

JURY LOANED EARS TO RAVINGS OF MOB, SAYS RUBE ARNOLD

Leo M. Frank Convicted, He
Declares, by Prejudice and
Not by the Evidence Given
in Case.

HIS TRIAL IS COMPARED TO RITUAL MURDER CASE

Scratch Beneath the Surface
and You Will Find Parallel
With the Russian Trial,
Arnold Tells Judge Roan.

Reuben Arnold, associate counsel for the defense, declared in his argument Friday for a new trial, that the trial of Leo Frank would teach the entire universe a lesson against prejudice, and that civilization was "horrified at the miserable example of his client's conviction."

His speech began at 4:13 o'clock. It was a vitriolic denunciation of the alleged reign of prejudice during Frank's arraignment, and of the fear the crowds inspired in the twelve men who meted the verdict of guilty to the prisoner. He compared the situation to the dark ages, when Jews were stoned to death because of their religion.

Prejudice was the theme of his argument. "That and the dependence the jury and public put in the story of Jim Conley, the negro. The jury, he stated, did not listen to the evidence and weigh it as they should, but solely loaned their ears to the mad and ignorant ravings of the mob which "cried as wolves for the blood of the man on trial."

Taken Down in Shorthand.

His speech was delivered with all the fire and eloquence at the noted attorney's command. By special request of both the prosecution and defense, it was taken down by a stenographer, and will therefore go down into court history.

"A terrible responsibility is on the trial judge in this case, your honor," said Mr. Arnold. "The supreme court is the cause of this. It expects you to decide logically--to determine on the facts in the case whether or not a new trial should be granted. It is entirely up to you. In all supreme court cases, it is invariably said: 'These verdicts were either approved or renounced by the trial judge. We should act accordingly.'

"You must remember that the matter cannot be referred back to the jury. Those twelve men have been disbanded. They are of the past and cannot be brought back. I feel I am required by your honor's scope of power to argue these facts. We submit that the supreme court will not allow me to make argument--neither will anything else. Now is my only time. The supreme court, you know, is purely technical--that and nothing else.

"The Frank trial grew out of Georgia's most exceptional murder case. The killing of Mary Phagan was the most exceptional, the most diabolical. You will recollect that the most of our present-day murders are the slaying of women and children. This is a phenomenon with nothing for which to account. Twenty women, according to record, have been slain in Atlanta within the past two years.

Parallel With Russian Trial.

"In the trial of Frank--if you scratch beneath the surface, which we surely must do--you will find that the hue and cry is on an exact parallel with the Kiev trial in Russia--a Russian trial of a Jew for the murder of a thirteen-year-old girl. The Kiev trial has convinced the world that it is the most diabolical instance of persecution in civilized history; and the record of racial prejudice.

"We have had to contend with two hydra-headed propositions in the case of Frank. They are prejudice and ignorance. Also, might be added the spirit of the mob, the worst of all.

"The courts are supposed to be the superior knowledge in every case. They are supposed to be superior to the public and all else. But this case has made me tremble for the majesty and power of the court and for the reign of law and peacefulness. It seems as though the law, and power and justice is more on trial than Leo Frank.

"The ocean of feeling and prejudice that appeared at the trial threatened to wash justice away as though it were only a small and feeble building erected on the sands. I sincerely hope and pray I will never go through another such experience.

The Day Is Coming.

"The day is now here when there should be no feeling against the Jew. It is coming with enlightenment and sincerity and knowledge. It is gaining ground with even such a thing as ignorance. In the south we have the best people--we have the representative aristocracy of our nation, and the southerner, brought down to a final analysis, is the only real American.

"But the ignorant southerner does not represent southern sentiment or feeling. And, it is only the ignorant who smile and shake hands with one another when a man is condemned to death, and a picture of a human being swung from the gibbet confronts a public. Listen! I have here something that bears as directly on the Frank case as any bit of evidence produced at the trial. It is a communication in The Constitution from a college professor of our own state. Let me read it:

Letter to Constitution.

(Mr. Arnold then read a letter published in Friday's Constitution from Professor Julius McGrath, of the faculty of Emory college, Oxford, Ga. It follows:)

"Editor Constitution: In the holy city of Kiev, Russia, a Jew by the name of Mendel Bailliss is being tried on what is known as 'ritual murder,' which, in plain English, means that this man had killed a Christian child in order to mix its blood with the passover bread. In

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the middle ages, which are appropriately called the dark ages, the then called Christians, with few exceptions, hated the Jews most unreasonably and ferociously. In order to injure and, if possible, to exterminate them, any means were considered justifiable, and hence the "ritual murder" charge became a regular institution in many of the European countries.

"It was enough for anyone to say that he had seen a Jew murder a Christian child, when Jewish blood would flow like water in any European city. Some years ago in imperial investigation was undertaken in Russia, and it was unanimously reported that this charge against the Jews was without the slightest foundation in fact, and that as a nation the Jews abhorred the shedding of blood, and that a Jewish murderer was the rarest exception. In spite of it, these false accusations are used from time to time, and the pogroms, which are nothing more than mob murders of the Jews, are usually started in ritual murder accusations, the ignorant Russian priests frequently inciting the ignorant populace.

"A resolution adopted on the 15th instant by the house of deputies of the Episcopal church, consisting of lay and clerical delegates, now in triennial session in the city of New York, condemned the attitude of Russia in charging the Jews with such groundless crime, and called upon the church there to stop its persecution of the Jews. I am very friendly to the Episcopal church, the greatest Christian mission to the Jews is carried on by that church in England, and its efforts have been crowned with marvelous success. Among the Christian Jews the direct result of the great mission of that church are men of great distinction who have done honor to the church and to the countries in which they have lived. Yet truth compels me to say that if the Episcopal church did not directly encourage it, it at least unconsciously, perhaps, has given excuse to the ignorant in their prejudice toward the Jews. In the collect for Good Friday in every Episcopal church in the land the Jews are classed with the Infidels, Turks and heretics, and prayer is offered for the conversion of that motley crowd, the Jews being among them. No intelligent Jew takes the matter seriously; neither does any intelligent Christian. On the other hand, where there are some on both sides that are not intelligent, it certainly cannot advance cordial feelings between them. It is true that this general convention proposes to amend the prayer so it shall read 'for ancient Jews.' Instead of 'for all Jews,' but I do not see how this change will help. A gentleman said to me the other day: 'Ever since the Jews crucified Christ it is difficult to get justice for the Jew.' He may have overstated the matter, but it is true that the ignorant prejudice from which the Jew suffers is due not to the fact that he himself is unworthy, but largely to the other fact that nearly twenty centuries ago some Jews had a hand in Christ's death.

"I am glad that in this blessed America these prejudices are gradually dying out, and I am looking to this country to teach all countries that it is criminal to harbor prejudice, and that the twentieth century is not called upon nor will it undertake to carry out a program that was prepared in the days of the inquisition. It were better not to pray at all than to mix narrow-mindedness, ignorance and utterances that were dictated by an age that has been repudiated by all who love God and humanity.

"Oxford, Ga."
"Relentless Effort to Convict."
"And this communication from Professor McGath accounts better than

anything for the relentless effort made to convict Leo Frank.

"Was it ever before brought to your minds that the only conclusive witness against the man was an accessory to the crime, and was the lowest, most debased criminal in Atlanta's court record? Also the only man who testified to perversion?"

"Time, however, rights everything. It is the world's greatest teller of truth. In the end, time and truth prevail. It takes time for truth, and truth forever follows time. Time rectifies all and everything—and everybody.

"Men grow weak in time of excitement. Impulsiveness causes all of us to lose a certain amount of strength. We became absurd, cowardly, ridiculous. Such was the condition in the trial of Frank. His conviction was a case of fanaticism that would have excelled the assassination of Abraham Lincoln. It was all due to tempor and excitement and prejudice.

"Everything was lost on the jury, facts, argument, logic, soundness and sense. It was like casting pearls before swine. They were huddled together like a frightened herd of rabbits, afraid to move, afraid to do right, afraid to administer justice.

How Horrible Is Prejudice.

"This case will do more than anything to show the entire world just how horrible is race prejudice. It will have a national bearing, and will convince the world of the ignorance and savagery of prejudicial feeling. The whole universe will learn a lesson. God meant it so. We are now making a universal feeling—righting a universal wrong.

"The jury believed this criminal negro before they would believe the intellectual Frank, logic, wisdom and the most powerful alibi ever presented. It was outrageous. It not only reflects on the intellect of the jury, but upon the people of our southland.

"Outside of Conley there is no evidence whatever on which to convict. If the negro's vile story had not played its part in the trial I do not doubt that your honor would have discharged the jury and stopped the trial for lack of evidence. Take an ordinary case, for instance. Would you have hesitated an instant? No! Certainly not. You nor any other justice.

"Why, the inflammatory speech of Hugh Dorsey would have killed the case. Have we taken leave of our senses? Have we broken all rules of civilization, all rules of God our Maker and Keeper? Frank is doomed to death, doomed on evidence that would not have convicted a Jew of the darkest ages, when men were stoned and hanged by their toes to die.

"It is peculiar, but true—also sad—that modern people love to believe black and dirty things. It is an inheritance, it seems, that comes with the furlous trend of modern life. They did it in this case—believed the blackest, blindest lies ever told. There doesn't live a wolf, or bear, or snake, so utterly devoid of conscience and knowledge of right and justice as this monstrous negro Conley, and yet, the mob put absolute faith and credence in his stinking lie.

Will You Believe Vile Tale?

"Are you going to believe the tale of this vile skunk? Are you? It's up to you—finally. From the very beginning, the whole situation was strained. People were willing to grasp at anything, to strain at anything. Everywhere you could hear: 'Sure, that damned Jew did it. Why go further for the murderer?'

"Nobody wanted to believe that anybody but the Damned Jew did it. Everybody wanted to believe that he did it. And this sentiment aptly showed the fact that the hardest thing to do on earth is to argue against prejudice. It is hardest for these reasons: First, because fair-mindedness is required; second, because courage is required.

"You may find one of these traits in a man, but it is seldom you find both. The jury might have had one or the other, but I doubt it had both. And, both are required to fight such a venomous evil as prejudice.

"When all this persecution centered on Frank, every conceivable kind of lie sprang up against him. And, the truth of the matter was that most of them came from volunteers. The sea of prejudice threatened to wash him completely into oblivion. And, Conley's lies composed more than half of that sea that finally did the washing. Wasn't it shameful?

"Yet, some poor, deluded souls say: 'Why didn't you break him down. He was telling the truth, or you'd have broken him.' God help such people. Why, after this negro had been on the stand for two days or longer, he never mentioned the whereabouts of the dead girl's purse until prompted by Dorsey.

"They say he stayed on the stand and withstood every attack. Certainly he did. So would have a parrot. You can take one of those birds and teach it to say, 'I want a cracker' and you can't break it. It's impossible. You have to knock him down. The jury was hoodwinked, that's all.

Plastered Over With Lies.

"Conley was so plastered over with lies and contradictions that it was monstrous to put faith in one iota of what he said. He had his little wretched tale all canned and stocked in his system, and he poured it out to the jury as though megaphoning it. He might have said: 'Polly wants a cracker,' just as a bird that is taught such sayings will echo whenever prompted.

"He is willing to believe and assert anything that will save his neck from the gibbet of popular opinion.

"Lanford and his cohorts wouldn't allow Jim Conley to confess. Every time the negro bordered on a confession of guilt the detectives shifted him off to accusations of Frank.

"The whole trial has never been equaled in the world of justice. It was nothing but an effort to try Frank by prejudice for every conceivable crime in the catalogue of misdeeds. It was the unfairness on record, the most miserable. Why, one instance to prove it is the injection by Dorsey of the perversion evidence, which was done merely to prejudice the jury and inflame the men who already were frightened to their wit's end.

"If Leo Frank is hanged, I'd rather be dead and rotting in my grave than in Hugh Dorsey's place. His conscience will drive him crazy, distracted, and to God only knows what end. And it will be no less than his deserts. There never was a charge against Frank until the trial, never a blemish. And they grew from the mire and filth with prejudice as their roots."

At this point, the keeper of the library, in which the hearing was being held, notified the judge that it was closing time. Mr. Arnold's speech was discontinued until this morning at 9 o'clock.

Friday Morning Session.

For three hours Friday morning the monotonous disputes between Dorsey and Rosser and Arnold over the 115 counts, based on allegation of fact, were made continuous. When the noon hour was reached the end of the motion certification was completed so far as either side would concede at that time, and the court then stood ready to proceed with other matters in the case. The conclusion of the motion marked the end of a two-day dispute between the attorneys engaged on both sides of the case, which, since its inception, had proven acrimonious and even ill-tempered at times.

When Friday's session opened Judge Roan, who had been unusually patient with both sides, urged the attorneys for more haste in their work. His request met with instant favor, and the session was marked by less friction and more accomplished results than were the sessions of Wednesday and Thursday.

"I wish you gentlemen would cease scrapping," admonished the court, with a smile, when the session opened. These little points are not worth all this argument," Judge Roan added.

Still fighting each step stubbornly, the attorneys followed the court's wishes, and by noon the defense had cleared away all of its affidavits charging bias against certain jurors who had been on the Frank jury.

During the morning session Dorsey and Arnold disputed for the better part of an hour over the testimony of Detective Black. One ground of the motion recited that Black testified that Frank had employed counsel when he arrived at police barracks the Monday morning after the murder. Dorsey disputed this flatly and the record was consulted, with the result that the wording of the motion was changed to allege that Black testified Frank "had

counsel" at that time instead of "had employed counsel."

Points Cleared Up.

Several points that were left in dispute Thursday were quickly cleared up when Attorney Arnold was sworn and stated that to the best of his belief that the allegations of fact contained in the defense motion were true and in the defense motion that when the record did not bear out the plea motion he would consent to Attorney Arnold being sworn and testifying about these points.

The court stenographers who made short hand notes of the Frank trial were sworn during the morning session and declared that they had taken a correct record of the entire case. This was done on account of the fact that the defense declared that several objections they had made on certain motions were not recorded in the transcript of the case.

At noon the discussion of the motion was ended and the defense at once began the reading of its affidavits.

Jurors Defend Henslee.

A number of Frank jurors came to the defense of their accused fellow-jurymen, A. H. Henslee, during the hearing Friday, when affidavits from them were submitted by Solicitor Dorsey, attesting to Henslee's attitude toward the prisoner when the first ballots were cast for a verdict.

Henslee was the only juror to oppose conviction, the jurors swore. With tears in his eyes, he is said to have told the eleven other men that a man's life was not to be handled carelessly, and that it should be weighed and sifted before sending a human to the gallows.

It required several votes and an hour or so to bring Henslee to his verdict of guilty, it was attested. Each of the jurors testified to his good character and to their readiness to personally appear in his behalf. There were also a number of affidavits from prominent men, both in Atlanta and other Georgia cities who spoke highly of the accused man's character.

The character of Marcellus Johnening, another juror under fire, was also upheld by a large number of affidavits from business men all over the state. On the other hand, the solicitor produced affidavits attacking the character and veracity of a number of affidavits whose affidavits assailing Henslee and Johnening were produced by the defense.

Letters Attack Frank.

Colonel Arnold created surprise at the afternoon session when he declared to Judge Roan that one of his best proofs of extreme racial prejudice that was prevalent during the trial was the mass of letters he had received from anonymous persons, all of which were threatening.

"And not one of them," he declared, "failed to contain the expression: 'That damned Jew!'"

Affidavits from every deputy and court attaché engaged at the courthouse during the trial were introduced by the solicitor. Each attested to the fact that during no time did the jury hear the demonstrations from the crowd, excepting when they occurred in the courtroom before the gaze and hearing of the judge and attorneys for both sides, and on the day of the verdict after the decision had been rendered.

Among those who swore to this were Fleming Mizer, R. B. Deavors, J. C. Lewis, clerk of court; Drew Liddell and other court deputies. The jurors who swore to affidavits defending Henslee and Johnening were Jurors Higdon, Smith, Winburn, Townsend, Bosshart, Osborne, Jeffries and Metcalf.