

# ALEXANDER SCORES CHARGE OF DORSEY

## Frank Attorney Leaves for Washington to Make Ef- fort There to Secure Su- preme Court Hearing.

On the eve of his departure for Washington, where he will put his appeal for the life of Leo Frank before the United States supreme court, Henry A. Alexander accused Solicitor Dorsey of having committed "an outrage" before Judge Newman, of the federal court, yesterday when he challenged the accuracy of the information submitted to the United States court by Frank's lawyers on their last appeal.

"I challenge Mr. Dorsey's statement that it is to be doubted if the information we presented to the supreme court was accurate, and I challenge it emphatically," he told a reporter for The Constitution. "It is unfair to charge that Frank, a man fighting in the last ditch for his life, is seeking to create favorable action in his behalf by warping or misrepresenting facts. The solicitor's accusation is nothing short of an outrage."

### First Trial Data.

Mr. Alexander stated that he had submitted to Justice Holmes—the justice who gave his opinion that he did not believe Frank had received due process of law because of the disorderly crowds—the information that had been used in the first Frank retrial motion, and which had been certified to by Judge L. S. Roan, the trial justice, and the man who first refused Frank's appeal.

Mr. Dorsey had stated before Judge Newman during course of his argument, when the federal judge declined to certify to Frank's appeal, that it was possible Justice Holmes had been misinformed as to the exact facts when he gave his opinion. He did not state, he later declared, that he had accused the defense of submitting inaccurate reports or information. He merely intimated that Frank's lawyers only presented their side of the case.

Attorney Alexander will reach Washington Wednesday morning at 1 o'clock, and early that day will confer with Justice Lamar, presiding justice over the Georgia jurisdiction of the supreme court, in a last effort to reopen the Frank case in the supreme court. In event Judge Lamar, as in the last United States appeal, declines to consider the case, Mr. Alexander will appeal to other justices, and, falling in this, he will make his plea to the entire supreme bench.

### Supreme Court Procedure.

The first Frank appeal before the supreme court was when Attorneys Alexander and Peoples made a direct plea to the court for it to grant a writ of error—which had been refused by the state supreme court—in order that the case might be argued in the Washington tribunal. Just as they now are, Frank's attorneys were equipped with nothing more than the merits of their own argument.

In event the supreme court decides to hear the present Frank appeal, it will be docketed at once, and will be heard in approximately two months, possibly somewhat later. The time in which the court is allowed to return a decision lies within its own discretion.

It was also rumored Monday that the defense has another move up its sleeve. Neither verification nor denial of this could be obtained. Mr. Alexander and his associates stated that they did not wish to talk of it at "this particular time."

### May Not Delay Execution.

The supreme court appeal will not necessarily delay the execution date. Unless the case is in process of consideration before the supreme court at the time, January 22 will still remain the day. If the supreme court decides in the meantime to decline the appeal only executive action will serve to delay the hanging. If, however, the supreme court takes the case to hand,

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the execution will be suspended automatically.

Judge Newman, in declining to certify to the supreme court appeal Monday, granted the defense permission, however, to appeal to Washington. Frank's lawyers, therefore, will go to the highest federal court under literally the same circumstances under which they presented their recent appeal. There will be no additional angles to the case. They will travel over practically the same course.

Judge Newman's order of denial, which came after an argument from Henry C. Peeples for the defense and Hugh M. Dorsey and Attorney General Warren M. Grice for the prosecution, was as follows:

### **Newman's Denial Order.**

"Ex parte Leo M. Frank. Petition for writ of habeas corpus, October term, 1914.

"The above styled motion having been presented to the court and by order and judgment heretofore made, the prayer of the same for the issuance of the writ of habeas corpus having been denied, and the petitioner having filed his petition for the allowance of an appeal with the certificate attached to the supreme court of the United States, together with an assignment of errors upon the said order and judgment.

"The court declines to grant the appeal prayed upon the ground that having refused to grant even the issuance of the writ of habeas corpus because the court was of the opinion that, under the facts stated in the petition for the writ and the exhibits attached thereto and referred to therein and made a part of the same, and, under the law applicable thereto, if the writ were granted and the hearing given the petitioner could not be discharged from custody and no relief could be granted thereunder, and that the petitioner was not entitled to the writ, the court could not consistently therewith make the certificate required by the act of congress of March 10, 1908, as necessary to the allowance of an appeal, to wit: that there is probable cause for such allowance of appeal.

"This 21st day of December, 1914.  
(Signed)

"WILLIAM T. NEWMAN,  
"District Judge U. S. Court."

Attorney Alexander will leave for Washington today.