

# FRANK'S LAST FIGHT TO BE BEGUN TODAY

## Arguments Will Be Heard to Set Aside Murder Verdict on Constitutional Grounds.

*Special to The New York Times.*

ATLANTA, Ga., Oct. 25.—The final fight to save Leo M. Frank, convicted of the murder of Mary Phagan, will begin in the Georgia Supreme Court tomorrow, when the motion to set aside the verdict on the ground that Frank was not in court when the jury rendered its decision will be argued. The attorneys for Frank contend that his constitutional rights were invaded by his absence from court, and that, therefore, the verdict is null.

Attorneys Luther Rosser and Reuben Arnold, who heretofore have represented Frank, will not appear tomorrow because of an agreement not to raise the constitutional right made with Solicitor Dorsey shortly before the Frank verdict was brought in. Unless some other phase of the Frank fight develops they will have no further connection in the courts with the case. They will be available, however, should any move be projected in Frank's defense other than the constitutional motion. The motion to set aside the verdict was introduced by Attorneys Tye, Peoples and Jordan, assisted by Herbert J. and Leonard Haas, and Harry A. Alexander.

Both the State and the defense have finished their briefs, and are ready for tomorrow's arguments. One of the main citations of the defense's brief is from the case of *Weeks vs. The United States*, reading:

"The efforts of the courts and their officials to bring the guilty to punishment, praiseworthy as they are, are not to be aided by the sacrifice of these great principles established by years of endeavor and suffering, which have resulted in their embodiment in the fundamental law of the land."

The State's brief cites the case of *Cawthen vs. The State of Georgia*:

"It would be trifling with the court to allow it to act on a waiver thus made and then impeach its action on the ground that counsel had been guilty of an unauthorized act."

**The New York Times**

Published: October 26, 1914

Copyright © The New York Times