

# APPEAL FOR FRANK IN MURDER CASE

**Convicted Man's Lawyers Ask  
Georgia Supreme Court for a  
Rehearing of Arguments.**

## WITNESSES HAVE RECANTED

**And New Evidence Is Hinted—Con-  
ley, the Negro, Convicted of  
Being an Accessory.**

*Special to The New York Times.*

ATLANTA, Ga., Feb. 24.—Counsel for Leo Frank, who has been convicted of the murder of Mary Phagan, filed a motion for the rehearing of arguments in the case before the State Supreme Court to-day. Almost at the same time the negro, Jim Conley, the principal witness against Frank, on trial here as an accessory after the fact in the Phagan murder, was convicted of the charge and sentenced to twelve months in the chain gang.

Solicitor Dorsey clearly indicated his personal desire that Conley be set free, but under the law he was bound to prosecute "when Leo Frank was found guilty."

"Conley had nothing to do with the murder," he said. "He was just Frank's tool, and he ought not to be punished."

Frank's attorneys, in their motion for a rehearing, cited twenty-one grounds on behalf of a reconsideration of the lower court's verdict. They contended that the higher court, in handing down its recent unfavorable opinion, overlooked material points in the written and oral arguments made by the attorneys for the defendant.

Frank's attorneys also alleged that material errors were made by Judge Roan at the trial of Frank, which the Supreme Court in its main opinion also overlooked. They emphasized the outbreaks against Frank at the trial and asserted that in the circumstances a fair trial was impossible.

There will be no oral argument on the motion for a rehearing. The Judges may announce their ruling at any time.

In the event of an unfavorable decision Frank's lawyers are expected to file an extraordinary motion for a new trial on the ground of newly discovered evidence. They will cite Dr. Harris's statement, the repudiation of his testimony

by Albert McKnight, and a number of other points not yet made public.

Frank's lawyers assert they have other affidavits from witnesses repudiating evidence they gave against Frank. Albert McKnight, the negro who swore against Frank at the trial, and who, last Saturday, made affidavit that he perjured himself, is being sought by Solicitor Dorsey's detectives, but cannot be found. There are rumors that McKnight has been spirited away.

Search is also being made for Mrs. Nina Formby, who is said to have sworn in an affidavit that she was inveigled by the police into swearing to a "scandalous story" against Leo Frank. The police say Mrs. Formby has been residing in New York for the last several months, and believe that she vanished from Atlanta as soon as she made the alleged affidavit. Her address in New York is said to be 211 West 201st Street.

Solicitor General Dorsey comments rather strongly on the disappearance of witnesses who, it is alleged, have repudiated evidence they gave against Frank.

Investigation last night showed that there was a vacant lot at the reported address of Mrs. Nina Formby in this city, 211 West 201st Street.

## BURKE CALLS ON MARSHALL

**Panama Commissary Says He Does  
Not Fear Charges.**

Ex-Judge Lorin C. Collins of the Supreme Court of the Panama Canal Zone and John Burke, the suspended manager of the Commissary Department of the Panama Railroad Company, saw United States District Attorney Marshall yesterday in his office in the Federal Building. Burke is alleged to have accepted bonuses from companies which had contracts for furnishing supplies on the Canal Zone. Under direction of Attorney General McReynolds, Mr. Marshall is making a thorough investigation of the matter, to see if the alleged crime had been committed within the Southern District of New York.

Ex-Judge Collins told Mr. Marshall yesterday that his client was anxious to furnish the Government with all the information in his power, and that he had nothing to fear from an investigation of the bribery and corruption charges. Then Mr. Collins left for New Mexico and Mr. Burke for Indianapolis. Local counsel will be engaged to look after Burke's interests.

More documentary evidence in the case is expected by District Attorney Marshall from the Isthmus by this week's mail.

## Initiate McKay in Honor Legion.

Police Commissioner Douglas I. McKay was initiated into the Honor Legion of the Police Department last night at Police Headquarters. He was the first Commissioner to undergo a regular initiation ceremony, and he was greeted with enthusiasm as he discarded a rose from his coat to pin on the button of the Legion. His only claim to regular membership, he said, was a newspaper story about his stopping an incipient runaway in Fifth Avenue when a Deputy Commissioner.