

Title:Dr Wm Owens Sworn In For The State, 102nd To Testify
Category:LEO FRANK TRIAL BRIEF OF EVIDENCE

DR. WM. OWENS, sworn for the Defendant.

I am a physician. I am also engaged in the real estate business. At the request of the defense I went through certain experiments in the pencil factory to ascertain how long it would take to go through Jim Conley's movements relative to moving the body of Mary Phagan. I kept the time while the other men were going through with the performance. I followed them and kept the time. Mr. Wilson of the Atlanta Baggage Co. also kept time with me. Mr. Brent and Mr. Fleming enacted the performance. The performance enacted was as follows: "12. 56 o'clock, Conley goes to cotton box from elevator stairs, gets a piece of cloth, takes cloth back to where body lay and ties it just like a person that was going to give out clothes on Monday, ties each corner, draws it in and ties it, ties the four corners together, and runs right arm through cloth, went to put it up on his shoulder and found he couldn't get it up on shoulder, it was too heavy, and he carried it that way on his arm, when close to little dressing room in the metal department, he let the body fall; he jumped, and he was scared and said: "Mr. Frank, you will have to help me with this girl, she is heavy;" Frank comes and runs down from the top of the steps, and after he comes down there he caught her by the feet, and Conley laid hold of her by the shoulders, and when they got her up that way, they backed, and Frank kind of put her on Conley, Frank was nervous and trembling, too, and after walking a few steps, Frank let her feet drop; then they picked her up and went to the elevator and sat her on the elevator, and Frank pulled down the cords, and the elevator wouldn't go, and Frank said: "Wait, let me go in office and get the key;

and Frank goes in the office and gets a key and comes back and unlocks the storage box, and after that he started the elevator down; the elevator went down to the basement, and Frank said, "Come on," and he opened the door that led direct to the basement in front of the elevator, and carried it out and laid her down, and Conley opened the cloth and rolled her out on the floor, and Frank turned around and went on up the ladder, and Conley carries the body back to where the body was found; Conley goes around in front of the boiler, and notices her hat and slipper and a piece of ribbon; and Conley said: "Mr. Frank, what am I going to do with these things?" and Mr. Frank said: "Leave them right there;" and Conley threw them in front of the boiler; Conley goes to the elevator, and Frank come on up and stepped off at the first floor, and Frank hits Conley a blow on the chest which run him against the elevator; Frank stumbles out of elevator as it nears second floor, Frank goes and washes his hands, and comes into the private office, and they sit down in the private office, Frank rubbing his hands on the back of his hair; Frank happened to look out of the door, and said: "My God, there is Emma Clarke and Corinthia Hall;" Frank runs back; Frank says: "Come over here, Jim, I have got to put you in this wardrobe;" Frank puts Conley in wardrobe: Conley stayed there quite a while; Frank: "You got in a tight place;" ' Conley: "Yes, sir;" Frank: " You did very well; " Frank goes in the hall and comes back and lets Conley out of the wardrobe; Frank made him sit down; Conley sits down; Frank reaches on table and gets a box of cigarettes and matches, takes out cigarette and match, and hands Conley box of cigarettes; Conley lights cigarette, and commenced smoking, and hands Frank back box of cigarettes; Frank puts cigarettes back in his pocket and takes it out; Frank: "You can have these;" Conley reaches over and takes box of cigarettes and sticks them in his pocket; Frank: "Can you write?" Conley: "Yes, sir; a little bit;" Frank takes out his pencil and sits down; Conley sits down at table; Frank dictates notes, Conley taking paper that Frank gave him; Conley writes one note; Frank says; "Turn over and

write again;" Conley turns over paper and writes again; Frank: "Turn over again;" Conley turned over again and writes on next page; Frank: "That is all right. " Frank reaches over and gets green piece of paper and tells Conley what to write; Conley writes, Frank then lays it on his desk, looks at Conley smiling and rubbing his hands, runs his hands in his pocket and pulls out a roll of bills; Frank says: "There is \$200 00. Conley takes the money and looks at it a little bit; Conley: " Mr. Frank, don't you pay another dollar when that watchman comes, I'll pay him myself. " Frank: "All right, I don't see what you want a watch for, either; that big fat wife of mine, she wanted me to buy her an automobile, and I wouldn't do it; (pause) I will tell you the best way. You go down in the basement, you saw that package that is on the floor in front of the elevator; take a lot of that trash and make up a fire and burn it. "

Conley: "All right, Mr. Frank, you come down with me and I will go. "

Frank: " There is no need of my going down there, and I haven't got any business down there. " Conley: "Mr. Frank, you are a white man and you done it, and I am not going down there and burn it myself. " (Pause).

Frank: "Let me see that money. " Frank takes money and puts it in his pocket. Conley: "Is this the way you do things?" (Pause). Frank turned around in his chair, looks at money, and looks back at Conley, and throws his hands and looks up. Frank: "Why should I hang, I have wealthy people in Brooklyn. " Conley: "Mr. Frank, what about me?"

Frank: "It is alright about you, don't you worry about this thing; you must go back to your work on Monday, like you have never known anything, and keep your mouth shut, if you get caught, I will get you out on bond and send you away. " Conley: "That is all right, Mr. Frank. "

(Pause). Frank: "I am going out home; can you come back this evening and do it?" Conley: "Yes, sir, I am coming to get my money. "

Frank: "Well, I am going home to get my dinner now; you come back here in about forty minutes from now; it is near my dinner hour and I am going home to get my dinner;" picks up money. Conley: "How will I get in?" Frank: "There will be a place for you to get in all right, but listen, if you are not coming back, let me know, and I will take these notes and put them down with the body. " Conley: "All right, I will be back in forty minutes. " Conley looks at Frank, Frank looks up. Then Conley gets up and stands by chair and looks down at Frank; Frank grabs scratch pad from typewriter table and starts to make memorandum upon paper, but his hand trembles so he couldn't; Frank gets up to go.

Frank: "Now, Jim, you keep your mouth shut, do you hear?" Conley: "All right, I will keep my mouth shut, and I will be back here in forty minutes. " Conley goes out. It took us eighteen and a half minutes by the watch to go through the movements and conversation (as above set forth), which Conley says took place between him and Frank on Saturday, April 26th. The experiment was made as rapidly as the dialogue could be read. The eighteen and a half minutes did not include the eight minutes that Conley said he was in the wardrobe and also the time it took him to write the notes. Including the eight minutes he remained in the wardrobe and the ten minutes estimated for writing the notes, the whole performance would have taken 36 1/2 minutes.

CROSS EXAMINATION.

We started the experiment at the entrance of Mr. Frank's office at the top of the stairs. We had the copy of Conley's movements and the conversation in our hands all the time. Mr. Haas and Mr. Wilson read the directions. Mr. Brent took the part of Conley. As they would read out the things that Conley did, Mr. Brent would do them. I went with him all the time. I don't think the giving of the directions lengthened

the time very much, because the directions were being given while the enactment of each scene was going on. It wasn't done slowly and deliberately. When they dropped the body those knots did not come untied. The sack that they carried, to represent the body, contained wet sawdust and cinders, and was supposed to weigh 107 pounds. It was tied up tight. There was only one point in the enactment where there might

have been a loss of time, and that was where Mr. Frank was supposed to have paused in the office, and I suppose five or ten seconds were lost there. Mr. Fleming took the part of Mr. Frank. When they took the body down on the elevator, Mr. Brent, representing Conley, opened the cloth and rolled the corpse out on the floor, on the cloth, then dragged her

back to where the body was found. Mr. Brent dragged it back. He simply picked up the sack by the end and pulled it along. He dragged the

sack with the enclosed sawdust weighing about 107 pounds, back. Mr. Brent enacted everything that was supposed to have been done by Conley. Mr. Fleming played the part of Mr. Frank. Neither one of these

gentlemen are connected with the pencil factory. In putting the cloth around the corpse I think they actually gained time. They did it really faster than it could have been done. Mr. Herbert Haas did most of the reading of the directions. There were no feet hanging out of the sack like

the body would. As to whether it isn't much easier to handle the sack as it was than it would be to handle a human body in a sack, with the head and shoulders and arms exposed at one end and the feet and the legs up to the knees exposed at the other, I believe you could pick up a body just

as quickly as you could a sack. Corpses are pretty hard to handle. Fleming acted nervous and agitated like Frank was supposed to have done. He didn't tremble. I think he gained time there. In picking her up and putting her on the elevator I think they did that fully as quickly as a person could have taken a body, probably faster. I don't think Mr. Fleming

really unlocked the elevator box like Mr. Frank was supposed to do it.

He went through the motion. It probably takes longer to actually unlock it than it would to go through the motion of doing it. He probably gained time there. In going down the elevator, I think Mr. Schiff ran the elevator.

He was in the building when we got there and let us in. He ran it because none of the rest of us knew how to run it. He brought us back up again in the elevator. That's the only part he took in the performance.

Mr. Brent, impersonating Conley, carried the body out of the elevator. He is a large man and had no trouble carrying 107 pounds. Whatever the instructions called for we followed to the letter. Mr. Wilson and I had the paper in our hands and checked Mr. Haas as he read the directions. These directions furnished us were supposed to be Conley's testimony on the stand. It was furnished to us as a copy of the evidence as given by Conley. When we got to the basement I am not sure whether Mr. Brent impersonating Conley carried the body or dragged it. It could be dragged as quickly as it could be carried. I had my eyes on the paper all the time. Mr. Brent didn't get in the wardrobe, he was too big. He went to wardrobe and we eliminated the time he was supposed to be there. A small man could have got in it. They did not write out the notes. We eliminated that also. Staying in the wardrobe and writing the notes was not included in the eighteen and a half minutes it took. It was said that Conley's testimony was to the effect that he was in the wardrobe eight minutes. The notes were supposed to have taken from 12 to 16 minutes to write, but we didn't add that in our estimate. Mr. Wilson and I set our watches together when the performance started. The only thing that we omitted from the entire performance was writing the notes and concealing Conley in the wardrobe. Yes, I wrote that letter.

I wrote it partially at the instance of myself, and partially at the instance of Mr. Leonard Haas, my personal attorney.

RE-DIRECT EXAMINATION.

I wrote that letter as a matter of conscience. It is as follows: "To the Grand Jury of Fulton County, W. D. Beattie, foreman. Gentlemen: Among a number of people with whom I have discussed the unfortunate Phagan affair, I have found very few who now believe in the guilt of Leo M. Frank, and I have felt a deep conviction growing in my heart that a terrible injustice might be inflicted upon an innocent man. While we are all still mystified by the published evidence now at command, I am impelled by a sense of duty to ask that you carefully weigh the testimony of all persons connected with the crime, and the accumulating evidence, and if further indictments are warranted, that the Honorable Body, of which you are the foreman, will not hesitate to find them. If I am exceeding the privilege which perhaps might be accorded citizens in thus addressing your Honorable Body, it is your privilege to ignore what I have said. Whatever may be your conclusion in the matter, I wish to assure you in thus addressing you, that I am discharging a duty which has weighed heavily on my conscience, the performance of which I could not forego. I do not even know Mr. Frank, and have no personal interest in the case whatever. Very truly, your fellow-citizen, William Owens. " The pantomime that we enacted at the factory was the story as told by Jim Conley on the stand.