

laws. It can be readily understood that in a larceny case negligence or oversight might defeat the motion, but courts have been known to set counsel in the right path, and it would seem that in a capital case, if ever, indulgence might have been shown. Instead, the opinion declares that the motion was "trifling with the court." There was not a word in the court's opinion as to the guilt of the prisoner. Of course not, for on this motion that question was not involved. Still, even as an aside, some expression of the court's views might have helped to remove the belief that prevails very generally, outside of Atlanta, that FRANK is the victim of public fury and clamor.

"The fight has become one against 'the courts and their decisions,'" said Prosecutor DORSEY when his demurrer was sustained. That is perfectly true, and when so very great a part of the public that is without prejudice believes the victim to be innocent, it is a pretty serious matter for the courts.

#### FRANK'S LAST HOPE.

The technical regularity of the judicial proceedings in the case of LEO M. FRANK, who has been convicted at Atlanta of the murder of MARY PHAGAN, cannot be questioned. The jury found him guilty, he was sentenced to death, a second trial was denied by the Supreme Court, and now the same court has sustained the Prosecuting Attorney's demurrer to the motion to set aside the verdict on the ground that the accused man, FRANK, was not in court when the jury returned the verdict, his constitutional right to be present, it was contended, being one he could not waive. An appeal to the Supreme Court of the United States on a writ of error is now FRANK'S last hope of life.

Towering far above any question of regularity in procedure is the question of the guilt or innocence of the prisoner. In the State of Georgia or in any State it ought to be impossible for the plea of an innocent man to be twice rejected by the highest court. On the record we must presume that FRANK is guilty. Yet there is the gravest doubt about it. He was tried in a community violently prejudiced against him, all Atlanta raged for his conviction, guilt was found altogether on the evidence of a wretched degenerate negro, so base that it would seem that any jury would have acquitted save upon conclusive corroboration. There was no such corroboration, and now the counsel of CONLEY, the negro witness, declares that he believes his client killed MARY PHAGAN. All the antecedent probabilities, reasoning from the characters of the two men, tend to confirm the belief that CONLEY was guilty, FRANK innocent.

The Supreme Court rules against the motion to set aside the verdict on the narrow technicality that his counsel should have made his absence from the courtroom at the time the verdict was found one of the grounds of their motion for a new trial, that it was their misfortune if they overlooked or omitted it, and that they come too late into court with that plea. It will be forever too late for FRANK if an error of his counsel sends him to the gal-