

THE SUBSEQUENT HISTORY OF THE CASE—THE
APPEALS TO THE COURTS—THE COMMUTA-
TION BY THE GOVERNOR—THE LYNCH-
ING OF THE PRISONER.

October 31, 1913, Judge Roan denied the motion for a new trial; February 17, 1914, the Supreme Court of Georgia affirmed the verdict of the lower court by a vote of four to two, and February 25, unanimously overruled a motion for rehearing.¹ March 7 Frank was sentenced for a second time, April 17 being set as the date for the execution. April 16 an extraordinary motion for a new trial was filed and sentence was again stayed. April 22, Judge B. H. Hill, former chief justice of the Court of Appeals,^{1a} who had succeeded to the judgeship of Fulton Superior Court, denied the extraordinary motion for a new trial. April 25 Frank's sanity was examined and he was declared sane. November 14 the Georgia Supreme Court again denied a new trial² and on Novem-

¹A large number of technical errors in procedure and in the admission of evidence and the prejudice of the jurymen were alleged by the prisoner's attorneys, but were all overruled by the Supreme Court. *Frank v. State*, 80 S. E. Rep. 1016. The Court also ruled that the disorder in the court room during the trial was not of such a character as to impugn its fairness or furnish ground for reversing the verdict; and that the cheering in the streets on the last day of the trial was not heard by the jury, and they had no knowledge of it until after they had rendered their verdict. The absence of the prisoner from the Court room when the verdict was given was not mentioned by his attorneys in this appeal. *Frank v. State*, 83 S. E. Rep. 33.

^{1a} See *post*, p. 628.

²The error here alleged was the absence of the prisoner without his consent from the Court room when the verdict was rendered. *Frank v. State*, 83 S. E. Rep. 645. The Court stated the case in these words:

"At the time the verdict was received and the jury trying the case discharged, the defendant was in the custody of the law and incarcerated in the common jail of the county. He was not present when the verdict was received, and the jury discharged as he had the right in law to be, and as the law required he should be. He did not waive the right to be present, nor did he authorize anyone to waive it for him, nor consent that he should not be present. He did not know