

FRANK CAN APPEAL AGAIN, SAYS LAWYER

Mob Influence on Trial Not Passed Upon by Supreme Court, Alexander Points Out.

WRIT OF ERROR THE WAY

United States District Attorney Says Relief Granted Would Take Form of New Trial.

Special to The New York Times.

ATLANTA, Ga., Dec. 14.—That Leo M. Frank still has a ground of appeal to the Supreme Court of the United States on a writ of error was the opinion expressed by Hooper Alexander, United States District Attorney, in an address before the students of the Atlanta Law School this afternoon.

Mr. Alexander, an authority on constitutional law, was lecturing on the "due process" clause of the Fourteenth Amendment to the Constitution, and explained why the United States Supreme Court had rejected the recent Frank appeal.

He said the court simply conceded the prior right of the Georgia Supreme Court to define what "due process of law" in this State should be in regard to the manner and time of making appeals from the decisions of the lower courts. He then declared he believed that Frank yet had a right of appeal in bringing up the question of the influence of the crowd at the trial.

"I do not know whether this point was set forth in proper form in the original motion for a new trial, which was turned down by the Georgia Supreme Court," said Mr. Alexander, "but if it was so raised, and if the time for obtaining a writ of error on that first decision has not yet expired—and I do not believe it has expired—then, in my opinion, Leo M. Frank can take his case before the United States Supreme Court on a writ of error from the first Georgia decision.

"If the United States Supreme Court favorably considered such an appeal, it would result, not in setting Frank free, as the first appeal to the Federal court would have done, but in granting a new trial to Frank on the ground that he had not been granted 'due process of law' at his first trial."

THE PRESS ON FRANK CASE.

Widespread Editorial Opinion That Justice Has Not Been Done.

THE TIMES presents herewith additional editorial comment on the Frank case taken from the columns of contemporaries:

Entire Nation Behind Frank.

From The Houston Chronicle.

There is in the heart of the American people an inherent love of justice and fair play, and they are stirred with indignation if they believe any citizen has not received a square deal in the courts. The case of Leo M. Frank strikingly illustrates the truth of this statement. He is a young, poor, obscure Jew. He seems to have no "pull" or political or social influence. He is just one of millions of ordinary men of his rank and station in life, yet because the idea has taken possession of the press and the popular mind that he has not had a fair trial, and that there is grave—very grave—doubt of his guilt, the press of the nation and the people are stirred in his behalf.

One human life among the teeming millions of lives is but a drop in the great ocean of humanity, but when that life is threatened to be taken upon evidence the Judge who sat in the temple of justice did not believe, and

in pursuance of a verdict which it has been stated without contradiction he refused to give his assent to, it is no wonder that a people who love justice and who are jealous of the rights of men should rise in protest.

There is a natural instinct of justice and square dealing in the average human heart, and when the people and press of an entire nation as with one impulse array themselves on the side of a humble, obscure defendant it is strong evidence that their instinct has not erred.

No result of the working of any human agency, every one of which is inherently fallible, is as horrible to contemplate as the taking of the life of an innocent man according to the rigid formula of the law. One such instance will do more harm to the administration of the criminal law than a thousand improper acquittals. If Georgia hangs Leo Frank, confidence in her courts will be destroyed, never to be restored.

Machine-Made Justice.

From The Cleveland Leader.

Probably the statement made by Leo M. Frank in the Fulton County Court of Georgia, just before sentence of death was passed upon him last Wednesday, was prepared by one of his attorneys. It is too formal, studied, and devoid of the personal note of despair and anguish to reflect the feelings and thoughts of a man about to be condemned to the gibbet, unless that man lived on a higher intellectual and philosophical plane than Frank seems to have occupied.

Yet that statement fittingly forms the climax of one of the most remarkable cases in the history of the American courts. It will be read throughout the land, and will undoubtedly add much to the strong conviction overspreading the country that here is an aggravated case of the miscarriage of justice, of which the United States system of jurisprudence has already had too many instances.

Frank may be guilty, but the probability that he was not given a fair trial is indicated too strongly to be ignored.

It should have mattered little whether Frank's attorneys blundered or not—the court system is dangerously defective when it permits such an unimportant thing to produce the outcome that has been reached in this case.

Denial of a new trial to Frank is as alarming an instance of some of the court "justice" ground out by the American machine method as has occurred in years.

Would Be Judicial Murder.

From The Chicago Journal.

Leo Frank has been sentenced to hang Jan. 22, 1915. If this sentence is carried out, the State of Georgia will be guilty of judicial murder.

Frank was condemned on testimony that ought not to convict a yellow dog of stealing a bone. More than all, the trial took place in the midst of a mob thirsty for Frank's blood; every man who intimated his belief in Frank's innocence received anonymous threats, and the whole city of Atlanta seemed imbued with the idea that the execution of this "Northern Jew" was necessary to the protection of girls like the murdered Mary Phagan.

All judicial safeguards have failed Frank in his hour of peril. There remains only executive clemency, and it is to be hoped this will be granted. It is not necessary to believe in Frank's innocence to protest against his execution, though 90 per cent. of the lawyers of Atlanta do believe him innocent. It is only essential to recognize the right of any man to a fair trial—which Leo Frank assuredly did not get.

Stubbornness in Georgia.

From The Toledo Blade.

The case of Leo M. Frank, resting under sentence of death in Atlanta, has excited the interest of all the country. While the effect of the airing of the case has been to bring sympathy and aid to Frank, it has, seemingly, had quite another effect upon people in Georgia. A stubbornness has been aroused which is armor-clad against criticism, persuasion, appeal to the sense of fairness. Wholly extraneous things have entered the case, of which a local race prejudice is not the smallest. If Frank dies, Georgians unfriendly to him will not boast the triumph of right—one may almost be certain—but the triumph of the public will.