

# LEO FRANK'S FIGHT TO GET NEW TRIAL WILL BEGIN TODAY

Counsel for Prisoner Will  
This Morning File Extra-  
ordinary Motion in Judge  
Ben Hill's Court.

## **AUTOMATICALLY DELAYS SCHEDULED EXECUTION**

Attorneys for Defense Say  
That No Amendments Will  
Be Made to Paper Furnish-  
ed to Mr. Dorsey.

Some time this morning, counsel for Leo Frank, convicted of the murder of Mary Phagan, will appear before Judge Ben Hill in the Thrower building and present the extraordinary motion for a new trial, on the grounds of newly-discovered evidence.

The scheduled execution of the convicted superintendent will then be automatically delayed until Judge Hill's decision is handed down upon the re-trial application. Leo Frank will not hang tomorrow morning between the hours of 11 and 1 o'clock.

Frank's attorneys stated Wednesday afternoon that no amendments would be made to the motion, and that nothing beyond that of which Solicitor General Hugh Dorsey has already been notified will be contained in the document. Further grounds, however, will be added at the time of the application's hearing.

### **Burns Has Not Returned.**

Detective William J. Burns had not returned to Atlanta Wednesday, although his arrival was expected at any time. His journey, on which he departed at 5:10 o'clock Saturday afternoon, has been kept a secret. Attorney Reuben Arnold said to a Constitution reporter that Burns had not told even him of his destination, nor of the nature of his trip.

The proposed amendments to be made in the defense motion when it is brought before Judge Hill for argument—in case Judge Hill grants it—will more than likely be based entirely on the final report of Detective Burns, which, officials of his organization say, will be made immediately upon his return to the city.

It became known Wednesday that a subpoena has been served upon Dr. Roy Harris to appear before the re-trial hearing to give testimony of his microscopic examination of the hair found upon the pencil factory lathe, which he says does not resemble specimens taken from Mary Phagan's head.

### **Refuses to Sign Affidavit.**

Dr. Harris, it was stated, had refused to sign an affidavit presented him which bore on this phase of the case. He was a star witness for the prosecution in the Frank trial, and it was through his testimony that the state sought to establish the time of the victim's death.

According to legal authorities, Judge Ben Hill can either refuse to grant a hearing when the motion is presented him today, or take up the motion for consideration. In this latter case, he will set a date for a hearing, at which arguments from both the defense and prosecution will be heard in a manner similar to all new trial plea proceedings.

The grounds contained in the proposed re-trial motion, of which Solicitor Dorsey has been notified, are largely those pertaining to the testimony of C. Brutus Dalton, the character witness; the statement of Mary Rich, the woman who says she saw Conley emerge from the alley in rear of the pencil factory at 2:15 o'clock on the afternoon of the Phagan murder, and the affidavits of other state witnesses who repudiate their testimony.

### **Dewey Hewell's Story.**

One of these witnesses is Dewey Hewell, the girl who is said to have been prepared to deliver testimony attacking Leo Frank's character, had she been cross-examined by the defense. She now says that she was coached in her story. Dalton repudiates his story. The Dr. Harris phase of the hair found on the lathe will also be contained in the motion.

The stories of a number of girls who say they were approached menacingly by Jim Conley will be presented together with affidavits from witnesses who allege frame-ups on the part of the police and detectives who investigated the murder mystery.