

WHY THE LEO FRANK PARDON IS IMPORTANT

By Richard Mamches

I have closely followed a new flurry of interest surrounding the Leo Frank case since author Steve Oney published his definitive book on this tragic episode, *AND THE DEAD SHALL RISE*, in 2003.

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. A current 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, the pardon has little or no real meaning.

I believe that pardoning Leo Frank in fact has been a very beneficial act of restorative justice. If, in the words of Vicki Lawrence's #1 hit record from 1973, the August 17, 1915 lynching of Mr. Frank 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 as our nation and the world continue to fight bigotry and injustice in the 21st century.

Let us go back to March 7, 1982, when it all began. 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 carrying Mary Phagan's body to the basement of the National Pencil Company in Atlanta, where Mr. Frank was the superintendent. Mr. Mann asserted that Conley killed Mary and 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, the Georgia parole board denied exoneration to Leo Frank on December 22, 1983. It claimed that Mr. Mann's sworn testimony about seeing Jim Conley, the factory janitor, carrying Mary Phagan's body to the basement, did not conclusively prove that Mr. Frank was innocent. Astonishingly, the Board also refused to recognize other irrefutable proof of Frank's innocence—thoroughly documented over many decades in hundreds of pages written and published in books from reputable authors, historians and scholars such as C. Vann Woodward, Judge Arthur Powell, Charles and Louise Samuels, Harry Golden and Leonard Dinnerstein. It also insisted that Georgia Governor John Slaton's June 21, 1915 decision commuting Leo Frank's death sentence to life imprisonment was not proof of his innocence, either--even though he clearly expressed his doubts about Mr. Frank's guilt in his courageous commutation order.

This decision shocked and outraged Atlanta's Jewish community 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 throughout the nation in a torrent of letters sent to the Board, and by editorials in the Miami News and the Atlanta Journal-Constitution, which called it "the terrible perpetuation of a terrible wrong." The latter newspaper also published a scathing editorial cartoon by Gene Basset portraying the Georgia parole board's members as blind men with the caption, "LEO FRANK'S INNOCENCE? HECK, WE SEARCHED AND SEARCHED...JUST COULDN'T FIND IT."

Alonzo Mann died in March of 1985. But shortly before his death, former Atlanta Journal-Constitution writer Steve Oney—in a prequel to AND THE DEAD SHALL RISE—interviewed both Mr. Mann and then-chairman of the Georgia parole board Mike Wing for an article about Leo Frank 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 defended his board's indefensible and unconscionably unjust decision—disingenuously insisting there was no conclusive *legal* proof Leo Frank was innocent while ignoring the overwhelming *historical* proof of injustice! (A decade later, Big Tobacco would make another similar outrageous denial of medical facts and truths printed on every pack of cigarettes when its executives swore under oath before Congress that nicotine was "not addictive" and claimed there was still no conclusive evidence that smoking causes lung cancer, heart disease, emphysema and over 400,000 preventable deaths every year in the United States--notwithstanding the Surgeon General's warnings printed on all cigarette packs since 1965).

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 an alternative means to give Leo Frank justice.

Instead of asserting Mr. Frank's innocence, Dale Schwartz and Charles Wittenstein—two of the Atlanta attorneys who worked on the previously unsuccessful pardon effort—went to Plan B and argued that the state of Georgia's failure to protect Leo Frank from the lynch mob and bring his killers to justice in 1915 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 question of his guilt or innocence. They also argued the state of Georgia needed to atone for its past sins in this case and urged Mr. Frank be pardoned without addressing the question of his innocence or guilt, and that this would send a strong signal that Georgia no longer condoned anti-Semitism or mob violence, and wanted to heal old wounds by renouncing bigotry and righting this tragic wrong.

On Tuesday, March 11, 1986, under the leadership of its new chairman, Wayne Snow, Jr., Leo Frank was finally granted his long-overdue pardon by the very same members of the Georgia Board of Pardons and Paroles who rejected it over two years earlier. They unanimously agreed with the petitioners that Mr. Frank's lynching was per se so

egregiously unjust that it trumped the 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, Chairman Snow of the Georgia parole board told the Atlanta Journal-Constitution:

...Leo Frank was 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 their earlier rejection of a pardon for Leo Frank in 1983, 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 [Leo Frank] was innocent, but there is no [sic] way 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 praised by the Atlanta Jewish Federation, the Anti-Defamation League and the American Jewish Committee. It was also praised editorially by the Atlanta Journal-Constitution, Christian Science Monitor, and the Miami Herald. Cogently and succinctly, the Miami Herald declared: "*A salve for one of the South's most hateful, festering memories was finally applied.*"

Some have criticized the Leo Frank pardon as insufficient because it did not formally declare Mr. Frank innocent, while others have derided it as "political correctness," because they still believe that Leo Frank is guilty of murdering Mary Phagan in 1913.

Nevertheless, what is being 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 live comfortably with their neighbors in a more tolerant, diverse and much more welcoming society than the one where Mr. Frank was lynched in 1915--with pride in themselves and their heritage, enjoying the respect, self-confidence and peace of mind which were 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 discussed, learned 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 has also reissued **THE LEO FRANK CASE**, by 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 of these books are currently in print and also available from their publishers, at the Breman Jewish Heritage and Holocaust Museum, the Atlanta History Center, the Marietta Museum of History, and also online.
- 4) As for television, a five-hour NBC miniseries starring Jack Lemmon as Governor John Slaton and Peter Gallagher as Leo Frank, **THE MURDER OF MARY PHAGAN**, brought this tragic story of injustice to millions of American TV viewers in prime time when broadcast in January of 1988. It was later released on VHS home video. Most recently, a new documentary, **THE PEOPLE V. LEO FRANK**, was televised on PBS last November after its spring 2009 World Premiere at Marietta's Cobb Energy Center, and is now available for purchase on DVD.
- 5) The 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 descendants of both Leo Frank and of those who were involved in his lynching, truth and reconciliation have finally come to Marietta, Georgia, where it took place.

For example, Chuck Clay, great nephew of Herbert Clay, the chief planner and leader of Leo Frank's lynching in 1915, has outspokenly condemned this act and all forms of prejudice, including anti-Semitism. He has been joined by former Georgia governor Roy Barnes, whose grandfather-in-law was Cicero Dobbs, who participated in Mr. Frank's lynching. Barnes not only has condemned the lynching, but he has also expressed his strong support for Governor John Slaton's courageous decision commuting Frank's unjust death sentence to life imprisonment. Both Mr. Clay—former chairman of the Georgia Republican Party and state senator, and former Governor Barnes were interviewed and appeared on the recent PBS Leo Frank documentary and have supported efforts to inform and educate Georgians and all Americans about the Leo Frank case and its legacy.

- 7) For the first time, the Cobb County Commission officially commemorated the lynching of Leo Frank on its 90th anniversary—August 17, 2005. Led by its first Jewish chairman, Sam Olens, it passed a resolution condemning this 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 was dedicated and affixed to the building by Rabbi Steven Lebow of Marietta's Temple Kol Emeth synagogue.
- 8) The Marietta city council has two elected Jewish councilmen—Philip Goldstein (first elected in 1980 **before** Mr. Frank was pardoned), and Van Pearlberg (elected in 2006). Pearlberg has also served as Cobb County's senior assistant District Attorney and is also a recognized expert on the Leo Frank case.
- 9) Playwright Alfred Uhry—whose great-uncle was Sigmund Montag, owner of the National Pencil Company, where Leo Frank was superintendent—wrote PARADE, his 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 writer watched an excellent performance of PARADE at the Stage Door Theatre in Coral Springs, Florida in 2003).
- 10) Finally, the Georgia Historical Society, Temple Kol Emeth and the Jewish American Society for Historic Preservation dedicated an official Georgia state historical marker on March 7, 2008 at the site of Leo Frank's lynching. This event was also recognized by Georgia Senate Resolution 1066, which commended the Anti-Defamation League for its efforts in getting Mr. Frank pardoned and for its “No Place For Hate” anti-bullying program in Georgia schools, and congratulated all the parties involved in placing the marker at 1200 Roswell Road in front of the VPI building next to the I-75 overpass and Frey's Gin Court in Marietta, Georgia.

There can be no doubt in my mind that March 11, 1986 was, in the words of the Southern Israelite, an “historic day” that touched the lives of Jewish Atlantans when Georgia pardoned Leo Frank. From that day both the state of Georgia, greater Atlanta and ultimately Ground Zero for Leo Frank’s lynching--Marietta and Cobb County--transformed themselves through this belated act of atonement and redress to move forward in a very positive way by repudiating bigotry and embracing pluralism, diversity and a better future for all. That is why I believe those who worked so hard to get Mr. Frank his posthumous pardon deserve our respect, as its proven benefits outweigh its shortcomings by far. They should also be remembered for their courage and determination to succeed in righting this wrong.

This is why I believe the pardon granted to Leo Frank in 1986 was a just decision. Although it did not declare him innocent, this pardon is still about injustice. The state of Georgia for the first time officially acknowledged what it never said before: that Leo Frank was the tragic victim of an egregious injustice author Steve Oney called “state-sponsored” terrorism in the form of an anti-Semitic hate crime—his lynching.

History’s judgment in the Leo Frank case is unambiguous and unmistakably clear: Leo Frank was innocent, his indictment for the 1913 murder of Mary Phagan was false, his trial was unfair, he was wrongfully convicted, and the guilty verdict was 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 this editorial comment from the Atlanta Journal-Constitution explaining what Leo Frank’s 1986 posthumous pardon 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 because times and men were different then....While the pardon is in the name of Leo M. Frank, it is the state of Georgia that is [also] looking for relief--from its sentence of interminable shame.

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. 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, 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 MURDER OF MARY PHAGAN, and PROFILES IN COURAGE: GOVERNOR JOHN M. SLATON. Richard also visited the 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), 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.