

HOLDS MURDER NOTE AUTHOR WAS CONLEY

Handwriting Expert Says Frank Could Not Have Dictated Phagan Letters.

MAKES PSYCHO-ANALYSIS

A. S. Osborn's Deductions Considered Strong Argument in Condemned Man's Favor.

That the murder notes which played an important part in the conviction of Leo M. Frank for the slaying of Mary Phagan were not dictated by Frank and written by Jim Conley, as Conley testified, but were written by Conley on his own initiative for the purpose of shielding himself, is the conclusion of a report submitted by Albert S. Osborn, handwriting and documentary expert of New York, to Governor Frank M. Slaton of Georgia, and made public yesterday by the Governor and Mr. Osborn.

Mr. Osborn bases his deduction upon a psycho-analysis of the two men, Frank and Conley. The notes on their face purported to be from the dead girl to her mother telling who had killed her. Mr. Osborn points out that this very absurd conception could not be the product of the brain of the educated Frank. He points out that the notes mention three times that the crime was committed by "a long, slim, dark negro," and contends that were the notes conceived by Frank for the purpose of diverting suspicion from himself he would have had no interest in placing suspicion upon a particular build of negro. It is also pointed out that Conley, who admitted on the stand that he wrote the notes, is a short, fat, light negro.

Mr. Osborn was first called into the case almost two years ago, when he was asked to pass upon Conley's first testimony that he wrote one of the notes and Frank the other. Mr. Osborn reported that the same man wrote both of them. This was contrary to the theory of the prosecution. Mr. Osborn was not called as a witness. He then, through interest in Frank and the belief that perjured testimony had been given in the trial which resulted in his conviction, undertook the investigation on his own initiative.

In his letter to the Governor of Georgia Mr. Osborn argues that Conley proved at the trial that he had lied twice, for he testified at first that he could not write. He contradicted this when he said he had written one note and Frank the other. Later he testified that he wrote both of the notes at the dictation of Frank. Mr. Osborn, therefore, argues that if Conley lied twice he probably lied in all his statements, and holds that if the jury considered Conley's testimony essential in reaching a verdict Frank did not have a fair trial. He says he does not believe Conley has yet told the whole truth of his connection with the murder.

Work of Ignorant Mind.

"If one takes this document of two pages, or these two documents," said Mr. Osborn, "and looks at them as a whole, considers their character in every particular, and then attempts to picture the conditions under which they were written and the purpose for which they were written, then considers the two stories that Conley told, first that he could not write and then that he wrote one of the notes, and finally considers the fact that the notes fail to accomplish their purpose in throwing off suspicion, then it seems to me clear that they were the work of an unassisted, ignorant mind seeking in an unskilled, clumsy way to remove suspicion from himself."

Mr. Osborn then told that the identification of persons through ideas and language is a new subject. Identification from personal descriptions and measurements is common, and identification from finger prints is now very generally employed, and identification from handwriting has in late years been much used; but identification by psycho-analysis is a novel field.

Mr. Osborn's first report in the Frank case was made on June 17, 1913, and simply advanced the opinion that both notes had been written by Conley, and not one, as the negro at that time alleged. Conley later admitted this on the witness stand.

A dispatch to THE TIMES last night from Atlanta said counsel for Frank considered Mr. Osborn's indictment of Conley, star witness for the prosecution, the strongest of the arguments to be submitted to Governor Slaton in a plea for Executive clemency.

The second report made March 20, 1914, but never published, follows in part:

"I have examined this paper with a view of determining whether it exhibits in any way the participation of two hands or two minds in its preparation, and especially whether the note in any way suggests the co-operation of a superior intelligence. I have endeavored to answer as far as possible the following questions:

"1. Is the handwriting a disguised, feigned, or simulated handwriting?"

"2. Is there anything in connection with the note which points to the direct or indirect work of an educated mind or hand?"

"3. Is the disputed document consistent with the theory that it was the production of an ignorant illiterate?"

"4. Is it probable that the statements in the note are pure invention or founded in some measure on fact?"

"In my report of June 17, 1913, I say: 'The writing is consistent in every way with illiterate writing in its manner of execution, its arrangement, and also its composition, and in these particulars in my opinion is utterly inconsistent with the characteristics of the writing of L. M. Frank.'

"The more the disputed note is examined, the more apparent, in my opinion, it becomes that it is the product of a grossly illiterate and very ignorant mind.

Composition Senseless.

"From my experience in examining such papers, I am also of the opinion that if this note was the product of an ignorant mind acting under the suggestion or coercion of a superior mind that the production would be likely to differ from that which appears. In the first place, the composition is rambling, incoherent, and senseless in certain particulars. It does not state definitely what it purports to say and, in my opinion, is in this particular convincingly inconsistent with what can reasonably be expected would be the dictation of an intelligent and educated man.

"It appears to me that the beginning of the note is particularly significant as pointing away from intelligence and ability. It is impossible to determine just what is meant by what is said, and this condition of facts points to ignorance without assistance. Assuming that the communication was dictated or partly dictated by the defendant, it seems to me very improbable that he would permit it to remain as it is. Conscious guilt in an intelligent mind always tends to overreach itself by too careful and explicit explanations and excuses.

"The note is also in its condition, selection of paper, style of handwriting, arrangement, spacing, illegibility, and incoherence entirely consistent with unassisted ignorance. If it is the testimony that this note was dictated by Frank, or its composition suggested by him, I am of the opinion that such testimony is untrue.

"A careful consideration of the character of the rambling, incoherent, repetitions in the note under investigation, and a consideration of its apparently meaningless statements about some act which was done and something which was to be permitted, suggest the possibility that there was a second party present and that there was collusion in the act or observation by Conley and guilty knowledge on his part or actual participation by him in that which it was sought to explain by this written communication. It seems to me that these repetitions and the statements in the letter and its message as a whole,

are particularly significant as pointing away from participation by an intelligent accomplice who suggested and inspired this communication for his own defense.

"Is it possible that Conley was with one of his kind that day in the factory or that he surprised one of his own kind under circumstances which made him a guilty participant or a guilty principal? It is difficult to imagine an ignorant man of the type of Conley drawing on his imagination for some of these apparently irrelevant statements in this note. I would suggest the advisability of an investigation of the possibility of there being present that day in the factory some one with Conley of his own kind.

"It may be that Conley has not yet told all the story; with two black men participating both, would no doubt hang, but with a white man and a black man participating it is natural to assume that the white man was the principal."

The Final Report.

The final report on the letters submitted to Governor Slaton last week says:

"I have made further study and given further consideration to this important document with a view of determining whether it suggests in any way that the actual writer had the assistance and co-operation in its preparation of an educated, alert, intelligent mind that suggested and superintended the act.

"An analysis of language as a means of identification should include consideration of the purpose of the language. A written communication should be analyzed with a view of determining what end it was sought to accomplish or what idea it was intended to convey, and then the degree of effectiveness with which the purpose was carried out should be carefully considered. It may appear that the purpose and execution of the communication in the matter of language is very consistent or very inconsistent with the mentality and personal characteristics of the possible writer. Attention should be directed to certain definite interrogatories as follows:

"1. What was the leading idea or purpose of the writing?"

"2. Were there other or incidental purposes?"

"3. Does the communication fulfill its purpose and is it clear, definite, and logical?"

"4. Is it inconsistent in any way with itself?"

"5. Would it have more effectively served the purpose intended if it had contained additional consistent matter which ordinary intelligence would have suggested?"

"6. Does it contain exaggeration, over-emphasis, or a fixed idea indicating intense desire that a certain definite inference, true or untrue, be drawn from it?"

"7. Taking all of these facts and conditions in combination, is the communication consistent with the education, intelligence, disposition, experience, occupation, age, race, sex, and general qualifications of the supposed writer?"

Hard to Decipher Note.

"A study of this writing under investigation along the lines of the preceding analysis confirms and enforces the opinion that the conception and execution of this writing is entirely consistent with the mental, educational, and general qualifications of James Conley, and inconsistent with the theory that this note in any way is the invention, conception, or product of the mind of Leo M. Frank. My understanding is that James Conley is an ignorant, unworthy representative of his race, and that Leo M. Frank is an educated, alert, intelligent man, and my consideration of this question is along the lines of this understanding of the characters of these two individuals.

"One of the first steps in an investigation of this kind is to determine exactly what such a communication says or attempts to say. The readings of this note have varied greatly and it is impossible to say definitely what some portions mean, and this very indefiniteness is, in my opinion, significant as pointing away from intelligence. The wording, spelling, and arrangement of the note are approximately as follows:

mam that negro
hire doun hero did
this I went to make
* * * and he push me
doun that hole
a long tall negro black
that hoo it wase
long sleam tall negro
* * *
he said he wood * * *
* * * play like the
nigh witch did it
but that long tall black
negro did boy his slef.

"Under the last ruled line of the first page there is a portion of a word which may have been a part of the word 'me,' and I have read it this way. The first word of the third line of the second page I have interpreted as 'n-e-g-r-o,' but it is not certain that this is what was intended. It is just possible that the last word of the third line from the bottom of the first page is not 'was' but 'w-o-k-e,' although I am inclined to think that it was intended for 'w-a-s-e.'

"It is not clear just what the note purports to be, but the most reasonable interpretation of it is that it was intended to be understood as a communication of the victim herself addressed to her mother. This conception of the note supposes it therefore to be written by the victim, and the question naturally arises, when was it written? The first sentence is 'that negro hire doun hero did this.' The question is, did what? The victim either had not been attacked, or had been attacked and was not quite dead, or was dead. The ridiculous, ignorant character of this whole conception as a possible defense, it seems to me, is not characteristic of intelligence.

"It may throw some light on the investigation to consider in more detail the various possible purposes of this communication:

"1. That it was conceived for the purpose of serving as a defense for two possible perpetrators of the crime, Frank and Conley.

"2. That it was conceived for the purpose of diverting suspicion from Frank.

"3. That it was written for the purpose of diverting suspicion from Conley, a negro answering a certain definite description.

"It seems to me that the most probable interpretation of the document, that is as a note addressed by a murdered victim to her mother, is more consistently the product of a superstitious, disturbed, ignorant negro mind than the possible invention of an intelligent man for a direct or indirect purpose of any kind whatever.

"The first word or address of the communication is 'm-a-m,' purporting to mean 'mother,' with no preceding word of endearment, and the spelling of the word and the use of this particular combination of letters instead of 'mother' or 'mama,' or merely 'ma,' is, it seems to me, the conception of a man of the Conley class.

"The last few words are also, in my opinion, significant where the attempt is made to make it appear that the perpetrator of the crime did not have assistance, the sentence reading 'but that long tall black negro did by his slef.' According to the idea of the

note being written by the victim, she is supposed to want it distinctly understood that the 'tall' man did it by himself—that is, that he killed her, for if she was not to be killed why should she write? The conception thus becomes so absurd that it looks away from intelligence.

"It might be argued that this whole conception and wording was an ingenious subtle scheme to fasten the crime upon Conley. It seems to me clear that intelligence would be more likely to suggest the danger of this and the safer and more reasonable plan of accusing some unknown burglar or tramp by a note saying, 'I did not intend to do it but I did it.' It seems to me that, keeping in mind the personal characteristics of the two men which it claimed participated in the preparation of this document, that it becomes clear that the story of James Conley that he wrote this communication with the assistance of Leo M. Frank is not true, but that he conceived and wrote it in his own ignorant way for his own defense.

"The third question of the analyst is, 'Does the communication fulfill its purpose, and is it clear, definite, and logical?' It appears to me that when this test is applied to this document that it appears at once highly improbable that an intelligent man interested in as important a matter as that of escaping punishment for murder had anything whatever to do with it.

"In considering Question 6, 'Does it contain exaggeration, over-emphasis, or a fixed idea indicating intense desire that a certain definite inference, true or untrue, be drawn from it?' it appears to me to be clear that the note was primarily intended to convey the idea—three times repeated—that this crime was committed by a negro, but not a short, fat, and light-colored negro, but a 'long, slim, tall and black' negro. I understand that Conley is not 'tall, slim, and black.' A natural inquiry is, would Frank's main interest be in defending a particular kind of negro?"

"In answer to Question 7, 'Is the communication consistent with the education, intelligence, disposition, experience, occupation, age, race, sex, and general qualifications of a supposed writer?' it seems to me absolutely clear that it is consistent with what I understand are the characteristics of James Conley, and absolutely inconsistent with the mental characteristics and acquisitions of Leo M. Frank.

No Intelligent Assistance.

"It throws some light on this phase of the question to consider what intelligence would probably suggest in the preparation of such a document. Ordinary intelligence suggests that the purpose of a murder note of this kind is to cast suspicion upon some one who for some reason was present and did the deed, and by this means drawing away of suspicion from some one who might naturally be suspected. In the first place, such a note, if intelligently written, would be in the first person and say, 'I did it.' The note says, 'that negro did this,' and 'that long, tall, black negro did by hisself.' Intelligence would have suggested not 'he' and 'his,' but 'I,' and 'mine,' and I think intelligence would have suggested this even if two persons were present, because otherwise the note would not serve its primary purpose, which was to throw off suspicion from the actual perpetrators. An ignorant man might think that he was making a confession when he wrote, 'I did it,' even though he was purporting to write as somebody else, while an intelligent man would realize at once that to be most effective the note should be in the first person, and purport to be a confession of an unknown person. Notes of this character are not uncommon in the history of crimes.

"Summarizing the matter, it appears to me, that when the illegibility, incoherence, repetition, and the uncertain effect of the whole communication is considered, that it is perfectly clear that James Conley did not have intelligent assistance in writing the document, and I think the document in its primary conception, its penmanship, its arrangement, its appearance, the material used in its construction, its choice of words, its ideas, its grammar, is all consistent and points to the operation of but one mind, and that the mind of James Conley. It frequently occurs in documents of this kind that the ideas expressed and the language employed is highly inconsistent with the spelling and appearance of the paper, showing that an intelligent person was assuming illiteracy, but this document is clumsy and uncouth in every way.

"New York, May 17, 1915."