

December 2019

## A Study of the Wyoming Miscegenation Statutes

William E. Foster

Follow this and additional works at: <https://scholarship.law.uwyo.edu/wlj>

---

### Recommended Citation

William E. Foster, *A Study of the Wyoming Miscegenation Statutes*, 10 Wyo. L.J. 131 (1956)  
Available at: <https://scholarship.law.uwyo.edu/wlj/vol10/iss2/5>

This Comment is brought to you for free and open access by Law Archive of Wyoming Scholarship. It has been accepted for inclusion in Wyoming Law Journal by an authorized editor of Law Archive of Wyoming Scholarship.

with the practice of drugless healing, the proper remedy does not lie in holding the "school of healing" rule inapplicable to such schools of healing. Most cases which so hold, although probably correct from the standpoint of the "equities" involved, seem lacking in logical reasoning. It is submitted that the proper remedy lies in a revision of the statutes. A partial solution to this problem may be the adoption of a statute similar to that of Wisconsin which prohibits certain classes of drugless healers from treating any specific disease except on the advice of a physician.<sup>34</sup> A further legislative solution would be the enactment of a "basic science act" requiring applicants for a chiropractic license to first pass an examination in the basic sciences before they are permitted to be examined by the chiropractic examining board.<sup>35</sup> Although the Wyoming court has not yet been confronted with the problem of the liability of chiropractors for malpractice, it is submitted that the Wyoming statutes are in need of revision so that if such a case does arise, the court would be relieved of the controversy concerning the merits of the various branches of the healing arts.

JERALD E. DUKES

#### A STUDY OF THE WYOMING MISCEGENATION STATUTES

The first ban on interracial marriage was passed in Maryland in 1661.<sup>1</sup> Since that time, forty states have followed with statutory bans on interracial marriages.<sup>2</sup> Twenty-nine states still have such prohibitions.<sup>3</sup>

34. Wis. Stat. § 147.185 (1949).

35. The sciences generally considered as basic are anatomy, physiology, chemistry, bacteriology and pathology. According to Memorandum, Bureau of Legal Medicine and Legislation, American Medical Association (1950), eighteen of the states and of the District of Columbia presently have such statutes. It is interesting to note that neither California nor Wyoming, with their large ratios of chiropractors, have such statutes.

1. "Foreasmuch as divers free-born English women, forgetful of their free conditions, and to the disgrace of our nation, do inter-marry with negro slaves, by which divers suits may arise, touching the issue of such women, and a great damage doth befall the master of such negroes, for preservation whereof for deterring such free-born women from such shameful matches, be it enacted: that whatsoever free-born woman shall intermarry with any slave, from and after the last day of the present assembly, shall serve the master of such slave during the life of her husband; and that all the issues of such free-born women, so married, shall be slaves . . . And be it further enacted: That all the issues of English, or other free-born women, that have already married negroes, shall serve the master of their parents, till they be thirty years of age and no longer." *Proceedings of the General Assembly, 1637-1664*, pp. 533-534; see also, Brackett, *The Negro in Maryland*, pp. 32-33; Reuter, *Race Mixture*, p. 78.
2. Alabama, Ala. Code § 14-360 (1940); Arizona, Ariz. Code Ann. §§ 63-107 and 63-108 (1939); Arkansas, Ark. Stat. § 55-104 (1947); California, Cal. Civil Code § 60 (1937) (held unconstitutional in *Perez v. Lippold*, 32 Cal.2d 711, 198 P.2d 17 (1948)); Colorado, Colo. Stat. Ann. § 107-2 (1935); Delaware, Del. Code § 13-101 (1953); Florida, Fla. Stat. §§ 1.01, 741.11, 741.12 (1953); Georgia, Code of Ga. Ann. §§ 53-106, 53-312 (1933); Idaho, Idaho Code § 32-206 (1947); Indiana, Burns, Ind. Stat. Ann. §§ 44-104, 44-105 (1933) (Baldwin's Ind. Stat. Ann. § 5619 (1934)); Iowa (omitted in 1851); Kansas (omitted Laws v. 49 (1857)); Kentucky, Ky. Rev. Stat. § 402.070 (1953); Louisiana, La. Rev. Stat. § 9-201 (1950); Maine, Act of 1786, repealed by Laws 1883 p. 16; Maryland, Md. Flack's Code § 27-466 (1951); Massachusetts, repealed by Acts 1843 c. 5; Michigan, amended by Act 23, Session Laws

Six of these states have constitutional bans as well as statutory provisions prohibiting such marriages.<sup>4</sup> However, Iowa, Kansas, Maine, Massachusetts, Michigan, New Mexico, Ohio, Pennsylvania, Rhode Island, and Washington have repealed the miscegenation statutes which were once in effect in those states;<sup>5</sup> and the Supreme Court of California has held its statute unconstitutional.<sup>6</sup> While all twenty-nine states which have miscegenation statutes have provisions barring marriage of a White to a Negro,<sup>7</sup> twelve states also have provisions which would bar marriage of Whites to various classifications of Asiatics.<sup>8</sup> Three states in their statutes bar marriages of Whites to "Africans," and have no explicit mention of Negroes;<sup>9</sup> this type of statute would technically apply to the Dutch Afrianders as well as to the Negro.<sup>10</sup>

While all of the statutes are basically similar, some have very comprehensive restrictions. As an example, Georgia has a very explicit statute as to what racial background would qualify a person as a member of the White race, and then, in another statute bans marriage of Whites to Negroes, Indians, Malaysians, Mongolians, Asiatic Indians, West Indians, or Mulattoes.<sup>11</sup> Some of the statutes have somewhat strange provisions: North Dakota includes Koreans under its ban;<sup>12</sup> Arizona has a provision banning marriage between Whites and Hindus;<sup>13</sup> Nevada prohibits marriage with Ethiopians;<sup>14</sup> and Montana and Nebraska ban Chinese and Japanese from marrying Whites;<sup>15</sup> Colorado's statute bans miscegenous marriages, and then makes an exception of marriages between people living

---

1883 (Mich. Comp. Laws § 551.6 (1948), validates all marriages entered into between white and African or person of African descent); Mississippi, Miss. Code § 459 (1942); Missouri, Mo. Rev. Stat. § 451.020 (1949); Montana, Mont. Rev. Code §§ 48-106 thru 48-108 (1947); Nebraska, Neb. Rev. Stat. § 42-103 (1943); Nevada, Nev. Comp. Laws § 10197 (1929); New Mexico, (repealed by Laws 1886 p. 90); North Carolina, N. C. Stat. § 51-3 (1943); North Dakota, N. Dak. Rev. Code §§ 14-0304, 14-0305 (1953); Ohio (repealed by Laws 1887 p. 34); Oklahoma, Okla. Stat. tit. 43 § 12-3 (1951); Oregon, Ore. Comp. Laws § 63-102 (1940); Pennsylvania, passed an Act in 1725, Turner, *The Negro in Pennsylvania*, the author could find no further record of this legislation; Rhode Island, (repealed by Acts Jan. Sess. 1881, p. 108); South Carolina, S. C. Code § 20-7 (1952); South Dakota, S. Dak. Code § 14.0106 (1939); Tennessee, Tenn. Code § 8409 (1932); Texas, Vernon's Texas Stat. § 4607 (1948); Utah, Utah Code Ann. § 40-1-2 (1943); Virginia, Va. Code §§ 20-54, 20-57 (1950); Washington, (repealed by Laws 1867, pp. 47-48); West Virginia, W. Va. Code Ann. §§ 48-1-19, 48-2-1 (1949); Wyoming, Wyo. Comp. Stat. §§ 50-108, 50-109 (1945).

3. See note 2, supra.

4. Alabama, Ala. Const. Art. 4 § 102; Florida, Fla. Const. Art. 16 § 24; Mississippi, Miss. Const. Art. 14 § 263; North Carolina, N. C. Const. Art. 14 § 8; South Carolina, S. C. Const. Art 3 § 33; Tennessee, Tenn. Const. Art. 11 § 14.

5. See note 2, supra.

6. *Perez v. Lippold*, 32 Cal.2d 711, 198 P.2d 17 (1948).

7. See note 2, supra.

8. Arizona, Georgia, Idaho, Maryland, Mississippi, Missouri, Montana, Nevada, Oregon, South Dakota, Utah, Wyoming; see note 2, supra.

9. Oklahoma, South Dakota, Texas; see note 2, supra.

10. One can imagine the consternation such an application would cause. Dr. Milan and his "white supremacy" followers.

11. Code of Ga. Ann. §§ 53-312, 53-106 (1933).

12. N. Dak. Rev. Code § 14-0304 (1943).

13. Ariz. Code Ann. § 63-107 (1939).

14. Nev. Comp. Laws § 10197 (1929).

15. Mont. Rev. Code §§ 48-106 thru 48-108 (1947); Neb. Rev. Stat. § 42-103 (1943).

in that portion of the state acquired from Mexico, if the marriage is valid according to the law of Mexico.<sup>16</sup> Under the Arizona statute,<sup>17</sup> barring anyone with Caucasian blood from marrying a Negro, Hindu, Malay, Mongolian, or Indian or their descendants, anyone with any mixture of Caucasian and prohibited racial descent would be precluded from marrying at all. Since he would be "of Caucasian blood," marriage to the races set out in the statute would be prohibited; and since he would be of the blood of the prohibited races also, he could not marry a White. This statute is startling similar to Hitler's concept of the "pure Aryan."

The Wyoming miscegenation law is composed of two sections.<sup>18</sup> The first, section 50-108, will be referred to as the prohibition section, and the second, section 50-109, will be referred to as the enforcement section. These statutes are both derived from one Act, chapter 57 of the Wyoming Session Laws of 1913, which was originally introduced as House Bill 153 of that year and was passed February 22, 1913, to take effect immediately upon its passage.<sup>19</sup> The present statutes are unchanged from their original form. The Wyoming prohibition section reads:

All marriages of white persons with Negroes, Mulattoes, Mongolians or Malays hereafter contracted in the state of Wyoming are and shall be illegal and void.<sup>20</sup>

And the Wyoming enforcement section is:

Whosoever shall knowingly contract marriage in fact contrary to the prohibitions in the preceding section, and whosoever shall knowingly solemnize any such marriage shall be deemed guilty of a misdemeanor, and upon being convicted thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or imprisonment of not less than one year nor more than five years, or both, at the discretion of the court which shall try the cause.<sup>21</sup>

The Wyoming prohibition provision is characterized by its brevity; evidently the legislature did not see fit to define further any of the classifications set forth. Nor have there been any Wyoming cases dealing with racial intermarriages or interpreting this statute. However, when the Wyoming courts first deal with this problem, they will be faced with the formidable question of interpreting the prohibition provision. The very brevity of the statute gives rise to the largest problem—who comes within the prohibition of the statute?

The first question that arises is as to who is a "White" within the meaning of the statute. Even those states which have formulated statutory definitions are not in agreement. Georgia with its very extensive definition provision sets out that a "White" includes only those persons who have no

16. Colo. Stat. Ann. § 107-2 (1935).

17. Ariz. Code Ann. §§ 63-107, 63-108 (1939).

18. Wyo. Comp. Stat. §§ 50-108, 50-109 (1945).

19. Wyo. Sess. Laws 1913 c. 57 §§ 1, 2, 3, 4.

20. Wyo. Comp. Stat. § 50-108 (1945).

21. Wyo. Comp. Stat. § 50-109 (1945).

ascertainable trace of the prohibited intermixture in their blood line.<sup>22</sup> The Arizona statute prohibits anyone with "Caucasian blood" from marrying the other races enumerated.<sup>23</sup> Virginia states that a "White" is a person with no admixture except 1/16 or less of American Indian.<sup>24</sup> Many other states in their statutes treat as "White" anyone with 1/8 or less of any of the other prohibited races;<sup>25</sup> Oregon sets it at 1/4.<sup>26</sup>

In those states which do not have a statutory definition of who is a "White," the court decisions construing the provision are even more divergent than the statutory definitions. An Ohio decision held that one having a preponderance of Caucasian blood is a "White" within the meaning of the statute.<sup>27</sup> The Oklahoma court in the case of *Scott v. Epperson* said:

Indians were and are generally referred to as such, or as red men. We cannot presume that they are included within the term, "white persons," but must presume that the expression was used in its ordinary acceptation, which according to the lexicographers, means persons having a light complexion as members of the Caucasian race; opposed to negro and also the red, yellow, and brown races.<sup>28</sup>

The same problems arise in determining who is a Negro, Mongolian, or Malay. The term Mulatto technically means the child of parents one of whom is pure Negro and the other pure White, but by common usage the term has come to mean any mixture of Negro with other races.<sup>29</sup> In *In re Stark's Estate*,<sup>30</sup> the California court held that one with 1/8 Negro blood was a Mulatto. In *State v. Davis and Hanna*, the South Carolina Supreme Court said:

I do not know how that we can lay down any other rule than to give what appears to be the popular meaning of the word; to wit, that where there is a distinct and visible admixture of Negro blood the person is to be denominated a mulatto, or person of color . . . the witness was a quadroon, and such an one is clearly to be accounted a mulatto, or person of color.<sup>31</sup>

It would seem that since the enforcement provision of the Wyoming law carries a criminal sanction, the so-called rule of strict construction of criminal statutes would come into play. Under this construction the statute would bar only a pure Caucasian from marrying those descended solely from a prohibited racial stock, or a Mulatto in the technical sense of the word.

22. Code of Ga. Ann. § 53-312 (1933).

23. See note 16, supra.

24. See note 1, supra.

25. 1/8: Alabama, Florida, Maryland, Mississippi, Missouri, Nebraska, North Carolina, Tennessee, Utah; See note 1, supra.

26. Ore. Comp. Laws § 63-102 (1940).

27. *Anderson v. Millikan*, 9 Ohio St. 568, 570 (1858).

28. 141 Okla. 41, 284 Pac. 19, 20 (1930).

29. Webster's New International Dictionary (Unabridged) 2d ed. 1936, p. 1608; Black's Law Dictionary 4th ed. 1951 p. 1166; *Thurman v. State*, 18 Ala. 276 (1850).

30. 48 Cal.App.2d 209, 119 P.2d 961 (1941).

31. 2 Bailey 559, 560 (S.C. 1831).

The second problem which could confront the court is whether the children of a miscegenous marriage performed in Wyoming are legitimate or illegitimate. In the other types of marriage which are declared to be void in Wyoming,<sup>32</sup> there are specific provisions stating the issue of the marriage is either legitimate or is illegitimate.<sup>33</sup> However, there is no provision dealing with the issue of a marriage which is void because miscegenous, nor is there any general provision as to the children born of void marriages. This may be a matter of only minor importance, except to those adversely affected—the children—who are the innocent by-products of miscegenous marriages.

In addition to the stigma of illegitimacy there is also the question of whether the child or spouse could inherit. The Wyoming statute on inheritance provides that an illegitimate child can inherit from his mother, but in order for him to inherit from his father there must be a subsequent (valid) marriage in which the father recognizes the child as his own.<sup>34</sup> There is no provision of this statute which deals with the issue of a void marriage. Therefore, if issue is illegitimate, such issue could not inherit from the father. Neither is there any statutory provision as to inheritance by a "spouse" under a void marriage. Therefore, the usual rule of "no marriage no spouse" would probably apply.

The third problem which a miscegenation statute such as that of Wyoming would raise is the status in Wyoming of a miscegenous marriage performed in another jurisdiction. This problem has several aspects. The first to be considered is whether Wyoming by any statutory provision has invalidated a miscegenous marriage performed in another jurisdiction. Since Wyoming has a statute recognizing marriages in other jurisdictions if valid where performed,<sup>35</sup> it is probable that if residents of Wyoming entered into a miscegenous marriage in another jurisdiction where such marriages are valid that the union would be recognized as valid in Wyoming. Although the Wyoming Statute says if valid "by the laws of the *country*"<sup>36</sup> (italics added), the California Court in construing an almost identical statute of that state held in the case of *McDonald v. McDonald* that such a statute applied to sister states.<sup>37</sup> This view is strengthened by the fact that the prohibition statute in Wyoming refers only to marriages performed in Wyoming, "All miscegenous marriages . . . contracted in the state of Wyoming are and shall be illegal and void. . . ."<sup>38</sup>

32. Wyo. Comp. Stat. § 3-5901 (1945).

33. Legitimate, Wyo. Comp. Stat. § 3-5924 (1945), Marriage void because of insanity or idiocy of one of the parties, and § 3-5925, Marriage void because bigamous. Illegitimate, Wyo. Comp. Stat. § 3-5926 (1945), Marriage void on account of consanguinity.

34. Wyo. Comp. Stat. § 6-2507 (1945).

35. "All marriage contracts without this state, which would be valid by the laws of the country in which the same were contracted, shall be valid in all courts and places in this state." Wyo. Comp. Stat. § 50-118 (1945).

36. *Ibid.*

37. 6 Cal.2d 457, 58 P.2d 163, 164 (1936).

38. See note 19, *supra*.

The second aspect of this conflict of laws problem to be considered is whether the marriage is valid in the state in which performed. The marriage could be invalid in the foreign jurisdiction for either of two reasons: first, the foreign jurisdiction may also have a miscegenation statute which covers the particular union in question, or second, if the parties are residents of a state which has a miscegenation statute, such as Wyoming, and if the foreign jurisdiction in which the marriage is performed has the Uniform Marriage Evasion Act, then by the terms of that Act the marriage is void even though the foreign jurisdiction has no ban on such marriages.<sup>39</sup> Therefore, persons attempting to avoid the Wyoming prohibition by being married in another state should look to see whether that state has either an applicable miscegenation statute, or the Uniform Marriage Evasion Act. Since the Wyoming statute provides that subsequent marriage plus recognition removes an illegitimate child's disability to inherit from his father,<sup>40</sup> the disability of children of a miscegenous marriage performed in Wyoming could be removed by a valid marriage elsewhere, if care is taken to avoid the aforementioned pitfalls in the subsequent marriage. The same would apply in removing a wife's disability to inherit, and in legalizing the cohabitation of the parties.

The final question is whether the Wyoming miscegenation statute is constitutional. The great majority of cases which have dealt with this problem have upheld miscegenation statutes.<sup>41</sup> Only two decisions have been found in which miscegenation statutes have been held unconstitutional,<sup>42</sup> and one of these was later overruled.<sup>43</sup>

The United States Supreme Court has never directly ruled upon this question. However, in the case of *Pace v. Alabama* decided in 1882 the Court upheld an Alabama statute which imposed a more severe penalty for fornication when the offense was committed by a Negro and a White than if the offense were committed by two members of the same race.<sup>44</sup>

The two grounds which have been most generally relied upon in upholding these statutes has been that marriage is a social relationship which is of great interest to the state and therefore subject to reasonable regulation by the state,<sup>45</sup> and that the statutes do not discriminate because they

39. Uniform Marriage Evasion Act, 9 U.L.A. 479 (1942).

40. See note 33, *supra*.

41. *Ex Parte Francois*, 9 Fed. Cas. 5047 (W. D. Tex. 1879); *Georgia v. Tutty*, 41 Fed. 753, 7 L.R.A. 50 (S.D. Ga. 1890); *Green v. State*, 58 Ala. 190, 29 Am.Rep. 739 (1877), overruling *Burns v. State*, 48 Ala. 195, 17 Am.Rep. 34 (1872); *Kirby v. Kirby*, 24 Ariz. 9, 206 Pac. 405 (1922); *Dodson v. State*, 61 Ark. 57, 31 S.W. 977 (1895); See Note 2 L.R.A. (N.S.) 532 (1906); *Stevens v. United States*, 146 F.2d 120 (10th Cir. 1944); *Jackson v. Denver*, 109 Colo. 196, 124 P.2d 240 (1942); *Estate of Fred Pacquet*, 101 Ore. 393, 200 Pac. 911 (1921).

42. *Burns v. State*, 48 Ala. 195, 17 Am.Rep. 34 (1872); *Perez et al v. Lippold*, 32 Cal.2d 17, 198 P.2d 17 (1948).

43. *Burns v. State*, 48 Ala. 195, 17 Am.Rep. 34 (1872) overruled by *Green v. State*, 58 Ala. 190, 29 Am.Rep. 739 (1877).

44. 106 U.S. 583, 1 S.Ct. 637, 27 L.Ed. 207 (1882).

45. *Green v. State*, 58 Ala. 190, 29 Am.Rep. 739 (1877); *Kirby v. Kirby*, 24 Ariz. 9, 206 Pac. 405 (1922); *Dodson v. State*, 61 Ark. 57, 31 S.W. 977 (1895).

apply to whites as well as to the other races.<sup>46</sup> The trend of the decisions of the United States Supreme Court has been toward a more stringent application of the discrimination—prohibiting provisions of the United States Constitution.<sup>47</sup> The Court's decision in *Shelley v. Kraemer*,<sup>48</sup> holding that racial restrictive covenants were no more enforceable because of the fact that they could be used against Whites as well as other races, was hailed as rebutting the argument that there is no discrimination by such statutes because they apply equally to the White and other races. In the recent school segregation cases, the Court stated that education is certainly of paramount interest to the states, but for that very reason discrimination cannot be allowed.<sup>49</sup> The Court has held that marriage is a fundamental right of the individual,<sup>50</sup> and has stated that classifications made on the basis of color or race alone are suspect.<sup>51</sup>

Of the two decisions which have been rendered holding miscegenation statutes unconstitutional, *Burns v. The State of Alabama* need not be considered since it was expressly overruled in 1877, only five years after it was decided.<sup>52</sup> The second case is *Perez v. Lippold*, a California case decided in 1948.<sup>53</sup> This decision, although weakened by the fact that the majority did not concur in any opinion, was based on the grounds that marriage is a fundamental right of the individual and is not subject to regulation by the state in the absence of a showing of clear and present danger. The majority then argued in convincing fashion that according to scientific research there is no clear and present danger presented by interracial marriage. The majority also held that the statute (similar to the Wyoming prohibition provision) was void as being too indefinite and uncertain for application. The court said that marriage is an individual right such as is protected by the Fourteenth Amendment. Therefore, since the right to marry is inseparably linked with the right to choose a partner, the separate but equal doctrine is not applicable because a statute which impairs the right to choose a partner necessarily impairs the right to marry.

---

46. *State v. Hairston*, 63 N. C. 439 (1869); *Jackson v. Denver*, 109 Colo. 196, 199, 124 P.2d 240 (1942); *In re Estate of Fred Pacquet*, 101 Ore. 393, 399, 200 Pac. 911, 913 (1921).

47. The court has in the past seven years held that: 1. The state courts cannot enforce racial restrictive covenants, *Shelley v. Kraemer*, 334 U.S. 1, 68 S.Ct. 836, 97 L.Ed. 3 (1948); 2. Racial grounds are not sufficient to support a classification barring Japanese fishermen from fishing in the coastal waters of California, *Takahashi v. Fish and Game Commission*, 334 U.S. 410, 68 S.Ct. 1138, 92 L.Ed. 1478 (1948); 3. The barring of negroes from juries is a denial of equal protection (in an opinion which emphatically reaffirmed previous holdings to that effect), *Patton v. Mississippi*, 332 U.S. 463, 68 S.Ct. 184, 92 L.Ed. 76 (1947); 4. Segregation of races in public schools is unconstitutional in that it denies equal protection of the laws, *Brown v. Board of Education of Topeka, Shawnee County, Kansas*, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954).

48. *Ibid.*

49. See note 46, *supra*.

50. *Meyer v. Nebraska*, 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042, 29 A.L.R. 1446 (1923).

51. *Railway Mail Assn. v. Crosi*, 326 U.S. 88, 94, 65 S.Ct. 1483, 1487, 89 L.Ed. 2072 (1945).

52. See note 42, *supra*.

53. See note 41, *supra*.



The constitutional question is an open one so far as the Supreme Court of Wyoming is concerned. As just demonstrated, there is ample authority that the statutes are valid, but there is also logical enlightened authority that the statutes are unconstitutional and hence void.

From the standpoint of physical anthropology there is also another criticism of the statutes in that the classifications are often on a cultural or geographical basis rather than on the racial basis upon which they purport to be founded.

In terms of legislative trends the existence of the statutes is inconsistent with the policy of the Wyoming Legislature evidenced in recent years. The 1955 Wyoming Legislature repealed a statute which had provided for optional segregation in Wyoming schools.<sup>54</sup> The same legislature adopted "Equal Rights" as the state motto.<sup>55</sup> When a Civil Rights Bill was introduced<sup>56</sup> it was defeated on the grounds that tolerance is desirable but it cannot be forced by legislation.

The Wyoming statutes probably serve little purpose other than as a source of harassment and uncertainty to those who have violated the provisions. The writer has not been advised of any prosecutions which have been instituted thereunder in Wyoming, and in the absence of additional circumstances it is believed that few county attorneys would be disposed to prosecute. As pointed out, the statutes can probably be avoided if the couple marries in a state which has neither a miscegenation statute nor the Uniform Marriage Evasion Act. This leaves the prohibition of the statute as a burden only upon those who lack the money to go out of the state to be married, those who do not know of the existence of the statute or how to avoid its provisions, and those who are not concerned with the inheritance of property. As a deterrent to interracial marriages, the statutes are probable failures. As Edward Byron Reuter has observed in his book, *Race Mixture*, "the legislation itself probably has no effect whatever upon the rate of racial intermixture."<sup>57</sup>

WILLIAM E. FOSTER

---

## NET WORTH METHOD OF PROSECUTION FOR TAX EVASION

Determination of a taxpayer's income by indirect means in a tax evasion prosecution has increased considerably in the past few years. In very few recent cases has unreported income been shown by specific or direct proof of unrecorded transactions. The so-called "net worth" method of proof seems to be the indirect means most frequently used by the Bureau of Internal Revenue. It is apparent that they apply it now in

---

54. Sess. Laws 1955 c. 36.

55. Sess. Laws 1955 c. 102.

56. H. B. 86 Introduced Wyoming State Legislature, January 20, 1955.

57. Reuter, *Race Mixture*, 103.