

guilty. Gentlemen, every word of that defendant proclaims him responsible for the death of this little factory girl. Gentlemen, every circumstances in this case proves him guilty of this crime. Extraordinary! Yes, but nevertheless true, just as true as Mary Phagan is dead. She died a noble death, not a blot on her name. She died because she wouldn't yield her virtue to the demands of her superintendent. I have no purpose and have never had from the beginning in this case that you oughtn't to have, as an honest, upright citizen of this community. In the language of Daniel Webster, I desire to remind you "that when a jury, through whimsical and unfounded scruples, suffers the guilty to escape, they make themselves answerable for the augmented danger to the innocent."

Your Honor, I have done my duty. I have no apology to make. Your Honor, so far as the State is concerned, may now charge this jury,—this jury who have sworn that they were impartial and unbiassed, this jury who, in this presence, have taken the oath that they would well and truly try the issue formed on this bill of indictment between the State of Georgia and Leo M. Frank, charged with the murder of Mary Phagan; and I predict, may it please Your Honor, that under the law that you give in charge and under the honest opinion of the jury of the evidence produced, there can be but one verdict, and that is: We the jury find the defendant, Leo M. Frank, guilty! guilty! guilty!

*August 25.*

*Mr. Arnold* asked that the jury be ordered to retire as he had an application to make which he did not desire it should hear.

The COURT acquiesced and the jury retired.

*Mr. Arnold.* I make a motion for a mistrial, and I wish to name the facts on which we make it. We wish to prove every fact included in this motion, unless the court already knows it. We base our motion on the following facts:

First, at the beginning of this trial counsel for the defendant requested that the court room be cleared.

Second, when the court refused to rule out evidence relating to women, the audience applauded loudly. The jury was in the court room twenty feet away and heard the applause.

Third, on Friday, August 22, when court had just adjourned for the day, when the jury was 200 feet north of the courthouse on