

DORSEY ATTACKS FRANK AFFIDAVITS

Methods Ascribed to Defense in
Obtaining Them Criticised
at Re-trial Hearing.

NEW EVIDENCE FOR FRANK

Relate to Stains on Conley's Shirt
and Girl's Hair on Lathe—Eaves-
dropping from a Warehouse.

Special to The New York Times.

ATLANTA, Ga., May 1.—Solicitor Hugh M. Dorsey was in the midst of his arguments against the granting of the extraordinary motion of Leo M. Frank for a new trial to-day when Judge Ben H. Hill adjourned the hearing until Monday morning.

Mr. Dorsey summed up the State's contention thus: "If nothing added to nothing makes something then there is something to this extraordinary motion for a new trial."

He vigorously attacked the methods of the defense in obtaining evidence for a new trial, charged that Detective Dan S. Lehon of the Burns Agency was behind the Ragsdale scandal, and that some of the affidavits offered by the defense, which were witnessed before C. W. Burke, special investigator, as a notary, were forgeries.

The solicitor presented an affidavit from Mrs. J. B. Simmons stating that she had always said it was 4:30 o'clock in the afternoon when she thought she heard screams coming from the basement of the pencil factory. One of the most sensational features of the solicitor's counter showing were affidavits from two witnesses, W. T. Tucker and his son, J. V. Tucker, in which they swore they heard screams coming from the second floor of the pencil factory at 2:10 o'clock on the day of the tragedy.

When the hearing before Judge Hill was resumed to-day the defense introduced further amendments to its motion for a new trial.

One of these related to affidavits from Georgia Denham and Cora L. Leafew, employees of the National Pencil Factory, stating that Jim Conley, the negro sweeper there and accused of Frank as the slayer of Mary Phagan, admitted to them before he was arrested under suspicion of the crime that the shirt he was washing when arrested had blood stains on it and not rust stains, as the police believed.

Another of the amendments sought to place in the records the letters alleged to have been written by Jim Conley in jail to Anne Maude Carter, a negro woman prisoner. By these letters, which contain the words "did" and "negro," the defense expects to attack the State's argument that if Conley had written the murder notes of his own volition without dictation by Frank he would have used "done" instead of "did" and "nigger" instead of "negro." The defense expects further to attack the State's argument that Conley wrote with difficulty by proving that he wrote the voluminous notes to the Carter woman.

The defense expects further to show that the substance of the notes to the Carter woman proves Conley to be a pervert, and by this to argue that the cuts in the murder notes were made deliberately by Conley and not furiously by Frank, the State's case being that the murder was not premeditated by Frank but was committed by him in an excess of passion.

Stains on Conley's Shirt

The amendments to the motion, as read by Attorney Leonard Haas, quoted the affidavit by Mrs. Leafew that she saw the hair on the lathe and that in her opinion it was not Mary Phagan's. Mrs. Georgia Denham's affidavit was to the same effect and also that she saw the stains on Conley's shirt the morning of the day he was arrested. Thursday, May 1, 1913, and asked him about them, and the negro said they were blood stains. His nose had been bleeding, he said. He was at some pains to explain how his nose could bleed on his shoulder, where the stains were. She made an affidavit to the city detectives about this a short while later, she said, and heard no more of the matter.

The amendments related further to the notes turned over to Detective Burns by Anne Maude Carter, the negro woman, who was a prisoner in the tower until a short while ago. She identified them as having been written to her by Jim Conley in an affidavit signed by her several days ago in Birmingham. Attorney Haas read a couple of the notes, but Judge Hill indicated his unwillingness to hear more, saying he would have to read them anyhow. The notes were full of vulgar phrases. Several substantial affidavits were read to identify the notes as being in Conley's handwriting.

Leonard Haas read his own affidavit, reciting that the solicitor had used repeatedly in his argument the contention that Conley would not have written the words "did" and "negro" in the murder notes if they had not been dictated by a white man.

Mr. Haas read an affidavit by Detective W. J. Burns describing the garments which were exhibited at the trial, and how they were cut, and saying that in his opinion they were cut that way by a pervert.

Solicitor Dorsey interrupted by saying that the garments were in evidence at the trial, and that Mr. Burns' affidavit could not be considered new evidence.

Attorney Arnold said the reference to the Burns affidavit was merely explanatory of the point which the defense wished to make by means of the notes. Judge Hill said: "That affidavit will be excluded. I do not care to go behind the record in this case."

Attorney Arnold said the point made by the affidavit very strongly fastened the crime on Jim Conley. He asked if the garments could not be brought into court to show that the Burns affidavit offered new evidence.

Judge Hill: "The affiant, W. J. Burns, is simply giving his opinion."

Mr. Arnold said the defense wished to withdraw that part of the affidavit which said that in Burns' opinion the garments were cut by a pervert.

"I will exclude the entire affidavit as being without probative value," said Judge Hill. "The original notes and the garments are in evidence already before the court."

"We've got them right here, your Honor," Mr. Dorsey interposed.

Attorney Rosser offered an affidavit signed by two persons, one of whom is a young woman, he said. Since the affidavit was signed, he said, he had received a letter from her father asking that her name be not used in any connection with the case. The affidavit related to the character of Anne Maude Carter, he added. He asked the court's permission, and received it, to erase the young woman's name from the affidavit and leave the other one alone. This concluded the defense's motion.

Dorsey's Counter Showing.

Solicitor Dorsey, beginning his counter-showing, moved to strike out the Denham affidavit on the ground that Mrs. Denham was an employe of the factory at the time of the trial, and

that the defense did not use due diligence in seeking her affidavit. The motion was denied.

He then moved to strike out the amendment about the Conley notes, saying it could have been presented last week when the affidavit by the Carter woman was introduced saying that Conley had confessed. This was denied.

A. M. Beattie, manager of the local branch of the Postal Telegraph Company, was called under a subpoena duces tecum, bringing a telegram with him which he left with the court.

The solicitor asked an attachment for J. Duffy and received it over the objection of the defense, on the ground that the solicitor had not gone through the required legal procedure of showing an attempt to get a statement from Duffy. The solicitor then contended that the defense made no effort at the trial to bring out from Dr. Harris, a witness, his opinion at that time about the hair found on the lathe.

The State contended then, and still contended, said Mr. Dorsey, that it was the hair of Mary Phagan. It was not the sole evidence showing that the murder was done on the second floor.

"Stronger evidence was offered by the blood spots on the floor," he continued. "The defense could have brought out the evidence at the trial, for, according to Mr. Arnold, it had at court all the women from the factory. The defense did not ask the State's witnesses or its own about the hair."

The solicitor said Albert McKnight had made an affidavit that he told the truth on the witness stand, and would never have made any other affidavit repudiating it if it had not been for the agents of the defense, which had not acted in good faith.

With reference to Mrs. J. B. Simmons' affidavit, that she heard screams in the factory basement, he said her testimony would not have been important even at the trial, for the proof was that the girl was dead before the time when Mrs. Simmons said she heard the screams. Further, said Mr. Dorsey, Mrs. Simmons was shown to be one of the most disreputable and worthless characters in the community, being impeached, he said, by C. H. Brannon, T. D. Street, A. E. Williams, her son-in-law, and J. B. Simmons, her husband.

Reflects on Defense Testimony.

By affidavits from Miss Ruth Robinson, W. T. Robinson, her father, and Mrs. Mamie Richens Edwards, he said he would show that they would not testify as the defense has claimed in its extraordinary motion.

The statements attributed by the defense's motion, he said, to S. A. Pardee and Will Green were not in harmony with Frank's statements.

"Frank shows he remained at the factory as late as 1:10 o'clock," Mr. Dorsey continued. "Consequently, Pardee and Green could not have seen him at the corner of Alabama and Whitehall between 1:05 and 1:05 o'clock. However, that does not matter greatly, for Frank has failed deliberately and repeatedly. At the coroner's inquest he testified he caught a car, he thought, at the corner of Alabama and Broad Streets—a Washington Street car. At the trial he said he caught a Georgia Avenue car at the corner of Alabama and Whitehall. However, the State has a voluntary repudiation from Pardee, who asked Mr. Rosser to let him withdraw his affidavit."

"You notice the Pardee affidavit was not read, don't you?" said Mr. Rosser.

The next affidavit read was Albert McKnight's, in which he swore he had given a false affidavit to the defense repudiating his testimony at the trial, and that his original testimony of Frank's nervousness the day following the murder was the truth.

In the State's affidavit, said Mr. Dorsey, McKnight swore Detective Burke came to him and asked him how much money he was working for, and how a \$100 a month job at the Terminal Station would suit him.

"McKnight swore he told Burke he did not want that job," Mr. Dorsey went on, "and that Burke then said he would teach McKnight to run an automobile, would make him his chauffeur, and would give McKnight's wife a house and a lot to live on at Burke's own place."

"After he made the affidavit repudiat-

ing his trial testimony, McKnight swore he was given a job at Schoen Brothers, packing hides. Burke then came to him and told him to hide out until after Conley's trial. McKnight then left town.

"When he came back, swore McKnight, he was hurt in the railroad yards and taken to Fairview Hospital, where Burke visited him several times, once with Detective William J. Burns.

"McKnight said he talked to Burns about the affidavit he had made for the defense and told him it was the truth. While he told Burns this, swore McKnight, Burke was sitting beside them saying nothing, although he knew McKnight was lying."

"McKnight swore that Burke gave him a card and told him to call him up if he wanted anything, but soon after that McKnight left the hospital and

went to the police station, to escape from Burke and his crowd."

"In his affidavit McKnight described in detail the various talks he had had with Burke, in which he said Burke would urge him to repudiate his trial testimony. Once, he swore, Burke told him he had better do so 'because the Jews were after him.'"

Had in a Warehouse

Following McKnight's affidavit, the solicitor read an affidavit from Angus Morrison, an employe of the Beck & Gregg Hardware Company, who swore that R. L. Craven came to him and got him to hide in a warehouse and listen while McKnight repeated his original story of Frank's nervousness to Craven. Morrison swore that he did this, and

heard McKnight tell Craven about Frank's manner and Mrs. Frank's remarks on her husband's nervousness," said Mr. Dorsey.

"There was no mention between Craven and McKnight or Craven and himself of gaining a reward, swore Morrison."

An affidavit from Craven was next read, in which he swore to hearing McKnight's original story in the warehouse, and also to hearing Minola McKnight give her original affidavit which substantiated her husband's first story, but which she later repudiated.

The affidavit of E. H. Pickett was

then read. He testified that Albert McKnight voluntarily made his original affidavit before the trial about things he noticed in the Frank home on the day of the murder.

W. W. Boyd, manager of the Terminal Station restaurant, was the signer of an affidavit that C. W. Burke, detective for the defense, came to him when Albert McKnight was working in the kitchen of his restaurant, and wanted to see Albert. Later Burke told him Albert wanted to quit his job there, and accordingly he (Mr. Boyd) let Albert go. The report that he discharged Albert is unfounded, he said.