Frank's Hearing Ends; Commission to Make Recommendation Soon The Atlanta; Jun 1, 1915; ProQuest Historical Newspapers Atlanta Constitution (1868 - 1945) pg. 1

Frank's Hearing Ends; Commission to Make Recommendation, Soon

With the Words, "We Have Perfect Confidence Frank Will Not Hang," Ex-Congressman William M. Howard Closes His Appeal for the Prisoner.

NO COUNTER SHOWING MADE BY PROSECUTION AGAINST COMMUTATION

Ex-Governor Foss, T. N. Higginbotham, Dr. J. W. Coughlin, Former Mayor of Fall River, Mass.; Mrs. Fisher, of Chicago, and Others Ask for Commutation - Coroner Donehoo Asks Clemency.

When the prosecution failed to make a counter showing against the appeal for commutation for Leo M. Frank, the hearing before the state prison commission came to a surprisingly early close Monday afternoon at 5-0'clock. In closing Attorney William M. Howard pointed to the mass of data and petitions piled up before the three commissioners and said:

"We ask clemency in the name of grace and in the name of mercy. Our appeal is based on a doubt inherent in the very nature of the case. We refer that mass of record and petition to you. We have perfect confidence that Leo Frank will not hang. Your humanitarian instincts will not permit."

A long list of national notables appeared before the commission during the afternoon to protest against the execution of the doomed man. Among them was ex-Governor Eugene N. Foss, of Massachusetts, which state had two more men of prominence to press the Frank appeal. Governor Foss had come voluntarily, while Ernest H. Gruening, managing editor of The Boston Traveler, and Dr. J. W. Coughlin, former mayor of Fall River, composed a committee for represent the thousands who had signed the Massachusetts petition.

Render Decision Soon.

Render Decision Soon.

It was stated by members of the commission at the close of the hearing that the time in which their verdict would be rendered would not exceed ten days, and would probably be within the next four or five.

But little time was occupled by the argument of Mr. Howard, who stated that argument, in view of the evidence introduced, would be superfluous and unnecessary. The opening words of his address were devoted to a resume of the notes, in which he sought to show why they were written by the negro instead of Frank.

"It can be shown by the letters Conley wrote to Annie Maude Carter in prison," he said, "that Conley was the sole author of the death notes found beside the body. If we believe that Frank dictated the notes, it is but to believe that he sought to transmute his own mind into that of the negro, so as to make it appear that the negros mind created the contents of the notes. "But the mind behind the murder notes belonged to the hand that wrote them—and it is acknowledged by Conley, himself, that he wrote them. There is not a single trait of the educated white mind in the notes—nothing but the degradation of the low, base negro is disclosed. We have the word of the state's own handwriting expert to that effect.

Doult Warrants Commutation.

Doubt Warrants Commutation

"The element of doubt, alone, is sufficient to warrant commutation. And the letter of the trial justice, Judge lloan, is sufficient to establish doubt enough to warrant such action. No argument will be attempted in results of the case—they argument -dd -an --an -

argument will be attempted in reviewing the merits of the case—they stand for themselves—an argument would be a waste of time.

"There is no limitation to the power of the governor to pardon, respite or commute. But before he can act, there must be an investigation and recommendation from you. the power respite or mendation

mendation from you.

"The power to pardon comes from our English ancestors. It is commensurate with the power of the king, and it is still as big in Georgia as it is in England. The power of pardon is the exercise of an act of grace, and the only restriction is that it shall be exerted in the interest and welfare of the state. And the exertion of this power does not discredit the courts; neither does it put its exponents in an attitude of antagonism or hostility toward the courts.

ol a... courts. "The power of antagonam of courts.

"The power to set aside a statutory procedure, such as has preceded us in the Frank case, is a power with which you and the governor have been endowed directly by the people, while statutory laws are created indirectly by the people. It is a constitutional power, and all constitutional authority is given you by the people directly. "In this instance you are not asked to set aside or disregard any law—you are only asked to set aside a verdict that might be of inconceivable injury and substitute a verdict that will be of more judicial benefit to the man involved and the commonwealth.

of more judicial benefit to th involved and the commonwealth.

Ask for Recommendation

involved and the Salar Involved and the Salar Involved and the original jury would have exercised if it had recommended mercy at the time it returned the verdict of guilty against Frank. We ask such a recommendation in the names of grace and mercy. Our appeal is based on a doubt inherent in the very nature of the case. "We refer this bulk of record to you with perfect confidence. We have not sought to criticise or discredit. We how with humble deference to every

with perfect confidence. We have not sought to criticise or discredit. We bow with humble deference to every step of statutory procedure of which we are the victims.

"This case has not a parallel in judiwe are the victims. • This case has not a parallel in judi-cial annals of this state. Conley has been believed rather than us, and we

Continued on Page Four.

LEO M. FRANK'S HEARING ENDS

have been doubted. That is the sum of the entire case. Never before in the history of this state has there been an

Continued From Page One.

of the entire case. Never before in the history of this state has there been an instance where a low, vicious negre has been believed against the character and testimony of exemplary whites. "And it is the instinct that revolts against just such circumstances that has brought the wealth of character to our aid from communities all over the nation. It is an American instinct that rebels against such a horror, and the possibility of even a greater horror that we humbly ask you to intercept." Fall River's former mayor, Mr. Coughlin, paid a tribute to the esteem in which Georgia courts and people have been held by people of the north when he was introduced to the prison commission as one of the appellants for Frank's commutation.

"Oh May 26," he said, "the largest crowd that ever filled Fanuel hall, that historic stadium of Boston, gathered to protest against the proposed hanging of Frank, a man possibly innocent. Thousands of names were put upon petitions which I have brought with me.

Presse for Courts.

"The courts of Georgia were regaided as sacred by the world. The neople of Atlanta were regarded as warmhearted, fair-minded people, who would never intentionally harm a man. I know many distinguished Georgians, and it has been my extreme good fortune since 1880 to be constantly associated with some of your most esteemed men.

men.
"I never have and cannot now believe I could nistake the character of these noble Georgians, who are but representative types of your entire citizenry, and I feel my confidence in them amply upheld by the brilliant manner

in which the people of the state have come forward here to plead the cause of justice.

"And I am likewise proud of the womanhood of Georgia, and I can see why men of this portion of the country revers and love their women. There is no doubt that 'he heart of woman lies behind much of the real effort that has been put forward toward the ends of justice in this case."

The appeal of a woman, who declared that she came in behalf of 200,000 women who made only the woman's plea—mercy—brought tears into the eyes of Mrs. Leo M. Frank, wife of the convicted man, who, with his mother and father. Mr. and Mrs. M. Frank, attended both sessions of the hearing.

Mrs. Fisher's Plea.

The speaker was Mrs. Mary DeLaney

The speaker was Mrs. Mary DeLaney Fisher, a writer of Chicago, who came with the delegation from that city. She was the only woman appellant at the hearing

hearing.

"We women know nothing of argument," she said briefly, and with a trace of feeling in her words, "and we know nothing of law. Men 2ay we have no reason, and we don't. Pally boast much, but we have a fund of feeling that makes up for a lack of anything else. We can discern justice, and the 200,000 women I represent beg of you to hear woman's greatest plea—for mercy."

A surprising turn was taken in the

mercy."

A surprising turn was taken in the hearing when a letter recommending commutation for Frank was read from Coroner Paul Dorehoo, under whose supervision the coroner's jury, in the early stages of the Frank case, had remanded the white man to prison to await action from the grand jury.

Bonehoo's Letter.

The letter, it was learned from the coroner, had not been sent directly to the board of commissioners, but had been mailed to Leonard J. Grossman, a young attorney, in sympathy with the Frank movement. It follows in full:

May 21, 1915.

Mr. Leonard J. Grossman, Candler Building. Atlanta, Ga. Atlanta, Caloura Atlanta, Ga. A

The Dear Leonard—Referring in the versation of a few days ago, and your request that I write a public letter expressing myself as favorable to elemency for Leo M. Frank.

I am not sure that such a letter from me would do Mr. Frank any good whatever, nor am I sure that the writing of such a letter would be wise from my own standpoint. Personally, however, I have never made up my mind definitely that Mr. Frank is guility of the murder of Mary Phagan. On the contrary, there is so strong a doubt lingering in my mind on the point, that I should feel very badly indeed to stand by and see him hanged. I have no newly-discovered evidence upon which I base my doubt of his guilt, which, I am frank to say, amounts to a positive belief in his innocence. I am simply not convicted by all that I have been able to learn of the case that he is guilty. When I examined him at the Mary Phagan inquest, he was more than necessarily open and free in his testimony, and this spirit on his part has always appealed to me as entirely inconsistent with the theory of his guilt.

As I stated, I do not feel that it would be wise for me to write a letter of the character requested; but if my opinion carrios any weight, I am anxious that Mr. Frank should have the benefit of it, and I am therefore writing this, giving you the privilege of using it as you see fit. I have no objection to its being used before the privilege of using it as you see fit. I have no objection to fits being used before the privilege of using it as you see fit. I have no objection to fits being used before the privilege of using it as you see fit. I have no objection to fits being used before the privilege of using it as you see fit. I have no objection to fits being used before the privilege of using it as you see fit. I have no objection to fits being used before the privilege of using it as you see fit. I have no objection to fits being used before the privilege of using it as you see fit. I have the utmost confidence.

Verv fruly vours.

PAUL DONEHOO.

Governor Foss' Appeal.

The appeal of ex-Governor Foss was confined largely to a tribute to Frank's character at the time he was employed in the engineering department of one of the former executive's manufacturing plants in Boston.

"When Frank left college," he said "he was employed in the engineering department of one of my plants. I did not know him, but the men in the factory spoke highly of him, recommending him as a man of exemplary character, sterling habits, studious and painstaking. His pastor in Boston also paid him a tribute, and from all I could learn of him he was not a man to commit such a heinous crime for which he has been convicted."

The petition of the Evangelical Ministers' association was presented by Dr. John E. White, Rev. Richard Orme Flinn, Dr. C. B. Wilmer and W. Woods White. It contained the other names of Dr. Jacob L. White, Rev. A. R. Holderby, Rev. J. A. Moore, Rev. J. F. Huff, Rev. C. Lewis Fowler, Rev. Fritz Rothensburg, Rev. W. E. Hill, Rev. G. R. Buford, Rev. A. M. Hewlett and Rev. Russell K. Smith.

Ministers' Petition.

Ministers' Petition.

The petition, in full, follows:
To the Honorabie Prison Commission and
His Excellency the Governor of the State
of Georgia: As ministers of the gospel and
residents of Atlanta and citizens of Georgia,
we, the undersigned, in the exercise of our
conscience, herewith present to the honorable prison commission of Georgia and his
excellency, the governor of Georgia, petition for the commutation of the sentence
to death of Leo M. Frank.

We desire to state that we are moved to
this petition through no connection, whatever, with other similar movements, but
wholly in the execuse of our sense of obligation to justice and the welfare of Georgia. Without touching upon many of the
features of the case which could be urged
from legal and other standpoints, we confine ourselves respectfully to five statements, expressing our conscience in this
case.

FIRST.

Reproduced with permission of the copyright owner. Further reproduction prohibited without permission.

received from him during our conversation.

I will not undertake to quote his words but the following are a few of the impressions which were made upon me by his conversation.

The impressions conveyed were that a spirit of mob vilolence permeated the whole atmosphere of Atlanta, and even entered the court room pon the annifested itself in various ways, and that it was totally beyond the power of any mile was that I received from ditions, which were also had under these conditions, which was that Frank and accounted for every moment of his time on the day of the murder, except a few minutes, and that in the morning and afternoon Frank kept a very intricate set of books in perfect shape, and he coundited the order on him that Conley was there that morning and and of Frank's disposition to conceve into a man of Frank's disposition to conceve into a was drinking, and that as the little girl came downstairs the negro could have killed her and hidden her body.

And further that the crime taken as a whole, did not impress him as being a white man's crime, but more likely the crime of a negro.

He further left the impression upon me that the statement which he made at the time the motion for new trial was refused, did not explain fully his feelings on the subject, but that since the jury had passed upon the evidence, it was not his duty to do so, but that the evidence itself taken as a whole, left grave doubt in his mind as to Frank's guilt; and that in passing upon the motion for new trial, he only considered the errors of law, and did not pass himself upon the evidence, it was not his duty to do so, but that the supreme court would grant Frank a new trial, not hat this would be better for Frank than for him to do it. He also made the impression upon me that the case rested upon circumstantial evidence, furnished by a negro by the name of Jim Conley, and that Conley had made four different from w

Judge O'Connor Speaks.

Judge O'Connor Speaks.

Judge Joseph M. O'Connor, presiding justice of the criminal branch of Cook county court, Illinois, in which county Chicago is situated, was one of the speakers of the afternoon. He prefaced his address with a telegram in appeal for commutation from Governor Dunne, of Illinois. He presented petitions from Kentucky, Iowa, Wisconsin, Indiana, Illinois, Montana, Idaho, California, Minnesota, Tennessee, Texas, Minnesota.

"There hasn't a single judge in the circuit of justices who have passed on the Frank case who have expressed a belief or opinion of guilty," he said "But we neither plead the question of guilt or innocence; we piead only the element of doubt."

Among the other Chicago representatives were T. N. Higginbotham and W. L. Bauer, the former one of that city's most noted philanthropists, and the latter the secretary of the Leo M. Frank committee of Illinois.

"Don't leave the Frank case for history to correct—it can never correct. Correct it and make judicial history," pleaded Mr. Higginbotham.

Georgia Cuites Append.

Correct it and make judicial history," pleaded Mr. Higginbotham.

Georgia Cities Appeas.

During course of the session Attorney Alexander presented petitions from the following Georgia cities: Baxley, Bainbridge, Abany, Athens, Alington, Americus, Barnesville, Bishop, Blakeley, Brunswick, Buford, Buther, Calhoun, Cartersville, Cedartown, Claxton, Columbus, Cordele, Covington, Dalton, Darien, Dawson, Dublin, Douglas, Eastman, Eatonton, Elberton, Forsyth, Fitzgerald, Gainesville, Hawkinsville, Hampton, Hazelhurst, Jackson, Jesup, Jeffersonville, Kirkwood, LaGrange, Loulsville, Lumpkin, Macon, Madison, Meigs, McDonough, Milledgeville Morgantown, Monroe, Moultrie, Newnan, Nichols, Oakland, Roberta, Rome, Savannah, Simpson, Social Circle, Statenville, Stillmore, Tailbotton, Tallapoosa, Tifton, Vienna, Villa Rica, Washington, West Point, Whitesburg and Wrightsville.

At the morning session of the prison commission, one of the first documents

West Point, Whitesburg and Wrightsville.

At the morning session of the prison commission, one of the first documents presented to that body in support of the claims of Leo M. Frank for a commutation of his sentence to life imprisonment was a letter from the late Judge I. S. Roan, in which he said there was still doubt in his mind as to Frank's guilt, and he stated that he would ask for a commutation of the sentence. His letter follows:
"North Adams, Mass., December, 1914.
"Rosser & Brandon and R. R. Arnold, "Attorneys for Leo M. Frank.
Gentlemen:

Ministers' Petition.

The petition in full, follows:
To the Honorable Prison Commission and
His Excellency the Governor of the State
of Georgia: As ministers of the gospel and
residents of Atlania and citizens of Georgia,
we, the undersigned, in the exercise of our
conceleration for Georgia and particular to the following the conceleration of Georgia and particular to the commission of Georgia and particular to the commission of Georgia and particular movements, but
when the other similar movements, but
who did not been stated and the welfare of Georgia
did not justice and the melfare of Georgia
did not justice and the mental of the melfare of the sentence
in the integrity and patriotic service of the georgia part of the georgia part of the georgia part of the georgia p

Mrs. Leo M. Frank's Ples.

Mrs. Leo M. Frank, who had not been at any stage of the hearing, allowed to make a statement in her husband's behalf, appeared before the commission and filed the following statement:

Mr. Frank first came to Atlanta on August 6, 1908. About August 8 he took up his residence at No. 93 East Georgia avenue, at the home of my aunt, Mrs. J. Selig.

At this time I lived with my parents, at No. 68 East Georgia avenue.

I met Mr. Frank for the first time about a week after he arrived in Atlanta. In May, 1909, we became engaged to be married and were married on November 30, 1910.

I am a Georgia girl, having been born and reared in Atlanta, and have lived in Atlanta all of my life. My mother likewise is, having been born in Dalton, Ga., and has lived all of her life in Georgia. All of the relations of my generation, boys and girls, were born in Georgia, and from my association with them I was accustomed to the deference and courteous treatment which is characteristic of the southerner in general, and Georgia in particular.

With the ideals which I had, and which had head head beautened in me from girlhood,

boys and girls, were born in Georgia, and from my association with them I was accustomed to the deference and courteous treatment which is characteristic of the southerner in general, and Georgia in particular.

With the ideals which I had, and which had been inculcated in me from girlhood, I expected in my husband nothing less than that to which I had been accustomed, and to which every woman looks forward, and which I fully realized in my husband.

Married Life Was Happy.

When not occupied with his business, the only time he spent away from me was when he was the spent away from me was when he was the spent away from me was when he was the spent away from home about once or twice menth.

Our married life has boene exceedingly happy, and has never headenn and ever families have allightest cloud. He was regarded and loved by my parents as a son; any was always courteous, gentle and most respectful in his relations with them, and our families have always been on intimate terms.

When my husband was first arroated on this charge, and was detained at police headquarters on Tuerday. April 29, 1913, I hurried to the police harracks, on Decatur street, as soon as I heard of it, accompanied by my father and brother-in-law. I was not allowed to ke up to see my husband, and remained in the office of the probation officer, from whence my friends prevailed on me to return home. Being assured that my husband would be released at any moment, I remained at home, but as soon as it became apparent that he would be detained indefinitely I went to him immediately, and have been going to him every day since, and spend most of the day with him in jail.

On the 26th of April, 1918, my mother and I had tickets for the matinee to grand opera, and in order to get there on time we sat down to the table at 1:10, before my husband came home to dinner, and at about 1:15 faiter came in, and in about five minutes my husband already there. There was nothing unsual in his manner or appearance to attract my attention. That evening, after supp

Frank Told of Slaying.

Frank Told of Sinying.

When I opened the door, Boots Rogers and John Black were there. Of course, at that time, I did not know who they were, I asked them what was the matter, and they said someone had been killed in the factory and they then told me what they knew about it. After a minute or two my husband came down and Joined us at the front door.

They asked him if he knew Mary Phagan, and he told them that he did not. They then asked him if a little girl had not come to the office to get her money the preceding day, and he said that he did remember such a girl, but that he did not know her name. They then said they wanted him to come with them right away to the factory. I wanted them to let him have his breakfast first, but they refused. I then asked if they would not let him have at least a cup of coffee, but they refused that also. It was I, and not he, that asked for the coffee.

Story of Husband False.

As to the affdavit reputed to have been made by Minola blcknight, on June 3, 1913, the statement that I ever fold my mother that my husband did not rest good that night; that he was drunk, and that he made me sleep on the floor, and all the rest of it is absolutely false in every particular. No such thing ever occurred a that time or at any other time, and I never made such a stetement to anybody. That whole story is false from beginning to end.

From a mass of letters Read.

would ask Attorney Harry A. Alexander to announce the names of Frank's official representatives before the commission. Attorney Alexander rose and said: "William M. Howard and Harry A. Alexander."

Mr. Howard then opened the argument by reading Frank's petition for a commutation.

This done, Mr. Howard commented on various items in the list of documentary evidence submitted.

Mrs. Leo M. Frank's Ples.

Mrs. Leo M. Frank, who had not been, Mrs. Leo M. Frank who had