

'CLEARS' LEO FRANK IN MURDER OF 1913

Atlanta Lawyer Says Man a
Mob Lynched Was Innocent
—Full Story Awaits Deaths

ATLANTA, Nov. 20 (AP)—A retired Georgia jurist promised today "after certain persons are dead" to clear Leo M. Frank of the murder for which he was convicted and lynched following a sensational trial thirty years ago.

In a book, "I Can Go Home Again," published by the University of North Carolina Press, Arthur G. Powell, 70, former judge of the Georgia Court of Appeals, wrote:

"I know who killed Mary Phagan, but I know it in such a way that I can never honorably make the information public as long as certain persons still are living. I expect to write down what I know and why I know it, seal it up and put it away, with instructions that it is not to be opened until certain persons are dead."

Mr. Powell said in an interview that he could not be compelled to testify before a grand jury now because he received his information in his capacity as an attorney. He was engaged in private practice at the time of the Frank trial. It was from 1907 to 1912 that he sat on the Court of Appeals bench.

Mary Phagan lived in Marietta and worked in a pencil factory in Atlanta. She was slain April 26, 1913. Leo Frank, who came from Brooklyn and was secretary of the company, was accused of the crime. His trial was postponed several times because of high feeling against him.

Mr. Powell said he sat beside the trial judge, A. M. Roan, on the bench while he prepared to charge the jury, and that Judge Roan told him: "This man's innocence is proved to mathematical certainty." However, Frank was convicted and sentenced to death.

The case was carried to the United States Supreme Court without success. Finally, a petition for clemency was filed with Gov. John M. Slaton, now an elderly practicing attorney here like Mr. Powell. On Governor Slaton's last day in office, June 30, 1915, he commuted the sentence to life. Mr. Powell wrote that Governor Slaton "told friends privately that he would have granted a full pardon, if he had not believed that in a very short while the truth would come out."

Frank was taken "at 11 o'clock on a night in mid-August, 1915," from the prison farm at Milledgeville "by a party of masked men in motor cars," wrote Mr. Powell, "carried northward 165 miles to an oak grove two miles from the courthouse and public square" in Marietta and hanged.

Mr. Slaton himself was threatened by mobs, and the National Guard protected his home.

"Intimate as I am with Jack Slaton, I have never discussed this fact with him," wrote Mr. Powell, "but I am quite sure that I know how he knew that Frank did not kill Mary Phagan."

The New York Times

Published: November 21, 1943

Copyright © The New York Times