

"What are your duties as county physician?"
"To attend all inquests and examine the bodies of the dead."
"Did you see Mary Phagan's body?"
"Yes."
"Where did you first see it?"
"At P. J. Bloomfield's undertaking establishment on the Sunday morning that the body was found."
"Describe its condition."
"I was called to the undertaking establishment about 9 o'clock and saw the body then. There was a scalp wound on the left side of the head about two and a half inches long and about four inches from the left ear."
"The wound went through and touched the skull and there was a small part of the skull exposed. The right eye was black and contused. There were minor scratches on the cheek and a slight contusion on the forehead, but the skin was not broken there. The tongue protruded about two inches from the mouth."
"There was also a wound on the left leg about two inches below the knee," he continued, "and this wound was 3x1 inches in size. There were also superficial scratches on the left elbow."
Death From Strangulation.
"There was a cord around the neck that left its impression on the skin and my belief is that the girl died from strangulation. I saw another bruise on her right leg also."
"Look at this cord and tell if this looks like the one to which you refer," said the solicitor, extending the cord that was taken from the girl's neck.
"This looks like the cord that was around her neck."
"In your opinion what kind of instrument was it that caused this strangulation?"
"The cord around the neck, sir. There was another piece of cloth that was lying loose from her chest and around the hair. This cord was next to the skin under the hair and it had indented itself in the skin it was so tight around the neck."
"How deep was the indentation around the neck?"
"Well, sir, it was very marked, nearly burying the cord."
"Do you see that knot there in the cord?"
"Yes, sir."
"Was there, or not, any impression there indicating that that had been indented?"
"There was, sir."
"Where was that?" asked Mr. Dorsey.
"It was on the inside of the neck."
"Was there, or not, any swelling in the neck?"
"There was."
"What did that indicate, doctor?"
"It indicated that there was quite a good deal of contusion there, or swelling over the parts, from the strangulation," the witness replied.
"I will ask you as to whether or not that was done before or after death?"
"What, the cord?" Dr. Hurt asked.
"Yes."
"It was done before death, sir."
"In reference to this 2 1/2-inch wound, was there anything to indicate it was done before or after death?"
Blunt Instrument Used.
"Well, this wound, if you will allow me to describe it a little more minutely, seems to have been made by a blunt-edged instrument of some sort, and the blow was from down, upward. The scalp in the upper part of the wound was loose from the skull, which shows that the blow was coming this way and it seems to have been made with a blunt-edged instrument of some sort."
"Well, now, is it your opinion that that was made before or after death?"
"Now," interrupted Mr. Rosser.
"This scalp wound?" the solicitor continued.
"Yes."
"Before death, sir."
"What effect would you say that wound had on the girl?"
"I would say it was calculated to produce unconsciousness."
"Was there or not much blood?"
"I did not see very much blood, sir."
"Doctor, describe anything you found around the eye area."
"The right eye was black and blue contused, skin not broken."
"What would that indicate to your mind? That it was done before or after death?"
"Before death, sir."
"What character, or what kind of instrument? Could you tell what kind of instrument that was probably made with?"
"I would say it was made by some soft instrument, although the skin was not broken it was contused."
"Could or not the fist have produced that kind of contusion?"
"Could have, sir."
Face Scratched After Death.
"What about any bruises or scratches on the face?"
"There were a good many bruises or scratches on the face, sir; around the cheek, above the cheek and forehead."
"Give an opinion as to whether these scratches were made before or after death."
"I would suggest, sir, they were made after death."
"Why do you say that, doctor?"
"I did not see any blood, sir, that went through the dermis."
Here the solicitor entered into a detailed description of the girl's condition through the testimony of the witness, who after stating what he had found by an examination that morning, declared that he was not in a position to say whether or not the girl had been violated. His testimony was to the effect that she had, but to this he added the statement that as far as his examination had carried him, he would not state positively either way. Certain facts that he stated seemed to bear out the testimony of Dr. Roy Harris in this respect.

Arnold Cross-Examines.

After this Attorney Arnold took up the cross-examination. He dwelt on the same subject for quite a while, and succeeded in making Dr. Hurt state that he was even less positive as to certain evidences of violation than had been brought out in his direct statement.
The attorney then took up the question of the girl's death.
"What part of the anatomy would show the results of strangulation?" he asked.
"The lungs and windpipe, sir."
Dr. Hurt, with the air typical to what the New Yorkers call the "Professional Southerner," nearly always prefixed or added the "sir" to his remarks, and gave it the soft air of the south.
"Would the lungs show congestion in case of strangulation?"
"Yes."
"Are the lungs the only sure test?"
"No, sir, I wouldn't say that they are."
"This witness has shown," objected Mr. Arnold, "that the process of digestion depends entirely on mastication. This cabbage may have been in the stomach in the same shape in which it was chewed. The question is not borne out by the evidence. The girl may not have chewed the cabbage and the question is unjust and unfair."
"Had rigor-mortis set in?"
"Yes, sir."
There was then a number of ques-

tions and answers in regard to rigor-mortis and the varying time with which it may set in on different subjects and under different conditions.
"Can you account for the blood on the undergarments by the presence of any superficial wounds?"
"There were no superficial wounds."
"Was there any mutilation of the body, except what you have described?"
"There was not, sir," replied the physician, setting at rest the various rumors in regard to mutilation of the child's body.
"Would you say that the girl had been violated?"
"I would not say yes or no."
Dr. Hurt then went into detail on this subject and stated certain indications which might show that she had been so treated, while at the same time, he indicated that these facts did not necessarily show that it had occurred.
Saw Harris Make Post-Mortem.
"Were you present when Dr. Harris made his post-mortem examination?"
"I was."
"Did he examine the lungs?"
"Yes."
"Tell us all of the body that was taken away."
"I took away none myself; but Dr. Harris removed certain parts."
The witness then told that Dr. Harris had removed portions of the stomach and intestines and other organs for his examination.
"Was the body swollen at that time?"
"Slightly so, I think. It was in about the same condition as when I first saw it at the undertaker's."
"Had decomposition set in?"
"I don't think it had."
Time Needed for Digestion.
"Cabbage is one of the hardest things to digest, isn't it?" added Mr. Arnold, referring to the contents of the girl's stomach.
"Yes," answered the physician.
"It takes some people longer to digest it than others?"
"Yes."
"Don't you know that completely masticated cabbage takes from three to four hours to digest?"
"Yes, I think so."
"Badly chewed food, of any kind, takes longer to digest, doesn't it?" asked Mr. Arnold.
"Certainly, sir."
"Suppose, then," said the lawyer, "that a child eating a meal hurriedly in order to catch a car and go uptown had taken into her stomach a piece of cabbage not chewed, as children frequently do, wouldn't it take longer for her to digest that than the three or four hours usually taken to digest well-chewed cabbage, and don't you think it a very wild guess for a physician to undertake to tell by the contents of the stomach exactly how long it was between the time of eating the food and the time that death occurred?"
Mr. Dorsey promptly objected to Dr. Hurt giving any opinion as to what his opinion might be of Dr. Harris' deductions and Judge Roan held that he could not be allowed to give it.
After some parley Mr. Arnold then asked: "When a person becomes unconscious does the digestive process keep up?"
"I don't think so."
"If a person ate something and then went to sleep the digestion would go on, wouldn't it?"
"Well, why wouldn't it go on if a person became unconscious? Unconsciousness and sleep are similar in their relation to the nerves, aren't they?"
"Well, the effect that renders a person unconscious has the effect of paralyzing the digestive or gastric juices," Dr. Hurt replied.
Dorsey Again Objects.
Mr. Arnold again entered into a series of questions to have Dr. Hurt say what was his opinion of the Harris testimony and Mr. Dorsey continued his objections, declaring that it was illegal for one physician to be put up to discuss the deductions of another.
Judge Roan ruled out all actual criticism of another witness, but declared that Dr. Hurt might answer hypothetical questions in this matter and thus give his own opinions of the possibility of drawing the deductions.
Mr. Dorsey then placed in evidence the two bottles, one containing particles of the cabbage taken from Mary Phagan's stomach and the other containing parts of cabbage taken from the stomach of a man one hour after his eating it.
"If this cabbage had been in the

stomach one hour," said Mr. Dorsey, holding up that taken from a man's stomach, "how long do you think this other had been in?"
"What is the question?" asked the judge.
"Mr. Dorsey says," replied Mr. Arnold rather sarcastically, "that if this mixture was of cabbage and bread, how long would it have been in the stomach after having been pumped out?"
Mistrial Is Threatened.
The jury was then given a few minutes intermission and both judge and jury left the court room. After the jury returned Judge Roan came in with a newspaper in his hand.
"Mr. Arnold says," stated Mr. Dorsey, all the facts are not embodied in the hypothetical question, but I say that Dr. Hurt is an expert and should know if he has enough facts given him upon which to make a deduction and state his opinion. If there are not enough facts and yet Dr. Hurt goes on and gives an opinion the defense can bring that out, as they certainly will try to do, and the jury can decide on it."
At this juncture Attorneys Rosser and Arnold went up to the judge and spoke to him in a low tone. Then they went out together, shortly followed by Attorneys Herbert Haas and Stiles Hopkins. An air of mystery invaded the courtroom. The attorneys for the defense would say nothing to the newspaper men and Dorsey and Hooper declared that they wished the newspaper men would find out for them what it was about.
"We are going to make a statement to the judge," Mr. Rosser finally declared, and then he and Mr. Dorsey both talked to Judge Roan so quietly that their voices could not be heard.
By this time spectators who had craned and stretched their necks during parts of the testimony, excited themselves still further.
The jury was then sent out at the request of both sides and Attorneys Rosser addressed the judge.
"Your honor," he said, "a moment ago when you came into the courtroom you carried in your hand a newspaper which you had probably been reading and in coming in you held it so that the jury could see it. In box-car letters of red ink it bore across the top words to this effect, 'State adds links to case.'"
Mrs. Frank Breaks Down.
At this moment Mrs. Frank, who had hitherto held up during the trial and who during the day had renewed her previous habit of glaring at Solicitor Dorsey while he was speaking, broke down and began to sob. Her bosom heaved and she finally threw herself slightly forward and gave way to her tears.
"I know that your honor would not jeopardize this case for anything," added Mr. Arnold. "We all know you and your reputation far too well to think that, but the jury had an opportunity to see that head line and, as we all know headlines do not always tell the facts clearly. For instance, in this case the head line states that the state has added new links and while the offense may claim them to be strong ones, we deny it and claim that the reading of the body of the story will show that, for the newspaper men here have certainly acted fairly in the matter of handling this case. Now the jury will have no opportunity to read the body of the article and we think something should be told them to keep them from being influenced by what they saw."
"We are not going to ask a mistrial, but we want something said to them."
"I want your honor to put in writing so there can be no mistake about it, that the jury is to put no faith in a headline," said Mr. Rosser.
"We deny that the jury saw this headline," stated Mr. Dorsey, "but we

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Condition of Girl's Body Described by Dr. J. W. Hurt

Dr. J. W. Hurt, county physician, who examined the body of Mary Phagan, took the stand following Detective Waggoner. Dr. Hurt not only made an examination on the Sunday morning that the body was found, but he was present several days later when the girl's body was disinterred at Marietta by Dr. Roy Harris.
"How long have you been a physician?" asked Solicitor Dorsey after he had put the formal questions to establish the physician's connection with the case.
"Since 1884."

CONDITION OF GIRL'S BODY DESCRIBED

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also want to go into other features of the newspapers. In going to and fro from their headquarters in the Kimball house the jurymen frequently have papers thrust before their eyes by boys, and they also see them in the hands of people on the street, and for several days the newspaper accounts of this trial have put the state's case as decidedly light and faulty.

Dorsey Criticizes Newspapers.

"In fact, your honor, I think that the papers have been so prejudiced in the matter that they have committed contempt of court. We want you to take up the entire situation in regard to the jury having seen newspapers."

"I will state to the jury," answered Judge Roan, "that they are not to pay any attention to what they may have seen in the papers, or, in fact, to anything that they have seen or heard in any way but in sworn evidence."

The jury was then called back, and Judge Roan explained the situation to them.

"Gentlemen," he began, "you know that in the case that you are trying that we must all be extremely careful to decide it only on evidence regularly and legally admitted before the court, and on nothing else. It has been suggested that you may have seen some writing in the papers which might influence you in your decision, and now I desire to remind you that

nothing you may see in the papers about this can be allowed to influence you in any way. You are to try this case on sworn evidence only."

Examination Again Taken Up.

Mr. Dorsey then took up again the examination of Dr. Hurt.

"Have there, or not, been cases of blows on people's skulls where death did not ensue?" he asked.

"Yes," replied the witness.

"What process of the body is delayed by unconsciousness?" asked Mr. Arnold, who took up the cross-examination again.

"Is the nervous system delayed and what else?" he continued.

"The nerves of sensation and emotion are delayed," replied the witness.

"Isn't it the same as in sleep?"

"Yes, to a certain extent."

After discussing still further the effect of unconsciousness and of sleep upon the nerves, Mr. Arnold entered into a detailed questioning in regard to V. Thagan's condition upon the day that she was murdered.

"You saw a discoloration on the right eye?" he then asked.

"Yes."

"Well, don't the nerves cross from the right side of the front of the head to the left side of the back?"

"Yes."

"Doesn't a blow on the back and to one side of the head sometimes cause the eye on the other side to become blackened?"

"Yes."

Mr. Arnold then took up in detail again the girl's physical condition on the day. At 12:10 Dr. Hurt was ex-
cused.