

AFFIDAVIT BY WIFE AT FRANK HEARING

Will Detail His Movements on
Day of Murder—Her Testi-
mony Barred at Trial.

MAY HEAR FRANK HIMSELF

Ignoring Precedent, Counsel Will Of-
fer Him as Witness—Expert Puts
"Murder Notes" on Conley Alone.

ATLANTA, Ga., May 26.—When the State Prison Commission meets here next Monday to consider the application for clemency in the case of Leo M. Frank, under sentence of death for the murder of Mary Phagan, an affidavit by Frank's wife detailing her knowledge of her husband's movements and actions on the day of the murder will be presented to the board. This was announced today by W. M. Howard, who will have charge of Frank's petition. Mrs. Frank was not permitted under State law to testify at the trial.

Frank also will be tendered as a witness by his counsel, it was stated. When asked today if Frank would be heard a member of the commission stated that no applicant for a pardon or commutation ever had been allowed to appear in such proceedings, and he was not prepared to say whether the precedent would be broken in Frank's case.

Albert S. Osborn, a handwriting expert of New York City, who examined the notes found beside the body of Mary Phagan, has submitted to the State Prison Commission and the Governor a detailed analytical report of his examination. These notes purported to describe the murderer. They were written by the negro Jim Conley, and they described as the murderer a negro of characteristics opposite to those of Conley. The latter testified that he wrote the "murderer notes" at the dictation of Leo M. Frank.

Mr. Osborn, in his report to the State authorities, considers the notes as one, and sums up his conclusions thus:

Conley Had No Guidance.

"It seems to me that when the illegibility, incoherence, repetition, and uncertainty of the communication are considered, it is perfectly clear that James Conley did not have intelligent assistance in writing the document, and I think the document and its primary conception, its penmanship, its arrangement, its appearance, the material used in its construction, its choice of words, its ideas, its grammar, are all consistent and point to the operation of but one mind and that the mind of James Conley. It frequently occurs in documents of this kind that the ideas expressed and the language employed are highly inconsistent with the spelling and the appearance of the paper, showing that an intelligent person was assuming illiteracy, but this document is clumsy and uncouth in every way."

Mr. Osborn accompanies his report with a letter fully setting forth his connection with the case. He was employed, he points out, by Solicitor General Hugh M. Dorsey to make an examination of the notes. On June 17, 1913, before the Frank trial, he made a report to Mr. Dorsey, saying the notes might have been written at the suggestion or with the collusion of Frank. Subsequent study, however, has convinced him, he says, that Conley had no assistance. Mr. Osborn submits his report to the Prison Commission and the Governor, with the personal permission of Mr. Dorsey.

The significance of his conclusion, of course, lies in its conflict with the testimony of the negro, Conley, who swore Frank suggested and dictated the notes, sitting with him at the same table with him in Frank's office while he wrote them.

There had been some mystery about the report that Mr. Osborn made to Mr. Dorsey in regard to the note. It was known that Dorsey had the Osborn report during the trial of Frank, but he made no use of it, and it was intimated then that the report did not sustain Conley's story that the notes were dictated to him by Frank.

Dorsey Enters a Protest.

Following custom, the State Prison Commission notified Solicitor General Dorsey several days ago of the plea for commutation to life imprisonment in the Frank case, and asked him if he had anything to say on the subject. Mr. Dorsey has replied to Chairman R. E. Davison, setting forth his reasons for entering a protest against commutation of the death sentence.

Chairman Davison refuses to make public the Dorsey letter at this time. It is understood, however, that it constitutes a complete brief of the case, showing its progress through the courts, and declares that, if anything is done at all in the way of executive clemency, it should be the granting of a full pardon over the action of all the courts, and not a commutation of the sentence.

Mr. Dorsey refused to discuss the letter. It is thought now that the Solicitor General will oppose commutation. On the other hand some of the most prominent lawyers in the State are urging clemency.

A list compiled by Frank contains the names of Ronald Ransome, a son-in-law of Senator Hoke Smith; Marion Smith, son of the Senator; Hollins Randolph,

Judge Richard B. Russell of the Court of Appeals, Judge Andrew Cobb of Athens, Judge Arthur Powell, Judge Fred Foster of Madison, ex-Congressman William M. Howard, Congressman William Schley Howard, Senator Thomas Hardwick, M. J. Yeomans of Dawson, Jerome Simmons, Thomas Hammond, Joe Hill Hall of Macon, A. S. Howard, and Bartow Willingham of Forsyth, Ga.

Samuel B. Adams of Savannah, a former member of the Georgia Supreme Court, will head a large delegation from that city, which will appear before the Prison Board in Frank's behalf.

The brief to be presented by Frank's counsel to the Prison Board and Governor will be in readiness by Saturday night. It is a minute chronology of the case. The three basic reasons for the appeal are given as, (1) the doubt of Judge Roan as to Frank's guilt, as expressed when he denied the first motion for a new trial several months following the original verdict; (2) the dissenting opinion by Chief Justice Fish and Justice Beck of the Georgia Supreme Court; and (3) the dissent of Justice Hughes and Justice Holmes of the United States Supreme Court.

The Prison Commission to-day received a petition from the Georgia Society of New York, urging that Frank's sentence be commuted.