

# LAST PLEA TO SUPREME COURT

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following article which the writer captions "A Dozen Reasons Why I Believe Conley Slew the Little Phagan Girl." Telegraphic inquiries to THE TIMES correspondent in Atlanta regarding the writer brought an answer testifying to her good character.

Regarding the statements made in her article the writer says:

If necessary I can prove any statement made in the inclosed article; but I hardly think anybody in Atlanta will have the courage to dispute them. I only wish they would; I wish somebody would show me that I am wrong, for as long as they are going to hang Frank I would rather believe he deserves it. As it is, my heart is about to burst from the injustice of it.

Here is the article she sent to THE TIMES:

I suppose I should begin this article by saying that the Jewish people of the United States of America have offered me \$10,000,000 to write something in defense of Leo M. Frank, a man of their religion, who is facing a death penalty imposed upon him by the courts of Georgia. Of course the Jewish people of America would know that the statement was utterly false; but I do not exaggerate when I say that no one has yet dared publicly to express his belief in Frank's innocence without being accused of having been bought with Jewish money. Personally, I do not believe the Jews of Atlanta would spend one penny to shield a criminal of their race, but I am almost alone in my belief. Why, a friend who was with me recently in the fitting room of a large department store, where I had gone to have a suit altered, accidentally let it drop that I thought Frank innocent. And the woman who was fitting me! She turned as white as death, and said in a voice that literally trembled with passion: "Since that dirty Smith (the negro's lawyer) has come out for Frank a lot of people have changed; they haven't got sense enough to know that the Jews paid him to change."

For once in my life I was speechless. My friend looked at me and winked. Then I summoned courage to ask:

"Do you know this to be true?"

"Certainly. Rabbi Mark told the Jews they had to pay Smith." She stopped for breath, then added: "Why do you believe that Jew innocent?"

At first I thought I would not answer, because my friend had warned me, when the fitter had gone out for pins, to be careful or else she would unintentionally ruin my suit. So I hesitated a long time before saying: "The little short, thick, yellowish negro has never explained perfectly to my satisfaction why the sawdust and cinders of the basement floor were ground so thoroughly into the poor little girl's face. He didn't explain why the sawdust was in the inner passages of her nose. The doctors said only by suction could they have been drawn up there—they had to be breathed there. And yet the little thick, yellowish negro swore that Mary Phagan was dead when he put her down, and more than that, he said she was wrapped up nicely in a cotton sack!"

The woman looked puzzled. "Why, I didn't read about that," she said.

And that's just it. Not many people who are so prejudiced have read all the case. I have not only read it, but have every line printed about the Frank case on file, and I know that it is a physical impossibility for Frank to have murdered Mary Phagan on the second floor of the factory, and go through all the manoeuvres the negro said he did in the time—time—now you've got me. I'll just have to quote the negro here:

"The little girl came in 'bout 12:10 and went upstairs, and I heard her scream. Then Miss Monteen Stover came in."

And the State's own witnesses proved that Monteen Stover was there at 12:05. In other words, Conley's story, as was often the case, didn't fit in regard to the time element.

Yesterday a man asked me:

"Why do you believe Frank to be innocent?"

I smiled, but refused to discuss the subject with him, knowing he was a firm believer in Frank's guilt.

"You can't tell me," he taunted.

Again I smiled. "Put it another way," I returned. "Ask me why I think the negro is guilty."

He did.

And here are my reasons:

1. The notes tell the whole story. The writer had but one idea in his woolly head when he wrote them: to lay the blame on a man as far unlike himself, from a physical standpoint, as possible. So the short, thick, yellowish negro described a long, tall, black one as the murderer. He mentioned it twice in the first note, and then, for fear he had not made his meaning clear, scribbled another one in which he said the long, tall, black negro did it by himself. (For if the long, tall, black negro did it by himself, nobody would suspect the short, thick, yellowish one of helping him.) Thus, it was quite necessary for Conley to write the second note, because, while the first one put the blame on the long, black one, there was a possibility of the detectives suspecting that the black negro had an accomplice. It was a shrewd brain that caused the murderer to scrawl the second note. It was necessary for his ultimate vindication. He thought surely the people would know that she was pushed down the hole; so he unconsciously described the manner in which she was killed.

Through the whole length of Conley's story on the stand he never once mentioned the cord that was found tied around the child's neck, tied so tightly that her tongue was choked out. The negro carefully avoided saying anything about the cord. He

dared not trust himself there. It was too fresh in his mind how he had killed her. His voice would have betrayed him if he had spoken of the cord; so he kept away from it. And yet—Mary Phagan was dead when Conley found her, and was killed by falling against a machine, why was the cord come from—and why was her tongue hanging out of her mouth?

3. Conley swore that he talked with Frank on the street the morning prior to the murder. And yet, though it was supposed to have been on a thoroughfare that was traveled mostly by men who knew Frank, where is the man, woman, or child who saw them engaged in this conversation?

4. Why did Conley never mention the purse, flowers, and ribbon? None but a negro criminal would have been cruel enough to take such spoils. That was no white man's act.

5. When the attorney for the defense asked every detective on the force, "Would you believe Conley on his oath?" how many answered yes? Not one! How could they? Why, had not Conley himself admitted that he had a way of looking down when he lied? And yet they are going to hang a respectable white man on that negro's word. For you can't get around it, try as you will; Conley's testimony is all they ever had against Leo M. Frank.

6. Why did Conley wait a whole month before he admitted he could write? Because the detectives were that long in finding out that he could. He denied it steadily until they faced him with other notes he had written, pawn tickets he had signed, &c.

7. Why was Conley arrested? He was found washing a bloody shirt.

8. Why did Conley hide behind the bureau when he went to his home the day after the murder? His wife said he did it to frighten her.

9. How many of Conley's negro associates would say they would believe him on oath? Not one!

10. What did the girls who worked in the factory swear about him? That they were scared of him, that he often got drunk and would lie on the floor where they sometimes stumbled over him.

11. How did Conley think up the tale he told on the witness stand? Conley didn't have to think. He read every paper and knew the detectives were working on the theory that the murder was committed on the second floor. He read, studied the papers from morning until night, and knew exactly what story to tell. And he told it, though many parts of it were inconsistent.

12. What part of Conley's story was inconsistent?

(a) He swore he watched for Frank Thanksgiving Day, and that his "lady friend" called, all dressed in white polka-dotted dress and white shoes and stockings. And yet—though the attorneys for the defense tried for hours to make him change his testimony (that Thanksgiving Day having been a very cold, snow-covered one) he never did. He still adhered to the statement that Frank's "lady" was dressed in white, and the poor defense was doing its best to have him dress the woman in warmer clothes. Think of it—white shoes and stockings and a thin white dress on the coldest day for that time of the year that Atlanta has ever known!

(b) Leo M. Frank proved beyond a shadow of a doubt that he was in charge of the entertainment at the Jewish Orphans' Home that day. He was helping the little fatherless and motherless ones of his race—his people, and God's own chosen ones. Could any man have proved a better alibi? And yet—on a criminal negro's word they are going to hang this man; and he has already uttered our good Saviour's words: "Father, forgive them; they know not what they do."

It's too late to save him now. He is doomed to die, and though he will not meet death on a cross as did our blessed Lord, still Christ's own prayer will be in his heart—"Father, forgive them—"

And Justice will stand near, blinded as if all the powder in the European nations had exploded in her face. Not that I have any complaint to make of the higher courts of the State. As I understand it, Frank was only found guilty in the first trial, the other courts only passing upon the trial Judge's rulings. But I do believe that the jurors were unconsciously influenced by the noise in the streets outside the courtroom. And, oh, people of the world, is this fair? The last words of the Solicitor's speech to the jury were these:

"And, gentlemen of the jury, if Conley had written those notes in the basement, would he have written them on paper found only in the office?" And yet it had been proved by a dozen witnesses, or rather three dozen, that that paper was found mostly in the basement, right where Conley could have got it.

The jury went to the jury room thinking that the Solicitor's statement was correct. The fact is, it was unfair and misleading. I'll leave it to the world. Even the people who want Frank to hang will know this was wrong. It does seem to me that a Prosecuting Attorney should be forced to deliver a speech strictly in accordance with what has been proved in the trial; or else what's the use of a trial? And yet—Leo M. Frank will hang.

And, as I have said before, he will go to the Father, whose own Son was a Jew, with these words:

"Father, forgive them; they know not what they do."

**SLATON TO REVIEW CASE.**

**If Clemency Is Asked Governor Says He Will Read All the Testimony.**

Justice will be given by the Governor of Georgia to Leo M. Frank, convicted of the murder of little Mary Phagan,

the girl who worked in the pencil factory in Atlanta where Frank was Superintendent, if the Supreme Court of the United States denies the application for a writ of error to be made to that body as a whole. Gov. John M. Slaton, who is at the Waldorf, made clear his attitude yesterday to a TIMES reporter.

"If an application for Executive clemency should be made to me," said Gov. Slaton, "I shall read every word of the testimony and form my opinion from the evidence. I have not followed the case and its developments closely, and I can say that I have not the slightest opinion as to the guilt or innocence of the convicted man. When I arrive at my own conclusion I shall write out an opinion, as I always do when application is made for Executive clemency. I shall be guided solely by the merits of the case and my own conscience. The people have recognized that the courts are likely to make mistakes just like human beings, and for that reason they have invested their Executives with the pardoning power. In using this power I regard one individual as another, without respect to race or creed."

"I don't want the impression to go out that the State of Georgia and the Governor of Georgia could not give justice to a Jew. I believe such an impression has been created, because I receive letters from persons everywhere, the majority of them appealing to me on behalf of the convicted man. I have left instructions that none of these letters are to be given to me unless they come from responsible persons, because I believe I am in a better position to find out whether justice has been done Leo M. Frank than is the man living in Chicago or San Francisco."

"The question simply is this: If Leo

M. Frank is guilty he ought to be hanged. If he is not guilty then he ought to be saved from the penalty. Frank shall not be a victim of injustice simply because he is a Jew. I desire to have it understood distinctly that neither the people of Georgia nor I have any ill feeling against any race. To the contrary, my personal friends embrace all races and religions, and I think my feelings are typical of Georgians.

"One of the original Trustees of the State of Georgia, from the Crown, was a Jew, named Minis. Today no lineage is stronger and purer and no family more respected and admired than the Minis family. The late Joseph Hirsch, Superintendent of the Grady Hospital, a fine, generous-hearted citizen, was a Jew. Mrs. Anna Wels, Superintendent of High Schools in Atlanta, a woman of extraordinary ability, comes from the Jewish race. The same is true of V. H. Kreisshaber, Vice President of the Chamber of Commerce of our capital city. Savannah points with pride to two of its former Mayors, both of whom were Jews."

"My own personal feelings toward the Jewish people may be judged from the fact that Mr. Phillips, my law partner for nineteen years, is a Jew."

"It is true that a certain kind of prejudice has risen in the South against Frank, but it is the prejudice of the employe against the employer. The fact that the head of a large factory is accused of attacking a girl, one of his employes, has been sufficient to give rise to this kind of prejudice."

"What my decision will be I cannot now say. No man or body of men will influence me. After I have reached a conclusion I will adhere to it. Whether this conclusion is with or against public opinion will not affect my judgment in the slightest degree. I will be responsible for my actions and will be responsible to my conscience."

## LAST PLEA TO SUPREME COURT

Frank's Counsel Will Argue for a Writ of Error on Monday.  
Special to The New York Times.

WASHINGTON, Nov. 27.—On Monday, before the Supreme Court of the United States, Henry Alexander of counsel for Leo M. Frank, who was convicted in the Georgia courts of murdering a factory girl in 1913, will make the next to the last possible effort to save the life of the condemned prisoner. He will then ask the court's leave to present a petition for a writ of error that would bring up the question of a retrial. If leave is refused, or the petition is later denied, counsel's only recourse will be to the pardoning power of Georgia's executive.

The case will reach the Supreme Court of the United States under curious circumstances. The writ of error has already been denied by two members of the court, but to laymen, at least, the denials seem based on technicalities. In his opinion denying the writ, Mr. Justice Holmes expressed a grave doubt whether due process of law had been accorded the accused, but because he could not set aside the opinion of the Supreme Court of Georgia that the motion to set aside the verdict came too late, he refused to intervene.

A curious point about Mr. Justice Holmes' opinion, which undoubtedly has encouraged counsel to hope for more favorable action from the full bench of the Supreme Court, is that the Justice saw a denial of justice in a phase of the trial not especially emphasized by counsel.

## A WOMAN'S PLEA FOR FRANK.

She Gives a Dozen Reasons for Believing Conley Guilty.

THE TIMES has received from a woman in Atlanta, who has had no connection with the Frank case on either side, the