

# BOOK REVIEW

## Go White, Young Man

*Alfred L. Brophy\**

DANIEL J. SHARFSTEIN, *THE INVISIBLE LINE: THREE AMERICAN FAMILIES AND THE SECRET JOURNEY FROM BLACK TO WHITE* (Penguin Press, 2011).

Our nation's struggle with race is now about one-third of a millennium long. So there is a lot for Daniel Sharfstein's epic work of American history, *The Invisible Line*, to engage as it sweeps across centuries—from Virginia in the 1600s to Washington, DC, in the 1950s—and as it details generations of lives, from humble farmers in Appalachia to heirs of Gilded Age merchants. Where most other people who have looked at such issues focus on the chasm between white and black, Sharfstein looks at people on the line separating black and white. He is able in this way to get at key—and often overlooked—issues, such as how people have crossed the color line in America and what efforts to cross and police it tell us about our national struggle with race and with equality.

To detail the sine curve of attitudes towards race, Sharfstein offers three case studies of how racial categorization has functioned and how it kept (or attempted to keep) African-Americans in their place. The book follows three families whose members at some point crossed the line separating black from white—or tried and failed to. Sharfstein's elegant prose illuminates how the color line functioned for people on both sides of it. For those who could do so, there were great incentives to claim to be white rather than black. In one era, race could define who might be a slave; in later eras, it was central to who could live in desirable locations, who could go to the most desirable schools, who could have access to the best government jobs. From

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statutes to social norms, African-Americans were told that they were inferior and had to maintain their place. Thus, those who might pass for white—those who had light enough skin color and perhaps the geographic mobility to mask their family history—often did so.<sup>1</sup>

Some of the story of passing is well known. President Warren G. Harding is said to have remarked in response to an allegation that he had African ancestry, “How do I know? One of my ancestors may have jumped the fence.”<sup>2</sup> Some of the best-known literature of the Jim Crow era was about crossing the color line, like Nella Larson’s *Passing*. And even antebellum literature often addressed the crossing of the line from black to white. *Uncle Tom’s Cabin*, for instance, has a vignette about a light-skinned former slave who passed for white.<sup>3</sup> Yet, even though we know that families crossed the color line (or attempted to), one wonders if the most important lessons from Sharfstein’s book are the ways the line was successfully policed rather than the ways it was crossed.

### THREE FAMILIES, MANY GENERATIONS

The saga of *The Invisible Line* plays out through three families: the Gibsons, the Walls, and the Spencers. The story of the Gibsons starts in Virginia in the late seventeenth century, where they are clearly identified as free blacks. Over the next century they became prosperous landholders in backcountry South Carolina. This set in motion a conflict led by Gideon Gibson, who had perhaps one-eighth African ancestry and was a leader of the Regulator Movement—a group of backcountry citizens who complained of inadequate enforcement of the law and took matters into their own hands. To try to control Gibson, one South Carolina politician charged that he was part African. But those charges did not stick. A few generations and a move westward and southward later, several Gibson descendants from Louisiana attended Yale College, where they spent their time defending the antebellum South. Soon these scions had the chance to defend the Confederacy on the battlefield. One, Randall Gibson, ended up as a brigadier general of the Confederate States Army; he later became a U.S. Senator. Randall’s son married an heiress to the Marshall Field department-store fortune. His grandson, Henry Field,

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1. See DANIEL J. SHARFSTEIN, *THE INVISIBLE LINE: THREE AMERICAN FAMILIES AND THE SECRET JOURNEY FROM BLACK TO WHITE* 3–5 (2011) (discussing the history of passing).

2. GARY ALAN FINE, *DIFFICULT REPUTATIONS: COLLECTIVE MEMORIES OF THE EVIL, INEPT, AND CONTROVERSIAL* 85 (2001).

3. HARRIET BEECHER STOWE, *UNCLE TOM’S CABIN*, in *THREE NOVELS* 494–96 (Library of America 1982) (1852).

became an anthropologist who prepared a display at the Field Museum about the differences between the races. The display was influential in its depiction of how physical traits link to culture and in its suggestion of how Africans would not mix with other races. One implied lesson of the display, it seems, was the superiority of people of western- and northern-European origin over others.

The two other families were less financially successful, and their moves across the color line were more fraught with difficulty. The story of the Wall family begins with slavery in North Carolina in the 1830s, when their father (and owner) freed them and sent them to Indiana for education. The children's move toward elite status within the African-American community was fairly easy. O.S.B. Wall moved to Oberlin, Ohio, and married a student at Oberlin's Collegiate Institute; his sister married John Mercer Langston, who became one of the nation's first African-American lawyers. After the Civil War, O.S.B. Wall served in the Freedmen's Bureau and later moved to Washington, DC, where he worked as a lawyer until the increasing strictures of Jim Crow and ill health made that impossible. Wall's son was employed by the Government Printing Office in Washington until the continued hardening of Jim Crow deprived African-Americans of the opportunity to work in desirable government jobs. At this point, Stephen Wall switched racial identity. Meanwhile, Jim Crow laws kept Stephen's young daughter out of a public school for white children. Finally, in the early 1920s, the entire Wall family crossed over and began to identify itself as white. Their move over several generations had been downward, in part because that was the story of African-Americans in the later part of the nineteenth century; it was a time when the possibilities of Reconstruction were abandoned. And as our nation gave up the possibilities of freedom and equality, some African-American families gave up on the vibrant African-American community, too. In Sharfstein's view, as the Walls crossed the color line to white, they also gave up their status as African-American leaders.<sup>4</sup>

The story of the Spencers begins with the family already in freedom in eastern Kentucky in the 1840s. Appalachia, where few African-Americans ever lived, provided some sort of freedom for the Spencers. They got to know their neighbors well, and they sometimes married them. In this way they gained a certain protection from suspicion, because they were familiar, and because their blackness would ruin their new relatives' respectability.<sup>5</sup> One Spencer even

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4. SHARFSTEIN, *supra* note 1, at 329.

5. *Id.* at 178–79.

fought for the Confederacy for a while. By the early twentieth century, they were living in far southwestern Virginia, where they got into a feud with a man named Looney because Looney's brother had been killed by one of the Spencers. Following the killer's acquittal, Looney's method of revenge was to start a rumor that the Spencers were black. The Spencers responded with a lawsuit for defamation. While a jury returned a verdict of no liability, the Virginia Supreme Court overturned the verdict because Looney had presented insufficient evidence of the Spencers' African ancestry.<sup>6</sup> By requiring a defendant to show strict evidence of race, the Virginia Supreme Court made it easier for someone to claim defamation against a person who accused him of being black—and conversely, made it more perilous for individuals to police the color line through the informal channels of rumor. The case seems never to have been retried. The Spencers had successfully passed over, even if some murmured that they were not white.

Those are the strands of the journey from black to white told here. And they are important because they remind us of the centrality of race to American history; of the efforts made to police the color line; and of how people evaded it and created a life, sometimes independent of the constraints of law and social norms.

#### PASSING AND ITS LIMITS: REDRAWING THE LINES OF RACE?

These case studies tell us what it is to be American—how race is central to our identity, how we use race to take down opponents or to exclude—and how the line separating black and white is *sometimes, sometimes* porous. However, is not the story of race and American legal history about the ways that race is defined by law and by norms? Race mattered because people policed the line separating blacks and whites. That many states classified people with a small percentage of African ancestry as white suggests that it was possible to move across the color line.<sup>7</sup> Still, the cases where the color line was policed, rather than crossed, are significant.<sup>8</sup>

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6. Spencer v. Looney, 82 S.E. 745 (Va. 1914).

7. See SHARFSTEIN, *supra* note 1, at 269 (discussing how statutory schemes contradicted the popular view that "one drop" of African ancestry made a person black).

8. The importance of policing the color line is illustrated by Edward Sheldon's 1909 play, *The Nigger*, about the governor of a Southern state who sought to uphold the law against lynching and rioting and signed a bill restricting liquor. That brought the wrath of a pro-liquor businessman who revealed the governor's ancestry and thus brought him down. Though the play sought to critique Southern racism, it speaks to the fact of passing even as it also testifies to how much the color line was policed for years. EDWARD SHELDON, *THE NIGGER: AN AMERICAN PLAY IN*

By looking at the uncommon cases of people on the line between black and white, we learn about the entire spectrum of ideas about race, for we see what separates black and white and how the legal system treats people of identifiable African descent. These extraordinary cases show that the line separating black and white was unstable. We learn what the defining characteristics of the line were when we look at the fault lines—the places where the line broke down—for there we see what people needed to do to alter their status in the eyes of their neighbors, their community, and the law. The choice to cross the color line is not one that everyone had. How could it be that some families were able to cross while many others could not? Only a few seem to have had the physical characteristics as well as economic and cultural resources to pass. By comparing those who crossed the line and those who did not, we learn the key components of racial definition.

The title, *The Invisible Line*, seems to suggest that the color line was not so solid—that in fact the line was so thin that it might be crossed rather easily. As Sharfstein argues, the barrier functioned “in terms of racism, not race; hierarchy as opposed to heredity; barriers instead of blood.”<sup>9</sup> The title is also, perhaps, meant to remind us of Ralph Ellison’s *Invisible Man*; Sharfstein seems to draw the parallel more closely when he uses as an epigraph Ellison’s scene in the paint factory, where black paint is dropped into white paint to make it whiter.<sup>10</sup> The black added to the white makes the paint fit for a “national monument.”<sup>11</sup>

But one lesson of *Invisible Man* is that black people are highly visible in some ways—when it matters to criminal prosecution, for instance—even though their humanity cannot be seen. (Or heard, as we learn in Ellison’s posthumously published novel *Juneteenth*.)<sup>12</sup> Moreover, in many places in American history and law, the lines separating the races were quite visible—visible as redlines on maps,<sup>13</sup> visible when streets between black and white neighborhoods were

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THREE ACTS (1910); see also *The Nigger Acted at the New Theatre*, N.Y. TIMES, Dec. 5, 1909 (reviewing initial production of the play).

9. SHARFSTEIN, *supra* note 1, at 328.

10. *Id.* at ix.

11. RALPH ELLISON, *INVISIBLE MAN* 202 (Vintage Books 1995) (1952).

12. RALPH ELLISON, *JUNETEENTH* 4 (1999) (“We’re from down where we’re among the counted but not among the heard.”).

13. See KENNETH T. JACKSON, *CRABGRASS FRONTIER: THE SUBURBANIZATION OF THE UNITED STATES* 203–15 (1985) (discussing redlining and mapping techniques used by the Federal Housing Administration that correlated with the racial composition of neighborhoods).

closed,<sup>14</sup> visible in books when municipalities had racial zoning ordinances,<sup>15</sup> visible in courthouse deed records when restrictive covenants existed.<sup>16</sup> The lines were visible in statutes segregating on the basis of race<sup>17</sup> and on the pages of court decisions upholding—or sometimes striking down—such segregation.<sup>18</sup> Even once removed, racial zoning and restrictive covenants cast a long shadow over housing segregation.<sup>19</sup> How could a line that generated so much litigation be invisible?

We learn a great deal about the policing of the color line in Sharfstein's book. Attempts to prevent passing sometimes failed, as in the Regulator Movement and in the Spencers' Appalachia. In both of those cases, opponents of families who had once been identified as African-American unsuccessfully claimed that they were still African-American. But Sharfstein illustrates numerous occasions when the line was successfully policed: in Washington, DC, after Reconstruction, when O.S.B. Wall helped lead a western exodus movement; in the early twentieth century, when disfranchisement of blacks led to loss of representation in Congress and loss of civil service jobs, such as Stephen Wall's at the Government Printing Office; and when an heir to the Field fortune—who, as a member of the Gibson family, had some African ancestry—put on a display at the Field Museum about the races of mankind.

We learn that statutes helped police the color line. For instance, statutes defined the blood quantum that permitted one to be considered white.<sup>20</sup> Yet even when statutes defined one as black, social

14. See *Greene v. City of Memphis*, 610 F.2d 395, 405 (6th Cir. 1979) (holding that city's decision to close street to non-residents of a white neighborhood created an unconstitutional badge of slavery by maintaining residential segregation), *rev'd*, 451 U.S. 100, 129 (1981) (holding that the street closing was a "routine burden of citizenship" rather than a violation of the Thirteenth Amendment).

15. See *Buchanan v. Warley*, 245 U.S. 60, 82 (1917) (holding Louisville's racial zoning ordinance unconstitutional).

16. See *Shelley v. Kraemer*, 334 U.S. 1, 20–21 (1948) (holding that state enforcement of racially restrictive covenants violates the Fourteenth Amendment).

17. See, e.g., SHARFSTEIN, *supra* note 1, at 277 (discussing Jim Crow statutes); Kenneth W. Mack, *Law, Society, Identity, and the Making of the Jim Crow South: Travel and Segregation on Tennessee Railroads, 1875–1905*, 24 L. & SOC. INQUIRY 377 (1999).

18. See *Buchanan*, 245 U.S. at 82; *McCabe v. Atchison, Topeka & Santa Fe Ry. Co.*, 235 U.S. 151, 161–62 (1914) (concluding that an Oklahoma statute providing luxury accommodations only to white passengers was unconstitutional).

19. See *Bd. of Educ. v. Dowell*, 498 U.S. 237, 252–53, 262–65 (1991) (Marshall, J., dissenting) (discussing the effect of residential segregation on school segregation in Oklahoma City and arguing for ongoing relief even if, per the majority's opinion, continued housing segregation was the result of "private decisionmaking and economics").

20. See, e.g., SHARFSTEIN, *supra* note 1, at 289 (discussing the one-sixteenth rule used in the Spencers' defamation case).

norms often classified a person as white. Sharfstein makes a bold statement about the porous nature of the color line in regard to slavery: “The difference between black and white was less about ‘blood’ or biology or even genealogy than about how people were treated and whether they were allowed to participate fully in community life. Blacks were the people who were slaves, in fact or in all but name; the rest were white.”<sup>21</sup> This argument shifts the basis for being considered black from blood quantum to status—though the two were often highly correlated.<sup>22</sup>

Still, though Sharfstein’s book is about the ephemeral nature of racial classifications, it also points to the centrality of race in American history. As Sharfstein acknowledges in the epilogue, “[T]he idea of race . . . provided a central reason why American democracy exalted some people at the enduring expense of others.”<sup>23</sup> This is an insight frequently discussed by proslavery theorists in the years before the Civil War, who emphasized the economic and political benefits of slavery to white Americans. In a particularly revealing moment, Virginia politician Abel Upshur wrote in 1839 that slavery supported freedom for white people:

[N]egro slavery tends to inspire in the white man a strong love of freedom, to give him a high estimate of its value, and to inspire him with those feelings of independence, self respect and proper pride, which fit him for the enjoyment of free institutions, and teach him how to preserve them. The government receives its form from the people, and gives to them, in turn, a character corresponding with its own; and this happy adaptation affords the best possible security for the preservation of liberty.<sup>24</sup>

There was also an important and vicious literature that mocked and demeaned African-Americans, that stigmatized racial mixing, and that in the nineteenth and twentieth centuries led to racial violence. The steady line of such literature begins in the 1830s, when strong antislavery sentiments were taking hold. Proslavery

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21. *Id.* at 84.

22. See MELISSA NOBLES, *SHADES OF CITIZENSHIP: RACE AND THE CENSUS IN MODERN POLITICS* 25–84 (2000) (discussing how the census historically categorized people along racial lines—and how now, instead, it relies upon self-reporting).

23. SHARFSTEIN, *supra* note 1, at 323.

24. Abel Upshur, *Domestic Slavery*, 5 S. LITERARY MESSENGER 677, 679 (1839). Historians from Edmund Morgan to Derrick Bell have concurred with that assessment. DERRICK BELL, *SILENT COVENANTS: BROWN V. BOARD OF EDUCATION AND THE UNFULFILLED HOPES FOR RACIAL REFORM* 29–30 (2004); EDMUND S. MORGAN, *AMERICAN SLAVERY—AMERICAN FREEDOM* 368–69 (1975). That is yet another of the surprising examples where race links people of unimaginably different outlooks over the generations of U.S. history. While one would think that Upshur and Bell would differ on just about everything, they agreed about the effect slavery had on American democracy.

thought responded.<sup>25</sup> The proslavery legal literature of the 1840s and 1850s, such as Thomas Cobb's *An Inquiry into the Law of Negro Slavery*, drew upon images of enslaved Africans from ancient Egypt to the recent Caribbean to argue that history and contemporary economics all counseled in favor of slavery.<sup>26</sup> Such images persisted into the early twentieth century with books like Thomas Dixon's novel *The Clansman*, which became famous when adapted as the movie *The Birth of a Nation*. These are the cultural and economic ideas that supported the color line and that kept that line going.

Much of American culture and the American economy was built on maintaining the color line, limiting job and educational opportunities for African-Americans, and—especially in the years after Reconstruction ended—securing a strict separation of the races. Things began to change in the early decades of the twentieth century, but not for nothing do we call the period from the 1910s through the 1960s the Long Civil Rights Movement.<sup>27</sup> The movement for liberation was long.<sup>28</sup>

Despite all the violence and segregation that lay at the heart of slavery and Jim Crow, Sharfstein draws an optimistic conclusion about human nature. He focuses on how our country can and often has looked beyond race. There is a bold, and therefore controversial, thesis here: that by looking closely at the arc of American history, we may see how the particular—like human relationships, friendships, and community understanding—triumphs over the general.<sup>29</sup>

This is a common story in historical literature: that locals offer justice where faraway courts applying general rules cannot. Laura

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25. See, e.g., Sarah N. Roth, *The Politics of the Page: Black Disfranchisement and the Image of the Savage Slave*, 134 PA. MAG. HIST. & BIOGRAPHY 209, 210–11 (2010) (discussing the development, in response to abolitionist ideas, of a proslavery literature portraying blacks as aggressors).

26. See, e.g., THOMAS R.R. COBB, AN INQUIRY INTO THE LAW OF NEGRO SLAVERY 41–42 (1858) (asserting that blacks were enslaved in Egypt); *id.* at cxcvi–cxcvii (discussing the abolition of slavery in Haiti); *id.* at ccxxi (arguing that slavery will not end because it is necessary).

27. See, e.g., Jacquelyn Dowd Hall, *The Long Civil Rights Movement and the Political Uses of the Past*, 91 J. AM. HIST. 1233, 1234 (2005) (arguing for expansion of a “dominant narrative [that] begins with the 1954 *Brown v. Board of Education* decision, proceeds through public protests, and culminates with the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965”).

28. See KIMBERLEY JOHNSON, REFORMING JIM CROW: SOUTHERN POLITICS AND STATE IN THE AGE BEFORE *BROWN* (2010) (tracing the development of Jim Crow reform from the 1920s to the 1950s).

29. See SHARFSTEIN, *supra* note 1, at 322–23 (“[O]ther codes did operate alongside ‘positive legislation’ to give meaning to the categories of black and white in the United States—but as often as not they undermined the idea of natural, blood-borne differences between immutable races. Instead, individuals, families, and communities applied their own rules and logic to the law of racial segregation as it affected their daily lives.”).

Edwards's recent study of the South from the Revolution to the Age of Jackson found a similar phenomenon, where slaves and women fared better in local courts than in distant appellate courts.<sup>30</sup> Still, I wonder, what proportion of the world is this way? American history has many instances of racial tragedy and crimes enacted on the local level.<sup>31</sup>

#### REDIRECTING LEGAL HISTORY

*The Invisible Line* is a story told with beauty and power. One learns much of American history here—from the colonial era, through the Revolution and slavery, to the Civil War and emancipation, then to the brief interlude when there seemed to be genuine possibilities of freedom and equality, and finally to the reestablishment of racial hierarchy in the Jim Crow era, which lasted well into the middle part of the twentieth century. The book is a general history of America that tells the history of African-Americans at the same time.

Because of Sharfstein's beautiful prose, it is sometimes easy to forget the powerful arguments on display here. That is one of the elements of magic in narrative history. It grips you and carries you away before you realize it—here, to conclusions about the centrality of race and about the ways people negotiate around or even out of legal and cultural strictures. Not to be too melodramatic about this, but this book might have a grand title like Henry James's novel *Democracy* or Theodore Dreiser's *American Tragedy*—because, in its conceptualization and its execution, it is a grand narrative of our country's struggle with democracy and race, which has resulted in so much tragedy.

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30. LAURA EDWARDS, *THE PEOPLE AND THEIR PEACE: LEGAL CULTURE AND THE TRANSFORMATION OF INEQUALITY IN THE POST-REVOLUTIONARY SOUTH* 100–11 (2009).

31. See, e.g., ALFRED L. BROPHY, *RECONSTRUCTING THE DREAMLAND: THE TULSA RIOT OF 1921—RACE, REPARATIONS, AND RECONCILIATION* (2002). Of course, relations at the local level between African-American and white citizens have had elements of humanity—particularly when they were family members. One poignant example among millions is that of John Pickens, a slaveowner from Greene County, Alabama, who requested in his will that a slave child who had predeceased him be exhumed and reburied at his feet. See Stephen D. Davis & Alfred L. Brophy, “*The Most Solemn Act of My Life*”: *Family, Property, Will, and Trust in the Antebellum South*, 62 ALA. L. REV. 757, 799 (2011). That was, as his will recognized, an odd request—and, on first reading, horrifying to me as well. I felt differently about it when I realized upon closer reading of the will that Pickens was not only the child's owner but also his father. As Mark Auslander has shown through his study of slaves owned by Emory College faculty and their descendants, African-Americans often remembered for generations that they had white relatives, even as their white relatives disavowed, and later forgot, about those relationships. MARK AUSLANDER, *THE ACCIDENTAL SLAVEOWNER: REVISITING A MYTH OF RACE AND FINDING AN AMERICAN FAMILY* 12–13, 46–50, 142–145 (2011).

There are a great many subplots here that Sharfstein contributes to. He develops the history of higher education, like the conflict over slavery on Yale's campus and the role of college literary societies in working out arguments over slavery and the Union.<sup>32</sup> He illuminates the ways that trials allowed their participants to channel what otherwise would be physical violence, and how those trials put into concrete terms the vague senses of the community regarding who was white and black and how the community should react to people on the line.<sup>33</sup> Then there is another thread that appears to run through Sharfstein's book: that racial barriers were policed more vigilantly when there were challenges to the racial status quo.<sup>34</sup> But maybe the largest contribution will be a methodological one: the reignition of respect for narrative history. I suspect that many people will try to emulate Sharfstein's elegance in storytelling.

The methodological shift towards narrative, with its focus on individual cases rather than collective stories told by quantitative analysis, has many virtues. It is accessible to the general reader. It can grapple with subtle family histories and nuances that are hard to pack into numbers. And it can carry us along to grand conclusions drawn from the particular. Yet, narrative cannot answer the question: How often did people actually cross the line? As we focus on the specific, we may lose sight of the general.

I hope that Sharfstein is right that the better angels of our nature will lead us to see humanity and will make the color line invisible. It has certainly faded greatly in the last fifty years. I remain skeptical of whether the line was as porous as Sharfstein's beautiful book would have us believe. Still, I look forward to the day—perhaps in the not-too-distant future—when I can say I believe he is right: the line is invisible and perhaps even nonexistent.

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32. See SHARFSTEIN, *supra* note 1, at 56–60, 66–72.

33. See *id.* at 273–92.

34. Whether the line separating black and white was as porous as Sharfstein maintains, the places where it was porous often encouraged even more vigilant policing. Insecurity about status often led to the hardening of racial categories. Sometimes, as following Reconstruction, the policing of the color line was about taking away rights from people of African descent. It seems that the line was policed most vigilantly when there were challenges to long-existing power. See *id.* at 4 (discussing cycles of racial equality and backlash in American history and commenting on the continuity of racial passing throughout each period).