

Governor Slaton Gives Reasons For Commuting Frank

THE TWICE-A-WEEK DISPATCH

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Statement Gives A Clear Review of All Important Evidence

Governor Slaton's statement, in which he reviews and analyzes the conflicting testimony in the Frank case and in which he sets forth the grounds upon which he granted Leo M. Frank's application for a commutation of his sentence of death to one of life imprisonment, follows in full:

"Executive Office, June 21, 1915. In Re Leo M. Frank, Fulton Superior Court. Sentenced to be executed, June 22nd, 1915.

"Saturday, April 26th, 1913, was Memorial Day in Georgia and a general holiday. At that time Mary Phagan, a white girl, of about 14 years of age, was in the employ of the National Pencil company, located near the corner of Forsyth and Hunter streets, in the city of Atlanta. She came to the pencil factory a little after noon to obtain the money due her for her work on the preceding Monday, and Leo M. Frank, the defendant, paid her \$1.20, the amount due her, and this was the last time she was seen alive.

"Frank was tried for the offense and found guilty the succeeding August. Application is now made to me for clemency.

"This case has been the subject of extensive comments through the newspapers of the United States and has occasioned the transmission of over 100,000 letters from various states requesting clemency. Many communications have been received from citizens of this state advocating or opposing interference with the sentence of the court.

"I desire to say in this connection that the people of the state of Georgia desire the esteem and good will of the people of every state in the union. Every citizen wishes the approbation of his fellows and a state or nation is not excepted. In the preamble to the Declaration of Independence, Thomas Jefferson wrote that 'when in the course of human events it becomes necessary for one people to dissolve the political bonds which have connected them with another, and to assume among the powers of the earth the separate and equal station to which the laws of nature and of nature's God entitles them a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.'

Outside Criticism.

"Many newspapers and multitudes of people have attacked the state of Georgia, because of the conviction of Leo M. Frank and have declared the conviction to have been through the domination of a mob and with no evidence to support the verdict. This opinion has been formed to a great extent by those who have not read the evidence and who are unacquainted with the judicial procedure in our state.

"I have been unable to even open a large proportion of the letters sent me, because of their number and because I could not through them gain any assistance in determining my duty.

"The murder committed was a most heinous one. A young girl was strangled to death by a cord tied

around her throat and the offender deserves the punishment of death. The only question is as to the identity of the criminal.

"The responsibility is upon the people of Georgia to protect the lives of her citizens and to maintain the dignity of her laws, and if the choice must be made between the approbation of citizens of other states and the enforcement of our laws against offenders, whether powerful or weak, we must choose the latter alternative.

As to Mob Coercion:

"It is charged that the court and jury were terrorized by a mob, and the jury were coerced into their verdict.

"I expect to present the facts in this case with absolute fairness and to state conditions with regard only to the truth.

"When Frank was indicted and the air was filled with rumors as to the murder and mutilation of the dead girl, there was intense feeling, and to such extent that my predecessor, Governor Brown, stated in argument before me that he had the militia ready to protect the defendant in the event of any attack was made. No such attack was made and from the evidence that he obtained none was contemplated.

"Some weeks after this the defendant was put on trial. Georgia probably has the broadest provisions for change of venue in criminal cases that exist in any state. Our law permits the judge to change the venue on his own motion, in the event he thinks a fair trial cannot be given in any county. The defendant can move for a change of venue on the same ground, and if it be refused, the refusal of the judge is subject to an immediate appeal to the supreme court, and in fact, the entire genius of our law demands fair trial, absolutely free from external influence.

"Frank went to trial without asking a change of venue, and submitted his case to a jury that was acceptable to him. He was ably represented by counsel of conspicuous ability and experience.

"During the progress of the case, after evidence had been introduced laying the crime, with many offensive details, upon Frank, the feeling against him became intense. He was the general superintendent of the factory, and Mary Phagan was a poor working girl. He was a Cornell graduate, and she dependent for her livelihood upon her labor. According to a witness, whose testimony will subsequently be related more completely, when this girl came to get her small pay, since she only worked one day in the week, because of lack of material, this general superintendent solicited her to yield to his importunities, and, on her refusal, slew her.

"The relation of these facts anywhere and in any community would excite unbounded condemnation.

Feeling Ran Strong.

"If the audience in the court room manifested their deep resentment toward Frank, it was largely by this evidence of feeling beyond the power of a court to correct. It would be

difficult anywhere for an appellate court, or even a trial court, to grant a new trial in a case which occupied thirty days, because the audience in the court room upon a few occasions indicated their sympathies. However, the deep feeling against Frank which developed in the progress of the evidence was in the atmosphere and regardless of the commission of those acts of which the court would take cognizance, the feeling of the public was strong.

"Since Governor Brown has related secret history in his public argument before me, I may state that Friday night before the verdict was expected Saturday, I had the sheriff to call at the mansion and inquired whether he anticipated trouble. This was after many people had told me of possible danger and an editor of a leading newspaper indicated his anticipation of trouble. The sheriff stated he thought his deputies could avert any difficulty. Judge Roan telephoned me that he had arranged for the defendant to be absent when the verdict was rendered. Like Governor Brown, I entered into communication with the colonel of the Fifth regiment, who stated he would be ready if they were necessary.

"I was leaving on Saturday, the day the verdict was expected, for Colorado Springs to attend the congress of the governors, and did not wish to be absent if my presence were necessary. I have now the original order prepared by me at the time, in the event there were a necessity for it. I became convinced there would be slight chance for any use of force and therefore filled my engagement in Colorado.

"Judge Roan, in the exercise of precaution, requested that both counsel and defendant be absent when the verdict was rendered, in order to avoid any possible demonstration in the event of acquittal.

"The jury found the defendant guilty and with the exception of demonstration outside the court room, there was no disorder.

"Hence, it will be seen that nothing was done which courts of any state could correct through legal machinery. A court must have something more than an atmosphere with which to deal, and especially when that atmosphere has been created through the processes of evidence in disclosing a horrible crime.

"Our supreme court, after carefully considering the evidence as to demonstrations made by spectators, declared them without merit, and in this regard the orderly processes of our tribunals are not subject to criticism.

Racial Prejudice.

"The charge against the state of Georgia of racial prejudice is unfair. A conspicuous Jewish family in Georgia is descended from one of the original colonial families of the state. Jews have been presidents of our boards of education, principals of our schools, mayor of our cities, and conspicuous in all our commercial enterprises.

"Many newspapers and presidents have declared that Frank was convicted without any evidence to sustain the verdict. In large measure, those giving expression to this utterance have not read the evidence and are not acquainted with the facts. The same may be said regarding many of those who are demanding his execution.

"In my judgment, no one has a right to an opinion who is not acquainted with the evidence in the case, and it must be conceded that the jury who saw the witness and beheld their demeanor upon the stand are in the best position as a general

rule to reach the truth. "I cannot, within the short time given me to decide the case, enter into the details outlined in thousands of pages of testimony. I will present the more salient features, and have a right to ask that all persons who are interested in the determination of the matter, shall read calmly and dispassionately the facts.

The State's Case.

"The state proved that Leo M. Frank, the general superintendent of the factory, was in his office a little after 12 o'clock on the 26th day of April, 1913, and he admitted having paid Mary Phagan \$1.20, being the wages due her for one day's work. She asked Frank whether the metal had come, in order to know when she could return to work, Frank admits this and so far as is known, he was the last one who saw her alive. At 3 o'clock the next morning (Sunday) Newt Lee, the night watchman, found in the basement the body of Mary Phagan strangled to death by a cord of a kind kept generally in the metal room, which is on Frank's floor. She had a cloth tied around her head which was torn from her underskirt. Her xxxx were either ripped or cut and some blood and xxxx were upon them. Her eye was very black, indicating a blow, and there was a cut two and a half inches in length about four inches above the ear and to the left thereof, which extended through the scalp to the skull. The county physician who examined her on Sunday morning declared there was a no violence xxxx and the blood was characteristic of xxxx flow. There were no external signs of rape. The body was not mutilated, the wounds thereon being on the head and scratches on the elbow, and a wound about two inches below the knee.

"The state showed that Mary Phagan had eaten her dinner of bread and cabbage at 11:30 o'clock and had caught the car to go to the pencil factory which would enable her to arrive at the factory within the neighborhood of about thirty minutes. The element of exact time will be discussed later.

"Dr. Harris, the secretary of the state board of health, and an expert in this line, examined the contents of Mary Phagan's stomach ten days after her burial and found from the state of the digestion of the cabbage and bread that she must have been killed within about thirty minutes after she had eaten the meal.

"Newt Lee, the negro, night watchman, testified that Frank had told him to be back at the factory at 4 o'clock Saturday afternoon and when he came upstairs to report, Frank, rubbing his hands met Newt Lee and told him to go out and have a good time until 3 o'clock, although Lee said he would prefer to lie down and sleep. When Lee returned, Frank changed the slip in the time clock, manifesting nervousness and taking a longer time than usual.

"When Frank walked out of the front door of the factory, he met a man named Gantt, whom he had discharged a short time before. Frank looked frightened, his explanation being that he anticipated harm. Gantt declared he wished to go upstairs and get two pairs of shoes which permission Frank finally granted, stating that he thought they had been swept out.

"About an hour after this occurrence, Frank called up Lee over the telephone, a thing he had never done before, and asked him if everything was all right at the factory. Lee found the double inner doors locked, which he had never found that way before. Subsequently, when Lee was

arrested and Frank was requested by the detectives to go in and talk to him in order to find what he knew, Lee says that Frank dropped his head and stated "if you keep that up we will both go to hell."

Lee Discovers Body.

"On Sunday morning at about 3 o'clock, after Newt Lee, the night watchman, had telephoned the police station of the discovery of the dead body and the officers had come to the factory, they endeavored to reach Frank by telephone, but could not get a response. They telephoned at 7:30 Sunday morning and told Frank that they wanted him to come down to the factory and when they came for him, he was very nervous and trembled. The body at that time had been taken to the undertaker's, and according to the evidence of the officers who took Frank by the undertaker's establishment to identify the girl, he (Frank) showed a disinclination to look at the body and did not go into the room where it lay, but turned away at the door.

"Frank had made an engagement on Friday to go to the baseball game on Saturday afternoon with his brother-in-law, but broke the engagement, as he said in his statement, because of the financial statement he had to make up, while before the coroner's jury, he said he broke the engagement because of threatening weather.

"The contention of the state, as will hereafter be disclosed, was that Frank remained at the factory Saturday afternoon to dispose of the body of Mary Phagan, and that that was the reason he gave Newt Lee his unusual leave of absence.

"The cook's husband testified that on Saturday, the day of the murder, he visited his wife at the home of Mr. Selig, defendant's father-in-law, where Frank and his wife were living, and that Frank came in to dinner and ate nothing. The negro cook of the Seligs was placed upon the stand and denied that her husband was in the kitchen at all on that day. For purposes of impeachment, therefore, the state introduced an affidavit from this cook taken by the detectives, and as she claimed under duress, which tended to substantiate the story of her husband and which affidavit declared that on Sunday morning after the murder, she heard Mrs. Frank tell her mother that Mr. Frank was drinking the night before and made her sleep on a rug and called for a pistol to shoot himself, because he (Frank) had murdered a girl. This affidavit was relevant for purpose of impeachment, although, of course, it had no legal probative value as to the facts contained therein. On the stand, the cook declared that she was coerced by her husband and detectives under threat of being locked up unless she gave it, and it was made at the station house. The state proved it was given in the presence of her lawyer and said that her denial of the truth of the affidavit was because her wages had been increased by the parent of Mrs. Frank. No details are given as to where the conversation occurred between Mrs. Frank and her mother as to how she happened to hear the conversation. It will be easily seen that the effect of the affidavit upon the jury might be great.

"It is hard to conceive that any man's power of fabrication of minute details could reach that which Conley showed, unless it be the truth.

The Time Slip.

"The evidence introduced tended to show that on Sunday morning Frank took out of the time clock the slip which he had admitted at that time

was punched for each half hour, and subsequently Frank claimed that some punches had been missed. The suggestion was that he had either manipulated the slip to place the burden on Lee, or was so excited as to be unable to read the slip correctly.

"The state introduced a witness, Monteon Stover, to prove that at the time when Mary Phagan and Frank were in the metal room she was in Frank's office and he was absent, although he had declared he had not left his office. The state showed that the hair of Mary Phagan had been washed by the undertaker with pine tar soap, which would change its color and thereby interfere with the ability of the doctor to tell the similarity between the hair on the lathe and Mary Phagan's hair.

"The state further showed a cord of the character which strangled Mary Phagan was found in quantities on the metal room floor, and was found in less quantities and then cut up in the basement. As to this Detective Starnes testified, 'I saw a cord like that in the basement, but it was cut in pieces. I saw a good many cords like that all over the factory.'

"Holloway testified: 'These cords are all over the building and in the basement.'

"Darley testified to the same effect. 'However, this contradicts the testimony that was presented to the jury for solution.'

"The state claimed to the jury that witnesses for the defendant, under the suggestion of counsel, would change their testimony so that it might not operate against the defendant.

"I have now enumerated all conspicuous circumstances urged by the state, but have mentioned what have appeared to me the most prominent ones. Where I have not mentioned the more prominent ones, an inspection of record fails to maintain the contention.

"It is contended that a lawyer was engaged for Frank at the station house before he was arrested. This is replied to by the defense that a friend had engaged counsel without Frank's acknowledge, and the lawyer advised Frank to make a full statement to the detectives.

Jim Conley's Testimony.

"The most startling and spectacular evidence in the case was that given by a negro, Jim Conley, a man twenty-seven years of age, and one who frequently had been in the chain-gang. Conley had worked at the factory for about two years and was thoroughly acquainted with it. He had worked in the basement about two months and had run the elevator about a year and a half.

"On May 1, he was arrested by the detectives.

"Near the body in the basement had been found two notes, one written on brown paper and the other on a leaf of a stratch pad. That written on white paper in a negro's handwriting showed the following:

"He said he would love me, lay down, play like the night witch, and boy like it."

"On the brown paper, which was the carbon sheet of an order blank headed 'Atlanta, Ga., 190—', which hereafter becomes important, was written in a negro's handwriting the following:

"'Mam that negro fire down here did this I went to make xxxx and he push me down a hole a long tall negro black did (had) it. I write while play with me.'

"The detectives learned about the middle of May that Conley could write, although at first he denied it. He made one statement and three affidavits, which are more fully re-

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