

# WILLIAM SMITH TELLS WHY HIS OPINION HAS CHANGED AS TO GUILT OF LEO FRANK

**In Exhaustive Statement, Former Lawyer for Negro Picks Many Alleged Flaws in Story Sweeper Told on Stand, and Gives Number of Instances in Which He Says He Departed From Truth—Never Believed Pervert Story, He Asserts.**

## TELLS OF TRAP LAID FOR CONLEY WHEN NEGRO WAS IN FULTON JAIL

**Smith Now Allies Himself With Frank Defense and Confidently Expects Prisoner Will Secure Liberty—Believes Conley Guilty, But He Is Now Free From Further Penalty of the Law. Lanford Says He Is Open to Conviction.**

Attorney William M. Smith, counsel for Jim Conley, whose statement in Saturday's Constitution that he believed Leo M. Frank innocent of the murder of Mary Phagan created the newest Frank case sensation, has issued a public statement in which he explains his change of opinion.

He attributes it to constant and exhaustive study of the case, in which he catalogued, card-indexed and filed for research purposes huge volumes of Frank evidence. In this he was aided by his wife, who had never fixed a definite belief in the famous case, and who was instrumental in influencing her husband to the changed attitude.

In his latest card, Mr. Smith declares that he had always felt a certain amount of suspicion toward his client, and that there were many mysterious angles of the negro's connection with the crime which are still unexplained to his personal satisfaction. He explains his delay in making public his opinion because of the short length of time that has lapsed since he severed all connection with Conley as legal counsel.

### WILL FIGHT TO FREE FRANK.

He gives many interesting points of the case on which he says he bases his new conclusion. He states that it is his plan to fight for the liberation of the white man, but declares that there is no possible way by which Jim Conley can be dealt with for the murder, the negro having already been convicted and sentenced for implication.

Mr. Smith has prepared data and letters which he expects to send out to influential men and persons of letters throughout the country in an effort to unravel the mystery of the murder notes found by Mary Phagan's body. He has now allied himself with the Frank defense, and avers that it is only a question of time until Frank will be cleared of the crime and will be given freedom. The results of investigations now in progress he says he will make public in proper time.

### SMITH'S STATEMENT

Following is the attorney's statement:

"The unfortunate publicity given my personal opinions as to the Frank case is much to be regretted. My personal opinion is not evidence and legally should not have a feather's weight. It was never my purpose, unless absolutely necessary to save human life, to give public expression of my views. Such suggestions as occurred to me it was my intention to privately offer, that the truth might be known, through official action of the public agencies of the law.

"In an effort to inspire further search I was compelled to speak in confidence to some in whom I had every right to rely. There has been a give-way somewhere along the line, possibly through some misunderstanding, for I would dislike to believe that there was a wilful betrayal in order to accomplish a thwarting of my purpose and a handicap to my endeavors.

"While willing to face the crucifixion of blind prejudice and petty slander, it appeared best to me to help those from whom the public had a right to demand the truth and to whom the public would be more willing to listen, and who have the power to learn the truth if they will only rise to the needs of the hour.

"This crime occurred April 26, 1913. James Conley, a negro employee, was arrested by City Detectives McGill and Coker after conference with Chief of Detectives Lanford. He was arrested May 1, 1913, being discovered washing his shirt, upon which it was suspected there were stains of the blood of this little girl. A charge of 'suspicion' was entered against him upon the police records. Until recently I thought scientific test was made, but find that the bloody shirt was returned to Conley without examination by the city bacteriologist, as was done with Newt Lee's shirt. So far as can now be known this negro was washing from his shirt the life blood of Mary

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conclusion that the convicted man is innocent.

## DENIES PICTURE.

"Another reason is that Conley declined to allow his picture to be taken for publication, although both Chief Beavers and I assured him that we knew of no reason why it should not be done. I have always felt that he did not desire his picture shown for fear that someone had seen him coming in or going out of the factory, and would identify him.

"I also know that even after Conley had made all of his written admissions and statements, and after he had tried to see Frank at the jail and after he was compelled to know that any alleged hope he might have been expecting from Frank was gone, that Conley still persisted in lying about the time he was at the factory until almost the very time of the trial and until the detectives had discovered that Mr. Darley and Miss Mathe Smith were at the factory prior to the time Conley admitted seeing them. In fact, Conley never did get his time element straightened out.

"It has always been a mystery to me what became of that cotton sack that Conley says he wrapped Mary Phagan in and carried her down to the basement. He says he got this cotton sack on the second floor, carried it to the basement and left it there, yet it was never found in the basement or elsewhere, and I have never believed that the statement about the sack was the truth.

The back door of the basement, broken open within a few feet of the body of the dead girl, in the direction that Conley would go if he had gone direct home, has never been solved to my mind. Conley swears that he sometimes used this as a means of exit, and the state proved that Frank left by the front door.

"Since I heard the statements of Dr. Harris, in his office, I have never believed that the hair found on the lathe was the hair of Mary Phagan or had anything to do with her death. I cannot remember the details of what Dr. Harris and others said, but I distinctly remember the startling impression made upon me at the time by the language employed, indicating that the hair was unquestionably not that of Mary Phagan.

"Reading the official record recently, I was amazed to learn that Conley charged Frank with immorality with Daisy Hopkins two of the five times Conley says he watched for Frank. I know Daisy Hopkins, have represented her, have watched and studied Frank, and I know the types of the two people, their stations of life, their manner of living, their levels in society, their personal accomplishments and appearance, and I know as much as anyone can know anything in life without actually having been present, that Conley's statements as to this are untrue.

## STORY UNTRUE

"When Conley stated that he was not familiar with the newspaper accounts from time to time as published in the papers and that he could not read them sufficiently well to understand them, I knew this was not true. I furnished him with practically all of the newspapers carrying these stories and sometimes gave him as many as three in one day. I know that he read them sufficiently well to grasp the thread of the story and that he did have opportunity from a newspaper source to post himself.

"After visiting the factory, I did not believe that Conley, sitting, as he says he was, at the foot of the stairs on the first floor, could have heard any screams from the metal room, or tipping from the office to the metal room or back.

"I experimented with the question of the soiling of Mary Phagan's face, and learned that her entire face was so black with dirt or soil that it was necessary to look at protected portions of her limbs to discover whether she was white or black. I can understand how her face could have been completely soiled by a struggle on the dirt floor of the basement while alive and fighting for her honor, but I have been unable to understand how the hollows of her face could have been so soiled upon a hard surface like the wooden floor of the metal room. The dirty floor of the metal room would have soiled her cheeks, the end of her nose and other prominent parts of her face, but how the depressions in her face became black, even the hollows of her eyes on the wooden floor is difficult to believe, especially when Conley swears that when he found her her face was already dirty and that she was lying on her back with her face turned up.

"I have never believed Frank was a pervert. Conley never mentioned it to me before his testimony on the stand. I stood on the steps where Conley claims to have been standing, and I do not believe that it was physically possible for him to have observed from that viewpoint, even if any improper act had been occurring.

"Examining the factory building, I find no hole that fits the description in the death note more completely than the hole by which Conley swears he sat all day, and by which Mary Phagan passed going in and must have passed to come out.

## HIS SHARE OF SPOILS.

"The missing purse, hat, ribbon and flowers have always impressed me as Conley's part of the spoils.

"Upon a comparative study of the death notes with the evidence of Conley and Frank and with the Annie Maud Carter notes, I am convinced that the language of these notes is Conley's language and that Frank had nothing to do with their preparation.

"These and other things that developed as I studied created in my mind a strong conviction that a mistake of justice had been made, and I feel that with a proper consecration of effort on the part of all, and especially those whose duty it is to have justice done, that the tangled skeins of the mystery around this affair can be worked out.

"Within a few days I will be prepared to submit the results of my study of these notes. With this matter still pending in the courts, as a lawyer I doubted the propriety of making any statement and felt that it was my duty to work quietly and let the results of my efforts be used in a more appropriate way.

"In justice to the situation which has been forced upon me, at least this statement is necessary at this time. No doubt there are many who are severely criticizing what I have been unable to prevent, that is, the publication of my opinion, but I am willing to face the issue, and it is my purpose to continue to do all in my power toward the righting of the wrong that I believe has been visited upon Frank. I have other matters upon which I am investigating and in due time will present them for proper consideration."

## LANFORD'S ATTITUDE.

Detective Chief Lanford, of the bureau at police headquarters, Saturday afternoon told a reporter for The Constitution that his mind was open to conviction in the Frank case, and that if William M. Smith, Conley's counsel, presented substantial evidence and argument, the city detective department would acquit him.

Mr. Smith is preparing to launch a vigorous campaign to free Leo Frank. Frank is convicted of the murder of Mary Phagan, and has been sentenced to hang. His conviction depended largely upon the confession of Jim Conley, the negro witness, who was legally represented by Attorney Smith. Mr. Smith Saturday morning sprang a new sensation in the Frank case by declaring through The Constitution that he believed Frank innocent and his client guilty.

## OPEN TO CONVICTION.

Chief Lanford would not say whether or not he had been approached by Mr. Smith. He stated merely that he was open to conviction, and that an argument by Mr. Smith or anyone well-posted would probably have an impression upon him. The city detective department gathered the bulk of the evidence which convicted the white man. City detectives also arrested Jim Conley and put him through the third degree, which bore fruit in the negro's confession.

It was gathered from the words of Chief Lanford that if Attorney Smith offered a sound and reasonable argument in reference to Frank's alleged innocence, the detective bureau of police headquarters would reopen the investigation into the Frank case with a view of re-establishing their former convictions or upsetting them with the

Lanford, however, would make no definite statement in this respect. Neither would he make a direct assertion in regard to his belief of the white man's alleged perversion. He implied, though, that he had never believed Frank to be a pervert. This was one of the points of Lawyer Smith's statement. He declared emphatically that he had not believed Frank a pervert, even though his client had injected the question of depravity into the trial.

## MRS. SMITH'S VIEWS.

An interview with Mr. Smith Saturday afternoon brought the disclosure that his young wife was, in a large measure, responsible for his change in attitude toward the Frank case. Mrs. Smith has been a thorough student of the case since her husband first began taking an active part. She and he have had frequent discussions over it, and, from all that could be gained from Mr. Smith, she has never believed Conley innocent.

Her views had a great deal to do with influencing Smith's belief in Conley's guilt. When he began the serious study of the case with the view of coming to a definite conclusion, it was his wife and mother of his children who helped him most. She prepared data, collected and assorted it, and brought to his attention many of the phases of the case which had appealed to her most strongly as evidence of Frank's innocence.

When a reporter for The Constitution called the young lawyer over the telephone Friday night in an effort to get a definite statement after two fruitless interviews in the afternoon, Smith was, at that time, engaged with his wife in studying the Frank case. The children—two of them, baby tots who are this year attending their first days in school—had been put to bed and their father and mother had retired quietly to the library, where they were absorbed in the mass of Frank data when The Constitution man called over the telephone.

Smith, at this time, still refused to make a direct statement. He hung up the phone and told his wife of the conversation. She prevailed upon him to return to the phone and tell the public through The Constitution exactly how he stood on the matter, and what his intentions were in regard to future plans for the Frank case. Whereupon, Conley's lawyer, thirty minutes later, made the statement which, published in Saturday's Constitution, created such a sensation.

## ATTITUDE OF TEDDER.

Another thing disclosed Saturday was the attitude of C. C. Tedder, an attaché to Attorney Smith's office, who was one of the figures in the sensational scandals involving the tactics of the Burns detective agency in the Frank case. Tedder has been indicted by the Fulton county grand jury on a charge of subornation of perjury in connection with testimony alleged to have been manufactured by Burns' operatives.

Tedder is known to have felt all the while—even during the Frank trial, when he was perhaps as close to Conley as Attorney Smith—that Conley, instead of Frank, was the guilty man. Tedder now maintains that he has never expressed his opinion, and that he had never previously asserted that he believed Frank or Conley either innocent or guilty. Tedder is still connected with Smith's office.

Jim Conley, who is in the Bellwood county convict camp serving his year sentence as an accessory to Mary Phagan's murder, expressed great surprise at his lawyer's change of mind. He expects the police to again harass him with questions because of Smith's new declaration.

"It was only a short time ago that Mr. Smith was out here to see me," said the negro to reporters. "He promised me then that he would try to get me out on parole. I can't believe he actually said such a thing."

"I have told the truth all along in the Frank case, and there isn't anything that can budge me. I stick to the same story that I told at the trial, and it's the truth. Mr. Smith hasn't a thing that he can hold against me. I have made no confession nor anything like that."

Mr. Smith took pains to state to reporters that Conley had made no damaging admission, and that nothing the negro had secretly said had influenced his new opinion. He declared that his belief had been reached only through an exhaustive study of the case in its entirety.

## Frank Pleased.

Leo Frank, when interviewed by reporters in his cell at the Fulton Tower, said:

"I am gratified by the news. I had heard rumors that Mr. Smith had changed his opinion regarding Conley's connection with the case, but paid little attention to the story.

"Mr. Smith is surely in a better position than any other man to know the negro's story was a fabrication, as he has been closely associated with the negro as his lawyer.

"I have never seen Mr. Smith to know him, although I am told he was at my trial most of the time, and assisted the prosecution. I do not know that he has made known the change of his opinion to my lawyers.

"Mr. Smith may have some very important evidence, and his mind may have been influenced in its change by the flimsy case the state made out against me, and the much stronger one that developed against Conley."

# WILLIAM SMITH TELLS WHY HIS OPINION HAS CHANGED

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## Phagan. This was a surprise to me, that no scientific test had been made. MADE MANY STATEMENTS.

"During the thirty days after Conley's arrest he made several varying written affidavits and admissions to the police. During this period Conley had no lawyer and all of his written statements made to the police, prior to my employment, embodied practically the entire substance of his later testimony against Frank.

"On May 30, 1913, tentative written agreement was made between the woman who represented herself as Conley's wife and myself for me to represent Conley, subject to Conley's ratification, and with the understanding that my compensation was to be cared for by certain interests, who originally solicited my services in Conley's behalf. With the wife, Lorena Conley, I visited the Fulton county jail the night of May 30, 1913, and saw and talked with Conley for the first time.

"Receiving from Conley ratification of my employment, practically my entire communication with him at that time was relative to a policy of silence that I advised he should adopt. The next morning I immediately advised Chief Lanford and Solicitor General Dorsey of my employment and assured them as Conley's counsel I would throw no stumbling block in the way of their effort to find the truth—that personally and professionally it would be my purpose to help throw all light possible into the search. These gentlemen, as was Judge Roan, were acquainted with the names of those financially back of my employment and given a history as to how I was retained as Conley's counsel.

"Immediately I set in motion machinery that transferred Conley from the county jail back to police headquarters. I did it in a sincere effort to protect Conley from the perjury of his fellows and in an effort to have him protected and given a square deal. This was done and only such officials admitted to see Conley as were approved by me. Out of an abundance of caution on account of the Pinkerton agency's employment by the National Pencil factory I had them barred.

## PROTECTED NEGRO.

"These actions on my part were a result of my conception of my professional duty in giving this negro a fair fighting chance. From the date of my assuming this negro's defense to the close of his case I have stood by him and safeguarded and protected his every interest at great sacrifice of time and labor. No man, lawyer or layman, can point out a stone I left unturned in his defense. I sacrificed the compensation I was to receive from interests worth millions, rather than possibly jeopardize this negro's interests by premature publication. I was paid about \$40 by some negro church members, who expressed themselves as desiring only a square deal for him.

"This is not mentioned as self-praise. It was no more than any honest lawyer should do. It is advanced now for the sole purpose of showing the public I am entitled to a fair and unprejudiced study of my views.

"As Conley's counsel, and later as a lawyer and student, much of my time and best thought have been invested in a painstaking analysis of the known facts and in an independent investigation. Few people have had better opportunities to learn the truth, and no one has worked harder, I know.

"Whatever solution is made of this crime must be the right solution. Regardless of the personal or professional estimate you may have of the writer, or the motives that may or may not underlie an expression of his views, though you may believe he is influenced by money, political promise or other influence, the intelligent will at least consider, and when weighed in the balances, if they are not found wanting, the public will accept the truth of the Frank case, though the student who helps to dig it out be the devil himself. Regardless of public conjecture, there is a personal consciousness, of which I am proud, that the same spirit for the right that has

thus far led me in the discharge of my duty to Conley, is the compelling force that drives me further to learn the truth about this crime and to dare express the same.

"Fully aware of the possibly grave public censure that may be mine and wreck my professional career, which may ensue, I have not decided on this course of public expression of my views without expenditure of untiring labor and effort for facts that will have the unmistakable ring of truth. I am sensible that mistake of judgment on my part would tend to injure me ruinously and heap much damage upon the cause of truth which I seek to serve. I have consulted with my seniors in my profession of the highest integrity and learning.

## GAVE STORY VOLUNTARILY.

"Conley gave his story to the world voluntarily and in writing before I became his attorney. He voluntarily went under oath as a witness in open court as to the details of his account of the crime. As a matter of fact, therefore, there exists no confidential limitations upon me as his attorney. Under the law I am both a competent and compellable witness to testify for or against Conley as to any matter or thing which I may have acquired in any other manner than in confidence.

"The public may desire to know why I have waited so long to express my views of this case. One reason is that it has been just within a comparatively short time that my whole duty to Conley has been discharged and my relations as his attorney closed.

"As far as Conley is concerned, I have placed the bar against any further prosecution of him. The state with the light then before her made charges against him and they have been met. Conley can never be tried again on this transaction. With the light then before me I represented him, and my duty as his lawyer has been discharged.

"Another reason is that my original doubts have grown from time to time, and by study I have been swept into a fuller realization of what I now believe is the truth.

"It may seem strange to some that the light has not fallen across my path during all these months. In the first place the solicitor declined from the very first to allow me to be present when he talked with Conley. A large part of the evidence offered by the state at the trial of Frank was as much news to me as it was to the general public. I was not in position to be present at all the trial; was in the courtroom but a small portion of the time while Conley was on the stand. I heard a part of Mr. Dorsey's speech and none of the other speeches I was not a confidant of the state, and only recently have I had opportunity to analyze even the testimony of Conley.

## MONTH'S STUDY.

"I have given more than a month's study at night to the testimony of Conley alone, using a card-filing system and dissecting his every statement and grouping it under proper heads.

"Many will desire to know what prompted me to take up this work. The worst of us want to do what is right. I found any number of people who believed I had trained Conley in his story. This carried the inference that I had assisted this negro in framing a series of perjuries to save him from punishment and to assist him in judicially murdering Frank that he might be saved. This was offensive to me, in the extreme, to think that anyone could believe that I would join in perjury and murder for professional preferment. This made me more thoroughly determined to know and do the right in this case.

"These and other influences, added to my personal misgivings, emphasized the right course.

"In the first place as to my misgivings, I felt that there was something held back by Conley, and about which he wanted to talk to his woman. He would not let me know about it, and would not let me carry the message to her. This so struck me, and I was so anxious to learn the real truth about this case, that I went to Chief Lanford and explained to him how I felt about it. Following his directions, I carried the woman to the station house, and Chief Lanford placed Detective Vickery over Conley's cell to overhear the conversation between Conley and his woman. The lights were lowered, and this aroused Conley's suspicion, and he struck some matches when he was replaced in his cell. He discovered Detective Vickery on top of his cell. Thus the plan fell through, but I have always felt that there was something about this crime that Conley wanted to tell that woman and that he dared not tell even me. I have felt that possibly he wanted to tell her something that she might cover up some trace of the crime. I felt I was going a long way to assist the police to eavesdrop Conley, but I did it in