

## Creating Jim Crow: In-Depth Essay

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The "Jim Crow" figure was a fixture of the minstrel shows that toured the South.

The term Jim Crow is believed to have originated around 1830 when a white, **minstrel** show performer, Thomas "Daddy" Rice, blackened his face with charcoal paste or burnt cork and danced a ridiculous jig while singing the lyrics to the song, "Jump Jim Crow." Rice created this character after seeing (while traveling in the South) a crippled, elderly black man (or some say a young black boy) dancing and singing a song ending with these chorus words:

*"Weel about and turn about and do jis so,  
Eb'ry time I weel about I jump Jim Crow."*

Some historians believe that a Mr. Crow owned the slave who inspired Rice's act--thus the reason for the Jim Crow term in the lyrics. In any case, Rice incorporated the skit into his minstrel act, and by the 1850s the "Jim Crow" character had become a standard part of the minstrel show scene in America. On the eve of the Civil War, the Jim Crow idea was one of many stereotypical images of black inferiority in the popular culture of the day--along with **Sambos**, **Coons**, and **Zip Dandies**. The word Jim Crow became a racial slur synonymous with black, colored, or Negro in the vocabulary of many whites; and by the end of the century acts of racial discrimination toward blacks were often referred to as Jim Crow laws and practices.

Although "**Jim Crow Cars**" on some northern railroad lines--meaning segregated cars--pre-dated the Civil War, in general the Jim Crow era in American history dates from the late 1890s, when southern states began systematically to codify (or strengthen) in law and state constitutional provisions the subordinate position of African Americans in society. Most of these legal steps were aimed at separating the races in public spaces (public schools, parks, accommodations, and transportation) and preventing adult black males from exercising the right to vote. In every state of the former Confederacy, the system of legalized segregation and disfranchisement was fully in place by 1910. This system of white supremacy cut across class boundaries and re-enforced a cult of "whiteness" that predated the Civil War.

Segregation and disfranchisement laws were often supported, moreover, by brutal acts of ceremonial and ritualized mob violence (**lynchings**) against southern blacks. Indeed, from 1889 to 1930, over 3,700 men and women were reported lynched in the United States--most of whom were southern blacks. Hundreds of other lynchings and acts of mob terror aimed at brutalizing blacks occurred throughout the era but went unreported in the press. Numerous **race riots** erupted in the Jim Crow era, usually in towns and cities and almost always in defense of segregation and white supremacy. These riots engulfed the nation from Wilmington, South Carolina, to Houston, Texas; from East St. Louis and Chicago to Tulsa, Oklahoma, in the years from 1865 to 1955. The riots usually erupted in urban areas to which southern, rural blacks had recently migrated. In the single year of 1919, at least twenty-five incidents were recorded, with numerous deaths and hundreds of people injured. So bloody was this summer of that year that it is known as the **Red Summer of 1919**.

The so-called Jim Crow segregation laws gained significant impetus from U. S. Supreme Court rulings in the last two decades of the nineteenth century. In 1857, the Supreme Court ruled unconstitutional the **Civil Rights Act of 1875**. The 1875 law stipulated: "That all persons ... shall be entitled to full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public

amusement." The Court reviewed five separate complaints involving acts of discrimination on a railroad and in public sites, including a theater in San Francisco and the Grand Opera House in New York. In declaring the federal law unconstitutional, Chief Justice Joseph Bradley held that the **Fourteenth Amendment** did not protect black people from discrimination by private businesses and individuals but only from discrimination by states. He observed in his opinion that it was time for blacks to assume "the rank of a mere citizen" and stop being the "special favorite of the laws." Justice **John Marshall Harlan** vigorously dissented, arguing that hotels and amusement parks and public conveyances were public services that operated under state permission and thus were subject to public control.

It was not long after the Court's decision striking down the Civil Rights Act of 1875 that southern states began enacting sweeping segregation legislation. In 1890, Louisiana required by law that blacks ride in separate railroad cars. In protest of the law, blacks in the state tested the statute's constitutionality by having a light-skinned African American, Homère Plessy, board a train, whereupon he was quickly arrested for sitting in a car reserved for whites. A local judge ruled against Plessy and in 1896 the U. S. Supreme Court upheld the lower court's ruling in ***Plessy v. Ferguson***. The Court asserted that Plessy's rights were not denied him because the separate accommodations provided to blacks were equal to those provided whites. It also ruled that "separate but equal" accommodations did not stamp the "colored race with a badge of inferiority." Again, Justice Harlan protested in a minority opinion: "Our Constitution is color-blind, and neither knows nor tolerates classes among citizens."

Harlan's liberal views on race did not extend to the Chinese. He wrote this biased statement in his dissent: "There is a race so different from our own that we do not permit those belonging to it to become citizens of the United States. Persons belonging to it are, with few exceptions, absolutely excluded from our country. I allude to the Chinese race. But by the statute in question, a Chinaman can ride in the same passenger coach with white citizens of the United States, while citizens of the black race in Louisiana, many of whom, perhaps, risked their lives for the preservation of the Union, who are entitled, by law, to participate in the political control of the State and nation, who are not excluded, by law or by reason of their race, from public stations of any kind, and who have all the legal rights that belong to white citizens, are yet declared to be criminals, liable to imprisonment, if they ride in a public coach occupied by citizens of the white race."

The *Plessy* case erected a major obstacle to equal rights for blacks, culminating a long series of Court decisions that undermined civil rights for African Americans beginning in the 1870s, most notably the ***Slaughterhouse Cases***, ***United States v. Reese***, ***United States v. Cruikshank***, and the Civil Rights Cases of 1883. The Supreme Court provided additional support for segregation in 1899 in the case of ***Cumming v. Richmond County Board of Education***. In this first case using *Plessy* as the precedent, the Court decreed that separate schools in Georgia were allowed to operate even if comparable schools for blacks were not available; this was the first case to apply the separate-but-equal doctrine to education. In this case, a unanimous Court ruled that because Richmond County, Georgia, had only enough money to provide a high school for whites it need not shut down the white school in the interests of separate but equal. This case opened the door for the elimination of black schools in districts able to demonstrate (or assert) financial hardships. It also clearly indicated that the Court was more interested in enforcing the "separate" part of *Plessy* over the "equal."

With the Supreme Court's approval, southern states quickly passed laws that restricted the equal access of blacks to all kinds of public areas, accommodations, and conveyances. Local officials began posting "Whites Only" and "Colored" signs at water fountains, restrooms, waiting rooms, and the entrances and exits at courthouses, libraries, theaters, and public buildings. Towns and cities established curfews for blacks, and some state laws even restricted blacks from working in the same rooms in factories and other places of employment.

## Creating White Supremacy from 1865 to 1890

The year 1890, when Mississippi wrote a disfranchisement provision into its state constitution, is often considered the beginning of legalized Jim Crow. But legal attempts to establish a system of racial segregation and disfranchisement actually began much earlier. In the first days after the Civil War, most southern states adopted so-called **Black Codes** aimed at limiting the economic and physical freedom of the formerly enslaved. These early attempts at legally binding southern blacks to an inferior status were short-lived, however, due to the presence of federal troops in the former Confederate states during **Congressional Reconstruction** (1866-1876) and the passage of the **Fourteenth** and **Fifteenth Amendments**, the **Civil Rights Acts of 1866** and **1875**, and the three **Enforcement Acts** of 1870 and 1871. (The 1871 Act is usually referred to as the Ku Klux Klan Act.)

It would be mistaken, however, to think that these federal efforts effectively protected the civil rights of African Americans. Waves of violence and vigilante terrorism swept over the South in the 1860s and 1870s (the **Ku Klux Klan** and Knights of the White Camellia), as organized bands of white vigilantes terrorized black voters who supported Republican candidates as well as many African Americans who defied (consciously or unconsciously) the "**color line**" inherited from the slave era. Such actions often accomplished in reality what could not be done in law. Depending upon the state (and the region within states--such as the **gerrymandered** Second Congressional District in North Carolina where blacks continued to hold power until after 1900), blacks found themselves exercising limited suffrage in the 1870s, principally because their votes were manipulated by white landlords and merchant suppliers, eliminated by vigilantism, stolen by fraud at the ballot boxes, and compromised at every turn.

When the **Compromise of 1877** allowed the Republican candidate **Rutherford B. Hayes** to assume the presidency of the nation after the disputed election of 1876, political power was essentially returned to southern, white Democrats in nearly every state of the former Confederacy. From that point on, the federal government essentially abandoned the attempt to enforce the Fourteenth and Fifteenth Amendments in the South--although the potential for doing so was always uppermost in the minds of southern whites. Numerous southern blacks nevertheless voted in the 1870s and 1880s, but most black office holders held power at lower levels (usually in criminal enforcement) in towns and counties, and often did so in cooperation with white Democrats (especially in Mississippi and South Carolina) who supported elected positions for acceptable black candidates.

In this "**fusion**" arrangement of the two political parties, white leaders of the Democratic Party in the state would agree with black political leaders, who were usually Republicans, on the number of county offices to be held by blacks. In theory, black voters would choose these black candidates, but in fact only black candidates acceptable to the white leaders were allowed to run. Any deviation from the plan was met with violence. Most black leaders went along with such arrangements because it was the best that could be achieved for the moment.

In Mississippi, the method of controlling black votes and regulating their economic and public lives by full-scale and openly brutal violence was known as the **First Mississippi Plan** of 1875. Whites openly resorted to violence and fraud to control the black vote, shooting down black voters "just like birds." This ruthless and bloody revolution devastated the black vote in Mississippi, and fully 66 percent of the blacks registered to vote in the state failed to cast ballots in the presidential election of 1880. Of those who did vote, almost 50 percent voted Democratic rather than face the wrath of whites in the state. The white vigilantes made no attempt to disguise themselves as in the days of the Ku Klux Klan, and so complete was their victory that the Republican governor fled the state rather than face impeachment charges by the newly elected legislature.

When Mississippi began formerly and legally to segregate and disfranchise blacks by changing its state constitution and passing supportive legislation in the 1890s, knowing observers referred to these legal moves as the **Second Mississippi Plan**. The principal difference between the two plans is that the latter did not resort to violence in order to eliminate the black vote. The Second Mississippi Plan did it by law. Other states followed suit to one degree or another, with only a few black gerrymandered districts in North Carolina, Alabama, and Mississippi witnessing significant and continuing black political autonomy up to 1900.

In addition to the violence and non-legal measures associated with the First Mississippi Plan, southern whites also took legal steps to subordinate blacks to whites prior to the wave of segregation and disfranchisement statutes that emerged in the late 1890s. For example, between 1870 and 1884, eleven southern states legally banned **miscegenation**, or interracial marriages. In the words of historian William Cohen, these bans were the "ultimate segregation laws" in that they clearly spelled out the idea that whites were superior to blacks and that any mixing of the two threatened white status and the purity of the white race. School segregation laws also appeared on the books in nearly every southern state prior to 1888, beginning with Tennessee and Arkansas in 1866. Virginia erected in 1869 a constitutional ban against blacks and whites attending the same schools, followed by Tennessee in 1870, Alabama and North Carolina in 1875, Texas in 1876, Georgia in 1877, and Florida in 1885. Arkansas and Mississippi passed school segregation statutes in 1873 and 1878.

While most of the laws banning racial mixing in transportation and in public accommodations were enacted after 1890, many southern states laid the groundwork early on. They often based their statutes on transportation legislation enacted by northern states before the Civil War. These laws created Jim Crow cars wherein black passengers were separated from white passengers. Indeed, the word Jim Crow as a term denoting segregation first appeared in reference to these northern railroad cars. Responding to the federal law prohibiting racial discrimination on railroads (Civil Rights Act of 1875), Tennessee passed laws in 1881 protecting hotels, railroads, restaurants, and places of amusement from legal suits charging discrimination. The state also attempted to circumvent the federal anti-segregation laws in transportation by enacting statutes in 1882 and 1883 requiring railroads to provide blacks with "separate but equal facilities." Florida, Mississippi, and Texas jumped on the bandwagon, as did most other states by 1894.

Almost all the southern states passed statutes restricting suffrage in the years from 1871 to 1889. Various registration laws, such as **poll taxes**, were established in Georgia in 1871 and 1877, in Virginia in 1877 and 1884, in Mississippi in 1876, in South Carolina in 1882, and in Florida in 1888. The effects were devastating. Over half the blacks who voted in Georgia and South Carolina in 1880 vanished from the polls in 1888. The drop in Florida was 27 percent. In places like Alabama, for example, where blacks equaled almost half the population, no African Americans were sent to the legislature after 1876.

On the local level, most southern towns and municipalities passed strict vagrancy laws to control the influx of black migrants and homeless people who poured into these urban communities in the years after the Civil War. In Mississippi, for example, whites passed the notorious "**Pig Law**" of 1876, designed to control vagrant blacks at loose in the community. This law made stealing a pig an act of grand larceny subject to punishment of up to five years in prison. Within two years, the number of convicts in the state penitentiary increased from under three hundred people to over one thousand. It was this law in Mississippi that turned the **convict lease system** into a profitable business, whereby convicts were leased to contractors who sub-leased them to planters, railroads, levee contractors, and timber jobbers. Almost all of the convicts in this situation were blacks, including women, and the conditions in the camps were horrible in the extreme. It was not uncommon to have a death rate of blacks in the camps at between 8 to 18 percent. In a rare piece of journalism, the Jackson Weekly Clarion, printed in 1887 the inspection report of the state prison in Mississippi:

*"We found [in the hospital section] twenty-six inmates, all of whom have been lately brought there off the farms and railroads, many of them with consumption and other incurable diseases, and all bearing on their persons marks of the most inhuman and brutal treatment. Most of them have their backs cut in great wales, scars and blisters, some with the skin peeling off in pieces as the result of severe beatings.*

*Their feet and hands in some instances show signs of frostbite, and all of them with the stamp of manhood almost blotted out of their faces.... They are lying there dying, some of them on bare boards, so poor and emaciated that their bones almost come through their skin, many complaining for the want of food.... We actually saw live vermin crawling over their faces, and the little bedding and clothing they have is in tatters and stiff with filth.*

*As a fair sample of this system, on January 6, 1887, 204 convicts were leased to McDonald up to June 6, 1887, and during this six months 20 died, and 19 were discharged and escaped and 23 were returned to the walls disabled and sick, many of whom have since died."*

Although federal policy and actions (Enforcement Acts of 1870 and 1871) effectively eliminated the most organized forms of white terrorism in the 1870s, they did little to assist the formerly enslaved in gaining economic security. As a result, even before the end of Reconstruction (in 1876), the vast majority of southern blacks had become penniless agricultural workers indebted to and controlled by white landlords and merchant suppliers. This system of land tenancy became known as **sharecropping** because black and white landless, tenant farmers were paid a share of the crop, which they had cultivated--usually one third. In most cases, the farmer's share did not equal in value the debts owed to the local store for supplies or to the landlord for rent. **Crop lien** laws and various creditor protection laws made it nearly impossible for African-American farmers to avoid dependency and impoverishment. Merchant suppliers charged high interest rates--often as much as 40 percent, and local police helped make sure that indebted tenants did not avoid their debts by leaving the area. In this situation, black sharecroppers were often pressured to vote for the white or black candidates supported by their white landlords or merchant suppliers.

It should also be noted that white terrorism aimed at blacks did not end with the curtailment of organized vigilantism of the sort associated with the Ku Klux Klan. Once the South had been returned to white rule (**Redemption**), the so-called redeemers (Bourbons) effectively imposed white domination over blacks by economic means to a large extent. When those means fell short, the white community commonly resorted to terror in the late 1870s and 1880s. Indeed, attacks and violence against blacks by whites was part of the fabric of southern life. The ante-bellum system of slavery was rooted in terror and violence, and the Ku Klux Klan continued the practice in the name of white supremacy after the Civil War. Historian William Cohen notes that lynchings increased by 63 percent in the second half of the 1880s, a greater relative jump than for any other period after those years. The number of lynchings estimated for 1880-1884 was 233 compared to 381 for the next five-year period, peaking at 611 for the years 1890 to 1894.

What about the color line, the physical separation of the races in public and private life? In most southern states, a clear color line separated whites and blacks in custom if not in law prior to 1890. Historians Joel Williamson and Neil R. McMillen demonstrate that the absence of a legalized color line did not mean that one did not exist in practice or in the minds of most white southerners. Their research in South Carolina and Mississippi supports the view that a physical color line in public places had already crystallized by 1870, and it was a barrier to racial mixing enforced by violence whenever necessary. As in slavery, the social lives of southern whites remained absolutely off limits to all blacks, except when blacks acquiesced as servants or in some other way to the superior-inferior relationship that existed in the slavery era. The same was true for the intermixing of whites with blacks in civil activities; whites generally refused to

participate in any events or activities that included blacks, such as volunteer fire companies, parades, or civic gatherings. Usually, whites shunned any and all public places where the color line was not firmly in place.

### The "New" Jim Crow Racial Scene After 1890

The upsurge of new laws and the strengthening of old ones in the 1890s was essentially an extension of the old drive for white supremacy in new ways and with more effective results. Historian C. Van Woodward sees this radical move in the 1890s to be the South's "capitulation to racism" and the rejection of viable alternatives that had existed during the post-Reconstruction period. In his view of things, it was the rise of lower-class whites to political power in the 1880s and 1890s that brought on complete disfranchisement and segregation both in law and in practice. Other scholars contend that the driving force behind legal segregation and disfranchisement were upper-class whites in the "**black belt**" areas who wanted to weaken or prevent through disfranchisement the hold of lower-classes whites on the Democratic Party or their allegiance to newer political power bases, such as the **Farmers' Alliance** or the **Populist Party**. In this view, the desire to restrict the political power of lower-class voters of both races was as much a motive in the drive for disfranchisement as was the desire to eliminate black voters.

Clearly, the impetus behind the legalization of segregation and disfranchisement was complex, involving one or a combination of the following reasons: (1) efforts by lower-class whites to wrest political power from merchants and large landowners (who controlled the vote of their indebted black tenants); (2) the fear by whites in general that a new generation of "uppity" blacks, those born after slavery, threatened the culture and racial purity of the superior white society; (3) the desire of white elites to use blacks as scapegoats to side-track the efforts by lower-class whites to seize political power; (4) the efforts of so-called progressive white reformers to disfranchise those voters--white and black--subject to manipulation because of their illiteracy or impoverishment; (5) the fear by insurgent white populists and old-line Democrats that the black vote might prevail if southern whites split their votes in struggles within and outside the Democratic Party; (6) the emergence of a racially hysterical press that fueled white fear of and hatred towards blacks by printing propaganda stories about black crimes; (7) the appearance of the pseudo-science of eugenics that lent respectability to the racist views of black inferiority; (8) the jingoism associated with the nation's war with Spain and its colonization of non-European people in the Philippines; and (9) the continued depiction of blacks as lazy, stupid, and less than human in the popular minstrel shows that played in small town America as well as the side shows and circuses that enthralled white audiences with images of inherent black inferiority.

Whatever the motivation, these new laws and constitutional provisions were aimed at the subjugation of African Americans and the dominance of the political and economic, white elite within the Democratic Party. It was the re-assertion of the earlier drive for "white supremacy." As historian Michael Perman argues, although the legalized forms of racial subordination were new in the 1890s, the substance behind the forms was essentially unchanged from what had been attempted in the Black Codes and by the Ku Klux Klan during Reconstruction.

In the 1890s, southern states began to systematically and completely disfranchise black males by imposing voter registration restrictions, such as **literacy tests**, poll taxes, the **grandfather clause**, and the **white primary** (only whites could vote in the Democratic Party primary contests). Such provisions did not violate the Fifteenth Amendment because they applied to all voters regardless of race. In reality, however, the provisions were more strictly enforced on blacks, especially in those areas dominated by lower-class whites. The so-called "understanding clause," which allowed illiterate, white voters to register if they understood specific texts in the state constitution to the satisfaction of white registrars, was widely recognized to be a loophole provision for illiterate whites. It was crafted to protect the suffrage of those whites who might otherwise have been excluded from voting by the literacy qualification for registering to vote. In

point of fact, tens of thousands of poor white farmers were also disfranchised because of non-payment of the poll tax, for which there were no loopholes provided.

It is important to understand that these new restrictions on voting were different from earlier restrictions in that they deprived the voter of the right to vote not at the ballot box (through force, intimidation, or fraud), but at the registration place. Before ballots were even cast, the new qualifications could be selectively applied to voters who failed to pass the tests established in the state's constitution. This new method of controlling votes eliminated the need for violence against black voters, and the restrictions were often justified on these very grounds. In December of 1898, for example, the *Richmond Times* supported the move for disfranchisement in Virginia in the following words: "If we disfranchise the great body of Negroes, let us do so openly and above board and let there be an end of all sorts of jugglery." This rationale indicates a clear motive to remove black votes altogether and to return to the status quo that existed prior to the introduction of black suffrage after the Civil War.

The Fifteenth Amendment to the Constitution, ratified in 1870, placed responsibility for protecting the right of suffrage with the federal government--a right which could not be "denied or abridged on the grounds of race, color, or previous condition of servitude." The states, however, retained the authority for determining qualification for voting, as long as the qualifications did not violate the Fifteenth Amendment. This meant that the former states of the Confederacy were required to rewrite their state constitutions in order to put restrictions on voting qualifications--such as literacy tests, poll taxes, understanding clauses, and criminal convictions. The rewriting or amending state constitutions denied suffrage to blacks by law rather than by fraud. This is what was new, legally speaking, in the drive to undermine black suffrage in the 1890s.

These new legal restrictions were backed in turn by acts of intimidation, the use of **chain gangs** and prison farms, **debt peonage**, the passage of anti-enticement laws, and a wave of brutal lynchings that dominated the southern racial scene for the next forty years. Indeed, between 1882 (when reliable statistics are first available) and 1968, most of the 4,863 recorded people lynched in the United States were southern, black men. Not surprisingly, 97 percent of these lynchings occurred in the former states of the Confederacy. Although violence used to subjugate blacks was nothing new in the South (what with its racist heritage rooted in slavery), the character of the violence was something different. Prior to the 1890s, most of the violence against blacks stopped short of the ritualized murder associated with the lynching epidemic that began in the late 1880s.

Blacks had suffered death at the hands of white vigilantes for all of their history in the nation, but nothing like the spectacle associated with public lynching had ever occurred before. After 1890, mobs usually subjected their black victims to sadistic tortures that included burnings, dismemberment, being dragged to death behind carts and autos, and horribly prolonged suffering. When railroad companies sold tickets to attend lynchings, when whites hawked body parts of dead victims as souvenirs, when white families brought their children to watch the torture and death of blacks by lynching, when newspapers carried advance notices, and when white participants proudly posed for pictures of themselves with the burned corpses of lynched men and women-- and then allowed the images to be reproduced on picture postcard, something fundamental had changed.

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### Questions to Ponder:

1. How were the Black Codes similar to and/or different from the Jim Crow laws that emerged after 1890?
2. What was different about the terror wrought by the Ku Klux Klan and the terror of lynching that began in the 1880? How were the two forms of terror part of the same continuation of white supremacy stemming from the days of slavery?

3. Why do you think black men gained the right to vote during Reconstruction but did not gain the right to the land they had worked as slaves and which was owned by whites who had revolted against the United States during the Civil War?
4. Why do you think that the Fourteenth and Fifteenth Amendments excluded black women from suffrage? Do you think that the history of Reconstruction and Jim Crow might have been different had white and black women obtained suffrage immediately after the Civil War?
5. Some historians claim that the vicious lynching of African Americans that began in the 1880s with stepped up frequency was different from anything in the past because of its mob, public spectacle. What does this mean? Was lynching like a circus? How is this explained?
6. Do you see a relationship between years of depicting African Americans as inferior people in the popular media, such as minstrel shows, and the ease with which blacks were lynched and deprived of their civil rights? How do you think this worked? Do you see any similarities to depicting people as inferior and the use of violence against them in other periods of American history?
7. What was new about how black men were deprived of their right to vote after 1890 and the way they were deprived of their vote prior to 1890? Why was the new form of disfranchisement more acceptable and more easy to enforce compared to the older forms used against blacks prior to 1890?
8. Why do you think it mattered to white people that the races were separated legally rather than by custom after 1890? What can you imagine the motivation to have been on the part of white people to want to formally establish a "color line?"
9. What do you think the federal government might have done to stop the creation of a Jim Crow society in the South? Would anything have worked? Why did the federal government essentially stop trying to protect the civil rights of southern blacks after the Compromise of 1877?
10. Do you think that you could have lived as a black person in the Jim Crow South? How would you have coped? What would you have done to survive? What would have been the most difficult thing for you as a young black person to have accepted or coped with in Mississippi or Georgia at the peak of Jim Crow terrorism? Answer the same questions from the perspective of a young white person.

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