

Paris/Touro, July 7, 2011

The Legacy of the Frank Case

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Today, nearly a century after the lynching, the Frank case continues to raise hard questions. Was he the victim of an anti-Semitic prosecution? Once Frank was sentenced to death, should his supporters have rallied to him as a Jew or as a wrongly convicted man? In other words, did Frank's supporters, by raising the matter of anti-Semitism, play into the hands of anti-Semites? And how should we view Georgia Governor John Slaton? He commuted Frank's sentence and by so doing destroyed his political career, yet he was a partner of Frank's lead counsel. Was he a noble figure who made a hard call or guilty of a conflict of interest?

There is also, of course, a last question. Could an anti-Semitic incident of this magnitude occur in America today, and if it did, how would we face it?

These are few easy answers. I don't think Frank was the victim of an overtly anti-Semitic prosecution, but in the aftermath of his conviction he was undoubtedly the victim of vicious anti-Semitic attacks. He was commonly called "the lecherous Jew" by his chief antagonist, editor and future United States Senator Tom Watson. Yet by rallying to him as a Jew, his supporters may have exacerbated these attacks. Following the publication of my book, I got to know Frances Lasker Brody, the daughter of the advertising executive Albert Lasker, who paid for Frank's defense during the appeals process. Frances told me that her father believed that by making anti-Semitism an issue he'd committed a colossal error. He'd poured gasoline on a blazing fire. He blamed himself for Frank's fate. As for Governor Slaton: yes, he had a conflict of interest, but he made a decision of conscience.

I don't believe in closure. While wounds may heal, the events that caused them are everlasting. That said I attended a remarkable program in Atlanta in 2009. It was the theatrical premiere of *The People v. Leo Frank*, a PBS documentary based largely on my book. The theater was just a couple miles from the site where Frank was lynched, and among the 2,000 in attendance were Jews and blacks, people who believe Frank innocent and others who believe him guilty and, most startling, relatives of lynch party leaders. It was a civilized evening of the sort that would have been unimaginable even a few years

before. Afterwards, a former Georgia governor whose wife was the granddaughter of a lynch-party member led a smart discussion about the case. There were no outbursts of racial or religious animosity – just earnest questions, genuine curiosity, and good will.

Most students of the Frank affair believe that Frank did not murder Mary Phagan. In *And the Dead Shall Rise*, I make a strong argument for his innocence. Jim Conley's lawyer ultimately concluded that Conley – Frank's chief accuser – was guilty, and I use this lawyer's research to unravel the case against Frank and buttress the case against Conley. But barring the discovery of fresh forensic evidence, we can't be sure. Frank was the last person to admit seeing Mary Phagan alive. He behaved strangely in the days after the killing, and Conley's trial testimony was powerful and cannot be dismissed.

As for the lynching, it was a premeditated murder pulled off with brutal audacity. The lynch party abducted the most celebrated prisoner in America from a well-guarded prison without firing a shot, drove him across the state, and lynched him at dawn the next day. The crime, while appalling, was brilliantly executed, and it's the main reason people remain transfixed by the Frank affair.

There are also, of course, the underlying issues. The Frank case exposed fault lines that are still very much with us. Rich versus poor, Jew versus gentile, white versus black – each of these oppositions is enough to ignite great hostility. The Frank affair had them all.

In the end, the Frank case was a tragedy, and tragedies resist a tidy summing up. For years, people couldn't look at the case. Now we can, and what we see is unsettling – which is as it should be. To me, the Frank's case's legacy is its ability to undermine our assumptions about law and society. Things can go wrong fast, and that's important to remember. It's also important to remember that we should strive to be fair, vigilant, and just. At times, however, our best efforts are not enough. The Frank case was one of those times.