By EDWARD MARSHALL.

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# LEO M. FRANK, AN INNOCENT MAN, MAY SUFFER A DISGRACEFUL DEATH FOR ANOTHER'S CRIME

That Is the Conclusion of Edward Marshall After a Week's Investigation of the Frank Murder Case in Atlanta.

First Interview With Conley, the Ignorant Negro on Whose Sole Testimony Frank Has Been Condemned to Death.

## Summary of the Frank Case

Mary Phagan, 14 years old, was found murdered, on the morning after Confederate Memorial Day last year, on a pile of cinders in the cellar of the National Pencil Factory in Atlanta, where she worked. She had been outraged and strangled. Public sentiment demanded the punishment of the mur-

On the testimony of "Jim" Conley, a negro sweeper, Leo M. Frank, superintendent of the factory, was convicted of the murder, although at the conclusion of a trial marked by many popular demonstrations against th prisoner, the Judge declared that he did not know whether Frank was guilty or not. Both Frank and Conley had been in the factory on April 26, when Mary Phagan went there and collected her pay from Frank, but there is much testimony to show that Frank was not in the building when the crime was committed. Conley, by his own confession, assisted in disposing of the murdered girl's body. Conley charged Frank, not only with the murder, but with vices in which he professed to have assisted Frank. He also swore that after Frank had killed Mary Phagan he, Conley, helped him to dispose of

The Supreme Court later upheld the trial Judge in ruling that the trial was regular and refusing a new one. It has since been discovered that in the first trial much false testimony was accepted; various persons are charged with endeavoring to quiet the public clamor by manufacturing evidence against Frank, and it is contended that the influence of sensational journalism has also been potent against him.

Frank is under sentence to be hanged on April 17. The negro, Conley, has been sentenced merely to serve a year in the chain gang. Meantime extraordinary efforts are being made to obtain a new trial. Several Atlanta newspapers are now demanding this, and the feeling is growing that Frank is innocent of the murder, and will so be proved.

on the ground floor of the same grim

fortress, grumbles because he finds the

jail pork fat, the jail peas dry. Frank's

life is ebbing fast; he sends communi-

cations to the newspapers. "Jim" Con-

ley, losing flesh, growls like a hungry

In July of last year Frank was con-

victed of the murder of which he says

he knows absolutely nothing and is be-

lieved by thousands. His conviction was

confirmed by the Supreme Court of

Georgia, and he was resentenced while

case, studying the negro, studying the

city-wide hysteria, studying the offi-

cials who have managed or misman-

Startling features bristle everywhere

throughout the case. The crime was an

atrocious one, occurring on Confederate

Memorial Day, Saturday, April 26, 1913,

when the pretty little working girl went

to the factory to draw her pitiful wage

It was discovered early the next morn

ing, when Newt Lee, the negro night

watchman, found the child's broken

body, soiled with ashes and grime,

lying in a refuse bin in the dark cellar

gan dead was very quickly famous;

living she would almost surely not have

Frank a Man of Culture.

The man convicted now, and under

the death sentence for her murder, is a

schools. Pratt Institute, and Cornell Uni-

versity; he is a man of culture and re-

finement, he has traveled abroad, his

popularity, at least among the members

of his own religion in Atlanta, was at-

tested by the fact that he was President

of the Hebrew Benevolent Order of

B'nai B'rith in Atlanta at the time of

Other unusual features marking this

cause célèbre are the facts that the

Judge, although he denied the motion

for a new trial, made the following

statement, which is regarded as one of

the most remarkable ever made by a

"I have given this question long con-

siacration. It has given me more con-

cern than any other case I was ever in

and I want to say right here that, al-

though I heard the evidence and argu-

ments during those thirty days, I do not

know this morning whether Leo Frank

is innocent or guilty. But I was not the

one to be convinced. The jury was con-

vinced, and I must approve the verdict

The testimony brought out against this

hitherto irreproachable young man in-

cluded accusations (now scarcely credited

fall) that he frequently indulged in the

Since the day of his conviction Atlanta

has known no peace of mind. Frank's

friends have protested vigorously and

constantly, a fortune has been spent

in counsel fees and elaborate investiga-

tion, the case has passed beyond the

realm of a mere criminal trial and be-

Charges and an almost incredible

amount of proof of perjury have shocked the asually placid Southern city. A

public fund has been subscribed to build

a monument to the little victim of the

issue of the man's guilt or innocence.

tragedy; families have divided upon the

Anti-Jewish Feeling.

It may be well promptly to consider

what has been said to the effect that

anti-Jewish feeling in Atlanta has been

responsible for some of the alleged in

justices which have been done to Frank.

the Dreyfus case in France and the

After careful study of this phase

find myself inclined to think not that

any real feeling against Jews existed

in Atlanta before the Phagan murder,

but that the fact that Frank is Jewish

gave the thoughtless something which

might be used as an epithet against him.

'The damned Jew" was common talk,

but I am sure that it was meant for

Frank and not as a reproach upon the

people of his faith. There probably is

now some actual general prejudice on

both sides—outgrowth of the trial.
Mr. Dorsey, the Solicitor General, in

the questions which he put to witnesse

frequently referred, I am informed, to

derstood, whether so intended or not

that this "slush fund" was a corrup

tion purse of mighty size, raised by

the Jews to save Frank's life, right o

wrong, cost what it might. Its exist-

ence was and is truthfully denied, al

extraordinary sums of money-have not

been lacking, for he had well-to-do rela-

tives who were satisfied of his inne

cence and horrified by the situation

Mr. Dorsey hurt himself by his insinua

When Milton Klein and other Jews

were on the stand Dorsey asked them if

they were not close friends of Frank.

though money for the Frank defense-

'slush fund." It was generally un-

I have heard the Frank case likened to

by any save those interested in his down

most revolting and unnatural inclina

and overrule the motion."

come a political issue.

Beiliss case in Russia.

trial Judge in denying such a motion:

the factory. Poor little Mary Pha-

aged the raw tragedy.

of something like \$1.20.

emerged from oblivion.

his conviction.

went about Atlanta studying the

By EDWARD MARSHALL.

The murder of little Mary Phagan in Atlanta seems destined to go into history as one of the most interesting of crimes, not only because of the pretty 14-year-old little factory girl, but because of subsequent events-suspicions, denials, the double conviction of a prominent and heretofore highly respected white man on a negro's testimony, rumors of unspeakable vices, barely averted riots, and perhaps lynchings, talk of race prejudice more symptomatic of Russia than of the United States, and revelations of unlimited perjury. The Frank murder trial has even had its large political significance.

Will Frank be hanged on April 17?, It will be his thirtieth birthday. Will it be, also, his death day?

This study of the most astonishing murder case of recent years was made by special assignment of THE NEW YORK week should be spent in Atlanta devoted to interviews with those best informed and personal investigation. It reveals a complicated, fascinating wage of fact and falsehood as yet by no means fully separated to the satisfaction of the public by the action of the courts. It tells about a man who basks in the

notoriety of the death sentence with complatence and no apparent horror it includes the first full statement as yet published from the negro Conley-heartless, brutal, greedy, literally a black monster, drunken, low-lived, utterly worthless, admittedly accessory to the crime, by some suspected of being guilty of it, and-under sentence of one year's

That Leo Frank, the highly educated, well connected and hitherto respected managing expert in lead pencil manufacture, should be doomed to die, is not more astonishing than that this black pant in the horror, should be alive to tell his dreadful tale for readers of THE NEW YORK TIMES to shudder at.

I have ingrained respect for Judges and for juries: I nesitate to question, even silently, in my own mind, the working of our courts; but a careful study of this case leaves me unable to feel satisfied with what the courts have done with it.

Indeed, I am convinced that Leo Frank is absolutely innocent of the murder of little Mary Phagan. I am convinced that there has been a great miscarriage of justice, for which there have been many complicated reasons.

The exact present status of the case is that Frank's life may be saved, but may not be. It should be made a certainty.

An extraordinary motion for a new

trial is in preparation, predicated upon discoveries since the trial of new evidence and upon the proved falsity of much evidence accepted at the trial. These developments have been noted in THE TIMES as they have occurred. This motion is addressed to the sound discretion of the Judge. Frank's chief

counsel, L. Z. Rosser, Reuben Arnold, and the Haas brothers, all believe it will be grapted. If so, Frank will be retried, de novo. I firmly believe that the public, awak

ened to the weakness and character of the evidence accepted at the original trial, the police methods used to secure it, and the real facts of the case wil demand an acquittal. But be that as i may, Frank was tried at a time o great excitement, in the midst of great prejudices, and the inherently fair people of Atlanta are beginning to feel exceedingly uncertain of the justice of the verdict. In case a new trial is denied, which

seems improbable, the case will be carried to the Board of Pardons, which may recommend a pardon to the Governor: or Frank may be pardoned by the Governor direct, without action by the Bureau of Pardons. It is inconceivable that he should hang, under the sentence now imposed upon him. Indeed, this is a matter worthy of the national interest it is arousing.

Where the White Man Rules.

Consider this: The scene, Atlanta, where the white man fosters white supremacy with passionate resolve, where not so many years ago a negro's attack upon a little white girl was followed by a race riot lasting several vicious days and lurid nights, and bringing death to fifty negroes-perhaps more-nobody counted them; nobody, that is, no white man cared how many there might be of them The chief living actor in the drama, young man of prominence. A city seething in its courts of justice, in its family circles, in its political affairs, even in

And the white man doomed to die writes essays on his innocence in his steel cage on the topmost tier of Atlanta's lynch - mob - proof "Tower," while the negro, condoned with twelve months of imprisonment, in his cage,

Mr. Dorsey spoke of Frank's Washington Street friends, Washington Street being a thoroughfare largly occupied by Jew-

"Hang the Jew." When the list of Jewish witnesses was being read by counsel the audience laughed audibly. Kendley, a witness against Frank, was shown to be a Jew hater, and in court was credited with the remark that whether Frank was guilty or was innocent, the authorities "ought to hang the Jew." The juror. Henslee, was shown by affidavits in the application for a new trial to have frequently alluded to Frank as the "damned

Jew, Indeed there seems to be good reason to believe that after the case had reached the trial stage derogatory remarks concerning Jews were common in the courtroom crowd. These are attested in the new trial affidavits. I am assured that the four Jews on the Grand Jury all were opposed to the indictment, and will make affidavit to that fact if so requested. The law requires indictment on vote of the majority. But it is probable that there exists

among some classes in Atlanta prejudice extending beyond the Jews to all outsiders from abroad. Newcomers from foreign countries do not make the fine distinctions between the negro and the white man which it is tradition in old Atlanta to demand. The foreigner has no color prejudice. He meets the negroes upon equal terms. This may very well explain much of the general race When first arrested Frank had against

him the community and all its newspapers. Out of court they had tried him and convicted him before he ever stepped into the actual courtroom. His only supporters were the rabbi of

his Jewish congregation and his Jewish friends. This arrayed these few and him against the balance of Atlanta. It made of it a battle. This itself helped to create a general prejudice. The expression, common in Atlanta then and still common there amons

some classes when Frank is referred to, (although there is a strong and general revulsion of opinion in his favor) was "the Jew"; often it was "the damned Jew." It was not, is not, especially significant. Had he been a Japanese in the same circumstances he would have been called "the Jap" or "the damned Jap"; had he been a Greek, "the damned Greek"; an Italian, "the damned dago."

The greatest prejudice of all undoubtedly arose from the entirely unfounded rumors of mutilation of the murdered girl. They were followed by the wildest, and, most people now admit, wholly unfounded and inexcusable tales of perversion upon Frank's part. Indeed, there seems not to have been one vile indignity which has not been heaped upon this suffering defendant.

Of these dreadful and entirely unjustifled stories-these most awful of all slanders-the prosecuting attorney made the most. He referred to Oscar Wilde and Frank in the same sentences, sneeringly. An attempt to draw a parallel between the unsavory and horrid San Francisco "Durant case" and Frank's formed a large part of his closing address. The allegation, since demwas a degenerate, was dinned into the public's ears.

The Formsby woman's repudiation of her affidavit against Frank's moral sion that the police forced her into making it, will never be sufficient to undo the harm her widely heralded charges did him; even if they do not help to convict him.

It has been an extraordinary case for affidavits of all kinds, most of them, it would seem to an outsider, subject to immediate denial. In the case of the boy Epps, whose original testimony was exceedingly incriminating. there have been so many statements and retractions that Atlanta is amused by the mere mention of his name. It

## is a byword, meaning "little liar." Conley's Mixed Testimony.

Conley's testimony, which principally convicted Frank, appears so full of contradictions to the outside reader of his words that it is difficult to think of any jury taking it at its face value. He has admitted that he made such numerous misstatements at the first that he could not keep track of them, yet Leo Frank is doomed to die upon his birthday. Conley said, among other things, that after what he swore to upon May 29, supposed to be his final word, he was

taken three times to the Solicitor's office; that the Solicitor General went to see him four times, and that each meeting was the occasion of additions to his story. I have analyzed these statements with much care. The result is interesting, but too long for use here.

Not the least important of new evi dence upon which the battle for Frank's life now centres deals with the nature of the blanks on which the "murde notes" found near the little dead gir had been written. Conley swore that they were on new blanks, taken from Frank's desk; a microscopic search of them shows them written on old blanks from which old writing had been partly erased, and of a kind not used for many years. These would naturally be among the rubbish in the cellar, lying close at Conley's hand, and not easily available to Frank. This is among the most important of new

evidence. There is much more. Two strands of hair upon a lathe were regarded as convincing proof that Mary Phagan's pathetic little head was bruised and cut there—a circumstance which looked bad for the Superintendent. Dr. Harris, an expert, after microscopical examination, says that these hairs never came from Mary

Phagan's head. Among the numerous recanting witnesses Albert McKnight, negro husband of Frank's cook, declared a story dam aging to Frank had been manufactured for him by the police.

Conley's statement of the time element in the brutal crime is flatly contradicted by the testimony of not less than six new witnesses. Another inconsistency in his story has developed. Hè claims he had the door locked while he watched to keep all visitors away from Frank's assault upon the little mill girl; but now states that when Frank called him up to help him move the body he unlocked the door, leaving the factory open to any one who might come in and catch them at their dreadful work. If he guarded Frank's alleged immoral praces so carefully, it is inconceivable that he should be so careless when himself engaged in crime. And while he watched" for Frank he let a little

girl go up the stairs and she saw noth-Where the negro claims to have picked up the body in the metal room there was not a particle of blood; a careful reading of his evidence makes it appear as if it might have been designed,

not very cleverly, to fit some stains,



LEO M. FRANK OF ATLANTA

not proved to be Mary Phagan's blood, before the women's dressing room. Cellar, Scene of Tragedy.

Where the police claimed that they found a mark upon the floor, as if the body had been dragged, Conley swears the little girl was held clear of the floor and did not drag. A soft substance deposited underneath the elevator at an hour before the murder was untouched the following morning, but mashed with the new day's first use of the elevator, which would indicate that the elevator was not used upon the day of the murder, which was a holiday. Conley swore that he and Frank took the body down upon the elevator.

In the event that they did not, the theory must be that Mary Phagan met her death down in the cellar, at a point not far from where she rested when discovered dead, and that would be a mighty point in Frank's favor. Two men who were on the fourth floor did not hear the elevator run, and I'can personally testify that it is a noisy machine.

Gordon Bailey, in whose presence Conley said that Frank requested him to come and watch for him on Saturday, denies this.

These are but a few of the innumer able complications of this case. It does not seem unreasonable to believe that their existence will be recognized by the authorities and that something will be done to bring a greater clarity into it, before requiring of this man the su preme penalty. So much has been disproved of the testimony which was brought against him that many now believe that presently his guilt will be disproved utterly.

And there have been other influences. An attorney of sensational reputation announced that he had been retained by popular subscription to see to it that ustice was expedited. His statements were inflammatory, condemnatory of Frank, charged the police with selling out to the "rich Jews," and with endeavoring to discredit the Solicitor

One public suggestion ran: "I can call a mass meeting to-morrow afternoon through the papers and have 10,000 of the best citizens of this town meet at Five Points and go to the station house and hang Beavers and Lanford to two telephone poles." Beavers is the Chief of Police, Lanford is the Chief of Detectives.

When Lawyer Felder came out with the statement that the Chief of Police and detectives had been shielding Frank the Chief retorted, "Frank will be convicted. He is the guilty man." When the police claimed to have se-

cured the statement from the negro Conley in which he charged his Superintendent with unnamable offenses, claimed to have been his lookout for him on many previous occasions, said that he was watching for him on that fatal Saturday after pretty Mary Phagan had gone up to get her pay and was alone with him. Frank for the first time had some newspaper support.

"Can that statement stand any test of reason?" one editor inquired. "That Frank should have premeditated the deed." (Conley's first claim being that they had discussed it the day previous to its commission.) "that he should have given even an inkling of his plans to a negro, that he should have made Conley his confidant, that he should have made the alleged sly remark: Why should I hang?' all this is fairly

Yet it was Conley's testimony upon which the prosecution based its entire fabric. An important factor of the clearly un-

fair treatment Frank had from the public press of his own city must be recognized in the great rivalry existing at that particular time among three Atlanta newspapers. A literal war for circulation was in progress, and the combatants were active, alert, resourceful. New Frank case sensations, true, halftrue or false, were their most available ammunition. If in the history or newspapers that form of journalism known as "yellow"

ever ran riot in a town it did there in Atlanta during Leo Frank's ordeal. Extras, extras-every hour saw extras. and, to Atlanta extras were new things and impressive. Anything would form the basis, for an extra, but something prejudicial to Frank's interest would form the basis for an extra sure to have a mighty sale.

Most of the newspaper comment was antagonistic. Indeed, the claim is frequent that Frank was newspaper convicted. In The Constitution of May 26 appeared an article with headlines run-'Frank Is Guilty,' says a Pinkerton

Convict Him,' Declares Man Hired by the Pencil Company." In The Georgian, May 26, a headling read: "Lay Bribery Effort to Frank's Friends; Colyer Tells Lanford that Two Persons Swear False Testimony Was Sought." In the same paper rumors were repeated that Nina Formsby and Monteen Stover, two witnesses for the prosecution, the first known as a keeper

man. ('This detective's name is Harry

Scott.)

'Sufficient Evidence Found to

of a disorderly house, had been offered money to leave town. Again, in the same paper, an article bearing the headlines, " Evidence Against Frank Conclusive, Say Police," was certainly at that time unfair to the accused and inflammatory of the public

## Flaunted Police Views.

Interviews with the Chief of Detec tives, Lanford, were common episodes in the Atlanta newspapers. "Conley's story \* \* \* is the truth. \* \* \* We were already convinced. \* \* \* Makes the case against Frank direct and positive. \* \* \* Conley will make no fur ther confession. There is none for him to make. \* \* \* From the very first we were convinced that Frank was guilty, but we were never prejudiced against him." These are sample statements.

In an interview given to The Constitution Chief Lanford said the negro after his arrest, had been taken from imprisonment in the Tower to a cell at Police Headquarters to escape the harassment of visitors to Frank, declaring that they stopped at his cell, tried to make him drink liquor, and endeavored to intimidate him. In the same interview Sheriff Mangan was accused of placing obstacles in the way of the

So much for newspaper handling o the case, which is credited by the defense with arousing much of the really wild prejudice against Frank before his trial and greatly influencing the public, and through the public the jurors. It is true that in the newspapers the wildest rumors were continually repeated, only to be denied in later issues. This case introduced the "extra" to Atlanta.

Then came affidavits and reported affidavits which later were denied by those who made them. One of these (published in The Constitution, June 4) credited Minola McKnight, colored servant in the Frank home, with having quoted Mrs. Frank to the effect that Frank was drunk on that fatal Saturday night and made her sleep upon a rug; as saying that Mr. Frank had muttered that he could not understand how he could be guilty of murder; that he had begged his wife for a pistol to be used for suicidal purposes.

The denial of this affidavit by Frank's cook was not far behind its publication, but the defense maintains that it had had its dire effect upon the public mind. The Georgian, in printing the retraction, said: "The woman denies absolutely every statement attributed to her by the police and denies that she ever signed the paper made public by the police.' No member of the Frank family was

present when she made this denial. She also denied engaging an attorney, who was credited with having been retained by her, announcing with some drama, as she raised her hand: "I ain't got no lawyer except God." Rumors of Domestic Strife.

In the meantime, as a natural sequence of the charges that the prisoner and been guilty of unnamable crimes with

women, the rumor was but natural that there had been domestic troubles in the Frank family. These rumors still persist. They were mentioned to me by the Solicitor General during our talk at the Country Club. Mrs. Frank passionately denies them. They were supposed to find substantiation in the fact that for a day or two she did not visit Frank n his confinement. Rabbi Marks, chief of the Jewish con-

gregation of which the Franks are mem-Frank did not go to the police station for a time was that her husband begged her not to. He wished not to have her see him in the vile surroundings of the station house. She has been constant in her visits to him since he has withdrawn the ban on them. I did not see Mrs. Frank while in Atlanta, but every rumor-and they still

are plentiful-of revolt of Mrs. Frank against her husband because of vicious tendencies before the crime and because of horror and distrust since the discovery of the murder and his accusation were specifically denied by Rabbi Marks, whose devotion to Frank's interests and certainty of his innocence are worth a journey to Atlanta to

A part of an article in The Georgian worth quotation as indicating the mad contradictions of the time: On the heels of the utter repudiation of Minola McKnight, cook in the house

hold of Leo M. Frank, of the statement she is alleged to have made in the sensational police affidavits, Mrs. Leo M. Frank made her first public statement -an eloquently pathetic defense of her husband-and attacks Solicitor Dorsey's methods in obtaining evidence, charging torture and a deliberate determination to distort facts."

A Brilliant Prosecutor. During the afternoon which I spent with Solicitor General Dorsey, the pros-

ecuting officer. I noted many things about him. His mentality is brilliant He is not a large man; he is light in coloring. The strain of the case or an illness of some sort has ringed his eyes with almost startling shadows He would not talk for publication, but he talked privately with apparent freedom Of course he would not admit that there had been anything in the conduct of the case which he regretted.

When I asked him if I might see Conlev at the prison he demurred emphatically at first, upon the ground that every other newspaper man had beer refused the privilege. He then told me he would let me see the negro if I would prepare myself to talk to him with really informed mind. I did the best could to fit myself to talk with Conley and the interview was finally arranged through William Smith, Conley's coun-Mr. Smith introduced me to the negro

with the words: "Jim, this gentleman is from THE NEW YORK TIMES. Tell him everything you know."

Conley Nimble in Replies. In fairness to Attorney Smith and

Conley I must say here that from that

moment the attorney interfered with me not at all. He sat back in the shadows of the corridor, while I stayed close before the bars of Conley's cage and asked him what I liked. His answers were rarely copious. He said "yes" or "no" when they would serve, apparently not through any wish

to be uncommunicative, but because his mind did not proceed beyond the direct question and direct reply. But this must not be taken as an indication that the man is stupid. On the other hand, he is amazingly alert concerning things which interest him. He did not seem to be at all afraid. In the course of much more than an hour's talk I found it impossible to get

from him the slightest contradiction of the story he had told upon the witness stand. It seemed to me, at first, that his answers came so glibly as to indicate that he had been well drilled in them, but this I presently disproved without much difficulty by asking questions widely different in wording, requiring answers widely different in wording, but conveying always the same general meaning. He met each one with the same promptness. He did not hesitate at all

at any time; he did not contradict him-

### Rewrites Murder Note. When I asked him to rewrite one of

the famous "murder notes." he agreed to do so without any protest, took the paper, and the pencil which I handed through the bars to him, and slowly, but not laboriously or uncertainly, produced the note found, in his handwriting, beside Mary Phagan's body and purporting to be written by her, but which his "confession" charged was dictated to him by Frank. Comparison of it with the "murder note" which it was meant to duplicate reveals some variations, but they are slight. After he had written the note I asked

him many times just what he meant by "the night witch," (supposedly night watchman, who the note said did it.

He caught me very cleverly each time with the statement that he did not know just what the term could mean. Mr. Frank had dictated the notes, he said, and I must ask him what the term meant. He would not go beyond this statement, but later that same evening I questioned many negroes in the negro quarter and finally discovered one who told me without hesitation that a negro who witch" during sleep meant that he had had lewd dreams. I have not seen this point made any

where. It would seem to help toward the establishment of Frank's statement that he did not dictate the "murder vernacular is apparently not known to many whites; more negroes denied that they had ever heard the term than admitted to me that they were familiar with it.

In the following transcript of my interview with him I shall make no effort to indicate his negro dialect, which is far less pronounced than that of some Atlanta negroes.

"Every word I said upon the stand was the God's truth," he evenly asserted, as he sat close to his bars, while ? sat in the corridor. "I didn't have a thing to do with killing her. No, sir boss, I didn't have a thing to do with killing her, Mr. Frank he killed her and then called for me to come and help him with the body,' 'Did you dislike Mr. Frank?"

"I didn't then, but I do now, Mr Frank he done gone back on me. He ain't kept his promises. He said I shouldn't get into no trouble and here I am, locked up. I don't have scarcely anything worth while to eat."

Throughout our talk it seemed impossible to hold Conley's mind for any lengthy period away from thought of food. He answered everything I asked him about Mary Phagan, about Mr Frank, about his own connection with the crime, but he would have been much better pleased had I permitted him to confine his talk to grumbling about his Devoid of Emotion.

I have never seen a human being so

apparently emotionless. It was impossible to stir him into anything approaching interest in his recital of the al leged details of the crime; he plainly feels no pity for the parents of the murdered girl; he seems to feel no interest in the fact that she is dead; he recalls the horrid part in the affair which he admits he played without the slightest sign of sorrow or remorse. "Was Mr. Frank unkind to you at any time while he was your boss there at the pencil factory?" I asked.

"No, Sir; he was always good and nice to me, them days." "Are you glad or sorry he is upstairs, now, sentenced to be hanged? 'Reckon I am right glad, boss, for he didn't stick to me. He went back on

"Just what do you mean by that, Jim?" I had already learned that he was better pleased when I addressed him as plain "Jim" than when I called him "Conley."

"This is what I mean," the negro answered, and as he spoke his face for the toothed grin which it had worn ever since Attorney Smith had told him he could talk to me. "He got me to help him with that body that night at the factory and then he tried to put the whole thing off on me.

"He tried to put the whole thing off on me and get me punished for a thing I didn't do. It made me turn against him. I ain't got no use for that man now; no, Sir-no use. I don't like him any more." 'Jim, had you ever thought that Mr.

Frank meant any wrong by Mary Phagan before that day there at the factory?

'Don't know's I had, boss. No. Sir. I had not. First time I ever thought he wanted Mary Phagan was that Saturday." It should be remembered that origi-

nally he stated that the plans were made and the notes written on the previous day, but the statement which he made to me agrees with that which finally stood in his testimony at the "When you found out that he wanted her, weren't you sorry for her? "

"No, Sir; I wasn't sorry for her." "Didn't you know that Mary Phagan

was a good girl?' "I didn't know a thing about her." "Didn't you know that she was not a

"I didn't know whether she was a bad girl or not. What did I care, anyway? I never had seen her before that day. I reckon. Maybe I had seen her, but I reckon that I hadn't.'

Tells of Standing Watch.

"First time I ever know that I had seen her was while I was downstairs in the front hallway by the stairs, sitting on the boxes, keeping watch for him." He asked you to keep watch for

"Yes, Sir. When I saw her go up stairs I kept on sitting there, because he'd said I was to sit there. He didn't want to have nobody else go up. That's what I sat there for."

In the meantime, as a matter of fact, in the factory were several other people, any one of whom might have interrupted Frank at any moment.

Did you think then that he meant to do any harm to little Mary?" "I didn't know just what he wanted " Didn't you care, Jim?"

"No, Sir; I reckon not. I thought he wanted something bad of some of the women that went upstairs to his office sometimes, but there wasn't any thing more than usual, I reckon, to make me think he wanted anything bad of Mary Phagan. No, Sir. I didn't know's he wanted anything that wasn' right with her. And, no, Sir, I didn' "Didn't you wonder?"

What did you do after she had gone upstairs?" "I just went to sleep there on the hoxes."

" No. Sir; I just didn't think about it."

"Then you didn't keep a very close lookout for him, as you had promised you would do." The negro grinned with real amusement. "No, Sir; guess I didn't. I went to sleep, all right."

'What woke you up?" "I don't know what woke me up. just woke up, I guess.' 'Did you hear any startling noises

from upstairs? Anything which made you think that anything was wrong, up " No. Sir: I don't think so. Just woke up by myself. I reckon. Maybe he had called me. Anyway he did call me. He

called me, and I got off the box and went where I could see him, "Then he called me up to the top o them steps and I saw he looked kind of sick. I asked him what the matter

stood there at the top of the stairs and

What did you say, Jim, when Mr. Frank confessed to you that he had struck a little girl?"

Jim's emotions were no more aroused by the recital than he said they had. been at that moment on the stairs. 'Why, I didn't say anything," he an-

and had struck her too hard." "Weren't you worried? Maybe a little frightened?' "No. Sir; I hadn't struck her. It was

swered. "He said he had struck her

Mr. Frank that had struck her. I wasn't worried; no, Sir." Where did you go then?"

"Well, he stayed there at the top of the steps, rubbing his hands together and looking mighty pale. He shook. too. And he told me to go back and get her and bring her 'up here,' he said. I suppose he meant for me to bring her on out of the room where he had left

Found the Girl Dead.

"Well, I went back where he said for me to go, and there I found the little girl, just where he had said I would. She was lying there squashed down. And when I looked at her I saw there was a cord tied around her neck." "Was it tied tight, Jim?"

"Yes, Sir; I recken that that cord was tied right tight. And there was a cloth tied around her head." "Weren't you getting frightened?"

"No, sir; I wasn't getting frightened any. I hadn't anything to be fright-ened over. Mr. Frank had done it. After I looked around and saw her good I knowed then he had killed her. She was dead; yes, Sir. I knowed that." "What did you do then? Did you touch her?

"I don't think so. I made sure that she was dead and then I went back to him, where he stood there at the top of the steps, and told him she was dead. He was standing there, like he was watching to see if anybody come." 'What did he say?'

"'S-h-h!' he says to me. 'S-h-h! That's all he said."

Was he very nervous?" "Yes, Sir; he was mighty nervous. And then he told me to go to the cotton box and get a piece of cloth to wrap around her, and then he said that after I had gone and got the cloth and wrapped it around her I was to fetch

"Well," he went on, "I went and got the cloth and laid it on the floor and then I put her into it." "Didn't that bother you at all? Weren't you nervous then?"

"No, Sir; I wasn't nervous." The calm with which this negro described his handling of the poor, dead girl's body was, if, indeed, she then was dead, perhaps the most extraordinary psychological exhibition which I ever have witnessed. He was not flippant in the least; he could not be said even to be indifferent. He was matter of fact. It was as if he had referred to handling a bag of coal or a sack of flour.

"After I had put her in the cloth ooked around and found her hat and

"Why, weren't they where they be longed, on her head and foot? Tied Up the Body.

"I reckon they come off while they ribbon. I put the shoe and hat and ibbon in the cloth that I had wrapped around her and I tied the cloth up all around her just like a washerwoman would tie up a hundle of washing." What did you do then?

"Why, just what Mr. Frank had meant to have me do. He told me to take her up there. So I took the body and I put it on my right shoulder and I took her as far as I could that way It wasn't very far, because there wasn't any stiffness in her and she hung down and flopped around and she got mighty heavy. It was hard to hang on to her. She hung down and got so heavy that

it made me jump and so I hollered." Were you frightened?" "Well, I wasn't just exactly frightened. but I let her drop, and I hollered then for him to come and help me. He came running up on tiptoes, and he looked at her and stooped down and took hold of her by the feet. Then he says to me, 'Help me, you damn fool.' "So I took her by the shoulders and

we dragged her along that way. Seemed like she got heavier all the time." Wern't you nervous, now? "No, Sire only, when I jumped and let her drop. But he was mighty nervous, Mr. Frank was. He kept wetting his lips and his hands shook.

"And he says to me, 'Put her on the elevator,' and we put her on the elevator.' 'Laid her down on it?"

"Well, we dropped her onto it. And then he tried to start the elevator. He pulled on one of the cords, but the elevator wouldn't go down.'' How was she lying on the elevator. Jim?

on the elevator. Just laying there. And when he found the elevator wouldn't work, he says: 'Wait here, and I'll go and get the key.' And he went away into the office and he got the key and then he come back there, unlocked the switchbox,

"I don't remember how she was lying

on the elevator. All three of us; yes, Points to His Testimony,

turned on the power, the motor started

up, and then he pulled the rope, or I

did, and we went down to the basement

At this point in Jim's recital my time with him was growing short, for he had repeatedly interrupted his story of the murder to tell about his food, his education, and his determination not to run away from Atlanta after he had served his term in prison or been released after a new trial, for which his lawyer now is striving. His attorney, Mr. Smith, commented on this, although he did not hurry me at all or object to any of the many questions which had drawn out Jim's meagre, sordid, horrifying story thus far.

"They got the rest of it all right in the court'record," Jim commented. "It's just the way it really happened. Just the way I told it there in court. I ain't going to make any changes in it. There ain't no changes to be made. It happened from now on and up to now just the way I said in court it happened: 'And the murder notes, Jim?

They come just like I told 'em that they come.' "You wrote them?" "Yes, Sir; I wrote them."

"How did you think of what to write?" "I didn't think of what to write. Mr. Frank he told me what to write.'

"Told you exactly what to write?" "Yes, Sir; told me just what to write." "Every word?"

' Yes, Sir: every word." "Yes, Sir; night witch."

"Will you tell me how you learned to write? "

"Oh, Ljust learned."
"Anybody help you, Jim?" "Yes, somebody helped me. But 4

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## WHY HE DEMANDS A NEW TRIAL

didn't learn in school. I learned to write a long time ago, but there wasn't no-body much knew I could write."

' How did Mr. Frank know you could write?"

"He had some writing I had wrote in his own desk. Oh, he knew. If he hadn't knowed that I could write how come he'd ask me to write down them notes?"

"But, Jim, you've told two stories about when he asked you to write them. Which one is true and why did you tell

one that wasn't?"

"Well, the last one that I told is true. He didn't ask me to write the notes on Friday and I didn't write the notes on Friday. He asked me to on Saturday, just like I said he did. And it was Saturday I wrote 'em, just like I said it was."

"Why should you have written them for him? Didn't you know that knowing you could write, people would recognize your writing and accuse you of the crime?"

#### Fury On His Face.

"Wasn't many except Mr. Frank that knowed I could write. I didn't think he would go back on me." Jim Conley's he would go back on me." Jim Conley's curiously primitive face became extremely hard and wooden-ebony like. It scarcely expressed rage. It just got hard. "I wish I could get at him," he said briefly. "Wish I could get at him."

him."
"Did you make any agreement with him "

"Sure I did. He made me mighty pretty promises. He told me that if I got locked up he'd get me out on bond and for me to keep my mouth shut. I believed him. I always did believe him. That's where I made a big mistake. I thought he'd get me out and send me away from here, and I stood by him. There in the court room they kept me on the stand two days and a half.

"It was Saturday he told me that, and on Monday they had me in the court. They said I had been washing my shirt, and that was true, but it was not because there was any blood on it, but because I had to go to court, and I wanted that shirt clean. Couldn't gone to court with that shirt like it

"They brought me to the station house and put me in the cell. I don't know how long I was there. They treated me right mean. Kept nagging me. They wanted to know if I could write, and I told them that I couldn't.

"You see, there was two reasons why I didn't want to have them think I wrote them notes. In the first place, I was figuring that if I said I wrote the notes

figuring that if I said I wrote the notes they'd try to put the killing of the little girl on me. I thought probably that if I told them that I wrote the notes that it would hurt me. So I kept on saying that I couldn't write. And the other reason was that I was sticking tight to what I promised Mr. Frank. I wanted to wait and see what Mr. Frank was going to do.

"Even yet I thought that if I give him time he'd do the square thing, like he said he would. I thought he'd help me out. He'd told me all about his rich rea tions in Brooklyn, and I thought never did get on to him at all uney took me up to Chief Lanford's and showed me a newspaper. In the mewspaper it was all printed out he was doing. It said that Mr. If ik was trying to put off the whole ag on me. .ig on me.

### Turned Against Frank.

"I hadn't had any lawyer up to then. But then I started in to feel a little kind of scared. I hadn't really worried up

to then. But now I saw that people all was trying to put the whole thing off on me and I began to wonder where I would end up. I didn't like to think about a rope around my neck.

"It was getting mighty hard to keep on telling all that stuff that wasn't true, and finally I owned up the truth.

"I saw that Mr. Frank wouldn't do nothing for me. But even then I wasn't what you might call really mad at him like I am now. I figured that he was in trouble, too, and that he couldn't help himself, let alone help me.

"They was going to put a rope around my neck. That was what they sure was going to do if I didn't come out with the whole truth and let them know hat it was Mr. Frank, not me, that illed that little girl. So I come out.

"I was mighty anxious before that to get taken out of the police station and locked up here in the Tower, where Mr. Frank was, for I thought that if I once got locked up here I'd see Mr. Frank and that he'd tell me what to do. I thought maybe we could have a private talk.

"But when we got a chance to see each other, and I bet we could have a private talk.

"But when we got a chance to see each other, and I bet we wouldn't. They had told me that he wouldn't. They had told me he was trying to put off the thing on me and I hadn't quite believed them.

"Now I saw that Mr. Frank was going to let me hang: that Mr. Frank was going to let me hang: that Mr. Frank was going to let me hang: that Mr. Frank was going to let me hang: that Mr. Frank was going to let me hang: that Mr. Frank was going to let me hang: that Wr. Frank was going to let me hang: that Mr. Frank was going to let me hang: that wh. Frank was going to let me hang: that wh. Frank was going to let me hang: that wh. Frank was going to let me hang: that when they said was true. I saw that what they said was true. I saw that what they said was true. I saw that what he whole truth. I never would have gone back on him if he hadn't gone back on me first. And then they made a charge against me that I was an accessory." (This word was too mu what it means it means a man who done comes in after everything is done done."

Those are Conley's words—exactly quoted—in detining the meaning of "accessory."
I asked Jim if he had a family there in Atlanta.
"Yes, Sir," he answered. "My mother's living here."

In Atlanta.

"Yes, Sir." he answered. "My mother's living here."

"How does she feel about all this?"

"I don't know how she feels about it.
I reckon she feels bad. She wants to come and see me, but they won't let her. It's seven months and eight days that I've been locked up. Yes, Sir. Seven months and eight days."

Smith, his counsel, laughed. "Jim keeps close track of time," said he. I asked Jim what he planned to do when his sentence of one year is up.

"I'm going to get a job and go to work right here in Atlanta. They can't drive me out of here. I ain't afraid of any white man here. Some bad nigger he might come along and stick me with a knife. But no white man will."

Denies Promise of Clemency.

### Denies Promise of Clemency

There has been talk that the Solicitor General has told Conley that he would protect him against capital punishment as a reward for testifying against Frank, even if it transpired that the negro is the guilty man. I asked Jim

negro is the guilty man. I asked Jim about this. He grinned.
"No, Sir: Mr. Lorsey never told me nothing like that." he answered. "What he said was that he do break my neck if I didn't tell the truth, and that that was all he wanted of me. He talked to me by hisself. I like him all right. Nobody has been mean to me but Mr. Frank."
"Would you ever again do a thing like what you did?"

has been mean to me again do a thing like what you did?"
"No, Sir; I would not."
"His attorney now broke in. "Jim, didn't I tell you to tell the truth, even

didn't I tell you to tell the truth, even it it hung you?"
Jim did not look as cheerful as he had been looking. "Yes, Sir."
"Have I told you that since Mr. Frank's conviction?"
"Yes, Sir, Mr. Smith. You told me to tell the truth if it would hang me."
"Did any detectives try to get you to lie?" I asked.
"No, Sir: Mr. Starres and Mr. Campbell, they talked with me first, but they didn't ever say they wanted me to lie."

"When you told them things would they take you around to fird out if you told the truth about them?"

This query also was suggested by the negro's counsel.

"Yes; they took me around in an automobile."

"Were you afraid when they took you back to the factory?"

I wish I might convey in printed words the utterly uncanny episode that followed. I shall not even try, though, for it was too dreadful.

I tried to stir in Conley's breast some sign of emotion, some pity for the little dead girl. some sign of horror at remembrance of the details of the crime. I failed.

There are certain things omitted from the make-up of this negro which I had previously supposed were in some small degree in every human being, no matter how devoid of virtue, how hardened to a criminal career he might be. But Jim Conley, this negro whose word was taken against Leo Frank, and may send the college man to death, is not like any other human being I have ever seen.

#### Brute in Human Form.

I asked him leading questions about his feelings while he held the little dead girl in his arms, while he was dragging her to her last hiding place, while he was dropping her and raising her again.

Once her falling frightened him, but it seems that it was rather because he thought she showed some sign of life than because of the dread consciousness

than because of the dread consciousness that she was dead of violence and saging in his arms.

I shall let the really revolting psychology of the extraordinary negro passly saying that many years of newspaper work have never before thrown in contact with anything quite so repellant as his description of his callous handling of the poor, dead child. His calm, his orutal frankness in discussing the grim details of his journey to the elevator, the down trip and his greadful burden-bearing in the cellar of the pencil factory, far surpassed in horror anything that I had ever heard; they far surpass in horror anything I ever wish to hear.

"It didn't make you feel sick, Jim?"

"No, Sir; I didn't feel sick, none."

I asked Jim if he had ever been to church."

No, SH, I didn't leef sick, none. I asked Jim if he had ever been to church.

"I been to Baptist church."

"Did they tell you about heaven and hell, there?"

He was plainly puzzled. "Been so long I done forgot. I know the preacher said a lot about badness.

"But, mister, I just want to git out of this jail. I'm going to be "y years old some time next month, and I'm going to have my birthday right here in this prison or in the chain gang. Makes me right mad to have to stand all this for what the done."

"But think of what may happen to

But think of what may happen to

Yes, Sir, I know what you mean."
e didn't flinch. "He's going to be

He didn't flinch. "He's going to be hung."
"And you're not sorry?"
"No, boss, I am't sorry."
And soon afterward I went away from Conley. I was glad to be away from him. I never shall forget his horrid story of his treatment of the poor, dead little girl. Whoever killed her, Conley must remain to those who see him as I did the incarnation of brutality.

## Food His Only Thought.

"Say, boss." he called after "Can't you get them to give me some better stuff to eat?"

I went back to him. Frank, the dead

I went back to bim. Frank, the dead child, and the gallows all had left his mind. He held the pannikin of pork and peas in his black, powerful hands.
"I'm 5 feet 9 and weighed 165 pounds when they first locked me up. I don't weigh moren 140 now." He fingered the fat pork. "Say, boss, ask 'em, will you? I can't eat this."
"Could you send out and buy some food that you would like?"
"I ain't got no money, boss.'
His attorney tried to pull me on, but I gave Jim \$2.
Instantly all his sorrows were forgotten. He took the money which meant something for his stomach and stood there grinning happily at me.
What did he care for the memory of little Mary Phagan? What did he care for Leo Frank, up stairs, and waiting to be hanged.
He had \$2 of good money. He could get some food that would be palatable,