

**THE WILLIAM BREMAN JEWISH HERITAGE MUSEUM
ESTHER AND HERBERT TAYLOR
JEWISH ORAL HISTORY PROJECT OF ATLANTA**

MEMOIRIST: THOMAS SHELTON
INTERVIEWER: SANDRA BERMAN
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<Begin Tape 1, Side 1>

INTERVIEW BEGINS

BERMAN: Today is June 4, 2007. I'm Sandra Berman. I would like to thank you for agreeing to do this interview for the Esther and Herbert Taylor Oral History Project of the William Breman Jewish Heritage Museum. I'm with Tom Shelton. Thomas Shelton, is an Atlanta attorney, who is the grandson of Luther Z. Rosser,¹ who was one of the attorneys in the Leo Frank² case, the lead defense attorney in the Leo Frank case. Thank you for being here today. I would like to first ask you if you can describe ... I know you were not born until ...

SHELTON: He died in about 1923. I was born in 1925.

BERMAN: I know from family lore and from your parents that you have some recollections from them about your grandfather. I was wondering if you could describe what his personality was like.

SHELTON: He was a big man. He was highly respected, almost revered by the family members, including my father, who was a lawyer in another firm. We were a family of lawyers. My impression is, I've used the word sort of big and gruff. He worked all the time, but he was very kind, gentle almost, in a number of ways. He had two brothers

¹ Luther Zeigler Rosser (1857-1923) of the law firm Rosser, Brandon, Slaton and Phillip was chief counsel for Leo Frank.

² Leo Frank (1884-1915) was a Jewish factory superintendent in Atlanta, Georgia. In 1913, he was accused of raping and murdering one of his employees, a 13-year-old girl named Mary Phagan, whose body was found on the premises of the National Pencil Company in Atlanta, Georgia. The trial was the catalyst for a great outburst of antisemitism led by the populist Tom Watson and the center of powerful class and political interests. Frank was sent to Milledgeville State Penitentiary to await his execution. Governor John M. Slaton, believing there had been a miscarriage of justice, commuted Frank's sentence to life in prison. This enraged a group of men who styled themselves the "Knights of Mary Phagan." They drove to the prison, kidnapped Frank from his cell and drove him to Marietta, Georgia where they lynched him. Many years later, the murderer was revealed to be Jim Conley, who had lied in the trial, pinning it on Frank instead. Frank was pardoned on March 11, 1986, although they stopped short of exonerating him.

that, for whatever the reason, did not hold jobs. He supported them, and he supported others. For years and years, he was the president of the Atlanta school board.

BERMAN: I know he was highly respected in the Atlanta community. He had won some high profile cases, had he not?

SHELTON: Yes. Before this one, right. I cannot remember the name of the firm. I want to say . . .

BERMAN: Heyman. No, that was with Dorsey. Never mind.

SHELTON: Right. Phillips. I've forgotten his name. [Benjamin Phillips] But that firm was no longer, by the time . . . anyway, he died. Three years later I was born. Years later, we tried to find out more about his firm in the papers, I think, before you began this project even. We searched in vain, but there were no pictures.

BERMAN: The story goes that he refused to wear a necktie. Was that true or . . . ?

SHELTON: That's the story I always heard. The only time he wore a tie was when he appeared before the United States Supreme Court in Washington [DC], and he did not have a tie. The clerk of the court said, "Mr. Rosser, the rules of the Court is that you must wear a necktie, and I have one here." And so he did wear that.

BERMAN: That's a great story.

SHELTON: It was almost like he was ordered by the court to do it.

BERMAN: Do you have any idea how he got involved in the Frank case?

SHELTON: Did we decide what the name of his Jewish partner was?

BERMAN: Phillips, you think. Herbert Haas was the legal counsel for the [National] Pencil Company.

SHELTON: But he was not a partner.

BERMAN: No.

SHELTON: There was a partner, and I want to say Phillips. I think . . .

BERMAN: I think the last name was Phillips.

SHELTON: If we go back and get the name of the firm, then we could see it. I'm mixing up some things up with Steve Oney's book.³ I don't know what is my memory and what I got from there. I remember my uncle, his son, Luther Rosser, Jr.,⁴ who was a judge, telling me that he was asked to come down to the court within a very

³ Steve Oney (1954-) author of *And the Dead Shall Rise: The Murder of Mary Phagan and the Lynching of Leo Frank*, published October 2004.

⁴ Luther Z. Rosser, Jr. (1886-1971).

short time after the arrest. I found this shocking, but I remember he said, "Strip him of all of his clothes," which had to be humiliating. I assume that was because he wanted to see if there were any marks of a struggle, scratches, or anything like that. That was sad for Mr. Frank, you know, his own lawyer requiring that.

BERMAN: What do you think he thought of Leo Frank, your grandfather? Did he like him as a person or not?

SHELTON: I have really no impression about that. I assume he did, because I know Leo Frank was a very shy man. I think my grandfather would have respected that shyness and been kind to him.

BERMAN: I understand that your grandfather's son, your uncle, married Hugh Dorsey's youngest sister, Sarah. How did that affect the family relationships?

SHELTON: I think that had taken place by the time, before the case began. Before the murder, you know. But the families remained close friends. My father was Cam Dorsey's law partner. At one point, his younger brother, Roy Dorsey, was a member of the firm.

BERMAN: And what was that firm?

SHELTON: Dorsey & Shelton. When the younger brother was a member, it was Dorsey, Shelton & Dorsey. My father and Cam Dorsey, Sr., had gone to Columbia Law School together. When they finished, they came down here. They were partners for years and years until my father lost his health and couldn't practice anymore. While he had loyal clients that stayed with him, even when he was disabled, he had a law partner named Ralph Pharr, who later became a highly respected judge of the Fulton [County] Superior Court. [He] left the Dorsey firm and with my father formed the firm of Shelton & Pharr. By that time, he had become asthmatic with chronic asthma. [He] was advised, because of the stress, not to practice anymore. Ralph Pharr remained loyal to him and shared fees of some of the clients that stayed on with the firm he considered my father's.

BERMAN: Do you think that the families ever discussed the case?

SHELTON: No. I remember, definitely, that's the way they got through. They never discussed the case. We used to have Christmas with the Cam Dorseys, in my memory. They were a lively fun, funny family. I still . . . while they have gotten . . . the children of one has died, but the others have gotten old. The one, Cam, Jr., I think his mind is still good, but his body is not.

BERMAN: Do you have any idea of what your father thought of Hugh Dorsey?⁵

SHELTON: No. I have no impression. I think there was no disrespect, but it came through to me, as the youngest of four children, there was a loyalty instead. Hugh Dorsey's, the prosecutor, his wife was related to my father. She was from Valdosta, Georgia. Adair [Wilkinson]. I remember her well, and Judge. That's what they called him, Judge Hugh. His son, Hugh Dorsey, was a prominent Atlanta lawyer. Are you aware of that?

BERMAN: Yes. So you have recollections of Hugh Dorsey growing up?

SHELTON: Yes.

BERMAN: What was he like?

SHELTON: One summer . . . he lived out on the far end of West Paces Ferry [Road]. Not Paces Ferry [Road], but West Paces Ferry, which really begins just this side of Westminster School, whereas Paces Ferry goes to the right and goes on down. Where was I? I was rambling.

BERMAN: You were you going to describe your recollections of Hugh Dorsey.

SHELTON: My first memories of him and his brother, Roy Dorsey, having left the firm of Cam Dorsey and Charles Shelton, my father. He joined the Coca-Cola Company, and they sent him to England. He was there for several years, maybe even died while he was over there. But he was very funny, as was Cam Dorsey. That's great and I think pervasive in that family was humor. You know the family was from Fayetteville, Georgia. Are you aware that? My Aunt Sarah, who was married to Judge Luther Rosser, the son, she was quite a lady and with quite a sense of humor too. I remember her well. They had no children. I remember she would correct me at the . . . often I would be seated by her at a big dinner table when we were eating, and she would correct me. She was a very warm and lovely lady.

BERMAN: That's wonderful. Do you have any recollections from just family history about Tom Watson?⁶

SHELTON: No, I really don't. I think there was considerable disdain. I knew . . . my contemporary in age, Tom. What is his name?

⁵ Hugh Manson Dorsey (1871–1948) was the prosecuting attorney in the Leo Frank trial.

⁶ Thomas E. Watson (1856-1922) was a lawyer, publisher, and the national Populist leader. He published an analysis of the Leo Frank trial, which caused a surge in demand for *The Jeffersonian* newspaper.

BERMAN: Tom Watson Brown.⁷

SHELTON: Yes. He had a completely different, and in my view, distorted version. He made the man look like a hero, when, without those publications, there probably would never have been a lynching. That's my view of it.

BERMAN: I think so too. The newspapers at the time made much of the fact that your grandfather could not break [Jim] Conley on the witness stand. As an attorney yourself, do you think he could have done something different?

SHELTON: I have not read the transcript. Is the transcript still existing?

BERMAN: Just the brief of evidence.

SHELTON: I don't know. I've, again, heard stories that when Conley, he was kept in a cell . . . I've forgotten why he would be in a jail in his cell.

BERMAN: They just wanted to isolate him.

SHELTON: What I've heard is at night, the sheriff or the jailor, somebody, would be talking deliberately in hearing range, saying, "If that" . . . using the prerogative. What's the word? You know.

BERMAN: Derogative.

SHELTON: “. . . the n-word knows what's good for him, he better say so-and-so and so-and -so." They would, in effect, coach him the night before about how he better answer and all, which is really an outrageous thing. That is, itself, a felony. But that's what . . . the community was so impassioned. It had a lot to do with *The Augusta Chronicle*, you know. I'm sure the Atlanta newspapers picked up some of that.

BERMAN: What about *The Augusta Chronicle*?

SHELTON: That was Tom Watson Brown's . . .

BERMAN: No. *The Jeffersonian*.

SHELTON: All right. I'm sorry. *The Jeffersonian*. That's what I was talking about.

BERMAN: Did your father ever talk about your grandfather's questioning of Conley?

SHELTON: No, not that I can recall.

BERMAN: Did your father and you ever discuss the case?

⁷ Tom Watson Brown (1934-2007) was a lawyer and historian. He led numerous business, civic, philanthropic, and scholarly organizations. He was great-grandson of Thomas E. Watson, the national Populist leader who lived a century ago (1856-1922).

SHELTON: Only in the . . . not that I can recall really.

BERMAN: One other question was, another issue that the newspapers and the people who were really not in favor of Leo, was that much has been

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BREMAN: made of your grandfather's partnership with Governor [John M.] Slaton.⁸

Do you feel that the governor's relationship with your grandfather had any undue influence on the decision to commute Leo Frank's sentence from death to life in prison?

SHELTON: I would think it must have. You recall there was a mob scene when he did that. He was living out in . . . Buckhead was not really much of a community. His wife was a Grant, and they owned, the family owned a huge amount of land out there. Where was I? I diverted again.

BERMAN: You were talking about the relationship of your grandfather with Governor Slaton. They were law partners.

SHELTON: They were law partners, and I'm sure they were friends. Actually, when I came back to practice law in Atlanta in 1951, Governor Slaton was in charge of bar admissions. I met with him and talked with him. He was quite a gentleman.

BERMAN: Did he ever discuss the case with you?

SHELTON: If he did, it would only be in the most general terms about the injustice of it all.

BERMAN: You mentioned a story to me about your mother's fear when the mansion was being . . . when the National Guard had to be called out. Could you reiterate that?

SHELTON: As you recall, the governor, who was my grandfather's former partner, chose to commute the sentence . . . a lot of us wondered why he didn't just go on and pardon him. Anyway, he commuted his sentence, and this caused huge . . . commuted the sentence of death and changed it to life imprisonment. That caused huge furor and mobs. The governor, instead of living in the Governor's mansion downtown where the

⁸ John Marshall Slaton (1866-1955) was Georgia's sixtieth governor, serving two terms in 1911-12 and 1913-15. He was also a state representative and state senator. He was a partner in the law firm Rosser, Brandon, Slaton and Phillips. Slaton's most notable act as governor was commuting the death penalty sentence of Atlanta factory boss Leo Frank, who had been convicted for the murder of a teenage girl employee. Soon after Slaton's action, Frank was lynched. Because of Slaton's law firm partnership with Frank's defense counsel, claims were made that Slaton's involvement raised a conflict of interest. Slaton later served as president of the Georgia State Bar Association.

old Rialto and Paramount Theaters were. Not the Rialto. I've forgotten the name, but it's where the stove pipe building is. I'm off track.

BERMAN: You were speaking about he wasn't living in the Governor's Mansion.

SHELTON: He was living out on Paces Ferry. I'm sorry, on Peachtree Road near the corner of Paces Ferry. I can remember as a boy there was a wrought . . . a fence, a barrier all along Peachtree from where The Peach Shopping Center is now.

BERMAN: Right.

SHELTON: Up to Paces Ferry. That was where Governor Slaton lived, and he apparently chose to live there while he was governor.⁹ That caused . . . people didn't like that. They thought the governor should live in the Governor's Mansion. But when he commuted the sentence, mobs, hundreds of people went out there with torches and all. They called the National Guard, as you said, to protect the governor. My mother was at home. I think they were still living in the West End. They could have been living out in Druid Hills at that time. Pretty sure they were still in the West End. She was at home by herself, and she saw this flashlight outside, going around the yard. It frightened her hugely. Finally, she got up the courage to say, "Who is that?" The response was, "Oh don't worry Mrs. Shelton. I just promised your husband that I would keep an eye on the house while this was going on." Actually, he was there to protect her.

BERMAN: Your brother is several years older than you?

SHELTON: Eleven years. Right. He was born in 1911, I guess. When was the case?

BERMAN: 1913 to 1915.

SHELTON: All right. I think it was 1911 was when he was born.

BERMAN: Did you and he ever discuss the case?

SHELTON: I'm sure we did, but I don't remember the details now.

BERMAN: He was named for your grandfather, correct?

SHELTON: Correct.

BERMAN: What does the "Z" stand for?

SHELTON: Zeigler. It's an interesting family. I think he was Austrian. Some combination of Austrian and Swiss. We had the genealogy. I was looking for that

⁹ The Slaton family built Wingfield, their Tudor-style house, on a wooded acreage on the west side of Peachtree Road. They operated a farm and a riding rink for harness racing. The house became the Governor's Mansion when he became governor in 1913. Following the governor's death in 1955, a fire severely damaged the house. The property was sold, and Slaton Manor apartments were built there in 1958.

picture of my grandmother. I saw it last night.

BERMAN: In conclusion, how do you, just in general, feel about the case? The role of your grandfather? Is it a source of pride to you that he represented Leo Frank and tried to get him acquitted?

SHELTON: Yes. I mean, I definitely feel that way. My family was always very proud of his role. As you know, he was already a prominent lawyer and chairman of the school board. [He] did a lot of things in the community.

BERMAN: I did want to ask you a couple of other questions. You said you had some memories about Reuben Arnold.¹⁰ What was he like?

SHELTON: His office was in the Hurt Building on the same floor as my law firm. When I came back from law school, I was interviewing around. My father wanted me to go and see him. He's very genial. Very nice. Then he was on the floor. I can remember on the elevator when I'm going down. I said, "Mr. Arnold, how old are you?" And he said, "I am 90 so-and-so. I was born on a farm on a street that the name has been changed." I wish I could remember the name of the street, but I think it's Ralph McGill Boulevard. It had some other name. Can you imagine a farm there? That's just how small Atlanta was. He was a very cheery man with a happy smile.

BERMAN: Did he ever discuss the case and his relationship?

SHELTON: No. I never did get to do that.

BERMAN: That must have been some kind of story he would have to tell. I guess that's about it, and I thank you.

SHELTON: I feel like I haven't really done you much justice. I thought I would have done better than I have.

BERMAN: I think you did just great. Is there anything before we conclude that comes to mind? Take your time, we have . . .

SHELTON: Let me just pause for a minute and think. As I told you we called him Big Daddy. He was sort of a hallowed figure. By the time I was born, he had died. He was a family hero.

BERMAN: Why was he a family hero?

SHELTON: Because he had been a very successful lawyer and chairman of the school board. He was a very kind, gentle man even though he could be quite gruff. I assume,

¹⁰ Reuben R. Arnold (1868-1960) was a prominent Atlanta attorney who was part of Leo Frank's defense

and I've never heard anybody use this word, but a domineering kind of man. For example, he had two brothers, why they were not able to support themselves, I don't know. Anyway, he supported them. I understand that he helped people a great deal without ever saying . . . helped a number of different people without ever saying anything about it. [He] would tell them, "I don't want you talking about this."

BERMAN: Was he born in Atlanta?

SHELTON: I don't think so. His father was a Methodist minister and, I think, born somewhere in central Georgia. I can look that up, but I can't remember.

BERMAN: Where did he go to law school?

SHELTON: He read. In those days, you know, you didn't go to law [school]. He went to Emory College, which was then at Oxford [Georgia], and then read in somebody's . . . they called it reading. Without any pay, you would work in a law firm and do what associates now do in law firms.

BERMAN: So the family just has kept being lawyers all these years.

SHELTON: Right.

BERMAN: Are your children lawyers?

SHELTON: No. I think three generations is all a family can take.

BERMAN: That's great.

SHELTON: Another brother of mine, after the war, went to Emory and got his degree, but he chose never to practice law. He was a natural born salesman and was doing well in the casualty insurance business. Had his own agency, so he didn't practice

BERMAN: You were very active at the Atlanta History Center, were you not?

Weren't you on the Board at the History Center at one time?

SHELTON: I don't think so, though I have been interested in it and active. Unless it was one of those big boards, but I don't remember being. No.

BERMAN: I thought I had heard the story that you and Tom Watson Brown were on the board at the same time.

SHELTON: I don't think so. I think we've had some meetings out there at the same time.

BERMAN: Did you ever have words with him about the case? With Tom Watson Brown?

SHELTON: I had some words, briefly, and I came to the conclusion that he was a bigot. I've said that before. He was very, very popular. I read his . . . he died . . . in the last year or so?

BERMAN: Right.

SHELTON: I read his obituary. He did a lot of good and was a very fine man, but I never liked him because of this impression I got from a conversation with him and somebody else, which, to me, revealed their prejudices.

BERMAN: Did you know any of the other participants? Did you know Henry Alexander?¹¹

SHELTON: No. I knew Frances. Help me. How did Henry Alexander . . . ?

BERMAN: He was one of the attorneys during the appeals phase. He was also an old Atlanta family. They lived on Peachtree Road.

SHELTON: I know the daughter, who lived on Peachtree in a house that goes down in a gully and back up.

BERMAN: By Phipps Plaza.

SHELTON: Yes. It's where Phipps is now.

BERMAN: Yes. Exactly.

SHELTON: I knew their daughter. I see her occasionally. Her husband, who recently died, was with a group I would sometimes hunt with. A really nice man. I've seen her. She had lots of personality. I knew her in high school, but then you get a different impression. My recent experiences with her, she's quite a sport. Delightful lady.

BERMAN: I think that's about it. I'm trying to think if there were any other participants that you may have had contact with, but I think we've covered them all, unless you have any other recollections. Anything about Judge [Leonard S.] Roan?¹² Anything your family might have said about the judge during the trial?

SHELTON: I've heard this story that he, in considering the motion for a new trial, sat

¹¹ Henry Aaron Alexander, Sr. (1874-1967) was born in Atlanta, Georgia. He was a prominent attorney, scholar, and religious leader. Alexander served in the Georgia State House of Representatives and was a veteran of World War I. He was also a president of the Atlanta Historical Society and a prominent Atlanta attorney. He was a member of the defense team in the trial of Leo Frank. In 1930, he built one of the largest homes in Atlanta on Peachtree Road, with 33 rooms and 13 bathrooms. Alexanders sold part of their land for development of the Phipps Plaza Mall which opened in 1969.

¹² Leonard Roan (1849-1915) was the presiding trial judge in the Leo Frank case. He was appointed Judge of the Court of Appeals of Georgia by Governor John M. Slaton in October, 1913. Prior to this appointment, he presided over the superior courts of the Stone Mountain circuit for eleven years in addition to trying felony cases in the Atlanta circuit and holding courts frequently in other parts of the State.

on it a good while. Took a long time. [He] had made the decision to grant a new trial and then chickened out. Have you heard that?

BERMAN: No. I have not.

SHELTON: Yes. Then I heard that he later committed suicide. I don't know whether he committed suicide or not.

BERMAN: I think he died. He got cancer or something and died.

SHELTON: But I think my family sort of held it against him. Somehow they knew that he really had . . . that if it had been a less notorious case, he would have granted a new trial, but he chickened out.

BERMAN: There were so many events that just seem to go against Frank.

SHELTON: Oh, I know it.

BERMAN: A final question. Do you think it became kind of the sensational trial of its time? Publicized in the press, across the country?

SHELTON: Right.

BERMAN: Do you think the influence of the northern papers had an effect on the appeals and the outcome of the trial?

SHELTON: You mean that there may have been a reverse reaction?

BERMAN: Yes.

SHELTON: It could have. In those days, even as a child, the southerners still had a chip on their shoulder and felt that there was . . . that they hadn't been treated right during the Reconstruction Era.¹³ Another day and another time, I think you'd have another result.

BERMAN: Do you think a change of venue should have been asked for?

SHELTON: As a lawyer, I'd say there was no . . . there is very little precedent for that. In fact, when the Frank case got to the United States Supreme Court, even though it refused to hear it, Oliver Wendell Holmes, Jr.,¹⁴ wrote a famous dissent. Do you know about that?

BERMAN: I'd like you to talk about that.

¹³ The Reconstruction Era in the history of the United States has two periods. The first covers the complete history of the entire country from 1865 to 1877 following the American Civil War (1861 to 1865). The second period is the attempted transformation of the Southern United States from 1863 to 1877, as directed by Congress.

¹⁴ Oliver Wendell Holmes, Jr. (1841-1935) was an American jurist and Associate Justice of the Supreme Court of the United States from 1902 to 1932. He was often called "The Great Dissenter." He was the son of Oliver Wendell Holmes, Sr.

SHELTON: Saying that if the venue . . . that if the community in which the trial is taking place is so inflamed with prejudice, then the trial should be moved to another impartial venue. That is now part of the federal . . . I think the State of Georgia probably has adopted that rule too. So, the Frank case would have been tried somewhere else. To me, the horrible thing is . . . here he was in Atlanta and there was a mob outside the courthouse chanting, "Hang the Jew. Hang the Jew." That had to have a terrible adverse impact on the jury. They would almost be afraid not to find a guilty verdict. It was really just awful. Despite all the . . . there was no chance to have a good result.

BERMAN: So, at the time, there was no real reason to ask for a change of venue. When it first came to trial there was no precedent.

SHELTON: Right. It could have been . . . there had been instances of it going way back in the law, but it was more or less rejected. Oliver Wendell Holmes, Jr.'s, dissent, which is now a part of the Federal . . . It is the rules of procedure. You can under circumstances ask for the change.

BERMAN: Okay. I think we're good.

SHELTON: Okay.

BERMAN: You did great.

<End Tape 1, Side 2>

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