

# In Dramatic Phrases Hooper Outlines Events Leading Up to and Following Death of Girl

"Your honor, and gentlemen of the jury," spoke Mr. Hooper, the first of the attorneys to address the court, "the object of this trial, as well as all other trials, is the ascertainment of truth and the attainment of justice. In the beginning, I want to have it understood that we are not seeking a verdict of guilty against the defendant unless he is guilty. "The burden of guilt is upon the shoulders—we confront the undertaking of putting it upon him. We recognize that it must be done beyond a reasonable doubt, and that it must be done purely by the evidence which we have produced before you. "We have cheerfully assumed this burden. We have cheerfully undertaken the task, but there is not a single man on the prosecution who would harm a hair of the defendant's head wrongfully. We want him given the same measure of justice that should be meted to all classes of defendants. He is entitled, though, to the same degree of law as any other prisoner. "But, he is not entitled to any more because of his wealth or social position. The arm of the law is strong enough to reach to the highest pinnacle of position and drag down the guilty, and strong enough to probe into the gutter and drag up the lowest. "The Jury's Responsibility. "There is not a case in the history of Georgia that has been as long and as important as this. With this importance, there arises a great degree of responsibility that rests upon your shoulders. I call your attention to the facts of law as they will be given you in the charge—your only instructions, the orders by which you will be guided in the end. "There is one thing I want to say, and that is this: This man should not be convicted purely because the law is seeking a victim. The law doesn't demand it. It demands only truth, the showing of which is required by us, the prosecution. "We are not looking for blood indiscriminately. We are only seeking the slayer of Mary Phagan, and in seeking him, I try as much as possible to feel as though I were one of you twelve. "Now, let's see what was the situation on April 26 in the pencil factory. This factory was being run by Sig Montag as its boss, Frank as its superintendent, assisted by the handsome Mr. Darley and the able Mr. Schiff. "As a citizen of Atlanta, I am not proud of conditions that existed in that factory! What was its moral atmosphere? The character of it appeals wonderfully to us as we seek the truth. "The defense has produced numbers of girl workers who told us of his character. They told us it is good. That is only negative because he has never harmed them. They do not know him, but, while we are considering their stories, there are the stories of others—girls who left his factory because of his character and his conduct toward them. "They say his character is bad. You have from the two your choice of either. Those who still are there—those who have never been harmed—and those who have left because of him and his character. "The law is a peculiar thing. We named over our plans with the first witness put on the stand. We showed at first just exactly what we had in view, exposed our hand, so to speak, and even went so far as to put the stories before you in so far as they were allowed to be told. They were permitted to go into detail. They would have gone into detail were they permitted to have allowed them. They would have told of incidents that would have been convincing. "Arnold's Objection Overruled. "Here Attorney Arnold interrupted the speech, objecting on grounds that Mr. Hooper's argument was improper. He was overruled, however. "So, gentlemen," continued the speaker, "we have adopted the only logical manner in which the matter could be sifted. It's on this principle: "If fifty men were asked of the character of a certain piece of man, and twenty-five or more say it is good, while as few as ten say it is bad, what is the character of this piece of man, considering, of course, that all have an equal opportunity to observe? "Would you say it was good? This question of character was one into which we were not permitted to go. But the defense, on the other hand, were allowed to let down the bars and walk in. "That pencil factory was a great place for a man without a conscience. It was a great place for Frank, his handsome assistant, Mr. Darley, and the able Mr. Schiff. We find that Frank had coupled himself up for nightly meetings with Dalton, who now has, it seems, turned respectable. My friends, no doubt, will argue that it was strange a man of such business and social position should consort with such a character. It will be a good argument, likely, but probe a little deeper and see if Dalton was not the kind of man required by a dual personality such as possessed by Frank? "Dunt Personalities. "We all have dual personalities. There is not a man so good without evil, and no man so bad without good. But when the evil is predominant the man is bad. Vice versa with the good. A man may mingle with the shades of night are falling and the evil dominate, he doesn't go and get good men who can tell of his good character. He goes for his Dalton. We all are Dr.ekyll and Mr. Hyde. There are two sides to each of us. "Dalton seems to have overcome this evil. He is apparently making good, as many substantial folks have told us on the witness stand. You can't blame Dalton so much. "This factory was under the control of this man Frank. It is a house of bad reputation. You find other acts of this sort committed therein. It is a factory. Frank is its head. He contends he did not know Mary Phagan. Why, every day as he walked through the floor on which his office was situated, he passed by her at her machine. You find, gentlemen, that he often stopped at her place of duty, to show her this or to show her that, to help her in her work. Not only that, but he followed her out of her beaten path—following like some wild animal, telling her of his superiority, coaxing, persuading, all the while she strove to return to her work at her machine. "When Gantt Entered Case. "You will notice on this diagram that every time he crossed the floor he passed this beautiful girl, looking upon her with the eye of lust. The

first indication of his attitude toward his victim is in the tall, good-natured Jim Gantt, friend of Mary. He asks Gantt: 'You're pretty thick with Mary, aren't you?' Gantt shows that he knew her and that he had his eye on her. "What next?" "He wants to get rid of Gantt. How does he go about it? You have seen that previously he was bragging on Gantt, on Gantt's ability as a workman. But, just as soon as his eye is set upon the pretty little friend of Gantt, he sets plans to get rid of him. "And, it comes up about a dollar. "He says it was something about money, hoping to lead you, gentlemen, to believe that Gantt was a thief. He would not let Gantt go into the building because he was a 'thief.' "Didn't he know that this long-legged mountaineer was coming back at him? Sure, he knew it. And, they parted company at once. Gantt was freed. "What was he accomplishing by this? "He was getting rid of the only man on either floor—in the whole factory—who knew Mary Phagan, and who would raise a hand to protect her. "Starks Laying His Plans. "Then, he sets about laying plans. And then plans! "You will notice that the defense has pitched its every effort entirely on Jim Conley. I don't blame them. He was like Stone Mountain is to some get by him. We could have left him out and have had an excellent chain of circumstantial evidence. Without Jim, though, the defense couldn't move—they couldn't budge. "You have sat and seen the biggest legal battle ever fought in a court, a witness negro. You have seen brainy eloquence pitted against the slow, incomprehensible dialect of a negro. You have seen a trained and speedy mind battling with blunt ignorance. And, what was the result? "At the end of three and a half days it came. That negro was asked questions about everything Rosser could conceive. His answers were hurried from the stenographer's notes and transcribed on typewriter. Then, they were hurled back into Conley's face. But, it was like water poured onto a mill wheel. They received the same answers, the same story. "Negro's Story Unbroken. "It was because, gentlemen, the negro was telling the truth. Truth is stronger than all the brains and ingenuity that can be collected in this whole town—this state, the world. How they did hate to give up the fight. They lost, and with the loss went the loss of their theory in whole. "When all was through, they were forced to sit and leave Jim's truth unscathed. How unfortunate! All they could say was that Jim had been a big liar. That is true. In his first two stories, he lied. But, if I had any comment on Jim Conley, it would be that if they had bored him as they bored him at police headquarters, they could have muddled him even more. "Suppose Frank's conduct in this case is shown as it has been. He is a smart man. There is no disputing that fact. He needn't have told you all the details on the stand of the amount of work he did that day. You can tell that he is smart, clever, ingenious. "Now, Jim, he comes back that Saturday morning by order of the brilliant Frank, his boss. There's no denial of this so far. Other people tell you they have seen women enter the factory with men at suspicious hours. Jim tells you of watching women folks. And there is this to reckon with: "Providence has a way of revealing the truth at the final minute. At the eleventh hour we found two men yesterday who had been to the pencil factory at the noon Mary Phagan was murdered. They saw Jim Conley just before he left, sitting on the first floor, near the door where he watched for Frank. "Mrs. White saw him, although she doesn't identify him perfectly. One thing true, she saw a negro in the position Jim tells us he was in. "Now, for what purpose was he there? "Waiting to do the same thing he had done before—to watch for his boss. They say he was drunk. Very well. But, did you notice how clearly he recited incidents and told the names of people he saw at the times they claim he was so drunk? "The Time of the Tragedy. "We are brought up to the time of the tragedy. Jim is still there. Everybody has gone, leaving him and Frank in the building. Frank knew that Mary Phagan was coming that day, and he knew the hour. On the previous afternoon little Helen Ferguson, Mary's chum, had called for Mary's pay, and Frank had told her that Mary would come and get her own pay, breaking a rule of the plant in doing so. "He arranges with Jim to hang around and make himself convenient. Jim takes his accustomed seat in the hallway. Parties come and go. Jim observes all that happens, he says nothing. Finally Mary Phagan arrives, beautiful, innocent, coming in her blue frock and now hat and a ribbon around her hair. "Without any thought of evil or foreboding of tragedy, she trips out at the building and up the stairs, going for \$1.20. No explanation can come from Mary. The dead have no stories to tell. She went in a little after 12. She found Frank. He tells us that much from his own lips. He was there from 12 to 1, it's his own statement. "There was Mary. Then, there was another little girl, Monteen Stover. He never knew Monteen was there, and he said he stayed in his office from 12 until after 1 o'clock. Monteen waited around for five minutes. Then she left. "The result? "There comes for the first time from the lips of Frank, the defendant, the admission that he might have gone to some other part of the building during this time—he didn't remember clearly. "The Pursuing Footsteps. "Jim Conley, sitting faithfully down, heard footsteps going toward the metal room. Then there came the sound of other footsteps, footsteps that pursued. There was no return of the first footsteps, and the footsteps that pursued tiptoed back from the metal room. "Then Leo stamped a signal on the office floor. "I will be fair with Frank. When he followed the child back into the metal room, he didn't know that it was his purpose. I don't believe he originally had murder in his heart." "There was a scream. Jim Conley heard it. Just for the sake of knowing how harrowing it was, I wish you jurymen could hear a similar scream. It was poorly described by the negro. He said it sounded as if a laugh was broken off into a shriek. He heard it broken through the stillness of the hushed building. It was uncanny, but he sat faithfully on. He was under orders. "He was to come on signal. That scream was no signal. Later, Frank would stamp on the office floor.

"This negro tells you that the white man killed the little girl. But, no! Frank was in his office, busy with his wonderful financial sheet. I will show you how he could have sat at his desk and heard this negro attack the little child who had come to draw her pay." "Turns to Diagram. "The speaker turned to the diagram, showing the jury the nearness of the metal room to Frank's office, explaining his theory that nothing could have happened on the floor without being heard or seen by Frank. "Mr. Frank, I will give you the benefit of all you deserve. When all is summed up, you were sitting only a few feet from the spot where a murder was committed, and you never raised a finger. "Let me show you something else. When this thing was over there were two men and a woman upstairs who had to get out the building before the body was moved. It would be dangerous to leave it lying back in the metal room, staring hideously from unseeing eyes. "Frank went upstairs and told the trio up there that if they were going, it was time for them to go, as he was going to look up the factory. He was in a hurry and told them so, Mrs. Arthur White, perceiving his evident hurry, hastened downstairs. When she reached the office, Frank, the man-in-hurry, was in his shirt sleeves, writing at his desk. "Why Should I Hang? "Why should I hang? What does that show? In the first place, his appreciation of a little girl of 14. Did it hurt him to knot the rope of cord around her neck, did it hurt him as he drew it tighter and tighter around the slender throat until the dim spark of life was choked extinct? "To the contrary. It only excited him enough to ask himself the question: "Why should I hang? "There are times when we all speak out our true thoughts and sentiment. That was such a time. "Now, which is the more probable—that Jim heard this expression, or that he imagined this story? "Did Jim know Frank had relatives in Brooklyn? "Did Jim know there was such a thing as Brooklyn? "Did he know they were rich? "And Jim says, with the typical soul of Africa: "What's gone to become of me? "Frank says 'I'll take care of you, for I'll write my mother a letter, so that she can help you.' He asks Jim if he can write, and Jim tells him a little bit. He wasn't on his guard. He should have detected the purpose. Frank was smart. Jim was dull. Frank dictated, Jim wrote. "Now, gentlemen, I suppose most of you are southern men, men who know the characteristics of the negro. Will you please remember the evidence about honest old Newt Lee's finding the body. That's all we need to know about him. No suspicion attaches to Newt. "He notified the police, and tried to notify Frank. The police came and took the body of little Mary Phagan to the undertakers. "Frank's Nervousness. "The police called up Frank then and told him they wanted him. Detective Starnes got mixed up when he told about this on the stand, but he never forgot that when he called Frank up Frank did not ask him what the trouble was. He didn't ask him whether anybody had been killed at the factory. He didn't ask them if everything at the factory was all right. "They took Frank to the undertakers. "He was nervous then. But have you seen a quiver of a muscle since he has been these weeks in the courtroom? He is facing the fight now, and his nerves are set. But that morning he was as nervous as a cat. "He said," continued Hooper, "I think it's a girl I paid off yesterday. I'll have to look at my books and see. That's what he said about the body of the girl he saw every day, and talked to. He offered no consolation, or anything. He got away from there. "Another thing, when he carried him to the basement and brought him back upstairs, what was going on in his mind then? He thought he must look at that time slip. So he got the key and unlocked the clock and took out the slip. He examined it while others were looking over his shoulder, and said it was correctly punched, that it was all right, and others agreed to it. "Here's the slip." Hooper exhibited to the jury the slip. "He said, 'That's all right. That clears you, Newt.' "Throws Suspicion on Newt. "What next occurred to him? He saw he was getting into a fix, and he had better take a shot at Newt. What happens? Another slip turns up. He says he was mistaken at first. There were inches in the punches on the slip, showing time enough unaccounted for to allow Newt to go home. "John Black caught what was up. He goes to Newt Lee's home. He unlocks the door with his keys and looks in the house and on the trash pile, and in the bottom of the laundry with a lot of things piled on top of it, he found a bloody shirt! How did it get there? Newt Lee accounts for his time Sunday. No suspicion attaches to Newt Lee. He is a free man. How did that bloody shirt get there? "It had to be planted. Gentlemen, it was planted! "Here are the two propositions, gentlemen. If Newt Lee was to be made the goat, suspicion had to be directed to him. Somebody had to plant that suspicion. "Particular Things About Shirt. "There are some peculiar things about that shirt, gentlemen. "It is a hand-made shirt. "Newt Lee said if it is a home-made shirt, it's mine; if it's a store-bought shirt, it's not mine. "Lo, and behold, it's a home-made shirt!" "But what do we find? That shirt is blooded partly on the inside and partly on the outside, and the blood did not entirely soak through either way. How could this happen? It could happen but one way—it was crumpled up and wiped in blood! "Moreover, this was a freshly laundered shirt. The button holes had never even been opened to receive the buttons. There was absolutely no odor about the shirt as would be about a shirt that had been worn. "He would sacrifice Newt Lee that he might live! "The Bible says, 'What will not a man give for his life?' "He was willing to give the life of Newt Lee that his own life might be spared. He was willing to give the life of Gantt that he might live. Was not Gantt arrested a few days after? "But not once at that time did he think of giving the life of Jim Conley. But somebody found Jim Conley washing a shirt to go to the trial, and there was where Jim got into trouble. "Turns Upon Jim Conley. "But Frank didn't try to fix it on Jim then. He waited until Newt had failed, and all else had failed, except the suspicion which rested upon himself. Then he turned on Jim Conley. "I call your attention, gentlemen of the jury, to another peculiar thing. "Weeks after the murder and after the factory had been searched, a big bloody attack was found by shrewd Pinkerton detectives, who can find anything—even an elephant if it gets in the way. They also found a piece of envelope. But, unfortunately, they showed this to Mr. Coleman, who said

think that Gantt stole that poultry dollar. "He expected him to ask where Mary Phagan was. That, gentlemen of the jury, is why he jumped back when he saw Gantt. "Jim Gantt spoke to the defendant. He said, 'Look at Mr. Frank.' The defendant felt relieved then. "Gantt told him that he had left a pair of shoes in the factory and wanted to get them. But it won't do to let him go in that building now, thought the defendant. Suppose he should find out? 'I mustn't go in there. So the defendant said that he thought he had seen a nigger sweeping Gantt's shoes out of the building. "Then Gantt said he had two pairs of shoes in there and that maybe the other pair wasn't swept out. "This was the last hope. What could he say to that? He had said that he saw the nigger sweeping out only one pair. In a few days this murder must be out anyway. To keep Gantt out would arouse his suspicions. He would have to let him in this time. "And this is what went on in the defendant's mind. I'll let him in, but I'll send him like a thief. And he said, 'Now, go with him.' "Strange to say, Gantt found both pairs of shoes, just where he said he had left them. "Gentlemen, does that look like the defendant had seen a nigger sweeping them out? Does that look like the truth? "Called Up Factory. "After he had let Gantt in the factory, what did he do? "He called up the factory by phone, a thing that he never had done before. Why? Why did he do that thing? Gantt, Gantt! That's why! "He wanted to know if Gantt had gone and whether he was any the wiser. He couldn't rest until he knew this. This Banquo's ghost of a Gantt was haunting him. "But when he knew that Gantt was safely gone and everything was all right, he went in a fine humor. He could laugh and talk. He could sit down in the house with his wife and read baseball in the newspaper. He could laugh and try playfully to break up a card game. He felt fine and relaxed. As glad and free as a school boy! "Old long-legged Gantt was gone, and everything was all right! "Now, about Newt Lee. I don't want to throw out all the details in this respect. You remember the evidence about honest old Newt Lee's finding the body. That's all we need to know about him. No suspicion attaches to Newt. "He notified the police, and tried to notify Frank. The police came and took the body of little Mary Phagan to the undertakers. "Frank's Nervousness. "The police called up Frank then and told him they wanted him. Detective Starnes got mixed up when he told about this on the stand, but he never forgot that when he called Frank up Frank did not ask him what the trouble was. He didn't ask him whether anybody had been killed at the factory. He didn't ask them if everything at the factory was all right. "They took Frank to the undertakers. "He was nervous then. But have you seen a quiver of a muscle since he has been these weeks in the courtroom? He is facing the fight now, and his nerves are set. 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that Mary had received but \$1.20 and that the figure '6' on the envelope had no business there. And so, it was rubbed out. Besides the shirt, then, we find the club and the pay envelope. "Another very peculiar thing is about this man named Mincey. "Conley was asked, 'Didn't you confess to Mincey that you were the man that killed the girl?' Conley said, 'No.' "That question was asked, gentlemen, as a foundation upon which to introduce Mincey. "Where is Mincey? "He is the man who could clear it

all up. He is the man about whom it appeared that the whole fight would center. If he could convince you that Jim confessed the murder to him that would let Frank out! "Yet where is Mincey? "Gentlemen, this has been a long testimony which you have had to sit through, and I do not wish to take up any more of your time than necessary." "Pincered Brought Into Court. "The jury retired from the room for a few minutes, and a large placard, about the size of an ordinary sign,

was brought into the room by the defense, upon which were bulletinized the main points of the testimony. "When the jury came back, Hooper read to them the law upon the relevancy of character evidence and that defining reasonable doubt. He explained to the jury that the only belief required of them was the same sort of belief that they would have upon the street, at their places of business or in their homes, and that on this belief they were to act. "Simply use your common sense in the jury box," said he. "I thank you."