

Reading Race in Nella Larsen's *Passing* and the Rhinelander Case

Towards the end of Nella Larsen's *Passing* (1929), the protagonist Irene Redfield imagines how the racist husband of a character who has been passing might react if he discovers his wife's "true" racial identity: "What if Bellew should divorce Clare? Could he? There was the Rhinelander case."¹ Irene suspects her husband, Brian, of having an affair with Clare, and she fears that Brian will leave her "if Clare were free." Initially, Irene is comforted when she recalls the outcome of the highly publicized Rhinelander trial (1925): Leonard Rhinelander requested an annulment of his marriage to Alice Beatrice Jones on the grounds of "racial fraud." Alice, he charged, had concealed her race from him and, had he known the "truth," he would not have married her. After a lengthy and sensational trial, the jury ultimately ruled in Alice's favor: that is, they agreed with her lawyer's argument that it was not possible for her to have deceived her husband because her "race" was visibly apparent.

The Rhinelander trial provides a telling example of the importance of definitions of race in the 1920s, and the verdict served to further codify the concept of race as a visible and incontrovertible fact. This essay argues that what seems like a casual reference to a contemporary event actually underscores a central theme of the novel: the Rhinelander case and *Passing* both illustrate the problematic ways Americans sought to categorize mixed-race individuals in the 1920s, but while the Rhinelander verdict denies the existence of a middle ground between racial absolutes, the novel affirms it. Larsen directly references "the Rhinelander case" only once, but its themes echo throughout the text of *Passing*, which challenges the visibility of race and the conception of racial identity as intimately connected to one's essential self. Irene's reference calls to mind a very public trial that forced Americans to question their

understanding of racial difference. In *Passing*, Larsen explores the conceptions of race as a real physical fact and as an imagined social construct, and challenges the logic of “common knowledge” and visibility in assigning racial identity to individuals.

It is significant that the only reference to the trial occurs in Irene’s reflections on her friend Clare’s racial identity. As we will see, the different ways in which these two characters view themselves and each other are highly significant; they contain, in fact, a major clue to the meaning of the novel. Irene adheres to the master narrative of race in America, according to which one’s race is determined by physical factors. The strictest interpretation is embodied in the so-called “one-drop rule,” which holds that a single drop of “black blood” is enough to make a person “black.” The difference between Irene and Clare is not that Clare escapes from the rule, which she does not recognize, but that her attempt to live free of its sway, to be what she is, both black and white, is in the end defeated by the way in which others, including Irene, view her. A similar tragedy befell Alice Jones Rhineland, who also attempted to be what she was only to find that society would not allow it. But like Irene’s reference to “the Rhineland case,” this parallel between the woman in the lawsuit and the woman in the novel is only the tip of the iceberg. For all the attention devoted to *Rhineland* in the criticism of *Passing*, much remains unexplored in the relationship between the two.²

Background

Alice Jones and Leonard Rhineland were married on 14 October, 1924 at a courthouse in her hometown of New Rochelle, New York. The couple endeavored to keep the marriage a secret from his family, but three weeks later the *New Rochelle Standard Star* announced that a local girl had married a Rhineland. Initially, their marriage was seen as an intriguing cross-

class union: Leonard Rhinelanders was a member of one of New York's oldest and richest families; his bride, Alice Jones, was the daughter of working-class English immigrants. When reports surfaced that George Jones, Alice's father, was "colored," what had been a modern-day Cinderella story erupted into a full-blown public scandal.³ Two weeks after the press declared that Rhinelanders's bride was "colored" he sued for annulment, stating that his wife had misled him regarding her racial identity and that, had he known her "true" identity, he never would have married her.⁴

Leonard's annulment suit hinged upon whether a jury could be convinced that it was possible for Alice to hide the "fact" of her race from her husband. To win their annulment suit, Leonard's lawyers needed to prove that his wife had purposefully and consciously misled him. Had he married Alice Jones thinking she was white? Would he have married her if he had known she was colored? Leonard's lawyers needed to prove that Alice was "colored," but they also needed to prove that she could hide that fact from Leonard. Conversely, Alice's lawyers needed to prove that she could not have deceived her husband, that her race was obvious.

Newspaper journalists pounced with glee on the story of this cross-race, cross-class union. And who could blame them? Leonard Kip Rhinelanders, a member of the New York aristocracy and young heir to the Rhinelanders millions, married the modest, dark daughter of a taxi-driver, only later to discover the terrible "truth." The verdict had the potential to challenge the conception of race as a physically visible fact, or to further reinforce it. This is one reason why Americans of every race anxiously watched the trial unfold.⁵

The Rhinelanders case did not simply provide the media with a sensational story. The trial highlighted some of the most controversial issues of the period: racial identification and race mixing. As several critics contend, in the 1920s white Americans were becoming increasingly

fearful of the potential for racial degeneracy and “mongrelization.”⁶ In New York City, anxiety over eroding race and class boundaries was heightened by a number of factors: the African American migration from the rural areas of the South, the recent wave of immigration from southern and eastern Europe, and the social upheaval brought about by post-war economic growth all made it increasingly difficult to maintain normative race and class boundaries. That a black woman’s name had appeared in New York’s *Social Register*—however briefly—demonstrated that the upper echelons of elite white society were permeable.⁷

But the Rhinelander marriage wasn’t simply a concern for New York aristocrats. In the racially and economically stratified climate of the 1920s, Leonard and Alice had crossed the color and class lines that so many white Americans were invested in maintaining. As Leonard’s lawyer Isaac Mills emphasized in his annulment request: “The feeling against [interracial] marriage is very strong in American white people. In twenty-eight states of the Union such a marriage is prohibited by statute law” (Onwuachi-Willig 6). In New York State, interracial marriages were legal, but by no means popular. As Elizabeth Smith-Pryor observes, the legality of accusations of “racial fraud” in annulment suits in New York State was never questioned in the courtroom:

Without a statute blocking interracial marriage, and without even any reported court decisions explicitly stating that racial deception was material enough to authorize annulment, New York’s legal establishment seems to have formulated and adhered to an unwritten rule that racial deception mattered. In my research I have been unable to find record of any case in which that position was challenged.

(181)

Indeed, it seems that Americans considered racial identity to be a fundamental fact whose concealment, deliberate or otherwise, constituted grounds for annulment.

In the early decades of the twentieth century, the conception of “race” was evolving into an essentialized black-white dichotomy. As James Kinney asserts, “by 1915, acceptance of the one-drop rule was so universal that the 1920 Census was the last to count mulattoes; after that all mulattoes were classified as ‘Negroes,’ officially creating a simplified biracial America” (26-27). Carla Kaplan characterizes the early decades of the twentieth century as afflicted by a kind of racial “taxonomic fever,” a veritable mania for structure in response to an increasingly unstable world (152). Amidst this obsession with classification and order, Alice’s racial ambiguity destabilized binary notions of distinct “black” and “white” races, and this played a part in making the Rhinelander case as newsworthy as it was.

Reading Race in Rhinelander: Will the Real Alice Please Stand Up?

Initially, one of Alice’s lawyers, Samuel Swineburn, asserted in a press conference that she was white because her mother, Elizabeth Jones, was “of pure white origin,” and that “his client’s main objective would be to prove that she is white” (“Rhinelander’s Wife Denies”). It was only when the trial commenced that her defense built a case around the “fact” that her race was physically visible. In opening arguments, her lead lawyer Lee Parsons Davis stunned the court with his announcement: “The defense counsel...hereby withdraws the previous denial as to the blood of this defendant, and for the purposes of this trial...admits that she has some colored blood” (*NYT* 11 Nov. 1925, 1). The phrase “for the purpose of this trial” seems to limit the applicability of the announcement itself and “admits that she has some colored blood” needs qualification: throughout the trial itself, Alice never took the stand, never openly declared her

race.⁸ The lawyer's announcement was, then, not the simple admission of Negro ancestry that it was taken to be.

How would Alice have defined herself, had she testified? As Jamie Wacks contends, "there is some hearsay evidence that Alice would have self-identified as white" (163-64). Just after the story broke, newspaper reporters of all stripes invaded Alice's hometown of New Rochelle. They interviewed her acquaintances, colleagues, and former classmates in an effort to get a sense of who she was and to help determine her race. They soon found that straightforward conclusions were not forthcoming. A reporter for the *New York Evening Journal* simply wrote: "Some thought her colored. Some did not." (15 Nov. 1924, 3). Jane Dunham, Alice's former supervisor at the New York Athletic Club, told reporters that when inspectors classified Alice as a "mulatto," she sobbed and denied that she was colored. Ira Morris, a black man, told reporters that he had dated Alice, but she ended the relationship when "she told him she was 'white' and would have nothing further to do with him" (*New Rochelle Standard Star* 15 Nov. 1924, 1-2).⁹ The stories these acquaintances tell dramatize the messy negotiations that Alice must have gone through on a daily basis, but they also hint at a personal sense of racial identity that may have conflicted with the way her lawyer portrayed her in the courtroom.¹⁰

In "First-Time Encounters," Robert Westley highlights the distinction between identity and subjectivity: an individual becomes a racially "subjected being" when s/he is "hailed," called out or categorized; by contrast, racial identity is personal, "an expression, based in processes of affinity and affiliation, of how the individual personally identified himself or herself" (5). The "hearsay evidence" just cited suggests that Alice's racial identity (how she felt about herself) conflicted with her racial subjectivity (how society viewed her).

Whatever Alice's own sense of her racial identity, during the trial she was forced to allow the jury to define her as "colored" in order to defeat the annulment. Her lawyer played upon the popular assumption that "race" could be easily seen. The humiliations Alice suffered in order to "prove" the visibility of her race are striking: Davis repeatedly called upon Alice, her sisters and her father to stand up, to take off their hats, to hold up their hands, etc. so that the jury could note the obviousness of their race. As we will see, in *Passing* Larsen explores this dynamic "reading" of race onto the body to highlight the constructedness of race itself.

The most memorable aspect of the trial is perhaps the most disturbing. Because Davis's whole case rested upon the assumption that race was easily visible, he needed to prove that Leonard had "seen" Alice's race before they married. In a move that was at once tactical, dramatic, and humiliating, he submitted Alice's skin itself as evidence of the obviousness of her race. As a journalist for the *New York Times* describes it,

Mr. Davis dramatically called on Justice Morchauser to clear the courtroom of all men in it not having business there so that he might have Mrs. Rhineland partially disrobe and show the jury how dark her skin was. He contends that Rhineland could not have known her as well as he did without knowing that she was colored. Mrs. Rhineland was told to go into the jury room, where before the jury and a lawyer from each side she bared her body to the waist. She was crying as she was led to the room and crying as she left it. ("Rhineland's Wife Cries")¹¹

Back in the courtroom, Davis asked Leonard one question: "Your wife's body is the same shade as it was when you saw her in the Marie Antoinette with all of her clothing removed?" to which Leonard simply responded, "Yes."¹² Afterwards, Davis continued to remind the jury of this

“physical evidence.” He scoffed at Leonard’s assertion that Alice had deceived him, asking, “How is your eyesight? Are you color-blind? ... Can you distinguish black from white? ... Brown from white?”¹³ How could she have concealed her race from her husband when anyone who looked at her could see what she was? In his closing remarks, Davis again reminded the jury that they had seen the “evidence” with their own eyes: “You saw a portion of her body. Can you say he had no suspicion that she had colored blood? Do you believe it? How can you? It is against every probability” (*New York Times*, 2 Dec. 1925, 3).¹⁴ Davis effectively placed the men of the jury in the position of race arbiters.

These tactics forced Leonard’s lawyer, Isaac Mills, to counter that there was nothing about Alice’s body that visually signified her race. In an era of increasing racial anxieties, this was difficult for a white jury to swallow. But Mills’ argument also worked within the ideological parameters of race as a biological fact, adhering to the one-drop rule. He argued that although Alice lacked the bodily signifiers of her race, she had inherited “colored blood” from her father and that made her colored too. He tried to elicit the jury’s sympathy by portraying Leonard as an inexperienced and mentally handicapped young man who had been taken advantage of by an older, more sexually experienced black woman. In all of these ways both prosecution and defense relied on racialized stereotypes in their depictions of Alice: the defense portrayed her as a helpless little black girl, while the prosecution painted her as a dark seductress.¹⁵ The former image put Leonard, an upper class white man, in a position of power; the latter made him helpless against the charms of a working class black woman. Davis made it implicitly clear to the jury that awarding Leonard’s annulment would mean that race could be effectively concealed. When the jury ruled in Alice’s favor, their decision meant that Alice’s race was in fact physical, visible, obvious and undeniable.

Alice's lawyers had relied on the prevalent notion of race as something one could recognize on the basis of appearances, how people looked, the color of their skin, the texture of their hair, and so on. But this was not their only legal option: there was also a long-standing precedent in U.S. courts to determine race by a person's actions, affiliations, and reception in society. Legal scholars Ariela Gross and Kenji Yoshino both demonstrate that cases of racial determination by association have a definite history in the American judicial system. As Yoshino writes:

In so-called race-determination trials, individuals who would have been classified as black under a 'one-drop-of-black-blood' rule were often deemed white by judges and juries so long as they behaved in ways associated with whiteness... [I]ndividuals were deemed white for their association with and acceptance by whites, for the gentility of their demeanor, and for the straightness of their hair. (135-36)¹⁶

Similarly, Gross shows how race determination trials highlight the ways racial categories are created and maintained. Through the lens of these determination trials, we can see that racial identities are not static but fluid and malleable. Legal scholars generally contend that the Harper Doctrine (1830) established the precedent for deciding court cases of race determination on the basis of reputation, social standing, and behavior. Judge Harper's decision states: "The condition of the individual is not to be determined solely by the distinct and visible mixture of negro blood, but by reputation, by his reception in society, and his having commonly exercised the privileges of a white man."¹⁷ As Gross describes it, South Carolina Court of Appeals Judge William Harper ruled that "evidence of reception in society and exercise of legal and political rights could overcome evidence of negro ancestry, or even determine an ambiguous racial identity" (54).

Significantly, as Onwuachi-Willig points out, the Harper Doctrine could have enabled Alice to litigate her claim to whiteness in court: “Alice, who looked white, could have identified as white based upon how she exercised the privileges of whiteness in her social and community life” (20). That she did not do so speaks to the changing racial climate of the 1920s, one in which the ideology of blood and ancestry trumped the logic of association.

The conception of race as determined by descent remains prevalent in popular culture to this day, though it has come under increasing scrutiny in academic circles. That it was even stronger at the time of *Rhineland* is perhaps suggested by Alice’s (or her lawyer’s) failure to appeal to its counterpart, the Harper Doctrine. According to it, Alice did not “deceive” those who perceived her as white at all. Rather, their perceptions of her as a white woman served to define her as such. The same is true of Clare in *Passing*: she looks white, has two white aunts, married a white man, and is raising her daughter as white. She moves effortlessly about in white society, staying in white-only hotels and relaxing in the Drayton’s segregated tearoom. In short, Clare seems to fully exercise her so-called “privileges of whiteness.” In this she is like her friend Irene, though we will see there is also an important difference between them.

The official documentation of Alice’s father and sisters reflects the same dynamic of racial affiliation by association. George Jones, Alice’s father, is listed as “colored” on his naturalization papers, but the 1915 New York State Census designated the entire family as “white.” Alice’s birth certificate listed her as “mulatto,” her marriage license listed her as “white.” Emily Jones, Alice’s sister, married a dark-skinned African American man, Robert Brooks, and both of them are listed as “colored” on their marriage license. Alice’s other sister, Grace, married an Italian man named Albert Miller, and was listed as “white” on her marriage license (*New York Evening Journal*, 15 Nov. 1924, 3). These documents seem to suggest that, at

least in the eyes of the American government, the racial designation for people of mixed ancestry like the Joneses was ambiguous, contradictory, and tended to be determined by association: Emily's "Negro" husband made her "colored," Grace's and Alice's "white" husbands made them "white." Not only Alice but her entire family challenged the conventional notion that the races could be kept separate. Instead of actively choosing either a black identity or a white one, the Joneses chose to ignore the boundaries separating these racial categories.

Reading Race in *Passing*: Irene and Clare

The Rhinelander verdict denied the complexities of identity, affiliation, and allegiance that had enabled Alice to see herself as "white." In *Passing*, Larsen dramatizes this dynamic of affiliation by association, demonstrating the ways various characters "read" race onto the bodies of racially ambiguous women like Clare, Irene, and Felise Freeland. By depicting the subjective nature of this kind of visual "reading," Larsen illustrates how racial categories are socially constructed.

Larsen depicts the artificiality of racial categorizations through Clare's and Irene's passing, but it remains difficult to discuss the act of passing itself without reinscribing "race" as a social fact. What is troubling about the concept of racial passing is that it necessitates placing people of mixed ancestry in one racial category over another. In this way, the act of passing both subverts racial categories *and* reinforces them, employing the logic that people of mixed ancestry are "really" black but pretend to be white. Robert Westley points out the flaw in the traditional conception of "passing" as implicitly deceitful: to view passing as an act that hides one's "true" race is to subscribe to the "one drop" conception of racial identity—that whiteness is so pure that even a single drop of black blood negates it (13). Nonetheless, as Henry Louis Gates points out,

the one-drop rule remains the dominant racial ideology in the United States: “In a system where whiteness is the default, racelessness is never a possibility. You cannot opt out; you can only opt in” (207).¹⁸ Both Clare and Alice attempt to “opt out” of this racial system, but neither woman can control the ways they are perceived by others. The master narrative of “race” leaves no room for a subjective, changeable, and performative sense of racial identity, such as that assumed by Clare and Alice.

As I will argue, Alice and Clare cannot be described fairly and accurately as “passing” at all because such a designation does not take into account how each woman defines her self. And yet contemporary critical work on Larsen’s novel, adhering to the one-drop rule, has not yet freed itself from the tendency to describe them that way. For example, in the popular Rutgers edition of *Passing*, Deborah McDowell explicates Irene’s reference to the Rhinelander case with the following footnote: “Kip Rhinelander, of a prominent New York family, married a black woman, but divorced her because of his family’s disapproval” (245fn8). Identifying Alice Jones Rhinelander as “a black woman” eliminates the ambiguity that made the trial so sensational in the first place. Likewise, in his explication of Irene’s reference, Mark J. Madigan simply describes Alice as “mulatto,” implicitly accepting her lawyer’s concession that, “for the purposes of this trial,” she “admits that she has some colored blood” (524-25). Miriam Thaggert explores the connections between Larsen’s novel and the Rhinelander trial, but her analysis, too, is founded on the notion that Irene and Clare are essentially black. Thaggert argues that the women use fashion and middle-class etiquette to *conceal* their race: “Irene’s and Clare’s performance of a certain type of femininity...helps the women accentuate the ambiguous visual demarcations of the African American, light-skinned body and enables them to pass as white more successfully” (4).¹⁹ Perhaps seeking to avoid a racially essentialist construction of Clare, George Hutchinson

describes her as “both a black white woman and a white black woman” (294). In “Passing, Queering,” Judith Butler attempts to distinguish between Clare’s and Irene’s treatment of race:

Clare passes not only because she is light-skinned, but because *she refuses to introduce her blackness into conversation*, and so withholds the conversational marker which would counter the hegemonic presumption that she is white. Irene herself appears to “pass” insofar as she enters conversations which presume whiteness as the norm without contesting that assumption. (171; italics added)

Why is it that Clare’s actions are truly exemplary of passing, while Irene’s only “appear” to be? Because Butler assumes that the women really *are* essentially “black,” her analysis does not account for the different ways each woman defines her self. Under the spell of the one-drop construction of “race,” these critics become trapped in normative definitions of “passing.”

I prefer Randall Kennedy’s formulation, which does not rely quite as heavily upon the one-drop construction: “Passing is a deception that enables a person to adopt specific roles or identities from which he or she would otherwise be barred by prevailing social standards” (283). Elizabeth Smith-Pryor similarly notes that it is our *belief* in race that makes it real: “Once race becomes real and a classification that can be negotiated, then race must exist as a fixed essence *that does not have to be visible*” (91; original italics). The subjective nature of these definitions enables us to discuss the phenomenon of racial passing without reinforcing definitions of race that are socially constructed.

Kennedy also defines passing as active—the passer is “consciously engaged in concealment” (285). According to this logic, it is Irene who truly “passes” when she first meets Clare because she self-identifies as “black.” When she walks into the Drayton, she is aware that she is taken for something that she believes she is not. She consciously conceals her emotional

identification as “black.” In contrast to her, Alice, as we have seen, seems to have self-identified as “white.” Clare stands apart from both Alice and Irene in rejecting essentialized racial categorization altogether. Instead, as Martha Cutter contends, Clare treats “race” as simply performative: “She founds her identity not on some sense of an ‘essential self’ but rather on a self that is composed of and created by a series of guises and masks, performances and roles” (75). At the opening of the novel, Clare describes passing in this way: “It’s such a frightfully easy thing to do. If one’s the type, all that’s needed is a little nerve” (16). Clare does “pass” in the sense that she conceals the fact of her African American ancestry from her racist white husband, perhaps simply because this knowledge would dramatically alter his perception of her. But she also disregards the racial categorizations that would limit her self-identity to either “white” or “black,” and it is this that enables her to move back and forth freely over the color line.

Larsen not only draws upon the themes of the Rhinelander case, she also draws upon the characters involved in it. In *Passing*, her depiction of Clare’s life mirrors Alice’s in important ways: both came from working-class backgrounds and married exceedingly wealthy white men, but more significant is their common defiance of societal expectations of racial separateness. During the trial, facts surfaced about how Alice lived her life that underscored her refusal to be categorized by the standard black/white racial definitions. She apparently had no qualms about dating and then marrying a man whom society deemed out of her league in terms of both class and race. Testimony showed that she seemed perfectly comfortable being taken for white by acquaintances, but she was also perfectly comfortable taking her rich white boyfriend home to her multi-hued family, including her dark-skinned father and her Negro brother-in-law Robert Brooks, who lived with his wife in New Rochelle and visited the Jones family home often.²⁰

Like Alice, Clare seems to reject societal notions of racial distinctness, and she moves easily between the white world she inhabits with her white racist husband, Jack Bellew, and the new “colored” life she explores in Harlem. What complicates Larsen’s depiction of race as behavioral is the fact that many of the characters in *Passing* still believe that race is physical. The story is narrated from Irene’s perspective, and Irene believes there is something essential about being black. For example, she tells Hugh Wentworth that while “It’s easy for a Negro to pass for white,” there remain “ways...not definite or tangible” for her to see through the passing disguises of others (61-62). In an earlier discussion on the same topic, Irene’s husband, Brian, similarly remarks: “We know, always have. They don’t. Not quite” (41). Amy Robinson defines the seemingly inexpressible racial “sixth sense” that Irene and Brian adumbrate here: “members of the in-group insist on a distinctive location that allows them to recognize a never truly hidden prepassing identity.” Irene’s and Brian’s sense of racial affiliation fits Robinson’s description of an “almost intuitive faculty of recognition” that allows her, as a member of the “in group,” to recognize other members of the “group” who endeavor to pass (715).

But Larsen exposes this so-called intuitive knowledge as entirely subjective: Irene reads—or misreads—identity by manufacturing her own intuitive sense of affiliation with the person before her. While she tells Hugh that “nobody can [tell] by looking,” she in fact *does* read Clare’s race precisely “by looking” (61). Thus, what she believes she “sees” in Clare is not necessarily the existence of “a stable prepassing identity.” Rather, she sees what she wants to see. Her assertion both accords with Alice’s lawyer’s argument that race is a visible, bodily characteristic, and clashes with it: what she “sees” is race, as obvious to her as to Alice’s lawyer; but it takes a special pair of eyes—her own—to “see” it. But how seriously are we to take Irene? Several critics note her obvious capacity for self-denial, which makes her narrative unreliable.²¹

Indeed, Irene's initial encounter with Clare at the Drayton contradicts her own assertion that she can easily discern race. When she first sees Clare, she thinks she is "an attractive-looking woman...with those dark, almost black eyes and that wide mouth like a scarlet flower against the ivory of her skin" (6). Even when Clare begins to stare noticeably at Irene, it does not occur to her that the woman staring at her is passing, as she is. As the two women stare at each other, Irene thinks, "What strange, languorous eyes she had!" (7). Then, an "odious" feeling takes hold of her:

Did that woman, could that woman, somehow know that here before her very eyes on the roof of the Drayton sat a Negro? Absurd! Impossible! White people were so stupid about such things for all that they usually asserted that they were able to tell... Never, when she was alone, had they even remotely seemed to suspect that she was a Negro. No, the woman sitting there staring at her couldn't possibly know. (7-8)

Even after Clare approaches her and calls her by a childhood nickname, Irene is still unable to place her: "What white girls had she known well enough to have been familiarly addressed as 'Rene by them? The woman before her didn't fit her memory of any of them. Who was she?" (8). Here, Irene exemplifies the racial affiliation-by-association sentiment that made it possible for Alice's sister Emily Jones to be identified as Negro and her two sisters as white. But the woman who stands before Irene *does* know. Clare can see through Irene's passing veneer to recognize that the woman before her is a childhood friend. Irene, in contrast, sees an intriguing white woman, and therefore a stranger. Clare can recognize Irene because she does not rely upon the visual signifiers that the rest of the world uses to discern racial identity. While Irene is unable to spot the passer, she herself is spotted.

Clare's name itself perhaps evokes the unique clairvoyance with which Larsen endows her. She is the only person in the text who demonstrates the capacity to see people without the racial lenses upon which everyone else relies. Our introduction to Clare's husband provides an interesting example of this. When he meets Irene and Gertrude in his parlor for tea, he simply assumes they are white. And from his perspective such a conclusion is perfectly logical: why would his wife ever associate with a race of people that he believes they both detest? "I don't dislike them, I hate them," he says, and then goes on to refer to Clare by his nickname for her: "And so does Nig, for all she's trying to turn into one. She wouldn't have a nigger maid around her for love nor money" (30). Bellew's comment, unbeknownst to him, affirms Clare's awareness that one's identity is determined by one's associations: she refuses to hire black maids not because she dislikes them but because she fears being aligned with them through association. Her apprehension on this account proves to be apt: ultimately, Bellew discovers her secret when he bumps into Irene on the street in New York. In this second meeting, Irene is with Felise Freeland, whose visible "Negro" features do not escape Bellew's notice:

Surprise, incredulity, and—was it understanding?—passed over his features. He had, Irene knew, become conscious of Felise, golden, with curly black Negro hair, whose arm was still linked in her own. She was sure, now, of the understanding in his face, as he looked at her again and then back at Felise. (79)

Bellew sees Irene's "blackness" through her association with a visibly black woman, and he sees Clare's "blackness" through her association with Irene.

Irene, too, relies upon her perceptions and associations to determine Clare's race. After their first encounter at the Drayton, when Clare had called her 'Rene, Irene begins to see her in a different light:

And the eyes were magnificent! Dark, sometimes absolutely black, always luminous, and set in long, black lashes. Arresting eyes, slow and mesmerizing, and with, for all their warmth, something withdrawn and secret about them. Ah! Surely! They were Negro eyes! Mysterious and concealing. And set in that ivory face under that bright hair, there was about them something exotic. (19-20)

The same eyes—“dark, almost black” (6)—that had been captivatingly beautiful have become a marker of Clare’s race. Clare’s appearance itself hasn’t changed in the meantime, but Irene’s perception of that appearance has. Once she “knows” Clare’s race, she applies that knowledge to Clare’s body.

A similar dynamic of affiliation-by-association can be observed in Clare’s behavior too, particularly in her dealings with Irene’s black maids. Irene silently disapproves of her “unnecessary friendliness” towards them: “she would descend to the kitchen and [with] an exasperating childlike lack of perception, spend her visit in talk and merriment with Zulena and Sadie” (63). Here, what seems childish is actually calculated: Clare is purposely friendly with these visibly black women in an effort to affiliate herself with them. Next to the black maids, Clare hopes that Irene will see her blackness, too.²² Similarly, during the Rhinelander trial, Davis in his opening statement sought to shape the jury’s perception of Alice by invoking her associations. As a journalist of the *New York Times* described it, “Davis made member after member of the Jones family stand up so that their dark color might be seen, and demanded how it could be possible that Rhinelander did not suspect his wife had colored blood” (“Rhinelander Says”).

In *Passing*, Clare’s attempt to reshape her friend’s perception fails because Irene is determined to see her in opposition to herself.²³ This enables her to accuse Clare of not having

the 'race loyalty' that she herself has: "[She and Clare were] strangers even in their racial consciousness. Between them the barrier was just as high, just as broad, and just as firm as if in Clare did not run that strain of black blood" (48). Throughout the text, Irene envisions herself as a kind of martyr for her race. She believes that her "loyalty to the race" forces her to keep Clare's secret: "She had to Clare Kendry a duty. She was bound to her by those very ties of race, which, for all her repudiation of them, Clare had been unable to completely sever" (38). Although Clare has been living as a white woman, Irene still believes that because of "that strain of black blood," she "belongs," in fact, to the African American race: "No, Clare Kendry cared nothing for the race. She only belonged to it" (38).

A similar dynamic figured in the African American press's reception of Alice Rhineland. African American-published periodicals tended to identify Alice as "black," and to emphasize the greater social significance of the Rhineland case. Many had questioned whether Alice would receive fair and equal protection under the law, and they saw the verdict as a victory for their race. As the editor of the *Baltimore Afro-American* put it:

Every intelligent Negro is following this notorious case with the keenest interest, not that he has the least interest in or sympathy for any of the parties involved, but to see whether the courts in New York, where there is no civil distinction on account of race, will allow such sinister influences to operate in the back part of the judicial mind. (12 Dec. 1925, 11)

In reaction to the verdict, the editor of the *Amsterdam News* wrote, "Harlem was for Alice without caring anything personally for Alice. It was for Alice because she stood as a symbol of Negro womanhood throughout the world" (19 Dec. 1925, 1). These editors effectively subscribed to the same flawed one-drop logic that has long characterized racial definitions in the United

States, that even a tiny percentage of “blackness” rendered one “non-white.” Nevertheless, some activists saw the Rhineland case as an opportunity to challenge the belief in white racial superiority. In reaction to Alice’s triumph in court, for example, W. E. B. Du Bois wrote:

If anything more humiliating to the prestige of white America than the Rhineland case has occurred recently it has escaped our attention. That high Nordic stream which produces super-men is here represented by a poor decadent descended from the best blood of white America. (*The Crisis*, Jan. 1926)

At the same time, other editors expressed ambivalence towards Alice, herself. Clearly, her racial allegiance was questionable. The editor of *The Chicago Defender* even advised his readers to ignore the Rhineland case, arguing that because Alice clearly did not want to be identified as black, as far as he was concerned, she was not (“Young Rhineland”).²⁴ Alice perhaps defined herself as “white,” but she never distanced herself from her multi-hued family, who, in court at least, effectively “proved” her “blackness.”

Like Alice’s, Clare’s racial affiliation is ambiguous. While Irene claims Clare for the race, as Cutter contends, Clare’s actual identity is necessarily contradictory. Clare relies on these contradictions in her attempt at self-definition: she needs to be *both* black and white, both upper- and lower-class, in order to flaunt her current status as a rich white woman to her childhood friends, middle-class African Americans who remember her as a lower-class charity case. As Cutter puts it, “Clare initially passes from the black to the white race to transcend her class position, but to flaunt this new class position, she must pass back from a white identity to a black one” (91-92). Similarly, as we have seen, Irene needs to define Clare’s passing in opposition to her own.²⁵

Both Clare and Irene rely upon binary oppositions to establish their respective identities. In the sense that both women are concealing their African American ancestry when they meet at the Drayton, they are both “passing.” And yet, Irene seems not to consider her actions as a form of passing here. As she tells Clare, she has no need to pass: “Why should I?... I’ve everything I want. Except, perhaps, a little more money” (19). But both women capitalize on their visible whiteness in order to obtain the “things” they want: Irene passes “for the sake of convenience, restaurants, theatre tickets, and things like that”; Clare passes “to get away, to be a person and not a charity or a problem, or even the daughter of the indiscreet Ham” (79, 17).

Irene even joins in Clare’s “performance” when she meets her husband, Jack Bellew. During the tea described above, Bellew refers to his wife by her pet name, “Nig,” because “she’s gettin’ darker and darker...if she don’t look out, she’ll wake up one of these days and find she’s turned into a nigger” (29). For Clare, this exchange is simply “amusing,” and she allows her husband to make a fool of himself in front of her guests: he declares that he “hates niggers” to two genteel guests who happen to self-identify as women of color. While the other guest remains silent, Irene actually picks up where Clare has left off, asking Bellew “humorously,” “So you dislike Negroes, Mr. Bellew?” to which he replies, “I don’t dislike them, I hate them...They give me the creeps. The black scrimy devils.” Irene suppresses the urge to burst out laughing—to shout “And you’re sitting here surrounded by three black devils, drinking tea!” (30). Here, Irene’s racial essentialism once again comes into view: she characterizes herself, Clare, and Gertrude simply as “black.” Gertrude, Clare’s other tea guest, also seems to accept being categorized as such.²⁶ While Irene and Gertrude temporarily “pass” in Bellew’s drawing room, Clare, up to this point in the story, is living as a white woman and seems to have essentially

rejected racial categorization as “black.” All the same, she actively conceals from her husband the fact of her black ancestry, which would certainly make her “black” in his eyes.

Does this mean that Clare is “passing?” Perhaps, but to accept Clare as “passing” is to ascribe to the “one-drop” rule and to disregard her self-definition, which eludes definitive and permanent categorization. As Henry Louis Gates notes, “When those of mixed ancestry...disappear into the white majority, they are traditionally accused of running from their ‘blackness.’ Yet why isn’t the alternative a matter of running from their ‘whiteness?’” (207). While Clare has both white and black ancestry, she lives as a white woman, married to a white man, and together they have a child, Marjory, who lives as “white” and is unaware of her black ancestry. Nonetheless, Irene still clings to the belief that Clare essentially “belongs” to the African American race.

For Irene, this “one-drop” logic enables the opposition she wants to see between herself and Clare: she is a self-sacrificing “race-woman” while Clare is a race traitor.²⁷ Larsen’s depiction of Irene’s irrational categorization of Clare highlights the hypocrisy of this champion/traitor dichotomy. To that extent, it is an example of the way she critiques the polarizing racial definitions of her time. Both *Passing* and *Quicksand* implicitly challenge the social, sexual, and moral tenets of the New Negro movement, and in both novels the mixed-race heroines struggle to define themselves outside of socially imposed racial and sexual parameters.

Perhaps the Rhineland case initially captured Larsen’s attention because it evoked some of her own most painful experiences. Like Alice and Clare, Larsen was also part of a mixed-race family. When her black father Peter Walker died, she was still quite young. Soon after, her mother married Peter Larsen, a white man and a Danish immigrant like herself. There are undoubtedly autobiographical elements in Larsen’s first novel, *Quicksand*, where the similarity

between Larsen's own childhood and the narrator's description of Helga Crane's childhood is striking:

[Her mother's] second marriage, to a man of her own race, but not of her own kind—so passionately, so instinctively resented by Helga even at the trivial age of six—she now understood as a grievous necessity. Even foolish, despised women must have food and clothing; even unloved little Negro girls must be somehow provided for. Memory, flown back to those years following the marriage, dealt her torturing stabs. (23)

Indeed, as biographer George Hutchinson writes, from an early age, Larsen must have felt keenly not only her racial difference, but also the embarrassment and pain her dark skin caused her mother, stepfather, and half sister Anna. Hutchinson carefully chronicles the family's moving from neighborhood to neighborhood, suggesting that they were in search of a community not hostile towards their dark daughter. As he puts it, "it gradually became clear that Nellie would have to live a life apart. Tangled feelings of love and abandonment, anger and self-loathing, empathy, shame, and powerlessness stamped Larsen's emotional development in childhood and shaped the attachment problems that would afflict her until she died" (25). During a time when racial miscegenation was seen as a sign of moral degeneration, white women with "mixed" children were ostracized by both white and black societies. In the eyes of their white neighbors, Nella's dark skin and "African" features not only marked her as different but also called into question the racial identity of her mother, stepfather, and half sister. Similarly, Alice's lawyer in his closing arguments again drew attention to her family to further refute Leonard's claim that he had been deceived: "He knew her color. He knew the color of her whole family" ("Lays Son's

Plight”). The implication here is clear: Leonard could not have seen his sweetheart as anything but black once he had met her dark father and her Negro brother-in-law.

In contrast to the stark simplifications urged by Alice’s lawyer at the trial, in *Passing* Larsen complicates the concept of racial determination-by-affiliation through her nuanced depiction of Clare. Like Alice, Clare comes from a mixed-race family background. But unlike Alice’s family history, Clare’s remains somewhat mysterious throughout the text. Irene is surprised when Clare reminds her that her father’s aunts “weren’t [passing]. They were white” (16). Larsen divulges little of Clare’s parentage, but we do know that her father is the dark offspring of a white man and a “ruined” Negro girl.²⁸ As Clare tells Irene, “The aunts were queer...they didn’t want anyone to know that their darling brother had seduced—ruined, they called it—a Negro girl. They could excuse the ruin, but they couldn’t forgive the tar brush” (17-18). Throughout the text, Larsen keeps Clare’s mother’s racial identity ambiguous: all we know of this mysterious woman is that she “would have run away if she hadn’t died” (11). The omission of further detail is significant. If Clare’s mother were black, it would be easy to interpret Clare as essentially “black” too. If her mother were white, it would serve to connect her to Helga Crane, the main character in *Quicksand*. It would also connect Clare to Larsen, whose mother was Danish, and to Alice, whose mother was English. By withholding this knowledge about Clare’s mother, Larsen further confounds readers’ attempts to assign an “essential” racial identity to Clare.

Why *Rhineland*?

Irene’s oblique reference to the Rhineland trial hints at a major theme in the novel: the various ways we read race onto the bodies we see around us. But Larsen didn’t necessarily *need*

to invoke “the Rhinelander case” to prove her point or to write her novel. So why include the reference? Perhaps, as suggested above, she felt a more personal connection to the case. Perhaps she was drawn to it not simply because it challenged the color line but also because it resonated, in ways not yet appreciated, with her own experience as a member of a mixed-race family. The Jones family never abandoned their daughter Alice. They stood in solidarity and publicly supported her even when they themselves suffered from intense public humiliation on her account. Her father, George Jones, expressed frustration and anger at his treatment in the press. The *New York Times* describes the “commotion” he had made in the courtroom when Leonard’s lawyer referred to him as a “Negro hack driver” (“Jones Interrupts”). Lewis and Ardizzone reprint a 1924 photograph of him actually throwing rocks at “reporters and others besieging his home.”

But Alice’s mother, Elizabeth, endured even worse humiliation in the courtroom. During cross-examination, Leonard’s lawyer forced her to reveal a secret she had kept from everyone but her husband: before she married, she had had a daughter out of wedlock. This daughter, Ethel, was raised separately from the Jones family and resided in upstate New York. Despite Davis’s objection, Mills insisted that Elizabeth tell the whole story because it spoke to her “credibility...as to whether she guarded these daughters or not.” Judge Morchauser agreed. The revelation was both shocking and painful:

Every one in the court was tense by this time. The jurors were leaning forward, listening intently; spectators were straining to catch her low tones; Emily and Grace, her daughters, were moving restlessly in their chairs, and Alice sat with her face buried in her hands. (“Says Rhinelander Knew”)

For Larsen, the secret of Elizabeth's illegitimate daughter may have represented abandonment not unlike the kind she had suffered herself. The Joneses, rallying to Alice's side, didn't simply provide her with an appealing alternative to her own childhood. The fate of the abandoned Ethel must have moved her as well, perhaps more deeply.

In the end, the trial didn't provide anyone with a sense of closure. After all, the verdict meant that in the eyes of the law Leonard and Alice were still man and wife, although it was hardly likely that the two would be able to reconcile after such a painful public ordeal.²⁹ Even men on the jury expressed dissatisfaction at the resolution. After the verdict was announced, jury member William J. Demarest gave a formal statement to the press to explain their decision. He emphasized that it was based on evidence: "We want it clearly understood that not for a single instant did race prejudice enter into the consideration of the verdict. That was gratifying to all of us. We considered and discussed the evidence presented in court and the evidence alone." Clearly, Alice's bodily "evidence" proved that Rhinelander had been aware of her race and thus had not been deceived. However, some members of the jury openly expressed sympathy for Leonard: as juror Henry Weil stated, "If we had voted according to our hearts the verdict might have been different" ("Rhinelander Loses"). While the jury had taken Alice's side in court, several of the men made it clear that they weren't completely comfortable with the outcome.

The lack of a clear, definitive resolution at the conclusion of *Passing* has always engendered some discomfort in readers, as well. In the novel, Larsen challenges the conception of race as visually perceptible, yet she refuses to establish race as entirely performative, either. Instead, the dueling concepts of race as a physical fact and as a social construct remain inextricably connected. In a sense, the act of passing serves to reify a binary view of race: whether or not the passer subverts the validity of the color line, the act of crossing over proves

that the line exists, however tenuous that line is and despite the understanding that such a “line” is a social construct. Robert Westley calls passing “the key concept that unlocks the door to racial identity.” As he puts it, “there is no racial identity without ‘passing,’ since ‘passing’ marks the boundary between us and them, black and white, one and the other” (3). Race itself may be a fiction, but the act of passing demonstrates that the concept of race still matters. Otherwise the need or desire to pass would not exist.

While Alice’s racial ambiguity illustrates the artificiality of the black/white race dichotomy in America, the Rhinelander verdict validated its legitimacy and, moreover, reaffirmed the role of visual signifiers in attempts to determine race. In *Passing*, Larsen seeks to deconstruct the racial binary by depicting Clare’s infiltration into *both* the white and black races. But while Alice and Clare demonstrate the permeability of the line separating black and white races, this permeability remains problematic. Ultimately, society reads “race” onto both women’s bodies: to win her annulment case, Alice is forced to define herself as “black”; in *Passing*, Clare’s “blackness” is revealed when Bellew discovers her at the Freeland house. In this way, both Alice and Clare are re-inscribed into a social system controlled by a racial binary. Neither woman is permitted to occupy the tenuous terrain between the races.

And yet, today, we can see that Alice and Clare *do* challenge American binary definitions of race. In Alice’s case, time has not passed without a certain irony: her race was left blank on her death certificate in 1989, which also states that she never married. So much for the record: an omission that speaks to us now, if we let it, coupled with an historical erasure of a different sort, a lie or a mere oversight. Lewis and Ardizzone say of this curious death certificate that it enabled Alice “to evade being thrust back in time to a period when she was indeed of color and part of a national scandal” (254). There is no such adjustment of the record, ironical or other, for Clare,

who must die at the close of *Passing* because, once Bellew discovers the “truth,” she can no longer defy conventional definitions of race. But Larsen has so troubled our conception of “race” throughout the text that by the time Clare falls to her death, we see the inherent absurdity of defining individuals based on visual signifiers. In his review of the novel, Du Bois commended Larsen’s implicit challenge of the concept of “race”: “If the American Negro renaissance gives us many more books like this...we can soon with equanimity drop the word ‘Negro’” (qtd. in Hutchinson 331). Together, *Passing* and the Rhinelander case demonstrate the irrationality of forcing people to conform to superficial and binary notions of racial identity.

¹ In this passage, Irene acknowledges that even if Bellew’s annulment was denied, as in the Rhinelander trial, a European divorce could be easily obtained: “But in France, in Paris, such things were easy.” Rhinelander’s initial suit was for annulment, not divorce. He lost this suit in 1925, and the divorce was not finalized until July 1930. Irene’s reference must be to this first suit, requesting an annulment, as *Passing* was published in 1929, a year before Leonard’s second suit, for divorce, was finalized in July 1930. See Lewis and Ardizzone for a detailed description of the legal wrangling in the five years between the annulment suit and the divorce finalization (241-46).

² Madigan discussed the novel in light of the trial, though not as fully as I do here, and with a different emphasis. Thaggert’s work deals with the issue at greater length than Madigan’s but differs from mine in two significant ways. First, she depicts the trial as if it is in counterpoint to the novel: Alice in the trial must endure “the ‘full sustained look’ of the jury,” while Clare in the novel is able to hide behind fashion and etiquette; that is, to *conceal* her “blackness” (20). In my view, Larsen’s response to the trial is much more complicated; there are affinities, as well as contrasts, between Alice and Clare, novel and trial. Second, where Thaggert seeks to “[highlight] the adornment of the body not only to show the characters’ attempt at identity construction but also to reveal how the characters strategically confuse the spectator of the black female body” (4), I argue that Larsen’s novel challenges the normative conceptions of racial identity themselves, conceptions still endorsed by many contemporary critics, including Thaggert. Wacks and Lewis and Ardizzone both discuss the Rhinelander trial, but were forced to rely solely upon newspaper accounts because the official trial transcript had been lost. As legal scholar Onwuachi-Willig writes, “for decades, the story of the Rhinelanders remained buried in newspaper articles alone, not in a published case or casebook. In fact, the whereabouts of the trial transcript for Rhinelander and its court materials in the Association of the Bar of New York City Library were unknown by scholars for years, even by Lewis and Ardizzone, who published their book in 2001. As far as I am aware, I am one of only two law professors who have a copy of these historical documents” (3). Both Onwuachi-Willig and Smith-Pryor obtained copies of the trial transcript, and their work draws upon the transcript as well as newspaper accounts. We

know more about the trial now, thanks to these scholars. In light of their recent publications, the time is ripe for a new assessment of the genesis and meaning of Larsen's novel.

³ Alice's lawyer, Lee Parsons Davis, described her father, George Jones, as having East Indian ancestry. Davis carefully described Alice's ancestry, but the simple fact that she admitted (through her lawyer) to having "some colored blood" made it impossible for most Americans to see her as "white." See also Onwuachi-Willig 26.

⁴ As the trial progressed, it became obvious that Leonard had been aware of his wife's racial ancestry even during their courtship and married her anyway. Shortly after their marriage, he had spoken to the press, saying, "We are indeed very happy. What difference does it make about her race? She's my wife, Mrs. Rhineland" ("Millionaire's Marriage"). The testimony of *New Rochelle Standard Star* reporter Barbara Reynolds undermined the plaintiff's depiction of Leonard as a hopeless dupe who had allegedly married Alice without looking at her or her relatives: "I asked him, 'Is it true that you are married to the daughter of a colored man?' and he said 'yes.' ... I asked him if it would make a difference if his father knew of the marriage. He replied, 'Oh yes, it means my wife's happiness and mine.' He asked me to withhold the story" (*New Rochelle Standard Star*, 24 Nov. 1925, 1-2). The role played by Alice's family at the trial is discussed below.

⁵ New Yorkers were particularly interested in the case. As Madigan observes, from 1924 to 1925 the *New York Times* published eighty-eight articles on the Rhineland case, many of which made the front page (525). Newspapers, especially the dailies and tabloids, were in stiff competition for readership, and the Rhineland case provided them with sensational fodder for years. The *New York Times*, for example, was still publishing reports related to the Rhineland case in 1929, fully five years after the trial's conclusion. Interest in the case extended across the nation as well: over five dozen papers and periodicals covered the story, including conservative city presses, local tabloids, black-published periodicals, etc. For details on the various local and regional periodicals covering the Rhineland case, see Lewis and Ardizzone 20-22.

⁶ See especially English: "Eugenic thinking was so pervasive in the modern era that it attained the status of common sense in its most unnerving Gramscian sense" (1). See also Douglas. During this time period, the Ku Klux Klan and other white supremacy groups began to attract members on a large scale. By 1923, membership in the KKK was estimated at between 3 and 6 million people (Gossett 370).

⁷ First published in 1886, the *New York Social Register* was an exclusive "Who's Who" list of the city, primarily composed of "old money" aristocrats. By the 1920s, the *Register's* ranks were expanding somewhat, and began to include the newly rich, as well as celebrities and some members of the so-called "Café Society" (see Smith-Pryor 127-30).

⁸ Davis also implied that Alice's parents, George and Elizabeth Jones, had been considered "white" in Britain and were surprised to be defined differently in the United States. Indeed, a *New York Times* article describes George Jones grumbling and becoming angry because Leonard's lawyer continued to refer to him as a "Negro" ("Jones Interrupts"). Throughout the course of the Rhineland trial, distinctions between "colored," "mulatto," and "Negro" were erratic and muddled. Elizabeth Jones's statements to the press and on the witness stand highlight the apparent slippage between racial distinctions. Shortly after news of her daughter's marriage broke, Elizabeth tried to clear up misunderstandings regarding her husband's race. In an interview with the *New Rochelle Standard Star*, she stated: "The papers say her father was a colored man. He isn't. He's a mulatto" (25 Nov. 1924, 2). During the trial, she testified that her

husband accepted being called “colored,” but resented being defined as a “Negro.” According to Lewis and Ardizzone, during deliberations the *Rhinelanders* jurors came to the consensus that Alice was “colored,” and defined the difference between “colored” and “Negro” as follows: “Would a quart of clear water with a small glass of whiskey added be called whiskey?” (223).

⁹ These articles are cited in Lewis and Ardizzone 36-37, Onwuachi-Willig 20, and Smith-Pryor 32-33.

¹⁰ As Onwuachi-Willig writes, litigating the case on the grounds that Alice was not colored would have been impossible: “no all-white jury in 1920s New York would have determined that Alice was purely white. To find otherwise—especially in the face of George Jones’s appearance and admitted colored ancestry—would contradict all that the jury members had known and grown to accept about race during their lifetimes” (23-24).

¹¹ Both Smith-Pryor and Onwuachi-Willig quote the Court Record: “The Court, Mr. Mills, Mr. Davis, Mr. Swineburn, the jury, the plaintiff, the defendant, her mother, Mrs. George Jones, and the stenographer left the courtroom and entered the jury room. The defendant and Mrs. Jones then withdrew to the lavatory adjoining the jury room and, after a short time, again entered the jury room. The defendant, who was weeping, had on her underwear and a long coat. At Mr. Davis’s direction she let down the coat, so that the upper portion of her body, as far down as the breasts, was exposed. She then, again at Mr. Davis’s direction, covered the upper part of her body and showed to the jury her bare legs, up as far as her knees. The Court, the counsel, the jury and the plaintiff then re-entered the court room” (202, 14 respectively).

¹² Court Record, as quoted in Smith-Pryor and Onwuachi-Willig (202, 14).

¹³ Both Smith-Pryor and Onwuachi-Willig quote from Court Record (cross-examination of Leonard Kip Rhinelanders), (144, 13 respectively). The scene is also paraphrased in the *New Rochelle Standard Star*, 18 Nov. 1925, 2-3.

¹⁴ Davis relied heavily on the tropes of sight and blindness. In his opening statement, he even joked, “Suppose I told you that a clear Chinaman was an American Indian or of pure white American blood... Well, that would be false, but you would not believe it. Of course, you would have to be blind, you see, to believe that,” Court Record as quoted in Smith-Pryor and Onwuachi-Willig, (71, 8 respectively).

¹⁵ Leonard’s lawyer, Isaac Mills, had submitted over 100 of the couple’s love letters as evidence that Alice had seduced him and coerced him into marriage. These letters detailed the couple’s pre-marital sexual encounters, and they were read aloud before the court. The letters were so explicit that the judge cleared the courtroom of women (*New York Times*, 24 Nov. 1925, 3). As Smith-Pryor writes, the letters were also intended to show that Leonard must have known that the “degenerate” sexual acts he committed with her signified her “blackness.” Mills intended to paint Alice as a lascivious black woman intent on seducing a helpless white boy; Davis drew upon these letters not only to show that Leonard had ample opportunity to see Alice’s dark body before he married her: he must also have recognized she was black from the way she acted in bed. Only a black woman would be capable of such “degenerate” sexual acts (142-47). See also Onwuachi-Willig 10.

¹⁶ See also Westley 7.

¹⁷ Gross calls the Harper Doctrine “the clearest judicial statement of white manhood as civic performance” (54). As she contends, “the significance of civic performance... is the extent to which it reveals the *creation* of racial categories, the way that public and private actions combine to develop ongoing ideologies of race” (57).

¹⁸ See also Westley, “Consanguinity, if known, while sufficient for Blackness, [is] not sufficient for whiteness” (6 *sic*).

¹⁹ Thaggert hints at the presence of a more complex sense of racial identity in *Passing* when she describes Clare and Irene as “black or black/white,” but ultimately she, too, by arguing that fashion and etiquette serve to “reveal how the characters strategically confuse the spectator of the black female body” (4), ascribes to a one-drop conception, for it is only in accordance with such a conception that Clare can be said to have a “black female body.” A little later, Thaggert writes, “Larsen’s novel denies ready access to both the external and intimate aspects of a black woman, rendering inefficient any reading of black femininity based solely on a woman’s body or appearance” (4, 5). Again, the phrasing (“black woman...black femininity”) presses an essentialist definition of racial identity. Clare hides her blackness, but she is still “black.” Larsen, I will argue, has a more nuanced view of who Clare *is*.

²⁰ Davis called Robert Brooks as a witness in an effort to further prove that Leonard knew of Alice’s race before he married her. See also Onwuachi-Willig: “Robert, who came across as an honest and sincere witness—even by Mills’s own admission—testified that Alice had introduced him to Leonard as her brother-in-law in 1921, that Leonard never objected to his race but instead sat and ate dinner and drank tea with him at the same table on a number of occasions, that he and his wife Emily regularly drove Leonard down to the train station after visits with Alice at the Jones family home, that Leonard played with his little daughter Roberta, and that he and Leonard referred to each other as ‘Leonard’ and ‘Bob.’” (15-16).

²¹ See, for example, Tate, McDowell, Wall, Blackmer, and Cutter.

²² At the mixed-race Negro Women’s League Ball, Clare elides racial affiliation by association entirely. For example, Hugh Wentworth (notably, a white man) watches Clare dance with Ralph Hazelton, who is described as a “dark Negro,” and remarks “nice study in contrasts, that.” He tells Irene, “what I’m trying to find out is the name, status, and race of the blonde beauty out of the fairy-tale.” Surrounded by people of all types and complexions, Clare’s “race” seems truly ambiguous (59-60).

²³ Perhaps Clare has also sought an association that Irene scorns: seeing her maids as almost sub-human earlier, she describes Zulema as nothing but “a small mahogany-coloured creature” (40).

²⁴ As quoted in Lewis and Ardizzone 77.

²⁵ Irene’s critique of Clare’s supposed lack of ‘race loyalty’ is hypocritical. As she herself recalls, “Clare had never been exactly one of the group” (12). Initially, passing was easy for Clare because the south side middle-class black community never accepted her as anything more than a “charity case.”

²⁶ Like Clare, Gertrude married a white man, but unlike Clare, Gertrude’s husband and his family are aware of her ancestry.

²⁷ Larsen further emphasizes Irene’s manipulation of the race woman/race traitor dichotomy. For example, after her apparently “humorous” exchange with Bellew over tea, she leaves feeling “sore and angry.” As she contemplates the visit, she re-asserts her “difference” from Clare, whom she blames for “[exposing] her...to such humiliation, such downright insult” (34). Although she was complicit in Clare’s deception of Jack Bellew, she sees herself as a victim of what has just transpired between them. Later, when she contemplates revealing Clare’s race to her husband, she again resorts to the race woman/race traitor dichotomy she’s set up between herself and her friend. She believes she can effectively remove Clare from her life by exposing her “race” to her husband; but doing so would mark her too as a race traitor: “She was caught

between two allegiances, different, yet the same. Herself. Her race. Race! The thing that bound and suffocated her...It was, she cried silently, enough to suffer as a woman, an individual, on one's own account, without having to suffer for the race as well. It was a brutality, and undeserved" (78).

²⁸ This becomes clear after Clare reminds Irene that her aunts were white: "in the next instant it came back to Irene that she had heard this mentioned before; by her father, or, more likely, her mother. They were Bob Kendry's aunts. He had been a son of their brother's, on the left hand. A wild oat" (16).

²⁹ In a press conference after the verdict, a journalist asked Alice, "Do you still love your husband?" According to the article, "She hesitated a long time, looking down at her hands in her lap, and finally said slowly: 'I do and I don't.' When asked, "Would you go back to your husband?" she hesitated a moment, then responded: "I can't answer that...No." The journalist persisted: "You two were very much in love, weren't you?" "We was, yes," she said. Another journalist commented, "It was a beautiful love affair," to which Alice responded, "It certainly was" (qtd. in "Rhinelanders Lose" 1).

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