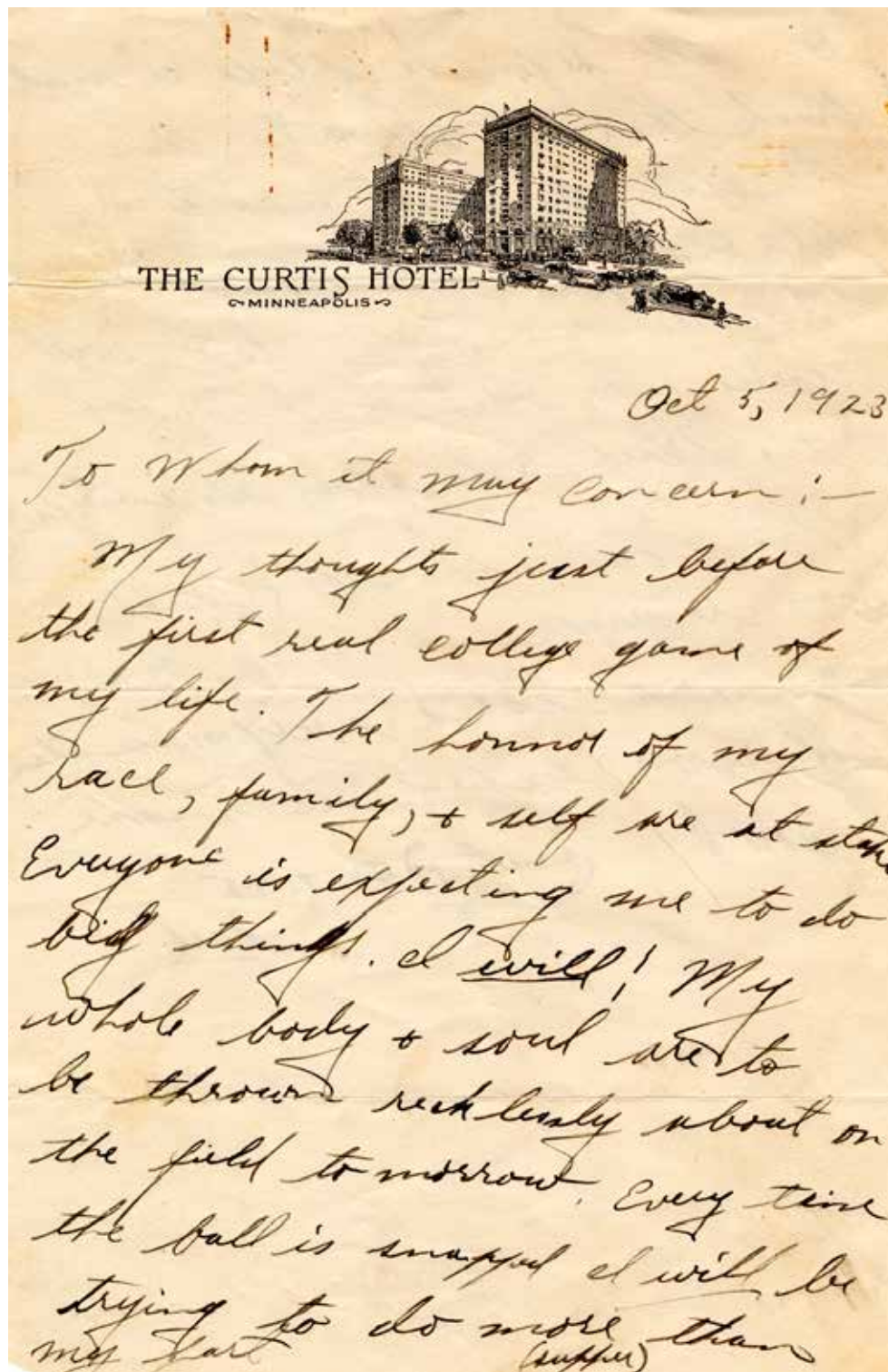


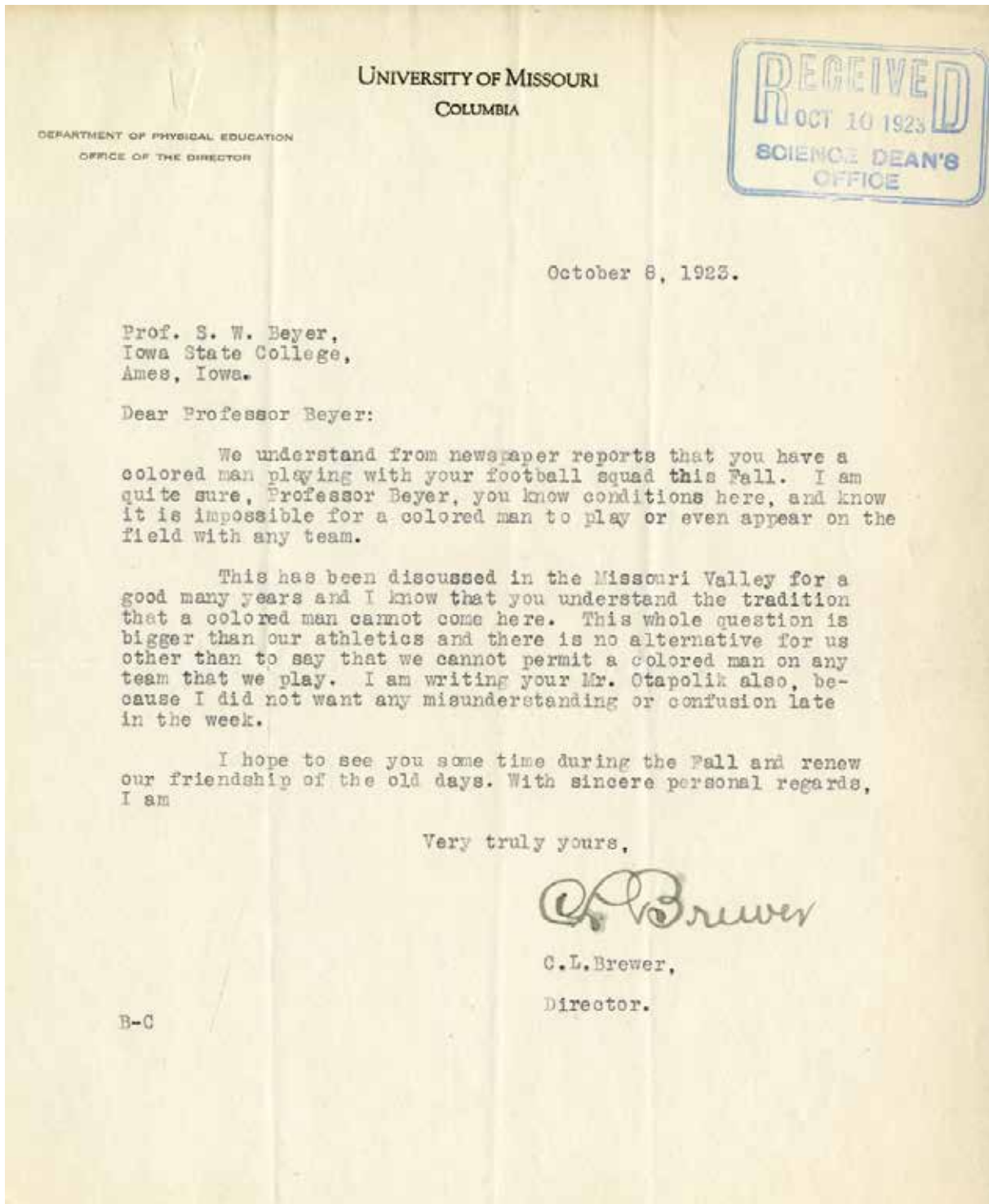
Letter by Iowa State Football Player Jack Trice Written from the Curtis Hotel, October 5, 1923 (Pg. 1)



**Letter by Iowa State Football Player Jack Trice
Written from the Curtis Hotel, October 5, 1923
(Pg.2)**

On all defensive plays I must
break thru the opponents line
at stop the play in their
territory. Do not let
interference fight low with
your eyes open and toward
the play. Roll block the interference.
Watch out for do's bucks
and reverse end runs. Be
on your toes every minute
if you expect to make
good. (meeting) 7:45
Jack

C.L. Brewers' Letter Barring Football Player Jack Trice from Playing at the University of Missouri, October 8, 1923



Brewer, Chester L., "Chester L. Brewer letter to Samuel W. Beyer regarding football game at University of Missouri," 8 October 1923. [Courtesy of Iowa State University Library Special Collections and University Archives](#)

Letter from S.W. Beyer to C.L. Brewer and the University of Missouri about Iowa State's Jack Trice, October 10, 1923

October 10, 1923.

Mr. C. L. Brewer,
University of Mo.,
Columbia, Missouri.

Dear Mr. Brewer:

I have your good favor of recent date relative to the Saturday's game.

It has been understood for several years by the faculty members of the schools in Iowa and Nebraska that colored men could not be used on teams playing with schools from the states of Missouri, Kansas and Oklahoma. There is no written rule on the subject, only a gentlemen's agreement.

We had no intention of using Jack Trice in the game with you. However that is all settled because Jack's injury resulted in his death Monday afternoon. I am handing you herewith copy of letter Jack wrote the day before the game. From the letter one would not help feel that Jack must have had premonition of what actually happened.

I am very glad on account of Missouri Valley that you have returned to the fold.

With kindest personal regards, I am,

Yours cordially and sincerely,

SWB:LM

Mother Mosque of America in Cedar Rapids, Iowa, October 1950



Courtesy of State Historical Society of Iowa, October 1950

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.1)

57-02194

NPS Form 10-900
(Oct. 1990)

OMB No. 10024-0018

5/15/96

United States Department of the Interior
National Park Service

National Register of Historic Places Registration Form

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in How to Complete the National Register of Historic Places Registration Form (National Register Bulletin 15A). Complete each item by marking "x" in the appropriate box or by entering the information requested. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. Place additional entries and narrative items on continuation sheets (NPS Form 10-900a). Use a typewriter, word processor, or computer, to complete all items.

1. Name of Property

historic name Moslem Temple
other names/site number The Room of Fraternity Lodge; Islamic Center; Mother Mosque of America

2. Location

street & number 1335 9th Street NW n/a not for publication
city or town Cedar Rapids n/a vicinity
state Iowa code IA county Linn code 113 zip code 52405

3. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act, as amended, I hereby certify that this nomination request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property meets does not meet the National Register criteria. I recommend that this property be considered significant nationally statewide locally. (See continuation sheet for additional comments.)

Patricia Oberking
Signature of certifying official/Title

3-30-96
Date

State Historical Society of Iowa
State or Federal agency and bureau

In my opinion, the property meets does not meet the National Register criteria. (See continuation sheet for additional comments.)

Signature of certifying official/Title

Date

State or Federal agency and bureau

4. National Park Service Certification

I hereby certify that the property is:

- entered in the National Register.
 See continuation sheet.
- determined eligible for the National Register.
 See continuation sheet.
- determined not eligible for the National Register.
- removed from the National Register.
- other, (explain): _____

Signature of the Keeper

Date of Action

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.2)

Moslem Temple Name of Property		Linn County, Iowa County and State	
5. Classification			
Ownership of Property (Check as many boxes as apply)		Category of Property (Check only one box)	
<input checked="" type="checkbox"/> private <input type="checkbox"/> public-local <input type="checkbox"/> public-State <input type="checkbox"/> public-Federal		<input checked="" type="checkbox"/> building(s) <input type="checkbox"/> district <input type="checkbox"/> site <input type="checkbox"/> structure <input type="checkbox"/> object	
		Number of Resources within Property (Do not include previously listed resources in the count.)	
		Contributing	Noncontributing
		one	
			buildings
			sites
			structures
			objects
		one	Total
Name of related multiple property listing (Enter "N/A" if property is not part of a multiple property listing.) n/a		Number of contributing resources previously listed in the National Register 0	
6. Function or Use			
Historic Functions (Enter categories from instructions)		Current Functions (Enter categories from instructions)	
Religion/religious facility		Religion/religious facility	
Social/meeting hall		Social/meeting hall	
		Other/resource center on Islam	
7. Description			
Architectural Classification (Enter categories from instructions)		Materials (Enter categories from instructions)	
No style		foundation concrete	
		walls wood	
		SYNTHETICS/vinyl	
		roof asphalt	
		other	
Narrative Description (Describe the historic and current condition of the property on one or more continuation sheets.)			

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.3)

Moslem Temple		Linn County, Iowa	
Name of Property:		County and State	
I. Statement of Significance			
Applicable National Register Criteria (Mark "x" in one or more boxes for the criteria qualifying the property for National Register listing.)		Areas of Significance (Enter categories from instructions)	
<input checked="" type="checkbox"/> A Property is associated with events that have made a significant contribution to the broad patterns of our history.		Religion	
<input type="checkbox"/> B Property is associated with the lives of persons significant in our past.		Ethnic Heritage/other	
<input type="checkbox"/> C Property embodies the distinctive characteristics of a type, period, or method of construction or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components lack individual distinction.			
<input type="checkbox"/> D Property has yielded, or is likely to yield, information important in prehistory or history.		Period of Significance 1974-1994	
Criteria Considerations (Mark "x" in all the boxes that apply.)		Significant Dates 1974	
Property is:		Significant Person (Complete if Criterion B is marked above) N/A	
<input checked="" type="checkbox"/> A owned by a religious institution or used for religious purposes.		Cultural Affiliation	
<input type="checkbox"/> B removed from its original location.			
<input type="checkbox"/> C a birthplace or grave.			
<input type="checkbox"/> D a cemetery.			
<input type="checkbox"/> E a reconstructed building, object, or structure.		Architect/Builder unknown	
<input type="checkbox"/> F a commemorative property.			
<input type="checkbox"/> G less than 50 years of age or achieved significance within the past 50 years.			
Narrative Statement of Significance (Explain the significance of the property on one or more continuation sheets.)			
9. Major Bibliographical References			
Bibliography (Cite the books, articles, and other sources used in preparing this form on one or more continuation sheets.)			
Previous documentation on file (NPS):		Primary location of additional data:	
<input type="checkbox"/> preliminary determination of individual listing (36 CFR 67) has been requested		<input checked="" type="checkbox"/> State Historic Preservation Office	
<input type="checkbox"/> previously listed in the National Register		<input type="checkbox"/> Other State agency	
<input type="checkbox"/> previously determined eligible by the National Register		<input type="checkbox"/> Federal agency	
<input type="checkbox"/> designated a National Historic Landmark		<input type="checkbox"/> Local government	
<input type="checkbox"/> recorded by Historic American Buildings Survey # _____		<input type="checkbox"/> University	
<input type="checkbox"/> recorded by Historic American Engineering Record # _____		<input checked="" type="checkbox"/> Other	
		Name of repository: Mother Mosque Archives (at site)	

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.4)

Moslem Temple Linn County, Iowa
 Name of Property County and State

10. Geographical Data

Acreege of Property Less than one acre

UTM References

(Place additional UTM references on a continuation sheet)

1 15 609929 4648880
 Zone Easting Northing
 2

3
 Zone Easting Northing
 4

See continuation sheet

Verbal Boundary Description

(Describe the boundaries of the property on a continuation sheet.)

Boundary Justification

(Explain why the boundaries were selected on a continuation sheet.)

11. Form Prepared By

name/title Iman Taha Tawil, Executive Director and Kacia Ali, Development Coordinator

organization Mother Mosque of America date 6 April 1995

street & number 1335 9th Street N.W. telephone 319-366-3150

city or town Cedar Rapids state Iowa zip code 52405

Additional Documentation

Submit the following items with the completed form:

Continuation Sheets

Maps

A USGS map (7.5 or 15 minute series) indicating the property's location.

A Sketch map for historic districts and properties having large acreage or numerous resources.

Photographs

Representative black and white photographs of the property.

Additional items

(Check with the SHPO or FPO for any additional items)

Property Owner

(Complete this form at the request of SHPO or FPO.)

name Islamic Council of Iowa

street & number 1335 9th Street N.W. telephone 319-366-3150 / 366-0743

city or town Cedar Rapids state Iowa zip code 52405

Paperwork Reduction Act Statement: This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C. 470 et seq.).

Estimated Burden Statement: Public reporting burden for this form is estimated to average 18.1 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the Chief, Administrative Services Division, National Park Service, P.O. Box 37127, Washington, DC 20013-7127; and the Office of Management and Budget, Paperwork Reduction Projects (1024-0018), Washington, DC 20503.

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.5)

NPS Form 10-008-a
8-88

GMR Approval No. 1024-0018

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

MOSLEM TEMPLE
Linn County, Iowa

Section number 7 Page 1

The Moslem Temple (now the Mother Mosque) is a simple, one-story wood frame "prairie schoolhouse style" building with a concrete basement. The walls are finished with Vinyl siding and the flat roof is asphalt. At the front entrance, ten steps lead to an extended foyer. Atop sits a dome capped with the traditional Islamic symbol of a crescent, marking the building as a place of worship. The mosque is located in an old residential area in Cedar Rapids' Northwest district (Time Check), facing west onto 9th Street NW between "L" and "M" Streets. The mosque's interior is simple, with walls painted white with wood trim on the first floor, which contains a prayer area, a classroom, an area for ablutions, and two offices. The basement, finished with gray wood paneling, contains a hall, used for social functions and meetings, and a kitchen. (See sketches submitted.)

The property is in excellent condition, partially due to restoration work in 1991 and 1992 to correct damage sustained the preceding decade when the property fell into disuse and disrepair. The original foundation and structure remain largely intact, although the roof had decayed and had to be replaced. Significant renovations were also undertaken to the interior. Despite this work, the historic integrity of the building survives. First, the building retains the same location as during its period of significance. As in that period, the setting is a residential neighborhood. The external design of the mosque is little altered. The Islamic dome and crescent, which were removed at one point when a church occupied the building, have been restored (the dome is purely ornamental and lacks any structural significance), and the wide clapboard siding which had been used in earlier renovations was replaced with narrower siding conforming to the original design. The dome designs over the windows have also been replaced. A canopy was added over the front steps with the name of the mosque; this addition does not significantly detract from the integrity of the original design. During restoration, the internal design of the mosque was kept as close as possible to the original design. Thus, the prayer area occupies the same space as it originally did; there is a classroom now where religious instruction took place from 1934 through the 1960s; the basement social hall and kitchen are still used for social and community functions. Some minor modifications were made in the restoration, such as the transformation of a former storage closet into an area for ablutions and the installation of a stairway elevator/chair to meet disabled accessibility requirements; however, the overall design maintains its historical integrity.

The materials used in the building's restoration are generally either the same as or similar to those originally used (for example, the siding noted above). In some cases, however, the use of different materials, such as wood paneling in the basement and linoleum in the kitchen, was dictated by cost and availability considerations. The workmanship in the building is similar to that used in the original construction, although there are minor differences of style. It is in terms of the last two categories of association and feeling, however, that the historic integrity of the mosque is most visible. The mosque retains the overall simplicity and atmosphere intended by the original builders, and the continuity in the prayer area and social hall space is evident.

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.6)

NPS Form 10-900 a
(8-89)

OMB Approval No. 1024-0018

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

MOSLEM TEMPLE
Linn County, Iowa

Section number 8 Page 2

Statement of Significance

Summary

The Moslem Temple is significant under Criterion A as the first building designed and constructed specifically as a house of worship for Muslims in the United States. It also meets the Criteria Consideration A as the oldest surviving place of worship for Muslims in America. It was completed in 1934 by a group of immigrants from Greater Syria (present-day Syria and Lebanon) who settled in Cedar Rapids, Iowa in the late 1800s and early 1900s. Renamed the Mother Mosque of America in recognition of its historic significance, it is today used as a mosque and Islamic Cultural and Heritage Center; in 1994 the mosque celebrated its 60th anniversary. The Moslem Temple in Cedar Rapids is of national significance within the context of two historical trends. First, it illustrates an important aspect of the immigration history of the United States, as it was built by a group of Arab immigrants with concerns and a history similar to that of other contemporary Arab immigrant groups settling elsewhere in the United States. Second, and perhaps more importantly, it marks a vital starting point for the development of Islam as an established religion within the United States. Today, Islam is the fastest growing religion in the United States, and Muslims will soon comprise (if they do not already) the second-largest religious community in the nation after Christians. Thus, it is vital to recognize and preserve this essential piece of American religious history, which symbolizes tolerance and acceptance of Islam and Muslims in the United States.

Historical Context

Arab immigrants began arriving in the United States in the late 1800s; the flow increased in the early 1900s as a result of changed political conditions within the Ottoman Empire. These migrants, who came mostly from Greater Syria, were "homesick, cut off by language, custom, race and religion" and "they strove to preserve their identity, dignity and heritage by forming cultural clubs where they could eat familiar food, speak a familiar language, listen to familiar music, teach and practice their religions - and celebrate weddings, births and funerals in traditional ways." (*Arameo World*, "The Arab Immigrants," September/October 1986, pp. 14-15) While a majority of early immigrants were Christian (Orthodox, Maronite and Melkite) and formed religious associations fairly early on, "the first mosque, in Cedar Rapids, was not built until 1934" (p. 27).

A booklet entitled *Islam in Iowa*, prepared by the Islamic Center of Cedar Rapids, relates these national historic trends of the formation of Muslim immigrant communities and the need for mosques to the local context of Cedar Rapids. It describes work activities and settlement patterns that are consistent with those of other contemporary Arab groups elsewhere in the Midwest:

"Muslim immigrants to Cedar Rapids numbered about 45 by 1914. Mostly single men, they hoped to earn enough, mostly as peddlers, to return home and find Muslim wives. The Allick and DeHook families were the first Muslims to settle in the city.

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.7)

NPS Form 10-900 a
10-1993

USPS Approval No. 1024-0000

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

MOSLEM TEMPLE
Linn County, Iowa

Section number 8 Page 3

Immigration increased, and before long there was a full-scale Muslim community featuring such family names as Sheronick, Aossey, Igram, Kallel, Habhab, Bedra, Hamed and Omar. (. . .) By the mid-1920's, Cedar Rapids, which of all the cities in the area attracted the largest number of Muslims, could claim more than 50 shops and grocery stores owned and operated by Arabs.

"The ancestor of the present-day Islamic Center was a group known as 'The Rose of Fraternity Lodge,' organized in 1925. Using a rented building as a temporary mosque these young men, numbering less than 20, meeting for Friday prayers, started to make plans and prayed for the day when they would have their own building.

"In 1929, just as the United States was entering the Great Depression, the Muslims set into motion their plans for what was to be the first mosque constructed in North America. The hardships of that era both heightened their desire for their own house of worship and frustrated their efforts to complete it."

With community members doing much of the construction themselves, the first building specifically designed and built as a mosque in the United States was opened on February 15, 1934. **Islam in Iowa** describes the building: "The mostly wooden structure somewhat resembled a prairie schoolhouse, except that its protruding entrance foyer was capped by a dome, from which extended a crescent-topped spire. On each side of the door were signs, Arabic to the right and English to the left, which proclaimed it as a Muslim house of worship. It served as both a mosque and a social center[.]"

Throughout its period of significance, regular prayer services and religious education took place in the mosque. With a growing Arab Muslim community, the congregation of the Moslem Temple (eventually renamed the Islamic Center) became an important force for changing the status of Muslims in the United States. A generous donation by William Aossey and his family led to the foundation of the first Muslim National Cemetery in 1948 in Cedar Rapids. The cemetery served as a final resting place for Muslims from the whole Midwestern region. Several years later, the work of community member Abdallah Igram gained recognition for Islam as a valid religion within the United States military, meaning that Muslims would no longer be buried as atheists. Members of the Cedar Rapids mosque were among the "founding organizers of the Federation of Islamic Associations of the United States and Canada. The first International Muslim Convention for the U.S. and Canada was held in Cedar Rapids, Iowa" in 1952. (Yahya Aossey Jr., "Fifty Years of Islam in Iowa," Unity Publishing Company, Cedar Rapids (IA), 1975) Thus, it can be seen that the 9th Street Moslem Temple served an important historic function in the development of organized Islam in America.

With the Muslim population growing rapidly, by 1970 the community had outgrown the small building; a new mosque was built on First Avenue SW in Cedar Rapids. The original mosque was sold and served various functions before it was abandoned in the late 1980s, falling into a state of neglect and disrepair.

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.8)

NPS Form 10-900
8-90

GAR Approval No. 804-8018

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

MOSLEM TEMPLE
Linn County, Iowa

Section number 8 Page 4

The newly formed Islamic Council of Iowa, the current owner of the building, repurchased the building and renovated it, restoring the building to its original appearance and function. Sixty years after its founding, the Moslem Temple serves again as a place of worship for Muslims and also as a resource center for information about Islam and the history of Muslims in America.

The Moslem Temple / Mother Mosque (a name coined by Dr. Thomas Ballantine Irving, an internationally renowned Muslim scholar and long-time Cedar Rapids resident, to recognize the historic importance of the original Cedar Rapids mosque) thus represents an important turning point in the history of Islam in America. Organized groups of Muslim immigrants had been meeting for prayer since at least 1900, in homes or rented spaces. A simple log building, with no identifying Islamic characteristics - no longer existing - was built by the Muslim community in 1929 in Ross, North Dakota.

Irving's research showed, however, that the Cedar Rapids mosque was the first specifically designed as a mosque - with a prayer area, dome and crescent. In one of the publications which Dr. T.B. Irving compiled called "A critical analysis of Islamic Studies at North American Universities" and was updated in March, 1975 for distribution and consideration by Unity Publishing Co, Cedar Rapids, he stated on page 14 that "Cedar Rapids, Iowa is important... this small community has built many pillars of Islam in North America: the first Mosque in North America was erected here in 1934; the first independent Muslim Cemetery of 6 acres was established in 1948...."

The Islamic Affairs Programs, at the Middle East Institute in Washington, DC, produced an occasional paper (No.4), by Dr. Yvonne Y. Haddad "A Century of Islam in America". On page 10 of that publication under "Moments in American Muslim History" it says, "1934: First Building designated as a mosque, in Cedar Rapids, Iowa."

Also in the "Pluralism Project interactive", (Harvard University, Committee on the Study of Religion, Phillips Brooks House.) a Ph.D. Harvard student was sent to conduct research for the Pluralism Project, which is a three -year research project looking at the new religious diversity of America. Her research and speculation were concluded with the fact that "Iowa became the home to the First Islamic Mosque in North America, symbolizing the permanence of Islam in Iowa, and the United States". Her studies were nominated from among many others for the final presentation of this Pluralism Project in front of the Committee on the Study of Religion.

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.9)

NPS Form 10-900-a
8-90

OMB Approval No. 1024-0044

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

MOSLEM TEMPLE
Linn County, Iowa

Section number 8 Page 5

The Mother Mosque of America received a letter dated April 12, 1995 from Professor Rachel Antell, the Senior Researcher of the Pluralism Project Interactive, from Harvard University stating " ...Beginning in July of this year, we've started work on an interactive CD-ROM exploring the new religious landscape of America, for the use in colleges, universities, high schools and various interfaith centers across the country. In CD-ROM, we will showcase a number of thriving, successful and prominent religious and interfaith centers in the United States. Your center has been selected as one of the approximately 300 centers to be highlighted in our geographic section! "

This is only a few of the written documentation that exists to support the claim for National significance, the mosque thus commemorates the early establishment of Islam as one of the three major religious traditions of the United States. Today, there are hundreds if not thousands of mosques and prayer centers across the country, including dozens in major cities such as New York and Chicago.

Criteria Consideration:

In the list of criteria considerations, it is stated that, "properties owned by religious institutions or used for religious purposes . . . shall not be considered eligible for the National Register." In terms of both ownership and function, the Moslem Temple / Mother Mosque fits within this category. However, the text goes on to state that "such properties *will qualify* if they . . . fall within the following categories: (. . .) *A religious property deriving primary significance from architectural or artistic distinction or historical importance[.]*" (National Register Bulletin #15, "How to Apply the National Register Criteria for Evaluation, Section II, emphasis added).

Because of its role as the oldest surviving place of worship for Muslims in America, the Moslem Temple clearly falls into the category of "A religious property deriving primary significance from . . . historical importance".

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.10)

NPS Form 10-900-a
(8-95)

OMB Approval No. 1024-0118

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

MOSLEM TEMPLE
Linn County, Iowa

Section number 9 Page 6

Sources Consulted

Ali, Kecia.

"The Diamond Anniversary of the Mother Mosque", 1934-1964," Islamic Cultural and Heritage Center of America, Inc., Cedar Rapids (IA), October 1994.

Aossey, Yahya, Jr.

Fifty Years of Islam in Iowa, 1925-1975, Unity Publishing Company, Cedar Rapids (IA), 1975.

Arameo World Magazine, September/October 1986.

Special issue: "The Arab Immigrants".

Tawil, Taha Atta.

Islam in Iowa: The Islamic Center of Cedar Rapids, Iowa, USA, Islamic Center of Cedar Rapids, Cedar Rapids (IA), 1986. "see the attachment"

"Renovation & Restoration of the Mother Mosque of America," Islamic Council of Iowa, Cedar Rapids (IA), 1991. "see the attachment"

The Rebirth of the Mother Mosque, Islamic Cultural and Heritage Center of America, Inc., Cedar Rapids (IA), 1993. "see the attachment"

"Islamic Council of Iowa and its Mission for Americans," Islamic Council of Iowa, Cedar Rapids (IA), September 1994. "see the attachment"

Dr. T.B.Irving

"A CRITICAL ANALYSIS OF ISLAMIC STUDIES AT NORTH AMERICAN UNIVERSITIES"
Compiled by Dr. T. B. Irving Chair of the Committee on Oriental Studies at the Islamic Youth Congress in Tripoli, Libya, July, 1973 and updated in March, 1975 Unity publishing, P.O.Box 1864 Cedar Rapids, Iowa 52406. "see the attachment booklet"

Dr. Yvonne Y. Haddad.

"A Century of Islam in America" Dr. Yvonne Y. Haddad, Occasional Paper No.4, by Islamic Affairs Programs, the Middle East Institute, in Washington, DC, 1986. "See the attachment Occasional paper"

"Pluralism Project Interactive" Harvard University, Committee on the study of religion, Phillips Brooks House. CD-ROM, production based on the result of the research. "see attachment letter"

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.11)

NPS Form 10-900-a
(8-89)

OMB Approval No. 1024-0018

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

MOSLEM TEMPLE
Linn County, Iowa

Section number 9 Page 7

Newspaper accounts

Des Moines Sunday Register, January 5, 1992.
The Cedar Rapids Gazette, February 16, 1992.
KWWL 7 News (newspaper supplement), 1994.

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.12)

NPS Form 10-900a
3-96

GHE Approval No. 1004-0019

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

Section number _____ Page _____

SUPPLEMENTARY LISTING RECORD

NRIS Reference Number: 96000516 Date Listed: 5/15/96

Property Name: Moslem Temple

County: Linn State: Iowa

none
Multiple Name

This property is listed in the National Register of Historic Places in accordance with the attached nomination documentation subject to the following exceptions, exclusions, or amendments, notwithstanding the National Park Service certification included in the nomination documentation.

Ronda McCalland
Signature of the Keeper

May 15, 1996
Date of Action

Amended Items in Nomination:

Section 8. Significance

"1946" is, hereby, added as the closing date for the period of significance.

Beth Foster, National Register coordinator, Iowa State Historic Preservation Office was notified of this amendment on May 15, 1996.

DISTRIBUTION:

National Register property file
Nominating Authority (without nomination attachment)

National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.13)

Final w/ Jami 5/19/84

Iowa Site Inventory

Office of Historic Preservation
Iowa State Historical Department
East 12th & Grand Avenue
Des Moines, Iowa 50319

Site Number 57-006-077
District Name _____
Map Reference # _____

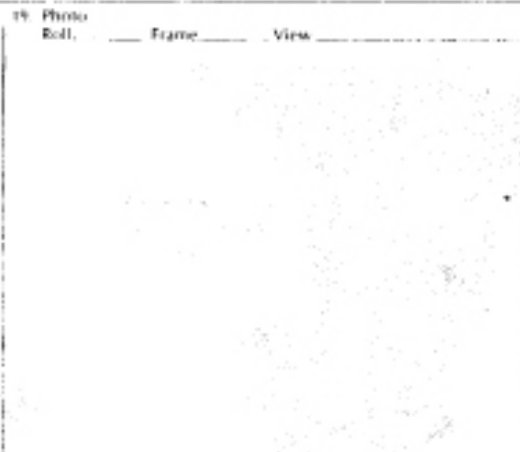
Identification

1. Site Name Mother Mosque of the United States
2. Village/Town/City Cedar Rapids Township _____ County Iowa
3. Street Address 1335 - Ninth Street N.W., Cedar Rapids, Iowa 52405
4. Legal Location South 30 Feet of Lot 11, Block 1, Larimer's Second Addition to Cedar Rapids, Iowa and Lot 13 and the South 23 Feet of Lot 15 and the North 20 Feet of Lot 11, all in Block 1, Larimer's Second Addition to Cedar Rapids, Iowa.
5. Owner(s) Name Midwest Islamic Association, Inc.
6. Owner(s) Address P.O. Box 2251, Cedar Rapids, Iowa 52406
8. Use: Present Church Original Islamic Center and Mosque

Description

9. Date of Construction 1930 Architect/Builder McKay Construction, Cedar Rapids, Iowa
10. Building Type:

<input type="checkbox"/> single family dwelling	<input type="checkbox"/> industrial	<input type="checkbox"/> other institutional	<input checked="" type="checkbox"/> religious
<input type="checkbox"/> multiple-family dwelling	<input type="checkbox"/> educational	<input type="checkbox"/> public	<input type="checkbox"/> agricultural
<input type="checkbox"/> commercial			
11. Exterior Walls: clapboard stone brick board and batten shingles stucco
 other _____
12. Structural System: wood frame with interlocking joints wood frame with light members (balloon frame)
 masonry load-bearing walls iron frame steel frame with curtain walls reinforced concrete
 other _____
13. Condition: excellent good fair deteriorated
14. Integrity: original site moved—if so, when? _____
Notes on alterations, additions with dates and architect, if known, and any other notable features of building and site: _____
15. Related Outbuildings and Property: barn other farm structures carriage house garage privy
 other none
16. Is the building endangered? no yes—if so, why? _____
17. Surroundings of the building: open land woodland scattered outbuildings densely built-up commercial
 industrial residential other _____



National Registry of Historic Places Application for the Moslem Temple, 1996 (Pg.14)



“The Life and Legacy of Jack Trice” Essay from *The Annals of Iowa*, 2010 (Pg.1)

The Annals of Iowa

Volume 69, Number 4
Fall 2010



A QUARTERLY JOURNAL OF HISTORY

“The Life and Legacy of Jack Trice” Essay from *The Annals of Iowa*, 2010 (Pg.2)

The Life and Legacy of Jack Trice

DOROTHY SCHWIEDER

SPORTS enjoy an almost hallowed place in society. Americans celebrate great athletes and athletic achievements, and their legacies live on in institutional records as well as in our national consciousness and popular imagination. At Iowa State College in the 1920s, a young African American man left a different kind of legacy. As a 21-year-old football player in 1923, Jack Trice died of injuries suffered in a football game. Honored at the time of his death, Trice and his story then slipped from public view. It was rediscovered in 1973, however, and for the next 24 years Iowa State students, faculty, and other Iowans waged a sometimes sporadic but determined campaign to recognize Trice by naming Iowa State University's football stadium in his honor.

In August 1997 their efforts were rewarded. In a brief ceremony before the school's season-opening football game, Iowa State President Martin C. Jischke formally declared that Iowa State's stadium would be renamed Jack Trice Stadium. President Jischke noted, "It is clear that Jack Trice, for a large majority of students and others associated with Iowa State University, exemplifies a number of heroic qualities, including determination, courage, enthusiasm, and giving one's all to an important cause. He has become a hero, not so much for what he accomplished,

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because his life was cut short, but for what he represented.”¹ With that dedication, Iowa State University became the only Division I-A school in the nation to name its stadium after an African American athlete.

Jack Trice’s experience at Iowa State College and the struggle to rename the stadium in his honor played out against a backdrop of a changing American racial environment, changing social attitudes, and even a highly unpopular war. It is an interesting and significant story, one that ultimately involved a legacy greater than those confined to the gridiron.

THE YOUNG MAN who died two days after playing his second varsity football game was born in 1902, the only child of Green and Anna Trice. His parents named him John G. Trice, but apparently his nickname, Jack, was commonly used. His four grandparents had been slaves. Jack’s parents had settled in or near Hiram, Ohio, in extreme northeastern Ohio, sometime in the late nineteenth century. Green Trice first worked as a farmhand and eventually accumulated enough money to buy a small farm. Dr. Gaylord Bates, a boyhood friend of Jack’s, wrote in 1956 that although the Trice family was one of the few African American families in Hiram, Jack experienced little or no racial prejudice there. “He was as full of fun and practical jokes as anyone else. He could not be accused of any more devilry, and certainly no less, than the rest of us engaged in.” Bates added that Jack participated in Sunday School and Boy Scouts and that Jack “was always a part of our school parties in various homes, with never a thought of any difference of color of skin.”²

1. President Martin C. Jischke, Jack Trice Stadium Dedication Program, Ames, Iowa, 8/30/1997, courtesy of ISU Athletic Office, Iowa State University.

2. Steven L. Jones, *Football’s Hero* (Logan, IA, 2000), 7; Dr. Gaylord Bates to the Hiram Township (Ohio) Historical Society, 10/16/1956, Hiram Township (Ohio) Historical Society Records, in Jack Trice Papers, University Archives, Iowa State University Library (hereafter cited as Trice Papers). See also Jessica Lynn Schultz, “Moments of Impact: Race, Injury, and Football History in Iowa’s Collective Memory” (Ph.D. diss., University of Iowa, 2005). Schultz places the Trice story (and that of two other black Iowa athletes, Ozzie Simmons and Johnny Bright) in the context of memories at the time of the athletes’ injuries and memories some decades later. Also see Schultz, “‘Stuff from Which Legends Are Made’: Jack Trice Stadium and the Politics of Memory,”

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If Bates’s depiction of Hiram as insulated from racial prejudice is accurate, the town was a highly unusual midwestern community. In his study of African Americans in Ohio between 1915 and 1930, William W. Giffin makes clear that a solid color line existed throughout the state. He explains that the color line encircled “all African Americans as one group, and all African Americans experienced manifestations of color prejudice,” adding that the color line was strongest in southern Ohio but “lessened” as one moved north. World War I had brought many black migrants to Ohio. As a result, “racial segregation and racial discrimination intensified in Ohio during and after the war.” Although African American newcomers experienced discrimination in many areas, it was “noticeably greater in housing, schools, public accommodations, law enforcement and press coverage.”³

The Trice family’s experience needs to be seen in the context of Ohio’s race relations in general, but the family’s specific location is also significant. The Trices had settled in Hiram, a small town some 20 miles southeast of Cleveland. Giffin singles out Cleveland — located in northeastern Ohio, where the color line was less rigid — as an urban center that manifested less discrimination than other large urban areas in Ohio. He notes that city officials there made a greater effort to confront racial discrimination. Cleveland’s schools, moreover, were “probably” more integrated than those of any other urban area in the state.⁴ Because Hiram was located close to Cleveland (Trice would later attend school there) and because his home town was located in the part of Ohio least affected by the color line, Jack Trice probably benefited from his parents’ decision to locate there, regardless of disagreements about the degree of racial discrimination Jack might have experienced.

After Jack completed the eighth grade in Hiram, his mother, Anna (by that time his father was deceased), sent him to live

International Journal of the History of Sport 24 (2007), 715–48; and idem, “The Legend of Jack Trice and the Campaign for Jack Trice Stadium, 1973–1984,” *Journal of Social History* 41 (2008), 997–1029.

3. William W. Giffin, *African Americans and the Color Line in Ohio, 1915–1930* (Columbus, OH, 2005), 9, 14, 19, 32, 33, 37–47, 218.

4. *Ibid.*, 218.

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with relatives in Cleveland. According to Bates, Jack's mother believed that her son had been too sheltered and needed to be "among people of his kind to meet the problems that a Negro boy would have to face." In Cleveland, Jack attended East Technical High School. The racial composition of the school is not known, but one piece of evidence has survived: a photo of Jack's high school team in which Jack Trice is one of two black players.⁵

Once enrolled at East Tech, Jack excelled in his studies and on the football field. Academically, Jack was described as having "a very high scholastic standing." On the field, his high school team was depicted as a "powerhouse," and Jack was described as having a "brilliant record." In an interview for the *Cleveland Plain Dealer* in 1979, Jack's former teammate Johnny Behm recalled that "no better tackle ever played high school ball in Cleveland. He had speed, strength and smartness." Behm added that he and Jack shared a room on football trips, one to Seattle for a game billed as the national high school championship. On the train, Behm "knew exactly whom to sit with," because "the waiters, who were black, always gave [Jack] double portions, and they'd give me extras, too." During the summers, Jack "worked on the roads" outside of Hiram. After graduation, he went to work for a construction company.⁶

In 1922 Iowa State College offered Jack's high school coach in Cleveland, Sam Willaman, the job of head football coach. Willaman invited six of his former players — including Jack and two brothers, Johnny and Norty Behm — to come to Ames with him and play for Iowa State. When Willaman and his players arrived in Ames, only a small number of African Americans played collegiate football anywhere in the nation.

The sport had originated in the northeastern United States, with the first game being played between Princeton and Rutgers in 1869, and then spread quickly into the Midwest. The first official college game in the Midwest is believed to have been

5. Bates to Hiram Historical Society, 10/16/1956; Jones, *Football's Hero*, 12.

6. *Ames Tribune*, 10/9/1923; Bates to Hiram Historical Society, 10/16/1956; *Cleveland Plain Dealer*, 6/3/1979, in Trice Papers (this account does not mention a color line existing on the train); *Des Moines Register*, 6/20/1979, *ibid.*; Maury White, "The Legend of Jack Trice," *The Iowan* 46 (Fall 1997), 48–52.

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played in 1879 between the University of Michigan and Racine College of Wisconsin. Other midwestern schools soon organized football teams, including the University of Minnesota in 1882, Indiana University in 1887, and the University of Illinois in 1890. By the turn of the century, every major midwestern college sponsored a football team.⁷

Iowa State College (ISC) fielded its first football team in 1892, but the sport did not have an auspicious beginning: when the first team took the field, few students or faculty “knew of or understood enough of the game to watch or play it with enthusiasm.” Three years later, ISC hired Glenn “Pop” Warner, a former star football player at Cornell University, as football coach, and the program began to attract some attention. In the fall of 1895, the ISC squad traveled to Northwestern University for that school’s season opener. With Northwestern the big favorite to win, Iowa State scored a major upset, winning the game by a score of 36–0. Not only did ISC win the game, but the school also acquired its nickname, the Cyclones. The *Chicago Tribune*, reporting on the game, carried the headline: “Struck by a Cyclone.” From then on, the ISC team was known as the Cyclones.⁸

In its early years, football was “a violent endeavor.” “The equipment was still cloth padding, leather helmets did little to protect against head injuries and strategy formations invited mayhem.” By 1905, college football had become so “ferocious” that 18 players were killed in games and 159 players suffered serious injuries. For African American players, the game was especially dangerous. As Jessica Schultz has pointed out, black players were often targeted by opponents for “especially vicious hits”; sometimes the black players’ own teammates would not provide “adequate blocking or interference,” resulting in injury. According to James Watterson, “African Americans who played for predominantly white institutions faced extraordinary hazards and abuse.” Watterson adds that both on and off the field, black

7. Charles H. Martin, “The Color Line in Midwestern College Sports, 1890–1960,” *Indiana Magazine of History* 118 (2002), 86–87.

8. Tom Kroeschell, “Athletics at Iowa State University,” in *Sesquicentennial History of Iowa State University: Tradition and Transformation*, ed. Dorothy Schwieder and Gretchen Van Houten (Ames, 2007), 179–80.

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athletes led “a marginal existence, suffering from racial slurs, brutality and segregation.”⁹

Black athletes faced other barriers as well. The so-called color line, the “practice of either excluding African Americans from selected public activities or segregating them into separate programs or facilities” still existed in most northern institutions of higher learning in 1900. As Charles Martin has pointed out, the very existence of a color line probably discouraged many black athletes from even considering playing college ball. But becoming a member of a collegiate team did not guarantee that the athlete would compete in conference games. The existence of an unwritten rule, a “gentlemen’s agreement,” meant that northern teams were expected to bench their black players when playing southern teams. According to Jessica Schultz, that rule “was widely accepted by northern teams in the early 1920s.” In fact, college teams usually had no more than one or two black players on a team, and most had no black players at all.¹⁰

By 1922, at least seven African Americans, including Robert “Bobby” Marshall, who played for the University of Minnesota between 1902 and 1906, had already played football at other mid-western schools. Marshall, whom Arthur Ashe described as being “stellar” on the field, was named a Second Team All-American on two occasions. George A. Flippin was an even earlier pioneer black player when he joined the University of Nebraska team in

9. Arthur R. Ashe Jr., *A Hard Road to Glory: A History of the African-American Athlete, 1619–1918* (New York, 1988), 92; John Sayle Watterson, *College Football* (Baltimore, 2000), 65–70, 309; Schultz, “Moments of Impact,” 49. In addition to the works by Ashe, Schultz, and Watterson, numerous other studies cover the topic of African Americans in mostly white colleges and universities. The most helpful is Martin, “The Color Line.” David K. Wiggins has edited several anthologies on important black athletes and their experiences. See his *Out of the Shadows: A Biographical History of African American Athletes* (Fayetteville, AR, 2006); and *The Unleveled Playing Field: A Documentary History of the African American Experience in Sport*, ed. David K. Wiggins and Patrick B. Miller (Urbana and Chicago, 2003). Wiggins’s article, “Prized Performers, but Frequently Overlooked Students: The Involvement of Black Athletes in Intercollegiate Sports on Predominantly White University Campuses, 1890–1972,” *Research Quarterly for Exercise and Sport* 62 (1991), 164–77, provides an excellent overview of the attitudes of black athletes regarding athletics and academics. Older studies such as Edwin B. Henderson and the Editors of *Sport Magazine*, *The Black Athlete: Emergence and Arrival* (New York, 1968), do not cover football during the 1920s.

10. Martin, “The Color Line,” 86, 87, 95; Schultz, “Moments of Impact,” 49.

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1891. Flippin, like other pioneer black football players, “encountered racial hostility from the stands and extra violence on the field.” In 1892 Nebraska was scheduled to play at the University of Missouri. When Missouri officials realized that Nebraska’s team included “star halfback” Flippin, they demanded that Flippin be left at home. When Nebraska refused, Missouri forfeited the game. Conference officials then adopted a new rule, imposing a \$50 fine on teams forfeiting a match. In 1893 and 1894, Missouri “reluctantly” played Nebraska but at a neutral site in Kansas City.¹¹

The University of Iowa also played Missouri several times in the years before 1920. In 1895, when the African American Frank “Kinney” Holbrook played for Iowa, the game between the two schools was played “without protest,” with Missouri the victor. The second game, however, was a totally different affair. Missouri officials objected strenuously to Holbrook’s presence on the field, but Iowa officials stood their ground, insisting that he would play. The game, described as “a wild affair,” “extremely rough,” and resulting in many penalties, ended early. In the second half, the “disgusted” Missouri players walked off the field to protest an official’s decision, but not before a Missouri player had “slugged” a referee, an Iowa faculty member.¹²

The two schools resumed their annual games in 1902, and for seven years they engaged in “relatively peaceful competition.” But in 1909 the Iowa team included the African American player Archie A. Alexander. This time when Missouri officials demanded that Alexander be benched, Iowa officials agreed. The following year when the two teams played, Alexander was again kept out of the game at Missouri’s insistence, but Iowa officials then canceled the Iowa-Missouri series. As Charles Martin points out, however, two changes had taken place since the early 1890s: by 1910, Missouri had “shifted” its policy from one of “hostile acceptance of limited interracial play” to one of

11. Ashe, *A Hard Road*, 93; Martin, “The Color Line,” 88, 90. Although Missouri was (and is) a midwestern state, its attitudes and policies regarding African Americans, given its slaveholding status before and during the Civil War, were less flexible than those of other midwestern states in the early twentieth century.

12. Martin, “The Color Line,” 92.

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complete racial exclusion; at the same time, Iowa had abandoned its policy of “opposition to the color line” and had accepted “racial exclusion,” both at home and away.¹³

In 1922 both major barriers to African Americans’ participation in collegiate football remained in effect: the color line and the gentlemen’s agreement. But the gentlemen’s agreement caused little concern because midwestern teams had few black players, university administrators seemed indifferent to the issue, and there were few major interregional games. At the same time, by World War I, the intraregional resistance to African American players seemed “to have disappeared.”¹⁴ In Trice’s short career at ISC, however, it is unclear how opponents other than the University of Minnesota would have reacted to the presence of an African American on the Iowa State team.

WHEN JACK TRICE ARRIVED at Iowa State in the fall of 1922, he entered a world with few other African Americans. Just 20 or so black students were enrolled at ISC, a college of around 4,500 students. The city of Ames had 6,240 residents (not including ISC students), with a total of 34 African Americans. The entire state included just over 19,000 African Americans, less than one percent of the state’s total population. Trice also entered a world where blacks faced many restrictions. For example, African American students at ISC were not allowed to live in a school dormitory. From the school’s inception, ISC was open to all races, but housing was another matter. Although not formalized in writing, the school had an “unofficial policy that barred students of color from living with white students.” As President Raymond Pearson wrote in 1910, “Negro students are entirely welcome at this institution; they have no discourtesy shown them by fellow students or others.” On the other hand, he admitted, “It is not always easy for a Negro student to find rooming and boarding accommodations except where there are

13. *Ibid.*, 93–94.

14. *Ibid.*, 95. The University of Missouri belonged to the same league, the Missouri Valley Conference; ISC had joined that conference in 1908. See Kroeschell, “Athletics,” 180.

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enough to room and board together, as is the case with Filipinos and with students of other nationalities.”¹⁵

For Trice, employment would solve his housing problem. Once on campus, he had two jobs: working in State Gym and doing janitorial work at a local business. In a letter to the *Ames Tribune* in 1976, Harley C. Boeke, a contemporary of Jack’s, explained that Jack had been employed as a “custodian in one of the larger office buildings in downtown Ames.” Boeke added that this job provided living quarters for Jack.¹⁶

Housing was not the only area of discrimination Jack Trice and other African Americans faced in Ames and other parts of the state. In the 1920s blacks and whites lived mostly separate lives. Legal barriers such as political disenfranchisement and exclusion of black children from public schools had been eliminated by 1900, but economic and social barriers remained. In a study of blacks in Iowa in 1918, four years before Jack Trice arrived in the state, Victor Cools noted the “strict separation” between the races on the “social level.” “There is no instance on record in which the whites and blacks have come together for social purposes. It is true that . . . when some distinguished . . . person of color is brought by some organization to Des

15. Tim Griffin, “ISU Only I-A School to Honor African-American in Stadium Name,” ESPN.com: Black History 2008, <http://sports.espn.go.com/espn/print?id=3242390&type=story>; U.S. Department of Commerce, Bureau of the Census, 1920 Census for Iowa, Story County, Ames; Pamela Riney-Kehrberg, “Foundations of the People’s College: The Early Years of Iowa State,” in *Sesquicentennial History of ISU*, 17–18.

16. Harley C. Boeke, letter to the *Ames Tribune*, 6/24/1976, in Trice Papers. There are conflicting accounts of whether or not Anna Trice lived in Ames with her son, Jack. According to one source, she worked at a mill in Ohio to earn money for his college education. The housing situation had improved for other African American students by the 1920s. In 1919 an African American couple, Archie and Nancy Martin, moved from Georgia to Ames and constructed a home at 218 Lincoln Way (the house still stands) that they opened as a rooming house for black students. Although a welcome haven for African American students, the Martin home was located some three miles from campus. No doubt, their boarders rode the electric trolley, known as the Interurban, to campus. Apparently, the college’s housing policy was not changed until after World War II. *Ames Tribune*, 9/25/2004; Riney-Kehrberg, “Foundations of the People’s College,” 18. In September 2004 ISU officials voted to name a new residence hall on campus the Archie and Nancy Martin Hall. A formal portrait of the Martins was unveiled at Martin Hall on September 16, 2008.

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Moines for the purpose of raising money for some project or other, [such functions] are attended by white persons who sympathize with the Negro, yet the number . . . is in reality negligible.” Cools then pointed out specific areas of discrimination against blacks, particularly in Des Moines: they were refused service in most restaurants, given “inferior seats” in theaters, and refused service in many hotels.¹⁷

Throughout the state in the 1920s, there were other reminders of the separation between blacks and whites, resting on the widespread view that blacks were inferior to whites and were, therefore, second-class citizens. In Des Moines and Waterloo, for example, housing covenants prevented blacks from living in certain parts of the cities. Sunset laws (which forbade African Americans to remain in communities after sundown) existed in at least a few Iowa communities. In the 1920s, the Ku Klux Klan operated throughout the state; although Klan activities in Iowa were directed primarily against Catholics and foreigners, for blacks the very existence of the Klan must have caused great fear.¹⁸

Blacks and whites were segregated in higher education, too. Hal Chase describes the years between 1868 and 1949 as a period when “tokenism” defined Iowans’ attitudes toward African Americans in higher education. Chase writes that a “widely held stereotype” was that African Americans were “intellectually inferior.” As a result, Iowa’s colleges and universities admitted only a few African Americans to their institutions.

17. Quoted in Loola Nelson Bergmann, *The Negro in Iowa* (Iowa City, 1969), 63. For a full discussion of legal issues related to African Americans in Iowa, see Richard, Lord Acton and Patricia Nassif Acton, “A Legal History of African-Americans: From the Iowa Territory to the State Sesquicentennial, 1838–1996,” in *Outside In: African-American History in Iowa, 1838–2000*, ed. Bill Silag et al. (Iowa City, 2001).

18. Bergmann, *The Negro in Iowa*, 48; James W. Loewen, *Sundown Towns: A Hidden Dimension of American Racism* (New York, 2005). Loewen does not list any specific Iowa towns as having sunset laws but does write that “confirmed sundown subregions” include “a thick band of sundown counties and towns on both sides of the Iowa-Missouri border” (77). My own research found that at least two Iowa communities, Pershing in the 1920s and Pleasant Hill in the 1960s, had billboards warning blacks to be out of town by sundown. Private conversations with Alex Erickson, Pershing, Iowa, August 1980, and George Anthan, Ames, Iowa, March 1986. Also see Dorothy Schwieder, “A Farmer and the Klan in Northwest Iowa,” *Annals of Iowa* 61 (2002), 286–320.

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Moreover, some Iowa institutions of higher learning admitted blacks more readily than others: Iowa State College admitted African Americans from its inception; Iowa Wesleyan College admitted its first black student in 1863 and Grinnell College in 1871. George Washington Carver attended Simpson College in 1890, enrolling as a “select preparatory student,” and then entered ISC, where he received B.S. and M.S. degrees. Even with success stories such as Carver’s, Chase concludes that “*de facto* segregation contaminated Iowa higher education until the end of World War 2.”¹⁹

It is impossible to know Jack Trice’s expectations when he arrived in central Iowa in 1922. Even if it is true, as some contemporaries suggest, that he had been well accepted by whites in his home town of Hiram and at East Tech High School in Cleveland, he lived in a larger world defined by the color line, one where African Americans were defined as second-class citizens. Given his successful high school football career, however, he must have arrived on campus in great anticipation of his college football career.

Based on limited evidence, it seems that Trice got along well with his teammates, staff, and other students at Iowa State; at the same time, he seemed to be always circumspect in his relations with whites. One teammate recalled many years later that Jack had been cautious about his interactions with other students, holding back in social situations until others initiated conversation. One former teammate put it this way: “Jack appreciated his status. Generally, he spoke only when spoken to. As far as I know he was always a gentleman, like almost all of the athletes and students were.” Another former teammate recalled that Jack “didn’t speak out much. He kept his place.” Merl Ross, business manager for the ISC Athletic Department, also knew Jack personally and remembered that Jack had run errands for him. In 1989 he recalled, “Jack Trice was such a wonderful person. . . . He was an outstanding player and an outstanding gentleman. No one ever had any bad words to say about him. He was the best.” Ross added that Jack was “courte-

19. Hal S. Chase, “You Live What You Learn: The African-American Presence in Iowa Education, 1839–2000,” in *Outside In*, 135, 140–41, 144.

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ous. He'd never come in the office. He'd wait in the corridor unless you invited him. He was a shy fellow." Other former teammates stated that Jack was accepted by all players and seemed to fit in well with the team. Bob Fisher, another teammate of Jack's, recalled many years later that Jack had no racial problems at Iowa State. "As far as I know, he was just one of the fellows. There was no inkling of racism at school." Perhaps the teammate who knew Jack best, Johnny Behm, recalled, "Although Trice was the only black on the team, I never heard anyone make any racial remarks about him."²⁰ Although these comments by Trice's contemporaries reflect the prevailing racial attitudes of the day — such as "he knew his place" — they also reflect respect for Trice.

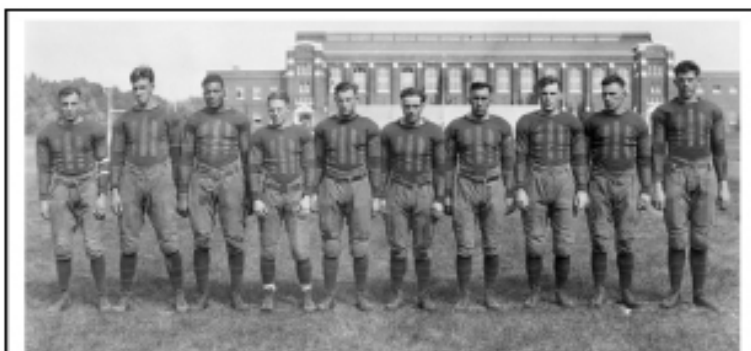
It is significant that Trice's contemporaries perceived that he experienced a comfortable, accepting environment in Ames; nonetheless, no firsthand accounts by Trice survive to substantiate this view. No doubt, he interacted with other black students at ISC and possibly knew some of the town's African Americans who were not students. The existence of other African Americans at ISC probably made his time there more comfortable, as they could provide friendship and advice. Athletics provided Jack a clearly defined niche within the school; he was not only an athlete but a very good athlete. Although we know little about Trice's private thoughts, once in Iowa and surrounded almost entirely by white students and a culture dominated by European Americans, he likely felt a deep loneliness and isolation from his own friends and family members back in Ohio.

At ISC, Jack "struggled with his admission tests" but eventually managed to pass them. He selected animal husbandry as his major and planned to move south after graduation to work with black sharecroppers. He did well in his classes although he had to make up some deficiencies. One source indicates that during his freshman year, Jack's grades averaged 90 percent. There were no college sports scholarships in the 1920s, so Jack worked during his freshman year, helping out in State Gym and doing janitorial work in a downtown office building. Coaches often helped players find part-time jobs, which probably ac-

20. Boeke letter; *Cleveland Plain Dealer* (undated clipping clearly written in 1997), in ISU Athletic Office; *Cleveland Plain Dealer*, 6/3/1979, Trice Papers.

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The 1922 Iowa State College freshman football team. Trice is third from left. All photos from University Archives, Iowa State University Library.

counted for Jack's employment. At least for a while, his mother took a mill job in Ravenna, near Hiram, so she could contribute financially to Jack's education.²¹

Jack returned to Ohio for the summer following his first year in Ames. He lived with his mother in Ravenna and worked for the Ohio State Highway Department. Before beginning his sophomore year, he married Cora Mae Starland. She returned to Ames with him and enrolled in home economics courses. Cora Mae also worked to support the family. Once more, however, housing was a problem. According to one account, when Jack and Cora Mae were unable to find living quarters in Ames, they turned to a local Masonic group, which arranged for them to board in a room at their local temple.²²

After playing on the freshman team during his first year at ISC (freshmen did not play varsity football), Jack joined the varsity team as a sophomore. The ISC student paper reported that he was one of the team's most outstanding performers. His contemporaries echoed that view. Former teammate Harry Schmidt believed that had Jack lived, "he would certainly have made all-conference his junior year, at least if not that sopho-

21. *The Alumnus*, Iowa State College, October 1923, Trice Papers; *Kansas City Star*, 8/29/2004, clipping in ISU Athletic Office; *Cleveland Plain Dealer*, 6/3/1979, Trice Papers.

22. *Des Moines Register*, 10/31/1975.

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more year. He was very capable.” Johnny Behm remembered that in practice, Trice, an offensive lineman, would go “one on one” with George Hauser, the team’s line coach, and Jack “always held his own.” Hauser was so good, Behm related, that the line coach would travel to Chicago each Sunday to play with George Halas’s team, which eventually became the Chicago Bears. In another assessment of Trice’s ability, Jessica Schultz, who studied the careers of Trice and other black Iowa athletes, reminds us that “only the best African-American football players were allowed on predominantly white teams in the first half of the twentieth century — their presence justified by the fact they not only improved their team’s performance, but were believed to be capable of almost single-handedly securing victory.”²³

23. Harry Schmidt, interview with Bill Walch, Ames, Iowa, 12/4/1973, Trice Papers; *Cleveland Plain Dealer*, 6/3/1979, in Trice Papers; Schultz, “Moments of Impact,” 49.

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IOWA STATE'S FIRST OPPONENT for the 1923–24 season was Simpson College, a much smaller school than ISC and not regarded as a serious threat. The big game, however, the second one on ISC's 1923–24 schedule, was at the University of Minnesota and was considered the first major college game of the season for the Iowa State squad.²⁴

In Minneapolis the Iowa State team stayed at the Curtis Hotel. Apparently Jack stayed in the same hotel with his teammates, although there is some confusion about where he ate his meals.²⁵ The night before the game, Jack sat down to record his thoughts about the next day's big event. He would be the only black player on the field. He was a big man for the time, described as six feet tall and weighing about 200 pounds, and he had four years of high school football and one year of freshman football behind him. But Minnesota was known as a powerful football team, far more successful than Iowa State. Given his situation, Jack must have been apprehensive about the game. That night he wrote,

To whom it may concern: My thoughts just before the first real college game of my life. The honor of my race, family, & self are at stake. Everyone is expecting me to do big things. I will! My whole body & and soul are to be thrown recklessly about on the field tomorrow. Every time the ball is snapped I will be trying to do more than my part. On all defensive plays I must break thru the opponents line and stop the play in their territory. Beware of mass interference, fight low with your eyes open and toward the play. Roll block the interference. Watch out for crossbucks and reverse end runs. Be on your toes every minute if you expect to make good.²⁶

24. Dr. William Thompson, interview with Gary Stowe, Omaha, Nebraska, 7/29/1974, Trice Papers. Trice's teammates and others would later report that the Missouri Valley schools, including Nebraska, refused to play Iowa State that year because the ISC team had a black player. But since the Minnesota game was only the second one on the 1923–24 schedule — and the only other school played was Simpson College — those claims are incorrect.

25. The *Kansas City Star*, 8/29/2004, reported that the team stayed at the Curtis but that Jack could not eat his meals in the dining room. Clipping in ISC Athletic Office. Another source said the team stayed at the Radisson Hotel while Jack stayed at the Curtis. See *Jet Magazine*, 5/30/1988, in Trice Papers.

26. Trice's letter is in Trice Papers.

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Jack Trice in his ISC football uniform, 1923.

During the hard-fought game, Jack suffered a shoulder injury in the first half but continued to play; it was later discovered that he had broken his collarbone. At half-time, the score was tied, 7-7. Teammates later indicated that midway through the third quarter, Jack implemented what was described as “a rolling block,” throwing himself in front of an oncoming rush of Minnesota players running “a cross-buck with heavy interference.” Jack ended up on his back, rather than on his stomach, which was the intended position. Apparently, the coach had discouraged this play because it was too dangerous, and in later years the play was outlawed. During the play, Jack was trampled by Minnesota players. He was helped

from the field as Minnesota fans chanted, “We’re sorry Ames, we’re sorry.” Jack was immediately taken to a Minneapolis hospital, where doctors determined that he could make the trip back to Ames. Minnesota won the game, 20-17.²⁷

Arriving home on Sunday, Jack was admitted to the student hospital. College physicians believed that Jack was improving, but in late afternoon he began to experience “shallow and irregular” breathing. A Des Moines specialist, Dr. Oliver Fay, was

27. Dr. Thompson interview; *Iowa State Daily*, 11/8/1976, in Trice Papers. According to the *Minnesota Alumni Weekly*, 10/18/1923, in Trice Papers, when Trice was carried off the field, the crowd responded “with aroused tenderness.” The weekly also stated that Minnesota school officials and “regular squad members” wrote letters of condolences to ISC and Trice’s family and friends.

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called to Ames. According to the *Ames Tribune*, Dr. Fay was one of the “best known specialists in stomach troubles in the country.” Dr. Fay’s diagnosis: an operation was too risky, given Jack’s condition. At 3 p.m. on Monday, October 8, Jack died. A letter dated October 16, 1923, addressed to Coach Willaman, listed the cause of Jack’s death: “Traumatic Peritonitis, following injury to abdomen in football game, October 6, 1923. (Autopsy [sic] showed severe contusion of intestines upper portion of abdomen. This caused stasis or paralysis of intestines followed by peritonitis.)” The letter was signed: “Dr. James F. Edwards, Professor [of] Hygiene.”²⁸

The following day, October 9, school officials suspended classes and several thousand students gathered on central campus to pay tribute to Jack Trice, the only ISC athlete ever to die of injuries suffered in a game. A gray casket, carried by teammates, was placed on a wooden platform. Among other speeches, college president Raymond Pearson read the letter that Jack had penned the night before the game, discovered in Jack’s coat pocket following his death. Jack’s teammates had set out five-gallon milk cans around campus and collected \$2,259 to help pay for funeral expenses, including the cost of shipping Jack’s body back to Ohio. The Ames Chamber of Commerce and ISC’s Cardinal Guild also helped raise funds for funeral expenses.²⁹ The money raised also helped Jack’s mother pay off a mortgage on her home, taken out to help pay for college expenses for Jack and Cora Mae.

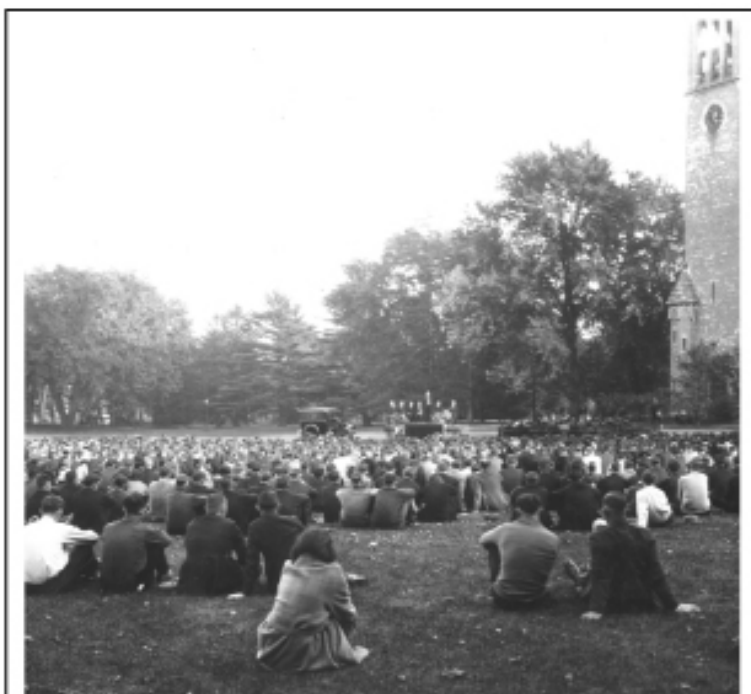
Anna and Cora Mae Trice and Jack’s uncle, Lee Trice, accompanied the body back to Hiram along with freshman football coach William Thompson; Kenneth R. Marvin, assistant alumni secretary and member of the athletic department; and Harold I. Tutt, an African American student at ISC. The group was met in Hiram by Dr. W. H. Pew, formerly head of the animal husbandry division at ISC, then living in Ravenna (near Hiram). Dr. Pew notified Iowa State officials of the group’s arrival in Hiram, noting that “the mother and wife of the deceased

28. *Ames Tribune*, 10/8/1923; Dr. James F. Edwards, Professor Hygiene, to Mr. F. Williman [sic], 10/16/1923, Trice Papers.

29. *Ames Tribune*, 10/9/1923. \$2,259 in 1923 is equivalent to roughly \$28,000 in 2009. See Inflation Calculator at www.westegg.com/inflation.

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Several thousand ISC students gathered on campus for Jack Trice's funeral.

athlete stood the trip well, but it has since been necessary to place the younger Mrs. Trice under the doctor's care." The *Daily* later reported that Jack's widow had suffered a "nervous collapse." In Hiram, Jack was buried beside his father.³⁰ Jack's mother later wrote to President Pearson about her feelings. She first thanked college officials for their kindnesses and then added, "If there is anything in the life of John Trice and his career that will be an inspiration to the colored students who come to Ames, he has not lived and died in vain. But Mr. President, while I am proud of his honors, he was all I had and I am old and alone. The future is dreary and lonesome."³¹

30. *Ames Tribune*, 10/11/1923; *Iowa State Daily*, 10/12/1923; Tom Emmerson Jr., "Jack Trice: Victor on the Fatal Field," *Iowa State Scientist* 11 (November 1957).

31. Anna Trice to President Raymond Pearson, 10/25/1923, Trice Papers.

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Some two weeks after Trice's death, another tribute was paid to the late football star. The *Ames Tribune* reported that “the Negroes of Ames and the college” held a memorial service in the home of Mr. and Mrs. E. H. Gater. Harold L. Tutt, who had accompanied the body to Ohio, spoke about that experience. A quartet of African Americans presented several musical selections. Jack's letter, written on the eve of the Minnesota-Iowa State football game, was read. The hostess then spoke about “gathering a Negro fund” to be paid to Anna and Cora Mae Trice. The *Tribune* claimed that every Negro in the city contributed to the fund.³²

Reports varied as to the actual conduct of the Minnesota players at the time of Jack's injury. Some reports stated that Jack had been intentionally trampled. Some spectators reported that Jack had been “stomped on viciously, even bitten.” But others denied that Minnesota players had intentionally injured Jack. One Iowa State player on the field that day, Harry Schmidt, interviewed in 1973, described what happened on the field from his perspective as left guard (Trice played right tackle): “Well, [Minnesota] had a powerful offensive drive with good interference, and they had three blockers ahead of this runner. Jack had said in [his] letter . . . that he would throw himself before an interference. He did a roll block. And someone just happened to step on his stomach, as they went by.” Schmidt added that a close high school friend of his who was editor of the *Daily Minnesotan*, the University of Minnesota's student newspaper, called Schmidt and asked if he felt that Trice had been intentionally hurt. “And I said, ‘Absolutely not.’ I said I was there. I was moving over toward the play and saw him throw that block in there and saw him get stepped on.”³³

32. *Ames Tribune*, 10/22/1923.

33. *Des Moines Register*, 10/31/1975; Harry Schmidt interview. In an interview in 1973, William Thompson, another Iowa Stater who was present that day, recalled, “Jack used a block against the Minnesota backfield. It was a dangerous block to use in my opinion and it was safe enough if you had the good fortune and the strength to end up on all fours. This was called a roll block. You had to roll under the backfield and that had a devastating effect on the runner, you see. It trips him right at the ankles. So, it's effective psychologically on the backfield to use it.” Dr. Thompson interview.

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Johnny Behm, another player on the field that day and a high school teammate of Jack's in Cleveland, told the *Cleveland Plain Dealer* in a 1979 interview that on the disputed play, Trice had “possibly been wrestled to the ground instead of blocked.” He added that Trice ended up on his back “in the path of a line plunge.” Behm didn't think there was anything intentional on the part of the Minnesota players: “It was a straight power play. I mean, I'm sure there was nothing intentional because there hadn't been any remarks or incidents leading up to it.” Behm added, “Anyhow, the fullback, going through the hole, stepped on Jack's stomach and maybe his groin. . . . He was badly hurt and tried to get up and wanted to stay in. We saw he couldn't stand and helped him off the field.”³⁴

Other accounts provide no clear consensus on the intent of the Minnesota players. Steven Jones, author of *Football's Fallen Hero: The Jack Trice Story*, stated that while doing research for his book, he interviewed two people who had seen the play: “One person told me that nothing out of the ordinary happened. But another who saw it said it was murder.”³⁵ The article appearing in the *Des Moines Tribune* the day of Trice's death stated that Trice was injured “when most of the Minnesota team piled on top of him in an off-tackle play.” Merl Ross believed that the Minnesota players “wanted to knock Trice out of the game because he was black.” He added, “I'm sure that was their purpose. . . . They wanted to get him out of there. And that's what they did.”³⁶

The University of Minnesota's president, L. D. Coffman, sent his condolences to President Pearson, adding that the play in which Jack was injured “took place directly in front of me. Of course, it is difficult to describe these things after they have

34. *Cleveland Plain Dealer*, 6/3/1979, in Trice Papers.

35. Quoted in Griffin, “ISU Only 1-A School,” 3.

36. *Des Moines Tribune*, 10/8/1923; *Iowa State Daily*, 9/15/1989, in Trice Papers. Merl Ross's view that the Minnesota team wanted Trice, a star player, out of the game, is discussed by Jessica Schultz, “Moments of Impact,” 49-50. Schultz writes that, “logically speaking,” if teams wanted to injure their opponents' best players, then injuries inflicted might have been because of their playing ability, not the color of their skin. Johnny Behm expressed the same view: “The Minnesota boys just did what anybody does when a man is real good and making you look real bad.” See *Newsweek*, 9/17/1984.

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once happened, but it seemed to me that he threw himself in front of the play on the opposite side of the line. There was no piling up.”³⁷

It does not appear from the extant letters, articles, and reports that there was an official inquiry into whether the Minnesota players had intentionally injured Jack Trice. Only one memo in the Trice Papers refers to a possible investigation of the incident. On October 9, John L. Griffith, Commissioner of Athletics for the Intercollegiate Conference, sent a message to ISC officials: “Associated Press Dispatch from Ames states that your boy died from injuries received when most of the Minnesota line piled on top of him in an off tackle play. Would you care to issue as to whether or not injuries were result of unfair plays?” An ISC official replied to Griffith the same day, stating, “Willaman and the men under him advised me that they did not discern any special massing on Jack Trice. He was an exceptional player and of course made trouble for the Minnesota team.”³⁸

Later that month professors L. H. Pammel and W. F. Coover along with football coach Sam Willaman issued a resolution on the part of the industrial science faculty. The resolution stated that Jack Trice was an exceptional athlete “who lost his life for Iowa State College” in the game with Minnesota.³⁹ The resolutions, statements, and tributes for Jack were highly laudatory: that Jack Trice gave his life for the sake of his school and his team, that he had been heroic on the field, and that his death had been a great loss to his race and to Iowa State College. Perhaps the most straightforward comment came in a letter written by President Pearson to President Coffman at the University of Minnesota.

Thank you sincerely for sympathy on account of the death of Jack Trice. He was an exceptionally good student as well as a great athlete. His mother came to take away her boy's body and we who saw her felt that we had never met a more refined colored woman.

37. L. D. Coffman to Raymond Pearson, 10/18/1923, Trice Papers.

38. John L. Griffith, memo, 10/9/1923, Trice Papers; Memo responding to Griffith (with no letterhead and no name or signature), 10/10/1923, Trice Papers.

39. Resolution signed by L. H. Pammel, Sam Willaman, and W. F. Coover (no date, no letterhead), Trice Papers.

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The more I know about Jack Trice the more I feel that the colored race has lost a man who would have become a great leader.⁴⁰

The next year, Jack's teammates placed a plaque in State Gym in Jack's memory. The plaque was inscribed with the letter Jack wrote on the eve of the Minnesota game, a letter that would be reprinted again and again over the next 70 years.

In 1988, some 65 years after Jack Trice's death, Iowa State officials received a letter from Jack's widow, Cora Mae Greene. In that year ISU students had commissioned a sculpture of Jack Trice; they sent Mrs. Greene a photo of the sculpture and copies of the dedication program. Mrs. Greene wrote back on August 3, 1988, to thank Iowa State officials for sending her the information. In large scrawling letters, her message poignantly described her memories of Jack and his death.

Jack's passing was a great shock to me. He was my first love and I have many beautiful memories of him and our short life together.

The night that he was leaving for Minnesota with his coach, he came to tell me good bye, we kissed and hugged and he told me that he would come back to me as soon as he could.

The day of the game, I was [on campus], I heard it announced that he had been injured. I stood and bowed my head and then I heard that he walked from the field. I felt some what relieved. Monday noon I was in the cafeteria. His fraternity Bro Mr. Harold Tutt came to me and said that I was to go to the campus hospital. I did. When I saw him I said 'Hello Darling,' He looked at me, but never spoke.

I remember hearing the Campanile chime 3 o'clock. That was Oct. 8th, 1923, and he was gone.

Sincerely yours,
Cora Mae Trice Greene⁴¹

FOR MANY YEARS after Jack Trice's death the one physical reminder of his time at Iowa State was the commemorative plaque his teammates had placed in State Gym in 1924. The

40. Raymond Pearson to President L. D. Coffman, 10/20/1923, Trice Papers.

41. Cora Mae Trice Greene, Pomona, California, to David Lendt, ISU Office of Information Services, 8/3/1988, Trice Papers. Lendt had notified Mrs. Greene of the dedication of the Jack Trice statue. The Trice Papers also include other letters from Anna Trice, Cora Mae Trice, and Cora Mae's parents, all expressing their grief but thanking ISC for its concern and support.

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plaque's location seemed fitting: this was the gym where Jack worked as a student and where he worked out as an athlete. Apparently the plaque attracted little attention, however, and even a few years after his death, most Iowa State students probably knew nothing of the Trice story. But some three decades later, in 1957, an undergraduate at Iowa State discovered the plaque covered with dirt and grime. Tom Emmerson was intrigued. He later commented about his discovery: “I had never heard of [Jack Trice]. I talked to some people in the athletic department office and then I went to the library and wrote a piece about him.” Emmerson recalled that the story, which appeared in *The Iowa State Scientist*, stirred little, if any, student interest.⁴²

Sixteen years would pass between Emmerson's discovery of the plaque in State Gym and the reawakening of student interest in the story of Jack Trice. In that 16-year period, the social and political climate in the country would undergo a vast change. After the Korean War ended in the early 1950s, the rest of the decade was relatively peaceful. In the 1950s, college students were described as passive and career oriented. They majored in traditional courses: engineering, agriculture, and science for young men and home economics for young women. Americans, in general, focused on domestic issues, and political activism of any kind seemed remote. As college students turned inward, it is not surprising that Emmerson's article on Jack Trice went largely unnoticed.⁴³

Not until the 1960s and 1970s did student protests become visible on the Iowa State campus and in the city of Ames, first related to the needs of black students and later to the Vietnam War. The passage of the Civil Rights Act of 1964 focused national attention on the discrimination endured by African Americans, but even earlier, black students at Iowa State had spoken out against the mistreatment they faced in the Ames

42. Griffin, “ISU only I-A School”; Emmerson, “Jack Trice.” *The Iowa State Scientist* was a student publication, published quarterly, which included topics of general interest to students and items specific to the Science Division.

43. On American society in the 1950s, see, for example, Elaine Tyler May, *Homeward Bound: American Families in the Cold War Era*, rev. ed. (New York, 2008); and Myra Dinnerstein, *Women Between Two Worlds: Midlife Reflections on Work and Family* (Philadelphia, 1992).

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community. In 1961 the *Iowa State Daily* reported that African American and foreign students experienced “rampant discrimination and extreme difficulties” in finding adequate housing in Ames. One black student reported that he had made “tentative agreements” with at least 15 landlords by phone, but when he started “making the rounds,” he found all the vacancies filled. On campus, black students made clear their resentment that the university had been unresponsive to their requests to recruit more black students and black professors.⁴⁴

In the late 1960s, Iowa State administrators did begin to respond to the black students’ needs. In 1968 ISU established a pilot program to increase minority enrollment; President W. Robert Parks then established a new position, Director of Minority Affairs. George Christensen, then Vice-President for Academic Affairs, recalled that ISU presented “career days” in inner-city areas — to recruit black students — and tried to make ISU “more hospitable for those who did come to Ames.” In 1969 members of the newly formed Black Student Organization asked university officials to create a center for black students on campus. With a grant of \$2,000 from the VEISHEA Central Committee (a student group responsible for planning the annual spring celebration on campus known as VEISHEA) and assistance from the ISU administration, the Black Cultural Center was opened a year later. The center hosted many activities, including Sunday evening dinners and dance classes, and generally provided a “home away from home” for black students.⁴⁵

The following year, however, relations between black students and the community of Ames took a dramatic turn downward. In April 1970 two white students, Larry Munger and Chuck Jean, and a black student, Roosevelt Roby, were involved in a confrontation in a local tavern. All three men faced charges, but when police arrived to arrest Roby at his apartment, several

44. Jenny Barker Devine, “Loyal and Forever True: Student Life at Iowa State University,” in *A Sesquicentennial History of ISU*, 166. In 1960 Iowa State College was renamed Iowa State University of Science and Technology; it will be identified hereafter as just ISU.

45. *Ibid.*, 167; George Christensen, e-mails to author, 10/7/2009 and 10/8/2009; Schultz, “Moments of Impact,” 78. Schultz writes that the pilot program was controversial because it lowered admission standards for minority students.

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other blacks prevented police from putting Roby in a squad car. The charges against Roby included assault and battery (for hitting Jean with a beer mug) and resisting execution of due process. The next day, an estimated crowd of 50 African Americans appeared in front of the Ames City Hall to “protest what they termed unfair policy treatment.”⁴⁶

The hearing and subsequent trial of Roby and Charles Knox (who was involved in resisting Roby’s earlier arrest) was marred by two episodes of violence. On the first day of Roby’s hearing, the presiding judge, John McKinney, discovered a bomb in his garage. Police later determined that it was an “incendiary device,” which was quickly disarmed. Police could not determine who had placed the device there, but Ames residents were “shaken.” Some three weeks later, the trial against Roby and Knox began; it lasted two days and both men were found not guilty. The morning after the verdict was announced, a loud explosion rocked downtown Ames. A bomb placed inside City Hall had exploded, injuring 13 people; a state trooper in the building lost sight in one eye. Again, police were not able to determine guilt, although many in Ames believed that African Americans were responsible for the violence.⁴⁷

By the following fall, tensions had lessened on the campus and in the community, but the earlier violence had undoubtedly strengthened the convictions of ISU officials that more needed to be done to respond to the concerns of black students. Recruitment efforts in cities such as Chicago continued. Christensen and other administrators met with black students to enlist their help in attracting more black students to campus and to discuss their concerns. Christensen also established the Affirmative Action Office at ISU in 1973.⁴⁸ Another specific program was Project 400, described as a “program of university commitment to

46. Robert Underhill, *Alone among Friends: A Biography of W. Robert Parks* (Ames, 1999), 162–63.

47. *Ibid.*, 166, 167. At the time, Charles Knox was head of the Black Panther Party in Des Moines. See Underhill, 162–63; and Bruce Fehn and Robert Jefferson, “North Side Revolutionaries in the Civil Rights Struggle: The African American Community in Des Moines and the Black Panther Party for Self-Defense, 1948–1970,” *Annals of Iowa* 69 (2010), 51–81. Apparently, of the African Americans who had interfered with Roby’s arrest, only Knox was arrested.

48. Christensen, e-mails to author.

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minority student recruitment and development”; the program was implemented in August 1973. As the name implied, ISU hoped to recruit a total of 400 undergraduate and graduate minority students by 1977–78. Recruitment would take place in cities in the Northeast but also in Iowa, particularly in Waterloo and Des Moines. Once on campus, minority students would receive counseling and tutoring, and advising would be made available to them.⁴⁹

By 1970, the year the bomb exploded in Ames City Hall, students at ISU were already speaking out against the Vietnam War. Protests at ISU were “smaller and less volatile” than at other universities but still represented a “contentious and dangerous issue” on the campus. ISU students burned their draft cards, held large protest rallies against the war, and tried to prevent buses carrying draftees from leaving Ames. In the spring of 1970, a major concern was the VEISHEA celebration, scheduled to take place only days after the shootings at Kent State. Amid strong feelings both for and against the war — on campus and in the Ames community — students held the annual event, but the traditional parade included two additional marches: an antiwar “March of Concern” and a “Patriots” march in support of the war.⁵⁰

ISU would survive the protests and remain open for the full 1970–71 school year. Some 200 other universities around the country would not, having ended the school term early.⁵¹ Still, the war issues and the extreme dichotomy they produced between supporters and opponents created a time of tension, anxiety, and mistrust of authority figures. It was a time when students increasingly challenged authority and defied institutional regulations and procedures. Given this backdrop, the time proved right for a renewed interest in Jack Trice’s life; before long, his story would once again become well known on the ISU campus.

Another development on the ISU campus at the same time added to the renewed interest in Jack Trice. In the fall of 1973, the university was in the midst of constructing a football stadium, a far larger and more complete facility than the existing

49. W. Robert Parks Papers, University Archives, Iowa State University Library.

50. David Hamilton, “Science with Humanity: The Parks Years,” in *A Sesqui-centennial History of ISU*, 92–96.

51. *Ibid.*

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stadium, Clyde Williams Field. The university was undoubtedly hoping that a major donor would come forward to help finance the facility, which carried an estimated cost of \$7.6 million; in turn, the stadium would likely carry the donor's name. By the fall of 1973, however, no major donor had appeared.

EVENTS ON AND OFF CAMPUS provided a context that supported a revival of student interest in Jack Trice, but individuals also played crucial roles. In 1973 Charles Sohn and Alan Beals both found themselves at Iowa State, Sohn as an instructor in the English Department and Beals as an Athletic Department tutor. According to Sohn, he and Beals had been “close friends from childhood, through our Eagle Scout days, on into college when circumstances eventually delivered us both to Iowa State.”⁵² As young, white men raised in Harlan, Iowa, in a state roughly 99 percent white, they seemed unlikely candidates to spark a renewed interest in a black athlete who died of injuries in an Iowa State football game 50 years earlier.

Beals first became aware of the Trice story in 1973, when he noticed the Trice plaque while working in State Gym. Beals promptly shared the story with Sohn, whose reaction was immediate and enthusiastic. Sohn later recalled that it was a “reaction to the pure human beauty of the Trice material.” Sohn remembered that he and Beals “talked long into the night.” Reflecting many years later on his part in the Jack Trice story, Sohn attributed his immediate reaction to “an ingrained liberalism (maybe as rebellion against my all-Caucasian high school) to an affinity for most manifestations of Black America from the 1950s on.” Sohn added that perhaps his interest in the Trice story also stemmed from guilt at not having taken part in earlier civil rights activities. Sohn's “affinity for most manifestations of Black America” was revealed in other ways. At Iowa State, he served as a faculty adviser and contributor to the campus Black Cultural Center and frequently worked with black students in the English Department.⁵³ The “Trice cause,” as Sohn called it, seemed a

52. Charles Sohn, e-mail to author, 4/5/2009. Sohn was a tenured instructor in the ISU English Department from 1964 to 1989.

53. *Ibid.*

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perfect fit, given his strong identification with African Americans and his commitment to racial equality.

Soon, Beals and Sohn began publicizing the Jack Trice story. The first step was an article in the *Iowa State Daily* on October 5, 1973. Written by Jim Smith, *Daily* sports editor, and Alan Beals, the story was apparently the first, or one of the first, articles on Trice to appear in campus publications since 1957. The authors laid out what was known of Trice's time at Iowa State and his untimely death. They included the letter Trice had written before the Minnesota game.⁵⁴

But it was another project that would directly involve Sohn in the Trice project. In 1973–74 Sohn designed and taught a two-quarter freshman English class consisting of six black males, six white females, six white males, and six black females. The class was one of numerous deliberate efforts to provide African American students with “support, comfort, and integration into campus life.” Sohn shared the story of Jack Trice with his students, who immediately became interested in the topic. Sohn remembered that the class members “took on small research and writing projects relevant to Trice, early athletics, [and] institutional racism.” He also recalled that at one of the class's small-group meetings, “a black woman from Chicago pushed the notion of a Jack Trice Stadium.” Sohn considered the suggestion “a natural — immediately getting us into lively banter about the extreme odds of such a name being picked by the old-white-boys establishment [at Iowa State]. And the challenge of it all . . . it caught fire.”⁵⁵ To help get their project off the ground, the students formed the Jack Trice Memorial Stadium Committee, the first of many efforts to publicize the proposed stadium name. A short time later, ISU's Government of the Student Body (GSB) voted unanimously to recommend the renaming of the stadium.⁵⁶

Although Sohn's class ended in March 1974, the students' commitment to commemorating Jack Trice continued as the

54. *Iowa State Daily*, 10/5/1973, in Trice Papers. According to Sohn, Beals tutored mainly football players at ISU; in the mid-1970s, Beals followed football coach Johnny Majors first to the University of Pittsburgh and then to the University of Tennessee, where Beals continued as an athletic tutor.

55. Sohn e-mail, 4/5/2009.

56. *Iowa State Daily*, 2/6/1974, in Trice Papers.

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class carried out one more project. Pam Dee (now Pam Geringer) recalled that in the spring of 1974 class members set up a booth at VEISHEA to gather signatures to name the stadium for Trice. Then, with signatures in hand, four students, including Dee, met with an administration official. Apparently the administrator showed little interest in the students' effort. Dee recalled her strong sense of disappointment at the lack of a positive response. She had been raised on a farm near the small eastern Iowa town of Springville, a community she described as all-white. Like so many Iowa young people of her generation and before, she had had almost no contact with minorities. Upon first hearing the story of Jack Trice, she thought the project to study Trice's life was something she and the other students should do to be informed citizens and possibly make a difference at ISU.⁵⁷ According to the *Daily*, Dee had done much of the research and collecting of Trice material, which resulted in a substantial scrapbook; she and other class members even wrote letters to residents in Ravenna and Hiram, Ohio, inquiring about Jack's early life there.⁵⁸

Over the next 15 years, from 1973 to 1988, Charles Sohn played a crucial role in keeping the Jack Trice campaign alive and moving ahead. He remembered that he and Beals “produced most of the early printed matter of the ‘Trice movement.’” Sohn served on the Jack Trice Memorial Committee — sometimes composed of just one or two students plus Sohn — dedicated to promoting “specific Trice memorials.” The committee worked to expand knowledge about Trice's life and time at ISC by locating archival records and doing interviews with his contemporaries. The committee also raised money for scholarship funds, memorial events, and the commissioning of a bronze sculpture (completed in 1988). In general, the committee worked to keep the stadium renaming issue before students, administrators, and the public.⁵⁹

As for Sohn himself, his sustained commitment to promoting the “Trice cause” stemmed from deep convictions about long-

57. Pam Dee Geringer, interview with author, Ames, Iowa, 4/23/2009.

58. *Iowa State Daily*, 10/5/1973, 3/6/1974, 2/6/1974, in Trice Papers.

59. Sohn e-mail, 4/5/2009; Charles Sohn, e-mail to author, 4/17/2009.

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time injustices in American society as well as deep empathy for Trice's story. Arriving at ISU as a freshman in the 1960s, Sohn shared the views of many students that American society was rampant with injustices such as “racism, sexism [and] warlike colonialism.” Sohn added his own abiding anger at what he viewed as an entrenched old order within the ISU administration, an administration he referred to as “the establishment.” Sohn explained that for himself and some other students, there was a “definite feel of ‘them vs. us’ in the Trice movement.” At the same time, he viewed Jack Trice as a mythic figure whose tragic story had a “pure human beauty” and “great warmth.” The story of this young black man whose life had ended so abruptly touched Sohn and his students deeply.⁶⁰

Motivation aside, the effort to rename the ISU stadium resulted in a lengthy campaign. Sohn recognized that to keep the cause moving along, it needed a guiding hand that would occasionally “stir the pot” of student interest. From the beginning, Sohn worked to exert influence through two platforms: the student paper, the *Iowa State Daily*, and the GSB. He “gained the ear” of the *Daily's* editors, who, for the most part, from 1973 to 1988, supported the Trice campaign. Tom Emmerson, who as a student in 1957 had written a story about Jack Trice that stirred little interest, now served as faculty adviser for the student paper; Emmerson totally supported the renaming project as did many other faculty in the Journalism Department, the *Daily's* home department. In the 1970s the GSB selected Sohn as its faculty adviser, giving him a close working relationship with members of the student government. And, as Sohn pointed out, in terms of the student population-at-large, it required only a handful of passionately vocal students in each generation to keep the issue alive.⁶¹

THE INITIAL EFFORTS by Alan Beals, Charles Sohn, and the 1973–74 freshman English classes laid the groundwork for the 24-year campaign that would follow. Throughout the mid-seventies, numerous articles on Trice's career at Iowa State ap-

60. Sohn e-mail, 4/5/2009.

61. Ibid.; Tom Emmerson, phone conversation with author, 4/20/2009.

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peared in the *Iowa State Daily*, the *Ames Tribune*, and the *Des Moines Register*. On February 15, 1975, an article in the *Daily* reported that when the stadium was finished, the University Advisory Committee on the Naming of Buildings and Streets would consider naming the stadium. Committee members stated that *Jack Trice Stadium* would be considered along with other suggestions. Student input, they announced, would be important.⁶²

At the same time, a columnist for the *Des Moines Register*, Donald Kaul, also became intrigued with the Trice story and wrote periodically about the renaming issue. From the start, Kaul supported naming the stadium for Trice. Referring to the stadium as “no name stadium,” Kaul, often with caustic humor, lambasted university officials for their refusal to act on the name change. Certainly Kaul’s columns broadened public attention to the issue, but his efforts were not always appreciated by supporters such as Charles Sohn, who believed that Kaul’s attitude was sometimes demeaning toward Trice.⁶³

Other Iowa State groups commemorated Trice in different ways. In October 1975, for example, the Black Cultural Center, with Sohn as its adviser, named its library the Jack Trice Resource Center.⁶⁴

Throughout the long student campaign, polls indicated that a majority of ISU students supported naming the stadium for Jack Trice. In October 1975, the *Daily* reported that the November 5 ballot for GSB officers would also poll students as to their preference for a stadium name. Seven choices appeared, including Jack Trice Memorial Stadium, Cyclone Stadium, and Clyde Williams Memorial Stadium. Sohn stated that he wanted the poll carried out “to send [a message to] the Board of Regents which makes the final decision of what to name the stadium.” A majority of students voted for Jack Trice Memorial Stadium. The GSB followed with a resolution recommending the name change. At the same time, students took umbrage to university officials referring to the stadium as Cyclone Stadium when that

62. *Iowa State Daily*, 2/15/1975, in Trice Papers.

63. *Ibid.*, 10/21/1975, in Trice Papers. For examples of Kaul’s columns about the stadium’s name, see *Des Moines Register*, 9/17/1975, 9/28/1975, 10/13/1975.

64. *Ibid.*, 10/24/1975, in Trice Papers.

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name had not been officially adopted. Meanwhile, in a telephone survey of 200 ISU students, 71 percent favored naming the stadium after Jack Trice.⁶⁵

The Trice campaign produced some success in March of the following year, when President W. Robert Parks created a special ad hoc committee to name the new stadium. The committee consisted of two students, two faculty members, two staff members, and two alumni. The university's Faculty Council, composed mostly of ISU faculty, had also requested the action. Parks made it clear that stadium ownership was with the ISU Foundation and would remain there until the stadium was debt free, but he hoped that the recommendation to name the stadium would be "forthcoming before the end of the school year." Parks said he would "seek permission from the Foundation Board of Governors to recommend a name for the stadium . . . [before] the stadium is turned over to the University." That did not happen, however; instead, the Board of Regents voted to defer the name change until the transfer of ownership from the ISU Foundation to Iowa State University took place. That decision meant that the renaming process would be delayed for another three or four years.⁶⁶ The reason for the regents' decision is not clear. ISU professor William Kunerth thought the decision was "ridiculous." "It didn't make any sense at all. Here they've got this legend laid out in front of them and it was perfectly fine and logical and [the administration] just hemmed and hawed and stalled." Tom Emmerson agreed, adding, "In all probability that was just another ploy. They could have named it, in my opinion, anytime they wanted to."⁶⁷

For the next few years, the *Iowa State Daily* periodically carried articles, editorials, and letters to the editor promoting the renaming of the new stadium. In May 1977 student Mike See-

65. *Ibid.*, 10/30/1975, 11/1/1975, 11/12/1975, 11/13/1975, in Trice Papers. At one point, the situation became rather contentious when the president of the student body, Jamie Constantine, stated that one member of the Advisory Committee on the Naming of Buildings and Streets, Vice President for Information Carl Hamilton, should resign because he could not be objective. *Iowa State Daily*, 11/12/1975, in Trice Papers.

66. *Ibid.*, 3/11/1976, 11/1/1976, in Trice Papers.

67. Quoted in Schultz, "Moments of Impact," 93. Both Kunerth and Emmerson were faculty members of the ISU Journalism Department.

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muth wrote that even after the regents had delayed the naming process, the issue “had not dried up and blown away.” At the same time, the Jack Trice Memorial Foundation had been revived, funded by the GSB. One of its first activities was to sponsor a Jack Trice Week the following fall. Seemuth explained that the Foundation’s purpose was clear: “Sustain student support for Jack Trice Stadium until the University becomes the official owner of the stadium — at which time the Regents will reconsider the stadium-name issue.” A few months later, a *Daily* column, “Point of View,” suggested that the university’s purpose in delaying the name change was evident: hold off on renaming the stadium until the present group of students graduates and then younger students will be unaware of the Jack Trice story. Then the stadium can be named “‘Cyclone’ or ‘Alumni’ or something else.”⁶⁸

That prediction would not play out, however. The Jack Trice story was kept alive, sometimes by student activity, sometimes by letters written by Charles Sohn, and sometimes by those outside the university. In 1979, in one of his *Des Moines Register* sports columns, Maury White quoted from an article published earlier in the *Cleveland Plain Dealer*. That newspaper’s sports editor, Hal Lebovitz, upon hearing the story of Jack Trice, had tracked down Trice’s teammate Johnny Behm for his memories of Trice and the memorable Minnesota football game. White’s article helped keep the Trice campaign alive.⁶⁹

In the 1980s the pattern continued as the *Daily* and the *Des Moines Register* carried articles on Trice, and the GSB continued to show support for renaming the stadium. In the fall of 1980, the *Daily* announced that the on-again, off-again, Jack Trice Memorial Foundation was once again back in business, again promoting the cause of Jack Trice Stadium and distributing newsletters. Sohn, serving as consultant for the foundation, said the purpose was to “give people an avenue to communicate their opinions to the state Board of Regents.” Shortly thereafter, the GSB Senate appropriated \$500 for publicity to promote the Jack Trice proposal. The money was used to buy advertisements

68. *Iowa State Daily*, 5/13/1977, in Trice Papers.

69. *Des Moines Register*, 6/20/1979, in Trice Papers.

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on three area radio stations and one in the *Daily* and to hire a pilot to fly over the stadium during a football game trailing a banner proclaiming, “Welcome to Jack Trice Stadium.”⁷⁰

Publicity efforts continued the following year. During the summer several Iowa State students rented a billboard that read: “Welcome to Ames, Home of Jack Trice Memorial Stadium.” Steve de Prosse, a political science major, and Rick Yoder, mechanical engineering, believed that the billboard would have more effect — being up for a month — than the flying banner had the previous year. De Prosse reiterated the students’ belief that the administration “hopes students will forget about it [naming the stadium after Trice], especially if the decision is put off long enough.” Efforts to solicit support from state officials for the renaming were rewarded in December, when Governor Robert Ray, through a spokesman, stated, “Gov. Ray’s feeling was that he [Trice] was an excellent player and established that it would be a fitting memorial to Jack Trice. . . . The governor thinks it would be an appropriate name [for the stadium].”⁷¹

In 1983 ISU students achieved at least partial success. In December President W. Robert Parks, according to an article in *Newsweek*, “cut the baby in half” by naming the stadium Cyclone Stadium and the playing surface Jack Trice Field. The dedication came in 1984. Reporting on the action, the *Daily* noted, “following a lengthy and sometimes heated debate, the university recommended and the State Board of Regents approved naming the facility, Cyclone Stadium/Jack Trice Field.”⁷²

If President Parks’s action was intended to placate the students campaigning for the name change or supporters such as Charles Sohn, it did not have the desired effect. In fact, Parks’s action seemed only to strengthen the students’ resolve as they determined to honor the fallen football hero in yet another way: by commissioning a sculpture. According to former GSB president Julianne Marley, the idea stemmed from the disappointment some students felt after the decision to name only the playing field after Jack Trice. Mike Reilly, another former GSB

70. *Iowa State Daily*, 3/5/1980, 10/28/1980, in Trice Papers.

71. *Iowa State Daily*, 8/27/1981, 12/4/1981, in Trice Papers.

72. *Newsweek*, 9/15/1984, in Trice Papers.

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The Jack Trice sculpture was completed in 1988 and later re-located adjacent to the stadium that bears his name.

president, explained that the GSB applied for funding for the sculpture from the Iowa Arts Council, the senior class, and the Alumni Association. All of the groups turned them down for a variety of reasons but “predominantly because people thought it was too political. So at the last meeting of the year [the GSB] allocated money for the statue and it was unanimous.” ISU students raised \$22,000 for the work and commissioned an artist, Chris Bennett of Fairfield, Iowa. Bennett emphasized Trice’s student role, presenting him in a sweater and casual slacks rather than in a football uniform. Once more, Charles Sohn’s influence was evident. Bennett, to acknowledge Sohn’s promotional role in commissioning the sculpture, included Sohn’s name “subtly as the ‘author’ of one of Jack’s bronze textbooks” included in the sculpture. The sculpture was unveiled on the

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ISU campus, between Carver and Beardshear halls, on May 7, 1988. Several of Trice's cousins from Ohio were present for the ceremony.⁷³

While momentum for the Jack Trice renaming campaign continued among student groups and others, by the mid-1990s one more major campus development affected the Trice campaign. In 1995 ISU honored nationally known graduate Carrie Chapman Catt by renaming Botany Hall Carrie Chapman Catt Hall. Campus officials probably believed that it was a long overdue recognition for Catt, who had graduated from the school in 1880 and was widely recognized as a leading figure in the fight for woman suffrage. Not long after the renaming ceremony, however, a group of students calling themselves the September 29th Movement charged that in her writings Catt had made disparaging remarks about African Americans and immigrants. Because of her statements, they demanded that the university change the name of Catt Hall.⁷⁴

The September 29th Movement, led by graduate students Milton McGriff and Allan Nosworthy, carried on a highly visible campaign to rename Catt Hall, a campaign that extended over three years. Supporters conducted a sustained letter-writing campaign, held candlelight vigils, and organized campus marches. Nosworthy held a hunger strike that resulted in his hospitalization. In November 1996 university administrators filed charges of misconduct against four protesters after they held a gathering in Beardshear Hall without registering the event as required by school policy.⁷⁵

Although ISU administrators did not bow to the demands to rename Catt Hall, the September 29th Movement, with its fairly broad campus support, probably did cause President Jischke and his staff to rethink another issue related to race,

73. *Iowa State Daily*, 5/6/1988; *Ames Tribune*, 4/1/1988; *University News*, 5/6/1988, in Trice Papers; Sohn e-mail to author, 3/14/2009.

74. *Iowa State Daily*, 3/7/1996, in an unprocessed collection, RS 22/3/0/1, University Archives, Iowa State University Library.

75. *Iowa State Daily*, 11/6/1996, 10/1/1997, 3/6/1998; *Des Moines Register*, 3/7/1996, in University Archives, RS 22/3/0/1. After a long and often emotional campaign by the September 29th Movement, the *Iowa State Daily* reported on March 6, 1998, that GSB members (some of whom had supported the effort) had declared that it was time for closure on the Catt affair.

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naming the stadium for Jack Trice. Jessica Lynn Schultz maintains that there is “an arguable connection” between the Trice naming campaign and the naming of Catt Hall. She argues convincingly that the decision to name the stadium for Trice “was a conciliatory gesture [by ISU administrators] designed to placate those offended by the memorial for Carrie Chapman Catt.”⁷⁶

Regardless of the reasons, in 1997 the campaign to rename the stadium finally succeeded. In addition to the impact of the September 29th campaign, something new had been added. Earlier, on October 15, 1996, the ISU Advisory Committee for the Naming of Buildings and Streets had recommended the change; the decision set in motion other changes, including a combined effort on the part of the students, the GSB, faculty, and the administration. Earlier, the committee had held a campus forum that indicated continued widespread support for the new name. The committee also sought input from a wide variety of groups, including the Academic Council, the Faculty Senate, the Alumni Association, the ISU Foundation, and the GSB. GSB President Adam Gold commented, “I personally felt strongly about [the name change] when I ran for this job [as GSB president]. I made it more of an issue than to just write a resolution.” In February 1997 President Martin Jischke agreed to recommend to the Board of Regents that the new name for the ISU football stadium be Jack Trice Stadium.⁷⁷

In his announcement, Jischke told the *Daily* that, along with considering both the GSB proposal and the recommendation from the Advisory Committee for the Naming of Buildings and Streets, he had done his own research on Trice. He noted that Trice had “brought an enthusiasm and a promise to the university. That is exemplary. I believe it is appropriate to recognize those qualities by naming the stadium for him.” Some two weeks later, Jischke presented the request to the regents with “an emotional tribute” to Trice; he also read the letter Trice had written in 1923. Jischke informed the regents that there was widespread support among ISU students for the name change

76. Schultz, “Moments of Impact,” 117. For a full discussion of the Catt controversy, see Schultz, “Stuff from Which Legends Are Made,” 715–48.

77. *Iowa State Daily*, 2/4/1997, in Trice Papers.

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as well as 85 percent support from student athletes. The regents approved the change by a vote of seven to two.⁷⁸ At the same time, the GSB voted to move the Trice sculpture from campus to a location near the football stadium.⁷⁹

Donald Kaul, whose columns in the *Des Moines Register* had often supported the renaming of the stadium, reacted to ISU's decision with his usual sarcastic humor. Believing that the decision was long overdue, he wrote, "You people have rocket scientists at Iowa State. You think you'd have figured it out long before now. It's nice to see it happen."⁸⁰

REGARDLESS OF OPINIONS, one thing was clear: ISU students had shown great tenacity in their support for the name change. For almost two-and-a-half decades, hundreds of ISU students had found the Jack Trice story inspirational and had believed strongly that his life should receive greater recognition than the placement of a single plaque in State Gym. Class after

78. Ibid.; *Des Moines Register*, 2/20/1997, in Trice Papers. Regents Nancy Pellett of Atlantic and Thomas Dorr of Marcus opposed the name change, both stating that they had received numerous calls opposing the move.

79. In 2009 public artist Ed Dwight completed another sculpture of Jack Trice, commissioned by the University Museums and the ISU Athletic Department. The seven-element sculpture, located on the east parquet wall of Jack Trice Stadium, highlights the life of Jack Trice.

80. Quoted in *Iowa State Daily*, 2/4/1997, in Trice Papers.

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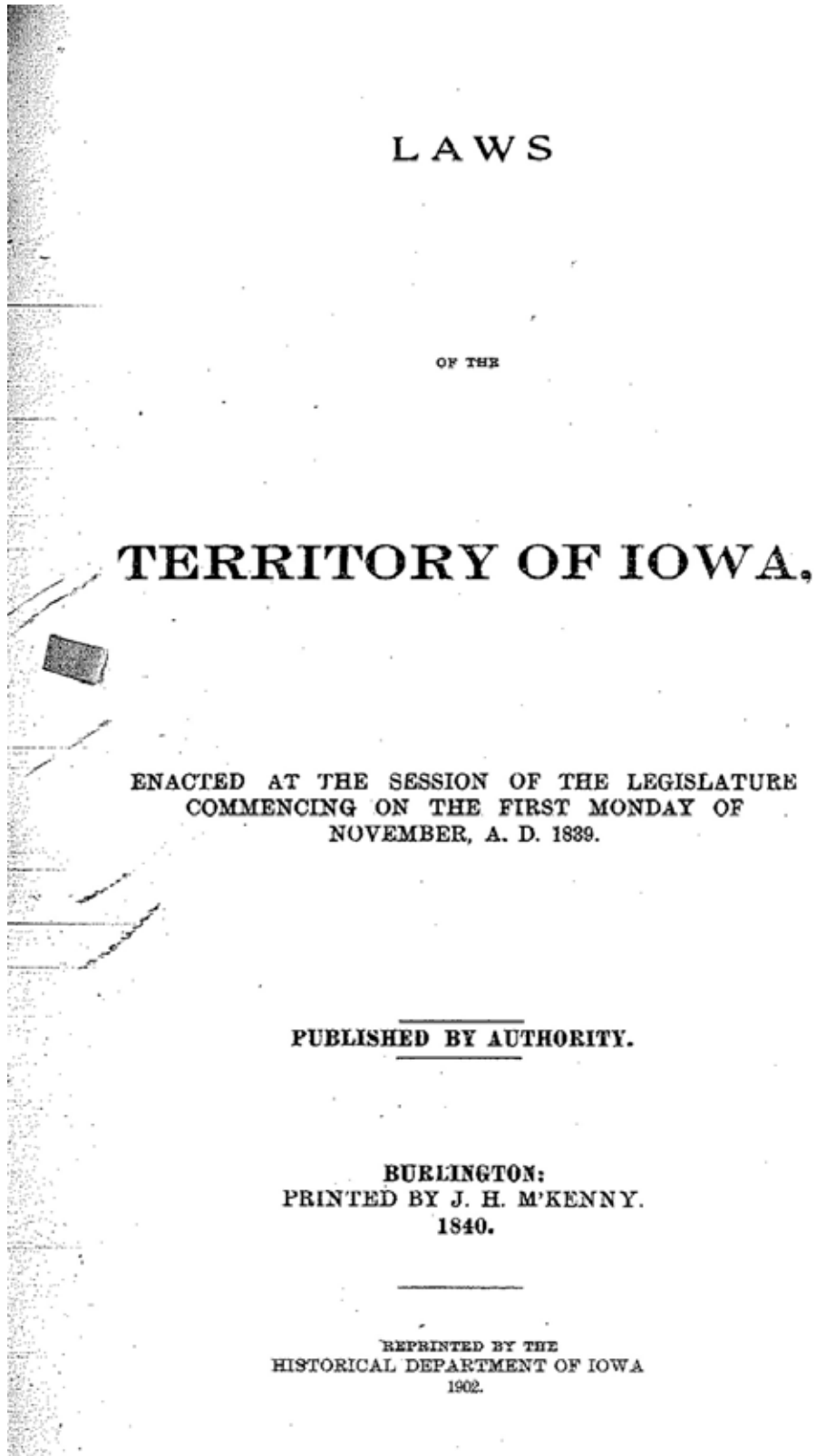
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class of students, some of whom were GSB members, and some *Daily* staffers had kept the “Trice cause” alive, regardless of resistance by ISU administrators. Tom Emmerson, who first called attention to the State Gym plaque in 1957, gave primary credit to the students. “They were the ones who made this happen and they never let go.” Charles Sohn, who himself had labored long and hard for public recognition of Trice, observed about ISU students: “There is something about the low key but tough idealism in small town Iowa that was touched by Trice.” But, Sohn added, “In my final judgement, Jack Trice was the only person who caused the stadium to be named ‘Jack Trice.’ All these others and I were just groupies wanting to hang out with him.”⁸¹

Many aspects of Jack Trice’s life will never be known, but several things are clear: His own actions show that his is a story of courage, determination, and commitment, a story made all the more significant given that he lived at a time when major racial barriers stood in his way. In addition, as recalled by his contemporaries, he was an intelligent, sensitive, gracious young man, committed to doing well in his course work as well as being a highly gifted and committed athlete. Today, Jack Trice Stadium stands as testimony to this exceptional young man and his life at Iowa State and to a later generation of students who believed so strongly that his life deserved public recognition.

81. Griffin, “ISU Only I-A School.”

Anti-Miscegenation Laws in Iowa, between 1839 and 1959 (Pg.1)



"Anti-Miscegenation Laws in Iowa," between 1839 and 1959. Courtesy of the Law Library, State Library of Iowa

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Or be com-
mitted.

Jury.

Mother a wit-
ness.

Order for
maintenance.

To give se-
curity.

Or be com-
mitted.

Recognizance
to be renewed.

Accused not
appearing,
scire facias
to issue.

SEC. 4. When such accused person shall plead not guilty to such charge before the court to which he is recognized, the court shall order the issue to be tried by a jury, and at the trial of such issue, the examination of such accused person before the justice shall be given in evidence, and the mother of such child shall be admitted as a competent witness and her credibility left with the jury: *Provided*, On the trial of the issue the jury shall, in behalf of the man accused take into consideration any want of credibility in the mother of the child, also any variation in her testimony before the justice and that before the jury, and also any other confession of her at any time, which does not agree with her testimony on any other plea or process made in behalf of such accused person.

SEC. 5. In case the jury find the defendant guilty, or such accused person, before the trial, shall confess in court that the accusation is true, he shall stand charged with the maintenance of such child, in such sum or sums as the court may order and direct, with judgment of costs of prosecution, and moreover be liable to the suit of the complainant for damages, and the court shall require such person to give security to perform the aforesaid order. And in case the reputed father shall refuse or neglect to give security as aforesaid, and pay the costs of prosecution, he shall be committed to the jail of the proper county, there to remain until he shall comply with the order of the court, or until such court shall, on sufficient cause shown, direct him to be discharged.

SEC. 6. If it shall happen, at the time of holding such court, that the woman be unable to attend, the court shall order the renewal of the bonds of recognizance that the accused person shall be forthcoming at the next court, at which the mother of the said child shall be able to attend, and the continuance of said bonds shall be entered by order of said court, unless the security shall object thereto, and shall have the same force and effect as a recognizance taken in court for that purpose.

SEC. 7. Whenever any recognizance which shall have been entered into by any person charged with being the father of an illegitimate child, as provided for by this act, shall be forfeited, by reason of the person not appearing to answer to said charge, it shall be the duty of the court to order a scire facias to

Anti-Miscegenation Laws in Iowa, between 1839 and 1959 (Pg.3)

issue against the sureties in said recognizance, commanding them to show cause at the next term of the court why judgment shall not go against them for the amount of said recognizance.

SEC. 8. If, upon the return of said scire facias ^{When judgment against sureties.} served, or two returns if not found, the said sureties shall fail to show cause why the same shall not be done, the court shall enter judgment against said securities, in the same way and manner as they would have done against the principal had he appeared and confessed himself to be the father of said child: *Provided*, That they shall in no case be made liable to pay more for the support of the said child than the amount of the penalty of said recognizance.

SEC. 9. In all cases where the defendant shall be adjudged to be the father of the child, the order for its maintenance shall be entered, in the nature of judgment, upon the record, the different instalments becoming due at the time the court may direct. And whenever any of the instalments shall become due, and shall not be immediately paid, the same shall be collected by execution against the principal ^{Order to be recorded.} and securities as in other cases. ^{Execution.}

Approved January 4, 1840.

[Chap. 25.]

AN ACT regulating marriages.

SECTION I. *Be it enacted by the Council and House of Representatives of the Territory of Iowa, That* ^{Who may be joined.} male persons of the age of eighteen years, female persons of the age of fourteen years, not nearer of kin than first cousins, and not having a husband or wife living, may be joined in marriage: *Provided always*, That male persons under twenty-one years, female persons under the age of eighteen years, shall first obtain the consent of their fathers respectively, or in case of the death or incapacity of their fathers, then of their mothers or guardians.

SEC. 2. That it shall be lawful for any ordained ^{By whom.} minister of the gospel of any religious society or congregation within this territory, who has or may hereafter obtain a license for that purpose as hereinafter provided, or for any justice of the peace in his county, or for the several religious societies agreeably to the rules and regulations of their respective churches, to join together all persons as husband and wife not prohibited by this act.

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Minister to be licensed.

SEC. 3. That any minister of the gospel, upon producing to the clerk of the district court of any county in this territory, in which he officiates, credentials of his being a regular ordained minister of any religious society or congregation, shall be entitled to receive from said clerk, a license authorizing him to solemnize marriages within this territory, so long as he shall continue a regular minister in such society or congregation.

License to be produced and noted.

SEC. 4. That it shall be the duty of every minister who is now or shall hereafter be licensed to solemnize marriages as aforesaid, to produce to the clerk of the district court, in every county in which he shall solemnize any marriages, his license so obtained, and the said clerk shall thereupon enter the name of such minister upon record, as a minister of the gospel, duly authorized to solemnize marriages within this territory, and shall note the county from which said license issued, for which services no charge shall be made by such clerk.

Record to be evidence.

SEC. 5. That when the name of any such minister is so entered upon the record by the clerk aforesaid, such record, or the certificate thereof by the said clerk, under the seal of his office, shall be good evidence that the said minister was duly authorized to solemnize marriages.

Parties to obtain license.

SEC. 6. That previous to persons being joined in marriage, a license for the purpose, shall be obtained from the clerk of the district court, in the county where such female resides, agreeably to the provisions of this act: *Provided*, That the society called friends or quakers, may solemnize marriages in their public meetings without the production of such license.

Evidence of legality.

SEC. 7. That the clerk of the district court as aforesaid, may inquire of the party applying for marriage license as aforesaid, upon oath or affirmation relative to the legality of such contemplated marriage, and if the clerk shall be satisfied that there is no legal impediment thereto, then he shall grant such marriage license, and if any of the persons intending to marry shall be under age, the consent of the parents or guardian shall be personally given before the clerk, or certified under the hand of such parent or guardians, attested by two witnesses, one of which shall appear before the clerk and make

And of consent of parties.

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oath or affirmation that he saw the parent or guardian whose name is annexed to such certificate subscribe, or heard him or her acknowledge the same, and the clerk is hereby authorized to issue and sign such license, and affix thereto his seal of office. The clerk shall be entitled to receive, as his fee for administering the oath or affirmation aforesaid, and granting license, recording the certificate of marriage and filing all the necessary papers, the sum of one dollar and twenty-five cents; and if any clerk shall, in any other manner, issue or sign any marriage license, he shall forfeit and pay a sum not exceeding five hundred dollars, to and for the use of the party aggrieved.

SEC. 8. That a certificate of every marriage hereafter solemnized, under the hand of the justice, minister, or the clerk or keeper of the records of the societies mentioned in this act, specifying,

Certificate of marriage to be recorded.

First. The christian names and surnames, ages, and places of residence of the parties married;

Second. The time and place of such marriage shall be transmitted to the clerk of the district court of the county where such marriage was solemnized, within three months thereafter, and be recorded by such clerk in a book to be kept by him for that purpose.

SEC. 9. Every justice, minister, or clerk, or keeper of records, in section eight mentioned, failing to transmit such certificate to the clerk of the district court of the county in due time, shall forfeit and pay fifty dollars, to and for the use of the county; and if such clerk shall neglect to record the same, he shall forfeit and pay fifty dollars, to and for the use of the county.

Penalties.

SEC. 10. That the record of a marriage made and kept as before prescribed by the clerk of the district court, or a copy thereof duly certified, shall be received in all courts and places as presumptive evidence of the fact of such marriage.

Record to be presumptive evidence.

SEC. 11. That if any justice or minister by this act authorized to join persons in marriage, shall solemnize the same contrary to the true intent and meaning of this act, the person so offending shall, upon conviction thereof, forfeit and pay any sum not exceeding five hundred dollars, to and for the use of the county where such offence was committed, and if any person not legally authorized shall attempt to solemnize the marriage contract, such person

Penalty for solemnizing marriage contrary to this act.

Anti-Miscegenation Laws in Iowa, between 1839 and 1959 (Pg.6)

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shall, upon conviction thereof, forfeit and pay five hundred dollars, to and for the use of the county where such offence was committed.

Forfeitures,
now recover-
ed.

SEC. 12. That any fine or forfeiture arising under the provisions of this act to the county, in consequence of any breach of this act, shall be recovered by action of debt, or by indictment, with costs of suit, in any court of record having cognizance of the same

→ Marriage of
white and
negro void.

SEC. 13. All marriages of white persons with negroes or mulattoes are declared to be illegal and void.

Repeal.

SEC. 14. That all laws now in force in this territory, not embraced in the statutes of Iowa on the subject of marriages, be and the same are hereby repealed. This act to take effect and be in force from and after the first day of March next.

When to take
effect.

Approved January 6, 1840.

[Chap. 26.]

AN ACT for the limitations of suits on penal statutes and criminal prosecutions.

Actions by in-
formers to be
commenced in
one year.

SECTION 1. *Be it enacted by the Council and House of Representatives of the Territory of Iowa,* That all actions, suits, bills or informations which shall hereafter be had, sued, or commenced for any forfeiture on any penal statute made or to be made, the benefit whereof is or shall be by the said statute in whole or in part to the person who shall inform and prosecute in his behalf, shall be had, brought, sued or commenced by any person who may lawfully pursue the same as aforesaid, within one year from the commission of the offences, and not afterwards, and in default of such pursuit, then the same shall be had, brought, or prosecuted by the territory at any time within two years from the commission of all such offences, and not afterwards, and any indictment, complaint, or information for any offence against such statute aforesaid, shall hereafter be made and prosecuted within two years limited as aforesaid, and not afterwards.

Or by terri-
tory in two
years.

Criminal pro-
secutions to
be within two
years, except.

SEC. 2. That all prosecutions for offences except treason, murder, arson, burglary, kidnapping, horse-stealing, and forgery, shall be instituted within two years next after the offence charged may have been committed and not after. *Provided,* That if the per-

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LAWS OF IOWA.

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son charged, or against whom such prosecution may be instituted, shall not have been an inhabitant or usually a resident of this territory, within and during the said term of two years, said prosecution may be instituted any time within two years next after such person may have become an inhabitant or usually resident of this territory: *And further provided,* That all prosecutions that shall be hereafter commenced for offences, except treason, murder, arson, burglary, kidnapping, horse-stealing, and forgery, committed before the organization of this territory, to wit: before the fourth day of July, in the year eighteen hundred and thirty-eight, shall fail and be utterly null and void.

Approved January 7, 1840.

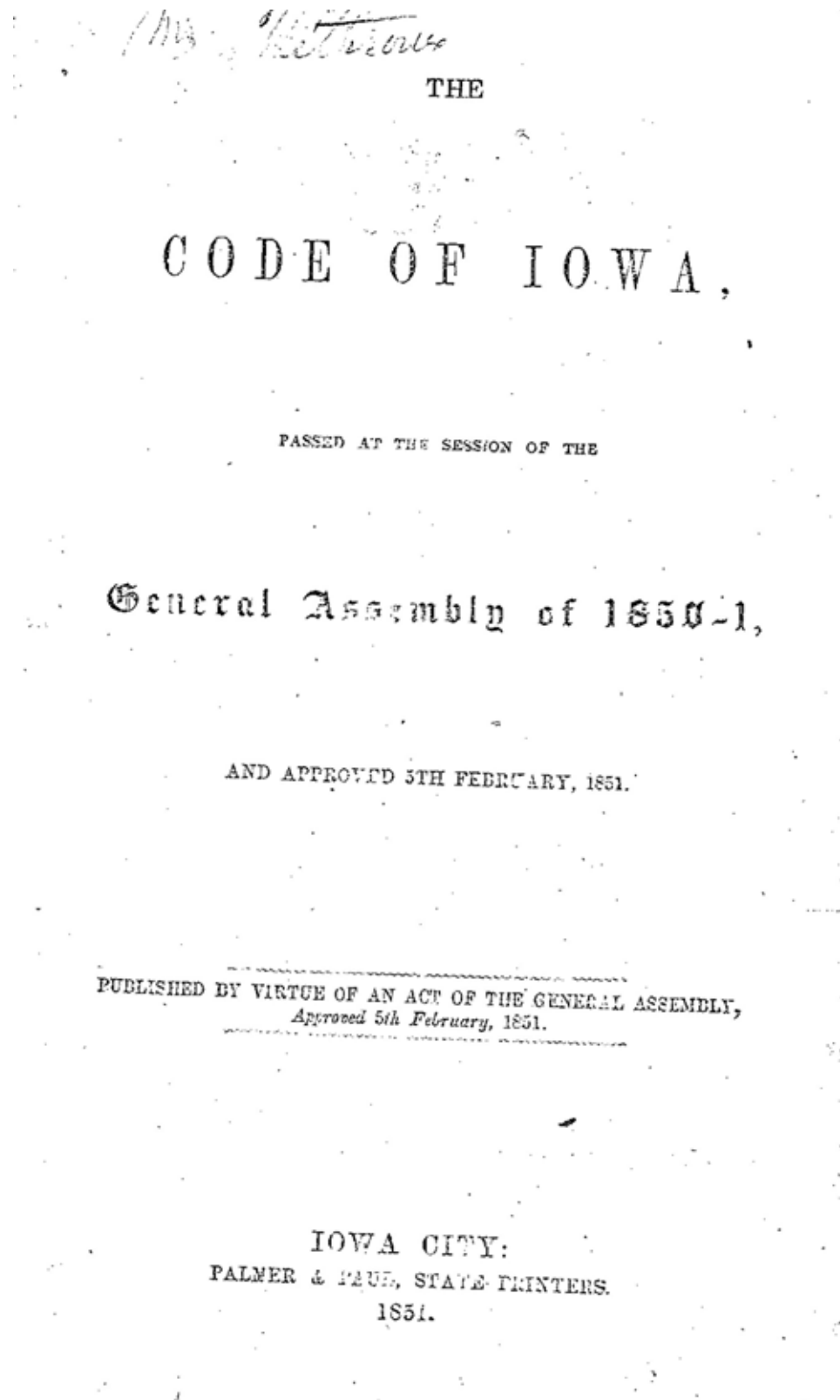
[Chap. 27.]

AN ACT to encourage the destruction of wolves.

SECTION 1. *Be it enacted by the Council and House* ^{Reward.}
of Representatives of the Territory of Iowa, That the board of commissioners of the several counties in this territory, be and they are hereby authorized and empowered, at their discretion, to offer a reward of not less than twenty-five cents nor over one dollar, to any person who shall kill any wolf within their respective counties, not exceeding six months old; and the sum of not less than fifty cents nor more than three dollars for every wolf over that age. And the commissioners aforesaid may renew or withdraw the offer of the above bounties from time to time, as in their discretion they may deem expedient, by publishing notices thereof in at least three public places within their respective counties.

SEC 2. Any person claiming the benefit of this ^{To produce}
act, shall produce before some justice of the peace ^{scalp.}
for the county where such wolf was killed, the scalp, with the ears thereon, and the justice shall administer to such person the following oath, to wit: "You do solemnly swear that the scalp now pro- ^{Oath.}
duced by you was taken from a wolf killed by you in this county; that you did not bring the same into this county from any other place, and that you believe that said wolf was more (or less as the case may be) than six months old, and that said wolf was killed on or about" (here state the time when.) ^{Justice to}
Said justice shall thereupon grant to said person a ^{grant certifi-}
^{cate.}

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Anti-Miscegenation Laws in Iowa, between 1839 and 1959 (Pg.9)

MARRIAGE.

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TITLE 17th.
CHAP. LXXXV.

CHAPTER 85.

MARRIAGE.

1463. Marriage is a civil contract requiring the consent of parties capable of entering into other contracts, except as herein otherwise declared. A contract.

1464. A marriage between a male person of sixteen and a female of fourteen years of age is valid, but if either party has not attained the age thus fixed the marriage is a nullity or not at the option of such party made known at any time before he or she is six months older than the age thus fixed. When valid.

1465. Previous to any marriage within this state, a license for that purpose must be obtained from the judge of the county court of the county wherein the marriage is to be solemnized, agreeable to the provisions of this chapter. License.

1466. Such license must not in any case be granted where either party is under the age necessary to render the marriage absolutely valid, nor shall it be granted where either party is a minor without the previous consent of the parent or guardian of such minor, nor where the condition of either party is such as to disqualify him for making any other civil contract. Same.

1467. Unless the judge of the county court is acquainted with the age and condition of the parties for the marriage of whom the license is applied for, he must take the testimony of competent and disinterested witnesses on the subject. Proof.

1468. He must cause due entry of the application for the issuing of the license to be made on the records of the county court, stating that he was acquainted with the parties and knew them to be of competent age and condition, or that the requisite proof of such facts was made to him by one or more witnesses (stating their names). Entry of rec- ord.

1469. If either party is a minor the consent of the parent or guardian must be filed in the county office, after being admitted by the said parent or guardian or proved to be genuine, and a memorandum of such facts must be also entered on the records of the county court. Consent, &c.

1470. If the judge of the county court grants a license contrary to the provisions of the preceding sections he is guilty of a misdemeanor, and if a marriage is solemnized without such license being procured the parties so married, and all persons aiding in such marriage, are likewise guilty of a misdemeanor. License. Penalty.

1471. The license shall not be issued until the amount Fee.

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MARRIAGE.

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- of one dollar has been paid into the county treasury and the receipt therefor filed with the judge of the county court.
- By whom. 1472. Marriages must be solemnized either:
FIRST—By a justice of the peace, or judge of the county court of the county, or the mayor of the city, wherein the marriage takes place;
SECOND—By some judge of the supreme or district court of this state;
THIRD—By some officiating minister of the gospel, ordained or licensed according to the usages of his denomination.
- Certificate. 1473. After the marriage has been solemnized, the officiating minister or magistrate shall on request give each of the parties a certificate thereof.
- Penalty. 1474. Marriages solemnized (with the consent of parties) in any other manner than is herein prescribed are valid, but the parties themselves and all other persons aiding or abetting shall forfeit to the school fund the sum of fifty dollars each.
- Same. Return. 1475. The person solemnizing marriage shall forfeit a like amount unless within ninety days after the ceremony he make return thereof to the county court.
- Register. 1476. The clerk of the county court shall keep a register containing the names of the parties, the date of the marriage, and the name of the person by whom the marriage was solemnized, which (or a certified transcript therefrom) is receivable in all courts and places as evidence of the marriage and the date thereof.
- Exception. 1477. The preceding provisions, so far as they relate to the manner of solemnizing marriages, are not applicable to marriages among the members of any particular denomination having, as such, any peculiar mode of performing that ceremony.
- Return. 1478. But where any mode is thus pursued which dispenses with the services of a clergyman or magistrate, the husband is responsible for the return directed to be made to the county court and is liable to the above named penalty if the return is not made.
- Illegitimacies. 1479. Illegitimate children become legitimate by the subsequent marriage of their parents.

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Yale Law Journal
February, 1949

Note

*472 CONSTITUTIONALITY OF ANTI-MISCEGENATION STATUTES [FN1]

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BELIEF in non-Caucasian inferiority is a comforting rationale for discrimination in a purportedly equalitarian society. [FN1] Legislative prohibitions against racial intermarriage in twenty-nine states are a logical consequence of this caste order. [FN2] Heretofore, courts have uniformly upheld these statutes without carefully considering whether scientific evidence revealed material race inferiorities. [FN3] But in *Perez v. Lippold* [FN4] the Supreme Court of California, *473 in a four to three decision, examined such evidence and declared the California anti-miscegenation [FN5] statute unconstitutional, ordering issuance of a marriage license to a white woman and a Negro.

Interestingly enough, the court did not rely on the ground primarily asserted by the petitioning couple, that marriage is a religious rite protected by the First Amendment as incorporated in the Fourteenth. [FN6] Indeed, this contention seems unconvincing, since marriage, while recommended by most major religions, is required by none. [FN7] But the court found strong ground for its decision in the "equal protection" clause of the Fourteenth Amendment. [FN8] Agreeing with the Supreme Court of the United States that legislation stratifying people by race warrants not a presumption of validity but rather the closest scrutiny, [FN9] the California court found no evidence *474 of Negro inferiority which justified infringement of "equal protection." [FN10]

Evidence adduced in support of these statutes consists largely of biological reports of Negro mental and physical inferiority, [FN11] and the allegedly disastrous results of miscegenation. [FN12] The California decision recognizes that this material is now largely outdated, [FN13] lacks sufficient investigative bases, [FN14] *475 and fails to allow for environmental factors. [FN15]

Contentions of Negro mental inferiority are based primarily on the fact that American Negroes have scored lower than whites from the same geographical area in most intelligence tests given by race. But there is reason to believe that this disparity is the product of environment rather than of innate inferiority. [FN16] The Army's famed Alpha Test of World War I, for example, found the median score of Northern Negroes substantially above that of Southern Caucasians. [FN17] A series of comparative tests in four cities showed similar results. While the performance of Nashville Negroes was substantially below that of their white neighbors, the disparity was smaller in Chicago and non-existent in New York City. And Negro children in Los Angeles, who were relatively few in number and were educated in the same classroom with white children, had an average I.Q. slightly above that of their white companions. [FN18] The difficulty, of course, is that no testing techniques can completely discount environment: there is as yet no way of testing a newborn infant before the umbilical cord is cut. [FN19]

Equally unproved are contentions that the average American Negro is *476 physically inferior to the average American white. Modern anthropologists state that no inherent inferiority has yet been measured by scientific methods. [FN20] Through popular exaggeration, actual differences in physical appearance, in combination with many imaginary ones, have become synonymous with inferiority. [FN21] Admittedly, many of these have played a strategic function in the justification of the American caste system. [FN22] But, after all, they are merely aesthetic differences, which a potential spouse is far more qualified to evaluate than is the legislature.

Nor is there scientific proof that Negroes are inherently more susceptible to diseases such as tuberculosis and pneumonia-influenza. [FN23] Again, any discrepancy in susceptibility seems to be environmental rather than inherited. [FN24] While the Negro death rate from tuberculosis is now higher than that of the whites, recent studies have shown that it is declining and is lower today than the white rate of a few decades ago. [FN25] And there is some evidence that, prior to the Civil War, tuberculosis was more prevalent among whites than among Negroes. [FN26] One study of a few

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unusual Tennessee communities, where Negroes work and live in healthier surroundings than do whites, has shown that the Negro tuberculosis rate is the lower of the two. [FN27] In the case of pneumonia-influenza, evidence as to the environmental factor is less direct, but there is little scientific support for any theory of racial susceptibility. [FN28]

*477 Again, investigation reveals no proof of necessarily inferior progeny from miscegenation. Contentions of mulatto sterility [FN29] are unsupportable, for even as their proponents admit they are based on inadequate data which fails to account for such factors as mulattoes passing as whites or Negroes. [FN30] More significantly, since racial commingling has already rendered the pure-blooded Negro a biological rarity, [FN31] studies proving the absence of inherent medical and physical inferiorities in the modern Negro group disprove contentions of mulatto inferiority.

In addition to contentions of Negro inferiority, sociological considerations are offered as indicia of the reasonableness of anti-miscegenation statutes. Inasmuch as these considerations probably underlie both legislative and judicial attitudes towards the problem, they merit particular consideration even though their basis is societal rather than constitutional.

Proponents of the statutes argue that miscegenation occurs among the "dregs of society," and that the progeny, therefore, are likely to become a *478 burden on the community. [FN32] But the evidence indicates that racial intermarriage now occurs most frequently in the better educated groups. [FN33] Moreover, the statutes do not purport to aim at or define the amorphous category of "dregs," but rather apply to all racial groups.

More significant is the argument that, since miscegenous marriages expose the spouses and their progeny to social tensions, invalidation of the statutes would increase animosity towards racial minorities. [FN34] Admittedly, these tensions are acute. But the spectre of resultant community violence will materialize only when local law enforcement is lax. [FN35] To prohibit miscegenous marriage in order to avert tension perpetuates by law the very prejudices which have given rise to that tension. Such a procedure can be rationalized only by a policy which would condone total isolation of any individual from the community on the basis of prejudice alone. [FN36]

In the absence of evidence establishing a rational basis, racial restrictions on marriage infringe the Constitutional guarantee of "equal protection." *479 The State of California, proposing in essence an application of the "separate but equal doctrine" to marriage, argued that the statute was not discriminatory since it applied equally to Caucasians and non-Caucasians. [FN37] But the California court rejected this contention, citing the opinion of the Supreme Court of the United States in *Shelley v. Kraemer* [FN38] that: "equal protection of the laws is not achieved through the indiscriminate imposition of inequalities." The essence of the right to marry is the right to marry whomever one wishes, regardless of race. [FN39]

Scientific and sociological evidence indicates that anti-miscegenation statutes are merely remnants of a deep-seated cultural lag. [FN40] Only an abrogation of the judicial function can explain failure to follow the California court in striking down such legislative expressions of community prejudice. [FN41]

*480 APPENDIX I

STATE ANTI-MISCEGENATION STATUTES

<i>State and Citation</i>	<i>Marriages between Whites and the following prohibited</i>	<i>Effect given such marriages</i>
Alabama ALA. CONST., Art. 4, § 102; ALA. CODE, tit. 14, §§ 360-61 (1940).	Negro or descendent of a Negro to the third generation inclusive, though one ancestor of each generation was a white.	Parties each guilty of felony.
Arizona ARIZ. CODE, c. 63, §§ 107-8 (1939).	Negroes, Mongolians, Malayans, Hindus, Indians.	Null and void.
Arkansas ARK. STAT., tit. 55, §§ 104-05 (1947).	Negroes or Mulattoes.	Illegal and void.
California CAL. CIVIL CODE, § 60 (Deering 1937).	Negroes, Mongolians, Malayans, or Mulattoes.	Illegal and void.
Colorado COLO. STAT. ANN., c. 107, §§ 2, 3 (1935).	Negroes or Mulattoes.	Absolutely void. Misdemeanor.

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Delaware REV. CODE, § 2992 (1915) amended by Sess. Laws, p. 578 (1921).	Negro or Mulatto.	Void. Misdemeanor.
Florida FLA. CONST., Art. 16, § 24; STATS. ANN., §§ 741.11-.12 (1944).	Any Negro, a person having more than or at least one-eighth Negro blood.	Utterly null and void. A felony.
Georgia GA. CODE ANN., §§ 53-106, 53-9902, 53-9903 (1937)	Negroes, Indians, Malayans, Mongolians, Asiatic Indians, West Indians, or Mulattoes.	Utterly void, null and void. A felony.
Idaho IDA. CODE, § 32-206 (1947).	Mongolians, Negroes, or Mulattoes.	Illegal and void.
Indiana IND. STAT. ANN., § 44-104 (1933).	Persons having one-eighth or more of Negro blood.	Absolutely void without any legal proceedings. A felony. Prohibited and declared void. Have no effect and at null and void. Void. Felony.
Kentucky REV. STAT. ANN., § 402.010 (1946).	Negro or Mulatto.	
Louisiana LA. CIVIL CODE, Art. 94 (1945).	Negroes. Intermarriage of Indians and Negroes prohibited.	
Maryland Code, Art. 27, § 365 (1924); Laws, c. 60 (1935).	Negroes, or a person of Negro descent to the third generation. Malayans. Marriages of Negroes and Malayans are also prohibited.	
Mississippi MISS. CONST., Art. 14, § 263; Code, tit. 4, § 459; tit. 11, §§ 2002, 2234, 2339 (1942).	Negro, Mulatto, or Mongolian. Any person having one-eighth or more Negro or Mongolian blood.	Unlawful and void. Felony.
Missouri MO. REV. STAT., §§ 3361, 4651 (1942).	Persons having one-eighth or more Negro blood. Mongolians.	Prohibited and declared absolutely void. Felony. Utterly null and void
Montana MONT. REV. CODES, §§ 5700-5702 (1935).	Negro or a person of Negro blood or in part Negro. Chinese person and Japanese person.	
Nebraska NEB. REV. STAT., § 42-103 (1943).	Persons possessed of one-eighth or more Negro, Japanese, or Chinese blood.	Void.
Nevada NEV. COMP. LAWS, §§ 10197-10200 (1929).	Any person of Ethiopian or black race, Malay or brown race, or Mongolian or yellow race.	Unlawful. Misdemeanor.
North Carolina N. C. CONST., Art. 14, § 8; STAT., § 51-3 (1943).	Negro or Indian, or person of such descent to the third generation, or a Cherokee Indian of Robeson County and a Negro, or any persons of such descent to the third generation.	Void. Felony.
North Dakota N. DAK. CODE, §§ 14-0304, 0305 (1943).	Negro or person having one-eighth or more Negro blood.	Void. Felony.
Oklahoma OKLA. STAT., tit. 43, §§ 12-14 (1938).	Any person of African descent.	Unlawful and prohibited. Felony. Prohibited. Felony.
Oregon ORE. COMP. LAWS, § 63-102 (1940).	Negro or Mongolian, or any person having one-fourth or more of Negro or Mongolian blood.	
South Carolina S. CAR. CONST., Art. 3, § 33; SO. CAR. CODE, §§ 8571, 1438 (1942).	Negroes, Indians, Mulattoes, or half-breeds.	Unlawful and prohibited. Misdemeanor. Void. Felony.
South Dakota SO. DAK. CODE, § 14.0106 (1939).	Members of the African, Korean, Malayan, or Mongolian races.	
Tennessee TENN. CONST., Art. 11, § 14; TENN. CODE,	Negroes, Mulattoes, or persons of mixed blood descended from a Negro,	Prohibited and unlawful. Felony.

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§ 8409 (1938).	to the third generation inclusive.	
Texas CIVIL STAT., § 4607 (1925).	Africans or the descendants of Africans.	Null and void. Felony.
Utah Code, § 40-1-2 (5, 6) (1943).	Negroes, Mongolians, Malayans, Mulattoes, quadroons, or octoroons.	Void and prohibited.
Virginia Code, §§ 5087, 5099a(5) (1942).	Colored persons. White can only marry a person with no other admixture of blood than white or one-sixteenth or less American Indian blood.	Void without any decree or legal process. Felony.
West Virginia Code, § 4701 (1943).	Negroes.	Void. Misdemeanor.
Wyoming REV. STAT., c. 68-118 (1931).	Negroes, Malayans, Mongolians, and Mulattoes.	Illegal and void. Misdemeanor.

*482 States Formerly Prohibiting Miscegenation

Iowa	Omitted in 1851.
Kansas	Omitted 1857. See Laws, c. 49 (1857).
Maine	Repealed 1883. See Laws, p. 16 (1883).
Massachusetts	Repealed 1840. See Acts, c. 5 (1843).
Michigan	Prior interracial marriages legalized 1883. See Comp. Laws, § 12,695 (1929).
New Mexico . .	Repealed 1886. See Laws, p. 90 (1886).
Ohio	Repealed 1887. See Laws, p. 34 (1887).
Rhode Island .	Repealed 1881. See Acts, Jan. Sess., p. 108 (1881).
Washington . .	Repealed 1867. See Laws, pp. 47-48 (1867).

[FN1]. *Perez v. Lippold*, 32 A.C. 757 (Cal. 1948).

[FN1]. If the Negro can be placed lower in the biological order than the Caucasian, there is no difficulty in rationalizing him out of the Caucasian's social order. The Negro then receives some of the attributes of full citizenship not as rights, but as charities extended to an inferior being. 1 MYRDAL, AN AMERICAN DILEMMA 101-10 (1944).

[FN2]. These are listed and discussed in MANGUM, THE LEGAL STATUS OF THE NEGRO 263-73 (1940), and Appendix *infra*. The states still banning miscegenation are the only part of the world, outside of the Union of South Africa, with extensive prohibitions against miscegeny. Brief for Respondents, p. 8, *Perez v. Lippold*, 32 A.C. 757 (Cal. 1948).

[FN3]. None of these decisions reveals any examination of recent and unbiased scientific evidence. Only in one case has an anti-miscegenation statute been invalidated, *Burns v. State*, 48 Ala. 195, 198 (1872) (statute prohibiting minister from performing marriage of white and Negro held unconstitutional), and this case was expressly overruled by *Green v. State*, 58 Ala. 190 (1877).

The Supreme Court of the United States has never directly ruled on the constitutionality of these statutes, having declined the gambit in *In re Monks' Estate*, 48 Cal. App.2d 603, 120 P.2d 167 (1941), *app. denied*, 317 U.S. 590 (1942) (on ground papers not filed in time), and *Lee v. Monks*, 318 Mass. 513, 62 N.E.2d 657 (1945), *cert. denied*, 326 U.S. 696 (1946) (both cases involving loss of Negro wife's dower rights because marriage to white man void under Arizona anti-miscegenation statute). But in *Pace v. Alabama*, 106 U.S. 583 (1882), the Court upheld an Alabama statute making fornication a felony for a Negro and white, but merely a misdemeanor for any other couple, on grounds that the statute was non-discriminatory and was directed at the offense rather than at any particular race or color. *Id.* at 585. The California court distinguished this decision on the ground that while there is a basic right to marry, there is no right to adultery or fornication. See *Perez v. Lippold*, *supra* note 2, at 772.

Lower federal courts have upheld two anti-miscegenation statutes despite attacks based on the Fourteenth Amendment: *Stevens v. United States*, 146 F.2d 120 (10th Cir. 1944) (marriage of Negro to deceased full-blooded Creek Indian void in Oklahoma; statute affects all parties alike); *State v.*

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Tutty, 41 Fed. 753, 762 (C.C.S.D., Ga. 1890) (comity does not require recognition of out-of-state marriage of Negro and white residents of Georgia who returned to Georgia to live, where such marriage is against state's public policy).

The state cases directly upholding these statutes as valid under the Fourteenth Amendment are: Kirby v. Kirby, 24 Ariz. 9, 206 Pac. 405 (1922) (marriage purely a subject for state regulation); Dodson v. State, 61 Ark. 57, 31 S.W. 977 (1895) (marriage is subject to exercise of state police power). Occasionally the ground for decision is more esoteric: Green v. State, 58 Ala. 190 (1877) (God made black and white different and meant them to be separate); State v. Gibson, 36 Ind. 389 (1871) (natural law forbids racial intermarriage). Statutory variations on the standard anti-miscegenation theme have been similarly treated: Frasher v. State, 3 Tex. App. 263 (1877) (statute penalizing only whites for miscegenation); Ford v. State, 53 Ala. 150 (1875) (statute making miscegenous adultery a felony while non-miscegenous adultery is a misdemeanor). Among the more intriguing fact situations is Blake v. Sessions, 94 Okla. 59, 220 Pac. 876 (1923) (marriage of man three-fourths Indian and one-fourth Negro to woman three-fourths Indian and one-fourth white; statute prohibiting marriage of Negroes to anyone not Negro held valid).

[FN4]. 32 A. C. 757 (Cal. 1948), *rehearing denied*, October 28, 1948 (communication to the YALE LAW JOURNAL from the Clerk of the Supreme Court of California, November 15, 1948, in Yale Law Library), *app. waived*, N.Y. Times, December 13, 1948, p. 37, col. 7. Traynor, J., wrote the court's opinion, in which Gibson, C. J., and Carter, J., joined, *id.* at 777; separate concurring opinions were written by Carter, J., *id.* at 777, and Edmonds, J., *id.* at 785; Shenk, J., dissented, along with Schauer, J., and Spence, J. *Id.* at 787.

[FN5]. The term miscegenation, when used in this note, means sexual relations between members of different races, unless specially qualified.

[FN6]. Brief for Petitioners pp. 9-19, Perez v. Lippold, 32 A. C. 757 (Cal. 1948).

[FN7]. Moreover, the Supreme Court in the Mormon polygamy cases upheld restrictions on marriage even where it was required by religion. Reynolds v. United States, 98 U.S. 145 (1878) (polygamy an act in violation of social duties or subversive of good order, and thus regulable despite incidental religious restriction). In Cleveland v. United States, 329 U.S. 14, 18 (1946) (Mann Act prosecution of polygamists), the Supreme Court reaffirmed this earlier stand.

The court evaded a direct ruling on this issue, 32 A.C. 757, 759 (Cal. 1948). But see Edmonds, J., (concurring), *supra* note 4 (right to marry is protected by Constitutional guarantee of religious freedom).

[FN8]. 32 A. C. 757, 777 (Cal. 1948). The right to marry is also protected by the "due process" clause, and cannot be infringed by action that is arbitrary or bears no reasonable relation to legitimate legislative objectives. See Meyer v. Nebraska, 262 U.S. 390, 399, 400 (1923).

The state invoked the precedents of Buck v. Bell, 274 U.S. 200, 207 (1927) (upholding state law for sterilization of mental incompetents because public welfare may require that citizens be deprived of fundamental right to marry and bring up children), and Hirabayashi v. United States, 320 U.S. 81, 100 (1943) (distinction between citizens based on race upheld). But the California court rejected these on the grounds, *inter alia*, that the sterilization statute guaranteed a comprehensive investigation in each case before it was applied, and that in the Nisei case the exigencies of the war situation made discrimination permissible. 32 A. C. 757, 761, 772 (Cal. 1948). See Rostow, *The Japanese American Cases-A Disaster*, 54 YALE L. J. 489 (1945).

[FN9]. In answering the state's assertion of a presumption of validity, the court relied on the opinions in Railway Mail Ass'n v. Corsi, 326 U.S. 88, 94 (1945) and Oyama v. California, 332 U.S. 633, 646 (1948) (only most exceptional cases can excuse discrimination on the basis of race or color).

[FN10]. 32 A.C. 757, 761-74 (Cal. 1948).

[FN11]. See REUTER, RACE MIXTURE 107, 108 (1931), who claims that the Negro group is mentally inferior because it has produced few men of real ability and no one whose accomplishments have not been surpassed by scores of white men. Intelligence testing shows an "enormous and reliable

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superiority of whites over Negroes...." PETERSON, 5 MENTAL MEASUREMENT MONOGRAPHS 151 (1929); cf. Castle, *Biological and Sociological Consequences of Race Crossing*, 9 AMER. JOURNAL OF PHYS. ANTHROPOLOGY 152-3 (1926).

For reports of physical inferiority, see HOLMES, THE NEGRO'S STRUGGLE FOR SURVIVAL 47 (1937) (Negro general mortality higher than white); EMBREE, BROWN AMERICANS 40 (1943) (Negro death rate is more than 33% above the white rate. The death rate from tuberculosis is three times that of the whites; from syphilis, maternal and child ill, heart disease and pneumonia, it is ten times that of the whites); cf. Hoffman, *Race Traits and Tendencies of the American Negro*, XI PUB. AM. ECO. ASS'N 146-8 (1896); Davenport, *State Laws Limiting Marriage Selection Examined in the Light of Eugenics*, 9 EUGENICS RECORD OFFICE BULLETIN (1913) (Negroes are apt to form keloid and uterine tumors). 2 CYCLOPEDIA OF MEDICINE, SURGERY AND OBSTETRICS 275 (1946) (sickle cell anemia is a congenital disease occurring only in Negroes).

[FN12]. Race crossing of the primary races leads to retrogression, and to eventual extinction of the resultant type unless fortified by reunion with the parent stock: Dixon, *Morbid Proclivities and Retrogressive Tendencies in the Offspring of Mulattoes*, 20 JOURN. AMER. MED. ASS'N 1 (1893); WOODRUFF, THE EXPANSION OF RACES 251 (1909); GREGORY, THE MENACE OF COLOR 229 (1925) (where two distinct races are in contact, inferior qualities are not bred out and may be emphasized in progeny); DAVENPORT AND STEGGERDA, RACE CROSSING IN JAMAICA (1929) (study of 300 adults in Jamaica indicates that crossing of distinct races is biologically undesirable); HOLMES, *op. cit. supra* note 11, at 175-7 (setting out findings of Nott in 1843 that mulattoes of South Carolina were decidedly infertile); Castle, *supra* note 11 ("race crossings disturb social inheritance"); Matas, *Surgical Peculiarities of the Negro*, 4 TRANS. AM. SURG. ASS'N (1896) (dental caries are rare in pure blooded Negroes but frequent in mulattoes); Davenport, 27 CURRENT HISTORY 403 (1927) (mulattoes are not fully compatible with their environment, "combin[ing] something of the white man's intelligence and ambition with an insufficient intelligence to realize that ambition"); LASKER, FILIPINO IMMIGRATION 35 n. 3 (1931) ("[C]onsidering the necessity of adaptation to conditions controlled by the dominant race, the results of interbreeding ... are decidedly dysgenic"); Mjoen, *Harmonic and Disharmonic Race Crossings*, 2 EUGENICS IN RACE AND STATE 41-61 (1923) (hybrid offspring of Lapps and Scandinavians are inferior to either of their parents); see Perez v. Lippold, 32 A.C. 757, 801-5 (Cal. 1948) (dissenting opinion). See also, Brief for Respondents, pp. 61-97, Perez v. Lippold, *supra*.

[FN13]. KLINEBERG, CHARACTERISTICS OF THE AMERICAN NEGRO 335 (1944), claims that the superior techniques employed in investigations subsequent to those set out in notes 10 and 11 *supra*, clearly shift the burden of proof to those who contend that there are innate differences in the intelligence of persons of pure and mixed bloods. Many of the materials cited in notes 10 and 11 *supra* were mentioned in Judge Shenk's dissent, and in the Respondent's Brief, *supra* note 12. A concurring judge skillfully equated portions of the state's brief with quotations from Hitler's *Mein Kampf*. 32 A.C. 757, 784-5 (Cal. 1948).

[FN14]. Even Castle, *supra* note 11, at 146, states that there are no biological obstacles to crossings between the most diverse human races, while HOLMES, *op. cit. supra* note 11, at 176, points out that there is insufficient data on how the mixed origin of the mulatto affects fertility.

KLINEBERG (a cultural anthropologist) *op. cit. supra* note 13, at 328, states that the samples used in the DAVENPORT-STEGGERDA report, *op. cit. supra* note 12, were too small and were drawn from too heterogeneous a population to provide any trustworthy conclusions. Montagu (a physical anthropologist), in MAN'S MOST DANGEROUS MYTH-THE FALLACY OF RACE 116-19 (1942), implies that Davenport's work is not objective; he also attacks the grotesque reasoning of eugenists like Mjoen, Gregory (by profession a geologist), and Hoffman (a statistician for an insurance firm), (all cited *supra* notes 11 and 12), on grounds that eugenics, being concerned with breeding a superior group, starts with an inherent doctrine of racism. *Id.* at 134, 135.

[FN15]. HOLMES, *op. cit. supra* note 11, at 130, states that "the mortality of the Negro is so greatly affected by his environment and habits of life, that for most diseases, it is quite impossible to detect an influence of hereditary racial factors ..." EMBREE, *op. cit. supra* note 11, at 40, specifies that the Negro death rate today is less than half of what it was fifty years ago.

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[FN16]. See KLINEBERG, NEGRO INTELLIGENCE AND SELECTIVE MIGRATION 59 (1935).

1 MYRDAL, *op. cit. supra* note 1, at 149, states that "when we ... [study the Negro's performance on psychological tests] on the hypothesis that differences in behavior are to be explained largely in terms of social and cultural factors, we are on scientifically safe ground. If we should, however, approach them on the hypothesis that they are to be explained primarily in terms of heredity, we do not have any scientific basis for our assumption."

[FN17]. Yerkes, *Psychological Examining in the U.S. Army*, 15 MEM. NAT. ACAD. SCI. 705-42 (1921); KLINEBERG, RACE DIFFERENCES 182 (1935). Studies of troops in World War II are not yet available.

[FN18]. PETERSON, *op. cit. supra* note 11, at 6, 11, 12, 38, 91, 96; KLINEBERG, *op. cit. supra* note 17, at 183. The average I.Q. of the Los Angeles Negro children was 104.7, as against an average of 75 for Southern Negro children and 100.0 for Los Angeles white children. Price, *Negro-White Differences in General Intelligence*, 3 J. NEGRO EDUCATION 424, 441 (1934).

[FN19]. For a brief statement of the problems not yet met in testing, see 1 MYRDAL, *op. cit. supra* note 1, 149-53.

[FN20]. *Id.* at 138, 143. See *Perez v. Lippold*, 32 A.C. 757, 768-70 (Cal. 1948).

[FN21]. The differences more commonly referred to are: shorter stature; greater amount of black pigment; woolly or frizzy hair; less body hair; flattened nose; thicker lips; and protruding jaw. 1 MYRDAL, *op. cit. supra* note 1, at 139; BENEDICT, RACE: SCIENCE AND POLITICS 100-7 (1940); HERSKOVITS, ANTHROPOMETRY OF THE AMERICAN NEGRO (1930) *passim*; KLINEBERG, *op. cit. supra* note 17, 73-89; HERSKOVITS, THE AMERICAN NEGRO 34-50 (1928).

As for "primitive characteristics," it is interesting to note that the anthropoids have hairy coats and thin lips, and that the whites most closely approximate these characteristics. Thus the Negro's thick lips and lack of body hair seem to evidence more advanced physical development. BENEDICT, *op. cit. supra* at 101.

Some of the imaginary beliefs are that the Negro has a peculiar and repulsive body odor, and that male Negroes have unusually large genitalia; both of these play a role in the sexual taboos designed to maintain the Caucasian social order. 1 MYRDAL, *op. cit. supra* note 1, at 139-40.

[FN22]. See note 1 *supra*.

[FN23]. See note 10 *supra*. 1 MYRDAL, *op. cit. supra* note 1, at 140-2 also lists pellagra, syphilis and nephritis. HOLMES, *op. cit. supra* note 11, at 47-129, also lists whooping cough, malaria, tetanus, syphilis, nephritis, heart disease, keloid tumors, nervous disorders, and childbirth diseases.

[FN24]. See note 15 *supra*, and 1 MYRDAL, *op. cit. supra* note 1, at 142-3.

[FN25]. 1 MYRDAL, *op. cit. supra* note 1, at 142. An excellent study of the physical anthropology of the Negro is LEWIS, THE BIOLOGY OF THE NEGRO (1942).

[FN26]. See Hoffman, *op. cit. supra* note 11, at 69 (citing preponderant opinion of southern physicians in pre-civil war practice); HOLMES, *op. cit. supra* note 11, at 39. And a survey in Charleston, South Carolina, revealed that the tuberculosis rate in the period 1841-1848 was somewhat lower for Negroes than for whites. See WEATHERFORD & JOHNSON, RACE RELATIONS 375 (1934); EMBREE, BROWN AMERICA 49 (1st ed. 1931).

[FN27]. EMBREE, *op. cit. supra* note 26, at 54.

[FN28]. Studies of respiratory diseases have not revealed an hereditary susceptibility. See 1 MYRDAL, *op. cit. supra* note 1, at 143; Lowe and Davenport, *A Comparison of White and Colored Troops in Respect to Incidence of Disease*, 5 PROCEEDINGS OF NAT. ACAD. OF SCI. 58-67 (1919).

[FN29]. See REUTER, *op. cit. supra* note 11, 50-3; 1 MYRDAL, *op. cit. supra* note 1, at 142-3; Brief for Respondents, pp. 74-5, *supra* note 12.

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[FN30]. "Passing" is the backwash of miscegenation and one of its surest results. Sometimes it occurs only for limited occupational or recreational purposes. The extent of "passing" is difficult to determine, since those who do pass conceal the fact, and many persons are completely unaware that one of their parents or grandparents has passed. 1 MYRDAL, *op. cit. supra* note 1, 129-130; 2 MYRDAL, *op. cit. supra* note 1, 1209-12; KLINEBERG, *supra* note 14, 301-19. Day, *A Study of Some Negro-White Families in the United States*, 10 HARVARD AFRICAN STUDIES 5, 44-6 (1932), states that out of the 346 families studied, 35 included one or more individuals who had passed. There was an average of 7.3 adults in these families, so her statement would allow an estimate, as a minimum, that 15 out of any 1000 Negroes passed.

See EAST, HEREDITY AND HUMAN AFFAIRS 100 (1927): "A favorite short-story plot ... is one where the distinguished scion of an aristocratic family marries the beautiful girl with the telltale shadows on the half-moons of her nails and in due time is presented with a coal-black son.... There is only this slight imperfection.... The most casual examination of the genetic formulae ... demonstrates its absurdity. If there ever was a basis for the plot in real life, the explanation lies in a fracture of the seventh commandment, or in a tinge of Negro blood in the aristocrat as dark as that in his wife." And see Day, *supra*, at 107.

Another factor is that sex relations between Negroes and whites seem to be decreasing. See REUTER, *op. cit. supra* note 11, 49-51; Day, *supra*, at 108; HERSKOVITS, ANTHROPOMETRY, *op. cit. supra* note 21, 240-1 and AMERICAN NEGRO, *op. cit. supra* note 21, at 30; 1 MYRDAL, *op. cit. supra* note 1, at 127.

[FN31]. See 1 MYRDAL, *op. cit. supra* note 1, at 113. In point of fact, the great majority of American Negroes have Caucasian as well as Negroid ancestry. HERSKOVITS, THE AMERICAN NEGRO 25 (1928), states that 80% of American Negroes show mixture with white or American Indian blood. See also EMBREE, *op. cit. supra* note 26, at 9; HERSKOVITS, ANTHROPOMETRY, *op. cit. supra* note 21, at 177; and 2 MYRDAL, *op. cit. supra* note 1, at 1200. "In Latin America whoever is not black is white: in ... [the United States] whoever is not white is black." 2 BRYCE, THE AMERICAN COMMONWEALTH 555 (Rev. Ed. 1912). In British colonies and dominions the hybrids are considered a group distinct from both whites and Negroes.

[FN32]. HOLMES, *op. cit. supra* note 11, at 174, states that most mixed marriages are between white women and Negro men, and that the women are "usually either unsophisticated recent immigrants or women of very low class." See also REUTER, *op. cit. supra* note 11, at 40. Castle, *supra* note 11, at 146, states that race crossings occur between anti-social and outcast specimens of the respective races, and the "social status of the children is bound to be low, their educational opportunities poor, and their moral background bad," and see *Green v. State*, 58 Ala. 190, 194 (1877) (miscegenation must naturally cause discord, shame, disruption of family circles and the estrangement of kindred).

[FN33]. See 32 A.C. 757, 770 (Cal. 1948). The few studies made show that miscegenation occurs mostly in urban communities, and possibly among the better educated Negro males. See KLINEBERG, *op. cit. supra* note 13, 276-300. The "dregs of society" reference in Brief for Respondents, p. 108, *supra* note 12, was taken out of context from Linton, *The Vanishing American Negro*, 64 AMERICAN MERCURY 133, 135 (1947). Professor Linton's thesis was that it is not the "dregs of society," but just the opposite who miscegenated.

[FN34]. Brief for Respondents, pp. 97-116, *supra* note 12. DuBois, *Social Equality and Racial Intermarriage*, 5 THE WORLD TOMORROW 83 (March 1922), states that race mingling is dangerous because of widespread and deep-seated racial antagonisms and hatreds, and because of differences of taste. Castle, *supra* note 11, at 154 (strong social prejudice among whites against mixed marriages); REUTER, *op. cit. supra* note 11, at 103 (white sentiment almost universally opposed to mixed unions); 2 MYRDAL, *op. cit. supra* note 1, 1011-15, points out the increased tension in the South in recent years.

Intermarriage is the ultimate danger feared by adherents of a caste system. The closer an act violating a caste taboo comes to sexual association, the more furious is the public reaction. All discussions of the Negro problem sooner or later come down to the classic question, "would you like to have your daughter marry a Negro?" 1 MYRDAL, *op. cit. supra* note 1, at 587; BAILEY, RACE ORTHODOXY IN THE SOUTH 42 (1914). But seldom is reaction aroused by a white's making use of a

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comely Negress. See 1 MYRDAL, *op. cit. supra* note 1, at 55, 56, 586.

[FN35]. There have been few race riots or lynchings in recent years. When these occur, the local police are often known to be on the side of the whites. See 1 MYRDAL, *op. cit. supra* note 1, 567-9; OTTLEY, BLACK ODYSSEY 217, 218 (1948).

There are few reported riots attributable to miscegenation. One in 1834 and one in 1849 seem to be the sole recorded examples. See Woodson, *The Beginnings of the Miscegenation of the Whites and Blacks*, 3 JOURNAL OF NEGRO HISTORY 335, at 349 (1918).

[FN36]. See 32 A.C. 757, 772-3 (Cal. 1948).

[FN37]. See Brief for Respondents, p. 59, *supra* note 12.

[FN38]. 334 U.S. 1, 22 (1947).

[FN39]. On this ground, the California court attempted to distinguish segregated marriage from segregated travel and education. See 32 A.C. 757, 771 (Cal. 1948). Conceivably, however, holding that there can be no truly equal substitute for the individual's choice in marriage may not be a far cry from holding that there can be no truly equal substitute for the individual's choice in travel and education. The very human relations that so obviously make "separate but equal" inapplicable to marriage, make it just as inapplicable to other relationships. See Note, *Segregation in Public Schools-A Violation of "Equal Protection of the Laws,"* 56 YALE L. J. 1059 (1947).

[FN40]. These statutes have extensive repercussions. Most of them are silent as to the effect on the legitimacy of children, but it seems that if the marriage is expressly declared void rather than voidable, the children will be held illegitimate in the absence of a statutory provision to the contrary. *Moore v. Moore*, 30 Ky. L. 383, 98 S.W. 1027 (1907) (even where there was a subsequent valid marriage in another state); *Greenbow v. James*, 80 Va. 636 (1885). *Contra: Succession of Caballero*, 24 La. Ann. 573 (1872) (white and Negress had been living together in Louisiana, were married under Spanish law intending to live in Spain. They legitimized their daughter in Spain, and she became their lawful heir in Louisiana). FLORIDA REV. GEN. STAT. §§ 3938-9 (1920) provide that the issue of a miscegenous union shall be regarded as bastards and shall be incapable of having or receiving any estate real, personal, or mixed, by inheritance.

An additional problem posed by these anti-miscegenation statutes is that of dower rights. See cases cited note 3 *supra*; *Britell v. Jorgensen*, 113 Mont. 490, 129 P.2d 217 (1942); *Succession of Gabisso*, 119 La. 704, 44 So. 438 (1907).

A moral problem also ensues. By preventing marriage, the probable effect of illicit relations may be covertly encouraged. In a few instances, moreover, the statutes have been resorted to in an attempt to dissolve a marriage. *Kirby v. Kirby*, 24 Ariz. 9, 206 Pac. 405 (1922); *Ferrall v. Ferrall*, 153 N. C. 174, 69 S.E. 60 (1910).

Additional confusion stems from the conflict of laws rules applied by the different states, some of which make racial intermarriage an exception to the rule that a marriage is valid everywhere if valid where celebrated. See 1 VERNIER, AMERICAN FAMILY LAWS § 45 (1931) and Comment, *Intermarriage With Negroes-A Survey of State Statutes*, 36 YALE L. J. 858, 864-6 (1927). California is not one of these. See *Pearson v. Pearson*, 51 Cal. 120, 125 (1875), and 32 A.C. 757, 775 (Cal. 1948).

[FN41]. Two similar cases have recently arisen. A husband claiming to be white was found to be part Negro and sentenced to five years in prison for violating the Mississippi anti-miscegenation statute, N.Y. Times, December 19, 1946, p. 56, col. 1. Perhaps inspired by this decision a lady has now brought similar charges against her son-in-law under the Virginia anti-miscegenation statute. Washington, D.C. Post, December 25, 1948, p. 1, col. 6; December 29, 1948, p. 1, col. 2; December 30, 1948, p. 16, col. 5; January 1, 1949, p. 1, col. 6.

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109 N.W. 894, 8 L.R.A.N.S. 808, 11 Am. Ann. Cas. 231

 KeyCite Yellow Flag - Negative Treatment
Distinguished by [Seibhauser v. Order of St. Benedict of New Jersey](#),
C.C.A.R. (Minn.), March 4, 1912

132 IOWA 304
Supreme Court of Iowa.

STATE
v.
AMANA SOCIETY.

Nov. 20, 1906.

Synopsis

Appeal from District Court, Iowa County; O. A. Byington, Judge.

On application of Martha Wilson, the county attorney of Iowa county was ordered to prosecute the Amana Society “for the wrongful exercise of corporate powers,” under chapter 9 of title 21 of the Code. Thereupon the county attorney, W. E. Wallace, filed a petition in the name of the state, alleging in substance that the society had been incorporated as a religious organization, and that, in violation of its charter rights, it had engaged extensively in agricultural pursuits and in business and manufacturing enterprises for financial gain, and thereby had exceeded its corporate powers and exercised those peculiar to corporations organized for pecuniary profit, and, on this ground, prayed for the dissolution of the corporation and the forfeiture of its privileges as such. The answer specifically enumerates the various enterprises of the society and the property it owns, but denies that any of it is made use of for other than religious purposes. Trial to the court resulted in the dismissal of the petition. The state appeals. Affirmed.

West Headnotes (2)

[1] Religious Societies

← Nature and status in general

A society aiming to effectuate the ideals in religious life relating to communistic ownership and management of property was incorporated under chapter 2 of title 9 of the Code, permitting the incorporation thereunder of religious organizations, and

allowing them to acquire real property for purposes appropriate to their creation. Persons becoming members gave all their possessions to the society, and all their needs were thereafter supplied out of the property of the community. The society became possessed of extensive property interests, with which, in connection with divers business enterprises, it supplied the members with homes, support, and opportunity to follow their usual avocations. It did not declare dividends, made little accumulation of property, and no money was given to any member, save to meet the bare necessities of a most economical existence. *Held*, that the society did not exercise the functions of a corporation for pecuniary profit, since it was indispensable to the religious faith of its members that they own their property in common and live a communistic life.

[11 Cases that cite this headnote](#)

[2] Religious Societies

← Nature and status in general

The organization and maintenance of a communistic religious corporation was not obnoxious to public policy, though not in accord with prevailing American ideals, and though the corporation acquired considerable property, where the property was so managed as not to be injurious to the state.

[3 Cases that cite this headnote](#)

Attorneys and Law Firms

*895 Chas. W. Mullan, Atty. Gen., and Lawrence De Graff, Asst. Atty. Gen. (W. E. Wallace and S. H. Fairall, of counsel), for the State.

M. J. Wade, for appellee.

Opinion

LADD, J.

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Corporations in this state are organized under general laws, and are separated by the Code into two classes--those for pecuniary profit and those not for pecuniary profit. In this action, in the nature of proceedings in quo warranto, the contention of the state is that the defendant, though organized under the statutes relating to corporations not for pecuniary profit, is exercising the functions of a corporation for pecuniary profit, in that it is possessed of extensive property interests with which, in connection with divers business enterprises, the society is engaged in money making, and that, for this reason, the corporation should be dissolved and its franchise forfeited. The defendant does not deny having property as alleged, nor that such property is so employed as to yield a fair return, but insists that the purpose is not pecuniary profit in the sense contemplated by statute.

The society was first incorporated in 1859 under chapter 131, p. 253, of the Acts of the Seventh General Assembly, amendatory to chapter 44 of the Code of 1851, reincorporated in 1880 under the provisions of chapter 2 of title 9 of the Code of 1873, and again in 1900 under chapter 2 of title 9 of the Code. Section 1642 of this title provides that “any three or more persons of full age, a majority of whom shall be citizens of the state, may incorporate themselves for the establishment of churches, colleges, seminaries, lyceums, libraries, fraternal lodges or societies, temperance societies, trades’ unions or other labor organizations, agricultural societies, farmers’ granges, or organizations of a benevolent, charitable, scientific, political, athletic, military or religious character, by signing, acknowledging, and filing for record with the county recorder of the county where the principal place of business is to be located, articles of incorporation, stating the name by which the corporation or association shall be known, which shall not be the same as that of any such organization previously existing, its business or objects, the number or trustees, directors, managers or other officers to conduct the same, and the names thereof for the first year.” Section 1643 of the Code: “Up on filing such articles, the persons signing and acknowledging the same, and their associates and successors, shall become a body corporate, with the name therein stated, and may sue and be sued. It may have a corporate seal, alterable at its pleasure, and may take by gift, purchase, devise or bequest real and personal property for purposes appropriate to its creation, and may make by-laws. Corporations so organized shall endure for fifty years, unless a shorter period is fixed in the articles, or they are sooner dissolved

by three-fourths vote of all the members thereof, or by act of the General Assembly, or by operation of law.” Section 1645 of the Code: “No dividend nor distribution of property among the stockholders shall be made until the dissolution of the corporation.” Section 1647 relates to the selection of trustees, directors, or managers of the corporation. It will be observed that, under the first section quoted, it is enough if the organization be of a religious character, that under the next section it may acquire “real and personal property for purposes appropriate to its creation,” and, by the third section, distribution of the property, by dividend or otherwise, prior to dissolution is not allowed. But the manipulation of property which may be acquired by corporations of this class so that it shall yield a profit and the use of such profit to promote its objects is not prohibited. Indeed, the right to the income from the beneficial employment of property is one of the incidents of ownership. Thus colleges are maintained in large part from the income derived from the investment of endowment funds; and the benevolences of charity are continued indefinitely from the returns of property dedicated to its use. The distinction between corporations organized under this chapter and those for pecuniary profit has relation, not to whether the one or the other shall earn or receive an income, though this may be important as evidence, but to the design had in organizing and the objects sought to be attained; not to methods pursued so much as the things to be accomplished. If the purpose is to earn money or property, if financial gain is the main or controlling object for which the corporation is created then, regardless of other circumstances, it is within the class designated as corporation for pecuniary profit. See *Santa Clara Female Academy v. Sullivan*, 116 Ill. 375, 6 N. E. 183, 56 Am. Rep. 776. But if organized for one of the purposes enumerated in the statute quoted, as for the promotion of the doctrines of some sect in religion or for education or some charity, and the property acquired and the income therefrom is essential to effectuate such purpose, and is so employed *896 then these are incidental to the main object of the organization and the corporation cannot be said to exist for pecuniary profit.

The Legislature, while expressly allowing such corporations (not for pecuniary profit) to acquire and hence to hold property, has limited this to an amount appropriate for the purposes of their creation. To be thus appropriate it is not enough that the property sustain a slight or remote connection with the purposes contemplated. The mere fact that money may be necessary

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to meet expenses will not authorize the corporation to engage in some independent business enterprise to earn it. Thus a corporation organized to teach the gospel according to the doctrines of the Methodist Episcopal Church may not engage in the construction of a business block on credit. *First M. E. Church v. Dixon*, 178 Ill. 260, 52 N. E. 887. Obviously the power to acquire and make use of property was intended to be incidental to and in aid of the power conferred to accomplish certain purposes through the organization of a corporation, and, like incidental or implied powers generally, must be directly and immediately appropriate to the execution of the purposes designed. This does not mean that the property or enterprise shall be indispensable. If reasonably necessary and convenient to carry into effect the purposes of the corporation, it is within the rule of the statute, and, indeed, that with respect to incidental or implied powers of corporations generally as appears from the numerous authorities cited by both parties. Nor does it mean, as the Attorney General seems to contend, that in no event may such a corporation engage in secular work. If so, the vast accumulations held for the endowment of institutions of learning and sustentation of charity must remain unproductive, for to invest in stocks or bonds or in property producing an income would be to engage in a secular occupation foreign to the purposes of its creation; and the use would be limited to the consumption of the funds until exhausted. Such is not, and ought not to be, the law. Institutions are supported with money, and money is the product of labor, and labor is more or less tinged with a secular character. In construing a clause of the Constitution of Illinois declaring exempt from taxation such property as might be deemed necessary for school purposes Mr. Justice Miller said: “We think the distinction very broad between property contributing to the purposes of a school, made to aid in the education of persons in that school, and that which is directly and immediately subjected to use in the school. The purposes of a school and the school itself are not identical. The purpose of a college or university is to give youth an education. The money which comes from the sale or rent of land dedicated to that object aids this purpose and lands so held or leased are held for school purposes, in the fullest and clearest sense.” *Northwestern University v. People*, 99 U. S. 309, 25 L. Ed. 387. And in *Book Agents of M. E. Church v. Hinton (Tenn.)* 21 S. W. 321, 19 L. R. A. 289, the purpose of a book concern was the dissemination of religious knowledge by the publication of books and periodicals, and from the profits

derived therefrom to support superannuated and worn-out ministers, their wives, widows, and children. Though it did a business of over \$336,800 per annum, \$6,000 of which was received from outside or secular work, it was held to be both a religious and charitable corporation, and its property declared exempt from taxation under a provision of the Constitution of Tennessee exempting therefrom all property used exclusively for the purposes of religious, charitable, scientific, literary, or educational institutions. We think the statute furnishes a satisfactory test. The property must be appropriate for the purposes for which the corporation is created, and whether thus appropriate necessarily depends on the nature of the property and the use to which it is devoted, as well as the particular purposes it is expected to subserv.

The defendant is an organization of a religious character. The charitable and benevolent objects included are such only as are enjoined as duties in the exercise of that Christian faith for the promotion of which the corporation was created. The preamble to the Constitution, which is the foundation of all the articles of incorporation, recites the emigration of the “community of True Inspiration” from Germany to this country in 1843 “for the sake of civil and religious liberty,” its settlement at Ebenezer, near Buffalo, N. Y., and removal therefrom to Iowa county “according to the known will of God.” The purposes of incorporating may be gathered from this constitution.

The first article, after acknowledging the foundation to be God and “the faith which He worked in us according to His free grace and mercy,” declares that: “The purpose of our association as a religious society is therefore no worldly or selfish one, but the purpose of the love of God in His vocation of grace received by us, to serve Him in the inward and outward bond of union, according to His laws and His requirements in our own consciences, and thus to work out the salvation of our souls, through the redeeming grace of Jesus Christ, in self-denial, in the obedience of our faith and in the demonstration of our faithfulness in the inward and outward service of the community by the power of grace, which God presents us with. And to fulfill this duty we do hereby covenant and promise collectively and each to the other by the acceptance and signing this present constitution.

“Article 2. In this bond of union tied by God among ourselves, it is our unanimous will and resolution that the land purchased here, and that may hereafter be purchased, shall be and remain a common estate and property, with

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all improvements thereupon *897 and all appurtenances thereto, as also with all the labors, cares, troubles, and burdens, of which each member shall bear his allotted share with a willing heart.”

The third declares that “agriculture and raising of cattle and other domestic animals, in connection with some manufacturing and trades, shall, under the blessing of God, form the means of sustenance of this society. Out of the income of the land and other branches of industry the common expenses of the society shall be defrayed. The surplus, if any, shall from time to time be applied to the improvement of the common estate of the society, to the building and maintaining of meeting and school houses, printing establishments, to the support and care of the old, sick, and infirm members of the society, to the founding of a business and safety fund, and to benevolent purposes in general. Article 4 relates to the management of the society’s affairs, and article 5 requires every one, upon becoming a member, to surrender all his property to the trustees, for which a receipt is given.

“Article 6. Every member of this Society, is, besides the free board and dwelling, and the support and care secured to him in his old age, sickness, and infirmity, further entitled out of the common fund to an annual sum of maintenance for himself or herself, children and relations in the Society, and these annual allowances shall be fixed by the trustees for each member single or in families, according to justice and equity, and shall be from time to time revised and fixed anew. And we the undersigned members of this corporation in consideration of the enjoyment of these blessings in the bond of our Communion, do hereby release, grant, and quitclaim to the said corporation, for ourselves, our children, heirs and administrators, all claims for wages and interest of the capital paid in to the common fund, also all claims of any part of the income and profits, and of any share in the estate and property of the Society separate from the whole and common stock.”

Article 7 provides for the care of orphans, and article 8 for the repayment of the amount received, to any member receding from the society.

The new articles of incorporation in substance are repetition of the constitution, and in the last the business and object of the society is declared to be: “First. To promote the spiritual and temporal welfare and happiness of its members and to enhance and advance them in

religious teachings, worship and practices and to elevate them to a higher and better state in Christian life and duty and as is set forth and designated in the constitution and by-laws of said society, and to carry out the plan and objects disclosed in the constitution.”

It is manifest from these extracts from the articles and constitution that the corporation was organized to aid in effectuating certain ideals in religious life, especially those relating to communistic ownership of property; and the state insists that such ownership and the management of the property for the maintenance of the community cannot be other than purely secular and is inappropriate to religious purposes. Possibly a majority of Christians have concluded that community ownership of property apparently ordained by the Apostles was merely temporary but this opinion has not been shared by all. The Moravians, Shakers, the Oneida Community, and more recently the Zionists, have thought otherwise. No one will claim that the doctrine is entirely without support in the Scriptures. Those who became believers on the day of Pentecost, we are told, not only continued “steadfastly in the Apostles’ doctrine,” but “were together, and had all things in common, * * * sold their possessions and goods, and parted them to all men, as every man had need. * * * Neither said any of them that ought of the things which he possessed was his own; but they had all things in common. * * * Neither was there any among them that lacked; for as many of them as were possessors of lands or houses sold them, and brought the prices of the things that were sold, and laid them down at the Apostles’ feet; and the distribution was made unto every man according as he had need.” Why was this done? Merely as a temporary expedient, or shall the awful fate of Ananias and Sapphira for concealing a part of the price of their property be accepted as proof that communal life was enjoined as one of the doctrines of the Christian faith? It is not within the province of any department of the government to settle differences in creeds, and the courts ought not to arrogate to themselves the power to restrain or control their free exercise of any, so long as this shall be harmless. It is not for them to determine what ought or ought not to be an essential element of religious faith. The law will not undertake to discriminate between religions or creeds, nor will it assume to say that any point of doctrine is unreasonable, or should be eliminated, or that it is unsuitable to the times, save as may be necessary in the consideration of temporal consequences. No matter how absurd the doctrine may appear to others, those who accept it are entitled to the protection of the law. In

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this country the conscience is not subject to any human law and the right to its free exercise, so long as this is not inimicable to the peace and good order of society, is guaranteed by the Constitution.

The members of the defendant society regard the mode of life described in the Acts of the Apostles as an essential part of their religion. Their motion is that people are placed in this world for the one purpose of saving their souls, and that this requires the crucifixion of such desires and appetites as divert attention from God. Their aim is to live such a life as Christ lived. To attain this they believe it necessary that everything be held in common; that each individual be relieved from the cares and burdens of separate property ownership, to the end that selfishness may be eradicated; and that all may enjoy the better opportunity of knowing and serving God. This is an essential element of their religious faith, and this, when innocent of injurious consequences, is, as we think, the test to be applied in determining whether such enterprises as those carried on by the Amana Society may be prosecuted by a corporation not organized for pecuniary profit.

The Attorney General, in support of his argument that the ownership and management of the property is not for a religious purpose, quotes numerous definitions of religion by eminent scholars and divines, and then eloquently summarizes them by saying: “Religion pertains to the spiritual belief and welfare of man, as distinguished from his physical wants and necessities. It relates to the ethics of life and to the hope and belief in immortality. Secular business and pursuits, upon the other hand, are those pertaining to the material and physical wants of man, and are clearly distinguished from things spiritual or holy. They relate to temporal as distinguished from eternal interests, not immediately or primarily respecting the soul, but the body.” Theoretically the distinctions pointed out may be correct. Practically religion may not be so completely separated from the affairs of this life. Theology, the science of religion—that is, of formulating our thinking with respect to religion—has steadily insisted upon connecting religion with the life men lead and the things they do in this world. Indeed, the great religious struggles of the past have come in most cases from the undertaking of men to impose on other men, not their religion, but their science of religion; and against this, rather than religion, as defined by the Attorney General, the law has interposed its shield of protection. When theologians formulate their conclusion that anything such

as a particular mode of life is essential to the attainment of the promised benefits of a religion, it is not for the courts by resorting to the definitions of lexicographers to perform the ungracious, if not herculean, task of determining whether this is so. The anticipated advantages of nearly every religion or creed are made dependent on the life its followers live, and the criticisms oftenest heard are that the exalted doctrines of righteousness professed are too frequently forgotten in the ordinary pursuits of life, and that the contests for wealth in some circles are waged with the rapacity of beasts of prey. Surely a scheme of life designed to obviate such results, and by removing temptations, and all the inducements of ambition and avarice, to nurture the virtues of unselfishness, patience, love, and service, ought not to be denounced as not pertaining to religion when its devotee regards it as an essential tenet of their religious faith.

In ascertaining whether various properties of the society are for religious purposes, these should be viewed somewhat from the standpoint of its members. From that viewpoint its different enterprises are clearly within the rule stated by the Attorney General, that this must “be convenient and appropriate to religious work and ceremonies and to the worship of God according to their belief”; for it is indispensable to their religious faith that they own their property in common and live a communal life. As a religious principal they have agreed to this and to devote their common labor to their common support. None can be said to derive any pecuniary benefit therefrom in the sense in which that expression is used in the statute. No dividends are declared, and no money is given to any member, save to meet the bare necessities of the most economical existence. Neither the trustees nor any of the members derive any personal profit from what they do beyond the necessities of existence. Upon becoming a member every one surrenders all his property to the society, and thereupon stands upon an equal footing with those who have become members without property to surrender. The poor enjoy precisely the same privileges as those who were once rich. No compensation is made for work; those exercising control and assuming great responsibilities sharing equally with the humblest person in the community. Of necessity, real estate has been acquired and different industrial enterprises undertaken. Only in this way could the members be provided with homes, support, and the opportunity to follow their customary avocations. The society now consists of about 1,750 people, and it owns 26,225.6 acres of land in Iowa

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and Johnson counties of the estimated value of \$40 per acre, nearly half of which is either cultivated or used for meadow or pasture, and the remainder unsubdued brush, timber, or swamp land. On this land are situated 7 villages containing 280 dwelling houses in which the members of the community live, 2 woolen and 1 cotton factory, including 11 buildings connected therewith, 7 sawmills, 4 hotels, 7 general stores, 3 drug stores, 7 blacksmith shops, 3 lumber yards, and 51 barns. Horses, cattle, hogs, and sheep of the estimated value of \$70,466 are kept. The products of agriculture averaged during the three years preceding 1906 about \$80,000 annually, while the output of the mills was \$325,964; the average sales from the stores was \$136,858; from the lumber yards \$25,081. Live stock was bought and sold amounting in value to \$123,322, and other farm products to that of \$41,839. Two hundred persons, not members of the society, were employed at an expense of \$26,000 per annum. And yet all their income was necessary and made *899 use of for the support of these people. But it has not been the purpose of the society to expand its business in any line, nor to procure a greater income than necessary to meet the needs of the community and maintain all the members in a manner consistent with the tenets of their religious faith. Every industry is essential to this result. If tracts of land have been sold and others purchased, this has been done, not for the purposes of speculation, but to better meet the needs of the society. Aside from some improvements essential to the economic use of the property and the incidental increase in the value of land, there has been little or no accumulation in the way of property, change in methods or progress for many years. The members have held steadily to the original design of its founders, seeking not the riches of this world, but of living according to the models of those early Christian societies which existed in the days of the Apostles.

Lastly, it is argued that the organization and maintenance of such a society is obnoxious to sound public policy. Certain it is that the status of the individual members is not in accordance with prevailing American ideals. Community life is thought by many to be inconsistent with the development of individuality, and to be destructive of the incentives to individual growth and higher living. But in this country all opinions are tolerated and entire freedom of action allowed, unless this interferes in some way with the rights of others. Each individual must determine for himself what limit he shall place upon his aspirations, and, if he chooses to smother his ambitions, the public has no right to interfere. Nor can the acquiring

of considerable property be objectionable, if managed so as not to be injurious to state. No claim is made that a monopoly has been created, nor would the evidence support such a claim if made. But it is argued that as the society has acquired all the land in a township, and therefore may exercise control over one political division, it may extend this to others and finally gain control over the affairs of the entire state. Counsel concede that this is improbable, but argue it as a logical sequence. The history of the Mormon Church may furnish some evidence that the future in such matters cannot be foretold. The fate of other similar enterprises during the past century, such as the Brook Farm, the Phalanxes, and other experiments of the followers of Fourier, Owens, and others, and those described in the decisions below, indicate that the peril is not at all imminent. So long as selfishness is the controlling passion of the human heart, the individual in all probability will be safe as against the encroachments of communism. At any rate, it will be time enough to obviate the danger when if ever it is seriously threatened with appropriate legislation. Had these people formed themselves into a voluntary association, unincorporated, and, as such, acquired the property involved in this case and operated the various enterprises, there could have been no objection. Neither the common law nor any statute of this state prohibited such a course. Such an association and its trusteeship of property for its members in common has been held in numerous decisions to be in harmony with public policy. *Schriber v. Rapp*, 5 Watts (Pa.) 351, 30 Am. Dec. 327; *Gass v. Wilhite*, 2 Dana (Ky.) 170, 26 Am. Dec. 446; *Waite v. Merrill*, 4 Greenl. (Me.) 102, 16 Am. Dec. 238; *Goesele v. Bimeler*, 14 How. (U. S.) 590, 14 L. Ed. 554; *Schwartz v. Duss*, 187 U. S. 8, 23 Sup. Ct. 4, 47 L. Ed. 53; *Ellis v. Newbrough*, 6 N. M. 181, 27 Pac. 490. See *Burt v. Oneida Community* (N. Y.) 33 N. E. 307, 19 L. R. A. 297. On no tenable ground can doing precisely the same things through a corporation be held opposed to public policy. On these considerations we reach the conclusion that the defendant society has not exceeded its powers as a religious corporation. Secular pursuits, such as those conducted by it, are not ordinarily to be regarded as incidental to the powers of a religious corporation for the very good reason that ordinarily they bear no necessary relation to the creed it is organized to promote. But, where the ownership of property and the management of business enterprises in connection therewith are in pursuance of and in conformity with an essential article of religious faith, these cannot be held, in the absence of any evidence of injurious results, to

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be in excess of the powers conferred by the law upon corporations. We have discovered no decision touching the question decided; but, in view of the spirit of tolerance and liberality which has pervaded our institutions from the earliest times, we have not hesitated in giving the statute an interpretation such as is warranted by its language and which shall avoid the persecution of any and protect all in the free exercise of religious faith, regardless of what that faith may be. Under the blessings of free government, every citizen should be permitted to pursue that mode of life which is dictated by his own conscience, and if this, also, be exacted by an essential dogma or

doctrine of his religion, a corporation organized to enable him to meet the requirement of his faith is a religious corporation and as such may own property and carry on enterprises appropriate to the object of its creation.

This is the conclusion reached by the district court, and its judgment is affirmed.

All Citations

132 Iowa 304, 109 N.W. 894, 8 L.R.A.N.S. 909, 11 Am. Ann. Cas. 231

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Iowa Supreme Court Ruling on Montgomery v. Ralph, 1839

Ordered that this court now adjourn till tomorrow 8 A.M.

Charles Mason
Chief Justice

¹⁷ Thursday morning July 11th 1839. Court met pursuant to adjournment. Present, Charles Mason Chief Justice, and Joseph Williams associate.

Jordan & Montgomery

¹⁷ Ralph a man of color

And now on this day, this cause was submitted to the Court by consent, on a case of facts stated and on file; and it appearing to the satisfaction of the Court, on argument of Counsel, that the said Ralph a man of color, is free by operation of Law; it is therefore ordered and adjudged, that he be discharged from further duress and restraint, and that he go hence without day

¹⁷ The committee appointed for the purpose of preparing a set of rules for the government of the practice in this Court, reported, which report was adopted, ordered to be spread upon the record, and copies thereof sent to each of Clerks of the District in the several Counties in this Territory

Ordered that this Court now adjourn, Sine Die.

Charles Mason
Chief Justice

Alexander Clark's Petition to Allow Immigration of Free Slaves into Iowa, 1855

11

To the Hon. the General Assembly of
The State of Iowa.
Your Petitioners, the colored citizens
of Muscatine County Iowa,
Pray your honorable bodies to
repeal the Act, entitled "an act
to prohibit the immigration of
free negroes into this state"
approved February 5th 1854,
and as your duty bound we will
ever remain
January 1855

Alexander Clark
Wm. L. Anderson
Wm. Shannon
Thos. Wood
William Daines
James James Adams
Kypson B. Keith
Chas Jackson
Robt. G. Young
John Swan
Joseph Wood
Benjamin Mathews
Wm. Anderson
Peter Boyd
Chas. Davis
P. Patchard

J. C. Jackson
James Mott
Wm. Mathews
Wm. Stewart
John V. Anderson
Peter Boyd
John & J. Mathews
William Clark
Joseph & Mary
John Cutler
Richard Clark

Syras Woods
John Pennel
Charles & Jeremiah
George W. W. W.,
Charles & Mathews
Reuben C. Thomas,
All the above named persons
are all colored citizens of Musca-
tine State of Iowa
A. Clark

U.S. Supreme Court Majority Opinion on Dred Scott v. John Sanford Case, March 6, 1857 (Pg.1)

Missouri - C. C. U. S.
No. 157. 67. 7.
Dred Scott, Plaintiff in Error
vs
John F. A. Sanford -
Filed 30th December 1854.
Dismissed for want of
jurisdiction. -
March 6th 1857. -
35 30

U.S. Supreme Court Majority Opinion on Dred Scott v. John Sanford Case, March 6, 1857 (Pg.2)

No. 7

Dred Scott. Petitioner
vs.
John F. A. Sanford

In error to the Circuit Court of the
United States for the District of
Missouri. —

This cause came on to be
heard on the transcript of the record
from the Circuit Court of the United
States for the District of Missouri and
was argued by counsel. On Consider-
ation whereof, it is now here ordered
and adjudged by this Court that the
judgment of the said Circuit Court
in this cause be and the same is
hereby reversed for the want of juris-
diction in that Court, and that this
cause be and the same is hereby
remanded to the said Circuit Court
with directions to dismiss the case
for the want of jurisdiction in that
Court. —

J. W. Ch. Jus. Taney
6th March 1857.

“Since it is my right, I would like to have it: Edna Griffin and the Katz Drug Store Desegregation Movement” Essay from *The Annals of Iowa*, 2008 (Pg.1)

STATE HISTORICAL
SOCIETY OF IOWA
IOWA DEPARTMENT OF CULTURAL AFFAIRS

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Since it is my right, I would like to have it: Edna Griffin and the Katz Drug Store Desegregation Movement

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ISSN 0003-4827

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“Since it is my right, I would like to have it: Edna Griffin and the Katz Drug Store Desegregation Movement” Essay from *The Annals of Iowa*, 2008 (Pg.2)

“Since it is my right,
I would like to have it”:
Edna Griffin and the Katz Drug Store
Desegregation Movement

NOAH LAWRENCE

ON JULY 7, 1948, sometime between 2:30 and 5:00 p.m., Edna Griffin, age 39; her infant daughter, Phyllis; John Bibbs, age 22; and Leonard Hudson, age 32, entered Katz Drug Store at the intersection of 7th and Locust streets in Des Moines. While Hudson went to look for some batteries, Griffin and Bibbs took seats at the lunch counter, and a waitress came shortly to take their order. The two African Americans ordered ice cream sundaes, but as the waitress walked toward the ice cream dispenser, a young white man came and whispered a message into her ear. The waitress returned to Griffin and Bibbs and informed the pair that she was not allowed to serve them, because of their race. By that time Hudson had finished purchasing a set of batteries and rejoined his companions. The three adults asked to see the waitress’s supervisor, and she obliged, summoning the young fountain manager, C. L. Gore, a 22-year-old who had come north from Florida just two years earlier. The tenor of that exchange would later be disputed: Griffin, Bibbs, and Hudson claimed that the conversation was hushed and polite; Gore said that the three black patrons were causing a disturbance. What is

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“Since it is my right, I would like to have it: Edna Griffin and the Katz Drug Store Desegregation Movement” Essay from *The Annals of Iowa*, 2008 (Pg.3)

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not disputed is that Griffin and Hudson were unsuccessful in getting any ice cream that day, despite appealing to store manager Maurice Katz.¹ More significantly, Edna Griffin used the incident as the impetus to topple the segregationist policies of the Katz Drug Store chain. Within 18 months, Griffin had mobilized citizens to take action against the chain, launched successful civil and criminal lawsuits against store owner Maurice Katz, and earned vindication when the Katz Drug Store capitulated to African American demands by agreeing to cease all discriminatory policies in December 1949.²

The story of Edna Griffin and the Katz desegregation fight enriches the picture of the national civil rights struggle that African Americans and their allies waged after World War II. It was one of many localized civil rights struggles in the post-World War II decade that coalesced into the great civil rights mobilization of the 1950s and 1960s. African Americans in Des Moines and other locales in Iowa and the Midwest fashioned what historian George Lipsitz termed “oppositional coalitions” to defeat discrimination and segregation in the judicial system, workplaces, labor unions, restaurants, taverns, housing, schools, municipal facilities, and entertainment venues.³

Although the success of the “oppositional coalition” Griffin formed to deter discrimination in Des Moines was not the only example of successful civil rights activism during this time in Iowa, her case merits particular attention. She was unusually outspoken for a black woman at the time. In addition, she employed the traditional strategy of engaging the judicial system to gain equality while also providing an early Iowa example of the subsequently common civil rights strategy of staging sit-ins and holding protests, a method that would gain ascendancy fol-

1. The disagreements were aired during witness testimony at the criminal trial. A complete transcript of the criminal trial is available at the University of Iowa Law Library. See “State of Iowa vs. M. C. Katz: Appellant’s Abstract of Record,” *Articles and Abstracts*, 241 *Iowa* 20, June 1949, University of Iowa Law Library, Iowa City. The transcript will be cited frequently in this article, and will hereafter be cited as *Articles and Abstracts*.

2. *Iowa Bystander*, 12/9/1949. See also the plaque, “Historic Site: Civil Rights Victory,” at 7th and Locust streets in Des Moines.

3. George Lipsitz, *Rainbow at Midnight: Labor and Culture in the 1940s* (Urbana and Chicago, 1994).

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lowing the successful desegregation movements spurred by the Greensboro sit-ins of 1960.

Griffin's efforts to end segregationist policies at Katz Drug Store preceded the efforts of the four young Greensboro students by 12 years, and occurred during a time historian Deborah Gray White describes as marking a turning point in African Americans' attitudes about how to achieve racial reform. The late 1940s, White argues, saw a transition from upper- and middle-class individuals working toward race progress through high-status social events toward more youth-oriented nonviolent and grassroots movements such as sit-ins and freedom marches.⁴ Griffin, though constrained in some ways by her middle-class social status (as the wife of a doctor), was well situated to help usher in this more egalitarian form of social activism.

Griffin conducted her civil rights activities in a complex political landscape for African American middle- and upper middle-class women. While she held firm allegiance to African Americans of all social classes, she also operated within the constraining discourse of what historian Kevin Gaines terms the “politics of respectability.” The middle-class black activists Gaines describes had to present themselves as striving toward middle-class respectability. They accepted middle-class markers of success and aligned themselves with whites who disdained what they interpreted as black flamboyance and excess.⁵ Thus, in her attempts to win support from the larger community for her fight against Katz, Griffin and her lawyers constructed an image of her as a respectable black mother rather than as a firebrand activist ready to take to the streets.

What is thus most fascinating about Edna Griffin is that she *was* a radical black activist, passionate and outspoken about the need for economic and racial justice, yet she was also a savvy enough strategist to recognize that in certain contexts she had to downplay that element of her character. Nowhere was this more evident than in the testimony she provided in the criminal trial the state of Iowa brought against Maurice Katz, and in the argu-

4. Deborah Gray White, *Too Heavy a Load: Black Women in Defense of Themselves, 1894–1994* (New York, 1999).

5. Kevin Kelly Gaines, *Uplifting the Race: Black Leadership, Politics, and Culture in the 20th Century* (Chapel Hill, NC, 1996).

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ments she made to her fellow citizens about why Katz's policy of discriminating against African Americans was contrary to the American ideal.

THE KATZ DRUG STORE CHAIN had been successful in maintaining a policy of de facto segregation for decades, despite a state law that expressly forbade discrimination in public accommodations, including “lunch counters.”⁶ Several different individuals and organizations had failed in bringing charges against Katz before Griffin ultimately succeeded. The *Iowa Bystander* detailed an 18-year battle to end segregation at Katz. Criminal prosecutions were brought against the drug store in 1943, 1944, and 1947, but in all three cases owner Maurice Katz was acquitted. In addition, at least 14 civil cases brought against Katz had failed.⁷

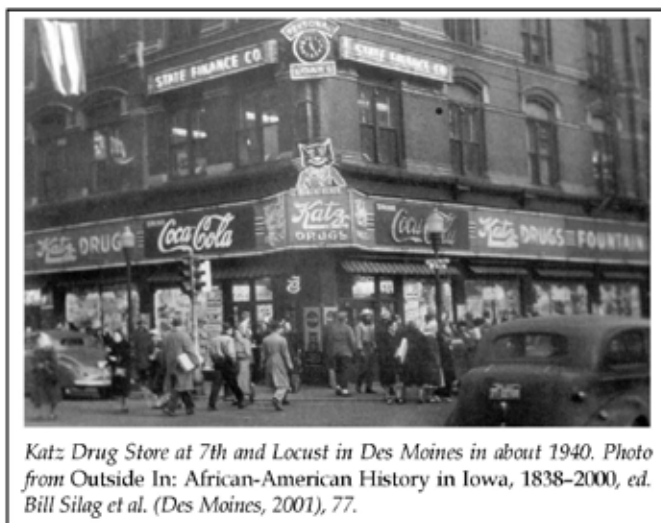
In 1944 V. V. Oak, the editor of *The Negro College Quarterly*, wrote a letter to Roy Wilkins at the national offices of the National Association for the Advancement of Colored People (NAACP) providing evidence that the Katz Drug Store chain had a complicated history of refusing to serve black patrons. Oak's letter offered a snapshot of race relations in Des Moines in the mid-1940s, evaluating Des Moines as “not a badly prejudiced city,” but one where “there have been many incidents . . . which have proven very annoying.” Oak then described an episode in which a “colored lady” had been denied service at “one

6. Katz was charged with violating Section 735.1, Iowa Code of 1946, which provided, “All persons within this state shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, restaurants, chopouses, eating houses, lunch counters, and all other places where refreshments are served, public conveyances, barber shops, bathhouses, theaters, and all other places of amusement.” Section 735.2 states, “Any person who shall violate the provisions of section 735.1 by denying to any person, except for reasons by law applicable to all persons, the full enjoyment of any of the accommodations, advantages, facilities, or privileges enumerated therein, or by aiding or inciting such denial, shall be guilty of a misdemeanor” (emphasis added). Katz's defense relied on the argument that Griffin, Bibbs, and Hudson were denied service not due to their race but due to their behavior. See Harry Grund, “State v. Katz,” *Iowa Reports* 251:1949-1950.

7. *Iowa Bystander*, 12/8/1949; Richard, Lord Acton and Patricia Nassif Acton, “A Legal History of African-Americans,” in *Outside In: African American History in Iowa, 1838-2000*, ed. Bill Silag et al. (Des Moines, 2001), 76-77.

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of the main Katz's drug stores." The woman had filed a lawsuit against the store, which so angered Katz's management that it "gave orders to all the drug stores to refuse certain services to all Negroes, civilian and military." Oak lamented that when the woman later dropped her case, the manager "took this as evidence of a lack of solidarity in the Negro race."⁸

But what most upset Oak were two subsequent episodes: Lieutenant Lenora Robinson, a member of the Women's Army Auxiliary Corps (WAC) stationed at nearby Fort Des Moines, was denied service at Katz with two of her friends, and a few weeks later several army nurses also stationed at Fort Des Moines were refused service. Oak dejectedly wondered how, in a "city located beyond the Mason-Dixon line," these women could be "treated as if they are outcastes [*sic*] by civilians who are piling profits and leading comfortable civilian lives while the WACs and Army nurses are working hard, undergoing great discomforts, and sacrificing their freedom to the routine of military

8. V. V. Oak to Roy Wilkins, 4/13/1944, NAACP Papers (microfilm), part 9, series A, University of Iowa Law Library, Iowa City.

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life.” Oak believed that the treatment Katz accorded to Robinson and her colleagues conveyed the message that “Negro WACs and Nurses, even when wearing Uncle Sam’s uniforms, do not belong to the human race.” What was curious about the incident, and tremendously disappointing to Oak, was that Lt. Robinson ultimately refused to press the case against Katz.⁹

A significant problem that the NAACP encountered in trying to press lawsuits against Katz was the lack of will among members of the black community to challenge the white power structure. Griffin herself was acutely aware of this. During an interview for the documentary film *Blacks in Des Moines*, Griffin recalled, “I did find out that the NAACP undertook one or two occasions to bring into Court violators of the law but their problem was they had no witnesses. And so they quit.”¹⁰ Internal documents from the NAACP regarding an attempt to address Katz’s discrimination against blacks in 1944 show that organizations could find few black citizens willing to prosecute or testify against the Katz Drug Company. In correspondence between two high-level African American leaders, James B. Morris, president of the Des Moines branch of the NAACP, explained to Roy Wilkins at the national office, “Our greatest trouble is to get people to file charges against the concerns following the practice and having them appear in court to prosecute the case. We have reminded the people that they cannot expect us to follow a case through unless they are willing to do their part.”¹¹

Katz’s discriminatory practices were so notorious as to warrant communication and activism at the upper echelons of the African American community. However, as Morris articulated in his letter, successful resistance to Katz could not come only

9. Ibid. Robinson herself informed Wilkins that Oak’s letter “involves two problems; one civilian, one military. Personally, I agree that the former should be called to the attention to the citizens of Des Moines, for such a condition substantiates Mrs. Roosevelt’s statement that Democracy has not yet reached all the people of the United States. In regard to the latter, I wish to make it clear that I have not forgotten the oath I took upon enlistment, and that at present, doing an efficient job which will help bring active combat to a halt is my chief interest.” Robinson to Roy Wilkins, 4/15/1944, NAACP Papers, part 9, series A.

10. Edna Griffin, interview by Verda Williams, Des Moines, 1986, transcript, Iowa Women’s Archives, University of Iowa Libraries, Iowa City.

11. James B. Morris to Roy Wilkins, 4/29/1944, NAACP Papers, part 9, series A.

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from the top down. It would be Edna Griffin—Fisk University graduate, transplanted East Coaster, and new mother—who would be the person “willing to do [her] part” in spearheading the grassroots movement against Katz.

EDNA WILLIAMS was born October 23, 1909, most likely in Carlisle, Kentucky, to Henrietta Williams and her husband Edward Hearst Williams, who was employed mostly as a janitor.¹² Rather little information exists on the early period of her life. Her family moved frequently. Young Edna attended junior high in Walpole, New Hampshire, spent her freshman year of high school at Lenox High School in Lenox, Massachusetts, and ultimately graduated, in 1928, from Pittsfield High School in Pittsfield, Massachusetts. An intelligent young woman, she applied to prestigious Oberlin College and the Eastman School of Music before ultimately deciding to attend Fisk University in Nashville, the gold standard among historically black colleges. Up until that point, she had lived in predominantly white neighborhoods. As she recalled in an interview in 1986, she had not been exposed to the power of the black church until after college.¹³

At Fisk, Edna Williams majored in sociology, met her future husband, Stanley, and earned a B.A. in 1933. She worked cleaning houses to help pay for her education, and she did not have many friends besides Stanley. Edna’s daughter Phyllis recalls that her mother believed that Fisk was too conservative, too

12. U.S. Department of Justice, Federal Bureau of Investigation, collected files on Edna Griffin, 1947-1972, released to the author through a Freedom of Information/Privacy Act request, 8/16/2006. A copy of these files has been donated to the Iowa Women’s Archives. Much of the biographical information on Edna Griffin for this essay was obtained through the security index file the FBI kept on Griffin. A substantial amount of that information was obtained by informants and spies and so should be subject to skepticism. However, the files do shed light on the extent and consistency of Griffin’s activism. The FBI files on Griffin ascribe her birthplace variously to Carlisle, Kentucky; Walpole, New Hampshire; and Massachusetts. A delayed birth certificate indicated that Griffin was born in Kentucky, but at a time when registration of birth was not required. The certificate that is on file was entered in 1942, after Griffin’s uncle and one other acquaintance gave sworn affidavits testifying to her birthplace.

13. Edna Griffin, interview, 7.

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interested in skin color. However, Griffin's future radicalism first manifested itself at Fisk. There she marched, with Stanley, against Mussolini's invasion of Ethiopia; was arrested for joining striking teachers on a picket line; and, during her senior year, joined the Communist Party, an affiliation she would keep for more than 24 years.¹⁴

The Griffins may have spent time in Harlem shortly after Edna graduated. If so, Edna would have spent formative years in the ferment of the Harlem Renaissance. Not much is known of this period of Edna Griffin's life, although she testified during the Katz trial that before coming to Iowa she and Stanley had lived in New York City, Georgia, Tennessee, and Springfield, Massachusetts.

The story of Griffin's starring role in the Katz saga began when the Griffins came to Des Moines, which by Edna's own recollection occurred on January 2, 1947. The couple moved to Iowa so that Stanley could attend Still Osteopathic School of Medicine. After years of moving around, the Griffins would make Des Moines their permanent residence. Edna gave birth to the first of three children, Phyllis, in 1947. Despite being a new mother, Edna became an activist in Des Moines almost immediately. Within the next year she had already been appointed to leadership posts as chair of the organizing committee of the Progressive Party for Iowa's Fifth Congressional District and secretary-treasurer of the Des Moines branch of the Communist Party. She also enrolled as a graduate student at Drake University, taking classes in education and English. Although she was only 5'2" and 125 pounds in 1949, this petite woman would be a thorn in the side of Maurice Katz and many others who wished to maintain the status quo.¹⁵

14. Phyllis Griffin, interview with author, Chicago, 12/21/2004 (transcript available in the Edna Griffin Papers, Iowa Women's Archives); Iowa Civil Rights Commission, "The Rosa Parks of Iowa," www.state.ia.us/government/crc/rosaparksiowa.html, accessed 8/26/2004. According to an FBI report, Griffin admitted her Communist Party affiliation during an interview with an agent. The files suggest that she was upset with the party for "going underground" in the 1950s and apparently did not attempt to conceal her affiliation, except in cases (such as the Katz struggle) where change was contingent on appearing firmly within the mainstream.

15. Edna Griffin, interview, 1; *Outside In*, 259; FBI files.

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The status quo that Griffin and others worked against consisted of “de facto segregation in public accommodations and de jure segregation in housing and employment.”¹⁶ Like much of the nation, Iowa was largely segregated in the late 1940s, and African Americans who returned from the war or who came up from the South to find work often faced discrimination. When they did, they could not, for the most part, depend on the state to protect or defend their rights.

A 1948 editorial in the *Iowa Bystander*, a newspaper published in Des Moines that served as a voice for black Iowans, described two ways Des Moines failed to meet “the standard of a democratic city”: the systematic effort to ban blacks from skilled trades, and the fact that “eating accommodations down town are miserable and every effort to change them are met with stern opposition of the small as [well as] the large establishments.” Two months later, another editorial detailed the efforts to maintain only inferior hotel accommodations for African Americans, violating the spirit of the Iowa civil rights law.¹⁷

As the editorial makes clear, an additional frustration black Iowans faced was their inability to ensure that Iowa’s civil rights statutes were enforced. Despite concerted attempts by legislators to add teeth to the law, it was not effective as a means for obtaining convictions for proprietors who flouted it. Iowa’s first civil rights law, passed in 1884, outlawed discrimination in “inns, public conveyances, barber shops, theaters, and other places of public amusement.” However, since the law did not provide a penalty for violation, it required a grand jury hearing and so was seldom enforced. The law was amended in 1892 to include “restaurants, chophouses, lunch counters and all other places where refreshments are served,” yet contained no practical enforcement mechanism. Over the next 30 years, Iowa’s supreme court determined only three cases based on the civil rights law.¹⁸

16. Robert Benjamin Stone, “The Legislative Struggle for Civil Rights in Iowa: 1947-1965” (master’s thesis, Iowa State University, 1990).

17. *Iowa Bystander*, 12/30/1948, 2/3/1949.

18. Robert E. Goostree, “The Iowa Civil Rights Statute: A Problem of Enforcement,” *Iowa Law Review* 37 (1951-1952), 242; George William McDaniel, “Trying Iowa’s Civil Rights Act in Davenport: The Case of Charles and Ann Toney,” *Annals of Iowa* 60 (2001), 235-36.

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Thanks to a concerted effort on the part of the Des Moines branch of the NAACP, the law was again amended in 1923 so that violations could be heard by a local magistrate rather than a grand jury. Civil rights advocates believed that this new law would be much more useful in protecting the rights of black Iowans, but despite successful prosecutions of the law in 1923 and 1931, there were no other cases until 1939. From 1939 through 1950, Iowans brought 22 civil rights cases to court. Of those, only three resulted in conviction and fine.¹⁹ One of those was the case against Maurice Katz.

Part of the challenge Griffin and others faced was convincing Iowa's citizens, and, more important, state prosecutors, that denying civil rights to black citizens was a significant enough problem to merit action. Robert E. Goostree identified widespread antipathy among the state's 99 county attorneys toward enforcing civil rights statutes, "a nullity" that "for many Iowans . . . ranked in importance with the universally ignored anti-tipping law." According to Goostree, 83 percent of the African American lawyers in the state thought that discrimination by establishments within the purview of the statute was common, while 87 percent of the county attorneys thought it was not; and 64 percent of the county attorneys thought that the statute was adequately enforced, while only 16 percent of the African American lawyers agreed.²⁰

The differing perceptions of white prosecutors and black lawyers point to a key problem civil rights activists such as Griffin faced: convincing white Iowans that a civil rights problem existed and that a solution depended on their help. Ben Stone suggests that "most people in mid-twentieth century Iowa did not feel that discrimination in employment was a problem in their state. Blacks made up less than one percent of the population and many Iowans had rarely seen a black person, let alone refused one a job."²¹ Concerned black Iowans were ever aware of the problems they faced in being accorded unequal treatment, both under the law and by business owners. The thrust of their

19. McDaniel, "Trying Iowa's Civil Rights Act in Davenport," 236-38.

20. Goostree, "The Iowa Civil Rights Statute," 246.

21. Stone, "The Legislative Struggle for Civil Rights in Iowa," 114.

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challenge was to convince white Iowans that their activism grew not out of individual self-interest, but rather out of a desire to help the state live up to the ideals expressed, but not enforced, in its civil rights statute.

Edna Griffin sought to meet this challenge by winning converts both in the court of law and in the court of public opinion. The legal strategy she developed in consultation with fellow members of the Progressive Party and lawyers for the NAACP was first to press a criminal case against Katz, and then to proceed with civil cases.

PROCEEDINGS AGAINST KATZ moved quickly: by July 10, just three days after being denied service, Griffin, Bibbs, and Hudson had filed charges against Katz in Des Moines Municipal Court.²² Two days later, Katz pleaded not guilty; he was released on bond, and a trial date was set for the September term.²³ The trial was held on October 6.

The trial began with a failed attempt by the defense to file a demurrer on behalf of its clients, C. L. Gore and M. C. Katz. The court summarily rejected the opening gambit, and the trial continued with brief opening statements from Paul C. McDonnell, the assistant county attorney, and Paul Stinson, Katz's lawyer.

John Bibbs was the first to take the witness stand. He stated that he was 22 years old, single, working in maintenance. On July 7 he had been coming from the headquarters of the Progressive Party, through which he knew Griffin and Hudson. Bibbs was young and ambitious; recently discharged from the navy, he had already been promoted to chair the Progressive Party of Des Moines, even though he had only been a member of the party for three months.²⁴

Bibbs recalled that after the waitress took his and Griffin's order, she was prevented from fulfilling their request; instead she came back and said "we don't serve colored." Bibbs testified that they got the same response from C. L. Gore. According to

22. Iowa Civil Rights Commission, "The Rosa Parks of Iowa."

23. *Abstracts and Arguments*, 3. Unless otherwise noted, all information in the following section comes from the trial transcript.

24. *Des Moines Register*, 6/21/1998.

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Bibbs, Gore explained that he could not serve Bibbs and Griffin because “it is the policy of our store that we don’t serve colored; we don’t have the equipment.” Bibbs claimed that he and Griffin then asked to speak to Mr. Katz, the store manager, who told them, “I cater to a large volume of white trade and don’t have the proper equipment to serve you.” Bibbs repeatedly insisted, in his initial testimony and upon cross-examination, that “there was no disturbance”; the entire incident was orderly and polite. “We walked into the store and sat down at the counter and didn’t say anything to anybody until the girl came up and asked for our orders.” “There was no loud talking on either side,” he stated; both Gore and Katz were “very polite and refused very politely.” He also emphasized that “we went to the Katz Drug Store that day for the purpose of getting something cold to drink,” *not* at the behest of the Progressive Party or “for the purpose of making a test case under the law.”²⁵

Leonard Hudson corroborated Bibb’s testimony. He was 32 and unemployed at the time of the Katz incident, although he had worked as a laborer and was last employed as a truck driver hauling scrap iron. He had previously worked for seven months for the Iowa Packing Company but ceased working there when the packers went on strike.²⁶ On July 7 he had been called to the Progressive Party headquarters by E. C. Richards, a state representative for the Progressive Party, who wanted to know if Hudson would be able to help organize for the party, possibly by starting up a football team. Hudson declared at the trial that he was not a member of the Progressive Party, although he did take part in protests that Griffin organized outside of the store in the weeks after the incident.

According to Hudson, he met up with Bibbs while at the Progressive Party office, and the pair happened to run into Griffin while walking from the office towards downtown Des Moines. He described what started out as a rather uneventful meeting: “We stood and talked with Mrs. Griffin for a few minutes about

25. For the entire transcript of Bibbs’s testimony, see *Articles and Abstracts*, 6-15.

26. Given the activism of the UPWA, it is possible that this is where Hudson was first introduced to leftist politics. See Bruce Fehn, “The Only Hope We Had’: United Packinghouse Workers Local 46 and the Struggle for Racial Equality in Waterloo, Iowa, 1948-1960,” *Annals of Iowa* 54 (1995), 185-216.

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the baby and the weather being hot. We walked up the street and Edna mentioned something about getting an ice cream soda or a cold drink and I said I would be glad to buy you a drink or a soda and she said let's stop in here and we just walked into Katz Drug Store." The scene Hudson describes is of three hot and tired individuals, far from being overzealous activists looking for trouble, who just happened to meet on the street one summer afternoon before making the logical decision to get some cold refreshment. And as Bibbs's testimony had, his description of the interaction between the three friends and Katz management emphasized the cordiality of the discussion. "I did not at any time hear Mr. Bibbs or Mrs. Griffin speak in a loud or boisterous manner," Hudson testified. "I would say the conversation on both sides was conducted in a very quiet, respectable manner."²⁷

Bibbs and Hudson's testimony reveals the extent to which the three witnesses for the prosecution attempted to downplay their activism and to play up the spontaneity of their decision to enter Katz Drug Store. Such claims were thought to be necessary to dispute the defense's contention that the three were "professional agitators" who came to Katz Drug Store specifically "for the purpose of making a test case."²⁸

In the case of Griffin, she most certainly was a dedicated if not, strictly speaking, professional agitator. It is in her testimony during the criminal trial where it is most apparent that the central question being debated was not whether Katz had violated the civil rights statute, but rather whether Griffin, Bibbs, and Hudson were fine upstanding citizens rudely denied their civil rights or outlandish agitators who got what they deserved.

Compared to Hudson and Bibbs, Griffin was older, had seen many different parts of the nation, and was well read in revolutionary and communist literature. Griffin was radical enough to merit concern from the federal government, and the Federal Bureau of Investigation had begun keeping a file on her after Harry Truman had signed executive order 9035, allowing for the establishment of a "security index" of citizens with sympathies or affiliations with communist, anarchist, or revolution-

27. For the transcript of Hudson's testimony, see *Articles and Abstracts*, 27-31.

28. See Maurice Katz's testimony, in *Articles and Abstracts*, 44.

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ary organizations. From 1947 to 1965 the FBI collected more than 400 pages of information on Griffin, and if what informants reported was accurate, then at the time of the Katz incident Griffin was heavily involved in the Communist Party USA, paying monthly dues for her and her husband, subscribing to the *Daily Worker*, and working in the capacity of secretary-treasurer for the Des Moines branch of the party.

Fortunately for Griffin, Katz's lawyers were not aware of her Communist Party affiliation. Nonetheless, central to their defense was an attempt to paint Griffin as an agitator who premeditated her trip to Katz. Griffin and her lawyers, on the other hand, continued to claim, as had Hudson and Bibbs, that the visit was based on a spontaneous and innocent decision to obtain refreshment.

Q. Will you tell us why you went in to Katz Drug Store?

A. Because I wanted to get something to drink, and that was the primary reason for going.

Q. But you had discussed outside the store whether or not you would be served, hadn't you?

A. Some one had mentioned something about it.

Q. And that was one of the reasons you went in there was to find out whether that was true?

A. No, the reason we went in, I had particularly wanted something to drink and the fellows agreed to join me. Now we did not know whether Mr. Katz served colored or not, but we said we will go in and see.

And go in they did. Yet, as Hudson and Bibbs had, Griffin repeatedly explained how ordinary and civil their conversations with management were once in the restaurant. She described “the tone of the conversation” with the waitress, after being informed they would not be served, as “just ordinary,” and insisted that after Bibbs asked to see a manager, the waitress “went very politely” to find Gore. As Griffin recalled it, Bibbs asked Gore if he was aware that he was violating Iowa's civil rights code, and Gore replied “that might be true or not, but anyway, they didn't serve colored because they didn't have the equipment. There was no heated discussion and no one was angry.”²⁹

29. For a complete transcript of Griffin's testimony, see *Articles and Abstracts*, 16-26. Griffin actually took the stand second, after Bibbs but before Hudson.

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Reflecting on her activism from the safety of 38 years elapsed time, Griffin stated in an interview, “We decided that we will go into Katz’s and if refused service then we will go to Court and I was prepared to be a witness.”³⁰ In 1986 Griffin could take pride in action that history had judged as righteous, and she made no attempt to pretend that the decision to go to Katz Drug Store was coincidental, but on the witness stand in 1948 Griffin was forced into feigning apathy. The historian must always be on guard against the vagueness of memory, but in this case there is a plethora of other evidence to suggest that Griffin was indeed downplaying her activism while testifying in 1948. Recall that the NAACP had filed unsuccessful civil lawsuits against Katz on behalf of 14 other African American citizens in the five years before Griffin determined to do the same. Thus, when Griffin testified, a short time after expressing to the court how thirsty she was on July 7, that “my directions are very poor,” it seems most plausible that she was intentionally dissembling in order to mask her intelligence, downplay her activism, and thus gain sympathy with the all-white jury. In fact, at the end of her testimony, Griffin seemed to remove her mask a bit, contradicting her earlier statement by remarking, “I have lived in Des Moines for three years and am familiar with the Des Moines streets.” It strains credulity to believe that the activist Griffin would not have known of Katz’s long history of discrimination in Des Moines.

Phyllis Griffin was only one year old when her mother brought her to Katz Drug Store, but she believed that her mother probably was aware of Katz’s history of discrimination.

Oh, I’m sure there were other restaurants that were discriminatory, but I think that Katz was notorious because it had a history of people suing them. I’m sure that my mother was aware of this history. It probably came to her first as hearsay, and she decided to test it. So on a hot July day [laughs] she took me down there, you know, with her to get some ice cream, and found out that the hearsay turned out to be accurate.³¹

30. Edna Griffin, interview, 3.

31. Phyllis Griffin, interview, 11.

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Although Griffin (along with Bibbs and Hudson) tried to portray their decision to enter Katz on July 7 as an isolated incident, in reality, the confrontation fits a pattern of prolonged effort by the African American community to end segregation in Des Moines. Yet to contribute to that long-term effort, Griffin had to maintain a difficult balance: challenging the law while operating within its confines, and taking part in social activism without appearing to be a radical activist.

That balancing act was further demonstrated during cross-examination, as Griffin attempted to distance herself from the important role she played in helping to organize a picket and boycott of the Katz store in the weeks following the July 7 incident. When asked by the defense lawyers if she had passed out handbills urging people not to shop at Katz, Griffin replied cryptically, “I couldn’t possibly stand asking for a boycott and give out handbills at the same time. I am aware of the handbills, but it is not a question of fact that I passed them out.” Pressed on this point, she relented a bit, nonchalantly remarking, “It is not important to me really, but I don’t believe I did, because really my job was calling for a boycott.” Later still, she admitted, “I don’t remember of giving any handbills, but if it is important to you I would be perfectly willing to say that maybe I did give somebody one in front of the place, but that was not my business.” What explains the back and forth between the defense and Griffin on the question of whether or not Griffin participated in the distribution of handbills? Most likely, the defense realized that its best argument was to try to reframe the debate to one on the character of the prosecuting witnesses. The only feasible defense for Katz would be that denial of service was justified, not because Bibbs, Griffin, and Hudson were African American, but because they were causing a disturbance. In that context, Griffin had to use every means possible to make herself appear as a moderate, quiet, and unassuming citizen.

C. L. Gore did not make that easy. When it was his turn to testify, he recalled being alerted to the presence of Bibbs, Griffin, and Hudson when his “attention was first attracted by loud voices.” Gore said he went to inquire as to what the problem was, and his recollection of the three was that “they were demanding service and they were very rude.” Gore recalled that

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the altercation even attracted the attention of other patrons. He concluded his initial testimony by stating firmly, “I am not in the habit of permitting service to be given at the soda fountain to persons who create a disturbance and conduct themselves in the kind of manner that these people were that day.” Gore claimed that the issue of race was immaterial; he was acting to protect the business interests of the Katz chain.³²

Maurice Katz’s testimony was consistent with Gore’s. He attempted to link the three prosecution witnesses directly to the Progressive Party, and painted the three African Americans, and Griffin especially, as not only disruptive but even cruel. According to Katz, “He [Bibbs] said, ‘we are members of the Progressive Party and we are going to make a test case out of this.’ I said, ‘a test case out of what?’ And then Mrs. Griffin spoke up and says, ‘you know what we are talking about, don’t act dumb.’” Katz positioned himself as the victim, the honest proprietor seeking to create a peaceful atmosphere for his patrons. As Gore had, he, too, cited the presence of “several people who had stopped to see what the commotion was all about.”

The premise of their argument was that a disturbance had been created. Paul Stinson, attorney for the defense, set up the argument for Katz, asking him, “In a situation of that kind where in your judgment, as manager of the store, someone had created a disturbance, do you, whether that person or those persons are black or white, do you serve them?” “I would not,” answered Katz, and the defense rested.³³

During cross-examination, Paul McDonnell, assistant county attorney, attempted to demonstrate that the management of Katz Drug Store systematically denied service to African American customers. Curiously, neither Katz nor Gore denied that they had customarily refused to serve black patrons. When McDonnell asked Gore, “Have you ever served colored people in Katz Drug Store?” the young fountain manager admitted that he had not. Later, when Katz was asked the same question, he stated, “I haven’t served any.”³⁴ Evidently, Katz and Gore were

32. For a transcript of Gore’s testimony, see *Articles and Abstracts*, 35–42.

33. For a transcript of Katz’s testimony, see *Articles and Abstracts*, 42–49.

34. *Ibid.*, 41, 47.

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depending on the sympathy of the all-white jury to enter a verdict in their favor. The jury would have to determine whose story was more believable: Did Griffin, Bibbs, and Hudson come into Katz Drug Store on July 7 to cause trouble, or were they callously denied service by racist managers?

On October 7, 1948, the jury rendered its verdict. After four hours of deliberation, the jurors determined that Maurice Katz and C. L. Gore were guilty of denying service to the three persistent African American patrons.³⁵ It was the first legal setback ever faced by the Katz Drug Store chain, and a major victory, not only for Griffin, Bibbs, and Hudson, but for the entire African American community in Des Moines.

Yet the fight was far from over. On November 1 Katz filed for an arrest of judgment and a new trial. Three weeks later, Judge Harry Grund denied Katz's appeal for a new trial and sentenced him to pay a fine of \$50 (plus court costs). In response, Katz appealed his case to the Iowa supreme court.³⁶

It would be a year before the supreme court heard the case. In the meantime, the battles between the drug store and the civil rights advocates raged on. Griffin kept the pressure on Katz by filing a civil case against the company. The trial in her \$10,000 damage suit began on October 10, 1949.³⁷

THE ARGUMENTS in the civil trial followed the same tack as they did during the criminal case. Once again, Katz argued that Griffin came to the store on July 7 with specific intent to make a test case. Katz's lawyers made an even greater effort to tie Griffin to the Progressive Party and Henry Wallace. At one point, defense attorney Richard Wood went so far as to suggest that "Mrs. Griffin is being used as a tool by others who want to further their own political ambitions."³⁸

And once again, Griffin and her lawyers had to deflect the agitator label, and again sought to focus on other aspects of Griffin's identity. Griffin emphasized her service in the recent

35. *Ibid.*, 69.

36. *Ibid.*, 69-72, 79, 80.

37. *Des Moines Daily Record*, 10/11/1949.

38. *Des Moines Register*, 10/14/1949.

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war and her role as a mother in order to establish her respectability with the jury. In her testimony, she used an argument that would have had great currency at the time: that World War II was a fight for the ideal of democracy against the forces of tyranny. During World War II, many African American women assumed jobs in sectors of the American economy from which they had been previously excluded. Others entered the armed services and, together with black men, left the war determined to defeat segregation at home after helping defeat fascism overseas. Griffin, who observed racism and gained leadership experience as a member of the Women's Auxiliary Corps during the war, was able to articulate African American grievances and had the confidence to lead whites and blacks from different class and regional backgrounds. At the trial, she appealed to the patriotism of the jury, stating, "I volunteered in the armed forces, knowing full it was a jim crow army, to help establish the equal dignity and equal rights of my people."³⁹ It would be one thing to deny service to someone who was vocally anti-American, but quite another to do so to a war veteran.

Part of being patriotic, at the time, was being a good mother. Historian Maureen Honey suggests that postwar

dominant culture rhetoric created a narrow maternal mission for women . . . foreshadowed in wartime propaganda that identified the homemaker-centered family as synonymous with American democracy, the reason the war was being fought. Coupled with the baby boom and glorification of a suburban postwar ideal, this reductive image of American life fed easily into mass layoffs of women workers during reconversion, who were characterized as "returning to the home" to begin a home-centered, quintessentially American way of life.⁴⁰

Honey further argued that, by and large, black women did not fit this model. However, Griffin and her lawyers understood that emphasizing Griffin's role as a mother while downplaying her role as an activist might appeal to the sense of duty felt by

39. *Iowa Bystander*, 10/13/1949. Curiously, FBI records did not reveal any evidence of Griffin's military service. In a profile of Griffin, a section asking about military service records "none."

40. Maureen Honey, ed., *Bitter Fruit: African American Women in World War II* (Columbia, MO, 1999), 10-11.

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the white female jurors hearing the case. Denying service to a mother, at a time when the ideal of the suburban homemaker was rapidly gaining currency, would be another strike against Katz.

Griffin was aided in making this argument by her lawyer, Charles P. Howard. Howard was one of Iowa's most prominent black lawyers. In fact, two weeks prior to representing Griffin in the civil case, he had delivered the keynote address at the Progressive Party's national convention.⁴¹ Griffin's ability to secure Howard as legal counsel speaks to how well connected she was within the Progressive Party and within Iowa's activist community. For his part, Howard called Griffin's case "the most important lawsuit I've ever tried."⁴² Griffin and Howard, both long active in the fight to attain civil rights for African Americans, clearly understood the centrality of the fight against Katz to this wider effort.

Howard assisted Griffin in appealing to the jury's preconceived notions of the role women should play in society. Speaking to the jury, he attempted to divert attention away from race and to other aspects of Griffin's identity.

Mrs. Griffin has paid the price to have the honor to walk the streets of this community respected. She is a graduate of one of the leading Negro universities in America and was doing graduate work at Drake University at the time. She is the wife of one of the leading doctors in this city – who is a professor at Still College. She is a mother.⁴³

Howard had cleverly reframed the episode at Katz from discrimination against a black person by a white person to discrimination against a well-educated and well-respected member of the community by an unpatriotic storeowner. His further emphasis on Griffin's role as a mother specifically appealed to the obligation women would have felt to provide for and protect their children.

Understanding Griffin and Howard's arguments as an appeal to the jury's sense of gender standards makes it possible to

41. *Des Moines Register*, 10/12/1949.

42. *Iowa Bystander*, 10/29/1949.

43. *Ibid.* (emphasis added).

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make sense of what must have been the trial's most dramatic moment. During rebuttal arguments, Howard pointed at Katz and shouted, "I say to Mr. Katz he had better ask every Negro woman who goes in there [Katz Drug Store] if she is Mrs. Howard, because if you ever insult my wife in there, I will blow your brains out and I will die and go to hell and I mean every word of it."⁴⁴ Howard's audacious use of language undermines any presumption that whites at the time had silenced black dissent, and perhaps foreshadows the black nationalist movement, which would not gain ascendancy for another two decades. It is possible that the jury, composed of eight women and four men, viewed Howard's strong defense of his wife's honor as a legitimate enough reason to threaten a white man.

Although Griffin herself would never have advocated violence, she surely would have, in other contexts, spoken her mind more freely. Clearly, Griffin did not accede to any traditional model of how she should act. What is most fascinating about Howard's deference to traditional ideas about gender roles in arguing for Griffin's righteousness is how much Griffin defied such gender norms. Here the intersection of class, race, and gender is evident: Howard used Griffin's gender to portray her as a good mother, yet Griffin was a vocal community leader, a rarity for a woman at the time. Howard used Griffin's status as the wife of a doctor to portray her as a member of the upper class, entitled to all the advantages that carried, yet Griffin, while having financial security, interacted regularly with poor members of the community. Phyllis Griffin recalled coal miners, sharecroppers, and poor farmers who had been invited to the Griffin household as dinner guests.⁴⁵ So while Griffin defied traditional modes of behavior expected of women, she defined herself at the trial as one who subscribed to conventional class and gender roles in order to challenge the Katz Drug Store's racially discriminatory practices.

It was evidently a winning strategy. On October 15, the district court jury decided the case in Griffin's favor, although they chose to award her only one dollar in damages. Despite the

44. *Des Moines Register*, 10/15/1949.

45. Phyllis Griffin, interview, 12.

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small reward, Griffin and her lawyers considered the verdict a moral victory. Bibbs and Hudson still had their cases to bring forth, and in the meantime the three would continue their efforts to pressure Katz through social activism.

EVEN AS THEY PURSUED the criminal and civil cases, Griffin and a network of activists were simultaneously waging their battle against Katz in other arenas. Throughout 1948 and 1949 Griffin helped coordinate a series of protests, sit-ins, and boycotts designed to impede Katz's ability to run his business successfully. The legal fight and the public fight should be understood as equally important elements of a long-term strategy to force proprietors in Des Moines to abide by the civil rights code.

Arguments made at the trials notwithstanding, it was not accidental that Griffin chose Katz Drug Store as the battleground in the fight for civil rights in Iowa. After both trials had ended and Griffin was freed to speak openly, she wrote a letter to the editor of the *Iowa Bystander* to explain why court action alone was not sufficient and why the Katz chain continued to be the primary target of activists. “It is our opinion,” she wrote, “that when Katz is forced to abide by the Civil Rights Code, other places now discriminating against Negroes in public eating places will quickly fall in line. Experience indicates that court action alone has not and cannot stop jim crow because the penalty exacted under the law is not sufficiently heavy.”⁴⁶

Indeed, despite losing both the criminal and civil cases, the Katz Drug Store still refused to serve African Americans. As a result, shortly after her civil trial ended, Griffin formed the Committee-To-End-Jim-Crow-At-Katz-Drugstore. The committee was open to “every Negro and white person who believes in civil rights as a safeguard to democracy” and who sought to force change through economic boycott and through raising awareness, among uninformed white citizens, of Katz's discriminatory policies.

Although the committee did not form officially until after Griffin's civil case ended, she initiated the initial pickets against Katz within ten days of the July 7 incident. She planned the first

46. *Iowa Bystander*, 12/1/1949.

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protest for July 17, 1948, a Saturday. Volunteers met on Saturdays from 11 a.m. to 2 p.m., the store's busiest time of day, to hold placards, hand out pamphlets, and take turns sitting in at the lunch counter.

As in the criminal and civil trials, Griffin sought to frame her arguments broadly, as a fight against the forces of tyranny rather than as a narrow fight of blacks against whites at one neighborhood drug store. In fact, a flier Griffin distributed to passersby when she was protesting outside Katz (and which was submitted as evidence at the criminal trial) shows how Griffin harkened back to the war in an attempt to frame her fight against Katz in a broad enough swath to arouse even apathetic citizens. The brochure, titled “BILL OF RIGHTS—HITLER FAILED BUT KATZ IS TRYING,” was designed to coax non-blacks into considering the choice of shopping at Katz as a moral choice. The flyer read, in part,

A lawsuit is pending against Katz Drugstore but we want you to know why Jim Crow undermines the rights of every citizen, not just the victims.

The “master race” idea poisons the mind with hate, distrust, and suspicion. This turns the minds of the people from high prices, low wages, and no housing to violence against one another. It happened in Germany, and it *can* happen here.⁴⁷

Through carefully chosen arguments, Griffin and her fellow members of the Progressive Party Club of Des Moines were able to recast their struggle against Katz from a strictly racial problem to a broader appeal to the democratic ideals of their fellow citizens.

Such arguments were also concisely articulated by the placards held by protestors. A photograph of the protestors submitted as evidence in the Katz trial features picketers holding placards that allude directly to the recently fought war. One sign read,

Counter Service for Whites Only
This is Hitler's Old Baloney
Don't Buy at Katz

Another read,

⁴⁷. *Articles and Abstracts*, 84–85 (emphasis in original).

“Since it is my right, I would like to have it: Edna Griffin and the Katz Drug Store Desegregation Movement” Essay from *The Annals of Iowa*, 2008 (Pg.25)

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The Bullets Weren't for White's Only Don't Buy at Katz

By invoking Hitler, the protestors were appealing to the collective consciousness of the community, and by referencing the sacrifice African American soldiers had made in the war, the picketers also hoped to remind community members of the implicit agreement that service to country in the name of freedom would be rewarded with greater equality extended to African Americans at home. The protests sought to hurt Katz by affecting his profits, but the appeal was aimed at potential shoppers rather than at Katz himself. And the message used to persuade people of the righteousness of the cause was that Katz should be boycotted not because he was violating Iowa's civil rights statute, but because he, like Hitler, discriminated against people based solely on their ancestral background.

Griffin's ability to fight a local battle while placing it in a national context is significant. Such a strategy was central to the philosophy of Ella Baker, who would become perhaps the most significant female civil rights advocate as the battle for equality moved to the South. As historian Charles Payne aptly demonstrates in his history of the Mississippi Freedom struggle, "Helping people see the connection between personal troubles and large social issues was a central concern of Miss Baker's." Payne also suggests that the success of the civil rights movement owes a great deal to "the efforts of older activists," such as Baker and Griffin, "who worked in obscurity throughout the 1940s and 1950s." One legacy this older generation of activists left for the new generation was that "through their efforts they had created networks among activists across the state, networks that could facilitate the work of another generation."⁴⁸ Special attention should thus be paid to the methods by which Griffin was able to marshal support for her protest.

Griffin's ability to organize benefited from the unconventional marital relationship she enjoyed with her husband Stanley. As their daughter Phyllis recalled, "normally, you know, it's the woman who stands behind the man, that creates the man . . . being great in society. And it was flipped in terms of my mom

48. Charles Payne, *I've Got the Light of Freedom* (Berkeley, CA, 1995).

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and dad. So there was something that was nontraditional. And my father stood behind my mother spiritually, emotionally, and, most importantly, financially.”⁴⁹ Both Phyllis and Stanley Griffin Jr. were adamant about the important and largely forgotten role Stanley Griffin Sr. played in advancing civil rights in Iowa.⁵⁰ Stanley Griffin’s work as a doctor who made house calls to many African Americans and Hispanics in the community helped Edna by widening her network of potential activists, raising her status within the community, and providing her the time and financial resources that enabled her to be an organizer.

The Progressive Party of Iowa offered another key network of potential activists to aid in the protest. During the 1940s progressive forces, including organized labor unions, farmers, and African American organizations, were coalescing and pressing for vigorous enforcement of laws and a more equitable distribution of wealth. By 1948, members of the Progressive Party of Iowa were thinking nationally, coalescing behind Henry Wallace, a native Iowan himself, in an effort to bring the struggle to attain civil rights to the attention of the nation.

The Progressive Party platform was aimed to appeal to farmers, workers, and minorities. In fact, Wallace thought that the roots of racism were in labor and class conflicts. Thus, civil rights appeared prominently in the Iowa Progressive Party’s platform. The party pledged “an all-out fight against every manifestation of economic, social, and political discrimination on the basis of race, color, creed, sex, national origin, political beliefs or union membership” and promised particularly “to enforce and to strengthen Iowa civil rights laws.”⁵¹ Griffin undoubtedly knew of this pledge and sought to be part of the fight. Wallace’s run for president may have given her the op-

49. Phyllis Griffin, interview, 5.

50. In a telephone interview with the author, 1/4/2005, Stanley Griffin Jr. explained, “Dad made it possible for her to do what she actually wanted to do.” In an earlier event commemorating the opening of the Edna Griffin Bridge in Des Moines, Stanley gave a speech in which he acknowledged his father’s important role: “Behind every good woman is a good man. Stan Sr. supported Edna through everything.” DVD, *Edna Griffin Memorial Bridge* (Des Moines, 2004).

51. *Iowa Progressive Party Platform*, 1948, folder 3, box 27, Papers of the Progressive Party of Iowa, Special Collections, University of Iowa Libraries, Iowa City.

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portunity to reach out to new groups of people in her efforts to force Katz to change.

Griffin attempted to fuse the new network of people working with the Progressive Party with the more traditional, established activist network: the Des Moines branch of the NAACP, which had played a crucial role in challenging segregationist practices in Des Moines from 1915 to 1930 and achieved “some important successes that paved the way for modern civil rights agitation.”⁵² By 1948, it had become apparent that challenging segregationist policies in the court of law would not be enough to force businesses to cease the policy outright. Griffin relied on the NAACP for her legal fight, but she looked for support from her fellow progressives for the more direct action approaches.

Getting both networks of activists to cooperate was not necessarily easy, and there was considerable tension over who should be credited with the eventual victory over Katz. A *Bystander* article titled “Local NAACP Tells Support Given in Katz Case” cited a Progressive Party handbill that stated, “The NAACP has never officially gone on record in support of our battle, opened by the Progressive Party of Des Moines, July 7, 1949, against the Katz jim crow policy.” Charles Howard, a member of both the NAACP and the Progressive Party, disputed the claim. “The above statement is not true. The NAACP not only officially endorsed the legal fight against Katz, but voted two hundred dollars out of its treasury to aid that fight.” As would be true later in the movement, when organizations such as the Southern Christian Leadership Conference and the Student Nonviolent Coordinating Committee would engage in turf battles over how to end discrimination, the different organizations involved in the civil rights struggle in Iowa in the late 1940s also had an uneasy relationship with each other.

However, what is remarkable about the late 1940s battle against Katz is that, despite the public tensions aired in the *Bystander*, this particular movement was successful because a constituency of varied interests worked together, as the *Bystander*'s editorial board itself acknowledged.

52. Jack Lufkin, “The Founding and Early Years of the National Association for the Advancement of Colored People in Des Moines, 1915-1930,” *Annals of Iowa* 45 (1980), 439-61.

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The NAACP, some Progressive party members and other interested groups stayed on the job and saw the efforts through to a successful conclusion. . . . With this victory secured, those who did this splendid job should move on to other similar situations, keeping their forces in tact [*sic*] and refusing to quibble over who did the most and/or best work using their energy in furtherance of a united effort for future activities.⁵³

The NAACP appears to have committed the most resources toward the legal fight, but it was the Committee-To-End-Jim-Crow-At-Katz-Drugstore, an interracial group of liberals, that seems to have applied the economic pressure through boycotts, sit-ins, and picketing that made an eventual agreement with Katz possible.

Griffin formed the committee after her victory in the civil case against Katz on October 15, 1949. The formation of the committee merely formalized the direct action protests that Griffin had initiated and participated in soon after the July 7 incident. Yet the committee was significant in that it represented an early model of the sort of mass mobilizations and direct action that would make future civil rights movements so successful two decades later in the South. Documents pertaining to the committee provide further evidence of Griffin's desire to cast her efforts against Katz as a small part of a larger battle. In a *Bystander* article detailing Katz Drug Store's decision to lift its ban on serving black patrons, Griffin is quoted as saying that she sought specifically to attract members of other political parties to join the Committee-to-End-Jim-Crow-At Katz-Drugstore. Organizers of the group even attended a conference sponsored by the National Conference of Christians and Jews to present handbills to members detailing Katz's discriminatory practices. This interracial, multireligious, multiparty committee met on Saturdays to send waves of members to sit in at Katz while other members remained outside to protest and hand out bills stating "Katz is More Powerful than Iowa" to passersby.⁵⁴

The committee also helped those members who were denied service by Katz employees file additional lawsuits against

53. *Iowa Bystander*, 12/8/1949.

54. *Iowa Bystander*, 12/1/1949.

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the company to keep the pressure on. Griffin herself filed a second lawsuit against Katz on November 12, 1949, demanding that the district court revoke Katz's restaurant and cigarette licenses and declare the company a "chronic law violator." Four other members of the organization brought suits against Katz the same day.⁵⁵

The pressure on Katz was mounting. Court battles were piling up, and protestors were growing emboldened. Perhaps it was the letter that Griffin wrote (with John Bibbs and Kenny Walker) to the *Iowa Bystander*, published on December 1, 1949, and inviting "every citizen in Des Moines, both Negro and white, to join us at lunch between the hours of 11:00 a.m. and 2 p.m. each Saturday until the jim crow policy is abandoned" that finally forced Katz to see the writing on the wall. On December 2, Katz settled out of court, agreeing to pay \$1,000 and to end the store's discriminatory practices. As the *Bystander* reported, Negro patrons entered the store on December 3 and "began receiving courteous service at the Katz Drug store luncheonette."⁵⁶ The battle had been won.

AFTER YEARS OF DRIFTING around to various locales, Edna Griffin had planted her roots firmly in Des Moines. She remained there for the rest of her life, a committed activist until her death in 2000. After her successful role in the Katz struggle, she continued to be an advocate for the dispossessed and an irritant to those in power.

While the struggle against Katz continued, Griffin was also pushing for the passage of a bill before the state legislature that would provide for a Fair Employment Practices Committee. That committee would ensure that businesses did not discriminate in their hiring practices. According to FBI internal documents, Griffin gave a speech in July 1949 to an audience of about 120 people at a Methodist church in Des Moines, urging parishioners to support the bill.⁵⁷

55. "A Legal History of African-Americans," in *Outside In*, 77.

56. *Iowa Bystander*, 12/8/1949.

57. FBI files.

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She was also very interested in criminal justice, and sought to provide financial, emotional, and organizational support to African Americans in Iowa who may have been falsely convicted of crimes. According to FBI files, Griffin was elected vice-chair of the Iowa Progressive Party in June 1950, and in that capacity she “would stump the state” to raise funds and support for Terry Lee Sims, a Sioux City man who had been convicted of the rape of a white girl. The next year, Griffin appeared as a speaker before the 1951 state convention of the Iowa Farmer’s Union, demonstrating how wide and varied the constituencies she worked with were.⁵⁸

Griffin was also active on a national scale. She sought contributions to send to the national center of the Communist Party USA on behalf of 11 Americans whose Communist affiliation got them in trouble with the law. She also was active in collecting signatures for a petition to outlaw the atomic bomb and to keep American troops out of the Korean War. In the spring of 1951, Griffin helped members of the Midwest Bag and Burlap Company unionize and gave them advice on how to conduct a strike. The next year she joined the campaign to elect Paul Robeson as the Progressive Party’s nominee for president of the United States, despite her fears that white liberals would not support a black president. Three years later, in a letter in the *Des Moines Register*, Griffin analyzed the case against Ethel and Julius Rosenberg and cast doubt on the accusations.⁵⁹

A 1957 FBI report on Griffin cited her as an “active member of the PTA, NAACP, ACLU, League of Women Voters, and other local organizations through which she campaigns for FEPC [Fair Employment Practices Committee] in Iowa.” These alliances hardly amounted to a threat against national security (although her position as a “leading Communist party member in Iowa, outside of the Quad Cities,” certainly concerned federal officials), but they do offer evidence of the variety of methods Griffin used to push for civil rights and social justice. One FBI

58. All information in this section comes from the FBI files, except where otherwise noted. For more on the Terry Lee Sims case, see Bruce Fehn, “Race for Justice: The Terry Lee Sims Rape Case in Sioux City, 1949-1952,” *Annals of Iowa* 64 (2005), 311-39.

59. FBI files.

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agent assigned to trace Griffin's activities reported (in a manner that seems quite complimentary in retrospect) that "she should not be underestimated as an individual. She is a very capable and intelligent person. She manages to get along with people and is always fighting for some noble cause."

One of her noble causes was to push for an end to racial discrimination in housing. In 1958 and 1959, she joined the NAACP, the venerable organization that she once feared took too much credit for civil rights work being done in Iowa, as the chair of the Housing Committee. On January 4, 1959, she was the first person to speak at a city council meeting scheduled to talk specifically about racial discrimination in Des Moines housing.

By the 1960s, civil rights were being discussed in communities throughout the nation, and civil rights activities, in the South particularly, were gaining national attention. Just as in Des Moines, the southern civil rights movements were largely home-grown and led by local leaders. Yet Griffin's story demonstrated that northern liberals needed to remain vigilant against the discrimination that continued to plague their own communities (while also offering moral support to their brothers and sisters in arms fighting more dangerous battles in the South). Griffin founded Des Moines's chapter of the Congress of Racial Equality (CORE) in 1963, and from her post sought to address many issues facing black Iowans. In her communications as the leader of CORE she recorded her first recollections of her involvement in the Katz struggle. In a letter to James McCain at CORE's national office, she remarked, in response to a proposal to send national leaders to Des Moines to hold a workshop on nonviolence, "We would appreciate very much as we plan to deal with discrimination in eating places which we thought we had straight. Our first sit-in took place here in 1949 under my direction."⁶⁰

Here, Griffin is taking ownership for coordinating the Katz movement, and her indication of that movement being a "first" suggests that she viewed it, by the 1960s, as a sort of beginning. Her citation of the sit-in in a letter 14 years later to the head of

60. Edna Griffin to James T. McCain, 9/14/1963, CORE Papers (microfilm), University of Iowa Law Library, Iowa City.

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Edna Griffin. Photo courtesy of Iowa Women's Archives, University of Iowa Libraries, Iowa City.

an organization committed to the principles of nonviolence connects the Katz struggle to the wider civil rights movement.

Like the Americans who participated in the well-known later movements—the Birmingham bus boycott, the Selma march, the Greensboro sit-ins—Griffin demonstrated considerable courage in waging her battle against Katz, even though she was not likely to admit it. In her later recollections about her fight against Katz, Griffin always took pains to point out that her activism was far less dangerous than the work done by civil rights workers in the South in the 1950s and 1960s. In 1989 she told Ben Stone of the Iowa Civil Liberties Union that her efforts against Katz should not be compared with the efforts of civil rights advocates working in the Deep South, since those activists “put their lives on the line to get served” while she and her friends had the support of Iowa civil rights legislation.⁶¹ Privately, though, Griffin had been targeted by white supremacist groups. FBI internal memos reveal that, during her time fighting against Katz, “she received a letter signed ‘KKK’ which

61. *Des Moines Register*, 6/21/1998.

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threatened her life.”⁶² Griffin had given the letter to the police, who then gave it to the FBI, but Griffin never publicly revealed the existence of the letter when she began receiving accolades for her activism in the late 1990s, suggesting that she wanted to continue to downplay the risks she faced due to her activism.

Although Martin Luther King Jr. would not have heard of Edna Griffin in 1954 when he rose to prominence as a leader of the Montgomery bus boycott, the particular strategies his movement used and subsequently popularized were the same tactics Griffin used in her struggle against Katz: appeals to the conscience of apathetic whites, use of the courts and economic boycotts, and the cultivation of social networks to spread word of the movement. It was thus only appropriate that Griffin organized a group of Iowans to travel to the March on Washington to hear King’s most famous speech in August 1963, and even more appropriate that she had a refined sense of the historical context of the event: “You would think Dr. King had done most of it by himself,” she protested in an interview in 1986. “That was not true. . . . It was the help of the young people. He wouldn’t have made it without them.”⁶³ Having been a grassroots activist herself, Griffin knew how social movements succeeded, and even later in her life sought to correct the top-down emphasis placed on histories of the movements she and thousands of others helped make possible.

Griffin likely felt that her work was never done. She was “able to see the larger movement, and I think that’s what kept her moving forward,” reflected Phyllis Griffin. “She was never interested in stopping, because she saw how much work needed to be done.”⁶⁴ The task of extending civil rights to all Americans, Griffin knew, was a work still very much in progress.

That work continues today. The scholar-activist Cornel West has suggested that one way to continue to advocate for social justice is to hold up as models those courageous individuals who lived their lives in a spiritually mature manner.⁶⁵ Edna

62. FBI files.

63. Edna Griffin, interview, 10.

64. Phyllis Griffin, interview.

65. Cornel West, George E. Kent Lecture, University of Chicago, 3/2/2006.

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Griffin was one such individual, although it took the state of Iowa 50 years to realize it. On July 7, 1998, however, leaders from across the state came back to the intersection of 7th and Locust in Des Moines to hold a ceremony commemorating Edna Griffin, John Bibbs, and Leonard Hudson for the courage they had shown a half-century earlier in forcing the city to live up to its ideals. A plaque was unfurled labeling the spot of the “Civil Rights Victory,” and the building that then stood where Katz Drug Store once stood was renamed the Edna Griffin Building. The woman who was perceived as such a threat to the government that FBI officials followed her for 17 years had proven to be ahead of her time; the rest of the state had finally caught up. The woman who had fought the establishment ultimately earned its begrudging respect.

Thus, in May 2004, several of Iowa’s top lawmakers, including Lieutenant Governor Sally Pederson and U.S. Representative Leonard Boswell, met with Edna Griffin’s three children, a group of elementary school children, representatives of the Iowa Department of Transportation, and several others to inaugurate the Edna Griffin Bridge, a beautiful blue footbridge near the state capitol that allows citizens to safely cross I-235. A bridge is an apt metaphor for Edna Griffin, a woman whose action helped put to rest the segregationist policies of Katz Drug Company, and who, in doing so, helped usher in a new era of civil rights activism marked by mass mobilization and a firm commitment to nonviolent direct action.