

“I Shall Talk to My Own People”: The Intersectional Life and Times of Lutie A. Lytle

Taja-Nia Y. Henderson*

In 1898, recent law graduate Lutie A. Lytle—a black woman born to formerly enslaved parents—accepted a position as instructor of law at a law school in Tennessee. In doing so, she became the first black woman law professor in the world. Over the following four decades, despite suffering persistent racial and gender discrimination, Lytle committed her life and work to, in her words, “mak[ing] a sincere and earnest effort to improve [black Americans’] condition as citizens.” This Article details Lytle’s life as an advocate, activist, and attorney, and argues that her work places her squarely within the ranks of the black feminist intelligentsia that emerged in the late nineteenth century. In addition, the Article highlights Lytle’s disappearance from public life (and the public record) in the early 1940s, and suggests that her pioneering career warrants additional research into her final years.

I.	INTRODUCTION.....	1984
II.	THE LYTLES OF MURFREESBORO.....	1986
III.	EXODUS	1990
IV.	“I RESOLVED TO FATHOM ITS DEPTHS”: LUTIE A. LYTLE AND LEGAL EDUCATION.....	1996
V.	“OUR CITIZENSHIP IS BASED ON IT, AND HENCE I LOVE IT”: LUTIE A. LYTLE AND LAW PRACTICE	2001
VI.	CONCLUSION	2013

* Professor of Law, Rutgers Law School.

I. INTRODUCTION

In the fall of 1898, the *Chicago Tribune* hailed Lutie A. Lytle of Topeka as the “only female law instructor in the world.”¹ Notwithstanding this purported shattering of the legal academy’s glass ceiling, Lytle’s accomplishments—her path to the professoriate, and her career in the years following her appointment to the faculty of a Nashville law school—have been largely lost to historians of legal education.² She is not among those honored or commemorated by our profession, and her name is largely unknown beyond a small circle of interest.³ The biographical sketch that follows fills this scholarly gap through an examination of Lytle as a historical figure, using contemporary newspaper accounts and other primary source material to provide context for her achievements and linking her life to previously understudied legal, political and social movements.

As a genre, biography seeks to use the life of the individual to tell a larger story about the collective.⁴ Feminist biography—probably best understood as both subgenre and method—has the same goals, but moves gender “to the center of the analysis.”⁵ This methodology asks not only how gender as a social category has impacted the lives of historical actors, but also how the unequal distribution of power resulting from existing gender hierarchies has influenced epistemologies of scholarly inquiry.⁶

A biographical sketch of Lutie A. Lytle, a woman coming of age in the second half of the nineteenth century, warrants such treatment. Lytle’s career in the law was certainly impacted by gender as she was among the earliest cadre of women lawyers in the nation.⁷ As a student, she was the only woman

1. *Personals*, CHI. DAILY TRIB., Nov. 5, 1898, at 6.

2. Myths abound, including the claim that she was the first black woman lawyer. *See, e.g.*, 132 CONG. REC. 890 (1986) (“Lutie Lytle was the first black woman lawyer in America.”). Another incorrect claim is that Lytle taught law for several years (when, in fact, she taught during a single academic year). *See Pioneering Facts About Black Women Lawyers and Law Teachers*, in REBELS IN LAW: VOICES IN HISTORY OF BLACK WOMEN LAWYERS 277, 278 (J. Clay Smith Jr. ed., 1998) (“Lutie A. Lytle taught for about four years”).

3. At the second annual gathering of the Black Female Faculty Summer Writing Workshop in Denver in 2008, attendees voted to rename the gathering in honor of Lytle. Memorandum about the Lutie A. Lytle Black Women Law Faculty Writing Workshop (2016), http://law.uiowa.edu/sites/law.uiowa.edu/files/wysiwyg_uploads/boyd_memo_on_lutie_a_lytle_history.pdf.

4. *See* Barbara W. Tuchman, *Biography as a Prism of History*, in TELLING LIVES: THE BIOGRAPHER’S ART 132, 134 (Marc Pachter ed., 1979) (describing biography as “encompass[ing] the universal in the particular”).

5. Sara Alpern et al., *Introduction to THE CHALLENGE OF FEMINIST BIOGRAPHY: WRITING THE LIVES OF MODERN AMERICAN WOMEN* 1, 7 (Sara Alpern et al. eds., 1992).

6. *See id.* at 13 (“[F]eminist biography not only expands our knowledge about women’s lives but alters the frameworks within which we interpret historical experience.”).

7. *See* Cecily Barker McDaniel, “Fearing I Shall Not Do My Duty to My Race if I Remain Silent”: Law and Its Call to African American Women, 1872–1932, at 12 (2007) (unpublished Ph.D. dissertation, Ohio State University) (on file with author) (observing “that from 1872 to

enrolled in the Law Department of Central Tennessee College.⁸ When she was appointed as an instructor at the College, moreover, she was the only woman among the law school's faculty.⁹ As a woman of African descent born during Reconstruction, however, Lytle (and her story) "cannot be captured wholly by" a methodology that moves only gender to the center.¹⁰ The intersection (or overlap) of Lytle's identities as a woman of color and the daughter of former slaves requires that gender and race (and arguably, status and class) move to the center. In other words, a biographical sketch of Lytle's life cannot privilege gender in isolation; it must also grapple with the persistence of race, racism, and the myriad legacies of chattel slavery in the subject's world.

Accordingly, this Essay pursues a sketch of Lytle's life that might best be understood as "womanist" in its approach.¹¹ In her life and work, Lytle exhibited a maturity beyond her years by boldly pursuing knowledge "in

1930, twenty-two black female lawyers can be identified from census records" and discussing the role of Lytle and other women that entered the legal profession around the same time); *see also infra* notes 108–28 and accompanying text.

8. *See infra* note 98 and accompanying text.

9. *See* McDaniel, *supra* note 7, at 109 ("[S]he joined Central's faculty, becoming . . . the first female law professor of a chartered school in the world.").

10. Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1244 (1991).

11. Alice Walker coined the term in 1988, defining "womanist" as:

1. From *womanish*. (Opp. of "girlish," i.e., frivolous, irresponsible, not serious.) A black feminist or feminist of color. From the black folk expression of mothers to female children, "You acting womanish," i.e., like a woman. Usually referring to outrageous, audacious, courageous or *willful* behavior. Wanting to know more and in greater depth than is considered "good" for one. Interested in grown-up doings. Acting grown up. Being grown up. Interchangeable with another black folk expression: "You trying to be grown." Responsible. In charge. *Serious*.

ALICE WALKER, IN SEARCH OF OUR MOTHERS' GARDENS, at xi (1983) (emphasis in original). Walker continues:

2. *Also*: A woman who loves other women, sexually and/or nonsexually. Appreciates and prefers women's culture, women's emotional flexibility (values tears as natural counterbalance of laughter), and women's strength. Sometimes loves individual men, sexually and/or nonsexually. Committed to survival and wholeness of entire people, male *and* female. Not a separatist, except periodically, for health. Traditionally a universalist, as in: "Mama, why are we brown, pink, and yellow, and our cousins are white, beige, and black?" Ans.: "Well, you know the colored race is just like a flower garden, with every color flower represented." Traditionally capable, as in: "Mama, I'm walking to Canada and I'm taking you and a bunch of other slaves with me." Reply: "It wouldn't be the first time."

3. Loves music. Loves dance. Loves the moon. *Loves* the Spirit. Loves love and food and roundness. Loves struggle. *Loves* the Folk. Loves herself. *Regardless*.

4. Womanist is to feminist as purple to lavender.

Id. at xi–xii.

greater depth than is considered ‘good.’”¹² She believed in, and advocated for, the “survival and wholeness”¹³ of women and men, and she committed her adult life to advocating for the diasporic self-determination of people of African descent, whether in the United States, the Caribbean, or in Africa. A womanist approach to her biography embraces both the vernacular and universal. It simultaneously captures a conservative love of “the Folk” and a commitment to advancement (the “struggle”).¹⁴ The extant historical record of Lytle’s life and work suggests that she pursued avocations (and a vocation) that placed her squarely within this intersectional space. In this space lies a life worth remembering.¹⁵

II. THE LYTLES OF MURFREESBORO

Born in 1875 in Middle Tennessee, Lutie Ann Lytle entered a family that was only a decade out of slavery.¹⁶ Both of her parents had been born into the institution.¹⁷ Her father, John Lytle, was born in Tennessee in 1851,¹⁸ most likely the property (and perhaps, relation) of some member of the extended Lytle family.¹⁹ The white Lytles were among the most prominent families in antebellum Middle Tennessee. William Lytle, a Revolutionary War veteran, was among the earliest permanent non-native settlers in the area that would later become Murfreesboro (in Rutherford County).²⁰ In 1812, Lytle donated

12. See *id.*; see also *A New Writer*, LEAVENWORTH TIMES (Kansas), May 24, 1894 (“Miss Lytle has earnestly, yet modestly, striven for a place that of itself elevates her race.”).

13. WALKER, *supra* note 11, at xi.

14. *Id.*

15. The references in this Article to Lutie’s own words signals Gerda Lerner’s 1988 challenge that women’s history engages more fully with “the mental product of women’s lives, their ideas, their writings, and their discourse.” Gerda Lerner, *Priorities and Challenges in Women’s History Research*, AM. HIST. ASS’N (Apr. 1988), <https://www.historians.org/publications-and-directories/perspectives-on-history/april-1988/priorities-and-challenges-in-womens-history-research>.

16. The Thirteenth Amendment to the U.S. Constitution, ratified in December 1865, abolished slavery in the United States. See U.S. CONST. amend. XIII, § 1 (“Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.”).

17. See Michelle Stottlemire, *The Lytles of Tennessee Town*, TOPEKA & SHAWNEE COUNTY PUB. LIBR. (Apr. 29, 2015), <https://tscpl.org/history/the-lytles-of-tennessee-town> (“John and Mary Ann ‘Mollie’ Lytle were both former slaves . . .”).

18. 1900 Census, Schedule 1, Population, Topeka City, Second Precinct, Sheet No. 5, Supervisor’s Dist. No. 4, Enumeration Dist. No. 154 (listing John Lytle’s birth month and year as October 1851).

19. *Lutie A. Lytle, Lawyer*, DETROIT FREE PRESS, Oct. 6, 1897, at 7 (reporting that “before the war [John Lytle] belonged to the estate of Col. Patrick Sloan”).

20. S. CAMPAIGNS AMERICAN REVOLUTION PENSION STATEMENTS & ROSTERS: PENSION APPLICATION OF WILL LITTLE (WILLIAM LYTLE) S46228 (Will Graves, trans., 2015), <http://revwarapps.org/s46228.pdf>; Greg Tucker, *Official Records Correct Lytle Folklore Errors*, RUTHERFORD COUNTY, TENN. HIST. SOC’Y (June 3, 2012), <http://rutherfordtnhistory.org/official-records-correct-lytle-folklore-errors>.

sixty acres of land that would later become part of the original town plat of Murfreesboro.²¹ A generation later, members of the family remained firmly ensconced among the state's elite. In 1860, for example, Katherine Wells Lytle (a descendant of William Lytle) and her husband Legrand Carney owned real and personal property valued at \$413,000 (including 64 slaves).²² One Civil War-era visitor described a visit to the home of another Lytle relative, David Lytle, noting "[h]e is one of the wealthiest men in Tenn[essee]. Has a splendid house, any quantity of negroes, a third wife, 3000 acres of land worth a \$100 per acre and sixteen children. In fact the Lytles are scattered all around town on fine plantations in every direction."²³ Murfreesboro's Lytle Creek—which today cuts through the center of the town—bears the family's name.²⁴

Little is known about Lutie's parents before their appearance in the 1870 census, which lists John and Mary Ann (Mollie) Lytle as newly married and living with their newborn daughter Florance in Rutherford County, surrounded by other black families sharing the Lytle surname.²⁵ John Lytle earned his living as a barber.²⁶ In the postbellum South, barbering was a

21. Margaret Nichol, *The Lytle Family of Rutherford County, Tennessee*, GENEALOGY (July 16, 2009, 4:58 AM), <http://www.genealogy.com/forum/surnames/topics/lytle/1183> ("After a lengthy debate as to the location, William Lytle offered to donate 60 acres for the site."); Tucker, *supra* note 20; John H. Lodl, *Building Viable Black Communities: The Transition from Slavery to Freedom in Murfreesboro, Tennessee, 1860–1880*, at 17 (2004) (unpublished M.A. thesis, Middle Tennessee State University) (on file at <http://digital.mtsu.edu/cdm/ref/collection/p15838coll2/id/483>) ("The courthouse square and the first 130 town plots were laid out early in 1818 by Captain William Lytle. Captain Lytle donated the land for the town . . .").

22. HERITAGE CTR. OF MURFREESBORO & RUTHERFORD CTY., *SLAVERY IN RUTHERFORD COUNTY PRIMARY SOURCE SET 12–13*, <http://www.sitemason.com/files/IGSJrO/Slavery%20in%20Rutherford%20County%20Primary%20Source%20Set.pdf>. Adjusting for inflation, the estate would be worth \$11,578,249.25 in today's dollars. See *Inflation Calculator*, <http://www.in2013dollars.com/1860-dollars-in-2017?amount=413000> (last visited May 12, 2017).

23. Mike West, *Two Lytle Families Meet Amidst the Civil War*, MURFREESBORO POST (Nov. 30, 2008), <http://www.murfreesboropost.com/two-lytle-families-meet-amidst-the-civil-war-cms-14204>.

24. See *Murfreesboro Map Gallery*, PUBLIC GIS, <http://maps3.murfreesborotn.gov/PublicGIS> (last visited Mar. 20, 2017).

25. See *U.S. Census, 1870, Tenn., Rutherford, Murfreesboro, Ward 5*, FAMILYSEARCH, <https://familysearch.org/ark:/61903/3:1:33HY-DH8Q-S5D?wc=92KK-44R%3A518655501%2C519076001%2C519225601%3Fcc%3D1438024&cc=1438024> (last visited May 12, 2017) (listing John and Mollie Lytle as married, together with another John Lytle, Edward Lytle, Louisa Lytle, Mary Lytle, and the nine-member family of Ceasar Lytle in the same enumeration district). In 1870, black residents comprised 73% of the total residents in Ward 5 (where John and Mary Lytle lived), a higher percentage than in any other ward in Murfreesboro. See Lodl, *supra* note 21, at 28, tbl.2; see also *Rutherford County Archives Marriage Index: Marriages 1804–1888*, <http://asp.rutherfordcountyttn.gov/apps/archivesmarriageindex/marriage1804-1888.aspx> (last visited May 12, 2017) (listing John and Mary (Mollie) Lytle's wedding in July 25, 1869); EDYTHE RUCKER WHITLEY, *MARRIAGES OF RUTHERFORD COUNTY, TENNESSEE, 1804–1872*, at 229 (1981) (listing John and Mary Lytle's wedding date as July 25, 1869).

26. See *U.S. Census, 1870, supra* note 25.

nearly all-black profession. In Richmond, Charleston, and Atlanta, for example, black barbers in 1880 comprised more than 92% of the trade.²⁷ In Nashville—the largest city in Middle Tennessee, where the Lytles lived—black barbers made up more than 80% of the city’s barbers.²⁸ Black barbers in the postbellum South were trained to serve an exclusively white clientele.²⁹ This segregated consumption of personal grooming services “reproduced antebellum images of racial superiority.”³⁰ Barbers like John Lytle—whether in their own shops or as journeymen in the shops of more experienced men of the trade—navigated this reinscription of the color line with every trimmed beard and waxed moustache.³¹

Like others before him, John Lytle used barbering as a springboard to entrepreneurship and other endeavors.³² In 1880, the Lytle family—comprised of John, Mollie, mother-in-law Lucy Cheesboro (also spelled as “Cheeseborough”), cousin Anna Smith, daughter Lutie, and two young sons—was residing in Murfreesboro.³³ The federal census schedule from 1880 lists John Lytle’s profession not as barber (as it had in 1870), but rather, as “huckster.”³⁴ Hucksters were independent itinerant merchants (or peddlers) who bought and sold farm and garden produce along with other items.³⁵ Their work was critical to the survival and material comforts of small farmers and the urban poor throughout the United States. As described by a resident of Brown County, Indiana living at the turn of the 20th century:

There were many needs of the farmer that the country stores could not supply [T]he huckster carried many kinds of dry goods

27. See QUINCY T. MILLS, CUTTING ALONG THE COLOR LINE: BLACK BARBERS AND BARBER SHOPS IN AMERICA 63, tbl.1 (2013) (citing 1880 U.S. Census data showing that blacks comprised 92% of barbers in Atlanta, 96% of barbers in Charleston, and 93% of barbers in Richmond).

28. *Id.*

29. *Id.* at 61 (“[M]ost of the leading black barbers from the Civil War to the early twentieth century groomed only white men in their commercial shops.”).

30. *Id.* at 62.

31. *Id.* at 62–66.

32. *Id.* at 66 (noting that, for some black barbers in the South, barbering provided “a clear path to business ownership and economic independence”).

33. U.S. CENSUS BUREAU, 1880 CENSUS: SCHEDULE 1—INHABITANTS IN MURFREESBORO 79 (1880). The newborn baby girl, Florance, who had been listed in the 1870 census with the family, does not appear in the 1880 enumeration, and likely did not survive infancy. See U.S. CENSUS BUREAU, 1870 CENSUS: TENNESSEE: RUTHERFORD COUNTY, MURFREESBORO (1870).

34. U.S. CENSUS BUREAU, 1880 CENSUS, *supra* note 32, at 79.

35. Taylor v. District of Columbia, 24 App. D.C. 392, 398 (D.C. Cir. 1904) (describing “hucksters” as those “who deal in farm and garden produce which they have previously purchased from others”); 11 LONNIE E. GRIFFITH, JR. et al., OHIO JURISPRUDENCE § 200 (3d ed. 2014) (“The word ‘huckster’ seems to signify primarily a peddler.”); cf. 1923–1924 IOWA ATT’Y GEN. BIENNIAL REP. 238 (defining huckster as one “who travels about selling produce, mostly such produce as is raised in the garden, in the orchard or the farm and the name is never associated with the seller of manufactured articles”).

which could be ordered ahead of time These included shoes, coats, hats, most wearing apparel Inside the covered wagon were shelves on each side containing sugar, coffee, tea, spices, rice, crackers, canned oysters, and [candy]. These were staples the people could not produce.³⁶

Hucksters like John Lytle delivered access to consumer markets in their wagon hauls.³⁷ In turn, hucksters cultivated personal, business, and credit relationships (or goodwill) that could be leveraged for expanded and diversified business operations, including retail stores.³⁸ Such relationships could be lucrative. In 1939, the Federal Writers' Project reported that Tennessee was fertile soil for black small-scale entrepreneurship of this ilk: In its WPA Guide to Tennessee, the Project observed "[m]any of the founders of Negro businesses [in Tennessee], as well as the founders of families of importance in the State, started as barbers, caterers, draymen, and hucksters."³⁹

Through his work bringing the market to the people, John Lytle managed to insulate his own family from the vagaries of the rural southern marketplace. His income from this work was sufficient to keep his wife, Mollie, out of the wage labor force at a time when "most black women had to work for wages."⁴⁰ Freedpeople, like the Lytles, were "[e]ager to work for themselves" and their families, and relished opportunities to do so.⁴¹ The "home" was, in a sense, the front line of this battle for "autonomy and freedom."⁴² This explains why, in the space next to Mollie's name, in the column titled "profession, occupation, or trade," the 1880 federal census schedule lists "keeping house,"⁴³ a term designated by the Census Office for

36. ELLEN SIEBER & CHERYL ANN MUNSON, *LOOKING AT HISTORY: INDIANA'S HOOSIER NATIONAL FOREST REGION, 1600 TO 1950*, at 50 (1992).

37. See LU ANN JONES, *MAMA LEARNED US TO WORK: FARM WOMEN IN THE NEW SOUTH* 22 (Jack Temple Kirby ed., 2002) (arguing that hucksters "transformed farm households into places of consumption").

38. See Loren Schwenger, *Black-Owned Businesses in the South, 1790-1880*, 63 *BUS. HIST. REV.* 22, 51-55 (1989) (detailing how, in the Upper South, formerly enslaved and free black entrepreneurs pursued potentially lucrative enterprises in the decades after the Civil War).

39. FED. WRITERS' PROJECT, *TENNESSEE: A GUIDE TO THE STATE* 108 (1939).

40. TIFFANY K. WAYNE, *WOMEN'S ROLES IN NINETEENTH-CENTURY AMERICA* 41 (2007).

41. MILLS, *supra* note 27, at 62 ("All workers cherished reaping the fruits of their labor, but it was especially so for black southerners released from the inhumanity of bondage."); see also NELL IRVIN PAINTER, *EXODUSTERS: BLACK MIGRATION TO KANSAS AFTER RECONSTRUCTION*, at ix (1986).

42. See Lolita Buckner Inniss, *From Space-Off to Represented Space: A Review of Reimagining Equality: Stories of Gender, Race, and Finding Home by Anita Hill*, 28 *BERKELEY J. GENDER L. & JUST.* 138, 147 (2013) (book review).

43. U.S. CENSUS BUREAU, 1880 CENSUS, *supra* note 33.

“[w]omen keeping house for their own families or for themselves, without any other gainful occupation.”⁴⁴

III. EXODUS

The early childhood of the couple’s second daughter, Lutie, coincided roughly with the earliest efforts among formerly enslaved men and women to seek economic opportunity outside of the South (and the cotton belt).⁴⁵ Beginning in 1879, freedpeople from Mississippi, Louisiana, Texas, and Tennessee left their homes *en masse* for the Kansas plains and the promise of better futures.⁴⁶ These migrants, known as “exodusters,” believed that the West (and Kansas, specifically) was a “promised land” for blacks (with reference to the biblical book of Exodus). Historian Nell Irvin Painter has called this millenarian movement “the first major migration to the North of ex-slaves.”⁴⁷

Exoduster families fled the failed promises of Reconstruction and the growing reinstatement of white supremacist politics, policies, and customs throughout the South.⁴⁸ As Painter has observed, the Exodusters “were interested in land, schools, and protecting their lives and their civil rights,” none of which was freely available for freedpeople living in the former slave states.⁴⁹ In the Lytles’ home state of Tennessee, for example, black children’s access to public primary education was severely limited.⁵⁰ As the Report of the Committee on Education of the 1871 Colored Convention observed,

The committee can see no hope for the general education of the children of our race in Tennessee. . . . Even in cities where there are

44. 1880 Census: Instructions to Enumerators, IPUMS USA (last visited May 12, 2017), <https://usa.ipums.org/usa/voliii/inst1880.shtml> (instructing enumerators that “[w]omen keeping house for their own families or for themselves, without any other gainful occupation, will be entered as ‘keeping house’”). Historian Amy Dru Stanley has written about this “withdrawal” from agricultural labor by formerly enslaved women. AMY DRU STANLEY, FROM BONDAGE TO CONTRACT: WAGE LABOR, MARRIAGE, AND THE MARKET IN THE AGE OF SLAVE EMANCIPATION 47 (1998) (“Emancipation brought freedwomen’s withdrawal from the fields; husbands valued their wives’ housework and wives valued their husbands’ wages and the relatively greater access to economic resources that freedmen possessed . . .”).

45. See generally PAINTER, *supra* note 41.

46. *Id.* at vii.

47. See generally *id.* The Exodusters preceded the families of the mass relocation commonly called the “Great Migration” by 35 years. See ISABEL WILKERSON, THE WARMTH OF OTHER SUNS: THE EPIC STORY OF AMERICA’S GREAT MIGRATION 8–9 (2010) (“It was during the First World War that a silent pilgrimage took its first steps within the borders of this country Historians would come to call it the Great Migration.”).

48. PAINTER, *supra* note 41, at 16.

49. *Id.* at XV.

50. PROCEEDINGS OF THE COLORED STATE CONVENTION, HELD IN NASHVILLE, FEB. 22D, 23D, 24TH & 25TH, at 3 (1871), <http://coloredconventions.org/files/original/gbc74455b84cdc7fbbd6caaa0872a65.pdf>.

some schools we labor under the most odious proscription which we hope entirely to avoid. . . . Each colored citizen cannot but feel degraded, so long as he is forced by the local authorities to separate schools, often of the most unfitting character and purpose. We have a large number of reports from various counties, and in some instances no schools at all. In Shelby county alone there are four thousand children of color not attending school, and most all the schools they have are paid and kept up by subscription.⁵¹

The Exodusters' interest in black self-determination, educational opportunity, and political advancement left them particularly vulnerable to violent reprisal, as "[b]lack fell prey to nightriders, who picked them off one by one if they appeared concerned with the political well-being of their people."⁵² These "nightriders" terrorized Middle Tennessee, including Rutherford County, where the Lytle family lived.⁵³ In Jackson County, for example, "[a] colored man . . . was skinned alive."⁵⁴ In adjacent Davidson County, "[t]he colored church was burnt down by the Kuklux."⁵⁵ By 1879, these outrages had escalated and intensified, prompting political action. At that year's National Convention of Colored Men, L.A. Roberts, of Grand Junction, Tennessee, proposed a resolution to establish an emigration society to support migrants leaving the south for "parts of the United States where they can enjoy all the rights and immunities granted them under the Constitution and laws of the United States, *without fear or molestation*."⁵⁶

The 1879 proposed resolution was not the first time that racially-motivated violence targeting black Tennesseans prompted political action. In 1871, similar concerns—"desperadoes, masked and armed, are committing crimes and outrages unparalleled in the annals of civilization, spreading terror and devastation to the homes and families of the poor and loyal to this

51. *Id.*

52. PAINTER, *supra* note 41, at 10.

53. See PROCEEDINGS OF THE COLORED STATE CONVENTION, *supra* note 50, at 6 ("In the county of Rutherford there have been desperadoes [sic] and disguised parties who have committed great crimes upon some of the people: they have put to death several to our knowledge . . ."); see also Brenda Mack McFarlin, *The Ku Klux Klan in Middle Tennessee, 1866–1869*, at 56 (Jan. 1971) (unpublished M.A. thesis, Middle Tennessee State University) ("The Ku Klux Klan had a strong establishment in Murfreesboro."). An agent of the Freedmen's Bureau in Murfreesboro reported in 1868 that he slept with "a revolver under his pillow, a double-barreled shotgun, heavily charged with buckshot at one hand and a hatchet at the other." *Id.* at 68 (citing Paul David Phillips, *White Reaction to the Freedmen's Bureau in Tennessee*, 25 TENN. HIST. Q. 50, 60 (1966)).

54. PROCEEDINGS OF THE COLORED STATE CONVENTION, *supra* note 50, at 13.

55. *Id.* at 5.

56. NATIONAL CONFERENCE OF COLORED MEN OF THE UNITED STATES, PROCEEDINGS OF THE NATIONAL CONFERENCE OF COLORED MEN OF THE UNITED STATES, HELD IN THE STATE CAPITOL AT NASHVILLE, TENNESSEE, MAY 6, 7, 8 AND 9, 1879, at 24 (1879), <http://www.slavery.amdigital.co.uk.proxy.lib.uiowa.edu/Contents/ImageViewerPage.aspx?imageid=652183&doc=635152> (emphasis added).

Government”⁵⁷—had motivated the Tennessee Colored Convention to issue a resolution calling upon Congress to take action to protect the nation’s black citizens.⁵⁸ By 1879, attendees at the National Conference of Colored Men were no longer calling upon Congress to secure black civil rights through legislation; resolutions presented on the floor in 1879 called instead for Congress to appropriate funds for the coming exodus.⁵⁹

John Lytle’s political aspirations may have placed him in the crosshairs of this violence.⁶⁰ In the decade after emancipation, Lytle was active in the National Grange of the Order of Patrons of Husbandry (the “Grangers”).⁶¹ Founded in 1867, the Grangers were a fraternity of small farmers who organized for the purpose of lobbying state and federal agencies on farm policy.⁶² The Grangers were “the first national farm organization to . . . organize” black farmers during Reconstruction,⁶³ and during the 1870s, the group “served as the preeminent agency of agrarian protest.”⁶⁴ Although armed anti-railroad protests associated with the Grangers fueled negative public opinion of the group,⁶⁵ the movement grew rapidly in 1873 and 1874 (coinciding with the agricultural crash of 1873): between January and May 1874, the number of local granges in Tennessee grew from 350 to 823.⁶⁶ John

57. PROCEEDINGS OF THE COLORED STATE CONVENTION, *supra* note 50, at 8.

58. *Id.* at 8–9.

59. NATIONAL CONFERENCE OF COLORED MEN OF THE UNITED STATES, *supra* note 56, at 25 (proclaiming that “we ask of Congress of the United States an appropriation of \$500,000 to aid in the removal of our people from the South”).

60. Lytle had become active in local politics after first establishing himself as a barber. *See* MILLS, *supra* note 27, at 66 (noting that for black barbers in the South, barbering provided “a clear path to business ownership and economic independence . . .”).

61. *See infra* note 67.

62. *See generally* W.L. ROBINSON, *THE GRANGE 1867–1967: FIRST CENTURY OF SERVICE AND EVOLUTION* (1966).

63. NAT’L GRANGE, *HAND IN HISTORY: 150 YEARS OF GRANGE IN AMERICA*, http://www.nationalgrange.org/wp-content/uploads/2016/03/Grange-One-Page-History_small.pdf.

64. Scott M. Gelber, *Academic Populism: The People’s Revolt and Public Higher Education, 1880–1905*, at 13 (May 2008) (unpublished Ph.D. dissertation, Harvard University) (on file with author).

65. *See* ERNEST W. BREWER ET AL., *FOUNDATIONS OF WORKFORCE EDUCATION: HISTORICAL, PHILOSOPHICAL, AND THEORETICAL APPLICATIONS* 484 (2000) (referring to farmers’ “armed resistance in the Grange Wars”); LYNNE KIRBY, *PARALLEL TRACKS: THE RAILROAD AND SILENT CINEMA* 31 (1997) (describing “the Grange Wars of the 1870s and 1880s” between the Grangers and railroads); Charles W. Pierson, *The Rise of the Granger Movement*, 32 *POPULAR SCI. MONTHLY* 199, 204 (1887) (detailing the perception of the Grange as “hostile to railroads”).

66. *See* Fred Arthur Bailey, *The Patrons of Husbandry*, *TENN. ENCYCLOPEDIA HIST. & CULTURE* (Feb. 23, 2011), <http://tennesseencyclopedia.net/entry.php?rec=1039>. While its local influence may have waned, the Grange continued to exert substantial influence over federal farm policy. The Grangers were among those groups lobbying for the federal income tax, the Pure Food and Drug Act, the Hatch Act, and the cabinet-level elevation of the Secretary of the U.S. Department of Agriculture. *See* NAT’L GRANGE, *supra* note 63.

Lytle served as Steward in the Tennessee State Grange, personally organizing 31 of these local granges.⁶⁷

Perhaps motivated by a growing concern over escalating anti-black violence, coupled with the Grangers' waning influence in local politics in the late 1870s,⁶⁸ in 1882—less than three years after the first Exodusters set out for the “promised land” in the West—John Lytle relocated his family to Topeka, Kansas.⁶⁹ In Topeka, seven-year-old Lutie Lytle and her siblings were educated in the city's public schools during a time when state law effectively prevented *de jure* racial segregation in local public schools.⁷⁰ Lutie excelled in Topeka's public schools, earning commendation for her scholastic achievement. In 1885, the *Topeka Tribune and Western Recorder* reported that ten-year-old Lutie had earned perfect scores in her studies.⁷¹ The paper's editors wished her well—“[s]uccess to the little darling”—and expressed hope that she would “grow up an honor to her sex.”⁷²

In Kansas, John Lytle resumed his entrepreneurial pursuits, and by 1888, he had established his own barbershop at 207 West Sixth Street, in Topeka.⁷³ In addition to his barbering business, Lytle served on the city's police force,⁷⁴ and was active in state and local politics under the banner of the state's Populist Party.⁷⁵ In the late 1880s, disillusioned with the Republican Party,

67. See *The Patrons of Husbandry*, NASHVILLE UNION & AM., Dec. 30, 1874, at 4 (listing John Lytle as “Steward” of the State Grange).

68. See MATTHEW HILD, GREENBACKERS, KNIGHTS OF LABOR, AND POPULISTS: FARMER-LABOR INSURGENCY IN THE LATE-NINETEENTH-CENTURY SOUTH 20 (2007) (describing the “decline” of the Grangers in the late 1870s).

69. See OMAR H. ALI, IN THE LION'S MOUTH: BLACK POPULISM IN THE NEW SOUTH, 1886–1900, at 97 (2010) (“In 1882, [the Lytle family] moved to Kansas as part of the Exoduster movement.”); *Lutie Lytle*, KANSAPEDIA: KAN. HIST. SOC'Y (Jan. 2016), <https://www.kshs.org/kansapedia/lutie-lytle/12136> (noting that the Lytle family “moved to Kansas around 1882, a time when many other African Americans were relocating from Tennessee to Kansas with the Exoduster movement”).

70. Mary L. Dudziak, *The Limits of Good Faith: Desegregation in Topeka, Kansas, 1950–1956*, 5 L. & HIST. REV. 351, 357 (1987) (detailing how 1876 Kansas law removed from local school districts the authority to segregate public schools); Barbara Hollingsworth, *Alums of THS to be Honored: High School's Annual Hall of Fame Induction Ceremony Slated for Sunday*, TOPEKA CAP.-J. (Oct. 13, 2007), http://cjonline.com/stories/101307/lif_207964239.shtml (noting that Lutie Lytle “attended Topeka High”). A subsequent profile of Lytle's career noted that “[s]he was given the full benefit of the local schools.” *Legal Notes of Pertinence*, 56 ALB. L.J. 215, 216 (1897).

71. *A Good Average*, TOPEKA TRIB. & WESTERN RECORDER, July 4, 1885, at 4.

72. *Id.*

73. RADGES' DIRECTORY OF THE CITY OF TOPEKA FOR 1888–1889, at 531 (1889) (listing “John R. Lytle” among the proprietors of one of the city's barber shops). Lytle continued this business until after the turn of the century.

74. Aleen J. Ratzlaff, *Black Press Pioneers in Kansas: Connecting and Extending Communities in Three Geographic Sections, 1878–1900*, at 287 n.2 (2001) (unpublished Ph.D. dissertation, University of Florida) (on file with author) (“The elder Lytle served as an officer on the city's police force for a time.”).

75. See ALI, *supra* note 69, at 97 (noting that John Lytle “operated a barbershop in downtown Topeka and was a leader of the anti-Republican progressive Populist Flambeau Club,

black Kansans threw their support behind the independent Populist Party.⁷⁶ As their numbers grew, so, too, did their influence and power: In the 1890 statewide elections, the Populists “won three-fourths of all the seats in the State House of Representatives (as well as the only State Senate seat that had been up for election).”⁷⁷

From 1890 on, the Party continued to grow, and John Lytle was one of its leaders. Lytle was appointed assistant city jailer in 1896, and helped organize the Party’s interracial Flambeau Club in Topeka, through which he garnered support for his political aspirations.⁷⁸ The following year, Lytle ran as the Populist candidate for the office of Register of Deeds in Topeka’s Shawnee County.⁷⁹ Widely considered one of the most influential black men in Kansas,⁸⁰ John Lytle’s status and position afforded his daughter the privilege to pursue a legal education at a time when “less than 5 percent of black women worked outside the home for wages.”⁸¹ Lytle’s involvement with the Populist Party, for example, helped his daughter secure her first job.⁸² In January 1895, while still a teenager, Lutie was sworn in as an “assistant enrolling clerk” for the Kansas state legislature in Topeka,⁸³ working with lawmakers and other clerks to manage the revisions to proposed bills throughout the legislative session.⁸⁴ In this patronage position, Lutie learned about the legislative process, met and worked together with political powerbrokers in the state, and established a reputation as a capable and hardworking clerk.⁸⁵ Remarkably, Lutie’s tenure in the statehouse preceded

which he helped to organize in 1893”); *see also* THOMAS C. COX, BLACKS IN TOPEKA, KANSAS 1865–1915, at 129 (1982).

76. *See* Omar Hamid Ali, Black Populism in the New South, 1886–1898, at 150 (2003) (unpublished Ph.D. dissertation, Columbia University) (on file with author) (describing the 1890 Kansas People’s Party ticket as supported by an interracial coalition including “disaffected black Republicans”).

77. *Id.* at 151.

78. *See supra* note 75 and accompanying text.

79. *See Kansas Gleanings*, ADVOCATE, Sept. 22, 1897, at 8 (noting that Lytle was “the Populist candidate for Register of Deeds in Shawnee county . . .”).

80. *See, e.g., Bright Young Woman*, COFFEYVILLE DAILY J., at 2, Oct. 19, 1897; *Colored Woman Lawyer*, NEWARK DAILY ADVOC. (Newark, DE), Sept. 24, 1897 (observing of John Lytle that “[h]e has been successful and is regarded as the richest colored man in the state”).

81. Nupur Chaudhuri, “We All Seem Like Brothers and Sisters”: The African-American Community in Manhattan, Kansas, 1865–1940, in WE SPECIALIZE IN THE WHOLLY IMPOSSIBLE: A READER IN BLACK WOMEN’S HISTORY 543, 558 (Darlene Clark Hine, Wilma King, & Linda Reed eds., 1995).

82. Bobbie Athon, *A Legal Pioneer*, TOPEKA CAP. J., Oct. 19, 2003, at A12 (attributing Lutie’s appointment as legislative enrolling clerk to John Lytle’s involvement in the local Populist Party).

83. PROCEEDINGS OF THE SENATE OF THE STATE OF KANSAS, NINTH BIENNIAL SESSION, BEGUN AT TOPEKA, JANUARY 8, 1895, 6 (1895).

84. *Legal Notes of Pertinence*, *supra* note 70, at 216 (reporting in error that Lytle received her appointment as clerk in 1892 instead of 1895).

85. *Bright Young Woman*, *supra* note 80, at 2 (“Lutie A. Lytle was the successful candidate for engrossing clerk, a position she filled with eminent satisfaction to all concerned.”).

the state's adoption of an "equal suffrage amendment" and the ratification of the 19th Amendment to the U.S. Constitution by seventeen years and twenty-five years, respectively.⁸⁶ In other words, Lutie Lytle served in the legislature before she could vote for it.

In addition to her position with the state legislature, young Lutie also worked as a compositor, editor, and essayist for multiple black newspapers, including the *Kansas Blackman*, *Atchison Blade*, and *American Citizen*.⁸⁷ Black newspapers transmitted information to black subscribers while also devoting the opinion pages to issues of social, political, and cultural import.⁸⁸ Black women journalists played a critical role in the growth of the nineteenth century black press, employing their pens in "raising the level of consciousness of black people and improving the soil in which black visions could be planted, tilled and nurtured to full harvest."⁸⁹ Lutie Lytle followed this trajectory in her work. Perhaps encouraged or inspired by Ida B. Wells-Barnett (who, in 1889, became co-owner of a newspaper in Memphis),⁹⁰ Lutie's opinion essays about matters of interest to black people in Kansas and nationally were reprinted by newspapers throughout the state, usually without a byline: As one editorialist noted, "Not a dozen newspaper people in Kansas have ever heard of Miss Lytle, and yet nearly all of them have copied paragraphs of her writing."⁹¹ Moreover, as one of the nation's early black women journalists, Lutie Lytle joined a cadre of pioneering reporters and editors whose work shone a spotlight on racial and gender injustice (and the need for intersectional advocacy) in the lives of black women.⁹²

86. Kansas voters approved an equal suffrage amendment to that state's constitution in 1912. See Martha B. Caldwell, *The Woman Suffrage Campaign of 1912*, 12 KAN. HIST. Q. 300, 317 (1943) ("They felt their efforts were sufficiently rewarded when the final count showed 175,246 votes for the amendment and 159,197 against."). The Nineteenth Amendment to the U.S. Constitution was ratified on August 18, 1920. See *19th Amendment to the U.S. Constitution: Women's Right to Vote (1920)*, WWW.OURDOCUMENTS.GOV, <https://www.ourdocuments.gov/doc.php?flash=true&doc=63> (last visited May 12, 2017).

87. See Ratzlaff, *supra* note 74, at 150–51 ("Lutie had worked with several black newspapers in the early 1890s, including the *Atchison Blade*, the *Kansas Blackman* of Topeka, and the *American Citizen*, where she relayed local news and collected subscriptions as a correspondent for the Topeka community.").

88. ENCYCLOPEDIA OF THE GREAT PLAINS 7 (David J. Wishart ed., 2004) ("[Kansas Blackman] Editor W. B. Driver said that his paper was published solely in the interest of 'negroes,' and he used his newspaper's name to encourage financial support.").

89. Gloria Wade-Gayles, *Black Women Journalists in the South, 1880–1905: An Approach to the Study of Black Women's History*, 11/13 CALLALOO 138, 149 (1981).

90. See generally Ida B. Wells-Barnett 1862–1931, in BROKEN UTTERANCES: A SELECTED ANTHOLOGY OF 19TH CENTURY BLACK WOMEN'S SOCIAL THOUGHT 275 (Michelle Diane Wright ed., 2007) ("Ida B. Wells became one of the owners of the *Memphis Free Speech and Headlight* in 1889.").

91. *A New Writer*, *supra* note 12, at 1.

92. See Nora Darlene Hall, On Being an African-American Woman: Gender and Race in the Writings of Six Black Women Journalists, 1849–1936, at 3, 6 (Oct. 1998) (unpublished Ph.D. thesis, University of Minnesota) (on file with author) (arguing that black women journalists' reporting

IV. "I RESOLVED TO FATHOM ITS DEPTHS": LUTIE A. LYTLE AND LEGAL EDUCATION⁹³

It was as a direct result of these experiences that Lutie Lytle decided to pursue a career in law.⁹⁴ In an 1897 interview, she recalled:

I conceived the idea of studying law in a printing office where I worked for years as a compositor I read the newspaper exchanges a great deal and became impressed with the knowledge of the fact that my own people especially were the victims of legal ignorance. I resolved to fathom its depths and penetrate its mysteries and intricacies in hopes of being a benefit to my people.⁹⁵

Constrained by the exclusion of both blacks and women from nearly all of the nation's law schools, Lutie chose to pursue her studies in the state of her birth at Central Tennessee College.⁹⁶ Founded in 1865 for the purpose of educating former slaves,⁹⁷ Central Tennessee held its first classes in Nashville's Andrew Chapel Methodist Episcopal Church before occupying a former Confederate gun factory in the city.⁹⁸ When Lytle enrolled, she was the only woman in the school's Law Department.⁹⁹ At the time, there were no other women students and no women on the faculty.¹⁰⁰

"allowed them to describe their position in society and to develop perspectives on how they should be treated," including perspectives regarding the prevalence of discrimination and limited opportunities in the lives of black women); *see also* JINX COLEMAN BROUSSARD, *GIVING A VOICE TO THE VOICELESS: FOUR PIONEERING BLACK WOMEN JOURNALISTS*, at xii (2004) (profiling black women journalists and arguing that "[t]hrough their work as journalists, they informed, persuaded, entertained, and advocated as they sought to enlighten and elevate their race and gender").

93. Athon, *supra* note 82, at A12 (quoting an 1897 interview with Lytle).

94. It is believed that prior to enrolling in law school, Lutie taught school in Chattanooga, Tennessee, earning money "in order to finance a law school education." Noreen R. Connolly, *Attorney Lutie A. Lytle: Options and Obstacles of a Legal Pioneer*, 1999 NEB. LAW. 6, 6.

95. Athon, *supra* note 82, at A12 (quoting an 1897 interview with Lytle).

96. *See* CENT. TENN. COLL., *CATALOGUE OF CENTRAL TENNESSEE COLLEGE, 1896-1897*, at 44 (1897), <https://archive.org/stream/catalogue18891900cent#page/n571/mode/2up> (listing course offerings and students).

97. *See* J. GORDON MELTON, *A WILL TO CHOOSE: THE ORIGINS OF AFRICAN AMERICAN METHODISM* 273 (2007) (identifying 1865 as the founding of the school that became Central Tennessee College); *see also* D.O.W. Holmes, *The Beginnings of the Negro College*, 3 J. NEGRO EDUC. 168, 187-88 (1934) (listing Central Tennessee College among the colleges established by the Freedmen's Aid Society of the Methodist Episcopal Church); *1865-2015: History of Clark*, CLARK MEMORIAL UNITED METHODIST CHURCH, <http://clarkumcnashville.org/1865-2015> (last visited May 12, 2017) (listing 1865 as the year in which the Andrew's Chapel began operating "a school for Negro youth").

98. MORGAN C. FITZPATRICK, *ANNUAL REPORT OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION FOR TENNESSEE, FOR THE SCHOLASTIC YEAR ENDING JUNE 30, 1899*, at 260 (1899) (noting that school was located "in the gun factory" during its first year of operation).

99. *See* CENT. TENN. COLL., *supra* note 96, at 44.

100. *Id.*

Central Tennessee's Law Department was small—in 1896, for example, Lutie was only one of six students enrolled¹⁰¹—but the legal training offered was comprehensive. Legal instruction at Central combined the “recitation” method commonly associated with Yale Law School, with an insistence upon simulation, observation, and skill-building.¹⁰² Students were taught oratory and trial presentation skills, and were required to observe proceedings in the legislature and courts in and around Nashville, demonstrating the school's expectation that students ought to learn in the classroom as well as in the courtroom.¹⁰³ The Law Department offered courses in Blackstone's Commentaries, Domestic Relations Law, Procedure, Contracts, Medical Jurisprudence, Corporations, Evidence, Torts, Property, Biblical Law, International Law, and Constitutional Law.¹⁰⁴ Required course texts tended to be treatises (such as Cooley's *A Treatise on the Law of Torts*), not casebooks, as the College eschewed the strict Langdellian case method in favor of a broader-based education in law, legal theory, and law practice.¹⁰⁵ Through this curriculum, the College, although small, established itself as the first and leading school established for the education of black attorneys in the South.¹⁰⁶

Although hailed in the press as the first woman law professor “in the world,”¹⁰⁷ Lytle entered the legal academy at the same time as the women who founded the Washington College of Law.¹⁰⁸ Joining Lytle in this exclusive

101. *Id.*

102. See ROBERT STEVENS, LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S, at 61–62 (1983) (describing the recitation method developed at Yale Law School).

103. See CENT. TENN. COLL., *supra* note 96, at 42 (noting that class attendance was required except “when students are required to attend the trial of some important suit in progress in one of [the] many courts in this city, or some instructive debate in the State Legislature, which meets in this city”).

104. See CENT. TENN. COLL., *supra* note 96, at 44–45 (listing all course offerings).

105. *Id.* at 44 (listing required course texts).

106. In 1900, Central Tennessee College was renamed Walden University. See Bobby L. Lovett, *Walden University (1868–1925)*, <http://ww2.tnstate.edu/library/digital/walden.htm>. Three years later, a deadly fire ravaged the school's women's dormitory, killing nearly two dozen students. See *Colored College Burned This Morning*, LEAD DAILY CALL (Lead, S.D.), Dec. 19, 1903, at 1 (reporting at least 23 deaths in fire); *Fifty Killed and Injured in Fire*, L.A. HERALD, Dec. 19, 1903, at 2 (reporting 23 deaths and dozens injured in fire). The institution struggled to recover, and in the late 1920s, closed its doors for good. See MILDRED BANGS WYNKOOP, THE TREVECCA STORY: 75 YEARS OF CHRISTIAN SERVICE 163 (1976) (“Walden College was moved to the Murfreesboro campus in 1922 and remained until 1925 operated under the auspices of the Methodist Episcopal Church.”); Lovett, *supra* note 106 (identifying 1925 as the college's closing). In 1915, the medical department at Walden reorganized itself as the independent Meharry Medical College, the first medical school south of Washington, D.C., established for the education of black doctors. Today, Meharry is the second largest educator of black physicians and dentists in the nation.

107. See *supra* note 1 and accompanying text.

108. See generally Jean S. Schade, *The Washington College of Law—A History from the Founding of the College Until Its Merger with the American University, 1896–1949*, (Apr. 1969) (unpublished M.S.L.S. dissertation, Catholic University of America).

sisterhood of women law faculty in the fall of 1898 were Ellen Spencer Mussey and Emma Gillett.¹⁰⁹ Ellen Spencer Mussey was born in Ohio and, at 20, was appointed “principal of the Women’s Department in the Spencerian Business College of Washington [DC].”¹¹⁰ Mussey resigned her position to marry a Washington lawyer, and she later joined him in law practice.¹¹¹ When Mussey sought admittance to one of the organized law schools in the District, she was rejected “on the grounds that men objected to women in their class, and it was feared that this attitude would have an adverse effect on enrollment.”¹¹² A special committee of the local bar later permitted Mussey to take an oral exam (in lieu of law school) for admittance, and she was admitted to the District of Columbia bar in 1893.¹¹³ A contemporary of Mussey, Emma M. Gillett was born in Wisconsin, and in 1880, began studying law under the tutelage of Belva R. Lockwood (the suffragist who fought to become the first woman admitted to practice before the Supreme Court of the United States).¹¹⁴ Gillett subsequently enrolled in and graduated from Howard Law School in 1883.¹¹⁵

In 1896, Mussey and Gillett began teaching law to interested women in Washington, D.C. in what they called the “Women’s Law Class.”¹¹⁶ Initially, classes were comprised of fee-based lectures held at Mussey’s law office, and the instructors—Emma Gillett, Mrs. J. Ellen Foster, Watson J. Newton, Hon. Charles C. Cole, and Hon. William C. Robinson—taught part-time while

109. See *infra* notes 108–20 and accompanying text.

110. Schade, *supra* note 108, at 5.

111. See *id.* at 5–6.

112. See *id.* at 6.

113. See *id.* at 6.

114. See *id.* at 6 (“Coming to Washington in 1880, [Gillett] took up the study of law in the office of Mrs. Belva R. Lockwood and resolved to enter a law school.”).

115. Emma Gillett had been an 1882 graduate of Howard University’s Law Department, one of two white women in the school’s graduating class. At the time, Howard was the only law school in Washington, D.C. that admitted women as students. See Mary L. Clark, *The Founding of the Washington College of Law: The First Law School Established By Women for Women*, 47 AM. U. L. REV. 613, 646 (1998) (“With the exception of Howard, which had been coeducational and racially integrated since its 1869 founding, Washington’s law schools admitted only white males.”); see also Schade, *supra* note 108, at 4–5 (“In 1896, a curious situation existed in the District of Columbia in that women were admitted to practice before all the courts of District of Columbia, the Supreme Court of the United States and in the executive departments of the government, but in four of the five law schools in the District, women were denied equality of admission to these law schools with men. . . . Howard University, incorporated in 1867 by an Act of Congress and established ‘for the education of youth in the liberal arts and sciences,’ significantly had the only law school in the District of Columbia which did not bar women.”).

116. See Schade, *supra* note 108, at 5 (“Thereafter, on February 1, 1896, Mrs. Mussey, with the help of Miss Gillett, organized the Women’s Law Class.”); see also *The Woman’s Law Class Black Book*, AM. U. WASH. C.L., <https://www.wcl.american.edu/history/womanscourseannoc.cfm> (last visited May 12, 2017).

maintaining their law practices.¹¹⁷ Soon thereafter, Mussey and Gillett sought admittance to one of the local D.C. law schools for a group of six Women's Law Class students.¹¹⁸ Upon receiving the law schools' categorical denials of admission for the students, Gillett and Mussey resolved to found an educational institution "for legal education primarily for women."¹¹⁹ On April 2, 1898, the Women's Law Class was incorporated as the Washington College of Law—the first law school in the United States established "primarily for women."¹²⁰ That year, two women earned LL.B.s at the school; in the following year, the graduating class of Washington College of Law included six women.¹²¹ In August 1898, the Trustees of Washington College of Law appointed Mussey, Gillett, and Newton as the incorporated law school's first faculty members.¹²²

The role of historically black educational institutions in increasing access to the legal profession for women and people of color is central to the story of the life of Lutie Lytle, and to the broader history of women in the legal academy. Two of the women in this triad of pioneering women law professors—Gillett and Lytle—had been educated at institutions founded expressly for the educational advancement of former slaves.¹²³ Prior to 1897, Howard University had the only law school in Washington, D.C. that accepted women students.¹²⁴ The first black woman to graduate from any law school in the U.S. was a Howard Law alumna, Charlotte Ray, whose 1872 graduation

117. See Clark, *supra* note 115, at 658 (listing trustees, instructors, and their respective legal practices while teaching at Washington College of Law).

118. See Schade, *supra* note 108, at 8 (citing GRACE HATHAWAY, FATE RIDES A TORTOISE: A BIOGRAPHY OF ELLEN SPENCER MUSSEY 110 (1937)).

119. *Id.* at 8–10.

120. See Clark, *supra* note 115, at 614 ("When Ellen Spencer Mussey and Emma Gillett founded the Washington College of Law . . . one hundred years ago principally for the education of women in the law, it became the first law school established by and for women in the United States."). See generally *The Woman's Law Class Course Announcement*, *supra* note 116.

121. See Schade, *supra* note 108, at 60 (listing total number of graduates in 1898 as two, and total number of graduates in 1899 as six).

122. See Clark, *supra* note 115, at 662 ("Mussey, Gillett, and Newton served as WCL's first faculty.").

123. See *supra* note 94 and accompanying text.

124. See Clark, *supra* note 115, at 646 ("With the exception of Howard, which had been coeducational and racially integrated since its 1869 founding, Washington's law schools admitted only white males."); see also Schade, *supra* note 108, at 4–5 ("In 1896, a curious situation existed in the District of Columbia in that women were admitted to practice before all the courts of District of Columbia, the Supreme Court of the United States and in the executive departments of the government, but in four of the five law schools in the District, women were denied equality of admission to these law schools with men. . . . Howard University, incorporated in 1867 by an Act of Congress and established 'for the education of youth in the liberal arts and sciences,' significantly had the only law school in the District of Columbia which did not bar women.").

preceded Lutie Lytle's law school graduation by twenty-five years.¹²⁵ At her April 23, 1872 admission to the District of Columbia bar, Ray also broke the gender barrier at the bar, becoming the first woman admitted to practice in the nation's capital.¹²⁶

For Lutie Lytle, there were no black women lawyers to emulate or admire. By the time Lutie entered Central Tennessee College in 1896, Charlotte Ray's trailblazing work was a distant, if not lost, memory.¹²⁷ Perhaps as a result, Lutie advocated early in her career for women's access to the professions. In 1896, for example, Lutie was among those students and faculty participating in Central Tennessee College's commemoration of the thirty-third anniversary of the Emancipation Proclamation.¹²⁸ Lytle delivered an oratory on the advancement of women and changing public opinion on women's work. Representing the law school in the college-wide celebration, Lytle argued that women ought to be permitted "in filling any place for which she is prepared."¹²⁹ A writer for the New Orleans-based *Southwestern Christian Advocate* (a newspaper published for black church members by the Methodist Episcopal Church)¹³⁰ applauded Lutie's rhetorical and oratorical skill: "From

125. See HENRY LOUIS GATES, JR., *LIFE UPON THESE SHORES: LOOKING AT AFRICAN AMERICAN HISTORY*, 1513-2008, at 173 (2011) ("Upon receiving her degree in 1872, [Ray] was the first woman to graduate from [Howard's] law department."). In the press reports about Lutie being the only colored female lawyer in America, Ray's name is conspicuously absent. Ray ran a solo practice focusing on commercial and family law in Washington, D.C. in 1875. See *id.*

126. Ray's career, like Lytle's, was hamstrung by sex and race discrimination. Eventually finding that she could not support herself with her legal practice, Charlotte Ray returned to teaching and died in obscurity in 1911. See GATES, *supra* note 125, at 173 (noting that Ray "soon opened her own law firm, but because of segregation and pervasive gender prejudice she could not attract enough clients to maintain her practice.").

127. In 1897, Myra Bradwell's journal *Chicago Legal News* was forced to publish an *erratum* to its earlier feature on Lytle calling her the "first colored woman admitted to the bar." *The Legal World Moves*, 30 CHI. LEGAL NEWS, Oct. 23, 1897, at 80 (citing its own 1872 publication of the news of Ray's admission to the bar, the journal reported its receipt of "several letters in regard to this matter," including one from Wisconsin lawyer Kate Rossi (*nee* Kane) who recalled that Ray had opened up a law practice, "and although a lawyer of decided ability, on account of prejudice was not able to obtain sufficient legal business and had to give up . . . active practice.").

128. See J. Braden, *Notes from Nashville*, SOUTHWESTERN CHRISTIAN ADVOC., Jan. 16, 1896, at 6 ("Miss Lytle represented the Law Department, and has the honor of being the first woman who has entered on the study of law in this school.").

129. *Id.*

130. See James B. Bennett, "Until This Curse of Polygamy is Wiped Out": *Black Methodists, White Mormons, and Constructions of Racial Identity in the Late Nineteenth Century*, 21 RELIG. & AM. CULTURE 167, 167 (2011); see also *id.* at 169 ("In a denomination with a long history of publishing and an extensive publishing network, the *Southwestern Christian Advocate* was the preeminent publication for the denomination's nearly quarter million black members and was the most forceful advocate for racial equality within the ME Church in the final decades of the nineteenth century.").

her manner on the platform and the ability evinced in her paper, she has in her make-up the elements of success.”¹³¹

The singular achievement of Lutie’s 1897 graduation from the law school (as valedictorian) was not lost on observers; news outlets from as far away as London, England, published news of her graduation, valedictory address, and admission to practice.¹³² The black press was especially congratulatory. Black newspapers often used the press to publicize the educational and economic achievements of black people.¹³³ Upon Lutie’s graduation, for example, the *Southwestern Christian Advocate* reported that her matriculation marked “the first time in the history of the college that a lady has entered the law school, and probably the first colored lady graduating in law in the lower Mississippi valley.”¹³⁴ Lytle’s promise and potential had been heralded in local, national, and international news outlets throughout her youth, and she was held out as a positive example for other young people. When, for example, in 1894, the *American Citizen* praised then 19-year-old Lutie for her contributions to the paper, editors noted the young woman’s “reputation as an ‘obedient, polite and bright pupil in our schools.’”¹³⁵

V. “OUR CITIZENSHIP IS BASED ON IT, AND HENCE I LOVE IT”¹³⁶: LUTIE A. LYTLE AND LAW PRACTICE

After graduating law school, Lutie taught school before seeking admission to the Tennessee bar.¹³⁷ State law required that she seek admittance before a local judge, as Tennessee required that admission to the bar be followed by enrollment “as a practicing lawyer” before a state court.¹³⁸ Those

131. See Braden, *supra* note 128, at 6 (“Miss Lytle represented the Law Department, and has the honor of being the first woman who has entered on the study of law in this school.”).

132. See *Bright Young Woman*, *supra* note 80, at 2; *Lawyers and the Law*, WESTMINSTER BUDGET (London), Jan. 28, 1898, at 27; *Snap Shots at Homeneews*, TOPEKA ST. J., May 28, 1897, at 6 (reporting that Lytle “will deliver the valedictory, having chosen for the subject of her oration, ‘Marriage and Divorce’”).

133. Ratzlaff, *supra* note 74, at 253–54 (observing “the ways the press prodded young African Americans to pursue higher education or receive vocational training as a means of realizing a better way of life”).

134. *Central Tennessee College*, SOUTHWESTERN CHRISTIAN ADVOC. (New Orleans, La.), July 29, 1897, at 4; see also Braden, *supra* note 128, at 6 (“Miss Lytle . . . has the honor of being the first woman who has entered on the study of law in this school.”). When a suggestive pun relying on an improper pronunciation of Lytle’s name appeared in Washington, D.C.’s *Colored American* newspaper, *The Herald*, in Leavenworth, Kansas came to her defense, educating the punster about the proper pronunciation of the young woman’s name (“Ly-tle—with an accent on the first” syllable) and suggesting that the newspaper run better puns in future issues. LEAVENWORTH HERALD, Sept. 25, 1897, at 2 (emphasis in original).

135. Ratzlaff, *supra* note 74, at 288 n.11.

136. Athon, *supra* note 82, at A12 (quoting an 1897 interview with Lytle).

137. *Local Mention*, COLORED CITIZEN, July 1, 1897, at 7 (“Miss Lutie Lytle has accepted a summer school at Grand Junction, Tenn.”).

138. *Bright Young Woman*, *supra* note 80, at 2.

efforts were, however, initially rebuffed. The first court to which she applied denied Lytle's application on the grounds that an 1892 ruling of the Tennessee Supreme Court, holding that women were ineligible to hold the office of notary public—ostensibly because they did not have the right to vote—led inexorably to the conclusion that women were ineligible to be enrolled as practicing lawyers in the state.¹³⁹ Undeterred, Lutie subsequently (and successfully) applied for enrollment to the court of a prominent judge in Memphis, where, in September 1897, local black attorneys Josiah T. Settle and A. B. Saddler presented her application to the court.¹⁴⁰ Settle—a former slave whose affluent white father provided for his education at Oberlin College and Howard Law School—had been elected to the Mississippi statehouse before migrating to Memphis (where he became, for a time, a confidante and “father figure” to Ida B. Wells).¹⁴¹ In 1887, Settle had been appointed assistant attorney general for Shelby County, “an appointment unprecedented for an African-American at that time.”¹⁴² Without the assistance of these able male allies, it is likely that Lutie would not have been admitted to Tennessee's bar.¹⁴³

Lytie's efforts to gain admission to the state bar further evinced her intent to practice in the profession. After her admission in Tennessee, Lutie returned home to Topeka, and was admitted to the Kansas bar (becoming the first black woman admitted to that state's bar).¹⁴⁴ Her plans to establish a legal practice in Topeka were chronicled in newspapers throughout the nation.¹⁴⁵

139. See *State v. Davidson*, 22 S.W. 203, 204 (Tenn. 1892) (“We can find no authority, under our present statutes, authorizing a woman to exercise the duties and fill the office of notary public, and we are of opinion that she is not eligible to such office under our present statutes.”); *Bright Young Woman*, *supra* note 80, at 2.

140. *Bright Young Woman*, *supra* note 80, at 2; *Colored Woman to Teach Law*, NORTHERN TRIB. (Gouverneur, N.Y.), Nov. 2, 1898, at 8 (“Miss Lytle was admitted to the bar in Tennessee [on] September 8, 1897.”).

141. See LINDA O. MCMURRY, *TO KEEP THE WATERS TROUBLED: THE LIFE OF IDA B. WELLS* 53 (1998). Wells and Settle later became estranged after coverage in an article she wrote criticized one of Settle's associates. See MIA BAY, *TO TELL THE TRUTH FREELY: THE LIFE OF IDA B. WELLS* 138 (2009) (quoting Wells' remarks that Settle had become “the enemy of the *Free Speech*”).

142. See *Historical Markers of Shelby County: Josiah T. Settle 1850–1915*, SHELBY COUNTY REG. DEEDS, http://register.shelby.tn.us/shelby_landmarks/loadVid.php?imageID=1196 (last visited May 12, 2017); see also *THE MEMPHIS DIARY OF IDA B. WELLS: AN INTIMATE PORTRAIT OF THE ACTIVIST AS A YOUNG WOMAN* 121 (Miriam DeCosta-Willis ed., 1995) (noting the appointment of Settle to the Shelby County position).

143. See Karen Leroux, *With Allies, Some Women Lawyers Overcame the Odds*, 97 JUDICATURE 206, 207 (2014) (on the importance of “finding and cultivating male allies” to the careers of early American women lawyers).

144. Connolly, *supra* note 94, at 7–8 (“Lutie A. Lytle also became the first black woman admitted to the Kansas bar.”).

145. *The Only Colored Woman Lawyer*, WEEKLY NEWS AND COURIER (Charleston, S.C.), Aug. 25, 1897, at 16 (noting in a wire article that the city of Topeka “ha[d] the distinction of being the home of the only colored female lawyer in America” and that Lutie “proposed to make enough

The *Newark Daily Advocate*, for example, emphasized the young woman's ambition and political savvy, noting:

Miss Lytle does not mean to depend on fees alone. She has designs on some of the offices which the state legislature has to dispose of and she means to break into politics. She does not choose Kansas as her field of operations merely because it is her home, but mainly on account of the fact that in the Sunflower State her sex will be less of a handicap than in other commonwealths.¹⁴⁶

Echoing the *Advocate's* sentiments, the *Leavenworth Herald* praised as "sensible" Lutie's decision to set up a law office in Topeka: "Miss Lutie Lytle . . . has opened a law office in Topeka, instead of going to New York, or to Washington, where her ambition would have been crushed by a lack of appreciation of her talents."¹⁴⁷

Notwithstanding this popular belief that Topeka presented the best array of opportunities for the young lawyer, in October 1897, a Minnesota newspaper reported that Lytle, "the colored woman lawyer of Kansas," was relocating to Chicago and seeking a law partner.¹⁴⁸ The paper bitinglly added, "[t]he young lawyers of Chicago are not expected to all speak at once."¹⁴⁹ Perhaps intended as satire, the paper's commentary on Lutie's prospects in law practice was not off the mark. By 1897, Lutie was one of only a few women nationwide who were admitted to practice law. The structural limitations placed on the career trajectories of these early American women lawyers could be fatal to their efforts to build a viable practice (as seen in the life and work of Charlotte Ray).¹⁵⁰

Perhaps discouraged by the weak prospects of a relocation to Chicago, Lutie remained in Topeka and made plans to enter political life.¹⁵¹ A Kansas newspaper noted that Lutie—"whose ambition is almost without limit"—saw

money lecturing to fit up a law office with a library and furniture. Next year she expects to enter the practice of law in Topeka."). Lutie was not the first black woman to graduate law school. That distinction goes to Charlotte E. Ray, an 1872 graduate of Howard University School of Law. See *supra* notes 127–28 and accompanying text.

146. *Colored Woman Lawyer*, *supra* note 80.

147. *Multiple News Items*, LEAVENWORTH HERALD, Oct. 16, 1897.

148. *Bulletin of the St. Paul Globe*, SAINT PAUL GLOBE, Sept. 20, 1897, at 1.

149. *Id.*

150. In her article on the founding of Washington College of Law, Mary Clark identifies two prototypical paths for women entering law practice in the late nineteenth century: Women either remained single, pursued formal legal education, and entered the profession upon graduation, or women "entered the legal profession by marrying a lawyer and working in his practice." Clark, *supra* note 115, at 631. Lutie Lytle embodied both prototypes in her life and work: She began her career as a single woman, recently graduated from law school, and subsequently married a prominent lawyer and worked together with him in his already-established practice. On Charlotte Ray, see *supra* notes 125–27 and accompanying text.

151. *Bright Young Woman*, *supra* note 80, at 2.

the practice of law as a “stepping stone” to a career in politics.¹⁵² When asked, Lutie explained her commitment to deploying her law degree in the service of racial uplift:

I like constitutional law because the anchor of my race is grounded on the Constitution It is the certificate of our liberty and our equality before the law. Our citizenship is based on it, and hence I love it In connection with my law practice I intend to give occasional lectures, but not in any sense for personal benefit. I shall talk to my own people and make a sincere and earnest effort to improve their condition as citizens.¹⁵³

In her work in the years following her admission to the bar, Lutie Lytle committed her efforts to “improve [black Americans’] condition as citizens.”¹⁵⁴ For example, she delivered public lectures on legal and social issues, and garnered a reputation as an “able” orator.¹⁵⁵ Becoming a law professor was part of that project. In October 1898, a year after her graduation from law school and her unsuccessful attempt to establish a solo practice, Lutie was appointed as an instructor of Matrimonial Law at her alma mater, Central Tennessee College.¹⁵⁶

Lutie’s life and work are exemplars of the black “feminist intelligentsia” that emerged in the late 19th century among college-educated black women.¹⁵⁷ In her politics and activism, Lutie’s work lay at the intersection of feminism and black self-determination. Although she did not pursue elected office, Lutie maintained an active, engaged political life. Her sustained involvement in, and leadership of, organizations formed and advocating for the advancement of women and African-Americans evinces her own beliefs in the equality of the sexes and the need to champion opportunity and equality

152. *Id.*

153. Athon, *supra* note 82, at A12 (quoting an 1897 interview with Lytle); *see also* Lutie Lytle’s Views, LEAVENWORTH HERALD, Oct. 2, 1897 (quoting a letter Lytle wrote to the New York Sunday Journal).

154. Athon, *supra* note 82, at A12.

155. *Local Mention*, COLORED CITIZEN (Topeka, KS), Dec. 16, 1897, at 7 (Lytle “spent last week in Kansas City, where she delivered a lecture on ‘marriage and divorce.’ The American Citizen says it was ably delivered and well received.”).

156. That same year, Lutie’s younger brother Jesse stood trial for violating local liquor laws. When the prosecution’s witness recanted his earlier statements and testified at trial that “he could not tell whether he bought the whisky of Jess Lytle or some one [sic] else,” the District Attorney dismissed the case. *Couldn’t Remember Who Sold It*, TOPEKA ST. J., Apr. 16, 1898, at 4.

157. *See* BARBARA OMOLADE, THE RISING SONG OF AFRICAN AMERICAN WOMEN 117–28 (1994) (tracking the rise of a black feminist intelligentsia “[s]ince the 1960s” and arguing that the civil rights movement of the mid-20th century “provided the necessary environment and condition for creating a Black feminist intelligentsia”); J. Clay Smith Jr., *Introduction: Law Is No Mystery to Black Women*, in REBELS IN LAW: VOICES IN HISTORY OF BLACK WOMEN LAWYERS, 5 n.24 (J. Clay Smith Jr. ed., 1998) (extending the term to “include the voices in history of black women during segregated nineteenth- and twentieth-century eras”).

for blacks in the US.¹⁵⁸ Even before beginning her legal studies, Lutie had been among the regional representatives at the December 1895 Atlanta Congress of Colored Women, a gathering of “the leading women of the race” in association with the Cotton States and International Exposition in Atlanta. The 100-day “Atlanta Exposition” was intended to boost flagging cotton production throughout the region by promoting technological and cultural advances along with international trade.¹⁵⁹ The meeting of the Women’s Congress at the Atlanta Exposition was significant because it marked the continued growth, influence, and visibility of the nation’s “colored women’s clubs.” Beginning in the 1880s, middle- and upper-class black women in Boston, Washington, D.C., and other urban centers began organizing their efforts for the collective uplift of people of African descent in the U.S.¹⁶⁰ While their work targeted the moral failings of poor blacks for particular derision,¹⁶¹ these women’s clubs also worked on settlement houses,¹⁶² anti-lynching campaigns,¹⁶³ desegregating public carriers,¹⁶⁴ labor advocacy (particularly for black women working as domestics),¹⁶⁵ and criminal justice reform.¹⁶⁶

158. See *infra*.

159. December 26, 1895—known as “Negro Day” at the Exposition—saw thousands of guests in attendance from all over the region. See *This is Negro Day*, ATLANTA J. CONST., Dec. 26, 1895, at 5 (reporting the arrivals of “Great Crowds of Negroes from Georgia and Other Southern States”); *Negro Day at Atlanta*, COLUMBUS WKLY. ADVOC., Jan. 2, 1896, at 2 (reporting attendance of 5,000 people); Bishop Atticus G. Haygood, *A Christmas Letter from the South*, INDEP., Jan. 9, 1896, at 2 (reporting that “40,000 to 50,000” people attended Negro Day).

160. See generally Gerda Lerner, *Early Community Work of Black Club Women*, 59 J. NEGRO HIST. 158 (1974).

161. See Dorothy E. Roberts, *Black Club Women and Child Welfare: Lessons for Modern Reform*, 32 FLA. ST. U. L. REV. 957, 962–63 (2005) (“[Black club women] waged a campaign of respectability intended both to train poor and working-class Black women in bourgeois culture and to show whites that Black women were capable of this civility.”). At the Atlanta Congress of Colored Women, a “Social Purity” resolution requiring “the same standard of morality for men as for women, and that the mothers teach their sons social purity as well as their daughters.” WILSON JEREMIAH MOSES, *THE GOLDEN AGE OF BLACK NATIONALISM, 1850–1925*, at 123 (1988) (footnote omitted).

162. See Lerner, *supra* note 160, at 160.

163. See Roberts, *supra* note 161, at 961 (describing club women leader Mary Church Terrell’s vision for an integrated agenda: “‘Against lynching, the convict lease system, the Jim Crow car laws, and all other barbarities and abuses which degrade and dishearten us,’ as well as advocacy for employing workers and patronizing businesses within the Black community” (quoting Mary Church Terrell, *The Duty of the National Association of Colored Women to the Race*, AME CHURCH REV., Jan. 1900, at 340, 353)).

164. *Id.*

165. *Id.* at 968–70 (detailing the advocacy efforts of black club women on behalf of women workers, especially domestic workers).

166. See *id.* at 961; see also CHERYL D. HICKS, *GENDER AND AMERICAN CULTURE: TALK WITH YOU LIKE A WOMAN: AFRICAN AMERICAN WOMEN, JUSTICE, AND REFORM IN NEW YORK, 1890–1935*, at 99 (2010) (“Situating themselves as these women’s moral and social superiors, black clubwomen were concerned with the effects of working women’s urban presence on race progress.”).

The Atlanta Exposition presented a unique opportunity to leverage the attendance of representatives from women's clubs throughout the nation for increased regional, national, and international visibility. Through their participation in the Exposition, it was expected that southern blacks could demonstrate to whites (and the world) how much racial advancement and progress had been achieved in the years since Emancipation.¹⁶⁷ Black club women, in particular, could use the convening of the Exposition to place domesticity and respectability at the center of the racial uplift project.¹⁶⁸ This opportunity was not lost on the representatives at the women's congress. Among the subjects discussed at the gathering were (1) "[t]he need of rescue work among our people by our women"; (2) "[t]he establishment of Christian homes and asylum for our fallen and wayward"; (3) "[t]he need of a national paper for colored women"; and (4) continued efforts regarding "[t]he separate car law, [p]rison reforms[,] [t]he plantation woman and child, [and] the John Brown Memorial Association."¹⁶⁹ As a young woman attending the Exposition and women's congress, Lutie would have been exposed to the work and speeches of the nation's black political and educational leaders, including Booker T. Washington, President of the Tuskegee Institute. On September 18, 1895, the first day of the Exposition, Washington delivered his controversial "Atlanta Compromise" speech, extolling "an accommodationist strategy for race relations that encouraged blacks to accept gradual economic and social advancement."¹⁷⁰

In a departure from the models of refined domesticity provided by the club women, however, Lutie's brand of feminism and race-consciousness focused on the potential for black women to excel *outside* of their homes.¹⁷¹ Her own achievements had been forged in a crucible of intersectionality and

167. JEROME R. RILEY, *THE PHILOSOPHY OF NEGRO SUFFRAGE* 71 (1897) ("To our mind, this [Atlanta Exposition] effort should form a grand and successful epoch in the history of our race development, so that our brothers and sisters, throughout the South especially, will gratefully remember this work, which must stand as one of the initial steps toward a higher civilization . . . then we shall obtain a knowledge concerning our progress, and grounds for future hope will be made practically apparent.").

168. See MOSES, *supra* note 161, at 103–31 (tracing the rise of the colored women's club movement, including the clubs' association with the Atlanta Exposition).

169. *The Reasons for the Organization of Nat'l Association of Colored Women*, CHI. DEFENDER, May 1, 1937, at 8.

170. ALAN SCHROEDER & ANNE BEIER, *BOOKER T. WASHINGTON: EDUCATOR AND RACIAL SPOKESMAN* 76 (2005); *A Plea for His Race: Booker T. Washington Tells About the Efforts of the Negro*, CONST., Sept. 19, 1895, at 4.

171. In the late 1920s, Lytle was also "an active member of the National Association of Colored Women, representing the northern region of the Transportation Committee." Smith, *supra* note 157, at 6 n.29. While living in New York, Lutie was also active in the Ladies Auxiliary of the Urban League. See Bessye J. Bearden, *Tid-Bits of New York Society*, CHI. DEFENDER, Mar. 17, 1928, at 10 (reporting Lytle's attendance at a Women's Auxiliary monthly luncheon and lecture on "Municipal Government").

opportunity, and Lutie encouraged other women to pursue their dreams. In a 1902 essay written in the *New York Age*, for example, Lytle urged other women to further their professional pursuits—for the lawyer and former professor, basic literacy and numeracy were merely means to higher ends: “A number of our young women are under the impression that to read and write well and to possess knowledge of arithmetic is all that is necessary.”¹⁷² Such refinements were needed, according to Lytle, but she believed black women could be and do more. She noted: “We should remember that different ages demand different qualifications,” and that the “spirit of the time” demanded that women reach higher.¹⁷³ Lutie Lytle was effectively calling on black women, in 1902, to “lean in,”¹⁷⁴ notwithstanding the structural barriers poised to limit their advancement.

Economic opportunity and advancement was central to Lytle’s vision of uplift. In 1897, she, like her huckster father before her, pushed for increased access to consumer markets for black citizens.¹⁷⁵ In an interview with the *Colored Citizen*, Lytle emphasized how, even outside of the South, segregation and persistent discrimination functioned to limit black market access and to degrade black buying power and credit:

In the north the colored people are given all the privileges of spending money, but not of earning it. In the south the colored people are given the priv[i]lege of earning money but not of spending it. What I mean is this: In the south the white people give our people employment side by side with themselves in a most generous spirit, but they are not allowed to spend money side by side with them in the opera house, in the restaurant, in the street car, nor even in the saloon. In the north the people are niggardly in giving the colored people a chance to earn a dollar, but they are generous in allowing them to spend it, elbow to elbow with them at the theater or anywhere else.¹⁷⁶

In her own professional life, Lutie did not establish a regular law practice until she moved to New York City, and only then with her husband Alfred C. Cowan as her partner.¹⁷⁷ Cowan, a graduate of Boston University and New

172. *Good Advice*, TOPEKA DAILY CAP., Mar. 23, 1902, at 14.

173. *Id.*

174. This terminology is taken from SHERYL SANDBERG, *LEAN IN: WOMEN, WORK, AND THE WILL TO LEAD* (2013).

175. LEAVENWORTH HERALD, Oct. 9, 1897.

176. COLORED CITIZEN (Topeka, KS), Oct. 7, 1897.

177. In 1899, the *Plattsburgh Republican* reported that Lutie was considering starting her practice in Pittsburgh, Pennsylvania. This plan, however, never materialized. See PLATTSBURGH REPUBLICAN (Plattsburgh, NY), Nov. 11, 1899, at 1 (“Miss Lutie A. Lytle, one of the two colored female lawyers in the United States proposes to settle in Pittsb[urgh].”).

York Law School,¹⁷⁸ often represented plaintiffs in cases challenging racial discrimination in New York City.¹⁷⁹ In 1895, for example, Cowan represented two men who had been refused service at Mohrmann's Saloon in New York City because of their race.¹⁸⁰ At the time, New York City law required that "in all public places, such as hotels, restaurants, barrooms, etc., colored people shall be allowed the same privileges as white men."¹⁸¹ Cowan also represented black parents in Jamaica, Queens who sought to enroll their children in the segregated local public schools of that village.¹⁸²

In addition to his bustling commercial and civil rights practice, Cowan was also an investor and officer in West African mining and agricultural concerns: He served as President and Director of the African Mining & Real Estate Company.¹⁸³ In 1908, representing the company at the Ninth Annual Convention of the National Negro Business League in Baltimore, Cowan advocated for the strategic exploitation of Africa's rich natural resources by black Americans, proclaiming: "It is high time that we Colored Americans should become interested too, and secure some of the great fortunes to be acquired in the development of Africa . . ."¹⁸⁴ The business expanded rapidly, and in 1909, the company reported assets valued at \$4 million.¹⁸⁵ The following year, the firm advertised a stock offering for investors interested in its 12,800 acres of "rubber and cocoa plantations and placer gold mines" in Accra, Gold Coast (now Ghana).¹⁸⁶

178. See *Cowan After Plum*, N.Y. AGE, Jan. 5, 1905, at 1 (describing Cowan as "the well-known, able, ag[g]ressive and successful practitioner"). The *New York Age* article included reprinted endorsements from prominent members of the New York bar, including two state court judges, as well as two of Cowan's law school classmates. *Id.*; see also *Alfred C. Cowan Dies Suddenly*, N.Y. AGE, Sept. 11, 1913, at 1 (reporting Cowan's death and his attendance at Boston University).

179. See William H. Manz, *Desegregation in New York: The Jamaica School War, 1895-1900*, 76 N.Y. ST. B. ASS'N J. 10, 11 (2004) (detailing Cowan's anti-discrimination practice).

180. *Equal Rights Law Tested*, BROOK. DAILY EAGLE, July 2, 1895, at 4.

181. *Id.*

182. In October 1895, the New York Supreme Court ruled that the equal rights law passed by the New York legislature did not apply to schools, and that "[i]t is not unlawful to provide separate schools for colored and white children . . ." *Negroes and Public Schools*, N.Y. TIMES, Oct. 15, 1895, at 1. See also Manz, *supra* note 179, at 11 (detailing Cowan's representation of the saloon patrons and his strategy in the Jamaica school desegregation case).

183. See TROW DIRECTORY, PRINTING AND BOOKBINDING COMPANY, TROW'S GENERAL DIRECTORY OF THE BOROUGH OF MANHATTAN AND BRONX 8 (Mar. 1909) (listing Cowan as President and Director).

184. NAT'L NEGRO BUS. LEAGUE, REPORT OF THE NINTH ANNUAL CONVENTION 194 (1908); see also *id.* at 271 (listing Cowan among the New York state delegates to the convention). The National Negro Business League was founded by Tuskegee Institute Founder Booker T. Washington. See *id.* at ix (noting that the group "had its origin in the South, at TUSKEGEE, in the brain of our intrepid president, Dr. Booker T. Washington") (emphasis in original).

185. *Id.* (valuing the corporation's "capital" at \$4,000,000).

186. *He Who Hesitates is Lost*, WASHINGTON BEE (D.C.), Mar. 12, 1910, at 8.

Beyond his legal practice and entrepreneurialism, Alfred Cowan was deeply involved in local party politics in New York City. In September 1897, he had sought the office of U.S. District Attorney for the Eastern District of New York,¹⁸⁷ and newspapers reported that his candidacy was supported by “the Kings County assemblymen, Mayor Wurster and Congressmen Hurley and Howe,” along with the Colored Republican Association of the State of New York.¹⁸⁸ An article in the *Brooklyn Daily Eagle* reported that Cowan “is the only colored Republican in the state who has the indorsement [sic] of the race as a whole.”¹⁸⁹ After Cowan’s candidacy failed to garner the support of Brooklyn’s white Republicans—it was said at the time that Cowan “[did] not seem to be very well known to the leaders”¹⁹⁰—his candidacy stalled. In response to the perceived withholding of support for the popular Cowan, the black Republicans in Cowan’s district subsequently lobbied for him to seek congressional office.¹⁹¹ Later, in 1905, Cowan pursued the office of Deputy Attorney General of the State of New York.¹⁹²

In September 1913, Alfred Cowan died suddenly while the couple was traveling in Norfolk, Virginia.¹⁹³ After his death, his widow, Lutie, maintained the law practice, securing at least one trial victory in federal court.¹⁹⁴ In *Foster v. Bucknall Steamship Lines*, the Cowans represented the heirs of Albert J. Foster, who had been crushed to death by a load of iron pipe after a defective rope used to secure the load broke.¹⁹⁵ Following a jury verdict in favor of the

187. *A Brooklyn Candidate*, BROOK. DAILY EAGLE, Sept. 12, 1897, at 1 (“A colored aspirant for the position of United States District Attorney for the Eastern District of New York has appeared in the person of Alfred C. Cowan of Brooklyn.”).

188. *Id.*

189. *Id.*

190. *A Thinning of Local Candidates for Federal Offices*, BROOK. DAILY EAGLE, Apr. 5, 1897, at 16.

191. *Colored Republicans Rebel*, N.Y. TIMES, Oct. 7, 1898, at 2 (reporting that Cowan’s candidacy was “the result of the failure of the party leaders to recognize the colored Republicans of the district”).

192. *See Cowan After Plum*, *supra* note 178, at 1 (detailing Cowan’s run for office).

193. *Alfred C. Cowan Dies Suddenly*, *supra* note 178, at 1. Cowan was buried in Brooklyn’s Evergreen Cemetery. *See Counselor A. C. Cowan’s Funeral*, N.Y. AGE, Sept. 18, 1913, at 8. After Cowan’s death, Lutie married Rev. Stephen McNeill in 1916. McNeill was an elder in the African Methodist Episcopal Church and a church pastor in Harrisburg, PA, and, later, Peekskill, NY. This marriage lasted for eighteen years, until Rev. McNeill’s death in 1934 (although it is unclear whether the couple continued living together in the years preceding McNeill’s death). *See Out of Town Correspondence: Poughkeepsie, N.Y.*, N.Y. AGE, May 9, 1931, at 8 (“The Rev. Stephen McNeill, presiding elder of the Hudson River District of the A.M.E. Zion Church, preached an able sermon at the local church Sunday, April 26.”); *Rev. Stephen McNeill*, EVENING NEWS (Harrisburg, PA), Mar. 29, 1934, at 12 (providing McNeill’s obituary).

194. *Mrs. Cowan Wins Case*, N.Y. AGE, Apr. 2, 1914, at 8; *Woman Lawyer, Former Topekan, Wins Suit: Mrs. Lutie Lytle-Cowan Gains Fame in East as Counselor*, TOPEKA DAILY CAP., Apr. 22, 1914, at 4.

195. *Foster v. Bucknall S.S. Lines*, 206 F. 415, 416 (2d Cir. 1913) (“[W]hile a sling of iron pipe was being swung in, the hauling part of the after port guy rope broke and the load swung over and crushed the plaintiff’s intestate against a ladder, causing his death.”).

heirs, the trial court set aside the verdict on the grounds that since defendant had no “actual notice . . . of a latent defect in the rope,” no action could lie as a matter of law.¹⁹⁶ On appeal, the Second Circuit reversed, finding that employers retain a duty to provide safe working conditions, even when purchasing items on the open market for use by workers and notwithstanding whether or not the employer had actual notice of a defective tool or instrument.¹⁹⁷ The court reasoned “it would be placing a premium upon recklessness to release the master in cases where the defect which causes the injury was not known to him, but could have been discovered had he exercised reasonable care.”¹⁹⁸ The case was remanded for a new trial in the months after Alfred Cowan’s death, and the recently widowed Lutie served as lead counsel for the plaintiffs.¹⁹⁹ After a five-day trial in March 1914, a second jury awarded the Foster heirs \$9,000.²⁰⁰

During this time, the former law professor remained active with organizations concerned with racial progress. In 1911, she was selected to serve as a delegate to the National Negro Educational Congress in Denver, Colorado.²⁰¹ In addition, she was active in the Sunrise Club, an interracial philanthropic organization in New York City.²⁰² Lutie was also a leader within the “Universal Negro Improvement Association, Inc.,” an offshoot of the Universal Negro Improvement Association (“UNIA”).²⁰³ Founded by Marcus Garvey in 1914, UNIA was one of the largest mass movements in African-American history.²⁰⁴ Proclaiming a black nationalist “Back-to-Africa”

196. *Id.*

197. *Id.* at 417–18.

198. *Id.* at 418.

199. *Mrs. Cowan Wins Case*, *supra* note 194, at 8; *Woman Lawyer, Former Topekan, Wins Suit*, *supra* note 194, at 4. The second jury award was \$500 higher than the first. *See Foster*, *supra* note 196, at 416.

200. *Mrs. Cowan Wins Case*, *supra* note 194, at 8; *Woman Lawyer, Former Topekan, Wins Suit*, *supra* note 194, at 4.

201. *Mrs. Lutie Lytle Cowan Is One of the Delegates from New York to the Educational Congress to be Held in Denver Next Month*, TOPEKA PLAINDEALER, Aug. 4, 1911, at 5. The gathering was, however, waylaid by the color line when hotels in the city refused to lodge the visiting delegates. *Color Line Being Drawn at Denver*, SALT LAKE TRIB., Aug. 12, 1911, at 4. It is unknown whether Lytle-Cowan attended the gathering, given the lodging limitations.

202. *Greed and Desire to Exploit, Back of Race Problem*, N.Y. AGE, Feb. 19, 1927, at 2 (“The Sunrise Club is made up largely of liberal thinking people of both races . . .”); *Women Plan Baths to Aid Unemployed*, N.Y. TIMES, Mar. 19, 1922, at 33 (reporting on the founding of the Sunrise Club).

203. “UNIA, Inc.” was just one of multiple breakaway organizations founded in opposition by former members of Garvey’s UNIA. One of these factions was the Pacific Coast Negro Improvement Association, operating in and around Los Angeles. *See generally* UNIVERSAL NEGRO IMPROVEMENT ASS’N, DETAILED REPORT OF SUNDAY’S MEETING AT LIBERTY HALL (1920), *reprinted in* 2 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 551 (Robert A. Hill ed., 1983).

204. Mark Christian, *Marcus Garvey and African Unity: Lessons for the Future from the Past*, 39 J. BLACK STUD. 316, 322 (2008).

message,²⁰⁵ Garvey and the UNIA established 700 branches (and a reputed 3,000,000 followers) in 38 states, Africa, Europe, and the Caribbean by the early 1920s.²⁰⁶ After Garvey relocated the group's headquarters from New York to Jamaica following his 1927 deportation, UNIA's New York City membership splintered into numerous distinct organizations, including the "Garvey Club" and "UNIA, Inc."²⁰⁷ Lutie Lytle joined UNIA, Inc., and in 1934, the group's membership elected her to the office of Assistant International Organizer, a position that required extensive international travel and organizing.²⁰⁸

205. Ben F. Rogers, *William E.B. DuBois, Marcus Garvey, and Pan-Africa*, 40 J. NEGRO HIST. 154, 161 (1955) (describing Garvey's "Back-to-Africa" campaign).

206. *Hon. Marcus Garvey Speaks*, NEGRO WORLD, Apr. 29, 1920, *reprinted in* 11 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 641, 645 (Robert A. Hill ed., 1983) (transcribing Garvey's remarks: "Two years ago we started in New York with 13 men and women; to-day we are 3,000,000 strong").

207. *See UNIA Declaration of Rights*, NEGRO WORLD, Sept. 11, 1920, *reprinted in* 12 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 32, 47 n.66 (Robert A. Hill et al. eds., 2014) (characterizing UNIA, Inc. as "the New York group that split with Garvey after Garvey moved his headquarters to Jamaica"). Writing in 1934, a representative for UNIA, Inc. attributed the split to the 1929 International UNIA Convention held in Kingston: "This was the parting of the ways, the American delegates to the 1929 convention in Kingston could not agree to Mr. Garvey's proposals and returned to New York before the convention was over." [*U.N.I.A., Inc.*] *Says Garvey Is No Longer Head of Parent Body of U.N.I.A., Inc.*, NEGRO WORLD, July 7, 1934, *as reprinted in* 7 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 587, 587 (Robert A. Hill et al. eds., 1990). By 1939, there were six different UNIA groups in the New York metropolitan area. *See* Letter from A.L. King to Marcus Garvey (Apr. 28, 1939), *in* 7 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 912, 914 n.1 (Robert A. Hill et al. eds., 1990). Leaders of UNIA, Inc., Lutie Lytle's club, rejected Garvey's claim of international leadership and "sole administrative authority" in the organization. 7 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS, *supra*, at xlv. As a breakaway group, UNIA, Inc. held its own convention in 1932 and "maintain[ed] its independence from the Jamaica-based organization." *Id.* at xlv-xlv. At the 1929 UNIA convention in Kingston, Jamaica, Marcus Garvey remarked that "the UNIA Incorporated was not in any way connected with" Garvey's international organization. *Sabers Used in Fight of Negro Factions*, N.Y. TIMES, June 24, 1929, *reprinted in* 7 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS, *supra*, at 307 n.1 (Robert A. Hill et al. eds., 1990). By 1941—Garvey had died in June 1940—UNIA, Inc. "had no active members." *The Universal Negro Improvement Association and African Communities' League*, CLARION (Apr. 29, 1920), *as reprinted in* 11 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 632, 639 n.5 (Robert A. Hill et al. eds., 2011). On Garvey's death, see *Negro Leader is Dead in London*, CLEV. PLAIN DEALER, June 11, 1940, at 14.

208. *See Woman Elected Head of UNIA at Annual Meeting*, NORFOLK J. GUIDE, Sept. 1, 1934, at 5 (listing officers elected at annual meeting). International organizers in UNIA traveled among the organization's non-U.S. chapters to meet with members, distribute information, and garner local support. In 1919, for example, International Organizer Henrietta Vinton Davis had traveled to the Panama Canal Zone and Costa Rica to cultivate support for Garvey's movement among the region's black residents (many of whom were migrant workers from Jamaica). *See* 11 THE MARCUS GARVEY AND UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION PAPERS 470–87, 492–94 (Robert A. Hill et al. eds., 2011) (detailing Davis's travels and the efforts of US consular and intelligence agencies, Costa Rican elected officials, and the United Fruit Company, to surveil Davis and restrict

Lytle's earlier exposure to (and experience with) the African Mining and Real Estate Company likely influenced her commitment to establishing sustainable social and commercial links throughout the African diaspora. Among the mining company's Directors had been Henry McNeal Turner, a bishop of the African Methodist Episcopal Church and proponent of Black Nationalism.²⁰⁹ As observed by historian Edwin S. Redkey: "In the years between Reconstruction and World War I the chief prophet of black nationalism was Bishop Henry McNeal Turner (1834-1915), who urged his people to go to Africa."²¹⁰ Either directly, or through Cowan, Lytle's relationship with Bishop Turner may well have influenced her thinking on the prospects of African development and resettlement for black Americans.

Lutie continued using Cowan's surname as her own throughout her career, even after she had been married and widowed for a second time.²¹¹ By linking herself to Alfred Cowan's legacy, Lutie could maintain a foothold for herself in New York party politics and progressive circles. In the 1930s and early 1940s, for example, Lutie was active in the Regular Colored Democratic Association, an organization of black Brooklynites involved in Democratic Party machine politics in New York City in the first half of the twentieth century.²¹² The group maintained offices at 417 Carlton, in the Fort Greene section of Brooklyn, and at 4-5 Court Square, in the borough's downtown.²¹³ Wesley L. Young led the organization from the 1910s through 1941.²¹⁴ In the late 1930s, Lutie Lytle (the former Populist who, along with her first husband, allied herself with Republican Party politics) worked alongside the octogenarian Young, even serving as his private secretary and personal

her physical movement in the region). In 1934, when Lutie was elected Assistant International Organizer of UNIA, Inc., Davis was elected President General. *See Woman Elected Head of UNIA at Annual Meeting, supra*.

209. Edwin S. Redkey, *Bishop Turner's African Dream*, 54 J. AM. HIST. 271, 271-72 (1967); *see also* J. J. PIPKIN, THE STORY OF A RISING RACE: THE NEGRO IN REVELATION, IN HISTORY AND IN CITIZENSHIP 98 (1902) ("[Turner] has been one of the principal agitators of the return of his race to Africa, and has organized four Annual Conferences in Africa—one in Sierra Leone, one in Liberia, one in Pretoria, and one in Queenstown.").

210. Redkey, *supra* note 209, at 271.

211. *See Kelly Fete Attended by Negro Democratic Group*, N.Y. AGE, Feb. 8, 1941, at 7 (identifying "Lutie Ly[t]le Cowan" as the "head of the Negro forces of the Democratic Party in Kings County").

212. *See Colored Democrats Open Campaign*, N.Y. AGE, Sept. 17, 1932, at 3 (reprinting the Regular Colored Democratic Association's open letter "[t]o [t]he Colored Voters of Kings County" urging "the unqualified support of the principles and interests of the Democratic party").

213. *See Wood Censured by Brooklyn Democrats*, N.Y. AGE, Feb. 27, 1913, at 1 (reporting on a large event held "at the organization's club rooms, 417 Carlton [A]venue, Brooklyn"); *Mourning at 4-5 Court Square*, BROOKLYN VISUAL HERITAGE, <http://www.brooklynvisualheritage.org/mourning-4-5-court-square> (last visited Apr. 3, 2017) (showing a photograph of the Kings County Democratic Committee headquarters building draped in black in honor of the death of President Franklin D. Roosevelt).

214. *Wood Censured by Brooklyn Democrats, supra* note 213, at 1 (identifying Young as "the colored Democratic leader in Kings County").

representative in Democratic party matters.²¹⁵ In this capacity, Lutie was actively involved in garnering support for Democratic political candidates, and for raising political awareness in black Brooklyn.²¹⁶ In 1938, for example, Lytle headed a campaign to energize the party's black electorate;²¹⁷ an article praising the initiative referred to her as "the well known woman leader."²¹⁸ By 1941, the Association had a "co-leader" in Lutie Lytle.²¹⁹

VI. CONCLUSION

This 1941 reference to Lytle's position as "co-leader" in the Regular Colored Democratic Association may be the last reference to her in the extant public record. An exhaustive search has uncovered no further public mention of Lutie Lytle beyond 1941. Although it is believed that Lutie died between 1941 and 1950, no record of her death appears in either the Social Security Death Index,²²⁰ the Index to New York City Deaths (where her younger sister, Corrine, is listed),²²¹ or the California Death Records Index (where her younger brother, Charles, is listed).²²² As a result, it is difficult to confirm precisely where and when Lytle died and where her final resting place lies.²²³ Lutie Lytle's final years, like much of her life, have been lost to history.

The fragmentary extant archive of Lytle's life frustrates efforts to learn more about her and her milieu. Central Tennessee College no longer exists, and its surviving records are scarce. The Lytle family does not have collected papers that are available for researchers to peruse. When Lutie's father John Lytle died in 1933, four of his children survived him: Charles,²²⁴ Jesse,

215. See *Leibowitz is Main Speaker at Meeting*, N.Y. AMSTERDAM NEWS, Nov. 26, 1938, at 17 (noting that Lutie was heading the committee arranging for the visit of "Scottsboro Boys" defense counsel Samuel S. Leibowitz); *Phalanx Club Installs Its New Officers*, N.Y. AMSTERDAM NEWS, June 19, 1937, at 11 (identifying Lutie M. Cowan as "Young's private secretary").

216. See *Brooklynites Tender Honor to Attorney*, N.Y. AMSTERDAM NEWS, Dec. 18, 1937, at 11 (describing event chaired by Lutie in which "one of the oldest practitioners of the Pennsylvania bar" visited Brooklyn and was feted by the Colored Democratic Club).

217. *Democrats of Kings County Busy in Drive*, N.Y. AMSTERDAM NEWS, Nov. 5, 1938, at 4 ("The campaign to reach the colored voters is being directed by Mrs. Lutie Lytle Cowan, the well known woman leader . . .").

218. *Id.*

219. See *Kelly Fete Attended by Negro Democratic Group*, *supra* note 211, at 7 (identifying Lytle as "Mr. Young's co-leader").

220. *U.S., Social Security Death Index, 1935-2014*, ANCESTRY, <http://search.ancestry.com/search/DB.aspx?dbid=5180> (last visited May 12, 2017).

221. *New York, New York, Death Index, 1862-1948*, ANCESTRY, <http://search.ancestry.com/search/db.aspx?dbid=9131> (last visited May 12, 2017).

222. *California, Death Index, 1940-1997*, ANCESTRY, <http://search.ancestry.com/search/DB.aspx?dbid=5180> (last visited May 12, 2017).

223. Lytle is not buried in the Alfred Cowan plot at Evergreen Cemetery. See *Letter to Author from Evergreen Cemetery*, 2016 (on file with author).

224. Charles Lytle pursued a career in law enforcement, serving as a court marshal, deputy sheriff, and for the U.S. Marshal Service before opening two barbershops and a drugstore in the

Corrine, and Lutie.²²⁵ Thirty-six years later, when Lutie's brother Charles Lytle died in 1969, an obituary in the *Los Angeles Sentinel* was silent on his older sister:²²⁶ Among Charles Lytle's survivors were listed only his four children—including a daughter named Lutie—and “one sister, Miss Corrine Lytle of Brooklyn, N.Y.”²²⁷ When younger sister Corrine Lytle died in September 1979 at the age of 89, she was unceremoniously buried on Hart Island in the City of New York's Potters (Paupers) Field.²²⁸ It is unknown whether Lutie remained in New York City with Corrine (who had moved from Topeka to join her older sister in Brooklyn), or whether Lutie's life took her down another path, out of New York, and out of the historical record.

Like the lost final years of this remarkable woman's life, the stories of pioneering female law professors remain under told. After Lytle's graduation from Central Tennessee, no black women graduated from any Tennessee law school until 1939.²²⁹ Moreover, after Lytle's time on the faculty at Central Tennessee, it was 27 years before another black woman lectured at any of the nation's accredited law school. That year, in 1925, Ollie May Cooper began teaching at Howard “without pay and recognition.”²³⁰ In a cruel irony, the first woman to teach at Howard—the only Washington, D.C. law school to admit women at the close of the nineteenth century—may have received no pay for her work. After Cooper, it was 16 more years until a third black woman, H. Elsie Austin, entered the professoriate (at Robert H. Terrell Law School, named after Washington, D.C.'s first black judge).²³¹

city. *Lytte Resignation?*, TOPEKA DAILY ST. J., June 1, 1914, at 4. He later worked as a police detective from 1913–1915. *Detective Lytte Resigned to Accept Court House Job*, TOPEKA ST. J., Jan. 2, 1915, at 4. Lytle earned a reputation on the Topeka police force “for his ability to draw out confessions from suspected persons.” *Id.* (noting that Lytle “ferreted out several important thefts, robberies, burglaries and other affairs where apparently no traces of the offender had been left”); *see also They Left the Whisky*, TOPEKA ST. J., May 6, 1913, at 7 (praising Lytle's detective work in a bootlegging investigation). After his 1915 resignation from the force, Lytle served as a court marshal. *On Chunk of Mud*, TOPEKA DAILY ST. J., Feb. 11, 1915, at 6 (summarizing trial testimony of “Charles Lytle, former city detective and now assistant marshal of the court of Topeka”).

225. *See John R. Lytle*, TOPEKA ST. J., Dec. 30, 1933, at A10.

226. *Hold Rites for Charles Lytle*, LOS ANGELES L.A. SENTINEL, Oct. 16, 1969, at A9.

227. *Id.*

228. *See* Hart Island Lookup Service, N.Y.C. DEP'T OF CORR., <http://ao73-hartisland-web.nyc.gov/hartisland/pages/search/search.jsf> (last visited May 12, 2017) (enter “Lytte” in the last name field and “Corrinne” in the first name field; then press search).

229. *See* McDaniel, *supra* note 7, at 113 n.41.

230. *Pioneering Facts About Black Women Lawyers and Law Teachers*, *supra* note 2, at 278. *See also* J. CLAY SMITH, JR., EMANCIPATION: THE MAKING OF THE BLACK LAWYER 1844–1944, at 55 (1993).

231. *Id.* From 1939 to 1944, Austin served as National President of Delta Sigma Theta Sorority, Incorporated, the nation's largest organization of black women. *See Past Presidents*, DELTA SIGMA THETA SORORITY, INC., http://www.deltasigmatheta.org/about_pastpres.html (last visited May 12, 2017); Press Release, Delta Sigma Theta Sorority, Inc., Delta Sigma Theta Sorority Celebrates 100 Years of Service (Dec. 28, 2012), <http://www.deltasigmatheta.org/downloads/CentennialPressRelease->

In the more than 75 years since Austin joined the faculty at Terrell, several hundred black women have joined the ranks of faculty in the legal academy. In 2013, the American Bar Association reported that 1,069 women self-identified as African American taught either full- or part-time in the nation's accredited law schools.²³² Notwithstanding these gains, women of color comprise only a small percentage of law school faculty.²³³ Some law schools continue to report few, if any, black women on the faculty.²³⁴

Diversifying the ranks of the nation's law faculty is essential: As UC-Davis School of Law Dean Kevin R. Johnson has argued, "a diverse law faculty promote[s] a better learning environment for students."²³⁵ Representation of historically underrepresented and systemically disadvantaged groups among the nation's law faculties ensures that students from those groups can see themselves as effective and successful lawyers.²³⁶ That Lytle imagined herself as an effective and successful lawyer without the benefit of any such models is a testament to her motivation and commitment to law and its positive uses. Continued research into her life and work will undoubtedly uncover more about her work and the details surrounding her final years, such that her life can serve as a inspiration for others.²³⁷ As a biographical subject, Lutie A. Lytle encourages and teaches us to break barriers against seemingly insurmountable odds. That she pursued this work without her own aspirational models for success makes her story an even more compelling one. "Firsts' still matter."²³⁸

Overview.pdf (describing the sorority as "the single largest African-American women's organization in the country").

232. See *Data From the 2013 Annual Questionnaire, ABA Approved Law School Staff and Faculty Members, Gender and Ethnicity: Fall 2013*, AM. BAR. ASS'N, http://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2013_law_school_staff_gender_ethnicity.xlsx (last visited May 12, 2017).

233. *Id.* (indicating that, in 2013, women of color comprised 9.1% of the legal professoriate, African American women comprised 4.4%, and Caucasian males comprised 46.3%).

234. *Id.*

235. Kevin R. Johnson, *The Importance of Student and Faculty Diversity in Law Schools: One Dean's Perspective*, 96 IOWA L. REV. 1549, 1557 (2011).

236. See *id.* This is also why initiatives like the Lytle Writing Workshop remain so critical to the collective advancement and improvement of legal education. See *supra* note 3.

237. See also Mark Fenster, *The Folklore of Legal Biography*, 105 MICH. L. REV. 1265, 1266 (2007) ("The subjects of these biographies inspire and teach; they constitute models by which those of us who will never warrant our own biographies measure and lead our lives—perhaps with hopes that we will be like them, or perhaps in order to distinguish ourselves from them. And their lives constitute materials that biographers can use to construct arguments about the past and present, as well as about the value and nature of the biographical subject.").

238. See Amber Fricke & Angela Onwuachi-Willig, *Do Female "Firsts" Still Matter? Why They Do for Female Judges of Color*, 2012 MICH. ST. L. REV. 1529, 1542–45 (2012) (arguing for the symbolic importance of "firsts" for underrepresented populations).