

**“A WOMAN OF STRANGE, UNFATHOMABLE
PRESENCE”: IDA PLATT’S LIVED EXPERIENCE OF
RACE, GENDER, AND LAW, 1863–1939**

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“I don’t have to be who you want me to be. I’m free to be who I want.”
Muhammad Ali, 1964¹

ABSTRACT

Throughout American history, race identity has always been the primary determinant of an individual’s rights and power. From the country’s beginning, white men at the top of the social hierarchy have passed laws and established customs that assign race identities and forbid individuals from choosing their own identities. Racial passing has long been one means of escaping the violence and subjugation of a Black identity. However, the secrecy that passing requires has necessarily limited our ability to understand the ways that African Americans chose their own identities and how those choices have affected the legal and social dynamics of race. This Article explores the life of Ida Platt, an African American woman who was able to practice law by passing as white in her professional life during the era of Jim Crow in the United States and later in her retirement in England. It offers a rare insight into the widespread practice of temporary, pragmatic racial passing that occurred without incident and exposes the inconsistencies of race and gender in American history. The Article also offers a comparative perspective of these experiences in the United States and England during the first half of the twentieth century. Platt’s story is important because of her choice to become a lawyer, an official actor within a system that sought to oppress her, and because of her refusal to choose one racial identity in a society that required it. Platt’s life illustrates both the power and the limits of choosing one’s racial identity. Platt’s choice allowed her to claim her own humanity, pursue her dreams, and live where and marry whom she wanted, but it did not undermine systemic race discrimination or break the racial hierarchy. Including her story in the twenty-first century discourse on race may assist in the continued effort to destabilize race, the

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¹ *Muhammad Ali: A Great American Who Never Surrendered in the Ring, or Out*, N.Y. DAILY NEWS (June 5, 2016), <http://www.nydailynews.com/opinion/muhammad-ali-surrendered-ring-article-1.2661682> [<https://perma.cc/EY2G-E2Q8>].

movement to gain power through self-identification, the debates over what it means to be Black, and campaigns for racial justice.

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INTRODUCTION

Ida Platt was admitted to the Illinois bar in 1894.² She was one of approximately 8000 attorneys in the state,³ but just the forty-third woman,⁴ the thirtieth African American, and the first African American woman to win a law license.⁵ Those who participated in her admission were aware of the significance of the occasion. One of the state supreme court justices who signed Platt's license explained, "We have done today what we have never done before—admitted a colored woman to the bar; and it may now truly be said that persons are admitted to the Illinois bar without regard to race, sex or color."⁶ Black civil rights activists used Platt's achievement as an example of the intellectual ability of African Americans and considered it a milestone in the movement for racial and sex equality.⁷ But society nevertheless con-

² *First to Practice Law. Ida Platt, the Pioneer Colored Woman Attorney*, CHI. TRIB., Dec. 4, 1897, at 16.

³ The 1890 Illinois census does not survive, but the 1900 census lists 8917 total lawyers. J. CLAY SMITH, JR., *EMANCIPATION: THE MAKING OF THE BLACK LAWYER 1844–1944* 624 (1993) [hereinafter SMITH, *EMANCIPATION*].

⁴ James Bradwell, *Women Lawyers of Illinois*, 32 CHI. LEGAL NEWS 339, 341 (1900) [hereinafter Bradwell, *Women Lawyers*].

⁵ James B. Bradwell, *The Colored Bar of Chicago*, 5 MICH. L. J. 385, 386 (1896) [hereinafter Bradwell, *The Colored Bar*].

⁶ *Current Topics*, 50 ALBANY L. J. 1, 2 (1894).

⁷ See *infra* Part V.

tinued to discriminate based on race, sex, and color, especially against those who stood at the intersection of race and gender prejudices.⁸

Over the next several decades, Platt was able to overcome some of that discrimination by choosing to pass as white in her professional life and deciding not to take on the role of wife or mother.⁹ These choices allowed her to maintain a law practice in Chicago for thirty-three years, but required her to remain mostly isolated from the Black legal community, the community of white women lawyers, and the community of Black intellectuals and activists that were operating in the city.

This Article attempts to explain Ida Platt's agency and to uncover how she established and negotiated her own identity through time. There are no known documents, however, in which Platt discusses or acknowledges any of her choices or decisions. She did not give public speeches, publish articles, write editorials, or speak with reporters. In all the known writings that survive regarding Ida Platt, only a few legal documents include her words; Platt's personal voice remains virtually silent. This Article, therefore, reconstructs Platt's life through examination of census records, city and legal directories, death and cemetery records, newspaper accounts, corporate records, and association minutes and reports.¹⁰ It then uses this evidence of Platt's actions to examine her choices and to percolate on what they suggest about her lived experience of race and gender in American society during the critical period when it moved from a social and legal system of Reconstruction and equality to an era of Jim Crow segregation and discrimination.

Platt's life is an illustration of the inconsistencies of race and gender in American history.¹¹ Her story is important because of Platt's choice to become a lawyer, an official actor within a system that sought to oppress her. As Edith Sampson, one of Chicago's earliest and most accomplished Black women lawyers, articulated in 1935: "[Our] entrance into this conservative profession is a part of that larger effort of women to become oriented in

⁸ Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 UNIV. CHI. LEGAL F. 139, 140 (1989). See also DANIEL J. SHARFSTEIN, *THE INVISIBLE LINE: THREE AMERICAN FAMILIES AND THE SECRET JOURNEY FROM BLACK TO WHITE* 131 (2011) (arguing that "changes in the law did not translate neatly into changes in society").

⁹ Although there were married women lawyers, from the 1880s through the 1920s, many questioned whether it was possible for women to both be lawyers and fulfill the duties of wife and mother. Virginia Drachman, "My 'Partner' in Law and Life": *Marriage in the Lives of Women Lawyers in the Late 19th- and Early 20th-Century America*, 14 L. & SOC. INQUIRY 221, 222-23 (1989).

¹⁰ See MARTHA A. SANDWEISS, *PASSING STRANGE: A GILDED AGE TALE OF LOVE AND DECEPTION ACROSS THE COLOR LINE* (2009), for another example of recovering biography from sparse records and inferences.

¹¹ SHARFSTEIN, *supra* note 8, at 10; ALLYSON HOBBS, *A CHOSEN EXILE: A HISTORY OF RACIAL PASSING IN AMERICAN LIFE* 9-11 (2014).

modern society, a society in which, whether praised or condemned, the profession of law plays one of the vivid parts.”¹²

Platt’s story is also important because of her refusal to remain within a single racial identity in a society that required it. American society has, from its inception, created and maintained a social hierarchy based on race and sex that places Black women on one of its lowest rungs.¹³ Platt refused to stay there.

The first two Parts of this Article focus on the development of Platt’s racial and gender identity and her career. Part I explores Platt’s life as a “colored” woman who came of age in the decades after the Civil War. Platt’s initial identity was formed during the historical moment of Reconstruction’s ideology of equality, but she decided to become a lawyer after that moment had given way to a Jim Crow inequality. Part I situates Platt’s experiences among those of Black women lawyers and the activism of white and Black women at the turn of the twentieth century. It argues that the racist and sexist regimes that dominated at this time led Platt to employ a more fluid racial identity to avert some of the exclusions and discriminations those regimes perpetuated. Part II examines the constructions of race in the United States and the phenomenon of passing, exploring Platt’s choice to employ this fluid racial identity. It further assesses her acts of passing to illustrate how Platt’s lived experience of race, as it intersected with gender, contested the dominant constructions and adherent limitations of those statuses.

The next three Parts of this Article examine the effects of Platt’s choice to use a fluid racial identity, offer a comparative analysis, and assess how Platt’s life informs twenty-first century debates on the role of race in law. Part III examines Platt’s passing as temporary and explores the response of the Black community to her passing and her career. It argues that the Black community did not view Platt as a race traitor, but rather accepted Platt’s fluid racial identity as necessary to overcome the inequalities and limitations attendant to the dominant racist and sexist regime. Part IV explores Platt’s choice to move to England at the end of her life. It examines the experiences of Anglo and colonial women lawyers in the United Kingdom and race discrimination in Britain, demonstrating a hostility to women lawyers, particularly women lawyers of color, in the first half of the twentieth century that

¹² Edith Sampson, *Legal Profession Followed by Nation’s Best Known Socialites*, CHI. DEFENDER, May 4, 1935, at 25.

¹³ ARIELA J. GROSS, WHAT BLOOD WON’T TELL: A HISTORY OF RACE ON TRIAL IN AMERICA 58 (2008) [hereinafter GROSS, WHAT BLOOD WON’T TELL] (describing how black women were degraded for their perceived sexuality); ADELE LOGAN ALEXANDER, PARALLEL WORLDS: THE REMARKABLE GIBBS-HUNTS AND THE ENDURING (IN)SIGNIFICANCE OF MELANIN 9 (2010) [hereinafter ALEXANDER, PARALLEL WORLDS] (noting that “colored” women faced educational and financial restrictions); SHARFSTEIN, *supra* note 8, at 178; BARBARA YOUNG WELKE, LAW AND THE BORDERS OF BELONGING IN THE LONG NINETEENTH CENTURY UNITED STATES 23–24 (2010) (explaining how the law privileged white men).

further encouraged Platt's passing. Part V explores how Platt's life has been misused in the twenty-first century as an example of race progress and assesses how Platt's life informs the twenty-first century debate on race identity, race unity, and the movement for a colorblind society. Platt's story suggests that allowing individuals to choose their own identities and pathways is important to the recognition of the diversity of Black experiences, but that eliminating legal categories of race does not eliminate race discrimination.

This Article concludes that Platt's identity choices allowed her to overcome the laws and practices of race and gender discrimination that denied her opportunities to work in her chosen profession, live where she wanted to live, and marry whom she wanted to marry. Even as her self-identification empowered her, it came at a cost, restricting her from engaging in the movements for racial and gender justice. Though her personal choices contested systemic oppressions, racial and gender hierarchies that discriminated against Black women remained in place.

I. A COLORED WOMAN

A. *Platt's Formative Years*

Ida Platt was born in 1863, the year of the Emancipation Proclamation.¹⁴ She was the youngest daughter¹⁵ of a large, wealthy African American family.¹⁶ Publicly identified as "colored," Platt's parents were well established in the Chicago community, with a history of business success in the northeast.¹⁷ Her father Jacob Platt, born in New York, was considered "a man of broad learning and of a decidedly scholarly turn of mind."¹⁸ He married Amelia B. Matthews, a native of Pennsylvania,¹⁹ and they lived for over a decade in New York, where Jacob ran his own lumber business and Amelia bore five children who survived infancy.²⁰ In 1852, the Platts moved to Chi-

¹⁴ UNITED STATES CENSUS (1880).

¹⁵ *Id.*

¹⁶ Obituary, *Jacob F. Platt*, DAILY INTER OCEAN, Feb. 18, 1888, at 2 [hereinafter DAILY INTER OCEAN Obituary]; *Jacob F. Platt Dead*, CHI. HERALD, Feb. 18, 1888, at 2 [hereinafter CHICAGO HERALD Obituary].

¹⁷ DAILY INTER OCEAN Obituary, *supra* note 16, at 2.

¹⁸ *Id.*

¹⁹ UNITED STATES CENSUS (1880).

²⁰ UNITED STATES CENSUS (1860) (listing four children born in New York, and two born in Illinois); *Jacob F. Platt*, GRACELAND CEMETERY AND ARBORETUM RECORDS, Chicago, Illinois [hereinafter GRACELAND RECORDS] (listing a fifth child born in New York, Susan Platt, who died in 1858 before the 1860 census).

ago,²¹ where Jacob continued to successfully engage in the lumber business and Amelia had three additional children, including Ida.²²

There were fewer than 500 African Americans in Chicago when the Platts arrived.²³ Ida Platt grew up in the era of Reconstruction in a city that was increasingly racially integrated and provided opportunities for Black men and women to secure an education and work in their chosen professions.²⁴ She was eleven when the 1875 Civil Rights Act was passed.²⁵ By the time the U.S. Supreme Court declared the Act unconstitutional in 1883,²⁶ she had already graduated from an integrated Chicago public high school.²⁷ Initially, Platt studied music and was heralded as one of the “finest female pianists of the Negro race.”²⁸ However, Platt decided to forgo a musical career and began working in an insurance company owned by a Dutch immigrant.²⁹ Her father, who had ensured that all of his children graduated from high school,³⁰ enthusiastically encouraged Ida and her sisters in their business pursuits. And while Jacob Platt left his family a considerable estate when he died in 1888,³¹ the rise of Jim Crow segregation limited their opportunities going forward.

Over the next decade, southern African Americans began to migrate to Chicago,³² causing racial tensions to intensify in the city.³³ The Platt family,

²¹ CHICAGO HERALD Obituary, *supra* note 16, at 2.

²² DAILY INTER OCEAN Obituary, *supra* note 16, at 2; UNITED STATES CENSUS (1870). Two of the Platt children died in Chicago; Susan, the oldest child, died in 1858, while Alice Platt died in 1870. GRACELAND RECORDS, *supra* note 20.

²³ The Black population in Chicago was 323 in 1850, 955 in 1860, and 3691 in 1870. ALLAN SPEAR, BLACK CHICAGO: THE MAKING OF A NEGRO GHETTO 1890–1920 12 (1967).

²⁴ See WANDA A. HENDRICKS, FANNIE BARRIER WILLIAMS: CROSSING THE BORDERS OF REGION AND RACE 3, 51–52 (2014).

²⁵ Civil Rights Cases, 109 U.S. 3, 3 (1883); *Miss Ida Platt*, CLEVELAND GAZETTE, Aug. 4, 1894, at 1 (stating that Ida’s birthday was September 29, 1863).

²⁶ Civil Rights Cases, 109 U.S. at 25–26. In 1885, Illinois passed its own civil rights act prohibiting racial discrimination in public places. Act of June 10, 1885, 1885 Ill. Laws 64. After it was narrowed in 1896 when the Illinois Supreme Court held that “public accommodations” was too vague a term to be enforced, *Cecil v. Green*, 43 N.E. 1105, 1106 (Ill. 1896), the Illinois Supreme Court amended the act to explicitly include many other types of stores and restaurants, SPEAR, *supra* note 23, at 41 (1967).

²⁷ MICHAEL W. HOMEL, DOWN FROM EQUALITY: BLACK CHICAGOANS AND THE PUBLIC SCHOOLS 1920–1941 4 (1984).

²⁸ MONROE A. MAJORS, NOTED NEGRO WOMEN: THEIR TRIUMPHS AND ACTIVITIES 335 (1893); *Music*, CHI. TRIB., June 5, 1881, at 20. Platt studied with the acclaimed white musician Madame Eugenie de Roode Rice. Bradwell, *The Colored Bar*, *supra* note 5, at 397.

²⁹ THE BOOK OF CHICAGOANS: A BIOGRAPHICAL DICTIONARY OF LEADING LIVING MEN OF THE CITY OF CHICAGO 162 (John W. Leonard ed., 1905); Bradwell, *The Colored Bar*, *supra* note 5, at 397. Holger de Roode, Platt’s music instructor’s brother, owned the insurance company. *Id.*

³⁰ DAILY INTER OCEAN Obituary, *supra* note 16, at 2.

³¹ *Id.* at 2; CHICAGO HERALD Obituary, *supra* note 16, at 2.

³² The number of African Americans in Chicago rose from 6480 in 1880 to 14,171 in 1890 and then to 109,458 by 1920. WILLARD GATEWOOD, ARISTOCRATS OF COLOR: THE BLACK ELITE, 1880–1920 122 (2000); JAMES R. GROSSMAN, LAND OF HOPE: CHICAGO, BLACK SOUTHERNERS, AND THE GREAT MIGRATION 127 (1989).

along with other middle-class African Americans, responded by moving from what was becoming the city's "black belt" to Wabash Avenue.³⁴ Wabash was a broad avenue positioned on the eastern edge of the city's main Black residential community and the western edge of a wealthy white community comprised of fashionable homes.³⁵ The move allowed the Platts to situate themselves in the border area between the Black and white communities, both physically and socially.

Hardening race relations did not dissuade Ida Platt from pursuing her ambitions. In 1892, she entered the Chicago College of Law,³⁶ which offered evening classes to the non-elite, including women, immigrants, and racial minorities.³⁷ Platt took courses at night and worked during the day as a stenographer in the law office of a well-established, white Chicago attorney.³⁸ During her second year of classes, Platt opened her own stenography business, working as a law reporter while she completed her studies.³⁹ In 1894, Platt graduated from law school at the top of her class along with Louise Foskette, the only other woman to graduate that year.⁴⁰ Upon their graduation, Foskette and Platt "especially attracted my attention," remarked Judge Henry Shepard, one of their professors, "because of their ability to, not alone learn the letter of the law, but to understand its principles and their application, and I predict a successful career for them at the bar."⁴¹ Platt was subsequently admitted to the bar without any legal objections.⁴²

Platt's admission to the bar won national media attention⁴³ and was used to debate the contentious issues of race identities and hierarchies. White publications that opposed racial and gender equality used the event to argue for the retention of white supremacy and male patriarchy. The *American Law Review* espoused the view that those of African descent were inferior to

³³ GROSSMAN, *supra* note 32, at 127.

³⁴ SPEAR, *supra* note 23, at 147–48. The Platts moved to 5711 South Wabash Avenue in 1896. LAKESIDE CHICAGO CITY DIRECTORY (1895); LAKESIDE CHICAGO CITY DIRECTORY (1896). For a discussion of the differences between the "old settlers," like the Platts, and the "new settlers," see DAVARIAN L. BALDWIN, CHICAGO'S NEW NEGROES: MODERNITY, THE GREAT MIGRATION, AND BLACK URBAN LIFE 9 (2007); GATEWOOD, *supra* note 32, at 121–24 (2000); SPEAR, *supra* note 23, at 5.

³⁵ SPEAR, *supra* note 23, at 148; CHRISTOPHER ROBERT REED, KNOCK AT THE DOOR OF OPPORTUNITY: BLACK MIGRATION TO CHICAGO, 1900–1919 103 (2014).

³⁶ Bradwell, *The Colored Bar*, *supra* note 5, at 397.

³⁷ *Chicago Kent History*, CHICAGO-KENT COLL. OF LAW, <https://www.kentlaw.iit.edu/about/history> [<https://perma.cc/3SR9-QUK7>] (Sept. 29, 2018).

³⁸ Bradwell, *The Colored Bar*, *supra* note 5, at 397. The attorney, Jesse Cox, specialized in patent law. A. N. WATERMAN, HISTORICAL REVIEW OF CHICAGO AND COOK COUNTY AND SELECTED BIOGRAPHY 716 (1908).

³⁹ Bradwell, *Women Lawyers*, *supra* note 4, at 341; Bradwell, *The Colored Bar*, *supra* note 5, at 397.

⁴⁰ *Chicago College of Law*, 26 CHI. LEGAL NEWS 352, 352 (1894); *Current Topics*, *supra* note 6, at 1–2.

⁴¹ *Chicago College of Law*, *supra* note 40, at 352; *Miss Ida Platt*, *supra* note 25, at 1.

⁴² *First to Practice Law*, *supra* note 2, at 16.

⁴³ *Notes About Women*, N.Y. TIMES, Aug. 5, 1894, at 18; *First to Practice Law*, *supra* note 2, at 16; *Current Topics*, *supra* note 6, at 1–2.

whites, but supported a racial hierarchy that placed light-skinned Blacks above darker-skinned Blacks because of their “white blood.”⁴⁴ The publication speculated that Platt was an octoroon and exclaimed, “No one looking at the portrait of Miss Platt would suspect that any Negro blood ran in her veins,”⁴⁵ implying that Platt was white enough to enter the profession.

Alternatively, Black newspapers and white publications that supported the advancement of Blacks and women used Platt’s admission to discredit arguments about race inferiority. Most prominently, James Bradwell, editor of the *Chicago Legal News*, a white publication with a national readership, described Platt as a “woman of very decided ability.”⁴⁶ Black women journalists used Platt as an example to improve the reputation and position of all Black women.⁴⁷ Some Black newspapers emphasized how the accomplishments of African Americans like Platt were even more impressive than those of whites because of the additional burdens of race prejudice they had to overcome.⁴⁸

Platt never spoke publicly about her achievements, what they meant to the racial debate, or her experiences as a Black woman attorney. Despite her silence, there is evidence that she experienced significant racial prejudice in pursuing her career. One paper reported that “her friends hint[ed] vaguely at rebuffs which would have disconcerted any one with less resolution than herself.”⁴⁹ An admirer suggested that Platt “deserves unstinted praise for her courage and perseverance.”⁵⁰ Platt overcame the race discrimination she encountered to become an attorney and forged ahead as the only Black woman lawyer in the city.⁵¹

B. *Practicing Law at the Intersection of Race and Gender Prejudice*

Platt quietly began to practice law in the office of Joseph Errant, a white Chicago attorney and former high school classmate.⁵² Platt specialized in probate and real estate law.⁵³ Her legal expertise and her proficiency in German and French enabled her to develop a client base among the many

⁴⁴ *Colored Members of the Chicago Bar*, 30 AM. L. REV. 922, 923–24 (1896).

⁴⁵ *Id.* at 923.

⁴⁶ Bradwell, *The Colored Bar*, *supra* note 5, at 397.

⁴⁷ Fannie Barrier Williams, *The Colored Woman of To-day*, GODEY’S MAG., July 1897, at 29–30 [hereinafter Williams, *The Colored Woman of To-day*]; N. F. MOSSELL, *THE WORK OF THE AFRO-AMERICAN WOMAN* 20 (1908).

⁴⁸ *We Envy Each Other*, RALEIGH GAZETTE, Aug. 14, 1897, at 1.

⁴⁹ *Miss Ida Platt*, *supra* note 25, at 1.

⁵⁰ MOSSELL, *supra* note 47, at 20.

⁵¹ *First to Practice Law*, *supra* note 2, at 16; *A Colored Woman Lawyer*, N.Y. TRIB., July 1, 1897, at 5.

⁵² *Valedictory*, CHI. TRIB., June 28, 1879, at 6; *Stood High in Class*, CHI. INTER OCEAN, July 21, 1894, at 9.

⁵³ *First to Practice Law*, *supra* note 2, at 16.

immigrants in Chicago.⁵⁴ A common perception at the time was that German Americans were more willing than other white Americans to patronize African American businesses and engage their professional services.⁵⁵ By cultivating a German American clientele, Platt was able to become the only practicing African American woman lawyer in the country.⁵⁶

Practicing law after earning a law license at the turn of the twentieth century was not an easy enterprise for any woman, or even for most non-elite men. Race, class, and gender sharply divided the Chicago bar. Elite white men dominated the lucrative positions in large law firms and corporations.⁵⁷ Women, Black men, and non-elite (often immigrant) white men were generally excluded from elite law schools and from practicing in established law offices. These lawyers, like Platt, typically attended a night law school.⁵⁸ Most of the non-elite male lawyers then worked for other male lawyers during their first years in practice as they attempted to build their own client bases.⁵⁹ The path for white women was more difficult, as most male lawyers would not hire them, and it was all but impossible for Black women.

Nevertheless, the 1890s were a pivotal decade for the advancement of white women lawyers in the United States, and Chicago led the country in its growing numbers of women attorneys.⁶⁰ From 1873 (when the first woman, Alta Hulett, was admitted to the Illinois bar)⁶¹ to 1890, only twenty-five women had secured their law licenses in the state.⁶² That number quadrupled from 1890 to 1900.⁶³ This growth allowed some women to believe that they could focus on their practices rather than spend their time as activists fighting for their rights.⁶⁴ As contemporary attorney Minvera Elliot explained, “having some reputation as a stump speaker, I thought, of course, that all I had to do was to be admitted to the bar to win fame and fortune,

⁵⁴ *First to Practice Law*, *supra* note 2, at 16; *The Only Colored Woman Lawyer*, *TIMES-PICAYUNE*, June 27, 1897, at 24.

⁵⁵ *MOSSELL*, *supra* note 47, at 20.

⁵⁶ *First to Practice Law*, *supra* note 2, at 16; Bradwell, *Women Lawyers*, *supra* note 4, at 341.

⁵⁷ JEROME E. CARLIN, *LAWYERS ON THEIR OWN* 17–18 (1994).

⁵⁸ JERALD AUERBACH, *UNEQUAL JUSTICE: LAWYERS AND SOCIAL CHANGES IN MODERN AMERICA* 74, 81–82, 97–98 (1976) (discussing the establishment of night law schools created to educate minorities).

⁵⁹ CARLIN, *supra* note 57, at 8.

⁶⁰ *Feminine Enterprise*, *CHI. TRIB.*, Sept. 14, 1890, at 34. Attorney Leila Robinson described Chicago in 1890 as “the banner city in the number of its women lawyers.” Leila J. Robinson, *Women Lawyers in the United States*, 2 *GREEN BAG* 10, 13 (1890).

⁶¹ *First 101 Women Lawyers in Illinois*, in *BAR NONE: 125 YEARS OF WOMEN LAWYERS IN ILLINOIS* 32 (Gwen Hoerr McNamee ed., 1998) (providing a list of the 101 first female attorneys in Illinois).

⁶² *Id.*

⁶³ *Id.* at 32–33.

⁶⁴ *Women Lawyers in Chicago*, *CHI. TIMES HERALD*, Oct. 6, 1895, at 35. For example, the “new woman” of Boston was typically middle-class and college-educated and sought economic independence through professional work. SARAH DEUTSCH, *WOMEN AND THE CITY: GENDER, SPACE, AND POWER IN BOSTON, 1870–1940* 75–77, 104–14 (2000).

and I was certain that I would be a railroad attorney in three months.”⁶⁵ But the obstacles were greater than she and others imagined. In Elliot’s case, she admitted, “[my admission] was some years ago, and all three [fame, fortune, and becoming a railroad attorney] are still in the future, and much further ahead of me now than they appeared when I started.”⁶⁶ Most male lawyers continued to resist women’s bar admission, and some even disparagingly described women lawyers as mere “ornaments of the Chicago Bar.”⁶⁷ Most new women attorneys agreed that the greatest obstacles they faced were from male lawyers who would not hire them even as clerks in law offices, and from businessmen who limited opportunities to work in corporations to male lawyers.⁶⁸ Nonetheless, many white women lawyers were able to practice law. They began forming organizations⁶⁹ and working for the government⁷⁰ and in private law offices—both their own⁷¹ and those run by men.⁷²

The same could not be said for Black women. The first generation of African American women attorneys lacked the critical mass and the institutional support of Black bar associations crucial to the work of the Black women lawyers who joined the bar later.⁷³ In the 1890s, the Black male bar had not yet firmly established a place for itself within the profession. There were only twenty-nine licensed Black male lawyers in Illinois when Platt

⁶⁵ *Women Lawyers in Chicago*, *supra* note 64, at 35.

⁶⁶ *Id.*

⁶⁷ *Feminine Enterprise*, *supra* note 60, at 34.

⁶⁸ *Women Lawyers in Chicago*, *supra* note 64, at 35.

⁶⁹ *See, e.g.*, VIRGINIA DRACHMAN, *WOMEN LAWYERS AND THE ORIGINS OF PROFESSIONAL IDENTITY IN AMERICA: THE LETTERS OF THE EQUITY CLUB, 1887–1890* 1–2 (1993) (describing the creation of the Equity Club during “an age of organizational growth in the legal profession”).

⁷⁰ In 1896, Cora Hirtzel was appointed assistant Corporation Counsel for the city of Chicago. *A Woman as Corporation Counsel Thornton’s Assistant*, 29 CHI. LEGAL NEWS 341, 341 (1896). In 1895, Cora Agnes Benneson was appointed Special Commissioner to the Council Chamber of Massachusetts Governor Greenhalge. MARY ESTHER TRUEBLOOD, CORA AGNES BENNESON 12 (1904). In 1897, Mary Bartelme was appointed Public Guardian of Cook County. *Miss Bartelme Appointed Public Guardian of Cook County*, 29 CHI. LEGAL NEWS 317, 317 (1897).

⁷¹ Ellen Martin maintained her law office in Chicago until 1915. *Ellen Martin*, 48 CHI. LEGAL NEWS 333, 333 (1916). Kate Kane Rossi maintained her legal practice until 1920. *Mrs. Kate Rossi, Woman Lawyer Since 1894, Dies*, CHI. TRIB., Nov. 23, 1928, at 22. Loise Foskette established her own law office in Chicago from 1894 and maintained it until her untimely death in 1897. *Loise M. Foskette Dead*, 29 CHI. LEGAL NEWS 243, 243–44 (1897).

⁷² Prior to her appointment as public guardian, Mary Bartelme was a partner at the firm Barnes, Barnes and Bartelme from 1894 to 1897. Gwen Hoerr McNamee, *Bartelme, Mary Margaret*, in *WOMEN BUILDING CHICAGO 1790–1990* 66, 66 (Rima Lunin Schultz & Adele Hast eds., 2001). Catharine Waugh McCulloch joined her husband’s firm as a partner in 1890 and worked there until her death in 1945. Mary Linehan, *McCulloch, Catharine Gougher Waugh*, in *WOMEN BUILDING CHICAGO 1790–1990*, *supra*, at 560, 561–62.

⁷³ *See* Kenneth Mack, *A Social History of Everyday Practice: Sadie T.M. Alexander and the Incorporation of Black Women into the American Legal Profession, 1925–1960*, 87 CORNELL L. REV. 1405, 1416 (2002).

was admitted.⁷⁴ Neither was there a large enough Black middle class to provide clients who could pay African American attorneys for legal services.⁷⁵ Additionally, as noted above, white women were still struggling to carve a place for themselves within the legal community.⁷⁶ The white, masculine legal profession, which was staunchly resistant to Black male lawyers and white women lawyers,⁷⁷ was even more hostile to Black women lawyers.⁷⁸

Ida Platt was one of just five known Black women in the country to secure a law license in the nineteenth century and the only one able to maintain a law practice.⁷⁹ Three of the five graduated from Howard University School of Law, incorporated in 1867 and the first law school in the South to employ a biracial faculty and “admit students regardless of sex or color.”⁸⁰ Charlotte Ray, the first graduate in law, secured her law license in Washington, D.C. in 1872.⁸¹ Ray attempted to maintain a practice for several years,⁸² but the challenges of race and gender discrimination proved too daunting,⁸³ so she moved to New York and became a school teacher.⁸⁴ The second Howard graduate, Mary Ann Shadd Cary, also tried to set up a practice in Washington, but, like Ray, was unable to sustain it.⁸⁵ Cary instead continued her work as a journalist, teacher, and activist for civil rights and women’s rights.⁸⁶ The third, Marie A. D. Madre, graduated in 1897, first in her class of

⁷⁴ Bradwell, *The Colored Bar*, *supra* note 5, at 386.

⁷⁵ See, e.g., Mack, *supra* note 73, at 1417; *Our Lawyers*, CHI. WHIP, Nov. 19, 1921. See also SHARFSTEIN, *supra* note 8, at 233.

⁷⁶ See, e.g., *Women Lawyers in Chicago*, *supra* note 64, at 35; Gwen Jordan, *Agents of (Incremental) Change: From Myra Bradwell to Hillary Clinton*, 9 NEV. L. J. 580, 630 (2009). See also VIRGINIA DRACHMAN, *SISTERS IN LAW: WOMEN LAWYERS IN MODERN AMERICAN HISTORY* 4 (1998) [hereinafter DRACHMAN, *SISTERS IN LAW*]; Barbara Babcock, *Feminist Lawyers*, 50 STAN. L. REV. 1689, 1699 (1998).

⁷⁷ Michael Grossberg, *Institutionalizing Masculinity: The Law as a Masculine Profession*, in MEANINGS FOR MANHOOD IN VICTORIAN AMERICA 133, 145 (Mark C. Carnes & Clyde Griffin eds., 1990).

⁷⁸ KENNETH W. MACK, REPRESENTING THE RACE: THE CREATION OF THE CIVIL RIGHTS LAWYER 131–32 (2012).

⁷⁹ See SMITH, EMANCIPATION, *supra* note 3, at 18, 54 (listing Charlotte Ray, Mary Shadd Carey, Ida Platt, and Lutie Lytle as four Black female lawyers who entered the profession in the nineteenth century); *First to Practice Law*, *supra* note 2, at 16 (describing Marie Madre as a Black female lawyer who graduated from law school in the nineteenth century); *A Colored Woman Lawyer*, *supra* note 51, at 5; MOSSELL, *supra* note 47, at 19–20.

⁸⁰ JANE RHODES, MARY ANN SHADD CARY: THE BLACK PRESS AND PROTEST IN THE NINETEENTH CENTURY 185 (1998).

⁸¹ See *The Legal World Moves*, 4 CHI. LEGAL NEWS 186, 186 (1872); J. Clay Smith, *Law and Its Call to Black Women*, in REBELS IN LAW: VOICES IN HISTORY OF BLACK WOMEN LAWYERS 9, 9 (J. Clay Smith ed., 1998); Sadie Tanner Mossell Alexander, *Women as Practitioners of Law in the United States*, 1 NAT’L. B. J. 56, 59–60 (1941).

⁸² MAJORS, *supra* note 28, at 183–84.

⁸³ *The Legal World Moves*, 30 CHI. LEGAL NEWS 80, 80 (1897).

⁸⁴ Dorothy Thomas, *Ray, Charlotte E.*, in NOTABLE AMERICAN WOMEN: A BIOGRAPHICAL DICTIONARY 121, 121–22 (Edward T. James ed., 1971); DRACHMAN, *SISTERS IN LAW*, *supra* note 76, at 45.

⁸⁵ RHODES, *supra* note 80, at 190.

⁸⁶ *Id.* at 216.

thirty law students;⁸⁷ however, she did not practice law. Instead, Madre pursued a career as a teacher in Washington, D.C.,⁸⁸ served as a long-term president of the Bethel Literary Society (an auxiliary of the African Methodist Episcopal Church),⁸⁹ and participated as an active member of a number of Black organizations, including the National Association of Colored Women.⁹⁰ In 1897, Lutie Lytle graduated from Central Tennessee College's Department of Law,⁹¹ established in 1879 for the education of "colored attorneys."⁹² Lytle was subsequently admitted to practice law in both Tennessee and Kansas. Although she announced an intention to practice law in Chicago, she instead joined the law faculty at Central Tennessee College.⁹³ *The American Law Review* captured the hostility of much of the white male bar to these Black women lawyers, particularly in its response to Lytle's admission: "The admission of young girls to the bar, white or colored, can neither elevate the bar nor advance the dignity of womanhood."⁹⁴



MISS IDA PLATT, OF CHICAGO.
First colored lady admitted to the bar
in Illinois.

⁸⁷ *First to Practice Law*, *supra* note 2, at 16.

⁸⁸ CIVIL SERVICE COMMISSION, OFFICIAL REGISTER OF THE US VOLUME 1 486 (1909).

⁸⁹ RICHARD R. WRIGHT, CENTENNIAL ENCYCLOPEDIA OF THE AFRICAN METHODIST EPISCOPAL CHURCH 367-68 (1916).

⁹⁰ PATSY MOSE FLETCHER, HISTORICALLY AFRICAN AMERICAN LEISURE DESTINATIONS AROUND WASHINGTON, D.C. 26-27 (2015).

⁹¹ Noreen R. Connolly, *Attorney Lutie A. Lytle: Options and Obstacles of a Legal Pioneer*, NEB. LAW. 6, 7 (1999).

⁹² *Id.*

⁹³ *Id.* at 10-11.

⁹⁴ *Admission of a Colored Woman to the Bar*, 31 AM. L. REV. 909, 909 (1897).

IDA PLATT 1863–1939⁹⁵C. *Platt's Lack of Women's Rights Activism*

The prejudices and limitations women lawyers faced in the legal system drove many of them (if they were not already so inclined) to actively fight for women's rights.⁹⁶ The media speculated that Ida Platt would follow this path. One newspaper noted that Platt was “in a position to greatly help the down-trodden women of her race,” and conjectured that Black women in need of legal assistance would undoubtedly show “confidence in her which no Caucasian could elicit.”⁹⁷ Additionally, Platt's choice to work in the law office of her friend Joseph Errant, a committed social justice activist, suggested that Platt would be an activist as well.⁹⁸ But Platt did not become a leader in the Black women's club movement nor the fight for Black civil rights or women's rights.

There is some evidence that Platt did, initially, publicly support the Black women's movement. In 1896, Platt took part in a benefit for Chicago's Provident Hospital and Training School for Nurses. The hospital opened in 1891 as the city's only interracial medical facility after “a yearlong struggle [in order] to deliver better health care to African Americans, create employment opportunities for black women, and forge alliances across race and class lines.”⁹⁹ Platt served as a member of the Auxiliary Committee of Women and was a patron of the benefit's entertainment.¹⁰⁰ Additionally, in July 1897, she attended an annual convention of the National League of Colored Women (NLCW) in Washington, D.C., where she read a paper entitled “Women in the Profession of Law.”¹⁰¹ Black women activists had formed the

⁹⁵ *Miss Ida Platt, of Chicago. First Colored Lady Admitted to the Bar in Illinois, in Schomburg Center for Research in Black Culture, Manuscripts, Archives and Rare Books Division*, N.Y. PUB. LIBR. DIGITAL COLLECTIONS, <https://digitalcollections.nypl.org/items/510d47da-7131-a3d9-e040-e00a18064a99> [<https://perma.cc/85FE-8KRL>].

⁹⁶ *See Women Lawyers in Chicago, supra* note 64, at 35.

⁹⁷ *Id.*

⁹⁸ In his initial year of practice, Errant donated his services to the newly formed Protective Agency for Women and Children, PROTECTIVE AGENCY FOR WOMEN AND CHILDREN, FIRST ANNUAL REPORT OF THE PROTECTIVE AGENCY FOR WOMEN AND CHILDREN 1887 (1887), an organization that provided social and legal services to indigent women and children, Gwen Hoerr Jordan, “*Them Law Wimmin*”: *The Protective Agency for Women and Children and the Gendered Origins of Legal Aid*, in FEMINIST LEGAL HISTORY: ESSAYS ON WOMEN AND LAW 156, 156 (Tracy A. Thomas & Tracy Jean Boisseau eds., 2011). He also established the Bureau of Justice and was actively involved in the Illinois Conference of Charities and Corrections. THE BOOK OF CHICAGOANS, *supra* note 29, at 191–92.

⁹⁹ HENDRICKS, *supra* note 24, at 67.

¹⁰⁰ *Will Play for Charity*, CHI. TRIB., May 10, 1896, at 16.

¹⁰¹ *The Only Colored Woman Lawyer*, DAILY PICAYUNE, June 27, 1897, at 24; *Second Day's Session*, EVENING STAR, July 15, 1896, at 3.

NLCW in 1892 for “the improvement of the condition of colored women.”¹⁰²

Platt, however, chose not to formally join the NLCW or any of the Black women’s clubs that were flourishing in Chicago and throughout the country.¹⁰³ Instead, she focused her energy on her work. She spent her spare time pursuing “her love of music” and performed in public concerts in Chicago and in Washington, D.C. on numerous occasions.¹⁰⁴ She was described variously as “composed and dignified at all times” having “an oddly interesting character” and “a woman of strange, unfathomable presence.”¹⁰⁵ It is possible that Platt refrained from social justice activism in part because of her “retiring disposition,”¹⁰⁶ but it may also have been because of the oppressive social and legal culture in which she lived and worked.

Black women who sought entry to the masculine professions found little support even among African American women’s organizations. Most of these clubs were dedicated to the principle of racial uplift,¹⁰⁷ where middle-class, educated Black women taught poor Black women and groomed them for work in the feminized professions. The clubwomen supported a woman’s desire to become a schoolteacher, nurse, social worker, or librarian, all professions that were increasingly dominated by women.¹⁰⁸ Underlying the self-help strategy, however, was the pervasive assumption that all women, regardless of their education, skills, or accomplishments, would avoid directly challenging Black men by remaining outside of traditionally male occupa-

¹⁰² HENDRICKS, *supra* note 24, at 94–95.

¹⁰³ *Id.* at 5, 97–98, 114 (listing clubs such as the Tourgee Club and the Ideal Woman’s Club); SPEAR, *supra* note 23, at 59, 66, 101–03 (listing clubs such as the Tuskegee, Afro-American Council, and Ida Wells Club). By the turn of the twentieth century, many of these clubs in Chicago and throughout the state joined together to form the Illinois Federation of Colored Women’s Clubs, and by 1922, there were fifteen Chicago-based clubs. ELIZABETH LINDSEY DAVIS, *THE STORY OF THE ILLINOIS FEDERATION OF COLORED WOMEN’S CLUBS* (1922), *reprinted in* *THE STORY OF THE ILLINOIS FEDERATION OF COLORED WOMEN’S CLUBS & THE HISTORY OF THE ORDER OF THE EASTERN STAR AMONG COLORED PEOPLE* 1, 6–34 (Henry Louis Gates, Jr. ed., 1997) (listing women’s clubs, including those in Chicago, and their members). Ida Platt was not listed as a member of any of these clubs. *Id.*

¹⁰⁴ *The Only Colored Woman Lawyer*, *supra* note 101, at 24.

¹⁰⁵ *Only Colored Woman Lawyer*, OMAHA DAILY BEE, June 28, 1897, at 3.

¹⁰⁶ *The Cleveland Gazette* explained that Platt “[was] of a very retiring disposition and [was] a young lady of few words. Miss Platt very seldom if ever enter[ed] society.” *Miss Ida Platt*, *supra* note 25, at 1.

¹⁰⁷ DEBORAH GRAY WHITE, *TOO HEAVY A LOAD: BLACK WOMEN IN DEFENSE OF THEMSELVES 1894–1994* 27–28 (1999). *See also* KEVIN K. GAINES, *UPLIFTING THE RACE: BLACK LEADERSHIP, POLITICS, AND CULTURE IN THE TWENTIETH CENTURY* 36–37 (1996).

¹⁰⁸ STEPHANIE J. SHAW, *WHAT A WOMAN OUGHT TO BE AND TO DO: BLACK PROFESSIONAL WOMEN WORKERS DURING THE JIM CROW ERA* 3 (1996). “Debarred as our girls are from many avenues of lucrative employment,” *The Voice of the Negro* advised in 1907, “it is wise for them to consider what work is open to them and what their chances of success are in their chosen field.” Katherine D. Tillman, *Paying Professions for Colored Girls*, 4 *VOICE NEGRO* 54, 54–56 (1907). It cited teaching, nursing, dress-making, millinery, hair-dressing, domestic science (cooking), catering, and house work as fields with the best opportunities for “colored girls” to earn a living. *Id.* *See also* HENDRICKS, *supra* note 24, at 99.

tions.¹⁰⁹ Platt, who was devoted to her career in a traditionally male occupation and was also single and childless, was distinct from these reform groups, and was one of many to remain officially outside of this movement.¹¹⁰

An additional reason Platt did not engage in the reform movements was, perhaps, her significant family responsibilities. Platt's mother and siblings relied on her as their primary source of financial support. Unable to earn enough money through her law practice, Platt supplemented her income teaching shorthand and typing in the evenings at a Chicago high school.¹¹¹ Additionally, it appears that Platt cared for her family as they suffered a series of illnesses and deaths. Platt's sister, Maria, died the year Platt was admitted to the bar, and her brother, Jacob Jr., died three years later.¹¹² Sometime later, Platt's brother-in-law, William Phillips, contracted tuberculosis and was confined to the Chicago Home for Incurables.¹¹³ When Platt's mother died in 1902,¹¹⁴ Platt left Errant's law office and worked at home for the next three years.¹¹⁵

Whatever her reasoning, Platt chose to live her professional life as a white woman and to not out her passing with Black activist work. This strategic decision may have distanced her from the Black community, but it does not mean she rejected it or that it rejected her. Platt's racial passing was a means to an end. Her decision, as discussed below, was likely supported by her community as a way to ensure her success as a Black woman lawyer.

II. "PASSING" AS WHITE IN CHICAGO

A. *Race and Racial Passing in the United States during the Nineteenth Century*

Racial constructions in America have never been fixed or complete. From the colonial era, Americans constructed categories of race to divide

¹⁰⁹ See, e.g., GAINES, *supra* note 107, at 43; WHITE, *supra* note 107, at 56–58. Many Black clubwomen—as well as a number of white clubwomen—recognized the expectation that they would remain subordinate to men. WHITE, *supra* note 107, at 55.

¹¹⁰ Described by Willard Gatewood as “aristocrats of color,” GATEWOOD, *supra* note 32, at 125, a number of light-skinned, socially prominent, long-time residents of the city chose to separate themselves from poor and uneducated blacks. Some of this group did so because they looked down on the masses, others did so to improve their lives, and still others did so to improve the race through individual achievement. *Id.* at 121–27.

¹¹¹ Bradwell, *Women Lawyers*, *supra* note 4, at 341.

¹¹² GRACELAND RECORDS, *supra* note 20.

¹¹³ Certificate of Death of William C. Phillips (1917).

¹¹⁴ Certificate of Death of Amelia B. Platt (1902).

¹¹⁵ From 1903 through 1905, Platt is listed as a lawyer in the city directory with no business address listed; only her residential address appears. LAKESIDE CHICAGO CITY DIRECTORIES (1903–1905). The city directory also lists her sisters Amelia and Mary at their home address 5711 Wabash. LAKESIDE CHICAGO CITY DIRECTORIES (1903–1905).

people into groups and situate them in a hierarchy of rights and privilege.¹¹⁶ These race categories were highly variable, dependent on the historical time period, region, and social and political circumstances.¹¹⁷ Official designations through the census and state laws, which at first primarily distinguished between white and nonwhite, over time divided nonwhites into more specific categories, such as “mulatto.”¹¹⁸ Individuals attempted both formally (through litigation) and informally (through everyday encounters) to determine exactly what those categories were and who fit into each.¹¹⁹

Methods of race determination were as indefinite as racial categories themselves. Throughout the nineteenth century, courts and individuals used evidence of performance and appearance to determine a person’s racial status.¹²⁰ Judges and juries considered women to be white, or granted them the privileges of whites, if they appeared white and “act[ed] out purity and moral virtue.”¹²¹ In the mid-to-late nineteenth century, as scientific racism rose in prominence in the United States, biology and ancestry became critical components competing with, but not replacing, performance and appearance in determining race identity.¹²² The imprecise methods of race determination did not reflect the importance of the result. As Barbara Welke, a professor of history and law, explains, race was and “even today[] re-

¹¹⁶ See, e.g., GEORGE M. FREDRICKSON, *THE ARROGANCE OF RACE: HISTORICAL PERSPECTIVES ON SLAVERY, RACISM, AND SOCIAL INEQUALITY* 189–235 (1988) (discussing the origins of racism in America); WINTHROP D. JORDAN, *WHITE OVER BLACK: AMERICAN ATTITUDES TOWARD THE NEGRO, 1550–1812* 44 (1968); IAN F. HANEY LÓPEZ, *WHITE BY LAW: THE LEGAL CONSTRUCTION OF RACE* 3–4 (1996).

¹¹⁷ See HANEY LÓPEZ, *supra* note 116, at xiii–xiv.

¹¹⁸ See, e.g., NELL IRVIN PAINTER, *THE HISTORY OF WHITE PEOPLE* 104–06 (2010); Ariela J. Gross, *Litigating Whiteness: Trials of Racial Determination in the Nineteenth-Century South*, 108 *YALE L.J.* 109, 114 (1998) [hereinafter Gross, *Litigating Whiteness*]; Ariela Gross, “*Of Portuguese Origin*”: *Litigating Identity and Citizenship among the “Little Races” in Nineteenth-Century America*, 25 *LAW & HIST. REV.* 467, 511–12 (2007).

¹¹⁹ See, e.g., HANEY LÓPEZ, *supra* note 116, at 3–5; PAINTER, *supra* note 118, at 106–07; Gross, *Litigating Whiteness*, *supra* note 118, at 111–12.

¹²⁰ See, e.g., Gross, *Litigating Whiteness*, *supra* note 118, at 112–13; Gross, *WHAT BLOOD WON’T TELL*, *supra* note 13, at 3; SHARFSTEIN, *supra* note 8, at 83; Robert Westley, *First-Time Encounters: “Passing” Revisited and Demystification As a Critical Practice*, 18 *YALE L. & POL’Y REV.* 297, 300 (2000); Mark Golub, *Plessy as “Passing”: Judicial Responses to Ambiguously Raced Bodies in Plessy v. Ferguson*, 39 *LAW & SOC’Y REV.* 563, 590 (2005).

¹²¹ Gross, *Litigating Whiteness*, *supra* note 118, at 157. See also BARBARA YOUNG WELKE, *RECASTING AMERICAN LIBERTY: GENDER, RACE, LAW, AND THE RAILROAD REVOLUTION, 1865–1920* 283 (2001) [hereinafter WELKE, *RECASTING AMERICAN LIBERTY*]; Evelyn Brooks Higginbotham, *African-American Women’s History and the Metalanguage of Race*, 17 *SIGNS* 251, 262–63 (1992) (discussing Black women’s exclusion from the ideals of purity).

¹²² See, e.g., F. JAMES DAVIS, *WHO IS BLACK: ONE NATION’S DEFINITION* 4–16 (1991) [hereinafter DAVIS, *WHO IS BLACK*] (discussing the roles both biology and appearance played in race determinations); HANEY LÓPEZ, *supra* note 116, at 5–6; MICHAEL OMI & HOWARD WINANT, *RACIAL FORMATION IN THE UNITED STATES: FROM THE 1960S TO THE 1990S* 64 (1994); Gross, *Litigating Whiteness*, *supra* note 118, at 113, 151.

mains perhaps the most fundamental determinant of status in American society.”¹²³

During the late nineteenth century, as states began to enact segregation statutes that came to define the legalized segregation of Jim Crow, racial distinctions both legally and socially became increasingly polarized.¹²⁴ The census instituted new means of race classification that deemed anyone with even one drop of “black blood” as “black.”¹²⁵ For most of the twentieth century, the one-drop rule was the dominant legal standard in maintaining a racial hierarchy that kept white men on top and all Black persons lumped together at the bottom.¹²⁶ But the actual execution of the one-drop rule was less absolute.¹²⁷ For those like Ida Platt, who stood in the “constantly shifting ‘middle ground’ of race,” there were opportunities to subvert some of these burdens by claiming whiteness.¹²⁸

Racial passing occurred when a person who appeared to be white, but who by law or custom was categorized as Black, presented as white.¹²⁹ Passing is believed to have been a widespread phenomenon throughout the nineteenth century and the first half of the twentieth century.¹³⁰ Incidents of passing varied in character and duration.¹³¹ Although motivations to pass also varied, for most it was a means to assert some control over their lives and to secure rights and privileges that enabled their survival, security, and advancement.¹³² Whites—intent on maintaining racial categories, white racial purity, and a regime of white supremacy—condemned passing.¹³³

¹²³ WELKE, RECASTING AMERICAN LIBERTY *supra* note 121, at xiii.

¹²⁴ GROSS, WHAT BLOOD WON’T TELL, *supra* note 13, at 100.

¹²⁵ Lawrence Wright, *One Drop of Blood*, NEW YORKER, July 25, 1994 [https://perma.cc/4LZL-ZUNN]; see also, DAVIS, WHO IS BLACK, *supra* note 122, at 12; JOEL WILLIAMSON, NEW PEOPLE: MISCEGENATION AND MULATTOES IN THE UNITED STATES 108 (1980).

¹²⁶ See MARTHA HODES, WHITE WOMEN BLACK MEN: ILLICIT SEX IN THE 19TH-CENTURY SOUTH 199 (1997); RANDALL KENNEDY, SELLOUT: THE POLITICS OF RACIAL BETRAYAL 14–15 (2008) [hereinafter KENNEDY, SELLOUT].

¹²⁷ See, e.g., WELKE, RECASTING AMERICAN LIBERTY, *supra* note 121, at 276.

¹²⁸ GROSS, *Litigating Whiteness*, *supra* note 118, at 182.

¹²⁹ KENNEDY, SELLOUT, *supra* note 126, at 144–45. See also John H. Burma, *The Measurement of Negro “Passing”*, 52 AM. J. SOC. 18, 18 (1946); Elaine K. Ginsberg, *Introduction: The Politics of Passing in PASSING AND THE FICTIONS OF IDENTITY* 1, 1 (Elaine K. Ginsberg ed., 1996).

¹³⁰ SANDWEISS, *supra* note 10, at 7; WERNER SOLLORS, NEITHER BLACK NOR WHITE YET BOTH: THEMATIC EXPLORATIONS OF INTERRACIAL LITERATURE 280–84 (1997); Burma, *supra* note 129, at 18; Randall Kennedy, *Racial Passing*, 62 OHIO ST. L.J. 1145, 1147 (2001) [hereinafter Kennedy, *Racial Passing*].

¹³¹ KENNEDY, SELLOUT, *supra* note 126, at 145 (describing that there are two categories of passing: temporary and permanent); Burma, *supra* note 129, at 21 (explaining that “passing is a matter of degree” and asserting that passing occurs “every time a person legally Negro is assumed by someone else to be white”); WHITE, *supra* note 107, at 95, 96 (assessing that Black women sometimes passed for “comfort and safety” or to gather information and “come back and report just how the other half does”).

¹³² Cheryl Harris, *Whiteness as Property*, 106 HARV. L. REV. 1709, 1713 (1993); Kennedy, *Racial Passing*, *supra* note 130, at 1150.

¹³³ Kennedy, *Racial Passing*, *supra* note 130, at 1157.

For Platt, and for other African American lawyers, there were some very real incentives to pass.¹³⁴ In 1896, two years after Platt's bar admission, Albion Tourgee described the effects of racial discrimination in his arguments before the U.S. Supreme Court in *Plessy v. Ferguson*¹³⁵ by asking, "How much would it be *worth* to a young man entering upon the practice of law, to be regarded as a *white* man rather than a colored one? Six-sevenths of the population are white. Nineteen-twentieths of the property of the country is owned by white people. Ninety-nine hundredths of the business opportunities are in the control of white people."¹³⁶ In 1910, women comprised only 1.1% of the U.S. legal profession,¹³⁷ making it even more compelling for African American women lawyers to want to pass in order to succeed in the limited opportunities they had.

This era was full of attempts by white lawyers, judges, train conductors, and other layfolk to prevent those legally categorized as non-white from passing as white.¹³⁸ Their reasons were twofold: to preserve both white privilege and the white race.¹³⁹ Determining who was Black and who was white was, therefore, critical to maintaining the system of white supremacy.¹⁴⁰ Despite these efforts, many Blacks successfully passed. Sometime in the first decade of the twentieth century, Ida Platt joined their number.

B. *Becoming a White Woman Lawyer*

Platt was forced to negotiate the systemically racist and sexist regimes that persisted in society and in the legal profession as she fought to pursue her career and provide for her family. Platt stood at the intersection of those regimes without any formal institutional support. Unlike the African American women lawyers of her generation who chose to leave the profession, Platt was determined to stay the course. There is significant evidence that she chose to shift her professional racial identity to white for roughly the next two decades, allowing her to become the only "colored" woman lawyer of her generation to sustain a legal career.¹⁴¹

¹³⁴ Although the number of recorded incidents of passing among lawyers is low, there are scattered descriptions of Black lawyers passing as white. See GATEWOOD, *supra* note 32, at 3–4.

¹³⁵ 163 U.S. 537 (1896).

¹³⁶ Harris, *supra* note 132, at 1748 (quoting Brief for Plaintiff in Error at 9, *Plessy v. Ferguson*, 163 U.S. 537 (1896) (No. 210), 1893 WL 10660, at *9).

¹³⁷ CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* 4 (2d ed. 1993).

¹³⁸ See, e.g., HANEY LÓPEZ, *supra* note 116, at 4–5; WELKE, *RECASTING AMERICAN LIBERTY*, *supra* note 121, at 312–14, 356–57; Golub, *supra* note 120, at 563–64; Peggy Pascoe, *Miscegenation Law, Court Cases, and Ideologies of "Race" in Twentieth-Century America*, 83 J. AM. HIST. 44, 51 (1996).

¹³⁹ See Harris, *supra* note 132, at 1785; Golub, *supra* note 120, at 576; PEGGY PASCOE, *WHAT COMES NATURALLY: MISCEGENATION LAW AND THE MAKING OF RACE IN AMERICA* 8–9 (2009).

¹⁴⁰ Westley, *supra* note 120, at 314.

¹⁴¹ *First to Practice Law*, *supra* note 2, at 16; *A Colored Woman Lawyer*, *supra* note 51, at 5; MOSSELL, *supra* note 47, at 20.

Potentially indicating that Platt passed as white, her family moved to the predominantly white neighborhood of Hyde Park in 1909 and remained there unharmed through waves of racial violence. Hyde Park's white residents had reacted negatively to the influx of Black residents. In 1909, they created the Hyde Park Improvement Protective Club with the goal of keeping the community white.¹⁴² Through rhetoric and through violence, they were mostly successful in their efforts.¹⁴³ Yet the Platts continued to live in Hyde Park for more than a decade, even when racial tensions were rising and turning violent. In 1917, the Hyde Park and Kenwood Property Owners Association "proposed a formal scheme of racial segregation" for their neighborhood¹⁴⁴ and "went as far as to call on employers to deny jobs to black residents who would dare 'invade' white areas."¹⁴⁵ From 1917 to 1921, there were over fifty bombings in Chicago, many occurring in Hyde Park—most of the victims were Black residents or white real estate agents who had sold homes to Blacks.¹⁴⁶ During the spring of 1919, some form of assault on Blacks occurred daily¹⁴⁷ and, in April, a home on Ellis Avenue, some blocks north on the street where Platt lived, was bombed.¹⁴⁸

Riots broke out on Chicago's South Side on July 27, 1919 and lasted five days.¹⁴⁹ Thirty-eight people died, hundreds were injured, and there was significant property damage.¹⁵⁰ The Cook County coroner's report cited the movement of Blacks into white neighborhoods as one of the primary reasons for the riots. "Overcrowded and unmistakably [sic] bad living conditions"¹⁵¹ for African Americans in the black belt "compelled [them] to push out and find homes. The Negro would purchase a home in the white section,"¹⁵² explained one of the coroner's jurors, "and his neighbor's property would decrease in value which would cause race hatred."¹⁵³ Dramatic changes in property values—which in some areas reportedly "decreased [by] millions"¹⁵⁴—coupled with the "intermingling" of the races created hatred that "develop[ed] into actual violence."¹⁵⁵ Even after the riots, the Hyde Park Property Owners Association increased its campaign to oust

¹⁴² See ROBIN F. BACHIN, *BUILDING THE SOUTH SIDE: URBAN SPACE AND CIVIC CULTURE IN CHICAGO 1890–1919* 58 (2004).

¹⁴³ See SPEAR, *supra* note 23, at 22.

¹⁴⁴ BACHIN, *supra* note 142, at 58.

¹⁴⁵ BALDWIN, *supra* note 34, at 23.

¹⁴⁶ SPEAR, *supra* note 23, at 211.

¹⁴⁷ *Id.* at 212.

¹⁴⁸ *Bomb Set Off in Negro Flats*, CHI. TRIB., Apr. 7, 1919, at 1.

¹⁴⁹ See SPEAR, *supra* note 23, at 214–17; WILLIAM TUTTLE, *RACE RIOT: CHICAGO IN THE RED SUMMER OF 1919* 8–10 (1970).

¹⁵⁰ CORONER'S OFFICIAL REPORT OF RACE RIOT 1 (1919).

¹⁵¹ *Id.* at 4.

¹⁵² PETER M. HOFFMAN, *THE RACE RIOTS: BIENNIAL REPORT 1918-1919 AND OFFICIAL RECORD OF INQUEST ON THE VICTIMS OF THE RACE RIOTS OF JULY AND AUGUST, 1919* 22, 60 (1919).

¹⁵³ *Id.*

¹⁵⁴ *Id.*

¹⁵⁵ *Id.*

Blacks from their neighborhood,¹⁵⁶ but the Platt family stayed and remained unharmed.

In 1910, the Platt family was comprised of Ida; her sisters Amelia, Mary, and Ellen Phillips; Ellen's children; and Richard T. Greener,¹⁵⁷ a distant relative of the Platts.¹⁵⁸ Greener and all of the Platts were known as African Americans within the Black community.¹⁵⁹ However, the 1910 census lists Ida Platt, her sisters, and Richard T. Greener as white.¹⁶⁰ This was a change from the racial statuses recorded in the census for the prior years. Although no race was listed for the Platts in the 1860 census, for the years 1870 and 1880, the whole Platt family was listed as mulatto.¹⁶¹ The federal government used the census as a primary means of categorizing race, and it spent "a great deal of time determining official racial categories."¹⁶² In 1890, census takers were instructed to record the exact proportion of "African American blood" in an individual, but by 1920 the census resorted to a binary system of race categorization: white or Black.¹⁶³ The record for the Platts in the 1890 census does not survive, but in 1900, Ida, her mother, her sisters, and Ellen's children were listed as Black.¹⁶⁴ In the 1910 and 1920 censuses, the surviving Platts were listed as white.¹⁶⁵ It is not known whether Platt self-identified as white or was mistaken for white by the census taker. Often census takers did not ask the family their race, but merely indicated the race based on the enumerator's observation.¹⁶⁶ In this case, in the first census after the death of both of Ida's parents,¹⁶⁷ the race designation for Platt and her family changed from Black to white.¹⁶⁸

As a further indication that Platt was passing as white in her professional life, in 1912 she moved her law office into the new and prestigious North American Building,¹⁶⁹ where many white businessmen—including Benjamin J. Rosenthal, a successful pioneer in the mail order business¹⁷⁰—had their offices. Rosenthal had served with Joseph Errant, Platt's former law

¹⁵⁶ SPEAR, *supra* note 23, at 222.

¹⁵⁷ See UNITED STATES CENSUS (1910).

¹⁵⁸ KATHERINE REYNOLDS CHADDOCK, UNCOMPROMISING ACTIVIST: RICHARD GREENER, FIRST BLACK GRADUATE OF HARVARD COLLEGE 153 (2017).

¹⁵⁹ DAILY INTER OCEAN Obituary, *supra* note 16, at 2; *Richard T. Greener*, CHI. DEFENDER, May 13, 1922, at 12.

¹⁶⁰ UNITED STATES CENSUS (1910).

¹⁶¹ UNITED STATES CENSUS (1870); UNITED STATES CENSUS (1880).

¹⁶² PASCOE, *supra* note 139, at 9.

¹⁶³ DAVIS, WHO IS BLACK, *supra* note 122, at 11–12.

¹⁶⁴ UNITED STATES CENSUS (1900).

¹⁶⁵ UNITED STATES CENSUS (1910); UNITED STATES CENSUS (1920).

¹⁶⁶ See DAVIS, WHO IS BLACK, *supra* note 122, at 11–12.

¹⁶⁷ CHICAGO HERALD Obituary, *supra* note 16, at 2; Certificate of Death of Amelia B. Platt (1902).

¹⁶⁸ UNITED STATES CENSUS (1910).

¹⁶⁹ CHICAGO CITY DIRECTORY (1912). Platt continued to list herself as a lawyer at her home address in Hyde Park. See CHICAGO CITY DIRECTORY (1911).

¹⁷⁰ Walter Roth, *Mail Order & Bungalows: Philanthropist Benjamin J. Rosenthal*, 26 CHI. JEWISH HIST. 5, 5–6 (2002).

colleague, on the Chicago School Board for three years, beginning in 1894,¹⁷¹ the year Ida Platt joined Errant's law office.¹⁷² Like Errant, Rosenthal was a social justice activist dedicated to advancing the rights of working class African Americans.¹⁷³ In 1919, Rosenthal initiated an effort to "find employment for nearly a thousand young colored girls."¹⁷⁴ He explained, "We have thousands of young colored women who possess splendid qualifications, some of them even with college or university education, who are clamoring for an opportunity to serve in higher employment."¹⁷⁵ Although Rosenthal, at this point, probably knew Platt, including the facts that she had an office in his building and was born and raised as an African American, he did not publicly hold her out as an example of what "colored girls" could accomplish. If Platt had been practicing law as a Black woman, it is not unreasonable to think that Rosenthal would have wanted to feature her in his campaign.

In 1923, Platt publicly joined Rosenthal for the first time in one of his social justice endeavors. She served as an officer of the Republic Realty Mortgage Corporation, an all-white company with an all-white Board of Directors comprised of some of the most successful and wealthiest Chicago businessmen.¹⁷⁶ Although the Corporation had an altruistic aim, to assist the city's working families who lived in homes that were "unfit for human habitation,"¹⁷⁷ it was still unheard of for a Black woman to serve as an officer of an otherwise all-white company with such a prestigious board of directors. If Platt had been identified as a Black woman, her position likely would have garnered media attention. Yet Platt served as the secretary of the corporation until she retired in 1927 without any public mention of her race.¹⁷⁸

Additional evidence that Platt had successfully been passing as a white attorney for some time is that when Violette Anderson was admitted to the Illinois bar in 1920, the press hailed Anderson as the first African American woman lawyer in the state.¹⁷⁹ Anderson did not correct them. She either did not know, or she concealed, Platt's achievement twenty-six years earlier as

¹⁷¹ See 41 CHI. BOARD OF EDUC. ANN. REP. (1895); 42 CHI. BOARD OF EDUC. ANN. REP. (1896); 43 CHI. BOARD OF EDUC. ANN. REP. (1897).

¹⁷² Bradwell, *Women Lawyers*, *supra* note 4, at 341.

¹⁷³ See BENJAMIN J. ROSENTHAL, RECONSTRUCTING AMERICA SOCIOLOGICALLY AND ECONOMICALLY 29, 31 (1919).

¹⁷⁴ *Id.* at 29.

¹⁷⁵ *Id.* at 30.

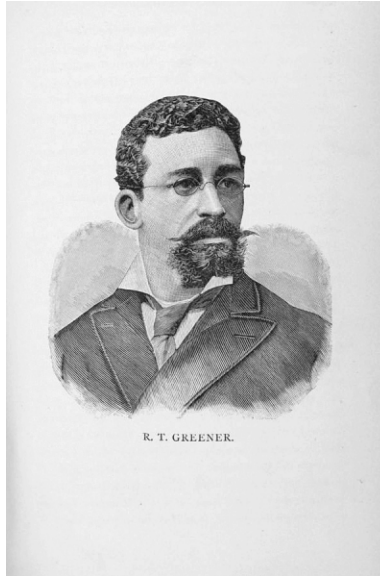
¹⁷⁶ See REPUBLIC REALTY MORTGAGE CORP., Annual Report (1923). Rosenthal's office, like Platt's, was located in the North American Building on State Street. LAKESIDE CHICAGO CITY DIRECTORY (1923).

¹⁷⁷ ROSENTHAL, *supra* note 173, at 5.

¹⁷⁸ See, e.g., Al Chase, *Making Owning of Homes Easier is Company's Plan*, CHI. TRIB., Mar. 29, 1922, at 15 (listing Platt as secretary with no discussion of her race).

¹⁷⁹ See, e.g., *Miss Violette N. Anderson*, 52 CHI. LEGAL NEWS 402, 405 (1920); *Colored Woman is First in State to be Admitted to Bar*, CHI. TRIB., June 20, 1920, at 12; *Mrs. Violet [sic] Anderson Admitted to Bar*, CHI. DEFENDER, June 6, 1920, at 1.

the first Black woman lawyer in Illinois, and that Platt was still practicing in Chicago.



RICHARD T. GREENER 1844–1922¹⁸⁰

One of Platt's most explicit acts of holding herself and her family out as white occurred in 1922 when Richard T. Greener died. Greener was considered a member of the Black aristocracy and had been included in the group of Black intellectuals W. E. B. DuBois described as the "talented tenth."¹⁸¹ Greener consistently advocated for race equality throughout his life,¹⁸² viewing his intellect and accomplishments as an example of what the best of his race could achieve. When Greener died, Platt served as the informant on his death certificate and listed his race as "white."¹⁸³ Death certificates, like birth certificates and marriage license applications, were a state's means of recording vital statistics.¹⁸⁴ The certificate did not affect Greener's reputation

¹⁸⁰ R. T. Greener, in *Schomburg Center for Research in Black Culture, Jean Blackwell Hutson Research and Reference Division*, N.Y. PUB. LIBR. DIGITAL COLLECTIONS, <https://digitalcollections.nypl.org/items/510d47da-72f8-a3d9-e040-e00a18064a99> [https://perma.cc/G7AU-43B7].

¹⁸¹ See RICHARD BARDOLPH, *THE NEGRO VANGUARD* 86, 88 (1959); SMITH, *EMANCIPATION*, *supra* note 3, at 221–22; CARTER G. WOODSON, *NEGRO ORATORS AND THEIR ORATIONS* 473–74 n. 2 (1925); Allison Blakely, *Richard T. Greener and the "Talented Tenth's" Dilemma*, 59 *J. NEGRO HIST.* 305, 307–10 (1974); *Hon. Richard T. Greener*, *FREEMAN*, Sept. 5, 1896, at 1; *Prof. Rich. T. Greener Dead*, *CLEVELAND GAZETTE*, May 20, 1922, at 1; *R. T. Greener, Ex-Consul, Dies*, *CHI. DEFENDER*, May 13, 1922, at 1; *Richard T. Greener Died May 9 [sic] in Chicago*, *N.Y. AGE*, May 20, 1922, at 1.

¹⁸² Blakely, *supra* note 181, at 310–11.

¹⁸³ Certificate of Death of Richard T. Greener (1922).

¹⁸⁴ PASCOE, *supra* note 139, at 9.

in the community, but Platt, who understood that race was a legal construction that determined rights and privileges,¹⁸⁵ used it to officially claim the legally superior racial status. Platt did so again in 1924 when her sister Mary died of cancer, listing Mary's "color or race" as white.¹⁸⁶

Perhaps Platt's most overt act of holding herself out as white was in 1923 when she married Walter Burke, a white man. It is not known when or how Platt and Burke met. Burke, born in England, had immigrated to Chicago in 1892 at the age of twenty-one.¹⁸⁷ He began clerking for the railroad and by 1920 was working as an architect.¹⁸⁸ It is possible that Platt met Burke in 1908 when it appears they both worked in the same office for at least two years.¹⁸⁹ Both Platt and Burke were listed as white in the record of their marriage in Michigan.¹⁹⁰ Platt's decisions to marry a white man and list herself as white on her marriage license indicate that Platt intended to permanently change her legal identity to white.¹⁹¹ However, their decision to travel specifically to Adrian, Michigan to perform the ceremony suggests that Platt may have maintained some ties to her African American identity. The couple's choice not to get married in Chicago or even Illinois could have been based on avoiding risk of local exposure as an interracial couple. Although the Illinois miscegenation law had been repealed in 1874, social opposition to mixed race marriages persisted.¹⁹² It is also possible that Platt and Burke chose Adrian because of its history as one of Michigan's first stations on the Underground Railroad.¹⁹³ A statue of Laura Smith Haviland, a renowned abolitionist instrumental in establishing the Underground Railroad station in Adrian, graced the yard in front of the City Hall where Platt and Burke were married.¹⁹⁴

In 1925, Ida Platt's name appeared in the membership roster of the Women's Bar Association of Illinois (WBAI), the first known professional organization that Platt joined.¹⁹⁵ Established in 1914, the WBAI fought for

¹⁸⁵ See SOLLORS, *supra* note 130, at 248.

¹⁸⁶ Certificate of Death of Mary J. Platt (1923). Ida's sister Ellen Dale Platt Phillips died on March 21, 1924 of diabetes. Certificate of Death of Ellen D. Phillips (1924). Her race was also designated as white, but the informant on her death certificate was Ellen's daughter, Ida Hope Phillips. *Id.*

¹⁸⁷ See UNITED STATES CENSUS (1900).

¹⁸⁸ See UNITED STATES CENSUS (1920).

¹⁸⁹ CHICAGO CITY DIRECTORY (1908 and 1909).

¹⁹⁰ RECORDS OF MARRIAGE, LENAWEE COUNTY, MICHIGAN, FOR THE QUARTER ENDING SEPTEMBER 30, 1923.

¹⁹¹ PASCOE, *supra* note 139, at 139 (asserting that state governments commonly used marriage certificates to track race).

¹⁹² PASCOE, *supra* note 139, at 169.

¹⁹³ *Laura Smith Haviland, Michigan Women's Hall of Fame*, MICH. WOMEN'S HALL OF FAME, <http://www.michiganwomenshalloffame.org/Images/Haviland,%20Laura%20Smith.pdf> [https://perma.cc/KGF3-XSDS].

¹⁹⁴ *Married by Judge Bennet*, ADRIAN DAILY TELEGRAM, Oct. 1, 1923, at 2; *Laura Smith Haviland*, *supra* note 193.

¹⁹⁵ WOMEN'S B. ASSOC. ILL. J. 23 (1925–26) (available in Papers of the Women's Bar Association of Illinois available at the Chicago History Museum). Neither Violette Anderson nor Edith Sampson is listed as a member of the WBAI for the years for which

women's rights, including suffrage and jury service, but not specifically for the rights of African Americans.¹⁹⁶ Although there are no extant records detailing the WBAI's particular membership requirements, the National Association of Women Lawyers, its parent organization, excluded African American women from its membership until 1943.¹⁹⁷ Yet Platt maintained her membership in the WBAI through 1927.¹⁹⁸

Platt was able to sufficiently overcome the discrimination confronting a woman of color to maintain a law practice by moving deeper into the white legal world. In her official capacity as an informant on death certificates, as an officer in a white corporation, and later as the wife of a white man and a member of a white women lawyers' organization, she presented as white. But, as discussed in the next section, outside of these occasions, there is evidence she may still have presented as Black in her personal life. Throughout her career, Platt lived and had a relationship with her sister Amelia and her relative Richard T. Greener, who were both well known in the community as African Americans. Additionally, she was identified as a Black woman lawyer in "The Negro in Chicago," a firsthand study of the Black community in Chicago in 1916,¹⁹⁹ and was listed as a lawyer with her home address in a directory of "colored homes and businesses" in Chicago in 1917 and 1923.²⁰⁰

This fluidity illustrates Platt's self-determination of her identity. Her activities and her associations stand as an example of what legal scholar Randall Kennedy called for in 2008, seventy years after Platt's death: "Rather than chaining people forever to the racial status into which they were born, we should try to both eradicate the deprivations that have often impelled people to want to pass *and* protect individuals' capacity for racial self-determination, including their ability to revise racial identities."²⁰¹ Platt did not denigrate or abandon her Black family, nor did she accept the limitations of the racial status she was assigned at birth. Rather, Platt exercised her capacity for racial self-determination.

known records survive (1925/1926, 1932, and 1934). CHARLOTTE ADELMAN, WBAI 75: THE FIRST 75 YEARS 15–17, 19–20, 22–25 (1992).

¹⁹⁶ See *History of the Women's Bar Association of Illinois*, WOMEN'S B. ASSOC. ILL. J. 23 (1925–26).

¹⁹⁷ SMITH, EMANCIPATION, *supra* note 3, at 546.

¹⁹⁸ W. B. SULLIVAN'S CHICAGO LAW DIRECTORY (1927).

¹⁹⁹ JUNIUS B. WOOD, *The Negro in Chicago*, CHI. DAILY NEWS, Dec. 1916, reprinted in JUNIUS B. WOOD, THE NEGRO IN CHICAGO 13 (1916).

²⁰⁰ FORD S. BLACK, BLACK'S BLUE BOOK: BUSINESS AND PROFESSIONAL DIRECTORY 17 (1918); FORD S. BLACK, BLACK'S BLUE BOOK: BUSINESS AND PROFESSIONAL DIRECTORY 17 (1923).

²⁰¹ KENNEDY, SELLOUT, *supra* note 126, at 185.

III. PLATT AND BLACK CHICAGO

A. *Platt's Passing as Temporary*

Ida Platt's passing was temporary. During the sixty-five years she lived in Chicago, she did not permanently pass into white society. This type of temporary passing, where an individual presented as white for only discrete periods of time "to advance occupational ambition" and to provide for her family, was common in the era of segregation and distinct in character from completely and permanently passing into white society.²⁰²

Allyson Hobbs, a professor of history, describes permanent passing as "an anxious decision to turn one's back on a black racial identity and to claim to belong to a group to which one was not legally assigned."²⁰³ Permanent passing required "leaving behind families, friends, and communities without any available avenue for return."²⁰⁴ It is an "exile" that triggers a "keen sense of loss and painful familial ruptures."²⁰⁵

Scholars have assessed that, generally, African American responses to pragmatic passing were ambivalent.²⁰⁶ Many accepted passing when it was used for convenience or when it was occasional.²⁰⁷ Some condemned the practice because of the psychological cost to the passer or because they interpreted passing as race betrayal.²⁰⁸ These denunciations of betraying the race were predominantly leveled at those who passed permanently. The permanent passer was viewed as one who abandoned the Black community or was charged with "complicity in maintaining an illicit racial hierarchy."²⁰⁹ In several early twentieth-century novels written about passing permanently, Black authors portrayed characters who permanently passed as feeling like "cowards, race traitors, or losers."²¹⁰

Others interpreted passing as an act of political resistance.²¹¹ Critical race theorists have long asserted that passing exposes the false premise of accepted race categories and thus challenges the racist regimes they support.²¹² They explicate that passing exposes its own false premise, that "the

²⁰² Kennedy, *Racial Passing*, *supra* note 130, at 1150. *See also* DAVIS, WHO IS BLACK, *supra* note 122, at 77–78; LANGSTON HUGHES, *Fooling Our White Folks*, in 9 THE COLLECTED WORKS OF LANGSTON HUGHES 313, 314 (2002); SOLLORS, *supra* note 130, at 251.

²⁰³ HOBBS, *supra* note 11, at 5.

²⁰⁴ *Id.* at 4.

²⁰⁵ *Id.* at 4, 15.

²⁰⁶ *See, e.g.*, GROSS, WHAT BLOOD WON'T TELL, *supra* note 13, at 106.

²⁰⁷ HENDRICKS, *supra* note 24, at 111–12.

²⁰⁸ HOBBS, *supra* note 11, at 270; KENNEDY, SELLOUT, *supra* note 126, at 3, 9, 157–64.

²⁰⁹ KENNEDY, SELLOUT, *supra* note 126, at 145.

²¹⁰ SOLLORS, *supra* note 130, at 252.

²¹¹ KENNEDY, SELLOUT, *supra* note 126, at 165.

²¹² *See* ADAM FAIRCLOUGH, RACE AND DEMOCRACY: THE CIVIL RIGHTS STRUGGLE IN LOUISIANA 1915–1972, 16–17 (2008); GROSS, WHAT BLOOD WON'T TELL, *supra* note 13,

‘passing’ person is really Black.”²¹³ Robert Westley, a philosopher and professor of law, describes this as the “myth of racial purity, and the fiction of the Blackness within.”²¹⁴ This form of passing rejects the notion that one’s “partial ancestry [has] the power to become totally defining.”²¹⁵ By revealing that the categories on which a racist socio-legal regime is built are false, passing becomes a radical critique of that regime.²¹⁶ Ariela Gross, a professor of law and history, argues that this is true whether or not the passer is conscious of the critique.²¹⁷ In the 1890s, race activists applied this critique of the false premise of race as one strategy to overcome racial segregation.²¹⁸

Platt’s racial fluidity included temporary passing. Her choices allowed her to maintain her relationship with her family and to pursue her career, although these choices may have restrained her from engaging in overt political resistance. For Platt, passing was a means to an end, a pragmatic resistance to white cultural hegemony. When Platt signed the death certificates of her relatives and listed their races as white, she was neither rejecting her Black family nor yielding to racial barriers that inhibited opportunities. Passing as a white lawyer and remaining single for most of her life allowed her to maintain a career in a masculine profession and care for her family members. She contested racial categories, gender roles, and the barriers they supported by passing through them.

B. *Black Responses to Platt’s Temporary Passing*

Scholars have documented many instances where Black communities have accepted those who employed passing as a strategy. In 1908, Ray Baker, an American journalist and historian, posited that though white people were predominantly unaware of most incidents of passing, those who

at 107; BROOKE KROEGER, *PASSING: WHEN PEOPLE CAN’T BE WHO THEY REALLY ARE* 3 (2003); LINDA SCHLOSSBERG, *Introduction: Rite of Passage* to *PASSING: IDENTITY AND INTERPRETATION IN SEXUALITY, RACE AND RELIGION 2* (Maria Carla Sanchez & Linda Schlossberg eds., 2001); Burma, *supra* note 129, at 22; Golub, *supra* note 120, at 565; Gross, *Litigating Whiteness*, *supra* note 118, at 180; Kennedy, *Racial Passing*, *supra* note 130, at 1169–70.

²¹³ Westley, *supra* note 120, at 327.

²¹⁴ *Id.* at 310.

²¹⁵ SOLLORS, *supra* note 130, at 249.

²¹⁶ See GROSS, *WHAT BLOOD WON’T TELL*, *supra* note 13, at 107–09; Golub, *supra* note 120, at 565.

²¹⁷ Gross, *Litigating Whiteness*, *supra* note 118, at 180.

²¹⁸ Golub, *supra* note 120, at 571. Most famously, Homer Plessy’s attorney, Albion Tourgee, included this contention as one of his unsuccessful arguments to the U.S. Supreme Court in 1896. Tourgee asserted that race was an arbitrary and indeterminate ideology and therefore could not be the basis for segregation as specified in the Louisiana Separate Car Act. MARK ELLIOTT, *COLOR-BLIND JUSTICE: ALBION TOURGEE AND THE QUEST FOR RACIAL EQUALITY FROM THE CIVIL WAR TO Plessy v. Ferguson* 286–88 (2006); Golub, *supra* note 120, at 573–77.

passed were well known and often supported among Black communities.²¹⁹ “[T]here is a sort of conspiracy of silence to protect the Negro who ‘crosses the line’ and takes his place as a white man,” Baker deduced.²²⁰ More significantly, Baker stated that “[s]uch cases even awaken glee among them, as though the Negro, thus, in some way, was getting even with the dominant white man.”²²¹ Randall Kennedy suggests that there were a number of Black scholars who themselves defended and were even inspired by stories of African Americans passing as white.²²² Writer and social activist Langston Hughes asserted in 1950 that “[t]he consensus of opinion among Negroes seems to be approval of those who can get by with [passing].”²²³ John Burma, a white sociologist, assessed that there was “very little disposition” against Blacks who temporarily passed for white and, although opinion was divided towards those who permanently passed, some “[felt] it a good joke on the whites and delight[ed] in the perpetration of the hoax.”²²⁴ This support for the passer was vital for those who temporarily passed at work, but were known in their home communities as Black.

Most Black communities chose not to reveal the passers.²²⁵ The dynamic is illustrated in a story by Shirlee Haizlip about an exclusive white nightclub in 1930s Washington, D.C. that hired light-skinned African Americans to act as spies and identify Blacks who were passing as white as patrons of the club.²²⁶ Members of the African American community exposed the spies, not the patrons.²²⁷

There is evidence that Blacks in Chicago knew Platt was passing professionally and kept her secret. The Platt family was known in the Black community as part of the African American middle class.²²⁸ Platt’s sister Amelia, an assistant librarian in the Chicago public library,²²⁹ maintained relationships with members of the Chicago African American community

²¹⁹ RAY STANNARD BAKER, *FOLLOWING THE COLOR LINE: AMERICAN NEGRO CITIZENSHIP IN THE PROGRESSIVE ERA* 162 (1964).

²²⁰ *Id.*

²²¹ *Id.* at 162–63.

²²² KENNEDY, SELLOUT, *supra* note 126, at 165–69.

²²³ HUGHES, *supra* note 202, at 314. *See also* Deborah Gray White’s description of Mary Church Terrell’s sentiments: “What better agent of equality than a black that could be taken as a white. What better proof of racial equality than blacks functioning in a ‘whites only’ capacity with no one the worse off for it.” WHITE, *supra* note 107, at 95.

²²⁴ Burma, *supra* note 129, at 22.

²²⁵ SHIRLEE TAYLOR HAZLIP, *THE SWEETER THE JUICE* 63 (1994), *quoted in* KENNEDY, SELLOUT, *supra* note 126, at 168–69.

²²⁶ Kennedy, *Racial Passing*, *supra* note 130, at 1170–71.

²²⁷ *Id.* at 1171.

²²⁸ DAILY INTER OCEAN Obituary, *supra* note 16, at 2.

²²⁹ CHADDOCK, *supra* note 158, at 154; HEIDI ARDIZZONE, *AN ILLUMINATED LIFE: BELLE DA COSTA GREENE’S JOURNEY FROM PREJUDICE TO PRIVILEGE* 313–14 (2007).

her entire life, even helping Daniel H. Murray, a prominent Black scholar, assemble “a bibliography of Negro literature.”²³⁰

There is also evidence that activist Black women in Chicago knew of Platt, admired her achievements, and kept her secret. In 1914, Fannie Barrier Williams, a leader in the Chicago Black women’s club movement and the wife of a Black Chicago attorney, wrote a column for *The Chicago Defender* praising the accomplishments of African American women in the city. She listed a number of occupations and professions filled by Black women, including “half a dozen Colored women physicians, three dentists and one practicing attorney.”²³¹ Williams had identified Platt as a “colored woman” attorney by name in an article in 1897,²³² but in all of her known publications after 1910, she never again identified Platt by name. Williams had engaged in temporary acts of passing herself and accepted it as a strategy to subvert laws and customs that constrained African Americans.²³³

Black women lawyers who followed Platt into the profession may have kept Platt’s secret, while also respecting her achievement. When Violette Anderson was admitted in 1920, she remarked on the difficulty of her accomplishment: “It was a hard, uphill struggle, but I persevered. . . There is some satisfaction in knowing I am one of a very few women of my race to be admitted to the bar.”²³⁴ She noted, “[T]here are only four others in the United States,”²³⁵ but did not list their names. Although the records are not definitive, it is possible that Platt was one of the four.²³⁶ Whether or not Anderson knew of Platt, other Black women lawyers did. In 1927, Edith Sampson praised Platt throughout her career as an “ambitious and brave” colored woman lawyer.²³⁷

The strongest evidence that Platt’s passing was accepted by the Black community lies in her relationship with Greener. Greener referred to Platt as his cousin, lived with Platt and her sisters for twelve years, and maintained a close friendship with them.²³⁸ In the summers, Greener, Platt and her sisters would often dress in their bathing suits, covered by kimonos, and walk the

²³⁰ Michael Robert Mounter, *Richard Theodore Greener: The Idealist, Statesman, Scholar and South Carolinian* 503 (2002) (unpublished Ph.D. Dissertation, University of South Carolina) (on file University of South Carolina Library).

²³¹ *Fannie Barrier Williams Lauds Chicago Women*, CHI. DEFENDER, Oct. 10, 1914, at 3.

²³² Williams, *The Colored Woman of To-day*, *supra* note 47, at 29.

²³³ HENDRICKS, *supra* note 24, at 111–12.

²³⁴ *Miss Violette N. Anderson*, *supra* note 179, at 405.

²³⁵ *Id.*

²³⁶ J. Clay Smith has identified only three other Black women lawyers, besides Platt and Anderson, who were admitted to state bars and practicing in 1920: Gertrude Rush (Iowa, 1918), Daisy Perkins (Ohio, 1919), and Estelle Henderson (Alabama, 1919). SMITH, *EMANCIPATION*, *supra* note 3, at 417, 452, 201, 275, 611–12.

²³⁷ Edith Sampson, *Are Our Women Holding Their Own*, INTERCOLLEGIAN WONDER BOOK 78, 78 (1927); Edith S. Sampson, *Women Lawyers Throughout the Country*, CHI. DEFENDER, May 3, 1930, at A5.

²³⁸ Mounter, *supra* note 230, at 503, 519, 524.

six blocks from Platt's home to the beach on Lake Michigan.²³⁹ Platt described Greener as a member of her family who made "his home with [the Platts]" and was "regarded and treated by all of them as a brother."²⁴⁰ After his death, Platt buried Greener in the Platt family plot at Graceland Cemetery.²⁴¹

Richard T. Greener was well known among the Chicago Black community.²⁴² Although retired, he continued to lecture while living with Platt.²⁴³ *The Chicago Defender*, a prominent Black newspaper in Chicago, often featured Greener and advertised his speaking engagements.²⁴⁴ Both the white²⁴⁵ and Black²⁴⁶ newspapers in Chicago published obituaries celebrating Greener's accomplishments as an African American and noted that he died at home, listing his address—where Ida Platt also lived—though no mention of Platt appeared in any article.

Although Greener was widely and consistently praised in Chicago as a race leader, he had endured criticism earlier in his career for accepting a consul position in Russia and not staying in the United States to lead the race movement.²⁴⁷ He had also faced false accusations of passing as white from rival Black leaders in the Republican Party in New York City.²⁴⁸ These accusations were based on Greener's wife and daughter, who did ultimately pass permanently into white society.²⁴⁹ Greener adamantly denied that he had ever engaged in passing.²⁵⁰ He did eventually become estranged from his family as they became more entrenched in white society, but he never exposed them.²⁵¹ Greener understood the challenges both race and gender discrimination posed, especially for women of color.²⁵²

²³⁹ *Id.* at 519.

²⁴⁰ Affidavit of Ida Platt (May 4, 1922); GRACELAND RECORDS, *supra* note 20.

²⁴¹ Mounter, *supra* note 230, at 524.

²⁴² J. Hockley Smiley, *Many Races Enjoy Lincoln Day Banquet*, CHI. DEFENDER, Feb. 17, 1912, at 8 (listing Greener as a speaker and notable attendee); *Noted Men and Women: Richard Theodore Greener*, CHI. DEFENDER, Apr. 22, 1922, at 14.

²⁴³ *St. Mark's Lyceum Presents Hon. R. T. Greener*, CHI. DEFENDER, July 13, 1918, at 8.

²⁴⁴ *Anniversary of Charles Sumner: Held at Ebenezer Baptist Church, Prof. Richard T. Greener, Ex-Consul to Russia. Orator of the Evening*, CHI. DEFENDER, Jan 14, 1911, at 1; *Texas Club Entertains: Prof. R. T. Greener, Former U.S. Consul to Russia, Speaks*, CHI. DEFENDER, Oct. 18, 1913, at 4; *Judge Olson Lauds Name of Fred Douglass*, CHI. DEFENDER, Feb. 27, 1915, at 2.

²⁴⁵ *Rites for Prof. R. T. Greener*, CHI. DAILY NEWS, May 4, 1922.

²⁴⁶ *Richard T. Greener*, CHI. DEFENDER, May 13, 1922, at 12; *Richard T. Greener Died May 9 in Chicago*, N.Y. AGE, May 20, 1922, at 1; *Prof. Rich. T. Greener Dead*, CLEVELAND GAZETTE, May 20, 1922, at 1.

²⁴⁷ Blakely, *supra* note 181, at 309–10.

²⁴⁸ Mounter, *supra* note 230, at 422.

²⁴⁹ *Id.* at 504–07; ALEXANDER, PARALLEL WORLDS, *supra* note 13, at 299–300.

²⁵⁰ Mounter, *supra* note 230, at 424.

²⁵¹ ARDIZZONE, *supra* note 229, at 314–16.

²⁵² SHARFSTEIN, *supra* note 8, at 258.

Greener had always advocated that liberal individualism was a means to secure equality.²⁵³ “I still believe and preach the doctrine,” he wrote, “that each man who raises himself, elevates the race.”²⁵⁴ Greener supported women in these endeavors, too. He had stood up in support of women’s suffrage when Fredrick Douglass was advocating for the proposed Fifteenth Amendment, which gave Black men but not Black women the vote, adding that women should also be allowed to serve on juries and be practicing lawyers and judges.²⁵⁵ In 1895, Greener ensured that women were included and “equally recognized” at the Republican National Convention.²⁵⁶ Greener thus lived with and supported his relative Ida Platt and never exposed her passing.²⁵⁷

All incidents of racial passing threatened constructed systems of racial identity and the race hierarchy they supported.²⁵⁸ This was true whether the passer was conscious of this challenge or not.²⁵⁹ Without Platt’s words, it is impossible to know how she understood or intended her actions. But the context of her professional life and the observations of her contemporaries suggest that Platt’s racial fluidity was pragmatic rather than political. Platt strategically passed as a means of transcending artificial racial categories and the systemic racial subordination they enforced. That the Black community in Chicago knew of her passing and kept her secret suggests that at least some accepted her strategy.

IV. RACE, GENDER, AND LAW IN THE BRITISH EMPIRE

In 1927, after practicing law in Chicago for three decades, Ida Platt retired and moved to England with her husband. The couple took the Canadian Pacific Railway to Quebec and boarded the Canadian Pacific Steamship to England as Walter and Ida Burke.²⁶⁰ Once in the United Kingdom, they lived in West Sussex, on the southern coast of England, approximately fifty miles from where Burke’s sister lived.²⁶¹ Walter and Ida Burke lived there

²⁵³ Blakely, *supra* note 181, at 310.

²⁵⁴ Richard T. Greener, *Reply to Stewart*, THE FREEMAN, Jan. 25, 1896, *quoted in* Blakely, *supra* note 181, at 311.

²⁵⁵ Richard T. Greener, *Suffrage for Women*, WASH. NEW NAT’L ERA, Feb. 20, 1873.

²⁵⁶ ROSALYN TERBORG-PENN, AFRICAN AMERICAN WOMEN AND THE STRUGGLE FOR THE VOTE 1850–1920 88–89 (1998).

²⁵⁷ Greener continued to support women’s rights in Chicago. In 1912, for example, he spoke at the Liberal Culture Society public forum meeting in support of women’s suffrage along with a number of white women attorneys. *In Chicago and Its Suburbs*, CHI. DEFENDER, Apr. 6, 1912, at 4.

²⁵⁸ SCHLOSSBERG, *supra* note 212, at 1–2.

²⁵⁹ GROSS, *Litigating Whiteness*, *supra* note 118, at 180.

²⁶⁰ INCOMING PASSENGERS from Quebec to Southampton (May 26, 1927); *Death of Woman Barrister*, CHICHESTER OBSERVER, Dec. 16, 1939, at 2.

²⁶¹ ENGLAND CENSUS AND PROBATE RECORDS (1881).

together for a dozen years until Platt died of breast cancer in 1939 at the age of seventy-seven.²⁶²

There was significant race discrimination in Britain when Platt arrived, the legacy of centuries of African enslavement. Though Britain had never employed a system of chattel slavery on its mainland the way it had in its Caribbean and North American colonies, it had imported enslaved Blacks (both of African and of Indian descent) as household servants in the seventeenth and early eighteenth centuries.²⁶³ There were a small number of Black Asians and Africans that came to Britain as free people during the seventeenth and eighteenth centuries²⁶⁴ who began to slowly build Black communities.²⁶⁵ Though most Blacks in Britain still suffered from poverty and discrimination in the early twentieth century, there was a minority of middle-class, educated Blacks that Platt could have joined.²⁶⁶

There was also persistent gender discrimination in England in the early twentieth century. When Platt arrived in England in 1927, British women had been practicing law as barristers and solicitors for only five years.²⁶⁷ The structure of admission to the British bar made it much more difficult for women to enter its ranks.²⁶⁸ The Law Society, which had governed the admission and practice of solicitors since 1825,²⁶⁹ had denied women's requests for entry since 1879.²⁷⁰ It successfully defended its all-male policy in 1913 when four women sued for admission.²⁷¹ Women's attempts for admission to England's four Inns of Court, which collectively controlled the admission of barristers,²⁷² had also been rejected since 1873 when the first application for admission was submitted to the Lincoln's Inn.²⁷³ Although there were women learned in the law operating "at the boundaries" of legal practice,²⁷⁴ it took

²⁶² See *Death of Woman Barrister*, *supra* note 260, at 2; Certificate of Death of Ida Platt (1939). Walter Burke died four months later. See ENG. & WALES NAT'L PROBATE CALENDAR, INDEX OF WILLS AND ADMINISTRATIONS 666 (1940).

²⁶³ See, e.g., PETER FRYER, *STAYING POWER: THE HISTORY OF BLACK PEOPLE IN BRITAIN 18–19* (1984); DAVID OLUSOGA, *BLACK AND BRITISH: A FORGOTTEN HISTORY* 80 (2016).

²⁶⁴ See, e.g., FRYER, *supra* note 263, at 19; OLUSOGA, *supra* note 263, at 91; NIGEL FILE AND CHRIS POWER, *BLACK SETTLERS IN BRITAIN 1555–1958* 21 (1981).

²⁶⁵ FRYER, *supra* note 263, at 69.

²⁶⁶ *Id.* at 294.

²⁶⁷ MARY JANE MOSSMAN, *THE FIRST WOMAN LAWYERS: A COMPARATIVE STUDY OF GENDER, LAW AND THE LEGAL PROFESSIONS* 118 (2006).

²⁶⁸ *Some Thoughts on Our Early Years*, 8 LINK ASSOC. OF WOMEN SOLIC. 7 (2002/2003); Patrick Polden, *Portia's Progress: Women at the Bar in England, 1919–1939* 12 INT'L J. LEGAL PROF. 293, 293 (2005).

²⁶⁹ THE LAW SOCIETY, *A SHORT HISTORY OF THE LAW SOCIETY: 1825 TO TODAY* 4 (2016).

²⁷⁰ MOSSMAN, *supra* note 267, at 116.

²⁷¹ *Some Thoughts on Our Early Years*, *supra* note 268, at 7.

²⁷² Izzy Evans, *A Brief History of Barristers & the Inns of Court* (Oct. 7, 2015), <https://hubpages.com/education/A-Brief-History-of-Barristers-the-Inns-of-Court> [<https://perma.cc/HU7U-7US3>].

²⁷³ MOSSMAN, *supra* note 267, at 116.

²⁷⁴ *Id.* at 134.

an act of Parliament for English women to win the full right to enter the legal profession.

In 1919, the British Parliament passed the Sex Disqualification Removal Act (SDRA).²⁷⁵ The SDRA allowed women to serve on juries, hold public offices, have access to higher education, and work in the professions.²⁷⁶ As soon as the SDRA was enacted, British women began to officially study law, becoming pupils at the Inns of Courts, and registering as clerks with the Law Society.²⁷⁷ Ivy Williams became the first woman barrister, and Carrie Morrison became the first woman solicitor in 1922.²⁷⁸ Although this was a significant advance for Anglo women, the escalation of racial hatred and violence during these years affected the opportunities for women of color.

The same year the SDRA was enacted, race riots (such as those which occurred in Platt's Chicago Hyde Park neighborhood) erupted in many places throughout the world, including England.²⁷⁹ As David Olusoga, a British historian, explains, "[W]orld racial tensions, heightened by the dislocations of the war years and by the spread of new forms of racism, had sparked outbreaks of violence in 1919."²⁸⁰ This pattern of racial discrimination and violence continued during the period when Platt lived in England. There was a rigid British "colour bar" that excluded Black workers from securing employment.²⁸¹ Blacks were also prohibited from public commercial services such as hotels, restaurants, and dance halls.²⁸²

The "colour bar" also applied to the legal profession. Non-white men from the British colonies had long been allowed to study at the Inns of Court in England, but were expected to return to their home countries to practice law.²⁸³ With the passage of the SDRA, women of color from the British colonies were also permitted to become solicitors and barristers, but they, like their male brethren, were expected to practice elsewhere.²⁸⁴ Many of these countries passed laws allowing women to be lawyers within a year of the SDRA.²⁸⁵ The most famous of the firsts, Cornelia Sorabji, had practiced at the periphery of the legal profession in India since the late nineteenth

²⁷⁵ Olive Stone, *The Status of Women in Great Britain*, 20 AM. J. COMP. L. 592, 594 (1972).

²⁷⁶ W. B. Creighton, *Whatever Happened to the Sex Disqualification (Removal) Act?*, 4 INDUS. L.J. 155, 155–56 (1975).

²⁷⁷ MOSSMAN, *supra* note 267, at 118.

²⁷⁸ MOSSMAN, *supra* note 267, at 118; *Some Thoughts on Our Early Years*, *supra* note 267, at 8.

²⁷⁹ FRYER, *supra* note 263, at 299; OLUSOGA, *supra* note 262, at 454, 463–64.

²⁸⁰ OLUSOGA, *supra* note 263, at 462.

²⁸¹ *Id.* at 468.

²⁸² FRYER, *supra* note 263, at 356.

²⁸³ Polden, *supra* note 268, at 296; Barbara Mensah, Speech at The Law Society's Black History Month (Oct. 2, 2009).

²⁸⁴ Polden, *supra* note 268, at 296.

²⁸⁵ *General Intelligence: Women Legal Practitioners in the Dominions*, 156 L. TIMES 426, 426 (1923).

century, but won formal admission to the Lincoln's Inn in 1923.²⁸⁶ She then returned to Calcutta to practice.²⁸⁷ Kathleen Hoahing was one of the first Chinese women to become a solicitor.²⁸⁸ Although Hoahing, who was born in British Guiana, had lived in England for seven years and had never been to China, she moved to China after her admission to practice law.²⁸⁹

Stella Thomas became the first “woman barrister from West Africa” in the United Kingdom in 1933 while Platt was living in England.²⁹⁰ Thomas, born in Freetown, Sierra Leone, came to England in 1926.²⁹¹ She began studying law at the Middle Temple in 1929.²⁹² While she was in England, Thomas had been part of a group of educated men and women of color who were fighting for racial justice and equality in England.²⁹³ They formed the League of Colored Peoples in 1931.²⁹⁴ However, after her admission, Thomas moved to Nigeria with her family to practice law.²⁹⁵ In 1943, she became the first West African woman magistrate, serving in Nigeria.²⁹⁶ Given these examples, it is not clear whether Platt could have practiced law as a woman of color when she moved to England in 1927, even if she had wanted to do so.

There are no known historical records explaining why Ida Platt and Walter Burke moved to England or how they were identified racially there. It may have been an opportunity for them to establish their own identity as a married couple of the same race. As Elaine K. Ginsberg, a professor of English, has explained, passing often involved a geographic movement, leaving the locale where one's identity was established, to a new location where one was not yet known or categorized.²⁹⁷ Further, in Britain, as in the United

²⁸⁶ MOSSMAN, *supra* note 267, at 194.

²⁸⁷ *Id.*

²⁸⁸ Margaret Baxter, *Women and Empire*, 18 UNITED EMPIRE: ROYAL COLONIAL INST. J. 47 (1927).

²⁸⁹ *Id.*; *Chinese Girl as Solicitor. A Modern Pioneer in an Ancient Land*. London *Trained*, EVENING STANDARD, Nov. 23, 1926.

²⁹⁰ *An African Woman Barrister*, MANCHESTER GUARDIAN, May 11, 1933, at 8. *See also* Emeka Keazor, *Notable Nigerians: Stella Thomas*, NSIBID INSTITUTE (Nov. 4, 2014), <http://nsibidiinstitute.org/notable-nigerians-stella-jane-marke-nee-thomas> [https://perma.cc/4DUT-XJB2].

²⁹¹ Keazor, *supra* note 290.

²⁹² *Id.*

²⁹³ *Id.*

²⁹⁴ DAVID A. VAUGHAN, *NEGRO VICTORY: THE LIFE STORY OF DR. HAROLD MOODY* 55 (1950); FRYER, *supra* note 263, at 327.

²⁹⁵ Keazor, *supra* note 290.

²⁹⁶ *Id.*

²⁹⁷ Ginsberg, *supra* note 129, at 3. *See also* WILLIAMSON, *supra* note 125, at 100–01 (describing the physical movement of light mullattoes as “allow[ing] their new neighbors to take them as white”); Samira Kawash, *The Autobiography of an Ex-Coloured Man: (Passing for) Black Passing for White*, in *PASSING AND THE FICCTIONS OF IDENTITY*, *supra* note 129, at 63 (“Practically, if one is to pass, one must go somewhere else, where one's identity is unknown.”).

States, mixed-race couples were not widely accepted and were known to be the targets of racist mobs,²⁹⁸ so it is likely Platt presented as white.

It appears that Ida Platt lived out her life on her own terms. Her very brief obituary in a local paper described her as a retired barrister and “a first class musician.”²⁹⁹ It noted that she had lived in Selsey for approximately a decade, “but was not a member of any local movement or institution.”³⁰⁰

V. PLATT’S LEGACY

In the twenty-first century, advocates and institutions have taken on Platt’s legacy and used her as a symbol of gender and race progress within the legal profession. IIT Chicago-Kent College of Law, Platt’s alma mater, features Platt in several places on its website to illustrate its long-term commitment to women and racial diversity.³⁰¹ The Cook County Bar Association (CCBA), the historically Black Chicago bar association, has an award named after her.³⁰² Both legitimately celebrate Platt as the first African American woman lawyer in Chicago, but they go further and attribute a race activism to her that is not supported by the historical record. The CCBA asserted that Platt was part of the original group of nineteenth-century Black lawyers who informally organized to protest race discrimination in public accommodations, judicial elections, and public schools.³⁰³ The group was the precursor to the CCBA formed in 1914, but the records indicate that Platt was not among them.

Black women lawyers and judges have also used Platt as a historical example of gendered race activism. In 2013, when the Honorable Ann Williams, then a judge on the U.S. Court of Appeals for the Seventh Circuit, discussed the progress of Black women lawyers over the previous century, she invoked Ida Platt. Williams correctly cited Platt as the first Black female lawyer in Illinois and acknowledged that she passed as white in her practice, but incorrectly asserted that Platt exposed her true racial identity at the end

²⁹⁸ See, FRYER, *supra* note 263, at 302 (describing racist sentiments towards Black men who had relations with white women).

²⁹⁹ *Death of Woman Barrister*, *supra* note 260, at 2.

³⁰⁰ *Id.*

³⁰¹ *Diversity at Chicago-Kent*, CHI.-KENT COLL. L., <https://www.kentlaw.iit.edu/about/diversity> [<https://perma.cc/KWY9-MGZ9>]; *Girls Want To Study Law: 100 Years Of Women Graduates*, CHI.-KENT COLL. L., <https://scholarship.kentlaw.iit.edu/womeninlaw> [<https://perma.cc/8YJM-E37U>]; *Chicago-Kent Firsts*, CHI.-KENT COLL. L., <https://www.kentlaw.iit.edu/about/history/chicago-kent-firsts> [<https://perma.cc/KZ37-NPMR>]; *Ida Platt, Class of 1894*, CHI.-KENT COLL. L., <http://alumni.kentlaw.iit.edu/alumni-distinction-ida-platt> [<https://perma.cc/3SR9-QUK7>].

³⁰² *CCBA to Host 103rd Awards and Installation Banquet*, CHI. CRUSADER, June 19, 2017 [<https://perma.cc/QBV2-QJYA>].

³⁰³ *History*, COOK CTY. B. ASSOC., <http://cookcountybar.org/our-history-2> [<https://perma.cc/2SJ3-KAE9>].

of her career.³⁰⁴ There is no evidence to support such a claim. Platt did maintain personal associations with both Black and white racial justice activists throughout her life, but the evidence suggests that she chose not to portray herself as a race pioneer so that she could maintain a career as a lawyer.

Twenty-first century racial justice activists and scholars continue to debate the longstanding ideal of Black unity that Judge Williams inferred from Platt's life. Journalist and author Eugene Robinson argues that although Black unity splintered in the late twentieth century, it has a long history. "Unity has always been a powerful weapon in African Americans' struggle for freedom, justice and equality," Robinson asserts. "Solidarity was essential; the privileged few could not, and would not, sell out the underprivileged many."³⁰⁵ Randall Kennedy defines a Black racial "sellout" as one who "knowingly or with gross negligence act[s] against the interest of blacks as a whole."³⁰⁶ But Kennedy warns that extreme care must be used in making sellout accusations "because Black America is wildly heterogeneous, because determining what is in the best interest of diverse communities is almost always controversial, and because Black Americans ought to have wide latitude in expressing themselves."³⁰⁷ Tommie Shelby, an American philosopher, notes that there are reasons why someone might reject a Black identity that do not involve selling out: "[O]ne may believe that the designation *black*, with its typical connotations, is not an apt characterization of either who one is or who one would like to be . . . a black identity . . . is too limiting in one's case."³⁰⁸ Platt's life may help inform this debate.

Platt did not sell out her family or her community, and her life illustrates a diversity of types of Black experiences. Her story is about a woman's effort to choose her own identity, one that would allow her to pursue her dreams and use her abilities in the face of structures that were in place to deny her those choices. Identity determines one's legal rights and social opportunities.³⁰⁹ Platt chose not to accept the identity assigned to her by law and custom. In doing so, she defied the "racial [and gendered] boundaries that defined America's social order."³¹⁰

In many ways, Platt's choices exemplify the same conviction that Muhammad Ali voiced in 1964 when he announced that he was joining the Nation of Islam. Ali's announcement has been described as a "bold assertion of black identity [that] was discomfiting to both whites and blacks."³¹¹ As

³⁰⁴ Hon. Ann Claire Williams, Remarks at Meeting of the Chicago Inn of Court (Nov. 21, 2013).

³⁰⁵ EUGENE ROBINSON, *DISINTEGRATION: THE SPLINTERING OF BLACK AMERICA* 20 (2010).

³⁰⁶ KENNEDY, *SELLOUT*, *supra* note 126, at 4.

³⁰⁷ *Id.* at 9–10.

³⁰⁸ TOMMIE SHELBY, *WE WHO ARE DARK* 212 (2005).

³⁰⁹ SANDWEISS, *supra* note 10, at 306.

³¹⁰ HOBBS, *supra* note 11, at 9.

³¹¹ Michael Fletcher, *Muhammad Ali and the Complexity of Black Identity*, *UNDEFEATED* (June 9, 2016), <https://theundefeated.com/features/muhammad-ali-and-the->

reporter Michael A. Fletcher describes, “Ali made both groups confront the question of what it meant to be black in a majority white society.”³¹² Platt’s choices were equally bold and discomfoting. They required her to refrain from publicly fighting for racial and gender justice at a time and place when many others joined the movement. Platt did maintain a “loyalty to the cause of black liberation”³¹³ and Black women’s rights through her personal associations, but she chose a different path professionally. She made her own identity choices regardless of the strictures and pressures that surrounded her.

Platt’s life reveals that the race boundaries sustained by law and imagination are simultaneously fluid and permeable, and powerful and persistent. Her choices, at their core, reveal what Jacqueline Jones, an American social historian, has called the myth of race.³¹⁴ Platt’s acts of passing undermined the very concept of race. Additionally, her life and career contribute to the known diversity of experiences and identities among African Americans. Through her personal relationships, she played a role that Tommie Shelby described as an “ally in black resistance to racism.”³¹⁵ Her activities and accomplishments may have “help[ed] ensure that the next generation of blacks,” in her case, Black women attorneys, “have a lighter burden of racial oppression than [she did].”³¹⁶

But Platt’s story may also warn of the dangers inherent in the twenty-first century movement to apply a colorblind ideology to law. Advocates of the movement point out that laws no longer define race by percentage of ancestry and argue that any hierarchy among the races is a result of cultural differences, not a natural superiority of one race over another.³¹⁷ These advocates used the election of Barack Obama in 2008, as the first Black president of the United States, as evidence that America had become a post-racial society.³¹⁸ Some advocates, like U.S. Supreme Court Justice Clarence Thomas, seek to eliminate all racial categories in our legal system³¹⁹ and argue that law should no longer consider race.³²⁰ Casting this ideology as

complexity-of-black-identity, [https://perma.cc/Q46A-7YJL] [hereinafter Fletcher, *Muhammad Ali*]. See also Kenan Malik, ‘i don’t have to be what you want me to be’, PANDAEMONIUM (June 5, 2016), https://kenanmalik.com/2016/06/05/i-dont-have-to-be-what-you-want-me-to-be [https://perma.cc/ZWP5-MDCF].

³¹² Fletcher, *Muhammad Ali*, *supra* note 311.

³¹³ SHELBY, *supra* note 308, at 231.

³¹⁴ JACQUELINE JONES, A DREADFUL DECEIT: THE MYTH OF RACE FROM THE COLONIAL ERA TO OBAMA’S AMERICA ix–xi (2013) (arguing that the American construction of race is itself a fiction).

³¹⁵ SHELBY, *supra* note 308, at 231.

³¹⁶ *Id.*

³¹⁷ GROSS, WHAT BLOOD WON’T TELL, *supra* note 13, at 299–300.

³¹⁸ MARCIA ALESAN DAWKINS, CLEARLY INVISIBLE: RACIAL PASSING AND THE COLOR OF CULTURAL IDENTITY 138 (2012).

³¹⁹ Hannah L. Weiner, *The Next “Great Dissenter”? How Clarence Thomas is Using the Words and Principles of John Marshall Harlan to Craft a New Era of Civil Rights*, 58 DUKE L.J. 139, 141–42 (2008).

³²⁰ See Gross, *Litigating Whiteness*, *supra* note 118, at 182–83 n.315.

colorblind constitutionalism, they have used it to attempt to undo affirmative action and other measures established to ameliorate centuries of social and legal racism.

Many scholars reject the call for a colorblind or post-racial society, warning that this approach of failing or refusing to consider that race perpetuates white privilege.³²¹ They assert that race categories persist as social categories and that race discrimination continues.³²² Critics of the movement have demonstrated that even without the overtly racially discriminatory laws, “a combination of social, economic and institutional practices” has perpetuated racial discrimination.³²³ Ida Platt’s life and legacy are evidence of this danger. Despite Platt’s accomplishments, the continued discrimination against Black women lawyers into the twenty-first century demonstrates that destabilizing the concept of race alone leaves in place, and actually supports, practices of racial inequality.³²⁴

CONCLUSION

In the decades after the Civil War, white and Black women lawyers in the United States struggled against the masculine character of the legal profession. They fought to break down the barriers that prevented women from practicing law. By the 1890s, the number of women lawyers in Illinois had grown sufficiently to allow some women to believe that they could focus on their practices rather than spend their time as activists.³²⁵ Platt was one of these women lawyers who entered the profession in Chicago in the 1890s. Although most who wrote about her admission focused on her unique posi-

³²¹ Golub, *supra* note 120, at 591–96. See generally Neil Gotanda, *A Critique of ‘Our Constitution is Color-Blind’*, 44 STAN. L. REV. 1 (1991) (arguing that color-blind constitutionalism fosters white racial domination); Kimberle Williams Crenshaw, *Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331, 1336–41 (1998) (discussing how the race-blind policies of the Reagan administration hindered civil rights).

³²² Westley, *supra* note 120, at 347; Golub, *supra* note 120, at 591; SHELBY, *supra* note 308, at 60–61.

³²³ Adia Harvey Wingfield, *Color-Blindness Is Counterproductive*, ATLANTIC, Sept. 13, 2015, [https://perma.cc/P7AA-GT2L]. See also EDUARDO BONILLA-SILVA, *RACISM WITHOUT RACISTS: COLOR-BLIND RACISM AND THE PERSISTENCE OF RACIAL INEQUALITY IN THE UNITED STATES* 2–4 (2006).

³²⁴ Black women lawyers continue to face discrimination in the positions open to them and received fewer rewards and fewer resources than men and nonminority women. ABA COMM. ON WOMEN IN THE PROFESSION, *VISIBLE INVISIBILITY: WOMEN OF COLOR IN LAW FIRMS* 9–10 (2006), [https://perma.cc/AXH6-U39H]; Karen Clanton, *Glass Ceilings and Sticky Floors: Minority Women in the Legal Profession*, 49 U. KAN. L. REV. 761, 765, 768 (2001); Gladys García-López, “*Nunca Te Toman en Cuenta [They Never Take You into Account]*”: *The Challenges of Inclusion and Strategies for Success of Chicana Attorneys*, 22 GENDER & SOC’Y 590, 591 (2008).

³²⁵ *Women Lawyers in Chicago*, *supra* note 64, at 35.

tion as the state's first African American woman lawyer,³²⁶ Platt's activities suggest that she identified herself as just one of the many new women in the field.

The intersection of Platt's race and sex, however, presented tremendous obstacles. Her contemporaries, Black women lawyers admitted to the bar during the nineteenth century, were unable to overcome these obstacles. Instead they worked primarily as teachers, a more traditionally gender-appropriate profession. Platt developed an alternative path. Taking advantage of her education, light skin color, and European appearance, Platt passed as white in her professional life. Those who pass without incident or disclosure rarely tell their stories.³²⁷ Platt's story provides unique insight into this kind of passing. It serves as one case study of an individual who chose to pass pragmatically during "the period in which 'passing' was a significant feature"³²⁸ of overcoming race discrimination.

Platt's story should not be construed as either a celebration or a condemnation of passing. Her choice allowed her to pursue her chosen occupation and support her family, but it did not undermine race discrimination against Black women lawyers. The act of passing or having a fluid racial identity was a means of race destabilization, which was one aspect of the campaign for racial justice. But Platt's story demonstrates what critical race theorists portend: that destabilizing race alone will not secure racial justice.³²⁹

For those who believe that race consciousness is critical to consolidating and motivating a collective consciousness to fight against the "structural misuse of race,"³³⁰ Platt's story is frustrating. She failed to openly engage in her "obligation to pursue [] antiracism *through* black solidarity."³³¹ She did not ultimately reveal her Black identity. But rather than view her story through that perspective, one should see that her story illustrates the complexity of the lived experience of race and gender and one woman's agency in overcoming the racist and sexist barriers she encountered. The extreme prejudice and discrimination that Black women experienced caused all other Black women lawyers of Platt's generation to leave the legal profession. Platt, alone, persevered because she chose her own identity.

³²⁶ *Id.*; *The Afro-American Woman: An Important Factor in Our Race Development*, FREEMAN, Dec. 5, 1896; Bradwell, *The Colored Bar of Chicago*, *supra* note 5, at 397; *We Envy Each Other*, *supra* note 48, at 1.

³²⁷ SOLLORS, *supra* note 130, at 253.

³²⁸ *Id.* at 284.

³²⁹ GROSS, *Litigating Whiteness*, *supra* note 118, at 185.

³³⁰ Darlene Clark Hine, Discussion of Jones, at Carter G. Woodson Regional Branch, Chicago Public Library (Jan. 29, 2014).

³³¹ SHELBY, *supra* note 308, at 214. Shelby does not adopt this position, but rather debates whether there is such an obligation or whether racial justice could be achieved through alternate means. *Id.*