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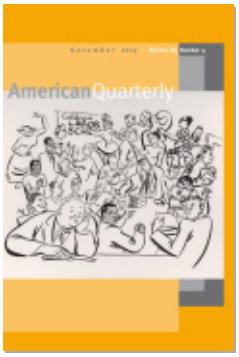

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> Above all, lynching is about the law.
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> —Robyn Wiegman, "The Anatomy of Lynching"

On April 12, 1899, just south of Atlanta, Georgia, Sam Hose killed his white employer in a dispute over wages. The local press responded immediately and aggressively, sensationalizing the crime with fabricated details, even manufacturing a rape story to provoke public outrage that would ensure Hose's lynching. The *Atlanta Constitution* ran a headline that predestined his fate: "Determined Mob after Hose; He Will Be Lynched If Caught."[1] The newspaper offered a more specific intimation in the body of the article: "There have been whisperings of burning at the stake and of torturing the fellow."[2] To ensure public excitement, the paper offered a $500 reward for Hose's capture while also running editorials that warned police officers not to protect him.[3] The nearby Newnan *Herald and Advertiser* meanwhile professed deference to regular procedures of law at the same time that it insisted on a special need to circumvent them: "No community in Georgia has been more ready, at all times and in all circumstances, to show respect for the law or yield obedience to the mandates of the constituted authorities, but in the present instance the provocation is so unbearably aggravating that the people cannot be expected to wait with patience on the laggard processes of the courts."[4] News reports wedded cries of impatience with concerns about black men raping white women, what the *Herald* described as a "carnival of blood and lust."[5] The melodramatic reporting, akin to dime novel prose, successfully removed justice from the legal order and exposed Hose's life to summary execution on the basis of sexual violence that never occurred.

After an extensive search and much lurid reporting, a mob burned Hose on April 23. The *Constitution* offered a capstone report whose spectacular detail captures the form of violence authorized under Lynch Law: "Fully 2,000 people surrounded the small sapling to which he was fastened and watched the flames eat away his flesh, saw his body mutilated by knives and witnessed the contortions of his body in his extreme agony."[6] Of the nearly five thousand lynchings between 1892 and 1944, Hose's stands out today as one of the most

shocking not only because of the torture inflicted before his death but also because of the startling public excitement that transformed a manhunt into a form of dramatic entertainment.[7] The period's most astute and outspoken critic of Lynch Law, Ida B. Wells, responded to the news coverage in a short pamphlet that situated Hose's murder within a "reign of outlawry" that swept Georgia over six weeks in March and April 1899.[8] During that time twelve black men were lynched within fifty miles of Atlanta. Wells documented the *Constitution*'s role in the Hose case to make plain that lynching was not "the work of the lowest and lawless class," as the common excuse went.[9] In significant and material ways, the white press manufactured mob violence. "Never a word for law and order," Wells lamented, "but daily encouragement for burning."[10]

Because they showcase popular rationalizations of Lynch Law and its public execution, the Sam Hose reports provide an entry point for better understanding the complicated relationship between lynching and the law. If lynching is about the law, as Robyn Wiegman claims in her landmark essay "The Anatomy of Lynching," the relationship between the two remains to be specified. This essay qualifies her assertion by arguing that Lynch Law suspends normative law in the name of popular justice. Cries for popular justice feature heavily in the nineteenth- and twentieth-century literature on lynching, yet recent criticism has not fully explicated how those cries enabled Lynch Law. Beginning with Angela Davis's analysis of the "myth of the black rapist," as she coined it in *Women, Race, and Class*, an impressive body of scholarship has explained how the cultural logic of lynching placed white businessmen at the top of a social structure that idealized white femininity, maligned black men as savages, and left black women open to sexual abuse without any recourse.[11] Wells countered the rape myth by constructing a nuanced theory of Lynch Law as a form of "unrestrained outlawry" that depends on law enforcement's asymmetrical application across the color line.[12] The somewhat antiquated term *outlawry*—used to denote the act of depriving someone of legal protections—communicates the irregular circumstances that distinguish Lynch Law from normative criminal law.[13] Elaborating Wells's theory of outlawry will clarify how lynching racialized problems of sovereignty residing at the heart of the American democratic project.

If Lynch Law suspends normative legal procedures, as I argue, then it performs what political theorists such as Giorgio Agamben call the sovereign decision. I engage Agamben's theory of sovereignty because its concern with lethal force is suggestive of lynching violence. His concept of "bare life" provocatively links "the originary activity of sovereignty" to the production of subjects who can be killed with impunity, describing a form of legal abandonment similar to

what Wells describes as outlawry.[14] While productive for many critics interested in biopolitical forms of power, Agamben tends to generalize his theory of bare life as applicable to all legal subjects throughout the history of Western politics. By contrast, Wells shows how, in the United States, race becomes a crucial mechanism for politicizing life. Her theory of outlawry matches a structural analysis of law with empirical observations of law enforcement to specify how violence affects certain subjects before others and how the law abandons its obligation to protect those subjects while maintaining its capacity to punish them. Wells's historically specific formulation of outlawry—situated in a period considered the nadir of US race relations—complicates Agamben's theory of sovereignty by introducing problems unique to a federalist government.[15] The split autonomy between state and federal governments rests on a principle of self-government that creates situations where overlapping juridical fields make competing claims to sovereign power.

The campaign of tireless activism that Wells pursued at the end of the nineteenth century offered a forceful counterpoint to the consensus between northern liberals and southern reactionaries that regarded mob violence as an issue that states had a right to resolve on their own terms.[16] She recognized in Lynch Law the continuation of racially determined power over life that undermined the Thirteenth, Fourteenth, and Fifteenth Amendments to make lynching a wholly national issue. The administration of lethal violence at the impulse of unauthorized citizens saturated the problem of how to democratize citizenship and civil rights with the question of how to ensure the more radical right to life. Wells illustrates that problem by narrating her own experience with legal systems at the local, state, and national levels. The narrative of her exile from Memphis, Tennessee, however, does not confirm the abject powerlessness that Agamben's schematic formulation of absolute power and absolute vulnerability ascribes to bare life. Despite finding herself cast out of law's protection, Wells posits her pamphlets on a form of defiant outlaw subjectivity that Agamben's polarized account of power relations cannot accommodate. I elaborate that form of outlaw subjectivity first by tracing the legal history of Lynch Law as an exception to normative law and second by analyzing Wells's early antilynching pamphlets.

Popular Sovereigns

Wiegman's article "The Anatomy of Lynching" provides the requisite foundation for understanding how cultural norms legitimate antinormative legal claims because it explains how racial and sexual difference contributed to

uneven applications of law, curtailing it in some instances while exaggerating it in others. She illustrates the point with an epigraph from Ralph Ellison's short story "The Birth Mark." Published in 1940, the two-page story depicts a white police officer protecting individuals and the state from legal scrutiny by reporting lynching as a car accident. When the victim's siblings show up at the coroner's office to identify their brother's body and notice that he has been castrated, the officer tells them, "Just remember that a car hit 'im, and you'll be all right. . . . We don't allow no lynching round here no more."[17] With the police officer's threat, Ellison neatly captures the culture of intimidation that, even as late as the mid-twentieth century, granted legal immunity to those who killed in the name of Lynch Law. Wiegman reads the sexual economy fundamental to lynching as doubly manifested in the form of law: "both the towering patrolman who renarrates the body and sadistically claims it as a sign of his own power, and the symbolic as law, the site of normativity and sanctioned desire, prohibition and taboo."[18] To understand lynching as "the site of normativity and sanctioned desire," however, too neatly equates the law with the racial hegemony that upholds cultural norms. White policemen, white judges, white juries, white mayors and governors administer the law, exempting certain subjects and certain crimes from prosecution. However, the rule of law remains separate—even when not clearly distinct—from its embodiment. Otherwise, Ellison's police officer would not need to cover up lynching as a car accident.

Public officials suppressing evidence of Lynch Law in the 1940s to avoid legal scrutiny makes for plausible fiction. Several states passed antilynching legislation during the twenties and thirties—sometimes to stay federal antilynching bills, sometimes to protect business investments from the north and abroad. States approached the situation in various ways, ranging from indicting individual lynchers to fining counties to removing responsible officials. By the midthirties, the leading scholarship on antilynching law concluded, "Our traditional forms of procedure probably need no fundamental change. The problem is to meet the elusive human factor in a system of good laws administered by fallible men."[19] Neither antilynching legislation nor procedural law could prevent lynching sympathizers from using their official authority to derail prosecution. Once defined as a crime, however, lynching became accountable to normative law. Although no relief from the fact of mob violence, the structural assimilation of lynching as *illegal* represented a significant historical shift away from interpretations that legitimized it as *extralegal*. Uneven applications of criminal law persisted, as Ellison's story reminds us, but despite

desultory enforcement, some states implemented a structural mechanism for containing Lynch Law.

Prior to the passage of antilynching legislation, Wells paved the way toward resignifying antiblack mob violence by persistently characterizing Lynch Law as illegal. Calling for "punishment by law for the lawless" in the preface of *Southern Horrors*, she countered the more common understanding of lynching as an exception to the law fully justified on the basis of popular sovereignty.[20] Her critique of justifications of violence that appeal to the "horror of rape as excuse for lawlessness" foreshadows more recent critiques of sovereignty that emphasize the sovereign decision between norm and exception.[21] One reason that Agamben's theory of bare life has been useful, despite its limitations for understanding US federalism, is that it has inspired critics to place the question of sovereignty at the heart of democratic governance. If sovereignty has remained undertheorized, as Nasser Hussain and Melissa Ptacek claim, that is because, "since the end of *ancien régime* monarchies and the rise and consolidation of liberal-constitutional states, the *need* for such theorization has been considered doubtful."[22] Within the context of American studies, the doubtful need for a theory of sovereignty relates to two competing understandings of American constitutionalism. On the one hand, the Constitution of the United States, like other constitutions, established a set of rules as the basic framework for government. On the other hand, the rhetoric of revolution insisted on the people's sovereign right to reject or establish government, including the legal processes that regulate governmental change.

Popular sovereignty, the conceptual key to justifications of Lynch Law, hangs in the balance between the rule of law and the right to revolution. Neither understanding of American governance recognizes sovereignty in a single, embodied entity as Agamben does. The rule-bound framework of constitutional government established a diffuse form of sovereignty constrained by a set of checks and balances familiar today as one of the principal features upholding the architecture of American democracy. To take only the most salient example, Article 3 of the Constitution enacted the rule of law according to a standard system of juridical procedures: "The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury."[23] Along with the Sixth Amendment, the Constitution ensures that no one person will have the ability to pass grave legal judgments on another. To establish "a government of laws and not of men," the US Constitution provides a set of rules for making and applying law.[24] The emphasis on laws over individuals intends to bind elected officials to a system of rules for measuring legal validity, essentially revoking the autocratic sovereign

who governs without legal constraints or structural mechanisms of control. If the Declaration of Independence dissolved the political contract between a sovereign and his subjects, the Constitution reorganized power by placing those distinct parties under the sign of a single entity—a sovereign people.

But how does a collectivity enact sovereign power? According to Christian Fritz's recent legal history, the consolidation of sovereign and subject marked an epochal shift: "Government was no longer something that happened to people. In America it now became something that the people—by their consent and volition—brought into being."[25] He goes on to suggest that the people's "conduct and active participation" evidenced their consent as well as their exercise of sovereignty.[26] Sovereign power in Fritz's formulation amounts to active engagement with the processes of government—voting, lobbying, passing legislation, even recalling elections when necessary. Book-ended by the Revolutionary and Civil Wars, however, and with plenty of examples of rebellion between, his study documents moments in US history when the normative processes of government gave way to insurrection. Fritz's historical examples show what happens when the people stop obeying laws that they supposedly authorize. Calibrated to explain normative legal operations, his liberal theory of popular sovereignty fails to account for the power to suspend government or to constitute new government, two powers that popular sovereignty would grant the body politic whenever existing government ceases to serve its interests.

Because lynch mobs undermined constitutional authority, a nonliberal account of sovereign power will better explain Lynch Law's relationship to normative legal procedures. Carl Schmitt, a juridical thinker who has gained attention for his antinormative theory of sovereignty, begins his 1922 tract *Political Theology* with a definition: "Sovereign is he who decides on the exception."[27] Hinging on exceptions to normative law, that definition locates sovereignty less in the power to make subjects obey rules than in the capacity to decide what constitutes an emergency warranting action beyond the rules. Locating sovereignty in the decision to suspend constitutional law revises the traditional understanding of sovereign right over life and death—force applied to life—to emphasize instead the capacity to withdraw law from life. Describing what ancient legal traditions designate as outlawry, Agamben explains the relationship as one of abandonment: "He who has been banned is not, in fact, simply set outside the law and made indifferent to it but rather *abandoned* by it, that is, exposed and threatened on the threshold in which life and law, outside and inside, become indistinguishable."[28] Without exactly falling outside the reach of law, the outlaw remains in complex relation to the juridical order because the dissolution of legal protections leaves her vulnerable to

violence. Expressed as the capacity to suspend law, sovereign power produces life that can be killed with impunity. Connecting the sovereign exception to lethal violence makes clear the high stakes of suspending law in the name of justice. Yet, despite theorizing sovereignty according to specific borderline cases rather than routine operations, Schmitt's definition moves toward a totalizing understanding of sovereign power that ignores practical limitations and challenges to political control.

The origin of Lynch Law provides a clear example of how actions beyond the purview of government, even when aimed at protecting state authority, can create an uneasy relationship between state sovereignty and popular sovereignty. The Charles Lynch archive offers us the most likely history for the term as a form of extralegal martial law. In the summer of 1780 Lynch, a local magistrate and colonel in the Virginia militia, led an excursion to protect Virginia's lead mines from British loyalists. Having rounded up a number of suspects, he organized a summary trial that ended with the execution of accused ringleaders and whippings for the rest. Although the Virginia Assembly decided in 1782 that the imminence of danger justified Lynch's actions, surviving letters from wartime governor Thomas Jefferson suggest that the head of state regarded the situation with ambivalence. He found it difficult to disagree that an emergency at the frontier of Virginian territory, far from any court authorized to try cases of treason, forced a distinction between due process and justice. At the same time Jefferson approved of Lynch's actions, however, he asked Lynch to "take care" that the accused Tories "be regularly tried afterwards."[29] Although not legally declared a state of emergency, Jefferson's qualification of *afterwards* set a temporal boundary common to martial law mandates. If emergency conditions necessitated summary judgment, the rule of law demanded that when those conditions passed, justice once again required due process. By establishing the imminence of danger as grounds for otherwise illegal action, the Lynch case introduced the conceptual other of democratically legitimated procedural law—a state of exception that permits immediate, extralegal violence.

Emerging concurrently with the new nation's endeavors to establish a constitutional system of rule, both at the state and at the federal levels, Lynch Law left open the question of sovereignty that shadows popular government. By declaring emergency conditions in rural Virginia, Charles Lynch did more than threaten the life of certain loyalists—he threatened the rationality of legal justice in an inchoate democracy. But if Lynch demonstrated his capacity to decide on the exception, it neither proved him sovereign in Virginia nor threatened Jefferson's governorship. One might argue this point by maintaining that Lynch did, in fact, exercise sovereignty within a small territory on the frontier

of Virginia. Such a partitioning of sovereign power, however, would fail to account for the overlapping jurisdictions indispensable to American federalism. By establishing municipalities inside states inside a nation, a federalist government allows for competing claims on authority, especially during moments of unrest or change that unsettle the hierarchy of powers. Lynch's decision to employ martial law, for instance, required him as the Bedford County magistrate to enact sovereign power even as he claimed it for the Commonwealth of Virginia; and as follows in a democratic republic, that claim assumed the authority of the people even as it originated from an individual's illicit judgment. Lynch's decision functioned by necessity to distinguish *the people* (those who acted in the interest of self-government) from the seditious (those who assumed the king's ultimate authority), a separation that only became starker with the racialization of Lynch Law.

In the wake of momentous constitutional changes after the Civil War, Lynch Law shifted from the extralegal administration of punishment during an emergency to become a more specific tool for policing the color line. Yet the same logic underpinning Revolutionary era claims to popular sovereignty—the people substantiate law, so the people can repudiate it—continued to surface as an explanation for contravening criminal and constitutional law. At the historical moment when its application took shape as systematic antiblack violence, for example, Hubert H. Bancroft justified Lynch Law as enacting "the right of the governed at all times to instant and arbitrary control of the government."[30] Bancroft, contemporary with Wells, provides the most elaborate apology for Lynch Law in his two-volume history of vigilance committees in California and other Western territories where, he reports, he witnessed the exercise of arbitrary power "operating under certain conditions to the welfare of society."[31] The conditions he had in mind were the inchoate and somewhat dysfunctional legal systems common during the gold rush years when, as he put it, "every man carried a pistol; whiskey was fiery; shooting was easy."[32] Despite the book's historical content, however, its publication year—1887—situated Bancroft's theory of popular justice within national debates about legitimate exercises of power after Reconstruction.

In that context, Bancroft rethought the conditions that had legitimated arbitrary power during the Revolution in significant ways. His formulation of the right existing "at all times," for example, erased the temporal border that typically limits martial law. In fact, Bancroft expressed scant concern for the checks and balances implemented by procedural law. Disregard for the content and purpose of legal proceedings enabled him to reimagine popular tribunals, conducted by self-appointed vigilance committees, as consistent with norma-

tive laws. Unlike other "aberrations of justice" in which "there is something of government by faction, or of military rule, or of rebellion against the powers that be," Bancroft sees in the so-called vigilance committee a profound respect for the supremacy of law.[33] Vigilance committees, he argues, fulfill the people's obligation, "whenever they see the laws which they have made trampled upon, distorted, or prostituted, to rise in their sovereign privilege and remove such unfaithful servants, lawfully if possible, arbitrarily if necessary."[34] Characterizing popular justice as "friendly with the law," Bancroft attempts to establish continuity between unauthorized punishment and legally established criminal law by identifying government officials, rather than governmental form, as corrupt.[35] In other words, he argues that Vigilance—his term for Lynch Law—preserves normative law by supplementing and supplanting its procedures. The burden of proof for his argument should fall on demonstrating elected officials' corruption, but as Manfred Berg notes in his recent history of lynching, "Bancroft conveniently ignored the facts of his own materials," which pointed toward competing interests and vengeance as often as vigilance.[36]

The plausibility of Bancroft's argument relied less on proving government corruption than on the frontier setting of his historical evidence. He borrows from the Charles Lynch narrative to situate Lynch Law always at the edge of civilization, following western expansion into territory where "the spirit of evil was ever strong, and government weak."[37] Like many newspaper columnists, Bancroft argued that Lynch Law would wither in the face of a robust legal system, more courts, or salaried enforcement agents.[38] His tome, however, advocated "popular justice" at exactly the moment, according to lynching statistics, when Lynch Law took hold of the Southeast where it applied disproportionately to African Americans.[39] If at one time Lynch Law functioned in the absence of law at the margins of policeable territory, by 1887 it had moved well within established legal jurisdictions. During the last decade of the nineteenth century the number of lynchings increased dramatically in developed urban areas such as Atlanta and Memphis, recognized at the time as burgeoning centers of southern civilization. Yet, even as late as 1908, the liberal journalist Ray Stannard Baker reported in his book *Following the Color Line* that lynching, in both the South and the North, resulted from "corrupt politics, vile saloons, the law paralysed by non-enforcement against vice, a large venal Negro vote, lax courts of justice."[40] Although critical of Lynch Law, Baker insisted that mob violence served to correct "delays and technicalities of the law" that allowed murderers to go free.[41] This insistence despite his own example of two men in Georgia who, sentenced to hang, were dragged from the courthouse and burned alive.[42]

Within established legal jurisdictions, Lynch Law functioned neither as the exception that protected law (Bancroft's theory) nor as a correction to inefficient law (Baker's theory) but as a suspension of certain applications of law. The white hegemony executing state laws provides a crucial clue as to the shape of that suspension; it created an asymmetrical field of justice that rendered mob violence unpunishable while their black victims, justly or not, answered to fully operative criminal enforcement.[43] Appeals to popular sovereignty, in concert with unequal applications of law, gratuitously determined *the* people as *white* people. Especially when articulated as the prerogative of a local community to flout constitutional law—as in the case with Sam Hose—claims to popular sovereignty justified mob action by excluding African Americans from the body politic while still subjecting them to its control. Unlike slave codes that enforced exclusion by law, however, Lynch Law pursued it by suspending the federal laws that had only recently incorporated African Americans into the citizenry.

The fact that Lynch Law answered the democratization of citizenship with publicly justified violence suggests that it neither nullifies nor supports normative law but suspends aspects of law in the name of popular justice. In this formulation, *justice* has a double significance that closer attention to Wells's writings will help elaborate. In brief, it brackets the avowals of righteousness that accompanied defenses of Lynch Law, especially those that insisted lynching protected women's dignity. More structurally, *justice* became the overarching value Lynch Law solicited with the assumption that legal proceedings impeded its administration. Wells, however, offers a counterformulation of justice that rejects antinormative claims to sovereignty. The examples that Wells uses to substantiate her critique of Lynch Law complicate Agamben's suggestion that bare life resides at points of indistinction—simultaneously included and excluded from law—by showing how civil protections receded from African Americans living under Jim Crow while criminal law continued to apply in full force. Recognizing the asymmetrical operations of normative law helped Wells identify the material and economic consequences that Lynch Law had for those always under its threat of violence. Having outlined the theoretical claims surrounding Lynch Law, I turn now to the material concerns provoked by its application.

Outlaws

Wells discovered firsthand the material consequences of Lynch Law. *Southern Horrors: Lynch Law in All Its Phases* tells the story of her exile from Memphis, Tennessee, where she had lived for nearly ten years, working as a schoolteacher

and, later, as co-owner and editor of the weekly paper *Free Speech and Headlight*. She used the *Free Speech* to decry mob violence against African Americans as well as to contest the commonly accepted account of sexual violence as its cause. In response to her editorializing, Memphis whites destroyed her paper and threatened to lynch her if she ever returned. A substantial body of scholarship going back to the early 1980s has addressed Wells's exile and her critique of the myth of the black rapist. Yet, perhaps because her exegesis of the rape myth has proved so riveting for recent scholars thinking about the interplay between ideology and subjectivity, few critics have theorized Wells's own subject position as an author.[44] As a would-be victim of Lynch Law, she formulated her critique of mob violence from the perspective of a black woman doubly threatened by the law.

By the time she arrived in New York City from Memphis, state laws in the South had prevented her from riding in the first-class train car, while municipal, state and federal laws had failed to protect her life and her property. In short, the law subjected her to a subordinate socio-juridical position based on race, which capacitated Lynch Law to isolate her from legal protections. That dual relationship to the law constructed her subjectivity so that participation in American politics, rather than exercising popular sovereignty, as Fritz would have it, left her life exposed to the threats of lynching by Memphis businessmen. In writing *Southern Horrors*, Wells rendered a complex legal subjectivity legible by narrativizing her exile from Memphis. That narrative broadens the narrow possibilities for reading her merely as the juridical order would dictate by situating her as an author-outlaw.

The story of her exile begins several months before she left Memphis when she first witnessed Lynch Law. Between two and three o'clock in the morning on March 9, 1892, Thomas Moss, Calvin McDowell, and Henry Stewart were taken from their jail cells and shot to death in a field north of Memphis. Several years earlier, the three men, friends of Wells's, opened a cooperative grocery store in a predominantly black neighborhood called the Curve. As Wells explains with a critical nod toward accommodationist politics, "They believed the problem [of racial discrimination] was to be solved by eschewing politics and putting money in the purse."[45] She complicates her own assessment of their political ambitions, however, by noting the claim to citizenship recognizable in the store's name and location: People's Grocery Company, across the street from a white-owned grocer.

Until then, the white owner, Will Barrett, held a neighborhood monopoly that the new store threatened. Using a minor altercation as pretext for threatening People's Grocery, Barrett promised to "clean them out."[46] Because the store

sat a mile beyond city limits, the men could not apply for police protection and so intended to defend themselves. The following Saturday night Barrett arrived with a posse of twelve men; Moss, McDowell, and Stewart opened fire as soon as the posse crossed the store's rear threshold. When the smoke cleared, three white men—police officers, it turned out—were wounded and the black men had escaped. Memphis law enforcement arrested about thirty men on conspiracy charges related to the shootout, including the owners of People's Grocery. While they sat in jail, the wounded police officers recovered, which, as Wells explains, inconvenienced the plans already set in motion: "There was no law on the statute books which would execute an Afro-American for wounding a white man, but the 'unwritten law' did."[47]

Wells protested the lynching and the roundup of "conspirators" in the *Free Speech*. Noting that mobs not only killed the owners of People's Grocery but also ransacked their business, the paper made a case for mass exodus. "There is only one thing left that we can do," the leading editorial read that week, "save our money and leave a town which will neither protect our lives and property, nor give us a fair trial in the courts, but takes us out and murders us in cold blood when accused by white persons."[48] Wells explains in her autobiography that her friends' lynchings changed the course of her life. The event opened her eyes to the fact that Lynch Law, rather than a response to rape, enabled the violent mechanism of mob rule "to get rid of Negroes who were acquiring wealth and property and thus keep the race terrorized."[49] The last decade of the nineteenth century saw Lynch Law enter its modern phase as a form of terrorism.[50] Realizing that, Wells crafted a two-pronged antilynching campaign. She continued encouraging black residents of Memphis to go west to Oklahoma, despite pressure from white business owners who suffered a decrease in patronage, and began investigating lynchings reported by the white press. The record of reporting she uncovered showed that newspapers skewed, sometimes fabricated, stories to connect lynching to rape regardless of whatever charges initially drummed up a mob. When she identified rape charges as an "old threadbare lie," insinuating that white women had consensual sex with black men, Wells gave Memphis businessmen exactly the excuse they needed to destroy her press.

In keeping with Lynch Law, the white press both encouraged the plunder of another growing black business and threatened the proprietors' lives. Memphis's *Daily Commercial* reprinted the offending editorial to note that its "obscene intimations" had brought Southern whites "to the very outermost limit of public patience." The evening paper echoed sentiments recorded in the *Commercial* and raised the ante by insisting, "Patience under such circumstances is not a

virtue."[51] The same day the white press threatened the *Free Speech* editors, a group of Memphis's leading businessmen met at the Cotton Exchange Building to organize the destruction of the weekly newspaper. After wrecking the type and furnishings, they left a note threatening death to anyone who rebuilt the paper. The sheriff took charge of what remained of the business and sold it to satisfy creditors.[52] Wells experienced what Agamben calls bare life at the threshold between the sibling fictions of public patience and popular justice. However, rather than render the boundaries of law indistinct, as Agamben describes, Wells's narrative of exile shows how that threshold relied on unmistakable discriminations of law enforcement. Police played similar roles in the devastation of both Wells's press and her friends' grocery store, stepping aside to allow mob action while ensuring white economic interests.

In an era prior to the codification of the color line through Jim Crow laws, Lynch Law became a means for policing the racialized order organized under slavery. Because federal law moved to protect African Americans as full citizens after emancipation, however, Lynch Law relied on cultural stereotypes to fuse the rhetoric of emergency with the logic of popular sovereignty. The *Daily Commercial*, for instance, played on common assumptions of moral laxity among blacks by characterizing the anonymous *Free Speech* writer as a "black scoundrel." Publishing "loathsome and repulsive calumnies" about lynching, the *Daily Commercial* argued, the black-owned paper aimed at "arousing the worst passions of their kind."[53] The specter of collective "passions" among the black populace and the perceived insult to white women constituted an emergency, according to the editorial's reasoning, and validated any violence visited on Wells's body. Although she escaped physical harm, Memphis's evening paper publicly detailed the form of violence in question: "Tie the wretch who utters these calumnies to a stake at the intersection of Main and Madison Sts., brand him in the forehead with a hot iron and perform upon him a surgical operation with a pair of tailor's shears."[54]

The misappellation of gender in this case foregrounds the pervasive threat of castration, brazenly announcing the cultural conditions of sex panic that permitted public assent to Lynch Law. The *Free Speech* editorial that brought on such vitriol, written by Wells but published anonymously, identified the panic-stricken "new alarm about raping white women" as an "old racket."[55] By describing the "new alarm" as an "old racket," Wells connected rape allegations to an ongoing project of political domination. Castration, in Wiegman's reading, completes the political violence by symbolizing the feminization of black men, effectively barring them from claims to full citizenship much as women could not claim suffrage.[56] If castration negates the symbolic possibility of grant-

ing black men political rights or patriarchal privileges, David Marriott usefully diagnoses the assumptions that make the emasculating symbolism operative. Castrating lynch victims, Marriott writes in *On Black Men*, "serves to reveal, and support, a race hatred predicated on an identification between blackness and sexual guilt."[57] The word *guilt* registers here in Marriott's psychoanalytic lexicon, but it resonates with the legal meaning because Lynch Law bypasses the formal question of judgment. Skipping the process of adjudication, lynch mobs move on the presumption of guilt directly to the execution of a death sentence. As Wells's investigations of lynch reports made clear, black male sexuality constituted both the ostensible provocation to and the object of violence carried out beyond the law.

The racial and sexual markings of Lynch Law in Memphis performed a double negation of Wells's political subjectivity. Claims to popular sovereignty abstracted her from the normative protections of the law, exposing her life and property to mob violence, while the misrecognition of her sex registered a symbolic violence that disavowed the legibility of her political actions as a black woman. The newspapers calling for her lynching regarded every foray into the public sphere at municipal and state levels as a threat to orderly relations rather than viable action.[58] Perhaps ironically, her experience as a witness to and victim of Lynch Law in 1892 opened up a space for self-recognition beyond the widely circulated symbolic values validating mob violence. Before her personal encounter with Lynch Law, Wells accepted the idea "that although lynching was irregular and contrary to law and order, unreasoning anger over the terrible crime of rape led to the lynching."[59] In exile, however, Wells recognized that rape charges were meant to short-circuit the legal safeguard of a fair trial. As she explains it, "The Christian world feels, that while lynching is a crime, and lawlessness and anarchy the certain precursors of a nation's fall, it can not by word or deed, extend sympathy or help to a race of outlaws."[60] Here, as in her editorial, Wells puts pressure on the ostensible provocation of Lynch Law to point out that the declaration of emergency, while seeming to diagnose a factual situation, suspends the order it describes as absent. The quote draws attention to the incongruity between the lawless mobs and the "race of outlaws." Her readers might assume that outlaws perpetuate the spirit of unrestrained outlawry, that they are the agents of lawlessness. Wells shows, to the contrary, that the figure of the outlaw is predicated on the lawlessness of lynching.

The outlaw figure in Wells's writing weds her critique of Lynch Law as illegal to the narrative account of her own subject position as a displaced victim of lynching. In the preface to *Southern Horrors*, Wells writes, having

already informed readers of the circumstances leading to her exile, "It is with no pleasure I have dipped my hands in the corruption here exposed."[61] Yet, driven from her home, the unpleasant task of detailing lawless violence "seems to have fallen upon" her despite any reservations she maintained.[62] Jacqueline Goldsby argues that Wells's prefatory remarks situate "*Southern Horrors* as an autobiographical-eyewitness narrative, but one whose authority proceeds from the writer's vulnerability to the violence of lynching."[63] Whereas Goldsby suggests that, in calling attention to the displeasures of writing *Southern Horrors*, Wells meant to parody stunt journalism's theatricalization of bodies in distress, I prefer to read her hesitancy as an index of sincere recognition that the violent "corruption here exposed" had already exposed her body to its power before she sat down to write. Wells portrays herself as an unwilling author not because the pamphlet fouled her as a condition of its existence but because the conditions of her authorship had circumscribed whatever political subjectivity remained available through writing. The narrative account of her run-in with Lynch Law dramatized the discrepant domains of authority, both legal and otherwise, that put her in the unenviable position of an outlaw writing against outlawry.

The circumstances of Wells's exile stripped her of basic legal protections in the same way that she writes of one lynching victim being "stripped naked, his clothing literally torn from his body."[64] Denuded of any legal covering that would protect her life and property, Wells nonetheless cultivated the insight that injury imparted to cover herself in what she termed "an array of facts."[65] Her use of the word *array* plays on its multiple significances, invoking both the militaristic connotation of an ordered arrangement of ranks and the more literary meaning of elaborate clothing. Having given readers a spectral image of herself stripped bare in the heart of downtown Memphis and subjected to public castration, Wells assertively redresses the injustice by weaving together a fabric of facts and examples to refute the myths upholding Lynch Law. Starting with the case of Mrs. J. S. Underwood—a white woman from Cleveland who confessed to falsely accusing William Offett of rape—Wells cites a total of ten incidents reported by the white press that detail consensual affairs between white women and black men. She describes white women across class lines, from the "*demi-monde*" to the "*crème de la crème*," who dared to love black men.[66] Although a few of those women accused their lovers of rape to avoid disgrace, the very newspapers that loudly championed lynchings in other cases printed evidence of illicit, but willing, interracial sex. The final case that she cites bridges the narrative of her exile and the story of People's Grocery, reminding readers of the economic impact of Lynch Law: "Ebenzer Fowler, the wealthiest colored man in Issaquena County, Miss., was shot down on the

street in Mayersville, January 30, 1885, just before dark by an armed body of white men who filled his body with bullets."[67] According to the report of his death, he had exchanged notes with a white woman.

Establishing the fact of consensual sex between black men and white women helped Wells refute fashionable notions of racial primitivism by redrawing the black outlaw along contours traced by white lawlessness. The numerous lynching cases she cites in *Southern Horrors* and other pamphlets—involving accusations ranging from rape to sassiness—complicate depictions of the outlaw figure that grew popular after the Civil War and whose legacy we still live with in the form of romanticized images of the Wild West. Dime novels and pulp magazines of the late nineteenth century, as Richard Slotkin shows, formalized folklore by associating outlaws with the western frontier and opposing them to urban, law-enforcing detectives back east. "American frontiersmen have become outlaws," Slotkin explains, "because they had been reared in a culture that places personal honor, proud 'manhood,' and an intuitive code of 'justice' above the rationalism and restrictions of civilized law."[68] Writers such as Hubert Bancroft similarly associated Lynch Law with the untamed frontier and described those dispensing it as paragons of masculinity demonstrating "their honesty, good sense, and manliness."[69] Wells's record of cases, by contrast, shows that after abolition, Lynch Law "left the out-of-the-way places" to stalk "in broad daylight in large cities, the centers of civilization," with encouragement from prominent citizens and newspapers.[70] Whereas dime novels mythologized outlaws as folk heroes, ever courageous in resisting conventions of the modern world, the outlaws populating lynching districts more often acceded to normative legal orders. Despite prejudicial treatment, they hoped to achieve economic security and political equality.

Churchgoing, law-abiding, middle-class men—Thomas Moss, for example—made compelling counterexamples to slurs of racial inferiority such as the claim, published in the *Memphis Evening Scimitar* of June 4, 1892, that "the Negro's lack of manners" followed from "a bestial perversion of instinct."[71] The rhetoric of Lynch Law may have targeted "the Negro tough," as the same *Scimitar* article put it, but its application punished African Americans for turning the equality promised by law into a social practice, whether that practice manifested as some measure of economic success, self-defense, or sexual liberty. Thomas Moss and Ebenzer Fowler exemplify the shortcomings of racial uplift, a theory of social progress that emphasized material and moral improvement over political action.[72] As Wells explains, "Thoughtful Afro-Americans with the strong arm of the government withdrawn and with the hope to stop such wholesale massacres urged the race to sacrifice its political rights for sake of

peace. They honestly believed the race should fit itself for government, and when that should be done, the objection to race participation in politics would be removed."[73] The problem, however, came down to a failure of political representation, not a failure of morals. Wells's theory of Lynch Law as motivated by economic interests, rather than the emergency of rampant crime, explains why eschewing politics in favor of economic development left African Americans at the "mercies of the solid South."[74] The South did not need Lynch Law to punish illegal behavior so much as to halt a shifting social order personified by enterprising black business owners who, far from snubbing the normative order, prospered under the rules of fair competition. As Wells's exile narrative makes plain, fair competition fell victim to Lynch Law just as individuals did because normative law failed to protect African Americans and their business interests.

The disjuncture between the supposed sexual motivation for Lynch Law and its manifest effects clarifies why Wells theorizes the black outlaw as the product, rather than agent, of outlawry. Her writing shows how mob violence enacted antinormative claims to popular sovereignty that, de facto, defined African Americans as noncitizens subject to punishment by law without any guarantee of legal protection. Rather than turn away from Wells's treatment of sexual norms, however, the attempt to explicate a racialized subject in dual relation to law pertains to, and will hopefully illuminate, her treatment of sex across the color line. As the numerous examples in *Southern Horrors* establish, consensual sex did in fact occur between black men and white women, although those relationships usually remained clandestine to protect the male party from violence. Wells makes clear that Lynch Law operates as an extension of the miscegenation laws of the South, which "only operate against the legitimate union of the races."[75] Miscegenation laws, predating and outliving Jim Crow laws, ensured that any white woman involved in an interracial relationship placed herself, as Wells writes, "at once beyond the pale of society and within the clutches of the law."[76] Her phrasing alerts readers to the complex, yet distinct, structure of law at the nexus between sex and race. Like the black outlaws produced by Lynch Law, miscegenation laws stripped white women of whatever social status their whiteness granted. Subject to normative law, however, white women did not expose their lives to lethal violence as did their black lovers, who found themselves subject to both miscegenation law and Lynch Law.

Miscegenation laws factored into Wells's critique of Lynch Law in part because they provided motivation for white women to cry rape if discovered in an illegal tryst. They also provide an important example of how asymmetrical applications of law linked cultural norms to antinormative legal practices. The concern for racial and moral purity professed in calls to protect white women's

virtue did not extend to the treatment of black women. Wells's research shows that miscegenation laws left "the white man free to seduce all the colored girls he can," such as in the case of Ellerton L. Dorr, a cotton merchant who escaped indictment for attempted rape of an African American woman because he was drunk at the time of the crime.[77] At a historical moment when leading anthropologists espoused the scientific theory that racial mixing "entails indelible degradation" of biological and moral qualities, Wells pointed to a long history of legalized rape under slavery.[78] Throwing white anxieties over interracial sex into ironic relief, she submits "the record, as it is written in the faces of the million mulattoes in the South," as self-evident proof of fornication and rape.[79]

Elsewhere Wells explains that her own family history contributed to "the record" of interracial sex.[80] Her father was the son of his master, linking her memories of early family life to sexual violence sanctioned under the system of chattel slavery into which she was born. Reminding readers that slave owners exploited biological reproduction as a method for increasing property, Wells drew a common thread through the different forms of sexual oppression under slavery, Lynch Law, and miscegenation laws. Each operated under assumptions of racial alterity to employ sex as a mechanism in the political machinery aimed at apprehending and controlling black life. The deadly racial politics that emerged in the wake of Reconstruction's curtailment led Wells to place the charge of outlawry and sexual transgression at the feet of the white business class. The representative men clambering to the apex of moral authority and civility, she argued, constituted the primary threat to sexual purity and legal order.

"Life Itself"

By mid-twentieth century, the work that Wells's antilynching pamphlets initiated had taken hold well enough that public sentiment had turned against lynching and, as one congressional publication explained, driven it "underground."[81] Largely because of Wells's campaign to educate British cotton investors, Lynch Law became a political embarrassment and an economic liability. After Reconstruction's collapse and before Jim Crow's rise, however, the complementary yet contentious coupling of criminal law and Lynch Law positioned black life at the crux of power struggles between local, state, and federal interests. At the beginning of the period, like many people heartened by the civil rights acts passed during Reconstruction, Wells believed progressive legal measures would protect African Americans from the social and cultural legacy of slavery. Not long after Reconstruction ended, she wrote in her per-

sonal journal, "I have firmly believed all along that the law was on our side and would, when we appealed to it, give us justice."[82] Consistent disappointment with legal procedures at state and local levels throughout the late 1880s, however, damaged her optimism. As a witness to the rising tide of deadly violence under Lynch Law, Wells recognized the need to "agitate and act" beyond legal appeals to prevent the white-dominated political order from "encroaching more and more upon our rights—nay upon life itself."[83]

In the above formulation, civil and political rights give way to the more pressing question of how to secure the right to life. Maximized for rhetorical effect, Wells's emphasis on "life itself" communicates an awareness of what Agamben has more recently categorized as bare life. Not merely biological, bare life designates the political condition of a subject stripped of civil rights who retains only the capacity to be killed. The familiar figure of the outlaw plays a role in Wells's antilynching pamphlets that captures Agamben's sense of bare life, yet, despite her vulnerability, Wells never assumed a position of powerlessness. Writing as an outlaw about the production of outlaws, she provides a historical case that complicates the polarized positions of absolute power and absolute vulnerability outlined in Agamben's schema. Recognizing that the juridical order would not protect African Americans in a cultural climate governed by racist anxieties over "Negro domination" and "racial purity," Wells dedicated significant attention to the importance of planned resistance in the public sphere or, as she titles the final chapter of *Southern Horrors*, "Self-Help." Despite every disadvantage conferred by their outlaw status, she encourages African Americans to "employ the boycott, emigration and the press" to combat Lynch Law.[84] The three-pronged antilynching program highlights important aspects of her own experience with and against Lynch Law, confirming that her pamphlets perform the work they endorse by sounding off her defiant vulnerability.

The seeming paradox of Wells's defiance and avowed defenselessness has caused some critics to suspect that aspects of her antilynching pamphlets entertain conservative ideas for reform. That line of thinking reads her demand for "punishment by law for the lawless" as tacit acceptance of the thoroughly corrupt juridical order that steps aside to let Lynch Law rule in its stead.[85] While many of her contemporaries—the liberal Ray Stannard Baker and the conservative Hubert Howe Bancroft—similarly read Lynch Law as an exception to the rule of normative law, Wells falls outside that easy left-to-right political spectrum. Lynch Law, she argues, does not constitute an enactment of popular sovereignty, as its apologists claim. Rather, Wells takes the stronger position that Lynch Law operates simultaneously and in tandem with state and

municipal law in a violent attempt "to correct the mistake of general government."[86] In Wells's reading, the threat of Lynch Law extended beyond local or regional politics because its claim to popular sovereignty undermined the constitutional promise of citizenship, most notably the Fourteenth Amendment's assurance that no state shall deprive any person of life, property, or the equal protections of the law. Appealing to the "American people to demand justice," as she does in *Southern Horrors*, Wells makes explicit that Lynch Law subverts the legitimacy of constitutional governance among the United States.[87] Federal legislators never answered the call to guarantee the Constitution's democratization of citizenship, effectively reneging on the promise of abolition. Wells, however, answered the threat to African American life by recommending that "a Winchester rifle should have a place of honor in every black home, and it should be used for that protection which the law refuses to give."[88] To infer from her theorization of Lynch Law and her call to arms, Wells regarded mob violence not as a form of corrective popular government but as an instantiation of civil war.[89]

Notes

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1. *Atlanta Constitution*, April 14, 1899.
2. Quoted in Ida B. Wells, *Lynch Law in Georgia* (Chicago: Chicago Colored Citizens, 1899), 7–8, archive.org.
3. For a fuller account of the Sam Hose lynching, see Philip Dray, *At the Hands of Persons Unknown: The Lynching of Black America* (New York: Random House, 2002), 3–16.
4. Ibid., 5.
5. Ibid.
6. Quoted in Wells, *Lynch Law in Georgia*, 9.
7. Various estimates exist for the number of people lynched in the United States during the nineteenth and twentieth centuries. Here I rely on Tuskegee Institute's records as cited by Dray, *At the Hands of Persons Unknown*, viii.
8. Wells, *Lynch Law in Georgia*, n.p.
9. Ibid., 7.
10. Ibid., 8.
11. Angela Y. Davis, *Women, Class, and Race* (New York: Vintage Books, 1983), 172–201. Trudier Harris nicely sums up the intersection of gender and race when she writes that white men used lynching as one of many "indications of his ultimate superiority not only in assigning a place to his women, but especially in keeping black people, particularly black men, in the place he had assigned for them." See Harris, *Exorcising Blackness: Historical and Literary Lynching and Burning Rituals* (Bloomington: Indiana University Press, 1984), 20.
12. Ida B. Wells, *On Lynchings* (Amherst, NY: Humanity Books, 2002), 64.

13. The concept of outlawry features in various premodern legal traditions. *Black's Law Dictionary* defines the old English punishment, *Utlagatus est quasi extra legem positus. Caput gerit lupinum*: "An outlaw is, as it were, put out of the protection of the law. He bears the head of a wolf" (Henry Campbell Black, Joseph R. Nolan, and Jacqueline M. Nolan-Haley, *Black's Law Dictionary*, 6th ed. [St. Paul, MN: West Publishing, 1990], 1546).
14. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller Roazen (Stanford, CA: Stanford University Press, 1998), 83.
15. Rayford Logan, *The Negro in American Life and Thought: The Nadir, 1877–1901* (New York: Dial, 1954).
16. For examples of what I refer to as the northern liberal position, see Ray Stannard Baker, *Following the Color Line: American Negro Citizenship in the Progressive Era* (New York: Doubleday, 1908); and Jane Addams, "Respect for Law," in *Lynching and Rape: An Exchange of Views*, ed. Bettina Aptheker (New York: American Institute for Marxist Studies, 1977), 25–29. I return to Baker below. For a detailed account of congressional debates on lynching, see Dray, *At the Hands of Persons Unknown*.
17. Quoted in Robyn Wiegman, "The Anatomy of Lynching," *Journal of the History of Sexuality* 3.3 (1993): 445.
18. Ibid.
19. James Harmon Chadbourn, *Lynching and the Law* (Chapel Hill: University of North Carolina Press, 1933), 23.
20. Wells, *On Lynchings*, 26.
21. Ibid., 37.
22. Nasser Hussain and Melissa Ptacek, "Thresholds: Sovereignty and the Sacred," *Law and Society Review* 34.2 (2000): 498.
23. U.S. Constitution, art. 3, sec. 2, para. 3.
24. Massachusetts Constitution, sec. 1, art. 30.
25. Christian G. Fritz, *American Sovereigns: The People and America's Constitutional Tradition before the Civil War* (New York: Cambridge University Press, 2008), 1.
26. Ibid.
27. Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Cambridge, MA: MIT Press, 1985), 5.
28. Agamben, *Homo Sacer*, 28.
29. Quoted in Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York: Palgrave Macmillan, 2002), 17. For more on Charles Lynch's wartime activities, see Louise Phelps Kellogg, *Frontier Retreat on the Upper Ohio, 1779–1781* (Madison: State Historical Society of Wisconsin, 1917).
30. Hubert H. Bancroft, *Popular Tribunals*, vol. 1 (San Francisco: History Company, 1887), vii.
31. Ibid.
32. Ibid., 21.
33. Ibid., 6.
34. Ibid., 9.
35. Ibid., 8.
36. Manfred Berg, *Popular Justice: A History of Lynching in America* (Chicago: Ivan R. Dee, 2011), 67.
37. Bancroft, *Popular Tribunals*, 7.
38. See Dray, *At the Hands of Persons Unknown*, 17–21.
39. According to the Tuskegee records, the majority of the African Americans lynched between 1892 and 1944 died in the South, but the statistics attest to the fact that lynchings occurred throughout the United States.
40. Baker, *Following the Color Line*, 205. Despite his liberal leanings, Baker expressed deeply racist attitudes in the form of paternalistic remarks about the need for white people to treat African Americans as a father treats a "wayward son": "If the white man sets an example of non-obedience to law, of non-enforcement of law, and of unequal justice, what can be expected of the Negro?" (215). Apparently bedazzled by the patriarch's authority, he reports earlier in his musings that Lynch Law tends to fail when "some strong man stands out, assumes responsibility, and becomes a momentary despot" to subdue the mob (185).
41. Ibid., 183.

42. Chadbourn presents data suggesting that Baker's argument for a more efficient legal system may have been empirically flawed. See especially the first chapter of *Lynching and the Law*, "Lynching and the Administration of Criminal Justice."
43. Richard Wright expressed this idea with the brutal axiom, "The law is white." See Wright, *Twelve Million Black Voices* (1941; repr., New York: Basic Books, 2002), 43.
44. The lack of attention to Wells as authorial subject is due partly to the consistent attention that critics have given to her subject position as a speaker and rhetorician. Focusing on her rhetoric, several critics have clarified how Wells, as a black woman, negotiated the cultural norms associated with late Victorianism and nineteenth-century racism. See Shirley W. Logan, "Ida B. Wells, 'Lynch Law in All Its Phases' (13 February 1893)," *Voices of Democracy* 2 (2007): 50–65; Teresa Zackodnik, "Ida B. Wells and 'American Atrocities' in Britain," *Women Studies International Forum* 28.4 (2005): 259–73; Jacqueline Jones Royster, "To Call a Thing by Its True Name: The Rhetoric of Ida B. Wells," in *Reclaiming Rhetorica: Women in the Rhetorical Tradition*, ed. Andrea Lunsford (Pittsburgh: University of Pittsburgh Press, 1995), 167–84; and Gail Bederman, "'Civilization,' the Decline of Middle-Class Manliness, and Ida B. Wells's Antilynching Campaign (1892–94)," *Radical History Review* 52 (Winter 1992): 5–30. For another notable example, see Gary Totten, "Embodying Segregation: Ida B. Wells and the Cultural Work of Travel," *African American Review* 42.1 (2008): 47–60. Totten endeavors to theorize her position as "an exotic Other" within a segregated field of racial difference during her transatlantic travels. While acknowledging transatlantic racism, however, Totten ignores the violent origins of her travels as an exiled journalist and idealizes her "mobile black body" as "corporeal proof of the potentially empowering aspects of physical and cultural mobility" (47).
45. Wells, *On Lynchings*, 44.
46. Ibid., 45.
47. Ibid. Wells recounts the lynching at the Curve in *Southern Horrors*. I rely on her autobiography and a *New York Times* article for additional details. Most of the details remain consistent across texts. However, the number of men arrested for conspiracy differs among the various accounts. *New York Times* indicates twenty-seven, although their narrative, borrowing from Memphis's *Commercial Appeal*, is told from an eye-witness perspective in collusion with the lynchers. Wells puts the number at thirty-one in *Southern Horrors*, but her autobiography counts it near one hundred. I repeat the more conservative tallies because of their proximity to the event in question. For more information, see Ida B. Wells, *Crusade for Justice*, ed. Alfreda M. Duster (Chicago: University of Chicago Press, 1970); and "Negroes Lynched by a Mob: Three Shot Dead at Memphis, Tenn," *New York Times*, March 10, 1892.
48. Wells, *Crusade for Justice*, 52.
49. Ibid., 64.
50. For an analysis of Wells's critique of lynching as terrorism, see Jeffory A. Clymer, *America's Culture of Terrorism: Violence, Capitalism, and the Written Word* (Chapel Hill: University of North Carolina Press, 2003).
51. Wells, *On Lynchings*, 30.
52. Paula J. Giddings, *Ida: A Sword among Lions* (New York: Amistad, 2008), 214.
53. Wells, *On Lynchings*, 30.
54. Ibid.
55. Ibid., 29.
56. Wiegman, "Anatomy of Lynching," 450. In making this point, Wiegman rehearses Trudier Harris's classic reading of castration in *Exorcising Blackness* (see esp. chap. 2, "Fear of Castration"). I reference Wiegman in particular because she extends Harris's argument about literary representation into the realm of political representation, usefully connecting the issue of castration to questions of the law.
57. David Marriott, *On Black Men* (New York: Columbia University Press, 2000), 9.
58. Notably, in 1887 Wells lost a lawsuit against the Chesapeake & Ohio Railroad Company. The judge presiding over the appellate court wrote that her intent "was to harass with view to this suit," disqualifying her legal right to challenge discrimination. For details, see Wells, *Crusade for Justice*, 18–20.
59. Wells, *Crusade for Justice*, 64.
60. Wells, *On Lynchings*, 60.
61. Ibid., 25.
62. Ibid.

63. Jacqueline Goldsby, *A Spectacular Secret: Lynching in American Life and Literature* (Chicago: University of Chicago Press, 2006), 73–74.
64. Wells, *On Lynchings*, 92.
65. Ibid., 25.
66. Ibid., 33–36.
67. Ibid., 36.
68. Richard Slotkin, *Gunfighter Nation: The Myth of the Frontier in Twentieth-Century America* (Norman: University of Oklahoma Press, 1992), 147.
69. Bancroft, *Popular Tribunals*, 385.
70. Wells, *On Lynchings*, 41.
71. Ibid., 43.
72. See Kevin K. Gaines, *Uplifting the Race: Black Leadership, Politics, and Culture in the Twentieth Century* (Chapel Hill: University of North Carolina Press, 1996).
73. Wells, *On Lynchings*, 39.
74. Ibid.
75. Ibid., 31.
76. Ibid.
77. Ibid.
78. Daniel Garrison Brinton, *Races and Peoples: Lectures on the Science of Ethnography* (New York: N.D.C. Hodges, 1890), 287. Brinton was a respected professor of linguistics and archaeology at the University of Pennsylvania between 1886 and 1899. For more on the history of scientific racism and racial mixing as a moral crisis, see Siobhan B. Somerville, *Queering the Color Line: Race and the Invention of Homosexuality in American Culture* (Durham, NC: Duke University Press, 1999); Ladelle McWhorter, *Racism and Sexual Oppression in Anglo-America: A Genealogy* (Bloomington: Indiana University Press, 2009); and Dray, *At the Hands of Persons Unknown*.
79. Wells, *On Lynchings*, 62.
80. Wells, *Crusade for Justice*, 8.
81. A brief, anonymously authored pamphlet published in 1940 with sponsorship from Senators Robert F. Wagner and Arthur Capper expresses the view that lynching did not decline so much as "happen quietly and without general knowledge" (1). See "Lynching Goes Underground: A Report on a New Technique," January 1940, nuweb9.neu.edu/civilrights/. The process of driving Lynch Law underground involved normative law recognizing racial violence as a particular and punishable crime. Of equal importance for stifling mob violence, however, was the increase in state-sponsored executions for crimes, such as rape, that previously had not been considered a capital offense. For more on the relationship between capital punishment and Lynch Law, see Michael Pfiefer, *Rough Justice: Lynching and American Society, 1874–1947* (Urbana: University of Illinois Press, 2004).
82. Ida B. Wells, *The Memphis Diary of Ida B. Wells: An Intimate Portrait of the Activist as a Young Woman*, ed. Miriam DeCosta-Willis (Boston: Beacon, 1995), 141.
83. Quoted in Giddings, *Ida*, 160.
84. Wells, *On Lynchings*, 54.
85. For a thoughtful foray into this debate, see Simone W. Davis, "The 'Weak Race' and the Winchester: Political Voices in the Pamphlets of Ida B. Wells Barnett," *Legacy: A Journal of American Women Writers* 12.2 (1995): 77–97.
86. Wells, *On Lynchings*, 39.
87. Ibid., 26.
88. Ibid., 52.
89. Bryan Wagner notices a similar implication in Wells's later pamphlet, *Mob Rule in New Orleans*. See Wagner, *Disturbing the Peace: Black Culture and Police Culture after Slavery* (Cambridge, MA: Harvard University Press, 2009), 49.