon that had been tied on so blithely but a few hours before, now wilted and dirty; the silk lavender dress smeared with blood; one small white slipper still clinging to the right foot; around the neck a strand of heavy cord that had cut deep into the flesh; around her head a clumsily-contrived gag, formed of cloth torn from her dress. They turned the body over. The underskirt was ripped to shreds, one stocking supporter was broken, the white stocking itself sagged down almost to the knee.

Sergeant Brown threw his head back and gasped. "My God, it's only a child!"

While they stood there Sergeant Dobbs had been making a minute investigation of the cellar floor; a few feet away he found the other slipper of the girl; near the shaft of the elevator was her flimsy little hat. Then he made a discovery.

Turning toward the lantern light he held up to view two soiled pieces of yellow paper, across which some one had scrawled rude letters. With bated breath, the officers read the notes. This was one:

"He said he wood love me laid down like the night witch did it, but that long tall black negro did it by hisself."

The other read:

"Mamma that negro hired down here did this I went to get water and he pushed me down this hole a long tall negro black that has it woke long lean tall negro I write while play with me."

What thing was this? What did they mean? Had the man who wrote these notes done this hellish deed? The quick flash of suspicion, already born in the brain of every white man present, turned toward the black man Lee. It was Anderson who swung suddenly toward the watchman and flung a rough hand on his shoulder.

"Nigger, you done this," he said hoarsely.

"Fore God, Ah didn't, white folks."

A moment later and Anderson had slipped the hand-cuffs on his wrists, and Newt Lee was under arrest for murder.

## CHAPTER III.

### Frank Views Body.

By 5 o'clock of a still Sabbath morning the drag-net of the law was spread for the slayer of a little factory girl.

Immediately following the arrest of Newt Lee, he was taken to the station-house and efforts were made to identify the dead child. Deputy Rogers told the officers while all were still at the pencil factory that he knew a girl that worked there who could probably look at the murdered child and tell who she was.

She was his sister-in-law, he said, Grace Hix, who lived at 100 McDonough road. Rogers decided to go after her in his machine.

Shortly before daylight he returned with Miss Hix, and went with her to the morgue of P. J. Bloomfield, where the body had been taken. There Grace Hix looked at the lacerated body.

"It's the little girl that worked at the machine next to me," she cried. "It's Mary Phagan." With the words she fainted.

In the meantime other officers of the police and detective departments had been busy at the scene of the crime. About 5:30 o'clock Detective Starnes called up Frank, the superintendent, at his home, 68 East Georgia Avenue, told him that something had happened at the factory, and that he would send for him in an automobile.

So shortly after day-night Rogers went to the Frank home in his car with Detective John Black. The door was opened to them by Mrs. Frank, and immediately afterward her husband came out.

According to the story of Black and Rogers, Frank asked them if anything had happened at the pencil factory, but they told him to get his coat and come with them. Black said later that Frank was dressed, all except his collar and tie, and that he appeared to be extremely nervous, constantly rubbing his hands.

The three of them got into Rogers' car and rushed off toward town. On the way Black asked Frank if he knew a

girl named Mary Phagan, and the superintendent is said to have told him that he would look on the factory pay-roll and see. It was at this time that Black told Frank of the murder.

On the way to the factory the three stopped at the undertaker's and looked on the body of Mary Phagan. It is said that Frank was asked if he knew her and replied that he thought so and that he would find out for certain at the factory.

Leaving the undertaker's, the trio approached the factory at sun-rise. Already the news of the murder had spread over the town and a small group of men stood outside the factory door. Among them was N. V. Darley, general foreman of the factory, whom Frank had requested his wife to notify before he left home. Frank hailed the foreman and he entered with the superintendent and the officers.

Straight up the stairs to Frank's office the men went. The superintendent opened the safe, took out a blank book, ran his finger down a column of names and stopped at one.

"Mary Phagan" stared up from the page.

"Yes," said Frank, according to Rogers' story. "She was here yesterday to get her pay. If I make no mistake, my stenographer left at 12 o'clock, the office boy went a few moments later, and then she came in and got her pay. It was 12:15."

Stepping quickly away from the book, Frank rubbed his hands and asked if any traces of the pay envelope had been found around the factory. There had been none.

The next request of the superintendent was to see the place where the girl's body had been found. Officers, superintendent, and foreman boarded the elevator leading to the basement. First, it is said, Frank went up to a switch-box by the elevator, told the officers that he was accustomed to keeping it locked, then unlocked it, turned on the machinery, and the elevator started on its downward trip.

In his nervousness, Frank did not see that the elevator rope was caught, and Darley reached over and helped him release it. After viewing the basement room where the body was found, the party returned upstairs.

"Newt Lee has worked for us a short time," Frank is quoted as saying: "But Darley's known him a long time. If anybody can get anything out of him, it's Darley."



On the return to the first floor, some one suggested that they all go down to the station-house, with which Frank turned to Darley and is said to have told him:

"I guess I'd better put a new slip on the clock."

What followed is best told by Boots Rogers. By his testimony given later, Frank talked but little of the murder but said: "That's too bad," as he looked at the spot where little Mary Phagan was found dead. When Frank spoke to Darley about a new slip on the clock, said Rogers, the foreman agreed with him.

Rogers said: "Frank took his keys out of his pocket, unlocked the door of the lock on the right, and took out the time slip. He examined the slip and then said it was punched all right.

"Lee was handcuffed and was standing near. Darley also was there. After seeing that the time slip was punched all right, Frank laid it down on the table and went into his office, coming out with a blank slip. While he was in the office getting the new slip, several of us examined the one taken from the clock. When Frank put in the new slip, he asked some of us to help him, and I held a lever. Frank found a pencil in one of the punch holes, and asked Lee why it was there. The negro said he put the pencil there so he would punch the right hole and make no mistake.

"Frank unlocked the clock and on the margin of the slip he wrote in pencil 'April 26, 1913.' Then he folded the slip and carried it back into the inner office. When I examined the slip, I noticed just the first two punches especially. One was punched at 6:01 o'clock and the second at 6:32 or 6:33."

"He didn't notice any skips on the slip.

"He thought if there had been any omissions, he would have seen them."

From the factory Frank and the officers went to the police station, still in Rogers' machine, which, verily, had seen hard service that Sunday morning. Darley and Rogers sat on the front seat, Lee and Detective Black in the rear. Frank was sitting on Darley's knee. He trembled violently, said Darley.

At the police station, Frank is said to have leaped out of the automobile in a nervous jump, walking rapidly into the chief of detectives office, and talking in a quick, constrained manner. During the conversation in the detectives' office, Frank told them of the visit to the factory Saturday morning of one J. M. Gantt, a young man who was discharged from

the factory a short time before and who came back that afternoon for a pair of shoes he had left there. Frank told the detectives that Gantt knew Mary Phagan well.

On the strength of this statement, the detective force started looking for Gantt.

With Newt Lee held in the station on the charge of suspicion, Frank at his home, and detectives on the lookout for several suspects, the first day of the famous Mary Phagan case came to a close.

All during that still Sabbath crowds had passed constantly back and forth along Forsyth street, content merely to stand and gaze at the building where black murder had been done, although a ceaseless watch was maintained by officers on all who entered or left the factory, and the general public was entirely excluded from its interior.

And in the meantime there was sorrow in a little home in Bellwood, which Mary Phagan had left alive and happy on Saturday.

## CHAPTER IV.

### Mother Hears of Murder.

The story of Mary's actions on that last Saturday she was alive is told as follows by various witnesses:

Memorial day dawned cloudy and dim. It was a holiday, the first that the little factory girl who worked so hard from morning until night had had in many weeks.

She planned to go to town right after dinner, get her \$1.20 pay at the factory, and spend the rest of the day watching the Confederate Veterans parade down Peachtree street.

Shortly before noon, she hurriedly ate her simple dinner of cabbages and biscuit and left the home which she was never destined to see again. She boarded a street car for the city about noon.

On the car was tow-headed, freckle-faced, George Epps, the newsboy that lived near Mary, the little fellow whom she had always liked. They sat together on the car and before they parted Mary had promised to meet her little friend at 1 o'clock and with him watch the boys in gray march.

At Marietta and Forsyth streets, but little over a block from the factory, Mary alighted from the car, according to George Epps, and walked down Forsyth street, saying that she was going to the factory. This car was due to arrive at the corner of Broad and Marietta streets, one block from where she left it, at 12:07 o'clock.

Late that evening George Epps ran over to the Phagan home, to find out why Mary had not met him as she promised. He found her mother feverishly worried because Mary had not been home at all. J. W. Coleman, Mary's step-father, went to town at the solicitation of Mrs. Coleman to see if he could find Mary anywhere.

"She might have gone to the Bijou theatre with some of her girl friends," Mrs. Coleman told her husband. "Wait down there until it gets out and see if you can't find her."

Mr. Coleman went to the Bijou, waited until the show was over, watched the streams of faces pass him by, but never saw the face of the little girl he sought.

He returned to the home, 146 Lindsay street, and consoled the grieving mother with the thought that Mary might have gone to Marietta to visit her grand-mother. She was always starting to do that, Mr. Coleman told her, and probably she just decided to go after she drew her pay Saturday.

The mother's heart was aching, but she managed to quiet all outward fears. Yet all through the long night she was wondering where her little girl was.

Early on Sunday morning, April 27th, there came a knock on the door of the Phagan home. The mother's heart told her it was news of Mary and she flew to the threshold.

A white-faced girl stood at the door, her eyes deep with sorrow, her lips hardly able to utter the awful words she came to tell. She was Helen Ferguson, a neighbor.

"Mary is—" she began.

The mother's heart read the rest.

"Not dead?" she cried, stricken to the depths.

"Yes, dead, dead," the girl sobbed, breaking into a storm of weeping.

Other members of the family came running to the door. The mother swooned and was supported to a couch within the home. There she lay for days afterwards, unable to speak save to ask piteously for her little daughter.

The news once broken to the Phagan family, Mr. Coleman hastened to town to see the body of the little girl who had become even more than a daughter to him. At Bloomfield's, the undertaker's, Will Ghessling, an assistant, showed him the body, and the old man positively identified it.

He was but one of many who looked on the body that day and the day following.

Morbid curiosity, the same that influenced hundreds to gaze at the blank walls of the pencil factory and later to stand for hours outside the court-room where the trial took place, led thousands of people to steal one glance at the corpse of a girl murdered so cruelly and so mysteriously.

The largest crowds looked on the body of Mary Phagan that have ever seen a dead body in the history of the city of Atlanta. It is estimated that 20,000 saw the remains while they were at the undertaking establishment, while many hundreds viewed them at the funeral at Marietta.

The funeral took place Tuesday afternoon. Before that, however, physicians made an examination of parts of Mary Phagan's body, although the result of their probe was kept a profound secret until the trial.

On Tuesday afternoon, April 29th, the body of the little girl was laid to rest in the old family cemetery at Marietta, Ga., twenty miles from Atlanta, while members of the family and scores of friends stood by, weeping bitterly.

On May 7th the body was exhumed at the order of the state solicitor and a minute examination made of the stomach and other vital organs by Dr. H. F. Harris, of the state board of health. What he found out was known only to himself and the solicitor until he testified on the witness stand at the trial nearly three months later.

## CHAPTER V.

### Crime Stirs Atlanta.

Following the news that Mary Phagan had been murdered in the basement of the National Pencil factory, the city of Atlanta was stirred as it had never before been stirred. The famous Grace case had created excitement, the trial of Mrs. Callie Scott Appelbaum had been of profound interest, but the mystery surrounding the murder of Mary Phagan and the atrocity of the crime, combined to make it a sensation which lasted not only the requisite nine days, but remained a mystery for months, a mystery in which the final chapter may never be written, a mystery which will always make the case the most famous in the criminal annals of the state of Georgia.

The name of Mary Phagan was on the lips of all on the Monday morning following the day of the murder, the papers got out extra after extra, they were snapped up by thousands, it seemed as if the public could not read enough of the horrible crime.

The result was that the Atlanta police department was swamped with rumors, most of them extremely sensational, which their originators claimed would lead to the discovery of the murderer.

While the first wave of public opinion was unanimous in declaring Newt Lee the guilty man, reports of other suspects resulted in the arrest of another man before that first Sunday was ended.

He was Arthur Mullinax, a former street car conductor and an alleged friend of the dead girl's. Mullinax was arrested on the statement of E. L. Sentell, an employe of the C. J. Kamper Grocery company, who said that he saw the man with Mary Phagan at 12:30 o'clock on the morning of the murder walking along Forsyth street near the pencil factory.

Sentell, in his statement to the police, said that he had known Mary Phagan for years and that he was positive she was the girl he saw on the street, and more startled than ever when, on her approach, he recognized her as the little Phagan girl. He said that as the couple passed them, he said, "Hello, Mary," and that she replied, "Hello, Ed."

Mullinax was easily apprehended by the police and late Sunday evening was taken to the police station. Here Sentell positively identified him as the man he said he saw with Mary Phagan.

A crowd was at the police station when Mullinax was taken into custody, and several threats were made on his life, a typical instance of the point to which public sentiment had become inflamed.

The suspect vehemently denied his innocence to the police, declaring that he knew Mary Phagan only by sight and that he had met her but once, at a Christmas entertainment. The officers decided to keep him on suspicion, and he was lodged in a separate cell.

On Monday another suspect, J. M. Gantt, was arrested at Marietta. Several suspicious circumstances pointed to Gantt as knowing somewhat of the crime. He was known to have been acquainted with Mary Phagan, he had been at the factory Saturday afternoon, he had formerly worked at the factory and was familiar with the building.

Gantt's sister, Mrs. F. C. Terrell, was located by officers at her residence, 28<sup>4</sup> East Linden street, where she said Gantt had stayed Friday night. She gave a conflicting account of his movements after that. Officers decided they were on the right track.

Monday morning Gantt was arrested with a warrant charging him with being suspected of the murder of Mary Phagan, just as he stepped off the car at Marietta.

He was brought to Atlanta, and joined Lee and Mullinax in the station-house. Gantt told a straight story, admitting that he had been discharged from the factory several weeks before; that he went back Saturday to get some shoes he had left there; that in going to Marietta at that unfortunate time he was merely following out some plans he had suggested to his mother many days before.

On the morning following his detention, Gant sought to get out of jail by applying for a writ of habeas corpus. But before it could be acted on both he and Mullinax were released on May 1, following testimony at the coroner's inquest by which each established a clear alibi. Mullinax was released largely owing to the testimony of his fiancée, Pearl Robinson, who came forward and said she was the girl seen with him by Sentell.

Gant was later subpoenaed as a witness at the trial, while Mullinax was discovered to know so little about the case that

he was not even summoned as a witness.

The rumors in regard to Gant and Mullinax were but two of many that the police had to run down, explode, or confirm during the days following the murder.

Tales of a girl being kidnaped in an automobile Saturday morning and drugged; of a girl with a red dress who said she knew something about the crime being seen at Marietta: rumors and rumors of rumors had the police and detectives wellnigh frantic.

Not the least of them resulted in the arrest of a man in far-off Houston, Tex., Paul Bowen, a former Atlanta boy who knew Mary Phagan. Bowen succeeded in proving an alibi on May 7, the day after his arrest, without having to make the long trip back to Atlanta. It is interesting to note that owing to the warm condition of Houston politics at the time Bowen's arrest was seized upon as an excuse for discharging half the detective force of that city.

The police received alleged aid on the Monday following the murder when it was announced that the pencil factory authorities had retained the services of local Pinkerton detectives to aid in running down the murderer.

During that Monday, April 28, there was so many rumors afloat that real progress on the Phagan case was but little.

During the morning the coroner's jury met with Coroner Paul Donehoo in the metal room of the pencil factory and was empaneled. It immediately adjourned after viewing the body and the scene of the crime.

An interesting discovery of the day was that of blood spots on the floor of the metal room which led detectives to think that the Phagan girl was killed there and not in the basement, as was at first supposed; and that her body was then dragged to the basement. This was but one of the many theories advanced as to how and when the little girl met her death.

So ended Monday, April 28, with three suspects, Lee, Cant and Mullinax, in jail, and the men who later were to be the chief actors in the drama still at large.

The arrest of one of them was to follow before twenty-four hours had passed.



## CHAPTER VI.

### Leo Frank Is Arrested.

On the morning of Tuesday, April 29, Leo M. Frank, superintendent of the National Pencil factory, was taken to the police station and held on suspicion in connection with the murder of Mary Phagan. From that day on he never regained his freedom.

Slim, boyish-looking, a frail, delicate man, he was a different suspect than either the old darky, Newt Lee, the young giant, Gant, or the ex-conductor, Arthur Mullinax.

Who he was cannot be better told than in his own words, spoken nearly four months later to the jury who decided his fate. He said:

"In the year 1884, on the 17th day of April, I was born in Paris, Tex. At the age of three months my parents took me to Brooklyn, N. Y., and I remained in my home until I came south, to Atlanta, to make my home here. I attended the public schools of Brooklyn, and prepared for college in Pratt Institute, Brooklyn, N. Y. In the fall of 1902 I entered Cornell university, where I took the course in mechanical engineering, and graduated after four years, in June, 1906.

"I then accepted a position as draftsman with the B. F. Sturtevant company, of High Park, Mass. After remaining with this firm for about six months, I returned once more to my home in Brooklyn, where I accepted a position as testing engineer and draftsman with the National Meter company, of Brooklyn, N. Y. I remained in this position until about the middle of October, 1907, when, at the invitation of some citizens of Atlanta, I came south to confer with them in reference to the starting and operation of a pencil factory to be located in Atlanta.

"After remaining here for about two weeks, I returned once more to New York, where I engaged passage and went to Europe. I remained in Europe nine months. During my sojourn abroad I studied the pencil business, and looked after the erection and testing of the machinery which had been previously contracted for. The first part of August, 1908, I returned once more to America, and immediately

came south to Atlanta, which has remained my home ever since.

"I married in Atlanta, an Atlanta girl, Miss Lucile Selig. The major portion of my married life has been spent at the home of my parents-in-law, Mr. and Mrs. E. Selig, at 68 East Georgia avenue.

Frank was taken into the custody of the police shortly before noon Tuesday as he was at the pencil factory.

An automobile which left the police station carrying Detective Harry Scott, of the Pinkerton agency, and City Detective John Black, returned within ten minutes with Frank, who was confined in a cell. Chief of Detectives Newport A. Lanford announced that he would be held pending the result of the coroner's inquest.

The news of the latest arrest spread like wild-fire. Speculation was rife as to Frank's connection with the case. Scores of his friends came to his aid, hundreds who had never seen him declared that he must be the guilty man.

The latter pointed out the following condemning facts that were known at that time: that Frank, by his own admission, was the last man known to have seen Mary Phagan alive; that he appeared nervous when Newt Lee came to the factory early in the afternoon and that he called Newt Lee over the telephone during the evening, something he had never done before; that he was nervous when Gant came to the factory at 6 o'clock Saturday afternoon; that he was nervous when officers took him to the factory Sunday morning.

Frank's friends set up a cry of indignation over his arrest. They at once retained Luther Z. Rosser, one of Atlanta's foremost attorneys, for counsel. Rosser immediately called at the station and talked with his client, and was also present when Frank was questioned by detectives.

Besides interviewing his counsel, Frank held a long talk with Pinkerton Detective Harry Scott, retained by the factory officials.

Public sentiment on that Tuesday, the day before the inquest started, attained its highest point since the discovery of the murder. With four suspects held, opinion was equally divided as to who was the guilty man, although the majority condemned either Newt Lee, the negro, the most humble of the pencil factory employees, or Leo Frank, the white man, the "boss" of the firm. Suspicion against Gant and Mullinax already was fast dropping away.

The detectives of both the city and Pinkerton forces scoured the factory, the homes of the suspects, the whole city in their search for clues.

At the pencil factory they found blood spots near the elevator shaft on the first floor, a discovery which led to confirm their belief that Mary Phagan was murdered on that floor and her body dragged to the shaft, where it was lowered to the basement.

Another find was of a bloody shirt, which city detectives unearthed in their minute examination of the premises around Newt Lee's humble abode. The shirt was discovered in an ash barrel back of his cabin. It was covered with dark stains, although it gave every appearance of not having been worn after the blood was smeared on it.

This discovery served to swing suspicion more than ever against the night watchman, while Newt himself stoutly declared that he had worn the shirt then on his back for a week.

On Tuesday two rewards were offered for evidence leading to the discovery of Mary Phagan's murderer, one by the state, of \$200, and another by the city, of \$1,000.

The town was in a turmoil on that night, with the official inquest of the coroner scheduled to begin the next day.

## CHAPTER VII.

### The Inquest Starts.

The coroner's inquest started Wednesday morning, following a long interview between Frank and Newt Lee, held Tuesday night at the police station. Detectives stated that the two suspects were brought face to face in the hope that Frank could wring a confession of guilt from the negro.

Scores of witnesses, including girls from the factory and many others, arrived at the police station Wednesday morning to testify at the inquest. The inquest began at 9:10 o'clock, behind closed doors, in the room of the board of commissioners.

Call Officer W. F. Anderson, and Officer Brown testified as the first witnesses. They went into full details as to how they were notified of the murder and how they found the body on that gresome Saturday night.

Officer Anderson's testimony contained a vivid and revolting description of how the body was mutilated and torn. In the dim light of the cellar, testified Officer Anderson, the body could not be identified as that of a white girl's unless the observers were at least within fifteen feet of where it lay.

He was present, said the witness, when somebody picked up a note near the body. He identified it as the one written on a slip of yellow paper. Later, somebody found another note. He didn't identify that. About five feet from the girl's body a pencil was found. Near it was a pad from which the slip evidently had been torn. He described the basement—a long, narrow enclosure between rock walls, with the elevator shaft near the front, a boiler on the right about half way back, a partition on the left shutting in an enclosure which seemed to be waste space, an open toilet on the right beyond the boiler, the girl's body on the left, beyond that, and a door at the back end. The girl's left slipper was found near the elevator. She wore no hat that he could find. He didn't remember distinctly how she was dressed, but believed it was in some dark material.

Officer Brown followed Anderson on the stand, and gave testimony extremely damaging to Newt Lee, declaring, as did Anderson, that it was impossible to tell that the body was

that of a white girl unless within a very few feet of it. He said that only until he rolled down the stocking below the knee and saw the flesh could he tell that the girl was white. He described the fearfully dirty appearance of the body, stating that only by being dragged could it have accumulated so much dirt and grime. He also told how they had tried to reach Frank over the 'phone in the early morning hours, but had not been able to do so until several hours later.

During Brown's testimony a dramatic incident occurred. The little girl's clothes, a one-piece purple dress with white trimmings, one shoe, a black gun-metal slipper, were shown to the jury. As they were placed in a heap on a chair, Mary Phagan's brother rose from a seat in the corner, stared in horror at the pathetic little pile, and ran from the room with his hands clasped to his head.

At 11:45 o'clock Newt Lee himself took the stand. He testified to coming to the factory at 4 o'clock, leaving when told to do so by Frank, coming back at 6, he told of Frank's nervousness, of Gant's visit to the factory; of Frank calling him over the 'phone to ask him if everything was "all right" early in the evening; and of finding the body. Newt testified that he found the body face up, although detectives and officers say that it was face down. Newt swore, however, that he did not touch the body. In answering the allegations of the officers that he could not tell it was a white girl, he declared he could tell by the hair which was always different in white women from black women.

The last witness to testify before the jury adjourned Wednesday morning was J. G. Speir, of Cartersville, who swore that he saw a girl and a man Saturday afternoon in front of the pencil factory, that they were excited and nervous, and that the girl was the same one he saw Sunday at P. J. Bloomfield's chapel, the dead Mary Phagan.

Wednesday afternoon the first witness to testify was George Epps, the young newsboy who came to town on the car with Mary Phagan. An interesting phase of his testimony was the statement that Mary had told him that Mr. Frank had winked at her and "'looked suspicious."

E. L. Sentell testified in regard to seeing Mullinax with a girl whom he supposed to be Mary Phagan late Saturday night. Another witness, a neighbor, said he had seen her about 5 o'clock near her home, while a third witness, who had told detectives that he had seen Mary Phagan that af-

ternoon, appeared at the inquest to say that he was mistaken. Sentell was convinced by officers that he was not sure the girl he saw was Mary Phagan.

R. P. Barrett, a factory employe, testified to finding the blood spots near Mary's machine on the second floor, showing that she may have begun her fight for life there instead of in the dark basement.

Gantt took the stand and told the same story that he had already told to detectives.

J. W. Coleman, stepfather of Mary Phagan, testified to the anxiety of himself and her mother, on the night of the murder.

Frank M. Berry, assistant cashier at the Fourth National bank, was one of the important witnesses at the hearing, and he declared that in his opinion the notes found by the girl's body were written in the same hand as several other notes, which had been written at police headquarters for the detectives by the negro watchman, Newt Lee.

The inquest then adjourned until Thursday.

When the inquest adjourned at 6 o'clock Wednesday afternoon, the detectives had made one step toward solving the mystery of little Mary Phagan's death. This was the arrival at the conclusion that the little girl had never left the factory after she went there shortly after noon Saturday to get her pay.

Assertions that Mary had been seen at Midnight with Mullinax, and that girls corresponding to her description had been seen at various hours Saturday afternoon in the neighborhood of the factory, one by one were probed deeply and found to be unfounded.

E. L. Sentell admitted that it was Pearl Robinson, and not Mary Phagan that he had seen with Mullinax, other witnesses who were supposed to have seen the little girl Saturday afternoon came forward to declare that they might have been mistaken. This underbrush cleared away, officers could find a working basis at last, a substantial supposition that Mary Phagan never came out of the pencil factory alive.

As a result of their conclusions, Gant and Mullinax were released from custody at the temporary adjournment of the inquest Thursday afternoon, an inquest which was in session for but a few minutes.

Coroner Donehoo had called 160 witnesses, most of them factory employes, and after swearing them in at 4:30 o'clock,

announced that the investigation of the little girl's death would be postponed until the Monday following.

Hardly had this news been announced, when a bigger sensation followed. Newt Lee and Leo Frank were ordered transferred to the Fulton county tower until the conclusion of the inquest.

At police headquarters it was given out that the two suspects were taken to the tower because there was considerable doubt as to the legality of detaining them on city warrants, as both had been arrested in connection with a state and not a city case.

The coroner's warrants by which the two men were taken to the tower were exactly alike in each case, save for the names. Frank's read:

"Georgia, Fulton County:

"To the Jailer of Said County; Greetings:

"You are hereby required to take into custody the person of Leo M. Frank, suspected of the murder of Mary Phagan, and to retain the said Leo M. Frank in your custody pending a further investigation of the death of said Mary Phagan, to be held by the said coroner of said county.

"Herein fail not.

"Given under my hand and official signature this the first day of May, 1913.

(Signed)

PAUL DONEHOO,

"Coroner."

With the two men in the tower Thursday and two other ex-suspects released, there appeared to be but little doubt that in the persons of Frank and Newt Lee the detectives held the key to the mystery.

Yet there was another man in the toils of the law, a man whose arrest created such little excitement at the time that a bare paragraph was devoted to it in the newspapers. Yet later this man was to startle the public with the most sensational statement that was ever told until the trial started.

He was James, "Jim," Conley, negro sweeper at the pencil factory. Conley was arrested at 2 o'clock Thursday afternoon on suspicion and was confined at police headquarters, together with "Snowball," elevator boy at the factory. The latter never figured prominently in the case. The slight interest which Conley's arrest caused at the time is shown in the newspaper account of it:

"The sixth arrest in the Phagan murder case was made by detectives at 1 o'clock Thursday. James Conley, a negro 'sweeper' employed at the National Pencil factory, was seen washing a shirt at a faucet in the rear of the building. Before he had completed the work detectives, who had been phoned, walked in and placed the man under arrest. There were certain marks on the man's shirt. He claims that they are 'rust' marks. The detectives will hold him, at least until a chemical analysis can determine for certain whether or not the stains were caused by blood.

"The negro declared to the police that the shirt was the only one which he possessed and that he washed it so he could appear in it at the inquest, to which he had been summoned. His statement is believed by the police."

At this time theories and "tips" still poured into the detective office. Many of Frank's friends were working personally on the case in their endeavor to clear the cloud of suspicion which hovered over the well known young superintendent.

He was prominent in the community, liked by a wide circle of friends. He was president of the local Hebrew organization, B'nai B'rith, a leader in church and social work, of good standing in the business world, a college graduate, pleasant to talk with, with no small amount of personal magnetism and charm.

Even at that early hour, when very trivial circumstances were held up against Frank, his friends rallied warmly to his support.

Theories of how Mary Phagan met her death and by just what system her murderer can be brought to justice were flooding the office of the detectives. People called over the phone to tell the officers just how they should proceed. Many of them came in person, and the office was in receipt of hundreds of letters from this and half a dozen other states, giving advice and theories.

Many of the letter writers were anonymous, but most of the people signed their names. Several letters had been received from "criminologists," who were willing to divulge their theories only for money. Several letters came from "seers" and "mystics," who communed with the spirits and learned in that way the "identity" of the murderer.

Among the interesting callers at police headquarters were two ladies, who dreamed about the murder. Both said that



they distinctly saw Mary Phagan in her desperate battle with the murderer.

The ladies arrived within a short time of each other, but their dreams didn't coincide. Both gave the chief accurate descriptions of the murderers of their dreams.

While friends of Frank were flocking to defend him, there was an equal amount of condemnation voiced against both him and the negro. Mutterings and threats began to fill the air and when the detectives showed that they really thought either Frank or Lee the criminal, according to the public's view of it, by taking the two to the tower, sentiment reached fever heat.

That Thursday night promised ugly things. Fear of what might happen in the then aroused state of affairs caused officials of city, county and even the state to take extremely precautionary measures.

Thursday night Governor Joseph M. Brown advised Adjutant General J. Van Holt Nash to communicate with officers of the Fifth Regiment, National Guard of Georgia, with a view to having the troops in readiness should an emergency arise. The governor also warned the jail authorities and the police to be on the lookout for any signs of trouble on the part of the populace.

In response to the warnings of the governor, Colonel E. E. Pomeroy, commanding the Fifth Regiment, gathered his men at the auditorium-armory, a few blocks from the tower where Frank and Lee were behind the bars, and held the troops there until a late hour of the night. At 11:30 o'clock the soldiers were allowed to return to their homes, rumors of mob violence having proven groundless.

From Thursday until the coroner's jury convened again Monday morning, there was little of real interest to crop up in the famous case, although rumors and speculations continued to grip the city and the state. The cupidity of the public for news continued at a high pitch and Saturday night the militia was again ordered to be in readiness in case trouble should come up.

Solicitor H. M. Dorsey held a long conference Saturday morning with Chief of Detectives Lanford, and Coroner Paul Donehoo, a conference which, it was understood, resulted in the summoning of more witnesses for the inquest and a unifying of the forces of city and state at work on the case.

All day Saturday the city was alive with rumors that there had been a confession from one of the two prisoners in the tower, rumors which the officials indignantly denied and which later turned out to be entirely unfounded.

So did the first week since Mary Phagan's body was found, end, with the best forces of county, city and state, and outside agencies at work on the case, with two suspects in the tower, and the whole state looking forward to what the coroner's inquest might develop when it convened again Monday afternoon at 2 o'clock.

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## CHAPTER VIII.

### Frank's Story.

Before the coroner's jury reconvened Monday afternoon, the new Fulton county grand jury was sworn in by Judge W. D. Ellis Monday morning. In his charge to the members the Judge impressed on them the necessity for considering the Phagan case before all else if they should be called upon to take up a charge against a man accused of murdering the little girl.

In referring to the case the judge said:

"The Mary Phagan case calls for your immediate and vigorous attention. The power of the state is behind you. What appears to be an awful crime has been committed, and the welfare of the community, the good name of Atlanta, public justice and the majesty of the law demand at the hands of this grand jury and of all officers of the law the most searching investigation and the prompt bringing to trial of the guilty party."

At 2:30 o'clock Monday afternoon the coroner's jury took up anew its probe of the murder of Mary Phagan. Leo M. Frank was the first witness called. For three hours and a half he stayed on the stand, telling a complete story of where he was and what he did on the day of the murder, alternately interrupted by questions on the part of the coroner, Solicitor Dorsey, and Chief Lanford.

The only other witnesses examined during the afternoon were Mr. and Mrs. Emil Selig, at whose home the Franks lived, Selig being Frank's father-in-law.

Frank first testified that he had formerly lived in Brooklyn, N. Y., that he left Brooklyn in October, 1907, that he went abroad, and returning to the United States, went to work for the National Pencil company, where he came to be general superintendent.

He said in that capacity his duties were to look after the purchase of material inspect factory costs, see that orders were properly entered and filled, and look after the production in general.

Frank told how he came down to the factory as usual Saturday morning and of the customary routine there until the hour of noon his work lightened somewhat owing to the fact that the day was a holiday and there were only eleven people in the factory.

He told how shortly after twelve Miss Hall the stenographer and Alonzo Mann the office-boy, left the building, when he started copying orders in the shipping requests. He said that at that time, so far as he knew, there was no one left in the office.

"About 12:10 or 12:05," said Frank, "this little girl who was killed came up and got her envelope. I didn't see or hear any one with her. I didn't hear her speak to any one who might have been outside. I was in my office working at the orders when she came up.

"I don't remember exactly what she said.

"I looked up, and when she told me she wanted her envelope, I handed it to her. Knowing that the employes would be coming in for their pay envelopes, I had them all in the cash basket beside me, to save walking to the safe each time."

Frank said he didn't know Mary Phagan's number. He said each envelope had the employe's number stamped on it. He admitted that he had looked up Mary Phagan's number since the murder, but he had forgotten it again, he said. He did not see her pay envelope after he handed it to her. He made no entry of the payment, on the payroll or any other record, because none was required, said he.

"The girl left. She got to the outer door and asked if the metal had come. I told her no."

He explained that the Phagan child hadn't been working since Monday because of the shortage in the metal supply.

There was \$1.20 in the child's pay envelope, he said, part of it being for work on Friday and Saturday of the previous week. He didn't know at what rate she was paid, he said, as he didn't open the sealed pay envelope.

When she left he heard her footsteps die away in the hall, he said, and returned to his work, thinking no more about her.

Frank said he knew the Phagan child's face, but didn't know her name. She stood partly behind his desk, he said, and he didn't notice the details of her dress, but thought the color was light. He didn't recall whether she wore a hat, or carried a parasol or purse, he said, and didn't see her shoes or stockings, which, he said, were hidden by the desk.

The girl reached his office between 12:10 and 12:15, he said and stayed there about two minutes. He thought her name was on the outside of the pay envelope, he said, but had identified her by her number.

No one else came into the office while she was there, the witness said. In response to a question from the coroner, he said that he had told her she had come almost too late. When she left he thought he heard her voice in the outer office, he said. He made no entry on the payroll after giving the girl her envelope, he said.

Frank then made a startling statement. It was that five or ten minutes after Mary Phagan left, Lemmie Quinn, foreman in the tip department, entered his office. Quinn stayed a few minutes, said Frank, they had some small talk, and the foreman left about 12:25 o'clock. He said that Quinn knew Mary Phagan, being head of the department in which the girl worked.

Before Frank left the office he went up to the fourth floor, according to his story, where he found Harry Denham and Arthur White and Mrs. White, the two boys being employes of the factory.

Frank said he then went home, reaching there about 1:20 o'clock Saturday afternoon. About 3 o'clock, he said, he came back to the factory. Shortly after, he said, White and Denham, whom he found working on the third floor on his return, left the building, White borrowing two dollars from him on his way down-stairs. He went down-stairs after them, he said, and locked the door. The rest of the afternoon, he said, he spent in work on the financial sheet. He described

Lee's arrival early in the afternoon, how he told him to come back, and how, about 6 o'clock after the negro had returned, Gantt came and got his shoes.

He then went home, he said, reaching there about 6:25 o'clock. He told how he 'phoned Lee at the factory. Frank said he went to bed at 11 o'clock. He continued his story with what happened the following Sunday.

Frank described his conversation with Lee at the police station on the Monday following the murder when detectives told him to interview the black and try to get a confession out of him. Frank said he told the watchman:

"They know you know something; they can swing us both if you don't tell." Just what the detectives had asked him to say.

A little after 6 o'clock Frank descended from the stand, as unruffled by the terrific grilling and bombardment of questions he had received as he had been before he testified. He stated to a reporter that he was not tired at all, and indeed, he did not appear to be, despite the trying experience.

Emil Selig and his wife, Mrs. Josephine Selig, followed Frank on the witness stand. In effect they testified the same, that they saw Frank at dinner Saturday, at supper Saturday, that he went to bed about 11 o'clock, and that he had left for the factory when they awoke Sunday morning. They did not infer that he appeared nervous at any time.

At 7:20 o'clock the inquest adjourned until 9:30 o'clock Thursday morning. The intervening days were allowed in order that more witnesses might be subpoenaed and the statements made by Frank thoroughly investigated.

Lemmie Quinn, who had first told detectives that he had not been at the pencil factory at all Saturday, admitted that he was wrong. He said that he had forgotten his visit, that he had stayed but a short while, and was only in Frank's office for a minute. He indignantly denied that he had been offered a bribe to protect Frank by his testimony.

Thursday morning when the inquest resumed, six witnesses testified. They were Boots Rogers, Lemmie Quinn, Miss Corinthia Hall, a factory employe; Miss Hattie Hall, stenographer at the factory; J. L. Watkins and Miss Daisy Jones.

Though put through a searching examination by the coroner in an effort to break down his statement that he had visited the factory on the day of the tragedy shortly after

noon just after Mary Phagan is supposed to have received her pay envelope and left, Quinn stuck to his story.

"Boots" Rogers testified that Mr. Frank had changed the tape in the time clock while the officers were in the factory Sunday morning after the body of Mary Phagan had been found, and that he stated at the time that the sheet he took from the clock seemed to be correct. Rogers also described Mr. Frank's manner when the officers went to his home in an automobile to take him to the factory Sunday morning.

Miss Corinthia Hall, an employe in the factory, testified that Mr. Frank's treatment of the girls in the factory was unimpeachable. She also testified that she had met Lemmie Quinn at a restaurant near the factory near the noon hour Saturday, her statement being confirmatory of his visit to the factory on the fatal day. J. L. Watkins testified that he had mistaken Miss Daisy Jones for Mary Phagan when he thought he saw Mary on the street near her home on Saturday afternoon about 5 o'clock. Miss Jones' testimony was also in this connection.

At the afternoon session Thursday, Detective Harry Scott, of the Pinkerton agency, was one of the first witnesses called. He followed Assistant Superintendent Schiff, of the pencil factory, who was excused after short testimony. The most startling statement made by Scott was that Herbert Haas, one of Frank's attorneys, had requested him to withhold all evidence from the police until Haas himself had considered it. Scott said that he told Haas he would withdraw from the case first. Scott said he was still employed by the pencil factory.

Detective John Black followed Scott on the stand and told of finding a bloody shirt at Lee's home on the Tuesday afternoon following the murder.

Newt Lee was recalled to the stand and said that when he and Frank conversed together at the police station that Frank told him, "If you keep that up, your story, Newt, we'll both go to hell." He told of Frank's apparent nervousness on Saturday afternoon. Asked about the bloody shirt, Lee said that if it was found at his house it must have been his; that a "white lady" once made four shirts for him; that if it was a "store bought" shirt it didn't belong to him.

Frank was recalled to the stand and testified in regard to the elevator, the time clock, his work Saturday afternoon, his actions that night and Sunday morning, and general questions in regard to arrangements at the factory.

City detectives then called some character witnesses: Tom Blackstock, who said Frank was accustomed to "pick" at the factory girls and had placed his hands on them familiarly

Miss Nellie Wood, of 8 Corput street, who said that she had worked about two years at the pencil factory, that Frank would come to her and put his hands on her "when it was not called for," that he was too familiar and she didn't like it, that Frank had tried to pass it off as a joke and that she told him she "was too old for that;" and Mrs. C. D. Donegan, of 165 West Fourteenth street, who said that she worked at the factory three weeks about two years ago and that Frank had winked and smiled at the girls but "never anything more than that."

The character witnesses concluded the afternoon's testimony, and every spectator in the court-room drew a long breath to think that at last the now famous Phagan case was to go to a body of men called together to pass upon it.

It was then ten minutes past 6 o'clock on the afternoon of Thursday, May 7, eleven days since Mary Phagan went to her death at the National Pencil factory. Coroner Donegan began to deliver his charge to the jury. He said:

"You have heard the statement of the county physician, you have seen what caused death. You have seen the body and have heard the evidence in the case.

"It is your duty to inquire diligently as to how Mary Phagan came to her death. That was your oath. In case of unnatural death, you were to determine at whose hands death came.

"You have heard the county physician say strangulation caused death. In determining who is guilty of the murder you turn to the evidence, and if you find that any other party is implicated or is attempting to shield the murderer, he is guilty in the same degree.

"Your position in this matter is similar to that of a commitment court, not a trial court.

"If there is a reasonable suspicion in your mind directed against any person or persons in connection with this crime, it is your duty to hold them. You also can hold witnesses who are essential in trying this case. If you think anybody not actually connected with the case has important information bearing upon it you can hold them.

"If you believe any one is concealing information it is your duty to commit that person as an accessory of the crime."

The six men forming the coroner's jury filed one by one out of the door. The crowd waited.

Before twenty minutes had passed back they came. The foreman stood up and announced the verdict. The coroner's jury had decided that Mary Phagan came to her death by strangulation and recommended that Leo M. Frank superintendent of the pencil factory and Newt Lee its nightwatchman, be held for investigation by the grand jury.

When the verdict was announced, Frank and the negro were at the tower, having been carried there as soon as the former concluded his testimony.

At once Deputy Sheriff Plennie Minor carried the news to the prisoners.

Frank was in the hallway of the tower reading an afternoon paper. The deputy approached him and told him that the coroner's jury had recommended that he and Lee be held for investigation by the grand jury.

"Well, it's no more than I expected at this time," Frank told him. He made no further comment.

Newt Lee was more visibly affected. When the news was broken to him he hung his head in a dejected manner and appeared very much depressed.

"I didn't do it, white folks," he muttered again and again.

## CHAPTER IX.

### Dictograph Incident.

The words "persecution and prejudice," which were to figure so prominently at the trial of Frank, first commenced to be heard soon after the coroner's long inquest had ended.

Then it was learned that Solicitor General Hugh M. Dorsey had become so interested in the case that he had hired private detectives to make an independent probe of the tragedy. It was then generally known, despite the fact that he had made



no formal announcement, that Dorsey was convinced that Frank was guilty, and it was said that he had employed detectives not to work with open minds towards solving the mystery, but to seek only evidence against Frank.

While it was true in neither case, the same thing was said about the city detectives, and friends of the accused man commenced to declare that he was persecuted because of his race. The Jews of Atlanta were then and are to this good day firmly convinced, or rather they say that they are convinced, that Frank is an innocent man.

Not as reticent as Dorsey, the city detectives freely declared that they were firm in the conviction that in Frank they had the murderer. Continually, however, they protested that they were open to conviction and would follow to the bitter end any clue that presented itself, even though it pointed away from Frank.

If the solicitor's detectives unearthed anything in the case, it will probably remain a mystery, as they left the job after about 10 days and have never appeared in Atlanta again.

For several weeks after the coroner had committed Frank and Newt Lee to the tower as suspects, there were continued rumors that a young girl had been heard talking on street corners, and saying that she met Mary and waited outside the factory, while she went up and got a pay check from Frank. Finally the detectives located the woman in question, and it developed that it was on the Saturday preceding the tragedy that she went to the factory with the girl who met her death there a week later.

Col. Thomas B. Felder, well known Atlanta attorney, and the man who incurred the undying enmity of Gov. Cole Blease of South Carolina, by his prosecution of the famous dispensary graft cases, had announced shortly after the coroner's inquest that he had been employed by citizens of Bellwood (the district in which Mary Phagan lived) to find and prosecute the girl's murderer.

He stated that in his opinion the murderer was really Leo M. Frank, but declared that it was necessary for the citizens of Georgia to hire detectives who "could and would" solve the mystery, and secure evidence enough to convict Frank, if he was guilty, or any other man if Frank was innocent.

The colonel did not express a very high regard for Chief Lanford and the city detectives, and as to the Pinkertons he quoted many rumors which said that they were working

not to solve the mystery, but to shield Frank. Col. Felder was a personal friend of William J. Burns, and the latter had assisted him in his efforts to impeach Gov. Blease.

Felder declared that if the public would assist him by donating to a fund that he would get Burns, who was then in Europe working on the Martin disappearance mystery, to come to Atlanta and take up the hunt for the factory girl's slayer. Subscriptions came in rapidly, and on May 18 C. W. Tobie, "special investigator," came to Atlanta to gather up the loose strings and pave the way for his famous chief.

Soon after his arrival, Tobie gave out an interview in which he said that his theory of the crime coincided exactly with that then entertained by the city detectives.

For about a week Felder and the Burns people were the figures of chief interest in the man hunt. P. A. Flak, a New York finger print expert, was brought here by Solicitor Dorsey, but had remained only for a day, and after examining the notes found by the body, declared that by handing them so much the detectives had destroyed a vital clue. He could tell nothing about the notes because of the condition in which he found them, he said.

Charges that a vast corruption fund had been raised to save Frank, guilty or innocent, were heard frequently at this time, although they were never sustained.

It was charged that the Pinkerton operatives, employed by the pencil company, were "double crossing" the city police; working with them simply to learn their secrets and report them to the attorneys for the defense of Frank. Another charge was that Felder and the Burns people, while posing as the man hunters, were really employed by Frank's friends to shield him.

The city detectives were suspicious of the Burns people, and not only failed to give them any assistance, but had every Burns operative shadowed.

While their charges were never substantiated, the suspicions of the city detectives culminated in the dictographing of Col. Felder by agents in the employ of Chief Lanford.

On May 23d the Atlanta Journal sprang the famous "dictograph sensation," devoting its entire front page to the "scoop."

Chief Lanford charged that Col. Felder had sought to bribe G. C. February, his stenographer, to steal certain affidavits and papers in the Phagan case. The dictograph records,

which were printed in full, are too lengthy to reproduce here. In substance the alleged records showed that Felder was negotiating for the purchase of certain affidavits, which, it was alleged, would show up the city detective department, proving that the chief and some of the members were corrupt.

February, it seems, acting under instruction, had led the attorney to believe that he could obtain certain papers in the Phagan mystery, which would prove corruption in the department. The deal was negotiated through A. S. Colyar, an adventurer formerly from Tennessee, who had known Felder during the dispensary graft probe. In the dictograph records Mayor James G. Woodward was also involved, it being alleged that he sanctioned the alleged effort on the part of Felder to "get the goods" on the detectives. Nothing was accomplished by the dictograph exposure, although it led to a sizzling war of words between Felder and Lanford.

This battle of vituperation resulted in a near physical combat between the two principals, when they met in the court house, but deputy sheriffs prevented the actual passing of blows. It is claimed that Felder reached in his pocket at the time for a revolver, but when the charge was made before the grand jury, it failed to return an indictment.

The net result of the grand jury's investigation of the sensational dictograph incident was that it indicted Felder for libeling Lanford and Lanford for libeling Felder in their several published attacks on each other.

While the Felder-Lanford controversy had little to do with the Phagan murder mystery, it served to intensify the public interest in the crime, and to make rumors that "unseen hands" were at work harder to down.

Also it served to end the connection of the Burns detectives with the case.

The war of words was at its height and the city detectives were trailing the Burns men even to their meals.

"This is a hell of a family row and no place for a stranger," said Burns' investigator, Tobie, and he grabbed a train for New York.

On Friday, May 23d, the Fulton county grand jury took up the consideration of a bill charging Frank with murder. The witnesses who were heard at the first day's session were Dr. J. W. Hurt, the county physician, whose evidence did not reach the public until the Frank trial; Police Sergeant S. L. Dobbs; R. P. Barrett, who discovered the blood on the second

floor of the factory and strands of a girl's hair near the same place; Detective J. N. Starnes and W. W. Rogers.

The second day's session of the grand jury resulted in the returning of a true bill, despite the fact that hundreds of people had declared that Frank would never be indicted for the crime.

Among the most important witnesses of the second session were Harry Scott, the Pinkerton, and Miss Monteen Stover. The girl was a new figure in the case and a witness of much importance.

She told the grand jury in substance that when going to get her pay check on Saturday, April 26th, she walked into Superintendent Frank's office at exactly 12:10 o'clock.

The office was perfectly empty, she asserted, and expecting someone to come in momentarily she waited for five minutes. Failing to see Frank or any of the office force, she left the building and returned the following Saturday, when Pinkerton operatives found her.

The girl had not testified at the coroner's inquest, although located before the final session, and detectives admitted that they were saving her as a "star witness."

Immediately after he located Monteen Stover, Harry Scott of the Pinkertons with John Black, of the city force, visited Frank at the tower and said: "Did you leave the office at any time between 12 and 12:50 o'clock, Saturday?"

"No," answered Frank.

"Think about it and be as positive as you possibly can," said Scott.

"I am absolutely certain that I didn't leave my office from the time Miss Hall, my stenographer, left, until I went up to the fourth floor to tell Arthur White's wife that I was going to lock the building," he replied.

In other words, the girl came in at the exact time the state contends Frank was back in the metal room, choking the life out of Mary Phagan's body.

The testimony of the girl was considered by the solicitor as of extreme importance.

It was doubly valuable because at that time it was the only flaw the police had found in Frank's story, as told at the inquest.

Try as they would, they could not break it, for every point that could be corroborated by witnesses, was found to be true.

Monteen Stover's story was considered a "clincher" and the grand jury returned the true bill, when Scott followed her on the witness stand, and gave his story of Frank's repeated assertions that he did not leave his office during the interval mentioned.

Grand jury sessions are secret, but the testimony of every witness who went before the body, except Dr. Hurt's, was known to the public at the time, and no facts except Monteen Stover's story, which were not placed before the coroner's inquest, were heard by the 23 men, who formally indicted Frank for the crime.

There were five Jews on the grand jury, an unusual number for Fulton county, and before the indictment was returned, there were many rumors that they would block it.

However, if a single vote was cast against the bill, the fact never became known as every member signed the indictment.

Frank had not expected an indictment, and had confidentially told friends that a grand jury would never formally charge him with the crime.

In his cell in the tower, however, he took the news quietly as he has taken practically every turn in the case.

He took much consolation from the fact that a grand jury hearing is *ex parte* and his side was presented by no one.

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## CHAPTER X.

### Conley Enters Case.

While the grand jury was considering the indictment of Frank, a new figure entered the case.

The man in question was James Conley, a negro sweeper at the National Pencil factory, who from that time through the tedious trial which was to follow, was the dominant figure about which the state built its case, and the man to whom the crime itself was to be charged by the defense of Frank.

Conley had been arrested while the coroner's inquest was in progress. E. F. Holloway, timekeeper at the factory, one

afternoon about 1 o'clock saw Conley washing a shirt. He said nothing to the negro, but quietly called for the detectives.

When the police arrived some ten minutes later, Conley had dried the shirt, partially, and had the garment, still damp, on his back.

"Come with me," said the policeman.

"Boss, I haven't done a thing," said the negro.

"Why, you brute," answered the officer, "you were seen washing Mary Phagan's blood off of the shirt you now have on."

"Boss, that wasn't blood, it was jest natcheral nigger dirt," said Conley.

"Well, why were you washing it at this time of the day?" questioned the bluecoat.

"Well, deys done called me for a witness at the court, and I didn't want to go around all those white people in a dirty shirt," Jim said and the officer believed him because every employe of the factory had been ordered that day to report before the coroner.

But Jim was a negro, and the police couldn't afford to take chances so they locked him up and forgot about him for several weeks.

Detective Harry Scott dropped in Jim's cell one day, and asked the negro to write a few sentences for him. The detectives were working then, as they were throughout the case, on the handwriting clue.

"Boss, I can't write a word," innocently responded the negro, as he walked closer to the bars and begged the officer for a cigarette.

Replying to Scott's questions, the negro gave a glib account of his movements on the Saturday of the tragedy, accounting for every minute and swearing that he had never been near the factory on that day.

Nothing was thought of Jim Conley for a week or more, and then factory employes on the occasion of the many visits of the detectives to the scene of the tragedy, informed that that Conley bore a bad reputation; that he had been in the hands of the police repeatedly, and that once he had been in the city stockade and worked on the streets in front of the factory.

The detectives paid little attention to the statements of the factory people about the negro at first, as they were so certain

that he had had nothing at all to do with the crime, and in addition they found that Conley was not well liked because he had borrowed money from many employes and had failed to pay it back.

Things dragged along until a few days before the case against Frank was to be presented to the grand jury, and all of the sleuths were at a loss for new clues.

One day Scott casually asked a young clerk at the factory if Conley could write. The answer was yes, and searching through a desk he found a contract to pay the installments on a watch, which Jim had signed.

Realizing that Conley had lied about one particular, the detective thought it highly probable that his story was a lie from start to finish.

They started giving him the third degree—that third degree which was to later cause so much comment at the trial.

On May 23, Conley admitted, under the third degree, that he had lied about not knowing how to write, but swore that he knew nothing about the crime. He gave the officers a specimen of his handwriting, and they were startled by its similarity to that found on the notes by the slain girl's body.

Saturday morning about 10 o'clock, however, Conley sent for Detective John Black.

"Boss, I'se going to tell you the whole truth now," he said.

"I did write them notes that you accuse me of writing, but I did it because Mr. Frank told me to, and he said he was going to send them to his mother in Brooklyn, and that she would give me a job."

"Go ahead," said the elated detective, "and tell me all about it, Jim. Don't keep back a thing."

"Well Friday evening about 3 o'clock Mr. Frank comes to me and says—"

"Hold on, Jim, you mean Saturday," interrupted the officer.

"No, sir, Friday," said Jim.

"Go ahead," returned Black, anxious to get as much of the story as possible at that time, and knowing that he could work on the obvious lies later.

But the negro had practically told his story for the day. He added many details, declaring that Frank gave him \$2.50, which was in a cigarette box, when he had written the notes, and offered to get him a job with "wealthy relatives" in

Brooklyn. Black called Harry Scott in, and after they had written out the negro's statement and had it signed, they rushed to the solicitor's office.

The grand jury was then in session considering the indictment of Frank.

Scott and Black wanted to clinch the indictment by putting Jim Conley before the grand jury and allowing that body to hear his story.

Dorsey, however, confident that there was enough evidence without the negro to secure Frank's indictment, and wishing to keep the negro's story a secret, refused to put him on the witness stand.

His effort to keep the sensation a secret was futile, however, and before the grand jury adjourned an extra Journal announced the startling news.

Still Dorsey held that he could get an indictment of Frank without the negro's story, and within a few hours it was known that he was right.

That afternoon Dorsey had a long conference with the negro and the detectives, and a stenographic report of the conversation was made.

Conley stuck to his story, although the detectives pointed out that his story "wouldn't fit," and told him that it showed premeditation on the part of Frank, and that there could be no premeditation, where such a crime is involved.

Conley swore repeatedly that he was telling the whole truth, and the detective then thought that he would never change his story.

Here's the way Conley told his story in the first affidavit:  
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 1 o'clock, Mr. Frank come up the isle 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 brown 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 15c 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 back and he told me that was all right I was welcome to that for I was a good working negro around there and then he asked me where was Gordon Bailey (Snowball they call him) and I told him he was on the elevator, and he asked me if I knew the nightwatchman 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 to'd me he had some wealthy people in Brooklyn, and then he held his head up and looked 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 money for the watch he said you ought not to buy any watch, for that 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 a'l he said to me.

(Signed)

JAMES CONLEY.

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

Notary Public, Fulton County, Georgia.

The detectives were highly elated, however, as they knew that they had in custody the writer of the murder notes.

Lie out of the whole cloth as they thought his story might be, they were absolutely certain that his hand penned the notes. Handwriting experts had testified that in their opinion the writing on the notes was that of Newt Lee's, but it didn't take an expert to know beyond a shadow of a doubt that Jim Conley wrote, once they had a sample of his hand, and a sample of the murder notes before them.

Detectives and students of the crime generally had repeatedly declared that "The hand that wrote the notes tied

the cord around Mary Phagan's neck," but the sleuths were still unsatisfied, when they found that for weeks they had had the writer of the notes in custody.

The mystery was clearing, but it was not solved.

Conley was clearly the missing link in the chain, they said.

No one believed that he was telling the whole truth.

The story that Frank had the notes written on Friday, planning the crime, simply couldn't be swallowed.

The suspicion that Conley himself might be the murderer, became stronger every hour and there was some talk about the saloons of a lynching bee.

The detectives went after Conley again.

The negro was up against the "third degree" in earnest.

## CHAPTER X.

### "Conley in School."

The "third degree" or the "school" was fruitful in Conley's case.

The defense of Frank has declared that after the first day it was not a third degree that Conley went through, but a school, and the detectives, they say, were the instructors, putting the words in Conley's mouth.

At any rate, May 27th Conley made another affidavit. In this statement, which was made to Scott and Chief Lanford, Conley admitted that he wrote the notes, but declared that he went to the factory Saturday afternoon and found Mr. Frank there, and the latter called him.

Conley again accounted for his whereabouts in the morning, going into many details, and repeating those relative to the writing of the note, which were given in the first affidavit.

Conley also added the statement that while he was writing the notes Frank walked nervously about the room, and looking up at the ceiling, exclaimed, "Why should I hang, I have wealthy relatives in Brooklyn."

The negro asserted that he did not know then that Frank came to Atlanta from the New York city.

The detectives were satisfied with Conley's second statement until they had had plenty of time to sit down and think it over.

The negro had looked them squarely in the eye, and asserted that he had told everything, which he knew even though he realized that it might involve him criminally.

But back at him they went again at noon of the following day.

For many hours he was closeted in the office of Chief of Detectives Newport Lanford, while a dozen newspaper men, who had gathered outside, clamored for news about the grilling. Chief of Police Beavers was called into the conference several times, but the officials all refused to talk.

By words that leaked through the doors, the reporter pieced together the negro's new story. He had added that he helped dispose of the body.

The following day so many of the new sensations told by Conley had been gleaned by energetic reporters that Chief Lanford decided to make the negro's third affidavit public. It follows in full:

"On Saturday, April 26, 1913, when I came 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 to'd me to pick her up and bring her to the elevator, and I told him I didn't have nothing to pick her up with, and he to'd me to go and look by the cotton box there and 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 tied her, 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 for me, and Mr. Frank come down there and told me to 'pick her up, dam fool,' and he run down there to me and he was excited, and he picked her up by the feet. Her feet and head were sticking out of the c'oth, and by him being so nervous he let her feet fall, and then we brought her up to the elevator, Mr. Frank carrying her by the feet and me by the

shoulder, and we brought her to elevator, and then Mr. Frank says, 'What, let me get the key,' and he went into the office 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 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 trapdoor to see if anybody was coming, and I taken her back there and taken the cloth from around her and taken her hat and shoes which I picked up upstairs right where her body was lying and brought them down and untied the cloth and brought them back and throwed them on the trashpile in front of the furnace and Mr. Frank was standing at the trapdoor.

He didn't tell me where to put the thing. I laid her body down with her head toward the elevator, lying on her stomach and the left side of her face was on the ground, the right side of her body was up and both arms were laying down with her body by the side of her body. Mr. Frank joined me back of 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 catches with both hands and he went around to the sink to wash his hands and I went and cut 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 told me, 'Here come Emma Clark and Corinthia 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 into the office, they didn't stay so very long till Mr. Frank had gone about seven or eight minutes, and I was still in the wardrobe and he never had come to let me out, and Mr. Frank come back and I said: 'Goodness alive, you kept me in there a mighty long time,'

and he said: 'Yes, see I did; you are sweated.' And then me and Mr. Frank sat 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 cigarette box and he told me that was all right I could keep that, and then I told him he had some money in it and he told me that was all right I could keep that. 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 about me, for me to keep my mouth shut and he would make everything all right.

"And then I asked him where was the money he said he was going to give me, and Mr. Frank said, 'Here is \$200,' and he handed me a big roll of greenback 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 out another dollar for that watch man I owed, and he said he wouldn't—and the rest is just like I told you 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 tell the whole truth about the matter.

"When I was looking at the money in my hand, 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.

"JAMES CONLEY."

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

G. C. FEBUARY,

Notary Public, Fulton County, Ga.

Conley explained his presence at the factory by saying that on Friday afternoon Frank instructed him to meet him near Montag Bros., where he went every day, and come to the factory to do extra work. He arrived there about 11 o'clock, he told the officers, and met Mr. Frank, behind whom he walked back to the factory.

Frank had then told him to wait downstairs until he was called. He waited and fell asleep, he asserted.

That day at noon Conley was carried to the pencil factory by a half dozen detectives. In their presence and in the presence of a number of newspaper men and several of the factory employees, he dramatically re-enacted his part in the crime.

The negro was repeatedly questioned by the detectives as he went through the factory, and he answered them rapidly, glibly, and without a moment's hesitation.

In pointing out the place where he found the body, where he dropped it, where he got the sacs, and other points, the negro didn't hesitate, and half the time the detectives had to trot to keep up with him.

Following the "illustrated lecture" on his part in the crime and his recitals of the conversations, which he said took place between himself and Frank he was carried to the superintendent's office, where he got into the wardrobe. Later he wrote one of the notes from dictation.

There in the presence of the newspaper men Chief Lanford asked the negro if he had been mistreated during his stay at headquarters, and he answered in the negative. Asked by the Chief if he had been promised clemency or offered any reward for the story, he again said no.

From the factory Conley was carried, not back to police headquarters, where he remained from the time he was arrested, but to the county jail, commonly known as the Tower, where the sheriff is in charge and the police and detectives have no authority.

Visitors were allowed to see Conley, whenever he did not object to their presence, and a number of reporters interviewed him.

After he had been in the Tower two days, Wm. Smith, an attorney first employed by a newspaper to represent the negro but who later remained as counsel employed direct by Conley, secured the court's agreement to return the negro to police headquarters.

The negro charged through his attorney that friends of Frank were constantly passing by his cell, and that they had abused him, saying that he was lying, and that one had even drawn a pistol on him and threatened his life. Another, he said, had offered to get him whiskey.

After Conley was carried back to the station house, the solicitor general made strenuous kicks about the amount of publicity given the negro's statements and requested the detectives to keep all visitors away from his cell.

There was then an order passed that barred everyone from his cell except city detectives. This meant Harry Scott, the Pinkerton, who had given such valuable aid to the police, but who frankly admitted that he was furnishing reports of all developments to his employer, the National Pencil Company.

While the order did not include them, it resulted in virtually barring from his cell all policemen and detectives except the heads of the department and Detective Starnes and Campbell, who were then working directly under the instructions of Solicitor Dorsey.

From that moment until he took the witness stand at the trial the public heard no more from Jim Conley, and it was generally believed that he had stuck to his third story until in reply to the Solicitor's question at the trial he commenced adding new sensations.

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## CHAPTER XII.

### Racial Prejudice Charge.

"Conley is guilty. He is the real murderer, not Frank, and he is seeking to save his own black skin by charging the crime to the factory superintendent."

Those were the words shouted by hundreds of Atlantians for the first few days after the negro had made his sensational affidavits, and of course the friends of Frank shouted the charge against the negro loudest.

"What's the matter with the detectives?" asked those who thought the negro not an accessory, but a principal in the crime. "What's the matter with Dorsey? Why doesn't he make a move?"

Dorsey remained calm and quiet under the criticisms, and the detectives clung to the theory that Frank was the murderer, and generally they accepted the story of Jim Conley as being the truth, if not the whole truth.

"Dorsey is prejudiced against the Jew, and so are the detectives." This was a statement which one cou'd hear during those turbulent days on every street corner in Atlanta; in every saloon; in every club and everywhere men gathered to discuss the great murder mystery.

The detectives continued to cling to their theory, and the storm of criticism didn't move the solicitor general.

It was not without its effect, however, and the same grand jury which had indicted Frank for the Mary Phagan murder sought to indict the negro for the same crime. If it had Frank would probably never have faced a trial for his life.

But Dorsey stood firm, and at every grand jury meeting he blocked the efforts to indict the negro.

"We have Conley locked up," he told the grand jurymen, "and he has no more chance of escaping now than he would have if charged with the murder. No bond will be big enough to get him out of jail. Frank is already indicted, and I am firm in my conviction that he is guilty of the crime. If I am wrong, a jury of twelve men will not convict him, and then there will be plenty of time to talk about indicting Conley."

Several of the grand jurors were determined to indict the negro and Dorsey continued his protests. "I am absolutely certain that an indictment of Conley can do no good and it may cause a miscarriage of justice.

"In addition, I promise you this. If I remain solicitor general, Frank will go to trial before Conley."

Finally the grand jurors took a vote on the advisability of causing the evidence against Conley brought before them. Dorsey won his point.

The feeling over the matter was so bitter that one member of the grand jury immediately went before the superior court and resigned from the body, declaring that it was prejudiced. Before Frank actually came to trial another grand jury was empaneled, and over the solicitor's vigorous protest, W. D. Beattie, its foreman, called a meeting to consider the Conley matter.



There was another hard and bitter fight, but again Dorsey came out victor. The cry that he was prejudiced became louder, but Dorsey went along undisturbed, devoting practically his entire time to the preparation of the case against Frank.

Shortly after Frank was indicted there came an incident that intensified the hatred of the Frank sympathizers for Dorsey.

He heard in a roundabout way that Albert McKnight, husband of Mineola, cook for the Selig family, had sensational evidence in her possession relative to the actions of Frank at home and statements alleged to have been made by members of his family. He sent for Albert, and instructed one of his bailiffs to bring Mineola to his office. This was on May 3rd. Albert told the solicitor a sensational story in the presence of his wife, but she refused to corroborate it. Detectives Starnes and Campbell were present at the conference. They questioned the solicitor general about incarcerating her until they were satisfied that either she or her husband was lying. The solicitor said that it was not in his province to order her incarcerated, but told them to do whatever they thought best.

They decided to lock her up, and the negress, screaming and fighting, and practically in hysterics was led to a waiting patrol wagon from Dorsey's office.

She remained until June 3rd, when about noon, when in the presence of Attorney eGorge Gordon, who was retained to represent her by some unknown party, she made the following affidavit:

STATE OF GEORGIA, County of Fulton:

Personally appeared before me, a notary public in and for the above state and county, Minola McKnight, who lives in the rear of 351 Pulliam street, Atlanta, Ga., who, being duly sworn, deposes and says:

Saturday morning, April 26, 1913, Mr. Frank left home about 8 o'clock, and Albert, my husband, was there Saturday too; Albert got there I guess about a quarter after 1 and was there when Mr. Frank come for dinner, which was about half past one, but Mr. Frank did not eat any dinner and he left in about ten minutes after he got there.

Mr. Frank come back to the house at 7 o'clock that night, and Albert was there when he got there. Albert had gone home that evening, but he come back, but I don't know what

time he got there, but he come some time before Mr. Frank did, and Mr. Frank eat supper that night about 7 o'clock, and when I left about 8 o'clock I left Mr. Frank there.

Sunday morning I got there about 8 o'clock, and there was an automobile standing in front of the house, but I didn't pay any attention to it, but I saw a man in the automobile get a bucket of water and pour into it. Miss Lucile (Mr. Frank's wife), was down stairs, and Mr. and Mrs. Selig were up stairs. Albert was there Sunday morning, but I don't remember what time he got there. When I called them down to breakfast about half past eight I found that Mr. Frank was gone. Mr. and Mrs. Selig eat breakfast and Miss Lucile didn't eat until Mr. Frank come back and they eat breakfast together. I didn't hear them stay anything at the breakfast table, but after dinner I understood them to say that a girl and Mr. Frank were caught at the office Saturday.

I don't know who said it, but Miss Lucile and Mr. and Mrs. Selig and Mr. Frank was standing there talking after dinner. I didn't know the girl was killed until Monday evening. I understood them to say it was a Jew girl, and I asked Miss Lucile, and she said it was a Gentile.

On Tuesday Mr. Frank said to me, "It is mighty bad, Minola, I might have to go to jail about this girl, and I don't know anything about it."

I heard Mrs. Ranzin, Mrs. Frank's sister, te'l Miss Lucile that it was mighty bad, and Miss Lucile said, "Yes, it is. I am going to get after her about it." I don't know what they were talking about.

Sunday Miss Lucile said to Mrs. Selig that Mr. Frank didn't sleep so good Saturday night. She said he was drunk and wouldn't let her sleep with him and she said she slept on the floor on the rug by the bed because he was drinking. Miss Lucile said Sunday that Mr. Frank told her Saturday night that he was in trouble, that he didn't know the reason why he would murder, and he told his wife to get his pistol and let him kill himself. I heard Miss Lucile say that to Mrs. Selig. It got away with Mrs. Selig mighty bad, but she didn't know what to think. I haven't heard Miss Lucile say whether she believed it or not. I don't know why Mrs. Frank didn't come to see her husband, but it was a pretty good while before she come to see him, maybe two weeks. She would tell me, "Wasn't it mighty bad that he was locked up," and she said "Minola, I don't know what I am going to do."

"When I left home to go to the solicitor general's office, they told me to mind what I said. They paid me \$3.50 a week, but last week she paid me \$4, and one week she paid me \$6.50. But at the time of this murder I was getting \$3.50 a week, and the week right after the murder I don't remember how much they paid me. The next week \$4, and the next week \$4. One week Mrs. Selig gave me \$5, but it was not for my work, and they didn't tell me what it was for. They just said, 'Here is \$5, Minola,' but of course I understood what they meant, but they didn't tell me anything at the time. I understood it was a tip for me to keep quiet. They would tell me to mind how I talked, and Miss Lucile would give me a hat."

Question: Was that the reason you didn't tell the solicitor yesterday all about this—that Miss Lucile and the others had told you not to say anything about what had happened out there?"

"Yes, sir."

Question: "Is that true?"

"Yes, sir."

Question: "And that is the reason why you would rather have been locked up last night than tell this?"

"Yes, sir."

Question: "Has Mr. Pickett or Mr. Craven or Mr. Campbell or myself (Detective Starnes evidently), influenced you in any way or threatened you in any way to make this statement?"

"No, sir."

Question: "You make it of your own free will and accord, in their presence and the presence of Mr. Gordon, your attorney?"

"Yes, sir."

(Signed) "MINOLA M'KNIGHT."

"Sworn to and subscribed before me, this third day of June, 1913.

(Signed) G. C. FEBUARY."

Almost immediately after signing the affidavit Minola was released from custody, and the following day she repudiated the affidavit.

She declared that her husband had told a "pack of lies" on her, and that the detectives bullied and browbeat her until in sheer desperation she agreed to sign any paper they might fix up for her.



MRS. LUCILE FRANK.

The arrest of the cook brought forth the first statement from Mrs. Lucile Selig Frank, wife of the accused, and daughter of one of the most prominent Jews in the South.

In her statement she flayed the solicitor general and the detectives in no uncertain terms. She said:

"The action of the solicitor general in arresting and imprisoning our family cook because she would not voluntarily make a false statement against my innocent husband, brings a limit to patience. This wrong is not chargeable to a detective acting under the necessity of shielding his own reputation against attack in newspapers, but of an intelligent, trained lawyer, whose sworn duty is as much to protect the innocent as to punish the guilty. My information is that this solicitor has admitted that no crime is charged against this cook and that he had no legal right to have her arrested and imprisoned.

"The following statement from *The Atlanta Journal* undertakes to give the history of the arrest up to the time the woman was carried to the police station in the patrol wagon, weeping and shouting in a hysterical condition:

"The negress was arrested at the Selig residence shortly after noon Monday upon the order of Solicitor General Hugh M. Dorsey.

"She was carried to the solicitor's office and that official with Detectives Starnes and Campbell examined her for more than an hour. The woman grew hysterical during the vigorous examination, and finally was led from the solicitor's office to the police patrol, weeping and shouting: I am going to hang and don't know a thing about it.'

"They tortured her for four hours with the well-known third degree process, in the manner and with the result stated in *The Atlanta Constitution* of June 4, as follows:

"Her husband, who was also carried to the police station at noon, was freed a short while before his wife left the prison. He was present during the third degree of four hours, under which she was placed in the afternoon. He is said to have declared, even in the presence of his wife, that she had told conflicting stories of Frank's conduct on the tragedy date.

"After she had been quizzed to a point of exhaustion, Secretary G. C. Febuary, attached to Chief Lanford's office, was summoned to note her statement in full.

"It was the longest statement made by the woman since her connection with the mystery. It will be used, probably, in the trial. The negress was calm and composed upon emerging from the examination.'

"That the solicitor, sworn to maintain the law, should thus falsely arrest one against whom he has no charge and whom he does not even suspect, and torture her contrary to the laws, to force her to give evidence tending to swear away the life of an innocent man, is beyond belief.

"Where will this end? My husband and my family and myself are the innocent sufferers now, but who will be the next to suffer? I suppose the witnesses tortured will be confined to the class who are not able to employ lawyers to relieve them from the torture in time to prevent their being forced to give false affidavits, but the lives sworn away may come from any class.

"It will be noted that the plan is to apply the torture until the desired affidavit is wrung from the sufferer. Then it ends, but not before.

"It is to be hoped that no person can be convicted of murder in any civilized country on evidence wrung from witnesses by torture. Why, then, does the solicitor continue to apply the third degree to produce testimony? How does he hope to get the jury to believe it? He can have only one hope, and that is to keep the jury from knowing the methods to which he has resorted.

"Of course, if he can torture witnesses into giving the kind of evidence he wants against my innocent husband in this case, he can torture them into giving evidence against any other man in the community in either this or any other case. I can see only one hope. And that is, to let the public know exactly what this officer of the law is doing, and trust, as I do trust, to the sense of fairness and justice of the people.

"It is not surprising that my cook should sign an affidavit to relieve herself from torture that had been applied to her for four hours, according to The Atlanta Constitution, 'to a point of exhaustion.' It would be surprising if she would not, under such circumstances, give an affidavit.

"This torturing process can be used to produce testimony to be published in the newspapers to prejudice the case of anyone the solicitor sees fit to accuse. It is also valuable to prevent anyone stating facts favorable to the accused, because as soon as the solicitor finds it out he can arrest the witness and apply the torture. It is hard to believe that practices of this nature will be countenanced anywhere in the world, outside of Russia.

"My husband was at home for lunch and in the evening at the hours he has stated on the day of the murder. He spent the whole of Saturday evening and night in my company. Neither on Saturday, nor Saturday night, nor on Sunday, nor at any other time, did my husband by word or act, or in any other way, demean himself otherwise than as an innocent man. He did nothing unusual and nothing to arouse the slightest suspicion. I know him to be innocent. There is no evidence against him, except that which is produced by torture. Of course, evidence of this kind can be produced against any human being in the world.

"I have been compelled to endure without fault, either on the part of my husband or myself, more than it falls to the lot of most women to bear. Slanders have been circulated in the community to the effect that my husband and myself were not happily married, and every conceivable rumor has been put afloat that would do him and me harm with the public, in spite of the fact that all our friends are aware that these statements are false, and all his friends, and myself, know that my husband is a man actuated by lofty ideals that forbid his committing the crime that the detectives and the solicitor are seeking to fasten upon him.

"I know my husband is innocent. No man could make the good husband to a woman that he has been to me and be a criminal. All his acquaintances know he is innocent. Ask every man that knows him and see if you can find one that will believe he is guilty. If he were guilty, does it not seem reasonable that you could find some one who knows him that will say he believes him guilty?

"Being a woman, I do not understand the tricks and arts of detectives and prosecuting officers, but I do know Leo Frank, and his friends know him, and I know and his friends know that he is utterly incapable of committing the crime that these detectives and this solicitor are seeking to fasten upon him. Respectfully yours,

"MRS. LEO M. FRANK."

This was the first occasion in which the wife of the man charged with the brutal murder of the little factory girl, had figured at all prominently in the case. Despite the fact that at the trial the solicitor asserted that she did not go near her husband for two weeks after his incarceration, it is known by the writer that she appeared at police headquarters the day he was "detained." Friends persuaded her to leave with-

out seeing her husband, who at the time was surrounded by newspaper men and detectives. She did not go to the Tower for two weeks as during that time the newspaper camera brigade waited in front of the place for her to appear.

Mrs. Frank's statement brought this reply from the solicitor:

"I have read the statement printed in the Atlanta newspapers over the signature of Mrs. Leo M. Frank, and I have only to say, without in any wise taking issue with her premises, as I might, that the wife of a man accused of crime would probably be the last person to learn all of the facts establishing his guilt, and certainly would be the last person to admit his culpability, even though proved by overwhelming evidence to the satisfaction of every impartial citizen beyond the possibility of reasonable doubt.

"Since the discovery of this crime I have rigidly adhered to my consistent policy of refraining from newspaper interviews or statements with relation to the evidence upon which the state must depend to convict and punish the perpetrator of the crime, and it is my purpose to adhere steadfastly to this policy, submitting to the jury of Fulton county citizens, to be selected under the fair provision of the law, the evidence upon which, alone, conviction or acquittal must depend.

"A bill of indictment has been found by the grand jury, composed of impartial and respected citizens of this community, and as solicitor general of this circuit, charged with the duty of aiding in the enforcement of our laws by the prosecuting of those indicted for violating the law, I welcome all evidence from any source that will aid an impartial jury, under the charge of the court, in determining the guilt or innocence of the accused.

"Perhaps the most unpleasant feature incident to the position of prosecuting attorney arises from the fact that punishment of the guilty inevitably brings suffering to relations who are innocent of participation in the crime, but who must share the humiliation flowing from its exposure.

"This, however, is an evil attendant upon crime, and the court and their officers cannot allow their sympathies for the innocent to retard the vigorous prosecution of those indicted for the commission of crime, for were it otherwise, sentiment, and not justice, would dominate the administration of our laws.

HUGH M. DORSEY."



While at the time there was considerable sentiment against the solicitor and the detectives, they were not without their backers. Especially was Dorsey lauded for his stand by the laboring people of the city and of the state. The popular sentiment, especially among the working people, continued to grow against Frank. It was charged that the newspapers of Atlanta, because of the insistence of advertisers, were not giving the state a fair deal in the case.

Tremendous influences were undoubtedly brought to bear in favor of the accused man, but every move on the part of his friends seemed only to add to the sentiment against him. Sentiment by this time was recognized as a powerful factor in the case.

The next sensation in the case came when Luther Z. Rosser, Frank's counsel, and a man of few words except in the court room, denounced Chief Lanford as insincere in his man-hunt, and openly he charged the crime to Jim Conley.

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## CHAPTER XIII.

### Plants Charged to Frank.

About the middle of June both sides commenced making preparations for Frank's trial, and it was even then a safe guess that it would be the South's greatest legal battle.

Solicitor General Dorsey announced that he had retained Frank A. Hooper to assist him in the prosecution. Felder had dropped out of the case after the dictograph incident. Hooper was a recent comer to Atlanta and had never been pitted against the city "big" lawyers. However, he was for twelve years the solicitor of the Southwestern Circuit, and had made quite a reputation. Dorsey's ability had been recognized a year before, when he prosecuted Mrs. Daisy Grace, who was defended by John W. Moore and by Rosser. Although he lost the case, he handled it in a masterly manner.

Reuben R. Arnold, probably the South's greatest criminal lawyer, was retained to assist in the defense. It is said that his fee was \$12,500. Rosser remained as leading counsel and is alleged to have received a fee of \$15,000.

The trial was originally set on the superior court calendar for June 30th, but on June 24th Judge L. S. Roan called the attorneys before him and frankly told them that he had promised to go to the seashore with Mrs. Roan during the first week in July, and suggested postponing the case. Both sides said they were ready (although they were not), but agreed after some discussion to a postponement, and the date of July 28th was fixed for the trial.

The defense by this time had let it be known that its theory of the case was that Conley had killed the girl on the first floor and chucked her down the scutt'e hole. To bear out this theory a more or less important discoverey is alleged to have been made.

On May the 10th, L. P. McWorth and a man named Whitefield, both Pinkerton operatives, who have since been discharged, were making a search of the factory. On the first floor near the point Jim Conley claims he sat and waited for Frank's call, they found the corner of a pay envelope, bearing the name Mary Phagan, and the parts of two numerals.

Also they found a bludgeon, with stains, which looked like blood, on it. Near the scuttle ho'e alleged blood stains had been found before, and near the point where the part of a pay slip was found were several pieces of twine, knotted just like those found around Mary Phagan's neck.

The finds were made during the absence from the city of Harry Scott, field chief of the Pinkertons during the investigation. Reports were made at once to the defense, but not a word was said about the matter to the city police, to whom the Pinkertons had faithfully promised to make reports before they made them to the defense.

On the return of Scott to the city he learned that the pay envelope, but nothing more, had been found, and he immediately informed the city police.

The fact did not become public for some weeks, but when it was learned that the envelope had been found Chief Lanford dismissed it with the ery p'ant, declaring that his men had searched the factory from top to bottom and would have found it had it been in the place the first few days after Mary Phagan was murdered. The place had been thoroughly cleaned, in addition, he said, by the factory officials.

A week or two after the part of a pay envelope was found, finger print experts examined it, but after they had used a'l known methods announced that they were unable to find any trace of a finger print on it.

It was several weeks later that it became known that the bludgeon was also discovered near the place where Conley admitted lying in wait.

Chief Lanford declared that he was in ignorance of the discovery of the bludgeon, but it was also dismissed as a plant.

Lanford severely criticized H. B. Pierce, superintendent of the Pinkerton agency for not acquainting the city officials of the alleged find. Before the trial commenced Pierce had left the city and the Pinkertons have now discharged him. The assertions of the city detectives that evidence was being planted caused another wave of sentiment against Frank.

There was one other development of importance before the trial. W. H. Mincey, an insurance agent and school teacher, made an affidavit to the defense that on Saturday, April 26th, Conley confessed to him that he had murdered a girl that morning.

Mincey asserted that late in the afternoon he was at the corner of Electric avenue and Carter streets, near the home of Conley, when he approached the black, asking that he take an insurance policy.

The negro told him, he said, to go along, that he was in trouble.

Asked what his trouble was, Mincey swore that Conley replied he had killed a girl.

"You are Jack the ripper, are you?" said Mincey.

"No," he says Conley replied, "I killed a white girl and you better go along or I will kill you."

After some words, Mincey says he left the belligerent negro. The substance of Conley's affidavit became public only a short time before the trial commenced, and while Mincey was teaching school at Rising Fawn, in North Georgia.

Chief Lanford remembered that Mincey had called at police headquarters while Conley was making one of his sensational statements and asked to see him on the pretext that he wanted to identify a drunken negro he had seen the Saturday of the tragedy. He made no intimation then, the chief asserts, of a confession, and after looking at Conley said that he could not identify him.

It suffices to say that Mincey, although brought to Atlanta on a subpoena, was never called upon by the defense to take the witness stand.

It is said that Dorsey was "loaded for him" and had twenty-five witnesses who would try to impeach him.

Mincey, it is said, has written several books on "mind reading" and the solicitor had copies of the books, ready to use them in his cross examination.

The general value of expert testimony is shown by an incident of the case. Jim Conley had never admitted writing but one of the notes, so the solicitor continued to have both of them examined by experts. Six so-called experts were ready to go on the witness stand and swear that Frank, not Conley, had written both notes. Finally, in desperation, Dorsey took them to New York, where one of the country's best known experts declared that Jim Conley wrote both of them. On his return the solicitor forced the confession from the negro that he did write both notes.

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## CHAPTER XIV.

### **South's Greatest Legal Battle.**

In anticipation of the great legal battle to come, a crowd began to collect in front of the court house shortly after daylight on the morning of Monday, July 28. At 8 o'clock, an hour before time set for the opening of court, the intersection of Hunter and Pryor streets was black with people. It was with the greatest difficulty that a squad of police, abetted with a corps of deputy sheriffs, kept the thoroughfares open to traffic. Occasionally a car would grind up to the corner and stop while the human mass grudgingly opened and let it by. Hundreds surged through the entrance of the red building and up the single short flight of stairs to the door of the room in which the trial was to be held.

Inside, a dozen electric fans and a number of ozonators had been installed to keep the air pure and the atmosphere as cool as possible through the long, hot days to come.

Benches had replaced the chairs and the seating capacity had been increased to two hundred and fifty.

Only talesmen, attorneys, newspaper men, intimate friends of the prisoner and a few spectators were admitted. The witnesses summoned by the state, who numbered over one hundred, were assigned to a court room on the second floor to wait until they were called to testify. Among them were scores of factory girls, heads of departments, policemen and others who had knowledge of some phase of the case.

Frank was brought from his cell in the Fulton county jail shortly before 7 o'clock. He was met by his mother, Mrs. Rae Frank, and his wife upon his arrival and spent the intervening hours until court convened chatting with them and other relatives. He appeared glad that his long wait in jail was at an end. He remarked that he expected an acquittal.

He was led into the courtroom shortly before 9 o'clock and chose a seat directly in front of the judge's rostrum. His mother and his wife were seated on either side of him.

A few minutes later Attorney Luther Z. Rosser, Reuben R. Arnold and Herbert Haas arrived. They were followed by a dozen assistants carrying documents and books of law. Solicitor General Hugh M. Dorsey, his special assistant, Frank A. Hooper, and Assistant Solicitor A. E. Stephens, were the last of the lawyers to appear.

Immediately upon his arrival, Mr. Arnold, on behalf of the defense, announced that he was ready to proceed with the trial. Solicitor Dorsey stood ready to vigorously oppose a motion for a delay.

Promptly at 9 o'clock Judge L. S. Roan mounted the bench. Sheriff Mangum and Chief Deputy Plennie Miner rapped for order and the hubbub in the audience ceased. A hush fell over the room. The famous trial had begun.

The clerk of court began calling the names of the veniremen. This completed, eight panels of twelve each were organized from the 144 talesmen summoned. One at a time the various squads marched into the jury box for the purpose of presenting excuses if they had any to offer. Several were dismissed by the court on various grounds.

After this formality, Judge Roan instructed Solicitor Dorsey to call the names of the witnesses. They were brought down from their room upstairs and responded to roll call. Only the names of twenty-six of the actual material state witnesses were

called. Solicitor Dorsey announced that he had summoned many others, whose names he would announce later.

He then called these: J. W. Coleman, stepfather of the murdered girl; Mrs. J. W. Coleman, the mother of Mary Phagan; George W. Epps, a newsboy; Police Sergeant L. S. Dobbs, City Detective L. S. Starnes, W. W. Rogers, a court bailiff; City Detective John Black, Miss Grace Hicks, L. M. Gantt, Pinkerton Detective Harry Scott, City Detective B. B. Haslett, E. F. Holloway, M. B. Darley, William A. Geesling, Dr. Claude Smith, city bacteriologist; Dr. J. W. Hurt, coroner's physician; Dr. H. F. Harris, president of the state board of health, E. L. Parry, E. S. Smith, Miss Monteen Stover, Albert McKnight, colored; Minola McKnight, colored; Miss Helen Ferguson, Mrs. Arthur White, L. Stanford.

Three of the list did not answer. One was Detective Haslett, who was announced to appear later. Another was Albert McKnight, negro, husband of Minola McKnight, who is cook at the Selig and Frank home. An attachment was issued for the negro. L. Stanford, the third witness who did not answer, it was stated, has received a subpoena to appear in court Tuesday.

The name of James Conley, confessed accomplice to the hiding of the body, was not called. Solicitor Dorsey announced, however, that he had not abandoned his intention of calling him to the stand.

At the instruction of Judge Roan, the defense then called the names of the following witnesses, all of whom responded:

F. Segidly, Annie Hixon, Mrs. Levy, Mrs. Josephine Selig, Emil Selig, H. J. Hensey, R. H. Haas, W. H. Mincey who did not answer; J. T. Speer, E. F. Skipper, who did not answer; E. L. Sentell, Mae Barrett, C. H. Carson, Mrs. Rebecca Carson, Harry Denham, Harry Gottheimer, Miss Corinthia Hall, Miss Hattie Hall, Mary Burke, Lemmie Quinn, Herbert J. Schiff, Ella Thomas, C. B. Gilbert, Frank Payne, Eula Flowers, Alonzo Mann, Joseph Stegar, Ike Strauss, J. C. Loeb, L. J. Cohen, Emma Bibb, Mrs. Bessie White, Joe Williams, Wade Campbell, William McKinley, J. E. Lyons, Dora Lavender, M. O. Nix, Jerome Michael, Mrs. M. G. Michael, George W. Parrott, Mrs. M. W. Myer, Rabbi Marx, William Taylor, Mrs. Beatrice Taylor, Fred Weller, Mr. and Mrs. Charles Eisenbach, Carl Wolfsheimer, Ed Montag, J. D. Fleming, T. T. Brant, Flossie Shields, Dora Small, Mrs. R. Freeman, Charles Leak, Mrs. Ike Strauss, Mrs. T. J. Cohen, Milton H. Cleveland,

Julia Fuss, Walter Pride, J. C. Matthews, W. B. Bowen, M. W. Meyer, A. E. Meyer, A. E. Marcus and Mrs. Marcus, A. E. Haas, Ike Haas, Leonard Haas, Leopold Haas, William Montag, Ike Hirshberg, A. B. Levi, Burt Kauffmann, Robert Schwa, Otto Schwab, William Rosenfield, Sidney Levi, Louis Elsas, J. C. Gerschon, George Gerschon, Walter Rich, B. Wildauer, Sidney Levi, Sol Samuels and Arthur Heyman.

At 10:40 o'clock the first panel was called into court for examination. The twelve men took their seats in the jury box and Solicitor Dorsey asked the usual formal questions of each:

"Are you or your wives related by blood or marriage to the defendant, deceased or prosecutor?"

"Have you from having seen the crime committed or having heard any of the testimony delivered on oath, formed or expressed any opinion as to guilt or innocence of the prisoner at the bar?"

"Have you any prejudice or bias resting on your mind either for or against the defendant?"

"Is your mind perfectly impartial as between the state and the accused?"

"Are you conscientiously opposed to capital punishment?"

As each venireman qualified under those questions, the solicitor would proceed with the usual legal formula, announcing "competent," and directing "Juror, look on prisoner. Prisoner, look on juror."

Each member of the first panel was excused for cause or by peremptory challenges. The second and third panels were more fruitful, however, each netting four jurors. A. H. Henslee had the distinction of being the first "peer" chosen. He was passed by both sides at 11:40 o'clock.

At 1:15 o'clock eleven jurors had been selected from the various squads of talesmen that were examined in quick succession. The rapidity with which the box had been filled surprised everyone. As one after another the members of the eight and last panel expressed bias and prejudice, or declared that they already had a fixed opinion, it was feared, however, that it would be necessary to summon another venire of talesmen before the jury would be completed. The last man called, C. J. Bosshardt, was accepted. He was the 144th talesman and had he been disqualified it would have delayed the trial several hours.

The twelve men selected to decide Frank's fate were: M. Johanning, W. S. Woodward, J. T. Ozburn, A. H. Henslee, F. V. L. Smith, J. T. Higdon, Deder Townsend, W. S. Metcalf, F. E. Winburn, A. L. Wisbey, Chas. J. Bosshardt, and W. M. Jeffries. All except Bosshardt were married.

At 1:30 o'clock Judge Roan ordered a recess until 3 o'clock.

Frank ate the first of a series of dinners in the ante-chamber in the rear of the court room. With him were his wife and mother and friends. At noon he seemed cheerful and declared that he was glad the tedious work of getting a jury was over.

The jury, which had lunched in a down-town restaurant, was returned to the court room at 3 o'clock and five minutes later Mrs. J. W. Coleman, mother of the slain girl, was called to the stand. She was the first of the scores of witnesses who testified at the trial. As she stepped upon the platform and seated herself in the witness chair a hush fell upon the courtroom. It was the first of many dramatic scenes of the trial. She was clothed in deep black.

Talking slowly and in a voice that could scarcely be heard beyond the jury box, Mrs. Coleman, in answer to question put by the solicitor, told of last seeing her little daughter. Mary had helped her with the house work on the morning of Saturday, April 26, she said, and after partaking of a meal of cabbage and biscuits, had left home at 11:50 o'clock with the intention of going to the pencil factory to draw the \$1.20 due her for two days work.

At the time, little significance was attached to the testimony relating to the food the girl had partaken of. Later, this point formed one of the most vital issues of the whole case because the contents of the stomach of the girl were used by the state to prove that she had been murdered within an hour after eating.

Mrs. Coleman broke down on the stand and sobbed when called upon to identify clothes worn by her daughter. She regained her composure to such an extent that she was able to answer a few immaterial questions asked by defense lawyers, however.

George Epps, a play-mate of the victim of the murder and one of the last people to see her alive, was the second witness called by the state in forging its chain of evidence. He told of riding to Forsyth and Marietta streets with the little girl



and leaving her five minutes before she entered the pencil factory. It was agreed between them that they were to meet at 2 o'clock to view the Memorial day parade. She did not keep the appointment, the lad testified.

Old Newt Lee followed the boy to the stand. For two hours Monday afternoon he withstood the grill of Luther Z. Rosser, at no time becoming confused or perturbed, and when court convened again Tuesday morning he remained in the witness chair under the merciless fire of questions three hours. He left the stand, his story unshaken. In quaint negro dialect, he described the finding of the body, told of calling the police, of meeting Frank rubbing his hands in the pencil factory on the afternoon of the murder. He was taken over and over his story several times but avoided every trap laid for him by the shrewd cross examiner of the defense.

"All I want is a chew of 'bacca—any kind," was his request when he was led out of the courtroom. His comment on Luther Rosser was: "He's purty terrible. He sorter wants yo uto say things jes his way. But I was dere to tell de truf, an' I tol' it."

At adjournment Tuesday the state had laid the foundation for its case against the young factory superintendent. They had proved that she left home at 11:50 o'clock and introduced witnesses to show that she arrived at Forsyth and Marietta streets at 12:07 o'clock, or a few minutes before that time. They introduced witnesses to show that she went toward the pencil factory and that she probably never left the building, inasmuch as she never returned home and failed to keep later appointments.

Several of the policemen who answered the first call of Newt Lee and went to the pencil factory and others who knew of the first steps in the investigation of the officials, were called and told of the finding, the position and appearance of the body when they viewed it and the surroundings.

During the fore part of the trial, Leo M. Frank's expression of quiet confidence surprised every one that saw him. He sat between his wife and his mother, both of whose faces were passive and emotionless, for the most part, with his arms crossed and his gaze centered on the jury, the witness stand or one of the attorneys. He spoke little. His manner was not that of indifference. Apparently he analyzed every piece of testimony entered against him and he seemed to comprehend all the legal questions that arose.

"Nerves" evidently were not in his make-up. He was calm, cool and appeared sure of himself and his cause. He displayed no more anxiety than any of the spectators. As he sat, a few feet from the judge's stand at the left of his attorneys, friends and relatives clustered behind him, he seemed the smallest man in the long, wide room. The jurymen in the box almost towered above him. He could just see the judge over the top of the rostrum.

He was attired in a blue mohair suit and wore nose glasses which he wiped on his handkerchief occasionally. He was almost boyish in appearance. But his bearing had a firmness and determination which proved his years.

Never once during the long days to come did he exhibit any more feeling than on the first two days of the trial. His manner was the same in victory as in defeat. The spectators might complain of the heat, the lawyers of long hours and hard work, the bailies of difficulty in handling the crowds that stormed the court room, but Frank was the same every day and every hour of the day. He passed the time of day with a few of the newspaper men with whom he had come in contact in the first few days following his arrest before he entered into his three months' silence in the Tower. Further that that he would not go with reporters, and his wish was respected.

Every morning in the jail he was up at 7 o'clock, took a bath and less than half an hour later accompanied Sheriff Mangum to the court house. He was known as the most obedient prisoner in the jail. So great was the confidence of the county officers in him that he never was handcuffed on the rides from jail to court and court to jail. He was permitted unusual freedom about the court room and never once did he violate an admonition of a guardian.

Sheriff Mangum said of him: "He is the best prisoner I ever had. He does everything I tell him."

He ate his breakfast, in fact all of his meals with the exception of dinner in the evening, in an ante-room. In the mornings and at noons he always entertained from half a dozen to a score of friends. Among them were many of the prominent men of the city. The manner in which his acquaintances clung to him through his many hours of need was one of the features of the whole case. And all believed in his innocence. His employers, the men he worked with in the fac-

tory, scores of women subordinates, all hotly proclaimed that he was a victim of circumstances and did not have the blood of Mary Phagan on his hands.

Even the charge of moral perversion which was brought against him during the trial did not shake this confidence. Witnesses who accused him of improper relations with women employees of the factory were termed perjurers and women who late in the trial testified that he was not of good character were described by one of the accused man's friends as fanatics.

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## CHAPTER XV.

### The State's Chain.

Wednesday morning Solicitor Dorsey began to forge his chain of circumstantial evidence around the prisoner. R. P. Barrett, a machinist employed in the metal room where Mary Phagan was employed, told of his finding blood spots near the water cooler in this room and several strands of hair wrapped around the handle of a lathe several feet away. He said that the spots were smeared over with a white substance known as hascolene which is used on an eyelet machine. He found a broom near by which he said from its appearance looked as if it had been used to spread the fluid over the floor and conceal the blood.

This was one of the most vital bits of testimony introduced by the state. On it the whole theory of the murder was based—that Frank enticed his victim back into the metal room when she entered his office to get her pay and killed her when she refused to submit to his abuse. Barrett was later corroborated by James Conley, who said he dropped the body of the little girl on the spot where blood was found, when he carried her from the second floor to the basement at Frank's direction. Barrett also told of finding a portion of a pay envelope on the floor on the Monday morning after the murder.

His testimony was vigorously attacked by the defense when it opened its case and by Attorneys Rosser and Arnold in their closing argument. They sought to show that he was over-anxious to find evidence. Attorney Arnold referred to him as "Christopher Columbus Barrett." His story was unshaken, however, and apparently was believed by the jury.

Sergeant L. S. Dobbs, one of the party which was first led to the dead girl's side on the morning of the discovery of the body, told of the marks of dragging on the basement floor. The defense sought to show on cross examination that the distinct track did not begin at the elevator but a few feet away at the foot of the laddered leading from the scuttle hole in the first floor. Sergeant Dobbs, testimony was to the effect that indications of the dragging of the body began at the side of the elevator pit.

City Detective J. N. Starnes, formal prosecutor of the case, was called by the solicitor to testify to many important facts regarding the investigation of the city police. He told of Newt Lee's re-enacting in pantomime the discovery of the body and declared that he was satisfied that the story told of the discovery of the body by the negro was true. The sleuth testified that on the morning after the discovery of the body Frank walked into the office of the pencil afactory and remarked to General Manager Darley, "You see I've got another suit." This remark, the witness testified, was later viewed by the police as significant inasmuch as the prisoner, who was at that time not suspected of the murder, called attention to a change of clothes on the day following the killing.

Starnes testified that on Sunday morning Frank was nervous and "trembly." He also described the blood spots on the floor of the metal room and swore that fifty feet from the elevator he found more blood on the head of a nail. He identified the chips containing the alleged blood spots, which had been chiseled up from the floor.

Frequent wrangles marked the first few days of the case. Legal points were constantly under debate and several times during the first week as well as later in the trial, the jury was excused. One of these wrangles occurred on the afternoon of Tuesday, July 29. Solicitor Dorsey sought to introduce in evidence a diagram of the pencil factory bearing a dotted line showing the route Conley asserted he took in carrying the body from the metal room to the basement. The defense strenuously objected to the introduction of this in evi-

dence, complaining principally about the key explaining the drawing. For an hour the four lawyers addressed the court for and against the introduction of this in evidence. It finally was allowed after the objectionable key had been removed.

Wednesday "Boots" Rogers declared that Frank was "extremely nervous" on the morning of April 27 when he drove to his home in an automobile with City Detective John Black to bring the superintendent to the scene of the crime. He said that Frank rubbed his hands continually, paced the floor anxiously and asked abrupt questions.

The state sought to prove that Frank avoided looking on the face of the dead girl at the undertaking parlors. Rogers testified that the superintendent, when he arrived at the undertaking parlors, passed on through the room in which the body lay into another. He could not swear positively, however, that Frank did not see the corpse. Other witnesses called by the state corroborated Rogers. They were contradicted later by Frank in his statement to the jury, the defendant maintaining that he saw the girl's face not only once, but twice on Sunday, April 27.

Miss Grace Hix, sister-in-law of Rogers, who first identified the body, told of her trip to the morgue on the morning after the murder. The defense gained a point by an admission from her that the girls in the metal room frequently combed their hair over their machines and that there was a gas jet a few feet from the lathe on which Barrett discovered the strands of hair supposed to have been Mary Phagan's. The girl also testified that paint was kept in an adjoining room. She said, however, that she had never seen any spilled on the floor of the metal room.

City Detective John Black occupied the stand several hours. He was subjected to one of the most merciless grillings of the entire case at the hands of Attorney Rosser. The methods of the police department were held up for criticism and ridicule by the attorney and once or twice, under the fierce cross-examination, Black appeared confused. Once he admitted that he was muddled as to his facts.

Black corroborated Rogers, Starnes and other witnesses who testified Frank was nervous on the morning he was brought to the undertaking parlors and later to the factory. He also confirmed the testimony of Detective Starnes regarding later investigations of the police. Through him Solicitor Dorsey brought out the fact that the finding of the bloody club and

supposed spots on the floor near the scuttle hole leading to the basement had never been reported to the police by the Pinkerton agency, although the information had been placed in the hands of the defense attorneys.

He testified also that Frank and others connected with the pencil factory had withheld from the police the information that Conley could write, although they attempted, the witness declared he believed, to divert suspicion toward others.

During the cross-examination Attorney Rosser asked the detective about the bloody shirt that had been found at Newt Lee's house in a search instituted by the police. Black identified the shirt, which was exhibited to the witness at the request of the defense, as one which he found in the bottom of a barrel at the negro's home.

A stiff legal tilt followed the attempt of the defense to introduce testimony relating to the shirt. Solicitor Dorsey declared to the court that the state contended the shirt was a plant. Later in the trial he intimated that Frank had gone to the home of the nightwatchman on the Sunday following the murder and hidden the shirt.

Dorsey brought out the point that the blood was on both sides of the shirt, in the examination of Black. He contended that it would have been impossible for it to get on the garment in this manner if the garment were worn.

Detective Harry Scott, of the Pinkerton Agency, which was retained on the case by the pencil factory company at the instigation of Frank, took the stand on the morning of July 31. He told of his visit to the factory on the Monday after the murder and of being shown over the factory by the man against whom he later helped to gather evidence. Among other features which the solicitor attempted to prove through this witness was the fact that Frank had attempted to direct suspicion toward Gantt. In reply to a question put by the solicitor the witness replied that Frank had not told him that Gantt was acquainted with the murdered girl when he was employed at the factory. Dorsey declared that he had been misled by the witness on this proposition when the defense attorneys objected to his attempting to bring this point out. Attorney Rosser contended that the prosecutor would have to declare to the court that he had been entrapped by the witness before he could pursue this line of questioning. Dorsey refused to make the allegation but was later allowed to put the queries.

The intimation that he had been guilty of reticence brought a sharp retort from Detective Scott. From the stand he demanded to know of the solicitor if he thought he was holding back information. The state's representative declared that he did not but contended that the detective had forgotten this detail. He then asked Scott: "Was any suggestion made to you subsequent to your employment about the withholding of evidence?"

Scott replied: "About the first week in May, Mr. Pierce and I went to the office of Herbert J. Haas, attorney for Frank, to hold a conference relative to the Pinkerton's position in the investigation. I told him that there was strong suspicion against Frank."

The last sentence was ruled out.

"After a conversation, Mr. Haas said that he would rather we would submit our reports to him before we did to the police. We told him we would get out of the case before we would do that."

Thursday afternoon, the fourth day of the trial, several surprises were sprung. Mel Stanford, a youthful employee of the factory, testified that he had swept the floor of the metal room on the Friday preceding the murder and that the blood spots nor hasecolene were on the floor then. He said that he had seen spots of various colors on the floor of the factory at different times but that never had he seen one of the same color and appearance as those presumed to have been the blood of Mary Phagan on the floor of the metal room. A vigorous cross-examination at the hands of Luther Z. Rosser failed to shake his statement.

Dr. Claude Smith, city bacteriologist, identified the chips taken from the floor of the metal room and declared that on one of them he had discovered blood corpuscles. The defense brought out in cross-examining him that the corpuscles could have been there for several months or possibly several years if not disturbed.

William A. Ghesling, embalmer employed at the parlors of P. J. Bloomfield, declared that Mary Phagan had been dead from twelve to fifteen hours when he removed it from its hiding place in the pencil factory basement. The blood had settled and rigor mortis had begun. He told of embalming the remains and of examinations of the wounds on the body he had made.

E. F. Holloway, day watchman at the factory, was accused by the solicitor of having entrapped him when he testified that he had left the switch box which controlled the motor of the elevator unlocked on the day of the murder. This was in direct contradiction to the state's theory of the murder.

Solicitor Dorsey's contention was that after Frank had called Conley to help him dispose of the body he went to the office and got the key of the receptacle before he could start the machinery.

Holloway declared that he had left the building about noon Saturday and that he used the motor, which also was geared to a circular saw, to cut two boards for Arthur White and Denham, who were working on the fourth floor of the factory. He said that after he had finished this work he placed the boards on the elevator and started it to the fourth floor.

Solicitor Dorsey produced an affidavit made several weeks before by the witness in the presence of several people. In this document Holloway declared that he had left the elevator locked when he started for home. The witness did not deny the affidavit but he declared at the time of making it he had forgotten sawing the planks. Deeper consideration of the matter had caused him to remember the incident, he asserted.

"Didn't you tell a Pinkerton detective on May 9 to come around next day and he might find some evidence?" was one of the many questions asked this witness by the solicitor.

"I did not," was the reply.

On May 10 Detective McWorth of the Pinkertons found the alleged blood spots, the bludgeon and several pieces of cord similar to the one by which the little girl was strangled. Dorsey intimated that Holloway might be able to shed some light on how these things came there, inasmuch as the state contended that this evidence, also, was planted for the purpose of diverting suspicion from Frank.

"Didn't you once boast that Conley was 'your nigger?'" asked the solicitor. The witness denied that he ever had.

Mrs. Arthur White, who took the stand on Friday, August 1, declared that she had entered the building to see her husband at 11:30 o'clock and, after talking to him for a few minutes, left the factory. It was ten minutes to twelve when she departed. Thirty minutes later she returned, she said, and entered Frank's office previous to going to the fourth floor to again see her husband. Frank was bending over the safe in the office when she entered, according to her statement,



and appeared startled at her approach. Mrs. White testified that she later went to the fourth floor where her husband and Harry Denham were working. She remained until 12:50 o'clock, when Frank appeared on the fourth floor and told her that he was going to lock the building before going to lunch and that she had better leave then. She took his suggestion, she said.

Her testimony was of vital importance, because the state maintained that the murder had been committed between her first and second visits.

Mrs. White described Frank's conduct when he came to the fourth floor as natural.

The woman also told of seeing a negro lurking in the shadows in the hallway on the first floor as she was leaving the building. Conley was brought before her but she could not positively identify him. He answered the same general description, however, she said.

General Manager M. V. Darley, called to the stand, admitted that Frank was nervous on the morning of Sunday, April 27. He said that the superintendent explained it by saying that he had been called from bed summarily that morning and had come down to the factory before he had an opportunity to drink his usual cup of coffee.

Darley said that he, too, had looked at the punches in the time slip made by Newt Lee and had failed to detect the alleged discrepancies in them. It would have been possible for a man who understood the mechanism of the clock to manufacture a slip which could not be detected from the genuine in five minutes.

Friday afternoon, August 2, the defense called Dr. H. F. Harris, secretary of the state board of health, to the stand. He was one of the surprises of the case. Through his testimony the defense sought to clinch the fact that the little girl never left the factory after entering it. Dr. Harris performed an autopsy on the body when it was exhumed nine days after the original burial. He had taken portions of the stomach and of the girl's sexual organs and examined them exhaustively. Until the time he took the stand no intimation of the sensational testimony he was to give had reached the ears of the public.

He declared that the girl had met death between half and three-quarters of an hour after she ate her noon-day meal. He reached this conclusion from the state of the cabbage and

other food found in her stomach. Dr. Harris was later corroborated by Dr. J. W. Hurt, county physician, and other physicians in sur-rebuttal. The defense sought by the testimony of half a dozen prominent physicians to prove that Dr. Harris was hazarding only a wild guess when he attempted to fix the time of death by this investigation. Others testified, however, that it was not a guess but a scientific opinion.

Of most vital importance was the testimony of Dr. Harris, that, although no criminal assault had been committed upon the girl before death, some kind of violence had been done her. This was proven by the state of her organs, he declared.

Dr. Harris said that the eye of the victim had been blackened before death, probably by a blow, and that the wound on her head which, he declared, undoubtedly produced unconsciousness, was produced by a sharp instrument. It would have been impossible to have inflicted it with the round club found near the elevator pit, he said.

Dr. Harris collapsed on the stand in the midst of a gruelling cross-examination replete with hypothetical questions at the hands of Attorney Arnold.

Saturday afternoon, Dr. Hurt was called and confirmed to a considerable extent the testimony of Dr. Harris. He described the wounds on the body of the girl in detail. On cross-examination the defense gained admissions by which they sought later to prove that the evidences of alleged assault found by Dr. Harris might have been the result of Dr. Hurt's examination of the corpse immediately after death.

Alfred McKnight, husband of Minola McKnight, cook in the Selig home, was called to the stand on Saturday, August 2. He testified that he had been in the kitchen of the residence on Saturday, April 26, and that Frank entered the dining room and viewed himself in the mirror for a few minutes. His testimony was later attacked by his wife, who repudiated on the stand the sensational affidavit she had previously made to the police.?

W. F. Anderson, call officer, G. C. February, stenographer in the detective department, Chief of Police Beavers, Detective Waggoner and Patrolmen Lassiter were also called on Saturday. Their testimony, with the exception of that of Chief Beavers, was largely corroborative of that already introduced. The police department head told of searching the vicinity of the scuttle hole leading to the basement a few days after the

murder and his failure to see the blood, cord and club later discovered there by Detective McWorth.

Miss Helen Ferguson, a factory girl, told the jury of having sought out Frank Friday evening to ask him to give her Mary Phagan's pay envelope. Frank refused to deliver it into her custody, she said.

On this day, also, which was the last of the first week, the defense protested because Judge Roan had on his desk a newspaper with a large red head line, "State Adds Links to Chain." It was the contention of the defense that the paper had unwittingly been exposed to the jury. Immediately after the paper was alleged to have been exposed to the jury, Attorneys Rosser, Arnold and Haas retired from the court room to hold a consultation as to what action would be taken. It was thought for a time that a mis-trial would be asked. After a conference of five minutes, however, the lawyers returned to the court room and asked that the jury be excused. After the twelve men had left the room, Attorney Rooser took the floor and announced that it was not the intention of the defense to ask a mis-trial at that time. Solicitor Dorsey asked that the jury be cautioned against being influenced by anything they had seen or were likely to see in the future. Judge Roan did this when the jury was returned.

Several other witnesses were called during the first week of the trial, but their testimony developed nothing that had not already been disclosed in the investigation of the police and private detectives and was mostly corroborative of important phases of the case.

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## CHAPTER XVI.

### "Perversion" Charged.

The second week of the trial opened on Monday, August 4th. It was then that the state introduced its most important witness, James Conley, a negro sweeper in the factory and the only witness who connected Frank directly with the crime. The public waited anxiously for the negro to take the stand

and when it was announced that he would be questioned on this day a crowd larger than any previous one sieged the court house. The police had instituted the plan of making spectators get in line to await the opening of the doors and on Monday two lines of men in single file extended around the front of the court house and nearly to the back of the building on each side. It began to form shortly after daylight and by 8:30 o'clock had swelled to several hundred. A majority of the waiters were disappointed, however, owing to the limited seating capacity of the court room.

Before court opened, Judge L. S. Roan announced from the bench that all the women present would have to leave. This was the first direct intimation of the sensational charges of perversion and misconduct among the factory girls which were introduced. At 9 o'clock James Conley took the stand.

He was the same Conley who had swept the floors of the pencil factory in the past, the same Conley who had been hailed into police court on disorderly conduct charges, the same Conley—except that he was sleeker than when he entered the jail, and he had been shaved and bathed and dressed to be presentable before the jury. With little questioning by Solicitor Dorsey, he told glibly his story of carrying the body of the dead girl to the basement at the direction of Superintendent Frank. Then he went further. He made the sensational assertion that once he had caught Frank in a compromising attitude with a woman in his office at the factory and that on previous Saturday afternoons and holidays he had watched at the front door of the building while Frank kept clandestine appointments with women on the second floor.

On Friday afternoon, the witness declared, Frank had instructed him to return to the factory Saturday morning.

"What time did he say for you to come?" asked Solicitor Dorsey.

"At 8:30," replied the black.

"Who got there first Saturday morning?"

"We met at the door and I followed him in."

"What conversation did you have?"

"After we got in ,on Saturday morning, Mr. Frank said that I was a little early. I told him it was the time he'd said for me to come. He said I was a little too early for what he wanted. He said he wanted me to watch for him like I had other Saturdays."

"What had you done other Saturdays?"

"I had watched for him while he was upstairs talking with young ladies."

"What did you do?"

"I would watch at the door and let him know."

"How often had you done this?"

"Several times—I don't know how many."

"Was Frank up there alone on those Saturdays?"

"No, sometimes there'd be two young ladies, and sometimes other men from the factory."

"Was Mr. Frank ever alone there?"

"Yes, sir. Last Thanksgiving day."

"Who came then?"

"A tall, heavy-built woman."

"What did you do then?"

"I stayed just like I did on April 26, and watched at the door."

"What had Mr. Frank told you to do on Thanksgiving day?"

"I did like he to'd me and locked the door when he stomped on the floor after the lady had come in."

"That was Thanksgiving day, 1912?"

"Yes, sir."

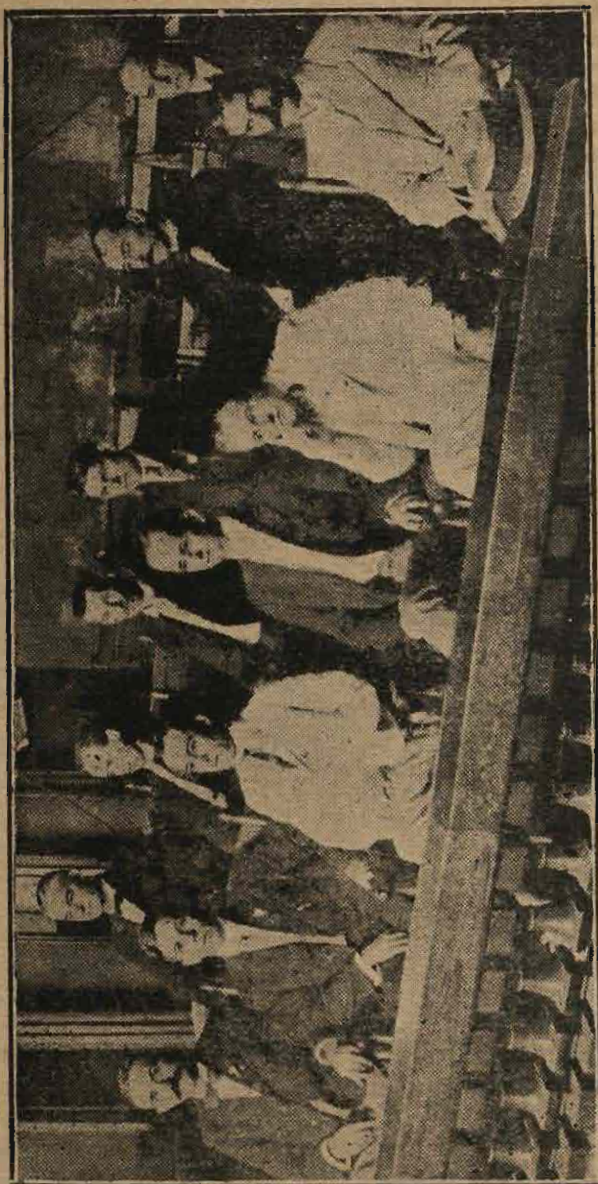
"Now, tell what happened on April 26."

"We both went inside. He told me I was a little early. I said, no, sir, that was the time he'd told me to come. He said I was a little early for what he'd told me to do. He told me he wanted me to watch. I told him I had to go to the Capital City laundry, and asked him what time he wanted me to come back. He told me that I could go from the Capital City laundry to Nelson and Forsyth streets and watch there till he came back from Montag's."

Conley continued his narration of the events on the morning of April 26. He told of going to the Capital City laundry and of meeting Frank at Nelson and Forsyth streets.

"What happened when you returned to the factory?" he was asked by Dorsey.

"We went in and Mr. Frank told me about the lock on the front door. 'If you turn the knob this way, nobody can get in,' he said. Then Mr. Frank to'd me to come over and said 'Set on that box.' He said there'll be a young lady up here pretty soon, and we want to chat a while.' Mr. Frank said,



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'When I stamp, that's her. And when I whistle, you come up and say you want to borrow some money, and that will give her a chance to get out.' "

"Did he say anything else before he went upstairs?" asked the solicitor.

"Yes, sir," said the witness. "He hit my chest right here,"—th negro pointed to a place near his right shoulder—"and he said, 'Now, boy, don't let Mr. Darley see you.' "

Answering questions put by the Solicitor, Conley told of seeing various people come and go while he lurked in the hallway. At about 12 o'clock the negro said he saw Lemmie Quinn, Mary Phagan and Monteen Stover enter the building in the order named. The former and latter came out, but Mary never came down, he said.

"After she went up," the witness said, "I heard her footsteps going toward the office, and then steps toward the metal room. The next thing I heard was her screaming.

"Then what did you hear?" persisted the state's prosecutor.

"I didn't hear any more," answered the negro.

"Who was the next person you saw go upstairs?"

"The next one I saw go up was Miss Monteen Stover."

"How was she dressed?"

"She was wearing tennis shoes and a red coat."

"Have you seen Miss Stover since then?"

"Yes, sir—once."

"How long did she stay upstairs?"

"She stayed a pretty good while. Not so very long, either."

"Then what?"

"She came back down."

"What happened then?"

"Then I heard tiptoes coming from the metal department."

"Where did they go?"

"I don't know, sir."

"What next?"

"Next I heard tiptoes running back toward the metal department."

"Then what?"

"Then I sat back on the box and kind of went to sleep."

"All right—what next?"

"Next I heard Mr. Frank stomping over my head. I waked

up the first time he stomped. Then I heard him stomp two more times. He stomped three times altogether."

"Then what did you do?"

"I got up and locked the door like Mr. Frank told me to do. Then I sat back down on the box."

"How long did you sit there?"

"A little while."

"All right, then what happened?"

"I heard Mr. Frank whistle."

"How long after the stomping what it before you heard him whistle?"

"Just a few minutes."

"Well, what did you do when you heard Frank whistle?"

"I went upstairs like he told me to do when he whistled. Mr. Frank was standing at the head of the stairs shivering. He was rubbing his hands together and acting funny."

"Show the jury how he was acting."

The negro stood up, made his legs tremble, rubbed his hands together, rubbed his right backward and forward from the back of the head to the face and reverse.

"What did Frank have?"

"He held a little cord in his hand."

"Did you look at his eyes?"

"Yes, sir."

"How did they look?"

"His eyes was large. They looked funny and wild."

"Did you notice his face?"

"Yes, sir, it was red, very red."

Solicitor Dorsey produced the cord which had been taken from around the neck of the corpse of the body of Mary Phagan. "Is that the kind of cord he had in his hand?" he asked.

"Yes, sir, just like that," answered the negro.

"Did Frank say anything to you?"

"Yes sir, he asked me if I saw the little girl pass along up there. I told him yes, I saw two but one went out; but that I didn't see the other one come out."

Conley testified that Frank told him that he had gone back to the metal room and that Mary Phagan had resisted advances that he had made. Frank said that there had been a struggle, in which the girl had fallen and hurt herself.



Conley declared that Frank had remarked, "You know, Jim, that I am not like other men," referring to a previous happening when the negro had interrupted the young superintendent in peculiar relations with another girl.

"He told me to go back to the metal room," said the negro. "He said: 'We've got to get her out. Hurry up, now, and there'll be some money in it for you.'"

"Did you find the girl?"

"Yes, sir. She was lying flat of her back, with a rope around her neck. There was a piece of cloth tied around her neck, too."

The direct examination of Conley was completed in less than two hours. His crossexamination was probably the most remarkable feature of the trial. For three days and a half Luther Z. Rosser fired questions at the negro in an attempt to trip him up on some point in his testimony. But never once did the black lose his head.

He was taken over and over his story and he repeated it without a variation. Traps were laid by the shrewd Rosser, but the negro avoided them. The examination resolved itself into a physical endurance contest. At one time Attorney Arnold took the floor to address a question to the witness. The move was taken by Dorsey to mean that the two attorneys for the defense intended to question the negro in relays and wear him out. He interposed an objection and Judge Roan ordered that Attorney Rosser would have to continue the questioning.

The testimony of Conley was taken down by four stenographers in half hour relays. As soon as one had completed his "take" he would hurry to a typewriter and transcribe his notes. By this means the defense lawyers were supplied with copies of the official testimony of Conley two hours after it had been entered in the record. They repeatedly asked him questions put previously and his answers were the same, almost verbatim.

Attorney Rosser asked him about occasions on which he had previously watched while Frank entertained women friends in his office. He went into the minutest details. The negro never hesitated in answering, although he frequently replied, "I disremember."

"Tell us about the first time you watched. You said it was in July, 1912. Who was there that day?"

"C. B. Dalton and a woman who worked on the fourth floor and another woman named Daisy Hopkins, who once worked at the factory," the negro replied.

"About 3 or 3:30 in the afternoon."

"What were you doing?" asked the attorney.

"I was sweeping when they came in, but Mr. Frank called me to his office, and asked if I wanted to make a piece of money, and then he told me to watch the door for him."

"I went down and watched and pretty soon that young lady went out and she came back with a man, Mr. Dalton."

"Then they went upstairs and I heard them walk into Mr. Frank's office. They stayed about ten or fifteen minutes and then the young lady and Mr. Dalton came out, and the young lady says, 'All right, James,' and then I took them back and opened the trap door and they went down the ladder to the basement."

"Who told you to open that door, Jim? Did she tell you?"

"No, sir, Mr. Frank had told me when he was talking with me."

The witness declared that he had no idea of the length of time the couple stayed in the basement, but said that he waited near the trap door and opened it for them to come up.

In answer to questions he then declared that Dalton went on out and the girl went upstairs, and after waiting at the head of the stairs for several minutes, went into the office. A little later she and Miss Hopkins came down, and it was considerably later that Frank left the office, he said.

Mr. Dalton, he said, gave him a quarter, and Mr. Frank gave him another as he was leaving. The witness said that the girls left about 4:30 o'clock.

The witness was told by the cross-examiner to narrate the events of the next visit of women to the factory, which Conley said was on a Saturday about two weeks later. At that time Conley declared that Frank came up to him early in the morning and told him that he "Wanted to put him wise" for the afternoon.

Frank returned to the office about 2:15 that afternoon, he said, and shortly after he went into the office Mr. Holloway left.

Some time later the negro declared, Miss Daisy Hopkins came in, and he followed her up the stairs and saw her go into the office.

Frank snapped his fingers at him, he declared, and bowed his head. Then he went down and watched at the front door and Frank gave him 50 cents after the girl had left.

"Now, tell about the next time—Thanksgiving," Mr. Rosser said to the negro.

"No, sir, it was not Thanksgiving," said the negro. "It was before Thanksgiving, early in the winter."

"When was it?"

"About the middle of August."

"Oh, yes," said Mr. Rosser, "it was pretty cold that day, wasn't it?"

The negro saw the trap and neatly dodged it.

"No, sir, it was not cold."

"Well, it was winter—it was sorter cold?"

"No, I can't say it was cold," Conley answered.

"Well, that morning," he continued, "Mr. Frank told me he wanted to put me wise again for that afternoon."

"Oh, yes," interrupted Rosser, "he used that same word every time, didn't he?"

The negro said that he did that time and the other time, but was not sure he used it after every time he spoke of the matter.

"What was this woman's hair like?" asked Attorney Rosser.

After looking around the court room the negro replied: "It was like Mr. Hooper's."

"You seem to know Hooper well. How is that?"

"Well, he talked to me once or twice."

"It is gray like Hooper's?"

"If that is gray, it was."

"What sort of clothes did she wear?"

"She had on a green suit."

"Now, let's take Daisy Hopkins," said Attorney Rosser. "What did she wear?"

"The first time she came she wore a black skirt and a white shirt waist."

"What did she wear the second time?"

"The same thing."

"Did you ever speak to her around the factory?"

"No, sir, she didn't know me."

"You've been there two years. And do you mean to tell me that everybody around there don't know Jim Conley?"

"Lots of them don't know me."

"Who are some of them?"

"I don't know, but there's lots of them."

Attorney Rosser then questioned Conley about last Thanksgiving day, when he said he again acted as lookout for Frank. Conley said that he had waited near the door until the woman came. He said he got to the factory about 8 or 8:30 o'clock and that she entered about half an hour later."

"Did you know her?"

"No, sir, I never saw her since. I saw her in Mr. Frank's office about three days before that."

"Was it the same week?"

"I don't know. It was some time near Thanksgiving, though."

"What time was that?"

"About 8 o'clock in the evening."

"What were you doing there so late?"

"I was stacking some boxes upstairs."

"How was she dressed?"

"I think she had on black clothes. I don't remember exactly."

"How was her face?"

"O, she was good looking."

"Now, on this Thanksgiving morning, you closed the door after her?"

"Yes, sir."

"And you say when Mr. Frank stamped his foot you locked the door after her?"

"Yes, sir. When Mr. Frank stamped I closed the door."

"Was there any signal? How many times was he to stamp?"

"Twice."

"It wasn't three, was it?"

"No, sir. It was twice. And then I was to kick the door of the elevator twice."

"What did you do after that?"

"I sat on the box."

"How long?"

"About an hour and a half it seemed to me."

"And then she came down?"

"No, Mr. Frank came down. He said 'is everything all right?' and then he opened the door and looked up and down the street and then called to her, 'All right.' And she came down and they walked to the door and as they passed me

the woman looked at me and said, 'Is that the nigger?' and Mr. Frank said, 'Yes, that is the best nigger I ever saw.' "

"Did she say that to you?" queried Attorney Rosser.

"No," replied the black, "She was talking to Mr. Frank."

Conley was questioned about every assertion that he had made in his affidavits to the police. Time and time again he admitted that he had lied when questioned by the detectives.

"I told a million lies, I guess," he said.

At the end of the first day's grilling the state was jubilant. Conley was telling the truth at last, they believed, and they were confident that the defense would never break him down.

"It's a bear fight. And I am betting on our bear," was the comment of Frank A. Hopper.

Later, several days after Conley had been grilled, Rosser remarked: "That's a smart nigger. He's the smartest one I ever tackled. But he's the greatest liar on earth."

The most bitter legal battle of the whole case occurred on the afternoon of Tuesday, August 5th, when the defense attorneys unexpectedly moved that all the testimony of Conley pertaining to watching for Frank on previous days and the statements of the negro attacking his character, be stricken from the record. The motion was made immediately after the midday adjournment. Attorney Arnold arose and asked that the jury be sent out. After the talesmen had marched from the room he announced to the court that he wanted this testimony expunged from the transcript on the grounds that it was irrelevant, immaterial, incompetent and inadmissible.

"We move, first," he said, "to exclude from the record all the testimony of Conley relative to watching for the defense, and we withdraw our cross-examination on that subject."

Second, Mr. Arnold moved that a portion of the negro's testimony attacking Frank's character, which was brought out through questions propounded by the solicitor, be ruled out.

Mr. Arnold concluded the argument by saying, "Before anything else is done, we move to exclude this from the record."

Judge Roan spoke up: "As I understand it, Mr. Arnold, what you want to withdraw is testimony about watching on other occasions."

Attorney Hooper took the floor, saying: "To allow this bringing out witnesses to sustain Conley. We purpose to motion would be to trifle with the court. When they did

not object at the time this evidence was introduced I believe they lost any ground that they had for an objection. If their objection had been entered at the time of the introduction of this testimony, I should say that the objection was well taken, but I do not think that they have a right after letting it all go into the records without protest, now to move for its total exclusion."

Frank dropped his head, and his mother put her arm around his neck and patted him on the shoulder and whispered in his ear. He smiled faintly and looked around.

Solicitor Dorsey addressed the court.

"I submit, your honor," said he, "as an original proposition this evidence is admissible. They have waited too late to enter their objection."

Mr. Rosser interrupted.

"We move to rule it out because it is immaterial," said he, addressing both the court and the solicitor.

"If you've got any authority to back up your objection," retorted the solicitor, "trot it out."

"I never trot out anything in court," replied Mr. Rosser. "I've got too much respect for the court."

"Well, gallop it out, lope it out," said the solicitor. "It doesn't make any difference, just so you produce it."

"You wouldn't understand it if we did," snapped Mr. Rosser.

Solicitor Dorsey proceeded, ignoring the last remark.

"Your honor, just as a matter of fairness, I submit that it is not right to let this gentleman give this witness a most severe grueling for two days, go into his testimony by cross-examination, and then come along and ask that certain portions of it be ruled out. They would stop us now from corroborating the testimony of this witness as to Frank's conduct. To grant their motion would be to stop us from introducing our corroborative evidence."

The solicitor announced that he had other witnesses waiting to corroborate Conley.

"Is it fair, your honor, after one, two, three, four, able counsel have sat here and let this evidence get into the record: after they have cross-examined the witness for two days and then wake up to the conclusion that it should be expunged from the record—is that a fair proposition?"

"The state's case will have been done great damage," continued the solicitor, "if now, after the defense has derived

all the benefit it possibly can expect from cross-examination, these facts are cut out and we are not given an opportunity to put witnesses on the stand to show that this man Jim Conley has spoken the truth.

"Now the able counsel sees the terrific force of these transactions, and they would stop us from corroborating them.

"I appeal to you, in the name of fairness and justice, to let counsel now see that objections, if they are to be entertained, must be timely.

"Why, your honor, they have gone into even the workings of the National Pencil factory, and showed this man Conley's relations with a half a dozen different men, and they have done so very properly, for it shows his connection with this defendant and is a part of the history of the crime.

"I will tell your honor right now that we have witnesses to sustain this man.

"Any piece of evidence, any transaction, anything of his past conduct, to show his intent and purpose when he got this girl up there, is admissible. And it is largely by this that we are showing what this man did to poor little Mary Phagan. Anything to show his motive must be admissible. As to the distinct relevancy of this testimony, I cite as an instance the testimony of Dr. Hurt.

"This testimony which they would rule out goes right to the point and it will be corroborated. It goes largely to show who killed the girl.

"I beg of you to think twice before you rule out these powerful circumstances."

Solicitor Dorsey challenged the defense to produce any decision written within the past five years contrary to this principle.

"The courts are slow," said Mr. Dorsey. "Too slow to progress. But this one rule the courts have now taken up.

"The importance of this testimony will be more manifest before we get further in this case."

During Solicitor Dorsey's arraignment of Frank, Mrs. Frank, wife of the accused, arose from her seat and left the room. She went into an ante-room and remained several minutes. When she returned to the court, there were fresh tears in her eyes. She resumed her seat at her husband's side.

"There's no use making stump speeches here," said Mr. Arnold. "There's no use waxing so eloquent. I could do it, I guess but I don't want to make my jury argument while it's so hot unless I have to."

Mr. Arnold termed the objectionable evidence "miserable, rotten stuff," and went on to say that the defendant suffered outrageously by its admission into the records.

"The state admits that it is illegal evidence," said he. "The only ground that they want it retained on is that we didn't make timely objection. In a criminal case, you never can try a man for but one crime. That's the old Anglo-Saxon way. In France, and in Italy and in Germany, when a prisoner comes into court, he comes prepared to answer for his whole life. But it's not that way here. We only try a man for one crime. What is this proposition?"

"I sympathize with the little girl's parents as much as anybody, but I say it is just as much murder to attempt to convict this defendant by the introduction of illegal and irrelevant evidence. This miserable wretch on the stand," pointing to Conley, has told a glib parrot-like tale. He was schooled in it for two months, and I feel sorry for anybody that will believe him. He has introduced another capital crime into this case—not that I believe a white man would believe a word he said, but his testimony has brought it in. A case of murder is a distinctly marked case, and as I understand it the state does not contend even that this is a premeditated case.

"The state has put this man on the stand, and they want to bolster up his outrageous tale with a lot of irrelevant matter."

Attorney Arno'd attacked the supreme court decision cited by Solicitor Dorsey, contending that the decision was written in a case involving illegal sale of cocaine, and not in a murder case. Murder, he said, is an entirely different matter, and is more serious than the selling of cocaine.

"If this evidence is admitted we would have to stop investigating the murder and take up the investigation of two other cases and the cases he mentioned are not parallel with this.

"With this evidence before the jury, there is a likelihood of that body convicting this defendant on general principles. I am coming under a general rule when I say this ought to be ruled out."

"Your honor, how much confusion would be in the jury's mind. How much the issue would be clouded!" continued Mr. Arnold. "How unfair to this defendant in a day or two without notice and require him to answer such charges as these. It would necessitate our going back over all of these



days this villain has mentioned. We would have to call in every employe of the factory, and goodness knows how many other witnesses. If they can put such evidence as this in, we certainly can rebut it. This is illegal testimony, and they have done us an incalculable injury to let this suspicion get into the minds of the jury."

Judge Roan interrupted Mr. Arnold.

"Everything relating to the watching on the particular day, April 26, is relevant.

"Everything relating to that particular transaction is a part of this case," said Mr. Arnold. "We are not even objecting to what this witness says happened at the factory or what was told him on the Friday before."

Judge Roan announced his ruling as follows:

"There is no doubt in my mind that this evidence was inadmissible as an original proposition, and I will rule out all except as to the watching on that particular day."

Attorney Hooper requested the judge to postpone his decision until Wednesday, in order to give the state time to look up and submit decisions bearing on the point in issue. The court refused to do this.

Judge Roan added, however, that he holds himself in readiness to reverse himself if he finds that he has ruled wrong.

"I have no pride about that matter," said the judge. "I wouldn't hesitate to reverse myself. "I wouldn't hesitate to reverse myself if I found I was wrong."

The jury was then brought back into court, and Attorney Rosser resumed his cross examination of Conley.

Judge Roan added, however, that he held himself in readiness to reverse himself in the event that a study of authorities on the subtle point proved his ruling wrong.

The jury was then returned to the court room and the cross-questioning of Conley was resumed by Attorney Rosser.

## CHAPTER XVII.

### Salacious Stories Admitted.

At noon Wednesday Judge Roan announced that he would reverse his ruling striking from the records the testimony of Conley regarding perversion and of having watched for Frank on previous occasions. Great excitement prevailed in the court room when the court made the new ruling. Solicitor Dorsey was applauded at his victory. It was the first of a series of ovations given the plucky young solicitor general. On this occasion, however, it resulted in Attorney Arnold making a motion that the court room be cleared. Judge Roan refused to expel the audience and the lawyer applied for a mis-trial. His request immediately was overruled.

Judge Roan held that a'l of Conley's testimony would remain in the records. This gave Solicitor Dorsey the opportunity that he wanted to bring in witnesses to corroborate this part of the negro's story.

C. B. Dalton, named by Conley as the man he had seen go up to Frank's office with two women, was one of the last witnesses called by the state. He is a carpenter. He admitted going to the factory with Daisy Hopkins and says that on one occasion this woman introduced him to the young factory superintendent. On more than one occasion, he swore, he had seen women in Frank's private office. Frequently he saw soft drinks there, he said, and on one occasion the party had beer.

On Thursday morning, after Dalton quitted the stand and Dr. F. H. Harris had completed his testimony, which was interrupted when he had collapsed on the stand the previous week, the state rested.

The defense immediately opened their case. The first directed their guns on the testimony of Dr. Harris. Dr. Leroy Childs was called to the stand. He asserted that many of Dr. Harris' deductions were guess work.

It would be a "wild guess," he said, to fix the length of time any food had been in a human being's stomach before death. Dr. Childs and other physicians in the days that

followed refuted other statements made on the stand by the secretary of the State Board of Health.

Harry Scott, Pinkerton detective, was recalled by the defense Thursday afternoon. Attorney Arnold sought to draw from him that Conley had been schooled in making his statements to the police. His intention was to leave before the jury's mind the possibility that Conley gathered the remarkable knowledge of details and from that concocted his story. Scott admitted that on more than one occasion he and other detectives had remarked to Conley when endeavoring to get the truth from him: "That's won't do, Jim. It don't fit."

On Friday, the eighth day of the trial, Frank's counsel called Daisy Hopkins to the stand. She flat-footedly contradicted the testimony of Dalton and James Conley that she had ever visited the pencil factory for an immoral purpose.

On this day, also, the defense introduced a cardboard model of the pencil factory which was used through the rest of the trial to illustrate the testimony of witnesses.

The testimony of George Epps, who declared that he had ridden to the center of town on the same car with Mary Phagan on the day of the murder, was attacked by W. M. Matthews and W. T. Hollis, motorman and conductor of the car on which the girl rode to town. Both carmen declared that they had seen the little girl on the car, but that Epps was not there. They also maintained that she did not get off at Marietta and Forsyth streets, but rode around the turn to Broad and Hunter streets.

Blue prints of every floor of the pencil factory were also introduced on this day. They were made by Albert Kaufman, a civil engineer. In every feature of the trial the defense spared no expense to place before the jury its evidence in the best form. Experts of various kinds were called to refute incriminating testimony given by witnesses called by the state.

The second week of the trial closed at noon Saturday with Herbert Schiff, Franks young office assistant, on the witness stand. Through him the defense began to weave their famous "time alibi" by which they tried to prove it would have been impossible for Frank to have committed the murder. Schiff declared on the stand that it was Frank's custom to make out the financial statement every Saturday afternoon and that the work could not have been completed in less than two to three hours. He was shown the financial statement

for the week of April 26 and identified the handwriting as that of Frank. He was subjected to one of the most severe cross-examinations of the case, but his testimony was unshaken.

On Monday, August 11th, the defense again renewed their attack on Dr. Harris' testimony. Dr. Willis Wsstmoreland, former president of the state board of health; Dr. T. H. Hancock, Dr. J. C. Olmstead and Dr. George Bachman, declared that any physician who attempted to fix the time of death by the condition of food in the stomach of a corpse was only hazarding a guess.

On this day also the defense introduced a number of witnesses who swore that they would not believe C. B. Dalton on oath. They were nearly all from Walton county, where Dalton had previously resided and all termed his character as bad. Later the defense re-called Dalton himself and gained from him admissions that he had been arrested on several occasions in his past life on larceny charges.

Miss Hattie Hall, stenographer and bookkeeper for Montag Brothers, was called to add a link to the time alibi. She told of meeting Frank at Montag Brothers on the morning of the day of the murder and his requesting her to come to the factory and do stenographic work for him. She asserted that he also asked her to come back that afternoon. Miss Hall testified that she had remained at the factory until two or three minutes after twelve. She fixed the time of her departure by the blowing of the 12 o'clock whistle.

Joel Hunter, an expert accountant and another proficient mathematician declared that Frank could not have completed the financial report in much less than three hours. And there was other minor work on office account books which would take him anywhere from thirty minutes to two hours longer, he said. This meant that Frank, on the afternoon of April 26, after Mary Phagan had been killed, carried on the routine office work of the factory.

On Wednesday, the fifteenth day of the trial, Frank's character was put in issue. The move was not unexpected. In taking this step counsel for the accused superintendent defied the state to produce witnesses who would put a blot on his character. Two former classmates at Cornell, now of New York, who came to Atlanta solely to testify, said that his character was excellent. They were followed during the next few days with other friends of Frank at school, and one or two

college professors who made the long trip South to be with their former fellow in his hour of need. Scores of the most widely known men in the city took the stand and said that they never had known a smirch on the character of the factory head.

Efforts of the defense to introduce experiments of four men who re-enacted the carrying of the body to the basement as told on the stand by Conley, met with vigorous opposition on the part of Solicitor Dorsey and Attorney Hooper. Frank's attorneys sought to show that it would have taken more than twice the time to hide the body that the negro said it would. After an argument of an hour, Judge Roan allowed the evidence. Dr. William Owens then gave an account of how he and three other men had carried a sack weighing 110 pounds, the same as Mary Phagan's body, into the basement and gone through the other alleged actions of Conley and Frank on the day of the murder. It took them more than thirty minutes, he said. Conley gave fifteen minutes as the estimate of the time.

On cross-examination, Attorney Hooper went thoroughly into every detail of the experiment in an attempt to discount its value. He succeeded many times during the afternoon in bringing the jury and audience to mirth.

Attorney Hooper also attempted to prove that Dr. Owens was unduly interested in the case. He produced a letter written to the grand jury before the trial asking the indictment of Conley as an accessory. Dr. Owens said that he had written the communication at the compulsion of his conscience.

When John Ashley Jones took the stand to tell of Frank's character, the state opened its first attack upon the superintendent's moral reputation. When the witness was turned over for cross-examination, Dorsey was on his feet in a minute hurling questions one after another.

"You never heard it said that he took girls in his lap at the factory, did you?"

"No."

"Did you ever talk to L. T. Coursey of Miss Myrtle Cator? You never heard them say that Frank would walk into the women's dressing rooms without offering any explanation for this intrusion?"

"No."

"Did you ever hear of him trying to put his arm around Miss Myrtis Cator and attempting to shut the door just before the factory closed one afternoon?"

At this point Mrs. Rae Frank, mother of the defendant, turned in her seat and faced the solicitor.

"No, nor you either," she cried "you dog!" It was a tense moment. The court was thrown into an uproar.

Attorney Arnold, in a sympathetic voice, said: "Mrs. Frank, if you stay in the court room, I'm afraid you'll have to hear these vile, slanderous lies, and I would suggest that if you have reached the limit of your patience you might retire for a little while."

Mrs. Frank arose and was escorted through the crowded court room to the door by Attorney Herbert Haas and some other men of the Frank party.

Mrs. Lucile Frank showed considerable emotion for the first time since her husband's trial began; and the face of the accused man flushed when the solicitor hurled his sensational question at the witness.

Dorsey then continued his questioning:

"Do you know Tom Blackstock?"

"No."

"You didn't hear how Frank stood and looked at poor little Gordie Jackson? You didn't hear how it was the talk of the factory?"

"No."

"You didn't hear what he tried to do to Lula McDonald and Rachel Prater?"

"No."

"You didn't hear what he said to Mrs. Pearl Dodson when he stood talking to her and her daughter with money in his hand, and you didn't hear how she hit him with a monkey wrench?"

"No."

"You didn't talk to Mrs. C. D. Dunnegan and Miss Marian Dunnegan about him?"

"No."

"You didn't hear how he was accustomed to slap girls and how he had nude pictures in his office? You did not talk to Mrs. Wingard, of 45 Mills street, about him, did you?"

"No."

The solicitor finished his examination suddenly at this point and sat down, silence falling over the court.

Mrs. Rae Frank remained away from the court room during the entire afternoon. She appeared in an automobile at ad-

jourment time, however, and gave her son his usual good-night kiss.

Next day she resumed her seat by his side and never again during the trial did she interrupt the court with an interjection.

The defense fought bitterly this attempt of Solicitor Dorsey to get the implications of these questions before the jury. Attorney Arnold repeatedly termed the tactics unfair, unjust, and unethical. Judge Foan allowed them to remain in the record, however.

Thursday morning, August 14, Solicitor Dorsey, upon the opening of court, asked that Mrs. Leo and Mrs. Rae Frank be excluded from the court room. He feared another outbreak like the one of Wednesday afternoon.

"I am doing only my duty," he said in addressing the court, "and it is unfair to allow some one in the room who will heap abuse upon me." Judge Roan refused to comply with the solicitor's request when the women, through Attorney Arnold, agreed to make no more interruptions.

## CHAPTER XVII.

### Frank's Alibi.

A formidable array of witnesses to corroborate Frank's alibi were introduced. Miss Helen Curran, of 160 Ashby street, appeared in the case for the first time, and testified that she saw Frank in front of a drug store at Whitehall and Alabama streets at ten minutes after 1 o'clock.

Mrs. M. G. Michael, of Athens, an aunt of Mrs. Lucile Frank, who was visiting at the home of her sister, Mrs. C. Wolfsheimer, 387 Washington street, a few blocks from Frank's home, declared that she had seen the factory superintendent about 2 o'clock on the afternoon of the day of the murder as he was leaving his home on his way back to the pencil factory. She was corroborated by Jerome Michael, her son. Mrs. A. B. Levy testified that she had seen Frank get

off a Georgia avenue street car half a block from his home at 1:20 o'clock.

Cohen Leob testified that he had ridden down town with Frank on a Washington street car, and H. J. Hinchey corroborated this witness when he said he had seen him aboard the street car a few minutes after 2 o'clock. Hinchey was in his automobile when he looked up and saw Frank through the window of the car.

Miss Rebecca Carson declared that she and her sister had seen Frank in front of the store of M. Rich and Bro. in Whitehall street about 2:20 o'clock, and thirty minutes later at Whitehall and Alabama streets. Frank had been watching the Decoration Day parade in the interim, according to his statement.

A number of former employes of the factory were called to testify that they had never seen improper conduct on the part of Frank, nor anybody else connected with the factory. One youth who had once been employed as an office boy, declared that on last Thanksgiving day, when Conley said he had watched for Frank, had worked with the negro in the box room on the fourth floor of the factory. He was corroborated in this by Herbert Schiff.

Several friends of the Selig family were called to testify that Frank had exhibited no signs of nervousness on the night of Saturday, April 26. They declared that they had been guests of Mr. and Mrs. Selig, his father and mother-in-law, and that Frank, although he took no part in the card game, composedly read a paper. On one occasion, they asserted, he called the attention of the card players to a joke he had come across in the paper. On cross-examination of these witnesses, Solicitor Dorsey attempted to bring out the fact that Frank attempted to appear too care-free on this night and to attract the attention of those present when he laughed so vociferously.

On the afternoon of Saturday, August 16, Mrs. Rae Frank took the stand in her son's behalf. She was called to identify a letter bearing the date of April 26, which was supposed to have been written by her son. It was addressed to his wealthy uncle, M. Frank, who at that time was in New York on his way to Europe.

Here is the letter:



“Atlanta, Ga., April 26, 1913.

“Dear Uncle:

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

“It is too short a time since you left for anything starting to have developed down here. The opera has Atlanta in its grip, but that ends today. I have heard a rumor that opera will not be given again in a hurry here.

“Today was yondef here, and the thin gray lines of veterans, smaller each year, braved the chil'y weather to do honor to their fallen comrades.

“Inclosed you will find last week's report. The shipments still keep up well, though the result is not what one would wish. There is nothing new in the factory, etc., to report. Inclosed 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 Frankfort.

“Much love to you both, in which Lucile joins me.

“I am your affectionate nephew.

(Signed)

“LEO M. FRANK.”

The communication formed another link in Frank's time alibi, as well as tending to show that he was laboring under no extraordinary mental strain on the afternoon of the murder.

Friday afternoon the defense announced that it had called 100 more witnesses to testify as to the good character of Frank. The majority of them turned out to be girls employed on the fourth floor of the pencil factory. Conley in one of his statements had asserted that the girl with whom he had caught Frank in an unnatural position was employed in this part of the factory.

Mrs. E. H. Carson was one of the first of these witnesses to be called. She testified that Frank's character was good and that she had never heard a word of criticism against him about the factory.

She was followed by many other women employes of the factory who testified that, so far as they knew, the character of their superintendent was beyond reproach.

To all of them Attorney Arnold put this question:

“Have you ever at any time met Leo M. Frank, the defendant, in the factory or anywhere else for an immoral purpose?”

In every instance the answer to this question was emphatically in the negative.

One woman became so perturbed when the question was put to her that she declared she would die for her superior.

Miss Irene Jackson was called by the defense as a character witness, but the prosecution drew from her startling testimony. She declared that on at least three occasions to her personal knowledge Frank had come to the door of the girl's dressing room on the second floor of the factory, and stood looking at the occupants of the room. Miss Jackson declared that not always were the girls in these apartments fully robed when the superintendent looked in.

Har'ee Branch, a reporter for the Atlanta Journal, was called to tell of an interview with Conley when the latter was confined to the county jail. He declared that Conley had denied several weeks after the murder seeing Lemmie Quinn enter the factory on Saturday, April 26. On cross-examination, Solicitor Dorsey developed the fact that the witness had been with the city detectives when James Conley re-enacted in pantomime the concealing of the body on the day of the crime. His aim was to refute the testimony of Dr. William Owens. Branch said that Conley had taken approximately half an hour to go through his movements on that day.

Nearly everyone of the employes connected with the factory said that Conley had a bad character and that they would not believe him on oath. Several of the girl cited instances when they had loaned him money and he had failed to repay it.

## CHAPTER XIX.

### Attorneys Threatened.

When court adjourned at noon on Friday, August 16, three weeks had been occupied in the taking of evidence—and the end was not yet in sight. It was predicted that all of the next week would be taken up in the introduction of rebuttal and sur-rebuttal evidence and arguments to the jury. This was correct. The trial did not end until near the middle of its fifth week.

The lawyers were almost exhausted. It had been a severe strain on all of them. Court convened daily at 9 o'clock and remained in session until 12:30, when recess was taken for dinner. This lasted an hour and a half.

At 2 o'clock court resumed and the evening adjournment was not taken until about six o'clock in the afternoon. Everyone of the attorneys was constantly on the alert. If he was not questioning he was following in his mind the trend of the testimony ready to interpose an objection or fight over some questionable legal point. During the first three weeks Luther Rosser, one of the most stalwart lawyers in the South, lost twenty-five pounds in weight. Solicitor Dorsey became pale and nervous and Reuben Arnold and Frank Hooper showed traces of the terrific strain.

The lawyers for the defense were working under an added hardship, as so. They received numerous threatening letters from all parts of the state. They were the communications of fanatics, who were radically in sympathy with the move of Solicitor Dorsey to send the prisoner to the gallows. During the whole trial Reuben Arnold was followed by a bodyguard of three men, while his brother lawyer, Rosser, had two constantly at his side. They were hedged about like a president with secret service operatives.

Telegrams and letters of advice and condemnation also poured in to the attorneys for both sides from all parts of the country. One man in Nashville, Tenn., spent at least \$100 in writing to Mr. Rosser suggestions and hints as to how to proceed with the presentation of the case of the defense. The Tennessean had a chart, he said, by which he could tell just what move to make next. These communications were, of course, disregarded if they ever were read.

The fourth week of the trial marked a tightening of tension over the whole city. The crowds around the court house grew louder and more demonstrative. An added force of policemen and deputy sheriffs kept them in order.

During the whole trial Leo M. Frank was probably the coolest man directly connected with the case. His expression and bearing never changed. He was always the same stoic, impassive Frank. He stood the long, hot grueling trial with the composure and patience he inherited from a race of people who had been persecuted for aeons.

His mother and his wife, too, withstood the strain well. Only on the one occasion did the elder Mrs. Frank display

emotion or passion. In the courtroom she sat at the left of her son with her eyelids drooping. Mrs. Leo Frank sobbed occasionally and frequently fondled her husband's hands while he was hearing commendation and denunciation from the mouths of witnesses. At times when the evidence against her husband seemed particularly severe she rested her head on his shoulder and tears rolled down her face and her frame shook.

Probably the most remarkable feature of the whole Frank case was the way the young man's friends stuck by his side in her hour of need. During his three months' wait in the county jail for trial there was always one at the door of his cell and they were present in the court room by the scores. Rabbi David Marx, of the Atlanta Synagogue, denied himself a trip to Europe that he might remain in Atlanta to comfort the president of the B'Nai B'rith.

Moses Frank, the millionaire uncle of the defendant, was unable to be present at the trial. He was ill in Europe and when his nephew was charged with one of the most horrible crimes in Georgia's criminal history, he was unable to return to America. Frank's father also, who lived in Brooklyn, New York, was unable to be present on account of ill health.

The trial was the longest in the history of the South, and Frank stood it as well as any prisoner who ever faced the scaffold. Not once did he waver.

The state made no attack upon his mentality. Even Solicitor Dorsey described him a mental colossus, with a brain capable of great things if driven in the right direction.

The references made to the defendant in the arguments to the jury which closed the famous trial are worthy of mention. These were the comments of the four leading attorneys:

Attorney Luther Z. Rosser:

You heard him on the stand. You can take a counterfeit dollar of the right size and the right weight, one that would fool the secretary of the treasury, and drop it—and it will not have the ring of the genuine.

Arnold or I could have told his story, but it would not have had the ring of truth to it. I have proof that I never wrote his statement. I couldn't have done it! He has more brains than either of us.

You heard his story. It had the ring of truth to it, unmistakable, unrefutable.

This man is a victim of suspicious circumstances.

It was an awful crime, the killing of that little girl. But it is a far worse crime to accuse this young man of her murder. I hope I never see this trial duplicated in a courtroom.

Attorney Reuben R. Arnold:

We are not claiming perfection for this defendant, gentlemen, any more than we claim it for ourselves, or you claim it for yourselves, or Solicitor Dorsey and his associates claim for themselves. But he is a moral gentleman.

The greatest injustice in this case has been the whispered, unspeakable things, the very suspicion of which is damning.

The state has built its case on Conley's statement and it stands or falls with it. As that negro lay in his cell at police station, he conjured up the story he has told. And it was monstrous. If we hang a man on a story like that we are no better than grub worms.

I am glad to espouse this man and fight for his cause. I know the public eventually will commend me for it. And I know my own conscience will commend me.

Solicitor Hugh M. Dorsey:

I believe these poor, unprotected working girls who say he is of bad character. Sometimes a man of bad character uses charitable and religious organizations to mask his real self.

Many a man has worked in high society, and appeared without as a whited sepulcher, while he was rotten to the core within.

Oscar Wilde, brilliant, whose literary works will go down through the ages, had a good reputation, but he didn't have the character.

This man has a reputation—and that is all. He has no character.

. . . . As sure as you are born that man is not like other men. Others without Mary Phagan's stamina and character yielded to his lust. But she did not. And he strangled her to save his reputation. His hands are red with her blood.

Attorney Frank A. Hooper:

This defendant, like Dr. Jekyll, when the shades of night came, threw aside his mask of respectability, and was transformed into a Mr. Hyde. And then he did not seek the companions of Dr. Jekyll, but, like Hyde, went to a lower stratum

where he picked up Dalton and his kind. And he went with them instead of the men who have come here to give him a good character.

The factory was a great place for a man with lust and without conscience. No doubt the situation under which this man worked was a great temptation—too great for him.

We say a crime was premeditated, that as far back as March Frank had his lustful eyes on this little girl. He knew that Gantt, this long-legged mountaineer was the only man in the factory who would raise his hand to protect her. So he discharged him.

On the morning of Monday, August 18, Solicitor Dorsey intimated by questions that he asked witnesses for the defense in cross-examination that he stood ready to prove that on Saturday preceding the murder Frank was accompanied by a young girl on a long ride on the Hapeville line and that he had endeavored to induce her to leave the car at several different places.

Miss Emily Mayfield, one of the employes of the factory who was named by Miss Irene Jackson as having been in the dressing room when Frank opened the door and looked in, repudiated this testimony. She declared that on no occasion had she known the superintendent to conduct himself improperly toward the women employes. By other witnesses introduced at the twelfth-hour by the defense, the Solicitor brought out the fact that Frank and Conley had been on the fourth floor of the factory at the same time on the Tuesday following the murder. It was at this time, according to Conley, that Frank called him aside and admonished him to "be a good boy."

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## HAPTER XX.

### Franks' Own Story.

Frank took the stand himself Monday afternoon and with his life at stake made the most remarkable statement ever uttered in a criminal court room in Georgia. It was so impressive that it brought many to the belief that he was incapable and innocent of the crime charged against him.

Frank began his statement at five minutes after 2 o'clock; he finished four hours later at five minutes after 6. He talked with three brief intermissions. Twice he was interrupted by Solicitor Dorsey, who objected to the exhibition to the jury of articles not entered in evidence and once he stopped for a drink of water. When he finished his voice was clear as at the commencement of the ordeal. With his last sentences he held his auditors breathless.

"A newspaper man," he said, "called me the 'silent man in the Tower.' I was silent because my counsel advised me to be. They told me to wait until the proper time to tell my story.

"This is the place. The hour is here. And gentlemen, I have told you the truth and the whole truth."

At any other time, in any other place, the conclusion would have been melodramatic. Here it was simply the final appeal of a man pleading for his life—an eloquent appeal.

There was absolute silence in the court room for perhaps ten seconds when Frank finished. Then the stillness was broken almost simultaneously by the sobbing of Mrs. Leo Frank and the laconic command of Attorney Arnold:

"Come down."

The accused man stepped from the stand with just as much self-possession and just as sprightly a step as he had walked upon it four hours before. Whatever may have been the strain on his mentality, there was no physical sign to reflect it. He resumed his seat between his wife and mother.

The younger woman threw her arms around him and sobbed on his shoulder. He tried to comfort her with tender affection. The mother took her son's head in her hands and kissed him passionately again and again. She, too, cried, but did not break down as did the wife, who was still convulsed when Frank was led away by the sheriff to his quarters in the Tower.

Where some men with their life in the balance would be nervous, Leo Frank was cool and in complete control of all his faculties; where some men would have been overcome, he talked with the simplicity he would have employed in a commonplace conversation; where some men's minds would have been chaotic, he performed complex mathematical problems in his brain.

Beginning with his birth in Paris, Tex., he reviewed his life briefly. He told of attending school in Brooklyn, of going

through college. He told of the organization of the National Pencil company and of a trip to Europe to study the manufacture of pencils. He told of his life in Atlanta.

"The days since I married have been the happiest of my life," he said.

Without a trace of hesitancy he told of his actions on the day he is alleged to have murdered Mary Phagan. Calmly he flatly contradicted the statements of Jim Conley, the negro, whose sworn statement has placed him so close to the gallows.

"The statement of Conley is a tissue of lies. I know nothing about the death of the little girl, and the accusation that I called him to help dispose of the body is a monstrous lie. The statement that he saw me with women in an unnatural position is a lie so vile that I have no words to denounce it. I have no wealthy relatives in Brooklyn. My father is an invalid, and he and my mother have only enough to live moderately on. There is no fund for my defense. My attorneys will be paid by the disposal of a portion of the estate of my parents."

Just as coolly he contradicted the sworn evidence of C. B. Dalton. "The statement that two women came into my office for immoral purposes is a base lie."

During the recounting of his story, Frank stepped from the stand to explain the work of preparing the weekly financial sheet of the factory, a part of his "circumstantial alibi." Laying his papers on the rail which fronts the jury box he addressed the twelve men who can send him to death if they so will with just the same earnestness one can imagine him addressing a buyer over his desk in the factory of the National Pencil company. He discussed the figures and went through the computations as intelligently as if he did not have the weight of his life upon his shoulders.

On Saturday, April 26, I rose between 7 and 7:30 and leisurely washed and dressed, had my breakfast, caught a Washington street or Georgia avenue car—I don't know which—at the corner of Washington street and Georgia avenue, and arrived at the factory on Forsyth street, the Forsyth street plant, at about 8:30, that is my recollection.

On my arrival at the factory, I found Mr. Holloway, the day watchman, at his usual place, and I greeted him in my usual way; I found Alonzo Mann, the office boy, in the outer office. I took off my coat and hat and opened my desk and opened the safe, and assorted the various books and files and



wire trays containing the various papers that were placed there the evening before, and distributed them in their proper places about the office.

I should figure about 9:15 o'clock, a quarter after nine—Miss Mattie Smith came in and asked me for her pay envelope, and for that of her sister-in-law, and I went to the safe and unlocked it and got out the package of envelopes that Mr. Schiff had given me the evening before and gave her the required two envelopes, and placed the remaining envelopes that I got out, that were left over from the day previous, in my cash box, where I would have them handy in case others might come in, and I wanted to have them near at hand without having to jump up and go to the safe every time in order to get them. I keep my cash box in the lower drawer on the left-hand side of my desk.

Mr. Darley left with me to Montag's about 9:35 or 9:40, and we passed out of the factory, and stopped at the corner of Hunter and Forsyth streets, where we each had a drink at Cruickshank's sodawater fount, where I bought a package of Favorite cigarettes, and after we had our drink, we conversed together there for some time, and I lighted a cigarette and told him good-by, as he went in one direction and I went on my way then to Mantag Brothers, where I arrived, as nearly as may be, at 10 o'clock, or a little after.

On entering Montag Brothers, I spoke to Mr. Sig Montag, the general manager of the business. I spoke to Miss Hattie Hall, the pencil company's stenographer, who stays at Montag Brothers, and asked her to come over and help me that morning. (Frank explained here the work awaiting him for which he needed help). I returned to Forsyth street alone. On arrival at Forsyth street, I went to the second or office floor, and I noticed the clock, and it indicated five minutes after 11 o'clock. I saw Mr. Holloway there, and I told him he could go as soon as he got ready. I then went into the office, I went in the outer office and found Miss Hattie Hall, who had preceded me over from Montag's and another lady who introduced herself to me as Mrs. Arthur White, and the office boy; Mrs. Arthur White wanted to see her husband. It was about this time that I heard the elevator motor start up and the circular saw in the carpenter shop, which is right next to it, running; I heard it saw through some boards, which I supposed was the work that Mr. Holloway had referred to.

It was about this time that Mrs. Emma Clark Freeman and Miss Corinthia Hall, two of the girls who worked on the fourth floor, came in and asked permission to go upstairs and get Mrs. Freeman's coat, which I readily gave, and I told them at the same time to tell Arthur White that his wife was downstairs. A short time after they left my office two gentlemen came in, one of them a Mr. Graham, and the other the father of a boy by the name of Earl Burdette. These two boys had gotten into some sort of trouble during the noon recess the day before, and were taken down to police headquarters, and, of course, didn't get their envelopes the night before, and I gave the required pay envelopes to the two fathers, and chatted with them at some length in reference to the trouble their boys had gotten into the day previous.

And just before they left the office, Mrs. Emma Clark Freeman came into my office and asked permission to use the telephone. I got Miss Hattie Hall and dictated what mail I had to give her. Miss Hall finished the work and started to leave when the 12 o'clock whistle blew. She left the office and returned, it looked to me, almost immediately, calling into my office that she had forgotten something, and then she left for good.

(Here Frank gave a long explanation of the pencil factory method of transcribing orders.)

To the best of my knowledge, it must have been from ten to fifteen minutes after Miss Hall left my office when this little girl, whom I afterwards found to be Mary Phagan, entered my office and asked for her pay envelope.

I asked for her number and she told me. I went to the cash box and took her envelope out and handed it to her, identifying the envelope by the number.

She left my office and apparently had gotten as far as the door from my office leading to the outer office, when she evidently stopped and asked me if the metal had arrived, and I told her no. She continued on her way out and I heard the sound of her footsteps as she went away.

It was a few moments after she asked me this question that I had an impression of a female voice saying something; I don't know which way it came from; just passed away and I had that impression. This little girl had evidently worked in the metal department by her question and had been laid off owing to the fact that some metal that had been ordered had not arrived at the factory; hence, her question. I only

recognized this little girl from having seen her around the plant and did not know her name, simply identifying her envelope from her having called her number to me.

She had left the plant hardly five minutes when Lemmie Quinn, the foreman of the plant, came in and told me that I could not keep him away from the factory, even though it was a holiday; at which I smiled and kept on working. He first asked me if Mr. Schiff had come down and I told him he had not and he turned around and left. I continued work until I finished this work and these requisitions and I looked at my watch and noticed that it was a quarter to one. I called my home up on the telephone, for I knew that my wife and my mother-in-law were going to the matinee and I wanted to know when they would have lunch. I got my house and Minola answered the phone and said that they would have lunch immediately and for me to come right on home.

I then gathered my papers together and went up stairs to see the boys on the top floor. This must have been, since I had just looked at my watch, ten minutes to one. I noticed in the evidence of one of the witnesses, Mrs. Arthur White, she states it was 12:35; that she passed by and saw me. That is possibly true; I have no recollection about it; perhaps her recollection is better than mine; I have no remembrance of it, however, I expect that is so.

When I arrived upstairs, I saw Arthur White and Harry Denham who had been working up there, and Mr. White's wife. I asked them if they were ready to go and they said they had laid out some work and I had to see what work they had done and were going to do. I asked Mr. White's wife if she was going or would stay there as I would be obliged to lock up the factory, and Mrs. White said no, she would go then. I went down and gathered up my papers and locked my desk and went around and washed my hands and put on my hat and coat and locked the inner door to my office and locked the doors to the streets and started to go home.

Now, gentlemen, to the best of my recollection from the time the whistle blew for 12 o'clock until after a quarter to one when I went upstairs and spoke to Arthur White and Harry Denham, I did not stir out of the inner office; but it is possible that in order to answer a call of nature I may have gone to the toilet. Those are things that a man does

unconsciously and cannot tell how many times nor when he does it. Now, sitting in my office at my desk, it is impossible for me to see out into the outer hall when the safe door is open, as it was that morning, and not only is it impossible for me to see out, but it is impossible for people to see in and see me there.

(Frank told here of his trip home, his dinner, and his return to the factory.)

I unlocked the street door and then unlocked the inner door and left it open and went on upstairs to tell the boys that I had come back and wanted to know if they were ready to go. At that time they were preparing to leave. I went immediately down to my office and opened the safe and my desk and hung up my coat and hat and started to work on the financial report, which I will explain. Mr. Schiff had not come down and there was additional work for me to do.

In a few minutes after I started to work on the financial sheet, which I am going to take up in a few minutes, I heard the bell ring on the time clock outside and Arthur White and Harry Denham come into the office and Arthur White borrowed \$2 from me in advance on his wages. I had gotten to work on the financial sheet, figuring it out, when I happened to go out to the lavatory, and on returning to the office, the door pointed out directly in front. I noticed Newt Lee, the watchman, coming from toward the head of the stairs, coming toward me.

I looked at the clock and told him the night before to come back at 4 o'clock, for I expected to go to the baseball game.

At that time Newt Lee came along and greeted me and offered me a banana out of a yellow bag which he carried, which I presume contained bananas; I declined the banana and told him that I had no way of letting him know how long that I was to be there at work and that I had changed my mind about going to the ball game. I told him that he could go if he saw fit for an hour and a half, but to be sure and be back by 6:30 o'clock. He went off down the staircase leading out and I returned to my office. Now, in reference to Newt Lee, the watchman, the first night he came there to watch I personally took him around the plant, first, second and third floors and into the basement, and told him that he would be required, that it was his duty, to go over that entire building every half hour; not only to completely tour the upper four floors, but to go down to the basement, and I specially

most dangerous places for a fire and I wanted him to be stressed the point that that dust bin along there was one of the sure and go back there every half hour and to be careful how he held his lantern. I told him it was a part of his duty to look after and lock that back door and he fully understood it, and I showed him the cut-off for the electric current and told him in case of fire that ought to be pulled so no fireman coming in would be electrocuted. I explained everything to him in detail and told him he was to make that tour every half hour and stamp it on the time card and that that included the basement of the building.

(Frank at this point gave an elaborate explanation of the financial sheet, and his Saturday afternoon's work.)

I finished this work that I have just outlined at about five minutes to 6, and I proceeded to take out the clock strips from the clock which were used that day and replace them. I won't show you these slips, but the slips that I put in that night were stamped with a blue ink, with a rubber dating stamp, "April 28," at the bottom, opposite the word "date."

(He explained the time s'ips.)

As I was putting these time slips into the clock, as mentioned, I saw Newt Lee coming up the stairs. It was as near as may be 6 o'clock. I finished putting in the slip and went back to wash up, and as I was washing, I heard Newt Lee ring the bell on the clock when he registered his first punch for the night, and he went down stairs to the front door to wait my departure. After washing, I went down stairs—I put on my hat and coat and went down stairs to the front door.

As I opened the front door I saw outside on the street, on the street side of the door, Newt Lee in conversation with Mr. J. M. Gantt, a man that I had let go from the office two weeks previous. They seemed to be in discussion, and Newt Lee told me that Mr. Gantt wanted to go back up into the office and he had refused him admission, because his instructions were for no one to go back into the factory after he went out, unless he got contrary instructions from Mr. Darley or myself. I spoke to Mr. Gantt, and asked him what he wanted. He said he had a couple pairs of shoes, a black pair and a tan pair, in the shipping room. I told Newt it would be all right to pass Gantt in, and Gantt went in, Newt Lee closing the door and locking it after him—I heard the

bolt turn in the door. I then walked up Forsyth street to Alabama, down Alabama to Broad street, where I posted two letters, one to my uncle, Mr. M. Frank, and one to Mr. Pappenheimer, a few minutes after 6, and continued on my way down to Jacobs' Whitehall and Alabama street store, where I went in and got a drink at the soda fount and bought my wife a box of candy. I then caught the Georgia avenue car and arrived home about 6:25.

(Frank told of calling up Newt Lee and detailed an ordinary evening at home until he retired at 11 o'clock.)

The next day, Sunday, April 27, I was awakened at something before 7 o'clock, by the telephone ringing. I got out of bed, put on a bath robe and went down to answer the telephone and a man's voice spoke to me over the phone and said—I afterwards found out this man that spoke to me was City Detective Starnes—: "Is this Mr. Frank, superintendent of the National Pencil company?" I says: "Yes, sir." He says: "I want you to come down to the factory right away." I says: "What's the trouble; has there been a fire?" He says: "No, a tragedy; I want you to come down right away." I says: "All right." He says: "I'll send an automobile for you." I says: "All right," and hung up and went upstairs to dress.

I was in the midst of dressing to go with the people who should come for me in the automobile, when the automobile drove up, the bell rang and my wife went down stairs to answer the door. She had on just a night dress with a robe over it. I followed my wife—I wasn't completely dressed at that time, didn't have my trousers or shirt on—and as soon as I could get together, get my trousers and shirt on, I went down stairs—following my wife in a minute or two.

I asked them what the trouble was, and the man who I afterwards found out was Detective Black, hung his head and didn't say anything.

Now, at this point, these two witnesses, Mr. Rogers and Mr. Black differ with me on the place where the conversation occurred. I say, to the best of my recollection, it occurred right there in the house in front of my wife; they say it occurred just as I left the house, in the automobile; but be that as it may, this is the conversation: They asked me did I know Mary Phagan. I told them I didn't; they then said to me, "Didn't a little girl with long hair hanging down her back come up to your office yesterday sometime for her

money—a little girl who works in the tipping plant?" I said, "Yes, I do remember such a girl coming up to my office, that I didn't know her name was Mary Phagan."

"Well, we want you to come down with us to the factory," and I finished dressing, and as they had said they would bring me right back.

I didn't have breakfast, but went right on with them in the automobile, made the trip to the undertaking establishment very quickly—I mean, they made the trip down town very quickly—and stopped at the corner of Mitchell and Pryor streets. They told me they were going to take me to the undertaker's first, that they wanted me to see the body and see if I could identify the little girl.

I went with them to the undertaking establishment, and one of the two men asked the attendant to show us the way into where the body was, and the attendant went down a long, dark passageway with Mr. Rogers following. Then I came and Black brought up the rear. We walked down this long passageway until we got to a place that was apparently the door to a small room—very dark in there, the attendant went in and suddenly switched on the electric light, and I saw the body of the little girl.

Mr. Rogers walked in the room and stood to my right, inside of the room. I stood right in the door, leaning up against the right facing of the door, and Mr. Black was to the left, leaning on the left facing, but a little to my rear, and the attendant, whose name I have since learned was Mr. Gheesling, was on the opposite side of the little cooling table to where I stood.

In other words, the little table was between him and me. He removed a cloth and there was a deep scratch over the left eye on the forehead; about the neck.

There was twine—a piece of cord similar to that which is used at the pencil factory, and also a piece of white rag.

After looking at the body, I identified that little girl as the one that had been up shortly after noon the day previous and got her money from me. We then left the undertaking establishment, got in the automobile and rode over to the pencil factory.

(Frank told here of the trip through the factory.)

Now, gentlemen, I have heard a great deal, and so have you, in this trial, about nervousness, about how nervous I was that morning.

Gentlemen, I was nervous. I was very nervous. I was completely unstrung. I will admit it. Imagine, awakened out of my sound sleep, and a run in the cool of the morning in an automobile driven at top speed, without any food or breakfast, rushing into a dark passageway, coming into a darkened room, and then suddenly an electric light flashed on, and to see the sight that was presented by that poor little child. Why, it was a sight that was enough to drive a man to distraction. That was a sight that would have made a stone melt. And then it is suspicious, because a man who is ordinary flesh and blood should show signs of nervousness.

Just imagine that little girl, in the first blush of young womanhood had had her life so cruelly snuffed out, might a man not be nervous who looked at such a sight?

Of course, I was nervous; any man would be nervous if he was a man.

(Frank told here of the trip to Police Station and then of his return to his home.)

After dinner I read a little while, and finally caught the ten minutes of 3 Georgia avenue car going downtown. I got off at the corner of Pryor and Mitchell streets and went into the undertaker, Bloomfield's, where I saw a large crowd of people nearby on the outside.

On entering, I found quite a number of people who were working at the pencil factory, among whom were Mr. Schiff, Herbert Schiff, N. V. Darley, Wade Campbell, Alonzo Mann, Mr. Spilter and Mr. Viginci. I chatted with them a few minutes, and I noticed that the people who were going in to see the body were standing in line and moving in, and that others from the factory were going in and I thought I would go in too and pay my respects.

I went and stood in line, and went into the room again and staid a few minutes in the mortuary chamber.

The little girl had been cleaned up. Her hair had all been cleaned and smoothed out, and there was a nice white sheet over the rest of her body.

I returned to the front of the undertaking establishment, and stood chatting with Herbert Schiff and Mr. Darley until the party with whom we had made the arrangements came up, and we gave them the keys with instructions as to watching the plant that night. Then Mr. Darley and Mr. Schiff and myself went down to police headquarters and went up into Chief Lanford's office, and the three of us stood talking there,



answering all sorts of questions that not only Chief Lanford, but the other detectives, would shoot at us, and finally Mr. Darley said he would like to talk to Newt Lee.

Then he went into another room, and I presume they brought Newt Lee up from the cell, so he could talk to him.

When Newt Lee was gone, the detectives showed us the two notes and the pad back with still a few unused leaves to it, and the pencil that they claimed they had found down in the basement near the body.

(Frank cited vain attempts to decipher the notes, of leaving, passing by the pencil factory, where they saw a "morbid" crowd, and of returning home; he told of going to the police station Monday and of interviewing detectives there; he also told of being taken to the pencil factory and shown blood spots on the floor of the metal room.)

(Frank told here of retaining Harry Scott; he also told of his actions on Tuesday, when he was arrested at the pencil factory and taken to police station.)

It was about this time they took me from upstairs to the sergeant's desk and Detectives Starnes—John M. Starnes, I think his name is—came in and dictated from the original notes that were found near the body, to me to get a sample of my handwriting.

They took me then to a room on the top of the building and I sat in the room there and either read magazines or newspapers and talked to my friends who came to see me until—I was about to retire at midnight. I had the cover of my cot turned back and I was going to bed when Detective Scott and Detective Black, at midnight, Tuesday, April 29, came in and said:

"Mr. Frank, we would like to talk to you a little bit. Come in and talk to us."

I says: "Sure, I will be only too glad to." I went with them to a little room on the top floor of the headquarters. In that room was Detective Scott and Detective Black and myself. They stressed the possibility of couples having been let into the factory at night by the night watchman, Newt Lee.

I told them that I didn't know anything about it, that if I had, I certainly would have put a stop to it long ago. They said: "Mr. Frank, you have never talked alone with Newt Lee. You are his boss and he respects you. See what you can do with him. We can't get anything more out of him. see if you can." I says: "All right, I understand what you

mean; I will do my best." because I was only too willing to help.

Black says: "Now, put it strong to him, and tell him to cough up and tell all he knows. Tell him that you are here and that he is here and that he better open up and tell all he knows about happenings at the pencil factory that Saturday night, or you will both go to hell." Those were the detectives' exact words.

I told Mr. Black I caught his meaning, and in a few minutes afterwards Detective Starnes brought up Newt Lee from the cell room. They put Newt Lee into a room and handcuffed him to a chair. I spoke to him at some length in there, but I couldn't get anything additional out of him.

He said he knew nothing about couples coming in there at night, and remembering the instructions Mr. Black had given me I said: "Now, Newt, you are here and I am here, and you had better open up and tell all you know, and tell the truth and the full truth, because you will get us both into lots of trouble if you don't tell all you know." and he answered me like an old negro: "Before God, Mr. Frank, I am telling you the truth and I have told you all I know."

And the conversation ended right there. Within a minute or two afterwards the detectives came back into the room, that is, Detective Scott and Detective Black, and then began questioning Newt Lee, and then it was that I had my first initiation into the third degree of the Atlanta police department. The way that fellow Black cursed at that poor old negro, Newt Lee, was something awful. He shrieked at him; he hollowed at him; he cursed and did everything but beat him. Then they took Newt Lee down to a cell and I went to my cot in the outer room.

Now before closing my statement I wish to touch upon a couple of insinuations and accusations other than the one on the bill of indictment, that have been leveled against me so far during the trial. The first is this, the fact that I would not talk to the detectives; that I would not see Jim Conley. Well, let's look into the facts a few minutes and see whether there was any reason for that, or if there be any truth in that statement.

On Sunday morning I was taken down to the undertaking establishment, to the factory and I went to headquarters. I went to headquarters the second time, going there willingly without anybody coming for me. On each occasion I answer-

ed them frankly and unreservedly, giving them the benefit of the best of my knowledge, answering all and any of their questions, and discussing the matter generally with them.

On Monday they came for me again. I went down and answered any and all of their questions and gave them a statement which they took down in writing, because I thought it was right and I was only too glad to do it. I answered them and told them all that I knew, answering all questions.

Tuesday I was down at police station again, and answered every question and discussed the matter freely and openly with them, not only with the police, but with the reporters who were around there ;talked to anybody who wanted to talk with me about it, and I have even talked with them at midnight when I was just about to go to bed.

Midnight as the time they chose to talk to me, but even at such an outlandish hour I was still willing to help them, and at their instigation I spoke to Newt Lee alone, but what was the result? They commenced and they grilled that poor negro and put words into his mouth that I never said, and twisted not alone the English, but distorted my meaning.

I just decided then and there that if that was the line of conduct they were going to pursue I would wash my hands of them. I didn't want to have anything to do with them. On the afternoon of May 1, I was taken to the Fulton county tower.

On May 3 Detectives Black and Scott came up to my cell in the Tower and wanted to speak to me alone without any of my friends around. I said all right, I wanted to hear what they had to say that time. Then Black tore off something like this: "Mr. Frank, we are suspicious of that man Darley. We are watching him; we have been shadowing him. Now, open up and tell us what you know about him."

I said: "Gentlemen, you have come to the wrong man, because Mr. Darley is the soul of honor and is as true as steel. He would not do a crime like that, he couldn't do it."

And Black churped up: "Come on, Scott, nothing doing," and off they go. That showed me how much reliance could be placed in either the city detectives or our own Pinkerton detectives, and I treated such conduct with silence and it was for this reason, gentlemen, that I didn't see Conley, surrounded with a bevy of city detectives and Mr. Scott, because I knew that there would not be an action so trifling, that

there was not an action so natural but that they would distort and twist it to be used against me.

(Frank denied here the implication that he knew Conley could write and didn't tell the authorities.)

The statement of the witness Dalton, he continued, is utterly false as far as coming to my office and being introduced to me by the woman Daisy Hopkins is concerned. If Dalton was ever in the factory building with any woman, I didn't know it. I never saw Dalton in my life to know him until this crime.

In reply to the statement of Miss Irene Jackson, she is wholly mistaken in supposing that I ever went to a lady's dressing room for the purpose of making improper glances into the girl's dressing room. I have no recollection of occasions of which she speaks, but I do know that that ladies' dressing room on the fourth floor is a mere room in which the girls change their outer clothing.

There was no bath or toilet in that room, and it had windows opening onto the street. There was no lock on the door, and I know I never went into that room at any hour when the girls were dressing. These girls were supposed to be at their work at 7 o'clock.

Occasionally I have had reports that the girls were flirting from this dressing room through the windows with men. It is also true that sometimes the girls would loiter in this room when they ought to have been doing their work. It is possible that on some occasions I looked into this room to see if the girls were doing their duty and were not using this room as a place for loitering and for flirting.

These girls were not supposed to be dressing in that room after 7 o'clock and I know that I never looked into that room at any hour when I had any reason to suppose they were dressing.

Gentlemen, I know nothing whatever of the death of little Mary Phagan. I had no part in causing her death nor do I know how she came to her death after she took her money and left my office. I never even saw Conley in the factory or anywhere else on that date, April 26, 1913.

The statement of the negro Conley is a tissue of lies from first to last. I know nothing whatever of the cause of the death of Mary Phagan, and Conley's statement as to his coming up and helping me dispose of the body, or that I had anything to do with her or to do with him that day, is a monstrous lie.

The story as to women coming into the factory with me for immoral purposes is a base lie, and the few occasions that he claims to have seen me in indecent positions with women is a lie so vile that I have no language with which to fitly denounce it.

I have no rich relative in Brooklyn, N. Y. My father is an invalid. My father and mother together are people of very limited means, who have barely enough upon which to live.

My father is not able to work. I have no relative who has any means at all, except Mr. M. Frank, who lives in Atlanta, Ga. Nobody has raised a fund to pay the fees of my attorneys. These fees have been paid by the sacrifice in part of the small property which my parents possess.

Gentlemen, some newspaper men have called me "the silent man in the tower, and I kept my silence and my counsel advisedly, until the proper time and place. The time is now; the place is here, and I have told you the truth, the whole truth.

The court was still as Frank left the stand.

With the statement of the defendant, the state rested its case. Tuesday morning Solicitor General Dorsey opened in rebuttal. He first attacked the character of Daisy Hopkins. Numerous witnesses said that she had borne an unsavory reputation during and following the time she was employed at the factory. A street car motorman declared that he had visited her room by appointment one night and that she had showed him teeth marks on various parts of her body. The girl told him that her foreman had bitten her, the witness stated.

A youth who had been employed in the factory for a few weeks several months prior to the murder declared that he had seen Frank talking to Mary on one occasion. The witness stated that the conversation had taken place in the metal room near the little girl's machine. He had heard Frank remark to her: "You've got to talk to me. I'm the superintendent of this factory." This was in reply, he said, to a remark of the girl that she "must get to work."

On Tuesday the state made a determined effort to prove that Frank was not of good character. A severe blow was struck when Judge Roan ruled, after an hour or more of argument between the opposing counsel, that the state could not introduce specific acts of misconduct against the defendant. As far as the court would permit him to go was to

put the girls whom the state declared were willing to testify that Frank had made indecent proposals to them on the stand to testify that the accused was of bad character. This disheartened the state, but nearly a score of girls were called during the day, who declared that Frank's character for lasciviousness was bad. Miss Myrtice Cato was the first of these witnesses called.

"Are you acquainted with the general character of Leo M. Frank, prior to and including April 26, 1913?" asked the prosecutor.

"Yes."

"Was that character good or bad?"

"Bad."

"Did you ever work at the National Pencil factory?"

"Yes."

"When did you stop work there?"

"On April 28."

"How long did you work there?"

"Three and a half years."

"What floor did you work on?"

"The fourth floor."

"She is with you, gentlemen," said the solicitor, turning to the attorneys for the defense, he having exhausted the questions allowed him by the law.

"Come down," said Attorney Rosser.

The defense thus refused to cross-question these witnesses. As it was impossible for the state to get the testimony before the jury direct, and the defense refused, the twelve jurymen were left in ignorance as to how serious that evidence might have been had it been brought out.

Miss Maggie Griffin was the next witness. She testified in answer to the same questions that she knew the general character of Frank and that it was bad. She said that she worked at the factory for two and a half months and that she worked on the fourth floor.

Solicitor Dorsey paused a moment and Attorney Rosser in a low tone asked the witness: "When did you quit work at the factory?" She answered that she quit in February.

"Wait a minute," said Solicitor Dorsey. "I'm not through yet."

"I beg your pardon," said Attorney Rosser. "I thought you had finished."

"Now, said the solicitor, "I am going to ask you a question, and I don't want you to answer it until the judge tells you whether you can answer it or not. Are you acquainted with the general character of Leo M. Frank as to his relations with women."

Immediately there was an objection from Attorney Rosser.

Dorsey contended that the testimony of the defense's witness put in issue this specific phase of Frank's character.

The jury was sent out.

Attorney Rosser insisted that the state could not show anything but general character. "I thought," said he, "that your honor had ruled to that effect already."

Solicitor Dorsey replied by saying: "Your honor ruled that we could not show specific instances, and to that ruling we submit. This, however, is a different proposition. The statement by the defendant to the jury that he never had women in his office put that phase of his character in issue."

"Now, your honor," continued the solicitor, "while the jury is out I want to show by this witness that she saw Frank go into the dressing room on the fourth floor with one of the foreladies, and that no one else was in there at the time."

Attorney Rosser objected strenuously.

Solicitor Dorsey continued: "Certainly, your honor, we are entitled to show that one of the very witnesses of the defense, who testified that she knew of no wrong conduct on the part of the defendant and that she had never been guilty of any wrong conduct with him, was seen by this witness to go into the dressing room with him on the fourth floor."

Judge Roan: "Are you offering this testimony in rebuttal to the testimony of the lady you speak of?"

Solicitor Dorsey: "Yes, sir, that's exactly the way we are offering it."

Attorney Rosser objected on the ground that the testimony of their witnesses- to wit, the women who work on the fourth floor, was offered in rebuttal to the testimony of James Conley.

Judge Roan: "I rule, Mr. Dorsey, that if you undertake to show a distinct crime, the testimony will not be admissible. But if you offer the testimony in contradiction to the testimony of one of the witnesses for the defense, I think you can put it in. Also, I am inclined to think you can show the defendant's character as to his relations with women."

Attorney Rosser met the ruling with the demand that before the solicitor could offer the testimony as a contradiction of the defense witness, the defense witness must first be put back on the stand by the solicitor for cross examination. This demand was based on his contention that the defense witness had testified to conduct in Frank's office.

"All right," said the solicitor. "Bring in Miss Rebecca Carson."

The jury returned to the court room.

Miss Griffin continued on the stand.

"Do you know the general character of Leo M. Frank as to his attitude toward women?"

"Yes, I do?"

"What is it?"

"Bad."

Under cross-examination by Attorney Rosser.

"How long did you work at the factory?"

"Two months."

"What floor?"

"Fourth."

"Whom did you know there?"

The witness named several young women.

"What did you do when you left the factory?"

"I didn't work for two months, and then I went to the cotton mills."

"Where do you live?"

"84 Evans drive, Fort McPherson."

This concluded the cross-examination, and Solicitor Dorsey recalled Miss Myrtice Cato.

The solicitor asked Miss Cato if she knew Frank's general character as to his relations with women, and she replied "No." She was asked by Attorney Rosser where she works now. She replied, "Cone's drug store."

In reply to other questions, she said she lives at 59 Tumlin street, and that she worked in the factory for over three years.

Mrs. R. M. Dunnegan was the next witness. She answered the solicitor's questions, saying that she knew Frank's general character and that it was bad. In reply to the question as to whether or not she knew of Frank's relations with women, she said no. The witness stated that she worked at the factory two years ago for two or three weeks. At that time, she said, she was fourteen years old.



She was excused without cross-examination.

Mrs. H. J. Johnson, of Stonewall, Ga., was called. Mrs. Johnson said she worked at the pencil factory two months during 1910. She said Frank's general reputation was bad. Asked if she knew of his relations with women, she said "not very much." The court held that the solicitor could ask no further questions.

Many women followed in rapid succession. The defense neglected to cross-examine all, except to ask them their addresses.

One of the women, according to Solicitor Dorsey, was ready to testify that Frank had made an indecent proposal to her in his private office, and that she had brought a monkey wrench into use before she escaped from the room.

Another, the solicitor asserted, would tell of a lascivious proposal made by Frank which indicated that he was abnormal.

Miss Dewey Hewell, who was brought to Atlanta from the Home of the Good Shepherd in Cincinnati, especially to testify, said that Frank had known Mary Phagan and that she had seen him in conversation with her.

"How often would he talk to her?" the witness was asked.

"Sometimes two or three times a day."

"What did you see him do?"

"I saw him put his hand on her shoulder."

"Did he do anything else?"

"No, sir. I didn't see him do anything else."

"Did he call her by any name, and if so, what?"

"Yes, sir, he called her Mary."

"Where did he stand when he talked to her?"

"He would stand close to her."

Wednesday afternoon, August 20, both sides rested. The introduction of sub-rebuttal evidence took but little more than an hour in the afternoon and the state had finished its rebuttal soon after the non recess. The testimony of witnesses who had figured in the time alibi of Frank was attacked as well as that of the physicians who refuted the evidence of Drs. Harris and Hurt.

Nathan Sinkovitz, a pawnbroker, swore that M. E. McCoy, who earlier in the trial had testified to seeing Mary Phagan on her way to the pencil factory about 12 o'clock on the day of the murder, had pawned his watch with him

in January and that the timepiece had remained in his possession until August.

Others refuted the statements of the street car men that Mary had not been accompanied by little George Epps when she came to town on the fatal day.

## CHAPTER XXI.

### Lawyers Laud and Denounce Frank.

In an eloquent speech, replete with word pictures, sometimes sarcastic, sometimes pathetic, sometimes humorous, but at all times dramatic, Attorney Frank A. Hooper, Thursday morning opened the state's argument for the conviction of Leo M. Frank for the murder of Mary Phagan. He commenced days of oratory, unparalleled in the history of Georgia.

Mr. Hooper began his speech by declaring to the jury that the state was not seeking a verdict of guilty unless the defendant was guilty, and that the state cheerfully assumed the burden of proving him guilty.

"This man," he said, pointing to Frank, "should not be convicted because the law is seeking a victim. We are not looking for blood. We are simply seeking to find and punish the murderer of little Mary Phagan."

Mr. Hooper scored the conditions existing at the pencil factory, called attention to the fact that after many witnesses had sworn that Frank's character was bad the defense had failed to interrogate them as to why they held to such opinions.

He described the defendant as a Dr. Jekyll and Mr. Hyde—a man who was congenial with two widely different sets of associates. Mr. Hooper declared that Jim Conley had stood like Stone Mountain in the face of the terrific bombardment directed at him by Attorney Rosser in an effort to break him down.

The effort failed said the speaker, because Conley had, after telling many lies, eventually arrived at the truth.

Perhaps the most dramatic portion of Mr. Hooper's speech was when he said: "Give the defendant the benefit of every

doubt, the circumstances show that he either killed this little girl, or sat there in his office and let the negro kill her and drag her body down the hall to the elevator and take it down to the basement. This murder took place in the metal room and it occurred while Monteem Stover was in Frank's office.

Mr. Hooper reminded the jury that although Frank had sworn that he did not leave his office between 12 and 1 o'clock the Stover girl had gone there during that period and found the office empty. x

"I don't believe Frank had murder in his heart when he followed Mary Phagan back into the metal room," said Mr. Hooper, "but he had in his heart the lustful passions stored up for this little girl. He was killing her when Monteem Stover came to the office."

Hooper touched on the evidence only in a general way. He dealt more with the law. He defined the reasonable doubt, told the jury of the value of character testimony, of the worth of circumstantial evidence.

Attorney Hooper occupied less time than any of the others who followed him. Attorney Arnold, who succeeded him on the floor, argued four hours and forty minutes and Luther Rosser took exactly the same time. Solicitor Dorsey talked between eleven and twelve hours, making one of his longest speeches ever made by a prosecutor in a criminal case in the South.

A wonderfully persuasive and convincing speaker, Mr. Arnold was perhaps never more effective than in the Frank trial.

He spoke deliberately, choosing his words, pausing for emphasis, and the gestures of a master actor could not have been more dramatic.

His tall form enabling him to see and be seen from every corner of the court room, the peculiar resonant quality of his voice rising high above all other sounds, he caught and held the attention of spectators and jury alike with the magic of his eloquence.

He started by picturing the jury, as set above and apart from the public, sequestered, guarded, reading no papers and hearing nothing of the public discussion of the trial, in order that they may impartially weigh the evidence and make up their verdict without bias or prejudice.

Then, turning to address the courtroom rather than the jury, Attorney Arnold excoriated the "long-tongued, loud-talking sap-heads who immediately conclude that a man is



LEO M. FRANK, the Accused.

guilty the moment the finger of suspicion is directed towards him."

He denounced those who would punish the defendant "for no other reason than that he is a Jew." He declared that if Frank had not been a Jew he never would have been prosecuted.

He paid his respects to the jury by saying they are "way above" the average. "I'm not saying this to flatter you," said he. "I reckon I have tried cases before a thousand judges, and I'm telling you the simple truth."

"Leo Frank comes from a race of people that have made money," he said. "And that has made some people envious. I tel everybody, all within hearing of my voice ,that if he hadn't been a Jew he never would have been prosecuted. That negro Conley has been brought into court to tell his own tale, not corroborated but prompted. I am asking my kind of people to give this man fair play. Before I'd do a Jew an injustice, I'd want my throat cut from ear to ear. This is a case that they've built up by degrees. They've got a monstrous perjurer here by the name of Conley. And they brought a man up here who before this crime nobody had ever said a word against ,and asked you to believe this negro against him.

"There is always such evidence in a criminal case and always a premonition of such evidence. After the trial was in progress two or three weeks they got a lot of floaters, and they testified. In my criminal experience I have seen a lot of such witnesses. I don't know whether it's imagination that makes them do it, but there is a certain class that is always ready to offer evidence. We've got a lot in this case that shouldn't be in. It's been put in to prejudice your mind against the defendant."

He took up every detail of the state's theory and with powerful logic undertook to show that this theory is unreasonable and absurd.

Then as to Conley. If he had been the solicitor and the negro had been the defendant charged with the murder of Mary Phagan, Attorney Arnold could not have surpassed himself in trying to convince the jury of Conley's guilt.

He argued that the brutal manner in which Mary Phagan was killed is characteristic of a negro. "This man," said he, of Frank, "does not come of a violent race." He argued that Conley's opportunity for killing the girl was vastly better than Frank's opportunity.

His theory, constructed with consummate skill, was this: That Conley, on that Saturday morning, was half drunk, his passions inflamed, crazy for money; ; that he lurked in the dark passageway on the first floor at the foot of the stairs, according to his own admission; ; that he watched with greedy eyes every woman and girl who passed, as shown by his describing on the witness stand in minute detail the kind of dresses and shoes worn by the girls; that Mary Phagan came down the stairs with her mesh bag in her hand; that Conley grabbed it, she refused to turn it loose and screamed, he struck her the blow over the left eye and knocked her down, and she got the blow on the back of the head as she fell; that Conley dropped her body through the elevator shaft, hung around the factory until Frank left, went down into the basement and finished his brutal work, that then, finding the front door locked and also being afraid to show himself on the front, broke open the back door of the basement and went his way.

The law is that before a man can be convicted on circumstantial evidence the circumstances must be so strong as to exclude every other reasonable hypothesis except that of the guilt of the accused.

If Attorney Arnold himself had laid down this principle to fit his case, he could not have made it fit the case more perfectly to suit his immediately purpose of clearing Frank.

His job was to convince the jury that Mary Phagan's murder can be explained just as easily—if not more easily—on the theory that Conley did it, as on the theory that Frank did it.

"Suspicion," he said, "first was directed to Frank because he was the only man in the factory. He was the only man who had an opportunity to do it. Denham and White were on the fourth floor, and probably Mrs. White, too. They say they don't know anything about it, and I don't believe they do. Nobody knew anybody was down by that elevator hole, the most favorable part of the factory for a crime, until long after Frank had been arrested. It did not crop up for weeks. But by that time the police were after Frank.

"First, they started on Newt Lee. If he had been a weak and yielding negro, and had seen he could get favor from the police by telling a fairy tale on Frank the police would have thought they had put a feather in their cap. Mr. Starnes may think he is working for truth and justice, but I don't think so. It's like that decision from the court of appeals that I read to you this morning. Evidence gained by per-

secession or torture or the third degree is dangerous evidence. I don't believe Starnes or Black would write out something and say, 'Swear to that.' But they didn't have to.

"Conley could construct a whole story simply because they said to him, 'You can't swear to that. Nobody will believe you.' I've heard people say that Conley couldn't have thought this up; he didn't have the imagination. Everybody who has ever been around a court house much knows that negroes like children have an unlimited capacity for imagination. My friend Hooper this morning said, 'How did he know so much about Frank?' He pointed to that word 'chat.' Why everybody knows that negroes mock their bosses and try to learn their expressions. I've seen three or four of them together trying to talk like their boss does.

"As that negro lay in his cell at police station, he conjured up the story that he has told; and it was monstrous.

"I don't suppose much was thought of it when Conley said he couldn't write. A lot of negroes can't. But then they found the pawn tickets after two or three weeks, and the writing on them was identical with the writing on the notes. They confronted Jim with it and finally he admitted it. As soon as he copied off the notes, it was apparent that he wrote the originals. Seeing he was caught, he finally made this first miserable confession.

"He was conjuring up a plot to save himself. He had weeks and weeks to do it. He knew they were trying to make a case against Frank. He knew they were trying to indict Frank. It was the most natural thing in the world for him to put the blame on Frank. And he had smooth sailing in doing it. When he did it, he said he did it because Frank wouldn't stick to him. I don't suppose in criminal annals a prisoner ever had a better chance to lay a crime on another than here.

"And he had earnest hearers, these detectives were afraid they would be criticised if they did not press the case against Frank. He was a well-known man.

"I am partisan, gentlemen, and I admit it. And the solicitor says that he is not. God knows, gentlemen, I've never heard such partisanship in any court before. I never heard a solicitor general, sworn to enforce the law impartially, says: 'I'll go as far as the court will let me,' he said when checked by the court. How far did he go, out of court? Nobody but God ever will know. And if the length the solicitor general

that high official, has gone can be measured only by the infinite, to what length do you suppose these detectives went?

"There is only one other man besides Dalton, who said that he, Dalton, had been to the factory with a woman. And he said that Dalton went into the factory with a woman between 1 and 2 o'clock—when Frank always was at lunch. This man, and I have no reason to believe he was not telling the truth, says that he only saw Dalton enter the front door, and does not know where he went inside the building. That was at a time when the same entrance was used by the Clark Woodenware Company and by the pencil factory. But, gentlemen, I am prepared to admit that Dalton left an oozy trail of a serpent, whether he went to the factory or to the woodenware company.

"Now, gentlemen, is there anything else except the incidents where Frank was connected—and I'm coming to that later—against the factory? Is there anything indecent, anything that would make it different from other factories? Think of a factory that had on it the keen eyes of Starnes, who stops at nothing; the watchful eyes of Black, whom I love and whom I want to put my arms around every time I see him; and the eagle eyes of Pat Campbell, who didn't dare to go on the stand for fear I'd ask him how he got those statements from Conley; and the eyes of Scott, who was one of that lovely quartette. Is there a factory in Georgia that could stand the searching probe which they gave this one?

"Let us see. In the first place, we've had a mighty upheaval in Atlanta in the last year or two. My friend Beavers has written a new decalogue, and he has searched the town with a fine tooth comb, hunting for wrongdoers. He has put on a vice squad—I was near saying an immoral squad, but I won't. A vice squad has been searching the city for every louse on the head of the body politic. Had this factory been polluted, would it have escaped?

"Would Schiff, over there, or Dalton, or any one of a hundred others, be at large today, if they had been running a disorderly house in that factory? One of the cruelest things that my friend Hooper said—and he doesn't want to be cruel, he is so mild that he can't do much harm—was that the evidence showed that Schiff and Darbey were immoral. There's not a thing to show guilt or misconduct on the part of that man Schiff—not a line of evidence.



Solicitor General Hugh M. Dorsey's speech was the most remarkable of the trial. He was on the floor more than eleven hours and talked on parts of three different days. Beginning when Attorney Rosser closed Friday afternoon he talked until adjournment resumed again Saturday morning, and spoke without a stop until 2 o'clock in the afternoon, when court recessed until Monday morning. On Monday he resumed his argument and did not complete his address until noon.

The principal reason for the long adjournment was the fear of returning a verdict on Saturday night with the center of town flooded with people.

Dorsey covered every point of the case fully and faithfully. He clinched every fact he had brought out. And his arraignment of Frank was probably the most bitter that has ever been aimed at a defendant in a murder trial in the whole country. He termed him a "man with a reputation, but no character," as a "man not like other man," and likened him to Oscar Wilde, the famous literary genius, to Durant, the famous San Francisco slayer, and to Pastor Richeson, of Boston.

Every time he emerged from the building Dorsey was greeted with plaudits. The bulk of the people commended his attitude and his wonderful effort to make sure the conviction of the young factory superintendent.

"This is not only an important case. It is an extraordinary case. The crime was extraordinary—an awful crime, a most heinous crime, the crime of a demoniac. The crime demanded vigilant, earnest, conscientious effort on the part of your detectives and on my part. And it demands earnest consideration on your part. It is important because of the importance, standing and ability of counsel pitted against us—four of them—Messrs. Arnold and Rosser, and the two Messrs. Haas.

"Extraordinary because of the defendant. Extraordinary because of the manner in which these gentlemen have argued the case; Mr. Rosser, the rider of the wind and stirrer of the storm, and Mr. Arnold, as mild a mannered man as ever cut a throat or scuttled a ship. They have conducted themselves extraordinarily.

"They have maligned and abused me and the detectives. They heaped calumny on me to such an extent that the good mother of the defendant here arose and in this presence de-

nounced me as a dog. It is an old adage, and it is true, that no thief ever felt the halter draw with a good opinion of the law."

Turning toward the defendant and his party of friends, Mr. Dorsey continued:

"I don't want your good opinion. I neither ask it nor seek it. And if you did give it to me, I would doubt my own honesty. 'Prejudice and perjury,' says Mr. Arnold. And then they use that stereotyped phrase, 'It fatigues my indignation' to argue this case. Don't let this precious indignation disturb your nerve and deter you from your duty. They ought to have been indignant. They have been paid to play the part.

"'Prejudice and perjury,' they say, gentlemen. Do you think that I or the detectives have been actuated by prejudice? Would we, sworn officers of the law, have sought to hang this man because of racial and religious prejudice, and passed up Jim Conley, a negro? Prejudice! When Gantt was arrested and then released; when Lee was arrested and exonerated. But when you get Frank, you get prejudice, they say.

"Let us see. They were disappointed. The case was not pitched on the fact that this defendant is a Jew. By no word or act in this case have we indicated that he was Jew or Gentile, or black or white. We would have despised ourselves if we had asked for conviction on account of prejudice.

"The first time prejudice was brought into the case, it was brought in by them and brought in for a purpose. Never have I seen two men so delighted as Rosser and Arnold when they put those questions to Kendley. Never will I forget that scene. We did not put it in, and prejudice is not in this case.

"Mark you, they, not us, raised the cry of prejudice.

"I say here and now the race from which this defendant comes is as good as ours. His ancestors were civilized when ours were eating human flesh. I honor the race that produced Disraeli. I honor the race that produced J. P. Benjamin, as great a lawyer as ever lived in America or England—and he lived in both. I honor Strauss, the diplomat, and the man who went down with the Titanic. I roomed with a man of this defendant's race at college. And one of them is my business partner. I honor Rabbi Mark, and I listen to him with pleasure and pride.

"But, gentlemen, when Becker wished to put to death Rosenthal, it was men of Rosenthal's race that he sought for his purpose. Abe Hummel has died in New York, and Abe Ruef in San Francisco. And Swartz has paid the penalty for stabbing a little girl.

"These things show that this great people are amenable to the same laws as you and I; and the same laws as an African.

"This defendant has not a good character, I submit. He has a good reputation among the people who do not know his real character.

"Sut suppose he had a good character. That amounts to nothing. David of old was a great character until he put old Uriah into the forefront of a great battle, so he would be killed and David could take his wife. Benedict Arnold was brave. He enjoyed the confidence of all the people and those in charge of the Revolutionary war, until he betrayed his country. Oscar Wilde, an Irish knight, a literary man, brilliant, the author of works that will go down through the ages, a man who had the effrontery when the Marquis of Queensbury thought there was something wrong between Wilde and the son of the marquis, to withstand one of the greatest cross-examinations on record—Oscar Wilde, that man, bore a good reputation until he was proven guilty.

"Wherever the English language is read, the coolness of that man who underwent the cross-examination of those able lawyers will remain forever a study for lawyers. Not even Oscar Wilde's wife nor his children knew of his perversion. And it never would have been discovered had not one man had the boldness to start an investigation that eventually sent him to prison. He was a literary man, whose cross-examination is a thing to be read with admiration. But he was convicted, and in his tottering old age he confessed. He is the man who raised the sunflower from the rank of weed to that of flower. But he was a pervert—a man of previous good character.

"Abe Ruef, of San Francisco, a man of his religion," pointing to Frank, "was of previous good character, but he corrupted Smith and everything that he came in touch with. Ruef's career terminated in the penitentiary eventually.

"Good character isn't worth a cent, gentlemen, if you've got a case proved!

"And crime doesn't go only with the poor. The ignorant, like Jim Conley, commit small crimes. But a man of high intellect sometimes commits a big one—an intellect which, if directed in the right line, would bring honor and glory, but which if not so directed drags a man down to the depths—as in the case of this defendant before you.

"Look at McCune, the mayor of Charlottesville, Va. Notwithstanding his good reputation, he did not have a rock-bed of character. Tiring of his wife, he shot her in the back as she was in the bathtub, and a jury of brave Virginians sent him to a felon's grave. He had the respect of the people.

"Richeson, of Boston, was a preacher and enjoyed the confidence of his flock. He was engaged to marry a fascinating young woman of Boston. But he was entangled with another young woman of whom he wanted to rid himself. And he forgot himself so far as to murder.

"All these cases were decided on circumstantial evidence. After Richeson had fought through the courts, he hoped that a governor would save his life. But a Massachusetts jury and a Massachusetts governor were brave enough to make him pay the lawful penalty for his crime. That's an example to encourage every right-thinking man.

"Henry Clay Beattie, a man of splendid family, a man of wealthy family, proved his character—although he didn't possess it. He took his wife, the mother of a twelve-months-old baby, out for an automobile ride and shot her in cold blood. Yet that man, looking at the blood in the automobile, joked. He was cool and calm, but he joked too much. The detectives in that case, as in this case, were maligned and abused. There was a slush fund to save him from the gallows. But a jury of Virginia farmers sent him to his doom, and put the citizenry of that great commonwealth on a higher plane. Beattie never confessed, but left a note to be read after he was dead, in which he admitted the crime charged against him.

"Then there was Crippen, of England. He was a doctor, a man of high standing, a man of unblemished reputation. He killed his wife because of an infatuation for another woman. He hid her body away where he thought, as this man thought," pointing to Frank, "that it would never be discovered. But murder will out. The body was discovered. And Crippen was executed, to the glory of old England.

"Gentlemen, you have an opportunity that comes to few men. Measure up to it!

"You say that Conley has been impeached? I say that he has not been impeached except by those with their hands in the till of the National Pencil factory. His general character is unimpeached, except by the words of the hirelings of the National Pencil factory. Yet you would say that he committed this crime, when all you have been able to bring up against him—despite the fact that they have interviewed all of his former employers—is that he has been locked up in police station on the charge of disorderly conduct. Is Conley sustained? Yes, abundantly.

"Our proof of the general bad character of Frank sustains Jim Conley. Your failure to examine these hair-brained fanatics, as Mr. Arnold calls them without rhyme or reason, sustains Jim Conley. His relations with Miss Rebecca Carson, who is shown to have gone to the dressing room with him, sustain Jim Conley.

"Your own witness, Miss Jackson, says that this libertine and rake went into the dressing room and stood with a sardonic grin—she sustains Jim Conley. Miss Kitchens, who worked on the fourth floor, and whom you did not produce, by her statement of how he went into the dressing room, sustains Jim Conley. Darley and Miss Mattie Smith, as to what they did April 26, sustain Jim Conley. Truman McCrary, the negro whom you praise and who gets his living from the pencil factory, sustains Jim Conley as to where he put those sacks.

"Monteen Stover, who went in just at the minute that Frank was back in the metal room with the poor, unfortunate girl, sustains Jim Conley by the statement of the kind of shoes she wore. Monteen Stover, when she says that nobody was in the office, sustains Jim Conley as to his statement that he heard the footsteps of two people going back.

"Lemmie Quinn, your own dear Lemmie, when his statement is taken with the evidence of Miss Hall and Mrs. Freeman, sustains Jim Conley. Dalton, whose character for the past ten years we have sustained, sustains Jim Conley about previous Saturdays.

"Daisy Hopkins, by her awful reputation, sustains Jim Conley. The blood on the second floor sustains Jim Conley. The testimony of Hol'oway, as given in the affidavit to me,

and Boots Rogers' statement that the elevator box was unlocked, both sustain Jim Conley. Ivy Jones, whom he met near the factory, sustains Jim Conley. Albert McKnight, who testified as to the time Frank reached home and the time he left, sustains Jim Conley.

"The repudiated affidavit of Minola McKnight, whose attorney let her sign it when he knew he could get her out on a habeas corpus, sustains Jim Conley. The noose in that cord sustains Jim Conley. The existence of the notes, alone, sustains Jim Conley because no negro in the history of the race ever wrote a note to cover a crime. The character of words used in the notes, sustains Jim Conley."

"Take up the context. The note said she was assaulted when she went back for a natural purpose. And the only toilet Mary knew was in the metal room on the second floor. The fact that the note said the negro did this by himself showed a conscious effort to limit the crime.

"Frank by his own statement sustains Jim Conley as to the time of his arrival at the office, the time of his visit to the Montags, and as to the fact that he carried a folder in his hand.

"Arthur White, according to his statement, borrowed \$2 in the afternoon. Where is the entry to show that Frank put down that loan? The fact that there is no entry sustains Jim Conley in his description that Frank's mind was burdened with the problem of disposing of the body.

"Frank said, 'We found it better to get a voucher book and let everybody sign for what money they got. Notwithstanding that they failed or refused to produce a record showing that White ever got that money. I'll tell you the reason why he didn't enter it. It was because his mind and conscience were on the crime he had just committed. You tell me that this expert bookkeeper, this Cornell graduate, would have overlooked that. There is only one reason why he did. Conley is sustained by Frank when Conley says he remarked that he had relatives in Brooklyn. When old Jim was on the stand, Mr. Rosser asked him about Mincey. Is Mincey a myth, or is he such a diabolical perjurer that it would nauseate the stomach of you gentlemen to produce him before you?'"

Turning to Mr. Arnold and Mr. Rosser: "If you weren't going to produce Mincey, why did you parade him before the jury?"

"Gentlemen, the absence of Mincey corroborates Jim Conley.

"Gentlemen, every act of that defendant proclaims him guilty.

"Every word proclaims his knowledge of the death of little Mary Phagan.

"Every circumstance proves him responsible for the murder of that little girl.

"Remarkable? Yes, but true! She died a noble death without a stain on her name. She wouldn't yield her virtue to her superintendent. And he strangled her and killed her.

"In the language of Daniel Webster, 'when a jury, through whimsical and unfounded scruples, fails to do its full duty, it violates its oath.'"

"What happened to her mesh bag? I wouldn't be surprised if it disappeared in the same way that the stick on the first floor and the bloody shirt at Newt Lee's house, made their appearance. The first thing that he did, when he had gagged the little girl with her own underskirt, when he had gagged this little girl who went to her death for her honor—"

A terrific, piercing scream from Mrs. Coleman interrupted. The mother of the dead girl cried very audibly, and was not quieted for several minutes. Mrs. Lucile Frank, wife of the accused, and Mrs. Rae Frank, his mother, both covered their eyes with their hands and appeared to be affected.

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## CHAPTER XXII.

### Fear Lynching Precedes Verdict.

Displaying visible evidence of physical exhaustion, Solicitor Dorsey concluded his speech exactly at 12 o'clock Monday. His voice ringing through the crowded room which had been held speechless, he turned to Judge Roan and said:

"Your honor, I have done my duty. I have no apology to make. So far as the state is concerned, you now can charge this jury—this jury sworn to be without prejudice or bias.

this jury sworn to try well and truly Leo M. Frank. I beg that under the law you give them your opinion of the evidence. There can be but one verdict—'We, the jury, find this defendant guilty.' Guilty! Guilty!"

As the final words sounded through the room the gong on the Catholic church a block away from the court house sounded. With each intonation of "Guilty! Guilty! Guilty!" the bell clanged. This phenomena had a visible effect upon the audience, jury, and court attaches.

Judge Roan immediately began reading his charge. He concluded at 12:47 o'clock.

The long trial was at an end—almost. It remained only for the jury to render its verdict. Would they send Frank to the gallows, or would they liberate him and place him once more among his fellow-men, an equal?

The whole city asked itself this question. Feeling was intense. Solicitor Dorsey had been applauded every time the crowd caught a glimpse of him. Such demonstrations never had been made over a prosecutor in Atlanta before.

Two thousand people remained in the vicinity of the court-house all of Saturday. It was with difficulty that the police handled the mass. An outbreak was feared. Race differences were freely discussed. There was talk of violence in the event of an acquittal and the officers of the Fifth Regiment were instructed by the adjutant general of the state to remain within reach in case it became necessary to call out the militia to prevent any attempt at violence should such occur.

At 12:47 Judge Roan finished his charge. In it he told the talesmen that they were the sole judges of the evidence and of the credibility of the witnesses. He defined and explained the numerous points of law that arose in the case and gave them specific instructions as to the consideration of circumstantial evidence.

The jury was taken from the court room shortly before 1 o'clock and conducted across the street to cafe for dinner. Ten minutes later when Solicitor Dorsey left the building to go across the street to his office, he was picked up and carried on the shoulders of the crowd.

"Hurrah! for Dorsey!" seemed the universal cry.

An hour later the jury was returned to the court house to begin its deliberation. The twelve men were assigned to a room on the fourth floor. Down stairs the court room was



thronged. The streets outside for a block in each direction were covered with a mass of humanity kept in motion by the police.

Shortly after 3 o'clock Foreman Winburn, of the jury, rapped on the door and told Deputy Sheriff Plennie Miner that a verdict had been reached. It was later disclosed that the talesmen had reached a unanimous opinion on the second ballot.

Judge Roan was summoned from his home and Solicitor Dorsey was called. Attorneys Rosser and Arnold could not be located, and the verdict was received by the court without their presence.

Before the verdict was received Judge Roan ordered the courtroom cleared. When the twelve "good men and true" marched down stairs and entered the court room, there were only a few attorneys, the court attaches, and a score or more newspapermen present. The defendant had waived his presence and remained in his cell at the tower. This was done to prevent a possible outbreak. Neither his wife nor his mother were in attendance. Friends of the defendant, too, and the members of his religion were absent. This kept the vast crowd in the vicinity of the court room from violence if any had been intended.

A stillness fell over the courtroom when the jurymen took their seats in the box. Each man wore the solemn expression which, interpreted, could mean but one thing.

"Gentlemen, have you arrived at a verdict?" asked Judge Roan formally.

"We have," replied Foreman Winburn.

"Read it," commanded the court.

The foreman arose in his seat and, holding the verdict in his hand, read:

"We, the jury, find the defendant guilty."

THE END.

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