

## Resume of Week's Evidence Shows Little Progress Made

### Place and Time of the Murder Only Big Facts Brought Out in the Mass of Evidence.

One week of the battle of Leo M. Frank, accused of the murder of Mary Phagan in the factory of the National Pencil company, for his life has elapsed, and his fate is yet a question for future developments to decide.

The first week of the trial has been markedly free from sensations.

The two big facts that the week's evidence would seem to show are that Mary Phagan was murdered in the second floor of the pencil factory, and that she was murdered within one hour after she ate her breakfast at home shortly after 11 o'clock.

The principal features of the week's evidence are as follows:

#### Mary's Mother Testifies.

The examination of witnesses began with the most pathetic scene in the whole week, when Mrs. J. W. Coleman, mother of the murdered girl, took the stand.

With appealing simplicity the mother told of how her little daughter had arisen on the fatal Saturday morning about 11 o'clock bright and joyous in her childish excitement over going to see the Memorial day parade; of the frugal breakfast of bread and cabbage she had eaten, and of how the little girl had happily bustled herself helping her mother by doing this or the other small turn in the housework. At about 12 o'clock little Mary had finished with her chores, and dressed in a light summer frock, as fresh and sweet as a wild rose, sallied forth to meet her fate.

The mother wept gently as she was compelled to recall her little girl's fourteenth birthday, which would have been June 1, and to which she and Mary had looked forward to celebrating with so much pleasure, and as Mrs. Coleman told of the child's beauty, she dwelt tenderly on each feature as if her very heart were breaking once more to caress them.

#### Identifies Daughter's Dress.

Bearing up wonderfully under the ordeal of beholding once more the frock which she had helped little Mary to adjust before she left home for the last time, Mrs. Coleman identified the dress and the hat with the pale blue ribbon and the tiny bunch of flowers.

Mrs. Coleman was followed on the stand by George Epps, a little "newsy" and a companion of Mary, who had been with her on the street car as she came into the city, and had talked with her about the fun they would have that afternoon when they had promised each other to watch the big parade together.

With his head shaven as smooth and slick as a billiard-ball, George mounted the stand and told his story, boy-wise, in minute detail even to the point of explaining how he could squint one eye at the sun and tell the time of day.

#### Were Going to Parade.

He testified that Mary Phagan got on the English avenue incoming trolley car with him about 10 minutes before 12 o'clock and that they had ridden together to Forsyth and Marietta streets, when Mary had left him to go to the pencil factory to get her wages and that they had agreed to meet again at 2 o'clock at Ekin's drug store to see the parade. George said that he waited until 4 o'clock that afternoon to meet Mary, and when she did not meet him as she had promised, he had grown tired of waiting and went to the ball game.

George Epps left the stand and Newt Lee, the nightwatchman at the National Pencil company's factory, who discovered the body of Mary Phagan in the basement and reported his grim discovery to the police, followed him. Stolid and stubborn, all negro, and without any refined sensibilities to be hurt, Newt Lee stood the punishment of Attorney Rossor's grueling cross-examination without a shadow of a quail, never once departing in any

particular from the story he has repeated innumerable times since that gray Sunday dawn when he found the body.

#### Sent Away From Factory.

Lee testified that, in view of the fact that Saturday, April 26, was a holiday, he had been ordered to report for duty at the pencil factory at 4 o'clock, instead of 5 o'clock which was the time when he was accustomed to report on Saturdays, and accordingly had arrived at the factory a few minutes before 4 o'clock. He found the front door unlocked as usual, but found the door on the stairway leading to the second floor locked.

Lee testified that when he arrived at Mr. Frank's office, Frank met him at the door rubbing his hands saying that he was sorry that he (Lee) had come so early. Frank insisted that Lee go up town and "have a good time," and Lee says that he told Frank that he needed sleep. Frank, according to Lee, continued to insist that he leave the factory, and said that Lee needed a good time. Lee said he could have slept in the packing room of the factory.

When Frank insisted, however, Lee says he left the factory and did not return until 5 o'clock, at which time he found the doors just as he had left them.

#### Gantt Scared Frank.

Lee said that Frank told him then not to punch the clock as there were some workmen in the building. Immediately afterwards Frank put a punch slip in the clock.

Lee was questioned about the relations between Frank and Gantt on that afternoon, and said that he saw Gantt downstairs about 6 o'clock, when he claimed to be looking for a pair of shoes he had left there when discharged from the factory. About that time Frank came downstairs unexpectedly and when he saw Gantt jumped back a little frightened. Gantt explained to Frank that he came for his shoes. Frank intimated that the shoes had been swept out, but at length allowed Gantt to enter the factory with Lee, at which time Gantt got two pairs of shoes and left. By this time Frank had also left.

About 7 o'clock, Lee said, Frank telephoned to him to know if "everything was all right," which action on the part of Frank had not been done before during Lee's service. Lee then explained how he had gone to the basement to the toilet about 8 o'clock, and while there saw an unusual object lying on the ground, which he investigated with a smoky lantern and found to be the dead body, which was later identified as that of Mary Phagan. Lee says he then notified the police and tried to notify Frank.

#### Frank Dropped His Head.

When the police arrived Lee was taken to police headquarters and did not see Frank until he was carried back to the factory about 7 or 8 o'clock.

Lee said when he saw Frank then it was in the factory office and that Frank looked at him and then at the door and dropped his head without saying anything. He testified that N. V. Darley, an official at the factory, examined the time clock and stated that it was correctly punched.

Lee and Frank were then carried to the police station and Lee said that he did not see Frank any more until a night soon after then, when Lee was handcuffed to a chair in a room at the police station and Frank was shut in the room alone with him.

On this occasion, said Lee, Frank looked at him and dropped his head. Lee testified that he (Lee) said:

"Mr. Frank, it's mighty hard for me to be handcuffed to this chair for something I didn't do."

To this Lee said Frank replied:

"We'll both go to hell."

"What's the difference, they've got a man guarding me." Frank then told Lee that he didn't believe that Lee killed the girl, but knew something about it. Lee told Frank that he only discovered the body, whereupon Frank, according to Lee, replied:

"Yes, and if you keep that up, we'll both go to hell." The detectives came in at that time.

Upon cross-examination by the defense, Lee testified that if he had inspected the basement of the building with the regularity required by his instructions, he would have found the body earlier.

Thus, without sensation or the disclosure of a single fact that had not been public property for many weeks, ended the first day of the most famous murder trial in the history of Atlanta.

At the opening of Tuesday's session Newt Lee was again placed on the stand and Attorney Rossor continued his cross-questioning without bringing out further material facts from the watchman.

#### Girl's Body Found.

Sergeant L. S. Dobbs, the officer who headed the squad which responded to Newt Lee's alarm, went on the stand and stated that when he arrived at the factory Lee was apparently not laboring under excitement, but that he took him in charge and had him direct the officers to the body in the basement. He stated that he found the girl's body lying there face down with blood on the back of her head and with a cord tied so tightly around her neck that it cut into the flesh. There was also, he stated, a piece of underclothing tied loosely around the neck.

The finding of the murder notes was next related as well as of the discovery of the missing shoe and hat and traces of where a body had apparently been dragged along the ground in the basement from the elevator shaft to where the body was lying.

Tuesday afternoon Detective J. N. Starnes was placed upon the stand and testified corroboratory to Sergeant Dobbs' story of finding the body.

#### Says Frank Was Nervous.

Detective Starnes brought upon his head the grueling fire of the defense when he stated in regard to telephoning Frank that the superintendent was nervous. A sharp tilt between Solicitor Dorsey and Attorney Rossor ensued, in which the former accused the defense of trying to impeach the testimony of the witness.

This closed Tuesday's hearing of the trial with no material advantage one way or the other since the beginning of the trial.

Affairs took a turn on Wednesday morning, however, which aroused great hopes of acquittal among the friends of the defense when the mem-

## Mary's Chum Goes on Stand



Photo. by Francis E. Price, Staff Photographer.

#### HELEN FERGUSON,

Who testified that she tried to get Mary Phagan's money for her on Friday, and was told by Frank that girl would come for it the next day.

ory of Detective John Black, who was the first witness of the morning, proved treacherous and his testimony did not pan out as the state had evidently expected.

#### Black Gets "Mixed Up."

Black admitted that he was "mixed up" and could not recall to mind what he had testified a few moments before. He failed particularly in recalling dates and details in regard to the finding of the bloody shirt at Newt Lee's house.

The solicitor had hoped to prove by Black that he went to Lee's home and found the shirt after Frank had informed him that there were irregular punches on the slip in the time clock, showing that Newt Lee would have had time to go home; that after Frank's house had been searched for incriminating evidence at the suggestion of Herbert Haas, that Frank sought to have Lee's house also searched and that the bloody shirt was a "plant."

Black's answers, however, failed to bear these points out.

Black also failed in recalling the exact time within a few hours when he and Detective Haslett took Frank to the police station on Monday morning following the discovery of the murder.

#### "Frank Didn't See Body."

W. W. (Boots) Rogers, who went with the officers to the factory at the time the body was discovered and who was subsequently active in the investigation of the case, testified that to the best of his knowledge Frank did not look at the body of Mary Phagan when he was taken to the undertaking establishment where the body was lying, and that he could not, therefore, have known who the dead girl was. Frank had previously testified at the coroner's inquest that he saw the body. Attorney Rossor resorted to the grilling tactics which had played havoc with the faculties of Detective Black, but was unable to confuse Rogers.

#### Grace Hicks Identifies Body.

Grace Hicks, who worked at the pencil factory, testified that she had identified the body as that of Mary Phagan on the morning of its discovery. She stated that during the five years she had been employed at the pencil factory she had spoken to Leo Frank but three times. She did not know whether Frank was personally acquainted with Mary Phagan or not.

J. M. Gantt, a former employee at the factory, stated that he had known Mary Phagan for years, his and her family having been neighbors in Cobb county. He recalled that Frank had once asked him:

"You know Mary pretty well, don't you?"

Gantt said that Frank appeared nervous when he went to the factory on Memorial day to get his shoes which he had left there when discharged for alleged shortage in the pay roll.

The feature of Thursday's proceedings was the failure of other witnesses to testify as the prosecution had expected, and introduction of the first new testimony since the trial began.

#### Mary's Pay Envelope Found.

R. B. Barrett, a machinist at the pencil factory, disclosed the fact that he had found the supposed pay envelope of Mary Phagan near her machine on the second floor. Until Barrett's testimony the question of the pay envelope had been a mystery. Barrett also stated that he had discovered blood stains on the floor near the girl's machine and had found strands of hair on the machine. The blood stains, he said, had been smeared over with some sort of a white preparation. Barrett's testimony, as did the testimony of other witnesses, seemed to bear out the contention of the solicitor that the murder was committed on the second floor.

A surprise was in store for the prosecution when Harry Scott, a Pinkerton detective who had been employed by the defense, was placed upon the stand. Solicitor Dorsey sought to prove by Scott that Frank was nervous the first time he saw him, but contrary to the solicitor's expectations Scott testified that such was not the case. Solicitor Dorsey became somewhat excited at this turn in the detective's testimony and intimated that

he had been "trapped." Scott did, however, testify that Frank was nervous at police station. He also stated that either Frank or Darley had told him that Gantt had been very familiar with Mary Phagan.

#### Defense Wanted Evidence First.

Scott declared that Herbert Haas, one of Frank's attorneys, had suggested to him that the Pinkertons turn over to him all evidence found before turning it over to the police department. Scott said he declined to do this, declaring that he would give up the case first.

Monteen Stover, a former employee at the pencil factory, declared that she was in Frank's office on the Saturday of the murder from 12:05 until 12:10, but that she did not see Frank. Frank has claimed that he was in his office at that time.

Dr. Claude Smith testified that he had examined the bloodstains of the shirt found at Newt Lee's home and the blood found on the pencil factory floor, but was unable to decide whether or not it was human blood.

#### Elevator Power Box Unlocked.

When E. L. Holloway, an employee of the pencil factory, and the last witness of the day, was placed upon the stand, his testimony also turned out to be not all that was expected of him.

Holloway had previously made an affidavit to the effect that the power box to the elevator at the factory was locked on the day of the murder. But when he testified on the stand he stated that he was mistaken, and that, after all, the power box was not locked at all, but was unlocked.

With the attorneys for both sides greatly ruffled on account of the failure of witnesses to testify as they had been led to believe they would, Thursday's hearing closed. If there was an advantage either way in the day's testimony it was not so favorable to the defense.

The most startling fact brought out on Friday, and probably the most startling fact in the whole testimony given in the trial so far, was that within three-quarters of an hour after Mary Phagan had eaten her frugal breakfast of bread and cabbage she was dead, as shown by the testimony of Dr. Roy Harris, secretary of the state board of health, who made an examination of the dead girl's stomach.

#### Murdered Hour After Breakfast.

The evidence throws considerable light on the much mooted question of the exact time of the murder.

Dr. Harris exhibited on the stand a small bottle in which were particles of undigested cabbage, which he declared he had removed from the girl's stomach. He declared that the cabbage could not have remained in that state of preservation longer than one hour at the outside while the girl was alive.

Dr. Harris stated that the nature of the wound on the back of Mary Phagan's head seemed to indicate that she had been struck an upward blow. The blow on the eye, he said, looked as if it had been inflicted by a person's fist.

Dr. Harris was unable to testify positively as to whether Mary Phagan had been outraged or not, although he said there were indications that such was the case.

Dr. Harris' testimony had to be discontinued within a few minutes after he took the stand, when he was attacked by a fainting spell as the result of recent illness. His testimony will be resumed as soon as his physical condition will permit.

#### Says Frank Didn't Eat.

The testimony of N. V. Darley, assistant superintendent of the pencil factory, who followed on the stand, was to the effect that Frank was very nervous on the morning following the murder, but on cross-examination Darley also testified that he had on two other occasions seen Frank equally as nervous.

Albert McKnight, husband of Frank's cook, stated that he had seen Frank in the dining room of his home when he came home for lunch on the day of the murder, but that he did not see him out anything.

There were several other witnesses who testified to minor details.