

University of Nevada, Reno

**Love over Property: Debates on Interracial Marriage in the 1920s**

A thesis submitted in partial fulfillment of the  
requirements for the degree of Master of Arts in  
History

by

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## Abstract

From colonial America to 1967, interracial marriage was outlawed in many jurisdictions throughout the United States. The 1920s saw a rise in political and cultural conservatism that produced greater opposition to interracial marriage in the decade. Groups like the Ku Klux Klan had racist and nativist sentiments and ultimately pushed for broader bans on interracial marriage. However, there was also an understudied group of activists that advocated for interracial marriage. Politically minded women and the National Association for the Advancement of Colored People lobbied against legislation that prohibited interracial marriage and saw successes throughout the decade. Marriages across the color line were often met with negative public opinion, but they were also met by support by those who believed that a loving, companionate marriage was more important than a marriage based on race alone. Through a legal examination of several court cases and anti-miscegenation laws, I argue that debates surrounding interracial marriage were fervent and on-going in the 1920s, nearly fifty years prior to the landmark *Loving v. Virginia* Supreme Court case.

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## **An Introduction to Interracial Marriage in the 1920s**

This thesis explores the landscape of interracial marriage in the 1920s United States. The decade is associated with prosperity, decadence, and new freedoms for women and other subordinate groups, but also reactionary forces like the Ku Klux Klan, racial violence, and attempts to crush Black Americans' struggles for equality.<sup>1</sup> I examine how these conflicting trends played out in the arena of interracial marriage through an examination of court cases and media reporting that reveals the practice was not universally opposed but instead was being contested throughout the decade.

I examine relationships between Black and white individuals in the 1920s. However, racial classifications are more complicated than a simple dichotomy between Black and white. Many individuals fall "in-between" these racial categories and others occupy separate racial categories altogether.<sup>2</sup> In the 1920s, many jurisdictions utilized the "one drop rule" to differentiate between white individuals and people of color.<sup>3</sup> In these jurisdictions, an individual was considered "colored" if they had any mixed-race ancestry. These laws were most strictly enforced on Black Americans and people of African descent. In my research, I utilize the racial categories of Black and white as they would have been perceived in the 1920s. Therefore, biracial and mixed-race individuals

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<sup>1</sup> I have chosen to capitalize the word Black to denote its role as a racial identity. While other scholars, such as Peggy Pascoe capitalize "White" to avoid the invisible nature of whiteness in the United States, I have opted to not capitalize the term. This is partially due the term "White" being associated with white supremacist groups which thoroughly supported anti-miscegenation laws. However, I would also like to note that this is not in line with the Chicago Manual Style, which instructs to capitalize "White" and "Black" as racial categories.

<sup>2</sup> The term "in-between" is often utilized in whiteness studies. See David R. Roediger, *Working Toward Whiteness: How America's Immigrants Became White: The Strange Journey from Ellis Island to the Suburbs* (New York: Basic Books, 2005), 8; Cynthia Skove Nevels, *Lynching to Belong: Claiming Whiteness Through Racial Violence* (College Station, TX: Texas A&M University Press, 2007), 7

<sup>3</sup> For example, "one drop rule" was utilized in Virginia's 1924 Racial Integrity Act designed to prevent interracial marriage

are considered to be Black for the purposes of this study. However, this classification is not intended to reify racial categorizations, but is intended to benefit the understanding of the reader and to highlight the perception of the American populace during the decade.

Both interracial intimacies and the decade of the 1920s have been extensively studied by historians, but rarely together and in comprehensive ways. Some historians have written in-depth about interracial marriage, thereby providing us with a broad understanding of interracial marriage in the United States. In their separate works, Peter Wallenstein and Peggy Pascoe chronicle the long history of interracial marriage from the first laws outlawing interracial marriage in early America to the landmark 1967 *Loving v. Virginia* Supreme Court case in which the Court ruled that anti-miscegenation laws were unconstitutional.

Although Wallenstein and Pascoe have produced broad histories of interracial marriage, they do focus heavily on specific time periods and themes. In *Tell the Court I Love My Wife: Race, Marriage, and Law: An American History*, Wallenstein pays particular attention to the period following the Civil War when anti-miscegenation laws became more wide-spread and individuals and governments sought to create distinct racial categories to define and protect “whiteness.”<sup>4</sup> He also pays particular attention to the post-war era and subsequent civil rights movement.

Similarly, in *What Comes Naturally: Miscegenation Law and the Making of Race in America*, Pascoe begins her analysis in 1863, the year that the term “miscegenation”

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<sup>4</sup> Peter Wallenstein, *Tell the Court I Love My Wife: Race, Marriage, and Law: An American History* (New York: Palgrave, 2002), 4.

was created.<sup>5</sup> She examines the ebb and flow of anti-miscegenation laws from the Civil War until World War II and then pays considerable attention to the post-war era generally and the Civil Rights Movement in particular.

Both Wallensteinn and Pascoe study interracial couples with diverse racial identities. Because they focus heavily on the Civil War and Civil Rights Movement eras, it is not surprising that both scholars write extensively about Black and white relationships. They also focus on relationships involving Native Americans and Asian Americans.

Other scholars have a more narrow analysis that is centered on individual regions of the United States. Most regional studies of interracial marriage consider interracial relationship configurations that are most prevalent in the region. For instance, scholars studying interracial intimacies in the American South mostly consider relationships between Black and white individuals. On the other hand, historians of the West analyze Asian and white relationships, Latino and white relationships, or Native American and white relationships.<sup>6</sup>

In contrast to the 1860s and 1960s, the 1920s have not received as much attention from scholars of interracial marriage. Pascoe notes that “studies [on interracial marriage] all but end with the 1920s,” and historians have not considered the 1920s a unique period

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<sup>5</sup> Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2010), 28.

<sup>6</sup> For interracial relationship studies in the South see Martha Hodes, *White Women, Black Men: Illicit Sex in the Nineteenth-Century South* (New Haven: Yale University Press, 1997); For interracial marriage studies in the West see Peggy Pascoe, "Race, Gender, and Intercultural Relations: The case of Interracial Marriage," *Frontiers: A Journal of Women Studies* 12, no. 1 (1991): 5-18.

to understand proponents and opponents of interracial marriage.<sup>7</sup> Rather, the 1920s became an end point to studying the “early” period of anti-miscegenation sentiments or, in some cases, the events of the 1920s were contrasted with the well-documented and studied *Loving* case of the Civil Rights Movement.

The 1920s has captured the American imagination as a decadent decade filled with the sound of jazz music, the dancing of flappers, and the consumption of illegal spirits. Many historians of the 1920s have indeed focused on these more fantastical elements of the decade, but many others have considered the political history as well.

The first history written of the 1920s was a contemporary history written in 1931 by Frederick Lewis Allen titled *Only Yesterday*. It chronicles the political events that occurred between the end of World War I in 1918 and the stock market crash in 1929. Since then, several historians have attempted to understand the 1920s as an intermediate period between these two global events.

In *Discontented America: The United States in the 1920s*, David Goldberg examines how the outcomes of World War I affected the social, economic, and political lives of Americans in the decade immediately following the war. He begins his analysis in 1919, as is typical of scholars of the decade, because “that year set the tone for many events in the post-war decade.”<sup>8</sup> The book examines aspects of American life that were most affected by the war: labor movements, racism toward Black Americans, the Ku Klux Klan, and changes in immigration policy.

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<sup>7</sup> Peggy Pascoe, “Miscegenation Law, Court Cases, and Ideologies of ‘Race’ in Twentieth-Century America,” *The Journal of American History* 83, no. 1 (1996): 47. <https://doi.org/10.2307/2945474>.

<sup>8</sup> David Joseph Goldberg, *Discontented America: The United States in the 1920s* (Baltimore, MD: Johns Hopkins University Press, 1999), xi.

Other historians focus primarily upon the political history of the decade. The two presidents of the decade, Warren Harding and Calvin Coolidge, are often overlooked compared with the attention paid to Woodrow Wilson and Franklin D. Roosevelt, who led the United States during World War I and the Great Depression respectively. In *The Twenties in American Politics and History* Niall Palmer gives greater attention to the two presidencies of the 1920s. Palmer notes that the conservative political ideology of President Harding was less “resilient” than that of his predecessor, President Coolidge.<sup>9</sup> Therefore, when Harding unexpectedly died in 1923, mainstream political ideologies shifted right with the country’s new leader. Palmer argues that the conservative political philosophy of Coolidge reared its head as conflicts arose over race, class, employment, and religion.

Historians of the 1920s are largely concerned with changes in the political, cultural, and financial landscape; few give attention to the increase of anti-miscegenation legislation introduced in state legislatures or the activism associated with defeating those bills. Furthermore, historians specializing in the 1920s have not grappled with the multitude of interracial marriages that were annulled on the basis of racial fraud or focused on how states intervened in undesirable relationships before couples were legally wed. However, some historians have given notice to the 1925 *Rhineland v. Rhineland* trial.

One of the best-known annulment cases of the 1920s was the Rhineland Trial in which Alice Beatrice Jones was accused of deceiving her husband, Leonard Kip

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<sup>9</sup> Niall A. Palmer, *The Twenties in America Politics and History* (Edinburgh University Press, 2006), 103.

Rhineland, into marrying her through deception in 1925. Historian Elizabeth Smith-Pryor's study *Property Rites: The Rhineland Trial, Passing, and the Protection of Whiteness* examines the Rhineland case as a microhistory of interracial marriage. Smith-Pryor argues that the Rhineland trial functioned to protect the sanctity of racial categorizations, specifically whiteness.<sup>10</sup>

My thesis builds on the existing scholarship by examining multiple cases of interracial marriage and reactions to them in the 1920s. It addresses gaps in the literature and provides a new perspective on the Rhineland trial by contextualizing it within the larger history of interracial marriage in the 1920s. Once juxtaposed with other cases involving interracial marriage, the Rhineland trial gains new significance. Thus, I utilize the Rhineland case in conjunction with other annulment cases to provide a more complete understanding of unwitting interracial marriage in the decade.

It is evident that there is a greater story to be told about interracial marriage in the 1920s United States. The decade has been understudied by historians studying interracial marriage while historians of the decade have not examined the significance of such marriage in the context of the decade. This thesis bridges the gap between studies on interracial marriage and 1920s history.

## **Methods and Sources**

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<sup>10</sup> Elizabeth M. Smith-Pryor, *Property Rights: The Rhineland Trial, Passing, and the Protection of Whiteness* (Chapel Hill, NC: University of North Carolina Press, 2009).

A legal approach is required to best understand interracial marriage for two reasons: marriage is a legal institution that is regulated by local, state, and federal governments and evidence of illicit relationships is often hidden in legal documents.

First, researching the institution of marriage requires one to utilize a legal methodology because it functions within particular legal systems. Second, researching illicit relationships is difficult because they are not highly publicized by choice. It is unlikely that participants in illegal relationships spoke publicly about their relationship, as they could face legal consequences. For example, marriage announcements in the 1920s rarely announced the upcoming marriage between partners of different races as marriages in the announcement section of newspapers were usually reserved for influential white partnerings. Therefore, court cases and other legal sources provide insights into such relationships that are not readily seen elsewhere. Additionally, court opinions and decisions demonstrate the government's response to issues relating to marriage, race, and class.

However, court cases do not necessarily provide a complete account of these relationships. Although court cases stipulate the legal context of the case, they do not tell historians everything about a relationship between two individuals. Rather, the court case tells us what their legal representatives wanted the court to know. Therefore, it is the job of the historian to question the evidence and statements presented to the court and to read against the grain to gain a better understanding of the interracial relationship itself. In order to further flesh out the narratives of interracial marriages present in court cases, I analyze other sources such as newspapers and forms of popular entertainment, making it

possible to ascertain public opinion surrounding interracial marriage in the 1920s outside of legal documents.

For my own research, I have decided to focus on six case studies of interracial partnerships. In order to do so, I have located sensationalized reports of courtships, marriages, and annulments in 1920s newspapers that I matched with their respective court cases. When possible, I have attempted to find other articles relating to the same couple, published in different newspapers, journals, and magazines of the time. In cases where I located newspaper articles but was unable to find the court cases, I utilize the newspaper articles to provide brief examples to support my claims rather than pursuing a lengthy analysis. Occasionally, charges against individuals in interracial relationships were ultimately dropped and a court case therefore does not exist. In those cases, I rely heavily on the multitude of detailed newspaper accounts of the marriage and the interviews conducted by those newspapers.

### **Scope**

This study focuses on Black and white interracial marriages in the 1920s. Because every anti-miscegenation law aimed to criminalize Black and white interracial marriages, a national study of interracial marriage depends upon the one relationship configuration that was universally banned. The focus on Black and white relationships is not intended to downplay the significance of other interracial relationships, nor to reify ambiguous racial categories, but instead intended to narrow the scope of my analysis.

Additionally, this study is concerned with intimate heterosexual relationships between cis-gendered men and women. Although historians like Emily Skidmore have explored illicit sexual relationships between individuals of the same gender and

transsexual individuals, this thesis does not aim to explore the intricacies of such relationships. However, that is not to suggest that such relationships did not exist nor that they are not historically significant. Rather, this caveat is intended to narrow the scope of my analysis.

Although my study is primarily concerned with the ten years that comprise the decade of the 1920s, in some cases I have extended my timeline to take note of legal actions that occurred in subsequent years. Additionally, in a few cases I have included events that occurred in 1919 as a precursor to the events of the 1920s. Because the institution of marriage is intended to be a life-long commitment, some marriages examined in this thesis extend beyond the parameters of the study. In those cases, I have attempted to chronicle the ongoing legal and financial ramifications of the marriage. Nonetheless, all of the marriages and intimate relationships analyzed in this work were established in the 1920s and therefore exemplify the social and legal landscape of interracial marriage in the decade.

### **Chapter Outlines**

The 1920s functions as a unique backdrop for understanding interracial marriage in the United States. Chapter 1 explores the legal, social, and cultural contexts of the 1920s that led to an increase in anti-miscegenation sentiments among the mainstream American population. Through the examination of the arguments made by opponents and supporters of interracial marriage and the couples themselves, I argue that the political, social, and cultural climate of the 1920s led to increased activism for and against anti-miscegenation measures.

Chapter 2 delves into the relationship between Mabel Emeline Puffer and Arthur Garfield Hazzard. This interracial relationship was prevented by a conjoined effort of the state government and family of Mabel Puffer. Through the various legal battles endured by the couple, I argue that the fears of interracial marriage perpetuated by far-right groups resulted in increased opposition to interracial marriage at the individual, family, and community level.

Chapter 3 covers five annulment cases brought to the court to dissolve marriages between Black and white individuals. I argue that whiteness was protected through safeguarding the property of white spouses in the annulment process and by other legal means. Although not all of the following cases involved white women specifically, it is also clear that women, regardless of their new political rights, were still seen as weak and in need of protection by family members in annulment suits. However, annulments typically were not granted by the courts, suggesting that the judicial system supported interracial marriage in some cases.

The debates over interracial marriage in the 1920s intensified as mainstream conservative ideologies coincided with increased racial discrimination and a small minority of activists supported the cause in outspoken ways that was met with opposition by the majority.

### **Notes on Terminology**

There are several terms that I utilize throughout this thesis that need to be clarified for the benefit of the reader.

**Amalgamation:** The earliest laws preventing interracial marriage in colonial America and the early United States were termed anti-amalgamation laws. I use the term

“amalgamation” as historical actors used it to refer to interracial relationships in the antebellum era. However, this term fell out of the lexicon and was rarely used by individuals in the 1920s.

**Miscegenation:** In an effort to not confuse metal working and intimate relationships, a new word was created in the mid-nineteenth century to describe interracial relationships: miscegenation. The term is considered pejorative because it was created by white supremacists who disparaged such relationships. I use the term in quotations when necessary to provide the exact phrasing of historical actors. I also use the term when referencing legislation as “anti-miscegenation laws.” This usage is common among historians studying interracial relationships and is not intended to be discriminatory toward such relationships.

**Social Equality:** This term was utilized in the early 20th century as coded language for interracial marriage. I use the term interchangeably.

**Marriage:** State-sanctioned nuptials fall under the category of marriage for the purposes of this study. Common-law marriages are not considered in this study as most jurisdictions do not recognize them.

## Chapter 1: Setting the Stage

This chapter outlines the legal, political, and cultural context of the 1920s that helped breed opposition to interracial marriage in the United States as well as efforts to support couples' freedom to marry across racial lines. First, I will explore the legal and social nature of marriage in the United States as a unique institution. Then I will examine the origins of the veiled terms used to denote interracial marriage as an undesirable union and the state laws that were created to prohibit such marriages. Next, I will identify the cultural moments that shaped the conservative ideologies that gave rise to anti-miscegenation legislation and I will assess the impact that politics had on culture and vice versa. Finally, I will shed light on a small group of outspoken individuals who ardently opposed anti-miscegenation legislation and their various organizations.

Marriage in the United States has a long, complex history that can be understood both legally and socially. Although federal, state, and local laws police who can marry and at what age they may do so, society influences what laws are instituted and ensures that social norms are adhered to. Thus, marriage and the family are controlled under both legal and social guidelines.

Historian Nancy Cott has noted that marriage in the United States is unique because the government does not have a national church, as dictated by the Constitution.<sup>11</sup> However, the nation's social pressures pushed for monogamous, Christian, and intraracial marriages to be the norm. Marriages that did not fit into this

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<sup>11</sup> Nancy Cott, *Public Vows: A History of Marriage and the Nation*. (Cambridge: Harvard University Press, 2000), 6.

vision were outlawed, ostracized, or met with physical violence. This is particularly true for interracial marriages in the United States.

The first anti-miscegenation law in early America was passed by the Maryland General Assembly in 1691 to control sex and marriage between the enslaved Black population and the free white population. This ensured that racial slavery was upheld as it prescribed distinct differences between white and Black colonists and did not permit the conception of children that fell “in-between” as it would blur the line between white and Black. The law was considered an anti-amalgamation law at the time and did not include the word “miscegenation.” Rather, it utilized the term “amalgamation” that was commonly used to refer to interracial relationships.

Coded terms such as “amalgamation” and “social equality” were commonly used to refer to interracial marriages in the 17th, 18th, and early 19th centuries. However, a new term, “miscegenation” would soon be embedded in the lexicon of the nation.

In December of 1863, a pamphlet was published titled *Miscegenation: The Theory of the Blending of the Races, Applied to the American White Man and Negro*. It was sold at newsstands throughout the United States for 25 cents.<sup>12</sup> Anonymous anti-abolitionists who opposed Abraham Lincoln in the 1864 Presidential election created the pamphlets to produce fear among the white electorate of interracial intimacies, particularly between white men and Black women. The term “miscegenation” was coined to define relationships between two individuals of different races. Additionally, the term “melaleukation” was invented “to express the idea of the union of the white and black

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<sup>12</sup> Sidney Kaplan, “The Miscegenation Issue in the Election of 1864,” *Journal of Negro History* 34, no. 3 (1949): 277, <https://doi.org/10.2307/2715904>.

racess” more specifically.<sup>13</sup> However, the latter term failed to gain traction while the former term became the new word for “amalgamation” or interracial intimacies.

Although Lincoln ultimately won the 1864 presidential election, “miscegenation” continued to produce fears among some white Americans, and so-called miscegenation laws (or anti-miscegenation laws) were enacted to bar interracial marriage on the state level nationwide. Shortly after the presidential election, in 1865, thirty-two states had miscegenation laws that outlawed marriage between Black and white individuals. The number of states that had enforceable miscegenation laws ebbed and flowed over the course of the late nineteenth century.<sup>14</sup>

By 1900, only 26 states had miscegenation laws. However, new anti-miscegenation legislation would be introduced in state legislatures throughout the United States in the early twentieth century.

In *What Comes Naturally*, Peggy Pascoe notes that the interracial marriage between Jack Johnson, a Black boxer, and Lucille Cameron, a white woman, in 1912 was marred by scandal that “cast Jack Johnson as a symbol of dangerously predatory black male sexuality and Lucille Cameron as the picture of innocent white womanhood.”<sup>15</sup> The scandal consequently played out in 11 state legislatures and Congress as legislators attempted to pass anti-miscegenation legislation in states that had never had such laws. Ohio, Illinois, Pennsylvania, and New York were of particular interest for lawmakers, as

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<sup>13</sup> *Miscegenation: The Theory of the Blending of the Races, Applied to the American White Man and Negro*, 1864, David G. Croly, Alfred Whital Stern Collection Of Lincolniana, and Joseph Meredith Toner Collection, Library of Congress. <https://www.loc.gov/item/05009520/>.

<sup>14</sup> Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2010), 29.

<sup>15</sup> *Ibid*, 165.

they were the four Northern states with the largest Black populations.<sup>16</sup> The NAACP took part in defeating the proposed anti-miscegenation legislation in Kansas, Michigan, and New York as well as Washington D.C. In fact, in all states that the NAACP campaigned in, the laws were not enacted.

Waves of miscegenation laws would continue being introduced throughout the northern states and Washington D.C in the following decade. In 1924, Virginia passed the Racial Integrity Act that functioned to both identify the racial make-up of its population and prevent interracial marriage. The law provided guidance on how mixed-race individuals should be categorized and it labeled individuals based on their parentage. For example, a child of a Black man and a white woman would be termed “mulatto,” while the child of a mulatto man and a white woman would be classified as “quadroon.” It was punishable by law to lie on one’s race registration and the legislation stipulated that “the clerk must also decide the question of color before he can issue a marriage license,” creating an anti-miscegenation clause in the law.<sup>17</sup>

By 1927, the number of states with miscegenation laws on the books had risen to 30, a concerning increase, particularly when combined with the strength of far-right groups, like the KKK. Additionally, in 1927, 8 states saw new anti-miscegenation legislation introduced. However, like the previous 1913 wave of legislation, each bill was successfully defeated, in part due to the power and influence of the NAACP. In any case, while some laws also policed sex, as well as relationships between other races, Black and white interracial marriage was the target of each anti-miscegenation law.

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<sup>16</sup> Ibid, 167.

<sup>17</sup> “Silly Virginia Law Tells When White Is Not White,” *Chicago Defender* (City edition). July 5, 1924.

Although the scandal surrounding Jack Johnson and his white bride undoubtedly stirred the white American consciousness against interracial marriage, it does not fully account for the increase of anti-miscegenation legislation introduced in the subsequent decade. What other circumstances led to the increased introduction of anti-miscegenation legislation in state legislatures over the course of the 1920s?

First, the Progressive Era of the previous decade gave way to a desire for “a return to normalcy” resulting in increasingly conservative political and cultural ideologies promoted by the Harding-Coolidge campaign in 1920.<sup>18</sup> Both law and mainstream culture in the United States were greatly affected by the events of the previous decade. The idealistic nature of President Wilson at the close of World War I, combined with the collapse of progressivism, paved the way for conservative ideas to take hold of the American populace. Cultural milestones were shaped by political sentiments, just as conservatism was influenced by culture. For example, in 1915, President Wilson screened a now infamous film, *The Birth of a Nation*, the first film to be screened in the White House. The film romanticized the antebellum South and the “heroic” actions of the Ku Klux Klan. The film not only promoted vigilante violence but also promoted the myth of the predatory Black man and the delicate innocence of white women. By deciding to show the film in the White House, Wilson’s administration associated itself with the racist and anti-miscegenation rhetoric professed by the film.<sup>19</sup>

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<sup>18</sup> David Joseph Goldberg, *Discontented America: The United States in the 1920s* (Baltimore: Johns Hopkins University Press, 1999), 46.

<sup>19</sup> D. W. Griffith, Harry E. Aitken, Lillian Gish, Henry B. Walthall, Mae Marsh, Miriam Cooper, Robert Harron, et al. *The Birth of a Nation* (Chatsworth, California: Image Entertainment [distributor], 1998).

The film depicts a number of Black and mixed individuals (some of which are white actors in blackface) as the antagonists of the film while portraying white klansmen as saviors of the white race. Two mixed-race characters, Silas Lynch and Lydia, were characterized as irredeemably evil and were utilized to symbolize “the dangers of racial mixing.”<sup>20</sup> The Boston branch of the NAACP fought against the rhetoric professed by the film and noted that “the alleged sensual character of” Lydia was “emphasized” to demonstrate the “immoral” nature of interracial relationships.<sup>21</sup> Silas Lynch, “the black lieutenant-governor” who aimed “to create a black empire of his own” was villainized because he attempted to engage in a “forced marriage” with Elsie, Austin Stoneman’s daughter. Further, this is not the only case of blatant anti-miscegenation rhetoric in the film. Another of the film’s villains, Gus, was a Black man who expressed the desire to marry a white woman, Flora Cameron. Upon hearing that Gus wished to marry her, Flora ran away and ultimately jumped off a cliff to escape Gus and her fear of interracial marriage. Thomas Dixon, the creator of the play that the film was based on, reportedly said in an interview that “one purpose” of representing interracial marriage in this way “was to create a feeling of abhorrence in white people, especially white women against colored men.”<sup>22</sup> Thus, these instances of attempted interracial marriage on the part of the Black characters in the film promoted stereotypes of Black men as predators towards white women. In doing so, the film also instilled a greater fear of interracial intimacies throughout white households and governing bodies.

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<sup>20</sup> Melvyn Stokes, *D. W. Griffith’s The Birth of a Nation: A History of “The Most Controversial Motion Picture of All Time”* (New York: Oxford University Press, 2007), 217.

<sup>21</sup> Gerald Mast, *The Movies in Our Midst: Documents in the Cultural History of Film in America* (University of Chicago Press, 1982), 128.

<sup>22</sup> Mast, *The Movies in Our Midst*, 128.

Over time, Griffith's film toughened cultural attitudes toward interracial relationships. This cultural shift, in conjunction with an increase in anti-miscegenation legislation, prompted the Motion Picture Producers and Distributors of America (MPPDA) to advise production companies to avoid depictions of "miscegenation" in movies.<sup>23</sup> This guidance, issued 12 years after the release of *Birth of Nation*, demonstrates the film's lasting effect on attitudes towards interracial relationships and how it affected the social respectability of interracial marriage, in turn affecting the laws that regulate marriage.

Other far-right rhetoric was rampant during this period. Lothrop Stoddard, an American historian, political scientist and white supremacist, published *The Rising Tide of Color Against White World-Supremacy* in April 1920. The book was published in response to fear induced by increased immigration and interracial intimacies that arose over the course of the late nineteenth and early twentieth centuries. Although Stoddard's previous works noted that "the 'conflict of color'" is the "fundamental problem of the twentieth century," Stoddard brought that idea into starker relief in the 1920 work.<sup>24</sup> Written after World War I, or "the Great War," Stoddard focused upon his fear that the war had "rendered" "revolutionary ... possibilities" for people of color around the world to dismantle white power structures.<sup>25</sup> Thus, Stoddard's work served as a call to action for any white Americans interested in maintaining current white supremacist power structures, including anti-miscegenation laws.

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<sup>23</sup> Mast, *The Movies in Our Midst*, 213.

<sup>24</sup> Lothrop Stoddard, *The Rising Tide of Color Against White World-Supremacy* (New York: Scribner, 1920), v.

<sup>25</sup> Lothrop, *The Rising Tide of Color Against White World-Supremacy*, vi.

Stoddard's work was easily accessible, celebrated among white Americans, and even made an appearance in the decade's most famous novel, *The Great Gatsby*, written by F. Scott Fitzgerald. Tom Buchanan, a wealthy hyper-masculine character in Fitzgerald's work, references *The Rising Tide of Color* early in the novel. Buchanan regards it as "a fine book" that "everybody ought to read."<sup>26</sup> He further promotes the book by stating that it is "all scientific" and endorses the message provided by Stoddard: "It's up to ... the dominant race, to watch out or these other races will have control of things."<sup>27</sup> Buchanan further parrots the words professed in *The Rising Tide of Color* and attempts to convince the other characters present in the scene (Nick, Daisy, and Jordan) that the "Nordics ... produced all the things that go to make civilization."<sup>28</sup> Even though Buchanan has rudimentary knowledge of the book, incorrectly identifying the author as "Goddard" and providing an incorrect title of the work, Buchanan's endorsement of Stoddard demonstrates the pervasive nature of Stoddard's ideas in the 1920s.<sup>29</sup> Thus, within the five year period of the publication of *The Rising Tide of Color* and the publication of *The Great Gatsby*, the conservative, xenophobic, and racist sentiments expanded upon by Stoddard leaked into the mainstream culture of the 1920s.

In *The Second Coming of the KKK*, Linda Gordon explores the rise of the second iteration of the Ku Klux Klan and suggests that unlike the first iteration in the Reconstruction-era South, the second KKK was a significant part of mainstream culture in the early 1920s as the Klan was more public-facing than its predecessor. Klan

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<sup>26</sup> F. Scott Fitzgerald, *The Great Gatsby* (Richmond: Alma Classics, 2012), 17.

<sup>27</sup> Ibid, 17.

<sup>28</sup> Ibid, 17.

<sup>29</sup> Ibid, 17.

members organized fairs and other celebrations in the public eye, not only in the South, but throughout the United States. The approval of the KKK outside of the southern US was possible because the Klan was no longer primarily concerned about newly freed Black Americans, but shifted its focus to other popular nativist sentiments espoused at the time. For example, the state of Oregon had an abundance of Klan activity that centered upon anti-Catholicism rhetoric. Gordon notes that “Protestant” sometimes became synonymous with “white” suggesting that those who were Catholic were not considered “white.”<sup>30</sup>

Thus, the second iteration of the KKK was not only concerned with recently freed Black Americans, but also immigrants, particularly from Eastern European countries, many of whom were Catholics. In addition to the cultural power of the second KKK, it also held political power that resulted in new immigration restrictions.

The KKK supported increased restriction of immigration, especially as it pertained to Eastern European immigrants. In 1921, Congress passed the Emergency Quota Act to put caps on the number of immigrants that were permitted to enter the United States from particular countries. This legislation ended the “open door” immigration policy and set a maximum number of immigrants permitted per year to 357,000. President Harding signed the bipartisan bill to the delight of nativists, including members of the second KKK.

Although the legislation still permitted immigrants from “less desirable” countries, Niall Palmer has noted that by setting the 1910 census information as the

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<sup>30</sup> Linda Gordon, *The Second Coming of the KKK: the Ku Klux Klan of the 1920s and the American Political Tradition* (New York: Liveright Publishing Corporation, 2017), 28.

“benchmark” for immigration quotas, “The act’s sponsors tried to ensure that northern and western European nations, containing high concentrations of white Protestants, would continue to take the lion’s share of the new quota allocations.”<sup>31</sup>

Further restrictions were placed on immigration in 1924, when another immigration act, known as the Johnson-Reed Act, was passed by Congress and signed into law by President Coolidge. The Johnson-Reed Act was named after “Washington Klansman Albert Johnson in the House and Pennsylvania’s David Reed in the Senate.”<sup>32</sup> The differences between the 1921 law and the 1924 law are subtle, but significant. First, the 1921 law calculated the quotas based on the 1910 census while the 1924 law calculated quotas from the 1890 census. This difference resulted in proportionally greater numbers of northern and western European immigrants migrating, rather than eastern European immigrants. Second, the 1921 law stipulated 3% immigration while the 1924 law lowered the percentage to 2%. Thus, fewer people were permitted to immigrate from Europe altogether. Third, the quota proportions were no longer based on the number of immigrants in the United States, but the population as a whole, including native born Americans. As a result, the quotas for the British Isles and Western Europe increased while newer immigrant groups from southern and eastern Europe saw their quotas decrease dramatically. Fourth, the 1924 Immigration Act reduced the number of immigrants allowed into the United States to 150,000, less than half of the number permitted under the 1921 law.

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<sup>31</sup> Niall A. Palmer, *The Twenties in America Politics and History* (Edinburgh University Press, 2006), 42.

<sup>32</sup> Gordon, *The Second Coming of the KKK*, 195.

However, although the bill was now a law, it was not implemented until 1929 as “the first two reports submitted by the Quota Board were criticized by organizations representing Irish, German, and Scandinavian Americans for failing to take their populations fully into account.”<sup>33</sup> Nonetheless, the passage of more restrictive immigration legislation demonstrates that the fears promoted by the KKK and other far-right groups pervaded the national political consciousness. Although the KKK was not solely responsible for the passage of the 1924 act, “Klan propaganda surely strengthened racialized anti-immigrant sentiments both in Congress and among the voters.”<sup>34</sup>

In addition to nativists’ fears, the country was wracked with the fear of communism. After the Bolshevik Revolution of 1917, the Communist Party in the United States was viewed as highly suspect by the federal government. In one of the largest violations of political freedom, the federal government, led by Attorney General A. Mitchell Palmer, launched a series of raids against suspected communists in 1919 and 1920, known as the Palmer Raids. One of those radicals, Emma Goldman, a Russian-born anarchist, was banished due to her associations with the Communist Party. In November of 1919, over 200 radical leftists were arrested on suspicion of conspiring to bomb Palmer’s home earlier that same year. And in early January of 1920, 6000 foreign-born radicals were arrested in a nationwide round-up of “reds” and many were deported.<sup>35</sup> Palmer and other anti-communists warned the government of their fears that an attack would occur against federal officials on May Day. However, Palmer’s warnings proved

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<sup>33</sup> Mae M Ngai, “The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924,” *The Journal of American History* 86, no. 1 (1999): 68.

<sup>34</sup> Gordon, *The Second Coming of the KKK*, 195.

<sup>35</sup> Palmer, *The Twenties in America Politics and History*, 13.

groundless when no such tragedy occurred on May 1st, 1920. The following year, the Senate Judiciary Committee held hearings to investigate the legality of Palmer's raid tactics and subsequent deportations of suspected communists. Taken together, the actions of Palmer and the federal government evidence the hysteria surrounding not only communism but other forms of leftist ideologies. Therefore, the United States in the 1920s was increasingly conservative both politically and culturally – the perfect breeding ground for anti-miscegenation laws to take hold.

Even though most of the residents of the United States were more conservative than the previous decade, the fight against communism also demonstrates that there were leftists, such as communists, who fought for more equitable practices and laws. Other organizations, such as the National Woman's Party (NWP) and the National Association for the Advancement of Colored People (NAACP) also fought against the rising tide of anti-miscegenation sentiments. Two women in particular, Charlotte Anita Whitney and Edith Houghton Hooker, had close associations with all three groups and were outspoken in their quest for "social equality." Both women have been of interest to historians studying the ratification of the Nineteenth Amendment. Additionally, Whitney has been the subject of numerous historical works for her ties to the Communist Labor Party and her arrest on syndicalism charges in 1920.

After the militant suffragettes of the National Women's Party won the fight for women's suffrage with the passage and ratification of the 19th amendment, some newly enfranchised women expanded their political pursuits to other worthwhile causes. While the leader of the NWP, Alice Paul, was writing and advocating for the Equal Rights

Amendment, Whitney became involved in the Communist Labor Party and NAACP and Hooker continued her work with the Just Government League of Maryland.

Charlotte Anita Whitney is best known for the 1920 syndicalism trial, *Whitney v. California*, in which Whitney was accused of aiding the establishment of the Communist Labor Party of America after she gave a speech to the Oakland Civic Club.<sup>36</sup> The case was ultimately brought before the Supreme Court in 1927 where the decision was upheld. According to the Court, Whitney and other radicals presented a “clear and present danger” to the United States, making their First Amendment right to free speech void.<sup>37</sup> This case set a precedent for other matters concerning the limits of the First Amendment until 1969, when the court overturned *Whitney* with its decision in *Brandenburg v. Ohio*.

When the Federal Bureau of Investigation was investigating Whitney and other radicals associated with the Communist Labor Party, they unearthed documents that tied Whitney’s political beliefs to another organization: the National Association for the Advancement of Colored People (NAACP). Documents seized by the FBI included correspondence between Whitney and the NAACP. The FBI was fearful that the Communist Labor Party, through activists like Whitney, was “spreading its propaganda among the colored race” and causing “race strife.”<sup>38</sup> The documents included a receipt of

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<sup>36</sup> There are several works on the subject. See Lisa Rubens, "The Patrician Radical: Charlotte Anita Whitney," *California History* 65, no. 3 (1986): 158-171.; Woodrow C. Whitten, "Trial of Charlotte Anita Whitney," *Pacific Historical Review* 15, no. 3 (1946): 286-294.; Beth Suzanne Slutsky, *Three Generations of American Communist Women: Charlotte Anita Whitney, Dorothy Ray Healey, and Kendra Alexander, 1919–1992* (University of California, Davis, 2008).; Haig A. Bosmajian, *Anita Whitney, Louis Brandeis, and the First Amendment* (Fairleigh Dickinson University Press, 2010).

<sup>37</sup> *Whitney v. California*, 274 U.S. 357 (1927).

<sup>38</sup> Casefile OG 371936: Charlotte Anita Whitney and Mary White Ovington, Correspondence, Communist Labor Party and National Association for the Advancement of Colored People, California and New York, Federal Bureau of Investigation, 1919. Jan 1, 1919 - Dec 31, 1919; RG 65 Federal Bureau of Investigation, Old German Files; Federal Surveillance of Afro-Americans (1917-1925): The First World War, the Red

Whitney's \$5 donation to the NAACP, copies of NAACP pamphlets that Whitney had intended to distribute, and letters between NAACP members and Whitney.

Upon the founding of the NAACP in 1910, the organization had many matters it considered the utmost importance such as job discrimination, racial violence, and political rights. However, the rise of anti-miscegenation legislation in state legislatures due to the Jack Johnson scandal and the growing negative sentiments towards interracial marriage prompted the NAACP to take more immediate action against such legislation. W.E.B. Du Bois, a founding member of the NAACP, stated in *The Independent*, "the mingling of blood between white and black and yellow races is neither 'unnatural' or physically deleterious ... I believe that all so-called 'laws against intermarriage' are simply wicked devices to make the seduction of women easy and without penalty, and should be forthwith repealed."<sup>39</sup>

The deluge of anti-miscegenation legislation introduced in 1913 was met with strong opposition from the NAACP. The organization worked to create branches in states that had anti-miscegenation legislation introduced in their state legislatures. For example, the newly created branch in Kansas began lobbying against an anti-miscegenation bill "before it even elected its first officers."<sup>40</sup> The campaign against the 1913 state legislatures was successful as no state enacted new anti-miscegenation legislation.

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Scare, and the Garvey Movement; [retrieved from ProQuest History Vault at <https://congressional.proquest.com/histvault?q=001360-012-0481&accountid=452>, April 8, 2022].

<sup>39</sup> W.E.B Du Bois, "Extract from 'Marrying of Black Folk,'" clipping, fr. 918, 916, Part II, Series B, Reel 2, NAACP-MF, quoted in Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2010), 169.

<sup>40</sup> Pascoe, *What Comes Naturally*, 171.

However, the onslaught continued from 1913 until 1929 and the NAACP continued to fight against the passing of anti-miscegenation bills.

In 1926, Whitney was still heavily involved in leftist activism even while she awaited the outcome of the 1927 Supreme Court decision in her syndicalism trial. In February, Whitney made a speech to the California Branch of the National Woman's Party in celebration of Susan B. Anthony's birthday. She proclaimed that women should be able to pick their spouses, regardless of race. Although most of the women she was speaking to were white, she directly noted the plight of Black women in her speech. She noted that Black women, in particular, faced the brunt of discrimination in anti-miscegenation laws: "our laws forbidding the intermarriage of negroes and whites reduce the colored girl to the position of a dog without the respect which should be accorded to human beings and without redress of wrong accorded the white woman."<sup>41</sup> These words echoed sentiments made by the NAACP years prior: "in states where such law exists, its only result is to degrade the women of the defenseless colored race."<sup>42</sup>

These sentiments were borne out of the interracial intimacies that were most common during the antebellum period: those between enslaved Black women and slave-owning white men. These interracial intimacies were particularly concerning because they were inherently unconsensual and one-sided. In these cases, Black women were

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<sup>41</sup> Several newspapers published Whitney's speech. See "Miss Whitney Attacks Bar to Mixing Races," *Los Angeles Times (1923-1995)*, February 17, 1926, 7.; "White Women Favor Race Mixing: Flay Mixed Marriage Laws," *Chicago Defender (National Edition) (1921-1967)*, March 6, 1926, 1.; "Charlotte Anita Whitney," *Pittsburgh Courier*, March 6, 1926, 16. "Southern Mixed Marriages," *Winnipeg Tribune*, March 8, 1926, 4. "Would Ban Law on Marriage of Races," *Times Record News*, February 17, 1926, 4.

<sup>42</sup> NAACP to Chairman of California Senate Committee on Education, March 3, 1912, fr. 935, Part II, Series B, Reel 1, NAACP-MF as quoted in Peggy Pascoe, *What Comes Naturally: Miscegenation Law and the Making of Race in America* (New York: Oxford University Press, 2010), 171.

defenseless against their white owners and unwanted sexual advances. In the 1920s, laws barring interracial relationships served to “degrade” Black women that were seemingly fit to be raped by white men, but not to be married to white men. In essence, southern states with anti-miscegenation laws attempted to prevent interracial relationships that had been forced on the Black women for centuries when marriage could serve to better the socio-economic standing of those women.

Whitney’s association with the NAACP was reflected in the similar statements made by both Whitney and the NAACP concerning the consequences of anti-miscegenation laws for Black women in particular. Whitney’s public assertions to a group of activism-minded white women disseminated the cause for “social equality” beyond the traditional perimeters of the NAACP. The fifty NWP members present for Whitney’s speech applauded her words. However, the circulation of such ideas was not limited to the relatively small number of women present for the speech. No fewer than five newspapers reported on the speech made by Whitney. It was not surprising that some newspapers, such as the *Los Angeles Times* and the *Chicago Defender*, covered the story as the papers had a vested interest in the subject of Whitney’s speech. For example, the *Los Angeles Times* strived to report on local and state news while the *Chicago Defender* reported news that applied to the Black community nationally. However, less likely newspapers, including the *Winnipeg Tribune* in Winnipeg, Canada, also published the story and portions of Whitney’s speech. Thus, Whitney’s words reached a larger audience than the fifty women in attendance. This fact has been overlooked by scholars who study Whitney.

It is unclear whether Edith Houghton Hooker, a prominent member of the NWP, was among the fifty women in attendance. However, it is clear that Hooker held similar opinions about interracial marriage. In 1922, four years before Whitney's speech, Hooker found herself in trouble at the Maryland State Senate. Several state senators recommended that Hooker be barred from entering the state Capitol on February 22, 1922 on account of her "radical" and "red" ideas about interracial marriage.<sup>43</sup> A few days prior to this request by the state senators of Maryland, Hooker made a speech before the Just Government League in Baltimore. The Just Government League was founded by Hooker in 1907 to advocate for women's suffrage in the state of Maryland before she became involved with the NWP in 1917. After the passage of the nineteenth amendment, the Just Government League adjusted its agenda to fight for equal rights for women, notably a law that would allow women to run for state office. Outside of this new agenda item, Hooker also promoted causes like "social equality." Hooker's speech to the Just Government League suggested that the race of two individuals wishing to marry was not important. Rather, marriage should be founded on the love between two individuals as "too often ... marriages are founded on considerations which have little to do with love," such as familial wealth and property.<sup>44</sup>

Unlike Whitney, Hooker did not have close associations with the Communist Labor Party or the NAACP. However, the characterization of her political beliefs as "radical" and "red" by Maryland state senators demonstrates that ideas of "social

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<sup>43</sup> "Maryland Lady's Views Disregarded with Disfavor," *The Monitor*, March 3, 1922, 1.

<sup>44</sup> *Ibid.*

equality” and leftist organizations were inextricably linked in the 1920s.<sup>45</sup> Thus, a small minority of activists advocated for companionate interracial marriage and against restrictive anti-miscegenation laws during a period which has largely been considered conservative.

This chapter aimed to set the stage for the fights that occurred over interracial marriage in the 1920s. Although anti-miscegenation laws in the United States have a long history that began before the nation had even become a nation, the term “miscegenation” was created in the mid-19th century to aggravate racial tensions in the antebellum era. The term was littered throughout legislation prohibiting interracial marriages and was expressly addressed in American film and culture. Far-right groups such as the KKK bridged the gap between mainstream American culture and conservative political movements of the 1920s, actively promoting racist and exclusionary policies, including immigration restrictions. Increased xenophobia and racism in the 1920s marked a period in which the ideal marriage was between a man and woman of the same race. However, pockets of leftist activism still existed and actively fought against anti-miscegenation legislation. Subsequent chapters will focus on several couples who did, or attempted to, marry across the color line.

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<sup>45</sup> Ibid.

## Chapter 2: Mabel Puffer and Arthur Hazzard: Love over Property?

In this chapter, I argue that state governments interfered in legal interracial partnerships on behalf of white families to protect white womanhood and property. At the same time, though, some news organizations and individuals worked to advocate on behalf of women who wished to marry across the color line and served as activists promoting interracial marriage. These arguments are best exemplified by the tumultuous relationship between Mabel Emeline Puffer, a white woman, and Arthur Garfield Hazzard, a Black man, and the various legal battles the two endured from 1919 to 1921.

### Courtship

In 1919, the interracial relationship between a wealthy white woman, Mabel Emeline Puffer, and a working-class Black man, Arthur Garfield Hazzard, was highly publicized and riveted the public both locally and nationally. The two met in 1904 when Hazzard worked as a “choreman” for Puffer and her father at their estate in Ayer, Massachusetts,<sup>46</sup> Although they had known each other for many years, Mabel and Arthur did not begin a romantic relationship until after the death of Mabel’s father in 1916.<sup>47</sup> Mabel had other living relatives at the time, but she was not close to any of them. In fact, her only living family members “a cousin ... a half-niece, and two half-nephews”

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<sup>46</sup> Many newspapers identified Arthur Hazzard as a “choreman.” See William J. Robinson, “Honey So Different, Says Miss Puffer,” *Boston Globe*, June 23, 1919, 2 and “Plan Legal Steps to Stop Wedding,” *Boston Globe*, June 20, 1919, 1.

<sup>47</sup> There is some conjecture on this point. Ann Hagedorn speculated that “the courtship had begun – possibly years before the deaths of Puffer’s parents.” If the two were romantically involved before the death of Mabel’s father, it was not a public relationship. Ann Hagedorn, *Savage Peace: Hope and Fear in America, 1919* (New York: Simon and Schuster, 2007), 252.

allegedly had not visited or contacted her since her father's funeral.<sup>48</sup> Mabel was reported to be a recluse who "stayed indoors most of the time" and her neighbors noted that they saw her infrequently.<sup>49</sup> Hazzard frequently visited Mabel as a part of his work duties, but also for personal reasons. As Mabel was not close to her living relatives, nor frequented social events, Hazzard was her closest confidant and soon the two fell in love. In February of 1919, the two agreed to marry in June of the same year.

Because Mabel's father had no other children and her mother had died years prior, Mabel inherited her father's full estate including \$15,000 in cash and "considerable" property in the town of Ayer and a summer home at Sandy Pond valued at \$18,000 upon his death.<sup>50</sup> In 2022, this equates to over half a million dollars in purchasing power. As Mabel was considered "a woman of wealth and refinement," her race and property accumulation firmly placed her in a different caste than Arthur.<sup>51</sup> Regardless, there appeared to be very few legal barriers preventing Puffer and Hazzard from marrying. Massachusetts did not have an anti-miscegenation law in 1919 as the state had repealed its anti-miscegenation statutes in 1843.<sup>52</sup> Additionally, because Mabel was a practitioner of Christian Science, she wished to marry in New Hampshire, one of seven states that never adopted anti-miscegenation legislation.

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<sup>48</sup> Hagedorn, *Savage Peace*, 252.

<sup>49</sup> "Plan Legal Steps to Stop Wedding," *Boston Globe*, June 20, 1919, 1-5.

<sup>50</sup> "Two Friends of Mrs. Mabel E. Puffer Have Gone to Concord, NH," *Boston Globe*, June 19, 1919, 1.

<sup>51</sup> *Ibid.*

<sup>52</sup> Although Massachusetts did not prevent residents of the state from marrying across the color line, a 1913 law targeted interracial couples who traveled to the state to elope as it prohibited marriages that were not permitted in the state in which the couple resides. For example, if interracial marriage is not permitted in Virginia, a Virginia couple could not travel to Massachusetts to be married as the marriage would not be recognized. This law was not officially repealed until 2008 when it was found that the law was being applied to disallow the marriage of gay couples. *Mass. Gen. L. ch. 207, § 11.*

On June 16, 1919, the couple traveled about fifty miles north from Ayer, Massachusetts to Concord, New Hampshire and paid for two rooms at the Phenix hotel.<sup>53</sup> After they checked in and dropped off their luggage, Mabel and Arthur walked down the street to apply for the marriage license with the city clerk, Henry E. Chamberlin. All that was left to do was to endure the five-day waiting period until they could be legally wed.

However, during this five-day period, a series of events happened which resulted in the end of the couple's engagement and the arrest of both Mabel and Arthur. First, the couple had difficulty in finding an officiant for their wedding. Although New Hampshire had no anti-miscegenation laws, the public mood surrounding interracial marriage was tumultuous at best. Several individuals declined officiating the couple's nuptials including Henry Chamberlin. Many clergymen had also made a united decision to not marry the couple. The Mayor of Concord, Charles J. French was willing and able to officiate the wedding, but a last-minute obligation required him to go out of town on the day of the wedding. Ultimately, the Justice of the Peace, John M. Stark, offered to perform the ceremony. The wedding was scheduled for nine in the morning on June 21st in the parlors of the Phenix hotel.

The abundance of religious and governmental officials who refused to wed the couple demonstrates the discriminatory attitude toward such relationships, even in a state that had never had an anti-miscegenation statute. On the flip side, the willingness of Charles J. French and John M. Stark to marry the two illustrates that not all prescribed to

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<sup>53</sup> The hotel is sometimes referred to as the "Phoenix Hotel" in newspapers. See "Miss Puffer and Hazzard Arrested," *The Boston Globe*, June 21, 1919, 1-5.

prejudice against interracial marriage. In fact, some outright supported interracial marriage.

Second, many news reporters flocked to the Phenix hotel in hopes of interviewing the couple. In the beginning, both Arthur and Mabel were amenable to the various reporters stationed at the hotel. The couple agreed to an interview with a *Boston Globe* reporter, demonstrating their willingness to engage with the press. Over the course of the interview, Arthur repeatedly expressed his love for Mabel and Mabel did the same, referring to her fiancé as “Honey.”<sup>54</sup> However, the interview quickly shifted tone when Hazzard was “asked if the rumor that Miss Puffer bought the light suit he had on was true.”<sup>55</sup> Hazzard replied, “Certainly not. I bought it myself ... I never got money from her.”<sup>56</sup> Mabel also responded to these rumors by stating, “I am not a rich woman ... the talk about Mr. Hazzard marrying me for my money, that’s all bosh.”<sup>57</sup> The gossip circulating about Mabel’s financial affairs and her upcoming marriage prompted family members, friends, and Mabel’s own attorney to express concern over her relationship with Arthur Hazzard.

Third, Catherine Hirsh and George L. Wilson visited Mabel together to persuade her to not marry Arthur on June 17. Hirsh and Mabel attended Emerson College of Oratory together from 1890 to 1893 while Mabel was completing a three-year degree. The founder of the school, Charles Wesley Emerson, was Unitarian until the turn of the

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<sup>54</sup> The usage of the name “Honey” was both a term of endearment and the “nickname he is generally called in Ayer” in reference to his skin tone. “Two Friends of Mrs. Mabel E. Puffer Have Gone to Concord, NH,” *Boston Globe*, June 19, 1919, 1.

<sup>55</sup> “Two Friends,” 1.

<sup>56</sup> *Ibid.*, 8.

<sup>57</sup> *Ibid.*

20th century when he converted to Christian Science. Scholar Ann Hagedorn has noted that the shift in religious denomination was not at all “a dramatic deviation” as the two religions both believed spiritualism to be more pertinent than materialism.<sup>58</sup> Both Hirsh and Mabel adopted Christian Science during their time at the university.

Their shared religious beliefs was Hirsh’s main tool to persuade Mabel to end her engagement to Arthur. Hirsh first appealed to Mabel by suggesting that the couple would be “ostracized” because of their racial and class differences.<sup>59</sup> However, Mabel defended her choice to marry Arthur through the same religious beliefs. Mabel asserted that racial differences between herself and Arthur were of no concern as “materialism is nothing ... it is the spirit always” and Christian Science gave her the “right ... to marry a black man or a red man or a yellow man if she pleases.”<sup>60</sup> Thus, Mabel only wished to marry the man she loved regardless of racial categories. Seemingly unsatisfied with Mabel’s response, Hirsh offered to drive Mabel back to her home, but Mabel refused and remained at the Phenix Hotel.

At the same time, George L. Wilson, the Puffer family’s attorney, visited Mabel. Although it is unclear what the two discussed, later courtroom testimony suggests that they may have discussed Mabel’s religious convictions, as she did with Hirsh. Or they may have spoken about Mabel’s financial situation and how she intended to share her wealth with her fiancé. However, this is all conjecture as Wilson refused to speak to the press, citing attorney-client privilege. Wilson and Hirsh also reportedly sought out a

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<sup>58</sup> Hagedorn, *Savage Peace*, 251.

<sup>59</sup> William J. Robinson, “Hazzard is Held For Grand Jury,” *Boston Globe*, July 15, 1919, 1-6.

<sup>60</sup> “Plan Legal Steps,” 5.

meeting with Arthur in the morning on June 18th, but the subject of the meeting was unknown. At the very least, one can assume Wilson and Hirsh were trying to convince Arthur to end the relationship if Mabel was unwilling to do so.<sup>61</sup>

Fourth, Mabel's niece and nephew, Mrs. Chapman and Henry Blood, visited Concord with their lawyer, John D. Carney, to file an application to appoint a conservator of her estate "on the grounds that she is insane and unable to properly care for her property" as she desired to marry a Black man of lower socioeconomic status.<sup>62</sup> In the evening on June 18th, the relatives met with Mabel to persuade her "to give up the idea of marrying the negro."<sup>63</sup>

The visitations of many individuals who knew Mabel personally and the heavy newspaper coverage of the planned marriage resulted in a concerned citizen bombarding the city clerk with requests to withhold the marriage license under any means necessary.<sup>64</sup> Chamberlin, who had already demonstrated his abhorrence toward interracial marriage, put the citizen in contact with Mabel's relatives who declared "the problem" was handled.<sup>65</sup>

In the end, a combination of Mabel's legal counsel, her relatives, her friends, and concerned citizens convinced the state of Massachusetts in general and Judge Warren H. Atwood in particular to issue arrest warrants for both Mabel and Arthur. The arrests resulted in New Hampshire withholding the marriage license until the legal matters were

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<sup>61</sup> "Two Friends," 1.

<sup>62</sup> Hagedorn, *Savage Peace*, 258.

<sup>63</sup> "Miss Puffer and Hazzard Arrested," *The Boston Globe*, June 21, 1919, 5.

<sup>64</sup> Hagedorn, *Savage Peace*, 258.

<sup>65</sup> Hagedorn, *Savage Peace*, 259.

settled, effectively stopping an interracial marriage that was perfectly legal under Massachusetts and New Hampshire law.

### **Arrest**

Police Chief Beatty of the state of Massachusetts was dispatched to the Phenix hotel in New Hampshire to arrest Mabel and Hazzard on June 20th. Upon arriving in Concord, Beatty reached out to Concord Police Station to secure help from City Marshal Kimball who sent Sergt Christopher L. Wallage to arrest the couple.<sup>66</sup> Because the arrest warrants were issued by Judge Warren H. Atwood of the First District court of northern Middlesex in Massachusetts, the arresting officer was required to have extradition papers to arrest the couple in New Hampshire. However, the arresting officers and Judge Atwood did not comply with this requirement. Thus, both the Concord and Ayer Police Departments were complicit in illegally apprehending two subjects to stop the wedding scheduled for the following morning.

Around five o'clock in the evening, the arresting officers knocked on the door of room 48 of the Phenix hotel to arrest the couple. The arresting officers showed the couple the warrants for their arrest: Mabel was charged with insanity while Arthur was charged with enticement. *The Boston Globe* reported that the two "made no objections to accompanying the officers."<sup>67</sup> The only resistance shown by either was Mabel's assertion that "They'll have to prove" the insanity charge against her and Arthur's "doubt as to

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<sup>66</sup> "Miss Puffer," 1.

<sup>67</sup> *Ibid.*, 5.

what he was charged with in ‘enticing’ Miss Puffer.”<sup>68</sup> However, the couple made no mention of the lack of extradition papers and calmly and quietly “collected their belongings” and accompanied the officers to their automobile.<sup>69</sup>

The couple’s general lack of concern about being arrested on the eve of their wedding was likely due to their belief that the state had no case against them. The two ardently expressed their love for each other and had made it clear that money was not a significant component to their decision to marry when interviewed by the press. The public attempts to persuade Mabel to end her relationship with Arthur by her family, friends, and legal counsel made it clear that the charges of enticement and insanity were a last ditch effort to prevent the marriage between the couple. In the end, the two believed that their love would conquer all.

Arthur’s mother, two sisters, and brother, all of whom were in town for the wedding, ran after the officers and accused them of acting unlawfully as they had not presented extradition papers. The arresting officers did not concern themselves with the objections brought forth by Arthur’s family members and drove the couple back to Massachusetts.

Several empathetic newspapers and Arthur’s attorney stated that the couple had not been arrested by the police, but rather “kidnapped.”<sup>70</sup> This empathetic tone of the press stands as an avenue for activism advocating for interracial marriage. Additionally, the press often chose to publish the words of Arthur’s attorney, William H. Lewis, in full,

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<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

<sup>70</sup> “Couple is Returned to Ayer,” *Hollis Times*, June 27, 1919, 3.; “Double Arrest Stops Wedding: Law Halts Marriage Between Rich White Woman and Boston Boy,” *Chicago Defender (Big Weekend Edition)*, June 28, 1919, 1.

while they did not concern themselves with the speeches made by the prosecution. On June 27th, the *Hollis Times* printed five whole paragraphs directly quoting Lewis:

All these people who make the charges desire is to have Hazard leave Ayer and drop the matter of marriage. If he would do this, the prosecution would not press the charges. There is no law in this state against a marriage between colored and white people. I know this court won't take into consideration personal prejudice. It makes no difference what your honor may personally think about this marriage or what I may think about it. This is Massachusetts, not Mississippi; Ayer, Mass., not Atlanta, Ga. The charges made in this case are a species of lynch law.<sup>71</sup>

The newspapers may have done so because Lewis's admonitions of the prejudiced thinking of the courts and society were more entertaining than the legal arguments put forth by the prosecutors. Alternatively, the press may have agreed with the opinions expressed by Lewis and thus wanted to convince the public through his own words. It is likely that both scenarios can be true. Nonetheless, the publication of Lewis's defense of Arthur, in particular, and interracial marriage, more generally, demonstrate that his line of thinking was pumped into households in the region through various newspapers. Therefore, in practice, the newspapers served as advocates for interracial marriage.

The couple was arraigned the following day by Judge Atwood. The court decided that mental health professionals would examine Mabel to determine if the insanity charge was reasonable. Until that time, Mabel was not eligible for bail. On the other hand, Arthur was released on \$300 bail and assigned a later court date of July 12th. This unequal treatment of the couple was justified by the courts due to the insanity warrant for Mabel. However, it also served to separate the couple and ensure that the two did not have contact.

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<sup>71</sup> "Couple is Returned to Ayer," *Hollis Times*, June 27, 1919, 3.

Mabel Puffer spent the next week in jail under observation of two psychiatrists while the court selected a jury and a case was levied against her. Although her resolve to marry Arthur Hazzard was strong in the beginning, that resolve slowly dissipated under custody and under the influence of her family members, her legal counsel, and the doctors observing her.

### **A Broken Engagement**

After Arthur was released on bail, he made every attempt he could to visit his fiancée in custody. On June 22nd, the day after he was released, Arthur went to visit Mabel in the detention room at Ayer Town Hall. However, the police matron, Mary Sughrue, notified Arthur that neither he nor any other individual, with the exception of Mabel's legal counsel, could visit Mabel during the one week period that she was being observed for the insanity charge. After he was denied visitation with Mabel, Arthur met with Mabel's lawyer, George L. Wilson, to ask if he could make an exception to permit Arthur to talk with Mabel. Wilson denied Arthur's request, but he also assured him that no other stakeholders, including Mabel's niece and nephew, were permitted to visit Mabel either.<sup>72</sup>

Arthur continued his quest to contact Mabel in one way or another. He asked Sughrue if he could send gifts to Mabel. As Sughrue had not received any orders prohibiting gifts, she agreed to give Mabel gifts on behalf of Arthur. Then, Arthur hastened to a nearby store to buy candy, flowers, and fruit to give to his fiancée in order

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<sup>72</sup> William J. Robinson, "Honey So Different, Says Miss Puffer," *Boston Globe*, June 23, 1919, 2.

to prove that his love had not waned since their arrests. He also did so to ensure that no one was “saying I’m neglecting her while she is locked up.”<sup>73</sup>

During this period, very few people even laid eyes on Mabel as she insisted on being kept from the public view. Sughrue offered to take Mabel on a walk in front of Town Hall, but she refused, and instead insisted that she be taken out at night in an automobile to get fresh air instead.<sup>74</sup> On the other hand, Arthur seemed determined to stay in the public eye. *The Boston Globe* reported that Arthur was “lounging on the main street of Ayer” and was eager to answer any questions regarding the details of his romance with Mabel with passersby and the press.<sup>75</sup>

This new “attitude” displayed by Arthur did not endear him to the people of Ayer.<sup>76</sup> Before the scandalous stories about his romance with Mabel circulated the region, Arthur was perceived to be a kind-natured man who helped the wealthy white landowners in town and played music on the weekends with his family. However, upon his release from jail, the people of Ayer doubted his intentions for marrying Mabel. Nonetheless, Arthur continued to assert that he was not interested in Mabel for her wealth: “I’m going to marry her anyhow, money or no money.”<sup>77</sup>

Many individuals continued to attempt to contact Mabel through letters. It was reported that several white men had offered to marry Mabel and that one anonymous writer from Rhode Island threatened Arthur. Additionally, Southern white soldiers stationed at Camp Devens asked Ayer officials what they would do if they decided to

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<sup>73</sup> William J. Robinson, “White Men Offer to Marry Miss Puffer,” *Boston Globe*, June 24, 1919, 4.

<sup>74</sup> Robinson, “Honey So Different,” 2.

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

“give Hazzard a taste of Southern persuasion.”<sup>78</sup> Ayer officials stated that “the police are here to maintain law and order and that they perform their duty to the letter,” dissuading the group from taking violent action against Arthur.<sup>79</sup>

Mabel had access to her legal counsel, George L. Wilson, at this time. Because of attorney-client privilege, there are no records of the meetings that occurred while Mabel was under custody. Although it is unclear what the two discussed, it is known that they had several discussions revolving around money Mabel may have given Arthur for various purposes. Her attorney notified the press that Mabel withdrew \$801.09 from a bank in the nearby town of Fitchburg, Massachusetts, and gave it to Arthur the previous week. Wilson instructed Mabel to order Arthur to return her money to her as well as the keys to her home in Sandy Pond. Wilson visited the Hazzard residence with the order written by his client, but was unable to speak to Arthur himself. It was reported that Arthur had sequestered himself after news spread that Mabel had given him a large sum of money. The public and the press viewed this as a stark departure from his eagerness to parade down the main street of Ayer the previous day.<sup>80</sup>

The associate counsel who received the order, C. J. O’Neill, did not acquiesce to the written request made by Mabel as “he is not in the habit of recognizing orders from an alleged insane person” and O’Neill did “not know Miss Puffer’s signature.”<sup>81</sup> O’Neill also noted that Arthur would not speak to the press about the alleged money until “Miss

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<sup>78</sup> Robinson, “White Men,” 4.

<sup>79</sup> Ibid.

<sup>80</sup> William J. Robinson, “Miss Puffer Seeks \$800 From ‘Honey,’” *Boston Globe*, June 25, 1919, 5.

<sup>81</sup> Ibid.

Puffer ... is permitted to ask Hazzard about it” personally or until Wilson provided a “warrant charging larceny of the money.”<sup>82</sup>

Arthur’s legal counsel also requested that they provide their own expert witness, in the form of an “alienist,” to examine Mabel in order to have an independent assessment of her mental facilities. Dr. Burnham R. Benner, the superintendent of the New Hampshire State Insane Hospital in Concord, served as the expert witness for Arthur. He examined Mabel for two hours with Sughrue supervising. Although Dr. Benner examined Mabel on Tuesday, June 24th, the results of his examination were not revealed until the morning of Saturday, June 28th when he was sworn in as an expert witness.

Two days following the revelation that Mabel had withdrawn \$800 from her account in Fitchburg, Mabel made more disclosures regarding the vast sums of money she allegedly gave Arthur. She told Wilson that she had given Arthur approximately \$6000 in cash since the previous April as well as “quantities of mahogany and black walnut furniture, furs, pieces of fine silver, two gold watches ... fine old china, rugs, trucks and toilet articles.”<sup>83</sup> Additionally, she stated that Arthur had been collecting the rents for her two properties in Ayer, but she had not received the money. At this point, Mabel asserted that she no longer wished to marry Arthur and she was released from custody. It is unclear whether Mabel was released from custody because the mental health evaluation had concluded or because she renounced her relationship with Arthur.

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<sup>82</sup> Ibid.

<sup>83</sup> William J. Robinson, “Says She Handed \$6000 to Hazzard,” *Boston Globe*, June 27, 1919, 20.

After Mabel ended her engagement, Wilson and Mabel's relatives' attorney, John D. Carney, teamed together to attempt to trace the money given to Arthur by Mabel. The two determined that a total of \$5,704.47 was withdrawn from five local banks, but they could not find the other \$1,600 reportedly missing from Mabel's accounts. The mystery of the missing \$1,600 seemed to be cleared up when Mabel confessed that she had given \$1,700 to her friend Katharine Hirsh for "demonstrations," but Wilson noted that it was likely for room and board as Mabel stayed with Hirsh a few years previously.<sup>84</sup>

Nonetheless, the cooperation between the two lawyers demonstrated that it was in the interest of both Mabel and her relatives to locate the missing money. Thus, the niece and nephew's primary motivation to stop the wedding between Mabel and Arthur was likely monetary in nature. If Mabel had married Arthur, her vast fortune would not only be wasted, in their view, but it also would not have been inherited by her only living family members.

Once it became widely known that Mabel had only \$6 in cash, the press changed their narrative on the relationship between Mabel and Arthur. Previously, the *Boston Globe* and the *Chicago Defender* suggested that both Mabel and Arthur were victims of prejudice. However, after the missing money was reported, the *Boston Globe* painted Mabel as a helpless elderly woman who was swindled out of her riches by Arthur, a nefarious Black man. Although Mabel was only 48, the news repeatedly referred to her as "elderly" in order to infantilize her.<sup>85</sup> This was also done on the legal level as her mental capabilities were questioned under the insanity charge.

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<sup>84</sup> William J. Robinson, "Plot Suspected to Rob Miss Puffer," *Boston Globe*, June 28, 1919, 3.

<sup>85</sup> Robinson, "Says She Handed," 20.

The following day, Wilson expressed his belief that a group of conspirators plotted to dispossess Mabel of her wealth and property to enrich themselves. He aimed to have Arthur Hazzard arrested on larceny charges as well as anyone who was hiding the money or anyone who had knowledge of where it was located. In her conversations with her attorney, it seemed that Mabel was fearful of imprisonment as she was “unable to tell everything” regarding the missing money and her relationship with Arthur.<sup>86</sup> Additionally, it appeared that Mabel was disinterested in recouping the money she had given to Arthur as she was hopeful that she could “start anew” on the Pacific Coast.<sup>87</sup> However, Wilson and Carney both pressed for Mabel to recover the money she had lost through legal means. Because Wilson had guardianship over Mabel due to the insanity charge, she did not have a say in the matter in either case.

At 5:30 in the evening on June 28th, Judge Atwood issued a warrant for Arthur Hazzard’s arrest on account of larceny. The Chief of Police, Patrick J. Beatty, as well as attorneys Wilson and Carney, set out to arrest Arthur one town over in Lowell, where he was staying. The group of men were unable to find Arthur as he reportedly left Lowell and went to Boston to visit his brother. At 7:30 the following morning, Arthur was arrested in Boston and charged with larceny valued at \$6,000. The same day, Arthur pleaded not guilty to the charge and would face a battle in court starting July 12th.

Notably, Arthur’s arrest on a larceny charge prompted Carney, the attorney for Mabel’s relatives, to suggest that there was not strong enough evidence to convict Arthur on the previous enticement charge brought against him a week prior. Although this was

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<sup>86</sup> Robinson, “Plot Suspected,” 3.

<sup>87</sup> Ibid.

likely factual, it is clear that Carney, and by extension, Mabel's family, merely aimed to keep Arthur locked up for as long as possible to ensure that he could not marry Mabel nor spend the money gifted to him. Now that Arthur was arrested on a more serious charge, the lesser charge of enticement was no longer necessary to prevent the transfer of white property to a Black man. Thus, Carney had the charges of enticement dropped, and Arthur would only be tried for larceny.

### **The Tale of Two Court Cases: Larceny and Insanity**

After Arthur's arrest in Boston, Chief Beatty obtained a search warrant for Arthur's home in order to find Mabel's missing money and property. Arthur's mother, Mary Hazzard, and his sister, Annie Roland, were both present at the residence when Beatty arrived with the search warrant. Beatty found "trunks, a phonograph, old and valuable furniture, old china, a solid silver service set, other silverware, rugs, laces, a toilet set, glassware, and many other pieces of personal property," all of which were gifted to Arthur by Mabel.<sup>88</sup> However, Beatty was unable to recover any of the missing money or the "number of gold pieces" given to Arthur by Mabel.<sup>89</sup>

Two days following Arthur's arrest and the execution of the search warrant, Mabel and her niece, Mrs. Goodwin, went to the house and verified her belongings. Once they concluded their business at the Hazzard house, Mrs. Goodwin accompanied Mabel back to Ayer. The constant supervision over Mabel by her family members, her legal

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<sup>88</sup> William J. Robinson, "Hazzard in Court on Larceny Charge," *Boston Globe*, June 30, 1919, 2.

<sup>89</sup> *Ibid.*

counsel, and the police matron illustrate that Mabel had very little agency over her own actions and whereabouts at this time.

The larceny charge not only enabled the state to arrest Arthur at a time when Mabel was not in police custody, it also allowed the state to place a greater financial burden on Arthur and his family. The previous enticement charge had resulted in a \$300 bail payment that required Arthur's brother, William Hazzard, to provide \$250 of his own money and borrow \$50 from O'Neill.<sup>90</sup> However, the larceny charge resulted in a \$10,000 bail payment, substantially more than the \$6,000 allegedly stolen by Arthur and certainly more than his family could afford. According to newspaper records, Arthur did make bail, but it is not known how he did so.

The larceny charge also prevented Arthur's legal counsel from receiving payment for their services. All finances of Arthur were put on hold in order to ensure that he was not utilizing the "stolen" money to pay his legal fees.<sup>91</sup> This undoubtedly placed a higher financial burden on him and his family, while also limiting his ability to defend himself. However, both Lewis and O'Neill agreed to continue representing Arthur regardless of payment as a matter of principle. The continued counsel provided by Lewis and O'Neill demonstrate that the two men did not necessarily care about their personal financial interests as much as they did about advocating for their client and the interracial marriage agenda.

Between the arrest of Arthur at the end of June and the court date set for July 12th, the newspapers stopped printing daily updates of the scandalous case. Over this two

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<sup>90</sup> William J. Robinson, "Hazzard Expected to Testify Today," *Boston Globe*, July 14, 1919, 1.

<sup>91</sup> *Ibid.*

week period, it is unclear what either Mabel or Arthur were doing in their day-to-day lives.

Mabel was released from police custody, but was still under the supervision of Sughrue while they both stayed at her home in Sandy Pond. It was reported that Mabel had spent the majority of her time either crying or staring blankly at the walls. This narrative was utilized to make Mabel appear as a fragile old woman who had suffered the loss of her fortune. However, it is also likely that Mabel was in an emotional state as she ended her engagement to the love of her life. During this time, Mabel was continually kept from the public eye and it is known that she was staying with her niece in Swampscott the day prior to the trial. Arthur, on the other hand, most likely stayed in Ayer, Lowell, or Boston with his family members while taking several meetings with Lewis and O'Neill to discuss his case. Nonetheless, the courtroom testimony on behalf of Mabel on the first day of the trial abruptly changed the narrative of the couple's love story.

On July 12th, the local courthouse was packed to the brim with crowds of spectators hoping to see the drama unfold in the case that had captivated their attention a few weeks prior. Once the courtroom itself was full, onlookers filled the halls and corridor of the courthouse. Mabel sent shockwaves through the full courthouse, the town of Ayer, and the region as a whole when she contended that she had never engaged in a relationship with Arthur Hazzard. Instead, she suggested that she had given money, property, and affection to a white man by the name of Charles McKee who was in "the

appearance” of Arthur.<sup>92</sup> She testified that Charles McKee was a very special man to her who had shown himself in various forms, “a boy, an attractive woman, an aged man, a soldier,” as a “character demonstration” that was integral to Mabel’s religious beliefs.<sup>93</sup>

Throughout Mabel’s testimony, she remained adamant that although Arthur Hazzard was Black in “material,” in “spirit” he was a white man known as Charles McKee.<sup>94</sup> This is closely tied to Christian Science as practitioners “deny the existence of the material world” in favor of the spiritual world inhabited by God and all that is not an illusion.<sup>95</sup>

The prosecution utilized Mabel’s unconventional religious convictions to paint her as an insane woman who undoubtedly drew the attention of those looking to exploit others. They posited that Arthur Hazzard, knowing of Mabel’s eccentricities and “fragile” state, swindled her out of her property and attempted to gain more control over her life by attempting to marry her. The prosecution argued that the act of knowingly manipulating a mentally incapable woman constituted larceny.

However, the claim that Mabel was “insane” had not yet been proven. The report from two alienists, Dr. Frank S. Bulkeley and Dr. Herbert B. Priest, who examined her a few weeks prior, had not yet been submitted to the court. Therefore, the defense first tried to strike Mabel’s testimony from the record, as the logic of the court baffled Lewis: “Is this woman sane today and insane tomorrow?”<sup>96</sup> However, the judge let her testify

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<sup>92</sup> William J. Robinson, “Gave Money to Mystery Man,” *The Boston Globe*, July 13, 1919. 4.

<sup>93</sup> *Ibid.*

<sup>94</sup> *Ibid.*

<sup>95</sup> Bryan R. Wilson, *Sects and Society: A Sociological Study of the Elim Tabernacle, Christian Science, and Christadelphians* (Berkeley: University of California Press, 1961), 127.

<sup>96</sup> Robinson, “Gave Money,” 4.

regardless of her mental facilities. The back-and-forth between Lewis and Mabel during the defense's cross-examination questioned how her belief system impacted her understanding of racial differences.

Q. Is McKee white or colored?

A. White.

Q. Is Hazzard white or black?

A. Black.

Q. You can tell black from white?

A. Of course.

Q. And you are positive that you gave the money to McKee?

A. Yes.

Q. And McKee is white?

A. Yes.<sup>97</sup>

This conversation revolving around the race of the physical appearance of Hazzard versus spiritual appearance of McKee was not out of the ordinary. Several annulment cases utilized the same line of questioning when discussing race and marriage. Defense attorneys would often inquire whether the plaintiff could tell the difference between two races in order to demonstrate that they entered a union with full knowledge of their partner's race and therefore could not qualify for an annulment on the grounds of racial fraud. However, what is unusual was the manner in which the defense attempted to persuade Mabel through the logic of her own religious beliefs. After the two conversed about the difference between "spiritual" and "material things," Lewis asked Mabel, "You don't want to send Hazard's [sic] material body to jail, do you?"<sup>98</sup> To which Mabel replied that she wanted the best for everyone involved in the matter.

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<sup>97</sup> Ibid.

<sup>98</sup> Ibid.

After Lewis made this plea to Mabel, the court adjourned for the day and would be back in session on July 14th. Once again, Lewis cross-examined Mabel to gain a better understanding of racial differences in both the material and spiritual sense.

Q. What is the difference between Charles McKee and Arthur Hazard?

A. You mean Arthur G. Hazzard, the son of Mary L. Hazzard?

Q. Yes. What is the difference between Hazzard and McKee?

A. Well, Arthur G. Hazzard, son of Mary L. Hazzard, is one who is known as a colored person.

Q. Is there any other difference?

A. A physical difference, you mean?

Q. Yes.

A. There is a difference in stature and in other ways.

Q. Is there any spiritual difference?

A. I have no personal or close acquaintance with Arthur G. Hazzard, but in a general way the thought of this gentleman is very good.<sup>99</sup>

Thus, Mabel began to reshape the narrative around her love story with Arthur G.

Hazzard. As family members and members of the community grew worried that Mabel had squandered her inheritance on her fiancé, Mabel grew increasingly anxious that Arthur would face serious legal persecution. Consequently, Mabel created a story that would absolve Arthur of any responsibility for exploiting a questionably insane woman: she did not know Arthur, so he could not have knowingly stolen money nor property from her. Rather, she had willingly given her money to the fictitious Charles McKee.

This new strategy served several purposes. First, it placed the blame for the matter of Mabel's missing funds on herself, rather than Arthur. Second, Mabel exercised agency

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<sup>99</sup> Ibid.

over her personal matters, such as love and finances. Third, it reduced backlash that the two might face from their community in the future by appealing to the white imagination.

By suggesting that she was not a “close acquaintance with Arthur” Mabel undermined the legal argument of the prosecution.<sup>100</sup> In order to prove that Arthur had stolen \$6,000 from Mabel, Wilson was required to demonstrate the close relationship between Arthur and Mabel that permitted Arthur access to Mabel’s finances. However, Mabel’s assertion that she did not know Arthur well but that he was “very good” undercut the prosecution’s narrative of Arthur as a villainous man who took advantage of an innocent, elderly woman. If Mabel did not blame Arthur for the missing money, then who could?

Although this strategy could exonerate Arthur, it also caused Mabel to face her own set of legal consequences. Mabel’s spiritual beliefs were not mainstream and therefore the idea that a spirit could appear in different forms as “character demonstrations” did not satisfy the court.<sup>101</sup> However, Mabel placed Arthur’s well-being above her own while testifying to the court to exercise agency in a situation that she did not orchestrate for herself.

Even though Mabel had made it clear that she did not wish to pursue the matter of the missing money any further, her appointed conservator and attorney, Wilson, pressed the issue for his own purposes. Wilson benefited from his client’s wealth as he was employed by her. If her fortune ceased to exist, he would no longer receive financial compensation from his client. Similarly, Mrs. Chapman and Henry Blood, Mabel’s

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<sup>100</sup> Ibid.

<sup>101</sup> William J. Robinson, “Hazzard Expected to Testify Today,” *Boston Globe*, July 14, 1919, 1.

relatives, employed their attorney, Carney, who worked as an extension of his clients. Because Mabel's relatives stood to inherit Mabel's assets upon her death if she did not marry, the two worked to preserve their aunt's wealth. Thus, if Carney was paid to stop the wedding between Mabel and Arthur at all costs, then he would do so to protect his own financial interests. These four individuals, Mrs. Chapman, Blood, Wilson, and Carney, thus had a vested interest in maintaining the property of Mabel, but Mabel had other plans.

Under constant supervision of her legal counsel and family, Mabel was held hostage by those that had the most to lose if Mabel married Arthur. Mabel was not permitted to speak to her former fiancé or to the press, stifling her ability to express her own thoughts on the matter at hand. Consequently, she utilized her testimony as a last-ditch attempt to be heard by all those involved: Arthur, her family, and her community.

Finally, Mabel's testimony appealed to the white imagination by suggesting that a wealthy white woman, such as Mabel, was not romantically interested in working-class Black men, like Arthur. Rather, Mabel was merely mistaken on account of her unusual religious beliefs and her actions and feelings toward Arthur were not serious transgressions. If Mabel asserted her love for Arthur on the stand, the couple could face consequences by strong-minded individuals in Ayer and beyond. Mabel could face social ostracization while Arthur could face violence at the hands of men who opposed the partnership, like the soldiers stationed at Camp Devens who had threatened him a couple weeks prior. When Mabel declared that she had no personal relationship with Arthur, she saved both of them from the angry mobs of people who disagreed with interracial marriage.

In the end, Mabel was found insane by a jury of six men and committed to the Worcester State Hospital for the Insane.<sup>102</sup> Arthur was found not guilty of larceny by a Grand Jury on August 7th.<sup>103</sup> However, Wilson, on behalf of Mabel, brought forth a suit of equity in November of 1920 against nine defendants that allegedly conspired with Arthur to withhold Mabel's property from her.<sup>104</sup> At the conclusion of this case, the court ordered that Arthur return all monetary gifts to Mabel's legal counsel and family members. This decision was later contested in a 1921 appeal case, but it was ultimately upheld by the court.<sup>105</sup>

That same year, Arthur would sue Mabel for \$30,000 for breach of promise as the two never married.<sup>106</sup> Additionally, he brought a legal suit for \$15,000 against her family members that prevented the marriage, along with the police officers who illegally arrested himself and his fiancée.<sup>107</sup> The results of these cases are unknown. There is no evidence that the two ever reconciled after their legal battles. Mabel died in 1937 at the age of sixty-seven while little is known about the remainder of Arthur's life.

Although the couple never found marital happiness together, it is clear that the two had a loving relationship until the end of their engagement in the summer of 1919. They agreed to marry one another, ran away together, and were only thwarted when Mabel's family members sabotaged the engagement for their own nefarious purposes.

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<sup>102</sup> "She Says McKee Took Her Money," *Boston Globe*, November 16, 1920, 6.

<sup>103</sup> "Hazzard Larceny Case is Dismissed," *Boston Globe*, August 8, 1919, 2.

<sup>104</sup> "Sue to Get Back Cash and Gifts," *Boston Globe*, November 16, 1920, 9.

<sup>105</sup> *Puffer v. Hazzard*, 240 Mass. 195, 133 N.E. 109 (Mass. 1921)

<sup>106</sup> "Hazzard Sues For Breach of Promise," *Boston Globe*, January 10, 1921, 4.

<sup>107</sup> "'Honey' Hazzard to Bring \$15,000 Suit," *Boston Globe*, August 15, 1919, 4.

Some individuals, like Arthur's family members, and those who offered to marry the couple advocated for interracial marriage

Mabel, a woman with very little agency over her own life, decided to protect Arthur from further legal action by utilizing her misunderstood religious beliefs for her own benefit in court. Individuals and institutions involved in this fascinating case actively participated in the debates surrounding interracial marriage of the decade. Those who supported the marriage, like Arthur's legal counsel, Arthur's family members, the *Chicago Defender*, and marriage officiants advocated for companionate marriage and did not care about the prejudice or ostracization that accompanied interracial partnerships at the time. On the other hand, those who opposed the marriage, like Mabel's legal counsel, Mabel's family members, and the residents of Ayer, did so because of the cultural shift toward conservatism, their own material motivations, and their desire to protect white property and womanhood. These ongoing debates were later captured in several annulment cases of the decade.

### Chapter 3: Marriage Annulments in the 1920s: Racial Fraud, Insanity, and “Secret Sessions”

The story of Mabel Puffer and Arthur Hazzard is about a couple that was never able to marry across the color line. However, the couples in this chapter were able to marry each other without resistance. Although many couples knowingly married across the color line, some white partners and their families alleged that their spouse lied about their race in order to sidestep anti-miscegenation laws. In these cases, some white partners filed to annul the marriage on the basis of racial fraud. In other cases, couples knowingly married a partner of a different race and societal pressures or interfering family members attempted to thwart the marriage with an annulment. In either case, these relationships were between a wealthier white partner and a poorer Black partner. Thus, through the legal process of annulment, white spouses and their families attempted to protect whiteness both as a racial category and as property.

One of the best-known annulment cases of the 1920s was between Kip Rhineland and Alice Jones. In *Property Rights: The Rhineland Trial, Passing, and the Protection of Whiteness*, Elizabeth M. Smith-Pryor analyzes the famous 1925 case extensively as a microhistory and argues that the case gained prominence among the public as it illustrated the anxieties revolving around interracial marriage in the 1920s United States and more specifically, New York.<sup>108</sup> I argue that the case, in conjunction with other annulment cases of the decade, demonstrates that the wealth and status

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<sup>108</sup> Elizabeth M. Smith-Pryor, *Property Rights: The Rhineland Trial, Passing, and the Protection of Whiteness* (Chapel Hill: University of North Carolina Press, 2009).

associated with whiteness were protected by white individuals and families through the annulment process.

However, white families were not usually successful in winning annulment cases. This does not mean that the judicial system was engaging in activism and promoting interracial marriage. Rather, the individual judges in the cases ruled that the spouse or family member suing for an annulment did not have adequate legal ground to stand on. However, the decision to overlook overwhelming negative public sentiments surrounding such married couples suggests that the judicial system was not subject to public opinion. Thus, in most cases, the judges fairly ruled on cases without outside interference. In racial fraud cases, it was typically determined that the white spouse had substantial evidence that their spouse was not fully white prior to the marriage and therefore could not claim to have been deceived.

Likewise, in racial fraud cases, the action of marrying across the color line was not an action of activism either as one of the spouses involved entered a marriage in which they allegedly did not know that their spouse was not white. Therefore, the relationship between these two individuals is not a statement promoting equality in marriage, but rather stories of white affluent families protecting their own wealth associated, in part, with their whiteness.

Through the facts of five separate court cases, including *Rhineland v. Rhineland*, it is evident that white spouses and families attempted to protect their wealth through the annulment process. The five cases span the latter half of the decade and in some instances, extend beyond the confines of the decade into the 1930s and 1940s. Consequently, the cases also illustrate the anxieties revolving around the

economic instability of the late 1920s and subsequent decades. In a time of economic uncertainty, affluent white families sought to protect their property more so than during the prior period of economic prosperity.

### **Otis Ostmann and Creona Ostmann**

In November of 1924, Otis Ostmann and Creona Beasley (later Creona Ostmann) married in St. Paul, Minnesota. Otis Ostmann, a white man, was a member of “a very aristocratic family” that lived in the desirable neighborhood of Merriam Park.<sup>109</sup> The two appeared to be in love and lived happily together in Ostmann’s home until Ostmann charged that his wife had lied to him about her race in January of 1925.

The case was taken up by Judge R. D. O’Brien of the Second Judicial District Court of Minnesota. Otis Ostmann’s attorney, a Mr. Axelrod, stated that his client did not know of his wife’s race prior to their union and “contended that race was sufficient grounds for annulment” as “the misunderstanding was brought about through fraud and deception” on the part of Creona Ostmann.<sup>110</sup> However, Creona Ostmann’s legal counsel, Attorney Swan, demonstrated that “no fraud had been intended” and the husband was aware of his wife’s race prior to their marriage because he had met her relatives.<sup>111</sup> Additionally, Swan argued that race was not sufficient grounds for an annulment as Minnesota was one of seven states that never had an anti-miscegenation statute.

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<sup>109</sup> “Judge Upholds Mixed Marriage in the West,” *Pittsburgh Courier*, February 7, 1925, 13.; “Race of Bride Ruled out Divorce Court,” *Chicago Defender (National Edition)*, January 31, 1925, 8.

<sup>110</sup> “Race of Bride Ruled out Divorce Court,” *Chicago Defender (National edition) (1921-1967)*, January 31, 1925, 8.

<sup>111</sup> *Ibid.*

In this case, Judge R. D. O'Brien ruled that Creona Ostmann was not guilty of racial fraud.<sup>112</sup> If Otis Ostmann wished to end his marriage with his wife, he would have to do so through the formal divorce process. In the typical divorce process, both spouses would be entitled to marital assets. Thus, Otis Ostmann would share his considerable wealth with Creona Ostmann either in marriage or in divorce. A successful annulment would have allowed Otis Ostmann to avoid his financial responsibilities to his wife, which was likely his motivation for filing for annulment in the first place.

Because Otis Ostmann occupied a privileged position as a wealthy white man, his marriage to a Black woman was likely looked down upon by his family members and the general public. Although Minnesota did not have an anti-miscegenation law, it does not mean that the state was isolated from the increasingly conservative nature of the decade. In addition to financial incentives, the societal ostracization of interracial marriage may have been a motivating factor for Otis Ostmann to seek annulment.

If Otis Ostmann did face social consequences for his marriage, it was not a sentiment shared by all knowledgeable about the case. The annulment case drew enough attention from the public that the court room was packed with members of the St. Paul community interested in the outcome of the case. Members of the public were reportedly delighted by the "unbiased decision of a fearless judge" as "citizens of both races" applauded the conclusion of the case.<sup>113</sup> The decision demonstrates that some individuals thought positively about the possibility of interracial marriage and judges did not utilize prejudiced thinking in their decisions.

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<sup>112</sup> Ibid.

<sup>113</sup> Ibid.

### **Leonard Kip Rhineland and Alice Beatrice Jones**

In the same year as Otis and Creona Ostmann, another couple entered the institution of marriage: Alice Beatrice Jones and Leonard Kip Rhineland. This marriage resulted in one of the most high-profile annulment cases of the 1920s in which Alice Beatrice Jones, a working-class mixed-race woman, was accused of tricking her husband, Leonard Kip Rhineland, a rich white man, into marrying her through deception and engaging in racial fraud.<sup>114</sup>

The Rhineland case shares striking similarities with the case between Otis and Creona Ostmann. First, the Rhineland case took place in New York, one of the seven states that, like Minnesota, never instituted an anti-miscegenation law. Second, the defense did not litigate the accusation that the spouse in question was not white, nor that such legal arguments were discriminatory; rather, they suggested that the white spouse was aware of their partner's race prior to the union. This circumstance exonerated the defendant and ensured that the marriage could not be annulled. Third, the cases were both sensational news and captured the public imagination.

When Kip Rhineland and Alice Jones married in 1924, it was a shock to Rhineland's family as well as the general public. Newspapers that reported the marriage took two different approaches to the story. Some publications noted that the marriage was unusual as Rhineland and Jones were of vastly different social classes: Rhineland was a rich aristocrat while Jones was working-class. Other publications

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<sup>114</sup> *Matter of Rhineland*, 290 N.Y. 31, 47 N.E.2d 681 (N.Y. 1943).  
*Rhineland v. Rhineland*, 219 App. Div. 189, 219 N.Y.S. 548 (N.Y. App. Div. 1927)

reported that Jones was not white, but mixed-race as her father was Black and her mother was white. However, not every newspaper that reported on Jones' race blatantly stated that she was Black, but instead described her as "West Indian."<sup>115</sup>

The two avenues explored by various news publications demonstrates that both race and class were significant factors in the social acceptability of marriage. If Alice Jones was of higher economic standing, it may be unlikely that her race would be as closely scrutinized. By that same logic, if Alice Jones was firmly white, her social class would be of less importance. In either case, Kip Rhineland and his family may have been less skeptical about the social acceptability of their marriage.

After a month of marriage, Kip Rhineland's father, Philip Rhineland, threatened to disinherit his son if he did not end his marriage with Alice Jones.<sup>116</sup> Kip Rhineland likely took his father's threat at face value as his grandfather had followed through on his threat to disinherit his eldest son, William Rhineland, when he had entered an unsuitable marriage forty years previously.<sup>117</sup> Disinheritance proved to be a useful tool when Kip filed for an annulment at the urging of his father. Divorce was not an option in New York, where one could only be granted a divorce on grounds of adultery. Additionally, divorce entitled each spouse to their portion of marital assets. An annulment on the other hand, dissolved the marriage as if it never existed and could be granted for many reasons in New York, fraud among them.

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<sup>115</sup> "Society Dazed at Rhineland Nuptial News," *New York Daily News*, November 14, 1924, 3, pink edition, as quoted in Elizabeth M. Smith-Pryor, *Property Rights: The Rhineland Trial, Passing, and the Protection of Whiteness* (Chapel Hill: University of North Carolina Press, 2009), 25.

<sup>116</sup> Smith-Pryor, *Property Rights*, 114.

<sup>117</sup> *Ibid*, 112.

Kip Rhineland's lawyer, Isaac N. Mills, argued that Alice Jones had purposefully hidden her mixed-race ancestry from her partner in order to "pass" as white and defraud him. Like Creona Ostmann, Alice Jones, via her legal counsel, Lee Parsons Davis, suggested that Rhineland had known about her race before they married. However, unlike Creona Ostmann, Jones did not argue that Rhineland had met her parents, but rather stipulated that they had sexual relations on two occasions prior to their marriage and Jones' physical features clearly illustrated that she was not white.

This unique argument required unique forms of evidence. In one of the most sensationalized moments of the case, Alice Jones met with the jurors and judge and displayed various body parts to demonstrate that Kip Rhineland should have known that she was mixed-race when the two were intimate. The purpose was not to litigate whether she was white or not, but rather to show what Kip Rhineland saw. She wore a coat that she lowered below her shoulders to show her bare shoulders and breasts and above her knees to show her lower legs and knees to the all-male jury. Although the courtroom was typically teeming with press and bystanders, the judge did not permit any unnecessary individuals to enter the courtroom at this time. However, the *New York Evening Graphic* created a composite image of the scene with a model playing the part of Alice Jones, with her back turned away from the camera, revealing her body to stand-in actors whose faces were replaced with the faces of the jury members.<sup>118</sup> The composite

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<sup>118</sup> "Alice Disrobes in Court to Keep Her Husband," *New York Evening Graphic*, November 25, 1925, as cited in Angela Onwuachi-Willig, *According to Our Hearts: Rhineland v. Rhineland and the Law of the Multiracial Family* (New Haven: Yale University Press, 2013), 14. <https://doi.org/10.12987/9780300166880>.

photograph was published on the front page of the tabloid drawing more attention to the case.

Ultimately, the jury ruled that Alice Jones did not defraud Kip Rhineland and the marriage stayed intact. Although the legal process and public attention humiliated Alice Jones, she was still entitled to her share of the marital assets. After the case, Rhineland unsuccessfully attempted to repeal the decision for several years.

In 1929, Kip Rhineland moved to Las Vegas, Nevada with the intention to file for divorce in a more divorce-friendly state.<sup>119</sup> Simultaneously, Alice Jones filed for separation in New York on the grounds of “abandonment and cruel and inhumane treatment.”<sup>120</sup> The two reached a separation agreement in 1930 that provided Alice Jones with a lump sum of \$31,500 and monthly payments of \$300 for the remainder of her life.<sup>121</sup> However, Alice had no claim to the Rhineland family fortune and was prohibited from using the name “Rhineland.”

When Kip Rhineland died in 1936, his father Philip continued to make the monthly payments to Jones. However, when Philip died in 1940, his last remaining child, Adelaide, refused to continue payments to Jones. The matter was litigated in 1943 and Adelaide was ordered to resume monthly payments to Jones.<sup>122</sup>

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<sup>119</sup> Unlike New York, divorces in Nevada are “no-fault” meaning that they can be granted for any reason. Additionally, only one spouse needed to maintain residency in the state for a mere six weeks before one could file for divorce.

<sup>120</sup> Smith-Pryor, *Property Rights*, 245.

<sup>121</sup> Angela Onwuachi-Willig, *According to Our Hearts: Rhineland v. Rhineland and the Law of the Multiracial Family* (New Haven: Yale University Press, 2013), 103. <https://doi.org/10.12987/9780300166880>.

<sup>122</sup> *Matter of Rhineland*, 290 N.Y. 31, 47 N.E.2d 681 (N.Y. 1943).

The repeated legal decisions in favor of Alice Jones demonstrate that the judicial system was not ensnared by the same discriminatory beliefs and practices as other spaces in the 1920s. It is unlikely that individual judges were actively engaging in activism by supporting interracial marriage, but the determination to disregard public opinion surrounding such marriages demonstrate that the courts were not working against advocates for social equality.

### **Joseph Perkins and Elma Jones Perkins**

Two years after the Rhinelander trial was front page news in New York and throughout the entire nation, another marriage between two New Yorkers took place. The events of their marriage, separation, and annulment trial extended beyond the 1920s but were reminiscent of the Rhinelander trial nonetheless. Several newspapers noted the similarities between the cases. Both the *Chicago Defender* and the *Negro Associate Press* stated, “this case recalls the famous Kip and Alice Rhinelander case which attracted attention some years back.”<sup>123</sup>

Joseph H. Perkins, the head of J.M. Perkins Company, Inc., was a successful shoe fabric manufacturer in Manhattan and a reported “millionaire.”<sup>124</sup> He married his wife, Elma Jones Perkins on May 7, 1927.<sup>125</sup> The two lived together in a New York apartment

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<sup>123</sup> Newsclipping titled “Millionaire Charges Wife is Colored; Demands Annulment” May 29, 1940, The Claude A. Barnett Papers: The Associated Negro Press, 1918-1967, Part 3: Subject Files on Black Americans, 1918-1967, Series I: Race Relations, 1923-1965, Box 378, Folder 4, Chicago Historical Society, Chicago, Illinois.; “Says White Not White, Asks Divorce: Millionaire Charges Mate Tricked Him,” *Chicago Defender (National edition)*, June 1, 1940, 1.

<sup>124</sup> Newsclipping titled “Millionaire Charges Wife is Colored; Demands Annulment” May 29, 1940, The Claude A. Barnett Papers: The Associated Negro Press, 1918-1967, Part 3: Subject Files on Black Americans, 1918-1967, Series I: Race Relations, 1923-1965 Box 378, Folder 4, Chicago Historical Society, Chicago, Illinois.

<sup>125</sup> *Ibid.*

until the couple separated on December 5, 1932. The separation agreement stipulated that the couple no longer lived together and Joseph Perkins agreed to support his wife financially by providing alimony payments and paying rent for her residence. Although separation is not a sign of a successful marriage, the two appeared reasonably happy with the agreement for a period of eight years before Joseph Perkins utilized a legal process that would dissolve his legal obligations to his separated wife: annulment.

On May 29, 1940, the *Associated Negro Press* reported that Perkins wanted the “separation agreement to be voided” and the judge to grant an annulment on the basis of racial fraud as Elma Perkins “falsely represented that she belonged to the white race.”<sup>126</sup> The newspaper article states that Elma Perkins was “colored” and that Joseph Perkins was unaware of the fact “until April” of 1939 when “he drove her to the home of her mother.”<sup>127</sup> Perkins’s legal action noted that Elma was of mixed-race ancestry, likely Black and white. Later newspaper articles noted that Elma Perkins was a “Caribbean Indian,” not “colored” as previously believed.<sup>128</sup> Joseph Perkins’s legal counsel did not take issue with this change, noting that “It makes no difference whether she was colored or Indian – she was not white,” and the judge allowed Joseph Perkins to amend his complaint to reflect the change in his wife’s racial categorization.<sup>129</sup> However, my goal is not to identify whether the spouses who allegedly committed racial fraud were white, Black, or somewhere “in-between” but rather the implications of such a case being

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<sup>126</sup> Ibid.

<sup>127</sup> Ibid.; “Lo, She’s Now an Indian – So Mate Decides,” *Daily News*, December, 6, 1940, 180.

<sup>128</sup> “Lo, She’s Now an Indian – So Mate Decides,” *Daily News*, December, 6, 1940, 180.

<sup>129</sup> Ibid.

brought about in the first place, as well as how the individuals' race was perceived by themselves and others.

In this case, Elma Perkins was able to pass as white due to her association with her wealthy husband. Natalia Molina points out that people of "in-between" racial status, like Mexican-Americans or quarter-indigenous individuals such Mrs. Perkins, "gradually began their transition into whiteness" "beginning in the mid-1930s" by accumulating wealth.<sup>130</sup> One way to accomplish this feat was to marry into a wealthy family.

Although it is unclear how Joseph Perkins discovered that his wife was not completely white, his willingness to annul their marriage was likely due to their separated status. If Mr. and Mrs. Perkins were still happily married and living together, Mr. Perkins may have been less inclined to annul their marriage. However, the separation agreement required him to pay "her \$125 per month" and gave Joseph Perkins financial incentive to annul his marriage on the basis of racial fraud. This is especially likely considering the financial instability at the time. The Great Depression was still impacting the world economy in 1940, and it wouldn't improve in the United States until the nation joined the war effort in 1941.

The outcome of the case is not known. If Alma Jones Perkins wished to defend the accusations made against her by her husband, she would have to prove that Joseph Perkins knew of her race prior to the marriage, as done by Alice Jones and Creona Ostmann. The lack of newspaper articles regarding the case after January of 1941

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<sup>130</sup> Natalia Molina, *How Race Is Made in America: Immigration, Citizenship, and the Historical Power of Racial Scripts* (Berkeley: University of California Press, 2013), 128.

suggests that the details were not as licentious or sensational as the events of the Rhineland trial.

### **James Banks and Dolly Gardner**

On July 7, 1927, an elderly white man by the name of James Banks married his lifelong love, Dolly Gardner, a Black woman, in Chicago. Originally from Georgia, the couple met while Dolly Gardner was under the employ of Banks's family as teenagers. When James Banks was nearing his 80th birthday, Banks and Gardner eloped in Chicago to bypass Georgia's anti-miscegenation. Unlike other couples that were apprehended for violating the Mann Act, Banks and Gardner were successful in getting married in Chicago. However, that was not the end of their worries.

Two years after their nuptials the sister of James Banks, Mrs. Fannie Banks-Calloway "instituted a suit to have his marriage ... to Mrs. Dolly Gardner annulled" on the grounds that "Mr. Banks was incompetent at the time the ceremony was performed."<sup>131</sup> This assertion was due in part to Mr. Banks' age, but also the seemingly absurd decision to marry a Black woman of a lower socio-economic status than himself. However, Fannie Banks-Calloway was most likely motivated to bring forth the annulment to secure her own wealth and protect whiteness as property and a non-transferable identity. Thus, this annulment case is eerily similar to the experiences of Mabel Puffer and Arthur Hazzard. However, in this case, the one charged with insanity was not a white woman, but a white man.

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<sup>131</sup> "Seek to Separate Happy Married Couple: White Man and Wife Molested," *Chicago Defender (National Edition)*, February 08, 1930, 1.

The motivations for Fannie Banks-Calloway's accusations were not based on racism, but financial incentive. James and Dolly Banks noted that Banks-Calloway was "after the money" as she made no objections to their 44 year relationship until they were legally wed.<sup>132</sup> Mr. Banks stated that he and his wife had lived peacefully "in Druid Hills, the most fashionable section of Atlanta" for most of their relationship.<sup>133</sup> During that time, Mr. Banks noted, "No one dared say a thing to me or her."<sup>134</sup> This is remarkable because of the increased racial violence in the South which is alluded to in the article, which stated that they lived "there among the Candler's and the Adair's, and the Ku Klux Klan."<sup>135</sup> This positive, or at the very least, apathetic treatment of Mr. and Mrs. Banks's interracial relationship in the South demonstrates a racial script described by scholar Natalie Molina in *How Race is Made in America*: money whitens. Molina notes that "For Mexicans, access to whiteness often depended upon various factors, notably class and region."<sup>136</sup> Similarly, the treatment of Dolly Banks in the South demonstrates that whiteness can be achieved through association with wealth. If James Banks was not extremely wealthy, the couple may have faced more opposition in the South than they experienced.

Aside from attempting to annul the marriage, Fannie Banks-Calloway also attempted to have "a conservator ... appointed" to manage James Banks's estate while the annulment case was being decided.<sup>137</sup> Dolly Banks's lawyers agreed to have a

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<sup>132</sup> Ibid.

<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

<sup>135</sup> Ibid.

<sup>136</sup> Molina, *How Race Is Made in America*, 39.

<sup>137</sup> Newsclipping titled, "Appoint Conservator For Estate of Rich White Atlantan Who Married Colored Woman," April 10, 1929, The Claude A. Barnett Papers: The Associated Negro Press, 1918-1967, Part 3:

conservator appointed to manage the estate, but insisted that “they be allowed to name the party” to ensure that Dolly was not barred access on account of her race.<sup>138</sup> Therefore, Dolly Banks’s lawyers opted to make the Continental Illinois Bank the conservator to allow both James and Dolly Banks ease of access.

If the court ardently agreed with Fannie Banks-Calloway and the racist themes of her legal arguments, they may have made it more difficult for the couple to access their finances. However, the decision to keep James Banks’s funds available to the couple demonstrates the court’s willingness to ignore anti-miscegenation sentiments that pervaded the public imagination at the time. In doing so, it made the logistics of the couple’s residence in Chicago simpler and indirectly supported their marriage.

One article was particularly sympathetic to the plight of the elderly couple. In February of 1930, the *Chicago Defender* splayed the headline “Seek to Separate Happy Married Couple: White Man and Wife Molested,” across the front page of the newspaper.<sup>139</sup> The article included an interview the *Chicago Defender* conducted with the couple. By printing the words of James and Dolly Banks, the publication was promoting the stance taken by the couple: James was of sound mind and his sister only wanted his money. It painted Fannie Banks-Calloway as the villain in their love story who “molested” the couple in their final years of life. The reporter noted “the apparent perfect peace and happiness of the couple” and therefore cast the two as the perfect picture of marital bliss. Like activists who advocated for interracial marriage, the newspaper placed

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Subject Files on Black Americans, 1918-1967, Series I: Race Relations, 1923-1965 Box 378, Folder 3, Chicago Historical Society, Chicago, Illinois.

<sup>138</sup> Ibid.

<sup>139</sup> “Seek to Separate,” 1.

greater importance on the love between two spouses than on the racial differences between them.

In the end, the case was dismissed, not because Fannie's claims were unfounded, but because James Banks died the following year.<sup>140</sup> Subsequently, the marriage between James and Dolly Banks was deemed legitimate and Dolly was "awarded his estate," in 1932.<sup>141</sup> This case serves as an example of how family members could utilize their own whiteness to protect the property and racial identity of family members who crossed the color line. However, unlike the Puffer and Hazzard case, the relatives involved failed to prevent the transfer of property to a Black partner.

### **Dolores Ford and Eugene Newton**

In 1929, William Ford, a "multimillion glass manufacturer," set out on a mission to protect his daughter's whiteness and his own finances.<sup>142</sup> His daughter, Dolores Ford, age 23, entered her third marriage with Eugene Newton, a Black cabaret performer in Harlem. Although the case centered upon a marriage between two New York residents that occurred in the state of New Jersey, this marriage and the subsequent annulment process was sensational news that was covered across the country. Unsurprisingly, publications such as the *New York Daily News* gave frequent updates while other newspaper publications such as the *El Paso Times*, the *Pittsburgh Sun-Telegraph*, and the *Associated Negro Press* covered the story as well.

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<sup>140</sup> "James Banks Dies After Long Illness: Millionaire Who Wed Servant Mourned," *Chicago Defender (National edition)*, December 26, 1931, 3.

<sup>141</sup> "Dolly Banks is Awarded Her Mate's Estate," *Chicago Defender (National Edition)*, December 2, 1932, 3.

<sup>142</sup> "Girl Heiress Reported Married to Negro," *El Paso Times*, July 20, 1929.

The sensational nature of the marriage and annulment case is evident not only in its frequent and widespread publication, but also in the narrative crafted by journalists. The Associated Negro Press collected a front page story titled “Sensation,” that covered the details of Ford and Newton’s marriage, her regret, and her confession to her friend (and hypnotist) that she had entered her third marriage. However, instead of beginning with the facts of the marriage, the journalist in question utilized flowery language that served to pique the interest of the public: “the mysteries of occultism.”<sup>143</sup> The story then delved into the strange conversations Dolores Ford had with her friend, Louis Matthews, about the circumstances of her marriage to Eugene Newton, observing, “the manner in which the secret is said to have been revealed rivals fiction.”<sup>144</sup> Dolores was reportedly “hypnotized” in her New York City apartment and compelled to speak about “what was troubling” her.<sup>145</sup> She then notified her friend that she was married for a third time, and she regretted doing so.

Throughout the news coverage of the marriage, Dolores Ford is repeatedly referred to as white and this descriptor was often juxtaposed with her class status: “white, heiress to a fortune” and “white, heiress to \$20,000,000.”<sup>146</sup> One article stated that Dolores Ford had “blonde hair” and “other attributes of the Nordic race.”<sup>147</sup> However, other articles identified Ford as a “dark Spanish type.”<sup>148</sup> The photograph included of

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<sup>143</sup> Newsclipping titled “‘She Loves Me,’ Says Hubby” July 25, 1929,, The Claude A. Barnett Papers: The Associated Negro Press, 1918-1967, Part 3: Subject Files on Black Americans, 1918-1967, Series I: Race Relations, 1923-1965, Box 378, Folder 2, Chicago Historical Society, Chicago, Illinois.

<sup>144</sup> Ibid.

<sup>145</sup> Ibid.

<sup>146</sup> Ibid.

<sup>147</sup> Ibid.

<sup>148</sup> Ibid.

Ford supports this racial characterization. Ford is pictured with dark hair, dark eyebrows, dark eyes, and an olive complexion. It appears that Ford utilized her “in-between” status to her advantage in different situations. In order to get married to Eugene Newton, a Black man, Ford “declared she was colored” “when asked her race by the marriage clerk.”<sup>149</sup> Thus, it is evident that some individuals utilized their racial ambiguity to not only pass as white but to pass as Black or “colored.” This strange case demonstrates that people who fall “in-between” can be perceived as white when they are closely associated with wealth and can be perceived as “colored” when class status is not disclosed. It is clear that Dolores Ford and her family had “access to resources, land, and money” that “helped them move up the social hierarchy” to become white while “very light” Black men, like Eugene Newton did not have the same economic advantages and were thus considered “colored.”<sup>150</sup>

When Dolores Ford admitted to a friend of hers that she was troubled about her secret marriage, her friend joked “Is he a Chinaman?”<sup>151</sup> In response, Ford stated that her husband was “colored” and that she “can’t face” her third failed marriage.<sup>152</sup> The remark about “Chinaman” made by Ford’s friend demonstrates that racial scripts surrounding anti-miscegenation sentiments did not only affect Black individuals, but also Asian men. Molina notes this fact in *How Race is Made in America*: “Antimiscegenation discourse and legislation was directed at Asian men, purportedly to protect white women.”<sup>153</sup>

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<sup>149</sup> Ibid.; Although New Jersey never had an anti-miscegenation law, Dolores Ford still told the clerk that she was “colored.” The marriage would still be permitted by law if Dolores had declared she was “white,” but the couple may have faced greater resistance if they did.

<sup>150</sup> Molina, *How Race Is Made in America*, 39.; Newsclipping, “She Loves Me,” Claude A. Barnett Papers.

<sup>151</sup> Newsclipping, “She Loves Me,” Claude A. Barnett Papers.

<sup>152</sup> Ibid.

<sup>153</sup> Molina, *How Race Is Made in America*, 44.

Although Ford reiterates to her friend that she married a “colored” man, her friend’s initial response illustrates that racial scripts can be applied to both Black and Asian men at this time period. Additionally, this protection demonstrates that regardless of Ford’s shifting racial categorization, her wealth classified her as a white woman in need of familial protection.

In order to secure an annulment for his distraught daughter, William Ford hired a team of detectives to investigate Eugene Newton. William Ford was particularly interested in discovering if Newton’s deceased wife was still alive. If this fact was confirmed by William Ford, he could file for an annulment for his daughter on the basis that Newton could not be legally married to two individuals at the same time. Additionally, William Ford investigated his daughter’s claims that she was “doped” and not aware of her own actions when she and Newton were wed.<sup>154</sup>

After William Ford filed for annulment on behalf of his daughter, they won the case, and the marriage between Dolores Ford and Eugene Newton was dissolved by the state. However, details of the annulment case itself are scarce as the case was decided in a “secret session in the chambers of Judge Almon W. Lytle” in January 1930.<sup>155</sup> Because the case was litigated in a “secret session,” it is likely that William Ford utilized unsavory tactics to ensure the annulment of his daughter’s marriage. If William Ford and his legal counsel could not prove that his daughter entered a marriage under conditions that prompted an annulment, such a polygamy, insufficient mental capacity, or force, then it could not be granted in a court of law. However, if William Ford recognized that he had

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<sup>154</sup> Newsclipping, “She Loves Me,” Claude A. Barnett Papers.

<sup>155</sup> John O’Donnell, “4th Husband of Ford Heiress Theatre’s ‘Human Pin Cushion’” New York Daily News, May 21, 1930.

no legal grounds to annul the marriage, he may have asked for a “secret session” and used his considerable influence to convince the judge to annul the marriage without sufficient evidence. Nonetheless, the marriage was annulled, and Dolores Ford was no longer legally associated with Eugene Newton.

Shortly after, Dolores Ford entered her fourth marriage with Louis Matthews, the same man who she confessed her marriage to the previous year. Ford noted that “her latest marriage meets the approval of her mother” seemingly because the man in question was white, not Black.<sup>156</sup> Thus, it is clear that William Newton moved to protect his daughter, not only financially, but also as a white woman in a relationship with a Black man.

## **Conclusion**

Through the examination of five annulment cases, it is clear that the dissolution of marriage was a tool utilized by white spouses and families to negate the financial responsibilities of marriage. In most annulment cases, family members of the white partner filed for an annulment to not only dissolve the marriage, but to protect the white status of the family as a whole. Although many cases do not center upon a Black man and a white woman, the cases that do so reinforce notions that white women need to be protected, despite the political progress made by the 19th Amendment.

However, in most cases, white spouses and family members were unsuccessful in securing an annulment. Defense attorneys crafted legal arguments that by-passed the

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<sup>156</sup> O'Donnell, “4th.”

question of whiteness, and instead placed responsibility on the individuals who chose to wed their partner. The judicial system was responsive to these new legal arguments and in turn, protected the sanctity of marriage between individuals of different races by refusing to annul the unions. In doing so, judges disregarded unfavorable public opinions surrounding interracial marriage and practically endorsed interracial marriage.

## Conclusion

The 1920s has often been perceived as a decade of grandeur following World War I that quickly flamed out into a period of economic uncertainty with the Great Depression. Chapter 1 outlined the political and cultural shift toward conservatism that became mainstream in the United States. The rise of conservatism resulted in greater hostility towards interracial marriage and increased anti-miscegenation laws in the United States. As mainstream conservatism took hold, however, a small minority of leftist activists advocated for social equality despite opposition. Their efforts have been overlooked by historians. Therefore, the 1920s serves as a unique decade to study and understand debates surrounding interracial marriage.

Through the examination of several court cases, it is clear that white families attempted to protect their familial wealth from Black partners. However, some interracial couples and their allies worked to secure social equality in the judicial system. The failure of white families to protect their material interests in annulment cases was due to the unwavering legal decisions made by judges that did not submit to the prejudiced thinking that encapsulated the decade. By refusing to consider the intolerance toward interracial marriage in their jurisdictions, some judges indirectly worked as advocates for interracial marriage. While some couples were successful in their quest to get married or stay married, other couples, like Mabel Puffer and Arthur Hazzard were subjected to prejudice throughout their various legal battles. Although the court did not affirm the right to marry across the color line in 1919 with Mabel and Arthur, other individuals advocated for this particular marriage, and by extension, interracial marriage as a whole.

Thus, interracial marriage was a contested issue in the 1920s that has been overshadowed by the more studied aspects of the decade.

However, discussions about interracial marriage did not end in the 1920s. Debates surrounding interracial marriage intensified with the Civil Rights Movement. In 1958, a newlywed couple living in Virginia was arrested for violating the state's Racial Integrity Act of 1924 that prohibited interracial marriage. Richard and Mildred Loving plead guilty to the charge of "cohabitating as man and wife" without a valid marriage certificate in January of the following year.<sup>157</sup> They were both sentenced to – and served – a year in prison. In 1965 they appealed to the Virginia Supreme Court and it upheld the decision.

However, in 1967, nearly a decade after their marriage, the United States Supreme Court agreed to hear their case. The plaintiffs charged that the 1924 law violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the United States Constitution. Meanwhile, the defendants argued that the law did not violate the Fourteenth Amendment because violators of the law were punished equally regardless of race. Additionally, they contended that the "regulation of marriage should be left to exclusive state control by the Tenth Amendment."<sup>158</sup> In the end, the Court unanimously ruled that anti-miscegenation laws were unconstitutional:

The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification, as measures designed to maintain White Supremacy. We have consistently denied the constitutionality of measures which restrict the rights of citizens on account of race. There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause.<sup>159</sup>

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<sup>157</sup> Loving v. Virginia, 388 U.S. 1 (1967)

<sup>158</sup> Ibid.

<sup>159</sup> Ibid.

As soon as the decision was rendered, the sixteen states that still had anti-miscegenation laws could no longer enforce those laws and countless couples could get married regardless of race. Many of the states that had anti-miscegenation laws acted swiftly to repeal them. For example, Arkansas repealed its law at its next convening of the state legislature in 1968.<sup>160</sup>

However, some states, like Alabama, continued to enforce such laws against the guidance of the highest Court. Alabama enforced its anti-miscegenation law until 1970, when a US District Court condemned the practice in *United States v. Brittain*. In fact, Alabama was the last state to repeal its anti-miscegenation statute in 2000. Because the state's anti-miscegenation statutes were embedded in the state constitution rather than legislation, it was more difficult to change the ban on interracial marriage. In order to amend the Alabama state constitution, three-fifths of the Alabama State Legislature must vote to put an amendment on the ballot and it must be ratified by a simple majority of voters in the next election. However, the arduous amendment process was not the only reason that Alabama was the last state to repeal its anti-miscegenation laws. If that was the case, Alabama could have undertaken the amendment process immediately following the *Loving* decision.

The persistence of anti-Black racism resulted in the longevity of the anti-miscegenation statute in Alabama's state constitution. Both legislators and residents of Alabama did not have the political will to adhere to the *Loving* decision and amend the state constitution prior to 2000. This is evidenced by the fact that 60% of constituents

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<sup>160</sup> Ibid.

voted in favor of the amendment to the state constitution and 40% voted against the amendment.

*Loving v. Virginia* also had prolonged effects as it created new legal precedent concerning marriage. The 1967 decision was cited in another landmark case about marriage in 2015. In *Obergefell v. Hodges*, the plaintiffs argued that laws prohibiting gay marriage were unconstitutional under the legal precedent set by *Loving v. Virginia*. The court ruled in favor of the plaintiffs and gay marriage was legalized throughout the United States.

Even though the *Loving* case occurred over fifty years ago, debates over interracial marriage occur today. In March 2022, Senator Mike Braun, a Republican from Indiana, expressed his distaste for “judicial activism.”<sup>161</sup> He cited *Roe v. Wade* as a case that should be overturned as the Constitution does not explicitly grant the right to privacy. The journalist reporting Braun’s remarks asked if the same logic could be applied to other landmark Supreme Court cases, like *Loving v. Virginia*. He replied in the affirmative: “I think that that’s something that if you’re not wanting the Supreme Court to weigh in on issues like that, you’re not going to be able to have your cake and eat it too,” he said. ‘I think that’s hypocritical.’”<sup>162</sup> He later redacted his statements noting that he “misunderstood” the line of questioning and he condemned racism.<sup>163</sup>

Although Braun redacted his statements regarding *Loving v. Virginia*, the article presents alarming facts about interracial marriage in the United States. Similar to the

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<sup>161</sup> Mariana Alfaro, “Republican Sen. Mike Braun says Supreme Court should leave decisions on interracial marriage, abortion to the states,” *Washington Post*, March 22, 2022, <https://www.washingtonpost.com/politics/2022/03/22/braun-supreme-court-interracial-marriage/>

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

recent attacks against *Roe v. Wade*, previous protections for fundamental rights can be easily overturned by conservative Justices. As constituents, we must ensure that the right to marry whomever one chooses regardless of race remains a right protected by the Fourteenth Amendment. Although the cases chronicled in this thesis occurred a century ago, they serve as a cautionary tale of what could happen if protections for interracial marriage are stripped away. The activists who fought against anti-miscegenation legislation also present an example of how we can advocate for interracial marriage in our lives.

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