

WOULDN'T TRUST RAGSDALE ON OATH

Maker of the False Frank Affidavit Is Scored by a New Witness.

SON CALLS HIM INSANE

Tells Jury in Burns Agents' Case That the Preacher Has "Spells"
—Bribe Story in Evidence.

Special to The New York Times.

ATLANTA, Ga., Jan. 29.—With the evidence of the negro Jim Conley, the principal witness against Leo M. Frank when the latter was convicted of the murder of Mary Phagan, and that of Herbert Haas, of counsel for Frank, Solicitor Hugh Dorsey late this afternoon rested the case of the State against Dan S. Lehon, C. C. Felder, and Attorney Arthur Thurman, representatives of the W. J. Burns Detective Agency, who are accused of subornation of perjury in the effort to get a new trial for Frank.

When the State rested court was immediately adjourned, with everything in readiness for the calling of the first witness of the defense with the convening of the session Saturday.

A great crowd was in court when Conley took the stand late in the afternoon, as sensational developments were expected. The crowd was disappointed, however, for Conley was on the stand only about three minutes, and was not cross-examined by attorneys for the defense.

Practically all he said was "No, sir," in response to the Solicitor's questions asking him if he ever made a confession in the manner outlined in the affidavits.

Conley denied in full the affidavit of C. B. Ragsdale and declared he had never told any one he killed Mary Phagan.

Before Conley was put on the stand there were some striking developments in the case.

Judge Arthur Powell, of counsel for the accused Burns men, brought from the Rev. C. B. Ragsdale on cross-examination the admission that he had "spells with his mind," and brought from Ragsdale's son, W. A. Ragsdale, the admission that he considered his father's mind unsound.

Solicitor Dorsey put in evidence, over the strenuous objections of the defense, a transcript of Lehon's testimony at the hearing of Frank's extraordinary motion for a new trial wherein Lehon admitted paying Tedder \$500 when he employed him a few days before the making of the Ragsdale and Barber affidavits; and Solicitor Dorsey brought from Dr. B. Wildauer the admission that he was present and saw Lehon pay Tedder the money. (This is the sum the State will undertake to show was divided among Ragsdale, Barber, Thurman, and Tedder.)

Solicitor Dorsey also submitted as documentary evidence an agreement between Thurman and Ragsdale, dated Dec. 24, 1913, wherein Thurman agreed, in consideration of \$300 paid him by Ragsdale, to assume certain claims on which Ragsdale was then being sued by H. D. Thomason of Nelson, Ga. Also as documentary evidence the Solicitor tendered a registered letter from Thurman to Ragsdale, inclosing a bill for \$500 attorney's fees, with a peremptory note saying that if the bill was not paid at once he would sue for collection. This letter was dated April 29, 1914, after Ragsdale had repudiated his affidavit.

H. D. Thomason, the man named in the agreement, was then put on the stand as a State witness, and under cross-examination testified that he would not believe Ragsdale under oath.

The solicitor put D. O. Smith, court stenographer, on the stand to identify a transcript of Lehon's evidence at the hearing of Frank's extraordinary motion for a new trial, and brought out from the stenographer the fact that the Ragsdale-Barber affidavits were made

while that hearing was in progress. Objection was made by Judge Powell, on the ground that the detective had been forced to give self-incriminating evidence, but Judge Hill announced that he would admit the transcript.

The solicitor read most of the detective's evidence, which in substance, was an admission that prior to the date of the Ragsdale-Barber affidavits he had received \$500 from Herbert J. Haas of counsel for Frank, the money being part of the ordinary payments to the Burns agency for their service.

W. A. Ragsdale, son of the preacher, was called by the State, but proved a reluctant witness. The State attempted to show that Thurman telephoned to the Ragsdale house on the day after the affidavit was made and attempted to talk to the preacher, but this testimony was ruled out by Judge Hill, when young Ragsdale admitted that he did not know Thurman's voice, and simply took the speaker's word for his identity.

Cross-examined by Judge Powell, young Ragsdale made the flat statement that his father was of unsound mind. He said that his father's mind and his business both failed in 1907, and

that since that time his father had frequently had "spells."

Dr. Ben Wildauer, a friend of Leo M. Frank, was the next witness called by the State.

Dr. Wildauer said that he, as a friend of Frank, induced Burns to take up the case in March, 1914, but a statement as to the nature of the contract with Burns was ruled out by Judge Hill.

On April 16, he testified, he was present when Lehon employed Tedder, paying him \$500 cash, \$250 as an advance on his salary, and \$250 for expenses, and he witnessed Tedder's signature to a receipt.

Replying reluctantly to questions, Dr. Wildauer said that he first heard a preacher mentioned as a figure in the case in the Fall or Winter of 1913, and he admitted that he spoke of the rumor of a preacher to Lehon after he employed Burns and before the Burns people employed Tedder.

R. L. Barber, who joined the Rev. C. B. Ragsdale in making the affidavit that they had overheard Conley confess to a negro that he had killed Mary Phagan, was then called.

Barber testified that on the day before he and Ragsdale made their affidavits

he was in Thurman's office, and Thurman asked him if one of the negroes whose conversation he and Ragsdale overheard was not Jim Conley; that he told Thurman neither of them was Jim Conley; that Thurman asked him if \$50 would not persuade him to swear that one of them was; that he told Thurman \$100 would not persuade him to swear to a lie.

He testified that he and Ragsdale went to Thurman's office the next day, Thursday, April 23, and Thurman again asked him the same questions and he gave the same replies; that Tedder was present and told him and Ragsdale he had formerly believed in Jim Conley's innocence, but now had turned against him; that there was a lot of dickering and Thurman finally agreed to pay him \$100 and let him swear the simple truth as to the conversation he and Ragsdale overheard.

"Then, why did you swear in your affidavit that one of the negroes was Jim Conley?" asked the solicitor. "I didn't swear it."

"It is in the affidavit. How came it there?"

"I don't know. All that part of it is false."