

# LEO FRANK WROTE HIS OWN ALIBI

## Time Schedule and Other Data Written by Him to Show He Couldn't Have Committed the Crime

Two years ago the following statement was written by Leo M. Frank as data for an investigator to follow up and confirm.

It has never before been published.

**B**Y means of this chart, based on testimony of both State and defense witnesses, Frank's attorneys proved it was a physical impossibility for him to have killed Mary Phagan:

April 26, 1913.

7:30 A. M.—Seen at breakfast by Mineola McKnight.  
 8:25 A. M.—Frank arrives at factory. Sees Halloway, Alonzo Mann and Roy Irby.  
 9:00 A. M.—Frank sees N. V. Darley, Wade Campbell, Miss Mattie Smith and Mr. Line.  
 9:20 A. M.—Miss Mattie Smith leaves factory.  
 9:40 A. M.—Darley and Frank leave factory together.  
 10:00 A. M.—Frank at Montag Brothers, sees and converses with Sig. Montag, H. Gottheimer, Miss H. Hall, Mr. Matthews and Mr. Mix.  
 10:30 and 11:00 A. M.—Alonzo Mann telephones servant at Schiff's to tell Schiff to come to office.  
 11:00 to 11:30 A. M.—Frank returns to factory, Halloway, Mann, Miss Hall. Frank dictates mail and works on orders.  
 11:30 A. M.—Sees Mrs. A. White.  
 11:35 to 11:45 A. M.—Miss Corinthia Hall and Mrs. Emma Freeman, B. Graham and Tillander, Mrs. May Barrett.  
 11:45 A. M.—Miss C. Hall and Mrs. Freeman leave building.  
 11:50 A. M.—Mrs. A. White leaves building.  
 12:02 P. M.—Miss Hattie Hall leaves factory office.  
 12:05 to 12:10 P. M.—Miss Montine Stover at factory.  
 12:12 P. M.—Approximate time Mary Phagan entered office.  
 12:14 P. M.—Time Mary Phagan left office.  
 12:20 to 12:22 P. M.—Lemmie Quinn at office.  
 12:30 P. M.—Mrs. A. White sees Frank in his office.  
 12:50 P. M.—Frank on fourth floor of factory with Messrs. Denham and White and Mrs. A. White.  
 1:00 P. M.—Frank leaves and locks factory.  
 1:10 P. M.—Miss Kern sees Frank corner Whitehall and Alabama, (three blocks from factory.)  
 1:20 P. M.—Mrs. Levy sees Frank get off Georgia Avenue car and enter his home.  
 1:20 P. M.—Mineola McKnight, Mr. and Mrs. Selig at Selig home on Georgia Avenue see Frank.  
 1:25 P. M.—Frank talks to Annie Hixon, servant at Ursembach's, over telephone from his home.  
 Between 1:55 and 2:00 P. M.—Mrs. Michael, Julian, Loeb, Jerome Michael and Mrs. Wolfsheimer see Frank at Wolfsheimer home.  
 2:00 P. M.—Cohen Loeb on Washington Street car with Frank.  
 About 2:10 P. M.—Hinchey sees Frank on Washington Street car at Washington and Hunter Streets.  
 2:20 P. M.—The Misses Carson see Frank in front of M. Rich & Bros. Co.  
 2:50 P. M.—Miss Rebecca Carson sees Frank go into Jacobs's Pharmacy, corner Whitehall and Alabama Streets.

3:00 P. M.—Frank goes into factory to fourth floor to see Messrs. White and Denham.  
 3:08 P. M.—White and Denham go to Frank's office.  
 3:10 P. M.—Frank begins work on financial sheet.  
 3:45 P. M.—Newt Lee (colored night watchman) sees Frank at factory.  
 About 6:00 P. M.—Frank completes work.

tectives on the case (employed by pencil factory) reported to the factory that Conley kept denying he could write. The Pinkertons told the factory that they strongly suspected Conley of the crime. The factory people said they knew Conley could write, but could furnish no specimens as proof. Word was sent to Frank at the jail, and he told where they might find some specimens of Conley's handwriting. Following Frank's directions, the specimen was found and put to use. So it was due to Frank that

(third) sworn statement to the detectives. He states that he makes this his last statement after thinking over the matter fully and carefully, and has decided to tell the whole truth and keep back nothing. That his statement (second) of May 24 was a mistake, and that the transaction between Frank and him occurred at 12:56 P. M. on Saturday, May 26, and not on Friday. He had said Friday, because he did not want to put himself there on Saturday, for fear that they would accuse him of the crime. Moreover, he was going to tell all, because he was not going to shield Frank any longer, as Frank seemed to be in trouble and could not get him (Conley) out. He states that Frank met him near Montag Brothers and told him to go to the factory and hide himself, so that no one could see him, that he (Frank) had some work for him to do and would whistle when he wanted him. That he had been drinking freely of beer and wine and had bought a half-pint of whisky before meeting Frank. He mentions seeing Darley, Halloway, two draymen, Miss Hattie Smith and another girl. (The time he said he saw these people does not agree with any of the other testimony.) The writing of the notes occurs same as before, as well as the conversations with Frank.

MAY 29TH.—Statement (fourth) before the detectives at headquarters.—Note that in his statement of May 28 (third) he says he has told all the truth and is holding back nothing—he has no reason to do so, as he is not shielding Frank any more—and yet the very next day he makes to that statement an addition of four or five single spaced typewritten legal cap pages, covering a very minor (?) and trivial (?) matter which he neglected to mention the day previous!

He states that when Frank whistled, Frank asked him if he would like to earn some money real quick. He answered "Yes." Then Frank tells him of a girl who had fallen and hurt herself in the rear of the office floor. Conley discovers that the girl is dead, calls to Frank to help him carry the body. The body is taken down on the elevator to the cellar, where Conley, carrying body alone from elevator, deposits it on dust heap in rear part of cellar. Then Conley and Frank return upstairs to Frank's office, where the notes are written as before, but many new variations in the conversation and incidents are added. Frank hides Conley in wardrobe while Miss C. Hall and Mrs. Freeman are in office.

The details of the finding, carrying, dropping, and depositing body are graphically told with all the imaginative coloring of the negro mind. Frank whistled for Conley to move the body, again at 12:56 P. M., changing time of the incidents somewhat. Was given \$200, which was taken back.

The next and fifth statement, differing in many points, and containing numerous and grawsome additions, was given as sworn testimony at the trial on Aug. 8. During this time Conley was under the tutelage of the Solicitor and the detectives, and he had frequent sessions with them during this period. The Solicitor was with him seven times. Before taking up what Conley said on the stand, just how it differed from his previous four statements, note what Pinkerton Detective Harry Scott said on the stand under oath, in reference to the foregoing four statements:

"We talked with him (Conley) almost every day. Yes, we pointed out things in his story that were improbable, and told him that he must do better than that. Anything in his story that looked to be out of place we told him would not do. After he had made his last statement we did not wish to make any further suggestion to him at that time."

It is a matter of history of the case that after Conley made his fourth statement (May 29) Pinkerton Detective Harry Scott, employed by the Pencil



Leo M. Frank. Photo by American Press Association.

Between 6:00 and 6:05 P. M.—Frank sees Newt Lee and J. M. Gantt at factory door.  
 6:10 P. M.—Mrs. Selig sees Frank at Jacobs's, Whitehall and Alabama Streets.  
 6:25 P. M.—E. Selig sees Frank at Selig home.  
 6:30 P. M.—Mr. and Mrs. Selig and Mineola McKnight see Frank at Selig home.  
 7:00 P. M.—Frank telephones Newt Lee at factory.  
 Between 8:00 and 8:30 P. M.—Mr. Goldstein, Mrs. A. E. Marcus and Mrs. M. Marcus see Frank at Selig home.  
 10:25 P. M.—I. Strauss sees Frank at Selig home.  
 10:30 P. M.—Frank retires to bed.

### Jim Conley (Negro) in Case and His Various Statements.

Conley was arrested May 1 and taken to police headquarters at instance of Halloway, factory day watchman, because he was suspiciously washing his shirt. (On May 1 Frank was removed to County Jail to await Coroner's Jury action.) After merely mentioning his arrest, the papers made no further note of Conley until May 24. About May 12-14, the Pinkerton de-

Conley admitted his ability to write.

### Conley's Statements.

MAY 18.—To Harry Scott of the Pinkertons and John Black, City Detective, Conley made a statement declaring that after leaving the factory on Friday, April 25, he went home and stayed there, or in the vicinity of his home, until 7 A. M. Monday, April 28, and that was all that he knew. This statement was signed, but not sworn.

MAY 24.—Sworn statement to the detectives that on Friday, April 25, at 12:56 P. M., Frank called Conley to his office and had him write, at his dictation, the two notes found by the body of the dead girl. (A specimen of Conley's handwriting which they forced him to give had convinced the detectives before this that Conley had written the notes.) Frank gave Conley a box of cigarettes containing \$2.50. Frank told Conley that he was going to send the notes to his mother in Brooklyn to show what a smart nigger he was. After Conley wrote notes, Frank jollied and joked with him. Then Frank, looking up at the ceiling, exclaimed: "Why should I hang, I have rich folks in Brooklyn?"

(Note.—This statement was published in the newspapers after Frank was indicted by the Grand Jury.)

MAY 25.—Conley makes another

Company, was not allowed to interview and talk with Conley any more. So it was that Conley's new and fifth statement on the stand was wholly a surprise to the defense.

It was in the interval between his fourth statement and his testimony on the stand, May 29 to Aug. 8, that Conley received most of his instruction and training. He repeated his tale glibly, and in repeating parts of it did so verbatim, with all the apparent earmarks of a rote-learned story or speech, like a child reciting a speech.

Fifth statement on stand—different from other four:

Saw Mary Phagan go into factory.

Saw Lemmie Quinn go in and out factory.

Saw Montine Stover go in and out factory.

Saw parasol on office floor.

Said Frank was a pervert, (two incidents,) (uncorroborated.)

Said Frank said he killed girl.

Said Frank told him he was not built like other men.

Watched while Frank had girls in his office—many times, (uncorroborated.)

Said Frank had a code of signals for Conley when watching.

Said Frank had girl's meshbag, which he put in safe.

Said Frank expected the girl to come. Said Frank always joked and played with him.

Said Frank had cord in his hand.

Said Frank was red and trembling.

Said Frank told him to come back and burn body.

Said Frank told him to be a good boy.

Said he overslept himself, which is why he did not come back to burn body.

Said he wanted to come back in the afternoon to get the \$200, which Frank had taken back.

Said he wrote four notes—two were unsatisfactory to Frank.

Said he left factory at 1:30 P. M., leaving Frank in factory.

Said he drank whisky with drayman in cellar, (McCreary does not corroborate.)

Said he arrived at factory at 8:30 A. M.

Said Frank told him to meet Frank at Montag Brothers.

Says Frank placed box, on which he was to sit, by the elevator.

These are the main additions. He also changed many of the incidents in the former four statements.

The prosecution in putting up Conley as its star witness and only material witness not alone vouches for the truth of his testimony in its entirety but also puts the stamp of its approval on each and every detail of it.

The following are a few incongruities in the statement, based on the unimpeachable and competent evidence adduced at trial.

The Three Time Elements.

Conley swears:

He heard the 12 M. whistle blow.

After a time interval Mary Phagan goes up to office. He hears footsteps back to tip plant on office floor. Then he hears a girl's scream, and then silence. Then he sees Montine Stover go into the factory, stay a while, and then leave.

(Note that Conley says he is watching for Frank. A fine watchman he was!)

So Mary Phagan was attacked and

killed previous to the entrance into the factory of Montine Stover. Montine Stover swears she reached office floor of factory and noticed factory clock at 12:05 P. M. and remained until 12:10 P. M. She swears she heard nothing, nor did she see anything or anybody. So that Mary Phagan must have met her fate before 12:05 P. M.

George Epps testified he rode to town with Mary Phagan and sat beside her on the seat in the car; that they both left the car corner Forsyth and Marietta Streets at 12:07 and started to walk to the pencil factory, three blocks distant.

Mr. Matthews, motorman of car on which Mary Phagan came to town, swore that car reached Marietta and Forsyth Streets at 12:07 P. M., and that he knew Mary Phagan well, as she often took his car to town.

Mr. Hollis, conductor of the car that brought Mary Phagan to town, swore car reached place when Epps says he and girl alighted at 12:07 P. M. Note that all three of these witnesses (Epps, for the State, and the other two for the defense) swear that the car reached Forsyth and Marietta at the same time, viz., 12:07.

John Staines, City Detective, swore it took three and a half minutes for him to walk from Marietta and Forsyth to the pencil factory office. He is a State witness. So that the very earliest that the physical possibilities of the case would allow of Mary Phagan reaching the factory is 12:07 plus three and a half minutes, or 12:10½. Yet Conley says she was killed before Montine Stover entered the factory or before 12:05 in contradiction to what the other four corroborated witnesses say. (If this were so Mary Phagan was killed before she got off the street car.)

Miss Hattie Hall (def. wit.) swears she heard the 12 o'clock whistle and then left the office, returned for her umbrella and noted the factory clock at 12:02 P. M. as she left. She swears she saw neither Lemmie Quinn, Mary Phagan, nor Montine Stover while she was at the factory or that day at all. She is an unimpeached and unimpeachable witness and her testimony must stand.

Conley says that first Quinn came in and stayed six or seven minutes—then left. Then Mary Phagan comes in, goes to office, then back (with Frank)—Conley knows this by hearing footsteps on the floor above him, he says) to the tip plant—then a scream and then silence.

Montine Stover comes in and stayed a while and then leaves. She swears she saw the clock at 12:05 and stayed till 12:10. In other words, that which Conley swears happened would consume fifteen to twenty minutes at least and there was but the interval from 12:02 to 12:05 or three minutes in which it could have occurred.

In reference to the time element involving the street car, &c., Dorsey says that the car must have been ahead of schedule, (12:07 was testified to as schedule time,) and that both watches of conductor and motorman were fast. (They swore that they looked at their watches at Forsyth Street, as it is a terminal point of their run, and compared them.)

Dorsey also says the factory clocks were slow. Note, he does not prove it, he just asserts it; the watches that day had to be fast and the clocks (at the factory)

that day had to be slow. He knew why, because it disproves Conley's story at its most vital point and therefore vitiated his whole tale and caused the State's case to a reasoning and unbiased mind to fall.

But in the second time element, involving Quinn, Mary and Montine in an interval of three minutes from 12:02 to 12:05, the clock involved was the same clock in each case, and whether slow, fast or correct, the impossibility of Conley's testimony is palpable, and it is convincing and compelling that he is again lying in reference to the vital point—Mary Phagan's attack—and his story collapses.

The third time element: He states that after disposing of the body in the cellar and writing the notes, he left the factory at 1:30 P. M., leaving Frank still in the factory. (See Frank's alibi, 12:50 to 1:25, where nine people see Frank and speak to him away from factory and at home.) Also note that Conley claims to have started to move the body at 12:56 P. M., with Frank helping him. Defense produced evidence and testimony to show that the minimum time that could be consumed in Conley's stated movements and conversations with Frank was 36½ minutes, or until (from 12:56) 1:32½ P. M.

The whole of Conley's testimony is sprinkled with improbabilities, and his and the State's case, banking as they do on his evidence unsupported, should fall of its own weight. He states that the body was taken down on the freight elevator. White and Denham, at work on the fourth (top) floor of the factory, did not hear or see the elevator, motor, and cables running, as they would have done if the elevator had moved. The uncrushed ball of twine, lump of feces, and umbrella found in the bottom of elevator shaft prove also that the elevator did not run that day. (The elevator stops automatically by bumping on the bottom of the elevator shaft.) Therefore the body was not moved via the elevator. Moreover, where Conley says the body rested momentarily by the dressing room, a spot claimed to be blood was found. Yet not a trace of blood on floor of elevator where Conley says body was placed, with all its vibration and knocking.

If body was carried as Conley states, why all the grime and dirt rubbed into face, arms, and skin of body, and the soiled dress. Body must have been dragged.

If Conley found girl dead, why the cinders and sawdust breathed up the girl's nostrils and down her throat? This shows she must have been living when she reached the basement.

If girl was wounded so slightly as not to show a trace of blood on factory floor where Conley says he found her, why the two large bloodstains on left front of dress? Why the blood-soaked handkerchief found ten feet from body in basement? If Conley's story is true, why should a blood-stained handkerchief be found there?

The chips from stain, claimed to be blood, showed no blood on three of the four chips. Only one showed three or four corpuscles to field of a microscope. This is not even a blood trace. If this stain, which did show up as coloring

matter or paint, is not blood, (and it certainly is not blood,) then Conley's whole story is without one single corroboration.

If after Conley's statement of the 28th or the 26th of May, he was then telling the whole truth and not shielding Frank any more, and was entirely innocent of anything else except assisting, &c., why were all the additions put into statement on stand, as well as some of the things previously sworn to, changed? His glibness, his attitude on stand, his answer "I disremember" to any question outside of his story, shows training by the detectives and the outrageous frame-up.

The handwriting, form and context of the note breathe the "nigger" in every line. No white man could write notes like that.

Why were there two notes? Surely one was sufficient!

If the negro told the truth about burning of the body, what was the use of the notes anyway? This is another incongruity.

If the negro's story is true, why was the staple pulled out of the alley door in basement?

The idea of the dictating of the notes by a white man to a negro is a joke—it is certainly the most laughable fantasy that ever was formulated by the demented brain of a human being.

What white man, if guilty, would take a half drunken, shiftless negro into his confidence and present the Prosecutor with a witness on a silver platter.

What negro, be he ever so good, would have been willing to do what Conley claims he did for Frank. Not alone move a dead body, but write notes accusing a negro.

Contrast Conley's behavior, his story torn from him piecemeal, and built and rounded out by detectives, his continuous lies from May 1 until he got on the stand, and while on the stand, with Frank's. Frank made a statement April 28 to Chief Lamford of Detectives, before he knew what any one was going to say. He underwent a grilling at the hands of the Coroner May 5 and 8, and gave a statement on the stand at the trial Aug. 17. All agree identically. Every vital point is corroborated. He was never caught in a misstatement, lie, or subterfuge, nor was he once mistaken. He didn't hide anything. It is his testimony alone from which the detectives got the fact that Frank saw Mary Phagan alive on Saturday, April 26, and he told it as soon as he viewed the body, Sunday, April 27. Conley did not open his mouth in regard to the crime, &c., until May 24, after every one who knew anything or had been at the factory had so stated on oath and after Frank had been indicted by the Grand Jury. Conley therefore cannot be corroborated when he opens up two or three weeks after these facts are common property. Frank is amply and fully corroborated by people who testified after he did.

Conley swears he can't read newspapers—several swore he could read. The notes which he swears he wrote show that he can read reasonably well. He uses words on stand—dictate, complexion, &c.

Conley reeled off his story like a phonograph and laughed when telling of the most gruesome details.