

# LEO FRANK'S FATE UP TO GOVERNOR; HEARING IS ENDED

**Wednesday Consumed by  
Address of Ex-Congress-  
man Howard, Solicitor  
Dorsey Making No Reply.**

**DECISION OF GOVERNOR  
EXPECTED BY SATURDAY**

**As Soon as Hearing Was  
Completed, Gov. Slaton  
Left for Country Home to  
Study the Records.**

The Leo M. Frank hearing before Governor John M. Slaton ended with the conclusion of Attorney William Howard's speech yesterday afternoon at 4:10 o'clock following an entire day devoted to argument.

Governor Slaton will probably render his decision Friday or Saturday just as soon as he could gather documentary evidence, records and other data bearing upon the case, he left for his country home on Peachtree road where he announced he would spend the night in studying the case.

This line of procedure was announced by the governor the moment Mr. Howard ended his address. He will not quit his study of the case until he is prepared to render a decision. No intimation could be gathered of his present opinion.

During the afternoon session Wednesday, a number of girls and young women put in an appearance for the first time. Owing to the crowded condition of the governor's private office—in which the hearing was held—they were forced to stand on the outskirts of the crowded doorways, standing upon soap boxes, chairs and stools.

#### Howard Reviews Case.

There was hardly a phase of the famous Frank trial overlooked by Attorney Howard. He undertook to show by the evidence of the defense that Conley, not Frank, was guilty. He based the bulk of his argument upon the testimony of Conley, himself. Mr. Howard manifested a keen insight into the records of the case and trial, and a phenomenally retentive memory of detail.

At the opening of the Wednesday afternoon session, Governor Slaton asked Mr. Howard if he would explain why Frank had held in abeyance the engagement to attend the baseball game on the Saturday of the Mary Phagan crime; likewise why he had made the appointment.

"Certainly," responded the attorney. "It was in line with my argument."

Beginning his address, he said, in part:

"It must be conceded, your excellency, that if the story of Jim Conley is not true in any part, no credence can be put upon it. And, in this connection, please consider that the evidence which might contradict Conley is not that of the defense, but the evidence of the prosecution.

"It can't possibly be true that Mary Phagan was in the building at the time of Monte Stover's appearance. (Here the speaker cited the testimony of George Epps to the effect that Mary Phagan had left the trolley car at Broad and Marietta streets, two blocks distant, at 12:07 o'clock.)

#### Contrast to State.

"The Epps testimony was in direct contrast to what the state required. When Dorsey started to weave his net, he sought to make every thread of it to be sound and durable. But during the latter stages of the trial he put a witness upon the stand to contradict the statement of Epps, his own witness.

"It was your speech, Brother Dorsey (turning to the solicitor who sat nearby) that brought the verdict against us. You can't get away from that—there's no denying it.

"At the end of the trial, however, during the course of this great speech, Mr. Dorsey urges that the testimony of Epps is reliable, worthy and dependable to impeach the evidence of witnesses for the defense. Epps was used to refute the story of the street car employees who knew every second of their running schedule, and kept as perfectly posted on time as railway officials.

"This was one of the places where the state found itself facing the fact that it had failed to make its case—and began clutching at straws.

"I am willing, though, to stand on the theory of the state and on its evidence. I am willing to take the case made out by the state, even before the defense introduced a word—and acquit Frank. I am willing to take even the elastic word of George Epps.

#### Corinthia Hall's Arrival.

"Here, the record is undisputed that Corinthia Hall came and left between 11:33 and 11:45 o'clock that Saturday morning. With her was Miss Emma Clark Freeman. That was their only visit to the factory that day. The state never succeeded in contradicting the time they appeared at the factory and talked with Frank.

"Lemmie Quinn was there at 12:20 o'clock. He saw Miss Hall and Miss Freeman on the way. The stenographer never left Frank's office until 12:02 o'clock. Graham and Tillander were there at 11:40 and saw Miss Hall and Miss Freeman. Mrs. J. A. White arrived at 11:50. All this is undisputed.

"But what follows? Conley says that at the time Miss Freeman and Miss Hall came into the factory office, he had already gone back into the metal room, packed the body of Mary Phagan into a sheet of bed-ticking, had helped Frank deposit it on the elevator, helped carry it to the spot in the basement—had returned to Frank's office, chatted with Frank and smoked a cigarette.

"He says that upon the appearance of Miss Hall and Miss Freeman, Frank heard their voices ascending the staircase, and forthwith chucked him into the wardrobe, where he remained in confinement until the girls had taken their departure.

"Is it possible we can have this forced upon us in the guise of the truth?

"Why, according to her own mother, Mary Phagan hadn't even left home at that time. Mrs. Coleman swore upon the stand that Mary did not catch her car until 11:45. All this happened between 11:30 and 12:40 o'clock.

#### "Wardrobe Perjury."

"It isn't necessary, in this regard, to add that if it had been possible to

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ment—or, in other words, his weekly statement. But, in order to do it, he must have data from the superintendents of the three individual branches of the pencil factory—the cedarwood plant, the slat mill and the assembling plant.

"His appointment for the ball game was made with his brother-in-law, Charles Ersenbach. But, when Frank got to his office that morning, he discovered that Herbert Schiff, a subordinate clerk, had not prepared the necessary data for the financial sheet, having overslept himself.

"Frank, therefore, having to do the work of accumulating data from all three departments, could not possibly fill the engagement, and called Ersenbach over the telephone to cancel it. (Mr. Howard picked up a copy of the financial sheet, an exhibit at the original trial). This is the thing Leo Frank did on the day of the murder, and the thing he was engaged in doing at the time he is accused of having committed murder.

"They say he was nervous—that the detectives could look upon him and detect the sort of crime he had committed. Here (again showing the financial sheet) is the tremor of his brain—does it look like the handwork of a murderer, performed at the time a murder was done?

"These things speak for themselves.

#### McKnight Testimony.

"I now apply to a different angle of the case. The solicitor fought throughout the trial to uphold the story of Albert McKnight, the negro. And the record stands that 1:30 o'clock Frank came home to his midday meal, where he was seen by the negro McKnight.

"And yet, one of the only hours fixed by Jim Conley is 1:30 o'clock, at which time he swears Leo Frank left the factory en route home for lunch. Here again are we vindicated by the evidence furnished by the state."

Governor Slaton interrupted the speaker to ask if he could account for McKnight's motive in falsifying, in event his story was a fabrication. Mr. Howard replied:

"Motives, your excellency, are too subtle for instant comprehension. To understand them you must know the individual character with which you are dealing. I believe, however, that it was largely a question of the reward, which question actuated a bulk of the perjury in this case.

"A great controversy raged around McKnight. It doesn't advance my case, but, my Lord! I am not afraid of it. I am more ashamed of it. Candor compels me to say that on both sides there was much written that will not bear the glare of publicity."

Prior to concluding his argument, Mr. Howard reviewed the names and positions of the many persons who had testified to Frank's good character. During which he was asked by Governor Slaton what other witnesses had

testified to Frank's perversion besides Conley. He directed the question to Mr. Dorsey as well as to the counsel for the defense.

"We weren't permitted, under law," answered Mr. Dorsey. "To put the testimony of other witnesses in regard to perversion, due to the refusal of the defense to cross-examine our character witnesses as to specific instances."

"Here," a man against whom not a shadow appears except those reflected by Conley and the state, replied Mr. Howard. "Just change the name of Leo M. Frank, give a change of venue to one of the agricultural communities in the state, strike out the spirit of feeling and present these facts as they have been given to you, and you won't get even an indictment."

The closing words of the attorney's speech were dramatic.

"In behalf of Leo Frank; in behalf of his kindred and his friends; we, as counsel for Frank, express to you our profoundest thanks for the patience with which you have heard this plea in his behalf; for the earnestness in which you have listened to what we have had to present. In behalf of the people of Georgia, who believe that, in patience and in fairness, right can be established and entrenched over wrong—we thank you. And we all thank God, the Maker of us all, that He has, in a clear and legally tutored mind and in a courageous heart, sanctified this work of performing His will in this, the crisis of this man's life, in your excellency's person. You have been to us, in the assurance that you possess these qualities, as the guidance, we believe, of Divine Providence. You have been to us as a pillar of cloud by day, as a pillar of fire by night. And now, as we have come into the very shadow of the valley of death, by God's will alone, and by His help—working through a clear and tutored mind and with a strong and courageous heart; consecrated to the upholding of the dignity of the laws of this great state in justice, in moderation and in mercy—here lies our hope. I thank you."

#### Argument on Blood Spots.

One of the most impressive phases of the attorney's morning address was his argument upon the blood spots and hair discovered upon the second floor. "The state sought to establish two primary facts to support Conley," he said. "First, the finding of the strands of hair on the lathing machine, and second, the discovery of blood on the second floor, where the state contends the murder was committed.

"But these facts must be substantiated beyond the shadow of a doubt. There must be no question at all regarding them. Justice, fairness and the voice of God demand it. If the blood of Frank must be shed, it must be because of the blood of Mary Phagan—and none but her blood."

"Magnolia Kennedy testified that the hair found on the lathe 'looked like' Mary Phagan's hair. But she could not identify it positively. There was a difference of opinion among the employees. Some thought it was her hair—others didn't.

"Right now, I couldn't describe the color of your excellency's hair. Only experts can determine such things. Dr. Harris, an expert in whom I have the utmost confidence, informed and admitted to the solicitor that he was not certain it was the hair of Mary Phagan.

#### Barrett's Discovery.

"And the blood spots. In the first place, they were found by Barrett, the man termed by my predecessors as 'Christopher Columbus' because of his predilection for exploring. Barrett was accused of having been on the alert for the reward. He was on a cruise of discovery, and his mind was on the goal of gold. But let us see what Dr. Claude Smith, a recognized bacteriologist, says of the spots he found:

"Four, five or six corpuscles were in the field of his microscope. If the rest of the blood spot totalled as much as that, it must have been at least a half drop or a drop at most. It was impossible to tell how old the blood was. This is a scientific impossibility.

"Science refutes Barrett, common sense rejects him. Would you take our blood for the aniline dye with which he manufactured blood?"

Referring in detail to the blow upon the murdered girl's head, Mr. Howard declared his belief that it had been struck after she was strangled to death to assure her slayer that no life remained. He later took up the bed ticking in which Conley says he carried the body from the metal room to the basement. And no one has ever been able to produce that bed ticking.

#### "Conley's Invention."

"I am firmly convinced," he declared, "that the 'bedticking' was an invention of Conley. He first said that it was a crocus sack, but, after he had explained that he had tied the body in the fashion of the weekly laundry, he perceived that it would not do, and was forced to adopt something larger than a small crocus sack.

"And right here, let me say something else in connection with that trip into the basement. Girls and women are in a habit of carrying their handkerchiefs in their handbags. They seldom carry them outside. The fact that Mary Phagan's handkerchief, soiled and bloody, was found beside her body, is evidence that Conley threw it from the bag, taking the bag for his own personal use."

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contradict the word of Misses Hall and Freeman, do you think that this capable, this astute, discerning, unusually keen and alert attorney, Brother Dorsey, with all the state's resources at his command, and a corps of assistants at hand, would have failed to do so?

"I insult your intelligence to dwell any further upon this diabolical wardrobe perjury."

At this point, the speaker took up the explanation of Frank's failure to keep the baseball engagement.

"One a week," he asserted, "Frank had to make up his financial state-