

BURNS MEN DENY BRIBING RAGSDALE

His and Barber's Affidavits Made Voluntarily, Frank's Counsel Swears.

GRAND JUROR REBUKED

Solicitor Dorsey Attacks Hirsch for Divulging Secrets—Defense Rests in Perjury Case.

Special to The New York Times.

ATLANTA, Ga., Jan. 30.—The defense rested this afternoon in the case of Dan S. Lehon, C. C. Tedder, and Arthur Thurman, employes of the W. J. Burns Detective Agency, on trial for subornation of perjury in an effort to secure a new trial for Leo M. Frank. Argument was at once begun, three hours being allotted to a side.

All the evidence today was introduced by the defense and was for the purpose of discrediting the charge of the Rev. C. B. Ragsdale and R. L. Barber, that they were bribed by Lehon, Tedder, and Thurman to make affidavit that Ragsdale had overheard Jim Conley confess to another negro that he (Conley) had killed Mary Phagan.

Luther Z. Rosser, leading counsel for Leo M. Frank when the latter was tried, was put upon the stand as the first witness. Mr. Rosser related the circumstances under which Ragsdale and Barber made their affidavits substantially as follows:

"I was not in my office when Ragsdale and Barber came, being at the State Capitol. I was called over the 'phone and told that two men were in my office prepared to make affidavits in matters very material in the Frank case. I went at once to my office and there I found Dan S. Lehon, Mr. Brandon, Ragsdale, and Barber.

"Ragsdale did most of the talking. He spoke fluently and easily, without any prompting or suggestion of any kind from me or from Lehon. Occasionally Barber interrupted and added some details. What they said in substance, though perhaps not in their exact language, is contained in their affidavits—no more and no less.

"I asked them why they had not mentioned the facts as set out in their affidavits before, and Barber explained that, owing to the great public excitement over the case, they had been afraid they would suffer if they became involved."

In reply to questions by Judge Powell, of counsel for the defense, Mr. Rosser said Lehon was the man he came in contact with during the Burns investigation of the Phagan murder case, and that he saw Burns only two or three times; that Lehon took no part whatever in the questioning of Ragsdale and Barber when they were making their statements, and had nothing to do with the construction of the affidavits.

F. B. Callahan, the notary public who witnessed the signing of the affidavits by Ragsdale and Barber, next took the stand. He testified that before Ragsdale and Barber put their signatures to the affidavits he read over to them very carefully every word in both affidavits, even reading the titles and preambles, and that neither Ragsdale nor Barber suggested a single change.

The Rev. T. E. McCutcheon and the Rev. J. F. Jackson, Baptist ministers, were placed on the witness stand by the defense, and they swore that in May, 1914, soon after the affidavits were made, Ragsdale told them he remembered very little of the circumstances surrounding the making of the affidavits and had no recollection of receiving the money, knowing of it for the first time when he found it in his pocket at home that night. They further swore Ragsdale told them that when he found the money in his pocket he determined to go back next day to Attorney Rosser's office and look at the affidavit; that he went and that permission to see it was denied him, whereupon he went straight to Solicitor Dorsey and told him of finding \$200 in his pocket and offered the money to the Solicitor, who gave it back to him and told him to keep it, as the money might be needed as evidence.

The testimony of J. H. Hirsch was the feature of the day's session. He swore that Ragsdale, who was brought before the Grand Jury on Monday of the present week to testify in support of new indictments presented by the Solicitor against Lehon, Thurman, and Tedder, told the Grand Jury on oath that his mind was in a daze on the day he made the affidavit, and that he had no recollection of how he got the money.

Solicitor Dorsey went after Mr. Hirsch with extraordinary severity on the cross-examination.

"Didn't I make a statement in the Grand Jury room when you asked Ragsdale some questions, and didn't you ask him the questions after the other jurors had said they had heard enough? Didn't I say in my statement that what occurred was not to be repeated?"

"I don't recall your making any such statement," Mr. Hirsch replied. "And if you had, I would have paid no attention to it. I am bound only by my oath as a juror, not by the dictates of the Solicitor. I have read my oath over carefully and have followed it."

E. W. Jones, a photographer of Birmingham, was the next witness. He identified a photograph taken by him of a page from the register of the Hotel Hillsman, Birmingham, of April 18, 1914, on which were two names, William M. Smith, former attorney for Jim Conley, and C. C. Tedder of Atlanta. The Solicitor objected to the admission of this testimony, and objected to the admission of the photograph. Judge Hill, before it was brought out that William M. Smith's name was on the register, let the testimony and photograph go in. But when Smith's name came out, Judge Hill said it could be proved by Smith that Tedder was in Birmingham on that date. To this Judge Powell of the defense replied that he wanted Smith, if put on the stand, to be put on by the State, so that the defense could cross-examine him. The Solicitor, at this, smiled significantly.

Finally Judge Powell said: "Well, call Mr. Smith."

There was no answer. St. Clair Adams, the New Orleans lawyer associated with the defense, was instantly on his feet.

"We ask that he be arrested, your Honor," said he. "Very well," said Judge Hill. "Let an attachment be issued." The attachment was issued at once, and a deputy went out to arrest Mr. Smith and bring him into court.

Brought into court, Smith testified that he and Tedder went to Birmingham on April 18; that he (Smith) went as an employe of Solicitor Dorsey, while Tedder went as an employe of the Burns Agency; that he (Smith) knew Tedder was employed by the Burns people, and so did the Solicitor; that he interviewed a Mrs. Smith for the Solicitor, and Tedder was present and helped him in the interview; that they were in Birmingham three days together, and Tedder then went to Chattanooga on a further mission for the Burns people.

After Attorney Smith, C. C. Tedder, one of the defendants, took the stand. Tedder said before accepting employment with the Burns Agency he went to Mr. Smith and asked the latter's advice; that Smith told him to wait until he (Smith) could see the Solicitor and ask his advice; that soon Smith reported that the Solicitor had advised him to work for the Burns people, and that accordingly he made a contract on April 16 and received \$250 advance salary and \$250 for expenses.

Arthur Thurman, another defendant, testified that Ragsdale and Barber visited his law office, where they were introduced to Tedder. The question of affidavits was not discussed there, he said, and he immediately went with them to Lehon's office and left them there. This, he said, was the end of his connection with the matter.

"There never was a more complete falsehood," Thurman said, "than this fabrication about my paying Ragsdale and Barber money for making their affidavits. They've both told a batch of lies. I never called Ragsdale on the telephone in my life, either before or after he concocted this story. I leave my case with you, gentlemen, confident you will not believe a single word these confessed perjurers have told you."

Dan S. Lehon, the third defendant,

told how he had been called to Atlanta in an effort to unravel the Phagan mystery. The employment of Tedder was urged, he said, by one of Frank's friends, though he himself was not impressed with the plan.

"When I told Burns about the preacher's story," said Lehon, "as related to me by Tedder, he laughed and said he did not want any more 'alley stuff.' He advised me, however, to look into it on the chance that it might develop something important."

The defense then rested its case.

DENIES JANIN'S CLAIM.

Curtiss Says Decision in Hydroplane Patents Is Only Preliminary.

Glenn H. Curtiss, the aviator and manufacturer of hydroaeroplanes and other air craft, took exception yesterday to the statement of Thomas A. Hill, counsel for Albert S. Janin, a Staten Island inventor, that a decision of the Board of Examiners of the Patent Office had shown that Janin, and not Curtiss, perfected the essential parts of the hydroaeroplane. Mr. Curtiss said:

"Mr. Janin and his attorney are quite premature in announcing the award of invention of the hydroaeroplane to Mr. Janin. The interference with Mr. Janin involves one claim. The claim involves the use of the small side floats which are in action when the machine operates on the surface of the water as a hydroplane. It does not involve the features which made the hydroaeroplane a successful flying machine, or the features of the flying boat. The decision in question is but a preliminary one of one of the three Patent Office tribunals. It is not in the United States courts. This is the second decision to be made by the Patent Office.

"The first of them was in my favor, and I might at that time have made the same announcement which Mr. Janin has now made, and it would have been equally premature. Yet another Patent Office decision is to be made by the Commissioner of Patents himself before the Patent Office concludes the matter. The final decision which determines the award of this particular claim is in the province of the United States Court of Appeals. When this final decision is made, and not until then, will any statements of Mr. Janin's concerning the award of invention be entitled to serious consideration.

"In addition to the several patents which have been issued to me covering the Curtiss type of aeroplane and its controls, I have pending in the Patent Office fifteen to twenty applications for patents, each containing a number of claims."

BRETTON'S HANGAR BURNED

Workshop of Convict-Inventor Destroyed Soon After His Release.

Shortly after Harry S. Bretton, the elderly inventor of aero devices who was taken into custody immediately after his release from Sing Sing on Friday on an old charge of swindling, had been released on bail on the new charge against him, the barn in Woodhaven, L. I., used as a storage house and hangar by the National Aeroplane Company, the concern organized to perfect the convict's inventions made while he was in prison, was destroyed by fire.

The head of the National Aeroplane Company was Earl Gillespie, a lumber dealer, and the barn, which was destroyed, was at the rear of 820 Woodhaven Avenue, in Woodhaven, L. I. It is not known how the fire started. The blaze was discovered shortly after midnight yesterday, and was the first of a series of fires which kept the firemen of Woodhaven and Richmond Hill busy throughout the night.

Bretton's inventions were brought to the attention of the public while he was in the Queens County jail, and prominent men in Queens Borough became interested in them. While his patrons could not save Bretton from a term in Sing Sing, they took charge of his inventions and formed the National Aeroplane Company to handle them. Two machines were built and were taken to the flying fields, but they showed defects. Meanwhile the barn was equipped as a workshop and aeroplane machinery was installed. The loss from the fire is said to be about \$5,000, although, as Mr. Gillespie is in Florida, the exact amount cannot be ascertained.