

so the negro swore. Yet the blank date upon the sheets shows that the pad from which they were taken was one in use at least four years before, and upon it was the carbon tracing of the signature of an employé of the factory whose duties were performed at a place remote from FRANK'S room, so that the pads used by him would not have been in FRANK'S possession, while it was shown that the pads of the kind used by this employé had been deposited with other waste in the cellar, where they would be readily accessible to the negro CONLEY. That the evidence of the prosecution was not sufficient to remove all reasonable doubt appeared from the astonishing statement of the trial Judge that, after listening to all the testimony, he was unable to make up his mind whether FRANK was guilty or innocent. The case has been minutely inquired into by Mr. EDWARD MARSHALL, whose report of his investigations appears in THE TIMES to-day. His conclusion that FRANK is innocent has been reached by many other careful students of the case, while it would seem to be practically impossible for any candid man to hold the opinion that the trial was fair, that the best possible defense of the prisoner was made, or that the verdict of the jury was in accordance with the evidence, which did not even establish a remote probability of guilt.

It is not for the public or for newspapers to pronounce upon the question of guilt or innocence, but it is within the province of the public and of its newspapers to make clear the very imminent danger that a man may be sent to his death although entirely innocent of the crime charged. That is the situation in which FRANK is placed. It is not merely that his life may be saved, it is not solely on his account, but because the interest and the good name of the City of Atlanta are imperiled, because the people of the entire country and the reputation of their courts and because justice itself are all deeply concerned in this issue, that the demand is made and insisted upon that a new trial should be accorded to FRANK, a fair trial free from the disturbing influence of mob clamor. We feel confident that such a trial could be had, a perfectly fair trial in the very courtroom where the first was held. Atlanta has had her lesson. It is not necessary, it is not just, to put the responsibility for this grave miscarriage of justice especially upon the people of Atlanta, or to attempt to show that they are either better or worse than other communities. They are like other communities. Their prejudices and their passions were wrought upon in the Frank case, they were betrayed into exhibitions of feeling that never should have found any reflection in the courtroom. But this very thing has happened many times in other communities, in New York, in Chicago, wherever an odious crime has fixed the attention and aroused the feeling of the crowd. But whatever may be Atlanta's fault, she can clear her reputation by giving a new trial to FRANK. The peril in which the city and its people now stand is quite too serious to be braved by a civilized community. It is the peril of putting to death a man who has been cheated of his rights, who has not had a fair chance for his life under the forms of law. That would make a mockery of justice, it would put an ineffaceable stain upon the reputation of Atlanta.

ATLANTA AND THE FRANK CASE.

Even among the people of the City of Atlanta the feeling in regard to FRANK, convicted of the murder of MARY PHAGAN, has undergone a marked change. The belief grows and daily spreads that FRANK was not convicted on the evidence, that he is a victim of the clamor and rage of an excited public. This change of heart is reflected in the words of one of Atlanta's ministers of the Gospel, the Rev. Dr. BRICKER of the First Christian Church, who declares that the state of the public mind was such that "an unbiased trial was impossible." He freely admits that he himself "was wrought up to a pitch that prevented the proper exercise of judgment": that he was only one of a community that had lost its head, that had become a stranger to the sense of justice. Other pastors in Atlanta take the same view, and one of the newspapers, The Journal, discussing the case in a tone very different from that it earlier adopted, now openly advocates a new trial for FRANK.

Hardly any criminal trial in the country which has attracted general attention presents a more marked example of a community's prejudgment guiding the proceedings and the decision of the court. Very largely the newspapers of Atlanta are responsible for the fierce demands for the conviction and execution of FRANK. They treated the case in a reckless, sensational way that powerfully tended to inflame public passion. There are indications, too, that the feeling of the wage-earning class had been worked upon to stir up excitement. FRANK was the Superintendent of the factory where the girl was killed, and she was a humble employé. The behavior of the courtroom crowd left no room for doubt as to the bitter public prejudice against FRANK. And the courtroom crowd merely reflected the prevailing feeling in Atlanta. Of this there could be no better evidence than the remarkable scene on the Saturday afternoon when it had been expected that the trial would come to an end and that possibly a verdict might be found that evening. It was then that the trial Judge, in consultation with the Colonel of a regiment of militia, the Chief of Police, and the representatives of the leading Atlanta newspapers, listened to earnest appeals that he should not permit the trial to finish that day, because of the fear that the finding of a verdict either way on Saturday, a half-holiday when there were crowds in the streets, might lead to some deplorable act of violence.

The jury found FRANK guilty of the murder, although the only witness against him was a negro of bad character, who confessed that he himself was an accomplice acting under the direction of FRANK. The testimony of this witness was sufficiently discredited by his character, well known to the jury, and by the monstrous improbability of the tale he told. Since the conviction of FRANK the testimony of the negro witness has been further impeached, completely destroyed in fact, by evidence showing that FRANK was not in the pencil factory at the time of the murder, and by a convincing piece of circumstantial evidence which was most strangely overlooked by the defense. Written sheets were found beside the girl's body, which, according to the negro's statement, he had written at FRANK'S dictation. The sheets were torn from a pad kept in FRANK'S desk and handed to him by FRANK,