BECKER TRIAL WAS PARALLEL TO MINE LEO FRANK WRITES THE CONSTITUTION

Ambushed by False Accusations, He Says in Comparing His Case With That of New Yorker—Evidence of Conley Manufactured, and His Every Word Was False, He Charges.

CONFESSION OF FORMBY FAKE, ASSERTS LANFORD DEFENDING DETECTIVES

Woman Not in New York, and Statement Was Given Out by Harry Latham, Declares the Detective Chief. Leo Frank Receives Reporters and Analyzes the Case Against Him.

The action of the supreme court of New York in granting a new trial to Becker, the police captain accused of conspiracy in the murder of Rosenthal, is taken by Leo M. Frank, convicted of the murder of Mary Phagan, as pointing a moral in his own case.

The Constitution commented editorially yesterday on the decision of the New York court in the Becker case and the following communication is sent to The Constitution by Frank in which, as it will be observed, he draws a parallel with his own case, saying:

Frank's Card.

Editor Constitution: Your editorial, entitled "The Case of Becker," points, without reference to my case, certain inalienable rights that should be enjoyed by one who is a defendant at the bar of justice, and positive requisites of a court of justice. The points made in this editorial apply to the trial I had last August.

A paragraph that is especially pointed, and which covers my trial is:

"That if the atmosphere of a trial or its controlling circumstances are such as to produce bias or inflame prejudice, the accused shall have the benefit of the doubt. It is, or should be, axiomatic and impelling, that at every turn, under every condition, an environment of perfect fairness surround and characterize the trial."

Taking into consideration the applause in and out of the courtroom, the hisses and jeers in the judge's and jury's presence, the spirit of passionate tension pervading the courtroom, all of which it is known obtained at my trial, can any fair-minded person declare, that in accordance with the above paragraph, covering, as I take it, the fundamental principles of law and justice, I had a fair trial and a square deal?

The editorial states:

"Justice is built upon the theory that a man is innocent until his guilt shall have been established."

In my case the presumption of innocence in my favor was denied me! The onus put upon me was not that of defending myself, but they imposed the task of proving myself innocent. Under the law no defendant is constrained to do this. More than this, I had not only to defend myself and show my innocence of the charge on the bill of indictment, that of murder, but the atmosphere of the issue was clouded and I was ambushed by being called upon to defend myself against innumerable other false accusations and insinuations unspeakable. And all of this contrary to law of Georgia and the basic laws governing humane justice!

"Proved My Innocence."

We not alone demolished the structure of the state's case in the murder charge, but also, if human evidence is worth anything at all, we proved my

Innocence of that charge. But, in addition, the prosecution rained insinuations and accusations on my head, charging me with the filth and misdeeds that I never knew were in the realm of human experience. And all of these insinuations, mind you, without an iota of proof, except a low negro's testimony (and, I take it, no decent man will give him credence), and containing not even the scintilla of truth. Can anyone gainsay that the jury found their verdict not on the proof of guilt of murder, but because of the unfair and abortive conditions at my trial and because the poison of the destardly insinuations (lies though they were), entered their minds?

The editorial further states:

"Justice does not comprehend obscure evidence or evidence from dubious sources, especially where the evidence shall be substantiated by indirect circumstances only."

What evidence, I ask, could be more dubious than that of Conley's, unsupported as it is by a single piece of real or physical evidence? There is not even a piece of indirect evidence to support his testimony. Please remember how his evidence was evolved—built—made. It is not the truth, nor has it the semblance of truth. Note his four statements preceding the trial, three of them under oath, and his fifth statement, on the stand, giving the others the lie. Dubious sources? Obscure evidence? Yes, it is! More than that, it is manufactured evidence and every word false! When Conley said something that didn't fit, the detectives told him it would not do, and that he had to tell a better story! Think of it! Oh, the pity of such a thing, the shame of such a thing! Will a community like Atlanta stand for it? I know it will not!

LEO M. FRANK.

Fake, Says Lanford.

That Mrs. Nina Formby has never made any repudiation of her affidavit damaging to the character of Leo M. Frank, and that she is not in New York city, from where the alleged repudiation came, but that Harry Latham, who was supposed to have gone to New Orleans, is in New York, and that it was none other than he who gave out the interview purporting to come from Mrs. Formby, as published in The Constitution Thursday morning, is the declaration of Chief of Detectives Newport Lanford, whose department secured the original Formby affidavit.

"The idea that Mrs. Formby is the author of the statements purporting to come from her is the most absurd thing I ever heard of," Chief Lanford said to a Constitution reporter on Thursday.

"Mrs. Formby, while in New York for some time, has not been there for the last twenty-five days, and at the time of the alleged statement from her was in either Rome or Chattanooga, and she is at one of those two places now.

Latham Is Responsible.

"Harry Latham is the person who gave out those statements to the New York newspapers, and he did it partly in revenge upon the detective department, at whose hands he has been treated in a manner none too pleasing to him."

None of the detectives who were mentioned in the alleged Formby confession as having lured her into making the affidavit by getting her drunk on whisky had any statement to make in reply, but left the matter in the hands of their chief, who strongly defended them.

"I am prepared to prove that the statements which it is said were made by Mrs. Formby are all lies," said Chief Lanford, "and that the affidavit from her was secured in no such manner as is related.

"The affidavit was secured in the following manner:

"On the Saturday before the affidavit was secured, a reputable man in Atlanta called me by telephone and told me if I would go to see Mrs. Nina Formby at her Piedmont avenue address, I could obtain some valuable information. I have the name of that gentleman still, and could produce him if necessary. This was the first time my department came in touch with Mrs. Formby.

"I was also called up by some woman after this man had called and I was informed by the woman that Mrs. Formby had valuable information in regard to the Frank case.

Made Statement Voluntarily.

"I sent Detectives Chewning and Norris around to see Mrs. Formby on Sunday. She told them, without hesitation, the matter which is contained in her affidavit. These men reported back to me, and Chief of Police James L. Beavers and I got in an automobile and went to her home that afternoon. She told us the same story. I also took Solicitor Hugh Dorsey around there and she again repeated her story and made an agreement to come to my office on Monday morning at 9 o'clock and make her affidavit. At 9 o'clock Monday morning she telephoned that she had slept late and would not be there until 10 o'clock. But at 10 o'clock she came to my office and, in the presence of myself, Chief Beavers, Judge Broyles and Probation Officer Coogler, made her affidavit. She could not have been mistaken in what she was saying, nor was she under the influence of liquor. She made her statement deliberately and without excitement, and held up her hand and swore to it when it was read to her.

"Thus, you will see, that within twenty-four hours after my men first talked to her the affidavit was made, and that it was not made through three weeks of drinking and mental persuasion or any other kind of persuasion. It was entirely voluntary.

"Harry Latham was at Mrs. Formby's house on that Sunday afternoon when I called, and I am informed by my men that he had been there previously that morning.

"I am also told that Harry Latham was sitting in the presence of Mrs. Formby and heard her call me over the telephone, represent herself as another woman and ask me to go see Mrs. Formby. This shows not only that her statement was voluntary, but that she was anxious to give it. She herself was the mysterious woman who called me by telephone to 'tip' me to the information she had.

He Wanted Revenge.

"Further than this, none of the men of my department ever had anything to do with getting that affidavit except Chewning and Norris. Rosser, Vickery or Hamby were not connected with it in any manner. Harry Latham had recently been arrested by Hamby and Vickery, though, and he wanted to get revenge upon them for this arrest. That is the reason he mentions them in the false statement also.

"I have already told you enough to show how utterly false is every word of the so-called confession of Mrs. Formby.

"But more than that, I will tell you that Mrs. Formby is not in New York. She has been there, however. Until about twenty-five days ago she was living at 211 West 101st street, and was taking a business course in Brooklyn.

"She is now either in Rome or Chattanooga. While living in Atlanta she did not have money enough to rent a house large enough to accommodate her furniture, and had to store some of it. But, strange to say, since the Frank trial she has been able to buy herself a home in Rome, Ga., for $5,000 cash. It may be that she is now at that home, and, if not, I believe she is in Chattanooga.

Latham in New York.

"Harry Latham was reported to have gone to New Orleans to find a relative of Mary Phagan, but I have information that he did not go to New Orleans, but went to New York for the purpose of giving out the statement which has been published as coming from Mrs. Formby."

While not speaking of Harry Latham in connection with the accusations made against him by Chief Lanford, Attorney L. Z. Rosser desires it to be emphatically made clear that Harry Latham is connected in no way with the defense of Leo M. Frank.

The attorneys for the defense on Thursday had nothing further to say as to what nor when their next move would be.

Meanwhile the remittitur from the supreme court refusing a rehearing of the case has not arrived at the desk of the clerk of the superior court, but is expected on Friday. Within the next day or so after the arrival of the supreme court document Solicitor Hugh Dorsey will ask a writ of habeas corpus upon which to present Leo M. Frank before Judge Ben Hill for a resentencing.

Fight Death Sentence.

It is expected that at this time the attorneys for his defense will fight the death sentence through the medium of section 63, of the penal code, which allows a presiding judge to pronounce a sentence of life imprisonment instead of the death sentence in cases where the evidence is circumstantial.

The prosecution will fight this move by reference to section 100, paragraph 559, claiming that the sentence of death has already been fixed by the presiding judge and that the only thing left for Judge Hill will be a repronouncement of the same sentence.

Two moves will be left for the defense, these being an appeal extraordinary to the supreme court of Georgia and an appeal to the United States supreme court upon a constitutional question.

Frank Analyzes Case.

For over an hour Leo M. Frank discussed the details of his case with a Constitution reporter Thursday afternoon. He went into every conceivable detail of the testimony and the evidence. He talked freely, fluently, convincingly, as a man thoroughly convinced that some horrible mistake had been made which the future surely would right. He spoke without bitterness. At times in dealing with some point which has proved hazy and baffling to the minds of those closely following the case, he was almost impersonal in his attitude.

Confinement and mental strain—for the man must in the very nature of things have suffered acutely—seem not to have left their mark. Leo M. Frank looks as well today as the day he was first placed under arrest.

At the time of the interview, late in the afternoon, Mrs. Frank, his wife, was seated in the cell with him. She pored over a mass of papers, occasionally cutting out some article for future reference. Rabbi David Marx, pastor of the condemned man and staunch friend, sat with the reporter on the outside of the cell.

The stories which have somehow gained credence that Leo M. Frank was accorded special privileges; that he had a telephone in his cell and luxurious appointments are fabrications pure and simple. The cell is very like that of other cells. The plain iron bed or cot is in the center of the room. There is a small sewing table on which are some books and magazines and a Thermos bottle. Other than this the room is bare—no pictures, no flowers. Just a cell.

Effect of Slander.

"The whole foundation of the state's case was reared on this situation," said Frank. "Suppose I see you seated in Brown & Allen's drinking a soft drink. You are a man of integrity and standing in the community. I say to a man with me—one who does not know you—'You see that chap there? He's a crook.' And then I add some details. I tell of your slipping a $10 bill out of a man's pocket.

"The story is repeated. It travels like wild-fire. It is magnified. Circumstantial evidence of the theft of $10 is fitted in. In a few days your reputation is blackened. You are all but ruined.

"Such was my case. For five years I was employed by the National Pencil factory. I came and went and attracted no particular attention. I did nothing to attract attention and I did nothing which I wished to conceal.

"Now, isn't it passing strange that if I had been guilty of all the things I have been accused of—if I had had improper relations with girls in the factory—isn't it strange that in all those years nothing was ever heard of it? Isn't it beyond belief that if I were the degenerate I am pictured the father or the brother of some of the girls with whom I am said to have been criminally intimate did not come to the factory and shoot my head off? I ask this of any man of common sense. It is preposterous. You cannot conceal such things—they will out.

"And yet, for five years my reputation was spotless.

Writer of Notes the Slayer.

"The hand that wrote the notes found by the body of Mary Phagan is the hand of the man who killed her. Any other premise is impossible. The very psychology of the notes points to no other conclusion. Notice this important fact. Conley describes a creature who was his antithesis in every way—a long, tall, black negro. What more natural than that he should seek to place the crime on a negros as far removed from himself in appearance as possible? It is the most natural thing in the world.

"Now, assuming that Leo Frank committed the crime. Would I describe a definite negro? Would it not be enough for my purpose that I pick out any negro—any one?

"And, again: In his testimony Conley states that I called to him and told him I had let a girl fall and she was badly hurt; that I told him to go and examine her. What a fool I would have been to provide the state with a star witness in such a fashion!

"No; the man who wrote those notes killed Mary Phagan. There are expressions in them that could only have emanated from the distorted and thoroughly frightened brain of a negro. Take that one word, 'night wich.' That word was one of the puzzling features of the trial. It was supposed to mean 'night watchman.' I am not as well acquainted with the negro as you who have lived long in the south. I know little of their superstitions. I have learned since the trial, however, that there is an imaginary creature of which the negro is very much afraid—a sort of bogey which they speak of with bated breath. The 'night witch' is a fabulous caeture capable of crowding hrough keyholes, I a mnow told, and choking people while they sleep. What more natural than that Conley, crazed with fear, should invoke the aid of this creature in his extremity?

Seen by Mrs. White.

"In this connection another point: It has been argued that the average negro after committing such a crime would have left immediately and gotten out of the way—that nothing could have induced him to remain in Atlanta. But you must remember that Conley was seen by Mrs. White while he sat in the semi-darkness. He knew he had been seen, but he was not certain he had been recognized. Therefore, he stayed and wrote the notes, describing the murderer as one unlike himself as might be."

With restrained emotion he told the newspaper men he has been falsely convicted, but expressed the unshakable faith that in the end truth will prevail.

As he leaned forward in his chair and grasped the iron bars of his door, upon the outside of which stood his hearers, he asked:

"If they had found Jim Conley's knife beside the body, if they had found his pistol there, or if they had found a piece of his clothing grasped in the dead girl's hand, would they still convict me of the crime?" He said this to show the significance of the Conley notes.

Frank laid emphasis upon the fact that Conley is having nothing to say to the public, while his own, Frank's life he declared to be an open book.

He rehearsed the statements in Conley's testimony at the trial and declared them to be absurd, and it was incredulous that a white jury had found it possible to take the word of a negro—"one who has lied at every point"—against that of a white man.

"The whole case of the state rests on a mass of lies to blacken my character and the lying statement of Jim Conley."

Frank dealt at some length on the notes. He has made the most careful examination of them. He has studied them and he is convinced that these self-same notes will be the means of finally freeing him.

"I do not fear any serious consequence to myself," he said. "I never have. I know that truth will eventually prevail."

A noted psychologist has made a study of the notes. He has given it as his opinion that the writer of the notes is guilty of the crime. He arrives at this conclusion by reason of the fact that Conley, who admits the writing, describes his antithesis. This, he asserts, is invariable when a criminal attempts to cover up his crime.