

## ARE WE AS INDIVIDUALS RESPONSIBLE FOR THIS MAN'S LIFE?

By MONA G. COCKEY.

**I**N the course of events it has become my privilege to ask of the womanhood of Maryland the following questions:

Has Leo M. Frank been proven guilty of murder beyond a reasonable doubt, as is demanded by even the letter of the law? And are we—not as a club, an organization or league, but as individuals—responsible for this man's life?

If a dozen or more of the leading publications in the country have openly expressed their belief in Frank's innocence; if such men as Detective William J. Burns and C. P. Connolly have freely and repeatedly declared Frank innocent in such journals as the *New York Times* and *Collier's Weekly*; and finally, if Judge L. B. Roan, who presided at the trial, and Justice Lamar and Justice Holmes of the United States Supreme Court have all expressed doubts as to the sufficiency of the evidence against the accused, is it out of place and fanatical for us, as individuals, to express the same doubts as to the prisoner's guilt?

The refusal of these three eminent jurists to grant Leo Frank a second trial was based not upon a review and consideration of the evidence, but upon a technicality, that is to say, that, although each of the three judges expressed himself as dissatisfied with the evidence offered by the prosecution as sufficient proof of Frank's guilt to justify death sentence, yet upon a legal technicality he felt himself powerless to grant a second trial and compelled to sustain the verdict of the jury.

Under the circumstances I shall take the liberty to outline the case briefly for the benefit of those who have not followed it, and to ask the support of your opinion in behalf of a fellow man.

### The Time Order of Events.

Stripped of all the conflicting accusations and details inseparable from any trial, the principal facts are these:

For some months prior to this crime the police, the detectives and the State's Attorney in Atlanta had been severely criticised for their failure to convict criminals.

Then, for a whole week, Mary Phagan, who was employed in the National Pencil Factory, remained at home sick.

On Friday, May 25, 1913, the employes of the National Pencil Factory were paid off.

The following day, May 26, was a legal holiday. The factory was closed.

Leo M. Frank, a superintendent, went to the closed factory to complete some work which he had left unfinished the day before.

Mary Phagan, not knowing that the legal holiday had been granted the employes and that they had been paid off on Friday instead of Saturday, which was the usual pay day, went to the factory for the pay envelope that was due her from the week before.

About three o'clock the next morning Mary Phagan's dead body was found in the cellar of the factory by the night watchman.

It was quickly ascertained by the police, upon Frank's own willing admission, that he was in the building during the morning hours and paid Mary Phagan her overdue wages.

Frank and the night watchman were arrested. The night watchman was released at once, no doubt upon proving that he had not gone to the factory until hours after the crime must have been committed. Frank, on the other hand, was held and accused upon the ground that he was the only person in the building at the time.

For three weeks the police assured the public through the press that they already had in their custody the man who assaulted and killed poor little Mary Phagan. Through the papers they made freely the assertion that they had abundant incriminating evidence against Frank, and individually and collectively they declared him to be the guilty person.

At the end of three weeks, however, the police discovered that there had been a second man in the factory throughout the entire morning. This man, "Jim" Conley, was arrested, and finally confessed having been in the factory and having written one of the two murder notes found beside the girl's dead body. But Conley accused Frank of having committed the assault and murder.

The police of Atlanta were in a predicament. In their haste to vindicate themselves of the charges of indifference and inefficiency which the public had been making against them, they had arrested the first man who could be in any way associated with the crime. Worse still, they had gone so far in their assertions of his guilt and made such public claims of direct evidence against him that they could not and would not admit their mistake.

The State's Attorney presented to the Grand Jury an indictment

against Frank of murder in the first degree. The Grand Jury (who are said not to have been informed that there was another man in the factory at the time of the crime) found this indictment a true bill, and Frank was duly tried for his life.

### Who Were the Witnesses?

At that trial half a dozen factory girls testified against Frank, but a still larger number of factory girls testified to his good character among them. A boy of seventeen testified against Frank's character, and his evidence was contradicted by two disinterested men and several of the boy's personal friends. A woman of low repute testified to several telephone conversations with Frank upon the evening of the day of the murder. But before making her statements on the stand this woman had failed to ascertain that upon that particular occasion Leo Frank was attending a card party in his own home and that the telephone was actually in the room where the cards were being played and his wife and her friends assembled. Consequently, to have held any such telephone conversations, Frank would have been obliged to have left his guests and even his home several times during the evening.

All this was the indirect evidence. The only direct evidence against Frank was that given by Jim Conley, who had already confessed being in the building and writing one of the two murder notes, which, by the by, were both in the same handwriting—Jim Conley, who was equally subject to suspicion, who must be accused and tried if Frank was not.

And upon Conley's evidence, which consisted of no less than four directly contradictory affidavits and a fifth contradictory statement upon the stand, evidence which was clearly a statement made in defence of the witness' own life—upon this evidence Leo Frank was convicted and condemned to die on the 22d day of January.

### What is the Explanation?

The explanation of this unparalleled case is found in the demonstrations against Frank in the courtroom and the streets surrounding the courthouse.

When a murder is committed in our own city you and I have no idea who is guilty. Our first intimation as to the identity of the murderer comes from the police through the press.

So it was with the people of Atlanta. They were justly incensed by such a crime, committed upon a helpless, innocent girl of seventeen. They demanded the life of the wretch who had done this thing.

The police discovered their own mistake too late. They had kindled and fanned a fierce hatred against the wrong man. But they knew only too well that all the indignation and fury which they had set seething about Frank would be swiftly turned against themselves for their inefficiency and stupidity if they admitted their blunder.

The police of Atlanta were not men enough to face the consequences of their own mistake.

The jurors by whom Frank was tried were not men enough to face the scorn, the anger, the accusations and personal consequences which a verdict of "not guilty" would call down upon them.

From the first the mob had demanded a life for Mary Phagan's, and the police had offered the mob Leo Frank's life. Now they were bent upon having it.

It takes brave men to acknowledge their own blunders and to pay the price themselves. The police of Atlanta were not this brave.

Women of Maryland, is it just that a human life should be put to death upon the evidence of another who, in the eyes of the law, is equally capable of committing the crime and equally subject to suspicion? Is this a just, even a safe precedent to establish in our courts?

Remember, the precedent established in New York, in Virginia, in Georgia is cited to the jury in Maryland.

Let me therefore earnestly repeat my question: Are we, as individuals, responsible for this human life?

Public opinion is nothing more than the opinions of a large number of individuals. Every law that has ever stood the test of time has done so with the consent, tacit or otherwise, of public opinion. It has made and changed and broken many laws. Consequently, the opinion that tacitly sanctions the execution of a man on contradictory and self-defensive evidence is responsible for that man's life. And I, as an individual, without the direct power or means of saving him, am, nevertheless, answerable for my share in his execution.

There is an irresistible force inherent in public opinion when that opinion becomes a conscious and determined one. I therefore call upon you, women of Maryland, both to arouse and to voice the will of the people in behalf of a fellow creature who has been unjustly condemned to death.

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