

SPECIAL DEMURRER.

Further, the State demurs specially to the following parts of the petition as aforesaid, and moves the Court to strike the same because they are wholly immaterial and irrelevant to any right which the Defendant Leo W. Frank might have even if he was denied any right, and has not been estopped or did not waive the same.

Said parts demurred to specially are as follows:

1. In paragraph 6 of said petition the following language, viz: "Because, Hon. L. S. Roan, stated that the jury had found the defendant guilty; that he, the said Judge, had thought about this cause more than any other he had ever tried; that he was not certain of the Defendant's guilt; that with all the thought he had put on this case, he was not thoroughly convinced that Frank was guilty or innocent, but that he did not have to be convinced; that the jury was convinced; that there was no room to doubt that"

This Defendant says that under the provisions

Amendment to the Constitution of the United States, no State could deprive this Defendant of his life or liberty without due process of law, nor deny him the equal protection of the law, and that he has not been afforded due process of law, and that he has been denied the equal protection of the laws, in that the said Judge, in so, as aforesaid, denying to him a new trial in said cause, did not, as shown by said statement, give to this Defendant the judicial determination of said motion to which the Defendant was entitled by law; that said Judge being constituted by law as one of the triors did not afford to this Defendant the protection which the law guarantees, the law being that Defendant is entitled to the benefit of every reasonable doubt, the presumption of innocence being in the Defendant's favor, and the Trial Judge, though entertaining the doubt which he felt as to this Defendant's guilt, and nevertheless denying to him a new trial, by said action denied to this Defendant the fair and lawful trial he is entitled to, and there by this defendant has

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