

in the City of Atlanta say "I am glad they indicted the God damn Jew", they ought to take him out and lynch him, and if I get on that jury I will hang that Jew sure." I emphatically deny that I used any such expression at any time or place; I am a member of the Elk's Club; said Club has among its members a large number of Jewish people, many of whom are my friends. I never entertained any prejudice or animus against the Jewish people, or against any one of them, and I did not make use of any such expression before said Aaron or any one else; I was at the Elk's Club on Sunday, May 25th, 1913, in the morning; THAT I have read the depositions of W.L. Ricker, in which he undertakes to quote me; I do not know the said Ricker - I may have been introduced to him; I did not make the statement at any time or place as sworn to by said Ricker; Ricker said that the conversation that he heard was in the store of Nunnally and Harris at Monroe, Georgia; I have read also the depositions of J. J. Nunnally with reference to the conversation about which Ricker testified; I remember that the Frank case was discussed in the store of Nunnally and Harris; this discussion occurred on June 22nd., 1913; it was participated in by a number of people; I discussed it casually and incidentally as did all of the other parties present; I was not in the store more than sixty minutes at the outside; during a part of this time, I was engaged in an effort to sell Nunnally and Harris some buggies, and the Frank case was not discussed all of this time; or if it was, certain it is I did not participate in the discussion; I positively deny that I used the expression "They are going to break that Jew's neck" as stated by Ricker in his depositions, and I likewise deny making any such statements in manner, form or substance, as set out in the depositions of said Ricker; I did not in the manner, form, or substance, in the presence of the said Ricker or Nunnally, or in the store of said Nunnally and Harris, or anywhere else, at any time say if the jury turned Frank loose, he could never get out of Atlanta alive; I did state in the discussion of the Frank case that it was my opinion that the man guilty of the murder of Mary Phagan ought to be hung; I had not been reading

at this time, anything more than the headlines of the newspapers
and I had not formed any opinion based on newspaper reports or
casual rumor as to whether or not Frank was the man guilty of the
crime, and I did not express myself in the language attributed
to me by the said Ricker or any other language; nor did I know
that the public sentiment was so strong against Frank that he would
not be, ^{able} if acquitted, to get out of the City of Atlanta alive, and
I positively and emphatically deny that I ever made use of any such
expression; I was constantly on the road traveling from April 26th.,
1913, until July 28th, 1913, during every week, and did not
spend a sufficient length of time in Atlanta to know what the
public sentiment there was with reference to the guilt or innocence
of the trial Leo M. Frank; THAT I have read the depositions of
H. Shi Gray, S. M. Johnson, and John M. Holmes; I had a conversa-
tion on Sept. 2nd, 1913, with the said H. Shi Gray, S. M. Johnson, and
John M. Holmes; this was after the verdict in the Frank case had
been rendered on August 25th., 1913; I never saw Gray,
Johnson or Holmes together or separately after I was served with a
subpoena as a juror which was Friday July 25th., 1913, until after
I was discharged from the jury on the Frank case; THAT on
July 24th, 1913, I was at Athens, Ga., on July 25th, 1913, I was at
Statham, Winder and Atlanta, Ga.; I remained in Atlanta on the 26th.
and 27th. and went on the jury on July 28th; I never saw
either of these men, either in Sparta or elsewhere, after I knew
I was a juror on the Frank case, until Sept. 2nd., 1913, at which
time, I did discuss with each and all of them the Frank case,
fully and freely in Walker and Holmes Insurance Office; I then
stated that in my opinion there was not a shadow of a doubt
but that Frank was guilty; I did not hear several parties, as
stated by S. M. Johnson in his depositions, say that they thought
Frank was not guilty; but, on the contrary every man who dis-
cussed the case in my presence in the office aforesaid, expressed
the opinion that the said Leo M. Frank was guilty; and I was con-
gratulated by everyone who came into that office among them.

H. Shi Gray, S.M. Johnson, and John M. Holmes @ on rendering the verdict of "Guilty"; I was introduced by Mr. Holmes to their many friends and acquaintances as having been one of the jurors of the Frank case; I furthermore stated on the occasion which I refer to, ~~namely~~ namely, September 2nd., 1913, that said Frank was a moral degenerate and a pervert; I based this statement on the evidence adduced upon the trial; before that I did not have any knowledge or information whatsoever which would have warranted me in surmising that Frank was a degenerate and a pervert; attached marked "Exhibit D" is a letter from H. Shi Gray, John M. Holmes and S.M. Johnson, in which they state that I said in the conversation I had with them, that said Frank, in my opinion was a pervert; I base this assertion upon the evidence adduced upon the trial of the case; up until this time I did not believe that Frank was a pervert, but after hearing the evidence I could not avoid such a conclusion; I then believed that Frank was a degenerate and a pervert, and I so stated to the three men at Sparta; ~~not however on the date they say and not prior to the trial of Leo M. Frank, but after his conviction to wit, Sept. 2nd., 1913~~ I deny that I ever made any other statements attributed to me by the said Johnson, Gray and Holmes, prior to the trial of Leo M. Frank, but all of the statements made were made subsequent to the trial, and after I had full knowledge of the evidence in behalf of the State and defence. I was in Sparta on June 27th., 1913; I did not know that I had been drawn as a juror until about 5 o'clock on the afternoon of Friday, July 28th., 1913; I do not know of my own personal knowledge when I was drawn; I am informed and believe the jury was not drawn until Thursday July 24th., 1913; I am informed and believe that my name was not drawn out of the jury box for the Frank trial until Thursday, July 24th., 1913, and I am certain if it was I did not know of it until the next day, Friday, July 25th.; I swear positively, after having refreshed my memory by entries made by me at the time in the book hereto attached, marked "Exhibit E", that I was in Sparta on June 27th., 1913, and I am equally positive in saying that I never did go back to Sparta after June 27th., 1913, as shown by my book, and as I

stated in my recollection, until September 2nd, 1913; that if I have ever expressed any opinion, anywhere, at any time prior to this trial, that Leo M. Frank was guilty, I do not remember; I never had any prejudice against the said Leo M. Frank, and I never had any fixed opinion, or entertained any kind of opinion of the merits of the case until I heard the evidence; and I qualified as a juror with an unbiased mind, and with a disposition to readily yield and conform to the evidence, and to be controlled absolutely by the law and the evidence; that I did not know M. Johenning, one of the jurors in the case of the State vs. Leo M. Frank, until we were empannelled and sworn in the case; I do not recall that I ever saw him before; I did not observe the conduct and the deportment of the said Johenning during the entire twenty nine days that we were together as jurors; he did not say or do anything during that entire time that enabled me to know how he stood on the issue; he did not give vent, so far as I saw or know, to any expression indicating any bias, or prejudice for or against the defendant, Leo M. Frank; so far as I was able to judge from his conduct and deportment, said M. Johenning was an upright, honest, fair, prudent, impartial and conscientious juror; imbued with only one idea and purpose, namely the ascertainment of the truth, under the evidence, and under the law given in charge by the court; the same is true of each and every other juror on the panel; that I did not at any time while a juror hear any cheering, and no applause, excepting open court, which was publicly taken notice of and reprobated by the court. I did not know that there had been any cheering of anybody connected with the case, or that there had been any cheering in any way growing out of the Frank case; I did not hear anybody say that there had been any cheering until after the verdict was rendered, and I did not hear any myself at any time, until after the verdict was rendered, when I did hear about two or three minutes after the verdict had been read, and while the jury was being polled, cheering on the

outside of the courthouse; I did not hear any applause in the courtroom that I now recall, except as above stated; I do not recall what occasioned any laughter, except that occasioned by the cross examination of Jim Connally by Mr. Rosser, counsel for Frank; I laughed myself, as did the audience and all of the jury, when Connally told Mr. Rosser how he spelled certain brands of pencils and other words; I laughed and the audience laughed when B. Dalton told Mr. Rosser when and where he was born, stating that he was there but could not remember; also in conjunction with other members of the jury and the audience when the said Dalton said that Mrs. Daisy Hopkins was a peach and pretty as a pink; also the jury and the audience laughed when Newt Lee stated that he "Lit a rag" instead of "ran", referring to his exit from the basement where the body of little Mary Phagan was found; on no other occasion did I observe any applause, or if I did - I do not remember it now; I do not remember any occasion when there was any demonstration or applause otherwise than on the part of the audience and spectators: THAT I have read the affidavit of Sampson Kay with reference to certain alleged occurrences on Saturday evening, August 23rd., 1913 about 8 or 8:30 o'clock; I remember distinctly the walk which the jury took at that time on Pryor Street; there was a deputy sheriff in front of the jury and one in the rear; it is not true that six ~~persons~~ or seven men, or any man not connected with the Frank jury either as a juror or a bailiff walked along by the side of the jurors and talked to or with them, either at the time and place referred to by the said Kay or at any other time and place: THAT I have read the affidavit of one W.P. Neill; I was not the juror referred to in said affidavit, or the affidavit does not speak the truth; no man grabbed me by the hand ^{and} ~~or~~/arm or by the hand or arm, at the place stated by Neill in his affidavit, or talk to me; I did not see or hear or know anything of any such thing as detailed in the affidavit happening to any other ^{of the} /jurors, as is set out in the affidavit made by said Neill; I did not ~~know~~ see or know



anything about it if anything like that took place and I did not hear the sheriff speak to anyone about it; there was no communication at any time or place in any shape, manner or form with me from the outside after the jury was empaneled and so far as I know, there was no communication with any juror except letters which came through the sheriff or bailiff and which were by the court permitted; and I never read any letter or communication of any character that had not been opened before it came to me through the sheriff; and no man ever said anything to me by look, sign or symbol nor ever undertook to convey any message or give any indication or intimation of anything from the outside; so far as I know or believe, this statement is applicable to every other juror on the case.

H. Shi Grayk John M. Holmes and S. M. Johnson write A. H. Henslee as follows (the same being a part of said Henslee's affidavit).

"We notice in several Atlanta papers your emphatic denial of ever having talked with us or made a statement to us of the guilt or innocence of one Leo M. Frank; you are further quoted as saying that if we state that you ever said that you believed Frank guilty that we are liars. Also that the whole deposition is a lie out of the whole cloth; we cannot believe you are correctly quoted as it is impossible to conceive how you can deny the statements you made here and the intense feeling you manifested when discussing the matter; you must recall, in Mr. Holmes' office, on the day stated in the presence of the undersigned, we all discussed the Frank case and practically tried him, as it were, and that in the discussion you not only stated that 'Frank was as guilty as H---l'; but you had much to say about Frank being a moral degenerate (your exact language we cannot use here), and you further stated that you had been drawn as a juror. We have no disposition to injure you or to make public your statements, as the writers, Gray and Holmes, have known you and your family for a number of years, and we do not know how the attorneys were acquainted with the fact of this conversation; but your remarks were common talk in the town and there a number of our people who could have given the information to the attorney. We declined to make a voluntary affidavit in the matter and said nothing until forced to do so by the courts, but let us assure you that this reluctance to testify in no way changes the facts, and you shall not be permitted to make statements to the public press denouncing us as liars in order to protect yourself from the criticism you justly deserve. We await your answer."

C. F. Huber and A. F. Pennington, who after being duly sworn depose and say that they are deputies to the Sheriff of Fulton County, Georgia, and were in charge of the jury in the above stated case constantly during the trial of said case; that on Friday afternoon when the jury left the court house they went direct along Pryor street to the Kimball house; deponent Huber was in the rear of the jury, who proceeded northward along Pryor Street

walking two abreast, said jury following immediately behind deponent Pennington: THAT Deponents have read the various affidavits which deal with alleged cheering of the Solicitor General as he left the court house on said Friday afternoon, August 22, 1913; deponents state under oath that they did not hear any ~~other~~ cheering or demonstration of any kind on said afternoon, nor did they hear any applause for the Solicitor General or for any one else; THAT when court adjourned on Saturday, August 23, 1913, soon after the noon hour, deponents took the jury from the court-house northward along Pryor street; they did not, on this occasion, hear any applause or cheering demonstration of any kind whatever for the Solicitor General or for any one else; THAT on Monday, August 25th., 1913, around the noon hour, just after the Court had adjourned, the judge having charged the jury before said adjournment, deponent C.F. Huber says that he, together with R.B. Davors and W.M. Hunter, was in charge of the jurors, and took them to the German Cafe, where they occupied a private dining room in the rear of the building; in this dining room, with closed doors, the jurors were served with their lunch, and at no time between the time they left the jury box and the time they got into this private ^{dining} room, nor while occupying said dining room, nor on their return to the jury room at the court house for the purpose of considering and making a verdict in said above stated case, did deponent hear any applause, or cheering or demonstration of any kind whatever, nor could the jury while in the dining room hear any demonstration which may have taken place in front of said German Cafe, but said dining room was perfectly quiet: THAT deponents on Saturday evening, August 23, 1913, took the jurors out for a walk and returned to the Kimball House northward along Pryor Street; THAT deponents have read the affidavit of Samson Kay and emphatically deny that at any time on said ~~Friday~~ Saturday evening, August 23, 1913, did six or seven men, or any other number of men, or persons, follow along by the side of the jury, in the Frank case, or behind them, or in front of them, talking to them from the corner of East Fair Street and South Pryor Street up to the Union Station, nor did

said six or seven men or any other number of men talk to the jurors or any of them, on South Pryor Street, or in the German Cafe or at their rooms at the Kimball House, or elsewhere, at any time, between the time the jury was impanelled and the time when it was discharged after having finally rendered its verdict in the said case, so far as deponents know or believe; at no time and in no place did deponents see any member of the jury in this case communicate with, or attempt to communicate, with any one excepting the officers of the law, at such times and in such manner as was allowed by law; deponents at no time heard any cheering by the spectators in or out of the court, which was heard by the jury, excepting the incident which occurred when the jury was being polled after the verdict; deponents know of no other demonstration within the sight or hearing of the jury, except the instances of applause in the court room in the presence of the judge, and which was noticed officially in open court by said judge; that deponents know of no influence, or attempted influence exerted upon the jury or any member thereof by spectators in or out of the court room or elsewhere.

A. H. Henslee makes the following affidavit, deposing and saying as follows: That he has read the affidavit of M. Johanning, made on the 18th of October, 1913, with reference to the influence of the cheering which occurred while the jury was being polled, and says that the statements contained in said affidavit are true and correct, and deponent adopts same as his affidavit.

J. C. Lewis, makes the following affidavit, deposing that he is in the employ of the Clerk of the Superior Court of above State and County; that during the trial of the Frank case,

he occupied an anteroom to the court room in which said case was tried directly across the hallway from the jury room; that in leaving the jury box, and retiring to the jury room, it is necessary to pass through three doors; that deponent knows of the occasion of the applause in the court room when the Judge declined to rule out and exclude the evidence of Jim Conley as to two certain acts of degeneracy and perversion on the part of Leo M. Frank, the defendant; deponent was present in the court house at this time and knows that at the time this occurred, the jurors were in their room and two doors between said jurors and the courtroom where this applause took place were closed; and in deponent's opinion said applause could not have been heard by the jury.

H. L. Bennett makes affidavit deposing and saying as follows I am personally acquainted with one C. P. Stough, having had a casual acquaintance with him for about five years; I also know his general character and reputation, and I consider his general character and reputation bad; I am also acquainted with A. H. Henslee, and know his character and reputation to be good.

M. W. Medcalf makes affidavit as follows: I was one of the jurors in the Frank case, and heard the cheering which followed the reading of the verdict of guilty in open court, and which said cheering was by parties outside of the court; said cheering occurred during the time the jury was being polled. No objection whatsoever was made by anyone representing Leo M. Frank, or Frank himself, at the time of the cheering, nor was any motion made at the time by any of his attorneys, but the polling of the jury was continued; this cheering did not influence or affect the verdict which had already been made, nor did it have any influence; I remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, I truthfully answered, after I had heard the cheering, that it was my verdict and in answering as aforesaid I discharged my duty as a conscientious juror and now subscribe to the correctness of the verdict as rendered.

M. Joehanning makes the following affidavit, deposing and saying as follows: That he was one of the jurors who served on the above stated case and heard the cheering which followed soon after the reading of the verdict of guilty in open court and which said cheering was by parties outside of the court, and which said cheering occurred during the time the jury were being polled by the court.

At the time the cheering was heard no objection whatsoever was made by anyone representing Leo M. Frank or by Leo M. Frank himself, nor was any motion made at the time by any of the attorneys of said Leo M. Frank, or by said Frank, but the polling of the jury which was going on at the time the cheering began and during the cheering and after the cessation of the cheering was continued.

This cheering did not in anywise influence or affect the verdict which had already been made, nor did it have any influence whatsoever.

I remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, I truthfully answered after I had heard the cheering, that it was my verdict and in answering sustaining the verdict, I discharged my duty as a conscientious juror and now subscribe to the correctness of the verdict as rendered.

F. L. Hunter makes the following affidavit and deposes and states as follows: that he was a deputy sheriff on duty at the trial of Leo M. Frank in the above stated case; that he was in the court house almost constantly during said trial and went to and from lunch on various occasions with the jury during the trial in said case; that at no time in the court room did deponent hear any applause, cheering or other demonstration in said case, which could have been heard by the jury, excepting the applause, cheering or other demonstration in said case, which could have been heard by the jury in open court and in the presence of the judge, and excepting the cheering and hurrahs in the street after

the reading of the verdict, while the jury was being polled. Deponent says that at no time did he see any one speak to or attempt to speak to any member of the jury, except officers of court in the discharge of their duty. Deponent further states that he never at any time witnessed or knew of any misconduct on the part of any member of the jury, but states, under oath, that at all times, when in his presence each member of the jury deported himself as an upright, honorable and conscientious juror, seeking to faithfully discharge his duty. Deponent says no armed spectators in or about the courthouse where the trial was being conducted, nor did he hear any threats of violence expressed in or about said courthouse toward the defendant Leo M. Frank.

Deponent states that he witnessed the efforts of spectators to carry the Solicitor General on their shoulders, referred to in an affidavit in the possession of the defense, and says that the same occurred after the verdict of the jury had been read and the jury polled, and while the Solicitor General was on his way to his office. No demonstration by spectators on the outside of the courthouse on either of the last three days of the trial, to-wit, August 22nd, 23rd, 25th, was within the presence or the hearing of the jury, so far as this deponent knows or believes.

R. B. Deavours makes the following affidavit, deposing and saying as follows: that he is a deputy sheriff in and for Fulton County, Georgia, and was on duty during the trial of Leo M. Frank; that he was present in the courtroom every day during said trial, and that, with the exception of the applause which took place a few times in open court and within the hearing of the presiding judge, he knows of no applause, cheering or demonstrations that were heard by the jury. On Monday, August 25, 1913, deponent with C.F. Huber, and W.M. Hunter, went with the jury to the German Cafe for lunch; deponent says that on said occasion, as the jury were entering the cafe, deponent heard some noise as of people hollering, back in the direction of the courthouse, but could not distinguish any words which were used by the people, did not know who it was creating the noise, what was said, or what prompted the same. The jury passed through the cafe and into the dining room in the rear of the building, where they lunched with closed doors. No cheering or applause or other demonstration could be heard after entering the building. Deponent states further, that so far as he was able

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to judge, the jury at all times, when he was present, deported themselves as honest, honorable, conscientious, unbiased and unprejudiced jurors, and at no time were any of said jurors guilty of any misconduct, within his presence of knowledge.

Drew Liddell makes the following affidavit, deposing and saying as follows; that he is a deputy sheriff of Fulton County, Georgia and was on duty constantly during the trial of the above stated case. On Friday, August 22nd, and Saturday, August 23, 1913, deponent, with other deputies, accompanied the jury to and from the German Cafe and was with them at the time of the alleged demonstration at the corner of Hunter and South Pryor Streets. Deponent says that at the lunch hour on both occasions the jury were beyond the hearing of the crowd when the alleged demonstrations took place, if in fact any demonstrations did take place. Deponent says that when the jury had entered the private dining room in the rear of the German Cafe on Saturday, August 23, that he was outside of the dining room, in the act of entering the same; that he heard a slight commotion in the front of the building, but the jury had passed into the dining room, and he is sure did not hear and could not have heard said demonstration, which was scarcely audible in the rear of the building where said dining room was located. Deponent, with other deputies, was in charge of said jury on various occasions during the trial, and at no time, so far as this deponent knows or believes, - certainly not when deponent was with them, - was any effort made to communicate with the jury by any persons other than a court officer in the discharge of his duty. At no time during said trial was any cheering, applause or other demonstration made within the hearing of the jury excepting that which occurred in open court in the presence of the presiding judge, and also excepting the demonstration made in the streets immediately after the announcement of the verdict, while the jury was being polled. Deponent neither witnessed nor heard ^{of} any misconduct on the part of any member of said jury at any time during the trial of the above stated case, nor did deponent see anyone in or about the courthouse armed other than the officers of the law during this trial, or hear or know of any threats in or about said courthouse or in its vicinity or elsewhere against the life of the said Leo M. Frank, who was on trial.

C. J. Bosshardt makes affidavit as follows: I have read the affidavit of J. T. Ozburn, executed on Oct. 16, 1913; and hereby adopt said affidavit of said Ozburn, and that the said allegations contained in said affidavit are true and correct. C. J. Bosshardt makes affidavit as follows: I am one of the jurors who served on the above stated case, and heard the cheering which followed soon after the reading of the verdict of guilty in open court, and which said cheering was by parties outside of the court, and which cheering occurred during the time the jury was being polled; No objection whatsoever was made by any attorney representing Frank or Frank himself at the time of this cheering, nor was any motion made by any of the attorneys of said Frank, or by Frank, but the polling of the jury which was going on at the time the cheering began was continued; this cheering did not in any wise influence or affect the verdict which had already been made, nor did it have any influence whatsoever; I remained unaffected and uninfluenced by the cheering or surroundings, and in answering on the poll, I truthfully answered after I had heard the cheering that it was my verdict, and in answering sustaining the verdict I discharged my duty as a conscientious juror and now subscribe to the correctness of the same.

J. T. Ozburn, W. M. Jeffries, A. L. Wisbey make the same affidavits as C. J. Bosshardt, set out above.

Lou Castro makes affidavit as follows: I have known Samuel Aron for over a year and am acquainted with his general character and reputation; his character and reputation is bad, and from my knowledge of that character and reputation I would not believe the said Aron on oath; I am acquainted with the general character and reputation of C. P. Stough; his character and reputation is bad; I would not from my knowledge of that character and reputation believe the said Stough on oath.

Joe Murray makes affidavit as follows: I am a Clerk of the New Albany Hotel in Albany, Ga; one A. H. Henslee a patron of said hotel registered for lodging on June 2, 1913, and was a guest of the hotel on the night of June 2, 1913; that said A. H. Henslee registered at said hotel on Sept. 18, 1913, before the noon meal.

W. N. Weaver, O. H. Puckett, T. W. McGarrity and W. C. Robinson each make affidavit that they are personally acquainted with M. Johanning; that they know his general character and reputation; that his general character and reputation is good and that deponents regard him as an honest, conscientious, upright and thoroughly trustworthy man.

M. G. Staten and T. S. Hawes state that each of deponents are acquainted with R. L. Greemer; that the general character of the said Greemer is and was bad and that deponents would not believe that said Greemer on oath.

W. E. Mote, R. H. McKenzie and W. H. Clayton make affidavit deposing and saying that they are acquainted with W. P. Neill; that his general character and reputation in the community were Neill has lived is bad and that they would not believe him on oath.

W. M. Howard, J.C.Gallier, T.W.Cochran, P.L.Cordy, J.E. Howard, J.D.Lockridge and C.O.Summers each make affidavit that they know A. H. Henslee, one of the jurors who served in the case of the State of Georgis, vs. Leo M. Frank; that each of the witnesses is acquainted with the general character of the said A. H. Henslee, and that the general character and reputation of the said Henslee is good, and from his general character and reputation, each of deponents would believe the said A.H.Henslee on oath.

H.R.Pitts, W.L.Lyle, T.M.Webb, and John R.Flournoy, each make affidavit that they know Samuel Aron; that they know the general character and reputation of the said Aron; that the said general character and reputation of the said Aron is bad and that deponents would not believe him on oath.

W. M. Hunter makes affidavit, deposing and saying as follows: I, with Mr. J.R.Huber and R.B.Deavors, had charge of the jury in the above stated case, at the lunch hour on Monday, August 25th, 1913; that at no time between the time the jury left the box to go to lunch on said date, and the time they returned to the jury room, to consider and make their verdict, either while on the street in going to the cafe, while in the cafe, or in returning to the court house, did I hear any applause or cheers, or other demonstration on behalf of the Solicitor General, or anyone else. At no time during the trial of said case did I see or know of anyone, excepting the officers of the court, communicating with, or attempting to communicate with any member of said jury; I witnessed no misconduct of any kind on the part of any member of the jury in the above stated case.

Z. A. Mann, makes affidavit, deposing and saying as follows:

I was present in the court room during the trial of the case of the State vs. Leo M. Frank, charging with murder;

I was aiding the Sheriff, and as a deputy was stationed immediately in the rear of the jury box; ~~He~~ was in position to hear all that the jury could hear in the court room, and at no time did I hear any applause, excepting what occurred in open court, in the immediate presence of the Judge presiding and which was officially noticed by him; No cheering from the outside was heard, excepting during the polling of the jury, after their verdict had been read; I observed no misconduct on the part of any juror, and no communication or attempt to communicate with any member of the jury, except by the officers of Court in the discharge of their official duties.

Plennie Miner, makes affidavit, deposing and saying as follows:

I have seen the affidavit of W. P. Neill made for use in the above stated case and I am the Plennie Miner referred to by Neill in his affidavit; that the incident referred to by the said Neill evidently did not happen in the way and manner described by W. P. Neill but the following are the facts: On one occasion when the jury were retiring from the box to their room in the east end of the courthouse, I saw a spectator sitting who I thought spoke to a member of the jury. He did not rise from his seat nor did he take the juror by his arm nor by his hand nor did he otherwise touch the juror but appeared to speak to some one and at the time I thought said spectator addressed a member of the jury; I immediately went to him for the purpose of taking him before the Judge but he denied that he addressed the remark, which I did not hear, to the Juror and the gentleman sitting next to him assured me that this spectator was not addressing a member of the jury and the two having assured me that I was mistaken and having been thoroughly convinced that I was mistaken, I warned them that an action on the part of a spectator in addressing the jury would be a violation of the law and let the incident drop because of the fact that I was fully convinced that the mistake was mine. This described the incident as it really occurred; At no time any where in my presence did any one other than the officers of the law, acting within the discharge of their duty, address any

member of the jury individually or the jury collectively from the time the jury was impannelled until they had rendered their verdict and had been discharged. I am the Deputy Sheriff regularly assigned to the Criminal Division of Fulton County Superior Court and was on duty and in charge of the courtroom during the entire time Leo M. Frank was on trial; I have read the affidavit of Mrs. A. Shurman and others with reference to the cheering on the outside of said courtroom during Friday and Saturday and Monday, the last three days of the trial. I was not with the jury as they left the courthouse to go to lunch on either of the three said days but was in the courtroom at the time the cheering took place on the outside. I know that on Monday morning just before court convened when there was cheering in the street the jury were in their room in the rear of the courtroom; they were also in the rear of the courtroom when the Solicitor General entered and the spectators started to applaud; I tapped on the wall or some other object and raised my hand in warning and the spectators immediately desisted; the applause was very slight and very low and was stopped promptly when I rapped and I am sure that the jury in their closed room did not and could not have heard the same. This was on the last day of the trial, to-wit, August 25th, 1913; I was not with the jury at any time when any applause except that in open court and in the immediate presence of the Judge could have been heard by the jury; I was not in charge of or with the jury at any time when any other demonstration or cheering for the Solicitor General or for anyone could have been heard by said jury; At no time when I was in charge of or with the jury was any member of the jury guilty of communicating with or attempting to communicate with any person on the outside in any way nor during said trial from the time the jury was impannelled until their discharge after verdict rendered was any member of the jury guilty of any misconduct of any nature whatever; At no time did I hear any threat against the life of Leo M. Frank among the spectators at the courthouse or elsewhere nor at any time did he see or know of

~~not~~ any spectator or person at or around the said courthouse, during the trial of Leo M. Frank other than the officers of the law, to have in their possession or on their person any pistol or arms of any kind or character.

W. F. Medcalf, makes affidavit, deposing and saying as follows:

I was a juror on the Frank case. I did not know personally either A. H. Henslee or M. Joehanning, who were also jurors, trying this case, until after we were sworn in on said jury, I had occasion to and do know the conduct of these two men on the jury. At no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased, but each of these men, as did each and every other member of the jury, departed themselves as honest, upright, prudent and impartial jurors. If either the said A. H. Henslee or the said M. Joehanning believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank. I did not know how A. H. Henslee stood on the issue until the first ballot had been taken. Then said Henslee made a talk and stated that he had cast a doubtful ballot. There was one ballot marked "doubtful"; He explained to the jury, why he cast this doubtful ballot, and submitted some suggestions with reference to the evidence. Up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case; As to M. Joehanning: During the entire twenty-nine days that we were together as jurors, he did not, so far as I know, say or in any way intimate how he stood on the issue; So far as I was able to judge from his conduct and deportment, said Joehanning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz, the ascertainment of the truth; What is said above as to the impartiality, fairness and

conscientiousness of Joehanning is true of Menslee and likewise of each and every man on the jury; I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering of anybody connected with the case at any time or that there had been any cheering in any way growing out of or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents; The jury left the courtroom every time before the judge, lawyers and audience were permitted to leave, and there was never any applause or cheering either inside of the court or outside of the court, within my knowledge, while the case was being considered; The jury, in leaving, were always attended by the deputy sheriffs or bailiffs, one always going in front and one always in the rear; We were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there, -- I should estimate about three minutes at the outside; Upon reaching the German Cafe, we were taken directly to a private dining room in the rear of the building and the door immediately closed; After being shut up in this room, we never heard any sounds that in the slightest resembled applause or cheering; The only cheering that I hear from the time I was sworn to the time I was discharged was the cheering that arose outside of the courthouse after the verdict had been read and while the jury was being polled; With the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case; Neither on Saturday, August 23, 1913, nor on any other day or date, did any man other than the bailiffs in charge of the jury ever walk with or by the side of the jury, and neither did anybody within my knowledge, ever speak to any juror at any time or place outside of the presence of the Court; If at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in any

my presence. No man ever grabbed my by the hand at the place referred to by W. P. Neill in his affidavit, nor did I see or hear or know anything about any man grabbing any member of the jury by the hand or saying anything to any juror, or attempting to say anything to any juror, and within my knowledge there was no communication at any time or place or in any shape, manner, or form, with any juror, with any party on the outside. All communication had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court and known to counsel on both sides of the case; so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in anywise, in any way, manner, shape or form, by anything from the outside, but the verdict as rendered was, so far as I am concerned, and as to the other jurors, so far as their deportment shows; I believe was rendered from an honest opinion based on the law and evidence in the case.

Upon considering said motion for new trial, the court rendered a judgment denying the same and in rendering said judgment, stated that the jury had found the defendant guilty; that he, the judge, had thought about this case more than any other he had ever tried; that he was not certain of the defendant's guilt; that with all the thought he had put on this case, he was not thoroughly convinced that Frank was guilty or innocent, but that he did not have to be convinced; that the jury was convinced; that there was no room to doubt that; that he felt it to be his duty to order that the motion for a new trial be overruled.

To this judgment and decision of the court denying the movant, Leo M. Frank, a new trial, said Leo M. Frank then and there excepted, and here and now excepts and assigns and specifies as error the failure and refusal of the court to grant a new trial upon each and every ground both of the original motion for new trial and the amendment to the motion for new trial, both said original motion

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for new trial and said amendment to the motion for new trial being parts of the record in said case, and reference being hereby had to the same; and movant further specifies as to the error complained of that the court failed and refused to grant a new trial upon each and every ground contained in said motion for new trial and the amendment thereto, reference being hereby had to the same as if fully embodied herein, the same being of record.

Defendant further excepts to said judgment overruling the motion for new trial and alleges error therein in not granting a new trial upon each and all of the grounds of the original and amended motion on the grounds and reasons in said amended and original motions fully set out--reference hereby being had to the same, as if fully embodied herein, the same being part of the record in said case.

And now, within twenty days from the judgment refusing said motion for new trial, and in due and legal time, the said Leo M. Frank presents this, his Bill of Exceptions, and prays that the same be signed and certified, and specifies as the portions of the record in said case, material to a clear understanding of the errors complained of, the following, to-wit:

- 1st. The indictment in said case.
- 2nd. The plea of not guilty.
- 3rd. The verdict of the jury and the sentence of the court.
- 4th. The original motion for new trial, together with all entries and rules nisi thereon.
- 5th. The amended motion for new trial, together with the approval and certificates of the judge thereto and to the original motion and all entries thereon, and together with all exhibits thereto.
- 6th. The certificate of the judge approving the grounds of the original motion for new trial and the amended motion for new trial.
- 7th. The brief of the evidence in said case and the approval thereof by the court and all entries thereon.
- 8th. The charge of the court with approval of the judge thereon.

9th. The judgment of the judge refusing a new trial in
said case.

This 1 day of Nov, 1913.

Ruben R Arnold
Rosa Boarder
Herbert Neas
Attorneys for Leo M. Frank,
Plaintiff in Error.
Address, Atlanta, Ga.

I do certify that the foregoing Bill of Exceptions is true
and contains and specifies all of the evidence and specifies all of
the record material to a clear understanding of the errors complained
of; and the Clerk of Fulton Superior Court is hereby ordered to make
out a complete copy of such parts of the record in said case as
are in this bill of Exceptions specified, and certify the same as
such and cause the same to be transmitted to the present term of the
Supreme Court of Georgia, that the errors alleged to have been com-
mitted may be considered and corrected.

This 1st day of November, 1913.

W. P. Rowan
Judge S. C. *Stoutch*
Presiding

Due and legal service of foregoing
bill of exceptions acknowledged - Copy,
and all other and further service
waived - This November 1, 1913

Frank A Hooper
Hugh L. Mearse
Solicitor General

FILED IN OFFICE, THIS THE
1st day of *November* 1913, at 4:05 P.M.

FILED IN OFFICE, THIS THE
1st day of *November* 1913, at 4:05 P.M.
Ruben R Arnold

