

# Detective Black Muddled By Keen Cross-Examination Of Attorneys for Defense

Detective John R. Black, the officer who went in Rogers' machine from the factory to Frank's residence on the Sunday morning that Mary Phagan's body was discovered, was next put up by the state. He took the stand at 11:45 o'clock, and was with there when court adjourned for lunch.

In answers to Solicitor Dorsey's questions he said he had been on the police force for six years and previous to that had worked as a cooper for the Atlanta Brewing and Ice company.

"Do you know any of the directors of this company?" began the solicitor, when he was quickly interrupted by the defense. Despite Mr. Dorsey's claim that he had a material end in view, the judge ruled with the defense and without making further ado the solicitor started another line of questions.

Black told how he had been waked up at his home on that Sunday morning and told to report at headquarters and how, after a talk with Leo at the station, he had gone to the pencil factory and from there to Frank's house with Rogers.

He told practically what Rogers had said about Mrs. Frank's appearance at the door and of Frank's stopping from behind a portiere curtain in the hall.

"He came out before I got through talking with Mrs. Frank," said the detective.

"Frank was nervous and excited, and talked in a hoarse voice," Black stated in response to queries.

Had Seen Frank Before.

He further stated that he had seen Frank twice before and had talked to him once. He said that he saw him about two years ago when he and another officer went to the factory to get a negro, and that he had talked to him, about eighteen months ago when he went on a similar visit. On being questioned, he stated that at neither time was there anything about his actions to make him think the man nervous or excitable.

Attorney Rosser frequently interrupted while this testimony was being given and Attorney Arnold, for Frank, also interposed.

"It's rank conclusion when a police officer or any witness is allowed to express his opinion about a defendant's bearing or deportment," objected Mr. Arnold.

Judge Roan ruled that Black might tell what the defendant did and how he acted, giving the facts and not giving his opinion.

"When you went to the factory about eighteen months ago, did you talk to Frank?" asked Mr. Dorsey.

"Yes, sir."

"Was he nervous or composed?"

"On that occasion there was nothing to make me think him nervous."

"Tell if he was nervous or composed on April 27, when you saw him, and state your reasons," said the solicitor.

"He was nervous and showed it by the way he put on his collar and tie," replied the witness.

Tells Dorsey to Keep Pleasant.

"That's another conclusion," Mr. Rosser broke in.

"Let me examine the witness," the solicitor flung back.

"I've got a right to object," said Mr. Rosser.

"Go ahead," replied the solicitor, appearing rather nettled.

"All right; but please be pleasant and don't scowl so when I'm doing it," replied Rosser.

"Tell what Frank did to make you think him excited," said Mr. Dorsey.

"The way he asked for coffee several times."

"What about the collar and tie?"

"He couldn't get his collar and tie on, and rapidly asked questions. He kept on asking what had happened at the factory, and I told him he had better dress and go so. His voice was hoarse and trembling."

"Did you look at his face?"

"Yes, I was watching him closely."

"How did it look?"

"Pale."

"What did he say about going to the factory?"

"He kept on insisting on getting a cup of coffee, and I finally told him that I had been up until 1 o'clock the night before, and had then been aroused at 4 o'clock in the morning, and hadn't had any coffee or breakfast either. I told him we'd better go to the factory and get through with that."

"What did he say next?"

"He again insisted on having some coffee."

Mr. Rosser objected hotly to the use of the word "insisted," and succeeded in having it ruled out.

"Well, how many times did he ask for coffee?" queried the solicitor, getting his desired information in another way.

"He asked for coffee twice at the house and he also asked for it at the factory."

"Did he mention breakfast at the factory?"

"Yes, I heard him say something about breakfast to Chief Lanford."

"Did Frank give any reason for wanting breakfast or coffee either at

the house or at the factory?"

"No."

"Did anything else happen at the house or in the auto?"

"Not that I remember."

"What did you, Rogers or Frank say in the auto?"

"I asked him if he knew a girl at the factory named Mary Phagan, and told him she had been found murdered."

"What did Frank say?"

"He said he didn't know the name but would look on the pay roll at the factory and see if it was listed there. I then suggested going by the undertaker's to see if Frank could identify the dead girl. When we got there Rogers, then Frank, and then I went back to the place where the body was."

"Frank looked at the body and stepped out," the detective continued.

"Did he see the face?"

"He just casually glanced—"

"Did he see her face?" reiterated the solicitor.

"I can't say that he did," replied the witness.

"Didn't Gheesling turn the face in his direction?"

"Yes."

"What did Frank do then?"

"He stepped aside; there was a curtain there and he stepped back of that."

"When he went behind the curtain could he see the body?"

"No."

"Did Frank ever go into the room where the body lay?"

"When we first came up Frank went right to the door while Gheesling was uncovering the body," Black replied.

"Did he go there again?"

"Not to my knowledge," the witness replied.

"How long did Frank stay behind the curtain?"

"Just a moment."

"When he came from behind the curtain did he go toward or away from the body?"

"He went away from it."

"Did Frank say anything?"

"He said he didn't know the girl, but that from her dress he thought she was one of the girls he had paid off the day before and that he would look on the pay roll and see if the name of Mary Phagan appeared on it."

Black then told of going to the factory with Frank and Rogers and at this time court adjourned until after lunch.

## Afternoon Session.

The afternoon session began with a continuation of Detective Black's story. He was being questioned by Solicitor Dorsey.

"What did Frank say and do at the factory that morning?"

"He talked with Mr. Starnes, Newt Lee, Mr. Darley and myself."

"Did you see him go to the clock?"

"Yes. He asked if it had been punched correctly, looked at it, made an examination and said it had been punched correctly up until 2:30 a. m."

"Did Frank state at any time that the clock was accurate?"

"He said on Tuesday that the clock had been passed three times."

"Did he produce a time slip at that time?"

"Yes, a slip which he gave to Chief Lanford on Monday."

"What became of the slip he had Sunday?"

"He carried it into his office Sunday morning."

"Who was present Sunday morning when he stated that the slip had been punched regularly?"

"Detective Starnes, Chief Lanford, Newt Lee, 'Boots' Rogers and myself."

"Do you know of any date he put on the slip at that time?"

"I couldn't state."

"When did you first hear Frank state the slip was incorrect?"

## Not Positive of Date.

"I am not prepared to swear, Mr. Dorsey. It was Wednesday or Monday, one or the other."

"Who was being held at that time under suspicion of the crime?"

"Newt Lee."

"Frank was not then under arrest?"

"No."

"When was he arrested?"

"Tuesday morning, about 11:30 o'clock."

"What were the inaccuracies he quoted from the slip?"

"10 p. m., 11:30 p. m., and—I can't recall the others."

"Did Frank send for counsel before he was put under arrest?"

"Monday morning Herbert Haas and Attorney Rosser were at the pencil factory."

Attorney Arnold interrupted here, declaring that the question was irrelevant. Solicitor Dorsey said in answer:

"Here is a man not charged with anything employing counsel before his arrest. My intention is to show his conduct in every respect."

Judge Roan sustained the solicitor.

"Mr. Black, please state when Frank first had counsel," he put.

"On Monday morning, Frank went to—"

An objection was made by the defense, which was overruled.

## Black continued:

### Attorneys at Frank's Home.

"At 8:30 o'clock Monday morning Attorney Rosser came to police headquarters. Detective Haslett and I went to Frank's home. I asked him to come to headquarters to see if he could throw any light on the murder. He got to the station within thirty minutes. On the way downtown we talked to Ben Fell. We reached the station house at 8:30 o'clock."

"What was there?"

"In a few minutes Mr. Rosser came in, Herbert Haas following him a moment later."

"Did you hear Haas make a statement in Frank's presence?"

"Yes, Haas demanded Chief Lanford and the detectives to search Frank's residence."

"Was Frank under arrest at that time?"

"No."

"Was he restrained of his liberty?"

"No."

"What were Haas' grounds for making such a demand?"

"He said he was Frank's attorney, and was entitled to demand a search."

"What time was that?"

"About 11:30 a. m."

"With whom did Attorney Rosser confer?"

"Leo Frank."

### Frank's Talk With Lee.

"Do you know what took place between Frank and Leo on Tuesday night?"

"Detective Harry Scott and I had a talk with Leo. We talked with Frank, and I suggested he take Leo in a room and try to get something out of him. They went together in a locked room, and stayed 5 or 10 minutes."

"Did you hear what was said?"

"Some, I could not hear perfectly, though—not enough to swear to what I did hear."

"Did you talk with Frank after he had been in the room with Leo?"

"We went inside where they sat, and

Frank said Newt stuck to his story. He said he told the negro that it looked like he knew something, as no one was in the factory but him that night. He said he could get nothing out of him."

"Did you talk with Frank in reference to getting data on the murder? If so, what did he suggest?"

"In a way, he seemed to suspect Leo and Gantt."

"Who else?"

"He said no one was there from 8 p. m. but Leo, and that the negro should know something of it. He also stated that Gantt had been there that Saturday afternoon."

"Subsequently, was Gantt arrested?"

"Yes. The conversation with Leo was after Gantt was arrested."

"When did Frank first say anything about Gantt?"

"Monday."

"Was this before or after Gantt's arrest?"

"Before."

"Did he mention anybody else?"

"Yes, Jim Conley."

"After you and Haslett arrested Frank did you talk to him any?"

"Yes. On several occasions."

### Frank's Demeanor.

"Did you observe his demeanor?"

"He seemed to be a little nervous, as just any man would be who had been arrested."

The solicitor protested that the latter part of the detective's answer be ruled out. Judge Roan held that the statement would remain in record.

"Well, I will go a step further," said Dorsey. "Was Newt Leo nervous when he was arrested? This is over our objection. What I want to show is that Leo was calm under arrest for the identical crime. Did you observe Frank's appearance and conduct the day of his arrest?"

"Yes."

"Was he excited? If so, tell why you think he was excited."

"On Monday Frank was jovial and friendly—"

Counsel for the defense objected to the word "friendly" being sustained by Judge Roan, who held that the word could be construed in many ways.

### Black continued:

"On Tuesday he was sullen, and unwilling to talk."

"What did he do?"

"He refused to talk, when previously he had been jovial and talkative."

Rosser begins Cross-Examination.

Attorney Rosser began the questioning at this juncture.

"You didn't release Mr. Frank until the word was given from the chief of detectives, did you?"

"I suppose not."

"Do you mean anything by the word release?"

"I spoke before I thought, when I uttered it."

"Wasn't his detainer equivalent to arrest?"

"I can't say so."

"Then, you retract a thing you said under oath?"

"Yes, I retract the word 'release.'"

"Wasn't it 11 o'clock before I got to the station?"

"No. I know that you got there between 8:30 and 8 o'clock."

"Didn't you swear a while ago that I was there at 11?"

"I won't swear it."

"Were you in the room when I got there?"

"I was in the hallway."

### Detective Lanford Spoke Roughly.

"Didn't I say, 'Frank, what have they got you for?' and he answered, 'they want me to make a statement'? Didn't I say, 'give it to them'? Didn't Lanford say 'come on in here,' like he was snarling at a negro?"

"No. He didn't talk that way."

"Didn't I say I was going to be present during the examination merely in order to hear what he would say?"

"Yes."

"You also know that I didn't say a word to him?"

"No. I wasn't inside the room."

"You wanted to talk to him by yourself, didn't you?"

"Yes."

"Finally, after being released, Frank went home unmolested?"

"Yes, but he wasn't 'released,' as you call it."

"You swore so, didn't you?"

No answer came from the witness.

"Frank was a witness before the inquest, wasn't he?"

"Yes."

"He answered every question promptly and willingly?"

"So far as I know."

"It isn't true that he declined to make any statement?"

### Black's "Recollection."

The witness gave no reply to this question. It was directly withdrawn.

"Who was present when you talked to Frank on the time previous to Sunday?"

"I don't remember."

"What did you say just now—?"

"George Bullard—I just now recollected."

"You heard Starnes talk over the phone with Frank?"

"Yes."

"What time was it?"

"Some time after 6 o'clock—about 6:15, I suppose."

"You're depending entirely upon your recollection, aren't you?"

"Yes."

"Then, why is it you recollect so well in some things and fail so badly in others?"

Question unanswered.

"You can't remember exact words used, can you? Did the conversation take place at 5 o'clock?"

"I don't know exactly."

"What time did you get to the Bell home?"

"I don't recollect perfectly."

"Why did you wait to tell Frank of the murder until you had got away from his home?"

"I had talked with Newt Leo, and therefore wanted to question him."

"In fact, you had no reasons for doing it?"

"Yes, I had several."

"Haven't you a way of writing down things you wish to remember?"

"Yes."

### Refers to Grace Case.

With a smile, Rosser turned to Reuben Arnold, his associate, remarking:

"That's the way they did it in the Grace case."

"Hurry and scurry," he said to the witness, "is an enemy to memory, isn't it?"

"Yes," the detective complied.

The attorney again turned to Arnold, saying:

"He draws conclusions; I'm sorry for him."

"Did Frank dress in front of you?" he asked Black.

"Yes."

"What sort of tie and collar did he have?"

"I don't remember."

"You don't remember!" mocked the attorney in sarcasm.

"Did Rogers go anywhere in the Selig home?"

"No."

"How long did you stay there?"

"No longer than ten minutes."

"Frank went along willingly with you and talked freely, didn't he?"

"Yes."

"Tell me, did either you or Frank go into the room where the body lay at the undertaker's?"

"No."

"Frank had an opportunity to view

the body, didn't he?"

"Yes."

"As a matter of fact, didn't you and Frank go out of the room together?"

"No."

"You were in same relation to the curtains as Frank, weren't you?"

"I don't think so."

"Didn't Frank say he thought the body was that of a girl he had paid off Saturday?"

"Yes."

"You went to the factory with Frank and watched him go to the safe and get book and find name of Mary Phagan?"

"Yes."

"You went into the metal department. Who else went with you?"

"Several others."

### No Blood in Hallway.

"Did you see any blood in the hallway?"

"No."

"The factory stayed open that Sunday until about 12 o'clock didn't it?"

"I don't know."

"Starnes went over the factory—who else?"

"Chief Lanford."

"Nobody discovered any blood that day?"

"No."

"You saw Mr. Frank at the clock. Did he have to open the clock?"

# DETECTIVE MUDDLED BY CROSS-EXAMINATION

*Continued From Page Two.*

"I don't recollect that I was."

"You were there when Mr. Haas made his demand, weren't you?"

"I was at police headquarters, but was on the outside of Chief Lanford's office."

"Didn't I, myself, demand Haas to go with you?"

"I didn't hear it if you did."

"Didn't you testify just now that Haas, in my presence, had made the demand?"

"I did not say in your presence."

"Wasn't I there?"

"I did not see you."

"In accordance with Haas' demand didn't you go to the Frank home?"

"Yes, I went and examined his laundry."

"You also went to Lee's house?"

"Yes."

"What did you find?"

"A bloody shirt."

"Where is it?"

"Mr. Dorsey has it."

## **Shirt Produced in Court.**

Counsel for the defense asked that the shirt be brought into view. It was produced by the state.

"Is that the shirt, Mr. Black?" asked Rosser, holding the crimson-spotted garment to view.

"Yes, sir."

"What time did you find it?"

"Tuesday morning about 10 o'clock?"

"Did Newt Lee say it was his shirt?"

Solicitor Dorsey objected and was sustained by Judge Roan. He then began questioning the detective.

"Where was Newt Lee when Frank visited his (Frank's) house?"

"Locked up."

The solicitor explained to the court that he wanted to show that Frank was trying to point the finger of suspicion at Lee; that after his (Frank's) home had been searched, he insisted that Lee's house be inspected.

## **Bloody Shirt a "Plant."**

"Our contention," he said, "is that this shirt is a plant."

"I also want to show," he continued, "that Frank said the time clock was correct one day, and, two days later, said it was incorrect, and—"