

# FRANK'S TIME ALIBI GETS NEW SUPPORT IN TWO AFFIDAVITS GIVEN THE DEFENSE

**Mrs. Ethel Miller Swears That She Saw Frank on Street at Time Jim Conley Says He and the Prisoner Were Taking Phagan's Body to Basement.**

**HER STORY IS SIMILAR TO ONE TOLD ON STAND AT TRIAL BY MISS KERN**

**Solicitor Hugh Dorsey, Detective John Black and the Father of George Epps Hold a Long Conference, But Refuse to Tell What Action Was Decided Upon in Reference to the Boy's Affidavit.**

An interesting development in the Leo Frank case yesterday was the disclosure of two affidavits, now in the hands of the defense, one of which was made by Mrs. Ethel Harris Miller, who swears she saw the convicted man at Whitehall and Alabama streets at an hour at which Jim Conley testified he and Frank were carrying Mary Phagan's body into the pencil factory basement.

The other document was made by Maier Lefkoff, who says he was with Mrs. Miller at the time she passed Frank and spoke to him on the day of the tragedy. Both affidavits were made in September of last year, but were not revealed until Thursday afternoon, when they were given to a reporter for The Constitution.

#### **Epps and Dorsey Confer.**

Another development was a secret conference of two hours Thursday afternoon between Solicitor Hugh Dorsey and Detective John Black, of police headquarters, and George W. Epps, father of the Epps boy whose affidavit, issued Wednesday, accuses Black of forcing him to swear falsely at Frank's trial.

Although neither the solicitor, the detective nor Epps would talk, it is reported that an investigation will be made at once into the Epps boy's repudiation and accusation of Detective Black. Secrecy surrounds the conference. Mr. Dorsey would neither deny nor affirm the report that he is investigating the document. The conference lasted for two hours in the solicitor's office, in the Thrower building.

Immediately following the publication of the Epps affidavit, his father, who is night superintendent of the Candler Annex building, on North Pryor street, branded the youth's story as a fabrication of the whole cloth. Epps accused Detective Black of having concocted the story that was told on the witness stand. The father declared that this was impossible, as the boy had told him the same story two days or more before he had ever seen the detective.

#### **Corroborates Kern's Story.**

The affidavit of Mrs. Miller strongly corroborates the testimony of pretty Minnie Kern, which was a link in the alibi presented by Frank's defense at his trial. Miss Kern's story of having seen Frank uptown at 1:10 o'clock was unsupported, and therefore the object of a vigorous attack by the prosecution.

Mrs. Miller swears in the affidavit that she saw Frank at almost identically the same time the Kern girl stated she saw him, and at the same spot—the corner of Whitehall and Alabama streets—at 1:10 o'clock, at which Conley testified he and Frank were lowering the murdered girl's body into the basement darkness.

Although Mr. Dorsey has nothing to say on the Frank case, many recent conferences with investigators of his own staff and with detectives from po-

lice headquarters who were leading figures in the Mary Phagan investigation, lend significance to the reports that he is investigating certain new evidence that has been made public.

Daily conferences have been held with Detectives John Starnes and Pat Campbell, of headquarters; with J. W. Coleman, father of the murdered girl, and with Detectives Bass Rosser and John Black.

#### Black's Answer.

"If it's a hit dog that hollows, as Leo Frank said in his statement today, then it seems to me that by this time Mr. Frank ought to have yelled his brains out," said John Black last night.

"And as for Mr. Burns, I have this to say: If he is able to show me any new developments in the Frank case that are favorable to the prisoner, I am not only open to conviction, but I am perfectly willing to help him in his investigation."

Attorney Leonard Haas, associated with Reuben Arnold and Luther Z. Rosser in Frank's defense, told a Constitution reporter Thursday afternoon that he considered the Miller affidavits to be, perhaps, the strongest connecting links to be submitted to Judge Ben Hill in the prospective application for a new trial.

"It establishes an alibi beyond doubt," he stated. "It supports Miss Kern's testimony, which was a connecting link in the alibi chain, and which was one of the most decisive points in the time element. The statements of Mrs. Miller and Mr. Lefkoff prove conclusively that Frank was not at the factory at the time the Conley negro states positively they were disposing with the body."

The two new affidavits were made September 18, 1913, in Atlanta before Leonard Haas, who is a notary public. Mrs. Miller, who was a former resident of Atlanta, now resides at 502 Poplar street, Chattanooga, Tenn. Mr. Lefkoff still lives in Atlanta. At the time they saw Frank, they were walking down Whitehall street from the J. P. Allen store, where Mrs. Miller had met her sister.

#### Here Are Affidavits.

The affidavits follow. The first is that of Mrs. Miller:

"The State v. Leo M. Frank—Personally appeared Mrs. Ethel Harris Miller, who says that she is a resident of Chattanooga, Tenn.; that she formerly lived in Atlanta until she married; that she is acquainted with Mr. Leo M. Frank; that on April 26, Memorial day, of this year (1913), I met my sister, Florence Harris, who works at J. P. Allen's, in front of the store, which is in the middle of the block of Whitehall street, between Hunter and Alabama streets; that it was about 1 o'clock when I met her there. When I met her we walked down Whitehall street until we got to the corner of Alabama street, when we turned up Alabama street and walked to the corner of Forsyth and Alabama streets, where we caught the Magnolia street car home. When we reached the corner of Alabama and Whitehall streets I saw standing on the corner Mr. Leo M. Frank, and I spoke to him, and Mr. Frank bowed and spoke to me, tipping his hat. It was between 1 o'clock and 1:10 when I saw him at the corner of Whitehall and Alabama streets. My sister, Florence and Mr. Maier Lefkoff were with me when I saw Mr. Frank. My sister, however, does not know Mr. Frank,

and, of course, did not recognize him. I do not know whether Mr. Lefkoff knows Mr. Frank or not.

"ETHEL HARRIS MILLER."

"Sworn to and subscribed before me, this 18th day of September, 1913.

"LEONARD HAAS,

"Notary Public, Fulton County."

#### Lefkoff Affidavit.

The Lefkoff affidavit is as follows:

"State of Georgia v. Leo M. Frank—Personally appeared Maier Lefkoff, who, on oath, says that on April 26, 1913, he accompanied Mrs. Ethel Harris Miller when she went to meet her sister at J. P. Allen's, on Whitehall street, between Hunter and Alabama streets. We arrived at Allen's about 1 o'clock, perhaps five minutes after one. We walked down Whitehall street toward Alabama and turned up Alabama street. I should say we reached the corner of Alabama and Whitehall streets at about 1:10, as we made no stops between J. P. Allen's and that point. I do not know Mr. Frank.

"MAIER LEFKOFF."

"Sworn to and subscribed before me, this September 25, 1913.

"LEONARD HAAS,

"Notary Public, Fulton County."

The documents will be contained in the motion, extraordinary for a new trial on grounds of newly discovered evidence, which will be made before Judge Ben Hill, of the superior court, about ten days before the date of execution, which date will likely be set either some time today or Saturday.

#### Seek to Bar Detectives.

Milledgeville, Ga., March 5.—(Special.)—Young George Epps' recent affidavit concerning his testimony in the Frank case and his father's statement about the matter in the morning's Constitution has made the boy, who is confined in the state reformatory here, the center of interest.

This morning his uncle, Henry Epps, superintendent of Putnam Mill and Power company, of Eatonton, Ga., and his attorney, Colonel Roy Stubbs, came to Milledgeville and went directly to the reformatory, where they held a long conference.

His uncle is incensed by the manner in which the boy has gotten into the limelight, declaring that he does not think that detectives should have been allowed the privilege of interviewing this young boy under the existing conditions. They say that, while young George was a refractory boy, one of the main reasons why his family placed him in the reformatory was to get him away from Atlanta and further mixing up with the detectives and lawyers in the Frank case.

Mr. Epps made a strong protest at the reformatory against any further interviews for the reason that he was afraid the boy would become entangled and get deeper in trouble.

Mr. Lovvorn, superintendent of the reformatory, was in Atlanta today, but Mr. Epps and Mr. Stubbs were received by Mrs. Lovvorn, who was agitated by the frequent calls and telephone inquiries about the matter. She will await her husband's return to manage the affair.

Mr. Epps was trying to get in communication with his brother in Atlanta today to tell him not to come to Milledgeville, as he would come to Atlanta Friday. He is much disturbed over the situation.

#### Rosser in Washington.

Washington, March 5.—(Special.)—Luther Z. Rosser, counsel for Leo M. Frank, stopped over in Washington today en route home from New York. He declined to make any comment on the case, but insisted that he was not here to see William J. Burns, the detective.

"I understand Mr. Burns is in New York today," said Mr. Rosser, when asked the object of his trip.

He also said he had not seen William S. Osborne, the handwriting expert, in New York.

Mr. Rosser visited the house this afternoon and heard President Wilson's address to congress on canal tolls. Later he was the guest of Representative William Schley Howard at luncheon. He will return to Atlanta tomorrow morning.