

ATTORNEYS FOR BOTH SIDES  
RILED BY SCOTT'S TESTIMONY;  
REPLIES CAUSE LIVELY TILTS

When court convened on Thursday morning J. M. Gantt, formerly employed in the bookkeeping department of the National Pencil factory, was placed on the stand for two questions, and he was followed by Harry Scott, Pinkerton detective, who worked as a partner of John R. Black, of the city detectives, in searching for the murderer of Mary Phagan.

Solicitor Hugh Dorsey had Gantt swear that he was arrested on April 28 and held until the following Thursday.

During Scott's testimony, there were lively tilts of all sorts. At one time Scott became angry with the solicitor and asked him if he were accusing him of withholding evidence, and Dorsey declared that Scott had entrapped him by promising to swear one thing on the stand and then by refusing to swear it.

A moment later the defense was in a rage when Scott swore that Herbert Haas, one of Leo Frank's counsel, had ordered him to furnish to the defense the evidence he might obtain before giving it to the police.

Luther Rosser, another of Frank's attorneys, then tried to show that he had not been concerned in this, and when this was not held admissible, he burst out with the statement, "There's certainly no one here who believes that I had anything to do with this!"

Scott declared he told Haas, in the presence of Rosser and Sig Montag, that before the Pinkertons would do as he asked that they would quit the case.

In the formal examination the first question asked by the solicitor was, "How long have you known Frank?"

**Employed by Frank.**  
"Since I first saw him on April 23," the Pinkerton man replied.  
"By whom were you employed in the Phagan murder?"  
"By Frank, representing the National Pencil company."  
"Where did you see him?"  
"In his office in the pencil factory. He called me in his private office for a conference."  
"What did he say?" asked the solicitor.

"He told me about the crime, and stated that he and the directors of the company had decided that the public demanded a thorough investigation to find the murderer. Then he said he had just left police station, and that Detective Black seemed to suspect him."

"Then," continued the detective, "he outlined to me his own movements on that Saturday, stating that he had come to the factory at 8 o'clock; had gone to Montag brothers' place about 8 with Darley, and came back to the factory about 11 o'clock."  
"He then said," Scott went on, "that Mrs. White, wife of J. A. White, who was at work upstairs, had come in just before noon and asked permission to go up to see her husband."

**Paid Off in Private Office.**  
"Mary Phagan came in and drew her pay at ten minutes after 12, according to what Frank said, and he paid her \$1.20, giving her two halves and he thought two dimes," continued Scott, "and then he said that the Phagan girl was paid off in his private office at his desk, and that as she went out she stopped in the outer office and called back to know if the metal had arrived yet."

"Frank declared he told the girl that he did not know about the metal, and then as she went on out he thought he heard voices, but could not tell whose they were. He then said that at about half past 12 he went up and told Mrs. White that he was about to close up the factory, and that she had best leave, and that Mrs. White told him of seeing a negro behind some boxes on the first floor."

"Frank said he left at about ten after 1," Scott went on, "and that he went home, and was back at the factory at 4 o'clock, when Newt Lee came, and that he sent Lee out to have a good time and told him to come back at 6."

"Frank then told that Lee came back at 6, and that a few minutes afterwards he went out and saw Lee sitting on a box and talking to Gantt."

**Tried to Call Factory.**  
"Gantt, Frank said, was a former bookkeeper who had been discharged for thieving," Scott stated, "and then Frank said he got home by 20 minutes after 6, and, worrying about Gantt's presence, tried to call the factory at 6:30. Frank told me he tried and tried the telephone, and finally got the number at 7 o'clock and asked Lee if Gantt had gone and if everything was all right. Lee answered in the affirmative, according to Frank," said the Pinkerton man, "and Frank then said that at 9 o'clock he took a bath and went to bed."

"After that Frank and Darley and I went through the factory and the various details were explained to me. I was shown the place where the hair had been found and the place where some dark spots had been chipped out, and there was a white substance around the place."

"I then examined the time clock, and then went to the basement and was shown where the body had been found, and also the hat and shoe. Darley did most of the explaining on this trip and Frank had been the spokesman in the office."

"How did Frank act in his office?"  
"He seemed perfectly natural," replied the witness.  
"What do you mean by perfectly natural?" interrupted Rosser, for the defense.

Dorsey.  
On Attorney Rosser's objection this was ruled out.  
"What did his eyes look like?" continued the solicitor.  
"Large and piercing."  
"What kind of breaths did he take?"  
"Deep sighs," said Scott.  
"How often?"  
"Four or five times while in the office."  
"How large did his eyes look then?"  
"Same as now."  
"How about his complexion?"  
"He was a little pale then."  
"What, if any, pauses did he make?" asked Dorsey.  
"That's a leading question," snapped Rosser.

"How did Frank give his narrative and was he rapid in speech and specific in regard to time?" the solicitor went on without the other question being answered.

Mr. Rosser objected to the use of the word "specific," and declared that Frank had always used the word, "about" in referring to the time of his movements.  
"What else was said in the conversation?" asked Dorsey.  
"Nothing more than I recall."

**Reported to Haas and Rosser.**  
"Did you or did you not make reports or statements to the defendant of what you did?" asked Dorsey.  
"I made them to Herbert Haas, Luther Rosser and Sig Montag," Scott declared.

"I grant that he furnished them, infected Rosser, but the fact that he did doesn't make it admissible."  
"Did the Pinkertons give Frank's counsel reports?" continued the solicitor.  
"Yes."

"Give them to the state?"  
"I don't know."  
"Did Frank say he heard the voices in the hall about noon that Saturday, before or after noon?"

Scott was allowed to refer to his notes and started reading from them when Rosser stopped him.

"You must not necessarily read what the notes say, but what your mind says after refreshing it by means of the notes," ruled Judge Roan.

"Frank said he heard the voices after noon," said Scott.  
"What did Frank tell you he did at home after he left the factory at

lunch time?" asked Dorsey.  
"He did not say."  
"Did he tell you he ate lunch?"  
"No."

**Frank's References to Gantt.**

"What, if anything, did Frank tell you about Gantt?"  
"He stated in the first conversation," said Scott, "that Gantt knew Mary Phagan very well and was intimate with her."

"Did he say how he knew this?"  
"No."

"Did Frank say anything about Gantt's attentions to Mary Phagan?"  
"Not that I recall."  
"May I refresh the mind of the witness?" asked the solicitor, turning to Judge Roan.

Attorney Rosser entered an objection.

"Your honor," said Mr. Dorsey rather hotly, "it is in your discretion to allow me to 'lead' a witness, and if there ever was a time when a witness needs to be led this is one, this detective in the employ of the defense."  
**Scott Becomes Angry.**

"You don't mean to intimate that I'm holding anything back!" Scott exclaimed angrily.

"The state has been trapped," said Mr. Dorsey amid a general murmur from Rosser and Scott, and for a moment things looked black.

"The witness told me something and now he don't seem to remember it," Mr. Dorsey continued, "and I'm not trying to impeach him, I'm simply trying to refresh his memory," he added as his colleague, Frank Hooper, whispered something to him.

"Mr. Dorsey said three times that he had been trapped by Scott," Rosser interrupted, "and now after Hooper has talked to him he's changed; Hooper's a wise man."

"You have the right, your honor, to allow me to ask leading questions, and while generally they are not allowed on cross-examination, you may allow them on direct examination and even refuse them to the other side when they are cross-examining. This detective seems to have a lapse of memory. Why, he had to refresh it a while ago with his notes, and now I want to ask him to refresh it about what Frank said about Gantt."

The solicitor evidently wanted Scott to declare that Frank had narrated

seeing Gantt and Mary Phagan together and thus give the lie to Frank's declaration to Rogers and Black that he did not know even whether such a girl as Mary Phagan worked at the factory.  
"In my talk to you, Mr. Scott, did I or not make memoranda of what you said?" asked the solicitor, and then turning to the judge he asked to show these to the witness.

**Rosser Again Objects.**  
Mr. Rosser objected to this procedure and the judge asked Scott if he knew what the solicitor had written on the memoranda. When Scott said he did not know all that Dorsey wrote, Judge Roan ruled that unless the witness had seen all that the solicitor wrote that he could not be shown the notes to refresh his memory.

"As I understand it, Mr. Dorsey can tell about what they talked over and can ask, 'Well, Mr. Scott, how about this or that?'" stated Attorney Hooper. "It is not a 'leading' question to call attention to a certain subject."

"Mr. Dorsey, you may call attention to a specific subject, but not to the answer you want!" said Judge Roan.

"Mr. Scott, did Frank or did he not discuss Gantt's relations to Mary Phagan?" the solicitor then asked.

"Yes" Scott replied.

"What did he say?"  
"He said Gantt paid a great deal of attention to her."

"Anything more?"

"Not that I now recall."

"Do you know when Gantt was arrested?"

"On Monday, April 28, about 4 o'clock in the afternoon."

"Before or after your talk with Frank?"

"About the same time; Gantt was arrested in Marietta just about that hour."

"Was there any suggestion by Frank's attorneys that you suppress any evidence in this case?" asked the solicitor.

"Your honor," interrupted Attorney Rosser, "Leo Frank in a civil case would not be bound by what his lawyers did, and certainly he would not in this."

Mr. Dorsey then withdrew the question.  
"What was said about the matter?"

asked the solicitor.  
**Scott Suspected Frank.**  
"During the first week in May," said Scott, "Pierce and I went to Herbert Haas' office to discuss the handling of the case and we told him we had strong suspicion against Frank."  
"I object; that can't come in!" roared Rosser.  
"Mr. Haas said that he would rather we would submit what evidence we might get to them before turning it over to the police," the Pinkerton man continued, "so that they would know in advance what the evidence was, and we told him that we would quit

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# REPRESENTING STATE IN FRANK TRIAL



Left to right: Solicitor General Hugh M. Dorsey, Assistant Solicitor E. A. Stephens, and Attorney Frank A. Hooper.

## ATTORNEYS FOR BOTH SIDES

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the case before we would handle it in that way."

Scott was then made to describe the locality where the supposed blood spots were found near the girls' dressing room and he declared that the spots had been clipped out when he went there, but that a white substance was smeared around the place as if someone had taken a cloth and rubbed the whitening on the floor.

"Are you sure that the white stuff had been smeared on, or had it merely been spilled there?" asked the solicitor.

"I could tell by its appearance that it had been smeared there," Scott replied positively.

"On the facts you have told about Frank's appearance are you willing to tell whether or not Frank was nervous?" asked the solicitor, referring to Scott's testimony about the defendant's being pale and taking long breaths during the first conference.

"He seemed nervous but not trembling," answered Scott.

"Tell what happened on Tuesday night, April 29, in Frank's presence," said Dorsey.

"Black and I were with Frank at police station and Black told him that he and I believed Newt Lee knew more about the crime than he would tell and we suggested to Frank that he, as Lee's employer, might get something out of him and we asked Frank to hold a private talk with the negro.

**Says Frank Squirmed in Chair.**

"Frank did that and when he had been there about ten minutes Black and I entered just as Lee was saying, 'Mr. Frank, it's awful hard to be handcuffed here to this chair.'

"Frank hung his head for about 30 seconds and then flinging up his hands he burst out, 'Well, they've got me, too!'

"Later Frank told us he got nothing out of the negro," said Scott.

"How about Frank's demeanor at that time?" asked Dorsey.

"He was extremely nervous; he squirmed in his chair and crossed and uncrossed his legs. He didn't seem to know what to do with his hands and put them all over his face and rubbed his mouth with them several times, four or five times, and hung his head, swallowed hard and sighed."

Scott was then made to tell that on the first Monday afternoon he saw Frank that the superintendent had told him the clock had not been correctly punched during the night before the finding of the body.

### Search Made in Factory.

"Black and I went to the factory and carried him to the station house and after a conference decided to keep him here," Scott declared next in answer to the solicitor's question about the time that Frank was first arrested.

"How about his appearance?" asked Dorsey.

"He had nothing to say and he was very pale."

"Did you see Mr. Rosser, Frank's attorney, with him on Tuesday before his arrest?"

"No."

"Did you see Frank on May 3, and what took place?"

"Black and I went to his cell and asked him if, after going back to the hotel from Montag's place, he stayed in the office, and he said he stayed also that he was there from 12 o'clock to 12:30."

"Did you talk to Frank about the prospects in the case previous to the offering of the rewards?"

"No."  
"Did you search the factory?"  
"Yes, I searched thoroughly around the elevator shaft, but only on the surface; I did not dig up the dirt."

"Find anything like a ribbon, a purse, pay envelope or a stick or bludgeon?" asked Dorsey quickly.

"No, I ran my lantern up and down and looked thoroughly, but I found nothing like what you describe," Scott declared with emphasis.

### Cross-Questioned by Rosser.

Mr. Rosser then took up the cross-examination.

"Did you make a report of your talk with Mr. Haas?"

"Yes."  
"Mr. Haas said that he wanted to find the murderer whoever he might be, didn't he?" queried Mr. Rosser.

"Yes, he said that after I had told him we would quit the case before we would handle it like he first suggested, in telling us to submit new evidence to him before giving it to the police," replied Scott.

Mr. Rosser then declared that he wanted to show that he had not been concerned in the affair. The solicitor won his point, however, that because it might have been that one of the defendant's counsel had tried to suppress facts, that such did not open up the way for proving that others had not.

"Well, there's certainly no one here who would think that I had anything to do with it, and I know it," thundered Rosser, apparently addressing himself to court and spectators as well as jurymen.

"Didn't you give me a statement of your first conversation with Frank in which there was no mention of his statement about the alleged intimacy between Gantt and Mary Phagan?" asked Mr. Rosser a moment later of Scott.

"It was purely an oversight."

"Didn't the coroner ask you about Lee's statement and you answered without saying anything of Gantt's intimacy?"

"Yes, I didn't consider Gantt a suspect and for that reason did not report it to you."

### Gives Notes to Rosser.

Scott then gave Attorney Rosser the notes of his testimony.

"Isn't it true that at the inquest you failed to tell of Frank's lowering his head?"

"I do not remember."

"Didn't you make one statement at the inquest and another here?"

"Oh, I've refreshed my memory," said Scott.

"Show me in your notes anything about Gantt's intimacy with Mary Phagan," said Rosser.

"It isn't there; I've got my system of taking notes and maybe they are not like yours."

"Isn't it true you took part of the notes one day and some another day?"

"I did no such thing."

"You never mentioned to me of Gantt's intimacy."

"No."

"At the coroner's inquest did you not say Frank was nervous that afternoon at the office?"

"No; I was not asked about it."

"Why did you state it?"

"Oh, there is a lot besides going into a whole detailed sheet about it."

"When you told of the talk between Lee and Frank you never said he was nervous."

"Not nervous; I said Frank hung his head."

"Are you following Dorsey's attack?"

"No, his line of questions."

"Are you a trained sleuth?"

"Suppose so."

"You are trained to note all indications of guilt in a man?"

"Yes."  
"Did you swear you told all you knew at the inquest?"

"Yes; I did my best in a general way."

"You never hid anything?"

### Scott Again Grows Angry.

"No; that's not my business nor my reputation," Scott flashed back, his anger, which had been visible since his hot words with the solicitor, flaring high again.

"It wouldn't have been wise to open up and tell everything at the inquest," interrupted the solicitor.

"Who was present at the factory office when you conferred with Frank?"

"Darley was there and I think Schiff was," answered Scott.

"Do you work with the police?"

"Yes."

"Never work against them?"

"No."

"You just go right down the road with them do you?" said Mr. Rosser.

Scott made no particular reply and the cross-examination went on.

"Were you in the factory that Sunday morning?" the attorney next asked.

"No; I never entered there until about 4:30 Monday afternoon."

"Did you testify as to blood stains at the inquest?"

"Yes."

"I also found some supposed blood stains," Rosser read from the stenographic report of Scott's testimony before the coroner.

"Mr. Scott, you said nothing then about the smears over the spots," said Mr. Rosser.

Scott was then made to tell that Frank acted as the spokesman in the office and that Darley did the explaining as they made the trip through the factory on the Monday after the crime.

"You say now," continued Mr. Rosser, "that Frank told you he left the factory about 1:10?"

"Yes."

"Didn't you report to me that Frank said he left about 1 o'clock?"

"No, I said 1:10."

"When the attorney exhibited the report it showed 1 o'clock instead of 1:10 and Scott declared that it was merely an error, and should have been 1:10.

"Did Detective Black know all that happened before Herbert Haas, Sig Montag or I did?"

"Yes, absolutely."

"Well, you may go," said Mr. Rosser, and turning to the judge he declared he wanted to reserve the right to question him again.

### Dorsey Resumes Questioning.

"Did you ever report to the police the finding of a stick?" asked Mr. Dorsey, again taking up the examination.

"I presume that unless it was held out that chief got knowledge of it about the time it was found," answered Scott.

"Don't you know whether he did or not?"

"No, I was away at the time, and I don't know what happened while I was out of town."

"When you work with the police do you follow them or the facts in the case?" asked Dorsey.

"We report to the police each day the facts we get."

"How do you work with the police?"

"Ick and I worked as partners, and he know all I knew, and reported it to the police."

Then Mr. Dorsey made the witness tell again about the threat that the Pinkertons would leave the case before they would report evidence to the defense before giving it to the police. After Scott had pointed out on the cross-section of the factory building the route taken by himself, Frank and Darley in examining the place on the Monday after the case, he was excused. The Pinkerton man had been on the stand for two hours.