

FRANK PROTECTED BY SUPREME COURT

**Order Issued Staying Execution
and Making Georgia Sheriff
Responsible for Prisoner.**

PROMPTED BY SHIPP CASE

**Court's Action Expected to Sober
Any Mob Spirit—Both Sides
Seek Hearing on Feb. 22.**

Special to The New York Times.

WASHINGTON, Jan. 19.—Action taken by the Supreme Court of the United States today places Leo M. Frank, who was sentenced to death in Atlanta for murder, under the protection of that tribunal. An order issued by the court forbids the execution of the death sentence and makes the Sheriff of Fulton County, Georgia, responsible for Frank's safety. Fear that an attempt might be made to do injury to Frank was in part the basis for the court's order.

The proceedings in the Supreme Court were extremely brief, lasting hardly a minute. Fulton Brylawski, an attorney of this city, appeared in behalf of Frank's counsel and asked for an order for a stay of execution of Frank's sentence. The stay was granted immediately by Chief Justice White for the court.

Nothing appeared in the court proceedings to indicate that the action taken was based on any fear of mob violence toward Frank. Prior to the convening of the court, however, Mr. Brylawski had gone to Associate Justice Lamar, whose judicial circuit embraces the State of Georgia, and asked him to issue an order for a stay of execution.

Justice Lamar took the position that since he had granted the petition of Frank's attorneys to appear before the court to argue in favor of granting a writ of habeas corpus in Frank's behalf, the matter had passed from him to the court itself. Mr. Brylawski then laid the matter before Chief Justice White in chambers and the members of the court determined before proceeding to the court room that the application of Mr. Brylawski should be granted.

It is understood that Mr. Brylawski produced a letter from Frank's custodian, the Sheriff of Fulton County, Ga., indicating that he desired to have the support of the Supreme Court in protecting Frank from any possible menace pending the Supreme Court's decision on habeas corpus proceeding. It was supposed at the time Justice Lamar allowed the appeal in behalf of Frank that the service of notice on the Sheriff of Fulton County that this action had been taken was in itself a stay of the order of Frank's execution, and that a specific order by the court was not necessary. Today's order was issued, however, on the understanding that the Sheriff desired a specific order, not only for his own protection from any effort to do harm to Frank on the part of a mob, but from carrying out the decree of the Georgia court for Frank's execution.

The order issued by the court on Mr. Brylawski's motion is comprehensive. It supersedes the order of the Georgia court for Frank's execution. The order of the Supreme Court directs that no further steps be taken under the judgment by virtue of which Frank was placed in the custody of C. C. Wheeler Mangum, Sheriff of Fulton County, Ga.; that Sheriff Mangum continue to keep Frank in custody, and particularly that the Sheriff shall not proceed to carry out the sentence of death, which the court suspends, until further directions from the Supreme Court.

The protection granted to Frank today recalls the case of Sheriff Shipp of Chattanooga, Tenn. A prisoner in Sheriff Shipp's custody had taken his case on appeal to the Supreme Court of the United States and while the case was pending there the prisoner was lynched by a mob. Sheriff Shipp and persons alleged to have been members of the lynching party were arrested by order of the Supreme Court on the charge of being in contempt of that body, in the case of the Sheriff in having failed to give adequate protection and with reference to the others in having been responsible for the prisoner's death. James D. Maher, the present Clerk of the Supreme Court, was sent to Chattanooga to take testimony in the matter. As a result of the investigation Sheriff Shipp and others accused were brought before the bar of the Supreme Court and sentenced to prison for contempt.

Sheriff Mangum of Fulton County, Ga., is now in a position to decline to carry out the order of the Georgia court for Frank's execution. Furthermore, any attempt to do harm to Frank will place those responsible for it in contempt of the highest tribunal in the land, which has the power to inflict punishment for violation of its orders.

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