

# CONLEY, NOT FRANK, GUILTY, TRAIN HOLDS

## Assistant District Attorney Be- lieves Evidence Points Indubi- tably to Negro as Slayer.

## JURORS MENACED BY MOB

### Lawyer Shows Newspaper Rivalry Caused the Publication of Stories That Created Prejudice.

Assistant District Attorney Arthur Train of this city, in an article on the Frank murder case in Atlanta, Ga., entitled "Did Leo Frank Get Justice?" in the March number of Everybody's, says: "A dispassionate reading of the case on appeal leads the writer to the conclusion that as a matter of cold logic and probability the evidence, divorced entirely from the personality of the witnesses, points indubitably to Conley rather than to Frank.

"Why should Frank seek assistance from an unreliable and perhaps treacherous negro merely to take the body down in an elevator?

"Why should he wish to leave a clue to his confederate's identity by having him write two notes? Or why, if the notes were written upstairs and the body taken down in the elevator, did Frank tell the negro to write that 'he push me down that hole'?

"Why the 'hole' at all? And what became of the cloth in which the body was wrapped, and the purse and the money?

"But who shall say? The Judge who tried the case declared: 'I want to say right here that, although I heard the evidence and arguments during those thirty days, I do not know this morning whether Leo Frank is innocent or guilty.'

"William Green, Conley's attorney, has abandoned him, declaring himself convinced of the negro's guilt."

One of the features of the Frank case, according to Mr. Train, was the fierce newspaper competition in Atlanta. He says:

"There had been a number of unpunished murders thereabouts in a comparatively brief period. The police and prosecutor were on their mettle. Hearst had recently bought The Atlanta Georgian, and a fierce competition for circulation was in progress between it and the old Atlanta Constitution and The Atlanta Journal. There was a strong feeling among the working classes and in the labor unions in Atlanta against 'foreigners,' due to the influx of Hungarians, Poles and others. This had a political significance. There was no particular prejudice against Jews. But this was a crime of the sort that makes the Southerner 'see red.' In 1906 there had been a riot due to assaults upon and murders of white women, in which fifty negroes had been shot or beaten to death on the streets of Atlanta.

### Blames Newspaper "Beat."

"Apart from this, Mary Phagan was undoubtedly an innocent and beautiful girl. Frank was an employer of cheap female labor. He was not a native Georgian. Many of his supporters admit that he is shrewd, cold, egotistical, and that his personality is repellent. He is even suspected of rather enjoying the limelight in which he finds himself."

The thing that sealed Frank's fate was a newspaper "beat," according to Mr. Train. He says:

"The Atlanta Constitution scored a 'scoop.' It published an affidavit from a woman dive-keeper named Formsbly that on the evening of the murder Frank had telephoned her frantically that he wanted a room, that he had a young girl and that 'it was a matter of life and death.' Frank proved that he was at home entertaining a party of friends at cards all the evening, and that his telephone was on a different system from the woman's; and later she repudiated her affidavit and made another in which she accused the police of getting her drunk and inducing her to sign the first.

"But the harm was done. The story swept over Atlanta that Frank was a degenerate. That settled it. All kinds of rumors flew about. Irresponsible persons made affidavits and retracted them. The wildest stories were published and then denied. 'Extra' followed 'extra.' The public became convinced that Frank was the murderer and so did the police. There was not a

scintilla of credible evidence submitted at the trial that Frank was a degenerate; but the suspicion that he was a pervert sealed his fate. The newspapers had irrevocably convicted him before he was indicted."

Mr. Train quoted from the testimony of Harry Scott, called for the State, the following statement of how the affidavit of Conley was obtained:

"We talked very strongly to him and tried to make him give a confession. We used a little profanity and cussed him. \* \* \* We saw him again on May 27 in Chief Lanford's office. Talked to him about five or six hours. We tried to impress him with the fact that Frank would not have written those notes on Friday. That that was not a reasonable story. That showed premeditation, and that would not do. We pointed out to him why the first statement would not fit. We told him we wanted another statement. He declined to make it. He said he had told the truth. On May 28 Chief Lanford and I grilled him for five or six hours again, endeavoring to make clear several points which were far-fetched in his statement. We pointed out to him that his statement would not do and would not fit. He then made us another long statement. \* \* \*

On May 29 we had another talk with him. Talked with him almost all day. Yes, we pointed out things in his story that were improbable, and told him he must do better than that. Anything in his story that looked to be out of place we told him wouldn't do. After he had made his last statement we didn't wish to make any further suggestion to him at that time.

"The police," writes Mr. Train, "had every interest to make Conley's story 'fit.' So had he."

### Mobs Thronged Streets.

Mr. Train describes how the sentiment against Frank continued to grow and how up to the time of the trial, and when the trial was taking place, the streets were thronged with people demanding his conviction.

"In the courtroom," he writes, "the jam was so great that the spectators and the jurymen were closely juxtaposed. The crowd, some of them armed (it is alleged) applauded, jeered, and laughed throughout the trial. The windows were open and the heads of the people in the street were practically on a level with the sills. An audience of men sat on the roof of a shed ten feet behind the Judge and looked directly into the courtroom. Officials were the recipients of threatening letters and messages: 'Hang the Jew or we'll hang you.' On the last day of the trial the voices of the mob outside could be clearly heard in the courtroom.

"It was known," says The Atlanta Journal, "that a verdict of acquittal would cause a riot such as would shock the country and cause Atlanta's streets to run with innocent blood."

"One juror said that he was not sure of anything, except that unless they convicted Frank they would never get home alive.

"The Judge sent for the Chief of Police and the Colonel of the Fifth Georgia Regiment, and consulted with them in the presence of the jury as to the best way to protect Frank if acquitted. As a result the Fifth was kept under arms during the night. The Judge also advised Frank's lawyers not to have him present, or to be present themselves, when the jury returned its verdict lest they all be lynched. But he is reputed to have said: 'If Christ and His angels came down here and showed this jury that Frank was innocent, it would bring him in guilty.'

"The lawyers stayed away. When the verdict was rendered the Judge, polling the jury, could hardly hear their answers for the cheers from the crowd outside.

"On March 10, 1914, The Atlanta Journal said editorially: 'Leo Frank has not had a fair trial. He has not been fairly convicted, and his death without a fair trial and legal conviction will amount to judicial murder.'"