APPEAL FOR FRANK DELAYED BY HOPE OF NEW EVIDENCE

Astonishing Development in Case of Prisoner Expected Within Short Time by Lawyers for Defense.

LATHAM IN BIRMINGHAM, SAYS J. E. M'CLELLAND

McKnight Has Returned to His Home — Mrs. Frank Gives Out Card in Which She Scores Dorsey.

Indications in the camp of Leo Frank's defense yesterday were that his counsel is eagerly expecting some new and astonishing evidence which will be contained in the motion extraordinary to be made soon for a new trial before Judge Ben Hill.

A surprising amount of new evidence has already been accumulated, it is known, and will be put into the retrial plea, which will also contain Albert McKnight's repudiation, the disclosure by Dr. Harris and the sensational "frame-up" accusation of Nina Formby.

Thus far the new motion has not been formulated. It is said that work has hardly been begun. This delay, it is reported, is because of the expectancy of new evidence.

Defense Is Silent.

No intimation of its nature would be given by any one connected with the defense. Wide interest is centered on its announcement, because of the action to be taken today by the supreme court, which will send down its remittitur to the superior court.

Among Friday's developments were a stinging statement to the public by Mrs. Lucile Frank, wife of the convicted man, and the revelation made in the afternoon that Harry Latham was in Birmingham, Ala., instead of New York, where he was believed to have been by Chief Lanford, of the detective department.

Latham, it was reported recently, had gone to New Orleans to confer with a reputed uncle of Mary Phagan, who was said to have been prepared to inject a new phase of the puzzling time element into the Frank mystery. Attorneys for the defense denied that Latham had any association with them.

Latham in Birmingham.

When Nina Formby's alleged accusation of the detective department was made public by The Constitution Thursday morning Chief Lanford stated to a Constitution reporter that he did not believe the woman had made the charges, but that Latham, whom he believed to be in New York, had "framed up" her interview with New York reporters.

J. E. McClelland, a well-known attorney, who knows Latham, received a long-distance telephone message from him in Birmingham Friday morning. Latham, it was stated, had telephoned in reference to returning a negro prisoner to Atlanta whom the McClelland law firm sought to prosecute. Mr. McClelland said he was positive that it was Latham who talked over the

Leo Frank's days of doom will not be set today when the supreme court remittitur is scheduled to be forwarded to Judge Ben Hill, of the superior court, in which the convicted man was tried. Instead, it has become known Solicitor Dorsey will not hurry the execution arrangement, but would allow ample time. The prisoner will, in all probability, be brought to court for sentence next Monday.

Detectives who seek to press Albert McKnight for an explanation of his denial of his testimony in the Frank trial, have been unable during these past seven days to locate the missing negro. It is said that residents of the vicinity of No. 17 East Georgia avenue, in the rear of which address McKnight lives, have seen him and his wife go to and from their single-room dwelling in the backyard. Callers last night at the little house in the rear, however, received no response to their knocks.

Declaring that her husband should have the same consideration as was given Police Lieutenant Charles Becker, who was recently acquitted by the court of appeals in New York, Mrs. Frank's statement is exhaustive and interesting, and concludes with the dramatic prophecy that the convicted man, after all, will yet come free.

Mrs. Frank's Statement.

Her statement, in part, follows:

To the Public:

The editorial in Thursday's Constitution referring to the trial of Becker,

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of necessity compels a parallel between this case and that of my husband. In that of Becker the atmosphere surrounding the trial, which was denounced by the court of appeals of New York as fully set forth in The New York Times of February 25, was occasioned by the conduct of the court, less potent, by far, than the overwhelming influence of the clamoring mob that surrounded the jury during the trial of my husband, or the hourly extra scattered through the courtroom, proclaiming, as truth, in flaming red headlines, every false rumor concerning my husband, or the frequent outbursts of the crowd during the course of the trial—all clearly indicating to the jury the temper of the crowd.

In the case of Becker, the court of appeals of New York declined to sustain the conviction on the testimony of criminals, while in the case of my husband the only testimony connecting him with the crime was that of the negro Conley, a many times convicted criminal and a more often self-confessed liar, whose testimony as finally produced in the courthouse was testified by those responsible for it to be "a tale made to fit the case."

Supreme Court Decision.

I fear that there is some misapprehension created by the divided opinion of the supreme court. I understand that some misguided people believe and feel that by reason of this decision the supreme court of this state has set its approval on the findings of the jury, but I am advised that this is not the fact; that the supreme court has merely passed on the questions of law involved as to whether errors were committed in the introduction of testimony or the rulings of the trial court. The decision of the trial court in refusing to grant a new trial based upon whether a fair trial had been granted, and as to whether or not the jurors were impartial, were matters with which the supreme court would not interfere. That the trial judge, notwithstanding his refusal to grant a new trial, believed that my husband did not have a fair trial, no man can doubt. To what potent influence shall then be ascribed such refusal? Can it be anything but the deepseated, all-pervading, insistent demand that a victim be offered? And was not this demand created and nurtured by the false statements fed to the public immediately following the murder by interested detectives and seekers after reward?

The prominence given to the story of the Formby woman caused many good people to be satisfied of my husband's guilt. The detectives pointed to it as absolute proof. The influence of this story upon the public, and its aid in creating the unfavorable atmosphere, can not be conceived; the unlawful arrest of my cook, Minola McKnight, and the affidavit which she was forced to give under such trying circumstances, and which, as soon as she was released from imprisonment, she promptly repudiated, was another morsel offered to the public to fortify and strengthen the charge against my husband, and afterwards used on the trial of the case to influence the jury by making me, his wife, testify against him by means of this affidavit, although by reason of the law I was compelled to remain silent and refused an opportunity of denying this miserable concoction.

Animosity Displayed.

I feel compelled to call attention to the animosity displayed by the prosecuting officer, although at the end of the trial there was some show of tears, caused, it was said, by some sympathy for the family of the defendant; who will say now that these tears had any such significance? Any one reading the trial of Conley, just had, can have no misgivings on this subject. The solicitor's solicitude about Conley was touching. Only "stern duty" impelled him to ask for conviction.

The statement of Conley was read by agreement, an unprecedented thing, I am told, in procedure under the law of Georgia, if not that of every other civilized state. And why was this? Conley had heretofore sworn that he was unable to read, therefore he could not, with propriety at this time, read a prepared statement. Who, may I ask, was unwilling that this negro should go on the stand and make a statement? Since he has been in the county jail no opportunity has been afforded for the rehearsing and fixing of a tale. What might he have said on the stand?

Evidence Convincing.

The testimony of Dr. Harris during thetrial of my husband was insisted upon and upheld as that of a great expert. His ability to tell the condition of the stomach's contents by virtue of science was claimed unfailing, and I am assured that in the mind of the public the testimony given by Dr. Harris on the trial was convincing. And yet, the testimony connecting my husband with the crime, and which must, of necessity, have shown the crime to have occurred on the second floor; was based almost entirely, leaving out the story of Conley, on the proposition that the girl's hair was found on the floor. This same Dr. Harris, expert microscopist, declared to the solicitor in advance that the hair taken from the lathe on this floor was not that of the dead girl. And yet, during the trial of the case, with this knowledge derived from this leading expert, the solicitor was content to take the testimony of one witness who said that the hair "was like the girl's" and argued to the jury that this was absolutely the hair, and concealed Dr. Harris' statement to him. Was this fair?

I am sure that time will clearly show the truth, and that this horrible nightmare, for such it seems to me, will pass away and that a vile conspiracy will ultimately lay itself bare to condemn and destroy those responsible.

MRS. LEO M. FRANK.