WHY THE LEO FRANK PARDON IS IMPORTANT

By Richard Mamches

I have closely followed a new flurry of interest in the Leo Frank case since author Steve Oney published his definitive book on this tragic episode in 2003, AND THE DEAD SHALL RISE: THE MURDER OF MARY PHAGAN AND THE LYNCHING OF LEO FRANK.

As the 2013 centennial of the Leo Frank case approaches, what surprises me is the tendency to downplay or ignore the significance of the posthumous pardon granted to Leo Frank by the state of Georgia on March 11, 1986. The misconception is because Mr. Frank was not officially absolved of guilt in the 1913 murder of Mary Phagan, but was pardoned because the state failed to protect him from the lynch mob, this pardon has little or no real meaning.

I believe the posthumous pardon of Leo Frank is a very beneficial act of restorative justice. If, in the words of Vicki Lawrence's #1 hit song from 1973, the lynching of Leo Frank on August 17, 1915, was "the night that the lights went out in Georgia," his pardon on March 11, 1986 was the day the lights came back on in Georgia--leading the way for truth, reconciliation and justice to triumph over bigotry, denial and injustice. It is a success story that deserves to be remembered at a time when our nation and the world still struggle to overcome bigotry and intolerance in the 21st century.

Let us go back to March 7, 1982, when it all began. On that day, the Nashville Tennessean published a Special News Section story in which Alonzo Mann, Leo Frank's former office boy in 1913, said he saw janitor Jim Conley carry Mary Phagan's body to the basement of the National Pencil Company in Atlanta, where Leo Frank was superintendent. He said Conley killed Mary and that Frank was innocent.

This story finally motivated the Atlanta Jewish Federation, the Anti-Defamation League and the American Jewish Committee to apply for a posthumous pardon exonerating Leo Frank with the Georgia Board of Pardons and Paroles. In support of their petition was a sworn videotaped affidavit given by Alonzo Mann under oath.

Unfortunately, Georgia's parole board denied exoneration to Leo Frank on December 22, 1983. Despite support for the proposed pardon from the Georgia Senate, then-Gov. Joe Frank Harris and Mary Richards Phagan--the murder victim's 83-year-old sister-in-law and the only Phagan family member who believed Frank was innocent, it ruled that Mr. Mann's sworn testimony about seeing Jim Conley carrying Mary Phagan's body to the basement did not conclusively prove that Mr. Frank was innocent of Mary's murder. Astonishingly, the Board disregarded as anecdotal and hearsay other irrefutable proof of Frank's innocence--thoroughly documented for decades in hundreds of pages published in books from reputable authors, historians and scholars such as Yale University professor C. Vann Woodward, Judge Arthur Powell, Charles and Louise Samuels, Allen Lumpkin Henson, Harry Golden and Leonard Dinnerstein. It also asserted that Georgia Governor John Slaton's June 21, 1915 decision commuting Leo Frank's death sentence to life imprisonment did not prove his innocence--even though Slaton clearly expressed his doubts about Mr. Frank's guilt in his courageous commutation order.
This hurtful decision shocked and outraged the Jewish community of Atlanta and many others, rubbing salt into painful wounds inflicted by Leo Frank's lynching. The Georgia parole board's initial refusal to pardon Mr. Frank was widely criticized nationwide in a torrent of letters sent to the Board (including one from this author), and by editorials in the Miami News, the Atlanta Constitution, and the Atlanta Journal, which called it the “terrible perpetuation of a terrible wrong.” The Journal also published a scathing editorial cartoon by Gene Basset depicting the parole board's members as blind men, with the caption: "LEO FRANK'S INNOCENCE? HECK, WE SEARCHED AND SEARCHED....JUST Couldn'T FIND IT."

Shortly before Alonzo Mann's death in March of 1985, former Atlanta Journal and Atlanta Constitution writer Steve Oney--in a prequel to his book, AND THE DEAD SHALL RISE--interviewed both Mr. Mann and Georgia Pardons and Parole board then-chairman Mike Wing for an article about Leo Frank that he was writing for Esquire magazine. Mann told Mr. Oney of his deep disappointment and frustration that Leo Frank was not pardoned in 1983, while Chairman Wing tried to excuse his board's insensitive, spiteful, insulting, and egregiously unjust denial of historical reality by disingenuously insisting there was no conclusive legal proof that Leo Frank was innocent while ignoring the overwhelming historical proof of injustice! (A decade later, Big Tobacco would make another similarly outrageous denial of scientifically proven medical facts and truth when all its chief executives swore under oath before Congress that they believed nicotine was "not addictive" and claimed there was still no conclusive proof that smoking causes lung cancer, heart disease, emphysema, over 400,000 preventable deaths every year in the United States and many more deaths worldwide--notwithstanding the Surgeon General's warnings printed on all cigarette packs since 1966).

After Esquire published Steve Oney's article, THE LYNCHING OF LEO FRANK, in September of 1985, a second application was filed for a posthumous pardon with the Georgia Board of Pardons and Paroles, which this time agreed to seriously consider another way to give Leo Frank justice.

Instead of asserting Mr. Frank's innocence, Atlanta attorneys Dale Schwartz and Charles Wittenstein, assisted by David Meltz and Clark Freshman, went to Plan B and argued that the state of Georgia's failure to protect Leo Frank from the lynch mob during his imprisonment at the Milledgeville prison farm, and its failure to bring his killers to justice, amounted to the state's complicity in the lynching. Therefore, Leo Frank's lynching was per se so egregious an injustice that it transcended the issue of innocence or guilt. They also argued the state of Georgia needed to atone for its past sins in this case and urged that Mr. Frank be pardoned without addressing the issue of his guilt or innocence, to send a strong signal that Georgia no longer condoned anti-Semitism and mob violence, and wanted to heal these old wounds by renouncing bigotry, acknowledging injustice, and righting this tragic wrong.

On Tuesday, March 11, 1986, Leo Frank was finally granted his long-overdue pardon by the very same Georgia parole board members who rejected it over two years earlier. In a dramatic change of heart, they unanimously agreed with the petitioners and their attorneys that Mr. Frank's lynching was per se so egregiously unjust that it trumped the problematic question of his guilt or innocence.
According to the pardon:

The lynching aborted the legal process, thus foreclosing further efforts to prove Frank's innocence. It resulted from the State of Georgia's failure to protect Frank. Compounding the injustice, the State then failed to prosecute any of the lynchers.

After signing the pardon, Georgia parole board chairman Wayne Snow, Jr. told the _Atlanta Journal_ and the _Atlanta Constitution_ that:

...*Leo Frank had been done an injustice, [because] the state failed to protect him or to guarantee him [his further opportunity for] appeal, and he certainly deserved a pardon.* Hopefully, this will...*redress what was a very poor episode in the state's history.* (Emphasis supplied)

Alluding to the insensitivity shown by the Board's earlier rejection of a pardon for Leo Frank in 1983, Georgia parole board member James "Tommy" Morris admitted:

[It] was depicted as evidence it was still Tobacco Road down here and that we weren't interested in doing the right thing. *It's almost like the parole board became the state of Georgia insofar as its attitude towards [Atlanta's Jewish community and the Jewish people].* (Emphasis supplied)

Morris concluded:

Personally, I believe in my gut that [Frank] was innocent, but there is no [*sic*] way that I could prove it. So, we just went with the pardon and decided to let people read into it what they will.

The pardon was welcomed by representatives of the Anti-Defamation League, the Atlanta Jewish Federation, American Jewish Committee, and the American Jewish Congress. It was also praised editorially by the _Atlanta Journal_, _Atlanta Constitution_, _Christian Science Monitor_, _Marietta Daily Journal_, _South Florida Sun-Sentinel_ and the _Miami Herald_. Cogently and succinctly, the _Herald_ declared: "*A salve for one of the South's most hateful, festering memories was finally applied.*" (Emphasis added)

Some have criticized the Leo Frank pardon as insufficient as it did not formally declare him innocent, while others have derided it as "political correctness" because they still believe Leo Frank is guilty of murdering Mary Phagan in 1913, and perceive his pardon as an insult to her memory.

Nevertheless, what has long been overlooked is the most important reason of all given by Georgia's parole board for pardoning Leo Frank: "...*as an effort to heal old wounds.*"

Let us look at the solid record of progress and accomplishment over the last quarter century since Mr. Frank was pardoned and see just how far we have come:
1) The dark and sinister shroud of secrecy and silence surrounding the lynching of Leo Frank has been ripped away forever!

2) Greater Atlanta's Jewish community no longer cowers in fear when Leo Frank's name is mentioned. Today, some 120,000 Jewish Atlantans now live comfortably with their neighbors in a more tolerant, diverse and much more welcoming community than the one where Mr. Frank was lynched in 1915—proud of themselves and their heritage, enjoying the respect, security, self-confidence and peace of mind denied to Leo Frank, his wife Lucile, and the far smaller number of Jews who lived in Atlanta during those tragic times long ago.

3) The vital lessons of the Leo Frank case and their relevance to current events are being learned, discussed and understood more than ever before, thanks to author Steve Oney's critically acclaimed book AND THE DEAD SHALL RISE. The University of Georgia Press in 1987 reissued THE LEO FRANK CASE by University of Arizona professor Leonard Dinnerstein, and has published another new book: SCREENING A LYNCHING: THE LEO FRANK CASE ON FILM AND TELEVISION, by Emory University professor Matthew Bernstein. Steve Oney's book is available in some public libraries, and all these books are currently in print and available from their publishers, at the William Breman Jewish Heritage and Holocaust Museum, the Atlanta History Center, the Marietta Museum of History, and also online.

4) A five-hour NBC miniseries, THE MURDER OF MARY PHAGAN, starring Jack Lemmon as Governor John Slaton and Peter Gallagher as Leo Frank, brought this tragic story of injustice to millions of American television viewers in prime time when first broadcast in January 1988. It was later released on VHS home video in 1992 and on DVD in 2011. Most recently, a new documentary, THE PEOPLE V. LEO FRANK, was televised on PBS November 2, 2009, six months after its World Premiere at Marietta's Cobb Energy Center, and is now available on DVD for purchase online at www.leofrankfilm.com.

5) The William Breman Jewish Heritage and Holocaust Museum in Atlanta opened its traveling exhibition, SEEKING JUSTICE: THE LEO FRANK CASE REVISITED, in 2008 through the spring of 2009—the first museum exhibit exclusively dedicated to an in-depth discussion of one of the most controversial and tragic chapters in American judicial history.

6) Thanks in large part to Steve Oney's interviews with the descendants of those who were involved in the lynching of Leo Frank in 1915, along with Mr. Frank's closest surviving relatives and descendants, truth and reconciliation have finally come to Marietta, Georgia, where it took place. For example, Chuck Clay, the great-nephew of Herbert Clay, indentified and acknowledged as the chief planner and leader of Leo Frank's lynching, has outspokenly condemned this act and all forms of prejudice, including anti-Semitism. He has also been joined by former Georgia governor Roy Barnes (D), whose grandfather-in law, Cicero Dobbs, also participated in Mr. Frank's lynching. Not only has Barnes condemned Leo Frank's lynching, he has also publicly voiced his strong support for Governor John Slaton's courageous decision of June 21, 1915, commuting Mr. Frank's unjust death sentence to life imprisonment. Both Mr. Clay, former Georgia state senator, attorney and Georgia Republican Party chairman, and former Governor Barnes were interviewed for and appeared on the PBS Leo Frank documentary, and
have supported and participated in efforts to inform and educate their fellow Georgians and all Americans about the Leo Frank case and its legacy.

7) For the first time the Cobb County Commission officially commemorated the 90th anniversary of Leo Frank's lynching on August 17, 2005. Led by its first Jewish member and chairman, Sam Olens, it passed a resolution condemning the heinous act and pledged that "no such injustice will ever happen again" to anyone in Cobb County, Georgia. That same day, a memorial service for Mr. Frank was held at the lynching site--the VPI office building at 1200 Roswell Road in Marietta, and a plaque in his honor and of all lynching victims with the phrase, "Am I My Brother's Keeper?" was dedicated and affixed to the building by Rabbi Steven Lebow of Marietta's Temple Kol Emeth. Five years later, Sam Olens (R) was elected by Georgia voters as the state's Attorney General in the November 2010 midterm elections.

8) The Marietta, Georgia, city council has two elected Jewish councilmen: Philip Goldstein (first elected in 1980 before Frank was pardoned), and Van Pearlberg (elected in 2006). Mr. Pearlberg has also served with distinction as Cobb County’s senior assistant District Attorney and is a recognized expert on the Leo Frank case.

9) Playwright Alfred Uhry, author of DRIVING MISS DAISY--whose great-uncle was Sigmund Montag, owner of the National Pencil Company in Atlanta, where Leo Frank was the superintendent--has written PARADE, his Tony award-winning musical about the Leo Frank case. After its critically acclaimed brief run on Broadway in 1999, it was revived with off-Broadway performances in Atlanta, Denver and elsewhere (this author watched an excellent performance of PARADE at the Stage Door Theater in Coral Springs, Florida in 2003).

10) The Georgia Historical Society, Temple Kol Emeth and the Jewish American Society for Historic Preservation cosponsored and dedicated an official Georgia state historical marker at the site of the lynching of Leo Frank on March 7, 2008. The event was also recognized by Georgia Senate Resolution 1066. It commended the Anti-Defamation League for its ongoing efforts to fight bigotry and for its "No Place for Hate" anti-bullying program in Georgia schools, and congratulated all the parties involved in placing the Leo Frank historical marker at 1200 Roswell Road near the I-75 overpass and Frey's Gin Court in Marietta, GA.

11) Georgia’s historic and groundbreaking pardon of Leo Frank has also served as an example for at least two other states and even the former Soviet Union to right their own past wrongs with restorative justice. On December 24, 2003, Gov. George Pataki (R-New York) issued his state’s first-ever posthumous pardon to the late, controversial stand-up comedian Lenny Bruce, who was convicted in 1964 on questionable obscenity charges. Pataki called the pardon “a declaration of New York’s commitment to upholding the First Amendment [and] a reminder of the precious freedoms we are fighting to preserve as we wage the war on terror.” And on March 1, 2010, Gov. Rick Perry (R-Texas) granted a posthumous pardon for innocence to Tim Cole, who died in
1999 while serving a 25-year sentence for aggravated sexual assault. Cole was cleared of the crime by DNA evidence after his death. Said Perry, “I have been looking forward to the day I could tell Tim Cole’s mother that her son’s name has been cleared for a crime he did not commit. The State of Texas cannot give back the time he spent in prison away from his loved ones, but today I was finally able to tell her we have cleared his name, and hope this brings a measure of peace to his family.” And in 1988 Soviet President Mikhail Gorbachev exonerated Nikolai Bukharin and 18 other victims executed for treason after infamous 1930s Stalinist-era show trials, under the historic reforms known as glasnost (openness) and perestroika (restructuring), that helped end the Cold War three years later.

There can be no doubt that March 11, 1986 was, in the words of the Southern Israelite, an "historic day" that touched the lives of Jewish Atlantans when Leo Frank was pardoned "as an effort to heal old wounds." Since then, the state of Georgia, greater Atlanta and ultimately Ground Zero for Mr. Frank's lynching--Marietta and Cobb County--forever transformed themselves through this belated act of atonement and redress to move forward in a meaningful and very positive way by recognizing injustice, repudiating bigotry and hate, and by embracing tolerance, diversity and a better future for all. Therefore, I believe those who worked so hard to get Leo Frank his posthumous pardon deserve our respect, as its proven long-term benefits have far outweighed its shortcomings. They should also be remembered and honored for their courage and determination to succeed in righting this wrong.

This is why I believe the 1986 pardon granted to Leo Frank was a just decision. Although it did not formally declare his innocence, the state of Georgia gave him the benefit of over 70 years of thoroughly documented doubt about his guilt while finally acknowledging what it never said before: that Mr. Frank was the tragic victim of a grievous injustice--a lynching author Steve Oney has called an unpunished, "state-sponsored" anti-Jewish hate crime.

History's judgment in the Leo Frank case is unambiguous and unmistakably clear: Mr. Frank was innocent, he was indicted under false pretenses for the 1913 murder of Mary Phagan without sufficient evidence, he was wrongly convicted and the guilty verdict rendered and death sentence imposed upon him were an illegitimate miscarriage of justice that is irrevocably null and void. This historical judgment can never be overturned or erased, as it has stood the test of time for nearly a century.

I close with these still-relevant 1986 editorial comments from the Atlanta Journal and Atlanta Constitution, which eloquently explain what the posthumous pardon of Leo Frank means to all of us--then and now:

The important meaning of this decision is not that a man dead for 70 years is now officially relieved of an indictment against him. The meaning that makes it worth having...is that the state of Georgia is on record as saying that mob rage and anti-Semitic terror are not acceptable tools of "justice" here. They are not tolerated today, and their exercise in the past will not be excused just because times and men were different then.
And that brings us to a strange irony of the Frank pardon. As it acknowledges the profound failures which allowed Frank to be lynched, Georgia has sought to erase the terrible blot on its own record. It has owned up to the past. While the pardon is in the name of Leo M. Frank, it is the state of Georgia that is looking for relief—from its sentence of interminable shame.

ABOUT THE AUTHOR


This essay is dedicated to the memory of Alonzo Mann (1898-1985), James "Tommy" Morris (1940-2002) and Wayne Snow, Jr. (1936-2004)—and to everyone who has zealously sought justice for Leo Frank and to honor his memory.

SELECTED BIBLIOGRAPHY


Georgia Board of Pardons and Paroles. *Decision in Response to Application for Posthumous Pardon for Leo M. Frank*. December 22, 1983, Atlanta, Georgia.


Georgia Senate Resolution 1066. "Commemorating March 7, 2008 as the date of the placement of a Georgia historical marker at the site of the Leo Frank lynching and commending the organizations participating in the dedication of the historical marker, and for other purposes." _www.legis.state.ga.us/legis/2007_08/fulltext/sr1066.htm_.


**ARTICLES AND EDITORIALS**


Auchmutey, Jim: "A new book names the leading local citizens believed to have had a hand in


"We Must Wait Still Longer for Justice for Leo Frank." Atlanta Journal, December 23, 1983.

MOVIES AND MUSIC

PARADE: THE ORIGINAL BROADWAY CAST RECORDING. RCA Victor Compact Disc, 09026-63378-2, (c) 1999 BMG Entertainment.

PROFILES IN COURAGE: GOVERNOR JOHN M. SLATON. NBC-TV. (c) 1964, Robert Saudek Productions.

THE MURDER OF MARY PHAGAN. NBC-TV miniseries. Produced by George Stevens, Jr. (c) 1987 Century Towers Productions and Orion Television. Re-released (c) 1992 by Orion Home Video on VHS videocassette and (c) 2011 by MGM and 20th Century Fox Home Entertainment on DVD. Available for online viewing at www.hulu.com.


THE PEOPLE V. LEO FRANK: A GEORGIA ROUNDTABLE. A half-hour panel discussion sponsored by the Georgia Historical Society and Georgia Public Broadcasting, which was telecast on most Georgia public television stations and streamed on www.gpb.org immediately after the namesake documentary on November 2, 2009. It was moderated by Stan Deaton, Ph.D., senior historian of the Georgia Historical Society, with former Georgia Gov. Roy Barnes (D), author Steve Oney and Emory University professor Matt Bernstein.