Who Killed Little Mary?
By Marc Schewel

This is a sad story.

It's also multifaceted and labyrinthine, cloaked in a collage of themes that encompasses a brutal murder, lurid sexuality, racial stereotyping, anti-Semitism, child labor exploitation, journalistic sensationalism, sectional antipathy, class conflict, anti-industrialism, influence peddling, and problematic jurisprudence.

Around 3:00 AM on Sunday, April 27, 1913, Newt Lee, the night watchman at the National Pencil Company in Atlanta, Georgia, went down to the basement to use the Negro toilet. "As he started up again a ray of light from his lantern fell upon something that looked like a human form . . . He then hastened up the ladder and telephoned the police, who arrived within ten minutes." (Dinnerstein, pp. 1-2)

So caked with soot and cinders was the young female body illuminated by Call Officer W. F. Anderson's flashlight that he had to lower one of her stockings to determine the color of her flesh; it was white. The girl's face was bruised, her scalp slashed and covered with blood. Her garter belts were unfastened, her underpants ripped, and, in the words of Sergeant R. J. Brown, "You could see . . . blood on the drawers . . . coming from her privates." (Oney, p. 19)

Two strange notes were found buried in the rubbish nearby. The first, "scrawled on a sheet of lined white paper," read: "he said he wood love me land down play like the night witch did it but that long tall black negro did boy his slef." (Oney, p. 20)

The second, jotted across a yellow National Pencil Company order sheet, like its counterpart seemed to implicate Lee: "mam that negro hire down here did this i went to make water and he push me down that hole a long tall negro black that hoo it was long sleam tall negro i wright while play with me." (Oney, p. 21)

A trail of sawdust indicated that the corpse had been dragged to its resting place from a ladder connecting the basement with the first floor. At the bottom of the elevator shaft lay a girl's hat and parasol, a ball of twine, and "something that looked like a person's stool," which was shortly mashed by the descent of the elevator, spreading a foul odor throughout the premises. (Dinnerstein, p. 3)

Not until another officer at the scene, W. W. "Boots" Rogers, was able to rouse his sister-in-law and drive her to the funeral home where the remains had been delivered was the deceased identified; she was a company co-worker, thirteen-year-old Mary Phagan. (Oney, p. 23)

A native of Marietta, Georgia, whose widowed mother had relocated to the Atlanta area from Alabama in 1907, Mary typified both the hardscrabble tenant farmers who flocked to the city to toil sixty-six hours a week for fifteen cents an hour and the pre-adolescents who worked as rigorous a schedule at a third the remuneration. (Oney, p. 5)

Substandard conditions in Atlanta compounded the problems of labor exploitation. In 1908, one-third of the residents lived without water mains or sewers. More than half the white school children and seventy-five percent of the black suffered from malnutrition, anemia, and heart

disease. The death rate per 100,000 exceeded the national average by thirty-three percent. Crime was rampant, with arrests in some years running as high as twenty percent of the total population. In such a pathological environment, "the murder of a young girl in 1913 triggered a violent reaction of mass aggression, hysteria, and prejudice." (Dinnerstein, pp. 8-9)

Although night watchman Lee and two other suspects, Arthur Mullinax and James Gantt, were being held in custody, a number of factors conspired to shift police attention to the twenty-nine-year-old Jewish factory superintendent, Leo Frank.

Mullinax was cleared when his girl friend provided a convincing alibi and the person who supposedly spotted him with Mary Saturday night turned out to have poor vision. Gantt, who had stopped by the factory to pick up some shoes he had left there after his termination, was released when his sister, with whom he roomed, admitted that, when originally questioned, she *had lied* about his absence from her home that night. (Oney, pp. 33, 47-48, 61-62)

Meanwhile, Lee told the police that Frank asked him to report early (4:00 PM) on the day of the murder, and then sent him away for two hours. When Lee returned at 6:00 PM, Frank left but telephoned him at 7:00 PM to ask if everything was all right -- something he had never done before -- for which Frank's explanation was that he was concerned that Gantt would show up and cause trouble. (Oney, pp. 48, 50-51)

Subsequent calls to Frank Sunday morning by Lee and the police went unanswered. One detective described Frank's voice during the initial visit to his home as "hoarse and trembling and nervous and excited. He looked to me like he was pale," he said. Later, at the factory, personnel manager H. V. Darley, one of Frank's closest associates, would remember, "When we started down the elevator, Mr. Frank was shaking all over." (Oney, pp. 24-25, 30)

Leo Frank was the last person known to have seen Mary Phagan alive. In a deposition, he testified that on Saturday, April 26, he was alone in his office when she "came in between 12:05 and 12:10, maybe 12:07, to get her pay envelope [containing $1.20 for two abbreviated shifts she had worked the past six days] . . . I paid her and she left." (Oney, p. 50)

The Monday morning after the discovery of the body machinist R. P. Barrett noticed a suspicious red spot -- which appeared to be blood -- on the factory floor near a women's dressing room twenty feet from Mary Phagan's workstation. Turning to a nearby bench lathe, he *made an even more* startling observation: six or eight strands of hair he would swear "weren't there on Friday." (Oney, p. 46)

With evidence now suggesting that Mary had been murdered in the metal room, dragged across the floor, and lowered to the basement in the elevator, the police arrested Leo Frank on Tuesday, April 29.

Certainly they were under intense pressure from an enraged public and a trio of circulation-hungry newspapers, which, in an effort by each one to gain an edge on the competition, would manufacture, in the words of one reporter, "the greatest story in the history of the state, if not of the South." (Dinnerstein, p. 13)

If the Constitution, which had scooped its rivals early Sunday morning, solemnly intoned, "If the men who ferret out crime and uphold the law in Atlanta are to justify their function, it must be in

apprehending the assailant and murderer of Mary Phagan," and the Journal boasted that it had "proven conclusively" that Newt Lee "either himself mistreated and murdered pretty Mary Phagan" or knew who did, it was the journalistic shock troops at William Randolph Hearst's Georgian who were best equipped to seize the explosive moment and ignite it with their stock-in-trade "innuendo, misrepresentation, and distortion." (Dinnerstein, pp. 14-15)

The Georgian inaugurated its dramatic coverage of the case with twenty "extras" and five pages of pictures and stories about Mary and her family, including a twelve-year-old playmate's pledge to "help lynch" the man who killed her and the Phagan family patriarch's exhortation that "No punishment is too great for the brute who foully murdered the sweetest and purest thing on earth." It offered a $500 reward (which later escalated to $1800 in a ferocious bidding war) for "information leading to the arrest and conviction of the murderer." (Oney, pp. 36-37)

During the next four months the Georgian devoted the equivalent of one hundred pages to the story and tripled its normal sales of 40,000 papers a day, enabling it to attain the largest circulation of any southern daily in 1913. (Dinnerstein, p. 13)

Born in Texas, raised in Brooklyn, N.Y., educated at the Pratt Institute and Cornell University, Leo Frank had moved to Atlanta in 1908 to accept a position at the National Pencil Company, of which his uncle Moses Frank was the principal stockholder. He and his wife Lucille, who came from the wealthy and prominent Selig family and whom he married in 1910 -- it was love at first sight, she later recalled -- made their home with her parents. (Oney, p. 82)

Frank's friends, who had recently elected him president of the five hundred member Gate City Lodge No. 144 of B'nai B'rith, were stunned by his arrest, and unanimously of the opinion that it was impossible for him to have had anything to do with the murder. "My husband is absolutely innocent," sobbed Lucille to a Georgian reporter. (Dinnerstein, p. 6)

The sordid circumstances of Mary Phagan's death became a breeding ground for a swarm of rumors -- enshrined by the press as gospel -- related to the sexual proclivities or, more damning, perversions of Leo Frank. Many of these surfaced, or were substantiated, at the Coroner's Inquest, which convened four days after the murder.

In answer to the Journal's sinister front page teaser, "Was Factory Used as Rendezvous?" -- posted after police discovered a cot in a storage shed adjacent to the cellar's south wall -- machinist-sleuth Barrett reported that he had "frequently heard" that the building was utilized for "immoral purposes." (Oney, p. 72)

George Epps, a fifteen-year-old newsboy, testified that during a trolley ride to town with Mary on the fateful day she told him that Frank often tried to flirt with her, by winking, smiling, and "looking hard and straight at her." (Oney, p. 73)

Fourteen-year-old Nellie Pettis explained that when she went to "draw her sister-in-law's pay," Frank pulled a box of money from his desk, looked at it provocatively, and asked, "How about it?" Nellie Wood, two years older, stated that Frank put his hands on her, on the factory floor and in his office. (Oney, pp. 88-89)

Despite these titillating tales, the case against Frank was flimsy. When coroner Paul Donehoo posed the question "Have you discovered any positive information as to who committed the

murder?" to police investigator John Black and to Pinkerton detective Harry Scott -- whom Frank had originally hired but whose true allegiance lay with his friend Black -- both men responded "No." (Oney, p. 96)

In the May 11 issue of the Georgian, political editor James Nevin dismissed the Coroner's Jury guilty verdict as based on "horrible false details conjured up in some disordered brain hereabout . . . [and on] misinformation, near-facts, pure falsehoods, and prejudice. Who then did murder Mary Phagan? The question is almost as far from an answer today . . . as it was when [her] body was dragged to light." (Oney, p. 97)

Nevertheless, Hugh Dorsey, the solicitor general of Fulton County, who would direct and coordinate the proceedings for the state, saw in them an opportunity to redeem his tarnished reputation. In the past year he had lost two high-profile trials: that of Atlanta socialite Daisy Grace, who was accused of slaying her husband, and that of vamp Callie Scott Applebaum, who apparently consummated the act, having been found in a locked room with a discharged revolver and the victim shot in the head. (Oney, p. 94)

Since references to Frank's sexual peccadilloes would be inadmissible unless introduced by the defense, Dorsey realized he would ultimately need additional proof of culpability. On May 10, he secured an affidavit from fourteen-year-old Monteen Stover, who said she had stopped by the factory at 12:05 on April 20 to pick up some outstanding pay, searched unsuccessfully for Frank in his outer and inner offices, and left at 12:10. (Oney, pp. 100-101)

Despite presenting a bare minimum of physical evidence, principally the testimonies of Stover, Barrett, Gantt, and a few others, Dorsey was able to convince a grand jury on May 24 to indict Leo Frank for the murder of Mary Phagan. The Georgian remained skeptical, commenting that "the State has failed to establish Frank's connection with the crime . . . Frank was never seen with the girl on the day of the strangling or before . . . Absolutely nothing was discovered in the search of the detectives [of his clothes, fingerprints, or personal belongings] that fastens the crime on him." (Oney, p. 117)

That same day Dorsey would find himself in possession of a smoking gun -- the Delphic pronouncements of a "shiftless, no-account Negro," to quote historian Steve Oney, which would be miraculously embraced by a Jim Crow community as more credible than the words of a white man. (Oney, p. 118)

A sweeper at the factory, Jim Conley had been arrested back on May 1, when day watchman E. F. Holloway had noticed him standing at a second floor water cooler washing red stains -- merely rust, he demurred -- out of an old blue work shirt. Despite a history of intermittent incarceration for petty theft, drunkenness, and disorderly conduct, Conley remained free from suspicion because he swore "he could not do what the Phagan girl's killer or accomplice, one of whom had surely authored the murder notes, could do: write." (Oney, p. 119)

Probably based on tips from Frank himself and from Holloway, Pinkerton detective Scott obtained an installment contract bearing Conley's signature from a jewelry store where he had purchased a watch. After confirming that the handwriting matched that of the notes found beside Mary Phagan's body, Scott and Black confronted Conley and charged him with lying about being illiterate (which he admitted) and with writing the notes (which he denied). (Oney, pp. 128-130)

A week later, however, Conley summoned Black to his jail cell, and "uttered the words that would eventually enthrall all Atlanta: 'Boss, I wrote those notes.' " (Oney, p. 131)

Conley's subsequent affidavit satisfied Scott, Black, and Chief of Detectives Newport Lanford that he was telling the truth, although his rambling account was peppered with glaring implausibilities. Contrary to the generally accepted assumption that the action had been spontaneous, Conley claimed to have written the notes a day before the murder. Further, no one believed that Frank would have said to Conley "Why should I hang?" and thus divulge in advance that he was going to commit a capital crime. Such absurdities, mused the Georgian, actually served to "bring the deed to Conley's door." (Oney, pp. 132, 133)

Badgered by Black for three days and frightened by a Georgian headline naming him the perpetrator, on May 28 Conley produced a second affidavit in which he disclosed his presence at the pencil plant on Saturday, April 26, the day of the murder -- having been instructed by Frank to come there after accidentally meeting him a few blocks away. Once they arrived, Frank summoned Conley to his office around 1:00 PM, shoved him into a wardrobe to hide from two female employees (Emma Clark and Corinthia Hall) who unexpectedly appeared, and, when they departed, asked him to record the notes from dictation, as he had related in his original statement. (Oney, pp. 134-135)

Placing himself on the premises further implicated Conley and led to speculation by Holloway and two other workers that he had struck Mary down while trying to snatch her purse, which had never been found. While Black and Scott dismissed this theory, they were baffled by Conley's neglecting to mention at any time that he knew a crime had been committed. Four more hours of relentless grilling finally elicited from Conley his third and most devastating affidavit. (Oney, pp. 136-138)

Now Conley alleged that Frank had called him to his office because a girl had fallen and hit her head, and needed to be removed. When Conley found the girl dead, Frank ordered him to carry her to the elevator. Halfway across the floor, Conley hollered for help, and together the pair managed to get the body to the basement. From that point the account replicated the two prior ones, except that Frank handed Conley $200 (instead of $2.50 in a cigarette box), but then -- as described in a handwritten addendum -- snatched it back, promising to return it on Monday. (Oney, pp. 138-140)

The detectives escorted Conley to the pencil factory, where, reported the Georgian, he reenacted the "grim drama with a realism that convinced all who listened and watched that he was at last telling the whole truth." (Dinnerstein, p. 25) Ironically, it was his initial dissembling that lent legitimacy to his ultimate revelations. As whites saw them, "Negroes were by nature mendacious," and it often took several passes to cleanse them of all their falsehoods and fabrications. (Oney, p. 141)

Conley was transferred to the laxly-guarded Fulton County Tower, where his penchant for entertaining "jailhouse sharpies" and inquisitive journalists with desultory monologues troubled both Dorsey and Lanford -- who dreaded he would say something that might endanger their case -- and his attorney William Smith -- who feared he might incriminate himself. The thirty-three-year-old Smith was an idealist whose reputation as a fierce defender of underdogs (and Negroes) had prompted the Georgian to finance his representation of Conley -- an arrangement

he subsequently repudiated when he came to believe in his client's innocence. (Oney, pp. 145-148)

With the consent of Lanford and Smith, Solicitor Dorsey petitioned the presiding judge of the Fulton County Criminal Court, Leonard Roan, to remand Conley to the police jail -- a highly irregular step which essentially insulated him from any person wishing to interview him, such as Pinkerton detective Harry Scott, who was having second thoughts about Frank's guilt. (Dinnerstein, pp. 25-26)

Just days after their breakthrough with Conley, the police arrested and held without a warrant the Frank family cook, a twenty-year-old black woman named Minola McKnight. Twenty-four hours of intense interrogation -- during which shrieks and protests erupted from Dorsey's office -- extracted from Mrs. McKnight the damaging allegation that Frank had arrived home for lunch on April 26 at 1:20 PM, the same time Frank had given, but had stayed only ten minutes, not touching his lunch, which contradicted Frank's statement that the interval had been thirty minutes. (Oney, p. 164)

Further, Mrs. McKnight said she overheard a conversation in which Lucille Frank told her mother that Leo had been drunk the Saturday night of the crime and that he wanted to shoot himself because "he was in trouble [and] he didn't know the reason why he would murder." Mrs. McKnight added that the Franks had tried to bribe her to silence by offering her extra wages. (Oney, pp. 164-165)

But once released Mrs. McKnight told a Georgian reporter that her published affidavit was "most all a pack of lies."Apparently her husband Albert had been as persuasive as the police in helping her craft her story; he was a porter at the Beck and Gragg hardware company, one of whose principals, L. H. Beck, was the foreman of the grand jury which had indicted Frank. (Oney, pp. 166, 163)

In a letter to the three Atlanta dailies, Lucille Frank denounced Solicitor Dorsey and the city police for torturing Mrs. McKnight "for four hours with the well-known third degree process." She also denied "every conceivable rumor [that] has been put afloat to do . . . harm" to her and her husband, and forcefully asserted his innocence. Dorsey, of course, countered that as his wife she would "certainly be the last person to admit his culpability, even though proved by overwhelming evidence to the satisfaction of every impartial citizen beyond the possibility of reasonable doubt." (Dinnerstein, pp. 27-28)

Frank had engaged two of Atlanta's most renowned lawyers, Luther Rosser, domineering defender of local wealth, elitism, property, and corporate power, and the more genteel Reuben Arnold, those entities' signature spokesperson and their facile intermediary when opposing interests clashed. Emboldened by the McKnight incident, they launched an aggressive campaign to discredit Conley and transform him from the feeble accomplice into the devious malefactor. (Oney, pp. 49, 176, 178)

Three salvos were fired. The first was the discovery of what was purported to be a piece of Mary Phagan's pay envelope near where Conley had said he was sitting on April 26. The second was the emergence of an eyewitness, carnival itinerant Will Green, who described how the "half drunk" negro with whom he was shooting craps on the first floor of the pencil factory threatened to take money from a girl and how "when she came down [he] started for her." The third was a

confession, conveyed to schoolteacher William H. Mincey, who declared that on the afternoon of the murder a drunken Jim Conley had told him he had killed a girl earlier in the day. (Oney, pp. 179-181)

Although Rosser and Arnold were able to persuade the grand jury to reconvene -- the first one in Fulton County ever to do so over the objection of the sitting solicitor -- an indictment against Conley was not forthcoming. (Oney, pp. 183-188)

That decision was reflective of a public opinion which was rapidly gaining momentum and adherents -- against Leo Frank; as a northerner, an industrialist, and a Jew, he seemed the epitome of much that was alien to southern culture. (Dinnerstein, p. 32)

Former rural dwellers found an easy scapegoat for all the unpleasantness of the city in the mysterious Jew, who "dealt mainly in trade and commerce . . . controlled finances, practiced strange customs, and personified urban perfidy." Once suspicion lighted upon Frank, his Jewishness became another argument among many to prove his guilt. His situation as an employer of underpaid female labor and a northern capitalist exploiting southern womanhood further incensed the community. (Dinnerstein, pp. 34-35)

How such resentments could even take precedence over the prevailing racial caste was eloquently elucidated by Mary Phagan's pastor, who wrote that "the old negro watchman . . . would be poor atonement for the life of this innocent girl. But when . . . the police arrested a Jew, and a Yankee Jew at that, all of the inborn prejudice against Jews rose up in a feeling of satisfaction that here would be a victim worthy to pay for the crime." (Dinnerstein, p. 35)

Furthermore, it was only natural that the people of Atlanta would assume that the Solicitor would never choose to prosecute a white man rather than a Negro, "unless the evidence was overwhelming," and that they would accept the repeated assertions of the police -- later demonstrated to be untrue -- that the hair strands in the metal lathe had been "positively identified" as Mary Phagan's and that the red spots on the floor were her blood stains. (Dinnerstein, pp. 34-35)

The most sensational trial in the history of the state of Georgia opened on July 28, 1913. The prosecution sought to establish, through various witnesses, that the aforementioned hair strands and red spots were proof "that the murder had occurred in the second floor workroom, opposite Frank's office, and that the superintendent, the last person known to have seen Mary Phagan alive, had the opportunity to kill her." (Dinnerstein, p. 37)

Called to the stand third was the night watchman, Newt Lee, whom Solicitor Dorsey guided through the now-familiar recitation of his encounter with Frank on the Saturday of the murder and his discovery of the body. Dorsey honed in on Frank's apparent alteration of Lee's time card slip to include three omissions -- the slip was supposed to be stamped every hour -- which exposed Frank as trying to frame Lee by fabricating his absence on the night of April 26. (Oney, pp. 49-50, 200)

To assist Lee and enable the jurors to visualize the setting, Dorsey unveiled "a potent piece of graphic firepower" drawn by Georgian artist Bert Green -- an elaborate cutaway of the pencil factory illustrating Frank's office, Mary Phagan's work station, the elevator shaft, and the

basement toilet from which Lee said he spied the body, all overlaid with two lines charting the path the accused had traveled while committing the crime. (Oney, p. 200)

Cross-examining Lee, Luther Rosser could score only a few minor points -- that anyone could have entered the building that afternoon without Frank knowing it; that Frank, unlike someone with something to hide, never instructed Lee to avoid the basement; and that Lee never noticed anything out of place while traversing the metal room that night. So well did Lee maintain his composure under Rosser's fierce attempts to ferret out inconsistencies in his story and to connect him to the murder notes that the Georgian's James Nevin would write: "It is likely altogether that more than once the jury's sympathy went out to Lee in large measure while Rosser was grilling him." (Oney, pp. 202, 206)

Rosser had more success with two subsequent witnesses. Grace Hicks, the girl who had identified Mary Phagan's body at the mortuary, admitted that she had never seen Mary and Frank speak to each other, that the factory floor was dirty, greasy, and spotted with all colors of paint, and that sitting next to Mary was another girl with "sandy" hair, Magnolia Kennedy. (Oney, pp. 214-216)

Detective John Black, who had been involved in every aspect of the investigation and whose characterization of Frank as nervous and excitable on the Sunday after the murder was crucial to the prosecution's case, wilted under pressure from Rosser. He couldn't remember what time he had called Frank Sunday morning, what time he had arrived at the Frank home, and what kind of tie Frank had experienced so much difficulty with. Black conceded that thirty persons searching the factory Sunday morning had not seen any blood spots. (Oney, p. 219)

The prosecution's theory was that Frank had planted a bloody shirt at Lee's home and then manipulated his time slip to show he had gone there to change clothes. But Black inadvertently acknowledged that the shirt had been found before Frank said anything about the missed time stamps. (Oney, p. 222)

The Journal's headline was telling: "Detective John Black Goes to Pieces." (Oney, p. 222)

Although machinist Barrett staunchly maintained that the red stains he had found on the floor were blood, that the hair strands he had discovered were Mary Phagan's, and that the scrap of paper he had spotted at her work station was a piece of her pay envelope, Rosser countered adroitly. Chemist Claude Smith confirmed that the evidence was blood but confessed that his tests had yielded only four or five corpuscles "of indeterminate origin"; in other words, reported the Journal, they "might have been from a mouse." And assistant superintendent Darley testified that blood stains from women's menstrual cycles and injured workers were not uncommon, that "it was pretty hard to tell the color" of the hair strands, and that the shop was often littered with scraps of paper. (Oney, pp. 228-231)

Bolstered by Albert McKnight's reiteration that Frank had hurried back to work on Saturday after spending only ten minutes at home and by sixteen-year-old Helen Ferguson's account of Frank's refusal to give her Mary Phagan's money (which he had done twice before) when she came calling for it on Friday, Solictor Dorsey was ready for his key witness. (Oney, p. 235)

"His face scrubbed, his hair cut and combed, his clothes clean and new," Jim Conley unfolded his mesmerizing tale with such "dramatic realism that 'every spectator in the crowded courtroom hung on [every] word.' " (Dinnerstein, pp. 40,44)

Conley explained that he had arrived at the factory on the morning of the murder at 8:30, but was directed by Frank to go out for a while and then return -- in order that he might "watch out for him like I had on other Saturdays . . . when he was upstairs talking to young ladies." Frank would signal Conley to lock the front door by stamping his foot and to unlock it by whistling. (Dinnerstein, p. 40)

Conley watched Mary Phagan come in and go upstairs. He heard her footsteps moving toward the metal room, followed by screaming. Monteen Stover entered the building, stayed a few minutes, and left. Alerted by Frank's whistle, Conley saw Frank standing at the top of the stairs "shivering and trembling and rubbing his hands . . . [and holding] a long wide piece of cord. His eyes were large and they looked right funny." (Dinnerstein, pp. 40-41)

Frank told Conley, "I wanted to be with the little girl, and she refused me, and I struck her . . . and she fell and hit her head against something, and I don't know how bad she got hurt. You know I ain't built like other men." That last statement, followed by a vivid description of Frank performing oral sex on young women -- a capital offense under Georgia law -- branded the defendant even more strongly in the jurors' and the public's consciousness as a sexual deviant. (Dinnerstein, p. 41)

Conley now retraced some familiar territory: bundling up the body in a cloth, manhandling it by the elevator to the basement, assisted by Frank, and writing the murder notes as dictated. When asked by Dorsey why he cooperated, Conley said, "I was willing to do anything to help Mr. Frank, him being a white man and my superintendent, too." Of course, there was the motivation of $200, the payment of which, he now revealed for the first time, was contingent upon his burning of the body. But he "was afraid to go down there myself," promising to come back later that evening -- which he never did -- in order to complete the task and reclaim his reward. (Oney, p. 242)

Luther Rosser and Reuben Arnold pummeled Conley for thirteen hours over two-and-a-half days, but despite landing a few minor blows were unable to shake his confidence or undermine the essential elements of his allegations. Conley admitted he was often in debt, and would flee his creditors through the factory basement. When questioned about the inconsistencies in his serial of affidavits, he said, "I didn't want to give Mr. Frank away [so] I held back some of the truth, but I wanted to tell some and let him see what I was going to do and see if he wasn't going to stick to his promise as he had said." (Oney, p. 248)

"The transportation of Mary Phagan's body to the factory basement, the dispersal of her belongings in the trash, the return trip the superintendent's second-floor office . . . the writing of the murder notes -- Rosser challenged Conley on all these matters. And each time he withstood the onslaught, darting away here, delivering appropriate responses there." (Oney, pp. 254-255)

When the prosecution rested, Conley's narrative had dazzled even James Nevin, who wrote in the Georgian: "If the story Conley tells is a lie, then it is the most inhumanely devilish, the most cunningly clever, and the most amazingly sustained lie ever told in Georgia." (Oney, p. 260)

"The weight of Conley's words assumed greater import because the defense had failed to upset his account. Many observers assumed Conley must have told the truth because Luther Rosser, 'the most feared cross-examiner in the Georgia bar' . . . was unable to make a dent in his story." Further, Rosser's motion to strike from the record Conley's references to Frank's lascivious behavior (which Judge Roan denied) seemed only to underscore his own futility. (Dinnerstein, pp. 45-46)

To build their own case, Frank's attorneys devised a four-pronged strategy: demonstrating that Frank was not alone long enough to commit the crime by refuting the prosecution's time line; impugning the credibility of Jim Conley; burnishing the reputation of Leo Frank; and putting Frank on the stand to exonerate himself.

In testimony corroborated by conductor W. T. Hollis, W. M. Matthews, the motorman on the trolley that brought Mary Phagan to town on April 26, stated that she did not exit until 12:10, five minutes after the prosecution contended she was dead. Minola McKnight reaffirmed that Frank, as he had repeatedly insisted, had returned home for lunch on the day of the crime at 1:20, eaten his meal, and not left the house until 2:00. Foreman Lemmie Quinn made a surprise visit to the factory at 12:20 and found Frank working at his desk. Other witnesses swore they saw Frank traveling to and from his residence during the time Conley said he was with him. (Oney, pp. 266, 282, 285, 287-288)

In summary, all of Frank's time between 11:30 AM and 1:30 PM seemed to have been accounted for, with the exception of eighteen minutes (between approximately 12:02 PM and 12:20 PM), hardly long enough for Frank to have committed the murder and, assisted by Conley, disposed of the body. (Dinnerstein, p. 49)

Day watchman E. F. Holloway impeached Conley on a number of points -- declaring he had never seen the factory's front door locked on a Saturday, scoffing at Conley's accusation that Frank entertained young girls in his office ("I have never known Mr. Frank to have any woman on Saturday excepting his wife," he said), and dismissing Conley's wild tale about salacious goings-on at the plant on Thanksgiving Day 1912. (Oney, p. 269)

Assistant superintendent Herbert Schiff echoed Holloway, called Conley's "general character for truth and veracity . . . bad," and said he would not believe him under oath -- as did handyman Arthur Pride. Drayman Truman McCrary was adamant that he had worked at the plant every Saturday for three years and had "never found the front door locked . . . never seen Jim Conley there . . . guarding the door." (Oney, pp. 271-272, 292)

Foreladies Corinthia Hall and Emma Clark testified that they visited the factory between 11:35 and 11:45, which directly contradicted Conley, who maintained they did not appear until after 1:00 PM. (Wilkes)

The defense summoned over one hundred individuals to attest to the virtues of Leo Frank. Office boy Philip Chambers said he never saw Frank "familiar with any of the women in the factory," or bring any of them to his office to drink. A parade of these girls endorsed Frank's moral rectitude, although in rebuttal Solicitor Dorsey would produce his own cadre of female workers who would depict their superintendent as a reprobate. (Oney, pp. 281, 309)

On cross-examination, Dorsey relentlessly demeaned Frank. When life insurance agent John Ashley Jones referred to a report which classified Frank as "first class physically as well as morally," Dorsey shrugged him off with such questions as "Don't you know of Frank's relations with the girls down there at the factory? . . . Didn't you hear he took girls in his lap down there? . . . Didn't you hear about twelve months ago of Frank kissing girls and playing with the nipples of their breasts?" This last provocation was too much for Frank's mother Rae; she rose from her seat, shook her finger at Dorsey, and shouted: "No, nor you either." (Oney, pp.285-286)

Dorsey asked a former office boy if Frank had not made improper advances toward him, and though the boy denied it the insinuation of homosexuality "went from mouth to mouth gaining credence where it went." (Dinnerstein, p. 51)

Frank himself would spend four hours in the witness chair pleading his innocence to the jury. He discussed his personal and professional background, his reasons for coming to Atlanta, the state of his marriage ("Exceptionally happy," he said, "indeed, the happiest days of my life."), and his duties at the pencil factory. The bulk of his remarks was devoted to the minutiae of calculating and apportioning the week's payroll (which he did on Friday), reviewing a sheaf of invoices for correct pricing, quantities, freight charges, and commissions (his work Saturday morning), and preparing a detailed financial sheet which summarized labor and raw material costs, repacking, investments, and profit (which occupied him Saturday afternoon). (Oney, pp. 299-300, pp. 302-303)

Oddly enough, Frank employed only 236 words to clarify the critical mysterious encounter -- Mary Phagan's appearance in his office to pick up her pay and her inquiring if the metal had come in (so she could resume her full work schedule). Regarding his noticeable anxiety on the morning the body was found, he confided, "I was nervous . . . completely unstrung . . . to see that little girl on the dawn of womanhood so cruelly murdered." (Oney, pp. 301-303)

If the major portion of his discourse had consisted of "tedious tabulations and rote recitations," Frank concluded in impressive fashion. "The statement of the negro Conley is a tissue of lies from first to last," he said. "I know nothing whatever of the cause of death of Mary Phagan, and Conley's statement as to his coming up and helping me dispose of the body, or that I had anything to do with her or with him that day is a monstrous lie." (Oney, p. 304)

A Georgian reporter wrote that "Frank was far and away the very best witness the defense has put forward," and the Constitution observed that his words "carried the ring of truth in every sentence." (Dinnerstein, pp. 50-51)

Throughout the trial Judge Roan struggled to preserve decorum, as two-hundred-and-fifty boisterous spectators cheered the machinations of Solicitor Dorsey and any rulings in his favor while disparaging his opponents' presentations and motions. Outside the courtroom windows, which were left open in the blistering summer heat, could be heard the rumblings of an angry mob, which, in the words of one observer, thirsted "for the blood of Mary Phagan's murderer." (Wilkes)

In its closing arguments, the defense concentrated on attacking Jim Conley. "Let us follow the law and not follow prejudice," implored Reuben Arnold. "Frank's alibi is complete, and Jim Conley has been proven a liar." His "testimony contained a sufficient number of absurdities to render it implausible" -- his having often stood guard at the factory's entrance, his allowing

Monteen Stover to ascend to the second floor despite just having heard Mary scream, his hiding in a wardrobe to avoid being seen by the two foreladies Hall and Clark, and, most preposterous of all, Frank's utterance, "Why should I hang? I have wealthy people in Brooklyn." (Oney, p. 321)

And if Arnold and Rosser had failed to break Conley, it was because he had memorized his lines. Otherwise, whenever asked something not part of his programmed script, why had he, in page after page of court recordings, admitted he had lied or said, "I disremember?" (Oney, p. 325)

Of course, Frank Hooper, speaking for the prosecution, saw it differently. If Conley had held firm, it was because "after all the lies he had told, eventually [he] had arrived at the truth, and the truth is stronger than these lawyers." And that truth was that Frank was a Dr. Jekyll, who associated with bankers and businessmen by day but "when the shades of night came, threw aside his mask of respectability and was transformed into a Mr. Hyde." (Oney, p. 314)

His partner delivered the peroration, which was lauded by the Constitution as "one of the most wonderful efforts ever made at the state bar." If in one breath Hugh Dorsey denied making an issue of Frank's Jewishness, in another he fanned the flames of anti-Semitism by averring that while the Jews can "rise to heights sublime" -- in the persons of Benjamin Disraeli and Judah Benjamin -- they can also "sink to the lowest depths of degradation" -- as exemplified by the criminal acts of Abe Ruef, Abraham Hummell, and that "Schwartz, who killed a little girl in New York." (Dinnerstein, pp. 52-53)

Dorsey turned an innocuous letter Frank had written to his uncle Moses on the afternoon of the murder into an unconscious expression of guilt. The letter read: "It is too short a time since you left for anything startling to have developed down here" -- code words which, fulminated Dorsey, translated to "the dastardly deed was done in an incredibly short time." (Dinnerstein, p. 53)

Dorsey similarly deciphered the murder notes as incriminatory, professing that never a "negro lived on the face of the earth who, after having . . . robbed . . . or murdered a girl down in that dark basement, would have taken the time to write" them. (Wilkes) If Conley had authored the first one, said Dorsey, he surely would have adopted the same terminology he spoke throughout the trial -- "the negro done it" -- rather than the grammatically correct "the negro did it." As for the second, Frank had obviously inserted the phrase "that negro did by his slef" in order to ward off suspicion that two culprits had been involved, since Conley acting alone would have had no reason to draw such a distinction. (Oney, p. 331)

Frank, contended Dorsey, had been plotting his conquest of Mary Phagan for weeks, if not months. He turned away Helen Ferguson when she came for Mary's pay envelope on Friday, lest his assignation the next day be foiled. Upon Mary's arrival, he escorted her to the rear of the second floor on the pretense of investigating if the metal had come, and then, raged Dorsey at Frank, "You assaulted her and she resisted. She wouldn't yield. You struck her and you ravished her and she was unconscious." (Oney, pp. 332-333)

Dorsey spoke for the better part of three days. "He revisited familiar pieces of evidence, interpreted enigmatic clues, and brought to light previously ignored ones. He denounced Frank's character and emphasized his Jewishness and wealth." (Oney, p. 337) He repeatedly referred to Conley as honest and reliable, and portrayed Frank as a "lust murderer," comparing him to the

notorious Theodore Durrant, who had been executed in 1898 for the brutal slaying of two women inside San Francisco's Emmanuel Baptist Church. (Wilkes)

As the solicitor concluded his harangue with the prediction that there could be but one verdict, the bells of the nearby Church of the Immaculate Conception began to toll twelve, giving him the opportunity -- having carefully timed his finale -- to pronounce his last words alternating with each succeeding chime: Guilty! Guilty! Guilty! "Until finally the bells sounded no more." (Oney, pp. 338-339)

Judge Roan feared that, should Frank be acquitted, he and his counsel would become the targets of the volatile crowd, which, in the nearby streets and alleys, had grown to five thousand and was seething with vengeance; he orchestrated an agreement whereby their presence at the reading of the verdict would be waived -- without asking for or securing Frank's consent. (*Dinnerstein*, p. 55)

The jury needed less than four hours to decide the case. In a silent courtroom that had been cleared of all spectators except for the two prosecutors, two representatives for the defense, a few curious lawyers, and a delegation of newsmen, "the foreman unfolded a sheet of paper and in a trembling voice announced, 'We have found the defendant guilty.' " (Oney, pp. 340-341)

Historian Leonard Dinnerstein says, "It is difficult to see how the outcome of the trial could have been different." He quotes Edmund Morgan, who wrote in The Legacy of Sacco and Vanzetti, "Every experienced judge and every experienced lawyer know [that] it is impossible to secure a verdict which runs counter to the settled beliefs of the community." And those beliefs were such that, in all likelihood, "dire social and economic consequences awaited those jurors who would . . . ignore their fellow citizens' attitudes toward Leo Frank." (Dinnerstein, p. 59)

Outside the courthouse a horde of thousands "went wild with joy. . . As Solicitor Dorsey appeared in the doorway . . . there came a mighty roar." Three muscular men slung him on their shoulders and passed him to his office over the heads of the raucous throng wildly proclaiming its admiration. (Dinnerstein, p. 56)

The next day Judge Roan secretly assembled the principals in the case and sentenced Frank "to be hanged by the neck until he shall be dead." (Oney, p. 343)

Frank's attorneys immediately issued a statement declaring that, "The trial which has just occurred and which has resulted in Mr. Frank's conviction was a farce and not in any way a fair trial. The temper of the public mind was such that it invaded the courtroom . . . and made itself manifest at every turn the jury made, and it was just as impossible for the jury to escape the effects of the public feeling as if they had been turned loose and allowed to mingle with the people." (*Oney*, p. 343)

They announced that they would appeal the decision.

The dual tragedy of Mary Phagan and Leo Frank was about to enter its second act.

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