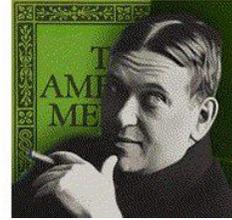
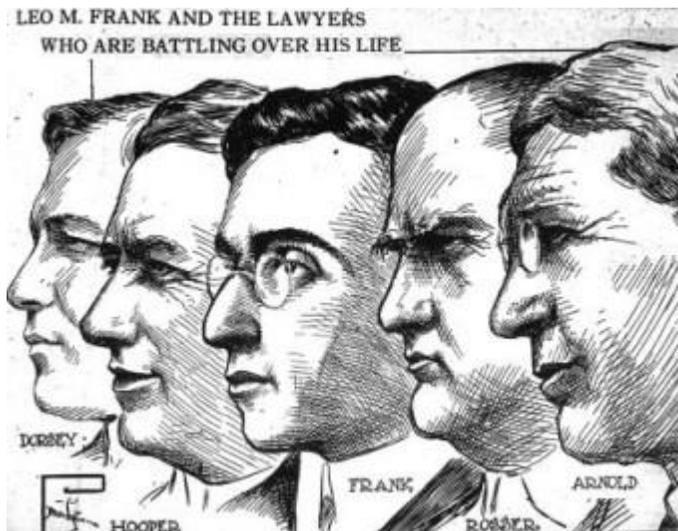


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The Leo Frank Trial: Closing Arguments of Hooper, Arnold, and Rosser

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The *American Mercury* continues its centenary coverage of the trial of Leo Frank for the slaying of Mary Phagan with the closing arguments presented by the prosecution and defense.

by Bradford L. Huie

IT'S A LONG READ — but an *essential* one for everyone who wants to consider himself well-informed on the Leo Frank case: the closing arguments from indefatigable Fulton County

Prosecutor Hugh Dorsey and his assistant Frank Hooper, and from Leo Frank's brilliantly skilled defense attorneys Reuben Arnold and Luther Rosser.

Here we present their final arguments in full — practically the length of a sizable novel — because of their great importance (the conventional literature on the subject today hardly even excerpts them) and also because of their general unavailability. Several courageous scholars collaborated recently to scan and use Optical Character Recognition (OCR) software to put the arguments into digital form on [archive.org](#), but not until the *Mercury* joined the fray have they been presented on a popular Web site in correctly formatted, easy-to-read type with OCR errors removed. Today we will present the arguments of Frank Hooper for the State of Georgia and Reuben Arnold and Luther Rosser for Leo Frank. In our next article we will have the concluding arguments of Solicitor Hugh Dorsey for the state. (For background on this case, read our [introductory article](#), our coverage of [Week One](#), [Week Two](#), [Week Three](#) and [Week Four](#) of the trial, and my exclusive [summary of the evidence against Frank](#).)

State's Prosecutor Frank Arthur Hooper for the State of Georgia vs. Leo M. Frank

The Final Speech to the Jury by Mr. Frank Arthur Hooper for the State of Georgia delivered on August 21, 1913 in the Fulton County Superior Court.



Frank A. Hooper

Mr. Frank Arthur Hooper:

Gentlemen of the Jury, the object of this trial, as well as all other trials, is the ascertainment of truth and the attainment of justice. In the beginning, I want to have it understood that we are not seeking a verdict of guilty against the defendant unless he is guilty. The burden of guilt is upon our shoulders- we confront the undertaking-of putting it upon his. We recognize that it must be done beyond a reasonable doubt, and that it must be done purely by the evidence which we have produced before you. We have cheerfully assumed this burden. We have cheerfully undertaken the task, but, there is not a single man on the prosecution who would harm a hair of the defendant's head wrongfully. We want him given the same measure of justice that should be meted to all classes of defendants. He is entitled, though, to the same degree of law as any other prisoner. But, he is not entitled to any more because of his wealth or social position. The arm of the law is strong enough to reach to the highest pinnacle of position and drag down the guilty, and strong enough to probe into the gutter and drag up the lowest. There is not a case in the history of Georgia that has been as long and as important as this. With this importance, there arises a great degree of responsibility that rests upon your shoulders. I call your attention to the facts and law as they will be given you in the charge-your only instructions, the orders by which you will be guided in the end. There is one thing I want to say, and that is this: This man should not be convicted purely because the law is seeking a victim. The law doesn't demand it. It demands only that you seek the truth, the absolute truth, the showing of which is required by us, the prosecution.

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We are not looking for blood indiscriminately. We are only seeking the slayer of Mary Phagan, and in seeking him, I try as much as possible to feel as though I were one of you twelve. Now, let's see what was the situation on April 26 in the pencil factory. This factory was being run by Sig Montag as its boss, Frank as its superintendent, assisted by the handsome Mr. Darley and the able Mr. Schiff.

As a citizen of Atlanta, I am not proud of conditions that existed in that factory! What was its moral atmosphere? The character of it appeals wonderfully to us as we seek the truth. The defense has produced numbers of girl workers who told us of his character. They say it is good. That is only negative because he has never harmed them. They do not know him. But, while we are considering their stories, there are the stories of others-girls who left his factory because of his character and his conduct toward them. They say his character is bad. You have from the two your choice of either. Those who still are there-those who have never been harmed-and those who have left because of him and his character.

The law is a peculiar thing.

We named over our plans with the first witnesses put on the stand. We showed at first just exactly what we had in view, exposed our hand, so to speak, and even went so far as to put the stories before you in so far as they were allowed to be told. They could have gone into detail were we permitted to have allowed them. They could have told of incidents that would have been convincing. We have adopted the only legal manner in which the matter could be sifted. It's on this principle: If fifty men were asked of the character of a certain place or man, and twenty-five or more say it is good, while as few as ten say it's bad, what is the character of this place or person, considering, of course, that all have an equal opportunity to observe? Would you say it was good? This question of character was one into which we were not permitted to go. But the defense, on the other hand, were allowed to let down the bars and walk in. That pencil factory was a great place for a man without a conscience. It was a great place for Frank, his handsome assistant, Mr. Darley, and the able Mr. Schiff.

We find that Frank had coupled himself up for nightly meeting with Dalton, who now has, it seems, turned respectable. My friends, no doubt, will argue that it was strange a man of such business and social position should consort with such a character. It will be a good argument, likely, but probe a little deeper and see if Dalton was not the kind of man required by a dual personality such as possessed by Frank! We all have dual personalities. There is not a man so good without evil, and no man so bad without good. But when the evil is predominant the man is bad. Vice versa with the good. A man may mingle with his varnished class by day, but when the shades of night are falling and the evil dominate, he doesn't go and get good men who can tell of his good character. He goes for his Dalton.

We all are Dr. Jekylls and Mr. Hydes.

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There are two sides to each of us. Dalton seems to have overcome this evil. He is apparently making good, as many substantial folks have told us on the witness stand. You can't blame Dalton so much. This factory was under the control of this man [Leo] Frank. It is a house of bad reputation. You find other acts of this sort committed therein. It is unsavory. [Leo] Frank is its head. He contends he did not know Mary Phagan. Why, every day as he – walked through the floor on which his office was situated, he passed by her at her machine. You find, gentlemen, that he often stopped at her place of duty to show her this or to show her that, to help her in her work. Not only that, but he followed her out of her beaten path-following like some wild animal, telling her of his superiority, coaxing, persuading, all the while she strove to return to her work at her machine. You will notice on this diagram that every time he crossed the floor he passed this beautiful girl, looking upon her with the eye of lust. The first indication of his attitude toward his victim is in the tall, good-natured Jim Gantt, friend of Mary [Phagan]. [Leo] Frank asks Gantt: "You're pretty thick with Mary, aren't you?" It shows that he knew her and that he had his eye on her.

What next? He wants to get rid of Gantt. How does he go about it? You have seen that previously he was bragging on Gantt, on Gantt's ability as a workman. But, just as soon as his eye is set upon the pretty little friend of Gantt, he sets plans to get rid of him. And, it comes up about a dollar. He says it was something about money, hoping to lead you, gentlemen, to believe that Gantt was a thief. He would not let Gantt go into the building because he was a thief. Didn't he know that this long-legged mountaineer was coming back at him? Sure, he knew it. And, they parted company at once. Gantt was fired. What was he accomplishing by this? He was getting rid of the only man on either floor-in the whole factory-who knew Mary Phagan, and who would raise a hand to protect her. Then he sets about laying plans. And those plans! You will notice that the defense has pitched its every effort entirely on [James] Jim Conley. I don't blame them. He was like Stone Mountain is to some highways in its vicinity. They couldn't get by him. We could have left him out and have had an excellent chain of circumstantial evidence.

Without Jim [Conley], though, the defense couldn't move—they couldn't budge. You have sat and seen the biggest legal battle ever fought in a court house between skillful intellect and a witness negro. You have seen brainy eloquence pitted against the slow, incomprehensible dialect of a negro. You have seen a trained and speedy mind battling with blunt ignorance. And, what was the result? At the end of three and a half days it came. That negro was asked questions about everything Rosser could conceive. His answers were hurried from the stenographer's notes and transcribed on typewriter. Then, they were hurled back into Conley's face. But, it was like water poured onto a mill wheel. They received the same answers, the same story. It was because, gentlemen, the negro was telling the truth. Truth is stronger than all the brains and ingenuity that can be collected in this whole town-this state, the world.

How they did hate to give up the fight.

They lost, and with the loss went the loss of their theory in whole.

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When all was through, they were forced to sit and leave Jim's truth unscathed. How unfortunate!

All they could say was that Jim had been a big liar. That is true. In his first two stories, he lied. But, if I had any comment on Jim Conley, it would be that if they had bored me as they bored him at police headquarters, they could have muddied me even more.

Suppose Frank's conduct in this case is shown as it has been. He is a smart man. There is no disputing that fact. He needn't have told you all the details on the stand of the amount of work he did that day. You can tell that he is smart, clever, ingenious.

Now, Jim [Conley], he comes back that Saturday morning by order of the brilliant [Leo] Frank, his boss. There's no denial of this, so far. Other people tell you they have seen women enter the factory with men at suspicious hours. Jim [Conley] tells you of watching for these folks. And there is this to reckon with: Providence has a way of revealing the truth at the final minute. At the eleventh hour we found two men yesterday who had been to the pencil factory at the noon Mary Phagan was murdered. They saw Jim Conley just as he tells you, sitting on the first floor, near the door where he watched for [Leo] Frank. Mrs. White saw him, although she doesn't identify him perfectly. One thing true, she saw a negro in the position Jim tells us he was in. Now, for what purpose was he there? Waiting to do the same thing he had done before-to watch for his boss. They say he was drunk. Very well. But, did you notice how clearly he recited incidents and told the names of people he saw at the times they claim he was so drunk? We are brought up to the time of the tragedy. Jim Conley is still there. Everybody has gone, leaving him and Frank in the building. Frank knew that Mary Phagan was coming that day, and he knew the hour. On the previous afternoon little Helen Ferguson, Mary's chum, had called for Mary's pay, and Frank had told her that Mary Phagan should come and get her own pay, breaking a rule of the plant in doing so. He arranges with Jim to hang around and make himself convenient. Jim [Conley] takes his accustomed seat in the hallway.

Parties come and go.

Jim observes all that happens, he says nothing.

Finally, Mary Phagan arrives, beautiful, innocent, coming in her blue frock and new hat and a ribbon around her hair. Without any thought of evil or foreboding of tragedy, she tripped into the building and up the stairs, going for \$1.20.

No explanation can come from Mary.

The dead have no stories to tell.

She went in a little after 12. She found Frank. He tells us that much from his own lips. He was there from 12:00 to 1:00. It's his own statement. What a statement!

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There was Mary [Phagan].

Then, there was another little girl, Monteen Stover. He [Leo Frank] never knew Monteen [Stover] was there, and he said he stayed in his office from 12:00 until after 1:00 – never left.

Monteen [Stover] waited around for five minutes. Then she left. The result?

(Here Frank Arthur Hooper sums up Leo Frank's virtual murder confession in one sentence)

There comes for the first time from the lips of [Leo] Frank, the defendant, the admission that he might have gone to some other part of the building during this time-he didn't remember clearly.

Jim Conley, sitting faithfully downstairs, heard footsteps going toward the metal room. Then there came the sound of other footsteps, footsteps that pursued. There was no return of the first footsteps, and the footsteps that pursued tiptoed back from the metal room.

Then Leo stamped a signal on the office floor.

I will be fair with [Leo] Frank. When he followed the child back into the metal room, he didn't know that it would necessitate force to accomplish his purpose. I don't believe he originally had murder in his heart.

There was a scream.

Jim Conley heard it.

Just for the sake of knowing how harrowing it was, I wish you jurymen could hear a similar scream.

It was poorly described by the negro. He said it sounded as if a laugh was broken off into a shriek. He heard it break through the stillness of the hushed building. It was uncanny, but he sat faithfully on. He was under orders. He was to come on signal. That scream was no signal.

Later, Frank would stamp on the the office floor. This negro tells you that the white man killed the little girl. But, no! Frank was in his office, busy with his wonderful financial sheet. I will show you how he could have sat at his desk and heard this negro attack the, little child who had come to draw her pay.

[Mr. Hooper turned to the diagram, showing the jury the nearness of the metal room to Frank's office, explaining his theory that nothing could have happened on the floor without being heard or seen by Frank.]

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Mr. Frank, I will give you the benefit of all you deserve. ‘When all is summed up, you were sitting only a few feet from the spot ‘where a murder was committed, and you never raised a finger. Let me show you something else. When this thing was over there were two men and a woman upstairs who had to get out the building before the body was moved. It would be dangerous to leave it lying back in the metal room, staring hideously from unseeing eyes.

Frank went upstairs and told the trio up there that if they were going, it was time for them to leave, as he was going to lock up the factory. He [Leo Frank] was in a hurry and told them so. Mrs. Arthur White, perceiving his evident hurry, hastened downstairs. When she reached the office, Frank, the man-in-a-hurry, was in his shirt sleeves, writing at his desk.

Why should I hang? What does that show?

In the first place, his appreciation of a little girl of 14. Did it hurt him to knot the rope of cord around her neck, did it hurt him as he drew it tighter and tighter around the tender throat until the dim spark of life was choked extinct?

To the contrary.

It only excited him enough to ask himself the question “Why should I hang?” There come times when we all speak our true thoughts and sentiments. That was such a time. Now, which is the more probable—that Jim heard this expression, or that he imagined the story?

Did Jim know Frank had relatives in Brooklyn? Did Jim know there was such a thing as Brooklyn? Did he know they were rich? And Jim says, with the typical soul of Africa: “What’s goin’ to become of me?”

Frank says, “I’ll take care of you, for I’ll write my mother a letter, so that she can help you.” He asks Jim if he can write, and Jim tells him a little bit. He wasn’t on his guard. He should have detected Frank’s purpose. Frank was smart, Jim was dull. Frank dictated, Jim wrote.

Now, gentlemen, I suppose most of you are southern men, men who know the characteristics of the negro. Will you please tell me what idea this negro would have had to write these notes accusing a negro, and, just the same as saying, this was done by a negro who is a fool and who cannot write? It was foolish enough for the mighty brain of Frank to put the notes beside the body. The truth of the business is, that this looks like the only time the brainy Frank ever lost his head.

Then, next comes the money. Frank pulls out his roll of bills, and says, “Jim, here’s that \$200.” Jim is so overwhelmed that he doesn’t notice the amount, but puts the roll in his pocket. Frank reflects. He need not waste the \$200. Jim is as deep in the mire as he is in the mud. He recovers the money.

“Let’s see, Jim, if everything comes out all right, I’ll return this money.”

He tells Jim that Jim has the goods to deliver. The body must be disposed of. That will be left to Jim. He depends on Jim’s lust for the \$200 to bring him back to the factory to burn the corpse of little Mary, the victim! Nobody else was expected by him that afternoon but Jim Conley and Newt Lee.

It makes no difference to me about how long it took Frank to go to lunch, the minute he put in here and the minute he put in there, about which there has been such a squabble in the evidence. That is aside from the point.

The fact remains that at or about 3 o’clock he came back to the pencil factory to await the arrival of Jim Conley to burn that body! He was expecting Jim Conley, and he also knew that Newt Lee was coming. Aye, there was the rub! He expected them both, and it depended upon which one arrived first as to how things would go. If Jim got there first and disposed of that body, all right; but suppose Newt Lee got there first! Then was the defendant in the position of Napoleon at the battle of Waterloo, when he wondered which army would arrive first, and knew that upon this question depended victory or defeat. The wrong army arrived, and Napoleon went down! Newt Lee arrived at the pencil factory that afternoon, but where was Jim Conley? Yes, that’s what the defendant asked himself, “Where is Jim Conley?” Jim Conley was getting that much-needed sleep after the exciting events he had gone through with. That’s where Jim Conley was.

Then was the defendant lost.

He [Leo] sent Newt Lee away, with the last hope that Jim might yet turn up and burn the body as had been agreed upon.

“Go out and have a good time, Newt,”

that’s what the defendant told good old honest Newt Lee. He said, “It is not Newt Lee I want, it is Jim Conley. Go away, Newt, and stay until 6 o’clock. Give me two hours more.” Two hours passed, and Jim Conley did not show up. He was taking that much-needed nap.

Newt came back, and the game was up. He talked to Newt Lee about the night’s work and started home.

Now, gentlemen of the jury, I want to call your attention to a very peculiar thing: As the defendant passed out of the factory door, he met Gantt, old long-legged Gantt, who was looking for his shoes.

Witnesses testified that the defendant jumped back startled.

Why? Think why? He wasn’t afraid of Gantt. Gantt wouldn’t hurt a flea. That wasn’t the reason. He knew that Gantt knew Mary Phagan and had lived close to the family, and

Frank thought that Gantt was looking for little Mary, who was missing from home and should have been back long ago. That's why he jumped back when he saw Gantt. He had called Gantt down about "setting up" to Mary, and had fired him over an argument about who was going to pay a dollar or so. He didn't think that Gantt stole that paltry dollar. He expected him to ask where Mary Phagan was. That, gentlemen of the jury, is why he jumped back when he saw Gantt. But Gantt spoke to the defendant. He just said, "Howdy, Mr. Frank," The defendant felt relieved then. Gantt told him that he had left a pair of shoes in the factory and wanted to get them. But it won't do to let him go in that building now, thought the defendant. Suppose he should find out? He must not go in there.

So the defendant said that he thought he had seen a nigger sweeping Gantt's shoes out of the building. Then Gantt said he had two pairs of shoes in there, and that maybe the other pair -wasn't swept out. This was the last hope. 'What could he say to that? He had said that he saw the nigger sweeping out only one pair.

In a few days this murder must be out, anyway. To keep Gantt out would arouse his suspicions. And this is what went on in the defendant's mind: "I'll let him in, but I'll guard him like a thief." And he said, "Newt, go With him." Strange to say, Gantt found both pairs of shoes, just where he said he had left them.

Gentlemen, does that look like the defendant had seen a nigger sweeping them out? Does that look like the truth? After he had let Gantt in the factory, what did he do? He called up the factory by phone, a thing that he never had done before. Why? Why did he do that thing? Gantt! Gantt! That's why! He wanted to know if Gantt had gone, and whether he was any the wiser. He couldn't rest until he knew this. This Banquo's ghost of a Gantt was haunting him. But when he knew that Gantt was safely gone and everything was all right, he was in a fine humor then. He could laugh and talk He could sit down in the house with his wife and read baseball in the newspaper. He could laugh and try playfully to break up a card game. He felt fine and relieved. As glad and free as a school boy! Old long-legged Gantt was gone, and everything was all right!

Now, about Newt Lee. I don't want to thresh out all the details in this respect. You remember the evidence about honest old Newt Lee's finding the body. That's all we need to know about him.

No suspicion attaches to Newt. He notified the police, and tried to notify Frank.

The police came and took the body of little Mary Phagan to the undertakers. The police called up Frank then and told him they wanted him. Detective Starnes got mixed up when he told about this on the stand, but he never forgot that when he called Frank up, Frank did not ask him what the trouble was. He didn't ask him whether anybody had been killed at the factory. He didn't ask them if everything at the factory was all right. They took Frank to the undertaker's. He was nervous then. But have you seen a quiver of a muscle since he has been these weeks in the court room'? He is facing the fight now, and his nerves are set. But that morning he was as nervous as a cat.

He said, "I think it's a girl I paid off yesterday. I'll have to look at my books and see." That's what he said about the body of the girl he saw every day and talked to. He offered no consolation, or anything. He got away from there. Another thing, when they carried him to the basement and brought him back upstairs, what was going on in his mind then? He thought he must look at that time slip. So he got the key and unlocked the clock and took out the slip. He examined it while others were looking over his shoulder, and said it was correctly punched, that it was all right, and others agreed to it. "Here's the slip." He said, "That's all right. That clears you, Newt." – What next occurred to him? He saw he was getting into a fix, and he had better take a shot at Newt. What happens? Another slip turns up. He says he was mistaken at first. There were lapses in the punches on the slip, showing time enough unaccounted for to allow Newt to go home.

Policeman Black had suspicions. He goes to Newt Lee's home. He unlocks the door with his keys, and looks in the house and on the trash pile, and in the bottom of the barrel, with a lot of things piled on top of it, he found a bloody shirt! How did it get there? Newt Lee accounts for his time Sunday. No suspicion attaches to Newt Lee. He is a free man. How did that bloody shirt get there? It had to be planted. Gentlemen, it was planted!

Here are the two propositions, gentlemen. If Newt Lee was to be made the scapegoat, suspicion had to be directed to him. Somebody had to plant that suspicion. He [Leo Frank] would sacrifice Newt Lee that he might live! The Bible says, "What will not a man give for his life?" He was willing to give the life of Newt Lee that his own life might be spared. He was willing to give the life of Gantt that he might live. Was not Gantt arrested a few days after? But not once at that time did he think of giving the life of Jim Conley. But somebody found Jim Conley washing a shirt to go to the trial, and there was where Jim got into trouble. But Frank didn't try to fix it on Jim then. He waited until Newt had failed, and all else had failed, except the suspicion which rested upon himself. Then he turned on Jim Conley.

I call your attention, gentlemen of the jury, to another peculiar thing: Weeks after the murder, and after the factory had been searched, a big, bloody stick was found by shrewd Pinkerton detectives, who can find anything—even an elephant, if it gets in the way. They also found a piece of envelope. But, fortunately, they showed this to Mr. Coleman, who said that Mary had received but \$1.20 and that the figure "5" on the envelope had no business there. And so, it was rubbed out. Besides the shirt, then, we find the club and the pay envelope.

Another very peculiar thing is about this man named Mincey. Conley was asked, "Didn't you confess to Mincey that you were the man that killed the girl?" Conley said, "No." That question was asked, gentlemen, as a foundation upon which to introduce Mincey. Where is Mincey? He is the man who could clear it all up. He is the man about whom it appeared that the whole fight would center. If he could convince you that Jim confessed the murder to him, that would let Frank out! Yet where is Mincey?

Gentlemen, this has been a long testimony which you have had to sit through, and I do not wish to take up any more of your time than necessary. Gentlemen, the only belief

required of you is the same sort of belief that you would have upon the street, at your places of business, or in your homes, and on this belief you are to act.

Simply use your common sense in the jury box.

I thank you.

MR. ARNOLD, FOR THE PRISONER.



Reuben Arnold

Mr. Arnold:

Gentlemen of the Jury: We are all to be congratulated that this case is drawing to a close. We have all suffered here from trying a long and complicated case at the heated term of the year. It has been a case that has taken so much effort and so much concentration and so much time, and the quarters here are so poor, that it has been particularly hard on you members of the jury who are practically in custody while the case is going on. I know it's hard on a jury, to be kept confined this way, but it is necessary that they be segregated and set apart where they will get no impression at home nor on the street. The members of the jury are in a sense set apart on a mountain, where, far removed from the passion and heat of the plain, calmness roles them and they can judge a case on its merits.

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My friend Hooper said a funny thing here a while ago. I don't think he meant what he said, however. Mr. Hooper said that the men in the jury box are not different from the men on the street. Your Honor, I'm learning something every day, and I certainly learned something today, if that's true. Mr. Hooper. Mr. Arnold evidently mistakes my meaning, which I thought I made clear. I stated that the men in the jury box were like they would be on the street in the fact that in making up their minds about the guilt or innocence of the accused they must use the same common sense that they would if they were not part of the court.

[Mr. Arnold next described the horrible crime that had been committed that afternoon or night in the National Pencil Company's dark basement He dwelt on the effect of the crime upon the people of Atlanta and of how high feeling ran and still runs, and of the omnipresent desire for the death of the man who committed the crime.]

There are fellows like that street car man, Kendley, the one who vilified this defendant here and cried for him to be lynched, and shouted that he was guilty until he made himself a nuisance on the cars he ran. Why, I can hardly realize that a man holding a position as responsible as that of a motorman and a man with certain police powers and the discretion necessary to guide a car through the crowded city streets would give way to passion and prejudice like that. It was a type of man like Kendley who said he did not know for sure whether those negroes hanged in Decatur for the shooting of the street car men were guilty, but he was glad they were hung, as some negroes ought to be hanged for the crime. He's the same sort of a man who believes that there ought to be a hanging because that innocent little girl was murdered, and who would like to see this Jew here hang because somebody ought to hang for it. I'll tell you right now, if Frank hadn't been a Jew there would never have been any prosecution against him.

I'm asking my own people to turn him loose, asking them to do justice to a Jew, and I'm not a Jew, but I would rather die before doing injustice to a Jew. This case has just been built up by degrees; they have a monstrous perjurer here in the form of this Jim Conley against Frank. You know what sort of a man Conley is, and you know that up to the time the murder was committed no one ever heard a word against Frank. Villainy like this charged to him does not crop out in a day. There are long mutterings of it for years before. There are only a few who have ever said anything against Frank. I want to call your attention later to the class of their witnesses and the class of ours.

A few floaters around the factory, out of the hundreds who have worked there in the plant three or four years, have been induced to come up here and swear that Frank has not a good character, but the decent employees down there have sworn to his good character. Look at the jail birds they brought up here, the very dregs of humanity, men and women who have disgraced themselves and who now have come and tried to swear away the life of an innocent man. I know that you members of the jury are impartial. That's the only reason why you are here, and I'm going to strip the state's case bare for you, if I have the strength to last to do it. They have got to show Frank guilty of one thing before you can convict him; they've got to show that he is guilty of the murder, no

matter what else they show about him. You are trying him solely for the murder, and there must be no chance that anyone else could just as likely be guilty.

If the jury sees that there is just as good a chance that Conley can be guilty, then they must turn Frank loose. Now, you can see how in this case the detectives were put to it to lay the crime on somebody. First, it was Lee, and then it was Gantt, and various people came in and declared they had seen the girl alive late Saturday night and at other times, and no one knew what to do. Well, suspicion turned away from Gantt, and in a little while it turned away from Lee.

Now, I don't believe that Lee is guilty of the crime, but I do believe that he knows a lot more about the crime than he told. He knows about those letters and he found that body a lot sooner than he said he did. Oh, well, the whole case is a mystery, a deep mystery, but there is one thing pretty plain, and that is that whoever wrote those notes committed the crime. Those notes certainly had some connection with the murder, and whoever wrote those notes committed the crime. Well, they put Newt Lee through the third degree and the fourth degree, and maybe a few others. That's the way, you know, they got this affidavit from the poor negro woman, Minola McKnight.

Why, just the other day the supreme court handed down a decision in which it referred to the third degree methods of the police and detectives in words that burned. Well, they used those methods with Jim Conley. My friend, Hooper, said nothing held Conley to the witness chair here but the truth, but I tell you that the fear of a broken neck held him there. I think this decision about the third degree was handed down with Conley's case in mind. I'm going to show this Conley business up before I get through. I'm going to show that this entire case is the greatest frameup in the history of the state.

My friend Hooper remarked something about circumstantial evidence, and how powerful it frequently was. He forgot to say that the circumstances, in every case, must invariably be proved by witnesses. History contains a long record of circumstantial evidence, and I once had a book on the subject which dwelt on such cases, most all of which sickens the man who reads them. Horrible mistakes have been made by circumstantial evidence—more so than by any other kind.

[1 Here Mr. Arnold cited the Durant case in San Francisco, the Hampton case in England, and the Dreyfus case in France as instances of mistakes of circumstantial evidence. In the Dreyfus case he declared it was purely persecution of the Jew. The hideousness of the murder itself was not as savage, he asserted, as the feeling to convict this man. But the savagery and venom is there just the same, and it is a case very much on the order of Dreyfus.]

Hooper says, "Suppose Frank didn't kill the girl, and Jim Conley did, wasn't it Frank's duty to protect her." He was taking the position that if Jim went back there and killed her, Frank could not help but know about the murder. Which position, I think, is quite absurd. Take this hypothesis, then, of Mr. Hooper's. If Jim saw the girl go up and went back and killed her, would he have taken the body down the elevator at that time? Wouldn't he

have waited until Frank and White and Denham, and Mrs. White and all others were out of the building? I think so. But there's not a possibility of the girl having been killed on the second floor. Hooper smells a plot, and says Frank has his eye on the little girl who was killed.

The crime isn't an act of a civilized man—it's the crime of a cannibal, a man-eater. Hooper is hard-pressed and wants to get up a plot—he sees he has to get tip something. He forms his plot from Jim Conley's story. They say that on Friday, Frank knew he was going to make an attack of some sort on Mary Phagan. The plot thickens. Of all the wild things I have ever heard, that is the wildest. It is ridiculous. Mary Phagan worked in the pencil factory for months, and all the evidence they have produced that Frank ever associated with her—ever knew her—is the story of weasley little Willie Turner, who can't even describe the little girl who was killed. A little further on in his story, Jim is beginning the plot. They used him to corroborate everything as they advised. Jim is laying the foundation for the plot. What is it—this plot? Only that on Friday Frank was planning to commit some kind of assault upon Mary Phagan.

Jim was their tool. Even Scott swears that when he told Jim that Jim's story didn't fit, Jim very obligingly adapted it to suit his defense. He was scrupulous about things like that. He was quite considerate. Certainly. He had his own neck to save. Jim undertook to show that Frank had an engagement with some woman at the pencil factory that Saturday morning. There is no pretense that another woman is mixed up in the case. No one would argue that he planned to meet and assault this innocent little girl who was killed. Who but God would know whether she was coming for her pay that Friday afternoon or the next Saturday? Are we stark idiots? Can't we divine some things?

They've got a girl named Ferguson, who says she went for Mary Phagan's pay on the Friday before she was killed, and that Frank wouldn't give it to her. It is the wildest theory on earth, and it fits nothing. It is a strained conspiracy. Frank, to show you I am correct, had nothing whatever to do with paying off on Friday. Schiff did it all. And little Magnolia Kennedy, Helen Ferguson's best friend, says she was with Helen when Helen went to draw her pay, and that Helen never said a word about Mary's envelope. There's your conspiracy, with Jim Conley's story as its foundation. It's too thin. It 's preposterous.

Then my friend Hooper says Frank discharged Gantt because he saw Gantt talking to Mary Phagan. If you convict men on such distorted evidence as this, why you'd be hanging men perpetually. Gantt, in the first place, doesn't come into this case in any good light. It is ridiculously absurd to bring his discharge into this plot of the defense. Why, even Grace Hicks, who worked with Mary Phagan, and who is a sister-in-law of Boots Rogers, says that Frank did not know the little girl. Hooper also says that bad things are going on in the pencil factory, and that it is natural for men to cast about for girls in such environments. We are not trying this case on whether you or I or Frank had been perfect in the past. This is a case of murder. Let him who is without sin cast the first stone.

I say this much, and that is that there has been as little evidence of such conditions in this plant as any other of its kind you can find in the city. They have produced some, of course, but it is an easy matter to locate some ten or twelve disgruntled ex-employees who are vengeful enough to swear against their former superintendent, even though they don't know him except by sight. I want to ask this much : Could Frank have remained at the head of this concern if he had been as loose morally as the state has striven to show? If he had carried on with the girls of the place as my friend alleged, wouldn't the entire working force have been demoralized, ruined? He may have looked into this dressing room, as the little Jackson girl says, but, if he did, it was done to see that the girls weren't loitering. There were no lavatories, no toilets, no baths in these dressing rooms. The girls only changed their top garments. He wouldn't have seen much if he had peered into the place. You can go to Piedmont park any day and see girls and women with a whole lot less on their persons. And to the shows any night you can see the actresses with almost nothing on.

Everything brought against Frank was some act he did openly and in broad daylight, and an act against which no kick was made. The trouble with Hooper is that he sees a bear in every bush. He sees a plot in this because Frank told Jim Conley to come back Saturday morning. The office that day was filled with persons throughout the day. How could he know when Mary Phagan was coming or how many persons would be in the place when she arrived?

This crime is the hideous act of a negro who would ravish a ten-year-old girl the same as he would ravish a woman of years. It isn't a white man's crime. It's the crime of a beast—a low, savage beast!

Now, back to the case. There is an explorer in the pencil factory by the name of Barrett—I call him Christopher Columbus Barrett purely for his penchant for finding things. Mr. Barrett discovered the blood spots in the place where Chief Beavers, Chief Lanford and Mr. Black and Mr. Starnes had searched on the Sunday of the discovery. They found nothing of the sort. Barrett discovered the stains after he had proclaimed to the whole second floor that he was going to get the \$4,000 reward if Mr. Frank was convicted. Now, you talk about plants! If this doesn't look mighty funny that a man expecting a reward would find blood spots in a place that has been scoured by detectives, I don't know what does. Four chips of this flooring were chiseled from this flooring where these spots were found. The floor was an inch deep in dirt and grease. Victims of accidents had passed by the spot with bleeding fingers and hands. If a drop of blood had ever fallen there, a chemist could find it four years later. Their contention is that all the big spots were undiluted blood. Yet, let's see how much blood Dr. Claude Smith found on the chips. Probably five corpuscles, that's all, and that's what he testified here at the trial. My recollection is that one single drop of blood contains 8,000 corpuscles. And, he found these corpuscles on only one chip. I say that half of the blood had been on the floor two or three years.

The stain on all chips but one were not blood. Dorsey's own doctors have put him where he can't wriggle—his own evidence hampers him! They found blood spots on a certain

spot and then had Jim adapt his story accordingly. They had him put the finding of the body near the blood spots, and had him drop it right where the spots were found. It stands to reason that if a girl had been wounded on the lathing machine, there would have been blood in the vicinity of the machine. Yet, there was no blood in that place, and neither was there any where the body was said to have been found by Conley. The case doesn't fit. It's flimsy. And, this white machine oil that they've raised such a rumpus over. It was put on the floor as a cheap, common plant to make it appear as though someone had put it there in an effort to hide the blood spots. The two spots of blood and the strands of hair are the only evidence that the prosecution has that the girl was killed on the second floor.

Now, about these strands of hair. Barrett, the explorer, says he found four or five strands on the lathing machine. I don't know whether he did or not. They've never been produced. I've never seen them. But, it's probable, for just beyond the lathing machine, right in the path of a draft that blows in from the window, is a gas jet used by the girls in curling and primping their hair. It's very probable that strands of hair have been blown from this jet to the lathing machine.

The detectives say that Frank is a crafty, cunning criminal, when deep down in their heart of hearts they know good and well that their case is built against him purely because he was honest enough to admit having seen her that day. Had he been a criminal, he never would have told about seeing her and would have replaced her envelope in the desk, saying she had never called for her pay.

I believe that a majority of women are good. The state jumped on poor Daisy Hopkins. I don't contend, now, mind you, that she is a paragon of virtue. But there are men who were put up by the state who are no better than she. For instance, this Dalton, who says openly that he went into the basement with Daisy. I don't believe he ever did, but, in such a case, he slipped in. There are some fallen women who can tell the truth. They have characteristics like all other types. We put her on the stand to prove Dalton a liar, and she did it.

Now, gentlemen, don't you think the prosecution is hard pressed when they put up such a character as Dalton? They say he has reformed. A man with thievery in his soul never reforms. Drunkards do, and men with bad habits, but thieves! No. Would you convict a man like Frank on the word of a perjurer like Dalton?

Now, I'm coming back to Jim Conley. The whole case centers around him. Mr. Hooper argues well on that part. At the outset of the case, the suspicion pointed to Frank merely because he was the only man in the building. It never cropped out for weeks that anyone else was on the first floor. The detectives put their efforts on Frank because he admitted having seen the girl. They have let their zeal run away with them in this case, and it is tragic. They are proud whenever they get a prisoner who will tell something. The humbler the victim the worse is the case. Such evidence comes with the stamp of untruth on its face.

Jim Conley was telling his story to save his neck, and the detectives were happy listeners. If there is one thing for which a negro is capable it is for telling a story in detail. It is the same with children. Both have vivid imaginations. And a negro is also the best mimic in the world. He can imitate anybody. Jim Conley, as he lay in his cell and read the papers and talked with the detectives, conjured up his wonderful story, and laid the crime on Frank, because the detectives had laid it there and were helping him do the same.

Now, Brother Hooper waves the bloody shirt in our face. It was found, Monday or Tuesday, in Newt Lee's house, while Detectives Black and Scott were giving Cain to poor old man Newt Lee. I don't doubt for a minute that they knew it was out there when they started out after it. I can't say they planted it, but it does look suspicious. Don't ask us about a planted shirt. Ask Scott and Black.

The first thing that points to Conley's guilt is his original denial that he could write. Why did he deny it? Why? I don't suppose much was thought of it when Jim said he couldn't write, because there are plenty of negroes who are in the same fix. But later, when they found he could, and found that his script compared perfectly with the murder notes, they went right on accusing Frank. Not in criminal annals was there a better chance to lay at the door of another man a crime than Jim Conley had. You see, there is a reason to all things. The detective department had many reasons to push the case against Frank. He was a man of position and culture. They were afraid that someone, unless they pushed the case to the jumping off place, would accuse them of trying to shield him. They are afraid of public and sentiment, and do not want to combat it, so, in such cases, they invariably follow the line of least resistance.

[Reading Conley's statement, Mr. Arnold pointed out the use of words, which he declared no negro would naturally have used.] These were long words with many syllables in them. They said that Conley used so much detail in his statements that he could not have been lying! [He then read parts of statements which Conley had repudiated as willful lies and pointed out the wealth of detail with which they were filled.] And yet they say he couldn't fabricate so much detail! Oh, he is smart! [He then read the statement of May 24, in which Conley admitted writing the notes. In this he shows three different times at which Conley stated he wrote the notes, these being early in the morning, at 12:04 and at 3 p.m.] The statements were not genuinely Conley's. Take the word "negro." The first word that a nigger learns to spell correctly is negro, and he always takes particular pains to spell it n-e-g-r-o. He knows how to spell it. Listen to the statement. He says that at first he spelled the word "negros," but that Frank did not want the "s" on it and told him to rub it out, which he did. Then he says that he wrote the word over.

Look at the notes. He was treed about those notes, and he had to tell a lie and put upon someone the burden of instructing him to write them. The first statement about them was a blunt lie—a lie in its incipiency. He said he wrote the notes on Friday. This was untrue, and unreasonable and he saw it. Frank could not have known anything of an intended murder on Friday from any viewpoint you might take, and therefore he could not have made Conley write them on Friday.

Ah, gentlemen of the jury, I tell you these people had a great find when they got this admission from Conley ! If Conley had stayed over there in the Tower with Uncle Wheeler Mangum he would have told the truth long ago. There's where he should have stayed, with Wheeler Mangum. My good friend, Dorsey, is all right. I like him. But he should not have walked hand in glove with the detectives. There's where he went wrong. My good old friend, Charlie Hill would not have done that. He would have let the nigger stay in the jail with Uncle Wheeler.

I like Dorsey. He simply made a mistake by joining in the hunt, in becoming a part of the chase. The solicitor should be little short of as fair as the judge himself. But he's young and lacks the experience. He will probably know better in the future. Dorsey did this : He went to the judge and got the nigger moved from the jail to the police station. The judge simply said, "Whatever you say is all right."

Now, I'm going to show you how John Black got the statement of Conley changed. I am going to give you a demonstration. I have learned some things in this case about getting evidence . They say that Frank cut Conley loose and he decided to tell the truth. Conley is a wretch with a long criminal record. Gentlemen, how can they expect what he says to be believed against the statement of Leo M. Frank? They say Conley can't lie about detail. Here are four pages, all of which he himself admits are lies. They are about every saloon on Peters Street, saloons to which he went, his shooting craps, his buying beer and all the ways in which he spent a morning. There is detail enough, and he admits that they are lies. Now, in his third statement, that of May 28, he changes the time of writing the letters from Friday to Saturday. Here are two pages of what he said, all of which he afterwards said were lies. He says that he made the statement that he wrote the notes on Friday in order to divert suspicion from his being connected with the murder which happened on Saturday. He also says that this is his final and true statement. God only knows how many statements he will make. He said he made the statement voluntarily and truthfully without promise of reward, and that he is telling the truth and the whole truth. He said in his statement that he never went to the building on Saturday. Yet we know that he was lurking in the building all the morning on the day of the murder. We know that he watched every girl that walked into that building so closely that he could tell you the spots on their dresses. We know that he was drunk, or had enough liquor in him to fire his blood. I know why he wouldn't admit being in that building on Saturday. He had guilt on his soul, and he didn't want it to be known that he was here on Saturday.

That's why when they pinned him down, what did he do? He says that he was watching for Frank. My God, wasn't he a watchman! He said that he heard Frank and Mary Phagan walking upstairs, and that he heard Mary Phagan scream, and that immediately after hearing the scream he let Monteen Stover into the building. Why, they even have him saying that he watched for Frank, when another concern was using the very floor space in which Frank's office was located, and you know they wouldn't submit to anything like that.

Look again! He says that Mr. Frank said, "Jim, can you write?" What a lie ! He admitted that he had been writing for Frank for two years. It's awful to have to argue about a thing

like this, gentlemen ! You will remember Hooper said, “How foolish of Conley to write these notes ! ” How much more foolish, I say, of Frank to do it!

I don't think that Newt killed the girl, but I believe he discovered the body some time before he notified the police. Newt's a good nigger. Scott said that it took Conley six minutes to write a part of one note. Conley said that he wrote the notes three times.

They say that nigger couldn't lie. Gentlemen, if there is any one thing that nigger can do, it is to lie. As my good old friend, Charlie Hill, would say, “Put him in a hopper and hell drip lye!”

He was trying to prove an alibi for himself when he said that he was not in the factory on Saturday and told all the things that he did elsewhere on that day. But we know that the wretch was lurking in the factory all of Saturday morning. Further, he swore that while he was in Frank's office he heard someone approaching, and Mr. Frank cried out, “Gee! Here come Corinthia Hall and Emma Clarke!” and that Frank shut him up in a wardrobe until they left. According to Conley, they came into the factory between 12 and 1 o'clock, when as a matter of fact, we know that they came between 11 and 12.

And as for his being able to fabricate the details of his statement—why, he knew every inch of that building from top to bottom! Hadn't he been sweeping and cleaning it for a long time? With this knowledge of the building, he naturally had no trouble in his pantomime after he had formed his story. The miserable wretch has Frank hiding him in the wardrobe when Emma Clarke came in after the murder, when it has been proved that she came there and left before Mary Phagan ever entered the building on that day. They saw where they were wrong in that statement, and they made Conley change it on the stand. They made him say, “I thought it was them.” They knew that that story wouldn't fit.

Do you remember, how eagerly Conley took the papers from the girls at the factory? And do you remember how for four or five days the papers were full of the fact that Frank's home was in Brooklyn, and that his relatives were reported to be wealthy? Conley didn't have to go far to get material for that statement he put in Frank's mouth. It so happened, though, that Frank really did not have rich relatives in Brooklyn. His mother testified that his father was in ill health, and had but moderate means and that his sister worked in New York for her living.

Gentlemen, am I living or dreaming, that I have to argue such points as these? This is what you've got to do: You've got to swallow every word that Conley has said—feathers and all, or you've got to believe none of it. How are you going to pick out of such a pack of lies as these what you will believe and what you will not? Yet, this is what the prosecution has based the case upon. If this fails, all fails. And do you remember about the watch, where Conley said that Frank asked him, “Why do you want to buy a watch for your wife? My big, fat wife wanted me to buy her an automobile, but I wouldn't do it!” Do you believe that, gentlemen of the jury? I tell you that they have mistreated this poor woman terribly. They have insinuated that she would not come to the tower to see

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Frank—had deserted him. When we know that she stayed away from the jail at Frank's own request because he did not want to submit her to the humiliation of seeing him locked up and to the vulgar gaze of the morbid and to the cameras of the newspaper men. The most awful thing in the whole case is the way this family has been mistreated!

The way they invaded Frank's home and manipulated his servants. I deny that the people who did this are representative of the 175,000 people of Fulton county. We are a fair people, and we are a chivalrous people. Such acts as these are not in our natures.

Conley next changes the time of the writing of the notes to Saturday, but denies knowledge of the murder. That, of course, did not satisfy these gentlemen, and they went back to him. They knew he was dodging incrimination. So they had him to change the statement again. Scott and other detectives spent six hours at the time with Conley on occasions and used profanity and worried him to get a confession. Hooper thinks that we have to break down Conley's testimony on the stand, but there is no such ruling. You can't tell when to believe him, he has lied so much. Scott says the detectives went over the testimony with Dorsey. There is where my friend got into it. They grilled Conley for six hours, trying to impress on him the fact that Frank would not have written the notes on Friday. They wanted another statement. He insisted that he had no other statement to make, but he did change the time of the writing of the notes from Friday to Saturday. This shows, gentlemen, as clearly as anything can show, how they got Conley's statements.

In the statement of May 29, they had nothing from Jim Conley about his knowledge of the killing of the little girl, and the negro merely said that Frank had told him something about the girl having received a fall and about his helping Frank to hide the body. Oh, Conley, we are going to have you tell enough to have you convict Frank and yet keep yourself clear. That's a smart negro, that Conley. And you notice how the state bragged on him because he stood up under the cross-examination of Colonel Rosser. Well, that negro's been well versed in law. Scott and Black and Starnes drilled him; they gave him the broad hints.

We came here to go to trial, and knew nothing of the negro's claim to seeing the cord around the little girl's neck, or of his claim of seeing Lemmie Quinn go into the factory, or of a score of other things. Yet, Conley was then telling the truth, he said, and he had thrown Frank aside. Oh, he was no longer shielding Frank, and yet he didn't tell it all when he said he was telling the whole truth. Well, Conley had a revelation, you know. My friend Dorsey visited with him seven times. And my friend, Jim Starnes, and my Irish friend, Patrick Campbell, they visited him, and on each visit Conley saw new light. Well, I guess they showed him things and other things. Does Jim tell a thing because it's the truth, gentlemen of the jury, or because it fits into something that another witness has told?

Scott says they told him thing that fitted. And Conley changed things every time he had a visit from Dorsey and the detectives. Are you going to hang a man on that?

Gentlemen, it's foolish for me to have to argue such a thing. The man that wrote those murder notes is the man who killed that girl. Prove that man was there and that he wrote the notes and you know who killed the girl. Well, Conley acknowledges he wrote the notes and witnesses have proved he was there and he admits that, too. That negro was in the building near the elevator shaft; it took but two steps for him to grab that little girl's mesh bag. She probably held on to it and struggled with him. A moment later he had struck her in the eye and she had fallen. It is the work of a moment for Conley to throw her down the elevator shaft. Isn't it more probable that the story I have outlined is true than the one that Conley tells on Frank?

Suppose Conley were now under indictment and Frank out, how long would such a story against Frank stand the pressure? In the statement of May 29 there are any number of things that are not told of which later were told on the stand. In the May 29 statement Conley never told of seeing Mary Phagan enter; he never told of seeing Monteen Stover enter, nor of seeing Lemmie Quinn enter; now he tells of having seen all of them enter. Don't you see how they just made it to fit witnesses and what the witnesses would swear? It was, "Here, Conley, swear that Quinn came up, swear that the dead girl came up, and swear that Miss Stover came up ; they all did, and it's true, swear to it !" And Conley would say, "All right, boss, Ah reckon they did." And it was "Conley, how did you fail to hear that girl go into the metal room? We know she went there, because by our blood and hair we have proved she was killed there," and the poor negro thought a minute, and then he said, "Yes, boss, I heard her go in." The state's representatives had put it into the negro's head to swear he heard Frank go in with her, and that he heard Frank come tiptoeing out later, and that by that method they made Conley swear that Frank was a moral pervert.

Now, I don't know that they told Conley to swear to this and to swear to that, but they made the suggestions, and Conley knew whom he had to please. He knew that when he pleased the detectives that the rope knot around his neck grew looser. In the same way they made Conley swear about Dalton, and in the same way about Daisy Hopkins. They didn't ask him about the mesh bag. They forgot that until Conley got on the stand. That mesh bag and that pay envelope furnish the true motive for this crime, too, and if the girl was ravished, Conley did it after he had robbed her and thrown her body into the basement.

Well, they got Conley on the stand, and my friend Dorsey here asked Conley about the mesh bag, and he said, yes, Frank had put it in his safe. That was the crowning lie of all! Well, they've gone on this way, adding one thing and another, thing. They wouldn't let Conley out of jail; they had their own reasons for that, and yet I never heard that old man over there (pointing to the sheriff) called dishonest. He runs his jail in a way to protect the innocent and not to convict them in this jail.

Gentlemen, right here a little girl was murdered, and it's a terrible crime. The Phagan tragedy, the crime that stirred Atlanta as none other ever did. We have already got in court the man who wrote those notes, and the man who by his own confession was there;

the man who robbed her, and, gentlemen, why go further in seeking the murderer than the black brute who sat there by the elevator shaft?

The man who sat by that elevator shaft is the man who committed the crime. He was full of passion and lust ; he had drunk of mean whiskey, and he wanted money at first to buy more whiskey. [Mr. Arnold asked the sheriff to unwrap a chart which had previously been brought into court. It proved to be a chronological chart of Frank's alleged movements on Saturday, April 26, the day of the crime, and Mr. Arnold announced to the jury that he would prove by the chart that it was a physical impossibility for Frank to have committed the crime.]

Every word on that chart is taken from the evidence, and it will show you that Frank did not have time to commit the crime charged to him. The state has wriggled a lot in this affair; they put up little George Epps, and he swore that he and Mary Phagan got to town about seven after twelve, and then they used other witnesses, and my friend Dorsey tried to boot the Epps boy's evidence aside as though it were nothing. The two street car men, Hollis and Mathews, say that Mary Phagan got to Forsyth and Marietta at five or six minutes after twelve, and they stuck to it, despite every attempt to bulldoze them, and then Mathews, who rode on the car to Whitehall and Mitchell, says that Mary Phagan rode around with him to Broad and Hunter streets before she got off.

Well, the state put up McCoy, the man who never got his watch out of soak until about the time he was called as a witness, and they had him swear that he looked at his watch at Walton and Forsyth (and he never had any watch), and it was 12 o'clock exactly, and then he walked down the street and saw Mary Phagan on her way to the factory. Now, I don't believe McCoy ever saw Mary Phagan. Epps may have seen her, but the State apparently calls him a liar, when they introduce other testimony to show a change of time to what he swore to. It's certain those two street car men who knew the girl, saw her, but the state comes in with the watchless McCoy and Kendley, the Jew-hater, and try to advance new theories about the time and different ones from what their own witness had sworn to. Well, we have enough to prove the time, all right; we have the street car schedule, the statement of Hollis and Mathews and of George Epps, the state's own witness.

The next thing is, how long did it take Conley to go through with what he claims happened from the time he went into Frank's office and was told to get the body until he left the factory. According to Conley's own statement, he started at four minutes to 1 o'clock and got through at 1:30 o'clock, making 34 minutes in all Harlee Branch says that he was there when the detectives made Conley go through with what he claimed took place, and that he started then at 12 :17, and by Mr. Branch's figures, it took Conley 50 minutes to complete the motions. Well, the state has attacked nearly everybody we have brought into this case, but they didn't attack Dr. William Owen, and he showed by his experiments that Conley could not have gone through those motions in 34 minutes. Jim Conley declared that he started at 4 minutes to 1 o'clock to get the body, and that he and Frank left at 1 :30. If we ever pinned the negro down to anything, we did to that, and we have shown that he could not have done all that in 34 minutes.

Away with your filth and your dirty, shameful evidence of perversion; your low street gossip, and come back to the time—the time-element in the case. Now, I don't believe the little Stover girl ever went into the inner office. She was a sweet, innocent, timid little girl, and she just peeped into the office from the outer one, and if Frank was in there, the safe door hid him from her view, or if he was not there, he might have stepped out for just a moment. Oh, my friend, Dorsey, he stops clocks and he changes schedules, and he even changes a man's whole physical make-up, and he's almost changed the course of time in an effort to get Frank convicted. Oh, I hate to think of little Mary Phagan in this. I hate to think that such a sweet, pure, good little girl as she was, with never a breath of anything wrong whispered against her, should have her memory polluted with such rotten evidence against an innocent man.

Well, Mary Phagan entered the factory at approximately 12 minutes after 12, and did you ever stop to think that it was Frank who told them that the girl entered the office when she entered it? If he had killed her he would have just slipped her pay envelope back in the safe and declared that he never saw her that day at all, and then no one could have ever explained how she got into that basement. But Frank couldn't know that there was hatred enough left in this country against his race to bring such a hideous charge against him.

Well, the little girl entered, and she got her pay and asked about the metal and then she left, but, there was a black spider waiting down there near the elevator shaft, a great passionate, lustful animal, full of mean whiskey and wanting money with which to buy more whiskey. *He was as full of vile lust as he was of the passion for more whiskey, and the negro (and there are a thousand of them in Atlanta who would assault a white woman if they had the chance and knew they wouldn't get caught) robbed her and struck her and threw her body down the shaft, and later he carried it back, and maybe, if she was alive, when he came back, he committed a worse crime, and then he put the cord around her neck and left the body there.*

Do you suppose Frank would have gone out at 1 :20 o'clock and left that body in the basement and those two men, White and Denham, at work upstairs? Do you suppose an intelligent man like Frank would have risked running that elevator, like Conley says he did, with the rest of the machinery of the factory shut off and nothing to prevent those men up there hearing him? Well, Frank says he left the factory at 1 o'clock, and Conley says he left there at 1 :30. Now, there's a little girl, who tried the week before to get a job as stenographer in Frank's office, who was standing at Whitehall and Alabama streets, and saw Frank at ten minutes after 1. Did she lie? Well, Dorsey didn't try to show it, and according to Dorsey, everybody lied except Conley and Dalton and Albert McKnight. This little girl says she knows it was Frank, because Professor Briscoe had introduced her to him the week before, and she knows the time of day because she had looked at a clock, as she had an engagement to meet another little girl. *That stamps your Conley story a lie blacker than hell!*

Then, Mrs. Levy, she's a Jew, but she's telling the truth; she was looking for her son to come home, and she saw Frank get off the car at his home corner, and she looked at her

clock and saw it was 1 :20. Then, Mrs. Selig and Mr. Selig swore on the stand that they knew he came in at 1 :20. Oh, of course, Dorsey says they are Frank's parents and wretched liars when they say they saw him come in at 1 :20. There's no one in this case that can tell the truth but Conley, Dalton and Albert McKnight. They are the lowest dregs and jail-birds, and all that, but they are the only ones who know how to tell the truth! Well, now Albert says he was there at the Selig home when Frank came in; of course he is lying, for his wife and the Seligs prove that, but he's the state's witness and he says Frank got there at 1 :30, and thus he brands Conley's story about Frank's leaving the factory at 1:30 a lie. Well, along the same lines, Albert says Frank didn't eat and that he was nervous, and Albert says he learned all this by looking into a mirror in the dining room, and seeing Frank's reflection. Then Albert caps the climax to his series of lies by having Frank board the car for town at Pulliam street and Glenn.

Now as to the affidavit signed by Minola McKnight, the cook for Mr. and Mrs. Emil Selig. How would you feel, gentlemen of the jury, if your cook, who had done no wrong and for whom no warrant had been issued, and from whom the solicitor had already got a statement, was to be locked up? Well, they got that wretched husband of Minola 's by means of Graven and Pickett, two men seeking a reward, and then they got Minola, and they said to her, "Oh, Minola, why don't you tell the truth like Albert's telling it?" They had no warrant when they locked this woman up. Starnes was guilty of a crime when he locked that woman up without a warrant, and Dorsey was, too, if he had anything to do with it. Now, George Gordon, Minola's lawyer, says that he asked Dorsey about getting the woman out, and Dorsey replied, "I'm afraid to give my consent to turning her loose; I might get in bad with the detective department." That's the way you men got evidence, was it?

Miss Rebecca Carson, a forewoman of the National Pencil factory, swore Frank had a good character. The state had introduced witnesses who swore that the woman and Frank had gone into the woman's dressing room when no one was around. I brand it a culmination of all lies when this woman was attacked. Frank had declared her to be a perfect lady with no shadow of suspicion against her. Well, Frank went on back to the factory that afternoon when he had eaten his lunch, and he started in and made out the financial sheet. I don't reckon he could have done that if he had just committed a murder, particularly when the state says he was so nervous the next morning that he shook and trembled. Then, the state says Frank wouldn't look at the corpse. But who said he didn't t Nobody. Why, Gheesling and Black didn't swear to that. Now, gentlemen, I've about finished this chapter, and I know it's been long and hard on you and I know it's been hard on me, too; I'm almost broken down, but it means a lot to that man over there. It means a lot to him, and don't forget that.

This case has been made up of just two things — prejudice and perjury. I've never seen such malice, such personal hatred in all my life, and I don't think anyone ever has. The crime itself is dreadful, too horrible to talk about, and God grant that the murderer may be found out, and I think he has. I think we can point to Jim Gonley and say there is the man. But, above all, gentlemen, let's follow the law in this matter. In circumstantial cases you can't convict a man as long as there's any other possible theory for the crime

of which he is accused, *and you can't find Frank guilty if there's a chance that Conley is the murderer*. The state has nothing on which to base their case but Conley, and we've shown Conley a liar. Write your verdict of not guilty and your consciences will give your approval.

MR. ROSSER, FOR THE PRISONER.



Luther Rosser

Mr. Rosser:

Gentlemen of the jury. All things come to an end. With the end of this case has almost come the end of the speakers, and but for the masterly effort of my brother, Arnold, I almost wish it had ended with no speaking. My condition is such that I can say but little ; my voice is husky and my throat almost gone. But for my interest in this case and my profound conviction of the innocence of this man, I would not undertake to speak at all. I want to repeat what my friend, Arnold, said so simply. He said this jury is no mob. The attitude of the juror's mind is not that of the mind of the man who carelessly walks the streets. My friend, Hooper, must have brought that doctrine with him when he came to Atlanta. We walk the street carelessly and we meet our friends and do not recognize them; we are too much absorbed in our own interests. Our minds wander in flights of

fancy or in fits of reverence ; we may mean no harm to ourselves, nor to our friends, but we are careless. No oath binds us when we walk the streets.

Men, you are different; you are set aside; you ceased when you took your juror's oath to be one of the rollicking men of the streets; you were purged by your oath. In old pagan Rome the women laughed and chattered on the streets as they went to and fro, but there were a few — the Vestal Virgins — they cared not for the gladiatorial games, nor the strife of the day. So it is with you men, set apart; you care not for the chatter and laughter of the rabble; you are unprejudiced and it is your duty to pass on a man's life with no passion and no cruelty, but as men purged by an oath from the careless people of the streets. You are to decide from the evidence, with no fear of a hostile mob and no thought of favor to anyone.

What suggestion comes into a man's mind when he thinks of a crime like this? And what crime could be more horrible than this one? What punishment too great for the brute in human form who committed it and who excited this community to a high pitch? Since 1908 the National Pencil factory has employed hundreds of girls and women, and also men, and not all of the girls and women, not all of the men have been perfect, but you can find good men and women in all strata of life, and yet the detectives, working with microscopes and with the aid of my friend, Dorsey, excited almost beyond peradventure, found only two to swear against Frank. They found Dalton and they found Conley.

Well, I'll take up Conley at a more fitting time, but Dalton, who is Dalton? God Almighty writes on a man's face and he don't always write a pretty hand, but he writes a legible one. When you see Dalton you put your hand on your pocketbook. When Dalton took the stand Mr. Arnold and I had never had the pleasure of seeing his sweet countenance before, but Mr. Arnold leaned over and whispered in my ear, "There's a thief if there ever was one." I smelt about him the odor of the chain gang, and I began to feel him out. I asked him if he had ever been away from home for any length of time, and he knew at once what I meant and he began to dodge and to wriggle, and before he left the stand I was sure he was a thief. Dalton was on, three times in Walton county and then in another county where he probably went to escape further trouble in Walton, he got into trouble again. It wasn't just the going wrong of a young man who falls once and tries to get over it, but it was the steady thievery of a man at heart a thief. Of course, Dalton comes here to Atlanta and reforms. Yes, he joined a Godly congregation and persuaded them that he had quit his evil ways. That's an old trick of thieves and they use it to help their trade along. I believe in the divine power of regeneration; I believe that you can reform, that there's always time to turn back and do right, but there's one kind of man whom I don't believe can ever reform. Once a thief, always a thief.

Our Master knew it. He recognized the qualities of a thief. You remember when they crucified Him and He hung on the cross there on the hill. Well, He had a thief hanging beside Him, and He said to that thief, "This day thou shalt be with Me in Paradise." He didn't dare say tomorrow. He knew He'd better say today, because by tomorrow that thief would be stealing again in Jerusalem.

Dalton disgraced the name of his race, and he was a thief and worse, if there can be, and yet he joined the church. He joined the church and he's now a decent, believable man. Well, you remember how brazenly he sat here on the stand and bragged of his "peach," how indecently he bragged of his fall; how he gloated over his vice. He was asked if he ever went to that miserable, dirty factory basement with a woman for immoral purposes, and he was proud to say that he had. Gentlemen, it was the first time Dalton had ever been in the limelight; it was the first time decent, respectable white men and women had ever listened to him with respect, let alone attention. When he was asked about that, if he was guilty, if he had fallen, he might have declined to answer, he might have hung his head in shame, as any decent, respectable man would have done, but instead, he bragged and boasted of it.

When Dalton was asked what sort of a woman Frank had, he brazenly and braggingly said he did not know, that he himself had such a peach there that he could not take his eyes off her to look at Frank's woman. Well, you have seen Dalton's peach; you all have seen Daisy. Conley tells a different story. He says Frank took the peach (that lemon) for himself and that Dalton had to get him another woman. I'm not saying that we are all free of passion, that we are all moral and perfect, but at least the decent man don't brag of having a peach.

Well, if you believe Dalton's story, and let's presume it true now. If you believe it he went into that scuttle hole there at the factory with Daisy. Dalton took that woman into the factory, into a dirty, nasty, fetid hole where the slime oozed and where no decent dog or cat would go, and there he satisfied his passion. That's what he told us. Well, Dalton told us he went there about 2 o'clock one Saturday afternoon last year, and of course, at that time the Clarke Wooden Ware company occupied the lower floor and used the same entrance that the National Pencil Company did, and Frank was at lunch and knew nothing of Dalton's visit. Of course, Dalton left an oozy trail behind him; wherever he went he did that. You can still feel it in this court room. Of course, too, Dalton may have gone into the pencil factory that day and left his oozy, slimy trail there, but otherwise there's nothing against the factory, and you know there's not, for our great quartet — Starnes and Campbell and Black (oh, how I love Black ; I always want to put my arms around him whenever I think of him), and Scott, for he was with that crowd; they tried their very best to find something that would show that factory up as a vile hole.

Well, there's another reason that proves conclusively that it was not the assignation place Dalton and Conley name it. It has always been wrong for men and women to commit fornication and adultery, but it's always been done and the world, as long as it was done decently and quietly and not bragged about and blazoned forth in public places, has rather allowed it to go unchecked, but it's not so now. You know, I know the working people of this state and this city. I've always worked with my head and it's never been my good fortune to be one of the working people, but there are no silken ladies in my ancestry, nor are there any dudish men. I know the working men and the working women, because that blood runs in my veins, and if any man in Atlanta knows them I do, and I tell you that there are no 100 working girls and women in Atlanta who could be got together by raking with a fine-tooth comb who'd stay there at that factory with

conditions as bad as they have been painted, and there are no 100 working men here so thin blooded as to allow such conditions there.

Frank's statement to the jury, it was Frank's handiwork only, and neither he nor Mr. Arnold knew what Frank was going to say when he got on the stand. Look at the statement this man made to you, and it was his statement, not mine. I can prove that by the simple reason that I haven't got brains enough to have made it up, and Mr. Arnold (though he's got far more brains than I), he could not have made it. Mr. Arnold might have given it the same weight and thickness, but not the living ring of truth. Now, another thing. We didn't have to put Frank's character up. If we hadn't the judge would have told you Frank must be presumed to have a good character, and that you did not have the right to ask that question about him, but we thought you were, and we put it up and see what a character the man has. There's not a man in the sound of my voice who could prove a better character. Of course, I mean from the credible evidence, not that stuff of Conley's and Dalton's.

But you say, some people, some former employes swore he had a bad character. You know that when you want to, you can always get someone to swear against anybody's character. Put me in his place and let my friend, Arnold, be foolish enough to put my character up and there 'd be plenty of those I have maybe hurt or offended as I have gone through life, would swear it was wrong, and I believe I've got an ordinarily good character. Why, you could bring twenty men here in Fulton county to swear that Judge Roan, there on the bench, has a bad character. You know that he's had to judge men and sometimes to be what they thought was severe on them, and he's naturally made men hate him and they'd gladly come and swear his character away. But if the men and women who live near him, the good and decent men and women, who lived near him and knew, came up and said his character was good, you'd believe them, wouldn't you?

Well, gentlemen, the older I get the gentler I get and I wouldn't think or say anything wrong about those misleading little girls who swore Frank was a bad man. I guess they thought they were telling the truth. Well, did Miss Maggie Griffin really think Frank was a vicious man and yet work there three years with him! Don't you think she heard things against him after the crime was committed and that when she got up here and looked through the heated atmosphere of this trial, she did not see the real truth! And Miss Maggie Griffin, she was there two months. I wonder what she could know about Frank in that time. There was Mrs. Donegan and Miss Johnson and another girl there about two months, and Nellie Potts, who never worked there at all, and Mary Wallace, there three days, and Estelle Wallace, there a week and Carrie Smith, who like Miss Cato, worked there three years. These are the only ones in the hundreds who have worked there since 1908 who will say that Frank has a had character. Why, you could find more people to say that the Bishop of Atlanta, I believe, had a bad character, than have been brought against Frank.

You noticed they were not able to get any men to come from the factory and swear against Frank. Men are harder to wheedle than are little girls. Does anybody doubt that if that factory had been the bed of vice that they call it, that the long-legged Gantt would

have know of it? They had Gantt on the stand twice, and, well, you know Gantt was discharged from the factory, of course you weren't told why in plain words, but you all know why. Well, Frank is not liked by Gantt and Gantt would have loved to tell something against his former employer, but he couldn't. If they have any further suspicions against this man, they haven't given them, either because they are afraid or are unable to prove their suspicions, if they have such suspicions, though, and are doing you a worse injustice.

What are these suspicions that they have advanced thus far? First, Miss Robinson is said to have said that she saw Frank teaching Mary Phagan how to work. Dorsey reached for it on the instant, scenting something improper as is quite characteristic of him. But Miss Robinson denies it. There's nothing in it, absolutely nothing. Then they say he called her Mary. Well, what about it? What if he did! We all have bad memories. If you met me on the street six months ago, can you recall right now whether you called me Luther or Rosser?

The next is Willie Turner — poor little Willie! I have nothing against Willie. He seems to be a right clever sort of a boy. But just think of the methods the detectives used against him — think of the way they handled him, and think of the way Dorsey treated him on the witness stand. He says — Willie does — that he saw Frank talking to Mary Phagan in the metal room. What does it show if he did see such a scene? I can't see for the life of me where it indicates any sign of lascivious lust. Does what Willie Turner saw, taking for granted he saw it, show that Frank was planning to ruin little Mary Phagan? Does it uphold this plot my friend Hooper had so much to say about? Even with that, considering Willie Turner did see such a thing, there's one fact that takes the sting out of it. He saw it in broad daylight. Frank was with the little girl right in front of Lemmie Quinn's office in an open factory where there were a lot of people and where the girls were quitting their work and getting ready to go home to dinner. It wasn't so, though, and Frank never made any improper advances to this little girl. Let me tell you why. Mary Phagan was a good girl, as pure as God makes them and as innocent. She was all that, and more. But, she would have known a lascivious advance or an ogling eye the minute she saw it, and the minute this man made any sort of a move to her, she would have fled instantly to home to tell this good father and mother of hers.

Then next, they bring Dewey Hewell, who says she saw Frank with his hand on Mary's shoulder. That's all right, but there is Grace Hix and Helen Ferguson and Magnolia Kennedy who contradict her and say Frank never knew Mary Phagan. You can say all you please about such as that, but there is one fact that stands out indisputable. If that little girl had ever received mistreatment at the pencil factory, no deer would have bounded more quickly from the brush at the bay of dogs than she would have fled home to tell her father and mother.

Now, my friend from the Wiregrass says Gantt was a victim of his "plot" by Frank against Mary Phagan. I don't doubt that this "plot" has been framed in the hearing of every detective in the sound of my voice. Hooper says Frank plotted to get the girl there on the Saturday she was killed — says he plotted with Jim Conley. Jim says Frank told

him at four o'clock Friday afternoon to return on the next morning. How could Frank have known she was coming back Saturday? He couldn't have known. He's no seer, no mind-reader, although he's a mighty bright man. It is true that some of the pay envelopes were left over on Friday, but he didn't know whose they were.

Helen Ferguson says that on Friday she asked for Mary Phagan's pay and that Frank refused to give it to her, saying Mary would come next day and get it herself. Magnolia Kennedy swears to the contrary. You have one or the other to believe. Consider, though, that this be true! How would Frank know who would be in the factory when Mary Phagan came? How did he know she was coming Saturday! Some envelopes went over to Monday and Tuesday. How would he know whether she would come on Saturday or either of these latter days?

Now, what else have they put up against this man! They say he was nervous. We admit he was. Black says it, Darley says it, Sig. Montag says it — others say it! The handsome Mr. Darley was nervous and our friend Schiff was nervous. Why not hang them if you're hanging men for nervousness! Isaac Haas — old man Isaac — openly admits he was nervous. The girls — why don't you hang them, these sweet little girls in the factory — all of whom were so nervous they couldn't work on the following day! If you had seen this little child, crushed, mangled, mutilated, with the sawdust crumbled in her eyes and her tongue protruding; staring up from that stinking, smelling basement, you'd have been nervous, too, every mother's son of you. Gentlemen, I don't profess to be chicken-hearted. I can see grown men hurt and suffering and I can stand a lot of things without growing hysterical, but I never walked along the street and heard the pitiful cry of a girl or woman without becoming nervous. God grant I will always be so. Frank looked at the mangled form and crushed virginity of Mary Phagan and his nerves fluttered. Hang him! Hang him!

Another suspicious circumstance. He didn't wake up when they telephoned him that morning the body was found. That might depend on what he ate that night; it might depend on a lot of other things. Some of us wake with the birds, while others slumber even through the tempting call of the breakfast bell. Would you hang us for that!

Then, they say he hired a lawyer, and they call it suspicious — mighty suspicious. They wouldn't have kicked if he had hired Rube Arnold, because Rube has a good character. But they hired me and they kicked and yelled "suspicious" so loudly you could hear it all the way from here to Jesup's cut. I don't know that I had ever met Frank before that morning, but I had represented the pencil factory previously. And as to their employing me, it's this way: There's no telling what was floating around in John Black's head that morning. They sent men after Frank and there was no telling what was likely to happen to him. They were forced to do something in his own defense. And, as a result, the state's worst suspicion is the fact that they employed me and Herbert Haas. Now, gentlemen, let's see what there is in it; I have told you that twice on that Sunday he had been to police headquarters without counsel, without friends. The next day they adopted new methods of getting him there and sent two detectives for him. Black had said he had been watching Frank, and woe to him who is haunted by the eagle eye of dear old John. They

took him to police station Monday — took him I say. The police idea was to show their fangs. He was under arrest, that's an undisputed fact. They had him at police station, Lanford, in his wonted dignity, sitting around doing nothing, letting Frank soak. Beavers, the handsome one, was doing the same. Frank didn't call for friends or lawyer. He didn't call for anything. If he had known what he was up against, though, in this police department of ours, he'd probably have called for two lawyers — or even more. But old man Sig Montag, who has been here a long time, knew this old police crowd and he knew their tactics. He was well on to their curves. He knew what danger there was to Frank. He called up Haas. Haas didn't want to come to the police station — he had a good reason. Sig went to the police station and was refused permission to see Frank.

Now, I want you to get that in your mind. A citizen — not under arrest, as they say — held without the privilege of seeing friends, relatives or counsel. It was a deplorable state of affairs. What happened? Haas went to the phone and called an older and more experienced head to battle with this police iniquity; Why shouldn't he? Dorsey sees in this harmless message a chance. He snaps at it like a snake. Dorsey is a good man — in his way. He'll be a better man, though, when he gets older and loses some of his present spirit and venom. There are things he has done in this trial that will never be done again. Gentlemen, I assure you of that.

Did Frank do anything else suspicious? Just two others, according to Hooper from the Wiregrass. One of which was the employment of a detective agency to ferret out this horrible murder that had been committed in his factory building. Why? Under what circumstances? I'll tell you. Frank had been to the police station and had given his statement. Haas was the man who telephoned me and who employed me — not Frank. I went to police headquarters and was very much unwelcomed. There was a frigid atmosphere as I walked in. I saw Frank for the first time in my life. I said: "What's the matter, boys?" Somebody answered that Mr. Frank was under arrest. Black was there, Lanford was there. Neither took the pains to deny that he was under arrest. Somebody said they wanted Mr. Frank to make a statement, and I advised him to go ahead and make it. When he went into the office, I followed. They said: "We don't want you." I replied that whether they wanted me or not, I was coming, anyhow. I had a good reason, too, for coming. I wanted to hear what he said so they couldn't distort his words.

While we were in the room a peculiar thing happened. Frank exposed his person. There were no marks. I said that it was preposterous to think that a man could commit such a crime and not bear some marks. Lanford's face fell. Why didn't Lanford get on the stand and deny it? Was it because he didn't want to get into a loving conflict with me? Or did he want to keep from reopening the dark and nasty history of the Conley story and the Minola McKnight story that are hidden in the still darker recesses of police headquarters? Frank makes his statement and is released. He goes back to the pencil factory, assuming that suspicion has been diverted from him. He thinks of the horrible murder that has been committed in his plant. He telephones Sig Montag about hiring a detective agency to solve the crime. Sig advises him to do it. I don't believe there is any detective living who can consort with crooks and criminals and felons, scheme with them, mingle with them and spy on the homes of good people and bad who can then exalt his character as a result.

He absorbs some of the atmosphere and the traits. It is logical that he should. But, even at that they've got some good men in the detective and police department.

Old man Sig Montag said hire a detective and Frank hired the Pinkertons. Scott came and took Frank's statement and said: "We work in co-operation with the city police department." Now, isn't that a horrible situation — going hand in glove with the police department? But, it's a fact. Just as soon as Scott left Frank, he walked down, arm in arm with John Black, to the nasty, smelly basement of the pencil factory. What did that mean? It meant a complete line-up with the police. It meant if the police turn you loose, I turn you loose. If the police hang you, I hang you! Gentlemen, take a look at this spectacle, if you can. Here is a Jewish boy from the north. He is unacquainted with the south. He came here alone and without friends and he stood alone. This murder happened in his place of business. He told the Pinkertons to find the man, trusting to them entirely, no matter where or what they found might strike. He is defenseless and helpless. He knows his innocence and is willing to find the murderer. They try to place the murder on him. God, all merciful and all powerful, look upon a scene like this!

Anything else? Yes. Look at this. I do not believe my friend who preceded me intended to do this. I refer to the incident about the time slip. I have to use harsh words here, but I don't want to. This seems to me the most unkindest exit of all. They say that that time slip was planted. They say the shirt was planted. Gentlemen, is there any evidence of this? Let's see about this statement. Black and somebody else, I believe, went out to Newt's house on Tuesday morning and found the shirt in the bottom of a barrel. They brought the shirt back to the police station and Newt said the shirt was his — or it looked like his shirt. Newt Lee had been hired at the factory but three weeks, yet they want you to believe that they found a shirt like the old man had and went out to his house and put it in a barrel.

One thing is wrong. The newspapers and others, I am afraid, think this is a contest between lawyers. It is not. God forbid that I should let any such thing enter into this case when this boy's life is at stake.

There are several things I don't understand about this case, and never will. Why old man Lee didn't find the body sooner; why he found it lying on its face ; how he saw it from a place he could not have seen it from.

I was raised with niggers and know something about them. I do not know them as well as the police, perhaps, for they know them like no one else. But I know something about them. There must have been a nigger in the crime who knew about it before Newt or anyone else. I am afraid Newt knew.

Yet, if he did, he is one of the most remarkable niggers I ever saw and I wish I had his nerve. There were things you detectives did to him for which you will never be forgiven. You persecuted the old nigger, and all you got was "Fo' God I don't know." I don't believe he killed her, but I believe he knows more than he told.

But they say now that he jumped back. Suppose he did jump back. Look at the boy (Frank). If you put a girl the size of Mary Phagan in a room with him she could make him jump out of the window. Suddenly this boy stepped out in front of this giant of a Gantt, and he jumped back. Dorsey would have done the same thing; Newt Lee would; Jim Conley would, and I would, as big as I am.

Here is another suspicious thing. Newt Lee came to the factory at four o'clock and Frank sent the old man away. It was suggested that he was afraid the nigger would find the body, yet when he came back at six, Frank let him stay at the factory when he knew that in 30 minutes Newt was on the job he must go into the basement where they say Frank knew the body was.

They say he was laughing at his home. If he had known of the crime of which he would be accused, that laugh would have been the laugh of a maniac to be ended by the discovery of the body.

Another suspicious thing. You know that he was in the factory, but it turns out that he was not the only one. If the corpse was found in the basement and he was the only one in the building, then there might be some basis. But he was in an open room and there were workmen upstairs. My friend tried to dispute that. That wasn't all. Conley was also there, and it came out yesterday that there was also another nigger — a lighter nigger than Conley — there. What scoundrels in white skin were in the building and had opportunity to commit the crime, God only knows.

The thing that arises in this case to fatigue my indignation is that men born of such parents should believe the statement of Conley against the statement of Frank. *Who is Conley? Who was Conley as he used to be and as you have seen him? He was a dirty, filthy, black, drunken, lying nigger. Black knows that. Starnes knows that. Chief Beavers knows it.*

Who was it that made this dirty nigger come up here looking so slick? Why didn't they let you see him as he was? They shaved him, washed him and dressed him up.

Gentlemen of the jury, the charge of moral perversion against a man is a terrible thing for him, but it is even more so when that man has a wife and mother to be affected by it. Dalton, even Dalton did not say this against Frank. It was just Conley. Dalton, you remember, did not even say that Frank was guilty of wrong-doing as far as he knew. There never was any proof of Frank's alleged moral perversion, unless you call Jim Conley proof.

None of these niggers ever came up and said Conley was there and that they were with him. Starnes — and Starnes could find a needle in a haystack, but the Lord only knows what he'd do in an acre — he could not find any of these niggers.

Then there was that old negro drayman, old McCrary, the old peg-leg negro drayman, and thank God he was an oldtimer, 'fo de war nigger.

You know Conley, wishing to add a few finishing trimmings to his lines, said that old McCrary sent him down in the basement that Saturday morning and when the old darkey was put on the stand he said simply, "No, boss, I never sent him down thar." Everywhere you go you find that Conley lied. He says he watched there one Saturday last year between 2 and 3 o'clock. Well, Schiff says he didn't and so does Darley and Holloway, the latter guaranteed by the state, and the little office boys, nice looking little chaps from nice families, they all say he didn't. Cut out Conley and you strip the case to nothing. Did you hear the way Conley told his story? Have you ever heard an actor, who knew his Shakespearean plays, his "Merchant of Venice" or his "Hamlet"? He can wake up at any time of the night and say those lines, but he can't say any lines of a play he has never learned. So it was with Conley. He could tell the story of the disposition of the girl's body, and he knew it so well he could reel it off backward or forward, any old way, but when you got to asking him about other things, he always had one phrase, "Boss, ah can't 'member dat."

They say Conley could not have made up that story. Well, I don't know about that. There is something queer in the whole thing, you know. I couldn't climb that post over there, gentlemen. I mean I couldn't go very far up it, but if I had Professor Starnes, and Professor Black, and Professor Campbell, and Professor Rosser, and then Dean Lanford to help me, I'd go quite a way up. Well, they took a notion Mrs. White had seen the negro, and they carried Mrs. White there to see him, and he twisted up his features so that she couldn't recognize him. Next, they learned Conley could write. Frank told them that, you know. Well, I don't mean to be severe, but they took that negro and they gave him the third degree. Black and Scott cursed him. "You black scoundrel," they yelled at him. "You know that man never had you come there and write those notes on Friday!" And the poor negro, understanding and trying to please, said, "Yes, boss, zat's right, ah was dere on Saturday."

And so they went on and got first one affidavit and then another out of him. Well, Scott and Black had him there, and Conley was only in high school. I don't know whether to call Scott and Black "professors" or not. Scott says, "We told him what would fit and what would not." And it was "stand up, James Conley and recite, when did you fix those notes, James?" and James would answer that he fixed them on Friday, and then the teachers would tell James it was surely wrong, that he must have fixed them on Saturday, and James would know what was wanted and would acknowledge his error. Then it would be, "That's a good lesson, James, you are excused, James." I'm not guessing in this thing. Scott told it on the stand, only in not so plain words. So it was that when this negro had told the whole truth they had another recitation.

Was it fair for two skilled white men to train that negro by the hour and by the day and to teach him and then get a statement from him and call it the truth? Well, Professors Black and Scott finished with him, and they thought Conley's education was through, but that nigger had to have a university course!

Scott, you and Black milked him dry; you thought you did, anyhow, but you got no moral perversion and no watching. In the university they gave a slightly different course.

It was given by Professors Starnes and Campbell. Oh, I wish I could look as pious as Starnes does. And Professor Dorsey helped out, I suppose. I don't know what Professor Dorsey did, only he gave him several lessons, and they must have been just sort of finishing touches before he got his degree. Well, in the university course they didn't dare put the steps in writing, as they had done in the high school; it would have been too easy to trace from step to step, the suggestions made, the additions and subtractions here and there. Professor Dorsey had him seven times, I know that, but God alone knows how many times the detectives had him.

Was it fair to take this weak, pliable negro and have these white men teach him, one after another? Who knows what is the final story that Conley will tell? He added the mesh bag when he was on the stand.

Mary Phagan had reached the factory at approximately twelve minutes after 12, and it must have been after Monteen Stover had gone. See the statements of W. M. Mathews and W. T. Hollis, street car men called by the defense, and George Epps, the little newsie, called by the state, and also the street car schedule. But, supposing that she was there at 12:05, as I believe the state claims, then Monteen Stover must have seen her. I don't see how they could have helped meeting. But suppose she got there a moment after Monteen Stover left, then Lemmie Quinn was there at 12:20, and he found Frank at work. Could Frank have murdered a girl and hid her body and then got back to work with no blood stains on him in less than fifteen minutes? If Frank is guilty, he must have, according to Conley, disposed of the body in the time between four minutes to 1 and 1 :30. There can be no dispute about this; it's Conley 's last revelation. If Frank is guilty, he was at his office between four minutes to 1 and 1:30, but who believes that story? Little Miss Kerns saw him at Alabama and Whitehall at 1 :10, and at 1 :20 Mrs. Levy, honest woman that she is, saw him get off the car at his home corner, and his wife's parents saw, and they all swear he was there at 1 :20, and then, if you are going to call them all perjurers and believe Jim Conley, think what you must do; think what a horrible thing you must do—you must make Minola's husband a perjurer, and that would be terrible.

You know about that Minola McKnight affair. It is the blackest of all. A negro woman locked up from the solicitor's office, not because she wouldn't talk — she's given a statement — but because she would not talk to suit Starnes and Campbell, and two white men, and shame to them, got her into it. Where was Chief Beavers? What was he doing that he became a party to this crime? Beavers, who would enforce the law; Beavers, the immaculate!

Believe Frank was in the factory if you can at 1 :30 ; throw aside all the respectable people and swear by Conley. Well, I know the American jury is supreme, that it is the sovereign over lives; that sometimes you can sway it by passion and prejudice, but you can't make it believe anything like this. Neither prejudice, nor passion, wrought by monsters so vile they ought not to be in the court room, could make them believe it. They said that there was a certain man, named Mincey, whom we called as a witness but did not use. Well, the only use we would have had for Mincey was to contradict Conley, and as soon as Conley got on the stand he contradicted himself enough without our having to

go to the trouble of calling on witnesses to do it. If we had put Mincey up there would have been a day's row about his probity, and what would have been the use — Conley said time and again that he had lied time and again.

Gentlemen, I want only the straight truth here, and I have yet to believe that the truth has to be watched and cultivated by these detectives and by seven visits of the solicitor general I don't believe any man, no matter what his rate, ought to be tried under such testimony. If I was raising sheep and feared for my lambs, I might hang a yellow dog on it. I might do it in the daytime, but when things got quiet at night and I got to thinking, I'd be ashamed of myself. You have been overly kind to me, gentlemen. True, you have been up against a situation like that old Sol Russell used to describe when he would say, "Well, I've lectured off and on for forty years, and the benches always stuck it out, but they was screwed to the floor." You gentlemen have been practically in that fix, but I feel, nevertheless, that you have been peculiarly kind, and I thank you.

* * *

In our next article in this series, we will present the closing argument of Solicitor Hugh Dorsey, for the prosecution. As always, paragraph divisions and emphasis are mine.

MAKE SURE to [check out the FULL American Mercury series on the Leo Frank case by clicking here](#).

For further study we recommend the following resources:

[Full archive of Atlanta Georgian newspapers relating to the murder and subsequent trial](#)

[The Leo Frank case as reported in the Atlanta Constitution](#)

[The Leo Frank Case \(Mary Phagan\) Inside Story of Georgia's Greatest Murder Mystery 1913](#)

[The Murder of Little Mary Phagan by Mary Phagan Kean](#)

[American State Trials, volume X \(1918\) by John Lawson](#)

[Argument of Hugh M. Dorsey in the Trial of Leo Frank](#)

[Leo M. Frank, Plaintiff in Error, vs. State of Georgia, Defendant in Error. In Error from Fulton Superior Court at the July Term 1913, Brief of Evidence](#)

The *American Mercury* is following these events of 100 years ago, the month-long trial of Leo M. Frank for the brutal murder of Miss Mary Phagan, in capsule form on a

The Leo Frank Trial: Closing Arguments of Hooper, Arnold, and Rosser

regular basis on this, the 100th anniversary of the case. Follow along with us and experience the trial as Atlantans of a century ago did, and come to your own conclusions.

Read also the Mercury's coverage of [Week One of the Leo Frank trial](#), [Week Two](#), [Week Three](#) and [Week Four](#) and my exclusive [summary of the evidence against Frank](#).

A fearless scholar, dedicated to the truth about this case, has obtained, scanned, and uploaded every single relevant issue of the major Atlanta daily newspapers and they now can be accessed through archive.org as follows:

Atlanta Constitution Newspaper:

<http://archive.org/details/LeoFrankCaseInTheAtlantaConstitutionNewspaper1913To1915>

Atlanta Georgian Newspaper:

<http://archive.org/details/AtlantaGeorgianNewspaperAprilToAugust1913>

Atlanta Journal Newspaper:

<http://archive.org/details/AtlantaJournalApril281913toAugust311913>

More background on the case may be found in my article here at the *Mercury*, [100 Reasons Leo Frank Is Guilty](#).