

# Frank's Hearing Ends Commission to Make Recommendation Soon

With the Words, "We Have Perfect Confidence Leo Frank Will Not Hang," Ex-Congressman William M. Howard Closes His Appeal for the Prisoner.

## NO COUNTER SHOWING MADE BY PROSECUTION AGAINST COMMUTATION

Ex-Governor Foss, T. N. Higginbotham, Dr. J. W. Coughlin, Former Mayor of Fall River, Mass.; Mrs. Fisher, of Chicago, and Others Ask for Commutation — Coroner Donehoo Asks Clemency.

When the prosecution failed to make a counter showing against the appeal for commutation for Leo M. Frank, the hearing before the state prison commission came to a surprisingly early close Monday afternoon at 5 o'clock. In closing Attorney William M. Howard pointed to the mass of data and petitions piled up before the three commissioners and said:

"We ask clemency in the name of grace and in the name of mercy. Our appeal is based on a doubt inherent in the very nature of the case. We refer that mass of record and petition to you. We have perfect confidence that Leo Frank will not hang. Your humanitarian instincts will not permit."

A long list of national notables appeared before the commission during the afternoon to protest against the execution of the doomed man. Among them was ex-Governor Eugene N. Foss, of Massachusetts, which state had two more men of prominence to press the Frank appeal. Governor Foss had come voluntarily, while Ernest H. Gruening, managing editor of The Boston Traveler, and Dr. J. W. Coughlin, former mayor of Fall River, composed a committee to represent the thousands who had signed the Massachusetts petition.

### Render Decision Soon.

It was stated by members of the commission at the close of the hearing that the time in which their verdict would be rendered would not exceed ten days, and would probably be within the next four or five.

But little time was occupied by the argument of Mr. Howard, who stated that argument, in view of the evidence introduced, would be superfluous and unnecessary. The opening words of his address were devoted to a resume of the notes, in which he sought to show why they were written by the negro instead of Frank.

"It can be shown by the letters Conley wrote to Annie Maude Carter in prison," he said, "that Conley was the sole author of the death notes found beside the body. If we believe that Frank dictated the notes, it is but to believe that he sought to transmute his own mind into that of the negro, so as to make it appear that the negro's mind created the contents of the notes.

"But the mind behind the murder notes belonged to the hand that wrote them—and it is acknowledged by Conley, himself, that he wrote them. There is not a single trait of the educated white mind in the notes—nothing but the degradation of the low, base negro is disclosed. We have the word of the state's own handwriting expert to that effect.

### Doubt Warrants Commutation.

"The element of doubt, alone, is sufficient to warrant commutation. And the letter of the trial justice, Judge Roan, is sufficient to establish doubt enough to warrant such action. No argument will be attempted in reviewing the merits of the case—they stand for themselves—an argument would be a waste of time.

"There is no limitation to the power of the governor to pardon, respite or commute. But before he can act, there must be an investigation and recommendation from you.

"The power to pardon comes from our English ancestors. It is commensurate with the power of the king, and it is still as big in Georgia as it is in England. The power of pardon is the exercise of an act of grace, and the only restriction is that it shall be exerted in the interest and welfare of the state. And the exertion of this power does not discredit the courts; neither does it put its exponents in an attitude of antagonism or hostility toward the courts.

"The power to set aside a statutory procedure, such as has preceded us in the Frank case, is a power with which you and the governor have been endowed directly by the people, while statutory laws are created indirectly by the people. It is a constitutional power, and all constitutional authority is given you by the people directly.

"In this instance you are not asked to set aside or disregard any law—you are only asked to set aside a verdict that might be of inconceivable injury and substitute a verdict that will be of more judicial benefit to the man involved and the commonwealth.

### Ask for Recommendation.

"If you recommend commutation, you will simply exercise a function that the original jury would have exercised if it had recommended mercy at the time it returned the verdict of guilty against Frank. We ask such a recommendation in the names of grace and mercy. Our appeal is based on a doubt inherent in the very nature of the case.

"We refer this bulk of record to you with perfect confidence. We have not sought to criticize or discredit. We bow with humble deference to every step of statutory procedure of which we are the victims.

"This case has not a parallel in judicial annals of this state. Conley has been believed rather than us, and we

**Continued on Page Four.**

