

# FRANK ALIBI UPHELD BY NEW WITNESSES

**Swear They Saw Accused Man  
Far from Factory at Hour  
Murder Occurred.**

## **STRONGEST LINK YET FOUND**

**Affidavits of Mrs. Miller and Maier  
Lefkoff Support Frank's Story of  
Movements on Fatal Day.**

*Special to The New York Times.*

ATLANTA, Ga., March 5.—Instead of being in the National Pencil factory at the hour when the negro, Jim Conley, swore that the murder of Mary Phagan occurred, Leo M. Frank was on the streets of Atlanta, bowing to his friends, according to affidavits made public late this afternoon by the prisoner's attorneys.

The affidavits were made by Mrs. Ethel Harris Miller and Maier Lefkoff, who supported the testimony of Minnie Kern, the 18-year-old stenographer at the trial. Miss Kern's story was considered the strongest link in the alibi presented by the defense. She said she saw Frank at Whitehall and Alabama Streets at 1:10 o'clock on the afternoon of the murder, at which time Jim Conley swore he and Frank were carrying the murdered girl's body into the basement.

Mrs. Miller says she saw Frank at approximately the same time that he was seen by Miss Kern. It was also at precisely the same spot at which he passed Miss Kern. Mrs. Miller was walking along the street with her sister, Mrs. Max Meyer, and with Mr. Lefkoff. Mrs. Meyer was then unmarried, having married Mr. Meyer last Fall.

Attorney Leonard, who is associated with Reuben Arnold and Luther Z. Rosser in Frank's defense, considers these affidavits probably the strongest evidence that will be submitted in the extraordinary motion for a new trial, to be made before Judge Ben Hill, of the Superior Court about ten days before the date set for the execution. This date probably will be set either tomorrow or Saturday.

### **Establishes an Alibi.**

"It established an alibi beyond doubt," he said. "It supports Miss Kern's testimony, which was a connecting link in the alibi chain and which was one of the most decisive points in the time element. The statements of Mrs. Miller and Mr. Lefkoff prove conclusively that Frank was not at the factory at the time the Conley negro says positively they were disposing of the body."

The two new affidavits were made on Sept. 18, 1913, in Atlanta before Leonard Haas, who is a notary public. Mrs. Miller, who formerly resided in Atlanta, now lives at Chattanooga, Tenn. Mr. Lefkoff still lives in Atlanta.

Mrs. Miller, in her affidavit, describes in detail how she and her companions met Frank, how she spoke to him, and how he tipped his hat in acknowledgment. The Lefkoff affidavit is substantially the same.

The date for the resentencing of Frank has been fixed by Judge Ben Hill, but is being kept secret. The information has been given to Hugh Dorsey, solicitor, and Reuben Arnold, chief counsel for the defense, in strict confidence.

Judge Hill desires to avoid having a large crowd and a demonstration when Frank is sentenced.

"I can't tell you anything about the hour," said Mr. Arnold, "and I can't say that it will not be at night. But it will be when the usual court room crowd is not there. That's all I can say."

### **Frank Is Encouraged.**

Frank is greatly encouraged by the recent developments.

"You can't fool all the people all the time," he said, commenting on the latest development in his case. And he is sure that William J. Burns, who has announced that he is in the case to the finish, will do his part toward the enlightenment of the people of Georgia. He is confident Burns will get at the truth of the mystery of the murder of Mary Phagan.

Frank to-day issued a statement to the "inhabitants of the Castle on Decatur Street" (Police Headquarters) to open their hearts to the truth, which he says is on the onward march, and to do right while they can with honor.

Regarding Detective John Black's reply to the Eppes affidavit, Frank says:

"When you shoot at a target and hit the bull's-eye, the bell rings. There is pretty good evidence that there is some truth in the Eppes affidavit from the noise they are raising at Police Headquarters. When a man is in a tight place and his position has been wrong and is attacked, instead of doing what the truth would enable him to do, producing facts and arguments, he turns in desperation to physical violence and wants to smash some one in the face with his fist."

Detective Black has offered to whip the man who accuses him of any misconduct in the case.

Frank's statement continues:

"I, again, say that truth is on the march, and a part of it is already here. And in that castle on Decatur Street they are beginning to feel the denouements that have come and that the future may hold in store.

"Truth is coming like a dawning day, and the first pink signs of it can be seen in the East. The rays of the truth are being concentrated on Decatur Street.

"The officers of the law in view of recent developments, should take cognizance of their consciences and do while they can with honor. I don't think that Black is a man inherently wrong, and I ask him and his colleagues to do right while they can."

### **Attack Boy's Statement.**

Although the affidavit of George W. Eppes, Jr., repudiating the evidence he gave against Frank at the trial, was hotly attacked to-day by the detectives, Solicitor Dorsey, and the boy's father, young Eppes maintains that he told the truth in the document, and that he lied at the trial of Frank. He asserts that his conscience moved him to undo the great wrong he did to Frank.

Rumors are persistent that additional affidavits from State's witnesses are in the hands of the defense. An affidavit by one of the witnesses used by the State in the attempt to break Frank's time alibi is said to repudiate statements by the witness on the stand, and the defense is momentarily expected to make this public.

Apparently scant attention is being paid by attorneys on either side of the case to the report from La Grange that Ed Ross had told of having seen "Jim" Conley washing blood from his hands on the day of the murder.

Further developments in the case are expected when Luther Z. Rosser, senior counsel for Frank, returns to this city

**Continued on Page 2.**

# FRANK ALIBI UPHELD BY NEW WITNESSES

Continued from Page 1.

from New York on Friday. Despite Mr. Rosser's reported denial, it is currently rumored here that the attorney went to New York to consult A. S. Osborn, the handwriting expert, who was employed in the case by Solicitor Dorsey, but whose testimony was not introduced at the trial.

## FRANK'S VIEW OF HIS CASE.

### Prisoner's Own Argument in Support of His Innocence.

What he terms physical and psychological reasons why he could not have killed Mary Phagan are explained by Leo M. Frank in his second verbal statement to the newspapers since his confinement in the Tower, says The Atlanta Journal of March 1. He maintains that the murderer was innately vicious, and discusses three periods of man's life to prove that he himself is free from vicious taint.

"I couldn't have killed Mary Phagan," he began, "and I'll tell you why.

"But—let's leave out tremolos. I've got facts for you, not emotions."

He turned, took four short steps to the right, turned, four steps to the left, and stood with his hand on the cell door. He remained standing, instead of sitting, as at his first interview.

"Why couldn't I? Here's the answer."

He marked his emphatic words by tapping with his finger tips against the iron bars of the cell door.

"Time is the first reason and the big reason. Mary Phagan came into my office, stayed a few minutes, went out; in three to five minutes Mr. Quinn came in and found me at my desk at work. How could I have done the murder in that time?

"Is any more proof needed? There you have pointed out for you the physical impossibility of my being the murderer.

"Mary Phagan entered my office at 12:10 to 12:15, left in a few minutes, Quinn followed after her. I was at work, and yet they say I was the murderer.

"Now, take a new look at the case."

Frank paused a moment, his head lowered slightly in a thoughtful attitude, then looked up quickly.

### Incapable of Such a Crime.

"I want to leave legal aspects out of this consideration and talk common sense. Psychology and common sense are good neighbors; they go well together.

"Well, what I want to say first is this: The desire for the capability of committing such a crime as the murder of Mary Phagan doesn't spring up in a moment. It can't be born of the instant. A life of viciousness must be preceded.

"Won't everybody grant that? A right-minded man couldn't feel a sudden flare of evil that would urge him to such murder. You'll grant me that, won't you, and the public will.

"Now, we reach the question: What is a man, what has he done, how shall we know what his past discloses or conceals?

"First, I say, take him in his boyhood. The boy is father to the man. As he is, so the man is. If he shows no vicious or cruel side till he is 21, and marries early, he is apt to keep the tenor of his lawful way.

"What of my youth? How does this first consideration affect me?

"There is answer enough in the testimonials of my college mates who attended my trial at their volition to defend my character. They came here voluntarily to say that my college days were free of vicious acts.

"Wouldn't they have known! Don't boys together know each other through and through? When, in fact, are we ever closer than in our school days! And my comrades willingly, voluntarily came here to say that I was of good character. Here is something else."

### Letter from School Principal.

Frank turned and walked rapidly to the table in the middle of his cell—a plain board table piled with books, where he spends much time in reading. He picked one letter from several others and returned in his rapid, decided way,

which is the manner of a man who knows himself and what he intends to do.

"Read the letter. It is more testimony."

He pushed the letter through the bars of the door in his abrupt way.

"You see it's from my old schoolmaster in Brooklyn. I didn't ask for it. He sent it because he believes what he writes there. Read it."

This is the letter:

Brooklyn, N. Y.  
Dear Leo: I am writing to you as your Principal of our old school, No. 45 La Fayette Avenue and Classon Avenue, Brooklyn, N. Y.

When I first heard of the murder charge on which you were arrested last Summer, I saw your sister Marion—you know that I had care of both of you in school and gave my firm belief that there was nothing in it.

Any one can say that, but from my intimate knowledge of the Frank family, who lived across the way from my school on La Fayette Avenue, Brooklyn, and from my experience of thirty years of teaching and dealing with boys and girls, I can say truthfully that there is nothing in it and nothing to it.

I never had a better boy in my school and events have taken a turn which I never expected. "The truth must out." These are your words as I read them in the papers of Feb. 19. And the truth will out.

I read another statement uttered by you—let me call it a quotation, "And it is now on the march."

"The truth will out." Bravo, my boy. You never made a truer statement. You never told me an untruth as a boy, and as the twig is bent the tree is inclined. My records show you as a pure, clean, upright boy.

You say again, "And it is now on the march." Would to God, Leo, that my prayers at the throne of God for your full vindication will be heard. God is our final judge.

Your old teacher and Principal and friend forever, PURVIS J. BEHAN,  
Principal Public School 29, Brooklyn.

### His Wife's Loyalty.

"That," said Frank, "is my answer to the first consideration of my youth—whether it was clean or vicious.

"The next thought in taking apart a man's life to determine what he has done and is capable of doing, are his actions when he is making his first decisive step in life.

"Does he marry and whom? That should be and is the potent influence in the young man's character. What of me?

"I married early a good woman, Southern born, who was accustomed to the courtesy of the South, where men pay homage to women. She was bred to demand this gentleness of men toward women.

"Now, here, listen—" He paused to emphasize his forthcoming question—"don't miss this.

"If I had been what I am charged with being, if I was low and vile, would a woman with her traditions, her fine sensibilities, continue to live as my wife?

"Isn't the answer to that question answer to the charges against me?

"I'll go next to the third consideration, probably the most important of the three. A man's character is known by the people who work with him. They know him. But, although I was the employer of 300 people, 120 to 150 of whom were girls, all spoke well of me.

"Why, it stands to reason that organization and discipline would have gone to the winds if there had been any wrong in my attitude toward those under me. If my respect for girls forced by circumstances to work had been less than propriety demands—if there had been even a moiety of truth in the charges against me, protectors of them would have finished with me long ago.

### Employes Stood by Him.

"At my trial fifty employes were there to testify to my good character, and among these were girls working at the pencil factory. Could my attitude, my character, have been as the prosecution described, and yet have seemed normal to my fellow-workers?

"Don't you know if I had the vicious taint ascribed to me that:

"My schoolmates would not have testified that I am of excellent character?

"That my wife would not have condoned such faults?

"That my employers would not have come to my support?

"I say that I have proved my character to be good, and I say that no man without inherent vice could have murdered Mary Phagan.

"I could not have killed her, because I have not lived the vicious life, thought in the vicious way, that is necessary to such a murder.

"Crime of that sort isn't the outcome of instant passion, but of years of vice.

"I did not murder Mary Phagan."

He stood, his hands behind his back, looking straight at his hearer. Turning, he walked away several paces and came back.

He moves quickly and speaks with sure decision. But his manner is not overwrought or disturbed. It is merely direct, intent. He thinks clearly, speaks with precision, and seldom finds himself at loss for the apt word.

"I am hopeful," said Frank, his voice low, almost reminiscent. "My attitude of mind recalls an incident in Europe. I have been twice across the water, but among my travels this occasion now

stands out boldest. I don't think I've mentioned it to any one else."

### Rainbow of Hope.

He stopped to light the cigarette he smoked, puffed at it, and continued:

"It was in August, and our day's excursion was up the slope of Mount Pilatus in the Alps. At the foot of the peak lies Lake Lucerne, and before your eye stretches a picture of villages and pleasant fields. Farm lands were like checkerboards, houses were like dots. Suddenly clouds lowered, and the sky dropped down over the country. The clouds pent in the land and I could see nothing of the face of the earth.

"I was chagrined, to speak mildly. I had climbed the peak to see the country, and all that lay before me was rolling mist. Yet I waited. A rift came in the clouds. A rainbow seemed to reach across the world, and I saw the land at the foot of the Alps fresher and greener for its abtution by the rain.

"There is similitude between my condition as I stood on Mount Pilatus and as I stand here. My trial, my accusation, my rebuffs, have been the clouds. The solicitude of friends and the comfort of God have been the rift in the mist. The developments of the past few weeks, showing what influences have been at work against me, are the rainbow of hope. And I feel confident that the sun is yet to shine out in such beauty as it shone over the country by Lake Lucerne."

In his characteristic manner of pausing before he added a sudden emphatic thought, Frank let his words trail into silence. The jail, which is of iron, even to the steps and the circular passages on each floor, rang intermittently with sharp, harsh noise.

The sound of a step on another floor was distinct in Frank's cell, which is the first to the right on the second landing.

He approached close to the cell door, and pressed his hands against the bars. Suddenly he pushed with unexpected strength against the door.

"My character, my confidence, the belief of my friends is proof—proof of my innocence.

"I am a living argument against the crime laid to me."

He smiled the next moment, and looked quizzically at his hearer.

"Does that seem theatrical? It isn't at all. I myself am a sufficient argument. The way I have lived shows I couldn't have done that crime. The way you see me now shows I couldn't be guilty.

"I can furnish a clear explanation why I couldn't have collected thoughts, couldn't sleep well, couldn't be myself, if I were guilty.

"My whole life has been spent in a way to sharpen my sensibilities, to give me an appreciation of the aesthetic, the beautiful. My college training, my home life, my opportunities for travel, for reading.

"Do I seem to you a callous, hardened, unfeeling individual, susceptible to no impressions, able to commit a crime then thrust aside all thoughts of it, and sleep and eat and wear a calm manner?"

"Do I seem to be a man without a conscience—do I seem to be incapable of remorse or fear?

"Look at me! I am the opposite type—the kind of man who would understand his position clearly and who would be given to worry, who would spend sleepless nights, and would show the strain under which he labors.

"Yet I have gained fifteen pounds in the last few weeks. I look better and I feel stronger. I tell you there is something psychological involved in the fact that I am physically fit.

"There isn't a man living who could compel his body to be normal, if he were in my condition and knew himself to be guilty."

"The human mind couldn't say to the murderer professing his innocence, 'You shall sleep ten hours, eat heartily, and seem and be well.' At least, it couldn't say that, and find itself obeyed.

"A guilty man in my condition couldn't be the physically hale and undisturbed man I am. I look the healthy part, don't I?"

He did. Frank looks better than at the time of his trial. He is a small man, but he is vigorous. His color is clear, his step is brisk. Tossed into one corner of his cell are dumbbells and Indian clubs. He exercises regularly, and the healthful routine keeps him fit, despite the confinement of his cell.

He welcomes visitors, and seldom is he found alone.

His silence before the Supreme Court's denial of his appeal for a new hearing was for expediency's sake and was not due to taciturn disposition.

"Since his first statement on Thursday to reporters he has seen them daily.

"Visit me whenever you wish," he says. "I will answer all your questions; tell you whatever I can."

Until then Frank himself was a riddle. He had spoken only through his attorneys and had received no visits from reporters. Silence seemed wisest, and he was as hard to spy as an Irish banshee.

But suddenly word was given that Frank was ready to see questioners, and to answer all the queries they could put. Since then he has been under daily cross-examination, and his air of mystery has given way to definite impressions of Frank as an individual.

He is young, alert, studious in looks, talks readily, but coolly, and drops occasionally into witticisms. His words are precise, and at times they have a roundness that suggests careful reading.