CHAPTER 2

Lethal Punishment in Tennessee and Florida

Neither Tennessee nor Florida is a typical southern state, if indeed such a thing exists. As a border state including mountainous regions with few slaves and a Delta area of large-scale cotton plantations where slavery drove the economy and culture, Tennessee presented a complex and often contradictory picture. Florida, despite its Spanish heritage, was culturally part of the Deep South until the massive population influxes of the twentieth century. Both states made frequent use of lethal punishment. In this chapter, I review the history of executions and lynchings in both states and provide a brief overview of race relations in Tennessee and Florida at the time of the study.

Lynchings and Executions in Tennessee

Executions in Tennessee

Watt Espy's inventory records 335 people legally executed in Tennessee between statehood in 1796 and 1972, when the U.S. Supreme Court's decision in *Furman v. Georgia* invalidated all death penalty statutes. Sixty-four percent of those executed in Tennessee were African American. Over 95 percent of the people executed in Tennessee were convicted of murder, rape, or associated offenses. Twelve people were executed for other crimes, including aiding a runaway slave, arson, guerrilla activity, horse stealing, housebreaking/burglary, slave revolt, and spying/espionage. Only 4 of the 335 people executed in Tennessee were women; all 4 were executed in the early nineteenth century. A sixteen-year-old boy was the youngest person legally put to death in the state. The Espy inventory contains information on defendants' occupations in about 41 percent of the Tennessee cases. Most of the defendants whose occupations are known worked as laborers, farm hands, servants, and other lower status jobs, or had criminal occupations.[1]

Early Tennessee law made execution mandatory upon conviction for first-degree murder and for being an accessory before the fact to first-degree murder, while allowing a sentence of ten to twenty-one years for a conviction of second-degree murder. In 1838, Tennessee became the first state to give jurors the discretion to impose a death or a life sentence upon a conviction of first-degree murder. Tennessee, like other slave-holding states, had a slave code that made a number of offenses capital when committed by slaves or free blacks, while whites convicted of the same crimes were not eligible for the death penalty.[2]

Condemned prisoners were executed in the county of conviction, in public, by hanging. Large and enthusiastic crowds often attended executions. The *Memphis Daily Avalanche* described a double hanging that took place in 186\ at the Bluff City Trotting Course in Memphis

> A little before twelve o'clock the prisoners, robed in the habiliments of the grave, were placed in Mr. Smith's furniture wagon and were driven to the scene of the execution. They were accompanied by the Bluff City Guards and the Garibaldi Guards, besides a large number of citizens, men, women and children. The cortege reached the Course a little before twelve o'clock, and found already gathered there about two thousand people, who were anxiously awaiting their arrival.

The prisoners were allowed to address the crowd. Isaac did so at length, exhorting his listeners to tum to God. Isaac told the assemblage that they should "go home to their families and frinds [sic] and ... tell them that they had been disappointed-that they had come here to see two murderers die, but had witnessed the death of two Christians."[3] While the crowd at this execution was calm and well-behaved, even singing a last hymn for the condemned men, often the crowds that gathered to witness hangings were boisterous, drunken, and potentially violent.

Concern about the ill effects of public executions in Tennessee was expressed as early as 1849, but it was not until 1883 that executions were moved from public spaces to the relative privacy of jail yards. The same legislation that ended public executions sharply restricted the people allowed to witness the execution. A problem with this statute was its requirement that each county construct a private area for executions with an enclosure "higher than the gallows, or so constructed as to exclude the view of persons outside thereof.'· The considerable effort and expense this entailed could be avoided by moving all executions to the state prison, which was accomplished by a law passed in 1909.[4]

The law did not always have the intended effect of avoiding mob scenes. A triple hanging in the Shelby County jail yard in 1905 attracted "an expectant and motley throng [that] clamored in a morbid way for admission and crushed each other for an impossible glimpse of the jail interior.” After the execution

> every known method was used to get the crowd to retire gracefully. It declined to do so. Jailer Fleetwood came to the rescue at this juncture and scattered the crowd by the aid of a hose pipe and stream of cold water. One large white man became offended at this treatment and asked the jailer out to settle the matter in a fist fight. Jailer Fleetwood went out of the gate to accommodate the belligerent gentleman, but the latter changed his mind and left the vicinity.

The bodies of the three executed men were "placed on exhibition" at the county morgue, where they "were viewed by thousands of negroes."[5]

In 1913, the Tennessee General Assembly passed a bill changing the method of execution from hanging to the electric chair. Gov. Ben W. Hooper had expressed the desire to end hanging in 1911, telling the assembly that "the next step for decency and humanity ... should be the substitution of electrocution for hanging." The legislature responded with a bill making electrocution the means of execution in the state. The law provided five thousand dollars for the cost of the "death chamber, apparatus, machinery, and appliances" necessary to comply with the new law. All Tennessee executions between 1916 and 1960 were carried out by electrocution.[6]

Tennessee, like the nation as a whole, carried out more executions in the 1930s than in any other decade. The number of executions was in steep decline by the 1950s; Tennessee's last pre-*Furman* execution took place in 1960.[7] The highest number of executions per year in Tennessee was eleven in 1922, followed by ten in 1937 and 1939. Table 2 provides the racial breakdown of Tennessee executions in the years for which complete information is available.

Lynching in Tennessee

The best statistical overview of lynching in Tennessee is provided by the work of Stewart E. Tolnay and E. M. Beck. Tolnay and Beck confirmed 214 victims of lynching in Tennessee between 1882 and 1930; 175 (81.7 percent) of the victims were black. Computing a rough per capita estimate of the risk southern blacks had of being lynched, Tolnay and Beck found that the risk in Tennessee was 38.4 per 100,000 blacks between 1882 and 1930. This risk was similar to that of Georgia, Louisiana, Arkansas, and Kentucky; it was much lower than that of Mississippi and Florida. The NAACP inventory of Tennessee lynchings between 1889 and 1918 lists 196 black and white victims.[8] Tennessee had a number of lynchings with multiple victims. In 1881, nine men were lynched in connection with the murder of a white man in Springfield, Tennessee. Two of them were lynched soon after the murder, five were abducted during trial and hanged from the courthouse balcony, and two more were lynched the same night.[9]

Link Table 2

Unlike officials in some other southern states, governors of Tennessee did not openly express support for lynching; indeed, a number of them condemned mob violence. Only infrequently did this rhetorical condemnation translate into action to prevent lynchings or to punish those who took part in them. The overwhelming majority of the perpetrators of lynchings in Tennessee acted with no fear of any negative consequences. Even when the identity of the lynchers was widely known and documented by press accounts and photographs, local authorities concluded that the deceased had been killed by "parties unknown."

Lynchings in Tennessee generally occurred in rural areas or in small towns, but the large cities were not exempt. Memphis, Chattanooga, and even the capital, Nashville, all experienced lynchings.[10] In 1892, Eph Grizzard was hanged from a bridge in downtown Nashville. Years later an African American witness to the killing recalled:

> I remember the time when Eph Grizzard was hung over the bridge.... They took him out of jail and went running up First Avenue to the bridge and tied the rope around his neck and threw him over.... The sheriff of Goodlettsville got up on the bridge and made a speech and said, "If anybody, rich or poor, black or white, grizzly or gray, get up and say anything in this nigger's behalf, we will take them and do them the same way." ... My heart ached within me. I looked to see that bridge fall in, there was so many people on it that day.[11]

A particularly disturbing case occurred in 1924, when a fifteen-year-old injured black youth was abducted from the county hospital in Nashville and lynched.[12]

Most lynchings in Tennessee were perpetrated by mobs that briefly formed for the purpose of carrying out the lynching and disbanded immediately afterward. The state also had significant experience with vigilante groups that carried out series of violent acts, the Ku Klux Klan and several groups of night riders among them. In the 1880s in Obion County in northwest Tennessee, a "reign of terror" by "an organized band of desperadoes, thugs, thieves and gangsters," including both blacks and whites, resulted in a local vigilante movement and the lynchings of at least five men.[13]

Tennessee passed a number of laws relevant to suppressing lynching and vigilante action. A law aimed at the Ku Klux Klan was enacted in 1870, providing the death sentence for anyone guilty of assault with intent to murder if the assailant was masked or disguised. In 1881, the Tennessee General Assembly, which at that time included a number of African American members, passed a statute that could have reduced the number of lynchings in Tennessee, had it been vigorously enforced. The law held that any sheriff "who either negligently or willfully, or by want of proper diligence, firmness and promptness" let a prisoner be taken from his custody and lynched, would be held guilty of a high

misdemeanor. He would be fined, would lose his office, and would be banned from holding office in the future. An 1897 law, generally known as the law against whitecaps, provided punishment for persons who conspired to take human life. Perhaps the most important of Tennessee's anti-lynching laws was the state police law passed in 1919; it provided for the creation of a 600-member police force to be appointed by and responsible to the governor. The state police were to act under the governor's orders to "suppress all affrays, riots, routs, unlawful assemblies, or other acts of actual or threatened violence to persons or property in this state."[14]

Despite the existence of these statutes, the authorities in Tennessee rarely resisted threatened lynchings. A remarkable exception occurred in 1934 when Gov. Hill McAlister ordered out the militia to protect E. K. Harris, a black man on trial for rape in Shelbyville, Bedford County. A mob attacked the courthouse during the trial; the militia opened fire and killed four members of the mob. The judge declared a mistrial and Harris was smuggled out of the courthouse disguised as a member of the militia. The mob dispersed under fire but returned soon afterward and burned the courthouse.[15]

Lynching followed the same temporal pattern in Tennessee as in the South as a whole. By the early twentieth century, the number of lynchings was dropping and the practice became increasingly rare in the 1920s and 1930s. The last recorded lynching in Tennessee occurred in 1944, when James Scales, a seventeen-year-old black youth, was lynched in Bledsoe County in southeast Tennessee. Scales was a trusty in a reformatory. He became the suspect in the murder of the superintendent's wife and daughter because he worked in their home and fled from the reformatory on the day of the murders. Scales was quickly captured and placed in jail, but a small mob took him outside and hanged and shot him.[16]

Lethal Punishment and Race Relations in Florida

Neither Florida's distinctive early history under Spanish rule nor the tremendous demographic changes of recent decades should obscure the fact that in the nineteenth and much of the twentieth century Florida was culturally a part of the South. Florida was a slave state; it was the third state to join the Confederacy; it enacted and enforced racially discriminatory laws after the Civil War; Reconstruction in the state was long, contentious, and violent; Florida preserved the distinctively southern convict lease system longer than any other state except Alabama; Florida law and law enforcement officials imposed.. a rigid system of segregation; and the state experienced significant resistance to integration and civil rights. The northern and central parts of the state long remained primarily rural and agrarian, preserving the traditions and attitudes of the Deep South after these had eroded in urban areas and the southern part of the state.

Florida remained a frontier state longer than the rest of the South. David R. Colburn describes Florida in 1900 as an "undeveloped and often inaccessible wilderness," with its small population "isolated and fragmented by enormous distances." At the tum of the century, Florida had under half the population of the next least populous southern state. It was not until the 1940s that large and sustained increases in population occurred.[17]

Given these conditions, it is not surprising that the administration of justice in Florida was sometimes primitive. A description of conditions in Dunellon in Marion County in the early 1890s noted that the justice of the peace held court outside, under a tree, using a box for a desk and a nail keg for a bench.[18] J. C. Powell, a convict guard who wrote a remarkable memoir of his experiences, recounted a peculiar case occurring in the town of Ochesa in the Panhandle, probably in the 1880s. Two men were accused of murder, and a jury of "backwoodsmen" was impaneled to try the case. The jury brought back a guilty verdict in the first-degree for one man and in the second degree for the other. By this verdict the jurors meant to indicate the order in which they wanted the men hanged. Upon learning that they had inadvertently spared the second man from the death sentence, the jurors determined to carry out the execution themselves. Powell, who was present to transport the prisoner to a labor camp, had to go to considerable lengths to rescue his charge from the irate jurors and other would-be lynchers.[19]

Executions in Florida

In 1822 the Legislative Council of the Territory of Florida passed laws making murder, rape, and arson capital crimes. From the first enacted laws up until 1924, executions in Florida were held in the county of conviction and were carried out by hanging. An 1847 law required that the hangings be public; in 1872 this requirement was abolished and hangings were held within jails.[20] In 1923 the Florida legislature passed a law changing the method of execution from hanging to electrocution, providing that executions were to be carried out in a permanent execution chamber at the state prison. This law was challenged in court but was upheld by the Florida Supreme Court. After the first electrocution, Prison Superintendent J. S. Blitch reported to Gov. Cary A. Hardee, "The execution was carried out yesterday on time without a hitch." County sheriffs were required to act as executioners, until a 1941 law designated the first assistant engineer of Florida State Prison as executioner.[21] Florida law divided murder into degrees of severity, with second-degree cases ineligible for the death sentence. In capital cases, sentencing discretion lay with the jury; if the jury recommended mercy, the sentence was life. Juries might give or withhold their recommendation of mercy for any reason.[22] Capital cases did not receive automatic review by any appellate court and appeals were restricted to challenges to the conviction rather than to the death sentence.[23]

Watt Espy's inventory of executions lists 309 people executed between Florida's statehood in 1845 and 1964. The pattern of executions in Florida reveals the influence of race on sentencing for capital crimes.[24] Between 1924 and 1964, the state of Florida executed 196 men, 132 of them black and 64 of them white. Table 3 summarizes these data. Homicide statistics indicate that between 1937 and 1964, 3,141 whites and 7,837 blacks were victims of homicide in Florida.

Link Table 3

The percent of black victim homicides that resulted in execution during this period was 0.43; for white victim homicides, the percent was 3.56; for every one black victim homicide that resulted in an execution, more than eight white victim homicides ended with the execution of the offender.[25] The influence of race is especially evident for the crime of rape. Between 1924 and 1964, Florida legally executed 43 men for rape, 41 of them black. Race of victim has been identified in 39 of the cases; every victim was white.[26]

White offenders whose victims were African American often received lenient treatment or went altogether unpunished. James Denton, a white man, shot and killed an African American man for alleged insolence in Micanopy, Florida, on April 6, 1866. Civil authorities were reluctant to arrest Denton, but after several weeks he was taken into custody by U.S. troops. A mob of whites met the soldiers in the nearby town of Gainesville, however, and freed the prisoner. Eventually Denton was tried, found guilty of manslaughter, and sentenced to pay court costs and to serve a jail term of one minute.[27]

In 1927 a white man was convicted of first-degree murder in the killing of an African American man. The Jacksonville Journal noted this was "one of the few cases in this section of the country where a white man has been brought to trial for the murder of a negro."[28] In another unusual case, Britt Pringle, a white man, was condemned to death for murdering an African American man in Jacksonville. Pringle's conviction was upheld by the Florida Supreme Court, and his execution was scheduled several times, but he was ultimately transferred to the state hospital for the insane and was never executed.[29] Not until· 1980 was another white person condemned to death in Florida for a crime against a black victim.[30]

Florida's legal institutions were entirely in the hands of whites, who did not leave the assumptions and prejudices of their culture behind when acting in their official capacity. Racial beliefs influenced decisions made at every level of the criminal justice system in Florida and were given open expression in Florida's courtrooms and newspapers. African American witnesses were often subjected to degrading remarks and their testimony was not given serious consideration. In a 1920s case, a

prosecutor referred to a black witness as "a haughty and impertinent negro." When the defense attorney appealed to the Florida Supreme Court, protesting the prosecutor's remarks, the court expressed surprise that the prosecutor "should exhibit such choler over the impudence of a vaunting clown." While not defending the prosecutor's remarks, the Florida Supreme Court showed even less respect for the witness.[31] Florida's newspapers made little pretense of objectivity when reporting on crimes with black suspects. As late as 1945, the Ft. Lauderdale Daily News described a suspect as a "lust-mad, hulking, sullen thick-lipped Negro self-confessed rapist."[32] Such reporting both reflected and reinforced the fears and prejudices of whites.

Lynching in Florida

Florida has the unenviable distinction of being the southern state with the most lynchings proportional to population. In his classic study, Arthur Raper commented that Florida's rate of lynching was "nearly twice as high as that for either Mississippi, Georgia, or Louisiana, more than three times the rate for Alabama, and six times the rate for South Carolina." David Colburn and Richard Scher noted that Florida's lynching rate was higher than that of any other state between 1900 and 1920. Tolnay and Beck's study of lynching in ten southern states concluded that blacks in Florida "bore the highest 'per capita hazard' of being victimized by mob violence." The authors computed the number of black lynching victims per 100,000 blacks (computed as an average over several decades) and found that there were 79.8 black victims per 100,000 in Florida; Mississippi was in second position with 52.8 per 100,000.[33]

The demographics of lynching victims in Florida were similar to those in the South as a whole. Using the records of the Tuskegee Institute, Robert L. Zangrando identified 282 victims of lynching in Florida between 1882 and 1968; 91.1 percent of them were black. Tolnay and Beck's research confirmed 250 Florida lynchings between 1882 and 1930, with 89.6 percent of the victims being African American. Rape or attempted rape was given as the reason for the lynching in 27.6 percent of the Florida cases between 1889 and 1918.[34]

Several Florida lynchings had multiple victims. In Lake City, Columbia County, six black men were taken from the jail and shot at the edge of town in 1911. In 1916, near Newberry in Alachua County, a mob killed six African Americans, including two women, while searching for a man suspected of killing the sheriff.[35] At times, white mobs attacked whole communities of blacks. A mob in Ocoee, Orange County, responded to a black man's attempt to vote in 1920 by lynching him; the mob then burned the black section of town, driving the entire African American population away.[36] The little mostly black town of Rosewood in Levy County was destroyed by rampaging whites in 1923. At least eight people, two white and six black, were killed; the entire black population of the town was driven out and never returned. The attack resulted from a white woman's allegation that she had been assaulted by a black man. Even in such extreme instances, the press and the criminal justice system gave no assistance to the victims of mob violence. The destruction of Rosewood resulted in no arrests. In an editorial about the killings at Rosewood, the *Gainesville Sun* put the blame for the situation on a "brutish negro" who "made a criminal assault on an unprotected white girl" and held that "law or no law, courts or no courts-as long as criminal assaults on innocent women continue, lynch law will prevail." In 1994, the Florida legislature voted in favor of reparations for the surviving victims of Rosewood.[37]

Florida law enforcement officers sometimes participated in lynchings. A black hotel employee in Miami was arrested in 1925 for "improper conduct toward a white woman guest." The chief of police, H. Leslie Quigg, had two of his officers take the accused to a remote area and kill him.[38] In 1945 Jesse Payne was taken from the jail in Madison, Florida, and lynched. Suspicion of possible involvement or complicity on the part of the sheriff led to investigation by Gov. Millard Caldwell, who concluded that Payne's lynching was due to "the stupid inefficiency of the sheriff." Governor Caldwell decided, however, that stupidity was not grounds for removal from office, and the sheriff kept his job.[39] No one was convicted of lynching in Florida between 1900 and 1934.[40]

Florida governors at times condoned lynching. Sidney J. Catts responded to NAACP criticism by saying, "If any man, White or Black should dishonor one of my family he would meet my pistol square from the shoulder and every white man in the South, who is a red-blooded American, feels the same as I do."[41] Fred Cone, who became governor of Florida in 1937, had himself as a young man "committed a vigilante act when he shot and wounded a carpetbag Republican in an act of political vengeance."[42] By the 1930s, some state officials had begun to argue that lynchings were unnecessary because executions were a better alternative. As late as 1945, however, Millard Caldwell's remarks after the lynching of Jesse James Payne seemed to many to be an excuse for, if not quite an endorsement of, lynching.[43]

As was true in the rest of the South, lynching in Florida slowly decreased in the early decades of the twentieth century. The practice had a tenacious hold, however, and during the 1930s, Florida led the nation in the number of lynchings.[44] The case of Claude Neal, killed in Jackson County in 1934, received national attention because of its extraordinary brutality. Neal was suspected of the rape and murder of a young white woman. The lynching was advertised in advance by radio and newspapers, and a crowd of thousands gathered at the announced site. Neal died after prolonged and grotesque tortures; his corpse was dragged through the streets and hanged from a tree on the courthouse lawn. Postcards picturing the body hanging from the tree were produced and sold. The horror of this killing was an embarrassment to Florida officials and raised feelings against lynching allover the United States.[45]

Lynchings threatened to disrupt judicial proceedings in Florida well into the middle of the century. In 1944 the state attorney and the sheriff of Holmes County wrote to Gov. Spessard Holland requesting a guard of highway patrolmen to protect a black prisoner being brought into court for arraignment. The writers cautioned the governor to make calls to the sheriff's house, rather than to the courthouse, to prevent anyone overhearing and learning when the prisoner was to be in court.[46] The sheriff of Bradford County in 1950 wrote to the governor that "through the splendid cooperation of law-enforcement officers and leading citizens of this community I was successful in protecting the defendants against bodily harm."[47] The Orlando Sentinel wrote about a 1949 case in which four black men were accused of raping a young white woman, "We'll wait and see what the law does, and if the law doesn't do right, we'll do it."[48]

Conclusion

Florida and Tennessee were distinguished from other southern states by their geography and history. Nonetheless, both states were indisputably southern, and with the possible exception of some parts of eastern Tennessee, their white residents shared the commitment of other white southerners to racial supremacy. It was against this background of beliefs and practices that lethal punishment was imposed. The patterns of legal and extralegal executions in Tennessee and Florida were similar to those of other southern states, with both types of punishment reserved primarily for African Americans suspected of criminal or caste offenses against whites. In the following three chapters, I examine geographical and temporal patterns of lynchings and executions in the rural counties of northwest Tennessee, in the urban area of Shelby County, Memphis, and in Marion County, Florida.

Link Notes