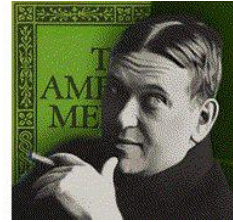


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The Leo Frank Trial: Week One

Published by [Editor](#) on August 5, 2013



100 years ago today the trial of the 20th century ended its first week, shedding brilliant light on the greatest murder mystery of all time: the murder of Mary Phagan. And you are there.

by Bradford L. Huie

THE MOST IMPORTANT testimony in the first week of the trial of National Pencil Company superintendent Leo Frank for the murder of Mary Phagan was that of the night watchman, Newt Lee

(pictured, right, in custody), who had discovered 13-year-old Mary's body in the basement of the pencil factory during his nightly rounds in the early morning darkness of April 27, 1913. Here at the *Mercury* we are following the events of this history-making trial as they unfolded exactly 100 years ago. We are fortunate indeed that Lee's entire testimony has survived as part of the Leo Frank Trial Brief of Evidence, certified as accurate by both the defense and the prosecution during the appeal process. (For background on this case, read our [introductory article](#) and my exclusive [summary of the evidence against Frank](#).)

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Newt Lee, far right, on the witness stand (click for high resolution)

Almost all of the information published today about the Frank trial has two characteristics in common: 1) it is stridently pro-Frank with little pretense of objectivity, and 2) it is derivative — meaning that it consists of little more than cherry-picked paraphrases and interpretations of what witnesses said, and reporters and investigators discovered, during those fateful days. To say that much crucial information is left out or glossed over by the partisan writers of today is a vast understatement. We aim to correct some of these intentional omissions in this exclusive series.



The courtroom scene

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We'll begin with the entire testimony — taken during direct and cross examination — of Newt Lee. There had been an attempt to frame Lee — through the medium of a planted bloody shirt — before the trial began, an act almost certainly committed by pro-Frank forces. But subsequent events proved that Lee was entirely innocent, and by the time of the trial he was not under any suspicion whatever, and therefore had no known motive to lie. Here are his exact words (emphasis ours, some paragraph breaks added for increased readability):

NEWT LEE (colored), sworn for the State.

On the 26th day of April, 1913, I was night watchman at the National Pencil Factory. I had been night watchman there for about three weeks. When I began working there, Mr. Frank carried me around and showed me everything that I would have to do. I would have to get there at six o'clock on week days, and on Saturday evenings I have to come at five o'clock.

On Friday, the 25th of April, he [Leo Frank] told me "Tomorrow is a holiday and I want you to come back at four o'clock. I want to get off a little earlier than I have been getting off."

I got to the factory on Saturday about three or four minutes before four. The front door was not locked. I pushed it open, went on in and got to the double door there. I was paid off Friday night [April 25, 1913 — Ed.] at six o'clock. It was put out that everybody would be paid off then [because Saturday was a State holiday, Confederate Memorial Day — Ed.]. Every Saturday when I get off he gives me the keys at twelve o'clock, so that if he happened to be gone when I get back there at five or six o'clock I could get in, and every Monday morning I return the keys to him. The front door has always been unlocked on previous Saturday afternoons. After you go inside and come up about middle ways of the steps, there are some double doors there.

It was locked on Saturday when I got there. Have never found it that way before.

I took my keys and unlocked it. When I went upstairs I had a sack of bananas and I stood to the left of that desk like I do every Saturday. I says like I always do, "Alright, Mr. Frank," and he come bustling out of his office. He had never done that before. He always called me when he wanted to tell me anything and said "Step here a minute, Newt."

This time he came up rubbing his hands and says, "Newt, I am sorry I had you come so soon, you could have been at home sleeping, I tell you what you do, you go out in town and have a good time." He had never let me off before that.

I could have laid down there in the shipping room and gone to sleep, and I told him that. He says, "You needs to have a good time. You go down town, stay an hour and a half and come back your usual time at six o'clock. Be sure and be back at six o'clock."

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I then went out the door and stayed until about four minutes to six. When I came back the doors were unlocked just as I left them and I went and says, "All right, Mr. Frank," and he says, "What time is it?" and I says, "It lacks two minutes of six." He says, "Don't punch yet, there is a few worked today and I want to change the slip."

It took him twice as long this time than it did the other times I saw him fix it. He fumbled putting it in, while I held the lever for him and I think he made some remark about he was not used to putting it in.

When Mr. Frank put the tape in I punched and I went on downstairs.

While I was down there Mr. Gantt [a young man who was a former pencil factory employee and who had been a friend of Mary Phagan's — Ed.] came from across the street from the beer saloon and says "Newt, I got a pair of old shoes that I want to get upstairs to have fixed."

I says, "I ain't allowed to let anybody in here after six o'clock."

About that time Mr. Frank come busting out of the door and run into Gantt unexpected *and he jumped back frightened.*

Gantt says, "I got a pair of old shoes upstairs, have you any objection to my getting them?"

Frank says, "I don't think they are up there, I think I saw the boy sweep some up in the trash the other day."

Mr. Gantt asked him what sort they were and Mr. Frank said "tans." Gantt says, "Well, I had a pair of black ones, too." Frank says, "Well, I don't know," and he dropped his head down just so. Then he raised his head and says, "Newt, go with him and stay with him and help him find them," and I went up there with Mr. Gantt and found them in the shipping room, two pair, the tans and the black ones.

Mr. Frank phoned me that night about an hour after he left, it was sometime after seven o'clock. He says "How is everything?" and I says, "Everything is all right so far as I know," and he says, "Good-bye."

No, he did not ask anything about Gantt. *Yes, that is the first time he ever phoned to me on a Saturday night, or at all.*

There is a light on the street floor just after you get in the entrance to the building. The light is right up here where that partition comes across. Mr. Frank told me when I first went there, "Keep that light burning bright, so the officers can see in when they pass by." It wasn't burning that day at all. I lit it at six o'clock myself. On Saturdays I always lit it, but week-days it would always be lit when I got there. On Saturdays I always got there at five o'clock. This Saturday he got me there an hour earlier and let me off later.

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There is a light in the basement down there at the foot of the ladder. He told me to keep that burning all the time. It has two little chains to it to turn on and turn off the gas. When I got there on making my rounds at 7 p. m. on the 26th of April, it was burning just as low as you could turn it, like a lightning bug. I left it Saturday morning burning bright.

I made my rounds regularly every half hour Saturday night. I punched on the hour and punched on the half and I made all my punches. The elevator doors on the street floor and office floor were closed when I got there on Saturday. They were fastened down just like we fasten them down every other night.

When three o'clock came I went down the basement and when I went down and got ready to come back I discovered the body there. I went down to the toilet and when I got through I looked at the dust bin back to the door to see how the door was and it being dark I picked up my lantern and went there and I saw something laying there which I thought some of the boys had put there to scare me, then I walked a little piece towards it and I seen what it was and I got out of there.

I got up the ladder and called up [the] police station. It was after three o'clock. I carried the officers down where I found the body.

I tried to get Mr. Frank on the telephone and was still trying when the officers came. I guess I was trying about eight minutes.



The jury listens intently to the testimony in the Leo Frank case.

I saw Mr. Frank Sunday morning at about seven or eight o'clock. He was coming in the office. He looked down on the floor and never spoke to me. He dropped his head right down this way. Mr. Frank was there and didn't say nothing while Mr. Darley was speaking to me. Boots Rogers, Chief Lanford, Darley, Mr. Frank and I were there when they opened the clock [the time clock — Ed.].

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Mr. Frank opened the clock and said the punches were all right, that I hadn't missed any punches. I punched every half hour from six o'clock until three o'clock, which was the last punch I made. I don't know whether they took out that slip or not.

On Tuesday night, April 29th at about ten o'clock I had a conversation at the station house with Mr. Frank. They handcuffed me to a chair. They went and got Mr. Frank and brought him in and he sat down next to the door. He dropped his head and looked down. We were all alone.

I said, "Mr. Frank, it's mighty hard for me to be handcuffed here for something I don't know anything about."

He said, "What's the difference, they have got me locked up and a man guarding me."

I said, "Mr. Frank, do you believe I committed that crime," and he said, "No, Newt, I know you didn't, but I believe you know something about it."

I said, "Mr. Frank, I don't know a thing about it, no more than finding the body."

He said, "We are not talking about that now, we will let that go. If you keep that up we will both go to hell." Then the officers both came in.

When Mr. Frank came out of his office that Saturday he was looking down and rubbing his hands. I have never seen him rubbing his hands that way before.

CROSS EXAMINATION.

I don't know how many times I told this story before. Everybody was after me all the time down there at the station house. Yes, I testified at the coroner's inquest and I told them there that Mr. Frank jumped back like he was frightened when he saw Mr. Gantt. I am sure I told them, and I told them that Mr. Frank jumped back and held his head down. I didn't say before the coroner that he said he had given one of the pair of shoes of Mr. Gantt to one of the boys; they got that wrong.

On Saturdays I had to wake up usually and get to the factory at twelve o'clock. This time Mr. Frank told me to get back at four. I did say before the coroner that he was looking down when he came out of his office. I told them also that there was a place in that building [where] I could go to sleep, but they didn't ask me where.

When you come in the front door of the factory, you can go right on by the elevator and right down into the basement, anybody could do it. The fact that the double doors on the steps were locked wouldn't prevent anybody from going in the basement. That would only prevent anybody from up stairs from going into the basement unless they went by the elevator or by unlocking those double doors.

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All of the doors to the factory were unlocked when I got back there Saturday afternoon about 6 o'clock, the first floor, the second floor, the third floor and the fourth floor. Anybody could come right in from the street and go all over the factory without Mr. Frank in his office knowing anything about it.

The doors are never closed at all. That is a great big, old, rambling place up there. The shutters, the blinds to the factory were all closed that day because it was a holiday, excepting two or three on the first floor which I closed up that night. It's a very dark place when the shutters are closed. That is why we have to burn a light.

There is a light on the first floor near the clock, it burns all the time because that is a dark spot. There are two clocks, one punches to a hundred, the other punches to two hundred, because there are more than a hundred employees. I punch both of them.

About Mr. Frank and Mr. Gantt, they had had a difficulty and I knew that Mr. Frank didn't want him in there. Mr. Frank had told me "Lee, I have discharged Mr. Gantt, I don't want him in here, keep him out of here," and he had said," When you see him hanging around here, watch him."

That is the reason I thought Mr. Frank was startled when he saw Mr. Gantt. Mr. Gantt is a great big fellow, nearly seven feet. When he went out I watched him as he went to the beer saloon and I went on upstairs. He left the factory about half past six.

I went through the machine room every time I made a punch that night. I went to the ladies' dressing room every half hour that night until three o'clock. I went all over the building every half hour, excepting the basement. I went down to the basement every hour that night, but not all the way back.

Mr. Frank had instructed me to go over the building every half hour and he said go down in the basement once in awhile. He said go back far enough to see the door was closed. He told me to look out for the dust bin because that is where we might have a fire and to see that the back door is shut and to go over all the building every half hour.

No, he didn't give me any different instructions on that Saturday, he didn't tell me not to go in the basement or in the metal department. He allowed me to carry out the instructions just like I had been doing before. Yes, if I had gone back to find out whether that door was closed or not, I would have found the body, but I could see if the door was open, because there was a light back there. No, it wasn't open that night. It was shut when I found the body.

It was about ten minutes after I telephoned the police that they arrived. When I was down there I was close enough to the door to see it was shut, there was a light in front of it. There was no light between the body and the door. It was dark back there. The body was about sixty feet from that door. If the back door had been open I could have seen that big light back there in the alley. The back door was closed when I found the body.

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The first time I went down the basement that night was seven o'clock. I went just a little piece beyond the dark, so I could see whether there was any fire down there. That's what I was looking for.

Yes, I could tell whether the door was open from there. No, I didn't go back as far as they found the body, I didn't go back that far at all during the night. The reason I went that far back when I saw the body was because I went to the closet. There are two closets on the second floor, one on the third floor and one on the fourth floor. I didn't see the lady's hat or shoe when I went down to that little place with my lantern, nor the parasol. My lantern was dirty.

I was sitting down there, after I had punched, on the seat, set my lantern on the outside. When I got through I picked up my lantern, I walked a few steps down that way, I seed something over there, about that much of the lady's leg and dress.

I guess I walked about three or four feet, or five or six. I guess the body was about ten feet from the closet. As to what made me look in that direction from the closet, because I wanted to look that way. I picked up the lantern to go down there to see the dust bin, to see whether there was any fire there. The dust bin was to the right of me. When I was sitting down there the dust bin was not entirely hid behind the partition. I could see where the dust came down.

The balance of the night in order to see whether there was any fire in the dust bin or not I went twenty or twenty-five feet from the scuttle hole, and when I was down in the closet I had to go at least ten feet to see whether or not there was any fire in the dust bin. I would have gone further if I hadn't discovered the body.

When I saw the body, the closest I ever got to it was about six feet. I was holding my lantern in my hand. I just saw the feet. When I first saw it I was about ten feet from it. As to how far the body was from where I was sitting in the closet, it was not less than ten feet and not more than thirty. I stood and looked at it to see whether or not it was a natural body.

When I first got there I didn't think it was a white woman because her face was so dirty and her hair was so crinkled and there were white spots on her face. When the police came back upstairs they said it was a white girl. I think I reported to the police that it was a white woman. She was lying on her back with her face turned kinder to one side. I could see her forehead. I saw a little blood on the side of her head that was turned next to me. The blood was on the right side of her head. I am sure she was lying on her back.

Mr. Frank had told me if anything serious happened to call up the police and if anything like fire to call up fire department. I already knew the number of the station house.

I did say at the coroner's inquest that it took Mr. Frank longer to put the tape on this time than it did before. I did not say it took twice as long at the coroner's inquest, because they didn't ask me. I didn't pay any attention to him the first time he put the tape on. The

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reason the last time I know it took him longer because I held the lever and had to move it backwards and forwards.

When I was in the basement one of the policemen read the note that they found. They read these words, “The tall, black, slim negro did this, he will try to lay it on the night” — and when they got to the word “night” I said “They must be trying to put it off on me.” I didn’t say, “Boss, that’s me.”

RE-DIRECT EXAMINATION.

The first time I saw Mr. Frank put any tape on, he didn’t say anything about it being any trouble. The last time he put it on, he said something about that he wasn’t used to putting it on. I was holding the lever there and he got it on twice and he had put it on wrong and he would have to slip it out and put it back.

When Mr. Frank came out rubbing his hands, he came out of his inner office into the outer office and from there in front of the clock.

I did not go down in the basement as far as the boiler during the night, except when I discovered the body. The officers talked to me the whole time. I didn’t get to sleep hardly, day or night. Just the time I would get ready to go to sleep, here they was after me. Then I would go back to my cell, stay a while and then another would come and get me. They carried me where I could sleep, but they wouldn’t let me stay there long enough to sleep. I didn’t get no sleep until I went over to the jail, and I didn’t get no sleep at jail for about two weeks. That was before the coroner’s inquest, when I was first arrested.

When I went back to the jail I was treated nicely. As to who talked to me longer, Mr. Frank or Black, Mr. Black did. Mr. Arnold talked to me longer than Mr. Frank did on April 29th.

In the southwest corner is some toilets for men and women.

Modern accounts of the Frank trial often include the claim that Frank could not have been convicted without the testimony of Jim Conley, and that, except for Conley, no one’s testimony made out much of a case for Frank’s guilt. But Lee’s testimony was very damaging indeed to Frank. And neither the Coroner’s Jury nor the grand jury which indicted Frank (which included several Jews) heard a word from Jim Conley.



Courtroom sketch of the defendant, Leo M. Frank

Frank's decision to have Newt Lee arrive early, and then, when he arrived, sending him away for two hours might be seen as an innocent change of plans — but Frank's absolute insistence that Newt could not rest on the premises during the two-hour gap is definitely suspicious — as is Frank's first and only telephone call ever made to Lee, at 7:30 PM on the night of the murder, asking him if everything was "all right." It also seems quite strange that every single person in Frank's sizable household would fail to be awakened by a telephone that rang insistently for some eight minutes. The police would also find it difficult to reach Frank via telephone, not getting an answer until 6:30 AM.

Lee's testimony that Frank was so nervous (some six hours after the murder, with Mary Phagan's body hidden in the basement) that he wrung his hands, jumped in fear when seeing Mary's friend Gantt (who could have been theoretically looking for her), and

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couldn't properly operate the time clock (that he had previously worked with ease for nearly five years) without help made an impression. But even more significant was the statement (later corroborated by other witnesses) that Frank had inspected Lee's time card the day after the murder and had declared that it was all correct, with every punch made at the proper time. Later the bloody shirt was found at Lee's home — and Frank would be telling a very different tale about the time card, contradicting himself and declaring that several punches were missing. It's hard to explain that about-face as anything other than a ham-handed attempt to implicate Lee.

In fact, the Frank defense team were still trying to plant the idea in the jurors' minds that Lee might have had something to do with the crime. Frank's lead defense lawyers, Reuben Arnold and Luther Rosser, explained their strategy to the judge while the jury was not present, citing Lee's reaction to the Ebonics-style "death notes" found near the body which included references to a "night witch," which seemed a semi-literate allusion to the night watchman:

"In an instant, Lee said, 'That night witch means me.' It showed familiarity with the notes. Isn't it strange that a negro so ignorant and dull that Mr. Rosser had to ask him a question ten times over could in a flash interpret this illegible scrawl?"

"We've got to commence somewhere and at some time to show the negro is a criminal and we might as well begin here as anywhere else."

Rosser's and Arnold's effort was to imply that Newt Lee had something to do with the crime, at least the writing of the death notes at the behest of factory sweeper Jim Conley, who the defense would allege was the real murderer. This theory was greatly weakened while aborning, though, when Lee told the court that he hadn't even met Conley until he saw him — a month after the murder — in jail.

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Reuben R. Arnold, attorney for the defense

On Sunday, April 27, 1913, Leo Frank had said that Lee had punched his time card correctly — even reviewing it in front of police officers. Frank was then allowed to put it back in the company safe.

DEFENDANT'S EXHIBIT 1.

Time slip, dated April 26, taken out of clock by Frank.

101	.....601	138	.....
102	.....632	139	.....
103	.....700	140	.....
104	.....732	141	.....
105	.....800	142	.....
106	.....831	143	.....
107	.....906	144	.....
108	.....932	145	.....
109	.....1029	146	.....
110	.....1104	147	.....
111	.....1200	148	.....
112	.....107	149	.....
113	.....135	150	.....
114	.....203	151	.....
115	.....301	152	.....
116	.....330	153	.....
117	.....	154	.....
118	.....	155	.....
119	.....	156	.....
120	.....	157	.....
121	.....	158	.....
122	.....	159	.....
123	.....	160	.....
124	.....	161	.....
125	.....	162	.....
126	.....	163	.....
127	.....	164	.....
128	.....	165	.....
129	.....	166	.....
130	.....	167	.....
131	.....	168	.....
132	.....	169	.....
133	.....(Erasure made here)	170	.....
134	.....	171	.....
135	.....	172	.....
136	.....	173	.....
137	.....	174	.....
138	.....	175	.....

Defendant's Exhibit 1, supposedly a copy of Newt Lee's "time slip, dated April 26, taken out of clock by Frank." It indicates four missed punches, though Frank showed officers Lee's time slip the day after the murder, and no punches had been missed.

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On Monday, April 28, Frank changed his story. Now he said that Lee had missed three or four punches on the clock. This would have amounted to *three to four hours* of Lee's time unaccounted for. It took about 30 minutes to get to Lee's home home from the factory — plenty of time to have committed the murder and dispose of evidence.

Leo Frank asked the police to check his laundry for blood two days after the murder, possibly to suggest they should check Newt Lee's home as well. When Lee's residence was searched, a bloody shirt — later proven to have been planted, obviously by someone trying to incriminate Lee — was indeed found at the bottom of Newt Lee's garbage burning barrel. It suggested to police that Lee had “forgotten to burn the bloody shirt that had been stained during the Mary Phagan murder.”

The defense subjected Lee to a grueling ordeal of confusing questions, cross-questions, insults, and accusations — but they could not rattle him nor catch him in any contradiction.

Sergeant L. S. Dobbs told the jury of how he found the lifeless body of Mary Phagan: “The girl was lying on her face, the left side on the ground, the right side up. Her face was punctured, full of holes, and was swollen and black. The cord was around her neck, sunk into the flesh. Her tongue was protruding.”

Detective John Starnes was called to the stand. Here is his complete testimony from the Brief of Evidence:

J. N. STARNES, sworn for the State.

I am a city officer. Went to the pencil company's place of business between five and six o'clock, April 27th. The pencil company is located in Fulton County, Georgia. That is where the body was found. The staple to the back door looked as if it had been prized out with a pipe pressed against the wood. There was a pipe there that fitted the indentation on the wood.

I called Mr. Frank on the telephone, and told him I wanted him to come to the pencil factory right away. He said he hadn't had any breakfast. He asked where the night watchman was. I told him it was very necessary for him to come and if he would come I would send an automobile for him, and I asked Boots Rogers to go for him. I didn't tell him what had happened, and he didn't ask me.

Mr. Frank appeared to be nervous; this was indicated by his manner of speaking to Mr. Darley; *he was in a trembling condition.*

I was guarded with him in my conversation over the phone.

About a week afterwards I went to the factory and had the night watchman there, Mr. Hendricks, to show me about the clock. *He took a new slip and put it in the clock and punched the slip all the way around in less than five minutes* (State's Exhibit P).

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I got some cord on the second floor of the pencil factory, the knots in these cords are similar to the knots in this cord (State's Exhibit C [the cord used to strangle Mary Phagan — Ed.]).

On the floor right at the opposite corner, what might be called the northwest corner of the dressing room, on Monday morning, April 28th, I saw splotches that looked like blood about a foot and a half or two feet from the end of the dressing room, some of which I chipped up. It looked like splotches of blood and something had been thrown there and in throwing it had spread out and splattered.

There was no great amount of it. I should judge that the area around these spots was a foot and a half. The splotch looked as if something had been swept over it, some white substance. There is a lot of that white stuff in the metal department.

It looked like blood. I found a nail fifty feet this side of the metal room toward the elevator on the second floor that looked like it had blood on the top of it. It was between the office and the double doors. I chipped two places off on the back door which looked like they had bloody finger prints.

I don't know when Frank was arrested. I don't think he was arrested on Monday. He was asked to come to the station house on Monday. It takes not over three minutes to walk from Marietta Street at the corner of Forsyth across the viaduct and through Forsyth Street down to the pencil factory.

Lee was composed at the factory; he never tried to get away.

The door to the stairs from the office floor to the third floor was barred when I first went up there.

CROSS EXAMINATION.

I am guessing about the time. It wouldn't take over five minutes to get off the car, walk to the pencil factory, walk in, walk up the stairs and back into Mr. Frank's office.

The hasp is bent a little.

I heard Boots Rogers testify at the coroner's inquest and I testified twice. I did not correct any statement at the coroner's inquest that Boots Rogers made. I am the prosecutor in this case. I cannot give the words of the conversation of the telephone message between myself and Mr. Frank. I could be mistaken as to the very words he used. It was just a casual telephone conversation.

I don't know that the splotches that I saw there were blood. The floor at the ladies' dressing room is a very dark color.

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I saw cord like that in the basement, but it was cut up in pieces. I saw a good many cords like that all over the factory. I never found the purse, or the flowers or the ribbon on the little girl's hat. This diagram (State's Exhibit A) is a correct diagram of second floor and basement of pencil company and other places. No. 11 on diagram (State's Exhibit A) is the toilets.

RE-DIRECT EXAMINATION.

I was guarded in what I said over the phone to Mr. Frank though it was just a conversation between two gentlemen. These pieces of wood look like what I chipped off the floor. I turned them over to Chief Lanford. (Referring to State's Exhibit E).

RECALLED FOR THE STATE.

I saw Mr. Rosser at the coroner's inquest. I never heard him say anything throughout the hearing.

The most important facts brought forth by Starnes were the pointed contrast between Leo Frank's extreme nervousness compared with Newt Lee's relative calm. This was all the more remarkable because, as the jury well knew, Lee, a black man in racially-stratified 1913 Atlanta, who had been caught alone in a dark factory at night with the body of a dead white girl, was under a much heavier cloud of suspicion than Frank — and had in fact been arrested, while Frank had not.

Next came the testimony of W.W. "Boots" Rogers, who had accompanied the officers:

W. W. ROGERS, sworn for the State.

I am now connected with Judge Girardeau's court. I was at the station house Saturday night, April 26th, and went to the National Pencil Company's place of business. It was between five and five thirty that I heard Mr. Starnes have a conversation over the phone. I heard him say, "If you will come I will send an automobile after you."

It took us five or six minutes to get out to Mr. Frank's residence at 68 E. Georgia Avenue. Mr. Black was with me. Mrs. Frank opened the door. She wore a heavy bath robe. Mr. Black asked if Mr. Frank was in. Mr. Frank stepped into the hall through the curtain. He was dressed for the street with the exception of his collar, tie, coat and hat. He had on no vest.

Mr. Frank asked Mr. Black if anything had happened at the factory. Mr. Black didn't answer. He asked me had anything happened at the factory. I didn't answer. Mr. Frank said, "Did the night watchman call up and report anything to you?" Mr. Black said, "Mr. Frank, you had better get your clothes on and let us go to the factory and see what has happened." Mr. Frank said that he thought he dreamt in the morning about 3 a. m. about hearing the telephone ring.



Leo Frank

Mr. Black said something about whiskey to Mrs. Frank in Mr. Frank's presence. Mrs. Frank said Mr. Frank hadn't had any breakfast and would we allow him to get breakfast. I told Mr. Black that I was hungry myself. Mr. Frank said let me have a cup of coffee. Mr. Black in a kind of sideways, said, "I think a drink of whiskey would do him good,"

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and Mrs. Frank made the remark that she didn't think there was any whiskey in the house.

Mr. Frank seemed to be extremely nervous. His questions were jumpy. I never heard him speak in my life until that morning. His voice was a refined voice, it was not coarse. He was rubbing his hands when he came through the curtains. He moved about briskly. He seemed to be excited. He asked questions in rapid succession, but gave plenty of time between questions to have received an answer.

Mr. Frank and Mr. Black got on the rear seat and I took the front seat and as I was fixing to turn around, one of us asked Mr. Frank if he knew a little girl by the name of Mary Phagan. Mr. Frank says: "Does she work at the factory?" and I said, "I think she does." Mr. Frank said, "*I cannot tell whether or not she works there until I look on my pay roll book, I know very few of the girls that work there. I pay them off, but I very seldom go back in the factory and I know very few of them, but I can look on my pay roll book and tell you if a girl by the name of Mary Phagan works there.*"

One of us suggested that we take Mr. Frank by the undertaking establishment and let him see if he knew this young lady. Mr. Frank readily consented, so we stopped at the telephone exchange, Mr. Frank, Mr. Black and myself got out and went in the undertaking establishment.

I saw the corpse. The corpse was lying in a little kind of side out room to the right of a large room. The light was not lit in this little room where the body was laying, and Mr. Gheesling stepped in ahead of me and went around behind the corpse and lit the light above her head and her head was lying then towards the wall. I stepped up on the opposite side of the corpse with a door to my left. Mr. Gheesling caught the face of the dead girl and turned it over towards me. I looked then to see if anybody followed me and I saw Mr. Frank step from outside of the door into what I thought was a closet, but I have afterwards found it was where Mr. Gheesling slept, or where somebody slept. There was a little single bed in there.



The clothes worn by Mary Phagan when she was killed

I immediately turned around and came back out, in front of the office. I didn't see Frank look at the corpse. I don't remember that Mr. Frank ever followed me in this room. He may have stopped on the outside of the door, but my back was toward him and I don't know where he stopped. Mr. Gheesling turned the head of the dead girl over towards me and I looked around to see who was behind me and I saw Mr. Frank as he made that movement behind me. He didn't go into the closet as far as I could see, but he got out of my view. He could have looked at the corpse from the time that Mr. Gheesling was going around behind, but he could not have seen her face because it was lying over towards the wall. The face was away from me and I presume that was the cause of Mr. Gheesling turning it over.

The Leo Frank Trial: Week One

There was some question asked Mr. Frank if he knew the girl, and I think he replied that he didn't know whether he did or not but that he could tell whether she worked at the factory by looking at his pay roll book.

As we were leaving Mr. Frank's house, Mr. Frank asked Mrs. Frank to telephone Mr. Darley to come to the factory.

Mr. Frank was apparently still nervous at the undertaking establishment, he stepped lively. It was just his general manner that indicated to me that he was nervous. I never saw Mr. Frank in my life until that morning.

After we got out of Mr. Frank's house and was in my car, was the first time Mr. Frank had been told that the young lady was named Mary Phagan and that there had been any murder committed at the factory.

From the undertaker's we went to the pencil factory in my car. We went into Mr. Frank's office, he went up to the safe, turned the combination, opened the safe, took out his time book, laid the book down on the table, ran his finger down until he came to the name Mary Phagan, and said, "Yes, Mary Phagan worked here, she was here yesterday to get her pay." He said, "I will tell you about the exact time she left there. My stenographer left about twelve o'clock, and a few minutes after she left the office boy left and Mary came in and got her money and left." He said she got \$1.20 and he asked whether anybody had found the envelope that the money was in.

Frank still seemed to be nervous like the first time I seen him. It was just his quick manner of stepping around and his manner of speech like he had done at the house that indicated to me that he was nervous.

He then wanted to see where the girl was found. Mr. Frank went around by the elevator, where there was a switch box on the wall and Mr. Frank put the switch in. The box was not locked. Somebody asked him if he was used to keeping the switch box locked. He said they had kept it locked up to a certain time until the insurance company told him that he would have to leave it unlocked, that it was a violation of the law to keep an electric switch box locked. We then stepped on the elevator. He still stepped about lively and spoke up lively, answering questions, just like he had always done.

After we got on the elevator, he jerked at the rope and it hung and he called Mr. Darley to start it and we all stepped out of the elevator. Mr. Darley came and pulled at the rope two or three times and the elevator started.

As to whether anybody made any statement down in the basement as to who was responsible for the murder, I think Mr. Frank made the remark that Mr. Darley had worked Newt Lee for sometime out at the Oakland plant and that if Lee knew anything about the murder that Darley would stand a better chance of getting it out of him than anybody else.

The Leo Frank Trial: Week One

After we came back from the basement it was suggested that we go to the station house and as we started out Mr. Frank says, "I had better put in a new slip, hadn't I, Darley?" Darley told him yes to put in a slip. Frank took his keys out, unlocked the door of the right-hand clock and lifted out the slip, looked at it and made the remark that the slip was punched correctly. Mr. Darley and Newt Lee was standing there at the time *Mr. Frank said the punches had been made correctly*. Mr. Frank then put in a new slip, closed the door, locked it and took his pencil and wrote on the slip that he had already taken out of the machine, "April 26, 1913."

I looked at the slip that Mr. Frank took out (Defendant's Exhibit I), the first punch was 6:01, the second one was 6:32 or 6:33. He took the slip back in his office. I glanced all the way down and there was a punch for every number.

While we were walking through the factory Mr. Frank asked two or three times to get a cup of coffee. As to what Mr. Frank said about the murder, I don't know that I heard him express himself except down in the basement. The officers showed him where the body was found and he made the remark that it was too bad or something to that effect. When we left the factory to go to police headquarters, Newt Lee was under arrest. I never considered Mr. Frank as being under arrest at that time. There had never been said anything to him in my presence about putting him under arrest. Mr. Frank's appearance at the station house was exactly like it was when I first saw him. He stepped quickly, when the door of the automobile was open, he jumped lightly off Mr. Darley's lap, went up the steps pretty rapid.

CROSS EXAMINATION.

I never saw Mr. Frank until that morning. I don't know whether his natural movements or manner of speech were quick or not. We didn't know whether the girl was a white girl or not until we rubbed the dirt from the child's face and pulled down her stocking a little piece. The tongue was not sticking out, it was wedged between the teeth. She had dirt in her eye and mouth. The cord around her neck was drawn so tight it was sunk in her flesh and the piece of underskirt was loose over her hair.

I don't know whether Mr. Frank went upstairs or not after we reached his house. I think he called to his wife to get him his collar and tie. He got his coat and vest some place, but I don't know where. At the time Mrs. Frank was calling Mr. Darley, Mr. Frank was putting on his collar and tie down in the reception hall. We were at the house 15 or 20 minutes. After Mrs. Frank had said something about Mr. Frank getting his breakfast before he went, Mr. Black said something about a drink would do good. Mrs. Frank then called her mother, who said that there wasn't any liquor in the house, that Mr. Selig had an acute attack of indigestion the night before and used it all up.

Mr. Frank readily consented to go to the undertaker's with us. When we got in the car we told him it was Mary Phagan and he said he could tell whether she was an employee or not by looking at his book, that he knew very few of the girls.

The Leo Frank Trial: Week One

Yes, anybody facing the door of the little chapel at the undertaker's could have seen the corpse. As to whether I know that Mr. Frank didn't see the corpse he could have got a glance at the whole corpse, but when Mr. Gheesling turned the face over no one could have got a good look at the face unless they stepped in the room. Mr. Gheesling turned the young lady's face directly toward me, Mr. Frank was standing somewhere behind me, outside of the room. I turned around to see if Mr. Frank was looking. I don't know that he didn't get a glance at the corpse, but no one but Mr. Gheesling and I at this moment stepped up and looked at the little girl's face. What Mr. Frank and Mr. Black saw behind my back, I can't say. I don't say that Mr. Frank stepped into that dressing room, but he passed out of my view. So did Mr. Black. Mr. Gheesling had a better view of Mr. Black and Mr. Frank than I did, because my back was to them and Mr. Gheesling was looking straight across the body at them.

Mr. Frank had no difficulty in unlocking the safe when we went back to the factory. The elevator we went down on is a freight elevator, makes considerable noise. It stops itself when it gets to the bottom. I don't think it hits the ground.

She was lying on her face with her hands folded up. Her face was turned somewhat toward the left wall. A bruise on the left side of her head, some dry blood in her hair. One of her eyes were blackened. There were several little scratches on her face. Somebody worked her arms to see if they were stiff. The arms worked a little bit. The joints in her arms worked just a little bit.



Mary Phagan — and the spot where her body was discovered

When we first went down the basement we stayed down there about 20 or 25 minutes. During that time neither the shoe, the hat, nor the umbrella had been found. In the elevator shaft there was some excrement. When we went down on the elevator, the elevator mashed it. You could smell it all around. It looked like the ordinary healthy man's excrement. It looked like somebody had dumped naturally; that was before the elevator came down. When the elevator came down afterwards it smashed it and then we smelled it. As to the hair of the girl anyone could tell at first glance that it was that of a white girl.

RE-DIRECT EXAMINATION.

The body wasn't lying at the undertakers where it could have been seen from the door.

RE-CROSS EXAMINATION.

At the moment the face was turned towards me, I didn't see Mr. Frank but I know a person couldn't have looked into the face unless he was somewhere close to me. I was inside and Mr. Frank never came into that little room.

RE-DIRECT EXAMINATION.

When the face was turned towards me, Mr. Frank stepped out of my vision in the direction of Mr. Gheesling's sleeping room.

Well, the tangled issue of whether Frank actually dared to look directly into the dead face of Mary Phagan is interesting but not conclusive: Many's the person too sensitive to want to do that. But Frank's denial of knowing Mary Phagan by name is hardly credible: he had paid her some 52 times prior to the murder, and written her initials each time in his accounting book. And Rogers confirmed the fact that Leo Frank had — initially — stated that all of Lee's time clock punches were correct. He also revealed that the original time slip was, unfortunately, left in Frank's custody instead of that of the police.

The next important testimony was that of Detective John R. Black, who had known Frank before the Phagan murder. He stated that Leo Frank was not naturally nervous or excitable, giving his nervousness immediately after the killing more significance. Black also had knowledge of Frank's change of heart regarding the "missed punches" on Newt Lee's time slip and the circumstances surrounding the finding of the bloody shirt. But Black, unlike Lee, was easily confused and rattled by the defense's rapid-fire cross-examination, damaging his credibility.

JOHN R. BLACK, sworn for the State.

I am a city policeman. I don't know the details of the conversation between Mr. Starnes and Mr. Frank over the 'phone. I didn't pay very much attention to it. I went over to Mr. Frank's house with Boots Rogers. Mrs. Frank came to the door. Mrs. Frank had on a bath robe. I stated that I would like to see Mr. Frank and about that time Mr. Frank stepped

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out from behind a curtain. His voice was hoarse and trembling and nervous and excited. He looked to me like he was pale.

I had met Mr. Frank on two different occasions before. On this occasion he seemed to be nervous in handling his collar. *He could not get his tie tied*, and talked very rapid in asking questions in regard to what had happened.

He wanted to know if he would have time to get something to eat, to get some breakfast. He wanted to know if something had happened at the pencil factory and if the night watchman had reported it, and he asked this last question before I had time to answer the first. He kept insisting for a cup of coffee.

When we got into the automobile as Mr. Rogers was turning around Mr. Frank wanted to know what had happened at the factory, and I asked him if he knew Mary Phagan and told him that she had been found dead in the basement of the pencil factory. *Mr. Frank said he didn't know any girl by the name of Mary Phagan*, that he knew very few of the employes.

I suggested to Mr. Rogers that we drive by the undertaker's. In the undertaking establishment Mr. Frank looked at her. He gave a casual glance at her and stepped aside. I couldn't say whether he saw the face of the girl or not. There was a curtain hanging near the room and Mr. Frank stepped behind the curtain. He could get no view from behind the curtain. He walked behind the curtain and came right out. Mr. Frank stated as we left the undertaking establishment that he didn't know the girl but he believed he had paid her off on Saturday. He thought he recognized her being at the factory on Saturday by the dress that she wore but he could tell by going over to the factory and looking at his cash book.

At the pencil factory Mr. Frank took the slip out, looked over it [Newt Lee's time clock slip — Ed.] *and said it had been punched correctly*. On Monday and Tuesday following *Mr. Frank stated that the clock had been mis-punched three times*. This slip was turned over to Chief Lanford on Monday. I saw Mr. Frank take it out of the clock and went back with it toward his office. I don't know of my own personal knowledge that it was turned over to Chief Lanford Monday.

When Mr. Frank was down at police station on Monday morning Mr. Rosser and Mr. Haas [Lawyers for Frank and the National Pencil Company. — Ed.] were there. About 8 or 8:30 o'clock Monday morning Mr. Rosser came in police headquarters. That's the first time he had counsel with him. That morning Mr. Haslett and myself went to Mr. Frank's house and asked him to come down to police headquarters. About 1 1:30 Monday Mr. Haas demanded of Chief Lanford that officers accompany Mr. Frank out to his residence and search his residence. Mr. Haas stated in Frank's presence that he was Mr. Frank's attorney and demanded to show that there was nothing left undone, that we go out to Mr. Frank's house and search for anything that we might find in connection with the case.

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On Tuesday night Mr. Scott and myself suggested to Mr. Frank to talk to Newt Lee. Mr. Frank spoke well of the negro, said he had always found him trusty and honest. They went in a room and stayed from about 5 to 10 minutes alone. I couldn't hear enough to swear that I understood what was said. Mr. Frank stated that Newt still stuck to the story that he knew nothing about it.

Mr. Frank stated that Mr. Gantt was there on Saturday evening and that he told Newt Lee to let him go and get the shoes but to watch him, as he knew the surroundings of the office. After this conversation Gantt was arrested. Frank made no objections to talking to Newt Lee.

Mr. Frank was nervous on Monday. After his release Monday he seemed very jovial.

On Tuesday night Frank said at station house that there was nobody at [the] factory at 6 o'clock but Newt Lee and that Newt ought to know more about it, as it was his duty to look over factory every thirty minutes. Also that Gantt was there Saturday evening and he left him there at 6 o'clock and that he and Gantt had some trouble previous to discharge of Gantt and that he at first refused to allow Gantt to go in factory, but Gantt told him he left a pair of shoes there.

CROSS EXAMINATION.

When I said that Mr. Frank was released I spoke before I thought. I retracted it on cross-examination. I don't know that Mr. Rosser was at the police station between 8 and 8:30 Monday morning, I said that to the best of my recollection. I wouldn't swear Mr. Rosser was there. I heard Mr. Rosser say to Mr. Frank to give them a statement without a conference at all between Mr. Frank and Mr. Rosser. I said that we wanted to have a private talk with Mr. Frank without Mr. Rosser being present. I wanted to talk to Mr. Frank without Mr. Rosser being present. While I was at the coroner's inquest Mr. Frank answered every question readily.

I wouldn't swear positively, but to the best of my recollection I had a conversation with Mr. Frank on two previous occasions. When I met Mr. Frank on previous occasions I don't remember anything that caused me to believe he was nervous, nothing unusual about him.

I heard the conversation Mr. Starnes had over the telephone with Mr. Frank early that morning. It was about a quarter to six, or a quarter past six. I think we got to the undertaker's about 6:20. As to the reason why I didn't tell Mr. Frank about the murder when I was inside the house, but did tell him as soon as he got in the automobile, I had a conversation with Newt Lee and I wanted to watch Mr. Frank and see how he felt about the murder.

Mr. Frank didn't go upstairs and put his collar and cravat on. Mrs. Frank brought him his collar and tie, I don't know where she got them. He told her to bring his collar and tie and he got his coat and hat. I don't know whether he went back to his home or not. He

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put his collar and tie on right there. I don't know where he got his coat and vest at. I don't know what sort of tie or collar he had. He put his collar and tie on like anybody else would; tied it himself. I don't know whether Mr. Frank finished dressing upstairs or not. I couldn't see him when he went behind those curtains.

We stayed at the Frank home about ten minutes. At the undertaking establishment I was right behind Mr. Frank. He was between me and the body. I saw the face when the undertaker turned her over. Yes, Mr. Frank being in front of me had an opportunity to see it also. No, Mr. Frank didn't go into that sleeping room. Mr. Frank went out just ahead of me. When we went back to the pencil factory, Mr. Frank went to the safe and unlocked it readily at the first effort. He got the book, put it on the table, opened it at the right place, ran his finger down until he came to the name of Mary Phagan and says, "Yes, this little girl worked here and I paid her \$1.20 yesterday."

We went all over the factory that day. Nobody saw that blood spot that morning. I guess there must have been thirty people there during that day. Nobody saw it. I was there twice that day. Mr. Starnes was there with me. He didn't call attention to any blood spots. Chief Lanford was there, and he didn't discover any blood spots.

Mr. Frank was at the police station on Monday from 8:30 until about 1 1:30. Mr. Frank told me he had discharged Mr. Gantt on account of shortage and had given orders not to let him in the factory.

As regards Mr. Frank's linen, Mr. Haas said he was Mr. Frank's attorney and requested that we go to Mr. Frank's house and look over the clothes he had worn the week before and the laundry too. Yes, we went out there and examined it. Mr. Frank had had no opportunity to telephone his house from the time we mentioned it until we got out there. He went with us and showed us the dirty linen. I examined Newt Lee's house. I found a bloody shirt in the bottom of a clothes barrel there on Tuesday morning about 9 o'clock.

RE-DIRECT EXAMINATION.

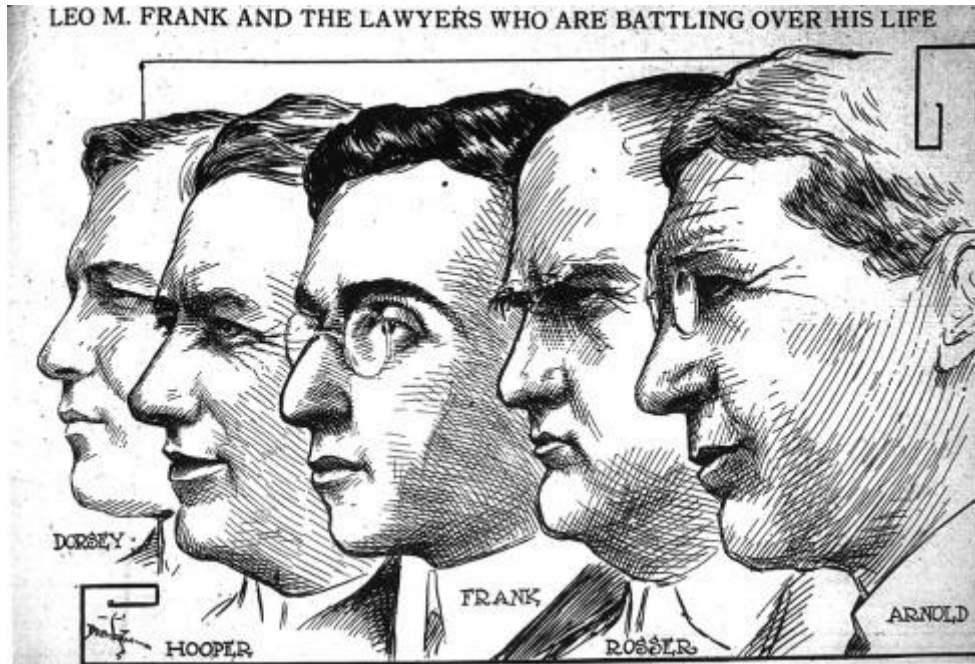
Mr. Frank had told me that he didn't think Newt Lee had told all he knew about the murder. *He also said after looking over the time sheet and seeing that it hadn't been punched correctly that that would have given Lee an hour to have gone out to his house and back.* I don't know when he made this last statement. I don't remember whether that was before or after I went out to Lee's house and found the shirt. We went into his house with a skeleton key. It was after Frank told me about the skips in the punches. The shirt is just like it was the day I found it. The blood looks like it is on both sides of the shirt.

RE-CROSS EXAMINATION.

I don't know whether I went out to Lee's house before or after Mr. Frank suggested the skips in the time slips. I don't like to admit it, but I am so crossed up and worried that I don't know where I am at, but I think to the best of my knowledge it was Monday that Frank said that the slips had been changed.

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Much is made of Black getting “crossed up and worried” on cross-examination, and his vagueness about just when Frank started suggesting that houses ought to be searched. (It was Dorsey’s theory that Frank wanted his own house to be searched because it would naturally follow that Lee’s house would then be searched also, and the planted bloody shirt be found.) But far more important than any of the confusion are the two elements that Black could not be “crossed up” on: Frank’s extreme nervousness on the morning after the murder — he could not even properly tie his own tie — and the fact that *he did indeed change his position on Lee’s time slips by 180 degrees.*



Leo Frank, center, and the legal minds arrayed for and against him

Next in the witness box was James Gantt, the man whose presence at the factory Sunday evening had so frightened Frank. Whether the fright was because Gantt had been fired by Frank, or because Gantt was a friend of Mary Phagan’s, was a matter of contention. But Gantt had much more to say, too:

J. M. GANTT, sworn for the State.

From June last until the first of January I was shipping clerk at the National Pencil Company. I was discharged April 7th by Mr. Frank for alleged shortage in the pay roll. I have known Mary Phagan when she was a little girl.

Mr. Frank knew her, too. *One Saturday afternoon she came in the office to have her time corrected, and after I had gotten through Mr. Frank came in and said, “You seem to know Mary pretty well.”* No, I had not told him her name.

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I used to know Mary when she was a little girl, but I have not seen her up to the time I went to work for the factory. My work was in the office and she worked in the rear of the building on the same floor in the tip department.

After I was discharged, I went back to the factory on two occasions. Mr. Frank saw me both times. *He made no objection to my going there.*

One girl used to get pay envelopes for another girl with Mr. Frank's knowledge. There was an alleged shortage in the pay roll of \$2.00. Mr. Frank came to see me about it and I told him I didn't know anything about it, and he said he wasn't going to make it good, and I said I wasn't, and he then discharged me. Prior to my being discharged Mr. Frank told me he had the best office force he ever had. I was the time keeper.

Mr. Frank could sit at his desk and see the employees register at the time clock if the safe door was closed. Mr. Frank did not fix the clock frequently, possibly two or three times. On April 26th, about six o'clock I saw Newt Lee sitting out in front of the factory and I remembered that I left a pair of shoes up there and I asked Newt Lee what about my getting them, and he said he couldn't let me up. I said Mr. Frank is up there, isn't he? because I had seen him in the window from across the street, and while we were standing there talking, in two or three minutes, *Mr. Frank was coming down the stairway and got within fifteen feet of the door when he saw me and when he saw me he kind of stepped back like he was going to go back, but when he looked up and saw that I was looking at him he came on out, and I said "Howdy, Mr. Frank," and he kind of jumped again.*

I told him I had a pair of shoes up there I would like to get and he said, "Do you want to go with me, or will Newt Lee be all right?" and he kind of studied a little bit, and said, "What kind of shoes were they?" and I said, "They were tan shoes," and he said, "I think I saw a negro sweeping them up the other day." And I said, "Well, I have a pair of black ones there, too," and he kind of studied a little bit, and said "Newt, go ahead with him and stay with him until he gets his shoes," and I went up there and found both pair right where I had left them.

Mr. Frank looked pale, hung his head, and nervous and kind of hesitated and stuttered like he didn't like me in there somehow or other.

CROSS EXAMINATION.

I testified at the coroner's inquest. I admit I did not testify about Frank's knowing Mary very well there, that has been recalled to my mind since I was arrested on Monday, April 28th, at 11 o'clock and held until Thursday night about six.

Frank, according to Gantt, remarking "You seem to know Mary pretty well," did not jibe with Frank's claim that he didn't know the murdered girl by name. It was a riveting moment. It implied far more than a mere knowledge of the dead girl's name or the catching of the superintendent in a lie — it implied that Leo Frank was noticing who noticed Mary, and therefore might have had designs on her for some time. The

prosecution's theory was that Frank's killing of Mary had proceeded from a failed attempt to seduce her.



Mary Phagan and her aunt

Next in the witness box was Pinkerton agent Harry Scott, whose testimony was particularly credible because his agency had been brought into the case at the specific request of the National Pencil Company and was being paid by forces friendly to Frank.

HARRY SCOTT, sworn for the State.

I am Superintendent of the local branch of the Pinkerton Detective Agency. I have worked on this case with John Black, city detective. I was employed by Mr. Frank representing the National Pencil Company.

I saw Mr. Frank Monday afternoon, April 28th, at the pencil factory. We went into Mr. Frank's private office. Mr. Darley and a third party were with us. Mr. Frank said, "I guess you read in the newspapers about the horrible crime that was committed in this factory, and the directors of this company and myself have had a conference and thought that the public should demand that we have an investigation made, and endeavor to determine who is responsible for this murder." And Mr. Frank then said he had just come

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from police barracks and that Detective Black seemed to suspect him of the crime, and he then related to me his movements on Saturday, April 26th, in detail.

He stated that he arrived at the factory at 8 a.m., that he left the factory between 9:30 and 10 with Mr. Darley for Montag Bros. for the mail, that he remained at Montag Bros. for about an hour; that he returned to the factory at about 11 o'clock, and just before twelve o'clock Mrs. White, the wife of Arthur White, who was working on the top floor of the building that day with Harry Denham, came in and asked permission to go upstairs and see her husband. Mr. Frank granted her permission to do so.

He then stated that Mary Phagan came in to the factory at 12:10 p. m. to draw her pay; that she had been laid off the Monday previous and she was paid \$1.20; that he paid her off in his inside office where he was at his desk, and when she left his office and went in the outer office, she had reached the outer office door, leading into the hall and turned around to Mr. Frank and asked if the metal had come yet; Mr. Frank replied that he didn't know and that Mary Phagan then, he thought, reached the stairway, and he heard voices, but he could not distinguish whether they were men or girls talking, that about 12:50 he went up to the fourth floor and asked White and Denham when they would finish up their work and they replied they wouldn't finish up for a couple of hours; that Mrs. White was up there at the time and Frank informed Mrs. White that he was going to lock up the factory, that she had better leave; Mrs. White preceded Mr. Frank down the stairway and went on out of the factory as far as he knew, but on the way out, Mrs. White made the statement that she had seen a negro on the street floor of the building behind some boxes, and Mr. Frank stated that at 1:10 p.m. he left the factory for home to go to luncheon; he arrived at the factory again at 3 p. m., went to work on some financial work and at about four o'clock the night watchman reported for work, as per Mr. Frank's instructions the previous day; that he allowed Newt Lee to go out and have a good time for a couple of hours and report again at six o'clock, which Newt did and at six o'clock when Lee returned to the factory, he asked Mr. Frank, as he usually did, if everything was all right, and Mr. Frank replied "Yes" and Lee went on about his business.

Mr. Frank left the factory at 6:04 p. m. and when he reached the street door entrance he found Lee talking to Gantt, an ex-book-keeper who Frank had discharged for thieving. Mr. Frank stated that he had arrived home at about 6:25 p. m. and knowing that he had discharged Gantt, he tried to get Lee on the telephone at about 6:30; knowing that Lee would be in the vicinity of the time clock at that time and could hear the telephone ring; that he did not succeed in getting him at 6:30, but that he got him at seven; that he asked Lee the question if Gantt had left the factory and if everything was all right, to which Lee replied "Yes," and he hung up the receiver. Mr. Frank stated he went to bed somewhere around 9:30.

After that Mr. Frank and Mr. Darley accompanied me around the factory and showed me what the police had found. Mr. Darley being the spokesman. We went first to the metal room on the second floor, where I was shown some spots supposed to be blood spots, they were already chipped up, and I was taken to a machine where some strands of hair were supposed to have been found. From there we went down and examined the time

The Leo Frank Trial: Week One

clock and went through the scuttle hole and down the ladder into the basement, where I was shown where everything had been found.

As to Mr. Frank's manner and deportment at the time we were in his office, he seemed to be perfectly natural. I saw no signs of nervousness. Occasionally between words he seemed to take a deep breath, and deep sighs about four or five times. His eyes were very large and piercing. They looked about the same they do now. He was a little pale. He gave his narrative rather rapidly.

As to whether he stated any fixed definite time as to hours or minutes, he didn't state any definite time as to when Mary Phagan came in, he said she came in at about 12:10. We furnished attorneys for Frank with reports. After refreshing my memory I now state that Mr. Frank informed me at the time I had that conversation with him that he heard these voices before 12 o'clock, before Mary Phagan came.

He also stated during our conversation that Gantt knew Mary Phagan very well, that he was familiar and intimate with her. He seemed to lay special stress on it at the time. He said that Gantt paid a good deal of attention to her.

As to whether anything was said by any attorney of Frank's as to our suppressing any evidence as to this murder, it was the first week in May when Mr. Pierce and I went to Mr. Herbert J. Haas' office in the 4th National Bank Building and had a conference with him as to the Pinkerton Agency's position in the matter. Mr. Haas stated that he would rather we would submit our reports to him first before we turned it over to the public and let them know what evidence we had gathered. We told him we would withdraw before we would adopt any practice of that sort, that it was our intention to work in hearty co-operation with the police.

I saw the place near the girls' dressing room on the office floor, fresh chips had already been cut out of the floor and I saw white smeared where the chips had been cut out and there were also some dark spots near the chipped out places. It was just as though somebody had taken a cloth and rubbed some white substance around in a circle, about eight inches in diameter. This white stuff covered all of the dark spots.

I didn't note any unusual signs of nervousness about Frank in his office. There wasn't any trembling or anything of that sort at that time. He was not composed.

On Tuesday night, April 29th, Black, Mr. Frank and myself were together and Mr. Black told Mr. Frank that he believed Newt Lee was not telling all that he knew. I also said to Mr. Frank that Newt knew more than he was telling, and that as he was his employer, I thought he could get more out of the nigger than we could, and I asked him if he would consent to go into a room as employer and employee and try to get it out of him. Mr. Frank readily consented and we put them in a private room, they were together there for about ten minutes alone. When about ten minutes was up, Mr. Black and I entered the room and Lee hadn't finished his conversation with Frank and was saying, "Mr. Frank it is awful hard for me to remain handcuffed to this chair," and Frank hung his head the

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entire time the negro was talking to him, and finally in about thirty seconds, he said, "Well, they have got me too." After that we asked Mr. Frank if he had gotten anything out of the negro and he said, "No, Lee still sticks to his original story." Mr. Frank was extremely nervous at that time. He was very squirmy in his chair, crossing one leg after the other and didn't know where to put his hands; he was moving them up and down his face, and he hung his head a great deal of the time while the negro was talking to him. He breathed very heavily and took deep swallows, and sighed and hesitated somewhat. His eyes were about the same as they are now.

That interview between Lee and Frank took place shortly after midnight, Wednesday, April 30th. On Monday afternoon, Frank said to me that the first punch on Newt Lee's slip was 6:33 p. m., and his last punch was 3 a. m. Sunday. *He didn't say anything at that time about there being any error in Lee's punches.* Mr. Black and I took Mr. Frank into custody about 11:30 a.m. Tuesday, April 29th. His hands were quivering very much, he was very pale.

On Saturday, May 3d, I went to Frank's cell at the jail with Black and I asked Mr. Frank if from the time he arrived at the factory from Montag Bros. up until 12:50 p. m., the time he went upstairs to the fourth floor, was he inside of his office the entire time, and he stated "Yes." Then I asked him if he was inside his office every minute from 12 o'clock until 12:30 and he said "Yes."

I made a very thorough search of the area around the elevator and radiator and back in there. I made a surface search. I found nothing at all. I found no ribbon or purse, or pay envelope, or bludgeon or stick. I spent a great deal of time around the trap door and I remember running the light around the door way right close to the elevator, looking for splotches of blood, but I found nothing.

CROSS EXAMINATION.

Yes, I sent you this report as to what happened between Mr. Herbert J. Haas and myself: "This afternoon Supt. H.B. Pierce and myself held a conference with Mr. Herbert Haas, at which the agency's position in the matter was discussed, and Mr. Haas stated they wanted to learn who the murderer was, regardless of who it involved." Mr. Haas told me that after I had told him we would withdraw from the cause before we would not co-operate with the police. No, I did not report that to you. I reported the motive of our conference. No, I did not say anything about Mr. Haas wanting us to do anything except locate the murderer. Yes, I talked to you afterwards and you also told me to find the murderer, even if it was Frank.

Mr. Haas had said to Mr. Pierce and me that he would rather that we submit our reports of evidence to him before we turned it over to the police. No, there was nothing said about not giving this to the police.

I testified at the coroner's inquest as to what conversation I had with Mr. Frank. I did not give you in my report the details of Mr. Frank's morning movements, when he left home,

arrived at the factory and went to Montag Bros., and returned to the factory. As to my not saying one word about Gantt being familiar with this little girl, that was just an oversight, that is all. No, I did not testify to that either at the coroner's inquest. I didn't put it in the report to you, because Gantt was released the next day and I didn't consider him a suspect.

There was no reason for my not giving it to you. It was an oversight. I am representing the National Pencil Company, who employed me, and not Mr. Frank individually. It is true in my report to you with reference to the interview between me and Mr. Frank that I stated "I had no way of knowing what they said because they were both together privately in a room there and we had no way of knowing except what Lee told us afterwards." I now state that I did hear the last words of Lee.

I didn't put in my notes that Gantt was familiar with Mary Phagan, I don't put everything in my notes and the coroner didn't examine me about it either. No, I didn't tell the coroner anything about Frank crossing his legs and putting his hands up to his face. I never went into detail down there. No I didn't mention his hanging his head.

We always work with the police on criminal cases. No, I did not testify before the coroner about any white stuff having been smeared over those supposed blood spots.

I am not sure whether I got the statement about Mary Phagan being familiar with Gantt from Mr. Darley or Mr. Frank. Mr. Frank was present at the time.

Mr. Frank told me when the little girl asked if the metal had come back that he said "I don't know." It may be true that I swore before the coroner that in answer to that question from Mary Phagan as to whether the metal had come yet that Frank said, "No," and it is possible that I so reported to you. If I said "No," I meant "I don't know." I say now that Mr. Frank told me he left the factory at 1:10 p.m. If I reported to you that he told me he left at one o'clock, I made a very serious mistake. That is an oversight. Yes, I reported to the police before I reported to Mr. Haas or Mr. Montag.

RE-DIRECT EXAMINATION.

Yes, our agency reported to the police about finding the club. I find it is in our report of May 15th. I don't know when it was reported; I was out of town. I worked all through this case with Detective Black and every move he made was known to both of us. As to the stairway from the basement to the upper floor, there was a great deal of dust on the stairs and the dust didn't seem to be disturbed. This stairway is not in the picture but is near the back door. It was nailed and closed.

The "club" referred to was, along with part of a company pay envelope, "discovered" on the first floor of the factory — where African-American sweeper Jim Conley had been sitting on the day of the murder — by a rogue Pinkerton agent who was soon dismissed. (The "discovery" occurred days after minute examination by police investigators and by Scott, who found nothing.)

The real bombshell in Scott's testimony was his revelation that Frank — who had denied even knowing Mary Phagan, to say nothing of her relationships — had told Scott that "Gantt knew Mary Phagan very well, that he was familiar and intimate with her." Shortly thereafter, Gantt was arrested as a suspect. He was eventually released.

The testimony of the next witness on the stand, brief as it was, would prove devastating to Frank. She was pretty blonde Monteen Stover, a co-worker of Mary Phagan's. She was not hostile to Frank, and in fact thought highly of him. But one thing she was sure of — he definitely was *not* in his office continuously from noon to 12:45 on the day Mary Phagan died, as he had claimed:



Miss Monteen Stover

MISS MONTEEN STOVER, sworn for the State.

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I worked at the National Pencil Company prior to April 26th, 1913. I was at the factory at five minutes after twelve on that day. I stayed there five minutes and left at ten minutes after twelve. I went there to get my money. I went in Mr. Frank's office. He was not there. I didn't see or hear anybody in the building. The door to the metal room was closed. I had on tennis shoes, a yellow hat and a brown rain coat. I looked at the clock on my way up, it was five minutes after twelve and it was ten minutes after twelve when I started out. I had never been in his office before. The door to the metal room is sometimes open and sometimes closed.

CROSS EXAMINATION.

I didn't look at the clock to see what time it was when I left home or when I got back home. I didn't notice the safe in Mr. Frank's office. I walked right in and walked right out. I went right through into the office and turned around and came out. I didn't notice how many desks were in the outer office. I didn't notice any wardrobe to put clothes in. I don't know how many windows are in the front office. I went through the first office into the second office. The factory was still and quiet when I was there. I am fourteen years old and I worked on the fourth floor of the factory. I knew the paying-off time was twelve o'clock on Saturday and that is why I went there. They don't pay off in the office, you have to go up to a little window they open.

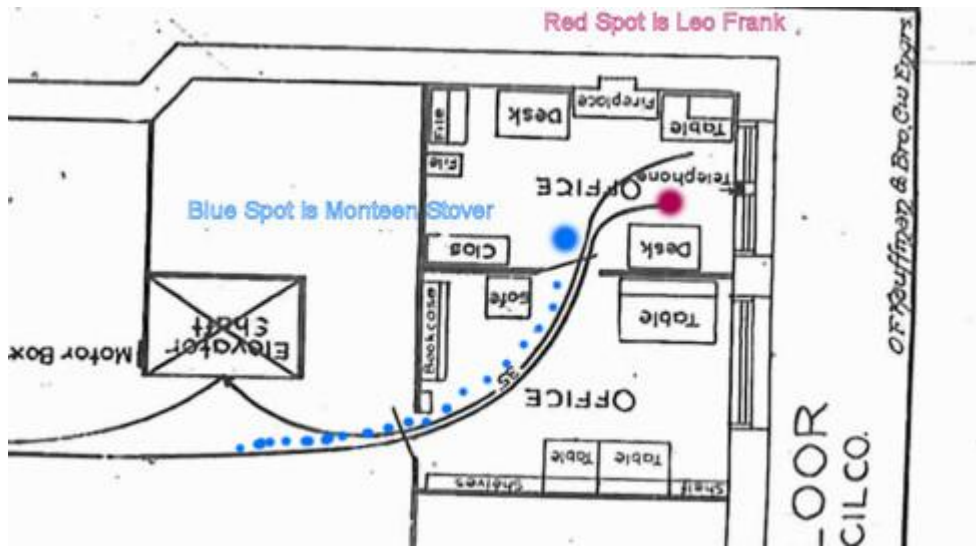


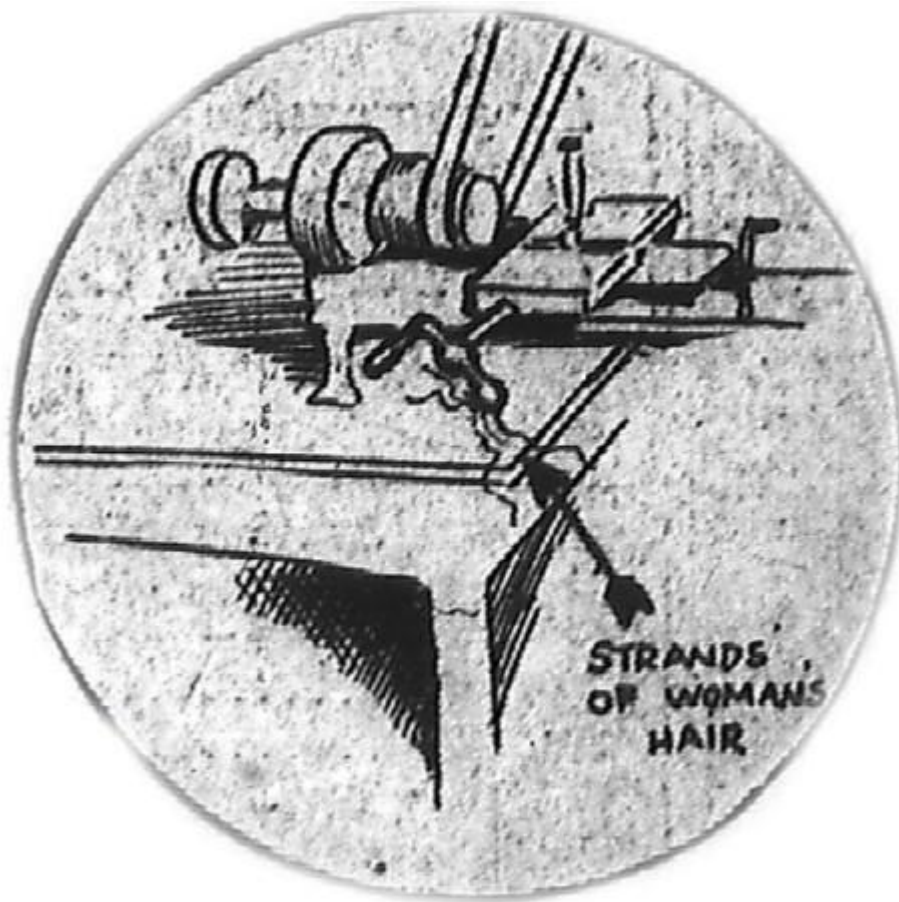
Diagram of Leo Frank's outer and inner office: How likely is it that Monteen Stover could have missed Frank had he really been in his office as he claimed?

RE-DIRECT EXAMINATION.

The door to the metal room is sometimes closed and sometimes open. When the factory isn't running the door is closed.

Next to the stand came pencil company machinist R.P. Barrett, who had discovered hair that looked like Mary's on a factory metal room lathe, and bloodstains hastily covered

with a lubricant nearby. The hair and stains had *not* been there when work ended on Friday, he said.



The hair found on the lathe. Where did it come from?

R.P. BARRETT, sworn for the State.

I am a machinist for the National Pencil Company. I have been there about eight weeks. On Monday morning, April 28th, I found an unusual spot that I had never seen before at the west end of the dressing room on the second floor of the pencil factory. That spot was not there Friday. The spot was about 4 or 5 inches in diameter and little spots behind these from the rear — 6 or 8 in number. I discovered these between 6:30 and 7 o'clock Monday. *It was blood. It looked like some white substance had been wiped over it.* We kept potash and haskoline, both white substances, on this floor. This white stuff was smeared over the spots. It looked like it had been smeared with a coarse broom. There was a broom on that floor, leaning up against the wall. No, the broom didn't show any evidence of having been used, except that it was dirty. It was used in the metal department for cleaning up the grease. The floor was regularly swept with a broom of finer straw.

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I found some hair on the handle of a bench lathe. The handle was in the shape of an "L." The hair was hanging on the handle, swinging down. Mell Stanford saw this hair. The hair was not there on Friday.

The gas jet that the girls sometimes use to curl their hair on is about ten feet from the machine where the hair was found. Machine Number is No. 10. It is my machine. I know the hair wasn't there on Friday, for I had used that machine up to quitting time, 5:30.

There was a pan of haskoline about 8 feet from where the blood was found. The nearest potash was in vats in the plating department, 20 or 25 feet away. The latter part of the week I found a piece of a pay envelope (State's Exhibit U) under Mary Phagan's machine. I have examined the area around the elevator on the main floor and I looked down the ladder and I never saw any stick. I did not find any envelope or blood or anything else there.

CROSS EXAMINATION.

I never searched for any blood spots before, until Miss Jefferson came in and said she understood Mary had been murdered in the metal department, then I started to search right away; that was the only spot I could find; I could tell it was blood by looking at it. I can tell the difference between blood and other substances. I found the hair some few minutes afterward — about 6 or 8 strands of hair and pretty long. When I left the machine on Friday I left a piece of work in there. When I got back the piece of work was still there. It had not been disturbed. The machine was in the same position in which I left it Friday night; there was no blood under this machine.

There is no number or amount on the envelope I found, and no name on it, just a little loop, a part of a letter. Yes, I have been aiding Mr. Dorsey and the detectives search the building. Yes, Mr. Dorsey subpoenaed me to come to his office; it was a State subpoena. I gave him an affidavit.

DNA evidence didn't exist in 1913, so it was impossible to test the hair or blood to see if they had come from Mary Phagan. But the hair looked like Mary's, and it's hard to imagine another plausible explanation for their appearance over a holiday weekend.



Witnesses: Mrs. Jefferson, R.P. Barrett, Mrs. White

After Barrett left the stand, janitor Mel Stanford confirmed Barrett's statement that neither the hair nor the bloodstains had been present at the end of business on the Friday before the murder. Then Mrs. G.W. Jefferson testified that she had found the bloodstains with Barrett, and that they covered an area "as big as a fan."

Dr. Claude Smith, a chemist for the city of Atlanta, stated that although he had only seen four or five corpuscles on the wood chips, his analysis had proved them to be blood:

DR. CLAUDE SMITH, sworn for the State.

I am physician and City Bacteriologist and Chemist. These chips (Exhibit E, State) appear to be the specimen which the detectives brought to my office and which I examined. They had considerable dirt on them and some coloring stain. On one of them I found some blood corpuscles. I do not know whether it was human blood. This shirt (Exhibit E for State [The shirt planted at Newt Lee's residence — Ed.]) appears to be the same shirt brought to my office by detectives which I examined. I examined spots and it showed blood stain. I got no odor from the arm pits that it had been worn. The blood I noticed was smeared a little on the inside in places. It didn't extend out on the outside. The blood on shirt was somewhat on the inside of the garment high up about the waist line which to my mind could not have been produced by turning up the tail.

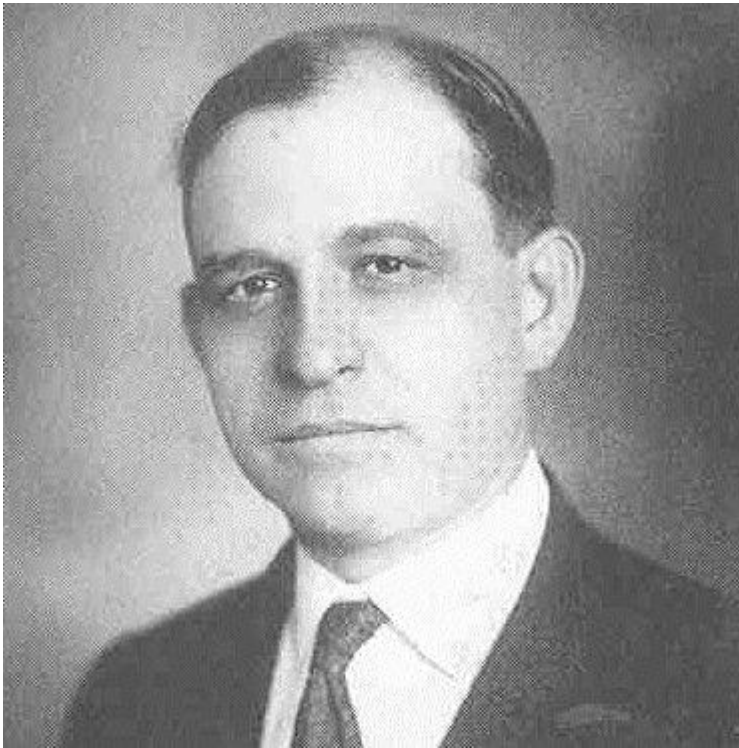
CROSS EXAMINATION.

I found grit and stain on all of the chips. I couldn't tell the one that I found blood on. I did the work in the ordinary way. The whole surface of the chips was coated with dirt. I

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couldn't tell whether the blood stain was fresh or old. I have kept blood corpuscles in the laboratory for several years. I found probably three or four or five blood corpuscles in a field. I don't know how much blood was there. A drop or half drop would have caused it, or even less than that. Rigor mortis begins very soon after death. Sometimes starts quicker, but usually starts very soon. I could not say when rigor mortis would end.

The next significant witness was Frank's business associate N.V. Darley. While Darley verbally fenced with Solicitor Dorsey to avoid incriminating his friend Frank, he finally did confirm that Frank was nearly out of his mind with anxiety after the murder was discovered, admitting that Frank was "trembling all over."



Prosecutor Hugh Dorsey

Dr. Henry F. Harris established the time of Mary Phagan's death as very close to that of Monteen Stover's visit to Leo Frank's empty office, and stated he had determined the cause of death to be strangulation, though it had been preceded by a blow with a blunt object, probably a fist, and a collision of her head with a sharp object, possibly a lathe. He also testified that, although no seminal fluid was present, some violence had been done to Mary's private parts before she died.

Mrs. Arthur White, who had been visiting her husband who was working on an upper floor, testified that she had seen a black man lurking near the elevator on the first floor when she left around 1 PM. This fitted with the prosecution's theory that the man was Jim Conley, on watch during Frank's attempted tryst, and who would eventually help Frank move the body.

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

Be sure to read next week's installment here at *The American Mercury* as we follow the trial that changed the South — changed America — and changed the world 100 years ago.

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* will be 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 regular basis until August 26, the 100th anniversary of the reading of the verdict. Follow along with us and experience the trial as Atlantans of a century ago did, and come to your own conclusions.

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>

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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](#).