

STATE WILL WAIT FOR U. S. MANDATE IN CASE OF FRANK

Supreme Court Has Right
to Modify Decision in Any
Fashion It Pleases Within
Thirty Days.

**WILL PASS SENTENCE
WHEN MANDATE COMES**

At That Time State Auto-
matically Resumes Juris-
diction of the Case—Pa-
pers Expected by May 20.

Judge Ben Hill decided yesterday afternoon that not until he had received the official mandate of the supreme court in Washington would he grant the writ of habeas corpus applied for by Solicitor Hugh M. Dorsey in an effort to have Leo Frank brought before Judge Hill for passage of a new death sentence.

In this connection the interesting statement was made by Judge Hill that the United States supreme court, within the thirty days it officially withholds its mandate from the superior court, can affirm or modify in any manner its decision in the case in question. In short, the supreme court, if it deemed it proper, can, between now and May 20, revoke its decision in the Frank case, or modify it, or reconstruct it in any form it sees advisable.

Asked for Resentence.

"The application for the writ of habeas corpus presented to me by Solicitor Dorsey this morning," said Judge Hill late Monday afternoon, "requested me to direct the sheriff to bring Leo Frank before the court for the purpose of fixing the date for execution of the sentence passed upon him by Judge Roan.

"The solicitor did not request me to consider any immediate action in reference to the application for writ of habeas corpus, leaving the matter to the discretion of the judge. I will not consider the application for the writ until I have received formal notice from the United States supreme court that the judgment of Federal Judge Newman has been confirmed, and the remittitur of the United States supreme court has been received and filed in the United States district court.

State Resumes Charge.

"When this process has been completed, the state court automatically resumes jurisdiction of the case, which was temporarily suspended while the case was in the United States courts on appeal. When that is done I will grant the writ of habeas corpus directing Frank before the courts for fixing of new sentence."

Under the rule of the United States supreme court the decision in the Frank case will be held in Washington for thirty days before the superior court of Fulton county is officially notified of it. Until the expiration of thirty days, the supreme court has the right, either with or without an application for rehearing, to change or modify their verdict in any manner.