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# Who Killed Mary Phagan?

By Warren Goldstein

AND THE DEAD SHALL RISE

The Murder of Mary Phagan

and the Lynching of Leo Frank.

By Steve Oney.

Illustrated. 742 pp. New York:

Pantheon Books. \$35.

THE single most famous lynching in American history remains that of Leo Frank, a Jewish factory superintendent in Atlanta, convicted in 1913 of murdering Mary Phagan, a 13-year-old girl in his employ. Despite national publicity on his behalf, a lynch mob killed Frank two years later. The case made and broke careers, sparked both the Anti-Defamation League and the resurgent Ku Klux Klan, and fanned Southern anti-Semitism and Jewish racism. "And the Dead Shall Rise," Steve Oney's overlong, occasionally dramatic (and melodramatic), exceptionally detailed first book, recounting the trial and its aftermath, helps us appreciate the enduring fascination of this case.

Raised in Brooklyn, Leo Frank earned a degree in mechanical engineering from Cornell and moved South to manage his uncle's pencil factory. He soon married into Atlanta's prosperous, apparently assimilated German Jewish community.

While local boosters touted Atlanta as a gleaming modern metropolis, the city's industrial, commercial and financial elite drew its wealth from the factories employing masses of poorly paid, badly housed, overworked, malnourished migrants from the countryside. Little of the New Southern prosperity trickled down to Atlanta's children, many of whom, like Mary Phagan, started factory work at the age of 10.

On April 27, 1913, a night watchman discovered her beaten, contorted body in the filthy factory basement. Mary had been strangled, possibly raped, her face ground in the dirt. Detectives soon arrested Frank, mainly because he was the last person to acknowledge seeing her alive. The murder crystallized working-class Atlantans' resentment over their children's exploitation by heartless capitalists. Police and prosecutors leaked "evidence" that Frank habitually harassed his female employees. That Mary had apparently been garroted by a libidinous Yankee Jew stoked passions

throughout the city, and provided grist for all three competing sensationalist newspapers.

Seventeen years in the making, "And the Dead Shall Rise" provides a feint-by-feint, blow-by-blow account of pretrial, trial and post-trial maneuvering and publicity. Most readers might have appreciated Oney's own overview of -- and judgments about -- the often bewildering morass of multiplying, contradictory testimony and evidence. Much of the trial evidence against Frank was circumstantial, and some testimony very likely was coerced. Most damning of all was the confession -- actually, three successive affidavits, each more detailed and produced under police interrogation -- of a black sweeper at the factory, Jim Conley, who claimed to have assisted Frank in disposing of the girl's body. Despite his many arrests for drunk and disorderly conduct, and two stretches on a chain gang, Conley proved surprisingly unshakable on the witness stand.

How did the testimony of a decidedly unrespectable black janitor stand up against that of an educated, articulate white man whose lawyer played the race card shamelessly in his summation, arguing, "Negroes rob and ravish every day in the most peculiar and shocking way?"

Too absorbed in his narrative, Oney does not provide the wider context that answers the question. As the historian Leonard Dinnerstein points out in "The Leo Frank Case" (1968), the arrival of millions of Russian and Polish Jews in the 1890's had given rise to a nationwide intensification of anti-Semitic actions, articles and pronouncements, including a federal government report that accused Jews of being heavily involved in the white slave trade. Lurid rumors about rapacious Jews -- fueled by the prosecution's suggestion that Frank was a sodomite who killed Mary when she resisted him -- circulated throughout Atlanta, and anti-Frank crowds surrounded the courthouse daily. In this hothouse atmosphere the jury deliberated less than two hours before finding Frank guilty; the next day the judge sentenced him to death.

Organized Jewry intervened, financially and otherwise. Adolph Ochs, publisher of The New York Times, and Louis Marshall, president of the American Jewish Committee, threw their institutions behind Frank. Between The Times's sympathetic coverage and Marshall's money, contacts and legal expertise, the case became a national cause célèbre. When the Supreme Court denied Frank's request for a new trial, two million signed petitions and 100,000 people sent letters asking Georgia's popular, progressive governor, John Slaton, to commute Frank's death sentence to life imprisonment.

On the other side, the former Populist (and racial moderate) Tom Watson, now a fiery, racist, anti-Semitic, anti-Catholic defender of the "Lost Cause," entered the fray, using his newspaper, The Jeffersonian, to rally poor white Southerners against the rich Jewish Northern businessmen paying for Frank's defense. Watson's virulent attacks strengthened Northern pro-Frank sentiment -- but tripled his paper's circulation. Nevertheless, days before leaving office, Slaton commuted Frank's sentence. An outraged Watson proclaimed the virtues of lynch law, and a group from Marietta (Mary's hometown), answered his call. The first to have unearthed a full list of the conspirators, Oney reveals their names and connections, and in riveting chapters explains how the leaders -- including a former governor, a respected judge and state legislators -- recruited 25 others to execute the daring scheme to kidnap and hang Leo Frank on Aug. 17, 1915.

The case and the lynching reverberated powerfully for decades, though in contradictory ways. Most

immediately they catapulted the prosecutor, Hugh Dorsey, to the governorship in 1916, and signaled Tom Watson's triumphant return to Georgia politics. They silenced others. Concluding that Jewish outspokenness had hurt Frank and now threatened the safety of all Jews in Georgia, Ochs dropped the case. They inspired still others. Oliver Wendell Holmes Jr.'s dissent in the Frank case eventually became a majority opinion protecting the rights of defendants "hurried to conviction under the pressure of a mob." Convinced that Jews needed an outspoken advocate against prejudice, B'nai B'rith founded the Anti-Defamation League in 1913 in the midst of the Frank case. And most disturbingly of all, an emboldened Watson called for a revival of the Ku Klux Klan, then starring in D. W. Griffith's racist epic, "The Birth of a Nation." On Nov. 23, 1915, at the top of Stone Mountain, "Colonel" William Simmons obliged, lighting an enormous cross that could be seen for miles.

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