

JIM CROW, SOCIAL NORMS, AND THE BIRTH OF *UNCLE TOM*^Φ

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INTRODUCTION

Speaking to the Bethel Literary and Historical Association in New York in March of 1883, Walter G. Christopher advocated “prudent and conservative action” in combating the status quo.¹ It was unwise for blacks to agitate, not when the race was so severely outnumbered, he believed.² Christopher, however, was loathe “to revive the ‘Uncle Tom’ type of manhood; I despise that as heartily as any one.”³ This is among the first usages of *Uncle Tom* as an epithet.

In 1887, the *Wichita Globe*, a black Kansas newspaper, was exacerbated that some “colored boys or men” were given extra-legal horse-whippings for disorderly conduct.⁴ The *Globe* thought the gentlemen

Φ See BRANDO SIMEO STARKEY, *UNCLE TOM& SOCIAL NORMS: IMPROVING LEGAL INTERESTS AND AFFECTING PUBLIC POLICY* (forthcoming) [hereinafter STARKEY, *UNCLE TOM*], the book from which this paper is drawn. See HARRIET BEECHER STOWE, *UNCLE TOM’S CABIN* (1852), the novel from which the epithet was adapted. *Uncle Tom* has turned into the most pernicious epithet used in the black community. See Brando Simeo Starkey, *Uncle Tom and Clarence Thomas: Is the Abuse Defensible?*, 4 GEO. J.L. & MOD. CRIT. RACE PERSP. 101 (2012) (arguing that *Uncle Tom* should not be abandoned or discarded).

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1. Walter G. Christopher, *The Educational Problem. The False and the True*, N.Y. *GLOBE*, Mar. 31, 1883, at 1.

2. *Id.*

3. *Id.*

4. Editorial, *We Wish This Was 40 Year Back*, *WICHITA GLOBE*, July 30, 1887, at 1.

should have been punished according to law and not simply beaten.⁵ The Democratic newspaper the *Beacon*, however, delighted in the brutality.⁶ Democratic publications, the *Globe* contended, “blame all negroes for what one does and think all negroes are barbarous.”⁷ The *Globe* employed *Uncle Tom* to convey that blacks were no longer obedient chattel, but citizens with the same legal rights whites enjoyed.⁸ “The Beacon,” the *Globe* replied, “should remember the days of Uncle Tom . . . are a thing of the past. That will take very well in [places] where they have one law for the white and one for the black.”⁹

Uncle Tom was next presented as the butt of an artist’s quip. In 1890, the *Freeman*, a black Indianapolis newspaper, featured a cartoon with two speaking characters, Uncle Tom and his white boss.¹⁰ The name Uncle Tom was almost certainly selected because the newspaper associated it with obsequiousness. In the cartoon, Uncle Tom tells his boss that he captured three “coons” and Uncle Tom asks him if he would like to purchase them.¹¹ With there only being two dead raccoons on the ground, the white boss, dressed with a top hat, a long coat and a cane—clearly of a higher class—says that he only notices two coons.¹² Uncle Tom responds that there are indeed three, “two coons with the ring tail” and then “the big-eyed [coon],” the black man in tattered clothing standing in the background.¹³

In 1892, the black newspaper the *Plain Dealer* published an article discussing how the American Negro had been misunderstood.¹⁴ The newspaper claimed that many assumed that blacks were either a “dear, faithful Uncle Tom” or a “big, black, burly ruffian.”¹⁵ Because of this, the word Negro had negative connotations.¹⁶ The newspaper implored blacks to debunk that misperception so that the name Negro became “glorious.”¹⁷

Uncle Tom reappeared a year later. Here, *Uncle Tom* is clothed in more abrasive garb. In 1893, the *Freeman* censured blacks for their lack of political influence.¹⁸ “The trouble with the Negro,” the newspaper in-

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Three of a Kind*, FREEMAN (Indianapolis), Aug. 16, 1890, at 4.

11. *Id.*

12. *Id.*

13. *Id.*

14. *Plutarch’s Topics. The World Neither Views the Negro Fairly Nor Correctly Values His Character. Let Us Redeem Our Name From the Ignominy That Rests Upon It.*, PLAIN DEALER (Detroit), Jan. 1, 1892, at 1.

15. *Id.*

16. *Id.*

17. *Id.*

18. “Humble Niggers” in *Politics*, FREEMAN (Indianapolis), Nov. 11, 1893, at 4.

veighed, “has been, and is to-day, he’s got too much ‘Uncle Tom,’ good ‘humble darkey’ stock in his ranks, and not enough of the Nat Turner blood.”¹⁹ In the same editorial, *The Freeman* assailed a prominent black businessman who declined to pursue elected office because he feared it might jeopardize the Republicans’ chances.²⁰ He apparently thought his presence might alienate white voters. For “forgetting his manhood . . . to please a handful of white nimcompoops,” he was derided as an “Uncle Tom.”²¹

In 1895, in Birmingham, Alabama, two white men lingered outside of a black family’s home speaking vulgarly.²² Annoyed, the male head of the household politely asked them to either move or cease using obscenities because of his family inside. Instead of complying, one of the men shot him through his heart.²³ *The Freeman* thought it was particularly wicked that the “assassins” responded with violence to such a “gentlemanly” request, though the newspaper’s editors found the request from an obsequious black man relatively bold.²⁴ “It was a stinging rebuke coming from the down-trodden and degraded Negro worthy of Mrs. Stowe’s Uncle Tom. Yet how dear! How costly it was!”²⁵

Even a cursory examination of these first narratives establishes that *Uncle Tom’s Cabin* plays and minstrels directed black perceptions of Uncle Tom. The commonality in all of these usages is servility, the salient characteristic of the theatrical Uncle Tom. The notion of duplicity, however, had not caught on. *Uncle Tom* was immature. At this point, it was more of a flavorful phrase that spiced up a passage rather than a refined pejorative, even though it was already laced with negativity.

Equally important is that *Uncle Tom* was not yet used as a pejorative against a person. No one, that is, was called an *Uncle Tom*. In 1897, for instance, the *Cleveland Gazette*, another black newspaper, denounced William Hooper Council, president of the Colored Normal School at Huntsville, a black college.²⁶ The *Gazette* estimated that Council placated to white racism, seemingly blaming all crime against white women on black males.²⁷ “Really it is heart-rending,” the newspaper sighed, “to note to what depths certain of our so-called leading and educated men will descend to gain popular applause and favor.”²⁸ While those were tough words, the newspaper did not brand Council as an *Uncle Tom*. Historians

19. *Id.*

20. *Id.*

21. *Id.*

22. *Stained with Negro Blood*, FREEMAN (Indianapolis), Sept. 14, 1895, at 4.

23. *Id.*

24. *Id.*

25. *Id.*

26. *Prof. W. H. Council*, CLEV. GAZETTE, Sept. 11, 1897, at 2.

27. *Id.*

28. *Id.*

have documented that Councilll overtly placated to Southern Democrats to acquire funds for his school.²⁹ In 1886, Councilll sued a railroad over mistreatment of black passengers and quickly made enemies.³⁰ Councilll did an about-face and, in the words of Booker T. Washington, acquired “the reputation of simply toadying to the Southern white people.”³¹ Forty years later, *Uncle Tom* would have been tossed so freely Councilll would have thought it was his name. The epithet simply was in its infancy.

Uncle Tom also appeared on the pages of the October 5, 1900 edition of the *Washington Post*, marking the first instance that *Uncle Tom* was recorded by a white periodical.³² The speaker was Bishop James Milton Turner. Like the other early uses, his stopped short of calling a specific person an *Uncle Tom*. Rather, Turner employed the epithet to derogate a segment of black America. An ex-slave and “forgotten benefactor” for his race, Turner was Minister Resident and Consul General in Liberia under President Ulysses S. Grant, making him the nation’s first black diplomat.³³ He later represented freedmen in claims against several southwestern Indian tribes.³⁴ The *Post* quoted Turner proudly announcing that “boys [by the] hundreds and thousands [are in] the public school system of our country, and unlike Uncle Tom . . . they are doing their own thinking.”³⁵

Uncle Tom can be seen ten years later in the *Chicago Defender*, one of the most influential black weekly newspapers.³⁶ In the 1910 article, the *Defender* discussed a 4th of July parade that forced blacks to march tenth in line.³⁷ The newspaper was outraged that blacks, who the newspaper argued stood up first to fight in every war, were relegated to the tenth position.³⁸ Favoring a boycott, any black participant, the *Defender* printed, was a member of “Uncle Tom’s class . . . who by their lack of education . . . cannot rise beyond the scope of an errand boy.”³⁹

Prominent blacks, like black newspapers, were crucial in rearing *Uncle Tom* into the most intimidating epithet that blacks may encounter. In 1919, for example, Marcus Garvey employed *Uncle Tom* to distinguish the intrepid from the timid.⁴⁰ “From 1914 to 1918,” he said, “two million

29. See AUGUST MEIER, *NEGRO THOUGHT IN AMERICA, 1880 – 1915: RADICAL IDEOLOGIES IN THE AGE OF BOOKER T. WASHINGTON* 110, 209-10 (3d ed. 1969).

30. ROBERT J. NORRELL, *UP FROM HISTORY: THE LIFE OF BOOKER T. WASHINGTON* 88 (2009).

31. MEIER, *supra* note 29, at 110.

32. *Fort Near Every City*, WASH. POST, Oct. 5, 1900, at 1.

33. Irving Dilliard, *James Milton Turner: A Little Known Benefactor of His People*, 19 J. NEGRO HIST. 372, 372 (1934).

34. *Id.* at 406.

35. *Fort Near Every City*, *supra* note 32, at 1.

36. CHRISTOPHER METRESS, *THE LYNCHING OF EMMETT TILL: A DOCUMENTARY NARRATIVE* 25 (2002).

37. *The Negro in the Tenth Place*, CHI. DEFENDER, July 2, 1910, at 1.

38. *Id.*

39. *Id.*

40. See THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS,

Negroes fought in Europe for a thing foreign to themselves—Democracy. Now they must fight for themselves. The time for cowardice is past. The old-time Negro has gone—buried with [‘]Uncle Tom.’”⁴¹ Here, Garvey referenced black participation in World War I, namely that if blacks fought for their country abroad they could fight for their race at home.

Finding sheepishness detrimental to black advancement, a year later, Rev. George Alexander McGuire, at an address to Marcus Garvey’s United Negro Improvement Association’s [UNIA] first convention, declared that “the Uncle Tom nigger has got to go and his place must be taken by the new leader of the Negro race . . . , not a black man with a white heart, but a black man with a black heart.”⁴² McGuire was not the only person that day to employ *Uncle Tom*. Protesters held signs announcing that “Uncle Tom’s [d]ead and [b]uried.”⁴³

In 1922, Marcus Garvey again used *Uncle Tom*. “Once upon a time we were typified as the Uncle Tom Negro . . . , but today through the work of the Universal Negro Improvement Association, everybody feels . . . that a new opinion must be formed of the new Negro.”⁴⁴ The implication being that the “new Negro” rejects his subordinate position; an *Uncle Tom* acquiesces to it.

By the 1920s, in addition to connoting servility, *Uncle Tom* began to encompass racial treachery. In 1923, a small cadre of black professionals, cynical about the legality of Garvey’s UNIA operations, sent a letter to U.S. Attorney General Harry Daugherty which voicing their concern.⁴⁵ Once Garvey got word, the UNIA printed an advertisement in *Negro World* stating that “EIGHT ‘UNCLE TOM’ NEGROES” betrayed Marcus Garvey.⁴⁶ A year later, *Uncle Tom* was similarly directed again at someone guilty of “telling on” blacks.⁴⁷ George Schuyler, a popular black public intellectual in the early twentieth century, was wrongfully jailed in Vicksburg, Mississippi, because, according to the *Plain Dealer*, an “‘Uncle Tom’ Negro” gave him up.⁴⁸

Other black elites used *Uncle Tom* as well. During Dr. Thomas Elsa Jones’s inauguration as the fifth president of Fisk University in 1926, he

VOLUME I 1826 – AUGUST 1919 376 (Robert A. Hill ed., 1983).

41. *Id.*

42. AMY JACQUES GARVEY, GARVEY AND GARVEYISM 46 (1st ed. 1976). *See also* *Uncle Tom’s Cabin* and American Culture, “*Uncle Tom*” in the 20th Century, [http:// utc.iath.virginia.edu/ african/afin20c.html](http://utc.iath.virginia.edu/african/afin20c.html).

43. THEODORE G. VINCENT, BLACK POWER AND THE GARVEY MOVEMENT 114 (1972).

44. THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS, VOLUME IV I SEPTEMBER 1921 – 2 SEPTEMBER 1922 653 (Robert A. Hill ed., 1985).

45. *See* AMY JACQUES GARVEY, PHILOSOPHY AND OPINIONS OF MARCUS GARVEY OR AFRICA FOR THE AFRICANS 294-300 (1967).

46. THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS, VOLUME V SEPTEMBER 1922 – AUGUST 1924 257 (Robert A. Hill ed., 1986).

47. *Geo. Schuyler Held as Holdup Suspect Says Miss. Mayor*, PLAINDEALER, Feb. 3, 1923, at 2.

48. *Id.*

reminded blacks to “not close our eyes to the fact that the simple-minded, ambitionless ‘Uncle Tom’ type of negro is passing and in his stead is arising an American citizen who owns his own home, operates his business and provides for his own.”⁴⁹ Jones used *Uncle Tom* as a contradistinction from the blacks who were becoming literate, using that literacy to start businesses, and using their businesses to create wealth.⁵⁰

Twenty years into the twentieth century, *Uncle Tom* was finally engrained in black vernacular describing the submissive and duplicitous. *Uncle Tom* was fully baked. In 1922, a gentleman from Buffalo, for instance, praised a new class of black leaders who “absolutely refuse to play the part of an ‘Uncle Tom.’”⁵¹ In 1923, South Carolina Governor Thomas Gordon McLeod wrote that southern whites greatly respected the “Colored man,” which the *Defender* translated as the “‘Uncle Tom’ type.”⁵² In 1925, likewise, W. P. Bayless wrote that the easiest way for blacks to thrive in America was to adopt the “me-too-boss,” “Uncle Tom,” “you white folks is God’s chosen” worldview.⁵³ Or, take the words of a New Yorker who, disheartened that the price for dissenting was the *Uncle Tom* label, wrote to the *Defender* in 1934: “As the Race is becoming educated and useful not only is the friction between the races increasing,” he wrote, “but that within the Race is increasing to such an extent that if one dares to disagree with another he is either blackguarded or classed as an Uncle Tom.” *Uncle Tom* had reached the saturation point.⁵⁴

These early uses helped raise this prodigious cultural artifact. From a novel’s titular hero into the most opprobrious epithet blacks can hurl at one another—this is the life of Uncle Tom. The first Africans were brought to this land in 1619. Although not originally slaves, as decades passed, colonies began enacting laws granting property rights in people. In 1865, after the Civil War, America finally ended the long horror of slavery with the Thirteenth Amendment. Reconstruction followed the War. Although fraught with problems, this era featured unimaginable gains for freedmen. One day property, the next they helped draft former slave states’ constitutions. But after Reconstruction, the white supremacy system that had maintained slavery then reformulated in order to terrorize blacks and strip them of as many rights as possible. Blacks were lynched, segregated, discriminated against, disfranchised, and forced into peonage.

In a climate marked by legal, political, and social marginalization, blacks managed social norms that helped police racial fidelity and forge group solidarity. *Uncle Tom* is more than an epithet that blacks have

49. Dr. Jones Inaugurated at Fisk University, N.Y. TIMES, Dec. 8, 1926, at 16.

50. See *id.*

51. Eugene W. Scott, *Editor’s Mail: The “Great Tribune,”* CHI. DEFENDER, Dec. 2, 1922, at 12.

52. *Make Light of Talks of Gov. McLeod,* CHI. DEFENDER, June 9, 1923, at 1.

53. W. P. Bayless, *Current Comment,* N.Y. AMSTERDAM NEWS, Oct. 7, 1925, at 11.

54. H. A. Clarke, *The Head and the Hand,* CHI. DEFENDER, May 12, 1934, at 14.

hurled at each other for some supposed act of racial betrayal. Indeed, *Uncle Tom* is a crucial part of the management of social norms—the rules that monitor behavior in groups that are enforced through sanction. A person is called an *Uncle Tom* for violating a “racial loyalty norm,” a social norm that proscribes blacks from committing acts of racial betrayal.

This Article examines these racial loyalty norms by tracing *Uncle Tom* in the context of racial segregation in a pre-1960s America. Policing racial loyalty because it helps build racial solidarity is crucial for subordinated races like blacks during the Jim Crow era. By marshalling support for certain objectives, racial solidarity provides blacks a passage toward legal and racial equality. Racial solidarity is not enough by itself. But, in tandem with other tools, racial solidarity can be incredibly valuable. The Montgomery Bus Boycott, the 1960s sit-in movements, and Project Confrontation in Birmingham in 1963 illustrate how racial solidarity, in combination with other tools, helps procure civil rights victories. If racial solidarity is one tool that helps blacks achieve legal goals, then social norms that encourage that solidarity are invaluable.

The management of “constructive” norms to police racial loyalty, by helping forge solidarity, can help blacks advance their legal interests. This is detectable by pursuing *Uncle Tom* throughout history. A person, in other words, is called an *Uncle Tom* when he or she violates a racial loyalty norm that actually exists or that someone wants to exist, signaling to the rest of the black community to conform or else be castigated. Indeed, the real force of *Uncle Tom* as a sanctioning mechanism is its potential for deterrence. Shadowing *Uncle Tom* through black history helps us to understand where and how these norms were constructed, disseminated, applied, and enforced. From there, we can assess the propriety of these norms.

These norms arrange into two camps: constructive and destructive. Constructive racial loyalty norms help foster racial solidarity by either penalizing individuals for consciously promoting the interests of the race’s adversaries, for inexcusable meekness in response to racism, or for lacking concern for black people. Destructive racial loyalty norms discipline blacks for behavior blacks should allow. Destructive norms hinder racial solidarity because they over-regulate behavior.⁵⁵

Parts I, II, and III of this Article focus on segregation in public accommodations, housing and education respectively. Each of these Parts further this Article’s thesis—that racial loyalty norm management in the context of segregation was constructive, with some exceptions, and advantageous for blacks in remedying their condition. “One precondition for

55. I delve far deeper into constructive and destructive norms in Brando Simeo Starkey, *You’re an Uncle Tom!: The Behavioral Regulation of Blacks on the Right Side of the Criminal Justice System*, __ BERKELEY J. AFR.-AM. L. & POL’Y __ (forthcoming).

eventually overthrowing white supremacy was empowering . . . blacks to overcome the norms of deference and subordination that many had internalized in self-defense.”⁵⁶ In the context of segregation, blacks were branded as *Uncle Toms* for impeding either the race’s ability to disrupt the legal administration of segregation or combat non-legal customs and actions that likewise relegated blacks to the periphery of American society.

Blacks managed racial loyalty norms to promote unity in mounting a sustained challenge to separate but equal. *Uncle Tom*, consequently, rose to cultural prominence in the first half of the twentieth century. The epithet, in fact, was hurled in the context of segregation more than any other prior to 1960. The reason is obvious. Blacks believed that the biggest impediment to equal citizenship was the Supreme Court’s upholding separate but equal in *Plessy v. Ferguson*.⁵⁷ As long segregation was practiced, blacks would never fully participate in American democracy. Jim Crow needed to be toppled by any means necessary. The black community, therefore, heavily monitored behavior that affected segregation. Any black person deemed guilty of violating racial loyalty norms in the context of racial apartheid was harshly disciplined, frequently with an embarrassing *Uncle Tom* denunciation.

I. *UNCLE TOMS* LOVE SEGREGATION IN PUBLIC ACCOMMODATIONS

With the goal of helping foster group unity to combat segregation in public places, blacks frequently used *Uncle Tom*. One of the first times that *Uncle Tom* was employed in the context of segregation in public places was in the *Chicago Defender* in 1922.⁵⁸ Then, two young black men were thrown out of the Colonial, a theatre in downtown Chicago, and arrested.⁵⁹ A judge subsequently released them, however, and criticized the theatre for ejecting them.⁶⁰ The two could have launched a retaliatory civil suit but opted not to. The *Defender* heavily criticized their choice.⁶¹ “The white man,” the newspaper declared, “has given them the law to fight with and they refuse the weapon. They would rather grovel than climb, yet some people speak of ‘Uncle Tom’ being dead. He’s not. He’s only younger.”⁶² The editors were outraged that with the ability to strike a blow against segregation, the two gentlemen decided to not swing. Such an act was deemed a betrayal.⁶³ Without knowing why they did not sue, it is im-

56. MICHAEL J. KLARMAN, UNFINISHED BUSINESS: RACIAL EQUALITY IN AMERICAN HISTORY 108 (2007).

57. 163 U.S. 537 (1896).

58. *Broken Spines*, CHI. DEFENDER, May 27, 1922, at 2.

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.*

63. *Id.*

possible to judge the propriety of using *Uncle Tom* in this situation. Empowering blacks to resist subjugation was important. Managing racial loyalty norms in this fashion was constructive if, that is, the two men elected against a lawsuit because they were too timid to assert their legal rights.

Staying in Chicago, in 1926, the African Methodist Episcopal Zion Church boycotted the International Sunday School convention because of a mandated segregated seating policy.⁶⁴ Blacks were either going to be seated only in the gallery or in a segregated section in the main floor.⁶⁵ A representative for the Birmingham organization organizing the event, D. M. Price, said, “We cannot break established rules to satisfy a few Negroes.”⁶⁶ The AME church decided that it would rather skip the event than listen to those who they believed to be Christian hypocrites.⁶⁷ The *Defender* heralded the decision.⁶⁸

When a black man by the name of J.M. Pepper disagreed, though, he was lambasted.⁶⁹ In a letter originally published in the *Birmingham News*, Pepper wrote, “We are too weak, too infirm, for lack of a better understanding. Let us then look up to the people who are strong enough to hold us up and have been doing it ever since we were brought to this country.”⁷⁰ In response, the *Defender* asserted that his thinking “makes Jim Crowism, lynchings, raping and concubinage possible.”⁷¹ The newspaper, that is, envisioned that if blacks refused their domination and fought white supremacy as a group, they could be victorious. Believing this, it is clear why Pepper was disdained. In arguing that blacks should accept segregation because whites were their superiors, Pepper violated the norm that prohibited inexcusable meekness and punishment was severe. “There is hope for our Race,” they concluded, “only when the tribe of Peppers . . . has vanished along with Uncle Toms.”⁷² *Uncle Toms*, in other words, impeded blacks’ ability to ameliorate their subjugation.

A few years later, in 1930, the Census Bureau in Washington D.C. segregated its cafeteria.⁷³ Black workers were forced to eat in a small separate room.⁷⁴ When the policy started, one black worker, discontent with being Jim Crowed, attempted to use the whites-only cafeteria but was re-

64. *Ministers Uphold Color Line at Church Congress*, CHI. DEFENDER, Mar. 13, 1926, at 1.

65. *Id.*

66. *Id.*

67. *Id.*

68. *See id.*

69. *See* J.M. Pepper, *Let’s Pity This One*, CHI. DEFENDER, Apr. 10, 1926, at A10; *Another Jackass Brays*, CHI. DEFENDER, Apr. 10, 1926, at A10.

70. Pepper, *supra* note 69, at A10.

71. *Another Jackass Brays*, *supra* note 69, at A10.

72. *Id.*

73. *See Clerks Boycott U.S. Jim Crow Cafeteria*, AFRO-AMERICAN, June 13, 1931, at 6E.

74. *Id.*

buffed.⁷⁵ He was told that his “place is on the other side, and you can’t do anything about it.”⁷⁶ All but a few black workers boycotted the segregated cafeteria to the *Afro-American*’s delight.⁷⁷ Because almost all of the black workers united, this “prevented many of the ‘Uncle Tom’ class from patronizing the government’s segregated cafeteria.”⁷⁸ Here the *Afro-American* strategically used a story where blacks opted for racial solidarity to teach the race how it was expected to comport. The *Afro-American* also injected *Uncle Tom* into their argument to let readers know that eschewing this norm came at a price.

In the South, many white eateries refused to serve blacks. Others, like lunch counters in Woolworth’s department stores, served blacks in segregated seating arrangements only.⁷⁹ Woolworth’s has garnered historical attention as being the setting for the 1960 sit-in demonstrations in Greensboro, North Carolina.⁸⁰ Before those demonstrations, though, blacks were sometimes pressured to simply refuse to patronize such places.⁸¹ When the *Plain Dealer* was alerted in November of 1935 to some blacks who ate at a local Woolworth’s in Kansas City, Kansas, the paper listed the names of blacks who played “Uncle Tom.”⁸² Having one’s name on an “Uncle Tom list” was assuredly embarrassing.⁸³ But the list’s existence underscores the point that *Uncle Tom* was not hurled just to deride, but to influence behavior. One can imagine sitting in one’s home, reading the newspaper, and seeing one’s name listed as an Uncle Tom for the entire community to see. If the price for eating at Woolworth’s was public humiliation, then few would dine there. Such maintenance of norms was effective in enlisting troops to battle racism.

By the mid-1930s *Uncle Tom* defined cowardice. Edwin B. Jourdain, though, was seen as the antithesis.⁸⁴ In 1935, his victory in a councilman’s race in Evanston, Illinois, was sold as a triumph over *Uncle Toms*.⁸⁵ Jourdain caused a stir after successfully pushing for the building of a recreation center in the black part of town.⁸⁶ He drew the ire of some

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. *See generally* KAREN PLUNKETT-POWELL, REMEMBERING WOOLWORTH’S: A NOSTALGIC HISTORY OF THE WORLD’S MOST FAMOUS FIVE-AND-DIME (2001).

80. *See generally* MILES WOLFF, HOW IT ALL BEGAN: THE GREENSBORO SIT-INS 11-12 (1971); JEFFREY A. TURNER, SITTING IN AND SPEAKING OUT: STUDENT MOVEMENTS IN THE AMERICAN SOUTH 1960 – 1970 45-49 (2010); Rebekah J. Kowal, *Staging the Greensboro Sit-Ins*, 48 TDR: THE DRAMA REVIEW 135 (2004).

81. *Lines O’ Type*, PLAIN DEALER, Nov. 15, 1935, at 5.

82. *Id.*

83. *Id.*

84. Morris Lewis, *Defender Helps Jourdain Win Back Council Seat*, CHI. DEFENDER, Apr. 6, 1935, at 1.

85. *See id.*

86. *Id.*

“Uncle Toms” because they felt he was “going too far because the other folks don’t want us to have a [center].”⁸⁷ In the councilman’s race, he bested two opponents: one white, one black. His black opponent, William H. Twiggs, “entered [the race] by interests described as ‘Uncle Tom.’”⁸⁸ Twiggs likely agreed to join the contest at the behest of whites seeking Jourdain’s defeat. Twiggs’s presence could have siphoned black votes from Jourdain, letting the white candidate sashay to victory. Indeed, an effective way to split the black vote was by using an “Uncle Tom” candidate.⁸⁹ That did not happen here because the black community united around Jourdain and Twiggs was deemed an *Uncle Tom* for aiding whites who were trying to limit blacks’ ability to sit at the table of power.⁹⁰

Although Twiggs seemingly allowed himself to be used by it, others actually activated the local white supremacist power structure for personal gain.⁹¹ In July of 1939, in Live Oak, Florida, the Klu Klux Klan went on a rampage, assaulting black residents frequenting a particular jook joint.⁹² The black victims deserved it for their “rowdiness near white churches” according to a local white newspaper.⁹³ The person who unleashed the KKK was a villain for the brutality frightened blacks into purchasing guns.⁹⁴ Oddly enough, a black man who ran a competing jook joint convinced his white boss to call the KKK so that all of the business would flow to his establishment.⁹⁵ That unnamed black man was assailed as an *Uncle Tom*.⁹⁶ With blacks like this, segregation would be hard to overcome.

One way to disseminate racial loyalty norms was to have an important black figure detail exactly how certain treacherous activities impaired the race’s ability to solidify around important legal goals. This was true with William H. Hastie. As the civilian aide to the Secretary of War, William H. Hastie worked from within the system to desegregate the Army.⁹⁷ Speaking to youth organizations in 1940, Hastie alleged that black segregation supporters hurt his effort to change public policy because whites could validate their racism by pointing to likeminded blacks.⁹⁸ From

87. *Id.*

88. *Jourdain Is Re-Elected to Council*, PITT. COURIER, Apr. 13, 1935, at 7.

89. John Jordan, *Rambling Rover*, N. J. & GUIDE, Nov. 3, 1945, at 7.

90. *Id.*

91. *Klansmen Stage Raid; Beat Negroes Found on Streets*, ATLANTA DAILY WORLD, July 26, 1939, at 1.

92. *Id.*

93. *Id.*

94. *Id.*

95. *Id.*

96. *Id.*

97. See PHILLIP MCGUIRE, *HE, TOO, SPOKE FOR DEMOCRACY: JUDGE HASTIE, WORLD WAR II, AND THE BLACK SOLDIER* xiv-xvi (1988).

98. See *Hastie Says Our ‘Uncle Toms’ Hinder Fight on Segregation in U.S. Army*, CHI. DEFENDER, Nov. 30, 1940.

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around the country, blacks appropriated Hastie's comment to castigate supposed "Uncle Toms."⁹⁹ The *Defender* hailed the remarks as proof "that the 'Uncle Toms' in our midst are compromising our interest and injuring our cause."¹⁰⁰ The *Pittsburgh Courier* echoed Hastie's argument, holding that "'Uncle Tom Negroes'. . . must stop asking for more segregation."¹⁰¹ Hastie provided black newspapers with the perfect argument to engage the masses on the importance of rejecting the status quo. And, of course, *Uncle Tom* was artfully wielded to encourage blacks to fight legal subjugation and racism. Either work with the race or face ridicule.

As with Hastie's thesis for the need for all blacks to oppose segregation, blacks championing solidarity would cite a 1942 victory at the Bureau of Engraving and Printing as evidence that group cohesiveness produced racial gains.¹⁰² That year, the cafeteria in the Bureau banned its Jim Crow seating policy.¹⁰³ Before the ban, the younger employees steadfastly opposed segregated seating.¹⁰⁴ Their older co-workers, however, were less antagonistic to the antiquated custom.¹⁰⁵ Thus, when a meeting was convened to discuss the policy, the Bureau's bigwigs picked the older employees as the race's representatives.¹⁰⁶ The tables were turned, though, when the older workers decided to follow the lead of their younger brethren, arguing to end segregated cafeteria seating.¹⁰⁷ Some of the white employees, in response, boycotted the cafeteria after it was integrated.¹⁰⁸ The *Defender* lauded the black employees with the headline "Find No 'Uncle Toms' as Workers Vote Down D.C. Cafeteria Jim Crow."¹⁰⁹ This triumph was a learning tool. By using *Uncle Tom*, the *Defender* instructed blacks on what the penalty would have been if the older blacks violated racial loyalty norms and submitted to Jim Crow. This helped foster unity around the importance of fighting segregation.

Another constructive use of social norms occurred in 1947, when the all-black play *Carmen Jones* was performed in Kansas City, Missouri.¹¹⁰ The local NAACP branch boycotted it because of the municipal auditorium's segregated seating policy.¹¹¹ In the past, when performances were

99. See *id.* See also *The 'Uncle Toms,'* CHI. DEFENDER, Dec. 14, 1940, at 14; *May Hike Race Quota in Air Corps,* CHI. DEFENDER, July 18, 1942, at 1.

100. Editorial, *The Price of Segregation,* PITT. COURIER, Dec. 28, 1940, at 6.

101. *Id.*

102. See *Find No 'Uncle Toms' as Workers Vote Down D.C. Cafeteria Jim Crow,* CHI. DEFENDER, Mar. 28, 1942, at 3.

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. *Id.*

109. *Id.*

110. *The NAACP Picket on "Carmen Jones,"* PLAIN DEALER, Jan. 3, 1947, at 11.

111. *Id.*

held in that forum, blacks acquiesced, paying to sit in a segregated audience.¹¹² This time however, under the NAACP's leadership, almost all blacks refused to finance segregation.¹¹³ Twenty blacks, though, did break the picket lines.¹¹⁴ The *Plain Dealer* figured that the picket crossers believed they would go undetected but noted that

[W]e have always had some "uncle toms" in the race who have felt that they owe no responsibility to any one but themselves Because of their presence, the race's battle is twofold . . . we must fight the enemy within in order to build solidarity, unity and strength so that we might hang together to combat the institution of segregation.¹¹⁵

Using the phrase "the enemy within," the editors for the *Plain Dealer* intimated that the picket crossers did not care about the race and were not committed to purging society of its anti-black elements. In this sense, the boycott violators were indeed guilty of defying constructive social norms. It was a wise sanction because the public rebuke could have helped crystallize the local black community around the need to work cooperatively to improve their condition.

The Civil Rights Movement can be understood as two separate struggles, encompassing courtroom battles and social protests set mainly on the streets in the Deep South. One of the first social protest triumphs was the Montgomery bus boycott.¹¹⁶ Although a case stemming from it eventually went to the Supreme Court,¹¹⁷ the boycott was hatched in a church and relied heavily on the average black residents.¹¹⁸ Not surprisingly, then, leaders of the boycott depicted sympathizers as the antithesis of *Uncle Tom* to dissuade blacks from riding city buses.¹¹⁹ In doing so, leaders helped bolster solidarity and dissuade blacks from riding city buses. The "new colored man," said Ralph D. Abernathy "refuses to be an 'Uncle Tom' for a pat on the back and special consideration."¹²⁰

112. *Id.*

113. *Id.*

114. *Id.*

115. *Id.*

116. *See generally* DONNIE WILLIAMS WITH WAYNE GREENHAW, *THE THUNDER OF ANGELS: THE MONTGOMERY BUS BOYCOTT AND THE PEOPLE WHO BROKE THE BACK OF JIM CROW* (2007).

117. *Gayle v. Browder*, 352 U.S. 903 (1956) (upholding district court's invalidation of segregation bus policy in Montgomery, Alabama).

118. *See generally* JO ANN ROBINSON, *THE MONTGOMERY BUS BOYCOTT AND THE WOMEN WHO STARTED IT: THE MEMOIR OF JO ANN GIBSON ROBINSON* (1987).

119. *See Montgomery Bus Boycott to Continue Until Victory*, *AFRO-AMERICAN*, Sept. 8, 1956, at 5.

120. *Id.*

II. *UNCLE TOMS* AND THEIR SEPARATE BUT EQUAL HOMES:
RESIDENTIAL SEGREGATION

As was true with public accommodations, many blacks were concerned about duplicity in the context of residential segregation. The first time *Uncle Tom* appeared in the context of residential segregation, according to my research, was in 1925.¹²¹ That year, Ossian Sweet, a black doctor, purchased a two-story home in an all-white Detroit neighborhood.¹²² Like his middle-class peers, Dr. Sweet used his economic resources to purchase the home of his choosing.¹²³ His white neighbors did not choose him though; they strongly opposed his move.¹²⁴ On September 8th, he, his wife, and a nine-man armed protection unit moved in to the home under police escort.¹²⁵ The next night, a white mob hurled rocks at their home before barging in.¹²⁶ From the second story, shots were fired at the mob.¹²⁷ One man was killed, another severely injured.¹²⁸ The Detroit police arrested Dr. Sweet and his companions, charging them with first-degree murder.¹²⁹ The NAACP took on the case and Walter White, then its assistant secretary, updated a ranking member on the current status of events.¹³⁰ “The case is pretty well sewed up for the [NAACP],” White wrote.¹³¹ “Pettiford, a shyster lawyer and local leader of the [UNIA] horned in the case yesterday and Willis, another local Uncle Tom[,] is howling all over the place trying to get in on the fees.”¹³² It is not clear in what way Pettiford and Willis were called *Uncle Toms*. Presumably, White lamented that these two gentlemen offered no help to Sweet until the NAACP already had done the legwork.

In addition to using violence to enforce segregation, many residential properties in Detroit included racial covenants in their deeds disallowing homes to be sold to blacks, a practice which the Supreme Court intimated was constitutional in *Corrigan v. Buckley*¹³³ in 1926 and had not declared unconstitutional until *Shelley v. Kraemer*¹³⁴ in 1948. In 1923, the Klan

121. PAPERS OF THE NAACP, PART 5: THE CAMPAIGN AGAINST RESIDENTIAL SEGREGATION, 1914 – 1955, Reel 2, Frames 1035-38, *microfilmed on* Black Studies Research Sources (University Publications of America).

122. KEVIN BOYLE, *ARC OF JUSTICE: A SAGA OF RACE, CIVIL RIGHTS, AND MURDER IN THE JAZZ AGE* 21-23 (2004).

123. *See id.*

124. *See id.* at 26-30.

125. *Id.*

126. *Id.* at 34-43.

127. *Id.* at 37-38.

128. *Id.* at 40.

129. *Id.*

130. PAPERS OF THE NAACP, PART 5, *supra* note 121.

131. *Id.*

132. *Id.*

133. 271 U.S. 323 (1926).

134. 334 U.S. 1 (1948).

insisted that racially restrictive covenants be included in the deeds of properties in any new section in the city zoned as residential.¹³⁵ Any desirable part of the city that did not employ racially restrictive covenants achieved the same result through sheer terrorization, as Dr. Sweet learned. If a black person attempted to buy a “white” home, he would be intimidated and forced to areas reserved for blacks.

To further their racist aims, the Klan ran a candidate, Charles Bowles,¹³⁶ for a seat on Detroit’s nine-man city council.¹³⁷ He was opposed by John W. Smith, the incumbent who had an “unusual [record of] square dealing and fairness toward [black] people.”¹³⁸ It would be highly ironic for any blacks to support the Klan candidate. But irony abounded. A small group of professional blacks opposed Smith’s re-election, although not openly backing Bowles.¹³⁹ They did claim, however, that the Klan was “the friend of the Negro and hostile only toward Catholics and Jews.”¹⁴⁰ These black supporters were scolded for being *Uncle Toms*.¹⁴¹ The *Defender* said they must be either one of two types—handkerchief heads or copper heads.¹⁴² The former is “the hat in [the] hand” type, while the latter “fights the fight of the enemy against his own blood.”¹⁴³ Fighting the Klan, the Supreme Court, and local policy makers was enough. Blacks did not need to fight their own, too.

As was true in the above story, elections were often viewed as opportunities to prove allegiance. In 1935 in Grand Rapids, Michigan, such an opportunity arose when a known segregationist, Harry C. White, sought elected office as a ward commissioner.¹⁴⁴ Blacks were the swing and deciding vote.¹⁴⁵ White, knowing this, assiduously courted them.¹⁴⁶ His Jim Crow instincts, however, frequently revealed themselves, once telling a black audience, “Negroes should not attempt to live in white neighborhoods if white people objected.”¹⁴⁷ The *Defender* wanted black voters to show that segregationists cannot count on their support.¹⁴⁸ Before the elec-

135. *Detroit Faces Klan Issues in Election*, CHI. DEFENDER, Oct. 24, 1925, at 1.

136. Bowles ultimately served as the city’s mayor before being recalled for his criminal connections. *States & Cities: Death in Detroit*, TIME.COM, Aug. 4, 1930, <http://www.time.com/time/magazine/article/0,9171,739981,00.html> (last visited Jan. 27, 2011).

137. *Detroit Faces Klan Issues in Election*, *supra* note 135, at 1.

138. *Id.*

139. *Id.*

140. *Id.*

141. *See id.*

142. *Id.*

143. *Id.*

144. *Grand Rapids Citizens Unite to Defeat Candidate Who Fostered Discrimination*, CHI. DEFENDER, Mar. 23, 1935, at 4.

145. *Id.*

146. *Id.*

147. *Jim-Crow Exponent Loses in Michigan*, PITT. COURIER, Apr. 13, 1935, at A3.

148. *See Grand Rapids Citizens Unite to Defeat Candidate Who Fostered Discrimination*, *supra* note 145, at 4.

tion, the newspaper threw down the gauntlet, declaring that “the returns from the colored precincts . . . will determine whether Grand Rapids’ Race citizens are Uncle Toms, with chocolate éclair backbones, or whether they are willing to fight for their rights with that most powerful of weapons, the ballot.”¹⁴⁹

It is now impossible to know how frequently blacks in Grand Rapids were made aware that they were expected to not vote for a segregationist. But if it were abundantly clear that voting for White would be equated to treachery, blacks would more likely unite against a political candidate so antagonistic to their interests. Alerting blacks that they would be ostracized for pulling the lever for a white supremacist was a constructive way of forging racial loyalty; anyone who used suffrage rights thusly was clearly liable for violating the norm that prohibited blacks for consciously promoting the enemies’ interests. In any event, White lost, receiving about 200 of the 1,500 black votes.¹⁵⁰ Those blacks voting for White were called “Uncle Toms” who “baited their votes for beer.”¹⁵¹

The final instance I have unearthed of *Uncle Tom*’s pejorative use in the context of residential segregation concerns blacks in Los Angeles. In 1946, that city’s black residents were encouraged because they brought more suits contesting the validity of racially restrictive covenants than blacks everywhere else.¹⁵² The *Los Angeles Tribune* wrote, “[t]he mortality rate for the ‘Uncle Tom’ type of Negro leader on the West Coast since 1940 has been extremely high.”¹⁵³ That blacks in the city contested the instrument of segregation was attributed to black progressive leadership.¹⁵⁴

III. *UNCLE TOMS*’ SEPARATE SCHOOLS

Racial loyalty norms, in the context of segregation, were most commonly enforced when education was at issue. Wise blacks understood that the racial caste system depended on easily manipulated pawns and that the educated are difficult to capture. Indeed, as early as 1910, blacks used *Uncle Tom* to censure those hindering efforts to stop public school segregation.¹⁵⁵ That year, the *Defender* railed against “negroes of Georgia” working with the “southern society of Chicago” to create a segregated school in the city.¹⁵⁶ One black woman specifically drew ire—Mrs. Mary T. Johnson.¹⁵⁷ After raising \$50,000, black and white Georgians visited

149. *Id.*

150. *Jim-Crow Exponent Loses in Michigan*, *supra* note 147, at A3.

151. *Id.*

152. *Uncle Toms Suffer Quick Death in L.A.*, *Says McWilliams*, L.A. TRIB., Feb. 23, 1946, at 3.

153. *Id.*

154. *See id.*

155. *Jim Crow School in Chicago*, CHI. DEFENDER, Nov. 12, 1910, at 1.

156. *Id.*

157. *Id.*

the “homes of the ignorant” with a petition arguing “what a fine thing it is to have their daughters and sons teaching in their own schools, and how well their children would get along without fights and without having white folks calling them names.”¹⁵⁸ The *Defender* implored the city’s “better families” to kill the fledgling movement, calling upon “the better thinking class of the race” to reject Mrs. Johnson’s and her comrades’ pleas and send them back to Dixie.¹⁵⁹ The *Defender* wanted to repel the wave of Jim Crow from cresting in Chicago.¹⁶⁰ In order to delegitimize the endeavor and its proponents, *Uncle Tom* was employed. “When we are in touch with Mrs. Johnson we will show her the back door to Chicago and have her beat it back to her dear old southern home, where all the Uncle Toms and Topsy’s should be.”¹⁶¹ More importantly, the newspaper pointed to a theme in the use of *Uncle Tom* that continues to this day—the idea that white supremacists will co-opt a disloyal black person to use as a tool to frustrate black progress.¹⁶² “Still here, where he sees the race making such strides[,] he takes our own and hurls them against us to frustrate our plans and put us to the bad.”¹⁶³

In 1916, J. E. Boyd, founder and superintendent of the Texas Normal Industrial Institute for black youth, issued a statement endorsing separate but equal education.¹⁶⁴ The *Defender* responded, “Like Uncle Tom of ‘Cabin’ Fame This Man is Ready to Submit to Anything a White Man Tells Him[—]Men of This Stripe Not Even Fitted To Train Skunks Much Less Children.”¹⁶⁵ One can never be certain of Boyd’s motivations in publically espousing segregation. Perhaps he honestly supported it. What is true, though, is that segregation ensured jobs for black educators like him. Indeed, many blacks personally benefitted from the racial caste system, creating conflicts of interests. Often wielded like a sledgehammer, *Uncle Tom* broke up those conflicts. Many, in any event, willingly assisted in perpetuating segregation, rationalizing that separate-but-equal kept blacks employed. Popular black columnist for the *Pittsburgh Courier*, George Schulyer, once remarked on this phenomenon. Schulyer contended it was an argument advanced by “Uncle Tom Negroes” and did not justify segregation.¹⁶⁶ Schulyer would have argued that Boyd and black educators like him needed to be rebuked for furthering the goals of white supremacists.

158. *Id.*

159. *Id.*

160. *Id.*

161. *Jim Crow School in Chicago*, CHI. DEFENDER, Nov. 12, 1910, at 1.

162. *See id.*

163. *Id.*

164. *J. E. Boyd Says Keep the Race Down*, CHI. DEFENDER, Feb. 5, 1916, at 1.

165. *Id.*

166. George Schulyer, *Views and Reviews*, PITT. COURIER, Oct. 10, 1931, at 10.

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For those who concurred with this argument, this was a constructive use of social norms.

Racial solidarity, however, does not mean total unison of thought. Blacks are permitted to disagree about solutions to their various problems. Among the transgressions that racial solidarity forbids, though, is the individual who sabotages group interests for personal gain. Thus, if Boyd were positioned to help desegregate schools but demurred because he enjoyed a comfortable situation, then criticizing him for treachery would be warranted. But here, it is plausible that Boyd concluded that, in 1916, school integration was fool's paradise. Boyd could have seen desegregation as an ideal but the time was not ripe and was trying to make the best play with a bad hand. And if he did he was not guilty of violating constructive racial loyalty norms. Another explanation could be that Boyd generally preferred segregated education, reasoning that all-black schools were better for black youth. This too was an acceptable argument. If Boyd, on the other hand, came out in favor of school segregation to ingratiate himself to local whites, hoping to procure some personal benefit then the punishment, however, was fair.

Blacks in Atlanta grappled with supposed *Uncle Toms* in their effort to improve education for their children.¹⁶⁷ In 1916, the city's education board decided to save enough money to open a new high school for whites by eliminating seventh grade for blacks.¹⁶⁸ The previous year, the board had cancelled eighth grade education for blacks and devoted the saved funds towards white education.¹⁶⁹ With no high schools for their children, Atlanta blacks were incensed, particularly because they paid property taxes to fund public education.¹⁷⁰ For the first time in the city's history, blacks were going to protest and had decided to contact the NAACP.¹⁷¹ Walter White, in his autobiography, recounted that before the local black community even petitioned the NAACP, "some informer—a local Uncle Tom—had rushed to the board of education" to let the whites know of their plans.¹⁷²

In 1927, the Klan convinced a New Jersey city to relocate its black students to a segregated school housed in a church.¹⁷³ The *Courier* lauded the parents of thirty black children for refusing to enroll their kids into the segregated school.¹⁷⁴ The parents of five children who allowed their child-

167. WALTER WHITE, A MAN CALLED WHITE 29 (1948).

168. *Id.*

169. *Id.*

170. *Id.* at 29.

171. *Id.* at 29-30.

172. *Id.*

173. *Jim Crow in Jersey*, PITT. COURIER, Mar. 19, 1927, at A8.

174. *Id.*

ren to attend, however, were dismissed as *Uncle Toms*.¹⁷⁵ The *Courier* argued that acceptance of segregation only emboldened white supremacists.¹⁷⁶ “If it were not for these spineless Negroes,” the newspaper stated, “who are ever ready to surrender to segregation for the sake of a job for their daughters or to escape taking a manly position, we would not have so many of these battles to fight.”¹⁷⁷ The *Courier* depicted the five parental groups as either buckling to pressure or accepting the thirty pieces of silver in exchange for helping ease Jim Crow into the North.¹⁷⁸ The *Courier* understood that segregationists had resources to pull blacks in their direction. Blacks lacked financial means, though they did have *Uncle Tom* and social norms that could help discourage racial defection.

Although it is understandable that the *Courier* would want to criticize the parents of the five children, the decision to enroll their children in a segregated school did not violate any of the constructive racial loyalty norms. Some might argue that the parents’ decision was either submissive, displayed a lack of concern for the race, or maybe that it even helped the race’s enemies. But the alternative appears to be that their children would not receive any education. Every parent, though, has a right to ensure that his or her child receives some form of education. This does not seem to be an instance of racial treachery.

While a problem in the North, the impact of segregated education reverberated disproportionately in the South. During the 1930s, the NAACP saw North Carolina as a fertile ground from which to uproot *Plessy*.¹⁷⁹ A central goal for the NAACP’s North Carolina activities was to equalize pay between black and white teachers.¹⁸⁰ Blacks were not treated equally under Jim Crow. Few felt this more than black teachers in segregated schools. Indeed, in North Carolina, a white teacher with eight years experience had a salary ceiling of \$720 a year, while the same black teacher could only hope to make as much as \$560.¹⁸¹

Local whites, fearing the possibility of the NAACP’s success, revived the specter of the carpetbaggers—northerners disrupting the “happy” arrangement between southern blacks and whites. Through newspapers articles and letters to the editor, whites attempted to intimidate and divide

175. *See id.*

176. *See id.*

177. *Id.*

178. *See id.*

179. *North Carolina Factions Unite Behind Program*, PITT. COURIER, Dec. 2, 1933, at A3; *Demand Equal Pay for Carolina Teachers*, CHI. DEFENDER, Sept. 23, 1933, at 2; *Fight to Enter N.C.U.*, CHI. DEFENDER, Feb. 25, 1933, at 4; *Mandamus in North Carolina ‘U’ Case Denied; To Appeal Decision*, PITT. COURIER, Apr. 8, 1933, at 2; “Boogey Man” Cry From North Carolina Brings a Big Laugh, PITT. COURIER, Nov. 18, 1933, at 2; *NAACP to Fight Unequal N.C. Salaries*, AFRO-AMERICAN, Sept. 23, 1933, at 17.

180. *NAACP to Fight Unequal N.C. Salaries*, *supra* note 179, at 17.

181. *Demand Equal Pay for Carolina Teachers*, *supra* note 179, at 2.

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the black population, charging the NAACP with meddling in the state's affairs.¹⁸² There was some dissent from the *Uncle Tom* elements of the society, black newspapers observed, but most backed the NAACP's goals.¹⁸³ As the *Courier* noted, "Observers in the state are convinced that with a few 'Uncle Tom' exceptions, all North Carolinians desire the program of the [NAACP] carried out. Many timid souls who do not dare come out in the open for fear of the 'good white folks,' are secretly cheering on the [NAACP]."¹⁸⁴ To prevent the NAACP's efforts, the *Afro-American* noted that some "Uncle Toms" were writing letters in the local papers saying that "the good white folks" will continue to be friends of the blacks and that outside influence was harmful.¹⁸⁵

Another goal for the NAACP in North Carolina was to integrate the state's colleges and graduate schools. On May 20, 1932, the association announced that it would combat the problem through litigation.¹⁸⁶ The NAACP had reasoned that the wisest strategy to dismember Jim Crow in schools was to start with post-graduate college education and then work their way down.¹⁸⁷ In 1933, Thomas Raymond Hocutt attempted to enroll in the all-white pharmacy school at University of North Carolina.¹⁸⁸ Hocutt's effort to attend UNC commenced an eighteen-year campaign to integrate the state's graduate and professional schools.¹⁸⁹ UNC denied Hocutt admission and the NAACP, along with local attorneys, filed suit on Hocutt's behalf.¹⁹⁰ Their objective was to invalidate the state law that prevented blacks from attending publically funded all-white universities even when the state lacked similar separate but equal educational opportunities.¹⁹¹

The state's segregationist leaders were predictably obstructive.¹⁹² But the state's black educators, who were scrambling to keep their schools running in the midst of the Great Depression, also opposed the plan.¹⁹³ Ferdinand Douglass Bluford, the president of the all-black North Carolina Agricultural and Technical College, wrote to Walter White in order to ascertain if the NAACP was in fact attempting to integrate education.¹⁹⁴

182. See *North Carolina Factions Unite Behind Program*, *supra* note 179, at A3.

183. *Id.*

184. *Id.*

185. See *NAACP to Fight Unequal N.C. Salaries*, *supra* note 179, at 17.

186. Augustus M. Burns III, *Graduate Education for Blacks in North Carolina, 1930 - 1951*, 46 J. S. HIST. 195, 195 (1980). See generally PATRICIA SULLIVAN, LIFT EVERY VOICE: THE NAACP AND THE MAKING OF THE CIVIL RIGHTS MOVEMENT 168-69 (2009).

187. See Burns, *supra* note 186, at 195.

188. *Id.*

189. *Id.*

190. *Id.* at 196.

191. *Id.*

192. *Id.*

193. *Id.*

194. *Id.*

White, the NAACP's head at the time, said that was indeed the mission. White argued that blacks had to think about the race's group rather than personal interests.¹⁹⁵ "The dual school system," White predicted "will eventually be abolished."¹⁹⁶

If integration was an eventuality, one black educator, James Edward Shepard, decided that it would be in spite of him.¹⁹⁷ Hocutt graduated from North Carolina College for Negroes in Durham.¹⁹⁸ Shepard was that college's president, and he refused to forward Hocutt's transcript to UNC.¹⁹⁹ Thus, Hocutt's case was tossed on the technicality that he failed to fully comply with application procedures.²⁰⁰ Thurgood Marshall and William Hastie believed their case against UNC was "sound," and Marshall dismissed Shepard as a "first-class Uncle Tom."²⁰¹ Others in the NAACP claimed that Shepard and other influential blacks in the state were "Uncle Tom-ing."²⁰² Undeterred, Shepard used the threat of integration to get more money from the state legislature and used those funds to create graduate programs at his college.²⁰³ Though bolstering the educational opportunities for North Carolinian blacks was commendable, Shepard's selfish sabotaging of a lawsuit against segregation was reprehensible. Branding Shepard an *Uncle Tom* announced to the rest of the community that replicating his actions came with a heavy price: censure for violating social norms.

The NAACP's goal to equalize pay for black educators was realized with *Alston v. School Board of Norfolk* when the Fourth Circuit of Appeals held that pay disparities between black and white teachers in Norfolk, Virginia violated the Equal Protection Clause.²⁰⁴ The NAACP, thereafter, used *Alston* to equalize public education throughout the South.²⁰⁵ Purported *Uncle Toms* in Georgia, however, attempted to coax black educators to accept unequal pay.²⁰⁶ Indeed, black Georgian educators tried to "slip[] through" an "'Uncle Tom' resolution" at a state meeting for educators stating that blacks would not seek salary equalization.²⁰⁷ The black

195. *Id.*

196. *Id.*

197. *See generally* SULLIVAN, *supra* note 186, at 169.

198. *Id.*

199. *Id.*

200. *See* Burns, *supra* note 186, at 196.

201. JUAN WILLIAMS, THURGOOD MARSHALL: AMERICAN REVOLUTIONARY 75 (1998).

202. GLENDA ELIZABETH GILMORE, DEFYING DIXIE, THE RADICAL ROOTS OF CIVIL RIGHTS: 1919 – 1950 256 (2008).

203. KIMBERLEY JOHNSON, REFORMING JIM CROW: SOUTHERN POLITICS AND STATE IN THE AGE BEFORE *BROWN* 156 (2010).

204. *See* 112 F.2d 992 (4th Cir. 1940).

205. *See generally* Scott Baker, *Testing Equality: The National Teacher Examination and the NAACP's Legal Campaign to Equalize Teachers' Salaries in the South, 1936 – 63*, 35 HIST. EDUC. Q. 49 (1995).

206. *Uncle Toms Fail Georgia Teachers*, AFRO-AMERICAN, Apr. 19, 1941, at 8.

207. *Id.*

educators were upbraided for accepting inequality and opting to not pursue the race's goals for unadulterated equality.

In Louisville, black teachers similarly refused to insist on equal pay. Daisy Lampkin,²⁰⁸ an NAACP field secretary, delivered speeches in the city concerning the 15 percent pay differential between black and white teachers.²⁰⁹ In one speech, she argued, "It is unfair for you who teach in Louisville to receive a difference in salaries. When you have had the same instruction, teach the same subjects and hold the same certificates [sic]." ²¹⁰ Lampkin's point—that blacks were not treated equally—failed to incite black teachers to organize around injustice. In fact, her actions angered some.²¹¹ W. H. Perry, president of the local black teacher's union, told the city's superintendent that although some teachers were moved by Lampkin's pleas, most were not.²¹² The black teachers likely did not want to upset whites, realizing nothing perturbed them more than "uppity [N]egroes" complaining about their unequal lot. In a November 1937 letter to NAACP litigator Charles Hamilton Houston, Lampkin reported that the lack of progress was owed to "spineless" "Uncle Tom Leadership in Public Schools."²¹³ *Uncle Toms*, that is, were to blame for blacks' inability to unite to address inequality.

In 1934, M. Grant Lucas, a black elementary school principal, delivered a segregation-defending speech at the National Education Association gathering in Washington D.C.²¹⁴ Lucas told an audience which included President Franklin Roosevelt that segregated schools were best for black children. Negro pupils had a particular set of needs that integrated schools could not meet, Lucas argued.²¹⁵ L. K. McMillan, writing for the *Afro-American*, lambasted the speech as one in a series of disgraceful pro-Jim Crow speeches blacks had delivered to national audiences in recent memory.²¹⁶ Lucas, like the others before him, was an "Uncle Tom" who was much more concerned with receiving his "assured pork chops" than improving education for black children.²¹⁷

While using *Uncle Tom* to deride blacks who appeased segregationists is expected, some uses of *Uncle Tom* during this epoch might appear odd

208. See generally WOMEN AND THE CIVIL RIGHTS MOVEMENT, 1954 - 1965 33-34 (Davis W. Houck & David E. Dixon eds., 2009).

209. LUTHER ADAMS, WAY UP NORTH IN LOUISVILLE: AFRICAN AMERICAN MIGRATION IN THE URBAN SOUTH, 1930 -1970 91 (2010).

210. *Id.* at 91-92.

211. See *id.* at 92.

212. *Id.*

213. *Id.*

214. L. K. McMillan, *McMillan Scourges Lucas for Favoring Dual School System*, AFRO-AMERICAN, July 14, 1934, at 14.

215. See *id.*

216. *Id.*

217. See *id.*

to contemporary readers. Indeed, *Uncle Tom* was sometimes wielded in ways that seem bizarre now. In 1937, for example, the *Defender* excoriated black students at the University of Chicago who created a “Negro club.”²¹⁸ The newspaper blamed southern blacks who moved north but retained southern sensibilities.²¹⁹ The black students reported that they “feel funny among so many white folks.”²²⁰ The *Defender* had no tolerance for their worldview; they wanted the Jim Crow clubs discontinued.²²¹ “Those students who prefer to inaugurate a program of segregation at the university should pack bag and baggage and go back South where that type of education is the custom, and where they can absorb without interference such back-door philosophy that has produced thousands of Uncle Toms among us.”²²²

Today, though, *not* participating in black clubs might invite accusations of racial betrayal. This is true largely because the law and social conditions have changed. Legal and societal factors, in other words, color interracial behavior in the black community. The *Defender* likely anticipated that segregationists would aver that such clubs evidenced that even blacks preferred racial separation. Now, without fearing segregation’s restoration, the current concern is blacks eschewing the race’s cultural activities, suggesting racial desertion. This example illustrates how the law and the racial climate combine to form a wheel that steers what comportments will be associated with racial treachery, and, by extension, how blacks will configure *Uncle Tom* as a mechanism to punish crimes against the race. While blacks in Chicago were concerned with how to comport as students at “white” colleges, in the South, blacks could only dream of such predicaments. *State of Missouri et rel. Gaines v. Canada* was an important victory on the road towards eventual success in *Brown v. Board of Education*.²²³ Lloyd Gaines was refused admission to University of Missouri’s law school because of race.²²⁴ The Supreme Court ruled in his favor, deciding that Missouri either had to create a black law school, or admit him to the all-white University of Missouri.²²⁵ But the stubbornness of Jim Crow resurfaced when Missouri set up a black law school in St. Louis, oddly enough, with the help of educated blacks.²²⁶ The *Courier* was outraged and derided the “Uncle Toms” who assisted:

218. *U. of C. Students Told to Ban South’s Ideals*, CHI. DEFENDER, Oct. 23, 1937, at 15.

219. *Id.*

220. *Id.*

221. *Id.*

222. *Id.*

223. 305 U.S. 337 (1938).

224. *Id.* at 343.

225. *Id.* at 352.

226. *Toy Universities*, PITT. COURIER, Jan. 6, 1940, at 8.

Educational Uncle Toms were called in and given their orders which, as usual, they obeyed with alacrity. Suddenly a law school, trumpeted as equal to the long-established University of Missouri Law School, was set up in an abandoned hair-straightening emporium in St. Louis as an adjunct to the Negro state “university,” and Negroes were found to solemnly hail it as “de same ting.”²²⁷

Lloyd Gaines himself saw his legal battle to integrate colleges and professional schools in Missouri as a struggle against *Uncle Toms*.²²⁸ In February of 1939, Gaines, in a Kansas City church, declared, “We should no longer accept Uncle Tom habits of asking for this and that. We are supposed to do something about what we don’t like.”²²⁹ Some blacks, however, disagreed with Gaines’s efforts of changing the law through litigation. A black lawyer from Tennessee wrote to the *Plain Dealer*, arguing that blacks should instead take their grievances to the state legislature.²³⁰ He, of course, was dismissed as an *Uncle Tom* for criticizing the ambition of overturning *Plessy*.²³¹

As Missouri did after *Gaines*, before *Sweatt v. Painter*,²³² Texas hastily cobbled together a makeshift black law school as a last ditch effort to avoid integrating its white University of Texas School of Law.²³³ The Texas State University of Negroes (TSUN), which the *Afro-American* derisively called the “Texas JC [Jim Crow] Law School,” consisted of three rooms in a basement across the street from the state capitol.²³⁴ Two blacks quickly enrolled in the school, Henry E. Doyle and H. E. Lott, but a third, a woman, withdrew.²³⁵ Doyle defended his decision to attend the school by stating that he was not interested in battling segregation.²³⁶ He aspired, rather, to get a legal education which he concluded was just as good as that offered at the Texas Law.²³⁷ Doyle was satisfied with this schooling and wished people would leave him alone.²³⁸ There was talk that whites gave him a custodian-secretary job to help him attend school.²³⁹

227. *Id.*

228. *See Lloyd Gaines Speaks To Students Here*, PLAIN DEALER, Mar. 3, 1939, at 1.

229. *Id.*

230. P. L. Harden, *Tenn. Lawyer Fires Another Blast on Equal Protection*, PLAIN DEALER, Mar. 15, 1940, at 6.

231. *See id.*

232. 339 U.S. 629 (1950).

233. Douglass Hall, *Woman Withdraws, 2 Men at Texas JC Law School*, AFRO-AMERICAN, Feb. 14, 1948, at 18.

234. *Id.*

235. *Id.*

236. *Id.*

237. *Id.*

238. *Id.*

239. Douglass Hall, *Woman Withdraws, 2 Men at Texas JC Law School*, AFRO-AMERICAN, Feb. 14, 1948, at 18.

The local blacks who helped bankroll *Sweatt* thought that he had betrayed the race and was an *Uncle Tom*.²⁴⁰ Thurgood Marshall called the school “Uncle Tom’s Cabin.”²⁴¹ And a correspondent for the *Afro-American* wrote that Doyle “is looked upon as a Benedict Arnold who has sold his race down the river for a mere \$25-a-week job on the State’s payroll, and a ‘basement legal education.’”²⁴²

Doyle’s critics had a convincing argument that he violated constructive racial loyalty norms. In the late 1940s, blacks were fully vested in a legal challenge against Jim Crow. Led by the NAACP, blacks were asserting their full citizenship rights, arguing that separate but equal violated the Equal Protection Clause. In order to successfully claim that *Sweatt* was granted equal protection, Texas had to prove that TSUN was equivalent to University of Texas. Doyle’s presence at TSUN helped state’s segregationist attorney general argue that the new law school was equal. The state attorney general even used Doyle as an exemplar product of segregated education. In announcing that he was not interested in dismantling segregation, Doyle told the rest of the black community that he was uncommitted to the struggle of ridding society of its anti-black elements. Black Texans, in other words, justifiably concluded that Doyle proved that he was unconcerned about the race when he disclaimed any interest in the race’s anti-segregation struggle. The case of Doyle, however, establishes that *Uncle Toms* can be retrieved. After he graduated, he litigated against segregation, including a lawsuit to desegregate the public cafeteria in Houston’s main Courthouse.²⁴³

Similarly, in Oklahoma during the period when *Sipuel v. Board of Regents*²⁴⁴ was making its way toward the Supreme Court, some blacks refused to embrace the legal challenge of segregation.²⁴⁵ In *Sipuel*, Ada Sipuel sued Oklahoma for admission into Oklahoma University College of Law. Roscoe Dunjee, editor of the state’s only black newspaper, testified during the trial that he opposed anti-miscegenation laws.²⁴⁶ These laws, which made interracial marriages illegal, were declared constitutional in *Pace v. Alabama*²⁴⁷ and were legal until the Supreme Court ruled them

240. *Id.*

241. GARY M. LAVERGNE, *BEFORE BROWN: HEMAN MARION SWEATT, THURGOOD MARSHALL, AND THE LONG ROAD TO JUSTICE* 219 (2010).

242. Hall, *supra* note 233, at 18.

243. Michael L. Gillette, *Blacks Challenge the White University*, 86 THE SOUTHWESTERN HISTORICAL QUARTERLY 321, 330 (1982); THOMAS R. COLE, *NO COLOR IS MY KIND: THE LIFE OF ELDBREWEY STEARNS AND THE INTEGRATION OF HOUSTON* 40-41 (1997). The black law school, ironically, might have forced the state to integrate because maintaining a separate law school quickly became prohibitively expensive.

244. 332 U.S. 631 (1948).

245. *Uncle Toms Hit By Roscoe Dunjee*, CLEV. CALL & POST, Mar. 13, 1948, at 1B.

246. *See id.*

247. 106 U.S. 583 (1883).

unconstitutional in *Loving v. Virginia*.²⁴⁸ Until *Loving*, though, the South and border states kept such laws on the books, reflecting their biggest fears: black men and white women having sensual relationships. After his testimony, white newspapers blared headlines reading, “Negro Editor Wants To Marry White Women.”²⁴⁹ Blacks in the area were disgruntled after Dunjee’s testimony.²⁵⁰ Dunjee disclosed that “Uncle Tom Negroes in Oklahoma City said that I had ruined everything.”²⁵¹ Local blacks likely feared that his statement would rile the white folk. Dunjee probably thought, however, that these blacks were more interested in mollifying whites than in supporting a movement for change. The Supreme Court’s siding with Sipuel in her quest to integrate University of Oklahoma’s law school told Dunjee that the white liberal was a better defender of blacks’ rights than blacks were.²⁵² “That is,” he wrote, “a dangerous situation!”²⁵³

As *Gaines* and *Sweatt* instruct, southern states were very eager to create ersatz schools for blacks to attend rather than integrate graduate and professional schools. These Supreme Court decisions, in any event, were seen as triumphs over *Uncle Toms*. Dr. David D. Jones, president of Bennett College, thought that white educators were putting up a fight, but recent Supreme Court decisions were giving *Uncle Toms* and the “regional education boys cause for pause.”²⁵⁴ Reputed *Uncle Toms* might have paused, but they quickly regrouped, once again making themselves useful in the maintenance of dual school systems. Segregationists were very eager to locate blacks connected with the NAACP and inflict punishment on them, economic reprisals and sometimes physical threats.²⁵⁵ Alabama tried to enforce a statute that required the NAACP to disclose its membership lists but it was held unconstitutional in 1958 in *NAACP v. Alabama*.²⁵⁶ In Savannah in the early 1950s, four black schoolteachers were fired after their NAACP membership was disclosed.²⁵⁷ A local black man who opposed integrated schools alerted the white superintendant of the NAACP connections of the fired teachers.²⁵⁸ The local NAACP head W. W. Law said that “Uncle Tomism” and, by implication, racism was to blame for their dismissal.²⁵⁹

248. 388 U.S. 1 (1967).

249. *Uncle Toms Hit By Roscoe Dunjee*, *supra* note 245, at 1B.

250. *Id.*

251. *Id.*

252. *See id.*

253. *Id.*

254. *End of Second-Class Citizenship Now in Sight, Educators, Lawyers Agree*, AFRO-AMERICAN, June 24, 1950, at 19.

255. *See* GILBERT JONAS, FREEDOM’S SWORD: THE NAACP AND THE STRUGGLE AGAINST RACISM IN AMERICA, 1909–1969 162–64 (2005).

256. 357 U.S. 449 (1958).

257. *Four Ga. Teachers Fired for NAACP Activity*, AFRO-AMERICAN, Sep. 8, 1951, at 5.

258. *See id.*

259. *See id.*

Other blacks took a more direct approach to resuscitate segregation. In 1951, New Mexico's state legislature debated the future of the state's optional public school segregation policy that affected approximately ten cities.²⁶⁰ Repealing the law would have allowed affected black children to attend white, and almost assuredly, better funded public schools.²⁶¹ The senate's judiciary committee heard the testimony of six blacks.²⁶² Four opposed repealing the law.²⁶³ During his testimony, one schoolteacher asked the legislature not to "disturb us."²⁶⁴ He continued, "We have peace and enjoyment in our schools. You put our children together and there will be a race war. You'll be putting the white man against the black man."²⁶⁵ The *Atlanta Daily World* assailed him and the other three testifying opponents as "Uncle Toms."²⁶⁶

Mississippi's Clyde Kennard, similarly, was considered to save his own skin with utter disregard for the race.²⁶⁷ In fact, his asserted singular focus on self-interest angered many blacks who dismissed him as an *Uncle Tom*.²⁶⁸ Kennard, a Korean War Veteran, returned to Mississippi before earning his degree at the University of Chicago.²⁶⁹ He wanted to continue his education at Mississippi Southern College (now the University of Southern Mississippi), a school very close to his residence.²⁷⁰ Because of familial issues, he had to stay near home and there was no nearby black school.²⁷¹ Mississippi Southern, however, was all-white.²⁷² Kennard then devised a plan to become the "perfect Negro"—at least in the estimation of powerful whites in Mississippi.²⁷³ This, he prayed, would convince them to make a special exception and permit his enrollment.²⁷⁴ Kennard left no trick behind in his plan to dazzle Mississippi whites. He wrote a letter to a white newspaper affirming his support of "States Rights," the southern mantra connoting the desire to keep Washington D.C. from "meddling" in their (racist) affairs.²⁷⁵ He also affirmed his stance against forced integra-

260. *Negroes Split on School Bias Bill in New Mexico*, ATLANTA DAILY WORLD, Mar. 15, 1951, at 8.

261. *See id.*

262. *Id.*

263. *Id.*

264. *Id.*

265. *Id.*

266. *See id.*

267. *See He Wanted to Go to College in Mississippi and Wound up in Prison*, CHI. DEFENDER, Nov. 24, 1962, at 9.

268. *See id.*

269. *Id.*

270. *Id.*

271. *Id.*

272. *See id.*

273. *See He Wanted to Go to College in Mississippi and Wound up in Prison*, CHI. DEFENDER, Nov. 24, 1962, at 9.

274. *See id.*

275. *See id.*

tion.²⁷⁶ He eschewed any help from the NAACP and their offer to fight his case in court.²⁷⁷ He offered to take classes at night.²⁷⁸ He even spoke to the governor about his situation and was told that he should wait until after the elections.²⁷⁹ He did.²⁸⁰ Using “[t]he ‘Uncle Tom’ approach did get Kennard considerable mileage[—]though it didn’t get him in school,” the *Defender* wrote.²⁸¹ What it got him instead was framed and put in jail.²⁸² The White Citizens Council set him up on a bogus reckless driving charge and planted whisky in his car, which was contraband in the state of Mississippi at the time.²⁸³ His application was then rejected because of irregularities.²⁸⁴

Although some announced *Uncle Tom’s* death on May 17, 1954, *Uncle Tom* excoriations survived *Brown*. The jubilation that followed the decision was tempered by the reality that the NAACP faced the enormous challenge of integrating school districts in the face of virulent white resistance. In addition to those local whites, the NAACP fretted about the potential ploys of southern *Uncle Toms*.²⁸⁵ Dr. Channing H. Tobias said that the organization was going to be aggressive in dealing with “congenital ‘Uncle Toms’” who benefit from Jim Crow.²⁸⁶ In this mold were the presidents of black colleges Texas State University and Prairie View College.²⁸⁷ Both presidents, speaking to the Texas Commission of Higher Education, declared that blacks preferred segregated schools.²⁸⁸ Walter White assailed them as blacks who were more concerned about keeping their jobs than trying to help black students.²⁸⁹

RACIAL LOYALTY NORMS AND JIM CROW: AN ANALYTICAL CONCLUSION

After Reconstruction, white supremacy pivoted from slavery toward racial apartheid to subjugate the black population. Blacks were indeed second-class citizens. But many were not content with their inferior positioning. The only way in which the race would ever reach full citizenship would be by demanding and fighting for it as a group. Separate but equal

276. *Id.*

277. *Id.*

278. *Id.*

279. *He Wanted to Go to College in Mississippi and Wound up in Prison*, CHI. DEFENDER, Nov. 24, 1962, at 9..

280. *Id.*

281. *Id.*

282. *Id.*

283. *Id.*

284. *Id.*

285. *See He Wanted to Go to College in Mississippi and Wound up in Prison*, CHI. DEFENDER, Nov. 24, 1962, at 9.

286. *Id.*

287. *Walter White Blasts Byrnes, ‘Uncle Toms,’* CLEV. CALL & POST, July 10, 1954, at 3A.

288. *Id.*

289. *See id.*

was not a problem with individual solutions. Blacks had to dedicate themselves to the cause of changing the feature of American democracy that black skin was to function as a disability. Required here, then, was a device to compel blacks to join the struggle. This was the purpose of racial loyalty norms. By regulating behavior, blacks taught the race how to wage effective campaigns for their rights and to do so as a racially unified people. The enterprise did not operate perfectly; some blacks, as mentioned, were charged with disloyalty when it was not warranted. On whole, though, the practice of using racial loyalty norms to punish race traitors in the context of segregation was enormously constructive and, quite simply, the right move for blacks during the Jim Crow era.

No one can inflict more pain than family. This is what made *Uncle Tom* so caustic. It also made it a valuable tool in sanctioning those defying racial loyalty norms. Blacks during this period had scant legal protection and social marginalization from whites was brutal. Subordinated groups typically have to participate in their own emancipation. Blacks suffering under American apartheid especially had to orchestrate their own liberation; outsiders were not going to do it all for them. That blacks needed to push for equality pressured all to assist the effort. With their liberty at stake, many aggressively policed the community's behaviors. Blacks had to demand full citizenship and make no concessions. If blacks got even a whiff that a fellow race member was willing to accept less, oral punishment was swift. W. O. Brown said it well in 1931:

Since the race conscious are sensitive they naturally resent anything that impugns the status of their race. Hence they protest vehemently against the notion of their inferiority as a race. Any definition of status for the race that implies subordination angers and hurts them. And any type of behavior on the part of members of their race that implies the subservient attitude to other race they condemn.²⁹⁰

Perpetuators of the status quo realized the danger in blacks collectively fighting to break their shackles. Opponents to their freedom, therefore, co-opted select blacks to undermine their race's interests from within. Other blacks simply eschewed racial solidarity and comported in ways that the race concluded hindered its interests. In this context, racial loyalty norms were necessary. With few resources, social norms were among the best options blacks had in creating unity. *Uncle Tom* as a sanctioning tool became something blacks had to ponder before they committed treason. As the pejorative was hurled with increasing frequency, it became the most

290. W. O. Brown, *The Nature of Race Consciousness*, 10 SOCIAL FORCES 90, 92 (1931).

feared in-group slur. In a racially hostile world, norms and *Uncle Tom* became helpful in forging solidarity.

Tracing *Uncle Tom* establishes that norms could help blacks improve their legal interests and ability to affect public policy. Any strategy to reform American society hinged on blacks working cooperatively. Because blacks feared the *Uncle Tom* label, the epithet helped dictate behavior.

This argument is very evident in the context of segregation. The tale of racial loyalty norms, dating from when segregation was at issue, reveals how fervently blacks sought to dismember Jim Crow. State legislatures and cities, especially in the South but even in the North, propagated a system that subordinated blacks—as did the federal government. White attitudes likewise ensured that blacks never fully participated in American democracy. Blacks, in response, attempted to reform society and purge the most insidious element—segregation. Racial loyalty norms were important because group cohesiveness was a precursor to dismantling separate but equal. Those blacks failing to sufficiently resist subordination were deemed traitors to the cause. With such high hopes stemming from desegregation, blacks who shared white southerners' antipathy towards reordering society were almost automatically deemed race traitors. Segregation was the most important reason why *Uncle Tom* was such a ubiquitous epithet, but it certainly was not the only.

Particularly telling was the 1922 story of two young men who were ejected from a downtown Chicago theatre. The *Defender* was aghast to learn that the two chose not to pursue legal remedies against the theatre, maligning them as *Uncle Toms*. The event suggests that blacks were beginning to realize that they needed to become active participants in their progress movements. Those who did not incurred a penalty. That blacks needed to strongly insist on equal rights explains William H. Hastie's remark that blacks needed to cease "asking for more segregation" if the race wanted to dismantle *Plessy*. And the widespread reaction to Hastie's words—blacks from around the country cited his comments as proof that *Uncle Toms* were jeopardizing the race's interests—show that blacks truly believed that they could reform America through united effort. Blacks unlikely thought that solidarity was sufficient by itself but rather a solid base on which to build future success. Thus, the blacks who voted for Charles Bowles, the Klan candidate who ran for a city council seat in Detroit, for example, were branded as race traitors precisely because such persons were viewed as committing the sorts of acts of betrayal that would render group improvement unachievable. Similarly, James Edward Shepard, the president of a black college in North Carolina, who refused to release Thomas Raymond Hocutt's transcripts so that he could integrate the pharmacy college at University of North Carolina, was heavily criticized. They consciously helped segregationist whites frustrate blacks' legal goals.

In some scenarios, however, it is difficult to judge whether racial treachery occurred. While it may be easy to look back and criticize blacks during the Jim Crow era for favoring segregation, they had valid reasons for preferring racial separation. In that vein, Texas educator J. E. Boyd's 1916 public endorsement of segregated education is worth recalling. Now it may be true that Boyd was acting at the behest of segregationist whites. But it also may be true that in the second decade of the twentieth century, black children in Texas were much better off in their separate schools than in integrated schools being taught by and going to school with people raised to assume their inferiority.

There were some patently unfair usages of *Uncle Tom* in this context, but not many. Perhaps the most unjust criticism was of the New Jersey parents who enrolled their children in a segregated school. It was 1927, and the Klan had persuaded a New Jersey town into segregating its schools. The *Courier* indicted the black parents who enrolled their children in the new black school for racial treachery. But there was no real act of treason to support the charge. The parents should not have been blamed for trying to ensure that their children received an education. This unfair use aside, the norm managers were quite constructive in their enforcement of racial loyalty norms.