

# VINDICATION ASKED BY LEO M. FRANK IN CARD TO PUBLIC

**"Injustice Done Me Was Begotten in This Community and It Can Right the Wrong," He Says.**

## **INNOCENCE IS ASSERTED BY PRISONER IN TOWER**

**His Lawyers Argue Case Before Justice Lamar in Washington and It Is Taken Under Advisement.**

"I have hoped, and I still hope, that I may yet be vindicated by this community and that my innocence may be universally acknowledged. The harm and injustice done me was begotten in this community and it can right the wrong. I hope that this vindication may come and the full truth of this awful tragedy be bared to the light before death overtakes me. If I am gathered to my fathers then I trust that my vindication may come, and my name be restored during the lifetime of my dear parents and my loving wife."

This confidence in his ultimate vindication was expressed Saturday night in a statement given out from the Tower by Leo Frank, convicted of the murder of Mary Phagan, whose case has now passed from the control of the state courts, and is now being considered by Justice Lamar, of the United States supreme court.

Saturday Justice Lamar received the legal representatives of Leo Frank at his home in Washington and heard their reasons why the verdict of guilty should be set aside, based on the ground that the constitutional rights of the prisoner were violated when the verdict was rendered in his absence from the court. The justice has taken the case under advisement.

## **FRANK'S STATEMENT.**

Frank's statement in full follows:

"To the Public: The latest decision in my case by the Georgia supreme court has placed the bar, as I understand it, against further airing of the case in the Georgia courts.

"Unequivocally, and as firmly as I can, I want again to reiterate my absolute innocence of the awful crime charged against me. I have no knowledge of it. I have fought hard, and I have toiled long for a chance to establish this. My able and loyal attorneys have four times petitioned the courts for another trial, but to no avail, though only in one trial was I pronounced guilty, and that by a jury surrounded by an atmosphere reeking with prejudice and mob violence, where calm, impartial and judicial consideration was impossible, and the judge, who presided at the trial and who instructed the jury that I must be proven guilty beyond a reasonable doubt, expressed publicly the fact that he was not convinced of my guilt.

"I am innocent, and it was my purpose to prove it, so that my vindication might result from another trial in this state. Four times, using all resources that were fair and fit, have I cast myself on the bosom of the courts and pleaded, in the accustomed way, for the exercise, on the part of the courts, of that discretion that is vested in them. I was not asking for anything without the pale of reason and justice—I just wanted a chance; not alone for life, but for name and honor. I was not asking the courts to rule specially for me. I asked for those things only which have in the past been granted to all, high and low, and which are based in the very fountain springs of human right, human law and human justice.

## **FOUGHT IN OPEN.**

"I have fought fair and in the open, but to date victory has not crowned my efforts. I am still working and hoping, to the end that the matters in this case may assume their true perspective and that liberty and rehabilitation, which rightfully should be my portion, are meted out to me.

"I have trusted, and still trust, that this community which has the fine traditions and precedents of the past to guide it, will not allow so gross, so colossal an injustice to be done me. Consider how grievous such a thing as a judicial error would be, and what a commentary on the intelligence of this community.

"It is strange to me that a community which boasts (and rightly so) of such a dynamic force for good as the 'Atlanta Spirit' should so bloodthirstily desire the undoing and annihilation of a human life. It would be far more consistent, in view of the many inconsistencies and doubts in this case, to desire to build up, to conserve, to be cautiously just, to investigate. The situation, which has resulted from an over hasty and unreasoning antagonism, is almost unbelievable. The fabric reared upon so unstable a foundation at this time is casting its sinister shadow over me.

"Can it be that the law, and our system of its administration, is so inexorable that truth and innocence may never be heard after once the die is cast? Is the door forever closed and the way barred? Is the technical fineness of the law to forever preclude a hearing of facts, and human right to be trampled beneath the judicial feet? If this be so, and I cannot as yet believe it, then our twentieth century civilization is but a myth, and the divine spark in each human breast a fairy tale. Then, in truth, we hark back hundreds of years in human progress to when the arena and 'thumbs down' was the last word of the law. It just cannot be that way! The revolving years of twenty-odd centuries must have brought a juster heritage than a condition barbaric in its essential details.

## **CONCEALED NOTHING.**

"I have thought hard and worked long to illuminate the truth and my innocence. I have concealed nothing. I submit that no word or act of mine, either in the courts or in the press, is inconsistent with my innocence. I have operated where all, who would, might see and learn the truth. Nor do I intend, at this time, to enlarge on matters that must be familiar to all who have followed my case. The issue is clear-cut between a negro criminal who, in this case, perjured himself many times and has an unsavory reputation, and myself. I have never yet

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when the trial jury returned its verdict.

After an hour's hearing, Justice Lamar took the application under advisement and will probably announce his decision next week.

If he decides to grant the writ, the case will come before the supreme court. If he denies the application, that ends the case so far as the supreme court is concerned.

An interesting feature of the case is that one of the precedents Frank's lawyers are depending upon is a decision of the supreme court in a case arising in the Philippine Islands, where the accused voluntarily absented himself from the courtroom. Justice Lamar, in a vigorous dissenting opinion, held that he had been denied his rights.

If Justice Lamar now abides by the majority of opinion delivered in that case, provided he finds this one analogous to it, he would naturally deny the writ. If he still holds to his former opinion, his disposition will be to grant the application and let the full court decide whether the Frank case is on all-fours with the Philippine case.

#### The Diaz Case.

Diaz was convicted of murder in the Philippines.

By telegram, Diaz had waived his appearance in the courtroom during his trial. He was sentenced to fourteen years. When his case was carried before Justice Lamar he was discharged on the ground that he had been deprived of a federal right. His case is different to the Frank case, however, in that his presence was waived during the examination of witnesses and the argument of counsel for both defense and prosecution, as well as at the time of verdict.

In rendering the decision, Justice Lamar said:

"In my opinion, the conviction was not only erroneous because the defendant was not present when witnesses were examined and arguments made, but, having been unlawfully put in double jeopardy and judgment equivalent to a verdict having been pronounced in his absence, he is entitled to a discharge."

Diaz, however, was not tried by jury.

He was also out on bail at the time of trial.

Justice Lamar, however, held that "the court holds that a defendant who is not in the custody of the court, but is out on bail, cannot take advantage of his voluntary absence from a part of the trial."

It is this last opinion that is expected to have a deep bearing on the present status of the Frank case.

## VINDICATION ASKED BY LEO M. FRANK

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been trapped in a lie or caught in a misstatement in this case, because I am innocent and have told the truth, the whole truth and nothing but the truth. I have proven my character and reputation to be good. I have lived an upright life. It ought not to be hard for an enlightened community to see clearly through the issues and facts of this case. In my opinion, ninety per cent of those who express themselves as to my guilt are ignorant of the facts in the case.

"I have hoped, and I still hope, that I may yet be vindicated by this community and that my innocence may be universally acknowledged. The harm and injustice done me was begotten in this community, and it can right the wrong. Certainly there could be no weakness in this—it would bespeak American virility and sense of a 'square deal.' I hope that this vindication may come, and the full truth of this awful tragedy be bared to the light before death overtakes me. If I am gathered to my fathers, then I trust that my vindication may come, and my name be restored during the lifetime of my dear parents and loving wife.

"That my vindication will eventually come I feel certain. Whether I will live to see it, I cannot tell. I am human enough to want to live to see it, for it is my right and due. But I may not; I may suffer death. Still, one thing is sure: the truth cannot be executed. Vindication may be long in coming, but it will come. With this knowledge, death itself has little terror to me, for it is said 'he who is innocent within is armed without!'"

"LEO M. FRANK.

November 21, 1914."

## ARGUE CASE IN WASHINGTON.

Washington, D. C., November 21.—(Special.)—Application was made today by attorneys for Leo Frank to Associate Justice Lamar for a writ of error, which would bring before the supreme court the new federal question raised in the case.

Justice Lamar received Henry Peeples, Harry Alexander, Leopold Haas, of Atlanta, and Louis Marshall, of New York, at his house and the attorneys presented their arguments to show why Frank should have a new trial.

The federal question they raise is that Frank was denied a material right in being absent from the courtroom