

Lawyers for Frank Busy Preparing Their Evidence For Extraordinary Motion

The motion extraordinary for a new trial for Leo Frank will be made either on April 7 or within a day or so of that date. This much has been made known by members of the convicted man's defense, who say that the motion will be put on file about ten days before the execution date.

A mass of newly-discovered evidence will be contained in the new trial application. Several affidavits supporting Frank's argument for a new trial have been published during the past several days, causing widespread speculation.

An interesting phase of new evidence for the defense was published exclusively in The Constitution Sunday morning, when two affidavits were printed which contained statements from W. H. and George W. Epps, father and uncle of the ex-newsboy witness, who declare the boy told them of having been trapped into renouncing his testimony at the trial, which repudiation was recently made public by Frank's counsel.

This is the first move made public in which the prosecution combats the newly-discovered evidence of the convicted man's defense. Whether or not other such moves have been made, Solicitor Dorsey will not state.

Will Probe Affidavit.

W. H. Epps, of Eatonton, the youth's uncle, left Atlanta early Sunday morning. To a Constitution reporter he declared that he had been assured that the affidavit made for the defense by his nephew would be thoroughly investigated.

It is known that Detectives John Starnes and Pat Campbell, who were named as prosecutors of Frank, are working on the Epps angle of the new evidence. They were closeted with Assistant Solicitor Edward A. Stephens and the Epps brothers Saturday afternoon, but declined to discuss the situation.

Mr. Dorsey has been in repeated conferences with J. W. Coleman, father of the murdered girl, and with detectives from police headquarters, as well as private investigators of his own staff.

The interest that is felt in the proposed motion extraordinary for a new trial will be heightened today upon knowledge of the date on which the motion is to be made. The publication of new evidence that has come into the hands of Frank's counsel has aroused great interest.

Thus far the following new evidence has been made public. All will be contained, it is said in the forthcoming application for retrial.

McKnight's Repudiation.

An affidavit by Albert McKnight, in which he repudiates his testimony at the trial and charges a frame-up on the part of Solicitor Dorsey and attaches to the police headquarters' detective department. McKnight, upon making this affidavit, disappeared and his whereabouts are unknown. His home at the time the document was attested, was in the rear of 7 East Georgia avenue, where he lived with his wife, Minola McKnight, who was also a witness in the Frank trial.

An affidavit by Nina Formby, whose story about the convicted man created a sensation a short time previous to the trial. The Formby woman accuses the detective department of having "framed-up" her story, and of having forced her into signing the affidavit. She pleads that she was a victim of police protection. Her story was not used at the trial.

The Formby woman is said to still be in New York, although her attorneys in Atlanta—whom she retained shortly following the publication of her remarkable statement—say she is coming soon to Chattanooga Tenn., her former home, where she will await developments. Later she is expected to return to Atlanta, where, it is said by her attorneys, she will face the detectives whom she accuses and make her charges in person.

Newsboy's Denial.

An affidavit by George Epps, the newsboy witness, who testified at the trial to having ridden into Atlanta on a trolley car with Mary Phagan on the day of the tragedy. He also said that the girl had stated to him that she was afraid of Frank because he had repeatedly made suspicious advances toward her. This statement, however, was made before the trial and was not allowed in evidence. In the affidavit obtained from him by Frank's counsel, he repudiates his testimony.

He also accuses Detective Black of having concocted the story he told on the stand, and Solicitor Hugh Dorsey of having encouraged the detective. The night the Epps affidavit was made public, the boy's father, George W. Epps, night superintendent of the Candler Annex building, called The Constitution office and asked to make a statement.

He declared to a reporter for The Constitution that the affidavit was un-

true and that the boy had lied throughout. He said that his son had told him the identical story he told on the stand at least forty-eight hours before he had ever seen Detective Black, or even had known that such a man was in existence.

Saturday night an uncle of the Epps boy, W. H. Epps, came to Atlanta and, for Solicitor Hugh Dorsey, made an affidavit to the effect that the youth had confessed to having been trapped into making the repudiation after he had been lured to Birmingham, Ala., under the pretext of being taught the prize-fighting game.

An affidavit by Helen Ferguson, the little factory girl, who testified for the prosecution that on the day preceding the murder of Mary Phagan she, a friend of Mary's, had gone to the office of Leo Frank, and had asked for Mary Phagan's pay envelope. She stated she had been refused by Frank. The Ferguson girl states in her affidavit that on the Saturday before the crime, she had been approached by Conley in exactly the same spot on the first floor at which the defense contends Conley slew Mary Phagan.

Frightened by Conley.

She swears that Conley was drinking, and that he frightened her to the verge of hysterics by an advance upon her in the semi-darkness of the first floor, to which she had gone to procure some boxes for her work on the second floor. This affidavit has not been made public as yet, but was revealed by a private investigation of The Constitution.

An affidavit by Mrs. Ethel Harris Miller, of Chattanooga, a former resident of Atlanta and a social acquaintance of the man in the Tower, who says that she saw Frank at a downtown point at 1:10 o'clock on the day of the murder, at which time Jim Conley swears he and Frank were lowering the body of the murdered girl into the pencil factory basement.

Mrs. Miller's affidavit is considered one of the most important yet made public by Frank's counsel. It corroborates the heretofore unsupported testimony of Helen Kern, who told of having seen Frank at the same time of day. The Kern story was one of the most material links in Frank's famous time alibi.

The latest development is a contention by the defense that the sheets of paper on which the murder notes were written were not procured by Conley on the second floor, as he testified, but in the pencil factory basement, where the murdered girl's body was found. This latest murder note clew was discovered by Lemmie Quinn, a foreman in the pencil plant, and a star witness for the defense in the trial.

Quinn claims to have discovered the name "Becker" inscribed into the sheet on which one of the notes was written. The name, he asserts, was barely discernible, owing to an attempt to erase. Becker, it is stated, was connected with the National Pencil factory.

The sheet of paper, with a number of useless other sheets, were thrown into the basement, where they were deposited in the trash depository during 1912, when Becker left the factory. It was from this that the defense now contends that Conley obtained the two sheets to write the notes.

All these phases of evidence—and, it is freely said, much more—will be contained in Frank's plea for a new trial.