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PRIMARY SOURCES

Leo Frank Revisited:
New Resources on an Old Subject

by

Sandra Berman*

Deathbed statement of William M. Smith, August 26, 1949
Letter to A. H. Ulm from Governor J. M. Slaton, September 7, 1915
Glass slide of the interment of Leo M. Frank, 1915
Letter to Adolph Ochs from Florence Bloch, August 27, 1915

On April 27, 1913, the body of thirteen-year-old Mary Phagan was found in the basement of the National Pencil Company in Atlanta. Leo Frank, the superintendent of the factory was arrested, tried, and convicted of the murder based on circumstantial evidence and the testimony of Jim Conley, the sweeper at National Pencil and the key witness for the prosecution. At trial, Conley swore that he had helped Frank dispose of Phagan's body following the murder. Two years later, following multiple denied appeals at the state and federal levels, Governor John M. Slaton commuted Frank's sentence from death to life in prison. Frank, who had been incarcerated in The Tower, the jail at the Atlanta police headquarters, was transferred to the State Prison Farm at Milledgeville. The commutation fired the passions of the leading citizens of Marietta, the town in Cobb County, Georgia, where Mary Phagan had lived. In the early

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morning hours of August 16, 1915, a caravan of cars carrying twenty-five vigilantes arrived at the prison farm, kidnapped Leo Frank without having to fire a shot, and drove him back to Marietta, where he was lynched.

From April 1913 to August 1915, the Leo Frank case was sensationalized in the press in Atlanta and across the United States and called attention to the societal tensions that accompanied American life in the early years of the twentieth century. The trial touched upon inequities in the work place, living conditions, race relations, and immigration, and inflamed the passions of citizens throughout the country.

Over the last ninety-seven years, the Leo Frank case has been researched and studied as the basis for a doctoral dissertation, numerous works of non-fiction, three feature films, several novels, a Broadway play, a PBS docudrama, and a major exhibition at The Breman Jewish Heritage and Holocaust Museum in Atlanta. The most recent work of non-fiction, *And The Dead Shall Rise* by Steve Oney, was published in 2005 and took over eighteen years to research and write. Researchers have examined archives across the country looking for new insight into the case that for some remains a "who done it?" The transcript from the trial that began in July 1913 and ended two months later has mysteriously disappeared. The autopsy reports of Mary Phagan as well as photographs of the bite marks on the victim's body and dental records of the accused have long since vanished. In 1922, Pierre Van Paassen, a young Dutch reporter working for the *Atlanta Constitution*, located the dental records at the Fulton County Court House. He was convinced that the bite marks on the body did not match Frank's dental x-rays and could thus prove his innocence. Warned to stay away from the case, he did not write about his findings until he included the information in his 1964 memoir *To Number our Days*.¹

Diligent scholars who have spent years looking for the elusive transcript of the trial and multiple autopsy reports have been confronted with numerous dead ends. The primary resources that have been studied, reviewed, and

commented on have been deposited at various archival institutions across the country. Court records, (e.g. the Brief of Evidence and appellate documents) relating to the case, as well as personal correspondence between Frank, his attorneys, family members, and friends can be found in numerous institutions including the Archives and Special Collections at Brandeis University, Georgia State University Archives, The Atlanta History Center, the American Jewish Archives, the Georgia Archives and Records Center, the New York Public Library, the Marietta Museum of History, and the Ida Pearle and Joseph Cuba Archives at The Breman Museum.

In 2007, The Breman Museum decided to develop *Seeking Justice: The Leo Frank Case Revisited*, an exhibition on the Frank case based on the museum's collection amassed over the last twenty-five years, as well as the documents and photographs known to be held at the various repositories mentioned above. As the museum archivist and curator of the exhibition, I held out a small measure of hope that new documents relating to the Frank case might yet be discovered. We had already located the family of Leo Frank, as well as relatives of Mary Phagan and many of the attorneys who had worked on the case. Archivists and historians often imagine unearthing another clue, the hidden letter, or a cache of journals that either lends support or challenges accepted historical arguments. The question always persists: Is there still something out there?

When I first began collecting material on the Frank case, I planned to interview Walter Smith, the son of William Smith, who had represented Jim Conley and prepared him for trial. Walter was not well when I made my initial contact, and although we established a relationship by telephone, I was never able to interview him in person. In one of our conversations, Smith informed me that although his father represented Jim Conley, he eventually came to believe that his own client was guilty of the murder and that Frank was innocent. He had already revealed this information to Steve Oney who was planning to devote a chapter of his book to

Smith's change of heart. I was also told that in 1949, when the elder Smith took ill, he wrote a deathbed statement in a shaky hand testifying to the innocence of Leo Frank. My excitement was quickly abated, however, when he further revealed that the note had long since been misplaced and the family had no idea where it was. Without the actual note, this was just an anecdote, a family story that was handed down from one generation to the next.

Over the years, I continued my relationship with the Smith family through William's grandson, Charlie. He, in turn, promised to look for the note. Almost a decade had passed since the death of William Smith when I received a telephone call from Charlie. The note did exist and had been found in an old copy of *Liberty* magazine, in the issue that contained an article written by Charlie's mother on the Frank case. The note has since been donated to the archives at The Breman.

Numerous clues to extant documents or photographs relating to the Frank case have come across my desk over the years. Many have led to an anecdote or to an object without provenance. A few have led to exciting new resources.

One such clue led The Breman to the grandson of Aaron Hardy Ulm, Governor John M. Slaton's secretary, who we were told was in possession of correspondence that related to the Frank case. I made contact with Ulm's grandson, who did confirm that the letters existed, but once again, he was not sure where they were. All of his grandfather's papers were in an attic, and the heat was too oppressive for him to stay there long enough to find the Slaton-Ulm correspondence.

Archivists must remain patient and resolute. Our priorities are not necessarily those of potential donors. For the next several years I called the grandson on a regular basis, and he, in turn, promised to look for the letters. Persistence finally paid off. The letters were produced and, on a trip to New York, donated to The Breman Museum.

These letters added new insight into the mindset of Slaton during the early days following the lynching. The

governor and his wife had planned a long trip after the completion of his term in office. The trip was fortuitous, as a mob had stormed the governor's mansion following his commutation announcement, and Slaton had to call out the National Guard for his own protection. The Slatons first stopped in California, and from there he wrote eleven letters and two telegrams to Ulm revealing how troubled he was about his reputation, his political future, and the disorderly conduct of some citizens throughout the state in the weeks following the lynching.

Los Angeles, California, September 7, 1915

Dear Ulm:-

Your telegram received and I am glad that matters are clearing up.

I think the Cobb County situation can be easily handled if managed with discretion. Fred Morris, representative from the county is my friend, so are Dobbs and Dorsey. Foster can be reached, so can Newt Morris. The McNeels are relatives and they could be a judicious use of influence to quiet the disorderly element in Cobb County and that source of apprehension could be relieved and when this occurred all thoughts of violence would be discouraged all over the State.

On Sunday I saw a number of Georgia people who had been attending a Masonic Convention. They told me that the papers of Georgia had not been fair to me in that they had failed to present my side, while Watson was attacking me every where.²

Ironically, the individuals mentioned in the letter – Fred Morris, E. P. Dobbs, John Tucker Dorsey, and Newt Morris – all helped plan the lynching.

Our research for new material on the Frank case also led to another resource in New York. Over the years, many historians writing about the Frank case have considered the role that Adolph Ochs, publisher and owner of the *New York Times*, played in Frank's ultimate fate. Was the involvement

of a New York newspaper a help or a hindrance to Frank's team of lawyers throughout the long string of appeals that were mounted from 1913 to 1915? Most historians concur that the pro-Frank editorials and articles appearing almost daily from February 26, 1914, until the days immediately following the lynching rallied supporters for Frank everywhere but in Georgia, the only state where the backing of the general population was critical. The *Times'* involvement stirred up latent sectionalism and anti-Jewish, anti-Frank editorials from Tom Watson, a former Populist politician and the owner and publisher of the *Jeffersonian* newspaper.

The involvement of Ochs and his newspaper motivated The Breman staff to investigate whether any papers were in the *New York Times'* archives relating to the case. The paper's archivist informed us that several document cases of unprocessed papers were marked the "Frank case." The discovery of these containers warranted a trip to New York to delve into the documents, which had not been studied in the ninety-seven years since Frank's death. We discovered multiple scrapbooks containing correspondence between Ochs and Frank, a series of photographs of Leo Frank commissioned by the *New York Times* for use in various newspapers, the only known original portrait of Jim Conley, and a report undertaken by a private investigator who was commissioned by the *Times* to try to prove Frank's innocence. The report was accompanied by a series of reenactment photographs that provide the only extant images of the interior of the crime scene in the pencil factory basement.

The document cases also held a letter that explained the reaction of the Jewish community following the lynching and supported the theory put forth by historians that the security and acceptance that the Jews of Atlanta had felt prior to the murder of Mary Phagan were shattered. Fear permeated the community. Discussion of the case became taboo and Jews stepped out of the limelight of public office and public affairs. What was not known until the discovery of a letter from Florence Bloch to her cousin, Adolph Ochs, on

April 27, 1915, was that the reaction of the community was a result, in part, of a decision made by the leading Jews in Atlanta.

August 27, 1915

Dear Cousin Dolph:

I am enclosing an extract from a letter which I just received from a very dear friend, Mrs. Victor H. Kriegshaber of Atlanta, whom I am visiting during July.

The conditions here in Georgia are depressing. A number of Jewish people, in smaller towns in the state have been boycotted and been ordered to leave and go elsewhere. A good number of such incidents all over the state are being reported to us. Tell Mr. Ochs to discourage all attempts at raising funds to apprehend the lynchers. It will make it only that much harder for the Jews of this State, to have outside forces at work. All the officials know full well who the perpetrators are, but they will never be punished by law, as they are from the county in which Mary Phagan lived, and no jury will ever find them guilty. You see, they would have to be tried in that county, and that they could even get a jury to try them seems out of the question. If they did get a jury, the probability would be, that some of the lynchers themselves would be on it. This attempt (?) to probe into the mystery (?) and find the guilty parties, is a farce of the biggest sort, because the sheriff and coroner, the newspapers, and even our state officials know who the leaders of that mob are, but it is worth their lives not to say so, and answer, "I do not know" to all questions, as they did yesterday at the investigation. We Jews, a mere handful in a community of prejudiced lawbreakers cannot do a thing, without making it harder for ourselves. We are hoping earnestly that this outrageous conduct will soon be over. The Jews had a meeting of one hundred prominent men at the Club the other day, and they agreed that there is nothing that they can do without aggravating conditions. They went over the situation and after earnest deliberation, felt that for the safety and good of our people, they had better not try to arouse the anger of the mob. For any attempt to bring the mob to justice, would be disastrous to themselves.³

These recent finds beg the question: What is still out there, perhaps in someone's basement, attic, or within an unprocessed collection in the stacks of an archive? Was the trial transcript actually thrown away, or was it scurried away to an unknown location along with the autopsy reports and dental records? Just recently a glass slide of the interment of Leo Frank was placed on sale on eBay. The Breman luckily won the bid, and we now own an extremely rare image of the actual burial of Frank. The discovery of new documents and photographs on the Frank case is not an anomaly. History and the interpretation of it will continue to evolve as new treasures are unearthed and made available.

-oOo-

Deathbed statement of William M. Smith, August 26, 1949

*(Courtesy of Cuba Archives of The William Breman
Jewish Heritage and Holocaust Museum, Atlanta.)*

**First two pages of Governor J. M. Slaton's letter
to A. H. Ulm, September 7, 1915**

*(Courtesy of Cuba Archives of The William Breman
Jewish Heritage and Holocaust Museum, Atlanta.)*

Glass slide of the interment of Leo M. Frank, 1915

*Glass slides were popular in the early part of the twentieth century.
This slide, purchased through eBay, may have been given away by the
People's Savings Bank as part of a set or used in a bank sponsored slide show.
(Courtesy of Cuba Archives of The William Breman
Jewish Heritage and Holocaust Museum, Atlanta.)*

Letter to Adolph Ochs from Florence Bloch, August 27, 1915

*(Courtesy of the Manuscripts and Archives Division,
the New York Public Library.)*

NOTES

¹ Steve Oney, *And the Dead Shall Rise: The Murder of Mary Phagan and the Lynching of Leo Frank* (New York 2003), 617-618.

² "Your telegram received and I am glad that matters are clearing up": Governor John M. Slaton to Aaron Hardy Ulm, September 7, 1915, Cuba Archives of The William Breman Jewish Heritage and Holocaust Museum, Atlanta.

³ "I am enclosing an extract from a letter which I just received from a very dear friend": Florence Bloch to Adolph Ochs, August 27, 1915. New York Times Company Records, Adolph Ochs Papers, Manuscripts and Archives Division, New York Public Library.