

FRANK'S FATE NOW IN SLATON'S HANDS

Governor Closes His Hearing and His Decision Is Ex- pected by Saturday.

ASKS MANY QUESTIONS

And Seems Impressed by Coun- sel's Analysis of Doubtful Points in the Evidence.

WHOLE CASE REVIEWED

Ex-Congressman Howard Asserts Life Should Not Be Taken When State's Witnesses Disagree.

Special to The New York Times.

ATLANTA, June 16.—The fate of Leo M. Frank has been finally committed to the hands of Governor John M. Slaton. Whether Frank shall die on the gallows or spend the remainder of his life in the penitentiary depends on the Governor's decision.

Ex-Congressman W. M. Howard closed his plea for a commutation of the sentence shortly after 4 o'clock this afternoon, having spoken altogether the latter part of a day and a half.

Mr. Howard analyzed every bit of evidence given at the trial of Frank, and he insisted that it pointed clearly to Jim Conley as the murderer of Mary Phagan, and just as clearly pointed to the innocence of Frank. Governor Slaton was apparently deeply impressed by Mr. Howard's analysis, and asked frequent questions.

Solicitor General Hugh M. Dorsey, who was expected to make an additional speech opposing commutation, had nothing further to say for the State, and the case was closed with the argument of Howard.

At the conclusion of Mr. Howard's argument Governor Slaton announced that he would devote himself to a study of the case tonight and Thursday, and would announce his decision as speedily as possible.

It is believed that he will make known his decision by Saturday morning at the latest, possibly some time on Friday. Frank is sentenced to die next Tuesday, June 22.

After concluding his argument in behalf of Frank, Mr. Howard paid this tribute to Governor Slaton:

"In behalf of Leo Frank, his kindred and his friends, we, as his counsel, profess to you our profoundest thanks for the patience with which you have heard this plea. On behalf of the people in Georgia, who believe that, in patience and in fairness, right can be established and enthroned over wrong, we thank you. And we all thank God, the Maker of all, that He has in the person of your Excellency sanctified a legally tutored mind and a courageous heart to perform His will in this crisis.

"You have been to us, in our assurance that you possess these qualities, by the guidance, we believe, of Divine Providence, the pillar of cloud by day and you have been to us the pillar of fire by night, for we have come to the very valley of the shadow of death. 'n God's will alone, and in His help, working through a clear tutored mind, and through a strong, courageous heart, consecrated to uphold the dignity of the laws of this great State in justice, in moderation, and in mercy, lies our hope. I thank you."

Thomas Hardwick, United States Senator, in Atlanta today denied the statement published recently that he had written a letter to Governor Slaton urging clemency for Frank. He said that his reason for making this denial was that he wanted it known that he had not expressed himself at all regarding the Frank case.

Value of Conley's Evidence.

At the resumption of the hearing this morning ex-Congressman Howard, representing the prisoner, directed Governor Slaton's attention to the contention of Solicitor Dorsey that even with the elimination of Conley's testimony there was still evidence sufficient to convict Frank.

"This," said Mr. Howard, "brings us back to one of the fundamental principles of our law. If you rely on circumstantial evidence to convict a man it must be of such a positive character as to satisfy the mind of the jury. It must be sufficiently strong to exclude every other reasonable hypothesis."

Mr. Howard then elaborately outlined his contention that Conley's evidence against Frank indicated Conley's guilt and Frank's innocence, and that with Conley's evidence eliminated there was not a single circumstance of sufficient weight to influence a verdict against Frank.

Governor Slaton interrupted to inquire of Solicitor Dorsey whether the indictment was found against Frank before or after Conley began making his affidavits. Mr. Dorsey answered that the indictment was returned on the day Conley went through the pencil factory with the officers; that Conley's affidavit was brought to him while the Grand Jury was in session, and that after being taken through the factory Conley was brought to the Court House. He said further, however, that he did not read Conley's affidavit to the Grand Jury or take Conley before the Grand Jury to testify. But he did tell the Grand Jury, he said, something about Conley's affidavit.

Mr. Howard demanded to know whether Conley's affidavit was given to the Grand Jury and whether it was used as one of the grounds upon which the indictment was based.

"I had the stuff," retorted Solicitor Dorsey, "but did not use it. The indictment against Frank was independent of Conley's affidavit."

Continuing his argument, Mr. Howard said:

"Let us see what is in the record, independent of the locus and indicia,

Continued on Page 6.

