

FRANK'S FATE NOW IN SLATON'S HANDS

Governor Closes His Hearing and His Decision Is Ex- pected by Saturday.

ASKS MANY QUESTIONS

And Seems Impressed by Coun- sel's Analysis of Doubtful Points in the Evidence.

WHOLE CASE REVIEWED

Ex-Congressman Howard Asserts Life Should Not Be Taken When State's Witnesses Disagree.

Special to The New York Times.

ATLANTA, June 16.—The fate of Leo M. Frank has been finally committed to the hands of Governor John M. Slaton. Whether Frank shall die on the gallows or spend the remainder of his life in the penitentiary depends on the Governor's decision.

Ex-Congressman W. M. Howard closed his plea for a commutation of the sentence shortly after 4 o'clock this afternoon, having spoken altogether the latter part of a day and a half.

Mr. Howard analyzed every bit of evidence given at the trial of Frank, and he insisted that it pointed clearly to Jim Conley as the murderer of Mary Phagan, and just as clearly pointed to the innocence of Frank. Governor Slaton was apparently deeply impressed by Mr. Howard's analysis, and asked frequent questions.

Solicitor General Hugh M. Dorsey, who was expected to make an additional speech opposing commutation, had nothing further to say for the State, and the case was closed with the argument of Howard.

At the conclusion of Mr. Howard's argument Governor Slaton announced that he would devote himself to a study of the case tonight and Thursday, and would announce his decision as speedily as possible.

It is believed that he will make known his decision by Saturday morning at the latest, possibly some time on Friday. Frank is sentenced to die next Tuesday, June 22.

After concluding his argument in behalf of Frank, Mr. Howard paid this tribute to Governor Slaton:

"In behalf of Leo Frank, his kindred and his friends, we, as his counsel, profess to you our profoundest thanks for the patience with which you have heard this plea. On behalf of the people in Georgia, who believe that, in patience and in fairness, right can be established and enthroned over wrong, we thank you. And we all thank God, the Maker of all, that He has in the person of your Excellency sanctified a legally tutored mind and a courageous heart to perform His will in this crisis.

"You have been to us, in our assurance that you possess these qualities, by the guidance, we believe, of Divine Providence, the pillar of cloud by day and you have been to us the pillar of fire by night, for we have come to the very valley of the shadow of death. 'n God's will alone, and in His help, working through a clear tutored mind, and through a strong, courageous heart, consecrated to uphold the dignity of the laws of this great State in justice, in moderation, and in mercy, lies our hope. I thank you."

Thomas Hardwick, United States Senator, in Atlanta today denied the statement published recently that he had written a letter to Governor Slaton urging clemency for Frank. He said that his reason for making this denial was that he wanted it known that he had not expressed himself at all regarding the Frank case.

Value of Conley's Evidence.

At the resumption of the hearing this morning ex-Congressman Howard, representing the prisoner, directed Governor Slaton's attention to the contention of Solicitor Dorsey that even with the elimination of Conley's testimony there was still evidence sufficient to convict Frank.

"This," said Mr. Howard, "brings us back to one of the fundamental principles of our law. If you rely on circumstantial evidence to convict a man it must be of such a positive character as to satisfy the mind of the jury. It must be sufficiently strong to exclude every other reasonable hypothesis."

Mr. Howard then elaborately outlined his contention that Conley's evidence against Frank indicated Conley's guilt and Frank's innocence, and that with Conley's evidence eliminated there was not a single circumstance of sufficient weight to influence a verdict against Frank.

Governor Slaton interrupted to inquire of Solicitor Dorsey whether the indictment was found against Frank before or after Conley began making his affidavits. Mr. Dorsey answered that the indictment was returned on the day Conley went through the pencil factory with the officers; that Conley's affidavit was brought to him while the Grand Jury was in session, and that after being taken through the factory Conley was brought to the Court House. He said further, however, that he did not read Conley's affidavit to the Grand Jury or take Conley before the Grand Jury to testify. But he did tell the Grand Jury, he said, something about Conley's affidavit.

Mr. Howard demanded to know whether Conley's affidavit was given to the Grand Jury and whether it was used as one of the grounds upon which the indictment was based.

"I had the stuff," retorted Solicitor Dorsey, "but did not use it. The indictment against Frank was independent of Conley's affidavit."

Continuing his argument, Mr. Howard said:

"Let us see what is in the record, independent of the locus and indicia,

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that tends to connect Conley with the crime. Among many other things we contend that the murder notes establish this connection. There has been a good deal of pamphlet writing, analyzing and speculation about these documents. In my mind it is a very simple proposition. For many years I was Solicitor General of a circuit in the cotton belt of Georgia, where the population was composed of three to five negroes to one white person. I learned to know the negro and his character very intimately. The criminal court practice in that circuit had to do almost entirely with negro crimes.

Negroes as Forgers.

"My experience led me to understand that in practically every forgery case in which the negro was the principal the negro committing the forgery never gave a thought to the fact that his handwriting would not resemble the handwriting of persons whose name or handwriting he sought to forge. It never occurred to him that he could not in reality imitate another person writing, wherefore detection was inevitable.

"There is a significant reason for this phase of the negro character. As a rule if a negro writes at all he writes poorly and in writing he does not keep before his mind the standard or example of any one else's handwriting. Negro forgers are inevitably met at the threshold with the utter dissimilarity between the forged writing and the writing sought to be imitated.

"Then there is another characteristic of the negro. When they come to conceal their crimes and try to place them on the shoulders of other persons, they describe a person as nearly opposite themselves as they can imagine."

Mr. Howard here read from the murder notes by way of showing how they sought to throw suspicion on a "long, tall, black negro," whereas Conley is a short, chunky, ginger cake negro.

"This," said Mr. Howard, "is a very low order of cunning, and one which in a way is practiced even by birds and beasts. It came up to man through the process of evolution and was employed by him in his primitive state, and it continues to be employed by persons of a low order of intelligence.

"The second note was written merely to make more emphatic the purpose of the first note. I call your Excellency's attention to the different kinds of paper on which the two notes were written. The first note is cramped in style and ends up with a long, tall negro black the way it was. You see, he had passed to the end of his phrase and had written the word 'Negro' when the antithesis of his color occurred to him and he wrote the word 'black.' You will note that he repeats the description through the second note."

Here Mr. Howard stated that some of the more vulgar portions of the murder notes bore out an idea repeatedly expressed in the Annie Maude Carter notes.

"It is admitted," he continued, "that Conley wrote the notes and that they were found beside the body."

Governor Slaton here inquired: "Is there anything in the record to show that the desk we saw in the basement the day was there at the time of the murder?"

Mr. Howard said: "The nearest approach to that is the statement of Herbert Schiff and others that the work of some employes required them to write white in the basement."

Solicitor Dorsey said: "We deny that the desk was there when the murder was committed."

Mr. Howard said: "The record shows that employes wrote there and had the materials there for that purpose, that there is a gas light over the spot where the desk now stands, and the record of the extraordinary motion, shows that the desk was there when the murder was committed."

Solicitor Dorsey: "I am not prepared to dispute that. It is in the record of the extraordinary motion."

Differ Over Note Paper.

Mr. Howard: "We contend that the evidence shows that the yellow note paper was in the basement, that Conley got it there and wrote the notes there. The record shows conclusively that no pieces like this order blank were in the stock of the pencil factory, in the office next to Frank, or in Frank's office. A man named Becker, a former employe of the factory, did use order blanks like this one, but they had been carried to the basement. The evidence for the State is that when Becker left the factory that order blank could have been and was in Frank's office. But we will show you that such could not have been the case.

"First, I call your attention to the dim signature of Becker, reproduced by the carbon under the order blank. It has a flourish turned back over the name like a scorpion's tail. This yellow sheet was used under a carbon, and over the carbon was the original white sheet on the machine."

Governor Slaton—Why were the carbon copies not kept permanently on file? Mr. Howard—They were for a time, but when the permanent book record was made from them they were thrown away with other waste paper into the basement.

Solicitor Dorsey—We challenge that. Mr. Howard—We invite, Your Excellency, the closest scrutiny of the point, for we have definite and irrefutable evidence.

Continuing: "Just before Becker left the employ of the pencil factory he bundled up all the used order blanks, from which the book record has been made, including the series including this particular yellow sheet, and sent them to the Government to be burned."

Governor Slaton—Is Becker now associated with any allied branch of the pencil agency?

Mr. Howard—He is not. Solicitor Dorsey—Do you mean to say that we did not contradict Becker's evidence by three witnesses?

Mr. Howard—Oh, yes, and I am going into your evidence as fully as I can remember it.

Continuing, Mr. Howard said: "Now, Becker swears positively that he did send to the basement that series of order blanks. We cannot prove by any evidence that the paper was burned, but the testimony shows that it was taken to the basement. Unless Becker is perjured, this yellow sheet was not in Frank's office when the crime was committed. I call your Excellency's atten-

tion to the figures '190' in the space for the date. This shows that the order blank was used through the year 1909 and was discarded after that. The new series, the one now in use, carries the figures '191'."

Governor Slaton—Was Becker there in 1909?

Mr. Howard—Yes. Continuing—The testimony shows that the '190' series was not used after the close of the year 1909, and Becker swears most positively that he sent all order blanks of that series to the basement to be burned. A close scrutiny of this paper shows that the order number is 1,018, and we tender this order (handing the Governor an affidavit) number 1,018, dated Sept. 16, 1909. This corroborates the statement that these blanks were in use prior to 1910.

Defends Becker's Evidence.

"Now the State appears to contradict the testimony of Becker, but you will find nowhere in the affidavits of the State any statement relative to the date line '190' and the date line '191.' So you see, your Excellency, that the evidence of the State passes the evidence of the defense as ships pass in the ocean. When testimony clashes, perjury is made, but when testimony passes, however closely, but does pass, then the testimony of each witness retains its value. I think this shows another contradiction of Conley. He swears that the notes were written in Frank's office on paper found there. The evidence shows that the paper was not in Frank's office, could not have been there, and was in the basement instead. It is an incontrovertible fact that the paper was found in the basement and the notes were not there."

Continuing his argument, Mr. Howard reverted to the evidence and declared that it was of such a character as would justify the conviction of Conley for the murder, unless, he emphasized, the negro could make a credible defense.

"Now, Conley does make a defense," said Mr. Howard. "He defends himself by attempting to prove that Frank was the murderer. Such a defense would be sufficient, we admit, if the negro could corroborate every detail of his story, but his testimony must be corroborated in the minutest detail. Now the question is, does his alleged corroborations or the corroborations of the prosecution stand as truth?"

Here Mr. Howard quoted almost verbatim from Conley's statement in which he told of Frank's admission that he had knocked down a little girl. He quoted also Conley's statement as to the finding of the body. He declared that the prosecution set up two primary facts as corroborating Conley. First, the finding of hair on the lathe handle in the metal room; second, the discovery of blood at the corner of the dressing room. He admitted that the establishment of these facts, beyond all question, would tend to corroborate the negro's testimony.

"But," said he, "these facts must be established beyond the shadow of a doubt. There must be no question at all regarding them. Justice, fairness, and the voice of God demand that if the blood of this man is to be shed, it must be shed by Mary Phagan's hair and not by hair that merely 'looked like her's.'"

Uncertainty as to the Hair.

Mr. Howard then read the testimony of Magnolia Kennedy in which she swore that the hair found on the lathe "looked like" the hair of Mary Phagan. He stressed the fact that Magnolia did not identify the hair positively. He then told of the finding of the hair by Barrett on Monday morning after their discovery of the crime. He said it was wrapped around the handle of the lathe some twenty feet from where Mary Phagan worked. He dwelt upon the fact that there was a difference of opinion among the employes, all of whom knew Mary, as to whether the hair was hers or somebody else's.

He declared that he himself could not describe positively and with indisputable accuracy the color and shade of the Governor's hair.

"Only profound experts can determine these things," he said, following which he took up the testimony of Dr. H. F. Harris. He admitted that Dr. Harris was a competent expert to give testimony as to human hair and declared Dr. Harris made a scientific examination of the hair found on the lathe handle.

Mr. Howard said he, turning to the Solicitor, "without knowing positively, I believe Dr. Harris admitted to and informed the Solicitor that he was not positive whether the hair was that of Mary Phagan."

Solicitor Dorsey freely admitted that Dr. Harris had made such a statement to him.

Governor Slaton interrupted to ask if the undertaker who had prepared the body for burial had not washed the hair and subjected it to chemical treatment which might have changed its texture. Attorney Howard said peremptorily that he would answer this question. Solicitor Dorsey said the undertaker did wash the hair and subject it to such treatment.

Mr. Howard: "But the State could not prove that it was her hair, and because they have difficulty in proving it they ask us to render up a life. The State commanded Dr. Harris to make an exhaustive and thorough examination, and his answer was that he could not say whose hair it was that Barrett found on the lathe. Are we to be told that a life is forfeit on that answer?"

"Now we will take up that machine handle where the hair was found and on which the State claims she struck her head." Mr. Howard went on. "The sharp point of any instrument that will puncture, cut, or pierce the scalp, will pierce the scalp, and the cut in drawn across the scalp, yet the cut in Mary Phagan's head was 2 1/2 inches long and had the appearance, according to one witness, of having been struck from below upward. The cut went through the scalp to the skull. Mary Phagan was a healthy, well-developed young girl. Her body was full of blood that coursed through her veins every second, and yet there was no blood under that machine. The cut went through to the bone, it severed arteries and veins, and even Dr. Harris testified that a cut of that character is certain to bleed. Gneessling on direct examination said the little girl must have bled a great deal. On cross-examination, (Mr. Howard turned and looked at Solicitor Dorsey,) he must have been under your hypnotic influence, for he said the girl did not bleed much. Any man knows that a wound of this character, inflicted at the machine, would have left on that spot the evidence of eternal truth. Yet there was no blood by the machine."

"You say she staggered thirty feet away from the machine at the point where Jim Conley found her. If she had staggered or walked that distance, the blood would have come down in a torrent to the floor and to her shoulders. But there was no blood on the floor, or above the waist."

Mr. Howard read from that portion

of Jim Conley's testimony on the stand where the negro said he wrapped up the body in a piece of striped bed ticking, and dropped it on the spot where a peculiar stain smeared over with gasoline was found.

Scores Barrett Evidence.

"I call your Excellency's attention to the fact that it was Barrett who found this spot," said Mr. Howard. "Barrett who was then talking of the amount of reward, Barrett who was on a cruise of discovery, and who had in his mind the gold of his goal. That man found the hair and then he found blood spots big enough to convict the whole tribe of Judah, much less one of his descendants."

"Now let us see what Dr. Claude Smith, an officer of the city and a witness for the State, had to say concerning these spots. Four, five, or six corpuscles of blood were under the field of the microscope. If the rest of the spot showed the same amount of blood, it must have totaled as much as one-half of one drop. He could not tell how old the blood was, for he said corpuscles of blood had been in his laboratory for as long as two years. The girl's head struck on the lathe, she staggered thirty feet, and the body was carried seventy feet with the head downward. Yet there was less than a drop of blood left to mark her journey. I tell you that blood spot looks mighty like the hair on the lathe. Science refutes Barrett on both points, common sense rejects his discovery. And such, your Excellency, is the character of evidence relied on to support Conley, the perjured."

"Would you take our blood because of the blood that Barrett made with an aniline dye?"

Continuing, Attorney Howard called attention to the testimony of Detective Starnes, who swore that he found "a nail about fifty feet this side of the metal room that looked like it had blood on it."

"On a nail head!" exclaimed Mr. Howard. "No blood at the lathe; no blood at the elevator; no blood at the bottom of the elevator, where the body was rolled out, as Conley says."

Here Mr. Howard handed the Governor a photograph of the basement showing the scraps of paper, trash, &c., and called attention to the fact that no blood was found on any of these, although the detectives testified that the hair was matted with blood and that some blood was found on the body. He said he felt justified for the moment in taking his stand, like Solicitor Dorsey, on a conjecture.

"It is my belief, or my conjecture," he said, "that the blow on the head was struck after Mary Phagan had been strangled to death, and that the blood found in her hair and underneath her head trickled out by gravity. This would measurably account for so little being found. The blow, I believe, was struck in the back of the head to make certain that the victim would not retaliate. However, I cannot make evidence, and I cite this only as a conjecture."

Conley's Invention.

Mr. Howard took up the testimony of Conley relating to the piece of striped bed ticking, in which he said the body was wrapped and carried. He called attention to the fact that no one who ever worked on the second floor could recall ever seeing such a piece of cloth on that floor, either before or after the murder. He declared such testimony, if it had been offered, would have been strongly corroborative of Conley's story.

"What function would there have been, or was there, for bed ticking on the second floor?" interrupted Governor Slaton.

Mr. Howard replied: "The story of the bed ticking was Conley's invention. He invented this when he suggested to himself that the piece of crocus sacking which he first mentioned would not have been large enough to wrap around a body. Now, if there had been any bed ticking on that floor somebody inevitably would have seen it. But it was never found, and it was never found because it didn't exist. It was purely and simply an invention of Jim Conley's imagination. The mat and parasol were found, but no bed ticking."

Mr. Howard was interrupted by Governor Slaton, who asked the questions. The first related to the kind of hat Mary wore. He asked if it showed any signs of damage, or if it was such a hat as to break the force of a blow. Mr. Howard replied that the record showed that the hat showed signs of being broken.

"And right here," said Mr. Howard, "I want to make another conjecture. It is the custom of ladies to carry their handkerchiefs in their meshbags, but in this instance we find the little girl's bloody handkerchief without finding the meshbag or the money. The incentive for robbery was not there. It had disappeared. Just here I want to call attention also to Conley's chosen means of escape, his private way, the route he chose as a means of dodging his creditors."

Governor Slaton here said: "If that was true, what was the need of drawing the staple?"

Mr. Howard answered: "That was Conley's problem. He told the jury, he tells you in the record, that the basement door was his secret route. It was on his way home, his nearest way, and here again we have physical evidence which has disappeared. It is in the testimony, it is in the record, it is here, that blood spots were found on the rear of the door about the height of a man's head. They were chipped off, they are gone, and never reappeared."

Governor Slaton asked: "Whose testimony was that?"

Mr. Howard, in reply, read the testimony of Detective Starnes.

Evidence in the Notes.

Attorney Howard read the testimony of Jim Conley relating to the preparation of the murder notes. He then quoted from the speech of Solicitor Dorsey in which the latter sought to fix the guilt upon Frank by his deductions from these notes.

"The notes," said Mr. Howard, "are written mostly in monosyllables. The words are short. There are sixty-four of them. The average number of letters per word is 3.6. The Annie Maude Carter notes bear a striking resemblance to the murder notes. The solicitor emphasized the use of the word 'did' in the murder notes. That is very important. The Solicitor contended the word was not one a negro would use and from this he attempted to show Frank's authorship. Now, your Excellency, Conley's testimony before the jury shows that he used the word 'did' no less than sixty times. He used it also in the Annie Maude Carter notes."

"An examination of the Annie Maude

Carter notes and the murder notes shows that he used the word 'like' instead of 'as if' in all these notes."

Governor Slaton here interrupted: "If you will pardon me, Mr. Howard, I would like to have you discuss the Annie Maude Carter notes and their significance."

Mr. Dorsey, after a little tilt with Mr. Howard, stated that the evidence showed the notes to be Conley's, but that the State showed they were obtained by fraud. Mr. Howard then gave the Governor a brief history of the Annie Maude Carter notes.

Governor Slaton asked if there was anything in the record to show that any one dictated the Annie Maude Carter notes. Mr. Howard answered: "No, there is no attempt even to show that they were dictated."

Governor Slaton asked: "If Conley admits writing these notes, how could he deny writing the vulgar parts of them?"

Mr. Howard replied: "Oh, that could be done, your Excellency. It is often done by the ostrich."

Mr. Howard then handed the Annie Maude Carter notes to the Governor, asking him to read them and saying: "I will not read them aloud, for these words would pollute the atmosphere of the Black Hole of Calcutta. I call your attention to the fact that they show the character of mind that would fit in with the crime at the pencil factory. I also call your attention to the like use of words in these notes and in the murder notes. They show that Conley's own words are written in Conley's words. The same mind in his favorite words. The same mistakes of grammar are made in the two series of notes, and the same correct phrases are used in each."

Conley said that Frank had him write four notes, and he says he wrote them in two minutes. You couldn't write four notes in that time.

"I will now explain how Conley got the idea of charging that the notes were dictated. Before Conley had made any admission at all, the detectives time and time again dictated the very words of these notes to him and had forced him to write the very words. His passing through this experience must have given him the idea of charging that the notes were dictated."

Discrepancies in Time.

When the hearing was resumed this afternoon Attorney Howard began an analytical discussion of Jim Conley's testimony at the trial. He declared that the State's own witnesses and the evidence developed by the Solicitor General himself disproved the credibility of the negro. He first took up the testimony of Monteen Stover relating to her visit to the pencil factory on the day of the murder.

"The undisputed testimony of Monteen Stover," said Mr. Howard, "shows that she arrived at the factory at 12:05 o'clock and remained there for five minutes. It was ten minutes after 12 o'clock when she left the factory. She did not see Frank during her stay in the building, and it is the theory and contention of the State that Frank, at that time and during that five minutes, was in or near the metal room engaged in one of the series of acts that resulted in the death of Mary Phagan."

"It is our contention that if the girl's testimony is correct Conley's testimony cannot possibly be correct, because he conflicts with her in several vital points. I now call your attention to the testimony of George Epps. He swore that he came to town on the car with Mary Phagan, and that the car arrived at Forsyth and Marietta Streets at 12:07 o'clock. It is admitted that it requires from four to five minutes to walk from the point where Mary Phagan left the car to the pencil factory, and thus she was obliged to have arrived at the factory about 12:13. Monteen Stover, therefore must have been gone one or more minutes before Mary Phagan arrived. That is inevitable."

Here the Governor said this discrepancy might possibly be explained by a variation of timepieces, and mentioned Conley's testimony to the effect that one of the clocks in the pencil factory was fast.

Solicitor Dorsey declared the car on which Mary Phagan came to the city was running ahead of its schedule and arrived at Forsyth and Marietta at 12:02 o'clock. He allowed five minutes for Mary to walk from there to the factory, contending that this would have placed her in the factory during the time Monteen Stover was there, looking for Frank and falling to find him. He said the difference in time was due to a variation in the clocks.

Mr. Howard, resuming, said: "If it pleases your Excellency, the difference the conflicts and discrepancies which are so apparent here are in the State's evidence. It is the testimony of the prosecution's witnesses, not ours."

"The State contends that the clock by which Monteen Stover fixes the time of her visit to the pencil factory was inaccurate, but the State does not prove, or attempt to prove, that the timepiece by which it reckons was accurate. It is incumbent upon the State to establish the correctness of its clock, and this the State has not done or attempted to do."

Quotes Dorsey's Speech.

Mr. Howard then quoted from Solicitor Dorsey's speech to the jury, "the speech that made the verdict," he said. He dwelt upon the fact that the Solicitor in his speech emphasized the attempt of the defense to break down or discredit the testimony of George Epps. He contended that the Solicitor argued insistently that Epps's testimony was unimpeachable and worthy of belief. Continuing, Mr. Howard said:

"George Epps says Mary got off the car at 12:07 o'clock, and that it took her 4 1/2 minutes to walk to the factory. So she must have arrived there at about 12:12, or two minutes after Monteen Stover left the factory. There is nothing in the record to show why Monteen Stover went. If she had gone north along Forsyth Street to Marietta, she possibly would have met Mary Phagan."

"Miss Corintha Hall and Mrs. Emma Clark Freeman, unimpeachable witnesses, say they arrived at the factory and went to Frank's office at 11:35 o'clock, and left about 11:45 o'clock."

Lemmie Quinn arrived at the factory about 12:20 o'clock, and left about 12:25 o'clock, and then met Miss Hall and Mrs. Freeman in a café."

Graham and Tillander were in Frank's office about 11:45 o'clock. Mrs. White, a witness for the State, says she saw him in the office. There is no doubt that Miss Hall and Mrs. Freeman were there from 11:35 until 11:45. Yet Conley says that he had disposed of the body, placing it in the basement,

and that he was back in the office, had taken his seat and lighted a cigarette and begun that remarkably convivial intimacy with Frank, when Frank suddenly jumped up and said: 'Here comes Corintha Hall, and Emma Freeman, Get into that closet, and get there quick.' If these witnesses, including George Epps, had not been telling the truth, they would have been impeached by the Solicitor."

"Your Excellency can readily see that if they are telling the truth they were in Frank's office while Mary Phagan was at home eating her middy meal of bread and cabbage, because Mrs. Coleman (her mother) says she last saw her daughter at 11:45 o'clock. If this incident of the wardrobe which Conley relates is not the truth, what, then, is the truth? Your Excellency can readily see that at the time Conley says he had disposed of her body for Frank, according to these many witnesses she had not yet left home."

"It would be an insult to your Excellency's intelligence to dwell longer on this perfectly obvious point. It is irresistible proof that makes the wardrobe perjury take its place alongside the hair and the blood spots, as well as the other incidents claimed by the State as corroboration of Conley."

Frank's Work Shown.

Governor Slaton, at the beginning of the afternoon session, had requested Mr. Howard to explain to him how it was that Frank broke a baseball game engagement on Saturday afternoon. Mr. Howard at this point, complying with the Governor's request, went into a lengthy explanation beginning with a detail of the difficulty and tediousness of making up the weekly factory finance sheet.

When Mr. Howard concluded this line of discussion, Governor Slaton asked if it was the custom for Frank to work on Saturday afternoon.

"I think so, generally speaking," said Mr. Howard.

Solicitor Dorsey was on his feet instantly. "That very question was an important issue in the trial," he said. "It was our contention that he returned to the factory on Saturday afternoons for carousals."

Mr. Howard said, "Well, he must have caroused a good deal then, and I am going to show that he did not do any of it on this particular Saturday afternoon."

He then invited attention to the financial sheet, and asserted with great emphasis that no man could have prepared such a complicated and detailed statement after having committed a foul murder.

"We do not contend that he did it after the murder, but before the murder," interrupted Solicitor Dorsey.

Mr. Howard said: "The contention of the State is of no consequence. This, (holding the financial sheet in his hands,) is the thing that was done and engaged in. This is his handwriting at that time, on that day, when the State contends he was committing a crime. They say he shakes and trembles like an aspen leaf. It is their contention that he is nervous almost to the point of St. Vitus dance. The finger of a detective pointed at him makes him tremble. Yet we show you that this sheet, this complicated financial sheet, is his work on the fatal day."

"The State contends that he wrote this letter on the day of the murder and after it was committed. The brain and nerve of a cowardly murderer wrote this letter? It is impossible." Here Mr. Howard passed the letter to the Governor.

When the Governor looked at it and laid it aside, Solicitor Dorsey took it, examined it with interest, but made no comment.

Mr. Howard, resuming, said: "The Solicitor General has fought to maintain and defend this man McKnight. I quote his testimony from the record here. He testified that at 1:30 o'clock on the day of the murder he was at the home of the Seligs where Frank lived, and was in the kitchen to see his wife, Minola McKnight, who cooked for the Seligs. He swore that he saw Leo Frank at the house at 1:30 o'clock. I want to emphasize that testimony. Jim Conley, on the stand, never swore but to two definite times. One was that Frank did not leave the pencil factory until 1:30 o'clock. Of this he claimed to be positive. Now the Selig home is from ten to twelve minutes from the factory, yet McKnight, the man for whom the solicitor vouches, swore just as positively that Leo Frank was at the Selig home at 1:30 o'clock."

"Your Excellency, it is in the State's own witnesses, in the sworn testimony on which the Solicitor General relied to convict this man, that we find these conflicts."

"But," added Mr. Howard, "we don't have to rely on the witnesses of the State to prove that Frank was at the Selig home at 1:30 o'clock on that day of the crime. Many credible witnesses have testified to the fact."

Governor Slaton here asked Mr. Howard to discuss the motive behind McKnight's testimony.

Replying, Mr. Howard attributed McKnight's testimony in a general way to hope of reward.

The Governor then asked Mr. Howard if any witness besides Conley had charged perversion.

"No," answered Mr. Howard. "Conley stands alone in this vile charge and the perversion he charges remains undefined. Not a witness comes from any quarter of the earth who says he believed Conley on oath."

Mr. Howard then told the Governor of a letter received by the Prison Commission from an Athens woman who had devoted her long life to work among factory people. This woman in her letter stated that there was not a factory Superintendent within her knowledge who could not have the same things charged against him as were charged against Frank.

"By just such rumors," he said, "I have in his own life seen schools broken up, churches broken up, and communities rent asunder."

"Take the name of Leo Frank out of this case, forget all that has passed in these two years, give me a public mind that is a clean slate, and put this case in any county in Georgia, and I will acquit this defendant in thirty minutes."