

SOLICITOR DORSEY SCORCHED IN CARD BY FRANK COUNSEL

Important Links in Chain of Evidence That Convicted Prisoner Are Branded as Myths by His Lawyers.

**SAY DR. HARRIS KNEW
EVIDENCE IMPORTANT**

Assert That Dorsey, Knowing Hair Was Not That of Mary Phagan, Argued to Jury That It Belonged to Victim.

Branding as myths a number of important links in the chain of evidence against Leo Frank, Luther Rosser and Reuben Arnold last night issued a scathing statement in which they also ask this question:

"Will these myths be dissolved while Frank lives, or not until he is dead?"

Solicitor Dorsey, upon learning of the statement, said:

"I have nothing to say. That statement is too humorous to consider. We are entirely satisfied with our case."

Concealment Charged.

Frank's attorneys accuse Dr. Harris and Solicitor Dorsey of striving to conceal the knowledge that the hair found upon the pencil plant lathe was not Mary Phagan's. They also allege that, knowing this, the solicitor sought to win his case before the court by misrepresentation, claiming the hair was that of the victim.

Dorsey is charged with misconception of his duty through zeal and anxiety to convict the man. After which, in the following sentence, they declare the state of Georgia never sought to prosecute by concealment and subterfuge.

"Since it has been developed," reads the conclusion of the statement, "that the hair, as a piece of physical evidence showing Frank to have committed the crime, was a myth and had no existence, in fact, the inquiry arises: How much else of the state's case is a myth?"

"Is not the charge of perversion, based upon the evidence of Jim Conley, a myth? Are not the various slanders circulated against Frank by malicious minds, equally as much without foundation as the state's claim of finding the hair of Mary Phagan on the lathe?"

The statement was given to the press. It is undoubtedly the most caustic issued by either side since the beginning of the noted Frank case.

Statement by Frank's Lawyers.

The statement in full follows:

Editor Constitution: The papers carried a short-interview from us on Friday, but the admissions of Dr. Harris ought not to be passed over so hurriedly—the matter is too vital, not only to this case, but to the integrity of courts of justice.

Very early in this case the state adopted the theory that the murder took place on the second floor of the factory. Indeed, such a theory was essential to Frank's guilt.

Every effort of the state, therefore, was bent to establish this theory. A man by the name of Barrett claimed to find on that floor what he contended to be blood spots and a few strands of hair, which were asserted to be Mary Phagan's hair, hanging to a lathe.

These two finds were heralded everywhere by Frank's accusers as evidence conclusive of his guilt, and the state put forward all its force and power to show that the blood and hair was the hair and blood of Mary Phagan.

The solicitor, like every other well-informed, intelligent man, knew that it would be scientifically demonstrated whether the apparent blood was human blood and whether the hair was Mary Phagan's hair.

Dr. Claud Smith, an expert chemist,

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strong physical evidence of Frank's guilt.

Knew It Was Material.

It is therefore nonsense to say that he did not consider the matter a material one! Why was he experimenting as to the hair? Surely not to kill time. He must have known the state's contention! He must have known if the hair was Mary Phagan's that fact would hurt Frank; and, if not, it would aid him. The papers were full of this. Scarcely was there an intelligent man or woman in the city who did not appreciate its materiality. Is it possible that this learned, expert witness stood alone in his ignorance as to the importance of the experiments he was making? Such a thing is, of course, possible; but, if so, a possibility close to the miraculous.

The doctor cannot say he was not asked. When on the witness stand, Mr. Arnold, for the defense, asked him the following questions:

Q. "What did he (the solicitor) tell you to examine (referring to the examination of Mary Phagan's body)? What parts of the body did he tell you to exhume?"

Q. "What did you have in your mind? What were you working to determine by the autopsy? What did you understand you were seeking?"

Can there be any doubt but that these questions covered Dr. Harris' examination of the hair? To contend otherwise is the shallowest quibbling not to be resorted to in a case involving life and death.

Dr. Harris answered these questions without once mentioning the subject of hair. As to other parts of the body examined, he went into the minutest details.

What About the Solicitor?

Concede, however, as we cannot, that Harris was ignorant of the importance of this hair. What about the solicitor? He knew its importance, and he knew that the hair found in the factory was not Mary Phagan's hair! He knew, as Dr. Harris knew, that this hair was put under one of the best microscopes and that it had been demonstrated beyond a doubt that it was not Mary Phagan's hair.

And yet with that knowledge, he showed by Barrett that he found hair, and that by Magnolia Kennedy that it looked like Mary's hair.

It is worse than silly to say that these look-like witnesses saw more of the hair than did Dr. Harris. He had enough, and more than enough, for microscopic purposes. He retained the microscopic sections and returned the balance to the solicitor.

Not only so, but with this knowledge, the solicitor urged in his speech to the jury three or four different times that this hair was Mary Phagan's hair. He knew the truth, and, in spite of his knowledge, urged upon the jury that this hair was evidence of Frank's guilt.

Not only so, but he made the same contention in his brief in the supreme court.

Harris told him the truth! He recognized it by telling Harris "that he would let the matter end," and yet, in

the highest court of the land, with human life at stake, he positively and emphatically states that the finding of this hair in the factory is one evidence of Frank's guilt.

In this the solicitor, in his zeal, misconceived his duty. The state of Georgia sternly demands full punishment for the guilty, but always in open candor—never by concealment or subterfuge.

The Hair Is Lost.

The solicitor says that the hair is now lost. Dr. Harris says that he returned the hair to the solicitor, except the microscopic sections which he examined. Of course, we cannot undertake to say why, or how, this hair was lost by the solicitor. It was never produced at the trial; but that it had its weight on the court, jury and public, there can be no doubt!

Since it thus develops that the hair, as a piece of physical evidence showing Frank to have committed the crime, was a myth and had no existence in fact, the inquiry arises: how much else of the state's case is a myth? Is not the charge of perversion, based upon the evidence of Jim Conley, also a myth? Are not the various slanders circulated against Frank, by malicious minds, equally as much without foundation as the state's claim of finding the hair of Mary Phagan on this lath?

The question horrible to contemplate is: will these myths be dissolved while Frank lives or after he is dead?

REUBEN R. ARNOLD.
LUTHER Z. ROSSER.

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examined the red substance smeared upon the floor and supposed to be human blood. The smeared wood was chipped up, making four or five chips smeared equally with the substance appearing to the eye to be blood.

Dr. Smith's Evidence.

Dr. Smith reported that he found blood on only one of the chips, there being no blood on the others. Dr. Smith's evidence was not guess work, but was as certain as mathematics. It demonstrated that the substance appearing from the eye to be blood was not blood; for, had it been blood, the doctor would have found it on all the chips, for the smear was equally on all the chips.

On the one chip he found only a trace of blood, only four or five corpuscles to the field, whereas a drop of blood contains about 80,000 corpuscles.

While the doctor could demonstrate whether the smear was blood or not, he could not tell whether it was human or animal blood, nor whether it had been on the floor for days, weeks or years.

It is therefore perfectly clear that the claim that the blood of Mary Phagan was found on the second floor was not sustained. The evidence of non-expert witnesses that the smear seemed to be blood, was clearly of no avail—as against this accurate and unmistakable expert testimony. An honest, capable expert can tell the existence, or non-existence, of blood, just the same as a mathematician can tell that two and two are four.

To determine, among other things, whether the hair was the hair of Mary Phagan, the state (at the expense of the county, as we are informed) employed Dr. Harris, an eminent expert. Dr. Harris exhumed the body of Mary Phagan and obtained some of her hair. With the aid of a powerful microscope (as fine as there is in the world, he says) he compared the hair found in the factory with the hair of Mary Phagan.

Not Mary Phagan's.

That examination demonstrated that the hair found was not the hair of Mary Phagan. It differed from her hair in shade, shape and texture. Dr. Harris reported that the hair was not Mary's; that it differed from Mary's in shade, texture and shape.

An honest, efficient expert cannot be mistaken in determining whether two samples of hair did or did not come from the same person.

Under a powerful microscope the difference between the hair of different persons is almost as easily discernible as the difference between two trees or two human faces. Indeed, as to this, the microscopic test is practically infallible. Dr. Harris knew that, and he knew it was not Mary Phagan's hair. An intelligent man like Mr. Dorsey knew, without being told, that the microscope would, and did, settle the matter. To that end he employed Dr. Harris. Dr. Harris settled the matter, and Mr. Dorsey knew he had settled it.

It is equally certain that the opinions of non-expert witnesses is of little or no value in determining whether two samples of hair came from the same or different persons. In a contest with the microscope, such opinions are absolutely worthless. No two men knew this any better than Dr. Harris and the solicitor. Both of them knew that Dr. Harris' examination settled the matter, for when Harris told the solicitor that the hair was not Mary Phagan's—that it differed from her hair in shade, shape and texture—the solicitor told the doctor, as stated in The Evening Journal, "There would be no necessity of going further into the hair theory." . . . "that he would let the matter end there."

With this certain knowledge in the face of Dr. Harris and the solicitor, the Frank trial was begun, Mr. Dorsey, being the solicitor, representing the state, and Dr. Harris, secretary of the state board of health, the leading expert witness.

During the trial, and for months thereafter, Dr. Harris concealed the fact that he knew that the hair found in the factory was not Mary Phagan's hair, although he must have known that the solicitor was contending, with all his force, from the beginning to the end of the case, that the hair found was the hair of Mary Phagan and was