

STATE WILL CITE LEO FRANK'S CASE IN DUPRE HEARING

Decision of the Supreme Court in Instance of Alleged Prejudiced Juror to Be Brought Up.

ALLEN PLANS ATTACK ON TWO MORE JURORS

Will Be Ready to Reveal Names When Hearing Is Resumed in Court on Monday Morning.

Leo M. Frank's case, the greatest cause celebre ever tried in Fulton county, will be revived Monday afternoon when Judge J. D. Humphries again takes up the hearing conducted to determine whether or not certain jurors in the case of Frank B. DuPre, the Peachtree bandit, were prejudiced, as charged by H. A. Allen, counsel for the youthful slayer.

E. A. Stephens, assistant solicitor-general, declared Saturday that when the hearing is resumed Solicitor-General John A. Boykin will attack Mr. Allen's position, using supreme court rulings in the Frank case as his ammunition supply.

"Those familiar with the Frank case will remember that attorneys for Frank sought a new trial immediately on the ground that a juror, Henslee, before he was summoned on the panel, had made statements in which he declared himself convinced of the guilt of Frank," said Mr. Stephens.

Many Affidavits Offered.

"Affidavits to this effect poured in from all parts of the state. It seemed from them that Henslee had been making these declarations everywhere he went, and in some places that he'd never seen.

"When the matter came to an issue, Henslee simply made an affidavit that he had answered the qualifying questions for service on a jury truthfully. He declared that when he took the oath of a juror he was fair and impartial to Frank and without prejudice in the cause.

"On this showing the trial judge refused to grant a new trial. His de-

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cision was carried to the supreme court. It was upheld by that court and is written all over the Georgia reports, and it would be well to bear in mind that the supreme court of the United States upheld every one of these decisions."

Mr. Stephens made this declaration following an announcement by Attorney Allen that he would challenge the impartiality of at least two other jurors when the hearing is resumed Monday.

Allen Assembles Evidence.

In the meantime, Mr. Allen is understood to have assembled testimony attacking the partiality of five members of the trial jury, and declares that he welcomes the oral hearing in that it will give him opportunity to cross-examine the jurors in question if they are put up by the solicitor.

He would not disclose Saturday the names of the two additional jurors against whom he will direct his fire. "It will be plenty of time to reveal their names when the hearing is called," said the attorney. "I have witnesses who heard them make prejudicial remarks in reference to DuPre," he continued. "However, these witnesses did not care to make affidavits, but if I get a chance in cross-examination, I think I can bring out facts sufficient to prove that there was a very grave and intense prejudice, which absolutely precluded my client from getting a fair hearing."

Pending the result of this hearing in Atlanta, Judge H. A. Mathews, of Macon, who tried the DuPre case, Saturday continued DuPre's application for a new trial until March 11. In fixing this new date for the hearing, Judge Mathews issued a formal order staying the execution of DuPre, which was set for March 10. The order was issued in Macon.