

Freedom Courts: An Analysis of Black Women’s Divorce in Attala County During Mississippi’s Anti-Divorce Campaign, 1890–1940

Evan Howard Ashford

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Abstract

The essay argues that divorce, as a legal maneuver, provided Black women with the opportunity to challenge oppression within the household while simultaneously pushing back against broader efforts to curtail access to divorce. Framed within the New Negro Era, the article analyzes the competing realities of divorce as both a racialized political issue and an internal struggle for independence. Utilizing newspapers and divorce petitions, the article captures how divorce gave Black women a voice and a platform in which they could declare independence in a society that was historically known for its suppression of African Americans.

Keywords: Women’s History; Afro-American History; Mississippi; Divorce; Race.

Evan Howard Ashford: SUNY Oneonta (United States)

✉ Evan.Ashford@oneonta.edu

Ashford completed his PhD in Afro-American Studies from the W.E.B. Du Bois Department of Afro-American Studies at the University of Massachusetts Amherst. His dissertation examined how African Americans utilized education, land, interracial interactions, and voting to shape Mississippi’s complex social, economic, and political landscape during the fifty years following their emancipation. His areas of current and prospective teaching include the Slavery and Resistance, Race, Class, Gender, and Culture, Afro-American Political Science, Reconstruction through Black Power, History of The Civil Rights Movement, History of Crimes and Prisons, LGBTQ Communities of Color, Afro-American Film, and Afro-American Literature and Culture.

1 Introduction

Black women have long fought to establish themselves within society. They have utilized spaces such as churches, schools, and organizations to empower themselves and to deny the control of their freedom. Another space that Black women have utilized, which garners less attention, is the courtroom. This essay, *Freedom Courts: An Analysis of Black Women's Divorce in Attala County During Mississippi's Reform Campaign*, analyzes the emancipatory element of divorce that provided Black women with the opportunity to challenge the oppressive forces within their households amidst an on-going divorce reform campaign. The campaign, driven by newspapers and judicial officials, categorized divorce as a "Negro Problem" that needed legislative intervention to preserve the institution of marriage. While Jim Crow shaped several aspects of African American life, such as churches, schools, courts, public accommodations and their psyche, one area where Jim Crow lacked presence was in the divorce court. In this Jim Crow-less space, African Americans found their best opportunity to find equality and justice. For Black women, it allowed them to assert themselves as women without the limitations of race and class. In *Gender and Jubilee: Black Freedom and the Reconstruction of Citizenship in Civil War Missouri*, Sharon Romeo examined divorce as a form of emancipation from "patriarchal authority," from the home, church, and community.¹ This article picks up the theme of emancipation that Romeo associated with divorce and examines how divorce allowed Black women to self-emancipate themselves from troubled marriages while simultaneously, but not intentionally, challenging the broader anti-divorce campaign by continually using the practice.

Attala County, Mississippi, was one of the first counties whose judiciary reported to the press that divorce was predominately an activity practiced by African Americans, thus connecting black people to the alleged problem at the onset of the reform campaign. While divorce existed in every county, Attala County's divorce petitions, (not scattered docket listings or newspaper mentions), span the entire period this article covers. The county serves as a microcosm of how divorce played out in practice in the decades-long anti-black divorce crusade. However, the article does not seek to use Attala to generalize rationale for divorce or establish divorce patterns. This article aims to provide context as to what extent divorce was used over time. Attala County is obscure in Mississippi histories. The county's citizens were progressive-minded people who demonstrated independence through action during post-Reconstruction. They testified against whites, established black-operated colleges, purchased thousands of acres of land, created businesses, and remained politically active in a county whose racial demographics favored whites, but not overwhelmingly. Attala is representative of the drive for freedom that existed statewide in African American communities. Analyzing divorce in Attala adds another dimension to that freedom struggle.

Divorce, as a practice, lacks sufficient historical inquiry even within Mississippi's well-documented history. While some historians studied divorce, their analysis ignored African Americans. In *Marriage on the Border: Love, Mutuality, and Divorce in the Upper South During the Civil War*, Allison Fredette, analyzed divorce through cultural expectations of mutuality, individualism, and contractualism within white marriages.² Her work marginalized free Black women's marriages and missed an opportunity to provide an intersectional lens through which to explore divorce as a resistance tool for combating failed marital and domestic expectations. In *Stepping in Lively Place: The Not-Married, Free Women of Civil-War-Era Natchez, Mississippi*, Joyce Broussard studied how single women challenged the city's male-dominated society. She discussed divorce as enacted by white women to remove themselves from troubled marriages and, in some cases, reject marriage to assert their independence in the antebellum south. Her discussion provided insight into the issues plaguing women such as violence, cruelty, abandonment, and adultery; however, she provided no insight into Black women's divorce, despite free Black women living in the city.³ Fredette and Broussard's omissions did not mean di-

1. Sharon Romeo, *Gender and Jubilee: Black Freedom and the Reconstruction of Citizenship in Civil War Missouri* (Athens: University of Georgia Press, 2016), 97-8, 113-17.
2. Allison Dorothy Fredette, *Marriage on the Border: Love, Mutuality, and Divorce in the Upper South During the Civil War* (Lexington: University Press of Kentucky, 2020), 5, 8.
3. Joyce L. Broussard, *Stepping in Lively Place: The Not-Married, Free Women of Civil-War-Era Natchez, Mississippi* (Athens: University of Georgia Press, 2016), 61-71, 130. Also see Robert L. Griswold's "Law, Sex, Cruelty, and Divorce in Victorian America,

orce was absent from the black community. Glenda Riley explained, “the white legal system refused to recognize their [slave] marriage,” while separation and divorce existed within slave unions.⁴ This article establishes divorce as a permanent fixture within Black communities and a resource utilized as needed, similar to the ways Fredette and Broussard discussed, however, in the post-slavery era. This article looked at divorce petitions filed by women. Divorce records provided accounts pertaining to divorce proceedings from the plaintiff’s perspective. The article does not assume one’s guilt or innocence, rather uses the evidence for analysis purposes. Genealogical records that provided additional insight into the plaintiff’s lives bring context to their lives before and after divorce.

This article frames Black women’s divorce as part of the New Negro era. Alain Locke described the New Negro as one who overcame the oppression of their mind and body by representing themselves in a manner that led to self-discovery.⁵ While Locke associated the New Negro with using art as a transformative tool, Treva B. Lindsey argued that the New Negro era allowed Black women to reimagine black womanhood through “their chosen political, social, and cultural identities” within the spaces they carved for themselves.⁶ Locke and Lindsey conclude that the “New” correlated to a mentality that one came to possess and how this mentality allowed them to directly engage with society in ways previously uncontested. Darlene Clark Hine explained that “black female resistance and agency assumed many forms and tactics, black women clearly desired full citizenship and recognition and worked consistently toward these aims.”⁷ Divorce represented one way in which Black women resisted oppression and asserted their citizenship. Centering divorce, as a politic, decision, and space showcases personal agency and does not allow Jim Crow to flatten individual identity, thus presenting two eras of Black women as existing in two eras simultaneously.

2 1890–1900

Entering the century’s last decade, public sentiment indicated a push for congressional divorce legislation that would create “uniform marriage laws.”⁸ Mississippi’s 1890 constitution outlined the state’s role regarding divorce law. The constitution opened the door for possible state intervention regarding divorce law. Article IV, Section 90 stated, “The Legislature shall not pass local, private, or special laws in any of the following enumerated cases, but such matters shall be provided for only by general laws, viz (a) Granting divorces.”⁹ By 1892, uniform divorce laws re-entered national conversation, showing the division between the states wanting stricter laws and the states wanting more freedoms pertaining

1840–1900,” *American Quarterly*, 5 (1986): 721-45, and “The Evolution of the Doctrine of Mental Cruelty in Victorian American Divorce, 1790-1900,” *Journal of Social History*, 1 (1986): 127-48.

4. Glenda Riley, “Legislative Divorce in Virginia, 1803–1850,” *Journal of the Early Republic*, 1 (1991): 57. See Kellen Funk, “Let No Man Put Asunder: South Carolina’s Law of Divorce, 1895–1950,” *The South Carolina Historical Magazine*, 3/4 (2009): 134-53. James Henry Hammond regulated divorce amongst slaves, demonstrating a history of marital surveillance. Herbert Gutman’s *The Black Family in Slavery and Freedom, 1750–1925* mentioned divorce and the grounds by which African Americans sought divorce but did not delve into divorce as a consistent presence in Black families. Gutman spoke of two types of separation, one where the institution forcibly separates a man from his wife, and another where a spouse voluntarily separates (Herbert Gutman, *Black Family in Slavery and Freedom 1750–1925* (New York: Vintage, 1977), 5, 65, 148.
5. Gabriel A. Briggs, *The New Negro in the Old South* (New Brunswick: Rutgers University Press, 2015), 19.
6. Treva B. Lindsey, *Colored No More: Reinventing Black Womanhood in Washington D.C.* (Urbana: University of Illinois Press, 2017), 8-9.
7. Darlene Clark Hine, “African American Women and Their Communities in the Twentieth Century: The Foundation and Future of Black Women’s Studies,” *Black Women, Gender Families*, 1 (2007): 1-2, 16. See Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household* (Cambridge: Cambridge University Press, 2008) for an analysis as to how Black women gained greater autonomy of their lives, forcing society to accept that Black women belonged within the Black domestic space. See Bettye Collier-Thomas, *Jesus, Jobs, and Justice: African American Women and Religion* (New York: Knopf, 2010) for an analysis of the Black women’s movement within the church to bring forth their efforts to defeat mental enslavement, gain freedom for themselves regardless of class status, and not elevate black men above their needs, which served as major tenants of their social and political agenda.
8. *The Daily Commercial Appeal*, October 1, 1890.
9. Mississippi Constitution.

to divorce.¹⁰ What lacked in these early conversations was a reference to divorce as being linked to any group. As the decade progressed, Mississippi newspapers and court officials scapegoated African Americans because of their reportedly and supposedly high divorce rates compared to whites.

In 1894, Judge Graham of Attala County granted fifteen divorces, all to African Americans. Graham acknowledged that divorce was not uncommon and that many counties granted numerous divorces. However, he contended that African American divorces constituted ninety-percent of the total number of divorces granted. In neighboring Holmes County, the Chancery Court averaged thirty divorces a term; however, the racial composition of the divorce cases could not be determined.¹¹ While the number of divorces may seem miniscule, the racial composition of those seeking divorce began to take on an identity. Rankin County courts reported ten Black divorces and one white divorce during the March 1895 term. Tallahatchie County courts granted eighteen Black divorces and two white divorces during the November term.¹² These counties comprised different racial demographics. Attala and Rankin Counties had white majority populations, although Rankin's white population dwarfed its black population. Holmes and Tallahatchie Counties had black-majority populations that were far larger than their white populations. Newspapers provided no explanation why the Chancery Courts granted African Americans their divorces, given the court's rejection powers. A piece in *The Jackson Daily News* years later proclaimed that the higher rates in African American divorce stemmed from court officials who were not practicing restraint when granting divorce for African Americans, as they do with divorce cases for whites.¹³ Granting black couple's divorces at higher rates created the illusion that divorce was a problem only within a particular community.

Divorce was more complicated than what was presented to the public. The "problem" presented to the public did not reflect reality. Court officials did not disclose the stories behind each divorce. For example, Elizabeth, a former slave, married Samuel in 1875. She bore five children and lived with Samuel until January 1892, when he deserted the family, providing no support. Samuel relocated to Leflore County. In January 1897, Elizabeth petitioned the court for marriage dissolution on the grounds of desertion.¹⁴ The five-year gap between desertion and divorce indicated a reluctance to use divorce as a quick-fix. One way to ascertain what drove Elizabeth to file divorce is to explore her actions, following divorce. In February 1897, Elizabeth married William, a farmer and landowner. Her divorce enabled her to engage in a respectable relationship with William that reflected the social status linked to her family since Elizabeth's brothers founded the first Black Presbyterian church in the county. Elizabeth's second marriage produced one child and their marriage lasted forty years. Elizabeth and William moved to Greenwood, Mississippi where they remained until their deaths.¹⁵ They returned to Attala County to visit family on occasion.¹⁶ In contrast to Elizabeth's case was that of Malissa, who filed for divorce on the ground that her husband deserted her and treated her in a cruel and inhuman manner. The divorce petition indicated that Malissa's husband had a history of alcoholism and that she had tried since their marriage to help him, with no avail. Malissa waited six years after their separation to file the divorce.¹⁷ Early petitions painted a picture of divorce as a decision that was not rushed into, but one that was necessary for self-emancipation.

10. *The Daily Commercial Herald*, May 25, 1892.

11. *Clarion Ledger*, February 17, 1894.

12. *Clarion-Ledger*, March 30, 1895; *The Democratic-Herald*, November 19, 1896.

13. *The Jackson Daily News*, December 1, 1908.

14. Chancery Court Docket, 1505.

15. According to William and Elizabeth's death records at the Mississippi Department of Archives and History, Elizabeth died exactly one month after William in 1937.

16. *The Sun-Sentinel*, December 12, 1935.

17. Chancery Court Docket, 1567.

3 1900–1910

At the turn of the century, Mississippi turned African American divorce into a social issue that worked against national efforts to address divorce as a broader societal issue. The press used judicial records to publicize, humiliate, and shame those involved in divorce matters, such as Julius, an African American medical doctor. In 1901, his first wife, Ellen, filed for divorce in Hinds County. According to the *Daily Clarion-Ledger*, Julius deserted her in Arkansas and moved to Jackson where he began a new life with a new wife.¹⁸ While the case resembled that of Elizabeth, a woman using divorce to move forward, the press used the case to negatively characterize divorce as side show. In 1902, *The Grenada Sentinel* published an editorial stating the “negro divorce question is now engaging serious consideration of the students of the race problem in Mississippi,” explaining that Grenada’s Chancellor Longstreet presided over twelve-hundred divorce cases, ninety-percent involving African Americans.¹⁹ The desire to push a narrative that Black people corrupted marriage through divorce must be viewed within the context of Mississippi’s growing racial violence and continuing political disenfranchisement during this period. The Mississippi legislature could not intervene in local divorce matters without amending the state’s constitution. The stories running in newspapers were likely aimed at pressuring politicians to address divorce by labeling it a racial issue. Attala County contributed to this cause. In 1904, the *Kosciusko Herald* ran an editorial entitled, “Hard Lines on Dinah and Sambo,” which explained that the Mississippi Chancellors refused to issue divorces during vacations because “they are being constantly annoyed between court terms by negroes afflicted with domestic infelicity and who regard a divorce decree with about the same sentiment as they would the purchase of a new suit of clothes.” Attala’s Judge McCool also participated in not granting divorces during vacations, citing his legal limitations. In supporting McCool’s decision, the editorial stated, “By diminishing the facilities for getting divorces, it has a tendency to minimize the growing evil.”²⁰ The editorial went beyond assessing black divorce as a problem by linking it to evil. The combination of the press and the judiciary attacks pushed policy in their favor. By early 1906, the Mississippi Judiciary Committee sought to craft a bill to “diminish the acceptable grounds for divorce.”²¹

The Mississippi Code of 1906, within the Public Statute Laws of the State of Mississippi, outlined eleven grounds for divorce and required all divorce bills to be accompanied with an affidavit stating that the divorce was not filed in collusion with the defendant.²² The revised code implied that divorces were obtained under false pretenses, thus the requirement of attaching a mandatory affidavit indicated that officials assumed African Americans were lying about the grounds for divorce and further assumed that if a penalty was attached to deception, the number of divorces would decrease. Without a separate court hearing in which a judge or jury ruled on an affidavit’s legitimacy, the courts had little justification to deny divorce petitions. Unlike marriage records, where minor children had to have a guardian’s permission, divorce did not operate in the same manner. Despite the revised code, divorce continued. In 1907, Hinds County ruled on one-hundred sixteen divorce cases, including a significant number that were African American.²³ A clergyman argued that marriage should have “more safeguards, and the courts will find less necessity to interfere with family relations. But those who expect to remove the effect without eliminating the cause are attempting a task very near

18. *Daily Clarion-Ledger*, December 3, 1901.

19. *The Grenada Sentinel*, August 23, 1902. The author speculated the reasoning behind the divorces as male immorality.

20. *The Kosciusko Herald*, August 5, 1904. The piece correlated divorce to seasonal changes since black men seek a wife for planting and harvesting; however, they dump the wife when it comes time to share in the profits of labor. Racist in assessment, the piece showed the disdain that courts had towards African Americans that assumed a disregard for marriage.

21. *The Semi-Weekly Leader*, February 17, 1906.

22. The Mississippi Code of 1906 of the Public Statute Laws of the State of Mississippi. Prepared and Annotated by A.H. Whitfield, T.C. Catching and W.H. Hardy, 1906, 538-539. Mississippi’s pacing aligned with larger-scale efforts seeking similar results. On November 13, 1906, The National Congress on Uniform Divorce Laws met in Philadelphia and adopted parts of a bill drafted by a Congressional committee chaired by Walter M. Smith. Parts of the bill that were accepted included causes for divorce, which included “infidelity, felony, bigamy, desertion, habitual drunkenness, and intolerable cruelty.” *Weekly Clarion Ledger*, November 15, 1906.

23. *Jackson Daily News*, December 26, 1907.

the impossible.”²⁴

The opinion driving the divorce narrative reflected how society wanted to control behavior by setting the terms for this behavior. Glenda Gilmore's discussion of New White Men explained how society should operate. The New White Man was one who held dominion over all aspects of his life and controlled the public and private sphere of others, which defined his manhood. His dominion included purifying white women's sexuality. In contrast, African Americans espousing to the Best Black Men concept correlated “manhood rights” to the adoption of “middle-class whites' definitions of manhood.”²⁵ In a sense, the frustration with divorce can be viewed as the portion of white society that was frustrated with politicians and judges who did not utilize the authority of their institutions to limit divorce, as well as white men and women who did not set a standard that black people should emulate. Such assimilation into white respectability, if Black women wanted it, could not be obtained because white women possessed a “virtuous and untouchable” social status that society did not afford to Black women.²⁶ Divorce afforded Black women the platform to hold dominion over herself, thus creating a New Black Woman, so to speak.

In July 1905, Cyrinthia who was 45 years old, filed a petition for divorce from her husband, Jordan. Cyrinthia, who was born in 1860, was born into slavery after her mother lived a quasi-free experience prior to her birth. Then, Cyrinthia married Charley, whom she referred to as “the love of her life.” The marriage produced nine children. Charley and Cyrinthia purchased 120-acres of land. Following Charley's death, Cyrinthia married Jordan in November 1891. The marriage represented one of convenience rather than love as Cyrinthia had five minor children and an estate in her charge. The marriage to Jordan produced six more children. Jordan worked as a carpenter, he was literate and was a registered voter. In 1903, their marriage began to falter. In her testimony, Cyrinthia explained that Jordan began treating her in a “cruel and inhuman manner.” The treatment included calling her “a god damn son of a bitch” and “god damn liar.” This verbal abuse occurred shortly after giving birth to her fourteenth child. Three months before filing for divorce, Cyrinthia's fifteenth child was born while she was also caring for two adult children who were ill, one who passed away shortly after filing for divorce. Cyrinthia walked away from an emotionally abusive marriage, finalized on August 8, 1905.²⁷ The couple attempted a reconciliation, taking out a marriage license a month later. However, the license was cancelled that same month. It remains unclear why the couple attempted reconciliation soon after their divorce. The 1910 federal census listed Cyrinthia's marital status as “divorced” and Jordan resided in Leflore County. Following the divorce, Cyrinthia did not to remarry. She raised her children, assisted people in the community, and oversaw the family business.

On January 25, 1906, Alice filed for divorce from her husband, Daniel. Alice married Daniel on December 17, 1896. Each had been married prior in Neshoba County. In 1902, Daniel deserted Alice without any means of support and went to live in the Mississippi Delta with a woman named Piney, described as “a notorious fallen woman.” Daniel and Piney returned months later and lived as husband and wife, forcing the sheriff to arrest them for illegal cohabitation and giving them a prison sentence at the county farm. The decree stated that “she has not condoned this great wrong, nor has she had anything whatever to do with him since his guilty conduct became known to her.” Then, Chancellor McCool granted Alice's divorce on February 6, 1906.²⁸ Alice's petition was dated ten days after Piney's husband Jeff, filed his petition. Afterward, Alice used her first husband's surname and identified herself as “widowed,” indicating a complete break from Daniel. While newspapers and judges complained about the number of black divorces, Black women's use of divorce indicated why the procedure was needed and the importance that it not be impeded.

By the end of the decade, the divorce narrative began to nuance as complaints extended beyond

24. *The Commonwealth*, July 30, 1909.

25. Glenda Gilmore, *Gender and Jim Crow: Women and the Politics of White Supremacy in North Carolina, 1896–1920* (Chapel Hill: University of North Carolina Press, 1996), 62–64, 72.

26. Jean Fagan Yellin, “Race and Nineteenth-Century American Womanhood,” *Legacy*, 1 (1998): 55.

27. Chancery Court Docket, 2153.

28. State of Mississippi, County of Attala, Chancery Court Docket, 2227. The state's constitution listed fornication and adultery as a prosecutable crime.

the number of Black divorces, but as Chancellor Garland Lyell stated, “it requires about the same length of time to hear a negro divorce proceeding as it does a case where the parties are white persons.”²⁹ Divorce provided equality of time within the courts. Although court officials and the press did not stress this point, equality and African Americans were a contradiction within the Jim Crow society, as evidenced when Lyell reported that his January term docket comprised approximately one-hundred Black divorce cases.³⁰ Perhaps the idea of African Americans accessing and utilizing the courts to obtain some measure of justice and freedom sparked the backlash of the conservative South, which sought to restrict African Americans of any rights “reserved” for whites. Equality gave divorce a uniqueness because, without Jim Crow restrictions, it provided African Americans visibility and equal access within the legal system, thus, making it a theoretical “Negro Problem” as well.

4 1910–1920

By the start of the new decade, the divorce debate became both cemented and repetitive as the *Jackson Daily News* pushed for uniform divorce laws stating, “the divorces of today are wrong and should have never been granted.”³¹ The case of two Black women in Meridian, Lillie and Cassie, who sought divorce for desertion and cruel and inhuman treatment, respectively, exemplified the tensions between divorce and a call for stricter laws.³² One newspaper concluded that divorce was more likely to occur amongst African Americans than whites and that by excluding black divorces, “there are very few divorces in Mississippi.”³³ Since the press reported numbers related to African American divorces and omitted quantitative data for white divorces, the representation of data is questionable. Newspapers pushing this narrative undercut themselves by not presenting the data regarding white divorces, which would likely have strengthened their position in calling for restrictive laws. By insinuating that black people somehow harmed the state’s image or its white citizens, those pushing this narrative likely thought that legislative change would be more likely to occur.

Despite the continued attack on divorce from the press, Mississippi’s governor, Earl Brewer, elected in 1912, tackled social issues such as health care and child labor laws. Brewer’s successor, Theodore Bilbo focused on social programs that included a state charity hospital, public education, and passage of the 18th amendment.³⁴ Mississippi’s political agenda paid little attention to the ongoing calls for divorce reform. The lack of legislative intervention could have been linked to the profitability of divorce. In a 1908 term, the Noxubee Chancery Court reported \$132 in revenue, most which was derived from black divorce cases.³⁵ While the state’s legislative and executive branches ignored the issue, the judiciary further defined what constituted grounds for divorce. In 1915, courts ruled that a marriage could not be dissolved on the basis of “Incompatibility.”³⁶ Given the opportunity to streamline divorce, courts took a conservative approach by removing incompatibility as grounds for divorce. One rationale being that the courts understood that an aggressive stance toward divorce reform would impact whites as much as African Americans as well as the profits connected to divorce.

Black women used the law as written and continued using divorce to find release from their marriages. As an example, after five years of marriage, Irving left his pregnant wife, Fannie, and his young sons to cohabitate with another woman. Fannie described her husband as a “loafer and bum and de-

29. *Jackson Daily News*, January 6, 1907.

30. *Jackson Daily News*, January 4, 1909.

31. *Jackson Daily News*, December 15, 1910.

32. *The Meridian Evening Star*, March 9, 1910.

33. *The Hattiesburg News*, February 16, 1911. A piece in a December 1, 1908 edition of *The Jackson Daily News* proclaimed that the higher rates in African American divorce stemmed from court officials not practicing restraint when granting African Americans divorce as they do with white divorce cases.

34. Wesley F. Busbee Jr., *Mississippi: A History* (New Jersey: Wiley, 2015), 211, 213.

35. *The Choctaw Plaindealer*, May 15, 1908. Attala County’s Chancellor McCool spearheaded the campaign for the Chancery Court Stenography Office.

36. *Jackson Daily News*, April 27, 1915.

pended on his wife for his food and clothes.” While discussing cruel and inhuman treatment within the marriage, Fannie filed for divorce on the grounds of desertion.³⁷ Another woman, named Elizabeth, also referred to as Lizzie on other records, petitioned for divorce against her husband, George, who deserted the family. The petition claimed that she “performed her duty toward her husband in every manner that was required of her, and made him a dutiful and faithful wife,” further stating that, “she is certain that said desertion was not caused by any wrongful conduct or treatment of defendant on her part.”³⁸ Elizabeth was previously divorced; however, her husband petitioned for divorce, citing her ill-temperament, abuse, and neglect, which he attributed to his wife’s young age.³⁹ Elizabeth’s affirming that she made George a “dutiful and faithful wife” can be seen as her attempt to demonstrate to the court she made of herself a wife that was not at fault for her husband’s actions. Elizabeth wanted custody in order to raise and educate her children in a manner which their father failed to do.⁴⁰ Fannie and Elizabeth’s situations mirror each other. They waited five years after being deserted to petition for divorce. The details provided within respective divorce petitions depicted women who were in a state of desperation to be legally released from marriages which they held no power to change, except through divorce. As the decade ended, the scapegoating of African Americans as overutilizers of divorce weakened while the number of divorces granted and reported for white people began to mirror or outnumber those for African Americans. The *Jackson Daily News* reported “The divorce docket at the current term of the Hinds county chancery court is unusually large, and not all of the litigants are negroes.”⁴¹ Associating divorce with whites showed a shift in strategy that indicated a trend to solve the divorce problem by shifting the perspective to a problem plaguing the white community.

5 1920–1930

During the 1920s, Mississippi continued its assault on divorce. White individuals were no longer immune from public criticism, as they came under fire for their use of the practice; however, not as much as African Americans. In 1920, Judge Thomas P. Guyton, Chancellor of Kosciusko (Attala County) and of Mississippi’s Sixth District aimed to “‘shut down’ on the granting of so many divorces, especially to members of the black race,” by increasing the difficulty of obtaining divorce.⁴² Guyton granted divorces in nine cases that were heard in the opening days of the term, which included both white and black cases. From a judicial perspective, divorce sounded more like an epidemic. By 1921, Mississippi ranked third in the United States in granting divorces, prompting Chancellor V.A. Griffith to call for the prohibition of divorce, as in South Carolina. Griffith stated, “when people know they can go into court and get divorces without any trouble whatever, they have little respect for the sancity [sic] of the marriage tie.”⁴³ Griffith showed his frustration with current divorce laws by refusing to hear any divorce case in which both parties agreed to divorce by mutual consent, which Griffith viewed as part of the divorce problem.⁴⁴ On March 7, 1922, Mississippi amended section 1676 of the 1906 Mississippi Code to hold divorce proceedings in open court.⁴⁵ Court officials appeared to channel earlier press tactics of using divorce as a shaming mechanism, possibly assuming that the divorce rate would drop if the process was no longer a private matter. The assault on divorce showed the state’s resistance to change. Mississippi was the last to ratify the 19th amendment, symbolizing an unwillingness to accept

37. Chancery Court Docket, 3491.

38. Chancery Court Docket 3632.

39. Chancery Court Docket, 1835. Elizabeth is listed as Lizzie on the divorce petition.

40. Chancery Court Docket 3632.

41. *Jackson Daily News*, January 10, 1917. The May 23, 1917 issue of *The Jackson Daily News* reported seven white divorces granted in comparison to three black divorces. The October 15, 1919 issue of *The Commonwealth* reported seven white divorces in comparison to eleven black divorces.

42. *The Columbus Dispatch*, April 14, 1920.

43. *Jackson Daily News*, September 13, 1921.

44. *Ibid.* Griffith did not indicate the race of the people using mutual consent divorce.

45. *The Winona Times*, March 17, 1922.

society's changing landscape.⁴⁶ Despite any slow acceptance of change, people continued to utilize divorce. The same year, court officials granted 2,310 divorces.⁴⁷ The upward trend continued with 2,443 divorces in 1923. In 1924, Griffith's Hinds County ranked first with 156 cases. Attala ranked high with 50 cases and was one of several counties who saw an increase in divorces in 1925.⁴⁸ The following table provides a breakdown by county of the number of divorces in 1924 and 1925.

Mississippi Divorces in 1924 and 1925

Sources: *The Winston County Journal*, December 19, 1924 and *Daily Clarion-Ledger* December 17, 1926.

County	1924	1925	County	1924	1925
Adams	38	61	Leflore	27	55
Alcorn	38	34	Lincoln	29	59
Amite	36	35	Lowndes	37	39
Attala	50	53	Madison	57	81
Benton	7	11	Marion	26	36
Bolivar	50	45	Marshall	34	38
Calhoun	7	6	Monroe	44	62
Carroll	16	18	Montgomery	19	14
Chickasaw	14	38	Neshoba	17	24
Choctaw	17	17	Newton	18	41
Claiborne	16	20	Noxubee	28	28
Clarke	44	49	Oktibbeha	21	20
Clay	28	29	Panola	33	33
Coahoma	44	51	Pearl River	30	39
Copiah	31	31	Perry	12	10
Covington	21	36	Pike	67	92
Desoto	19	31	Pontotoc	12	15
Forrest	50	113	Prentiss	19	24
Franklin	14	30	Quitman	20	26
George	5	3	Rankin	24	19
Greene	4	6	Scott	37	40
Grenada	22	22	Sharkey	10	5
Hancock	11	15	Simpson	47	35
Harrison	60	65	Smith	8	11
Hinds	156	103	Stone	6	5
Holmes	34	34	Sunflower	48	41
Humphreys	26	26	Tallahatchie	52	45
Issaquena	5	7	Tate	23	16
Itawamba	4	13	Tippah	12	12
Jackson	19	14	Tishomingo	9	13
Jasper	14	27	Tunica	9	15
Jefferson	22	29	Union	30	29
Jefferson Davis	17	101	Walthall	13	12
Jones	61	NA	Warren	125	141
Kemper	34	31	Washington	63	72
Lafayette	27	23	Wayne	13	14
Lamar	20	25	Webster	15	4
Lauderdale	104	134	Wilkinson	16	30

46. Wesley F. Busbee Jr., *Mississippi: A History*, 222.

47. *Stone County Enterprise*, October 11, 1923. There is a discrepancy of 9 cases in *The Winston County Journal*'s December 19, 1924 issue that reported 2,319 divorces for 1922.

48. *The Winston County Journal*, December 19, 1924 and *Daily Clarion-Ledger* December 17, 1926.

County	1924	1925	County	1924	1925
Lawrence	20	14	Winston	28	25
Leake	9	5	Yalobusha	35	27
Lee	27	68	Yazoo	34	50

Lynn Dumenil explained that voting rights did not bring African American women the elevated status to address systemic issues plaguing their community.⁴⁹ Despite this lack of recognition, divorce court continued to provide the space in which to address their grievances, further enhanced by public hearings. Divorce petitions during this decade revealed more graphic depictions of domestic issues.

In 1920, Georgia who was 23 years old, sought a divorce from her husband Allen, from whom she separated in September 1919. Georgia's petition described a marriage that was a "veritable hell" in which the plaintiff experienced emotional abuse due to cursing and threats against her life as well as physical abuse through beatings with brooms, sticks, and chairs. The petition further explained how the ongoing abuse and Georgia's fear for her life led her to take her children and seek refuge with her father. Allen abandoned the family, leaving them destitute. In addition to asking for divorce, Georgia sought child support of twenty dollars per month until their two children turned eighteen.⁵⁰ To support herself and the children, Georgia took a job as a cook in the home of an attorney. Following her divorce, Georgia remained in her father's home, remarried, and had her children use her new married as their surname.

Physical violence continued as a central theme in the latter part of the decade. In 1925, Octavia, with the assistance of her father, filed for divorce from her husband Charlie. The two had married in 1923. Months into the marriage, Octavia began to suffer physical abuse when Charlie "struck her and beat her with his hands and fists." When Octavia fell ill, Charlie refused to provide medical attention, food, or other necessities, forcing Octavia to seek assistance from her sister. On March 8, 1925, Charlie banished Octavia from the family home after accusing his young bride of adultery. Octavia returned to her father's home and Octavia's petition sought alimony.⁵¹

Two 1926 petitions detailed the impact of violence as contributing to divorce. Hattie filed for divorce, seeking to end her seven-year marriage. Hattie met her husband in the Mississippi Delta, and the two married in 1918. The marriage culminated with Hattie separating from and filing for divorce. The petition cited that her husband "abused and bemeaned her," in addition to "threats of taking her life and doing her great bodily harm," which caused Hattie to "leave him to protect herself."⁵² Another case shows that when Beatrice filed for divorce, her petition described a cycle of abuse that included repeated threats, leading to Beatrice being "afraid to live with him." While Beatrice cited cruel and inhuman treatment, she filed on grounds of adultery, claiming that after her husband deserted her, he took several women as his wife. In what could be considered as desperation, Beatrice's petition asked for continued newspaper publication of summons so that her husband, who could not be located, would hopefully see and respond to the petition.⁵³

Moreover, when Louella filed for divorce from her second husband, Grant, he submitted his answer to his wife's petition on December 9, 1929. The record was one of few in which the defendant answered their spouse's allegations. Louella came from a respectable background and worked as a school teacher. A decade after her first husband passed away, Louella married Grant, a brick mason and preacher. A month into the marriage, issues arose leading to divorce. Among her many charges was that of coerced and painful sex. Grant defended himself, claiming that his wife was "always willing to have sexual intercourse with him" and denied that "he was brutal and savage when he had

49. Lynn Dumenil, "The New Woman and the Politics of the 1920s," *OAH Magazine of History*, 3 (2007): 22-6.

50. Chancery Court Docket, 3841.

51. Chancery Court Docket 5496.

52. Chancery Court Docket 5612.

53. Chancery Court Docket, 5590.

intercourse with her.”⁵⁴ Louella’s charge of sexual violence was the only one of its kind found in the available petitions.

What the 1920 petitions showed was that although each woman’s situation was unique, their petitions and post-divorce lives shared commonalities. Hattie differed from Georgia and Octavia, in that her request for custody did not seek any financial support from her husband. Her case resembled a 1922 case, in which Ella, a mother of four, asked for custody but no financial support after her husband’s desertion.⁵⁵ The women did not wait long between separation and filing divorce. Unlike the earlier cases, women such as Elizabeth and Alice waited for years to file divorce. The difference in timing could be attributed to the decades in which the divorce occurred. Georgia and Beatrice remarried and their second marriage was their last marriage. Octavia remarried three times following her divorce. Louella did not remarry. Instead, she dropped Grant’s surname and resumed the use of her previous surname. Hattie was the only woman who remained with her spouse after filing for divorce. The divorces came at a time when the number of the state’s divorces increased: 2,766 in 1926, 2,895 in 1927, 3,009 in 1928, and 3,172 in 1929.⁵⁶ Divorce was the only legal option that some women had in order to leave their situations, thus underscoring the importance of divorce courts. Calls by Chancellor Griffith to prohibit divorce in its entirety would leave women in violent or troubled marriages with no legal recourse, at the mercy of a broader white-male-dominated system.

6 1930–1940

The 1930s represented a shift in how the press and judicial officials treated divorce. Against the backdrop of the Great Depression, Mississippi’s divorce rates steadily declined, reaching its lowest record with the total number of divorces at 1,918 in 1932.⁵⁷ In the 1930s, America emphasized strengthening the family and endorsing the concept of marriage as a woman’s obligation, which included abstaining from divorce.⁵⁸ While the numbers declined, statistics began to provide a different picture of divorce than in past decades. The reluctance to disclose numerical data on white divorces while the practice was considered a black racial problem, changed during the decade. In 1931 and 1932, white divorces numbered exactly 1,308. Black divorces decreased from 610 to 513. The decrease in black divorce contributed to the state’s overall decrease, which countered a past statement by *The Hattiesburg News*, in 1911, that claimed that divorce would be nonexistent in Mississippi, if not for black divorce.⁵⁹ Some court officials sought to take more control of how divorce proceedings were overseen. Judge Ben Stevens of Mississippi’s Tenth District imposed tough guidelines for divorce.⁶⁰ Stevens, like other judges before him, sought to exert greater control over the courtrooms, in the absence of legislative intervention. Statistics published in *The Clarion Ledger* in 1936 continued to show divorce occurring more in white marriages than in black marriages. Between 1934 and 1935, white divorces decreased from 1,704 to 1,631 and black divorces remained almost unchanged, from 742 to 744.⁶¹ In Attala County, Black women’s divorces reflected the petitions of past decades, including desertion, adultery, physical and emotional violence. In 1934, Willie petitioned her husband, Curtis, for divorce after 19 months of marriage. The case presented multiple grounds for divorce. Willie indicated that her husband cursed and beat her, had affairs with other women, and deserted their family, including their son.⁶² Willie’s

54. Chancery Court Docket 6053.

55. Chancery Court Docket, 5010.

56. *Daily Clarion-Ledger* April 11, 1935

57. *Daily Clarion-Ledger*, February 5, 1933.

58. David Welky, *Everything Was Better in America: Print Culture in the Great Depression* (Urbana and Chicago: University of Illinois Press, 2008), 118-19.

59. *The Hattiesburg News*, February 16, 1911

60. *Daily Clarion-Ledger*, March 19, 1936.

61. *Ibid.*

62. Chancery Court Docket, 7509. Willie married twice after her first marriage dissolved.

petition was one of the first petitions that identified “the other woman.” Petitions filed by women had not divulged such details in the decades prior.

The decades-long attack on divorce, being considered as primarily a “Negro” problem, came full circle in 1937 when an article in the *McComb Daily Enterprise* justified the use of divorce, stating, “Pity the poor women who had shiftless husbands who contributed nothing toward their support. [...] Crimes upon crimes were committed in domestic circles and suffered because divorce was considered sinful. It is a lot of nonsense to expect people to suffer when suffering is not necessary. [...] There are divorces which should be made. There are divorces which are right.”⁶³ The article appeared during a rise in state divorces, which reached a total of 2,977 that year.⁶⁴ However, the article most likely aimed to justify white individuals’ use of divorce that included ex-Mississippi Governor, Theodore Bilbo. Facts prevented the scapegoating of black people as the main cause for high divorce rates, and depicted divorce for what it was, a personal politic used to emancipate one’s self from marriage through legal means.

7 Conclusion

Divorce debate in Mississippi spanned nearly fifty-years. During this time, African Americans were targeted and shamed for their use of the procedure. Despite the efforts to stigmatize divorce as a “Negro” problem and later publicize it also as a white problem, the push for divorce reform fizzled from the newspapers. Freedom prevailed and divorce continued to be a form of emancipation. At least from the perspective of Attala County, Black women used divorce in dire situations to create an opportunity to begin anew. Referring to divorce, Bettina Aptheker stated, “Too often we have not seen this kind of resistance or appreciated its cumulative effects because we have been looking for social movements as these have been traditionally defined, and we have looked for historical moments when these movements have reached their apex, making sweeping social change.”⁶⁵ Expanding on Aptheker’s point, each divorce represented a moment, apex, and sweeping change in the lives of the women utilizing divorce to gain some measure of freedom.

63. *McComb Daily Enterprise*, April 27, 1937.

64. *McComb Daily Journal*, February 18, 1938.

65. Bettina Aptheker, *Tapestries of Life: Women’s Work, Women’s Consciousness, and the Meaning of Daily Experience* (Amherst: University of Massachusetts Press, 1989), 173. Difonzo J. Herbie argued that a “divorce movement” existed prior to and after World War I, which “was seen as an expression of women’s growing independence from men.” Difonzo J. Herbie, *Beneath the Fault Line: The Popular and Legal Culture of Divorce in Twentieth Century America* (Charlottesville: University Press of Virginia, 1997), 14.