

Southern New Hampshire University

“Wade in the Water”

Jim Crow Scenes from Maysville, Kentucky

A Capstone Project Submitted to the College of Online and Continuing Education in Partial
Fulfillment of the Master of Arts in History

By

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Abstract

This research explores Jim Crow scholarship in real estate, entertainment, policing, and recreation. The thesis of this research is that outside forces came to bear on Jim Crow laws and customs. This research will show that without that outside pressure, a more equal society may not have evolved organically. In addition, this research highlights scenes from the small town of Maysville, Kentucky to more fully illustrate the power and tenacity of Jim Crow. This research is not meant to belittle the efforts of thousands of brave Americans, of all colors, who risked and sometimes lost their lives in the face of racial bigotry and oppression. It is rather to suggest that without the full power of the federal government behind them, their heroic struggle might not have happened and most certainly would have been more burdensome.

The methodology employed in this project was to locate primary and secondary sources related to the topic and apply those sources to the central argument of the thesis. These sources were used to gain an understanding of Jim Crow as a social and political phenomenon and demonstrate that Jim Crow was so engrained into the fabric of American life that it took a national effort spearheaded by all three branches of the federal government to wrench it away from the American experience.

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Postcard with Bird's-Eye View of Maysville, Ky., showing Bridge across the Ohio River.

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Acknowledgments

The journey of the master's program in American History at Southern New Hampshire University is very much a solo effort. Distance education requires the student to be a self-starter, but as John Donne wrote in 1624, "No man is an island," so therefore this research could not have been accomplished without the aid of many talented people.

The staff at the Kentucky Gateway Museum Center in Maysville, Kentucky, and in particular Researcher, Myra Hardy, were extremely helpful. The insider in Maysville, however, was my cousin, Sue Brammer. As a lifelong resident, she knows everything. My former colleague, Dennis A. Becker, was always available to read and critique my latest paper, review, or post. He truly seemed to look forward to my work. Throughout this program, I have relied on my dear high school friend, Col. (ret.) Paul C. Jussel, Ph.D. Paul teaches history at the U.S. Army War College and has always pointed me in the right direction. My dear friend, Elizabeth Short, a reformed English teacher, had the regrettable task of the final proof-read and I am most grateful.

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Finally, when at age sixty, I brought up the idea of a master's to my long-suffering wife, Anne K. Abate, PhD., she was enthusiastic and became my biggest cheerleader. She has helped all along the way and what she has done in editing my prose could be considered domestic violence. This degree is dedicated to her as is my life.

Introduction

“A Strange Conclusion to a Triumphant War.” *

Thesis Statement and Background

This study will demonstrate that the culture of Jim Crow was so pervasive and utterly woven into the fabric of Kentucky society and law for the period between 1865 and until the 1960’s Civil Rights era that it could not be changed by internal community action. It will be revealed that, with nearly one hundred years of Jim Crow, when outsiders (the federal government) intervened in an effort to equalize the treatment of all citizens, the small Ohio River City of Maysville, Kentucky was unable to break the shackles of their own racist past.

In the early 1960’s, my father owned an Army green Plymouth.¹ I suspect that shade of green was a common color in post-World War II America. The Plymouth had cloth bench seats in both the front and the back. These were the days before seatbelts and car seats. Parents stuffed their children in the back seat and prayed they did not become projectiles



* Anne E. Marshall, *Creating a Confederate Kentucky: The Lost Cause and Civil War Memory in a Border State* (Chapel Hill: University of North Carolina Press, 2010), 4. Marshall is quoting Shelby County, Kentucky farmer Jesse Kinchloe commenting on the post-war political situation in the commonwealth.

1. My father, John Martin Maley, Sr. (November 9, 1924 – July 31, 2008) was born in Mays Lick, Kentucky, nine miles southwest of Mayville.

should there be a sudden stop. Although my parents would eventually produce three sons, in the early 1960's they had only two: my older brother and myself. My parents grew up in Maysville, Kentucky, but after marriage lived in Cincinnati, Ohio which is about sixty-five miles away. On most weekends, this young family would abandon Cincinnati and travel back to Maysville to visit the grandmothers, the siblings, and the assorted and sundry cousins. Between the two houses of wonder in which each of my grandmothers lived was the Maysville Public Swimming Pool. When we were thrown into the back of the Army green Plymouth and told to be "good little boys" (we seldom were) for the short drive between the two residences, we would pass that public pool and see the bathers having fun on a summer's day. It is a memory held to this day. What neither my brother John nor I appreciated was that all of those happy bathers were lily-white. In the next summer season, 1961, that public pool was closed. It would never re-open at that location. In fact, the pool itself was eventually filled with gravel and concrete, which perhaps was a solid stone message being sent. What the two bad little boys in the back could not understand was that between 1865 and the late-1960's Maysville, Kentucky was firmly part of the Jim Crow South.

What is Jim Crow?

The use of the present tense is intentional here for, as Robin Diangelo convincingly argues in her *White Fragility: Why It's So Hard for White People to Talk About Racism*, Jim Crow is alive and well and living in America.² The era of Jim Crow spans over one hundred years of the American experience. In his 1955 book-length essay, *The Strange Career of Jim Crow*, Yale University's C. Vann Woodward (1908-1999) traces what he believed were the

2. Robin Diangelo, *White Fragility: Why It's So Hard for White People to Talk About Racism* (Boston: Beacon Press, 2018), 5, Kindle.

origins of Jim Crow.³ As if the reader would already be acquainted with Mr. Crow, Woodward fails to provide a comprehensive definition. In later editions of this brief masterwork, Woodward acknowledges that much in this country has changed, but he still assumes the reader has met Mr. Crow. Perhaps he was correct, as this research will demonstrate.

The non-profit Constitutional Rights Foundation defines Jim Crow as, “. . . a derisive slang term for a black man. It came to mean any state law passed in the South that established different rules for blacks and whites. Jim Crow laws were based on the theory of white supremacy and were a reaction to Reconstruction.”⁴ For someone who has not heard the term, this definition is an excellent starting point, but it only



Photograph of a woman of color enjoying a drink of water under the watchful eye of Jim Crow.

scratches the surface of Jim Crow as a social, political, and historical phenomenon.

Perhaps the most concise definition of Jim Crow comes from Leon F. Litwack: “What the white South did was to segregate the races by law and enforced custom in practically every conceivable situation in which whites and blacks might come into social contact: from public transportation to public parks, from the workplace to hospitals, asylums, and orphanages, from the homes for the aged, the blind, deaf, and dumb, to the prisons, from saloons to churches.”⁵

3. C. Vann Woodward, *The Strange Career of Jim Crow* (New York: Oxford University Press, 1974), 11-109, Kindle.

4. “A Brief History of Jim Crow,” Constitutional Rights Foundation, accessed February 9, 2019, <http://www.crf-usa.org/black-history-month/a-brief-history-of-jim-crow>.

5. Leon F. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York: Vintage, 2013), 233.

William O'Brien would add: "If violence and intimidation were significant means of enforcement, deprivation and discrimination were the bedrock of racial subordination."⁶ As will be explored later, Victoria W. Wolcott, Jeff Wiltse, and Richard Rothstein would certainly add to the definition of Jim Crow a national flavor through their studies of discrimination in amusement parks, swimming pools, and real estate practices.⁷

One might disagree with Dr. Diangelo and consider that Jim Crow is a phenomenon of the past and not relevant to the present. Even if one would mistakenly believe that Jim Crow is gone, Robert J. Cottrol contends, "An understanding of Jim Crow is critical to an understanding of race in the United States in the twentieth century. Jim Crow was the most unambiguous effort to use the law to enforce racial domination in the Americas after emancipation."⁸ It may be impossible to fully understand the complexities of Jim Crow, but to fail to try is to fail to understand America.

Outline of the Research

The next section of this study will explore recent scholarly research of Jim Crow. This scholarship is noteworthy on two levels. First, after years of neglect prior to the Civil Rights era, the study of Jim Crow has become something of a cottage industry for historians, especially doctoral students. Second, as Jim Crow's influence was so pervasive, not only in the South but

6. William O'Brien, *Landscapes of Exclusion: State Parks and Jim Crow in the American South* (Amherst: University of Massachusetts Press, 2016), 28.

7. Victoria W. Wolcott, *Races, Riots, and Roller Coasters: The Struggle Over Segregated Recreation in America* (Philadelphia: University of Pennsylvania Press, 2012); Jeff Wiltse, *Contested Waters: A Social History of Swimming Pools in America* (Chapel Hill: The University of North Carolina Press, 2007); Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing Corporation, 2017), Kindle.

8. Robert J. Cottrol, *The Long, Lingering Shadow: Slavery, Race, and Law in the American Hemisphere* (Athens: University of Georgia Press, 2013), 176.

in the North and West, the study of this phenomenon now touches every aspect of American life, from nutrition to health care, from sport to politics. Jim Crow was also multi-cultural with white supremacy directly bearing upon relations with the Oriental and Chicano peoples. Jim Crow provides fertile historical ground.

After that background, the narrative is linked together by scenarios of small-town history to illustrate the conflict between one hundred years of Jim Crow—with all the social implications contained within it—and the Civil Rights era when federal courts imposed a new reality on the Commonwealth of Kentucky. This research recounts several incidents from the history of Maysville, Kentucky since the end of the Civil War and Reconstruction where Jim Crow is clearly visible. The first topic examined is Jim Crow in real estate which relates the story of Stanley Forman Reed who went from being a Maysville attorney to sit on the nation's highest court. The next section visits Jim Crow in everyday life. It recounts how Jim Crow attended the return to Maysville of its leading daughter, singer and film actress, Rosemary Clooney. The research continues with Jim Crow policing as exemplified by the shooting without consequence of an unarmed black man by a white police officer in Maysville in 1951. The final research section examines Jim Crow recreation and the closure in 1960-61 of the Maysville "whites only" public swimming pool. The work concludes with an analysis looking back upon the research and forward to new avenues of study.

Historical Background

In his 1903 book *The Souls of Black Folk*, W.E.B. Du Bois called for equality between black and white America.⁹ Sixty years later, the aspirations of African Americans for equality

9. W.E.B. Du Bois, *The Souls of Black Folks* (Mineola, NY: Dover Publications, 1994), loc. 193 of 4668, Kindle.

were unfulfilled. African Americans were not going to tolerate the racial violence that terrorized black men during and after the First World War.¹⁰ Race relations were, however, turned upon their head by the Second World War. As a result of this conflict of ideals, black leaders such as Asa Philip Randolph seized the opportunity presented and promoted the “Double V” which stood for victory on foreign battlefields and victory over inequality at home.¹¹ Fighting fascism abroad while permitting racism at home was simply unacceptable to leaders such as Randolph.

It was a new America when President Harry S. Truman issued Executive Order 9981 on July 26, 1948, which ordered the armed services to desegregate.¹² This may have been a purely political move on Truman’s part. The election of 1948 brought a confluence of events. The Democrats were a shaky coalition made up of Northern liberals and a solid block of Southern racists. The Republicans were a moderate, business-oriented, anti-New Deal, anti-big government, isolationist party with a scattering of liberals included. Harry S. Truman was running for the first time as a candidate for President; the Republicans had nominated liberal Governor of New York, Thomas E. Dewey. Truman was a little-known senator from Missouri when he was elevated to the vice presidency by Franklin Roosevelt. There was some question whether he could win a national election and if, because of his Missouri background, he could appeal to black voters in key swing states. Thomas E. Dewey had a pro-civil rights history as New York Governor. Dewey promised to move the civil rights agenda forward. There was

10. Robert H. Zieger, *America’s Great War: World War I and American Experience* (Oxford: Rowman and Littlefield Press, Inc., 2000), 127, Kindle.

11. Rawn James, Jr., *The Double V: How Wars, Protest, and Harry Truman Desegregated America’s Military* (New York: Bloomsbury Press, 2013), 141.

12. Harry S. Truman, Exec. Order No. 9981, “Establishing the President’s Committee on Equality of Treatment and Opportunity in the Armed Services,” 13 *Federal Register* 4313 (July 28, 1948).

concern that urban black voters might abandon their traditional Democratic Party allegiance and swing to the Republicans.¹³

On March 22, 1947, a meeting was held at the White House between black leaders, including the group's spokesman Randolph, and President Truman. Randolph urged the President to act to desegregate the military by Executive Order. Truman cut the meeting short.¹⁴ Later, Truman's ever astute political aid, Clark Clifford, emphasized the black vote as key to winning the election.¹⁵ Truman critics would argue that the decision to issue Executive Orders 9980 (discrimination in government procurement) and 9981 (military desegregation) were solely politically motivated. Regardless of the evasive truth, these Executive Orders became seminal documents in race relations in the United States.¹⁶

It may have been a new America, but it was still the old South and the Commonwealth of Kentucky, although rejecting the Southern cause during the Civil War had embraced the "Lost Cause" narrative after America's great civil conflagration. Still alive and well in America today is the "Lost Cause." It is a series of beliefs constructed by the tattered Confederates where the South possesses indestructible honor, ideals, chivalry, protestant religious devotion, states' rights, and above all white supremacy, that blend together to rescue the Confederacy from its

13. Christine Knauer, *Let Us Fight as Free Men: Black Soldiers and Civil Rights* (Philadelphia: University of Pennsylvania Press, 2014), 113.

14. Jervis Anderson, *A. Philip Randolph: A Biographical Portrait* (Berkeley: University of California Press, 1986), 276.

15. James, 225.

16. Executive Order 9981 is considered so important to our history that it is on permanent display at the National Archives <https://www.archives.gov/historical-docs/todays-doc/?dod-date=726>.

own inglorious end.¹⁷ This was then and is today the perfect tonic amid the chaos of Southern defeat or the travails of modern American multi-cultural life.

At first blush, Kentucky's quasi loyalty to the Union would certainly call into question what happened after the Civil War. According to Civil War historian James A. Ramage, a curious outcome occurred in the post-bellum commonwealth—the Confederates, in the form of the Democratic Party, won the peace. Ramage further writes how, strangely enough, the legend of General John Hunt Morgan, a Kentuckian faithful to the South, was created by his brother-in-law Basil Duke and that Morgan's former raiders, including Duke himself, became the political, economic, and social leaders of the commonwealth.¹⁸ Duke's fawning biography of John Hunt Morgan became a pillar of the "Lost Cause" of the South.¹⁹ The Duke hagiography transformed Morgan and his raiders from a military sideshow to a Southern *beau sabreur*. After Morgan was shot in the back in the concluding months of the Civil War, Duke sanctified him as a "Lost Cause" martyr.

Anne E. Marshall in *Creating a Confederate Kentucky: The Lost Cause and Civil War Memory in a Border State* reports that in 1866, in response to the establishment of Freeman Bureaus throughout the state by the Federal government, Kentucky restored the full franchise to its former Confederates. She reminds her readers that Lincoln's Emancipation Proclamation did not apply to the neutral boarder states such as Kentucky. Even the defeat of the Confederacy

17. James A. Ramage, *Rebel Raider: The Life of General John Hunt Morgan* (Lexington: University Press of Kentucky, 1986), 252.

18. Ramage, 253.

19. Basil Wilson Duke, *History of Morgan's Cavalry* (Cincinnati, OH: Miami Print and Publishing Co., 1867).

failed to free the slaves of Kentucky. Rather, the ratification of the 13th Amendment to the U.S. Constitution in 1866 brought a grudging end to slavery in the commonwealth.²⁰

Between 1867 and 1894 six men served as Kentucky governors who had been Confederates or Confederate sympathizers.²¹ Dr. Marshall quotes Kentucky historian and co-author of *A New History of Kentucky* Lowell Harrison regarding the power of Confederate service in post-war state elections: “If you wanted to be elected, it was by far best to be an ex-Confederate. If you had lost one or two limbs, for public display, you were almost a shoo-in.”²²

At one point, the influence of former Confederates over Kentucky government and the Democratic Party became so pervasive that the editor of the influential newspaper the *Louisville Courier-Journal* and leading Democrat Henry “Marse Henry” Watterson sought to find candidates for office who were not former Confederates.²³ C. Vann Woodward argues that the liberal and moderate voices left the playing field and the racist voices that constructed Jim Crow were alone to dominate the political game.²⁴ Jim Crow in all of his political, social, cultural, and educational regalia came calling upon the commonwealth. Anne Marshall would go further than Woodward in explaining the Confederate dominance in Kentucky politics. She argues that the Confederate influence was not only a movement to restore the hierarchy of the past, but just as importantly, a chance to shape the future by finding the commonality of the plight of post-war

20. Marshall, 33-34.

21. Marshall, 34-35.

22. Marshall, 43.

23. Thomas D. Clark, *A History of Kentucky* (Ashland, KY: The Jesse Stuart Foundation, 1988), 419.

24. Woodward, 85-90, Kindle.

Kentuckians of all political stripes.²⁵ The key for Marshall is a white supremacist political coalition which dominated commonwealth politics. In some measure, this exists even to this day.

There is no question that the Kentucky legislature adopted the full panoply of Jim Crow laws in both the civil and criminal codes. Included among these were strict and severe vagrancy laws passed in order to limit the movement and economic opportunities of African Americans.²⁶ Perhaps the most nefarious legislation was promulgated in 1905. The “Day Law,” named for Breathitt County legislator Carl Day, criminalized the education of whites and blacks together at the same school at all levels in both public and private sectors. The Day Law was only overturned by the U.S. Supreme Court decision in *Brown v. Board of Education* in 1954.²⁷ It remained on the books in Kentucky until 1955 when the Kentucky Supreme Court finally declared the Day Law unconstitutional.²⁸ Of note is that as late as 1949 white Kentucky citizens, alarmed at the encroachment of black students into the white graduate programs at the University of Kentucky, sought to strengthen the Day Law.²⁹ This was despite the fact that, back in 1938, the United States Supreme Court in *Missouri ex rel. Gaines v. Canada* held that if no African

25. Marshall, 33-34.

26. George C. Wright, *Racial Violence in Kentucky 1865-1940: Lynchings, Mob Rule, and “Legal Lynchings”* (Baton Rouge: Louisiana State University Press, 1990), loc. 3944 of 4962, Kindle.

27. John A. Hardin, *Fifty Years of Segregation: Black Higher Education in Kentucky 1904-1954* (Lexington: University Press of Kentucky, 1997), 12-16.

28. James C. Klotter and Craig Thomas Friend, *A New History of Kentucky* (Lexington: University Press of Kentucky, 2018), 373.

29. Klotter and Friend, 370-371.

American graduate program existed in black state colleges then white state colleges had to admit blacks into their graduate programs.³⁰

Recent Jim Crow Literature

It would be an oversight to begin a review of the current Jim Crow scholarship without a backward glance to a few earlier works which were representative of the approach to black history of past scholars. In 1965, Charles E. Wynes (1929-2014) edited a collection of essays regarding black history entitled *The Negro in the South Since 1865: Selected Essays in American Negro History*.³¹ These essays were published when Dr. Wynes was an assistant professor of history at the University of Georgia. Reading Wynes' introduction today, there is a striking "black comedy" quality to it. Wynes correctly writes, "Probably no area of United States history is more in need of fundamental research and interpretation, or re-interpretation, than is the history of the Negro American."³² Wynes further blames African Americans themselves, in part, for their own lack of history: "Negroes rarely kept written records, and as a result the scholar lacks the necessary tools of his craft."³³ While asserting that white historians, in the past, through their own prejudices, have disqualified themselves as serious and objective observers of African Americans, Wynes then accuses black historians (albeit few in number in 1965) of being too close to their own cause to be dispassionate. As these were the early days of the Civil Rights era, Wynes trumpets the "quantity and quality" of the emerging Negro history. This work is

30. *Missouri ex rel. Gaines v. Canada*, 305 U.S. 337 (1938).

31. Charles E. Wynes, ed., *The Negro in the South Since 1865: Selected Essays in American Negro History* (Tuscaloosa: University of Alabama Press, 1965), 11.

32. Wynes, 11.

33. Wynes, 12.

typical of the histories of African Americans that dominated the pre-Civil Rights era. They are essentially all about whites and how the “negroes” were impacting white culture.

Also typical of this white/black, but mostly white, history from this collection was the piece contained in Wynes book written by C. Vann Woodward (1908-1999), then professor of history at Yale University. In his “Tom Watson and the Negro in Agrarian Politics,” Woodward writes of the attempted seduction and later betrayal of rural African American voters by the agrarian populist, Thomas E. Watson. Dr. Wynes strangely places a history of a racist populist politician like Watson in a book about African American history.³⁴⁴ Woodward has the temerity to quote Watson’s support of lynching: “Lynch law is a good sign, it shows that a sense of justice still lives among the people.”³⁵ Both Wynes’ introduction and Woodward’s chapter are reflective of the history of African Americans in America prior to the Civil Rights era—it is told as if African Americans were not part of their own history. Until the Civil Rights movement knocked down the doors, African Americans were denied their own history, which in turn was an attempt to deny blacks their own humanity. Here is Jim Crow entering the ivy-walled realm of academia.

C. Vann Woodward considers Jim Crow in the book-length essay, *The Strange Career of Jim Crow*.³⁶ This is by no means a definitive history of the topic but it serves two valid historical purposes. First, it succeeds as an introduction to the study, and second, it demonstrates the

34. C. Vann Woodward, “Tom Watson and the Negro in Agrarian Politics,” in *The Negro in the South Since 1865: Selected Essays in American Negro History*, ed. Charles E. Wynes (Tuscaloosa: University of Alabama Press, 1965), 39-61.

35. Woodward, 60.

36. C. Vann Woodward, *The Strange Career of Jim Crow* (New York: Oxford University Press, 1974).

mindset of a respected historian on this racially charged topic. Despite his appearance in Wynes' collection, Woodward demonstrates a full comprehension of the importance of the topic and how future study of Jim Crow will broaden the field of American history.

In his excellent short and opinionated historiography of African American scholarship published in 1968, Robert Starobin identifies three separate branches of this research: the traditionalist, the revisionist, and the centralist.³⁷ The traditionalist finds that blacks were "altogether passive in the American story." "The Negro's presence in America was an unfortunate mistake or at best a nuisance."³⁸ We see this traditional approach from Wynes and Woodward above where African Americans are spectators in their own history.

For Starobin, the revisionist unnecessarily elevates the leading African Americans (or at least those who conform to white expectations) to the pantheon of American accomplishment—Booker T. Washington, but not W.E.B. Dubois.³⁹ Only those African Americans are celebrated by the revisionists. Starobin complains that this elevation ignores the experience of the vast majority of African Americans. At their core, both traditionists and revisionists are racist.

Starobin places himself squarely in the centralist camp arguing that the black experience in America is central to the study of America. This black experience, in Starobin's view, is fundamental to understanding America. He argues that protection of slavery and the resulting racial prejudice are so central to the history of America as to be inextricable from it. Centrality reflects the thesis presented here regarding the grasp of Jim Crow and his pervasiveness. The

37. Robert Starobin, "The Negro: A Central Theme in American History," *Journal of Contemporary History* 3, no. 2 (April 1968): 37-53.

38. Starobin, 37.

39. Starobin, 41.

late Dr. Starobin was correct. The African American experience is central to understanding the American experience, both black and white.

Recent scholarship has examined Jim Crow from many divergent lenses, but all with Starobin's centralist views. The scholarship of Kristina DuRocher professor of history at Morehead State University in Morehead, Kentucky, builds upon the earlier works of Jennifer Ritterhouse. Ritterhouse, using autobiographical material in her *Growing Up Jim Crow*, argues that white and black children were indoctrinated into racial roles by their parents.⁴⁰ She claims that there was not a drumbeat of hate, but rather the careful social conditioning of racial roles carried out by parents who had been educated in the same manner. For example, it was acceptable for a white child to play with and eat at the home of a black child, but not the other way around.⁴¹ Ritterhouse asserts that, as the children grew older, their relationship with children of the other race grew distant as they solidified their racial roles. This research involves the inability of people of different races to adjust to desegregation. DuRocher takes that argument further to include not only parental influence, but also schooling, the general culture of segregation in advertising, and the eventual inclusion of white children into mob violence in the ritual of lynching. DuRocher makes a compelling argument about the all-encompassing nature of Southern racism. Interestingly, DuRocher further suggests that Jim Crow was also about the control white men imposed on women, both black and white. If ever there was a fertile field to furrow, it has to be DuRocher's gender argument. Despite her attention to gender, DuRocher's

40. Kristina DuRocher, *Raising Racists: The Socialization of White Children in the Jim Crow South* (Lexington: University Press of Kentucky, 2011), 8.

41. Jennifer Ritterhouse, *Growing Up Jim Crow: How Black and White Southern Children Learned Race* (Chapel Hill: University of North Carolina Press, 2006), 156.

monograph is an excellent source for understanding the social climate that existed in Jim Crow Kentucky as well as Jim Crow's tenacious grip on the South.

Louisiana State University's Nancy Isenberg has written a captivating both popular and scholarly study which shines an entirely different light on Jim Crow, albeit unintentionally.⁴² The political construct that was Jim Crow was to limit the number of people voting in the South so that the ruling well-to-do minority's leadership would never be challenged. Of course, this political model was rigorously applied to blacks, but also to poor whites. Poor whites, described by Isenberg as "white trash," were every bit as dangerous to the ruling minority as their equally poor black brothers. As with blacks, the trope of sexual comingling, this time between classes, is brought out so that bloodlines do not become confused. In Isenberg's history, class becomes every bit as important as skin color. To the current research, Isenberg brings two important considerations: Jim Crow and class, and the importance of "white trash" as the lowest rung of society to serve as the buffer between blacks and affluent whites. She quotes Lyndon Johnson on this subject: "If you can convince the lowest white man he's better than the best colored man, he won't notice you're picking his pocket."⁴³

Ibram X. Kendi is the director of The Antiracist Research and Policy Center at American University. His book, *Stamped From the Beginning*, is part history, part celebration, and part anger-filled rant.⁴⁴ It brings to the reader an understanding of racism. In Kendi's view, there are

42. Nancy Isenberg, *White Trash: The 400-Year Untold History of Class in America* (New York: Penguin Books, 2016).

43. Isenberg, 315.

44. Ibram X. Kendi, *Stamped From the Beginning: The Definitive History of Racist Ideas in America* (New York: Nation Books, 2016).

only three kinds of white people: anti-racists, racists, and assimilationists.⁴⁵ The latter two groups actually are racist at heart with the assimilationists not professing overt racism. By illustration, an assimilationist's statement about the racial divide would be, "Gee, I wish blacks could act more like us." Kendi's effort indicates the long history of racism in America and the plain fact that it will likely never end. As he puts it, ". . . two steps forward . . . one step back."⁴⁶ In order to understand Jim Crow, a complete understanding of racism in America is required; Kendi's explanation of the staying power of racism is excellent, despite the anger which just jumps from the pages.

James C. Klotter is a professor of history at Georgetown College in Georgetown, Kentucky. Craig Thomas Friend is part of the history faculty of North Carolina State University. This team has undertaken a new look at the history of the Commonwealth of Kentucky entitled *A New History of Kentucky*. They divided their work on this massive scholarly undertaking with Friend writing the early history and Klotter the more modern times.⁴⁷ Written in the post-Civil Rights era, it contains much that was left out of other histories, for example, race and gender struggles. Because their scholarship is comprehensive, it has significant value to the research herein. When studying a specific social phenomenon of Kentucky history, it is necessary to have a background in the history of the commonwealth in general. This work provides that general knowledge and the welcome addition of African American history fills a void in the scholarship.

45. Kendi, 2.

46. Kendi, x.

47. James C. Klotter and Craig Thomas Friend, *A New History of Kentucky* (Lexington: University Press of Kentucky, 2018), xvii.

In *Contested Waters*, the University of Montana's Jeff Wiltse takes a dip in what some might consider an obscure subject and brings back gold.⁴⁸ In this both scholarly and popular history, he explains the difference between bathing (as in cleansing with water) and swimming.⁴⁹ Public pools began not as recreational facilities at all, but rather as places for people to bath. Prior to the culture of cleanliness and running water in the home, people, especially the working and lower classes, simply did not bath. The twin Victorian ideas of hygiene and social uplift combined to produce public bathing facilities. These pools evolved from bathing to recreational swimming. Wiltse informs that as racial stereotypes and class distinctions hardened, what had been thoughtless, integrated, naked, male swimming became segregated not only by race but also by class. This evolved into the exclusion of African Americans from places of public swimming, not only in the South but across the nation. In other words, Jim Crow jumped into the public pool at about the same time as he began sitting in segregated areas of theaters, trains, and buses. Further, once swimming was desegregated by the courts, whites simply got out of public waters, towed themselves off, and retreated to private or personal swimming, or the country club.

Applying the history of Jim Crow to other types of American recreation is Victoria W. Wolcott's *Race, Riots, and Roller Coasters*.⁵⁰ Dr. Wolcott, history chair at the University of Buffalo, presents a nationwide history wherein the owners of amusement parks wished to present to their prospective customers a safe and clean environment for family fun. This image rejected

48. Jeff Wiltse, *Contested Waters: A Social History of Swimming Pools in America* (Chapel Hill: The University of North Carolina Press, 2007).

49. Bathing is used in American English for both cleansing with water and swimming. Our cousins, the British, are far more dividing. They use bath, bathing, etc., for washing or soaking in water, and bathe, batheing, etc., for swimming. The (British) empire strikes back.

50. Victoria W. Wolcott, *Race, Riots, and Roller Coasters: The Struggle Over Segregated Recreation in America* (Philadelphia: University of Pennsylvania Press, 2012).

the inclusion of urban African Americans. Not only was black and white swimming prohibited, as Dr. Wiltse points out, but the park grounds became “whites only” (with the exception of certain days set aside for blacks alone). When the struggle for desegregation was finally won, according to Wolcott, whites abandoned the amusement parks and those parks closed (and were sold to real estate developers at huge profits).⁵¹ As this transition occurred, there were often ultra-violent confrontations between young whites and blacks at those that remained open. In the latter stage of her book, Dr. Wolcott presents the new model for American amusement parks—Disney, with its limited access, high admission fees, and expensive activities. Although not necessarily racist, Disney remains exclusive.⁵²

Carol Anderson of Emory University has written of the “massive resistance” to *Brown v. Board of Education* in her *White Rage: The Unspoken Truth of Our Racial Divide*.⁵³ The massive resistance manifested itself in: “The Southern Manifesto, outlawing of the N.A.A.C.P., and the murder of Emmett Till” all under the watchful and supportive eye of President Eisenhower.⁵⁴ As the federal government, during the Eisenhower administration, poured millions of dollars into higher education, it was done in complete disregard to mandates of *Brown* and left generations of black students unprepared to take their places as productive citizens. Anderson demonstrates that opposition to *Brown* was so strong throughout the old Confederacy that states simply plotted to (or actually did) get out the business of providing

51. Wolcott, 224.

52. Wolcott, 153.

53. Carol Anderson, *White Rage: The Unspoken Truth of Our Racial Divide* (New York: Bloomsbury, 2016), 92-93.

54. Anderson, 92-93.

public education. Anderson reports that the Southern obstruction managed to stall and delay the imposition of the *Brown* mandates for the next forty years.⁵⁵ This is the same approach that Jeff Wiltse and Victoria W. Wolcott examine with respect to public pools and recreation facilities facing desegregation—privatize or close, rather than desegregate.

If there was an area of community life that would seem sacrosanct and safe from the reach of Jim Crow, it would certainly be the public library. The married team of Wayne A. and Shirley A. Wiegand have the regrettable task of explaining how Jim Crow kept books out of the hands of African Americans in the South. Their monograph, *The Desegregation of Public Libraries in the Jim Crow South*, is difficult reading because the subject matter is simply hard to comprehend.⁵⁶ For example, in public libraries throughout the South, whites boasted that the ill-equipped black library (often located in the wet basement of the white library, with a separate entrance) was equal to the white library because black patrons had access to any book in the collection. What they failed to mention is that the card catalog was located in the white library upstairs to which African Americans had no access.⁵⁷ Perhaps the most disturbing aspect of this sad history is the blind eye to segregation turned by the American Library Association (ALA). This group (that now proudly champions open access to all libraries) remained silent to the plight of African Americans throughout the struggle to desegregate.⁵⁸

55. Anderson, 96.

56. Wayne A. Wiegand and Shirley A. Wiegand, *The Desegregation of Public Libraries in the Jim Crow South: Civil Rights and Local Activism* (Baton Rouge: Louisiana State University Press, 2018), Kindle.

57. Wiegand and Wiegand, loc. 1851 of 4364, Kindle.

58. Wiegand and Wiegand, loc. 358 of 4364, Kindle.

Another deeply disquieting history of nationwide Jim Crow is Richard Rothstein's *The Color of Law*.⁵⁹ In this powerful book, Rothstein, a Distinguished Fellow of the Economic Policy Institute, convincingly argues that all levels of government conspired with banks, real estate professionals, and white home seller and buyers to restrict where African American could live and work. Chief among the rogues' gallery of culprits are the Federal Housing Administration (FHA) and the Veterans Administration (VA).⁶⁰ Well into the 1970's, each of these government agencies simply would not process home loan guarantees for African Americans. Without government backing, banks would not loan, and thus homeownership was beyond the reach of even middle class African Americans. This practice directly led to the inability of black Americans to gain personal wealth through home ownership, thus perpetuating race-based poverty. Further, even after the Supreme Court held racially restrictive real estate covenants unenforceable, the FHA continued to insist that they be written into deeds in direct defiance of the High Court.⁶¹

The Lynching of Richard “Dick” Coleman

As William O'Brien suggested, violence was the very backbone of Jim Crow and this played itself out on December 6, 1899 in Maysville. Gerald L. Smith writes of the long history of white antebellum violence directed toward African Americans in the commonwealth as it organized and employed “patter-rollers,” white patrols to enforce order and prevent slave

59. Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing Corporation, 2017), Kindle.

60. Rothstein, 13.

61. Rothstein, 84.

insurrection and brutal enforcement of the “slave codes.”⁶² Patter-rollers were community supported patrols (hence the colloquial name) instituted before organized policing. Mason County, which includes Maysville, had their own patter-rollers. This small northern Kentucky river town was the site of perhaps one of the most violent lynchings in American history. A



Drawing of Richard “Dick” Coleman that appeared on the front page of *The Cincinnati Enquirer* December 7, 1899.

young black man aged eighteen or nineteen, Richard “Dick” Coleman, was employed by Mollie and James Lashbrooke who were white. Coleman came out to the fields to report to Mr. Lashbrooke that his wife had been murdered in their farmhouse. Mr. Lashbrooke noticed that there was blood on Dick’s shirt. Dick claimed that he had killed a chicken and soiled his shirt with the fowl’s blood. Mollie Lashbrooke had indeed been murdered and the suspect was Dick Coleman who was arrested.

There were no witnesses to the crime and, of course, there was

no true investigation. In the era of Jim Crow, as George C. Wright describes, there was no justice for African Americans in Kentucky—punishment (judicial or mob-driven) was swift, certain, and fatal for even the smallest crime, real or imagined.⁶³ For fear of mob violence, which proved to be justified, Dick Coleman was transported sixty miles away to Covington, Kentucky and held in its jail. The Maysville grand jury indicted Coleman and the Maysville judge ordered him returned for trial. Upon learning that he was to return to Maysville, Coleman

62. Gerald L. Smith, “Slavery and Abolition in Kentucky: “Patter-rollers’ Were Everywhere,” in *Bluegrass Renaissance: The History and Culture of Central Kentucky, 1792-1852*, ed. James C. Klotter and Daniel Rowland (Lexington: University Press of Kentucky, 2012), 80.

63. Wright, loc. 4061 of 4962, Kindle.

confessed to the crime and asked to be executed immediately in Covington.⁶⁴ He must have foreseen his fate if he were returned to Maysville. His request was refused.

Upon his return, Coleman and law enforcement were met by a mob estimated at over one thousand whites. As Harvey Young teaches, Southern lynching was well attended macabre public theater in which all ages and sexes participated.⁶⁵ It may be a surprise that white children were directly involved in lynching, but as both Jennifer Ritterhouse and Kristina DuRocher separately argue, the violence of black lynching was an important part of a Southern child's socialization into Jim Crow society. Whether black or white, according to Ritterhouse and DuRocher, children learned their individual place in civilized Southern society when the community engaged in its most barbarous acts. Of course, those messages were quite different depending on the race of the child.

Being outnumbered, outgunned, and likely not very sympathetic to the prisoner, Coleman was turned over to the mob. A "trial" was organized where Coleman "confessed" again. The leader of the mob was the recent widower James Lashbrooke. The makeshift court offered to Lashbrooke which execution he preferred for Coleman—shooting, hanging, or burning. He chose the latter. Coleman was carried to a nearby cricket pitch and set afire while alive. Mr. Lashbrooke ignited the conflagration. Dr. Young argues that there are two important parts of the lynching experience for the perpetrators: mutilation of the victim while alive, and collection of souvenirs from the corpse.⁶⁶ Dick Coleman was both severely beaten by the mob, and charred

64. This was a time when authorized executions were local and held in public.

65. Harvey Young, "The Black Body as Souvenir in American Lynching," *Theatre Journal* 57, no. 4 (December 2005): 639.

66. Young, 639.

body parts were collected by the mob, especially the children, as keepsakes. In fact, Coleman relics were in demand in the days that followed the execution.⁶⁷ Throughout this horrific crime, no one wore masks or otherwise disguised themselves. This was lynching as community action. After the incident, *The Dover News* reported on December 14, 1899 that Kentucky Governor William O'Connell Bradley offered a five-hundred dollars reward for the arrest and conviction of “the parties who took part in the lynching.”⁶⁸ One wonders if the governor knew full well that no one would come forward to claim the reward. No one, not even James Lashbrooke, was ever punished.⁶⁹

The story of the ill-fated Richard Coleman and his place in Maysville history perfectly illustrates the place of African Americans in Kentucky history prior to the Civil Rights era. Richard Coleman does not appear in Thomas D. Clark's *A History of Kentucky*. In Clark's well-respected history, blacks are conspicuous by their absence. Further, Dr. Clark fails to address lynchings in general. According to *The Louisville Courier Journal*, between 1877 and 1934 there were one hundred eighty-six lynchings in Kentucky.⁷⁰ George C. Wright suggests a higher number of two hundred fifty-eight African Americans alone.⁷¹ What is key here is that the actual

67. “Negro Burned at Stake: Self-Confessed Murderer Put to Death in Kentucky,” *New York Times* December 7, 1899.

68. “Mr. Lashbrook Responsible,” *The Dover News*, December 14, 1899. Note that the spelling of Lashbrooke is sometimes Lashbrook, and sometimes both ways in the same article. Dover is a small village a few miles downriver from Maysville.

69. Wright, loc. 1654 of 4962, Kindle.

70. Allison Ross and Jesse Hazel, “Lynchings in Kentucky” [Interactive Map], [Louisville] *Courier-Journal*, accessed March 20, 2019, <https://interactives.courier-journal.com/projects/lynchings-in-kentucky/>. The *Courier-Journal* website is interactive and notes three lynching in Mason County, Kentucky between 1877 and 1934.

numbers will never be known. As with the Coleman lynching, unless they are covered by the local or national press, the records of individual lynching are not available. All that was left of Richard “Dick” Coleman were body parts taken as souvenirs. The rest was ash.

In their *Maysville, Kentucky: From Past to Present in Pictures*, Calvert and Klee distort the record by writing of the period of the Coleman lynching, “Race relations in the city did not reflect the harshness displayed elsewhere by lynchings.”⁷² Even though they were assembling a “history” told primarily through pictures, their text is simply non-historical and blatantly false.

The general histories such as Clark’s *History of Kentucky* and G. Glenn Clift’s *History of Maysville and Mason County* are far more insidious in their treatment of black Kentuckians.⁷³

Dr. Clark chooses to focus not on blacks at all, but rather on the white-led abolitionist movement in the commonwealth.⁷⁴ It is noteworthy that the abolitionist movement in Kentucky was a complete failure and that the 13th Amendment to the U.S. Constitution was rejected in the commonwealth by both houses of the legislature with substantial margins.⁷⁵ In effect, until the Civil Rights era, the esteemed Dr. Clark has written blacks out of Kentucky history and created for his white readers a “feel good” history of white resistance to slavery. Clift’s history of the

71. Wright, loc. 1241 of 4962, Kindle. The Kentucky lynchings cited above listed by Dr. Wright are African American only. Wright lists eighty-nine white lynchings and six lynchings where the race of the victims was unknown.

72. Jean Calvert and John Klee, *Maysville, Kentucky: From Past to Present in Pictures* ([Maysville, KY?]: Mason County Museum, 1983), 47.

73. G. Glenn Clift, *History of Maysville and Mason County*, vol. 1 (Lexington, KY: Transylvania Printing Company, Inc., 1936).

74. Clark, 202-213.

75. Victor B. Howard, “Negro Politics and the Suffrage Question in Kentucky, 1866-1872,” *The Register of the Kentucky Historical Society* 72, no. 2 (April 1974): 111-133. In a showing of breathtaking tardiness, the 13th Amendment was finally passed by the Kentucky legislature in 1976.

early founding of Maysville (then called Limestone) and the surrounding county of Mason only reflects that blacks were part of the experience of early settlement when he reprints early Last Wills and Testaments wherein slaves were devised as property.⁷⁶

This research addresses the gaps in the commonwealth's history of race relations as they relate to Jim Crow and demonstrates that a Southern small town was not exempt from the long reach of Mr. Crow. The journey has begun. Jim Crow determines where whites and blacks live within their separate communities showing the panoply of Jim Crow in education, entertainment, government services, health care and leisure activities. The conclusion challenges Jim Crow and its false memories in the minds of white America. This is not a timid history, for the era of Jim Crow reads like a jeremiad, and frankly it should. America is a dream to all, but a nightmare to many.

76. Clift, 315-417.

Chapter 1

“Why, why this means that a “nigra” can walk into the restaurant . . . and sit down at the table right next to Mrs. Reed.” *

If there was a single place where Jim Crow was firmly rooted, it was in American real estate. This chapter will examine the nationwide effect of Jim Crow on home ownership. Our guide will be Maysville’s own Stanley Foreman Reed (December 31, 1884 – April 2, 1980). Reed would have been fifteen years old when Richard Coleman was immolated, and his life roughly parallels the height of Jim Crow in America. Reed knew Rosemary Clooney as a child and as a star. Reed was an attorney and real estate developer, and later an architect of the dismantling of Jim Crow while sitting on the United States Supreme Court. This chapter will demonstrate how the fingers of Jim Crow reached into the very soil of America and that, as the thesis suggests, federal government action was necessary to pull Crow’s dirty hands from the earth.

In 1915, Stanley Forman Reed was a young man in a hurry. The son of a landed Maysville physician, Reed had already attended Kentucky Wesleyan College, Yale University, The University of Virginia, and Université de Paris. Although he did not graduate from law school, Reed qualified for admission to the Kentucky bar in 1910.¹ In addition to serving two

* These are the words of Stanley Forman Reed, quoted in a newspaper article upon his death. Bob Elkins, “Kentucky Mourns Maysville Jurist,” *The Cincinnati Enquirer*, April 4, 1980, 1.

1. Mr. Justice Stanley Forman Reed is the last justice of the United States Supreme Court not to have graduated from law school.

terms in the commonwealth's legislature, during which he strongly supported Kentucky's first workman's compensation and child labor acts, Reed tried his hand at real estate development.

With the cooperation of the Bank of Maysville and its head, Newton Sudduth Calhoun, Reed developed the Edgemont and Skyline subdivisions of Maysville which opened in 1915.² These were located up the hill from downtown Maysville, with spectacular views of town and the Ohio River. Reed's original vision was extremely forward-thinking. An avid golfer, he planned an adjacent golf course, which sadly was never built.³ His former law clerk and biographer John D. Fassett quotes Reed regarding his Edgemont subdivision: "The machine age had arrived. Model T Fords, even with all their faults, indicated that automobiles would soon be in mass use. That meant that townspeople could be moving from the cities and building homes on the outskirts of town."⁴ When Reed said "townspeople," what he meant was white townspeople of higher status in society. Into each of the deeds for the properties in the Edgemont and Skyline subdivisions were written racially restrictive covenants which forbid sale or transfer of the real estate to negroes. Edgemont and Skyline were to be exclusively white in perpetuity. A typical racially restrictive covenant from a Maysville deed reads: "No part of said lot or lots or any interest therein shall be given, loaned, rented, leased, encumbered, devised or conveyed to any person of African descent within fifty years from or after the date of this deed,

2. "Sub-Division 39 Years Ago," *The Independent* (Maysville, KY), June 18, 1954, 1. In the interest of full disclosure, the author of this thesis is a shareholder in the Bank of Maysville.

3. It is of interest that the Maysville Country Club, established in 1925, is now located a stone's throw from Reed's subdivisions.

4. John D. Fassett, *New Deal Justice: The Life of Stanley Reed of Kentucky* (New York: Vantage Press, 1994), 10-21.

but this restriction shall not prevent the housing of servants actually employed on the premises in suitable quarters.”⁵

There was another distinct characteristic of the black residential community in Maysville—unpaved streets. In a newspaper article in the February 29, 1964 *Public Ledger* (Maysville, Kentucky) entitled “Street Paving Aids Negros,” Maysville Mayor Thomas T. “Tex” McDonald boasts that in the past two years street paving was most often in areas where there are “Negro” homes. In other words, until the mid-1960’s most of the streets in the small African American section of Maysville were unpaved.⁶

The practice of racially restrictive deeds is, of course, not unusual for Maysville, Mason County, or in fact the entire nation, as Richard Rothstein describes in *The Color of Law*.⁷ Further, as Rothstein, Albert M. Camarillo, and Mary Szto describe, restrictive real estate covenants contained in deeds were only one tool in the Jim Crow real property toolbox.⁸ Along with examining racially restrictive covenants, Professor Szto describes that home ownership was not part of the American dream until the Great Depression. Prior to the involvement of the federal government, there were simply no guaranteed loans. The buyer was expected to put

5. Deed from R. M. and Elsie Hirschfeld to Ella Mae Maley and Margaret M. Stambaugh dated July 10, 1952, Mason County, Kentucky Clerk. This deed is representative of those written after the Supreme Court decision in *Shelley v. Kraemer* of 1948 (discussed in detail later), which continued to have such provisions even though they were unenforceable.

6. “Street Paving Aids Negros,” *Public Ledger* (Maysville, KY), February 29, 1964, 1.

7. Richard Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America* (New York: Liveright Publishing Corporation, 2017), 76-91.

8. Albert M. Camarillo, “Navigating Segregated Life in America’s Racial Borderhoods 1910’s – 1950’s,” *The Journal of American History* 100, no. 3 (December 2013): 645-662; Mary Szto, “Real Estate Agents as Agents of Social Change: Relining, Reverse Redlining, and Greenlining,” *Seattle Journal for Social Justice* 12, no. 1 (2013): 1-60.

between “50-60 percent” of the purchase price down and pay off the mortgage in “one to three years.”⁹ Certainly home ownership was well beyond the means of the poor and working classes and open to none but a few wealthy Americans.

According to attorney and urban and regional planner, Nancy H. Walsh, racially restrictive covenants are agreements between buyers and sellers of real property, “that limit the covenantor’s property rights, usually appearing in a deed instrument.”¹⁰ Racially restrictive covenants limit the sale, rental, or lease to members of minority groups. According to Kevin Fox Gotham, by 1948 when the High Court decided *Shelley v. Kraemer*, it is estimated that more than half of the deeds to all new subdivisions in the United States contained racially restrictive covenants.¹¹

With the intervening years since *Shelley v. Kraemer* and the passage of the Fair Housing Act in 1968, why is Ms. Walsh writing about this issue in 2018. This should be ancient history not, as she puts it, “a call to action.”¹² As it turns out, Supreme Court pronouncements and federal legislation bucked up against centuries of real estate law and practice. Walsh points to three causes for the continued presence of these covenants in American deeds: covenants run with the land, these clauses are expensive to remove, and legal process of homeownership is

9. Szto, 9-10.

10. Nancy H. Walsh, “Racially Restrictive Covenants in the United States: A Call to Action,” *Agora Journal of Urban Planning and Design* 12 (April 14, 2018): 130-142, https://deepblue.lib.umich.edu/bitstream/handle/2027.42/143831/A_12%20Racially%20Restrictive%20Covenants%20in%20the%20US.pdf?sequence=1&isAllowed=y.

11. Kevin Fox Gotham, “Urban Space, Restrictive Covenants and the Origins of Racial Residential Segregation in a US City, 1900-50,” *International Journal of Urban and Regional Research* 25 no. 3 (September 2000): 618.

12. Walsh, 130.

typically hidden from the seller and buyer.¹³ Covenants that run with the land long pre-date the American experience. They are part and parcel of basic real estate law. Walsh is correct to assert that they are difficult and expensive to remove. In order for a transfer of real property to be effective, it must be clean (with no defects in the title or the conveyance instruments) or that defective transfer could be voided at a later date. In other words, buyers and sellers are bound to the past deeds and simply cannot remove covenants they no longer desire. The title to real estate is a chain of ownership which may stretch far into the past. For example, the Maysville deed quoted above was prepared in 1953 and the description set forth within it must carry through to this day. Walsh agrees with Rothstein that a solution to the continued existence of these covenants may simply be to add a new covenant that disavows the existing racially restrictive covenant.¹⁴

In real estate law, to add to a deed is easier than subtracting from it. The trouble with this approach, in Walsh's view, is her third reason for the continued existence of these covenants: the process is handled by realtors, brokers, and attorneys with the parties often kept in the dark regarding the existence of these covenants.¹⁵ Walsh is correct in stating that few homebuyers actually take the time to read their deed. Neither lawyers nor real estate professionals are paid to care about these vestigial organs of past discrimination. This is why, according to Walsh, a call to action is necessary as these covenants continue to be harmful to minorities. They are not

13. Walsh, 131.

14. Walsh, 139; Rothstein, 221-222.

15. Walsh, 131.

vestigial; rather, the continued presence in American real property deeds of racially restrictive covenants are open Jim Crow wounds couched in legalese.¹⁶

Another weapon in the tool box of segregated housing which worked together with racially restrictive covenants was the homeowner's association. According to Gotham, Kansas



J.C. Nichols

City, Missouri's real estate development tycoon, J.C. (Jesse Clyde) Nichols' (1880 – 1950), “. . . use of self-perpetuating racially restrictive covenants and homeowner's associations, as well as his local and national prominence, helped shape racial population patterns of American cities in the twentieth century.”¹⁷ These homeowner's associations created by Nichols were mandatory, “. . . to insure that racial restrictions were strictly enforced.”¹⁸ Neighborhood solidarity was the key component in keeping out African Americans and the

homeowner's association was the vehicle for that solidarity. This homeowner's association activity included organizing meetings among homeowners, door to door solicitation, threatening signs, posters, and letters, and even litigation against seller, buyers, and real estate professionals.¹⁹

16. Walsh 137-139.

17. Gotham, 625. Gotham notes that even as of the year 2000, fifty years after the death of Nichols, Kansas City remains “hypersegregated.”

18. Gotham, 626.

19. Gotham, 627-628.

The racially restrictive covenants which Nichols and others, including Stanley Reed, produced were proactive in nature. In other words, when the land was sold for the proposed homesite, the covenant was in that deed. The buyer would own the covenant, as well as the real estate, at the outset of ownership. The other type of racially restrictive covenant was designed for already existing neighborhoods. These were reactive racially restrictive covenants. In 1917, the Supreme Court struck down a Louisville, Kentucky racially restrictive zoning ordinance. The way around the court's decision was private action by homeowner's associations created in older neighborhood in which the white residents would contractually agree with each other and the association not to sell to African Americans.²⁰

In 1939, during the Franklin Roosevelt administration, the federal government intervened with federal home loan mortgage guarantees. Suddenly it became cheaper to buy than to rent. Szto argues three assumptions were beneath federal home loan guarantees: "(1) people could be divided by race; (2) only white communities could hold property values; and therefore; (3) segregation by race was necessary to protect property values."²¹ This is the second part of Jim Crow in housing known as redlining. The word "redlining" derives from maps drawn by the federal Home Owner's Loan Corporation (HOLC) which divided America by colors: green (white, and worthy of loans), blue or yellow (neighborhoods with Jews, which were risky), and red (black neighborhoods which were unworthy of credit).²² As Professor Szto points out, "Thus, redlining was the real estate kiss of death. HOLC's unfortunate innovation was to make

20. Gotham, 627.

21. Szto, 10.

22. HOLC was established under Federal Home Loan Bank Board (FHLBB) supervision by the Home Owners' Loan Act of 1933, June 13, 1933. It was shut down by order of Home Loan Bank Board Secretary, effective February 3, 1954.

racial discrimination in lending and home ownership uniform across the nation.”²³ This is much the same conclusion reached by Rothstein in his comprehensive history of segregated real estate practices. What America became in the late 1930’s was segregated space created by a conspiracy among federal, state, and local government, banks, real estate brokers and agents, and the white general public. State and local government passed measures to restrict where African Americans could live. For example, Louisville, Kentucky had an ordinance which restricted the number of African Americans that could reside in particular neighborhoods. Although in 1917 it was struck down by the United States Supreme Court in *Buchanan v. Warley*, the High Court had no enforcement capacity and federal agencies, localities, realtors, sellers, and buyers across the nation simply ignored the decision.²⁴

Based upon the position of the federal government not to approve guarantees for loans to African Americans, banks perpetuated redlining by refusing to otherwise loan to African Americans resulting in, according to Rothstein, a pattern of substandard housing and a continued cycle of rental housing that confined African Americans to specific neighborhoods. This is what Albert M. Camarillo labels as “borderhood,” which strictly enforced racial residential spaces in all parts of America pitting whites against every non-white group. Dr. Camarillo invents Jim Crows’ two cousins: Jamie Crow, “who puts Mexican Americans in their place in the Southwest, and James Crow, the more subtle and slightly more finished fellow who shadowed African Americans everywhere outside the South.”²⁵ Whether in a ghetto, barrio, or Chinatown, segregation of the races became the American norm.

23. Szto, 13.

24. *Buchanan v. Warley*, 245 U.S. 60 (1917); Rothstein, 45.

25. Camarillo, 649.

According to Szto, real estate brokers, agents, and their national organizations became willing partners in the perpetuation of a segregated America. “Like many other institutions, the National Association of Real Estate Brokers (NAREB) maintained explicit racially discriminatory policies for several decades.”²⁶ She reports that the Chicago Real Estate Board implemented a rule to “expel any member” who rented or sold property on a white block to blacks.²⁷ Dr. Szto outlines the history of the real estate broker profession. In other words, the real estate sales industry wished to be thought of as cut from the same cloth as doctors and lawyers. They sought to create a principal/agent relationship with their customers.²⁸ That relationship is structured in order that the agent does not have a conflict of interest with their principal (the customer). Of course, redlining, refusing to show homes to African Americans because of their color, and blockbusting all constitute violations of the very professional relationship which that industry sought to promote.

White Americans and the real estate industry were willing participants in “blockbusting” and its related “white flight.” Blockbusting is the practice of real estate agents and speculators buying one property in a white neighborhood, selling that property at a high price to blacks, then letting all the whites know that blacks were coming and buying their houses at highly discounted prices, only to turn around and sell or “contract sell” these houses to blacks. Under contract sale, the black family would “buy the house,” but essentially, it was a rental. If the buyer missed one payment, they were evicted. They gained no equity in the property during the period of the

26. Szto, 16.

27. Szto, 16-17.

28. Szto, 4-9.

contract and only became owners when the contract was paid in full. After eviction, the house would be re-sold (actually re-rented) to another family with a dream.

Not only by attempting to keep transactions between whites alone, Caucasians perpetuated segregated housing through countless acts of defiance when their neighborhoods were threatened with integration. Neighborhood associations would band together to buy back houses from newly-arrived black owners. Whites would petition the local government to condemn the property owned by blacks. The extreme level of direct action could range from shooting into a home, cross burning, bombing, and full-fledged rioting.²⁹ Of course, no one was likely to be punished for any of this violence, except perhaps for the black homeowner for his disturbance of the peace.³⁰

Rothstein and Szto both examine the role of the federal government in the perpetuation of Jim Crow in real property. Quite simply, the Federal Housing Administration (FHA) and the Veterans Administration would not process loans to blacks until they were forced to do so in the 1970's. Whites received 98 percent of all federally subsidized mortgages between 1930 and 1970.³¹ As detailed below, when the Supreme Court held that racially restrictive covenants were unenforceable in 1938, the FHA ignored the order and continued to insist that these forbidden covenants be written into deeds. Rothstein quotes then FHA commissioner Franklin D. Richards as stating the effect of the decision, "in no way affect the programs of this agency."³² According to Richards, restrictive covenants were here to stay.

29. Rothstein, 7.

30. Chapter Three of this research will relate how police stood by and passively watched, or aided, in the full flowering of Jim Crow.

31. Szto, 14.

32. Rothstein, 85-86.

Elizabeth Eisenhauer has taken a different scholarly approach to redlining in her intriguing article written in 2001, “In Poor Health: Supermarkets Redlining and Urban Nutrition.”³³ Eisenhauer asserts that redlining by grocery store chains so as to avoid locating in poor urban neighborhoods has altered not only the nutrition but the overall health of Hispanics and African Americans. This multigenerational segregation of food has led to, according to Eisenhauer, the high incidences of Type II diabetes, heart disease, obesity, and coronary heart disease in black and Hispanic Americans. She further claims that these conditions, which are often labeled “lifestyle” diseases, are rather caused by external forces like the inability to purchase fresh food or fruit, which are readily available in suburban groceries. Her theory is coupled with the lack of transportation, both public and private, that the urban poor have long endured, which, according to Eisenhauer, has trapped Hispanics and African Americans into segregated unhealthy food ghettos. This is a case where historical behaviors have modern day consequences, and not only at the meat counter. As Robin Diangelo correctly writes: “Race will influence whether we will survive our birth, where we are most likely to live, which schools we will attend, who our friends and partners will be, what careers we will have, how much money we will earn, how healthy we will be, and even how long we can expect to live.”³⁴ This grocery cart flight is an intriguing part of Jim Crow that still persists today.

33. Elizabeth Eisenhauer, “In Poor Health: Supermarkets Relining and Urban Nutrition,” *GeoJournal* 53, no. 2 (February 2001): 125-133.

34. Robin Diangelo, *White Fragility: Why It's So Hard for White People to Talk About Racism* (Boston: Beacon Press, 2018), 5, Kindle.

In 1938, President Franklin Roosevelt appointed former Maysville resident, Stanley Forman Reed, to the United States Supreme Court elevating him from the position of Solicitor General of the United States. A New Dealer, Reed was part of the Court for the dismantling of Jim Crow. It should be remembered that the federal bench was an eager accomplice in the



Stanley Forman Reed in 1938.

creation of and implementation of Jim Crow beginning with a series of decisions known as the “Civil Rights Cases” beginning in 1883.³⁵ In these cases, the High Court struck down the Civil Rights Act of 1875, allowed private discrimination, and curtailed the ability of Congress to remedy segregation. There were two divergent results of these decisions. In the North and West, nineteen states enacted laws similar to the Civil Rights Act of 1875. This state level legislation prohibited racial discrimination in public places such as hotels, restaurants, theaters, and railroads even though they may be privately owned. In the South, now free from federal interference, the Jim Crow legislative agenda was in full flower.³⁶

Stanley Forman Reed was part of the High Court in 1948 when it decided *Shelley v. Kraemer*.³⁷ In that case, the High Court held that racially restrictive covenants were unenforceable in state and local courts. In a companion case, these same covenants were held to

35. The five consolidated cases were *United States v. Stanley*, *United States v. Ryan*, *United States v. Nichols*, *United States v. Singleton*, and *Robinson and Wife v. Memphis & Charleston R.R. Co.*, all consolidated in 109 U.S. 3 (1883).

36. Andrew K. Sandoval-Strausz, *Hotel: An American History* (New Haven: Yale University Press, 2007), 300-302.

37. *Shelley v. Kraemer*, 334 U.S. 1 (1948).

be unenforceable in federal courts. In other words, if the deeds in my subdivision had such clauses and a black family moved into the neighborhood, there was no forum to seek redress. Mr. Justice Reed along with Justices Jackson and Rutledge did not participate in the decision. These three justices all held deeds to property containing restrictive covenants.³⁸ The *Shelley* decision was written by Reed's fellow Kentuckian, Chief Justice Frank M. Vinson.

Justice Stanley Forman Reed would be perhaps the key participant in the High Court decision that would be the trumpet of justice to the Jim Crow walls of Jericho, *Brown v. Board of Education*.³⁹ David A. Nichols reports that the newly minted Chief Justice, Earl Warren, sought a unanimous decision on the *Brown* case so as to leave no room for debate regarding the Court's holding and intentions.⁴⁰ Initially, Reed, according to the notes of fellow justice, William O. Douglas, cited by Nichols, argued that desegregation of public school was the responsibility of Congress and not that of the Court.⁴¹ Further, according to Richard Kluger, Reed opposed any court action to overturn the doctrine of "separate but equal" set forth in *Plessy v. Ferguson* in 1896.⁴² "At the full dress consideration of *Brown*," in 1952, Justice Reed opposed any move toward desegregation in public schools.⁴³ The Court, then under the questionable leadership of

38. *Shelley v. Kraemer*, 20; Rothstein, 91.

39. *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

40. David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (New York: Simon and Schuster, 2007), 63.

41. Nichols, 62.

42. *Plessy v. Ferguson*, 163 U.S. 537 (1896). The phrase "separate but equal" from *Plessy* constitutionalized American racial apartheid until *Brown v. Board of Education*.

43. Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Vintage Books, 2004), 617.

Chief Justice Frank M. Vinson, in effect punted by delaying the *Brown* decision until 1954. The Court was deeply divided regarding *Brown*, and the delay served one function—the death of Vinson and his replacement by the dynamic Californian Earl Warren.⁴⁴ Reed, in the first consideration of *Brown* under Warren, argued strongly against change and expressed doubt that segregation itself in public schools was a denial of liberty.⁴⁵ It must have taken all of the Chief Justice’s considerable skills of persuasion, as well as a very limited ultimate decision, to move Mr. Justice Reed to yield to the court opinion that read in part:

We conclude that, in the field of public education, the doctrine of "separate but equal" has no place. Separate educational facilities are inherently unequal. Therefore, we hold that the plaintiffs and others similarly situated for whom the actions have been brought are, by reason of the segregation complained of, deprived of the equal protection of the laws guaranteed by the Fourteenth Amendment.⁴⁶

Kluger reports that, as the *Brown* decision was read, Stanley Reed’s law clerk, George Mickum, saw tears well up in Reed’s eyes.⁴⁷ To the end of his life, Stanley Forman Reed owned property, including a farm, in and around Maysville. He often said he would return in retirement, however he only occasionally visited his hometown. Perhaps the Maysville he hoped create in 1915 now no longer existed after *Brown*. His High Court vote had helped to destroy it.

It is fitting that this research should start by placing Jim Crow at the very heart of the American dream—home ownership. If a minority group is to be part of the society in general, it must be able to participate in the core aspirations of that society. This research has shown that government at all levels, the real estate industry (development and sales), banking, and the white

44. Kluger reports that, upon hearing of the death of Vinson, Justice Felix Frankfurter quipped, “This is the first indication I ever had that there was a God.” Kluger, 659.

45. Kluger, 683.

46. *Brown*, 495.

47. Kluger, 711.

majority consciously conspired to raise impediments to African American home ownership. According to Rothstein, this has created a permanent lower class. Equity leads to wealth and the denial of the means to obtain wealth perpetuates poverty and exclusion.⁴⁸ For Elizabeth Eisenhauer, this then leads to the institutionalized food segregation of place that has created a multigenerational health crisis among the urban poor, which has been mischaracterized as choice.

The action of the Supreme Court in the second generation of Civil Rights cases, which were enforced by reluctant presidents Eisenhower and Kennedy, attacked the heart of these Jim Crow practices. This was followed by Congressional action in the Civil Rights Act of 1964 and the Fair Housing Act of 1968, which smashed Jim Crow obstacles. This was not evolution. It was court-initiated constitutionally-authorized social revolution—*deus ex machina*.

Although the legal rug has been pulled out from under Jim Crow real estate, more subtle practices have emerged. Racially restrictive covenants, although unenforceable, still exist in deeds. Even though official redlining is gone, “steering,” which is the practice of leading real estate customers to certain neighborhoods, exists within the real estate industry. And finally, the prior discrimination of black home ownership, according to Rothstein, has had a lasting effect on wealth and thus future black home ownership.⁴⁹

Recent history, in the collapse of the housing bubble of 2009, reveals that predatory practices aimed at African Americans, especially by Wells Fargo, are alive and well and surely would bring a smile to Jim Crow’s face.⁵⁰ In the next chapter, we will ride alongside Hollywood

48. Rothstein, 63.

49. Rothstein, 195-196.

50. Rothstein 112-113; Szto, 29.

icon and Maysville's daughter, Rosemary Clooney. Jim Crow will be prominent in her celebratory parade.

Chapter 2

“Eb’ry time I weel about I jump Jim Crow.” *

As has been demonstrated in the current literature review from the Introduction and in Chapter 1, Jim Crow America was and continues to be about control by exclusion. This control by exclusion can be as simple as whites-only swimming pools about which Jeff Wiltse writes, or as deadly as a segregated healthcare system (meaning virtually no healthcare for African Americans) which is the subject of Karen Kruse Thomas’s 2011 study, *Deluxe Jim Crow: Civil Rights and American Health Policy, 1935-1954*.¹ Chapter 1 presented the manifestation of control by exclusion in the form of the construction of individual housing, neighborhoods, and cities (both large and small). Though it still exists to some degree today, it took a national effort, spearheaded by the U.S. Supreme Court, to break almost one hundred years of real estate exclusion.

The theme of control by exclusion as well as that of outside intervention are the subjects of this chapter which will examine Jim Crow in entertainment. As detailed in the last chapter, outside forces would bring change to Jim Crow in entertainment as well. Those forces were the National Association for the Advancement of Colored People (NAACP), the Second World War, and black actors and actresses. Although great progress has been made in the entertainment

* Lyrics from the minstrel show song *Jump Jim Crow* written in 1828.

1. Karen Kruse Thomas, *Deluxe Jim Crow: Civil Rights and American Health Policy, 1935-1954* (Athens: University of Georgia Press, 2011).

industry, this journey was long. In the Jim Crow movie house, black Americans always entered through the side entrance. They had to take the back stairs because they are forbidden from being in the lobby or using its restrooms. They must sit in the “colored balcony”.² Perhaps Maysville’s own Rosemary Clooney will come up and sit with those segregated as she did in 1953.

In his seminal masterclass on western art, *Civilisation*, Kenneth Clark (1903–1983) begins by quoting John Ruskin: “Great nations write their autobiographies in three manuscripts—the book of their deeds, the book of their words, and the book of their art.”³ Clark agrees with Ruskin that the most trustworthy of these is art. This chapter will reveal that white society usurped black entertainment in developing the minstrel show. Whites went on to create various negative characterizations of blacks to reinforce social and political exclusion. This paradigm continues to mold entertainment from the beginnings in minstrel shows up to today (albeit in a much more subtle fashion). This research contends that should American civilization be judged through the arts, because of its systematic exclusion of and depiction of African Americans, it will be found wanting.

The term Jim Crow had its origins in antebellum entertainment. In his only reference to Jim Crow in the 1937 *A History of Kentucky*, the dean of Kentucky historians, Thomas D. Clark, writes of “Daddy” Rice—the New Yorker, Thomas Dartmouth Rice (1808 – 1860)—and his use of the “delightful rhythm” of the negro songs which Rice copied for his wildly popular minstrel show stage act.⁴ Inadvertently, Clark describes how African American music was stolen by

2. The colored balcony was the designated seating area for African Americans at the Russel Theater in Maysville, Kentucky.

3. Kenneth Clark, *Civilisation: A Personal View* (New York: Harper & Row, 1969), 1.

4. Thomas D. Clark, *A History of Kentucky* (Ashland, KY: The Jesse Stuart Foundation, 1992), 271.

white artists to create the genre of minstrel. To this day, there is a lively historical debate regarding America's first great songwriter, Stephen Collins Foster (1826-1864), which centers around his place in racial history. He is either a ". . . a tipsy, tragic apologist for the Old South," or a progressive seeking to show African Americans in a positive light.⁵ His lyrics are so overtly racist that it is difficult to understand the nature of the debate. To his defense, he was selling music, and you market to popular tastes.

Regardless of the ultimate judgement of history as to Stephen Collins Foster, his music and the characterization of African Americans in minstrel music and stage entertainment carried from the footlights to radio, the big screen, and ultimately television. Blackface minstrel entertainment was so popular that "The Great Emancipator" Lincoln had performances staged at the White House.⁶ These wholly bizarre characterizations of blacks, performed by whites wearing black burnt cork makeup, were so popular that black actors formed their own minstrel troops and toured the country. These black companies adopted the same racist plots and gags as their white competitors because imitation sells.⁷

It may be hard to believe that we continue today to be entertained by characterizations created in the 1830's, but scholars are in agreement on that issue—*Jump Jim Crow* refuses to pass into history and remains popular even among modern black comedians. Jason Smith, Kathleen German, and Mark Scott all observe the procession of Jim Crow representations of

5. Steven Saunders, "The Social Agenda of Stephen Foster's Plantation Melodies," *American Music* 30, no. 3 (Fall 2012): 277.

6. Mark Scott, "From Blackface to Beulah: Subtle Subversion in Early Black Sitcoms," *Journal of Contemporary History* 49, no. 4 (October 2014): 755.

7. Mark Scott, 756.

blacks up to and including the present, albeit these are much less overtly racist today.⁸ Jason Smith points to a new kind of segregation in film, where black characters exist in a white world, but are isolated within that world. The viewer only sees the black character in the context of the white world, not within his own family or community. Smith also points out that the white characters are the source of rational thought and the black characters are often the source of inherent wisdom—the “magical negro” as this has been labeled.⁹

In *From Mounds to Megachurches*, David S. Williams describes the enthusiastic audience reaction in Atlanta, Georgia in December of 1915 to the debut of a silent film. Williams writes, “The film that moved Atlantans so was not *Gone with the Wind*. Rather, it was *The Birth of a Nation*, which was brought to Georgia in early December for a run at the Atlanta Theater. The film depicts blacks seizing power in the South during Reconstruction through inappropriate means, leading to social chaos.”¹⁰ The Klan-restored social order in *The Birth of a Nation* is white supremacy, as well as a populist justification for Jim Crow in law and society. The film, directed by D.W. Griffith, which depicted African Americans as dangerous and incapable of civilized governance (what a smash hit in the South), and was a reported favorite of President Woodrow Wilson.¹¹ In her 2017 monograph, Kathleen M. German paints a different

8. Jason Smith, “Between Colorblindness and Colorconscious: Contemporary Hollywood Films and the Struggle over Racial Representation,” *Journal of Black Studies* 44, no. 8 (November 2013); Kathleen M. German, *Promises of Citizenship: Film Recruitment of African Americans in World War II* (Jackson, MS: University Press of Mississippi, 2017).

9. Smith, 787, 793.

10. David S. Williams, *From Mounds to Megachurches: Georgia's Religious Heritage* (Athens: University of Georgia Press, 2009), 84-85.

11. Jackson Lears, *Rebirth of a Nation: The Making of Modern America, 1877-1920* (New York: Harper Collins, 2009), 321.

portrait of *The Birth of a Nation*: “It was banned in New York for a period of time, as well as in Connecticut, Illinois, Kansas, Massachusetts, Minnesota, New Jersey, Ohio, Wisconsin, and other states. The unabashedly white supremacist portrayal of white domination was offensive to many.”¹² It may also have been banned for another reason; militant blacks were not what the public were used to and wanted to see.

According to German, “The first appearances of African American characters on the cinema screen were stagy and overblown, tied to vaudeville and minstrel show antecedents with distorted broad smiles, double takes, illiterate dialects, outlandish gestures, swaggering movements, and exaggerated levels of energy.”¹³ Despite the success of *The Birth of a Nation*, German reports that a string of films with the exaggerated black characters existed before D.W. Griffith’s white supremacist epic. The titles say it all: “*Pickanniny Dance* (1892), *Pickaninnies* (1894), *Negro Dancers* (1895), *A Watermelon Feast* (1896), *Dancing Darkies* (1897), *Chicken Thieves* (1897), *Dancing Darkey Boy* (1897), *Sambo and Aunt Jemima* (1900), *A Night in Blackville* (1903), *Prizefight in Coon Town* (1904), *The Wooing and Wedding of a Coon* (1905), *Coon Song* (1908), *How Rastus Got His Chicken* (1911), *How Rastus Got His Turkey* (1914), *Rastus in Zululand* (1914), and many others.”¹⁴ Second only to radio, film was the staple entertainment for Americans. German reports that, “by 1946 a weekly average of ninety million Americans—roughly 75 percent of the country’s total population—attended the movies.”¹⁵ The

12. German, 55.

13. German, 48.

14. German, 48-49. “Pickanniny” is a derogatory term meaning that a black is too young or small to be “picking any.”

15. German, 42.

message of Hollywood was the message of Jim Crow—blacks were childlike, spoke a pidgin English, uneducated, lazy, and unable to care for themselves or govern. This was the Southern Jim Crow in spades.

Radio had its own issues in representation of African Americans. In one of the most popular and enduring radio comedies, *Fibber McGee and Molly*, which ran from 1935 to 1956 on NBC, the McGee's employed a wise-cracking, man-hunting, black servant named Beulah. Beulah was originally played for radio by a white man, Marlin Hurt.¹⁶ In 1950, when radio spinoff *Beulah* moved to television, the lead character was played by three different African American actresses: Ethel Waters, Hattie McDaniel, and Louise Beavers.¹⁷ Despite the progress of a black television star and the many talents of McDaniel, the plots of *Beulah* are chock full of racial stereotypes, exactly the mugging that Dr. German refers to above.¹⁸ Mark Scott, not very convincingly, argues that the actresses who played Beulah on television transcended those racial motifs and portrayed the character with human qualities that impressed both white and black audiences. He particularly cites the multi-talented Waters and the Oscar winning McDaniel. *Beulah* only lasted two years on the small screen. White and black audiences must not have been that impressed.¹⁹

16. Nostalgia radio stations still air *Fibber McGee and Molly*, which was performed before a live audience. Whenever Beulah makes an entrance, the audience goes wild. Although this was unclear in the past, the reason for the audience reaction is now obvious.

17. Mark Scott, 744.

18. Mark Scott, 748.

19. For a representative episode of *Beulah* featuring McDaniel, see https://www.youtube.com/watch?v=sQ2l_KTDcHU.

The perpetuation of racial stereotypes by Hollywood may have been economic in the sense that you film what sells and you film it again and again until it stops selling. With the dawn of the Civil Rights era, these images stopped selling, but the seeds of their demise were sown for this change. According to German, in 1942 representatives from the NAACP met with Hollywood studio executives to pressure them into a revised depiction of blacks and black culture on the silver screen. German reports that the NAACP organized boycotts of Hollywood films with the traditional racist portrayals of African Americans.²⁰ The struggle against this effort was fierce. Positive images for African Americans were not well received in the South and often those images were removed from films or two versions of the film were made: one for the North and the other for the Southland.²¹

Kathleen German contends that the real change in the entertainment industry was the result of the Second World War. “The political and social disruptions of World War II introduced new ideas about race, religion, and daily life that slowly, but inevitably, corroded monolithic white culture.”²² The federal government appreciated that exclusion of African Americans from the war effort was not possible. “The centrality and power of the Hollywood film industry were recognized within days of the outbreak of war in Europe, as social commentators in newspapers and magazines proposed that films should serve the national interests.”²³ Essentially, the federal government had to mobilize all of America, white and black, toward the war effort. This in turn broke down long-established barriers and created

20. German, 41.

21. German, 55.

22. German, 59.

23. German, 60.

opportunities for Americans regardless of race or gender. Concomitant with the war was a rise of a nascent black middle class, according to German.²⁴ Entertainment was not only a vital part of national mobilization, it also created a vision of what America thought it was all about. As much as Leni Riefenstahl's notorious *Triumph of the Will* created a vision of Nazi Germany, Frank Capra's *Why We Fight* explained to all Americans, white and black, the high stakes of the war.²⁵ According to Ian S. Scott, "*Why We Fight* was a masterpiece of sorts and the culmination of years of storytelling, political imagery, and cinematic technique honed into one striking articulation of the dangers of master-race ideology."²⁶ The problem with Capra's vision of America was the reality of race. This explains why Kathleen German argues that films like *Why We Fight* and Capra's *The Negro Soldier* would be so influential to post-war race relations. "These films negotiate a compromise between racial factions, subsuming the individual interests of each group to the collective national goal of military victory."²⁷ In *The Negro Soldier*, Hitler's overt racism is unconsciously equated with the homegrown racism of Jim Crow. It is no wonder that post-war America would see change in race relations.

Mark Scott contends that black performers themselves pressured the entertainment industry toward recognition and their performances, even filled with white-written black stereotypic material, transcended that material to show the human side of race.²⁸ Mark Scott's

24. German, 60.

25. Ian S. Scott, "Why We Fight and Projections of America: Frank Capra, Robert Riskin and the Making of World War II Propaganda," in *Why We Fought: America's Wars in Film and History*, ed. Peter Rollins, John E. O'Connor (Lexington: University Press of Kentucky, 2008), 242-258.

26. Ian S. Scott, 255.

27. German, 41.

28. German, 60.

row is much more difficult to hoe given the characters handed to black actors. Mark Scott points to several black entertainers, mostly women, who led the charge for equality; these included McDaniel, Waters, Ernestine Wade, and Amanda Randolph.²⁹ Mark Scott is more ambivalent about the role of the NAACP. He argues that the leaders of the NAACP did not understand that the messages of early black sitcoms like *Beulah* were much more than just “racial degradation.”³⁰ It is a question of transcendence—does the media transcend the message or it is the other way around. In this regard, Scott falls well short of the mark.

Whatever debates may exist in the analysis of the history, it could not be clearer that external forces, the War, the NAACP, and to a lesser extent, black actors themselves, changed Jim Crow American entertainment. There is agreement, however, among Kathleen German, Jason Smith, and Mark Scott that there are remnants of Jim Crow in today’s entertainment industry, just as in the previous chapter where it was shown that Jim Crow persists in the real estate industry.

To visualize the subtle power of Jim Crow, a trip back in time to the Maysville, Kentucky of 1953 is illustrative. This was a good year to be Rosemary Clooney. She was the right girl for post-war America. By 1953, she had already established herself as a chart-topping singer with number one hits “Come-On a My House” and “Half as Much.”³¹ At age twenty-five, Rosemary Clooney was selling out concerts in all parts of America. She would become a television regular, and a favorite among the lead male singers of the day: Sinatra, Crosby, and Martin. According

29. Mark Scott, 747.

30. Mark Scott, 743.

31. “Half as Much” soared to number three on the English charts.

to her own autobiography, she was even cross-racial in popularity: “More than one black musician has said to me, ‘We thought you were black because your records were played on black stations.’”³² She was young, attractive, and could sing in all popular genres. It is no wonder Hollywood came calling. In January of 1953, her first full-length motion picture *The Stars are Singing* was “in the can” and ready for release from Paramount Pictures. Her iconic, *White*



Christmas, was filmed in 1953 and released in 1954. The girl singer from Maysville, Kentucky was about to be featured on the February 23rd cover of *Time* magazine. According to her autobiography (written with John Bartel), Paramount was looking for a place to hold the world premiere of *The Stars are Singing*—what better place than Maysville, the star’s hometown.³³ The premiere was to held at the Russell Theater on Third Street. Constructed in 1930, this theater was built in

an age when live acts as well as motion pictures entertained small-town America. Tom Mix rode his horse on the stage of the Russell.³⁴ From its opening, the Russell Theater was segregated. African Americans could only occupy the colored balcony. As mentioned earlier, African Americans were not permitted in the lobby or its restrooms and accessed the balcony via a separate stairway.³⁵ The city was honored by this premiere and planned to name the street which

32. Rosemary Clooney and John Bartel, *Girl Singer: An Autobiography* (New York: Broadway Books, 2001), 272, Kindle.

33. Clooney and Bartel, 95, Kindle.

34. “The Russell Theater,” About Us, accessed March 4, 2019, <http://www.russelltheatre.org/about-us.html>.

35. In a clever play on its own racist past, the balcony is still called “the colored balcony” but now only because of its garish purple paint with twinkling stars.

leads to the train station after Ms. Clooney. The singer also had a little surprise in store for the motorcade planned by the city. She was raised in the age just before Democrats were divided between New Deal and Dixiecrats.³⁶

Ms. Clooney's upbringing was decidedly liberal. According to her autobiography, she and her childhood best friend Blanchie Mae Chambers would entertain in the window of Papa Clooney's store. Rosemary would sing, and Blanchie would tap



Rosemary Clooney and Blanchie Mae Chambers

dance.³⁷ For the motorcade parade, Ms. Clooney insisted that Blanchie should ride in the open car by her side. Blanchie was black. Her role as Rosemary's best friend would have her ride in the car, but the press was told she was Rosemary Clooney's personal maid.³⁸ This was before *Brown v. Board of Education* and Clooney was a nationally popular public figure—band singer, recording artist, and now movie star. It was not the stage for grand racial gestures. Since Ms. Chambers was a life-long resident of Maysville, and the friendship between her and Ms. Clooney was well-known in the community, it is doubtful that, even though heads were likely turned, few local residents were shocked that, along with Mayor Rebekah Hord (the only woman mayor in the commonwealth), in the open car were Mms. Clooney and Chambers. According to Clooney,

36. The Democratic Party split over the question of Civil Rights. The Southern branch called themselves "Dixiecrats."

37. Clooney and Bartel, 8, Kindle.

38. Clooney and Bartel, 96, Kindle.

more than twenty thousand people attended the parade, which was four times the population of Maysville. This was a carefully choreographed Paramount event with a twelve-car motorcade, a marching band, and newsreel cameras. The event would garner national and international coverage. It was Ms. Chambers who cooked up the personal maid story to save her best friend's face.³⁹

This chapter demonstrated the power of the South to dictate the place of blacks in entertainment. Certainly Ms. Clooney risked rejection by her Southern audience if the newsreels reported that she was accompanied by her black best friend in the motorcade. When they reached the darkness of the Russell Theater, the two friends could sit together in the colored balcony, as they had done as children.

The thesis of this research is that that Jim Crow was so tied to American society that outside forces were necessary to cut the Gordian knot. Perhaps the agent of change that was the most effective was the Second World War as it wrought a sea change to all levels of American society. As Smith points out, the entertainment industry is still dominated and controlled by white men, but the exclusion is gone.⁴⁰ Now, African Americans are seldom played by white actors.⁴¹ At least in this respect, Jim Crow has been given the hook and is being pulled from the stage.

39. Clooney and Bartel, 96, Kindle. Today, Maysville commemorates and celebrates this friendship with a mural painted on its floodwall of the two friends in the open car.

40. Smith, 780.

41. Laurence Olivier playing Othello in his 1965 film adaption comes to mind.

Throughout this nation's history, the guardians of the old social and political order were the police. Keeping the peace on Rosemary's big day were the Maysville Police.⁴² In the next chapter, we will ride in their squad car along with Jim Crow and explore law enforcement's role as protector of the status quo. Employing the thesis of this work, outside forces will be the agents of change that will alter nearly one hundred years of both segregated policing and racial police brutality. In the next chapter there will be blood on the streets of Maysville.



"A mural on the Maysville floodwall honors hometown sweetheart Rosemary Clooney."

42. Ms. Clooney's big day is memorialized on a mural painted onto the Maysville floodwall, not very far at all from where the subject of the next chapter was shot. Note that Blanchie Mae Chambers is seated in the front seat of the open car.

Chapter 3

“I don’t want my people to get into trouble with anyone.” *

This chapter will examine Southern policing in the Jim Crow era. By studying Jim Crow policing, the thesis will be supported showing that it took federal intervention, by the federal courts and executive branch during the Civil Rights era, to break the cycle of Jim Crow law enforcement. During this visit to Maysville, we will examine the unfortunate death of an unarmed young African American man at the hands of the Maysville police. This incident took place in 1960, at the dawn of the Civil Rights era. The subsequent community response will be examined, although there are two community responses: one white and one black. The racial lines within the community were clearly drawn on a cold November morning at 2:15 a.m.

At the dawn of the Jim Crow era, which was near the turn of the last century, American policing was far from professional and decidedly dedicated to the preservation of the old order. In his history of the Gilded Age, Jackson Lears writes, “The Gilded Age saw a series of massive nationwide strikes that ended up as pitched battles between labor and capital . . . [with] angry workers squaring off against heavily armed police, militias, the National Guard, and the U.S. Army; a crackle of gunfire; men, women and children dead.”¹ Lears presents turn of the century policing as little more than uniformed thugs answering only to their political bosses or the

* Black Maysville resident, Mrs. Edward Lewis, speaking to the Maysville City Commission on February 1, 1961.

1. Jackson Lears, *Rebirth of a Nation: The Making of Modern America, 1877-1920* (New York: Harper Collins, 2009), 79.

highest bidder. Robert Liebman and Michael Polen have collaborated on “Perspectives on Policing in Nineteenth-Century America,” which examines scholarship on policing for the period between 1820 and 1920.² They argue:

Early urban police represented the very ‘antithesis of professionalism’: policemen received little or no training before being sent to march their beats; they lacked a career orientation to their jobs; they were generally held in low esteem by the public they were trusted to protect; they too often relied upon force and violence to obtain compliance from citizens; and, perhaps most importantly, they enforced laws selectively, to advance the partisan interests of local politicians.³

According to Liebman and Polen, two things happened to change urban policing in the North, centralization and state control, which altered policing in the North. Centralization is just as it sounds—one urban area with one police force and one leader. State control is distancing authority of police from local politics.⁴ Eventually, Northern urban policing became somewhat independent from politics and somewhat professional. Now, imagine a place where that did not happen, and you have the South in the era of Jim Crow. Just like the South as a whole was fearful of federal interference, local Southern governments were apprehensive about their own state governments and much preferred to keep power local. In the South, local politics was in the hands of a few members of the white upper-class and their conservative agenda was carried out by the police. Part of that agenda was keeping American apartheid in place.

In 1937, Jim Crow’s heyday, the young Swedish economist, Gunnar Myrdal (1898 - 1987), was hired by the Carnegie Corporation to undertake a study of America’s “negro

2. Robert Liebman and Michael Polen, “Perspectives on Policing in Nineteenth-Century America,” *Social Science History* 2, no. 3 (Spring, 1978): 346-360.

3. Liebman and Polen, 348-349.

4. Liebman and Polen, 337.

problem.”⁵ His finished work entitled *An American Dilemma: The Negro Problem and Modern Democracy* remains to this day a source of study and argument.⁶ A simple search of “Gunnar Myrdal” through the online database JSTOR reveals over ten thousand references. A JSTOR search using only “*An American Dilemma*” yields an astounding 249,862 sources.

It would be an understatement to say that Myrdal has been influential. Historian David W. Southern quipped that *An American Dilemma*, “became the *Uncle Tom's Cabin* of the civil rights movement.”⁷ In volume one of this massive work, chapters twenty-four through twenty-six deal with the strained relations between the African American community, the courts, and the police. Myrdal levels a heavy indictment against both the courts and the police. “The courts do not get the cream of the legal profession.” “As during slavery, the local police and the courts are expected to assist in upholding this caste pressure.” “The level of general education among policeman is low.”⁸ At his most stinging, Myrdal pierces the entire Southern justice system: “*The extreme democracy in the American system of justice turns out, thus, to be the greatest menace to legal democracy when it is based on restricted political participation and an ingrained tradition of cast*



Gunnar Myrdal

5. Donald R. Kinder and Katherine W. Drake, “Myrdal's Prediction,” *Political Psychology* 30, no. 4 (August 2009): 539.

6. Gunnar Myrdal, with assistance from Richard Sterner and Arnold Rose, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Harper & Brothers Publishers, 1944). In 1974, Myrdal was awarded the Nobel Prize for Economics.

7. David W. Southern, “An American Dilemma after Fifty Years: Putting the Myrdal Study and Black-White Relations in Perspective,” *The History Teacher* 28, no. 2 (February 1995): 227.

8. Myrdal, 523, 536, 538.

suppression. Such conditions occur in the South with respect to the Negroes.”⁹ (emphasis in the original). Considering the exclusion from juries, the bar against black attorneys practicing before the Southern bar, lynch law, organized black disenfranchisement, and the racism, routine viciousness, and malice practiced by local law enforcement, Myrdal’s criticism seems tame.¹⁰ Gunnar Myrdal observed injustice, but the African American people of the South experienced it every day. The oral history of the African American experience during Jim Crow is replete with stories of injustice, mean-spiritedness, and just plain cruelty at the hands of the police and the courts.

There can be no true comprehension of Jim Crow without the study of oral histories of the period. *Remembering Jim Crow* is an example of these works.¹¹ It is one thing to read the detached history of the period—albeit compelling—it is quite another to read the words of those who were the victims of blatant white supremacy as enforced by the police. These personal stories are, for the most part, heart-wrenching narratives, but history’s bridesmaid has always been unbearable human suffering. Of course, oral history is anecdotal, but that does not necessarily disqualify it as a source to providing an understanding of a specific time period. Joanna Bornat writes, “Oral history continues to raise issues relating to representation, subjectivity, interviewer role and context, yet any sense of resolution or conclusion would be unwelcome to a practice which, since it invites personal and public memory work through dialogue, necessarily engages in creating and reinterpreting what is meant by the past, how we

9. Myrdal, 524.

10. Lynch law is a term of art referring to mob justice.

11. William H. Chafe, Raymond Gaines, and Robert Korstad, senior eds., *Remembering Jim Crow: African Americans Tell About Life in the Segregated South* (New York: The New Press, 2001).

live our lives in the present, and what we might expect from the future.”¹² The role of this particular oral history is to preserve what might have otherwise been lost or ignored, given the systematic exclusion of African Americans from American history that heretofore took place before the Civil Rights era.

In their own oral history of African American domestic workers in the Jim Crow South, Von Wormer, Jackson, and Sudduth write, “Oral history, through gathering the recollections of ordinary people who often lived through extraordinary circumstances, provides a unique reservoir of knowledge about everyday life in the past.”¹³ Among the flaws of oral history are: the tendency of the passage of time to distort memory, the shaping of memory to reflect one’s own self-image, and the ability to mold memory to exclude personal fault. Even flawed oral history provides a rare window into the Jim Crow past.

To an extent, Myrdal’s *An American Dilemma* is somewhat akin to an oral history for it is based upon personal observation of the South by Myrdal and his team. Myrdal believed in what he called the “American Creed,” which he thought was capable of “. . . promising and sanctioning social mobility, together with many other factors of importance, kept the minority contented and bent on assimilation.”¹⁴ He believed that America’s fundamental values of equality, social mobility, and democracy would overcome racial prejudice and it would wither and die. Myrdal as an economist was not much of a prognosticator.

12. Joanna Bornat, “Oral History and Remembering,” in *Research Methods for Memory Studies*, ed. Emily Keightley, and Michael Pickering (Edinburgh: Edinburgh University Press, 2013), 41.

13. Katherine Von Wormer, David W. Jackson, III, and Charletta Sudduth, *The Maid Narratives: Black Domesticity and White Families in the Jim Crow South* (Baton Rouge: Louisiana State University Press, 2012), 8.

14. Myrdal, 53.

In his 2013 study of the Ku Klux Klan in North Carolina, David Cunningham makes an argument supplemented by Stephen A. Berrey in 2015.¹⁵ These scholars contend that the attitude and actions of the police when facing the disruption caused by the Civil Rights movement had a direct correlation to the success of the Klan in their states. Cunningham asserts that in North Carolina, where the state government and police were reasonably compliant with federal civil right activities, the Klan thrived as an alternative to the state government. In Alabama and Mississippi, where the government was violently opposed to segregation, the Klan was not as strong.¹⁶ Dr. Berrey of the University of Michigan focused on Mississippi and its state sanctioned “massive resistance” to federal desegregation. He argues that the state government at all levels fought segregation, and local police, the courts, and the state’s Sovereignty Commission worked hand in hand to “investigate, intimidate, and incriminate” all who would attempt to topple Jim Crow.¹⁷ This could be as simple as a warning or threat, or as dangerous as an arrest and a thorough beating.¹⁸ Cunningham and Berrey separately conclude that when the state is the actor then extra-judicial outlets of violence like the Klan are not as strong. Berrey’s argument is, however, somewhat undercut by the murders of James Chaney, Andrew Goodman, and Mickey Schwerner in Neshoba County, Mississippi in June of 1964. It should be noted,

15. David Cunningham, *Klansville, U.S.A.: The Rise and Fall of the Civil Rights-Era Ku Klux Klan* (Oxford: Oxford University Press, 2013), Kindle; Stephen A. Berrey, *The Jim Crow Routine: Everyday Performance of Race, Civil Rights, and Segregation in Mississippi* (Chapel Hill: University of North Carolina Press, 2015).

16. Cunningham, loc. 261 of 4678, Kindle.

17. Berrey, 150.

18. Berrey, 168.

however, that these murders appear to have been executed as a joint police and Klan operation.¹⁹ Renee C. Romano reports that Klan membership among Southern law enforcement was high, with the Klan believing that local law enforcement was on their side of the race question.²⁰ Romano reports that local sheriffs would run for reelection on their records of being violently pro-segregation.

Wilson Record's *The Negro and the Communist Party* was originally published in 1951 at the height of the "Red Scare."²¹ Hindsight makes *The Negro and the Communist Party* seem almost humorous. The truth, however, is frightening. Record attempts to make a connection between the Civil Rights movement and Communism. He argues that African Americans, because of their oppression, were targeted by the Communist Party in America. That very oppression, Record argues, made the oppressed receptive to communist doctrine. While today one can snicker about the seriousness of this work, this is exactly the connection that Mississippi law enforcement and state government attempted to foist upon the Civil Rights movement as set forth by Stephen A. Berry in his 2015 book, *The Jim Crow Routine*.²² In the midst of the nationwide "Red Scare" what better way to discredit black and white activists than to paint them red. This is where Dr. Berrey labels this police activity as, "investigations, intimidation, and incrimination." In Mississippi, after *Brown*, the state created the "Sovereignty Commission" as an investigative unit charged with the responsibility of enforcing segregation and intimidating all who sought to end it. It was not beyond their brief to falsely incriminate activists, both black and

19. Renee C. Romano, *Racial Reckoning: Prosecuting America's Civil Rights Murders* (Cambridge, MA: Harvard University Press, 2017), 26.

20. Romano, 26-27.

21. Wilson Record, *The Negro and the Communist Party* (New York: Atheneum, 1971).

22. Berrey, 157-159.

white, when the occasion arose or to turn a blind eye to extra-judicial violence when it occurred.²³

Again, the clarion calls of justice were the actions of the U.S. Supreme Court in the form of a series of cases which limited the actions of police and strengthened the rights of those arrested. In *Gideon v. Wainwright*, the High Court unanimously held that the sixth amendment right of representation applied to state court felony proceedings. The 1964 case *Escobedo v. Illinois* extended *Gideon* and held that a suspect in a specific crime must be afforded counsel during the investigative process. In *Miranda v. Arizona*, the Supreme Court held that a conviction for a crime would be overturned if “. . . procedural safeguards effective to secure the Fifth Amendment's privilege against self-incrimination” are not employed by law enforcement.²⁴ It could be argued that although these court cases do not directly attack Jim Crow by name, they pierce the Southern system of justice by placing constitutional protections in the hands of otherwise railroaded African American defendants. Even though the appellant lost, in *Swain v. Alabama* the High Court held that, “Total exclusion of Negroes from venires [juries] by state officials creates an inference of discrimination.”²⁵ The *Swain* decision indicated that in the future the High Court would look with a jaundiced eye at the common Jim Crow practice of African American exclusion from juries.

23. Berrey, 150.

24. *Gideon v. Wainwright*, 372 U.S. 335 (1962); *Escobedo v. Illinois*, 378 U.S. 478 (1964); *Miranda v. Arizona*, 384 U.S. 436 (1966) Syllabus at 436.

25. *Swain v. Alabama*, 380 U.S. 202 (1965) 203.

Further, although reluctantly, President Eisenhower employed Federal troops and U.S. Marshalls to, as Nichols puts it, “. . . enforce a federal court order for school desegregation.”²⁶ Likewise, the Kennedy administration Attorney General Robert F. Kennedy sent federal marshals when necessary and was active in monitoring states’ reactions to Civil Rights protests.²⁷ Just as in the struggle for Civil Rights in housing, the battle against Jim Crow in law enforcement began with the federal courts supported by the executive branch. This was outside influence brought to bear on a rigid system of Southern justice and the imposition of constitutional protections on both the innocent and guilty. Myrdal may have believed in the American Creed, and the innate ability of America to overcome racism, but he was wrong. As in the racial clash regarding real property, the struggle over equal justice took outside intervention. In 1960 Maysville, Kentucky, Jim Crow appeared in both police action and community reaction.

The story of Officer Reglan Lee Reynolds and the death of John C. Berry in Maysville illustrates the institutionalized violence of Jim Crow. It also demonstrates the justice then available to the black community when one of their own is murdered by the police. In 1960, a white police officer shot and killed a thirty-three-year-old, unarmed black man, a Korean War veteran and father of two little girls. This event is characteristic of police/black relations in Kentucky during the period of Jim Crow as outlined in Dr. Wright’s history.

The shooting of John “Trigger” Berry was covered extensively by the local paper, *The Daily Independent*. The story began at 2:15 a.m. on the cold and clear early morning of

26. David A. Nichols, *A Matter of Justice: Eisenhower and the Beginning of the Civil Rights Revolution* (New York: Simon and Schuster, 2007), 1.

27. Berrey, 138.

November 7, 1960 and did not end until February 1961.²⁸ After chatting up a white female guest of the VFW Hall where Berry worked as a part-time server, Berry either escorted or followed the highly intoxicated Mrs. Lenore Frances Nutter through downtown Maysville. Mrs. Nutter had recently separated from her white husband. Not being from Maysville and having traveled from her home in Elsmere, Kentucky (about sixty miles away) with friends for a gathering at the VFW Hall, Mrs. Nutter tried, without success, to get a room for the night. Berry and Nutter were spotted going into the Maysville Stockyards, which were then located under the Simon Kenton Bridge which spans the Ohio River. Tipped off by a passing motorist who noticed “a white woman and a colored man” headed for the stockyards, Maysville police investigated. Officer Reynolds and his partner Stanley Bradley answered the call. Reynolds was three to four feet from the couple when Berry rose and, according to Reynolds, threw something at him. Reynolds ducked and came up shooting, strangely hitting Berry in the back. Berry would escape over a fence, but the Reynolds bullet had pierced his heart and he died immediately thereafter.²⁹



News clipping from *The Independent*, January 14, 1961.

The “limber drunk” Mrs. Nutter was arrested and charged with disorderly conduct and unlawful assembly. Reynolds was relieved from duty and charged with causing a death by firearms. He posted bond and was released pending the

28. “Weather History for Maysville, KY,” *The Old Farmer’s Almanac*, <https://www.almanac.com/weather/history/KY/Maysville/1960-11-07>, accessed March 5, 2019.

29. See Appendix C for Berry’s death certificate.

outcome of the grand jury hearing. The six white middle-aged grand jurors failed to indict Reynolds.

Recall that blacks were not allowed to sit on petit or grand juries. No one ever thought to fingerprint the rock that Berry was supposed to have thrown. This is, of course, not surprising, as in this era the police were noted more for working over suspects than working over evidence. In his grand jury testimony, Officer Bradley altered his story to conform to the version of events told by Reynolds. There was no other evidence for the grand jury to consider. It is not clear if Mrs. Nutter was sentient during the incident.

At her trial, with her husband now by her side, Mrs. Nutter claimed that she was highly intoxicated and that the non-consummated encounter with Berry was non-consensual. Despite this claim, she was convicted of disorderly conduct and fined five dollars. Upon his non-indictment, Reynolds petitioned the city for reinstatement. Four hundred and thirty-four black citizens signed a petition against Reynolds. Their petition read, “We the undersigned as Negro citizens and taxpayers of the City of Maysville and Mason County do hereby submit this petition to the city officials asking for the complete dismissal of R.L. Reynolds from our police force.”³⁰ Six hundred white citizens signed a petition in support of reinstatement. By a vote of two to zero with one abstention, the City Commission reinstated Reynolds.³¹ Reynolds did not attend the City Commission meeting. After the reinstatement vote, Mrs. Edward Lewis asked to speak. Mrs. Lewis was an African American resident of Maysville. Her words perfectly represent the black Jim Crow experience and white reaction to it: “I do hope that none of you have a chance to

30. “Negros Petition for the Dismissal of Reynolds,” *The Daily Independent* [Maysville, KY], January 19, 1961.

31. Proceedings of the City Commission City of Maysville No. 22/23/24 Special Session, February 1, 1961, 131.

regret what has happened here tonight . . . and if this was a white man versus a white man you would not talk like you are doing tonight. I don't want my people to get into trouble with anyone."³² The "trouble" to which Mrs. Lewis refers is that under the Jim Crow social systems, blacks had a specified and limited place in society—subservience and silence. By circulating and presenting a petition for the removal of Officer Reynolds, the black community was going beyond their assigned role, and testing the borders of their social space. This is the sort of activity that could bring trouble to the black community from the white majority. In this small brave speech, we can see the effect of the burgeoning Civil Right struggle along the banks of the Ohio river.³³

It is interesting to note that on March 27, 1961, Stanley Bradley, Reynolds' partner who backed him before the grand jury, was suspended by the city for sixty days after the false arrest of African American, Calvin Wachter, following a minor traffic accident. According to Wachter, Bradley cussed him out after the accident.³⁴ Perhaps this suspension was an olive branch to the black community.

Was this a racially motivated killing? It is certainly had the hallmarks of one, especially considering the black/white sexual element, but it lacks the Mississippi bravado and planning of the Civil Rights murders. On the other hand, there is no question that the lack of investigation, the findings of the coroner, the all-white male grand jury, and the unquestioned reinstatement of

32. Proceedings, 131.

33. The story of R.L. Reynolds has been constructed using various articles from *The Daily Independent* [Maysville, KY] dated November 7, 1960, November 8, 1960, November 12, 1960, and November 17, 1960, and "R.L. Reynolds Not Indicted by Grand Jury," January 14, 1961.

34. "Stanley Bradley is Suspended for 60 Days," *The Daily Independent* [Maysville, KY], March 27, 1961.

Officer Reynolds by the Maysville City Commission certainly indicate that justice was ignored. Mrs. Lewis was correct when stating that the result of the entire matter might have been different if “Trigger” Berry had been white. This outcome is not unique. Renee Romano reports that the investigation into the police shooting of an innocent by-stander at Jackson State College in 1967 lasted only one week and resulted in no charges being filed. Further, in 1965 when Alabama State police officer James Fowler shot and killed an unarmed demonstrator in Marion, Alabama, he was not even reprimanded.³⁵ The pattern is clear throughout the South; police accountability simply did not exist. If fingerprints had been taken off the stone that Berry allegedly threw, they would have been the fingerprints of Jim Crow.

The long reach of Jim Crow in law enforcement has been examined in this chapter. As with real estate, the federal judiciary and the executive branch intervened to tip the scales of justice in favor of balance to African Americans. Carved on the front facade of the Supreme Court building in Washington, DC are the words, “EQUAL JUSTICE UNDER LAW.” In the early 1960’s, the U.S. Supreme Court put those words into action and in doing so lessened the grip of Jim Crow.

35. Romano, 66.

Chapter 4

“Wade in the Water.” *

In the introduction of this project, the current Jim Crow scholarship was explored and the sheer violence of Jim Crow was illustrated in the lynching of Richard Coleman. These beginnings set the stage for an examination of other forms of Jim Crow: in real estate, entertainment, and law enforcement. In each of these areas, the thesis of this work that outside intervention was necessary to overcome Jim Crow segregation was demonstrated. In this final chapter, Jim Crow in public spaces, whether publicly or privately held, will be examined and the thesis of this research will be applied to that examination. For the purposes of this research, “public space” will carry a broad definition. For example, *Coney Island Amusement Park* in Cincinnati, Ohio invited the public, so it qualifies for the purpose of this research as public space, although it has always been privately owned.¹

When desegregation is considered the starting point seems always to be schools. The nationwide influence of the *Brown* decision certainly steals the spotlight when desegregation is considered. But a longer struggle concerning the desegregation of public space took place long before *Brown* and continues long after it. In his 2016 treatment of Jim Crow in the state parks of

* Lyric from a negro spiritual.

1. “Coney Island Central,” Coney to Kings Island, accessed April 16, 2019, <http://coneyislandcentral.com/history/coney-to-kings-island/>.

the South, William E. O'Brien outlines the history of public space. He contends that from the very inception of dedicated national public space in America, which was the creation of Yosemite Valley by President Lincoln in 1864 when he gave it to the State of California for public use, the vision of that space was segregated.² "Appeals to racial stereotypes, reinforced by white fears of 'race suicide' near the turn of the twentieth century, led to the definition early on of scenic parks as white space."³ According to O'Brien, early state park development began in the 1880's and the movement continued into the 1920's. Scenic preservation stalled with the Great Depression but was again revived by the New Deal.

This development of public interest in scenic preservation parallels Jim Crow chronologically, so it is not a surprise that this most public of all spaces—state and national parkland—would also be the most exclusively white. As in other aspects of American development, the North led the way with the West close behind. The South, with its belief in small government, poverty, and the nostalgia for the manicured plantation as opposed to wilderness, retarded the growth of scenic preservation.

That message could not have been clearer in 1899 when Florida purchased land to set aside public space for historical significance. The state bought the Olustee Battlefield about fifty miles west of Jacksonville. A state park was created, and a monument was erected to a Confederate Civil War victory. The Olustee Battlefield represents a very broad definition, as O'Brien takes from writer Freeman Tilden, that would come to define the term "state park"

2. William E. O'Brien, *Landscapes of Exclusion: State Parks and Jim Crow in the American South* (Amherst: University of Massachusetts Press, 2016), 19.

3. O'Brien, 20.

wherein if the state calls it a state park, then it is a state park regardless of size, facilities, or significance.⁴

This broad description became quite helpful when the Federal government and the Southern states designated public space for African Americans. “Usually small in size and poor in scenic quality and other amenities, the facilities provided for African Americans could be called state parks under Tilden’s flexible definition and thus be counted as legitimate units in park systems that supported claims of adherence to the ‘separate but equal’ doctrine.”⁵ In other words, Jim Crow parks were certainly separate, but as in all other aspects of white/black relations, there was only lip service to equality. O’Brien sees a more sinister motivation for inferior public spaces for African Americans:

Denial of amenities, such as public parks, that were on par with those available to whites was aimed at halting the development of greater confidence among African Americans. This white imperative to remind southern blacks of their presumed inferior place in society laid the foundation for the vast inequality in access experienced by southern blacks as state and municipal parks were constructed in the region.⁶

This is exactly what has already been demonstrated in property ownership, entertainment, and policing—control by exclusion, and enforced inferiority. O’Brien contends that at the heart of the wilderness movement, which generated this particularly American passion for scenic preservation in public space, are racism and nativism. He cites to John Muir and Theodore Roosevelt as advocates for wilderness as a place where white Anglo-Saxon Protestant manliness could be recharged far from the negro and the immigrant.⁷ Should O’Brien be correct, then the

4. O’Brien, 22.

5. O’Brien, 23.

6. O’Brien, 28.

7. O’Brien, 30.

desegregation of these bastions of white American masculinity is surely going to be a titanic struggle.

Robert B. McKay writing in 1954 indicates, “In Louisiana, Mississippi, and Texas there are apparently no state park facilities available to Negroes, although those states have respectively 7,000, 10,972, and 58,126 acres of parks available for white use.”⁸ The situation was not appreciably better in the Commonwealth of Kentucky. McKay reports, based on statistics from 1952, although African Americans accounted for 7% of the general population, there were twenty-three whites-only parks and only one for African Americans in the commonwealth.⁹ McKay makes the interesting argument that because recreational facilities for African Americans were mostly non-existent or so inferior to those provided for whites that “separate but equal” was economically unsustainable.¹⁰ Simply put, the South was financially incapable of upgrading their black recreational facilities to make them “equal.” And thus “separate but equal” could not be maintained.

Although not as well remembered as the hot button issue of school desegregation, the fight over desegregation of public space was important because, as Verbrugge and Yingling argue, “By regulating access to and use of physical space, such discussions and the decisions that emerged from them either extended or destabilized the city's regime of white privilege and black subordination.” Further, according to Verbrugge and Yingling: “When open to one and all, leisure-time play allowed individuals of different backgrounds to move and interact in

8. Robert B. McKay, “Segregation and Public Recreation,” *Virginia Law Review* 40, no. 6 (October 1954): 703.

9. McKay, 704.

10. McKay, 705.

unsupervised ways. People's abilities, character, and behavior were literally in motion and on display. Confronting such visible evidence, individuals might cling to their racial attitudes or start questioning their assumptions about difference and other.”¹¹ In other words, human equality has a funny way of showing itself when at play and this was something that segregationists did not want to have happen. Nearly one hundred years of barriers between the races had been built. These walls were so fragile that they feared a round of interracial golf.

Verbrugge and Yingling wrote a marvelous article regarding the desegregation of Washington, DC's public parks, golf courses, tennis courts, and swimming pools. The opposing forces were unlike any of those in the rest of the nation: the pro-segregation mostly white Washington Recreation Board (who ran most of these facilities), and the anti-segregation Department of the Interior (who owned most of these facilities). It is hard to believe now that Washington, DC was once known as “the capital of white supremacy,” but in the late 1940's and early 1950's the Recreation Board was firmly committed to fighting integration.”¹² In the case of the nation's capital, the outside force that required and ultimately prevailed in desegregation was the Department of the Interior coupled with local African Americans who sought their place on the ball fields, parks, tennis courts, and swimming pools. The intransigence of the Recreation Board, even as desegregation was becoming inevitable, is not only surprising, but not unlike the very public battles over school desegregation throughout the South during the Civil Rights era.¹³

11. Martha H. Verbrugge, and Drew Yingling, “The Politics of Play: The Struggle over Racial Segregation and Public Recreation in Washington, D.C., 1945-1950,” *Washington History* 276, no. 2, (Fall 2015): 64.

12. Verbrugge and Yingling, 60.

13. It is interesting that one of the players in the Washing desegregation drama was Major General Ulysses S. Grant, III who Verbrugge and Yingling label as “deep-seated” racist Verbrugge and Yingling, 60.

These public park skirmishes continue to this day, replete with “Lost Cause” bluster, regarding Confederate war memorials constructed during the Jim Crow period.

Jeff Wiltse, in his book *Contested Waters*, reports that as soon as public pools became open to all, whites abandoned public pools.¹⁴ This is exactly what happened in Washington, DC in 1950, when swimming pools finally desegregated and were fully operational.¹⁵ Verbrugge and Yingling quote a report in the *Washington Post*: “. . . attendance at East Potomac [was] about two-thirds white and one-third Negro; at Anacostia and McKinley about 90% Negro; at Takoma about 98% white and at Francis and Banneker about 99% Negro. With the exception of East Potomac, de facto segregation persisted, and black patrons had gained dominance at Anacostia and McKinley, two previously ‘white’ pools.”¹⁶ In that year, there was also an overall one-third attendance drop-off at the pools. The attendance drop confirms Wiltse’s conclusion of white abandonment of urban municipal swimming after desegregation.

Wiltse also reports that the drive to build urban swimming pools ended in the 1960’s after desegregation. He comments on the spartan character of post-segregation pools, funded with federal “Great Society” allocations. “And yet unlike New Deal resort pools, the prototypical municipal pool of the late 1960’s was small, shallow, offered no leisure space, and attracted only children. There were comparatively inexpensive and quick to construct but failed to provide viable recreation for America’s urban poor.”¹⁷ When the recreational space could no longer be

14. Jeff Wiltse, *Contested Waters: A Social History of Swimming Pools in America* (Chapel Hill: The University of North Carolina Press, 2007), 159.

15. In the confusion over desegregation, many of the swimming pools were closed prior to 1950 until a plan for re-opening could be agreed upon which happened for the 1950 season.

16. Verbrugge and Yingling, 66.

17. Wiltse, 182.

in the exclusive control of whites, not only did they abandon the existing pools to African Americans, they changed the character of the municipal pool itself from family space to that only occupied by children. Further, Wiltse laments that the federal spending spree was as “short-lived” as the Great Society itself. “Widely reported incidents of gang shootings, drug dealing, and sexual assaults at municipal pools stigmatized them as centers of urban crime and juvenile delinquency.”¹⁸ The desire on the part of cities to spend money on urban leisure drown in a sea of crime, or its perception, in the law and order 1970’s.

Further, the Supreme Court under Warren Burger backed away from the vigorous pursuit of Civil Rights. In *Palmer v. Thompson*, the High Court held that if a city chose to close its public swimming pools after a desegregation order from a federal court, if the closure was equally applied, then there could be no constitutional violation. In his dissent, liberal stalwart William O. Douglas rightfully chides the High Court for its retreat from Civil Rights under such blatant circumstances.¹⁹

In keeping with the thesis, again we see outside forces (the federal government) move the nation toward desegregation. In the case of municipal swimming pools, the unfortunate result of this outside pressure was white flight. The Civil Rights Act of 1964 which prohibited discrimination in public accommodations (like public or private swimming pools) confirmed the legal end of segregated facilities. Brave African Americans used the Civil Rights Act to peacefully open their way into previously segregated public space. The sad reality was that, in practice, whites fled the pool and government lost interest in constructing and maintaining

18. Wiltse, 182.

19. *Palmer v. Thompson*, 403 U.S. 217 (1971), 231.

swimming pools under the guise of crime. Many of America's once thriving amusement parks would suffer the same fate.

In her rollicking *Race, Riots, and Roller Coasters*, Victoria W. Wolcott exposes the battle to desegregate America's amusement parks.²⁰ Wolcott argues that racial exclusion was installed in America's private amusement parks because owners could then advertise them as a safe family place for an excursion.²¹ It should be noted that the business model for these parks is far different than it is today. In the modern amusement park, the customer pays an entrance fee and all the contained attractions are free. The modern park strives to meet all the needs of the customer while he is in the park and as a result outside food is either prohibited or discouraged. In the historical amusement park, admittance to the park was free and the customer paid per attraction. Further, most patrons brought their own food to the park to picnic. Since admission was free, the older business model led to a leveling of customers. In other words, anyone could get in, even if they chose not to spend any money while there. The attractions competed among themselves for custom. What the patrons expected remains a constant throughout time—a clean, safe, and entertaining environment. Considering that the prevailing belief of white Americans was influenced by the junk science of eugenics, which promoted black susceptibility to disease, hypersexuality, and intellectual inferiority, it is no wonder that park owners and white patrons sought control by exclusion.

As with every history written about Jim Crow, *Race, Riots, and Roller Coasters* is a jeremiad wherein the African Americans are excluded, equality is evaded, and when access is

20. Victoria W. Wolcott, *Race, Riots, and Roller Coasters: The Struggle over Segregated Recreation in America* (Philadelphia: University of Pennsylvania Press, 2012).

21. Wolcott, 10.

finally gained, it can be fleeting. Wolcott reports that amusement park owners vigorously fought integration until it was achieved. The owners let their parks run down, closed them, and eventually sold their valuable property to developers.²² In the case of *Coney Island* in Cincinnati, which is about sixty miles from Maysville, Kentucky, Edward Schott, its then owner, fought desegregation hard, and managed to keep the story of black protests at his park out of Cincinnati's two white daily newspapers.²³ When victory was achieved, *Coney Island* was closed and a new amusement park, *King's Island*, was opened 1972, which was then totally inaccessible by public transportation.²⁴

King's Island was an example of the present and future of American amusement parks. This was the vision of Walt Disney—build in an inaccessible (except by private transportation) location, charge high all-inclusive admission, and provide a submerging experience.²⁵ Spending just ten minutes at the electronic turnstiles of Epcot as you wait for admission would lead you to argue that this “happiest place on Earth” is truly egalitarian, but this, as much as the Disney-created fantasy world itself, is merely an illusion. There is no place at Disney for the urban poor. It is expensive, and therefore exclusive.

As demonstrated in the preceding chapters of this research, outside forces were brought to bear upon public spaces for desegregation. The Civil Rights Act of 1964, and enforcement by the federal courts, brought an end to Jim Crow in public space. In this case, as in others, much of

22. Wolcott, 220-222.

23. Wolcott, 114.

24. Wolcott, 22. *Coney Island* has since reopened in a much smaller version.

25. Wolcott, 153.

the heavy lifting was left to the local African American community through non-violent protests. White resistance was concerted and strong. Edward Schott, owner and director of Cincinnati's *Coney Island*, hired private police to "ensure that the park excluded African Americans."²⁶ The employment of private police, often little more than paid thugs, was common in American amusement parks. Jim Crow, however, is very clever. The private leisure industry adjusted away from overt racism to economic exclusivity, which is perfectly acceptable, and almost imperceptible.

To say that the Cochran family of Maysville, Kentucky was influential would be an understatement. In 1837, the Maysville Neptune Water Company was founded. The Cochran family were involved with the water company until it was sold to the City of Maysville in 1963. In addition to the water company, the Cochran family were owners of several of Maysville's earliest commercial enterprises: the January and Wood Company, a textile mill, the streetcar system, and the gas and electric company. At one time, Robert Armstrong Cochran served as president of Maysville's Security Bank and Trust Company, secretary-treasurer of the January and Wood Company, and president of the Maysville Water Company.²⁷ On June 3, 1935, the Cochran-owned water company opened a public swimming pool which was situated in front of the waterworks complex on the north side of Second Street.²⁸ The admission was twenty-nine

26. Wolcott, 21.

27. The Cochran story was assembled from: "Executive, Banker, City Leader Dies," *The Daily Independent* [Maysville, KY], February 22, 1988; "W.D. Cochran Dies of Injuries One Week After Crash," *The Daily Independent* [Maysville, KY], March 23, 1983; "Long Illness Is At End for H.J. Cochran," *The Daily Independent* [Maysville, KY], January 18, 1968.

28. "Swimming Pool Opens Tonight for Inspection," *The Daily Independent* [Maysville, KY], June 3, 1935, 1.

cents plus tax. Eventually, a system of season passes in the form of badges to be sewn onto swimming suits was implemented. Among the rules, no topless male swimming was allowed.



Maysville Public Swimming Pool, circa 1950.

This was a whites-only swimming pool. A review of the local newspaper reveals many advertisements for swimming suits offered by local merchants surrounding its June opening.

Whites-only swimming would continue at the Maysville pool until 1960 when the pool abruptly closed amid pressure from the local black community to desegregate. Given their ownership and running of the water company, a Cochran was most surely involved in the decision to close the pool. As

in Cincinnati, the Maysville press did not cover the controversy and did not mention the pool closure until the next summer season which speaks volumes about the power of the Cochran family in Maysville.

There is no existing evidence which clearly demonstrates a racial motivation for the closing of the Mayville swimming pool. The Cochran-run water company was a private venture. A request to the municipally-owned current water company for any records yielded only a newspaper article from 1996. There was no public debate; the records of the Maysville City Commission reveal that the matter was not discussed. There is not even an angry letter to the editor in the local daily paper. This was a time, however, as the scholarship in this research has

shown, when, throughout the South, libraries, school systems, public parks, and private businesses were closing rather than desegregating. Wayne A. Wiegand and Shirley A. Wiegand, in their masterful *The Desegregation of Public Libraries in the Jim Crow South*, offer the student of this period the Samuel Beckettesque “stand-up” integration policy in which all furniture was removed and newly allowed black patrons as well as white had to stand while using the library.²⁹

While there is no proper paper trail, an inference is not without circumstantial evidence to support it. It is clear from this research that between the end of World War II and the election of Richard Nixon, which signaled the end of the President Johnson Great Society, Jim Crow was on the run. This can be seen in the end of the publication of *The Green Book* series. Between 1936 and 1967, Victor Hugo Green published an annual guide specifically marketed to black motorists. Sold through the mail and at Esso gas stations throughout the country, *The Green Book* listed places where African Americans would be safely accommodated.³⁰ By 1967, with the Civil Rights Act in place, *The Green Book* was no longer necessary. The overt legislative and legal pillars of Jim Crow were toppled. Public accommodation was truly public. In the South, resistance to equality remained which included closure, violence, and absurdity. The constant is that the South, and the City of Maysville, were not going to achieve desegregation without outside interference. The Civil Rights Act and the federal courts were agents of change.

29. Wayne A. Wiegand and Shirley A. Wiegand, *The Desegregation of Public Libraries in the Jim Crow South: Civil Rights and Local Activism* (Baton Rouge: Louisiana State University Press, 2018), loc. 2861 of 4364, Kindle.

30. Victor Hugo Green, *The Negro Traveler's Green Book: The Guide to Travel and Vacations* (New York: Victor H. Green and Co., 1954).

Conclusion

“The past is never dead. It’s not even past.” *

A childhood memory stirred an interest in the study of Jim Crow some fifty-six years later. How did something simple such as people swimming in a small public pool imprint a distinct memory upon the brain of a small boy between the ages of four- and five-years old. It could have been in an age before widespread home air conditioning that the sight of young people having fun would long linger. Or, it simply could be that no one truly knows how memory is formed and how memories continue to exist. One year later, when the pool was first closed for the season, and then later, when it was filled with concrete and gravel, this memory became a question—why. The search for the why of the past is, at its essence, the search for history and the *raison d'être* of the professional historian.

First turning to the records of the City of Maysville to understand why the pool was closed led not only to the death of John “Trigger” Berry, but also to a casual conversation with the Maysville City Clerk, who related the outline of the Clooney/Chambers story. The search in the City Commission records revealed nothing about the pool closure, but much about the Berry shooting. The city clerk’s memory of the pool closing was of segregation and Jim Crow. This reflection evolved into the wider study of Jim Crow in Kentucky, wandering through George Wright’s narrative of the mob execution of Richard “Dick” Coleman in 1899.¹ Upon a return

* William Faulkner, *Requiem for a Nun* (New York: Vintage Books, 2011).

1. George C. Wright, *Racial Violence in Kentucky 1865-1940: Lynchings, Mob Rule, and “Legal Lynchings”* (Baton Rouge: Louisiana State University Press, 1990), loc. 1607-1662 of 4962, Kindle.

trip to Maysville, an examination of contemporary newspaper accounts of the Coleman affair helped to construct the narrative of those ghastly events. Still, the narrative was flawed—Coleman was immolated at the turn of the century, Clooney returned at mid-century, and the pool was closed at the conclusion of the story in the early 1960s. There needed to be a Maysville historical vignette to tie together the long era of Jim Crow between Coleman and Clooney. Maysville, like most of the South, is still divided into two communities: one purely white and one distinctly black. This is what Nancy H. Walsh and others have labeled, “racial territoriality,” which are physical boundaries that “reinforce existing social hierarchies.”² Chafe, Gavins, and Korstad note that Southern small towns have a common layout where the black section of town is clearly distinguishable to any visitor.³ Maysville has such a distinction. Although the main streets of Maysville were paved in 1915, as late as the 1960’s the black community lacked fully paved roads. Even a stranger to Maysville can clearly point out what is literally the “other side of the tracks.”

The search for a complete narrative ended in the black robes of Maysville’s Stanley Forman Reed. Mr. Justice Reed exemplified both sides of Jim Crow. As a young lawyer, he both wrote racially restrictive covenants but then later, placing his duty to the nation before that of the South, Reed reluctantly participated in the dismantling of Jim Crow. The thesis that this paper demonstrates is that the City of Maysville could not throw aside the shackles of its racist

2. Nancy H. Walsh, “Racially Restrictive Covenants in the United States: A Call to Action,” *Agora Journal of Urban Planning and Design* 12 (April 14, 2018): 138, https://deepblue.lib.umich.edu/bitstream/handle/2027.42/143831/A_12%20Racially%20Restrictive%20Covenants%20in%20the%20US.pdf?sequence=1&isAllowed=y; Cheryl Harris, “Whiteness as Property,” *Harvard Law Review* 106 (1993): 1707.

3. William H. Chafe, Raymond Gavins, and Robert Korstad, eds., *Remembering Jim Crow: African Americans Tell About Life in the Segregated South* (New York: The New Press, 2001), 130.

past and it took intervention from the federal government and the courts to break Maysville's chains of Jim Crow. The irony of Mayville's Stanley Forman Reed's participation in this effort cannot be overlooked. It certainly could be argued that, with respect to Reed, "How Ya Gonna Keep 'em Down on the Farm (After They've Seen Paree)?"⁴ After his long and distinguished career in public administration and law, perhaps Maysville no longer held sway. Although Reed continued to own property in the area, he never returned to live in Maysville. It could equally be argued that the changes he wrought to Maysville and the South made his permanent return untenable. In his retirement, the Maysville of his memory was just that—a distant memory, another time.

It has been suggested that in boarder states like Kentucky perhaps federal intervention was unnecessary and, just like Atlanta or Houston, Maysville and Kentucky would have evolved from its Jim Crow past as a region that had become "too busy to hate."⁵ The facts point to a different conclusion. Atlanta, and its slogan writers, perhaps have forgotten its own recent past. Robert B. McKay reports that in 1953, ". . . in Atlanta, only 3 of the 37 parks were available to Negroes. The facilities included 2 swimming pools for Negroes, but no golf course. The Atlanta Public Library was not open to Negroes, but 3 branch libraries in Negro neighborhoods were maintained by the central library; and central library books were available through inter-library loan."⁶ The selective memory of the community is not necessarily historically accurate, and never makes for a catchy slogan.

4. Opening lyrics to a song by Joe M. Young and Sam Lewis that was popular in 1919. Stanley Forman Reed studied law in Paris, France.

5. "Too busy to Hate" is a marketing slogan for Atlanta, Georgia.

6. Robert B. McKay, "Segregation and Public Recreation," *Virginia Law Review* 40, no. 6 (October 1954): 706.

The situation in Kentucky employment was hardly better. In 1968, The Commission on Human Rights of the Commonwealth of Kentucky published its *Non-White Employment in Kentucky's Major Industries*. This survey of industries employing over 400 people convincingly demonstrates the systematic exclusion of non-white workers. For example, the report (prepared by the four white state commissioners) finds that black workers hold only “2.7% of the skilled and white collar” jobs in the state despite constituting 7.2% of the state’s population.”⁷ As late as 1968, fourteen years after *Brown*, the workforce of the commonwealth showed almost total separation of the races. According to the report, if minorities were employed, it was not in industry, rather more in domestic service work or the tobacco industry. Clearly, federal intervention was necessary to overcome Kentucky’s racist past.

Federal intervention desegregated the schools of Kentucky. Although Maysville quietly and successfully desegregated its schools beginning in 1955, all of Kentucky was not as fortunate. As George Lewis reports, in the small towns of Sturgis and Clay, Kentucky resisted desegregation. Clay, through its long-serving mayor, Herman T. Clark, “openly mocked the Supreme Court’s authority and supported a white crowd that had gathered to try to prevent desegregation there.” He further quotes Clark, “The Supreme Court may say that integration is the law of the land, but as far as I am concerned and, 98 per cent of my citizens agree, the law of the state of Kentucky is the law here. When the chips are down, I am going to stand with my people.”⁸ Sadly, Mayor Clark should have taken a lesson from King Canute and realized that he could hold back neither the tide nor the power of law in a federal democracy.

7. Kentucky Commission on Human Rights, *Non-White Employment in Kentucky's Major Industries* (Frankfort: Kentucky Commission on Human Rights, 1968), 3.

8. George Lewis, *Massive Resistance: The White Response to the Civil Rights Movement* (London: Hodder Arnold, 2006), 80.

It has been demonstrated throughout this research that the individual vignettes from Maysville illustrate the thesis of the power of Jim Crow and the local inability to break with the past. Richard Coleman's death revealed Jim Crow's lynch law. Stanley Forman Reed's restrictive covenants spoke to the presence of Jim Crow in real estate and its assignment of African Americans to a cycle of poverty. Rosemary Clooney paraded in the shadow of Jim Crow. She and Blanchie Mae Chambers knew that Jim Crow trumped black/white friendship. The shooting of John "Trigger" Berry and the subsequent reinstatement of Officer R.L. Reynolds displayed how Jim Crow law enforcement worked through violent domination without penalty to the over-reaching policeman. Finally, Maysville was ready to desegregate the schools under the onus of *Brown*, but the Jim Crow public pool was another matter, and so it closed. Now that the history has been exposed, what are the memories these events engender?

The Civil War historian, David W. Blight, has written and lectured extensively on the disconnect between memory and history. He correctly believes that the history of that blighted period of America is far different than its memory. Blight contends that "our primary concern is with the illusive problem of collective memory—the ways in which groups, peoples, or nations construct versions of the past and employ them for self-understanding and to win power in an ever-changing present."⁹ The collective memory of the Civil War is a convenient construct which allows all of America to shun confronting the true issues of the American Civil War.

Blight echoes the work of Kentucky poet and commentator, Robert Penn Warren, in his *The Legacy of the Civil War*.¹⁰ Warren constructed two narratives of that war: the South's "Lost

9. David W. Blight, "Historians and 'Memory,'" *Common-Place* 2, no. 3 (April 2002). Accessed December 17, 2018. <http://www.common-place-archives.org/vol-02/no-03/author/>.

10. Robert Penn Warren, *The Legacy of The Civil War* (Lincoln: University of Nebraska Press, 1998).

Cause” and the North’s “paragon of virtue.” Both Warren and Blight contend that the common memory carried by Americans of the Civil War are a fiction created to justify both the past and the present. Warren’s book-length essay was published in 1961, in the heart of the Jim Crow period. Robert Penn Warren’s present was Jim Crow.

The World War I medical historian, Carol Byerly, in her powerful *Fever of War: The Influenza Epidemic in the U.S. Army During World War I*, embraces that same thesis regarding constructed memory when considering the medical community in that war.¹¹ According to Byerly, the most aggressive killer of the war was not a kaiser, tyrant, or general, rather it was the flu virus. Although the trenches of Belgium and France were an ocean away from the United States, the flu epidemics of 1918 and 1919 brought the horrors of the battlefield into America’s homes. Despite this historical fact, the memory of that war has erased disease as a factor especially, according to Byerly, among the medical community. She points to medicine’s utter failure to medically comprehend or effectively treat the virus as the reason for its collective amnesia.

An explanation for counterfeit historical memory can be seen in the current work of psychologist, Kristin Laurin.¹² Her research has shown that people have a tendency to construct a veil around potentially unpleasant events to conform them to a narrative that essentially gets on with life. Essentially, an anticipated bad outcome is replaced with a collective feeling that it is not that bad—no matter how odious the outcome is in reality. This is somewhat like enjoying

11. Carol Byerly, *Fever of War: The Influenza Epidemic in the U.S. Army During World War I* (New York: New York University Press, 2005), 8.

12. Kristin Laurin, “Inaugurating Rationalization: Three Field Studies Find Increased Rationalization When Anticipated Realities Become Current,” *Psychological Science* 29, no. 4 (February 15, 2018): 483-495.

the band on the deck of the Titanic. Interestingly, she connects her research directly to current American political events to achieve a truth about memory.

Blight, Warren, Byerly, and Laurin combine to thoroughly explain the distortion of historical memory. As much as American slavery, Jim Crow has soiled the American consciousness, and yet, the memory could be paternalized as some have done with slavery, or it could have been simply forgotten. When Mayville residents who are currently entering their retirement years pass away, the existence of the whites-only public pool may die with them. If for no other reason, this sad possibility gives some measure of credence to this modest work of scholarship.

The above groundwork relates to the modern memory of Jim Crow. It is memory cast in black and white. Reading the heart-wrenching *Remembering Jim Crow* brings into stark contrast the difference between white and black memories of the period.¹³ This work exhibits oral history at its best. Published in 2001, there is no doubt that most, if not all, of the people interviewed for this study are now deceased. Fortunately, their memories live on in their words. If there had been no Civil Rights movement, African American history might have looked as it did in the Jim Crow period: a history of whites and how they related their stories and lives to blacks, or what Gunnar Myrdal referred to as “the Negro problem.” There is a cornucopia of recent scholarship on every aspect of Jim Crow. Admittedly, this modest research barely scratches the surface of the available material. What is needed however, is a comprehensive history, but that task would be Herculean indeed.

What are the next generation of historians learning about Jim Crow? A random review of three young adult/high school level texts paints a bright future. In *Rebuilding a Nation: Picking*

13. Chafe, Gaines, and Korstad, 56-59.

Up the Pieces, only one page is devoted to Jim Crow, but it is an honest summation of the period following 1877: “Over the next several decades, Southern states passed humiliating Jim Crow laws requiring segregation in public places as well as laws making it impossible for African Americans to vote.”¹⁴ It naturally absolves the rest of the nation, and only skims the surface of Jim Crow as a national phenomenon, but it is honestly mentioned as part of the American experience in an otherwise very small text..

William Toth’s treatment of the issues of Jim Crow in *Handbook to Life in America: The Gilder Age 1870 to 1900* is impressive. It points to Jim Crow as a national problem, addresses lynching, and speaks of the “Great Migration.”¹⁵ It does fail, however, on the subject of lynching, to describe it as a community event. Rather, it assigns lynching to Klan activities, thus absolving the community in general for the lynching. As this paper has demonstrated, lynching was Jim Crow community-based justice. Leaving that part of the story out of what is being taught to children is a disservice, albeit excusable, given the format of the work.

The Americans is a high school history or civics textbook.¹⁶ It devotes an admirable amount of space to issues of Jim Crow, court intervention, and the Civil Rights movement. It does not, however, discuss the full power of American segregation, and therefore the Civil Rights struggle seems oddly separate from the American experience, as if it were solely limited to African Americans as opposed to a bi-racial national battle. It also comes up short on

14. Lou Waryncia, ed., *Rebuilding a Nation: Picking Up the Pieces* (Peterborough, NH: Cobblestone Publishing, 2005), 43.

15. William Toth, “Social Attitudes,” in *Handbook to Life in America: The Gilder Age 1870 to 1900*, ed. Rodney P. Carlisle, 68-69 (New York: Infobase Publishing, 2009).

16. Gerald A. Danzer, J. Jorge Klor de Alva, Larrys S. Krieger, Louis E. Wilson, and Nancy Woloch, *The Americans* (New York: McDougal Littell, 2009).

Southern resistance and violence, but overall the treatment brings attention to the period and successes of the Civil Right movement.

This conclusion has examined the validity of the thesis, that outside intervention was necessary to break the shackles of Jim Crow, reviewed the issue of Jim Crow and memory, and touched upon the future of Jim Crow research and the young historians who will be doing that research. The Ohio River continues to flow past the sleepy little town of Maysville, Kentucky (population 8,800). Market Street is still busy on Saturday mornings. Visitors flock to the downtown to relish in the history of this near South community. Although the colored entrance to the Russell Theater is still present, physical evidence of Maysville's Jim Crow past is all but gone. Perhaps one day the memory will escape our collective consciousness. As Heraclitus teaches:



Market Street in downtown Maysville, Kentucky.

πάντα χωρεῖ καὶ οὐδὲν μένει" καὶ "οἷς ἐς τὸν αὐτὸν ποταμὸν οὐκ ἂν ἐμβαίης ¹⁷

Indeed, it is the task of the historian to wade in the water.

17. Everything changes and nothing remains still ... and ... you cannot step twice into the same stream. Seneca, *Epistulae*, VI, 58, 23.

Appendix A

Concise History/Timeline of Maysville, Kentucky

1642 – Virginia legislature approves exploration of the land which would later become Kentucky.

1783 – Simon Kenton leads a party of forty-one settlers down the Ohio River and establishes a community on the banks of the Ohio where it intersects with Limestone Creek. Among the party were African slaves.

1784 – Originally known as Limestone, the settlement becomes Maysville in 1787, renamed in honor of early settler and land commissioner John May.

1833 – Maysville is incorporated as a city in Mason County, suffers a devastating fire, and endures an outbreak of cholera which took the life of the last surviving original settler of Mason County, Elizabeth Ellis.

1837 – The Maysville Neptune Water Works Company is founded and later incorporated in 1854. There was an active slave market in Maysville prior to the end of the Civil War. The expression “sold down the river” is exactly what happened in Maysville, where slaves from border states like Kentucky were sold and transported down river to the deep South.

1848 – The County Seat of Mason County is transferred from Washington, Kentucky to Maysville.

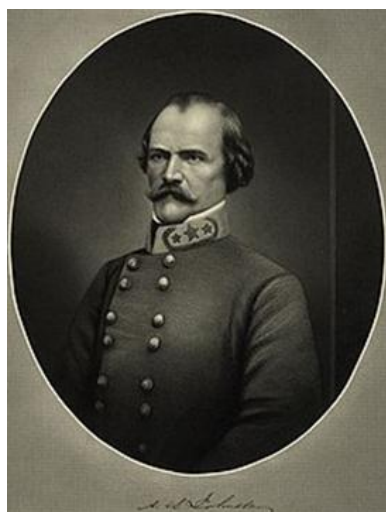


Simon Kenton (1755-1836)

1854 – The Maysville Gas Company is incorporated.. Eight hundred kegs of gunpowder explode at the lower end of the city damaging houses as far away as across the Ohio River in Aberdeen, Ohio.

1860 – A meeting is held where leading citizens of Maysville pledge their loyalty to the Union in the face of the coming Civil War. In the presidential election in Mason County, Lincoln finishes dead last, receiving only twenty-six votes in all of Mason County. Southern Democrat, John C. Breckinridge, out-polls all other candidates.

1861-1865 – During the Civil War, Maysville men fight on both sides. The Confederate



commander of the Western Theater was General Albert Sidney Johnston (1803–1862). Johnston was born in Washington, Kentucky, a short wagon ride from Maysville. Johnston's death at the Battle of Shiloh was a devastating blow to the Confederacy. In June of 1863, Maysville is plundered by Confederate troops under the command of Captain Peter Everett. The famous rebel raider, John Hunt Morgan, only came as close to Maysville as the nearby town of Mays Lick.

Albert Sidney Johnston, CSA

1884 – Stanley Forman Reed is born in Minerva, Kentucky about 14 miles from Maysville.

1899 – An angry mob lynches by fire Richard “Dick” Coleman.

1915 – The main streets of Maysville are paved. Stanley Forman Reed starts development of the Edgemont and Skyline subdivisions.

1928 – Rosemary Clooney is born in Maysville.

1935 – The Maysville Public Swimming Pool opens for inspection on June 3rd.

1950 – The Maysville Lions Club stages a blackface minstrel show to the delight of the audience.

1953 – Rosemary Clooney sits in the colored section of the Russel Theater to watch the premiere of *The Stars are Singing* with her best friend Blanchie Mae Chambers.

1955 – The Maysville schools quietly begin desegregation. The first blacks admitted to Maysville High School are the student athletes of the all-black John Fee High School basketball team. Until then, John Fee High School had a good men's basketball team. Suddenly, Mayville men's basketball became very strong.

1960 – The Maysville Public Swimming Pool closes. On November 7, 1960, Maysville Policeman R.L. Reynolds shoots John “Trigger” Berry.



Greifenkamp Park, dedicated in 2005, now covers the former Maysville Public Swimming Pool. Photographed by author, 2019.

Appendix B
List of Legal Cases Cited

United States v. Stanley, United States v. Ryan, United States v. Nichols, United States v. Singleton, and Robinson and Wife v. Memphis & Charleston R.R. Co., all consolidated in 109 U.S. 3 (1883).

Plessy v. Ferguson, 163 U.S. 537 (1896).

Buchanan v. Warley, 245 U.S. 60 (1917).

Missouri ex rel. Gaines v. Canada, 305 U.S. 337 (1938).

Shelley v. Kraemer, 334 U.S. 1 (1948).

Brown v. Board of Education of Topeka, 347 U.S. 483 (1954).

Gideon v. Wainwright, 372 U.S. 335 (1962).

Escobedo v. Illinois, 378 U.S. 478 (1964).

Miranda v. Arizona, 384 U.S. 436 (1966).

Swain v. Alabama, 380 U.S. 202 (1965).

Palmer v. Thompson, 403 U.S. 217 (1971).

Appendix C

Death Certificate of John C. Berry

FORM V.S. NO. T-A REV. 1-58 FEDERAL SECURITY AGENCY U. S. PUBLIC HEALTH SERVICE NATIONAL OFFICE VITAL STATISTICS		COMMONWEALTH OF KENTUCKY DEPARTMENT OF HEALTH DIVISION OF VITAL STATISTICS CERTIFICATE OF DEATH		FILE NO. 116 60 25287	REGISTRAR'S NO. 220
Registration District No. 1030		Primary Registration District No. 2395			
1. PLACE OF DEATH a. COUNTY Mason		2. USUAL RESIDENCE a. STATE Ky.		b. COUNTY Mason	
b. CITY (If outside corporate limits, write RURAL, and give township) Maysville		c. LENGTH OF STAY (in this place) 10 yrs.		c. CITY OR TOWN Maysville	
d. FULL NAME OF HOSPITAL OR INSTITUTION 127 E. 2nd St.		d. STREET ADDRESS 34 E. 5th. St.		IS RESIDENCE ON A FARM? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
3. NAME OF DECEASED a. (First) John		b. (Middle) Calvin		c. (Last) Berry	
4. DATE OF DEATH 11 - 6 - 1960		IS RESIDENCE INSIDE CITY LIMITS? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>			
5. SEX M	6. COLOR OR RACE Col.	7. MARRIED, NEVER MARRIED, WIDOWED, DIVORCED (Specify) Married	8. DATE OF BIRTH 3 - 6 - 1927	9. AGE (in years last birthday) 33	10. Under 1 Year <input type="checkbox"/> 1 Year to 24 Hrs. <input type="checkbox"/> 24 Hrs. to 1 Min. <input type="checkbox"/>
10a. USUAL OCCUPATION (Give kind of work done during most of working life, even if retired) Janitor		10b. KIND OF BUSINESS OR INDUSTRY Janitor		11. BIRTHPLACE (State or foreign country) Ky.	
12. CITIZEN OF WHAT COUNTRY? U.S.A.		13. FATHER'S NAME Leander Berry			
14. MOTHER'S MAIDEN NAME Pearlie Lang		15. WAS DECEASED EVER IN U. S. ARMED FORCES? (If yes, give war or dates of service) Yes. Korean 46 - 47			
16. SOCIAL SECURITY NO. 406-36-8695		17. INFORMANT Jeanette Berry			
18. CAUSE OF DEATH PART I. DEATH WAS CAUSED BY: IMMEDIATE CAUSE (a) Homicide		INTERVAL BETWEEN ONSET AND DEATH			
Conditions, if any, which gave rise to above cause stating the underlying cause last. DUE TO (b) Bullet in Heart		DUE TO (c) Shot in Right side of back & Creased to Heart			
PART II. OTHER SIGNIFICANT CONDITIONS CONTRIBUTING TO DEATH BUT NOT RELATED TO THE TERMINAL DISEASE CONDITION GIVEN IN PART I (a)		19. WAS AUTOPSY PERFORMED? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>			
20. ACCIDENT <input type="checkbox"/> SUICIDE <input type="checkbox"/> HOMICIDE <input checked="" type="checkbox"/>		21a. DESCRIBE HOW INJURY OCCURRED (Enter nature of injury in Part I or Part II of item 18.) Shot by Police Officer			
21b. TIME OF INJURY 2:30 p.m. 11-6-60		21c. PLACE OF INJURY (e. g., in or about home, farm, factory, street, office bldg., etc.) Back yards			
21d. CITY, TOWN, OR LOCATION Maysville		21e. COUNTY Mason			
21f. STATE Ky.		22. I hereby certify that I attended the deceased from _____, 19____ to _____, 19____, that I last saw the deceased alive on _____, 19____, and that death occurred on _____, 19____, from the causes and on the date stated above.			
23a. DATE SIGNED 11-8-1960		23b. ADDRESS Maysville Ky		23c. SIGNATURE (Degree or title) Edward W. Ryan Coroner	
24a. BURIAL, CREMATION, REMOVAL (Specify) Burial		24b. DATE 11-12-60		24c. NAME OF CEMETERY OR CREMATORY MAYSLICK CEMETERY	
24d. LOCATION (City, town, or county) MAYSLICK, KY.		25a. DATE REC'D BY LOCAL REG. 11-7-60			
25b. REGISTRAR'S SIGNATURE Mary Mariano		25c. FUNERAL DIRECTOR Ross, & Co. Maysville Kentucky.			
25d. ADDRESS David A. B. Ross					

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