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**Fictions of Justice**

**Literary Lawyers in the  
American South, 1946-1966**

by  
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A thesis submitted in partial fulfilment of the requirements for the degree  
of Doctor of Philosophy in English and Comparative Literary Studies

University of Warwick  
Department of English and Comparative Literary Studies

October 2020

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## Acknowledgements

I am extremely fortunate to have been supervised by Dr Mark Storey. Mark has provided support, guidance, and much needed humour throughout the course of this project. I thank him for his constructive feedback, numerous emails with new research to explore, and advice when preparing for conferences.

I am grateful to the Centre for Arts Doctoral Research Excellence, whose scholarship significantly contributed to arranging an archival trip to the United States in September 2018, not to mention paying the rent.

At the University of Warwick, Kate Courage has been invaluable, as have those in Document Supply for locating a number of obscure books and journal articles. At Royal Holloway, University of London, I would like to thank Dr Ahmed Honeini, Founder and Director of *Faulkner Studies in the U.K.* At Canterbury Christ Church University, Dr Gavan Lennon was kind enough to look over aspects of my research, especially in relation to the character of Gavin Stevens. Staff at the British Library have also been helpful when finding resources specific to Harper Lee and Jesse Hill Ford.

In the United States, I am grateful to Nancy Dupree and Ken Barr at the Alabama Department of Archives and History, Kevin Ray at the University of Alabama Libraries Special Collections, Sharon Tucker at Huntingdon College, and administrative staff at the Monroe County Courthouse in Monroeville and the National Archives in Washington, D.C. At the University of Mississippi, I would like to thank Professor Jennifer Ford, Head of Special Collections at the J.D. Williams Library, and Jay Watson, Howry Professor of Faulkner Studies in the Department of English.

My good friend Dr Mary Ellen has been a superb sounding board for ideas, as well as an enthusiastic and excellent proof-reader.

Finally, my fiancée Sophie has provided unending support, keeping me afloat during those drizzly, grey days. Without her, I am not sure this thesis would be what it is today.

.....

I dedicate this to my parents. It looks like those evenings teaching their young son to read weren't completely wasted after all...

## **Declaration**

This thesis is submitted to the University of Warwick in support of my application for the degree of Doctor of Philosophy. It has been composed by myself, and has not been submitted in any previous application for any degree.

## **Abstract**

This thesis re-examines and redefines the structuring paradoxes of the post-war American South through a sustained interrogation of its literary lawyers. Alert to overlapping spaces of race, law, history, and violence, I argue that the fictional lawyer sheds new light on the critically neglected pre- civil rights era by connecting the Cold War American novel to the contradictory discourses of the American South's shifting social and legal terrain. In an era caught between localised reassertions of racial hierarchy and the broader national claims of emancipatory justice and equality, I contend that my four central writers – William Faulkner, Harper Lee, Jesse Hill Ford, and Ann Fairbairn – employ their legal characters to embody the unsettled meanings of law and justice in a region poised on, but still awaiting, the transformative changes wrought by later civil rights legislation.

Reacting to a growing body of scholarship that bears scepticism toward dominant claims of the neutrality, objectivity, and color blindness of American law, and refracting these theories through a careful explication of the specific dilemmas fictional Southern lawyers faced during the turbulent post-war era, I maintain that such characters operate in distinctive ways. Rather than simply reasserting that Southern texts degenerate into populist narratives reinscribing the lenticular logics that have, for decades, neatly partitioned race and racism from American law, I demonstrate instead that these legal characters – appearing in texts published between 1946 and 1966 – uniquely focus and embody the emerging narratives of race and law that characterised the regional and national politics of the civil rights struggle.

## Abbreviations

Constitution	Constitution of the United States (1788)
<i>Dred Scott</i>	<i>Dred Scott v. Sanford</i> (1857)
<i>Plessy</i>	<i>Plessy v. Ferguson</i> (1896)
<i>Brown</i>	<i>Brown v. Board of Education of Topeka</i> (1954)
<i>Brown II</i>	<i>Brown v. Board of Education of Topeka</i> (1955)
NAACP	National Association for the Advancement of Colored People
CRT	Critical Race Theory
SCLC	Southern Christian Leadership Conference
<i>Intruder</i>	<i>Intruder in the Dust</i> (1948)
<i>Norris</i>	<i>Norris v. Alabama</i> (1935)
<i>Shelley</i>	<i>Shelley v. Kraemer</i> (1948)
<i>Requiem</i>	<i>Requiem for a Nun</i> (1951)
<i>Mockingbird</i>	<i>To Kill a Mockingbird</i> (1960)
A.C. Lee	Amasa Coleman Lee
<i>Watchman</i>	<i>Go Set a Watchman</i> (1957, 2015)
<i>Lord Byron Jones</i>	<i>The Liberation of Lord Byron Jones</i> (1965)
ALEC	American League for Equal Citizenship
SNCC	Student Nonviolent Coordinating Committee
CORE	Congress of Racial Equality
YPCF	Young People’s Committee for Freedom
<i>Shelby</i>	<i>Shelby County v. Holder</i> (2013)

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But where says some is the King of America? I'll tell you Friend, he reigns above, and doth not make havoc of mankind like the Royal Brute of Great Britain. Yet that we may not appear to be defective even in earthly honors, let a day be solemnly set apart for proclaiming the Charter; let it be brought forth placed on the Divine Law, the Word of God; let a crown be placed thereon, by which the world may know, that so far as we approve of monarchy, that in America THE LAW IS KING. For as in absolute governments the King is law, so in free countries the law ought to be King; and there ought to be no other.

— Thomas Paine, 'Common Sense' (1776)

There exists among us by ordinary – both North and South – a profound conviction that the South is another land, sharply differentiated from the rest of the American nation, and exhibiting within itself a remarkable homogeneity.

— W.J. Cash, *The Mind of the South* (1941)

Stop talking about the South. As long as you south of the Canadian border, you South.

— Malcolm X, 'The Ballot or the Bullet' (1964)

## INTRODUCTION

### Fictions of Justice

The lawyer character is intimately associated with fictions of the American South. Southern lawyers have sometimes become respected authors, while Southern authors often turn to lawyer figures when portraying the themes of law and justice in their work. Located in a region habitually caught between localised reassertions of racial hierarchy and the broader national claims of emancipatory justice and equality, the fictional lawyer has frequently proved to be a useful barometer of the South's distinctive values and culture. Owing to their knowledge of local communities and the legal frameworks that shape social interaction, lawyers in Southern literature are repeatedly shown to be exemplary figures. They quickly resolve disputes, of a legal (or even extra-legal) nature. They are masters of verbal manipulation, able to converse with Harvard alumni and local professionals as easily as rural hill-folk. They eloquently tell stories, whether of a legal, historical, or social nature.

In the South of the early nineteenth-century, literary lawyers endorsed both the sanctity of states' rights and the importance of planter aristocracies that drove the region's trade and commerce. John Pendleton Kennedy's *Swallow Barn* (1832) introduced the erudite figure of Philpot Wart, a character who arguably sets the earliest fictional standard for the Southern lawyer. Wart upheld the racial patterns and cultures of his local community and was most forceful in his defense of slavery and states' rights. At the same time, the character recognised what Collin Messer describes as the "ascendancy of the Southern gentlemen's code, an unwritten cultural law that conflates chivalry and racial attitudes."<sup>1</sup> Similar legal types appeared in Augustus Baldwin Longstreet's *Georgia Scenes* (1835) and Joseph G. Baldwin's *Flush Times of Alabama and Mississippi* (1853). While the lawyers in these fictions were noticeably less sophisticated than Kennedy's Wart – Baldwin's Simon Suggs, Jr., for example, wins his law license in a card game – they still retained a passionate advocacy of states' rights and the South's strict racial principles.

Post- Civil War Reconstruction saw little in the way of change.<sup>2</sup> Despite the Reconstruction Amendments addressing civil liberties in postbellum America, Southern literary lawyers generally echoed their antebellum antecedents in the decades that followed the battle between Union and Confederacy.<sup>3</sup> Thomas Nelson Page, himself a Virginian lawyer, was perhaps the most prolific writer of the immediate

postbellum era. Page's legal figures commonly acted as a mouthpiece for the writer's own concerns – most notably, that any federal attempt to emancipate black Americans during Reconstruction would be detrimental to regional traditions and customs. In 'The Old Virginia Lawyer' (1891), Page accordingly argues that a lawyer's pursuit of justice is "sacred" and "maintain[s] the rights of man": language certainly acknowledging imagery of a chivalric antebellum era.<sup>4</sup> A legal character who also speaks directly to these regional attitudes of personal justice and legal privatism is Judge York Leicester Driscoll in Mark Twain's *Pudd'nhead Wilson* (1894). Comparable with Page's unbridled faith in the chivalry of gentlemen's codes, Twain's Driscoll is equally committed to the merits of Southern personal law enforcement. In this scene from chapter twelve, Judge Driscoll scolds his nephew who – having been recently assaulted – seeks reparation in court:

Howard and the Judge sprang to their feet [...] – why, neither knew; then they stood gazing vacantly at each other. Howard stood a moment, then sat mournfully down without saying anything. The Judge's wrath began to kindle, and he burst out:

'You cur! You scum! You vermin! Do you mean to tell me that blood of my race has suffered a blow and crawled to a court of law about it? Answer me!'<sup>5</sup>

Twain's Driscoll appears similarly devoted to the same unwritten laws and gentlemen's codes that have shaped the behaviour of previous Southern legal figures; the character's "wrath" is unequivocal, his lack of ambivalence clear for all to see.

After the Supreme Court's decision to formalise Jim Crow in *Plessy v. Ferguson* (1896), fictional Southern lawyers remained predictably rooted to their belief in the region's paternalism. Characters in this vein include Page's Mr Welch in *Red Rock* (1898) and the old, sinful advocate in Thomas Dixon's *The Clansman* (1905). Dixon, in a trilogy of novels, ardently defended the legalisms of Jim Crow, both popularising the Ku Klux Klan as a saviour of American civilisation, and characterising Southern law as a "frontier predisposition toward personal justice [and] a paternalistic orientation toward personal honor."<sup>6</sup> Put another way, whether intellectual professionals or country-tricksters, lawyers appearing in Southern literature published before the early twentieth century were usually presented without compromise. There

was virtually no ambivalence in their characterisation, nor any real sense of contradiction. They seemed only to reflect their predecessors' beliefs, behaviours, and attitudes, reinscribing what W.E.B. DuBois would famously label as the "color-line" in 1903.<sup>7</sup>

Into the early decades of the twentieth century, American writers began drawing attention to the relationship between race and the law. Novelists like Paul Laurence Dunbar and Pauline Hopkins, as well as civil rights activists like Ida B. Wells, considered society, Jim Crow, and the exponential rise in acts of lynching. Southern literature nevertheless remained largely indifferent to these issues, even if William Faulkner did at least begin to evaluate the themes of law, justice, and extra-legal violence. One of Faulkner's first fictional lawyers was Horace Benbow, who appeared in *Sartoris* (1929), *Sanctuary* (1931), and the short story 'There was a Queen' (1933). But as Jay Watson observes, Benbow was distinctly ineffective in Faulkner's fiction; a "character we never see actively solicit a case, enter a courtroom, or offer his services to a client."<sup>8</sup> Albeit as a result of his own incompetence, though, Benbow still emerges as a tacit critique of the South's dominant racial ideologies, paving the way for Faulkner's later – and considerably more effective – Gavin Stevens.

The end of the Second World War (1939-45) initiated the conditions that would lead to the Cold War (1947-91). During this post- Second World War era, especially between 1946 and 1966, lawyers in Southern fiction would undergo a noteworthy revolution, tasked with dramatising the unsettled meanings of law and justice in a region poised on, but still awaiting, the transformative changes wrought by the civil rights struggle.<sup>9</sup> Examining the legal figures in William Faulkner's *Intruder in the Dust* (1948), *Knight's Gambit* (1949), and *Requiem for a Nun* (1951), Harper Lee's *Go Set a Watchman* (1957, first published 2015) and *To Kill a Mockingbird* (1960), Jesse Hill Ford's *The Liberation of Lord Byron Jones* (1965), and Ann Fairbairn's *Five Smooth Stones* (1966), my fictions of justice will consider how the South's post-war literary lawyer reacted to the end of formalised de jure segregation in the 1940s and 1950s, and the congressional efforts to end black disenfranchisement in the 1960s.

Given the legal transformations in the Supreme Court and in Congress, one might expect the fictional Southern lawyer – wedded to an occupation obliged to take an oath to uphold the Constitution of the United States – to wholly embrace Cold War narratives intent on portraying the nation's legal system to the world as evolving, progressive, and color blind.<sup>10</sup> Literary representations of these post-war figures are,

however, somewhat different. Although bestowed with greater depth than their fictional forebears, such characters maintained meaningful alliances with their respective locales, and never sought to wholly condemn their immediate communities.

Similar to their predecessors, then, it would seem that fictional lawyers of the post-war South continued to act as mere distortions of the ‘regional paternalist,’ persisting only in further propagations of the color-line. My fictions of justice intends to take a different approach, looking instead to acknowledge the distinctive new space the lawyer of post-war Southern literature occupies as one uniquely focused on the emerging narratives of race and law that characterised the regional and national politics of the civil rights struggle.

Two questions are naturally raised here. What shaped this new space in which literary lawyers of the post-war South operated? And how might a focus on the emerging narratives of race and law that characterised the civil rights struggle lead to a redefinition of these legal figures and their place in Southern literary culture?

### **Race and Law in the United States**

According to Mathias Möschel, American law has “dominated, shaped, and constructed the life of racial minorities in the United States.” It has also played a “pivotal role in the construction of races,” as well as being “responsible for the introduction and maintenance of slavery, segregation, and other forms of subordination.”<sup>11</sup> Race and law in the United States are, in other words, mutually constitutive, sharing an intricate history of collision, conflation, and even collusion. Establishing the place of law in America – specifically how it has a “horizontal component [that] spreads itself over a specific territory”<sup>12</sup> – is thus central to clarifying the frameworks within which literary lawyers of the post-war South operated.

It is therefore necessary to first examine the legal history that contextualises my fictions of justice: one that shaped and constructed these racial boundaries and classifications. This narrative includes the nation’s founding legalisms, the role of the United States Supreme Court, and the localised frameworks that sought either to uphold or, crucially, resist federal dicta. Figure 0.1 (below) sketches out a series of events generally accepted to have produced the foundations of this legal history, from the birth of the nation to the conclusion of my fictions of justice:

<b>Year</b>	<b>Event</b>
1776	Declaration of Independence
1788	Constitution of the United States is ratified – Article IV contains the Fugitives from Labor Clause
1789	United States Supreme Court is established. John Jay is appointed as its first Chief Justice
1790	Congress passes a law which states that naturalized citizenship is open only to “free white persons”
1791	Bill of Rights is ratified, making ten amendments to the Constitution
1842	<i>Prigg v. Pennsylvania</i> . Supreme Court upholds the Fugitives from Labor Clause
1857	<i>Dred Scott v. Sanford</i> . Supreme Court denies citizenship to black Americans
1861-65	American Civil War
1865	Reconstruction begins
1865	31 January. Thirteenth Amendment is ratified, abolishing involuntary servitude
1866	First Civil Rights Act passes through Congress, declaring that emancipated slaves, or any person – regardless of their race – born in the United States, is a naturalized citizen
1868	Fourteenth Amendment is ratified, giving black Americans full citizenship
1870	Fifteenth Amendment is ratified, granting the vote to black men
1871	Second Civil Rights Act passes through Congress, prohibiting race-based violence against African Americans
1875	1 March. Third Civil Rights Act passes through Congress, preventing discrimination in “public accommodations”
1875	11 March. First Jim Crow law is enacted in Tennessee, permitting any hotel or inn proprietor the liberty to exclude any person from their property for “any reason whatever”
1878	<i>In re Ah Yup</i> . The first in a series of ‘pre-requisite’ cases, in which minorities argued for their right to naturalization. These cases framed fundamental questions about who could join the American citizenry and, more importantly, who the courts deemed to be ‘white’
1896	<i>Plessy v. Ferguson</i> . Supreme Court rules that states can legally separate the races. Justice John Harlan writes his famous dissent and labels the Constitution as ‘color blind’

1909	NAACP is formed
1917	<i>Buchanan v. Warley</i> . Localised instances of racial zoning in residential areas are deemed unconstitutional
1927	March. <i>Nixon v. Herndon</i> . Supreme Court decides that states cannot hold 'white only' primaries
1927	November. <i>Gong Lum v. Rice</i> . Supreme Court decides that states can treat Asians comparably to black people (thereby grouping 'non-whites' together)
1944	<i>Smith v. Allwright</i> . Supreme Court decides that state statutes which allow political parties to exclude African Americans from voting in primaries are unconstitutional
1945	Second World War ends
1946	President Harry S. Truman creates the Committee on Civil Rights
1947	'To Secure These Rights' is published.
c.1947	Cold War begins
1948	<i>Shelley v. Kraemer</i> . Supreme Court prohibits state courts from upholding racially restrictive covenants of private landowners
1953	Martha White initiates the Baton Rouge Bus Boycott in Louisiana
1954	<i>Brown v. Board of Education of Topeka</i> . Supreme Court deems that racial segregation in schools is "inherently unequal"
1955	May. <i>Brown v. Board of Education of Topeka II</i> . Supreme Court rules that the desegregation of schools should be completed with "all deliberate speed"
1955	August. Emmett Till is murdered in Money, Mississippi by Roy Bryant and John William Milam
1955	December. Rosa Parks initiates the Montgomery Bus Boycott in Alabama
1956	Southern Manifesto is published
1957	4 September. Federal troops are deployed to Little Rock, Arkansas to contain violence directed at black students wishing to enrol at a local high school
1957	9 September. Fourth Civil Rights Act passes through Congress, establishing the Civil Rights Commission
1960	Fifth Civil Rights Act passes through Congress, establishing federal inspection of local voter registration
1961	<i>Mapp v. Ohio</i> . Supreme Court prohibits the collection of evidence through "unreasonable police search"

1963	May. <i>Watson v. Memphis</i> . Supreme Court deems racial segregation in parks to be unconstitutional
1963	11 June. Governor George Wallace attempts to block integration at the University of Alabama, Tuscaloosa
1963	11 June. President John F. Kennedy gives the ‘Report to the American People on Civil Rights.’ In the address, Kennedy refers directly to Harlan’s vision of a color blind Constitution
1963	August. March on Washington for Jobs and Freedom. Martin Luther King, Jr. addresses crowds at the Lincoln Memorial with ‘I Have a Dream’
1964	Sixth Civil Rights Act passes through Congress, prohibiting discrimination on the grounds of race
1965	Voting Rights Act passes through Congress

**Figure 0.1**  
**Race and Law in the United States**

It is worth dwelling on some of these events and consider why America’s racial history – especially before the *Brown* decision of 1954 – is so often described as “inglorious.”<sup>13</sup>

The Declaration of Independence (1776) rooted the United States in the supremacy of law. Rather than allegiance to a monarch, the ideal of “law-as-king” became the nation’s ruler: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”<sup>14</sup> Shaping and organising this belief was the Constitution of the United States (1788), announcing that the “establish[ment of] Justice” and “Blessings of Liberty” should sit centrally in American life.<sup>15</sup> Simultaneously, however, the Constitution continued to endorse enslavement according to race; part of a compromise struck by the Framers to appease Southern states in the original Thirteen Colonies. First, the Fugitives from Labor Clause (or Fugitive Slave Clause) stated: “No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.” Second, the notorious Three-Fifths Compromise declared that Representatives in the House would be “determined by adding to the whole Number of free Persons,

including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.”<sup>16</sup> These compromises solidified Southern state representation in Congress. What is more, black Americans, from the birth of the nation’s legal system, were racially othered.

In 1791 the Bill of Rights ratified ten amendments to the Constitution. Most crucial for civil rights was the Tenth: “The powers not delegated to the United States by the Constitution, nor prohibited to it by the States, are reserved to the States respectively, or to the people.”<sup>17</sup> This wording has unquestionably shaped the cultural landscape for black-white relations in America. While not exclusive to the region, the South firmly upheld established racial hierarchies and frequently leant on the Tenth Amendment’s dictum. Foremost were the elaborate and detailed slave codes adopted in the middle decades of the nineteenth century. The Code of Alabama (1852), for example, categorised the “state or condition of Negro or African slaves.” Importantly, such codes curtailed a slave’s right to citizenship, limited their movements, and restricted their rights to both property and their own possessions.<sup>18</sup>

These regionalised reassertions of racial hierarchy were federally sanctioned by the Supreme Court decision of *Dred Scott v. Sanford* (1857). In *Dred Scott*, the plaintiff (born a slave in Virginia) sued for his freedom, a request denied by Chief Justice Roger B. Taney:

The words ‘people of the United States’ and ‘citizens’ are synonymous terms, and mean the same thing. [...] The question before us is, whether the class of persons described in the plea in abatement compose a portion of this people, and are constituent members of this sovereignty? We think they are not, and that they are not included, and were not intended to be included, under the word ‘citizens’ in the Constitution.<sup>19</sup>

Taney’s opinion is a prominent example of federal legislation approving the sovereignty of states’ rights. The language – stressing that a particular “portion” of “people” are “not included” in the national citizenry – isolates black plaintiff from white population, a linguistic move that serves only to endorse contemporaneous Southern sociologists like George Fitzhugh, who observed in 1854 that black Americans were “children [unable ...] to be governed by law.”<sup>20</sup>

When concluding *In re Ah Yup* (1878), the Ninth Circuit Court in California denied the plaintiff (a Chinese immigrant) the right to naturalization based on Chapter III, Section 1 of the 1790 Public Statutes at Large of the United States. From the earliest years of the republic, Congress sought to restrict naturalization to “free white person[s]”: “any alien, being a free white person, who shall have resided within the limits and under the jurisdiction of the United States for the term of two years, may be admitted to become a citizen thereof.”<sup>21</sup> Ah Yup argued that Chinese people were white, but Circuit Court Judge Sawyer maintained, even in light of the recent Fourteenth Amendment, that the term “‘white person,’ as used in the statutes as they have stood from [1790 ...] was never supposed to include a Mongolian.”<sup>22</sup> Cases like *In re Ah Yup*, or the earlier *Dred Scott*, illustrate that, historically, race in America has been socially constructed. Moreover, the law is central to this construction, being – as Ian F. Haney López recognises – “one of the most powerful mechanisms by which any society creates, defines, and regulates itself.”<sup>23</sup> It follows, therefore, that a narrative concerning the history of American law relies on the fact that the courts are not only responsible for deciding who is white, but critically, why someone is white.

*In re Ah Yup*, along with later ‘pre-requisite’ cases, have been neatly partitioned from mainstream narratives of American legal history.<sup>24</sup> Conventional focus shifts instead to legislative changes made immediately after the Civil War. Crucial to civil rights progress in this instance was the passing of the Reconstruction Amendments. Although the Thirteenth Amendment is noted with the greatest historical reverence, it was the Fourteenth (and, less so, the Fifteenth) that formed the truest groundings of legal equality, providing new opportunities to emancipate black Americans into the twentieth century.<sup>25</sup> Inevitably, the dilution of states’ rights enforced by the Reconstruction Amendments was fiercely resisted by local law makers, especially in the South. A network of regionalised legislation directly collided with these newly formed federal frameworks, actively applying state law in order to preserve segregation. In 1875, Tennessee enacted the first Jim Crow law, which permitted any hotel or inn proprietor the liberty to exclude “any person, whom he shall for any reason whatever, choose not to entertain, carry, or admit, to his house, [or] hotel.”<sup>26</sup> Additional early examples of Jim Crow include the Laws of Delaware (1875), the Constitution of Alabama (1875), and the Laws of Mississippi (1878).<sup>27</sup>

*Plessy v. Ferguson* (1896) enshrined these doctrines of Jim Crow and ‘separate but equal’ on a national scale. While Justice Henry B. Brown’s majority opinion has

been debated at great length, both critically and historically, it is Justice John Harlan's sole dissent that strikes as the most interesting, especially the way it has been revisited – and so often praised – by later politicians, lawyers, and historians.<sup>28</sup> To call the dissent straightforwardly progressive is, however, entirely misleading. Buried within the opinion, Harlan makes discriminatory comments about Asian Americans and continues to reaffirm the tenets of white supremacy:

There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race.

[...]

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth, and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage, and holds fast to the principles of constitutional liberty.<sup>29</sup>

On the one hand, Harlan claims that the Thirteenth and Fourteenth Amendments “protect all the civil rights that pertain to freedom and citizenship,” undoubtedly demonstrating his belief that Jim Crow has wrongly sanctioned the classification of black Americans as inferior to the white population.<sup>30</sup> At the same time, though, his dissent declares that the “white race” is “dominant.” These contradictions at the very heart of Harlan's opinion challenge long-held beliefs with regard to America's progressive legal system. They similarly prefigure the same institutions' later problematic position as it would attempt to correct its own historical judicial errors.

More than any other Supreme Court decision in history, *Plessy* validated the practices of Jim Crow. In its aftermath segregation extended to all public amenities, relentlessly partitioning black from white. Yet *Plessy's* doctrine went further. Localised ordinance codified segregation in places even beyond the law. For instance, the General Laws of Alabama (1911) stated: “[I]t shall be unlawful for any sheriff, or jailer [...] to confine in the same room or apartment [...] white and Negro prisoners.”<sup>31</sup> Jim Crow also regulated public discourse. In 1920, Mississippi passed legislation that prohibited the “printing, publishing, or circulat[ion of ...] arguments or suggestions in favor of social equality or of intermarriage between whites and Negroes.”<sup>32</sup> Legalised

segregation thus mutated into a dense network of laws and ordinances, designed to preserve a so-called Southern way of life.

.....

*Brown v. Board of Education* is one of the most important decisions in the history of the [...] Supreme Court. The ruling influenced the path of America's racial transformation, shaped our understanding of the Supreme Court's role in American society, and altered our conception of the relationship between law and social reform.<sup>33</sup>

It is a great irony that the courts – the very location responsible for so much historical racial subordination and oppression – provided the initial catalyst to accelerate civil rights progress. Spearheaded in 1909 by the creation of the National Association for the Advancement of Colored People (NAACP), repeated challenges in local and federal courts accumulated to “hammer away at the color-line, only using the weapons [...] placed in their hands by the very Constitution which the white man had written.”<sup>34</sup> Decisions of this type included *Buchanan v. Warley* (1917, concerning residential segregation ordinances), *Nixon v. Herndon* (1927, concerning white primaries), and *Brown v. Mississippi* (1936, concerning due process and equal protection in criminal cases).<sup>35</sup> Civil rights activists then focused on school segregation, as observed in regional judgments like *Gaines v. Canada* (1938), *Bluford v. Canada* (1940), or *Sipuel v. University of Oklahoma* (1948). In each case, the court upheld state segregation laws, before the NAACP shifted its focus almost entirely to the federal judiciary. Here, one might consider *Sweatt v. Painter* (1950), where the Supreme Court reversed the state decision to deny the admission of Heman Sweatt to the “University of Texas Law School” for the sole reason that he was “a Negro.”<sup>36</sup>

*Brown v. Board of Education of Topeka* (1954) effectively reversed the *Plessy* decision. Chief Justice Earl Warren wrote the unanimous opinion: “We conclude that in the field of public education the doctrine of ‘separate but equal’ has no place. Separate educational facilities are inherently unequal.”<sup>37</sup> Southern states naturally resisted the ruling. Louisiana, for example, swiftly established local legislation that doubled down on segregated educational establishments, passing Law No. 752: “All public elementary and secondary schools in the State of Louisiana shall be operated

separately for white and colored children. This provision is made in the exercise of giving state police the power to promote [...] peace and good order in the State, and not because of race.”<sup>38</sup> *Brown v. Board of Education of Topeka II* (1955) was consequently decided. The Supreme Court now demanded that desegregation should be achieved with “all deliberate speed,” and challenged individual states to make a “prompt and reasonable start toward full compliance.”<sup>39</sup> Southern states again resisted. Signed by nineteen Senators and seventy-seven Members of the House, the Southern Manifesto (1958) pledged to use “all lawful means to bring about a reversal of [*Brown*] which is contrary to the Constitution and to prevent the use of force in its implementation.”<sup>40</sup> These sentiments were patently adhered to. By *Brown*’s sixth anniversary in 1960, only 98 of Arkansas’s 104,000 black students attended a desegregated school, 34 of North Carolina’s 302,000, 169 of Tennessee’s 146,000, and 103 of Virginia’s 203,000. In the five states of the Deep South (Alabama, Georgia, Louisiana, Mississippi, South Carolina), not one of their 1.4 million black school children attended a racially mixed school.<sup>41</sup>

Publications by respected Southern scholars in the early-1960s further reiterated these segregationist doctrines. Carleton Putnam’s *Race and Reason* (1961), Wesley C. George’s *The Biology of the Race Problem* (1962), and James J. Kilpatrick’s *The Southern Case for School Segregation* (1962) all illustrated this trend. However, such views were becoming increasingly limited to the Southern region in later years of the post-war era. More liberal attitudes instead spread across the nation’s general population, characterised by the supposedly color blind ideals of the Constitution and a notion that race and racial categories – rather than being constructed, sanctioned, and maintained by the law – were, as Paul Bohannon claimed in 1963, an “invention”: a “folk concept, not an analytical concept.”<sup>42</sup>

During this same period, the Supreme Court continued to erode the foundations of its own inglorious racial history. Rather than hold with the previous support of state legislature (such as in cases like *Dred Scott* and *Plessy*), decisions repeatedly sided with an individual’s rights or the ideals of the federal government. Notable cases in this instance were *Mapp v. Ohio* (1961) and *Watson v. Memphis* (1963): the former concerning criminal procedure and the collection of evidence contrary to the Fourth Amendment’s “unreasonable searches and seizures”; the latter deeming that the “continued denial [...] of city facilities solely because of [...] race” was inherently unconstitutional.<sup>43</sup> American law had seemingly evolved into a narrative of progress,

returning to the national values of democracy, justice, and equality found in the Declaration of Independence. This narrative was only emphasised by the passing through Congress of the Civil Rights Act in 1964 and the Voting Rights Act in 1965.<sup>44</sup>

More than in any other period of American legal history, then, the post-war years saw a sharp increase in collisions between federal and state law. In *Talking to Strangers* (2004), Danielle Allen writes that the legal era between 1954 and 1965 represents the greatest “shift in the country’s history.”<sup>45</sup> I propose to extend Allen’s historical framework to include President Harry S. Truman’s creation of the Committee on Civil Rights (1946) and the subsequent publication ‘To Secure These Rights’ (1947), both crucial markers in federal challenges to regionalised racial inequality across the following two decades. This acceleration of progressive national legislation is marked by four legal moments, shown in the left column of Figure 0.2 (below). In the right column are examples of state resistance to this corresponding national legislation, which are by no means exhaustive:

<b>National Legislation</b>	<b>Southern Reaction</b>
1946: President Truman creates the Committee on Civil Rights	By 1949: No Southern state had enacted a single law against discrimination in places of public accommodation <sup>46</sup>
1947: ‘To Secure These Rights’ is published	
1954: <i>Brown v. Board of Education</i>	1954: Acts of Louisiana, No. 752
1955: <i>Brown v. Board of Education II</i>	1956: Southern Manifesto
	1958: Acts of Louisiana, No. 256 <sup>47</sup>
1964: Civil Rights Act	
1965: Voting Rights Act	1966: Acts of Kentucky, Chapter 2

**Figure 0.2**  
**Civil Rights Legislation v. State Reaction (1946-1966)**

The above clearly acknowledges the heightened tensions between nation and state. But it also raises a significant question; one vital to any re-examination of fictional lawyers and representations of law in literature of the post-war South. Why, almost a century after the civil liberties enshrined by the Reconstruction Amendments were formalised, does the Supreme Court – along with Congress and law-makers in the United States – alter well-established ‘separate but equal’ doctrines by focusing on a

nationwide commitment to desegregation founded on the entitlement of all to the full and equal privileges of citizenship?

### **The Undigested**

Danielle Allen goes on to describe the legal period between 1954 and 1965 as one that suggestively “remains still undigested.”<sup>48</sup> Allen’s use of “undigested” is striking, even if it requires further qualification to enable the distinctive redefinitions and re-examinations of post-war legal narratives observed through a specific lens of the fictional Southern lawyer. With reference to its abstract meaning, the term is defined as “[n]ot reduced to order or harmony; not properly arranged or regulated; chaotic; confused.”<sup>49</sup> The undigested accordingly describes something ‘not straightforward’ (not linear, not precise) and, vitally, ‘not binary’ (not one thing or the other, not partitioned).

I argue that reading what remains undigested in my particular fictions of justice between 1946 and 1966 must be founded on an imperfect proposition: that American law and civil rights evolved linearly and progressively during the post-war era. This proposal is held firmest by the movements’ so-called crown jewels. First, *Brown v. Board of Education* (1954), which slowly – but linearly and progressively – ended de jure segregation. Second, the later Civil Rights Act (1964) and Voting Rights Act (1965), which outlawed legalised discrimination and disenfranchisement of African Americans with respect to occupation, civil liberty, and democratic rights. At its core, Richard Delgado and Jean Stefancic suggest that this legal narrative propagates “color blindness and the neutral principles of constitutional law.”<sup>50</sup> The narrative equally aligns with the nation’s dominant culture after the Civil War, and one which accelerated into the early decades of the twentieth century; that of “capitalist modernity,” explained by Leigh Anne Duck as a “linear, progressive [chronology] allowing for new mobility and opportunity.”<sup>51</sup>

As we have observed, though, this narrative leaves a remainder or, perhaps more specifically, a contradiction: one that neatly posits the South as a backward (even primitive) region of racial prejudice and obfuscating resistance. That is, in order to present these accelerations of civil rights progress in American law, demonstrations of white supremacy and resistance to perceivably emancipatory new legal frameworks in the South became a convenient tool for the United States to present itself as a progressive democracy in the post-war era.

Indeed, because the above history is synonymous with mainstream narratives that describe the relationship between race and the law, it presents an entirely monocular view of civil rights history. Throughout, American law's dismal past is neatly partitioned from its enlightened post- Second World War present, with notions of legal progressivism at the heart of this established narrative. Questionable inclusions in the Constitution, like the Fugitive Slave Clause, are naturally succeeded by the Reconstruction Amendments, both reducing the power of Southern states in Congress and placing civil liberties under the jurisdiction of federal law. Likewise, objectionable decisions handed down by the Supreme Court in cases like *Dred Scott* and *Plessy* are superseded by the pro- civil rights legislation of *Brown* (and *Brown II*), as well as those later acts of Congress that sought to end disenfranchisement on the grounds of discrimination, segregation in public spaces, or the right to vote.

Simultaneously, the South is portrayed as a persistent aberration; a problem in a nation of increasing legal enlightenment. This conflict – between ‘backward’ region and ‘enlightened’ nation – is appropriated by the frequently recorded instances of Southern resistance to *Brown*, whether in the form of legislation passed through local courts to stymie desegregation, or in political manifestos vexed by the elimination of states’ rights that branded the Supreme Court’s post-war rulings as a “clear abuse of judicial power” (see Figure 0.2, above).<sup>52</sup> Mainstream chronologies thus recognise this widespread legal resistance to *Brown*, where, ten years after the decision and immediately prior to the passing of the Civil Rights Act in 1964, almost “450 laws and resolutions” had been passed in the middle- and lower-Southern states, designed to “frustrate the Supreme Court’s [initial] decree.”<sup>53</sup> The South’s status as a racial aberration is, of course, further founded on the region’s disproportionate propensity for extra-legal violence (most obviously, the act of lynching), especially during the postbellum era. Robert L. Zangrando observes that, between 1882 and 1968, instances of lynchings-by-state saw the “vicious practice” occur most often in the Deep South, with Mississippi and Georgia alone accounting for just under a quarter of all recorded offences across the United States.<sup>54</sup>

The above history therefore arrogates with post-war legal accounts that would repeatedly associate nation with “democracy and change,” and region with “racism and tradition.”<sup>55</sup> By correcting its shameful judicial errors, imbued principally through the *Brown* decision, the legal system appears as an increasingly tolerant symbol of America’s racial evolution in the post-war era. Conventional post-war legal narratives

are grounded firmly within this monocular logic, neatly partitioning nation (the United States) from region (the South), whiteness from blackness, past from present. Race – or, more specifically, racism – is noticeably separated from American law, where any sense of alliance or connection is omitted. The narrative is also evolutionary, focused on progression and positive change. An inglorious history capped by the shameful *Plessy* decision is simply overshadowed by *Brown's* glorious vision of equality under law, while a 'past' littered with examples of legalised discrimination and segregation is easily superseded by a progressive 'present' founded on typical values of the American Creed: justice, equality, and democracy.

Importantly, this monocular approach – pitting a newly enlightened legal system squarely against the South as a backward, racist aberration – was politically expedient post-1945, as the United States became embroiled in a Cold War struggle with the Soviet Union. Thomas Borstelmann defines American practice in the Cold War as a “central belief that the liberal, democratic, capitalist order of the United States represented a more open and humane society than that of Communist states.”<sup>56</sup> In this sense, a foundational issue for America's early Cold Warriors would be to deal with the race problem, as they looked to wall off past practices of segregation and racism in order to project a progressive United States onto the world's non-white majority. South of the Mason-Dixon line and east of the hundredth meridian became, in effect, a handy repository for these racist attitudes that contravened the nation's pursuit of a free world. With many non-Southerners keen to view the region as a “foreign culture,” and even racial moderates labelling the space as “somewhat distinctive,” there was a concerted national effort to proclaim the South as a mere racial aberration, and not representative of 'real' America.<sup>57</sup>

Striking resemblances between a totalitarian Soviet Union and the white-controlled South (notably, inequality of the other before the law, kangaroo courts and extra-legal executions, or the role of local government in supporting such practices) acted as a further weapon for the earliest Cold Warriors. Although racial violence, police brutality, and protest marches were regularly conscripted into Soviet propaganda, the United States equally utilised these acts to their advantage; a reminder that racism was ultimately declining and, significantly, isolated to a specific region. The Cold War – a conflict grounded in a bi-polar struggle between the capitalist modernity of the United States and the communist principles of the Soviet Union –

effectively acted to secure fixed notions of race, with sameness and difference at the heart of these contradictory narratives.

In *Reconstructing Dixie* (2003), Tara McPherson recognises such a schema, both “organizing the world” and “structuring representation,” as “lenticular logic.” For McPherson, the lenticular is not only a “monocular logic,” but a framework where “histories or images that are actually co-present get presented (structurally, ideologically) so that only one of the images can be seen at a time.”<sup>58</sup> McPherson’s theory is taken initially from lenticular printing, a process that comprises the creation of an image by using at least two images, combining them so only a single layer can be viewed at any one time. When observed at a certain angle, though, multi-layers of the lenticular – the co-presence of intricate relationships between two (or more) differing images – are in fact visible.

McPherson applies these theories of lenticular printing to America’s racial history, with an ideological focus on civil rights and the particular place of the South within these narratives. The lenticular suitably “secures our understandings of race in precise ways, fixating on sameness *or* difference without allowing productive overlap or connections,” limiting our ability to see “association and relation, or to articulate the workings of racism.” Similarly, the lenticular’s unique arrangement “represses connection, allowing whiteness to float free from blackness, denying the long historical imbrications of racial markers and racial meaning.” The South therefore “conveniently serv[es] to absolve the rest of the nation from accountability or complicity,” as it locates “racial history and racism neatly below the Mason-Dixon line.”<sup>59</sup>

I contend that McPherson’s framework of lenticular logic can be applied to the narrative of race and American law in the immediate post-war years, viewed distinctively through the Southern lawyer figure in my fictions of justice. Most notably, how the legal system (embodied primarily by the Supreme Court) was aptly positioned as liberator for the ills of segregation and racial violence, while simultaneously ignoring its own role in the historical sanction of racism and racial prejudice. Here, instead of the one-ness of established legal narratives – where nation and region / race and law are separated – the lenticular contains a unique ‘middle ground’: a distinctive angle that appreciates the wholeness of the race problem, and particularly the law’s role in its inception, maintenance, and persistence.

The undigested, then, challenges what the lenticular so often elides, but crucially cannot fully conceal. It is this distinctive ‘middle ground’; a space of co-presence that enables all-important alliance and connection, able to irrupt traditional narratives of race and law in the United States that have so frequently sought to partition whiteness from blackness, nation from region, past from present. What remains undigested in the post-war South thus refers to this unique angle of the lenticular in which layers of images form to create a symbiosis of co-presence, with the viewer able to appreciate wholeness rather than one-ness in a space where whiteness, blackness, race, law, past, present, nation, and region are intricately associated. The undigested can be “chaotic,” “confused,” or “not properly arranged.”<sup>60</sup> However, this uncomfortable space also allows for positive rearrangements that aim to articulate the inner workings of racism, as well as providing those vital opportunities to note the uneasy past and present alliances between race and American law.

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These conceptual notions of lenticular logic and the undigested acknowledge a growing body of scholarship published since the 1980s that is entirely sceptical of what Möschel calls the “neutrality, objectivity, and color blindness of American law.”<sup>61</sup> Critical Race Theory (CRT) has sought to challenge mainstream beliefs regarding racial injustice in the United States. Although the movement and its scholarship differ in object and argument, CRT is unified by two common threads:

The first is to understand how a regime of white supremacy and its subordination of people of color have been created and maintained in America, and, in particular, to examine the relationship between that social structure and professed ideals such as the ‘rule of law’ and ‘equal protection.’ The second is a desire not merely to understand the vexed bond between law and racial power, but to change it.<sup>62</sup>

Rather than observe the history of civil rights litigation as straightforward and progressive, Delgado and Stefancic claim that CRT has “replac[ed] comforting interpretations of [legal] events with ones that square more accurately with minorities’ experiences.”<sup>63</sup> As above, conventional narratives of legal progressivism neatly partition race and American law. They often define the evils of racism as narrowly

aberrative, pointing only to specific acts of racial discrimination or violence, characterised even more specifically as “decision-making based on the irrational and irrelevant attribute of race.”<sup>64</sup> CRT consistently argues that such a limited, essentially dismissive, view of American racism has led to these legal narratives embracing the simplistic ideals of color blindness, propping up Justice Harlan’s vision of the Constitution in 1896 and its seemingly indelible morals of equal opportunity and meritocracy. CRT instead declares that racism is ordinary, not aberrational. Looking into that unique space of co-presence and beyond the lenticular’s ability to limit association and alliance, race and American law are now intricately bound to one another.

In *The New American Dilemma* (1984), Jennifer L. Hochschild describes this theory as the symbiosis thesis. Hochschild essentially admonishes the narratives of legal gradualism that are endorsed by works like Gunnar Myrdal’s *An American Dilemma* (1944) and accepted by a subsequent two generations of civil rights advocates. Myrdal’s seminal study of race relations was certainly extensive and thorough. Yet it effectively rested on the racially moderate proposition that white American policymakers were keen to abolish racist practice and conscript the legal system to return the nation to its founding ideals of democracy, equality, and justice. As Myrdal contended: “The Negro problem in America represents a moral lag in the development of the nation [...] However, [...] not since Reconstruction has there been more reason to anticipate fundamental changes in American race relations, changes which will involve a development toward the American ideals.”<sup>65</sup> Hochschild brands this an anomaly thesis: racism is conveniently aberrative and the mere failing of previous legal practice. Alternatively, the symbiosis thesis terms racism as not merely an “excrescence on a fundamentally healthy liberal democratic body,” but “part of what shapes and energizes” that body.<sup>66</sup> Instead of neatly partitioning race and law, mainstream narratives of legal progressivism in the United States are actually “historically, even inherently, reinforcing” of racism, where American society thrives “only because racial discrimination continues.”<sup>67</sup>

Armed with these theoretical frameworks, CRT has re-evaluated the conventional post-war legal narrative. Derrick A. Bell, perhaps the movements’ most influential figure, first considered the central pillar of civil rights litigation: *Brown v. Board of Education*. Countless legal scholars have advocated the importance of the *Brown* decision, describing it, for instance, as the “foundation of [a] quest for equal justice in

the United States.”<sup>68</sup> In an article published by the *Harvard Law Review* in 1980, Bell instead attacks *Brown*, employing a theory he calls “interest-convergence.” He suggests that the seemingly landmark legal decision cannot be understood just in terms of a “concern about the immorality of racial inequality,” but rather the “whites in policymaking positions able to see the economic and political advantages [...] that would follow [the] abandonment of segregation.”<sup>69</sup> According to Bell, the court decision that “virtually everyone admires” was in fact manufactured by a white power structure looking to reassert the founding American legalism that ‘all are created equal.’<sup>70</sup> *Brown*, that is to say, was staged as a remarkable victory for African Americans to improve the nation’s international reputation against the Soviet bloc, concurrently affording the means to industrialise the South; from a “rural, plantation-based society” to a “sunbelt with all its potential and profit.”<sup>71</sup>

Bell’s suggestive proposal inevitably evoked indignation and allegations of cynicism. His interest-convergence theory was swiftly attacked, both for its basis in patchy evidence and its reliance on what appeared to be nothing more than legal intuition.<sup>72</sup> However, in 1988 the *Stanford Law Review* published Mary L. Dudziak’s ‘Desegregation as a Cold War Imperative.’ Dudziak’s extensive study of archived governmental files, foreign press reports, and letters penned by ambassadors abroad successfully accredits Bell’s judicious insight, concluding that, as a consequence of “American international concern shift[ing] from a focus on defeating Nazism and fascism to an anti-Soviet, anti-communist stance,” it was in the nation’s best interest to consider the inevitable “international implications” of “race discrimination.”<sup>73</sup> For example, Dudziak observes that, as the NAACP brought the *Brown* case to the Supreme Court, Attorney General Herbert Brownell, Jr. filed an amicus curiae stressing the “negative impact on American foreign policy that a pro-segregation decision might have.”<sup>74</sup> Put simply, the United States required the loyalty of emerging nations, most of whom were majority black or Asian, so any criticism of racial tensions in the press would be a serious complication in the Cold War struggle.<sup>75</sup> For a brief moment, the interests of black and white converged.

Bell’s claim that interest convergence was the true driving force behind *Brown* – alongside Dudziak’s extensive evaluations that acknowledge a historical validation of such intuition – declares American law to be anything but color blind. The crown jewel of civil rights legislation instead endorses a valorisation of white supremacy. Here, the appeal of constructing a legal system founded on the ideal of color blindness

recognises the persistence and adaptability of whiteness, reproducing the whiteness-as-dominant paradigm in ways similar to well-established dismal Supreme Court decisions like *Dred Scott* or *Plessy*. In her cogent evaluation of “whiteness as treasured property in a [nation] structured on racial caste” from the *Harvard Law Review* (1993), Cheryl Harris asserts that the white population expect to rely on a set of social benefits “legitimized and protected by the law.”<sup>76</sup> Even the *Brown* decision, which concluded with a refusal to “extend continued legal protection to white privilege,” simultaneously “declined to guarantee that white privilege [sh]ould be dismantled.” Harris moreover considers the indistinctness of *Brown II* in this context. Notably, its vague ruling that desegregation should be administered with “all deliberate speed,” a legal action appearing to corroborate with the “ambiguous motives” of the original decision in 1954.<sup>77</sup> This counter-narrative places entirely different emphases on the dominant claims of a legal system purporting to be meritocratic, objective, and color blind. American law, as a hegemonic entity, actually retains its status as formalised whiteness, even during a post-war era that outwardly appears to emancipate and liberate those whose lives the very same institution had earlier racially subordinated and oppressed.

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Reacting to these theories of CRT, and based on the conceptual frameworks of lenticular logic and the undigested, my interrogations of the post-war South’s literary lawyer are thus grounded by – and will stem from – the following three contentions:

1. **American law is a fundamental part of the race problem it seeks to address**  
The law has historically and systematically legitimised racial injustice in the United States, endorsing deep cultural divisions and countless examples of violence across the nation, but pointedly in the South.
2. **In the post-war and pre- civil rights period, American law maintained its status as formalised whiteness**  
The law has directly shaped America’s racial classifications, categorising who was ‘white’ and, importantly, who was ‘non-white.’ Historically barring specific races from naturalization, the legal system designated whiteness as the normative model. It has allowed white people to overlook race and see racial injustice as a mere

aberration. In the post-war era, the law upheld this valorisation of white supremacy behind well-constructed façades of color blind legislation, in turn co-opted by Cold Warriors to project a democratic United States onto the world stage.

3. **Under the pretext of civil rights legislation, the legal system only provided universalist solutions to the race problem**

Central to rhetoric surrounding national visions of progress and democracy in the post-war era, simplistic notions – like ‘a blindness to race will eliminate racism’ – merely serve to maintain racial hierarchy. The political-legal ideal of ‘color blindness’ ignores how race has pervaded and saturated American society, both ideologically and materially, leaving its effects significantly unchallenged.

**Fictional Southern Lawyers, 1946-1966**

Where might the fictional Southern lawyer fit into these intricate historical, cultural, and theoretical frameworks? First, we must consider the merits of the fictional. The law is designed to resolve, to determine conflict or tension. Likewise, legal decisions – from localised cases through to federal edicts ruled by the Supreme Court – are written according to Constitution or legislation, abstract ideals unable to truly reflect context or character, ambivalence or contradiction. Richard Weisberg believes that literature provides a “lively and accessible medium” for legal debate, because it offers a “sensitivity to the needs of the disempowered” that has “no analogue in the world of law.”<sup>78</sup> Fiction too, I contend, can inimitably interrogate the vast canvas of American history, as well as its geography, in relation to law and justice. The novel form is therefore a commensurate site for these concerns, able to register, contain, and cross-examine inter-related ideas that allow for the frequent alliance and association of law, race, legal actor, defendant (accused), location, history, and violence.

The figure of the Southern lawyer is also essential. Southern legal characters are, I argue, a location of paradox, especially during the post-war era. Lawyers are usually exceptional orators and masters of verbal communication, yet belong to a professional body that shines better in isolation than as part of a group. They are often rigorously loyal to their local clients, yet serve the court, having taken an oath to uphold the Constitution of the United States and, more critically, the specific state laws bound to their particular jurisdiction. Messer notes that Southern lawyers are a frequent mainstay of their corresponding fictions because of their “intimate involvement in [community] affairs.”<sup>79</sup> On the other hand, Weisberg reminds us that the lawyer figure

is habitually “not totally at the center of things,” but “on the fringes[, ...] not participating fully in life.”<sup>80</sup> I intend to widen these competing outlooks and demonstrate that the fictional lawyer of the post-war South stands in a distinctive ‘middle position.’ Able to alert us to the undigested – an exceptional location in the co-presence of tensions between state and federal law, nation and region, past and present – these lawyer characters suitably act as a productive counter-narrative to global projections of America’s inherently progressive legal system between 1946 and 1966.

At this point, it is equally important to consider the strict periodisation of my fictions of justice, especially what is gained or lost in the decision to focus on this particular twenty-year period. The years 1946 and 1966 are an ultimately useful set of parameters around which to define my study of the Southern literary lawyer. As historian William H. Chafe has claimed, the “theme of paradox” best describes America’s post-war era: “diversity in the face of uniformity, [...] creation of close-knit communities despite massive mobility, [...] the emergence of cultural rebels in the midst of chilling conformity.”<sup>81</sup> Here, the ambivalences and contradictions of the time period graft neatly onto the figure of the Southern lawyer, who suffers from a similar set of internal and external conflicts, both culturally and professionally.

But this strict periodisation does mean that certain elements are lost – namely, legal figures in Southern texts written by African American authors. For example, in earlier decades of the twentieth century there were a number of black playwrights that featured legal characters in their works. Georgia Douglas Johnson’s ‘A Sunday Morning in the South’ (1925) includes a judge – who never appears – portrayed as a figure of hope for a black family seeking legal aid to save their wrongly accused grandson from a lynching. Another play from this period is Myrtle Smith Livingston’s ‘For Unborn Children’ (1926), which centres on the character of Leroy Carlson, described as a “young lawyer.” Carlson acts as a symbol of resistance, becoming a martyr by the play’s end. That said, these legal figures in texts written by African Americans were not always depicted positively. Lawyer Sparks in Katherine D. Tillman’s one-act play ‘Aunt Betsy’s Thanksgiving’ (1914) is a figure of disrepute who dispassionately acts to evict an old black tenant from her cabin, while Charles Jackson in Mercedes Gilbert’s ‘Environment’ (1931) is referred to as a “disbarred lawyer and realtor” in the character list.<sup>82</sup>

Aside from David Champlin and Bradford Willis in Ann Fairbairn's *Five Smooth Stones* (1966), post-war Southern novels rarely depict black lawyers as central characters, even if black lawyers themselves were increasingly visible across the South between 1946 and 1966. In the NAACP, Charles Hamilton Houston, Thurgood Marshall, Jr., Oliver Hill White, and Constance Baker Motley all gained national recognition as they defended African Americans in various local and federal court cases.<sup>83</sup> Similarly, as president of the Southern Christian Leadership Conference (SCLC), Martin Luther King, Jr. made several legal arguments and drew attention to lawyers. In his 'Letter from Birmingham Jail' (1963), King, Jr. responds directly to criticism from eight white clergymen about his role in nonviolent protest across Alabama. He takes a good deal of time explaining the rationale behind "direct action," before justifying the Birmingham demonstrations on account of the fact that "there are two types of laws: just and unjust." The same letter also significantly sees King, Jr. confess that he is "gravely disappointed with the white moderate":

I have almost reached the regrettable conclusion that the Negro's great stumbling block in the stride toward freedom is not the White Citizens Councillor or the Ku Klux Klanner but the white moderate [...] who constantly says, 'I agree with you in the goal you seek, but I can't agree with your methods of direct action' [...] who paternalistically feels that he can set the timetable for another man's freedom [...] and who constantly advises the Negro to wait until a 'more convenient season.'<sup>84</sup>

King, Jr.'s scepticism of America's "white moderate" acts as one of CRT's earliest drivers. Indeed, theorists who have critiqued civil rights legislation and the white policymakers who saw the political advantage of staging a convenient victory for African Americans in the *Brown* case, have a certain synonymy with King, Jr.'s declaration that white moderates were "paternalistically" setting the "timetable for another man's freedom."

My fictions of justice focuses on four white authors who, until the final chapter, largely portray white lawyers in their texts. While the absence of African American authorial voices is patently noticeable, the whiteness of my chosen writers is a self-conscious decision, and part of a wider examination of race and American law in the post-war era. One of my central threads thus becomes how this particular cluster of

white authors adopt their Southern lawyer figures to represent a legal system that has designated whiteness as the normative model. The focus on a black lawyer in the final chapter naturally complicates these distinctions, enabling a different lens through which to examine the whiteness of American law.

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The **first chapter** will focus on William Faulkner's Gavin Stevens. Appearing in post-war fiction published between 1946 and 1959, Stevens's personal timeline in Faulkner's Yoknapatawpha spans just over fifty years, placing him in a chronology between c.1889 and 1942. Stevens is, I propose, the first instance of a Southern literary lawyer grounded by their 'middle position.' He is a legal character presented for the first time explicitly as a contradiction – as a site of co-presence that alerts us to the symbiotic space of the undigested. He is both a lawyer and a citizen. He challenges both racial justice (or, as I will argue, justice 'as he sees it') and maintains his status as an exemplary figure in the Southern community of Jefferson. Crucially too, Stevens is portrayed as being tentative when discussing themes of law, race, and justice. Like Faulkner's own conflicted thoughts on the South's race problem, his legal figure only really initiates a sceptical outlook, cautiously probing the lenticular logics of the Cold War and America's so-called progressive post-war legal system.

In exploring Faulkner's presentation of law and justice in Yoknapatawpha, Chapter One examines two important aspects of Stevens's characterisation. The first considers his status as a 'becoming figure'; as one who demonstrates a distinctive understanding of the South's race problem, yet never wholly criticises the region or his locale. The second concerns the changes in lawyerly behaviour that Stevens exhibits across his own fictional chronology – principally, how he challenges the alarming speed with which legislation is beginning to transform race relations in the South. In *Intruder in the Dust* (1948), for instance, Stevens speaks at length about the notion of Northern interference. He declares that the South can change its position on race, but that the region itself must redress, atone, and eliminate prejudice and inequality on its own terms.

The **second chapter** will look at Harper Lee's famed fictional lawyer, Atticus Finch. Appearing in two Southern novels written in the mid-to-late-1950s – *Go Set a Watchman* (1957, 2015) and *To Kill a Mockingbird* (1960) – there are striking

similarities between Lee's Finch and Faulkner's Stevens. Both are older lawyers that grow up in the 1880s and 1890s; both become admirable members of their respective Southern communities; and both are willing to involve themselves in multifaceted racial dilemmas. *Mockingbird's* Finch has often been described as the literary standard bearer of racial liberalism in a post-*Brown* United States. He is a representative 'real' American, appearing to act with courage, conviction, and bravery in his legal defense of Tom Robinson from allegations of rape in the fictional courthouse of Maycomb, Alabama. Still, despite being more nuanced than many of his pre-1946 antecedents, Finch is a clearly one-dimensional lawyer character. In *Mockingbird* too, racism is a Southern problem, where stereotyped figures frequently act to partition racial injustice, violence, and prejudice neatly below the Mason-Dixon line.

Chapter Two, however, moves to consider *Mockingbird* in light of the more recently published *Go Set a Watchman*. Written in the first two months of 1957, *Watchman* provides us with a far more ambivalent and nuanced portrayal of Finch. *Mockingbird's* once idolised lawyer character now organises and openly attends Maycomb's Citizens' Council meetings. He also possesses several controversial pamphlets that endorse racial prejudice and segregation. In *Watchman*, Atticus is therefore no longer confined to the historical sanctuary of *Mockingbird's* 1930s, replete with its easily marked racial structures and stock characters. Lee instead plunges her fictional lawyer into the turbulent immediacy of a post-*Brown* era, where the character can more intriguingly evoke paradoxical Southerners – like her father, Amasa Coleman Lee – who would staunchly defend black Alabamans in the courtroom, but at the same time, happily prohibit them from the vote. It is here, I claim, that the once racially liberal lawyer of *Mockingbird* is primed to challenge the sanctity of American law, developing on strands of scepticism first posited by Faulkner's Stevens. Race and law are indeed at the heart of *Watchman's* plot. Alongside Atticus, characters like white supremacist Grady O'Hanlon, or accommodationist Jack Finch, counter the legal idealisms of *Mockingbird*. What is more, Jean Louise's color blindness can be read as a fundamental challenge to those conventional Cold War narratives that would seek to declare racism and racial injustice as a specifically Southern aberration.

The **third chapter** takes my fictions of justice into the heart of the 1960s and the final months of John F. Kennedy's presidency. Reflecting the myriad of complications observed in the aftermath of the *Brown* decision, as well as the intricate relationship

between American law and politics, this chapter will focus on Jesse Hill Ford's *The Liberation of Lord Byron Jones* (1965). Ford's novel ostensibly concerns the legal tribulations of a wealthy black undertaker wishing to divorce his wife on the grounds of adultery. Set in the latter part of 1963 and using multiple narrators (as well as variant narrative modes), *Lord Byron Jones* contains plot threads of inter-racial relationships, police brutality, and segregation. Broadly, the novel has been accused of a reliance on straightforward tropes of black and white that play into the zeitgeist of Southern civil rights fiction. African Americans in these works are notionally put-upon, heroic martyrs, while white figures are usually evil or bad. Such binary readings, I suggest, only uphold monocular visions of the post-war era, neatly ignoring the text's darker co-present narratives of alliance and overlap.

Amid these apparently monocular distinctions, Ford develops a distinctive legal dynamic in *Lord Byron Jones*. Chapter Three primarily considers Oman Hedgepath and his young nephew Steve Mundine. Mundine dramatically breaks the mould of traditional, white lawyers in Southern literature, exhibiting little in common with the dominant ideologies of the community he serves in the fictional town of Somerton, Tennessee. Hedgepath, by way of contrast, is an aging legal figure who continues to propagate established Southern themes of white supremacy and police corruption. Hedgepath and Mundine might very easily be declared as simple opposites. One is old and resistant to change; the other is young, radical, and regularly advocates that Southern law must become color blind in the face of post-*Brown*, pro-civil rights legislation. It is thus prudent to cross-examine these lawyer types 'as a pair.' In this sense, *Lord Byron Jones* becomes more than a mere set of regional caricatures, advancing my developing case for the Southern literary lawyer being an inimitable figure of co-presence in the post-war era.

Other than the occasional secondary character, the lawyers in my fictions of justice have all been white, coloring both their relationship with the law and the social position that they hold in their respective Southern communities. The **fourth chapter** will accordingly focus on the first fully developed representation of a black lawyer in Southern literature. Published in 1966, Ann Fairbairn's *Five Smooth Stones* charts the three-decade life of David Champlin. Fairbairn's employment of a central black lawyer – alongside the secondary character of Bradford Willis – vitally conflates partitions of race and law in ways that previous Southern fictions could not achieve, suitably concluding my interrogation of the post-war legal figure.

Chapter Four also examines Fairbairn’s astute choice of form. At a length of ninety-one chapters, *Five Smooth Stones* is an expansive text that synthesises inter-related histories, geographies, and legal narratives in an encompassing, encyclopaedic structure reminiscent of the Great American Novel. Although often melodramatic and predictable, I argue that Fairbairn’s combination of form and characterisation in fact blend to depict an intricate narrative, co-presenting ideas of race, law, whiteness, blackness, nation, and region on a vast literary canvas. On the one hand, *Five Smooth Stones* uses its formal elements to produce a highly periodised and calendrical narrative that documents frequent fictional allusions to real-life moments, places, and people. On the other, it employs the distinctiveness of the novel to render an open-ended and complex representation of Southern law, legal culture, and racial justice.

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In post-war Southern fiction, the lawyer figure does not simply reinscribe the color-line, nor straightforwardly endorse the region’s legal codifications of racial hierarchy. Concurrently, though, these literary-legal characters do not wholly embrace mainstream narratives intending to portray the American legal system on the global stage as one of evolution, progression, and color blindness. I contend that this social and historical ambivalence – at a unique, ‘middle ground’ of co-presence – unshackles them from the idealist perspective that American law has evolved linearly and positively with regard to racial injustice and civil rights. In each case, the writer’s purpose is sharply focused, enabling Southern fiction of this era to better comment on the mutually constitutive relationships between race and law, or the complex historical imbrications of nation and region. Even though depictions of the fictional lawyer vary in mode and method, each character probes the distinct space of the undigested, irrupting narratives co-opted during the Cold War to project – onto the world’s non-white majority – an egalitarian, democratic, and legally progressive America.

At stake, then, is a means to re-examine and redefine the post-war South’s fictional lawyer. My subsequent chapters will read the increasingly critical stance each character takes, moving swiftly beyond the view that these figures either act as mere ciphers of liberal Southerners, or as simple continuations of racist bigotry. Rather, this new-found critical posture recognises them as an embodied registration of emerging legal-historical contradictions and, therefore, as an anticipation of the more formalised

and politicised recognition of these contradictions in the later discourses of the civil rights movement. The post-war Southern lawyer will emerge in my fictions of justice as a commensurate site, not only playing host to the distinctive associations and alliances between race and law, but coming to inchoately pre-empt the later theoretical frameworks that would seek to articulate the inner workings of American racism.

## CHAPTER ONE

### ‘Justice as he sees it’: William Faulkner’s Gavin Stevens

For he who intends to devote himself to the law [...] first it is necessary to know from where the very name of law (*ius*) derives. It is called such from justice (*iustitia*). For [...] the law is the art of goodness and fairness.

— Ulpian<sup>1</sup>

Given the ever-increasing number of legal figures that William Faulkner became acquainted with during his lifetime, the fact his fictions are so inundated with examples of law, lawyers, and justice should come as no real surprise. In his hometown of Oxford, Mississippi, he forged countless relationships with legal professionals. At the University of Mississippi Law School, there was Dean R.J. Farley, General James Stone, fellow novelist Ben Wasson, and hunting partner Jim Kyle Hudson. Within his own family, Faulkner’s grandfather John Wesley Thompson practised law privately, while younger brother Murry Charles worked in a legal firm before a lengthy career with the Federal Bureau of Investigations. Another notable link to the law was, of course, Faulkner’s well-known friendship with distinguished local attorney Phil Stone. Four years his senior, Stone acted as both legal muse and literary mentor, where, according to biographer Joseph Blotner, the lawyer’s “knowledge, his brilliant talk, and most of all his books” opened up “new vistas to Faulkner.”<sup>2</sup>

These multifarious interactions and relationships in a town seemingly overrun with lawyers rendered Faulkner especially sensitive to the role that the law played in the cultures of Southern life. As a result, his fictional Yoknapatawpha County is positively overflowing with lawyer characters and other legal professionals. A representative sample here might include Will Benbow in *Flags in the Dust* (1927, first published 1973), General Compson in *The Sound and the Fury* (1929), Eustace Graham and Judge Drake in *Sanctuary* (1931), Judge Lemuel Stevens in *The Town* (1957) and *The Reivers* (1962), the unnamed lawyer in *A Fable* (1954), and the anonymous judges found in trial scenes from *The Wild Palms* (1939) and ‘The Fire and the Hearth’ (1942). There is even the inclusion of law students, like Bayard Sartoris in ‘An Odor of Verbena’ (1938), or Charles Bon and Henry Sutpen in *Absalom, Absalom!* (1936).<sup>3</sup>

Yet of these numerous and varied legal creations, Gavin Stevens is by far Faulkner’s most prominent, appearing in fiction published between 1931 and 1959.

One of Yoknapatawpha’s intellectuals, Stevens is educated at Harvard, Heidelberg, and the University of Mississippi, before settling in Jefferson as City, then District, and later, County Attorney. Figure 1.1 (below) duly clarifies his long-running role:

<b>Text</b>	<b>Publication History</b>	<b>Chronology</b>
‘Hair’	May 1931   <i>American Mercury</i> Revised in 1958   <i>The Collected Stories: Volume II – These Thirteen</i>	c.1932 No earlier than August 1931
<i>Light in August</i>	1932	August 1931
‘Smoke’	April 1932   <i>Harper’s</i> Revised in 1934   <i>Dr Martino</i> Republished in 1949   <i>Knight’s Gambit</i>	April 1929
‘Monk’	1937   <i>Scribner’s Magazine</i> Republished in 1949   <i>Knight’s Gambit</i>	c.1936
‘Hand Upon the Waters’	4 November 1939   <i>Saturday Evening Post</i> Republished in 1949   <i>Knight’s Gambit</i>	c.1925
‘Tomorrow’	23 November 1940   <i>Saturday Evening Post</i> Republished in 1949   <i>Knight’s Gambit</i>	c.1923 Recounted from c.1937
‘Go Down, Moses’	1942   <i>Go Down, Moses</i>	1940
‘An Error in Chemistry’	1946   <i>Ellery Queen’s Mystery Magazine</i> Republished in 1949   <i>Knight’s Gambit</i>	c.1930 Recounted before August 1931
<i>Intruder in the Dust</i>	1948	c.1939
‘Knight’s Gambit’	1949   <i>Knight’s Gambit</i>	1939, 1940-42
<i>Requiem for a Nun</i>	1951	September 1937 – March 1938
<i>The Town</i>	1957	1909-24
<i>The Mansion</i>	1959	1942

**Figure 1.1**  
**Gavin Stevens in Faulkner’s Fiction<sup>4</sup>**

First, we observe the sheer frequency of Stevens in Faulkner's fiction, especially between the publication of 'Monk' in 1937 and *Requiem for a Nun* in 1951. More important, however, is to consider the intense regularity of the immediate post-war era between 1946 and 1951, where the lawyer figure acts as a major character in four separate works published across just five years.

This chapter explores Faulkner's characterisation of Stevens during these intense early post-war years, paying particular attention to *Intruder in the Dust* (1948), the short story collection *Knight's Gambit* (1949), and the prose-play hybrid *Requiem for a Nun* (1951). The publication dates of this loosely structured 'Stevens trilogy' crucially correspond with a series of fraught collisions between national legal frameworks and localised forms of racial hierarchy in Mississippi. Between 1948 and 1950, the Supreme Court decided *Shelley v. Kraemer*, *Henderson v. United States*, *Sweatt v. Painter*, and *McLaurin v. Oklahoma State Regents*. Each case was seen to chip away at historical 'separate but equal' doctrines and demonstrate the apparent progressivism of American law, providing ammunition for the earliest Cold Warriors. During this same period, though, racial violence in Mississippi continued almost unabated, with lynchings sometimes administered at almost the exact time that the Supreme Court announced perceivably emancipatory decisions. Faulkner even commented publicly on a number of these lynch-cases, offering an additional optic through which we might examine Lawyer Stevens.

Faulkner's Stevens does not wholly uphold paternalistic, traditional Southern attitudes of race and racial justice. Likewise, he never fully assails the local community he serves. As if to mirror his creator's own ambivalence on the subject of the race problem, the character articulates the Old South, while simultaneously beginning to question the law's role in the legitimisation of racial injustice. Aptly, Stevens is given one of Faulkner's most oft-quoted lines: "The past is never dead. It's not even past."<sup>5</sup> Such a statement effortlessly reveals the legal figure's 'middle position' in post-war Southern fiction. Caught between partitions of lawyer and citizen, local and federal law, past and present, Stevens ends up satisfying no-one. He does not appease the traditional white values of the South, nor the ever-increasing ideals of progressives and racial moderates in post-1945 America.

However, I maintain that such tentative first steps into this distinctive socio-legal space enable Faulkner to employ Stevens as an initial counter to the lenticular logics at play in legal cultures of the early post-war South. Here, the very corollary of the

legal figure satisfying no-one permits an opportunity to begin probing the associations between race and law in a region on the edge of change. Incorporating notions of the ‘vanishing mediator’ and ‘emerging culture,’ I argue that Faulkner’s characterisation of Stevens introduces us to the idea that fictional Southern lawyers inhabit the exceptional ‘middle ground’ of the undigested. Of further interest too is a consideration of how this liminal socio-legal space allows for significant dialogue between Stevens and other characters in Yoknapatawpha, as well as later literary lawyers, who will work – both individually and as something of a fictional group – to alert us to the complexities of the region’s race problem.

### **Faulkner’s Race ‘Problem’**

Before exploring Gavin Stevens in the fictions of Yoknapatawpha, it is useful to chronicle Faulkner’s own reflections on the South’s race problem. This lays important foundations for the ambiguous relationship Faulkner had with race and provides us with suitable glimpses into his characterisation of Lawyer Stevens, whose dialogue at times uncannily reflects his creator’s own musings.

Faulkner was born into the New South of the late nineteenth century, and his relationship with the race problem stretches back to his earliest years in Oxford.<sup>6</sup> At the age of eleven, he was made aware of the grisly lynching of Nelse Patton, a black Mississippian accused of raping and murdering Mattie McMillan, a white woman. Blotner recounts how – as he began fifth grade in September 1908 – a young Faulkner heard about a mob of hundreds that were “gathered around the jail” by former United States Senator W.V. Sullivan. He was then told how this mob surged into the jail, “labored with crowbars and pickaxes” to break into Patton’s cell, before shooting him multiple times, castrating him, mutilating his head, dragging him to the town square behind a car, and hanging his naked body from a tree.<sup>7</sup>

Following this early memory of Patton’s lynching, Faulkner made contrasting – and often confusing – statements throughout his life relating to racial violence, justice for black Americans, and the role that the law played in the legitimisation of the race problem. In 1992, Neil R. McMillen and Noel Polk unearthed an astonishing letter that Faulkner wrote in 1931 to the *Memphis Commercial Appeal*, expressing a “virtual defense of the practice of lynching as an instrument of justice”:<sup>8</sup>

Lynching is an American trait, characteristic. It is the black man's misfortune that he suffers it, just as it is his misfortune that he suffers the following instances of white folks' sentimentality. [...] Some will die rich, and some will die on cross-ties soaked with gasoline [...] But there is one curious thing about mobs. Like our juries, they have a way of being right.<sup>9</sup>

Along with the infamous statement Faulkner made in his 1956 interview with Russell Warren Howe, where he claimed that "if it came to fighting, [he]'d fight for Mississippi against the United States even if it meant going out and shooting Negroes," the letter stands as his only published document wholly in support of racial violence.<sup>10</sup> McMillen and Polk consider the letter "troubling," winding through a series of potential reasons for its composition and the "radically different social sensibilities" of the inter-war period, before suggesting it is perhaps "unrepresentative" of the "real Faulkner" – a "product of ill-considered haste or momentary distemper."<sup>11</sup>

Of more interest, however, is the link that McMillen and Polk elicit between the writing of the letter and the publication of 'Dry September' (1931), an early Faulknerian short story with contrastingly sympathetic depictions of racial injustice and mob violence. 'Dry September' tells the tale of Will Mayes, a black Jeffersonian accused of sexually assaulting a white woman named Minnie Cooper. Despite scarce evidence, Mayes is accosted by a mob, who take him into nearby woods and lynch him. The act itself is not described, but the moments that precede it highlight a differing representation of extra-legal violence to the one Faulkner declared in his letter to the *Memphis Commercial Appeal*:

They dragged the Negro to the car. [...] Someone produced handcuffs. They worked busily [...] as though [Mayes] were a post, quiet, intent, getting in one another's way. He submitted to the handcuffs, looking swiftly and constantly from dim face to dim face.

[...]

The Negro did not move. 'What you all going to do with me? [...] I aint done nothing. White folks, captains, I aint done nothing: I swear.'<sup>12</sup>

Arthur F. Kinney argues that the lynch-scenes in 'Dry September' demonstrate an "appropriate sense of [...] black innocence," indicating that Faulkner thoroughly condemned "fast, swift, irrevocable justice without the benefit of trial."<sup>13</sup> The

sympathetic portrait of Mayes, notably those “swift” looks between members of the mob and emotive pleas to his lynchers, entirely opposes the brazen suggestions in Faulkner’s letter that “victims of blundering, also blundered,” or his justification of lynching as the simple matter of “mobber and mobbee” living in an “age” of racial violence.<sup>14</sup> What these contemporaneous publications convey is Faulkner’s confusion, particularly on the subject of the race problem as a Southerner. Faulkner was a citizen of Mississippi, sharing some of the region’s cultural values indelibly inked by a legal system complicit in the construction of localised racial hierarchies. But there is also a fundamental recognition that lynching is a macabre curse on the region.

This ambivalent relationship continued into the 1950s, as a series of letters and press statements saw Faulkner condemn racial violence and unjust court decisions. In March 1950, he wrote – again to the *Memphis Commercial Appeal* – to explain his dismay at Leon Turner’s ten-year prison sentence for the murder of three black children in Attala County. The state of Mississippi requested the death penalty, but an all-white county court jury disagreed, reducing Turner’s sentence to a custodial term. Faulkner balked at the leniency of the punishment, as it conflated “murdering three children” with “robbing three banks or stealing three automobiles.”<sup>15</sup> A month later Faulkner wrote once more to the *Memphis Commercial Appeal*, this time concerned at a court decision in Chickasaw-Calhoun County which saw three white men acquitted of murdering a black man in front of his wife and children with an “automobile tool.” He labelled these exonerations as a “tragedy [... of] ignorance and bigotry,” “outrage and injustice.”<sup>16</sup> During a brief press statement published in March 1951 in connection with the case of Willie McGee – a World War II veteran executed on the dubious grounds of raping Willametta Hawkins – Faulkner again curtly disagreed with the outcome. He claimed that the alleged crime of “force and violence” was not proved, so a death penalty was entirely disproportionate.<sup>17</sup> In each case, Faulkner’s main concern is directed at the “shame and grief” he feels as a Mississippian. Responding to the Turner decision, for instance, he reminds Southerners that cases of racial injustice and extra-legal violence only provide further evidence for those “quick to show us our faults.”<sup>18</sup> Albeit tentative, Faulkner is beginning to challenge those narratives that would posit the South as backward, demonstrating his nuanced understanding of regional post-war politics.

Faulkner’s criticism of extra-legal violence was perhaps strongest when he wrote a public statement on the subject of Emmett Till’s lynching in September 1955 – a

case that gained national (and international) notoriety in the midst of America's developing Cold War struggle. Although Faulkner's response was not entirely condemnatory – he describes the act of mutilating Till's body as a “tragic error [...] on an afflicted Negro child”<sup>19</sup> – his comments relating to the effect of extra-legal violence on America's international reputation are highly significant:

When will we learn that if [...] the state of Mississippi survives, it will be because all America survives? And if America is to survive, the whole white race must survive first? Because, the whole white race is only one-fourth of the earth's population of white and brown and yellow and black. So, when will we learn that the white man can no longer afford [...] to commit acts which the other three-fourths of the human race can challenge him for?<sup>20</sup>

The fact that Faulkner recognises the implications of the Till case in America's Cold War struggle illustrates an underlying understanding of the structuring paradoxes at work in the post-war South. Acknowledging that the “white race is only one-fourth of the earth's population” reveals Faulkner's awareness of both the race problem and the South problem after 1945 – especially, how domestic race relations “loomed ever more as an issue of international image and ideological consistency.”<sup>21</sup> Similar logic can be found in a series of letters that Faulkner penned about the *Brown* decision. Even though a central thread of these public letters, written between 20 March and 17 April 1955, orbits the idea of equal education for all in Mississippi (whether black or white), Faulkner made telling remarks about the case's international implications: “What we need [on the school segregation issue] is more Americans on our side. If all Americans were on the same side, we wouldn't need to try and bribe foreign countries which don't always stay bought, to support us.”<sup>22</sup> In response to the Emmett Till case and the *Brown* ruling, then, Faulkner undeniably offers certain scepticisms toward dominant political and social narratives of racial equality and legal progressivism.

Faulkner's relationship with race, racial injustice, and the law provides suitable foundations for the following examination of Gavin Stevens. The ambivalence in these varied musings on the race problem demonstrate a Southern writer not only aware of the undigested – notably, how American law is a fundamental part of the problem it now seeks to address – but also of what McPherson terms the partitions of “past [...] from present, black from white, old racism from new.”<sup>23</sup> Indeed, questions of how

these subtle allusions in Faulkner's published letters and statements centre on the character of Gavin Stevens are explored across this chapter.

### *Intruder in the Dust*

The story is a mystery-murder though the theme is more relationship between Negro and white, specifically [...] the premise [...] that the white people of the South, before the North or the govt. [...] owe and must pay a responsibility to the Negro.<sup>24</sup>

Published in 1948, *Intruder in the Dust* inaugurated the 'late' phase of Faulkner's career. The novel's "mystery-murder" element, which leads to the eventual exoneration of Lucas Beauchamp, is accordingly used as a structural frame, otherwise enabling tacit engagement with relevant issues at the time of publication. Two historical elements blend here to form the basis of the text's exploration of black-white relationships. First, the anti-lynching bill put before Congress in 1947 that led to the notorious Dixiecrat revolt. And second, the 1930s case of Ellwood Higginbotham, a black man hanged from a tree on a country road by a seventy-five strong lynch mob in Oxford after allegedly confessing to the murder of Glen Roberts, a white man.<sup>25</sup>

In his correspondence with publisher Harold Ober, Faulkner similarly alludes to the concept of "Northern interference," a reference to the creation of President Harry S. Truman's Committee on Civil Rights in 1946 and the proceeding 1947 publication, 'To Secure These Rights.'<sup>26</sup> This federally sanctioned document intended to ensure the "integrity of the individual" and the "stability of a democratic society." It moreover claimed to secure against "bondage, lawless violence, and arbitrary arrest and punishment," and critiqued the abhorrent treatment of "weak and friendless person[s]" who often found the "judicial process" did not give "full and equal justice."<sup>27</sup> Colliding with this nationally recognised publication, Mississippi Senator Theodore Bilbo's *Take Your Choice: Separation or Mongrelization* (1946) acted as a compendium of contrasting segregationist arguments:

By the absolute denial of social equality to the Negro, the barriers between the races are firm and strong. But if the middle wall of the social partition should be broken down, then the mingling of the tides of life would surely

begin [...] The Southern white race, the Southern Caucasian, would be irretrievably doomed.<sup>28</sup>

While Bilbo's rigid claims of "barriers," "walls," and "partitions" directly oppose the "full and equal justice" championed by Truman's Committee on Civil Rights, the Senator's words do aid in contextualising the ambiguities inherent to the region that Faulkner locates *Intruder's* action. Given that the author's intention was to explore the "relationship between Negro and white," setting the text in his already expansive Yoknapatawpha saga sees Faulkner deliberately appropriate the geographies and legalistic spaces of a fictional county acting as a microcosm of the South.<sup>29</sup> Put another way, the relationship at the centre of the novel's plot – between Lucas Beauchamp and Gavin Stevens – is designed to echo the unsettled legal cultures of a post-war Southern society constantly shifting between localised racial hierarchy and the broader political promises of emancipation.

*Intruder* was initially published to mixed criticism. Edmund Wilson described it as a "snarled-up book" with "rather clumsy and badly cut" characters, while Hugh M. Gloster commented on the number of individuals that parade around as nothing more than "stock puppets of the fiction of the decadent South."<sup>30</sup> Gloster's latter commentary posits a noteworthy dilemma at the very heart of post-war Southern fiction. By arguing that *Intruder* is composed of "stock puppets," he effectively categorises the text as one that reinscribes the well-worn color-lines and racial appropriations of Jim Crow literature in a pre- civil rights era.

Central to much of the assessment levelled at *Intruder's* depiction of the color-line is Gavin Stevens himself. Irving Howe calls the character "tedious," while James A. Snead claims that he is a "self-caricature" of his creator "verging on the ridiculous."<sup>31</sup> Joseph R. Uργο asserts that Stevens is a "blowhard," and Eric J. Sundquist argues that he is a "righteous new Southern paternalist" spouting "crude [...] propaganda."<sup>32</sup> The above might be considered harsh – especially given Stevens's role in Beauchamp's eventual exoneration – but there is still much evidence of the character's righteous Southern paternalism. In this passage from chapter three, for example, the lawyer attempts to justify grocery-store owner Mr Lilley's anger at Beauchamp's alleged murder of Vinson Gowrie:

‘[Lilley] has nothing against what he calls niggers. If you ask him, he will probably tell you he likes them even better than some white folks he knows and he will believe it. They are probably constantly beating him out of a few cents here and there in his store and probably picking up things – packages of chewing gum or bluing or a banana or a can of sardines or a pair of shoe-laces or a bottle of hair-straightener – under their coats and aprons and he knows it.’<sup>33</sup>

Faulkner here employs Stevens to caricature black-white relationships in Jefferson. The lawyer’s tone is visibly patronising, pandering to stereotypical approximations of black townfolk as petty thieves or violent, aggressive types. On these grounds, at least, disapproval of *Intruder’s* portrayal of Stevens is perfectly reasonable. In this instance, the character does nothing more than reinscribe well-worn color-lines of a postbellum South.

Such criticism arrogates Stevens as a one-dimensional figure, as a stereotypically inert symbol of stubborn Southern attitudes in the immediate post-war years. But the lawyer is hardly the only character seen to uphold the color-line. The same could be said of *Intruder’s* narrator, Charles ‘Chick’ Mallison, Jr. (Stevens’s nephew).<sup>34</sup> Consider the novel’s opening paragraph:

It was just noon that Sunday morning when the sheriff reached the jail with Lucas Beauchamp though the whole town (the whole county too for that matter) had known since the night before that Lucas had killed a white man.<sup>35</sup>

Faulkner’s opening gambit plunges us straight into the multifarious hostilities of Southern racial politics, abound with its varying stereotypes of both black and white. First, Chick eagerly observes that Beauchamp “killed a white man.” The accused is effectively guilty of his crime without any judicial defense or due process, conforming to previous Southern narratives where white bases knowledge of how black behaves on collective prejudice or assumption, and not empirical fact.<sup>36</sup> Second, Faulkner re-establishes Beauchamp as a literary representation of what post-war anti- civil rights campaigners often labelled as the “uppity Negro.”<sup>37</sup> In Beauchamp’s earlier Yoknapatawpha appearances, he is depicted as being contemptuous of Mississippi’s strict racial codes and classifications.<sup>38</sup> Employing Beauchamp in the role of the novel’s accused is thus deliberate on Faulkner’s part, because the character has

previously acted as a commensurate site of racial resistance and defiance. The law is additionally presented as an ever-present in *Intruder's* opening lines. The parenthetical insert stating that the “whole county” knew Beauchamp had killed a “white man” instantly imbues the law with what Sarat, Douglas, and Umphrey describe as a “horizontal component.”<sup>39</sup> Given that Beauchamp is assumed to have acted outside the law’s strict boundaries, the “jail” and the “sheriff” – emblematic of institutionalised local law enforcement – evoke imagery of a so-called unbiased judicial process; as representatives of goodness and fairness that, rather ironically, contrast the unjust way Chick has already assumed Beauchamp’s guilt.

As *Intruder* progresses, Faulkner continues to accentuate Beauchamp’s role as both ‘uppity Negro’ and guilty man. Throughout the second chapter, the narrative considers the murder of Vinson Gowrie:

[I]f Yoknapatawpha County was the wrong place for a nigger to shoot a white man in the back then Beat Four was the last place even in Yoknapatawpha County a nigger with any judgment – or any other stranger of any color – would have chosen to shoot anybody least of all one named Gowrie before or behind either [...]

Lucas had [...] to pick that time that victim and that place [...] chose the first suitable convenient Saturday afternoon and with an old single action Colt pistol of a calibre and type not even made anymore which was exactly the sort of pistol Lucas would own [...]<sup>40</sup>

The act of murder is repeatedly conflated with the perceived racial violence that Beauchamp is alleged to have committed. The narrative therefore appears to be just as concerned with the crime being committed in the “wrong place” as it is with the act of murder itself. This plays as a reminder of the accumulative hierarchy of violent crime in the South, where murder (of any kind) is easily surpassed by murder which sees white victim killed by black perpetrator. While this repetition prompts a consideration of race relations in the region, it also vitally links to the place of law in Faulkner’s novel, even before lawyer and client suitably converse.

*Intruder's* first two chapters likewise depict Beauchamp as the target of a persistent and angry lynch-mob, led chiefly by Beat Four’s Gowries, Workitts, and Ingrums. Although set in approximately 1939 and taking its initial inspiration from

the lynching of Ellwood Higginbotham, the novel was written between 1947 and 1948 – years that saw countless instances in Mississippi of white communities reasserting their own sense of legal privatism. In August 1947, Versie Johnson (aged thirty-five) was shot dead by police in Prentiss after being accused of raping a white woman. The officers involved were arrested, charged with manslaughter, and quickly exonerated by all-white juries. Three months later, Walter Palmer (a Second World War veteran) was shot fatally in the back by a law officer who maintained that he was attempting to escape arrest – the officer was not charged. In February 1948, George Thomas was shot dead by a Kosciusko policeman, who similarly claimed that the black youth had tried to escape arrest. Weeks later on 21 March, fifty-five-year-old Samuel Bacon was shot dead in Fayette County jail by Marshal S.D. Coleman. Coleman was swiftly acquitted. On 2 May 1948, Hosea Carter was found dead in Sandy Hook after being shot in the chest. Deputy Sheriff T.W. White alleged that Carter, his brother Willie, and William Harris attempted to enter a home in a white neighbourhood and were accosted by a resident, who shot the intruder. White said of the unnamed murderer, “he did what any decent white man would have done.” No charges were ever brought against Carter’s killer, while the two black men that entered the residence with the deceased were jailed for trespassing.<sup>41</sup>

Given Faulkner’s ambiguous statements regarding racial violence, as well as the obvious extra-legal context reflected in *Intruder’s* early plot, rather than simply align the novel’s presentation of lynching with the propagation of recognised regional paradigms, it is important to take a more judicial approach. Note, for instance, the way that lynching operates as an extension of the law in *Intruder’s* second chapter. As Beauchamp is marshalled towards incarceration, Faulkner presents a more intricate legal paradigm, juxtaposing both the power that the law demands “over others” with its “associational power,” or power “with others”:<sup>42</sup>

Then suddenly the empty street was full of men. Yet there were not many of them, not two dozen, some suddenly and quietly from nowhere. Yet they seemed to fill it, block it, render it suddenly interdict as though not that nobody could pass them, pass through it, use it as a street but that nobody would dare [...] the men who his uncle said were in every little Southern town, who never really led mobs nor even instigated them but were always the nucleus of them because of their mass availability.

Then the rear door opened and the sheriff emerged – a big, a tremendous man with no fat and little hard pale eyes in a cold almost bland pleasant face [...] Then Lucas got out, slowly and stiffly, exactly like a man who has spent the night chained to a bedpost [...]

‘Knock it off again, Hope. Take his head too this time.’

‘You boys get out of here,’ the sheriff said. ‘Go back to the barbershop:’ turning, saying to Lucas: ‘All right. Come on.’<sup>43</sup>

The literal power of law – or the legal system – is represented by County Sheriff Hope Hampton. Hampton exudes authority “over others” in two senses: by telling the mob to “get out of [there]” and, at the same time, reminding the accused of his position as he beckons Beauchamp towards incarceration (“All right. Come on”). But the mob, who come “quietly from nowhere” and render the streets impassable, uncover an older legal form in the South, specifically one that acknowledges the localised doubts white Mississippians had of the justice system during years of Jim Crow. Sarat, Douglas, and Umphrey usefully distinguish this perspective as “constitutive,” where communal life is “run through with law” as society “internalize[s its] meanings and its representations.”<sup>44</sup> Lynching, on the one hand, is a chaotic and unregulated act based very much outside of the law’s strict boundaries. On the other, though, it is an internalised, ordered representation of a Southern historio-social imperative that has propagated black-white relationships as subordinate-superordinate.<sup>45</sup> Oxford’s “empty street” being suddenly “full of men” thus depicts the variability of power that the law may exhibit over a specific territory. Faulkner here symbolises the law’s associational power “with others,” demonstrating how it often spreads beyond traditionally defined legal spaces (courthouses, jails), and lives as a socially constructed authority, or “generalized function”: whether posing as a lawful, or lawless, power.<sup>46</sup>

Faulkner initially characterises the law as a powerful presence in *Intruder*. It is seen to regulate the behaviours of those bound to its institution – as embodied by established legal actors like Hope Hampton – but it also acts as a lived social imperative, such as when the lynch-mob assumes Beauchamp’s guilt in lieu of any clear evidence or empirical proof. The novel’s earliest scenes are therefore organised in accordance with the strictest sense of lenticular logic. Faulkner’s depictions of race and racial justice in the first two chapters are observed through an entirely monocular

lens, where a series of fixed markers neatly partition black from white, innocent from guilty, sameness from difference.

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Faulkner properly introduces Gavin Stevens in chapter three, as he walks to Jefferson's jail with Chick to meet his new client. On route, they encounter Mr Fraser, who balks at Beauchamp's audacious choice to murder Vinson Gowrie on a "Saturday afternoon," protecting him from a mob that have "got to get milk and then chop wood to cook breakfast tomorrow with before they can eat supper and get into town."<sup>47</sup> Stevens's response is significant, as it places him deftly between the roles of Southern citizen and lawyer:

'All he requires is that they act like niggers. Which is exactly what Lucas is doing: blew his top and murdered a white man – which [Fraser] is probably convinced all Negroes want to do – and now the white people will take him out and burn him, all regular and in order and themselves acting exactly as he is convinced Lucas would wish them to act: like white folks; both of them observing implicitly the rules: the nigger acting like a nigger and the white folks acting like white folks and no real hard feelings on either side [...]'<sup>48</sup>

Stevens's words ostensibly appropriate the dominant cultures of a postbellum South – of a hegemony that "deeply saturat[es] the consciousness of a society."<sup>49</sup> He speaks of "rules," not laws; of "acting," not legal consequence; of individual opinion, not any sense of legal justice. His loyalties, it would seem, are entirely rooted to his status as a Southern citizen. The declaration that Beauchamp should "act like [a] nigger" – or his assertion that white people are compelled to "take him out and burn him" – initially introduce us to a character who only reinscribes the internal, dominant cultural structures of Jefferson.<sup>50</sup> Moreover, Stevens's assumption that, in murdering a white man, Beauchamp has accomplished nothing more than "act like [the] nigger" white society expects, contextualises the novel's composition and publication.<sup>51</sup> Like the lynch-mob circling Jefferson's jail, Stevens's words continue to externalise the "social training and institutionalised forces" of a dominant culture and its ingrained views of Southern legal privatism.<sup>52</sup>

But Stevens is a lawyer too. In 1938 – roughly corresponding to the setting of Faulkner’s novel – President Franklin D. Roosevelt spoke of the need for wholeness: “The sooner we get to [a] basis of [...] equality, the better it will be for the country as a whole.”<sup>53</sup> The years immediately preceding Roosevelt’s words had already seen such measures begin to filter through into court decisions, particularly within federal systems. *Norris v. Alabama* (1935) was the accumulation of a series of Supreme Court rulings focused on the way that racial discrimination should be viewed constitutionally, building on the legal precedent set by *Strauder v. West Virginia* (1880) and *Carter v. Texas* (1900).<sup>54</sup> In *Norris*, the Supreme Court unanimously ruled that all-white juries were innately discriminatory and clear evidence of racial injustice, placing the burden on Southern courts to demonstrate otherwise.<sup>55</sup>

This burden naturally recoiled through regional legal systems, and indications of an antagonistic relationship can be found in Faulkner’s native Mississippi. Although the state’s supreme court did begin reversing certain decisions in localised cases where a prosecution had patently appealed to the prejudices of an all-white jury, there were still many instances – contemporary to *Norris* – that demonstrated local resistance to this federal dictum. One such case is *Perkins v. State* (1931). Oscar Perkins was initially found guilty of murdering his white employer, John C. Harbin, after signing a confession that he “did kill [...] Harbin by crushing his skull with an axe.” However, at his re-trial in the state supreme court, Perkins testified further, alleging he was “told” by the sheriff and his detectives to say – on pain of death – that he murdered Harbin. According to Perkins, the officers “hit him with a pistol” and one of the detectives “dictated [his] confession,” forcing him to sign it on the dubious grounds that it would aid the victim’s family with a potential life insurance claim. Mississippi’s state supreme court insisted that the confession was “voluntarily made” and upheld the original decision. Perkins was executed – the verdict of the earlier all-white jury – on 23 July 1931.<sup>56</sup>

We therefore perceive a fundamental contradiction: an emergent national consensus for equality in the courtroom co-present with regionalised forms of legal antagonism. What is more, I maintain that Gavin Stevens begins to significantly represent this contradiction as *Intruder’s* plot develops. While instilled with the traditional characteristics of a native white Mississippian, Stevens is equally a man of the law who took an oath to uphold the Constitution of the United States. He thereby represents these contradictory and emerging legal-cultural ideas; ideas that point

toward “new meanings and values, new practice, new relationships.”<sup>57</sup> Faulkner’s fictional lawyer never sees the inside of a courtroom in *Intruder* – or attempts anything that one might officially term as ‘lawyering’ – but his initial reaction to Fraser’s stubborn racial beliefs see the character begin an extensive process of cross-examining the lenticular logics and contradictory paradigms of legal justice in the post-war South.

As Stevens and Chick move deeper into the jail, Faulkner continues to employ his lawyer figure as a lens through which we might view these legal paradoxes. For example, the characters that the pair encounter as they approach Beauchamp’s cell are, on the one hand, agents of law and justice, on the other, an appropriation of well-worn black-white regional patterns. Will Legate (the Deputy Sheriff) tells Stevens that he does not “expect to stop” the lynch mob circling the jail, while Mr Tubbs (the Jailer) declares that he will not “get in the way of them Gowries and Ingrums [... ]just for one nigger,” reiterating: “I’m going to do the best I can: I taken an oath of office [...] But dont think nobody’s going to make me admit I like it. I got a wife and two children; what good am I going to be to them if I get myself killed protecting a goddamn stinking nigger?”<sup>58</sup> Broader legal frameworks collide here with localised racial hierarchy, as Faulkner juxtaposes the jailer’s “oath” with the South’s cultural imperative that Beauchamp is not worthy of any defense from the lynch-mob, legal or otherwise.

In his reaction to Legate and Tubbs, Stevens again places himself between the national and localised legal states that the novel explores – in the abstruse undigested space between co-present ideas of federal and state concern. Concerning Jailer Tubbs’s fear of the lynch mob, he replies:

‘[I]f they do, it wont really matter. They either will or they wont and if they dont it will be all right and if they do we will do the best we can, you and Mr Hampton and Legate and the rest of us, what we have to do, what we can do. So we dont need to worry about it.’<sup>59</sup>

In one sense, Faulkner’s characterisation articulates an image of apartness.<sup>60</sup> Stevens appears to be unerringly pragmatic, urging for calm to allay the fears of those who, like him, have “taken an oath” to uphold the law. A more interrogative reading, though, moves to reflect how Stevens is portrayed as a character beginning to demonstrate emergent judicial meaning in a region of the United States on the cusp of legal change. Although the lawyer’s pragmatism seems aloof in his suggestion that it

“wont really matter” if the lynch-mob capture Beauchamp, it is certainly rendered more ambiguous by the hardened justice of his claim that “[they] will do the best [they] can” to defend the accused from harm.

During these early exchanges between a number of *Intruder’s* legal actors, Faulkner’s lawyer figure is certainly employed to consider the region’s unsettled legal and social terrain. While Stevens’s position as a local citizen sees him continue to propagate problematic relationships between region and racist violence, his position as a lawyer – devoted to what is good and fair – ensures he also acts as a metonym for broader judicial concerns in the United States.

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While the plot to exonerate Lucas Beauchamp is no doubt important, the second half of *Intruder* is dominated by a series of speeches that Faulkner gives to Gavin Stevens. Criticism has mostly condemned the monologues. Elizabeth Hardwick, for instance, describes them as “absurd, strident lectures.”<sup>61</sup> The lecturing style Hardwick denounces inevitably stems from the distinct lack of response to each speech. The first, often colloquialised as ‘Sambo,’ completely neglects any sense of audience. It is outwardly presented as uninterruptable and fixed, as though Stevens’s views of Southern racial encounters are static, straightforward, and non-negotiable. The most prominent claim in ‘Sambo’ is that “[n]ot all white men [could] endure slavery,” yet “no man [could] stand freedom”; an inflexibility further emphasised by the monologue’s structure.<sup>62</sup> Like much of *Intruder*, the syntax of this first speech is awkward, where concepts quickly accumulate without the regular use of punctuation. The speech similarly ends without a period, cut off instead by a dash before the narration continues with the trip to exhume Jake Montgomery’s body from Vinson Gowrie’s grave:

‘[...] endure the other. – And who knows –’  
Then a gleam of sand, a flash and glint of water; the white rail streamed past in one roar and rush and rattle of planking and they were across.<sup>63</sup>

Faulkner’s structural choice invariably accents the uninterruptable nature of Stevens’s Old South model of social order. This short ‘Sambo’ speech thus articulates the

lenticular, where any understanding of race precludes overlap or nuance. Stevens's monocular notions of the color-line are neatly partitioned ("free" / "slave") and there is little sense of dialogue, with Chick not being given the opportunity to respond to his uncle's remarks.

Stevens's far lengthier second speech is noticeably more stereoscopic. It represents emergent cultures in the region and acts as an early example of scepticism with regard to the American legal system presenting itself as objective and color blind. First, Stevens considers the South's resistance to Yankee interference:

'So we are not really resisting what the outland calls (and we too) progress and enlightenment. We are defending not actually our politics or beliefs or even our way of life, but simply our homogeneity from a federal government to which in simple desperation the rest of the country has had to surrender voluntarily more and more of its personal and private liberty in order to continue to afford the United States [...] Only a few of us know that only from homogeneity comes anything of a people or for a people of durable and lasting value.'<sup>64</sup>

Next, attention turns to why the South must defend itself from federal legal frameworks, with intentional reference to publications like 'To Secure Our Rights':

'That's why we must resist the North: not just to preserve ourselves nor even the two of us as one to remain one nation because that will be the inescapable by-product of what we will preserve [... it is] the postulate that Sambo is a human being living in a free country and hence must be free. That's what we are really defending: the privilege of setting him free ourselves [...]'<sup>65</sup>

Finally, Stevens condemns the national desire to solve Southern race relations immediately. He refers instead to 'Sambo' (or its representative in *Intruder: Beauchamp*) and their endurance as the truest means of unifying America:

'[The solution] wont be next Tuesday. Yet people in the North believe it can be compelled even into next Monday by the simple ratification by votes of a printed paragraph: who have forgotten that although a long quarter-century ago Lucas Beauchamp's freedom was made an article in our Constitution

[...] yet only three generations later [we] are faced once more with the necessity of passing legislation to set [him] free.

[...]

We – he and us – should confederate: swap him the rest of the economic and political and cultural privacy which are his right, for the reversion of his capacity to wait and endure and survive. Then we would prevail; together we would dominate the United States; we would present a front [that is] impregnable [... and not] hide from one another behind a loud lipservice to a flag.’<sup>66</sup>

Outwardly, the structuring logics appear unchanged. We are immediately struck by the perceived injustice of Stevens’s claim that the South should have the “privilege” of “setting [Beauchamp] free,” as well as the lawyer’s flippancy in speaking on behalf of the “Negro” and their ability to “wait and endure” injustices born out of traditional social patterns. Similar to his first speech, Stevens’s discourse again appears to be uninterrupted. There is no obvious sense of dialogue or audience, and it ends once more with a swift transition back to the plot: “[...] lipservice to a flag.’ | Now they were there and not too long behind the sheriff.”<sup>67</sup>

Rather than condemn the inflexibility of Stevens’s rhetoric, Jay Watson considers Faulkner’s seamless transition as a form of “stylistic expurgation,” where the narrative itself has “censored the County Attorney’s speech.”<sup>68</sup> It is indeed worth noting that all of the lawyer’s monologues are framed by Chick’s narrative conscience; a conscience wishing to censor any form of Southern paternalism that it hears, particularly at a stage in the novel where it is becoming clear that Beauchamp has been wrongly accused of murder and is under threat from a vociferous lynch-mob with no regard to fact, evidence, or a perceivable sense of justice.

With this in mind, instead of viewing Stevens’s wish for the South to be given the privilege of setting ‘Sambo’ free as a simple reinscription of traditional racial patterns, might the lawyer’s argument actually strike upon the powerful – albeit controversial – idea that change in the South is more socially (and politically) intricate than looking to ratify the Constitution, or “printed paragraph.”<sup>69</sup> Rather, a focus on the wholeness of a citizenry, and not just its one-ness, provides far better means to begin properly reassessing a history fraught with racial violence and legal animosity. In many respects, Stevens – in this vital second speech – begins to probe the undigested: that the American legal system (emblematised most obviously by his reference to “printed

paragraph”) is a fundamental part of the problem it now seeks to address. Faulkner’s lawyer figure therefore crucially initiates a challenge to those separatist logics that would continue to narrowly define the aberrations of racism and locate them neatly below the Mason-Dixon line.

Stevens’s image of “simple ratification” might also refer to the spate of amicus curiae that were presented to the Supreme Court in contemporary cases of racial discrimination. As an example, while *Shelley v. Kraemer* was decided on 3 May 1948, it was argued across the preceding months – running parallel to the period in which Faulkner was writing *Intruder*. The *Shelley* decision ruled that state courts could not enforce race-based residential covenants because they violated the Equal Protection Clause of the Fourteenth Amendment.<sup>70</sup> Seen as a landmark victory for the civil rights of black Americans, the federal government submitted an amicus curiae to the Supreme Court as argument in October 1947, nine months before the eventual decision. The lengthy document petitioned almost entirely in favour of the black plaintiffs. It effectively declared that “racial restrictive covenants” were a “serious embarrassment” to the “conduct of foreign affairs,” and concluded to remind the Supreme Court that the “solution of the problem of race” will not occur by “depriving citizens of their [...] rights and privileges.”<sup>71</sup>

Faulkner’s characterisation of Stevens in *Intruder*’s vital second monologue thus challenges such straightforward narratives of legal progress, tacitly probing these types of amicus curiae and the established doctrines propagated by the likes of Gunnar Myrdal’s *An American Dilemma* (1944). While Myrdal concluded that the “standard practices of [...] policymaking were adequate to the task of abolishing racism,” Faulkner’s lawyer figure proposes a contrasting thesis: one that will resonate strongly with CRT scholars in the following decades.<sup>72</sup> Stevens essentially questions those Cold War notions that would posit any newly formed emancipatory legislation as an ultimate solution to swiftly eliminate the horrors of American racism. Though he might offer no specific solutions to these quandaries, Stevens does evoke a scepticism of American law that at least recognises the complicit alliances between the nation’s legal system and Southern racial violence.

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Gavin Stevens has so far demonstrated himself to be a master-rhetorician, paternal citizen, and, most intriguingly, the embodiment of prophesying intellect. Moreover, being a lawyer – the symbol of goodness and fairness – enables his gradual and thoughtful disruption to seemingly inflexible social laws in the South. In chapter nine, as it becomes clear that Crawford Gowrie murdered Vinson before framing Beauchamp, Chick discusses the injustices of a lynch-mob that have disbanded to “hide their heads under the bedclothes from their own shame” at the discovery of brother killing brother, not black murdering white:

‘Nobody lynched anybody to be defended from it,’ his uncle said.

‘All right,’ [Chick] said. ‘Excuse them then.’

‘Nor that neither,’ his uncle said. ‘I’m defending Lucas Beauchamp. I’m defending Sambo from the North and East and West – the outlanders who will fling him decades back not merely into injustice but into grief and agony and violence too by forcing on us laws based on the idea that man’s injustice to man can be abolished overnight [...]’

‘But you’re still excusing it.’<sup>73</sup>

Contrasting Stevens’s lengthy speeches, this interaction is dialogue and not monologue. Although much has been made of Chick’s maturation in *Intruder*, little has been attributed to his uncle’s role in that development.<sup>74</sup> Where earlier, Chick lay silent as Stevens lectured his nephew on the intricacies of Southern racial politics, the sixteen-year-old now speaks directly and forthrightly to his uncle’s views of the lynch-mob. The castigation apparent in Chick’s voice when Stevens appears to “excuse” the act of lynching fundamentally opposes his flippant accusations of Beauchamp’s supposed crime in the novel’s opening paragraph. Such a shift surely suggests that *Intruder*’s narrative conscience has evolved (or at least softened) in his view of unjust Southern racial encounters.

But to argue that Chick’s maturation is solely his own entirely misrecognises Stevens’s role. It is perhaps here that the truest form of lawyering is accomplished. Stevens consciously directs his ambivalent attitudes of law and justice outwards, imbuing his young nephew with an emerging comprehension of the South’s unsettled legal state. Faulkner thereby employs Stevens to act as a subtle challenge to those established paradigms of backward region and progressive nation. The character copresents a traditional Southern defense of the “lynchers” with a desire to “defend

Lucas Beauchamp” from “outlanders” who would wish to “force” laws that seek to abolish over two-centuries of ingrained social patterns “overnight.”<sup>75</sup> Within such ethical and sociological cross-examinations, Stevens finally accomplishes his lawyering. He defends the injustices brought to bear on the Lucas Beauchamps of the South, while simultaneously revealing the time it will take to bring true legislative change to a region with such diverse racial attitudes. Attitudes that were, for decades, endorsed by the very same legal system that now looks to covertly absolve itself from any sense of accountability.

A question still remains: is Stevens foremost a lawyer, or a citizen? If we consider Faulkner’s own confusing proclamations on the subject of race and American law, his legal figure cannot be easily categorised as one or the other. A passage at the end of chapter nine, however, provides a compelling case for him first embodying the good and fair lawyer:

Then his uncle said, ‘[...] Some things you must always be unable to bear. Some things you must never stop refusing to bear. Injustice and outrage and dishonor and shame. No matter how young you are or how old you have got. Not for kudos and not for cash: your picture in the paper nor money in the bank either. Just refuse to bear them.’<sup>76</sup>

Stevens talks with a quiet assurance. He speaks directly to his nephew with no sense of the moral ambiguities that layered his earlier utterances. He simply instructs Chick to call out injustice and “refuse to bear [it].” He stresses how “[i]njustice and outrage and dishonor and shame” must not be accepted. While much criticism has been directed at Stevens’s speeches as examples of “abnegant and rhetorical self-lacerati[on],” his monologues – and the later dialogue with Chick – in fact provide an intelligent assessment of the earliest stages of post-war Southern race relations.<sup>77</sup> Like the unsettled state of law and justice in a region edging towards change, *Intruder’s* characterisation of Lawyer Stevens is designed to bring a certain sense of order to these paradigms of social and legal interaction.

### ***Knight’s Gambit***

In 1949, *Knight’s Gambit* was published: six ‘who-done-its’ that further developed Gavin Stevens’s role in Faulkner’s Yoknapatawpha. The six stories combine to create

the only full-length text in which Stevens is unequivocally the central character, even if the first five are actually republications of earlier work. Stevens indeed provides the stories with their overall sense of unity and coherence. In ‘Smoke,’ for example, we immediately observe him in the courtroom (a legal space entirely absent in *Intruder*), while each story presents the character as both sleuth and lawyer in Jefferson and its locale, solving – or re-solving – the respective cases that he is confronted with.

Criticism has not been especially kind to the Stevens of *Knight’s Gambit*. Instead of focusing on the character’s repeated successes in the six cases that make up the collection, many have commented on the specious fortune of the lawyer’s investigations, or his continued propensity to talk and not act.<sup>78</sup> Notwithstanding these protestations, Stevens did gain some admiration from contemporary reviews. Christopher Matthew called him one of “nature’s nobleman” and a “practitioner of the law who stands out among lawyers.”<sup>79</sup> Lawrance Thompson similarly labelled him as an “honest attorney” and “amateur detective.”<sup>80</sup> Although Ruth Chapin decried Stevens once again symbolic of “benevolent [Southern] paternalism,” her assessment also endorsed the lawyer figure’s broader significance in *Knight’s Gambit* – to explore the “paradoxical ways in which justice and injustice are made to confront each other.”<sup>81</sup> This second instalment in a loosely structured ‘Stevens trilogy’ might therefore best be considered a bridging text, where its main worth lies in Faulkner’s depiction of the lawyer as an evolving character.

In this sense, the choice of form is significant. The short story collection is not necessarily bound by any sense of plotted temporal linearity, able to depict Stevens in a range of situations and legal circumstances not tied together within the larger architecture of a novel’s developing narrative. As a result, in ‘Tomorrow’ Stevens appears as an up-and-coming lawyer in his late-twenties trying his first criminal case, he is a District Attorney “somewhere in his middle thirties” in ‘Hand Upon the Waters,’ and an experienced and respected County Attorney in his early-fifties by the events of ‘Knight’s Gambit.’<sup>82</sup>

This fictional timeline vitally allows Faulkner to depict the character’s advancing development and legal maturity. In ‘Smoke,’ Stevens acts as an objective officer of the courtroom who claims that justice is “always unfair.”<sup>83</sup> By ‘An Error in Chemistry,’ though, his musings have developed, as witnessed in the following passage:

‘I’m interested in truth,’ the sheriff said.

‘So am I,’ Uncle Gavin said. ‘It’s so rare. But I am more interested in justice and human beings.’

‘Aint truth and justice the same thing?’ the sheriff said.

‘Since when?’ Uncle Gavin said. ‘In my time I have seen truth that was anything under the sun but just, and I have seen justice using tools and instruments I wouldn’t want to touch with a ten-foot fence rail.’<sup>84</sup>

Lorie Watkins-Fulton argues that Stevens’s intriguing conflation of “truth” and “justice,” or the idea that “truth should produce justice,” speaks directly to the founding legalisms of the Constitution.<sup>85</sup> Put another way, despite the lawyer’s somewhat ambiguous argument once more offering no real solutions, it does subtly articulate the undigested elements of race relations in America’s legal system. For instance, ‘An Error in Chemistry’ is set in approximately 1930, around the time of the verdict in *Washington v. State* (1928): a case decided at Florida’s state supreme court. Abe Washington was originally convicted of murder in the first degree by an all-white jury. However, he stood for re-trial, claiming that the initial decision was discriminatory on account of his race. At the second trial, the court declared that every person being tried was entitled to a “jury [...] summoned without illegal discrimination of any character.” Yet still maintained that the refusal to “select any colored men” to “serve on the jury” was not a “denial to the defendant of the equal protection of law.”<sup>86</sup> Although *Washington v. State* is not directly alluded to in ‘An Error in Chemistry,’ the fact that Faulkner regularly commented on court cases in Mississippi – and more broadly on the later *Brown* decision of 1954 – connects his fiction to this wider culture of court proceedings. Like Stevens’s conflation of “justice” and “truth,” then, Florida’s state supreme court decision that “every person is entitled” to an indiscriminate jury, while at the same time refusing Washington’s “denial” to the “equal protection of law,” unquestionably muddles and confuses the goodness and (more importantly) fairness of the justice system.

.....

*Knight’s Gambit’s* status as a bridging text is most evident in the final story; the only original material Faulkner included in this 1949 collection. Picking up from events in the final third of *Intruder*, the concluding story re-establishes and develops the role

Stevens plays in Chick Mallison's maturation and growth. In contrast to earlier stories narrated directly by Stevens's nephew, 'Knight's Gambit' employs a more general third-person voice, enabling a wider lens through which we might view the pair's developing familial relationship.

Monologue tentatively evolved into dialogue in the final third of *Intruder*, as Stevens spoke ever more conversationally to Chick and progressed towards his claim that injustice is something that one "must never stop refusing to bear."<sup>87</sup> Although uncle and nephew converse in several stories throughout *Knight's Gambit*, it is in this final novella-length work that they speak with the greatest frequency. Equally, in a number of their conversations, Faulkner seems keen to remind us of Chick's age:

And maybe his mouth was open a little too (he was not quite eighteen yet [...]).

'Why is it,' his uncle said, 'that people of seventeen –'

'Eighteen,' he said. 'Or almost.'

'All right,' his uncle said. 'Eighteen or almost – [...]'

'How do I know?' his uncle said. 'Ask yourself; you're eighteen, or so near it doesn't matter; you know what a child of nineteen will do [...]'

And he Charles, thought how if he had been eight instead of almost eighteen, he wouldn't have paid any attention [...]<sup>88</sup>

Albeit not exhaustive, these frequent references serve to contrast Chick with the aging lawyer figure. More importantly, this gradual emergence of the younger Chick in 'Knight's Gambit' acts as a corollary to the metaphorical disappearance of the older Stevens.

In stories narrated directly by Chick earlier in *Knight's Gambit*, Stevens is far more active, presented as a dynamic agent of justice. Chick – as he does in the second half of *Intruder* – is more of a peripheral figure, left largely to document his uncle's role as a lawyer. As an example, in 'Monk' he tells us:

My Uncle Gavin got the pardon, wrote the petition, got the signatures, went to the capitol and got it signed and executed by the [State] Governor, and

took it himself to the penitentiary and told Monk that he was free. And Monk looked at him for a minute until he understood, and cried.<sup>89</sup>

The active verbs Faulkner employs to describe Stevens's swift execution of justice recognise a certain dynamism, emphasising the speed with which he solves Monk's legal predicament. There are also links between how Monk "looked" at Stevens and the reverential way that the jury looked at both the lawyer and Judge Dukenfield in the court scenes of 'Smoke,' once more evoking the power and supreme status of law, as well as the respect afforded to Yoknapatawpha's central legal figure.<sup>90</sup>

By the end of the collection, however, that active status as an agent of justice is transferred to his nephew. Where earlier, Stevens acts as something of a solo sleuth, 'Knight's Gambit' is repeatedly marked by Chick's own developing dynamism, as he takes a lead role in preventing the murder of Captain Gualdres. Although his meeting with McCallum is somewhat opportunistic, it is Chick who ultimately discovers Max Harriss's plan to kill Gualdres through the purchase of a killer stallion. Upon receiving the information from the stallion's previous owner, Chick returns to his uncle:

'All right,' his uncle said. 'What horse?'

He answered, succinct too. 'McCallum's. That stallion.'

'All right,' his uncle said again.

And this time he was not slow; he didn't need the diagram.

'I just left him at the Inn, eating supper. He took it out [to the Harriss stables] this afternoon.'<sup>91</sup>

Stevens relies on his nephew in a far greater capacity. His previous linguistic dynamism has now shifted to Chick, who is "succinct," does not speak "slow[ly]," or "need a diagram," indicating a progressively active role for the young Mississippian.

Faulkner furthermore sets Chick's gradual emergence against the vanishing presence of his uncle, an aging County Attorney in his fifties. It is within this liminal space – one replete with the possibility to co-present ideas – that we must view Stevens's wider role as a fictional lawyer in literature of the post-war South. The final meeting between Chick and his uncle occurs in 1942, before Mallison enlists in the United States Army during the Second World War. Faulkner concludes their last conversation, at least in Yoknapatawpha's fictional chronology, as follows:

‘How did just years do all that?’ [Chick asked]

‘They made me older,’ his uncle said. ‘I have improved.’<sup>92</sup>

With these words, Stevens retreats into a new relationship with childhood sweetheart Melisandre Backus Harriss. Chick, on the other hand, emerges as a law student who, like his uncle before him, studies at both Harvard and the University of Mississippi.

The simultaneous withdrawal of an aging Stevens with this emergence of Chick applies to what Frederic Jameson would later term as the “vanishing mediator.”<sup>93</sup> Beginning with Stevens’s speeches in the second half of *Intruder* and developing through the stories of *Knight’s Gambit*, Faulkner presents a gradual transferral of active agency between uncle and nephew. Stevens is a character aware of his aging status. As his usefulness comes to an end in Yoknapatawpha, Faulkner thus begins to dismantle and remove his presence. While Chick takes a more active role in the administration of justice, Stevens becomes an image of the “private and [the] retiring,” drawn – as he is – to “the *hortus conclusus* of his sweetheart’s windless garden.”<sup>94</sup> He effectively accomplishes a significant victory by the end of ‘Knight’s Gambit.’ In previously stating that Chick must “never stop refusing to bear [injustice],” Stevens now observes his nephew emerge in light of such advice.<sup>95</sup> The lawyer’s work is complete. He has tentatively demonstrated an early example of scepticism with regard to American law being objective and color blind. He has acted as a fictional embodiment of unsettled legal meanings in a region neatly partitioned to conveniently locate racial violence in the United States. He has initiated subtle connections between lawmakers and race, between whiteness and blackness. According to Jameson’s theory, he can now “drop away.”<sup>96</sup>

But if Stevens’s usefulness is over, such a retreat should be measured against the obvious uses he has performed in Faulkner’s late fiction. Jameson claims that the vanishing mediator becomes the “hypothesis [of] some central mediatory figure or institution which can account for the passage from one temporal and historical state to another.”<sup>97</sup> Stevens indeed proceeds across the events of *Intruder* and *Knight’s Gambit* to mediate regularly between state and federal concern, employing his obvious verbal dexterity to open a dialogue with Chick that begins to probe the undigested in the post-war South. What is more, due to the way that *Knight’s Gambit* expands the role of the lawyer figure in Yoknapatawpha, both in space and (significantly) time, Faulkner’s Stevens now straddles a fraught period in Southern history: between 1909 and 1942.

A period which saw the creation and development of the NAACP, alongside a series of legal cases that led to later landmark decisions and federal legislation of the 1950s and 1960s. In this sense, Jameson's paradigm grafts elegantly onto Stevens's character. First, the fictional lawyer's controversial speeches in *Intruder*, or his developing desire to uphold law and justice for those mistreated by Mississippi's state legal system in *Knight's Gambit*, see the character act as "bearer of change and social transformation." Second, his final retreat from man of law to Melisandre's metaphorical *hortus conclusus* indicates an acute awareness that he will be "forgotten once [...] change" begins to be "ratified in the reality of [...] institution."<sup>98</sup> The time of Faulkner's agent of goodness and fairness in Yoknapatawpha predictably must end, but as vanishing mediator – though dismantled and removed – Stevens still leaves us with indelible legal truths to consider into later years of the post-war era.

Yet to conclude with Stevens's retreat (or demise) at the end of 'Knight's Gambit' is somewhat premature. Notwithstanding his later roles in *The Town* (1957) and *The Mansion* (1959), which largely add context to the character's own chronology, the lawyer figure has a final, rather literal, leading performance in Yoknapatawpha.

### ***Requiem for a Nun***

Set eight years after the events of *Sanctuary* (1931), *Requiem for a Nun* acts as a sequel to the earlier novel and focuses on two characters from the previous story: Gowan Stevens and Temple Stevens (née Drake).<sup>99</sup> *Requiem* similarly returns Gavin Stevens to the black-white racial encounters of *Intruder*, where he acts as legal counsel for Nancy Mannigoe, a young black nursemaid (and the title's 'Nun') accused of murdering her mistress' infant child. While Nancy's killing of the infant is never in doubt, the true motives behind her actions are *Requiem's* central thread, as Stevens reassesses the untold stories behind the death of Temple's child through a detailed cross-examination of past events.

*Requiem* was not well received at the time of its publication. Dissimilar to the disparaging early assessment of *Intruder* and *Knight's Gambit* – which principally took aim at Lawyer Stevens – reviews centred mainly on Faulkner's decision to experiment with the text's form. Here, the decision to write *Requiem* as a "story told in seven play-scenes," with "three introductory chapters" serving as prologue to "hold the three acts together," was seen by many as an error in judgement.<sup>100</sup> Sterling North, for example, argued that the prose and play elements were "so poorly integrated" that

*Requiem* amounts to nothing more than a “first draft.”<sup>101</sup> Particularly scathing was Maxwell Geismar, who claimed “Faulkner’s thesis” to be “absolutely worthless” and called the story a “flop.”<sup>102</sup> Harrison Smith, despite praising the narrative prologues as “Faulkner at his best,” wished that *Requiem* had been a straightforward novel, as the writer’s talent “would have surely illuminated [Temple]” and her plight.<sup>103</sup>

Early criticism still referenced Stevens’s role. Antony West, for one, bristled at the fact that the lawyer character represents a woman accused of killing his niece-in-law’s baby: an act both “tactless” (on Faulkner’s part) and “pushed to the point of unprofessional conduct.”<sup>104</sup> Malcolm Cowley, by contrast, was more balanced. He called Stevens an “old friend,” but nonetheless concluded that it was not clear “whether [the lawyer] is wisdom incarnate or a [figure] of cruelty,” only that he “talked too much.”<sup>105</sup>

Faulkner certainly stretches the boundaries of legal plausibility in *Requiem*. That said, the text does not really focus on the crime itself, as much in its aftermath. Although there is no doubting Nancy’s guilt, we are positively encouraged to question the motives behind the nursemaid’s actions. Stevens’s lawyerly role is therefore not so much focused on defending Nancy as it is in providing a means for Temple to recall her own recent history. In terms of *Requiem*’s form, Faulkner’s choice – I contend – is actually one that provides effective outcomes. The prose-play hybrid permits an articulation of the theatrical and performative aspects of legal trials, innovatively enabling an examination of the text’s primary lawyer figure in the process.

.....

In the prologue to Act One, entitled ‘The Courthouse (A Name for the City),’ Faulkner traces a fictional history of Jefferson’s naming. To recap, the construction of the town’s courthouse is born of a jail break, where a gang of Natchez Trace bandits are incarcerated to protect them from a “lynching party” that “built a tremendous bonfire,” around which they “confederated.” After the mysterious destruction of one of the jailhouse walls, Peabody urges for the construction of a courthouse:

‘We’ve got to repair that jail wall anyhow; we’ve got to build one wall anyway. So by building three more, we will have another room. We got to

build one anyway, so that don't count. So by building an extra three-wall room, we will have another four-wall house. That will be the courthouse.'

'We're going to have a town,' Peabody said. 'We already got a church – that's Whitfield's cabin. And we're going to build a school too soon as we get around to it. But we're going to build a courthouse today [...]'<sup>106</sup>

The construction of a courthouse, and then a school, significantly foreshadows the upcoming dismantlement of segregation in the South – a dismantling first conceived through national legislation that demanded for the integration of educational facilities. Despite the *Brown* ruling occurring three years after *Requiem's* publication, Faulkner's connection between the emerging courthouse, and yet to be constructed school, acknowledges contemporary legal cases of desegregation in Southern educational establishments, like the Supreme Court ruling of *Sweatt v. Painter* (1950). Faulkner also uses this imagery of the courthouse architecture to point toward the injustices of similar localised cases that upheld Jim Crow, such as *Gaines v. Canada* (1938) or *Sipuel v. University of Oklahoma* (1948). In other words, even before we observe the racial encounters of Nancy's trial, Faulkner employs his prose-prologue to articulate the developing legal tensions of a post-war South.

On several occasions in the prologue to Act One, Faulkner emphasises the courthouse's role in Jefferson's geography:

[A]bove all, the courthouse: the centre, the focus, the hub; sitting looming in the centre of the county's circumference like a single cloud in its ring of horizon, laying its vast shadow to the uttermost rim of horizon; musing, brooding, symbolic and ponderable, tall as a cloud, solid as a rock, dominating all: protector of the weak, judiciate and curb of all passions and lusts [...] simple and square, floored and roofed and windowed, with a central hallway and the four offices – sheriff and tax assessor and circuit- and chancery-clerk (which – the chancery-clerk's office – would contain the ballot boxes and booths for voting) – below, and the courtroom and jury-room and the judge's chambers above [...]'<sup>107</sup>



**Figure 1.2**

a. (above) Aerial photograph showing the ‘focal’ location of the courthouse in Oxford, MS (1946)

b. (right) South Exterior of the courthouse in Oxford, MS (2018)



Depicted as “musing, brooding, symbolic[, ...] ponderable,” and “solid as a rock,” the courthouse’s structure reflects the law’s powerful, assured, and supreme status. Faulkner further labels the courthouse as “the centre, the focus, the hub,” terms which require individual attention. The word “centre,” while self-explanatory, indicates that law and order is the social imperative around which life and culture in Jefferson orbits. “[F]ocus” is a reminder of the courthouse’s focal position from all sides of Jefferson’s “town square,” reflecting the way that legal meaning – embodied first by the Constitution – is created in wider society before being crystallised in the “hallway[s],” “offices,” and “jury-room[s]” of the courthouses themselves (see Figure 1.2, above). Faulkner’s terminology tellingly evokes earlier scenes in his fiction, such as Chick being sat in the shadows of the courthouse in *Intruder*, or the way that the jury and

courtroom attendees watch Stevens at work in ‘Smoke.’<sup>108</sup> In both cases, the process of law – personified by the courthouse building itself – is the “focus,” gazed upon with great reverence. Lastly, Faulkner describes the courthouse as the “hub,” a reference to the way that such legal spaces co-present notions of the legal (at both federal and state level), the cultural (in this case, dominant and emergent), the social, the political, and the historical. The term additionally brands the building as a form of exchange, where the “conscience of [a] Nation” collides directly with a legal system constantly acting in contradiction. On the one hand, “dominating all,” on the other, “protector of the weak.”<sup>109</sup>

Act One, Scene One sees Faulkner overtly dramatise the mechanisms of Southern legal justice. *Requiem*’s initial action is introduced as follows:

MAN’S VOICE        (behind the curtain)  
Let the prisoner stand.

The curtain rises, symbolising the rising of the prisoner in the dock, and revealing a section of the courtroom. It does not occupy the whole stage, but only the upper left half, leaving the other half and the bottom of the stage in darkness [...] symboli[sing ...] the elevated tribunal of justice of which this, a county court, is only the intermediate, not the highest, stage.

This is a section of the court – the bar, the judge, the officers, the opposing lawyers, the jury.<sup>110</sup>

Sections of the stage are repeatedly marked as symbolic. The “curtain ris[ing]” reflects the “rising prisoner” taking their place “in the dock,” while the positioning of the trial in the “upper left half” of the stage – and the fact it “does not occupy the whole stage” – denotes that *Requiem* depicts a state, not federal, case.<sup>111</sup>

One of the most illuminating passages from the opening scene sees the Judge proceed to read the charges against Nancy Mannigoe. Here, we witness obvious allusions to the earlier prologue. To the courthouse “dominating all” as an embodiment of Southern legal justice:

JUDGE                    Have you anything to say before the sentence of the  
   court is pronounced upon you?

Nancy neither answers nor moves; she doesn't even seem to be listening.

That you, Nancy Mannigoe, did on the ninth day of September, wilfully and with malice aforethought kill and murder the infant child of Mr and Mrs Gowan Stevens in the town of Jefferson and the County of Yoknapatawpha ...

It is the sentence of this court that you be taken from hence back to the county jail of Yoknapatawpha County and there on the thirteenth Day of March be hanged by the neck until you are dead. And may God have mercy on your soul.<sup>112</sup>

Unlike anywhere else in Faulkner's fiction, law and literature seamlessly dovetail. Style and substance combine to present the legal system's authority and dominance within Southern culture.<sup>113</sup> Accordingly, the rhetoric that the Judge employs is a simple evocation of legal power. Its stylistic objectiveness, embodied by the cold and measured factual information, such as the crime's date and its legal consequence (to "be hanged by the neck until [...] dead"), recognises the detached role that the law must play in a courtroom. Law is depicted as supreme, dominant, and aggressive with respect to any person alleged to challenge its intentions to control and maintain order in society.

Faulkner's evocations of legalistic power can (retrospectively) be applied to Michel Foucault's "body of the condemned." In *Discipline and Punish* (1975), Foucault observes that violent punishment in the nineteenth century transferred from the "visible intensity" of public torture, to "trial[s] and [...] sentencing" of the condemned.<sup>114</sup> The law's aggressivity concerning Nancy's crime is, then, instilled entirely in the public spectacle of her sentencing. It is the shame of her conviction that marks her as "unequivocally negative," not the sentence to hang on the "thirteenth Day of March."<sup>115</sup> Note too, in line with Foucault's argument that, unlike public hangings of the eighteenth century and before, legal violence is now administered at a "distance from the act." Nancy's final punishment suitably takes place behind the closed doors of the "county jail of Yoknapatawpha," rather than the highly public space of Jefferson's courtroom.<sup>116</sup>

Although the legal system is portrayed solely to sentence Nancy, the institutionalised dominance and power on display in this opening scene should not be overlooked. Despite the indictment's simple statement that the accused "[did] murder the infant child," the Judge's language echoes the very same verbal dexterity Stevens employs in *Intruder* and throughout the stories of *Knight's Gambit*.<sup>117</sup> Watson has evaluated the Judge's indictment meticulously, particularly in terms of its linguistic manipulation:

[T]he specific rhetorical details of the indictment only make the role it imposes [...] more objectionable. For example, [...] the phrase 'kill and murder' should alert us immediately to the fact that there is a world of difference between killing and murdering, though the two verbs are used in the indictment as if they were synonyms.<sup>118</sup>

The conflation of kill and murder perfectly articulates the law's ability to employ rhetorical devices, like synonymy, to consolidate "political authority and cultural legitimacy."<sup>119</sup> Given that *Requiem* spends much time debating whether Nancy kills or murders the infant child, Faulkner's text evidently intends to act far more ambiguously than the Judge's flippant conflations and punitive definitions. While it is therefore correct to ascribe the act of will to Nancy's decision to smother the young infant, to assert malice aforethought is far more problematic. Put differently, an interrogation of Faulkner's language in the opening scene highlights two important aspects of the law that *Requiem* depicts. First, how verbal manipulation encased in the indictment presents itself as a form of rhetorical control. Second, the way that the detached tone entirely isolates Nancy as killer and / or murderer of the infant child, segregating the nursemaid from her Southern community. In Faulkner's Yoknapatawpha, never have we seen legal power more parochial; more endorsing of the dominant cultures embedded in postbellum Southern society.

*Requiem's* formal qualities are additionally employed to evoke the domination of state power, as well as its aggressive objectification of the accused:

The prisoner is standing. She is the only one standing in the room – a Negress, quite black, about thirty – that is, she could be almost anything between twenty and forty – with a calm impenetrable almost bemused face, the tallest, highest there with all eyes on her but she herself not looking at

any of them, but looking out and up as though at some distant corner of the room, as though she were alone in it.<sup>120</sup>

This stage direction comprehensively isolates Nancy. She is the “only one standing in the room” and feels “as though [she is] at some distant corner.” The dramatisation of the courtroom enables the audience on-stage – legal actors, townsfolk of the jury – and those watching off-stage, to thoroughly objectify and inspect the accused. These objectifications are also racially inflected, an assumption implicit in Faulkner’s insistence that Nancy is both a “Negress” and “quite black” – images which echo Jim Crow and the segregated South of a pre- civil rights era. Note too the use of nomenclature. Voices of the law are given abstract titles: Judge, Bailiff, the bar, opposing lawyers, even Man’s voice. Nancy, on the other hand, is given a personal appellation. By giving the nursemaid a name – the only distinctive designation on the trial stage (aside from Gavin Stevens) – Faulkner emphasises her individuality, in contrast to the nameless, faceless entities that represent the legal system. Such abstractions demonstrate the dominance of legal (and state) power. The law’s voice is difficult to individualise, conflated with an intricate system of legal discourse and representation. Nancy is thus alienated both as a black woman and as the accused in a legal trial, swiftly othered by *Requiem*’s initial action.

.....

By 1950, Faulkner had commented publicly on numerous occasions about justice for black Americans in Mississippi’s legal system. As he was writing *Requiem*, we know that he penned a series of letters to the *Memphis Commercial Appeal* questioning the integrity of local court decisions. He criticised outcomes in Calhoun-Chickasaw County and wrote public statements condemning, for instance, the state supreme court ruling in the case of Willie McGee.<sup>121</sup> Nevertheless, it was the case of Leon Turner that resonated most strongly for Faulkner: the white man given a ten-year custodial sentence – reduced from the death penalty by an all-white jury in Attala County – for the triple murder of black children Ruby Nell Harris (aged four), Mary Burnside (eight), and Frankie Thurman (twelve). Given his palpable interest in the case, Faulkner makes subtle allusions to the court’s ruling in *Requiem*. In Act One, Scene Two, Stevens informs Temple that he finds it “[i]mpossible to believe that all human

beings really don't [...] stink," a phrase echoing one that Faulkner's wife, Estelle, heard on more than one occasion from her husband as he decried the Turner decision: "The human race stinks."<sup>122</sup>

Likely in response to this resentment, Faulkner turned to the character of Gavin Stevens, who provides an appropriate counter-narrative to these real-life examples of racial injustice. Although tropes familiar to his earlier appearances in Yoknapatawpha are present, *Requiem's* initial portrayal of the fictional lawyer still points to an ever developing and emerging figure:

The defence lawyer is Gavin Stevens, about fifty [...] a bachelor, descendant of one of the pioneer Yoknapatawpha County families, Harvard and Heidelberg educated, [...] champion not so much of truth as of justice, or of justice as he sees it, constantly involving himself, often for no pay, in affairs of equity and passion and even crime too among his people, white and Negro both, sometimes directly contrary to his office of County Attorney which he has held for years, as is the present business.<sup>123</sup>

Stevens is described as "constantly involving" himself in judicial matters. He represents "white and Negro both," in "direct contrary" to his oath of office to uphold state laws and the nation's legal system. Nancy's case – or his "present business" – is thus an active and direct representation of the lawyer's refusal to bear injustice in Yoknapatawpha. In taking the nursemaid's case and advising his client to plead 'not guilty' to the prosecution's charges, Stevens isolates himself from the oppressive and objectifying gaze of other legal professionals on the stage. He defends a named, non-abstract individual, and quietly resists the very state and legal institutions that he has sworn to uphold. Unlike the ambiguities present in many of Stevens's other Yoknapatawpha appearances, he acts definitively here as the embodiment of an emerging legal culture in the region. An act of resistance irrevocably coming to lead the way for later fictional lawyers of the post-war South.

In Act One, Scene Two, Stevens refers directly to the undigested – to the lawyer's distinct status as a commensurate site of co-presence. In conversation with Temple, Stevens seems to allow his niece-in-law to re-live (and reconsider) her past life. Yet Faulkner concurrently employs him to represent an emerging legal culture:

TEMPLE

Temple Drake is dead.

Stevens perfectly articulates a challenge to lenticular logic and the structured co-presence of past and present; of what Tara McPherson terms as “tensions, ambivalences, and ruptures” across “narration[s] of the South.”<sup>125</sup> While Temple’s initial statement suppresses connection and precludes alliance, Stevens’s oft-quoted maxim embraces such vital notions. The simple structure of the legal figure’s dialogue also subtly belies its verbal dexterity. The idea of the “past” never being “dead” plainly disorders lineal stability, contrasting the absolutism portrayed by those ominous eyes of the law that presided over Nancy’s earlier sentencing.

Most important, though, is the fact that Faulkner gives this phrase to a lawyer. Stevens’s words effectively recognise a scepticism with regard to the recent (and forthcoming) legislation that would seek to absolve American law from its own complicity in racial injustice and violence. That is to say, laws of the Jim Crow South only existed because they were legitimised by Supreme Court decisions operating under the doctrine of ‘separate but equal.’<sup>126</sup> Far more succinct than his monologues in *Intruder*, Stevens’s deceptively simple utterance argues that broader desires for emancipatory equality found in recent Supreme Court rulings, or located in the corridors of power in Washington, do not straightforwardly render “dead” any past legal act that endorsed racial injustice. Such litigation – unjust, or otherwise – is instead “not even past,” and deeply ingrained in the national culture.<sup>127</sup>

Complicating these divisions between the past being “dead,” or “not even past,” further demonstrates the difference between one-ness and wholeness.<sup>128</sup> Danielle Allen reasons that one-ness in the United States is the historical de facto state for African American citizens – that “[d]ivision and not unity [...] mark[s] their lives.” Wholeness, however, does not simply mean its opposite. The term is in fact a subtle metaphor that guides us to a “conversation about how to develop habits of citizenship that can help a democracy bring trustful coherence out of division without erasing or suppressing difference.”<sup>129</sup> Although not always explicit in Stevens’s appearances in Yoknapatawpha, I contend that Faulkner’s lawyer figure initialises a process of digesting this symbolic importance of wholeness, where the character’s direct challenges to the legal system in *Requiem* act as a corollary to his speeches in *Intruder* proclaiming that racial injustice was the “South’s to bear.”<sup>130</sup> Allen’s contention that wholeness can “guide us to [...] conversation” certainly applies to Stevens’s wider

role as a fictional lawyer in literature of the post-war South. Faulkner's characterisation rarely reinscribes traditional racial patterns unconsciously. Almost every aspect of Stevens's behaviour is motivated by a developing sense of justice. As the opening stage direction from *Requiem's* first act suggests, he only ever administers "justice as he sees it."<sup>131</sup>

### **Beyond Gavin Stevens**

Faulkner's Gavin Stevens is equal parts lawyer, uncle, and citizen. He comes to embody an emerging figure; his role as an increasingly active agent in Yoknapatawpha challenging the established, traditional, and dominant cultures of the postbellum South. But Stevens seems reticent to simply act as confrontational, or as a straightforward challenge to the status-quos of Southern legal culture. In *Intruder*, the character's critically maligned speeches certainly appear to reinscribe paternalistic attitudes. In the case of Lucas Beauchamp too, the lawyer frequently propagates the color-line, initially assuming his client's guilt and, at times, even endorsing lynch-mob behaviour. That said, Stevens's characterisation in *Intruder* also subtly counters the region's dominant legal systems. For example, his maturing relationship with nephew Chick represents an emerging voice which indicates that broader changes in the law will slowly filter into the South.

Across the six cases of *Knight's Gambit*, we observe Stevens's skill and verbal dexterity in the courtroom, as well as his progressing view of justice: from one that relies on impartiality, to a more personalised, individual paradigm. By *Requiem*, Stevens is able to demonstrate these newly developed judicial beliefs. Here, Faulkner provides him with perhaps his most dramatic case, both literally and symbolically. Nancy Mannigoe is undeniably guilty of killing an infant child, yet Stevens interrogates the case's participants before cross-examining his niece-in-law to fully understand the specific motives of the accused. In his forensic exploration of Nancy's case, Stevens similarly poses his greatest challenge to the South's traditional legal cultures. He disassociates himself from his role as County Attorney – a metonym for Mississippi's dominant state institutions – suggesting that Faulkner's legal figure now embodies a more active challenge to the racial injustices of his region.

Above all, Gavin Stevens is a lawyer: his role in Yoknapatawpha best defined as one of balance. He mediates between state and federal systems; he is both a man of the law and of the Southern community that he serves. It is thus no coincidence that

*The Mansion* (1959) – the novel which marks Stevens’s last appearance in Faulkner’s published work and the character’s own fictional chronology – concludes with the autumn sun descending into the house of Libra:

The sun had crossed the equator, in Libra now; and in the cessation of motion and the quiet of the idling engine, there was a sense of autumn after the slow drizzle of Sunday.<sup>132</sup>

Then, a final image of Mink Snopes looking up to the stars:

[I]t was just the ground and the dirt that had to bother and worry and anguish with the passions and hopes and skeers, the justice and the injustice and the griefs, leaving the folks themselves easy now, all mixed up.<sup>133</sup>

These repeated depictions of justice leave us with an enduring image of balance. Although the setting sun seemingly symbolises the end of the Snopes family in Yoknapatawpha, a more probing reading should at least consider the judicial role that Stevens has played in Faulkner’s post-war fiction. Libra’s scales – the iconographic origin of Lady Justice herself – accordingly become a fitting final image to represent Faulkner’s long-standing fictional lawyer. Despite several examples depicting them otherwise, Libra’s scales are shown regularly to be in perfect balance, indicating the law’s outward attempt to appear both blind (or, more specifically, color blind) and equal in its administration of justice.

With the scales in balance – with justice and injustice inextricably linked – Gavin Stevens steps aside, a vanishing mediator whose work is done. Faulkner’s lawyer figure does not straightforwardly propagate the South’s distinctive values, nor does he provide trite solutions for the yet to be understood racial and legal complexities that he characterises. Stevens instead stands as a liminal, emerging figure; one who desires legal justice for the Lucas Beauchamps and Nancy Mannigoes of the South, but one who significantly also argues for justice as he sees it. It is in this in-between space – satisfying no-one – that Faulkner’s characterisation of Gavin Stevens becomes intentionally ambiguous: not only to mirror the author’s own troubled relationship with the race problem, but to truly reflect the unsettled legal state of America’s early post-war era.

## CHAPTER TWO

### ‘A legal apotheosis’: Harper Lee’s Atticus Finch

[*To Kill a Mockingbird* is an] unforgettable tale of courage and conviction, of doing what [is] right no matter the cost [...] Half a century later, the power of this extraordinary [story] endures. It still speaks to us. It still tells us something about who we are as a people, and the common values that we all share [...] If you haven’t already, I hope you get the chance to read the book. It’s an American classic, and [...] one of our family’s favorites.

— President Barack Obama<sup>1</sup>

In 2009, Charles J. Shields reminded us that Harper Lee’s *To Kill a Mockingbird* (1960) was the “twentieth century’s most widely read American novel.”<sup>2</sup> Countless millions around the world are therefore familiar with the enduring tale of Atticus Finch, the small-town Alabaman lawyer given the case of Tom Robinson, a black farmhand accused of raping a young white woman named Mayella Ewell. Unlike William Faulkner’s morally complex Gavin Stevens, Lee’s Finch has reached something of a legal apotheosis in the six decades since *Mockingbird*’s publication. Echoed by the words of President Barack Obama’s introduction to a fiftieth-anniversary screening of the adaption to film in 2012, the fictional Atticus remains an ineffaceable icon in the national imaginary. He is a character whose “courage and conviction” epitomises the American ideal of ‘justice for all’; a literary creation that numerous real-life lawyers have since cited as a considerable influence on their decision to become a legal professional.<sup>3</sup>

But as popular as *Mockingbird* and Atticus Finch appear to be with former presidents, legal professionals, and the American public, the novel and its author have received comparatively little critical attention.<sup>4</sup> *Mockingbird*’s idealistic tone does not help in such matters, nor does a fictional town (of Maycomb, Alabama) occupied with simplistically drawn characters: like the white-trash Ewells or the racist Mrs Henry Lafayette Dubose. Harold Bloom insists that the text’s obstinate popularity “suggests we find in it a study of the nostalgias.”<sup>5</sup> Here, the decision to set the story in the mid-1930s, two-and-a-half decades before it was written, removes Lee’s novel (and Finch himself) from the more nuanced landscape of the late-1950s. *Mockingbird* instead becomes the narrative embodiment of a nation’s burgeoning Cold War desire to

represent itself to the world as legally progressive, with Finch a seamless literary proxy proclaiming American law as the definitive solution to the race problem.

Just four years after *Mockingbird's* publication in 1964, Harper Lee gave her final interview about the novel to New York radio station *WQXR*. After this, she rarely commented publicly, appearing only at occasional events until her death on 19 February 2016.<sup>6</sup> However, a year earlier in February 2015, HarperCollins announced that a new novel had been discovered in the author's possessions and, with Lee's apparent permission, the almost unedited manuscript would be published the following July. Labelled a 'sequel' to *Mockingbird*, *Go Set a Watchman* was written in the first two months of 1957. Set roughly three years after the *Brown* decision, the story focuses on a twenty-six-year-old Jean Louise returning to Maycomb to visit her seventy-two-year-old father. In *Watchman*, Finch is undeniably more nuanced, providing degrees of ambivalence and complexity so often lacking in *Mockingbird's* straightforward depiction of its central legal figure.

This chapter will focus on both versions of Atticus's character. In effect, the publication of *Watchman* provides a unique literary lens through which we might re-examine not only *Mockingbird's* Finch, but also how the changes in his character through a three-year editing and rewriting process reflect the distinct co-presence of the undigested. I will argue that the persistent praise of *Mockingbird's* principle lawyer (recapitulated in Obama's description of the novel as an 'American classic') is firmly rooted in narratives of the post-*Brown* national imaginary, where values of the American Creed – liberty, equality, and democracy – are considered the truest foundations of racial reform. Atticus has indeed become practically the definitive fictional standard bearer for this form of racial liberalism in the United States. As Gregory S. Jay explains, his characterisation fundamentally echoes mainstream narratives that emphasise the "responsibility of society" and "government to ameliorate [...] racism."<sup>7</sup> Crucially too, *Mockingbird's* Finch purports that racial injustice is an "aberration [in] the American system," rather than an "inherent characteristic."<sup>8</sup> In this case, we might consider the regularity with which Lee pits her lawyer figure squarely against the racist violence of Maycomb's white townsfolk, whether verbal (Bob Ewell, Mrs Dubose) or physical (the lynch-mob that surrounds Robinson's jail-cell).

Yet these forms of lenticular logic problematise the Finch of *Mockingbird*, unearthing a darker co-presence in Lee's famous fictional lawyer. While Atticus's

evocations of American law courts as the primary solution to the race problem permit feelings of moral uplift and social progress, his character never truly challenges the legal systems that have historically legitimised the very same discriminations they now seek to solve. *Mockingbird* ultimately presents racism as a distinctly Southern problem, handily avoiding any sense of national complicity in the racial injustices that circulate its narrative.

I contend, then, that the recent publication of *Watchman* is highly significant, particularly its depiction of a Southern literary lawyer more akin to the morally ambiguous Gavin Stevens. In contrast to *Mockingbird*, *Watchman* employs the character of Finch to dramatise the entrenched forces of racism as sanctioned by American law, an act that foregrounds one of CRT's central tenets: the permanence of racism in the United States. Here, the devastated and disappointed responses to Lee's 'new' version of Finch being, instead of lawyer-hero, a bigoted segregationist, are entirely appropriate. Continuing to validate a deep-rooted investment in the mythology of *Mockingbird's* lawyer figure as a racial exemplar of early post-*Brown* America, these responses suitably marginalise the Atticus of *Watchman*. They retain a similarly neat adherence to national narratives of linear civil rights progress. They forestall any uncomfortable historical associations between race and American law.

Unshackling the character from his idealistic former persona, then, *Watchman's* Atticus develops my examination of the post-war South's fictional lawyer. Faulkner's characterisation of Stevens initiated a scepticism of legal systems, tentatively challenging the structural logics that would look to separate the South from the rest of the United States. Stevens probed the backward region / progressive nation paradigm. He began to problematise narratives that would cast the South as a convenient racial aberration in an otherwise enlightened America, especially for the purpose of projecting specific national imaginaries of equality and liberty onto a global stage during the Cold War. But Faulkner's legal figure never fully engaged with the fraught histories of the mid-1950s, nor reacted to the most iconic legal landmark of the decade: *Brown v. Board of Education*. Lee's Finch will appropriately interrogate this vital period in my fictions of justice, focusing on years immediately after the landmark Supreme Court decision of 1954.

Two questions are posed when adopting such a framework to explore the characterisation of Atticus Finch, each one bound to my central lines of critical enquiry. First, how – through the recent publication of *Watchman* – does the once

straightforward and racially liberal Finch of *Mockingbird* come to develop the Southern lawyer in the aftermath of Faulkner's Gavin Stevens? Second, how does the editorial and rewriting process between *Watchman* and *Mockingbird* in the late-1950s advance my theory of the undigested, and recognise Atticus's renewed importance in literary histories of the post-war South?

### ***Mockingbird's* Inspirations / Reactions**

Atticus Finch is a literary creation founded on Harper Lee's connections to the law, lawyers, and her early writings about justice. Comparable to Faulkner's close relationship with the law and lawyers in Oxford, Mississippi, Lee too developed as a writer through a series of thriving legal communities in her home state of Alabama. Her father – Amasa Coleman Lee – was an active small-town attorney, despite the law not being his initial career choice. Relocating within Alabama from Finchburg to Monroeville in 1912, A.C. Lee's career flourished in the offices of law firm Bugg & Barnett: initially as a financial manager and then as a lawyer.

Perhaps predictably, A.C. Lee is assumed to be the real-life legal figure upon which the fictional Atticus is based, and there is compelling evidence to support this popular theory. For one, Finch's doomed defense of Tom Robinson in Maycomb's courthouse prompts parallels with Lee's own experiences when observing her father at work in Monroeville. In 1919, A.C. Lee defended two black Alabamans accused of murder, losing the case after a spirited legal defense – a case whose outcome rested largely on “custom, racial assumption, the unquestioned authority of whites, and a heavy dose of paternalism.”<sup>9</sup> Moreover, connections between A.C. Lee and Atticus can be traced back to August 1934, as members of the Ku Klux Klan planned to intimidate voters in the weeks before state elections in Monroeville. Similar to Finch's rebuke of the lynch-mob outside Maycomb's jail in chapter fifteen of *Mockingbird*, it has been claimed that A.C. Lee “confronted the hooded [figures],” and spoke of how he would give them a “drubbing in one of his editorials” should they formally exercise their threats to democracy.<sup>10</sup>

Nevertheless, like many Southerners of his generation, A.C. Lee's relationship with the race problem was not straightforward; an unease that frequented his work as an editor for *The Monroe Journal*. In August 1930, the case of Archie Sheffield gripped Monroeville. Sheffield was a young labourer sentenced to fifteen years in jail on the charge of carnal knowledge with a girl under twelve years of age. Joseph

Crespino notes that, ostensibly, the case appeared to be a “commonplace example of precipitous, railroaded ‘justice’ in a Southern courtroom.”<sup>11</sup> Here, though, twisting established racial patterns, Sheffield was a white man and his young victim was black. *The Monroe Journal* reported that the Sheffield case was a perfect illustration of “[American] courts functioning promptly when an unusual situation demands.” Alongside this, A.C. Lee published a letter written to him by two local white men (Lemuel B. Green and W.H. Black) who extolled a jury that “faced the facts and the law without prejudice.”<sup>12</sup>

A contrasting case was that of Claude Neal. On 19 October 1934, Neal was arrested for the murder of Lola Cannady, a young white woman. Five days later, he was seized by a six strong lynch-mob from an Alabaman jail and returned to Jackson County, Florida. Neal was killed in the woods before being presented to the Cannady family. His body was then “castrated, the fingers and toes amputated, [and] the skin burned with hot irons,” the mob later driving over the corpse with automobiles, shooting it eighteen times, and hanging it from a tree on the courthouse lawn.<sup>13</sup> Despite the gruesome details of this Southern lynching, A.C. Lee’s editorial work focused instead on the grand jury investigation and Neal’s initial abduction. In fact, the story was given only scant coverage in *The Monroe Journal* on the back page of the 22 November 1934 edition.<sup>14</sup> Such differing perspectives, oscillating between a view that the “current social order [of] segregation” was “natural,” and a staunch belief that the law should protect black Americans, reveal how A.C. Lee at the very least played a part in the conception of Atticus’s character.<sup>15</sup>

Although sparse, Lee’s early literary output provides us with a vital context to the novel-length work that she would go on to produce in the late-1950s. While studying at Huntingdon College in Montgomery, she wrote two short vignettes for *The Prelude*, a campus magazine. Published in 1945, and titled ‘Nightmare’ and ‘A Wink at Justice,’ the short stories stood in stark contrast to other student contributions, as Lee tackled – head on and without compromise – racial prejudice and legal injustice in the South.<sup>16</sup> ‘Nightmare’ sees a girl recollect a black man’s hanging and the sound of the victim’s neck snapping – a sound that she would “hear in her dreams for the rest of her life ... Karrumph ... Karangarang!” A further memory in ‘Nightmare’ describes the girl overhearing a white man’s claim that the hanging was the “best [... he’d] seen in twenty years ... [so] now maybe they’ll learn to behave themselves.”<sup>17</sup> More obviously foregrounding the judicial landscape that would become so prevalent in

Lee's later work was her second story, 'A Wink at Justice.' In this vignette, Lee focuses squarely on the legal process, as eight "Negroes" are arrested on a charge of gambling. Judge Hanks, a fictional precursor to *Mockingbird's* Judge Taylor, quickly acquits three of the men because their hands had "corns on 'em," indicating that they "work in the fields and probably have a pack of children to support."<sup>18</sup> Albeit not judicially thorough, Judge Hanks's administration of justice is crucially not based on racial assumption, but founded on (arguably intuitive) evidence.

In the immediate post-war years, Lee attended the University of Alabama. During her fleeting stint as a law student, she edited and wrote for the campus humour magazine, *Rammer Jammer*. Lee's longest contribution was a one-act satirical play written in October 1946: 'Now is the Time for All Good Men.'<sup>19</sup> After her novel-length work, the play stands as Lee's most developed output, created to lampoon the ratification of a short-lived amendment to Section 181 of the Constitution of Alabama proposed by Governor Frank M. Dixon and Gessner T. McCorvey. Popularly referred to as the 'Boswell Amendment,' this revision to Alabaman law intended to further proliferate black disfranchisement in the aftermath of *Smith v. Allwright* (1944), impacting any voter who desired to register for local or state-wide elections:<sup>20</sup>

[Only] those who can read and write, understand and explain any article of the Constitution of the United States in the English language and who are physically unable to work and those who can read and write, understand and explain any article of the Constitution of the United States in the English language and who have worked or been regularly engaged in some lawful employment [...] shall be entitled to register as electors.<sup>21</sup>

'Now is the Time for All Good Men' comprises a small cast of characters led by Jacob F.B. MacGillacuddy, "Chairman of the Citizens' Committee to Eradicate the Black Plague." MacGillacuddy's rhetoric is stereotypically segregationist, as he focuses his anger and outrage at the "goddam yankees [... t]elling [us] how to vote." Along with a "man in Baldwin county," MacGillacuddy "cooks up a little amendment [...] that ought to keep out the ignorant vot[er]." However, when he himself registers to vote, MacGillacuddy is unable to interpret – to the satisfaction of the registrar – the Constitution of the United States, told flatly that his description "ain't it."<sup>22</sup> Lee essentially satirises the very notion of the Boswell Amendment, claiming that even its

own creators would struggle to interpret the Constitution according to such an arbitrary measure. What is more, MacGillacuddy's views are not even that extreme, especially when compared with actual reactions to the Boswell Amendment by Alabaman legal figures and politicians. Birmingham Judge Horace Wilkinson, for instance, publicly declared that the legislation was a significant legal accomplishment. Writing in the *Alabaman Lawyer* (1946), Wilkinson argued that he stood in favour of any law making it "impossible for a Negro to vote," particularly on the grounds that "no Negro will ever be good enough to participate in making laws under which the white people [of this state] have to live."<sup>23</sup>

Proud of the "little amendment," but angered by his failure to register, MacGillacuddy waits two years to have his case heard by the Supreme Court – personified in the play as a character itself:

MACGILLACUDDY      I come to you on a matter of grave importance. My civil liberties are being threatened. [...] A diabolical group down in Alabama slipped one over the honest, decent citizens of the state [...] which turned out to be the most vicious, vile[, and] undemocratic piece of legislation ever enacted. Whatta you going to do about it boys?

THE SUPREME COURT      Nothing.<sup>24</sup>

The swift rebuke of MacGillacuddy is designed to represent the fallibility of the Boswell Amendment. The Supreme Court thus goes on to declare: "How can the state of Alabama be so presumptuous as to require an ordinary voter to interpret the Constitution when we [the Supreme Court] can't even interpret it ourselves?" Lee's satire is strongest here, as it works to undermine both state and federal law. While the Boswell Amendment is clearly an object of the writer's derision, additional scepticism is directed at the Supreme Court itself, who appear noticeably incompetent in 'Now is the Time for All Good Men' – an incompetence further implied in their direction to MacGillacuddy that they have no time to write their opinion of his case, and nonchalantly tell him to "come back" in 1983 when their calendar is "not so full."<sup>25</sup>

'Now is the Time for All Good Men,' alongside the brief fictions Lee produced before *Mockingbird's* publication, demonstrate a writer piqued by the associations and

alliances between race and American law. They equally showcase her interest in the tensions between national frameworks (or legal institutions) and examples of Southern resistance founded solely on the advocacy of states' rights.

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It is often said that Lee took her earliest inspiration for *Mockingbird's* central plot – a lawyer's unsuccessful attempt to exonerate a wrongly accused black man of raping a white woman in mid-1930s Alabama – from the nationally recognised Scottsboro Boys trials.<sup>26</sup> Eric J. Sundquist has dedicated lengthy evaluation to the links between Lee's novel and the “sequence of trials lasting from 1931 to 1937 [that] put the South under sensational national scrutiny,” particularly how *Mockingbird* owes much of its narrative architecture to the typical defense narrative of 1930s Southern legal culture, described by James Thomas Heflin as: “Whenever a Negro crosses the [...] line between [...] the] white and Negro races and lays his black hand on a white woman he deserves to die.”<sup>27</sup> It is therefore reasonable to assume that Lee's text found its basis in the Scottsboro cases. We might initially observe the historical connection, with *Mockingbird's* narrative occurring between 1933 and 1935, matching closely – if not exactly – to the dates of the infamous trials.<sup>28</sup> Moreover, events that resonate strongest in the Scottsboro cases – the racial injustice of the initial decision, the inherent prejudices of a white Alabaman jury, and even the admirable attempts of lawyers Samuel Liebowitz and Joseph Brodsky at the re-trials – provide clear parallels with the case of Tom Robinson, the jury's decision, and Atticus's efforts to exonerate the accused after an initially guilty verdict.

But an assumption that the Scottsboro trials straightforwardly graft onto *Mockingbird's* plot is somewhat flawed. Lee's own correspondence actually points to another legal case as the novel's original inspiration. In a letter to Hazel Rowley written in 1999, the author revealed that she was not especially interested in the sensationalism and national scope of the Scottsboro trials, even if the case provided a “useful example (albeit a lurid one) of deep-South attitudes on race v. justice that prevailed at the time.”<sup>29</sup> *Mockingbird's* stimulus is instead more likely to be the case of Walter Lett, a black Alabaman living near Monroeville accused of raping Naomi Lowry in November 1933. Lett's case was heard in Monroe County Courthouse on 26 March 1934, where an all-white jury returned a verdict that the defendant was “guilty

[...] as charged in the indictment” and should be “punished with death by electrocution.”<sup>30</sup> Unlike Robinson’s fictional case, Lett’s was reviewed, due in equal parts to his lawyer’s aggressive and repeated attempts to review the jury’s decision, as well as those leading citizens of Monroe County (likely to have included A.C. Lee) who strenuously argued that there was “much doubt as to the guilt of the condemned man.”<sup>31</sup> Lett’s mental state swiftly deteriorated and he was committed to Searcy Hospital for the Insane (in Mount Vernon, Alabama), before dying of tuberculosis in August 1937.

There are several compelling parallels between the real-life case of Walter Lett and the fictional trial of Tom Robinson. First, the explicit links, like a lynch-mob forcing Monroeville’s Sheriff to take Lett to a jail in Greenville, or the fact that Naomi Lowry was viewed as white-trash by the local community. Second, the more subtle connections, such as the lengthy deliberations before the jury made its decision, or the defendant’s past criminal record of “drunkenness or fighting.”<sup>32</sup> The Lett case – smaller in scope and focused more tightly on ‘race v. justice’ – provides the proper foundations upon which Lee constructed the plot of *Mockingbird*: both in terms of casting light on racial injustice, but also the way that it supplied her with representations of moderate, enlightened white Southern citizens.

*Mockingbird* was published to near universal praise. In the *Chicago Tribune*, Richard Sullivan suggested that the novel contained “not only a sharp look at a number of people, but a view of the American South [...] its attitudes, feelings, and traditions,” while Frank H. Lyall’s contemporaneous review in *The New York Times* declared Lee’s “refreshingly varied characters” to be a “constant delight.”<sup>33</sup> Central to much of this early positive assessment was the figure of Atticus. In *The Dallas Morning News*, Elizabeth Hailey considered him to be a “wise and gentle Alabaman lawyer,” while Phoebe Lou Adams (in *The Atlantic*) argued that the action behind the tale was “[his] determination, as a lawyer, liberal, and honest man, to defend a Negro accused of raping a white girl.”<sup>34</sup> This critical adulation for Atticus’s racial liberalism and progressive legal outlook has continued well into the twenty-first century. As part of a larger work focused on the character’s role in Tom Robinson’s trial for the *Michigan Law Review* in 1999, Steven Lubet notes that “Atticus serves as the ultimate lawyer[:]. His potential justifies all of our failings and imperfections. Be not too hard on lawyers, for when we are at our best we can give you an Atticus Finch.”<sup>35</sup> Austin Sarat and Martha Merrill Umphrey (2013) likewise write that the character counters the violent

and fractious race problem in Maycomb by “asserting the supremacy of law, grounded in the principles of formal equality and individual dignity,” while Thomas L. Shaffer (1981) maintains that the lawyer character “insisted on, and lived by, telling the truth” – more than “others in the town, [he] saw what truth was and told the truth.”<sup>36</sup>

Similarly, and observed by Peter Zwick in the *Case Western Law Review* (2010), Atticus is viewed as an individual, in contrast to the collective mentality of a townsfolk appropriately symbolised by the nameless mob that descends on Maycomb’s jail to intimidate Robinson:

Upon moving beyond Atticus to the context that surrounds him, one thing becomes clear immediately: the man is remarkably different from the other characters in *Mockingbird*. [...] Even though the citizens of Maycomb reliably elect him to serve as their representative in the state legislature every term, Atticus dismisses many of the conventions of the community he represents.<sup>37</sup>

It is clear that *Mockingbird’s* Finch represents something of a legal apotheosis in post-war Southern fiction. Unlike the ambiguous and critically divisive Gavin Stevens, Atticus’s status appears to be fixed and unmovable: an unerring representation of the good and fair lawyer. This paradox, though, positing Atticus as an exemplary standard bearer of American democratic ideology (truth, supremacy of law, individual dignity), and the townsfolk as a collective mass of nameless racists, resonates deeply with the Cold War dilemma. Namely, when “racism at home undermined the nation’s imperial mission to spread its [...] values and ideals around the globe.”<sup>38</sup> Finch’s deification is, in effect, equally synonymous with the condemned characters of Maycomb like Bob Ewell or Mrs Dubose; the result of a long history that has emphasised liberal freedom of thought and action over collective coercion and homogenisation.

In light of CRT re-examining such idealistic legal perspectives, it is therefore no surprise – as we move into later decades of the twentieth century and beyond – that Atticus’s status as a representative ‘real’ American has looked markedly more fragile. Christopher Metress indeed defiantly claims that “all is not well in Maycomb,” before tracking a new generation of critics who have both revisited and re-examined *Mockingbird’s* “purported hero.”<sup>39</sup> First, Monroe H. Freedman considers the lawyer’s so-called heroism in ‘Atticus Finch, Esq., R.I.P.’ (1992):

Except under compulsion of a court appointment, Finch never attempts to change the racism and sexism that permeate life in Maycomb [...] On the contrary, he lives his own life as the passive participant in that pervasive injustice. And that is not my idea of a role model for young lawyers.<sup>40</sup>

Freedman is followed by Theresa Phelps. Writing in the *Notre Dame Law Review* (2000), Phelps argues that Atticus's liberalism blinds *Mockingbird's* reader to "see what [they] want," leading to rather simplistic views of his character based on "uncritical acceptance."<sup>41</sup> Perhaps Rob Atkinson's lengthy study in the *Duke Law Review* (1999) concludes with the most painful declaration of all: Finch embodies a notion that "racial progress is in the hands of good, enlightened white people who know what is best for underprivileged, and thus always beholden, blacks."<sup>42</sup>

Even Lubet, who had previously described Atticus as the "ultimate lawyer," forensically reconsiders the trial of Tom Robinson and the lawyer's tactics when cross-examining Mayella's allegation of rape. To summarise, Lubet hypothesises that Finch may have adopted "specific legal discourses [which] can be particularly offensive," referring to a strategy informally termed as the "she wanted it" approach.<sup>43</sup> This tactic – loaded with its suggestive inference that Mayella 'asked' to be assaulted – effectively isolates the young woman and encourages readers, as Jean Louise and much of the novel's audience does, to blindly believe Atticus's construction of a narrative founded on Mayella's ability to lie: "[it] does not strain credulity to conclude that [Robinson] could have used his right hand to hit her right eye – either as her head was turned or perhaps with a backward slapping motion." While Lubet's criticism retains a certain innocence and avoids any specific claim that Robinson "was a rapist," it certainly undermines the lawyer figure's advocacy, forcing further reassessment of his status as a fictional emblem of America's resolute narrative of legal progress and racial justice in the post-*Brown* era.<sup>44</sup>

Metress's assertion that Finch's decline is the inevitable consequence of legal "pluralism and dissensus," where "tough lawyers" and "even tougher" critics are building a "strong case against him," is broadly fair assessment.<sup>45</sup> In this sense, *Mockingbird's* one-dimensional portrayal of Atticus as lawyer-hero becomes genuinely problematic. Rather than develop on the challenge and scrutiny of Gavin Stevens in Faulkner's late fiction, I insist that Lee's lawyer figure in *Mockingbird*

becomes the literary equivalent of a legal progressivism which circulated the United States in the late-1950s.

Given *Watchman's* recent publication, however, it is important to first consider the Finch of *Mockingbird*: not only the way that the legal figure precludes an alliance between race and American law, but also how the character's convenient partitioning of the abhorrence of racism to the South significantly disregards the nation's own complicity in racial injustice.

### ***To Kill a Mockingbird***

*Mockingbird's* Atticus Finch initially shares several characteristics with Faulkner's more ambivalent Gavin Stevens. Like Stevens, he is an older lawyer, born around 1885, and a highly respected member of his local community.<sup>46</sup> In the opening chapter, Lee describes Finch for the first time:

During his first five years in Maycomb, Atticus practised economy more than anything; for several years thereafter he invested his earnings in his brother's education [... as] Atticus derived a reasonable income from the law. He liked Maycomb, he was Maycomb County born and bred; he knew his people, they knew him, and because of Simon Finch's industry, Atticus was related by blood or marriage to nearly every family in the town.<sup>47</sup>

The synonymity between the town of Maycomb and Atticus – or between Atticus and “his people” – is immediately apparent. Resembling Stevens's descent from the “pioneer families” of Yoknapatawpha, Finch too is acutely linked to the people of his hometown.<sup>48</sup> For example, he understands the Ewells to be the “disgrace of Maycomb for three generations” and maintains a “special knowledge of the Cunningham tribe.”<sup>49</sup> These strong links between Atticus and his local community can be similarly viewed through the lens of his position as the town's skilled and dexterous lawyer. Early in *Mockingbird*, Jean Louise's narration informs us that Atticus's “first two clients were the last two persons hanged in [...] Maycomb County jail,” due to the defendants' respective decisions to counter their lawyer's advice and “plead guilty to second-degree murder.”<sup>50</sup> It would appear that Lee's initial portrayal of Southern legal culture is much like Faulkner's: the post-war fictional lawyer holds the strongest of ties to their locale, both legally and socially.

But *Mockingbird's* Finch rarely reaches the ambivalent and complex status achieved by Faulkner's Stevens. While the racial dilemmas at play in the novel are multifaceted – similar perhaps to the wrongly accused Lucas Beauchamp of *Intruder in the Dust* – the corresponding lawyer never develops in the same vein. Finch undeniably acts with courage, providing more nuance than most pre-1946 lawyers in Southern fiction. Nonetheless, Lee rarely bestows her legal figure with any sense of fallibility. The character instead appears to straightforwardly embody a literary exemplar of justice, equality, and democracy. After Jean Louise describes her father's legal history, she goes on to present a brief image of his surroundings: "When my father was admitted to the bar, he returned to Maycomb and began his practice. [... His] office in the courthouse contained little more than a hat rack, a spittoon, a checker-board, and an unsullied Code of Alabama."<sup>51</sup> Finch's iconic position is quickly established, as Lee's imagery paints her legal figure as one entirely in control of his jurisdiction. Note the way that the "unsullied" nature of his Code of Alabama aligns with the legislative manual not being used, acknowledging an implicit and unquestionable knowledge of the law. The state of this unsullied document likewise grafts directly onto Finch himself. Like his pristine copy of local legislation, *Mockingbird's* lawyer is "not spoiled or made impure."<sup>52</sup>

Lee characterises Atticus as an unyielding representation of American justice in the first third of the novel, often evoking the nation's earliest legalism that all are 'created equal': "I'm simply defending a Negro – his name's Tom Robinson. [...] but there's been some high talk around town to the effect that I shouldn't do much about defending this man."<sup>53</sup> Finch is depicted as a Southern lawyer without compromise. He defends Tom Robinson because of his oath of office; because, if he "didn't[,] he couldn't hold up [his] head in town."<sup>54</sup> Even the way that the character describes his defense of Robinson is entirely assured – he is "simply defending a Negro." Lee therefore presents the lawyer as an exemplary figure, firmly allied with narratives of linear legal progress in post-*Brown* America.

Such uncompromising depictions can also be found in a series of interactions Atticus has with his two children – especially Jean Louise – in the first fifteen chapters. Across a number of sequences, assured descriptions of his defense of Tom Robinson run parallel to specific dialogue with his offspring:

‘You might hear some ugly talk about it at school, but do one thing for me if you will: you just hold your head high and keep those fists down. No matter what anybody says to you, don’t let ‘em get your goat. Try fighting with your head for a change ... It’s a good one, even if it does resist learning.’

‘Atticus, are we going to win it?’

‘No, honey.’

[...] I had a question to ask Atticus.

‘What’s rape?’ I asked him that night.

Atticus looked around from behind his paper. [...] He sighed, and said rape was carnal knowledge of a female by force and without consent.<sup>55</sup>

In each example, Atticus is unafraid to speak the truth, whether it makes Jean Louise (and, by extension, the reader) uncomfortable or not. His blunt response to her question regarding the opportunity to win Robinson’s case is a conclusive negative, while his description of rape as the “carnal knowledge of a female by force and without consent” dodges any sense of ambiguity, spoken in official legalese rather than any form of Southern colloquialism.<sup>56</sup> Finch is both the ideal lawyer and the ideal father figure – his integrity is never in doubt as Lee builds her narrative towards the trial of Tom Robinson.

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Tom Robinson’s trial in the second half of *Mockingbird* still stands as one of the most instantly recognisable portrayals of a court case in American fiction. Before considering Atticus’s role, it is important to first clarify the position of Jean Louise; the character relaying the action to us. On the one hand, *Mockingbird’s* narrator is inherently biased (she is the defense lawyer’s daughter). On the other, her position on the Colored Balcony means that Jean Louise could “see everything.”<sup>57</sup> This polarisation between a biased and unbiased view of the court case provides useful foundations for the lenticular logics that drive Atticus’s role in its proceedings. The trial sequences are indeed littered with instances of “sameness *or* difference,” “whiteness floating free from blackness,” and portrayals of racism expediently situated below the Mason-Dixon line.<sup>58</sup> These distinct partitions of course originate

from the frequent examples of one-dimensional Southerners that appear in Maycomb long before the trial commences. Consider when Jean Louise explains that the town has a strict “caste system” and “dicta [that] No Crawford Minds His Own Business, Every Third Merriweather Is Morbid, The Truth Is Not in the Delafields, All the Bufords Walk Like That,” or the portrayal of Mrs Dubose as a racist caricature who repeatedly asserts that Atticus Finch is “no better than the niggers and trash he works for.”<sup>59</sup>

During the trial scenes, this device of the stock Southerner becomes ever more pronounced. For example, there is Robert E. Lee ‘Bob’ Ewell, a name chosen to deliberately invoke the Confederate General Robert E. Lee. Ewell approaches the witness box in a whirlwind of stereotypical imagery: “In answer to the clerk’s booming voice, a little bantam cock of a man rose and strutted to the stand, the back of his neck reddening at the sound of his name. When he turned around to take the oath, we saw that his face was red as his neck.”<sup>60</sup> Continually alluding to Southern stereotypes of the unsophisticated, rural, working-class red neck, Lee quickly establishes the uneducated, racist attitudes of Bob Ewell. In this case, a phrase like “little bantam cock” undeniably foregrounds language he will go on to use in assisting Mr Gilmer’s case for the prosecution, such as this violent description of Mayella’s alleged rape:

‘Mayella was raisin’ this holy racket so I dropped m’load and run as fast as I could but I run into th’fence, but when I got distangled I run up to th’ window and I seen –’ Mr Ewell’s face grew scarlet. He stood and pointed his finger at Tom Robinson. “– I seen that black nigger yonder ruttin’ on my Mayella!”<sup>61</sup>

Ewell’s dialect, as well as the use of colloquialism – or even mis-pronounced words – like “dintangled,” reveal the character’s status. Lee is obviously aware that Ewell’s use of language will evoke visceral reactions in her liberal readers, despite the witness’ words being purposefully selected to arouse anger in an all-white Alabaman jury. Naturally, the idea of Tom being a “black nigger [...] ruttin’ on [his] Mayella” speaks directly to the region’s deep-rooted racial prejudices. But the specific imagery of “ruttin’” more subtly alludes to those traditional Southern manifestos, like L. Seaman’s *What Miscegenation Is!* (1864), that admonished black-white relations through the use of animalistic or sexualised terminology, designed to strike fear of race mixing into the white Southern psyche.<sup>62</sup> Patently conscious of his suggestive

imagery, Ewell sits “smugly in the witness chair, surveying his handiwork”; every aspect of his character – from the appearance to the way he talks – devised to induce a base sense of Southern racial injustice.<sup>63</sup>

Lee turns next to Mayella Ewell, the archetypal daughter of white trash. When Mayella approaches the witness stand, Jean Louise’s narration describes her as yet another stock figure. This time, the deceptively innocent white woman: “A young girl walked to the witness stand. As she raised her hand and swore that the evidence she gave would be the truth, the whole truth, and nothing but the truth so help her God, she seemed somehow fragile-looking [...]”<sup>64</sup> Immediately establishing her youth, as well as those “fragile” looks, Lee assuredly paints a picture of perceived Southern white innocence. However, Mayella’s virtue breaks during Atticus’s cross-examination in chapter eighteen, as she erupts into a tirade directed at those who would seek to undermine her allegations of rape:

‘I got somethin’ to say an’ then I ain’t gonna say no more. That nigger yonder took advantage of me, an’ if you fine fancy gentlemen don’t wanta do nothin’ about it then you’re all yellow stinkin’ cowards, stinkin’ cowards, the lot of you. Your fancy airs don’t come to nothin’ – your ma’amin’ and Miss Mayellerin’ don’t come to nothin’, Mr Finch –’<sup>65</sup>

Like her father’s allusion to the imagery of black animalism, Mayella also leans heavily on crude description to play up to the supposed prejudices of an all-white Southern jury. Lee almost certainly lifted ideas for Mayella’s unrefined characteristics from real-life cases. In 1923, John Mays was sentenced to an eighteen-year prison term for the attempted rape of a white girl. Mays’s employer petitioned the Governor of Virginia for clemency on the grounds that the accused was “religious and educated[,] [...] com[ing] of our best Negro stock.” Mays’s employer then castigated the alleged victim. He insinuated that she came from the “lowest breed of poor whites,” and that her mother was “utterly immoral and without principle,” thus rendering the child “accustomed from her very babyhood to behold scenes of the grossest immorality.”<sup>66</sup> Put another way, Mayella’s emotional outburst only emphasises her volatility and unrefined nature, both upholding the novel’s depiction of the Ewells as white trash and suitably reminding us of the seemingly obvious racial injustices that circulate *Mockingbird’s* plot.

Adding to a narrative that conveniently locates racism below the Mason-Dixon line is the characterisation of Tom Robinson. Similar to the case which likely inspired Lee's novel (Walter Lett), Robinson's criminal past is replayed by the prosecution counsel, Mr Gilmer, who "sincerely tells the jury that anyone who was convicted of disorderly conduct could easily have had it in his heart to take advantage of Mayella Ewell." Like the Ewells, Mr Gilmer is another one-dimensional figure in Maycomb's courthouse:

'But you weren't in a fix – you testified that you were resisting Miss Ewell. Were you so scared that she'd hurt you, you ran, a big buck like you?'  
'No suh, I's scared I'd be in court, just like I am now.'  
'Scared of arrest, scared you'd have to face up to what you did?'  
'No suh, scared I'd hafta face up to what I didn't do.'  
'Are you being impudent to me, boy?'<sup>67</sup>

Lee condenses, into just a few short lines of dialogue, Southern racial injustice. In rapid succession, Gilmer refers to the accused as a "big buck," calls Robinson out for what he perceives as impudence, and dismissively labels him "boy." Gilmer's language, in other words, propagates the color-line, infantilises Robinson, and successfully strips him of his humanity. But Lee equally employs these dismissive designations to arouse the inherent prejudices of an all-white Alabaman jury in direct contradiction with the Constitution's Sixth Amendment: that in a court of law, all should be afforded the "right to a speedy and public trial" by an "impartial jury."<sup>68</sup>

Although the Ewells and Mr Gilmer present a hegemonic Southern culture, Lee uses them as a further lens through which we might view her primary legal figure. Throughout the trial, Atticus appears in marked distinction to other members of Maycomb's wider community. As an example, Bob Ewell's voice is continually described as "angry," while his movements invoke contempt towards other members of the court, like when he "turns angrily to the judge" or "glar[es] at the defense table." In contrast, Finch's speech and movements are entirely assured. When cross-examining Mayella, for instance, he speaks "gently" and "calmly" as he "stroll[s] to the window."<sup>69</sup> Despite having such verbal and physical dignity, *Mockingbird* recurrently presents Atticus as a highly skilled and dextrous lawyer. Unlike previous post-war legal figures, Finch's inner workings are significantly acknowledged. This is

evident in chapter eighteen when Jean Louise observes her father's effortless conversation with court reporter Bert, so as to construct a "pattern of [...] questions" that "quietly build up before the jury a picture of the Ewells' home life."<sup>70</sup> Finch is clearly a practitioner of real calibre, demonstrating here the lawyerly skills that have earned him such adulation from real-life legal professionals.<sup>71</sup>

Strengthening Finch's position as a legal exemplar of post-*Brown* America are his final remarks in summation of the Robinson case. In a lengthy monologue immortalised by Gregory Peck in the adaptation to film, Maycomb's lawyer figure speaks directly to the importance of law and justice in the United States.<sup>72</sup> Even with his prior understanding of the inevitable decision to convict Robinson, Atticus still tells the jury that they should be "beyond all reasonable doubt as to the guilt of the defendant."<sup>73</sup> Next, Finch turns to Mayella. He suggests that her testimony was "called into serious question on cross-examination," informing the jury that he believes the accuser has "put a man's life at stake [...] in an effort to get rid of her own guilt." Atticus thus strongly insinuates that Mayella has lied to remove Tom from "her presence"; a constant reminder of her decision to break societal taboos and "tempt a Negro."<sup>74</sup> The above certainly endorses *Mockingbird's* narrative of stereotypes, but also crucially precludes any alliance between race and law. In this case, American law is intrinsically just and fair, while Southern juries are an aberration – full of prejudice and backwardness – neatly replaying those Cold War imperatives that would seek to separate racist region from progressive nation.

As his summation develops, Atticus's reliance on values of the American Creed – adopted in an effort to educate, persuade, and shame his fellow white citizens – becomes ever more pronounced. Unlike Stevens's multifaceted speeches in *Intruder in the Dust*, Finch's legal position never falters. Lee's depiction instead focuses on Atticus as a man of law. Similar to America's founding legalisms, the lawyer figure imbues the very idea of Thomas Paine's maxim, "law-as-king."<sup>75</sup> As if to emphasise this vision of fair justice and due process for all, Lee conjures the Declaration of Independence and the nation's Founding Fathers in Finch's final words to the jury:

'One more thing, gentlemen, before I quit. Thomas Jefferson once said that all men are created equal, a phrase that the Yankees and the distaff side of the Executive branch in Washington are fond of hurling at us. [...] We know all men are not created equal in the sense some people would have us believe

[...] some people have more opportunity because they're born with it, some men make more money than others, some ladies make better cakes than others.

[...]

But there is one way in this country in which all men are created equal – there is one human institution that makes [...] the ignorant man the equal of any college president. That institution, gentlemen, is a court. It can be the Supreme Court of the United States or the humblest J.P. court in the land, or this honorable court which you serve. Our courts have their faults, as does any human institution, but in this country our courts are the great levelers, and in our courts all men are created equal.<sup>76</sup>

Finch's monologue is a true embodiment of racial liberalism. His unerring belief in the law's power to transform Southern race relations, whether in the "Supreme Court of the United States or the humblest J.P. court," appears noble, and champions the involvement of federal legal frameworks as the appropriate instrument to eliminate racial inequality and injustice. Furthermore, the constant collective sense of legal progressivism – note those repeated references to "our" courts – indicates that Atticus sees the relationship between the law and racial justice as communal; that solutions to the race problem must first be formed in the "great leveler" of an American court.

.....

*Mockingbird's* Atticus seamlessly expresses the equalities and objectivities of the legal system in post-*Brown* America. As an individual in a town populated with stock figures employed to proclaim racism as a specifically Southern problem, Finch quickly emerges as an enduring racial liberal who reflects both the values of the American Creed, and acts as a literary standard bearer for the role that the legal system should play in the eradication of racial injustice. To this end, we are encouraged to accept Tom Robinson as a guiltless black defendant and, likewise, to assume that Mayella and Bob Ewell are conspiratorial and racist, using their status as white Southerners to protect themselves from an immoral claim of rape. This position is never stronger than during chapter twenty-three, as Jem Finch bemoans Robinson's rapid, unjust conviction:

‘Tom’s jury sho’ made up its mind in a hurry,’ Jem muttered.

Atticus’s fingers went to his watch-pocket. ‘No it didn’t,’ he said, more to himself than to us. ‘That was the one thing that made me think, well, this may be the shadow of a beginning. That jury took a few hours. An inevitable verdict, maybe, but usually it takes ‘em just a few minutes. This time —’ he broke off and looked at us. ‘You might like to know that there was one fellow who took considerable wearing down – in the beginning he was rarin’ for an outright acquittal.’<sup>77</sup>

Atticus’s “shadow of a beginning” is the perfect image to project onto a post-*Brown* national imaginary. It definitively marks the legal system’s inglorious decisions as ‘past’ (we are now at the “beginning”) and idealistically suggests that legislative change will be both linear and progressive. Even more specific is the lawyer character’s positive outlook in connection with Robinson’s guilty conviction. Despite delivering an “inevitable verdict,” the fact that the “jury took a few hours” contrasts similar Southern trials which saw decisions made far more swiftly. For one, during the 1955 trial of Roy Bryant and John William Milam, the unanimous decision to not convict the pair of the first-degree murder of Emmett Till took just sixty-seven minutes. According to Steven J. Whitfield, one of the all-white jury is even believed to have said, “If we hadn’t stopped to drink pop, it wouldn’t have taken that long.”<sup>78</sup>

But to continue mythologising Finch’s positive legal outlook is to continue inspiring an uncritical acceptance of the character’s obvious flaws. Namely, his inability to recognise the law’s complicity in the creation and preservation of the race problem. For *Mockingbird’s* Atticus, there is no ‘middle ground.’ Almost everything in his characterisation is neatly partitioned, separated to preclude opportunities for alliance or connection. He is an individual among the collective of Maycomb’s townsfolk. He is also a legal exemplar of post-*Brown* America that speaks with virtually no Southern colloquialism, frequently adopting the language of official legalese, even with his young children. Bob Ewell, on the other hand, is designed to be the lawyer’s opposite: a racist descendent of the Old South, an archetypal white supremacist. In *Mockingbird*, racism is thus aberrative and takes place below the Mason-Dixon line, while American law is the ‘great leveler’ – a true foundation to achieve the “racial policy to integrate African Americans into American society.”<sup>79</sup>

Although several commentators have criticised Finch's characterisation in *Mockingbird*, popular consensus remains determined to uphold the 'Atticus myth.' In 2012 – the same year that President Obama reverentially supported the text's "courage and convictions" – an introduction to an online teaching aid similarly claimed that Atticus's portrayal assists the story in "tap[ping] into the most universal truths inherent in our very humanity – innocence, corruption, prejudice, hatred, curiosity, fatalism, respect, courage, justice, and compassion."<sup>80</sup> This statement proceeds as though Jim Crow laws had not widely legitimised such cultural practices. It ignores the role that the legal system has played in shaping these behaviours, proclaiming that racism ("prejudice," "hatred") is nothing more than a singular part of humanity – an aberration, and not innately associated with American law.

I argue that, unlike the nuances of Gavin Stevens in Faulkner's late fiction, *Mockingbird's* lawyer figure never truly probes the law's complicity in the historic and systematic legitimisation of racial injustice in the United States. Atticus's one-dimensional portrayal further strengthens notions of the lenticular, impedes alliance, and neatly partitions backward region from progressive nation. Yet lurking beneath *Mockingbird's* 'Atticus myth' is a considerably more sinister narrative. Behind his protected façade, the character's straightforward persona echoes a simplistic national imaginary that precludes legal truth by overlooking the associations between race and American law. This, in turn, leads the novel (with Atticus its standard bearer) to replay Cold War logics of the late-1950s. In *Mockingbird* therefore, states below the Mason-Dixon line continue to act as a distinctly foreign and backward culture, conveniently separated from the rest of the nation to absolve the United States – as a whole – from any sense of legal accountability or national complicity.

### ***Go Set a Watchman***

The perception of Atticus Finch shifted significantly on 3 February 2015, when HarperCollins announced that it had "acquired rights to a newly discovered novel by Harper Lee."<sup>81</sup> In a press release, Lee herself explained the existence of a manuscript called *Go Set a Watchman* and her decision to permit its publication:

In the mid-1950s, I completed a novel [...] featur[ing] the character known as Scout as an adult woman [...] My editor, who was taken by the flashbacks to Scout's childhood, persuaded me to write a novel from the point of view of

the young Scout. I was a first-time writer, so I did as I was told. I hadn't realized it had survived, so was surprised and delighted when my dear friend and lawyer Tonja Carter discovered it. After much thought and hesitation, I shared it with a handful of people [... and] was pleased to hear that they considered it worthy of publication.<sup>82</sup>

Lee speaks of “flashbacks” in this first story set in Maycomb and tells of how her editor “persuaded” her to write from the point of view of a “young” Jean Louise. Atticus too appears to have transformed. The character now has an entirely different “attitude toward society,” foregrounding the segregationist politics at the heart of *Watchman*'s narrative.<sup>83</sup>

*Watchman* does not bear many hallmarks of a well-crafted story. It serves instead as a series of events and anecdotes that centre on Jean Louise's return to Maycomb from New York, her discovery that Atticus attends Citizens' Council meetings, and that her father was once a member of the Ku Klux Klan. We are returned to the innocence of *Mockingbird* on several occasions, such as when a teenage Jean Louise believes she is pregnant and contemplates ending her life, or when a young Scout, Jem, and Dill recreate Reverend Morehead's church service in the garden.<sup>84</sup> Nevertheless, the novel's centrepiece takes place, once again, in Maycomb's courthouse. This time, Jean Louise watches as her father introduces a speaker at the local Citizens' Council with pro-segregationist views. In the aftermath, she attempts to understand her father's attitude, both towards black Americans and, more broadly, his contempt for both the meddling Supreme Court and the “NAACP-paid lawyers [... that] stand around like buzzards” waiting to pounce on alleged racial injustices.<sup>85</sup>

Anticipating a central tenet of CRT, *Watchman* effectively argues that racism has a “structural dimension.”<sup>86</sup> It also crucially considers the inherent prejudices which lurk behind those national narratives of civil rights progress in post-*Brown* America. That is to say, the novel deals with the distinct co-presence of the undigested in ways that *Mockingbird* could not, principally because Atticus is now a challenging, multifaceted character, more sceptical of the nation's legal system than the version he would go on to become. The Finch of *Watchman* is raw and untamed, his views not especially palatable. Jean Louise, so in awe of her father previously, now finds him difficult to respect as she seeks to vehemently defy what she hears from the aging lawyer.

Finch indeed stands in stark contrast to the lawyer figure we observed throughout *Mockingbird*. In just *Watchman*'s second paragraph, the narrator describes Finch as "seventy-two" and unable to drive to Mobile, Alabama to collect Jean Louise from her flight.<sup>87</sup> Even before Atticus actually appears, his weakened physiological state is discussed:

'How's Atticus?' [Jean Louise] said.

'His hands and shoulders are giving him fits today.'

'He can't drive when they're like that, can he?'

Henry closed the fingers of his right hand halfway and said, 'He can't close them any more than this. Miss Alexandra has to tie his shoes and button his shirts when they're like that. He can't even hold a razor.'

Jean Louise shook her head.<sup>88</sup>

*Mockingbird*'s 'Atticus myth' is promptly dismantled. His "hands and shoulders are giving him fits" and the aging lawyer cannot "close" his fingers or "tie his shoes." Although Finch's strengths were largely consigned to the legal arena – of verblatity and knowledge – seeing the once iconic character in such a weakened physical state immediately marks *Watchman*'s depiction as entirely different from the previous version. Of interest too is the way that Jean Louise ends the dialogue with Henry Clinton by "sh[aking] her head," ominously foreboding the abrasive and difficult lawyer figure that will develop throughout the narrative.

But Finch's aging complexion and crippling arthritis were not the principle source of critical outrage directed at *Watchman*. Rather, it was the character's new-found status as a pro-segregationist that troubled so many who had, for so long, upheld the 'Atticus myth.' Once idolised for describing American law courts as a 'great leveler' in his strident defense of Tom Robinson, this version of the Southern lawyer views the legal system very differently:

[... Atticus] said suddenly, 'how much of what's going on down here gets into the newspapers?'

'You mean politics? Well, every time the Governor's indiscreet it hits the tabloids, but beyond that, nothing.'

'I mean about the Supreme Court's bid for immortality.'

‘Oh, that. Well, to hear the *Post* tell it, we lynch ‘em for breakfast; the *Journal* doesn’t care; and the *Times* is so wrapped up in its duty to posterity it bores you to death. I haven’t paid any attention to it except for the bus strikes and that Mississippi business.’<sup>89</sup>

Atticus’s observations of law, justice, and civil rights have noticeably altered. Where in *Mockingbird*, he described the American courts with acclamation, his dispassionate declaration that the Supreme Court has “bid for immortality” indicates a general distrust for national frameworks sweeping across the South in the wake of *Brown*. These early exchanges thus establish the setting’s complex history of the middle-to-late-1950s. Contrasting the relative sanctuary of *Mockingbird*’s 1930s, the implied links to *Brown*, the Montgomery Bus Boycott (“bus strikes”), and the murder of Emmett Till (“that Mississippi business”) truly place readers at the centre of the post-war race problem. Lee moreover satirises the separatist logics of the Cold War era. When Atticus asks Jean Louise “how much of what’s going on down here gets into the newspapers,” his daughter’s response is telling: “to hear the *Post* tell it, we lynch ‘em for breakfast; the *Journal* doesn’t care.” Lee effectively presents us with two Southerners patently aware of how nation has been conveniently partitioned from region, driven by Cold War narratives rendering the South a racial anomaly in otherwise progressive America. The caricatured image of the Southerner “lynch[ing] ‘em for breakfast” is, then, a reminder of comforting narratives in the 1950s that were created to absolve the rest of the nation from racial accountability.

No longer relying on *Mockingbird*’s strict lenticular distinctions, *Watchman*’s early chapters anticipate Lee’s intention to probe the undigested. Unlike *Mockingbird*, categories of race and American law are not merely fixated on straightforward notions of sameness or difference. These initial sequences instead scrutinise the perceived beginnings of civil rights litigation. They consider the crucial overlaps and connections between racial injustice and the legal system, with Lee visibly beginning to employ her lawyer figure as a commensurate site of co-presence.

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As *Watchman* progresses, Lee boldly continues to depict the post-*Brown* South. Nowhere is this more pronounced than in chapter nine, which sees Atticus and Henry

Clinton attend the local Citizens' Council at Maycomb's courthouse. Finch, on the council's "board of directors," introduces Grady O'Hanlon. O'Hanlon was "born and bred in the South," and uses his speech to passionately defend the states' rights of the Tenth Amendment:

[H]is main interest today was to uphold the Southern Way of Life and no niggers and no Supreme Court was going to tell him or anybody else what to do ... a race as hammer-headed as ... essential inferiority ... kinky woolly heads ... still in the trees ... greasy smelly ... marry your daughters ... mongrelize the race ... mongrelize ... *mongrelize* ... save the South .... Black Monday ... lower than cockroaches ... God made the races ... nobody knows why but He intended for 'em to stay apart ... if He hadn't He'd've made us all one color ... back to Africa [...] These top-water nigger preachers ... like apes ... mouths like Number 2 cans ... twist the Gospel ... the court prefers to listen to Communists ... take 'em all out and shoot 'em for treason. ...

[...]

... not a question of whether snot-nosed niggers will go to school with your children or ride the front of the bus ... it's whether Christian civilization will continue to be or whether we will be slaves of the Communists ... nigger lawyers ... stomped on the Constitution ... our Jewish friends ... killed Jesus ... voted the nigger ... our grand-daddies ... nigger judges and sheriffs ... separate is equal ...<sup>90</sup>

O'Hanlon is a white supremacist. He speaks in the crudest of terms, calling black Americans "hammer-headed," "lower than cockroaches," and "apes." Such a character probably derived from Alabamans like Asa 'Ace' Carter – the former radio broadcaster who spoke with similarly strident forms of rhetoric. Like Lee's fictional O'Hanlon, the real-life Carter repeatedly used public platforms to denounce integrationist ideas, declaring, for instance, that "rock-and-roll music in Southern juke boxes" was an attempt to "infiltrate the minds of Southern whites."<sup>91</sup> Carter also established the North Alabama Citizens' Council, an organisation responsible for frequent acts of racial violence in the immediate post-*Brown* years. *The New York Times*, for one, reported how Carter addressed large crowds on a courthouse lawn in Clinton, Tennessee on 24 September 1956, before a white mob attacked two vehicles that contained black passengers.<sup>92</sup>

Whether Lee used Carter as a blueprint for her fictional O'Hanlon or not, *Watchman* plainly describes a challenging character. O'Hanlon's language is difficult to comprehend, made intentionally awkward by the use of ellipses that compound each provocative image straight into the next. More jarring is the fact that not one of *Mockingbird's* stereotypical caricatures of 1930s Southern tradition and white supremacy come close to O'Hanlon's violent and aggressive imagery. Buried within this racist diatribe, however, Lee provides us with more nuanced ideas of law and justice than she ever achieved in *Mockingbird*. In the speech, O'Hanlon rages at the "Supreme Court [trying] to tell him or anybody else what to do." He likewise argues that the court "prefers to listen to Communists" and claims that national legal frameworks have "stomped on the Constitution." What Lee cleverly accomplishes is the employment of the volatile O'Hanlon to elicit a demonstrable link between the law and Southern attitudes towards segregation. The very messages that the white supremacist preaches – those which fear "mongreliz[ation of the] race," or the idea that "separate is equal" – are direct consequence of laws that have historically and systematically legitimised racial injustice and violence.<sup>93</sup> Lee thus articulates the undigested. In *Watchman*, American law is depicted as a fundamental part of the very race problem it now seeks to address. Racism too is a structural, intrinsic characteristic of the United States. Grady O'Hanlon is not simply an aberration, but a painful reminder of the legal system's shameful racial history.

Finch's attendance at – and organisation of – the Citizens' Council meeting inevitably sparked much of the revulsion and devastation in those who had, for so long, upheld the 'Atticus myth.'<sup>94</sup> Shocked that the once-revered legal figure attends the meeting, Lee challenges his iconic status further in the character's contented acknowledgement of O'Hanlon's speech in chapter seventeen:

'Is Mr O'Hanlon our only defense [Atticus]?'

'[...] O'Hanlon's not, I'm happy to say, typical of the Maycomb County council membership. I hope you noticed my brevity in introducing him. [...] Mr O'Hanlon's not prejudiced, Jean Louise. He's a sadist.'

'Then why did you let him get up there?'

'Because he wanted to.'<sup>95</sup>

Atticus's belief that O'Hanlon is not "typical of Maycomb County council membership" probably derives from Lee observing the 228 men that established the Monroe County Citizens' Council on 5 March 1956, as well as reading reportage in *The Monroe Journal* swiftly distancing the council from its more provocative factions. To this end, the Monroe County organisation, despite their wish to promote "good feeling between the colored and white people," still desired to preserve the "legal, moral, and ethical separation of the races."<sup>96</sup> The extra-textual world shaping Lee's vision in *Watchman* therefore renders this passage highly significant. Atticus's attempt to distance Maycomb Citizens' Council from the fire-branded rhetoric employed by O'Hanlon is a suitable representation of the role that the South played in the national imaginary. Grady O'Hanlon is undeniably a racist white supremacist, but Atticus Finch is a wholly different proposition – a more nuanced representation of the white Southerner in post-*Brown* America. A character who would, as Casey N. Cep recognises, happily "defend a black man in court only to bar him from the ballot box"; who would "not have joined a lynch mob, yet openly oppose the integration of schools."<sup>97</sup> *Watchman's* Atticus, that is, does not neatly partition race and law like he did in *Mockingbird*. Crucially too, he does not characterise racism as a distinctly Southern problem, providing us with more sceptical observations of American law than his frankly idealistic statements in *Mockingbird* that proclaimed courtrooms to be the nation's "great leveler."<sup>98</sup>

It is in this sense that Lee subtly uses her lawyer figure to speak to earlier Southern writers and their depictions of law and justice. While Lee criticised William Faulkner in *The Crimson White* for "embarrassing" the region in his fiction, there is little doubting the influence he had on later writers of the post-war South.<sup>99</sup> In March 1956, at almost the same time as Lee witnessed the formation of Monroe County's Citizens' Council, *Life Magazine* published Faulkner's 'A Letter to the North.' This open correspondence saw Faulkner describe the general position of white Southerners in a post-*Brown* era as "present yet detached, committed and attained neither by Citizens' Council nor NAACP."<sup>100</sup> Such talk of a 'middle position' likely influenced the characterisation of *Watchman's* central lawyer who, unlike the Atticus of *Mockingbird*, satisfies no-one in ways more akin to Faulkner's Gavin Stevens. In the letter, Faulkner criticises "the Northerner, the liberal" who "does not know the South" and assumes "he is dealing with simple legal theory and a simple moral idea"; that

nation assumes region “so uncomplex that it can be changed tomorrow by the simple will of the national majority backed by legal edict.”<sup>101</sup>

*Mockingbird*'s lawyer figure thereby deals in the very legal logics that Faulkner deplored. Here, Atticus was a palatable racial liberal in post-*Brown* America, neatly ascribing the law as a fundamental solution to the race problem. *Watchman*'s version, on the other hand, poses distinct challenges to these same legal logics. The character now interrogates the complicity between legal system and racial violence, revealing subtle links between representations of law and lawyers in post-war Southern fiction. The decision to “let [O’Hanlon] get up” at Maycomb’s Citizens’ Council is, then, crucial, suggesting that *Watchman*'s Atticus sheds vital new light on the co-present space of the undigested.<sup>102</sup> By holding a mirror up to America’s inglorious legal history in the immediate years after the Supreme Court decided a case which looked to supersede the institution’s own complicity in racial violence, the Finch of *Watchman* develops a central strand in my fictions of justice. Lee’s character effectively acts as a commensurate site to challenge notions of the lenticular, distinctly probing the co-present associations between race and American law while, at the same time, critiquing those national narratives that posited racial violence and injustice neatly below the Mason-Dixon line.

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Alliances between race and American law certainly form the basis of *Watchman*'s narrative conclusion, as Jean Louise and Atticus speak at length in chapter seventeen. The conversation between father and daughter stands in stark contrast to the one-dimensional passages of *Mockingbird*. There, we were encouraged – via a young Jean Louise and Jem Finch – to idealise their father’s optimistic belief that law courts were the fairest means of obtaining equality for all in the nation’s citizenry. In *Watchman*, conversation is considerably more problematic, as the aging lawyer begins to probe his daughter’s initial reaction to the *Brown* decision:

‘[...] What was your first reaction to the Supreme Court decision?’  
That was a safe question. She would answer him.  
‘I was furious,’ she said.  
[...]

‘Why?’

‘Well sir, there they were, tellin’ us what to do again –’

[...]

He was prodding her. Let him. [...] ‘Well, in trying to satisfy one amendment, it looks like they rubbed out another one. The Tenth. It’s only a small amendment, only one sentence long, but it seemed to be the one that meant the most, somehow.’<sup>103</sup>

No longer sited in the nostalgic space of *Mockingbird*’s 1930s and its “shadow of a beginning,” Lee resolutely plunges her readers into the vortex of 1950s Southern racial politics.<sup>104</sup> Principally, the dialogue articulates the awkward legal tensions between nation and region. On the one hand, Jean Louise argues that the *Brown* decision has “satisf[ied] one amendment” of the Constitution (the Fourteenth), while on the other, it has “rubbed out another,” “the Tenth.” Lee thus presents us with a central legal paradox of post-*Brown* America; that the same document which tacitly endorsed racial injustice – the Constitution – is now being conscripted to demand fundamental changes in racial classifications and societal behaviour.

Important too is the fact that Atticus dexterously guides the conversation, moving Jean Louise to consider these legal paradoxes in the wake of *Brown*. A straightforward reading would consider that Finch merely upholds pro-segregationist views and desires for his daughter to see the Tenth Amendment as “higher than [any] court in this country.”<sup>105</sup> A more interrogative approach, however, sees Lee use Atticus to alert us to the undigested of an immediate post-*Brown* era. The Tenth Amendment has historically codified racial injustice in the South and merely “replacing” it with the Fourteenth is nothing more than a universalist solution to the race problem. Finch’s characterisation appropriately echoes Faulkner’s Stevens, who similarly asserted that simple federal ratification – or “printed paragraph” – does not palpably solve the legal intricacies of Southern racial injustice.<sup>106</sup>

In the absence of Jean Louise’s “moral torch” from *Mockingbird*, Sarah Churchwell believes that Lee employs ‘Uncle’ Jack Finch as the novel’s “accommodationist.”<sup>107</sup> After father and daughter speak at length about Southern race relations, Lee uses chapter eighteen to continue developing *Watchman*’s scepticism of legal progressivism:

Dr Finch held his cigarette with his thumb and two fingers. He looked at it pensively. ‘You’re color blind, Jean Louise,’ he said. ‘You always have been, you always will be. The only differences you see between one human and another are differences in looks and intelligence and character and the like. You’ve never been prodded to look at people as a race, and now that race is the burning issue of the day, you’re still unable to think racially. You see only people.’<sup>108</sup>

We are urged to view Jack’s assessment of Jean Louise as the very antithesis of Atticus’s pro-segregationist viewpoint. Lee cleverly employs the novel’s structure to her advantage here, as respective conversations occur in consecutive chapters, forcing us to consider the racial liberalism of Jean Louise’s “color blind[ness]” directly against her father’s declaration that “Negroes [in Alabama] are still in their childhood as a people.”<sup>109</sup> That said, Jack’s character assessment of Jean Louise significantly anticipates the later scepticisms of America’s Cold War reliance on neutrality and objectivity – of a Constitution conveniently portrayed as a color blind symbol of racial justice and equality. While Lee appears to encourage us to view Jean Louise’s ability to “see only people” as a positive character trait, Jack recognises that his niece’s color blindness renders her unable to “think racially.” Put another way, Jean Louise – representative of the racial liberal – aligns herself with a cornerstone of the national mainstream imaginary post-*Brown*: that a “blindness to race will eliminate racism.”<sup>110</sup> Jack’s contention instead underlines the structural permanence of racism in the United States, foregrounding CRT’s later assertion that “racism is difficult to address or cure because it is not acknowledged.”<sup>111</sup> According to Jack, it is precisely what we “don’t see” that prohibits an ability to “think racially.”

Although not a fictional lawyer, Jack’s final lines in chapter eighteen are certainly worthy of attention. As Jean Louise laments the loss of her watchman (Atticus), Jack makes a tantalising claim containing clear parallels to his brother’s own words in *Mockingbird*: “[...] it takes a certain kind of maturity to live in the South these days. [Jean Louise, y]ou don’t have it yet, but you have a shadow of the beginnings of it.”<sup>112</sup> Jack’s “shadow of the beginning” is somewhat different from Atticus’s version of the phrase. Given that Jean Louise is told any understanding of racial complexity in the South takes a “certain kind of maturity,” Jack obliquely reminds us that his niece should remove her simplistic notions of color blindness, or not wishing to “think

racially.” For Jack, the “maturity” he speaks of must recognise the permanence of American racism, as well as the role that the law has played in legitimising such inequalities and racial injustices across the nation. Jack’s “shadow of [a] beginning,” while noticeably less optimistic than Atticus’s version of the phrase in *Mockingbird*, is surely more realistic, even more racially progressive.

.....

There can be no doubt that *Watchman*’s Atticus Finch bears pro-segregationist – and often racist – characteristics. He speaks from the patronising position of a late-1950s, middle-class, white, male, Southern lawyer. He describes black Americans in collective terms and stridently announces that, as a race, they are not capable of fully integrating into the social structures of the region. He equally challenges the Supreme Court’s legitimacy, reaffirming the importance of state sovereignty and the Constitution’s Tenth Amendment. Yet it is plainly reductive to read *Watchman*’s Finch solely as a pro-segregationist. Adam Gopnik instead argues that the “particular kind of racial rhetoric Atticus embraces [...] is complex.”<sup>113</sup> It fundamentally contrasts those simplistic, universalist notions of Jean Louise’s color blindness, as well as the straightforward racial liberalism Finch himself appropriated in *Mockingbird*.

Gopnik’s contention, however, still leaves questions. First, because of the fraught history of an immediate post-*Brown* era, can *Watchman*’s fictional lawyer serve as a more useful barometer of race relations in the post-war South? And second, do the fundamental changes in Atticus’s character between the first draft of *Watchman* and a fully edited *Mockingbird* further probe the distinct co-presence of the undigested, suggesting that Lee in fact desired to acknowledge the post-war race problem somewhat differently than we originally assumed?

### ***Mockingbird* subsumes *Watchman***

It is well known that, on Christmas morning in 1956, Harper Lee was given an envelope by New Yorkers Michael and Joy Brown saying, “[y]ou have one year off from your job to write whatever you please.”<sup>114</sup> By the end of February 1957, Lee had completed a full manuscript of *Watchman*. Describing it as an “eye-opener for many Northerners in the segregation battle,” she sent it to a series of publishers, including

G.P. Putnam's Sons (on 28 February), Harper & Brothers (on 5 March), and J.P. Lippincott (on 13 May).<sup>115</sup>

After finishing *Watchman*, Lee began to work on another novel called *The Long Goodbye*. Based on two young characters that would become Jean Louise and Jem Finch, this second manuscript was sent to J.P. Lippincott on 13 June 1957, where the two drafts made their way into the hands of Therese von Hohoff Torrey (better known as Tay Hohoff). *Watchman* was quickly discarded, while *The Long Goodbye* underwent extensive rewrites, transforming into *Mockingbird* across a two-year editing period. Hohoff later wrote of *Watchman* that there were “many things wrong about [the novel ... and only the] dangling threads of a plot,” but also said that there was enough “wisdom and wit” in *The Long Goodbye* to initiate a rewrite.<sup>116</sup> After *Watchman's* publication in 2015, commentators invariably focused on Hohoff's editorial influence between 1957 and 1959:

Reading the book now, it's hard not to think Hohoff deserves a posthumous Pulitzer: to see the potential for a book of *Mockingbird's* quality in this one is an act of exceptional perspicacity and optimism. [...] The fact that [...] *Watchman* is not quite a draft makes it more confusing. If we were reading notes or marginalia, it would advertise itself more clearly as what it is: a novelist's path to a better book.<sup>117</sup>

The advice Ms Lee received from her first editor was shrewd: to move the story back twenty years [...] expanding what are flashbacks in *Watchman*, used to underscore the disillusionment Jean Louise feels with the present-day Atticus, now seventy-two.<sup>118</sup>

Both Gaby Wood and Michiko Kakutani consider Hohoff's positive impact on Lee's career. The editor's initial advice to reject the draft of *Watchman* essentially provides foundations for the masterpiece *Mockingbird* would go on to become.<sup>119</sup> Consensus too seems to attribute these editorial decisions to matters of aesthetics. *Watchman* was “not quite a draft,” while *Mockingbird* became the “better book.” We are therefore led to believe that Lee discarded much of a narrative focused on the pertinent racial injustices of a post-war South, and replaced it with a sanitised tale of nostalgia observed through the innocent lens of a young Jean Louise Finch, for a very simple reason: *Watchman* was a poor literary work.

Of more interest, though, is Wood and Kakutani's tacit acknowledgement that the raw, untamed, pro-segregationist Finch of *Watchman* was correctly edited out of literary history in the late-1950s, rightly subsumed by the racial liberal he would become in *Mockingbird*. *Watchman's* perceived literary faults – underscored by *Mockingbird's* respective strengths – thus propagate the notion that its portrayal of a flawed and complicated legal figure should not subsume the racial exemplar we find in its successor. This, I argue, is the dark counter-narrative that drove the editing process. A process that both diluted Atticus into a palatable character for contemporary white America and transported the action from a politically fraught late-1950s to the relative sanctuary of mid-1930s Alabama. As Katie Hamilton explains, Hohoff was clearly aware of the market for Lee's novel, knowing that white America would want a "book that provided [...] a more sympathetic self-image."<sup>120</sup> But unlike Harper Lee, Hohoff would not have witnessed first-hand the structuring paradoxes of Southern racial politics in the late-1950s. Notably, the Citizens' Councils that openly opposed racial integration and correspondingly despised lynch-mob behaviour; or white Southerners – in the mould of A.C. Lee – who would refuse African Americans the right to vote yet still defend them in court. In Figure 2.1 (below), we observe a pertinent example of this paradox. At the very time that A.C. Lee would have defended black Americans in Monroeville's courthouse, he published two editorials in *The Monroe Journal* that lauded Southern opposition to an anti-lynching bill in 1938 on the grounds that it "violate[d] the fundamental idea of states' rights."<sup>121</sup> By upholding

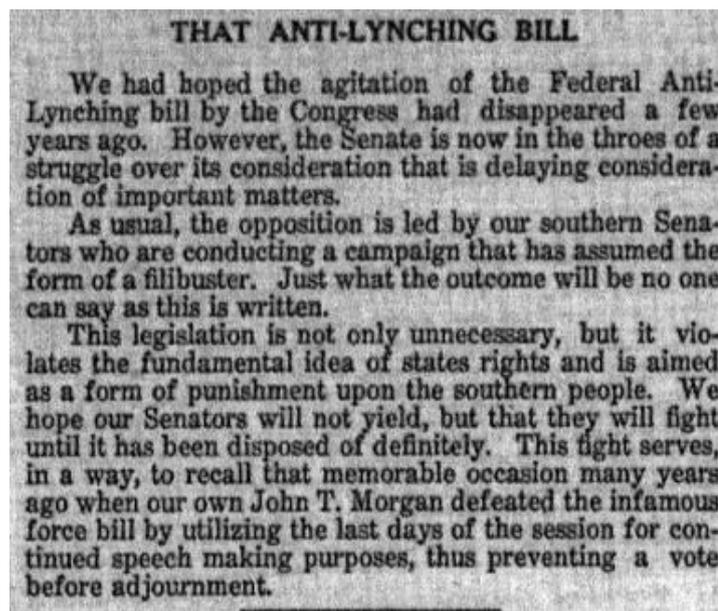


Figure 2.1

Hohoff's influence over *Watchman / Mockingbird's* editorial history (an influence that ultimately provided America with a palatable character who endorses the legal tenet of 'justice for all'), reviewers like Wood and Kakutani have – I maintain – unwittingly sanctioned this simplistic change in Atticus, from racist Southerner to exemplar of racial liberalism.

What remains is *Mockingbird*: the somewhat sterile tale of a lawyer who, despite occasional nuance, straightforwardly attempts to exonerate an innocent black man from a racist all-white Alabaman jury. Relying on lenticular logic, *Mockingbird* is only able to structure ideas of race and law into a narrative where America's legal history is partitioned into neat, distinct strands. There is the national strand embodied by Atticus, standard bearer of the law court as a "great leveler" in the United States.<sup>122</sup> Alternatively, the strand of regional separatism is represented by Bob and Mayella Ewell (or Mrs Dubose, Mr Gilmer), characters that egregiously denote a backward, racist South. These two strands, through specific intentions of the lenticular, remain separate and never overlap, limiting opportunities to articulate the inner workings of American racism.

In contrast, *Watchman* provides a counter-narrative and lawyer figure more akin to that of Faulkner's Gavin Stevens, at that distinct, undigested angle of co-presence. Jean Louise too is far more abstruse and far less innocent. No longer in awe of her father's perceived racial liberalism, she now challenges Atticus. She lambasts him as a "snob and a tyrant," and claims that he only loves "abstract justice written down item by item on a brief."<sup>123</sup> Lee likewise utilises this older version of Jean Louise to contest the idealistic belief that a "blindness to race will eliminate racism."<sup>124</sup> Here, the character's color blindness adds to the novel's overall scepticism of the American legal system and its straightforward, linear sense of objectivity and neutrality. Most important of all in *Watchman*, though, is the more nuanced characterisation of Atticus Finch. As a fictional Southern lawyer at work in the immediate years after *Brown*, he vitally reveals the uncomfortable notion that progressive civil rights litigation was a convenient façade to mask the pivotal role of American law in the creation, maintenance, and persistence of the post-war race problem.

## CHAPTER THREE

### ‘Hemmed in by a perfect circle’: Jesse Hill Ford’s Oman Hedgepath / Steve Mundine

The South [...] is my bailiwick. I love it and I hate it, and despair over it all the time – and write about it.

— Jesse Hill Ford<sup>1</sup>

On 1 June 1996, Jesse Hill Ford committed suicide at his Nashville home. Despite ending his life in relative obscurity as a one-time suspected murderer, just thirty years earlier Ford was a successful writer. In 1965, *The Liberation of Lord Byron Jones* – his second novel – was published. It became an immediate bestseller and catapulted the author to literary prominence, with only texts like William Faulkner’s *The Reivers* (1962) and Harper Lee’s *To Kill a Mockingbird* (1960) achieving more widespread popularity in early-to-mid-1960s Southern fiction.<sup>2</sup>

Charles Rose calls Ford an “important, though neglected [...] writer,” a “Southerner to the bone.”<sup>3</sup> By describing the South as his “bailiwick,” Ford indeed demonstrated himself to be an ardent regionalist who understood the intricate relationship between states’ rights and federal legal frameworks. Ford’s region was the mid-South, and principally the state of Tennessee, moving my fictions of justice away from Faulkner’s Yoknapatawpha (Mississippi) and Lee’s Maycomb (Alabama) to a geography far closer to the Mason-Dixon line. Tennessee is, of course, an intriguing setting, owing to the state’s long history of legalised segregation: known as the official birthplace of Jim Crow in 1875, Tennessee state congress also enacted frequent laws between 1875 and 1955 that aimed solely to maintain the ‘separate but equal’ doctrine.

Ford’s carefully chosen words additionally reveal his interest in law and justice, the term “bailiwick” being a historical reference to a “district or place under the jurisdiction of a [...] bailiff.”<sup>4</sup> His fictions are consequently beset with references to law, lawyers, and legal discourse. *Lord Byron Jones* in fact contains five lawyer figures, all varying in age, race, and judicial philosophy. Although characters like Sears Roebuck Buntin and Arnold Burkette aid in anchoring Ford’s depiction of Southern law, this chapter will focus primarily on the tribulations of Oman Hedgepath and Steve Mundine, alongside an examination of the fleeting – but important – cameo from a black lawyer known only as Beale Street.<sup>5</sup> Hedgepath is an older attorney, a

descendent of the Old South echoing the lawyer types found in Reconstruction novels. Mundine, on the other hand, succeeds from a younger, more radical mode of lawyer like Richard Wright's Boris Max in *Native Son* (1940). Unlike previous lawyer characters in my fictions of justice, Mundine lacks any real connection to those in the white community he represents. He also acknowledges the increasing prominence of younger lawyers in the post-war years; lawyers who founded their practice on differing methods of jurisprudence and frequently sought justice for black Americans in the wake of a post-*Brown* Supreme Court.

This chapter similarly moves my fictions of justice into the 1960s; a decade often described as climactic in the civil rights struggle and one that saw the law become ever more politicised. Although published in 1965, Ford sets *Lord Byron Jones* slightly earlier in the Cold War struggle, placing his action in a period fundamentally reliant on partition and the preclusion of alliance. The novel begins just before the March on Washington for Jobs and Freedom (28 August 1963) and concludes in the immediate aftermath of President John F. Kennedy's assassination (22 November 1963). Kennedy's presidency – from 20 January 1961 to 22 November 1963 – was littered with examples of contradictory narratives designed to present a progressive America against a backward South for the purpose of resisting Soviet propaganda. Nowhere was this more evident than on 11 June 1963. In the morning, images of Governor George Wallace blocking doors to the Foster Auditorium at the University of Alabama to prevent black students James Hood and Vivian Malone from registering for classes circulated around the world.<sup>6</sup> Reflecting scenes similar to those at the University of Mississippi in 1962 when James Meredith attempted to register, these depictions of Southern resistance to integration policy post-*Brown* significantly damaged the nation's global reputation. Kennedy was naturally concerned, eager to use the legal system to get the race problem "off the streets" and away from international glare.<sup>7</sup> The very same evening, Kennedy's 'Report to the American People on Civil Rights' was broadcast. In the famous address, the president asked the citizenry to consider the race problem and its implications for America on the world stage, maintaining that the legal system could only do so much. Morality and a nation's conscience were now the only solution to issues of race, racism, and racial violence.<sup>8</sup>

This truncated – yet specific – historical space in *Lord Byron Jones* recognises these intricate associations between narratives of politics and American law in the early-1960s. The political thus haunts many aspects of the novel. There are repeated

allusions to pressures on presidential involvement in the civil rights movement, Kennedy himself is directly referenced on several occasions, while the eponymous Lord Byron Jones, notwithstanding Ford's claims to the contrary, is given initials indicative of connections with Kennedy's successor, Lyndon Baines Johnson.<sup>9</sup>

In limited spaces of criticism, Ford's text has been castigated for simplifying a complex region and providing nothing more than stereotyped propaganda for the enlightened, liberal agendas of Cold War America. This view suitably leans on lenticular logic, labelling the region a racist aberration and Washington the embodiment of the American Creed. I instead argue that Ford's use of two distinct lawyer characters, as well as his decision to craft a story which encompasses multiple narrators (and multiple narrative modes), enables his fiction to question the linearity of civil rights progress and further develop the legal figure in post-war Southern fiction. Ford importantly provides adversarial legal positions in *Lord Byron Jones*. No longer occupying Lawyer Stevens's 'middle position,' Hedgepath and Mundine appear as blatant opposites: the Southern segregationist and the enlightened, liberal American. Suggestively, though, placing them in the same narrative permits a crucial consideration of co-presence: of the relationship between race and law, or between nation and region. Any re-evaluation of Ford's novel must therefore centre on probing the relationship between these variant lawyer figures, locating their characterisation in the highly politicised legal discourses of the early-to-mid-1960s.

It follows that this chapter will track two distinct threads: the first considers how the apparently straightforward legal tropes presented in *Lord Byron Jones* actually advance characterisations of the fictional Southern lawyer into the climactic decade of civil rights struggle; the second examines Ford's distinctive inclusion of a younger, more radical lawyer figure, with particular focus on how such a character uniquely develops the co-present space of the undigested.

### **Ford, Humboldt / Somerton, Tennessee**

Born on 28 December 1928 in Troy, Alabama, Jesse Hill Ford spent his early life in Nashville, Tennessee. Growing up in the mid-South, Ford witnessed numerous instances of racial violence and police corruption – themes that would inevitably bleed into his later work. When still a child, for example, he observed a white police officer beating a “blood-spattered black man” in the back seat of a car; a scene reminiscent of Stanley Bumpas and Willie Joe Worth with Henry and Erleen Parsons in *Lord Byron*

*Jones*.<sup>10</sup> John Taylor accordingly notes that the writer's father – Jesse H. Ford, Sr. – has claimed his son's curiosity with themes of racial violence and segregation was probably first piqued by this early memory.<sup>11</sup>

Ford developed as a writer after meeting Donald Davidson in 1948 at Vanderbilt University, where he published stories in student magazines like *Masquerader*, *Opses*, *The Gadfly*, and *Pursuit*. After being discharged from the United States Navy in 1953, Ford studied for two years at the University of Florida and wrote the first draft of *Mountains of Gilead* – a manuscript that would later become his debut novel in 1961. However, it was meeting (and then marrying) Sally Davis that would transform his life. In 1957, the couple relocated to Davis's native Humboldt. It was here, in a rural Tennessean town roughly 100 miles north-east of Memphis, that Ford began to write full-time. By 1959, short stories were being published in *The Atlantic* and, until the end of 1964, twelve were printed.<sup>12</sup> Although his work was initially limited to smaller audiences, Ford's literary reputation steadily grew, no doubt enhanced by Kurt Vonnegut's description of 'To the Open Water' (1964) as "a story you [...] never forget."<sup>13</sup>

Ford's initial experiences in Humboldt quickly mutated into a valuable contextual resource. In the process of absorbing the town's cultures and regional distinctiveness, he created his own fictional Southern locale: Somerton, Sligo County. This invented space was trialled in several of Ford's short stories, before its full expansion across the novel length works of *Mountains of Gilead* and *Lord Byron Jones*.<sup>14</sup> For instance, 'A Strange Sky' (1959) describes Somerton's main street, while 'Beyond the Sunset' (1960) foregrounds later references to "half-pint bottles" being broken behind "Alf's Service Station."<sup>15</sup> Ford's interest in the law is likewise evident. 'A Strange Sky' introduces Denny Smith Sneed, the "South's best lawyer" and a likely prototype for Steve Mundine. 'The Messenger' (1963) similarly refers to an old, white lawyer named "Carter French," whose son Gabe has a "Negro man, Henty" that "dressed [him], cooked his meals, and poured his whisky," resonating with later depictions of City Attorney Oman Hedgepath and his black house-servant, Henry, in *Lord Byron Jones*.<sup>16</sup>

However, it is 'The Bitter Bread' (1966) that presents the most analogous connections to the Somerton of Ford's best-selling novel. The story focuses on a young black man (Robert) and his pregnant wife, whose complications in childbirth require the assistance of a doctor. Not only are the black couple denied access (unless they

pay a fifty-dollar admission), but the short story also re-emphasises imagery of a segregated Somerton. The hospital has a “Negro entrance,” while Robert – in his attempts to secure the doctor’s admission fee – is seen passing the “last houses in the white section of town,” before heading into a segregated waiting room.<sup>17</sup> Albeit fleeting, these examples demonstrate an established regional setting in Ford’s work, as well as the writer’s acute focus on local law.

Throughout his career, Ford did little to hide connections between Humboldt and his imagined, rural, Tennessean town. In *Lord Byron Jones*, Somerton’s City Hall is described at the beginning of section two: “Straight ahead [...] at the end of the street stood City Hall. [...] From somewhere beyond the high steel girders supporting the silvery water tower behind City Hall and above it, sunlight burned a rift in the clouds and poured golden feathers of light into the still wet street.”<sup>18</sup> As Figure 3.1 (below) reveals, those living in Humboldt would certainly recognise the town’s central municipal building, with “silvery water tower” jutting “somewhere beyond.”



**Figure 3.1**

The decision to provide his fictional setting with such transparently real foundations raised consternation in the local community. When ‘The Trial’ was published in *The Atlantic* (1964), it received indignant criticism from Mrs Scott, wife of Humboldt’s then mayor, Dan Scott.<sup>19</sup> Despite praising the “accurate depiction of local buildings,” Mrs Scott rebuked Ford’s “fictional portrayal [of the mayor] as an attack on the Christian morals of her husband, and the filling station operator [Alf].”<sup>20</sup> Ford quickly responded, in a letter written to his editor Edward Weeks: “Her

accusations are unfounded. So far as I know, [...] Dan Scott, like most small-town Southern politicians, has straddled the fence on the racial issue, telling one story to white people and another to Negroes.” The writer went on to claim that Humboldt’s mayor had been “making copies of ‘The Trial’ and sending them around in an effort to denigrate [him] in several Southern quarters.” He argued that he “did not have [...] the mayor in mind at all,” and that Alf was nothing more than a “mythical bootlegger” seen at thousands of filling stations between the “Kentucky line and the Gulf Coast.”<sup>21</sup> If we consider Mrs Scott’s statement in the same vein as criticism levelled at the more overt links between a fictional Somerton and the real-life Humboldt from local townsfolk, it is plausible to assume that Ford was simply exploiting a Southern literary setting to expose regional segregation and the “colorless [...] laconic, tobacco-chewing, do-nothing breed of politician” that populated local City Halls of the early-1960s.<sup>22</sup>

There are certain parallels here with earlier Southern writers in my fictions of justice. Similar to Faulkner and Lee, Ford ensures that his fictional setting has specific geographical and historical foundations. While a story like ‘The Bitter Bread’ is a notable example of Ford using Somerton to explore segregation of the 1960s, *Lord Byron Jones* reveals far more palpable associations with Humboldt. The central premise – a local black undertaker wishing to divorce his promiscuous wife – is a composite of Ford’s real-life experiences and acquaintances. First, the undertaker’s name (Lord Byron Jones) is likely based on Alfred Lord Tennyson Pulliam, a black barbecue stand owner the writer befriended upon exploring the town’s segregated areas in the late-1950s. Second, the plot almost entirely mirrors the 1955 murder of prosperous black undertaker James Claybrook. It is believed that Ford’s maid relayed the story of Claybrook, who had been attempting to divorce his wife, Dorothy – a woman allegedly having an affair with a local white policeman. According to the maid, Claybrook was killed by the policeman, “shot twice and propped up against a tree [...] on a deserted back road” to prevent the affair becoming public knowledge in court.<sup>23</sup> Several of the novel’s secondary characters are equally composed of Ford’s connections to Humboldt. Nella Mundine, for one, is thought to be modelled on twenty-six-year-old Phyllis Benson Globe, a “tall, blonde [...] native of the Chicago area.” Anne Cheney believes that Ford honoured “Globe in the creation of Nella,” a character “incapable of comprehending Southern racism and married to [a] liberal lawyer.”<sup>24</sup>

But why did Ford bind so much of *Lord Byron Jones* – as well as several of his short stories – to actual events in Humboldt’s history? The segregation Ford witnessed in early years of his life, coupled with his interest in James Claybrook’s murder, situate him within a state legal system inseparable from its history of legitimised segregation and racial violence. Tennessee is, of course, the well-documented birthplace of legalised Jim Crow, passing a Public Accommodation Statute on 23 March 1875 that gave any hotel or inn proprietor wider personal jurisdiction over their property, allowing for the prohibition of any person on whatever grounds the owner so wished.<sup>25</sup> As Richard Bardolph rightly argues, however, this law authorised the ability to discriminate based on race – it did not explicitly sanction segregation or endorse racial violence.<sup>26</sup> Tennessean law between 1866 and 1875 had in fact already ratified school segregation and formally outlawed inter-racial relations, the latter the only race-based legislation officially passed through the Constitution of Tennessee (1870). Article XI banned the “inter-marriage of white persons with Negroes [...] or persons of mixed blood”; a legal action compounded by a Statute the very same year which sanctioned the “penalty for inter-marriage between whites and blacks [...] as a felony, punishable by imprisonment [...] from one to five years.”<sup>27</sup> Between 1875 and 1955, Tennessee enacted a further twenty Jim Crow laws: of these, two prohibited inter-racial relations, three developed strictly segregated railroads, and three upheld the segregation of public facilities.<sup>28</sup>

It is important too that *Lord Byron Jones* takes place nearly ten years after *Brown* – a decision that, at least formally, outlawed de jure segregation in schools and other public institutions. The novel’s plot is accordingly entwined with the structural and social elements of a federal system that seeks to supersede its own historical mistakes. One of Ford’s central themes thus focuses on the illegality in Tennessee of black-white relationships. Despite *Brown*’s reversal of institutionalised segregation, federal law did not formally outlaw personal relations between black and white until *Loving v. Virginia* (1967).<sup>29</sup> Ford, in correspondence with Edward Weeks on 3 October 1962, evidently desired to make inter-racial relationships a key thread in *Lord Byron Jones*:

You are so right about miscegenation. I’m wondering now if there would be any way to handle something that awful and still hold on to the reader. I have tried to think of a way to remove it [...] but this [...] leaves no story at all. Do you think handling this element as the Greeks handled violence – that is *off*

stage – would take care of [your] major objection? Might it not be abstract and mysterious and therefore all the more terrible, but not *specific* and, shall we say, *unbuttoned* at all?<sup>30</sup>

On the one hand, Ford's comment is deeply disturbing. He uses the term "miscegenation" – a neologism designed to criminalise inter-racial relationships – without hesitation. He likewise describes the mixing of black with white as "something [...] awful," and suggests that he has "tried to think of a way to remove it." This private letter certainly periodises Ford and *Lord Byron Jones*, reminding us that the novel's writer was just as susceptible to the inherent racial prejudices of the South as his characters. But it is also important to note that Ford's comment is in response to his editor's recommendation that he should sanitise images of inter-racial relationships in the text. Ford equally goes on to maintain that, without plotlines focused on black-white relations, there would be "no story at all," indicating a scrupulousness in his representation of the intricate socio-legal landscapes of 1960s Tennessee.

In attempting to appease Weeks's concerns, Ford proposes two alterations: one that appears in the final publication, with the other remaining unchanged. First, as above, he suggests that any inter-racial relationships should take place "off stage," so as to ensure they are "not specific" or "unbuttoned" (*Lord Byron Jones* indeed relays many examples of black-white relations indirectly – consider when Oman Hedgepath tells Steve Mundine about his affair with a "Negro" (Cassie) at Law School, or when Benny Lavern conveys the moment he sees Emma Jones and Willie Joe Worth having sex in the back of an ambulance).<sup>31</sup> A second alteration was to change Willie Joe's character to a "Negro policeman." According to Ford, there were black policemen in Humboldt but, for reasons he had "never been able to fathom, [...] Negroes prefer[red] Whites in uniform."<sup>32</sup> To ensure that the representation of his Southern town remained untamed, Ford ultimately refused this second alteration.

Ford's correspondence with Weeks moreover highlights another intriguing quandary: the character "destined to hold the reader's interest." In original drafts, the titular undertaker was to be the novel's central voice; a decision Weeks thought would be a weakness. Ford responds with an alternative – the lawyer, Oman Hedgepath:

Once [Hedgepath] takes the case he really has few choices he can make which will be at once legal, ethical, and of real benefit to his client. This is because the lawyer cannot foresee (1) that the divorce bill will be contested by the wife [... and] (2) the lawyer cannot foresee the white policeman's violent reaction stemming from the *respondent's* reply to the bill.

Does *this* weaken the story? Does it steal the punch a little when the lawyer decides to go to the policeman? I can see that it well might, in which case the story would simply be one about a sad situation which could not very well have been helped, the law being what it is, Tennessee being the state it is, and feelings being what they are.<sup>33</sup>

Ford sees Hedgepath as a conflicted and complicated character – one left with “few choices” that will be of “legal, ethical [...] or real” benefit to his client. It is worth noting too that Hedgepath appears, even in these early germinations, to be somewhat vulnerable, illustrated by his inability to “foresee” several key elements of his client's divorce proceedings. Ford looks to sympathise with his legal figure, implying that Hedgepath is caught between a tripartite of social issues: confined by the “law,” “Tennessee,” and inherent, regional “feelings.” A literary lawyer is therefore seen as a pertinent choice to maintain interest, as such characters are “vulnerable” to “bad experience” and step – as Hedgepath often does in the novel – into “blind trap[s].”

Such was the weight Ford placed upon the importance of Hedgepath, he even considered altering the narrative structure, informing Weeks: “I'll [...] put the story with the lawyer and *let him* tell it.”<sup>34</sup> While this plan was abandoned before publication, Hedgepath still retains a strong presence in *Lord Byron Jones*. It is the lawyer's voice that opens and closes the narrative, structurally bookending the story. What is more, Hedgepath has – by some margin – the highest number of allotted chapters and is one of the only narrators who always speaks in the first-person. Ford gives the lawyer character nine chapters in the novel. The next most frequent is Lord Byron Jones with six. Steve Mundine has just three chapters given to his point-of-view.

George Garrett argues that Hedgepath is “as near to being the central character and consciousness of the novel [that] its method of multiple viewpoints will allow.”<sup>35</sup> Christa Buschendorf develops on this contention, observing that Ford's narrative enables greater insight into Hedgepath's “thoughts and feelings.” It recognises both the lawyer's “deeply ingrained condescension towards black [Americans] and

women,” and, simultaneously, his “real vulnerability,” such as when he loses the respect of “nephew [Steve]” by the story’s end.<sup>36</sup> What is crucial, then, remains Ford’s intention for Hedgepath to be a multifaceted, three-dimensional character. On the one hand, he represents a segregated South. On the other, he is imbued with a vulnerability that echoes the structural conflicts in historical narratives of American law, as well as the inherent tensions between nation and region at the beginning of a climactic decade for the civil rights movement.

.....

*Lord Byron Jones* received generally positive initial reviews, despite some caution in the way that it stereotyped Southern institutions. An early review in *Kirkus* said that the text’s treatment of “blacks and whites involved in legal action” was “fervently and stringently handled”; the writing a credit to the “innate paradoxes of the Southerner.”<sup>37</sup> In *The Atlantic* (1965), Ralph McGill bordered on eulogy, describing the novel as “magnificent[, ...] superb and moving,” the characters “all part of an enormously simple story in which the[ir] lives [...] are complex.”<sup>38</sup> McGill was not alone in his praise. Paul Horgan labelled *Lord Byron Jones* a “work of passion, courage, and eloquence,” Edwin O’Connor reasoned that it was “strong and truthful [...] impressive and moving,” Shirley Ann Grau called it the “deepest descent yet into the psychotic world of the literate racist,” and Howard Mumford Jones simply declared it “memorable.”<sup>39</sup>

In *The Georgia Review* (1966), William J. Free was considerably more circumspect: “At its best, it suggests the complex depths of the South’s modern agony; at its worst it slides into a burlesque of social ideas and attitudes.” Free similarly considered *Lord Byron Jones* as part of the developing civil rights movement in Southern literature – one that demanded the “novelist [...] demonstrate [a] commitment to the social revolution now sweeping the [region].” In other words, the central threads of inter-racial relationships, segregation, and localised racial violence play into a zeitgeist of ideas pertaining to legal reform, equally recognising the regional tensions born out of such legislative change. Free believed that this thematic focus would polarise readership and find impartial audiences difficult: “The reader committed to the Negro revolution will praise it beyond its due, and the sensitive Southern conservative will find little in it that will appeal.”<sup>40</sup>

Fixated on these inherent polarities of black / white and nation / region, Free's early reading would anticipate later criticism of Ford's novel. In *Civil Rights in Recent Southern Fiction* (1969), James McBride Dabbs describes *Lord Byron Jones* as typical of much 1960s literature because it presents the South "as a problem, both to itself and to the nation," where the "complex network of positive black-white relationships, maybe vague, maybe tenuous, often invisible [...] are omitted."<sup>41</sup> Dabbs refers to 'The Bitter Bread' to emphasise his concern with the novel's lack of modest inter-racial ties. Notably, the sequence in which the character of Robert is "picked up by a passing white man" to ensure that his pregnant wife receives urgent medical attention at Somerton's hospital. For Dabbs, this is "the South," where "uninhibited kindness of a passing white" is contrasted with "indifference of the structure." *Lord Byron Jones* instead removes any sense of such nuance, merely showing that "racial conflict is all there is."<sup>42</sup>

In *The Death of Art* (1970), Floyd C. Watkins took further aim at Ford's apparently simplistic racial morality. He argues that the novel's white characters are almost exclusively portrayed as villains, while black characters are usually heroic martyrs. Watkins goes on to define *Lord Byron Jones* as "anti-white," principally due to a binarism between the titular character – depicted as "kindly, lovable, intelligent, educated, courageous" – and the three white policemen, "not one of them ha[ving] a single redeeming trait." Watkins also denounces how Ford straightforwardly characterises Somerton's population: "Negroes and liberals never speak obscenely, but segregationists [...] of all social classes speak in the foulest language." By creating such simple stereotypes in his fictional Tennessean town, Watkins believes that Ford merely encourages a reader to insist on the "Negro [...] wreak[ing ...] terrible vengeance on the whites who wronged him" – a type of melodramatic fiction trapping us into "cheering for the [...] murderer Mosby when he throws [Stanley Bumpas] into a hay baler" at the end of the novel.<sup>43</sup>

Since 1970 *Lord Byron Jones* has received very little attention – partly because of Ford's own demise from popular Southern writer to suspected murderer.<sup>44</sup> One recent example, however, comes from George Garrett who wrote a foreword to the novel in 2003, calling it a complex "network of consequences arising from the fact that a decent [...] undertaker [...] demands equal justice under the law."<sup>45</sup> Christa Buschendorf provides a rare, thorough critique of the novel in *Civilizing and Decivilizing Processes* (2011). In contrast to Watkins's denouncement of the text's

multiple-voice narrative, Buschendorf concludes that *Lord Byron Jones* is a telling example of “American realism”; of a “genre particularly suitable to render the hard facts of life, and, by extension, to express social criticism.”<sup>46</sup>

*Lord Byron Jones* is certainly less prominent in literary histories of the post-war South than works by William Faulkner, and even by Harper Lee. Yet Ford’s Somerton shares notable characteristics with the fictional settings populated by Lawyer Stevens and Lawyer Finch respectively. The author’s correspondence with Edward Weeks, along with anecdotal evidence from those who knew him in Humboldt, demonstrate a writer piqued by the extra-legal context of Tennessee in the late-1950s and early-1960s. *Lord Byron Jones* has its central lawyer figure: the older Oman Hedgepath – a character that structurally bookends the plot and is granted his own voice in a text saturated by varying modes of narration. However, unlike previous fictions of the post-war South, Ford offers us a number of different lawyer types. Acknowledging the changing political-legal world of the 1960s, Hedgepath’s nephew Steve Mundine is a young advocate who frequently argues against the region’s traditional white value systems. Significant too is Ford’s portrayal of Beale Street – an early iteration of the black literary lawyer in the post-war South. Cast in the mould of real-life lawyers like Zephaniah Alexander Looby or James F. Estes, Beale Street appears in ‘The Trial’ to defend a group of protestors at Somerton’s City Hall.<sup>47</sup>

Given that a series of fictional lawyers appear in *Lord Byron Jones*, it is important to focus on how each character is represented individually, as well as explore the ways in which they interact. Ford’s novel ostensibly appears to neatly partition blackness from whiteness, past from present. Hedgepath is an expedient example of the South’s past legal culture, while Mundine evokes a nation seeking to use the legal system as a “perfect stage upon which [it can] act out, in symbolic form, its Cold War commitments.”<sup>48</sup> This binary characterisation would crucially preclude any alliances between race and American law: the older Hedgepath replaying tropes of a backward South, and the younger Mundine embodying those federal legal frameworks that would proclaim emancipatory justice without any sense of historical accountability. Ford, though, challenges such a monocular narrative structure by placing these opposing legal representations alongside one another, and often in direct conflict. I maintain that only together can these two lawyer figures reveal the distinct co-presence of the undigested: only in that idiosyncratic space between their polarised legal perspectives can they challenge the strict lenticular logics of Cold War America.

### Ford's 'Anti-White' Novel?

As Watkins argues, it is simple enough to read *Lord Byron Jones* as “anti-white,” where a backward region of the mid-South is portrayed as a racist aberration; where white characters embedded in regional institutions – politicians, lawyers, the police – are representative of nothing more than “evil” segregationists.<sup>49</sup> Any interrogation of this type should start with the novel’s primary legal figure: Oman Hedgepath. In the opening chapter, Ford quickly establishes the lawyer as a loyal Tennessean who despises the political ideals of the civil rights movement. During his first exchange with Mundine, Hedgepath claims that he abhors “the NAACP.” He is similarly ashamed of his associate (and Mundine’s wife Nella), asking if there is “anything more pitiful than a grown-up man and woman bleeding all the time because they weren’t born Africans.”<sup>50</sup>

Even at such an early stage in *Lord Byron Jones*, then, Hedgepath represents a resistive, backward South. It should therefore come as no surprise that, as his conversation with Mundine proceeds, the older lawyer is portrayed as a blatant legal blockage in Lord Byron Jones’s divorce case:

‘But you have to take [L.B.’s] case.’ [Steve] busts in my office that morning.

‘Why?’ I ask him.

‘Because he has a right to a divorce like any other man, doesn’t he?’

‘But,’ I ask him, ‘suppose I just don’t want him for a client? Because the case stinks. Because it so happens I’ve been in the practice of law long enough to smell one when it’s a little bit off, and this is one I can smell.’<sup>51</sup>

Hedgepath tells Mundine that the undertaker’s case “stinks,” the lawyer’s language here arousing the archetypal Southern image of African Americans being animalistic or barbaric. Put another way, when Hedgepath states that the case smells a “little bit off,” the words graft directly onto the character’s innate belief that black Americans in Tennessee are a stain on his vision of an upstanding, civilised society.

We are also encouraged to observe the way that Ford immediately contrasts his antithetical lawyer figures: a polarity maintained throughout *Lord Byron Jones*. While Hedgepath is depicted as a blockage (his first line of dialogue is the interrogative “Why?”), Mundine is infused with an energetic dynamism. The young lawyer “busts”

into his uncle's office, angered at Hedgepath's wish to discriminate against a client on the grounds of race. Such behaviour conjures imagery of Justice Harlan's color blind Constitution in his dissent to *Plessy*, or the concluding words of President Kennedy's 'Report to the American People on Civil Rights': that the "Negro community has a right to expect that the law will be fair."<sup>52</sup> This opening exchange fundamentally sketches out the conventional logics of America's legal system in the early-1960s, recognising those well-worn maxims of nation-as-progressive, region-as-backward. Hedgepath stands as the embodiment of paternalistic regionalism and Southern legal resistance; Mundine becomes a proxy for the enlightened ideals of law and justice in a nation anxious to present itself as one of equality and freedom at the height of the Cold War.

Watkins further asserts that *Lord Byron Jones* "seems to argue [... that] the white lawyer is depraved because of the racial and political views of his heritage."<sup>53</sup> A "depraved" lawyer figure certainly appears in section two, as Hedgepath both propagates the color-line and obliquely highlights how the legal system is historically responsible for sanctioning racial injustice. After a visit from Lord Byron Jones, he reluctantly takes the undertaker's case. Deep in thought, the lawyer accidentally sits in a seat recently occupied by his new client:

[I] sat down where the nigger had been. You hate to see your own flesh sit where a nigger's sat, where the chair's hardly had time to cool off from the heat of a nigger's body. It hurts when your own flesh sits down there. Not that I'm prejudiced because I'm not. It goes deeper than that. [...] If I touch a nigger or anything that belongs to a nigger, then I've got to wash my hands to get the nigger off them. I can't wash quick enough – and nobody could call anything like that mere prejudice. I've lived with it all my life.<sup>54</sup>

There is no ambivalence in Hedgepath's racist ideology or sense of white supremacy. Ford's repeated use of "flesh," as well as those references to bodily metaphor, suggest a form of somatic racism. Furthermore, the lawyer's racial views are presented as deep-rooted. His abhorrent language stresses the simplistic cultural notion that Southerners "support custom in place of justice [and] assume their rightness."<sup>55</sup> Although "nigger" is employed as an overt device to identify the character's staunch belief in racial hierarchy, more subtle imagery reflects how Hedgepath's racial

assumptions are inherent and – in his view – “right,” as he speaks of not being prejudiced because of deeper feelings that have been active “all [his] life.” Here, the first-person narrative doubles down on such a monocular racial perspective. Repeated personal pronouns present Hedgepath’s views as those of an individual, and particular to his character. Ford neatly partitions the lawyer figure as demonstrative of traditional Southern attitudes – he frequently segregates whiteness from blackness, past from present, nation from region. More significantly, the use of first-person in these sections reveals Hedgepath’s one-ness. This aptly separates the character’s racial views from the nation as a whole and lends further credence to those claims that regionalised racism was a mere aberration within the otherwise enlightened legal progressivisms of Cold War America.

Other characters in *Lord Byron Jones* potentially act as further evidence of its ‘anti-white’ status. Three members of Somerton’s police force (Willie Joe Worth, Stanley Bumpas, and Mr Ike) are undeniably corrupt law officials that serve only to protect the region’s well-worn racial patterns. There are a number of examples of police corruption and brutality in the novel: Willie Joe’s raping Erleen Parsons in the voyeuristic presence of Bumpas, Mr Ike fiddling police records to ensure that the three officers financially scam Henry Parsons for the fabricated crime of being “*public drunk, resisting arrest, [and] cursing an officer,*” and the eventual murder of Lord Byron Jones to defend Worth’s reputation after the affair with Emma Jones is certain to become public.<sup>56</sup> Each act in isolation is repugnant enough, but cumulatively they paint an exceptionally dismal image of Southern law enforcement.

More important, however, is that the characterisation of these officers is circuitously linked to both the March on Washington for Jobs and Freedom and Martin Luther King, Jr.’s resultant ‘I Have a Dream’ speech on the steps of the Lincoln Memorial. The March itself is alluded to in the novel’s opening exchange between Hedgepath and his house-servant; an act Ford deliberately references to frame the plot within the immediacy of the protests in Washington on 28 August 1963: “[The lawyer] unrolled the *Commercial Appeal* and it was nothing as usual but solid nigger news, from the Ole Miss campus to the march they were planning on Washington.”<sup>57</sup> On the March for Jobs and Freedom, a series of placards shown by demonstrators acknowledged the problem of police brutality towards African Americans (see Figure 3.2, below). Ford’s adoption of a sequence of scenes focused on police brutality directly aligns with King, Jr.’s speech, in which – rhetorically and on behalf of those

opposed to the protests – he asks when demonstrators will be “satisfied,” replying: “We can never be satisfied as long as the Negro is the victim of the unspeakable horrors of police brutality.”<sup>58</sup> King, Jr. is referring to historical evidence of brutality against African Americans, but also recognising a series of Supreme Court cases – less notable than *Brown* – that focused on “control[ing] police conduct and [...] extend[ing] constitutional protections for those accused, rightly or wrongly, of crimes.”<sup>59</sup> Ford’s historical framing in *Lord Byron Jones* is thus

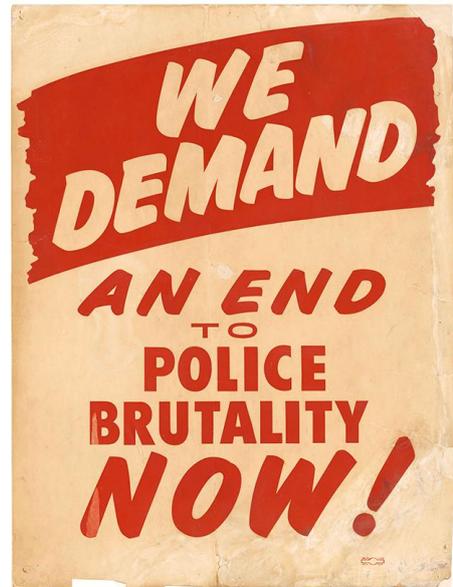


Figure 3.2

vital to fully comprehend its portrayal of police brutality. Setting the novel in the autumn of 1963, in the immediate months and years after court decisions like *Mapp v. Ohio* (1961) and *Gideon v. Wainwright* (1963), renders any examples of police brutality beyond a mere depiction of the South as straightforwardly evil.<sup>60</sup> Rather, these stereotypes are employed to make subtle links to contemporaneous discourse that highlights the law’s role in shaping the deep racial divisions of the early-1960s.

Similar sentiments are found in ‘The Speech,’ a chapter from section three in which we are introduced to “Dr Burroughs from Mississippi,” a speaker at Somerton’s Citizens’ Council.<sup>61</sup> Burroughs seems analogous with *Go Set a Watchman’s* Grady O’Hanlon; undoubtedly articulate, yet wholly reliant on the white race’s superiority. Ford nevertheless develops Lee’s singularly image-based speech with a fully articulated vision of white supremacy, as Burroughs refers to both historical events (with varying degrees of accuracy) and legal discourse. His language is frequented with controversial images of racial violence, opening with a sexualised description of a “cannibal feast on the west coast of Africa [...] as a] black orgy com[es] to its climax,” before traversing through a series of accounts of black insubordination, like the “186,000 African cannibals fighting for the Union Army,” or the “brawling, cursing niggers swaggering into [Washington’s] most exclusive restaurants,” ordering a “watermelon and a bottle of gin” before “peeing on the doorknobs.”<sup>62</sup> In a straightforward sense, Burroughs’s lengthy diatribe is built on senseless and base accusations. The black American is presented as both a violent criminal and a sexual

predator, fully endorsing a view that the novel propagates Southern stereotypes and traditional reinscriptions of the color-line.

Through a series of historical and itemised accounts in ‘The Speech,’ Burroughs equally represents a regional desire to uphold the Tenth Amendment:

Case history: The poor Canadian white girl lured into marriage to the rich, lascivious nigger; her degradation as she submits to the filthy caresses of this nigger who bought her body. He befouls her at every opportunity [...] until at last, crushed, torn, and wasted beyond recognition this white girl dies.

Item: The ninety-pound white girl raped on Columbia Road in [Washington] D.C. by the 250-pound nigger buck who rammed his fist down her throat and destroyed her esophagus.

Item: The 244 American white women raped by black African niggers last year in the City of St. Louis.<sup>63</sup>

Burroughs repetitively leans on violent, sexual imagery and revisits, once more, the animalism of black Americans in their apparent rape of white women across the United States. While this stereotypical language is both provocative and aggressive, designed to promote emotional reactions in an audience of whites, it is important to consider the central thread running through each of these accounts, fictional or otherwise: inter-racial relations. Ford here crucially describes the fear of mixing black and white as the manifestation of historical Tennessean state laws that – even into the early-1960s – continued to strictly prohibit such acts.

The law is indeed at the heart of Burroughs’s rhetoric. The white supremacist first refers to a “law of 1705” that stated “[a]ny nigger caught forty miles north of Albany, New York, shall be immediately executed,” before he describes the Supreme Court as “Communist” for making it a “violation [...] *to label nigger blood as such* in hospital blood banks.”<sup>64</sup> Naturally, the trope of the Supreme Court meddling in state affairs – particularly with regard to segregation practice – is familiar to Southern literature, again supporting Watkins’s contention that *Lord Byron Jones* is nothing more than “anti-white” propaganda.<sup>65</sup> Ford, though, uses Burroughs’s speech to distinctively develop the co-presence of the undigested. In this sense, the “law of 1705” directly conflates with a Supreme Court decision ordering the desegregation of blood stocks in the nation’s hospitals.<sup>66</sup> Burroughs’s speech thereby anticipates those

uncomfortable narratives later recognised by CRT. American law is clearly presented as creator of the very same racial tensions and conflicts it now seeks to resolve in a civil rights era.

.....

Further undermining Watkins’s “anti-white” claim is, ironically, Oman Hedgepath himself.<sup>67</sup> Given that Ford’s primary legal figure presents with regular hostility towards the nation’s changing legal system, it is easy to castigate the aging lawyer as a straightforward example of regional racism. Yet, like Dr Burroughs, Hedgepath is a product of (and, in this case, represents) a legal history that has long legitimised and endorsed reductive views of African Americans.

As the novel progresses, the lawyer also emerges as an increasingly skilled practitioner. Early on, Hedgepath demonstrates little in common with previous lawyers of the post-war South. He lacks the verbal dexterity of Lee’s Finch, or the preponderance for legal logic noted (at times) in the characterisation of Faulkner’s Stevens. By the events of ‘The Trial’ in section three, however, Ford establishes a decidedly different legal demeanour. A third-person narrator – closely affiliated with the internal musings of Somerton’s mayor – describes court proceedings at City Hall, as four demonstrators are arrested on charges of parading in town to advocate civil rights without a proper permit:

Oman Hedgepath clears his throat and stands. ‘I believe we are ready, Mr Mayor, your Honor. The defendants are Lonnie Shepherd, nineteen; the Reverend Goodman, forty-one; and Misses Caroline Tucker and Beatrice McCaslin, both eighteen. I believe these warrants so identify them. I will swear in now as witnesses the arresting officers – all at once.’ Oman Hedgepath looks down at the Beale Street lawyer. ‘Is that all right with Counsel for the Defense?’ Beale Street says, ‘Yes.’ The mayor thinks ‘Yes, sir’ would sound a lot nicer.<sup>68</sup>

The mayor’s flippant interjection in response to Beale Street’s perceived lack of respect towards Somerton’s City Attorney is layered using free indirect discourse, aligning the narration with the political representative of the town, and not an entirely unbiased, detached voice. Ford, that is to say, belies the perceived objectivity and

neutrality of America's legal system by having the narrative voice frequently dissolve into the subjective and personal thoughts of the town's mayor – an act that presents both racial bias and, more subtly, depicts a deepening relationship between law and politics. Despite this narrative predisposition, Hedgepath remains staunchly professional, his belief in due process and legal objectivity unerring. The lawyer speaks without any of the aggressive colloquialism observed in earlier conversations with Mundine. He instead uses the voice of official legalese, such as when listing the defendants' particulars, "swear[ing] in [...] the arresting officers," or recognising the appropriate professional relationship between prosecution and counsel for the defense.

As 'The Trial' develops, Ford continues to showcase Hedgepath's ability to manipulate language. He is seen to argue over Beale Street's pronunciation concerns when Somerton's Chief of Police adopts the term "nigger," rather than "Knee-grow." Hedgepath insists that "Chief is employing the old pronunciation" and states that "'nigger' [is] British English," referring his legal counterpart to "several examples from history and literature" to strengthen his claim.<sup>69</sup> Although the content of this conversation naturally leads to a belief that Hedgepath propagates the color-line by finding excuses for the Chief of Police's racist language, it is nonetheless important to consider Hedgepath's verbal dexterity. He is a demonstrably skilled lawyer who can manipulate those around him during court proceedings, using linguistic and legal reason in ways that Atticus Finch, for example, has received much praise and adulation. Despite Beale Street reminding those at the hearing of the connotations of "that particular pronunciation," he ultimately backs down, saying "we will not quibble."<sup>70</sup>

Another illustration of Hedgepath's legal professionalism is his logical and meticulous application of the rule of law in 'The Trial':

'As City Attorney I could not find a dismissal acceptable. A light fine, yes; dismissal, positively no. We have this ordinance on the books and it is a clean, honest, wholesome ordinance. All it says is that in order to parade in Somerton you have to apply for and get a permit from the mayor's office, that's all. Now these defendants knew about the ordinance and they violated it coldly and deliberately six or seven times before they were finally arrested.'<sup>71</sup>

Hedgepath speaks of the “ordinance on [Somerton’s] books” that clearly prohibits parading without a permit. He equally reminds the defendants of the fact that they “knew about the ordinance,” despite their willingness to “violate it.” Describing their desire to “coldly” violate the rule of law literally refers to the defendant’s actions, but similarly reveals Hedgepath’s own behaviour during these court proceedings. The character is not emotional or aggressive in ‘The Trial.’ He applies the law with a cold, hard logic that befits his status as a distinguished County Attorney. His dialogue – speech that appears dismissive of an individual’s right to protest as ratified by the First Amendment – also alerts us to the intricacies of the undigested. Here, the law (in the guise of a local city ordinance) is once more responsible for legitimising racial injustice in the United States, where Hedgepath’s reluctance to consider the rights of these black residents only represents the legal system’s historical role in endorsing one-ness.

Ford’s reference to the “mayor’s office” as a means of sanctioning legal parades in Somerton acts as further criticism of the legal system. Throughout ‘The Trial,’ the characterisation of the town’s mayor – emphasised through Ford’s use of free indirect discourse – suggests that the defendants would have little success when officially applying for permits. Somerton’s mayor often exudes his own sense of white superiority, such as wanting a cigarette when Beale Street reads out his defense statement, or repeatedly interrupting the black lawyer in court:

‘I hope I am one who speaks with the voice of peace and moderation. What these accused persons have done is ...’

‘How’re they pleading? What is it again?’ the mayor says. Willie Worth puts an astray down at his elbow. The mayor uses it.

‘Not guilty, your Honor,’ says Beale Street.

‘All right, get on with it,’ the mayor says.<sup>72</sup>

Ford thus uses the mayor to represent those elected officials in the South that were resistant to legal change in the wake of *Brown* and the increasing civil rights litigation of the early-1960s. The character patently evokes the ideals of Alabama Governor George Wallace who, just under three months before the events of *Lord Byron Jones*, blocked moves to legalise integration at the University of Alabama and gave his famous ‘Stand in the Schoolhouse Door’ address. Like the mayor’s resistance to

integration in Somerton, Wallace too sought to resist a central government “undignified by any reasonable application of the principle of law, reason, and justice.”<sup>73</sup>

If we consider Ford’s fiction in relation to real-life events, there is a clear thread recognising the increasingly politicised legal discourses of the early-1960s. Contrasting previous depictions of law in my fictions of justice, Ford sets the legal centrepiece of *Lord Byron Jones* (the events of ‘The Trial’) not in a Southern courthouse, but City Hall. We have therefore moved from an exclusively legal space to a political setting. Unlike Harper Lee, who referenced specific court cases in *Go Set a Watchman’s* depiction of the shifting legal terrains pertaining to civil rights for African Americans, *Lord Byron Jones* presents the movement through a series of political scenes.<sup>74</sup> For example, fictional sequences which see repeated referrals to “Negro pickets [...] in front of [...] chain stores [... like] Kroger and A&P” might allude to actual demonstrations in Tennessee.<sup>75</sup> One such case occurred in 1960, as college students in Nashville launched a series of formal sit-ins to demonstrate against segregated lunch counters on campuses. According to Taylor Branch, the sit-ins were established as the “largest, most disciplined, and most persistent of the nonviolent action groups in the South.”<sup>76</sup> Demonstrations were thoroughly prepared for, focused on Nashville’s chain stores (particularly Woolworth, S.H. Kress, McClellan, and Walgreens), and organised to take place on specific dates in 1960: the first on 13 February, a second on 18 February, the third on 20 February, and finally, on 27 February. As reported by David Halberstam in *The Nashville Tennessean*, the sit-in on 27 February saw crowds (of mostly white youths) gather to harass and taunt protestors, leading to acts of violence that included beating demonstrators and pulling away seats at lunch counters.<sup>77</sup>

Of the protestors arrested at the Nashville sit-ins, many were afforded legal aid by Zephaniah Alexander Looby. The lawyer defended those accused in accordance with the First Amendment’s “right of [...] people peaceably to assemble.”<sup>78</sup> But on 19 April 1960, just under two months after the first Nashville demonstrations, Looby’s house was bombed by white segregationists. As Branch explains, the blast damaged two attached houses and “147 windows [of] the nearby Meharry Medical College.”<sup>79</sup> Nashville’s Police Chief is indeed quoted at the time as saying, “you don’t throw that much dynamite to scare somebody.”<sup>80</sup> Although little attention was given to the sit-in campaigns themselves, the bombing of Looby’s home received consternation in local

and national press. Images like Figure 3.3 (below, left) were used to illustrate the extensive damage to the black lawyer’s property. This coverage led to a march on Nashville’s City Hall to meet the mayor – Ben West – who quickly agreed that lunch counters should be integrated (below, right, shows how the demonstration was reported in *The Nashville Tennessean*):



Figure 3.3

Three weeks later, Nashville became the first Southern city to desegregate all public facilities. The early months of 1961 then saw all state schools integrated and the University of Tennessee (in Knoxville) admit its first black students. It is thus no coincidence that demonstrators in *Lord Byron Jones* “didn’t picket in front of [...] locally owned groceries,” with only Somerton’s chain stores being “bothered.”<sup>81</sup> The political, in other words, saturates the setting of *Lord Byron Jones*, one which consciously makes specific allusions to real historical events and corresponding legal discourse.

As Mary L. Dudziak observes, civil rights and the surrounding jurisprudence of the early-1960s moved “from the courtroom to the corridors of political power.”<sup>82</sup> Such a claim – that this narrative of legal progressivism was, in effect, a conscious proxy for the nation’s Cold War effort – is further emphasised by presidential rhetoric of the period. The 1963 ‘Report to the American People on Civil Rights’ often stands as a definitive rallying call that changed history, with Kennedy becoming the “first American president since Lincoln to describe civil rights as a moral issue.”<sup>83</sup> Kennedy’s address was founded on the notion that “every American, regardless of where [they] live, will stop and examine [their] conscience” regarding the race problem, an issue not “legal or legislative [...] alone.” While Kennedy acknowledged that it was “better to settle these matters in the courts than on the streets,” he also declared that “law alone cannot make men see right,” as the nation was “confronted

primarily with a moral issue”; “as old as the Scriptures and [...] as clear as the American Constitution.”<sup>84</sup>

Despite the ‘Report to the American People on Civil Rights’ securing a seminal status in mainstream narratives of political history, its composition significantly belies such influential proclamations of equality, objectivity, and morality. The address was initially drafted by Theodore Sorenson, Kennedy’s chief speechwriter. In the months leading up to 11 June 1963, Sorenson had become increasingly frustrated with the president’s reticence to fully commit to the civil rights movement. Kennedy favoured moderate action and a generally conservative approach to the race problem, a political position that has since been repeatedly criticised.<sup>85</sup> Only after Governor George Wallace’s stand at the University of Alabama was Kennedy persuaded to speak publicly about civil rights; Sorenson composing the address less than an hour before the evening broadcast. Kennedy altered several sections of the final draft, toning down certain sequences he deemed too critical of the South’s integration policy post-*Brown*. For instance, Sorenson’s original “the pace [of integration] is still shamefully slow” became Kennedy’s “[b]ut the pace is very slow” in the final version.<sup>86</sup>

Although the address was intended to appeal for a nation to come together, its hasty composition recounts a far more uncomfortable narrative, where the race problem and civil rights appear secondary to a president’s relationship with Southern Congress and a nation’s international reputation at the height of the Cold War. In this sense, Sorenson’s final draft – most of which remained, notwithstanding Kennedy’s late revisions – echoes Atticus Finch’s summation at Tom Robinson’s trial in Maycomb’s fictional courtroom of *To Kill a Mockingbird*. The ‘Report to the American People on Civil Rights’ likewise commences with the nation’s founding legalisms (that all are ‘created equal’), before a reminder to the citizenry of “equal rights and equal opportunities.” More important, however, is that Kennedy’s speech is littered with instances of the Cold War imperative. Early on, Americans are reminded of the “commit[ment] to a worldwide struggle to promote and protect the rights of all who wish to be free,” before being asked how the United States can “say to the world [...] that this is the land of the free except for Negroes?”<sup>87</sup> Here, the agenda is clear. The race problem and its subsequent images of segregation and violence are playing out badly on the world stage.

Race and law are moreover neatly partitioned in Kennedy’s address, where repeated claims that “legislation [...] cannot solve this problem” overlook the legal

system's complicity in historical endorsements of racial injustice. The Supreme Court is thus described as "orderly" and not accountable, with the speech skilfully omitting any reference to the institution's inglorious past. Instead of considering the long-reaching consequences of the *Plessy* decision in 1896, Kennedy's address – entirely predictably – leans on the utopian narrative of Justice Harlan's dissent. The president appropriately concludes by declaring that the Constitution is "color blind" and that the law is "fair": perfect legalisms to present post-*Brown* America on the Cold War's international stage.<sup>88</sup>

Given the novel's interest in the politicisation of contemporary legal discourse, Ford unsurprisingly makes several references to Kennedy in *Lord Byron Jones*. The final section (eight) focuses on the aftermath of the president's assassination, while the 'Report to the American People on Civil Rights' is directly referred to by Mundine: "The answers, as President Kennedy has said, lie in the hearts of men, not in the laws. Law can go only so far."<sup>89</sup> In making such explicit connections to political rhetoric, Ford exposes the co-presence of the undigested – principally, the uncomfortable paradox of the nation's legal system being fundamental in the creation of the race problem it now seeks to address – but similarly challenges those convenient narratives of the Cold War that, as Thomas Borstelmann argues, looked to "wall off white American racial attitudes and practices from the rest of the world and its non-white majority."<sup>90</sup>

It is, then, a disservice to simply suggest that *Lord Byron Jones* is reliant on 'anti-white' sentiment. Despite frequent examples of white segregationist behaviour, including corrupt police officers, a mayor demanding the "impeach[ment of] Earl Warren," and the undeniably racist white lawyer at the centre of the story, I contend that Ford subtly (and quite deliberately) employs these individuals for two distinct reasons.<sup>91</sup> First, they challenge the historical failings in American law, questioning the intricacies of traditional judicial philosophy and the consequences of a legal system that has long shaped cultural ideas and cross-racial interactions. And second, they permit Ford to consider their antithetical ideology: the liberal lawyer and their fervent insistence on ideals of the American Creed, progressivism, and judicial objectivity.

### **Problematic Liberal Law(yers)**

Steve Mundine is a young, radical advocate with supreme confidence in the law's ability to free African Americans from their oppressed status. Early in *Lord Bryon*

*Jones*, Mundine stresses to Hedgepath the importance of taking the undertaker's divorce case: "you have to take the case [...] because he has a right to a divorce like any other man."<sup>92</sup> We thus immediately witness the character's insistence on the rule of law. Mundine acts as a fictional proxy for Justice Harlan's (and later President Kennedy's) vision of a color blind Constitution. His unerring belief in the undertaker's "right to a divorce like any other man" – where "man" is likely synonymous with "American" – is a living embodiment of the Fourteenth Amendment's proclamation that "all persons born [...] in the United States are subject to [its] jurisdiction."<sup>93</sup>

Ford accordingly develops Mundine's conflicting legal voice in the novel as he argues with Hedgepath's decision to reject the *Jones* case, calling his uncle "prejudiced."<sup>94</sup> It quickly becomes clear that this version of the fictional lawyer is inspired by the increasing number of energetic, radical, and dedicated civil rights advocates of the early-1960s. One such example is Michael Meltsner. Similar to Mundine, Meltsner was educated away from the South, before working as "assistant counsel to the NAACP Legal Defense Fund" and acting as legal representative for – among others – the "North Carolina doctors and dentists who ended Southern hospital racial segregation."<sup>95</sup> This new breed of civil rights lawyer in the United States was young, dynamic, and desired, to quote Mundine himself, "freedom and equality for the Negro."<sup>96</sup>

Ford gives Mundine his first chapter in section one. Although relayed in the third person, the narrative voice is specifically limited to the lawyer character's thoughts through the use of free indirect discourse. Mundine swiftly challenges what he considers to be the injustices of the state's legal system, referring to Somerton's "[c]orrupt brutal police," its "grim versions of the third degree," and the "two standards of justice predicated upon a sensible leniency for the white man and harsh sentencing of the black."<sup>97</sup> Once more, Ford is employing his lawyer figure to allude to historical injustices in Tennessee. In 1959, just four years before the novel's 'present,' Burton Dodson (a black farmer) was charged with the murder of Deputy Oli Burow – a member of Fayette County's police department. Dodson "came to blows in a heated disagreement" with a white man; a disagreement that escalated into inevitable violence. Local law enforcement surrounded Dodson's farmhouse who, having escaped into nearby woods, began "firing back" at those who attacked him, fatally wounding Deputy Burow. Up against an all-white jury, Dodson was convicted of

“second-degree murder,” despite a witness claiming that he “doubted [the accused] fired the shot that killed Burow.”<sup>98</sup>

Ford’s use of free indirect discourse across all three of Mundine’s allotted chapters supposedly demonstrates the character’s unbiased and neutral thoughts, as though the character acts as a detached reflection of the nation’s legal system. Yet this use of free indirect discourse also reveals the undigested co-presence in Mundine’s characterisation, where a lack of clarity between third-person objectivity and first-person subjectivity creates deliberate obfuscation. On the one hand, the narration in Mundine’s chapters aligns with a national sense of legal progressivism and Cold War logic. On the other, it embodies a more personal agenda that purports to enlighten the population of Somerton to Mundine’s ideals of racial liberalism. In this regard, the young lawyer starts with his uncle, believed to represent the chief opponent in his endeavour to move the Tennessean town towards a greater sense of societal egalitarianism:

[Steve] had faced the first test. [...] He had convinced Oman Hedgepath that the Negro undertaker’s divorce suit must be taken on and carried through.

His next task would be more difficult. He would have to change the mind and heart of a man, his own kinsman, Oman Hedgepath.

[...]

The question was whether, once hardened to such Dark Ages justice, a man’s conscience could be stung back to life. Could he, Steve Mundine, wake Oman’s conscience?<sup>99</sup>

Mundine wholeheartedly represents the American Creed. For one, he literally refers to “change” in his desire to “wake Oman’s conscience.” However, this “change” appears to be gradual, the lawyer talking of having to transform both his uncle’s “mind” and “heart.”

Imagery of Hedgepath as the embodiment of “Dark Ages justice” is rather compelling too. *Lord Byron Jones* undoubtedly portrays its older lawyer – one wedded to upholding antebellum value systems – as out-of-date, a clear indication that his young legal associate is the direct opposite: enlightened and objective.<sup>100</sup> As Ford’s central representation of progressive American law, it is essential that Mundine recognises himself to be an agent of change. Unlike Atticus Finch in *To Kill a*

*Mockingbird*, who gave the law itself agency and encouraged Southern courtrooms to be the “great leveler” in the civil rights struggle, the agency Mundine proffers is founded on political thought, particularly the legal ideals at the heart of Kennedy’s ‘Report to the American People on Civil Rights.’<sup>101</sup> Like the president’s proclamation that change cannot simply be a matter for legislation, but should be solved in the “homes of every American in every community across [the] country,” Mundine too feels an agency to “wake the conscience of [Somerton],” rather than rely solely on legislation to provide every solution to the race problem.<sup>102</sup>

Despite this obvious belief in progressive political ideology, Mundine is still grounded by the rule of law. When working on changing Hedgepath’s (and then Somerton’s) attitude towards a black American seeking the legal right to a divorce, he often speaks of a lawyer’s duty to uphold both the law and the Constitution of the United States. Note the legal logic Mundine demonstrates with regard to the inevitable naming of Willie Joe in court proceedings, should Emma Jones challenge her husband’s allegations of infidelity. He talks of his older associate’s “duty” as the client’s legal representative: a “duty [that] goes no farther than getting a divorce” for Lord Byron Jones. Mundine also argues that his uncle’s legal opinions are “medieval,” compounding those earlier suggestions that Hedgepath proliferates a form of “Dark Ages Justice.”<sup>103</sup>

Naturally, the legal logic Mundine exhibits comes into constant conflict with the older Hedgepath, who passionately defends the traditions of the South and Willie Joe Worth’s reputation in Somerton:

‘[H]e’s got to be named,’ Steve says. ‘That’s all there is to it.’  
‘That,’ [Oman] says, ‘or she’s got to back out or L.B.’s got to back out.’  
‘What did L.B. say this morning?’  
‘He won’t back out [...] He’s wild as an ape.’  
‘Good for him, by God!’ Steve says.  
‘Yes, good for him. [...] But] Hedgepath and Mundine will have seen their last white face when the first nigger witness of ours shoots his thick mouth off in court and names the white policeman who’s been sleeping with Emma, the nigger undertaker’s wife [...]’  
‘You’re exaggerating,’ [Steve] says. ‘I can tell.’  
‘You’ll see if I am,’ [Oman] says. ‘You *and* Nella.’<sup>104</sup>

Racist images of Lord Byron Jones being “wild as an ape,” or ideas of the “first nigger witness [...] to shoot [their] thick mouth off,” are certainly reminiscent of the same lynch-mob mentality displayed by the Gowries in Faulkner’s *Intruder in the Dust*, or the Ewells in Lee’s *To Kill a Mockingbird*. Concomitantly, though, Mundine demonstrates unerring convictions for the rule of law. His claim that Willie Joe has “got to be named” and “that’s all there is to it” relies entirely on the strength of his belief in legal justice; his exclamation upon discovering that Lord Byron Jones will not “back out” of divorce proceedings representing his confidence in the right of the individual to due process and fairness. Ford therefore employs his young lawyer figure to evoke the American Creed as bound to an acceleration of progressive legislation. The portrayal of Mundine clearly acknowledges those climactic legal victories of the civil rights movement that enabled black people to file for justifiable divorce from a promiscuous spouse.

Alongside Mundine’s dynamism and energy, Ford similarly presents the character of Beale Street in *Lord Byron Jones*. During ‘The Trial,’ the black lawyer endorses an equally pragmatic approach when discussing the sentences of four demonstrators charged with parading in Somerton. In a lengthy – almost uninterrupted – speech, Beale Street passionately defends his black clients, evoking imagery of the Constitution, patriotism, and America as “land of the free”:

Beale Street puts his hand over his heart: ‘Since slavery times we have had certain problems come down to us. There is great unrest all over America today on account of minorities wanting their freedom.’

[...]

‘Our trouble has been that the two races have not talked to each other in the South. Now it is getting better. Now we are at least talking. Nobody is going to get all he wants, but at the same time somebody’s going to have to give up a little something.’

[...]

‘All they have done is get out and walk to express their feelings. They want freedom. Everybody wants freedom. They express it in this way and they have a right under the Fourteenth Amendment to gather and express themselves.’<sup>105</sup>

Beale Street conjures deep cultural division in his depictions of “slavery times” and the “certain problems” that oppression has caused. He repeatedly refers to “freedom” for “minorities” – most notably, the “right under the Fourteenth Amendment to gather and express [oneself]” (although it should be noted that the right to “express [oneself]” through protest additionally falls under the jurisdiction of the First Amendment).<sup>106</sup> Then again, Beale Street accepts the ideals of legal gradualism. He suggests that “at least” the two races are now “talking,” before declaring a form of compromise – “somebody’s going to have to give up a little something” – as the only solution to the region’s racial injustices. This accumulation of imagery ends up stereotyping nation and state within an idealist paradigm of American law’s linearity and progressivity, a point reinforced by Beale Street’s patriotic desire to “put his hand over his heart,” or his proclamation that “everybody” in the United States “wants freedom.”<sup>107</sup>

Such imagery deifies the young lawyer. Like James F. Estes’s defense of Burton Dodson, or Zephaniah Alexander Looby’s representation of protestors at the Nashville sit-ins, Beale Street is worshipped by members of Somerton’s black community. Upon leaving City Hall, the mayor observes that the lawyer comes out of the “police station and waves to the crowd.” As he walks, the “crowd falls back and they wave at him like a mob waving at a baseball player.”<sup>108</sup> Referring to Beale Street as a “baseball player” typifies his status as a celebrity visitor to Somerton. Ford here renders a scene



**Figure 3.4**

reminiscent of Martin Luther King, Jr. and his tours across the United States in the late-1950s / early-1960s. Across America, King, Jr. would repeatedly give speeches to packed congregations as president of the SCLC (see Figure 3.4, above). As Branch clarifies, his immense popularity with black American communities is perhaps best demonstrated by the occasion that some “ten thousand” tried to “crowd into Gardner Taylor’s Concord Baptist Church to hear him [speak]” in 1956, or by the nationwide poll in 1963 which showed that he “commanded the support of eighty-eight percent of American Negroes.”<sup>109</sup>

But Beale Street is not the only law professional to visit Somerton. T.K. Morehouse, a “Depedy Marshal” and “Federal Process Server” from the “Western District, Tennessee,” appears on several occasions in *Lord Byron Jones*. A character who narrates three chapters in the novel, Morehouse serves federal papers to Johnnie Price Bulkhalter and Oman Hedgepath for running “Negroes out of the [town’s] white park,” to Dan Dashazo for disenfranchising his black employees, and to Dr George Templeton for telling “his tenants to git off his farm if they wanted to vote.”<sup>110</sup> In each case, these papers subpoena the accused to come before “Federal Court” and answer their charges. Morehouse is hardly a liberal character, certainly not in the same way as Mundine or Beale Street. Possibly in an attempt to conciliate himself with those he summons to the Memphis court, the federal official repeatedly declares that he has to “serve a paper” as it is his “job.” Despite his apparent reticence, the outsider is still treated with ferocious hostility by members of Somerton’s white community. The mayor, for instance, tells Morehouse that he is a “shitbird,” while Hedgepath calls him a “bastard.”<sup>111</sup>

By having ‘outsider’ figures visit Somerton and infiltrate its legal discourse, Ford portrays the inevitable acceleration of federal law across the South. Conflicts between Hedgepath and Beale Street / T.K. Morehouse thus recognise those innate tensions of progressive national legal frameworks and their clashes with corresponding state law. Although these tensions inevitably highlight specific legal collisions between nation and region, the fractious discourse also alludes to the narrative of legal resistance that swept across Southern states in the early-1960s. An appropriate reminder that “barely one in one-hundred (1.2%) of [...] African American children were in a non-segregated school” almost ten years after *Brown*, because of countless “new laws and state constitutional amendments designed to preserve segregation.”<sup>112</sup>

### **‘Hemmed in by a perfect circle’**

*Lord Byron Jones* concludes with imagery of a stubborn and resistant South. The undertaker’s divorce case – the legal action around which the plot orbits – is quickly dismissed in court on the grounds that the complainant is dead.<sup>113</sup> Willie Joe Worth is therefore exonerated, his local reputation preserved. What is more, despite obvious emotion at the loss of Mundine as his legal associate, Hedgepath upholds a staunch justification of his behaviour, closing the novel with a final triumphant scene of segregation: “At least I know that when I die, I’m going to walk through that gate marked ‘White Only,’ be it fire or pearls.”<sup>114</sup> Equally, Mundine’s decision to leave Somerton – where he takes a principled stand against “age and bigotry,” making a clarion call to “take it into the streets” and “fight [injustice] in the open” – seems to encourage his liberal thinking as progressive and enlightened.<sup>115</sup> It is, though, entirely simplistic to view Hedgepath as the villain of the piece, a crotchety racist and embodiment of an evil South, or to pronounce Mundine as a heroic proxy for the perceived tolerances of legal progressivism.

We must instead look beyond the frequent polarisations populating Ford’s novel. Merely considering the separatist logics engendered by the antithetical characterisation of each lawyer will only lead to deftly organised representations of race and law, fixating our gaze on sameness and difference, rather than overlap and connection. Here, *Lord Byron Jones* would straightforwardly present what McPherson calls a “world that – via the wonders of the lenticular – is no longer complicated by race or racism,” whether considered through Hedgepath’s lens of a “lost world of white dominance,” or Mundine’s idealistic vision of legal color blindness that expediently absolves the law’s own role in the creation of the race problem.<sup>116</sup> Rather, it is important to probe the space between Ford’s representations of his fictional lawyers, which returns us – albeit in a different context – to the ‘middle ground’ initiated by Faulkner’s Gavin Stevens. In this sense, *Lord Byron Jones* vitally recognises the post-war literary lawyer figure as a developing challenge to the legal truths that circulate their region (or their state).

Even more pertinently, the titular Lord Byron Jones summarises the inherent structural racisms of the post-war era with a succinctness lacking in any of Hedgepath’s or Mundine’s contributions on the subject. Speaking to Mundine, the undertaker reveals how he views the institution of American law: “as you can see [...] there is really no way out. I’m hemmed in by a perfect circle [... t]he Grand Jury [...

is c]ontrolled by white men, honest, well-meaning white men, but men dedicated all the same to a structure which, in some situations, calls for silence.”<sup>117</sup> Lord Byron Jones announces a legal system that is still “controlled” by those “dedicated” to a “structure.” Notwithstanding the countless examples of progressive legislation and decrees handed down by the Supreme Court in the post-war era, American law still maintains its status as formalised whiteness.

Ford’s toughest critics would label the above as yet more evidence of black martyrdom in civil rights fiction. As Watkins declares, we again observe a “number of bad white people [and simultaneously] no bad Negroes and no wrongs committed by Negroes at all.”<sup>118</sup> I instead argue that the undertaker’s description of racism takes the term “structure” beyond any simple stereotyping of black hero and white villain; beyond the confines of regionalised racial hierarchy. When the undertaker refers to “honest, well-meaning” white men and their dedication to maintaining a “structure,” the character’s analysis in fact echoes Martin Luther King, Jr.’s contemporaneous ‘Letter from Birmingham Jail’ and its critique of the “white moderate.” It likewise speaks directly to CRT’s later criticism of *Brown* and Derrick A. Bell’s insistence on “interest convergence.”<sup>119</sup> Put another way, Lord Bryon Jones – both the titular character and the novel itself – not only challenges Steve Mundine’s firm belief in the ideals of legal progressivism, but more widely contributes to a post-war literary South that remains entirely unconvinced of America’s new-found Cold War insistence on a color blind justice system.

.....

Ford develops on the post-war literary-legal character in *Lord Byron Jones*. He critically moves his lawyer figures away from the courtroom and into City Hall, reflecting a paradigmatic shift in the early-1960s that saw American law become an increasingly politicised weapon in the Cold War. The novel significantly provides us with two distinct lawyers: undoubtedly polarised, yet both designed to probe the co-presence of the undigested in ways that the singular attorneys of Faulkner and Lee could not. Between them, Ford furthers the theme of an evolving scepticism in Southern fiction relating to American law in the post-war period – in this case, the early years of a decade so often described as climactic for the civil rights movement.

*Lord Byron Jones* also tentatively introduces us to the figure of the black lawyer; Beale Street briefly demonstrating a prototypical mode in literature of the post-war South. As the 1960s moves into its middle years – after the ratification of the Civil Rights Act in 1964 and the Voting Rights Act in 1965 – Southern fiction affords far more scrutiny on the black lawyer and their developing role in an institution that, even in light of outwardly progressive, evolving, and color blind post-war legislation, continued maintaining its status as formalised whiteness.

## CHAPTER FOUR

### ‘You must study law, become a lawyer?’: Ann Fairbairn’s David Champlin

Blacks and whites both understood the power of the law [... T]he 1950s and 1960s were years when black lawyers were slayers of dragons, Davids who killed Goliaths.

— Adam Fairclough<sup>1</sup>

It is a great irony that, influenced by the Supreme Court’s ‘separate but equal’ doctrine, three Southern states established all-black law schools: in 1939, North Carolina Central and, in 1947, Texas Southern University and Southern University in Louisiana. Into the 1950s and 1960s, black Americans thus graduated from law schools in ever increasing numbers, forming an active, dynamic, and expanding legal movement across the South.<sup>2</sup> Writing in the *North Carolina Central Law Review* (1974), Harold R. Washington notes that, between 1947 and 1974, the School of Law at Texas Southern produced “seventy percent of the black lawyers practicing in the state.” In more or less the same period, just over 350 black law students graduated from North Carolina Central.<sup>3</sup>

Yet despite such irrefutable data, post-war Southern fiction is strangely silent on this developing body of black legal professionals. Although early decades of the twentieth century saw black lawyers appear in Southern plays – like Sparks in Katherine D. Tillman’s ‘Aunt Betsy’s Thanksgiving’ (1914), or Charles Jackson in Mercedes Gilbert’s ‘Environment’ (1931) – in Southern novels published between 1946 and 1965, they are generally secondary, peripheral figures. These post-war texts instead tend to employ their black characters as the (wrongly) accused; characters who then often rely on white lawyers – usually older, traditional types – to exonerate them from racially motivated accusations or legal charges. It is hardly a reflection of the 1950s and 1960s being decades in which black lawyers were “Davids who killed Goliaths.”

From 1946 to 1965, then, Southern fiction effectively offers us a panorama of the law’s whiteness. Judges, jurors, legal clerks, and lawyers are, with very few exceptions, white. Crucially too, their whiteness goes unnoticed, subsumed beneath the radar of race; their racial category “never specified, yet [...] indisputable – all the more indisputable, in fact, because [it is] never specified.”<sup>4</sup> My fictions of justice inadvertently replays this logic. In the previous three chapters, seldom has the legal

figure's race been defined. Their ages or judicial philosophies are clearly labelled, but rarely has the descriptor 'white' appeared necessary in my examinations of Lawyers Stevens, Finch, Hedgepath, or Mundine. As is so often the case, the chapters before this *assume* these characters to be white, uncannily echoing what Ian F. Haney López observes as the law's role in both classifying the "content of racial identit[y]," and specifying its consequential "privilege[s] or disadvantage[s]" in American society.<sup>5</sup>

But what of these slayers of dragons? Black lawyers were, after all, highly visible in public life from as early as the 1930s. Prominent NAACP advocate Charles Hamilton Houston, who described the black lawyer as a "soldier taking the battle into the courtroom," trained and mentored a number of young, aspiring legal professionals – including Thurgood Marshall, Jr. and Oliver White Hill – before despatching them to fight segregation and / or discriminatory legislation across the United States in the 1940s and 1950s.<sup>6</sup> It is appropriate therefore that this final chapter explores a post-war Southern novel with a black lawyer as its central figure. I argue that David Champlin in Ann Fairbairn's *Five Smooth Stones* (1966) forces a confrontation with the law's whiteness previously unseen in Southern fiction. Indeed, by their very nature, black lawyers directly conflate race and the law. Such characters are thereby uniquely poised to challenge those structural logics that have maintained well-worn lenticular boundaries of black and white, past and present, region and nation, sameness and difference.

Although the previous lawyers in my fictions of justice have astutely probed the co-present space of the undigested, it has generally required two versions of the same character (Atticus Finch), or two diverse legal associates embodying adversarial judicial positions (Oman Hedgepath / Steve Mundine). However, these characters' unspoken, assumed racial category – a 'white' lawyer – problematises their direct challenge to the law's whiteness. Despite developing a scepticism of the law's apparent color blindness in post-*Brown* America, and recognising the legal system's innate complicities in narratives of racial violence and injustice, these fictional lawyers are unable to wholly disrupt the boundaries of whiteness, precisely because of the tacit advantages and privileges bestowed on their racial classification by the law. Put differently, if race is at least "partially legally produced," it is only natural that my fictions of justice should conclude with the detailed consideration of a black lawyer in post-war Southern literature.<sup>7</sup>

In an anonymous review from December 1966, Fairbairn's *Five Smooth Stones* was deemed to be nothing more than "populism." It had a plot that was "predictab[e]," characters that were "unrememberable," and writing that was "unremarkable."<sup>8</sup> Sharon Monteith believes that this type of criticism is likely due to Fairbairn's infusion of melodrama in her "900-page soap opera."<sup>9</sup> Monteith here refers to a 1970 review by Robert F. Jones in *The Washington Post*. Jones essentially dismisses Fairbairn's "formula" as follows: "grab a liberal cause, say civil rights in the Deep South, precisely as you would an acoustical guitar; strum it for all you're worth on the strings marked sentiment, martyrdom, and moral outrage; keep two fingers firmly pressed on the frets of dialect and cliché."<sup>10</sup> I intend to develop on these notions, examining the text's formal qualities and its characterisation of the black lawyer beyond any melodramatic or formulaic elements.

To this point, my chosen post-war fictional lawyers – notably Harper Lee's Finch and Jesse Hill Ford's dichotomic Hedgepath / Mundine – have appeared in texts with precise narrative histories. Even William Faulkner's Stevens, although explored across novels and short stories spanning a chronology of nearly two decades, was still restricted to distinctly marked plotlines occurring within a time period of no more than three years. David Champlin instead stands at the centre of a much lengthier narrative, as *Five Smooth Stones* stretches to approximately 400,000 words. The text comprises an encompassing, encyclopaedic form that chronicles a 'present' of just over thirty years – from March 1933 to roughly the summer months of 1964. With reference to Lawrence Buell's *The Dream of the Great American Novel* (2014), Fairbairn's work can be categorised as both a "family saga that grapples with racial and [...] social divisions," and one that assembles a wide array of characters designed to act as ciphers for differing social and legal positions.<sup>11</sup>

In spite of its highly calendrical and periodised narrative (where dates, months, and years are insistently noted), *Five Smooth Stones* also uses the long-novel form to render what Georg Lukács calls a "complex, partial [...] representation" of modern life that is "large, unruly, and essentially 'problematic.'"<sup>12</sup> Fairbairn's formal qualities, that is to say, contrast the "closed fixity" of traditional epic narratives, presenting an open-endedness that acts as a fitting conclusion to my study of the post-war South's fictional lawyer.<sup>13</sup> While Fairbairn's novel seems to end on a definitive note – the central character murdered by a white supremacist in its penultimate chapter – I contend that the text's form in fact indicates an uneasy open-endedness to the problems

it depicts, anticipating later instances of legal injustice and neat separations of race and American law well beyond its calendrical conclusion of 1964.

Two questions essentially motivate this chapter. First, how does the inclusion of a black lawyer uniquely advance my theoretical paradigm of the undigested – particularly, Fairbairn’s focus on black legal actors and the whiteness of American law? And second, how does the novel’s form – reminiscent of the Great American Novel – act as a commensurate conclusion to my fictions of justice?

### **Ann Fairbairn and *Five Smooth Stones***

The pen name of Dorothy Tait, Ann Fairbairn was born on 1 March 1901 in Cambridge, Massachusetts. Educated at Leland Powers school, Fairbairn worked as both a newspaper reporter and feature editor, spending two-and-a-half years in Rio de Janeiro as a journalist. It was living in New Orleans, though – particularly the decade she spent handling the tours of Jazz clarinetist George Lewis – that inspired the writing of *Five Smooth Stones*. Fairbairn was hardly prolific, with only *Five Smooth Stones* (1966), *That Man Cartwright* (1970), and a biography of George Lewis (*Call Him George*) released a year earlier, standing as her published works. Little is known about her as a result –



**Figure 4.1**

Figure 4.1 (above, right) shows the only public image of Fairbairn. While it is known that she was working on a third novel before her death of a suspected heart attack on 8 February 1972 in Monterey, California, a short obituary in *The New York Times* described her as “highly guarded,” remarking how she supplied “few details to [either] her literary agent or her publisher.”<sup>14</sup>

In spite of this brief career, Fairbairn’s fictions have sold in excess of a million copies worldwide, with much of that commercial success attributable to *Five Smooth Stones*, by far her most popular work. First published in 1966, the novel initially received positive reviews. Maccine Titus described it as an “honest and gripping love story, not soon forgotten,” while the *Library Journal* claimed that the text was “courageous” and “marvelously done.” *Springfield Daily News* declared that it “defie[d] categorization,” and the *Denver Post* called Fairbairn “technically [...] flawless.”<sup>15</sup> Wilma Dykeman provided even more ebullient praise. Writing in *The New*

*York Times Book Review*, she argued that Fairbairn “renders [...] scenes skilfully,” despite writing a novel dealing with the “bone-deep issues of our time.”<sup>16</sup> More recently, James B. Comey and Wisteria Leigh have continued to extol the book, the latter asserting in 2009 that, although of an “overwhelming length,” the story is “honestly portrayed” and a “tremendous testament to the civil rights struggle.”<sup>17</sup>

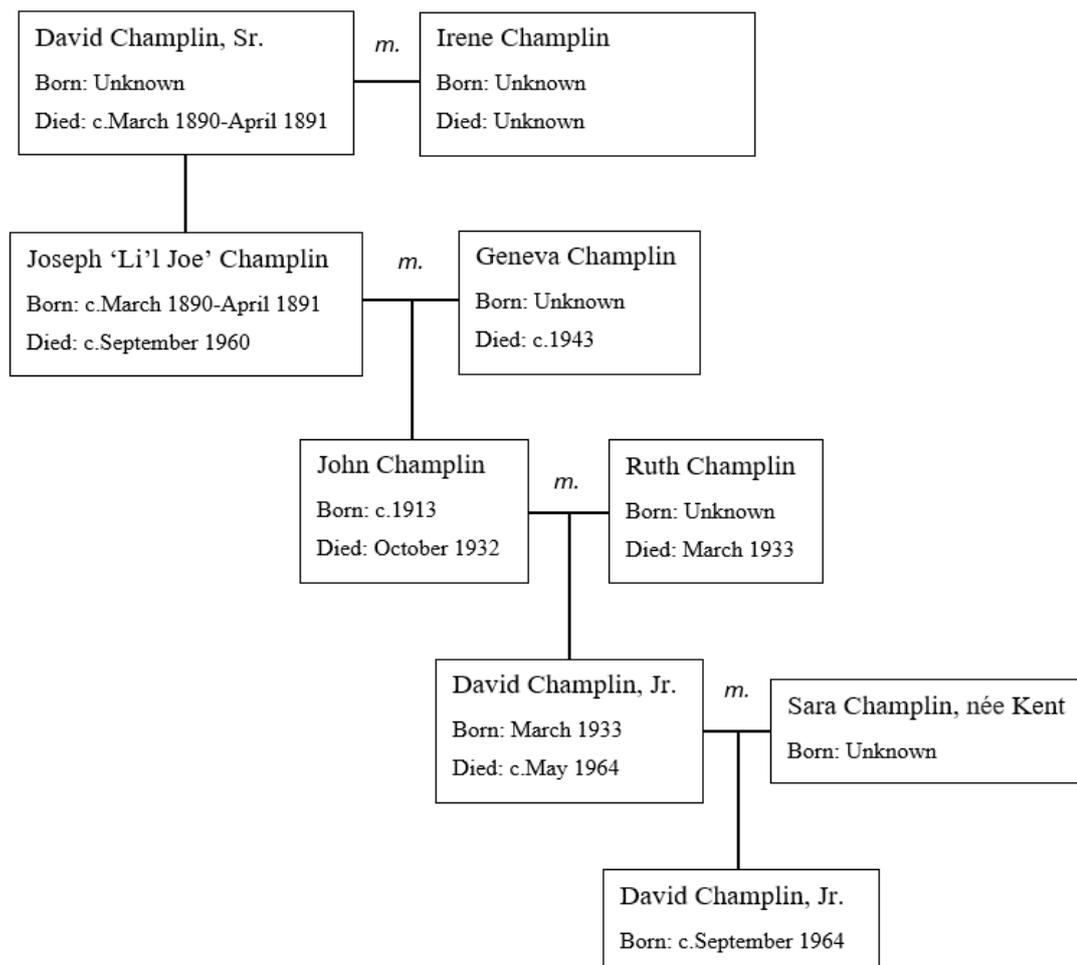
Although commercially successful, Fairbairn’s work has received almost no attention in compendiums of Southern fiction. Jesse Hill Ford and *The Liberation of Lord Byron Jones* have been critically ignored since 1970, but Fairbairn is nearly totally absent from the South’s various literary histories. Beyond the conspicuous omission of individual essays or articles that consider Champlin or the novel as a whole, there is not a single mention of ‘Fairbairn’ or ‘*Five Smooth Stones*’ in *The Literature of the American South: A Norton Anthology* (1998), *A Companion to the Literature and Culture of the American South* (2007), or John N. Duvall’s *Race and White Identity in Southern Fiction* (2008). In *The Companion to Southern Literature* (2002), Fairbairn is mentioned once, with reference to her depiction of Lawyer Champlin. By way of comparison, Ford is referenced six times in the same compendium, while William Faulkner received 278 separate citations.<sup>18</sup> By far the most detailed reference appears in *The Cambridge Companion to the Literature of the American South* (2013), where the novel is considered in one paragraph of Monteith’s ‘Civil Rights Fiction.’<sup>19</sup> David Champlin has therefore received little – or, for that matter, no – serious attention, despite his status as a prototypical portrayal of the black lawyer in literature of the post-war South.

This chapter intends to redress such an imbalance. It will examine what I consider to be the four phases in Champlin’s life: the first, his formative years in Louisiana between March 1933 and c.1950; the second, his years at the fictional Pengard College between 1950 and the autumn of 1954; the third, his early legal career at Abernathy, Willis, and Shea from 1954 to c.1960; and the fourth, his return to Louisiana and eventual execution at Flaming Meadows, Cainsville in 1964.<sup>20</sup> By adopting this expansive narrative that encompasses thirty years of legal history in the United States (albeit principally focused on state law in Louisiana), Fairbairn allows for the gradual and developing characterisation of Champlin, concurrently depicting the legal system’s evolution across two decades of the post-war era. Regardless of the novel’s publication date, we similarly witness civil rights beyond the confines of its archetypal climax in the 1960s, observing more clearly the groundwork of previous decades.

### **First Phase: Formative Years, Louisiana**

While David Champlin is categorically the novel’s central character, the ‘First Phase’ of *Five Smooth Stones* focuses mainly on his grandfather: Joseph ‘Li’l Joe’ Champlin. In the opening paragraph, Li’l Joe’s disenfranchised status as a black American in 1930s Louisiana is established: “There was a ten-dollar bill in [his] pocket on an evening in early March 1933. Few Negroes in New Orleans during those days of a paralyzed economy could boast as much.”<sup>21</sup> Despite his later status as a secondary character, Li’l Joe is especially significant in these early chapters, representing the oppressive state of black Louisianans in the “paralyzed economy” of March 1933.

Fairbairn uses older generations of the Champlin family to emphasise the changing legal systems after Reconstruction, recognising the rapid succession of state legislation responsible for the segregation and disenfranchisement of African Americans in Louisiana (see Figure 4.2, below). For example, Li’l Joe was born sometime between March 1890 and April 1891, just twelve years after a heavily



**Figure 4.2**  
**Champlin Family Tree**

amended Constitution of Louisiana began to systematically dismantle civil rights laws passed through previous state legislature.<sup>22</sup> During Reconstruction in 1868, the sixth version of the Constitution of Louisiana was drafted by “forty-nine Negroes and forty-nine whites.”<sup>23</sup> It outlawed almost all forms of segregation and provided civil rights for every citizen in the state. Article 2 declared that “[a]ll persons, without regard to race, color, or previous condition, born or naturalized in the United States [...] are citizens of this State [...] and] shall enjoy the same civil, political, and public rights and privileges”; Article 13 banned public segregation and specified that “places of business [...] shall be opened to the accommodation and patronage of all persons, without distinction or discrimination on account of race or color”; and Article 135 concerned the segregation of state schools, asserting that “[a]ll children [...] shall be admitted to [...] public schools [...] without distinction of race, color, or previous condition.”<sup>24</sup>

The revised Constitution of Louisiana of 1879, ratified two years after the end of Reconstruction and the removal of federal presence in the South, substantially amended this legislature. Although the new Constitution did not explicitly sanction segregation as later state laws would go on to achieve, it quietly began to remove the previous clarity with regard to civil rights. The absolutism of state-wide civil rights in Article 2 was completely omitted, while Article 135’s school segregation law was replaced by Article 224, subtly amending the earlier precision: “There shall be free public schools established [...] throughout the State for the education of all children [...] between six and eighteen years.”<sup>25</sup> Fairbairn thus carefully chooses Li’l Joe’s year of birth. He is born into a Louisianan legal system that constructed the foundations of both race and racial segregation – foundations that would develop steadily towards the outright Jim Crowism of the 1890s and early decades of the twentieth century.

Fairbairn judiciously develops this thematic thread across the early chapters of *Five Smooth Stones*. We observe a number of scenes that demonstrate Li’l Joe’s acute awareness of how the law has refined and shaped the oppressed and segregated status of black Louisianans. In chapter five, David – now a child of around six – is bullied by a local white boy named Jimmy. Instead of the protection preached by grandmother Geneva, Li’l Joe defiantly claims that the “[c]hile got to learn there’s coming a time won’t no one stand for him but his own self.”<sup>26</sup> Moreover, in chapter eight, as a young David is treated by a white doctor after a truck runs over his leg, Li’l Joe’s reaction

tells us much about the intricate alliances between legalised segregation and the attitudes and opinions it manifests:

[Doctor] ‘Why in hell do you people let your children play in the streets! You’re lucky the boy’s alive.’

Li’l Joe did not speak. His lids dropped over his eyes to hide the rage in them, and he looked at the floor. Behind him his hands were gripped so tightly he could feel the knucklebones grinding together, bone on bone. At last he spoke, ‘They got no place else to play.’ In his mind he saw green parks with white children running over grass, and playgrounds with colored children running past, stopping to look and watch, then running on, eternally shut out.<sup>27</sup>

Imagery of “green parks with white children running over grass” depicts the stark inequalities Champlin would have experienced as a black child in late-1930s Louisiana. But Fairbairn’s description of Li’l Joe’s reaction to the doctor, where his “lids dropped over his eyes to hide the[ir] rage” and his “hands gripped so tightly he could feel [his] knucklebones grinding together,” more delicately refers to the way that these attitudes toward segregation are a reflection of racist laws that have historically shaped assumptions of black-white relationships across the near five decades of the Louisianan’s life. Growing up in the late-1890s and becoming an adult into the early decades of the twentieth century, Li’l Joe would certainly have observed the increasingly oppressive legal systems which codified paradigms of black inferiority / white superiority. Fairbairn’s early characterisation therefore hints at the deep-rooted inextricabilities of race and American law long before the development of the narrative’s central legal figure.

Legitimised segregation in Louisiana can be traced back to the year of Li’l Joe’s birth (c.1890). Although not specific to segregated parks, the Supreme Court decided *Louisville, New Orleans, and Texas Railroad v. Mississippi* in 1890, an opinion that upheld a Mississippi statute requiring distinct railroad cars for black and white passengers. Developing the ‘separate but equal’ doctrine on interstate railroads, it cited that there was “no significant burden on interstate commerce [in this case, Louisiana and Texas] from the requirement that [rail companies] add an additional car.”<sup>28</sup> In the very same year, and likely buoyed by the decision in *Louisville, New Orleans, and Texas Railroad v. Mississippi*, Louisiana state congress ratified the Railway

Accommodations Act (or Separate Car Act), which required that “all rail companies [...] provide equal but separate accommodations for the white, and colored races.” The same legislation sanctioned officers on trains the power to “assign each passenger to the coach or apartment used for the race to which such passenger belongs.”<sup>29</sup> Two years later in 1892, Homer Plessy’s case reached the Louisiana state supreme court, before the inglorious federal decision to legally authorise the ‘separate but equal’ doctrine in 1896.<sup>30</sup> Subsequent Jim Crow laws passed into Louisianan law over the following twenty years. These numerous statutes segregated streetcars in 1902, outlawed cohabitation in marriage or domestic situations between black and white in 1906, sanctioned separate drinking saloons in 1908, segregated neighbourhoods in 1912, penitentiaries in 1918, and extended the Railway Accommodations Act to include buses or any vehicle carrying passengers for hire in 1928.<sup>31</sup> In other words, Li’l Joe’s almost visceral reaction to the doctor’s suggestion that he should “not let” his grandchild “play in the streets” is an early example of Fairbairn’s engagement in the distinct space of the undigested.<sup>32</sup> Focusing in on spatial segregation, the novel acknowledges the role that the law has played in the historical and systematic legitimisation of racial injustice.

In these early chapters, Fairbairn likewise focuses on inter-racial relations. This not only provides continued allusions to an extra-legal context, but knowingly categorises the text as an example of the encompassing Great American Novel. In chapter five (which takes place in approximately 1940), Fairbairn employs tropes of a family saga to confront racial division, as Li’l Joe and – to a lesser extent – Geneva, give their grandson a series of lessons on the subject of dealing with white Southerners as a young, black male:

[David] was told to take off his hat to all adults and call them ‘sir’ or ‘ma’am’ whether they were white or colored, but in dealing with white adults he was to keep his eyes to himself and never on them, and he must never look a white woman squarely in the face.<sup>33</sup>

The text’s formal qualities work against the plot’s more melodramatic elements. Albeit stark, the warning that David “must never look a white woman squarely in the face” is entirely justified – a caution even referred to in the carefully chosen year of the character’s birth. Adam Fairclough indeed observes the exponential rise in lynchings

across Louisiana in 1933. These include the hanging of suspected murderer Nelson Cash on 19 February, the execution of John White the following August, and the forced removal from jail of Freddy Moore, before his hanging over a railroad bridge in Labadieville, Assumption Parish.<sup>34</sup> The explicit warning that prohibits David from looking a “white woman squarely in the face” equally refers to cases like Edward Honeycutt. In December 1948, Honeycutt was dubiously charged with the rape of a white housewife in Opelousas, St. Landry Parish. On 6 March 1949, Edward Miller, Ariel Ledoux, and Maxie Savoy abducted the accused from St. Landry’s penitentiary before Honeycutt’s eventual escape into the Atchafalaya River. After two trials and an unsuccessful re-trial, Honeycutt was executed on 8 June 1951. Suitably, then, when Li’l Joe tells his grandson “ain’t nobody going to help us but ourselves,” the Louisianan’s words are entirely correct.<sup>35</sup> The novel’s attention to a highly calendrical narrative subsumes its melodrama, providing an encompassing canvas of inter-related extra-legal contexts founded on distinct combinations of characterisation and chronology.

In contrast to Li’l Joe – a character affected by decades of systematic racial oppressions codified by American law – the opening chapters similarly depict the recognisable legal progressivism narrative. Professor Bjarne Knudsen, for example, is a Scandinavian academic that befriends Li’l Joe and acts as an educational mentor for his grandson’s rapidly developing mind. Like the earlier attempts to characterise progressivism in post-war Southern fiction (notably, Ford’s *Lawyer Mundine*, or, to a lesser extent, Lee’s *Jean Louise Finch*), Knudsen is an unerring liberal voice in *Five Smooth Stones*. In chapter four, he professes to Li’l Joe that “[t]here will be changes [... David] will see” in his lifetime.<sup>36</sup> Fairbairn clearly employs dramatic irony here, as Knudsen’s ideal of “change” is directed at the requirement for legislative progress. Of course, by uttering these words in the novel’s fictional chronology of c.1940, a reader is simultaneously aware of both the changes in law across forthcoming decades relating to civil rights for black Americans, and the legal system’s own role in creating the very problems it now seeks to solve (or, “change”).

In chapter eight, these ideas develop. Below, Knudsen speaks to Li’l Joe about the trauma of knowing that his father (David Champlin, Sr.) was burnt alive:

[Knudsen] ‘You have lived it. All your life you have lived with it.’

‘Wasn’t nothing I could do about it,’ said Li’l Joe reasonably. ‘It’s in the past now, Professor. Don’t do no good thinking on it too much. Things like that happened. Still happening, here and there, if you wants the truth.’

‘Always, Joe? Do you believe they will always happen?’

Joseph Champlin did not answer at first; then he shrugged. ‘Always will, I reckon, less’n we gets help, less’n we gets educated, learns how to fight it with law and stuff [...]’

‘That is why [...] you want your David to have an education.’<sup>37</sup>

Fairbairn stereotypes Knudsen as the benevolent liberal. His kindly dialogue conjures a sense of progress, coupled with the importance of education in arming future generations of black Americans with the ammunition to affect the civil rights movement (ammunition Li’l Joe rather endearingly terms the “law and stuff”). Unlike Li’l Joe, who dismissively claims that no good can come from “thinking on” racial injustice “too much,” Knudsen represents a more positive outlook, suggesting that prejudices and oppressions intrinsic to the United States will surely not “always happen.” While Fairbairn employs Knudsen to probe the role that the legal system must take in addressing the race problem it has created, the character also enables a challenge to the progressive ideology that racism – or racial injustice – will simply cease into the future, that there “will be changes.”<sup>38</sup> In this sense, Knudsen’s universalist phrases become increasingly vacuous. He marks racism using simplistic binaries, where a notion that a “blindness to race will eliminate racism” supersedes any sense of national complicity or accountability.<sup>39</sup> Once more viewed via the lenticular, Knudsen’s categories of race and American law are deftly separated to preclude any sense of alliance or association.

.....

In spite of taking a secondary role in the first eight chapters, the early years of David’s life are vital to both ground the plot and consolidate the importance of Louisiana – a setting to which the character will return as a qualified lawyer in the final third of *Five Smooth Stones*. Fairbairn reflects on Louisiana’s legal history frequently throughout this ‘First Phase’: from the carefully chosen year of David’s birth (1933), Li’l Joe’s deep-rooted anger at systematic legislation that has segregated black Louisianans and propagated a well-defined regional color-line, or the inclusion of Bjarne Knudsen’s

stereotypical ideals of legal progressivism. What is more, these reflections allude to specific state documentation and regionalised legal frameworks, as well as nationally recognised Supreme Court decisions (such as the infamous *Plessy* case), or more localised outcomes, like that of *Louisville, New Orleans, and Texas Railroad v. Mississippi*. Fairbairn's employment of tropes analogous to the Great American Novel are thus inspired, as they conflate the legal narrative of Louisiana with the very deep cultural divisions that same narrative has created. These early chapters may only span seven years, but Li'l Joe's inclusion pointedly allows Fairbairn to consider how nearly seven decades of Louisianan legislation have shaped the narrative's 'present.'

### **Second Phase: Pengard College**

By chapter nine, the narrative quickly advances to 1950, as David Champlin travels to the fictional Pengard College in Cincinnati, Ohio to interview for a prestigious Quimby Scholarship – a funding program for black students.<sup>40</sup> Similar to carefully selecting her protagonist's birth, Fairbairn knowingly has Champlin attend college between 1950 and 1954 to highlight significant events in Louisiana's legal history. For instance, between 1950 and 1951, Alexander Pierre Tureaud, Sr. represented plaintiffs in three separate cases that concerned black students wishing to enrol at the 'white' Louisiana State University in Baton Rouge (*Foster v. Board of Supervisors of Louisiana State University*, *Roy Wilson v. Board of Supervisors of Louisiana State University*, and *Payne v. Board of Supervisors of Louisiana State University*). On all three occasions, the Board of Supervisors argued that nearby Southern University – just eleven miles north of the Louisiana State campus – acted as an 'equal' educational establishment. Tureaud, Sr. succeeded in rebutting these claims, winning each case and, as a result, prohibiting Louisiana State University from barring the admission of any student on the grounds of race.<sup>41</sup>

At the same time, Champlin's graduation from Pengard in 1954 alludes to an early example of black resistance towards segregation in New Orleans. Each May, the city held a parade to celebrate former slaveholder, John McDonogh, who bequeathed a large portion of his fortune to public schools. But 1954 saw black teachers and parents formally protest at this usually segregated parade, which forced African American children to march at the rear of the congregation. It is therefore entirely appropriate that Fairbairn has Champlin move to Ohio to obtain his education and formal qualifications. After all, in 1950 he would not have been admitted to any desegregated

institute of higher education in his native state of Louisiana, or in fact any college across the South.<sup>42</sup>

When travelling to Pengard, however, Champlin becomes embroiled in a set-piece designed to illustrate regional racial tensions; a reminder of the hostile cultures created by decades of legally sanctioned segregation that his grandfather represented in earlier chapters:

There weren't many people on the bus, not even many colored in the back with him. [...] By the time the bus slowed for the first 'rest stop' he was gritting his teeth against the urgency of a full bladder. [...] Then just as the last white person [...] stepped to the ground the driver said: 'Get back there and sit down, boy. Ain't no facilities for colored here –' and the bus doors closed.

'Jeez!' [David] gasped. 'Look, I've *got* to get off –'

'Ain't no nigger on my bus *got* to do anything he ain't allowed to. Get back there like I said. You don't, you'll be using the can in the jailhouse. You make any trouble, boy, I'll call the police.'<sup>43</sup>

The bus driver is undoubtedly a caricatured segregationist, replete with feelings of white superiority and legal authority. Many well-worn tropes are evident here, like the dismissive label of "boy," or the driver's aggressive, direct tone. But Fairbairn does not simply stereotype the backward attitude of the white Louisianan. Instead, the character is used to alert us to a crucial area of the undigested – namely, the status of law as formalised whiteness. Fairbairn accordingly typifies what Kimberlé Crenshaw calls the law's "illusion of necessity," particularly how "[white] people act out their lives, mediate conflicts, and even perceive themselves with reference to the law."<sup>44</sup> In his confrontation with Champlin, the driver quickly alludes to his legal rights: "[a]in't no nigger on my bus *got* to do anything he ain't allowed." This reinforces the very ideological assumptions sanctioned by continued decades of legislation that have created strict racial hierarchies to privilege the white bus driver precisely because he is 'not black.'

The threat that the white bus driver poses would naturally elicit fear in a black passenger; a fear with genuine and potentially harsh consequences if we consider historical evidence. In 1928, Section 5308 of Acts of Louisiana ruled that the "person in charge of [a] bus" shall have power to "assign each passenger to a seat or

compartment used for the race to which such passenger belongs.”<sup>45</sup> Endorsed by this legislation, in 1948 Roy Cyrus Brooks was arrested in Jefferson Parish for a verbal altercation with a white bus driver in a scene similar to Fairbairn’s fictional dramatisation. Alvin Bradsacker, the arresting officer, began to walk Brooks to the courthouse where, on route, the accused was shot and killed by the unprovoked law official. Only after a campaign by the Civil Rights Congress was Bradsacker put before a Grand Jury, indicted on charges of manslaughter. At the subsequent trial, Bradsacker was acquitted in just seven minutes by an all-white jury. Once more, then, Louisiana’s legal history can be seen to bleed into Fairbairn’s narrative, intimately linking state law to the behaviours and attitudes of white persons in positions of authority.<sup>46</sup>

Champlin’s years at Pengard develop another narrative familiar to post-war Southern fiction – that of backward region in conflict with progressive nation. Although based in Ohio, the central figure’s early years in Louisiana are never far from the novel’s action. Like Ford’s liberal characters in *The Liberation of Lord Byron Jones, Five Smooth Stones* similarly depicts its progressive types as patronising towards black Americans, blinded by national narratives that espouse propaganda of change and progress.<sup>47</sup> Chief among these is Lou Callender:

‘I like Negroes. I was brought up to respect and be kind to them. Why, everyone knows, everyone *knows* Margaret Benjamin’s my friend. Everyone knows I’d – I’d jump in the lake through the ice before I’d do anything to hurt her because she’s a Negro. When I see the new Quimby [...] I’ll go out of my way to make him feel welcome. Just like I did Margaret.’<sup>48</sup>

Callender is stereotyped through his blatant self-righteousness. Claims that he “likes Negroes,” or will “go out of [his] way to make [David] feel welcome,” are outwardly designed to reflect the character’s blindness to race. Fairbairn’s use of language nevertheless implies Callender’s patronising attitude, a belief expounded by Nehemiah Wilson in later dialogue with Champlin from chapter twenty-six: “You think [these whites] like you. Sure they like you. It makes ‘em feel good to like you. And that’s why they like you, because it makes ‘em feel good to like a Negro.”<sup>49</sup> It is important that these scenes occur in the immediate years before the *Brown* decision. Callender

thus perfectly anticipates Derrick A. Bell's theory of "interest convergence," but also symbolises the flawed notion that a "blindness to race will eliminate racism."<sup>50</sup>

A further thematic thread in the 'Second Phase' of *Five Smooth Stones* – and one crucial to its later chapters – is the introduction of the fictional American League for Equal Citizenship (abbreviated to ALEC), a likely literary proxy for the NAACP. In chapter twenty-three, Champlin encounters Margaret Benjamin, a staunch member of ALEC. Benjamin implores him to attend ALEC meetings. She argues that "talk and discussion bring understanding," to which the aspiring lawyer retorts: "if there's one thing we don't need it's more talk. Jesus! Yak-yakity-yak! What's it going to get us?"<sup>51</sup> Champlin's anger at Benjamin's reliance on "talk" is naturally emphasised by the rapid, staccato rhythms in his dialogue, where the aggressive "yak-yakity-yak" demonstrates the character's obvious frustrations with the civil rights agenda. It echoes the stunted progress of NAACP-led campaigns denounced by Adolph L. Reed in 1962 as the "legalistic ritual of going through [...] local courts, all the way to the United States Supreme Court, and over and over again, with little, if anything changed."<sup>52</sup> Given that this scene occurs in approximately 1951, the apparent resentment towards "talk" and "discussion" prevalent in ALEC meetings foregrounds a growing disdain for its real-life basis. As Fairclough observes, throughout the 1950s younger generations of black Southerners became increasingly tired with NAACP campaigns "presided over by elderly men," full of "debilitating compromises and paralyzing delays."<sup>53</sup>

Later in the same chapter, Fairbairn employs Champlin to illuminate these problems of a seemingly cyclic reliance on legalistic ritual:

'[When] the government orders school desegregation, there are going to be so many, so damned many, new segregation laws passed by individual states, so damned much maneuvering to avoid compliance, it'll take a couple of generations to unravel 'em all. And I'll bet you a hell of a lot more than a dime that there's going to be bloodshed and riots the first time anyone tries to make integration work. And it won't stop.'<sup>54</sup>

Owing to the novel being published in 1966, it is perhaps no surprise that the central character foresees the exact circumstances of Southern legal resistance in the decade after *Brown*. But Champlin's description of this legal narrative counters the

progressivism of earlier fictional Southern lawyers. Unlike Ford's Mundine and – to a lesser extent – Lee's Finch, Fairbairn's blossoming legal mind interrogates the situation through an altogether different lens. Champlin pitches the perceived legal progressivism of landmark civil right legislation (in this case, *Brown*) against the complicated co-presence of the undigested, noting the implicit alliances and associations between race and American law. First, his claim that “new [state] segregation laws” will merely supersede Supreme Court decisions, frustrating and “maneuvering to avoid compliance,” not only suggests that the legal system is both part of the race problem and the solution, but crucially recognises the nation's complicity in an inglorious history of legalised racial injustice. Second, there is a tacit cross-examination of the government's role in ensuring that civil rights legislation passed through the Supreme Court. As such, Champlin's assertion that the “government order[ed ...] desegregation” implies that the court itself did not make the final *Brown* decision. Once again, therefore, post-war Southern fiction is simultaneously able to reflect King, Jr's disdain for the “timetables” of freedom set by paternalistic “white moderate[s]” in his ‘Letter from Birmingham Jail,’ and foreground Bell's later belief that “whites in policymaking positions” were able to see the “economic and political advantages” of integration.<sup>55</sup>

.....

Fairbairn's choice of form – her version of the Great American Novel – is likewise important during this ‘Second Phase.’ At Pengard, Champlin meets and falls in love with Sara Kent, a white student from Chicago, Illinois. Buell defines this characteristic of the Great American Novel as “romancing the divides,” where “[t]wo young people from very different contexts meet, become mutually attracted, and despite the barriers between them, pair up.” Champlin and Kent surely embody the two most significant cultural divides in the national imaginary; those “to do with region and with race,” which only emphasise Fairbairn's challenge to those fixed lenticular partitions of nation and region, black and white.<sup>56</sup>

The law's whiteness is indeed at the heart of this romantic narrative thread. Where previous post-war Southern fictions explored inter-racial relationships as aberrative – like the carnal images of *To Kill a Mockingbird* or *The Liberation of Lord Byron Jones* – *Five Smooth Stones* reveals a more romantic union between characters of different

racers. In chapter thirty-seven, with Champlin on the cusp of graduating from Pengard, the pair kiss for the first time:

Their first kiss had been very gentle, like the kiss of two strangers taking part in some solemn ceremony. There had been more greeting than passion in that first kiss, more a drawing together of two people who had been separate for a long time and wanted first to savor slowly the joy of union.<sup>57</sup>

The description of their first embrace reads as one of deep-rooted romance. It is important too that this moment occurs in Ohio, a state which repealed its last laws banning inter-racial relations in 1887, making it one of the earliest to adopt legislation designed to protect the mixing of black and white.<sup>58</sup> As Haney López argues, legislation that purports merely to separate the races actually “act[s] to prevent intermixture between peoples of diverse origins so that morphological difference that code as race might be more neatly maintained.”<sup>59</sup> Put differently, legal prohibitions of relations between black and white sustain marked racial categories, where white invisibly continues as the socially dominant creator, and black remains noticeably subordinate. Legislation prohibiting black-white relationships is thus a vital historical contributor in upholding the law’s perpetual whiteness.

While Champlin and Kent’s apparently simplistic union accentuates accusations of the novel’s penchant for melodrama, a later scene sees Fairbairn entirely complicate the issue of inter-racial ties. Just as Champlin is about to graduate from Harvard in c.1957, his black landlady admonishes the aspiring lawyer for spending the night with a girl “whiter’n a fish’s belly.” The landlady’s rebuke of their relationship comes as a surprise to Kent, leading to this retort from Champlin:

‘Do you think you whites are the only ones who don’t like to see the races mixed? Don’t you know that there are black people [...] who resent it as deeply as your lily-white friends? Or did you think that a Negro who entertains a white woman in his apartment acquires a certain distinction, a kind of prestige, from the association?’<sup>60</sup>

Champlin effectively reveals similar disdain for inter-racial relations from within black communities themselves. Even though his tone is tinged with anger, it does not demonstrate the animalism of those white segregationists that we observed in

Faulkner, Lee, or Ford. Rather, Fairbairn considers this inter-racial relationship from a black perspective, suggesting that the legal prohibition of mixing black with white is not merely a stereotype of backward white indignance at the “mongrelization” of the race, but a complicated issue on both sides.<sup>61</sup> The landlady who rebukes Champlin, alongside his own retort towards Kent’s perceived ignorance, in fact elicits how non-whites are uncannily complicit in legal frameworks of whiteness. As Crenshaw contends, it is “much more about racial domination than [...] ideologically induced consent,” where apparently subversive black views with regard to race-mixing are not a strong resistance to oppression, but a reminder that non-white people are “coerced into living in worlds created and maintained by [whites].”<sup>62</sup>

Fairbairn’s exploration of inter-racial relationships in *Five Smooth Stones* is, I propose, highly nuanced. It stresses – through a notably black lens – the way that the law’s whiteness is responsible for historically preserving a separation of the races. More crucially, the relationship between Champlin and Kent presents how whiteness sustains social domination through its subtle coercion of non-whites into upholding strict racial boundaries and classifications. Whiteness is again entirely unmarked and unexamined, showcasing its extraordinary power, tenacity, and malleability in the arena of American law.

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Champlin’s years at Pengard College – the novel’s ‘Second Phase’ – provide an appropriate backdrop to explore the legal system in the United States, enabling cohabitation of the apparently disparate strands of segregation on interstate transport, liberalism, and black-white relationships. The first half of *Five Smooth Stones*, from Champlin’s birth in Louisiana to his college graduation approximately twenty-one years later, does not orbit around a fictional lawyer. That said, Fairbairn’s preoccupation with the law – at the level of both nation and region – is notable throughout. There are frequent allusions to specific years in Louisianan (and, more broadly, American) history, as well as interactions between characters employed to challenge any straightforward sense of legal progressivism. Furthermore, despite no legal figure being physically present, the narrative does focus on an aspiring lawyer. More significant still, it is a prototypical black lawyer, whose interactions with the

legal system will become ever more probing and distinct into the second half of the novel.

### ***Third Phase: Abernathy, Willis, and Shea***

As the fictional chronology of *Five Smooth Stones* reaches the Autumn of 1954, Fairbairn formalises her depiction of the black lawyer. At the start of this ‘Third Phase,’ Champlin enrolls at Harvard to complete his law degree, moving from Cincinnati to Cambridge, Massachusetts. In chapter thirty-eight, he attends court for the first time, observing a trial in which the plaintiff is represented by Bradford Willis – a black lawyer Champlin reads about in a “feature article [...] on the train the day before.” Fairbairn, herself born in Cambridge, describes the Middlesex County Courthouse with precision:

Now he saw it, a red brick building with a central entrance flanked by two wings, the main doorway overlooking an open, paved clearing centered by a flower bed and flagpole. It was obviously very old, and gave an impression of being none too clean, of hiding mustiness behind its doors and windows. When he entered, he smelled, along with cigar, cigarette, and pipe smoke, the blue, thick smell of politics; a smell, he supposed, that permeated every courthouse in the country.<sup>63</sup>

The courthouse is “very old” and hides “mustiness behind its doors and windows,” heralding the law’s powerful status, not to mention its longevity. Building on Ford’s inter-relation of legal system and politics, Fairbairn too evokes the politicisation of American law, as Champlin notices the “thick smell of politics” upon entering this legal space. Indeed, the character smelling a politics that “permeated every courthouse in the country” evokes the intimate relationship between Cold War law and the United States government. The smell’s “permeated” quality, in both Middlesex County Courthouse and similar buildings across the nation, also challenges the apparent independence of the judiciary, moving to reflect Champlin’s earlier comment that it was the government who “order[ed] school desegregation,” rather than the Supreme Court coming to its own conclusions based on legislation and legal argument.<sup>64</sup> Fairbairn thus uses this seemingly straightforward sensory depiction of Cambridge’s courthouse to fuse law and politics, while the historical status of the scene (at the very least analogous with *Brown*) reflects the amicus curiae filed in the 1954 case – a vital

example of deploying civil rights litigation as an anti-communist ideal in the developing Cold War struggle.

Once seated in the visitor gallery, Champlin observes the enigmatic Willis at work. The lawyer figure is described as having a “surprising swiftness,” skin the “color of coffee,” but a face with lines “appearing to be more those of worry [...] than those of age.”<sup>65</sup> Willis is essentially presented as a paradox. Alluding to real-life black lawyers at the forefront of the NAACP’s targeted attacks on segregation legislation, he is both energetic and ambitious. He demonstrates a confidence that echoes, for example, the work of Thurgood Marshall, Jr., or Louisiana’s own Alexander Pierre Tureaud, Sr. Simultaneously, though, Willis carries undigested feelings of “worry.” These tensions indicate wider concerns in post-*Brown* America of the role that the law has played in shaping (and then, reshaping) the “spectrum of domination and subordination that constitutes race relations.”<sup>66</sup> Here, then, *Five Smooth Stones* provides a noteworthy development of the black lawyer in post-war Southern fiction. The character is a distinct and unique site of paradox, traversing an enigmatic confidence in uses of the legal system to accelerate progress and change, alongside a simultaneous wariness (or “worry”) of institutionalised white power structures.

Willis immediately entrances the watching Champlin: “David leaned forward, arms on knees, knowing he had been tricked into a partisanship that had nothing to do with coffee-colored skin or the nappiness of close-cut hair. At that moment he succumbed to his first attack of hero worship since his childhood when he had collected baseball pictures.”<sup>67</sup> Willis’s élan bewitches Champlin, the black lawyer again being deified in literature of the post-war South. The legal figure’s veneration is linked to Ford’s Beale Street through a similar use of “baseball” imagery. This analogous description represents the important status lawyers held in the minds of young African Americans. More importantly, it implies that these lawyers of the immediate post-war era were highly public figures, respected and admired in equal measure by black communities. In this sense, the language Fairbairn employs to describe Champlin’s initial “hero worship” of Willis is not especially exaggerated, even if it might seem so at first glance. During the 1950s, the black lawyer was a figure of hope for those oppressed by a legal system that appeared to erase any sense of Constitutional civil rights. As an example, when working for the NAACP in the immediate post-war years, Thurgood Marshall, Jr. would regularly arrive in towns



**Figure 4.3**

across the South to overwhelming fanfare. Ron Cassie appropriately explains that black communities would often “trek miles for a glimpse of the famous Negro lawyer” (see Figure 4.3, above).<sup>68</sup>

Willis is a fictional character unquestionably akin to the real-life Marshall, Jr. – the renowned lawyer who worked tirelessly during the 1940s and 1950s, before arguing as principal advocate in the *Brown* case and going on to become the first black Associate Justice on the Supreme Court in 1967. Marshall, Jr.’s status is never far from the action of *Five Smooth Stones*. In a likely nod to the later Associate Justice, Fairbairn’s protagonist is born in the very same year that Marshall, Jr. began practising law in Maryland.<sup>69</sup> More explicit is a sequence at Pengard where Clifton Sutherland tells Champlin that he will be the “first Negro Justice of the Yewnited States Soopreme Court.”<sup>70</sup> Although Marshall, Jr.’s nomination by President Lyndon B. Johnson – and subsequent confirmation by the Senate – takes place after the publication of the novel, he was an obvious choice to become the Supreme Court’s first black Associate Justice. Between 1940 and 1960, Marshall, Jr. won twenty-nine of the thirty cases he argued before the Supreme Court, clear evidence of his legal acumen. President John F. Kennedy went on to appoint the highly regarded Marshall, Jr. to the United States Court of Appeals in 1961, a natural progression towards loftier positions within the nation’s federal system later in that decade.

Upon graduating from Harvard, Willis quickly offers Champlin a position at his firm. Fairbairn's fictional law office – Abernathy, Willis, and Shea – alludes to the growing number of legal practices run exclusively by African Americans. In Louisiana, for instance, Louis Berry, Edward Jackson, and Vanue LaCour became the first black lawyers to appear in a criminal trial at the state supreme court, defending the abovementioned Edward Honeycutt. While ultimately unsuccessful, the case anticipated later examples of black lawyers working on what Tureaud, Sr. described as the “constitutional issue of a Negro's right to a fair trial.”<sup>71</sup> Champlin's first case occurs in chapter forty-six, where he represents the plaintiff in *Wu v. N.E. Indemnity*: an action lawsuit for damages and personal injuries. Mr Wu, a “cherubic, myopic Chinese importer of transcendent charm and considerable vanity,” drove in “front of a large truck” and obtained “serious injuries” because he forgot to put on his “eyeglasses.” Champlin feels that the case is a “lost cause,” but “dedicate[s] himself” to his work and wins before the jury in a matter of days.<sup>72</sup>

Although Champlin's win is a noteworthy moment, Willis's summation of the young lawyer's victory is markedly more intriguing:

‘I'll tell you what really happened. And it won't be easy to take. [...] That verdict was in favor of two babes in the woods. Let's admit it, Counselor; to have found against you would have been downright unkind. And by and large, the American jury is kind where large sums of money are concerned – especially if possessed by large corporations. It's their way of embracing a share-the-wealth principle while remaining loyal to the capitalist concept.’<sup>73</sup>

Willis attributes Champlin's success to a “jury [being] kind” to “two babes in the woods.” In the novel's fictional chronology, this victory occurs around 1958, at the height of McCarthyism and the Cold War, as the anti-communist effort to propagate narratives of progressivism and equality for minorities was placed at the very heart of American law, justice, and politics. Fairbairn, I contend, uses Champlin's first case to acknowledge a loyalty to what Willis terms the “capitalist concept”; from a legal perspective, the importance of gaining civil rights victories to help project an image of post-*Brown* America onto the world stage as evolving, neutral, and color blind. Despite previous fictional lawyers challenging these concepts, Fairbairn's Champlin

and Willis are the first black lawyers to entirely irrupt narratives driven by lenticular logic and the Cold War imperative.

Developing on Willis's remarks, in chapter fifty-three Champlin meets Jedediah Wilson, a diplomat who wishes to enlist the recently qualified lawyer for a role in Zambana (a region in south-west Mali, Africa). Wilson impresses upon Champlin the fact that Mali is a "developing country" he would "be able to watch [...] and help [...] grow," given his background in "constitutional law and government" during years at Harvard, and then Oxford University.<sup>74</sup> Although refusing the position after Li'l Joe's death, the fact that Champlin is offered the role is highly significant, recapitulating an earlier speech Willis gave to his legal protégé in chapter forty-two:

‘Is it true, David, that a Negro who is known to be a troublemaker – and I don’t mean that in any derogatory sense – let’s say a Negro with influence among his own people, someone who is trying to help them actively, is frequently quieted by a good job handed out by city or parish politicians? A job with enough money and security to make it decidedly unprofitable for him to continue his work for his people?’<sup>75</sup>

Fairbairn here highlights the capitalist concept entirely. Champlin – a "Negro [...] known to be a troublemaker" and, as an increasingly skilled lawyer, with a growing sense of "influence" – is given the "money and security" of a federal job to remove him from the courtroom, where he could use the law more effectively to fight racial injustice and oppression for his "people." The paradigm Fairbairn creates – Willis's 'troublesome-Negro-given-a-federal-job-to-quieten-him' – anticipates frameworks that CRT would later use to re-examine America's historical record of racial injustice. Specifically, Fairbairn prefigures Leigh Anne Duck's concept of "capitalist modernity": Champlin's job is offered on the grounds of "mobility and opportunity," thus propagating a "linear, progressive [narrative]" of equality and neutrality.<sup>76</sup> Like the *Brown* decision, then, the attempt to remove Champlin from local courtrooms (initially in Boston, but then potentially across the South or in his native Louisiana) recognises Bell's theory of "interest convergence" – that white policymakers could see the obvious benefit of removing a 'Negro-with-influence' to the apparent security and prosperity of a job with the State Department on the African continent.<sup>77</sup>

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The ‘Third Phase’ of *Five Smooth Stones* presents us with the first depictions of a black lawyer in Fairbairn’s lengthy narrative. Willis and, in particular, the burgeoning mind of Champlin, amplify obvious parallels with the real-life lawyers representing black plaintiffs in local and federal court cases across America’s legal system. The character of the black lawyer is appropriately portrayed as a site of paradox, permitting Fairbairn to explore the co-present space of the undigested with a distinction unmatched by previous post-war Southern legal figures. The characterisation of both Champlin and Willis contains a quite literal alliance between race and the law. What is more, as non-whites, these lawyer characters are uniquely placed to challenge the law’s whiteness, precisely because their racial status alerts us to its persistence and adaptability, allowing for a detailed interrogation of its unexamined status across America.

#### ***Fourth Phase: Returning to Louisiana***

Li’l Joe’s death in 1960 enacts a ‘Fourth (and final) Phase.’ As above, his grandfather’s demise prompts Champlin to reject the security of a job in Zambana and return to Louisiana to assist with those involved in the civil rights movement. Once more, the novel’s chronology is significant. Champlin returns to the South in a year that brought considerable changes to the movement’s demographics. While traditional models of protest, embodied by institutions like the NAACP, were being questioned as slow, repetitive, and counterproductive, more radical legal approaches – represented by younger, outwardly mobile, and imaginative methodologies – were being deployed across the region. Despite well-publicised legal successes in the Supreme Court (notably, *Brown*, but also cases like *Boynton v. Virginia* and *Mapp v. Ohio*), the NAACP’s relentless, systematic approach to challenge the ‘separate but equal’ doctrine through legislation was not well supported by more youthful factions of the civil rights movement.<sup>78</sup> Many resented the politicised discourse of the NAACP; a legal organisation tied inexorably to political blocs and often reliant on compromise and negotiation, rather than direct action.

Although it took place seven years earlier in 1953, the Baton Rouge Bus Boycott perfectly articulates these concerns in early-1960s Louisiana. City Ordinance 222, ratified into Baton Rouge legislation in March 1953, adapted the previous seating

policies on all public buses stemming from the state-wide extension to the Railway Accommodations Act in 1928. Instead of forcing paying black customers to stand while empty seats in white sections of the vehicle were available, passengers would now fill seats on a first come, first served basis. White bus drivers refused to enact the new ordinance, striking for four days before Louisiana's attorney general overturned the legislation and restored the city's transport system to its previous ruling.

On 15 June 1953, Martha White refused to stand at the back of a bus and sat in the largely empty white section, much to the consternation of the driver, who had the passenger arrested. Four days later, black Louisianans "turn[ed] their backs [... as] city buses approached" and boycotted the service. Reverend T.J. Jemison led the boycott, but announced on 23 June that an agreement had been reached to pass Ordinance 251, stipulating that the "bus company would reduce the number of reserved 'white' seats, but in exchange, the 'first come, first serve' practice would not return."<sup>79</sup> The youthful alacrity of the boycott was blunted, leading to resentment in much of Baton Rouge's black community. Jemison had, by majority opinion, capitulated to traditional political power structures for personal gain.<sup>80</sup> On this point, Christina Melton claims that, even fifty years later, campaigners still argue they "could have achieved more," disappointed at the protest's insipid conclusion.<sup>81</sup>

While anti-climactic, the bus boycotts of 1953 fostered a new-found spirit in younger generations of civil rights activists in Louisiana. Inspired by the sit-in demonstrations in Greensboro, North Carolina and spearheaded by the Student Nonviolent Coordinating Committee (SNCC), on 9 September 1960 demonstrators picketed a Woolworth's lunch counter on Canal Street, New Orleans.<sup>82</sup> One week later, seven more pickets were organised in the shopping area of Claiborne Avenue. Unlike the bus boycott, this approach appeared ostensibly rash and unplanned, yet evoked a sense of urgency that was lacking in the long-running – and only partially successful – NAACP-led campaigns to dismantle segregation through the courts. Important too was the fact that the SNCC had mobilised a younger generation rendered more or less inert by the previous reliance on legalistic ritual.

Champlin's decision to shun a lucrative job offer within the State Department and return to the youthful verve of the civil rights struggle in Louisiana is therefore an inter-related narrative act in *Five Smooth Stones*. While reflecting the "capitalist concept," it likewise rejects older models of legal philosophy in the early-1960s based on compromise and negotiation, and favours instead a movement fashioned by

innovative and creative protest methodologies.<sup>83</sup> Fairbairn's protagonist appropriately discards his "comfortable" life in a "Boston law office," employing his accumulated legal knowledge – a notion Willis strikingly refers to as the metaphorical "stockpiling [of] ammunition" – to aid black Louisianans in the civil rights struggle.<sup>84</sup>

Between chapters sixty and seventy-one, Champlin travels back to his home state, eventually settling in the fictional Cainsville – a Southern town infused with inter-related layers of police brutality, legalised segregation, and youthful protest. Before Champlin even reaches Cainsville, though, Fairbairn provides a telling example of the older models of legal philosophy her lawyer character will steadily move to reject. In chapter sixty-two, he speaks to Joe Klein, a legal representative from ALEC. Klein chastises the rashness of youthful protest and defends the more established legalisms of the civil rights movement: "In the eyes of the younger and more militant groups, ALEC and the N-double-A are dragging their feet. Which is damned nonsense, of course. [...] We're lawyers [...] and we know that the heartbeat of freedom is the vote. And equal justice in the courts."<sup>85</sup> Klein's words – albeit well-intentioned – act as a reminder of Steve Mundine's vacuous statements in *The Liberation of Lord Byron Jones*. They rely on universalisms like demanding "equal justice in the courts," further emphasising that youthful despair in solely relying on the nation's legal system to accelerate civil rights progress.

Champlin's reply to this hollow legal sentiment reaffirms the growing scepticism of young, black Americans and their view of tired NAACP-led campaigns in the courts:

'Our trouble [...] has been that we've wept and beaten our breasts about voting rights, thinking that if every Negro acquired the right, overnight all the other obscene oppressions would vanish. They wouldn't. They won't. [...] If we had a thinking public [...] the whole stinking, putrefying corpse of law in the South would have been buried a long time ago.'<sup>86</sup>

There is little doubting the value of Fairbairn's benefit of hindsight. Being published in 1966, *Five Smooth Stones* was completed in years of landmark reform in Congress, with both the Civil Rights Act of 1964 and the Voting Rights Act of 1965 being referred to directly in the novel.<sup>87</sup> However, rather than profess to the importance of this apparent progressivism, the novel's protagonist directly challenges the effect of

such legislation. Champlin tells Klein that Congress enabling a black American's "right" to vote does not simply supersede "other obscene oppressions" the very same legal system has historically sanctioned. The language Fairbairn channels through her central lawyer figure thus arouses a critical disdain for American law, describing it as a "putrefying corpse" in the region. Note too the unlikely coincidence in Fairbairn opting for the sensory, where the law's metaphorically rotting form revisits earlier moments in post-war Southern fiction that saw black Americans described as, among other highly offensive terms, "stinking niggers."<sup>88</sup>

Allusions to historical events continue as Champlin finally arrives back in his native Louisiana. First, there is the setting of Cainsville itself, a name whose irony is not lost: "[He] sat at a scarred, out-of-tune piano on the porch of a general store in a town called, with uncanny foresight and accuracy, Cainsville."<sup>89</sup> While not conclusive, much evidence suggests that the town of Shreveport, located in north-west Louisiana, is a plausible blueprint for Fairbairn's fictional settlement. James Gardner – who served as Shreveport's mayor from 1954 to 1958 – described the town in 1963 as having "more hate per square acre than any other [place] in the United States."<sup>90</sup> Fairbairn's Cainsville is similarly populated with individuals inclined towards racist violence – most notably, a white supremacist group named Twelve Just Men. In chapter seventy-two, Willis defines this local organisation as an "offshoot of the Klan," a description echoing a phrase Tureaud, Sr. wrote in a letter to legal associate Mateo Hubbard in August 1947. Referring to the lynching of Willie Francis three months earlier on 9 May, Tureaud, Sr. believed that such violent localisms were administered by "another Ku Klux Klan."<sup>91</sup> The fictional Twelve Just Men might equally refer to groups stemming from the developing Association of Citizens' Councils of Louisiana, founded in January 1956 by William M. Rainach and District Judge Leander Perez. Between 1961 and 1962, offshoots of these local Citizens' Councils bombed a black Masonic lodge and hurled firebombs into a church during a meeting of the Congress for Racial Equality (CORE). Likely as a reflection of these historical events, Fairbairn's own "offshoot of the Klan" bomb a hotel where Champlin and several other demonstrators stay before their journey into Cainsville.<sup>92</sup>

It is not just the setting of Cainsville and the town's inhabitants that mirror actual events in Shreveport. On 15 December 1961, forty-nine students were arrested at a demonstration in front of the town's courthouse, led by visiting CORE field secretary Reverend Elton B. Cox. The protestors were detained by local police, with many not

bailed until January 1962 and forced to share cells in a cramped penitentiary. The demonstration hailed the increasingly youthful vigour of protest across the South, synonymous with the values of CORE and a continued rejection of older models that relied solely on legislation to beget change in the region.

Fairbairn depicts these historical tensions in chapter seventy-three. Here, the narrative describes a march into Cainsville organised by the Young People's Committee for Freedom (abbreviated to YPCF), an obvious literary proxy for the growing presence of CORE in Louisiana during the early-1960s:

Now the source of the chanting came into view, at the far end of Main Street, rounding the curve that marked the end of the pavement and carried the street westward: a massed, orderly phalanx of marchers, six abreast, and when it reached the paved portion of the street the sound of marching feet became the background of the chanting, giving it reality, supporting it.<sup>93</sup>

Fairbairn's description recognises the YPCF's highly organised and youthful nature. The rhythmic "chanting" that accompanies the demonstration surely illustrates the purposeful nature of a younger generation unshackled from older forms of legal resistance. Originally associated with the sit-in movement and by later marches across the South – culminating in the well-documented protests from Selma to Montgomery (Alabama) in 1965 – Fairbairn's depiction of the YPCF invokes a sense of fresh vitality and great moral force. The marchers are additionally described as a "massed, orderly phalanx," signalling the growing size of the movement, as much as its new-found structure.

Champlin initially appears sceptical of the YPCF, concurring instead with the more traditional models of legal philosophy embodied by the NAACP (or, in the novel, ALEC). The lawyer character describes Sue-Ellen Moore, the leader of the march into Cainsville, as being responsible for nothing more than "getting a bunch of hot-headed kids in an open stockade and an overcrowded jail." This rebuttal of the YPCF's leader develops from a critique that Champlin voiced in chapter sixty-six: "[Moore is] in the same groove [...] a lot of northern Negroes are in. And a lot of the young militants down here. They're becoming almost a stereotype [...S]he thinks she can march to an earthly Gloryland at the head of army of militant kids." Fairbairn's lawyer figure thus first acts as a mouthpiece for traditional NAACP models of legal negotiation and

compromise. Champlin's background and training in law lead him to consider the YPCF a stereotypically rash, emotionally led organisation with "no patience [... for] the fears and misgivings of [...] older generation[s]."94

In the aftermath of the Cainsville demonstrations, though, Fairbairn begins to characterise Champlin as a challenge to these previous regimes. In chapter eighty-one, with YPCF marchers still incarcerated on flimsy protest charges, the lawyer attends a meeting with "Hoot'n'Holler, the mayor" and Scoggins, Cainsville's Chief of Police – a character reminiscent of George Jenkins Fly in *The Liberation of Lord Byron Jones*.95 During a confrontation with Scoggins and the mayor, Champlin again turns to his legal training. But this time, rather than standing by his previous belief in negotiation and compromise, he takes a position more aligned with that of CORE (or, by extension, the fictional YPCF):

As they waited [...] David said, 'The young people will have legal representation in court.'

[Scoggins] shrugged. 'If there is someone who will –'

'I was not asking a question. I was stating a fact. I will represent them.

With my partner, Bradford Willis.'96

Champlin makes a simple, yet powerful, statement – that "young people will have legal representation in court" should they be charged. His character has effectively developed into a role more reflective of Southern lawyers that worked with CORE in 1960s Louisiana. Rather than exercise control or influence over strategy or tactics, Champlin now seems far less interested in dominating legal decision making or resisting direct action. He instead reflects the peripheral status that many lawyers affiliated with CORE held at the height of the civil rights struggle.

Champlin referring to Willis as his "partner" is also significant, alluding to those black law firms in the early-1960s tasked with representing activists and protestors across the state of Louisiana. One such practice was Collins, Douglas, and Elie. Founded in 1960 by Robert F. Collins, Nils R. Douglas, and Lolis E. Elie, the firm was particularly active during years of civil rights struggle in Louisiana, providing legal counsel in the state supreme court for those convicted on charges of protest or resistance to segregation. In *State v. Goldfinch* (1961), for example, Collins, Douglas, and Elie represented a "white and three Negroes" charged with taking "possession of

the lunch counter at McCrory's Store [... and] remain[ing] there after being ordered to leave by the manager." The firm lost the case, as the court decreed that segregation was not a result of state law, but a "business choice of the individual proprietors, both white and Negro, catering to the desires and wishes of their customers."<sup>97</sup> Local decisions like *State v. Goldfinch* were effectively overturned by the Supreme Court ruling in *Garner v. Louisiana* (1961). Argued by Tureaud, Sr. and Marshall, Jr., the decision pronounced that peaceful protest was not unlawful, citing several examples of state police arresting demonstrators with "nothing to support their actions except their own opinions that [protestors were] breaching the peace."<sup>98</sup> Champlin's decision to represent protestors in Cainsville therefore places Fairbairn's text in direct conversation with this wider culture of court proceedings. The novel effectively recognises the developing legal ideologies of black lawyers engaged in the civil rights movement – from older advocates who looked to dominate strategy and policy, through to a younger generation more interested in advice and representation.

The final chapters of *Five Smooth Stones* take place in 1963, with additional demonstrations in Cainsville that see "numerous critical injuries [and ...] uncontrollable rioting"; the worst being "two Negro boys dragged from hiding and beaten to a bloody pulp on the City Hall porch." In chapter eighty-two, Champlin himself is violently attacked by a group of young white segregationists. Fairbairn depicts the gruesome action in great detail, describing how the lawyer is "first shot [in] his legs," then hears the "fury-fuelled snarling of dogs" and "shouts of men," before a final "crashing blow on his skull."<sup>99</sup> Racial violence in the novel is nothing new, but Champlin's reaction to the attack provides further evidence that Cainsville acts as a literary proxy for Louisianan towns like Shreveport. The aftermath takes place between chapters eighty-three and eighty-eight, as Champlin marries Sara Kent and moves back to Boston. Here, Fairbairn employs a series of short vignettes that reveal the couple's idyllic life in Massachusetts, like images of Kent breaking "five eggs into a bowl, season[ing] them," and "beat[ing] them vigorously with a fork," or the description of the newlywed's apartment, with its "large living room, [...] dining room, bedroom, kitchen with breakfast nook, and [...] bath."<sup>100</sup> These tranquil scenes might very easily refer to the many real-life Shreveport inhabitants who fled oppressions and threats of violence in the South to live in other parts of the United States. In October 1961, white progressives Ethel and Joe Daniell moved to California after being labelled as 'nigger lovers' by the local Citizens' Council, while black

dentist C.O. Simpkins was forced to leave Shreveport and set up a practice in Long Island, New York after an attack by local segregationists in late-1962.

Cainsville, then, becomes a cipher for Southern racial violence. It is a small, rural town isolated from federal jurisdiction and clearly symbolic of regional resistance to Supreme Court decisions such as *Brown*, or the later *Garner v. Louisiana*. It likewise highlights the splitting legal factions of the civil rights movement: from older, traditional NAACP advocates who favoured compromise and negotiation, through to younger generations of lawyers more focused on providing advice and representation. Fairbairn's numerous allusions to real-life events – both subtle and less so – demonstrate a pertinent example of Southern fiction directly probing and challenging American law in the post-war era. More crucially, this 'Fourth Phase' completes the development of Fairbairn's black lawyer figure, allowing for presentations of racial injustice within the legal system from altogether different perspectives.

### **An 'Ending'**

Although very little has been written about *Five Smooth Stones*, one notable critique of Fairbairn's work is its "utter predictability."<sup>101</sup> I broadly agree with any assessment of the novel that would detail its occasions of over-dramatisation: from the one-dimensional figures Champlin meets at Pengard College, to the lawyer's later rant describing himself not as an "Ivy League Negro," but a man "close to his roots and proud of it."<sup>102</sup> Much like Jesse Hill Ford, Fairbairn relies on the utilisation of stereotypes to emphasise some of her key thematic threads. We thereby observe frequent examples of stock white characters: the Southern segregationist (Twelve Just Men, Merriweather Goodhue), the angry white bus driver, the white liberal (Lou Callender, Sara Kent). Similarly, a good number of stock black characters appear: the young black activist (Sue-Ellen Moore), the black intellectual (Professor Benson).

However, rather than simply acting to "dramatize and empathize the experience of a minority in a way that will reach a majority," I contend that Fairbairn uses these distinct groups of characters to her advantage.<sup>103</sup> In the same way that the text's highly calendrical narrative structure grants access to nearly a century of American history, the use of stereotyping is interwoven into the novel's vast form as a means to challenge the legal system's role in constructing the races, sanctioning racial injustice, and allowing for a perpetual persistence of the law's whiteness. The crucial difference between Fairbairn's work and earlier examples of post-war Southern fiction is that the

form of the Great American Novel – with its large canvas of characters – provides a true panorama of viewpoints, both black and white. Unlike Ford (and, to a lesser extent, Faulkner and Lee), whose work relied on citing tensions within white attitudes to law, *Five Smooth Stones* crucially pits legal progressivism against traditional regional ideologies through the lens of the black legal communities themselves.

In chapter ninety, Champlin returns to his native Louisiana to finalise work on a previously incomplete case. Just before travelling back to Massachusetts, he is shot dead by a loyal member of the Twelve Just Men: Ol' Clete. Fairbairn relays Champlin's death through the use of free indirect discourse, where Ol' Clete's internal musings explain his rationale behind the decision to murder the black lawyer. The narration swiftly describes the character's anger at being jailed for "getting a troublemaking nigger [...] fair and square in the open," before a consideration of his "duty" to defend the "white man in the South."<sup>104</sup> In this scene, Fairbairn elicits a final link between the fictional Twelve Just Men and Louisianan history, as the segregationist's words and actions arrogate with a group known colloquially as The Cheerleaders. The Cheerleaders were an informal organisation of mothers who rallied against integration legislation at McDonogh and Frantz schools in New Orleans between 1960 and 1961. The Cheerleaders is, of course, an ironic moniker, these women expelling a form of racism rarely seen at the time in New Orleans public life. Journalist Bill Monroe, for instance, recalls being "surrounded by a screaming, spitting, hysterical mob," even hearing one woman shout at young children, "[w]e're going to poison you until you choke to death."<sup>105</sup> Just like Ol' Clete, The Cheerleaders did not solely rely on verbal attacks, but also employed physical intimidation. On 29 November 1961, the women obstructed and shoved Lloyd A. Foreman as he tried to take his daughter to kindergarten, while another case saw them pound on the roof of an automobile before the black occupants could leave school grounds. In other words, when Ol' Clete talks of his "duty" to the white South, Fairbairn is patently aware of what these words truly mean; of how the law has shaped and sanctioned the character's desire to get a "troublemaking nigger [...] fair and square in the open."

Ol' Clete's internal musings additionally reveal his disgust at inter-racial marriage – a loathing he refers to explicitly in the moments before shooting Champlin:

He swore obscenely [...] This black ape had gone back North and married a white woman, come back down here from a white woman's bed – been in the

papers, been on the radio, hadn't it, about his marrying some white bitch who'd ought to be turned over to the Klan? By God, Ol' Clete was doing his [...] duty, that's what he was doing, his [...] duty, killing the black bastard.<sup>106</sup>

Ol' Clete's thoughts are entirely consistent with the archetypal Southern segregationist. They rely on well-worn imagery of the "black ape" and sexualised depictions of a "white woman's bed." But more subtle allusions to American law are evident in the character's diatribe. His anger at a black man "marrying some white bitch who'd ought to be turned over to the Klan" echoes deep-rooted inter-racial marriage laws in Louisiana, sanctioned by the earliest Code Noirs of 1724.<sup>107</sup> To be precise, in the final moments before Champlin's death, Fairbairn provides a stark reminder of the way that the law has historically shaped social attitudes in the region, emphasised by Ol' Clete's desire for the "old days when the South was [...] white man's country."<sup>108</sup> It is indeed significant that Ol' Clete's final thought is one of abhorrence: an abhorrence which refers, effectively, to legal progressivism and anticipates the civil rights legislation about to pass through Congress. Champlin's death thus becomes a crystallisation of the very scepticisms that he has demonstrated throughout his story. The novel's protagonist – a black lawyer – dies at the hands of a white segregationist who espouses values sanctioned by previous state laws which, in turn, were sanctioned by federal legislation spanning a lengthy history of inglorious Supreme Court decisions like *Plessy* or *Dred Scott*.

Fairbairn's final act in *Five Smooth Stones* effectively conflates Champlin's demise with outwardly progressive legislation. This challenges those climactic victories for the civil rights movement, but equally antedates CRT's denouncement of the painful lack of progress and limited legal successes in post-*Brown* America. The law's whiteness – a shifting, adapting, and persistent paradigm – is first explored through the text's formal qualities. Fairbairn's employment of free indirect discourse reflects the internalised, invisible presence of whiteness, demonstrating it to be a force from within. The moment of Champlin's murder appropriately speaks to how whiteness is able to "pass beneath":<sup>109</sup>

The dark head had moved, but now it was dead center again, thrown back a little, and he thought he saw the nigger's lips moving, could hear, faintly, his voice. Black bastard must be singing, the way the sound carried. There was

no breeze to calculate; the cold eyes looking through the sight were keen; the finger on the trigger was steady. When the sound of the shot died out, he waited for the space of four breaths before turning away. Just to be sure. Just to be dead sure.<sup>110</sup>

In the moments before pulling the trigger, Ol' Clete's internal thoughts once more ruminate on his staunch belief in white supremacy. However, the law's whiteness is similarly explored. Ol' Clete's previous talk of the "black ape," the "dark head," or the "[b]lack bastard [...] singing," legitimises how he sees white identity as the positive mirror of non-white identity; how – according to Richard Thompson Ford – he considers the way that the "[b]lack race [...] is everything the white race is not."<sup>111</sup> Moreover, the mercurial ability of the law's whiteness to go unnoticed is recapitulated in Fairbairn's judicious decision to have Ol' Clete murder Champlin in an ambush. The almost silent scene, lacking even in a "breeze," acknowledges the invisible, noiseless way that the law's whiteness has constructed the races, maintained separation of the races (geographically, socially, culturally), and – most importantly – kept itself unexamined, hidden in plain sight.

Chapter ninety-one concludes the novel with a series of vignettes, as numerous characters react to Champlin's death. Most significant is the former Dean of Pengard College, Merriweather Goodhue, who speaks with two old colleagues about his former student:

'There are many facets to the situation,' said Goodhue. '[...] One doesn't condone these things, of course.'

[...]

'Shot from ambush, I heard,' said [a professor]. 'One of your Southern communities. Incredible.'

'More tea, dear?' asked Elacoya of her husband.

'As I said, problems,' said Goodhue. 'Rather complex [...] problems we must not let defeat us – ah, yes, thank you, my dear –'<sup>112</sup>

In response to Ol' Clete's "ambush," Goodhue suggests that Champlin's murder is the result of "rather complex problems." He is ostensibly correct; these problems are certainly complex. Nevertheless, it is Elacoya's interruption to offer the men tea that is far more pertinent. Fairbairn's punctuation, which cuts across these "rather complex

problems” for the trivial offer of refreshment, recognises the multifaceted nature of complications caused by a legal system that has repeatedly endorsed – and then seemingly looked to arrest – racial injustice in both region and nation. Even more pertinently, these “rather complex problems” point to the usefulness of the novel in the post-war Southern imaginary. Although observing a history that is clearly marked and frequently labelled, *Five Smooth Stones* retains an open-endedness by its close, undermining, challenging, and often ironising the world it presents. Here, Fairbairn’s choice of form carries its “rather complex problems” (law, race, justice) beyond the confines of its apparently strict history. Suitably concluding my fictions of justice, and stretching its thematic threads outwards, this not only anticipates later theoretical frameworks that will probe the co-present space of the undigested, but also presents us with uncomfortable and continued irruptions to these narratives of straightforward progress and legal change in a post- Civil Rights America.

.....

Fairbairn’s utilisation of a form bound to facets and features of the Great American Novel neatly blends with the prototypical characterisation of the first fully developed black lawyer in post-war Southern fiction. Faulkner’s Stevens tentatively initiated a challenge to lenticular logic. Lee’s Finch and Ford’s Hedgepath / Mundine then considered post-*Brown* America and the early-1960s respectively, developing their distinctive scepticisms of the straightforward linearities of civil rights success, and challenging universalisms that proclaimed the nation’s legal system to be color blind. Fairbairn’s encompassing narrative simultaneously reflects these concerns, but vitally adopts its lengthy form alongside a recasting of the central legal figure as a black lawyer. I argue that these critical developments enable *Five Smooth Stones* to entirely embrace the unique co-presence of the undigested and cross-examine the law’s whiteness through the lens of a black legal figure – notably, its persistence, adaptability, and seamless invisibility throughout American history. What is more, the black lawyer, entirely unshackled from every legal parameter that has created the races, maintained separations between the races, and tacitly endorsed racial violence, is the commensurate site of wholeness. Throughout the novel, Champlin constantly traverses those neat partitions that have historically separated race from law, past from present, nation from region, legal system from political agenda. His blackness

otherwise becomes a crucial feature in alerting us to the extraordinary power, persistence, and adaptability of the law's whiteness.

Champlin's ability to reflect this wholeness – able to fully probe a myriad of co-present states in the space of the undigested – is reiterated by Fairbairn's choice of the long-novel form. Much like the black lawyer's unique position at the apex of those previously deft partitions of race and American law, the multitude of characters, histories, and geographies in *Five Smooth Stones* become an intricate tapestry of co-presence, weaving together to close my fictions of justice. Champlin's death, ostensibly a neat and decisive ending, in fact opens outwards and destabilises its own fixedness. Goodhue's "rather complex problems" instead fundamentally undermine this completion and project well beyond the text's strict, calendrical ending.<sup>113</sup> The novel's large and, at times, unruly form ultimately acts as both fitting conclusion and unfinished narrative, permitting continued opportunities for re-evaluation and redefinition as the first two decades of the post-war South are recapitulated by later events, new theoretical frameworks, and further re-readings of the fictional lawyer.

## EPILOGUE

### Lawyers, Law, Literature

It is unlikely that Richard A. Posner, eminent American legal scholar and Circuit Judge of the United States Court of Appeals from 1981 until 2017, would approve of the scope, applications, and theories driving my fictions of justice. In *Law and Literature* (1988), Posner claims that literary-legal works are “full of false starts, tendentious interpretations, shallow polemics, glib generalizations, and superficial insights.” He also believes that readings of such texts should “abandon efforts [...] to apply [straightforward] principles of literary interpretation to statutes and to provisions of the Constitution.” Literature is, according to Posner, equally incapable of expressing the purity of law. While certain fictions may create interesting hypothetical situations and provide aspiring lawyers with helpful background information, the medium cannot truly attend to the “rhetoric of judicial opinions” or “legal advocacy.” Worst of all, the former Circuit Judge concludes with the most damning criticism of literature’s frequent and failed attempts to “humanize the practice of law.”<sup>1</sup>

At the same time, however, there are scholars who argue that literary-legal works have real value. For example, in ‘I second that emotion’ (2015), Sharon Monteith discusses those who would “profess the importance of [...] literary forms in communicating [legal] issues,” while in *Poethics* (1992), Richard Weisberg observes that stories about law “provide a unique source of understanding, likely to bring greater ethical awareness to [...] legal communication.”<sup>2</sup> Like others before me, I do not intend to counter Posner’s legal acumen or his experience. But his take on the perceived merits of literary-legal works only serves to underscore one of the central threads running through my fictions of justice. Here, Posner’s suggestion that the law’s purity is beyond the confines of literature conflates with the law’s supremacy in the United States, often leading to an absolution of its responsibility in the construction and maintenance of racial classifications. This historical dehumanisation of specific races echoes the way that legal writing – both official and scholarly – regularly suppresses connections between race and law through its use of jargon or linguistic aptitude. Similar to CRT’s formal methodology of commencing with personal narratives in scholarly works, I suggest that literature provides us with suitable opportunities to focus on the uncomfortable interpretations and intricate inter-relations

of race and American law; what Mathias Möschel calls “a sort of counterhegemonic account of law and its effects.”<sup>3</sup>

Alerting us to the co-present and symbiotic space of the undigested, the lawyer figure in post-war Southern fiction offers an apt example of this counterhegemony. Developing in their scepticisms of the linearity of legal progressivism, these characters challenge conventional narratives of American law that have, via the lenticular, looked to neatly partition race from law, nation from region, whiteness from blackness. Commencing with a tentative legal figure (Stevens), my fictions of justice has considered older, white lawyers of literary Southern law offices (Finch / Hedgepath), before examining younger, radical advocates (Mundine), and settling on the emerging black lawyer of the post-war era (Champlin). As a fictional group, I reason that these lawyers have sought, like CRT would afterwards intend, to confront mainstream narratives of racial injustice, the whiteness of American law, and the flawed universalisms of racial liberals that would proclaim simplistic maxims like a “blindness to race will eliminate racism.”<sup>4</sup> Taken as a whole, then, these lawyer figures have pre-empted a critical movement, where their contradictory, shifting ‘middle ground’ acts as a commensurate, counterhegemonic site. They are able to offset traditional academic and legal analyses of the race problem, providing the method and means to express uncomfortable new interpretations of previously condensed concepts.

.....

But history did not end in 1965.

— Chief Justice John Roberts<sup>5</sup>

My fictions of justice has been bound by a strict periodisation, focused on Southern literature published in the highly concentrated period of 1946 to 1966. What is more, I have sought to further periodise my chosen post-war texts through the frequent assimilation of legal cases and specific historical moments, re-emphasising the tight context of this compressed temporal space. The precise parameters of this literary examination were chosen for two reasons. First, to accentuate the paradoxical nature of the post-war era, where federal and state law ostensibly clashed more than at any other time in American history – the Cold War imperative requiring narratives of a

legally progressive nation to be pitted squarely against a convenient, racially aberrative region. And second, to highlight the lawyer figure's distinctive status in post-war Southern culture, uniquely caught between these localised reassertions of racial hierarchy and the broader claims of emancipatory justice.

But does this reliance on a highly periodised timeframe ironically partition my conclusions to the past, consigning them to a history that has little relevance in present America? In this sense, the novel form is wholly appropriate. As explored in the previous chapter, the novel's "unruly nature" enables an opportunity for re-evaluation and redefinition, where events beyond these particular fictions can be replayed – or retold – through their now past narratives.<sup>6</sup>

I could list any number of examples of such recapitulation, but will limit myself to just two events in America's recent history. The first being the election of President Barack Hussein Obama on 4 November 2008; the second, the Supreme Court decision of *Shelby County v. Holder* on 25 June 2013.

Barack Obama's ascent to the presidency is still perhaps the most significant moment in modern worldwide racial history; his election to the highest office in the United States ushering in an era that many consider to be 'post-racial.' The term 'post-racial' was actually used as early as 1971, in James T. Wooten's article: 'Compact Set Up for "Post-Racial" South.' Writing for *The New York Times*, Wooten recalled hearing the phrase at the convening of the Southern Growth Policies Board, as former North Carolina Governor Terry Sanford declared that the "last ten years of Southern history had propelled the region into a position of leadership," labelling the "post-racial South" a central theme of the meeting.<sup>7</sup> Obama's rise to become the first black president of the United States has been viewed as conclusive evidence of such ideals. After his election victory, dominant discourse in the following months and years often held with Rudy Giuliani's claim that the "myth of racism as a barrier to achievement in this splendid country" could finally be "put to rest" – that America had "moved beyond [...] the whole idea of race and racial separation and unfairness."<sup>8</sup>

Nils Gilman recognises that, when campaigning for the presidency and throughout his tenure in office, Obama became the "apotheosis" of racial liberalism. The biracial son of a black man and a white woman, he was similarly the product of a perfect "educational meritocracy" – from his early years at Punahou School, Hawaii, through to stints at Columbia University and Harvard, where he became the first black president of the Harvard Law Review. Obama's biography was, in other words, an

“ideal expression of what racial liberals wanted to believe about the progress of American race relations.”<sup>9</sup> During his numerous speeches and public addresses, Obama indeed regularly evoked the tenets of racial liberalism. In his ‘Farewell Address’ of 10 January 2017, for instance, he viewed racism in twenty-first century America through the optic of an oft-quoted passage from *To Kill a Mockingbird*:

Laws alone are not enough. Hearts must change, and they will not change overnight. Social attitudes often take generations to change. But if our democracy is to work the way that it should in this increasingly diverse nation, then each one of us need to heed the advice of a great character in American fiction, Atticus Finch, who said: ‘You never really understand a person until you consider things from his point of view. Until you climb into his skin and walk around in it.’<sup>10</sup>

This presidential endorsement of Atticus Finch – an almost unparalleled fictional standard of racial liberalism – not only ignores the lawyer’s differing and complex portrayal in *Go Set a Watchman* (published eighteen months before Obama gave his ‘Farewell Address’), but also continues to recapitulate narratives of legal progressivism with a disturbing sense of uncritical acceptance.

Similar notions are found in ‘A More Perfect Union,’ delivered at the National Constitution Center, Philadelphia on 18 March 2008. A notable marker in Obama’s successful presidential campaign, the speech saw him repeatedly refer to the nation’s racial history and gear statements specifically towards black Americans:

For the African American community [... we must] embrac[e] the burdens of our past without becoming victims of our past. It means continuing to insist on a full measure of justice in every aspect of American life. But it also means binding our particular grievances – for better healthcare and better schools and better jobs – to the larger aspirations of all Americans.<sup>11</sup>

Obama’s rhetoric is patently race neutral. He frequently conflates the “particular grievances” of both black and white: “better healthcare and better schools and better jobs.” As Bettina L. Love and Brandelyn Tosolt observe, the speech expresses a “racial unity that rebrands America as a country striving for equality as people of color acknowledge the past, but at the same time attempting to move beyond race for the

greater good.”<sup>12</sup> This type of post-racial thinking echoes Atticus Finch in *To Kill a Mockingbird* or Steve Mundine in *The Liberation of Lord Byron Jones*. Obama neatly partitions the structural elements of racism (disproportionate incarceration rates between black and white Americans, educational opportunity, access to housing) as “burdens of [the] past,” focusing instead on a present progressivism founded through the “binding” of shared injustices and national grievances (healthcare, employment, educational outcomes).

Obama moreover quotes Gavin Stevens’s aphorism from *Requiem for a Nun* in ‘A More Perfect Union’: “As William Faulkner once wrote, ‘The past isn’t dead and buried. In fact, it isn’t even past.’” Slight misquotation aside, Obama’s very next utterance entirely contradicts the sentiments of Stevens’s adage: “We do not need to recite here the history of racial injustice in this country.” Although going on to consider the effects of segregated schools, legalised discrimination, and a lack of economic opportunity, Obama concludes the section he introduced with reference to Faulkner’s lawyer figure by admonishing those who would speak about American racism as if it were “static; as if no progress had been made; as if this country [...] is still irrevocably bound to a tragic past.”<sup>13</sup> As discussed in Chapter One, Stevens’s words destabilise linearity and irrupt the lenticular logics that have suitably separated race from American law. Obama’s speech, despite directly referencing Stevens, achieves the complete opposite. It returns us to deftly defined representations of racial justice, relying on well-worn tropes that exalt the “true genius” of America’s ability to “change.”<sup>14</sup>

Echoing lenticular distinctions of the post-war era, these so-called ‘post-race’ years continued to see a proliferation of racial violence and deepening levels of segregation in public spaces. Contemporaneous to Obama’s presidency being described as the apotheosis of racial liberalism, killings of unarmed black Americans – often by white police officers – provided a high-profile counter-narrative of backward racial violence. Cases like Aiyana Stanley-Jones (2010), Michael Brown, Jr. (2014), Laquan McDonald (2014), and Walter Scott (2015) certainly disputed claims of a ‘post-race’ era, as did the notorious actions of Dylann Storm Roof in June 2015.<sup>15</sup> Roof, a self-titled white supremacist, assassinated nine black worshippers at the Emanuel African Methodist Church in Charleston, South Carolina. Before shooting his victims, Roof is reported to have announced: “I have to do [this]. You rape our women and you’re taking over our country.”<sup>16</sup> These sentiments – almost a

verbatim reiteration of attitudes adopted by historical lynch-mobs in the South – indicate that, contrary to Obama’s hopeful message in ‘A More Perfect Union,’ the “past” truly is “never dead.”<sup>17</sup>

Data from the National Center for Education Statistics in 2011 comparably revealed that just twenty-three percent of black students in the South attended a school with at least a fifty percent white demographic (see Figure 5.1, below):

### Percentage of black students in the South who attend schools that are at least 50 percent white

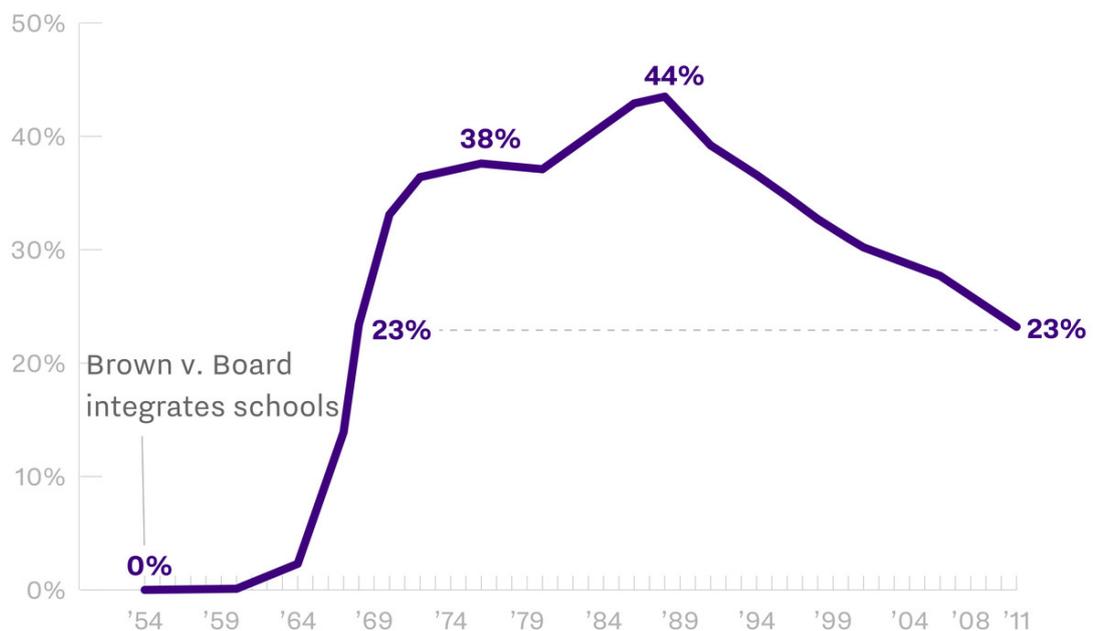


Figure 5.1

In 2018, Alvin Chang collated a wide range of data on the subject of school segregation in the United States. His research for *Vox* demonstrates that black children generally continue to grow up in poor neighbourhoods with poor, segregated schools – in numbers that actually show a slight increase when compared to the immediate post-*Brown* era.<sup>18</sup> Chang concludes that the “education system has vestiges of engineered inequities, and those inequities have created unequal opportunities for a huge chunk of black Americans.” He ends with the accusation that, whatever metric we might apply, integration of schools is “going in reverse.”<sup>19</sup>

In the face of such negative evidence, ‘post-race’ America is no less an illusion than that of the ‘Atticus myth’ we observed in Chapter Two. Just like the heroic status of Lee’s Finch in the national imaginary, Obama too appears to have risen above his

race. Yet the former president's ability to transcend his own ethnicity is rooted in his careful choice to align with mostly race-neutral politics. This raceless state, entirely void of any ethnic markers, continues to place Obama within the persistent and adaptable confines of whiteness, replaying the very same "whiteness-as-dominant" paradigms that were speculated by Cheryl Harris's 'Whiteness as Property' and her re-evaluations of *Brown* and *Brown II*.<sup>20</sup>

The Supreme Court decision of *Shelby County v. Holder* (2013) acts as an expedient final example of the way that the narratives driving my fictions of justice continue to reoccur in contemporary America. *Shelby* essentially amended the scope of the Voting Rights Act by striking Section 4(b)'s Coverage Formula from the 1965 legislation. The original Coverage Formula held that, as of November 1964, any state employing a "test or device" as a condition of registering to vote, or with a voting-age population of which less than fifty percent were registered or voted in that year's presidential election, were subject to federal preclearance in the event of any attempt to alter voting laws.<sup>21</sup> Supported by Justices Alito, Kennedy, Scalia, and Thomas (who wrote a further concurrence), Chief Justice John Roberts delivered *Shelby's* majority opinion. It held that Section 4(b) should be removed from the original legislation, due to the formula's basis on "forty-year-old facts having no logical relation to the present day." Roberts ultimately argued that the Coverage Formula conflicts with the "equal sovereignty of the states" and, "while any racial discrimination in voting is too much, Congress must ensure that the legislation it passes to remedy that problem speaks to current conditions."<sup>22</sup>

The *Shelby* decision has garnered heavy criticism. Joined by Justices Breyer, Kagan, and Sotomayor, Justice Ruth Bader Ginsburg wrote a strong dissent, holding that Congress had sufficient evidence to ensure that the Coverage Formula was responsive to current needs.<sup>23</sup> In October 2017, it was further revealed by ProPublica that Roberts had used inaccurate data to reach his final ruling. As an example, *Shelby* insisted that the voting registration gap between black and white had "shrunk dramatically" in the Southern states since 1965. Roberts, however, added Hispanics to his white numbers and included those who could not register to vote due to a lack of citizenship, meaning that overall registration for the white population was actually much higher in reality.<sup>24</sup> The Commission on Civil Rights was also critical of *Shelby*, publishing an independent report in 2018 which found that, five years after the ruling, just under a thousand polling places – in mainly black communities – had been closed,

disenfranchising substantial numbers of African Americans in ways reminiscent of a pre- Voting Rights Act America. The report similarly noted that twenty-three states had passed separate restrictive voter laws since *Shelby* to ensure that black citizens “continue[d] to suffer significant, and profoundly unequal, limitations on their ability to vote.”<sup>25</sup>

Criticism of the *Shelby* decision is essentially founded on the co-present space of the undigested, seeking to examine the symbiotic and inter-related associations between race and American law. It is thus no surprise that, in the concluding stages of his opinion, Roberts recapitulates the strict lenticular distinctions we have observed throughout my fictions of justice:

But history did not end in 1965. [...] In assessing the ‘current need’ for a preclearance system that treats States differently from one another today, that history cannot be ignored. During that time, largely because of the Voting Rights Act, voting tests were abolished, disparities in voter registration and turnout due to race were erased, and African Americans attained political office in record numbers. And yet the Coverage Formula [...] ignores these developments, keeping the focus on decades-old data relevant to decades-old problems, rather than current data reflecting current needs.<sup>26</sup>

Roberts neatly partitions past from present. The Voting Rights Act is a marker of legal progressivism that ushered in an era of abolishing “voting tests,” erasing “disparities in voter registration and turnout due to race,” and enabling black Americans to attain “political office in record numbers.” Concurrently, the Coverage Formula is a past legal act, reliant on “decades-old data relevant to decades-old problems.” Contrasting Stevens’s aphorism in *Requiem for a Nun*, the “past” of America’s need for a Voting Rights Act is clearly “dead,” consigned to a history pre-1965 where the “reign of Jim Crow denied African Americans the most basic freedoms, and [...] local governments worked tirelessly to disenfranchise citizens on the basis of race.”<sup>27</sup> For Chief Justice Roberts, the nation’s legal frameworks must align instead with the progressivisms of a developing racial equality in the nation post-1965. Put another way, twenty-first century America continues to skilfully separate race and law in narratives designed to absolve the legal system from any form of racial accountability.

.....

The election and years in office of President Barack Obama, as well as the Supreme Court ruling of *Shelby County v. Holder*, form a suitable postscript to my fictions of justice. Viewing these recent events in America's racial history through the lens of the lawyer figure in fictions of the South demonstrates how writers of the post-war years maintain vital significance in literary-legal narratives of a contemporary United States. Such novels are therefore useful documents to re-interrogate, where the 'middle ground' inhabited by the Southern lawyer acts not only as a useful barometer of the intricate associations between race and American law, but also irrupts those structures and representations designed to project regional racial injustice as aberrative in an otherwise enlightened nation – structures and representations that continue endlessly replaying and recapitulating.

## APPENDICES

### Appendix 1.1

#### Gavin Stevens: A Fictional Chronology

c.1889, 1890      Gavin Stevens and his twin sister, Margaret, are born. They are the offspring of Lemuel Stevens and Maggie Dandridge.

Faulkner never specifies the exact date of Stevens's birth. In 'Knight's Gambit,' he is fifty (in 1939), implying that 1889 is likely. However, in *The Mansion*, he is described as being a year younger than Eula Snopes. In *The Town*, Eula is said to have been born in 1889, so it is just as plausible to argue that Stevens was born in 1890.

1909                Stevens attends Harvard University and completes his Masters (*The Town*, p. 4).

c.1909-12         Stevens completes his law degree at the University of Mississippi. He returns to Jefferson during vacation periods to aid his father as City Attorney. Upon graduating in 1912, he becomes 'acting' City Attorney, taking over from Lemuel.

There are inconsistencies in Faulkner's chronology with regard to Stevens's education. In *The Town*, Stevens attends the University of Mississippi between 1909 and 1912. But in 'Tomorrow' (p. 89), Stevens is "twenty-eight" and "only a year out of the state-university law school," which would suggest that he actually studied at the University of Mississippi between 1915 and 1917.

c.1913             Stevens enacts his first work as a legal professional, filing a suit against Jefferson's mayor: Manfred de Spain (*The Town*, p. 87).

1914                Stevens leaves Jefferson and attends the University of Heidelberg (*The Town*, p. 56).

c.1915-16         Stevens serves in the American Field Service during the First World War (*The Mansion*).

1918-22            Stevens returns to Heidelberg to complete his Ph.D. He is said to be "rehabilitat[ing] Europe" during these years (*The Town*, p. 138).

1922-24            Stevens returns to Jefferson. He begins a mentoring relationship with fourteen-year-old Linda Snopes (*The Town* and *The Mansion*).

At this time, he also tries his first criminal case, acting as prosecution in the trial of Bookwright, accused of murdering Buck Thorpe ('Tomorrow').

Despite the evidence in 'Tomorrow,' *The Town* and *The Mansion* expand on this chronology to suggest that Stevens's first case probably took place in 1922. In 'Tomorrow,' it is also revealed that Stevens is not yet County Attorney.

- 1924 Charles 'Chick' Mallison, Jr. is born.
- Faulkner is not clear on the exact year of Chick's birth. Both 'Knight's Gambit' and *Intruder in the Dust* point to it being 1924. However, in *The Town*, Chick is described as being born in 1915, while *The Mansion* contradicts this again, claiming it to be 1914. Given my focus on *Intruder in the Dust* and 'Knight's Gambit,' I adopt the logic that Chick was born in 1924.
- c.1925 Stevens deduces the murderer of Lonnie Grinnup ('Hand Upon the Waters'). He is said to be "somewhere in his middle thirties" (p. 70).
- April 1929 Stevens unravels the mysterious deaths of Anselm Holland, Sr. and Judge Dukenfield ('Smoke,' pp. 1-38).
- c.1930 Stevens brings Joel Flint to justice. Flint is accused of murdering his wife and father-in-law ('An Error in Chemistry'). He is still Jefferson's City Attorney and "around forty" (p. 115).
- c.1931 Stevens is made District Attorney (*Light in August*). He is described as a "tall and dishevelled man," probably in his early-forties (p. 224).
- (August)
- Stevens also makes a brief appearance in the short story 'Hair.' Although fleeting, this is his first appearance in the chronology of Faulkner's fiction (p. 34).
- Sept. 1937 – Stevens represents Nancy Mannigoe in her murder trial. Mannigoe is a black nursemaid accused of killing the baby daughter of Temple Drake, now the wife of Gowan Stevens (*Requiem for a Nun*).
- March 1938
- c.1939 Stevens's legal services are employed by Lucas Beauchamp, a black landowner accused of murdering Vinson Gowrie (*Intruder in the Dust*).

Stevens is now a “bachelor of fifty” (p. 122), corroborating with his year of birth being c.1889-90. He has likewise been elected as Yoknapatawpha’s County Attorney by the events of this story. In *Requiem for a Nun*, a stage direction tells us that Stevens has held the “office of County Attorney” for “years” by the time he is “about fifty” (p. 50).

1940                    Stevens aids Molly Beauchamp in getting the recently deceased body of her grandson, Samuel, back to Jefferson (‘Go Down, Moses’).

There are slight inconsistencies again. ‘Go Down, Moses’ is set in 1940, yet Molly Beauchamp – who is dead in the ‘present’ of *Intruder in the Dust* – guides Stevens in this short story.

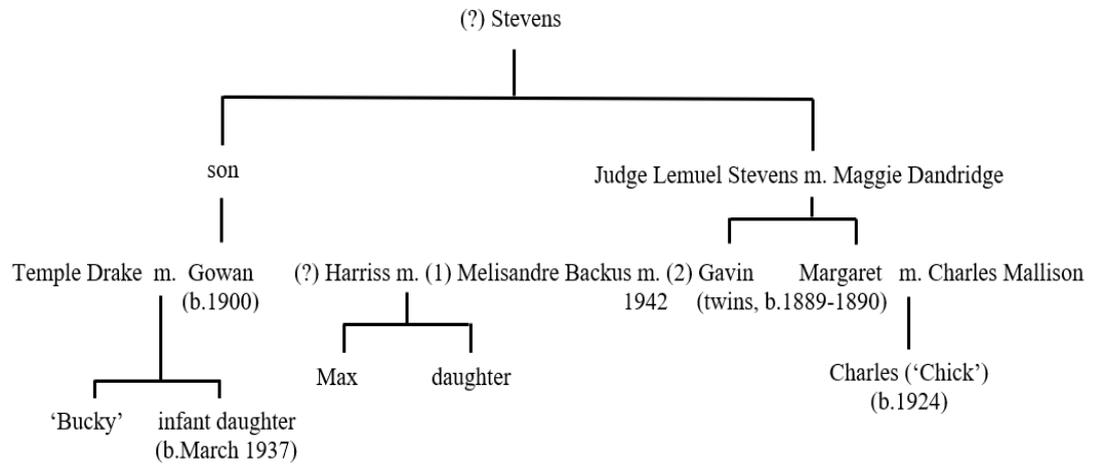
1940-42                Stevens rekindles a romance with childhood sweetheart Melisandre Backus Harriss (‘Knight’s Gambit’).

1942                    Stevens and Harriss are married (*The Mansion*).

## Appendix 1.2

### Stevens Family Tree

Adapted from Cleanth Brooks, *William Faulkner: The Yoknapatawpha County*, p. 449



### Appendix 1.3

## Coverage of the case of Ellwood Higginbotham in *The New York Times* (19 September 1935)

Courtesy: Faulkner Archives, J.D. Williams Library, Oxford, MS

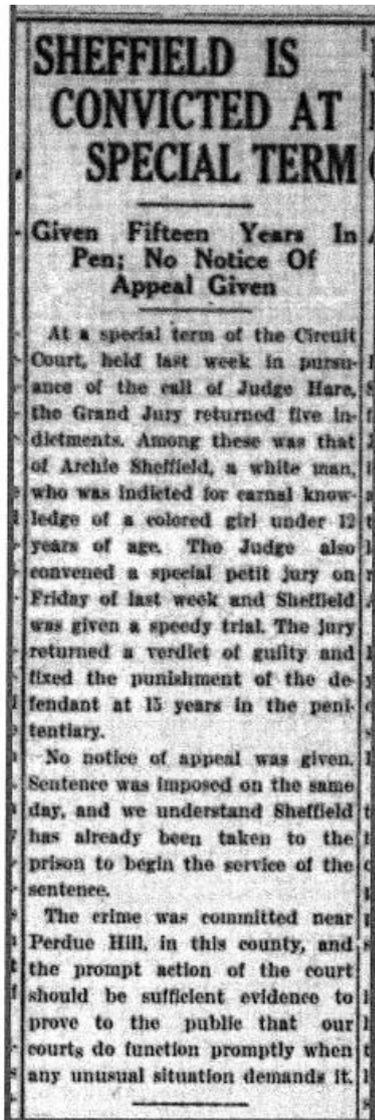


## Appendix 2.1

### Coverage of the case of Archie Sheffield in *The Monroe Journal* (28 August 1930)

Courtesy: Alabama Department of Archives and History, Montgomery, AL

'Sheffield is Convicted at  
Special Term'



**SHEFFIELD IS  
CONVICTED AT  
SPECIAL TERM**

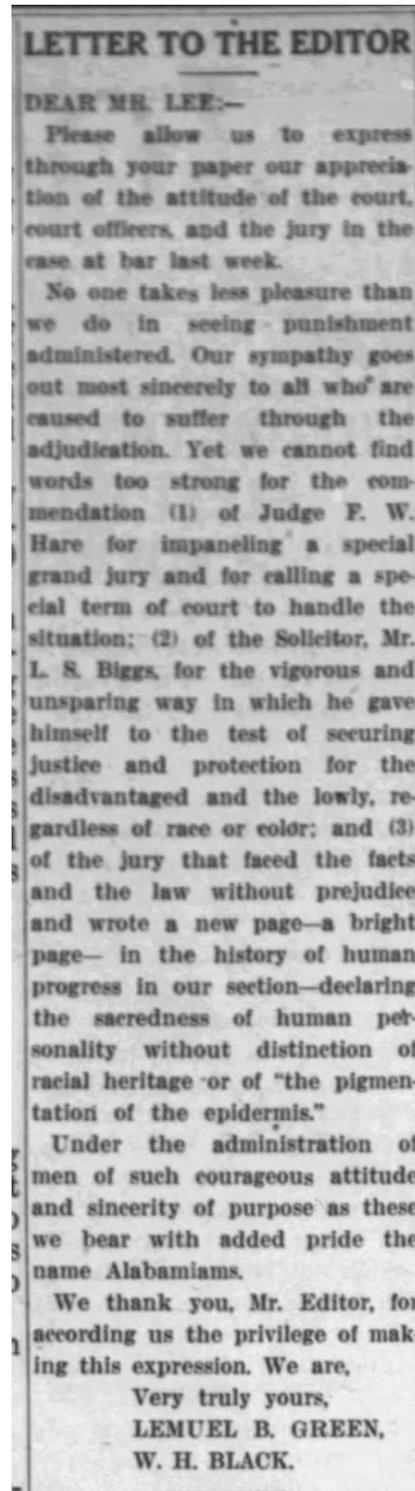
**Given Fifteen Years In  
Pen; No Notice Of  
Appeal Given**

At a special term of the Circuit Court, held last week in pursuance of the call of Judge Hare, the Grand Jury returned five indictments. Among these was that of Archie Sheffield, a white man, who was indicted for carnal knowledge of a colored girl under 12 years of age. The Judge also convened a special petit jury on Friday of last week and Sheffield was given a speedy trial. The jury returned a verdict of guilty and fixed the punishment of the defendant at 15 years in the penitentiary.

No notice of appeal was given. Sentence was imposed on the same day, and we understand Sheffield has already been taken to the prison to begin the service of the sentence.

The crime was committed near Perdue Hill, in this county, and the prompt action of the court should be sufficient evidence to prove to the public that our courts do function promptly when any unusual situation demands it.

'Letter to the Editor'



**LETTER TO THE EDITOR**

DEAR MR. LEE:—

Please allow us to express through your paper our appreciation of the attitude of the court, court officers, and the jury in the case at bar last week.

No one takes less pleasure than we do in seeing punishment administered. Our sympathy goes out most sincerely to all who are caused to suffer through the adjudication. Yet we cannot find words too strong for the commendation (1) of Judge F. W. Hare for impaneling a special grand jury and for calling a special term of court to handle the situation; (2) of the Solicitor, Mr. L. S. Biggs, for the vigorous and unsparing way in which he gave himself to the test of securing justice and protection for the disadvantaged and the lowly, regardless of race or color; and (3) of the jury that faced the facts and the law without prejudice and wrote a new page—a bright page—in the history of human progress in our section—declaring the sacredness of human personality without distinction of racial heritage or of "the pigmentation of the epidermis."

Under the administration of men of such courageous attitude and sincerity of purpose as these we bear with added pride the name Alabamians.

We thank you, Mr. Editor, for according us the privilege of making this expression. We are,

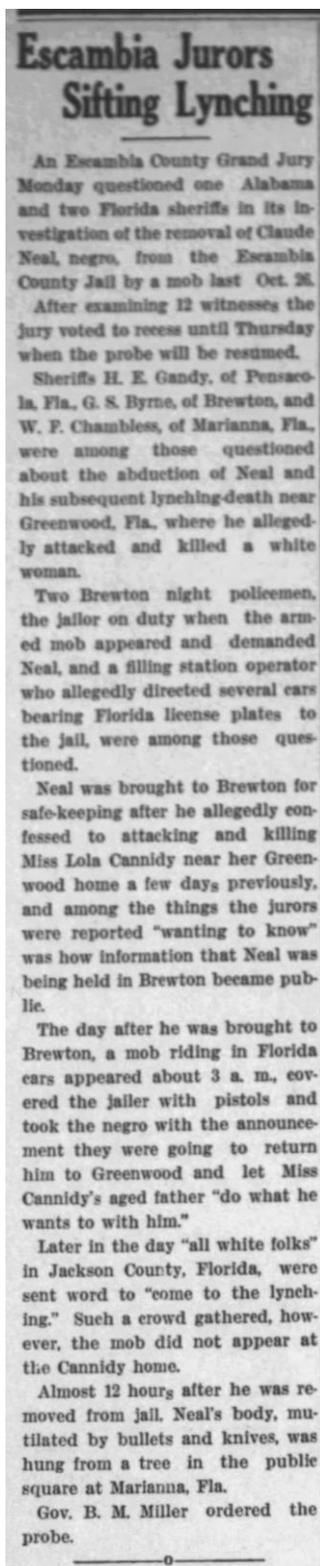
Very truly yours,  
LEMUEL B. GREEN,  
W. H. BLACK.

## Appendix 2.2

### Coverage of the case of Claude Neal in *The Monroe Journal* (22 November 1934)

Courtesy: Alabama Department of Archives and History, Montgomery, AL

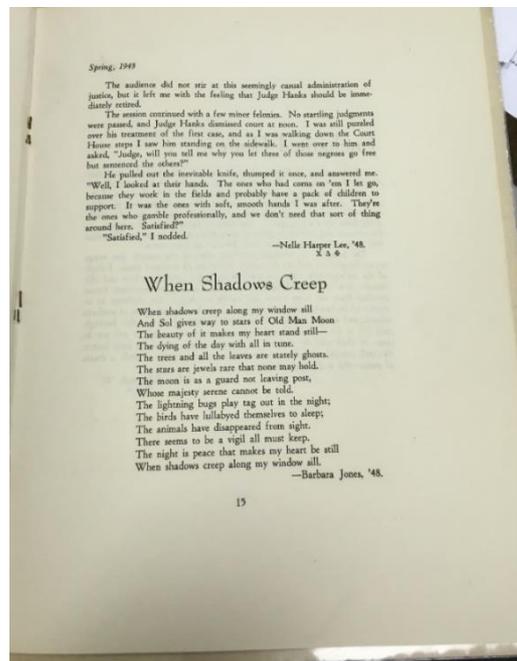
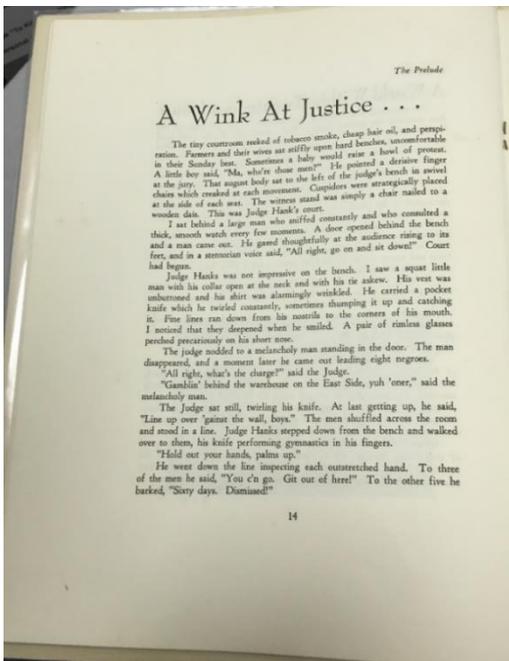
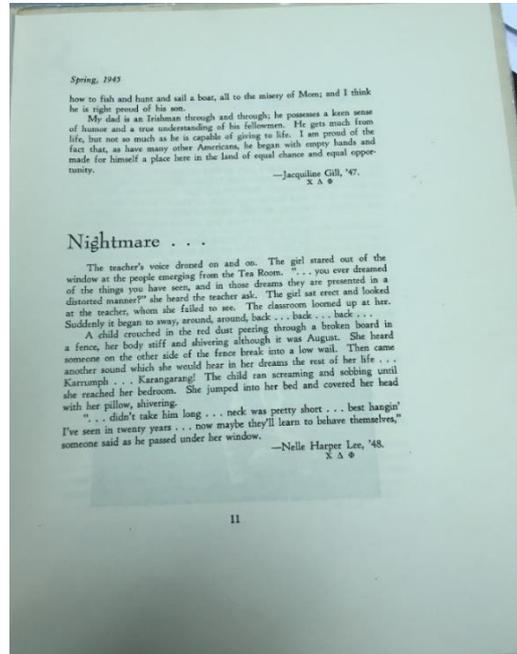
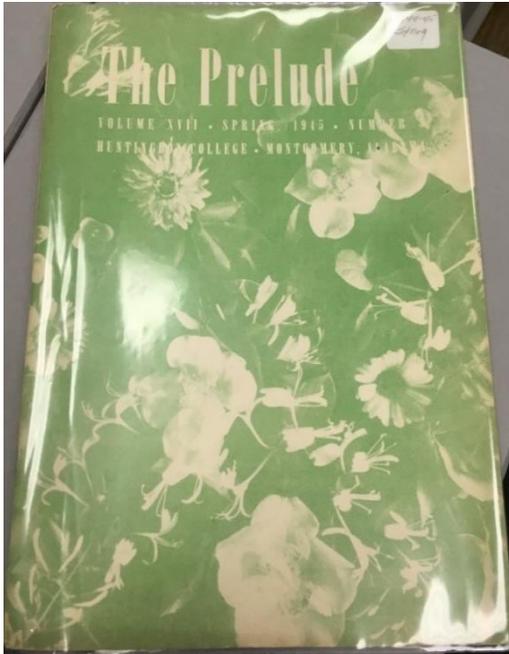
#### 'Escambia Jurors Sifting Lynching'



## Appendix 2.3

### *The Prelude* (Spring 1945): 'Nightmare' and 'A Wink at Justice' (Copy of Original)

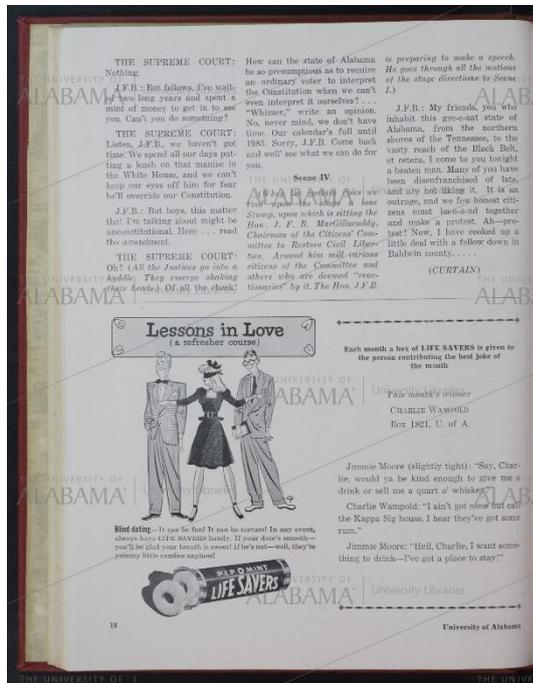
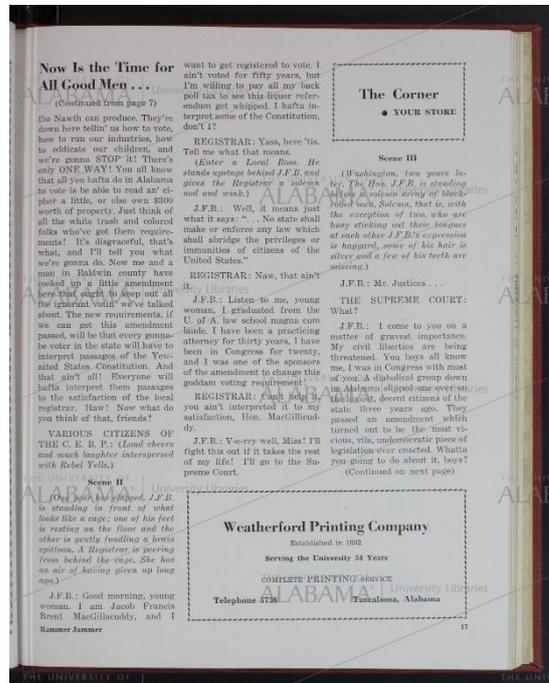
Courtesy: Huntingdon College, Montgomery, AL



Appendix 2.4

Rammer Jammer (October 1946): 'Now is the Time for All Good Men' (Copy of Original)

Courtesy: University of Alabama Libraries Special Collections, Tuscaloosa, AL



Appendix 2.5

The State v. Walter Lett, State Minutes of the Circuit Court (Spring Term 1934),  
 Monroe County, Alabama (Copy of Original)

Courtesy: Monroe County Courthouse, Monroeville, AL

345

*State Minutes of the Circuit Court, Monroe County, Alabama*

Spring TERM, 1934

867	The State								
	vs	}	Page						
	Walter Lett, Alie								
	<p>The March 26<sup>th</sup>, 1934, came the State of Alabama, by its                  Solicitor, and also came the defendant in his own proper person and with                  Attorney, and the defendant having been on the 16<sup>th</sup> day of March,                  1934, been arraigned on the indictment in this case, charging him                  with Rape, to which indictment on arraignment the defendant pled                  Not guilty, and the Court having on the 16<sup>th</sup> day of March, 1934, in                  open Court, in the presence of the defendant and his attorney, set the                  trial of this case for the 26<sup>th</sup> day of March, 1934, thereupon in open                  Court, on this day, in the presence of the State Solicitor, defendant's                  Attorney and the defendant, the Court proceeded to impanel the jury for                  the trial of this case, and the jury having been impanelled in accordance                  with the preceding Order, viz: Walter S. Hutton, Cass Dutton, Howard W. Stone,                  Joe Culman, Portie Pitty, Edist Carleton, Jerome Dierker, Beets Anderson,                  Hilled Jay, Clarence S. Under, Juban Brown and Beas Smith, Sr,                  who having been duly impanelled and sworn according to law, who                  having heard the evidence and the charge of the Court, upon their                  oath do say: "We, the jury, find the defendant guilty of Rape and                  charged in the indictment and fix the punishment at death by                  electrocution"</p> <p>And now, upon this the 30<sup>th</sup> day of March, 1934, Walter Lett,                  also Walter Brown, the defendant, being in open Court, and being asked                  by the Court if he had anything to say why the judgment of the law                  should not now be passed upon him, says nothing, it is therefore                  considered and adjudged by the Court that the said defendant, Walter                  Lett, also Walter Brown, is guilty of the offense of Rape as charged in                  the indictment, and that the defendant suffer death by electrocution                  on Friday, the 11<sup>th</sup> day of May, 1934.</p>								

*State Minutes of the Circuit Court, Monroe County, Alabama*  
*SPRING TERM, 1934*

869    The State                    }  
              vs.                        }    Rape  
              Walter Lett, alias        }

This March 26<sup>th</sup>, 1934, came the State of Alabama, by its solicitor, and also came the defendant in his own proper person and with attorney, and the defendant having heretofore on the 16<sup>th</sup> day of March 1934 been arraigned on the indictment in this case, charging him with rape, to which indictment on arraignment the defendant pleads not guilty, and the court having on the 16<sup>th</sup> day of March 1934, in open court, in the presence of the defendant and his attorney, set the trial of this case for the 26<sup>th</sup> day of March 1934. Therefore, in open court, on this day, in the presence of the State Solicitor, defendant's attorney, and the defendant, the court proceeded to impanel the jury for the trial of the case, and the jury having been completed is composed of the following jurors: [*a list of twelve names – largely indecipherable*], who have been duly impaneled and sworn according to law, who have heard the evidence and the charge of the court, upon this oath do say: "We, the jury, find the defendant guilty of rape as charged in the indictment and set the punishment of death by electrocution."

And now, on this the 30<sup>th</sup> day of March, 1934, Walter Lett, alias Walter Brown, the defendant, being in open court, and being asked by the court if he had anything to say why the judgement of the law should not now be placed upon him, says nothing. It is therefore concluded and adjudged by the court that the said defendant, Walter Lett, alias Walter Brown, is guilty of the offence of rape as charged in the indictment, and that the defendant suffer death by electrocution on Friday, the 11<sup>th</sup> day of May, 1934.

Appendix 2.6

Coverage of the case of Walter Lett in *The Monroe Journal*

Courtesy: Alabama Department of Archives and History, Montgomery, AL

'Negro Held for Attacking Woman' (9 November 1933)

**THE MONROE JOURNAL**  
VOLUME 67—NO. 45. THE MONROE JOURNAL, MONROEVILLE, ALA. THURSDAY, NOVEMBER 9, 1933. SUBSCRIPTION \$1.00 PER YEAR

**Mrs. L. W. Locklin Is Taken By Death**  
Mrs. L. W. Locklin passed away early Saturday morning, November 4, at her residence in Monroeville after an illness of some weeks. Her death is a great loss to her husband, which she carried on as a martyr about eight months ago. Mrs. Locklin had been in poor health.

**FRISCO CITY**  
The birthday party given for Miss Brown, daughter of Mr. J. Brown, was held at the Frisco City school on Saturday afternoon. The party was held in the gymnasium and was a most successful one. The guests included many of the town's prominent families.

**Automatic Pilot That Operates Airplanes**  
A device that will enable an airplane to fly itself has been perfected by the Frisco City school. The device is a mechanical contrivance which will take the place of the pilot's seat and will operate the airplane in all respects as if it were being piloted by a human being.

**MEXIA**  
Mr. and Mrs. W. F. Thompson and children spent Sunday with relatives in Mexia. Mr. and Mrs. W. E. Roberts of Mexia spent Sunday with Mr. and Mrs. F. W. Patten.

**P.T.A. Members Hold Fine Meet**  
The recent Parents Teachers Association meeting of the P.T.A. was held Thursday at the home of Mrs. J. H. Patten. The meeting was a most successful one and was attended by a large number of the town's prominent families.

**HYBART**  
Mrs. Inez Watson of the Church school attended the extension class in Monroeville Saturday.

**Half Farm Bureau Goal Is Realized**  
The board of trustees has been called by the Farm Bureau in the district to report on the progress of the work during the past year. The board reported that they had realized half of their goal for the year.

**EXCEL**  
In the last football game played here in many years, the Excelsior football team defeated the Bulldogs. The game was a most exciting one and was attended by a large number of spectators.

**Red Cross Meetings Set For This Week**  
The Red Cross meetings will be held on Friday afternoon at the home of Mrs. J. W. Jones. The meetings will be held in the evening and will be most interesting.

**Negro Held For Attacking Woman**  
Walter Lett, alias Walter Brown, negro, is being held for assault on Mrs. Naomi Lowery, a white woman. The attack is alleged to have occurred on Thursday afternoon near the brick factory south of Monroeville. The attack was not reported until Friday and an investigation followed immediately by the sheriff's office. The negro was captured on Saturday afternoon and taken into custody. Fearing that an attempt would be made to lynch the negro by a mob following the news of the attack, Sheriff Sawyer took the negro to jail in Greenville for safe-keeping.

**Methodist Notes**  
This is the last week before our annual conference meets at Faith on November 15. It is possible that your pastor will be called to another church before the conference meets.

**Few Cotton Checks Yet To Be Received**  
It is now a few days and every one of the approximately 100 farmers in Monroe County who are entitled to receive their cotton checks in the amount of \$100,000 have received their checks in full. The checks were received from the government by the bank and are being distributed to the farmers.

'Lett Negro Saved from Electric Chair' (12 July 1934)

# THE MONROE JOURNAL

VOLUME 68—No. 27

THE MONROE JOURNAL, MONROEVILLE, LA., THURSDAY, JULY 12, 1934

SUBSCRIPTION \$1.00 PER YEAR

## Checking Cotton Acreage Started In This County

The work of checking the cotton acreage in Monroe County will start this week in full force, according to A. V. Calhoun, county agent.

## Convention Has Good Attendance

Two hundred members of the South Louisiana Agricultural Association were present at the annual convention of the Monroe County branch held at the Woodville Baptist Church last Friday, July 6. Eighty delegates from these churches were present.

## Celebrating First Birthday of NRA



General Johnson, with Harry Melrose, secretary of the NRA, and others at the party the administration gave to celebrate the first birthday of the NRA.

## James Nettles Is Killed In Collision

James Nettles, sixteen year old son of Mr. and Mrs. George Nettles, of New Orleans, died on Wednesday morning from injuries received when his truck was struck by a Lenoirville & Washville freight truck at the railroad crossing in Washville.

## Court Orders Absentee Ballots Held For Jury

On the petition of the Board of the Clerk of the Circuit Court made July 10, 1934, Judge Hester has ordered that Judge M. K. Pritchard directing him to hold all requests for absentee ballots for the June 1934 Primary election, and to submit them to the Grand Jury on October 14, 1934, for consideration.

## Let Negro Saved From Electric Chair

Having his action on the unanimous recommendation of the State Board of Pardons and statements by many leading citizens of Monroe County that in their opinion there is much doubt as to the guilt of the condemned man, Governor Miller last Friday commuted to life imprisonment the death sentence imposed on Walter Lett, negro, following his conviction in the Monroe County Circuit Court of criminally assaulting a white woman.

Lett, who was to have been executed at Kilby Prison July 20th, has all along stoutly denied his guilt of the crime, declaring that he did not know the woman, and that he was at work miles away in another part of the county when it was alleged to have occurred.

In his order of commutation, the Governor recalled that at the clemency hearing accorded the negro, not a single white person appeared to either oppose or approve the petition of the condemned man asking that his sentence be commuted. "Since then," he says, "many of the leading citizens of the county have written us (the Governor and members of the Pardon Board), in substance as follows: 'I am of the opinion and conviction that there is much doubt as to the man being guilty.'"

Recalling further that the Pardon Board has unanimously recommended clemency, the Governor's order adds: "Under the facts shown at the hearing and from the letters written by leading citizens and under conclusion reached by the Pardon Board, it is apparent that the sentence of death should be commuted to imprisonment in the penitentiary for and during his life."—The Montgomery Advertiser.

## Increase Looms For Cotton Tax

Possibility of a higher general tax on raw cotton under the agricultural adjustment act is being considered by the State Board of Agriculture as of June 11. The present tax is 2 cents a pound in full and 1 cent in part.

## State Will Live To Have New Deal

A representative of the President's special committee on Alabama has been in the State for several days. He is expected to report to the President on the situation in Alabama.

## Let Negro Saved From Electric Chair

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## Revision Looms For Ocean Mail

A revision of the government's ocean mail schedule will be made by the Post Office Department. The revision will be made by the end of the month.

## Many County People Plan For Farmers' Week

A number of women from the various home demonstration clubs of Monroe County are planning to attend the Farmers' Week program to be held at the Alabama Polytechnic Institute at Auburn July 26-August 1. Their definite arrangements for the trip have been announced by Mrs. Lucille Garrett, county home demonstration agent.

## Archie Farmer Cuts Slag With Automobile

ARCHE, Ala., July 11.—Archie Farmer, 44, of New Orleans, Louisiana, has discovered a method of cutting slag at a cost of only \$1.25 a ton. Last fall he dug a trench six feet deep and one foot wide with a square head end of cross section equal to the number of cubic feet of slag to be cut. The trench was set over the ground and a trough placed against the head.

## Mobile Bishop Granted Audience By Pope Pius

Pope Pius granted an audience Monday to Bishop Thomas J. Donagan of Mobile, Ala. Bishop Donagan was in Rome for the purpose of presenting a petition to the Pope regarding the situation in the diocese.

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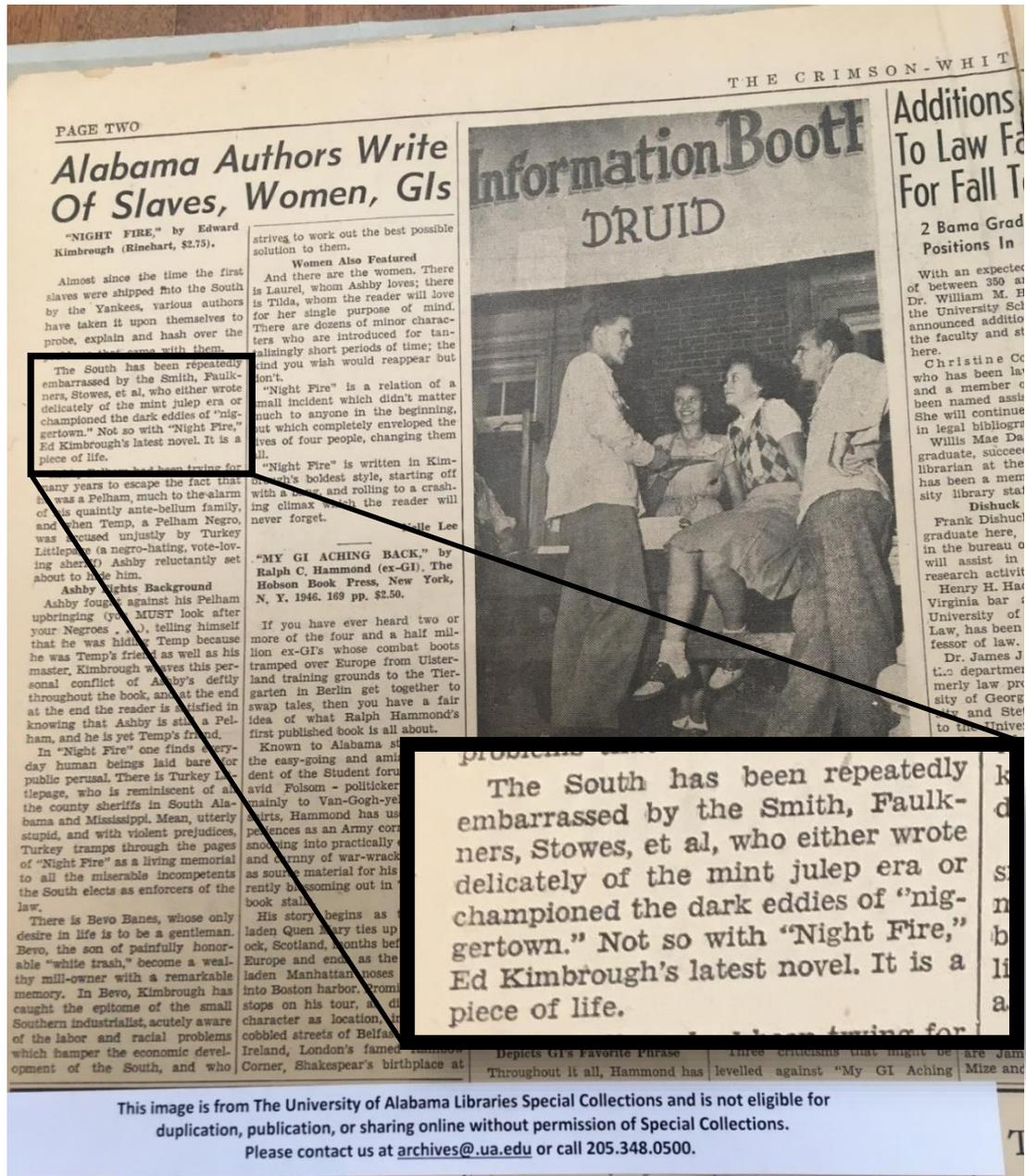
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Appendix 2.7

The Crimson White (1 October 1946): 'Alabama Authors Write of Slaves, Women, GIs'

Courtesy: University of Alabama Libraries Special Collections, Tuscaloosa, AL



**Appendix 3.1**

**Image of Governor George Wallace (left) at the Foster Auditorium (University of Alabama, Tuscaloosa), resisting Deputy Attorney General Nicholas Katzenbach (right)**

*Courtesy: CPR*



## **Appendix 4.1**

### **Chronology of *Five Smooth Stones***

*Note: dates are exact or approximate, based on text*

- c.1890-91 Joseph ‘Li’l Joe’ Champlin is born. On the eve of Li’l Joe’s birth, his father (David Champlin, Sr.) is burnt “for a mistake.”
- c.1913 John Champlin (David’s father) is born.
- c.1930 Li’l Joe meets Professor Bjarne Knudsen at a “Negro Club” in New Orleans.
- 1932 October. John Champlin dies under the wheels of a freight train while travelling North to find work.

#### ***First Phase***

- 1933 March. Ruth Champlin gives birth to a boy in New Orleans, Louisiana. The child becomes quickly orphaned, his mother dying just twenty-four hours after giving birth. After Ruth’s funeral, Geneva Champlin (Li’l Joe’s second wife) takes the baby into her care. The baby is named David, in memory of his great-grandfather.
- c.1940 David is bullied by a white boy in New Orleans. Li’l Joe uses it as an exercise to teach his grandson about the harsh realities of a segregated South.
- c.1941 The Champlin family move across the Mississippi River and take up residence at 3020 St. Augustine Street, New Orleans.
- c.1943 Geneva Champlin dies.
- c.1944 David is seriously injured playing in the street when a truck runs over his leg. Professor Knudsen speaks to a surgeon who claims that David will walk again, but will be permanently lame.
- 1947 David loses his virginity to a neighbour.

#### ***Second Phase***

- 1950 David travels to Cincinnati, Ohio to attend an interview at Pengard College via a segregated transport system across the Southern states.

David meets Sara Kent for the first time at the home of Dr Karl Knudsen (Bjarne's brother).

Summer. David returns to New Orleans and rides a segregated steamboat. Li'l Joe is now fifty-nine and has recently suffered a heart attack.

September. David arrives at Pengard College as a Quimby Scholar. He meets Clifton 'Sudsy' Sutherland.

c.1951 David attends his first ALEC meeting (American League of Equal Citizenship). He does not agree with too much "talk," and instead wants action.

David starts to play piano at the Calico Cat in Cincinnati.

1954 David graduates from Pengard College. David and Sara kiss for the first time.

Summer. David returns to New Orleans.

### ***Third Phase***

Autumn. David enrolls at Harvard Law School in Cambridge, Massachusetts. He watches Bradford Willis at Middlesex County Courthouse for the first time.

David is offered a junior position at Bradford's firm: Abernathy, Willis, and Shea.

1955 Spring. Sara leaves for Europe on a pre-planned study trip.

c.1957 David graduates from Harvard Law School and takes up a full-time position as a lawyer at Abernathy, Willis, and Shea. David takes his first case in court: *Wu v. N.E. Indemnity* (an action for damages / personal injuries), which he unexpectedly wins.

Sara resides in London as her paintings are exhibited and sold.

Professor Bjarne Knudsen dies and leaves David a third of his estate (\$5,000 a year).

1958 David travels to England and attends Oxford University, studying Law and International Politics.

1960 Having graduated from Oxford, David meets Solomon Abikawai and Jedediah Wilson, who offer him a job with the State Department to work in Zambana, Africa.

David returns to New Orleans to inform Li'l Joe about the new position.

Li'l Joe is accosted by two white boys on the way home from a local bar and has a heart attack. He dies instantly.

#### *Fourth Phase*

As a result of his grandfather's death, David turns down his job offer from the State Department to join the civil rights movement in Louisiana.

1961 David is arrested in Heliopolis after demonstrations. He is beaten by the arresting officer.

1962 David meets Sue-Ellen Moore and members of the Young People's Committee for Freedom (YPCF).

1963 Summer. David arrives in Cainsville, Louisiana after giving a speech in Heliopolis.

Demonstrations take place in Cainsville. David is badly hurt and beaten by a group of young white segregationists.

As riots and demonstrations continue, David provides legal assistance to the young protestors who have been arrested and detained by Police Chief Scoggins.

David and Sara rekindle their relationship and decide to marry. They return to Massachusetts, where Sara informs David that she is pregnant.

1964 David returns to Cainsville to complete paperwork on a residential case. He is shot dead by Ol' Cleto: a member of the Twelve Just Men.

David and Sara's child is born. He is named David Champlin.

## NOTES

### INTRODUCTION

<sup>1</sup> Collin Messer, 'Lawyer,' in *The Companion to Southern Literature: Themes, Genres, Places, People, Movements, and Motifs*, ed. by Joseph M. Flora and Lucinda H. MacKethan (Baton Rouge, LA: Louisiana State University Press, 2002), pp. 418-20 (p. 418).

<sup>2</sup> See, for example, William J. Cooper and Thomas E. Terrill, *The American South: A History*, 4<sup>th</sup> edn. (Lanham, MD: Rowman, 2009), pp. 414-18. Reconstruction refers to the period after the American Civil War, from 1865 to 1877. It concerned the after-effects of failed Confederate secession and seemingly secured civil rights for a newly freed slave population by Constitutional amendment.

<sup>3</sup> When referring to the American Civil War (1861-65), I employ the terms 'postbellum' and / or 'antebellum,' as appropriate.

<sup>4</sup> Thomas Nelson Page, 'The Old Virginian Lawyer,' 1891, in *The Old South: Essays Social and Political* (New York, NY: Charles Scribner's Sons, 1906), pp. 281-98 (p. 288, 292).

<sup>5</sup> Mark Twain, *Pudd'nhead Wilson*, 1894 (New York, NY: Open Road, 2015), p. 56.

<sup>6</sup> James H. Watkins, 'Law, 1900 to Present,' in *The Companion to Southern Literature: Themes, Genres, Places, People, Movements, and Motifs*, pp. 417-18 (p. 417).

<sup>7</sup> W.E.B. DuBois, *The Souls of Black Folk*, 1903 (Oxford: Oxford University Press, 2007), p. 15. In 'Of the Dawn of Freedom,' DuBois writes: "The problem of the twentieth century is the problem of the color-line – the relation of the darker to the lighter races of men in Asia and Africa, in America and the islands of the sea."

<sup>8</sup> Jay Watson, *Forensic Fictions: The Lawyer Figure in Faulkner* (Athens, GA: University of Georgia Press, 1993), p. 51.

<sup>9</sup> Unless otherwise stated, 'post-war' refers to the period after the Second World War (1939-45).

<sup>10</sup> Throughout, I will adopt the American English spelling of 'color,' along with any of its derivatives.

<sup>11</sup> Mathias Möschel, *Law, Lawyers, and Race: Critical Race Theory from the United States to Europe* (New York, NY: Routledge, 2014), p. 9.

<sup>12</sup> Austin Sarat, Lawrence Douglas, and Martha Merrill Umphrey, 'Where (or What) is the Place of Law? An Introduction,' in *The Place of Law*, ed. by Austin Sarat, Lawrence Douglas, and Martha Merrill Umphrey (Ann Arbor, MI: University of Michigan Press, 2003), pp. 1-15 (p. 2).

<sup>13</sup> Roy L. Brooks, *The Racial Glass Ceiling: Subordination in American Law and Culture* (New Haven, CT: Yale University Press, 2017), p. 13.

<sup>14</sup> Thomas Paine, 'Common Sense,' in *Rights of Man, Common Sense, and Other Political Writings*, ed. by Mark Philp (Oxford: Oxford University Press, 2008), pp. 5-59 (p. 34); Declaration of Independence: The Want, Will, and Hopes of the People, *United States National Archives* <[www.archives.gov/founding-docs/](http://www.archives.gov/founding-docs/)>.

<sup>15</sup> 'Preamble,' in Constitution of the United States, The Bill of Rights and All Amendments, *United States National Archives* <[constitutionus.com/](http://constitutionus.com/)>.

<sup>16</sup> 'Article IV, Section 2.3,' and 'Article I, Section 2.3,' in *ibid.*

<sup>17</sup> 'Amendment X,' in *ibid.*

<sup>18</sup> See 'Chapter IV, Section 2042,' in Code of Alabama, 1852, *Constitution Reader* <[constitutionreader.com/](http://constitutionreader.com/)>: "The state or condition of Negro or African slavery is established by law in this state; conferring upon the master property in and the right to the time, labor and services of the slave, and to enforce obedience [...] to all his lawful commands"; 'Article I, Section 1008,' in Code of Alabama, 1852: "No slave must go beyond the limits of the plantation on which he resides, without a pass [...] or token from his master or overseer"; 'Article I, Section 1018,' in Code of Alabama, 1852: "No slave can own property, and any property purchased or held by a slave [...] must be sold by order of any justice of the peace"; 'Article I, Section 1010,' in Code of Alabama, 1852: "No slave can keep or carry a gun, powder, shot, club, or other weapon [...] Offenders] against th[is] provision [...] will] receive thirty-nine lashes on [their] bare back."

<sup>19</sup> *Dred Scott v. Sanford*, 393 U.S. 19 (U.S. 1857), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>, p. 30.

<sup>20</sup> George Fitzhugh, *Sociology for the South; or the Failure of Free Society*, 1854 (New York, NY: Harvey Wish, 1960), pp. 88-89.

<sup>21</sup> The Public Statutes at Large of the United States of America: 1789-1845, 1 (New York, NY: Little and Brown, 1845), p. 103.

<sup>22</sup> *In re Ah Yup*, 104 Cal. 1-4 (Cal. 1878), *The Federal Cases* <[law.resource.org/pub/us/](http://law.resource.org/pub/us/)>, p. 3.

<sup>23</sup> Ian F. Haney López, *White by Law: The Legal Construction of Race* (New York, NY: New York University Press, 1996), p. 9.

<sup>24</sup> *Ibid.*, pp. 203-08. Haney López provides a comprehensive list of 'pre-requisite' cases. He details over fifty examples of local, state, or federal court decisions that have denied naturalization on the grounds of race between 1878 and 1944.

<sup>25</sup> See 'Amendment XIII, XIV, Section 1, and XV,' in Constitution of the United States, The Bill of Rights and All Amendments. The Thirteenth Amendment states:

“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.” Section 1 of the Fourteenth Amendment declares: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The Fifteenth Amendment prohibits discrimination of an individual citizen’s voting rights on “account of race, color, or previous condition of servitude.”

<sup>26</sup> ‘Chapter 130, Section 10,’ in Acts Passed by the State of Tennessee, 1875, *Haiti Trust* <catalog.Hathitrust.org/Record/010139668>.

<sup>27</sup> ‘Section 1501,’ in Laws of Delaware, 1875, *HeinOnline* <home.heinonline.org/titles/>: “No keeper of an inn, tavern, hotel, or restaurant [...] shall be obliged, by law, to furnish entertainment or refreshment to persons who [...] would be offensive to the major part of his customers, and would injure his business”; ‘Article XIII,’ in Constitution of Alabama, 1875, *Alabama Legislature* <digital.archives.alabama.gov/>: “The General Assembly shall establish, organize, and maintain a system of public school throughout the State, for the equal benefit of the children thereof, between the ages of seven and twenty-one years; but separate schools shall be provided for the children of African descent”; ‘Chapter 13,’ in Laws of Mississippi, 1878, *HeinOnline* <home.heinonline.org/titles/> (original emphasis): “*Be it further enacted*, That the schools in each county shall be so arranged as to afford ample free school facilities to all the educable youths in that county, but white and colored pupils shall not be taught in the same school-house, but in separate school-houses.”

<sup>28</sup> See Charles A. Lofgren, *The Plessy Case: A Legal-Historical Interpretation* (Oxford: Oxford University Press, 1987); *Racism and the Law: The Legacy and Lessons of Plessy*, ed. by Gerald J. Postema (Chapel Hill, NC: University of North Carolina Press, 1997); or Laurie Collier Hillstrom, *Defining Moments: Plessy v. Ferguson* (Detroit, MI: Omnigraphics, 2013).

<sup>29</sup> *Plessy v. Ferguson*, 163 U.S. 537 (U.S. 1896), *Justia* <supreme.justia.com/cases/>, p. 561, 559.

<sup>30</sup> *Ibid.*, p. 555.

<sup>31</sup> ‘No. 309, Section 9,’ in General Laws of Alabama, *Haiti Trust* <catalog.hathitrust.org/Record/>.

<sup>32</sup> ‘Chapter 214,’ in Laws of Mississippi, *Haiti Trust* <[catalog.hathitrust.org/Record/](http://catalog.hathitrust.org/Record/)>.

<sup>33</sup> Michael J. Klarman, *Brown v. Board of Education and the Civil Rights Movement* (Oxford: Oxford University Press, 2007), p. ix.

<sup>34</sup> Richard Bardolph, in *The Civil Rights Record: Black Americans and the Law, 1849-1970*, ed. by Richard Bardolph (New York, NY: Thomas Y. Crowell, 1970), p. 181.

<sup>35</sup> Other examples include *Guinn and Beal v. United States* (1915, voting and registration), *Moore v. Dempsey* (1923, due process and equal protection in criminal cases), *Corrigan v. Buckley* (1926, restrictive covenants), and *University of Maryland v. Murray* (1935, state supreme court case relating to equal education).

<sup>36</sup> *Sweatt v. Painter*, 339 U.S. 629 (U.S. 1950), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>, p. 631.

<sup>37</sup> *Brown v. Board of Education of Topeka*, 347 U.S. 483 (U.S. 1954), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>, p. 495.

<sup>38</sup> Acts Passed by the State of Louisiana, 1954, *Haiti Trust* <[catalog.hathitrust.org/Record/](http://catalog.hathitrust.org/Record/)>.

<sup>39</sup> *Brown v. Board of Education of Topeka*, 349 U.S. 294 (U.S. 1955), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>, p. 295.

<sup>40</sup> Southern Manifesto, 1956, *American Radio Works* <[americanradioworks.publicradio.org/](http://americanradioworks.publicradio.org/)>.

<sup>41</sup> See Klarman, *Brown v. Board of Education*, p. 109.

<sup>42</sup> Paul Bohannan, *Social Anthropology* (New York, NY: Holt, Rinehart & Winston, 1963), p. 205.

<sup>43</sup> ‘Amendment IV,’ in Constitution of the United States, The Bill of Rights and All Amendments; *Watson v. City of Memphis*, 373 U.S. 526 (U.S. 1963), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>, p. 526.

<sup>44</sup> ‘Preamble,’ in Civil Rights Act, 1964, *Ourdocuments.com* <[www.ourdocuments.gov/](http://www.ourdocuments.gov/)>: The Act intends to “enforce the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, [...] to prevent discrimination in federally assisted programs, to establish a Commission on Equal Employment Opportunity, and for other purposes”; ‘Section 11, Part a,’ in Voting Rights Act, 1965, *Ourdocuments.com* <[www.ourdocuments.gov/](http://www.ourdocuments.gov/)>: “No person acting under color of law shall fail or refuse to permit any person to vote who is entitled to vote under any provision of this Act or is otherwise qualified to vote, or wilfully fail or refuse to tabulate, count, and report such person’s vote.”

<sup>45</sup> Danielle Allen, *Talking to Strangers: Anxieties of Citizenship since Brown v. Board of Education* (Chicago, IL: University of Chicago Press, 2004), p. 7.

<sup>46</sup> See Bardolph (ed.), *Civil Rights Record*, pp. 306-07.

<sup>47</sup> In Acts Passed by the State of Louisiana, 1958, *Haiti Trust* <catalog.hathitrust.org/Record/>: “The [state] governor, in order to secure justice for all [...] and happiness of all the people, is authorized and empowered to close any racially mixed public school or any public school which is subject to a court order requiring it to admit students of both the Negro and the white races.”

<sup>48</sup> Allen, *Talking to Strangers*, p. 7.

<sup>49</sup> ‘Undigested, adj.3,’ in *Oxford English Dictionary*.

<sup>50</sup> Richard Delgado and Jean Stefancic, *Critical Race Theory: An Introduction*, 2nd edn. (New York, NY: New York University Press, 2012), p. 26.

<sup>51</sup> Leigh Anne Duck, *The Nation’s Region: Southern Modernism, Segregation, and U.S. Nationalism* (Athens, GA: University of Georgia Press, 2009), p. 5.

<sup>52</sup> Southern Manifesto.

<sup>53</sup> *The Southern Reporter*, qtd. in Bardolph (ed.), *Civil Rights Record*, p. 379.

<sup>54</sup> Robert L. Zangrando, *The NAACP Crusade against Lynching, 1909-1950* (Philadelphia, PA: Temple University Press, 1980), p. 3, 5. Data demonstrates that Mississippi recorded 581 acts of lynching between 1882 and 1968, while Georgia accounted for 531. The total number of recorded lynchings in the United States during this same period was 4,743.

<sup>55</sup> Duck, *The Nation’s Region*, p. 3.

<sup>56</sup> Thomas Borstelmann, *The Cold War and the Color Line: American Race Relations in the Global Arena* (Cambridge, MA: Harvard University Press, 2001), p. 2.

<sup>57</sup> *Ibid.*, p. 4.

<sup>58</sup> Tara McPherson, *Reconstructing Dixie: Race, Gender, and Nostalgia in the Imagined South* (Durham, NC: Duke University Press, 2003), p. 7.

<sup>59</sup> *Ibid.*, p. 27, 7, 253 (original emphasis).

<sup>60</sup> ‘Undigested, adj.3,’ in *Oxford English Dictionary*.

<sup>61</sup> Möschel, *Law, Lawyers, and Race*, p. 41.

<sup>62</sup> Kimberlé Crenshaw and others, ‘Introduction,’ in *Critical Race Theory: The Key Writings that Formed the Movement*, ed. by Kimberlé Crenshaw and others (New York, NY: The New Press, 1995), pp. xiii-xxxii (p. xiii).

<sup>63</sup> Delgado and Stefancic, *Critical Race Theory: An Introduction*, p. 24.

<sup>64</sup> Crenshaw and others, ‘Introduction,’ p. xv.

<sup>65</sup> Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York, NY: Harper, 1944), p. xix.

<sup>66</sup> Jennifer L. Hochschild, *The New American Dilemma* (New Haven, CT: Yale University Press, 1984), p. 5.

<sup>67</sup> *Ibid.*, p. 203.

<sup>68</sup> Howard A. Glickstein, 'The Impact of *Brown v. Board of Education* and its Progeny,' *Howard Law Journal*, 23.1 (1980), 51-55 (p. 55). There are numerous examples of scholars who assert *Brown's* broader significance. See, for example, J. Harvie Wilkinson, *From Brown to Bakke: The Supreme Court and School Integration* (Oxford: Oxford University Press, 1979), pp. 6-8. More specifically, observers argue that *Brown* "launched the public debate over racial equality" (Aryeh Neier, *Only Judgment: The Limits of Litigation in Social Change* (Middletown, CT: Wesleyan University Press, 1982), pp. 241-42), "raised black awareness" (David Goldfield, *Black, White, and Southern: Race Relations and Southern Culture, 1940 to the Present* (Baton Rouge, LA: Louisiana State University Press, 1990), pp. 91-92), and "awoke [...] new activism within the black community" (Glenn T. Eskew, 'The Alabama Christian Movement for Human Rights and the Birmingham Struggle for Civil Rights, 1956-1963,' in *Birmingham, Alabama, 1956-1963: The Black Struggle for Civil Rights*, ed. by David J. Garrow (Philadelphia, PA: Carlson, 1989), pp. 3-114 (p. 11)).

<sup>69</sup> Derrick A. Bell, '*Brown v. Board of Education* and the Interest-Convergence Dilemma,' *Harvard Law Review*, 93.3 (1980), 518-34 (p. 524).

<sup>70</sup> Derrick A. Bell, *Race, Racism, and American Law*, 5th edn. (Riverwoods, IL: Aspen, 2004), p. 32.

<sup>71</sup> Bell, '*Brown v. Board of Education* and the Interest-Convergence Dilemma,' p. 525. Also, Gloria Browne-Marshall, *Race, Law, and American Society* (New York, NY: Routledge, 2013), p. 30. Browne-Marshall notes that, having originated in the Midwest (Topeka, Kansas), the *Brown* case "offered the [Supreme] Court an opportunity to overturn *Plessy* without directly implicating the South."

<sup>72</sup> See, for example, Leroy D. Clark, 'A Critique of Professor Derrick A. Bell's Thesis of the Permanence of Racism and His Strategy of Confrontation,' *Columbus Law Review*, 73.1 (1995), 23-50.

<sup>73</sup> Mary L. Dudziak, 'Desegregation as a Cold War Imperative,' *Stanford Law Review*, 41.1 (1988), 61-120 (p. 73, 103).

<sup>74</sup> *Ibid.*, p. 103. The amicus curiae likewise implored that the Supreme Court should consider the "present world struggle between freedom and tyranny" (*Brown*, p. 483). Also, Donald R. McCoy and Richard T. Ruetten, *Quest and Response:*

*Minority Rights and the Truman Administration* (Lawrence, KS: University Press of Kansas, 1973), pp. 134-35.

<sup>75</sup> See Dudziak, 'Desegregation as a Cold War Imperative,' p. 86. Even the British press covered "post-war racial tension in the South and Ku Klux Klan violence." Attention in this instance was additionally given to the "scheduled executions of blacks," such as Mississippian teenagers Charles Trudell and James Lewis, Jr., sentenced to death in 1947 for "murdering their white employer."

<sup>76</sup> Cheryl Harris, 'Whiteness as Property,' *Harvard Law Review*, 106.8 (1993), 1707-91 (p. 1713).

<sup>77</sup> *Ibid.*, p. 1713, 1751.

<sup>78</sup> Richard Weisberg, *Poethics: and Other Strategies of Law and Literature* (New York, NY: Columbia University Press, 1992), p. 34, 41.

<sup>79</sup> Messer, 'Lawyer,' p. 418.

<sup>80</sup> Weisberg, *Poethics*, p. 55.

<sup>81</sup> William H. Chafe, *The Unfinished Journey: America Since World War II*, 7th edn. (Oxford: Oxford University Press, 2011), p. 138.

<sup>82</sup> Georgia Douglas Johnson, 'A Sunday Morning in the South,' 1925, *National Humanities Center Online* <nationalhumanitiescenter.org>; Myrtle Smith Livingston, 'For Unborn Children,' 1926, in *Black Theater, USA: Forty-Five Plays by Black Americans*, ed. by James V. Hatch and Ted Shine (New York, NY: Free Press, 1974), pp. 184-87 (p. 185); Katherine D. Tillman, 'Aunt Betsy's Thanksgiving,' 1914, *Haiti Trust* <babel.haititrust.org>; Mercedes Gilbert, 'Environment,' 1931, in *Lost Plays of the Harlem Renaissance, 1920-1940*, ed. by James V. Hatch and Leo Hamalian (Detroit, MI: Wayne State University Press, 1996), pp. 203-26 (p. 203).

<sup>83</sup> In Chapter Four, Charles Hamilton Houston and, in particular, Thurgood Marshall, Jr. are discussed with reference to *Five Smooth Stones*.

<sup>84</sup> Martin Luther King, Jr., 'Letter from Birmingham Jail,' 1963, *Stanford University Archives* <mlk-kpp01.stanford.edu/>.

## CHAPTER ONE

<sup>1</sup> Ulpian, *Institutiones*, qtd. in Edward Mussawir, 'Justice "from room-to-room": Toward a Concept of Procedural Space in Kafka's *The Trial* and the Fictional Work of Western Jurisprudence,' in *Spaces of Justice: Peripheries, Passages, Appropriations*, ed. by Chris Butler and Edward Mussawir (New York, NY: Routledge, 2017), pp. 37-53 (p. 38).

<sup>2</sup> Joseph Blotner, *Faulkner: A Biography* (Jackson, MS: University Press of Mississippi, 2005), p. 52. On Faulkner's relationship with Phil Stone, see Susan Snell,

*Phil Stone of Oxford: A Vicarious Life* (Athens, GA: University of Georgia Press, 1991), pp. 169-92; or André Bleikasten, 'Fathers in Faulkner,' in *The Fictional Father: Lacanian Readings of the Text*, ed. by Robert Davis (Amherst, MA: University of Massachusetts Press, 1981), pp. 115-46.

<sup>3</sup> See Watson, *Forensic Fictions*, pp. 3-4.

<sup>4</sup> See Appendix 1.1 (pp. 181-83), which expands on Figure 1.1 and provides a fully developed fictional chronology for Gavin Stevens. Here, I track the character's appearances in Faulkner's fiction according to Stevens's specific Yoknapatawpha timeline, rather than publication dates. Appendix 1.2 (p. 184) also presents a family tree, detailing relationships between several of the characters relevant to this chapter.

<sup>5</sup> William Faulkner, *Requiem for a Nun*, 1951 (London: Vintage, 1996), p. 85.

<sup>6</sup> See Ticien Marie Sassoubre, 'Avoiding Adjudication in William Faulkner's *Go Down, Moses* and *Intruder in the Dust*,' *Criticism*, 49.2 (2007), 183-214 (p. 183): "The 'New South' into which Faulkner was born in 1897 had its roots in the South's political and ideological reaction to Reconstruction," particularly regional responses to the Thirteenth and Fourteenth Amendments administered by "vigilante organizations intent on the return of their states to 'home rule.'"

<sup>7</sup> Blotner, *Faulkner: A Biography*, p. 32.

<sup>8</sup> Neil R. McMillen and Noel Polk, 'Faulkner on Lynching,' *The Faulkner Journal*, 8.1 (1992), 3-14 (p. 3).

<sup>9</sup> Faulkner, qtd. in McMillen and Polk, 'Faulkner on Lynching,' pp. 5-6.

<sup>10</sup> Russell Warren Howe, 'A Talk with William Faulkner,' *Reporter*, 14 (March 1956), 18-28 (p. 19).

<sup>11</sup> McMillen and Polk, 'Faulkner on Lynching,' p. 3, 8, 10.

<sup>12</sup> William Faulkner, 'Dry September,' in *These Thirteen: Volume Two of the Collected Short Stories of William Faulkner* (London: Chatto & Windus, 1963), pp. 39-53 (pp. 47-48).

<sup>13</sup> Arthur F. Kinney, 'Faulkner and Racial Mythology,' *Connotations*, 5.2 (1996), 259-75 (p. 268).

<sup>14</sup> Faulkner, qtd. in McMillen and Polk, 'Faulkner on Lynching,' p. 4, 6.

<sup>15</sup> William Faulkner, 'Letter to the Editor of the Memphis *Commercial Appeal*: 26 March 1950,' in *Essays, Speeches, and Public Letters*, ed. by James B. Merriwether (London: Chatto & Windus, 1967), pp. 203-04 (p. 204).

<sup>16</sup> William Faulkner, 'Oppression Seen in Negro Killings: 15 April 1950,' Archives and Special Collections, J.D. Williams Library, University of Mississippi, 1 Library Loop, MS 38677.

<sup>17</sup> William Faulkner, 'Statement to the Press on the Willie McGee Case: 27 March 1951,' in *Essays, Speeches, and Public Letters*, pp. 211-12 (p. 211).

<sup>18</sup> Faulkner, 'Letter to the Editor of the Memphis *Commercial Appeal*: 26 March 1950,' p. 204.

<sup>19</sup> William Faulkner, 'Statement on the Emmett Till Case: 9 September 1955,' in *Essays, Speeches, and Public Letters*, pp. 222-23 (p. 223). Also, A. Nicholas Fagnoli and Michael Golay, *William Faulkner: An Essential Reference to his Life and Works* (New York, NY: Checkmark, 2002), p. 234. Another of Faulkner's problematic public statements about the Emmett Till case came in a 1956 radio interview: "The Till boy got himself into a fix, and he almost got what he deserved. But even so you don't murder a child."

<sup>20</sup> Faulkner, 'Statement on the Emmett Till Case,' p. 222.

<sup>21</sup> Thomas J. Davis, *Race Relations in the United States, 1940-1960* (Westport, CT: Greenwood Press, 2008), p. 49.

<sup>22</sup> William Faulkner, 'Letter to the Editor of the Memphis *Commercial Appeal*: 3 April 1955,' in *Essays, Speeches, and Public Letters*, pp. 218-19 (p. 219).

<sup>23</sup> McPherson, *Reconstructing Dixie*, p. 28.

<sup>24</sup> William Faulkner, qtd. in *The Selected Letters of William Faulkner*, ed. by Joseph Blotner (New York, NY: Random House, 1977), p. 262.

<sup>25</sup> Appendix 1.3 (p. 185) shows a newspaper clipping from *The New York Times*, detailing the events of Ellwood Higginbotham's lynching.

<sup>26</sup> Faulkner, qtd. in *The Selected Letters of William Faulkner*, p. 262.

<sup>27</sup> 'To Secure These Rights: The Report of the President's Committee on Civil Rights,' 1947, in *The Civil Rights Reader*, ed. by Leon Friedman (New York, NY: Walker and Company, 1968), pp. 1-27 (p. 5, 3, 10).

<sup>28</sup> Theodore Bilbo, *Take Your Choice: Separation or Mongrelization*, 1946 (Odisha: Dream House, 1947), p. 55.

<sup>29</sup> Faulkner, qtd. in *The Selected Letters of William Faulkner*, p. 262.

<sup>30</sup> Edmund Wilson, 'William Faulkner's Reply to the Civil Rights Program,' in *Faulkner: A Collection of Critical Essays*, ed. by Robert Penn Warren (Upper Saddle River, NJ: Prentice Hall, 1966), pp. 219-25 (p. 220); Hugh M. Gloster, 'Southern Justice: *Intruder in the Dust* by William Faulkner,' *Phylon*, 10.1 (1949), 93-95 (p. 94).

<sup>31</sup> Irving Howe, *William Faulkner: A Critical Study* (Chicago, IL: University of Chicago Press, 1975), p. 98; James A. Snead, *Figures of Division: William Faulkner's Major Novels* (London: Methuen, 1986), p. 217.

<sup>32</sup> Joseph R. Urgo, *Faulkner's Apocrypha: A Fable, Snopes, and the Spirit of Human Rebellion* (Jackson, MS: University Press of Mississippi, 1989), p. 88; Eric J.

Sundquist, *Faulkner: A House Divided* (Baltimore, MD: John Hopkins University Press, 1983), pp. 148-49.

<sup>33</sup> William Faulkner, *Intruder in the Dust*, 1948 (London: Vintage, 1996), p. 48.

<sup>34</sup> See Appendix 1.2 (p. 184), which illustrates the relationship between Stevens and Chick.

<sup>35</sup> Faulkner, *Intruder*, p. 1.

<sup>36</sup> See Joseph A. Ranney, *A Legal History of Mississippi: Race, Class, and the Struggle for Opportunity* (Jackson, MS: University Press of Mississippi, 2019), pp. 113-15. Ranney argues similarly, albeit focused more generally on assumptions of guilt in black-white relationships across Mississippi during the Jim Crow era.

<sup>37</sup> W.K. Kelsey, qtd. in Allen D. Grimshaw, 'Lawlessness and Violence in America and their Special Manifestations in Changing Negro-White Relationships,' in *Racial Violence in the United States*, ed. by Allen D. Grimshaw (Chicago, IL: Aldine, 1969), pp. 14-28 (p. 17). After the 1946 race riots in Detroit, Kelsey declared: "Southern Negroes have come here to take jobs which give them for the first time in the lives of many of them a decent wage, and a sense of freedom they have never known before. Some of them have become, in white opinion, too 'uppity.'"

<sup>38</sup> A summary of Beauchamp's other appearances in Yoknapatawpha is provided by Fargnoli and Golay (in *William Faulkner: An Essential Reference*, pp. 16-17).

<sup>39</sup> Sarat, Douglas, and Umphrey, 'Where (or What) is the Place of Law? An Introduction,' p. 2.

<sup>40</sup> Faulkner, *Intruder*, p. 27, 37.

<sup>41</sup> See Susan Glenn, "'We Charge Genocide': The 1951 Black Lives Matter Campaign,' in *Mapping American Social Movements Through the Twentieth Century*, 2015 <depts.washington.edu/>.

<sup>42</sup> Irus Braverman and others, 'Expanding the Spaces of Law,' in *The Expanding Spaces of Law: A Timely Legal Geography*, ed. by Irus Braverman and others (Palo Alto, CA: Stanford University Press, 2014), pp. 1-29 (p. 13).

<sup>43</sup> Faulkner, *Intruder*, p. 42, 43, pp. 44-45.

<sup>44</sup> Sarat, Douglas, and Umphrey, 'Where (or What) is the Place of Law? An Introduction,' p. 7.

<sup>45</sup> See Grimshaw, 'Lawlessness and Violence in America,' p. 28: "With the exception of a brief period after the Civil War, the pattern of American Negro-white relationships, especially in the American South, closely approximated the classic accommodative pattern of superordination-subordination, with the whites a continually dominant group."

<sup>46</sup> Sarat, Douglas, and Umphrey, 'Where (or What) is the Place of Law? An Introduction,' p. 7.

<sup>47</sup> Faulkner, *Intruder*, p. 47.

<sup>48</sup> *Ibid.*, p. 48.

<sup>49</sup> Raymond Williams, 'Base and Superstructure in Marxist Cultural Theory,' in *Raymond Williams: On Culture and Society, Essential Writings*, ed. by Jim McGuigan (London: Sage, 2014), pp. 119-38 (p. 126).

<sup>50</sup> *Ibid.*, p. 128. I take the meaning of "dominant culture" from Raymond Williams: "The processes of education; the processes of a much wider social training within institutions like the family; the practical definitions and organization of work; the selective tradition at an intellectual and theoretical level: all these forces are involved in a continual making and remaking of an effective dominant culture, and on them, as experienced, as built into our living, its reality depends."

<sup>51</sup> Faulkner, *Intruder*, p. 48.

<sup>52</sup> Williams, 'Base and Superstructure,' p. 128.

<sup>53</sup> Franklin D. Roosevelt, qtd. in Bardolph (ed.), *Civil Rights Record*, p. 242.

<sup>54</sup> See Ranney, *A Legal History of Mississippi*, p. 116. *Strauder v. West Virginia* (1880) was the first example of the Supreme Court deciding that discrimination was a constitutional issue (as per the Fifth, Sixth, and Fourteenth Amendments). It reversed a state supreme court decision that denied the wishes of a defendant to remove their trial from the regional system due to the discriminatory status of all-white juries. *Carter v. Texas* (1900) consolidated the precedent of *Strauder v. West Virginia*, as the court decided, for the first time, that "excluding black [Americans] from juries could be used to show present unconstitutional discrimination in jury selection."

<sup>55</sup> See *Norris v. Alabama*, 294 U.S. 587 (U.S. 1935), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>, p. 587. From the final paragraph: "We are concerned only with the federal question which we have discussed, and, in view of the denial of the federal right suitably asserted, the judgment must be reversed and the cause remanded for further proceedings not inconsistent with this opinion."

<sup>56</sup> *Perkins v. State*, 135 So. 357 (Miss. 1931), *Court Listener* <[www.courtlistener.com/opinion/](http://www.courtlistener.com/opinion/)>, pp. 726-27, p. 728, 729.

<sup>57</sup> Raymond Williams, *Marxism and Literature* (Oxford: Oxford University Press, 1977), p. 123.

<sup>58</sup> Faulkner, *Intruder*, p. 53, pp. 53-54.

<sup>59</sup> *Ibid.*, p. 54.

<sup>60</sup> Weisberg, *Poethics*, p. 55. A recurring theme in depictions of literary lawyers is their presentation as "separate from the mass of humanity."

<sup>61</sup> Elizabeth Hardwick, 'Faulkner and the South Today: A Review of *Intruder in the Dust*,' *Partisan Review*, 10.1 (1948), 1130-34 (p. 1132).

<sup>62</sup> Faulkner, *Intruder*, p. 149.

<sup>63</sup> *Ibid.*, p. 150.

<sup>64</sup> *Ibid.*, pp. 153-54.

<sup>65</sup> *Ibid.*, p. 154.

<sup>66</sup> *Ibid.*, p. 155, 156.

<sup>67</sup> *Ibid.*, p. 156.

<sup>68</sup> Watson, *Forensic Fictions*, p. 116.

<sup>69</sup> Faulkner, *Intruder*, p. 155.

<sup>70</sup> See 'Amendment XIV, Section 1' in Constitution of the United States, The Bill of Rights and All Amendments: "No State shall [...] deny to any person within its jurisdiction the equal protection of the laws."

<sup>71</sup> Brief for the United States as Amicus Curiae: *Shelley v. Kraemer*, *Internet Archive* <archive.org/details/>, pp. 3-4, p. 123.

<sup>72</sup> Myrdal, qtd. in Bell, *Race, Racism, and American Law*, p. 60.

<sup>73</sup> Faulkner, *Intruder*, p. 202, pp. 203-04.

<sup>74</sup> See, for example, Karl F. Zender, *The Crossing of the Ways: William Faulkner, the South, and the Modern World* (New Brunswick, NJ: Rutgers University Press, 1989), pp. 123-24. Zender notes certain "scenes of instruction" in Faulkner's fiction, but does not consider sequences between Stevens and Chick to be "significant." Watson makes far more of Mallison's maturation (in *Forensic Fictions*, pp. 118-20).

<sup>75</sup> Faulkner, *Intruder*, pp. 203-04.

<sup>76</sup> *Ibid.*, p. 206.

<sup>77</sup> *Ibid.*, p. 133.

<sup>78</sup> Mark Gidley, 'Elements of the Detective Story in William Faulkner's Fiction,' *Journal of Popular Culture*, 7.1 (1973), 97-123 (p. 105). Gidley took issue with Stevens stumbling "across the truth by accident." Also, William Doster, 'The Several Faces of Gavin Stevens,' *Mississippi Quarterly*, 11.1 (1958), 191-95 (p. 192). Doster objected to his constant "thinking, thinking, thinking, and talking, talking, talking."

<sup>79</sup> Christopher Matthew, 'William Faulkner's New *Gambit*,' 1949, in *William Faulkner: The Contemporary Reviews*, ed. by M. Thomas Inge (Cambridge: Cambridge University Press, 1995), pp. 284-85 (p. 284).

<sup>80</sup> Lawrance Thompson, 'With *Knight's Gambit* Faulkner Takes a Disturbingly Quixotic Turn,' 1949, in *William Faulkner: The Contemporary Reviews*, pp. 292-93 (p. 292).

<sup>81</sup> Ruth Chapin, 'The World of Faulkner,' 1949, in *William Faulkner: The Contemporary Reviews*, pp. 290-91 (p. 291).

<sup>82</sup> William Faulkner, 'Hand Upon the Waters,' 1939, in *Knight's Gambit: Six Mystery Stories* (London: Vintage International, 2012), pp. 65-86 (p. 70). Also, Appendix 1.1 (pp. 181-83) and Cleanth Brooks, *William Faulkner: The Yoknapatawpha County*, 1963 (New Haven, CT: Yale University Press, 1966), p. 449.

<sup>83</sup> William Faulkner, 'Smoke,' *Knight's Gambit: Six Mystery Stories*, pp. 1-38 (p. 26).

<sup>84</sup> William Faulkner, 'An Error in Chemistry,' *Knight's Gambit: Six Mystery Stories*, pp. 111-37 (p. 115).

<sup>85</sup> Lorie Watkins-Fulton, *Modern American Literature: New Approaches: William Faulkner, Gavin Stevens, and the Cavalier Tradition* (Oxford: Peter Lang, 2010), p. 48.

<sup>86</sup> *Washington v. State*, 95 Fla. 289 (Fla. 1928), *Casetext* <[casetext.com/case/](http://casetext.com/case/)>, p. 296, 297.

<sup>87</sup> Faulkner, *Intruder*, p. 206.

<sup>88</sup> William Faulkner, 'Knight's Gambit,' 1949, in *Knight's Gambit: Six Mystery Stories*, pp. 139-258 (p. 146, 182, 202, 217).

<sup>89</sup> William Faulkner, 'Monk,' *Knight's Gambit: Six Mystery Stories*, pp. 39-63 (p. 49).

<sup>90</sup> See Faulkner, 'Smoke,' p. 11, 15. In the first courtroom scene, we observe the referential gaze towards both Judge Dukenfield and Stevens: "We were watching Judge Dukenfield now; it was suddenly as if the whole thing had sifted into his hands; as though he sat godlike above the vindictive and jeering laughter of that old man who even underground would not die [...]"; "But the others in the room watched Stevens – the jury about the table, the two brothers sitting at opposite ends of the bench, with their dark, identical, aquiline faces, their arms folded in identical attitudes."

<sup>91</sup> Faulkner, 'Knight's Gambit,' p. 218.

<sup>92</sup> *Ibid.*, p. 258.

<sup>93</sup> Frederic Jameson, 'The Vanishing Mediator: Narrative Structure in Max Weber,' *New German Critique*, 1.1 (1973), 52-89.

<sup>94</sup> Watson, *Forensic Fictions*, p. 173 (original emphasis). Also, 'Knight's Gambit,' pp. 253-58.

<sup>95</sup> Faulkner, *Intruder*, p. 206.

<sup>96</sup> Jameson, 'The Vanishing Mediator,' p. 78. Also, Michaela Janan, *The Politics of Desire: Propertius IV* (Berkeley, CA: University of California Press, 2001), p. 61.

<sup>97</sup> Jameson, 'The Vanishing Mediator,' p. 75.

<sup>98</sup> *Ibid.*, p. 78, 80.

<sup>99</sup> See Appendix 1.2 (p. 184), which demonstrates the specific relationships between Gowan, Temple, and Gavin Stevens.

<sup>100</sup> Faulkner, qtd. in *The Selected Letters of William Faulkner*, p. 305. Faulkner wrote these formal descriptions of *Requiem* in correspondence with Robert K. Haas.

<sup>101</sup> Sterling North, 'Sequel to *Sanctuary*,' 1951, in *William Faulkner: The Contemporary Reviews*, pp. 334-35 (p. 334).

<sup>102</sup> Maxwell Geismar, 'Faulkner's New Novel Will Win No Prizes,' 1951, in *William Faulkner: The Contemporary Reviews*, pp. 332-33 (p. 332, 333).

<sup>103</sup> Harrison Smith, 'Purification by Sacrifice,' 1951, in *William Faulkner: The Contemporary Reviews*, pp. 339-40 (p. 339, 340).

<sup>104</sup> Antony West, 'Requiem for a Dramatist,' 1951, in *William Faulkner: The Contemporary Reviews*, pp. 329-32 (p. 329).

<sup>105</sup> Malcolm Cowley, 'In Which Mr Faulkner Translates Past into Present,' 1951, in *William Faulkner: The Contemporary Reviews*, pp. 341-43 (p. 343).

<sup>106</sup> Faulkner, *Requiem*, p. 20, 21, pp. 32-33.

<sup>107</sup> *Ibid.*, p. 42, 45.

<sup>108</sup> Faulkner, *Intruder*, p. 25, 33; 'Smoke,' p. 15.

<sup>109</sup> Harry S. Truman, qtd. in Bardolph (ed.), *Civil Rights Record*, p. 243. The term "conscience of [a] Nation" was first used by President Truman in 1947 at the 38th Annual Conference of the NAACP: "Prejudice and intolerance in which these evils are rooted still exist. The conscience of our Nation, and the legal machinery which enforces it, have not yet secured to each citizen full freedom from fear."

<sup>110</sup> Faulkner, *Requiem*, p. 50.

<sup>111</sup> *Ibid.*, p. 50. Where federal would denote the "highest [...] stage" of a legal trial.

<sup>112</sup> *Ibid.*, pp. 51-52.

<sup>113</sup> See Richard Jacobson, 'Law, Ritual, Absence: Toward a Semiology of Law,' *University of Hartford Studies in Literature*, 9.2 (1977), 164-74 (pp. 167-68).

<sup>114</sup> Michel Foucault, *Discipline and Punish: The Birth of the Prison*, 1975, trans. by Alan Sheridan (London: Penguin, 1991), p. 9.

<sup>115</sup> Foucault, *Discipline and Punish*, p. 9; Faulkner, *Requiem*, pp. 51-52.

<sup>116</sup> Foucault, *Discipline and Punish*, p. 9; Faulkner, *Requiem*, p. 52.

<sup>117</sup> Faulkner, *Requiem*, p. 51. In the stage direction that leads to the Judge sentencing Nancy, it is unequivocal: "[Nancy] is – or was until recently, five months ago to be exact – a domestic servant, nurse to two white children, the second of whom,

an infant, she smothered in its cradle five months ago, for which act she is now on trial for her life.”

<sup>118</sup> Watson, *Forensic Fictions*, p. 182.

<sup>119</sup> *Ibid.*, p. 182.

<sup>120</sup> Faulkner, *Requiem*, p. 51.

<sup>121</sup> See Faulkner, ‘Oppression Seen in Negro Killings’; ‘Statement to the Press on the Willie McGee Case: 27 March 1951,’ pp. 211-12.

<sup>122</sup> Faulkner, *Requiem*, p. 62; Blotner, *Faulkner: A Biography*, p. 449.

<sup>123</sup> Faulkner, *Requiem*, p. 50.

<sup>124</sup> *Ibid.*, p. 85.

<sup>125</sup> McPherson, *Reconstructing Dixie*, p. 253. Also, Faulkner, *Intruder*, pp. 104-05, 139-40, 160-61, p. 166. A literary version of this notion is located in scenes that describe the attempted exhumation of Vinson Gowrie at Caledonia church; a reminder that “what is dead and buried can also be – and sometimes must be – exhumed” (in Watson, *Forensic Fictions*, p. 194).

<sup>126</sup> See *Plessy*, p. 552: “[... The] State are required to have separate but equal accommodations for white and colored persons.” Also, *Roberts v. City of Boston*, 59 Mass. 198 (1850), *Howard Law* <law.howard.edu/>; *Dred Scott v. Sanford* (1857); or *Giles v. Harris*, 189 U.S. 475 (U.S. 1903), *Justia* <supreme.justia.com/cases/>.

<sup>127</sup> Faulkner, *Requiem*, p. 85.

<sup>128</sup> *Ibid.*, p. 85.

<sup>129</sup> Allen, *Talking to Strangers*, p. 15, 20.

<sup>130</sup> Faulkner, *Intruder*, p. 204.

<sup>131</sup> Faulkner, *Requiem*, p. 50.

<sup>132</sup> William Faulkner, *The Mansion*, 1959 (London: Chatto & Windus, 1965), p. 383.

<sup>133</sup> *Ibid.*, p. 399.

## CHAPTER TWO

<sup>1</sup> S. Morgan, ‘Barack Obama’s Introduction to *To Kill a Mockingbird*,’ 7 April 2012 <www.youtube.com/watch>.

<sup>2</sup> Charles J. Shields, *Mockingbird: A Portrait of Harper Lee* (New York, NY: Holt Paperbacks, 2006), p. 4.

<sup>3</sup> Alice Petry, ‘Introduction,’ in *On Harper Lee: Essays and Reflections*, ed. by Alice Petry (Knoxville, TN: University of Tennessee Press, 2007), pp. iii-xv (p. vii, viii). Lawyer and author Scott Turow promised he would “try to do things as good and noble [...] as Atticus did,” while Federal Judge Richard Matsch counts Finch as a

“major judicial influence.” Also, Ann Engar, ‘*To Kill a Mockingbird: Fifty Years of Influence on the Legal Profession*,’ in *Harper Lee’s To Kill a Mockingbird: New Essays*, ed. by Michael J. Meyer (Lanham, MD: Scarecrow, 2010), pp. 66-80 (p. 66). Former assistant managing editor of the *ABA Journal*, Richard Burst, described the character as the “epitome of both moral certainty and unyielding trust in the rule of law [...] the self-assured lawyer and upright human being we all hope to be.”

<sup>4</sup> Even the most cursory search of published Southern literary histories demonstrates this. In *A Companion to the Literature and Culture of the American South* (2004), for example, ‘Harper Lee’ is referred to just once. By way of contrast, William Faulkner receives thirty-five separate references and seventy-seven individual mentions of his various fictions. Similar ratios can be found in *The Literature of the American South* (1998), *The Companion to Southern Literature* (2002), and *The Cambridge Companion to Literature of the American South* (2013).

<sup>5</sup> Harold Bloom, ‘Introduction,’ in *Harper Lee’s To Kill a Mockingbird: Bloom’s Modern Critical Interpretations*, ed. by Harold Bloom (New York, NY: Chelsea House, 2007), pp. 1-2 (p. 1).

<sup>6</sup> See Shields, *Mockingbird: A Portrait*, pp. 264-65, p. 267. Also, Joseph Crespino, *Atticus Finch: The Biography. Harper Lee, Her Father, and the Making of an American Icon* (New York, NY: Basic Books, 2018), pp. 177-84.

<sup>7</sup> Gregory S. Jay, *White Writers, Race Matters: Fictions of Racial Liberalism from Stowe to Stockett* (Oxford: Oxford University Press, 2017), p. 14.

<sup>8</sup> Michael Omi and Howard Winant, *Racial Formation in the United States*, 3rd edn. (New York, NY: Routledge, 2015), p. 32.

<sup>9</sup> Leon L. Litwack, *Trouble in Mind: Black Southerners in the Age of Jim Crow* (New York, NY: Alfred A. Knopf, 1998), p. 258.

<sup>10</sup> Harper Lee, *To Kill a Mockingbird*, 1960 (New York, NY: Heinemann, 2010), pp. 160-62; Shields, *Mockingbird: A Portrait*, p. 57.

<sup>11</sup> Crespino, *Atticus Finch: The Biography*, p. 11.

<sup>12</sup> ‘Sheffield is Convicted at Special Term,’ *The Monroe Journal*, 64.35 (1930), 1; ‘Letter to the Editor,’ *The Monroe Journal*, 64.35 (1930), 2. Also, Appendix 2.1 (p. 186), which shows a full clipping of the Sheffield case, as well as the entire letter from Lemuel B. Green and W.H. Black to A.C. Lee.

<sup>13</sup> Bryan Stevenson, ‘Lynching in America: Confronting the Legacy of Racial Terror,’ ed. by Bryan Stevenson, 3rd edn., *Equality Justice Initiative*, 2017 <[lynchinginamerica.eji.org/report/](http://lynchinginamerica.eji.org/report/)>. Also, Howard Kester, ‘The Lynching of Claude Neal’ (New York, NY: National Association for the Advancement of Colored People, 1937), pp. 1-2.

<sup>14</sup> Crespino, *Atticus Finch: The Biography*, p. 14. A.C. Lee would have been aware of all the details in the Neal case, as his office frequently “received wire reports from [...] major news agencies.” Also, ‘Escambia Jurors Sifting Lynching,’ *The Monroe Journal*, 68.46 (1934), 6. Appendix 2.2 (p. 187) shows the entire piece, where only sparse details of Neal’s lynching appear in the penultimate paragraph.

<sup>15</sup> Shields, *Mockingbird: A Portrait*, p. 57, 121.

<sup>16</sup> Appendix 2.3 (p. 188) shows images of an original copy of *The Prelude*’s Spring 1945 edition.

<sup>17</sup> Harper Lee, ‘Nightmare,’ *Prelude*, 18 (1945), 11 (p. 11).

<sup>18</sup> Harper Lee, ‘A Wink at Justice,’ *Prelude*, 18 (1945), 14-15 (p. 14, 15).

<sup>19</sup> Appendix 2.4 (p. 189) shows images of an original copy of ‘Now is the Time for All Good Men.’

<sup>20</sup> *Smith v. Allwright*, 321 U.S. 649 (U.S. 1944), *Justia* <supreme.justia.com/cases/>, p. 321. This Supreme Court decision effectively outlawed the white primary and deemed the prohibition of the “right of a citizen [...] to vote for the nomination of candidates for the United States Senate and House of Representatives” on account of their “race or color” unconstitutional.

<sup>21</sup> Section 181, in Constitution of Alabama, 1946, *Alabama Department of Archives and History* <archives.alabama.gov/>.

<sup>22</sup> Harper Lee, ‘Now is the Time for All Good Men,’ *Rammer Jammer*, 22.2 (1946), 7, 17-18 (p. 7, 17).

<sup>23</sup> Horace Wilkinson, ‘Argument for the Boswell Amendment,’ *Alabama Lawyer*, 7.4 (Oct. 1946), 375-82 (p. 377).

<sup>24</sup> Lee, ‘Now is the Time for All Good Men,’ p. 7, pp. 17-18.

<sup>25</sup> *Ibid.*, p. 18

<sup>26</sup> *Powell v. Alabama*, 287 U.S. 45 (U.S. 1932), *Justia* <supreme.justia.com/cases/>, p. 55; *Norris v. Alabama* (1935). Used as an informal term to describe the abovementioned court cases, the Scottsboro Boys trials concerned nine “Negroes charged with the crime of rape [...] committed upon the persons of two white girls [...] on March 25, 1931.” Also, see Bardolph, *Civil Rights Record*, p. 205. The Scottsboro Boys trials are arguably the “most famous of all criminal cases raising the issue of fair trial for Negroes.”

<sup>27</sup> Eric J. Sundquist, ‘Blues for Atticus Finch: Scottsboro, *Brown*, and Harper Lee,’ in *Harper Lee’s To Kill a Mockingbird: Bloom’s Modern Critical Interpretations*, pp. 75-102 (p. 79); James Thomas Heflin, qtd. in Harvard Sitkoff, *A New Deal for Blacks: The Emergence of Civil Rights as a National Issue* (Oxford: Oxford University Press, 1978), p. 267.

<sup>28</sup> Lee, *Mockingbird*, p. 1. The narrative begins in the summer of 1933, when “Dill came to [Maycomb],” and ends in October 1935 when “Jem got his arm badly broken at the elbow” after a fight with Bob Ewell.

<sup>29</sup> Hazel Rowley, ‘Review of Books,’ *The Australian*, April 1999 <hazelrowley.com/article-7/>.

<sup>30</sup> *Alabama (The State) v. Walter Lett*, in ‘State Minutes of the Circuit Court,’ *Monroe County* (1934), p. 345. See Appendix 2.5 (pp. 190-91). The original document is difficult to decipher, so the case notes have been electronically duplicated where possible.

<sup>31</sup> ‘Lett Negro Saved from Electric Chair,’ *The Monroe Journal*, 68.27 (1934), 1. Also, ‘Negro Held for Attacking Woman,’ *The Monroe Journal*, 67.45 (1933), 1. Appendix 2.6 (pp. 192-93) provides both articles in full.

<sup>32</sup> Shields, *Mockingbird: A Portrait*, p. 118, pp. 119-20.

<sup>33</sup> Richard Sullivan, ‘Engrossing First Novel of Rare Excellence,’ *Chicago Tribune*, 17 July 1960, p. C1; Frank H. Lyall, ‘One-Taxi Town,’ *The New York Times*, 10 July 1960 <www.nytimes.com>. *To Kill a Mockingbird* received many similar reviews. See, for example, Margaret Marble, ‘Lee Tale has Fresh Rapport,’ *The Los Angeles Times*, 7 August 1960, p. B7: Lee’s characters have a “timelessness about them,” and leave us with the “feeling that they will prevail in the difficult and painful adjustments the South must inevitably make.”

<sup>34</sup> Elizabeth Hailey, ‘Currents of Love, Hate,’ *The Dallas Morning News*, 4 September 1960 <www.dallasnews.com/arts-entertainment/>; Phoebe Lou Adams, ‘*To Kill a Mockingbird*, by Harper Lee,’ *The Atlantic*, August 1960 <www.theatlantic.com/magazine/>.

<sup>35</sup> Steven Lubet, ‘Reconstructing Atticus Finch,’ *Michigan Law Review*, 97.6 (1999), 1339-62 (p. 1340).

<sup>36</sup> Austin Sarat and Martha Umphrey, ‘Introduction,’ in *Reimagining To Kill a Mockingbird: Family, Community, and the Possibility of Equal Justice Under Law*, ed. by Austin Sarat and Martha Merrill Umphrey (Amherst, MA: University of Massachusetts Press, 2013), pp. 1-15 (p. 3); Thomas L. Shaffer, ‘The Moral Theology of Atticus Finch,’ *University of Pittsburgh Law Review*, 42.181 (1981), 181-224 (p. 188).

<sup>37</sup> Peter Zwick, ‘Rethinking Atticus Finch,’ *Case Western Law Review*, 60.4 (2010), 1349-67 (p. 1355).

<sup>38</sup> Jay, *White Writers, Race Matters*, p. 270.

<sup>39</sup> Christopher Metress, 'The Rise and Fall of Atticus Finch,' in *Bloom's Modern Critical Interpretations: Harper Lee's To Kill a Mockingbird*, pp. 141-48 (p. 141, 142).

<sup>40</sup> Monroe H. Freedman, 'Atticus Finch, Esq., R.I.P.,' *Legal Times*, 24 February 1992, pp. 20-21 (p. 21). Also, 'Atticus Finch: Right and Wrong,' *Alabama Law Review*, 45.2 (1994), 473-82 (p. 479). Freedman here compounds this notion further: "Throughout his relatively comfortable and pleasant life in Maycomb, Atticus Finch knows about the grinding, ever-present humiliation and degradation of the black people of Maycomb; he tolerates it; and sometimes he even trivializes and condones it."

<sup>41</sup> Theresa Phelps, 'Atticus, Thomas, and the Meaning of Justice,' *Notre Dame Law Review*, 77.3 (2002), 925-35 (p. 926).

<sup>42</sup> Rob Atkinson, 'Liberating Lawyers: Divergent Parallels in *Intruder in the Dust* and *To Kill a Mockingbird*,' *Duke Law Journal*, 49.3 (1999), 601-748 (p. 740).

<sup>43</sup> Lubet, 'Reconstructing Atticus Finch,' p. 1347.

<sup>44</sup> *Ibid.*, p. 1347, 1348.

<sup>45</sup> Metress, 'The Rise and Fall of Atticus Finch,' p. 147.

<sup>46</sup> See Lee, *Mockingbird*, p. 1, 6. Also, Harper Lee, *Go Set a Watchman*, 1957 (New York, NY: Heinemann, 2015), p. 3. Atticus is said to be "nearly fifty" in February 1935. If we assume that *Go Set a Watchman* is set in 1957 – the narrative certainly takes place post-*Brown*, the murder of Emmett Till, and the Montgomery Bus Strikes – when Atticus is "seventy-two," then Finch is likely born in c.1885. Jean Louise's corresponding dates, however, do not quite match. She is said to be "twenty-six" in *Go Set a Watchman*, suggesting a birthdate of c.1931. In *To Kill a Mockingbird*, though, Scout is "almost six" in the summer of 1933. Either way, Finch is certainly born in the mid-1880s, similar to Faulkner's Gavin Stevens.

<sup>47</sup> Lee, *Mockingbird*, p. 5.

<sup>48</sup> Faulkner, *Requiem*, p. 50.

<sup>49</sup> Lee, *Mockingbird*, p. 33, 22.

<sup>50</sup> *Ibid.*, pp. 4-5.

<sup>51</sup> *Ibid.*, p. 4.

<sup>52</sup> 'Unsullied, adj.,' in *Oxford English Dictionary*.

<sup>53</sup> Declaration of Independence; Lee, *Mockingbird*, p. 83.

<sup>54</sup> Lee, *Mockingbird*, p. 83.

<sup>55</sup> *Ibid.*, p. 84, 149.

<sup>56</sup> See Jay, *White Writers, Race Matters*, p. 238. Finch's lack of Southern colloquialism can be linked to Gregory Peck's performance in the adaption to film:

“Peck plays Atticus almost without a Southern accent, his standard English only ornamented occasionally by a colloquialism. That eloquent performance reinforces his character’s claim to the status of representative American man.”

<sup>57</sup> Lee, *Mockingbird*, p. 181.

<sup>58</sup> McPherson, *Reconstructing Dixie*, p. 7, 27 (original emphasis).

<sup>59</sup> Lee, *Mockingbird*, p. 145, 112, 113.

<sup>60</sup> *Ibid.*, p. 187.

<sup>61</sup> *Ibid.*, p. 190.

<sup>62</sup> L. Seaman, *What Miscegenation Is!: and What We are to Expect Now that Mr Lincoln is Re-Elected* (New York, NY: Waller & Willetts, 1864), p. 4. Here, black Americans that partake in the act of inter-racial relations are described as “beasts [... that] can only be found in the South.”

<sup>63</sup> Lee, *Mockingbird*, p. 191.

<sup>64</sup> *Ibid.*, p. 197.

<sup>65</sup> *Ibid.*, p. 207.

<sup>66</sup> Qtd. in Lisa Lindquist Dorr, *White Women, Rape, and the Power of Race in Virginia, 1900-1960* (Chapel Hill, NC: University of North Carolina Press, 2004), p. 153, 154.

<sup>67</sup> Lee, *Mockingbird*, p. 217, pp. 218-19.

<sup>68</sup> ‘Amendment VI,’ in Constitution of the United States, The Bill of Rights and All Amendments.

<sup>69</sup> Lee, *Mockingbird*, p. 196, pp. 200-01.

<sup>70</sup> *Ibid.*, p. 195, 201. Below is Atticus’s full interaction with Bert (p. 194):

‘You do?’ asked Atticus mildly. ‘I just want to make sure.’ He went to the court reporter, said something, and the reporter entertained us for some minutes by reading Mr Tate’s testimony as if it were stock-market quotations: ‘... which eye her left oh yes that’d make it her right it was her right eye Mr Finch I remember now she was banged.’ He flipped the page. ‘Up on that side of the face Sheriff please repeat what you said it was her right eye I said –’

<sup>71</sup> Howard G. Franklin, ‘How the original Atticus Finch influenced my becoming a public defender and writing *Gideon’s Children*,’ *Goodreads*, 13 July 2015 <[www.goodreads.com](http://www.goodreads.com)>. Franklin was so influenced by Atticus that he became both a public defender and then a novelist, writing *Gideon’s Children* in 2014 to reflect the “heroic courage and high moral standards exhibited by Atticus.”

<sup>72</sup> See *To Kill a Mockingbird*, dir. by Robert Mulligan (Universal, 1962). Especially, 1:32:02-1:38:45.

<sup>73</sup> Lee, *Mockingbird*, p. 224; ‘Amendment V,’ in Constitution of the United States, The Bill of Rights and All Amendments.

<sup>74</sup> Lee, *Mockingbird*, p. 224, 225.

<sup>75</sup> Paine, ‘Common Sense,’ p. 34.

<sup>76</sup> Lee, *Mockingbird*, pp. 226-27.

<sup>77</sup> *Ibid.*, p. 245.

<sup>78</sup> Steven J. Whitfield, *A Death in the Delta: The Story of Emmett Till* (London: Macmillan, 1988), pp. 41-42.

<sup>79</sup> Lee, *Mockingbird*, p. 227; Daniel Geary, ‘Racial Liberalism, the Moynihan Report and the Project on “The Negro America,”’ *Daedalus*, 140.1 (2011), 53-66 (p. 54).

<sup>80</sup> ‘Barack Obama’s Introduction to *To Kill a Mockingbird*’; ‘Introductory Lecture,’ in *E-Notes: To Kill Mockingbird* (London: E-Notes Publishing, 2012), pp. 3-4 (p. 3).

<sup>81</sup> Tina Andrealis, ‘Recently Discovered Novel from Harper Lee, Author of *To Kill a Mockingbird*,’ *HarperCollins*, 3 February 2015 <[www.harpercollins.com/corporate/](http://www.harpercollins.com/corporate/)>.

<sup>82</sup> Lee, qtd. in Andrealis, ‘Recently Discovered Novel from Harper Lee.’

<sup>83</sup> *Ibid.*

<sup>84</sup> Lee, *Watchman*, pp. 130-37, 59-61.

<sup>85</sup> *Ibid.*, pp. 107-11, p. 149.

<sup>86</sup> Malcolm Gladwell, ‘The Courthouse Ring: Atticus Finch and the Limits of Southern Liberalism,’ *The New Yorker*, 3 August 2009 <[www.newyorker.com/magazine/](http://www.newyorker.com/magazine/)>.

<sup>87</sup> Lee, *Watchman*, p. 3

<sup>88</sup> *Ibid.*, p. 10.

<sup>89</sup> Lee, *Mockingbird*, p. 227; Lee, *Watchman*, p. 24 (original emphasis).

<sup>90</sup> Lee, *Watchman*, p. 103, 108, 110 (original emphasis).

<sup>91</sup> Crespino, *Atticus Finch: The Biography*, p. 80.

<sup>92</sup> See ‘Segregationists Charged with Sedition, Inciting to Riot,’ *The New York Times*, 25 September 1956, p. B4. Also, Crespino, *Atticus Finch: The Biography*, pp. 79-81. Asa Carter’s role in the North Alabama Citizens’ Council included the organisation of the well-documented attack on Nat King Cole during an April 1956 performance in Birmingham.

<sup>93</sup> Lee, *Watchman*, p. 108, 110.

<sup>94</sup> See Robert McCrum, 'Go Set a Watchman by Harper Lee, review – a literary curiosity,' *The Guardian*, 19 July 2015 <[www.theguardian.com/books/](http://www.theguardian.com/books/)>; Arifa Akbar, 'Go Set A Watchman – book review: A Rough Draft, but More Radical and Politicised than Harper Lee's *To Kill A Mockingbird*,' *The Independent*, 12 July 2015 <[www.independent.co.uk/arts-entertainment/](http://www.independent.co.uk/arts-entertainment/)>; Philip Sherwell, 'Harper Lee literary bombshell: Atticus Finch depicted as racist bigot in *Go Set a Watchman*,' *The Telegraph: New York*, 11 July 2015 <[www.telegraph.co.uk/news/](http://www.telegraph.co.uk/news/)>; Michiko Kakutani, 'Review: Harper Lee's *Go Set a Watchman* Gives Atticus Finch a Dark Side,' *The New York Times*, 10 July 2015 <[www.nytimes.com/2015/](http://www.nytimes.com/2015/)>.

<sup>95</sup> Lee, *Watchman*, p. 250.

<sup>96</sup> 'Citizens' Council Formed in County,' *The Monroe Journal*, 90.10 (1956) 1, 8 (p. 1).

<sup>97</sup> Casey N. Cep, *Furious Hours: Murder, Fraud, and the Last Trial of Harper Lee* (New York, NY: Random House, 2019), p. 282.

<sup>98</sup> Lee, *Mockingbird*, p. 227. Also, Lee, *Watchman*, p. 267 (original emphasis). Lee tacitly endorses this counter-reading of Atticus when Jean Louise is admonished by Uncle Jack in *Go Set a Watchman*'s penultimate chapter:

'You have a tendency not to give anybody elbow room in your mind for their ideas, no matter how silly you think they are.'

Dr Finch clasped his hands and rested them on the back of his head. 'Good grief, baby, people don't agree with the Klan, but they certainly don't try to prevent them from puttin' on sheets and making fools of themselves in public.'

'Why did you let Mr O'Hanlon get up there?' 'Because he wanted to.' Oh God, what have I done?

<sup>99</sup> Harper Lee, 'Alabama Authors Write of Slaves, Women, GIs,' *The Crimson White*, 52.1 (1946), p. 2: "The South has been repeatedly embarrassed by the [Lillian] Smiths, Faulkners, Stowes, et al, who either wrote delicately of the mint julep era or championed the dark eddies of 'niggertown.'" Appendix 2.7 (p. 194) shows a copy of the original essay.

<sup>100</sup> William Faulkner, 'A Letter to the North,' *Life Magazine*, 5 March 1956, 51-52 (p. 51).

<sup>101</sup> *Ibid.*, p. 52, 51.

<sup>102</sup> Lee, *Watchman*, p. 250.

<sup>103</sup> *Ibid.*, pp. 238-39.

<sup>104</sup> Lee, *Mockingbird*, p. 245.

<sup>105</sup> Lee, *Watchman*, p. 241.

<sup>106</sup> Faulkner, *Intruder*, p. 155.

<sup>107</sup> Sarah Churchwell, 'Go Set a Watchman by Harper Lee, review – "moral ambition sabotaged,"' *The Guardian*, 17 July 2015, <[www.theguardian.com/books/](http://www.theguardian.com/books/)>.

<sup>108</sup> Lee, *Watchman*, p. 270.

<sup>109</sup> *Ibid.*, p. 246.

<sup>110</sup> Francesco Valdes, Jerome McCristal, and Angela P. Harris, 'Battles Waged, Won, and Lost: Critical Race Theory at the Turn of the Millennium,' in *Crossroads, Directions, and a New Critical Race Theory*, ed. by Francesco Valdes, Jerome McCristal, and Angela P. Harris (Philadelphia, PA: Temple University Press, 2002), pp. 1-6 (p. 1).

<sup>111</sup> Delgado and Stefancic, *Critical Race Theory: An Introduction*, p. 8.

<sup>112</sup> Lee, *Watchman*, p. 273.

<sup>113</sup> Adam Gopnik, 'Sweet Home Alabama: Harper Lee's *Go Set a Watchman*,' *The New Yorker*, 27 July 2015 <[www.newyorker.com/magazine/](http://www.newyorker.com/magazine/)>.

<sup>114</sup> Harper Lee, 'My Christmas in New York,' 1961, *The Guardian*, 12 December 2015 <[www.theguardian.com/books/](http://www.theguardian.com/books/)>.

<sup>115</sup> Lee, qtd. in McCrum, 'Go Set a Watchman by Harper Lee, review.'

<sup>116</sup> Tay Hohoff, qtd. in Gaby Wood, 'Go Set a Watchman, review: an anxious work in progress,' *The Telegraph*, 19 February 2016 <[www.telegraph.co.uk/books/](http://www.telegraph.co.uk/books/)>.

<sup>117</sup> Wood, 'Go Set a Watchman, review.'

<sup>118</sup> Kakutani, 'Go Set a Watchman Gives Atticus Finch a Dark Side.'

<sup>119</sup> There are other examples of Hohoff being viewed as a positive influence on the editing process. See Robert McCrum, 'Go Set a Watchman by Harper Lee, review,' Arifa Akbar, 'Go Set A Watchman – book review,' or Philip Sherwell, 'Harper Lee literary bombshell.' Also, Andrew Buncombe, 'Go Set a Watchman: Atticus Finch is Now a Racist in Harper Lee's *To Kill A Mockingbird* Sequel,' *The Independent*, 11 July 2015 <[www.independent.co.uk/arts-entertainment/](http://www.independent.co.uk/arts-entertainment/)>.

<sup>120</sup> Katie Hamilton, *Harper Lee and the American South: White Liberalism and the Civil Rights Struggle in Go Set a Watchman* (Nottingham: Five Leaves, 2015), p. 9.

<sup>121</sup> A.C. Lee, 'That Anti-Lynching Bill,' *The Monroe Journal*, 72.3 (1938), 2. Also, A.C. Lee, 'The Federal Anti-Lynching Bill,' *The Monroe Journal*, 72.8 (1938), 2.

<sup>122</sup> Lee, *Mockingbird*, p. 227.

<sup>123</sup> Lee, *Watchman*, pp. 247-48.

<sup>124</sup> Valdes, McCristal, and Harris, 'Battles Waged, Won, and Lost,' p. 1.

### CHAPTER THREE

<sup>1</sup> Jesse Hill Ford, 'Letter to Mr Edward Weeks: 10 August 1962,' in *The Life and Letters of Jesse Hill Ford, Southern Writer*, ed. by Anne Cheney (Lewiston, NY: Edwin Mellen, 1996), pp. 94-95 (p. 95).

<sup>2</sup> See Floyd C. Watkins, *The Death of Art: Black and White in the Recent Southern Novel* (Athens, GA: University of Georgia Press, 1970), p. 14.

<sup>3</sup> Charles Rose, 'Epilogue,' in *The Life and Letters of Jesse Hill Ford, Southern Writer*, pp. 455-59 (p. 456).

<sup>4</sup> 'Bailiwick, n.1,' in *Oxford English Dictionary*.

<sup>5</sup> Sears Roebuck Buntin acts as legal counsel for Emma Jones in her divorce proceedings, while District Attorney Arnold Burkette appears in one chapter seeking to calm Steve and Nella Mundine, who are furious with Hedgepath for finding what they consider to be spurious reasons to protect Willie Joe Worth's reputation.

<sup>6</sup> See Appendix 3.1 (p. 195).

<sup>7</sup> Mary L. Dudziak, *Cold War Civil Rights: Race and the Image of American Democracy* (Princeton, NJ: Princeton University Press, 2000), pp. 178-79.

<sup>8</sup> John F. Kennedy, 'Report to the American People on Civil Rights' (Washington, Oval Office, 11 June 1963), *JFK Library* <[www.jfklibrary.org](http://www.jfklibrary.org)>.

<sup>9</sup> See Cheney, *The Life and Letters of Jesse Hill Ford, Southern Writer*, p. 118. Apparently, Ford did not plan that his "hero's initials [would] correspond with those of Lyndon Baines Johnson, [suggesting that] the link between Johnson and Lord Byron Jones [was] accidental."

<sup>10</sup> John Taylor, 'The Liberation of Jesse Hill Ford,' *Esquire*, 127.2 (1997), 74-79, 112-13 (p. 77); Jesse Hill Ford, *The Liberation of Lord Byron Jones* (Boston, MA: Little Brown, 1965), pp. 149-50, 154-55.

<sup>11</sup> Taylor, 'The Liberation of Jesse Hill Ford,' p. 77.

<sup>12</sup> The following stories were published in *The Atlantic* between 1959 and 1964: 'The Surest Thing in Show Business' (April 1959), 'A Strange Sky' (September 1959), 'How the Mountains Are' (April 1960), 'The Trout' (July 1961), 'Safe at Last' (October 1961), 'Foxy' (December 1962), 'Fishes, Birds, and Sons of Men' (April 1963), 'The Messenger' (July 1963), 'The Cave' (December 1963), 'The Trial' (April 1964), 'Look Down, Look Down' (June 1964), and 'To the Open Water' (November 1964). Also, see Jesse Hill Ford, *Fishes, Birds, and Sons of Men* (London: Bodley Head, 1967). Six of the above titles were included in this collection, along with thirteen other stories published in *Paris Review*, *The Reporter*, and *Esquire*.

<sup>13</sup> Kurt Vonnegut, qtd. in Cheney (ed.), *The Life and Letters of Jesse Hill Ford, Southern Writer*, p. lxxv.

<sup>14</sup> Ford uses the setting of Somerton in four short stories, all republished in *Fishes, Birds, and Sons of Men*: ‘A Strange Sky,’ ‘Beyond the Sunset’ (1960), ‘The Messenger,’ and ‘The Bitter Bread’ (February 1966).

<sup>15</sup> Jesse Hill Ford, ‘A Strange Sky,’ 1959, in *Fishes, Birds, and Sons of Men*, pp. 3-23 (p. 11): “There must have been a dozen [pigeon’s], gray-blue, circling over the post office as they rose, now veering an instant in confusion before they finally settled out in the direction of Main Street”; Jesse Hill Ford, ‘Beyond the Sunset,’ 1960, in *Fishes, Birds, and Sons of Men*, pp. 99-117 (p. 101).

<sup>16</sup> Ford, ‘A Strange Sky,’ p. 4; Jesse Hill Ford, ‘The Messenger,’ 1963, in *Fishes, Birds, and Sons of Men*, pp. 131-39 (p. 134).

<sup>17</sup> Jesse Hill Ford, ‘The Bitter Bread,’ 1966, in *Fishes, Birds, and Sons of Men*, pp. 25-36 (p. 27, 33).

<sup>18</sup> Ford, *Lord Byron Jones*, p. 54.

<sup>19</sup> See Jesse Hill Ford, ‘The Trial,’ 1964, *The Atlantic*, 213 (April 1964), 59-62. The short story that appeared in *The Atlantic* would become, virtually unedited, a chapter of the same name in *The Liberation of Lord Byron Jones*.

<sup>20</sup> Mrs Scott, qtd. in Cheney (ed.), *The Life and Letters of Jesse Hill Ford, Southern Writer*, p. 159.

<sup>21</sup> Jesse Hill Ford, ‘Letter to Mr Edward Weeks: 24 April 1964,’ in *The Life and Letters of Jesse Hill Ford, Southern Writer*, pp. 157-59 (pp. 157-58).

<sup>22</sup> *Ibid.*, p. 158.

<sup>23</sup> Taylor, ‘The Liberation of Jesse Hill Ford,’ p. 77.

<sup>24</sup> Cheney, *The Life and Letters of Jesse Hill Ford, Southern Writer*, pp. 121-22.

<sup>25</sup> ‘Chapter 130, Section 10,’ in Acts Passed by the State of Tennessee.

<sup>26</sup> Bardolph, *The Civil Rights Record*, pp. 82-83.

<sup>27</sup> ‘Jim Crow Laws: Tennessee, 1866-1955,’ *Blackpast.org*, 3 January 2011 <[www.blackpast.org/](http://www.blackpast.org/)>. Two Statutes were ratified concerning school segregation before 1875. First, in 1866, it was legislated that “separate schools [were] required for white and black children.” Second, in 1869, it was declared that, “while no citizen of Tennessee could be excluded from attending the University of Tennessee on account of his race or color, the accommodation and instruction of persons of color shall be separate from those for white persons.” Also, ‘Article XI,’ in Constitution of the State of Tennessee, 1870, *Tennessee Virtual Archive* <[teva.contentdm.oclc.org/digital/](http://teva.contentdm.oclc.org/digital/)>.

<sup>28</sup> See Acts Passed by the State of Tennessee, 1881, 1885, 1891, 1895, 1905, 1932, *Haiti Trust* <[catalog.hathitrust.org/](http://catalog.hathitrust.org/)>. In 1881, a Statute forced “railroad companies [...] to furnish separate cars for colored passengers who pay first-class rates”; a law in 1882 amended this previous legislation to state that “railroads [were] required to

supply first-class passenger cars to all persons paying first-class rates.” In 1891, the above was amended by a further Statute that declared “railways [must] provide equal but separate accommodations for the white and colored races.” Inter-racial relationships were also labelled as “a felony,” and a further law “prohibited marriage or living together as man and wife between racially mixed persons,” with a “penalty [of] one to five years imprisonment [...] or [a] fine.” In 1885, Tennessee passed a Statute declaring that “proprietors had the right to create separate accommodations for whites and Negroes”; this was formally applied to streetcars in 1905 and required “providers to designate a portion of each car for white passengers and [...] for colored passengers.”

<sup>29</sup> *Loving v. Virginia*, 388 U.S. 1 (U.S. 1967), *Justia* <supreme.justia.com/cases/>, p. 1. This Supreme Court decision banned any state legislation pertaining to prohibit inter-racial marriage. The case concluded with a definitive reversal of previous state laws: “To deny [marriage] on so unsupportable a basis as the racial classifications embodied in these [state] Statutes [... is] directly subversive of the principle of equality at the heart of the Fourteenth Amendment [...]” Sixteen states saw laws forbidding marriage between black and white instantly overturned: Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Texas, Tennessee, Virginia, and West Virginia.

<sup>30</sup> Jesse Hill Ford, ‘Letter to Mr Edward Weeks: 3 October 1962,’ in *The Life and Letters of Jesse Hill Ford, Southern Writer*, pp. 98-103 (p. 99, original emphasis).

<sup>31</sup> Ford, *Lord Byron Jones*, pp. 73-74, p. 70.

<sup>32</sup> Ford, ‘Letter to Mr Edward Weeks: 3 October 1962,’ p. 99.

<sup>33</sup> *Ibid.*, p. 100, pp. 100-01 (original emphasis).

<sup>34</sup> *Ibid.*, pp. 101-02 (original emphasis).

<sup>35</sup> George Garrett, ‘Foreword to *The Liberation of Lord Byron Jones*,’ in *Southern Excursions: Views on Southern Letters in my Time*, ed. by James C. McKinley (Baton Rouge, LA: Louisiana State University Press, 2003), pp. 210-14 (p. 211).

<sup>36</sup> Christa Buschendorf, ‘Narrated Power Relations: Jesse Hill Ford’s Novel *The Liberation of Lord Byron Jones*,’ in *Civilizing and Decivilizing Processes: Figurational Approaches to American Culture*, ed. by Christa Buschendorf, Astrid Franke, and Johannes Voelz (Cambridge: Cambridge Scholars, 2011), pp. 227-61 (p. 235).

<sup>37</sup> ‘*The Liberation of Lord Byron Jones*,’ *Kirkus Review*, 28 June 1965 <www.kirkusreviews.com/>.

<sup>38</sup> Ralph McGill, 'The Clearest Truth is in Fiction: Jesse Hill Ford's Novel of the South,' *The Atlantic*, 216.1 (1965), 92-93 (p. 92, 93).

<sup>39</sup> Paul Horgan, Edwin O'Connor, Shirley Ann Grau, and Howard Mumford Jones, qtd. in John Stewart Carter and Maurice English, 'Reviews and Poetry,' *The Sewanee Review*, 73.4 (1965), 5 (p. 5).

<sup>40</sup> William J. Free, 'On *The Liberation of Lord Byron Jones* by Jesse Hill Ford,' *The Georgia Review*, 20.2 (1966), 238-39 (p. 238, 239).

<sup>41</sup> James McBride Dabbs, *Civil Rights in Recent Southern Fiction* (Atlanta, GA: Southern Regional Council, 1969), p. 109, 111.

<sup>42</sup> *Ibid.*, pp. 112-13, p. 114.

<sup>43</sup> Watkins, *Death of Art*, p. 6, 21, 39, 55, 29, 30.

<sup>44</sup> See Homer Bigart, 'Novelist on Trial in Killing of Negro G.I. in Tennessee,' *The New York Times*, 30 June 1971 <[www.nytimes.com/1971/](http://www.nytimes.com/1971/)>: "Last Nov. 16, Private George Henry Doakes, Jr., the 21-year-old son of a Cumberland Presbyterian minister, was on the first night of his leave from Fort Leonard Wood [...] when he was shot and killed while parked on the winding driveway to the Ford's 27-acre farm on the northern outskirts of Humboldt."

<sup>45</sup> Garrett, 'Foreword to *The Liberation of Lord Byron Jones*,' p. 211.

<sup>46</sup> Buschendorf, 'Narrated Power Relations,' p. 229.

<sup>47</sup> See Linda T. Wynn, 'Zephaniah Alexander Looby,' *Tennessee Encyclopedia* <[tennesseencyclopedia.net/](http://tennesseencyclopedia.net/)>. Working principally in Nashville, Tennessee, Zephaniah Alexander Looby represented black plaintiffs in a series of state court cases and gained national recognition when he appeared as part of the defense team (along with Thurgood Marshall, Jr.) to defend twenty-five black men charged in the Columbia race riots of 1946 (twenty-three were acquitted). Also, Richard L. Saunders, 'What Happened?: Tent City, Tennessee,' *The University of Tennessee: Third Civil Rights Conference*, 2011 <[www.utm.edu/staff/](http://www.utm.edu/staff/)>. James F. Estes was one of only five active black lawyers in Tennessee in the late-1950s. In 1958, Estes worked with the Memphis NAACP and encouraged support for voting rights in Fayette County.

<sup>48</sup> Dudziak, *Cold War Civil Rights*, p. 187.

<sup>49</sup> Watkins, *Death of Art*, p. 6.

<sup>50</sup> Ford, *Lord Byron Jones*, p. 6.

<sup>51</sup> *Ibid.*, p. 6.

<sup>52</sup> Ford, *Lord Byron Jones*, p. 6; Kennedy, 'Report to the American People on Civil Rights.' Kennedy directly references Harlan's *Plessy* dissent in the final moments of his address: "We have a right to expect that [...] the Constitution will be color blind, as Justice Harlan said at the turn of the century."

<sup>53</sup> Watkins, *Death of Art*, p. 35.

<sup>54</sup> Ford, *Lord Byron Jones*, p. 72.

<sup>55</sup> Dabbs, *Civil Rights in Recent Southern Fiction*, pp. 114-15.

<sup>56</sup> Ford, *Lord Byron Jones*, pp. 149-50, 154-55, 293-95 (original emphasis).

<sup>57</sup> *Ibid.*, p. 1 (original emphasis).

<sup>58</sup> Martin Luther King, Jr., 'I Have a Dream' (Washington, Lincoln Memorial, 28 August 1963), *United States Archives* <[www.archives.gov/files/](http://www.archives.gov/files/)>.

<sup>59</sup> Sarah Brady Siff, 'Policing the Police: A Civil Rights Story,' *Origins*, 9.8 (May 2016) <[origins.osu.edu/article/](http://origins.osu.edu/article/)>.

<sup>60</sup> See *Mapp v. Ohio*. Also, *Gideon v. Wainwright*, 372 U.S. 335 (U.S. 1963), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>. The Supreme Court case of 1963 enforced state courts to provide all defendants with an attorney, in line with the Sixth Amendment and the Equal Protection Clause of the Fourteenth Amendment.

<sup>61</sup> Ford, *Lord Byron Jones*, p. 110.

<sup>62</sup> *Ibid.*, p. 125, 127, 129.

<sup>63</sup> *Ibid.*, p. 129, 130.

<sup>64</sup> *Ibid.*, p. 126, 130 (original emphasis). Also, Thomas A. Guglielmo, 'Desegregating Blood: A Civil Rights Struggle to Remember,' *The Conversation*, 12 February 2015 <[www.pbs.org/newshour/science/](http://www.pbs.org/newshour/science/)>. Guglielmo examines the Red Cross campaigns of the early post-war era, in which black Americans were refused as donors, or saw their blood segregated from white donations. Guglielmo argues that the campaign to desegregate blood was a precursor to more recognised legal battles of the civil rights movement: "These many battles constituted a nascent, surging, and, today, too-often-overlooked civil rights struggle that helped pave the way for the more famous movement of the post-war years."

<sup>65</sup> Watkins, *Death of Art*, p. 6.

<sup>66</sup> See Ford, *Lord Byron Jones*, p. 128 (original emphasis). Dr Burroughs here refers to the legalised segregation of public facilities: "He shouts: 'And now they want to wade into our swimming pools – in 1963! [...] they never learn, they can't learn!' *Amen*'s from his audience, deep and loud as bullfrogs. 'They don't have white brains!'"

<sup>67</sup> Watkins, *Death of Art*, p. 6.

<sup>68</sup> Ford, *Lord Byron Jones*, pp. 99-100.

<sup>69</sup> *Ibid.*, pp. 100-01.

<sup>70</sup> *Ibid.*, p. 100.

<sup>71</sup> *Ibid.*, pp. 102-03.

<sup>72</sup> *Ibid.*, p. 103, 101, 102.

<sup>73</sup> George Wallace, 'Stand in the Schoolhouse Door' (Tuscaloosa, University of Alabama, 11 June 1963), *Alabama Digital Archives* <digital.archives.alabama.gov/>. Also, 'Inaugural Address' (Montgomery, Capitol Building, 14 January 1963), *Alabama Digital Archives* <digital.archives.alabama.gov/>. In his first speech as Alabama Governor, Wallace encouraged Southerners to "draw [a] line in the dust and toss the gauntlet before the feet of tyranny," before turning to his famous aphorism: "segregation today [...] segregation tomorrow [...] segregation forever."

<sup>74</sup> Lee, *Watchman*, p. 24.

<sup>75</sup> Ford, *Lord Byron Jones*, pp. 83-84.

<sup>76</sup> Taylor Branch, *Parting the Waters: America in the King Years, 1954-1963* (New York, NY: Touchstone, 1988), p. 274.

<sup>77</sup> See David Halberstam, 'Students Reject "Token" Service,' *The Nashville Tennessean*, 9 March 1960, *Newspapers.com* <www.newspapers.com/clip/>.

<sup>78</sup> See 'First Amendment,' in Constitution of the United States, The Bill of Rights and All Amendments.

<sup>79</sup> Branch, *Parting the Waters*, p. 295.

<sup>80</sup> Qtd. in *Ibid.*, p. 295.

<sup>81</sup> Ford, *Lord Byron Jones*, p. 83.

<sup>82</sup> Dudziak, *Cold War Civil Rights*, pp. 179-82, p. 187.

<sup>83</sup> Michelle A. Ulyatt, *Theodore Sorensen and the Kennedys: A Life of Public Service* (London: Palgrave Macmillan, 2019), p. 117.

<sup>84</sup> Kennedy, 'Report to the American People on Civil Rights.'

<sup>85</sup> See Thomas Borstelmann, 'Hedging Our Bets and Buying Time: John F. Kennedy and Racial Revolutions in the American South and Southern Africa,' *Diplomatic History*, 24.3 (2000), 435-63 (p. 437); Robert Dallek, *John F. Kennedy: An Unfinished Life, 1917-1963* (London: Allen Lane, 2003), p. 215; Thomas Maier, *The Kennedys: America's Emerald Kings* (New York, NY: Basic Books, 2003), p. 412; Thomas C. Reeves, *A Question of Character: A Life of John F. Kennedy* (Santa Ana, CA: Forum, 1997), p. 338.

<sup>86</sup> See B.J. Hollars, *Opening the Doors: The Desegregation of the University of Alabama and the Fight for Civil Rights in Tuscaloosa* (Tuscaloosa, AL: University of Alabama Press, 2013), p. 98.

<sup>87</sup> Kennedy, 'Report to the American People on Civil Rights.'

<sup>88</sup> *Ibid.*

<sup>89</sup> Ford, *Lord Byron Jones*, p. 306.

<sup>90</sup> Borstelmann, *The Cold War and the Color Line*, p. 74.

<sup>91</sup> Ford, *Lord Byron Jones*, p. 104.

<sup>92</sup> Ibid., p. 6.

<sup>93</sup> ‘Amendment XIV, Section 1,’ in Constitution of the United States, The Bill of Rights and All Amendments.

<sup>94</sup> Ford, *Lord Byron Jones*, p. 6.

<sup>95</sup> ‘Michael Meltsner,’ *Faculty Directory: Northeastern University (School of Law)* <[www.northeastern.edu/law/](http://www.northeastern.edu/law/)>.

<sup>96</sup> Ford, *Lord Byron Jones*, p. 111.

<sup>97</sup> Ibid., p. 35.

<sup>98</sup> Saunders, ‘What Happened?’

<sup>99</sup> Ford, *Lord Byron Jones*, pp. 35-36.

<sup>100</sup> Ibid., p. 36.

<sup>101</sup> Lee, *Mockingbird*, p. 227.

<sup>102</sup> Kennedy, ‘Report to the American People on Civil Rights’; Ford, *Lord Byron Jones*, p. 36.

<sup>103</sup> Ford, *Lord Byron Jones*, p. 77, 36.

<sup>104</sup> Ibid., p. 71 (original emphasis).

<sup>105</sup> Ibid., p. 101, 102.

<sup>106</sup> See ‘Amendment I,’ in Constitution of the United States, The Bill of Rights and All Amendments.

<sup>107</sup> See Ford, *Lord Byron Jones*, p. 102. This image is repeated twice in Beale Street’s monologue. At the start of the statement, but also later, where the narrator describes “Beale Street continu[ing]” with his “hand still over his heart.”

<sup>108</sup> Ibid., p. 104.

<sup>109</sup> Branch, *Parting the Waters*, p. 185, 856.

<sup>110</sup> Ford, *Lord Byron Jones*, p. 47, 48, 78, pp. 107-08, p. 281.

<sup>111</sup> Ibid., p. 48, 281, 78.

<sup>112</sup> Gerald N. Rosenberg, ‘African American Rights after *Brown*,’ in *Race, Law, and Society*, ed. by Ian F. Haney López (Farnham: Ashgate, 2007), pp. 49-73 (p. 52, 54).

<sup>113</sup> Ford, *Lord Byron Jones*, p. 337. The conclusion of Lord Byron Jones’s divorce case is swift:

‘If the court please,’ [Hedgepath] said. ‘Comes the solicitor for complainant and moves that the bill filed in this cause by the complainant be dismissed on the grounds that complainant is deceased.’

Burke Hatton nodded. He looked at the Clerk. ‘Dismissed upon the payment of costs in this cause, upon the motion of solicitor for the complainant, George Gordon Lord Byron Jones. Thank you, Mr Hedgepath.’

<sup>114</sup> Ibid., p. 364.

<sup>115</sup> Ibid., p. 346.

<sup>116</sup> McPherson, *Reconstructing Dixie*, p. 253.

<sup>117</sup> Ford, *Lord Byron Jones*, p. 209.

<sup>118</sup> Watkins, *Death of Art*, p. 28.

<sup>119</sup> King, Jr., ‘Letter from Birmingham Jail’; Bell, ‘*Brown v. Board of Education* and the Interest-Convergence Dilemma,’ p. 524.

## CHAPTER FOUR

<sup>1</sup> Adam Fairclough, *Race and Democracy: The Civil Rights Struggle in Louisiana, 1915-1972* (Athens, GA: University of Georgia Press, 1999), p. 134.

<sup>2</sup> See Erwin C. Surrency, ‘Law Schools,’ in *Law and Politics*, ed. by James W. Ely, Jr. and Bradley G. Bond (Chapel Hill, NC: University of North Carolina Press, 2008), X: *The New Encyclopedia of Southern Culture*, ed. by Charles Regan Wilson, 24 vols. (2013), pp. 47-51 (p. 50). Also, Jerome Shuman, ‘A Black Lawyers Study,’ *Howard Law Journal*, 16 (1971), 225-313 (p. 225): “Black law schools have always trained the bulk of black law graduates and continue to train the majority of black practitioners in the South.”

<sup>3</sup> Harold R. Washington, ‘History and Role of Black Law Schools,’ *North Carolina Central Law Review*, 5.2 (1974), 158-89 (p. 172, 170).

<sup>4</sup> Jay Watson, ‘Introduction: Situating Whiteness in Faulkner Studies, Situating Faulkner in Whiteness Studies,’ in *Faulkner and Whiteness*, ed. by Jay Watson, (Jackson, MS: University Press of Mississippi, 2011), pp. 7-22 (p. 7).

<sup>5</sup> Haney López, *White by Law*, p. 10.

<sup>6</sup> Charles Hamilton Houston, qtd. in ‘The African Americans: Many Rivers to Cross: Making a Way Out of No Way: 1892-1940,’ *The Paley Center for Media*, 2013, <[www.paleycenter.org/collection/](http://www.paleycenter.org/collection/)>.

<sup>7</sup> Haney López, *White by Law*, p. 10

<sup>8</sup> *Kirkus Review*, 27 December 1966 <[www.kirkusreviews.com/book-reviews/](http://www.kirkusreviews.com/book-reviews/)>.

<sup>9</sup> Sharon Monteith, ‘Civil Rights Fiction,’ in *The Cambridge Companion to Literature of the American South*, ed. by Sharon Monteith (Cambridge: Cambridge University Press, 2013), pp. 159-73 (p. 166).

<sup>10</sup> Robert F. Jones, 'The Latest in Civil Rights Soap Operas,' *The Washington Post*, 29 December 1970, p. C4.

<sup>11</sup> Lawrence Buell, *The Dream of the Great American Novel* (Cambridge, MA: Harvard University Press, 2014), p. 18.

<sup>12</sup> Georg Lukács, qtd. in Kent Puckett, 'Epic / Novel,' in *The Cambridge Companion to the Novel*, ed. by Eric Bulson (Cambridge: Cambridge University Press, 2018), pp. 57-73 (p. 57).

<sup>13</sup> Mikhail Bakhtin, *The Dialogic Imagination: Four Essays* (Austin, TX: University of Texas Press, 1981), p. 16.

<sup>14</sup> 'Ann Fairbairn, Author, was 70,' *The New York Times*, 11 February 1972 <[www.nytimes.com/1972/](http://www.nytimes.com/1972/)>.

<sup>15</sup> Maccine Titus, 'From the Bookshelf,' *Windward Marine*, 16.17 (1967), 2 (p. 2); 'Five Smooth Stones: Publicity,' *Chicago Review Press* <[www.chicagoreviewpress.com/five-smooth-stones](http://www.chicagoreviewpress.com/five-smooth-stones)>. Criticism from the *Library Journal*, *Springfield Daily News*, and *Denver Post* was collated by Chicago Review Press in publicity produced for the novel's reprinting in 2009.

<sup>16</sup> Wilma Dykeman, qtd. in 'Ann Fairbairn, Author, was 70.'

<sup>17</sup> James B. Comey, 'By the Book,' *The New York Times*, 22 April 2018 <[www.nytimes.com/2018/](http://www.nytimes.com/2018/)>; Wisteria Leigh, 'Five Smooth Stones,' *Historical Novel Society*, 50, November 2009 <[historicalnovelsociety.org/magedition/](http://historicalnovelsociety.org/magedition/)>.

<sup>18</sup> Messer, 'Lawyer,' p. 420; Joseph M. Flora and Lucinda H. MacKethan, eds., *The Companion to Southern Literature: Themes, Genres, Places, People, Movements, and Motifs*, pp. 1031-32.

<sup>19</sup> Monteith, 'Civil Rights Fiction,' pp. 165-66.

<sup>20</sup> Appendix 4.1 (pp. 196-98) provides a full chronology of *Five Smooth Stones* and separates the action into these four phases. Fairbairn does not provide a specific date for Champlin's death. We can assume, however, that it is in the early months of 1964, at the very least pre-dating the Civil Rights Act (passed 2 July). See Ann Fairbairn, *Five Smooth Stones*, 1966 (Chicago, IL: Chicago Review Press, 2009), p. 723. In chapter eighty-eight, Willis tells Champlin, "there's a strong consensus [in Washington] that both a Civil Rights Bill and a Voting Rights Bill are inevitable."

<sup>21</sup> Fairbairn, *Five Smooth Stones*, p. 1.

<sup>22</sup> *Ibid.*, p. 2. In the first chapter, the narrator confirms that Li'l Joe was "forty-two" in 1933; the "year [...] the economy reached its nadir." We can therefore assume that he was born sometime between April 1890 and March 1891.

<sup>23</sup> Constitution of the State of Louisiana, 1868 (Baton Rouge, LA: Republican, 1868), p. 1.

<sup>24</sup> Ibid., p. 3, 4, 17.

<sup>25</sup> Constitution of the State of Louisiana, 1879 (Baton Rouge, LA: Republican, 1879), p. 54.

<sup>26</sup> Fairbairn, *Five Smooth Stones*, p. 33.

<sup>27</sup> Ibid., p. 45.

<sup>28</sup> Walter F. Pratt, 'Louisville, New Orleans, and Texas Railway Company v. Mississippi,' in *The Oxford Guide to United States Supreme Court Decisions*, ed. by Kermit L. Hall (Oxford: Oxford University Press, 2000), p. 166.

<sup>29</sup> Acts Passed by the State of Louisiana: The Louisiana Railway Accommodations Act or, Separate Car Act, No. 111 (Baton Rouge, LA: Ernest Marchand, 1890), pp. 152-54 (p. 152).

<sup>30</sup> See *Plessy v. Ferguson*.

<sup>31</sup> Acts Passed by the State of Louisiana: No. 64 (Baton Rouge, LA: The Advocate, 1902), pp. 89-90: "Street railway companies [...] in this State [...] must] provide equal but separate for the white and colored races, by providing separate cars or compartments so as to secure separate accommodations [...] no persons or persons shall be permitted to occupy seats in cars or compartments other than the ones assigned to them on account of the race they belong to"; Acts Passed by the State of Louisiana: No. 176, Section 6 (Baton Rouge, LA: Daily State, 1908), pp. 236-44: "It shall be unlawful for any person [...] in a] coffee house, café, beer saloon, liquor exchange [...] or other place spiritous beverages are sold, to permit in the same building the sale for consumption on the premises of intoxicating liquors to whites and Negroes"; Acts Passed by the State of Louisiana: No. 117 (Baton Rouge, LA: Ramires-Jones, 1912), pp. 139-40: "The various municipalities of this State shall have the right to withhold building permits to such persons as seek to build and construct Negro houses in a white community [...] and [...] to those who seek to build houses for white people in a Negro community or such municipality"; Acts Passed by the State of Louisiana: No. 251 (Baton Rouge, LA: Ramires-Jones, 1918), pp. 446-48: "Each and every [...] lockup or camp must be of sufficient size and strength to hold and keep securely the prisoners contained therein; and [...] must contain at least four separate apartments, one for white men, one for white women, one for Negro men, and one for Negro women"; Acts Passed by the State of Louisiana: No. 209 (Baton Rouge, LA: Ramires-Jones, 1928), pp. 272-75: "All bus companies, corporation, partnerships, persons or associations of persons carrying passengers for hire [...] shall provide equal but separate accommodations for the white and colored races [...]; no person or persons shall be permitted to occupy seats or compartments other than the ones assigned to them on account of the race they belong to."

<sup>32</sup> Fairbairn, *Five Smooth Stones*, p. 45.

<sup>33</sup> *Ibid.*, p. 34.

<sup>34</sup> Fairclough, *Race and Democracy*, p. 26.

<sup>35</sup> Fairbairn, *Five Smooth Stones*, p. 33.

<sup>36</sup> *Ibid.*, p. 25.

<sup>37</sup> *Ibid.*, p. 51. Also, p. 13. In chapter three, the death of David Champlin, Sr. is explained to Li'l Joe, who "was nearing his sixth birthday when he learned a little of the circumstances of his father's death."

<sup>38</sup> *Ibid.*, p. 25.

<sup>39</sup> Valdes, McCristal, and Harris, 'Battles Waged, Won, and Lost,' p. 1.

<sup>40</sup> See Bell, *Race, Racism, and American Law*, p. 206, pp. 207-09. Such scholarships were prevalent in the early-1950s, as "white-dominated institutions [...] assumed, with the pressure of law, the responsibility for opening schooling [...] to minorities long excluded by the debilitating effects of racial discrimination."

<sup>41</sup> See Percy A. Pierre, 'A Brief History of the Collaborative Minority Engineering Effort: A Personal Account,' in *Changing the Face of Engineering: The African American Experience*, ed. by John Brooks Slaughter, Yu Tao, and Willie Pearson, Jr. (Baltimore, MD: John Hopkins University Press, 2015), pp. 13-35 (pp. 13-15). Pierre also considers Tureaud, Sr.'s legacy in later cases concerning discriminatory procedures in university admissions.

<sup>42</sup> Erika M. Anderson and Matt Oates, 'Tracing Black History at Ohio State,' *The Lantern*, 2 August 1998 <[www.thelantern.com/1998/](http://www.thelantern.com/1998/)>. The first black student to enrol at a higher education institution in Louisiana was Alexander Pierre Tureaud, Sr.'s son – Tureaud, Jr. – in 1953, who took up a place at the State University Law School. By contrast, the first black student to enrol at a state university in Ohio is Fred Patterson in 1889, though it is Sherman Hamlin Guss who becomes the state's first black graduate in 1892.

<sup>43</sup> Fairbairn, *Five Smooth Stones*, pp. 54-55 (original emphasis).

<sup>44</sup> Kimberlé Crenshaw, 'Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law,' *Harvard Law Review*, 101.7 (1988), 1331-87 (pp. 1351-52).

<sup>45</sup> Acts Passed by the State of Louisiana: Section 5308, in *States' Laws on Race and Color*, ed. by Pauli Murray (Athens, GA: University of Georgia Press, 2016), p. 191.

<sup>46</sup> Fairbairn, *Five Smooth Stones*, p. 75, 84, 100. Fairbairn makes further reference in chapter twelve to segregation laws on public transportation in Louisiana, as Champlin takes the train to Laurel, and particularly in chapter fifteen, which sees him

on a ferryboat travelling into New Orleans: “On the upper deck, on the colored side, he stood leaning on the rail.” Also, *Hall v. DeCuir*, 95 U.S. 485 (U.S. 1877), *Justia* <supreme.justia.com/cases/>, p. 500. The ferryboat image is thus likely used to evoke *Hall v. DeCuir*; a Supreme Court decision that overturned an award of damages to Josephine DeCuir for her refusal to move when sat in a white section on a ferryboat. Justice Nathan Clifford concurred with the majority decision and argued that, “provided the applicant was offered a passage [...] with equally convenient accommodation,” the segregated ferryboat was constitutional.

<sup>47</sup> See Dabbs, *Civil Rights in Recent Southern Fiction*, p. 113: *The Liberation of Lord Byron Jones* presents a number of liberal characters who “feel superior to their fellow Southerners.” Also, Ford, *Lord Byron Jones*, p. 23, 306. In section one, we observe a young white man from Rhode Island sat opposite Mosby on a train heading into Somerton: “I’m visiting some Negroes at Fisk University when I get to Nashville [...] I was in Louisiana last week, looking around. Terrific oppression and poverty [...]” Similarly, in section seven, Mundine represents a self-titled ‘integrationist’ in Somerton’s jail: “Sometimes I wonder if America is really ready to be told the truth, if lies aren’t really what this nation wants. [...] In Nashville] at least you can sit down to a meal with Negroes. You can talk to them. But not here [...]”

<sup>48</sup> Fairbairn, *Five Smooth Stones*, p. 132 (original emphasis).

<sup>49</sup> *Ibid.*, p. 177.

<sup>50</sup> Bell, ‘*Brown v. Board of Education* and the Interest-Convergence Dilemma,’ p. 524, 525; Valdes, McCristal, and Harris, ‘Battles Waged, Won, and Lost,’ p. 1. Also, Fairbairn, *Five Smooth Stones*, p. 157, 161. There are other examples of Fairbairn challenging this maxim. In chapter twenty-four, Sara visits her parents in Chicago. The narrator describes Ellis Kent’s thoughts after being told that his daughter loves a black man: “Keep it easy. You’re one of America’s great liberals, you are; one of America’s fighting liberals; take it in stride; if it’s true it’s only a phase, it’s got to be only a phase of youth.” Ellis likewise refers to Champlin as a “dark [...] unknown boy from New Orleans.”

<sup>51</sup> Fairbairn, *Five Smooth Stones*, p. 153.

<sup>52</sup> Adolph L. Reed, ‘Crisis on the Negro Campus,’ *The Nation*, 10 February 1962, 111-13 (p. 112).

<sup>53</sup> Fairclough, *Race and Democracy*, p. 275, 276.

<sup>54</sup> Fairbairn, *Five Smooth Stones*, p. 155.

<sup>55</sup> King, Jr., ‘Letter from Birmingham Jail’; Bell, ‘*Brown v. Board of Education* and the Interest-Convergence Dilemma,’ pp. 524-25.

<sup>56</sup> Buell, *The Dream of the Great American Novel*, p. 217, 218.

<sup>57</sup> Fairbairn, *Five Smooth Stones*, p. 290.

<sup>58</sup> Of states with established laws prohibiting inter-racial relations, only Pennsylvania (1780), Massachusetts (1843), Iowa (1851), Illinois (1874), Rhode Island (1881), Maine (1883), and Massachusetts (1883) repealed statutes before Ohio. By contrast, no state in the South repealed its strict black-white relation laws voluntarily. These were formally overturned only after the Supreme Court decision of *Loving v. Virginia* (1967).

<sup>59</sup> Haney López, *White by Law*, p. 117.

<sup>60</sup> Fairbairn, *Five Smooth Stones*, p. 323, 329.

<sup>61</sup> See, for example, Lee, *Watchman*, p. 108, 110.

<sup>62</sup> Crenshaw, 'Race, Reform, and Retrenchment,' p. 1358.

<sup>63</sup> Fairbairn, *Five Smooth Stones*, p. 294.

<sup>64</sup> *Ibid.*, p. 155.

<sup>65</sup> *Ibid.*, p. 296.

<sup>66</sup> Haney López, *White by Law*, p. 10. Also, Fairbairn, *Five Smooth Stones*, pp. 475-76. In chapter fifty-eight, Willis admonishes his own role in handling the Little Rock Crisis (1957): "While Bradford Willis was being brave, sending off fat checks, making controversial remarks about a president whose voice was never heard, not even in a whisper, saying 'In the name of decency' but only saying 'In the name of the law' – this girl was sitting alone on a wooden bench listening to a mob of sub-humans scream 'Lynch the black bitch!' Just a kid, David, just a damned sweet kid, all dressed up for her first day in high school."

<sup>67</sup> Fairbairn, *Five Smooth Stones*, p. 297.

<sup>68</sup> Ron Cassie, 'Justice for All: Thurgood Marshall's Legacy,' *Baltimore*, 15 November 2007 <[www.baltimoremagazine.com/2017/](http://www.baltimoremagazine.com/2017/)>.

<sup>69</sup> *Ibid.* Marshall, Jr. became a "certified Maryland lawyer on October 11, 1933." He joined the NAACP after hearing news of George Armwood's lynching in Somerset County, New Jersey.

<sup>70</sup> Fairbairn, *Five Smooth Stones*, p. 135.

<sup>71</sup> Tureaud, Sr., qtd. in Fairclough, p. 127.

<sup>72</sup> Fairbairn, *Five Smooth Stones*, pp. 370-71, 372-74.

<sup>73</sup> *Ibid.*, pp. 374-75.

<sup>74</sup> *Ibid.*, p. 446.

<sup>75</sup> *Ibid.*, p. 331.

<sup>76</sup> Duck, *The Nation's Region*, p. 5.

<sup>77</sup> Bell, 'Brown v. Board of Education and the Interest-Convergence Dilemma,' p. 524.

<sup>78</sup> *Boynton v. Virginia*, 364 U.S. 454 (U.S. 1960), *Justia* <supreme.justia.com/cases/>. This Supreme Court decision outlawed segregation on public transportation, as it violated the Interstate Commerce Act of 1887.

<sup>79</sup> Christina Melton, 'Baton Rouge Bus Boycott,' *Louisiana Endowment for the Humanities*, ed. by David Johnson, 12 February 2016 <64parishes.org/entry/>.

<sup>80</sup> Jemison, qtd. in *ibid.* Jemison himself admitted that personal ambition brought about his compromising stance at the conclusion of the boycott: "My father was president of the National Baptist Convention. I didn't go to the end in desegregation. I stayed on the side where I could become president of the National Baptist Convention, which I did. I wasn't trying to end segregation. We started the boycott simply to get seats for the people, and once we accomplished that, what else was there for us to get?"

<sup>81</sup> Melton, 'Baton Rouge Bus Boycott.'

<sup>82</sup> See Bell, *Race, Racism, and American Law*, p. 545, pp. 448-52. The Greensboro sit-in demonstrations quickly set a "pattern" and "tactic[s]" which "expanded to every imaginable public facility that refused to serve blacks on the basis of racial equality."

<sup>83</sup> Fairbairn, *Five Smooth Stones*, pp. 374-75.

<sup>84</sup> *Ibid.*, p. 476.

<sup>85</sup> *Ibid.*, p. 514.

<sup>86</sup> *Ibid.*, p. 515.

<sup>87</sup> *Ibid.*, p. 581, 656. Fairbairn makes numerous references in the later stages of *Five Smooth Stones* to impending civil rights legislation. In chapter seventy, for instance, David makes a speech in which he claims that the "only powerful Negro" is the "voting Negro." Equally, in chapter seventy-nine, the lawyer argues that no American citizen should have "'negotiate' his right to vote."

<sup>88</sup> See, for example, Faulkner, *Intruder*, p. 54; Lee, *Watchman*, p. 110; Ford, *Lord Byron Jones*, p. 72, 129.

<sup>89</sup> Fairbairn, *Five Smooth Stones*, p. 672.

<sup>90</sup> James Gardner, qtd. in Fairclough, p. 330.

<sup>91</sup> Fairbairn, *Five Smooth Stones*, p. 595; Tureaud, Sr., qtd. in Fairclough, p. 109.

<sup>92</sup> See Fairbairn, *Five Smooth Stones*, p. 525. In chapter sixty-three, Champlin is staying with Luke Willis (a black photographer) and other demonstrators when their hotel is bombed. The event is described as follows: "The bomb had landed then, the explosion rocking the room so that David, in front of the window, was thrown across the bed [...] Somewhere close at hand a woman screamed, not once but again and again, a series of insensate noises, and then there were running feet and the sound of

a car's motor racing, then driving away, wide open, on the dark roadway that ran past the hotel.”

<sup>93</sup> Ibid., p. 602.

<sup>94</sup> Ibid., p. 612, 545, 540.

<sup>95</sup> Ibid., p. 678. Scoggins launches into what Champlin describes as a “tirade [... he] could have delivered from memory.” Cainsville’s Chief of Police refuses to release a young protestor in the penitentiary who is suffering from acute appendicitis: “[Y]ou and your kind [are ... w]hite niggers. You all come over here to talk about getting a doctor to a sick nigger in the jail, wanting to visit her. Well, the doctor’s been got. Two doctors. So there’s nothing to talk about. And if this nigger pal of yours don’t get the hell back over where he belongs he’ll be in jail too, and I ain’t saying he won’t need a doctor.” Also, Ford, *Lord Byron Jones*, p. 100. Somerton’s Chief of Police, George Jenkins Fly, speaks in similar tones to those of Scoggins.

<sup>96</sup> Fairbairn, *Five Smooth Stones*, p. 679.

<sup>97</sup> *State v. Goldfinch*, 132 So. 2d 860 (La. 1961), *Court Listener* <[www.courtlistener.com/opinion/](http://www.courtlistener.com/opinion/)>, p. 860.

<sup>98</sup> *Garner v. Louisiana*, 368 U.S. 157 (U.S. 1961), *Justia* <[supreme.justia.com/cases/](http://supreme.justia.com/cases/)>, p. 175.

<sup>99</sup> Fairbairn, *Five Smooth Stones*, p. 690, 695.

<sup>100</sup> Ibid., p. 728, 729.

<sup>101</sup> Kirkus, ‘*Five Smooth Stones.*’

<sup>102</sup> Fairbairn, *Five Smooth Stones*, p. 638.

<sup>103</sup> Kirkus, ‘*Five Smooth Stones.*’

<sup>104</sup> Fairbairn, *Five Smooth Stones*, p. 747.

<sup>105</sup> Bill Monroe, qtd. in Dominic Massa, *Images of America: New Orleans Television* (Mount Pleasant, SC: Arcadia, 2008), p. 55, 58.

<sup>106</sup> Fairbairn, *Five Smooth Stones*, p. 747.

<sup>107</sup> See Charles Gayarré, ‘Code Noir,’ 1724, in *History of Louisiana* (1867) <[penelope.uchicago.edu/](http://penelope.uchicago.edu/)>, p. 531. Article VI clearly forbade “white subjects, of both sexes, to marry with [...] blacks, under the penalty of being fined and subjected to some other arbitrary punishment.” The same article likewise prohibited “curates, priests, or missionaries of [...] secular or regular clergy [...] to sanction such marriages.”

<sup>108</sup> Fairbairn, *Five Smooth Stones*, p. 748.

<sup>109</sup> Watson, ‘Introduction,’ p. 7.

<sup>110</sup> Fairbairn, *Five Smooth Stones*, p. 748.

<sup>111</sup> Richard Thompson Ford, 'Urban Space and the Color Line: The Consequences of Demarcation and Disorientation in the Postmodern Metropolis,' *Harvard Blackletter Journal*, 9.1 (1992), 117-47 (p. 134).

<sup>112</sup> Fairbairn, *Five Smooth Stones*, p. 750.

<sup>113</sup> *Ibid.*, p. 750.

## EPILOGUE

<sup>1</sup> Richard A. Posner, *Law and Literature* (Cambridge, MA: Harvard University Press, 1988), p. 5, 546, 550.

<sup>2</sup> Sharon Monteith, "'I second that emotion': a case for using imaginative sources in writing civil rights history," *Patterns of Prejudice*, 49.5 (2015), 440-65 (p. 444); Weisberg, *Poethics*, p. 195, 251. Weisberg also directly critiques Posner, suggesting he avoids the "hard lessons that literature holds for lawyers, because these lessons violate his jurisprudence."

<sup>3</sup> Möschel, *Law, Lawyers, and Race*, p. 42.

<sup>4</sup> Valdes, McCristal, and Harris, 'Battles Waged, Won, and Lost,' p. 1.

<sup>5</sup> *Shelby County v. Holder*, 570 U.S. 529 (U.S. 2013), *Justia* <supreme.justia.com/cases/>, p. 589.

<sup>6</sup> Lukács, qtd. in Puckett, 'Epic / Novel,' p. 57.

<sup>7</sup> James T. Wooten, 'Compact Set Up for "Post-Racial" South,' *The New York Times*, 5 October 1971 <www.nytimes.com/1971/>.

<sup>8</sup> Rudy Giuliani, 'President-Elect Obama,' *The Wall Street Journal*, 5 November 2008 <www.wsj.com/articles/>; Giuliani, qtd. in Tim Wise, *Between Barack and a Hard Place: Racism and White Denial in the Age of Obama* (San Francisco, CA: City Lights, 2009), p. 26. Mainstream American media also held similar views. See, for example, 'MSNBC's Matthews on Obama: "I Forgot He Was Black Tonight,"' *Real Clear Politics*, 27 January 2010 <www.realclearpolitics.com/video/>. Matthews argues that Obama was "post-racial by all appearances." He equally cites the fact that he often "forgot [the president] was black."

<sup>9</sup> Nils Gilman, 'The Collapse of Racial Liberalism,' *The American Interest*, 13.5 (March 2018) <www.the-american-interest.com/2018/>.

<sup>10</sup> Barack Hussein Obama, 'Farewell Address' (Chicago, McCormick Place, 10 January 2017), *The New York Times*, 10 January 2017 <www.nytimes.com/2017/>.

<sup>11</sup> Barack Hussein Obama, 'A More Perfect Union' (Philadelphia, National Constitution Center, 18 March 2008) <constitutioncenter.org/amoreperfectunion/>.

<sup>12</sup> Bettina L. Love and Brandelyn Tosolt, 'Reality or Rhetoric? Barack Obama and Post-Racial America,' *Race, Gender, and Class*, 17.3 (2010), 19-37 (p. 24).

<sup>13</sup> Obama, ‘A More Perfect Union.’ Also, Gilman, ‘The Collapse of Racial Liberalism.’ In the address, Obama refers directly to a pastor at his former church in Washington Heights, Chicago: Reverend Jeremiah Wright. In the days before Obama gave the speech, footage had surfaced of Reverend Wright condemning America’s racial history. In the video, the pastor suggested that black Americans should sing “God Damn America,” rather than “God Bless America,” and declared the terrorist attacks of 11 September 2001 to be the result of “chickens coming home to roost.”

<sup>14</sup> Obama, ‘A More Perfect Union.’

<sup>15</sup> On 16 May 2010, seven-year-old Aiyana Mo’Nay Stanley-Jones was shot and killed by police officers during a raid in Detroit, Michigan. Michael Brown, Jr., eighteen, was shot in Ferguson, Missouri by Officer Darren Wilson on 9 August 2014. The shooting led to unrest and race riots in Ferguson. Seventeen-year-old Laquan McDonald was fatally wounded by Officer Jason Van Dyke on 20 October 2014 in Chicago, Illinois. Walter Scott, fifty, was shot and killed by Officer Michael Slager in North Charleston, South Carolina. Only after phone footage of the incident showed Slager shooting the fleeing Scott was the officer sentenced to murder. Slager is currently serving a twenty-year sentence.

<sup>16</sup> Dylann Storm Roof, qtd. in Lisa Wade, ‘How “Benevolent Sexism” Drove Dylann Roof’s Racist Massacre,’ *The Washington Post*, 21 June 2015 <[www.washingtonpost.com/posteverything/](http://www.washingtonpost.com/posteverything/)>. Also, Hamilton, *Harper Lee and the American South*, p. 26.

<sup>17</sup> Faulkner, *Requiem*, p. 85.

<sup>18</sup> See Patrick Sharkey, *Neighbourhoods and the Black-White Mobility Gap* (Economic Mobility Project, 2009), p. 4. Sharkey illustrates that, between 1955 and 1970, sixty-two percent of black children lived in conditions classed as either “high or medium poverty.” Between 1985 and 2000, the same demographic increased to sixty-six percent.

<sup>19</sup> Alvin Chang, ‘The data proves that school segregation is getting worse,’ *Vox*, 5 March 2018 <[www.vox.com/2018/](http://www.vox.com/2018/)>.

<sup>20</sup> See Harris, ‘Whiteness as Property,’ pp. 1751-53.

<sup>21</sup> See Section 4, Parts a, b, and c, in Voting Rights Act. In 1965, the Coverage Formula applied to Alabama, Alaska, Georgia, Louisiana, Mississippi, South Carolina, and Virginia.

<sup>22</sup> *Shelby County v. Holder*, p. 573, 593.

<sup>23</sup> *Ibid.*, p. 615.

<sup>24</sup> Ryan Gabrielson, ‘It’s a Fact: Supreme Court Errors aren’t Hard to Find,’ *ProPublica*, 17 October 2017 <[www.propublica.org/article/](http://www.propublica.org/article/)>. Alongside the *Shelby*

data, ProPublica’s research “found seven errors in a modest sample of [...] opinions from 2011 through 2015.”

<sup>25</sup> Catherine E. Lhamon, ‘Chair: Commissioners’ Statements,’ in *An Assessment of Minority Voting Rights Access in the United States* (2018), pp. 287-88 (p. 287). Also, Sophie Schuit and Jon C. Rogowski, ‘Race, Representation, and the Voting Rights Act,’ *American Journal of Political Science*, 61.3 (2017), 513-26 (p. 515); Desmond Ang, ‘Do 40-Year-Old Facts Still Matter? Long-Run Effects of Federal Oversight Under the Voting Rights Act,’ *American Economic Journal: Applied Economics*, 11.3 (2019), 1-53 (p. 3). Both are critical of the *Shelby* decision and consider the positive impact of the original preclearance clause on minority voting. Schuit and Rogowski find that the Coverage Formula allowed for greater representation of black interest in American politics, while Ang maintains that the original preclearance clause increased voter turnout in black communities, often by as much as seventeen percent.

<sup>26</sup> *Shelby County v. Holder*, p. 589.

<sup>27</sup> Faulkner, *Requiem*, p. 85; *Shelby County v. Holder*, p. 588.

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