

MRS. FRANK PLEADS FOR SIMPLE JUSTICE

Asks People of Georgia to be as
Fair to Her Husband as
New York Is to Becker

Special to The New York Times.

ATLANTA, Ga., Feb. 28.—Quoting the case of Becker, the New York ex-policeman whose sentence was reversed, a signed statement issued to the public by Mrs. Leo M. Frank, wife of the man condemned to die for the murder of Mary Phagan, asks:

"Shall it be said that the people of Georgia are less willing to accord fair play than are the people of the North? Or is it unfair to say that the people of Russia, in the trial of Beiliss, are more disposed toward principles of fair dealing? Or shall the people of this State content themselves to be on a parity with the methods of the Mexican, Villa?"

Mrs. Frank refers to "the deep-seated, all-pervading, insistent demand that a victim be offered" and to "the animosity displayed by the prosecuting officer." She asserts that his solicitude about the negro Conley at Conley's trial was touching. She charges that the solicitor wanted Conley to go free in order to put all the guilt on Frank. She intimates that Conley was not allowed to go on the stand because he might have forgotten parts of his story. She says that, despite Dr. Harris's belief that the hair found on the lathe was not Mary Phagan's, the solicitor contended that it was.

Mrs. Frank's statement follows:

To the Public:

"The decision of the New York Court of Appeals in regard to the trial of Becker of necessity compels a parallel between this case and that of my husband. In that of Becker, the atmosphere surrounding the trial, which was denounced by the Court of Appeals of New York, as fully set forth in THE NEW YORK TIMES of Feb. 25, was occasioned by the conduct of the Court, less potent, by far, than the overwhelming influence of the clamoring mob that surrounded the jury during the trial of my husband, or the hourly extras scattered through the court room, proclaiming, as truth, in flaming red head lines, every false rumor concerning my husband, or the frequent outbursts of the crowd during the course of the trial, all clearly indicating to the jury the temper of the crowd.

"In the case of Becker, the Court of Appeals of New York declined to sustain the conviction on the testimony of criminals, while in the case of my husband the only testimony connecting him with the crime was that of the negro Conley, a many times convicted criminal and a more often self-confessed liar, whose testimony as finally produced in the courthouse was testified by those responsible for it to be 'a tale made to fit the case.' Shall it be said that the people of Georgia are less willing to accord fair play than are the people of New York, as indicated by the decisions of its courts? Or is it unfair to say that the people of Russia, in the trial of Beiliss, are more disposed toward principles of fair dealing? Or shall the people of this State content themselves to be on a parity with the methods of the Mexican, Villa, and receive the just condemnation of all civilized States?"

"I fear there is some misapprehension created by the divided opinion of the Supreme Court. I understand that some misguided people believe and feel that by reason of this decision the Supreme Court of this State has set its approval on the findings of the jury, but I am advised this is not the fact. The Supreme Court has merely passed on the questions of law involved, as to whether errors were committed in the introduction of testimony or the rulings of the trial court. The decision of the trial court in refusing to grant a new trial, based upon whether a fair trial had been granted, and as to whether or not the jurors were impartial were matters with which the Supreme Court would not interfere. That the trial Judge, notwithstanding his refusal to grant a new trial, believed that my husband did not have a fair trial, no man can doubt. To what potent influence shall then be ascribed such refusal? Can it be anything but the deep-seated, all-pervading, insistent demand that a victim be offered? And was not this demand created and nurtured by the false statements fed to the public immediately following the murder by interested detectives and seekers after reward?"

Effect of Formby Story.

"The prominence given to the story of the Formby woman caused many good people to be satisfied of my husband's guilt. The detectives pointed to it as absolute proof. The influence of this story upon the public, and its aid in creating the unfavorable atmosphere cannot be conceived. The unlawful arrest of my cook, Minola McKnight, and the affidavit which she was forced to give under such trying circumstances, and which as soon as she was released from imprisonment she promptly repudiated, was another morsel offered to the public to fortify and strengthen the charge against my husband, and afterward used on the trial of the case to influence the jury by making me, his wife, testify against him by means of

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this affidavit, although, by reason of the law, I was compelled to remain silent and refused an opportunity of denying this miserable concoction. Notwithstanding Minola McKnight had made this repudiated affidavit, it was necessary to place her on the stand on account of the testimony of her husband, and it has been shown how much the testimony of Albert McKnight was worth, and yet it served its horrible purpose.

"I feel compelled to call attention to the animosity displayed by the prosecuting officer. Although at the end of the trial there was some show of tears, caused, it was said, by some sympathy for the family of the defendant, who will say now that these tears had any such significance? Any one reading the trial of Conley can have no misgivings on this subject. The solicitor's solicitude about Conley was touching. Only 'stern duty' impelled him to ask for conviction. Personally, he desired him to go free, in order that all the opprobrium might be placed on my husband, and, so far as he was able by his speech in this case, he endeavored to create this situation. All the testimony in connection with Conley's case, except Gheesling's, was placed before the jury by agreement.

"The statement of Conley was read by agreement. This was an unprecedented thing. I am told, in procedure under the law of Georgia, if not that of every other civilized State.

"And why was this? Conley had sworn that he was unable to read, therefore he could not, with propriety at this time, read a prepared statement. Who, may I ask, was unwilling that this negro should go on the stand and make a statement? Since he has been in the county jail no opportunity has been offered for a rehearing of the fixing of bail. What might he have said on the stand? How consistent would it have been with the story which he told against my husband? The time since that trial might have effaced some of the memorized stuff, and some inkling of the real truth might have shown through by inconsistent and contradictory statement.

Depends on the Public.

"Was it merely because the slight expense might have been saved the State that this unusual thing was arranged by counsel? A fair public will some time determine them correctly.

"The testimony of Dr. Harris during the trial of my husband was insisted

upon and upheld as that of a great expert. His ability to tell the condition of the stomach's contents by virtue of science was claimed unfailing, and I am assured that in the mind of the public the testimony given by Dr. Harris was convincing. And yet the testimony connecting my husband with the crime, and which must of necessity have shown the crime to have occurred on the second floor, was based almost entirely—leaving out the story of Conley—on the proposition that the girl's hair was found on another floor. This same Dr. Harris, expert microscopist, declared to the solicitor in advance that the hair taken from the lathe on this floor was not that of the dead girl.

"And yet during the trial of the case, with this knowledge derived from this leading expert, the solicitor was content to take the testimony of one witness, who said the hair 'was like the girl's' and argued to the jury that this was absolutely the hair, and concealed Dr. Harris's statement. Does this conduct appeal to the public as one that should merit approbation? In the trial of Conley the only witness called was the undertaker, and his sole testimony was in reference to the character of the hair found, and the explanation that the use of tar soap would have changed the texture, color and shape.

Assailed at Negro's Trial.

"Why was it necessary in the trial of Conley, where both Conley and the solicitor as part of the record admitted the guilt of my husband, to call Gheesling? Did the solicitor need a message to the public? Was it necessary that he satisfy his conscience to this extent? Why the display of the venom and animosity toward my husband in this trial? To the full extent of his power the solicitor had done him to death. Why, then, on a trial where everything was admitted by agreement, was it necessary to denounce, again and again, my absent husband, the victim of circumstances worked up and shaped by those so unalloyably antagonistic to him, while trying the only party who has admitted a connection or knowledge of the crime?

"I am sure that time will clearly show the truth, and that this horrible nightmare, for such it seems to me, will pass away, and that a vile conspiracy will ultimately lay itself bare to condemn and destroy those responsible.

"I quote the language of the Court of Appeals of New York in granting a new trial to Becker, which I feel sure many will think applicable to that of my husband:

"His counsel was hampered and embarrassed; his case was discredited and weakened; full and impartial consideration by the jury was impeded and prevented. He never had a fair chance to defend his life, and it would be a lasting reproach to the State if, under those circumstances, it should exact its forfeiture." Mrs. LEO M. FRANK.