

# BEGIN LAST FRANK PLEA TO GOVERNOR

**Slaton Goes Deep Into Conley's  
Story, Asking Many Questions  
as Counsel Outlines Case.**

**TO VISIT MURDER SCENE**

**Learns Jury Did Not Go to Fac-  
tory — Ex-Gov. Brown and  
Others Oppose Clemency.**

**MILITIA IS UNDER ARMS**

**Company Marches Past Anti-Frank**

**Mass Meeting After Hearing Is**

**Adjourned Until Monday.**

*Special to The New York Times.*

ATLANTA, Ga., June 12.—Governor John M. Slaton will visit the National Pencil factory to thoroughly acquaint himself with the physical features of the building in which Mary Phagan met her death on April 26, 1913. He announced this today at the hearing before him on the petition of Leo M. Frank for commutation of sentence from death to life imprisonment. The Governor then invited counsel for both sides to accompany him on this visit. By a question the executive asked Solicitor General Hugh M. Dorsey, it was brought out that the jury which convicted Frank never visited the factory.

After three and one-half hours of argument by representatives of both sides, Governor Slaton adjourned the hearing until 9 o'clock Monday morning, when Solicitor Dorsey will make his argument against granting the petition.

A largely attended mass meeting was held on the Capitol grounds at 3 o'clock this afternoon at which resolutions were adopted protesting against commutation for Frank.

The meeting was called to order a short time after Governor Slaton had adjourned the hearing on Frank's plea until Monday. Addresses in opposition to clemency were made by N. F. Evans, Daniel H. Kent, and H. D. Spencer. The cheers that greeted the speakers were heard in Governor Slaton's office and also in Frank's cell in the jail, which is only a block from the Capitol. Many of those who attended the meeting were from other Georgia towns, although the large majority were Atlanta people.

#### **National Guard Under Arms.**

While the mass meeting was in progress a company of the Atlanta National Guard marched by the Capitol grounds. No explanation given for the appearance of the militia, but it was generally understood that Governor Slaton had ordered the troops under arms so that they might be ready in the event of trouble. The mass meeting, however, was orderly, except for vociferous cheering, and the sight of the troops excited no unfavorable comment.

At today's hearing, which was begun at 9 o'clock and ended at 12:30, ex-Congressman William M. Howard of Augusta, outlined the case for Frank and offered the mass of petitions and evidence which the Prison Commission had before it during its consideration of the case. Opposing commutation, Herbert Clay, Solicitor of the Blue Ridge Circuit, followed Mr. Howard, and he was followed by M. M. Sessions, who was elected Chairman of the Marietta mass meeting, called to protest against clemency for Frank. Ex-Governor Joseph M. Brown's argument against clemency brought the day's hearing to a close.

Besides Mr. Howard, Frank was represented by Harry A. Alexander and Leonard Haas of Atlanta, and M. J. Yeomans of Dawson, Ga.

The State was represented by Solicitor Dorsey, Assistant Solicitor E. A. Stephens and several of the attachés of the Solicitor's office.

#### **Disregards Curiosity Seekers.**

The Governor held the hearing in his private office, and admitted as many spectators as the room would comfortably hold. He explained at the start that it had been his custom to hold such hearings in his office, and that he would not vary his custom by moving into a larger room simply to provide entertainment for curiosity seekers. Such a thing, he declared, would lower the dignity of his office, as well as the dignity of the procedure. Then, turning to the lawyers, Governor Slaton began the hearing.

"How will you gentlemen arrange your speeches?" he asked. Solicitor Dorsey said he was not sure that he would make a speech—that this would depend on what the lawyers for Frank had to say in their arguments—but that he would like to have ex-Governor Brown heard at noon, or earlier, and would like to have Major C. E. MacGregor of Warrenton heard Monday at noon, both in opposition to Frank's petition.

Attorney Howard said he would outline his case for the benefit of the Solicitor, and then make his argument in one speech after the State's case was presented. There was a good deal of sparring for position between the Solicitor and Attorney Howard, and while this was in progress it was announced that ex-Governor Brown and a delegation of Marietta citizens were waiting in the anteroom. They were immediately escorted into the private office, ex-Governor Brown heading the procession and being followed by Herbert Clay, Solicitor of the Blue Ridge Circuit, and Representatives-elect John Dorsey and Fred Morris of Cobb County. These three were the speakers for the Marietta delegation that appeared before the Prison Commission in opposition to Frank's petition.

Solicitor Dorsey and ex-Governor Brown held a brief consultation, after which the Solicitor announced that after Mr. Howard had outlined his case, the Solicitor would speak and would be followed by ex-Governor Brown.

#### **Wants all Light Possible.**

Mr. Dorsey asked Governor Slaton if he would have an opportunity to reply if Mr. Howard should introduce matter in his closing speech which he had not outlined in his opening speech. The Governor said he wanted all the light possible on the case, would not confine the hearing to technical rules and

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would, therefore, let Mr. Dorsey reply if the matter were introduced.

Mr. Howard at 9:40 o'clock began his outline of his case. He said:

"I will introduce to your Excellency the following documentary evidence: The brief of evidence at the trial, the motion for a new trial, the bill of exceptions to the overruling of this motion, the dissenting opinion of the two able Justices of the State Supreme Court, the affidavit of Judge Roan as to his statement from the bench that he was not satisfied with Frank's guilt, the affidavit of Mrs. Frank to the Prison Commission, the affidavit of the doctors who examined Frank, the notes written in jail by Jim Conley to Annie Maude Carter, the opinion of Albert S. Osborn, handwriting expert, the petitions to the Prison Board from people in Georgia and other States, asking for a commutation of sentence, and the dissenting opinions of Justices Holmes and Hughes of the United States Supreme Court. These are the only documents we expect to deal with."

Mr. Howard read the affidavits of doctors who examined Frank in which they declared a physical examination disclosed a normal, healthy man and a mental examination a clean, well-balanced mind. Resuming, Mr. Howard said:

"The petitioners assert the absolute innocence of Leo M. Frank, but we only ask a commutation of his sentence. We assert and will contend that it is proved by this record that he did not commit the crime. The relief prayed for does not ask a change of the jury's verdict, but simply a change of the penalty. While this is the prayer of the petition, we recognize the constitutional right and duty of your Excellency, if firmly convinced of the petitioner's innocence, to grant him a full pardon. However, the petition does not impugn the jury's verdict, but simply asks a change of punishment from death to life imprisonment."

"Whatever has been said as to our seeking to impugn the verdict or criticize the judgments in this case is gratuitous and should not be considered. Those who protest that your Excellency has no right to commute this sentence are aside from the fact that the Constitution of the State clothes you with the right."

## Holds Conley Alone Guilty.

"Do you contend that Judge Roan could have fixed this sentence at life imprisonment?" the Governor asked.

Mr. Howard: "Yes, with propriety. My position, your Excellency, taken on the record, is that the evidence established beyond a reasonable doubt the guilt of James Conley. This evidence, construed and interpreted by the law, does not and cannot connect Frank with the murder. Conley, starting with the corpus delicti and pursuing the case to the end, is proved guilty by the record."

"Conley and Frank, contrasted by their conduct, confirm the contention as a matter of law that Conley must be guilty and that Frank cannot be guilty. I will argue that Conley first robbed, then violated, then murdered Mary Phagan. I will argue that the evidence set out in the record by the rules of law, leaves not a single scintilla of evidence to show the guilt of Frank. I will show that even the argument conceived in the zealous mind of the Solicitor does not connect Frank with the crime. I will show that Conley was the author of the murder notes and that legally and evidently he was the author of the murder. I think I can show plain how Conley reached his conclusion to accuse Frank."

"I have already read 221 pages of the record," the Governor interrupted.

"When you speak of Conley having assaulted the girl, how do you reconcile the testimony of Dr. Harris that he found no such evidence?"

Mr. Howard: "We are going to rely on Dr. Harris' own testimony."

In his testimony Dr. Harris admitted that the absence of particular evidence he sought at the late day he performed the autopsy did not conclusively show that there had been no criminal assault.

"If your Excellency will examine Mr. Dorsey's speech to the jury," Mr. Howard continued, "you will find that he repeatedly used the expression that the little girl had been criminally assaulted. Now, if the jury were impressed by these expressions and by the arguments in connection with them, as made by the Solicitor, we may adopt his own premise for our argument. We could talk here half a day about differences existing in the testimony of the doctors. I desire, however, to shun that, not because it is unfair to me or my case, but because it serves to clear up no particular fact. I am perfectly willing to meet this question on Dr. Harris' testimony. There was a great controversy between the doctors. My experience has taught me to try a case wherever possible without doctors and diagrams. If I can plant this case on one doctor and that doctor the State's own witness, I am more than satisfied."

Dr. Harris' testimony as to the condition of the body, the state of digestion of the cabbage which the little girl had eaten, and other points. The net result of his testimony was that the girl met her death one-half or three-quarters of an hour after the undigested meal.

There is evidence here of great importance as to the independent physical facts—evidence which is independent of Conley's evidence. There was a hair found on the lath, which Dr. Harris said was not the hair of Mary Phagan. I will stand on Dr. Harris' testimony on this point. There was the evidence about alleged blood found on the second floor in the metal room. I will take the test made by the State's own witness about this and will convince you that with an open mind that it was not blood, much less the blood of Mary Phagan, and if not her blood, then she was not murdered on that floor.

"The murder notes form a topic in themselves. There is no dispute as to their physical authorship. The only dispute is as to their mental authorship. I will argue to show that both authorships were Conley's."

"If you take the time Mary Phagan entered the factory and the time Conley says she was killed, you will find Conley's testimony absolutely different from the other evidence on the subject."

## How Mary Phagan was Killed.

Governor Slaton inquired where Mr. Howard contended the girl was killed. Mr. Howard said his opinion, from close study of the record, was that the blow over the eye was the first violence received by the girl, and that she received it as she came down the stairs from the second floor; further, that this blow stunned her, and that while in a stunned condition Conley contrived to take her to the basement—whether through the trapdoor or the open elevator shaft was not shown by the record and Conley's testimony. He said it was quite evident that she got into the basement without her consent, and through some form of violence.

It was at this point that Governor Slaton announced his purpose to make a personal visit to the pencil factory and inspect the scene of the crime. He asked Mr. Howard if there was any way for the girl to be taken to the basement after the blow. Mr. Howard said only by the elevator or bodily down the ladder through the trapdoor, adding:

"There is evidence, however, in the record to the effect that there was not room for the body to be taken through the trapdoor to the basement. I do not dispute that, but if it were left to me I would say that the witness did not know what he was talking about."

"There was some suggestion," the Governor remarked, "about the body being thrown down the elevator shaft, but I understand that the Sheriff said that a few days' bruises on the body." With the exception of Conley's testimony," Mr. Howard replied, "the record is blank as to how she got to the basement. There is no room for doubt, your Excellency; there is no room for argument. If Conley's statement is true, then Frank is guilty."

Governor Slaton asked some questions about the metal room. While Mr. Howard was replying, Solicitor Dorsey said he would like to know if the metal room was now in the same condition as at the time of the murder. Governor Slaton said he also desired information on this point, and he would like for counsel on both sides to go through the factory with him. The Governor then asked Mr. Dorsey whether the jury went through the story; the Solicitor replied that it did not.

"The records," Mr. Howard resumed, "show that Mary Phagan had been laid

off several days before the murder; that she earned that week only \$1.20; that she went to the factory on Saturday morning to get this money; that after Frank paid her she inquired if the metal had come; that Frank replied that he did not know, or that it had not come, there being some dispute as to his answer."

## Could Have Used the Trap Door.

Mr. Howard then reverted to the trap door and the ladder. He said that the ladder was steep, but could have been used by such a man as Conley, a young and strong negro; that Conley easily could have gone down the ladder and drawn to him a semi-conscious body, and that he could have protected it from the shock of a fall. He said this was frequently done by firemen in rescuing people from burning buildings, both people alive and people dead or unconscious. He said the trap door was two feet wide and two feet three inches long; that while Conley and the unconscious body could not both go through at the same time, it would have been an easy matter for Conley to go down, reach back, and pull the body after him.

The Governor next commented on Conley's statement as to how the body was taken to the basement, stating that it was his understanding that Conley's testimony did not include anything about dragging the body, but that he testified that he and Frank wrapped the body in a cloth and carried it to a resting place where it was taken out of the cloth. The Governor further said it was his understanding that Dr. Hurt testified that the face was scratched and begrimed, indicating that the body was dragged. He required the Solicitor to illuminate these points when he made his argument.

Resuming, Mr. Howard said a policeman had testified that there was a trail in the basement which looked as if a body had been dragged, and that there was other evidence indicating that the body had been dragged—face downward, because there were ashes and cinders in the mouth and nostrils.

The Governor referred to Conley's testimony about rolling the body out of the cloth. He called attention to the testimony of Dr. Hurt that the body looked as if it had been dragged face downward.

"I am seeking," the Governor said, "to ascertain how Conley's statement harmonizes with the evidence given by other witnesses for the State and the defense."

Mr. Howard remarked, "presents perhaps the only point tending to throw light on that phase of the case."

## Asks About Disused Door.

Governor Slaton inquired just what importance should be attached to the evidence relating to the fact that the Clark Woodenware Company was occupying part of the first floor of the pencil factory at the time of the murder. He said there had been some testimony as to a door having previously existed which led into the Clark Woodenware's space, and he inquired what importance this question should have.

"It only goes to show, your Excellency," Solicitor Dorsey replied, "the weakness of the straws at which the defense has gripped. They made a number of insinuations as to how the crime might have been committed. This is only one of them."

Mr. Howard, continuing his argument, declared that if the girl had been killed on the second floor none of the begrimed condition would have been acquired by the body, such as shown by the testimony of those who found the body. He emphasized his point about the condition of the body by saying that when people from the country come to town behind a gray horse they have gray hairs on their clothes if the horse is shedding, whereas, if they drive a bay horse they have hair of that color, and that the hair on these hairs is the most indisputable evidence as to the color of the horse the person was driving.

"In this case," said Mr. Howard, "we have nothing except Conley's evidence tending to show that the body did not have life in it when it went into the basement. The fine particles of pencil shavings and the dust and the hair on the nose show to my mind, that she must have had a spark of life in her when she was carried into the basement, because these things would not have been in her nose unless she was breathing after she got there."

"Could the elevator have been operated without the knowledge of Frank?"

Mr. Howard: "Denham testified that he could have heard the elevator easier than Frank and that he did not. Denham was on the fourth floor, where the elevator machinery is located."

## Disputed by Dorsey.

Solicitor Dorsey: "I hate to interrupt so frequently, but I don't think the evidence shows that."

Mr. Howard: "Don't mind interrupting, Mr. Dorsey. I can only travel on the truth."

Mr. Dorsey: "Another point, then. I don't think anybody testified that the elevator sometimes sounded like a June bug." (Mr. Howard and Dorsey referred to testimony to this effect.)

Mr. Howard: "I am certain that expression is in the record."

Somebody explained this was a part of Conley's testimony. Governor Slaton read from the record Denham's testimony that he could have heard the elevator more easily than Frank and that he did not hear it.

Mr. Howard: "Our position is that the elevator never went down. If Conley had operated it, Frank would have known no more about it than Denham."

Governor Slaton: "Is there evidence to show how long she could have remained alive after the cord was placed around her neck?"

Mr. Howard: "That is indefinite, but the general impression was that she might have remained alive about fifteen minutes. Also, we have the evidence of Dobb that rigor mortis had not set in. If the injuries which she received had been inflicted before the cord was placed around her neck, much of her life must have been spent. Nothing in the record shows what the duration of time was after the cord was placed. Death in this case progressed by stages. One act of violence followed another. Death resulted not from one sudden act."

Governor Slaton: "What do you say as to the sufficiency of the evidence if the testimony of Conley is excluded?"

Mr. Howard: "It is indefinite to a suspicion. Every act of Frank's is consistent with innocence, provided the proper explanation is made, which can be done."

Governor Slaton: "The testimony of Newton Lee that Frank told him to go out and enjoy himself and that Frank called up that night from the house occurs to me as a point to be explained; also the elevator incident, if the physical situation was such that Frank should have heard it."

Mr. Howard: "I have made out a list of the points which were used against Frank, aside from the Conley testimony."

## "Show Only an Opportunity."

Mr. Howard then read nineteen items from a typewritten list, as follows:

1. Frank was the last person to see Mary Phagan alive.
2. Frank excused Newton Lee from 4 to 6 o'clock in the afternoon.
3. His reluctance to receive Gantt at the factory.
4. He telephoned Newton Lee at 7:30 o'clock P. M.
5. The testimony of Albert McKnight, set on Frank's nervousness on the morning the body was found.
6. Frank's disinclination to look at the body at the undertaker's.
7. The change in the time slips.
8. His early employment of counsel.
9. His wife's alleged failure to visit him.
10. His failure to inform the detectives that the notes were in the handwriting of Conley.
11. His failure to confront Conley in the presence of detectives.
12. The testimony as to his alleged immoral conduct.
13. Failure of attorneys for the defense to cross-examine character witnesses.
14. Frank's failure to stand cross-examination on the witness stand.
15. The alleged blood spots on the second floor.
16. Alleged hair on turning lathe, second floor.
17. Alleged efforts to approach Mary Phagan.
18. Alleged looking into dressing rooms of women employees.
19. "These are the sole connecting links," said Mr. Howard, "and they show only an opportunity. I have presented your Excellency, the substance of the arguments in our case."
20. Mr. Howard sat down, and Governor Slaton said he would hear from the Marietta delegation.
21. Herbert Clayton read to the Governor a resolution adopted by a mass meeting of citizens at Marietta, calling on him, "in the interests of law and of the press, not to interfere with the verdict of the jury." The resolutions also urged the Governor to publish a resumé of the case, "to refute

the slanders hurled against the State of Georgia by newspapers and individuals in other sections of the country."

"We, people of Cobb County," said Mr. Clay, "feel that we have the right to ask your Excellency not to commute this sentence. Judge Patterson of the Prison Commission, in his dissenting opinion, refers to a case in our circuit, that of John Wright, where your Excellency commuted a sentence. That case is totally different from this one. In that case certain facts came out after the trial and members of the Grand Jury and the Petit Jury swore before your Honor that this evidence might have changed their verdict. There has been nothing of such character in this case, and it is too much to ask your Excellency to set aside the judgment of the courts."

## Complaints of the Newspapers.

The next speaker for the Marietta delegation was Moultrie C. Sessions. He began reading from a clipping which he said was from an Eastern paper, the name of which he did not give. The clipping purported to be a report of the Marietta mass meeting at which he was elected Chairman of the delegation to protest against commutation. The report had much to say about "hooting and jeering in the audience" and of shouts of "Lynch him."

"With things like that being published," Mr. Sessions said, "I do not blame these papers for coming here from Cobb County to ask for a commutation of sentence. As a matter of fact, the only thing in this report that is correct is the statement that I was elected Chairman of the delegation to appear in opposition to the petition."

"I believe this is the most momentous question your Excellency has had before you since you became Governor. Let me and enter on trial today. We simply ask that this case be tried and treated like others—just like some native-born Georgian was the defendant. This defendant should take his medicine, just like I would have to take it if I were in his place. If it had been me, I believe Sessions's neck would have been broken by this time."

This remark was a sample of how this case has been tried in the newspapers and of how the State has been misrepresented and maligned. I think the most bloodthirsty thing said at the mass meeting was a statement by myself that, if this case is to be tried in the newspapers and the State maligned in this way, then the State should be divided up by the other States."

Ex-Governor Brown followed Mr. Sessions.

"I was surprised," said he, "at Mr. Howard's statement that he was going to try this case before you on the record passed upon by the courts. In doing such a thing as asking the executive branch to assume the position of a court of correction. When a few years ago I sat in the chair your Excellency now occupies an attorney came to me and asked me to change a sentence of the court. 'What have you?' I asked him. He answered: 'The record of the trial, the Judge's opinion denying a new trial, and the opinion of the Court of Appeals upholding the lower court.' 'Appeals upholding the lower court?' 'No,' he answered. 'Then,' said I, 'surely you do not mean to bring nothing here but the court record and to ask me to take this office out of the executive and put it in the judicial branch?' 'But the jury was wrong,' the attorney replied. 'The Judge was wrong,' he answered: 'You will never get me, by the action you require, to say these things.'

## Objects to Retrial by Governor.

"This case is an extraordinary case. You have admitted it to trial practically on the evidence of the original trial. I am going to touch on the right of an Executive to retry a case. Now, Judge Roan's letter has been put into the case. Judge Roan came to me several times to confer about clemency in different cases while I was Governor. Once he talked most interestingly of the Magna Charta."

Here the ex-Governor spoke of the facts as remarked upon by Judge Roan in the conversation referred to, that some of the men who signed the Magna Charta could not even write their names and had to sign the great document by making their marks. Continuing, ex-Governor Brown read from notes, digressing occasionally to amplify his argument, the text containing frequent quotations from the Bible, from the Constitution of Georgia, and from the laws of the State. It was impossible to get his argument verbatim, but the following contains the substance of it:

"I do not find," he said, "anywhere in the copy of the printed record where Judge Roan said he believed the jury made a mistake. That letter of his was written with the shadows of death gathering fast about him, and at such a time the strongest men pass into a melting mood, when the heart gains mastery over the brain. But when he denied the motion for a new trial he was not contemplating death. He had a closer discernment of how far the jury could go. He stayed within his limits and let the jury stay within theirs."

Ex-Governor Brown defined the meaning of the words justice and mercy, and quoted the late Justice Warner as having declared that the word mercy appeared nowhere in the Constitution. He quoted numerous Biblical passages as to the relation between justice and mercy. He pointed out that the law says that "in the criminal cases the jury shall be the judges of the law and the facts," and that a verdict rendered by a jury must stand unless there be a necessity to change it.

He said Judge Roan did not have to say what the verdict should be, he was forbidden by the law from saying such a thing. He said the foundation of the Constitution was justice, and that the Constitution forbids one department of government from interfering with or defeating the work of another. He said the State of Georgia never intended that its Constitution be interpreted so as to defeat itself.

## Denounces Sentimentalists.

Referring to the numerous petitions filed with the Prison Commission in Frank's behalf, ex-Governor Brown said: "I take it that these petitions will have no weight with your Excellency. I take it that you will be governed by the law and the facts in this case."

Continuing, ex-Governor Brown said Judge Roan knew that in a case of circumstantial evidence it was within his discretion to pass a sentence of life imprisonment.

"At the time Judge Roan passed on the motion for a new trial," he said, "and under the obligation of his oath. His action at that time cannot be broken down or set aside by his letter written when he was at the point of death. The Court had by far a better opportunity to judge the evidence than we have. I cannot see why this case should have a process different from any other murder case."

Ex-Governor Brown scored "the sentimentalists" and "outside influences." He referred to an Atlanta minister who preached on behalf of a commutation for Frank. Then he quoted the commandment, "Thou shalt not kill," which he read various passages from the Old Testament dealing with the prescribed punishment for murder. Following up one of these passages, which was, in effect, that the blood of the murdered polluted the soil of Israel when the murder went unavenged, Mr. Brown said: "Mary Phagan's blood pollutes and defiles the soil of Georgia because the State has not obeyed the Lord God Almighty's laws."

Mr. Brown read further passages from the Scriptures, then paused to remark: "I am not here to make a theological argument. I am simply saying that if you take the old Mosaic law, which is brought over into the New Testament and made the law of Christians, you would allow a murder to go unavenged. Men, whether Hebrews or Christians, must obey the law."

"I wish to call your Excellency's attention to the fact that not one of the Grand Jurors who drew the bill of indictment against Frank, not one of the twelve jurors who returned the verdict against him, nor one of the three present here, have required you to change their findings or undo their work."

## Deny Mob Atmosphere at Trial.

He said it had been charged in the press of other States that the trial was conducted under mob influence, that a howling mob surged around the court. This he answered by reading from the decision of the United States Supreme Court denying Frank's appeal. The ruling stated that the State had been found to be untrue in point of fact. He also stressed the portion of the decision holding that Frank was not deprived of any of his constitutional rights.

Governor Slaton asked Solicitor Dorsey to furnish him a copy of the United

States Supreme Court decision, which the Solicitor said he would do.

Resuming, ex-Governor Brown said that while Frank was in jail and just prior to his trial he was in the Governor's chair, and it was reported to him one day that there was a possibility of a mob storming the jail and lynching Frank. He said that he sent for Adjt. Gen. Nash and told him to see the Sheriff, the Chief of Police and the Chief of the Fire Department and to warn them all to be on their guard, and to have every water hose ready for use; that he ordered a number of officers and men to sleep at the Armory and that the addresses of the other men be kept, so as to summon them on a moment's notice. He said he required the Chief of Police to scout the city in an automobile and, if he observed any indication of a mob forming, to break up the crowd. He said that he directed General Nash to defend the jail at all hazards, and had declared that Frank should not be done to death, because his case was a matter for the courts and not for the mob. Ex-Governor Brown said the Police Chief scouted over the city and made an affidavit that he had not found more than three persons in any one crowd discussing the Frank case.

"That proves," said he, "that the people of this city and State were willing to rely upon trial by jury and were not intent on raising a rebellion against the law. And yet the executive office of this State is asked to take the testimony which the courts handled this case and undo their work."

## Trial by Jury on Trial.

"In all frankness, if your Excellency wishes to invoke lynch law in Georgia and destroy trial by jury, the way to do it is by retrying this case and reversing all the courts. I have heard from people in all parts of this State who say that if the Governor interferes in this case they see no further necessity for trial by jury."

"This case, by the manner in which it has been handled in the newspapers, has placed trial by jury on trial. I say to you, one law for all, or no law at all. Now, which shall we have?"

"There are approximately 1,000,000 people in Georgia who are old enough to understand what constitutes murder. How many of these have petitioned you to interfere? In communities where there are no banks from which funds can be withdrawn, and no newspapers to be influenced, not three per cent. of the people have petitioned you. They have been able to subsidize newspapers, to employ a corps of the brainiest lawyers, to carry this case from one forum to another, to prolong it for far more than two years. Is the guilty man now at your hands to escape punishment?"

"With a full understanding and a clear view of conditions in the case, what do we see? A State muzzled. They have muzzled the press, coerced bankers and lawyers into silence, and can it now be said they have coerced the Executive?"

"I leave it to your Excellency, with full confidence and the knowledge that you are a Georgian, that you love Georgia, and that, as the Chief Executive of this State, you are bound by its laws are enforced according to their intent, without fear or favor."

Solicitor Dorsey said that he had not concluded a brief which he was preparing, and that it would take him about three hours more. After consultation the Governor adjourned the hearing until 8 o'clock Monday morning. The Solicitor will present his brief and his argument at that hour. The Governor remarked that he would spend Sunday studying the record.

## RUMANIAN PLEA FOR FRANK.

Governor Slaton Asked to Act for the Honor of the State.

The Federation of the Rumanian Jews of America has sent the following to Governor Slaton of Georgia:

"Five thousand members of the Federation of the Rumanian Jews of America appeal to you, at this eleventh hour, to exercise your power and spare the life of Leo M. Frank. You are not bound by technicalities of law. You are at liberty to pardon Frank if there is the slightest doubt in your mind as to his guilt, and if guided by this motive only, your name will go down into history as one who has saved the life of an innocent man, and, by this, the honor of his State."

## STATE HUNT FOR CLEARY.

State Controller Says Rockland County Sheriff Has Been Negligent in Search.

State Controller Eugene M. Travis, who brought about the indictment of William V. Cleary, the former Town Clerk of Haverstraw, is not satisfied that the town officials are doing all in their power to find the missing official, and unless something is done shortly to apprehend the fugitive private detectives will be placed on Cleary's trail. Mr. Travis believes that Cleary can be found if the proper methods are employed by the Rockland County authorities to trace him.

"Unless something is done shortly to bring Cleary to justice," said State Controller Travis yesterday, "I intend to take the matter out of the hands of the Sheriff of Rockland County and employ private detectives to look for the missing Town Clerk. I am satisfied that Cleary can be found. At this time I do not intend to divulge the information in my possession, but I am satisfied to give Sheriff Serven of Rockland County further opportunity to bring Cleary back to the city, if he has left."

"I regard the failure of the officials of Rockland County to find Cleary as a gross piece of neglect. Deputy State Controller Warren I. Lee went to Haverstraw several weeks ago and conducted an examination which resulted in the larcenies committed in Rockland County being presented to the Grand Jury."

"Mr. Lee unearthed a scandalous condition of affairs. Money intended for the poor of the town went into other channels, and funds of the village were apparently misappropriated by those in charge of them. The evidence obtained pointed strongly to the guilt of the persons involved. Three indictments were obtained. The one against Cleary I understand has not been handed down because it has been deemed proper to hold it until the whereabouts of the missing Town Clerk become known."

"Since Mr. Lee conducted the examination at Haverstraw many weeks have elapsed, and I don't think a sincere effort has been made to find Cleary. In view of the demands being made by the residents of the county that the missing state of affairs be cleared up, I intend to proceed in the matter myself, unless the local authorities show a greater willingness than they are doing at present to bring Cleary back to Haverstraw."

Deputy Controller Lee examined a number of the town officials of Haverstraw and through them brought out the evidence regarding the loose manner in which the town funds were kept and expended. He discovered that some of the officials were merely pawns for the Town Clerk and he disbursed the money without making any account for it. When Mr. Lee tried to find the records of his office, he discovered they had been removed from the Haverstraw Town Hall.

State Controller Travis sent a letter to Governor Whitman a short time ago urging him to take some action in the matter of bringing Cleary back to Haverstraw. He pointed out in the letter to the Executive that the Sheriff was not doing all in his power to find Cleary. As a result of this complaint Governor Whitman sent a warning message to Sheriff Serven.

The law gives the Sheriff of Rockland County the authority to offer a reward for the finding of a fugitive, but, it is alleged, this has not been done. The only activity shown has been the circulation of a circular which reads as follows:

The above is a photograph of William V. Cleary, who is wanted in Rockland County, N. Y., for the crime of grand larceny. Arrest and notify Larry W. Serven, Sheriff of Rockland County, N. Y., at New City, N. Y. Sheriff of Rockland County, N. Y.

No description of Cleary is given in the circular, and the picture of him at the head of the circular is not a good one.