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Slaton Misstates the Law, the Supreme Court Decisions, and the Evidence

OUR millionaire friend, Nathan Straus, who has always lived in New York, and never came back to Georgia until he slipped into Atlanta, last year, to do some mole-work for Leo Frank, blossomed into enthusiastic fragrance, when he learned that the noble partnership of Rosser, Slaton & Phillips had been nobly loyal to itself, and had saved its client from the scaffold.

This is what Nathan said to William Randolph Hearst's paper, The New York Hebrew-American:

> I am a Georgian. That is my proudest boast now, since its chief executive, Governor Slaton, by the simple act of following the dictates of conscience in commuting Leo Frank's sentence, **has lifted the State from the mire which threatened to besmirch it to the highest pinnacle of upright, clean, just Americanism.**
>
> Just as men of all kinds, regardless of religion, rank or station in life, united in the defence of this boy, **whom all sane people believe innocent of the horrible crime charged against him,** so will they now all join their voices in one large song of praise for his savior.

Consider how queerly Nathan, the modern millionaire, mixes his mind on this modern case, where a modern Jew, not only took the other person's *one ewe lamb*, but after having used it, slew it.

Nathan says that Slaton "*has lifted the State out of the mire.*"

Really?

Of what did the mire consist?

There was the accusation made by the grand jury, *four of whom were Jews.*

Not a single member of that grand jury could be induced to sign a petition for a commutation.

FOUR JEWS ON THE FRANK JURY!

They were sworn officers of the State; they heard the evidence in secret, as it was delivered under oath; they said, in writing, *that the charge of murder against Leo Frank, WAS TRUE.*

They stood before the whole world, as *the official accusers of Leo Frank;* and they stand before the whole world, *now*, as adhering to that awful accusation, *and refusing to unite in the clamor for the criminal.*

Again, there was the unanimous verdict of the twelve petit-jurors, selected in part by Frank himself—a unanimous verdict, reached after the most patient and exhaustive hearing of all the witnesses, all the attorneys, and the faultless instructions of an impartial Judge.

Herculean efforts were made to get those twelve jurors to ask for mercy for Frank, *and not a man of the twelve could be moved!*

They had observed the witnesses, had heard their voices, had noted their demeanor, and had listened for eight hours while Slaton's partner, Rosser, had flung himself upon Jim Conley, and worn himself out, trying vainly to entrap the ignorant negro into a material contradiction.

These jurors had also seen Frank every day, during the month of the trial; they had studied his sodomite face, and watched those furtive eyes; had seen him *cower behind his legal privilege*, and screen himself from being asked a single question; they had heard his lame and bungling attempt to give an account of himself, at the time when his little victim was being assaulted and killed—*they had no doubt of his guilt, AND THEY HAVE NONE NOW!*

The Next Move Is, to Get Frank Out. Watch the Game.

As to our Supreme Court, only two escaped the mud: the rest of them are stuck.

Our Prison Commission, also, is in a very bad way: only Slaton's schoolmate managed to stay out of the mire: Rainey and Davison are loblollied: but Patterson, noble patriot, has not the smell of mud on his garments.

Even the Supreme Court of the United States is woefully begrimed: only two out of the nine would intimate that, *if* what Frank's notoriously truthful lawyers averred to be true, *was true*, then the State of Georgia *ought to hear evidence on the subject.*

Seven of those nine Supreme Court Justices were so deep in the mud, that they actually and deliberately made the following decision, giving the lie to Burns, to Connolly, to Ochs, to Hearst, to Pulitzer, to Abell, to Rabbi Wise, to Dr. Parkhurst, and to sundry jackass governors, and the Parlor Car Philanthropist and lollywops who came from Chicago to Georgia, to remind Slaton of the Declaration of Independence:

> "His (Frank's) allegations of hostile public sentiment in and about the court room, improperly influencing the trial court, and the jury, against him, **have been rejected** BECAUSE FOUND UNTRUE IN POINT OF FACT UPON EVIDENCE PRESUMABLY **justifying that finding, and which** HE HAS NOT PRODUCED IN THE PRESENT PROCEEDINGS; his contention that his lawful rights were infringed because he was not permitted to be present when the jury rendered its verdict, has been set aside, because it was waived by his failure to raise the objection in due season, when fully cognizant of the fact.
>
> "In all these proceedings **the State, through its courts, has** retained jurisdiction over him, **and accorded to him the fullest right and opportunity to be heard.**"
>
> "In our opinion he is not shown to have been deprived of any right guaranteed to him by the Fourteenth Amendment, or of any other provision of the Constitution, or laws of the United States; on the contrary, he has been convicted, and is now held in custody, under 'due process of law' within the meaning of the Constitution."

What an awful "mob atmosphere" must have invaded the Capitol building, in Washington City, when these seven lawyers—supposed to be the best in the world—virtually accused Frank's regiment of attorneys of making the foulest charge against the Georgia courts, without being able to produce *one scintilla of evidence to support it!*

In the mire? Why, the highest court in the Union is up to the hubs; and even the noble law-firm of Rosser, Slaton & Phillips can never cleanse *that* record!

Nathan Straus told Mr. Hearst' Hebrew-American that "all sane people believe" (Frank) "to be innocent of the horrible crime charged against him."

Unanimous, is it? Only the insane believe Frank guilty?

Why, then, is Mr. Straus proud of a State which condemns the innocent "boy" to lifetime imprisonment?

Straus himself does not believe "this boy" to be innocent, else he would not exult, unless, indeed, he knows, as Frank's family seems to know, that the boy "*WILL SOON BE FREE.*"

In the New York Hebrew-American, of June 22, the Burns Detective Agency gives out the following:

> William Sherman Burns, Chief of New York Office of W. J. Burns—"There is no doubt now **that a fight will be made to free Frank absolutely. Commutation of sentence by Governor Slaton shows that he is convinced of Frank's innocence.** Personally, both my father and myself believe Frank innocent. We have fought to obtain his release from start to finish, **and** staked our reputation on the outcome."

Inasmuch as Frank's family, and the Burns Detective Agency announce the early renewal of "the fight," and their determination to have "this boy" set free, it behooves every Georgian to acquaint himself with the reasons which Slaton gave for his interference with the sentence the law imposed, and which two Supreme Courts, and a Prison Commission, refused to disturb.

STUDY THE FACTS IN THE CASE.

When a Governor follows the decision of one man, on the Pardon Board, ignoring the unanimous stand of the grand jury, the unanimous stand of the petit jury; the majority of the two Supreme Courts, the majority of the Prison Commission, and the vehement protest of the State's Attorney, he creates a situation whose like was never known before.

Let me tell you one peculiar thing that has already become noticeable in the Northern newspapers: *They are dumbfounded at learning, from Hugh Dorsey's statement, that Governor Slaton has*, all along, *REMAINED A MEMBER OF THE LAW-FIRM THAT WAS ENORMOUSLY PAID TO SAVE FRANK'S NECK!*

This disgraceful fact has fallen upon the North like a wet blanket.

It seems too shameful to be true; yet they know that the Solicitor General of the State wouldn't have said it, had it not been true.

Let us calmly review the statement which *the gubernatorial partner of the firm* of Rosser, Slaton & Phillips gives for having *decided in favor of THE CLIENT OF THE FIRM.*

There are some portions of Slaton's remarkable paper which I can hardly believe he wrote. He was so busy getting barbed wire, martial law, machine guns, and armed soldiers around his premises, *to protect him from the men who had elected him*, that he must have overlooked some passages in his 15,000-word message.

He says:

> Under our law the only authority who can review the merits of the case and question the justice of a verdict which has any evidence to support it, is the trial judge. The Supreme Court

is limited by the Constitution to the correction of erorrs of law. The Supreme Court found in the trial no error of law and determined as a matter of law, and correctly, in my judgment, that there was sufficient evidence to sustain the verdict.

It is an extraordinary thing that a man who claims to be a good lawyer, should so wantonly misstate the law of Georgia. In every volume of our Supreme Court Reports, you can find the evidence that Governor Slaton's assertions concerning the powers of our Supreme Court are untrue.

Ex-Governor Joseph M. Brown, in speaking to Governor Slaton himself, said:

Another point to which I desire to call your particular attention is, the fact that **it has been repeatedly alleged by newspapers published outside of the State of Georgia, that the courts of review never passed upon the merits of the case,** but decided merely legal technicalities in throwing it out of court.

This is entirely incorrect. The Supreme Court of Georgia, in its decision, used the following words: **"We have given careful consideration to the evidence, and we believe that the same is sufficient to uphold the verdict."**

And, in the decision of the Supreme Court of the United States, you will find Justice Pitney stating, at the very outset, **that the obligations rested on that court to look through the form and "into the very heart and substance of the matter,"** not only in the averment in Frank's petition, **"but in the trial proceedings in the State Courts, themselves."**

Hence, THIS CASE HAS BEEN ADJUDICATED ON ITS MERITS BY ALL THE COURTS before which it could properly be brought, and **I do not see how,** ON THE IDENTICAL EVIDENCE THEY HEARD, AND REVIEWED, **the executive office of Georgia can try this case.** If it has the right to try it, **on that evidence,** IT HAS THE RIGHT TO REVERSE ALL THE COURTS. The very genius of our Constitution, permit me to say, does not even suggest that it has that right. **The precedent of this procedure threatens a vital blow to the judicial system of Georgia.**

Are we Georgians asking too much of outsiders, when we ask them to be willing to listen to the truth, as shown by official records?

Volume 141 of the Reports of the Supreme Court of Georgia contains the decision in the Frank case. What will be your opinion of Slaton, when I tell you that thirty-seven pages of that book are filled with the Court's review of the evidence in the case?

Can you believe that Governor Slaton was ignorant of this? Wasn't the decision delivered in the same building in which the Governor has his office? Didn't ex-Governor Brown direct his attention to that very point?

He tells the world that two of the Justices dissented, and leaves the impression that these two favored Frank!

What will you think of Slaton, when I tell you that Justices Fish and Beck based their dissent on a point of law, and expressed the opinion that Judge Roan should not have allowed Conley and others, to testify to independent acts of lewdness, on the part of Frank!

You can see at once, that this evidence was not of a contradicting nature, and that there was enough without it.

Therefore, Justices Fish and Beck dissented on a comparatively unimportant matter.

(See Ga. Rpts., Vol. 141, pages 285 *et seq.*)

The country must be brought face to face with the astounding fact, that when the firm of Rosser, Slaton & Phillips found itself unable to get Judge Roan to reverse the jury, and unable to get the Georgia Supreme Court to reverse Judge Roan, and unable to get the United States Supreme Court to reverse the Supreme Court of Georgia, *the firm of Rosser, Slaton & Phillips simply used its gubernatorial member TO REVERSE EVERYBODY—juries, Judges, Supreme Courts, and all!*

In his lengthy and detailed statement, Governor Slaton would have you believe that he gave the world "the gist of the State's case, omitting many incidents which the State claims would confirm Frank's guilt when taken in their entirety."

What are these many incidents?

Surely, we could have dispensed with the Declaration of Independence, and with the discarded stories of Conley—in fact, we could have dispensed with Conley altogether, if thereby we could have put before the public, in the Governor's official document, the many incidents which confirm Frank's guilt.

As set forth by Governor Slaton, the facts proved by the State made no case of circumstantial evidence at all!

If Governor Slaton's document had been prepared by one of the attorneys for the prisoner, it could not have more slurringly skimmed over the white folks' evidence, the undisputed facts, and the physical circumstances which convicted, and will always convict, Leo Frank.

In his official defense of himself, Governor Slaton uses more than *twelve* closely printed columns in the Atlanta Georgian, and about *one-half of this space*, is taken up with his attack on the negro, Jim Conley.

But there is one fact Slaton never mentions, and that fact outweighs his five-column attack on the negro. It is this:

Leo Frank knew, on Saturday, April 26th, 1913, *that Jim Conley*, the negro, *was the only other man in that building who could have assaulted and killed the girl;* and he, Leo Frank, never once hinted a suspicion against the negro, until after the negro confessed, and told how Mary was murdered.

Why did John M. Slaton never allude to that tremendous fact?

Harry Denham and Arthur White were on the fourth floor, tearing down an old partition and putting up a new one. They could not have committed the crime.

Newt Lee, the negro night-watch, was at home asleep, and *he* could not have done it.

Jim Conley on the street-floor, and Frank on the next floor above, were the only two men who could have seen Mary Phagan come into the factory.

If Frank did not kill her, Conley did: if Conley did not, Frank did: *and neither of the two could have done it, WITHOUT THE OTHER KNOWING IT.*

There you have the case in a nut-shell, but Slaton would not see it. *Why not?*

Harry Scott knew, on Monday following the crime, that Mrs. White had seen a negro on the first floor, and Frank told Scott, on the same day, the negro was Jim Conley. Scott (like Burns) did not at first suspect Conley, *because* he knew, *from the closeness of the two men to one another in the building*, Conley could not have committed the crime without Frank being in it, also.

Frank knew that Conley could write, and he knew Conley's handwriting; but Frank never hinted a word on that subject, leaving Scott to find out, *independently of the factory people*, that Jim could write.

When Scott learned this important fact, and pieced it together with Conley's presence in the factory on Saturday, his suspicions fixed themselves on *both* Conley and Frank; and, as this fact became evident to Frank, and *Haas, the honest detective was discharged from the case!*

SLATON DESTROYS THE EVIDENCE AGAINST FRANK.

Why did Governor Slaton falsify Monteen Stover's evidence? It is brief, it is positive, it is unimpeached; and no man who wanted to understand it, could have failed to do so.

Did Slaton want to understand it? Let us see what he says about it:

"Monteen Stover swears she came into Frank's office at 12:05, and remained until 12:10, and did not see Frank, or anybody.

"The only way to reconcile her testimony *would be*, that she entered Frank's office—and did not go into the inner room where Frank claimed to have been at work."

"The only way to reconcile her evidence!" *Reconcile it with what?*

Nobody contradicted her, and no attempt was made to impeach her.

On the contrary, the Burns gang, and Burns himself, made every effort to persuade and scare her into changing it.

Frank did not dare to positively contradict Monteen; and he, therefore, invented that "unconscious" five-minute stay in the water closet.

But Slaton manufactures a reconciliation between a positive witness and *an imaginary contradiction*, by supposing that Monteen went to the outer office, only, and did not see Frank, in the open inner office.

She had come for her money, and was so anxious to get it that *she waited in the office five minutes;* but she couldn't hear Frank, or see him, in the next room, whose door was open! Such is the hypothesis of John M. Slaton, whose partner cross-examined Monteen on this very point, and brought out her answer—

"I went through the first office *into the second*"—the inner office.

Partner Rosser heard the girl swear positively that she searched for Frank in both his offices; but Partner Slaton surmises that she stopped in the first, and did not go into the second.

In other words, *Partner Slaton arbitrarily rejects the testimony of an unimpeached witness, AND DISCARDS THE MOST FATAL EVIDENCE IN THE CASE.*

The jury took it and believed it: but Partner Slaton *reconciles it out of existence.*

Is a Governor *honest*, when he violates the law in that astounding manner?

By his theory of reconciliation, Partner Slaton gave to his law firm's client, a chance for his life which no other human agency had dared to propose.

If Frank was in his office, at the time that Monteen swears he wasn't, then he is accounted for at the very time that Mary was being killed.

Monteen having been eliminated, and Frank placed back in his office, it is necessarily Conley who attacks Mary.

Thus the gubernatorial partner of the law firm of Rosser, Slaton & Phillips, clears their client, by the simple method of *destroying the evidence which convicted him.*

Judge Roan couldn't do it, the jury couldn't do it, the two Supreme Courts couldn't do it; but Partner Slaton could.

William J. Burns, Sam Boorstein, Rabbi Marx, C. W. Burke, and Dan Lehon put themselves to a lot of unnecessary trouble in trying to persuade, and to frighten Monteen into changing her evidence.

Partner Slaton argues that Mary got to the factory after Monteen left. This would place her in Frank's office at about 12:12, Slaton thinks.

But Frank had already fixed the time *thrice, before he knew of Monteen's visit;* and in each of Frank's positive statements, so made, *Mary goes into his office while Monteen is there, looking for, and waiting for, the absent Frank.*

Frank not only told Scott and Black, and then Chief Lanford about Mary Phagan coming to his office at 12:05 to 12:10, but he swore it when testifying under oath before the Coroner.

It was not denied that Frank made those statements: Frank himself did not deny it. *He fixed the time by his own clock*, not by George Epps' guess, or by the watches of street car conductors, nor by the clock at Mary Phagan's home.

Frank fixed the time of Mary's coming to him, but did not do so until the State had

traced her almost to his door, and had proved that she was on her way there.

Then it was he had to fix a time for her arrival; and then it was that *his ignorance of Monteen's visit* caused him to make the fatal mistake of placing *both the girls and himself* in his office, *at the same time, BY HIS OWN CLOCK!*

Having placed himself in Mary's company at that particular time, Monteen's evidence, proving that neither of them were in Frank's office, **at that time, necessarily caught Frank in the toils of guilt.**

But Slaton abolishes Frank's statements, annihilates Monteen, and thus opens the way out of the trap which his firm's client had fallen into, without knowing it.

Partner Slaton states:

> The County Physician, who examined her on Sunday morning, declared there was no violence to the parts and the blood was characteristic of menstrual flow. There was no external signs of rape.

Dr. Hurt, the County Physician, swore to the scalp wound ranging "*from down upward.*" He spoke of the bruised, black eye, the scratches on the face, made after death; *the ruptured hymen*, and the blood on the drawers; *the blood on the parts;* and he said, "I don't know whether it was fresh or menstrual blood."

It was his opinion that the enlargement of the vagina "could have been produced by penetration immediately preceding death. *She had a normal virgin uterus.* She was not pregnant."

When you read this extract from the official record, and compare it with Slaton's garbling of Dr. Hurt's testimony, you will understand the labored effort to create a false impression.

On cross-examination, Dr. Hurt did say, "I found no *outward* signs of rape." But when a girl is knocked unconscious, and can make no further resistance, would you expect more than a ruptured hymen, blood on the privates, and blood on the ripped drawers? Where else could there be any outward signs of rape on an unconscious girl, the victime of an undersized man?

Governor Slaton ignored the evidence of Dr. H. F. Harris, also a State officer. This physician swore that there were marks of violence on the walls of the vagina; that the epitheleum was pulled loose, completely detached in places, blood vessels dilated immediately beneath the surface, and a great deal of hemorrhage in the surrounding tissues.

"The dilation of the blood vessels indicate to me that *the injury was made in the vagina some little time before death*, perhaps ten or fiften minutes.

There was evidence of violence in the neighborhood of the hymen.

The evidence of violence in the vagina had evidently been done just before death."

Dr. Harris swore that menstrual blood would *not* have caused the conditions he found in the blood vessels and the walls of the inner private parts.

On cross-examination, Dr. Harris testified, "*The violence to the private parts* might have been produced by *the finger, or by other means, BUT I FOUND THE EVIDENCE OF VIOLENCE.*"

Now, in view of this evidence, given by a doctor of the highest character, how can you excuse John M. Slaton for his studious attempt to make it appear *that Mary Phagan was a sluttish wench*, who wore no bands during her menstrual periods; and whose torn drawers, torn vagina, ruptured hymen and bloody privates, were due to her own personal uncleanliness, and her previous unchastity?

Partisans of Frank have heretofore made those foul accusations against the girl, and have gone so far as to claim that the child was pregnant; but it excites a feeling of profound disgust to see the charges virtually repeated by a man whom we once supposed to be honorable.

What did the Supreme Court say on this vital point?

I quote from page 255, Ga. Rpts. 141: "The testimony . . . tended to show that the sexual organ of the girl indicated external violence. . . . The epitheleum of the walls of the vagina was torn and bruised. There was no spermatozoa found . . .

"*From the testimony*, it was inferrible that the slayer undertook to have some sort of relation or connection with the sexual organ, possibly *in an unnatural way.*"

HOW THE BODY GOT TO THE BASEMENT.

Slaton says, "The mystery in the case is the question as to how Mary Phagan's body got into the basement."

He argues that it could not have been taken down in the elevator, *because* the elevator always hits the dirt floor of the basement, and if it had done so, on Saturday evening, Conley's excrement (deposited that morning) would have been mashed.

But there are two answers to that. One is, Conley knew the excrement was there, and may have intentionally stopped the car before it bumped the ground.

The other is, that elevators often stop within a few inches of the usual level; and, unless started up again, remain just above the level, or just below it—as you have noticed in all the hotels.

There would be nothing strange in the occurrence, if Frank and Conley, in their excitement, let the elevator stop a few inches short, and tumbled the body of Mary out upon the dirt floor.

When he endeavors to account for the manner in which the body of the girl reached the basement, Governor Slaton rejects, necessarily, the idea that the crime was committed there.

He says, she did not come down in the elevator, because the negro's dung was not mashed: she was not pushed down the shaft, as the notes say, because her body would have fallen into that filth: therefore, the gubernatorial branch of Rosser's firm was driven to the conclusion that Jim Conley toted her body down the ladder!

This steep ladder reaches from the dirt floor to a trap door, twelve feet above; and the trap door is two feet square, barely large enough for one person to squeeze through.

How did Conley render the stout girl unconscious by hitting her, on the back of the head, a blow which made a wound ranging "from down upward?"

How did he manage to give her a black eye in front, and a split skull behind, at the same time?

Somebody did it; *but how did the negro do it*, on the first floor, or in the basement?

Conley could not have lifted the trap door, and carried the girl down in his arms, without leaving some signs on the floor, or around the door, some signs on the ground at the foot of the ladder; and some blood, somewhere, on the first floor and the basement.

No evidences of this kind were ever discovered.

Captain Starns, Sergeant Dobbs, and Detective Scott swore to the most searching examination of the basement, and the floor around the trap-door, the ladder, &c.; and absolutely no blood, no marks of a struggle, and no signs of dragging could be found, except at the elevator, on to where the corpse lay.

Scott testified that he passed his flashlight all over the area surrounding the trap-door, making the closest inspection. Not only was no blood found, *but the dust had not been disturbed.*

Governor Slaton argues that Leo Frank was too frail to knock Mary down! A man weighing 125 pounds, and in his youthful prime, unable to drop a 14-year-old girl with his clenched fist? How absurd!

WHOSE HAIR WAS IT?

The animus of Slaton against the State is shown in his reference to the testimony of R. P. Barrett, who was Frank's machinist, working on Frank's own floor. Slaton says—

"One Barrett says that on Monday morning he found six or eight strands of hair on the lathe with which he worked, and which were not there Friday. The implication is that it was Mary Phagan's hair, &c."

"It was strange that there was a total absence of blood, and that Frank, who was delicate, could have struck such a blow."

Who swore that Frank was "delicate?" At the time of his arrest, he looked anything else than delicate, if the snap-shots were at all trustworthy.

Where is the young man, weighing 125 pounds, who is too delicate to knock a little girl down?

And, in falling, why wouldn't her weight, violently striking the metal handle of a turning machine, give her a terrible shock? And thus give her the wound that ranged "*from down upward?*" The girl had a dense mass of soft, auburn hair, and it would depend upon the way she was wearing it, how long it would act as a sponge, and hold the blood oozing from the wound under the hair.

I cannot see anything strange in there being no blood where she fell, if something was soon placed under her head, and she was soon moved away.

Can you? We all know that thick, soft hair is an absorbent, and witnesses testified to the matted blood that had dried in Mary's hair.

Mr. Barrett swore that he used the lathe machine until quitting time, 5:30, on Friday evening. The hair was not on it, then. The hair attracted his attention Monday morning. *The hair was hanging on the handle, swinging down.*

The handle of the bench lathe is like the capital letter L—the end of the handle being outward, of course.

The piece of work which Mr. Barrett had left in the machine Friday was still there, *undisturbed.* There were six or eight of these long strands of hair.

With the exception of the presence of these golden strands of a woman's hair, dangling from the bright metal handle which he had been turning at 5:30, Friday evening before, there was nothing on the machine, or close to it, that caught his attention, early Monday morning.

But as soon as he returned to his machine Monday morning, this trusted employee of Frank saw the hair dangling there on the projecting handle.

Whose hair was it?

Slaton says that, if it was Mary's, it furnished the highest and best evidence of Frank's guilt.

Now, let us turn to the record, and see whether Slaton was bound to know that it *was* Mary's hair.

How many women-folk worked for Frank, in that pencil factory, which had lobbied so hard against the Child Labor law?

There were about 100, some of whom were as young as Mary; and who, if our lawmakers cared as much for human beings as for dirty dollars, would have been at school.

Did not the hair on Barrett's machine come from the head of some girl who worked in the place? *Necessarily.*

Now, then, which of those women and girls have hair that might be taken for that

that metal room, *on Saturday*, unless we adopt the idea that Jim Conley went back there with the girl.

But Governor Slaton is on a different line: *he* argues that Jim assaulted her in front of the street entrance, on the first floor, and then carried her through the 2x2 hole, of which Sergeant Dobbs testified,

"A man *couldn't get down that ladder with another person.* It is a difficult matter *for one person* to get through the scuttle hole."

Difficult for Dobbs, but not for Slaton.

Accepting the idea that Jim Conley was *not* on the second floor, how can any reasoner locate the man, or the woman, who left paint or blood, on the floor, *and tried to hide the spots?*

Let it be paint, if you will: let it be varnish; let it be red lemonade—somebody knew it was there, on Saturday; and somebody tried to hide it on Saturday.

That's the evidence!

That's the testimony of Frank's employes! That's the evidence of the manager of Frank's branch factory!

Who was that somebody?

Slaton argues that it wasn't Jim Conley, for he places Jim on the floor below, assaulting Mary, and toting her through the 2-foot hole, down a steep ladder!

Therefore, Jim and Mary both being off the second floor, Frank alone spilled the paint, or the blood, and smeared haskolene over it!

To that absurdity comes the reasoning of *whoever wrote Slaton's document.*

If this case, like all others, is to be judged by the sworn testimony, those spots on the floor—like the hair on the machine—lead right straight to Mary Phagan.

The only doubt I have ever had in my mind, has been as to the depth to which the negro went with the Jew in the commission of this crime. Readers of The Jeffersonian remember that I have said, from the beginning, that *that* was the only question on which uncertainty rested.

The overwhelming preponderance of the evidence was, that the spots were made by human blood. The uncontradicted evidence is, that an effort has been made to conceal it.

The witnesses left no reasonable doubt as to the time the spots were made; and these witnesses absolutely shut out the possibility of the spots having been made by any persons, excepting Mary Phagan, Leo Frank and Jim Conley.

Mary, of course, did not voluntarily shed her blood, and attempt to conceal it: between Frank and Conley the crime lies, and the location of the parties, the statement of Frank, and the evidence of Monteen Stover, not only *places Mary in Frank's possession, but places Frank in the metal room at the time Mary was there.* For, in looking for Frank, anxious to get her money, Monteen not only went into his inner office, *but looked back to the metal room, and saw that the door was closed!*

Whoever wrote Slaton's flimsy defense, *had failed to study Monteen's evidence.* That girl placed Frank, at from 12:05 to 12:10, in the metal room, *by necessary implication*, because she could not have failed to see Frank, had he been in the long room between where Monteen stood and the metal-department door, *which she swore was shut.*

Whoever wrote the Slaton document had better lick it into better shape, before allowing it to go down to posterity—otherwise Slaton will remain on the pillory, an object of scorn to coming generations.

THE BUSTED ALIBI.

If anything could add to the amazing incoherence of this commutation paper, signed on the midnight of the day we were commanded to keep Holy, it is the reliance placed on the guess-work of Lemmie Quinn, who estimated that he may have been in Frank's office at 12:20.

Why did Slaton impute perjury to two of Frank's witnesses, whom Quinn did not contradict? By what process did Slaton "reconcile" out of existence the evidence of Miss Corinthia Hall and Mrs. Emma Clark Freeman?

Both these ladies were put up by the defense, to help Frank; and upon cross-examination, they paralyzed his lawyers by mashing Lemmie Quinn flat.

They both swore that they were in Frank's office that morning, and left at 11:45; and that in a few minutes they saw Quinn at the Greek restaurant, and Quinn told them he had just came from Frank's.

This completely demolished the clumsy effort to acount for Frank's whereabouts during the time that Mary was being raped and killed; but John M. Slaton ignores these two white ladies; blows new breath into Lemmie; and sets him up, for the approving contemplation of the human race, just as though two of Frank's witnesses had not flattened him out.

The State case fares badly, when the leading lawyers for the defense have the conclusion—especially when the daily papers will give twelve columns to one of these lawyers, and refuse twelve inches to any Georgian who wants to defend the honor of the State.

WHAT WAS FRANK'S CHARACTER?

The author of the Slaton document says that 100 witnesses swore to Frank's good character, and less than a dozen testified he was lewd. The world is therefore expected to believe, that the overwhelming weight of the evidence was in favor of the chastity of the accused.

Out of the hundreds of people who are acquainted with young men about town, how many really know their secret sins? How many could swear to anything disgraceful?

When 100 Hebrews go upon the stand, and give Frank a good character, they no doubt are perfectly honest about it; but when ten white Gentile girls go upon the stand, and swear they had worked at the pencil factory for years, and that Leo Frank's character for lasciviousness was bad, the jury must not "reconcile" this *positive* testimony with that of the 100 *negative* witnesses, by abolishing positive evidence which the law says is highest and best.

And when the cowering defendant dares not put a single question to those positive witnesses, their evidence against his character, *based on personal knowledge*, must be accepted.

When Miss Myrtice Cato and Miss Maggie Griffin *testified to Frank's habit of taking Rebecca Carson into the ladies' dressing room*, on the fourth floor, *during work hours*, the attorneys of Leo Frank did not dare to ask those white girls a single question.

Let me be fair to Rebecca; she denied it.

In addition to this, she gave Frank a good character. Furthermore, Rebecca signed the petition for clemency. You can't bear malice against Rebecca.

Isn't it strange that Slaton did not mention the evidence of the two girls who testified to Frank's immoral conduct, *in the factory itself?*

Isn't it strange, that he made no mention of C. B. Dalton, who admitted, under oath, *that he and Frank had had a woman of the town in the factory*, and that he had even gone to the basement with her?

The woman from the *outside*, with whom Frank was alleged to have indulged in unnatural vice, was Daisy Hopkins, and the defense *had* to put her up.

Daisy denied it, of course; and on cross-examination she gave the following remarkable testimony:

"I have never been in jail. Mr. W. M. Smith got me out of jail.

"I don't know what they charged me with. They accused me of fornication."

As Daisy was the client of W. M. Smith, she deserves a great deal of commiseration.

However, when Jim Conley peeped through the key hole, and saw the sight which Slaton says does not prove Frank to be a pervert, even if Jim saw what he swore he saw, you might read page 55 of the record, not for evidence of the guilt of Frank, but to obtain an idea of Slaton's conception of a pervert. If you will read the Old Testament account of the destruction of Sodom and Gomorrah, you will have a clear vision of the darker slime of this case. I do not care to quote the evidence, but merely cite you to the page. (You can find it also on page 285, 141st Ga. Reports.)

So much has been said about Frank's chaste character—a pet of the Rabbi, a favorite of Cornell, a model husband, &c.—that I will give you a little glimpse into Nellie Wood's evidence:

"Question: Do you know Mr. Frank?

Answer: I worked for him two days.

Q. Did you observe his conduct toward the girls?

A. His conduct didn't suit me very much.

Q. You say he put his hands on you; is that all he ever did?

A. Well, he asked me, one evening—I went into his office, and he got too familiar and too close.

Q. Did he put his hands on you?

A. Well, I did not let him complete what he started. I resisted him.

Q. Did he put his hands on your breast?

A. No, but he tried to.

Q. Well, did he make any attempts on your lower limbs?

A. Yes, sir.

Q. And on your dress?

A. Yes, sir."

Miss Nellie Wood quit, and never went back, except to get her pay for the two days.

Miss Nellie Pettis gave testimony equally damaging. She told how Frank had looked at her, winked at her, showed money, and finally asked, "What about it?"

Miss Nellie's language was unusually vigorous: she told Frank to go to hell!

In a Good Shepherd house, in Cincinnati, there is a poor girl who worked for Frank, and he ruined her.

In a Florence Crittenden Home, in Georgia, are two poor girls who worked for Frank, and he ruined them.

How many other girls he ruined, *he* knows; but all that *we* know, is that the State produced eleven more that he wanted to ruin.

Mary Phagan was another.

HAD HE LUSTED AFTER MARY?

Had this sensual beast lusted after Mary Phagan? Did he make indecent overtures? Slaton says that Frank claimed to know her but slightly!

The record shows that he claimed *not to know her at all.*

The point is immensely important. If he had known her, and shown an inclination for her, it is a damning circumstance, that he positively said—after she was found dead in his place—that he did not know such a girl, *and would have to consult his books.*

The record shows he said it, repeatedly, after Mary was found in the basement.

DID HE KNOW HER?

Miss Ruth Robinson testified:

"I have seen Leo Frank talking to Mary Phagan.

"I heard him speak to her. He called her Mary."

Miss Dewey Howell testified:

"I have seen Mr. Frank talk to Mary

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THOMSON, GA., JULY 1, 1915.

Phagan *two or three times a day*, in the metal department. *I have seen him hold his hand on her shoulder. He called her Mary.*"

W. E. Turner testified:

"I saw Leo Frank talking to Mary Phagan, on the second floor, about the middle of March. It was just before dinner. There was nobody else in the room. He stopped to talk to her. She said she had to go to work. He told her *he was the Superintendent of that factory*, and that he wanted to talk to her.

"*She backed off*, and he went on towards her, talking to her."

Gantt also testified that Frank knew Mary, by name.

Had you been a juror in this case, could you have disregarded all that evidence as to Frank's personal knowledge of the girl?

Believing the witnesses, and believing that he wanted to make her a fresher Rebecca Carson—what would you have suspected of the murder, when Frank brazened it out, all the way through, *that he did not know that such a girl worked for him?*

FRANK'S GUILTY CONDUCT.

He is proved to have been at his office, immediately after the noon hour, and to have disappeared at about the time that Mary did. He was not to be seen, or heard, between 12:05 and 12:10, and Monteen Stover swears *she looked back to the metal room, whose door was closed, and did not see him.* He was in there, at that time, for he had to admit at the trial, that *if* he was not in his office, *during those fatal five minutes*, he was at the toilet, *which is in the metal room.*

He swore that Mary came into his office between 12:05 and 12:10, the identical time Monteen was there.

In other words, *he made contradictory statements as to his whereabouts at the time of the crime.* Since the crime was committed in his place, this is a fearful circumstance against him.

When the police go to his home, on Sunday morning, he seems fearfully nervous, asks if anything has happened at the factory; and he is informed by the two officers that Mary Phagan has been found dead in the basement.

He makes no outcry of amazement and horror! He expresses no surprise at the crime. He utters no word of pity for the victim. He offers no information to the policemen. He suggests no possible theory as to the criminal. *He closes like a clam, shakes like an aspen*, begs for a cup of coffee, *refuses to look on the pallid face of the murdered girl, denies that he knew Mary Phagan;* and, when his detective and others endeavor to secure a clue to work on, *he hints at Newt Lee, and then at J. M. Gantt.*

Governor Slaton explains away Frank's employment of lawyers, before he was accused, by saying that a friend of Frank did it! How many friends of innocent men retain lawyers for them, in advance of the accusation?

WHY DID HE SCREEN JIM CONLEY?

Frank told Harry Scott, *his detective*, that Jim Conley was in the factory, that Saturday; Mrs. White had also seen him; *but Frank's persistent efforts to implicate Lee and Gantt, kept the hounds off the track of Jim Conley.*

Frank seemed so certain that either Lee or Gantt had done the foul deed, that Jim Conley eased along, from day to day, unmolested. Frank even took pains to impress Scott with the fact that Gantt had seemed to be intimate with Mary—with Mary, the girl whom Frank could only identify by reference to his books!

During all of that terrible period of suspense—during which a bloody shirt made its way into Lee's clothes barrel, *where it was found at Frank's instance*—not once did Leo Frank drop a hint against Jim Conley, *who had worked for Frank two years;* and who, according to Slaton, is so vile and criminal a wretch that Frank should have suspected him at once!

At last, when Jim Conley quits lying, makes a clean breast of it, *and wants to face Leo Frank*, that innocent and chaste young Brooklynite shrinks behind the excuse, that Mr. Rosser is out of town! Here was *one* righteous man who was not as bold as a lion. He was pursued; he fled; he took refuge behind a legal privilege, and he stayed there. He didn't dare talk to Conley in the presence of witnesses; he did not dare to allow Solicitor Dorsey to question him; and he didn't dare to question the white women who knew of his vices.

Then, after conviction, came his efforts to deceive the courts with bought affidavits; and his supreme exertions to get convicting evidence out of the way.

Leaving Frank in the meshes of proved circumstances which establish his guilt, Slaton calls upon mankind to admire the manner in which he can hammer the nigger.

Who cares a button about the nigger's little cases before the Recorder—cases for fighting other niggers, and for being drunk and disorderly?

Who cares a thrip about the dimes that Conley borrowed, and did not pay back?

Lots of other men borrow small sums—and large ones, too—and never repay. An Atlanta bank borrowed quite a number of small sums from the work people, some years ago, and did not return the money; and I was interested to see that the Atlanta lawyer who broke the Neal bank, sided against the work-people, as usual, and signed the petition for Frank's commutation.

Governor Slaton tells the world that the record shows Conley to be one of the most degraded of human beings.

The record shows nothing of the kind. It shows him to be just a common negro, a steady worker, never a loafer, never a thief, never a gambler, never anything worse than a darkey who would sometimes drink too much, sometimes quarrel and fight with other negroes; and who lived with a black woman, whom he called his wife, but whom he had not legally married.

The State put Conley's court record in evidence; and it is a paltry affair of a few days on the city gang, for fighting, or for disorderly conduct.

There was no evidence whatever that he had been guilty of a crime against a white person; had ever been impudent to one; had ever given offense to any white man or woman, in the pencil factory or elsewhere. He was just the type of negro who would help a white boss in meeting loose women, and who would peep through a key-hole, when he had seen Frank and his woman go inside together. He was just the sort of negro to do what his boss told him, so long as he did not burn his own fingers.

When Frank told him to help dispose of the dead girl, and to write the notes, he was following *a two-year daily habit*, when he obeyed his white master.

After devoting so very much time to those notes, it is peculiarly strange that Slaton failed to see, *that the trail of suspicion started against Newt Lee in the notes, was widened and lengthened by Frank, immediately after the corpse and the notes were found!*

Conley never dropped a hint against "the long tall slim negro," Newt Lee: *it was Frank!*

And the officious friend who hired a lawyer for Frank, before Frank was accused, could tell an interesting story about the planting of that bloody shirt, on Lee's premises!

That attempt to fasten a rope around Lee's neck, was in exact accordance with Frank's original idea, when he dictated those notes.

Listen! If fate had not willed it so that Newt was taken short in the basement, and gone to the toilet, late that Saturday night—or rather at nearly 3 o'clock Sunday morning—there is no telling how much other "planted" evidence might have risen, *to accuse the innocent negro who accidentally found the body.* If the girl had not been discovered until Monday, Frank's resourceful partisans could have made it awfully black for Lee.

THE ATTACK ON JUDGE ROAN.

Attacking a dead man, whose closest friends proved to be his worst calumniators, Slaton says:

> Under our statute, in cases of conviction of murder on circumstantial evidence, it is within the discretion of the trial judge to sentence the defendant to life imprisonment (Code, section 63).
>
> Judge Roan, however, misconstrued his power, as evidenced by the following charge to the jury in the case of the State against Frank:
>
> "If you believe beyond a reasonable doubt from the evidence in this case that the defendant is guilty of murder, then you would be authorized in that event to say, 'We, the jury, find the defndant guilty.' Should you go further, gentlemen, and say nothing else in your verdict, the court would have to sentence the defendant to the extreme penalty of murder, to wit: 'To be hanged by the neck until he is dead.'"

Judge Roan made no mistake as to the law. Had he done so, our Supreme Court would have reversed him, for even John M. Slaton concedes the jurisdiction of the Supreme Court over questions of law.

Judge Roan knew that, *with Conley's direct evidence in the record*, it was legally impossible to treat the case as one of circumstantial evidence. How Slaton manages to do it, is a different question.

As long as Conley's evidence is a part of the case, it cannot be said to rest upon circumstances, alone. Judge Roan had to deal with the situation as he found it, and he could not know how much importance the jury attached to some parts of Conley's direct testimony.

For one thing, if you reject Conley's evidence entirely, there isn't a man living who can explain how that girl got a wound in the back of the head, *which ranged "from down upward."*

Struck in the face; knocked off her feet, falling against the metal handle, the girl would receive exactly that kind of wound in the back of the head—and if any human

is dead, she will tell a great deal more. A few hours in jail, and the fear of a few hours longer, does not produce such a story as the cook told. She already had a lawyer to get her out; and he had told her he would soon have her out; and he soon *did* get her out: *and she never went back on that affidavit, until a long, long time after she was set free.*

SLATON RELIES ON LEMMIE QUINN.

Governor Slaton refuses to believe what Leo Frank told Chief Lanford, to-wit, that Mary Phagan came to his office "at from 12:05 to 12:10, say 12::07." Slaton also refuses to believe what Frank told Harry Scott, *his* detective, towit, "that Mary Phagan came to the factory at 12:10 p. m. to draw her pay."

Slaton rejects Frank's sworn testimony at the inquest.

Why does Slaton abolish this testimony, given before Frank had learned that Monteen Stover was at his office from 12:05 to 12:10, *by his own time-piece?*

And why did Slaton argue that *Mary's* eyes were good enough to see Frank, in his inner office, but that *Monteen's* were not? If one 14-year-old, 5-dollar girl, wanting her pay, could find the pay-master, why couldn't the other do it?

Slaton argues that Mary came after Monteen had gone away. But Slaton also says that Lemmie Quinn was in Frank's office at 12:20. Had Mary been assaulted by Conley down stairs (as Slaton argues) *before* Quinn came in? If so, the negro had done it all, in less than seven minutes, for it certainly would have required a couple of minutes for Monteen to clear out, after 12:10, and not meet Mary; and it certainly would have required a couple of minutes for Conley to hide all signs of the crime, and get the girl's body out of sight, before Quinn came in.

Therefore, if Conley caught the girl on her way out of the factory, knocked her down, split her skull, ripped her drawers, did violence to her vagina, and bloodied her parts and her clothing, he had less than seven minutes in which to do the deed, gather up the unconscious victim, gather up her parasol, mesh-bag, handkerchief, hat and slippers; and to get them all out of sight, before 12:20, when Quinn is alleged to have come in.

Did Slaton realize to what an absurdity he was reducing his own theory, when he put Mary in the factory some minutes after 12:10; and put the crime some minutes before 12:20?

But suppose he should claim that he meant to be understood as contending that Mary was assaulted and killed *after* Quinn went away. All right, let us see if that theory will hold water:

Quinn came to Frank's office at 12:20, Slaton says. We must assume that Quinn did not fly right in, and right out. We must assume that Lemmie lingered a bit, and chatted a while. The entrance, the stay, and the departure, would certainly take up a few minutes of Lemmie's time. Frank himself says that Quinn left at 12:25. Then Mrs. Arthur White enters, *and sees Conley sitting at his usual place*, and it is 12:30 by Frank's clock.

So, here we have the awful crime boxed up inside of less than five minutes!

Quinn consumed several minutes after 12:20, and did not see Mary on his way out. If Mary came in after Quinn, she was at least a minute or two after him. Then Mrs. White occupied a minute, or so, opening the door, going up stairs, and glancing at the clock, which marked 12:30.

Therefore, Jim Conley had *less than five minutes*, in which to seize the girl, do what was done to her, hide all her things, get her body through that two-foot hole, tote her down the ladder, tie the loop-knot around her neck, come back up the ladder, close the trap door, and seat himself where —according to Wade Campbell's evidence— he was accustomed to sit, and read newspapers!

The author of Slaton's paper is such an ass that he did not realize how he spoiled his own argument, and demolished his own theory, by putting Lemmie Quinn in Frank's company at 12:20.

When he timed Mary to follow, instead of precede, Monteen, he should have eliminated Quinn; for Quinn—as a 12:20 to 12:25 visitor—knocks the bottom out of the theory that Conley killed the girl, *because* Quinn leaves no time, either before his coming, or afterwards, for Jim to have committed the crime and concealed all the evidence, including Mary's body.

Is it possible that John M. Slaton expected us to be so stupid as not to see, that, *if Lemmie Quinn's presence in the factory, at 12:20, prevented Leo Frank from committing the crime, IT ALSO PREVENTED JIM CONLEY FROM COMMITTING IT?*

If Lemmie acquits Frank, he also acquits Jim; for with Lemmie on the two lower floors, at from 12:20 to 12:25, *there is not sufficient time given to either Frank or Conley* to have done what was done to the girl, and conceal all the evidences of it, before Mrs. White came in at 12:30.

Can you believe that Slaton was too dull to think of *this* application of his argument?

Between Hattie Hall's leaving at 12:02 and Mrs. White's coming at 12:30, there was a bare sufficiency of time for the doing of what was done to Mary; and it needed even the five minutes that Monteen spent in Frank's empty office.

Frank had just come back from the metal room, and was standing before the open safe, in his front office, when Mrs. White's unexpected *return* to the factory, startled him and caused him to jump.

What was he doing in his front office, with the safe open?

Secreting the mesh bag, probably.

THE NEW EVIDENCE.

Governor Slaton makes much of three things which he says came out, after the conviction of Frank.

One is the Annie Maud Carter correspondence in which Conley appears as a "pervert." Those notes, even if Jim wrote them, cannot possibly destroy the white folks' evidence against Frank. The hallucination which took possession of Slaton was, that by painting a black man very much blacker than Jehovah colored him, a criminal white man could be white-washed, and made more snowy than Nature intended.

He might prove that Conley wrote as obscenely as Daisy Hopkins acted, without doing the least damage to the State's case against Leo Frank.

As to the Becker affidavit about the pad, it doesn't alter an essential fact in the case, even if it is true. Old pads and half used pads were all over the factory, and one of the main managers said on the stand, "It is one of the greatest wastes we have."

As to Dr. Harris, and the hair, that's nothing at all, because we are still left (by the logic of reasoning by exclusion) to the same result: it was Mary's hair!

Besides, our Supreme Court was unanimous in refusing to attach any weight to this new "evidence."

SOME OTHER SLATON CASES.

Governor Slaton, in self-defense, referred to some other cases that he had passed on, during his term of office—an office which I earnestly urged the people of Georgia to give him.

But he did not refer to the Nick Wilburn case. Perhaps it had escaped his memory. Let us refresh that fickle memory of his. As we do so, let us remember that Wilburn was a poor country lout, who had no money, no powerful friends, no organized secret societies to exert a pull on preachers, society women, bankers, governors, legislatures, and newspapers.

Nick Wilburn had grown up in the backwoods, was a mere common [illegible] never went to Cornell College, and never had girls under him working for five dollars a week. The Devil, in the shape of a woman, tempted him to eat the forbidden fruit, and he did eat. His sin was a grievous one, and grievously he paid for it.

Governor Slaton refused to commute Wilburn's sentence, and in declining to do so, said:

"Twenty-three grand jurors, twelve petit jurors, a judge of the Supreme Court, six judges of the Supreme Court, three Prison Commissioners, all under oath, have declared the guilt of Nick Wilburn and that the extreme penalty of the law should be imposed.

"I am sworn to uphold the law and enforce it. I sympathize with the family and friends of the defendant. It is a great pity that punishment cannot be limited to the offender.

"If I commuted the sentence in this case it would be equivalent to repealing the section of the Code which provides for capital punishment. It is not in my province to make laws, but to enforce them.

"The responsibility for the verdict is not upon me, but the responsibility would rest upon me if I interferred with the decrees of a judicial tribunal without good cause."

What caused the change to come over the spirit of Slaton's dream, between June, 1914, when poor Nick Wilburn swung, and June, 1915, when Leo Frank was slipped away from Atlanta in a Pullman Palace Car?

There was another case that Governor Slaton did not mention: it was the case of the Cantrell boys, hanged last summer.

In that case, also, the older of the criminals, Jim Cantrell, had been lured by a wicked woman, and he fell into her toils. Bartow Cantrell was a 17-year-old boy. He was wholly under the influence of his elder brother, and he had probably always done as Jim bade him.

At any rate, he took part in the murder, not on his own initiative, and not for his own purposes, but at the instigation of Jim Cantrell and Mrs. Hawkins, the woman in the case.

The father of the Cantrells was an old-field preacher; and after many years of semi-vagabondage, he spiced his experience by stealing chickens and going to the chain-gang.

His children were brought up in sordid surroundings, and discreditable conditions. In the midst of civilization, they were left untouched by the ennobling influences of Church and State. In the midst of Christianity, *a Bible was never put in their hands, until both the Church and the State said to them, "Prepare to meet thy God!"*

Incredible? It sounds so, but it isn't. It is true. One of those condemned Georgians was thirty-three years old, but he could scarcely write, and had never had the Book either in his house or his life. The other was seventeen, and was equally illiterate and uncivilized.

Did those Georgia boys run away from an education, or did the education put itself beyond their reach? Did they spurn the Church, or did the Church forget *them?*

Answer it, my lords and gentlemen! Rage and bitter resentment is festering in the hearts of the neglected underworld, and you who dwell in high places, rolling in wealth, and despising the poor, had better ponder these things!

Only three dollars was raised to defend that neglected boy; and it takes more than