

VIOLENT CONVICTIONS: PUNISHMENT, LITERATURE, AND THE
RECONSTRUCTION OF RACE

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for my parents,
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ABSTRACT

VIOLENT CONVICTIONS: PUNISHMENT, LITERATURE, AND THE RECONSTRUCTION OF RACE

Thomas Dichter

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This dissertation examines the relationship between race and punishment in US culture from the post-Reconstruction era through the 1950s. After slavery's abolition, racial domination became embedded in popular understandings of state violence, while ideas of legitimate violence, in turn, became an important part of racial identity. “Violent Convictions” traces this development as reflected and enacted by a range of texts from this period, including fiction, prisoner autobiography, sociological studies, political writings, jurisprudence, and journalism. In this period, the claims on citizenship made by African Americans in the wake of Emancipation were fiercely countered by emerging discourses that tied whiteness to the public interest and bound blackness to criminality, turning people of color into commonsense objects of legitimate violence. Amid debates over lynching, African American migration, prison reform, and bias in the criminal justice system, authors as different as Thomas Dixon, Jr., Ida B. Wells, Alexander Berkman, Paul Laurence Dunbar, Gunnar Myrdal, and Chester Himes all participated variously in this remaking of the meaning of race and punishment. Starting in the late nineteenth century, racial identity and state violence were reimagined in intimate relation to one another, with lasting consequences for US racial ideology. These cultural

developments paved the way for a carceral state that could conceive of itself as a colorblind force for justice and safety while simultaneously serving as an engine of racist violence.

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Introduction: Carceral Violence & Carceral Grammar

Thomas Dixon's *The Clansman: An Historical Romance of the Ku Klux Klan* (1905) and Harper Lee's *To Kill a Mockingbird* (1960) are each marked by a pivotal trial scene in which an African American man is accused, convicted, and sentenced to death for the rape of a white woman. Set in the rural South, both books were adapted as iconic films with nationwide appeal—Dixon rewrote *The Clansman* as 1915's groundbreaking *Birth of a Nation*, and *To Kill a Mockingbird* appeared as an Oscar-winning film in 1962. Yet, these novels, written half a century apart, could not seem more different in their depiction of racialized state violence. In Dixon's white supremacist propaganda piece, set in Reconstruction North Carolina, Gus, a formerly enslaved army Captain, stands accused of raping a young white woman. Rather than in a court of law, his "trial" takes place before the assembled members of the local Ku Klux Klan.¹ An especially preposterous proceeding ensues in which Gus is hypnotized and induced to reenact his crime, after which he is summarily executed. Gus's body is then left "on the lawn of the black Lieutenant-Governor of the state" with a note reading "K. K. K." in red ink.² Gus's trial is in fact an extralegal lynching and an act of racial terror, a fact that Dixon celebrates, rather than shies away from. One of his heroes explains that the killing was a rebellion, not against the rule of law, but against the "black barbarians" who have usurped state power under the Reconstruction regime: "It is a question of who possesses the right of

¹ Thomas Dixon, *The Clansman: An Historical Romance of the Ku Klux Klan* (Ridgewood, N.J.: Gregg Press, 1967), 320.

² *Ibid.*, 325, 327.

life and death over the citizen, the organised virtue of the community, or its organised crime.”³ For Dixon, the fact that Gus’s trial is carried out in violation of the law itself only highlights the irresistibility of white supremacy—or more specifically, of white men’s exclusive claims on true legal, political, social, sexual, economic, and military power. In *The Clansmen*, the written law is insignificant before the racial order, and thus, if carried out by the right racial actors, a mere pantomime can qualify as a legitimate capital trial.

In *To Kill a Mockingbird*, the conviction and eventual death of the accused—Tom Robinson—are presented as a tragic failure of justice, not a triumph of racial righteousness. Atticus Finch, the heroic attorney who defends Robinson in Depression-era Alabama, is a paragon of liberalism, accepting the ostracism of his community in order to stand up for his belief in equality before the law. “[T]here is only one way in this country in which all men are created equal—there is one human institution that makes a pauper the equal of a Rockefeller,” he admonishes the jurors in his closing statement. “That institution, gentlemen, is a court. . . . 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.”⁴ Although Atticus amply demonstrates the charges against Tom to be false, Tom is nonetheless convicted and sent to prison to await his appeal, where he is soon shot and killed during an alleged escape attempt. Right after the trial, Atticus explains to his dejected children, “Those are twelve reasonable men in everyday life, Tom’s jury, but you saw something come between them and reason.” That “something”

³ Ibid., 329.

⁴ Harper Lee, *To Kill a Mockingbird* (New York: J.B. Lippincott, 1960), 218.

is prejudice, the racial “code” that Atticus unsuccessfully urges the jury to set aside in their application of the written law.⁵ Tom’s conviction is thus depicted as the defeat of reason, fairness, and equal justice by irrational white hatred.

The remarkable and immediate success with which both of these novels met suggests how powerfully they each resonated with the mainstream reading publics of their respective historical moments. The vastly different depictions of state (or pseudo-state) violence against black men that each text offers, then, could be seen as an index of how dramatically US racial ideology had changed—from the strident white supremacy of the Jim-Crow “nadir” of race relations to the newly ascendant racial liberalism of the postwar era. From the perspective of *The Clansman*, the legal system should be cast off if it impedes the enforcement of the racial order, whereas in *To Kill a Mockingbird*, it is the law that is encumbered by racial prejudice. The great popularity of Lee’s book from 1960 onward seems to register a widespread desire to purge the legal system of bias and uphold the colorblind rule of law over the passions of the mob.

This dissertation traces the continuities that persisted in US racial ideology from the late nineteenth century through the mid-twentieth, despite the evident transformation brought about by midcentury liberalism. I claim that, starting in the post-Reconstruction period, the relationship between race and legitimate state violence came to be imagined in new and lasting ways. In reaction to postbellum African American claims on citizenship, new discourses began to proliferate that collapsed whiteness with state authority itself, imputed novel kinds of criminality to blackness, and cast people of color as commonsense objects of legitimate violence. This racialized notion of legitimate violence

⁵ Ibid., 233, 216.

would live on in the ostensibly colorblind criminal justice apparatus that Atticus Finch believes in so deeply.

The argument that liberal antiracism and legal formalism are compatible with persistent racial inequality is by now a well established one.⁶ Along these lines, there is no shortage of critical readings of *To Kill a Mockingbird* that would point out how the racial liberalism of Lee's text can serve to subtly perpetuate the white supremacist hierarchy that is openly celebrated in Dixon's. As Gregory Jay writes: "Atticus betrays the limits of the racial liberal's position when he diagnoses racism as simply an irrationality or lapse in empathic imagination rather than as a systematic machinery of socio-political power and capital acquisition."⁷ By leaving structural racism untouched, racial liberalism like that expounded in Lee's novel can grease the wheels of this "systematic machinery," complicit in its onward grind. Moreover, the novel can be put to reactionary ends by propagating an image of Southern racial backwardness beside which the institutionalized racism of the North and West (as well as the "modernized" South) goes unremarked. Texts like Lee's, the argument goes, allow readers to think of racism as a problem of individual attitudes, one that belongs to another place and/or time.

This line of critique tends to view representation of Jim Crow racism as a convenient "other" for the racial liberalism that would become dominant by the post-World War II era, with the old-fashioned and blatant racial attitudes of the former serving to obscure the more insidious ways in which the latter also bolsters white supremacy.

⁶ See Kimberlé Crenshaw et al., eds., *Critical Race Theory: The Key Writings That Formed the Movement* (New York: The New Press, 1995).

⁷ Gregory Jay, "Queer Children and Representative Men: Harper Lee, Racial Liberalism, and the Dilemma of *To Kill a Mockingbird*," *American Literary History*, 2015.

This approach treats *Clansman*-style racism and *Mockingbird*-style liberalism as two distinct ideologies that perform essentially the same *function*. By contrast, I am interested in how the two ideologies themselves are *not* altogether distinct from each other—that is, in how aspects of the earlier ideology are retained in the more recent one. Thus, I argue that the old racism was not merely a convenient scapegoat for the new. Rather than approaching midcentury liberalism as a new ideological structure that carries out the same work as the old, I contend that the Jim Crow era saw developments in how race and the state were imagined which remained deeply embedded in US culture over the turbulent first half of the twentieth century. A common sense about racial identity and legitimate violence took shape at the end of the nineteenth century which would remain largely undisturbed by the liberal antiracism of the mid-twentieth century, normalizing carceral violence against people of color, consolidating whiteness around being an agent and beneficiary of such violence, and putting beyond question the state’s authority to capture and kill. Dixon’s lynching scene haunts Lee’s courtroom drama, then, not only in the form of the stubborn race prejudice Atticus wishes to exorcise from the criminal justice system; it also lurks in Atticus’s very conviction that a carceral apparatus guided by “reason” can ensure justice for all.

In the post-Reconstruction era, racial identities were refashioned through state-sanctioned violence, and, in turn, legitimate violence was racialized. During this period, the meaning ascribed to race in US culture was imbued with the state’s power to police and punish. Whiteness became intertwined with the notion of legitimate state authority, and blackness, long associated with criminality in mainstream US culture, underwent a criminal stigmatization that ran deeper than ever. In both cases, being the agent or object

of legitimate violence is not merely *associated* with racial identity, but becomes a constitutive element in the meaning of racial identity itself. This development can be seen in a range of literary, legal, and social scientific texts that treat whiteness and state authority (as well as blackness and criminality) as inseparable—though it can also be discerned in moments of crisis for this discourse of race and legitimate violence, such as in the writings of white prisoners, whose must reconcile the apparent contradiction of being both white and the object of state violence at the same time. The widespread rewriting—or reconstruction—of racial meaning was achieved by means of both the *idea* of legitimate violence as well as the actual, material enactment of violence by the state and its proxies. Thus, this study concerns not only rhetorical invocations of violence, but also violence’s own rhetorical quality: how violence that enjoys the sanction of the state *says* something about its objects and its agents. In this dissertation, then, I attend to both violent rhetoric and rhetorical violence.

Investigating this racialized discourse of legitimate violence entails reading texts written from a variety of standpoints to discern the assumptions that shape the arguments they make and the stories they tell. Whether these texts emanate from positions of power or powerlessness, whether they are written by black or white authors, and whether they seek to uphold the status quo or abolish it, the archive assembled here indexes and reinforces a prevailing common sense about racial identity and subjection to the violence of the state. A carceral grammar shapes racial discourse, whether in the form of fiction, court decisions, sociological studies, prisoner memoirs, government reports, or reformist tracts—conditioning even the most strident critiques of penal practices and racial injustice. But while this dissertation positions conventionally literary and non-literary

texts side-by-side within an array of cultural artifacts, I do not mean to negate the differences between these categories. As Jacqueline Goldsby writes in her seminal study of lynching in US culture, there is something about literature that makes it “freer to respond to history’s events and influences, especially those we cannot bear to admit shape the content and course of our lives.”⁸ While the main novels I consider in this study, Dixon’s *The Leopards Spots* (1902), Paul Laurence Dunbar’s *The Sport of the Gods* (1902), and Chester Himes’s *Yesterday Will Make You Cry* (c. 1940), are drastically different from each other, they all give fuller play to the often unbearable contradictions of the discourse of legitimate violence than can the juridical, social scientific or more narrowly polemical texts I examine. In Dixon’s novel, the competing identifications of whiteness with, on the one hand, civilized and stately authority and, on the other, bloodthirsty barbarism, are in palpable tension. In Dunbar’s text, the double bind of black criminality discourse—which made both the embrace *and* the disavowal of criminal stigma equally pernicious—is on full display. And in Himes’s semi-autobiographical novel, the state’s claim to rationality and moderation in punishment is belied by spectacular displays of gratuitous violence, depicted in lurid, hard-boiled style. These literary texts thus bring to light the contradictions and problematics embedded in hegemonic discourses about legitimate violence. As such, they can open up new lines of approach to the non-literary historical texts I examine in this study. They pose questions that social scientists, jurists, activists, and journalists can often be seen wrestling with more discreetly: What does white violence say about whites’ capacity to rule? What does

⁸ Jacqueline Goldsby, *A Spectacular Secret: Lynching in American Life and Literature* (Chicago: University of Chicago Press, 2006), 33.

“innocence” mean in the context of racial criminalization? If prisoners are “slaves of the state,” how is white racial identity affected by incarceration? Is legitimacy grounded in anything other than violence? Is there anything the state *cannot* do to those whom it has identified as enemies of society? The literary texts in this study dwell with some of the questions that underlie debates about the proper targeting of state violence, questions that other kinds of writing may not bring to the surface.

Literary texts thus help to guide my readings of court decisions, sociological studies, and reformist literature. But I also bring a particularly literary mode of reading to this larger archive. These non-literary texts are all engaged in acts of imagination—envisioning what the state is and ought to be, how its violence could be otherwise directed, and what limits or constraints can and should be imposed on its deployment of force. Meditating on the appropriate uses of legitimate violence, they elaborate legal and social fictions integral to the discourses of race and state violence that take shape during this period. These fictions include the democratic white lynch mob, the pathological African American migrant, the deportable “illegal alien,” the white slave, the “brute beast,” the redeemable convict, and the incorrigible criminal menace. Additionally, these texts are all engaged in debates over a form of violence that is always entwined with rhetoric. As will be discussed further below, legitimate violence always faces certain pressures to justify itself, and it continually undertakes the performance of its own legitimacy. Literary reading’s close attention to language can help track legitimate violence’s rhetorical entanglements across the many sites where such violence was enacted, critiqued, and justified.

History and Literature, Punishment and Race

This dissertation examines a historical period that was pivotal for both racial formation and penal practices in the US, and it brings literary reading to bear on our understanding of these two interrelated domains. Although race and punishment have commonly been approached in isolation from one another in studies of the period, I seek to illuminate their intersection in postbellum US culture. Cultural historians of the Jim Crow era have explored the disruption of the racial order occasioned by Emancipation and Reconstruction, and the various ways whites reasserted supremacy in the face of this challenge. Starting with early studies like W. E. B. Du Bois's *Black Reconstruction in America, 1860–1880* (1935) and Rayford W. Logan's *Betrayal of the Negro: From Rutherford B. Hayes to Woodrow Wilson* (1954), historians have traced the new forms in which the old relationship of domination was carried forward into the post-slavery era. More recently, David Blight and Grace Elizabeth Hale have demonstrated how reconciliation between the North and South was grounded in a cross-regional white consensus that excluded African Americans from national belonging and the rights of citizenship. While Blight tracks this dynamic in terms of how the Civil War was memorialized in the late nineteenth century, Hale considers it in light of the emerging culture of segregation in the postbellum South.⁹ Looking at the US alongside South Africa and Australia, David Theo Goldberg argues that whiteness “needed to be

⁹ David W. Blight, *Race and Reunion: The Civil War in American Memory* (Cambridge, MA: Belknap Press of Harvard University Press, 2001); Grace Elizabeth Hale, *Making Whiteness: The Culture of Segregation in the South, 1890–1940* (New York: Vintage Books, 1999).

renegotiated, reaffirmed, projected anew” in the wake of slavery’s abolition, prompting new state projects of codifying and materializing racial difference.¹⁰ David Roediger has documented the role of labor politics in racial hierarchy’s “survival” of Emancipation, while Heather Cox Richardson examines the interaction of anti-black racism and free labor ideology as white Northern support for Reconstruction and black civil rights eroded and eventually vanished by the end of the century.¹¹ In his study of segregation, David Delaney explores how “geopolitical practices” in the New South were reconfigured for the maintenance of white supremacy.¹²

Meanwhile, historians of punishment have traced the successive reform movements that sought to rationalize and re-legitimize the penal system in the nineteenth and twentieth centuries. David J. Rothman’s *Discovery of the Asylum: Social Order and Disorder in the New Republic* (1971) provided a seminal account of the emergence of the penitentiary movement in the antebellum US.¹³ Adam Jay Hirsch’s *The Rise of the Penitentiary: Prisons and Punishment in Early America* (1992) extended the frame of analysis for the early US prison system to include transatlantic influences and interactions from the sixteenth century onwards, offering an insightful analysis of how slavery and

¹⁰ David Theo Goldberg, *The Racial State* (Malden, MA: Blackwell Publishers, 2002), 176.

¹¹ David R. Roediger, *How Race Survived US History: From Settlement and Slavery to the Obama Phenomenon* (New York: Verso, 2008); David R. Roediger, *The Wages of Whiteness: Race and the Making of the American Working Class*, Revised edition (New York: Verso, 2007); Heather Cox Richardson, *The Death of Reconstruction: Race, Labor, and Politics in the Post-Civil War North, 1865–1901* (Cambridge, MA: Harvard University Press, 2001).

¹² David Delaney, *Race, Place, and the Law, 1836–1948*, 1st University of Texas Press ed (Austin: University of Texas Press, 1998), 10.

¹³ David J. Rothman, *The Discovery of the Asylum: Social Order and Disorder in the New Republic* (New York: Little, Brown, 1971).

incarceration were debated in relation to each other.¹⁴ More recently, Rebecca McClennan's *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1778–1941* (2008) has drawn attention to how convict labor was the linchpin of prison discipline and yet also the center of furious controversy for over a century. The movement to abolish the contracting of prison labor to private interests, while successful at ending the practice, “opened up a remarkably intractable set of disciplinary, fiscal, and ideological problems within the penal arm of the state” and “deeply conditioned the progressive prison reform movement and the penal state-building initiatives of the late-nineteenth and early-twentieth centuries.”¹⁵

While these histories of the penitentiary system largely concentrate on the North, many other studies have examined punishment in the South, especially when it comes to the transformation of Southern penal systems after the Civil War. Taking full advantage of the Thirteenth Amendment's notorious exception clause, which abolished slavery and involuntary servitude “except as a punishment for crime whereof the party shall have been duly convicted,” Southern penal systems served as tools for the re-enslavement of African Americans and in many cases became nearly all black following Emancipation. Turning from the penitentiary itself to the spatially diffuse sites of punishment in the postbellum South, several notable studies have examined the convict-lease system, debt peonage, plantation prison farms, and road-work chain gangs.¹⁶ Meanwhile, Michael

¹⁴ Adam J. Hirsch, *The Rise of the Penitentiary Prisons and Punishment in Early America* (New Haven: Yale University Press, 1992).

¹⁵ Rebecca M. McClennan, *The Crisis of Imprisonment: Protest, Politics, and the Making of the American Penal State, 1776–1941* (New York: Cambridge University Press, 2008), 5.

¹⁶ Matthew J. Mancini, *One Dies, Get Another* (Columbia, SC: University of South Carolina Press, 1996); Douglas A. Blackmon, *Slavery by Another Name: The Re-Enslavement of Black*

Pfeifer's *Rough Justice: Lynching and American Society, 1874–1947* (2004) argues that lynching violence in the South and West was a reaction against “due process” legal reformism of the mid-to-late nineteenth century. The due-process and “rough justice” camps eventually reached a compromise, Pfeifer contends, when a streamlined death penalty system became more responsive to popular demands for swift retribution and visible racial control.¹⁷ Scholarship on punishment in the US South—its chain gangs, plantation prisons, and lynch law—has given more attention to connections between race and punishment than have studies of the Northern penitentiary system. However, the narrowly regional framing of this approach obscures elements of the period’s racialized ideology of punishment that transcend sectional divides, thereby making the South an exception and normalizing the racialization of punishment in the North and West.

Regardless of the region being focused on, however, a resounding theme in scholarship of US penal history is the failure of reformist movements to live up to their own rhetoric. Since the appearance of the penitentiary system, wave after wave of reform has been instigated—and ultimately, followed—by shocking revelations of overcrowding, inhumane conditions, brutal violence, and failure to rehabilitate.¹⁸ The

Americans from the Civil War to World War II, Reprint edition (New York: Anchor, 2009); David M. Oshinsky, *Worse than Slavery: Parchman Farm and the Ordeal of Jim Crow Justice* (New York: Free Press, 1997); Alex Lichtenstein, *Twice the Work of Free Labor: The Political Economy of Convict Labor in the New South* (New York: Verso, 1996); Mary Ellen Curtin, *Black Prisoners and Their World, Alabama, 1865–1900*, Carter G. Woodson Institute Series in Black Studies (Charlottesville: University Press of Virginia, 2000).

¹⁷ Michael J. Pfeifer, *Rough Justice: Lynching and American Society, 1874–1947* (Urbana: University of Illinois Press, 2004).

¹⁸ Larry E. Sullivan, *The Prison Reform Movement: Forlorn Hope* (Boston: Twayne Publishers, 1990); Edgardo Rotman, “The Failure of Reform: United States, 1865–1965,” in *The Oxford History of the Prison: The Practice of Punishment in Western Society*, ed. Norval Morris and David J. Rothman (New York: Oxford University Press, 1995); Alexander W. Pisciotta,

framers of Jacksonian penitentiaries, postbellum reformatories, the Progressive-era therapeutic “Big House,” and mid-twentieth-century “correctional” institutions all failed to deliver on their lofty ideals and promises of change. But while the fact that such shifts in penal ideology have been largely *rhetorical* is disheartening from a public policy perspective, it should be of particular interest to scholars of language and literature. While, in practice, imprisonment remained in many ways consistent across the nineteenth and twentieth centuries, the way in which imprisonment was imagined, debated, and justified changed significantly. If we want to understand the place of punishment in postbellum US culture, then we need to attend to the evolving rationales by which the legitimacy of the state’s violence was secured in the eyes of both policymakers and the broader public.

Despite the expansive historical scholarship on the transformations in US racial formation following Emancipation and on the concurrent changes in American penology, scholars have not, by and large, explored how the evolving cultural imaginaries of race and punishment *intersected* during this period. That is, how were prevailing ideas about what the state is and what its legitimate authority to enact violence entails informed by developing postbellum understandings of what it meant to be white or black (and vice versa)? How did ideas about race and about the state’s use of force shape each other? The scholarship that *does* attend to the connections between race and punishment generally emphasizes one or the other side of this relationship. For instance, Khalil Gibran Muhammad’s invaluable study, *The Condemnation of Blackness: Race, Crime, and the*

Benevolent Repression: Social Control and the American Reformatory-Prison Movement (New York: NYU Press, 1996).

Making of Modern Urban America (2010), concentrates on how ideas of criminality and crime control were mobilized to imbue African Americans with a tenacious stigma.¹⁹ But it does not address the ways in which this development in racial formation in turn affected popular understandings of the state that carries out crime control. Likewise, McLennan's study of carceral labor politics explores shifts in penal ideology, rhetoric, and practices, but does so with little attention to their implications for the meaning of race in US culture. This dissertation proposes that racial formation and the carceral state powerfully influenced each other in the late nineteenth and early twentieth centuries, and it looks to cultural production as a crucial sphere in which this mutual entanglement took place. From jurisprudence to pulp fiction magazines, this writing about state violence both cultivated and documented the interrelationship between race and punishment.

Notably, much of the scholarship that does in fact dwell at the intersection of racial and penal ideology can be found in literary and cultural studies. In her groundbreaking *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth Century America* (1997), Saidiya Hartman investigates how ideas of "free" personhood served not to liberate African Americans after the Civil War, but to transform the subjection of slavery into new forms rooted in blameworthiness and criminal responsibility. Hartman thus attends to the modes of "violence and domination enabled by the recognition of humanity, licensed by the invocation of rights, and justified on the grounds of liberty and freedom."²⁰ For emancipated African Americans, self-possession

¹⁹ Khalil Gibran Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America* (Cambridge, MA: Harvard University Press, 2010).

²⁰ Saidiya V. Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*, *Race and American Culture* (New York: Oxford University Press, 1997), 12, 6.

and responsibility were recast as indebtedness and culpability; the formal equality granted by the Reconstruction amendments turned out to be scaffolding for the “reinscription of degradation” under the Jim Crow regime’s reinvigorated discriminatory practices—not least of all, those carried out by the postbellum punishment apparatus.²¹

Whereas Hartman demonstrates how the liberal humanism of the nineteenth-century US colluded with the tyrannical brutality of slavery and its carceral afterlives, Jacqueline Goldsby shows how the exceptional-seeming racial violence of lynching in fact fit squarely within modernizing US culture at the turn of the century. Through readings of a range of written and visual texts that index this “fit,” her study explores the “cultural logic” that by turns made sense of lynching as a facet of modern life and repressed it as an unspeakable secret.²² At the core of lynching’s relationship to US culture is its expression of a widespread ambivalence about modernization in general, and of the criminal legal system’s bureaucracy in particular: “[S]outhern lynch mobs—like millions of other Americans—distrusted judicial and political administrations *per se*, and sought to counter the effects of living under centralized systems of power that were increasingly deaf to the needs of individuals and blind to the needs of the community.”²³ Antiblack lynchings expressed generalized sentiments about state power, Goldsby shows, even as the performance of such violence further stigmatized African Americans as criminal and further normalized such brutality against them. Like Hartman and Goldsby, I ask how racialized violence comes to fit within seemingly incongruous frameworks of

²¹ *Ibid.*, 10.

²² Goldsby, *A Spectacular Secret*, 6.

²³ *Ibid.*, 29.

liberalism and modernity. In particular, I examine the role that the idea of the state played in facilitating this fit.

Two other literary studies also explore the interrelationship between race and punishment during this period. Bryan Wagner's *Disturbing the Peace: Black Culture and the Police Power after Slavery* (2009) contends that official and unofficial violence against African Americans in the postbellum era unfolded amidst, and helped to shape, ongoing discussions of the police power. Wagner examines the afterlife of the powers of police that antebellum whites had exercised over all blacks, enslaved or free. In the postbellum US, "the ex-slave was portrayed, in the press and on the stump, as a threat to society." This threat, Wagner argues, "was invoked to win support for new police and prison systems, but it was also turned against the state by advocates who felt that vigilante violence was the only way to proceed in extreme situations [in which] ... the peace of the society was potentially at stake."²⁴ Notions of legitimate violence in this period, then, were constructed around the danger that former slaves allegedly posed to the former master class. This racialization of legitimacy helps account for the relative unimportance in lynching discourse of whether such violence was carried out by state officials or not. Finally, in his *Slaves of the State: Black Incarceration from the Chain Gang to the Penitentiary* (2015), Dennis Childs tracks the perpetuation, entrenchment, and normalization of "neoslavery" after 1865 in the guise of crime control under the Thirteenth Amendment's punishment exception. Childs draws on a broad archive of legal and literary texts that uphold or protest this neoslave condition, insisting on the need to

²⁴ Bryan Wagner, *Disturbing the Peace: Black Culture and the Police Power after Slavery* (Cambridge, MA: Harvard University Press, 2009), 7.

look “on both sides of the Mason-Dixon line and the fictive historical border of 1865.”²⁵ Childs seeks at once to examine the ideological factors that allowed the unleashing of terror through carceral violence against African Americans to appear routine, as well as to recover a haunting counter-discourse to “the well-entrenched U.S. national fable of slavery’s nineteenth-century demise.”²⁶

I join the above authors in regarding the postbellum criminal justice system as both a means for reinstating antebellum relations of racial domination and the site where new constructions of race, police power, captivity, and public safety were generated. In this dissertation, however, I am less concerned with what the state did *to* postbellum US racial formation than in how the state becomes inextricable *from* racial formation—more than a crucial actor in the remaking of the racial order after slavery, I argue, the state becomes an essential element in the definition of racial categories and in the relationships among them. The very notion of legitimate state violence was set to work in redefining the meaning of race, and in turn, state violence came to be seen as most properly used when deployed in racialized ways. The state’s capacities to wield legitimate violence were not simply recruited to the project of reasserting white supremacy. The state and its monopoly on legitimate violence were themselves incorporated into a discourse on the racial order. Thus, the histories of race and punishment in the postbellum US are not merely two intersecting stories—given their discursive amalgamation during this period, they are not two distinct stories at all.

²⁵ Dennis Childs, *Slaves of the State: Black Incarceration from the Chain Gang to the Penitentiary* (Minneapolis: University of Minnesota Press, 2015), 21.

²⁶ *Ibid.*, 4.

Theorizing Legitimate Violence

In this dissertation, I use the terms *legitimate violence*, *state violence*, and *state-sanctioned violence* more or less interchangeably. By these terms, I denote the use of force under the authority and approval of the law. Such violence is typically carried out by state institutions of punishment and policing, but as the mob violence of the late nineteenth through mid-twentieth century shows, one need not be an officer of the law to carry out lethal violence with the state's sanction. By employing the term *legitimate violence*, I am certainly not endorsing the rightfulness or propriety of the state's use of force. But rather than continually affixing quotation marks around "legitimate" or substituting a variant like *legitimized* in order to draw attention to the constructedness of this violence's legitimacy, I leave the term as it is. While I will be quite interested in this dissertation in debates over whether or not a given instance of state violence qualifies as legitimate, I do not wish to enter into such debates myself, as I understand the very notion of legitimacy to be a function and product of those debates, not a prerequisite for them. The phrase *state violence* carries with it an implicit polemic against the viewpoint that the state's use of force, when it enjoys the status of legitimacy, is not "real" violence, but merely a corrective counter-violence to the misdeeds of lawbreakers. Naming state violence *as violence* raises the possibility that the sanctioned use of force by the state and the illegal violence of "criminals" may not be as distant from each other as the law would suggest. While *state violence* can include military acts of warfare on the part of the state, this kind of state action—directed outward at nonmembers of the nation-state—is the

kind most readily acknowledged *as* violence. What concerns me more here are the acts of domestic warfare usually understood as efforts to “keep the peace.” Like *state violence*, the term *state-sanctioned violence* insists that lawful uses of force which enjoy the legitimacy of the state’s authority are not simply restorative counter-actions to negate the violence of offenders. It also encompasses the acts of individuals and groups who police and punish without any formal affiliation with the state.

These terms also permit me to refer to the wide array of forms of violence carried out by the state and its proxies in the name of keeping the peace. Killings by the state (whether administered by court order or more spontaneously by police officers) are often taken as the most extreme and thus the paradigmatic form of state violence. Yet I am interested here not only in executions, but in the diffuse forms of violence attendant to law enforcement as well as in carceral violence—the violence of imposing captivity, and the innumerable forms of deprivation and brutality to which prisoners are subjected on a daily basis. All of these forms of legitimate violence are carried out under the justificatory framework of the police power.

Not limited to the operations of police *officers* (themselves a relatively recent invention), “police power” refers to the much older and broader concept of the authority wielded by the state in order to eliminate threats to “the peace” and to promote the public’s general welfare. The notoriously indeterminate concept of police power has often been summarized as “the power to govern men and things.” The “and” which unites persons and things here as *objects* of police power is essential. The demolition of an unstable building, the detention of a suspicious person, the regulation of a food production plant, and the shooting of a rabid dog all fall under the vast authority of the

police power. Legal scholar Markus Dirk Dubber has traced a genealogy of this concept from its origins in ancient Greece and feudal Europe to modern liberal democracies, in which the power to govern persons and things was transferred from the king to republican political institutions.²⁷

Despite the sweeping discretion inherent in police power, this authority was not without certain constraints. Its legitimate use, Dubber shows, has been understood to rest on one critical condition—wielders of police power must not demonstrate themselves to be unfit for their position by acting out of “malice,” rather than concern for keeping the peace.²⁸ If, for instance, the holder of police power were to get so carried away administering a whipping that he became vulnerable to charges of irrationality and sadism—if the ends of policing, that is, seemed to have been abandoned altogether and the violence could not be conceivably tied to maintaining order and general welfare—his claim to police power would be imperiled. But while the wide discretion enjoyed by agents of the police power within this legal tradition may proscribe malice and sadism, it does not require such agents to treat the policed wards as persons—indeed, just the opposite. As Dubber relates: “The policer is always a person; the policed needn’t be. In fact, we might go farther and say that, *insofar as he is an object of police*, he is not a

²⁷ Markus Dirk Dubber, *The Police Power: Patriarchy and the Foundations of American Government* (New York: Columbia University Press, 2005). The final volume of William Blackstone’s seminal *Commentaries on the Laws of England* (1769) codifies a broad definition of the power to police that would prove profoundly influential in colonial American and US law: “By the public police and oeconomy I mean the due regulation and domestic order of the kingdom: whereby the individuals of the state, like members of a well-governed family, are bound to conform their general behavior to the rules of propriety, good neighborhood, and good manners: and to be decent, industrious, and inoffensive in their respective stations.” Cited in *ibid.*, xii.

²⁸ Dubber, *The Police Power*, 183–84.

person. For policing disposes, in Foucault's term, rather than influences, persuades, or convinces or even commands."²⁹ In traditional conceptions of the police power, then, questions of the policer's subjectivity, rationality, and humanity are of far greater concern than that of the policed, who are evaluated primarily in terms of the threat they pose.

Police power can thus be considered not simply as a particular kind of authority that someone might possess or not possess, but as an overall logic of legitimate violence, carrying with it certain terms of legitimacy and a capacity to transmute persons into objects to be managed. As Chandan Reddy argues, claims to "legitimacy" produce both "constraints and opportunities." Legitimate violence is thus "a violence that carries social meaning" and "that arrives with its own frames of interpretation."³⁰ It is always enacted in articulation with a whole network of arguments about the justification of the use of force, the threats to and needs of the community, and the discretionary authority of the state actor. The social meaning borne by legitimate violence pertains to how its agents as well as its objects are conceived—to the identities that it constructs and reinforces. Racial and sexual difference, Reddy contends, serves to designate a "horizon of irrationalities" against which state violence can stake its claim to rationality. "Legitimate violence," he writes, "can thrive only when its enactment produces excludable groups, formations, practices, and meanings."³¹ Throughout this dissertation, I am concerned with how the enactment of state-sanctioned violence produces excluded, irrational others—and, relatedly, how it constructs a rational, racialized locus of legitimacy—rather than with

²⁹ Ibid., 71. Emphasis in original.

³⁰ Chandan Reddy, *Freedom with Violence: Race, Sexuality, and the US State*, Perverse Modernities (Durham, NC: Duke University Press, 2011), 34.

³¹ Ibid., 39.

how such violence *follows* preexisting lines of racial division. Legitimate violence produces and reproduces the prevailing common sense about where it ought to be directed, rather than simply conforming to a racial logic that targets people of color. Arrests, beatings, lynchings, and incarceration may reinforce established boundaries between supposedly irrational and dangerous populations and those who count as members of the “public” that needs protection, but they also carry rhetorical force—each act of violence can be read as evidence of the threat posed by its object. A performance of punitive violence (either in person or mediated through print) is always also an argument about who has it coming in the first place.

In the US context, police power has long been deeply implicated in racial formation. In *Disturbing the Peace*, Bryan Wagner examines the central role the police power has played in the construction of blackness and of “black culture.” While a long legal tradition justifies the police power’s freedom from definition by reference to the “unpredictability” of the threat it must respond to, Wagner reverses this argument, asserting that it is “the discretionary license in the police power that excludes everything that might be known about its object besides its threat potential.”³² Rather than looking specifically to the discretionary authority the law permitted slave masters, Wagner considers the antebellum slave codes and post-Emancipation police practices by which white society in general staved off the ostensible threat of slave insurrection and black criminality. This police power exceeded any state monopoly on legitimate violence, as “the power to police was considered not as a state prerogative but as a racial privilege of

³² Wagner, *Disturbing the Peace*, 6.

all whites over all blacks, slave or free.”³³ Wagner describes how in the US context, both before and after the war, the logic of police power conflated blackness with social danger. “Seen from the standpoint of the police power,” he writes, “blackness is imperceptible except for the presumed danger it poses to public welfare.”³⁴

As Wagner’s analysis indicates, the police power does not simply *act* upon its objects, but imposes a totalizing interpretive frame upon them. Within this frame, the policed are identified and evaluated in terms of their threat potential, even though they may also be regarded as objects of custody and care. The police power’s reduction and redefinition of its objects in this manner may be fictive, discursive, and constructed, but its transformative effects are registered at the material level in the psychological, social, and civic lives of the policed. The categories through which the police power apprehends its objects are written on the body with lethal force. In *The Law Is a White Dog: How Legal Rituals Make and Unmake Persons* (2011), Colin Dayan explores the strange, supernatural force that allows the law to conjure forms of personhood—the slave, the felon, the citizen, the enemy combatant—forms which are at once legal fictions and yet also lethally real. “Legal practice,” she writes, “conflates symbolic control and the inscription of that control on real bodies.”³⁵ The state of “civil death” that the law imposes on the convict, for instance, summons a “spectral form,” a “flesh-and-bones ghost” divested of the “social and civic components of personal identity.”³⁶ The law, she

³³ Ibid., 7.

³⁴ Ibid., 6–7.

³⁵ Colin Dayan, *The Law Is a White Dog: How Legal Rituals Make and Unmake Persons* (Princeton, NJ: Princeton University Press, 2011), 42.

³⁶ Ibid., 57.

writes, creates strange monsters out of human bodies, infusing them with varying forms of legal capacity and incapacity, personhood and non-personhood.

While the designations of slave, citizen, and felon are all, as Dayan argues, uncanny productions of legal discourse, my own focus is less on how they are constructed by what the law *says* than how they are *produced* through the violence that the law authorizes. Like Michel Foucault's *Discipline and Punish: The Birth of the Prison* (1977), this dissertation looks at the generative functions of the carceral—the ways in which, as he puts it, “power produces.”³⁷ However, my attention will not be directed at the insidious workings of normalizing discourses or at the apparatuses of surveillance that monitor, measure, and reshape subjects of punishment. Instead, I will be concerned with how power operating in its nakedly repressive form—beating, caging, chaining, and killing—is also generative of identities and categories of personhood through the interpretive acts that its violence requires and solicits. Foucault explores the forms of subjectivity engendered by carceral discipline, investigating the ways individuals are conscripted to understand themselves in power/knowledge's terms and participate docilely in their own subordination. Although I am also interested in how persons subjected to state violence (including incarceration) imagine themselves and respond to the discourses that define them, my strongest focus is on the categories of (sub-) personhood imposed on individuals and populations through state-sanctioned violence. How, for instance, did publicly performed lynchings of African Americans at

³⁷ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, trans. Alan Sheridan (New York: Vintage Books, 1977), 194.

the end of the nineteenth century help reshape the meaning of racial identity for both blacks and whites in the US?

This dissertation examines the workings of a form of violence infused not only with *authority*, but also a power of *authorship*. The legitimate violences I consider are not simply enforcing law, order, and hierarchy. Rather, they have the capacity to construct, shape, and give meaning to (indeed, to author) the identity of those persons they act upon and through whom they act. When literary authors, social scientists, judges, or activists represent the enactment of state-sanctioned violence, they participate in that violence's production of an array of legal, social, racial, and political fictions. Legitimate violence always appears on the scene entangled with justificatory rhetoric, narratives of social danger, and claims to rationality. It is violence that demands to be *read* in certain ways. The texts I examine in this dissertation respond to that demand with varying degrees of compliance, but none can resist its call altogether.

Project Overview

The chapters that follow move chronologically from the post-Reconstruction “nadir” of race relations to the Progressive Era, the Great Depression, and the early post-World War Two period. Spatially, they move inward from diffuse sites of racialized violence in the Jim Crow US—public lynchings, urban policing, race riots, immigration restriction—to the more specific site of the prison. This progression, narrowing in on the penitentiary while moving forward in time, does not mean that other forms of state-

sanctioned violence cease to be important as the twentieth century goes on. However, over the period I examine, the prison emerges as the preeminent form of punishment and the key institution upon which the state stakes its claim to rationality in its use of violence. Over the course of the first half of the twentieth century, convict leasing was abolished, chain gangs were dismantled, and penal labor's longstanding function as the cornerstone of prison discipline gave way to an administrative model based on pacification, incapacitation, and "correction." Executions, which had once been public spectacles, were withdrawn from view and secreted within prison walls. And as the civil rights movement gained traction, the state's promise to arrest and imprison the *correct* people would become essential to political discourse on the left and right alike. If the prison became the epitome of our modern notion of legitimate violence, then to understand it we must excavate not just the history of prisons, but the very concept of legitimacy of which it is perhaps the purest expression. Thus, this dissertation seeks to trace a genealogy of the twentieth-century carceral state that leads back not only through the line of previous incarnations of the penitentiary, but outward, to the many scenes of captivity and punishment that have shaped our ideas about what legitimate violence is, and where we expect to find it.

The first chapter, then, begins with the lynch mobs of the turn of the century. Discussions of white mob violence during this period were crucial domains in which the relationship between whiteness and governmental authority was theorized. The rhetoric of what I call "civil whiteness" emerged in this context and structured prevailing discourses of race and state across a broad political spectrum—from racial liberals like Justice John Marshall Harlan to radical racists like Thomas Dixon. While it is typically

the racist attitudes directed at African Americans and other people of color that shape our understanding of this period, I attend to the Jim Crow era's reconstruction of whiteness by examining US Supreme Court rulings on segregation and Chinese Exclusion, Dixon's *The Leopard's Spots* (1902), and James Elbert Cutler's sociological study, *Lynch-Law* (1905). These texts affirm a conceptual fusion of whiteness and legitimate authority that remains one of the period's most overlooked legacies.

Chapter 2 turns to naturalist fiction and black criminality discourse. Although many critics view Paul Laurence Dunbar's 1902 novel, *The Sport of the Gods*, as pessimistic and politically retrograde, Dunbar's bleak representation of African American migration offers an incisive analysis of the pervasive contemporary discourse of black criminality. Dunbar probes two aspects of this discourse rarely brought together by his contemporaries: the racial crime statistics that had recently enchanted sociologists, and the monstrous figure of the roving black "brute" around which a popular moral panic had suddenly materialized. Rather than simply denouncing these ideas as specious stereotypes, Dunbar documents their combined impact on the lives of African Americans in the South and North alike. Instead of staking a claim to legitimacy for blacks, the novel suggests that a genuine debate over the alleged criminality of blackness cannot even take place if the blackness of criminality is already presumed.

With the following chapter, the dissertation closes in on the prison as a material and discursive site. Chapter 3 reads Progressive-era prison memoirs by white authors of various political persuasions, considering the role of anti-black racism in their articulations of dissent against the carceral state. If, as the first two chapters suggest, prevailing discourses of criminality and legitimacy cast whiteness as proper to the

exercise of (rather than subjection to) state violence, white prisoners of this period found themselves in a complex and contradictory position. Their disavowal of the blackness inherent in dominant conceptions of imprisonment, I argue, often takes the form of denigrating African American prisoners, but it also can be seen at work when these white prisoners re-narrate themselves as participants in social struggles that transcend the prison wall. In so doing they lay claim to a sense of personal agency and class-based identity that distances them from the abjection of incarceration, but also from the racialized stigma that imprisonment carries.

Finally, Chapter 4 examines the confluence of racial liberalism and state violence between the Great Depression and the early 1950s. An ideology that regards the *rationality* of state violence as the solution to both social disorder and racial injustice found expression during this period in popular literature, social science, and penology. After an overview of how this ideology is taken up in Robert E. Burns's *I Am a Fugitive from a Georgia Chain Gang!* (1932), Donald Clemmer's *The Prison Community* (1940), and Gunnar Myrdal's *An American Dilemma*, I consider the challenge that Chester Himes's semi-autobiographical prison novel, *Yesterday Will Make You Cry* (c. 1940), poses to this veneration of rationalized state violence. In its representation of the excessive nature of carceral violence, the novel undermines the state's claims to rationality and moderation. And in its exploration of queer, criminalized, and racialized subjectivity, *Yesterday* resists the pathologizing sociological discourses that affirmed the legitimacy of state violence against those populations designated as irrational and dangerous. *Yesterday* was unpublished in its original form until 1998, but in 1953, an expurgated version appeared called *Cast the First Stone*. This revision of Himes's prison

novel appeared at a moment of unprecedented crisis for the US penal system, and on the eve of significant changes to the US racial order. The chapter reads these different versions of the novel in light of the developing ideologies of race and incarceration during the 1930s, '40s, and '50s.

Although I have organized the final two chapters around the rubric of “prison writing,” it’s important to note that this category is a controversial one. In his groundbreaking 1978 study, *The Victim as Criminal and Artist: Literature from the American Prison*, H. Bruce Franklin argued that the writings of US prisoners, long neglected by scholars of American literature, should be accorded the status of art. The writings produced over the centuries by those “defined by the state as criminals,” he argued, were not “some peripheral cultural phenomenon,” but rather a body of work that should be included in any construction of the American literary canon.³⁸ By contrast, taking his cue from incarcerated writer Paul St. John, Dylan Rodriguez rejects the category of “prison writing” in *Forced Passages: Imprisoned Radical Intellectuals and the U.S. Prison Regime* (2006). Rodriguez argues that to designate the writing of incarcerated people as a literary genre supports the aestheticization, commodification, and “political domestication” of prisoners’ works.³⁹ The “fundamental logic” of imprisonment, he writes, is the prolonged disintegration of the captive’s “body, psyche, and subjectivity,” a logic that is obscured by the ersatz coherence of the concept of the

³⁸ H. Bruce Franklin, *Prison Literature in America: The Victim as Criminal and Artist*, 2nd ed. (New York: Oxford University Press, 1982), xxx.

³⁹ Dylan Rodriguez, *Forced Passages: Imprisoned Radical Intellectuals and the U.S. Prison Regime* (Minneapolis: University of Minnesota Press, 2006), 83, 86.

“prison writer.”⁴⁰ Positing prison writing as a literary genre like any other, that is, implies a stable, self-possessed authorial subject, whereas the actual function of the prison is to demolish subjectivity. Thus, for Rodriguez, “recuperating” prisoners’ texts for literary study is in fact an act of appropriation and co-optation that misrepresents the extreme violence of imprisonment as a familiar scene of writing.

Rodriguez’s objections are well founded and particularly pertinent to the post-1960s radical thinkers upon whom his book focuses. In the present study, I try to avoid using terms like “prison writing” to designate a discrete body of literature; rather, as chapter 3 makes clear, one of my chief concerns in reading texts by incarcerated authors is understanding how these writers think beyond the rigid parameters of prison-vs.-“free world” and understand themselves within larger social conflicts. All the same, I want to qualify Rodriguez’s incisive critique by remembering that approaching a text in terms of its literary qualities—or even its aesthetic richness—by no means entails depoliticizing it. Moreover, while Rodriguez acknowledges that imprisoned writers are sometimes conscripted into affirming their illusory construction as subjects who are “simply free to write,” I approach the ways imprisoned (and formerly imprisoned) writers craft their written personas as deliberate choices and not simply the outcome of coercion.⁴¹

If the category of prison literature threatens to stifle the testimony of incarcerated people, an alternative to jettisoning this category altogether might in fact be radically expanding it. If “the prison” is, as Rodriguez powerfully argues, both a material and a discursive regime, then “prison literature” need not refer only to works produced behind

⁴⁰ Ibid., 85.

⁴¹ Ibid.

the walls, but to a much wider range of texts that engage with the ideology of incarceration. It is along these lines that Caleb Smith identifies incarcerated writers in *The Prison and the American Imagination* (2009) as part of “a common archive that includes the works of political theorists, penal reformers, and writers at large.”⁴² Because his investigation centers on “the project of imagining the human figure at the threshold of bondage and freedom,” Smith does not accord writing by prisoners a status of privileged authenticity—nor, consequently, does he burden incarcerated writers alone with the task of representing the prison in all its “ideological and . . . imaginative dimensions.”⁴³ Similar to Smith’s extension of the archive of the carceral imagination beyond the walls of the prison itself, my own project rejects a narrow conception of “prison literature.” However, unlike Smith, who focuses on texts explicitly concerned with captivity and solitude, I begin my study at a significant remove from the institution of the prison both physically and conceptually. Whereas Smith reaches beyond the prison as the site of composition, I look even beyond writing that thematizes confinement to address a wider array of discourses of legitimate violence that authorize and enable imprisonment—including debates over lynching, immigration policy, segregationist jurisprudence, criminology, and popular representations of African American deviance.

I also look beyond representations of imprisonment and legitimate violence to consider the discursive functions of carceral violence itself. Indeed, confidence in the freeness of the so-called “free world” is one of the prison’s most important ideological effects. That is, while the prison system is a sprawling network of stone and steel built to

⁴² Caleb Smith, *The Prison and the American Imagination* (New Haven: Yale University Press, 2009), 21.

⁴³ *Ibid.*, 20–21.

confine human bodies, it is also a signifier, an instrument by which the state can represent itself to the public. In this sense, the prison wall in particular takes on a vital meaning: by starkly demarcating the boundary between free and unfree, it performs important rhetorical work for the state. The prison helps construct the idea of freedom by staging its opposite. Its barbed wire and guard towers mark off the ostensible limits of the state's violence. To the extent that this rhetorical work succeeds, the prison system can recruit even its most outspoken critics to help reinforce the idea that violence carried out by the state, being restricted to the site of the prison, is precisely targeted and carefully quarantined from the rest of society. But as Rodriguez argues, the prison is not the manifestation of "rigidly centered and conservatively ordered institutional power" that it pretends to be. Rather, this dominant idea of the prison is in fact a "mythology of sober and narrowly deployed state power."⁴⁴

The idea that carceral violence is carefully contained and targeted is particularly vital to the claims on rationality that helped consolidate the penitentiary as the anchor of the US punishment apparatus by the mid-twentieth century. Yet it also contains a paradox that has helped shield the prison regime's brutality from scrutiny. Because of the widespread belief that the state maintains the prison as a world apart, an exceptional space of unfreedom utterly unlike the so-called "free world," there is no limit to the violence within its walls that can be justified as reasonable; that is, if the carceral state's claim to rationality is premised on its targeting of the *right* people for violence, it becomes very difficult to challenge the prison's rationality on the basis of *how much* violence it imposes on them. For the fact that they have already been targeted for civil

⁴⁴ Rodriguez, *Forced Passages*, 47.

death by a rational carceral state serves, first, to confirm their incorrigibility and dangerousness and, second, to justify whatever use of force the carceral police power deems necessary and reasonable. Even as the prison represents itself as a moderate alternative to excessive and inhumane punishments, it is predicated upon the virtual death of the prisoner. This is the conflict that Smith sees at the heart of humanitarian discourse about the prison: “Dehumanization,” he writes, “is no excess or exception; it is the very premise of the American prison.”⁴⁵

Between the post-Reconstruction era and the Second World War, the carceral state was able to position itself in opposition to “racism”—the latter being an example of the irrational, arbitrary, and unscientific forces of which the reforming (and nationalizing) prison system was ostensibly purging itself. Over the same period, racial categories were reconstructed with reference to state-sanctioned punishment, as being an object or agent of legitimate violence became more integral to how racial difference was conceived than ever before. Particular relationships to carceral violence were built into racial identities, and the workings of the punishment apparatus were infused with racial significance. The result—and the lasting legacy—of this dual development was a carceral state that could conceive of itself as a colorblind force for justice and safety while simultaneously serving as an engine of racist violence.

⁴⁵ Smith, *The Prison and the American Imagination*, 29.

Chapter One

The Rhetoric of Racial Violence: Lynching, Legitimacy, & the State of Whiteness, 1878–1905

Charles Chesnutt's *The Marrow of Tradition* (1901) culminates in a fictionalized account of the 1898 Wilmington, North Carolina race riot, a deadly white uprising in which several African Americans were killed and many others forced from their government offices. This climactic event in the narrative, however, is preceded and foreshadowed by another manifestation of mob violence—a narrowly averted lynching. In the novel, a young black man is wrongfully accused of robbing, murdering, and presumably raping a wealthy white woman. (As the narrator sardonically explains, “The criminal was a negro, the victim a white woman; it was only reasonable to expect the worst.”)¹ Countering the common impression that only poor whites were responsible for mob violence, Chesnutt depicts the city's white leaders feeding the public frenzy for a lynching. Major Carteret, editor of the local newspaper, explains to his friends that what has occurred “is more than an ordinary crime, to be dealt with by the ordinary processes of law. It is a murderous and fatal assault ... upon our race in the person of its womanhood, its crown and flower.” He continues: “If such crimes are not punished with swift and terrible directness, the whole white womanhood of the South is in danger.”²

¹ Charles Waddell Chesnutt, *The Marrow of Tradition*, ed. Nancy Bentley and Sandra Gunning, Bedford Cultural Editions (Boston: Bedford/St.Martin's, 2002), 156.

² *Ibid.*

Through Carteret, Chesnutt succinctly and incisively summarizes a line of argument often advanced in defense of white mob violence at the turn of the century. Carteret's statement is paradigmatic of turn-of-the century lynching discourse in its insistence that the crime at hand exceeds the capacity of "ordinary" legal procedure, as well as in its use of the bodies of white women as a figure for Southern society and the white "race" as a whole.³ He soon elaborates on this point in an editorial, which the narrator paraphrases:

If an outraged people, justly infuriated, and impatient of the slow processes of the courts, should assert their inherent sovereignty, which the law after all was merely intended to embody, and should choose, in obedience to the higher law, to set aside, temporarily, the ordinary judicial procedure, it would serve as a warning and an example to the vicious elements of the community, of the swift and terrible punishment which would fall, like the judgment of God, upon any one who laid sacrilegious hands upon white womanhood.⁴

According to Carteret, the righteous fury of "an outraged people" may occasionally demand more than "ordinary judicial procedure" can provide in terms of swiftness, terror, and exemplarity. In this line of reasoning, the task of protecting "white womanhood" (and all it is held to represent) from violation by "sacrilegious hands" takes on an urgency that supersedes the encumbrances of due process. It posits a "higher law" that transcends the earthly laws of everyday criminal justice. Carteret's invocation of higher law and "the judgment of God" is echoed a few pages later when the local judge himself offers an apology for the lynch mob, explaining that "in an emergency the sovereign people might

³ As Sandra Gunning writes, "In white supremacist fiction, the figure of the assaulted white women functions as a metaphor for the imagined political rape of the white home and the white nation." Sandra Gunning, *Race, Rape, and Lynching: The Red Record of American Literature, 1890–1912*, Race and American Culture (New York: Oxford University Press, 1996), 75.

⁴ Chesnutt, *The Marrow of Tradition*, 158.

assert itself and take the law into its own hands—the creature [is] not greater than the creator.”⁵

The theological language employed by these city patriarchs serves as a wry indictment by Chesnut of white supremacy’s underlying hubris. But more importantly, the judge’s description of the law as a “creature,” created by and forever subordinate to the “people,” encapsulates a deeply pervasive legal logic in the turn-of-the-century United States. This way of thinking about state authority posits an amorphous popular body or democratic force (understood variously as “the people,” “the public,” “popular sentiment,” etc.) as prior and external to the state and its laws. At the same time, it also fuses this imagined popular foundation of state power with whiteness. Employing theological metaphors in their apologies for the lynch mob, Carteret and the judge assert that there is a higher power at work, something bigger, more primordial, and more important than the law itself. This *something* is more real and yet also more abstract than the state’s actual legal codes, and, crucially, it is understood to be coextensive with the prerogatives of “the white race.”

The conceptual synthesis of popular sovereignty and white supremacy, I will argue in this chapter, was fundamental to mainstream understandings of race and the state in the turn-of-the-century US, drawing whites from across the political spectrum into a robust consensus. Indeed, it was not merely the defenders of lynch mobs but many of lynching’s avowed opponents as well who also subscribed to this line of thinking about whiteness and legitimate state power. Thus, rather than a mere ruse allowing white supremacists to cynically rationalize racial injustice through appeals to “democracy” and

⁵ Ibid., 162.

“the people’s welfare,” the conceptual fusion of whiteness and governmental authority shaped the thinking even of those whites who explicitly challenged Jim Crow discrimination. For this reason, in exploring this discourse I turn not only to the white supremacist polemical fiction of Thomas Dixon, but also to the liberal arguments of Supreme Court justices who critiqued segregation and Chinese Exclusion. While this racialized discourse of sovereignty certainly entailed the frequent substitution of “the people” for *white people*, what I wish to explore here is somewhat more complex than such rhetorical sleight of hand. What emerges in this context, I argue, is not so much an idea of “the people” or a vision of the state that has been painted white, but rather an idea of whiteness that has arrogated to itself the state’s monopoly on legitimate violence. Thus, rather than understand this rhetorical and conceptual phenomenon as a “white public,” “white republic,”⁶ or “white democracy,”⁷ I find it more helpful to think of it as whiteness that has “gone public,” whiteness imagined in terms of the popular will that makes and breaks governments. Not whiteness as a characteristic of civil authority, but civil authority as a property of whiteness.

I refer to this articulation of race and state as *civil whiteness*. In using this term I aim to indicate a particular shift in how whiteness was imagined and in the set of meanings to which whiteness was attached. While the concept of whiteness has always existed a close relationship with state-sanctioned authority, by *civil whiteness* I refer to a late nineteenth-century iteration of this concept that looks to sovereign authority as the

⁶ Alexander Saxton, *The Rise and Fall of the White Republic: Class Politics and Mass Culture in Nineteenth-Century America* (New York: Verso, 1990).

⁷ Joel Olson, *The Abolition of White Democracy* (Minneapolis: University of Minnesota Press, 2004).

most salient quality of whiteness. In turn, the conscription of ideas of popular sovereignty and legitimate violence to the definition of whiteness influenced arguments about the state and its proper use of force. Importantly, this revised understanding of whiteness was initially articulated, in large part, amid discussions of mob violence. This context of explaining, critiquing, or apologizing for the actions of lynch mobs is critical to understanding how the meaning of whiteness was refashioned near the turn of the century. The ambiguous status of the lynch mob—at once defying and superseding the law, dismissing and yet claiming to embody state power—provided a fertile ground for theorizing sovereignty in conjunction with white supremacy.

Civil whiteness, as a means of understanding white racial identity and whites' relation to the state, emerged at a moment of crisis for the US racial order, a crisis that many historians of race have described. The abolition of slavery in the US by no means upended white supremacy, but it did pose fundamental problems for definitions of whiteness, citizenship, and freedom that were so dependent upon contrast with African American slaves. Many scholars have documented the reign of "*Herrenvolk* democracy" in the antebellum US, a regime that Pierre van den Berghe describes as "democratic for the master race but tyrannical for the subordinate groups."⁸ As Alexander Saxton writes, the egalitarianism of the Jacksonian democracy (ascendant between the 1820s and 1840s) asserted a "political, civil and moral equality of white male citizens" predicated on the exclusion of nonwhites and women.⁹ During this period, white workers were forced to reconcile the proud Revolutionary-era ideal of "free white labor" with the realities of

⁸ Cited in *ibid.*, 42.

⁹ Saxton, *The Rise and Fall of the White Republic*, 143.

American industrialization and capitalist development—and thus the term shifted from denoting the labor of self-employed farmers and artisans to encompassing wage labor as well. The disappointment of white workers’ earlier dreams of “manly independence” was compensated, in part, by a rejuvenated understanding of white men’s citizenship—a conception tied to voting rights, to membership in the “producing classes,” and most importantly, to not being a slave.¹⁰ The enslavement of African Americans provided whites with a reliable counterpoint against which their own freedom could be measured, even if this comparison was not always unproblematic and uncontested. “Whiteness,” as Joel Olson writes, “was not a biological status but a *political* color that distinguished the free from the unfree, the equal from the inferior, the citizen from the slave.”¹¹

The economic, political, and psychic calculus of racial difference would shift in the wake of the Civil War and abolition. The question that Grace Elizabeth Hale identifies as confronting the post-Reconstruction South was indeed a pressing one for the whole of white America: “what would citizenship mean in a world without slaves?”¹² The disruption of the meaning of whiteness occasioned by Emancipation and the Reconstruction amendments was not only a philosophical quandary and a source of cultural anxiety; it also posed substantial problems for the stability of class and labor relations in the late-nineteenth-century US. Whiteness, as W. E. B. Du Bois famously observed, had long “compensated” poorly-paid Euro-American workers “by a sort of

¹⁰ Ibid., 144; Roediger, *The Wages of Whiteness*, 68–69.

¹¹ Olson, *The Abolition of White Democracy*, 43 (emphasis in original).

¹² Hale, *Making Whiteness*, 5.

public and psychological wage.”¹³ Before the Civil War, membership in whiteness had unified a cross-class coalition of skilled artisans, wage laborers, tenant farmers, landowners, professionals, and capitalists. After 1865, the loss of the distinction between citizen and slave made the wages of whiteness somewhat more difficult to deliver. White racial identity and white racism would have to adapt to keep serving their cohesive and compensatory function. The law could no longer be counted upon in quite the same way to confer the status of absolute racial dominance that whites had possessed over the enslaved, nor the white “enjoyment” that Saidiya Hartman identifies as integral to slaves’ subjection.¹⁴

In this chapter, I describe how, in response to this disruption in the relationship between race and citizenship, whites began to look beyond the law—or rather, beneath the law—for another, more fundamental basis for the legitimacy of white supremacy. From such a perspective, the law begins to look increasingly superfluous when it comes to racial matters. This was true for the white lynch mobs that decried the inadequacy of the courts, but also for the jurists of the Jim Crow era who increasingly embraced a vision of the law as a neutral arbiter that merely responds to racial “realities.” As Walter Benn Michaels writes of this legal philosophy, “the absence of any difference *grounded* in law became powerful testimony to the irreducibility of a difference *reflected* in the law.”¹⁵ There was, of course, a wide gap in both respectability and institutionality between a

¹³ W. E. B. Du Bois, *Black Reconstruction in America: An Essay toward a History of the Part Which Black Folk Played in the Attempt to Reconstruct Democracy in America, 1860–1880*, ed. David L. Lewis, The Oxford W.E.B. Du Bois (New York: Oxford University Press, 2007), 700.

¹⁴ Hartman, *Scenes of Subjection*, 25.

¹⁵ Walter Benn Michaels, “The Souls of White Folk,” in *Literature and the Body: Essays on Populations and Persons*, ed. Elaine Scarry, Selected Papers from the English Institute (SPEI): 12 (1986) (Baltimore: Johns Hopkins UP, 1988), 189. Emphasis in original.

lynch mob and the Supreme Court. Yet both of these cohorts insisted that the law should remain responsive and subservient to a higher power that lies behind it. And for both, that higher power—whether conceived of as “popular sovereignty” or “nature” or “heritage”—was inseparable from the interests of white supremacy.

Thus, while in the antebellum *Herrenvolk* democracy, whiteness was held to be a criterion for inclusion in the body politic, in the postbellum period whiteness became, at a conceptual level, coextensive with state power itself. Jacksonian whiteness conferred privileges upon its members, with racial identity serving as a ticket into civic life. Civil whiteness of the late nineteenth century, on the other hand, allowed whites to think of sovereign authority as something flowing through their veins. With the loss of slave law and of the particular type of whiteness predicated upon it, a new whiteness was discovered at the foundations of legitimate state violence. To be clear, the close association of race, violence, and the state did not begin with the advent of civil whiteness in the wake of Emancipation. In early America, as Rebecca Hill notes, “race became a determining factor in what was defined as violent or insurrectionary activity, as opposed to what was defined as popular justice”—acts of violence by whites, then, were frequently categorized as “orderly” and legitimate.¹⁶ And as Bryan Wagner has shown, both antebellum slave masters and turn-of-the-century white vigilantes employed a shared set of arguments about police power and sovereignty that eschewed “the difference between legal and extralegal means” of maintaining the racial order.¹⁷ While, throughout the history of colonialism and slavery, being white had been associated with

¹⁶ Rebecca Nell Hill, *Men, Mobs, and Law: Anti-Lynching and Labor Defense in U.S. Radical History* (Durham: Duke University Press, 2008), 10–11.

¹⁷ Wagner, *Disturbing the Peace*, 18.

the authority to exercise violence over racial others, by the turn of the century, that authority was no longer taken for granted as *following from* the fact of whiteness. Instead, a claim to legitimately wield state violence was treated as inherent in whiteness itself, as a constitutive feature rather than an incident of being white. Moreover, while white claims of an inherent right to govern were central to ideologies of colonial conquest, the consolidation of whiteness and legitimate authority at the end of the nineteenth century represented a variation on this idea. The antebellum discourse of “Anglo-Saxonism,” for instance, provided a narrative of racial history to support the ideology of Manifest Destiny, as white US Americans seized control of Mexican and Native American lands.¹⁸ But while this older, colonialist ascription of governmental authority to whiteness was oriented towards legitimizing the conquest of new territory, the turn-of-the-century discourse of civil whiteness was more concerned with the governance of spaces understood as domestic, settled, and metropolitan. Rather than authority over territory, it is control over the machinery of government on which the authors discussed below are fixated.¹⁹ This shift of emphasis from whiteness’s claims on land to its exclusive prerogative of citizenship, then, provides legitimating grounds not so much for the displacement and subjugation of colonized peoples, as it does for the containment of people of color within “settled” society but without access to state power.²⁰

¹⁸ See Reginald Horsman, *Race and Manifest Destiny: The Origins of American Racial Anglo-Saxonism* (Cambridge, MA: Harvard University Press, 1981).

¹⁹ However, this is not to say that the expansionist understanding of whiteness did not exist alongside and in articulation with civil whiteness, as will be evident in the discussion that follows.

²⁰ David Theo Goldberg describes this shift toward a state concern with racial “containment” rather than racial exclusion, a movement from “conceiving race as the outside of civil(ized) society” to “a new racial governmentality of *containability* and *containment*, to enclosing race

The late-nineteenth-century disruption in racial formation to which the emergence of civil whiteness offered a resolution was not a merely a US phenomenon. In his comparative study of racial and nation-state formation, David Theo Goldberg identifies this dilemma as a global one during this period, as the spread of abolition and the intensification of resistance to racial and colonial domination shook whites' "confidence" in the givenness of their superior status. This situation yielded "something distinctively new in the manifestation of whiteness," Goldberg writes. Starting in the second half of the nineteenth century, "whiteness explicitly and self-consciously becomes a state project."²¹ In making this claim, Goldberg does not mean that states had not concerned themselves with race before this period.²² Before the late nineteenth century, white supremacy and the exclusiveness of white claims upon citizenship were indeed codified by the state, but not with the level of fervor that would come later. Faced with the material and theoretical challenges posed to racial domination by the overthrow of slavery, Goldberg contends, both settler colonial states (South Africa, the US, Australia) and European ones (England, France, Germany) begin to take their role as race-makers more seriously in the late nineteenth century. This role entailed cultivating a (white) population and protecting its racial integrity, as well as defining whiteness and delimiting

within." It is therefore the "racial urban" that comes to dominate state's attention during late nineteenth century—the task of confining nonwhites *within* metropolitan space. Goldberg, *The Racial State*, 166.

²¹ Ibid., 175, 176.

²² On the contrary, he argues that modern nation-states, since their inception, have predicated themselves on manufacturing "the artifice of internal homogeneity" through the exclusion, expulsion, and suppression of internal difference. Racial distinction emerged as the key concept that made this excluded otherness intelligible, putting race at the very heart of modern state formation. Ibid., 10.

its boundaries. “From the closing decades of the nineteenth century,” Goldberg writes, “the making of whiteness flows in and through and out of the state.”²³

Goldberg is largely concerned with the institutional manifestations attending this shift in the state’s relationship to racial distinction. In particular, he examines the development of racial classification schemes by census administrators and the attempts of judges to define racial identities for the enforcement of naturalization, segregation, and anti-miscegenation laws. Although I share Goldberg’s focus on the late nineteenth century as a watershed moment in the history of racial governmentality, my own emphasis is less on how the state took on the project of race-making than on how that race-making project—and its diffusion of participants—employed ideas about the state. That is, whereas Goldberg investigates the ways in which the state “explicitly, deliberately, and calculatingly takes the lead” in “orchestrating” the remaking of whiteness, I am exploring the concurrent process by which white cultural commentators seized upon the state rhetorically to refashion the meaning of their racial identity.²⁴ State actors certainly took part in this rhetorical reconstruction of whiteness, but they were not alone in doing so. Thus, my focus is on *representations of* state and state-like action in popular, scholarly, and official discourses on race, rather than on the state’s actual administrative undertakings.

As Goldberg demonstrates, the remaking of whiteness was a global phenomenon, and certainly merits attention in a transnational context. However, for my own purposes here, a focus on the US in particular can nonetheless be illuminating. If the discourse of

²³ Ibid., 176.

²⁴ Ibid.

civil whiteness infused “the state” into race in new ways, it was not only a generalized notion of sovereignty that was invoked, but often one nation-state in particular. In the texts I examine, the specific institutional structures and history of the US nation-state are put in play rhetorically to construct a distinctly nationalist and exceptionalist idea of racial power. By reading them together, I seek to explore the discourse of civil whiteness as it emerged in a specific historical, geographical, and political context. In attending to this discourse within a US national frame, moreover, I seek to challenge the tendency to treat Jim Crow white supremacy—and the countenancing of mob violence that came with it—as a narrowly Southern phenomenon. As the texts I examine below indicate, not only were lynchings committed in the South, North, and West, but, perhaps more importantly for my purposes here, the *ideology* of race and legitimate violence that normalized lynching spanned regional, political, and class divides, as well.

In this chapter, I examine the rhetoric of whiteness and legitimate violence in several different kinds of texts. Thomas Dixon’s 1902 novel, *The Leopard’s Spots: A Romance of the White Man’s Burden, 1865–1900*, presents a strident form of white supremacy that emphasizes and celebrates the intimate relationship between whiteness and sovereignty in its depiction of anti-black violence. By contrast, James Elbert Cutler’s sociological study, *Lynch-Law: An Investigation into the History of Lynching in the United States*, aspires to an objective analysis of the causes of lynching, yet rests upon the same fundamental equation of whiteness with popular sovereignty as does Dixon’s novel. I then turn to late nineteenth-century legal discourse regarding racial segregation and Chinese Exclusion laws. Starting with the California state legislature’s 1878 report on Chinese immigration, I also examine several Supreme Court opinions from 1880s and

'90s, before concluding with Henry Cabot Lodge's 1891 essay on lynching and immigration law—in these texts, we can see the law and those sworn to uphold it repeatedly deferring to the sovereign will of white lynch mobs. Lynching thus occupies a paradoxical position in Jim Crow jurisprudence, figured as law-and-order's opposite but also as its condition of possibility. In David Squires's formulation, lynching sits precariously between criminal *illegality* and sovereign *extralegality*, suspended between “the rule of law and the right to revolution.”²⁵ Situated differently in terms of ideology, discipline, and region, the authors examined in this chapter collectively demonstrate the pervasiveness of the common sense that bound whiteness to legitimate state power by the century's end.

Thomas Dixon, Jr. and the Spectacular Spirit of Whiteness

Thomas Dixon, Jr., a North Carolinian whose long and varied career included time spent as a politician, preacher, orator, playwright, novelist, actor, and Hollywood filmmaker, wrote his first novel, *The Leopard's Spots: A Romance of the White Man's Burden—1865–1900*, after attending a stage production of *Uncle Tom's Cabin* in 1901. Dixon was outraged by the play's portrayal of the South, and after sixty days of furious writing he had produced his rebuttal in the form of a 400-page paean to Southern white manhood. Historian Joel Williamson describes *The Leopard's Spots* as “virtually an

²⁵ David Squires, “Outlawry: Ida B. Wells and Lynch Law,” *American Quarterly* 67, no. 1 (2015): 144–45.

encyclopedia” of what he terms “Racial Radicalism.”²⁶ While more liberal whites of the period still envisioned a subordinate position for African Americans in the nation, racial radicals, Williamson contends, “insisted that there was *no place* for the Negro in the future American society” and wishfully predicted that blacks would soon die out altogether, thereby solving the nation’s “Negro Problem.”²⁷ In its relentless portrayals of heroic white masculinity, black men’s savagery, and white women’s vulnerability and sexual victimization, *The Leopard’s Spots* deploys many of the key tropes, fantasies, and phobias of white racial radicalism. Given the book’s bestseller status (it sold 100,000 copies in its first few months, with over one million copies eventually being printed) and its role in launching a literary career that would culminate in the screenplay for D.W. Griffith’s 1915 blockbuster, *Birth of a Nation*, *The Leopard’s Spots* is not just an exemplary text but an especially significant one as well in the literature of turn-of-the-century US white supremacy.²⁸

²⁶ Williamson identifies three Southern white racial “mentalities” after the Civil War: a “Liberal” stream of thought which, though paternalistic, acknowledged “that it did not yet know the potential of the Negro” and regretted whites’ abandonment of racial uplift efforts after Reconstruction’s end; a “Conservative” mentality, the most dominant and enduring of the three, that “always began, proceeded, and ended upon the assumption of Negro inferiority”; and finally a “Radical” position that emerged in 1889 and enjoyed widespread popularity until around 1915. Radicals imagined emancipated blacks—especially black men—not merely as inferior to whites but as fundamentally depraved and dangerous. Joel Williamson, *The Crucible of Race: Black/White Relations in the American South since Emancipation* (New York: Oxford University Press, 1984), 141.

²⁷ *Ibid.*, 5–6. Emphasis in original. Maxwell Bloomfield points out that, in his early preaching, Dixon did not evince the vitriolic anti-black racism that would become the signature of his later writing. Gretchen Murphy compellingly links this shift in Dixon’s writing to his embrace of the Spanish-American War in 1898. Maxwell Bloomfield, “Dixon’s ‘The Leopard’s Spots’: A Study in Popular Racism,” *American Quarterly* 16, no. 3 (1964): 391; Gretchen Murphy, *Shadowing the White Man’s Burden: U.S. Imperialism and the Problem of the Color Line* (New York: NYU Press, 2010), 58–76.

²⁸ Williamson, *The Crucible of Race*, 158.

Dixon's historical romance puts whiteness center stage. Although the book's virulent anti-black racism would suggest that the title's biblical allusion ("Can the Ethiopian change his skin, or the leopard his spots?")²⁹ refers to the unchangeable racial nature of African Americans, it is in fact the essential, immutable racial identity of *whites* with which the text is most concerned. While studies of racial ideology during the Jim Crow era often focus on prevalent negative representations of people of color, *The Leopard's Spots* directs our attention to the whiteness against which such representations were articulated. Indeed, as numerous critics have argued, Dixon's novel manifests insecurity about the coherence of the white racial identity that it venerates. A common critical approach to the text, as Gretchen Murphy writes, is "to look for and describe gaps, contradictions, and instabilities in Dixon's definition of whiteness."³⁰ In this vein, Sandra Gunning observes that Dixon's fiction gives expression to "a profound anxiety over the maintenance of a stable white identity."³¹ Jeffery Clymer sees in Dixon's novels an urgent desire to forge a unified whiteness that transcends political, regional, and economic differences. Dixon seeks to "replace the national uniforms of Yankees and Confederates—uniforms that can be removed or worn by the wrong race—with the putatively 'black' or 'white' uniform of skin that can be neither removed nor forged."³² As these critics point out, even in its supremacist celebration of white unity, *The Leopard's Spots* regards white *disunity* as a problem to be solved. While I concur that the

²⁹ Jeremiah 13:23.

³⁰ Murphy, *Shadowing the White Man's Burden*, 58.

³¹ Gunning, *Race, Rape, and Lynching*, 28.

³² Jeffery A. Clymer, *America's Culture of Terrorism: Violence, Capitalism, and the Written Word*, Cultural Studies of the United States (Chapel Hill: University of North Carolina Press, 2003), 106.

novel manifests significant anxiety over the state of whiteness, I contend that Dixon drew upon the discourse of civil whiteness—the newly emerged understanding of whiteness as inextricably entwined with state power—as a solution to that problem.

Dixon's 1902 novel incorporates a whole host of white supremacist tropes that had been developed over the course of the previous few decades. The sexual demonization of black men as "brute beasts," the characterization of Reconstruction as a period of misrule and as a reckless experiment in "Negro domination," the Northern/Southern white marriage plot—all these elements had taken shape during the late nineteenth century. Indeed, Dixon's fiction enjoyed such great popularity among the white reading public precisely because it rearticulated and reinforced what were already widely held views by the turn of the century. This was especially the case for the novel's depiction of white mob violence. Anti-black lynching across the US, but especially in the South, had surged starting in the 1880s, rivaling the rates of white supremacist mob violence during Reconstruction. Unlike the lynchings of that earlier period, however, which were rightfully regarded as political in nature, late nineteenth-century lynching was commonly thought of as a response to black-on-white sexual violence. Activists such as Ida B. Wells and Frederick Douglass exposed this excuse as the pernicious falsehood that it was (in only one-third of lynchings, Wells demonstrates, were there even accusations of rape involved) but their protests went largely unheard by the white public, which remained credulous of the viciously racist misconceptions propagated by writers like Dixon.³³ This *fin-de-siècle* sexual panic was successfully projected back onto the

³³ Ida B. Wells-Barnett, *Southern Horrors and Other Writings: The Anti-Lynching Campaign of Ida B. Wells, 1892–1900*, ed. Jacqueline Jones Royster (Boston: Bedford/St. Martin's, 1997), 74.

Reconstruction era by such authors. Comparing Dixon's freewheeling historical revisionism with Wells's meticulous gathering of statistics, Clymer suggests that Dixon's best-selling novels "are excellent examples of propaganda that did not need to marshal evidence that could in any way be thought of as objective, because his narratives already meshed with the naturalized and ideologically dominant conception of lynching."³⁴

This dominant conception of mob violence hinged on the conflation of whiteness and the authority to govern. In its presentation of lynching, the Ku Klux Klan, and anti-black rioting, *The Leopard's Spots* invokes a metaphysical and transcendent white racial history that finds expression in acts of governmental power (whether that power is fully institutionalized or not). That is, the novel marries the notion of a primal racial spirit with that of the people's sovereign right to self-determination, both of which are manifest in state (and state-like) action. It is this union of the spiritual and the worldly to which the novel's hero, Charles Gaston, refers when he asserts: "I believe that the Government is the organized virtue of the community, and that politics is religion in action. It may be a poor sort of religion, but it is the best we are capable of as members of society."³⁵ Gaston, the orphaned son of a Confederate war hero, is a tireless and ultimately victorious champion of racial radicalism, an undaunted idealist who believes that government, at its very best, can be a faithful and "organized" expression of white "virtue." A robust, red-blooded specimen of white manhood who, we read, is destined from childhood for the

³⁴ Clymer, *America's Culture of Terrorism*, 104.

³⁵ Thomas Dixon, *The Leopard's Spots: A Romance of the White Man's Burden—1865–1900* (New York: Doubleday, Page & Co, 1902), 284. Subsequent references to this text will be made by page number in parentheses.

North Carolina Governor's Mansion, Gaston embodies the collision of "Anglo-Saxon" racial heritage and governmental authority.³⁶

That racial inheritance is shown to be under serious threat at the outset of *The Leopard's Spots*, which begins during Reconstruction. "The task before the people of the South was one to tax the genius of the Anglo-Saxon race as never in its history," Dixon writes, referring to the social and economic disruptions of Emancipation. "The task of organizing this wrecked society and marshalling into efficient citizenship this host of ignorant negroes, and yet to preserve the civilisation of the Anglo-Saxon race, the priceless heritage of two thousand years of struggle, was one to appal the wisdom of the ages" (35). This racial "genius" and "heritage" is a precious and vulnerable legacy to be protected and, at the same time, the potent means of its own protection. The invocation of millennia of white racial history, Anglo-Saxonism's epic narrative arc, is repeated many times throughout the novel, but most emphatically during Gaston's climactic speech to the state Democratic State Convention near the book's end. In this scene, Gaston works his audience into an ecstatic frenzy as he calls for the absolute exclusion of African Americans from political life in North Carolina. Urging his fellow Democrats to buck up in the face of "Negro domination," Gaston warns against leaving final authority with mere "paper constitutions." He reminds the men of their proud "Aryan" history, insisting: "We are not free because we have a Constitution. We have a Constitution because our pioneer fathers, who cleared the wilderness and dared the might of kings, were freemen.

³⁶ As Reginald Horsman demonstrates, starting around the 1840s, the label of "Anglo-Saxon" was applied rather promiscuously "to describe the white people of the United States in contrast to blacks, Indians, Mexicans, Spaniards, or Asiatics, although it was frequently acknowledged that the United States already contained a variety of European strains." Horsman, *Race and Manifest Destiny*, 4.

It was in their blood, the tutelage of generation on generation beyond the seas, the evolution of centuries of struggle and sacrifice” (442). Here, Dixon regards the US Constitution as the fruit of colonial conquest, a mere shadow of the racial power that brought it into existence. Dixon also intermingles biological heredity with a less tangible kind of legacy—freedom is in whites’ “blood,” yet it has been passed on through generations of “tutelage.” This overlay of the bodily and the spiritual through racial identity reflects what Gail Bederman sees as “a Darwinist version of Protestant millennialism” that prevailed in the late nineteenth century.³⁷ In this line of thinking, the mechanism of evolution (as understood by pseudo-Darwinian racial science) executed the divine task of pushing humanity forward in the long, slow battle of good against evil. Thus, while whiteness is clearly a matter of flesh and blood for Dixon, its corporeal manifestation is merely the outward expression of a far more ethereal reality. As Walter Benn Michaels writes, what matters more for Dixon than the whiteness of the body is the whiteness of the soul; in Dixon’s novels, racial “identity ... is always fundamentally spiritual.”³⁸

This spiritual inheritance is at the same time a political inheritance, a right to sovereign self-rule not altogether unlike the legitimate right of dominion passed along a royal line of descent. Dixon seeks to demonstrate this inalienable claim to legitimate authority by depicting Reconstruction as a moment of upheaval in which this claim is tested and ultimately vindicated. Although Reconstruction did not entail the removal of whites from positions of power altogether, whites were nonetheless forced to cede their

³⁷ Gail Bederman, *Manliness and Civilization: A Cultural History of Gender and Race in the United States, 1880–1917* (University of Chicago Press, 1996), 25.

³⁸ Michaels, “The Souls of White Folk,” 190.

exclusive control of the state. It is the shock of losing absolute and unquestioned supremacy in political matters that constitutes an unprecedented crisis in *The Leopard's Spots*, and for this reason the terms “negro dominion” and “negro equality” are used almost interchangeably (137). The incorporation of African Americans into state power structures drives a wedge between whiteness and authority, troubling their easy identification with one another. What ensues in the absence of exclusively white governance? The answer, as Dixon’s repeated references to Reconstruction as sheer “anarchy” would suggest, is that one winds up with no government at all. After the passage of the Reconstruction amendments, Dixon narrates, “[t]he Negroes laid down their hoes and ploughs and began to gather in excited meetings. Crimes of violence increased daily. Not a night passed but that a burning barn or home wrote its message of anarchy on the black sky” (91). Tim Shelby, the black leader of the local Republican Party, drives a crowd of African Americans into a frenzy with promises to “drive the white man out of this country” (92). “We will make this mighty South,” Shelby declares, “a more glorious San Domingo,” whereupon he finds himself carried in the air, with “five hundred crazy Negroes yelling and screaming” at his feet (93).

Dixon dramatizes what had, by the turn of the century, become the standard account of black misrule during Reconstruction. While initially a seen as a partisan narrative advanced by aggrieved white Southerners, this view of Reconstruction gained traction in the North as well as time went on. As early as the 1870s, beliefs about the unfitness of African Americans for republican citizenship helped drive Reconstruction to

its demise by sapping the crucial backing of mainstream Republicans.³⁹ *The Leopard's Spots* rehearses not only the commonplace narrative of “Negro domination” during Reconstruction, however, but the prevailing account of anti-black terrorism as well. Dixon’s novel gives voice to the “spirited defense” of the Ku Klux Klan that, as David Blight writes, pervaded the “national image of Reconstruction” by the turn of the century.⁴⁰ Dixon’s depiction of the Klansmen as reluctant saviors of their land and women from the savagery of politically empowered black men “captured the attitudes of thousands and forged in story form a collective memory of how the war may have been lost but Reconstruction was won—by the South and by a reconciled nation.”⁴¹ In *The Leopard's Spots*, Reconstruction affords an opportunity for whiteness to reaffirm its exclusive prerogative to govern through vigilante efforts to “redeem” white supremacy in government.

For Dixon, groups such as the Klan (or, later in the novel, the Red Shirt campaign in the 1890s) demonstrate that whites’ innate political authority will inevitably reassert itself even without access to an official state apparatus. The Klan’s spontaneous appearance thus bears witness to the irrepressibly authoritative nature of whiteness. The Klan makes its first appearance in *The Leopard's Spots* in a lynching scene. When Shelby, the black Republican leader, asks a young white woman for a kiss in exchange

³⁹ As Heather Cox Richardson demonstrates, Northern Republican supporters of Reconstruction came to see African Americans as embracing an “un-American,” socialistic economic ideology. Blacks, they contended, were abusing the ballot for the pursuit of undeserved benefits, graft, and even property confiscation. In the minds of Northern Republicans, civil rights legislation and enforcement were increasingly conflated with political spoils; the protection of civil rights was misconstrued as a kind of government hand-out that undermined the free-labor foundations of the US’s political economy. Richardson, *The Death of Reconstruction*.

⁴⁰ Blight, *Race and Reunion*, 111.

⁴¹ Ibid.

for giving her a job, he is soon pursued by “two hundred white-robed silent men whose close-fitting hood disguises looked like the mail helmets of ancient knights.” These solemn “knights” bind Shelby to a horse and bring him “to the court-house square” (151). The actual act of killing is elided, but the next morning, Shelby’s body hangs from the balcony of the city courthouse with a note signed, “K.K.K.” Dixon then explains that the formation of the Klan was “a spontaneous and resistless racial uprising” in the interests of good public order: “This Invisible Empire of White Robed Anglo-Saxon Knights was simply the old answer of organised manhood to organised crime. Its purpose was to bring order out of chaos, protect the weak and defenseless ... and redeem civilization” (151-2). In redeeming “civilization,” these men also reenact its birth, the summoning of “order out of chaos” ostensibly performed by the instigators of the “Anglo-Saxon” tradition. This sacred duty of bringing order to the world lays aside any concern for legality. Preparing members of the local Klan for a voter intimidation campaign, their chief admonishes, “You are asked to violate a statutory law. There is a higher law. You are the sworn officers of that higher law” (163). The “law” these “officers” are sworn to uphold—the ideal, true law of which any actual statutes can only be an imperfect copy—is here inseparable from the ideal Anglo-Saxon racial essence of which white Americans are merely a local instantiation. The suddenness with which the Klan emerges to fulfill its function implies, as Rebecca Skidmore Biggio argues, the enduring presence of a latent “white fraternity” that flares up violently in response to external threats.⁴²

⁴² Biggio compellingly reads *The Leopard’s Spots* alongside *A Fool’s Errand: By One of the Fools* (1879), by Albion Tourgée, one of the postbellum period’s most celebrated racial liberals and attorney to Homer Plessy in *Plessy v. Ferguson* (1896). Whereas in Dixon’s novel, the Klan *appears* swiftly and spontaneously, in Tourgée’s it is the sudden *disappearance* of the clansmen

Yet, a striking contradiction marks Dixon's portrayal of Reconstruction: while the period is represented as an unfortunate aberration that temporarily hindered the forward march of race and nation, it is also depicted as a cataclysmic event that permanently entrenches a bitterly antagonistic racial order. While the nation quickly moved on from the war, Dixon writes, the lingering effects of the Reconstruction regime were quite another matter:

We have easily outlived the sorrows of the war. That was a surgery which healed the body. But the child has not yet been born whose children's children will live to see the healing of the wounds from those four years of chaos, when fanatics, blinded by passion, armed millions of ignorant Negroes and thrust them into mortal combat with the proud, bleeding, half-starving Anglo-Saxon race of the South. Such a deed once done can never be undone. *It fixes the status of these races for a thousand years, if not for eternity.* (85, emphasis added)

Together, the Civil War and Reconstruction are understood to affirm both an abiding unity among whites and an irreconcilable disunity between black and white. Moreover, Dixon's Reconstruction is held up as conclusive proof that without total white control of the state, the "spirit of anarchy" will inevitably prevail and government will "become organized crime instead of the organized virtue of the community" (94). Thus, as Dixon would have it, while Reconstruction did nothing to change the putatively natural relation between the races, it did eliminate whatever doubt there may once have been about whites' exclusive prerogative to wield state power. In this view, "negro government" (136) can never be anything more than a "preposterous joke" (98), as Gaston's dejected

that is triumphantly noted. Despite their opposite political affiliations, Biggio argues, both authors work "to contain the visible, active manifestation of white supremacy in order to restore the ostensibly peaceful and orderly white fraternity underneath." Dixon's white fraternity is the Klan, Tourgée's the victorious Union. Rebecca Skidmore Biggio, "Violent Fraternities and White Reform: The Complementary Fictions of Albion Tourgée and Thomas Dixon," *Arizona Quarterly: A Journal of American Literature, Culture, and Theory* 67, no. 2 (2011): 88, 92.

mentor, Reverend Durham, describes the Republican regime. In addition to his denigration of black failure and misrule, however, Dixon's explicit exaltation of whiteness serves to reinforce the claim that only whites are capable of governing themselves and others. In his retelling of postwar history, Dixon not only presents whiteness as a necessary condition for governmental authority (as it is under *Herrenvolk* democracy), he also strives to erase any difference whatsoever between whiteness and legitimate state power—to make any nonwhite exercise of governmental authority, or whiteness submitting to anything outside itself, look like an absurd contradiction in terms.

The unification of whiteness around claims to state power in *The Leopard's Spots* performs a clear economic function—forging a cross-class coalition of whites of all classes who subordinate their own economic interests to the putative interests of “the Anglo-Saxon race.” While still mystifying whiteness's origins through notions of “blood” and “heritage,” Dixon is remarkably explicit about how shared racial identity is supposed to make “Anglo-Saxons” set aside class conflict. The ideology of civil whiteness posits a self-governing public (inheritor of both a racial history and an inalienable right to govern) that stands over and above the rough-and-tumble realities of the market. This civil, civic, and *public* whiteness transcends the merely *private* interests of particular individuals or groups. Dixon emphasizes this distinction repeatedly in his novel, repudiating those who act selfishly as traitors to the race, and thus to civilized humanity. In *The Leopard's Spots*, the very preservation of civilization is ostensibly at stake, yet certain whites fail to rise to the occasion, pursuing their own parochial interests at the expense of the racial public. Archvillain Simon Legree, lifted from the pages of *Uncle Tom's Cabin* and

appearing in Dixon's narrative as a former slave driver turned robber baron, builds a corporate empire on the backs of destitute northern workers, seeking personal financial gain at all costs. Likewise, the white Republican leader Allan McLeod pursues political power above all, engaging in interracial political coalitions that threaten to revive the Reconstruction era's "conspiracy against human progress" (196). Economic interest groups can be guilty of this racial betrayal as well. The Farmers' Alliance, which forms a coalition with McLeod's integrated Republicans, puts class interests over the public good, calling for an inflationary monetary policy that would amount to "issuing money on corn and pumpkins and potatoes stored in a government barn" (312). Reverend Durham sums up the economic imperatives of turn-of-the-century US white supremacist ideology when he insists upon the absolute priority of race unity over class conflict: "Two great questions shadow the future of the American people, the conflict between Labour and Capital and the conflict between the African and the Anglo-Saxon race. The greatest, most dangerous and most hopeless of these is the latter" (334). For Durham, as for Dixon, the fate of humanity rests upon the ability of "Anglo-Saxons" to set their economic interests aside and unite around their common whiteness.

And, as Dixon well knew, nothing brought turn-of-the-century white Americans together across class lines more quickly or more effectively than the perceived need to protect white womanhood through mob violence. When the sex panic regarding black-on-white rape exploded across the country in the late 1880s, the demonic figure of the black "brute beast" became the ubiquitous explanation for lynchings. Whereas sexual violence against poor white women (whether perpetrated by white or black men) had elicited little public concern throughout most of the nineteenth century, Southern white women of *all*

class backgrounds became the rhetorical mainstay of white supremacist discourse at the century's end.⁴³ The unifying power of the pursuit to avenge "white womanhood" is emphatically dramatized in *The Leopard's Spots* when a search party and proto-lynch mob gathers to look for a poor, young white girl who has gone missing:

In a moment the white race had fused into a homogenous mass of love, sympathy, hate and revenge. The rich and the poor, the learned and the ignorant, the banker and the blacksmith, the great and the small, they were all one now. The sorrow of [the girl's father] was the sorrow of all; every heart beat with his, and his life was their life, and his child was their child. (372)

The fury of this wrathful white mass rises beyond measure when it is subsequently discovered that the girl has been raped and murdered by—everyone seems to agree—a black man. When the crowd returns with its alleged culprit (whose guilt is assumed by narrator and mob alike), it turns out to be Gaston's childhood playmate, Dick. Gaston looks out in "wonder" at the crowd, teary-eyed, and sees "a giant crawling, swaying creature, half reptile, half beast, half dragon, half man, with a thousand legs, a thousand eyes, and ten thousand gleaming teeth, and with no ear to hear and no heart to pity!" (384). The spectacle here is primarily about neither the suffering of the victim nor the terrorization of the local black community. Spectacle lynchings, as Jacquelyn Dowd Hall asserts, served "as much to reaffirm solidarity and demonstrate power *to whites themselves* as to punish and intimidate blacks."⁴⁴ Dixon's thousand-legged beast is likewise a spectacular manifestation of uncontainable and incontestable white power.

⁴³ Diane Miller Sommerville, *Rape & Race in the Nineteenth-Century South* (Chapel Hill: University of North Carolina Press, 2004), 213–16.

⁴⁴ Jacquelyn Dowd Hall, *Revolt against Chivalry: Jessie Daniel Ames and the Women's Campaign against Lynching*, rev. ed (New York: Columbia University Press, 1993), 144. Emphasis in original.

This is not to say that lynching violence is unproblematic for Dixon, who seems to need to disavow the mob's excessive brutality through Gaston's bootless entreaties for a "fair trial" (382). As Sandra Gunning argues, the scene registers an anxiety that the white mob may become indistinguishable from the "equally demonic freedmen," and that such white violence "threatens to taint white morality and humanity ... as the white avengers merge with the beast they originally set out to destroy."⁴⁵ Indeed, although *The Leopard's Spots* reads like an extended apology for turn-of-the-century mob violence, Dixon's personal relation to lynching was ambivalent. When the novel's publisher replaced Dixon's own book cover design with an image of a noose, he was aghast and demanded (fruitlessly) that the publisher burn all 15,000 copies of the book.⁴⁶

Still, any reservations Dixon had about lynching did not stop him from presenting the lynch mob as a manifestation of unstoppable, world-conquering Anglo-Saxon masculinity. Lynching may be tragic and cruel, Dixon implies, but it is an ultimately understandable reaction of red-blooded manhood. As Gail Bederman explains, the concept of the "natural man" had become popular at the turn of the century, which Bederman characterizes as the "idea that an innate, uncivilized savagery lay simmering in the hearts of modern men." Indeed, even many whites who were critical of lynching tended to bolster this naturalizing excuse by ascribing mob violence to white men's "unconscious minds" or inner "savages."⁴⁷ Lynching's close association with the "natural man" furthered its function in forging alliances between white men of different classes. The emergent language of "masculinity," as Bederman demonstrates, synthesized a

⁴⁵ Gunning, *Race, Rape, and Lynching*, 40.

⁴⁶ Clymer, *America's Culture of Terrorism*, 237n18.

⁴⁷ Bederman, *Manliness and Civilization*, 73, 72.

Victorian, middle-class ideal of manly self-restraint with working-class practices of manhood (including boxing, drinking, and joining fraternal organizations).⁴⁸ Middle-class white men asserted and celebrated the idea that the same red blood—replete with aggressiveness, physical prowess, and sexual drives—flowed in their own veins as in those of their working-class cousins.

It is to just this gendered and racialized notion of white men's immutable animal nature that the title of *The Leopard's Spots* refers. It is ultimately not the "Ethiopian" whose racial immutability is of greatest concern to Dixon, but the white man. The utility of this concept of violent and robust masculinity in uniting whites across political, regional, and class differences is apparent when George Harris Jr. (*Uncle Tom's Cabin's* escaped slave child all grown up) declares his love for the daughter of his white patron, liberal Republican Congressman Everett Lowell of Massachusetts. Despite Lowell's high-flown notions of political equality for African Americans, he nonetheless reverts to animal fury at the mere suggestion of Harris courting his daughter: "Lowell sprang to his feet as though a bolt of lightning had suddenly shot down his backbone. He glared at the Negro with widely dilated eyes and heaving breath as though he had been transformed into a leopard and was about to spring at his throat" (396). The dispirited Harris begins wandering around the country after this rejection, eventually making a tour of lynching sites across the US, placing flowers upon the piles of ash that were all that remained of the victims. This melancholy journey ultimately leads him to a small town that had been a station of the Underground Railroad through which he and his family had passed as fugitives. Despite the village's abolitionist history, Harris is shocked to find "one of these

⁴⁸ Ibid., 17–19.

ash-heaps in the public square” (407). In a perverse way, Dixon’s portrayal of antiblack mob violence as a national phenomenon anticipates Jacqueline Goldsby’s influential recent argument that lynching should be understood not as a parochial, archaic, and narrowly Southern practice, but as a form of violence that “fit” within the national culture of the modern United States.⁴⁹

The lynching of Dick in *The Leopard’s Spots* provides a favorable contrast for both the sanitized Klan lynching of Tim Shelby during the book’s Reconstruction section and the *fin-de-siècle* “White Supremacy” campaign that Gaston leads a few chapters later. When a black newspaper publishes an editorial perceived to impugn the moral character of white women, an angry mob of five hundred burns the presses to the ground and puts the editor on a train out of town with a noose around his neck. This restrained, bloodless, “legitimate” lynching nonetheless deploys lynching’s lethal iconography. It is also, like Chesnut’s climactic race riot in *The Marrow of Tradition*, a fictionalized account of the 1898 Wilmington riot. While Chesnut emphasizes the loss of black life in that mob uprising, Dixon conveniently omits the dozens of blacks killed in the riot. Gaston’s subsequent campaign for governor, in which “Red Shirt” vigilante voter intimidation tactics play a crucial role, is likewise presented as a stately, awe-inspiring display of force utterly unlike the savagery of the lynch mob. “There was no violence,” Dixon assures us, “except the calm demonstration in open daylight of omnipotent racial power and the defiance of any foe to lift a hand in protest” (450). When Gaston speaks in one city, “five thousand white men in scarlet shirts” ride wordlessly through the streets while “six thousand Negroes” look on in terror: “The silence of the procession gave it the

⁴⁹ Goldsby, *A Spectacular Secret*, 6.

import of a religious rite” (450). Like the Klan in the 1860s, the Red Shirts of the 1890s are figured as a whitewashed and unproblematic alternative to the uncontrolled brutality of lynching.⁵⁰

Racial violence in general, and lynching in particular, provided a key imaginative space at the turn of the century for refashioning the meaning of whiteness. Whether in its more or less respectable incarnations, however, white mob violence is presented by Dixon as the bursting forth of an ancient and indomitable racial spirit. A lynching scene, for Dixon, serves to corroborate the indivisibility of whiteness and legitimate force; here, violence is an effect and an expression of the *stateliness* of whiteness. Yet, *The Leopard's Spots* also demonstrates that it is precisely in the midst of such violence that this authoritative notion of whiteness was constructed. Dixon repeatedly speaks of a unity or fusion of the “Anglo Saxon race” that *results* from violent collective undertakings like the Klan’s clandestine killings, the Red Shirts’ parades, or the mob execution of Dick. Violence serves the same race-making function near the novel’s end when the Spanish-American War breaks out, consolidating the unity of whiteness in waging war abroad and emphasizing the unbridgeable gap between whites and blacks on the home front: “When the Anglo-Saxon race was united into one homogenous mass in the fire of this crisis, the Negro ceased that moment to be a ward of the nation” (413).⁵¹ Although Dixon describes the “melting” or “fusing” of Anglo-Saxons as if it were the re-union of a preexisting

⁵⁰ As Gunning writes of Dixon’s second novel, *The Clansman*, “Only in the highly ritualized, controlled executions performed by the Ku Klux Klan does white male violence become a fully liberating, purifying experience that absolves whites of guilt and restores the ‘natural’ order.” Gunning, *Race, Rape, and Lynching*, 41.

⁵¹ In this passage, as Amy Kaplan contends, the outbreak of the war “does for the entire nation what the imagined rape does for the small town.” Amy Kaplan, *The Anarchy of Empire in the Making of U.S. Culture* (Cambridge, MA: Harvard University Press, 2005), 121.

racial whole, it is in fact in the act of interpreting violence that this whole is created and made visible. Dixon marvels that the war “had reunited the Anglo-Saxon race,” a reunion that “disturbed the equilibrium of the world, and confirmed the Anglo-Saxon in his title to the primacy of racial sway” (412).

As Gretchen Murphy points out, Dixon’s use of the word “confirmed” implies that “a pure Anglo-Saxon bloodline” alone is not enough to guarantee global racial primacy.⁵² White men can only “confirm” their title to domination of all other races through organized violence. Murphy demonstrates how Dixon took up the turn-of-the-century US imperialist vision of global racial hegemony in order to reinvigorate the tired and seemingly parochial politics of white supremacy in the South.⁵³ The imperialist project of 1898 redeployed the old Anglo-Saxonist claim to a racial right of conquest, which Dixon then turned back on the domestic US to settle once and for all the question of African American citizenship: if whites had an exclusive prerogative to govern the globe, black Americans had no claim to political life whatsoever. In *The Leopard’s Spots*, the uncontainable, imperial scope of white claims to legitimate dominion is apparent during Gaston’s speech to the North Carolina Democratic convention: “Our old men dreamed of local supremacy. We dream of the conquest of the globe” (439). Murphy captures the tension between what I take to be civil whiteness’s two constituent parts when she writes that, for Dixon: “To be Anglo-Saxon is, quite illogically, both to inherit something racially through one’s ancestry and to share voluntarily in a worldwide

⁵² Murphy, *Shadowing the White Man’s Burden*, 69.

⁵³ *Ibid.*, 71.

political project through one's national citizenship."⁵⁴ The metaphysics of race are collapsed, however problematically, with the metaphysics of sovereignty.

For all its vicious racism, turgid prose, and galling clichés, *The Leopard's Spots* helpfully reminds us that mob violence was integral to the development of late nineteenth-century conceptions of whiteness. While historians of racial ideology have shown how new definitions of whiteness took shape in the late nineteenth century, they have usually done so with reference to immigration—terms like “Anglo-Saxon,” “Caucasian,” and “white,” have shifted significantly over time in popular and scientific discourses, often in response to changes in immigration patterns. Likewise, legal disputes over the federal naturalization statute (which from 1790 to 1952 restricted naturalized citizenship to “free white persons”) led to a prolonged and tortured juridical effort to delineate the bounds of whiteness.⁵⁵ But acts of collective violence were also key elements in the formation of white racial identity. In the West Coast context, mob violence against Chinese immigrants contributed to the solidification of the pan-ethnic racial formation that the term “Caucasian” came to signify. “An Irish immigrant in 1877,” as Matthew Frye Jacobson notes, “could be a despised Celt in Boston—a threat to the republic—and yet a solid member of The Order of Caucasians for the Extermination of the Chinaman in San Francisco.”⁵⁶ Mob attacks on racialized groups throughout the country provided the grounds for a new construction of whiteness. Dixon's historical

⁵⁴ *Ibid.*, 68.

⁵⁵ See Matthew Frye Jacobson, *Whiteness of a Different Color: European Immigrants and the Alchemy of Race* (Cambridge, MA: Harvard University Press, 1998); Ian Haney López, *White by Law: The Legal Construction of Race* (New York: NYU Press, 1997).

⁵⁶ Jacobson, *Whiteness of a Different Color*, 5.

romance joins this project of racial reconstruction in its attempt to read lynchings as the manifestation of the inexorable white will to govern.

James Elbert Cutler: Social Science and Public Sentiment

In his novel, Dixon equates whiteness with state power by way of the spectacular. In *Lynch-Law: An Investigation into the History of Lynching in the United States* (1905), James Elbert Cutler makes the same equation, but renders whiteness nearly invisible in the process. Cutler employs the same logic about popular sovereignty overruling written law, but rather than celebrating the racialization of that sovereignty, as Dixon does, Cutler treats the whiteness of the popular will as an unspoken norm. The ideology of civil whiteness helps shape Cutler's account of mob violence just as it does *The Leopard's Spots*, but constraints of objective social scientific writing yield a text quite different from Dixon's historical romance.

Cutler's *Lynch-Law* followed other inquiries into vigilante justice and mob violence, such as Hubert H. Bancroft's *Popular Tribunals* (1887), and the deeply researched anti-lynching pamphlets by Ida B. Wells in the 1890s. Cutler's text, however, represents the first book-length scholarly study to address contemporary lynching practices in the US. Cutler surveys the history of summary punishment from medieval Ireland and Germany to the early twentieth-century US. Throughout his discussion of American lynching, Cutler reads this violence as an unambiguous expression of "public sentiment." It is at this level of popular feeling, Cutler concludes, that the "only ultimate

remedy for lynching” can be found.⁵⁷ Legislation, he argues, tends to be ineffective and under-enforced if not backed up by popular opinion. Observing a decline in the frequency of lynching in states both with *and* without anti-lynching laws, Cutler infers that “the same causes which led to the enactment of the laws also brought about the decline in the number of lynchings, namely, public discussion and condemnation of the practice of lynching, a stronger public sentiment against it, a deeper realization of the seriousness of the lynching problem in the United States” (252). The process of transforming public sentiment, Cutler warns, is a slow one, and cannot be hurried by legislative fiat. Cutler’s passivist position on the “remedies” for lynching is notable given the activist sensibilities of turn-of-the-century sociology. As Craig Calhoun writes, early US sociology “grew in the context of a predisciplinary movement to put ‘social science’ to work in improving laws, public policy, and private action.”⁵⁸ Cutler’s *laissez-faire* approach to eradicating lynching stands in contrast to the Progressive ethos of his emergent discipline. Cutler’s conviction that the state can do little to stem the killings has much to do with his understanding that the democratic state and the “public” doing the lynching are inseparable. The future of lynching, he concludes, lies solely in the hands of the sovereign people who currently condone and carry out the practice.

Like Dixon, Cutler wavers about whether or not lynching can be seen as in any way legitimate or acceptable. Cutler is entirely credulous of the oft-repeated claim that lynchings were undertaken to compensate for “governmental inefficiency” in dealing

⁵⁷ James Elbert Cutler, *Lynch-Law: An Investigation into the History of Lynching in the United States* (New York: Longmans, Green, 1905), 265. Subsequent references to this text will be made by page number in parentheses.

⁵⁸ Craig Calhoun, “Sociology in America: An Introduction,” in *Sociology in America: A History* (Chicago: University of Chicago Press, 2008), 10.

with accused criminals, and he contends that lynching would be justified only if “the law as formulated and administered has proved inadequate to deal with the situation” (224). Cutler expresses skepticism about whether, in the modern US, the law could be fairly judged inadequate in this manner. The excuse of “government inefficiency,” he asserts, ought never to be valid under “a government founded on the idea that ultimate power and authority shall rest with the people, and in which sufficient facility has been given to the expression of [their] collective will.” And yet, Cutler acknowledges that in light of actual, non-ideal circumstances, “it is possible to see how justification has come about.” Thus, in a rather remarkable rhetorical contortion, Cutler equivocates: “while *we cannot justify the practice* of lynching on any ground whatever, yet the fact remains that *it has been repeatedly justified* in one way or another” (226, emphasis added). Ultimately, however, these thorny moral questions are rendered moot in light of lynching’s ostensible inexorability; since Cutler understands lynching to be the expression of a popular will that cannot be thwarted by anything other than itself, the matter of lynching’s justifiability loses its relevance. The circular reasoning Cutler employs here also causes any distinction between legality and extralegality to break down. By writing that public opinion “is the *sine qua non* of lynching,” he contends that the will of the people is what defines this particular species of illegality, and yet this nefarious popular will is at the same time the very root of all legitimacy in government (276).

It goes without saying for Cutler that this popular will is the will of white people. In *Lynch-Law*, whiteness tends to fade into the background behind talk of a popular

sentiment that remains racially unmarked.⁵⁹ This tendency, however, is not an indication that race is irrelevant to Cutler's analysis, but that whiteness is working as an unspoken norm: the popular will that Cutler sees as the animating force of lynching is inseparable from white racial identity.⁶⁰ When Cutler speaks of the "people" behind the law, he is not invoking a universal political category. In fact, the "people" he refers to in explaining lynching violence only becomes visible as such in the specific historical context of Euro-American colonial violence and territorial expansion. Lynching, Cutler explains, is a "peculiarly American institution," originating on the "frontier"—amidst anti-Indian violence and white-on-white vigilantism in the absence of an established legal system (267). The first known "instance of the operation of lynch-law in America," he writes, was a 1763 raid in Paxtang (Harrisburg), Pennsylvania, in which a mob of Scots-Irish "Rangers" broke into a jail and killed fourteen Conestoga Indians (41). While conceding that extralegal punishments were also carried out in well-established British settlements in the eighteenth century (by groups such as the "Regulators" of the Carolinas and New Jersey), he explains that lynching as summary *execution* first appeared in the context of Western expansion, and was later transferred to the postbellum South (135).

⁵⁹ Despite some glaring assumptions about African Americans' inferiority beside the "highly civilized and cultured race" of whites, Cutler generally lacks Dixon's radical cant about white racial superiority (224-25).

⁶⁰ As Ashraf H. A. Rushdy contends, "The claim of popular sovereignty—the right to exceed the laws on the books in order to defend the society that produced those laws—is part and parcel a property in whiteness." Rooted in the antebellum conscription of all whites to the project of policing African Americans, and in the concomitant legitimization of white violence against black bodies, lynching provided a new form of "rhetorical and physical force" through which white unity and sovereignty could be staged. *American Lynching* (New Haven: Yale University Press, 2012), 143.

In accounting for the rise of Southern lynching, Cutler looks to the then-standard narratives of Reconstruction as a chaotic period of misrule, civil instability, and “negro domination.” The postwar South, he argues, was conducive to the adoption of summary execution practices because “the administration of civil law was only partially and imperfectly re-established,” leading to “an unusual amount of disorder and violence” (139). The Reconstruction-era South, thus, was a chaotic, lawless, and frontier-like environment. Raised in Colorado and trained at Yale, Cutler was no Southern partisan. Yet his sympathetic account of the Ku Klux Klan lends evidence to David Blight’s claim that “by the turn of the century,” nothing in the dominant narrative of the postwar era “caused more spirited defense or aggressive evasion than the role of the Klan and violence in the white South’s overthrow of Reconstruction.”⁶¹ Much as Dixon does, Cutler describes the early Klan as an “honest” effort to establish “peace and order” (145) through the mere display of white power to “superstitious” blacks (144). “At a time when the civil law afforded inadequate protection to life and property,” he writes, “the Klan had afforded protection and security to many firesides and in many ways contributed to the public welfare.” It was only later, “greatly to the regret of all good citizens,” that some Klansmen began to run amuck and discredit the organization: “some members of the Klan had violated positive orders; others, under the name and disguises of the organization, had assumed to do acts of violence, for which the Klan was held responsible” (149). In conveniently absolving the Ku Klux Klan of responsibility for violence committed by Klansmen and in the name of the Klan, Cutler’s study exemplifies the ubiquitous amnesia about the war and Reconstruction that W. E. B. Du Bois termed

⁶¹ Blight, *Race and Reunion*, 111.

“the propaganda of history.”⁶² But he also, like Dixon, looks “back” to this distorted memory of the postwar South for an implicit justification of present-day lynchings. The people’s sovereign power to govern their own communities, for Cutler, is inseparable from the prerogatives of white supremacy and can be seen in spontaneous white self-defense against the lawless disorder of racial others.

The intimacy of whiteness and sovereign authority in Cutler’s text also underlies his exceptionalist understanding of US attitudes toward violence and the law. Cutler deems lynching a “peculiarly American institution” and argues that Americans lack Europeans’ reverence for the law in and of itself (267). Unlike Europeans, he explains, Americans are not acculturated to the law being handed down from on high; instead, they venerate “the people” behind the law. Thus, since Americans are accustomed to making their own laws and appointing their own public officials, Cutler concludes, “it is inevitable that the legal machinery will prove powerless to control popular excitements” (268-69). In the US, he writes, since the populace feels a sense of ownership, rather than deference, towards the state, the “people consider themselves a law unto themselves.” And for such a people, to “execute a criminal deserving death is to act merely in their sovereign capacity, temporarily dispensing with their agents, the legal administrators of the law” (269). But while Cutler’s argument here suggests that white Americans commit acts of mob violence because of who they *are* as a people, his text as a whole illustrates that it is precisely in the *commission* of such acts that “the people” becomes legible as such. This plucky, irreverent white public is not the cause but rather an effect of

⁶² Du Bois, *Black Reconstruction in America*, 711.

racialized violence—whether in the setting of colonial conquest, suppression of slave revolts, or lynchings after the Civil War.

For Cutler, the popular will, held sacred above all else in America, is fundamentally the will of whites. Thus, by taking for granted that popular sovereignty and whiteness are mutually constitutive, Cutler can then make the somewhat counterintuitive argument that “public sentiment” is an independent factor from “race prejudice” in driving white-on-black lynching. Racial difference, he argues in his concluding chapter, has always served as a catalyst for lynching, but not as the primary impetus:

It cannot be said that the lynching of negroes is due to ‘race prejudice’ alone, but it is true that the antagonistic feeling between the two races *aggravates the tendency to lynch*, when offenses are committed against white persons by negroes. Other racial contrasts in the population have likewise promoted the adoption of extra-legal methods of punishment. From colonial times down to the present day the contemptuous attitude of whites toward the Indians has undoubtedly been a potent factor in the not infrequent failure to observe due process of law in the treatment of Indians. In the summary treatment of Italians, Mexicans, Chinese, and other aliens, differences in racial characteristics have also played an important part. (272, emphasis added)

Cutler refers to white Americans’ “tendency to lynch” as somehow preexisting the irritant of interracial contact, yet his historical account traces this tendency to sites of colonial confrontation. Cutler seems to want to say that lynching is at heart not *about* race even though it is spurred by “racial contrasts.” Indeed, in Cutler’s euphemistic formulation, it is racial difference itself that has “promoted the adoption of extra-legal methods of punishment.” From this vantage point, racially targeted mob killings by white people, carried out with the express purpose of demonstrating white hegemony and maintaining the racial order, can be naturalized as the inevitable outcome of an innate “tendency to

lynch.” But Cutler has not demonstrated that people in general have a tendency to lynch, but rather that white people in particular have a tendency to lynch African Americans, Native Americans, Mexicans, and nonwhite immigrants.

By the end of his study, Cutler has also made clear that the interracial encounters that “aggravate” the white lynching habit are occasioned by colonialism and racialized labor exploitation. Cutler presents lynching throughout his study as the inevitable response of a white public to the disorder it experiences and produces as it moves into frontier spaces. In Cutler’s account, then, lynching is a byproduct of what Amy Kaplan calls “the anarchic encounters of empire.”⁶³ He makes this colonial framing of white mob violence the most explicit when he writes that the “lynching of negroes is now so distinctively an American practice” because “[n]owhere else in the temperate zone does a colored race of tropical origin come into contact in such numbers with a highly civilized race of European stock. *The ‘native question’ of tropical regions has here been transplanted, as it were, to the temperate zone*” (272, emphasis added). Racial lynching, Cutler indicates, persists because the US remains a space of colonial confrontation. It is from such violence that Cutler constructs his understanding of an all-powerful “public sentiment” coterminous with whiteness.

In positing “public sentiment” and “race prejudice” as two separate factors in the making of lynching, Cutler constructs an extremely narrow definition of the latter while normalizing the prerogatives of white supremacy as a constituent part of the former. With whiteness built into the very notion of democratic government, race prejudice can be identified as a spurious, gratuitous, and irrational bias. Race prejudice serves, that is, as

⁶³ Kaplan, *The Anarchy of Empire in the Making of U.S. Culture*, 16.

the disreputable cousin to the commonsense racism of the “people” and their white supremacist state. In *Lynch-Law*, the whiteness of this “people” has not exactly become invisible; rather, it is so visible, so obvious and unremarkable, that it ceases to be seen at all. Only when white supremacy is hidden in plain sight like this can the continual murder and dismemberment of people of color by white mobs be seen not as primarily a matter of “race prejudice,” but the effect of the population’s idiosyncratic “tendency to lynch.”

Counter to Cutler’s claims, in the turn-of-the-century US, a debate over whether the law could be trusted to enact satisfactory punishment was already a discussion about race. As Michael Pfeifer shows in his study of lynching in the South, West and Midwest, turn-of-the-century whites who engaged in racialized collective murders “not only made a statement about racial hierarchy but also a statement about law.”⁶⁴ The antagonistic view of the law embraced by “rough justice” supporters was a reaction against a wave of late nineteenth-century due-process legal reforms. Yet, as Pfeifer makes clear, the mobs’ dissatisfaction with the courts’ slow pace was inseparable from the maintenance of racial domination—in their view, the law “was too capricious, too unpredictable, too formal, too abstract, and too concerned with process and at least the procedures of fairness to regulate the crucial social distinctions of the color line.” The criminal justice system might be adequate for ordinary cases, but if the racial order itself appeared under threat, another set of rules applied. The legal system, with its due process requirements, “could not be entrusted with the sacred responsibility of performatively reenacting white

⁶⁴ Pfeifer, *Rough Justice*, 67.

supremacy when it was challenged.”⁶⁵ When lynching apologists said the courts worked too slowly, they meant that the courts worked too slowly for effective racial control and satisfactory racialized retribution. Thus, Cutler, in insisting on the difference between “popular sentiment” and “race prejudice,” does not simply conceal a white supremacist agenda behind talk of “the people.” Rather, he appeals to a racialized understanding of popular sovereignty to separate an irrational racism from a reasonable one, bracketing “race prejudice” as an unfortunate but inessential factor in lynching. This unreasonable, psychologized, and easily condemnable conception of racism stands in contrast to the far more rational project of preserving the social and racial order.

Jim Crow Jurisprudence and Lynching’s Legislation

The archive of Jim Crow-era legal discourse shows that the imagined fusion of whiteness and state power could be put to different—sometimes contrary—uses. In this final section, I turn to Supreme Court decisions from the late nineteenth century regarding segregation and Chinese Exclusion: *Plessy v. Ferguson* (1896), *Chae Chan Ping v. United States* (1889), and *Fong Yue Ting v. United States* (1893). The same ideology about race and state can be seen at work in both the majority and dissenting

⁶⁵ Ibid. Pfeifer argues that in counties where the criminal justice system was more responsive to the “sacred responsibility” of enforcing racial order, mob lynchings were far less frequent. Comparing northwestern Louisiana (the Cotton Belt) with the upcountry Delta region, Pfeifer notes that a reliance on formal legal institutions for racial control in the Delta resulted in far fewer lynchings than took place in the Cotton Belt, whose planter class believed that the message of white supremacy “could be conveyed more effectively through deadly collective violence than through the criminal justice system” (69).

opinions in these cases. I also consider texts by legislators with whom the Court was in conversation on these issues. Like Cutler's *Lynch-Law*, this legal discourse quietly treats whiteness and the popular sovereignty underlying legitimate state power as inseparable. As it does for Cutler, the ideology of civil whiteness also allows for a partitioning off of irrational racial "prejudice" from the warranted, reasonable acts of a democratic state.

In this *fin-de-siècle* legal discourse, white mob violence makes a more oblique—though no less consequential—appearance than it does in Dixon or Cutler's texts. While local law enforcement officials notoriously collaborated with lynch mobs by handing prisoners over to the crowd, at the turn of the century even officials in the highest reaches of government displayed remarkable deference to the desires of real and imagined lynch mobs. Supreme Court justices and legislators of the Jim Crow era accepted the premise that this violence manifested the democratic popular will underlying all civil authority. Citing the social disorder of lynch mobs as an inevitable reality that the law must accommodate, these legal architects installed the will of the white lynch mob at the foundation of national sovereignty and internal police power.

White agitation against Chinese immigration in California had begun during the gold rush, and after the Civil War, anti-Chinese violence and political organizing was instrumental in the revitalization of the California Democratic Party.⁶⁶ The 1870s, with its multiple economic crises, saw an upsurge of xenophobic violence on the West Coast, as white demands mounted for legislation to exclude Chinese immigrants. Beginning with the Page Act of 1875, which severely limited the immigration of Chinese women to the

⁶⁶ Alexander Saxton, *The Indispensable Enemy: Labor and the Anti-Chinese Movement in California* (Berkeley, CA: University of California Press, 1995), 68, 260.

US, Congress passed a series of increasingly restrictive measures to stop the influx of Chinese workers. California politicians aggressively lobbied the federal government to enact legislation that would ban all Chinese workers from entering the country. In 1878, the California state legislature issued a report to Congress entitled, *Chinese Immigration: Its Social, Moral, and Political Effect*. Appealing to Congress for exclusion laws, the report's authors presented a drastic picture of the region's future should unrestricted immigration continue.

On the one hand, they warned, Chinese laborers might drive white workers out of California altogether, leaving “a State with but two orders of society—the master and the serf—a lesser Asia with all its deathly lethargy.”⁶⁷ This “unarmed invasion” would result in the very inverse of the ethnic purification program that the California legislators were advocating. But, they insisted, an alternative possibility was even more frightening:

... on the other hand, may we not foresee a more dire result? Is it not possible that free white labor, unable to compete with these foreign serfs, and perceiving its condition becoming slowly but inevitably more hopelessly abject, *may unite in all the horrors of riot and insurrection, and defying the civil power, extirpate with fire and sword those who rob them of their bread, yet yield no tribute to the State?* This is a frightful scenario but we have within a brief period witnessed its portents, and had it not been for the untiring vigilance of the conservative portion of our people, we might have seen not only the Chinese quarters, but our cities, in ashes and families homeless, and the prosperity and good fame of California shattered and disgraced.⁶⁸

This report was produced by and for “the civil power” referred to—California legislators interviewed dozens of immigration officials, bureaucrats, and police officers and

⁶⁷ Creed Haymond with California Legislature Senate Special Committee on Chinese Immigration, *Chinese Immigration: Its Social, Moral, and Political Effect* (F. P. Thompson, 1878), 64.

⁶⁸ *Ibid.* Emphasis added.

distributed ten thousand copies of their findings to members of Congress, state governors, and the press.⁶⁹ While the report calls for decisive government action to halt the influx of Chinese laborers, it frankly presumes the state's utter incapacity to prevent the angry white masses from rising up and slaughtering the Chinese. The state here speaks itself as civil *power* in relation to the Chinese, who can be controlled through immigration policy, but as civil *powerlessness* in relation to the white mob. Governmental intervention to halt the genocidal violence of whites is unthinkable for the report because the civil power is understood as coextensive with whiteness itself. The "riot and insurrection" envisioned by the report manifests the whiteness that authorizes and underlies the state. This white violence is in fact the state's violence—it might not be carried out by the state, it might even be enacted in defiance of the state, but it is the state's concern, its responsibility, an inexorable fact that it must accommodate by any means necessary. In 1882, Congress passed the Chinese Exclusion Act, blocking all Chinese laborers from entering the US, and in 1888, it passed the Scott Act, which extended the ban such that not only new immigrants from China, but resident aliens returning from visits to China were now forbidden entry.

Justice Henry Field cited the California legislators' report sympathetically in the unanimous opinion he wrote for *Chae Chan Ping v. United States* in 1889, which upheld the Scott Act's denial of reentry to some 20,000 legal residents of the US who had gone

⁶⁹ Jean Pfaelzer, *Driven out: The Forgotten War against Chinese Americans* (New York: Random House, 2007), 77.

abroad.⁷⁰ Chae Chan Ping was a Chinese worker who had lived in the United States from 1875 through 1887, when he travelled to China on a visit. Upon returning to San Francisco, he was denied re-entry under the Scott Act, which had been passed while he was away. Chae's attorneys challenged his treatment on two fronts: first, they argued, the Scott Act was in violation of the US's diplomatic agreements with China. The Burlingame Treaty of 1868 had guaranteed visiting Chinese nationals the privileges and immunities of a citizen of the "most favored nation," and Chae's denial of reentry constituted a form of discrimination to which immigrants from other friendly nations were not subjected. Second, Chae was not a new immigrant, but a resident alien who simply sought to return to his home in the US. As such, his lawyers contended, he was not subject to the federal government's sweeping power to control immigration, but rather was entitled under the Constitution to protection against expulsion without due process.⁷¹ In their unanimous decision, the Court dismissed both arguments.

Field's opinion for the Court hinges on the concept of sovereignty, in both its domestic and international senses. While many of the texts discussed so far concern sovereignty in terms of the right of "the people" to police and punish *within* the bounds of the state, Field also addresses *national* sovereignty on the global stage—working an implicitly racialized conception of "sovereignty" into both contexts. Central to *Chae Chan Ping* was the question of which rights the US government inherently possessed as a

⁷⁰ Sarah H. Cleveland, "Powers Inherent in Sovereignty: Indians, Aliens, Territories, and the Nineteenth Century Origins of Plenary Power over Foreign Affairs," *Texas Law Review* 81 (2003 2002): 125.

⁷¹ The appellant's brief cites *Yick Wo v. Hopkins* (1886), in which the Court struck down a San Francisco city ordinance against Chinese laundries as an arbitrary and unconstitutional violation of Chinese immigrants' rights as "persons" protected by the Fourteenth Amendment. *Ibid.*, 125, 121.

sovereign nation. Crucially, the constitutionality of the original 1882 Chinese Exclusion Act—that is, the right of the federal government to exclude new immigrants on the basis of race and class—was at no point in question. “That the government of the United States . . . can exclude aliens from its territory,” Field writes, “is a proposition which we do not think open to controversy.” This right of jurisdiction within its own territory, he argues, “is an incident of every independent nation,” an inalienable “part of its independence” that cannot be relinquished without sacrificing national sovereignty altogether and rendering the country “subject to the control of another power.”⁷²

The Court acknowledged Chae’s argument that the Scott Act abrogated the Burlingame Treaty with China, but insisted that Congress—like a deity that cannot create a stone too heavy to lift—could not simply negotiate away the nation’s sovereign right to exclude unwanted aliens. A treaty that impinged upon that power, the Court reasoned, was not binding. Field’s decision effaces the distinction between warfare and immigration by insisting that the highest duty of every nation is to protect against “foreign aggression and encroachment,” whether in the form of military action from a foreign nation or “vast hordes of its people crowding in upon us.”⁷³ The Court’s decision in *Chae Chan Ping*, as Sarah Cleveland has demonstrated, invokes the doctrine of “powers inherent in sovereignty,” a line of judicial reasoning that became prominent in the late nineteenth-century US. This doctrine conceives of Congressional power over immigration as one of the rights guaranteed a sovereign nation under international law, rather than deriving it from the “enumerated powers” of the Federal government (powers

⁷² *Chae Chan Ping v. United States*, 130 581, 603–604 (1889).

⁷³ *Ibid.*

specifically listed in the Constitution).⁷⁴ By installing Chinese exclusion (and even the effective expulsion of returning legal residents like Chae Chan Ping) squarely within the framework of the nation's sovereign powers of self-determination and self-protection, the Court contributed to the conceptual entanglement of whiteness and sovereignty evinced in the texts discussed above. Field's recourse to the logic of warfare in the Court's opinion explicitly evokes the specter of *race* war:

If, therefore, the government of the United States, through its legislative department, considers the presence of foreigners of a different race in this country, who will not assimilate with us, to be dangerous to its peace and security, their exclusion is not to be stayed because at the time there are no actual hostilities with the nation of which the foreigners are subjects.⁷⁵

It is in this allusion to the threat against the nation's "peace and security" posed by "foreigners of a different race" that the triad of whiteness, sovereign authority, and mob violence surfaces explicitly in *Chae Chan Ping*. Describing the detrimental effects of Chinese immigration during the California Gold Rush of the mid-nineteenth century, Field employs euphemistic language for mob violence:

⁷⁴ Interestingly, as Cleveland points out, the court's willingness to treat the immigration power as an exclusively *federal* prerogative emerged in the post-emancipation context. Under slavery, Southern states claimed their own sovereign right to restrict the immigration of free blacks. Southern legislators feared that a national immigration power would lead to an influx of agitators who would foment insurrection and possibly destabilize the slave order altogether. After the Civil War, the Court was more willing to ascribe power over immigration to the federal government, although usually under the enumerated powers, such as regulation of interstate commerce. It was only in *Chae Chan Ping* that the Court came to fully embrace the inherent powers view of federal immigration laws—perhaps, as Cleveland speculates, because of the pro-business Court's reluctance to augment the federal commerce power. The doctrine of powers inherent in sovereignty offered a rationale for Chinese exclusion that did not pose a threat to property rights and *laissez-faire* capitalism. Cleveland, "Powers Inherent in Sovereignty," 99, 1334–34. On antebellum Southern immigration restriction, see Edlie L. Wong, *Neither Fugitive nor Free: Atlantic Slavery, Freedom Suits, and the Legal Culture of Travel* (New York: New York University Press, 2009) chapter 4, "The Crime of Color and the Negro Seaman Acts."

⁷⁵ *Chae Chan Ping v. United States*, 130 581, 606 (1889).

The competition between [the Chinese] and our people was for this reason altogether in their favor, and the consequent irritation, proportionately deep and bitter, was followed, in many cases, by open conflicts, to the great disturbance of the public peace. The differences of race added greatly to *the difficulties of the situation*.⁷⁶

In a rhetorical move that the Court would come to repeat, Field looks to the threat of white race rioting to justify his ruling. Past and present white mob violence against the Chinese serves as evidence, in *Chae Chan Ping*, for the necessity of exclusion. Congress passed the exclusion laws, Field writes, when it was “impelled to act” by the “urgent and constant . . . prayers for relief against existing and anticipated evils.”⁷⁷ Oddly enough, the very same “people” that rose up in violence against the Chinese earnestly entreated Congress for legislation to protect them from themselves.

Despite the confounding characterization of the white public as both the perpetrator and the greatest victim of anti-Chinese violence, the Court’s contention that mob violence constituted an “existing and anticipated” evil was well founded. Between 1850 and 1906, the Pacific Northwest had witnessed nearly two hundred anti-Chinese roundups, in which white mobs descended upon Chinese communities and forcibly expelled the residents, often destroying property, setting fires, beating victims, and sometimes even committing lynchings.⁷⁸ More than half of these pogroms took place in the 1880s, when new popular “methods” for terrorizing and expelling Chinese immigrants were taken in up by mobs throughout the region. The first emerged in Humboldt County, California, in February 1885, when a Eureka city councilor was fatally shot in the crossfire between two feuding residents of Chinatown. Subsequently,

⁷⁶ Ibid. Emphasis added.

⁷⁷ Ibid.

⁷⁸ Pfaelzer, *Driven Out*, xxv.

gangs of whites threatened death to any Chinese person in Eureka who did not leave immediately. The vigilantes roamed the hills and farms on the small city's outskirts, capturing Chinese laborers and corralling them on the wharf in Humboldt Bay. In all, over 300 people were exiled from Eureka and ferried to San Francisco. Eureka's purge was hailed as a model for other communities; the press approvingly described the so-called "Eureka method" as a "peaceful" manner of expelling the Chinese.⁷⁹ The Eureka pogrom, which inspired a vigorous new wave of anti-Chinese expulsions throughout the Pacific Northwest, was lauded as a sort of "bloodless" revolution, in terms remarkably similar to Thomas Dixon's portrayal of North Carolina's Red Shirts of the 1890s. Boasting about Eureka's newly secured racial purity, a pamphlet published by the local Chamber of Commerce explained that when the purge occurred, "The community rose as a man and drove every Chinese out of the country. No violence was used [as] they were compelled to go."⁸⁰ Like the Klansmen and lynch mobs of the South, anti-Chinese posesses on the West Coast called for state intervention in the interest of white supremacy and in the same breath declared themselves, over and against the state, to be the genuine embodiment of popular sovereignty.

Ever since the debates leading up to the Chinese Exclusion Act, real and imagined racial strife had been cited as a justification for restrictive immigration legislation. If the government failed to stop Chinese immigration, the argument went, the sovereign people would rise up and carry out the expulsion themselves, perhaps doing grave harm to society as a whole—leaving, as the 1878 California report warned, "not only the Chinese

⁷⁹ Ibid., 126–27, 125.

⁸⁰ Ibid., 164.

quarters, but *our* cities, in ashes.” The Court would take up this line of reasoning again in another crucial piece of racial jurisprudence, a case originating not in California, but Louisiana. In *Plessy v. Ferguson* (1896), lawyers for Homer Plessy, a light-skinned man of one-eighth African, seven-eighths European ancestry, challenged the constitutionality of a Louisiana statute requiring separate accommodations on railway cars for “white” and “colored” passengers. The law subjected conductors and travellers alike to fines and imprisonment should they fail to respect the color bar. In a carefully orchestrated test case, Plessy was arrested in 1892 for refusing to leave a “whites only” railway coach and was convicted of violating the Separate Car Act. When the case reached the US Supreme Court, Plessy’s lawyers contended that the law violated their client’s rights under the Thirteenth and Fourteenth Amendments. The court overruled these objections in its decision and upheld the law as a legitimate exercise of the state of Louisiana’s police power.

Writing for the majority, Justice Henry Billings Brown asserted that lawmakers must be granted discretion to “act with reference to the established usages, customs and traditions of the people, and with a view to the promotion of their comfort, and the preservation of the public peace and good order.”⁸¹ It is in this talk of “public peace and good order” that the shadow of lynching looms in the court’s decision. Given the alleged influence of what Brown describes as immutable “racial instincts,” any policies promoting “enforced comingling” between the races were both ineffectual and reckless, threatening to intensify the deadly racial strife that already rocked the nation. Attempts to

⁸¹ Brook Thomas, ed., *Plessy v. Ferguson: A Brief History with Documents* (New York: Bedford/St. Martin’s, 1996), 50.

“abolish distinctions based upon physical differences,” Brown writes, “can only result in accentuating *the difficulties of the present situation*.”⁸² Employing the very same euphemism used in Field’s *Chae Chan Ping* opinion, Brown avoids directly naming the racial violence then sweeping the country while nonetheless looking to white mob violence as the outward sign of an unstoppable popular will. By supposedly preventing the eruptions of race hatred that occurred in the context of interracial contact, Jim Crow segregation statutes were seen to meet the court’s requirement that state-sanctioned discrimination furthered the “public good,” and not merely the “annoyance or oppression of a particular class.”⁸³

Garnering little attention at the time, Justice John Marshall Harlan’s dissent in *Plessy* was lionized during the 1960s, transforming the lone Southerner on the Court into a “judicial saint” and an icon of American racial liberalism.⁸⁴ Like the majority opinion, however, Harlan also voices concern about preventing social disturbances and disorder—but in Harlan’s view, it is not interracial contact in public places but rather *enforced segregation* that sparks mob violence. Harlan argues that, instead of promoting “the public peace and good order,” as Brown’s majority opinion claims, segregation statutes like Louisiana’s “can have no other result than to render permanent peace impossible, and to keep alive a conflict of races, the continuance of which must do harm to all concerned.”⁸⁵ Unlike the *Plessy* majority, which joins Cutler in ascribing mob violence to the mere fact of interracial contact, Harlan sees the state as complicit in fomenting racist

⁸² *Ibid.*, 50–51. Emphasis added.

⁸³ *Ibid.*, 49.

⁸⁴ Anita Krishnakumar, “On the Evolution of the Canonical Dissent,” *Rutgers Law Review* 52 (2000): 801.

⁸⁵ Thomas, *Plessy v. Ferguson: A Brief History with Documents*, 58.

lynchings. However, his dissent still subscribes to the assumption that the white popular will underlies the law and thus cannot be contained directly by it. Harlan envisions the repeal of segregation statutes as a means to nudge that popular will in a less destructive direction, but, much like Brown, Cutler, and even Dixon, he accepts that this will must be accommodated by the state, and cannot be contained by it. The stability and security of the social order depends upon the restrained and discriminating exercise of state power to mitigate the threat of white mob violence—on this, both sides of the *Plessy* decision agree. Harlan simply inverts Brown’s argument here to claim that racial segregation will provoke, rather than pacify, the lynch mobs that the state is powerless to address head-on.

The inalienable sovereignty to which these opinions appeal—whether in the form of the nation’s right to exclude unwanted racial others from its borders or the people’s right to supersede the written law—is always, explicitly or implicitly, the sovereignty of a self-governing white populace. Even in making liberal arguments for the extension of civil rights to nonwhites, this racialized understanding of state authority is foundational. In his *Plessy* dissent, for instance, Harlan advocated for full recognition of African American citizenship on the grounds that blacks were less alien to white America than the Chinese:

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. But by the statute in question, a Chinaman can ride in the same passenger coach with white citizens of the United States, while citizens of the black race in Louisiana, many of whom, perhaps, risked their lives for the preservation of the Union ... are yet declared to be criminals, liable to imprisonment, if they ride in a public coach occupied by citizens of the white race. (58)

Harlan's declaration of Chinese persons' irreducible difference from "our own" race is not only an endorsement of the racist beliefs underlying the exclusion policy—it is also an assertion that the "we" who makes and debates the laws of the United States is strictly white. In making his case, Harlan appeals to the sovereign right of the American people to "absolutely" exclude and expel unwanted others, a right understood to be at the very root of legitimate state power and violence. His plea for civil rights for African Americans rests on what he perceives to be the obvious incommensurability of US citizenship and Chinese ancestry, as opposed to the relatively stronger claims of blacks in light of their service in the Civil War and the subsequent passage of the Thirteenth, Fourteenth, and Fifteenth Amendments.

If Harlan's attempt to make an exception for African Americans based on commitments the nation made during Reconstruction proved unconvincing to his fellow justices, it is not hard to see why. Harlan's triangulation of white, black and Chinese reaffirms in one case the same white supremacist principles he is trying to temper in the other. That is, he argues that the difference between politically assimilable blacks and the abjectly alien Chinese derives, ultimately, from a sovereign white public that has willed and enacted the inclusion of the former (through the postwar amendments) and the elimination of the latter (through the Exclusion Act). Thus, the comparison upholds a belief in an uncontainable popular will that makes itself seen in acts of racial domination—whether that domination takes the extralegal form of mob violence or the institutionalized form of policing the border.

Justice Field takes up this same line of reasoning when, surprisingly enough, he came to the defense of Chinese immigrants four years after *Chae Chan Ping* in his

dissenting opinion in *Fong Yue Ting v. United States* (1893). In this case, Field ironically found himself dissenting from a decision that extended his own arguments in *Chae Chan Ping* to allow for the outright deportation of immigrants (rather than simply denial of re-entry) at the pleasure of Congress. The majority opinion in *Fong Yue Ting*, authored by Justice Horace Gray, held that Congress possessed the power to expel resident immigrants “whenever in its judgment their removal is necessary or expedient for the public interest.”⁸⁶ The decision relied heavily on Field’s argument from *Chae Chan Ping* and the sweeping plenary power over immigration that ruling established. But whereas *Chae Chan Ping* had concerned the denial of re-entry to a US resident, *Fong Yue Ting* endorsed the outright expulsion of immigrants currently living on US soil.

In a scathing dissent, Field stood by the arguments made in his *Chae Chan Ping* ruling, but expressed horror at jettisoning the constitutional protection of due process for all immigrants in the US. Divesting resident aliens of this right, he lamented, was a kind of despotic treatment unbecoming of the American republic. Casting away constitutional constraints, particularly in prosecuting immigrants, Field claimed, was in fact a practice common “in tribunals of Asiatic countries where personal caprice and not settled rules

⁸⁶ *Fong Yue Ting v. United States / Wong Quan v. United States / Lee Joe v. United States*, 149 698, 724 (1893). *Fong Yue Ting* upheld the Geary Act of 1892. Extending the exclusion of Chinese laborers by another ten years, the Geary Act was known in the Chinese American community as the “Dog Tag Law,” because of a provision that required all resident Chinese to carry a photo identification card certifying their lawful presence in the US, upon pain of deportation. In what Jean Pfaelzer notes may be “the largest organized act of civil disobedience in the United States,” the vast majority of Chinese immigrants living in the US—over 100,000 people—refused to register for the certificates. Despite the Court’s ruling, which authorized the deportation of all 100,000 immigrants, the tremendous funds required to carry out such a mass expulsion were never allocated, leaving the Dog Tag Law unenforceable. Pfaelzer, *Driven Out*, 291.

prevail.”⁸⁷ Invoking the same Orientalist stereotypes that were regularly deployed by proponents of exclusion and expulsion, Field warned that such a policy would degrade the US’s system of government: “That would be to establish a pure, simple, undisguised despotism and tyranny with respect to foreigners resident in the country *by its consent*, and such an exercise of power is not permissible under our Constitution.”⁸⁸ To clearly maintain its difference from and ostensible superiority to “Asiatic” despotism, the US government must keep good faith with the immigrants it has admitted by its own “consent.” Field thus upholds the civil rights of Chinese immigrants in a manner that ends up bolstering the discursive consolidation of whiteness and sovereign authority.

In *Fong Yue Ting*, Field employs the same logic of exceptionality regarding resident Chinese immigrants that Harlan would for African Americans in his *Plessy* dissent three years later. For both jurists, the extension of constitutional protections to racial others is required if—and only if—that legal inclusion is first established by the sovereign will of white Americans. As is evident in his reference to the Chinese in *Plessy* (“a race so different from our own”), Harlan’s support of African American membership in the body politic is compatible with viewing the US as a fundamentally white nation whose prerogative it is to exclude other races that seem insurmountably “different.” Harlan acknowledges blacks as an alien race, but owing to the promise of citizenship contained in the Reconstruction amendments, they can now stake a claim on being

⁸⁷ *Fong Yue Ting v. United States / Wong Quan v. United States / Lee Joe v. United States*, 149 698, 755 (1893).

⁸⁸ *Ibid.* Emphasis added.

members of “our country.”⁸⁹ The Chinese, by contrast, are *purely* racial others, having none of the historical entanglements with white America that oblige Harlan to recognize blacks as “American citizens, now constituting a part of the political community called the People of the United States” (60). Field would reject this argument when he joined the majority in *Plessy*, but in his *Fong Yue Ting* dissent, he calls for due process rights for Chinese immigrants by invoking the same principle: the incorporation of nonwhites into the system of legal rights and protections may sometimes be demanded by the Constitution, yet such inclusion is ultimately contingent upon the white sovereign will that underlies and authorizes the Constitution to begin with. The white American state had willfully authorized the entry of these immigrants onto US territory, and thus their expulsion under the Geary Act would violate that sovereign white will.

Field’s argument in *Fong Yue Ting* was perhaps even less likely to convince the rest of the Court than Harlan’s in *Plessy*. (It seems to have failed to convince Harlan, who did not participate in *Fong Yue Ting*, but frequently cited the majority ruling thereafter.)⁹⁰ The distinction Field sought to draw between unwanted new arrivals from China and those already living in the US “by its consent” was overwhelmed by the same sovereign prerogative to racially exclude aliens that Field himself had insisted upon in *Chae Chan Ping*. When Harlan laments that faithful African Americans are “declared to be criminals” and “liable to imprisonment” if they set foot in Louisiana’s whites-only car, he

⁸⁹ Julia H. Lee argues that Harlan “does not consider blacks and whites to be on opposite sides of a racial binary but on the same side of a historical/national one. According to Harlan, the Chinese do not belong on the train because they have not participated in the history and struggle by which the nation defines itself.” Julia H. Lee, “Estrangement on a Train: Race and Narratives of American Identity,” *ELH* 75, no. 2 (2008): 349.

⁹⁰ Gabriel J. Chin, “The Plessy Myth: Justice Harlan and the Chinese Cases,” *Iowa L. Rev.* 82 (1996): 161.

ignores the fact that the “Chinaman” in question would likely be subjected to the same treatment for his mere presence in the country under the Exclusion Act, which marked the genesis of the “illegal immigrant” category in the US.⁹¹ In advocating for deserving blacks, Harlan helps normalize the state’s violence against the Chinese, inadvertently buttressing the white supremacist ideology that engendered the Separate Car Act in the first place.⁹² Likewise, in seeking to protect Chinese immigrants present in the US by the state’s permission, Field appeals to the same belief in a white sovereign power invoked to justify their expulsion.

This collapse of sovereignty and whiteness allows a wide range of racially discriminatory state practices—Chinese exclusion, segregation, inaction regarding lynching—to look like ordinary operations of the state, rather than instances of racial prejudice. Indeed, as Cutler demonstrates, through this lens even extralegal acts of racially targeted mob violence can be dissociated from the racism that they dramatize. One last example in which the normalization, rationalization, and dissimulation of the racism of state-sanctioned violence can be seen is Massachusetts Congressman Henry Cabot Lodge’s 1891 essay “Lynch Law and Unrestricted Immigration.” Published in the *North American Review*, Lodge’s article responds to the recent lynching of eleven Italian

⁹¹ Sanda Mayzaw Lwin, “‘A Race So Different from Our Own’: Segregation, Exclusion, and the Myth of Mobility,” in *Afroasian Encounters: Culture, History, Politics*, ed. Heike Raphael-Hernandez and Shannon Steen (New York: NYU Press, 2006), 28.

⁹² In her discussion of the mutual reinforcement of anti-black and anti-Chinese racisms, Najia Aarim-Heriot examines the implications of Congress’s decision, following the Civil War, to expand eligibility for naturalization only to people of African, and not Chinese, descent: “The intentional exclusion of the Chinese from the purview of the new naturalization statute constituted a critical retreat. As a few radicals anticipated, this measure would pave the way for a reconsideration of the status of African Americans. In that process, rather than the Negroization of the Chinese question, it would be the Negro question that would be ‘Asianized.’” Najia Aarim-Heriot, *Chinese Immigrants, African Americans, and Racial Anxiety in the United States, 1848–82* (Urbana, IL: University of Illinois Press, 2003), 155.

immigrants in New Orleans and indicates the extent to which this ideology shaped reactions to mob violence against European “New Immigrants” as well as African Americans and the Chinese. In 1890, when New Orleans Police Chief David Hennessy was shot and killed, many Italians in the city were arrested and accused of carrying out the murder as part of a Mafia hit. After they were acquitted, a mob formed and lynched eleven Italian men, some of who were not even among the accused. In his essay, Lodge condemns the incident but cautions readers not to cast too much blame upon the lynchers themselves. “The mob would have been impossible if there had not been a large body of public opinion behind it,” he explains. Lodge finds the mob “deplorable,” but he insists that “the public sentiment which created it” is “more deplorable still” and must be carefully understood in order to be counteracted.⁹³

As Lodge plumbs the depths of this “public sentiment,” the familiar split between condemnable race prejudice and the commonsense white supremacy of “popular opinion” emerges. The “underlying cause” for the mass lynching, Lodge writes, “is to be found in the utter carelessness with which we treat immigration in this country.”⁹⁴ Lodge explains that the US’s largely unrestricted immigration policy (excepting Chinese immigrants, of course) failed to shield the country from dangerous criminal classes and societies like the Mafia. Such criminal organizations are “the product of repressive government on the continent of Europe” and “are the offspring of conditions and of ideas wholly alien to the people of the United States.”⁹⁵ When this criminal element sets to

⁹³ Henry Cabot Lodge, “Lynch Law and Unrestricted Immigration,” *North American Review* 152 (1891): 602.

⁹⁴ *Ibid.*, 604.

⁹⁵ *Ibid.*

work on US soil, according to Lodge, they “commit murders, and are either put down by the law or crushed out by wild deeds of lawlessness and bloodshed like that at New Orleans.”⁹⁶ Thus, Lodge insists that there was “no race feeling whatever” in the lynching, and denies that his own explanation for immigrant criminality is a racial one; such “dangerous societies” as the one suspected of killing Chief Hennessy “come not from race peculiarities, but from the quality of certain classes of immigrants of all races.”⁹⁷ Much like proponents of Chinese exclusion, he argues that it is only the most degenerate and criminal classes of any race or nation that arrive on US shores.

Yet despite his attempts to shift to more politically palatable talk of class, criminality, and disease, the language of race creeps back into Lodge’s essay. Ultimately, the mass lynching of the Italians is indeed intelligible for him and his readers as *racial* violence. Even if Lodge denies the racial character of the lynching’s origin, he does not deny lynching’s potentially race-making *consequences*, especially if immigration is not restricted and such killings continue:

If we do not act, and act intelligently, we must be prepared for just such events as that at New Orleans, not merely bringing in their train murder and sudden death, *but breeding race antagonisms and national hostilities which never existed before*, and which need never have an existence if we deal properly with this momentous problem.⁹⁸

Like we have seen before, mob violence is invoked here to justify a discriminatory policy. But in Lodge’s essay, the “race antagonism” in question is not taken as an

⁹⁶ Ibid., 605.

⁹⁷ Ibid., 604–05. Lodge’s use of the word “race” to denote the factor dividing the white lynch mob from its Italian victims, as Jacobson notes, confirms that what counts as “racial” difference among people of European descent has not always been stable and consistent. Jacobson, *Whiteness of a Different Color*, 60.

⁹⁸ Lodge, “Lynch Law and Unrestricted Immigration,” 612 (emphasis added).

established fact, as racism against blacks and the Chinese consistently was—rather, race relations are understood to *follow from* mob violence. Indeed, Lodge implies that even if this lynching was not motivated by racial animosity, it would yield more lynchings that *were*, reconstructing the racial difference between white Americans and Italians as a relation capable of spawning deadly violence in itself.⁹⁹ Echoing the anti-Chinese restrictionists in whose footsteps he follows, Lodge hints that the New Immigration threatens to become nothing less than a new Negro Problem. Despite his attempts to set the race question aside, Lodge cannot help but see “the lawless act of the New Orleans mob” as a manifestation of civil whiteness.¹⁰⁰ And despite his condemnation of the lynching, he can only understand it as the expression of a sovereign white people—a demand that their government eliminate an inassimilable threat, and a promise to carry out this task of elimination on their own if Congress fails to act.

Lodge draws upon and reinforces the discourse of whiteness and popular sovereignty that allows mob killings by whites of racial and ethnic others to appear to contain “no race feeling whatever.” He portrays the violence of the mob as a mere effect of the violence of these criminalistic invaders, and of the federal government’s failure to stop them, but he insists that the conflict *will* become racial if it goes on. Lodge suggests that the mob violence has the power to introduce racial differences and imbue them with meaning. While Lodge regards such a development as a future possibility, he does not

⁹⁹ A *New York Times* article on the New Orleans lynching made a similar point, warning that even though the eleven men had not been persecuted “as Italians,” more mafia activity would ensure that they would eventually be persecuted on the basis of their nationality, “and this would not be a prejudice, but a sentiment founded upon facts and sustained by reason.” Cited in Jacobson, *Whiteness of a Different Color*, 58.

¹⁰⁰ Lodge, “Lynch Law and Unrestricted Immigration,” 602.

realize that this process is already at work. Moreover, he imagines the race-making violence of lynching as a process by which *nonwhite* identities are determined. But it was white identity most of all that was refashioned and redefined by the lynch mobs (and lynching commentators) of the late nineteenth century. Civil whiteness did not simply appear as a dominant mode of understanding Euro-American racial identity. Instead, it was read out of the epidemic of mob violence that spanned North, South and West.

While Thomas Dixon's flamboyantly illiberal white supremacism would become passé within a few decades, the ideology that ties his fiction to the jurisprudence of Harlan and Field would prove more tenacious. The emergence of civil whiteness allowed the unity of racial domination and state power to be taken for granted. While this formulation of whiteness would prove problematic in making sense of whites who were themselves the object of legitimate state violence (as discussed in chapters 3 and 4), its impact on discourses of race and state was powerful. Authors such as Dixon, Cutler, and the legal writers discussed above helped entrench the expectation that the power of the state would be yielded by and in the interest of whites, an expectation that became assimilated into the basic understanding of what the state does. As such, these authors also helped inaugurate a widely accepted split between, on the one hand, irrational and prejudiced racial discrimination, and on the other, the predictably uneven violence accepted as a normal, neutral outcome of policing and punishment in a democratic society. This split would make later calls for color-blind justice harder to act on, since so much of the state's violence against people of color, violence unleashed to protect the properties and prerogatives of whiteness, would pass the test of racial neutrality—deemed necessary acts to carry out the people's will and not instances of prejudice.

Chapter Two

Paul Laurence Dunbar's *The Sport of the Gods* & the Modern Discourse of Black Criminality

While legitimacy and legitimate violence were being collapsed with white racial identity in the late nineteenth-century US, the illegality and social danger to which that legitimacy was opposed came to be indelibly marked by racial otherness. In particular, this period saw an emergent discourse of black criminality that indicted African Americans in novel and manifold ways. This discourse is explored in Paul Laurence Dunbar's 1902 novel, *The Sport of the Gods*, which depicts an African American family's persecution in the South, migration to the North, and collective unraveling in New York City. It is the story both of a black family in motion and of the network of attitudes and beliefs that immobilizes them. In Dunbar's text, widely regarded as the first Great Migration novel, the protagonists find themselves caught up in a web of racial ideology that renders their movement across the country a mockery of freedom. The discourse of black criminality that ensnares them has two major strains, both of which were recent developments at the turn of the century. On the one hand, this period saw the rise of the widespread idea that African Americans had been retrogressing since the abolition of slavery—especially those who had migrated to the urban North. In particular, the Census of 1890 was repeatedly invoked as proof positive that the first generation of blacks born after slavery was sicker, less fertile, and more criminal than their white counterparts. As Khalil Gibran Muhammad has demonstrated, the burgeoning field of

racial crime statistics in the 1890s and 1900s sought to give black criminality discourse an authoritative and empirical foundation.¹ On the other hand, emerging alongside this demographically minded fixation on crime statistics was the “myth of the black beast rapist,” widely accepted among whites in the North and South alike as an explanation for the surge of lynching in the 1880s and 1890s.² While racialized notions of criminality were by no means new to the United States at the turn of the century, these two particular models of black criminality emerged around 1890 and quickly combined to form a powerful and durable amalgam.

The fusion of the sociological discourse of African American deviance with the Gothic figure of the lone, roving black “brute” engendered what I refer to as the US’s modern discourse of black criminality. The two poles of this dual discourse complemented and reinforced each other in ways that have often proved elusive for critics. Together, the monstrous individual and the pathological mass have served as a sturdy foundation for racial criminalization and for the normalization of antiblack state violence from Dunbar’s time through our own. Through this discourse, both blackness and criminality were remade in relation to each other. Such two-way stigmatization not only refashioned racial categories through crime, but reshaped criminality in the US imagination through an infusion of racial meaning. Written in the midst of these developments, *Sport of the Gods* provides a complex but illuminating view of this discourse. Dunbar’s novel has long had an ambivalent reputation—while some critics see this pessimistic novel as peddling racist stereotypes, others regard it as a work of resistant

¹ Muhammad, *The Condemnation of Blackness*, 4.

² Williamson, *The Crucible of Race*, 309.

satire. In this chapter, I propose withholding judgment over whether Dunbar resisted or capitulated to the modern discourse of black criminality so we can turn our attention instead to his comprehensive representation of it.

Rather than a manifesto of resistance to the culture of Jim Crow, *Sport of the Gods* is a text that astutely and critically documents that culture, depicting the contours of the newly emerged discourse of black criminality and illustrating the extent of that ideology's impact on those trapped within its reach. By presenting a migration narrative that spans North and South, Dunbar's novel addresses the geographical range of the new black criminality discourse; its plot incorporates both Northern notions about migrants' pathology and Southern accusations of black male brutality. Moreover, *Sport of the Gods* dramatizes the pervasive and inescapable nature of this discourse of black criminality. The text presents a stark picture of African American life in the shadow of criminal stigma, tracing the Hamilton family's unhappy journey from the rural South to New York City and back again. By the narrative's end, Berry Hamilton has been in and out of prison, his daughter Kitty has taken up the morally suspect life of a travelling stage performer, his son Joe has become an alcoholic and a felon, and his wife Fannie has unlawfully wed a second husband. While Berry *nearly* kills this rival in a moment of rage, the young Joe is eventually imprisoned for the actual murder of his girlfriend. In the novel, criminal stigmatization drives the plot and dogs the protagonists: from Berry's railroading and imprisonment at the story's outset, to the corruption and disintegration of the family in New York, to the murderous inclinations of both father and son at the book's end. The main characters in *Sport of the Gods* are decidedly not upstanding agents of racial progress or exemplars of respectability. Indeed, *Sport of the Gods* eschews the

politics of representation. Instead of focusing on repudiating slanders leveled against the race, Dunbar maps out the network of beliefs that engendered such stereotyped images in the first place. Through its depiction of the Hamilton family's entrapment within this ideological web, I argue, *Sport of the Gods* stages the impossibility of escaping from racialized criminal stigma by recourse to notions of legitimacy and innocence. Rather than working to distinguish his characters from a criminalized underclass, Dunbar's final novel registers the futility of such a task. Dunbar diagnoses the stigmatized condition of turn-of-the-century African Americans without endorsing it, but without rushing to advance a prescription for uplift, either.

In the Jim Crow US depicted by Dunbar, it is the two-way process of stigmatization, in which blackness and criminality are remade through each other, that ultimately makes the new black criminality discourse so difficult to contest. From the post-Reconstruction era on, "criminality" is no longer—if indeed it ever was—a negative but racially neutral characteristic imputed to blackness. Instead, the very notion of criminality is encumbered with racial meaning. A genuine debate over the alleged criminality of blackness cannot even take place if the blackness of criminality is already presumed and if African Americans already find themselves convicted before the conversation begins. Yet, despite the overwhelming constraints black writers and activists faced in confronting modern black criminality discourse, Dunbar was well positioned to make an intervention; the author of several volumes of poetry, dozens of short stories, and four novels before his premature death in 1906, he was arguably the US's first African American literary star.

Catapulted to fame by a glowing review from William Dean Howells in 1896, Dunbar was nonetheless pigeonholed by his white readers, who extolled his “Negro dialect” poetry while practically ignoring his other verse and prose writings. Much of the scholarly discussion of Dunbar’s work in the past few decades has sought to reevaluate and re-contextualize his dialect poetry, debating whether these poems reinforce or subvert the racism of Jim Crow culture. From midcentury critics like Victor Lawson, who in 1941 dubbed Dunbar a “conscious or unconscious apologist of the plantation,” through more sympathetic treatments by Henry Louis Gates Jr. and Houston Baker, many twentieth-century scholars viewed Dunbar’s dialect poetry as in some sense acquiescing to the racist ideology of his time.³ In his 1993 article, “Paul Laurence Dunbar and the Mask of Dialect,” however, John Keeling proposes taking “Dunbar’s adaptation of dialect and Plantation Tradition conventions as a starting point for critical practice rather than as proof of the literature’s dubious value.” Keeling approaches such elements of Dunbar’s poetry as a deliberately manipulated “mask,” a surface behind which alternative, ironic visions can be found.⁴ More recently, Shelley Fisher Fishkin has argued that, if we read Dunbar’s dialect poetry against the backdrop of the growing vilification of African Americans in the 1890s popular press rather than against the conventions of the sentimental Plantation Tradition, we can better discern Dunbar’s

³ Victor Lawson, quoted in Peter Revell, *Paul Laurence Dunbar* (New York: Twayne Publishers, 1979), 170; Henry Louis Gates, Jr., *The Signifying Monkey: A Theory of African-American Literary Criticism: A Theory of African-American Literary Criticism* (New York: Oxford University Press, 1988), 114–15; Houston A. Baker, *Singers of Daybreak: Studies in Black American Literature* (Washington: Howard University Press, 1983), 35.

⁴ John Keeling, “Paul Dunbar and the Mask of Dialect,” *Southern Literary Journal* 25, no. 2 (Spring 1993): 27. Another important reevaluation of Dunbar’s dialect poetry is Marcellus’ Blount’s “The Preacherly Text: African American Poetry and Vernacular Performance,” *PMLA* 107, no. 3 (May 1992): 582–93.

strategy of subverting the US's "national amnesia and denial" regarding black suffering.⁵ Michael Cohen also emphasizes the multiplicity of contexts for Dunbar's poetry, investigating Dunbar's "mediation" between the conventions of minstrelsy, the amorphous but popular notion of the "negro ballad," and the genres of "modern, literate-print circulation."⁶

Recent criticism of Dunbar's poetry, then, has often situated itself in opposition to earlier critics' dismissals of Dunbar as either a dupe of or a panderer to the racist ideology of his day. A similar dynamic has characterized discussions of *Sport of the Gods*, Dunbar's fourth and final novel. Because the protagonists' migration from rural South to urban North ends in catastrophe and a return to the plantation, late twentieth-century critics often saw *Sport of the Gods* as a confirmation of antiblack narratives that were popular at the turn of the century. Robert Bone contends that the book "reiterates the plantation-school thesis that the rural Negro becomes demoralized in the urban North."⁷ Addison Gayle identifies Dunbar as "a victim of his own age," tragically incapable of "regarding Black men as other than wards of American society."⁸ Such critics understand *Sport of the Gods* as capitulating to the stereotypes of *fin-de-siècle* minstrelsy, idealizing a pastoral, paternalistic Southern life for African Americans while depicting black retrogression and degeneration in the cities of the North. More recently,

⁵ Shelley Fisher Fishkin, "Race and the Politics of Memory: Mark Twain and Paul Laurence Dunbar," *Journal of American Studies* 40, no. 2 (2006): 286.

⁶ Michael Cohen, "Paul Laurence Dunbar and the Genres of Dialect," *African American Review* 41, no. 2 (2007): 252.

⁷ Qtd. in Lawrence R. Rodgers, *Canaan Bound: The African-American Great Migration Novel* (Urbana: University of Illinois Press, 1997), 191.

⁸ Addison Gayle, "Literature as Catharsis: The Novels of Paul Laurence Dunbar," in *The Addison Gayle Jr. Reader*, ed. Nathaniel Norment, Jr. (Urbana, IL: University of Illinois Press, 2009), 228.

Farah Jasmine Griffin has faulted Dunbar's novel for denying that the South is "a site of racial terror" and narratively displacing the systematic injustice afflicting black Southerners onto "the duplicity of one white man."⁹ These critics rebuke Dunbar for neglecting to take a strong stand against racist representations of African Americans and against the idyllic "Plantation Tradition" image of the antebellum South propagated in the popular fiction of white writers like Thomas Nelson Page and Joel Chandler Harris.

Recent years, however, have seen growing efforts to revise the novel's reputation. In a critical movement that parallels the reappraisal of Dunbar's dialect poetry, scholars have drawn attention to the novel's subtle ironies, satirical bent, and message of antiracist protest. Susan Bausch warns that when reading a novel as explicitly concerned with deception as *Sport of the Gods*, we should not take the narrator's often-sententious pronouncements uncritically, but rather pay heed to "the novel's own insincerity."¹⁰ What looks in the opening like a sanguine view of the Hamilton family's promising future in the paternalistic South is soon revealed as the fantasy of a terribly misguided optimism. According to Lawrence Rodgers, Dunbar satirizes the literary South and its host of plantation stereotypes, setting this overdetermined landscape aside to explore the "fictional black urban North" and the "blank slate" it offered.¹¹ Bridget Harris Tsemo identifies *Sport of the Gods* as "a powerful and subversive uplift novel, working on a

⁹ Farah Jasmine Griffin, "Who Set You Flowin'?: The African-American Migration Narrative (New York: Oxford University Press, 1995), 25.

¹⁰ Susan Bausch, "Inevitable or Remediable? The Historical Connection between Slavery, Racism, and Urban Degradation in Paul Laurence Dunbar's *The Sport of the Gods*," *CLA Journal* 45, no. 4 (June 2002): 500.

¹¹ Lawrence R. Rodgers, "Paul Laurence Dunbar's 'The Sport of the Gods': The Doubly Conscious World of Plantation Fiction, Migration, and Ascent," *American Literary Realism, 1870-1910* 24, no. 3 (1992): 47.

subtle, subcutaneous level to realize a black subject in constant negotiation with the ideologies of class in order to critique and transcend the severe restrictions of American democracy.”¹² In addition to recovering a protest message in *Sport of the Gods*, recent criticism has challenged earlier characterizations of the novel as the sort of literary naturalism that presents a grimly deterministic view of human action. Thomas L. Morgan argues that Dunbar in fact ridicules the belief—held by many white naturalist authors—that racial inequality results from biological determinism rather than historical events. “In mapping the process through which white social power and agency masquerade as biological determinism,” Morgan contends, “Dunbar makes traditional naturalist determinist thought serve his own literary ends.”¹³ Likewise, Nancy Von Rosk asserts that Dunbar’s take on naturalism depicts the deterministic force of white social power. While the Northern urban culture the Hamiltons discover harbors certain possibilities, Von Rosk writes, in the end this realm, too, is “determined by the overwhelming power of white culture to define what it means to be an African American.”¹⁴

¹² Bridget Harris Tsemo, “The Politics of Self-Identity in Paul Laurence Dunbar’s *The Sport of the Gods*,” *The Southern Literary Journal* 41, no. 2 (2009): 22. In a 1976 essay that anticipated this more recent trend in Dunbar scholarship, Gregory Candela argues that Dunbar’s narrator neither perpetuates antiblack stereotypes nor promotes the New South’s plantation economy, but rather “uses dramatic, verbal, and cosmic irony to reverse stereotypes and condemn Southern oppression of blacks.” Instead of attempting to displace negative representations with heroic “counterstereotypes,” then, Dunbar parodies the racist ideology of his white characters. Gregory Candela, “We Wear the Mask: Irony in Dunbar’s *The Sport of the Gods*,” *American Literature* 48, no. 1 (1976): 64, 69.

¹³ Thomas L. Morgan, “Black Naturalism, White Determinism: Paul Laurence Dunbar’s Naturalist Strategies,” *Studies in American Naturalism* 7, no. 1 (2012): 9. For a discussion of the influence of Lombrosian, deterministic theories of crime on naturalist fiction, see Gary Scharnhorst, “Naturalism and Crime,” in *Oxford Handbook of Literary Naturalism*, ed. Keith Newlin (New York: Oxford University Press, 2011), 339–53.

¹⁴ Nancy Von Rosk, “Coon Shows, Ragtime, and the Blues: Race, Urban Culture, and the Naturalist Vision in Paul Laurence Dunbar’s *The Sport of the Gods*,” in *Twisted from the*

These recuperative readings of *Sport of the Gods* share a common desire to disprove the charge that Dunbar “gave in” to stereotypes, and to show how he actively, if discreetly, combatted such false images. These critics argue that Dunbar ultimately depicts the Hamiltons’ descent into urban corruption as the result of injustice and racism rather than personal or racial deficiency. However, other parts of Dunbar’s corpus make it harder to sustain a view of him as aggressively resisting stereotypes. Published just a few years before *Sport of the Gods*, Dunbar’s article “The Negroes of the Tenderloin” (1898) is deeply pessimistic about African American migration. In it, Dunbar bemoans the “flocking of ignorant, irresponsible Negroes,” who are inevitably “deceived by the glare and glitter of the city streets.”¹⁵ Characterizing African American migrants as “great, naughty, irresponsible children,” Dunbar reaffirms the Plantation Tradition’s pastoral representation of Southern life, insisting that blacks were forsaking their “natural habitat” and losing their “simple and joyous natures” in New York City.¹⁶ While Dunbar certainly does not idealize or apologize for slavery in “The Negroes of the Tenderloin,” the author of this piece is not the militant protest writer some readers of *Sport of the Gods* have taken Dunbar to be. But the inconsistent portrait of Dunbar as an antiracist writer that emerges from his archive need not determine our reading of *Sport of the Gods*. Indeed, the fixation on Dunbar’s personal success or failure in resisting racist ideology has deflected attention away from how his novel reflects and refracts the era’s

Ordinary: Essays on American Literary Naturalism, ed. Mary E. Papke (Knoxville, TN: University of Tennessee Press, 2003), 166.

¹⁵ Paul Laurence Dunbar, *The Sport of the Gods: And Other Essential Writings* (New York: Modern Library, 2005), 267, 265.

¹⁶ *Ibid.*, 265.

crystalizing discourse of black criminality. While helpfully drawing attention to the subtle irony that infuses much of his work, many recent revisionist readings of Dunbar not only remain stuck at the level of investigating authorial intention, they also risk disregarding how Dunbar depicted criminal stigma as a fundamental condition of social existence for African Americans—whether or not he considered that stigma a libelous slander.

Demons and Data: the Birth of Modern Black Criminality Discourse

Sport of the Gods engages with both poles of the modern discourse of black criminality that sustained this racialized stigma. On the one hand, Joe's eventual transformation into a drunken killer presents the discourse's ubiquitous figure of the morally monstrous individual. On the other, the novel's narrative of migrant pathology recapitulates sociological notions of African American degeneration and the racial crime statistics mustered to support them.

Joe's "metamorphosis" is the most drastic outcome of a transformative process that involves the whole Hamilton family (407). After Berry is falsely accused and convicted of theft and sentenced to the penitentiary, his wife and children decide to migrate to the North. Upon arriving in New York, Joe and his sister Kitty are dazzled by life in the big city. A smooth-talking dandy quickly introduces them to the Banner Club, where Joe begins drinking and gambling, Kitty becomes enamored with show business, and both siblings fall under the influence of an enchanting stage performer named Hattie

Sterling. Joe sinks into the life of a Banner Club loafer and becomes romantically involved with Hattie, eventually moving in with her. Meanwhile, Kitty winds up performing in “coon shows” in the city and on tour throughout the country, while Fannie, still legally married to Berry, takes a second husband who turns out to be cruel and abusive. Joe goes much further in his deterioration, however, than his sister or mother. As the narrator explains, Joe “was so ready to go down that it needed but a gentle push to start him, and once started, there was nothing within him to hold him back from the depths” (407). His drinking and gambling problems grow worse and worse, and eventually, after a three-day bender, Hattie kicks him out of her apartment. Later that night, after more heavy drinking, Joe returns to Hattie’s apartment. Looking like “a terrible, terrible man or a monster,” he strangles Hattie and then collapses in a chair, where the police eventually find and arrest him (412).

Dunbar titles the chapter in which Joe’s final catastrophe occurs “Frankenstein,” linking Joe’s disintegration and crime not only to the iconic monster in Mary Shelley’s novel, but to the narrative of Dr. Frankenstein’s creation of and responsibility for that monster. In her study of uses of the *Frankenstein* story in US literature, Elizabeth Young situates Dunbar within a tradition of writers who employed the monster-making narrative to comment upon American race relations. In particular, she argues that while the representation of Joe as Frankenstein’s monster “redoubles rather than undercuts the idea of black men as monsters,” Dunbar draws this parallel “in the service of exposing the artificial construction of that monstrosity.”¹⁷ Joe’s transformation from man into monster,

¹⁷ Elizabeth Young, *Black Frankenstein: The Making of an American Metaphor* (New York: New York University Press, 2008), 150.

Young suggests, is not simply an indictment of the amoral urban “laboratory” that produced him, but also serves as a parody of how black men (like his father Berry) are falsely constructed as dangerous, criminal, and monstrous. Yet the ambivalent engagement with the “brute beast” figure that Young identifies in *Sport of the Gods* pertains to only one side of the modern discourse of black criminality. Joe’s metamorphosis, however, is also positioned within a sociological narrative of his family’s degeneration as Southern migrants. The Hamiltons, in this view, are among the masses of little monsters produced by the dynamics of black migration. After the murder, Dunbar’s narrator relates, the denizens of the Banner Club pontificate on the sociological lessons to be learned from this tragedy. Bemoaning “the pernicious influence of the city on untrained negroes,” they lament that “the stream of young negro life would continue to flow up from the South, dashing itself against the hard necessities of the city and breaking like waves against a rock” (414). The more dispassionate, demographic-minded side of black criminality discourse is also represented in *Sport of the Gods*, intertwined with the fixation on violent, lone African American men.

Despite its political ambivalences, *Sport of the Gods* was an early literary intervention into an emergent discourse of black criminality. The turn-of-the-century figures of the brute beast and the degenerate black masses both took shape in the long shadow of the Civil War. As David Blight relates, the lengthy postwar process of reconciliation between the North and South revolved not only around the re-conception of the war as a fight between “brothers” but also around “the denigration of black dignity and the attempted erasure of emancipation from the national narrative of what the war

had been about.”¹⁸ Grace Elizabeth Hale writes that after the war, a developing “modern whiteness” emerged and “grounded national reconciliation.”¹⁹ This revised whiteness, intertwined with notions of legitimate authority (see chapter 1), appeared alongside a revitalized antiblack racism that replaced the possibility of interracial democracy glimpsed during Reconstruction with a nationwide white consensus about the unsuitability of African Americans for citizenship.

Although the negrophobia of the late nineteenth-century US carried forward many elements from antebellum racist ideologies, it was nonetheless expressed in new forms.²⁰ The “coon shows” that the Hamiltons attend at the Banner Club, and in which Kitty ends up a performer, were part of a nationwide craze for so-called “coon songs” during this period. These songs extended and departed from the older minstrelsy tradition by presenting African Americans not only as foolish and primitive, but increasingly, as menacing and criminal as well. The subjects of coon songs, as James Dormon has explains, were shown to be “devoid of honesty or personal honor, given to drunkenness and gambling, utterly without ambition, sensuous, libidinous, even lascivious,” and were depicted as “razor-wielding savages, routinely attacking one another at the slightest provocation.” As Dormon writes, “the flashing steel straight razor ... became in the songs the dominant symbol of black violence, while the ‘coon’ himself became that which was

¹⁸ Blight, *Race and Reunion*, 5.

¹⁹ Hale, *Making Whiteness*, 9.

²⁰ For an important corrective to critical neglect of black criminality discourse *before* the Civil War, see Jeannine Marie DeLombard, *In the Shadow of the Gallows: Race, Crime, and American Civic Identity* (Philadelphia: University of Pennsylvania Press, 2012).

signified by this terrible weapon.”²¹ The denigration of African Americans on the minstrel stage as harmless buffoons was yielding, in the 1890s, to a far more menacing portrait, one that fixated especially on the lone, roving, and violent black man.

Nowhere was this turn more unmistakable than in this period’s explosive moral panic about black male sexual violence. While often assumed to be a timeless fixture of American racism, the “brute beast rapist” figure did not in fact surface in its familiar form until the very end of the nineteenth century. Certainly, stereotypes about African Americans as sexually dangerous and white fears of racial amalgamation stretch far back into the antebellum and colonial eras.²² But the specter of the black rapist did not emerge as the focal point of a nationwide moral panic—or as the justification for a surge in mob executions—until the late 1880s. Although the Ku Klux Klan had committed hundreds of lynchings during their reign of terror in the early years of Reconstruction, this violence was explicitly directed at suppressing black voters and was not depicted as punishment for sexual violence against white women. As Diane M. Sommerville shows, the late nineteenth-century preoccupation with black-on-white rape marked a significant shift in Southern attitudes about interracial sexual contact.²³ The white Virginian Philip A. Bruce

²¹ James H. Dormon, “Shaping the Popular Image of Post-Reconstruction American Blacks: The ‘Coon Song’ Phenomenon of the Gilded Age,” *American Quarterly* 40, no. 4 (December 1988): 455.

²² See for example, Daniel E. Williams, ed., “Sketches of the Life of Joseph Mountain, a Negro,” in *Pillars of Salt: An Anthology of Early American Criminal Narratives* (Madison, WI: Madison House, 1993), 289–308; Richard Slotkin, “Narratives of Negro Crime in New England, 1675–1800,” *American Quarterly* 25, no. 1 (March 1973): 3.

²³ Sommerville, *Rape & Race in the Nineteenth-Century South*, 237. The common conflation of the overtly political agenda of Reconstruction-era mob violence with the “beast rapist” rhetoric surrounding turn-of-the-century lynchings is a testament to the lasting impact of writers like Thomas Dixon, who deliberately projected the contemporary fixation on black male rapists onto narratives about Reconstruction in *The Leopard’s Spots* (1902), *The Clansman* (1905), and his screenplay for *The Birth of a Nation* (1915).

was one of the first authors to give the “beast rapist” expression in print. In *The Plantation Negro as a Freeman* (1889) Bruce warns about the growing “disposition” of black men to assault white women: “[W]hite women of every class, from the highest to the lowest, are afraid to venture to any distance alone, or even to wander unprotected in the immediate vicinity of their homes; their appreciation of the danger being as keen, and their apprehension of corporal injury as vivid, as if the country were in arms.”²⁴ This narrative of black male depravity exploded across the white American imagination.

The “beast rapist” myth met with fierce opposition from a small number of activists. In an 1895 essay, Frederick Douglass lambasted the myth as merely the latest justification for white mob violence against African Americans since the war. The prevailing excuse for such lawlessness, he argued, shifted “to suit the times”: from the danger of black insurrection to the threat of black political domination, and finally, to the alleged propensity of African American men to rape white women.²⁵ Ida B. Wells extended this debunking of the myth of the beast rapist by diligently documenting reported lynchings. Her writings demonstrate not only that many accusations of rape were false and that most African Americans were lynched for reasons unrelated to sexual assault, but that many black people were lynched for no offense at all. Wells also relates that some lynchings remained completely unexplained. “Lynch Law has become so common in the United States,” she writes, “that the finding of the dead body of a Negro, suspended between heaven and earth to the limb of a tree, is of so slight importance that

²⁴ Philip Alexander Bruce, *The Plantation Negro as a Freeman: Observations on His Character, Condition, and Prospects in Virginia* (New York: G.P. Putnam’s Sons, 1889), 83.

²⁵ Frederick Douglass, “Why the Negro Is Lynched,” in *The Life and Writings of Frederick Douglass*, ed. Philip S. Foner, vol. 4 (New York: International Publishers, 1895), 501–02.

neither the civil authorities nor press agencies consider the matter worth investigating.”²⁶ The fact that lynching was growing more routine as it became more frequent meant that such barbarous behavior was being normalized among whites. At the same time, and as a direct consequence of this epidemic of brutality, the stigma of the “beast rapist” was attaching itself more tenaciously than ever to blackness. This association grew deeper and more intractable with each act of ritualized killing.

Dunbar, too, critiqued the myth of the brute beast in his fiction, poetry, and essays. In Dunbar’s short story, “The Lynching of Jube Benson” (1904), Dr. Melville, the white protagonist, takes part in the lynching of Benson, a man who had recently nursed him through a life-threatening illness. When Melville’s beloved is raped and murdered by a white man in blackface, Benson is—much like Berry Hamilton in *Sport of the Gods*—condemned on the thinnest of evidence. Without even the pretense of a trial, Benson is hanged just moments before the true killer is revealed. Regretfully recounting these events years later, Melville reflects: “Why did I do it? I don’t know. A false education, I reckon, one false from the beginning. I saw [Benson’s] black face glooming there in the half light, and I could only think of him as a monster. It’s tradition.”²⁷ Yet, as Wells and Douglass had argued, the “tradition” of lynching black men for the alleged rape of white women was a relatively recent invention. In “The Lynching of Jube Benson,” Dunbar shows that the ideological power of the discourse of black criminality makes matters of innocence, truth, or justice superfluous. Their “education” in racist demonization left

²⁶ Wells-Barnett, *Southern Horrors and Other Writings*, 107.

²⁷ Dunbar, *The Sport of the Gods*, 227.

many white Americans unable to see beyond the “monster” conjured by that discourse and by its accompanying practices of mob violence.

In his 1898 essay, “The Race Question Discussed,” written in response to the notorious Wilmington riot, Dunbar addresses lynching and mob violence as a form of political repression for which the whole nation, and not just the South, was culpable: “The race riots in North Carolina are of a piece with the same proceedings in the state of Lincoln. The men who shoot the Negro in Hogansville are blood brothers to those who hang him in Urbana.”²⁸ Dunbar directs attention away from Southern lynchings and their then-ubiquitous association with rape accusations by emphasizing the political objectives underlying white mob violence in North and South alike. In his 1904 essay “The Fourth of July and Race Outrages,” he gives slightly more credence to the premise that lynchings were responses to criminal acts. (“One man sins and a whole nation suffers,” he laments.) But here Dunbar also makes clear that every “new hanging or ... new burning” constitutes not just an act of retribution against an individual, but more significantly, an “outrage against a helpless people, [a] fresh degradation of an already degraded race.”²⁹ Dunbar took up these issues in his poetry as well. The speaking persona in his poem “The Haunted Oak” (1903) is a tree from which a “guiltless victim,” charged with “the old, old crime,” has been hanged.³⁰ The tree bends and sickens under the physical weight of the mob’s moral culpability: “I am burned with dread, I am dried and dead/From the curse of

²⁸ Ibid., 260.

²⁹ Ibid., 294.

³⁰ Joanne M. Braxton, *The Collected Poetry of Paul Laurence Dunbar* (Charlottesville: University of Virginia Press, 1993), 219.

a guiltless man.”³¹ In a variety of genres, then, Dunbar sought to expose and denounce the myth of the brute beast.

Meanwhile, while Dunbar, Wells and Douglass were waging their battle against this branch of the modern discourse of black criminality, white sociologists across the country were hailing new census data as conclusive, scientific evidence of African Americans’ incapacity for citizenship. Much as the myth of the brute beast both justified and further incited mob violence against African Americans, so did the burgeoning discourse on racial crime statistics provide a rationale for institutionalized discrimination. Conducted twenty-five years after the Civil War, the Census of 1890 represented the first national demographic dataset regarding the first generation of African Americans to grow to adulthood after slavery’s abolition. White race-relations writers eagerly interpreted African Americans’ disproportionate rates of incarceration, illness, and mortality as a demonstration of the race’s moral and physical disintegration outside the ostensibly salutary conditions of enslavement. “Beginning in the late nineteenth century, the statistical rhetoric of the ‘Negro criminal’ became a proxy for a national discourse on black inferiority,” writes Khalil Gibran Muhammad. “[T]he gap between avowedly white supremacist writers and white progressives narrowed significantly when it came to discussing black crime, vice, and immorality.”³² Frederick Hoffman’s 1896 *Race Traits and Tendencies of the American Negro* was particularly influential in popularizing the indictment of African Americans on the basis of racial crime statistics. Referring to the 1890 Census, Hoffman concluded that despite some indications of collective progress,

³¹ Ibid., 220.

³² Muhammad, *The Condemnation of Blackness*, 8.

twenty-five years of African American “freedom” had failed to produce anything other than a race of immoral criminals: “the race as a whole has gone backwards rather than forwards.”³³ This racial retrogression, Hoffman insisted, made African Americans a threat not only to the nation in general, but ultimately, to their own survival.

One of Hoffman’s few—but vocal—opponents was W. E. B. Du Bois, who wrote a sharply critical review of *Race Traits and Tendencies* upon its publication.³⁴ Du Bois’s most vigorous challenge to Hoffman’s claims about black criminality, however, can be found in his 1899 study, *The Philadelphia Negro*. In August 1896, the University of Pennsylvania commissioned Du Bois to conduct a sociological survey of the city’s main African American neighborhood, the Seventh Ward. The University paid him a meager stipend to undertake a year-and-a-half-long, house-by-house investigation of the social condition of Philadelphia’s black population. Looking back on this project decades later, Du Bois expressed pride at the quality and enduring reputation of *The Philadelphia Negro*, but was less sanguine about the motivations that led the University to commission it in the first place: “The fact was that the city of Philadelphia at that time had a theory; and that theory was that this great, rich, and famous municipality was going to the dogs because of the crime and venality of its Negro citizens, who lived largely centered in the

³³ Frederick L. Hoffman, *Race Traits and Tendencies of the American Negro*, Publications of the American Economic Association. Vol. 11 [no. 1-3] (New York: Macmillan, 1896), 236.

³⁴ W. E. B. Du Bois, “Race Traits and Tendencies of the American Negro. By FREDERICK L. HOFFMAN.,” *The ANNALS of the American Academy of Political and Social Science* 9, no. 1 (1897): 148.

slum at the lower end of the seventh ward. Philadelphia wanted to prove this by figures and I was the man to do it.”³⁵

In his study, Du Bois worked to mobilize social science’s own methods against its faulty and racist assumptions. He was aware that although he had been hired to study “the condition of the forty thousand or more people of Negro blood now living in the city,” the problem of “Negro crime” was the chief concern that had motivated his sponsors. “There is a widespread feeling,” he writes, “that something is wrong with a race that is responsible for so much crime, and that strong remedies are called for. . . . Indeed to the minds of many, *this is the real Negro problem.*”³⁶ This widespread tendency to substitute the matter of black criminality for a far broader constellation of social issues pertaining to Philadelphia’s African American community is one of the primary targets of Du Bois’s study. Of particular concern is disaggregating the behavior of new Southern migrants from that of Philadelphia’s native African American residents. *The Philadelphia Negro* rewrites black criminality in terms of geographic migration, arguing that much of Philadelphia’s crime problem stemmed from the arrival of large numbers of black Southerners. While many demographers and race-relations writers used racial crime statistics to claim that life in Northern cities drove blacks to criminality and self-destruction, Du Bois cautioned that “no conclusions as to the effects of Northern city conditions on Negroes . . . can be intelligently answered until we know how long these people have been under the influence of given conditions, and how they were trained

³⁵ W. E. B. Du Bois, *Writings*, ed. Nathan Irvin Huggins (New York: Library of America, 1986), 596.

³⁶ W. E. B. Du Bois, *The Philadelphia Negro: A Social Study* (Philadelphia: University of Pennsylvania Press, 1899), 241. Emphasis added.

before they came.”³⁷ The urban snapshot provided by crime statistics failed to address the trajectory of migration, social disruption, and resettlement of which urban criminality was merely one phase. The crimes of these migrants, he argues, should be seen as a manifestation of dislocation and lack of “harmony,” taking the form he suggestively labels a state of “open rebellion.”³⁸

Dunbar, who worked with Du Bois to organize the American Negro Academy in the late 1890s, also took aim at the racial crime statistics discourse. Dunbar’s 1900 essay, “Is Higher Education for the Negro Hopeless?” was a rebuttal to the white writer and editor Charles Dudley Warner, who had argued, in the vein of Frederick Hoffman, that higher education had done more harm than good for African Americans since the Civil War. Warner had cited black incarceration rates as a sign of the race’s retrogression, to which Dunbar responded: “No one has the right to base any conclusions about Negro criminality upon the number of prisoners in the jails and other places of restraint. Even in the North the prejudice against the Negro reverses the precedents of law, and every one accused is looked upon as guilty until he is proven innocent. In the South it is worse.”³⁹ Dunbar goes on to assert that minor offenses were far more likely to lead to imprisonment for African Americans than for whites. “[W]hat with white boys would be called children’s fights,” he writes, “land the black the black boy in jail, and so the percentage of criminals increase, and the Northern friend of the Negro holds up his hands in dismay.”⁴⁰ While writings like *Sport of the Gods* might suggest that Dunbar

³⁷ Ibid., 73.

³⁸ Ibid., 235.

³⁹ Dunbar, *The Sport of the Gods*, 281.

⁴⁰ Ibid.

unthinkingly embraced mainstream notions of black urban pathology, his sharp rebuke of “friends of the Negro” like Warner, and of their smug conclusions about “Negro crime,” indicates Dunbar was by no means uncritical of this pathologizing discourse.

Throughout his brief career, Dunbar took up and reinforced the path-breaking challenges to racial criminalization mounted by contemporaries like Du Bois and Wells. Yet, each of these two lines of critique attended to only one side of the new dual discourse of black criminality. When Du Bois contested the faulty logic and scientific missteps in white sociologists’ use of racial crime statistics, and when Wells debunked the myth of the brute beast rapist, each argument sidestepped the claims made by the other of modern black criminality discourse’s two prongs. This left both critiques vulnerable to the ways in which the “brute beast” panic and the crime statistics craze were already colluding in mainstream race relations discourse. Hoffman’s *Race Traits and Tendencies*, for instance, provides an early example of how effectively and easily the “beast rapist” figure and the racial crime data could be combined. Over just a few pages, Hoffman moves seamlessly from, on the one hand, demonstrating blacks’ disproportionately high rates of incarceration to, on the other, apologizing for lynching by emphasizing “the increasing tendency of colored men to commit this most frightful of all crimes”—that is, the rape of white women.⁴¹ Hoffman cites Philip A. Bruce’s lurid descriptions of the “diabolical” black rapist’s “fiendish delight in the degradation of his victim” before moving on to discussions of Northern blacks’ loose sexual morals and crime statistics.⁴² In so doing, he suggests not too subtly that the influx of black migrants

⁴¹ Hoffman, *Race Traits and Tendencies of the American Negro*, 231.

⁴² *Ibid.*, 231–32.

at the center of the urban crime issue posed a more extreme threat than just generalized disorderliness. Indeed, as Muhammad argues, Hoffman and his contemporaries evoked “the specter of black rapists and murderers moving north one step ahead of lynch mobs,” weaving anxieties about migration and crime data “into a cautionary tale about the exceptional threat black people posed to modern society.”⁴³

Much of the strength and durability of the modern discourse of black criminality lay in the way its two strains reinforced each other. The demonic brute beast figure, with its origins in the South, provided urgency and an infusion of Gothic horror into what was otherwise a more banal Northern discourse about crime statistics. Likewise, racial crime data offered authoritative, empirical affirmation for the moral panic about black men’s sexual dangerousness. Although Wells assailed the black beast rapist myth as the linchpin holding together blackness and criminality in the public mind, one key to the myth’s tenacious hold on the white imagination was the way it meshed with existing Northern ideas about black criminality. Lynching violence concentrated in the South had a nationwide audience—one well primed for the sensational images of black dangerousness that the “brute beast” discourse propagated.⁴⁴ Thus, the black rapist myth, transplanted as it was into the urban Northern imagination, set down roots that went very deep indeed, intertwining with popular and scientific notions of black inferiority and criminality. In turn, Du Bois’s conscientious data collection and analysis were of little use in exorcising the “brute beast” from the ostensibly rational sociological discourse on African American

⁴³ Muhammad, *The Condemnation of Blackness*, 6–7.

⁴⁴ For more on the Northern press’s mediation and reinforcement of lynching narratives, see Goldsby, *A Spectacular Secret*; Kali N. Gross, *Colored Amazons: Crime, Violence, and Black Women in the City of Brotherly Love, 1880–1910* (Durham, NC: Duke University Press, 2006), 119–20.

crime. His emphasis on Southern newcomers as the engine of black crime in Philadelphia was particularly damaging for his effort to de-racialize criminality. This class of black migrants from the South, after all, was the most closely associated at that time with the ascendant myth of the black rapist. In calling attention to them and positioning them at the center of his investigation of black criminality, Du Bois unleashed a Pandora's box of white racial anxieties, activating fears of blackness that threatened to overpower the sober sociological analysis he offered. Du Bois's pronouncements about the venality of one corner of the race were swiftly turned against African Americans as a whole.

Through the less polemical form of the naturalist novel, *Sport of the Gods* is able to respond to modern black criminality discourse on its own bifurcated terms in ways that texts like Du Bois's and Wells's could not. With its migration narrative spanning both North and South, Dunbar's book—the first Great Migration novel—incorporates themes of sexual aggression as well as urban degeneration. The literary form Dunbar employs is also essential to the encounter the text stages between the two branches of black criminality discourse. Through the naturalist novel, Dunbar brings the sensational, Gothic register of lynching propaganda and urban crime reporting together with the sociological concerns of criminology and demography.⁴⁵ The racialized key figures of this discourse of criminality (the popular press's "beast rapist" and social science's pathological urban migrant) resonated strongly with the racially unspecified figure of the "brute" that June Howard identifies throughout naturalist fiction from the turn of the century. As Howard

⁴⁵ As Gene Jarrett writes of Dunbar's first novel, *The Uncalled* (1898), Dunbar was already "stretching realism in naturalist directions" in this earlier text, depicting characters who "rarely control internal or external forces" and deploying "third person omniscient, and rather didactic, narration" to explain those forces' operation. "Second-Generation Realist; Or, Dunbar the Naturalist," *African American Review* 41, no. 2 (Summer 2007): 291.

argues in *Form and History in American Literary Naturalism* (1985), the recurring figure of the “brute” drew on preexisting racialized notions of savagery to embody a particularly turn-of-the-century concern with degeneration and downward mobility. The “brute” in naturalist fiction expresses fear of the loss of a stable, civilized, bourgeois identity; the figure represents the threat of disorder and degradation both from without (being overrun by the underclass) and from within (the fear that this menacing Other will appear within the bourgeois self). The figure of the brute is a paranoid fantasy of proletarianization, Howard asserts, that registers the bourgeoisie’s anxiety about their precarious class position. Naturalism’s “brute,” she writes, “is not simply a misrecognition ... an inaccurate, ignorant stereotype of the proletariat or lumpenproletariat (although it certainly is that), but a representation of the relation of a relatively privileged class to conditions of existence that produce this range of inconsistent fears.”⁴⁶

But if the “brute” Howard discusses, found in the fiction of white naturalists such as Theodore Dreiser, Frank Norris, or Jack London, allegorizes class anxieties of the bourgeoisie and embodies the fear of what white middle class readers could become, the racialized “brute beast” and degenerate slum-dweller of black criminality discourse represented a more absolute otherness for white audiences. Of Hurstwood’s professional and personal disintegration in *Sister Carrie*, Howard writes: “The disturbing question, ‘Could it happen to me?’, can never be abolished.”⁴⁷ But the Hamilton family’s racial difference puts them, and their downfall, at a safer distance for middle-class white readers. For African American readers of *Sport of the Gods*, however, the novel

⁴⁶ June Howard, *Form and History in American Literary Naturalism* (Chapel Hill, NC: University of North Carolina Press, 1985), 95.

⁴⁷ *Ibid.*, 102.

demonstrates that any kind of “distance” they might wish to put between themselves and a criminalized underclass is illusory. For black readers, that is, not only is the question “Could it happen to me?” inescapable, but its answer—“Yes it can”—is as well. As Nancy Bentley writes, the Hamilton family’s undoing represents “what can be only an ironic form of tragic irony: the fall of the already low.”⁴⁸ Unlike the economically precarious white petty bourgeoisie, for whom downward mobility was a looming *possibility*, black Americans simply could not avoid being subsumed into the racialized social abjection of criminal stigma. When Dunbar published *Sport of the Gods* in 1902, criminality and blackness had been re-constructed as mutually constitutive. The text gives expression to the inexorable nature of this stigma, regardless of whether any criminal act or conviction took place. Thus, while naturalism’s “brutes” registered middle-class white fears of slipping down the socio-economic ladder, the black “brute” Dunbar constructs in Joe Hamilton embodies not a possibility of degradation, but a ineluctable criminal stigma to be confronted.

The literary context of *Sport of the Gods* included not only naturalist fiction, however, but also the romances of the “Plantation Tradition,” whose portrayals of African Americans were shifting, in the late 1890s, away from nostalgic representations of loyal slaves towards threatening portraits of the brutal “new negro” that Emancipation had supposedly wrought. In conjunction with the rise of the negrophobic “coon songs” discussed earlier, texts like Thomas Nelson Page’s *Red Rock* (1898) began partially displacing what Gene Jarrett calls “minstrel realism” with more menacing images of

⁴⁸ Nancy Bentley, *Frantic Panoramas: American Literature and Mass Culture, 1870–1920* (Philadelphia: University of Pennsylvania Press, 2011), 204.

blackness.⁴⁹ The widespread belief among whites that minstrel performances (especially those by black actors) presented an “unobstructed window into African American life” allowed the romantic racialism of minstrel conventions to fit quite comfortably within a realist literary movement that otherwise characterized itself “as the eschewal of romance and sentiment.”⁵⁰ Indeed, it was Dunbar’s apparent adherence to minstrel realism’s protocols of racial authenticity in his dialect poetry that won him his career-making accolade from Howells. As the critics discussed earlier have since argued, Dunbar handled the tropes of minstrel realism with delicacy and irony that generally escaped contemporary white readers of his poetry and fiction. But beyond his subtle subversion of the condescending romantic racialism that framed his appearance on the international literary stage, Dunbar also sought to address the newer negrophobic imagery that had erupted into popular discourse and was working its way into literature. If Dunbar eschewed minstrel realism’s call for racially authentic portrayals of plantation life, in *Sport of the Gods* he turns his attention instead to another kind of “racial realism”⁵¹—representing the devastating impact of racialized criminalization upon former slaves and their children at the beginning of the twentieth century.

⁴⁹ At this time, Jarrett writes, the publication of *Red Rock* and Sarah Barnwell Elliott’s “An Incident, and Other Happenings” (1899) “demonstrated a shift toward the extreme expressions of white supremacist anxiety over brutish and unyielding slaves who rejected the concept of white superiority.” *Deans and Truants: Race and Realism in African American Literature* (Philadelphia: University of Pennsylvania Press, 2007), 37.

⁵⁰ *Ibid.*, 36, 33.

⁵¹ *Ibid.*, 1.

Stereotype and Stigma: *Sport of the Gods* and the Politics of Representation

Much of the critical discussion of *Sport of the Gods*, and of Dunbar's work more generally, has revolved around the question of whether he resisted or capitulated to the stereotypes of minstrel realism. Yet this question is not necessarily very helpful for understanding how *Sport of the Gods* represents and responds to the modern discourse of black criminality, for it is on exploring stigma, rather than denouncing stereotype, that the novel focuses. The common figurative use of the word "stereotype" to refer to repeated, unchanging, and simplistic preconceptions of people and things draws on the terminology of printmaking. Rather than printing many copies of a page using an assemblage of individual type-letters applied directly to paper, a "stereotype plate" would be cast of the entire page of type. This stereotype plate was more durable and could be used to print more rapidly and reliably. The metaphorical use of "stereotype" carries with it the notion of monotonous repetition and static imagery. Stereotypes in this sense are produced unthinkingly and mechanically. Stigmatization, on the other hand, refers to a more multidimensional process than stereotyping. In ancient Greek, *stigma* referred to the mark left on the body by a pointed instrument. As Erving Goffman explains in his seminal study, *Stigma: Notes on the Management of Spoiled Identity* (1961), this word eventually came to stand for a generalized condition of "disgrace."⁵² Stigma, as Goffman describes it, is not merely an externally imposed label, thoughtlessly and superficially impressed upon the stigmatized individual in the manner of stereotype. Rather, a defining

⁵² Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (New York: Simon & Schuster, 1961), 1.

characteristic of stigma is the phenomenon of “acceptance,” whereby stigmatized people come to internalize and in some degree assent to the larger society’s disregard for them.⁵³ Stigmatization thus refers not to a mechanistic procedure of labeling, but to a subjective experience, one that recruits as active participants those whom it denigrates.

The protagonists of *Sport of the Gods* are not simply innocents misidentified as dangerous criminals and subjected to specious stereotypes. They are imbued with a stigma that shapes and reshapes their identities, behaviors, and aspirations. Rather than trying to emancipate his black characters from the shadow of criminalization, Dunbar remains *with* it—showing this stigma’s operation upon the Hamilton family and its capacity to circumscribe whatever freedom black Americans enjoyed in the post-Reconstruction era. The book opens on the estate of Maurice Oakley, a white Southern gentleman and businessmen who was able to rebuild his fortunes after the Civil War. Employed as the Oakleys’ servants are Berry and Fannie Hamilton, who live in a “little cottage” behind the Big House—not in a slave “cabin” of days past, we are assured, but in a “neatly furnished, modern house, the home of a typical, good-living negro” (321). When Maurice’s dissipated and irresponsible younger brother Frank pretends that the \$500 Maurice had given him for his trip to France has been stolen, Berry Hamilton is immediately suspected. “The negroes are becoming less faithful and less contented,” Maurice explains to his younger brother (331). When a guilt-ridden Frank, who had not set out to frame anyone for his theft, protests that Berry is trustworthy, Maurice admonishes, “as soon as a negro like Hamilton learns the value of money and begins to earn it, at the same time he begins to covet some easy and rapid way of securing it.”

⁵³ Ibid., 8.

While the “old negro” of slavery days only stole “hams and bacon and chickens,” Maurice warns, the emancipated African Americans of the present have grown in ambition and covetousness: “The present negro ... has learned to value other things than those which satisfy his belly” (331).

Maurice’s belief in black moral defectiveness makes Berry’s presumed guilt an obvious matter, and when a detective finds that Berry has recently made a large bank account deposit, this circumstantial evidence renders Berry’s guilt beyond question: “If the evidence satisfies me,” Maurice barks at the detective, “it must be sufficient to satisfy any ordinary jury. I demand his immediate arrest” (338). Maurice’s presumption of Berry’s guilt is instantly endorsed by the rest of the white community, local law enforcement, and the press, who entertain no doubts of his culpability. “It seems a strange irony upon the force of right living,” the narrator wryly remarks, “that this man, who had never been arrested before, who had never even been suspected of wrong-doing, should find so few who even at the first telling doubted the story of his guilt” (342). There is, of course, nothing strange about the readiness of the white community to condemn a black man, no matter how reputable. In their eyes, the narrator reports, “Berry was already proven guilty” (346).

Berry’s helplessness to prove his innocence in the eyes of his captors indicates how his guilt is determined not by his actions, but by the racialized stigma that marks him. Blackness imposes an overwhelming burden of proof, regardless of Berry’s personal history and respectable standing in the community. Dunbar had also addressed this issue in “The Negroes of the Tenderloin,” where he describes how African Americans of all classes are subjected to the reputation of the least respectable members of the race.

Noting the double standard between blacks and whites on this account, he writes that “[t]he sight of a dweller in Fifth Avenue does not suggest a denizen of Cherry Hill [a Lower East Side slum]; but the sight of one Negro suggests a race.”⁵⁴ For this reason, he argues, middle-class African Americans cannot afford to abandon their less fortunate counterparts. As their identities are bound together in the white imagination, so are their fates intertwined. This was especially the case when it came to allegations of criminality and sexual dangerousness: “The voice of the brute who is lynched for an unspeakable crime,” Dunbar writes, “sounds further than the voice of the man of God who stands in his pulpit.”⁵⁵

Ida B. Wells makes a similar point about the ubiquitous “beast rapist” myth, although she also demonstrates that such accusations were consistently fabricated. “These charges so often reiterated,” she writes, “have had the effect of fastening the odium upon the race of a peculiar propensity for this foul crime.”⁵⁶ The myth’s stigmatizing power left no African American untouched, she argues, “stamp[ing] us a race of rapists and desperadoes.”⁵⁷ Dunbar also shares Du Bois’s concern about the widespread conflation of lower class and bourgeois African Americans. “Nothing more exasperates the better class of Negroes,” Du Bois laments in *The Philadelphia Negro*, “than this tendency to ignore utterly their existence.”⁵⁸ In his landmark sociological survey, Du Bois protests what Kevin Gaines calls “the homogenizing slanders of racism” with a politics of

⁵⁴ Dunbar, *The Sport of the Gods*, 265.

⁵⁵ *Ibid.*, 266.

⁵⁶ Wells-Barnett, *Southern Horrors and Other Writings*, 120.

⁵⁷ *Ibid.*, 61.

⁵⁸ Du Bois, *The Philadelphia Negro*, 310.

respectability based on demographic disaggregation.⁵⁹ But although Dunbar shared with Du Bois an interest in distinguishing between different strata of the African American population, he does not take up this concern in *Sport of the Gods*. The novel is not interested in contrasting the fallen Hamilton family with an upstanding, middle-class ideal of respectable black identity. In this text at least, Dunbar is in no hurry to demonstrate that these criminal (and criminalized) migrants are not representative of the race.

The full weight of this racialized criminal stigma immediately becomes apparent to Berry Hamilton. His initial shock at being accused of the theft quickly gives way to an understanding of just how close he had been to such condemnation all along, despite all his faithful service, industriousness, and “right living.” This realization provokes Berry’s most wrathful moment in the entire novel:

“You b'lieve dat I stole f'om dis house aftah all de yeahs I 've been in it, aftah de caih I took of yo' money an' yo' valybles, aftah de way I 've put you to bed f'om many a dinnah, an' you woke up to fin' all yo' money safe? Now, can you b'lieve dis?”

His voice broke, and he ended with a cry.

“Yes, I believe it, you thief, yes. Take him away.”

Berry's eyes were bloodshot as he replied, “Den, damn you! damn you! ef dat 's all dese yeahs counted fu', *I wish I had a-stoled it.*”

(340, emphasis added)

Berry curses Maurice Oakley, the man he had proudly served for so many years, upon discovering himself to be already regarded as a potential criminal by him. The Hamiltons had previously looked down upon other, less successful, African Americans in the

⁵⁹ Kevin Kelly Gaines, *Uplifting the Race: Black Leadership, Politics, and Culture in the Twentieth Century* (Chapel Hill: University of North Carolina Press, 1996), 163.

community, but here Berry finds that despite his respectable class status, his race alone had already rendered him a convict-in-waiting.⁶⁰

Just as revealing of the dynamics of criminal stigmatization as Berry's reaction above is the response of his African American neighbors. Any goodwill they may have borne the Hamiltons swiftly vanishes after Berry is accused and sentenced to prison. "In the black people of the town the strong influence of slavery was still operative," Dunbar's narrator informs us, "and with one accord they turned away from one of their own kind upon whom had been set the ban of the white people's displeasure" (343). Lawrence Rodgers reads this response as retribution for the Hamilton's heretofore-snobish behavior.⁶¹ But Dunbar's narrative makes clear that the community's ostracism of the Hamiltons is also a matter of survival: "If they had sympathy, they dared not show it. Their own interests, the safety of their own positions and firesides, demanded that they stand aloof from the criminal" (343).

The harsh and immediate rejection the Hamiltons experience attests to the stigmatizing power of criminalization and to the extent of their neighbors' fear of contagion. Shamed and unwelcome in their workplaces, on the streets, and on the Oakley estate, the Hamilton family flees to New York, where they are initially able to conceal their secret. It is only a matter of time, however, before the stigma follows them North. When Minty Brown, another migrant from their hometown, reveals that Fannie Hamilton's absent husband is locked in the penitentiary, their landlady immediately

⁶⁰ I borrow this formulation from Frank B. Wilderson, III's discussion of the "prison slave-in-waiting" in "The Prison Slave as Hegemony's (Silent) Scandal," in *Warfare in the American Homeland: Policing and Prison in a Penal Democracy*, ed. Joy James (Durham, NC: Duke University Press, 2007), 23–34.

⁶¹ Rodgers, "Paul Laurence Dunbar's 'The Sport of the Gods,'" 50.

evicts them. “I’m sorry,” she explains, but everybody in the house heard what Mis’ Brown said, an’ it’ll soon be all over town, an’ that ‘ud ruin the reputation of my house” (381). It is not “petty moralism” that spurs other African Americans to “stand aloof” from the Hamiltons, as Dixon Bruce suggests, but fear and self-preservation.⁶² This defensive tactic, however, is based on the same wishful thinking that Berry had originally exhibited—the belief that respectability can ward off the stigma of black criminality.

Especially indicative of the inescapability of racial criminal stigma in *Sport of the Gods* is the contrast the narrative draws between the novel’s two convicted criminals, Berry and Joe. Joe’s fall into guilt and criminality is accentuated in comparison to his father, who languishes in a Southern penitentiary as an innocent man. Joe’s degradation by itself might lead us to understand his character as a cautionary allegory for migration’s unhappy results. But considering Joe’s incarceration alongside his guiltless father’s imprisonment, it becomes clear how little either character’s actual behavior matters from the perspective of law enforcement and punishment—that is, for individuals like themselves, it makes no difference whether one commits a crime or not, whether one is “guilty” or “innocent.” The racialized stigma of criminality renders the characters’ real actions completely irrelevant. It reaches across the country’s geographical space, following the Hamiltons from South to North and prompting their neighbors to shun them for fear of being enveloped as well. Whereas Du Bois, in *The Philadelphia Negro*, describes a criminal “submerged tenth,”—a *lumpen* counterpart to his vaunted “Talented Tenth”—*The Sport of the Gods* indicates that the whole race is submerged in the stigma

⁶² Dickson D. Bruce, *Black American Writing from the Nadir: The Evolution of a Literary Tradition, 1877–1915* (Baton Rouge: Louisiana State University Press, 1989), 94.

of criminality, whether they know it or not.⁶³ The insignificance of human action in the face of this stigma is underscored at the novel's end, when Berry's intention to kill his wife's second husband is fortuitously deflected by the comically convenient death of his rival. Berry has just resigned himself to being hanged or sent back to prison, making him and Joe "father and son murderers," when he arrives at Fannie's apartment and discovers her other husband has just been killed in a fight at the racetrack (431). Berry's previous exoneration for his theft conviction is based upon a similarly improbable series of events. While many critics have seen the novel's ending as incredible and contrived, the very ridiculousness of these twists and turns emphasizes just how meaningless questions of innocence and guilt become when blackness is already its own conviction.⁶⁴

But if *Sport of the Gods* generally shows criminal stigmatization to be a diffuse and inescapable condition, the novel's depiction of African American women presents an apparent contradiction to this approach. That is, despite its demonstration of the futility of distinguishing between guilt and innocence, the narrative implies that black women might be a little more culpable for the race's stigmatization than black men. Throughout the novel, black women are not only at risk of corruption themselves, but threaten to take the male characters down with them. While Fannie is in many ways the family's moral

⁶³ Du Bois, *The Philadelphia Negro*, 311.

⁶⁴ Indeed, as Michael P. Moreno points out, Berry's pardon and release at the novel's end, following a muckraking journalist's sensational exposé of his case, is not a full exoneration, but simply a suspension of his sentence. Berry's dignity is not restored, Moreno writes, and his family becomes "a spectacle for public scrutiny and pity," their lives and bodies "rendered commodities available for mass consumption by the hand of northern industry." Michael P. Moreno, "Mobile Blacks and Ubiquitous Blues: Urbanizing the African American Discourses in Paul Laurence Dunbar's *The Sport of the Gods*," in *We Wear the Mask: Paul Laurence Dunbar and the Politics of Representative Reality*, ed. Willie J. Harrell (Kent, OH: Kent State UP, 2010), 226.

compass after their arrival in New York, emphatically voicing disapproval of her children's newfound pastimes, she is unable to exert her motherly influence in this unfamiliar setting and eventually succumbs to temptation herself. Fannie's bigamous marriage to Tom Gibson drives Berry into a desperate and murderous rage when he returns from the penitentiary—which, but for Gibson's serendipitous demise, would have certainly landed Berry back in prison or on the gallows.

Fannie's fall from respectability is closely tied to that of her children—particularly her daughter. In the same chapter in which Kitty tells her mother that she has been offered a job on the stage, Fannie in turn discloses Gibson's marriage proposal. Not wanting to betray Berry, Fannie nonetheless finds herself alone and without options. She begs Kitty not to follow Joe astray into the underworld of nightclubs and dancing: "Kit, I love yo' fathah; he's my only one. But Joe, he's gone, an' ef yo go, befo' Gawd I'll tell Tawm Gibson yes." Fannie's ultimatum does not have the desired effect on Kitty, however, who embraces the idea of a second marriage for her mother. "It'll be splendid," she tells Fannie: "He's such a nice man, an' race-horse men 'most always have money. Why don't you marry him, ma?" (394). Thus, Dunbar's narrative implies that Kitty's dalliance in the world of show business is what pushes Fannie to consider bigamy, and that Kitty's encouragement is what drives her over the edge. The novel positions Kitty as the instigator of a disastrous chain reaction. Following from her desire to pursue the life of a travelling stage performer, Kitty prompts the moral lapse that nearly destroys what little remains of her parents' lives.

But the real culprit behind the corruption of the Hamiltons, the novel suggests, is Hattie Sterling, who seduces Kitty no less than she does Joe. Joe is the first to meet

Hattie, but he begrudgingly introduces her to his embarrassing little sibling, who in turn “proved herself Joe’s sister by falling desperately in love with Hattie Sterling the first time they met” (391). Entranced by this worldly and beautiful “sorceress,” Kitty is quickly pressured into drinking, smoking, and auditioning for a part in the chorus, which of course she gets. Hattie’s half-joking remark that she hopes Kitty won’t soon push her “out of the business” proves prophetic, as Kitty’s ascent will soon coincide with Hattie’s demise. When Kitty protests, “Oh, I wouldn’t want to push anybody out,” Hattie assures her that “The thing has to happen. Somebody’s got to go down” (392). And down Hattie indeed goes. While Dunbar’s narrator acknowledges her role in Joe’s life as ambiguous—“Hattie Sterling had given him both his greatest impulse for evil and for good” (407)—her responsibility for Joe’s first “gentle push” towards depravity makes her complicit in his unraveling and, by implication, in her own death.

In one way or another, *Sport of the Gods* ascribes Fannie’s bigamy, Kitty’s deviance, Joe’s criminality, and Hattie’s death to uncontrolled black femininity. In contrast to the novel’s tendency to present racial criminalization as a stigma imposed on African Americans regardless of their guilt or innocence, the narrative seems to locate responsibility for that stigma with its black women. Once Joe’s degenerative “metamorphosis” is set in motion by Hattie, the narrator explains, “there was nothing within him to hold him back from the depths” (405). Such a lack of internal control was crucial to social reformers’ pathologizing views of black migrant women, and Dunbar accounts for Joe’s moral failures in these very terms.⁶⁵ Joe’s downfall is thus presented

⁶⁵ Hazel V. Carby, “Policing the Black Woman’s Body in an Urban Context,” *Critical Inquiry* 18, no. 4 (Summer 1992): 741.

not only as a consequence of dangerously unrestrained black women's behavior, but as the result of a kind of feminization, a collapse of the manly self-control that life in the big city demanded. As Marlon Ross has shown, anti-Jim Crow activists saw the need to remake black masculinity in the face of the beast rapist myth and the burgeoning discourse of racial pathology.⁶⁶ Though this project yielded diverse responses, the frequent tendency of reformers of black manhood to scapegoat African American women, however, ultimately had the effect of reinforcing, rather than attenuating, racialized criminal stigma. Black women, after all, formed the largest part of the incoming migrants, and African American migration was the glue cohering the modern discourse of black criminality.

Dunbar's text thus reflects a larger pattern affecting both racial uplift discourse and mainstream representations of black women. In popular, social scientific, and literary accounts of black urban life, women were represented through both of black criminality discourse's primary modes—the idea of the menacing and monstrous individual and that of the pathological social problem. White-authored news reports in Northern cities deployed the sensationalist trope of the “Colored Amazon” when discussing crimes committed by black women, while sociological writing cast women migrants as a criminogenic element—corrupting the race through sexual impropriety and inadequate mothering.⁶⁷ And in the context of a racial uplift discourse preoccupied with the status of

⁶⁶ Marlon B. Ross, *Manning the Race: Reforming Black Men in the Jim Crow Era* (New York: New York University Press, 2004). On the emergent distinction between “manly” self-restraint and “masculinity” during this period, see Bederman, *Manliness and Civilization*.

⁶⁷ For an account of the “Colored Amazon” stereotype in Philadelphia's popular press, see Gross, *Colored Amazons*. On black urban pathology discourse's fixation on women as incubators of crime, see Gaines, *Uplifting the Race*, chap. 6; and Fred Moten, “Uplift and Criminality,” in *Next*

African American men, as Hazel Carby observes, black women were often treated “as signs of various possible threats to the emergence of the wholesome black masculinity necessary for the establishment of an acceptable black male citizenship in the American social order.”⁶⁸ Both black and white commentators on the “Negro Question” commonly portrayed African American women as either holding black men back or actively dragging them down. But this scapegoating tendency inevitably backfired—black women were widely seen as embodying the social danger posed by black migration more generally, and as Kevin Gaines remarks, when bourgeois gender ideology was turned against black women, it “could just as easily be turned against ... all blacks.”⁶⁹

This problematic aspect of *Sport of the Gods* returns us to the oft-debated question of whether or not Dunbar’s novel capitulates to his era’s regressive racial ideology. If we look beyond this debate, however, to consider how Dunbar’s use of the naturalist novel allows him to represent modern black criminality discourse, a more complex picture emerges. Indeed, Dunbar’s willingness to dwell with stigma in *Sport of the Gods* without disavowing or compartmentalizing it does seem to buckle under pressure when it comes to black womanhood. But while *Sport of the Gods* partakes of a gendered scapegoating impulse common in racial uplift discourse, it also participates in a more ambiguous process by which naturalist fiction reimagined the relationship between women and modernity.

to the Color Line: Gender, Sexuality, and W. E. B. Du Bois, ed. Susan Gillman and Alys Eve Weinbaum (Minneapolis: University of Minnesota Press, 2006), 317–49.

⁶⁸ Carby, “Policing the Black Woman’s Body in an Urban Context,” 747.

⁶⁹ Gaines, *Uplifting the Race*, 170.

Sport of the Gods reflects a broad inclination in turn-of-the-century US culture and literature to figure women as encumbering progress towards a healthy, masculine modernity. But, as Jennifer Fleissner argues, women in naturalist fiction often served as emblems not only for modernity's downsides—as many scholars have contended—but also for the possibilities, energies, and promises modernity harbored. Naturalist fiction, Fleissner asserts, emerged as the concept of “nature” was being widely reconceived as a force internal to social life, rather than something beneath or beyond it. During this period of profound social transformation in the US, nature was increasingly seen, by novelists and sociologists alike, as an active part of historical change, rather than a static backdrop for human agency. This developing notion of nature recast human action not so much as the determined outcome of natural forces (as naturalism is often thought to do), but as intricately intertwined *with* those forces.⁷⁰ The consequences of this shift were more jarring for men, Fleissner suggests, than for women: “For the male subject, more traditionally thought capable of transcending his embodiment through rationality,” the result was “a frightening diminution of personal agency.” But for the woman, who had long been associated with nature and who was “accustomed to the way her embodiment trumps any claims made for her rational capacities,” this “revelation” about the entanglement of nature and the will was not so disruptive.⁷¹ Rather, it promised to put women and men on more equal footing than before, allowing, as Fleissner contends, the women's coming-of-age story to emblemize the modern condition for many American naturalist writers.

⁷⁰ Jennifer L. Fleissner, *Women, Compulsion, Modernity: The Moment of American Naturalism* (Chicago: University of Chicago Press, 2004), 21, 6.

⁷¹ *Ibid.*, 22.

For African Americans, also historically barred from the realm of rationality by their embodiment and supposedly “natural” characteristics, this extension of nature into the domain of social life and human agency might seem to afford a similar leveling of the playing field. If white men were now *also* understood as subject to natural forces, then acknowledging the comparable impact of migration and urbanization upon African Americans and white immigrants might have undermined racialized explanations of criminality and pathology. Indeed, this is precisely what Du Bois sought to illustrate in *The Philadelphia Negro*, demystifying the “Negro crime” problem by highlighting the resemblances between the social and economic forces affecting black migrants from the South and those acting on white immigrants from Europe. Yet, as Muhammad demonstrates, this argument did not ultimately prevail, as “ideas of racial inferiority and crime became fastened to African Americans by contrast to ideas of class and crime that shaped views of European immigrants and working-class whites.”⁷² The new “naturalist” view of social life may have conceded that both blacks and whites were subject to natural forces, but a different kind of “nature” was posited as shaping the behavior of each group. Whereas white immigrants’ poverty and crime were seen as the natural result of economic disadvantage and social marginalization, African American deviance was consistently traced to supposedly innate racial traits. “Nature” provided a program for philanthropic intervention in the case of European immigrants, but it provided the grounds for blacks’ continued condemnation; for poor whites, nature offered a way out, but for blacks it was a trap.

⁷² Muhammad, *The Condemnation of Blackness*, 6.

If naturalist writers of this period turned to women's lives as sites where powerful, invigorating natural forces erupted, with all their "wild energy and open-ended possibility," while African Americans remained tethered to particularly damning notions of embodiment and naturalness, where did this leave black women?⁷³ While on the basis of their gender they were identified as apt figures for the imbrication of individual will and natural law, their race excluded them from historical agency, rationality, citizenship, and humanity in turn-of-the-century US culture. This contradiction can help us read the women characters of *Sport of the Gods* as more than mere scapegoats who impede the progress of the narrative's men. Instead, they too embody the kind of futurity that Fleissner identifies. For while Joe is locked away and Berry is transformed into a "different man" by his time in the penitentiary, Kitty and Fannie are the novel's survivors (427). With her blossoming career as a travelling performer, Kitty in particular remains a loose end for the text, contained neither by the tragic narrative of defeat that enfolds the other characters, nor by the moralistic judgment that renders her "a nobody" in her distraught father's eyes (431). Hattie's death is certainly ominous for the young performer who follows in her footsteps, but Kitty's downfall is not a foregone conclusion at the novel's end. At the close of *Sport of the Gods*, Joe is in prison and Berry and Fannie have morosely returned to the plantation; Kitty, on the other hand, is "on the road" (432). While Dunbar's narrative presents, on the whole, a grim picture of racial criminalization's inescapable stigma, Kitty stands out from her immobilized kin. At the story's end, Kitty is pursuing fame, money, and pleasure not by transcending that stigma altogether, but in spite of it nonetheless.

⁷³ Fleissner, *Women, Compulsion, Modernity*, 18.

Social Life and Social Death

While Kitty's open-ended trajectory undercuts some of the pessimism attributed to the novel not just by critics, but by the text's own sententious narrator, her survival and success do not offer a straightforward escape route from the shadow of racial criminalization. Indeed, to the frustration of many readers, rather than discrediting or overcoming this stigma, *Sport of the Gods* dwells within it. The novel's clearest manifestation of this interest in *inhabiting* criminality is its depiction of the Banner Club. In this space, the site of Joe and Kitty's respective transformations, attitudes toward criminal stigma are decidedly ambivalent. The Banner Club, the narrator explains, "was an institution for the lower education of negro youth.... It was composed of all sorts and conditions of men, educated and uneducated, dishonest and less so, of the good, the bad, and the—unexposed" (372). A place where vulnerable newcomers like Joe are preyed upon, the club also serves as a surrogate home for many unattached young people: "It was a substitute—poor, it must be confessed—to many youths for the home life which is so lacking among certain classes in New York" (372). Joe finds a form of acceptance and support in the Banner Club that he cannot attain elsewhere. In particular, his friend, "Sadness" (so called "on account of his usual expression of innocent gloom"), encourages Joe to accept or even embrace the stigma of his father's incarceration (370). After Minty Brown first reveals the family secret in their New York boarding house, Joe is dejected and heads to the Club. Upon telling his story to Sadness, he is surprised to see that "not a muscle of the man's face changed during the entire recital" (384). Sadness

meets Joe's confession with such nonchalance because, as he explains: "Your case isn't half as bad as that of nine-tenths of the fellows that hang around here" (385). Sadness goes on to reveal that his own father was hanged by a lynch mob, remarking with characteristic irony: "Oh, yes, but it was done with a very good rope and by the best citizens of Texas, so it seems that I really ought to be very grateful to them for the distinction they conferred upon my family, but I am not. I am ungratefully sad" (385).

Sadness sardonically recasts his father's lynching as a mark of pride, but while his quip here grossly exaggerates the attitude of the Banner Club toward criminal stigma, it nonetheless indicates that within this space, criminality does not carry the same weight as elsewhere. Sadness begins pointing out other patrons and relating their criminal histories. "You see Hamilton," he explains to Joe, "in this life we are all suffering from fever, and no one edges away from the other because he finds him a little warm. It's dangerous when you're not used to it; but once you go through the parching process, you become inoculated against further contagion" (385). Once embraced, Sadness explains, the very same criminality from which the Hamiltons (and their neighbors) had sought so desperately to distance themselves actually provides, in the context of a community, a degree of immunization against further stigmatization.

Sadness's speech to Joe is not a rallying call to embrace criminality as a means for resisting white supremacy. Although his words challenge the stigmatizing power of black criminality discourse, they are also laced with bitterness at the fact that violence and addiction have become so normalized within the world of the Banner Club. Nor are Sadness's remarks the invitation to abandon all self-respect that Joe takes them to be: "If [Joe] could only have understood all that the man was saying to him, he might even yet

have turned back. But he didn't" (386). Joe feels himself welcomed into a "peculiar class" where "dishonor was the only real thing worth while," and this "made him feel better" (386). The novel's ambivalent portrayal of the Banner Club, as Jonathan Daigle has argued, may reflect complicated feelings Dunbar had developed about the constraints and possibilities of the turn-of-the-century African American stage as a writer of songs and plays himself. While the retrograde figures of "plantation darkies" or menacing urban "coons" were mainstays of New York's black theatricals, even the derogatory minstrel forms harbored for Dunbar the "potential to generate a vital, dynamic urban culture."⁷⁴ It is therefore not only in spite of the Banner Club's saturation with racialized, criminal stigma, but also to some extent because of it, that Dunbar presents this degraded haunt as a space of possible growth and transformation. But, as Susan Bausch writes, Joe does not take away from the Club "the strength to withstand their common oppression but rather their tacit permission to accept his own degradation."⁷⁵ Missing this opportunity, Joe fails to "turn back," either toward a life of conventional virtue or toward the tragic but communal embrace of the Club.

In *Sport of the Gods*, Dunbar's response to the stigma of black criminality differs markedly from the approaches of his contemporaries. As Wells remarks in *Southern Horrors*, the "new cry" of black-on-white rape and the widespread condoning of lynching served to "stamp" African Americans "a race of rapists and desperadoes." The reaction of activists and advocates to this "stamping" commonly took one of two forms. First, one

⁷⁴ Jonathan Daigle, "Paul Laurence Dunbar and the Marshall Circle: Racial Representation from Blackface to Black Naturalism," *African American Review* 43, no. 4 (2009): 644–45. See also Bentley, *Frantic Panoramas*, 203.

⁷⁵ Bausch, "Inevitable or Remediable?," 511.

could protest this false label, applied mechanistically and disseminated en masse, and instead claim the mantle of respectability and legality. This is the approach Wells and Douglass take when debunking the myth of the brute beast and asserting the upstanding virtue of African American men and women, and it is the strategy Du Bois adopts in disaggregating the “vicious classes” from the respectable majority of Philadelphia Negroes.

On the other hand, one could embrace, rather than reject, this undesired antagonistic relationship to the law, recasting the status of criminality as self-defense and rebellion. This is an approach Wells also takes at times, particularly in her 1900 pamphlet, *Mob Rule in New Orleans*, which chronicles the final days of Robert Charles’s life and forcefully contests his widespread condemnation as a “desperado” and a “fiend.” Charles and another man had been sitting on a doorstep when three white policemen confronted them and attempted to arrest them as vagrants, beating the two black men and brandishing guns at them. Charles drew his own weapon, exchanged fire with the police, and fled. New Orleans police officers were ordered to kill Charles on sight, and a three-day manhunt ensued, during which mobs of white people attacked African Americans, murdering several and wounding dozens more. After two gun-battles with the police, during which he killed more than half a dozen officers, Charles was smoked out of his hiding place and riddled with bullets. In re-telling the story of Charles’s death, Wells’s inversion of the terms of criminality and legitimacy is radical. She not only argues that Charles was acting within his basic rights of self-defense—she also characterizes the police who pursue him as the true criminals. Moreover, Wells asserts that there is no fundamental difference between the white officers, the murderous white mob, or for that

matter, the white master class of antebellum times: “This authority, given by the sergeant to kill Charles on sight, would have been no news to Charles, nor to any colored man in New Orleans . . . It is now, even as it was in the days of slavery, an unpardonable sin for a Negro to resist a white man, no matter how unjust or unprovoked the white man’s attack may be.”⁷⁶ Wells stridently denounces the press’s attempt to paint Charles in the same terms of moral monstrosity regularly employed in accounts of the brute beast rapist. Instead, she presents him as a dignified and rational individual, making a calculated if desperate stand for his own self-defense and self-determination.⁷⁷

Both of these responses to modern black criminality discourse—the rejection of the criminal label and the embrace of outlawry as righteous revolt—are ultimately ways of re-claiming legitimacy in the face of stigma. But Dunbar, it would seem, declines altogether to stake such a claim in *Sport of the Gods*. Instead, the novel opens the possibility of a more fundamental rebellion than the two approaches outlined above can offer: an implicit indictment of the very idea of criminality as hopelessly tied to repression and racial domination. *Sport of the Gods* does not lay claim to legitimacy or legality in the face of criminalization, and this refusal is in a sense more jarring to prevailing ideas about race, criminality, and the state than even Wells’s recasting of Charles as a honorable self-defender. By 1900, the dominant logic of legitimate violence and crime control in the US had absorbed the imperatives of white supremacy so deeply that “legitimacy” could not be depended upon for leverage against that racist social order.

⁷⁶ Wells-Barnett, *Southern Horrors and Other Writings*, 166.

⁷⁷ Wells, of course, was not alone in responding the charge of black criminality through a militant re-reading of crime. As mentioned above, even Du Bois raises the possibility of this oppositional reading of criminality when he discusses crime as a form of “open rebellion.”

Works of anti-racist protest that took the more conventional route include not only Wells and Du Bois's texts, but many of Dunbar's own works. In "The Haunted Oak," "The Lynching of Jube Benson," and "Is Higher Education for the Negro Hopeless?" Dunbar points to the innocence, legitimacy, and citizenship of African Americans to counter the slanders of black criminality discourse. But *Sport of the Gods* takes a very different approach. In its reflection of racial criminalization and its representation of the exemplary, stigmatized Hamilton family, the novel emphasizes the irrelevance of innocence, the inaccessibility of legitimacy, and the broken promise of citizenship. The realist and naturalist literary forms Dunbar took up in writing the novel make this intervention possible where a more programmatic approach might not have. In bringing naturalism to bear on racialized criminal stigmatization, Dunbar gives a pessimistic diagnosis of turn-of-the-century African American life with potentially radical implications. Dunbar's novel might seem merely to gaze morbidly at the wreckage of Reconstruction-era black freedom dreams. But from these ruins other dreams can emerge—not of access to the citizenship enjoyed by whites, but of utterly transforming the notions of legality, legitimacy, and authority against which blackness had been so successfully reconstructed as criminal.

The emergence of the modern discourse of black criminality was a development in US racial formation and in the nation's political and sociological imagination. Constituting both a mutation and an extension of the racial ideology that undergirded slavery, it was a departure from this older mode of racism in that it mobilized new kinds of authority (social science, statistics) and new figures of moral panic (the brute beast rapist or pathological migrant) in the struggle for racial domination. It was of a piece with

antebellum racism, however, in reproducing the state of utter precariousness and subjection to legitimate violence that existed, in a different form, under slavery. Fugitive slave laws had left all black people in the US at risk for capture and enslavement in the name of property rights. Stepping into this role, the postbellum criminal justice system kept all blacks under the perpetual threat of incarceration or execution in the name of public safety. Both legal structures, and the social imaginaries that underwrote them, were modes of managing and containing black “freedom,” whether stolen or legally conferred. The apparatus of policing and punishment at work in Du Bois’s Philadelphia, in Robert Charles’s New Orleans, or in the Hamiltons’ bucolic hometown helped establish what Saidiya Hartman calls the “amazing” and “tragic continuities in antebellum and postbellum constitutions of blackness.”⁷⁸ After the war, captivity was still always immanent, as was subjection to the will of an unrestrained master—not a slave owner now, but a law enforcement officer, a warden, a chain-gang overseer, or a lynch mob. Modern black criminality discourse ushered this peculiar form of terror into the twentieth century.

⁷⁸ Hartman, *Scenes of Subjection*, 7.

Chapter Three

Inside-Out: Race & Social Struggle in the Progressive-Era Carceral Imagination

In the post-Reconstruction US, an understanding of legitimate violence as inherently *white* violence—most properly deployed against nonwhite, but especially black, bodies—became entrenched. This racialized sensibility regarding where state violence “belongs” shaped discussions of not only white mob violence and black urban migration, but imprisonment as well. During the Progressive Era, the prison became the site of renewed public debate as reformers sought to rationalize what they perceived as an arbitrary, ineffective, and corrupt penal system. These “New Penologists” worked to bring US prisons in line with the larger ethos of Progressive reform, while a flowering of writing by and about prisoners brought a remarkable range of perspectives to the question of incarceration. Indeed, the literature of Progressive-era prison runs the gamut from the paternalistic and technocratic liberalism of many officials and scholars to the socialism, anarchism, and prison abolitionism of some incarcerated radicals. But for all its ideological diversity, this archive of writing (almost invariably by white authors) is powerfully influenced by the same racialized discourse of legitimate violence that animated discussions of lynching and black criminality. And to the extent that, as Larry Sullivan writes, “the history of twentieth-century prison reform is the history of the application of, support for, and reactions to Progressive efforts at controlling human

behavior,” these writings helped reformulate and pass on this ideology of race and punishment to future generations.¹

This chapter examines the record of early twentieth-century prison literature and considers how these white writers’ critiques of incarceration are enabled by racialized expectations about where state violence does and does not belong. Whether we read memoirs by liberal reformists like Donald Lowrie or Julian Hawthorne or by political radicals like Kate Richards O’Hare or Alexander Berkman, it is difficult not to be struck by the often derogatory, condescending, or dehumanizing representations of African American prisoners that populate their texts. At the margins of their incisive social and political commentary, we find regressive and hackneyed images of blackness. Julian Hawthorne’s prison memoir, *The Subterranean Brotherhood* (1914), offers a particularly stark example of this apparent contradiction. Son of Nathaniel Hawthorne and a successful writer in his own right, Julian served a year in Federal prison at the age of sixty-seven for a fraud conviction related to his mining business. Upon his release, he published an account of his experience that does not simply criticize prison conditions, but condemns incarceration altogether as an irredeemable institution. “The proposal toward which [this] book points,” Hawthorne writes, “is so radical and astounding—nothing less than that *Penal Imprisonment for Crime be Abolished*—that the author can hardly escape the apprehension that the mass of the public will dismiss it as preposterous and impossible.”² Decrying its inhumanity, costliness, and failure to prevent crime, Hawthorne insists that the prison is a “despotic” and “primitive device,” unsuited for the

¹ Sullivan, *The Prison Reform Movement*, 26.

² Julian Hawthorne, *The Subterranean Brotherhood* (New York: McBride, Nast & Co., 1914), xiii. Emphasis in original.

civilized society that stubbornly deploys it.³ The practice of incarceration, Hawthorne argues, rests upon society's indulgence in an "unpardonable sin":

Christ condemned it; Christianity is based upon its repudiation; we call ourselves Christians; and yet it is the characteristic crime of our civilization.... What is it? It is the thought in a man's heart that he is better, more meritorious, than his fellow.⁴

For Hawthorne, the recognition of shared humanity—of being no "better" than one's fellows no matter how far they have fallen—transcends the physical and symbolic barrier of the prison wall, revealing prisons as morally unacceptable and obsolete. Thus, Hawthorne grounds in a Christian egalitarianism his unequivocal call for prison abolition.

Yet, in dramatic contrast with this message, Hawthorne's narrative is virulently racist in its representation of African Americans. Undercutting his appeal to brotherly love and equality is his insistence upon the unrivaled depravity of black inmates. According to Hawthorne, African American prisoners are often "so debased by terror and abject" that they can be counted upon "to perjure themselves against their comrades" far more often than whites. "White men," by contrast, "uniformly have a sense of honor—thieves' honor, if you please—which keeps them loyal." Unlike whites in prison, Hawthorne contends, African Americans have no dignity or integrity to lose in the first place. Prison "snitches," he writes, "are mostly negroes," as "none save the most abject would accept such employment."⁵ Hawthorne also warns about the corrupting influence of racial integration within prisons, where African Americans, "pliant, unmoral, free from the restraints of white civilization" tend to hasten the degradation of whites. The same

³ Ibid., 299.

⁴ Ibid., 304–05.

⁵ Ibid., 54, 117.

punishments are not appropriate for both the “brutish negro from the cotton fields” and the white man “brought up in refinement and gentleness.”⁶ Hawthorne’s call for brotherhood is thus tempered by his strident white supremacism, which endorses the very same sort of hierarchical thinking upon which the “despotic” institution of the prison ostensibly rests.

In *Subterranean Brotherhood*, Hawthorne also makes rhetorical use of blackness in ways that normalize black suffering and sanitize black enslavement. In a move echoed throughout the body of Progressive-era white prison literature, Hawthorne turns to chattel slavery to undergird his critique of the prison. Describing the extent of his fellow inmates’ abjection, he writes: “What a change, what a degradation from the free American citizen of the streets and boundless expanses! Not men, now, but slaves, condemned to penal servitude.”⁷ For Hawthorne, enslavement serves as a measure of suffering that prisoners are seen to have reached or even surpassed—true to the nostalgic revisionism of the turn-of-the-century Plantation Tradition, Hawthorne argues that prison labor is “slave labor of a worse kind than was ever practiced in negro slavery times,” because African Americans had supposedly been “unconscious of any disgrace in their condition, and were as happy as ever in their lives they had been or were capable of being.”⁸ The (implicitly white) fallen citizens with whom Hawthorne is incarcerated are in a sense less abject than enslaved blacks, in that they are not “unconscious of any disgrace,” and yet this awareness is precisely what makes their disgrace more agonizing.

⁶ Ibid., 95.

⁷ Ibid., 93.

⁸ Ibid., 95, 152.

This delicate balance of identification and distancing vis-à-vis enslavement and blackness pervades the period's prison literature.

The critiques of the prison leveled by incarcerated and formerly incarcerated authors such as Hawthorne take many different forms, but they are often deeply incisive as well as powerfully resonant in our own era of mass incarceration. Yet, these arguments are consistently articulated alongside racist representations and logics. How to approach this seeming contradiction? On the one hand, we might chalk such indiscretions up to the notorious white supremacism endemic to the Progressive Era. From this angle, the authors are products of their time who fall prey to insidious racist stereotyping—their racism unfortunate but ultimately incidental to their larger arguments. Thus, we might see these prison texts as one particular instance of a pattern in which race acts as “the major blind spot” for otherwise forward-thinking Progressives.⁹

Another approach, however, would not treat the racism of reformist or radical white prison literature as contradictory at all. Critics such as Frank Wilderson and Jared Sexton have recently extended a longstanding black radical critique of humanism under the rubric of what they call “Afro-pessimism.” They argue that anti-black racism is not an imperfection in discourses of political or economic emancipation, but that it is in fact an essential component of all established discourses of liberation.¹⁰ For Wilderson, African-

⁹ David W. Southern, *The Progressive Era and Race: Reaction and Reform, 1900–1917* (Hoboken, NJ: Wiley, 2005), 2.

¹⁰ This critical avenue draws heavily on, even as it departs from, the work of Frantz Fanon, Orlando Patterson, Cedric Robinson, Sylvia Wynter, Hortense Spillers, and Saidiya Hartman. I look to Afro-pessimism here not because Wilderson and Sexton are the first to advance a critique of ideas of “freedom” and the “human” as inextricable from the negation of black humanity, but because they offer a particularly strong formulation of this line of argument, one that has resonated powerfully in our current historical moment of spectacular racialized violence.

descended people in the modern world share a persistent status of social death. Not only exiled from humanity, but locked in a fundamental “antagonism” with the notion of “the Human” itself, black subjects remain trapped in the ontological (though not the empirical) condition of the slave.¹¹ Crucially, Wilderson argues, the racial antagonism experienced by blacks operates at an altogether deeper level than the social, psychic, economic, and political conflicts conceivable by liberalism, Marxism, or psychoanalysis. The “grammar of suffering known as exploitation and alienation,” Wilderson contends, can express the predicament of the worker, the human, and the member of civil society. But it is incommensurate to the position of blackness, which still carries with it the utter incapacity, unrelenting subjection to gratuitous violence, and unshakable status as an object of exchange which accrued to this category under slavery.¹² Beginning in the late Middle Ages, Wilderson asserts, “slavery” shifts in meaning from “a condition that anyone can be subjected to, to a word which reconfigures the African body into Black flesh.” Not merely “the *experience* of the African,” slavery becomes “the African’s access to (or more correctly, banishment from) ontology.”¹³ Because the “Human” can only understand itself as such by way of a contrast with the socially dead “Black,” any project of inclusion or incorporation into humanity and civil society can only make false promises to blacks, further submerging the racial antagonism that underlies and subtends the play of exploitation, liberation, rights, and citizenship.

¹¹ Frank B. Wilderson, III, *Red, White & Black: Cinema and the Structure of U.S. Antagonisms* (Durham, NC: Duke University Press, 2010), 26.

¹² *Ibid.*, 10.

¹³ *Ibid.*, 18. Emphasis added.

For Wilderson, racial antagonism not only builds a whole social world from which blacks are paradigmatically exiled—it also continually draws upon blackness as a symbolic resource for political struggles that leave African Americans behind. The metaphor of slavery, which for Wilderson is inevitably a metaphor of blackness, has fueled emancipatory politics for centuries, but rather than forging solidarity, such rhetoric does just the opposite: “the circulation of Blackness as metaphor and image at the most politically volatile and progressive moments in history (e.g., the French, English, and American revolutions) produces dreams of liberation which are more inessential to and more parasitic on the Black, and more emphatic in their guarantee of Black suffering, than any dream of human liberation in any era heretofore.”¹⁴ The more blackness serves as a stepping stone for other freedom struggles, then, the more reliably it remains underfoot.

In approaching Progressive-era white prison literature, an Afro-pessimist perspective offers a markedly different view of these texts’ racism than does treating that racism as a mere unfortunate aberration. While, from the latter point of view, such racism is a corrupting but inessential presence in an otherwise progressive politics, for Wilderson, it is the very condition of possibility for the politics. And yet, *both* perspectives seem to posit racism as a persistent, abiding force, ontologically prior to and acting upon political and social developments. Indeed, both approaches could lead us to treat racism, or more precisely anti-black racism, as an unwavering constant across time. In this regard, historical materialist accounts of race offer a helpful caution against de-historicizing racism. While not aimed explicitly at Afro-pessimism, the objections of

¹⁴ Ibid., 22.

Marxist political theorist Adolph Reed to treating racism as “a sui generis form of injustice” are well worth keeping in mind:

Despite seeming provocative, these arguments do not go beyond the premises of the racial liberalism from which they commonly purport to dissent. They differ only in rhetorical flourish, not content. Formulations that invoke metaphors of disease or original sin reify racism by disconnecting it from the discrete historical circumstances and social structures in which it is embedded, and treating it as an autonomous force.¹⁵

Against this kind of criticism, Jared Sexton is careful to assert that Afro-pessimism is not ahistorical, but rather attends to the paradigmatic conflation of blackness and “eligibility for enslavement” that has persisted “across the *longue durée* of the premodern, modern, and now postmodern eras.” For Sexton, what Wilderson calls “the political ontology of race” is not a metaphysical constant, because it is “the explicit outcome of a politics and thereby available to historic challenge through collective struggle.” But although anti-blackness is an outcome of history, it now operates “*as if* it were a metaphysical property.”¹⁶ Afro-pessimism, Sexton maintains, can remain cognizant of the historical origins of anti-black racism and its variation in response to changing circumstances, while nonetheless asserting that a continuous state of social death has characterized black existence during *and* after slavery.

Thus, despite the tension between the quasi-metaphysical notion of a “political ontology of race” and a historical materialist approach to racial formation, we can still bring Afro-pessimism’s perspective to bear on the prison writing of the Progressive Era

¹⁵ Adolph Reed, “Marx, Race, and Neoliberalism,” *New Labor Forum* 22, no. 1 (January 2013): 52–53.

¹⁶ Wilderson, III, *Red, White & Black*, 21; Jared Sexton, “People-of-Color-Blindness: Notes on the Afterlife of Slavery,” *Social Text* 28, no. 2 103 (May 2010): 36–37. Emphasis in original.

without abandoning a historicist commitment to asking what keeps racism going and how it changes over time. In line with the Afro-pessimist approach, this chapter will treat the anti-black racism of these texts as structural and enabling, rather than incidental and encumbering. But I will also seek to describe how that racism reflects specific social conditions. In this chapter, I will argue that the racism of these prison texts, rather than merely representing an intrusion of regressive popular attitudes into otherwise forward-thinking writing, is produced by and contributes to the discourse of legitimate violence that reconfigured the meanings of racial identity in the late nineteenth- and early twentieth-century US. The power of this ideology of race and punishment is especially evident in its capacity to shape the discourse of even the prison's harshest critics.

If the end of slavery prompted a crisis in the relationship between race and citizenship, as discussed in chapter 1, it also disrupted the relation between race and imprisonment. Since its inception, the penitentiary had primarily (though by no means exclusively) confined white men and had existed in a much-debated relation with slavery. During the antebellum era, penitentiary advocates had been at pains to differentiate imprisonment from enslavement in the public imagination. Many of the prison reformers of the early nineteenth century were also vocal opponents of slavery. As Adam Hirsch writes, "The impulse to break down plantations, it seems, was often accompanied by a longing to build up prison walls," and the tension between these two projects left its mark on the era's discourse of prison reform.¹⁷ The penitentiary faced much less opposition on libertarian grounds in the US than it did in England, where it was often linked to slavery and attacked as an unnatural violation of liberty. Still, American prison reform literature

¹⁷ Hirsch, *The Rise of the Penitentiary Prisons and Punishment in Early America*, 76.

sought to reconcile opposition to slavery with support for captivity and forced labor in the penitentiary. Some reformers insisted that the “slavery” of prisoners was justified on the basis of their offense, while others contended that the two institutions had only superficial similarities. But, as Hirsch explains, another paradox remained: “If the penitentiary's internal regime resembled that of the plantation so closely that the two were often loosely equated, how could the prison possibly function to rehabilitate criminals?”¹⁸ For this reason, reformers needed to distinguish the ostensibly salutary moral effects of imprisonment from the detrimental effects of slavery. Meanwhile, Southern apologists for slavery exploited the comparison of plantations and prisons to argue that if slavery were abolished, the prison would have to go, too. Extending the common proslavery argument that slaves were no worse off than Northern wage laborers, they maintained that the keepers of prisoners had no right to moralize against the keepers of slaves: “Slave, inmate, wage earner,” writes Hirsch, “For defenders of slavery, they differed only in name.”¹⁹

While the relation between slavery and incarceration, thus, was highly contested in the early Republic, the racialization of the prison as an institution for whites was commonly taken for granted. Although African Americans were certainly present in Northern prisons before the Civil War (indeed, they were overrepresented), the ideology of penal reform driving the penitentiary movement was nonetheless centered on white men. As Angela Davis argues, blacks were considered ineligible for the redemption and return to citizenship that the penitentiary promised white men. This penal regime was,

¹⁸ Ibid., 76, 77, 84.

¹⁹ Ibid., 102.

Davis writes, “based on a construction of the individual that did not apply to people excluded from citizenship by virtue of their race and thus from a recognition of their communities as composed of individuals possessing rights and liberties.”²⁰ While Jeannine DeLombard has rightly warned that “the black convict under slavery” becomes “all but unimaginable” when scholars assume a rigid binary between the (white) penitentiary and (black) plantation, the discourse of penal reformers nonetheless focused on the white, Jacksonian citizen-subject with liberty enough to lose.²¹ As such, slavery provided an important—if unsteady—marker of racial difference for the penitentiary.

After Emancipation, with the institution of slavery no longer a *contemporary* reference point against which whites could measure their freedom, imprisonment became the primary juridical status of unfreedom available for such a comparison. If postbellum white Americans faced the question, as Grace Elizabeth Hale puts it, of what citizenship would mean in “a world without slaves,” the question also emerged as to what imprisonment would mean in a world where prisoners were the only legal “slaves” left.²² And as whiteness became aligned, in prevailing discourses, with freedom, citizenship, and the capacity to wield state power, while blackness became increasingly associated with criminality and subjection to state violence, the fact that most prisoners in the US were white started to look like a troubling contradiction. Given the period’s racialized ideology of legitimate violence, white prisoners found themselves in a paradoxical position.

²⁰ Angela Y. Davis, *The Angela Y. Davis Reader*, ed. Joy James, 1 edition (Malden, MA: Blackwell Publishing, 1998), 97.

²¹ DeLombard, *In the Shadow of the Gallows*, 12.

²² Hale, *Making Whiteness*, 5.

White prison writers worked to manage this contradiction in their texts, as whiteness became more aggressively linked with being an agent, and not an object, of state violence. In this postbellum context, imprisonment imposed a more powerful stigma than before; this implicitly racialized status of social abjection provided an impetus for incarcerated white writers to differentiate themselves from black prisoners and, more broadly, to distance themselves conceptually from the experience of imprisonment. The disavowal of their abject status took two main forms. First, it frequently entailed the projection of depravity, pathology, or pitifulness onto African American prisoners. In these representations, we see not simply a denigration of blackness to shore up whiteness by contrast, but in particular, a depiction of black bodies as belonging in and belonging to carceral space in ways that whites ostensibly did not. Such representation exemplifies what many scholars have identified as the comparative function by which images of blackness consolidate white racial identity—from the “Africanist other” in contrast to which the white American subject knew itself to be free (as Toni Morrison explains) to the “ontological incapacity” against which white subjects understand themselves to be capable, socially alive, and human (as Wilderson has argued more recently).²³ But these texts also provide us with a more specific instance of how such racialized imagining of freedom and unfreedom evolved after slavery’s end, and the crucial role that carceral violence played in that process. These prison writings, that is, provide a window onto the adaptation of anti-black racism to the changed historical, social, and economic circumstances that the postbellum era brought. As such, they indicate the importance of

²³ Toni Morrison, *Playing in the Dark: Whiteness and the Literary Imagination* (Cambridge, MA: Harvard University Press, 1992); Wilderson, III, *Red, White & Black*, 49.

legitimate state violence—and, increasingly, the prison in particular—to the racial formation of the Jim Crow US.

The second main avenue by which white prisoners' disavowed their (racially stigmatized) socially abject status was by embracing a class-based identity as participants in social struggles that transcended the prison wall. By doing so, these authors could construct themselves as something more than prisoners—as victims of economic exploitation, subjects of revolutionary consciousness, and agents of historical change. From the state of living death imposed by the penitentiary, these authors seek to write themselves back into social life. From the isolation and objecthood to which the prison seeks to confine them, they assert subjectivity as world-historical actors who are part of a collective whole. Yet, like in the former case, this mode of disavowing the abjection of incarceration also takes place against a backdrop of black subjection to carceral violence. If the ordeal of incarceration threatened white subjects with racial degradation, the identity of worker, of proletarian, or of revolutionary offered them a way of reconceiving of the meaning of their imprisonment. This is not, of course, to say that expressions of class consciousness among white prisoners of the period were *simply* a means for them to differentiate themselves from African Americans. But while the embrace of class-based identity was indeed a reflection of economic realities, that embrace also had the effect of warding off the powerful racialized stigma of criminality. Narrating themselves out of the prison and into the larger class struggle, these white prison writers assert that they neither belong in nor belong to penitentiary space. But this conceptual prison break consistently leaves behind black prisoners, whose ties to the penitentiary always seem more tenacious and more difficult to transcend.

Progressive-era white prison writing presents an instance of the troubling entanglement of anti-blackness and emancipatory politics. In combination with the often-marginal but explicit denigrations of blackness which these texts manifest, such writing implicitly thinks freedom, class consciousness, and revolution in a way that distances this vision of liberation from blackness. Indeed, these texts cannot think emancipation without further entrenching blackness as its opposite—even when they take up the historical event of Emancipation as a metaphor for the liberation they desire. The racism of their texts is not just an unfortunate and incidental flaw, but rather serves as a foundation upon which their often incisive critiques of carceral capitalism are built. Indeed, these writers force us to confront anti-black racism as a generative force, rather than just as an encumbrance on political thinking. These authors' acts of self-distancing from the abjection of imprisonment, though rooted in a paradigm of anti-blackness, helped them launch a critique of the prison that challenges the ideology of the penitentiary in a fundamental way.

Given this frustrating mutual implication between this archive of protest writing and anti-black racism, why read these texts in the first place? And how? This is not a question of whether the critiques of incarceration they advance are valuable “in spite” of the texts' racism, because such a formulation assumes a separability between the critique and the racism that I have been suggesting is illusory. Indeed, to speak of their critique of the prison as something we might salvage from racism would in fact be to collude in obscuring anti-blackness's centrality to their radical thought. So, if Progressive-era white prison writers are, at their sharpest, still envisioning the struggle for freedom via the imaginative springboard of black subjection, is there any way out of this racist morass?

Are these texts worth reading as anything other than a cautionary tale about the dependence of emancipatory discourses on anti-black racism?

The archive of Progressive-era white prison writing offers a particular instance of how a discourse of freedom can be articulated through recourse to black unfreedom. Looking at these texts, we can consider anti-black racism not as an unrelenting and uniform force, but as an important, enabling element in critiques of the state, the market, and the penitentiary. We can see the visions of freedom and repression that the image of blackness makes possible, as well as the ways such figurative appropriations of blackness crowd out acknowledgement of actual black suffering. And we can see, in this archive of texts that actively seek to resist and question the premises of incarceration, the same set of assumptions about where legitimate violence does and does not belong—and about which bodies should be its objects—that shaped discussions of lynching and black criminality at the turn of the century. As these prison writers manage the contradiction inherent in being a white subject the hands of a racialized punishment apparatus, their experiences are filtered through the black presence that appears marginal but in fact grounds their visions of freedom and unfreedom. If, as Wilderson argues, the properties of fungibility and accumulability imposed upon the enslaved outlived the institution of slavery itself and stuck to the postbellum black body “like Velcro,” this striking analogy still needs to be explained by means of specific mechanisms that enabled this afterlife of slavery.²⁴ The punishment system was a particular historical site where the subjection of the enslaved was adapted to the conditions of the post-emancipation US. And the protest writings of incarcerated white critics both reflected and reinforced the normalization of

²⁴ Wilderson, III, *Red, White & Black*, 18.

that system's violence against African Americans at the beginning of the twentieth century.

Prison, Market, World

In their efforts to make the prison a more efficient instrument of crime control, Progressive-era prison reformers were concerned first and foremost with policing the boundary between the prison and the rest of society. When it came to maintaining separation between the prison and “free world,” reformers were just as concerned with keeping detrimental elements of the larger society out of the penitentiary as they were with keeping the prisoners confined. This concern applied in particular to the economic relations between inside and outside the walls; Progressives saw the intrusion of the profit motive into the prison as a threat to rehabilitation, and the presence of convict-made goods on the public market as a threat to the health of the economy. Rather than merely keep convicts away from the rest of the population, the reformers also sought to facilitate salutary exchanges across the prison wall—increasing public scrutiny of conditions on the inside, incorporating “free-world” practices like self-government into the prisons, and, of course, returning rehabilitated convicts to society. From the perspective of the reformers, the border between the prison and the free world beyond required expert management to promote the most beneficial forms of exchange and prevent the most adverse ones. Those adverse relations, moreover, were often characterized as reminiscent of slavery, and thus the reformers’ activism against

exploitative labor practices was fraught with anxiety about the racial status of white prisoners.

In keeping with the muckraking ethos of the Progressives, reformers sought to open the shadowy space of the prison to public scrutiny. One major avenue for this project was the publication of writings by former prisoners. In exposés like Donald Lowrie's *My Life in Prison* (1912), survivors of incarceration testified about prison conditions and made recommendations for reform. Lowrie had served a decade in California's San Quentin Prison for a burglary conviction when he published his bestselling memoir. In *My Life in Prison*, Lowrie invites his readers into San Quentin, imploring them to "[p]ut yourself in my place" as he condemns "the futility of the present system and the unnecessary degradation to which the delinquent is subjected."²⁵ Too much secrecy and too little accountability, he contends, have allowed the prison system to grow gratuitously cruel and unforgivably dysfunctional.

First, Lowrie argues, prison conditions are intolerable. He describes how prisoners are subjected to floors that are "never washed" and to "fearful" ventilation: "In the morning the outside air is such a contrast that one tastes it. Contagion is bound to linger in these cells, and many a healthy prisoner had contracted consumption in this way."²⁶ While he denounces the toxic, enclosed environment in which the prisoners live, however, Lowrie's most vehement condemnation is directed at the routine abuse and torture of prisoners. He relates how his fellow prisoner, Ed Morrell, confined in "solitary row" for five years, was so traumatized by prolonged isolation that he became unable to

²⁵ Donald Lowrie, *My Life in Prison* (New York: Mitchell Kennerley, 1912), 3, 84.

²⁶ *Ibid.*, 34.

speak in anything but a whisper. Upon learning this from Morrell himself, Lowrie writes: “I felt as though I had come upon the greatest horror of my life.”²⁷ Lowrie also describes the authorities’ brutal use of the straitjacket. While never bound in one himself, Lowrie saw “scores” of its victims who were frequently “unable to walk without assistance” after their six-hour punishment.²⁸ A counterproductive and inhumane practice, the straitjacket is “purely a relic of barbarism” that must be abolished immediately.²⁹ Near the book’s end, Lowrie narrates an especially harrowing incident in which a prisoner, having been caught making decorative ornaments and accused of trading with the guards, was repeatedly tied up in “the jacket” for six hours at a time over the course of several days. As the prisoner’s “screams of agony were piercing our brains,” Lowrie explains, those within earshot instinctively remained as quiet as possible:

Without reasoning about it, we wanted those screams to have full sway, to reach everywhere, all through the prison, over the walls, out into the world, into the homes of men and women, into the schools, into the churches.³⁰

Through prison exposés such as Lowrie’s, the “screams” of the imprisoned are relayed to the larger reading public. Reaching through the bars and walls that conceal the insufferable conditions and excessive violence of incarceration, *My Life in Prison* aims to make these anguished cries audible to the rest of society in the hope that they will hold “full sway” in the court of public opinion.

One of Lowrie’s many readers was the philanthropist Thomas Mott Osborne, who credited *My Life in Prison* with his entry into the field of prison reform. Osborne was

²⁷ Ibid., 172.

²⁸ Ibid., 86.

²⁹ Ibid., 288.

³⁰ Ibid., 397.

appointed chairman of the New York Prison Reform Commission at a pivotal moment. Just months earlier, in the summer of 1913, inmates at Sing Sing Prison had staged an ingenious protest against their living conditions by shattering the institution's windows with the rock-hard bread they were forced to eat.³¹ One of Osborne's first acts as chairman of the Commission was a highly publicized, week-long stay as an "inmate" at Auburn Penitentiary, chronicled in his 1914 book, *Within Prison Walls*. In his account of this visit, Osborne explains that he already knew that the material conditions of confinement at Auburn were "medieval" prior to his visit. Nonetheless, as a concerned citizen and public official, he wanted "to get all possible light regarding the actual effect of the System as a whole, or specific parts of it, upon the prisoners."³² Where journalists and prison writers like Lowrie sought to disseminate information about prison conditions to the public on the outside, Progressive administrators strove to bring official, technocratic oversight more deeply into the institutions.

In his stint as prisoner "Tom Brown," Osborne embodied this goal quite literally. Following from the supposition that the prison was too separate from civil society and civilized life, reformers sought to narrow that gap and bring the prison and the larger world into closer relation. But Osborne's zealous effort to do so went well beyond his enthusiasm for official observation of prison conditions. After completing his stay at Auburn, Osborne set to work instituting what he envisioned as a democratic system of prisoner self-government. Through this organization, the Mutual Welfare League,

³¹ McLennan, *The Crisis of Imprisonment*, 1–3, 308–16.

³² Thomas Mott Osborne, *Within Prison Walls: Being a Narrative of Personal Experience during a Week of Voluntary Confinement in the State Prison at Auburn, New York* (New York: D. Appleton, 1914), 5.

Auburn's prisoners elected a committee of delegates to represent them and assume some of the guards' police powers within the institution. As Rebecca McLennan writes, "Osborne's program in general aimed to break down the oppositional relationships of guards to prisoners, and of criminals to citizens, by making incarceration a cooperative enterprise among all concerned." The men selected to take part in framing the "prisoners' constitution" were skeptical about this plan, particularly the ways in which it would enlist inmates as informers and enforcers for the administration. Osborne labored to convince the men to vote in favor of his proposal and even tried to instill the false impression that the whole idea had originated among the prisoners themselves, rather than with him.³³ Insisting that the creation of prisoner guards and prisoner-run disciplinary tribunals was part of a larger democratization process, Osborne told the prisoner committee that "the state will patrol the walls, that is their business, but inside the walls it is up to you."³⁴ In Osborne's plan, democratic society (both in its deliberative and repressive aspects) was to be reproduced inside the prison.

In *My Life in Prison*, Lowrie, too, had imagined a reformed penal system that would bring the best of the free world into the space of punishment and rehabilitation. It is the desire to bring the prison and the outside world into closer relation that eventually prompts Lowrie's somewhat surprising suggestion (given his commitment to the project of prison *reform*) of abolishing prisons altogether. Criticizing a plan to increase California's state prison capacity by 1,500 beds, he asks, "Will an additional 1,500 be

³³ McLennan, *The Crisis of Imprisonment*, 346, 340, 354.

³⁴ *Ibid.*, 352.

desirable? It is not new cells that are required, but a new system without cells.”³⁵ Lowrie ends his book with a plea for the kind of thoughtful, compassionate leadership in prison administration that he feels could make prisons obsolete once and for all:

Some day the people will realize the fact that the man at the head of a State prison should be just as capable and efficient as a man at the head of a university, for every aspect of human life and character is contained within the four walls of a penitentiary. And some day it will not even be necessary to have walls of brick and stone at all.³⁶

Within Lowrie’s utopian vision, the prison as a physical structure—though perhaps not as an institution—has withered away; its disciplinary function is to be carried out openly in the midst of civil society, like a university’s educational activities on an open campus. In this scenario, society has not so much destroyed the prison as it has absorbed and merged with it.

Lowrie was eventually hired by Osborne as a consultant, and while he certainly never realized his dream of a prison without walls, this ideal was in one respect quite similar to what Osborne sought to accomplish with the Mutual Welfare League. Both men’s visions disavowed the inherently repressive nature of the prison, imagining that it could continue to confine and discipline without coercion. Indeed, Osborne’s efforts to base the operation of Auburn prison on the consent of the governed—even though the institution was predicated upon the irrelevance and impossibility of its inmates’ consent—could be seen as another version of Lowrie’s wishing-away of “walls of brick and stone” as imprisonment’s necessary condition. Though paradoxical, these fantasies represent the logical conclusion of the Progressive faith that the prison could be made

³⁵ Lowrie, *My Life in Prison*, 421.

³⁶ *Ibid.*, 420.

more socially useful and less cruel if only it could resemble the free world more closely and be brought into a more intimate relation with society at large.

Progressives, of course, saw the “free world” as in need of reform, too. But to the extent that they saw proximity and interchange between prison and free world as the solution to the penitentiary’s ills, they also looked to US society as something worthy of emulation within the walls.³⁷ However, despite this overall impetus towards breaking down the barrier between prison and society, many Progressive-era prison writers and reformers worked to keep these two realms as separate as possible when it came to economics. The prison and the market, they insisted, posed a grave threat to one another. The intrusion of market forces into the prison, they argued, was a form of corruption, leading to the exploitation of prisoner labor for private profit, as well as a form of market tampering, which would lead to artificially low prices on prison-made goods and depress wages for free workers.

In 1912, Columbia University professor E. Stagg Whitin published *Penal Servitude*, a report on the state of US prison labor practices which outlined a set of recommendations for reform. In the report, Whitin calls for employing prisoners in “maintenance” labor that serves the needs of the prison itself, rather than in the production of goods for public consumption. Such work includes repairing the infrastructure, cleaning, cooking, growing food, and bookkeeping—but the most paradigmatic form of this kind of labor is the building of prisons themselves: “Work upon the construction of the institution,” Whitin writes, “is the most natural and logical

³⁷ As discussed further below, the problems with taking turn-of-the-century US society as a template for the prison world become particularly evident in these reformers’ general indifference towards racial antagonism both in and out of the prison.

proposition for employment of convicts.”³⁸ Of all these forms of reproductive labor, that is, none is more “natural and logical” than the literal reproduction of the prison itself. Maintenance labor, Whitin argues, provides a healthy outlet for prisoners’ “pent-up energies,” cuts costs to taxpayers, and allows the prison to function as a self-contained system.³⁹

When prisoners’ labor is made available beyond the limits of such a closed-off institution and offered up to private interests, however, the results, Whitin reports, are damaging. The intrusion of market forces into the prison not only undermines the rehabilitative project, but threatens to dissolve the fraught distinction between incarceration and enslavement. A lack of public accountability, warped incentives, and greater brutality are likely to be the consequence of contracting prisoners out to private businesses, Whitin warns. Indeed, leasing prisoners out for farm work, he contends, yields a new form of slavery: “A slave system based upon neither hereditary ideas, nor the family customs which were incident to the old colored slavery, cannot but duplicate the horrors of antibellum [sic] slavery devoid of its better features.”⁴⁰ Like Julian Hawthorne in *Subterranean Brotherhood*, Whitin invokes slavery via the sentimental, nostalgic vision of the Plantation Tradition to denounce the oppression of prisoners. While Whitin is concerned with the exploitation of black prisoners as well as white ones by convict leasing, his argument here pivots on a naturalized image of black subjection to slavery against which the unnatural neo-slavery of the convict-lease system can

³⁸ Ernest Stagg Whitin, *Penal Servitude* (New York: National Committee on Prison Labor, 1912), 36.

³⁹ *Ibid.*, 35.

⁴⁰ *Ibid.*, 50.

compared. For an advocate of prison labor's rehabilitative effects such as Whitin, the for-profit employment of prisoners resonates too strongly with the Thirteenth Amendment's sanctioning of enslavement in the case of criminal punishment. Like the antislavery penitentiary advocates of a century before, Whitin seeks to distinguish clearly between the degradation of enslavement and the redemptive effects of prison labor. Protecting the prison's vulnerable captives from the brutalizing forces of the market is essential for vouchsafing the prison's claim to modernity and the prisoners' claims to whiteness.

Whitin also seeks to protect the market from the prison. Since institutionally produced goods can be manufactured at abnormally low cost, prison-made commodities threaten to bring down the wages of free laborers. What Whitin proposes instead is a system of "state use" by which prison-made goods are kept out of the open market but distributed throughout government agencies "at a price as near as possible to the mean of the fluctuation of the outside competitive market." This "isolated market," carefully segregated from the larger economy, ensures that prisoners can be put to work without endangering the wages of free workers.⁴¹ In Whitin's effort to protect free workers, numerous echoes of deeply racialized labor politics can be heard. Since before the Civil War, and gaining strength in the Gilded Era, labor activists had protested free men having to compete with imprisoned workers. Their arguments mirrored those of antebellum "Free Soilers," who opposed the westward expansion of slavery so as to protect "free white labor," as well as those of postbellum advocates of Chinese exclusion, who insisted that Chinese workers would depress white wages and debase the dignity of labor no less than chattel slavery had. Indeed, slavery often figured into the rhetoric of anti-convict

⁴¹ Ibid., 73.

leasing activists, as when granite cutters facing competition with convict workers in Texas in the 1880s objected that “freemen will not submit to the introduction of slavery into our trade under the guise of convict labor.”⁴² Thus, despite the Progressive desire for a closer relationship between the prison and free world, the importance placed on economically segregating prison labor by reformers like Whitin was part of a long tradition that sought to protect white labor in particular from encroachment by more downtrodden, desperate, and presumably unorganizable workers.

In a 1913 article, former President and prison reformer Theodore Roosevelt joined Whitin’s call for an “isolated” prison economy. Roosevelt staunchly opposed convict leasing: “Undoubtedly the convict contract labor system should be abolished,” he writes, “and the prisoners should be set to work to produce articles solely for governmental consumption.” Nonetheless, he believed that the logic of the market could play a role in rehabilitating prisoners: “The fact that a prisoner can earn money while under imprisonment is the greatest incentive to right living that can be given him.”⁴³ Prisoners, Roosevelt argued, should be able to earn money that they could either send to their families on the outside, or receive in installments once on parole. Roosevelt’s vision of rehabilitation through financial incentives resembles Thomas Mott Osborne’s program for prisoner self-government. In both cases, the reconstitution of “free-world” relations in microcosm within the prison—whether in economic or political terms—was meant to import the best that liberal democratic society had to offer to help remake prisoners as rehabilitated citizen-workers. Thus, when such reformist writers critique the prison—be

⁴² Quoted in McLennan, *The Crisis of Imprisonment*, 158.

⁴³ Theodore Roosevelt, “The New Penology,” *Annals of the American Academy of Political and Social Science* 46 (March 1, 1913): 5, 7.

they former prisoners like Lowrie or elite statesmen like Roosevelt and Osborne—their concerns revolve around the proper management of the boundary between the penitentiary and the rest of the world. Whether they argue the prison has drifted too far from the public eye and from the humanitarian standards of modern society or that it has become too permeable to the corrupting forces of the unrestrained market, such Progressive critics call for a recalibration of the relation between society and its prisons. In this line of approach, it is decidedly the institution of the prison, and not the larger society, that needs fixing.

Carceral Capitalism

For prison writers with a less rosy outlook on American capitalism, however, criticism of the penitentiary was inseparable from criticism of the economic system that produced and sustained this institution. Like their Progressive counterparts, these more radical writers were concerned with how market forces penetrated prison walls. But where reformers like Whitin saw the intrusion of private interests into the prison as a form of corruption interfering with the institution's worthwhile objectives, anti-capitalist prison writers of this period saw the market as a fundamental structuring force, giving the prison its *raison d'être* and shaping life within it. Framing incarceration as an instrument of class conflict, they present the prison as one site of social struggle among many.

In their prison memoirs, Jack London, Alexander Berkman, and Kate Richards O'Hare explore how capitalism—and not simply the conditions of confinement—

determines the behavior of prison inmates. For London, the prison played a clear role in the class struggle of the turn-of-the-century US. He describes his own arrest as a youth in his 1905 essay, "How I Became a Socialist." As a teenager, London had embraced an ideology of individualism and free labor: "Work was everything. It was sanctification and salvation." London writes that he "was as faithful a wage slave as ever [a] capitalist exploited," and notes, "I doubt not, if other events had not changed my career, that I should have evolved into a professional strike-breaker."⁴⁴ Those "other events" follow from London's decision, at age eighteen, to go "tramping" and head east from California, where job opportunities for young men like himself were ample, to the "congested labor centers of the East," where employment was far more scarce. This new labor market gave London a fresh perspective: "I had dropped down from the proletariat into what sociologists love to call the 'submerged tenth,' and I was startled to discover the way in which that submerged tenth was recruited." What London discovers is a veritable army of dispossessed and exploited men and women whose years of hard work had done nothing to protect them from falling into what he calls "the Social Pit." Shocked and disheartened by what he sees, the young London becomes disillusioned with the individualist "bourgeois ethics" to which he had previously subscribed.⁴⁵ He then decides to avoid work as much as he possibly can, and is soon arrested for vagrancy.

Witnessing the misery of his fellow laborers turns London off of work, but it is his experience of incarceration that eventually turns him on to socialism. London relates the series of events that spurred his political conversion:

⁴⁴ Jack London, "How I Became a Socialist," in *War of the Classes* (Macmillan, 1905), 271, 272.

⁴⁵ *Ibid.*, 273, 274, 272.

[W]hile tramping some ten thousand miles through the United States and Canada, I strayed into Niagara Falls, was nabbed by a fee-hunting constable, denied the right to plead guilty or not guilty, sentenced out of hand to thirty days imprisonment for having no fixed abode and no visible means of support, handcuffed and chained to a bunch of men similarly circumstanced, carted down country to Buffalo, registered at the Erie County Penitentiary, had my head clipped and my budding mustache shaved, was dressed in convict stripes, compulsorily vaccinated by a medical student who practiced on such as we, was made to march the lock-step, and put to work under the eyes of guards armed with Winchester rifles....⁴⁶

This condensed account of his captivity shows London's metamorphosis from the proud, mobile, individualistic *agent* he understood himself to be early in life (whether as an ambitious and eager laborer or as a resistant "tramp") into an object in the hands of the criminal justice system. London is "nabbed," "sentenced," "handcuffed and chained," "carted," "clipped" and "shaved," "dressed," "compulsorily vaccinated," and finally "put to work." His experience of total disempowerment by the punishment apparatus inverts his prior ideal of manly self-making and completes the transformation of labor in his eyes from a source of self-respect and "salvation" to something that must be extracted by force. Gaining first-hand knowledge of the penitentiary's disciplinary function of controlling the poor and working classes proves to be the most powerful component of London's political education: "Since that day I have opened many books," he writes, "but no economic argument ... affects me as profoundly and convincingly as I was affected on the day when I first saw the walls of the Social Pit rise around me and felt myself slipping down, down, into the shambles at the bottom." The prison, for London, is an especially treacherous element of the larger social machinery but, fortunately, also a classroom for instruction in the class struggle. In describing himself as "reborn" during his

⁴⁶ Ibid., 276.

incarceration, London echoes the narrative of living death and rebirth that Caleb Smith has identified at the heart of the ideology of the penitentiary. Whereas the framers of the penitentiary system hoped the mortification of the prisoner would yield religious and moral transformation, London's secularized political "conversion" reworks the penitentiary's foundational narrative to new ends.⁴⁷

In addition to identifying the prison as a tool of class warfare, London also describes how the economic exploitation of the larger world permeates life in the penitentiary. During his time in prison, London was one of thirteen "trustees" appointed to rule over the 500 other prisoners. In his 1907 memoir, he frankly admits his own complicity in abusing and extorting other inmates. "We were economic masters inside our hall," London explains, "turning the trick in ways quite similar to the economic masters of civilization. We controlled the food-supply of the population, and just like our brother bandits outside, we made the people pay through the nose for it." He confides: "Oh, we were wolves, believe me — just like the fellows who do business in Wall Street."⁴⁸ London and his fellow trustees also exploited their power over the system by which notes and other communiqués circulated between prisoners. "We who were in control of the system of communication," he writes, "naturally, since we were modeled after capitalistic society, exacted heavy tolls from our customers."⁴⁹ Clearly, London's conversion to socialistic ideals was not complete during his month-long stay in the Erie County Penitentiary. Though he might have shed his prior faithfulness to "wage slavery" by this point, he remains enthralled by the acquisitive logic of capitalism. Indeed, for the

⁴⁷ Ibid., 277; Smith, *The Prison and the American Imagination*.

⁴⁸ Jack London, *The Road* (Macmillan, 1907), 101, 104.

⁴⁹ Ibid., 113.

first time in his life, London finds himself at the top of an economic hierarchy, even while he is an imprisoned and exploited laborer at the same time. In contrast to Progressives' optimism about the rehabilitative power of economic rationality, London suggests that the economic life of the prison reproduces in microcosm the outside world's avarice and brutality.

Alexander Berkman echoes this analysis in his *Prison Memoirs of an Anarchist* (1912), in which he recounts his fourteen-year prison sentence for the attempted assassination of industrialist Henry Clay Frick. *Prison Memoirs* describes diverse forms of struggle and violence inside the prison that recapitulate those on the outside—from guards' brutality to escape conspiracies to internecine spying, snitching, and other betrayals. Berkman writes of life in Pennsylvania's Western State Penitentiary:

Daily I behold the machinery at work, grinding and pulverizing, brutalizing the officers, dehumanizing the inmates. Far removed from the strife and struggle of the larger world, I yet witness its miniature replica, more agonizing and merciless within the walls. A perfected model it is, this prison life, with its apparent uniformity and dull passivity.... Hidden by the veil of discipline rages the struggle of fiercely contending wills, and intricate meshes are woven in the quagmire of darkness and suppression."⁵⁰

For Berkman, the prison is separated, "far removed from ... the larger world," but nonetheless subject to the same forms of conflict, repression and resistance that can be seen elsewhere. The "machinery" is not fundamentally different on the inside, though miniaturized and intensified. In both the prison and the larger world, an outward appearance of "dull passivity" masks the fierce antagonisms that rage on just beneath the surface. As this struggle grinds onward, the "daily" violence it generates becomes

⁵⁰ Alexander Berkman, *Prison Memoirs of an Anarchist*, Reprint (New York: New York Review Books, 1999), 273.

mundane by sheer repetition, and the superficial “veil of discipline” perpetuates the illusion of the social order’s stability. Like London, Berkman notes that the disastrous behavior promoted by capitalism is recapitulated among the prisoners. His “prison-house environment,” he writes, was “but another manifestation of the Midas-hand, whose cursed touch turns everything to the brutal service of Mammon. . . . This nightmare is but an intensified replica of the world beyond, the larger prison locked with the levers of Greed, guarded by the spawn of hunger.”⁵¹ Thus, for Berkman, the prison not only mirrors the so-called free world; it reveals that world itself to be nothing but a “larger prison.” This perspective not only renders impossible the segregation of prison and free world to which the Progressives aspired, it also makes a mockery of their desire to bring salutary elements of civil society behind the penitentiary wall. For the free world, in Berkman’s view, has nothing to offer the carceral world that is not already captured by the prison’s “perfected model” of society.

Berkman comments on the transformations that his understanding of the prison—and of its inhabitants—underwent during his incarceration. Before going to prison, he writes, Berkman had imagined that the penitentiary allowed for a simpler and more genuine existence than did life on the outside:

Notwithstanding all its terrors, perhaps because of them, I had always thought of prison as a place where, in a measure, nature comes into its own: social distinctions are abolished, artificial barriers destroyed; no need of hiding one’s thought and emotions; one could be his real self, shedding all hypocrisy and artifice at the prison gates. But how different is this life! It is full of deceit, sham, and pharisaism,—an aggravated counterpart of the outside world.⁵²

⁵¹ Ibid., 226–27.

⁵² Ibid., 151.

Having shed his naïve assumption that the prison offers a refuge from worldly mendacity, Berkman laments that if anything, the prison intensifies the falsity of life on the outside. Yet this acknowledgement of the larger social world's presence in the penitentiary also enables him to identify forms of solidarity that he could not have recognized before; Berkman ultimately dedicates his finished text to "all those who *in and out of prison* fight against their bondage."⁵³ Upon arrival at Western State, Berkman had viewed other prisoners as criminal "parasites," a *lumpenproletariat* outside the scope of the revolutionary movement he so ardently believed in. "They are not of *my* world," he recalls thinking. "They do not belong to the People, to whose service my life is consecrated."⁵⁴ By the time of his release, however, he no longer sees prisoners as politically irrelevant, but as central figures in the revolution, "the living indictments of a leprous system."⁵⁵ Within a single paragraph in the concluding chapter of *Prison Memoirs*, Berkman employs the phrase "the struggle" to refer both to the ordeal of survival that released prisoners face upon returning to the streets, and to the revolution itself.⁵⁶

This transformation in Berkman's perspective results from both his observation of the dynamics of capitalist society at work within the prison, as well as his growing familiarity and intimacy with his fellow captives. Having initially felt great distance between himself and other prisoners (with the exceptions of fellow anarchist political prisoners Henry Bauer and Carl Nold), Berkman develops many close friendships and

⁵³ *Ibid.*, n.p. Emphasis added.

⁵⁴ *Ibid.*, 139–40. Emphasis in original.

⁵⁵ *Ibid.*, 487.

⁵⁶ *Ibid.*, 502.

associations. These ties range from a budding romance with young “Felipe,” who dies tragically of medical neglect while in solitary confinement, to a team of prisoners working clandestinely to prompt a government investigation into conditions at Western State. While for many prisoners “the undercurrent of rebellion” resulting from their experience of repression finds expression only in “blind, spasmodic defiance,” other inmates are able to give more “coherent” form to their dissatisfaction.⁵⁷ In a note to Bauer and Nold, Berkman correctly predicts that the investigation “will be whitewash,” but he nonetheless encourages the “Anarchist trio” to “show our solidarity, and aid the inmates with our best efforts.”⁵⁸ Berkman comes to see prisoner organization and confrontation with prison authorities as part of the larger struggle for social liberation. As he observes, the prisoners are part of the army of surplus labor, workers on the outside and the inside:

The great bulk of the inmates, accidental and occasional offenders direct from the field, factory, and mine, plod along in the shops, in sullen misery and dread. Day in, day out, year after year, they drudge at the monotonous work, fully wondering at the numerous trusties idling about, while their own heavy tasks are constantly increased.⁵⁹

The assumptions with which Berkman entered the penitentiary—assumptions that the prison constitutes a fundamentally different realm of human life, populated by a parasitic and politically irrelevant social substratum—fall away in light of his actual experiences. Anticipating a possible hearing before the Board of Pardons, Berkman commits himself to continuing to work in solidarity with the other prisoners upon his release: “My first act in liberty shall be in memory of the men grown close to me with the kinship of

⁵⁷ *Ibid.*, 300, 301.

⁵⁸ *Ibid.*, 304.

⁵⁹ *Ibid.*, 278.

suffering.... henceforth their cause shall be mine, a vital part of the larger, social cause.”⁶⁰

As Berkman recognizes more connections between the carceral world and the “greater prison” of the world beyond the walls, he also hatches a scheme to forge a literal connection between them by tunneling under the prison walls. One of the most gripping incidents in Berkman’s narrative is the attempt made by his supporters to free him through a tunnel from the basement of a nearby house. Recollecting the inception of this plan, he writes: “Entirely new methods must be tried: the road to freedom leads underground!”⁶¹ Berkman presents the events of the attempt by way of a series of letters secretly delivered to “Tony,” a released prisoner who agrees to join Berkman’s anarchist friends in making the tunnel. Over the course of two months in the summer of 1900, Berkman’s letters to Tony descend from euphoric at the outset, to frantic as the project encounters delays, to despondent when the plot is ultimately discovered and abandoned. The effect is monologic, as Berkman’s one-sided conversation mounts in frustration and despair. It is only in the wake of the attempt’s failure, Berkman writes, that he is finally able to empathize with and feel gratitude towards his friends on the outside:

How little thought I had given to my comrades, toiling underground, in the anxious days of my own apprehension and suspense! With increasing vividness I visualize their trepidation, the constant fear of discovery, the herculean efforts in spite of ever-present danger. How terrible must have been *their* despair at the inability to continue the work to a successful termination!⁶²

⁶⁰ Ibid., 346.

⁶¹ Ibid., 332.

⁶² Ibid., 396–97. Emphasis in original.

While the tunnel lies uncompleted, Berkman finds a renewed connection to his comrades, admiring their “herculean” attempt to free him and appreciating the power of the cause that has drawn them all together. The project was not fruitless, he realizes, because it has provided “an invaluable demonstration of the elemental reality of the Ideal, of the marvelous strength and courage born of solidaric purposes, of the heights dedication to a great Cause can ascend.”⁶³ The tunnel, though discovered, stands as a monument to the subterranean solidarities that exist between those within and without the prison walls.

While Berkman and London emphasize how the prison recapitulates the antagonism and resistance of the larger society, Kate Richards O’Hare draws attention to the prison’s overall role within capitalist society in her memoir, *In Prison* (1920). Convicted of political offenses under the Espionage Act during the First World War, O’Hare spent fourteen months as a federal prisoner in the Missouri State Penitentiary. In the opening of her book, rather than stressing the continuity of prison and free world, O’Hare seems to subscribe to the more liberal view of the penitentiary as a dark, inaccessible place in need of exposure to the general public and the oversight of rational administrators. The influx of antiwar political activists imprisoned under the Espionage Act, she writes, had the unintended effect of increasing public awareness of “the darkest and most noisome depths of our social system.” Since 1917, in fact, “many of the best brains of the country have been in prison,” bringing a “knowledge of social forces” and an appetite for reform into the penitentiaries. Yet, despite this emphasis on how she and her fellow reformers crossed over into the carceral netherworld, O’Hare revealingly describes the prison as “the epitome”—in the sense of microcosm—of “our economic and

⁶³ Ibid., 396.

social development.”⁶⁴ The modern penitentiary, she argues, collapses and concentrates the “crudities, stupidities, barbarities, and brutalities of slavery, feudalism, and capitalism . . . into the narrow confines of four walls.”⁶⁵ O’Hare views the prison not as a purely anachronistic institution, but as a site where a range of historical forms of exploitation and domination can be seen superimposed upon each other in the manner of a palimpsest.

O’Hare also regards the prison as functioning within the larger capitalist system of the early twentieth-century US: “I realize quite well that all criminal laws have their roots deeply planted in the economic conditions of modern society, and that our prisons are merely the cesspools of our inefficient and maladjusted industrial machinery.”⁶⁶ Echoing London’s account of the “Social Pit,” O’Hare presents the event of incarceration as simply one stage in a life course determined by economic factors. The prison population, she explains, consists of a “tragic, ever-changing stream of wrecked lives— lives that are marred and scarred and distorted; lives that were marred in the making; lives that should never have been; lives stunted and dwarfed by poverty; lives scorched by the vices common in the desolated existence of the barren isolated farms and the congested, fetid air of the city slum.” Like Berkman, O’Hare was forced to let go of her preconceptions regarding the people she was incarcerated alongside. Initially expecting to be surrounded by discernable, Lombrosian criminal “types,” she soon finds that “[t]he only stigmata I could discover were those of poverty, excessive child-bearing, undernourishment, and overwork.”⁶⁷ Many of her “prison mates,” she notes, “had

⁶⁴ Kate Richards O’Hare, *In Prison* (New York: Knopf, 1923), 13–15.

⁶⁵ *Ibid.*, 19.

⁶⁶ *Ibid.*, 165.

⁶⁷ *Ibid.*, 17, 76.

graduated into the penitentiary from orphans' homes, charitable institutions, houses of correction, and reform schools.”⁶⁸ Exploited by the US economy and criminalized by its laws, these women are exploited over and over again once caught up in the legal system. “The money cost of justice in the United States is so great,” O’Hare writes, “and about it have grown up so many wrongs and abuses, that the whole system of criminal law has become a voracious cormorant that devours the bodies, brains, and souls of the poor. The appetite of a criminal case, regardless of the guilt or innocence of the accused, is soul-sickening.”⁶⁹

While the courts consume the poor for profit, O’Hare argues, the criminal justice system also functions to manage unhealthy, unwanted, and otherwise unprofitable individuals: “It seems to be the custom of many judges, when faced by the annoying problem of disposing of these disturbing products of our social system, to solve it by simply dumping them into the state penitentiary.”⁷⁰ The poor, infirm, and socially neglected women who populate the prison are byproducts of a system premised on labor exploitation. While they might not be productive on the outside, the brute coercion practiced within the prison makes it possible to extract more value from these women than ever before. The “most revolting instance of brutality and downright fiendish cruelty” that O’Hare witnessed in the Missouri State Penitentiary, “were directed toward the women utterly unable to make the ‘task’ or conform to required discipline.”⁷¹ Under the “task system,” O’Hare and the others were set to work making denim coveralls and

⁶⁸ Ibid., 60.

⁶⁹ Ibid., 48.

⁷⁰ Ibid., 72.

⁷¹ Ibid., 73.

punished with beatings or solitary confinement in the “hole” if they fell short of their allotted task. Although convict leasing had officially been outlawed in Missouri by this point, it remained a stark reality in practice, as the women produced clothes for private businesses across the prairie states. Missouri had won its contract to house federal prisoners by underbidding other states, and, O’Hare explains, it was their sale of convicts’ labor that allowed Missouri officials to keep their costs so low. The forced labor to which O’Hare and her fellow captives are subjected is central to her critique of the US prison system. “At the very heart of the whole problem of prison brutality,” she contends, “is the ever-present and age-old problem of the exploitation of human labor and of the profits accruing from it.”⁷² O’Hare shares with Progressive reformers like Whitin and Roosevelt a concern with private businesses exploiting prison labor. But like her more radical contemporaries, she sees such penal labor practices in the context of the US’s economic system as a whole, and not as an isolated scandal. Their exploitation different in degree, though not in kind, from that which prevails across the capitalist world, O’Hare and her fellow prisoners are thoroughly enmeshed in the US’s faltering postwar economy, not exiles from it.

For radical critics like O’Hare, Berkman, and London, it is impossible to keep the market out of the prison, and vice versa. From their perspective, the prison exists to serve capital’s needs, and it inevitably reproduces capitalism’s values inside. This reevaluation of the penitentiary as an instrument of capital resonates strongly with Marx’s account of criminalization in *Capital, Vol. I*, where he describes how English peasants displaced by the enclosure of common lands were branded as vagrants and subjected to criminal

⁷² Ibid., 108.

punishment: “The fathers of the present working class were chastised for their enforced transformation into vagabonds and paupers,” writes Marx. “Legislation treated them as ‘voluntary’ criminals, and assumed that it was entirely within their powers to go on working under the old conditions which in fact no longer existed.”⁷³ But in addition to underscoring a Marxian, instrumentalist understanding of the punishment apparatus’s function in capitalist society, these writers’ analysis also yields a new way of thinking about the status of the prisoner. In casting the prison as one site of social struggle among many, rather than as an isolated realm of excessive violence, these authors write themselves out of the living death imposed by the penitentiary and back into subjectivity. Specifically, they are setting aside the perennial carceral trope of death and rebirth to reinscribe themselves into history as subjects of a class conflict that extends far beyond the prison wall. This strategy allows them to challenge the fiction of civil death, a fundamental premise of penitentiary ideology; for the founders of the penitentiary system, the “virtual destruction of the self,” as Caleb Smith argues, served as the “precondition” for the prison’s rehabilitative promises.⁷⁴ But this strategy also provides Berkman, London, and O’Hare with a means to manage the contradictions inherent in their status as white prisoners in a culture for which subjection to state violence had become increasingly racially stigmatized.

⁷³ Karl Marx, *Capital: Volume 1: A Critique of Political Economy*, trans. Ben Fowkes (New York: Penguin Classics, 1992), 896.

⁷⁴ Smith, *The Prison and the American Imagination*, 28.

Slavery, Liberation, and Blackness Unthought

The critiques of incarceration leveled by the Progressive-era writers discussed above, whether liberals or radicals, focus on ostensibly race-neutral issues—good government, crime control, class conflict. But their arguments appear in articulation with past and contemporary structures of US racial hierarchy. Most evident in this regard are the comparisons these writers draw between incarceration and slavery. As McLennan writes, labor leaders “repeatedly drew upon the idiom of slavery in their description of the contract system and analysis of its evils.”⁷⁵ As mentioned above, Whitin often invokes slavery in decrying the convict lease system, while Hawthorne describes imprisonment itself as “worse” than slavery. O’Hare’s denunciation of the task system, however, is especially reliant upon this comparison. In her chapter on prison labor, she writes:

I found that just as soon as I came into contact with the task system I had been thrown back to the condition of a negro slave on a plantation in Dixie before the Civil War. The black woman on the plantation was given a cotton sack and told she must do her task of picking cotton each day. If she failed to do her task she was punished by a slave driver hired for that purpose. I was given a power sewing machine in an overall factory, and I faced the same conditions.⁷⁶

O’Hare is not without basis in noting that the infamous use of the task system under slavery finds a parallel in its use in the Missouri State Penitentiary. Yet there is much about slavery that O’Hare must overlook to assert that her condition is the “same” as that of a plantation slave, such as the slave’s inherited condition of infra-humanity, utter

⁷⁵ McLennan, *The Crisis of Imprisonment*, 162.

⁷⁶ O’Hare, *In Prison*, 104.

rightlessness, and subjection to gratuitous violence. In reducing slavery to the matter of forced labor, O'Hare does not so much deny these other aspects of racial slavery as take them for granted and thus naturalize them. "I know from actual experience," she writes, "that the only differences between a woman federal prisoner and Cassie on the plantation of Simon Legree before the Civil War, were that Cassie was sold to the highest bidder, whereas we were sold to the lowest. Cassie also had a market value which made her master give the sort of life that would not lower her selling price. I had no market value...."⁷⁷ In making this reference to *Uncle Tom's Cabin*, O'Hare neglects to acknowledge, for instance, either Cassy's lifelong experience of sexual violence, or the fact that Cassy's children had been torn from her and sold to other slave masters. Racial slavery serves as a figurative and rhetorical resource for O'Hare, one that does not demand a serious reckoning with the actual experiences of the enslaved. This sort of "metaphoric transfer," as Jared Sexton calls it, "appropriates black suffering as the template for nonblack grievances" while obscuring and dismissing black struggles against slavery itself (and its afterlives).⁷⁸

Precedents for such comparisons reach back well into the antebellum and revolutionary eras. The metaphor of slavery was so commonly deployed during the Revolution as to become "a rhetorical commonplace," as Peter Dorsey writes.⁷⁹ In the early republic, both women's-rights and white labor activists took up the rhetoric of slavery, although these two movements met with significantly different reactions from

⁷⁷ Ibid., 102.

⁷⁸ Sexton, "People-of-Color-Blindness," 42.

⁷⁹ Peter A. Dorsey, *Common Bondage: Slavery as Metaphor in Revolutionary America* (Knoxville: University of Tennessee Press, 2009), 353.

black abolitionists in doing so. As David Roediger explains, abolitionists like Fredrick Douglass strongly objected to the white labor movement's appropriation of slavery as a metaphor for wage labor. "A key to the abolitionist opposition to wage/white slavery metaphors," Roediger writes, "lies in the insistence of Black leaders, often escaped slaves or the children of runaways, that the line between slavery and wage labor—a difference central to their own life experiences—be kept distinct."⁸⁰ In addition, as discussed earlier, the comparison of Northern wage labor with slave labor was frequently made by slavery's apologists. Thus, the "inability of opponents of 'all slavery' to separate themselves from supporters of southern slavery deepened abolitionist suspicions of the idea of white slavery."⁸¹ Closer ties between the women's rights and abolitionist movements, by contrast, reduced these suspicions when white feminists spoke of "sexual slavery," combined with the fact that, "[u]nlike white labor reformers, who often convinced themselves that their own oppression was more harsh than that of slaves, feminists nearly always acknowledged significant differences."⁸²

O'Hare's invocation of slavery, decades later, in decrying forced labor among women prisoners carries forward the longstanding habit among white activists and revolutionaries of appropriating and obscuring African Americans' experience of (and resistance to) slavery in representing their own struggles for liberation. And yet, O'Hare's early twentieth-century slavery comparisons depart from those of her antebellum predecessors in some significant ways. In the case of the debate over the penitentiary

⁸⁰ David R. Roediger, *Colored White: Transcending the Racial Past* (Berkeley, CA: University of California Press, 2002), 111.

⁸¹ *Ibid.*, 112.

⁸² *Ibid.*, 116–17.

system, for instance, advocates sought to distinguish the misery of incarceration from the degradation of slavery while opponents insisted that imprisonment was just as bad as slavery. In either case, however, slavery was a contemporary institution being examined alongside the prison. Both sides of the debate premised their arguments on the idea that free citizens should not be treated the way that slaves were being treated. Such a premise did not require one to have a particular position on slavery. Abolitionist or not, one could invoke comparisons between plantation and penitentiary to argue in favor of or against the latter.

O'Hare's argument proceeds in a different context. In the early twentieth century, more than fifty years after Emancipation in the US, drawing comparisons to slavery meant not only invoking slavery's brutality, but its obsolescence as well. Despite the rampant amnesia and nostalgia that distorted and sanitized turn-of-the-century representations of slavery, analogies like O'Hare's frame slavery as a scandalously outdated practice to which no one should be subjected. Her assertion that she found herself "thrown *back* to the condition of a negro slave" suggests that O'Hare is temporally, no less than racially, out of place while incarcerated. By likening the US prison system to slavery, O'Hare paints the penitentiary as an archaic institution that must also be abandoned, at least in its present form.⁸³ But if a general understanding of slavery

⁸³ Notably, this is similar to the rhetorical approach Angela Davis takes in her 2003 book *Are Prisons Obsolete?* Davis, however, invokes slavery in order to draw attention to the *persistence* of racism, rather than to suggest that racial slavery has been replaced by a new race-neutral structure of oppression. The prison, Davis argues, "reveals congealed forms of antiblack racism," linking incarceration to slavery, Jim Crow, and Southern convict leasing. "If we are already persuaded that racism should not be allowed to define the planet's future," Davis writes, "and if we can successfully argue that prisons are racist institutions, this may lead us to take seriously the

as antiquated and ultimately unjust had become commonsense by the time O’Hare wrote her prison memoir, so had the association of subjection to carceral violence with black bodies. Thus, while O’Hare can express outrage over the slave-like condition of herself and her fellow prisoners—outrage which was likely rooted in genuine horror at the institution of slavery as a form of racial injustice—she can nonetheless think very little of the state’s heightened carceral violence against women of color in her own historical moment. While the racial violence of slavery is recognizable and objectionable to O’Hare from her postbellum, Jim Crow-era vantage point, the racial violence of the punishment apparatus seems not to be so. That is, while O’Hare situates the prison within the larger oppressive economic system of the US, analyzing the plight of prisoners as a part of the class struggle, she has nothing to say about how the prison functions to perpetuate racial antagonism. As discussed below, African American prisoners appear in O’Hare’s text as pathetically helpless or utterly deprived—but not as the victims of systematic oppression. When O’Hare writes, “[t]he chattel slavery of the South is gone, but the more inhuman chattel slavery of the modern convict system still exists,” she is not denouncing the modern prison for its perpetuation of antiblack oppression and control.⁸⁴ Rather, O’Hare is invoking chattel slavery as a stable reference point, safely located within the past, with which the modern prison can be unfavorably compared. While this rhetoric doesn’t represent the same opportunistic indifference towards the suffering of black slaves as did the antebellum white labor movement’s metaphoric use of slavery, it nonetheless indicates how *ongoing* black suffering at the hands of the Jim Crow social order (and its

prospect of declaring prisons obsolete.” Angela Y. Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003), 25.

⁸⁴ O’Hare, *In Prison*, 121.

criminal justice apparatus in particular) remains an overlooked but enabling condition for O'Hare's protests.

Berkman also makes use of the slavery metaphor, although, like antebellum white labor activists, he does so in reference to class oppression and labor exploitation in general. In so doing, he joins these earlier critics of capitalism in using black suffering under slavery as a backdrop for the struggle of a largely Euro-American working class. As Sexton argues, the effect of this rhetorical move is not just to appropriate African American struggles as figurative material for expressing "nonblack grievances," but to undermine blacks' capacity to draw on their own experience of slavery to represent their latter-day struggles against slavery's legacies. Granted, this constitutes a relatively subtle form of racial antagonism in an era of blatant racism and explicit discrimination, and no doubt a subconscious act for writers like Berkman. Nonetheless it follows a pattern of appropriating and obscuring black suffering that unites texts as disparate as Berkman's *Prison Memoirs* and Julian Hawthorne's *Subterranean Brotherhood*. In the latter text, Hawthorne writes that he has been subjected to "slave labor of a worse kind than was ever practiced in negro slavery times," since slaves were ostensibly less aware of their degradation than imprisoned white men like himself. While parroting the racist propaganda of the Plantation Tradition, Hawthorne is also carrying the logic behind O'Hare and Berkman's slavery comparisons to an extreme. That is, Hawthorne not only pushes African Americans' actual experience of enslavement into the background in using slavery as a reference point for measuring white suffering—he goes so far as to minimize and erase black suffering under slavery altogether. By invoking black abjection as a backdrop for white struggles for freedom, Hawthorne, O'Hare, and Berkman all

relegate African Americans to what Saidiya Hartman calls “the position of the unthought.”⁸⁵ Whether these texts express any outright racial hostility or not, black abjection functions as an unthought—perhaps unthinkable—foundation for the narratives of injustice, exploitation, reform, and revolution that their authors elaborate.

It is in light of this “position of the unthought,” from which African Americans subtend and are overlooked by Progressive-era discourses of prison reform and social justice, that we can return to the specific representations of black prisoners that appear in the period’s prison literature. Rather than understanding such representations as regrettable but incidental expressions of Jim Crow racism that mar these authors’ social commentary, we can see how, in their efforts to try and make sense of white incarceration, these writers’ derogatory portrayals of black prisoners register both indifference toward and dependence on black suffering. As mentioned in the opening of this chapter, Julian Hawthorne describes black prisoners as inherently depraved, brutish, and dishonest. Echoing the segregationist arguments of the day, he insists that the promiscuous comingling of blacks and whites in the prison is bad for both groups: “the physical, mental and moral qualities of either react unfavorably upon the other.” The proximity between the races in prison is particularly corrupting for African Americans, and thus particularly dangerous: “I am inclined to think, Hawthorne writes, “that the negro in his right place and function is a desirable element in civilization, and, if we would treat him aright, would do us as much good as we can do him. But the negro in jail

⁸⁵ Saidiya V. Hartman and Frank B. Wilderson III, “The Position of the Unthought,” *Qui Parle* 13, no. 2 (2003): 185.

is at his worst, just as white men are, and he is made worse by white companionship.”⁸⁶

Hawthorne’s account of black depravity in the penitentiary lays much of the blame on the institution’s detrimental effects, but it also ascribes this depravity to the ostensibly innate “physical, mental and moral qualities” of black people, qualities that the prison system fails to account for and ends up exacerbating.

O’Hare, in turn, relishes more scorn upon one black trustee prisoner, an “ignorant, degenerate vicious negro convict,” than she does on any of the white male prison guards. Her description of this tyrannical “negro stool pigeon” seems to displace her more structural analysis of the economic forces behind prison abuse by concentrating her focus on one demonic individual. O’Hare’s racialized depiction of the trustee is also a sexualized and queer one, since the nameless trustee is portrayed as not only capricious and cruel, but as the prison’s chief purveyor of “perversion.” O’Hare writes that “homosexuality was not only permitted by this trusty, but indulgence was actively fostered by this coloured murderess.... in order that its profits might be secured.”⁸⁷ Presumably, according to O’Hare, sexual activity would never take place among the women save for the morally degrading (sexual and racial) conditions of prison life.

African Americans also appear as objects of pathos in these texts. O’Hare describes three young black girls from St. Louis who had been incarcerated after getting in trouble at school as being “bedraggled as alley kittens.” She writes that Lorene, “a mental defective,” was unable to make her task in the prison factory, and suffered “some of the most terrible and brutal punishments which I witnessed” as a result, whereas Leila,

⁸⁶ Hawthorne, *The Subterranean Brotherhood*, 283, 284.

⁸⁷ O’Hare, *In Prison*, 97, 112–113.

“a very pretty quadroon,” was continually victimized by “the older sex perverts.”⁸⁸ Likewise, African Americans populate the margins of Donald Lowrie’s and Berkman’s texts as victims of mutilation by guards, hopeless consumptives, and madmen unhinged by torture in prolonged solitary confinement. Whether portrayed as pitiful or as demonic, however, these prisoners do not seem to belong in the narratives of social struggle and class conflict through which the more radical prison writers re-empower themselves. The black invalids or villains in these prison memoirs do not appear eligible for recontextualization as agents in the class struggle in the way that white prisoners often do. The dynamics of historical change to which Berkman, O’Hare, and London attach themselves in these texts quite consistently leave African American prisoners behind. Instead of revolutionary agents, black prisoners remain creatures of their carceral environment.

Perhaps most characteristic of this dynamic are the happy-go-lucky black prisoners who appear in Berkman’s and London’s radical prison writings. Instead of demonized, gothic, or pathetic figures, these characters seem quite well adapted to their surroundings. After London and thirty other vagrants are sentenced in court, they are chained together in pairs and marched away. London’s partner in the gang, he reports, “was the happiest and raggedest negro I have even seen.” He describes this fellow prisoner as possessing a glimmer of “laughter and kindness” in “the corners of his eyes,” but as otherwise “wholly unmoral, and with all the passion and turgid violence of the brute-beast.” As they ride a train bound for the prison, London tries to “look my fiercest” for women onlookers at each station, “but that cuff-mate of mine, the too happy

⁸⁸ Ibid., 55.

negro, insisted on rolling his eyes, laughing, and reiterating, ‘O Lawdy! Lawdy!’⁸⁹ London relates his outrage at being rounded up as a vagrant—his sense of betrayal as a rights-bearing US citizen—through the curiously racialized assertion, “my American blood was up.”⁹⁰ In stark contrast to the hotheaded young London’s indignation, both the beastliness and the complacency of his African American cuff-mate suggest that London’s fellow captive is not at all out of place when in chains.

A similarly well-adapted black prisoner is one of the first inmates to appear in Berkman’s *Prison Memoirs*. Berkman’s description of this prisoner, like London’s above, draws on the conventions of minstrelsy—“He nods and smiles broadly at me, exposing teeth of dazzling whiteness.” The garrulous man welcomes him to the carceral world, explaining how to get ahold of tobacco and sharing the latest prison gossip. The man mentions that he is awaiting trial on second-degree murder charges, but cheerfully insists that since his victim didn’t die for nine days, capital punishment is not in the cards. Berkman relates: “Can’t hang him, he laughs gleefully. ‘His’ man didn’t ‘croak’ till after the ninth.” Unswayed by Berkman’s skepticism about this nine-day rule, the man “is convinced they won’t hang him. ‘Can’t do it,’ he reiterates, with a happy grin.”⁹¹

The tropes of minstrelsy are no doubt at work in Berkman’s and London’s depictions of these comic figures. But it would be a mistake to ascribe the appearance of these characters solely to the persistence of regressive racial representation in the cultural

⁸⁹ London, *The Road*, 82–83, 85.

⁹⁰ *Ibid.*, 79. London invokes the mythology of (white male) American insubordination to tyranny through the acutely physiological and racial language of “blood.” This rhetoric is in line with the nativist and white supremacist discourse of “Anglo-Saxonism” around the turn of the century, which had far less to do with asserting a specifically English heritage than with articulating a specifically American racial type. See Jacobson, *Whiteness of a Different Color*, chap. 2.

⁹¹ Berkman, *Prison Memoirs of an Anarchist*, 49.

production of the Progressive Era. The protocols of what Gene Jarrett calls “minstrel realism” contribute to these representations, but so does a particular set of associations between blackness and carceral violence.⁹² In their texts, these authors portray African Americans as at home in the penitentiary, as belonging within the space of the prison in ways that they themselves, and other white prisoners like them, ostensibly do not. As such, their rethinking of the meaning of imprisonment—loosening the penitentiary’s grasp on the identities of prisoners—appears to leave black prisoners behind. For example, both Berkman and O’Hare describe entering the prison with rigid preconceptions of who a “criminal” was, and shedding those assumptions soon after. As Berkman relates, his experiences at Western State Penitentiary replaced his static notion of prisoners as social “parasites” with a far more dynamic understanding of comrades in the struggle for human liberation. This expansion of Berkman’s understanding of prisoners in general stands in contrast to the narrow parameters within which his text apprehends African American prisoners in particular. This seeming contradiction reflects more than just Berkman’s regrettable assimilation of contemporary stereotypes and racist attitudes. Rather, it emerges from the way in which white visions of freedom—and more specifically, white visions of resistance to the carceral state—in the early twentieth-century US were predicated on the normalization of state violence against African Americans.

Across these texts, black bodies do not just fit into, but become *part of* the carceral landscape. Their presence is figured as an aspect of prison conditions—indeed, part of the punishment itself. In this archive, African Americans are represented as

⁹² Jarrett, *Deans and Truants*.

something that *happens to* white people when they are incarcerated, rather than as subjects experiencing the same ordeal of imprisonment and social oppression. Radical white writers manage the contradiction between their own imprisonment and the prevailing discourses of race and state violence by challenging the power of the prison wall to contain and define them, rewriting themselves as participants in larger social struggles, rather than as incapacitated social exiles. The prison walls, however, seem more solid where black prisoners are concerned. Thus, these texts reflect the era's racial ideology of legitimate violence, which positioned whites as proper agents, and blacks as proper objects, of such violence. But they also reinforce that logic, feeding into a growing prison reform discourse whose critique of the scandalous state of the prison takes for granted the penitentiary's function as an instrument of racial domination.

In setting up the Mutual Welfare League at Auburn, Thomas Mott Osborne sought to bring the free world into the prison to improve conditions and ameliorate antagonistic relations between inmates and guards. Taking this idea to an extreme, Hawthorne and Lowrie even envisioned tearing the walls down altogether. But what kind of freedom did that free world offer to black prisoners? In thinking that importing more of the free world into the prison could make the latter less repressive, such liberal reformers overlooked the fact that African Americans experienced a form of captivity on either side of the prison wall. In turn, while pointing out the ways in which class conflict and capitalist domination transcend the distinction between free world and prison, radicals like Berkman, O'Hare, and London also leave anti-black racism out of the picture. The oppression they recognize on either side of the prison wall—and thus the

resistance that would unite revolutionary subjects on both sides—measures its own vitality against an inert background of captive, incapacitated blackness.

For both the liberals and the radicals, racism is not merely forgotten or omitted in their representations of prison and society; rather it is both repressed in and essential to them. The notions of freedom and oppression they employ are tethered to forms of racial degradation without which their reformist or revolutionary projects cannot be thought. The archive of Progressive-era white prison writing therefore seems to confirm the Afro-pessimist assertion that indifference to and acceptance of black suffering undergirds the emancipatory imagination of the Euro-American world. But does this archive offer anything else? Wilderson's diagnosis of essentially *all* political discourse (at least, all political discourse that can be articulated within available grammars of freedom and suffering) as being irrevocably intertwined with anti-black racism is so sweeping that it is difficult to argue against. But rather than reading these prison texts simply as examples of how anti-blackness determines and delimits all legible discourses of freedom (which we might still fairly do), we can also read them for what they teach us about the ideology of legitimate violence at the beginning of the twentieth century. Ideas about the power of the state to punish and kill became closely intertwined with the meaning of racial identities in the wake of African Americans' movement from enslavement into citizenship. While the dynamics of legitimate state violence came to infuse the way race was understood, race in turn came to play a central role in imagining punishment. An assumption that black bodies were more fitting objects of carceral violence than white ones helped make that violence look more natural—even to those critics who attacked the legitimacy of incarceration itself.

Thus, the racialized ideology of legitimate violence not only served to reinforce white supremacy, but to buttress and stabilize the punishment apparatus as well. The racialized expectations about where state violence does and does not belong made it more difficult for critics to analyze the prison regime by naturalizing much of its violence. The issue here is not only that these authors cannot see black prisoners as their equals, but that these writers cannot quite see them as imprisoned subjects at all. With subjection to state violence built into the turn-of-the-century construction of blackness, the suffering and abjection that African American prisoners experience becomes indistinguishable from blackness itself. From this perspective, black prisoners are already too closely associated with carceral violence to be fully legible as its victims (or as potential sources of resistance to it). They can only be its objects. Contextualizing these Progressive-era white prison writings within the racialized discourse of legitimate violence allows us to understand their racism as something more structural than the mere expression of regressive and prejudiced attitudes, but also as something more specific than just another manifestation of a transhistorical, unchanging force of “anti-blackness.”

Our contemporary prison regime has inherited much from the penological paradigm that incarcerated writers of the early twentieth century questioned and challenged. While the reality of imprisonment has always fallen far short of the rehabilitationist aspirations of Progressive (and earlier) reformers, and while public and administrative commitment to the project of rehabilitation has waxed and waned, the rhetoric of “correction” remains a crucial rationale for the state’s ever-expanding punishment apparatus. The critiques of Progressive penal ideology put forward in its early days are certainly of interest as we consider the future of our prison system one

hundred years later. For the liberal reformers of the Progressive Era, the notion of the prison as a scandalous, antiquated realm of brutality as well as the ideal of the penitentiary as a therapeutic retreat from the larger world both depended on an understanding of the prison as separate from and marginal to the world at large. The penitentiary's radical critics, on the other hand, position the prison at the center of the US economic and social order, and they insist that it is shot through with the most destructive aspects of capitalist society. As such, they indicate that solving the problems of the prison is not a matter of better governance *within* the prison or of better management of the boundary between prison and free world. Rather, the prison's problems are in fact the same social, economic, and political problems that make the penitentiary an obvious and "necessary" part of the social landscape in the first place. Addressing these problems meaningfully requires a broad program of social transformation, not a narrow project of institutional reform. Fixing the problem of the prison thus means fixing the world.

This approach anticipates the arguments of imprisoned radicals later in the twentieth century whose analyses of carceral capitalism were, by contrast, quite closely engaged with the dynamics of racial antagonism. But, as I have been arguing, the inattention of Berkman, O'Hare, and London to the racism of both prison and free world is not merely a matter of omission—something they might otherwise have included had they been a little savvier and less prejudiced. Instead, it reflects the power of the prevailing ideology of legitimate violence to shape critical discourse about incarceration. When these writers attempt to re-narrate themselves as more than mere "prisoners," this ideology insidiously impels them to invest more deeply in their understanding of themselves as white. As such, their texts may not offer us a serviceable anti-prison

politics for confronting today's carceral state, but neither do they simply offer an example of a radical politics held back by unfortunate racial attitudes. Instead, they indicate that the racialized ideology of legitimate violence in this period was pervasive enough to conscript some of the harshest critics of imprisonment to help consolidate a white supremacist and capitalist carceral regime.

Chapter Four

“An Extreme Sense of Protest against Everything”: Violent Rationalism & Chester Himes’s Prison Novel

The October 1930 issue of *True Detective Mysteries* magazine included a report on the fire that killed 322 prisoners at the Ohio State Penitentiary on April 21 of that year. Written by Gene Fornshell, chief police reporter for the *Ohio State Journal*, the article offered readers the “Inside Story of Ohio’s Prison Holocaust.” In his harrowing first-person account, Fornshell tells of arriving at the prison to hear a sound like “the hoarse, incoherent voice of a fan-packed stadium.” Only later would he realize the sound was in fact “the voices of thousands merged into one raucous requiem.”¹ Two new cellblocks that were under construction had caught fire, which soon spread to the wooden roof of the H and G blocks. Prisoners from the lower tiers were freed and frantically set to work letting others out of their cells. Those on the top tiers, where the rafters burned furiously, could not be rescued in time and were incinerated in their cells. “One by one,” Fornshell writes of the doomed men, “they shrieked their dirges of dreadful death and dropped to their cell floors like victims of some relentless plague.” Firefighters could do little more than “direct cooling sprays on the convicts who, bent on life saving missions, fought through to the blazing tier to recover the bodies of dead buddies and, sometimes, brothers.” In the days after the fire, the prisoners retained control of the prison, while their outrage mounted over how the warden allegedly stood outside the gates with a gun

¹ Gene Fornshell, “Inside Story of Ohio’s Prison Holocaust,” *True Detective Stories*, October 1930, 43.

while the men burned inside. A campaign of “passive resistance” calling for the warden’s removal was organized, which ended in the violent re-taking of the prison and the deaths of several prisoners. Fornshell’s graphic and disturbing account of these events is appropriate to the horror of the fire, but also to the sensationalistic conventions of *True Detective Mysteries*, which had pioneered the lurid “true crime” genre since its founding in the 1920s.

The following year, another account of carceral violence appeared in *True Detective Mysteries*, this one set not in a Northern penitentiary, but a Southern penal camp. Robert E. Burns’s *I Am a Fugitive from a Georgia Chain Gang!* debuted in serial form in the magazine in 1931 and was published as a book and adapted as film the following year. In his memoir, Burns, a Northerner, lambasts the brutality of the state’s chain gang system: “[T]hat is what a chain gang is for, torture! ... All the convicts get is abuse, curses, punishment, and filth. In a few weeks all are reduced to the same level, just animals, and treated worse than animals.”² Burns’s polemical chain gang memoir and Fornshell’s account of the fire are both muckraking exposés of the carceral state’s failure. As such, they might initially seem like odd editorial choices for *True Detective Mysteries*, given the publication’s relatively conservative bent. In her study of the true crime genre, Jean Murley writes that the magazine was “strongly pro-law enforcement” and manifested a “commitment to depicting crime as a force that was being held at bay by strong and capable policemen.”³ Stories for the magazine were often co-written by a

² Robert E. Burns, *I Am a Fugitive from a Georgia Chain Gang!* (Athens, GA: University of Georgia Press, 1997), 56.

³ Jean Murley, *The Rise of True Crime: Twentieth Century Murder and American Popular Culture* (Westport, CT: Praeger, 2008), 22.

police officer, and its regular “Line-Up” feature (precursor of *America’s Most Wanted*) invited readers to be the eyes and ears of the criminal justice apparatus.⁴ But while the account of the Ohio prison fire and the Georgia chain gang may pass judgment on contemporary practices of imprisonment, in the context of *True Detective Mysteries* as a whole, we can see how they can be turned towards the ends of law and order. In their depiction of a dysfunctional, disordered penal system, they resonate with the publication’s desire for more effective law enforcement and the “ultimate and inevitable restoration of social order.”⁵ Burns’s text, in fact, could be seen as a reversal of the detective story’s traditional roles of hero and villain—in the narrative, Burns is the heroic individual who seeks to uncover the crimes of the state of Georgia so that justice may be served. Fornshell’s account of the Ohio prison fire, in turn, is quite sympathetic towards, and even defensive of, the warden. It also appears in the October 1930 issue alongside an article written by an Ohio State Penitentiary official. Titled “How to *Stop* Prison Riots!”, the piece suggests policy changes to quell future disturbances.⁶ Thus, critique of state power in the magazine was ultimately directed at strengthening and legitimizing the punishment apparatus.

These texts all participate in an emerging discourse that valorized the rationality of state violence. Within this framework, both critics and administrators of prisons built their arguments on the premise that the state could and should provide protection from arbitrary and irrational threats by means of carefully calibrated deployments of force. Of course, the drive for rationalization had been a continuous feature of the prison system

⁴ Ibid., 20, 27.

⁵ Ibid., 23.

⁶ W. J. Kohberger, “How to *Stop* Prison Riots!,” *True Detective Stories*, October 1930, 6–8.

since the conception of the penitentiary system in the late eighteenth century; this drive intensified during the Progressive Era, as the nascent discipline of social science was recruited to—and embedded in—this project of rational state violence. But over the 1930s, '40s, and '50s, the ideal of a rational carceral apparatus became essential not only to debates about the US punishment system, but to the development of racial liberalism as well. Questions about whether state violence was being deployed in rational or arbitrary ways became central to mainstream conversations about racial inequality. Naomi Murakawa explains how by the postwar era, liberals had “established a law-and-order mandate: to build a better carceral state, one strong enough to control racial violence in the streets and regimented enough to control racial bias in criminal justice administration.”⁷ From this perspective, “racism” was figured as fundamentally incommensurate with rational governance, something to be purged from and policed by the state. “In the construction of liberal law-and-order,” Murakawa writes, “*racist* violence became *arbitrary* violence.” Since racism was framed as “an irrational belief, erratic and baseless,” fighting racist violence was taken to mean “criminalizing ‘private’ acts, and, more significantly, modernizing carceral machinery to ... insulate the system from arbitrary bias.”⁸

This articulation of criminal justice and racial liberalism wound up posing the state as the ultimate guarantor of protection against arbitrary violence—violence always located elsewhere, in the private realm beyond the state. Threats of such arbitrary violence might take the form of dangerous and disorderly populations (criminals, sexual

⁷ Naomi Murakawa, *The First Civil Right: How Liberals Built Prison America* (New York: Oxford University Press, 2014), 3.

⁸ *Ibid.*, 11. Emphasis in original.

deviants, prisoners—but also, increasingly, racist white mobs as well). Or it might take the form of bad government (corrupt, tyrannical, incompetent, or inhumane state action). Region played an essential role in this discourse of rational state violence, as the South and its chain gang system (and lynchings) emerged as emblematic of everything the rationalist carceral state shouldn't be. Binaries of Southern barbarism and Northern civilization, arbitrariness and rationality, archaism and modernity, bias and objectivity undergirded this discourse, and we can see the widespread investment in these oppositions in the journalism, social science, and literature of the period. Burns's *I Am a Fugitive* exemplifies this discourse in many respects, although not without occasional ambivalence. In the first section of this chapter, I read Burns alongside two pioneering sociological studies that were also deeply concerned with the rationalization of the carceral state—Gunnar Myrdal's *An American Dilemma* (1944) and Donald Clemmer's *The Prison Community* (1940). Together, these texts embody an ideology I refer to as “violent rationalism,” entrenching the legitimacy of carceral violence in opposition to racialized, sexualized, and regionalized forms of irrationality.

In the remainder of the chapter, I turn to Chester Himes's posthumously published *Yesterday Will Make You Cry* (1998) for what I read as a dissenting perspective on rationality and state violence. Himes was incarcerated in the Ohio State Penitentiary from 1929 to 1936, and he was a survivor of the 1930 prison fire. *Yesterday Will Make You Cry* is a strongly autobiographical prison novel, and Himes wrote much of the manuscript while incarcerated, finishing it by the mid-1940s at the latest. However, the novel did not find its way to publication until 1953, as the highly expurgated *Cast the First Stone*. Focusing on Himes's original version, I argue that *Yesterday*'s representation of the

excessive nature of carceral violence, combined with its exploration of queer, criminalized, and racialized subjectivity, constitute a striking alternative to the nascent discourse of rational state violence. At the chapter's end, I turn to *Cast the First Stone*, considering the changes made to Himes's original version in light of developments in the US carceral imagination by the early 1950s.

Southern Barbarism, Racial Liberalism, Prisonization

Upon returning from the First World War with severe post-traumatic stress, Robert E. Burns was unable to find work and began to drift around the country. By 1922, Burns, a native of New York, had wound up in Georgia, where, as he describes it in his memoir, he was coerced into participating in a robbery by a man he had just met. Quickly apprehended and convicted of stealing less than six dollars, he was sentenced to six-to-ten years of hard labor on the state's chain gangs. Burns escaped twice from the chain gang—first, soon after his conviction in 1922, and again, seven years later, after being recaptured in Chicago and extradited to Georgia. Co-written with his brother, Vincent, Burns's *I Am a Fugitive from a Georgia Chain Gang!* was almost immediately adapted for the screen, with a film version starring Paul Muni released before the end of 1932. Unsurprisingly, Burns's book and its film adaptation had enraged Georgia authorities, as did his working as a consultant to the filmmakers in Los Angeles while still on the run. Following a public appearance at a screening of the film in New Jersey in 1932, Burns

was rearrested. New Jersey's governor ultimately denied Georgia's extradition request, allowing Burns to remain free. Georgia eventually commuted Burns's sentence in 1945.

Burns's experiences with the Georgia chain gang took place at a transitional moment in the development of the US carceral state, with many aspects of the mid- and late twentieth-century criminal justice system taking shape during the period. A decisive turn away from traditional penal labor practices was well underway, while Prohibition enforcement efforts were expanding the US policing and punishment apparatus to an unprecedented scale. The 1920s and '30s also saw a significant shift in US prison demographics. The national incarceration rate roughly doubled between 1923 and 1940.⁹ In the South in particular, the prison population was shifting away from being virtually all black, as it had been under the postbellum convict leasing system. By the Depression, white convicts like Burns were frequently being sentenced to racially integrated "state use" chain gangs. As Alex Lichtenstein notes, soon before Burns's *I Am a Fugitive* was published, "Georgia's prison system became truly biracial for the first time in its history."¹⁰ Burns's sensational memoir harnessed interest and anxiety about the way in which the US punishment system was (and wasn't) changing. Throughout the text, Burns's descriptions of floggings, chains, and back-breaking work in the searing Georgia sun resonate implicitly and explicitly with images of slavery. "The chain gang," he asserts, "is simply a vicious, medieval custom, inherited from the blackbirders and slave

⁹ Margaret Werner Calahan, "Historical Corrections Statistics in the United States, 1850–1984" (Rockville, MD: Bureau of Justice Statistics, 1986), 209–11. These figures include both those serving sentences in state and federal prisons as well as persons in county jails serving shorter terms or waiting for trial. This period of rapid prison growth foreshadowed the much larger prison boom near the century's end.

¹⁰ Lichtenstein, *Twice the Work of Free Labor*, 189.

traders of the seventeenth and eighteenth centuries, and is so archaic and barbarous as to be a national disgrace.”¹¹

The popularity of Burns’s book and the film based upon it brought Georgia’s chain gang system into the national spotlight. Matthew Mancini contends that the text “was probably the occasion for the most rancorous sectional culture war between World War I and the civil rights era of the 1960s.”¹² *I Am a Fugitive* opened up regional fault lines and animated a public debate about legitimate violence that would be crucial to liberal critiques of Southern racism in the postwar era.¹³ The attack on the chain gang system made by Burns and his supporters was part of a broader Northern discourse about “Southern barbarism” more generally. Expressions of shock and horror at the chain gang system fit right alongside condemnations of Southern lynch law. As narrated in the memoir, the sympathetic judge at Burns’s initial extradition hearing in Chicago delivers a damning indictment of Georgia’s backwardness:

Georgia—the Great State of Georgia—the home and birthplace of that vicious organization, the Ku Klux Klan. Where they sell the water of the Chattahoochee River at five dollars per gallon to baptize the ignorant and illiterate, that they may be initiated into the wonders of the Klan, and so continue their holy and Christian persecution of the Jew, the Catholic, and

¹¹ Burns, *I Am a Fugitive from a Georgia Chain Gang!*, 57.

¹² Matthew J. Mancini, “Foreword to the Brown Thrasher Edition,” in *I Am a Fugitive from a Georgia Chain Gang!*, by Robert E. Burns (Athens, GA: University of Georgia Press, 1997), xvii.

¹³ Although Vincent Burns claimed that his brother Robert’s exposé helped bring down the chain gang system—Vincent titled his 1968 book about Robert *The Man Who Broke a Thousand Chains*—historian Alex Lichtenstein contends that the system ultimately succumbed not to “the scandal generated by *I Am a Fugitive*,” but to the “economic and social forces which redefined the place of penal labor in the South’s political economy.” The overwhelming surplus labor force of the Depression years made convict labor on public roads politically and economically untenable. Lichtenstein, *Twice the Work of Free Labor*, 190.

the Negro; and become acquainted with the fine art of lynching and midnight beatings and terrorism.¹⁴

The Illinois judge, in Burns's account, decries Georgia's criminal justice system as irrational and vengeful and paints Southern society more generally as violent, bigoted, and utterly out-of-step with US modernity. As a mouthpiece of Northern disdain for the South's penal practices, the judge positions Burns as another victim of the region's antiquated and racialized violence. Burns himself echoes this statement throughout his narration, including when discussing his second escape. "I want the world to get this straight right here," he admonishes. "While Georgia may say that I escaped from justice, I emphatically state . . . that I escaped from injustice, intolerance and the vengeance of a society that is a hundred years behind the times."¹⁵ Like his invocations of slavery, this statement depicts Burns as the victim of the South's racialized barbarism and vindictive lynch-law culture. Figuring the South as a separate geographical and temporal realm, it shows Burns caught in the brutal machinery of the antebellum slaveholding regime.

In its condemnation of Southern barbarism, *I Am a Fugitive* provides cover for the North's ostensibly progressive penal system. In appealing to and emphasizing the North/South sectional divide, Burns's memoir had the effect of implicitly condoning Northern penal practices by contrast. As Heather Ann Thompson argues, a longstanding "regional double standard" served to insulate the North's ostensibly modern prison system from criticism. "Northern prison officials not only felt comfortable with torture," she writes, "but, like the many white officials who meted out punishment to black law-

¹⁴ Burns, *I Am a Fugitive from a Georgia Chain Gang!*, 111–12. The judge misidentifies Georgia as the site of the Ku Klux Klan's birth. The Klan is widely recognized as having been formed shortly after the Civil War in Pulaski, Tennessee.

¹⁵ *Ibid.*, 199.

breakers in the South, they also reserved some of their most vicious and capricious treatment for the African-American inmates under their control.”¹⁶ This racialized carceral violence became a normalized backdrop for the more scandalous and sensational scenes of “Southern barbarism.”¹⁷

I Am a Fugitive also engages in the well established tradition of treating carceral violence against white bodies as exceptional and scandalous. Burns’s chain gang experience opens with the spectacle of another white man’s body in the abject position of the plantation slave’s. While *I Am a Fugitive* never describes Burns himself being beaten in this manner, he appears throughout the narrative as a white body in shackles, doing grueling labor in the hot Georgia sun, often alongside imprisoned African Americans, and always under the watchful eye of armed overseers. Burns’s minority status as a white man on the majority-black chain gang makes his whiteness into a sensational spectacle. Upon his arrival at the Troup County stockade, Burns relates, a guard adjusts the tally of prisoners on a blackboard to read:

White prisoners	33
Black “	69

Total	102

¹⁶ Heather Ann Thompson, “Blinded by a ‘Barbaric’ South: Prison Horrors, Inmate Abuse, and the Ironic History of American Penal Reform,” in *The Myth of Southern Exceptionalism*, ed. Matthew D Lassiter and Joseph Crespino (New York: Oxford University Press, 2010), 76, 77.

¹⁷ As the twentieth century went on, this framing of racism and brutality in the criminal justice system as an exclusively Southern problem undermined the efforts of Northern prisoners who attempted to organize and expose inhumane conditions. By the height of the civil rights movement, Thompson explains, “[m]ost Americans were indisposed to seeing northern prisoners as victims of ill treatment and therefore were suspicious of, if not outright hostile toward, their motives whenever they decided to protest.” *Ibid.*, 87.

Burns then adds that he “made the thirty-third white convict in the worst chain-gang camp of them all.”¹⁸ This written tally emphasizes the exceptionality of his presence on the gang, both racially and numerically speaking.

Several critics have regarded the book and film as opportunistic in depicting a sympathetic white figure in a penal system that was in fact mostly composed of African Americans. Irina M. Rodimtseva, for instance, argues that Burns “describes black convicts to provide a background for his own breath-taking adventures.” Rather than acknowledging the chain gang system’s function as a brutal means of racial control, she writes, “Burns takes its race dynamic for granted.”¹⁹ Randolph Lewis contends that foregrounding whites’ experiences of the chain gang constituted “a rhetorical strategy” with “the effect of marginalizing African-Americans and artificially de-racializing a situation charged with racism in order to reach the sympathies (and pocketbooks) of a larger white audience.” Of the film adaptation, he writes: “At last white audiences can experience the enslavement of one of their own, as the film presents a slave escape narrative in ‘white face’, complete with whippings, chains and cruel Southern masters, and a middle class European-American posing as a white slave.”²⁰ These critics fault Burns for exceptionalizing his own imprisonment on the chain gang through a contrast with abject blackness, thereby shoring up racial hierarchies and naturalizing black suffering. Jan Alber asserts, for example, that “Burns constructs the prison as the space of

¹⁸ Burns, *I Am a Fugitive from a Georgia Chain Gang!*, 142.

¹⁹ Irina V. Rodimtseva, “On the Hollywood Chain Gang: The Screen Version of Robert E. Burns’ *I Am a Fugitive from a Georgia Chain Gang!* And Penal Reform of the 1930s–1940s,” *Arizona Quarterly: A Journal of American Literature, Culture, and Theory* 66, no. 3 (2010): 134, 124.

²⁰ Randolph Lewis, “Black and White on the Chain Gang: Representing Race and Punishment,” *Borderlines: Studies in American Culture* 3, no. 3 (1996): 235, 238.

the Other, the African American, and he believes that he does not belong there.”²¹ This line of critique highlights how Burns partakes in the tradition, discussed in chapter 3, of contrasting white agency with black abjection in white-authored prison literature of the early twentieth century.

As these critics show, the text seeks to scandalize its audience by juxtaposing things that ostensibly don't belong together: black and white prisoners, a Northern businessman and Southern chain gang, a white body and an overseer's lash, medieval punishment and modern society, antebellum slavery and twentieth-century capitalism. And yet, the scandalous intimacies that Burns presents do more than just reinforce sensibilities about the superiority of the Northern prison system or the impropriety of treating white men like slaves. At times, stark contrast gives way to indistinction. Discussing his first days on the chain gang, for instance, Burns provides a remarkable image of amalgamated bodies laboring and suffering in unison. Describing how the prisoners used their pickaxes in synchronized fashion, he writes: “The convict bodies and muscles move in time and in unison as one man. The tempo and speed [are] regulated by the chanting of Negro bondage songs, led by a toil-hardened Negro of years of servitude.”²² The gang labors “as one man,” as a single assemblage of muscles, tools, sweat, chains, and song. Rather than standing out as a figure of exceptional whiteness, Burns appears to dissolve into the mass of imprisoned workers in this passage. Of course, being forced to work alongside African American convicts was often considered an enhancement to the punishment of white prisoners on the chain gang, and the scene

²¹ Jan Alber, *Narrating the Prison: Role and Representation in Charles Dickens' Novels, Twentieth-Century Fiction, and Film* (Cambria Press, 2007), 212.

²² Burns, *I Am a Fugitive from a Georgia Chain Gang!*, 143.

dramatizes this loss of social/racial status. But the emphasis in Burns's passage is not on the indignity of forced labor with racial inferiors. Instead it is on the unity forged among these captive workers: "In the chain gangs, human labor had been synchronized as the goose step was in the German army. When using pickaxes, all picks hit the ground at the same time, all are raised and steadied for the next blow with uncanny mechanical precision."²³ In describing these convicts as an "army" that acts "as one man," the passage hints at their capacity not just for synchronized labor, but for organized resistance as well. And while Burns decries Southern backwardness throughout the text, he nonetheless uses language that connotes modernity to describe the chain gang's operation: the "mechanical precision" of these machine-like workers, whose movements are reminiscent of the "goose-step" seen amid the industrialized warfare Burns himself survived in Europe.

This passage suggests how, rather than being a mere archaism, the chain gang system was in fact integral to the modernization of the South. The infrastructural improvements that the road gangs provided spurred the region's economic development, and the chain gang system embodied "Progressive ideals" by replacing the old system of leasing out convicts to private interests. "As the most prominent penal reform in the early-twentieth-century South," Lichtenstein writes, "the convict road gang was touted as a healthy (literally) alternative to the practice of leasing state and county convicts to coal mines, turpentine farms, brickyards, and railroads."²⁴ If only slightly, moments like Burns's "goose-step army" analogy blur the distinction between Southern barbarism and

²³ Ibid.

²⁴ Lichtenstein, *Twice the Work of Free Labor*, 16, 181.

Northern civilization in the text. As such, they suggest that his Northern audience might have harbored some anxiety about the modernity of their own prisons. Regular readers of *True Detective Mysteries*, after all, would have seen the article on the Ohio State Penitentiary fire the previous fall. Nevertheless, on the whole, *I Am a Fugitive* joins the call for a more reasonable and modern penal system, endorsing the project of building a more rational carceral state.

I Am a Fugitive anticipates Gunnar Myrdal's *An American Dilemma* in its searing and widely heard critique of the Southern penal system's corruption by racism and irrationality. If Burns's deflection of criticism away from the North was largely implied, however, Myrdal's would be much more explicit. *An American Dilemma*, the most influential social science text in mid-twentieth-century racial liberalism, asserted that the nation faced an "ever-raging conflict" between, on the one hand, egalitarian "national and Christian precepts," and on the other, "personal and local interests," "economic, social, and sexual jealousies," and most importantly, "group prejudice against particular persons or types of people."²⁵ In approaching this moral dilemma, Myrdal, like many liberals, saw racial bias in the criminal justice system as a crucial concern. While Myrdal acknowledges the existence of racial discrimination in the North's criminal justice system—including the high "rate of killings of Negroes by the police" in Northern cities—he ultimately asserts that "there is in the North no special problem of getting justice for Negroes, outside the general one of improving the workings of the machinery of the law for the equal protection of the rights of poor and uneducated people." Thus,

²⁵ Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy, 20th Anniversary Edition* (New York: Harper and Row, 1962), lxxi.

“the main problems of justice for the Negro are found in the South,” which forms the focus of the book’s section on the criminal legal system.²⁶

Myrdal’s study presents a Southern criminal legal system riddled with the irrational and arbitrary influence of white racial prejudice. In the South, he writes, “chance and arbitrariness” foster conditions of “lawlessness,” as “the Negro’s person and property are subject to the whim of any white person who wishes to take advantage of him or punish him for any real or fancied wrongdoing or ‘insult.’”²⁷ Myrdal lauds the North’s “progressive penal institutions” and its “courageous scientific and practical discussion about treatment of crime and asociality” in contrast to the notorious “convict camps in the South.”²⁸ (Myrdal cites *I Am a Fugitive* in a footnote when making this comparison, indicating how widely Burns’s narrative circulated in support of Southern exceptionalism.) Insofar as the police, prisons, and courts are concerned, then, Myrdal’s “American dilemma” is in fact a *Southern* dilemma, and its resolution depends upon the rationalization and de-racialization of the Southern punishment apparatus to bring the region in line with the North’s standards. “[I]t is in the interest of society,” he concludes, “to care for the Negro—and even for the criminal Negro.”²⁹ This pronouncement demonstrates the intimacy of the police power’s “caring” and repressive functions in promoting “the interest of society,” as well as the way that racial liberals helped entrench the criminalization of African Americans even while decrying the biased justice system in the South.

²⁶ Ibid., 527, 528–29.

²⁷ Ibid., 530.

²⁸ Ibid., 554.

²⁹ Ibid., 554, 557.

Myrdal also reinforced the idea of African Americans as a disorderly, irrational, and dangerous population through his discussion of “Negro aggression.” Whereas sociologists in the Chicago School influentially argued that increasing proximity to whites spurred self-hatred and “personality damage” among blacks, Myrdal made a different, but complimentary claim that experiencing racism made African Americans belligerent.³⁰ As Murakawa explains, Myrdal helped popularize a “liberal racial profile” of the African American criminal, a dangerous man or woman whose experiences of white racism spurred aggressive and antisocial behavior—even citing Bigger Thomas from Richard Wright’s *Native Son* (1940) as emblematic of the dangers of unchecked white racism.³¹ In so doing, Murakawa argues, Myrdal and other racial liberals “accepted black aggression as the center of debate” and asked the same question as white conservatives: “what explains black criminality?”³² Myrdal himself was careful to note he did not mean *all* African Americans exhibit such “aggression”: this trait is only pronounced, he writes, among “the sullen criminal youths found mainly in Northern cities.”³³ Yet, far from mitigating racialized criminal stigma with this remark, Myrdal draws attention to precisely the population that had been at the center of black criminality discourse for decades. To reinforce the popular fixation on black criminality was also to

³⁰ Daryl Michael Scott, *Contempt and Pity: Social Policy and the Image of the Damaged Black Psyche, 1880–1996* (Chapel Hill: University of North Carolina Press, 1997), 22.

³¹ In a chapter section titled “Negro Aggression,” Myrdal writes: “In the growing generation of Negroes, there are a good many individuals like Bigger Thomas. . . . They have a bearing of their whole body, a way of carrying their hats, a way of looking cheeky and talking coolly, and a general recklessness about their own and others’ personal security and property, which gives one a feeling that carelessness, asociality, and fear have reached their zenith.” Myrdal, *An American Dilemma*, 763.

³² Murakawa, *The First Civil Right*, 53, 50.

³³ Myrdal, *An American Dilemma*, 958.

justify and naturalize the state's disproportionate violence against African Americans in the Jim Crow North.

An American Dilemma demonstrates how racial liberalism's sympathetic attitude toward African Americans nonetheless converged with conservative notions of black criminality to figure blacks as a criminal threat to be understood and mitigated. Myrdal was one of many midcentury liberal sociologists who helped articulate the ideology of violent rationalism and the binary oppositions that sustained it. The ideal of fully rationalized state violence was buttressed on one side by the opposing notion of *improper*, *irrational* state action, and on the other, by populations imagined as irrational and in need of management and containment. In accordance with the ascendant racial liberalism of the period, "racism," "bias," and "prejudice" were increasingly identified as alien intrusions into the workings of government. Yet, simultaneously, the same racialized populations who were to be protected from biased legal machinery and private prejudice were constructed as irrational and reaffirmed as legitimate targets of rational state violence.

During the interwar years, sociologists had begun to challenge the uncritical use of racial crime data by showing how racial discrimination in policing and punishment inflated black arrest and incarceration rates. Both the South and the urban North came under scrutiny for the racism of their criminal justice systems. Yet, as Khalil Gibran Muhammad explains, the liberal environmentalism of these social scientists was double-edged; they tempered their criticism of "racist police behavior" with assertions of "black

cultural inferiority.”³⁴ While sociologists increasingly rejected biological notions of racial inferiority and called attention to the state’s role in the production of so-called black criminality, their environmentalist explanations also invoked notions of African American cultural pathology. Central to this ostensible pathology, as Roderick Ferguson demonstrates, was a conception of “African American gender, sexual and familial eccentricity.” Sociologists imagined black culture “as the site of polymorphous sexual perversions” that both reflected and contributed to their submerged social status. Their “arguments about African American cultural inferiority,” Ferguson writes, “were racialized discourses of gender and sexuality.”³⁵ African Americans were thus condemned for family structures, gender expression, and sexual practices that departed from patriarchal, heteronormative ideals. Such condemnation justified the policing of black sexuality, whether in the form of disciplinary social welfare institutions, vice squad raids, anti-miscegenation laws, or New Deal social policy.³⁶

Sociological studies of African American culture during the interwar years indicate the crucial role that “institutions of knowledge,” as Chandan Reddy puts it, played in “the process by which the state could exert its monopoly on force.” Social science, Reddy argues, helped construct the racialized and sexualized “horizon of irrationalities against and through which state violence became identical to legitimate

³⁴ Muhammad, *The Condemnation of Blackness*, 246.

³⁵ Roderick A. Ferguson, *Aberrations in Black: Toward a Queer of Color Critique* (Minneapolis: University of Minnesota Press, 2004), 20. For an account of how early studies of non-normative sexuality were foundational to the development of the Chicago School’s culturalist urban sociology, see Chad Heap, “The City as a Sexual Laboratory: The Queer Heritage of the Chicago School,” *Qualitative Sociology* 26, no. 4 (2003): 457–87.

³⁶ See Carby, “Policing the Black Woman’s Body in an Urban Context”; Muhammad, *The Condemnation of Blackness*, chap. 6; Ferguson, *Aberrations in Black*, 37–38.

force.”³⁷ While African American migrants formed an indispensable part of this “horizon of irrationalities,” prisoners did as well. A new wave of penology emerged in the 1930s and ’40s that approached prisoners less as a congregation of criminal deviants than as persons who had been warped by exposure to the social environment of the prison. More specifically, these penologists focused not on how the institution of the prison could better *act upon* prisoners toward rehabilitative ends, but on how inmates acted upon *each other*. Investigating the social dynamics within the “prison community,” these sociologists of the prison asked how the “subculture” that formed among prisoners affected prospects for rehabilitation; their conclusions were not optimistic. Rooted in the Chicago School’s focus on marginalized group culture, this new scholarship contended that incarceration actually exacerbated the criminality and anti-sociality of inmates through the prison culture it incubated.³⁸

Thus, while American sociology took up the discourse of damage, danger, and cultural pathology in reference to African Americans, a parallel development was taking place in the study of prisons. Donald Clemmer’s 1940 study, *The Prison Community*, was foundational for this new approach to penology. In it, Clemmer identified the process of “prisonization,” by which inmates adapt to their environment. This detrimental process, he warned, can “breed or deepen criminality and antisociality” and instill newcomers with “the criminalistic ideology in the prison community.”³⁹ Clemmer explains that not all inmates become prisonized, and on this basis seeks to identify the factors that

³⁷ Reddy, *Freedom with Violence*, 39.

³⁸ Regina G. Kunzel, *Criminal Intimacy: Prison and the Uneven History of Modern American Sexuality* (Chicago: University of Chicago Press, 2008), 95.

³⁹ Donald Clemmer, *The Prison Community*, Reissue (New York: Christopher Publishing House, 1958), 300.

contribute to this process. The least prisonized individuals, he concludes, tend to share some combination of the following: a short sentence, a stable personality, positive relationships with people on the outside, non-prisonized cellmates and workmates, independence from tight-knit prisoner groups, resistance to the “dogmas and codes of the population,” and abstinence from “abnormal sex behavior.”⁴⁰ Much as the Chicago School understood “social disorganization” in terms of divergence from heterosexual monogamy, so did prison sociologists look to sex within prisons to understand “prisonization.”⁴¹ One of their main prescriptions for administrators was the classification and separation of prisoners to avoid the contagious effects of prisonization. A more thorough understanding of the psychosocial baggage that prisoners brought into the penitentiary (their personality, sexual proclivities, offense level, social background, etc.) would allow administrators to segregate prisoners accordingly and foster a less toxic prison culture. This sociological approach to prison management called for a system of classification which was gradually taken up during the 1930s, '40s, and '50s.⁴²

Sociologists of this period sought to better understand and manage the unruly populations against which the state’s violence was marshaled and against which it was legitimized as rational. African Americans, inhabitants of criminogenic urban communities, and prisoners were identified as (overlapping) damaged and dangerous problem populations, with non-normative sexual practices playing a key role in their pathologization by social scientists. Meanwhile, the state was striving to further rationalize its policing and punishment apparatus during this period. In the 1930s, the

⁴⁰ Ibid., 301.

⁴¹ Ferguson, *Aberrations in Black*, 36; Kunzel, *Criminal Intimacy*, 95–100.

⁴² Sullivan, *The Prison Reform Movement*, 61.

New Deal state's expansion included a push for more effective law enforcement amid the gangsterism of the Prohibition era. By 1932, the Wickersham Commission had released the first national report on the state of crime and law enforcement in the US. The Commission's volume on "The Lawless Enforcement of the Law" had a particularly significant impact. "This scathing indictment of police brutality," writes Marie Gottschalk, "galvanized public support for new legal controls over the police" and "fueled the growing movement for better trained, more professional police officers."⁴³ In addition to increased funding and enhanced powers for police and prosecutors, the federal government sought to improve the reputation and respectability of law enforcement. An aggressive publicity campaign to win support for the "g-men" and their war on gangsters sought to stamp out popular sympathy for outlaws like John Dillinger or Pretty Boy Floyd.⁴⁴ The Federal Bureau of Investigation's authority was extended and its budget significantly increased over the 1930s, as Franklin Roosevelt "directly linked the fight against crime with the struggle for economic recovery during the Depression."⁴⁵

While the nation's policing apparatus was ramped up and reformed, prison administration also saw significant changes. By the Great Depression, US prisons had begun to decisively turn away from the labor-based approach which had been foundational to the penitentiary system since its inception and towards a model based on

⁴³ Marie Gottschalk, *The Prison and the Gallows: The Politics of Mass Incarceration in America* (New York: Cambridge University Press, 2006), 61.

⁴⁴ In signing his 1934 crime bill into law, Roosevelt chided the public for its permissive attitude towards famous criminals: "Law enforcement and gangster extermination cannot be made completely effective so long as a substantial part of the public looks with tolerance upon known criminals, permits public officers to be corrupted or intimidated by them or applauds efforts to romanticize crime." Franklin D. Roosevelt, *Public Papers of the Presidents of the United States: F.D. Roosevelt, 1934, Volume 3*, 1938, 242.

⁴⁵ Gottschalk, *The Prison and the Gallows*, 69, 66.

maintaining order through morale. After the abolition of convict leasing, the number of public “state-use” employment opportunities that were supposed to occupy prisoners instead never caught up with the expanding prison population. In the North, the onset of the Depression and the devastating unemployment faced by free workers struck the final blow to large-scale convict labor systems; and even in Southern states, which clung more tenaciously to convict labor in the form of chain gangs and prison plantations, the Depression marked the beginning of the end.⁴⁶ The federal government passed legislation in 1929 and 1935 to halt the transport of prison-made goods. In place of the waning labor-based regime, Rebecca McLennan writes, prison administrators expanded “the new penological techniques of discipline (such as recreation and athletic programs) to fill the ever-widening disciplinary void.”⁴⁷ The old penological goal of moral reform through hard labor was displaced by that of security and pacification. These objectives were pursued, as McLennan explains, through the development of recreational programming and “freedom of the yard”—but also through the installation of tear gas dispenser systems that enabled administrators “to quickly restore the peace while avoiding spilling the blood of their convicts and guards.”⁴⁸

Over the course of the mid-twentieth century, carceral liberalism would tether programs for social change and racial equality to an ideal of rational and impartial state violence. This ideology, as Murakawa argues, propagated a narrow definition of “illegitimate violence” that included only “private, arbitrary” uses of force—criminal deeds, unauthorized usurpations of the police power, or irrational abuses of it by

⁴⁶ Lichtenstein, *Twice the Work of Free Labor*, 190–91.

⁴⁷ McLennan, *The Crisis of Imprisonment*, 442.

⁴⁸ *Ibid.*, 466–67.

prejudiced state actors. The legitimacy of carceral violence depended only on whether the state's use of force was rational: "the carceral state was permitted limitless violence so long as it conformed to clearly defined laws, administrative protocol, and due process."⁴⁹ In *Yesterday Will Make You Cry*, Chester Himes would bring into focus precisely this limitlessness, destabilizing the state's claims on rationality, and articulating his critical vision of the carceral state from within the very same "horizon of irrationalities" invoked to legitimize state violence.

"Right under the Gun"

In 1928, less than a year before Robert E. Burns was apprehended in Chicago and sent back to Georgia, a nineteen-year-old Chester Himes was arrested in the same city and extradited to Ohio to stand trial for a robbery he had committed in Cleveland. Himes was convicted and given an indeterminate sentence of up to twenty-five years in the Ohio State Penitentiary, serving eight years before being paroled in 1936. While incarcerated, Himes survived the 1930 penitentiary fire and began writing during the years that followed. He published several short stories during his imprisonment, including a fictionalized account of the fire printed in *Esquire* in 1934. That story, "To What Red Hell," was incorporated into a novel manuscript Himes was still working on when he left prison. The first version of this novel, begun while Himes was in the penitentiary, was

⁴⁹ Murakawa, *The First Civil Right*, 43.

completed between Himes's release in 1936 and the mid-1940s.⁵⁰ Himes had a difficult time selling the manuscript, however, which underwent numerous revisions and changes of title before finding its way into print in the early 1950s. By this time, he was already the author of dozens of published short stories, as well as the novels *If He Hollers Let Him Go* (1945) and *Lonely Crusade* (1947). Himes's prison novel finally appeared—in highly expurgated form—as *Cast the First Stone* in 1953. In 1998, however, a restored version of the original text was published under Himes's original title, *Yesterday Will Make You Cry*. Among other changes, all of the flashbacks to before the protagonist's incarceration had been excised, as had much of his romantic involvement with other prisoners. *Yesterday's* publication restored these elements of Himes's intensely autobiographical novel.

Yesterday begins on nineteen-year-old Jimmy Monroe's first night in the general population dormitory at the Ohio State Penitentiary in 1929, continuing through the fire of 1930 and his eventual transfer to the state prison farm, the first step in his release.

Despite this straightforward narrative structure (interrupted once by a fifty-page account

⁵⁰ Clare Rolens suggests that the manuscript was finished in the 1940s. Himes's biographers, Edward Margolies and Michael Fabre, however, write the following: "On April 14, 1952, the prison novel was sold under the title 'Debt of Time'.... On November 23, 1952, Himes sent the several typescript versions to Van Vechten. He explained that the version called 'Day by Day' was written about 1936-37; the one called 'The Way It Was,' in 1939-40; and the version called 'Black Sheep,' in the winter of 1949." To make matters more complicated, Melvin Van Peebles's introduction to the premiere edition of *Yesterday Will Make You Cry* contends that this was Himes's "original" title. In any case, since portions of the book were published while Himes was still incarcerated, it's fair to say that the text of *Yesterday* reflects a work undertaken in the early-to-mid 1930s and probably completed, more or less, by 1940. Clare Rolens, "Write Like a Man: Chester Himes and the Criminal Text Beyond Bars," *Callaloo* 37, no. 2 (2014): 434; Edward Margolies and Michel Fabre, *The Several Lives of Chester Himes* (Jackson: University Press of Mississippi, 1997), 184n30; Melvin Van Peebles, "Introduction: ...His Wonders to Perform," in *Yesterday Will Make You Cry*, by Chester B. Himes (New York: W. W. Norton & Company, 1999), 19.

of Jimmy's life before prison), the novel exhibits a curious structural split at a thematic level. While the first half of *Yesterday* focuses heavily on descriptions of the brutality of the prison regime—from abuse and killings by guards, to the fire, to violence among prisoners—in the second half, the novel's attention shifts markedly towards Jimmy's romantic relationships in prison. In particular, *Yesterday*'s final section is entirely concerned with his affair with Prince Rico, who bears the same name as Himes's own lover in the penitentiary. While these two thematic dimensions of the novel overlap to some extent in each half, the text's striking shift in focus is one of several aspects of the novel that have puzzled critics since *Cast the First Stone* appeared in the early 1950s.⁵¹ In the remainder of this chapter, I argue that we can account for *Yesterday*'s split structure by considering how both its representation of prison brutality and its queer relationship plots contradict violent rationalism's image of the state as a guarantor of freedom from arbitrary, irrational, and gratuitous violence. Granted, Himes's novel was drafted in the 1930s, before the discourse of rationalized state violence was fully fledged. Rather than reading *Yesterday* as an explicit response to this discourse on Himes's part, I read it as a text that emerged from the same milieu as works like *An American Dilemma* and *The Prison Community*, which were themselves based on research conducted during the 1930s. Rather than an outright challenge to violent rationalism, *Yesterday* offers an alternative view of state violence to the one being consolidated by sociologists, penologists, and the popular press during the Depression.

⁵¹ These early critical responses were laced with a predictable homophobia. W. R. Burnett, for instance, remarks that the “oddest thing” about the book is its “preoccupation with homosexuality,” marveling how “[h]omosexuality takes over the book in the last hundred pages.” “Hopeless Waiting,” *Saturday Review*, January 17, 1953, 15.

At a time when liberal criticism of US criminal justice practices was focused squarely on the Jim Crow South, *Yesterday* directs our attention to the carceral North. Himes depicts the excessive character and, crucially, the irrationality of carceral violence, showing how captivity is maintained through the ever-present threat (and continual eruptions) of brutality. On his first night in the prison dormitory, Jimmy is transported to the night of his arrest, when police beat a confession out of him: “He could feel the cops hitting him in the mouth, hanging him by his handcuffed feet upside down over a door, beating his ribs with gun butts until, with the live red pain eating out his guts and blood running down his unbearably hurting legs, he confessed.”⁵² While Himes narrates the beating from Jimmy’s perspective, describing the “unbearabl[e]” and unrelenting tide of pain and terror that made him confess, this passage can also be seen as describing a methodical and mundane police procedure. One step follows another as the police strike him, hang him upside-down, and beat him with their rifles, applying just the right amount of force needed to grease the wheels of justice and extract a confession. While it is a horrific and unprecedented experience for Jimmy, this brutality is as routine for the police who arrest him as it is for the guards who watch over him in the Ohio State Penitentiary.

The carceral police power does not recognize persons as subjects, but only as objects—wards to be managed and threats to be neutralized. *Yesterday* explores many dimensions of being transformed into an object in the gaze of the prison regime. The attack on Jimmy’s personhood continues with the traumatic effects of his initial imprisonment. During the first night in general population, we read, Jimmy feels

⁵² Chester B. Himes, *Yesterday Will Make You Cry* (New York: W. W. Norton & Company, 1999), 36. Subsequent references to this text will be made in parentheses by page number.

internally “mangled” (31). Unrecognizable to himself, he cannot “get over the feeling that he was someone else” (35). Soon, Jimmy is put in the hole for insubordination. Despite a severe back injury, for which he receives total-disability workers’ compensation, Jimmy is assigned to the wheelbarrow gang. When he insists that he can’t do this physical labor, he is sent to the “Correction Cells” (47). The physical pain and psychological disintegration Jimmy faces there quickly belies any purported rehabilitative purpose to these torture cells. Overwhelmed with anxiety in the darkness that night, Jimmy enters a dissociative state:

And then it came in a rush, a throbbing part of him from the top of his matted head to the bottom of his feet, alive and crawling like the cockroaches on the floor, like the maggots in his mind.... Suddenly, he could see his mind standing just beyond his reach, like a white, weightless skeleton. He had the oddest desire to push it and watch it float away. (52)

This imagery of “maggots” in the mind reappears continually in *Yesterday*, connoting the mortification not just of the body, but of subjectivity itself—the putrefaction of personhood. During the novel’s unforgettable depiction the 1930 fire, Jimmy looks out at the pile of corpses gathered in the yard, bodies “crisscrossing into maggoty confusion” (97). Soon afterward, the narrator relates, “[w]orms began crawling in Jimmy’s stomach; little white maggots and long slimy worms, crawling in his stomach” (101). Later, making the rounds among the gambling games that have restarted in the wake of the fire, the entire prison seems to become a mass of rancid, infested, dead flesh:

Like carrion lying in the sun it was, and the coming of the maggots to worm in squirming, sickening frenzy thorough the pollution of rotten flesh, and then the stink, the awful stink, which lasted longer in the end than even the sight of the white, fattening maggots in the black, rotting flesh. (163)

While Himes's description of the fire itself is profoundly gruesome, this abjection is not confined to the site of one exceptional catastrophe. Death and decay in *Yesterday* infuse the physical spaces of the prison and the psychic spaces of the imprisoned. And once the visible signs of mortification have disappeared, "the awful stink, which lasted longer," remains. This hallucinatory passage offers an olfactory figure, "the awful stink" for those diffuse forms of abjection that permeate the prison less visibly than the most extreme instances of carceral violence.

Such extreme forms of violence, however, figure prominently in Himes's text. *Yesterday* represents carceral life as an existence under the constantly looming threat of death. To remember life in the dormitory, the narrator explains, is to remember "the constant sense of power just above, the ever-present hint of sudden death" that kept the men in submission (56). On his first night in the dormitory, Jimmy looks out the window as he is going to sleep and sees "the moon and the sky and a guard turret with spot lights down the walls. He saw the guard silhouetted against the lighter sky, rifle cradled in his arm" (36). When he is transferred to a new company after his night in the hole, Jimmy sleeps in a bunk directly beneath the guard's post—"right under the gun," as his friend describes it. Jimmy's bunk is also "so close" to the "death house" that "voices could be heard on execution nights" (54). The immanence of death in the penitentiary is a matter of the ongoing decay that pervades carceral life as well as the unceasing proximity of lethal "power just above."

Himes depicts eruptions of violence in the prison with a deadpan affect that sets him apart from the more sentimental prison protest writers of the Progressive Era. The hardboiled tone of Himes's narration in these scenes also suggests how such violence is

at once sickeningly shocking and utterly mundane in the penitentiary. Occasionally, this kind of violence takes place between prisoners, as when *Yesterday*'s narrator briefly interrupts a discussion of Jimmy's evening pastimes with a lurid description of one convict slitting the throat of another in the night. The narrator describes the victim "lying there with blood bubbling out of his mouth in large and small and very fine slavering bubbles, like the mouth of a dog gone mad, only the bubbles in Badeye's mouth were bloody and not quite so frothy" (55). Immediately after this grizzly account, the passage turns back to the mundane—to the guards with whom Jimmy might chat or the memories of his family and of Cleveland he might revisit while lying in his bunk.

The vast majority of the violence depicted in *Yesterday*, however, is perpetrated by the prison guards and administration. One illustration of how the terror wielded by the prison authorities trumps the violent capacities of the inmates comes in the scene of a near-riot that is disrupted by a much-feared official. After two guards are attacked and their guns taken, the growing crowd of prisoners prepares to charge the stockade gates but are frozen in their tracks:

What Jimmy saw come through the doorway shocked him deeply, violently, as he had never been shocked before. If you had not seen those freedom-crazed, wild-eyed, loose-haired, raving convicts surging in a solid, seemingly invincible mass toward the doorway, screaming of freedom ... then you wouldn't understand.

One man came through that doorway. Just one man. Sergeant Coty. (80-81)

Jimmy is shocked and horrified not by the wild and swirling mob of rebelling prisoners, but rather by the power of a single prison official to incapacitate the men with his mere appearance. For the inmates, Coty personally embodies the sovereign power over life and death with which the logic of police power endows the prison administration. Jimmy

finds this “freedom-crazed” mass of prisoners horrible not in its unbridled rage and seeming invincibility, but rather in its sudden arrest; it is the terror with which these men are collectively frozen before Coty that terrifies Jimmy.

While many of the character names were changed in the published version of *Cast the First Stone*, Himes’s original version refers to actual prisoners from the Ohio State Penitentiary who can be found elsewhere in the archive. *Yesterday*’s account of the killing of “Perry,” a prisoner shot during an alleged escape attempt, is corroborated by news reports. Like Himes, William Perry was an African American from Cleveland and was serving a twenty-five year maximum sentence for robbery. In the summer of 1929, the *East Liverpool [Ohio] Review* reported on his killing:

Perry, according to the information given Warden P. [E]. Thomas, had been creating a disturbance in his cell late last night, and was being transferred to solitary confinement, when he broke away from Night Captain John Hall and started to flee across the penitentiary yard.

Hall called to the man to stop, but the colored prisoner kept up his race across the institution’s commons.

Several guards, posted on the walls, fired at the running man, and Perry was dropped in his tracks.

He died a half hour later in the penitentiary hospital.

It is not known which guard shot the man, inasmuch as several guards discharged their shotguns and 30-30 rifles.

Warden Thomas said it was evident that the convict had been running amuck, and indicated that the shooting of the man by the guards was justified.⁵³

Himes’s novelistic depiction of Perry’s killing corresponds in broad outline to this account, though it includes certain details that are absent from Warden Thomas’s version of these events. Perry, who is known by other prisoners to be “nuts,” is indeed disturbing his cellmate by pacing around all night (77). The guard, who had been embarrassed by

⁵³ “Negro Convict Killed in State Prison Yard,” *East Liverpool Review*, July 6, 1929, 1.

another black prisoner the night before, hurls epithets at Perry as he holds the prisoner at gunpoint:

“What’s the matter with you, nigger?” the guard asked.

There was no reply.

“Smart nigger, eh? Come on out of there!” Jimmy heard the click of the lock, the creak of the door as it was opened. Then the guard’s voice again, “Come out or I’ll blow you out!” (77)

Perry is taken out of the cell block, and a few minutes later Jimmy hears “distant gunshots—one, then two more, then one, then a fusillade.” A prisoner on the lower tier, presumably with a view of what happened, explains that two guards “and the night captain were beating [Perry] with a pipe out in front of the hole and he broke and ran” (77). After two guards tried to shoot him and missed, “[t]he wall guard cut loose at him with his Tommy gun” (78). While it is unclear whether Himes personally witnessed any of the events surrounding Perry’s killing, he was incarcerated at the Ohio State Penitentiary at the time, and would undoubtedly have heard about it right away. Also, given the racial segregation of the institution, there is a significant chance that Perry and Himes had cells on the same block.

Dennis Childs reads Perry’s killing in this scene as “a northern version of a longstanding sadistic penal recreation ritual” that he calls the “neoslave hunt.” While this “ritual” is “most often associated with southern chain gangs, prison plantations and zones of ‘private’ neoslavery, the Ohio prison guards turn Perry into hunting game: they beat him repeatedly with a lead pipe in front of his solitary confinement cell with the intent of causing him to run so that they would be justified in using his body for target practice.”⁵⁴

⁵⁴ Childs points out that this scene could be playing out in an antebellum plantation, the convict labor camps of the postbellum South, or in a Northern penitentiary; the guard repeatedly hails

Himes's depiction of Perry's killing points to the instigation and brutality of the guards, details that the warden's sanitized narrative leaves out (Perry, the newspaper drily reports, "was being transferred" to solitary confinement). And yet, it is striking how closely the two accounts align. While Himes's version indicates that the prison regime created the conditions of its own justification in killing the prisoner, and the news report omits this aspect, neither narrative really contradicts the warden's conclusion that, from his perspective, "the shooting of the man by the guards was justified." In the eyes of the carceral police power, any disruption (be it an escape attempt, a rebellious action, or simply "running amuck"), wherever that disruption's roots may lie, represents a threat to the security of the institution that must be eliminated by whatever means necessary. And what, after all, does a prison do if not continually create the conditions for its own disruption—that is, for acts of revolt, resistance, and escape that in turn justify the use of lethal force?

In the days following the fire, an organized protest by the survivors leads to a tense standoff between the prisoners, who have more or less assumed control of the space within the walls, and the prison guards, police reserves, and national guardsmen encircling the perimeter. The morning after the fire, "a committee of twelve convicts was formed to direct a campaign of passive resistance against the warden, who, by now the convicts had learned, had stood outside the front gates with a shotgun in his hands all during the fire, prepared to shoot down any convict whom he saw trying to escape" (162).

Perry and the other black convicts as "black bastards" and "niggers," in "what amounts to a transgenerational racist incantation . . . a ritualized refrain of black fungibility, inhumanity, and disposability that in its horrifying repetition serves as discursive double for and ideological catalyst of the series of bullets that are ultimately emptied into his tortured body." Childs, *Slaves of the State*, 151.

These hair-trigger security conditions essentially remain in place after the fire is out. The second night after the fire, “a nine o’clock curfew was established and notices were posted to the effect that convicts caught on the yard after nine o’clock would be shot.” Machine guns are set up all along the walls “so as to cover every inch of the prison” (166). While simply “[g]oing back and forth to the dining room under the dead eyes of those Browning machine guns was an ordeal in itself” (166), the hyper-militarization of the penitentiary represents and intensification of—but not a qualitative change in—the quotidian carceral condition of living “under the gun.” Thus, the prisoners return to their regular routines. Two weeks after the fire, Jimmy and his friend Blocker are preparing for a poker game in the dormitory when a random burst of machine-gun fire kills an African American prisoner with whom they are laughing and joking. The narrator relates the shooting in gruesome detail:

While they were looking at him, the top of the convict’s head flew up into the air. He had been making his bunk, and now, on the white sheet which his hands still held, a gooey mass of brains appeared. They were still looking at him, and his mouth was still grinning as it had been before he lost the top half of his head, but his eyes were gone and blood was coming out over the edges of his skull...

Jerking his vision away from that sight, Jimmy bit off the screams with his teeth. ... He looked at the cards, his vision clinging to him as he tried to hold his mind with sheer force of will, and when he saw the clots of brains on them, the words came out in an inhuman scream, “Keep your goddamned brains off of my cards!”...

A white convict had also been decapitated, and his head left hanging from the iron girders where it dripped blood until two nurses came from the hospital and dislodged it with a stick. (166-67)

Himes would become famous, later in his career, for the outlandish, slapstick-inflected violence of his “Harlem domestic” detective novels, but we can see this same hallmark style of hardboiled crime fiction in his dramatization of actual events from his time in

prison.⁵⁵ News reports confirm that on May 8, 1930, two men had their “heads pierced by machine gun bullets, accidentally discharged by Ohio National Guardsmen.” The dead were “Albert Freeman, Negro, and Frank Ross,” though unlike in Himes’s narration, both men apparently “met death as they slept.”⁵⁶

Jimmy’s spontaneous exclamation (“Keep your goddamned brains off of my cards!”), which becomes an oft-repeated line among the card-playing prisoners, stems from his desperate attempt to “jerk” his vision away from this hideous sight. More broadly, it registers his need to look away not only from acts of gratuitous violence but from the unrelenting threat that such violence will strike at any moment, invade any mundane setting. By eventually turning “Keep your goddamned brains off of my cards” into a joke for teasing poker players who try too hard to guess their opponents’ hands, the prisoners seek to mitigate this traumatic event, in a sense metabolizing it back into the realm of everyday life. And yet, hideously enough, this act of brutality already *is* part of their everyday life. The tense situation after the fire might be unusual, but it merely brings out in more pronounced form the paradigmatic “standoff” conditions of the prison

⁵⁵ Himes’s Harlem domestic novels feature cartoonish carnage, including exploding bodies, immolations, and airborne severed heads. The “absurd and comic” brutality of these novels, Michael Denning argues, manifests a nihilistic “ideology of violence” that violates the hard-boiled detective genre’s drive for resolution, closure, and justice. Sean McCann concurs that in these later novels “Himes remade the form” by drawing upon “the genre’s potential for slapstick action and populist sentiment” to depict “a vision of American society as a violent and absurd racial carnival.”⁵⁵ McCann argues the Harlem domestic novels abandon Himes’s earlier optimism and indict the senselessness of a fragmented, meaningless, Hobbesian world. This absurdist element in Himes’s later work, however, can also be found in *Yesterday*, the very first novel he undertook, which has its own share of “extraordinary, carnivalesque violence.” Michael Denning, “Topographies of Violence: Chester Himes’ Harlem Domestic Novels,” *Critical Texts* 5, no. 1 (1988): 17; Sean McCann, *Gumshoe America: Hard-Boiled Crime Fiction and the Rise and Fall of New Deal Liberalism* (Durham, NC: Duke University Press, 2000), 251–52, 288.

⁵⁶ “KILL 2 CONVICTS IN OHIO PRISON AS THEY SLEEP: Troops Accidentally Fire Machine Guns,” *Chicago Daily Tribune*, May 9, 1930, 10.

in general. As Dylan Rodriguez argues, the prison regime narrates and validates itself by means of a “contrived standoff” between “the designated enforcers of law and order and their categorically incorrigible antagonists.” The prison, then, is the site of “the fabrication of a warfare terrain” which affirms the peacefulness of civil society by contrast, and by which such order is ostensibly attained.⁵⁷ The sniper shooting is understood as an unfortunate, but inevitable, byproduct of incarceration, incidental to the keepers’ task of policing an unruly and dangerous population. One newspaper somberly reported that such events “cannot be helped.”⁵⁸ In this view, if the “accidental discharge” of machine gun fire is anyone’s fault, it’s that of the inmates who brought this terror upon themselves. The sniper killings not need be legitimized by reference to any actual, immanent insurrection among the prisoners. It is this act of administrative violence itself that “proves” the threat that the prisoners pose. In the gaze of the carceral police power, the convict mind is transmuted from a locus of subjective capacity into a dangerous object—the mind becomes a brain to be targeted, exposed, and scattered.

The post-fire turmoil prompts new formations of policing and control. A “riot squad” is created, which soon earns the nickname of the “Head-hunters” among the prisoners. Armed with clubs, revolvers, teargas bombs, and submachine guns, the squad “was power on parade, an ever-present reminder that the wages of rioting was death, rioting being a term which, at that time, covered a multitude of minor infractions, the wages of most of which were death, anyway” (168). In the passage that describes this current iteration of the penitentiary regime, Jimmy falls out of the discussion altogether.

⁵⁷ Rodriguez, *Forced Passages*, 199.

⁵⁸ Childs, *Slaves of the State*, 144.

The third-person narrator gives examples of the guards' heightened brutality, such as when half of an entire cellblock is beaten when they refuse to identify the anonymous convict who shouted at a guard and called him a "bastard": "After failing to discover the identity of the convict, the guard lieutenants took the one hundred and fifty convicts on the three top ranges out of their cells, one at a time, and beat them into insensibility; then locked them back to live or die" (169).

Such scenes in *Yesterday* waver uneasily on the boundary between fictional narration and testimony about Himes's actual experiences in the penitentiary. (The final section of the novel is titled, fittingly, "What Is the Real and What is the Unreal.") Throughout the book, Himes is concerned with the ironic relationship between how the state seeks to represent its own violence, and the actual experience of living "under the gun." No aspect of the novel embodies this contradiction more powerfully than the fire scene. Before examining the fire chapter, however, it will be illustrative to consider the passage that immediately precedes it, in which Jimmy and his friends witness an execution by electric chair indirectly from across the yard. They watch the condemned man enter the death house and soon afterwards they watch the body brought back out in a wicker basket and loaded into a hearse. This calm, distant, and (from Jimmy's standpoint) silent act of killing stands in stark contrast to the spectacular inferno which is to follow. By positioning the fire scene alongside this solemn electrocution, Himes encourages us to think about these different forms of carceral violence together.

The performance of restraint on the part of the state had become a high priority in US execution practices during the early twentieth century. As Michael Pfeifer has demonstrated, the early twentieth-century decline of lynching in the South and West was

contemporaneous with a shift from public hangings to executions conducted in private.⁵⁹ The modern-day legacy of this movement toward concealed, technical, and anti-theatrical executions is that, as David Garland writes, “Speed and effectiveness are the key concerns rather than signaling or display. What gets performed is nonperformance.”⁶⁰ Indeed, when considered “alongside lynching,” the modern death penalty looks like “a mirror image, a reformed present that vehemently rejects its past,” suggesting that the death penalty as practiced today “has been *designed* to be an antilynching.”⁶¹ That transformation was already well underway by the 1930s, as states took on the “rationalization, centralization, and professionalization” of the death penalty—distinguishing the “power of the state” from the “power of local mobs.”⁶² Indeed, as widespread distaste for lynching grew, the authorities responsible for legal executions were greatly concerned to differentiate their acts of killing from those of lynch mobs. The replacement of the scaffold with the “death house” was an essential part of the state’s self-presentation as legitimate, its staging of what Rodriguez calls “sober and narrowly deployed state power.”⁶³ This distancing of state executions from racialized lynch mobs was an early manifestation of the ideology of “carceral racial liberalism” whose emergence Murakawa locates in the 1940s.

If the execution Jimmy witnesses conforms to the state’s desired image of itself as restrained and deliberate in its use of violence, then the fire that follows powerfully

⁵⁹ Pfeifer, *Rough Justice*, 122.

⁶⁰ David Garland, *Peculiar Institution: America’s Death Penalty in an Age of Abolition* (Cambridge, MA: Belknap Press of Harvard University Press, 2010), 52.

⁶¹ *Ibid.*, 34. Emphasis in original.

⁶² *Ibid.*, 123.

⁶³ Rodriguez, *Forced Passages*, 47.

contradicts that image. Himes repudiates the notion of rational, moderate state violence by dramatizing the fundamentally gratuitous, uncontrollable nature of this violence itself. The fire is the novel's most spectacular example of the spontaneous and excessive violence to which the prisoners are subjected, as well as the text's most emphatic deployment of hard-boiled brutality. Himes describes the G&H cellblock, which the fire consumes, as "a huge red-brick monster with a thousand fiery eyes, sucking in the flame and the smoke upon the living, writhing convicts in its belly." After arriving to try and help put out the fire with his bunk blanket, Jimmy begins running in a mad panic. He finds himself stepping on the dead body of a "burnt-up" prisoner with a "black-burnt" face (96). If the early twentieth-century shift from public to private executions sought to distance legitimate state violence from the lynch mob, Himes's fire scene undermines this rhetorical objective. While, by the 1930s, the frequency of lynching had decreased significantly from its 1890s highpoint, reports of mob executions still loomed large in the public consciousness. Himes's description of the grizzly details of the fire—of men branded as criminals burnt to charcoal—echoes the reports of lynchings and burnings that continued to emanate from all around the country. Himes was likely still at work revising the manuscript of *Yesterday* in 1939 when Billie Holliday sang of "the sudden smell of burning flesh" in "Strange Fruit."⁶⁴

The descriptions of charred faces and bodies coming apart, of blood, smoke, vomit, and burnt flesh, are relentlessly gruesome. The cellblock is reduced to a "greasy, grimy chaos," a "sweating, soot-blackened, vomit spattered mass of humanity" (102). Like the sniper shooting of the two prisoners that follows the fire, the raging holocaust

⁶⁴ Billie Holliday, *Strange Fruit* (Columbia Records, 1939).

Himes describes is officially framed as an accident, with a few individual prisoners taking the fall for starting the blaze. But the penitentiary fire is not an exception to the rule of carceral orderliness; instead it is an intensified manifestation of the everyday violence by which that “order” is maintained. In Childs’s formulation, amidst the catalogue of carceral atrocities that *Yesterday* presents, “the horrifying events surrounding the Ohio Penitentiary fire were but spectacular analogues of a quotidian system of living, civil, and biological death reproduction.”⁶⁵ Indeed, as Rodriguez argues, the prison’s “institutional identity ... pivots on the state’s rendering of captured bodies as infinitely fungible objects, available for whimsical and gratuitous productions of bodily and psychic violence.”⁶⁶ If the prison, in its basic functioning, produces prisoners who are ceaselessly vulnerable to violence—if to be a prisoner *is* to be ceaselessly vulnerable to violence—then the 1930 fire is essentially a reminder of what was already the case. With the warden standing guard outside the gate as the blaze rages on within, the Ohio State Penitentiary disaster confirms that Jimmy and his fellow captives are perpetually killable and consumable.

Yesterday’s fire scene thus dramatizes the destruction and disintegration of personhood that the penitentiary carries out from day to day. Persons are rendered objects, individuals are rendered unrecognizable, identities are burned away like so much disposable flesh. This violence, figured by charred bodies and skin, also has peculiar implications for *racial* identity in the context of imprisonment. After the fire, the “gray bodies” of the victims are stacked up around the prison. Himes’s narration situates these

⁶⁵ Childs, *Slaves of the State*, 145.

⁶⁶ Rodriguez, *Forced Passages*, 149.

bodies within a scene of chromatic chaos: “Suddenly a variegated color pattern formed before [Jimmy’s] eyes—black, smoke-mantled night, yellow light, red flames, dead convicts in gray blankets, crisscrossing into maggoty confusion” (97). “Grayness” is a perennial trope of prison literature, invoked not simply as the color of many convict uniforms and stone walls, but as a figure for the monotony, lifelessness, and hopelessness of prison life. Himes employs the term in this way early in the novel, where he describes Jimmy’s “utter sense of being lost in a gray eternity” (61). The narration expounds upon a grayness peculiar to the penitentiary, the “pure forlornness and the bleakness that comes alone to prison; gray top, gray bottom, gray men, gray walls, dull-toned and unrelieved” (75). But when the fire occurs, grayness shifts from its familiar connotation of grim monotony to something more abject and uncanny. As the bodies are gathered and stacked in the yard, grayness draws the victims together across racial divides:

The prone, gray bodies got into his eyes again—white men, black men, gentile, Jew—but in his eyes they were just gray humps on the bare ground, all alike.

... He saw Lardy Stark there with the stink gone out of him, with the voice gone out of him, lying very still and very dead, no longer swaggering and poking out his fat belly and imagining himself a prize fighter; he saw Mother Jones, long and black and dead; and Brownie, small and delicate and white and dead. He saw them all, hundreds of them lying on the ground, and they looked all alike to him, with their teeth bared and vomit in their lips and their bodies grotesquely twisted and their hands, with the flesh scorched and burned, gripping at something, and their eyes, wide open with sightlessness, staring at something ... (103)

Men of different races and ethnicities are now “just gray humps,” rendered monochromatic by the new blankets in which they are wrapped and the ashen condition of their charred flesh, united in their shared disfigurement. The “prone gray bodies,” we read, are “figures of charred and smoke-blackened flesh,” piling up in the yard as they are

brought from the incinerated cellblock (96). Pervading the chapter are compulsive-seeming descriptions and re-descriptions of mutilation and discoloration, of soft and giving flesh being stepped upon, of vomiting corpses—bodies turning inside out.

For the novel, the horrific violence of the Ohio State Penitentiary fire lays waste to racial distinctions as bodies become unrecognizable and unplaceable within any familiar racial matrix. Clearly, it is not a vision of transcending racial distinctions to reveal a common humanity that the text presents, nor a clichéd parable about death as the great equalizer. Rather, Himes puts forward an abject universalism, where terror, death, and mutilation have the power to amalgamate masses across social and racial differences. The fire generates a “post-racial” condition not in the sense of overcoming race, but in the sense of annihilating, disfiguring, or putrefying it.

During the fire, Jimmy’s face, too, changes color. While he runs frantically around the penitentiary, other prisoners keep telling him to clean the soot off his face. “Why don’t you wash your face?” exclaims his friend and lover, Walter. “Your face is black” (107). This blackening of Jimmy’s own skin brings up questions that loom implicitly in the novel and explicitly in much of the criticism on *Yesterday*. Namely, to what extent does Jimmy’s status as an imprisoned, criminalized subject trouble his claims on whiteness? Paired with the grizzly turn away from racial determinacy and categorization in the fire scene, such questions about Jimmy’s whiteness and its relation to racialized carceral violence are all the more conspicuous given that Himes, an African American, wrote his autobiographical novel about a white prisoner.

One approach to the relationship between race and incarceration in Himes’s fiction might look to the “anti-racialist populism” that Sean McCann sees at work across

Himes's early work, including his prison narratives. McCann discerns in these texts an optimistic desire for political and class unity that spans racial divides:

As Himes described it, prison was a world, not where special individuals might seem superior to racial distinctions, but one in which everyone was outside them.... It was a total institution whose intense pressures appeared to override racial divisions.... a laboratory in the democracy of suffering—an environment so trying that it gave rise to both leveling brutality *and* to redemptive examples of fraternity.⁶⁷

From this perspective, the disintegration of racial markers in the fire might indicate the stripping away of superficial divisions to reveal the common suffering of the downtrodden, dispossessed, and criminalized. Yet, it is hard to accept the inferno depicted in *Yesterday* as a crucible of solidarity, since the deracialized community it leaves behind is literally a pile of incinerated bodies—hardly a stirring metaphor for populist politics.

Reading *Yesterday* alongside some of Himes's other prison stories, Dennis Childs sees a reflection of how the state's imposition of the stigma of civil death "initiates a punitive suspension of a great portion of the property of whiteness." The homogenizing power of criminalization and incarceration by the state, he argues, does not produce a "nonracial" carceral sphere, but nonetheless "performs a relative deconstruction of the universal 'white' citizen subject—a perilous fall *toward* blackness."⁶⁸ What the white prisoner experiences through civil death is a "quasi-racialization, a plummeting toward the social (no)thing of blackness," even though that plunge is never fully completed.⁶⁹ Indeed, Childs is careful to note that this "relative deconstruction" of whiteness does not

⁶⁷ McCann, *Gumshoe America*, 264. Emphasis in original.

⁶⁸ Childs, *Slaves of the State*, 148. Emphasis in original.

⁶⁹ *Ibid.*, 149.

amount to *becoming* black. Indeed, as chapter 3 of the present study indicates, the use of black abjection as a figure for white carceral suffering tends to reinforce the obviousness and inevitability of the former in emphasizing the latter. Childs, rather, maintains that African Americans endured “northern neoslavery, like its more vilified southern counterpart ... at its zero degree.”⁷⁰

Formulations like Childs’s lend themselves to often-vexing equivocations: imprisonment and criminal stigmatization render white subjects less white, but not non-white, making whites more like blacks than whites usually are, and yet not altogether like blacks, and perhaps, in the end, not like blacks at all. Such tortured and circular reasoning, I would suggest, is not a sign of critical failure but a symptom of the deep mutual implication, indeed, the inseparability, of carceral violence and racial formation. For it was carceral violence that engendered and maintained racial slavery and that facilitated its reemergence in new forms after Emancipation, reconstructing the racial categories that supported the old regime as ones that could sustain the new one. It was carceral violence that grounded the lofty egalitarian ideals of midcentury racial liberalism in a reality of ongoing racial domination. Rather than puzzle over whether the experience of incarceration in *Yesterday* undoes or merely obscures racial difference, we might instead consider how imprisonment, in its broad sense, constitutes a *race-making* violence. The penitentiary fire, and the penitentiary itself, can be seen as a crucible of violence in which racial identities are both formed and deformed. This is not to deny that carceral violence, in Himes’s time and our own, predictably falls along well-established lines of racial difference or that it reinforces those existing hierarchized racial

⁷⁰ Ibid., 152.

distinctions. But it is to suggest that the violence of incarceration has not yet lost its capacity to reinvent and reinvigorate forms of stigmatized personhood that are captured under name of “race.”

Moreover, if the fact that Jimmy’s face looks “black” on the night of the fire connotes the possibility of his re-racialization through imprisonment, it’s worth remembering that it connotes the possibility of his incineration in a prison cell, as well. That is, if his soot-covered skin makes Jimmy look like he’s wearing some kind of blackface, it also makes him resemble the burnt-up bodies accumulating in the recreation yard. While coincidental, the fact that Jimmy’s appearance signifies both of these things at once is suggestive. If the subjection to gratuitous violence that was essential to racialization under slavery lives on—albeit in altered form—in the experience of imprisonment, efforts to fully disentangle racial domination and carceral violence, or to understand one of these as a metaphor for the other, may be doomed to frustration.

The carceral racial liberalism of Myrdal’s *An American Dilemma* vaunted the Northern penitentiary as a rational deployment of legitimate violence free from Southern-style arbitrariness and antiquated racial bias. Written the previous decade, Himes’s depiction of the Ohio State Penitentiary flies in the face of this representation, portraying the prison as a space infused with violence so excessive and racial antagonism so unrelenting that the continual assassination of black convicts and the worst prison fire in history cannot be meaningfully separated from the everyday rhythms and routines of existence inside the walls. Just as the fire cannot be contained in a literal sense, the effects and implications of the fire cannot be compartmentalized either. At the end of the fire scene, another prisoner reports that the inferno is “about all over now.” But Jimmy is

not so sure: “That was a funny thing to say, Jimmy thought.... What was all over now?” (108) Jimmy suffers from post-traumatic flashbacks throughout the remainder of the narrative—one way in which the blaze is never “over” for him. But on a more abstract level, insofar as the fire represents the relentless violence that constitutes imprisonment itself, there is no saying where it begins or ends. The line between who is a victim of the fire and who is a survivor constantly blurs for Jimmy, who, looking at prisoners sleeping in the dormitory the morning after the fire, can discern no difference between them and the bodies piled in the yard. “To Jimmy, they seemed no different from the dead” (159). The penitentiary fire is a metonym for the inherent excessiveness, irrationality, and unmanageability of the very same state-sanctioned violence that promises deliverance from arbitrariness.

“Too Hysterical for Publication”

While *Yesterday* challenges the carceral state’s claim to rationality in how it deploys violence, it also resists the nascent discourse of rational state violence on another level. In depicting the lives of Jimmy and his fellow prisoners, with their acts of rebellion, sex, love, protest, and violence, Himes questions but refuses to disavow the “irrationality” imputed to imprisoned, black, and queer subjects like himself. In a manner somewhat reminiscent of Paul Laurence Dunbar’s *Sport of the Gods* (see chapter 2), *Yesterday* inhabits the stigmatized categories of incarceration, queer sexuality, delinquency, and criminality invoked to buttress the state’s claims on rationality. In this

second half of the novel, the focus intensifies on the Ohio State Penitentiary inmates as members of overlapping populations defined as irrational and in need of management, though this focus can be seen in the first half, as well. The first major collision of these two dimensions of the book—prison brutality and queer carceral subjectivity—takes place during the fire scene, when Jimmy runs into Walter. Walter and Jimmy had become close early in Jimmy’s term of imprisonment, passing themselves off as “cousins” as cover for their intimacy, entertaining the idea of sex without ever engaging in it. Having been transferred since then to another company,

[Jimmy] hadn’t seen Walter in months; hadn’t thought about him. But now he felt as if they were very intimate.... Fresh from that greasy grimy chaos, that sweating, soot-blackened, vomit-spattered mass of humanity, Jimmy thought Walter was the prettiest person he’d ever seen. Putting his arm about Walter’s waist he backed him into the wall and kissed him, and when Walter tried to pull away, he said, “Don’t goddammit, let me kiss you.” (102)

This is a “queer” encounter in several respects besides sexual orientation. Jimmy’s kiss doesn’t seem to make sense in its context. Incongruous with the scene of death and destruction all around, the kiss also fails to give Jimmy the satisfaction or comfort or excitement he sought. Although Walter responds by kissing him back, Jimmy “could feel the pressure of Walter’s body and lips, but he didn’t get anything of what he had hoped he might” (102). Moreover, this embrace comes as Jimmy is running aimlessly about the prison, missing his chance to carry out the kind of heroic act he had dreamed about since childhood. While many convicts were rushing into the fire, “working overtime at being heroes,” Jimmy is immobilized: “All his life he had wanted to be a hero. Ever since he first read the *Iliad* and became a worshipper of Achilles. All of his life! And now was his chance. He felt his lips twitching as a wave of nausea swept over him” (99). Jimmy’s kiss

with Walter might lend itself to a homophobic reading that dismisses Jimmy's queer desire as a moment of panicked "madness" amid the chaos of the fire; yet, it is precisely the putative irrationality of imprisoned, queer, racialized, disabled, and criminalized subjects that Himes seems to think worth exploring in *Yesterday*.

The depiction of queer sexuality in *Yesterday* reflects a larger trend in the burgeoning prison literature of the 1930s. H. L. Mencken, editor of *American Mercury*—which published several of Himes's first stories—sought submissions from prisoners for his magazine. In particular, Mencken solicited narratives of everyday life in prisons, rather than polemics or redemption narratives. This editorial imperative helped foster "a new generation of prisoner writers [who] wrote with unprecedented candor about life behind bars," as historian Regina Kunzel explains. This turn toward candor, combined with the nascent scientific study of sexuality in prisons and a growing popular interest in "sexual deviance" more generally, meant that the Depression era saw "accounts of prison life that included considerably less cryptic discussions of sex between inmates than those of earlier decades."⁷¹

As Kunzel demonstrates in her study of prison sexuality, by the 1930s and '40s, US social scientific thought on sex in prisons was undergoing a paradigmatic shift. Early twentieth-century sexology had approached sexual object choice as innate, conflating it with gender identity. "Almost without exception," Kunzel writes, "the status of 'true' homosexual was applied in prison and out, to gender deviants or 'inverts': effeminate men and masculine women."⁷² Sexologists studying the prison sought to differentiate the

⁷¹ Kunzel, *Criminal Intimacy*, 56–57.

⁷² *Ibid.*, 60.

“true homosexuals” from the heterosexual majority whose involvement in same-sex sex was merely a product of their circumstances. Moving towards the mid-century, the notion of “situational homosexuality” emerged to explain the behavior of otherwise gender-conforming men and women who engaged in sex with other prisoners. But while this concept provided reassurance that queer behavior in prison was merely temporary and that “true” homosexuality was the affliction of a deviant minority, it also necessarily implied that sexual identity was fundamentally mutable—any heterosexual could conceivably behave otherwise, under the right set of circumstances. Thus, Kunzel writes, “the articulation of the category of situational homosexuality was a rhetorical maneuver by which midcentury social scientists sought to contain the disruptive meanings of sexual acts apparently unlinked to, and therefore unsettling of, sexual identity.”⁷³ The notion of circumstantial homosexuality channeled general midcentury anxieties about the changeable nature of sexuality into an understanding of the prison as a singularly corrupting realm, with the power to disrupt (however temporarily) the stability of sexual and gender identity.

From its first pages, *Yesterday* contradicts the emerging social scientific consensus that imprisonment “turned” inmates gay through prolonged deprivation of opposite-sex contact. While Jimmy has been sexually active with women on the outside, his sexual interest in men is not the outcome of a long process of acculturation in the penitentiary. Indeed, on his very first night in the dormitory, while talking to a gay convict named Red, Jimmy’s attention is drawn to Red’s shapely body: “Looking at the red-headed convict, he noticed how smooth-skinned and round-muscled were his bare

⁷³ Ibid., 102.

arms and body beneath the tight-fitting silk undershirt” (26). This observation is accompanied by a homophobic unease (“It was coming clearer now. There was something wrong about this red-headed convict, that was it.”), an unease Jimmy will eventually cast aside later in his prison term (26). But his immediate attraction to Red contradicts the theory of situational homosexuality and its construal of the prison as a unique space of sexual disorder.

Over the course of the novel, Jimmy has three romantic relationships. First, with Walter, who intimates the possibility of sex but is transferred to another company before anything comes of it. Then, in the book’s second half, with Lively, who Jimmy calls “a goddam friendship freak” for his intense veneration of platonic companionship over sexual intimacy (186). Jimmy, as a recipient of workers’ compensation, and occasional funds from his mother, is one of the most well-heeled prisoners, and he keeps Lively supplied with a steady stream of money and gifts. While Lively accepts these, their relationship is fraught with a transactional air, despite Jimmy’s insistence that he does not expect sex in return. Eventually, Lively does agree to have sex with him, which they plan to do behind the prison schoolroom. But the two end up quarreling first and attract the attention of the authorities, who transfer Lively to the “degenerates” company. While they continue to meet up in the Catholic chapel on Sundays to talk, their relationship deteriorates under Lively’s continued accusations that Jimmy is “just trying to buy my friendship” (224).

Jimmy’s last, and most significant, relationship is with another prisoner in the “cripple company” named Aubert LaCarlton Collins, but known as “Prince Rico.” Rico is tall, plays the ukulele, and walks with a limp as a result of having been beaten by a man

who tried to rape him on a freight train. Rico has “hoboed” around the country, worked as a carnival and drag queen performer, and served time on a Florida chain gang. Himes based the character quite explicitly on his own lover from the end of his prison years, who was also named Aubert LaCarlton Collins and nicknamed “Prince Rico.” Michael Fabre and Edward Margolies, in their biography of Himes, confirm that many of the details of Jimmy and Rico’s relationship in *Yesterday* mirror those of Himes and the actual Rico—from the authors they read together (such as O. Henry) to the nickname that Rico calls Jimmy (“Puggy Wuggy”) to the prison opera that they composed together (“Bars and Stripes Forever”).⁷⁴ Himes himself wrote to Carl Van Vechten in 1953, shortly after the publication of *Cast the First Stone*: “About Rico: he was the boy in the story, entire and absolute, and I was in love with him more, perhaps, than I have ever been in love with anyone before or since.”⁷⁵ For all the similarities between the historical and the fictional Rico, however, Himes’s literary incarnation of himself as white entails transforming Rico from an African American to a white man as well. Rico’s appearance is described in racially ambiguous ways—he has “blue-black hair,” his features have “a slight Mongolian cast” (264), he has “full, deep-red lips” and “olive-tinged” skin (266) and looks “Spanish” (273). Rico describes his father as “part Spanish and part Irish,” without commenting on his mother’s ancestry (313-14). Yet, the evident segregation of the tiers and cells, along with offhand remarks that Jimmy and Rico make about “colored

⁷⁴ Margolies and Fabre, *The Several Lives of Chester Himes*, 34.

⁷⁵ Cited in Childs, *Slaves of the State*, 163.

guys” (271), strongly indicates that if Jimmy is white, Rico is white (or at least, passing), as well.⁷⁶

Rico’s personal history is explicitly queer—from his time “impersonating females at cabarets” to his sexual encounters with men while hoboing (315). He is the only man in the penitentiary with whom Jimmy has sex. He also challenges the word “queer” itself when Jimmy uses it: “Queerness is a funny term,” he tells Jimmy. “There’s nothing really lost when a physical change is made unless you feel that it is wrong. It’s the feeling that it’s wrong that makes it queer” (308). Rico insists that it is the internalization of social norms, and not the “physical change” in sexual object choice, that generates “queerness.” And it is to Rico that Jimmy confesses feelings of queerness he had experienced since childhood: “I was different from everybody and I didn't know exactly why. I didn’t want to be. That was what caused all my trouble.... It was then I began feeling that I had to prove something; I don’t know, prove I wasn’t different, I guess; prove I wasn’t scared, prove I wasn’t a sissy” (311). Rico is the first character with whom Jimmy shares this aspect of himself, the first person to whom Jimmy has nothing to prove.

Yesterday does not always represent queerness and sexuality within the prison in quite so affirmative a manner, however. Himes’s description of a bedbug infestation suggests a morbid sort of prisoner sexuality: “In the crevices of the rotten wooden bunkframes, and underneath the mattresses, bed bugs perpetuated by the thousands,

⁷⁶ Childs, whose study includes illuminating archival research on the historical Aubert LaCarlton Collins, refers to *Yesterday*’s Rico as “the only other well-developed (and obviously intelligent) black character in the text (besides the ‘white-faced’ Himes).” But despite *Yesterday*’s at-times confoundingly thin line between autobiographical and fictional narrative, I take the novel’s representation of Jimmy and Rico as white, with all of its complications, at face value. *Ibid.*, 239n45.

literally by the millions, and grew obese on convicts' blood, little difference it making to them whether the blood was four-plus or negative" (74). "Four-plus" refers to a positive result on the Wassermann test for syphilis, and thus the bed bug infestation serves as an abject figure for the spread of sexually transmitted infections among the prisoners.⁷⁷ The masses of tiny parasites, swollen with the tainted blood of the captive men, grotesquely embody the interchange of bodily fluids among the prison population through the penitentiary's queer sexual networks.

The prevailing discourse of rational state violence that Himes often challenges (but which influences his writing nonetheless) characterizes incarcerated subjects as violently irrational and in need of control. While Himes raises questions about this sexualized and racialized stigma (and indicts the prison system's own irrationality), he does not unequivocally refute it. Indeed, at times he appears to endorse the logic by which the carceral state confirms the legitimacy of its treatment of prisoners. For instance, the following passage describes the prison, overrun by the convicts in the days after the fire, as an anarchic domain of cruelty and brutality:

But that afternoon the qualities of character which made these men criminals began to come alive. In the absence of discipline, these men ceased to be human They did the things which they had always wanted to do; they gambled and argued and degenerated, they had that punk they'd always wanted to have.... they ran wild like packs of wolves, stole from each other and robbed each other with knives at throats in the darkness. They raped each other; ... they raped the national guardsmen; they would have raped the guards, a thing some of them had wanted to do for a long time.... But most of the guards remained outside the walls during that period. (161)

⁷⁷ The racial connotations of such promiscuous commingling of blood are also hard to overlook, especially at a time when blood transfusions were still strictly segregated on the basis of race.

This lurid and dehumanizing description of the prisoners indicates that “in the absence of discipline,” boundless violence is released, confirming the incorrigible criminality of the men and the good sense of the state that incarcerated them. Indeed, it is difficult not to read this sensationalistic passage as a legitimization of massive violence on the part of the state. Himes’s narration here resembles the account in *True Detective Mysteries* of the “ominous, vindictive spirit” of a large number of rebellious inmates during the fire.⁷⁸ In his invocation of “the qualities of character which made these men criminals,” there are echoes of Donald Clemmer’s concerns about the psychosocial baggage prisoners bring into the penitentiary and the damaging effects they then have on each other. Granted, as the passage itself reminds us, these men are still confined within the walls. Their destructive behavior is no less a function of their continued captivity and concentration in the penitentiary than it is of any criminalistic “qualities of character” they may possess. But whether *Yesterday* attributes the blame for this surge of violence to the prisoners’ inherent characteristics or to their brutalization by the prison environment, this passage seems more like an endorsement of the sociological discourse of damage, pathology and irrationality (and the allied violent rationalism of the state) than any sort of challenge to it.

Such a reading of the post-fire chaos is not unfair; the passage demonstrates that Himes’s novel is ambivalent in its response to the liberal carceral discourse of rational state violence. *Yesterday* is no straightforward polemic, and it traffics, at moments, in some of the same ideological tropes that it critiques at others. However, given the novel’s depiction of the ubiquity and relentlessness of administrative violence within the

⁷⁸ Fornshell, “Inside Story of Ohio’s Prison Holocaust,” 120.

penitentiary, *Yesterday* forces us to see something more than just prisoner brutality in this scene. Unlike Clemmer's model of "prisonization," whereby the prison tends to create conditions that are unfavorable to rehabilitation, Himes depicts the prison as a space of unceasing violence and terror. In *Yesterday*, prisoners are not merely warped by their carceral environment, as Clemmer suggests; they are actively shattered by it—psychically, socially, emotionally, ontologically. They are mangled, disfigured, incinerated, putrefied, eviscerated, and decapitated by it in ways both figurative and material. That active, ongoing terrorization has not paused as this particular scene unfolds. Indeed, all this takes place in the days following the fire—in the aftermath, that is, of perhaps the most extreme demonstration imaginable of prisoners' helplessness and disposability. Thus, even the most cruel behavior by the rioting prisoners here is inseparable from the unceasing violence of the penitentiary itself. While Himes does not dismiss the idea of personal responsibility and individual agency in the novel (indeed, it's a continual concern for him), the convicts are not, as the narrator implies, just acting upon their own desires. They are acting on the desires of the prison itself. This explosion of apparently inmate-initiated violence is not carried out in defiance of the prison regime, but rather as an extension of it. "In the absence of discipline," the men have been conscripted to dispense the violence of the carceral power amongst themselves. Thus, they could be called "prisonized" not in Clemmer's famous sense of having been twisted by assimilation to the carceral environment, but in the sense of having become *part of the prison itself*, executors of its reign of terror. This scene, then, does not depict some natural experiment showing what prisoners will do in the absence of all restraint. The guards, after all, are not *absent* throughout these events, but remain right "outside the

walls” all along. What it depicts instead is an orchestrated situation in which the unrestrained power of the carceral state to enact violence is delegated—albeit partially, fleetingly, and unevenly—to the objects of that violence.⁷⁹

Yesterday is deeply concerned with that which remains illegible, from the perspective of violent rationalism, as anything other than irrationality—whether in the form of a caring a romantic relationship between prisoners or of an eruption of prisoner-on-prisoner violence. What gets framed by carceral liberalism as irrational behavior, the novel suggests, can be regarded as an understandable response to conditions of confinement, oppression, stigmatization, and criminalization. The term that that Himes uses repeatedly for this illegible, even ineffable, reaction to carceral violence is “protest.” When Jimmy begins to write stories with Rico by his side, he finds that “[a]ll the old protests boiled up in him” and pour forth in “a story, all emotion, from beginning to end” (291). Rico serves as a sort of muse for Jimmy, spurring his imagination with his own short prose poems or songs on his ukulele. Rico, we read, would only have to pluck out the tune to “Stardust,”

and the stories would boil out of [Jimmy] by the hundreds, none of which he ever wrote. At first he was unable to write them because all that blind, intense, not very clear protest which he felt so vividly was too real, and later because it was too futile.

Why that particular song stirred up so many protests within him, he never knew. But it did, and he developed an extreme sense of protest against everything. Against the prison and the officials and the indifference, the brutality and callousness; against the whole system of punishment as he saw it. (322-23)

⁷⁹ We might consider this dynamic in light of what David Theo Goldberg refers to, in another context, as the “carcerality of containment,” in which the dominant regime “encircles the source of anarchic difference and more or less abandons the spatial internalities to their self-chosen excesses” Goldberg, *The Racial State*, 169.

Most of Jimmy's stories go unwritten, and only a small portion of his "extreme sense of protest against everything" finds articulation through his fiction. Jimmy's first story is called "A CONVICT IS HUMAN, TOO," its very title (and typography) a dissent against the conditions under which it was written, and its very existence a form of testimony to the humanity of the writer.⁸⁰

Jimmy's stories are a rough expression of "the protests within him" and not a coherent narrative distillation of them. A rejection note he receives from a prospective publisher reads: "Excellent prison atmosphere—has no plot but does not need any; on the whole, however, too hysterical for publication" (326). The problem of Jimmy's penchant for "hysteria," for feelings in excess of what seems proper, pervades the novel and links the subplots of Jimmy's romantic relationships, his traumatization by the fire, and his connection to literature. Before he meets Rico and takes up writing, Jimmy avidly reads the "glossy" magazines, with their more "literary," fiction as well as pulp magazines such as *Black Mask*; this reading makes him "sickeningly romantic" (226). Fiction brings Jimmy a means of psychological escape, but this alternative world, Himes explains, exists in significant tension with his public life in the prison:

He made lonely crusades into fantastic dreamlands that grew out of the printed pages like skyrocketing into the nights, and broke his heart a hundred thousand times.

And afterwards, after the nights had gone and the days had come he felt ashamed for those sentimentalities and was invariably more vulgar, obscene, callous. It was all very queer how the two parts of him were so ashamed of each other, the day of him and the night of him. (226-27)

⁸⁰ In Henry Louis Gates Jr.'s seminal account of early African American literature, slave narratives served as "implicit testimony" to their authors' "humanity, a common humanity they sought to demonstrate through the very writing of a text of an ex-slave's life." *The Signifying Monkey*, 171.

The bifurcation between Jimmy's nighttime and daytime selves recapitulates the novel's own split between hard-boiled narratives of prison violence and sentimental accounts of Jimmy's romances. Jimmy's shameful sentimentalism is prompted by reading, as well as by the ambient sounds of the prison at night. Sometimes "a Negro's stirring voice break[ing] through the hammered quietness, singing low" (227) lets loose a flood of "thoughts, like tongueless words, like the sidewalks trying to speak, like the mute prayers of black scared night" (228). It is the song of a black prisoner in the darkness that drives Jimmy "frantic in his desire for freedom" (255), spurring him to take up writing in the first place:

A wail arose, poignant, stirring—"All night lo-o-ooo-OOONG Ah set 'n mah cell an' mo—o-o-aaaOAAAAAAAAAANNnnn!"

The muscles tightened all over his body. Heat burned white hot through him. He could feel his right eye jumping in his head, feel his lips twist.

Crazy! He was going crazy! He couldn't stand it anymore! ... He kept to his bunk, sullen and uncommunicative and tense. He tried reading, but that only brought his emotions to the surface so that everything made an impression on him. He read of love and life and of people achieving things and finding happiness; and could not take it. He tried writing. He bought a typewriter and began to learn typing. He wrote hysterical short stories, pouring out torrents of illiterate protests. Protests against what? He didn't know. All the while, the rooted, immovable, solid prison was getting next to him.

It was then that he met Rico. (254-56)

Jimmy's "extreme sense of protest against everything," his sensation of panic and madness, finds release not in revolt or attempted escape, but in writing and in Rico. Jimmy and Rico read fiction aloud together—they discover and adore *Esquire*, the magazine that published Himes's short story about the prison fire, "To What Red Hell," in 1934. That early story forms the core of *Yesterday*, and the scene of its writing is

reproduced in the novel when Rico types the first draft of the prison fire story while Jimmy dictates.

Jimmy and Rico eventually attract the ire of other prisoners, who begin reporting them to the administration for having sex. The two refuse to stop spending time together, despite the entreaties of a head guard who seeks to protect them from punishment. Jimmy and Rico's queer intimacy continues in defiance of the administration and their fellow prisoners. Their relationship constitutes a realm of sentimental escape from the brutal prison environment, but it is also inseparable from the written, felt, and sung protests that they share. Eventually, they are written up for "sex perversion," sent to the hole, and transferred to the degenerates' company. Jimmy loses the opportunity for the pardon he had been pursuing. Yet, in refusing to renounce his relationship with Rico, Jimmy feels that he is affirming himself as never before: "in the final, full analysis, the thing he had done, he had done it for himself. He had done it because in his warped and unmoral way it made him something; it made him a man" (360). As Clare Rolens argues, Jimmy's definition of "manhood" here departs from the patriarchal and homophobic values of conventional "hardboiled masculinity." Rather than "power, toughness, and demonstrative violence," Jimmy's "new definition of authentic manhood hinges on a sexuality labeled perverse and his decision to freely give up power."⁸¹ While Jimmy and Rico previously had the "game without the name," they are now marked with the label of degeneracy: "And now they had the *name*, Jimmy thought.... And when they put the name on you it stuck" (360, emphasis original). Their embrace of the stigma of "the name," despite its weaponization in the hands of the administration, reflects the overall

⁸¹ Rolens, "Write Like a Man," 438.

ethos of Himes's prison novel. *Yesterday* inhabits the stigmatized condition of queer criminality against which the ideology of violent rationalism conceives of the legitimate use of force.

This stigma of irrationality and social disorder was crucial to the carceral state's promise to protect the public against threats of arbitrary, irrational violence and to keep at bay the social disorder threatened by criminal "sexual perverts" like Jimmy and Rico. It was also essential to the ideology of carceral racial liberalism. That is, whether the danger was posed by racist white lynch mobs or by resentful, damaged black masses, the state promised to protect the public from arbitrariness in this form, too. All of these figures of irrationality are cast as threats to be managed and eliminated by the police power. Himes, however, writes from the social position of these stigmatized objects of legitimate violence, unfolding a realm of consciousness, subjectivity, feeling, and dissent. Resistance to repression in this realm is not readily legible, but it possesses a logic, a meaning, and an intelligibility that the state seeks to obscure and invalidate to shore up its own monopoly on rationality. As we saw in chapter 3, many imprisoned writers all sought to write themselves out of the living death of incarceration through such respectable categories such as "citizen," "worker," "American," or "mother." Himes, by contrast, does so through the stigmatized category of the queer, disabled convict.

In light of the precarious, marginal standpoint from which Himes's depiction of the penitentiary is articulated, we can revisit his decision to write Jimmy as a white man. This choice could be explained as simply a strategic move for getting the novel published. In an interview, for instance, Himes reported: "In my early prison stories, I wrote about white characters. It made publication possible, or at least easier, in big

magazines like *Esquire*.”⁸² In a 1952 letter to Richard Wright about his forthcoming *Cast the First Stone*, Himes wondered if “maybe the boys can stand the truth about life in a state of prison better than they can stand the truth about life in the prison of being a Negro in America.”⁸³ Despite this compelling explanation, it is nonetheless worth asking what writing his autobiographical persona as white made possible for Himes beyond the fact of publication. Rolens, for instance, contends that making Jimmy white allows Himes to critique hardboiled white heterosexual masculinity through a performance of “racial drag,” exaggerating Jimmy’s whiteness in order to draw attention to it. Rolens is correct to warn against simply reading “Jimmy’s (white) carceral experience as metaphoric for Himes’s own African American experience.”⁸⁴ To do so, after all, would mean treating whiteness as transparent, a state of racelessness upon which truly “racial” experience could be projected.

However, I do want to suggest that writing a white protagonist allowed Himes to explore black experiences of state violence from a more oblique angle. The mainstream social scientific consensus that African Americans were a pathological, socially disorganized, and ultimately dangerous population in need of containment relied heavily on the stigmatization of blacks as sexually deviant.⁸⁵ African Americans found non-

⁸² Cited in Childs, *Slaves of the State*, 147.

⁸³ Cited in Rolens, “Write Like a Man,” 444.

⁸⁴ *Ibid.*, 445, 434.

⁸⁵ The criminalized queerness explored in *Yesterday* was crucial to the sociological discourses of race that condemned blacks as irrational and dangerous with renewed force during the 1930s. As Roderick Ferguson argues, after Chandan Reddy, “racist practice articulates itself generally as gender and sexual regulation.” Throughout the early twentieth century, the state, in collusion with the social scientific academy, “worked to regulate the gender and sexual nonnormativity” of racialized populations, drawing upon and reinforcing associations between people of color and transgression of patriarchal gender and sexual norms. Ferguson, *Aberrations in Black*, 3, 14.

normative gender and sexual practices held against them as a population in ways that whites did not. Perhaps, despite Himes's overall willingness to inhabit stigmatized social positions in *Yesterday*, the prospect of writing about a protagonist who was queer and criminal and imprisoned *and* black, seemed too daunting, or too risky. In writing about queer desire among whites, Himes may have been able to probe notions of gender and sexual nonconformity—mainstays of antiblack discourse in social science and popular culture—with somewhat lower stakes. This is not to say that Himes examines sexuality in isolation from race or that he presents a “colorblind” queerness. But it may be the case that by writing Jimmy as a white man, Himes gave himself more space to meditate on the homophobic carceral violence he experienced himself—violence that, in his own case, no doubt, took on a strongly racialized form.

By the time Himes's prison novel manuscript was accepted by a publisher, it had been through numerous rounds of revision and several changes of title. *Cast the First Stone*, set for publication in October of 1952 but delayed until January 1953, was a significantly different book from *Yesterday*.⁸⁶ Among the most prominent changes to the text are the shift from third- to first-person narration and from the Depression to the postwar era as a setting. Most of the names in the novel were changed—with the exception of Jimmy's. Rico became “Dido,” Walter became “Mal.” Lively dropped out altogether. *Cast the First Stone* exhibits the same split structure as *Yesterday*, although the proportions have changed somewhat. In some places the novel's representation of prison violence is heightened and guards appear even more cruel and vindictive, although some scenes of spectacular violence are removed, such as the “Keep your goddamned

⁸⁶ Margolies and Fabre, *The Several Lives of Chester Himes*, 76.

brains off of my cards!” sniper incident. The transformation that has, understandably, received the largest amount of attention from critics is the expurgation of much of the romantic and sexual content. Jimmy’s relationships with Walter/Mal and Rico/Dido are toned down in affective and physical intensity, as well as in length. The narration, now voiced by Jimmy, is much more homophobic; Jimmy relates that he and Dido never had sex, leaving them with, at the novel’s end, “the name without the game.” At the end of the narrative, soon before Jimmy is to be transferred to the prison farm (the first step towards his release), the two men say goodbye and share a kiss. “It was the first and only time I had ever kissed him,” Jimmy reports. “There was no passion in the kiss, but it had a great tenderness.”⁸⁷ In a final plot twist that is completely absent from *Yesterday*, Dido hangs himself later that night. “I knew,” Jimmy narrates in response to Dido’s suicide, “beyond all doubt, that he had done it for me. He had done it to give me a perfect ending.” On the one hand, Jimmy reads Dido’s suicide as a sign of devotion: “the one irrevocable thing to let me know for always that I was the only one.”⁸⁸ But Dido also gives Jimmy “a perfect ending” by getting out of the way, allowing for Jimmy’s unencumbered return to society and heteronormativity following his release. This ending conveniently confines Jimmy’s queerness to the space of the prison; rendering it an instance of “situational homosexuality” with no future beyond the end of his penitentiary sentence.

It is impossible to account with certainty for what drove the changes made to *Cast the First Stone* or which changes were insisted upon by the editors and which ones Himes

⁸⁷ Chester B. Himes, *Cast the First Stone: A Novel*, Reprint (Chatham, NJ: Chatam Bookseller, 1973), 343–44.

⁸⁸ *Ibid.*, 345.

made on his own. Much of the excision, Himes asserted in a letter to Van Vechten, was done by his publishing company: “In my contract I had to give Cecil Goldbeck at Coward-McCann the complete right to cut as he saw fit. He cut 250 pages from the original script of 650 pages, and the part he cut was mostly the heart, the pulsebeat and emotion of the story.”⁸⁹ Rolens notes that the heightened homophobia of the early Cold War years might help to explain “why publishers rejected the manuscript time and time again.”⁹⁰ But we can also consider how changes to the novel reflect the evolving popular and social scientific discourse about prisoners at the midcentury. By the 1950s, the climate around prison sexuality had shifted significantly. Regina Kunzel notes that while the US saw rising concern about the incidence of homosexuality in society more generally, the matter of sex in prison saw an “explosion in criminological, sociological, reform, and popular writing” during this period. “Increasingly in the mid-twentieth century,” writes Kunzel, “there was a growing fear that prison, rather than simply collecting perverts, played an active part in producing them.”⁹¹ While the notion of situational homosexuality had Donald Clemmer’s 1940 discussion of “prisonization” for its starting point, it was increasingly embraced in both social science and popular culture, such that by 1962, one psychologist could assert the “*obvious* fact that separation of the sexes induces some people to seek homosexual gratification.”⁹² This context for the novel’s revision sheds some light on the removal from *Cast the First Stone* of all scenes which take place before Jimmy goes to prison (throughout which uncertainty about his

⁸⁹ Cited in Childs, *Slaves of the State*, 162.

⁹⁰ Rolens, “Write Like a Man,” 438.

⁹¹ Kunzel, *Criminal Intimacy*, 86, 88.

⁹² Cited in *Ibid.*, 98. Emphasis added.

gender and sexuality is a persistent theme). Without this pre-prison sequence, *Cast the First Stone* is focused exclusively on the prison. As Rolens argues, the publishers' efforts "to portray the prison as fundamentally separate from 'normal' society" are linked to a conservative sexual politics that seeks to exceptionalize and contain the queer sexuality manifested in the prison.⁹³

The narrowing of the narrative on the penitentiary, spatially and temporally, parallels another shift in *Cast the First Stone*, one reflected in Stephen F. Milliken's assertion that "Prison is its one and only subject; its unique and exclusive concern."⁹⁴ Although both *Yesterday* and *Cast the First Stone* tell the story of Jimmy Monroe's incarceration, the latter is less concerned with Jimmy's particular prison narrative and more concerned with "prison" itself. The 1953 version feels closer to a sociological text than does *Yesterday*. Although the switch to first-person narrative might seem to make the novel more subjective, its effect is to recenter the narration—at the level of syntax—around a generalized imprisoned "I," rather than around the more idiosyncratic and emotionally volatile "Jimmy." Flattening out the love stories and toning down the affective tenor of the narration gives the book the air of a sociological description of prison life. The revisions render the novel's setting less specific; whereas *Yesterday* is grounded in a highly precise time and place, populated with historical persons and punctuated by historical events, *Cast the First Stone* takes Jimmy out of the particular

⁹³ Rolens, "Write Like a Man," 440. While, as Kunzel demonstrates, pulp fiction would come to "exploit" the slippages in sexologists' divide between "real" and "situational" homosexuals "for their titillating appeal," such an approach was likely an unpalatable one for a respectable publishing house such as Coward-McCann in the 1950s. Kunzel, *Criminal Intimacy*, 104.

⁹⁴ Cited in Marlon B. Ross, "White Fantasies of Desire: Baldwin and the Racial Identities of Sexuality," in *James Baldwin Now*, ed. Dwight McBride (New York: NYU Press, 1999), 23.

Ohio prison that burned in April 1930 and puts him in an indeterminate Midwestern penitentiary sometime after World War II. Thus, the prison and the prisoners the book depicts seem more like generic examples, moving from the personal to the typological.

Jimmy himself has also changed in the 1953 version. First, Jimmy's whiteness is emphasized more aggressively and antagonistically in *Cast the First Stone*. In parallel to the narrator's increased homophobia and use of the word "faggot," *Cast*'s first-person narration is far more liberal with the word "nigger." While *Yesterday* also includes occasional minstrel-like scene of black prisoners behaving foolishly, *Cast* features an actual convict minstrel show.⁹⁵ In contrast, Jimmy's whiteness in *Yesterday* is not insisted upon in the same way, nor is it accentuated as much through racist commentary or in relief against black abjection. But perhaps the biggest change in Jimmy's character is that fact that, in *Cast the First Stone*, he does not turn to writing fiction. Instead of reading and writing stories, Jimmy studies law, criminology and psychology. First, he studies case law through a correspondence course:

In the course of time I came to see the necessity of exemplary justice, such as had been meted out to me. It was as necessary to take steps to prohibit crime as to punish it, I concluded. That did not make me feel any better toward the judge who had sentenced me, but I derived a certain satisfaction from learning of his mental processes.⁹⁶

Jimmy then takes up psychology: "I felt that I should know more about the anatomy of criminal impulses in order to understand, more thoroughly, the psychology of jurisprudence."⁹⁷ He uses his typewriter to write essays on law and criminals. Whereas Jimmy, in *Yesterday*, had poured forth protests with rage and tenderness, Jimmy, in *Cast*,

⁹⁵ Himes, *Cast the First Stone*, 122.

⁹⁶ *Ibid.*, 184.

⁹⁷ *Ibid.*

labors to master the juridical and social scientific discourses by which the rationality and legitimacy of state violence were secured.

The excision of Jimmy's "extreme sense of protest" from *Cast the First Stone* is particularly notable given the moment of the novel's appearance. From 1951 to 1953, the US experienced an unprecedented wave of prison riots. Of the more than fifty prison uprisings during these few years, the majority took place in the penitentiaries of the North and West, including New Jersey's Trenton and Rahway Prisons, Michigan's Jackson Prison, and Illinois's Menard State Prison.⁹⁸ In the first of the New Jersey riots, prisoners were angered when the administration refused to take an ill man to the hospital. A voice called out, "If I start smashing things, will you go along with me?" Moments later, inmates throughout the wing of the prison broke their wash basins and threw the pieces on the floor, and soon fifty-two men had smashed the lights and taken over the darkened wing.⁹⁹ Subsequent riots in the New Jersey prison system involved the destruction of the Trenton Prison print shop and the taking hostage of several guards, who were eventually released unharmed. In 1951, thirty-seven men at Louisiana's notorious Angola plantation prison severed their own Achilles tendons to escape dusk-to-dawn labor on the plantation and to protest the slave-like conditions of their imprisonment.¹⁰⁰ As Colin Dayan writes of prisoner self-mutilation in another context, such acts constitute an effort to "speak out

⁹⁸ Sullivan, *The Prison Reform Movement*, 45–48.

⁹⁹ Gresham M. Sykes, *The Society of Captives: A Study of a Maximum Security Prison* (Princeton: Princeton University Press, 1958), 112–13.

¹⁰⁰ Mark T. Carleton, *Politics and Punishment: The History of the Louisiana State Penal System* (Baton Rouge: Louisiana State University Press, 1971), 150–51.

of their disfigurement,” returning to the old penal lexicon of bodily wounding “to testify to the continuation of these tortures in less visible forms.”¹⁰¹

In his preface to the 1958 reissue of *The Prison Community*, Donald Clemmer noted that the recent spate of prison uprisings had occurred both in “institutions with progressive programs” as well as the backward, “unimproved” prisons. Clemmer asserted that the determining factor for the riots, thus, was not the quality of the administration but the “subculture” within the prison. “What remains to combat in most modern prisons, he argued, “is the unseen environment, which is a stronger force for evil than the programs are for good.”¹⁰² Clemmer’s explanation of prison unrest by recourse to the pathology of the imprisoned parallels racial liberals’ explanation of black unrest by way of the “aggressive” tendencies of “damaged” African Americans—even though, in both frameworks, these stigmatized groups could still be conceived of sympathetically as victims of oppression or neglect. While these theories conceded that the institutions of the prison and of Jim Crow racism ultimately spurred such disorder, they put the focus on the dangerous populations produced by these institutions. In the case of penology, the prisoners, and not the prison, remained the central problem to be addressed.

As *Yesterday Will Make You Cry* indicates, prison writing offered an alternative perspective, one that re-centered the legitimate violence of the state as a problem to be reckoned with. Such a move was not necessarily legible as anything more than an anarchic revolt against order and authority, an extreme sense of protest against everything. But by inhabiting that space of illegible rage, irrational behavior, and queer

¹⁰¹ Dayan, *The Law Is a White Dog*, 81.

¹⁰² Clemmer, *The Prison Community*, xiii.

protest, *Yesterday* indicts the state for its *own* extremity, the excessive nature of its violence, and the mendacity of its claims to restraint and reasonableness. Even as the expurgation of *Cast the First Stone* suppressed Jimmy's sense of protest (and Himes's as well), this unruly feeling was finding expression in the prisons of the early 1950s, as prisoners redirected violence against the institutions themselves. Carl Sifakis writes that although there were some attempts "to exact punishment on guards" in these rebellions, the "destruction of state property" was at the center of the uprisings and of the public reaction to them.¹⁰³

The Ohio State Penitentiary was not exempt from this wave of prison rebellions, and on Halloween night in 1952, more than a 1200 prisoners seized control of the institution. The riot was allegedly sparked over complaints about bad food. During the first few hours, the men set fire to nearly every building on the prison grounds, smashed windows, and dismantled plumbing fixtures.¹⁰⁴ As many news reports noted, the uprising was the most significant outbreak of disorder at the prison since the 1930 fire. (Warden P. E. Thomas, who presided over the prison in 1930, happened to have died the previous week.¹⁰⁵) At the end of four days of rioting, damage to the penitentiary was estimated at up to \$1,000,000. As Sifakis observes, the prisoners "did not take hostages, made no

¹⁰³ Carl Sifakis, *The Encyclopedia of American Prisons* (New York: Infobase Publishing, 2014), 202.

¹⁰⁴ "3 Prisoners Slain; 1200 Reported Out Of Control," *Washington Post*, November 1, 1952, 1; "Convicts Agree To Surrender, End Ohio Riot," *Washington Post*, November 5, 1952, 16; "OHIO PRISON HALTS NEW DISOBEDIENCE: Psychopathic Prisoners Wreck Cells in Aftermath to Wide Rioting and Burnings," *New York Times*, November 2, 1952, 27. Conflicting reports put the number of prisoners shot and killed by guards between one and three.

¹⁰⁵ "3 Prisoners Slain," 3.

demands, and clearly had no other intent but to destroy their 120-year-old prison.”¹⁰⁶ The apparent aimlessness of the destruction was commented on by both prison administrators and journalists at the time. “Warden Alvis said the rebellion looked like mob hysteria,” wrote the Associated Press. “It seemed to have no real goal. The original complaint of bad food was long since lost.”¹⁰⁷ Elsewhere, Alvis was quoted as calling the men “completely hopeless victims of mob psychology ... I doubt if they know what they want.”¹⁰⁸ The *New York Times* described the prisoners who trashed their cells after the fires were put out as “psychopathic.”¹⁰⁹ In light of this prevailing (mis)reading of the Ohio prisoners’ demolition of the penitentiary, we might consider their illegible protests and Himes’s prison novel as kindred expressions. Just as *Yesterday*’s sense of protest was unintelligible—“too hysterical”—for the publishing establishment, so was the message of the prison uprisings—inscribed in the ruined penitentiary grounds or in the prisoners’ own mutilated bodies—indecipherable for the press. Taking aim at the state’s monopoly on force and rationality, both Himes’s Depression-era novel and the 1950s riots might be understood as forms of prison protest “writing.” At a time when carceral racial liberalism looked to the penal system as the solution to social disorder and racial injustice, these protests offer a searing indictment of that system, severing the purported link between rationality and violence.

¹⁰⁶ Sifakis, *The Encyclopedia of American Prisons*, 202.

¹⁰⁷ “TROOPS ENTER OHIO PRISON TO QUELL RIOTING: Warden Gets Offers of Surrender,” *Chicago Daily Tribune*, November 4, 1952, 1, 8.

¹⁰⁸ “OHIO FELONS OFFER SURRENDER IN RIOTS; MILITIA IN CHARGE: Warden Gets 35 ‘We-Give-Up’ Notes After 1,632 in Prison Stage a New Uprising CONVICT IS SLAIN, 3 SHOT Lausche Directs Operations as Guardsmen Move In -- Machine Guns Ready OHIO FELONS OFFER SURRENDER IN RIOT,” *New York Times*, November 4, 1952, 18.

¹⁰⁹ “OHIO PRISON HALTS NEW DISOBEDIENCE,” 27.

Coda

Over the past decade, a phenomenon known as “mass incarceration” has been the subject of growing attention among academics, activists, journalists and policymakers in the United States. A tangle of policies and practices regarding sentencing, policing, prosecution, immigration, drugs, and prison construction collectively spurred a 500% increase in incarceration rates since 1980, with profoundly disproportionate impact on people of color in general and African Americans in particular. The racialized expansion of the US prison system in the late twentieth century is indeed unprecedented, and it has important roots in political, economic, and social developments of that period. But it also has a cultural backstory that reaches further into the past than is usually assumed. Often, the story of racialized punishment in the US is treated as if it began in the 1960s. In a watershed moment for US racial politics, the arguments goes, Barry Goldwater and Richard Nixon seized on white civil-rights backlash, allowing the coded language of “crime control” and “law and order” to stand in for explicit appeals to racist resentment of desegregation. The present study suggests that such a “code” did not simply appear fully fledged in the 1960s, but in fact has deep roots in US culture.

It is tempting to understand racialized mass incarceration primarily as a product of the tumultuous post-civil rights era. White backlash (and the GOP’s capitalization on it through the “Southern Strategy”), the rise of the Black Power movement (which articulated a powerful critique of the criminal system’s racism), and the onset of law-and-order politicking (which would precipitate the unprecedented prison growth of the 1980s, 1990s, and 2000s), all point to the critical importance of the 1960s in this regard. But if

we start the story there, we risk looking at the punishment system as an otherwise race-neutral apparatus that has recently been overtaken by racism. Such an approach reinforces the very same ideology that this dissertation traces and critiques, an ideology that normalizes the everyday violence of the state against people of color. From this angle, the routine targeting of people of color for arrest, prosecution, imprisonment, abuse, and post-release discrimination is rendered invisible.

Just as the 1960s do not tell us all we need to know about the prehistory of mass incarceration, the mobilization of Southern punishment systems to recapture emancipated African Americans does not in itself explain the persistence of racial criminalization through the present. The Thirteenth Amendment's notorious exception clause permitted and invited a new mode of disciplining black bodies, one grounded in criminal law, rather than slave law. Thereafter, the US punishment apparatus would remain an essential—but evolving—legacy of slavery. Slavery's afterlife was sustained by an array of cultural, ideological, and institutional innovations that secured the normality of racialized violence and the obviousness of state-sponsored white supremacy. If we examine the intervening century between Emancipation and the rise of law-and-order policies, we can see how the imperatives of racial domination became entrenched in the grammar of legitimate violence. If this grammar still shapes and delimits how we talk about state violence today, a close look at its history may be helpful in learning how to speak otherwise.

This study has followed the development of discourses of race and legitimate violence from the postbellum reconstruction of whiteness through the carceral racial liberalism of the post-World War Two period. As we move across this historical frame, we can see how the prison gradually became the most central and representative

institution of punishment in US culture. Whereas, at the turn of the century, lynch mobs were widely legible as expressions of the popular will (even to many white liberal critics of lynching), by midcentury a modernized and rationalized system of policing and imprisonment held an exclusive claim to dispense legitimate violence. Despite this change, the lynch mob's function of upholding white supremacy was not abandoned, but rather was carried forward by the ostensibly impartial carceral state. An ideology that embedded racialized violence at the very heart of the state's legitimate use of force allowed the unruly and extralegal lynch mob to give way to the apparent restraint of the penitentiary.

Crucial to this entrenched ideology was the distinction, maintained by legal, sociological, journalistic, and literary commentators, between an irrational racial prejudice that can easily be disavowed and the exertion of racially targeted legitimate violence. Many critics of postwar racial liberalism have pointed out that, by treating racism as a psychological pathology and a problem of individual attitudes, liberals allowed structural racial inequalities to stand unchallenged. They see the problem to lie in the heart, not in the state. When, in *To Kill a Mockingbird*, Atticus Finch blames the "code" of racial prejudice for the injustice Tom Robinson faces, he provides cover for the many other ways the carceral state criminalizes, targets, captures, and kills people of color. Robinson dies, after all, while awaiting his appeal—in the custody of the same legal system that is supposed to grant him due process. He is shot dead in an alleged "escape attempt," much like William Perry in the Ohio State Penitentiary in 1929, or, for that matter, George Jackson at San Quentin in 1971. The very same lynchings that passed muster as a species of legitimate violence at the turn of the century come to serve as the

foil for administrative killings by the state at midcentury. But white supremacy did not fade away with lynchings; over time, the state integrated racial control more deeply into the machinery of punishment. Secreted within prison walls, the execution of people of color in the defense of the racial order reincarnated the lynchings of that previous era in a more respectable, and more inconspicuous, form.

The partitioning off of a narrow definition of “racism” by midcentury liberals and the associated normalization of systemic racial inequality were not simply an invention of the post-World War Two era. This ideology had antecedents. When lynching critics conceded that white mob violence represented the frustrated will of the people and not just racial animosity, they reinforced the idea that deadly spectacles of white supremacy were simply expressions of democratic sovereignty. When criminologists pointed to racial crime statistics and stories of the “brute beast rapist” as proof of African Americans’ inherent criminality, they justified racially-targeted policing practices as a necessary part of crime control. Progressive-era reformers who advocated for a healthier interchange between the shadowy prison and the world beyond neglected to acknowledge how Jim Crow racism structured both realms, and radicals who denounced the prison’s function within capitalism often took for granted its role in enforcing white supremacy. Thus, by the time racial liberals like Myrdal were condemning the irrational prejudice of the Southern criminal justice system, entrenching the legitimacy of the modern, Northern penitentiaries and police, there was already a well-established division between an ostensibly “non-racial” apparatus of legitimate violence and an irrational, condemnable, but ultimately exceptional “racism.”

The consolidation of legitimate state violence around the institution of the prison was carried out through representations that sanctioned the use of force. This study has shown how texts written from a range of disciplinary, political, and social perspectives collectively set the terms for debating the legitimacy of state violence, forging a discourse of rational violence that circumscribed the possibilities of critique. Questions of *whether* the state should incarcerate were crowded out by conversations about *how* and *against whom* carceral violence should be directed. Whether specific instances of state violence were portrayed as reasonable or as excessive, these varied representations colluded in idealizing the rational distribution of violence. Such an ideal was explicitly contrasted against irrational racial prejudice, and yet it proved a haven for the material practices of racial domination that had long enjoyed a claim to legitimacy.

State violence always has something to prove. It needs to be seen within a frame that makes it appear reasonable and necessary to its audience. Representations of the state's use of force, whether in literature, social science, journalism, or the state's own official statements, draw on the contested narratives that surround acts of state violence—narratives about public safety, social danger, and the people's welfare. The struggle over these representations is not always a straightforward one with recognizable sides. The literary texts I examine in this study imagine multiple, contradictory positions, sketching out the contours of the debates themselves and exposing the carceral grammar by which both critics and defenders of state violence articulate their arguments. The absence of overt critique can come across as complaisance and acquiescence to oppressive dominant discourses, as in the case of Dunbar's *Sport of the Gods*. However, even a propagandistic and programmatic text like Dixon's *The Leopard's Spots* is marked by moments of

contradiction and uncertainty. The prison memoirs of Hawthorne, Lowrie, Osborne, O'Hare, Berkman, and London put forward diverse arguments about the prison, the free world, and the market, and like the sociological and legal texts I examine they, too, take on acts of imagination, narration, and interpretation in relation to the state and its violence. Finally, in Himes's long-unpublished novel, which did not circulate in the public sphere like the other texts examined in this study, a powerful dissent can now be heard not just against the legitimacy of a particular exertion of state violence, but against the very terms in which violence's legitimacy is debated. The values of rationality, restraint, and proportionality by which the prison regime would reform itself are shown, in *Yesterday Will Make You Cry*, to be bereft of meaning. As calls for a gentler, smaller, and more reasonable punishment system begin to mount, there may be no better time than our own to heed Himes's "extreme sense of protest against everything."

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