

LEO FRANK AGAIN LOSES BIG POINT

Supreme Court Declines to Certify Case to Supreme Court of U. S.—Dorsey to Fight Further Effort.

On the ground that no constitutional point exists in the Leo Frank case, in which he proposes to be substantiated by the state supreme court in its refusal to grant a writ of error, Solicitor General Hugh M. Dorsey will make a fight against the move of Frank's attorneys to gain a hearing before the supreme court of the United States.

Immediately following the declination of the Georgia court to issue a writ of error, Attorneys Harry Alexander and Henry Peeples, counsel for Frank on his constitutional motion, left for Washington to confer with Justice Joseph R. Lamar, of the United States supreme court, with a view to getting him issue the writ.

No fight on this move will be made by Dorsey. In event Judge Lamar grants the defense appeal, however, the solicitor will present an argument in rebuttal to the effect that no constitutional point exists in the famous case, and that Frank's lawyers are not justified in their effort to carry the case into the highest court.

He will present as corroboration the precedent established by the Georgia court when it refused to grant the writ.

Will Be Resentenced.

The remittitur on the supreme court decision will be sent down within the next ten days. By the time it reaches the lower court, habeas corpus proceedings will be taken out against Frank and he will be brought before Judge Hill for re-sentencing to the gallows. This is expected during the middle part of next week. It will make the third time Frank's doom date has been set.

The action of the supreme court in refusing to certify to the proposed writ of error came as a distinct shock to the defense, who had fondly expected to carry their case to Washington, unhampered, through this channel. Now, however, they will have to depend entirely upon the view of any one of the justices of which they can appeal.

If Frank loses in this final court fight his only hope lies in the prison commission and governor. The application for writ of error was made Thursday afternoon in supreme court chambers, Justice Evans presiding in the absence of Chief Justice Fish, who was absent. At the conclusion of the argument, the court declined to make the certificate. No written opinion was given.

Except that they were inexpressibly surprised at the state court's position, Frank's attorneys would make no statement. Neither would Solicitor Dorsey.

Now Up to Lamar.

Washington, November 20.—A review of the Frank case by the supreme court rests largely with Justice Lamar, who is assigned to the circuit in which Georgia is located. Custom of the justices requires that applications for "writs of error" must be presented first to the justice assigned to the circuit in which the case originates. Should Justice Lamar grant the writ, the case would go on to the court's docket and would not be heard for about two years unless advanced.

Should Justice Lamar decline to issue the writ, he might consent to an application being presented to the entire court, or the attorneys might of their own volition make application to the other justices.