

WHY SMITH BELIEVES FRANK IS INNOCENT

Attorney Gives Reasons That Convinced Him Conley Was the Real Murderer.

NEGRO'S STRANGE EVASIONS

His Lying, Concealments, and Discrepancies, Not New Evidence Found, Altered His Counsel's Opinion.

Special to The New York Times.

ATLANTA, Ga., Oct. 4.—In a statement issued today, Attorney William M. Smith gave his reasons for his present belief that his former client, the negro "Jim" Conley, and not Leo M. Frank, was the murderer of Mary Phagan.

Mr. Smith attributes his change of opinion to long and exhaustive study of the case, in which he catalogued, card-indexed, and filed for research purposes huge volumes of Frank evidence. In this he was aided by his wife, who was instrumental in influencing her husband to the changed attitude.

In his latest statement Mr. Smith declares that he always had had a certain suspicion of his client, and that there were many mysterious angles to the negro's connection with the crime, angles which are still unexplained to his personal satisfaction. He explains that it is his plan to fight for the liberation of Frank, but declares that there is no possible way by which Conley can be dealt with for the murder, the negro already having been convicted and sentenced for implication.

Mr. Smith has prepared data which he expects to send out to influential persons throughout the country in an effort to unravel the mystery of the "murder notes" found by Mary Phagan's body. He has now allied himself with the Frank defense, and avers that it is only a question of time until Frank will be cleared of the crime. The results of investigations now in progress, he says, he will make public in proper time.

Following is Mr. Smith's statement in part:

No Blood Test Made.

"This crime occurred April 26, 1913. James Conley, a negro employe, was arrested by City Detectives McGill and Coker after conference with Chief of Detectives Lanford. He was arrested May 1, 1913, being discovered washing his shirt, upon which it was suspected there were stains of the blood of the little girl. A charge of 'suspicion' was entered against him upon the police records. Until recently I thought a scientific test was made, but find that the bloody shirt was returned to Conley without exception by the City Bacteriologist, as was done with Newt Lee's shirt. So far as can now be known, this negro was washing from his shirt the blood of Mary Phagan. This was a surprise to me—that no scientific test had been made.

"During the thirty days after Conley's arrest he made several varying written affidavits and admissions to the police. During this period Conley had no lawyer and all of his written statements made to the police prior to my employment embodied practically the entire substance of his later testimony against Frank. On May 30, 1913, a tentative agreement was made between the woman who represented herself as Conley's wife and myself for me to represent Conley, subject to Conley's ratification, and with the understanding that my compensation was to be cared for by certain interests who originally solicited my services in Conley's behalf.

"With the wife, Lorena Conley, I visited the Fulton County Jail the night of May 30, 1913, and saw and talked with Conley for the first time. Receiving from Conley ratification of my employment, practically my entire communication at that time was relative to a policy of silence I advised he should adopt. The next morning I notified Chief Lanford and Solicitor General Dorsey of my employment. These gentlemen were acquainted with the names of those financially back of my employment and were given a history as to how I was retained as Conley's counsel.

"Immediately I set in motion machinery that transferred Conley from the County Jail back to Police Headquarters. I did this in a sincere effort to protect Conley from the perjury of his fellows and in an effort to have him protected and given a square deal. This was done, and only such officials were admitted to see Conley as were approved by me. Out of an abundance of caution, on account of the Pinkerton Agency's employment by the National Pencil Factory, I had them barred.

Sacrificed His Compensation.

"From the date of my assuming this negro's defense to the close of his case I have stood by him and safeguarded and protected his every interest at great sacrifice of time and labor. No man, lawyer or layman, can point to a stone I left unturned in his defense. I sacrificed the compensation I was to receive from interests worth millions rather than possibly jeopardize this negro's interests by premature publication. I was paid about \$40 by some negro church members who expressed themselves as desiring only a square deal for him.

"Fully aware of the possibly grave

public censure that may be mine and wreck my professional career, I have not decided on this course of public expression of my views without expenditure of untiring labor and effort for facts that will have the unmistakable ring of truth.

"Conley gave his story to the world voluntarily and in writing before I became his attorney. He voluntarily went under oath as a witness in open court as to the details of his account of the crime. As a matter of fact, therefore, there exists no confidential limitation upon me as his attorney. Under the law I am both a competent and compellable witness to testify for or against Conley as to any matter or thing which I may have acquired in any other manner than in confidence.

"The public may desire to know why I have waited so long to express my views of this case. One reason is that it has been just within a comparatively short time that my whole duty to Conley has been discharged and my relations as his attorney closed.

"As far as Conley is concerned, I have placed the bar against any further prosecution of him. The State, with the light then before it, made charges against him, and they have been met. Conley can never be tried again on this transaction. With the light then before me I represented him, and my duty as his lawyer has been discharged.

"Another reason is that my original doubts have grown from time to time, and by study I have been swept into a fuller realization of what I now believe is the truth.

Dissected Conley's Testimony.

"It may seem strange to some that the light had not fallen across my path during all these months. In the first place the Solicitor declined from the very first to allow me to be present when he talked with Conley. A large part of the evidence offered by the State at the trial of Frank was as much news to me as it was to the general public. I was not in a position to be present at all the trial; was in the courtroom but a small portion of the time while Conley was on the stand. I heard a part of Mr. Dorsey's speech and none of the other speeches. I was not a confidant of the State, and only recently have I had opportunity to analyze even the testimony of Conley.

"I have given more than a month's study at night to the testimony of Conley alone, using a card filing system, and dissecting his every statement and grouping it under proper heads.

"Many will desire to know what prompted me to take up this work. I found any number of people who believed I had trained Conley in his story. This carried the inference that I had assisted this negro in framing a series of perjuries to save him from punishment, and to assist in judicially murdering Frank that he might be saved. This was offensive to me in the extreme—to think that any one could believe I would join in perjury and murder for professional preferment. This made me more thoroughly determined to know and do the right in the case.

"These and other influences added to my personal misgivings emphasized the right course. In the first place, as to my misgivings, I felt that there was something held back by Conley, and about which he wanted to talk to his woman. He would not let me know about it, and would not let me carry the message to her. This so struck me, and I was so anxious to learn the real truth about this case, that I went to Chief Lanford and explained to him how I felt about it.

Eavesdropping That Failed.

"Following his directions, I took the woman to the station house, and Chief Lanford placed Detective Vickery over Conley's cell to overhear the conversation between Conley and the woman. The lights were lowered. This aroused Conley's suspicion, and he struck some matches when he was replaced in his cell. He discovered Detective Vickery on top of his cell. Thus the plan fell through, but I have always felt that there was something about this crime that Conley wanted to tell that woman, and that he dared not tell even me. I have felt that possibly he wanted to tell her something that she might cover up some trace of the crime. I felt I was going a long way to assist the police to eavesdrop on Conley, but I did it in the interest of truth in hunting the murderer of little Mary Phagan.

"Another reason is that Conley declined to allow his picture to be taken for publication, although both Chief Beavers and I assured him that we knew of no reason why it should not be done. I have always felt that he did not desire his picture shown for fear that some one had seen him coming in or going out of the factory and would identify him.

"I also know that, even after Conley had made all of his written admissions and statements, and after he had tried to see Frank at the jail and after he was compelled to know that any alleged hope he might have been expecting from Frank was gone, Conley still persisted in lying about the time he was at the factory until almost the very time of the trial, and until after the detectives had discovered that Mr. Darley and Miss Mattie Smith were at the factory prior to the time Conley admitted seeing them. In fact, Conley never did get his time element straightened out.

"It has always been a mystery to me what became of that cotton sack that Conley says he wrapped Mary Phagan in and carried her down to the basement. He says he got this cotton sack on the second floor, carried it to the basement, and left it there, yet it was never found in the basement or elsewhere, and I have never believed that the statement about the sack was the truth.

Back Door Still a Mystery.

"The mystery of the back door of the basement, broken open within a few feet of the body of the dead girl, in the direction that Conley would go if he had gone direct home, has never been solved to my mind. Conley swears that he sometimes used this as a means of exit, and the State proved that Frank left by the front door.

"Since I heard the statement of Dr. Harris in his office I have never believed that the hair found on the lathe was the hair of Mary Phagan or had anything to do with her death. I cannot remember the details of what Dr. Harris and others said, but I distinctly remember the startling impression made upon me at the time by the language employed, indicating that the hair was unquestionably not that of Mary Phagan.

"Reading the official record recently, I was amazed to learn that Conley charged Frank with immorality with Daisy Hopkins. I know Daisy Hopkins, have represented her, have watched and studied Frank, and I know the types of the two people, their stations of life, their manner of living, their levels in society, their personal accomplishments and appearances, and I know, as much

as I can know anything in life without actually having been present, that Conley's statements as to this are untrue.

"When Conley stated that he was not familiar with the newspaper accounts from time to time as published in the papers, and that he could not read them sufficiently well to understand them, I knew this was not true. I furnished him with practically all of the newspapers carrying these stories, and sometimes gave him as many as three in one day. I know that he read them sufficiently well to grasp the thread of the story, and that he did have opportunity from a newspaper source to post himself.

"After visiting the factory I did not believe that Conley, sitting, as he says he was, at the foot of the stairs on the first floor, could have heard any screams from the metal room, or tipping from the office to the metal room or back.

Mary Phagan's Soiled Face.

"I experimented with the question of the soiling of Mary Phagan's face, and learned that her entire face was so black with dirt or soil that it was necessary to look at protected portions of her limbs to discover whether she was white or black. I can understand how her face could have been completely soiled by a struggle on the dirt floor of the basement while alive and fighting for her honor, but I have been unable to understand how the hollows of her face could have been so soiled upon a hard surface like the wooden floor of the metal room. The dirty floor of the metal room would have soiled her cheeks, the end of her nose, and other prominent parts of her face; but that the depressions in her face became black, even the hollows of her eyes, on the wooden floor is difficult to believe, especially when Conley swears that when he found her her face was already dirty and that she was lying on her back with her face turned up.

"I find no hole that fits the description in the death note more completely than the hole by which Conley swears he sat all day, and by which Mary Phagan passed going and must have passed to come out.

"The missing purse, hat ribbon, and flowers have always impressed me as Conley's part of the spoils. Upon a comparative study of the death notes with the evidence of Conley and Frank and with the Annie Maud Carter notes, I am convinced that the language of these notes is Conley's language, and that Frank had nothing to do with their preparation. Within a few days I shall be prepared to submit the results of my study of these notes. I have other matters which I am investigating, and in due time I will present them for proper consideration.

"I have never believed Frank was abnormal."

Wife a Student of the Case.

An interview with Mr. Smith brought the disclosure that his young wife was in a large measure responsible for his change in attitude toward the Frank case. Mrs. Smith has been a thorough student of the case since her husband first began taking an active part, and has never believed Conley innocent. Her views had a great deal to do with influencing Smith's belief in Conley's guilt. She prepared data, collected and assorted it, and brought to his attention many of the phases of the case which had appealed to her most strongly as evidence of Frank's innocence.

Chief Beavers, after a conference with Solicitor Dorsey, said tonight that he would express no formal opinion of the new developments in the case. He said that the case was not altered by Smith's change of mind and that he stood ready to receive and consider any new evidence that might be offered.

"The State stands right where it did a year ago last August, when Leo Frank was convicted," said Solicitor General Dorsey. "Nothing has happened which would lead us to alter our theory in the slightest. Mr. Smith has not revealed to me what has led him to believe in Frank's innocence."

Mr. Smith says that he and C. C. Tedder, who had been employed by him as an "evidence man," and who also is in the employ of the Burns Detective Agency, were at the Isle of Palms this Summer, when they wired Detective Burns asking him to assist in the search for the Nelms sisters, in whom Mr. Smith was interested, and offering in return to assist Burns in the Frank case. Practically since that time Mr. Smith is said to have had the assistance of Dan S. Lehon, the Burns agent, in working on the case. Tedder has been indicted by the Fulton County Grand Jury on a charge of subornation of perjury in connection with testimony alleged to have been manufactured by Burns operatives.

ATTACKS MURPHY'S BUDGET

City Inquiry Bureau Fears for Tenement House Inspection.

William Bullock, Director of the Bureau of City Inquiry, the anti-Mitchel organization, which is investigating city departments along the lines of the Bureau of Municipal Research, issued a statement yesterday saying that Commissioner John J. Murphy of the Tenement House Department had asked for twenty-one salary increases, and abolished sixty-two positions in his budget request for next year. This, said Mr. Bullock, was the way Commissioner Murphy had answered the Mayor's appeal for efficiency and economy. The decrease in force, he said, will make impossible next year the inspection of tenement houses as required by law.

"Out of the funds taken from dismissed employes," said Mr. Bullock, "\$4,200 is to be used for salary increases, and \$5,000 for the purchase of filing cases. This year the Commissioner was allowed \$2,273.50 for equipment. Next year he proposes to spend \$7,218. Investigation by the Bureau of City Inquiry shows that the new filing cases are to ease the strain on the arm muscles of clerks."