

FRANK HEARING TODAY.

Motion Up to Set Aside Verdict In Phagan Murder Case.

Special to The New York Times.

ATLANTA, Ga., June 4.—The next step in the fight on behalf of Leo Frank, convicted of the murder of Mary Phagan, will take place tomorrow, when Judge Ben Hill will hear the motion of the defense to set aside the verdict on the ground that the prisoner was deprived of his constitutional rights because the verdict was rendered in his absence from court.

Solicitor Dorsey, for the State, will contend that Attorneys Rosser and Arnold, who represented Frank at the trial, waived his presence, but Attorneys Tye and Peeples, who have brought the motion to set aside the verdict, will insist that the laws of every State and the laws of the United States contemplate the presence of the prisoner in the courtroom, and that even his attorneys cannot waive his presence. Mr. Tye and Mr. Peeples have many decisions to sustain their contention, and they believe that Judge Hill will set the verdict aside, which will free Frank.

Should the verdict be allowed to stand the case will be taken to the Federal Courts.

EINSTEIN HOME ROBBED.

Thieves Got Much Valuable Jewelry While Family Was at Theatre.

Burglars entered the home of Julius Einstein at 136 West 121st Street between 8 and 9 o'clock last night, while the family and servants were away, and carried off jewelry which Mr. Einstein told the police of the West 123d Street station was worth several thousands of dollars.

Mr. and Mrs. Einstein and their daughters left the house a few minutes before 8 o'clock to go to the theatre and told the servants that they might have the night off. At 9 o'clock Julius Einstein, Jr., Mr. Einstein's eldest son, returned home from visiting friends in the neighborhood. He noticed that the lights in the front rooms were turned on, although he knew the family was away.

An investigation showed that the front door had been opened with a jimmy, and young Mr. Einstein, summoning two patrolmen, entered the house. They found that the burglars had ransacked every room, overturning furniture and tossing bureau drawers on the floor in their haste. None of the silverware was taken, and the burglars also passed by tapestries of great value.