

Lee, Dull and Ignorant, Calm Under Gruelling Cross Fire

Newt Lee, the negro night watchman of the pencil factory, who telephoned police headquarters of the finding of Mary Phagan's body at the pencil factory, was again placed upon the stand when court convened Tuesday for the second day's session.

Attorney Luther Z. Rosser renewed his cross-fire of questions by which he sought to confuse the negro and secure new admissions or change valuable points in his testimony and thus expose a vulnerable point for a concentrated attack upon his entire statement.

Mr. Rosser took up practically where he had left off the afternoon before.

"Newt, when you raised your lantern you walked forward a few feet. How far did you have to go before finding out what the object that attracted you was?" he began.

"I don't know how far it was."
"You said so to the coroner?"
" Naw, sir, cunnel, I shore didn't."
"Well, say so now. Give your best estimate; was it two, four, six, eight or ten feet?"
"Can't tell 'zactly."

"How close to the body did you get?"
"I wuz pretty far away when I saw hit; I could jes barely make hit out."
"How far," said Rosser, "as far as from you to that gentleman over there?" pointing to Attorney E. A. Stephens.

"Hit must er been," replied Leo.
"How long is a fence rail, Newt?"
"Doan know 'zactly."
"A fence rail is ten feet long?"
"Well, hit must er been 'bout ten feet."

Why He Went to the Basement.
"What made you go in that direction?"
"Which direction?" asked the negro.

Then ensued a long explanation and argument in which the attorneys tried to get the negro's mind back to the factory basement so that he could tell clearly what and how he had done, but before it was over the learned white man was almost exasperated and the dull black was coolly fanning himself, worried because he could not grasp the idea, but not fretting about it.

"I had wanted to go that way to see if there wuz anything in that part or the basement," Lee finally answered when he understood what he was being asked about.

"Ever see anything there before that frightened you?"
"Nor, sir."
"Hadh't you been told to look into the dust bin and to watch out for fire there?"

"Yes, sir; Mr. Frank, he told me that."
"Why did you not go sooner instead of lingering a few minutes?"
"Ah went jes es soon es ah could."
"How far did you go?"
"Ah didn't have ter go no further than to that gemman there," said Leo, making a wave with his palm to fan at Judge Roan, who sat about 4 feet to the right of the witness stand.

"Ah didn't have ter go no further then that ter see hit," he continued.
"To see the dust bin, didn't you have to go as far to your right as the ladder was to your left?"
"Nor, sir, tain't that away," said Leo.

More Explanations by Rosser.
Then succeeded five minutes of both wearisome and exasperating points until the attorney convinced the negro that when people said "to the right" they sometimes meant in a general direction, that way, and not exactly and geometrically to the right. Lee proved his literalness again and again in his argument.

"Well, the dust bin was on your right then; wasn't it?" the attorney began again.
"Nor, sir, not 'zactly to mor right; kinder twixt mor right and mer front," replied the darkey, and court bailiffs threatened to eject a few score whose sense of humor made them forget the dignity of the place.

Lee finally pointed out the general direction in which the dust bin lay from where he first paused and the cross-fire went on.

"Ah could see the dust bin from where ah wuz; leastways, ah could that part er hit where the dust come down," said Leo.

"Was there dust around it?"
"Nor, sir."
"In order to see the dust bin you had to walk as far as to where the judge is, didn't you?"
"Ah wuz er long ways from the ladder at first."

"How far?"
"Doan know 'zactly."
After using the position of a bailiff as an illustration Mr. Rosser made the witness admit that he had been about 10 feet from the ladder down which he had come and in a general direction toward where the body was later found.

"Did you go that far all the time?"
"Nor, sir; I went er leetle way only the yuther times."
After more illustrating with concrete objects the attorney got Leo to explain that "er leetle way" on this examination meant about 25 feet.

"So the balance of the night you only went about 25 feet from the ladder but the time you found the body you went 100 feet," said Mr. Rosser.

Tells of Terror at P.M.
"Yessir, an' ef I'd knowed that ar body of that lady wuz there I'd er got some more hundred feets in the yother way," said Leo and rolled his eyes as the thought of that spine-paralyzing hour came over him.

"Why didn't you get closer to the dust bin before you stopped and looked around?"
"Well, Mr. Frank, he said, 'Newt, don't go too close to that dust bin

with yo' lantern,'" explained Leo.
"When I saw the body the closes' Ah got to hit wuz about that far," said Leo, waving his fan at the jury box.

"How far is that?" asked the attorney.
"Ah doan know in feets," said Leo.
"Ain't, Ah showed th' distance?"
"Well, it's about six feet," Mr. Rosser unwillingly volunteered.

"Ah wuz holdin' th' lantern out so zo Ah could see better," said Leo.
"You first saw only the foot, didn't you?"
"Yessir."
"On account of the projecting wall?"
"Yessir."

"How far away was it?"
"Doan know 'zactly," said Leo, replying to this question as to distance in the same indefinite way as ever before and after during his time on the stand. The attorney by concrete examples developed the fact that it must have been 10 feet or thereabouts.

Refuses to Be Exact.
Then ensued much talk as the lawyer tried to get the witness to tell the approximate distance from the closet to the body, but Leo never would tell "zactly" how far it was, and finally agreed that it might have been something like thirty feet.

"Ah stood there and looked at that body tell ah made hit out and then ah hit er rag," said Leo, shading his eyes with his hand in a typical darkey fashion.

"Did you know it was a white girl and how?"
"Ah seed her frizzy hair and some white spots on her."
"Later you went back with the police?"

"Nor sir, ah didn't go wif dem; dey chased me down dere, an' one er dem mens sez, 'She's gos er chile, an' she's been here two or three days, an'—'"

Lee was quickly halted as he rambled off into what someone else had remarked about the body.

Then Leo was made to describe how the body lay when he first saw it, and after being repeatedly cross-examined, he said: "Cunnel, you see me er sittin' here; well jes ez shore ez I'ze er sittin' here dat lady's body wuz lyin' dere like ah doan told yer."

Tells of Meeting Frank.
Then Attorney Rosser made Leo go over in detail about how he had come to the factory and been told by Frank not to punch the clock on his arrival, as men were working upstairs and later how he and the superintendent had inserted the tape in it.

"An when Mr. Frank come out an' saw Mr. Gant he jumped back, lak dis," said Leo, and bounced back into his chair.

"You didn't tell the coroner that way about Mr. Frank's jumping back."
"Nor sir, ah didn't have ter; dey understood widout mah havin' ter jump diserway an' show 'em," replied Leo.

Mr. Rosser then read the stenographic report of the coroner's hearing and asked Leo if it was a bad report.

"Dunno," said Leo, "rockon dey jes put down what dey tole 'em ter put down, but ah do know what ah said."

Solicitor Interrupts.
Then the solicitor interrupted with objections to Mr. Rosser's manner of interrogating, and declared that if the cross-questioner was trying to impeach Lee's testimony that he ought to go about it in the prescribed form.

"My brother is old enough to lecture me, I reckon," Rosser fired back at him.
"I'm talking to his honor, not to you," Dorsey flung back.

"This witness can testify as to whether or not he told the things that are in the report," ruled the judge.

Mr. Rosser then reread the part about Leo's testimony to the coroner in reference to Frank's actions when he met Gant. He had to read it over three times, because as Leo explained he could understand Mr. Rosser when he was talking, but not when he was reading.

Then Mr. Hooper made the point that the Frank defense must show the exact time upon which Leo made the alleged statement, and whether it was the first or second time he appeared before the coroner.

Sticks to Statement.
Lee continued to stick to his statement that Frank had jumped when he saw Gant, and that this was what he had told the coroner.

The questioning reverted to the finding of the body by Lee and then there was a wrangle over Leo's description of how Frank and he inserted the tape in the clock.

"You didn't pay close attention, did you?"
"Nor sir, not speetial."
"How do you know then about the time?"
"Well, cunnel," the darkey flashed back, "er while er go you took off yo' specs and I wuzn't paying no speetial attention, but ah know you did, jes the same."

"Now you are paying close attention to me, aren't you?" said the lawyer.
"Ah got er right ter, ain't ah?" asked Leo in a perfectly respectful tone, that nevertheless brought a ripple of laughter.

Then Mr. Rosser went off on Lee's domestic life and tried to make him admit a multiplicity of wives and affairs, but Leo swore he never had had but one wife.

Another Objection by Dorsey.
The cross-examiner then returned to the finding of the notes and asked Leo if he were present and what was read. Mr. Dorsey objected.

"We are trying to find out who committed this crime," said Mr. Rosser, "and when 'night-witch' was read in that note, Newt promptly said, 'that's me, boss.'"
"The documents are here and they are self-explanatory," objected the so-

licitor and he was sustained by the judge.

"Suppose Leo had made incriminating admissions in connection with the crime," interrupted Attorney Reuben Arnold, who had hitherto been sitting still and occasionally prompting his colleague, Rosser. "Suppose Leo had admitted having seen the body moved or the crime committed."

At Mr. Dorsey's request the jury was sent out while this was discussed.

Believes Lee Saw Notes.

"Any fact pertaining to show he is incriminating is admissible," said Rosser, referring to Leo. "He says that, though he was the nightwatchman, he had no knowledge of the tragedy; we expect to show that the notes were very obscure and doubtful, and that Leo saw these notes while the officers were trying to read them."

"He said he would love me, laid me down, play like the nightwitch," Rosser read from the document.
"The man who wrote that note tried to lay it on a long negro. When the note was read, Leo spoke up, 'Boss, nightwitch means me.' It showed knowledge of the notes; he interrupted them in a moment."

"The conversation took place between witness and somebody else," said Mr. Dorsey. "Leo was asked if somebody else did not read the note to him. It is not admissible to go into the contents of the document through the witness, when the document is in evidence. The question is secondary evidence."
"Unless they propose to connect this man with the crime," added Attorney Hooper, "it is inadmissible. This ruling has been made time and again before. If they undertake to put the crime on somebody else, they will have to train their guns on someone else besides the defendant before it will be admissible."

"Your honor," said Mr. Rosser, "there are a good many suspicious circumstances against Leo."
Testimony Is Admitted.

"What Leo said about anything does not tend to show he interpreted the notes," ruled Judge Roan, "and if you want to show that when the letter was read that he seemed to be acquainted with it, I think it will be admissible, and I so hold it."

The jury was then called back into the room and the questioning proceeded.

"Newt," said Mr. Rosser, "when you and the police went to the basement, didn't they pretend to read from a paper something like this, 'A tall, black, slim negro did this; they will try to lay it on the night—'"

Solicitor Dorsey interrupted, declaring that they ought to show whether or not there was something on the paper.

"I gave Mr. Rosser a copy of the notes found there, and that would be the best evidence," said the solicitor.
"Well, then, Newt, when the officer stopped at the word 'night,' didn't you say, 'That's me, boss?'"

"No, sir; I said, 'Dey mus' be tryin' ter put hit off on me,'" replied Leo.

Argue Over Exact Words.

Again the attorney and the witness had a regular argument over the exact words used, and Leo stuck to his original statement, getting sometimes slightly confused and worried, but always coming back to the original statement.

Mr. Dorsey objected to the manner in which the interrogation was being carried out, but was overruled.

Mr. Rosser then questioned him in detail about Leo's actions in the basement that night, and finally announced that he was through with him.

The solicitor again took up examining Leo.
"I never knew nuh saw this Jim Conley before last week, in jail," said Leo, in answer to a question.

"Did anybody ever try to put the crime on you?"
"Not ez ah know."
"Did you ever talk with Mr. Frank about it?"

Lee Answers in Negative.

Mr. Rosser objected, but not before Leo had answered in the negative, and, without paying any attention to his opponent, the solicitor went on.

"Have you talked about this matter often?"
"Yes, sir; sev'ral times."
"Were you always open and willing to interview?"
"Yes, sir; allus."

The solicitor then brought out by Leo the fact that the negro had at all times been willing to talk to anyone about the matter, and that last week, with the permission and in the presence of his own lawyer, he had talked with Mr. Arnold, Frank's attorney.

Mr. Dorsey then went into more detail in regard to Leo's aiding Frank in inserting the tape in the time-clock, and also about the amount of light that could get into the factory basement.

Then Mr. Dorsey showed Leo a "cut-out" drawing of the National Pencil factory, made by Bert Green, a newspaper artist, who drew the outline of the Standard White apartments for the famous Harry Thaw trial.

Understands Basement Plan.

After much detail and questioning, and not before Mr. Rosser had several times accused the solicitor of "leading" his witness, did Leo announce that he understood the basement part of the plan. The picture was hanging on the courtroom wall in such a way that east and west did not occupy the same relative positions to Leo as the pencil factory had, and he could not get things straightened out until Bailiff Garner took the framed drawing off the wall and held it so that the drawing of the building would be in the same relative position as the building actually is.

Despite Mr. Rosser's frequent objections, the solicitor was allowed to go into detail with Leo in regard to the drawing.

"Who did you call on that morning?" said the solicitor, suddenly.
"Ah called the police and tried ter call Mr. Frank."
"Did you call Mr. Haas?"
"Nor sir, ah didn't know him."
Then at 11:25 o'clock, after some further questioning the solicitor announced his completion and Mr. Rosser again took up his cross-examination.

No Sleep for Two Days.

Leo was asked about his treatment at the station house and of the various questions asked him and brought out the claim that for the first two days and nights down there he was not allowed to sleep, but was questioned by first one man and then another.
"How about that pistol fired in your face?" said Mr. Rosser.
"Warn't no pistol fired in mah face," replied Leo.
"You heard a pistol fired?"
"Er drunk man in or nuther cell, he fired er pistol, but ah thought hit wuz the papers takin' a picter, like the yddi hore yesterday," replied Leo, referring to the flash light made of the court room on the first day.

Mr. Rosser then discussed the factory basement and tried to show by Leo that the picture was not complete, but, when Leo was in doubt about a question he promptly said so and nothing could get a different answer from him.

May Attack Drawing.

By his references to the solicitor's drawing and by remarks about it, the attorney for the defense indicated

that he intended to attack it later on and claim that it represented merely Mr. Dorsey's theory about the murder. Mr. Rosser had taken up ten minutes more in questioning Leo, and then he announced that he would pause.

Mr. Dorsey took up the examination again.
"Newt, did Frank talk to you on Tuesday, April 29?" he began.
"Yessir," replied the witness.
"Who talked longer, Frank or John Black, the detective?"

Mr. Rosser objected, but the judge ruled with the state that if the defense could ask Leo about his conversations with others that he had a right to in rebuttal.

"The officer talked the longest," Leo finally answered.
"Who talked longer to you, Frank on that Tuesday, or Mr. Arnold the other day in jail?"
"Mr. Arnold did," said Leo.

Leo was then allowed to leave the stand, after he had been examined for four hours and forty minutes, partly on Monday and partly on the Tuesday session.