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.

With the arrival of the 2013-15 centenary of the Leo Frank case, I am surprised by 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 both a very beneficial act of restorative justice and one of Georgia's finest moments. 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 Georgia turned the lights back on—so truth, reconciliation, justice and healing could finally overcome a tragic 70-year legacy of bigotry, denial and injustice, long shrouded in shameful silence. It is an inspiring success story that deserves to be remembered at a time when our nation and the world still struggle to overcome prejudice, hatred 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 where 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. Mann said Conley killed Mary and gave false testimony against Frank at his trial, and that Frank was innocent of the crime.

This story finally motivated the Atlanta Jewish Federation, Anti-Defamation League (ADL), and the American Jewish Committee to apply for a posthumous pardon exonerating Leo Frank with the Georgia State Board of Pardon and Paroles. In support of their petition was a sworn videotaped affidavit given by Alonzo Mann, validated by a lie detector test.

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Although this song is not about the Leo Frank case, both its title and chorus are eerily evocative of Frank's fate: “That's the night that the lights went out in Georgia/That's the night that they hung an innocent man/So don't trust your soul to no backwoods Southern lawyer/Cause the judge and the town's got bloodstains on their hands.”


On April 2, 1986—three weeks after Frank was pardoned—former Georgia Gov. Ellis Arnall, in an oral history interview with Mel Steely and Ted Fitz-Simons of the University of West Georgia Libraries, would reveal he first proposed pardoning Leo Frank during his term as governor from 1943-1947. Calling the Frank case “a blot on the good name of Georgia,” he said: “I considered at one time undertaking to have the pardon board pardon Leo Frank, and yet some of my Jewish friends told me that was a dead issue now and not to stir it up again...So I desisted from it.” Arnall praised the parole board's decision to pardon Frank, saying: “…I think they did right.” Quoted from Conversations with Ellis Arnall, April 2, 1986, accessed from www.westga.edu/~library/departments/gph/coneagov.shtml.
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 (D), and most surprisingly of all, from Atlanta resident Mary Richards Phagan—the murder victim's 83-year-old namesake sister-in-law once quoted as saying she would “thank the Lord” if Frank were pardoned—and apparently unknown to both the petitioners and the parole board, the only Phagan family member who sincerely believed Frank was innocent, it ruled that Mann's sworn testimony about seeing Jim Conley carrying Mary Phagan's body to the basement did not conclusively prove Frank's innocence.

Astonishingly, the Board disregarded as anecdotal and hearsay all other irrefutable evidence Frank was innocent—painstakingly documented for decades in countless pages published in books by many 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, University of Arizona professor Leonard Dinnerstein, Robert Frey and Nancy Thompson-Frey, and Steve Oney. It also asserted that Georgia Gov. John Slaton's June 21, 1915 decision commuting Leo Frank's death sentence to life imprisonment still did not prove his innocence, even though Slaton clearly expressed his doubts about Mr. Frank's guilt in his courageous decision by Georgia Governor John M. Slaton to grant Executive Clemency to Leo Frank.

This hurtful, historically challenged decision shocked and outraged the Jewish community of Atlanta and many others, rubbing salt into painful wounds caused by Leo Frank's lynching. The Georgia parole board's initial
refusal to pardon Mr. Frank was widely criticized nationwide in a flood of letters sent to the Board (including one from this author) and blasted by stinging 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 printed a scathing editorial cartoon by Gene Basset depicting the Georgia parole board members as blind men led by blind seeing-eye dogs, captioned: “LEO FRANK'S INNOCENCE? HECK, WE SEARCHED AND SEARCHED... JUST COULDN'T FIND IT.”

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

While impressive legal arguments and moral suasion had thus far failed to win Leo Frank a pardon in 1984-85, coincidentally there was an unstated, far stronger incentive for Georgia to show contrition and right this wrong: to protect its future access to world-class business and investment opportunities for jobs and economic growth that it could not afford to lose. In a 2011 interview, Dale Schwartz, lead attorney for the petitioners, outlined this stark bottom line, dollar-and-cents reality: “A large number of American companies that were planning to open plants or move their corporate offices to Georgia sent letters to the governor declaring they were staying away coincidentally there was an unstated, far stronger incentive for Georgia to show contrition and right this wrong: to protect its future access to world-class business and investment opportunities for jobs and economic growth that it could not afford to lose. In a 2011 interview, Dale Schwartz, lead attorney for the petitioners, outlined this stark bottom line, dollar-and-cents reality: “A large number of American companies that were planning to open plants or move their corporate offices to Georgia sent letters to the governor declaring they were staying away from Georgia due to the disgraceful [pardon] denial.”

See also Associated Press, “Pardon Denied in Leo Frank Case,” Galveston Daily News, December 23, 1983, where Mary Richards Phagan also strongly denounced the Georgia parole board's decision, saying: “I am surprised. What's the matter with those people? There must be a lot of those people still living that are so cruel. All we can do is still pray that God will turn it around and show [them] that [Frank] was not guilty.” (Emphasis supplied). Accessed from www.newspaperarchive.com.

20 Gene Basset, “Leo Frank's Innocence?” Atlanta Journal, December 28, 1983. See also the Atlanta Constitution, January 2, 1984, which published another cartoon depicting three Georgia parole board members with a locked crate tagged 'Leo Frank Case,' captioned: “WELL, THAT'S DONE...NOW, WHERE CAN WE STASH IT?”
21 Steve Oney, “The Lynching of Leo Frank.” Esquire, September 1985, p. 104. Georgia parole board chairman Mike Wing explained the panel's 1983 decision to Oney: “The testimony of [Alonzo] Mann sounded good. It matched up with the shit in the shaft to suggest that Jim Conley was the killer [of Mary Phagan]. But does his testimony alone provide sufficient reason to overturn the findings of the court? I wouldn't convict someone seventy years after the fact solely on the testimony of an eighty-year-old man, so how can I pardon someone on that testimony? To get that pardon, they needed to prove that Frank was innocent beyond a shadow of a doubt, and Mann's testimony just didn't do that,” to which Alonzo Mann replied: “I didn't dream this. I can see Jim Conley as plain as day with that girl, and my age doesn't have a thing to do with it. The only thing I've ever dreamed about this case is of Mr. Frank hanging from a tree. That dream has haunted me.”

Another explanation for the Georgia parole board's 1983 decision was given by the petitioners' lead attorney, Dale Schwartz. He stated that Mobley Howell, who was the parole board chairman at the time, was adamantly opposed to pardoning Leo Frank, because “…he was afraid this would pave the way for the friends and family of thousands of other executed criminals to demand a posthumous pardon for them.” Shimon Rosenberg, Chaim Rivkin and Rachel March. “A Jew's Lynching: The Leo Frank Saga.” ZMAN magazine, October 2011, p. 186.
And so, after *Esquire* published Steve Oney's article, THE LYNCHING OF LEO FRANK in September 1985, a second application was filed for a posthumous pardon with the Georgia parole board, 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, the ADL's southern regional counsel, assisted by David Meltz and Clark Freshman, went to Plan B and argued the state of Georgia's failure to protect Leo Frank from the lynch mob during his imprisonment at the Milledgeville state prison farm and its subsequent failure to bring his killers to justice, amounted to the state's *de facto* complicity in his demise. Therefore, Frank's lynching *per se* was so egregious an injustice it overshadowed the issue of his innocence or guilt in the murder of Mary Phagan. They also insisted it was Georgia's responsibility to atone and repent for its past sins in this case, and asked that Mr. Frank be pardoned without addressing the issue of guilt or innocence—to send a strong signal Georgia no longer condoned anti-Semitism and mob violence, and that it 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, face-saving change of heart, they reversed themselves and unanimously agreed that the injustice of Mr. Frank's lynching was so compelling that it decisively trumped the problematic question of his guilt or innocence.

According to the parole board's decision:

> 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.

> In 1983 the State Board of Pardons and Paroles considered a request for a pardon implying innocence, but did not find “conclusive evidence proving beyond any doubt that Frank was innocent.” Such a standard of proof, especially for a 70-year-old case, is almost impossible to satisfy.

After signing the pardon, Georgia parole board chairman Wayne Snow, Jr. explained the historic decision to the *Atlanta Journal* and *Atlanta Constitution*, acknowledging at last that:

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

23 Mary Phagan Kean, *The Murder of Little Mary Phagan*, p. 311, describes the Georgia parole board's soul searching for a way to save face and rectify its grievous error, by quoting these statements from some of its members: “‘I don't know,’ Board member James Morris had said in 1985, 'I wish we could do something to right this wrong. I know we want to do something, but [for us] to say with one hundred percent certainty that Leo Frank is an innocent man is a very difficult thing to do.' (Emphasis supplied)

> ‘That year Wayne Snow, Jr., who had been appointed chairman..., said, “The [Frank] case is so repulsive because of the lynching—because it terminated all the rights of an individual.' Another Board member had been disturbed by the 'State's inability to protect one of its citizens' since Frank was in state custody during the lynching.” (Emphasis supplied)


Recognizing 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:

Our earlier decision 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 to [Atlanta's Jewish community and the Jewish people]. 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.28 (Emphasis supplied)

The pardon was welcomed by representatives of the Anti-Defamation League, the Atlanta Jewish Federation, American Jewish Committee and the American Jewish Congress.29 It was also praised editorially by the Atlanta Journal,30 Atlanta Constitution,31 Christian Science Monitor,32 Marietta Daily Journal,33 South Florida Sun-Sentinel34 and the Miami Herald.35 Cogently and succinctly, the Herald declared: “A salve for one of the South's most hateful, festering memories was finally applied.”36 (Emphasis added twice)

Some have criticized the Leo Frank pardon as insufficient as it did not formally declare him innocent,37 while others have derided it as “political correctness” because they still believe Frank is guilty of murdering Mary Phagan, and perceive his pardon as an insult to her memory.38

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.”39

Let us look at the solid record of progress and accomplishment since Mr. Frank was pardoned and see just how far we have come:

28 Ibid.
29 “Leo Frank is Posthumously Pardoned by Georgia Board.” Jewish Telegraphic Agency, March 12, 1986, Vida Goldgar, “Historic Day in Georgia: Parole Board Grants Pardon to Leo Frank.” Southern Israelite, March 14, 1986, and Michele Cohen, “Atlanta Jews See Victim's Pardon as a Symbol of Justice.” South Florida Sun-Sentinel, March 13, 1986. Before he passed away in 2013, Charles Wittenstein, co-counsel with Dale Schwartz, proudly recalled the day Leo Frank was pardoned: “I was delighted. I remember how Dale and I were on cloud nine. We were thrilled with the results.” Rosenberg, Rivkin and March. “A Jew's Lynching: The Leo Frank Saga.” ZMAN, October 2011, p. 188.
37 Arlene Peck, “Leo Frank: Too Little, Too Late.” National Jewish Post and Opinion, March 29, 1986. She wrote: “I am not impressed by the recent pardon of Leo Frank. I feel that he deserves complete exoneration and nothing less...[I]t is still a travesty of justice to not own up to the reality of Leo Frank's innocence.”
38 Steve Oney, And the Dead Shall Rise, supra, p. 643: “Joining in vociferous opposition to a pardon were Harvard-educated lawyer Tom Watson Brown, the populist's great-grandson, Hugh Dorsey, Jr. [son of Frank's prosecutor], Jasper Dorsey, son of lynching planner John Tucker Dorsey, and Mary Phagan Kean [great-] niece and namesake of the victim.” (Mary Phagan Kean is the grand-daughter of Mary Richards Phagan--Author) Hugh Dorsey, Jr. scorned the pardon of Leo Frank as “public flagellation,” unrepentant in his belief that Frank had a fair trial and a “full and fair right of appeal,” quoting Frank v. Mangum, 237 U.S. 309 (1915), the long-discredited U.S. Supreme Court decision upholding Frank's conviction—which the Court overruled eight years later; see note 59, infra. Dorsey also insisted his late father “never doubted” that Frank was guilty of murdering Mary Phagan. Letter to the editor, published by the Atlanta Journal and Atlanta Constitution, March 22, 1986.
39 Georgia State Board of Pardons and Paroles, PARDON, supra.
1) Georgia's dark and sinister shroud of secrecy, silence and impunity surrounding the lynching of Leo Frank has been ripped away forever.40

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 and work comfortably with their neighbors in a more tolerant, diverse and much more welcoming community—proud of themselves and their heritage, enjoying the respect, security, self-confidence and peace of mind denied to Frank, his family and the far smaller number of Jews who lived in a very different Atlanta during those tragic times long ago.41

3) When Frank was pardoned, the once-taboo subject of the Leo Frank case was finally opened to free and honest discussion and debate in Georgia and nationwide. Thus its vital lessons and truths—and their relevance to current events—have been learned, discussed and understood more than ever before, thanks in part to author Steve Oney's critically acclaimed book AND THE DEAD SHALL RISE. The University of Georgia Press acquired publishing rights to THE LEO FRANK CASE by Leonard Dinnerstein, reissuing it in 1987, 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, Atlanta History Center, Marietta Museum of History, and also online.

4) A five-hour, award-winning 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 TV viewers in prime time when first broadcast in January 1988. It was later reissued on VHS videocassette in 1992 and on DVD in 2011.42 More recently, THE PEOPLE V. LEO FRANK, a documentary produced by Ben Loeterman, was televised on PBS November 2, 2009, six months after its World Premiere in Marietta at the Cobb Energy Center, and is available for purchase online at www.leofrankfilm.com.43

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 regrettable chapters in American judicial history.44


6) Thanks largely to Steve Oney's interviews with the descendants of those involved in the 1915 lynching of Leo Frank along with Mr. Frank's closest surviving relatives, truth and reconciliation have finally come to Marietta, Georgia, where it took place. For example, Chuck Clay, the great-nephew of Eugene Herbert Clay, Sr.—identified and acknowledged as the chief planner and leader of Leo Frank's lynching—has outspokenly condemned this act and all forms of prejudice, including racism and anti-Semitism. He has also been joined by former Georgia Gov. Roy Barnes (D), whose grandfather-in-law, Cicero Dobbs, also participated in the crime. Not only has Barnes condemned Leo Frank's lynching, he also publicly voiced his strong support for Gov. John Slaton's courageous decision of June 21, 1915 commuting Mr. Frank's unjust death sentence to life imprisonment, and has acknowledged that the Frank case was a "miscarriage of justice." Both Mr. Clay, former Georgia Republican Party chairman, Cobb County commissioner, attorney and state senator, and former Gov. Barnes were interviewed for and appeared on the PBS Leo Frank television documentary, and have supported and participated in efforts to inform and educate their fellow Georgians and all Americans about the Leo Frank case, its tragic pre-pardon legacy and the positive legacy of old wounds healed by Frank's 1986 pardon.

7) For the first time the Cobb County, Georgia Board of Commissioners officially commemorated the 90th anniversary of Leo Frank's lynching on August 17, 2005. Under the leadership of its first-ever Jewish member and chairman Sam Olens, it adopted a resolution condemning the heinous act and pledged that "no such injustice will ever happen again" to anyone in Cobb County. 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.


"We have a tragedy that's unique here," said Chuck Clay....who acknowledges that his great-uncle was involved in the lynching. “Should we draw our own unique lessons? I hope so. This story always bears repeating. We should never let our guard down and think we've vanquished prejudice.” See also Yolanda Rodriguez, “Ceremony remembers lynching, sows reconciliation.” Atlanta Journal-Constitution, August 18, 2005. Accessed from www.ajc.com.

Carrick's Mollenkamp, “An Internet Posting Raises the Ghosts of a Notorious Crime.” Wall Street Journal. June 9, 2000. "Georgia's [then] current governor, Roy Barnes [D], whose family moved to Cobb County in 1919, calls the Frank lynching 'one of the lowest points in Georgia's history...The Leo Frank case showed a side of the South—bigotry towards Jews and Roman Catholics—that I hope and pray we've grown out of. With a miscarriage of justice like that, I think people tend to be quietly ashamed that it could have happened rather than want to talk about it.'” Unfortunately, the late Tom Watson Brown (1933-2007)—unlike Barnes, Chuck Clay and the late Mary Richards Phagan, who have all denounced the injustice done to Leo Frank—steadfastly insisted before his death Frank was guilty as charged and properly convicted of murdering Mary Phagan! The controversial Marietta attorney also tried to excuse Frank's lynching by alleging the Jews “ bribed” Georgia Gov. John Slaton to commute Frank's death sentence—a false charge made by his great-grandfather Tom Watson, which has been debunked by Steve Oney and many others who have extensively studied and written about the Leo Frank case and lynching. See Steve Visser, “NFL Censure Sought on Falcons Investor: Cobb Rabbi Says Remarks on Leo Frank Lynching by Watson Descendant Opens 85-Year Wound.” Atlanta Journal-Constitution, September 8, 2000. Accessed from www.ajc.com and www.nl.newsbank.com.


A copy of this resolution is in the author's position, received by e-mail, courtesy of the Cobb County Board of Commissioners, Marietta, GA.


8) Marietta, Georgia has two elected Jewish city councilmen: Philip Goldstein (first elected in 1980 before Frank was pardoned), and Van Pearlberg (elected in 2006). Pearlberg has previously served with distinction as Cobb County's senior District Attorney and is also a recognized authority on the Leo Frank case.50

9) Playwright Alfred Uhry, author of DRIVING MISS DAISY—whose great-uncle was Sigmund Montag, owner of Atlanta's National Pencil Company, where Leo Frank was 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 in 2000 with off-Broadway performances in Atlanta, Denver and elsewhere (this author watched an excellent performance of PARADE at the Stage Door Theatre in Coral Springs, FL in 2003).51

10) The Georgia Historical Society, Temple Kol Emeth and the Jewish American Society for Historical Preservation cosponsored and dedicated a Georgia state historical marker at the Leo Frank lynching site in Marietta on March 7, 2008.52 The event was also recognized by Georgia Senate Resolution 1066,53 which commended the ADL for its ongoing mission to fight bigotry and for its “No Place for Hate” anti-bullying program in some 150 Georgia public and private 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 Gin's Court.

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—the “evil empire”--to right their own past wrongs by taking restorative justice to a whole new level. 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] as a reminder of the precious freedoms we are trying to preserve as we wage the war on terror.”54 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 due to his having been misidentified by the victim as the perpetrator of the crime. Cole was cleared by another man's confession and DNA evidence discovered after his death. Said Perry, “I have been looking forward to the day I could tell Tim Cole's family that her son's name has been cleared for a crime he did not commit to upholding the First Amendment [and] as a reminder of the precious freedoms we are trying to preserve as we wage the war on terror.”54

50 www.mariettaga.gov/departments/council/goldstein.aspx, (Philip Goldstein profile)
www.mariettaga.gov/departments/council/pearlberg.aspx, (Van Pearlberg profile)
See also the Marietta Daily Journal, supra, note 49, where Candice Cunningham also wrote: “Cobb Senior District Attorney Van Pearlberg...has been fascinated by the Frank case from a professional perspective...As an attorney, Pearlberg said the Frank case was filled with mistakes. It included prosecutorial misconduct, uncontrolled courtroom antics, pre-trial media publicity and witnesses who lacked credibility.”

51 Dan Hulbert, “‘Parade: A Second Chance.’” Atlanta Journal-Constitution, June 11, 2000. See also the liner notes from PARADE: The Original Broadway Cast Recording, RCA Victor Compact Disc 09026-63378-2
(c) 1999 BMG Entertainment.

52 Tucker McQueen, “FACING UP TO HATE: Marker honors Leo Frank, who was unjustly executed in [1915].” Atlanta Journal-Constitution, March 8, 2008. Accessed from www.ajc.com. See also the city of Marietta's online press release, “Leo Frank lynching site recognized with historic marker,” March 7, 2008, accessed from www.mariettaga.gov/news/readarticle.aspx?id=558, with a link to a webcast of the marker dedication ceremony. The marker reads: “Near this location on August 17, 1915, Leo M. Frank, the Jewish superintendent of the National Pencil Company in Atlanta, was lynched for the murder of thirteen-year-old Mary Phagan, a factory employee. A highly controversial trial fueled by societal tensions and anti-Semitism resulted in a guilty verdict in 1913. After Governor John M. Slaton commuted the death sentence to life in prison, Frank was kidnapped from the state prison in Milledgeville and taken to Phagan's home town of Marietta, where he was hanged in front of a local crowd. Without addressing guilt or innocence, and in recognition of the state's failure to either protect Frank or bring his killers to justice, he was granted a posthumous pardon in 1986. Erected by the Georgia Historical Society, Jewish American Society for Historic Preservation and Temple Kol Emeth.” (Emphasis supplied) Marker text courtesy of Jerry Klinger, accessed from www.jashp.org/leofrank.html

53 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.” Accessed from www.legis.state.ga.us/legis/2007_08/fulltext/sr1066.htm.

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.”

Finally in 1988, with the support of President Mikhail Gorbachev, the Soviet Union rehabilitated Nikolai Bukharin, Alexei Rykov and 18 other victims executed for treason in 1938 after infamous 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 Atlanta's leading Jewish journalist, Southern Israelite publisher Vida Goldgar, an “historic day” that touched the lives of Jewish Atlantans when Leo Frank was pardoned to ease decades of pain suffered by Atlanta's Jewish community, in “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—transformed and redeemed themselves through this belated act of atonement and redress, and moved forward in a meaningful and very positive way to help build a better society—by correcting injustice, repudiating bigotry and hate and by embracing tolerance, diversity and a better future for all.

Therefore, I believe those who worked so long and hard to get Leo Frank pardoned deserve more than our respect: they should also be remembered and honored for their courage and determination to succeed in righting this wrong. This pardon was a just decision whose proven long-term benefits have far outweighed its shortcomings; although Frank was not formally absolved of the crime, he is still legally rehabilitated and tacitly exonerated. Furthermore, by pardoning Leo Frank, the state of Georgia gave him the full benefit of over 70 years of amply documented doubts about his guilt and delegitimized his unjust murder conviction, while finally admitting what it never said before: that Frank was indeed the tragic victim of a grievous injustice—a lynching author Steve Oney called an unpunished, “state-sponsored” anti-Semitic hate crime.

Nevertheless, 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 a terrible miscarriage of justice that is irrevocably null and void. This judgment can never be overturned or erased, as it has stood the test of time for a century.


57 In his opening remarks at the Leo Frank historical marker dedication ceremony on March 7, 2008, Cobb County and Atlanta regional commission then-chairman Sam Olens declared: “It is important to understand the changes...in Cobb County since 1915. We're now a community with a thriving Jewish family life...that embraces diversity...where the descendants of those involved in the crime [the lynching] have now denounced the grave injustice given to Leo Frank.” Transcribed from online webcam, www.marietta.granicus.com/MediaPlayer.php?publish.id.45.


59 Although the United States Supreme Court upheld Leo Frank's murder conviction in Frank v. Mangum, 237 U.S. 309 (1915), it repudiated this wrongly decided travesty of justice and due process in Moore v. Dempsey, 261 U.S. 86 (1923). Justice Oliver Wendell Holmes, who dissented in the earlier case because, as he had stated, supra, at 347, “Mob law does not become due process of law by securing the assent of a terrorized jury,” wrote the 6-2 majority
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 also means to all of us—then and now:

The important meaning of this decision is not that [Leo Frank] 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.60

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 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.61

That “sentence of interminable shame” has been commuted.

ABOUT THE AUTHOR

Richard Mamches is a resident of Plantation, Florida. He first learned about the Leo Frank case in his American history class while studying at Miami-Dade College in 1972, earning his Associate of Arts degree that year. Richard went on to graduate from Florida International University in 1974 with a Bachelor of Arts degree in Political Science. He has read AND THE DEAD SHALL RISE by Steve Oney, THE LEO FRANK CASE by Leonard Dinnerstein, A LITTLE GIRL IS DEAD by Harry Golden, THE SILENT AND THE DAMNED by Robert Frey and Nancy Thompson-Frey and SCREENING A LYNCHING: THE LEO FRANK CASE ON FILM AND TELEVISION by Matt Bernstein. He has also watched the PBS documentary THE PEOPLE V. LEO FRANK, the NBC miniseries THE MURDER OF MARY PHAGAN, and PROFILES IN COURAGE: GOVERNOR JOHN M. SLATON on television and home video. Richard has also visited the William Breman Jewish Heritage and Holocaust Museum in Atlanta and its exhibition SEEKING JUSTICE: THE LEO FRANK CASE REVISITED in 2008.

This essay is dedicated to the memory of Alonzo Mann (1898-1985), Mary Richards Phagan (1899-1992), James T. “Tommy” Morris (1940-2002), Wayne Snow, Jr. (1936-2004) and Charles Wittenstein (1928-2013)—and to everyone else who has zealously sought justice for Leo Frank, and to honor his memory.

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opinion ruling that five African-American men convicted of murder in mob-dominated trials in Philips County, Arkansas (following the notorious 1919 Elaine race riot, where rural black sharecroppers protesting their Jim Crow-era exploitation were brutally repressed by mob violence and mass arrests) were denied due process of law under the Fourteenth Amendment—the very same claim the Court had erroneously rejected in the Leo Frank case. Perhaps had Frank not been lynched in 1915 and lived to once again appeal his conviction after the Supreme Court decided Moore v. Dempsey, his conviction might ultimately been reversed in light of this and other changes in federal constitutional jurisprudence. Therefore, Leo Frank's unjust 1913 murder conviction should be considered legally null and void. Indeed, as former Georgia Gov. John Slaton later observed in 1954, “If the Supreme Court of the United States had been constituted at the time it decided the Frank case as it was when it decided the five cases from Arkansas [Moore v Dempsey], the decision in the Frank case would have been reversed.” Stephen Goldfarb, “The Slaton Memorandum: A Governor Looks Back At His Decision to Commute the Death Sentence of Leo Frank.” American Jewish History, September 1, 2000. Accessed from www.thefreelibrary.com/ /print/PrintArticle.aspx?id=7422375.
