

ity to guarantee the justice of its verdicts, has been specifically provided for. Above the law is the power to pardon. It resides in the State's Chief Executive. He is not bound by rules of evidence or rules of any kind. He is free to disregard them all. He is the special instrument of justice. His power alone can save a man innocent of the crime for which the unexcepting law requires his life. Therefore, in such a case as FRANK'S, where a great majority of his fellow human beings think his guilt unproved and his innocence presumptive beyond any reasonable doubt, the Executive, having the power to pardon, could hardly fail to exercise it unless himself utterly convinced of the justice of the verdict—not its mere legality. Indeed, we cannot escape the conclusion that the Prison Commission in declining to interfere on behalf of justice, holding itself only to the validity of the law's process, expected the Governor at last to act on his own responsibility. Commissioner PATERSON, alone dissenting, after having argued the doubt in FRANK'S behalf, said: "In my investigation I cannot find where the Executive has allowed a man to be hanged when the trial Judge was not satisfied as to his guilt, and so communicated to the Governor."

The trial Judge was unconvinced of FRANK'S guilt; nevertheless he denied the motion for a new trial and imposed sentence of death, not that it was justice, but that it was the law! It now remains for the Governor to exercise his discretion. But it remains also for the people of Georgia to make it known whether they are willing that the good repute of their State should be imperiled by a proceeding which, though of attested legal regularity, may at some future day be proved to have been an act of dreadful injustice, the most monstrous of all, the execution of an innocent man. They can exert a determining influence upon their Executive to save the honor of Georgia.

THE TRAGEDY OF INNOCENCE.

"Nor shall any State deprive any person of life, liberty, or property without due process of law." So reads the Constitution. The Georgia Prison Commission, (one member dissenting,) declines to recommend a commutation of the sentence of death imposed upon LEO M. FRANK. It rests its decision upon the ground that all the forms of law have been observed. FRANK was regularly indicted, tried, and convicted, by due process. The trial Judge, who had the right to impose a sentence either of death or life imprisonment, condemned the defendant to be hanged, by due process. Several appeals were taken, first to the higher courts of Georgia, which confirmed the lower courts, and then to the United States Supreme Court, which declined to interfere, on the finding that everything had been done by due process of law. The Prison Commission finds that no "technical proposition of law or procedure" has prevented FRANK from enjoying his "legal and constitutional rights." Therefore it can see no reason for making an exception of his case, and refuses to interfere with the law's process.

The question of FRANK'S guilt or innocence is left unargued. That humanly paramount question, in fact, has not been arguable in any court since the jury brought in a verdict, "Guilty." The only open question since has been whether that verdict was reached in a lawful manner. The Georgia courts declared it had been; the United States Supreme Court said, in effect, that the opinion of the Georgia courts on that point was final, and now the Georgia Prison Commission, offering no opinion on the question of guilt or innocence, indeed, with no sign of having sought to form one, refuses to interfere, because it finds that the defendant has enjoyed all of his legal and constitutional rights.

Yet he did not have a fair trial. The Constitution does not, it cannot, guarantee justice. It guarantees to every human being equal rights in the means of justice. And as every rule or process invented by man is fallible, it happens that in the full enjoyment of his constitutional rights an innocent man may yet be hanged! We believe FRANK is innocent. So do hundreds of thousands of people in and out of Georgia. And yet, if he shall be hanged none may say that he was deprived of life without due process of law. We wonder, though, what comfort that would be to Georgia if afterward the truth should have to be admitted that the law's victim was innocent. And we wonder, also, whether the majesty of the process is worth upholding as against the risk of putting a man unjustly to death, though it be altogether legal.

This weakness of the law, its inability