EVIDENCE FOR FRANK IGNORED, SHE SAYS

Aged Woman Who Heard Mary Phagan's Death Cries Assails Prosecutor in an Affidavit.

WOULDN'T ALTER HER STORY

Mrs. J. B. Simmons Says Dorsey Dropped Her as a Witness When He Found Her Story Didn't Fit.

Special to The New York Times.

ATLANTA, Ga., March 13.—Solicitor General Hugh M. Dorsey, who prosecuted Leo M. Frank for the murder of Mary Phagan, was to-day made the target for the sensational charge that he sought to change the testimony of a prospective witness so that it would fit the State's theory of the murder, and, failing in this, did not call his informant as a witness at the trial. Mrs. J. B. Simmons of Birmingham, Ala., makes the accusation.

Mrs. Simmons was visiting in Atlanta at the time of the Phagan murder and was passing the pencil factory at about 2:30 o'clock on the afternon of April 26. She said she heard screams, apparently from the basement of the factory, but that when she told the Solicitor her story he tried to make her say that it was some time after 3 o'clock, because Leo Frank wasn't in the pencil factory at 2:30 o'clock. In an affidavit in the possession of Frank's lawyers Mrs. Simmons goes so far as to say that she could hear the agonized pleading of the girl who was being tortured in the factory basement. Her insistence that it was at or near 2:30 o'clock did not harmonize with the State's notion that Frank committed the murder. According to the evidence at the trial, Frank was on his way back to the factory from his luncheon at 2:30 o'clock. If Mrs. Simmons was right about the time, and actually heard the screams of Mary Phagan as the rope was tightening about her neck in the factory basement, then some one else than Frank was guilty of the murder.

Capt. C. W. Burke, who was instrumental in obtaining the affidavit, was in Birmingham to-day and said that Frank's defense regarded the statement of Mrs. Simmons as of great importance because of the light it threw on the solicitor's alleged methods of procuring evidence to condemn Frank.

Says She Refused to Lie.

"Mr. Dorsey wanted me to testify that it was at the time Frank was in the factory that I heard the screams," said Mrs. Simmons, "but I told him that I wasn't going to swear to an untruth just to help him or any one else. I left him my address, expecting to be called as a witness at the trial, but that was the last I ever heard of it.

"I am 65 years old. I have reached an age when death is not far off. I look upon the matter of syearing falsely with perhaps more seriousness than those who feel that they have many years before they will have to appear before the Great Judge. I would not tell an untruth at the trial, and I was not called."

Here is Mrs. Simmons's story in her own words:

"My husband gets pension money, and I had been at the Atlanta Shoe Company, 25 West Alabama Street, to see if his letter had come. This was the day Mary Phagan was murdered. The Decoration Day parade had started. The old soldiers had gone by and the high school boys were just passing when I left the store and went to Forsyth Street, and then down past the pencil factory.

"It must have been 2:30 o'clock or later. Just as I got to the factory I heard a scream and then another one. I stopped and put my hand on the little railing that runs in front of the building and I leaned over to listen.

"I says to myself, 'somebody is sure killing somebody,' and I stayed there a minute longer. I heard the screams three times. Every time it seemed as though some one was putting his hand over the mouth of the person that was screaming so as to muffle the sound. I tried to look in, but I couldn't see anything. After the third scream everything was quiet, and I didn't hear anything more.

"I waited around there for a while but I didn't see or hear anything more suspicious and I thought it was just some man beating his wife or some negro fight. I looked down the strcet and there was a woman, but that was the only person in particular that I noticed at the time.

"I went home and told my son-in-law, 'Buck' Williams, about it. He didn't think much of it at the time, but the next morning he came to me and said: 'Do you remember what you were telling me yesterday!'

"I asked what of it and he said that some one had murdered little Mary Phagan in the pencil factory. He told some people about what I had heard and pretty soon two detectives came out to my house. Their names were Webb and Harper. They asked me all about what I had heard and about the time that I went by the factory, and when they got through they told me not to say anything to any one else about what I had told them.

Called Before Dorsey.

"The next thing I knew I got a subpoena to go to Solicitor Dorsey's office. There were a lot of people around. Two or three young girls were there who had been subpoenaed, too. Mr. Dorsey was in a hurry, and I don't suppose I talked with him more than half an hour.

"I told him just what I have told you, and he said, 'Are you sure about the time?' I told him I was and that it was when the Decoration Day parade was passing. That is how I fixed the time. He says to me, 'Now, are you sure? Think about this. You know the girl was killed before this time.'

"I told him I didn't know the time except by the fact that the parade was passing, and that the old soldiers had gone by and the high school boys were right in front of me when I walked out of the store.

"Then he says to me, 'Well, I think it was earlier than that. Just think it over again. Frank is supposed not to have been in the factory at 2 o'clock or 2:30 o'clock.'

"I told him that it didn't make any difference to me where Frank was supposed to be, I was going to tell the truth just as it was. I didn't care whom it helped or hurt. He kept on arguing with me, but I stuck to what I said at first. He nor any one else couldn't make me change. I know what I heard and when I heard it.

"When I came down here I sent him a letter telling him where I was, but he never sent for me to testify at the trial. This surprised me, but I read the papers and it looks as if he didn't need my kind of testimony.

"I was talking to Mrs. A. B. Davis, who lives here in Birmingham now, but who used to live in Atlanta, and she told me that I ought to let Frank's lawyers know about it. I took her advice, and that is how they found it all out. If Frank is the one that killed the little girl I think he should be punished, but if he wasn't in the factory at the time I heard the screams I don't see how he could have done it."

Girl Accuses Conley.

Ruby Snipes, a white girl, 17 years old, swore to-day that the negro Conley once attempted an attack upon her. Part of her affidavit follows:

"One evening in April, 1911, as I was leaving the pencil factory at about 5:45 o'clock, and as I was about to go out of the street door, I heard a voice and stopped, turned around, and saw the speaker was Jim Conley, the sweeper. He was approaching me, and I asked what he wanted. He said, pointing at a purse that I had in my hand, 'I want a quarter.'

"I asked him why he expected me to give him a quarter, and at that moment footsteps were heard at the top of the stairs as if some one was coming down, and Conley turned around and walked back in the hallway, past the stairs. I waited a moment, and no one came down the stairs, and I went on home. I was nervous at the time, as I knew Conley to be a surly negro, and several of the other girl employes felt the same way about Conley."

Frank's case is to be discussed next Sunday by the Rev. Dr. L. O. Bricker, pastor of the First Christian Church. Dr. Bricker says he is prompted to discuss the case by a sense of public duty and responsibility for conditions that made a "square deal impossible in the original trial."

The pastor takes the position, not that Leo Frank is innocent of the crime, but that, innocent or guilty, the atmosphere surrounding the trial was such as to preclude an unbiased hearing.

"I assume my full share of the responsibility for this condition," said Dr. Bricker to-day. "I admit freely that I was wrought up to a pitch that prevented the proper exercise of judgment and decision. I believe that most of us—practically all of us—were in the same state of mind during the trial.

"This state of affairs reached a point that charged the very atmosphere of the courtroom with prejudice. An unbiased trial was impossible. I am prompted now to do my best to square my part of this grave responsibility by opening the problem to discussion in my pulpit, and I invite the attention of all people who feel as I do that they were hasty and not in the proper mood for judgment during the first trial."

Dr. C. B. Wilmer of St. Luke's Episcopal Church takes the same attitude.

The arrival of Detective Burns is the event most eagerly awaited by all concerned in the case.

Reuben R. Arnold, leading counsel for Frank, to-day issued the following statement:

The only direct evidence against Frank was a disreputable negro exconvict. The State undertook to corroborate his testimony with circumstantial evidence. But it is now shown that in so many respects was this evidence false that the probability of the story told by Conley has come to be seriously questioned.

We sympathize with the people of Atlanta in the perplexed condition in which they now find themselves as they contemplate the possibility that Frank may be hanged an innocent man. If he is guilty, he richly deserves to die; but if there is any reasonable doubt that he killed Mary Phagan, we believe like The Journal of Atlanta, which, with most of the press of Georgia, once led the hounds in pursuit of a victim, that Georgia will rise superior to partisanship, prejudice, pride, and do full justice to Frank though the heavens fall.

FRANK A MODEL BOY.

Testimonials from Persons Who Knew Him as a Student.

Leo M. Frank, now under sentence of death in Atlanta, Ga., was a pupil in the public schools and Pratt Institute in Brooklyn. It was recalled yesterday by two persons who had special opportunities for observing his life during his student days, covering a period of ten years, from 1896 to 1906, that his youthful career was marked by high traits of character, ambition, and mental qualities that attracted attention to him.

Dr. Luther Halsey Gulick, recently physical director in the public schools, was Principal of Pratt Institute when Frank was a student there, and Miss Annie Carroll Moore was librarian in the same institution. Miss Moore has written to THE TIMES describing the good impression Frank made while under her observation, from the time she first saw him in the library, when he was 12 years old, and until he had reached the age of 20. She says:

I first met Leo Frank in a children's library of which I was in charge from 1896 to 1906. He was then attending a public school in the neighborhood of the library and of his home. Between the ages of 12 and 14 years he read a finer selection of books than any boy who frequented the library. His delight in the great heroic characters of literature and history remains one of the vivid memories of years which marked the beginnings of special library work for children.

The boy read with rare appreciation and intelligence and like hundreds of other boys was in the habit of talking with me familiarly about his reading and his future hopes and plans. In February, 1898, an exhibit of books and portraits relating to heroic characters was held in the children's room. The boys and girls were unusually interested in this exhibit and the subject of heroism and wrote papers about their favorite characters and their ideas of heroism. Leo Frank, then a boy of 14, wrote the following:

"In ancient times a brave man only was a hero, but now in modern times a hero has to be brave and good morally and virtually."

This sentiment characterizes the habitual mental attitude of the boy I knew during eight years of his life, from the age of 12 to 20 years. On entering high school, Leo Frank was transferred to the adult department of the library. Throughout his high school course, however, and during his college years, he continued to visit the children's room and to take a vital interest in its concerns and progress, and to share his growing experience with books and life.

The children's library does not segregate boys and girls. It approximates the life of a large family in recognizing no age limit and in its freedom of personal contact. In its insistance upon equal social rights and privileges it affords rare opportunities for the study of democratic relationships.

In this environment and as a resident of the neighborhood in which he lived, Leo Frank grew from boyhood into manhood. I knew his mother and sister, also, during this period of eight years, and I know that the aspiration to be fine pervaded his daily life.

ANNIE CARROLL MOORE.

To Miss Moore's letter, Dr. Gulick adds this indorsement:

Leo Frank was a student of the high school of which I was at the time Principal. The long acquaintance of Miss Annie Carroll Moore, then the librarian of the children's department of the same institution, has just come to my knowledge.

In view of the large place which the years from 12 to 20 occuppy in determining the permanent ideals and conduct of people, Miss Moore's account seems to be worthy of careful note and of being given to the public.

My own acquaintance with Leo Frank is, though far less intimate and long, corroborative of her experience.

LUTHER HALSEY GULICK.

New York City, March 13, 1914.