

# BASE FRANK'S HOPE ON MURDER NOTES

## Lawyers Almost Certain That Scraps of Paper Will Win a New Trial for the Prisoner.

### HOLD SECRET AFFIDAVITS

#### Girls Who Testified Against Him at the Trial Said to Have Repudiate Many Damaging Statements.

*Special to The New York Times.*

ATLANTA, Ga., March 9.—“We firmly believe that Leo M. Frank will get a new trial,” said one of his attorneys to-day. “We will incorporate such a mass of new evidence in our extraordinary motion that it is almost certain to be granted.”

The attorneys for the prisoner were busy to-day preparing the motion which they said would be filed within a few days. Meanwhile, William J. Burns, the detective recently employed in the case, will make a thorough search for still more new evidence. Burns is expected to arrive in the city in the next twenty-four hours. His agents are already at work, and developments are expected to follow his arrival.

When an extraordinary motion is filed the Judge of the Superior Court may not only refuse to grant it but in his discretion may refuse to certify to a bill of exceptions, thus halting an appeal to the Supreme Court.

In the event that a Superior Court Judge, after refusing an extraordinary motion, did refuse to certify to the bill of exceptions, the defendant could bring a writ of mandamus before the Supreme Court to require him to certify to the bill.

#### Rely on Murder Notes.

The new evidence tending to show that the murder notes were written in the basement of the pencil factory, instead of in Frank's office, as the negro, Conley, testified, will form a principal part of the extraordinary motion. The defense will undertake to show that the pad on which Conley wrote the murder notes could not have been taken by Frank from his desk, as Conley said, because it was an old pad, used not later than 1909, while H. F. Becker was master mechanic at the pencil factory. This pad contained merely the carbon duplicates of old requisitions and would not have been in Frank's office, but down in the basement with other waste paper.

The defense contends that the old carbon copies of Becker's order blanks had been carried to the basement to be destroyed. The defense will attempt to show in the plea for a new trial, and in the trial itself, that it was in the basement, near the body of his victim, that Jim Conley hurriedly procured the old order blanks, and, after a slovenly attempt to erase the carbon traces, inscribed the straggling characters that placed the blame on some “long, tall, black negro.”

Frank's attorneys said to-day that this order blank evidence, in their opinion, was sufficient to upset the entire case against Frank and fasten the murder of Mary Phagan on Jim Conley.

For the rest of the new evidence, there are the affidavits of Albert McKnight, Nina Formby, and George Eppes, and the statement of Mrs. Ethel Harris Miller that she saw Frank at Whitehall and Alabama Streets at the time he was supposed by the State to have been helping Conley to dispose of Mary Phagan's body.

#### Have Other Affidavits.

Then there is an affidavit by Helen Ferguson, a friend of Mary Phagan, who says she was frightened by Jim Conley's insulting advances toward her a week before Mary Phagan was killed.

Another point will be the statement of Dr. H. F. Harris that the hair found on the lathe was not that of Mary Phagan. In addition Frank's attorneys have several important affidavits not yet made public. Among these are said to be several from girls who testified at the trial that Frank's reputation was bad as regards women. These girls, it is said, will repudiate much of the damaging testimony.

Following the return of Attorney Luther Z. Rosser from New York there has been much interest manifested in the connection of A. S. Osborne, the handwriting expert, with the case. Solicitor General Dorsey said that when he submitted the murder notes with handwriting samples to the expert, Mr. Osborne almost immediately asserted that both notes had been written by Jim Conley. It had been rumored that the opinion of the expert was that the notes were written in Frank's hand. This is not correct, the Solicitor says.

While Mr. Dorsey refused to discuss Mr. Osborne's connection with the case in detail, the obvious explanation of his failure to appear as a witness was that he simply gave his opinion that Conley wrote the notes. This was unnecessary, since the negro admitted the fact, and it never was disputed at the trial.

#### Frank Greatly Cheered.

Frank, in his cell to-day, appeared to be content with the drift his case was taking. He viewed with particular cheer the discoveries concerning the death notes.

Frank is preparing a statement commenting upon the recent expression of ex-President Taft in Boston, in which he said that public clamor often convicted innocent men. The prisoner will call attention to the demonstration in his own trial as one reason why he did not get justice.

Meanwhile Solicitor General Dorsey is preparing to oppose the extraordinary motion. The Solicitor, working in co-operation with city detectives, is getting up evidence to attack the repudiations of trial testimony made public recently.

It was reported on apparently good authority that sensational charges would be the outgrowth of the work of the Solicitor General and the detectives.

## CITES GAYNOR ON TOM CATS

### McAneny Quotes Late Mayor to Man Who Complains of Feline Yowls.

Lewis Brown of 457 Fifth Avenue, Brooklyn, which is directly opposite the home of Controller Prendergast, wrote the other day to George McAneny, President of the Board of Aldermen, complaining about the noises made at night by tomcats in his vicinity. He suggested that the city should license tomcats at \$10 a head. Mr. McAneny replied yesterday that he did not think it advisable to reverse the attitude of the Gaynor administration concerning tomcats, and he inclosed a copy of the letter which Mayor Gaynor once wrote in reply to a similar complaint, and which said in part:

“I regret to say that I have so many official duties pressing upon me that I cannot just now devote any time to the tomcats, as you request by your letter. There are a few in my neighborhood, but I go to sleep and let them howl. It amuses them and doesn't hurt me. But some say that it is the pussy cats that howl, and not the tomcats. How is that? We must not kill Tommy for the sins of Pussy. And, also, let us remember that ‘the female of the species is more deadly than the male.’”

## Tau Beta Pi, Fraternity Elections.

Elections to Tau Beta Pi, the honorary engineering society, were announced at Columbia yesterday. Thirteen new members were elected from the junior and senior classes of the scientific schools. They are Donald George Campbell, Henry Eastman Morse, George Leslie Oldright, Harold Felton Allen, Arthur Blamford, William Frederick Glimm, Jr., Donald Greenleaf, Walter Kraus, Emil Mueser, William Eglington Reid, James Clarence Webster, Wallace White, and Frederick Sylvester Wright.