

CRIMINAL  
October Term, 1913.

State of Georgia, Fulton County.

Be it remembered that at the July Term, 1913, of Fulton Superior Court,--His Honor, L. S. Roan, one of the judges of the Superior Court of the State of Georgia presiding--there came on to be tried the case of the State of Georgia vs. Leo M. Frank, the same being an indictment for murder. On the trial of said case, the jury found the defendant guilty without any recommendation of life imprisonment and the court imposed the death sentence upon the defendant.

At the same term at which said verdict was rendered, and in due and legal time, defendant made a motion for new trial upon the grounds therein stated, and said motion came on to be heard and was regularly passed, on the 31st day of October, 1913.

Upon the hearing of said motion for new trial, said defendant, Leo M. Frank, presented a proper brief of the evidence in said case, which was approved by the court as true and correct, and which is here and now stated to be true, and correct in this respect, to-wit: exceptions.

Subsequent at the hearing of said case, also presented an amended motion for new trial, and the court certified that the recitals of fact contained in both the original and the amended motions for new trial were true and approved the grounds of both the original and the amended motions for new trial, and here and now states that the recitals contained in the grounds of both said original and amended motions for new trial are true.

In considering the said motion for new trial and in deciding upon the same, the court treated as part of the record and considered the following affidavits and depositions presented by the parties, to-wit:

R. L. Gremer makes the following affidavit, deposing and saying as follows ; That he is a resident of Albany, Georgia; that he is acquainted with Mack Farkas, who works for Mr. Sam Farkas, who operates a livery stable and sale barn in Albany; that between the time of the murder of Mary Phagan, and the trial of Leo M. Frank, the exact date this deponent cannot state, deponent was standing in front of Mr. Sam Farkas' place of business on Broad Street, in the presence of Mack Farkas and others, including a party by the name of A. H. Henslee; said Henslee is the same party whose picture appears on page 2 of the "Atlanta Georgian" issue of August 26th, and on page 2 of the "Georgian" of the same paper of August 23rd as a juror in the Frank case; at said time and place, deponent heard said Henslee express his conviction that Frank was guilty of the murder of Mary Phagan; his exact language was "There can be no doubt that Frank is guilty, I know he is guilty", referring to the murder of Mary Phagan; deponent stated to said Henslee, "It is queer that a man of Frank's standing could be guilty of such a crime". Henslee said "without a doubt he is guilty"; deponent said, "What do you mean by 'without a doubt'?" Henslee answered "positively, without a doubt to my mind or to anyone else's.

Mack Farkas, makes the following affidavit, deposing and saying as follows: that he is a resident of Albany, Georgia, and is connected with Sam Farkas, who runs a livery stable and sale barn in Albany; that between the time of the murder of Mary Phagan and trial of Leo Frank, he heard a party discussing the case in front of the place of business of said Sam Farkas, in Albany, Georgia, in presence of this deponent and others, including one R. L. Gremer a resident of Albany, Ga., said party whom this deponent recalls as being named Henslee, and whose picture appears on page 2 of Atlanta Georgian of August 23, and on page 2 of the Atlanta Georgian of August 26th, as being one of the Frank jury, expressed himself being convinced of Leo M. Frank's guilt of the murder of Mary Phagan; the exact language used by said party deponent does not recall but his recollection is that he used the words "I believe Frank is guilty", referring to the murder of Mary Phagan.

Julian A. Lehman, makes the following affidavit, deposing and saying as follows: that he is personally acquainted with A. H. Henslee, one of the jurors in the above case; that on June 2, 1913, between Atlanta, Ga., and Experiment, Ga., the said Henslee expressed his opinion that Frank was guilty of the murder of Mary Phagan, and that this was in deponent's presence and hearing; and in the hearing of other persons on the train at the time; the words used to the best of deponent's knowledge and recollection were "Frank is as guilty as a damned dog, and ought to have his God damned neck broke"; this was in reference to Leo M. Frank, and before the trial; that again, on June 20, 1913, the said Henslee made practically the same statement of and concerning the connection of Leo M. Frank with the murder of Mary Phagan in deponent's hearing; that on both occasions the said Henslee showed great feeling, he expressed the aforesaid conviction firmly and positively and vehemently.

Samuel Aron makes the following affidavit, deposing and saying as follows: that after the indictment of Leo M. Frank for murder, as near as he can recall about two days after the indictment, this deponent was at the Elks Club on Ellis Street, Atlanta, Georgia; that at that time he saw one A. H. Henslee, not then known to this deponent by name, but now known and recognized by this deponent as one of the jurors who tried the Frank case and returned a verdict of guilty; said A. H. Henslee was at said Elks Club at the time mentioned, and made the statement in this deponent's hearing: "I am glad that they indicted the God damn Jew. They ought to take him out and lynch him, and if I get on that jury, I'll hang that Jew sure." This statement was made in connection with the indictment of Leo M. Frank for the murder of Mary Phagan, and made in this deponent's hearing by the said A. H. Henslee, who afterwards served on said jury and brought in a verdict of guilty; that at this time this deponent left the Club, not caring to get into the argument, which was becoming heated and which was very condemnatory of Leo M. Frank by the said A. H. Henslee.

L. Z. Rosser, Morris Brandon, R. R. Arnold, and H. [unclear] make the following affidavit: that they are the sole counsel of defendant in the above case and they make this affidavit to be used as evidence on the motion for new

trial in said case ; that since the trial of said case and the verdict and sentence therein, it has come to their knowledge that two of the jurors who sat on said case, to-wit: M. Jochenning and A. H. Henslee, were prejudiced, partial and biased against Leo M. Frank, the defendant as evidenced by affidavits attached to motion and hereinafter referred to; that said prejudice, partiality and bias were present on their part, when said Jochenning and Henslee qualified as jurors in said case as shown by said affidavits, but that the facts were unknown to these deponents at the time of the trial of said case, and at the time said jurors qualified on the voir dire of said case; and these deponents had no means of knowing said facts until after said trial; that not until after the trial of said case did they know or have any means of knowing that said Jochenning and Henslee, or either of them, had made any statement of any kind to, or in the presence of, any of the following persons, to-wit: H.C. Levenhart, Mrs. J.G. Levenhart, Miss Mariah Lovenhart, S. Aron, Mack Farkas, R.L. Gremer, Jno. M. Holmes, Shi Gray, S. M. Johnson, J.J. Nunnally, W.L. Ricker, J. A. Lehman, C.P. Stough, or any other person, of and concerning said Leo Frank in connection with the murder of Mary Phagan, or in connection with said trial, or the possible outcome of said trial; that they have been guilty of no laches in this matter, but that they have used every means of obtaining the facts in connection with statements made by said persons, and all of them, and all of said statements have come to their knowledge since the rendition of the verdict and sentence in said case, as is shown by the dated mentioned in the jurats to each affidavit, and deponents have brought same to the attention of the Court at the earliest possible moment at which the Court could take cognizance of said affidavits after the trial, which is the date on which the rule nisi is on return; that is, October 4, 1913, same being on that day presented to the Court as part of the motion for new trial; they say that had they known at the trial of any of the facts or statements of the jurors, which would disqualify, or tend to disqualify, said jurors, or either of them, when said jurors were put upon the voir dire in said case, these deponents would have

~~no means to the attention of the Court at said time~~

Mrs. Jennie G. Lovenhart, makes the following affidavit, deposing and saying as follows: that she is personally acquainted

with M. Jochenning, one of the jurors who served in the trial of Leo M. Frank for murder of Mary Phagan; that during May, 1913, said M. Jochenning met deponent and deponent's daughter on Forsyth Street, Atlanta, Georgia, and then and there the said M. Jochenning expressed to the deponent and deponent's daughter his firm belief that Leo M. Frank was guilty of the murder of Mary Phagan. This statement was made by M. Jochenning foreseeably and positively and as his profound conviction.

H. O. Loevenhart makes the following affidavit, deposing and saying as follows: that for some eighteen months prior to July, 1913, he was connected with the Hodges Broom works in the City of Atlanta; that he is personally acquainted with M. Jochenning, one of the jurors in the above case, and that during the month of May, 1913, said M. Jochenning had a conversation with this deponent, in which he discussed the death of little Mary Phagan; that in said conversation the said juror, M. Jochenning, expressed his opinion to deponent that Frank was guilty of the murder of Mary Phagan, and that it was his profound conviction.

Miss Miriam Loevenhart makes the following affidavit, deposing and saying as follows: that she is personally acquainted with M. Jochenning, a juror, who served in the above stated case; she says that prior to the trial of Leo M. Frank, said juror, M. Jochenning, had a conversation with this deponent and deponent's mother, and in their presence expressed his profound conviction that Leo M. Frank was certainly guilty of the murder of Mary Phagan; that said M. Jochenning made this statement, positively, almost vehemently, and that his exact language, which was in response to a remark from this deponent in reference to the case was, as near as deponent recalls, "I know that he is guilty", referring to Leo Frank; that said Jochenning made this statement more than once to this deponent before the commencement of the trial of Leo M. Frank for murder.

Leo M. Frank makes the following affidavit, deposing and saying as follows: that he is the defendant in the above stated case, and that his sole counsel in said case were L. Z. Rosser, Morris Brandon, R. R. Arnold and H. J. Haas; that at and before said trial was entered on, and during the whole of said trial that affiant had

no knowledge whatsoever as to M. Johenning and A. H. Henslee, two of the jurors, being prejudiced, partial and biased in said case, as evidenced by the affidavits of H. D. Lovenhart, Mrs. J.C. Lovenhart, Miss Marian Lovenhart, S. Amon, Max Parkas, R.L. Greener, John W. Holmes, Shi Gray, S. M. Johnson, J.J. Munnally, W.L. Ricker, J.A. Lehman and C.P. Stough. Affiant did not know either of said jurors and had never seen or heard of them before; that he did not know until after the trial and did not have any means of knowing until after said trial, that said Johenning and said Henslee, or either of them, had made any statement of any kind to or in the presence of any of the persons hereinbefore named; that before said trial, at the time of entering upon said trial, and during said trial, he had no knowledge or means of knowing that said persons were prejudiced, partial or biased, as is shown by the affidavits or depositions of the persons named, and the facts stated in said affidavits and depositions were unknown to this affiant until after the verdict and sentence in said case; that he has been guilty of no laches in this matter, and has, together with his counsel, used all the means at hand to obtain the facts and circumstances in connection with the statements made by said parties and all of them; that said facts were discovered after the verdict and sentence of the court in the case above stated, and the affidavits of said witnesses were taken on the dates shown in the jurat to each affidavit, and the same are brought to the attention of the court by being presented on the day for the return of the rule nisi, which is October 4, 1913, and which is the earliest time at which such affidavits could be brought to the attention of the court; he further says that had he known at the trial of any facts or statements which would disqualify, or tend to disqualify, said jurors, or either of them, when said jurors were upon their voir dire in said case, that this affiant would have had his counsel bring the same to the attention of the Court promptly at that time.

W. P. Neill makes the following affidavit, deposing and saying as follows: that he was present in the courtroom during the trial of Leo M. Frank, for the murder of Mary Phagan, for two full days during the trial, and from time to time on other days; that at the time of the facts hereinafter stated, deponent was sitting just where the jury passed by going from the jury box to the rear end of the court

no knowledge whatsoever as to M. Johenning and A. H. Henslee, two of the jurors, being prejudiced, partial and biased in said case, as evidenced by the affidavits of H. D. Lovenhart, Mrs. J. C. Lovenhart, Miss Marian Lovenhart, S. Azon, Max Farkas, R. L. Greener, John W. Holmes, Shi Gray, S. M. Johnson, J. J. Munnally, W. L. Ricker, J. A. Lehman and G. P. Stough. Affiant did not know either of said jurors and had never seen or heard of them before; that he did not know until after the trial and did not have any means of knowing until after said trial, that said Johenning and said Henslee, or either of them, had made any statement of any kind to or in the presence of any of the persons hereinbefore named; that before said trial, at the time of entering upon said trial, and during said trial, he had no knowledge or means of knowing that said persons were prejudiced, partial or biased, as is shown by the affidavits or depositions of the persons named, and the facts stated in said affidavits and depositions were unknown to this affiant until after the verdict and sentence in said case; that he has been guilty of no laches in this matter, and has, together with his counsel, used all the means at hand to obtain the facts and circumstances in connection with the statements made by said parties and all of them; that said facts were discovered after the verdict and sentence of the court in the case above stated, and the affidavits of said witnesses were taken on the dates shown in the jurat to each affidavit, and the same are brought to the attention of the court by being presented on the day for the return of the rule nisi, which is October 4, 1913, and which is the earliest time at which such affidavits could be brought to the attention of the court; he further says that had he known at the trial of any facts or statements which would disqualify, or tend to disqualify, said jurors, or either of them, when said jurors were upon their voir dire in said case, that this affiant would have had his counsel bring the same to the attention of the Court promptly at that time.

W. P. Neill makes the following affidavit, deposing and saying as follows: that he was present in the courtroom during the trial of Leo M. Frank, for the murder of Mary Phagan, for two full days during the trial, and from time to time on other days; that at the time of the facts hereinafter stated, deponent was sitting just where the jury passed by going from the jury box to the rear end of the court



room, he was sitting on the front row of the spectators benches; that during the course of the trial deponent saw the jury pass to the jury box from the rear of the court room, the jury passed immediately by this deponent and also by a man, whose name is unknown to this deponent, but who was a spectator in the court room, who was sitting about three feet from this deponent, just across an aisle, no one being between this man and deponent; as the jury passed this man, at the time specified, this man took hold of one of the jurors, he took the juror by the hand with one hand and grasped his arm with the other hand and made a statement to him, said something to the juror which this deponent did not understand sufficiently to be able to quote, but this deponent says that he made some statement to the juror while he had him thus by the hand and arm; he says that this act was witnessed by Plennie Minor, so this deponent believes, for the reason that as soon as this happened, the said Plennie Minor immediately came back to this man and threatened to put him out of the court. Plennie Minor told this man that he, Plennie Minor, saw him, the man, take the juror by the hand and say something to him; the man remonstrated with Plennie Minor, and this deponent heard Plennie Minor repeat to him that he, Plennie Minor, saw him, the man, speak to the juror; Deponent further says that on two occasions, while he was sitting in the court room at the trial, at one time while he was about six to ten feet from the jury, this deponent heard shouts and cheering on the outside of the house from the crowds collected outside; one of said times was during Dorsey's speech. While this deponent does not say whether or not the jury heard this cheering, he does say that he, the deponent, heard it, plainly and distinctly and was within a few feet from the jury at the time he heard it. He further says that on one occasion he heard cheering in the court room; the Judge said that unless the cheering stopped he would have to clear the court room, and to this, Deputy Sheriff Minor replied that that would be the only way he could stop the cheering in the court room.

B. M. Kay makes the following affidavit, deposing and saying as follows: that he is a resident of the City of Atlanta, living at 4264 S. Pryor Street; that on Saturday evening, August 23, 1913, about 8 or 8:30 o'clock P. M. he was driving his father's automobile down South Pryor Street, going South, there being in the automobile with him, his mother, Mrs. Rose Kay, and his brother, Sampson Kay; that a

the automobile approached the corner of South Pryor and East Hunter Streets, he observed the jurymen in the Frank case turn into South Pryor from the east, out of East Fair Street, and deponent stopped his automobile to look at the jury, and upon doing so noticed that walking alongside the jury were some six or seven other men. Deponent was on the west side of South Pryor Street while the jury in the above entitled case was walking north along the east side of South Pryor Street. Deponent's brother, Sampson Kay, got out of the automobile stating to deponent that he was going to follow the jury.

Miss Martha Kay makes the following affidavit, deposing and saying as follows: that on the last day of the trial of Leo M. Frank in the above stated case, August 25th, 1913, she was present in the court room and when the audience applauded Judge Roan stated to the sheriff that the cheering and demonstrations would have to stop or the court room would have to be cleared, to which sheriff replied, "Your Honor, that is the only way it can be stopped."

Mrs. A. Shurman, makes the following affidavit, deposing and saying as follows: that on the last day of the trial of Leo M. Frank, in above stated case, August 25, 1913, she was present in the court room and when the audience applauded Judge Roan stated to the sheriff that the cheering and demonstrations would have to stop or the court room would have to be cleared, to which the sheriff replied, "Your Honor, that is the only way it can be stopped."

Mrs. A. Shurman makes the following affidavit, deposing and saying as follows: that she is a resident of the City of Atlanta, living at #240 Central Avenue; that on Monday morning, August 25, 1913, the last day of the trial of the said Leo M. Frank in the above stated case, she was present in the court room in company with Miss Martha Kay of #264 S. Pryor Street, before time for court to open; that she saw the jury in said case enter said court room and take their places, and in a few moments, Mr. Hugh M. Dorsey, the Solicitor General of said court entered the room; just before he entered the room there was loud cheering in the street immediately outside the court room for "Dorsey", all of which was loud and long continued and plainly audible to any one in the court room; as Mr. Dorsey entered the court

room there was also cheering in said court room. There was also applauding in the course of Mr. Dorsey's speech a couple of times on said date.

Miss Martha Kay makes the following affidavit, deposing and saying as follows: that she is a resident of the City of Atlanta, living at #264 South Pryor Street; that on Monday morning, August 25, 1913, the last day of the trial of the said Leo M. Frank, in the above stated case, she was present in the court room in company with Mrs. A. Shurman of #240 Central Avenue, before time <sup>for</sup> court to open; that she saw the jury in said case enter said court room and take their places, and in a few moments Mr. Hugh M. Dorsey, the Solicitor General of said court, entered the room, just before he entered the room there was loud cheering in the street immediately outside the court house for "Dorsey", all of which was loud and long continued and plainly audible to any one in the court room; as Mr. Dorsey entered the court room there was also cheering in said court room. There was also applauding in the course of Mr. Dorsey's speech a couple of times on said date.

Sampson Kay makes the following affidavit, deposing and saying as follows: That he is a resident of the City of Atlanta, living at #264 South Pryor Street; that on Saturday evening, August 23rd, 1913, about 8 or 8:30 o'clock P. M. he saw the jury in the above entitled case walking along South Pryor Street with a deputy Sheriff in front and another walking in the rear of said jury; said jury turning into South Pryor Street from East Fair Street, and thence up South Pryor Street to the Kimball House. Deponent followed the jury some 15 or 20 feet in the rear thereof, from E. Fair Street up South Pryor St. to near the corner of E. Mitchell and S. Pryor, when he passed ahead and waited on the corner of said streets until the jury had passed, and then continued to follow them up to the Kimball House. This deponent says that there were some six or seven men walking alongside the jurymen talking to them all the way from the corner of E. Fair and South Pryor Streets, up to the Union Station, just north of corner of East Alabama and S. Pryor Street, when the men left them, and the jury went on and entered the Kimball House through the Hall Street entrance.

Samuel A. Boorstin makes the following affidavit, deposing and saying as follows: that on Friday evening, on the 22nd day of August, 1913, at about 5 or 5:30 P. M., he was present at the court room of Fulton Superior Court, Judge L. S. Roan presiding, during the trial of the State vs. Leo M. Frank; and after adjournment, and when the jury had been taken from the court room, and shortly thereafter, the Solicitor General, Hugh M. Dorsey, had passed out of the court room, there was a large crowd waiting outside, through which the jury passed, comprising, perhaps, no less than two or three thousand people; that this crowd did tumultuously and noisily applaud and cheer the Solicitor General, and did congregate around the court room on the outside, standing in great numbers, both on the street and on the sidewalks; that deponent, upon adjournment of court, was walking up Pryor Street from said court room in a northerly direction, and when he reached Pryor and Alabama Streets, he saw two persons peering out of the third floor corner window in the Kimball House, looking in a southward direction at the large crowd congregated between the Kiser Building and the court house; that, as deponent continued walking northward and reached the restaurant in the Union Car Shed, corner Pryor and Wall Streets, he still observed one of the figures in the jury room peering southward, with both hands upon the window-sill, whom he recognized as being Juror Smith, one of the jurors in the case of the State vs. Leo M. Frank, and then being on trial. The other person, who had his head through the window peering southward, had by this time stuck his head back into the room, and deponent could not tell who he was.

W. B. Gate makes the following affidavit, deposing and saying as follows: that on September 1, 1913, in the afternoon, I was standing at the corner of Alabama street and S. Pryor Street, and had intended to go down S. Pryor Street to the court house where the Frank trial was being conducted, but was unable to get any closer to the court house on account of the crowd that had gathered in the street, I was in about one block of the court house. While I was standing at this place, I heard a great deal of cheering and shouting, the street being full of men most of whom were making noise and cheering. I saw some one come out of the court house, who I understood was Hugh Dorsey, the solicitor, and he was picked up by some of the crowd and carried across the street on the shoulders of the men who

had him. I could not see the man that was carried on the shoulders of the men very well, but was told that it was Dorsey. There was at this time fully three thousand men gathered around the court house, filling the streets on all sides of the court house. I only know Col. Dorsey by sight.

J. H. G. Cochran makes the following affidavit, deposing and saying as follows: that he is a resident of Atlanta, Georgia; he remembers the close of the trial of Leo M. Frank, and was present in front of the court house in Atlanta, Georgia, on the day that the case closed and on the day that the jury returned the verdict of guilty in said case; that on the day aforesaid, to-wit; that the jury returned the verdict, Mr. Cochran was standing in front of the court house at the time the jury came out of the court house to go to dinner; at just about the same time or near that time, and while the jury were in the vicinity of the court house, Solicitor General Hugh M. Forsey came out of the court house and went across the street to the Kiser Building.

Deponent says that at the appearance of Solicitor Dorsey on the street coming from the court house the crowd in the street, numbering between 500 and 1,000 people, to the best of this deponent's estimate, broke into loud and tumultuous cheering of the Solicitor, the jury being at the time near the court house and proceeding up Pryor Street, and being within sight of this deponent at the time the cheering commenced, and that said cheering lasted the whole time that the Solicitor General was crossing the street and until he had entered the Kiser Building.

This deponent knows that this cheering which took place in the presence of the jury, or in their hearing, and while they were on Pryor Street a short distance from the court house, was cheering for the Solicitor, and he remembers the Solicitor's stopping at the entrance of the Kiser Building and taking off his hat and bowing to the crowds cheering him; not only were the crowds cheering him, but people in the windows of the Kiser Building were also cheering and waving their hands and handkerchiefs at the Solicitor, all of which was practically in the presence of the jury, at least within their hearing, before they proceeded up Pryor St. He says that on said day the jury took dinner at the German Cafe, on South Pryor St., a distance of approximately 150 feet to 200

feet from the Kiser Building, and that both outside of the Cafe and in the Cafe, the cheering of the Solicitor General could be heard by any person.

H. G. Williams, makes the following affidavit, deposing and saying as follows: that on the ~~Frank~~ day the Frank trial closed, and verdict of guilty was found by the jury against Leo M. Frank, accused of the murder of Mary Phagan, this deponent was on South Pryor Street, in front of the court house;

This deponent saw Solicitor General Dorsey come from the Court House and cross the street to the Kiser Building in the presence of exceeding 500 people, who cheered his appearance at the entrance of the court house with loud and continued cheering, which cheering continued until he had entered the Kiser Building across the street, and which cheering was acknowledged by Solicitor Dorsey at the entrance of the Kiser Building, where he turned and raised his hat to the people who were cheering him;

Just preceding Solicitor Dorsey, the jury had come out of the Court House and had gone a short way up the street to the German Cafe for lunch; at the time of this cheering, which could be heard for a great distance on all sides of the court house, the jury were in easy hearing distance of the noise during the whole time when the crowd was cheering Solicitor Dorsey.

Said demonstration over the Solicitor General occupied not less than three minutes, and perhaps not exceeding five minutes, and took place on the last day of the trial, immediately after the jury had come from the court house on their way to dinner. Further deposing this deponent says that practically the same demonstration took place on Saturday preceding the time hereinbefore specified, at the time when Solicitor Dorsey came from the court house to go to his office and when the jury were proceeding from the court house; said demonstration on Saturday being in the presence of the Solicitor and in the hearing of the jury, and being a demonstration over the Solicitor General.

H. G. Pursley, makes the following affidavit, deposing and saying as follows: that he is a resident of the City of Atlanta, residing at #50 Ponders Ave., with office at #700 Temple Court; that on

Friday noon, before the above stated case went to the jury on Monday, he was present in the court room where the trial of Leo M. Frank was being held; that when court adjourned and the jury had left and gone to lunch he came out of the court house and there was loud cheering for "Dorsey", which lasted for several minutes. Deponent walked from the court house to his office on seventh floor of Temple Court Building, and when he reached his office some one asked deponent what all the racket or fuss was about down on the street.

Marana Benbenisty makes the following affidavit, deposing and saying as follows: that he was standing outside of the court house on Friday afternoon, August 22nd, at about 12:20, and I saw the jury come out of the court room. Soon after the jury came out of the court room, Mr. Dorsey came out, and the crowd set up cheering and yelling "Hurrah for Dorsey". At the time of the yelling and cheering the jury was just crossing the street towards the Barbers' Supply Company, which is next to the Kiser Building. That in the opinion of deponent there was about a thousand people crowding about the court room.

Isaac Hazan makes the following affidavit, deposing and saying as follows: that he was standing outside of the court house on Friday afternoon, Aug. 22nd, at about 12:20, and I saw the jury come out of the court room. Soon after the jury came out of the court room, Mr. Dorsey came out, and the crowd set up cheering and yelling "Hurrah, hurrah". At the time of the yelling and cheering, the jury was just crossing the street towards the Barbers' Supply Company, which is next to the Kiser Building; that in the opinion of deponent there was about a thousand people crowding about the court room.

Deponent further states that as the jury reached the other side of Pryor Street in front of the Barbers' Supply Company, deponent heard ten or fifteen men in front of the court house yelling toward the jury that unless they brought in a verdict of guilty, that they would kill the whole damn bunch; that in the opinion of deponent, the jury must have heard them, because one of the jurors turned his face toward the yelling just when that occurred.

John H. Shipp makes the following affidavit, deposing and saying as follows: that on Friday, August 22, he was in room 301 of the Kiser Building, corner Hunter and So. Pryor Streets; that he saw

then jury come out of the court house about six P. M.; that a few minutes after the jury came out of the court house, Mr. Dorsey appeared in the entrance, whereupon a great cheer arose from the people crowding in the streets and around the court house entrance; that at that time deponent saw the jury about fifty feet from the entrance of the court house, the jury at that time crossing the street diagonally toward the German Cafe; that in the opinion of deponent the yells and cheers could have been heard several blocks away; that the crowd yelled "Hurrah for Dorsey" and that the words were plainly audible.

Deponent further states that he was in room 301 of the Kiser Building, on Saturday, August 23; that he saw the jury emerge from the court house entrance at about one o'clock; that a few minutes after the jury came out, Mr. Dorsey came out and immediately a great crowd around the court house door set up a yell and cheer, saying "Hurrah for Dorsey", taking off their hats and throwing them in the air and otherwise exhibiting their enthusiasm; that at the time of the yelling the jury was not in sight of the deponent but deponent is of the opinion that they were within easy hearing of the yelling and must have heard all that transpired.

Deponent further states that while he has been around the court house, during the progress of the trial, he has heard numerous threats of violence to the accused in case of an acquittal; that deponent knows that one of the persons making threats was armed; that he exhibited his weapon at time of making threat.

B. S. Lipshitz makes the following affidavit, deposing and saying as follows: That he was out in front of the court house mingling with the crowd, at about one P. M. on Saturday, August 23, immediately after court adjourned; that deponent saw the jury come out and about one or two minutes thereafter, Mr. Dorsey came out, whereupon there was great cheering and yelling by the crowd; that at the time the yelling and cheering took place, the jury could not have been more than one minute's walk away from the court house, and in the opinion of deponent, they could have heard the cheering and yelling;

Deponent further states that he was also present at the court house on Friday evening, August 22nd, when Mr. Dorsey left the court house, and heard the cheering and heard the crowd yelling "Hurrah",



Charles J. Moore makes the following affidavit, deposing and saying as follows: that he is an attorney at law, occupying room 301 on the 3rd floor of the Kiser Building, at the corner of Hunter and So. Pryor Streets; that on Friday, August 22nd, deponent was in his office and saw the jury come out of the court house entrance at about 6 P.M. that soon after Mr. Dorsey appeared in the court house entrance and a great cheering and yelling occurred by the crowd immediately opposite the entrance, and afterwards the crowd yelled "Hurrah for Dorsey", and the volume of the yells were so great that they could have been heard many blocks away; that they threw up their hats and gave other demonstrations; that at the time of the yelling, the jury was just crossing the street toward the Gorman Cafe, not fifty feet away from the entrance, and in the opinion of deponent must have heard the cheering and the words "Hurrah for Dorsey", because they could be plainly heard; that he was in his office on Saturday, Aug. 23, when the jury came out of the court house at about one o'clock, and he heard yelling and cheering when Mr. Dorsey appeared a few minutes afterwards. Deponent did not see the jury at the time of the yelling, but it occurred so soon after the jury came out of the court house that in the opinion of deponent the jury must have heard the cheering and the words that were yelled; that since the trial has been in progress, he has heard several parties making threats of personal violence against the accused in the event of an acquittal; that these parties were loitering in and around the court house entrance and making threats that if the jury did not hang Frank, that they would pay the jury the compliment of sitting on the case, and if the jury did not do its duty, they would; that deponent recalls the names of R.W. Miller, Richard Dutton; that Miller loitered continuously around the court house entrance and circulated among the crowd.

D. Rozinsky makes the following affidavit deposing and saying as follows: That on Friday, Aug. 22nd, and Saturday, Aug. 23, he was standing near the corner of Hunter and So. Pryor Streets, in the City of Atlanta, Ga., and that when the Solicitor General, H.M. Dorsey, came out of the Old City Hall Building, now used as a court house, there was loud and vociferous cheering by the assembled crowd; that members of the crowd took the Solicitor in their arms and carried him across the street to the Kiser Building.

Maek Farkas, B.W. Simon, Sam Farkas, make the following affidavit that the order set out below was taken by A.H. Henslee, in person, a traveling salesman for Franklin Buggy Co.; that said order was taken on July 8, 1913; the name A.H. Henslee on said order is the handwriting and signature of A.H. Henslee. The order referred to above was as follows: "July 8, 1913. Franklin Buggy Company, Inc. "Improved Barnesville Buggy". At once Ship to Sam Farkas, Albany, Ga., certain buggies (described in detail). Salesman: (Signed) A.H. Henslee. (Signed) Sam Farkas, by B.W. Simon."

J.J. Ricker and W.L. Nunnally, of Monroe, Georgia, make the following affidavit, deposing and saying as follows: that they have seen in the public prints that one of the jurors, A. H. Henslee,

in the Frank case, admits having made certain statements as to Frank's guilt of the murder of Mary Phagan, but says these statements were made after the trial of Leo M. Frank, and not before; they say that so far as they know, the said Henslee has not been in Monroe, Georgia, since the trial of Leo M. Frank, and they reiterate the statement that all statements made in their hearing by said Henslee, and testified about by these deponents on September 27, 1913, were made before the commencement of the trial of Leo M. Frank for the murder of Mary Phagan on July 28th, 1913; to the best of these deponents' recollection, these statements were made in June, 1913, although as to the exact month, these deponents say not.

Julian A. Lehman makes the following affidavit, deposing and saying as follows: that he makes this affidavit for use in motion for new trial in above stated case; that he reiterates his statement heretofore made under oath that between the time of the murder of Mary Phagan, as reported by the newspapers, and the commencement of the trial of Leo M. Frank, on July 28, 1913, he, on two occasions, heard A. H. Henslee, a juror in said case, express himself firmly and positively as to the guilt of Leo M. Frank of the murder of Mary Phagan, in the language set forth in the affidavit heretofore made by this deponent and attached to the original motion for new trial in said case; one of said times was on or about June 20, 1913, another time was early in the month of June, to the best of this deponent's recollection near June 2nd, but as to the exact date this deponent cannot state.

Leon Harrison makes the following affidavit, deposing and saying as follows: that he is not acquainted with Leo M. Frank, is not related to him, and has never seen him to know him; he says on oath that he is not personally acquainted with A.H.Henslee, but he knows that said Henslee is the party about whom he makes this affidavit; that during the month of May, 1913, deponent was walking from Scherrer's lunch place on Peachtree Street, toward Five Points, when he was attracted by a conversation between two men, one of whom was said A. H. Henslee; the same Henslee that served on the Frank jury and whose picture appeared in the Atlanta Georgian of August 26th, 1913, page 2, a clipping of which papers is hereto attached; that at

the time, which was shortly after the Mary Phagan murder, almost everyone was discussing the murder, and this deponent was very much interested in the matter, as was everyone else; this deponent heard the man with Henslee say to Henslee "I don't believe Frank committed that murder; if he did, he is one Jew in a million, not one Jew in a million would committ such a crime"; and to this statement said Henslee replied in deponent's hearing: "I believe he did kill the girl, and if by any chance I get on the jury that tries him, I'll try my best to have him convicted." The above statement of Henslee was in reference to Frank's guilt of the murder of Mary Phagan

The following persons make the following affidavit: R. C. Knight, Ex-Ordinary, H. G. Howell, Sol. City Court, O. Roberts, Atty, J. B. Shelnutt, Clerk Walton Superior Court, Alonzo C. Stone, Judge City Court of Monroe, deposing and saying as follows: that they are personally acquainted with J. J. Nunnally and W. L. Ricker, and that said Nunnally and Ricker are each men of the highest personal and moral character and reputation, and that they are each entirely trustworthy, and worthy of belief, as to any statement made by them, or each of them.

The following persons make the following affidavit: W. H. Burwell, Henry H. Little, Ordinary, Frank L. Little, Chmn. Board of Education, Sparta, T. M. Hunt, H. D. Chapman, Tax Collector, H. Co., Thos. P. Fleming, H. L. Middlebrooks, Cashier 1st Natl. Bank, G. W. Brier, Mayor of Sparta, R. E. Wheeler, Cashier Sparta Savings Bank, D. E. Wiley, Clerk Superior Court, A. H. Birdsong, Treas. H. Co., E. A. Rozier, Sr., Pres. Bank of Sparta, J. D. Bennett, Cashier Bank of Sparta, T. B. Hightower, Sheriff H. Co., deposing and saying as follows: that they are personally acquainted with Jno. M. Holmes, Shi Gray, and S. M. Johnson, and that said Holmes, Gray and Johnson are each men of the highest personal and moral character, and reputation, and that they are each entirely trustworthy and worthy of belief, as to any statement made by them or each of them.

The following persons make the following affidavit, deposing and saying as follows: W. F. Upshaw, S. E. Berman and Henry M. Kennedy,

that they are personally acquainted with Julian A. Lehman; and that said Lehman is a man of the highest personal and moral character, and reputation, and that he is entirely trustworthy, and worthy of belief, as to any statement made by him.

C.W. Mizell and R. P. Spencer, Jr. make the following affidavit, deposing and saying as follows: that they are personally acquainted with Julian A. Lehman, and that said Lehman is a man of the highest personal and moral character, and reputation, and that he is entirely trustworthy and worthy of belief, as to any statement made by him.

A. L. Guthman, L. P. Stephens, A. H. Van Dyke make the following affidavit, deposing and saying as follows: that they are personally acquainted with C. P. Stough, of Atlanta, Fulton County, Georgia, and that they know him to be a man of high personal character entirely trustworthy and absolutely worthy of belief, as to any statement made by him, whether on oath or otherwise.

W. W. Little makes the following affidavit, deposing and saying as follows: that he was head clerk at the New Albany Hotel (Albany Hotel Company, Proprietors), located at Albany, in said State and County, all during the months of June, July and August, 1913, and for several years prior to that time; and that attached hereto, marked exhibit "A", is the register of guests at said hotel from the 20th day of June, 1913, to the 31st day of August, 1913; and that there was no other register of guests used at said hotel during the period above stated;

Deponent further says that on the third page of said register of guests, under date of July 8, 1913 (contd 7/8/13), on the second line from the top, is the signature of A. H. Henslee, address "Atlanta, U.S.A., assigned to room 79 in said hote; and deponent says further that he was the clerk on duty at said hotel at the time the said Henslee registered his said name on said register, and was a guest at said hotel during that day; and deponent says further that he is personally acquainted with the said Henslee.

Deponent says further that he is aware and has knowledge that this affidavit is to be used as evidence in the hearing of the motion for a new trial in the case of the State of Georgia vs. Leo M.

Frank, which is now pending in the Superior Court of Fulton County, Georgia.

Leo M. Frank makes the following affidavit, deposing and saying as follows; that he is the defendant above named; that he did not know, nor has he ever heard until the end of his trial in the above stated case, that A. H. Henslee and Marcellus Joehanning had any prejudice or bias against deponent, nor that they, or either of them, has ever said or done anything indicating that they believed in deponent's guilt, or had any prejudice or bias against deponent.

Shi Gray deposes and states by interrogatories issued under Section 5918 and 5919 of the Code of 1910, as follows: I have examined clipping from the Atlanta Georgia of August 26, 1913, showing a picture of the jury in the above stated case, and showing a likeness of Juror A. H. Henslee. I am personally acquainted with A. H. Henslee. I heard A. H. Henslee discussing the question of whether or not Leo M. Frank was guilty of the murder of Mary Phagan, between the death of said Mary Phagan and the commencement of the trial of Leo M. Frank charged with the murder of Mary Phagan. In a conversation in Walker & Holmes Insurance office, some one asked Henslee whether he, Henslee thought Frank was guilty of the murder of Mary Phagan. Henslee answered in the affirmative. The answer given by Henslee was stated positively and firmly. The conversation lasted from about 20 minutes to half an hour. All of us were talking. Henslee asked Mr. Holmes and Mr. Johnson and others. The whole conversation at the time with Henslee was on the proposition as to whether or not Leo M. Frank was guilty of the murder of Mary Phagan. This conversation took place before the trial of Frank, and it was in the insurance office of Walker & Holmes. I did hear A. H. Henslee state, in Sparta, Ga., between the time of the death of Mary Phagan and the commencement of the trial of Leo M. Frank, for the murder of Mary Phagan, that Leo M. Frank was guilty of the murder of Mary Phagan. I heard him say he was summoned as a juror in the case conversation already testified about. I am a dealer in live stock.

S. M. Johnson deposes and states by interrogatories issued under sections 5918 and 5919 of the Code of 1910, as follows: I have examined clipping from the Atlanta Georgian of August 26, 1913,

showing a picture of the jury in the above stated case, and showing a likeness of Juror A. H. Henslee. I know A. H. Henslee by sight. I have heard A. H. Henslee discussing the question of whether or not Leo M. Frank was guilty of the murder of Mary Phagan, between the death of said Mary Phagan and the commencement of the trial of Leo M. Frank charged with the murder of Mary Phagan. Several parties were talking. Some said they thought Leo M. Frank was guilty of the murder of Mary Phagan, others said they did not. Henslee stated his conviction that Frank was guilty of the murder of Mary Phagan. He did this firmly and positively. This took place in Walker & Holmes' office about the last of June, 1913. I heard A. H. Henslee state, in Sparta, Ga., between the time of the death of Mary Phagan and the commencement of the trial of Leo M. Frank for the murder of Mary Phagan, that Leo M. Frank was guilty of the murder of Mary Phagan. A. H. Henslee said he had been drawn as a juror and might have to serve. I work for Walker & Holmes.

John M. Holmes deposes and states by interrogatories issued under sections 5918 and 5919 of the Code of 1910, as follows: I have examined the clipping from the Atlanta Georgia of August, 26, 1913, showing a picture of the jury in the above stated case and showing a likeness of Juror A. H. Henslee. I am personally acquainted with A. H. Henslee. I heard A. H. Henslee discussing the question of whether or not Leo M. Frank was guilty of the murder of Mary Phagan, between the death of said Mary Phagan and the commencement of the trial of Leo M. Frank charged with the murder of Mary Phagan. Several men were in my office. Mr. Henslee was asked the question whether or not he believed Leo M. Frank was guilty of the murder of Mary Phagan. He stated that he did. He stated this positively and firmly. This took place in Walker & Holmes' Insurance office on the morning of June 27th, 1913. I heard A. H. Henslee state in Sparta, Ga., between the time of the death of Mary Phagan and the commencement of the trial of Leo M. Frank for the murder of Mary Phagan, that Leo M. Frank was guilty of the murder of Mary Phagan. Henslee stated that he had been summoned as a juror. I am a member of the firm of Walker & Holmes, real estate and insurance.

C. P. Stough deposes and states by interrogatories issued under sections 5918 and 5919 of the Code of 1910, as follows:

I know A. H. Henslee, who served on the jury in the above stated case at the trial commencing July 28, 1913. I have known him about six or seven years. About the time that Conley was reported to have made a statement, I was coming into the city on a street car from the home of my daughter. Henslee was also on the car. I heard him say this, in reference to Leo M. Frank's guilt of the murder of Mary Phagan: "I think he is guilty and I would like to be in a position where I could help break his damned neck." This statement was most positive. He was as positive as I was, and I was as positive as I could be in what I said in the conversation. This statement was made on a College Park Street car, coming into the city. I am inspector for the Mason's Annuity.

W.L.Ricker deposes and states by interrogatories issued under sections 5918 and 5919 of the Code of 1910, as follows: I have examined the clipping from the Atlanta Georgian of August 23, 1913, and particularly the likeness in said clipping of A. H. Henslee. I know A. H. Henslee. Henslee was in Monroe, Georgia, between the time of the murder of Mary Phagan, as reported in the papers, and the time of the commencement of the trial of Leo M. Frank, for the murder of Mary Phagan, to-wit: July 28th, 1913. I heard A. H. Henslee make statements in connection with the guilt of Leo M. Frank of the murder of Mary Phagan. He talked for some time in the store of Nunnally & Harris, and stated that Leo M. Frank was guilty of the murder of Mary Phagan. He denounced Frank bitterly and vehemently, and made this statement about Frank in my hearing: He said, "They are going to break that Jew's neck." This was stated most bitterly and positively. Yes, he said that Frank was guilty. Yes, A. H. Henslee, in Monroe, Georgia, between said dates, in my presence, and hearing, said he thought Leo M. Frank was guilty of the murder of Mary Phagan; and he was bitter. I was only present about 20 minutes. He was talking all the time I was there and stating that Frank was guilty of the murder of Mary Phagan. J.J.Nunnally and some others whose names I do not <sup>now</sup> recall, were also present. I am a dentist practicing about seven years. I am a graduate of Atlanta Dental College.

J. J. Nunnally deposes and states by interrogatories issued under sections 5918 and 5919 of the Code of 1910, as follows: I have examined the attached clipping from the Atlanta Georgian of August 23,

1913, and particularly the likeness of A. H. Henslee. I know A. H. Henslee. A. H. Henslee was in Monroe, Georgia, between the time of the murder of Mary Phagan, as reported in the papers, and the time of the commencement of the trial of Leo M. Frank for the murder of Mary Phagan, to-wit, July 28, 1913. What impressed me was that Henslee was the most vehement in his expression as to the guilt of Leo M. Frank of the murder of Mary Phagan, of any person I had heard talk about it. The Phagan murder was, at the time, the particular topic of conversation generally, a great many people were discussing it, and many were denouncing Frank as guilty, particularly travelling men. Henslee was the most bitter of any. For about two and a half hours, in my place of business, Henslee argued Frank's guilt in the murder case; in talking about the outcome of the case, he made the statement, which, to the best of my recollection was, that if the jury should turn Frank out, he (Frank) would not get out of Atlanta alive. Yes, he believed Frank guilty. Henslee was very vehement as stated; there was no doubt from what he said that it was his conviction that Frank was guilty. I only recall that, to the best of my recollection, he said that if the jury did turn Frank loose, Frank would never get away alive. Henslee discussed the guilt of Leo M. Frank in Monroe, Georgia, about two and one half hours, according to my recollection. He made the statement repeatedly, it might have been only two hours. Dr. W. L. Ricker, and at times during the period, there were others; but the names I don't recall, were also present. My partner, Mr. Harris, was out of the city. I am a member of the firm of Nunnally & Harris, composed of J. J. Nunnally and Virgil Harris, dealers in buggies, wagons and live stock. Also Vice-President of W. H. Nunnally & Company, general supplies and merchandise.



The court also considered the following affidavits as a counter showing presented by the State, to-wit:

F. E. WINBURN, makes affidavit deposing and saying as follows:

That I was a juror on the Frank case; I did not know personally either A. H. Henslee or M. Joehenning, who were also jurors trying this case, until after we were sworn in on said jury; I had occasion to and do know the conduct of these two men on the jury; at no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased, against the defendant, Leo M. Frank, but each of these men, as did each and every other member of the jury, deport themselves as honest, upright, prudent, and impartial jurors; if either the said A. H. Henslee or the said M. Joehenning believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expressions within my hearing or knowledge, indicating any bias or prejudice against the said Frank. I did not know how A. H. Henslee stood on the issue until after the first ballot had been taken; then said Henslee made a talk and stated that he had cast a doubtful ballot; there was one ballot marked "doubtful"; he explained to the jury why he cast this doubtful ballot, and submitted some suggestions with reference to the evidence. Up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case. As to M. Joehenning during the entire twenty-nine days that we were together as jurors, he did not, so far as I know, say or in any way intimate how he stood on the issue; so far as I was able to judge from his conduct and deportment; said Joehenning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz. the ascertainment of the truth; what is said above as to the impartiality, fairness and conscientiousness of Joehenning is true of Henslee and likewise of each and every man on the jury. I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering of anybody

connected with the case, at any time, or that there had been any cheering in any way growing out of or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents; the jury left the courtroom every time before the judge, lawyers, and audience were permitted to leave and there was never any applause or cheering either inside the court or outside of the court, within my knowledge, while the case was being considered; the jury, in leaving were always attended by the deputy sheriffs or bailiffs, one always going in front and one always in the rear; we were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there, - I should ~~say~~ estimate about three minutes at the outside; upon reaching the German Cafe, we were taken directly to a private dining room in the rear of the building and the door immediately closed; after being shut up in this room, we never heard any sounds that in the slightest resembled cheering or applause; the only cheering that we heard at any time while the case was being considered was the cheering that arose shortly after the verdict of guilty was read, when there was cheering both on Hunter and Pryor Streets, and said cheering was loud and long. With the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case. THAT the cheering which occurred just after the reading of the verdict in said case occurred during the time the jurors were being polled by the court. THAT at the time the cheering was heard no objection whatever was made by any one representing Leo M. Frank, or by the said Leo M. Frank himself, nor was any motion made at the time by ~~the~~ any of the attorneys of the said Frank or by the said Frank himself, but the polling of the jury which was going on at the time the cheering began and during the cheering and after the cessation of the cheering, was continued.

THAT this cheering did not in anywise influence or affect the verdict which had already been made, nor did it have any influence whatsoever. THAT deponent remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, deponent truthfully answered after he had heard the cheering that it was his verdict and in so answering sustaining the verdict, he discharged his duty and now subscribes to the correctness of the verdict as rendered. THAT neither on Saturday, August 23, 1913, nor on any other day or date, did any man or men other than the bailiffs in charge of the jury ever walk with or by the side of the jury, and neither did anybody, within my knowledge, ever speak to any juror at any time or place outside of the presence of the court. THAT if at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in my presence; no man ever grabbed me by the hand at the place referred to by W. P. Neill in his affidavit, nor did I see or hear or know anything about any man grabbing any member of the jury by the hand or saying anything to any juror, or attempting to say anything to any juror, and within my knowledge there was no communication at any time or place or in any shape, manner or form, with any juror, with any party on the outside. All communications had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court and known to counsel on both sides of the case. THAT so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in anywise, in any way, manner, shape or form, by anything from the outside, but the verdict as rendered so far as I am concerned, and as to the other jurors, so far as their deportment shows, I believe was rendered from an honest opinion, based on the law and evidence of the case.

D. TOWNSEND makes affidavit, deposing and saying as follows:

THAT he was one of the jurors who served on the above stated case and heard the cheering which followed soon after the reading of the verdict of guilty in open court and which said cheering was by parties outside of the court, and which cheering occurred during the time the jury were being polled in court: THAT at the time the cheering was heard, no objection whatsoever was made by anyone representing Leo M. Frank or by Leo M. Frank himself nor was any motion made at the time by any of the attorneys of said Frank or by said Frank, but the polling of the jury which was going on at the time the cheering began during the cheering and after the cessation of the cheering, was continued: THAT this cheering did not in anywise influence or affect the verdict which had already been made, nor did it have any influence whatsoever: THAT I remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, I truthfully answered after I had heard the cheering, that it was my verdict and in answering sustaining the verdict, I discharged my duty as a conscientious juror and now subscribe to the correctness of the verdict as rendered.

M. L. WOODWARD, makes affidavit, deposing and saying as follows:

THAT I was a juror on the Frank case; I did not know personally either A. H. Henslee or M. Joehanning, who were also jurors trying this case, until after we were sworn in on said jury; I had occasion to and do know the conduct of these two men on the jury, at no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased against the defendant, Leo M. Frank, but each of these men as did each and every other member of the jury, depicted themselves as honest, upright, prudent and impartial jurors; if either

the said A.H.Henslee or the said M.Joehenning believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank; I did not know how A.H.Henslee stood on the issue until after the first ballot had been taken; then said Henslee made a talk and stated that he had cast a doubtful ballot; there was one ballot marked "doubtful"; he explained to the jury why he cast this doubtful ballot, and submitted some suggestions with reference to the evidence; up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case: THAT as to M.Joehenning; during the entire twenty-nine days that we were together as jurors, he did not so far as I know, say or in any way intimate how he stood on the issue; so far as I was able to judge from his conduct and deportment, said Joehenning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz., the ascertainment of the truth; what is said above as to the impartiality, fairness and conscientiousness of Joehenning is true of Henslee and likewise of each and every man on the jury: THAT I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering of anybody connected with the case at any time or that there had been any cheering growing out of or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents; the jury left the courtroom every time before the judge, lawyers, and audience were permitted to leave, and there was never any applause or cheering either inside of the courtroom or outside of the court, within my knowledge, while the case was being considered; the jury, in leaving, were always attended by the deputy sheriffs or bailiffs, one always going in front and one always in

the rear;  
THAT we were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there - I should estimate about three minutes at the outside. Upon reaching the German Cafe, we were taken directly to a private dining room in the rear of the building and the door immediately closed; after being shut up in this room, we never heard any sounds that in the slightest resembled cheering or applause; the only cheering that was heard at any time while the case was being considered was the cheering that arose shortly after the verdict of guilty was read, when there was cheering both on Hunter and Pryor Streets, and said cheering was loud and long; with the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case. THAT that cheering which occurred just after the reading of the verdict in said case occurred during the time the jurors were being polled by the court. THAT at the time the cheering was heard no objection whatsoever was made by any one representing Leo M. Frank or by the said Leo M. Frank himself, nor was any motion made at the time by any of the attorneys of the said Frank or by the said Frank himself, but the polling of the jury which was going on at the time the cheering began and during the cheering and after the cessation of the cheering, was continued. THAT this cheering did not in any wise influence or affect the verdict which had already been made, nor did it have any influence whatsoever; THAT deponent remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, deponent truthfully answered after he had heard the cheering that it was his verdict and in so answering sustaining the verdict, he discharged his duty and now subscribes to the correctness of the verdict as rendered. THAT neither on Saturday, August 23, 1913, nor on any other day or date, did any man or men, other than the bailiffs in charge of the jury ever walk with or

by the side of the jury, and neither did anybody within my knowledge, ever speak to any juror at any time or place outside of the presence of the court. THAT if at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in my presence; no man ever grabbed me by the hand at the place referred to by W. P. Neill in his affidavit nor did I see or hear or know anything about any man grabbing any member of the jury by the hand or saying anything to any juror, or attempting to say anything to any juror, and within my knowledge there was no communication at any time or place or in any shape, manner, or form, with any juror with any party on the outside; all communications had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court and known to counsel on both sides of the case. THAT so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in anywise, in any way, manner, shape, or form, by anything from the outside, but the verdict was rendered, so far as I am concerned, and as to the other jurors, so far as their deportment shows, I believe was rendered from an honest opinion based on the law and evidence of the case.

D. TOWNSEND makes affidavit, deposing and saying as follows:

THAT I was a juror on the Frank case; I did not know personally either A. H. Henslee or M. Joehanning who were also jurors trying this case, until after we were sworn in on said jury; I had occasion to and do know the conduct of these two men on the jury; at no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased, but each of these men, as did each and every other member of the jury, reported themselves as honest, upright, prudent and impartial jurors; nor did either the said A. H. Henslee or the said M. J. Joehanning believe that Frank was guilty until after the entire case had

been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank; I did not know how A.H. Henslee stood on the issue until after the first ballot had been taken; then said Henslee made a talk and stated that he had cast a doubtful ballot; there was one ballot marked "doubtful"; he explained to the jury why he cast this doubtful ballot and submitted some suggestions with reference to the evidence; up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case: THAT as to M. J. Jochenning; during the entire twenty-nine days that we were together ~~as jurors~~ jurors, he did not, so far as I know, say or in any way intimate how he stood on the issue; so far as I was able to judge from his conduct and deportment, said J. Jochenning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz., the ascertainment of the truth; what is said above as to the impartiality, fairness and conscientiousness of J. Jochenning is true of Henslee and likewise of each and every man on the jury: THAT I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering of anybody connected with the case at any time or that there had been any cheering in any way growing out of or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents; the jury left the courtroom every time before the judge, lawyers and audience were permitted to leave, and there was never any applause or cheering either inside of the court or outside of the court, within my knowledge, while the case was being considered; the jury in leaving, were always attended by the deputy sheriffs or bailiffs, one always going before and one always in the rear; we were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street



opposite from the courthouse, and it took only a very short time to go there - I should estimate about three minutes at the outside. Upon reaching the German Cafe, we were taken directly to a private dining room in the rear of the building and the door immediately closed after being shut up in this room, we never heard any sounds that in the slightest resembled cheering or applause; the only cheering that was heard at any time while the case was being considered was the cheering that arose shortly after the verdict of guilty was read, when there was cheering both on Hunter and Pryor Streets, and said cheering was loud and long; with the exception of this cheering, I never heard anything that had the slightest resemblance to cheering and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case: THAT neither on Saturday, August 23, 1913, nor on any other day or date, did any man or men other than the bailiffs in charge of the jury, ever walk with or by the side of the jury, neither did anybody, within my knowledge, ever speak to any juror at any time or place outside of the presence of the court: THAT if at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in my presence; no man ever grabbed me by the hand at the place referred to by W.P. Neill in his affidavit, nor did I see or hear or know anything about any man grabbing any member of the jury by the hand or saying anything to any juror, or attempting to say anything to any juror, and within my knowledge, there was no communication at any time or place or in any shape, manner or form, with any juror, with any party outside; all communications had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court and known to counsel on both sides of the case;; THAT so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in any wise, in any way, manner, shape, or form, by anything from the outside, but the verdict as rendered

was, so far as I am concerned, and as to the other jurors, so far as their deportment shows, I believe was rendered from an honest opinion, based on the law and evidence of the case.

A. L. WISBEY makes affidavit, deposing and saying as follows:

THAT I was a juror on the Frank case; I did not know personally either A. H. Henslee or M. Joehenning, who were also jurors trying this case, until after we were sworn in on said jury; I had occasion to and do know the conduct of these two men on the jury; at no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased, but each of these men, as did each and every other member of the jury, deported themselves as honest, upright, prudent and impartial jurors; if either the said A. H. Henslee or the said H. Joehenning believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank; I did not know how A. H. Henslee stood on the issue until after the first ballot had been taken; then said Henslee made a talk and stated that he had cast a doubtful ballot; there was one ballot marked "doubtful"; he explained to the jury why he cast this doubtful ballot, and submitted some suggestions with reference to the evidence. Up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case: THAT as to M. Joehenning; during the entire twenty-nine days that we were together as jurors, he did not, so far as I know say or in any way intimate how he stood on the issue; so far as I was able to judge from his conduct and deportment, said Joehenning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz., the ascertaining of the truth; what is said above as to the impartiality, fairness and conscientiousness of Joehenning is true

of Henslee and likewise of each and every man on the jury: THAT I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering or anybody connected with the case at any time or that there had been any cheering in any way growing out of, or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents. THAT on one occasion - I have forgotten the exact date - when the jury were opposite the old Union Depot Station, which is about two blocks from the courthouse, I heard faintly and indefinitely what I thought might be cheering; it was not distinct; what I heard I considered at the time was in the vicinity of the courthouse; I did not know, as above stated, what was the occasion of the cheering, either at that time or at any other time, until after I was discharged as a juror: THAT the jury left the courtroom every time before the judge, lawyers and audience were permitted to leave, and there was never any applause or cheering either inside of the court or outside of the court, within my knowledge, while the case was being considered; the jury in leaving, were always attended by the deputy sheriffs or bailiffs one always going in front and one always in the rear; we were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there - I should estimate about three minutes at the outside; upon reaching the German Cafe we were taken directly to a private dining room in the rear of the building and the door immediately closed; after being shut up in this room, we never heard any sounds that in the slightest resembled applause or cheering; the only cheering that was heard at any time while the case was being considered was the cheering that arose shortly after the verdict of guilty was read; when there was cheering both on Hunter and Pryor Streets, and said cheering was loud and long. With the exception of this cheering, I never heard

anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case: THAT neither on Saturday, August 23, 1913, nor on any other day or date, did any man or men other than the bailiffs in charge of the jury ever walk with or by the side of the jury, and neither did anybody within my knowledge, ever speak to any juror at any time or place outside of the presence of the court: THAT if at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in my presence; no man ever grabbed me by the hand at the place referred to by W. P. Neill in his affidavit, nor did I see or hear or know anything about any man grabbing any member of the jury by the hand or saying anything to any juror or attempting to say anything to any juror, and within my knowledge, there was no communication at any time or place in any shape, manner or form, with any juror, with any party on the outside; all communications had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court and known to counsel on both sides of the case; THAT so far as I am personally concerned, and so far as I know, as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in anywise, in any way, manner, shape, or form, by anything from the outside, but the verdict as rendered, so far as I am concerned, and as to the other jurors, so far as their deportment shows, I believe was rendered from an honest opinion, based on the law and evidence of the case.

W. M. JEFFRIES makes affidavit deposing and saying as follows: THAT I was a juror on the Frank case; I did not know personally either A. H. Henslee or M. Joehanning, who were also jurors, trying this case, until after we were sworn in on said jury; I had occasion to and do know the conduct of these two men on the jury; at no time did either of them express themselves

in a way to indicate that they were the least bit prejudiced or biased, but each of these men, as did each and every other member of the jury, deported themselves as honest, upright, prudent and impartial jurors; if either the said A.H. Henslee or the said M.J. Joehanning believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank; I did not know how A.H. Henslee stood on the issue until after the first ballot had been taken; then said Henslee made a talk and stated that he had cast a doubtful ballot; there was one ballot marked "doubtful"; he explained to the jury why he cast this doubtful ballot, and submitted some suggestions with reference to the evidence; up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case: THAT as to M.J. Joehanning; during the entire twenty-nine days that we were together as jurors, he did not, so far as I know, say in any way or intimate how he stood on the issue; so far as I was able to judge from his conduct and deportment, said Joehanning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz., the ascertaining of the truth; what is said above as to the impartiality, fairness and conscientiousness of Joehanning is true of Henslee and likewise of each and every man on the jury. THAT I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering of anybody connected with the case at any time or that there had been any cheering in any way growing out of or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents; the jury left the courtroom before the judge, lawyers, and audience

were permitted to leave, and there was never any applause or cheering either inside of the court or outside of the court within my knowledge, while the case was being considered; the jury, in leaving, were always attended by the deputy sheriffs or bailiffs, one always going in front and one always in the rear; we were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there - I should estimate about three minutes - at the outside; upon reaching the German Cafe we were taken directly to a private dining room in the rear of the building and the door immediately closed; after being shut up in this room we never heard any sounds that in the slightest resembled applause or cheering; the only cheering that was heard at any time while the case was being considered was the cheering that arose shortly after the verdict of guilty was read, when there was cheering both on Hunter and Pryor Streets and said cheering was loud and long; with the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case: THAT neither on Saturday, August 23, 1913 nor on any other day or date, did any man or men other than the bailiffs in charge of the jury ever walk with or by the side of the jury, and neither did any anybody, within my knowledge, ever speak to any juror at any time or place outside of the presence of the court: THAT if at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in my presence. No man ever grabbed me by the hand at the place referred to by W.P. Neill in his affidavit, nor did I see or hear of any know anything about any man grabbing any member of the jury by the hand

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or saying anything to any juror, or attempting to say anything to any juror, and within my knowledge, there was no communication at any time or place or in any shape, manner or form with any juror, with any party on the outside; all communications had by the jury with outsiders, so far as I know, were through the bailiffs and said communications were authorized by the court and known to counsel on both sides of the case: THAT so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court and were not influenced in any wise in any way manner shape or form, by anything from the outside, but the verdict as rendered, so far as I am concerned, and as to the other jurors, so far as their deportment shows, I believe was rendered from an honest opinion, based on the law and evidence of the case.

M. JOHNSON makes affidavit, deposing and saying as follows:

THAT I was a juror on the Frank case; I did not know personally A.H. Henslee, who was also a juror trying this case until after we were sworn in on said jury; I had occasion to know and do know his conduct on the jury; at no time did he express himself in a way to indicate that he was the least bit prejudiced or biased, but Henslee, as did each and every other member of the jury, deported himself as an honest, upright, prudent, and impartial juror; if A.H. Henslee believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, he at least did not so express himself or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank; I did not know how A.H. Henslee stood on the issue until after the first ballot had been taken; then said Henslee made a talk and stated that he had cast a doubtful ballot; there was one ballot marked "doubtful"; he explained to the jury why he cast this

doubtful ballot, and submitted some suggestions with reference to the evidence; up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case: THAT I did not at any time while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering of anybody connected with the case at any time or that there had been any cheering in any way growing out of or connected with the Frank case, until, after the verdict was rendered and I was told about said incidents: THAT on <sup>the</sup> Monday the verdict was rendered, while we were in the jury room in the rear of the courthouse, waiting to be called into the courtroom at about nine o'clock, I heard a disturbance on the street which I thought was occasioned by some fight; I did not know that they were cheering anybody connected with the case; this is the only noise outside of the courtroom that in any way resembled cheering: THAT the jury left the courtroom every time before the judge, lawyers and audience were permitted to leave, and there was never any applause or cheering either inside of the court or outside of the court, within my knowledge, while the case was being considered; the jury in leaving were always attended by the deputy sheriffs, one always going in front and one always in the rear; we were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there - I should estimate about three minutes at the outside; upon reaching the German Cafe, we were taken directly to a private dining room in the rear of the building and the door immediately closed; after being shut up in this room we never heard any sounds that in the slightest resembled cheering or applause; the only cheering that was heard at any time while the case was being considered was the cheering



that arose shortly after the verdict of guilty was read, when there was cheering both on Hunter and Pryor Streets, and said cheering was loud and long; with the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case; THAT neither on Saturday, August 23, 1913, nor on any other day or date, did any man or men other than the bailiffs in charge of the jury, ever walk with or by the side of the jury, and neither did anybody, within my knowledge, ever speak to any juror at any time or place outside of the presence of the court: THAT if at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in my presence; no man ever grabbed me by the hand at the place referred to by W.P. Neill in his affidavit, nor did I see or hear or know anything about any man grabbing any member of the jury by the hand or saying anything to any juror or attempting to say anything to any juror, and within my knowledge there was no communication at any time or place, or in any shape, manner or form, with any juror, with any party on the outside; all communications had by the jurors with outsiders, so far as I know, were through the bailiffs and said communications were authorized by the court and known to counsel on both sides of the case; THAT so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in anywise, in any way, manner, shape, or form, by anything from the outside, but the verdict as rendered, was, so far as I am personally concerned, and as to the other jurors, so far as their deportment shows, I believe was rendered from an honest opinion, based on the law and evidence of the case; THAT I have read the affidavit of H.C. Lovenhart, sworn to on the 2nd day of September, 1913, before C.W. Burk; I deny positively and emphatically that I ever had any such conversation with said H.C. Lovenhart at any time or place; THAT I have read likewise the affidavits made by

Mrs. Jennie G. Lovenhart and Miss Miriam Lovenhart, both made before the same Burk aforesaid and on the day aforesaid: THAT the facts are these with reference to this: THAT I deny ever having expressed to the said Lovenhart or any one else any opinion with reference to the guilt or innocence of said Frank, except as hereinafter set out: THAT some time about two weeks before the Frank case was <sup>first</sup> set for trial - which, if my memory serves me right, was about the latter part of June, 1913 - I had a casual conversation with Mrs. Jennie G. and her daughter Miriam Lovenhart; the conversation was substantially as follows: THAT Mrs. Lovenhart said to me "What do you think of the Frank case?", and I answered her, "By the papers they have found him guilty already". Then she said "I cannot look at it that way, I think he is innocent". Then the daughter spoke up and said "What do you think about it Mr. Joehanning?", and I told the daughter that I thought he would have a hard time getting loose, that things did not look very bright for him. I said "I have only read the papers, and that is all I know about it". Then Mrs. Lovenhart said she was afraid that he would not get a fair trial. Then I said to her that it was little less than two weeks till the trial, then we would all know whether he was innocent or guilty. That was all that was said: THAT the said Lovenharts are of the same race and religion as Leo M. Frank: THAT I did not at that time entertain any fixed opinion as to the guilt of Leo M. Frank, and what I said was merely a casual remark made in a casual conversation and as stated in the conversation, was predicated entirely upon newspaper reports; I never arrived at, entertained, or expressed, either to the Lovenharts or to any other person, either at the time <sup>and</sup> ~~at~~ place referred to by them, or elsewhere, any settled or permanent opinion, and I distinctly stated that what I said was based simply upon newspaper reports, and was open-minded, to be governed, as I was, entirely by the evidence adduced.

J.T.OZBURN makes affidavit, deposing and saying as follows:

THAT I was a juror on the Frank case; I did not know personally either A.H.Henslee or M.Joehanning, who were also jurors trying this case, until after we were sworn in on said jury; I had occasion to and do know the conduct of these two men on the jury; at no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased, but each of these men, as did each and every other member of the jury, deport themselves as honest, upright, prudent and impartial jurors; if either the said A.H.Henslee or the said M.Joehanning believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank; I did not know how A.H.Henslee stood on the issue until after the first ballot had been taken; then said Henslee made a talk and stated that he cast a doubtful ballot; there was one ballot marked "Dountful"; he explained to the jury why he cast this doubtful ballot and submitted some suggestions with reference to the evidence; up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case; THAT as to M.Joehanning; during the entire twenty-nine days we were together as jurors, he did not, so far as I know, say or in any way intimate how he stood on the issue; so far as I was able to judge from his conduct and deportment, said Joehanning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz., the ascertainment of the truth; what is said above as to the impartiality, fairness and conscientiousness of Joehanning, is true of Henslee and likewise of each and every man on the jury. THAT I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there

had been any cheering of anybody connected with the case at any time, or that there had been any cheering growing out of or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents; the jury left the court room every time before the judge, lawyers, and audience were permitted to leave, and there was never any applause or cheering either inside of the court or outside of the court, within my knowledge, while the case was being considered; the jury, in leaving, were always attended by the deputy sheriffs or bailiffs, one always going in front and one always in the rear; we were usually taken direct from the court house to the German Cafe located midway of the block on Pryor Street, opposite from the court house, and it took only a very short time to go there--I should estimate about three minutes at the outside--upon reaching the German Cafe, we were taken directly to a private dining room in the rear of the building and the door immediately closed; after being shut up in this room, we never heard any sounds that in the slightest resembled applause or cheering; the only cheering that was heard at any time while the case was being considered was the cheering that arose shortly after the verdict of guilty was read, when there was cheering both on Hunter and Pryor Streets, and said cheering was loud and long; with the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case: THAT neither on Saturday, August 23, 1913, nor on any other day or date, did any man or men other than the bailiffs in charge of the jury ever walk with or by the side of the jury, and neither did anybody, within my knowledge, ever speak to any juror at any time or place outside of the presence of the court: THAT if at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in my presence; no man ever grabbed me by the hand at the place referred to by W.P. Neill in his affidavit, nor did I see or hear or know anything about

any man grabbing any member of the jury by the hand or saying anything to any juror, or attempting to say anything to any juror and within my knowledge there was no communication at any time or place or in any shape, manner or form, with any juror, with any party on the outside; all communications had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court and known to counsel on both sides of the case; THAT so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in any wise, in any way, manner, shape or form, by anything from the outside, but the verdict as rendered, was, so far as I am concerned, and as to the other jurors, so far as their deportments show, I believe was rendered from an honest opinion based on the law and evidence of the case.

F. V. L. SMITH makes affidavit, deposing and saying as follows:

THAT I was a juror on the Frank case; I did not know personally either A. H. Henslee or M. Joehanning, who were also jurors trying this case, until after we were sworn in on said jury; I had occasion to and do know the conduct of these two men on the jury; at no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased, but each of these men, as did each and every other member of the jury, deport themselves as honest, prudent, and impartial jurors; if either the said A. H. Henslee or the said M. Joehanning believed that Frank was guilty until after the case had been heard, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank; beyond his sharing the universal opinion in the earlier stages of the trial, that the evidence had to be stronger to convict, I did not know how A.H.Henslee stood on the issue until after the first ballot had been taken; then said Henslee made

a talk and stated that he cast a doubtful ballot; there was one ballot marked "doubtful"; he explained to the jury why he cast this doubtful ballot, and submitted some suggestions with reference to the evidence; up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case, except as above: THAT as to M. J. Ohenning; so far as I was able to judge from his conduct and deportment, said J. Ohenning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz., the ascertainment of the truth; what is said above as to the impartiality, fairness and conscientiousness of J. Ohenning is true of Henslee and likewise of each and every man on the jury: THAT I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; the jury left the courtroom every time before the judge, lawyers and audience were permitted to leave, and there was never any applause either inside of the court or outside of the court, within my knowledge, while the case was being considered, except as above; the jury, in leaving were always attended by the deputy sheriffs or bailiffs, one always going in front and one always in the rear; we were usually taken for lunch direct from the courthouse to the German Cafe located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there - I should estimate about three minutes at the utmost; upon reaching the German Cafe we were taken directly to a private dining room in the rear of the building and the door immediately closed; after being shut up in this room we never heard any sounds that in the slightest resembled applause or cheering; the only cheering that I heard at any time while the case was being considered was the cheering that I attributed to some eloquent speech by one of the attorneys and shortly after the verdict of guilty was read,

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when there was cheering both on Hunter and Pryor Streets, and said cheering was loud and long; with the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I have never heard any applause except that heard by the judge and only heard aboutt ~~the~~ other cheering after having been discharged from the case. THAT the cheering which occurred just after the reading of the verdict in said case occurred during the time the jury were being polled by the Court: THAT at the time the cheering was heard no objection whatsoever was made by anyone representing Leo M. Frank, or by the said Leo M. Frank himself, nor was any motion made at the time by any of the attorneys of the said Frank or by the said Frank himself, to the best of my knowledge, but the polling of the jury, which was going on at the time the cheering began and during the cheering and after the cessation of the cheering, was continued: THAT this cheering did not in any wise influence or affect the verdict which had already been made, nor did it have any influence whatsoever: THAT deponent remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, deponent truthfully answered after he had heard the cheering that it was his verdict and in so answering sustaining the verdict, he discharged his duty and now subscribes to the correctness of the verdict as rendered: THAT neither on Saturday, August 23, 1913, nor on any other day or date, did any man or men other than the bailiffs in charge of the jury ever walk with or by the side of the jury, and neither did anybody, within my knowledge, ever speak to any juror at any time or place outside of the presence of the court, except Hello from a distance: THAT if at any time any man ever grabbed any juror by the hand or held conversation with any juror, the same was not in my presence; to my recollection, no man ever grabbed me by the hand at the place referred to by W. F. Hill in his affidavit, even though I am not familiar with same, nor did I see or hear or know anything about any man grabbing any member of the jury by the hand, or saying anything to any

other juror, or attempting to say anything to any juror, except as above and within my knowledge there was no unauthorized communication at any time or place or in any shape, manner or form, with any juror, with any party on the outside; all communications had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court, and known to counsel on both sides of the case; THAT so far as I am personally concerned, and so far as I know, as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in any wise, in any way, manner, shape or form, by anything from the outside, but the verdict as rendered, so far as I am concerned, and as to the other jurors, so far as their deportment shows, I believe was rendered from an honest opinion, based on the law and evidence of the case.

A.H.HENSLEE makes affidavit, deposing and saying as follows:

THAT I was served with the attached subpoena, marked Exhibit "A", as a juror in the Superior Court of Fulton County: THAT this subpoena I found at my residence, No.74 Oak Street, West End, City of Atlanta, Fulton County Georgia, on July 25th., 1913, at approximately five o'clock in the afternoon; this was the first knowledge or information that I would be a juror; I remained in the city of Atlanta Saturday July 26th., 1913, and Sunday July 27th., 1913, and reported to the court on Monday, July 28th., 1913, when I was qualified and was sworn in ~~that~~ as a juror in the ~~xxxxx~~ case stated above; I was asked at the time the court convened, before I was sworn as a juror, if I had formed and expressed any opinion as to the guilt or innocence of Leo M. Frank, and I truthfully answered that I had neither formed nor expressed any opinion whatsoever; I furthermore then and there stated under oath that I did not have any prejudice

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or bias, either for or against the said Leo M. Frank, and that was absolutely true; furthermore I stated that my mind was perfectly impartial between the State of Georgia and Leo M. Frank, accused of Murder; that answer given under oath, was absolutely true; my attitude toward the case was that of an impartial, unprejudiced man, seeking only to do my duty as a citizen and as a juror, with a due appreciation of the fact that a man's life or liberty must not be taken except the State produce evidence to overcome the presumption of innocence which I know the law gave to Frank, and which I - as a juror - gave to Frank at the time I qualified, and until the State, by an abundance of evidence, carried the burden: THAT at no time or place previous to the trial of Leo M. Frank, did I ever express any opinion that the said Frank was guilty; nor did I ever say, at any time or place, that it was my opinion that the said Frank would be lynched should the jury acquit him of the murder of Mary Phagan; I did casually, and on several occasions when the crime was discussed with different people the heinousness of the crime, and I did assert on several occasions, positively, emphatically, firmly and possibly vehemently, that the man whoever he might be, who murdered that little girl, ought to be hung; I have said since serving as a juror in the case against Leo M. Frank for twenty-nine days, without prejudice or bias and seeking to get at the truth, that in my opinion Leo M. Frank is the murderer of Mary Phagan, just as the jury said in rendering the verdict of guilty; I read the newspaper accounts of the charge against Mallineaux, Gannt, Newt Lee, Leo M. Frank and Jim Connally for the first week or ten days after the murder, and after that there was so much of it that I discontinued reading the newspaper articles fully, and limited myself to reading the headlines; at no time did I ever have or express an opinion as to who the guilty party was; I had no fixed opinion when I qualified and was sworn on the jury, and I do not recall that I ever had or entertained any unfixed or floating opinion founded on rumor, hearsay or newspaper reports, except as above stated; I did not assert that Whoever

committed the crime ought to be hung, whether Frank or any other person; the conduct of the entire jury after they were empanelled and sworn, was that of honest, upright, and impartial jurors; no member of the jury, including myself, within my knowledge, ever expressed an opinion of the guilt or innocence of Leo M. Frank during the trial, until after all the evidence was in, speeches in and the court had charged us to render a verdict; as illustrating the attitude which I occupied in this ~~me~~ case, I will say that when it came to a vote, I cast a doubtful ballot; I did this on the first ballot because of the unanimity of opinion that Frank was guilty, as expressed by those jurors who discussed it after the Court's charge and prior to the ballot, and for the purpose of forcing a full and free discussion of the case before rendering a verdict, as we understood it might consign Frank to his death; when on the second and last ballot a unanimous verdict of "Guilty" was rendered, I - in common with each and every other man on the jury - wept; and I know that I appreciated the gravity of the duty devolved upon us; and so far as I was able to judge, every man of the twelve had a due appreciation of the solemnity and importance of the duty that devolved upon us in hearing the case and rendering the verdict: THAT I have read the affidavit of one R.L. Gremer, a person unknown to me, who <sup>in</sup> said affidavit purports to quote statements made by me in Albany, Georgia, at the place of business of Sam Farkas and in the presence of the son of the said Sam Farkas, namely, Mack Farkas; I do not, as above stated, know this said R.L. Gremer, but I have heard from a reliable source that said Gremer is a person of bad character and that he is unworthy of belief. As to Mack Farkas and the affidavit which I have just read, I emphatically state that I have never at any time mentioned the Leo M. Frank case to him or expressed any opinion of said Frank; I am a travelling salesman for the Franklin Buggy Company, at Barnesville, Ga., and Sam Farkas is and has been for a number of years, one of my customers; and I know that the said Sam Farkas and the defendant were of the same race and religion; in the affidavit of the said Gremer and Farkas, they

do not give any date when I was supposed to have made the remarks attributed to me; but I was not in Albany from June 2nd., and 3rd., 1913 at which time I was there, until September 18th., 1913; if at any time between April 26th. 1913, and July 28th., 1913, I ever saw Mack Farkas in Albany or elsewhere and had a conversation with him, I have absolutely forgotten it; I do know that I did not see this man Mack Farkas on my trip to Albany June 2nd., ~~1913~~ and June 3 1913; I did see Sam Farkas at his place of business and sold him a bill of buggies; I did see Mack Farkas on my visit to Albany on Sept. 18th., 1913, but knowing that the said Mack Farkas and said Leo M. Frank were of the same race and religion, and not wishing to hurt his feelings, I did not mention the Frank case, or the fact that I had been a juror in the case; THAT I have kept an expense book showing fully, places visited and amounts expended; attached hereto is a book ending June 6th., 1913, same being marked "Exhibit B"; this book was written up from day to day; the entries in said books were made by me and are correct; and after having refreshed my memory from said entries, I swear positively as to my whereabouts on the dates set out therein; THAT I have read the affidavit purporting to have been signed by Julian A. Lehman; said Lehman states that I had a conversation with him on June 2nd., 1913, between Atlanta, Ga. and Experiment, Ga; in the first place on June 2nd., 1913, I was approximately two hundred and twenty miles from either Atlanta, Ga. or Experiment, Ga; and in the second place, I never at any time or place, in anybody's presence, made use of any such language as attributed to me as having been used in the presence of said Lehman on June 2nd., 1913; On June 1st., which was Sunday, I was at Eufaula, Ala., as is shown by entries which I made in the book attached, marked "Exhibit B", and which entries I know to be true; I was at Eufaula, Ala., on the morning of June 1st. from which place I went to Cuthbert, Ga., thence to Edison, Ga., spending the night at the hotel at the last named place; On June 2nd., I went from Edison, Ga., to Blakely, Ga., by way of Arlington, Ga., thence to Albany,

Ga.,, spending the night of June 2nd., at the New Albany Hotel in Albany, Ga. THAT said Lehman does not state where it was that the said statement was made by me on June 20th., 1913; I unqualifiedly state, that I never on June 20th., 1913, or on any other date, made any such statement to Lehman or to anyone else; On June 19th., 1913, I was at Opelika, Ala, and Columbus, Ga., and on the 20th., I was at Columbus, Chipley and Cataula, Ga., and drove from Cataula to Waverly Hall by private conveyance and from Waverly Hall I went to Atlanta, arriving in Atlanta at 10:20 P.M. via Southern Railway; I have no recollection of having seen the said Lehman on the said date, and I positively deny that I ever gave expression in his presence or elsewhere to the sentiment or language attributed to me in his affidavit, given by him on September 19th., 1913, before Robert Patterson, Notary Public, Fulton County, Georgia. I remember, independently of the entries made on the book hereto attached and marked "Exhibit C", my whereabouts on June 20th., 1913, after having refreshed my memory from said entries which were made by me and which I know to be correct: THAT I have read the depositions purporting to have been made by one C.P. Stough, before Sig Tittlebaum, Commissioner; the said Stough does not give in his depositions any definite time or place, except he says he heard me make certain statements about the time that Connally was reported to have made a statement, and on some street car; I have a slight acquaintance with the said Stough, having known him casually for about six years; I am not intimate with him and do not recall having had any conversation with him on the College Park Street Car; I never made in the presence of the said Stough, at the place given or at any other place and time, the statements attributed to me; On October 4th., 1913, in the forenoon, after the newspapers of the City of Atlanta had carried a report of the ~~same~~ deposition as given by the said Stough, in the presence of H.L. Bennett, that the said Stough in his depositions had lied, and the said Stough did not resent this statement: THAT I have read the affidavit of Samuel Aaron, purporting to have been made on the 3rd. day of October, 1913, in which the said Aaron states that about two days after the indictment of the said Leo M. Frank, said Aaron heard me at the Elk's Club in the

in the City of Atlanta say "I am glad they indicted the God damn Jew", they ought to take him out and lynch him, and if I get on that jury I will hang that Jew sure." I emphatically deny that I used any such expression at any time or place; I am a member of the Elk's Club; said Club has among its members a large number of Jewish people, many of whom are my friends. I never entertained any prejudice or animus against the Jewish people; or against any one of them, and I did not make use of any such expression before said Aaron or any one else; I was at the Elk's Club on Sunday, May 25th, 1913, in the morning; THAT I have read the depositions of W.L. Ricker, in which he undertakes to quote me; I do not know the said Ricker - I may have been introduced to him; I did not make the statement at any time or place as sworn to by said Ricker; Ricker said that the conversation that he heard was in the store of Nunnally and Harris at Monroe, Georgia; I have read also the depositions of J. J. Nunnally with reference to the conversation about which Ricker testified; I remember that the Frank case was discussed in the store of Nunnally and Harris; this discussion occurred on June 22nd., 1913; it was participated in by a number of people; I discussed it casually and incidentally as did all of the other parties present; I was not in the store more than sixty minutes at the outside; during a part of this time, I was engaged in an effort to sell Nunnally and Harris some buggies, and the Frank case was not discussed all of this time; or if it was, certain it is I did not participate in the discussion; I positively deny that I used the expression "They are going to break that Jew's neck" as stated by Ricker in his depositions, and I likewise deny making any such statements in manner, form or substance, as set out in the depositions of said Ricker; I did not in the manner, form, or substance, in the presence of the said Ricker or Nunnally, or in the store of said Nunnally and Harris, or anywhere else, at any time say if the jury turned Frank loose, he could never get out of Atlanta alive; I did state in the discussion of the Frank case that it was my opinion that the man guilty of the murder of Mary Phagan ought to be hung; I had not been reading

at this time, anything more than the headlines of the newspapers and I had not formed any opinion based on newspaper reports or casual rumor as to whether or not Frank was the man guilty of the crime, and I did not express myself in the language attributed to me by the said Ricker or any other language; nor did I know that the public sentiment was so strong against Frank that he would not be, <sup>able</sup> if acquitted, to get out of the City of Atlanta alive, and I positively and emphatically deny that I ever made use of any such expression; I was constantly on the road traveling from April 26th., 1913, until July 28th., 1913, during every week, and did not spend a sufficient length of time in Atlanta to know what the public sentiment there was with reference to the guilt or innocence of the trial Leo M. Frank; THAT I have read the depositions of H. Shi Gray, S. M. Johnson, and John M. Holmes; I had a conversation on Sept. 2nd, 1913, with the said H. Shi Gray, S. M. Johnson, and John M. Holmes; this was after the verdict in the Frank case had been rendered on August 25th., 1913; I never saw Gray, Johnson or Holmes together or separately after I was served with a subpoena as a juror which was Friday July 25th., 1913, until after I was discharged from the jury on the Frank case; THAT on July 24th, 1913, I was at Athens, Ga., on July 25th, 1913, I was at Statham, Winder and Atlanta, Ga.; I remained in Atlanta on the 26th. and 27th. and went on the jury on July 28th; I never saw either of these men, either in Sparta or elsewhere, after I knew I was a juror on the Frank case, until Sept. 2nd., 1913, at which time, I did discuss with each and all of them the Frank case, fully and freely in Walker and Holmes Insurance Office; I then stated that in my opinion there was not a shadow of a doubt but that Frank was guilty; I did not hear several parties, as stated by S. M. Johnson in his depositions, say that they thought Frank was not guilty; but, on the contrary every man who discussed the case in my presence in the office aforesaid, expressed the opinion that the said Leo M. Frank was guilty; and I was congratulated by everyone who came into that office among them.

H. Shi Gray, S.M. Johnson, and John M. Holmes on rendering the verdict of "Guilty"; I was introduced by Mr. Holmes to their many friends and acquaintances as having been one of the jurors of the Frank case; I furthermore stated on the occasion which I refer to, ~~namely~~ namely, September 2nd., 1913, that said Frank was a moral degenerate and a pervert; I based this statement on the evidence adduced upon the trial; before that I did not have any knowledge or information whatsoever which would have warranted me in surmising that Frank was a degenerate and a pervert; attached marked "Exhibit D" is a letter from H. Shi Gray, John M. Holmes and S.M. Johnson, in which they state that I said in the conversation I had with them, that said Frank, in my opinion was a pervert; I base this assertion upon the evidence adduced upon the trial of the case; up until this time I did not believe that Frank was a pervert, but after hearing the evidence I could not avoid such a conclusion; I then believed that Frank was a degenerate and a pervert, and I so stated to the three men at Sparta; ~~not however on the date they say and not prior to the trial of Leo M. Frank, but after his conviction to wit, sept. 2nd., 1913~~ I deny that I ever made any other statements attributed to me by the said Johnson, Gray and Holmes, prior to the trial of Leo M. Frank, but all of the statements made were made subsequent to the trial, and after I had full knowledge of the evidence in behalf of the State and defence. I was in Sparta on June 27th., 1913; I did not know that I had been drawn as a juror until about 5 o'clock on the afternoon of Friday, July 28th., 1913; I do not know of my own personal knowledge when I was drawn; I am informed and believe the jury was not drawn until Thursday July 24th., 1913; I am informed and believe that my name was not drawn out of the jury box for the Frank trial until Thursday, July 24th., 1913, and I am certain if it was I did not know of it until the next day, Friday, July 25th.; I swear positively, after having refreshed my memory by entries made by me at the time in the book hereto attached, marked "Exhibit E", that I was in Sparta on June 27th., 1913, and I am equally positive in saying that I never did go back to Sparta after June 27th., 1913, as shown by my book, and as I

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stated in my recollection, until September 2nd, 1913; that if I have ever expressed any opinion, anywhere, at any time prior to this trial, that Leo M. Frank was guilty, I do not remember; I never had any prejudice against the said Leo M. Frank, and I never had any fixed opinion, or entertained any kind of opinion of the merits of the case until I heard the evidence; and I qualified as a juror with an unbiased mind, and with a disposition to readily yield and conform to the evidence, and to be controlled absolutely by the law and the evidence; that I did not know M. Johenning, one of the jurors in the case of the State vs. Leo M. Frank, until we were empanelled and sworn in the case; I do not recall that I ever saw him before; I did not observe the conduct and the deportment of the said Johenning during the entire twenty nine days that we were together as jurors; he did not say or do anything during that entire time that enabled me to know how he stood on the issue; he did not give vent, so far as I saw or know, to any expression indicating any bias, or prejudice for or against the defendant, Leo M. Frank; so far as I was able to judge from his conduct and deportment, said M. Johenning was an upright, honest, fair, prudent, impartial and conscientious juror; imbued with only one idea and purpose, namely the ascertainment of the truth, under the evidence, and under the law given in charge by the court; the same is true of each and every other juror on the panel; that I did not at any time while a juror hear any cheering, and no applause, excepting open court, which was publicly taken notice of and removed by the court. I did not know that there had been any cheering of anybody connected with the case, or that there had been any cheering in any way growing out of the Frank case; I did not hear anybody say that there had been any cheering until after the verdict was rendered, and I did not hear any myself at any time, until after the verdict was rendered, when I did hear about two or three minutes after the verdict had been read, and while the jury was being polled, cheering on the



outside of the courthouse; I did not hear any applause in the courtroom that I now recall, except as above stated; I do not recall what occasioned any laughter, except that occasioned by the cross examination of Jim Connally by Mr. Rosser, counsel for Frank; I laughed myself, as did the audience and all of the jury, when Connally told Mr. Rosser how he spelled certain brands of pencils and other words; I laughed and the audience laughed when B. Dalton told Mr. Rosser when and where he was born, stating that he was there but could not remember; also in conjunction with other members of the jury and the audience when the said Dalton said that Mrs. Daisy Hopkins was a peach and pretty as a pink; also the jury and the audience laughed when Newt Lee stated that he "Lit a rag" instead of "ran", referring to his exit from the basement where the body of little Mary Phagan was found; on no other occasion did I observe any applause, or if I did - I do not remember it now; I do not remember any occasion when there was any demonstration or applause otherwise than on the part of the audience and spectators: THAT I have read the affidavit of Sampson Kay with reference to certain alleged occurrences on Saturday evening, August 23rd., 1913 about 8 or 8:30 o'clock; I remember distinctly the walk which the jury took at that time on Pryor Street; there was a deputy sheriff in front of the jury and one in the rear; it is not true that six ~~XXXXXX~~ or seven men, or any man not connected with the Frank jury either as a juror or a bailiff walked along by the side of the jurors and talked to or with them, either at the time and place referred to by the said Kay or at any other time and place: THAT I have read the affidavit of one W.P. Neill; I was not the juror referred to in said affidavit, or the affidavit does not speak the truth; no man grabbed me by the hand <sup>and</sup> ~~or~~/arm or by the hand or arm, at the place stated by Neill in his affidavit, or talk to me; I did not see or hear or know anything of any such thing as detailed in the affidavit happening to any other <sup>of the</sup> jurors, as is set out in the affidavit made by said Neill; I did not ~~know~~ see or know

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anything about it if anything like that took place and I did not hear the sheriff speak to anyone about it; there was no communication at any time or place in any shape, manner or form with me from the outside after the jury was empaneled and so far as I know, there was no communication with any juror except letters which came through the sheriff or bailiff and which were by the court permitted; and I never read any letter or communication of any character that had not been opened before it came to me through the sheriff; and no man ever said anything to me by look, sign or symbol nor ever undertook to convey any message or give any indication or intimation of anything from the outside; so far as I know or believe, this statement is applicable to every other juror on the case.

H. Shi Grayk John M. Holmes and S. M. Johnson write A. H. Henslee as follows (the same being a part of said Henslee's affidavit).

"We notice in several Atlanta papers your emphatic denial of ever having talked with us or made a statement to us of the guilt or innocence of one Leo M. Frank; you are further quoted as saying that if we state that you ever said that you believed Frank guilty that we are liars. Also that the whole deposition is a lie out of the whole cloth; we cannot believe you are correctly quoted as it is impossible to conceive how you can deny the statements you made here and the intense feeling you manifested when discussing the matter; you must recall, in Mr. Holmes' office, on the day stated in the presence of the undersigned, we all discussed the Frank case and practically tried him, as it were, and that in the discussion you not only stated that 'Frank was as guilty as H---l'; but you had much to say about Frank being a moral degenerate (your exact language we cannot use here), and you further stated that you had been drawn as a juror. We have no disposition to injure you or to make public your statements, as the writers, Gray and Holmes, have known you and your family for a number of years, and we do not know how the attorneys were acquainted with the fact of this conversation; but your remarks were common talk in the town and there a number of our people who could have given the information to the attorney. We declined to make a voluntary affidavit in the matter and said nothing until forced to do so by the courts, but let us assure you that this reluctance to testify in no way changes the facts, and you shall not be permitted to make statements to the public press denouncing us as liars in order to protect yourself from the criticism you justly deserve. We await your answer."

C. F. Huber and A. F. Pennington, who after being duly sworn depose and say that they are deputies to the Sheriff of Fulton County, Georgia, and were in charge of the jury in the above stated case constantly during the trial of said case; that on Friday afternoon when the jury left the court house they went direct along Pryor street to the Kimball house; deponent Huber was in the rear of the jury, who proceeded northward along Pryor Street

walking two abreast, said jury following immediately behind deponent Pennington: THAT Deponents have read the various affidavits which deal with alleged cheering of the Solicitor General as he left the court house on said Friday afternoon, August 22, 1913; deponents state under oath that they did not hear any ~~other~~ cheering or demonstration of any kind on said afternoon, nor did they hear any applause for the Solicitor General or for any one else; THAT when court adjourned on Saturday, August 23, 1913, soon after the noon hour, deponents took the jury from the court-house northward along Pryor street; they did not, on this occasion, hear any applause or cheering demonstration of any kind whatever for the Solicitor General or for any one else; THAT on Monday, August 25th., 1913, around the noon hour, just after the Court had adjourned, the judge having charged the jury before said adjournment, deponent C.F. Huber says that he, together with R.B. Deavors and W.M. Hunter, was in charge of the jurors, and took them to the German Cafe, where they occupied a private dining room in the rear of the building; in this dining room, with closed doors, the jurors were served with their lunch, and at no time between the time they left the jury box and the time they got into this private <sup>dining</sup> room, nor while occupying said dining room, nor on their return to the jury room at the court house for the purpose of considering and making a verdict in said above stated case, did deponent hear any applause, or cheering or demonstration of any kind whatever, nor could the jury while in the dining room hear any demonstration which may have taken place in front of said German Cafe, but said dining room was perfectly quiet: THAT deponents on Saturday evening, August 23, 1913, took the jurors out for a walk and returned to the Kimball House northward along Pryor Street: THAT deponents have read the affidavit of Samson Kay and emphatically deny that at any time on said ~~Friday~~ Saturday evening, August 23, 1913, did six or seven men, or any other number of men, or persons, follow along by the side of the jury, in the Frank case, or behind them, or in front of them, talking to them from the corner of East Fair Street and South Pryor Street up to the Union Station, nor did

said six or seven men or any other number of men talk to the jurors or any of them, on South Pryor Street, or in the German Cafe or at their rooms at the Kimball House, or elsewhere, at any time, between the time the jury was impannelled and the time when it was discharged after having finally rendered its verdict in the said case, so far as deponents know or believe; at no time and in no place did deponents see any member of the jury in this case communicate with, or attempt to communicate, with any one excepting the officers of the law, at such times and in such manner as was allowed by law; deponents at no time heard any cheering by the spectators in or out of the court, which was heard by the jury, excepting the incident which occurred when the jury was being polled after the verdict; deponents know of no other demonstration within the sight or hearing of the jury, except the instances of applause in the court room in the presence of the judge, and which was noticed officially in open court by said judge; that deponents know of no influence, or attempted influence exerted upon the jury or any member thereof by spectators in or out of the court room or elsewhere.

A. H. Henslee makes the following affidavit, deposing and saying as follows: That he has read the affidavit of M. Johanning, made on the 18th of October, 1913, with reference to the influence of the cheering which occurred while the jury was being polled, and says that the statements contained in said affidavit are true and correct, and deponent adopts same as his affidavit.

J. C. Lewis, makes the following affidavit, deposing that he is in the employ of the Clerk of the Superior Court of above State and County; that during the trial of the Frank case,

he occupied an anteroom to the court room in which said case was tried directly across the hallway from the jury room; that in leaving the jury box, and retiring to the jury room, it is necessary to pass through three doors; that deponent knows of the occasion of the applause in the court room when the Judge declined to rule out and exclude the evidence of Jim Conley as to two certain acts of degeneracy and perversion on the part of Leo M. Frank, the defendant; deponent was present in the court house at this time and knows that at the time this occurred, the jurors were in their room and two doors between said jurors and the courtroom where this applause took place were closed; and in deponent's opinion said applause could not have been heard by the jury.

H. L. Bennett makes affidavit deposing and saying as follows: I am personally acquainted with one C. P. Stough, having had a casual acquaintance with him for about five years; I also know his general character and reputation, and I consider his general character and reputation bad; I am also acquainted with A. H. Henslee, and know his character and reputation to be good.

M. W. Medcalf makes affidavit as follows: I was one of the jurors in the Frank case, and heard the cheering which followed the reading of the verdict of guilty in open court, and which said cheering was by parties outside of the court; said cheering occurred during the time the jury was being polled. No objection whatsoever was made by anyone representing Leo M. Frank, or Frank himself, at the time of the cheering, nor was any motion made at the time by any of his attorneys, but the polling of the jury was continued; this cheering did not influence or affect the verdict which had already been made, nor did it have any influence; I remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, I truthfully answered, after I had heard the cheering, that it was my verdict and in answering as aforesaid I discharged my duty as a conscientious juror and now subscribe to the correctness of the verdict as rendered.

M. Joehanning makes the following affidavit, deposing and saying as follows: That he was one of the jurors who served on the above stated case and heard the cheering which followed soon after the reading of the verdict of guilty in open court and which said cheering was by parties outside of the court, and which said cheering occurred during the time the jury were being polled by the court.

At the time the cheering was heard no objection whatsoever was made by anyone representing Leo M. Frank or by Leo M. Frank himself, nor was any motion made at the time by any of the attorneys of said Leo M. Frank, or by said Frank, but the polling of the jury which was going on at the time the cheering began and during the cheering and after the cessation of the cheering was continued.

This cheering did not in anywise influence or affect the verdict which had already been made, nor did it have any influence whatsoever.

I remained absolutely unaffected and uninfluenced by the cheering or the surroundings and in answering on the poll, I truthfully answered after I had heard the cheering, that it was my verdict and in answering sustaining the verdict, I discharged my duty as a conscientious juror and now subscribe to the correctness of the verdict as rendered.

F. L. Hunter makes the following affidavit and deposes and states as follows: that he was a deputy sheriff on duty at the trial of Leo M. Frank in the above stated case; that he was in the court house almost constantly during said trial and went to and from lunch on various occasions with the jury during the trial in said case; that at no time in the court room did deponent hear any applause, cheering or other demonstration in said case, which could have been heard by the jury, excepting the applause, cheering or other demonstration in said case, which could have been heard by the jury in open court and in the presence of the judge, and excepting the cheering and hurrahs in the street after

the reading of the verdict, while the jury was being polled. Deponent says that at no time did he see any one speak to or attempt to speak to any member of the jury, except officers of court in the discharge of their duty. Deponent further states that he never at any time witnessed or knew of any misconduct on the part of any member of the jury, but states, under oath, that at all times, when in his presence each member of the jury deported himself as an upright, honorable and conscientious juror, seeking to faithfully discharge his duty. Deponent says no armed spectators in or about the courthouse where the trial was being conducted, nor did he hear any threats of violence expressed in or about said courthouse toward the defendant Leo M. Frank.

Deponent states that he witnessed the efforts of spectators to carry the Solicitor General on their shoulders, referred to in an affidavit in the possession of the defense, and says that the same occurred after the verdict of the jury had been read and the jury polled, and while the Solicitor General was on his way to his office. No demonstration by spectators on the outside of the courthouse on either of the last three days of the trial, to-wit, August 22nd, 23rd, 25th, was within the presence or the hearing of the jury, so far as this deponent knows or believes.

R. B. Deavours makes the following affidavit, deposing and saying as follows: that he is a deputy sheriff in and for Fulton County, Georgia, and was on duty during the trial of Leo M. Frank; that he was present in the courtroom every day during said trial, and that, with the exception of the applause which took place a few times in open court and within the hearing of the presiding judge, he knows of no applause, cheering or demonstrations that were heard by the jury. On Monday, August 25, 1913, deponent with C.F. Huber, and W.M. Hunter, went with the jury to the German Cafe for lunch; deponent says that on said occasion, as the jury were entering the cafe, deponent heard some noise as of people hollering, back in the direction of the courthouse, but could not distinguish any words which were used by the people, did not know who it was creating the noise, what was said, or what prompted the same. The jury passed through the cafe and into the dining room in the rear of the building, where they lunched with closed doors. No cheering or applause or other demonstration could be heard after entering the building. Deponent states further, that so far as he was able

to judge, the jury at all times, when he was present, deported themselves as honest, honorable, conscientious, unbiased and unprejudiced jurors, and at no time were any of said jurors guilty of any misconduct, within his presence or knowledge.

Drew Liddell makes the following affidavit, deposing and saying as follows: that he is a deputy sheriff of Fulton County, Georgia and was on duty constantly during the trial of the above stated case. On Friday, August 22nd, and Saturday, August 23, 1913, deponent, with other deputies, accompanied the jury to and from the German Cafe and was with them at the time of the alleged demonstration at the corner of Hunter and South Pryor Streets. Deponent says that at the lunch hour on both occasions the jury were beyond the hearing of the crowd when the alleged demonstrations took place, if in fact any demonstrations did take place. Deponent says that when the jury had entered the private dining room in the rear of the German Cafe on Saturday, August 23, that he was outside of the dining room, in the act of entering the same; that he heard a slight commotion in the front of the building, but the jury had passed into the dining room, and he is sure did not hear and could not have heard said demonstration, which was scarcely audible in the rear of the building where said dining room was located. Deponent, with other deputies, was in charge of said jury on various occasions during the trial, and at no time, so far as this deponent knows or believes, - certainly not when deponent was with them, - was any effort made to communicate with the jury by any persons other than a court officer in the discharge of his duty. At no time during said trial was any cheering, applause or other demonstration made within the hearing of the jury excepting that which occurred in open court in the presence of the presiding judge, and also excepting the demonstration made in the streets immediately after the announcement of the verdict, while the jury was being polled. Deponent neither witnessed nor heard <sup>of</sup> any misconduct on the part of any member of said jury at any time during the trial of the above stated case, nor did deponent see anyone in or about the courthouse armed other than the officers of the law during this trial, or hear or know of any threats in or about said courthouse or in its vicinity or elsewhere against the life of the said Leo M. Frank, who was on trial.



C. J. Bosshardt makes affidavit as follows: I have read the affidavit of J. T. Ozburn, executed on Oct. 16, 1913; and hereby adopt said affidavit of said Ozburn, and that the said allegations contained in said affidavit are true and correct. C. J. Bosshardt makes affidavit as follows: I am one of the jurors who served on the above stated case, and heard the cheering which followed soon after the reading of the verdict of guilty in open court, and which said cheering was by parties outside of the court, and which cheering occurred during the time the jury was being polled; No objection whatsoever was made by any attorney representing Frank or Frank himself at the time of this cheering, nor was any motion made by any of the attorneys of said Frank, or by Frank, but the polling of the jury which was going on at the time the cheering began was continued; this cheering did not in any wise influence or affect the verdict which had already been made, nor did it have any influence whatsoever; I remained unaffected and uninfluenced by the cheering or surroundings, and in answering on the poll, I truthfully answered after I had heard the cheering that it was my verdict, and in answering sustaining the verdict I discharged my duty as a conscientious juror and now subscribe to the correctness of the same.

J. T. Ozburn, W. R. Jeffries, A. L. Wisbey make the same affidavits as C. J. Bosshardt, set out above.

Lou Castro makes affidavit as follows: I have known Samuel Aron for over a year and am acquainted with his general character and reputation; his character and reputation is bad, and from my knowledge of that character and reputation I would not believe the said Aron on oath; I am acquainted with the general character and reputation of C. P. Stough; his character and reputation is bad; I would not from my knowledge of that character and reputation believe the said Stough on oath.

Joe Murray makes affidavit as follows: I am a Clerk of the New Albany Hotel in Albany, Ga; one A. H. Henslee a patron of said hotel registered for lodging on June 2, 1913, and was a guest of the hotel on the night of June 2, 1913; that said A. H. Henslee registered at said hotel on Sept. 18, 1913, before the noon meal.

N. N. Weaver, O. H. Puckett, T. W. McGarrity and W. C. Robinson each make affidavit that they are personally acquainted with H. Johanning; that they know his general character and reputation; that his general character and reputation is good and that deponents regard him as an honest, conscientious, upright and thoroughly trustworthy man.

M. G. Staten and T. S. Hawes state that each of deponents are acquainted with R. L. Greemer; that the general character of the said Greemer is and was bad and that deponents would not believe that said Greemer on oath.

W. E. Note, R. H. McKenzie and W. H. Glyaton make affidavit deposing and saying that they are acquainted with W. P. Neill; that his general character and reputation in the community were Neill has lived is bad and that they would not believe him on oath.

W. M. Howard, J.C.Gallier, T.W.Cochran, P.L.Cordy, J.E. Howard, J.D.Lockridge and C.O.Summers each make affidavit that they know A. H. Henslee, one of the jurors who served in the case of the State of Georgis, vs. Leo M. Frank; that each of the witnesses is acquainted with the general character of the said A. H. Henslee, and that the general character and reputation of the said Henslee is good, and from his general character and reputation, each of deponents would believe the said A.H.Henslee on oath.

H.R.Pitts, W.L.Lyle, T.M.Webb, and John R.Flournoy, each make affidavit that they know Samuel Aron; that they know the general character and reputation of the said Aron; that the said general character and reputation of the said Aron is bad and that deponents would not believe him on oath.

W. M. Hunter makes affidavit, deposing and saying as follows: I, with Mr. C.F.Huber and R.B.Deavors, had charge of the jury in the above stated case, at the lunch hour on Monday, August 25th, 1913; that at no time between the time the jury left the box to go to lunch on said date, and the time they returned to the jury room, to consider and make their verdict, either while on the street in going to the cafe, while in the cafe, or in returning to the court house, did I hear any applause or cheers, or other demonstration on behalf of the Solicitor General, or anyone else. At no time during the trial of said case did I see or know of anyone, excepting the officers of the court, communicating with, or attempting to communicate with any member of said jury; I witnessed no misconduct of any kind on the part of any member of the jury in the above stated case.

Z. A. Mann, makes affidavit, deposing and saying as follows:

I was present in the court room during the trial of the case of the State vs. Leo M. Frank, charging with murder;

I was aiding the Sheriff, and as a deputy was stationed immediately in the rear of the jury box; ~~He~~ was in position to hear all that the jury could hear in the court room, and at no time did I hear any applause, excepting what occurred in open court, in the immediate presence of the Judge presiding and which was officially noticed by him; No cheering from the outside was heard, excepting during the polling of the jury, after their verdict had been read; I observed no misconduct on the part of any juror, and no communication or attempt to communicate with any member of the jury, except by the officers of Court in the discharge of their official duties.

Plennie Miner, makes affidavit, deposing and saying as follows:

I have seen the affidavit of W. P. Neill made for use in the above stated case and I am the Plennie Miner referred to by Neill in his affidavit; that the incident referred to by the said Neill evidently did not happen in the way and manner described by W. P. Neill but the following are the facts: On one occasion when the jury were retiring from the box to their room in the east end of the courthouse, I saw a spectator sitting who I thought spoke to a member of the jury. He did not rise from his seat nor did he take the juror by his arm nor by his hand nor did he otherwise touch the juror but appeared to speak to some one and at the time I thought said spectator addressed a member of the jury; I immediately went to him for the purpose of taking him before the Judge but he denied that he addressed the remark, which I did not hear, to the Juror and the gentleman sitting next to him assured me that this spectator was not addressing a member of the jury and the two having assured me that I was mistaken and having been thoroughly convinced that I was mistaken, I warned them that an action on the part of a spectator in addressing the jury would be a violation of the law and let the incident drop because of the fact that I was fully convinced that the mistake was mine. This described the incident as it really occurred; At not time any where in my presence did any one other than the officers of the law, acting within the discharge of their duty, address any

member of the jury individually or the jury collectively from the time the jury was impanelled until they had rendered their verdict and had been discharged. I am the Deputy Sheriff regularly assigned to the Criminal Division of Fulton County Superior Court and was on duty and in charge of the courtroom during the entire time Leo M. Frank was on trial; I have read the affidavit of Mrs. A. Shurman and others with reference to the cheering on the outside of said courtroom during Friday and Saturday and Monday, the last three days of the trial. I was not with the jury as they left the courthouse to go to lunch on either of the three said days but was in the courtroom at the time the cheering took place on the outside. I know that on Monday morning just before court convened when there was cheering in the street the jury were in their room in the rear of the courtroom; they were also in the rear of the courtroom when the Solicitor General entered and the spectators started to applaud; I tapped on the wall or some other object and raised my hand in warning and the spectators immediately desisted; the applause was very slight and very low and was stopped promptly when I rapped and I am sure that the jury in their closed room did not and could not have heard the same. This was on the last day of the trial, to-wit, August 25th, 1913; I was not with the jury at any time when any applause except that in open court and in the immediate presence of the Judge could have been heard by the jury; I was not in charge of or with the jury at any time when any other demonstration or cheering for the Solicitor General or for anyone could have been heard by said jury; At no time when I was in charge of or with the jury was any member of the jury guilty of communicating with or attempting to communicate with any person on the outside in any way nor during said trial from the time the jury was impanelled until their discharge after verdict rendered was any member of the jury guilty of any misconduct of any nature whatever; At no time did I hear any threat against the life of Leo M. Frank among the spectators at the courthouse or elsewhere nor at any time did he see or know of

~~and~~ any spectator or person at or around the said courthouse, during the trial of Leo L. Frank other than the officers of the law, to have in their possession or on their person any pistol or arms of any kind or character.

W. F. Medcalf, makes affidavit, deposing and saying as follows:

I was a juror on the Frank case. I did not know personally either A. H. Henslee or M. Joehanning, who were also jurors, trying this case, until after we were sworn in on said jury, I had occasion to and do know the conduct of these two men on the jury. At no time did either of them express themselves in a way to indicate that they were in the least bit prejudiced or biased, but each of these men, as did each and every other member of the jury, departed themselves as honest, upright, prudent and impartial jurors. If either the said A. H. Henslee or the said M. Joehanning believed that Frank was guilty until after the entire case had been heard and concluded and submitted to the jury, they at least did not so express themselves, or give vent to any other expression within my hearing or knowledge, indicating any bias or prejudice against the said Frank. I did not know how A. H. Henslee stood on the issue until the first ballot had been taken. Then said Henslee made a talk and stated that he had cast a doubtful ballot. There was one ballot marked "doubtful"; He explained to the jury, why he cast this doubtful ballot, and submitted some suggestions with reference to the evidence. Up to that time, so far as I know, said Henslee had not intimated or expressed any opinion whatsoever with reference to any feature of the case; As to M. Joehanning: During the entire twenty-nine days that we were together as jurors, he did not, so far as I know, say or in any way intimate how he stood on the issue; So far as I was able to judge from his conduct and deportment, said Joehanning was an upright, honest, fair, prudent, impartial and conscientious juror, imbued with only one purpose, viz, the ascertainment of the truth; What is said above as to the impartiality, fairness and

conscientiousness of Joehanning is true of Henslee and likewise of each and every man on the jury; I did not at any time, while a juror, hear any applause except such as occurred in open court, and which was heard by the judge, jury and attorneys in the case; I did not know that there had been any cheering of anybody connected with the case at any time or that there had been any cheering in any way growing out of or connected with the Frank case, until after the verdict was rendered, and I was told about said incidents; The jury left the courtroom every time before the judge, lawyers and audience were permitted to leave, and there was never any applause or cheering either inside of the court or outside of the court, within my knowledge, while the case was being considered; The jury, in leaving, were always attended by the deputy sheriffs or bailiffs, one always going in front and one always in the rear; We were usually taken direct from the courthouse to the German Cafe, located midway of the block on Pryor Street, opposite from the courthouse, and it took only a very short time to go there, -- I should estimate about three minutes at the outside; Upon reaching the German Cafe, we were taken directly to a private dining room in the rear of the building and the door immediately closed; After being shut up in this room, we never heard any sounds that in the slightest resembled applause or cheering; The only cheering that I hear from the time I was sworn to the time I was discharged was the cheering that arose outside of the courthouse after the verdict had been read and while the jury was being polled; With the exception of this cheering, I never heard anything that had the slightest resemblance to cheering, and I never heard any applause except that heard by the judge and only heard about the cheering after having been discharged from the case; Neither on Saturday, August 23, 1913, nor on any other day or date, did any man other than the bailiffs in charge of the jury ever walk with or by the side of the jury, and neither did anybody within my knowledge, ever speak to any juror at any time or place outside of the presence of the Court; If at any time any man ever grabbed any juror by the hand or held any conversation with any juror, the same was not in any

my presence. No man ever grabbed my by the hand at the place referred to by W. P. Neill in his affidavit, nor did I see or hear or know anything about any man grabbing any member of the jury by the hand or saying anything to any juror, or attempting to say anything to any juror, and within my knowledge there was no communication at any time or place or in any shape, manner, or form, with any juror, with any party on the outside. All communication had by the jury with outsiders, so far as I know, were through the bailiffs, and said communications were authorized by the court and known to counsel on both sides of the case; so far as I am personally concerned, and so far as I know as to each and every juror on the case, they were influenced solely and alone by the evidence and the charge as given by the court, and were not influenced in anywise, in any way, manner, shape or form, by anything from the outside, but the verdict as rendered was, so far as I am concerned, and as to the other jurors, so far as their deportment shows; I believe was rendered from an honest opinion based on the law and evidence in the case.

Upon considering said motion for new trial, the court rendered a judgment denying the same and in rendering said judgment, stated that the jury had found the defendant guilty; that he, the judge, had thought about this case more than any other he had ever tried; that he was not certain of the defendant's guilt; that with all the thought he had put on this case, he was not thoroughly convinced that Frank was guilty or innocent, but that he did not have to be convinced; that the jury was convinced; that there was no room to doubt that; that he felt it to be his duty to order that the motion for a new trial be overruled.

To this judgment and decision of the court denying the movant, Leo M. Frank, a new trial, said Leo M. Frank then and there excepted, and here and now excepts and assigns and specifies as error the failure and refusal of the court to grant a new trial upon each and every ground both of the original motion for new trial and the amendment to the motion for new trial, both said original motion

for new trial and said amendment to the motion for new trial being parts of the record in said case, and reference being hereby had to the same; and movant further specifies as to the error complained of that the court failed and refused to grant a new trial upon each and every ground contained in said motion for new trial and the amendment thereto, reference being hereby had to the same as if fully embodied herein, the same being of record.

Defendant further excepts to said judgment overruling the motion for new trial and alleges error therein in not granting a new trial upon each and all of the grounds of the original and amended motion on the grounds and reasons in said amended and original motions fully set out--reference hereby being had to the same, as if fully embodied herein, the same being part of the record in said case.

And now, within twenty days from the judgment refusing said motion for new trial, and in due and legal time, the said Leo M. Frank presents this, his Bill of Exceptions, and prays that the same be signed and certified, and specifies as the portions of the record in said case, material to a clear understanding of the errors complained of, the following, to-wit:

- 1st. The indictment in said case.
- 2nd. The plea of not guilty.
- 3rd. The verdict of the jury and the sentence of the court.
- 4th. The original motion for new trial, together with all entries and rules nisi thereon.
- 5th. The amended motion for new trial, together with the approval and certificates of the judge thereto and to the original motion and all entries thereon, and together with all exhibits there-to.
- 6th. The certificate of the judge approving the grounds of the original motion for new trial and the amended motion for new trial.
- 7th. The brief of the evidence in said case and the approval thereof by the court and all entries thereon.
- 8th. The charge of the court with approval of the judge thereon.



9th. The judgment of the judge refusing a new trial in  
said case.

This 1 day of Nov, 1913.

Ruben R. Arnold  
Roscoe B. Barden  
Herbert Neas  
Attorneys for Leo M. Frank,  
Plaintiff in Error.  
Address, Atlanta, Ga.

I do certify that the foregoing Bill of Exceptions is true and contains and specifies all of the evidence and specifies all of the record material to a clear understanding of the errors complained of; and the Clerk of Fulton Superior Court is hereby ordered to make out a complete copy of such parts of the record in said case as are in this bill of Exceptions specified, and certify the same as such and cause the same to be transmitted to the present term of the Supreme Court of Georgia, that the errors alleged to have been committed may be considered and corrected.

This 1<sup>st</sup> day of November, 1913.

Ed Rowan  
Judge S. C. present  
Presiding

Due and legal service of foregoing bill of exceptions acknowledged - Copy, and all other and further service waived - This November 1<sup>st</sup> 1913

Frank A. Hooper  
Hugh L. Sanders

Solicitor General  
Atlanta Judicial Circuit

RECORDED IN OFFICE, THIS THE  
1<sup>st</sup> day of November 1913

RECORDED IN OFFICE, THIS THE  
1<sup>st</sup> day of November 1913 at 4:05 P.M.

1<sup>st</sup> of November at 4:05 P.M.  
Leo Frank