

# CONLEY, NOT FRANK, CALLED SLAYER

Attorney Smith Now Convinced  
His Negro Client Killed  
Mary Phagan.

HAS FOUND NEW EVIDENCE

Not at Liberty Yet to Publish It,  
but Is Confident It Will  
Solve Mystery.

"DEATH NOTES" THE CRUX

Says Frank Didn't Dictate Them  
and Terms Conley's Story a  
"Cunning Fabrication."

Special to The New York Times.

ATLANTA, Ga., Oct. 3.—William M. Smith, lawyer for "Jim" Conley, the negro whose testimony convicted Leo M. Frank of the murder of Mary Phagan, made public today a statement in which he declared unequivocally that Conley was the real murderer.

This statement supplemented one of last night in which Mr. Smith asserted that Frank did not commit the crime. The girl was murdered about two years ago in the pencil factory of which Frank was manager. Conley also was employed there. Suspicion first fell upon him. Then it was that he accused Frank, declaring that the manager killed the girl and employed Conley to help dispose of the body. Public feeling ran high, and, amid great popular excitement in the courtroom and outside it, Frank was convicted and sentenced to death. Frank is still under sentence pending an appeal after many charges and counter charges on each side.

Attorney Smith says that he will be able to demonstrate that Frank knew nothing of the murder; that Conley's story, while having a background of facts, was in its essentials a cunning fabrication; that Frank never could have dictated the illiterate notes found by the body of the slain girl, and that Conley's accusation of perversion against Frank was one of the products of the negro's imagination which he drew upon freely to convince the jury of his own innocence. The lawyer asserts that he has believed from the first that the "death notes" found by the girl's body constituted the crux of the mystery, and that much of his attention had been directed toward them in the last three months.

"Frank never dictated those notes," he said. "Conley told a remarkably plausible story about the notes—plausible until his statements were more closely investigated. It was regarded as a natural touch when he mentioned that he misspelled 'negro,' adding an 's,' and that Frank corrected him and told him to erase the 's.' As a matter of fact, Conley added that side statement to explain away another circumstance which probably would have been considered very incriminating.

Has Found New Evidence.

"I am convinced by long study of the records in the case and from new evidence that I am not at liberty to divulge at present that Jim Conley is the real murderer of Mary Phagan. I believed sincerely in the guilt of Frank, but my further investigations have convinced me that I was mistaken, and I am sure that investigation by the proper authorities will prove conclusively that the negro is the man who is the slayer.

"If my opinion is to be considered or have any weight, you can say for me that I am disappointed at the premature publication of my beliefs. While they have intelligent basis, I had hoped to amplify them, through assistance of the city police, without publication. So far as my knowledge goes, Frank was the first to express confidence that 'our police will solve the mystery,' and I believe that this utterance can yet be shown to have been prophetic. With the loyal and enthusiastic support of Chief Beavers, Chief Lanford, and the men of the Police Department, my faith is that evidence can be submitted to the Solicitor General to place the responsibility for this murder where it belongs.

"There were several reasons for my undertaking this work, and one of them was my promise to William J. Burns and Dan S. Lehon that if the Burns Agency would help Mrs. Nelms to locate her missing girls or punish their murderer, I would give more time to work on the Frank matter, and whatever re-

sults I was able to get I would contribute to the case. Both my wife and I have known the Nelms girls for years, my wife being a playmate with Eloise from childhood."

Mrs. Eloise Dennis and her sister, Miss Beatrice Nelms, disappeared from Atlanta last June. The married sister left Atlanta on June 10 to join Victor Innes. Her sister Beatrice left Atlanta two days later to meet her in New Orleans. The girls were heard from in New Orleans, where they cashed New York exchange for \$1,000. Shortly after this they disappeared, and a national search for them was instituted. Bones believed to be parts of their bodies were found in San Antonio on Aug. 8, and on Aug. 19 Victor E. Innes and his wife were arrested in Oregon charged with their murder.

Attorney Smith said that he did not know of any one coaching Conley in the story he told on the stand. He said he believed the negro easily capable of manufacturing the perversion accusation from his own imagination.

Mr. Smith had a long conference with Solicitor General Dorsey Saturday and presented the reasons for his change of belief. The Solicitor would say nothing about the new aspect of the case. Conley's lawyer, however, said that Mr. Dorsey had talked over the case with him and had made this remark: "If you can convince me, go ahead. I am ready to listen to any arguments or new facts that may be advanced."

Frank received his first news of Smith's statement this morning in the Tower before he had arisen.

Frank Heard on Smith's Change.

"It is unnecessary for me to say that I am gratified by the news," he said. "I don't know exactly how much bearing it may have on my case, for I have no information as to the cause of Mr. Smith's change of opinion. He may have very important evidence in his possession, or he may merely have been impressed by the flimsy case which the State had against me and the much stronger one that developed against Conley. He has, of course, been very close to Conley as a lawyer, and probably is the only man in a position to know what part of the negro's story was the truth and what part a fabrication.

"I had heard persistent rumors of this change of front on the part of Smith for a week or ten days. My first intimation of it was when a friend of mine came to me with the news that a person who had been very hostile to me had changed his opinion as a result of a conversation with Mr. Smith.

"I could not believe it at first, for I knew that Conley's lawyer had assisted in obtaining my conviction, and I supposed him to be still of the same mind. Others told me of it since, but I had paid little attention to the report, since stories of this nature have cropped up almost every week for the last year.

"I have never seen Mr. Smith to know him, although I understand that he was at my trial much of the time. So far as I know, he has said nothing of his change of opinion to my lawyers. The first definite word came to me this morning in the information brought by a reporter."

Attorney Smith said that he had continued his investigation of the case even after it had gone to the Supreme Court and after Conley had been convicted as an accessory. He asserted that he had come into possession of information that made him believe the wrong man had been convicted.

"Is it anything of a definite or positive nature," he was asked. "It was sufficient to convince me, and I believe it will appeal to others in the same light when I am ready to make it public," he replied.

"Jim" Conley, working at the Bellwood convict camp, under a sentence to a term of imprisonment as an accessory in the murder, seemed stolidly indifferent to the new development. He expressed calm surprise at the assertions of his lawyer.

Conley Sticks to His Story.

"I can't understand Mr. Smith saying anything like that," he said. "He was out here to see me only twice since my trial ended, and nothing he said to me showed that he thought Mr. Frank was innocent. He sure always did make out like he believed what I was telling him, and I don't care what he says now. I am innocent, and Mr. Frank is guilty. I am trying to be good to get my time off, and when I am all through I am going to stay in Atlanta, where they can see me if they want to.

"I reckon with Mr. Smith talking like he is the police will be out to see me. Well, I'll tell them what I always told them, and I have nothing to fear. I sure am surprised at Mr. Smith, but nothing he can say can hurt me, and I know he ain't got anything new."

Conley would talk only after persistent questioning. He showed the first trace of anger when a report that Smith would divulge the name of the man who first put the idea of Frank's alleged perversion into his head was repeated to him. He insisted that everything he had told was the truth; that none of it had been suggested by any one, and that he was ready to repeat his testimony all over again.

Reuben R. Arnold, one of the attorneys for Frank, said that if Attorney Smith had any information that would be of help to Frank, he considered that it was Smith's duty to make it public, or at least to turn it over to counsel for the convicted man.

"Regardless of everything else, a person certainly should not hesitate to tell the truth when a man's life is at stake," he said.

Leonard and Herbert Haas, also attorneys for Frank, said they had heard more than a week ago that Conley's lawyer had been converted to a belief in Frank's innocence, but that they had made no further inquiry. As Smith, aside from Solicitor General Dorsey and his immediate assistants, was the person most concerned in the conviction of

Frank and the escape of Conley from a murder charge, they were inclined to place considerable weight in the statement he had made public.