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Tangled Fortunes: The Hidden History of Interracial Marriage in the Segregated South

Prologue (pp. 1–12) and Chapter 6 (pp. 141–164)

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PROLOGUE

Ralphine Burns was living an otherwise quiet life when the sheriff arrived to arrest her. On that spring day in 1924, she was recovering from the birth of her baby boy, Clarence, who was not yet three weeks old.[1] A seamstress by trade, Ralphine owned her own home on Grant Street in Natchez, Mississippi, a little more than a mile from the towering bluffs that overlooked the Mississippi River.[2] She was forty-one years old and had been born and raised in Adams County, where she brought up her own nine children.[3] But in the eyes of the law, there was nothing respectable about Ralphine and her family. The sheriff was here to take her away from her children on the charge of “unlawful cohabitation.”[4]

This was not Ralphine’s first encounter with the Adams County sheriff or the judge. Fifteen years earlier, she had faced possible jail time after being accused of the same crime. That time, the prosecutor eventually dropped the charges.[5] Now, the district attorney once again alleged that Ralphine had long lived with a man who was not her husband. Ralphine was Black, and her partner, William Sanders Dean, was white.[6]

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For eighty-seven years, the state of Mississippi outlawed interracial marriage. From 1880 to 1967, the state joined much of the rest of the United States in prohibiting Black people and white people from establishing legal family ties that crossed the color line, and it sought to sever them at every turn.[7] Laws prohibiting interracial marriage were at the heart of Jim Crow, the legal regime designed to reinstate white supremacy across the former slaveholding South. But such prohibitions were not restricted to the South: many western and midwestern states also codified racial inequities by adopting laws prohibiting interracial marriage.[8] By the late nineteenth century, states forbade white people from marrying Asian Americans and Native Americans, too. By the early twentieth century, most states, at one time or another, had prohibited people from marrying across the color line.[9]

The regulation of interracial sex and relationships had long been used to define race in the United States, and, specifically, to fuse together Blackness and slavery. The earliest prohibition on interracial marriage, forbidding unions between Black enslaved men and free white women, dates from Maryland in 1664.[10] But something changed in the 1860s. The end of slavery threatened to level the races. In the same year that Abraham Lincoln issued the Emancipation Proclamation, 1863, white supremacists invented the word “miscegenation” to lend a scientific veneer to the concept that interracial sex was unnatural, warning that it could obliterate racial distinctions entirely.[11] Laws prohibiting interracial marriage after the Civil War therefore sought to protect white supremacy in the absence of slavery. These laws were crucial to perpetuating racial inequities, as they attempted to assign all people to various racial categories: white, Black, “Mongolian,” or “Indian,” for example. In doing so, these laws helped perpetuate the idea that racial classifications were scientific, sensible, and enforceable.[12] The idea of whiteness as “pure”—that a white person could have no African or Native American or Asian ancestors—was the central fiction of the whole scheme.[13] Laws governing marriage were essential to reproducing whiteness by perpetuating

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one-eighth

ion.[16]

Or, at least, this is what they claimed to do.

Ralphine's story does not end the way you might expect. Although she and her partner, William, were prosecuted twice for unlawful cohabitation, the couple ultimately emerged from this saga with their family intact. By the time Ralphine and William were arrested in 1924, they had been together at least a decade, and probably more than two. They hired a lawyer to defend themselves and arrived in court prepared to fight back. On November 19, 1924, the case went to trial.[17] The state called three witnesses: two white men, both carpenters and likely William's coworkers, and one of their neighbors, a Black woman named Susannah House.[18] The jury found them guilty of unlawful cohabitation, though neither was sentenced to serve any time in jail. The judge fined William \$100 and Ralphine \$25.[19] But the couple was not willing to give up so easily.

Their lawyer appealed their convictions to the Mississippi Supreme Court. In 1925, the justices overturned the jury's verdict. While the prosecutor had introduced evidence that the couple lived together, the justices noted that the district attorney had not proven that Ralphine was a Black woman. As evidence, they cited witness testimony that Ralphine's children appeared to be white.[20] Ralphine and William were free to return to their home on Grant Street, untouched by the police or the courts. This is what they did. After William's death in 1939, Ralphine is noted in the Natchez City Directory as the widow of "Wm. S. Dean." [21]

Ralphine and William's legal saga is the story of a couple committed to keeping their family together and steadfast in refusing to allow the state to police their private lives. But it can tell us something about the law as well. The Adams County courts could not be called "soft" on crime. In 1908, a year before Ralphine was first charged with unlawful cohabitation, her

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era.

Anti-miscegenation laws were the center of the Jim Crow legal and social order. When slavery was abolished, not only did states pass and enforce new laws prohibiting interracial marriage, but white supremacists used violent means to threaten those engaged in interracial relationships. Southerners defended lynching Black men as a means of protecting “white womanhood,” even though most Black victims of mob violence were not actually accused of rape.[23] It was not that interracial sex did not happen. Even the earliest colonial laws prohibiting interracial sex were gendered, revealing a desire to police the sexuality of white women that went hand in hand with efforts to ensure that the children of enslaved Black women were slaves, regardless of who their fathers were.[24] After emancipation, white men raped Black women with little fear of consequence, as they had under slavery—even though rape was a capital crime.[25] It was no secret in the South that white men could and did seek out Black women as romantic and sexual partners, even when it was against the law. According to one historian, the “much-traveled sexual backroad between the races was clearly marked ‘one-way.’”[26] Relationships between white men and Black women have therefore often been described in two ways: as illicit consensual encounters or as rape.[27] Neither was likely to result in a criminal charge. It was only marriage that was off-limits for interracial couples, and only formal marriages that were prosecuted. Or so conventional narratives have held.[28]

This book argues that those conventional narratives are wrong. Interracial relationships, including marriages, were in fact surprisingly common in the heart of Jim Crow.[29] Ralphine and William’s story might seem extraordinary. And it was in some respects—they defied Jim Crow to keep their family together, and against great odds they succeeded. And yet, as an interracial couple in Jim Crow Mississippi, they were hardly

Farm.

Even without a license declaring them husband and wife, Ralphine Burns and William Dean were married. Their long-standing union produced many children. It was openly known in Natchez. Ralphine called herself “Mrs. Dean.”^[30] This was not an illicit relationship. Even the criminal charge reveals its openness: their conviction was for “unlawful cohabitation”—the offense of living together, something husbands and wives did. To some degree, their relationship was protected by its very informality. In living together without obtaining a marriage license, they were able to go about their lives without interference from the state, from nosy neighbors, or from anyone else—most of the time.

In many states, couples were not required to obtain marriage licenses. Efforts to require licensing ran headfirst into a long history of Americans marrying privately, in venues ranging from churches to homes. The legitimacy of marriage did not exclusively derive from a document issued by a court clerk. It was, instead, dependent on the consent of the man and woman who wished to be husband and wife. Though common law marriages are sometimes treated as relics of an earlier era, they were widespread and important well into the twentieth century.^[31] As late as 1941, twenty US states recognized common law marriages as valid, including South Carolina, Georgia, Florida, Alabama, Mississippi, and Texas.^[32] Common law marriage persists today in a handful of states.^[33] The willingness of courts and legislatures to recognize informal unions reflected a desire to encourage marriage paired with practical concerns. Many couples did not seek marriage licenses because they could not afford the fees. A minister may not be available to preside over a ceremony. Or a couple might be unable or unwilling to travel to a courthouse to obtain a license. There were all kinds of reasons that a marriage license might seem unnecessary or inconvenient or might be lost. Across the South, when county

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age.[36]

And yet legal prohibitions on interracial marriage did not only jeopardize would-be husbands and wives. Jim Crow also denied their children the right to be recognized as legitimate. Born outside of wedlock, the law marked them, in its cruel language, as “bastards.” The British common law, which most states adopted into their own codes of law after independence, labeled illegitimate children as *filius nullis*. Translated to English, this made them “the children of no one.” States openly discriminated against children born out of wedlock. This was felt especially keenly at the end of life, when property was passed from one generation to the next, as states had long excluded illegitimate children from inheriting property from their fathers.[37] In Mississippi, children were first in line to inherit when a person died without a will. Grandchildren were next, then widows.[38] Illegitimate children, however, could only inherit from their mothers.[39] White men were those most likely to own property in the South during the Jim Crow era. Their biracial children had much to lose.

Ralphine’s family deeply understood the stakes of interracial inheritance. She had her own tangled family tree. Ralphine’s father was the son of a white man, William Burns Sr., and a Black woman, Rachel Burns. William enslaved Rachel, and he emancipated her and their six children at some point before 1842.[40] When William died unexpectedly in 1849, he left no will behind.[41] His brother, Andrew Burns, traveled from New Jersey to settle the estate, and he promptly attempted to sell Rachel and her children—his own nephews and nieces—back into slavery. A white lawyer, Charles Lacoste, intervened and negotiated with Andrew, successfully persuading him to leave the family be. (Charles likely had special sympathy for Rachel’s plight, as his own common law wife, Delia, was Black.)[42] Rachel and her children escaped this perilous

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Ralphine and William's long-standing union reflects another key aspect of Jim Crow: the primary purpose of segregation law was not to separate white and Black people. Though iconic photographs from the era tell a story of the separation of every aspect of life for Blacks and whites—"colored" toilets; "whites only" railway cars and lunch counters; segregated schools—this was just one facet of Jim Crow.[46] The conventional narrative of segregation as a system of complete racial separation is just as incorrect as the idea that interracial relationships did not occur. The static, totalizing view of Jim Crow ignores the many ways that white and Black people encountered one another on a daily, often intimate basis.[47] Black women raised white children. Black and white children could not attend the same schools, but they could play together when they were small.[48] Some Black domestic workers lived in the homes of their white employers, cooking in their kitchens, serving their dinners, nursing the sick, and caring for the elderly.[49] This closeness was a feature of segregation, not a flaw. It was interracial intimacy—especially the treatment of Black workers as servants and caregivers—that made it possible for white people to wield power over Black southerners daily.[50] It is not unusual to find multiracial households in the census, though Black members of white-headed households are often identified as cooks, servants, or laborers.

True separation could have led to Black autonomy and independence, which were fundamentally at odds with the aim of white supremacy.[51] (Witness the fate of Tulsa's Black Wall Street, burned to ashes, or the countless Black homes, churches, and businesses destroyed by rampaging mobs in the nation's many race massacres.)[52] The purpose of segregation law was always to place white people in positions of power above their Black neighbors, employees, or even those people who were complete strangers. White people reaped immeasurable benefits from the everyday

ies.[53]

Propping up this system was the ability of white southerners to make and enforce the law for everyone else—and the murderous violence they could inflict on Black people who dared resist.[54] The mantra of “separate but equal,” as articulated in *Plessy v. Ferguson*, the infamous 1896 US Supreme Court decision, was the lie on the lips of every segregationist. Jim Crow was not a cohesive legal regime mandating separation, nor was it a mere reflection of southern “tradition” and culture. It was antithetical to any concept of equality.

Interracial families could avoid prosecution for two primary reasons. The first was that in Mississippi the laws governing family life were complicated and sometimes ambiguous. Marriage is both a public institution and a deeply private relationship between two people.[55] Even as the state forbade interracial couples from marrying, officials could not dictate what people did behind closed doors, away from the view of prying eyes. Couples could consider themselves married without ever seeking legal recognition. The second reason was that almost all the interracial families described in this book were headed by white men and Black women. White supremacy was inextricable from the gender politics of the Jim Crow South. For a Black man to take a white wife was a violation of white men’s authority over white women and children—a clear example of a Black man “getting out of his place.” White men did not encounter the same challenge to their power if they had Black common law wives. A Black woman and a white man living under the same roof did not pose the same threat to white supremacy. Indeed, observers might expect such a man to employ the services of a Black housekeeper and thus easily explain away such domestic arrangements without questioning where each person slept at night. Reflecting the gendered aspects of white supremacist ideology, neighbors might gossip that a Black woman was a white man’s “concubine,” which both disparaged her reputation and disqualified her from being seen as a wife.

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White men wrote the laws; white men enforced the laws. And during the Jim Crow era, the white men who governed the state were as committed to patriarchal governance as they were to supposed white racial superiority. White women benefited from and many actively championed both causes, as the twin commitments of white supremacy and patriarchal rule were mutually reinforcing. They worked hand in hand to deprive Black people of political power, property, fair wages, and many of the trappings of freedom.[61] They shored up the privileges of white manhood, especially in shielding the domain white men had long considered their own: the home. Many elite white southern men who ruled Mississippi believed strongly in the right of white men—even those from humble backgrounds, such as William Dean—to choose their own sexual, romantic, and domestic

rees.

These histories are rarely simple. No matter how many or few records a person leaves behind, their intimate lives will always be shrouded to some extent. The history of interracial relationships in the segregated South entails much that cannot be known from the records that remain. Yet it is not an impossible task to recover pieces of these hidden histories. Interracial families sometimes appear in the records of criminal courts, as Ralphine Burns and William Dean did, charged with “unlawful cohabitation.” Other interracial couples appear openly in the census. Reading these records alongside one another can help trace the contours of enduring intimate relationships. In rural Franklin County, Albert Bunckley and Lucinda Sanders lived under the same roof in 1900, though Albert is identified as her “boarder.” In 1910, he is recorded as living next door. That year, Lucinda had ten living children; the oldest had been born in 1887—seven years after the Mississippi Legislature outlawed interracial marriage. The children’s father was Albert Bunckley.[62] Albert and Lucinda had a decades-long relationship that produced at least fourteen children, but the couple was not charged with unlawful cohabitation until 1913. They were convicted. Albert was sentenced to serve four months in the county jail; Lucinda’s sentence was half as long.[63]

Other stories unravel not in criminal courts but in the comparatively mundane chancery courts, in wills, land deeds, and disputes over property. Some men planned ahead, leaving property to their biracial children and providing for their Black wives in their wills. Such was the case of August Bourgeois, a white man, whose relationship with Alice Slade, a Black woman, lasted more than three decades and produced three sons. After August Sr. died in 1910, his son August Jr. filed his will in the Hancock County Chancery Court, which bequeathed his home and eighty acres of property to “my sons, August Bourgeois Jr., Joseph Franklin Bourgeois, and Albert Bourgeois.” The will did not name Alice as his wife, but it did offer her security, noting, “It is also my will that Alice Slade shall enjoy the use of my home as long as she may live. My property

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rely.

The commonality of common law marriages between white men and Black women was intentionally forgotten, in part, because segregationists became more aggressively defensive about Jim Crow and its many vulnerabilities. Hysteria supposedly generated by fears of interracial sex between Black men and white women rose during World War II and crested as the Black Freedom Struggle coalesced in the 1950s and 1960s.[67] A favorite line of segregationists was that desegregated schools would inevitably lead to “miscegenation”—the implication being that nothing could be as antithetical to southern values. One of segregation’s core weaknesses was the fact that, as much as white supremacists ranted about the “threat” of interracial sex and marriage, they often tolerated the crossing of the color line—if those relationships involved white men and Black women.

It is tempting to imagine law as a force structuring society, like the wood frame upon which a house is built. Ordinary life does not always follow the contours laid out by the law. Instead, the law is more like a blueprint than a solid frame; the building only resembles it inasmuch as the builders endeavor to make it so. Law is not only made in the halls of legislatures and in cavernous courthouses; it is made every day, influenced as much by culture as by what is inscribed in the lawbooks.[68] People do not always follow the law; those tasked with enforcement sometimes neglect their duties. And laws can sometimes be vague. What seems like a straightforward statement—Mississippi outlawed interracial marriage—does not,

Tangled Fortunes focuses on Mississippi—arguably the state where the color line was most violently enforced—where the rigid separation of white and Black was an illusion, and where the concept of white racial purity was at once a white supremacist fantasy and a useful political bludgeon.[69] Legal prohibitions on interracial marriage operated to protect white wealth more effectively than they prevented white men and Black women from forming lasting partnerships. At the same time, this is not to argue that such relationships were acceptable everywhere, in Mississippi or in other states. The toleration of interracial common law marriages was highly dependent on local circumstances and politics, and not every state validated informal marriage. Within these confines, some couples found ways to carve out space to remain together. Most often such families were treated as open secrets in their communities, often subject to disapprobation but not always to legal prosecution. Interracial couples might be cast out of respectable society, but this did not necessarily mean they were sent to the penitentiary.

Laws prohibiting interracial marriage sought to harm families by treating them as criminal; they were also used to deprive children and widows of their rightful inheritances. They sometimes forcibly separated husbands and wives through incarceration or banishment from the state. As with any marriage, the intimacy that defined these interracial unions was often out of the view of prying eyes, known in its fullness and meaning only to the two parties to the union. In this sense, this history is destined to be incomplete. Whether Ralphine Burns and William Dean loved each other, we cannot know with certainty. But what is obvious from the record is a long history of struggle, marked by the persistent efforts of ordinary people to protect their families even in the face of formidable opposition.

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CHAPTER 6

MYTHS OF RACIAL INTEGRITY

RALPHINE AND WILLIAM

World War I veterans returned home to a nation convulsed by its own internal battles. The Red Summer of 1919 witnessed dozens of brutal episodes of mob violence. The bloodiest incident took place near the Arkansas Delta town of Elaine, where a shootout between hostile whites and attendees of a Black sharecroppers meeting sparked rumors that Black men planned to murder white plantation owners. White men and federal troops flooded into the area, where they massacred Black residents, killing perhaps hundreds of people.[1] In many cities, strikes gripped industries as workers embraced militant action. Meanwhile, the influenza pandemic was still sweeping through communities.[2] In the Mississippi Delta, the boll weevil decimated cotton crops.[3] Amid this tumult, the Second Ku Klux Klan grew in strength and influence, calling its followers to defend the nation against the

ion.[4]

The growing popularity of eugenics marked another struggle in the efforts of white supremacists to enforce the color line. The reality of life for ordinary Mississippians, however, reveals just how difficult this struggle remained into the 1920s. White men and Black women continued to cohabit in communities across the state. Interracial cohabitation continued to serve as a point of public debate and political concern. Even as they flogged the myth of white “racial purity,” white politicians, judges, and juries grappled with the long-standing practice of white men believing they had the right to govern their own private lives. Into the 1920s, the legal regime of Jim Crow generated political and legal debates about race, marriage, and family that remained unsettled even in a decade better remembered for the triumph of eugenics policies and the resurgence of the Ku Klux Klan.

A key stumbling block to white supremacist campaigns to effectively enforce anti-miscegenation laws was the law itself. In the 1920s, the old statutes remained on the books: the one-eighth rule of Black racial inheritance allowed for some people with African ancestry to legally marry whites, and unlawful cohabitation remained a misdemeanor offense. The Mississippi Supreme Court’s decision in *Moreau v. Grandich* confused rather than clarified the color line. It applied the one-drop rule for school attendance even as the state’s constitution and legislation continued to rely on the one-eighth rule for marriage. And the court’s ruling in *Moreau* would not enforce itself.

The one-drop rule was always a white supremacist fantasy, but it was a useful one for segregationists. For those who favored hard racial

The Rising Tide of Color

nine-tenths

her.[5]

Stoddard wrote extensively on eugenics theories; he also allegedly joined the Massachusetts Klan.[6] His books shaped the organization's intellectual justifications, lending the veneer of science to the Klan's racist principles. Stoddard's 1923 book, *The Revolt Against Civilization: The Menace of the Under-Man*, claimed that the price of allowing intermarriage would be the inevitable decline of American civilization—the most advanced the world had ever seen. Stoddard described “African negroes” as “congenital barbarians” who, as a class, were unable to independently develop or contribute to the rise of civilizations. He warned that if “interbreeding occurs” between whites and such lower races, “the racial foundations of civilization are undermined, and the mongrelized population, unable to bear the burden, sinks to a lower plane.”[7] Stoddard argued that “for civilization to arise at all, a superior human stock is first necessary; while to perfect, or even to maintain that civilization, the human stock must be kept superior.”[8] In other words, Americans must keep the white race “pure” or risk losing everything. It was a clarion call for extremists.

Eugenicists also created problems for the system of racial segregation. It was important that those focused singularly on the Black/white divide not read these books too deeply. Stoddard focused as much of his disdain on the “lower classes” of European immigrants as on Black people, grouping Italians, Poles, Russians, and Greeks together as “inferior” in intelligence and racial stock.[9] (The titular “revolt against civilization” in the book was the Bolshevik revolution in Russia.) In states with racial

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In the view of eugenicists, the stakes of maintaining white racial purity could not have been higher. Some Mississippi politicians eagerly embraced such ideas. As James K. Vardaman wrote in *Vardaman's Weekly* in 1921, "I would rather the white race would die in one great heap than that it should pollute its blood with the dark blood of the negro."^[10] Vardaman was obsessed with "amalgamation," as he called it, frequently referencing Madison Grant's 1916 book, *Passing of the Great Race*, as the authority on the "negro question."^[11] Eugenics treatises were widely available to suit the cause of white supremacy.

Yet this embrace of eugenics principles could not square with reality, even in states where legal segregation was the rule. While the Klan may have captured the discourse, many white Mississippians remained ambivalent about strict enforcement of the color line. Perhaps most surprisingly, during the 1920s Mississippi's courts and legislature backed away from strict adherence to the one-drop rule. Publicly, white Mississippians shouted their dedication to white racial purity to the nation and the world. Politicians staked their claim to power on a rigorous, violent defense of segregation. Privately, however, interracial families went about their business, doing what they could to avoid attracting the harsh public gaze. And in the 1920s the profound contradictions of Jim Crow again broke through the surface. Even as the Klan and eugenicists found their devotion to the supposed cause of white racial purity embraced by politicians and ordinary people, all the challenges of enforcing racial segregation remained in place, as stubborn as ever. Not everyone was willing to let eugenics dictate their private lives—especially some white men.

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The indictment alleged that the couple's relationship had lasted for three years, and it accused the pair of "lewdly and unlawfully" cohabiting "in adultery."^[16] Mollie and J. W. hired a local white attorney, Thornton E. Mortimer, to defend them, and the case was tried in Belzoni on May 1 before a jury of twelve white men. Numerous witnesses testified about knowing the pair, and most conceded that they often worked together and were seen in the same house. The jury found them both guilty. They were each sentenced to serve sixty days in the county jail and pay a \$300 fine. Both were less than the maximum penalty available at law.^[17]

Mollie's appeal, filed with the state supreme court by her lawyer John A. Sykes, rested on an important technicality. Sykes argued that the judge had improperly allowed the district attorney to cross out the words "in adultery" that followed the indictment for "unlawful cohabitation" after the trial had ended—once the district attorney realized that he had not proven in court that either J. W. or Mollie were married to other people. No witness was even asked during the trial about the marital status of either defendant. Seeing the problem the wording of the indictment presented, the judge simply crossed out the words, leaving only a general charge of "unlawful cohabitation." This allowed Mollie's lawyer to argue that the indictment was therefore flawed, as neither Mollie nor J. W. had a spouse. Crucially, a judge did not have the authority to modify

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gain.

The problem with the prosecution of Mollie Kemp was not just a matter of sloppiness—the motivation for charging the couple had never, at its heart, been about their interracial relationship. The indictment made no mention of either party’s race. The charge was a pretext to the real cause of concern: a witness testified that another Black cotton worker, Jerry Lindsay, claimed that Mollie Kemp had “beat him out of his cotton” and “never settled fair and square.”[19] Before Mollie and J. W. were indicted for unlawful cohabitation, Jerry had already filed suit in court alleging that Mollie owed him money.[20] Another Black man, Paul Hudson, testified that Jerry had ratted out the pair to the sheriff to pressure Mollie to settle the suit and pay him what he believed he was owed. Paul explained that Jerry had tried to press him to back his campaign against the couple. But Paul, who did not want to be involved, had told Jerry he “didn’t know anything about that.”[21] The indictment seems to have been less about a desire to punish the pair for their relationship than about wielding the unlawful cohabitation law to discipline Mollie Kemp for the alleged theft.

The decision by the district attorney to charge the pair does reveal an interest in enforcing the law. But the witnesses made this difficult to do. The district attorney interrogated a range of men, both Black and white, including the white owner of a cotton plantation where Mollie and J. W. sometimes worked and the white operator of a cotton mill in Belzoni. While these white witnesses were evasive about whether Mollie and J. W. slept in the same house, Jerry Lindsay insisted that he knew they cohabited. But there was a problem with Jerry’s testimony—he had not actually witnessed the pair sharing a bed.[22]

Had the district attorney been motivated to do so, he could have ensured that the indictments were correct. But there was evidently not a great deal of thought put into prosecuting this relationship, even though it was a clear example of the so-called crime of “miscegenation.” The

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pect.

All these elements were familiar to observers of other unlawful cohabitation cases. Neighbors and acquaintances were often reluctant to testify about defendants' private lives. Indeed, it was often the white male witnesses who made the district attorney's job difficult. The prosecution thus followed the well-trod path of pursuing interracial couples who had lived together for years, but who then, as a consequence of some other conflict, had suddenly been put into the limelight, subject to having their personal lives scrutinized. As an exasperated circuit court judge in Vicksburg complained, "I know this practice has been going on for a long time; but continuous violation of the law does not repeal it."^[24] After the state supreme court invalidated Mollie and J. W.'s conviction, Delta newspapers did not note whether the couple was tried again.

Mollie Kemp and J. W. Morrison were not the only interracial couple prosecuted in Mississippi in the decade following World War I. The rise of the Second Ku Klux Klan and its growing influence in the early 1920s seems to have sparked a stronger interest in enforcement of the law in certain parts of the state.

The Klan was reborn in the wake of the popular 1915 silent film *Birth of a Nation*, which portrayed hooded riders as the saviors of the white South during Reconstruction. This iteration of the Klan had even vaster ambitions than the First Klan's focus on racial terror in the South.^[25] In 1921 and 1922, Klaverns spread across the state. Limited to "white, Protestant men," the Second Klan's influence was far greater than the First Klan's had been during Reconstruction. It was a national phenomenon headquartered in Indiana. The Second Klan embraced the enforcement

anti-American

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tion.

The Klan's influence was felt in Mississippi legislation that reflected a hardline public position on interracial marriage. Former Progressive governor Edmond F. Noel, who had strong support from the Klan, proposed a new law that would make it a crime to speak in favor of the legalization of interracial marriage.[27] The law sailed through both houses of the state legislature in 1920 without a single dissenting vote.[28] The current governor, Lee M. Russell, approved it on March 25, 1920.[29] In its final form, the law declared that any "person, firm, or corporation who shall be guilty of printing, publishing or circulating printed, typewritten or written matter urging or presenting for public acceptance or general information, arguments or suggestions in favor of social equality or of intermarriage between whites and negroes, shall be guilty of a misdemeanor." [30] Notably, the maximum penalty—six months in jail and a \$500 fine—was the same that could be levied for unlawful cohabitation. A person who simply spoke in favor of interracial relationships could face the same punishment as J. W. Morrison and Mollie Kemp. The law made white racial purity the official position of the state government. Merely speaking about interracial relationships was as bad as actually engaging in one.

No legislator expressed concern that the law might conflict with First Amendment protections of speech and the press. Nor would the legislators have worried that the US Constitution prohibited this kind of law, despite its obvious muzzling of speech. Even Congress had passed laws blatantly infringing on First Amendment rights, restricting the speech of pacifists and socialists through the Espionage and Sedition Acts during World War I.[31] Indeed, the Mississippi law followed in a long line of state legislatures policing speech aimed at the promotion of Black rights. It was not until 1925, in *Gitlow v. New York*, that the US Supreme Court established that the First Amendment even applied to the states.[32] The Mississippi law was just one among a wave of laws restricting speech

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The Klan made its messaging unavoidable. Mississippi Klaverns engaged in publicity campaigns to drum up public support, ensuring that local newspapers reported on the sums of money they donated to the needy. Each article was followed by a statement from the recipient praising the Klan for its benevolent gesture. Natchez Klan No. 2 presented \$500 (though only \$200 in cash and the rest a promissory note) to the repair fund for the Protestant Orphans Home.[34] The King's Daughters Home in Brookhaven received \$1,000.[35] A Klavern paid the taxes of a widow in McComb.[36]

Klan members also held even more ostentatious displays of their messaging. On July 4, 1922, they paraded through the streets of Jackson. Hundreds of men marched in their white hoods, chanting, "america for americans," and "we stand for free speech, free schools, free press." (We can assume their message was not in opposition to the legislature's recent work to criminalize speech endorsing "social equality" or interracial marriage.)

With or without donning white hoods, many Mississippi politicians embraced venomous language about the threat of what they called "racial amalgamation." When Congress debated the Dyer Anti-Lynching Bill in 1922, Mississippi representative John E. Rankin took the opportunity to warn that such a law would "encourage the negro brutes in their attacks on the defenseless white women of the country." The anti-lynching bill was in fact "a bill to encourage rape," he ranted, as "the shadow of the negro criminal constantly hangs... like the sword of Damocles over the head of every white woman in the South." [37] He praised the southern

Anglo-Saxon

on.”[38]

Rankin’s demagogic politics might have been useful for putting supporters of the anti-lynching bill in a defensive position—few politicians openly embrace a “pro-rape” stance—but it offered a dramatic disconnect from the lives of ordinary Mississippians, who lived in a world that was complicated by the long-standing open secret of interracial families in their midst. Rankin’s emphasis on Black men conveniently avoided the fact that white men—such as J. W. Morrison—continued to cohabit with Black women in the South, frequently crossing the color line with impunity.

White Mississippians argued among themselves about the proper way to address this problem. Members of a missionary society in Hattiesburg attempted to rally support for a petition to the state legislature to elevate the penalties for unlawful cohabitation.[39] The Jackson police department announced a “crusade against unlawful cohabitation” in 1922.[40] The same year that Rankin made his abhorrent comments about rape, a circuit court judge in Lincoln County complained that “one of the most hateful things in the Southland is the cohabitation of white men with negro women.” The judge lectured the impaneled grand jury because, in his view, “We lack the courage, the manhood to report it.” He reminded the men that they were “under oath” and instructed them to “do our duty though the heavens fall.”[41]

By 1924, the Klan was powerful enough to control the Democratic state convention held in Jackson on May 30. The influence of the White Knights was felt keenly by all attendees. The Klan met secretly the night before the convention to endorse former governor Noel as the convention’s chairman, and he was elected as temporary chairman the next day on a platform of “the enforcement of all laws” and “especially the liquor

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anti-Klan

an.”[43]

Percy provided an ideal foil for the Klan. He rejected the extremism of Vardaman, who had unseated him from the US Senate in a 1912 primary election.[44] Despite their shared backgrounds from wealthy white families, Vardaman claimed the mantle of populism while painting Percy as an elite who was overly accommodating to Black people. Percy was in many ways emblematic of the paternalist racism that infused the so-called “Bourbon” politics that dominated the Delta counties, which had Black majorities but where whites controlled most of the land and wealth. Percy’s stance was not hardline enough for some white supremacists. To make matters worse, his wife was Catholic.[45] Percy was exactly the kind of politician that Klan members loathed: he was allegedly overly indulgent of Black people, insufficiently vocally racist, and held questionable moral positions. Klan members believed Percy and his ilk had too much influence in state politics. In the early 1920s, they seemed poised to claim victory.

The Klan had a vision of Mississippi that, if put into action, would require a stark departure from the state’s complicated racial history. The same spring that the Klan wrested control over the state Democratic convention, the Adams County Circuit Court in Natchez again became a focal point of the long-standing battle for white men to assert their right to choose their own partners, regardless of racial classification.

From the spring of 1924 until the spring of 1925, grand juries indicted a dozen interracial couples. Judge Robert L. Corban presided over the Adams County Circuit Court with R. E. Bennett serving as the district

Natchez Democrat

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lack.

These indictments seemed to reflect the political climate of the state and the influence of the Klan. Morals offenses such as bootlegging, gambling, and interracial cohabitation once again intensely aroused the interest of the court, as happened during the Progressive Era. The indictments issued by the grand jury were mostly for morals offenses—especially liquor violations and interracial cohabitation—though there were also a smattering of charges of other crimes, including embezzlement, burglary, and assault. Most of the jury’s work that session was in trying and convicting people for liquor-related offenses. Four people were fined for possessing illegal stills, while seven received jail sentences for possessing alcohol.[47]

Fritz Meyer and Ella Ford were among the first couples indicted for unlawful cohabitation.[48] The indictment alleged that “Fritz Meyer, a man, and Ella Ford, a woman, late of the County on the 24th day of March 1924... did willfully, lewdly, and unlawfully cohabit together, and have habitual sexual intercourse with each other... the said Fritz Meyer and Ella Ford not being then and there lawfully married to each other.”[49] Notably, the indictment did not say anything about Fritz, a German immigrant, and Ella, a Black woman, being an interracial couple. Instead, as in the prosecution of J. W. Morrison and Mollie Kemp, it focused on the fact that they were unmarried.

Meyer—

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Ella and Fritz were not cowed by the indictment. Instead, they fought back, hiring two local white lawyers, Charles Engle and Ernest Brown. The attorneys presented a demurrer that protested the indictments on behalf of all the couples charged with unlawful cohabitation, focusing on the sort of evidence required by law. They objected to the nature of the charge, noting that the indictments failed to identify whether the unlawful cohabitation had occurred in “adultery or fornication,” and also noted that “the crime charged in the indictment is one of which time is of the essence.” Without proof that the cohabitation was “habitual,” the couples could not properly be charged under the law.[52]

In a surprising move, Judge Corban agreed with the defendants’ attorneys, effectively dropping the unlawful cohabitation charges against some of the couples indicted by the grand jury.[53] But the district attorney, Bennett, was not prepared to allow Fritz and Ella to go free. He filed an appeal on the ruling with the Mississippi Supreme Court.[54]

The Mississippi Supreme Court agreed to hear the case of *State v. Meyer and Ford*. In their brief to the court, Fritz and Ella’s lawyers argued that the indictment alleged that the couple cohabited and had illicit sexual intercourse on only one day: March 24, 1924. Previous cases made it clear that for cohabitation to be unlawful, it had to be sustained over a longer period of time. An unmarried couple engaging in sexual intercourse for a single day—even if the man was white and the woman was Black—did

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ys.”[56]

In its ruling in Meyer, the state supreme court made an important change in how it would interpret the offense of unlawful cohabitation. The justices declared that time was not “of the essence” and the indictment’s failure to identify an extended time period of “habitual sexual intercourse” was not fatal to the case.[57] Ella Ford and Fritz Meyer would have to face the charges. Fritz eventually pled no contest. The court assessed him a \$50 fine, but he was not sentenced to serve any time in jail.[58]

Ralphine Burns and William Dean—called “Willie” in the indictment—were tried on November 19, 1924. Three witnesses testified: two white carpenters, Joseph S. Burns (no relation to Ralphine) and William Bennett, and one of Ralphine’s neighbors, a Black woman named Susannah House.[59] Susannah was combative in her testimony, refusing to testify that she knew Ralphine was Black. When asked about the race of Ralphine and William’s children, she testified that the children were as “white as the district attorney.”[60] Ralphine’s children were fair; her son, Clarence, was a redhead. But Ralphine’s family had roots in the antebellum free Black population of Natchez, so her ancestry was not buried very deep. The jury of twelve white men heard the case and judged the pair to be guilty on the same day.[61]

The trial of Ralphine and William likely influenced the other couples charged. Several pled no contest and received fines. Peter Burns and Lizzie Stampely, who had a yearslong relationship that produced two sons, also pled guilty.[62] Peter paid a \$100 fine; Lizzie was fined only \$25.[63] Neither faced any jail time. Peter and Ralphine were not related, but they may have known one another. In 1880, a four-year-old Peter had lived in his father’s boardinghouse just a few doors down on Pine Street from the home of Ralphine’s father, William Burns Sr.[64]

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Ralphine Burns and William Dean challenged their convictions, contending that the state had not proved that they were unmarried. Of course, the district attorney probably assumed that he need not make such a case: it was obvious to the jury that all of these couples were being tried because the women were Black and the men were white. They could not legally marry in Mississippi.

Or could they? The lawyers for Ralphine and William raised two important points for their brief in the appeal: that the state had not demonstrated that the pair was not married, and that the state had not demonstrated that Ralphine was legally Black. “This fact was nowhere proven by the district attorney or attempted to be proven,” the brief explained. “It is a fact that cannot be proven by mere profert for the reason that the shades of color vary so among different members of the white race that one cannot distinguish the race under certain circumstances and with certain individuals.”[67] In other words, the district attorney could not simply assert that Ralphine was Black. He needed to prove it with evidence.

And the Mississippi assistant attorney general, Harry M. Bryan, agreed with Ralphine and William’s lawyers. As Bryan explained in the state’s brief to the court, “We reluctantly believe that the record does not show that the charge of the indictment was fully sustained.”[68] He continued, “It is only by inference that it could be concluded that one of the parties was white and the other a negro. This being true, we cannot adopt a miscegenation theory which would relieve the state from actually proving that they were not married.” This argument is instructive. Although the

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On June 1, 1925, the Mississippi Supreme Court overturned Ralphine and William's convictions. The ruling rested on the basis that the state had not proven Ralphine's Blackness as a fact. Susannah House's testimony was cited as evidence of Ralphine's possible whiteness or—at the very least—her racial ambiguity. In short, at the trial, "there was a total failure to prove that the woman was of other than the white race." Altogether, the court wrote, "There is not one scintilla of evidence tending to prove that these defendants were not married to each other." Instead, "on the contrary, the circumstances, declarations, and actions of these parties come dangerously close to establishing a common-law marriage."^[69] The Mississippi Supreme Court stopped short of declaring that Ralphine and William's relationship was a legal marriage, but the ruling implied as much, sending the case back down to Adams County Circuit Court.

If he wished to do so, the district attorney could have tried Ralphine and William again, but there is no evidence that he did. There were no further charges of unlawful cohabitation in the following years.^[70]

The state legislature was well aware of the problems the one-eighth rule was causing for prosecutors. Just one year after the Mississippi Supreme Court had vacated Ralphine and William's conviction, members of the legislature moved to address the blood quantum problem of the state marriage law. If the state continued to rely on the one-eighth rule of racial inheritance, people like Ralphine Burns—not to mention the mixed families of Bay St. Louis—could use their racial ambiguity to their advantage. Some members of the legislature demanded a far stricter definition of whiteness.

so-called one-drop

one-drop

anti-miscegenationists

on.”[71]

On the first day of the state legislative session in January 1926, Representative Bernard Guion of Yazoo County introduced a new law that mirrored the Virginia Racial Integrity Act, redefining whiteness according to a strict one-drop rule.[72] The Virginia law was not written by the Klan. Instead, it was drawn up by white elites who argued that racial science could solve the “race problem” once and for all. Before 1910, Virginia’s blood quantum law had been more liberal than Mississippi’s, using the “one quarter” rule for Blackness; the law had then been revised to define anyone with more than one-sixteenth blood quantum of African ancestry as Black. The new Virginia law went even further: a “trace” of Black blood defined a person’s race. As John Powell, a founder of the Anglo-Saxon Clubs of America, explained, “One drop of Negro blood makes the Negro.”[73]

Unlike the Mississippi state constitution, which had proved so problematic with its one-eighth rule, Guion’s proposed law would expressly prohibit marriage “between a white person and anyone other than a white person, or a person with no other mixture of blood than white and the American Indian.” A white person could have “no trace whatsoever of any blood other than Caucasian.” White persons could, however, have a “trace” of Indian ancestry and retain their whiteness. The law also set the

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Guion’s measure had the backing of Mississippi governor Henry Whitfield, who expressed support for the bill in his message to the state legislature in February 1926. Whitfield alluded not only to the existence of interracial sex in his address but also to the problem of the color line and the racial indeterminacy of people of mixed descent, making oblique reference to the both the *Moreau v. Grandich* and *Dean v. State* cases. Whitfield declared, “Within recent years in operation of school lands, in questions of descent and marriage, this problem has become a complex one in the state. In my opinion the barriers should be so clearly defined that no court or executive officer could make any mistake in formulating an opinion or making a decree in any question arising where mixed blood of an individual might constitute a legal question.” In his view, the law should resolve any uncertainty. As he explained, “There is a [solemn] duty that the white race owes to itself to preserve its blood in its strictest integrity.”[76]

But Whitfield was careful to couch his concerns in rhetoric about the threat of outsiders. He explained that it was not “native Mississippians” who threatened the color line. Rather, it was “people of all races” who could come to Mississippi, bringing their dangerous ideas about interracial marriage with them. In other words, immigrants threatened the state’s racial order. As Whitfield explained, “Many of these will not have the racial ideas that native Mississippians have and if some precaution is not taken to prevent it there is a danger that to some extent racial barriers may be broken down.”[77]

Whitfield’s speech went even further than the text of the law. He raised the issue that had long helped create problems in the enforcement of the unlawful cohabitation law: the state still lacked a law specifically criminalizing interracial sex. Whitfield declared, “I further recommend that a law be enacted visiting severe penalties on any white person who indulges in any sex relation with a member of the colored race.” It was

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1926.

Like many of his predecessors, Whitfield blamed white men for breaching the color line. He lamented, “Much of the trouble which we have in the state of Mississippi between the races results from the utter disregard that a certain element of white men have for negro women, and I hope the legislature will enact legislation that will as far as possible prevent low grade white men from disregarding the rules of virtue and violating the sanctity of the race.”[79]

Whitfield’s words did not go unnoticed outside the state. Indeed, the Chicago Defender printed the text of his entire speech, calling it “one of the most sensational confessions ever made by the chief executive of a state.”[80] Two key things connected Black Mississippians to their friends and family who fled north: the Illinois Central Railroad and the Chicago Defender. The Defender, though published in Chicago, was a lifeline between Black people in Mississippi and in Illinois.[81] Its editors crowded over the governor’s admission that white supremacy was rife with hypocrisy, and white so-called racial integrity a farce. But despite the rise of the Second Ku Klux Klan, and despite the problems of enforcement presented in the Natchez cases, Guion’s “racial integrity” bill did not pass. The legislature declined to adopt the one-drop rule and instead kept the old marriage law in place.

The state legislature did not record most of the verbal debates over proposed laws, so we cannot know precisely what motivated all opposition to the one-drop rule. But there is one piece of evidence that indicates that some members felt uncomfortable with the potential consequences of classifying anyone with African ancestry as Black. Representative Gideon Brown of Jasper County was the sole member of the legislature who put

gues.

Brown's vote was not symbolic, he explained. Instead, he was concerned with the consequences for other white people of moving the color line so dramatically. For him, it was personal. "Mr. Speaker," Brown explained, "I voted against this Bill for the reason, in my opinion, it divorces my wife from me without any court decree, from a court, competent to grant divorces, and without legal cause or any other cause."^[82] It seems that Brown believed that either he or his wife had African ancestry, even though they were both legally white. And he was not afraid to admit as much before his colleagues in the Mississippi House of Representatives.

At the time of the debate over the racial integrity bill, Gideon Brown was in his fifties. He had been married for decades to his wife, Emma. Gideon and Emma Brown were both identified as white people in the 1920 census.^[83] Indeed, Emma had always been identified as white whenever the census-taker had arrived at her door. When she died in 1951, the *Clarion-Ledger* ran a brief obituary—an honor reserved for white people.^[84] Gideon and Emma had been married for more than thirty-five years. Both had been raised in Jasper County—a rural part of the state east of Jackson that never topped more than 20,000 inhabitants—and had lived their entire lives there. Their families' histories would have been the subject of local knowledge and, possibly, gossip. Both of their families farmed, and Gideon and Emma grew up in the post-emancipation era. Gideon was born in 1870 and Emma was three years his junior. They married after Emma turned eighteen, and the couple had four children.^[85]

It is possible that the "problem" with Gideon's marriage originated with his wife's side. Emma's parents were named James and Mary Ainsworth. The Kelly Settlement of Forrest County, Mississippi, near Hattiesburg, was home to many families with mixed Black, white, and Native heritage, including a branch of the Ainsworth family.^[86] Many of these Ainsworths could trace their family trees back to Sampson Jefferson Ainsworth, a

well-known

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ves.[89]

No other members of the legislature were willing to commit their opposition to the law to the record. But in the end, some must have been persuaded, either by Gideon Brown's speech or by other unstated concerns. Guion's law failed to get the support it needed to pass both houses, ultimately faltering in the Mississippi Senate.[90]

Just one year before the failure of Guion's bill, Judge W. H. Clark proclaimed, at the Fourth of July festival and opening of the new Rankin County Courthouse in Brandon, that "the omniscient creator has prohibited the amalgamation of the black and white races through history for a period of 10,000 years. They have been thrown together but they have never mixed so that the identity of the one was lost in the other. They have never met on the basis of social equality or through the amalgamation process." [91] Even white supremacists knew that this was a lie. They needed only to look around them, or, for a judge, at the docket book of his court. As a Methodist preacher complained of the "unspeakable and monstrous crime of miscegenation" in a 1922 sermon, "We have plentiful evidences of all sizes upon the streets of Vicksburg." The preacher concluded his diatribe on the subject thus: "If God had intended a cream-colored race, he would have made them so in the

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iled.

The debate over the bill, captured by the Clarion-Ledger, was heated. When Representative Henry Clay Hamblen of Greenville questioned Guion about the enforcement provisions of the bill, Guion was indignant. “What do you want to know for?” Guion asked. “Do you want to marry a negro?” (One can be almost certain that rather than “negro,” he used a slur that the paper opted not to print.) Hamblen was not cowed by Guion’s sneering question. Instead, he took to the podium to explain his personal opposition to the bill, which was grounded in



one-drop

law.[94]

Portrait of unidentified Mississippi woman with her children, showing the range of complexions within one family, ca. 1920 (John E. Rodabough Papers, Manuscripts Division, Archives and Special Collections, Mississippi State University Libraries).

Portrait of unidentified Mississippi woman with her children, showing the range of complexions within one family, ca. 1920 (John E. Rodabough Papers, Manuscripts Division, Archives and Special Collections, Mississippi State University Libraries).

Despite the legislature's unwillingness to adopt a one-drop rule, it took a stand on so-called social equality, targeted at the Republican Party and the current occupant of the White House, in the following year. In 1929, the Mississippi Senate adopted a resolution condemning President Herbert Hoover for hosting Illinois representative Oscar De Priest—the only Black member of Congress—and his wife for tea at the White House. The incident signaled Hoover's support for "social equality," and the Senate held "strong hope that the president and his wife will hereafter regard and respect the feelings of the white people of the south in refraining from such social acts as would be interpreted as a recognition of social equality which we are compelled to consider as inimical to the welfare, racial purity and preservation of all the white people of our great nation." In explaining his support, seemingly blithely unconcerned about the legislative debates over the color line that had taken place in the same building just a year earlier, state senator W. B. Roberts declared that a white man inviting a Black woman into his residence "is the revival of a thing we settled in the south at the end of the reconstruction days."^[95] But, of course, this was a falsehood, and one that his own colleagues had discussed in recent sessions.

Former governor Edmond F. Noel, the Klan's spokesperson in the legislature, died in late July 1927. Governor Whitfield died soon after that of an illness. His replacement, a "law and order" Democrat named Dennis

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mob.[97]

Despite the insistence of some white Mississippians that they valued white racial purity, the records of the legislature and the courts reveal that the “problem” of the color line was anything but settled in the 1920s. The debates over the proposed “racial integrity” act died with Guion. As the agricultural depression of the 1920s spiraled into global financial catastrophe in the 1930s, Mississippi legislators had other major problems to confront. Cotton prices had fallen in the 1920s and bottomed out by the early 1930s. Since World War I, Black Mississippians had begun fleeing north to cities such as Chicago, Milwaukee, and Detroit in search of better economic opportunities for themselves and their families. Although northern cities were deeply segregated, they allowed the Black migrants to create and maintain a measure of independence that white Mississippians fervently sought to deny them.[98] The importance of maintaining control of property was even more crucial for Black people as the nation fell into the Great Depression and families of all racial classifications struggled to keep themselves fed, clothed, and sheltered. Economic crisis bred radical politics, both on the right and the left. The next decades would bring new threats to southern-style white supremacy—including growing scrutiny by outsiders.

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