CRIMES OF DISCONTENT: THE CONTOURS OF BLACK WOMEN'S LAW BREAKING IN CIVIL WAR ERA WASHINGTON, D.C., 1830-1865

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Abbreviations

AA	Accessible Archives
ES/WES	The Evening Star, The Washington Evening Star daily newspaper
HSW	Historical Society of Washington, D.C. District of Columbia
LOC	Library of Congress, Washington, D.C.
MSA	Maryland State Archives, Annapolis, MD
NARA	National Archives and Records Administration, Washington, D.C.
NI	The National Intelligencer
NR	The National Republican
PSUA	Pennsylvania State University Archives, Pennsylvania Civil War Newspaper Collection
VHS	Virginia Historical Society, Richmond, VA

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INTRODUCTION

Modern scholarship on race in nineteenth-century Washington, D.C. tells a tale of two cities: the nation's capital as both a bastion of slavery, Southern in character, and a laboratory for freedom, a hub of antislavery activism and free black reform. The decision of Congress to establish the territory formerly occupied by Maryland and Virginia as the new capital was a concession to Southern slaveholders in the Compromise of 1790. At its inception, race-based law in the District of Columbia took shape from legal restrictions in the codes of the Chesapeake region. The diamond-shaped city remained closely tied to the neighboring slave states in both law and culture. During the American Civil War, Congress enacted a series of emancipation edicts, disrupting the slaveholding consensus of the Chesapeake region. The end of the war would not only mark the abolition of slavery and antebellum black codes, but the collapse of the Southern slaveholding legal regime that ran through the borders of Washington, D.C., Maryland, and Virginia.¹

With the decline of the Chesapeake tobacco economy, the District became a key site of the domestic slave trade, and of the "hiring out" system of enslavement, as slaveholders leased excess labor by "hiring out" slaves in the District. Hiring out and the domestic trade helped to keep the value and price of slaves high, particularly in the aftermath of the abolition of the international slave trade. Slaves and free blacks also constituted the labor force employed to construct the buildings that, over time, transformed Washington from a swampy frontier into a respectable city. All the while,

¹ An Act for Establishing the Temporary and Permanent Seat of the Government of the United States, Statutes at Large, 1st Congress, 2nd Session 1791, LOC; *Howells State Trials*, vol. 20, cols 1-6, 79-82, 1816.

during the city's formative years, pro-slavery ideology rang out in the halls of Congress. Slaveholders dominated the city's political landscape, and as Southern politicians who converged on the city each legislative season joined the residential slaveholding elite, slaveholders played an outsized role in its social life as well.²

At the same time, antislavery forces too converged on the District. Abolitionists, even as they debated tactics, agreed that the capital city, where Congress clearly had constitutional jurisdiction, should be the focal point of their campaign for emancipation. They argued that natural law and common law, which recognized human rights, must be made to prevail over the local laws of the District. In "The Power of Congress over the District of Columbia," Theodore Dwight Weld argued that, "slaves are not '*property*' and wherever held as property under law, it is only by *positive legislative acts*, forcibly setting aside the law of nature, the common law, and the principles of universal justice." Therefore, laws created to maintain slavery and organize persons by race and gender were derived from positive law, and established through deliberate ideas about how society should be ordered. Such laws governed the lives of enslaved and free black women. Abolitionists flooded Congress with petitions and called for the interdiction of slave trading in the District. Black and white abolitionists also worked extensively to build interracial coalitions within the religious and social institutions of the city.³

² Constance Green *Washington: Village and Capital, 1800-1878*, (Princeton, NJ: Princeton University Press 1962); Constance McLaughlin Green, *The Secret City: A History of Race Relations in the Nation's Capital* Princeton, (NJ: Princeton University Press, 1967); Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972).

³ Lord Mansfield argued in the English courts in *Somerset v. Stewart* that, "The State of slavery is such a nature, that it is incapable of being introduced, on any reasons moral or political, but only by positive law." An Act for Establishing the Temporary and Permanent Seat of the Government of the United States, Statutes at Large, 1st Congress,

Over time, an increase in manumission, antislavery activism and black institution building provided the context for the emergence of a northern black middle class, led by such prominent activists such as Frederick Douglass, John Cook, Elizabeth Keckly, and Henry Highland Garnet. Abolitionists also grew bolder over the course of the antebellum era, as witnessed by initiatives such as the orchestrated escape of seventy-seven slaves from Washington on the schooner *Pearl* in 1848. They achieved victories with the outlawing of the slave trade in the district as part of the Compromise of 1850, and with the abolition of slavery in the city on April 16, 1862. Under Lincoln's leadership, the advent of wartime emancipation policies tipped the scales, transforming Washington, D.C. into a city that was more "northern" than "southern."⁴

In short, modern scholarship has emphasized that the District was a "middle ground" and a borderlands in the slavery debates, to use the formulations of Barbara Fields. And yet, for all its strengths, scholarship from historians such as Stanley Harrold and Kate Masur highlights elite and middle-class politicians and reformers, leaving largely unexplored the lives of working-class and poor African Americans in the city, free and enslaved. This dissertation, "Crimes of Discontent: The Contours of Black Women's Law Breaking in Civil War Era Washington, D.C., 1830-1865," looks to recover the experiences of enslaved and free black women in the city. Using nineteenth-century positive legal edicts and discourses of criminality, it charts their encounters with the criminal courts to show how their law-breaking affected local and national

^{2&}lt;sup>nd</sup> Session 1791, Library of Congress; *Howells State Trials*, vol. 20, cols 1-6, 79-82, 1816; Theodore Dwight Weld, *The Power of Congress over the District of Columbia*, (New York: American Anti-Slavery Society, 1838) p.13.

⁴ Kenneth J. Winkle, *Lincoln's Citadel: The Civil War in Washington, D.C.*, (New York: W.W. Norton & Company, 2013); Harrold, Stanley *Subversives: Antislavery Community in Washington, D.C.*, *1828-1865*, (Baton Rouge: Louisiana State University Press, 2003).

perceptions of them and influenced public debates over slavery, emancipation, and black citizenship.

This study is rooted in police precinct records, nineteenth-century slave law and black codes, criminal court dockets, jail registers, and newspaper coverage, often sensationalized, of women's brushes with the law. Inspired by the work of historians of race, gender, and slavery such as Thavolia Glymph, Saidiya Hartman, and Stephanie Camp, I argue that many enslaved and free black women's actions that were construed as crimes within the white culture of the period can also be understood as strategies of survival, resistance, or self-expression. Even as antislavery activists worked to dismantle slavery and antebellum black codes, enslaved and free black women defied and resisted those laws. Thus, it was not only the "upstart claims" of the black middle class alone that ignited the legislative transformations of the District, but a long tradition of resistance and rejection of the existing laws from black inhabitants of all classes. Enslaved and free black women were making claims to freedom long before the tide of emancipation policies began to crest. ⁵

The women discussed in this study lived in the midst of dire poverty and often violated the law in an effort to earn extralegal income. Seth Rockman's study of wage, slave, and unskilled labor in nearby Baltimore demonstrates that American prosperity during the early nineteenth century was based upon the multi-faceted exploitation of the

⁵ Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household*, (New York, New York: Cambridge University Press, 2008); Saidiya Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*, (New York: Oxford University Press, 1997); Stephanie M.H. Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South*, (Chapel Hill, North Carolina: The University of North Carolina Press, 2004); Kate Masur argues in *An Example for All the Land*, that it was the "upstart claims" of black activists during Reconstruction that represented critical resistance against inequality.

poor and oppressed, enslaved and free. "The early republic economy" he argues "opened up new possibilities for some Americans precisely because it closed down opportunities for others." Similarly, this study looks at the enslaved and free black women who were exploited and struggled for basic subsistence. Some women shirked respectability in favor of the profit-generating business of prostitution. Some defied the racial order by fleeing masters or by confronting them directly. Over the course of the antebellum era, as white anxiety over women's unruliness intensified, so too did a regime of surveillance, criminalization and imprisonment in the form of legalized racial and gender repression. Washington D.C. became a *battleground* over the legal boundaries of American freedom, as enslaved and free black women continued to push against the legal parameters and gendered discourses designed to circumscribe their lives.⁶

By looking closely at the contexts of black women's law breaking, I aim both to reveal some of the nineteenth century roots of the modern-day carceral state, and to challenge ideas about what constitutes criminality, and who becomes an American "criminal." Scholars such as Angela Davis, Khalil Muhammad, and Kali Gross have called for a deeper engagement with the historical origins of surveillance, criminalization, and imprisonment. Regarding the nexus of slavery and mass incarceration, Loic Wacquant offers: "One cannot understand the latter—its timing and smooth onset without returning to the former as historical starting point and functional analogue." It is with this literature in mind that my work uses positive law as an analytical source to

⁶ Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* (Baltimore: Johns Hopkins University Press, 2009), p.3.

argue that race-based legal edicts intersected with gendered discourses to shape early perceptions of and punishments for crime.⁷

By using the term "law breaking" in my work, I seek to distinguish the legal violations from cultural assumptions about blackness, gender, and criminality. More specifically, I demonstrate that print sources assumed black women's "inherent" criminality, and the law was shaped in a way that fashioned black women and men as exceptionally criminal. In addition to cultural constructions of the "mammy" and "jezebel," as analyzed by scholars such as Deborah Gray White, a trope of the "wild colored woman," "uncontrollable and criminal," emerged in white discourses on race that placed black women outside the conventions of respectability. Thus, criminality in this study is treated as a legal and cultural construction informed by nineteenth-century understandings of race and gender. This approach enables a further engagement with what historian Evelyn Brooks Higginbotham refers to as the "metalanguage of race" to explore the function of race in shaping experiences informed by gender, sexuality, and class in African American women's history.⁸

⁷ Angela Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003); Kali Gross, *Colored Amazons: Crime, Violence, and Black Women in the City of Brotherly Love, 1880-1910*, (Durham: Duke University Press, 2006); Mary Ellen Curtin, Black *Prisoners and Their World, Alabama, 1865-1900*, Carter G. Woodson Series in Black Studies, (Charlottesville: University Press of Virginia, 2000); Douglas Blackmon, *Slavery By Another Name: The Re-Enslavement of African Americans from the Civil War to World War II*, (Doubleday, 2008); Khalil Muhammad, *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*, (Cambridge: Harvard University Press, 2011); Loic Wacquant, "From Slavery to Mass Incarceration: Rethinking the 'Race Question' in the US," New Left Review 13 (January-February) 2002.

⁸ Deborah Gray White, *Ar'n't I A Woman: Female Slaves in the Plantation South*, (New York: W.W. Norton & Company, 1985); Evelyn Brooks Higginbotham, "African American Women's History and the Metalanguage of Race," *Signs*, (Chicago, Illinois: University of Chicago Press, 1992).

Moreover, influenced by the work of Laura Edwards, this study interrogates localized law, which was based in "multiple sources and sites of authority," and anchored in the habits and customs of a specific community. The carceral regime of nineteenth-century Washington was comprised of local constables, slave traders and owners, white employers, and white mobs that policed black inhabitants according to the black codes and racial customs that sustained the codes. The press was a central component of this surveillance apparatus. Local newspapers such as the *Washington Evening Star*, the *National Intelligencer*, *National Republican*, and *Washington Daily Chronicle* played a critical role in reporting and characterizing black women's alleged crimes, ascribing to women criminal pathologies.⁹

A study of black women's law breaking throughout the Civil War in Washington calls into question scholarly arguments that underscore the momentum and coherence of the Republican Party's wartime antislavery policies.¹⁰ The District was not only a laboratory for emancipation policies during the war but also for white resistance to emancipation, as white locals turned to imprisonment as a mechanism to defy the 1862 abolition act and to perpetuate black bondage. Emancipation policies alone could not sway the strong convictions of whites with slaveholder interests and white supremacist

¹⁰ Ernest B. Ferguson, *Freedom Rising: Washington in the Civil War*, (New York: Vintage Books, 2005); Kenneth J. Winkle, *Lincoln's Citadel: The Civil War in Washington, D.C.*, (New York: W.W. Norton & Company, 2013); James Oakes, *Freedom National: The Destruction of Slavery in the United States, 1861-1865*, (New York: W.W. Norton & Company, 2013); Stanley Engerman, *Slavery, Emancipation, and Freedom: Comparative Perspectives*, (Baton Rogue: Louisiana State University Press, 2007).

⁹ Constance Green *Washington: Village and Capital, 1800-1878*, (Princeton, NJ: Princeton University Press 1962); Laura Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*, (Chapel Hill: The University of North Carolina Press, 2009).

sympathies. Such attempts to maintain the regime of surveillance were met, during the war years, with renewed efforts at reform and resistance by African American women.¹¹

While my narrative moves chronologically, it is organized thematically. The themes of violent retaliation, theft, and prostitution are featured in the first and last chapters, which focus on fundamental transformations in the law. The first chapter, "Revolving Escape: Race Law and Freedom in Antebellum Washington, D.C. 1827-1850," traces how positive law mechanisms such as black codes, incentivized fee systems for local police, and slave laws linked the District to the slave systems in Maryland and Virginia. These local practices constituted a regime of surveillance, designed to circumscribe the lives of enslaved and free blacks alike. From 1800 to 1820 slaves outnumbered the free black population in the District. But by 1830 the free black population constituted 51 percent of DC's total black population. As the free black population grew, city officials responded by promulgating and enforcing new ordinances that tightened the legal parameters around black life. In 1827, the mayor of Washington, D.C. announced a new black code that prohibited free blacks from meeting in groups beyond religious purposes, playing cards, hosting parties, and going out after an enforced curfew, among other stipulations. A major feature of the black code required every black inhabitant to prove his or her free status and apply for a residence permit. For violating black codes and District laws more generally, black inhabitants were fined exorbitant fees or forced to labor in the workhouses for at least 30 days and anywhere up to two years. The local police benefited from a fee system that allowed them to collect a portion of the

¹¹ Margaret Leech, *Reveille in Washington: 1860-1865*, (New York: Harper & Brothers, 1941); Stephen C. Neff, *Justice in Blue and Gray: A Legal History of the Civil War*, (Cambridge: Harvard University Press, 2010); John Fabian Witt, *Lincoln's Code: The Laws of War in American History*, (New York: Free Press, 2012).

fees to supplement their incomes—this system would give the police a profitable incentive for black surveillance and punishment.¹²

The local news also facilitated the work of surveillance. This is evident in the proliferation of numerous runaway slave advertisements paid for by slaveholders and The second chapter, "Stolen: Self-Emancipation and Self-Making," slave traders. addresses black women's law breaking in the context of property crimes-more specifically illegal possession of material goods and escape from slavery. Black women's theft of material property reveals strategic attempts to secure household goods and personal necessities. Indeed the newspapers and court records abound with examples of women being arrested for stealing wood, shoes, clothes, food, work tools, blankets and bank notes. Some women appropriated what were considered luxury items-such as bonnets and silk dresses—revealing the connection between aspirations for freedom and a culture of consumption. Moreover, women charged for theft were engaged in "selfmaking" and strategically altered their identities and created aliases to stay one step ahead of the law. The most publicized crimes committed by enslaved women were attempted, successful, or failed escapes--or what I refer to here as self-emancipation. These were archived in the press in runaway advertisements, which encouraged the scrutiny of black women's bodies and personalities. Slave women both fled the District and fled the Chesapeake states into the city, looking to find work and melt into the free black population. While enslaved and free women were punished through harsh

¹² Walter C. Clephane, "The Local Aspects of Slavery in the District of Columbia," Columbia Historical Society Rec, 111, 225; March 16, 1080; David Stroman *Slavery in Washington, D.C.: Slaves of Washington, D.C.* Library of Congress, Washington, D.C., 2002.

sentencing for property crimes, they acted upon their own understandings of what aspects of their lives, labor, and loyalty whites were entitled to.¹³

Scholars of slave resistance provided rich analyses of enslaved women's microaggressions such as damaging household items and tools, foot dragging, feigning illness, or temporarily stealing away in response to their discontentment. This study examines enslaved women's criminal convictions resulting from violent confrontations with slave The third chapter, "Her Struggles Were Almost Superhuman': Spectacular owners. Scenes of Black Women's Law Breaking and Executions, 1850-1860," examines how enslaved and free women's law-breaking revealed personal expressions and manifestations of rage-often ending in death. Press accounts reflected the ways racebased laws that drew parameters around black women's lives intersected with cultural pathologizing of black female criminality in antebellum Washington, D.C. and the neighboring Chesapeake states. Leading up to the Civil War, the discourse of black women's criminality increasingly focused on violent crime and public spectacles of punishment. Daily news reports of black female law breaking in the District itself and in nearby counties in Virginia and Maryland noted the mounting frequency of crime and prompted white Washingtonians to interact with and understand black women as inherently criminal and depraved, and even as murderous. While instances of "murder" occurred infrequently, these intermittent crimes exposed the fallacy of proslavery ideologies that promoted slavery as a "positive good" evident in the lives of "content" and "docile" slaves. Furthermore, the depiction of black women as "murderers" did not

¹³ Franklin and Schweninger, *Runaway Slaves: Rebels on the Plantation*, (New York: Oxford University Press, 1999); David Williams, *I Freed Myself: African American Self-Emancipation in the Civil War Era*, (New York: Cambridge University Press, 2014).

account for their own daily experiences of slaveholder brutality, but focused solely on them as a threat to the existing order.¹⁴

Black women were motivated by a variety of factors when they violated the law; earning extralegal income was one vital strategy of economic survival for black women in nineteenth-century Washington. Women in the District earned much lower wages than men, but black women in particular found it difficult to earn enough income to fund even the most basic living expenses. The fourth chapter, "Colored Nymphs': Antebellum and Wartime Sex Commerce in Washington, D.C.," focuses on black women's participation in the sex and leisure economy before and during the Civil War to demonstrate that black women violated the law as a strategy of survival to support their economic well-being. Between 1860 and 1870, the white population of Washington, D.C. had increased by a little over forty percent from 50,139 to 73,731. The black population including those designated as "mulatto," went from 10,983 to 35,392 an increase of over two hundred and twenty percent. The war was a catalyst for these trends, as it brought an influx of black refugees to the city, looking for ways to grasp the promise of freedom.¹⁵

¹⁴ Slave Patrols: Law and Violence in Virginia and the Carolinas. Harvard Historical Studies, (Cambridge: Harvard University Press, 2001); William Link, Roots of Secession: Slavery and Politics in Antebellum Virginia, (Chapel Hill: The University of North Carolina Press, 2003); Jason R. Young, Rituals of Resistance: African Atlantic Religion in Kongo and the Lowcountry South in the Era of Slavery, (Baton Rouge: Louisiana State University Press, 2007); Louis P. Massur, Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865, (New York: Oxford University Press, 1989).

¹⁵ Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972); Record Group 21, Criminal Cases of the District of Columbia, NARA; Mary Jane Dowd compiler, Records of the Office of Public Buildings and Public Parks of the National Capital—Record Group 42, Inventory No. 16. Washington, D.C.: NARA, 1992.

In the midst of overcrowding, and limited employment options, black women were largely confined to domestic service, laundry and cooking jobs, all of which paid them the lowest wages. Those who sought an alternative source of income, or were desperate for any source of sustenance, looked to the burgeoning wartime sex economy. The peak of the nineteenth-century sex economy in the District was characterized by frequent interactions between soldiers and prostitutes and interracial prostitution networks. Military and policing practices tightened around the perimeters of notorious prostitution establishments, funneling numerous black prostitutes and madams in and out of the criminal courts and workhouse.¹⁶

The antebellum sex and leisure economy was largely segregated, with white prostitutes monopolizing wealthier clientele in parlor-style bawdy houses. The criminal record demonstrates that black women could be found in bawdy houses managed by white women, confirming sites of interracial sexual leisure. Although prostitution served as a means of economic survival, women's activities and subsequent arrests were featured extensively in the press for local consumption. The story of wartime prostitution reveals that at the very moment emancipation was taking root in the District, social confusion and volatility were also rampant, and black women were targeted yet again by a ramped up regime of surveillance and still proliferating discourse of criminality.¹⁷

The war not only created some financial opportunities but also created the conditions for a series of emancipation measures. The final chapter, "Untenable

¹⁶ Ibid; Margaret Leech, *Reveille in Washington: 1860-1865*, (New York: Harper & Brothers, 1941); Ernest B. Ferguson, *Freedom Rising: Washington in the Civil War*, (New York: Vintage Books, 2005); Kenneth J. Winkle, *Lincoln's Citadel: The Civil War in Washington, D.C.*, (New York: W.W. Norton & Company, 2013).
¹⁷ Ibid.

Freedom: Black Women and Wartime Emancipation in Washington, D.C." examines the scope and impact of wartime emancipation policies by chronicling enslaved and free black women's legal and at times illegal claims to freedom. In 1861, not long after Virginia's secession, the Union's confiscation policy took shape there as slaves fled to Union lines on the Eastern Shore and Gen. Benjamin Butler deemed them "contraband of war." This and subsequent congressional policies conferred a tenuous freedom on those who ran away from Confederate masters. Maryland by contrast to Virginia, remained loyal and neither the Confiscation Acts nor Emancipation Proclamation held sway there. Slavery was not formally ended in Maryland until 1864 when the state adopted a new constitution outlawing the practice of slavery. The District's history as a battleground over slavery entered a new phase as incentivized emancipation was instated in Washington, D.C. in 1862, with compensation for slaveholders and up to one hundred dollars for those former slaves who would agree to leave the country.¹⁸

Most freedwomen decided against emigration, and embarked on the arduous process of reconstituting their lives, labors, and support networks. Enslaved and free women opportunistically sought a variety of avenues to claim their freedom whether legislation applied to them or not. Many slave owners in the District rejected and resisted the new act, insisting that the federal Fugitive Slave Law of 1850 should still apply to

¹⁸ Eric Foner, Nothing but Freedom: Emancipation and its Legacy, (Baton Rouge: Louisiana State University Press, 1983); Steven Hahn, A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration, (Cambridge: Harvard University, 2004); David Williams, I Freed Myself: African American Self-Emancipation in the Civil War Era, (New York: Cambridge University Press, 2014); Ira Berlin, Barbara J. Fields, Steven F. Miller, Free at Last: A Documentary History of Slavery, Freedom, and the Civil War (Publications of the Freedmen and Southern Society Project), (New York: The New Press, 1992); Act of April, 16, 1862[For the Release of Certain Persons Held to Service or Labor in the District of Columbia], NARA, General Records of the United States Government, Record Group 11.

Maryland slaves. As a result, they moved slaves to Maryland outside the bounds of federal emancipation policies in effect within the District. Slave owners resorted to incarceration, in conjunction with exploitative apprenticeship contracts and vagrancy convictions, to counteract emancipation. Enslaved and free black women from D.C., Maryland, and Virginia would get entangled in a complicated web of policy, finding their way towards freedom with or without the legal endorsement to do so.¹⁹

The records of enslaved and free black women's encounters with the law reveal how race law shaped the contours of black law breaking. Existing antebellum laws affected black women's ability to be free, earn sufficient income to protect their families from enslavement and imprisonment, to move freely throughout the region, experience leisure, and lead self-governed lives. Theodore Dwight Weld made a critical observation. "The Law," he wrote, "by creating slavery, not only affirmed its existence to be within the sphere and under the control of legislation, but also, the condition and terms of its existence, and the question of whether or not it should exist." While Congress eventually abolished the slave laws and antebellum black codes in the nation's capital, enslaved and free black women concurrently envisioned avenues of freedom for themselves and their families. They never questioned whether or not slavery "should exist." They were daughters, sisters, mothers, and wives, traversing the ongoing tensions between enslavement and freedom, violence and exploitation, desire and discontent.²⁰

¹⁹ Ibid.

²⁰ Theodore Dwight Weld, *The Power of Congress over the District of Columbia*, (New York: American Anti-Slavery Society, 1838) p.6.

CHAPTER ONE – REVOLVING ESCAPE: RACE LAW AND FREEDOM IN ANTEBELLUM

WASHINGTON, D.C., 1827-1850

The law, as it took shape in the beginning of the nineteenth century, had encouraged the scrutiny and policing of enslaved and free black women. To understand enslaved and free black women's early encounters with the law, this chapter elucidates the formative legal moment of antebellum Washington, D.C., and examines the legal status of enslaved and free black women. As explained herein, antebellum legal developments in the local black codes and the Fugitive Slave Law of 1850 highly circumscribed the social mobility of urban enslaved and free women. Thus, while the expanding free black population might suggest that conditions of black urbanity undermined southern systems of bondage, enslaved and free life in the city was organized by effectual forms of legalized racial and gender repression. Analyzing the legal strictures imposed upon enslaved and free black women in the nation's capital reveals the racial and gendered realities black women faced in their desires to live free.²¹

The enslaved and free women in this study at times defied the strictures of middle-class moral sensibilities. Indeed, enslaved and free black women spurned ideologies of virtuous womanhood, and broke the law at particular intervals of desperation in an effort to survive. Race-based laws defined criminality as anything that

²¹ By 1862, for instance, slaves experienced greater successes with their habeas corpus petitions for manumission. Although slaves submitted petitions for manumission certificates in civil suits well before Emancipation, the supplementary act of July 12, 1862 allowed slaves to secure their freedom upon the refusal of their owners to do so. Records of the District Court for the District of Columbia Relating to Slaves, 1851-1863, section 1 (National Archives Microfilm Publication M433), Roll 1; Habeas Corpus Case Records, 1820-1863, of the U.S. District Court for the District of Columbia (National Archives Microfilm Publication M434), Roll 2, RG 21; Act of April, 16, 1862[For the Release of Certain Persons Held to Service or Labor in the District of Columbia], NARA, General Records of the United States Government, Record Group 11.

transgressed existing racial and sexual hierarchies. It is within the backdrop of repressive race law that enslaved and free black women typically disassociated themselves from respectability, and reconfigured their social and political position by governing their lives on their own terms. Antebellum lawmakers built a race and gender based legal system that these women would confront in their day-to-day lives.

The antebellum era marked a critical juncture at which slave and black codes were revised to enforce greater stipulations on legal residency requirements and the permissible behaviors and activities of black inhabitants. Slave law and black codes in Washington, D.C. were consistent with laws that governed black life in neighboring Virginia and Maryland. In these slaveholding territories, lawmaking occurred at the state level, but the District differed from Virginia and Maryland because the federal government empowered Congress to authorize legal codes that governed and affected the local free and enslaved black population. Not limited by state laws concerning slavery, Congress could pass the necessary legislation to abolish slavery and local black codes in the nation's capital. The national capital became a critical target of antislavery resistance as Congress exercised control over the District. The hopes of enslaved and free blacks would be dashed, however, as the antebellum era marked a period of ramped up efforts to control their lives through the implementation of a fortified black code and fugitive slave law. As free and enslaved blacks along with white abolitionists increasingly threatened the legal and cultural claims of the slaveholding South, local and national authorities more strictly enforced race law.

Roots of Race Law

In 1790, Congress established the territory formerly occupied by Maryland and Virginia as the new capital of the nation. At its inception, race-based law in the District of Columbia took shape from the codes of neighboring slaveholding states-Maryland and Virginia. In 1801, Congress declared that, "the laws of the State of Maryland, as they now exist, shall be and continue in force, in that part of the said District (of Columbia), which was ceded by that State to the United States, and by them accepted, for the permanent seat of the government of the United States." Named after George Washington, who selected the lands and lived directly across the Potomac River in Virginia, the new capital included Alexandria before its retrocession in 1846. Members of the Virginia elite frequented the new capital for the annual "social season," hired out their slaves in the city, and searched for runaway slaves who may have escaped to the District. In keeping with the Fugitive Slave Law of 1793, runaway slaves from the neighboring states would promptly be returned to their owners upon capture—or sold By the 1830s, the battleground of black resistance and slaveholder further south. suppression began to take distinctive shape in the nation's capital and the surrounding Chesapeake.²²

Washington, D.C. grew slowly at the beginning of the nineteenth century and, by the middle of the century, contained a substantial free black population. From 1800 until 1820, slaves outnumbered the free black population in the District of Columbia, and the city adopted the slave codes of neighboring Maryland and Virginia to manage the

²² Proceedings and Debates of the House of Representatives of the United States at the Second Session of the Second Congress, Begun at the City of Philadelphia, November 5, 1792, "Annals of Congress, 2nd Congress, 2nd Session (November 5, 1792 to March 2, 1793) pp.1414-15.

presence and movement of slaves. However, by 1830, the free black population expanded to fifty-one percent of the total black population. By the 1850s, there were 3,687 slaves, compared to the 10,059 free black occupants of the city. Over half of the enslaved and free black population was comprised of women. While the statistics might lead one to assume that the District of Columbia was an agreeable place for blacks, the historical record reveals the opposite. Indeed, as the free black population grew, city officials responded by promulgating and enforcing new ordinances that tightened the legal parameters around black life, resulting in increased surveillance and control over enslaved and free blacks alike.²³

Enslaved and free women and men arrived in the city through a range of circumstances. Before the Civil War, enslaved black women tended to arrive as "hired out" slaves and servants, mostly from Maryland and Virginia. While urban life undermined the surveillance of plantation forms of enslavement, offering greater opportunities for "stealing away," independent living arrangements, and absconding from slave labor altogether, the black codes of the city sustained racial hierarchy and repression. Granted, "living out"—the practice that allowed hired out slaves to find their own accommodations—temporarily relieved slaves of their controlling masters and mistresses. But most enslaved women and free black women servants worked in close quarters with white families. As domestics in white homes, enslaved and free black

²³ Record Group 21, Records of the District Courts of the United States, District of Columbia, Circuit Court for the District of Columbia, Entry 6, Case Papers, Containing Appearances, Trials, Imparlances, Judicials, etc. 1828-1850, Court Records of Black Washingtonians compiled by Robert Ellis, archivist, Old Military and Civil Branch, National Archives and Records Administration, Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972); U.S. Bureau of the Census, Records of the Heads of Families.

women remained under the scrutiny of their employers. Enslaved women worked and lived within close proximity to the white families they were hired out to, leaving very little retreat from surveillance and suspicion. As I demonstrate later in this chapter, free black women employed as washerwomen worked from home but experienced invasive encounters with the local police in their homes. Race-based legal codes imposed a critical layer of surveillance that fettered slaves and made it impossible for nominally free blacks to lead truly free lives. The "hire" system of urban slavery could not shield mobile blacks from police scrutiny.²⁴

The "hire" system of slavery fused the economic and political ties between Virginia, Maryland, and Washington, D.C. "Hiring out" constituted an arrangement between a slaveholder and a person in need of additional labor. As the Chesapeake tobacco economy declined, slaveholders turned to alternative uses for excess slave labor such as leasing out enslaved laborers to other planters, industries, and urban households. Enslaved and free black women who worked in the homes of white residents often came from Maryland and Virginia to work as domestic laborers or skilled tradeswomen. All accrued income for the slave owner. Through this system and the growing domestic slave trade, the value of slaves remained high, particularly for those who developed expertise in urban trades. The "hiring out" system also allowed slaves limited forms of

²⁴ Scholars such as Barbara Fields, Richard Wade, and Midori Takagi have considered whether slavery was incompatible with city life. Takagi's work focuses on the opportunities that enabled greater resistance from the slaves. David Stroman *Slavery in Washington, D.C.: Slaves of Washington, D.C.* Library of Congress, Washington, D.C., 2002; Richard Wade, *Slavery in the Cities: The South, 1820-1860*, (New York, New York: Oxford University Press, 1964); Barbara Fields, *Slavery and Freedom on the Middle Ground: Maryland During the Nineteenth Century*, (New Haven, Connecticut: Yale University Press, 1985); Midori Takagi, *Rearing Wolves to Our Own Destruction: Slavery in Richmond, Virginia, 1782-1865*, (Charlottesville, Virginia: University Press of Virginia, 1999).

autonomy such as living independent of masters, earning additional wages, and interacting with free blacks. Enslaved and free black women thus traversed the antebellum city through a variety of labor arrangements but their movement remained subject to legal surveillance.²⁵

As the free black population grew, city officials responded by promulgating and enforcing new ordinances that tightened the legal parameters around black life for enslaved and free people. Slave and black codes delineated the boundaries around which black women, men, and children navigated the new demographic landscape and understood their "place" in the nation's capital. The slave codes of Maryland and Virginia both explicitly and implicitly shaped a culture of normative repression and rejected the natural law notion that black people were entitled to basic human rights. Manifestations of localized law were evident in black codes that were informed by nineteenth-century understandings of race and gender. Local customs and race law represented a strong endorsement of the habit and customs of the slaveholding south. The local government in Washington was organized as a corporation led by a mayor, along with aldermen representing seven wards and a common council. In the District,

²⁵ David Stroman Slavery in Washington, D.C.: Slaves of Washington, D.C. Library of Congress, Washington, D.C., 2002; Richard Wade, Slavery in the Cities: The South, 1820-1860, (New York, New York: Oxford University Press, 1964); Barbara Fields, Slavery and Freedom on the Middle Ground: Maryland During the Nineteenth Century, (New Haven, Connecticut: Yale University Press, 1985); Midori Takagi, Rearing Wolves to Our Own Destruction: Slavery in Richmond, Virginia, 1782-1865, (Charlottesville, Virginia: University Press of Virginia, 1999); Constance McLaughlin Green Washington: Village and Capital, 1800-1878 (Princeton, NJ: Princeton University Press 1962); Constance McLaughlin Green, The Secret City: A History of Race Relations in the Nation's Capital (Princeton, NJ: Princeton University Press, 1967); Letitia Woods Brown, Free Negroes in the District of Columbia, 1790-1846 (New York: Oxford University Press, 1972).

local officials supported the maintenance of the antebellum slave regime and the enforcement of race-based ordinances.²⁶

Nearly all of the judges appointed to the District prior to the Civil War were from the slaveholding states, primarily Virginia and Maryland. The Circuit Court of the District dealt with both civil and criminal matters prior to 1830. The judge who served the longest term in the nineteenth century between 1806 and 1855, William Cranch, was known for strict compliance with what he believed were just laws. One account mentioned that "he was more than once called upon to carry out laws which the present day deems palpably unjust, and it is evident that he thought with the most childlike, bland and implicit confidence that the law of the land was the highest expression of human wisdom." The local judges were known for their southern sympathies in favor of slavery, making them dependable executors of race law prior to the war. One report noted that by the beginning of the Civil War, "The opinion prevailed in Congress that the judges of the circuit court were disaffected towards the Government, and sympathized with the Southern or Confederate States." Congress abolished the circuit court during the war and created the Supreme Court of the District of Columbia in 1863. Until then, enslaved and

²⁶ The Laws of Maryland Made and Passed at a Session of Assembly Begun and Held at the City of Annapolis on Monday the Seventh of November, in the Year of our Lord One Thousand Seven Hundred and Ninety-six Annapolis, MD: Frederick Green Printer; Samuel Shepherd, The Statutes at Large of Virginia; From October Session 1792 to December Session 1806, Inclusive, in Three Volumes, Being a Continuation of Hening, Richmond, VA, 1835. Letitia Woods Brown, Free Negroes in the District of Columbia, 1790-1846 (New York: Oxford University Press, 1972); In 1827, Joseph Gales Jr. became mayor of Washington. He partnered with his brother-in-law William Seaton to publish the National Intelligencer, in addition to several volumes of congressional debates. Political developments were a critical feature of print culture in the nation's capital, making it an ideal medium and location for political mobilization.

free black women often found themselves in court proceedings led by unsympathetic justices and subject to a repressive black code.²⁷

The first black codes in Washington D.C. enacted in 1808 based on the laws of the surrounding slave states of Maryland and Virginia, limited the movement and activities of black inhabitants, banning "idle" and "disorderly" behavior. These codes made the District a particularly complex location for blacks to live, whether enslaved or free. While the District afforded black people freedoms similar to northern free states, such as limited access to education, the city was suffused with the heavy traffic of the slave trade, and the black codes merely reinforced and supported the existence of this institution.²⁸

Black codes intensified by 1827, when city officials expanded the legal strictures imposed on black inhabitants on free and enslaved blacks. Indeed, these regulations tied certain activities to criminality only when applied to "black and/or mulatto" persons. On May 31, 1827 the mayor of the city of Washington, Joseph Gales, Jr. issued an ordinance of the Corporation of Washington referred to as "An Act: Concerning the Negroes,

²⁷ William F. Carne: Life and Times of William Cranch, Judge of the District Circuit Court, 1801-1855, Records of the Columbia Historical Society, Vol. 5, pp. 294-310 (1902); Richard A. Ford ed., The Daily Washington Law Reporter, Volume 23, Washington, D.C.: The Law Reporter Co., Printers and Publishers, 1895; Francis Regis Noel, Margaret Brent Downing, The Court-house of the District of Columbia

⁽Washington: Judd & Detweiler 1919) pp.55-57. ²⁸ Act of July 16, 1790 authorized Presidential discretion in the location and establishment of the capitol, and Congress to assume residence in the capitol with Maryland and Virginia law prevailing in the respective territories given by each state. Walter C. Clephane, "The Local Aspects of Slavery in the District of Columbia," CHS Rec, 111, 225; March 16, 1080; Annals, 12C, IS, p. 2325, The Laws of Maryland Made and Passed at a Session of Assembly Begun and Held at the City of Annapolis on Monday the Seventh of November, in the Year of our Lord One Thousand Seven Hundred and Ninety-six Annapolis, MD: Frederick Green Printer; Samuel Shepherd, The Statutes at Large of Virginia; From October Session 1792 to December Session 1806, Inclusive, in Three Volumes, Being a Continuation of Hening, Richmond, VA, 1835.

Mulattoes, and Slaves," outlining the code of conduct for black people in the District of Columbia. This act—publicly announced and distributed throughout the District—demanded that every black inhabitant carry identification permits at all times or else pay fines triple the amount required in 1808. Further, it restricted the "idle assemblages of negroes," prohibited free and enslaved black residents from playing games such as cards or dice, hosting dances and privately held gatherings in homes; remaining outside after ten o'clock; harboring or concealing a fugitive slave; or engaging in profane or obscene language. In this regime, free and enslaved blacks were often charged for larceny, assault, drunkenness, and prostitution. Such legal precedents reflected an attempt to control the bodily, social, and cultural movements of the black population.²⁹

The first regulation in the Proclamation of 1827, for instance, required that "all free black, or mulatto persons, males of the age of sixteen, and females of the age of fourteen years, and upwards, who may then reside in the city of Washington, to exhibit satisfactory evidence of their title to freedom to the Register of this Corporation." The black code of antebellum Washington included a bond required of every free black family to reside in the city. Additional regulation kept close record and surveillance of black individuals and collective family members. As Francis Powell's statistical research demonstrates, black female-headed households reached an all-time high in antebellum D.C. Interestingly, the law differentiates the age requirements between male and female residents, tracking black female residential status earlier than that of males. This may be attributed to the fact that slave status was inheritable through black women, so if they were found without free papers, women and their children could be returned to slavery.

²⁹ Joseph Gales, Jr., Mayor of Washington, City Ordinance "An Act: Concerning the Negroes, Mulattoes, and Slaves" May 31, 1827, Historical Society of Washington, D.C.

Tracking young black women earlier may have been an attempt to prevent potential offspring from claiming legally free status in an already expanding free black population.³⁰

According to the police precinct records, black men and women who neglected to apply for a written permit to reside in the city were fined up to six dollars every month or sent to the workhouse until the city acquired proper documentation of their status. For example, The National Republican reported that Sarah Moore, "a free negress" was arrested for "violating a municipal law, by being in the city without a permit," and fined the amount of \$10.58. The practice of keeping a track record of every free black person in the city contrasted with the autonomy of white residents, and made the suspicion of black inhabitants a common feature of day-to-day life in the capital. A fourteen-year old free black girl in the District therefore found her very existence under legal scrutiny before any potential crime could be committed. The codes moreover, mapped out numerous avenues through which enslaved and free black people were made subject to police arrests, fines, and workhouse sentences. The prohibited activities outlined in the proclamation at times intersected with crimes that applied to whites such as murder, theft, or drunkenness, but in most cases the code placed restrictions upon black life that did not apply to whites such as their authorization to reside or assemble in the city.³¹

Deeper engagement with slave and black codes unearths the complex and volatile terrain from which black women attempted to earn a living, carve out meaning in their

³⁰ Ibid; Francis J. Powell, "A Statistical Profile of the Black Family in Washington, D.C. 1850-1880," *Records of the Columbia Historical Society*, Washington, D.C. Vol. 52, 1989, p. 269-288.

³¹ "Police Report," *The National Republican*, December 27, 1860, Washington, D.C.; Joseph Gales, Jr., Mayor of Washington, City Ordinance "An Act: Concerning the Negroes, Mulattoes, and Slaves" May 31, 1827, Historical Society of Washington, D.C.

lives, and forge relationships. Moral norms were promoted through various provisions of the local black codes. Sections three through seven of the Proclamation of 1827, for instance, disallowed various forms of leisure and socializing. The third section of the proclamation, in particular, states, "That all idle, disorderly, or tumultuous assemblages of negroes, so as to disturb the peace or repose of the citizens, are hereby prohibited." The precise meaning of the terms, "idle, disorderly, or tumultuous" was left to the interpretation of the policing officer. These "assessments" however, were informed by nineteenth-century white middle-class understandings of socializing which might differ from black people's forms of mingling. Hannah Rosen makes similar observations for the period of Reconstruction, noting how the conservative press and local policing practices in Memphis worked to characterize black residents as "disorderly, lewd, and criminal." Such reports and practices she argues, "helped to legitimate the misconduct of many police." Furthermore, middle-class white residents of Washington reserved their socializing for the intimate spaces of the parlor. Black washerwomen were often collectively arrested for disorderly conduct in the alley communities where they lived and congregated to complete laundry work. Their conversation, laughter, or occasions of passionate debate were subject to policing as "disorderly." When black women congregated just outside of their cramped dwellings or their places of employment to spend their leisure time, they were vulnerable to arrest as public nuisances.³²

³² Ibid, Hannah Rosen, *Terror in the Heart of Freedom: Citizenship, Sexual Violence, and the Meaning of Race in the Postemancipation South* (Chapel Hill: University of North Carolina Press, 2009) p. 25, 57-60; Catherine Allgor, *Parlor Politics: In Which the Ladies of Washington Help Build a City and a Government,* (Charlottesville: University Press of Virginia, 2000).

Black women were also susceptible to surveillance within their homes. The fourth and fifth sections of the code, which restricted any enslaved or free black persons from "playing cards, dice, or any other game of an immoral tendency," criminalized black homes. Jane Johnson, a cook residing in the District, was arrested for "allowing gambling in her home." Not only could middle-class white residents of Washington maintain privacy by socializing in the intimate spaces of the parlor, but leisure activities and events that took place in the homes of white women were validated by the presence of a paternalist white male or by the woman's class status, which shielded her from police raids. Black women were not afforded such protections. Additionally, black men were subject to surveillance and imprisonment and could not exercise the same paternalist authority of a white man.³³

Black people were also not permitted to host private or public gatherings. The fifth section prohibited all free black persons from hosting a "dance, ball, or assembly," at their homes or any public venue without first obtaining a permit from the mayor which required specific details such as the number of guests, and the time, place, and location of the event. Ann Eaton, Catherine Mabury, Melvina Crampton, Louisa Craig, Laura Williams, Eliza Calvert, Sarah Langster, and Charles Mullen, all free black women, were arrested for unlawful assembly and fined \$6.15 each. Free black persons who violated these laws were fined a specified amount per person in attendance, but many were typically sent to the workhouse due to an inability to pay the fines.³⁴

³³ Joseph Gales, Jr., Mayor of Washington, City Ordinance "An Act: Concerning the Negroes, Mulattoes, and Slaves" May 31, 1827, Historical Society of Washington, D.C.
³⁴ "Unlawful Assembly," December 27, 1860, *The National Republican*, Washington, D.C.

Disorderly conduct and drunkenness violated the black codes of the city and appeared frequently in police reports of black women's arrests. A "wild colored woman" featured in an issue of the *Evening Star*, was depicted as "having been drunk all night." Black women were typically sent to the workhouse for the offense and repeatedly featured in the press as "drunk and disorderly." On January 21, 1857, Ellen Lewelen was sentenced to the workhouse for thirty days for being "drunk and disorderly." One month later, Hannah Wilson and Mary Butler, too, were arrested for being "disorderly" and sentenced to sixty days in the workhouse. A few months later, another report appeared in the Evening Star listing Octavia Simonds's arrest for disorderly conduct and drunkenness. Sarah Jane Norton was fined \$4.15 on September 13, 1858 for disorderly conduct and drunkenness. On July 15, 1858 Biddy Ann Johnson, "a colored lass of considerable note in the annals of the police," was arrested by an officer for "creating a muss in Theater Alley." For this offence she was sentenced by the criminal court to the workhouse for sixty days. These daily reports of black women's crimes consistently appeared in the local news throughout antebellum and wartime Washington, D.C., thus creating a cultural archive that seemed to substantiate black women's "inherent" criminality.³⁵

Charges of intemperance and profanity were also used to police the morality of black women. In the early nineteenth century, temperance reformers linked alcohol consumption and moral depravity. Their concerns were reflected in the 1827 ordinance, the seventh section of which banned drunkenness, in "public streets, open grounds, or tippling houses," and "obscene and profane language or behavior." Julia Easton was

³⁵ "Workhouse," *Evening Star*, Washington, D.C. January 21, 1857, LOC; September 13, 1858 *Evening Star*, Washington, D.C., September 13, 1858, LOC; "Workhouse," *Evening Star*, Washington, D.C., July 15, 1858, LOC.

among those who fell afoul of this provision. Easton was arrested for drunkenness and using profane language and fined \$3.94. Those unable to pay the fines were sentenced to a specific term of labor. Sarah Duvall, arrested for being "drunk in the street," was sentenced to thirty days in the workhouse. Arresting officers specifically noted the particular expressions of profanity or intoxication in the precinct records. Fifteen-year old Elizabeth Peters was arrested for "swearing in the street" and ordered by the constables to receive a whipping from her mother. Countless women, typically domestic servants, washerwomen, and prostitutes were arrested and fined for the offense. Mary Drunk, a prostitute, was sentenced to pay \$6.94, a relatively high fee for a woman making low wages. By contrast, Mary Johnson, a married servant, was fined \$3.94 and Jane Bender, a single housekeeper, was fined \$1.58 for profanity. Surveillance was inextricably tied to the labor demands of enslaved and free black women as they almost never worked free of encounters with white locals and authorities. This also held true for unemployed black women searching for work throughout the city.³⁶

Black women unable to secure employment were targeted as "vagrants" by local authorities. The poor and insane were viewed as a societal nuisance, particularly because of their unemployment status. One woman, Hester Chase, appeared frequently in the arrest record as a vagrant. With each incident she was arrested for disorderly conduct and sentenced to the workhouse for at least thirty days and sometimes more. On one occasion however her occupation was listed as "prostitute" and she was still sentenced to the workhouse, while most prostitutes were fined. There were inconsistencies in the

³⁶ Records of the Metropolitan Police Department of the District of Columbia, 1862, (National Archives, Record Group 351); Worthington G. Snethen, *The Black Codes of the District of Columbia in Force September 1848*, New York, 1848; Circuit Court District of Columbia Case Papers, 1802-1863, Record Group 21, NARA Boxes 1-6.

sentencing practices for categories of vagrancy. For instance, unlike Hester Chase, Margaret Bailey also listed as a prostitute, was arrested for vagrancy, and dismissed. Sarah Jackson, another prostitute arrested around the same time as Bailey, was arrested for vagrancy, but "released for good behavior and \$20."³⁷

Most black women arrested for prostitution were not considered vagrants, as prostitution was a common occupation for both black and white women in the District. Out of the four hundred cases considered, the cases in which a woman was "released for good behavior" all involved those arrested as prostitutes. This implies that some prostitutes evaded the workhouse through other means, perhaps sexual or monetary. Moreover, some black women, particularly the elderly, were considered burdens to the workhouse, and were often dismissed the day of their arrests. For example, 87 year-old Leathy Young was arrested for "throwing filth in the street" but dismissed "on account of her age." Most black women arrested however were sentenced to labor in the workhouse. Vagrancy arrests supported preconceptions of black indolence without the context of limited employment opportunities and the scarcity of jobs that did not involve exploitation. The vagrancy and prostitution charges and subsequent sentences legislated by the black codes did not account for how race and gender factored into a black woman's employment prospects.³⁸

Additionally, black codes were designed to curb the movement of enslaved and free blacks throughout the region. Section six established a curfew that fined and jailed enslaved and free black people for going "at large, through the city of Washington, at a

 ³⁷ Records of the Metropolitan Police Department of the District of Columbia, 1862, National Archives, Record Group 351.
 ³⁸ Ibid.

later hour than ten o'clock at night." Black women were stopped and often arrested and fined for this offense. Jane Hopkins and Ann Anderson, who worked as servants, were arrested for being "out after hours." Susan Anderson was similarly arrested for being out after hours and sentenced to the workhouse for thirty days. *The Evening Star* reported that she had been "taken from thence since and sent to jail on another charge." On September 28, 1855, Jane Lewis spent thirty days in the workhouse for violating the "after hours" law because sex work often required working "after hours," black women prostitutes were predictably repeat violators of this law. Jane Hawkins, Katherine Boyd, Susan Stewart, and Margaret Johnson who all worked as prostitutes were arrested and fined for being "out after hours." The only exceptions to this rule were those who obtained a permit from the justice of the peace or a white resident considered to be a "respectable citizen."³⁹

Who is designated as a "respectable citizen" is unclear, but the law did not apply to those who were out at night on an errand for an employer and for those traveling from a "place of worship." The movement of black bodies could only be "freely" expressed within the context of their labor obligations or their affiliations with Christianity. Understanding the nuance of this code explains why many free black persons relied heavily upon the local religious institutions not for worship purposes alone, but also for socializing and political activities. In fact, many of the balls and assemblies, restricted in the fifth section, were indeed hosted by the local black churches. While scholars have proposed that a "politics of respectability" was at work among the black middle class in

³⁹ Joseph Gales, Jr., Mayor of Washington, City Ordinance "An Act: Concerning the Negroes, Mulattoes, and Slaves" May 31, 1827, Historical Society of Washington, D.C.; *ES*, July 14, 1855, *ES* September 28, 1855, LOC.

cities such as Washington, D.C., I would argue that this bid for respectability was not solely a quest for status but a struggle for protection: a recognition that in the repressive legal climate of the slaveholding capital, any behavior by blacks deemed disrespectful might also be regarded by whites as criminal.⁴⁰

As one incident demonstrated, even a common dinner party could result in critical consequences for black inhabitants of the region. In Alexandria in the winter of 1856, some "thirty or forty colored people, men and women," assembled at a home of a doctor "to eat a grand supper," and to "have a good time generally." As they were attempting to enjoy the gathering, Washington officials, the Alexandria mayor, and the Governor of Virginia were already exchanging dispatches. Police patrols immediately descended upon the house, and arrested the parties involved. They were taken to the Alexandria jail where they were "whipped and fined according to the law." Corporal punishment, public humiliation and fines were the cost of social gatherings for antebellum free blacks.⁴¹

Free black residents associated with respectability did their best to avoid criminal charges however middle-class black abolitionists often repeatedly risked violating the laws to work against the legal acceptance of slavery. Black and white women who espoused the values of respectability also defied the local codes in the struggle for abolition. Drawing upon earlier laws established in the Maryland slave code, harboring or assisting a fugitive slave was illegal and both black and white women were jailed and fined for doing so. This principle, as outlined in section eleven of the ordinance, was not

⁴⁰ Worthington G. Snethen, *The Black Codes of the District of Columbia in Force September 1848*. New York, 1848; Evelyn Brooks Higginbotham, *Righteous Discontent: The Women's Movement in the Black Baptist Church, 1880-1920*, Cambridge, Massachusetts: Harvard University Press, 1994.

⁴¹ "FEAR IS CRUEL—Thirty or forty colored people, men and women." *The National Era*, Washington, D.C. December 18, 1856, Accessible Archives.

limited to slaves but also included those who "harbor or conceal, a 'black or mulatto' person who cannot produce a permit from the Register authorizing him or her to reside in the city of Washington." The law betrays white anxieties about the District as a portal to the free North and fugitive slaves melting into the landscape of black Washington. ⁴²

While there were some white protests against the shameful and embarrassingly large presence of the slave trade in the nation's capital with its influx of foreign visitors and diplomats, a social consensus endorsed slavery and black codes prevailed across Maryland, Washington, and Virginia. The law of the District required every resident to comply with the customs of Southern slavery even in its desire for the capitol to be emblematic of freedom. While there were many white locals who didn't own slaves, they regarded both slaves and free blacks as a nuisance and tended to advocate the enforcement of slave and black codes, as well as efforts to rid the nation of free blacks through colonization, deportation or imprisonment.⁴³

The Workhouse and the City Jail

As these examples illustrate, those charged with breaking the black codes were typically fined or imprisoned; a failure to pay a fine could lead to a short time spent in jail or an extended period laboring in the workhouse. The workhouse was different from the city jail in that it extracted labor from persons sentenced to enter it or from those unable to pay fines. Prior to the incorporation of the city of Washington, a workhouse (which also functioned as an almshouse or poorhouse) existed in Georgetown, and by 1809 the

⁴² Harrold, Stanley, *Subversives: Antislavery Community in Washington, D.C., 1828-1865* (Baton Rouge: Louisiana State University Press, 2003).

Washington County Almshouse was established between 6th and M Streets Northwest. By 1815, the almshouse was renamed the Washington Asylum, and functioned as both an asylum and workhouse. Another asylum was built on East Capitol Street that included the D.C. jail along with a hospital and armory. These institutions generally housed the poor, sick, disabled and orphaned but they also housed men and women sentenced to work as a penalty for crimes or debts owed. Because many black women were not paid wages equal to those of black men or white men and women, they were often sent to the workhouse anywhere up to six months for their inability to pay the fines for various alleged crimes.⁴⁴

In nineteenth-century Washington, the jail functioned as a temporary confinement space for those recently arrested and awaiting a sentence. In 1800, the city jail was a three-room brick building and in 1802 another building in Judiciary Square served as the first circuit court jail of Washington County. In March of 1838, Robert Mills, the architect of the Washington Monument, was commissioned by Congress to build a three-story jail between 4th and G Streets, NW. The jail was referred to as the "blue jug" because of its blue exterior. The "blue jug," along with Forrest Hall Prison in Georgetown, and Carroll Prison, were used throughout the Civil War. Whether for violating the "moral" tenets of the black code or pushing against the racially prescribed boundaries of legally sanctioned behavior for black persons, accused "criminals" were

⁴⁴ Constance McLaughlin Green, *Washington: Village and Capital, 1800-1878,* (Princeton, NJ: Princeton University Press 1962), p. 219, 386; Adam Hirsch, *The Rise of the Penitentiary: Prisons and Punishments in Early America,* (New Haven: Yale University Press, 1992) p. 25-27.

punished in ways that reflected the antebellum and wartime economic and labor needs of the city.⁴⁵

Workhouses were long-term confinement facilities for those sentenced to a specific term by the courts. There were at least two functioning workhouses by the 1830s when the revised black code was passed: the Washington Almshouse and the Georgetown Almshouse and Workhouse. These places both served the poor and housed prison inmates sentenced to work as punishment for violating the law. With the help of charitable contributions from local resident and slaveholder John Barnes, property in Georgetown was designated to house "vagrant, idle, and disorderly persons," by a Georgetown Ordinance in December of 1826. The Washington Asylum located between M and N Streets housed hundreds more. In 1821, a city ordinance stated that the Washington Asylum would serve the purpose of, "the accommodation of the poor, infirm and diseased persons, vagrants and other purposes." As an order for workhouse supplies indicates, "balls and chains" were used in the facility. Controversial nineteenth-century journalist Anne Newport Royall observed during her visit to the Almshouse, "The whole group had a squalid appearance which filled me with disgust and the smells of the place was insuperable," and that "death would be a mercy compared to it." The facilities retained a reputation for squalor and filth for much of the nineteenth century. Georgetown

⁴⁵ Thomas M. Rives, "The History of the District of Columbia Jail," Phi Mu Collection of University of Maryland Libraries, 1941; Constance McLaughlin Green, *Washington: Village and Capital, 1800-1878*, (Princeton, NJ: Princeton University Press 1962) p. 219, 386.

and Washington operated their respective asylums under different supervisors until the end of the Civil War.⁴⁶

The government employed the labor of "criminals" sentenced to the workhouse to maintain asylum and poorhouse facilities. Slave owners had the option of paying the fees themselves or subjecting enslaved women to up to thirty-nine lashes on bare back. Beginning in 1818, the local police, solely consisting of white officers, could supplement their income in the amount of fifty cents per slave whipping. The more short-term facility, the city jail primarily housed free and enslaved blacks due to the large demands of the slave trade that required a guarded place to hold slaves and the re-enslaved in preparation for trade in the District.⁴⁷

The slave trade was a significant participant of the local economy in Washington, D.C. As Constance Green's work demonstrates, the 1820s and 1830s were precarious decades in the national capital's history as residents and government officials repeatedly attempted to recover from the financial panics of 1819 and 1827. City improvements and building projects proved particularly difficult for governing officials with very little tax income and commercial success to draw from. After the failure of the C&O canal

⁴⁶ Georgetown Ordnances, December 30, 1826; Richard Plummer Jackson, *The Chronicles of Georgetown, D.C., from 1751-1878*, Washington, (Washington, D.C.: R.O. Polkinhorn), 1878; "City Ordnances an Act establishing the Asylum," City of Washington Gazette, April 13, 1821; Commodore Thomas Tingey to Board of Navy Commissioners, July 30, 1825, Letters Proposals and Estimates Received from the Commandants of Navy Yards and Naval Stations 1814-1842, Washington Navy Yard, National Archives, RG 45, E 314; Adam Hirsch, *The Rise of the Penitentiary: Prisons and Punishments in Early America*, (New Haven: Yale University Press), 1992 p. 25-27; Anne Newport Royall, *Sketches of the History, Life and Manners of in the United States*, (Printed for the author in New Haven Connecticut 1826) p. 143.

 ⁴⁷ Records of the Metropolitan Police Department of the District of Columbia, 1862, (National Archives, Record Group 351); Constance McLaughlin Green, *Washington: Village and Capital, 1800-1878*, (Princeton, NJ: Princeton University Press 1962) p. 219.

project, the domestic slave trade remained one of the few thriving enterprises in Washington and Alexandria. Slaves and free blacks constituted the labor force employed to construct the few buildings that gave Washington the distinguished appearance of a national capital. The fees accrued for criminal offenses supplemented police incomes and the labor used in workhouses alleviated some of the economic burdens the city faced.⁴⁸

During the 1840s, fines for black inhabitants who failed to validate their free status and register members of their families with the city corporation increased from twenty dollars per person to up to several hundred dollars. A city ordinance passed in the 1840s required every free "black or mulatto" within thirty days of their arrival in residence to:

Exhibit to the Mayor satisfactory evidence of his or her title to freedom, to be recorded by the Register as directed by the second section of this act, [and] enter into bond to the Mayor, board of alderman and board of common council of the city of Washington, with two freehold sureties in the penalty of five hundred dollars, conditioned for his or her (and every member of his or her existing family), good and orderly conduct.

The five hundred dollar penalty for one person amounted to the annual salary of an important government official at the time. The web of laws that demanded residential permits, made free blacks constantly subject to punishment, and imposed exorbitant fees and elaborate documentation policies, functioned amidst the preying threat of reenslavement and the notorious presence of the slave trade. Where slaves may have

⁴⁸ Ibid; Constance McLaughlin Green, *Washington: Village and Capital, 1800-1878,* (Princeton, NJ: Princeton University Press 1962) p. 386.

discovered rare opportunities for escape by blending with free black communities, to be a free black person meant to encounter the day-to-day ominous possibilities of imprisonment and re-enslavement. The laws intended to govern their lives made them constantly subject to arrest in the Washington jail. With many black women having to account for the members of their families, particularly children, in the city registers, they were the most vulnerable to fines, imprisonment, and re-enslavement.⁴⁹

Since 1819, the local criminal fee system had been incentivized in favor of underpaid police officers. The city police constables were paid much lower salaries than officers in major northern cities, and authorized to collect a percentage of the fees obtained from those arrested to supplement their low incomes. By the 1840s and 1850s police were encouraged to employ the black codes forcefully. For instance, as Kenneth Alfers has observed, "the free black population of Washington nearly doubled during the 1840's. Stringent laws in Maryland had driven many of them to the capital, 'much to the annoyance of the inhabitants.' Police were instructed to enforce strictly the municipal black codes." Police were legally permitted to collect fees from both black and white prisoners--however the poorest were viewed as the most vulnerable. One news account reported that these abuses were not typically suffered by the "rich and influential, but among the ignorant, the degraded, the poor, the outcast and the forsaken." Among these

⁴⁹ Ibid, Constance Green *Washington: Village and Capital, 1800-1878*, (Princeton, NJ: Princeton University Press 1962), p. 132; Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972); Constance McLaughlin Green, *The Secret City: A History of Race Relations in the Nation's Capital* (Princeton, NJ: Princeton University Press, 1967).

black women experienced the least economic mobility and were thus, the most vulnerable.⁵⁰

Local newspapers featured daily descriptions of enslaved and free black women's jail arrests and workhouse sentences from dispatches in Virginia and Maryland. Major newspapers such as Washington's National Intelligencer, Evening Star, The National *Republican*, and the *Washington Chronicle* in particular published regular notices of those admitted to the workhouse. Samuel Harrison Smith led the earliest daily, the National Intelligencer, and eventually former mayors Joseph Gales, Jr. and William Winston Seaton assumed leadership of the leading conservative Whig newspaper. Located on "newspaper row" on Pennsylvania Avenue, the Evening Star, also referred to as the Daily Evening Star and Washington Evening Star, was the most notable D.C. news organ of the Civil War-era, appealing principally to political conservatives who endorsed slavery in the District. At its founding in 1860, the National Republican supported Abraham Lincoln's political campaign and subsequent Republican candidates. Runaway advertisements and slave auction notices featuring enslaved women and girls appeared prominently in these early news organs-creating a financial partnership between local print culture and the slave trade.⁵¹

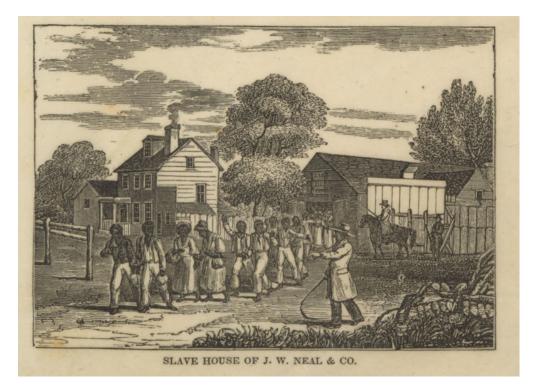
Walking between Sixth and Seventh streets on Pennsylvania Avenue a visitor might hear the cries of families sold apart in a slave auction at Jesse Brown's Indian

⁵⁰ Laws of the Corporation, From the 16th to the 24th Council, Washington, D.C. 1819-1827, p.24; Kenneth Alfers, "Law and Order in the Capital City: A History of the Washington Police, 1800-1886," *George Washington Studies*, No.5, George Washington University, September, 1976; News, October 12th, 26th, 1850.

⁵¹ Allen C. Clark, "Joseph Gales, Junior, Editor and Mayor," ed. John B. Larner, *Records of the Columbia Historical Society*, Washington: Columbia Historical Society, Vol. 23 p.138; Constance McLaughlin Green *Washington: Village and Capital, 1800-1878* (Princeton, NJ: Princeton University Press 1962).

Queen Hotel, or venture into the Centre Market to see the shocking realities of slaves shackled and jailed for sale in J.W. Neal and Company's slave prison. Between Seventh Street and Maryland Avenue many local blacks may have attempted to avoid the stinging sounds of torture from the infamous Yellow House managed by the notorious William H. Williams. Just across the Potomac on Duke Street, one could witness the daily transactions of one of the largest slave trading firms in the country, Franklin and Armfield. The proximity to Virginia and Maryland ensured the District's reputation as a central spoke in the domestic slave trade. Confinement as a concept and physical reality was visually embedded in the social landscape of the nation's capital. Scenes of slave coffles and pens—as well as slaves working on the construction of federal buildings—were imprinted in the daily lives of locals, foreigners, and politicians.⁵²

⁵² David Stroman, *Slavery in Washington, D.C.* (Washington: Library of Congress, 2002); Constance McLaughlin Green, *The Secret City: A History of Race Relations in the Nation's Capital* (Princeton, NJ: Princeton University Press, 1967).



Slave Coffle in Washington, D.C.—J.W. Neal & Co. Slave Market of America published by the American Anti-slavery Society, 1836. Library of Congress Rare Book and Special Collections Division, LOC DIG ppmsca 19705.

Freedom and the Antislavery Challenge

Colonization and gradualist agendas characterized the early formations of white abolitionist efforts. Former President of the American Colonization Society, Henry Clay argued that the free black population was "the most vicious," that they "[c]ontaminated themselves," and "extend their vices to all around them." Gradualists initially championed the aims of the American Colonization Society which organized efforts to send free blacks to Liberia, believing that black people could not coexist with whites in America. The conviction that free blacks must colonize another country rather than claim rights in America was also supported by many notable slaveholders including former president Thomas Jefferson.⁵³

Tensions rose as proponents of colonization made public declarations against free blacks. One local resident, expressing his views in the *National Intelligencer* wrote, "We have already too many free negroes and mulattoes in this city, and the policy of our corporate authorities should tend to the diminution of this insolent class." Rather than the "diminution" of free blacks, local authorities enforced the attenuation of what made them free through the enactment of black codes. Free blacks, however, used the press to challenge the racist ideas proposed by the leading voices of colonization.⁵⁴

Free black leaders such as Sarah Mapps Douglass, David Walker, Frederick Douglass, and countless other African Americans defended their right to immediate freedom on American soil. "A Coloured Baltimorean," offered the following response to colonization supporters, and Henry Clay in particular, in an article published in *Freedom's Journal*,

If we are as bad as Colonization men have frequently represented us to be-if we are (as has been said) a 'nuisance' and 'of all classes of the population of this country, the most vicious'-if we, being 'contaminated' ourselves, 'extend' our 'vices to all around-to the slaves and to the whites'-and if we are, 'injurious to the

⁵³ Leaders such as Henry Clay, who frequently made generalizations concerning a "most vicious" free black population, and incited white fears concerning black criminality. Henry Clay, *An Address Delivered to the Colonization Society of Kentucky, at Frankfort*, December 17, 1829, by the Hon. Henry Clay, at the Request of the Board of Managers, 1830; Harrold, Stanley *Subversives: Antislavery Community in Washington, D.C., 1828-1865*, Baton Rouge: Louisiana State University Press, 2003; Frankie Hutton, Social Morality in the Antebellum Black Press, *Journal of Popular Culture*, Fall 92, Vol. 26 Issue 2, p. 71-84.

⁵⁴ National Intelligencer, August 28, 20, 6, 11, 12, 13, 14, 15, 1835; National Intelligencer, September 15, 1835.

morals of the nation,'-in the name of common sense, and in the name of religion let me ask, are we fit instruments to evangelize and civilize Africa?

Black leaders combatted charges against their character and highlighted the racist contradictions of colonization reasoning. Publications such as *Freedom's Journal* featured articles such as this one to expose the inconsistent presumptions of black moral ineptitude on American soil and moral suitability in Africa.⁵⁵

Discourses of morality and criminality were also addressed in antislavery charges against southern slaveholders. Jeanine Marie DeLombard argues that abolitionists strategically deployed legal language as a rhetorical tactic aimed at treating the slavery debate as an ongoing national trial. Using print culture as the primary medium to wage this war, abolitionists branded slaveholding southerners as criminals who violated the property rights that humans had to themselves—a violation of natural law. Antislavery activists targeted the national capital to gain southern supporters for the abolition movement. ⁵⁶

In 1847, Gamaliel Bailey became the editor of the abolitionist journal the *National Era* located near the capitol just across the patent office. Considered a moderate publication by northern abolitionist standards, the *National Era* published articles and poetry by Lydia Maria Child, Oliver Wendell Holmes and Henry Stanton. The paper however did not publish much information about enslaved and free black women and men in the region. When abolitionists such as William Lloyd Garrison criticized Bailey's

⁵⁵ "American Colonization Society" *Freedom's Journal*, New York, NY, July 18, 1828; Henry Clay, *An Address Delivered to the Colonization Society of Kentucky, at Frankfort*, December 17, 1829, by the Hon. Henry Clay, at the Request of the Board of Managers, 1830.

⁵⁶Jeanine Marie DeLombard, *Slavery on Trial: Law, Abolitionism, and Print Culture*, Chapel Hill: University of North Carolina Press, 2007.

moderate approach, Bailey responded by noting that unlike his critics, he edited a paper in the South, making him more vulnerable to southern violence than northern activists. Despite ongoing criticism the paper experienced success, and in its first year of publication the offices opened with a generous endowment of \$63,000, from northern antislavery circles, and an appealing two-story office close to the capitol. By 1850, the *National Era* had a circulation of 15,000 and by 1853, a record 28,000. The paper was known for publishing Harriet Beecher Stowe's *Uncle Tom's Cabin* in 1851—a bold move for a paper housed in the South.⁵⁷

The voices of white abolitionists who broke away from gradualism gained attention with William Lloyd Garrison's publication of *The Liberator*. In Washington, D.C. black leaders such as Daniel A. Payne and John F. Cook worked collaboratively against slavery with white abolitionists such as Charles T. Torrey, Gamaliel Bailey, and Myrtilla Miner. Charles Torrey moved to Washington, D.C. in hopes of radically transforming the effectiveness of abolitionism. Arrested for subversive acts like crashing the 1842 convention of Maryland slaveholders, after his release, Torrey began a long stint assisting hundreds of slave escapes and building coalitions with local black churches. Additionally, politicians such as congressman Joshua R. Giddings, and senators Salmon P. Chase and Charles Durkee expressed support for the antislavery efforts of the District. Antebellum Washington, however, was dominated by the presence of elite Southern slaveholders who frequented the capital during significant political and social season. They held sway in both the political and economic affairs associated of the city.

⁵⁷ Stanley Harrold, *Gamaliel Bailey and Antislavery Union* (Kent: Kent State University Press, 2008); Ford Risley, *Abolition and the Press: The Moral Struggle Against Slavery* (Evanston: Northwestern University Press, 2008) p.106-110.

Southerners perpetuated the idea that enslaved and free blacks represented a debased class that would only tarnish American society if granted full emancipation. Free black families in Washington would refute this assumption.⁵⁸

Just before the war, Washington was the home of a small set of middle-class free black families. Some of these families included reputable names such as Wormley, Cook, and Costin. William Costin was a well-respected free black man in the city. His mother Ann Dandridge was believed to be the half-sister of former First Lady Martha Dandridge Custis Washington. By the beginning of the nineteenth century, William worked as a messenger for the Bank of Washington and remained there for 24 years. Him and his wife Philadelphia lived near Capitol Hill with seven children.⁵⁹

The Wormley family moved to Washington as early as 1814. Lynch Wormley and his wife Mary owned a livery stable and operated the Liberia Hotel. They had ten children including William Wormley who was a hack driver, and James Wormley who operated the well-known Wormley Hotel where the Hayes and Tilden camps would eventually reach the Wormley agreement in 1877. The Wormleys remained one of the core black families that sustained elite status well into the twentieth century.⁶⁰

⁵⁸ Charles T. Torrey and the Underground Railroad". *Journal of the Early Republic* 20: 273–292.Merton L. Dillon, *Slavery Attacked: Southern Slaves and Their Allies, 1619-1865*, (Baton Rouge: Louisiana State University Press, 1990); Bruce Dorsey, "A Gendered History of African Colonization in the Antebellum United States," *Journal of Social History*, Volume 34, No. 1, Fall 2000 George Mason University; Philip J. Staudenraus, *The African Colonization Movement*, (New York: Columbia University Press, 1961).

⁵⁹ Henry Wiencek, *An Imperfect God: George Washington, His Slaves and the Creation of America* (New York: Farrar, Straus and Giroux, 2003) p.285.

⁶⁰ Wormley Family. Papers, 1773-1991 (bulk 1880-1960). Accession 42649. Personal papers collection, The Library of Virginia, Richmond, VA 23219.

John Francis Cook, Sr. was born a slave and freed by his aunt Alethia Browning Tanner, who as an enslaved woman had hired out in the District before purchasing her freedom. During times she was not working as a hire, she managed a profitable vegetable trade that allowed her to make enough profit to purchase her freedom as well as the freedom of at least twenty-one other family members and loved ones, including John. John completed an apprenticeship as a shoemaker and eventually learned to read and write. He attended a local school for free blacks and eventually became the headmaster of the school until white mobs destroyed the school during the wake of the 1835 Snow Storm Riots. He eventually founded Union Bethel AME church and became a prominent black leader in Washington. These men and their family members were affiliated with the religious and social institutions of free black life that promoted antislavery and racial uplift causes.⁶¹

Antebellum black leaders expressed their concerns over the condition of the race. A recurring theme in black print culture was the need for "moral improvement" and "politeness." In 1849, *The North Star* published a feature titled, "Free Negroes in Virginia" which stated,

The condition of the Free Negroes of the South is scarcely preferable to that of the slaves. They are objects of contempt and suspicion. They have but few privileges, no incentives to either mental or moral improvement, and no hope beyond the most contracted circle of domestic servitude.

⁶¹; Cook Family Papers, Folder 10, Moorland-Springarn Research Center, Howard University.

In antebellum Washington, D.C. and the border slave states, acts of "contempt and suspicion" were realized in the daily realities of surveillance through enforcement of black codes, the fugitive slave law, and notices in the local press. As Stanley Harrold points out in his work, "[m]ost whites regarded free blacks as an immoral, criminal class that endangered property and chastity." Following the enactment of repressive race laws, respectability became a habit of survival that translated into intense demands for superior moral conduct. This moral appraisal was based, in part, on designating the mantle of virtue as the responsibility of women.⁶²

Black leaders looked to women of the race for the expression of virtuous comportment. The Israel Church Sabbath School Association of Washington, D.C. promoted the ideals of charity, manners and modesty as many Sabbath Schools that instructed free black girls in the city did. Rebecca Moore, a member of the local association, penned an essay on "Goodness and Sobriety," writing,

Again, there are females in this world who seem to think that politeness is an ostentatious parade. Their rudeness, which they are pleased to term plainness, never stops to think obnoxious life is made happy by our good, sober, modest action. Females should dwell together as one common band of sisterhood, whose sole object should be to do good, having wisdom, friendship, which begets peace among all mankind, as their chart: the same is life to those who possess it, death and misery to those who do not.

⁶² Harrold, Stanley *Subversives: Antislavery Community in Washington, D.C., 1828-1865*, Baton Rouge: Louisiana State University Press, 20030; James Brewer Stewart, *Holy Warriors: The Abolitionists and American Slavery*, 2nd Edition. (New York: Hill and Wang, 1997); Frankie Hutton, Social Morality in the Antebellum Black Press, *Journal of Popular Culture*, Fall 92, Vol. 26 Issue 2, p. 71-84.

Middle-class black women in the District championed moral virtue as a strategy for racial progress, and as a weapon against popular perceptions of free blacks as depraved and unfit for citizenship. Scholars such as Erica Ball have reinterpreted respectability as one of many strategies in the arsenal against slavery. Ball argues that respectability politics transcends the white gaze and, "is better understood as something valued for itself, irrespective of the presence or absence of whites, and as continuing to shape the conduct of elite and aspiring African Americans in spite of a hostile white republic." I would argue that enslaved and free black women who violated the law often rejected respectability as a concept "valued for itself," in order to embrace other forms of agency. The women considered in this study were actors disassociated from the organizations, churches, and social circles promoting respectability. Their actions largely excluded them from the designation of "respectable".⁶³

Enslaved and free black women were not typically associated with the white middle-class ideals articulated in the cult of "true womanhood." However many free black women of the nineteenth century assumed a standard of virtuous womanhood with broader implications for the race in mind. Views of a debased black race were linked to a perceived failure of black women. The contrast between reform women and women law breakers points to a disjuncture in the ways we historicize women, particularly white women. The mid-nineteenth century is often recognized as a moment of white women entering the public sphere, yet lower and working-class white women were already very present in the public sphere even if that pointed to their crimes. While their experiences

⁶³ "An Essay on Goodness and Sobriety, By Miss Rebecca Moore" *The Christian Recorder*, Washington Correspondence, September 12, 1863, Philadelphia, PA; Erica L. Ball, *To Live an Antislavery Life: Personal Politics and the Antebellum Middle Class*, (Athens, GA: University of Georgia Press, 2012).

were not the same, through crime, poor black and white women moved across a landscape deemed immoral, as they encountered the police, courts, and workhouses. Eventually, during the Civil War, both black and white women would work collectively in prostitution networks. But their criminal activities remained largely separate or unrelated incidents in the record. Furthermore, even as some free black women deployed respectability as a form of resistance, it would not be enough to shield them from the realities of re-enslavement. ⁶⁴

Realities of Re-enslavement

Prior to 1831, white residents in the capital generally protested the abhorrent presence of the slave trade, particularly after the arrival of the slave trading firm Isaac Franklin and John Armfield's, which transported between 1,000 and 1,200 slaves from Alexandria to the Deep South. Multiple slave pens were visibly present near popular cross-sections and main sites of business and daily life in Washington. Enslaved men, women, and children were marched in large coffles from pens to public auction blocks making the realities of slavery an obvious scene to the presumably respectable leaders of the country and their families. When not visible for active trading, slaves were held in jail until business resumed. A congressman from Pennsylvania observed four children

⁶⁴ Martha S. Jones, *All Bound Up Together: The Woman Question in African American Public Culture, 1830-1900*, (Chapel Hill, North Carolina: The University of North Carolina Press, 2007); Clare Lyons, *Sex Among the Rabble: An Intimate History of Gender and Power in the Age of Revolution, Philadelphia, 1730-1830*, (Chapel Hill, North Carolina: the University of North Carolina Press, 2006); Nicole Rafter, *Partial Justice: Women in State Prisons, 1800-1935*, (Boston, Massachusetts: Northeastern University Press, 1985); Nancy Cott, *The Bonds of Womanhood: 'Woman's Sphere' in New England, 1780-1835*, 2nd Edition, (New Haven, Connecticut: Yale University Press, 1997).

who were, "almost naked; one of them sick, lying on the damp brick floor without bed, pillow, or covering," in the Washington jail. The haunting presence of the slave trade not only disturbed white residents but also reinforced the vulnerability of free and enslaved blacks faced with being legally or illegally sold further South away from their families and community networks. ⁶⁵

Resistance to the slave trade in the District was relatively widespread among Washingtonians. However, after Nat Turner's rebellion in 1831, white residents feared revolt among slaves and free blacks in the city, and riots subsequently ensued. Some white residents believed the District would be more secure if slaves were freed and slaveholders compensated. This view was expressed in the *National Intelligencer*, which offered the following,

If the public would make provision to purchase out the slaves now held in the District, compensating the owners of them therefore, we do not suppose that the slaveholders of the District would have any serious objection thereto...From the increasing insecurity, and unsatisfactoriness of this kind of property, the pecuniary advantage of slave owners would probably be promoted by such a course.

The article suggests that white residents vacillated between a desire to abolish the slave trade in Washington and a frustration with abolitionists, whom they believed to be responsible for fomenting anxieties around race revolt. The reporter operated under the

⁶⁵ Register of debates in Congress, 19 Cong., 1 sess. (1 March 1826), 1480-1; Peter Hinks, *To Awaken My Afflicted Brethren: David Walker and the Problem of Antebellum Slave Resistance*, (University Park: Pennsylvania State University Press, 1997); Elizabeth Varon, *Disunion! The Coming of the American Civil War, 1789-1859*, Littlefield History of the Civil War Series, (Chapel Hill, North Carolina, University of North Carolina Press, 2008).

assumption that the abolishment of slavery would shield the capital from black insurgence. But slaveholding whites would not concede to such measures, and black resistance remained a threat. Following Nat Turner's rebellion, Georgetown enacted a black code particularly directed at antislavery efforts "calculated to excite insurrection or insubordination among the slaves or colored people…and particularly a newspaper called the *Liberator*." A correlation between the heightened sense of insecurity and stricter enforcement of the slave and black codes became evident in the 1830s and 1840s in the District. Black inhabitants of the city encountered both the legislative backlash to surging racial tensions and the harassment of local whites.⁶⁶

Such a dynamic was evident in the "Snow Storm" riots, which were initiated by white locals in the city in 1835 when they vandalized a restaurant owned by a free black man named Beverly Snow. Snow was a success, and while he was not wealthy, he made more money than the average white laborer and was considered a man of excellent taste in food and clothing. According to one historian, Snow's Epicurean Eating House was very similar to a French restaurant. Common in cities like Paris, a dining experience at Snow's place included the finest cuts of meat and wine for those who could afford it. Snow's restaurant was targeted by white mobs because it symbolized black economic success. But the original catalyst for the riot involved a slave named Arthur Bowen. Just prior to the destruction of Snow's restaurant, news spread that Bowen had entered the

⁶⁶ *National Intelligencer*, December 29, 1848, *Columbian*, November 8, 1831; House Report 691, 24C, IS, p.18, Ser 295.

bedroom of his mistress, Mrs. Anna Maria Thornton, allegedly drunk and holding an axe.

Anna Thornton, the wife of the famous designer of the United States Capitol, William Thornton, had owned Arthur and at least three generations of his family. Although a slave, Arthur built relationships with the city's free black leaders such as John Cook, a former clerk in the Land Office, and headmaster at a local school for black children. Arthur found moments to steal away to lectures hosted by the Philomathean Talking Society, a group comprised primarily of free black men interested in discussing abolitionism, temperance, and economic independence. He was aware of the mounting debates about slavery and expressed his resentment about his own enslavement. After a night of drinking, Arthur grabbed an axe and reportedly stumbled into the room where Anna, her mother, and Arthur's mother slept. Madison Jeffers, a police constable and local slave trader was sent to arrest Bowen. When the police arrived, he managed to escape for a few days until his arrest.⁶⁸

On August 12, 1835 an estimated 3,000 whites congregated in the capital demanding that Arthur be hanged. A free black man observed in his diary that, "their object was to get Mrs. Thornton's mulatto man out and hang him without Judge or

⁶⁷ Constance McLaughlin Green *Washington: Village and Capital, 1800-1878* (Princeton, NJ: Princeton University Press 1962); "Snow's Epicurean Eating House": Advertisement, *National Intelligencer*, October 26, 1832; RG 351, Entry 47, Vol. 16, 1832 Tax Book, Third and Fourth Wards, NARA; RG 351, Entry 47, Vol. 22, 1834 Tax Book, Third and Fourth Wards, NARA; Jefferson Morley, *Snow-Storm in August: The Crime that Sparked Washington City's First Race Riot in the Violent Summer of 1835* (New York: Random House Publishing, 2012).

⁶⁸ Charles Francis Cook Papers, Folder 10, Moorland-Springarn Research Center, Howard University, Washington, D.C.; Dorothy Porter, "The Organized Educational Activities of Negro Literary Societies, 1828-1846," *The Journal of Negro Education* 5, no. 4 (October, 1936), p.555-56;

Juror." Andrew Laub, the son of John Laub, a slave owner and clerk in the Treasury Department, led the angry mob. The Washington correspondent for the *Richmond Enquirer* reported that, "One of the men who seemed most anxious and resolute in raising the mob said they only intended to cut off both his ears and give him a good coat of tar." Anna Thornton apparently did not believe that Arthur intended to kill her and repeatedly sent letters to President Andrew Jackson to petition for a pardon on his behalf. After a highly publicized trial and an incredible degree of damage to black homes, institutions and businesses, the judge sentenced Arthur Bowen to be hung for attempted murder. *Nile's Weekly Register* reported that in the year 1835, there were a total of 53 riots related to slavery compared to just four in 1833. Snow's restaurant was one of many black establishments targeted in the rioting. Black homes, businesses, churches, and the activities of antislavery whites were pursued in an effort to make clear that DC locals did not support racial equality. This was the climate that black women experienced in antebellum Washington, D.C.—a place of hostility and suspicion.⁶⁹

Committed to the racial and gendered customs of the slaveholding South, white laborers and political elites in the District were enraged at the thought of an attempted murder of a white woman at the hands of an enslaved black man. The incident simultaneously portrayed the image of Bowen as a drunken murderer while also attempting to undermine the success of middle-class black residents such as Beverly Snow. Mob violence broke out, damaging black schools, churches, businesses and

⁶⁹ "A Verdict of Guilty," *Alexandria Gazette*, December 14, 1835, NARA; RG 21, Entry 6, Case Papers, Box 545, November Term 1835, NARA; Washington City Dispatch, *Richmond Enquirer*, August 1835, LOC; "Mob Violence," *National Intelligencer*, August 14, 1835; Leonard L. Richards, "*Gentlemen of Property and Standing*": *Anti-Abolition Mobs in Jacksonian America* (New York: Oxford University Press, 1970), p.12.

homes as a means to intimidate black residents and white allies in the city. Georgetown enacted its first black code that punished the possession and circulation of abolitionist literature, and the city council of Washington passed a corporate ordinance that prohibited blacks from obtaining shop-licenses, confining them to businesses contained in drive carts and hackneys.⁷⁰

In the wake of the 1835 riots, young white men typically identified as "Plug Uglies," or "rowdies," continued to terrorize blacks in the District. *The Evening Star* noted that they assembled between I and K Streets every afternoon, "to play bandy and impose on helpless colored persons," and that "no age is spared." The report noted that, "Not long since a poor old colored man was beat, by these boys, and it usually for these young Plug Uglies to amuse themselves—after their games—on their way home, by running down helpless colored children and beating them." Notices of their terror frequented the pages of the press during the 1840s and 1850s. Following a Sabbath School Convention held at Dumbarton Street Church, a reporter noted the "reckless and lawless spirit" of these young men, and commented that, "It is far from being an uncommon thing to see many of this class, during the early hours of the night, prowling about the streets—either wholly or partly intoxicated." ⁷¹

White inhabitants of different classes and ethnic affiliations responded differently to the escalating tensions over slavery and the presence of free blacks. White political officials anxious to suppress the rising black population often supported efforts to tighten legal restrictions on them. Others, such as the "Plug Uglies" reacted through physical

⁷⁰ "The State of the City": *National Intelligencer*, August 14, 1835, NARA; Jefferson Morley, *Snow-Storm in August: The Crime that Sparked Washington City's First Race Riot in the Violent Summer of 1835* (New York: Random House Publishing, 2012). ⁷¹ "Editor of the Star," *Evening Star*, November 12, 1857, NARA.

violence and public harassment of blacks throughout the District. No detailed coverage appears of the "rowdies" being charged or reprimanded for their violence against black residents. Black women and men were vulnerable to both the legal and extralegal forms of punishment and public violence as a consequence of mounting racial tensions in the antebellum era.⁷²

The dominant presence of the local slave trade and the violent retaliation of white mobs in the "Snow Storm" riots fueled interracial abolitionist efforts to emancipate local slaves. Abolitionist activity increased in momentum and more activists shifted from colonization and gradualism to immediate eradication of slavery. Runaway networks, benevolence societies, and black churches throughout the District organized to undermine the system of slavery. White abolitionists aligned with the immediatist cause of free black activists, and expressed their solidarity by attending black church services and programs. As Stanley Harrold documents in his recent work on interracial antislavery communities in Washington, black and white abolitionists collaborated in staging the largest planned slave escape in 1848 on the *Pearl*.⁷³

Networks of enslaved and free black inhabitants and white abolitionists spread the word that the *Pearl* was leaving the District on April 15, 1848. Black men, women, and children boarded the *Pearl* to sail up the Chesapeake towards Delaware to eventually arrive in New Jersey. The fugitives, however, were caught the morning after the *Pearl* set sail. The shackled women, men, and children were returned to the District and

⁷² "The Sabbath School Convention," Georgetown, *Evening Star*, November 12, 1857.

⁷³ Constance McLaughlin Green, *The Secret City: A History of Race Relations in the Nation's Capital* (Princeton, NJ: Princeton University Press, 1967) p.37; Jeffrey Morley, *Snow Storm in August: Washington City, Francis Scott Key, and the Forgotten Race Riot of 1835*, New York, New York: Knopf Doubleday Publishing Group, 2012.

marched through an angry mob of whites that shouted slurs and insults at them. The courts left the fate of the slaves to the discretion of slaveholders as they dealt with the white accomplices through the criminal division.⁷⁴

The *Pearl* Affair preceded the implementation of an augmented Fugitive Slave Law that invigorated the surveillance of slaves for recapture in the upper south. The Compromise of 1850 outlawed the slave trade in the District of Columbia but still permitted the practice of slavery within the city. California was admitted as a free state while other western territories were not given a specific designation regarding slavery. As a concession to slaveholding states, a revised Fugitive Slave Act was adopted on September 15, 1850. The Fugitive Slave Law empowered southern slaveholders with greater legal authorization to forcibly return fugitive slaves that escaped to northern territories. The law denied fugitives the right to a jury trial, implemented an incentivized fee system for commissioners responsible for the return of fugitives, and held white northerners accountable for their participation in the enforcement of the law. Both enslaved and free blacks remained vulnerable to re-enslavement and just as valuable as a result of the Fugitive Slave Law of 1850. Such legal measures heightened the surveillance of black residents and increased their chances of encountering the city jail and slave pens. With the escalating racial and political climate, blacks were not only besieged by imprisonment and re-enslavement, but were threatened in their day-to-day efforts to strictly adhere to the law.⁷⁵

⁷⁴ Ibid.

⁷⁵ Fugitive Slave Act of 1850, 31st Congress., 1st Session, Ch.60, 1850.; Stanley Harrold, *Subversives: Antislavery Community in Washington, D.C., 1828-1865*, Baton Rouge: Louisiana State University Press, 2003; Constance Green *Washington: Village and*

Black residents of the District couldn't ensure their safety even when they abided by the race laws in effect. Racial tensions arose and both law-abiding and law breaking black women and men were targeted by white mobs. In one instance in 1855, a group of black people organized a ball, and obtained the necessary permit from a "respectable" white male willing to vouch for the innocent nature of the event. Upon learning about the gathering some two to three hundred white residents beat the assembled men and "carried off the eatables and devoured them more like beasts than civilized beings." Their primary targets however were black women. Three women simply "on errand" were "unmercifully beaten, being suspected of intending to go to the ball." Women at the actual gathering locked themselves in rooms to "avoid insult" but the mob waited two hours and assaulted them when they reappeared. An account of the event published in the antislavery *National Era* under the heading "The Petty Tyranny of the Slave Power" notes that, "The screams of these poor creatures were indeed terrible, and aroused many a family from looking on." This event was not simply a gathering for social entertainment: as the reporter later learned, the ball was intended to be a benefit a poor widowed black woman.⁷⁶

The dramatic increase in the free black population and the "hiring out" system of enslavement gave the District the veneer of being relatively hospitable (compared to other slaveholding cities) to blacks. The demographic shift however, came with a simultaneous move towards reinvigorated and more strictly enforced black codes and new fugitive slave law that made enslaved and free blacks vulnerable to imprisonment,

Capital, 1800-1878 Princeton, NJ: Princeton University Press 1962, p.143-144; James W. Sheahan, *Corporation Laws of the City of Washington*, p.248-50. ⁷⁶ "THE PETTY TYRANNY OF THE SLAVE POWER," *The National Era*, Washington, D.C. May 24, 1855, Accessible Archives.

re-enslavement, and mob violence. Such realities suggest that freedom was not "free" of racial oppression as long as race law prevailed, but just only a few carefully crafted steps removed from slavery itself.

Conclusion: Codifying Racial and Gender Caste

The fortified black codes and Fugitive Slave Law of 1850 set a precedent for a legally-sanctioned caste system in which distinctions were made between crimes committed by whites and those committed by blacks, as well as in the treatment and surveillance of black women relative to black men. The demarcation of what constituted "criminal behavior" thus became a tool to control and brand the activities of growing black communities, and black women in particular. The more laws enacted to place restrictions on the daily life and aspirations of free and enslaved blacks, the more vulnerable they became to arrest and imprisonment. It is no surprise that by the late 1840s, black men, women, and children were the larger population of the city jail and workhouse. Black women outnumbered white women in the number and frequency of arrests and sentences to the workhouse. Racial tensions brewing from the Snow Storm riots, and the *Pearl* Affair were widely engaged by Washington society, generating heightened fear and suspicion of enslaved and free black inhabitants of the city. By the 1850s, black and white abolitionists and reformers focused on building cases for freedom civil suits, free persons unlawfully returned to slavery, and building churches and schools. Just as morality became the rhetorical tool used against southern slaveholders,

moral virtue also functioned critically to define free black women and men as deserving or undeserving of freedom and equality.⁷⁷

Nineteenth-century gender discourses placed women at the center of the moral pulse of the nation, making black women more specifically central to the portrayal of a respectable and virtuous black race. It was imperative that black women meticulously obeyed the laws or risk tremendous consequences at a moment when the Fugitive Slave Law could easily re-enslave them or the Black Codes could seamlessly funnel them into months of labor in the workhouse. The free black population increased, and the lives of law breaking black women, particularly in the context of their lives as wives and mothers, were increasingly portrayed as immoral, violent, and dishonest in local publications. The 1830s gave rise to a growing black middle-class that rejected these derogatory images of black women, yet black female law breakers became more visible in the local press reports that shed light on the experiences of lower-class women's lives.⁷⁸

Free and enslaved black women persistently attempted to escape the layers of race and gender based subjugation bolstered by a complex antebellum legal regime. While free blacks eventually outnumbered the enslaved by the late antebellum period, the slave and black codes of the District legally authorized race and gender-based social control and organization according to the local customs of the slaveholding South. Freedom afforded blacks in Washington, D.C. a restricted and often revolving escape from the conditions of urban enslavement. Black activists catalyzed the development of a black

 ⁷⁷ Martha S. Jones, *All Bound Up Together: The Woman Question in African American Public Culture, 1830-1900*, (Chapel Hill, North Carolina: The University of North Carolina Press, 2007); Erica L. Ball, *To Live an Antislavery Life: Personal Politics and the Antebellum Middle Class*, (Athens, GA: University of Georgia Press, 2012).
 ⁷⁸ Ibid.

middle-class, but these race leaders constituted a limited portion of the black population and espoused an ideology of moral uplift that often conflicted with the interests of those who violated the race-based laws. Instead, observing the experiences of enslaved and free black women's law breaking broadens our understandings of the legal delineations of racism and sexism in the nineteenth century.

Subsequent chapters illuminate both the highly publicized and the less visible actions of enslaved and free black women who were considered criminals. The laws and customs of antebellum Washington, D.C. and the surrounding Chesapeake states codified black women's day-to-day lives in ways that assumed their criminality unless proven otherwise. The local press, police precinct reports, and the courts emphasized that black women violated the law by stealing, assault, drunkenness, prostitution, and portrayed them as criminal for escaping slavery, being out after hours, assisting with an escape, and assembling with other black inhabitants. Without regard for the specific contexts of these violations, however, the gaze of the outside observer may have overlooked the longing for communal gatherings, the need for extralegal income, as well as the desires for autonomy that motivated these acts against race law. In instances of "murder," the black woman charged may have retaliated against the daily violence exacted upon her. Some black women took what did not belong to them, while others may have taken what was The precise context in which these crimes occurred were not adequately due. documented, but a close examination of the legal culture of a society reveals an understanding of nineteenth-century perceptions of blackness and femaleness that demanded codified legal control systematically maintained by local and national authorities.

CHAPTER TWO STOLEN: SELF-EMANCIPATION AND SELF-MAKING

On April 30, 1817, John D. Barclay placed a runaway advertisement in the Daily National Intelligencer for a light complexioned woman named Anna, described as "fat" and "advanced in pregnancy," and "remarkably lazy." Healthy pregnancies typically required some degree of weight gain and respite from intense labor. The pejorative description intended to mark Anna's appearance as undesirably overweight and her character as slothful completely disregarded the medical developments of advanced pregnancy on the body. The refusal to take these considerations of her physical condition into account speak to the rather frequent tendency to publicly demonize black women while omitting the context of their lives and law breaking. Additionally, Barclay indicated that Anna was connected to "a yellow man who calls himself Nat. Cummins," a "slender male; [who] had on when seen last the habit of a sailor." The description of Nat Cummins leaves no indication that he was enslaved. Possibly, he was a free man; however, he too became a target for criminal surveillance. The collaboration between Anna, an enslaved woman and Nat, a likely free man, highlighted the ways interactions among the enslaved and free undermined urban slavery. The focal point of this advertisement however was Anna's crime—self-emancipation or self-stealing.⁷⁹

Such runaway advertisements appeared regularly in the daily press informing the public to keep their eyes open for particular violators and generating a heightened sense of surveillance and suspicion of enslaved and free blacks in a city of increasingly free

⁷⁹ John D. Barclay, "Ranaway," *Daily National Intelligencer*, Washington, D.C., April 30, 1817, LOC.

black inhabitants. As the notice concerning Anna's escape indicates, enslaved and free black women were particularly valued for their reproductive capacities and the labor demands they met for white men and women. Anna, pregnant with a child that would inherit slavery and add value to her owner's coffers, was a particularly acute loss for Barclay. This chapter examines cases of enslaved and free black women's law breaking within the context of property crimes, and the most notable theft crime of the antebellum era—escape from slavery. Expanding on abolitionist and runaway scholarship, this research converses with the work of scholars such as Jeannine DeLombard who examines the ways that abolitionists branded slave owners as criminals guilty of human theft, and the work of John Hope Franklin and Loren Schweninger which looks closely at the implications of black resistance and more specifically expressions and manifestations of hostility and discontentment. The evidence also affords an exploration of black women's own unlawful acquisition of property to highlight competing ideas about ownership and entitlement expressed by enslaved and free women. While enslaved and free women were punished harshly for property crimes, they acted upon their own understandings of what aspects of their lives, labor, and loyalty whites were entitled to.⁸⁰

Fugitive Slave Laws

The fugitive slave laws of 1793 and 1850 reflected Northern and Southern arguments over the extent to which the Constitution could mandate the return of fugitive slaves. Moreover, the fugitive slave laws illuminate how the very actions of the enslaved

⁸⁰ Jeannine DeLombard, *Slavery on Trial: Law, Abolitionism, and Print Culture* (Chapel Hill: The University of North Carolina Press, 2007); Franklin and Schweninger, *Runaway Slaves: Rebels on the Plantation*, (New York: Oxford University Press, 1999).

ignited constitutional debates. Prior to the American Revolution, the colonies applied common law in cases involving slave escape to free territories. The law stated that, "if a slave should escape to a free state, he would thereby gain his freedom." The Fugitive Slave Law of 1793 was signed into effect after a Virginia slave, John Davis, escaped to Pennsylvania. The law required states to return fugitives to their former owners, and instituted a fine for aiding the escape of a slave. By the antebellum era, free states such as Pennsylvania however passed personal liberty laws that forbid slave catchers from forcibly transporting slaves out of the state.⁸¹

The actions of an enslaved woman named Margaret Morgan ignited a legal firestorm against personal liberty laws. Born into slavery in Harford County, Maryland, Margaret married a free black man named Jerry Morgan. Her former owner, John Ashmore did not formally free Margaret, but after his death she lived independently of the remaining descendants. Margaret lived with her spouse Jerry and their children, before the family decided in 1832 to relocate to Pennsylvania. Five years following Morgan's move, Margaret Ashmore, descendant of John Ashmore, hired professional slave catcher Edward Prigg to capture and return Margaret and her children. In Pennsylvania, the personal liberty law of 1826 required that slave catchers obtain a certificate of removal from a local justice. Prigg returned Morgan and her children to Maryland without the necessary certificate of removal. For violating the Pennsylvania personal liberty laws, Edward Prigg was charged with kidnapping. Prigg appealed the conviction and by an eight to one vote the Supreme Court decided in *Prigg v*.

⁸¹ James Oakes, *Freedom National: The Destruction of Slavery in the United States, 1861-1865*, (New York: W.W. Norton & Company, 2013), p. 195; Elizabeth Varon, *Disunion! The Coming of the American Civil War*, 1789-1859 (Chapel Hill: The University of North Carolina Press, 2008), p. 49, 61, 68.

Pennsylvania, to uphold the constitutionality of the federal Fugitive Slave Act of 1793, which overruled the personal liberty laws of the state of Pennsylvania.⁸²

In 1850, Congress passed the Compromise of 1850 which included a ramped up fugitive slave law that authorized federal enforcement of the return of fugitives and undercut state interference. Accordingly, a slave catcher could capture a slave without due process of the law, a jury trial, or even a judge's authorization. Special commissioners were charged with the task of determining whether or not the accused was a fugitive. Commissioners were entitled to a \$10 fee if the person was returned to slavery, and \$5 if the accused was discovered to be free. The process of determining whether or not someone was a fugitive was clearly incentivized in favor of slaveholder interests. Slave escapes disrupted the social foundations of the slaveholding South. The passage of the Fugitive Slave Law of 1850 demonstrated that, resistance from enslaved women like Margaret and state personal liberty laws were thought to pose a direct threat to the institution of slavery.⁸³

Runaway Advertisements

Runaway advertisements offer critical information about the most publicized "crimes" committed by enslaved women—that of stealing oneself or running away from slavery. These attempted, successful, and failed escapes were archived in the press, and

⁸² U.S. Supreme Court, *Prigg v. Pennsylvania*, 41 U.S. 16 Pet 539 539 (1842); Margaret Morgan, Biographical Series, Archives of Maryland, MSA SC 5496-8784; Paul Finkleman, "Sorting Out *Prigg v. Pennsylvania*," *Rutgers Law Journal*, p. 24 (Spring 1993).

⁸³ Ibid; Paul Finkleman, "Sorting Out Prigg v. Pennsylvania," Rutgers Law Journal, p. 24 (Spring 1993).

encouraged the scrutiny and surveillance of black women who traveled throughout the District and surrounding Chesapeake states. Women decided to run away for a variety of reasons, but as scholars such as Deborah Gray White, Stephanie Camp, Elizabeth Fox-Genovese, and Brenda Stevenson have argued, gender ideals practiced among the enslaved left the responsibility of caring for the family and maintaining family ties primarily to the women. Gender norms factored into the relatively lower rates of female flight in the slaveholding South, particularly in the Deep South where women would have to travel longer distances to reach a free state. In Washington, D.C., and the neighboring slave states however, women found ways to escape and even brought along their loved ones. A variety of reasons informed an enslaved woman's decision to run, including, as Stephanie Camp observes, "such 'push' factors as labor disputes, violence, and terror, on one hand, and the 'pull' of incentives such as reconnection with family and community, on the other." The kinship networks forged across state lines made escape an appealing possibility for those willing to endure the perilous flight. Because slaves ran from Maryland and Virginia to the District, and from the District into Maryland and on to the free state of Pennsylvania, the study of slave flight must be put in a regional context, using sources from across these borderlands of escape.⁸⁴

⁸⁴ Franklin and Schweninger, *Runaway Slaves: Rebels on the Plantation*, (New York: Oxford University Press, 1999); Stephanie Camp, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South*, (Chapel Hill: The University of North Carolina Press, 2004) p.141; Deborah Gray White, *Ar'n't I a Woman? Female Slaves in the Plantation South*, (New York: Norton, 1985); Elizabeth Fox-Genovese, *Within the Plantation Household: Black and White Women of the Old South*, (Chapel Hill: University of North Carolina Press, 1988); Brenda Stevenson, "Gender Conventions, Ideals, and Identity among Antebellum Virginia Slave Women," in Gaspar and Hine, *More Than Chattel*, 174-75, 180.

The close proximity to largely populated slave states made the District a key site of self-emancipation, particularly in the late antebellum era when relatives of slaves were occasionally manumitted and migrated to the city for work. Additionally, Maryland possessed vital runaway networks, but many slaves also understood their own proximity to the Mason-Dixon line. One print source noted that in the summer of 1854, "some of the farmers in the neighboring counties of Maryland and Virginia have been losing many of their slaves lately." The article titled, "Negro Stealing," noted, "Horse thieves and negro thieves abound; and all efforts to catch them appear to be unsuccessful. We are of opinion that the only way to catch a negro thief is to watch the Northern routes." Slaves decided on their own whether or not to take the dangerous journey to free states, but as the article notes, some slaves received assistance from antislavery activists and participants in underground escape networks.⁸⁵

Slaves who ran away risked discovery, imprisonment, and re-enslavement into the Deep South. When black women decided to escape from bondage, there were numerous factors to take into account including: an understanding of the consequences of leaving families and loved ones behind, the possibility of discovery and proceeding punishment for escape, the realities of poverty, and living a life wrought with the anxieties of being returned. Enslaved women contemplated the serious consequences and benefits, some deciding to remain where they were, and others deciding to take their chances.

⁸⁵ "Negro Stealing," *Daily Evening Star*, Washington, D.C. June 3, 1854, LOC; William Still, *Underground Rail Road: A Record of Facts, Authentic Narratives, Letters, etc.* (Philadelphia, PA: Porter & Coates, Publishers, 1872).

Subsequently, those who ran appeared in the most notorious medium of human hunting—runway advertisements.⁸⁶

In Washington, advertisements for runaway enslaved women appeared in the local news at the beginning of the nineteenth century. Thomas Tingey, a slave owner at the Navy Yard, placed a runaway advertisement in the Daily National Intelligencer on August 16, 1821 for an enslaved woman named Surrey who began calling herself "Sukey Dean." Tingey wrote that she was "strolling about the city, in the vicinity sometimes attempting to hire herself out as a free woman asserting she has my assent to do so." He goes on to note her good cooking and cleaning skills but adds that she would be a better servant if "her tongue were safely extracted." Portrayed as an assertive woman, she named herself Sukey Dean and created a new identity as a free woman available for hire against the will of her master. While he vouched for the quality of her work, Tingey's frustration lies more in Sukey's realization of the value of her own labor, the subsequent deterioration of his authority, and her efforts at self-making. Tingey acknowledged that Sukey shirked his paternalism and rather than having her returned to him, he instructed the public to "secure her in jail" or "sell her at public venue for cash" in the event she is found, and that the seller will have "a fourth of what she sells for in full cash." It is likely that this was one of many offenses committed by Sukey Dean; Thomas Tingey placed

⁸⁶Stanley Harrold, *Subversives: Antislavery Community in Washington, D.C., 1828-1865*, (Baton Rouge: Louisiana State University Press, 2003); Walter Johnson, *Soul by Soul: Life inside the Antebellum Slave Market*, (Cambridge: Harvard University Press, 1999); Carol Wilson, *Freedom at Risk: The Kidnapping of Free Blacks in America, 1780-1865*, (Lexington: University Press of Kentucky, 1994); Jane H. Pease and William H. Pease, *They Who Would Be Free: Blacks' Search for Freedom, 1830-1861*, (New York: Atheneum, 1974); T. Stephen Whitman, *The Price of Freedom: Slavery and Manumission in Baltimore and Early National Maryland*, (Lexington: University Press of Kentucky, 1997). numerous runaway advertisements but typically requested that the slaves were held in jail and returned to him.⁸⁷

The threat of being imprisoned, returned to slavery, or sold elsewhere in the South was a constant reality for enslaved women. In 1819, Thomas Tingey purchased an enslaved woman named Minty, who was described as, "four feet eleven inches high, very black with rough skin and bushy hair and a very scary countenance." Her former owner Major Forrest, also owned her husband and she was sold away from him to work in the city. She was identified in Nottingham, Prince George's County, Maryland "lurking there ever since she absconded." Tingey instructed the person who finds her to "secure her in the Washington County jail" and promised to pay out a thirty-five dollar reward. Most runaway slaves attempted to integrate into the free black population in the city rather than return to the surrounding slave states with smaller free black populations. Minty may have been motivated by the prospect of reuniting with her husband. As many scholars of slavery have argued, slaves were particularly inspired to escape to be with other family members. Unlike "Sukey Dean," Tingey requested that Minty be secured in jail and not sold into the domestic slave trade.⁸⁸

The advertisements placed by Thomas Tingey offer contextual descriptions of the women that speak to his cultural perceptions of them and the economic value of their labor. The actions of the enslaved women themselves demonstrate other ways of understanding their identities. In two different news publications, Tingey described aspects of their appearance and demeanors that would help identify them for capture. In

⁸⁷ "Thomas Tingey, "Slave Owner Navy Yard Washington Reward [Runaway Slave]," *Daily National Intelligencer*, August 16, 1821 Washington, D.C., LOC.

⁸⁸ "Thomas Tingey, "Slave Owner Navy Yard, Washington 35 Dollars Reward [Runaway Slave]" *City of Washington Gazette,* March 22, 1821, Washington, D.C., LOC.

the case of Sukey Dean, Tingey highlighted her skills but also suggested that her tongue should be "safely extracted." Alternatively, her "tongue" accomplished what she desired and empowered her to change her name, and strategically hire out her services for her own profit. Sukey Dean falsely employed Tingey's authority by claiming his assent to hire herself out for service, while simultaneously undermining his authority by claiming all potential wages for herself. Sukey was engaged in self-making—she fashioned a life aimed at economic independence. In the case of Minty, Tingey's description of her features underscored his perception of her as ugly and scary. But his acknowledgement of her marriage to another man reveals that her husband's aesthetic perception of an appealing woman contrasted his own. For these women, Tingey's opinion was extraneous in the context of their desires, but they nonetheless remained susceptible to exposure and re-enslavement. His public assessments of two women speak to the manner in which enslaved black women were measured against cultural ideas about beauty and virtue. The autonomy and assertiveness expressed by the women cast them as unfeminine and defiant. Advertisements such as those authored by Tingey encouraged the suspicion of black women making claims to freedom and attempting to market their labor⁸⁹

Runaway notices of black women go beyond basic descriptions of the conditions in which the women absconded, often demonstrating a fixation with measuring the physical and personality traits of the woman. For instance, Tingey described Minty's physical characteristics as undesirable with particular emphasis on her skin. Black women depicted as "very black" were increasingly represented as the least desirable

⁸⁹ Ibid.

among the race. Another runaway, Sophia Gordon, was described as "rather small in size, of cooper color" and "tolerably good looking." As the skin gradation becomes lighter, so does the portrayal of the woman as more aesthetically appealing. Additionally, the slave owner, George Young, highlights slave speech. He described her as having a "low and soft manner of speech" as opposed to Tingey's description of the "sharp" tongue of Sukey Dean and "very scary countenance" of Minty. The advertisement concludes that, "she is believed to be among associates formed in Washington where she has been often hired." Young instructed that Gordon be imprisoned and offered a one hundred dollar reward for her return. The actions of black female runaways like Sukey Dean, and Minty contradicted tropes that romanticized the "docile and loyal slave" deployed by southern defenders of slavery. The depiction of Sophia Gordon however undermines the idea that female runaways were particularly aggressive. These descriptions collectively demonstrate that dichotomous stereotypes of docile and aggressive were unstable and pejorative. The effort to create debased personas of black women digressed greatly from the actual significance of their escape, and the owners' ultimate desire to retrieve them. In fact, the enslaved women who ran away from their owners during the antebellum period caused a tremendous loss in actual labor and the future asset value of potential offspring.⁹⁰

The acts of self-emancipation and self-making transcend our typical conceptualizations of theft crimes and resulted in a tremendous financial loss and a potent challenge to white control over black lives. On May 15, 1841, thirty-year old Louisa escaped from Notley Maddox in Prince George's County, Maryland with her two

⁹⁰ George W. Young, "\$100 Reward," H. Polkinhorn's Steam Job Printing Office, D Street, Washington, D.C. November 16, 1858, HSW.

brothers John and Dumpty. At least two of the siblings were considered to be literate and all of them carried imitation free papers with close renditions of the required official seals. Self-making in this instance, began long before the date of flight; empowered by their literacy and knowledge of the trades, they understood what was required to successfully escape. Louisa was considered "handsome, with strong intellect," and in possession of good clothes and cash she had stolen from Maddox. Her brother John was a carpenter and joiner, who was a hired out in the area. John also took a large sum of cash from Maddox, but more importantly, he took one of the few sources of high yielding income that his owner relied upon-himself. Louisa was married to a free man named Jim Butler. Because slavery was legally inheritable through the mother, Maddox not only lost the clothes and cash Louisa took, but the possibility of acquiring more property through her reproductive abilities. Slaves attempting to escape typically took specific sums of money and clothing that provided startup resources for surviving the journey and beginning their new life. The notice in the local news instructed anyone capturing the three siblings to turn them into the jail in Washington, D.C. The reward posted for their capture was the healthy sum of one thousand dollars. Maddox knew they were worth much more.⁹¹

The effectiveness of the runaway advertisements depended on how well the owner described the physical attributes of the slave, down to the most specific detail. It was typical for slave owners to identify physical attributes and deformities of slaves who ran from their plantations. On July 16, 1845, a notice appeared in the weekly *Maryland Journal* featuring Rachel Davis, a twenty-three year old enslaved woman of "cooper

⁹¹ "Ran Away from Subscriber," *Daily National Intelligencer*, Washington, D.C., September 2, 1842, LOC.

complexion" with a "bone felon" who ran away from the farm of Alexander Boswell in Montgomery County, Maryland. A bone felon was an inflamed growth, which happened to be identifiable on the young woman's finger. It was not uncommon for these tumors to form after repeated manual tasks that required the same part of the body. Scholars such as John Hope Franklin explain how deformities and marks created from violent abuse were often used to describe fugitive slaves. Also, Walter Johnson explicates the importance of bodily inspection and observation in the process of marketing and selling a slave. The same rang true in public practices of the surveillance and recapture of enslaved and free women. Their bodies were under constant scrutiny and suspicion as they were sized up for labor placement, re-enslavement, and imprisonment. It was believed that Rachel Davis ran to Alexandria or Georgetown where some of her relatives resided. Escape came with great risks, particularly if slaves had to travel through unfamiliar towns where they could easily be identified as an outsider. Many slave owners in Maryland and Virginia believed that their slaves absconded to the District in an attempt to locate family members and blend into the free community.⁹²

Several factors made Washington a target site of escape, one of which included the significance of networks of free family members. For instance, on February 16, 1851, three young women left the plantation owned by George W. Graham in Upper Marlboro.

⁹² "\$50 Reward," Maryland Journal, July 16, 1845: 3. MSA SC 3839, Reel M 7933, Maryland State Archives; John Hope Franklin and Loren Schweninger, *Runaway Slaves: Rebels on the Plantation*, (New York: NY Oxford University Press, 1999); Daniel Meaders, *Advertisements for Runaway Slaves in Virginia, 1801-1820*, Studies in American History and Culture, (London: Routledge, 1997); John Chalmers Da Costa, *A Manual of Modern Surgery*, (Philadelphia, PA: W.B. Saunders, 1894); U.S. Census Bureau, Census Record, MD for Rachel Davis, 1880, Montgomery County, Sandy Spring, District 119, Page 3, Line 39, MSA, SM61-324, M 4748-2; U.S. Census Bureau, Census Record, MD for Rachel Davis, 1900, Montgomery County, Wheaton, District 65, Page 2, Line 57, MSA, SM61-416, M 2386-2.

Two of the girls, Susan and Jenny, were sisters, escaping with their friend Mary Anne. All of the young women could identify relatives that resided in the District, particularly the sisters who were in contact with an aunt who lived there. That same year, Milly Tyler at the age of eighteen ran away from the plantation of R.H. Stuart of Prince George's County. Along with other family members, her father lived as a free person of color in Washington, D.C. While the District provided refuge in the context of family support, they were still legally susceptible to re-enslavement, and could easily be discovered by locals. Some went to great lengths to ensure that they lived as far as possible from slave territories.⁹³

After 1850, free blacks in the North felt more vulnerable than ever, and destinations such as Philadelphia became stations on the way to Canada in order to avoid re-enslavement. One historian notes that between 1850 and 1860, the black population in Canada increased from 40,000 to 60,000. As some scholars have argued however, Pennsylvania, and Philadelphia more specifically, remained an important center of both regional and global antislavery and emancipation activism. Moreover, slaves from the District and neighboring Chesapeake Counties still regarded Pennsylvania as their destination for escape.⁹⁴

⁹³ "Six Hundred Dollars Reward," *The Baltimore Sun*, Baltimore, MD, February 19, 1851; "\$50 Reward," *The Baltimore Sun*, Baltimore, MD, August 21, 1851, MSA.
⁹⁴ Fred Landon, "The Negro Migration to Canada after the Passing of the Fugitive Slave Act" *The Journal of Negro History* 5 (1920) pp. 22-36; Richard Newman, James Mueller,

eds., Antislavery and Abolition in Philadelphia: Emancipation and the Long Struggle for Racial Justice in the City of Brotherly Love (Baton Rouge: Louisiana State University Press, 2011).

The legally free status of black inhabitants and the geographical proximity to Maryland made Pennsylvania an ideal site for escape. In 1855, twenty-five year old Elizabeth Banks fled Easton, Maryland to Philadelphia, Pennsylvania where she resided for two years. After learning that an effort to retrieve her from Philadelphia was organized by her former master, she moved to Canada, beyond the reach of the American law. In 1857, Maria Smith escaped with her four children: Dal, 13, Lem, 11, Bill, 8, and Ben, 2 years old. Her husband Adam Smith, who ran from the plantation before she escaped, aided her. It is believed that with the assistance of his mother who lived in Washington, D.C., he was able to arrange the successful retrieval of his family to Philadelphia. In another Maryland case, Hannah Peters fled the farm of Charles Peters in Caroline County. One of two slaves owned by Peters, Hannah indicated that Peters was known to become drunk and abusive. She fled alongside a number of slaves who were reportedly assisted by William Still and his allies in Pennsylvania. William Still, an abolitionist working with the Pennsylvania Anti-Slavery Society, and principle manager and chronicler of the Philadelphia line of the Underground Railroad, understood all too well the dangers of escaping bondage. His father had purchased his own freedom in the same county Hannah fled. Additionally, his mother, who was still enslaved when his father became free, fled the Maryland plantation where she was bound and after being caught and returned, fled again with her two daughters. William Still was raised with the knowledge of his mother's courageous effort and the significance of assisting others in their escape.⁹⁵

⁹⁵ William Still, Underground Rail Road: A Record of Facts, Authentic Narratives, Letters, etc. (Philadelphia, PA: Porter & Coates, Publishers, 1872); Elizabeth Banks, Fled from Slavery, Talbot County, Maryland, 1855, MSA, SC 5496-8276.

William Still and Harriet Tubman would assist countless others who fled bondage. Still served as the chairman of the Vigilance Committee of the Pennsylvania Society for the Abolition of Slavery, making financial arrangements and managing correspondence between various agents such as Harriet Tubman. Harriet Tubman was a critical agent in executing slave escapes particularly in the region discussed here. She reportedly made thirteen trips south, which carried her repeatedly to Maryland from where she escaped as a fugitive in 1849. Still's meticulous records and Tubman's heroic legacy allows us to examine more thoughtfully the complexity, danger, and courage involved in slave escape.⁹⁶

The assistance of antislavery activists living in the north often provided access to critical abolitionist networks. Harriet Fuller and her husband Cornelius, enslaved by different owners, ran away from their respective plantations on the Eastern Shore. Harriet was a slave on a plantation owned by a major pro-slavery advocate, Judge Ezekiel F. Chambers of Kent County. Chambers was renowned for ousting suspected abolitionists from the state, and was a prominent local and state ally for wealthy planters on the Eastern shore, where the slaveholdings were the largest per estate. With the assistance and strategic efforts of William Still and the Pennsylvania Abolition Society,

⁹⁶ William Still, Underground Rail Road: A Record of Facts, Authentic Narratives, Letters, etc. (Philadelphia, PA: Porter & Coates, Publishers, 1872); Richard Newman, James Mueller, eds., Antislavery and Abolition in Philadelphia: Emancipation and the Long Struggle for Racial Justice in the City of Brotherly Love (Baton Rouge: Louisiana State University Press, 2011) p. 236-242; Kate Clifford Lawson, Bound for the Promised Land: Harriet Tubman, Portrait of an American Hero (New York: Ballantine, 2004); Milton C. Sernett, Harriet Tubman: Myth, Memory, and History (Durham: Duke University Press, 2007).

the Fullers successfully fled the state to the North, and in 1861 appeared to be residents of the St. Catherine's community in Canada.⁹⁷

As discussed previously, it was often assumed that women were less inclined to attempt to escape mainly due to the risks associated with running with small children, especially as far north as Canada. This, of course, was not always the case. In the fall of 1855, Harriet Shepherd, a slave from Kent County and mother of five children, decided to escape with one critical resource—four unattended horses and two carriages. Having made known that she never received "kind treatment," she not only took herself and her children, but five other slaves who expressed a desire to make it to Canada. They arrived in Wilmington, Delaware where Thomas Garrett, an abolitionist who assisted scores of slaves in their escapes, led the large party to Pennsylvania. The family was divided and disguised for the journey to Canada.

Enslaved women had a lot to consider when deciding to escape from particularly brutal slaveholders. Harriet indicated that she was treated harshly and she understood that she would be subject to brutal punishment if caught and returned. If she left her children behind, they too might be vulnerable to punishment as a result of her escape. Harriet's decision to take her children along with the additional five slaves put her at

⁹⁷ William Still, Underground Rail Road: A Record of Facts, Authentic Narratives, Letters, etc. (Philadelphia, PA: Porter & Coates, Publishers, 1872); US Census, 1860, Slave Schedule, Kent County, Maryland, District 1, p.8-9, 12; Kent County, Chestertown, p.3; "Meeting at Chestertown," The Cecil Whig, Maryland, July 24, 1858; Census of Canada 1861, Canada Wets, Lincoln, St. Catharine's, p. 172; Kent County Commissioner of Slave Statistics (Slave Statistics), 1867-1868, p.119-122; Harriet Fuller, Fled from Slavery, Kent County, Maryland, 1859, MSA, SC 5496-8649.

great risk, but she embraced the opportunity before her. The decision to use the horse and carriages to make greater headway with a large group of runaways proved critical.⁹⁸

Many slaves only briefly tasted freedom before getting caught by slave hunters, or policing citizens. Sophia, a slave in Germantown, Maryland, ran away with her two children, a nine-year old boy and a seven-year old girl, after learning she was to be sold; she decided to take her children with her rather than risk being sold apart from them. Slaves were sold only with the best interest of the buyer and seller in mind. If the buyer decided that they preferred or could only afford to purchase one or two out of the three, the sale was typically made accordingly. Understanding the realities of being separated from her children, Sophia acted in the interest of keeping her family together. Sophia and her children were captured in Washington, D.C. during the summer of 1860. After being placed in the Washington jail, Sophia and her children were sold for one thousand seven hundred dollars to an unknown buyer. Her story would be one of many that told of the devastating capture and punishment of runaways.⁹⁹

An Affair to Remember: The Impact of the Pearl Incident

⁹⁸ William Still, Underground Rail Road: A Record of Facts, Authentic Narratives, Letters, etc. (Philadelphia, PA: Porter & Coates, Publishers, 1872); Harriet Shepherd, Fled from Slavery, Kent County, Maryland, 1855, MSA, SC 5496-51333.
⁹⁹ "Old Waring Homestead Burned," April 14, 1896, Baltimore Sun: 2, Baltimore Historical Archive; US Census Bureau (Census Record, MD) Anna M. Waring, Slaves, 1860, Montgomery County, Clarksburg District, p. 3, Line 19, MSA SM61-239, M 7230-2; Waring v. Waring, Montgomery County, Circuit Court, (Equity Papers), 1858-1859, MSA, T415-22; Henry B. Waring to Lemuel Clements, Montgomery County Court, (Land Records), Liber BS 12, Folio 338, 1843-1845, MSA, CE 148-38; "50 Dollars Reward," April 27, 1815, Maryland Gazette and Political Intelligencer, MSA; "Twenty Dollars Reward," September 19, 1816, Daily National Intelligencer, MSA; "One Hundred Dollars Reward," October 28, 1839, Daily National Intelligencer, Maryland State Archives; "One Hundred Dollars Reward," April 11, 1842, Daily National Intelligencer, MSA.

Born to a free father and an enslaved mother, belonging to the slaveholder Rebecca Culver, Mary Edmonson was one of Paul and Amelia's fourteen children. Paul was manumitted by his former owner, and by "economy, industry, and thrift" obtained and maintained forty acres of land. One of the Edmonson sons, Hamilton, had already been sold south and five of their daughters were manumitted through purchase and resided in the District. When she was fifteen years old, Mary along with her sister Emily who was hired out to work for wealthy families in the District, and four of their brothers discovered a collective attempt to flee slavery on the merchant schooner *Pearl*. The six siblings decided that they would take the journey together, along with seventy-one other slaves who boarded the *Pearl* on April 15, 1848. On the docks of the nation's capital, they would make history in becoming a part of the largest documented slave escape in American history.¹⁰⁰

It all began with Daniel and Mary Bell. Daniel earned enough to purchase his freedom at \$1,630. Bell's wife and children were freed according to the terms of their former owner's will. When they attempted to claim their freedom, the wife of their former owner contested the manumission terms of the will. With no other option than to arrange an escape, Daniel Bell covered the necessary expenses for Daniel Drayton to secure a vessel that would take them to the North. The Edmonson sisters also joined the escape because they had just learned that they might be sold off as prostitutes. As one news account noted, someone "communicated the opportunity to them and to several

¹⁰⁰ Emily Edmonson, Fled from Slavery, Washington, District of Columbia, 1848, MSA, SC 5496-15206; Mary Edmonson, Fled from Slavery, Washington, District of Columbia, 1848, MSA, SC 5496-15207; Josephine Pacheco, *The Pearl: A Failed Slave Escape on the Potomac*, (Chapel Hill: University of North Carolina Press, 2005); Mary Kay Ricks, *Escape on the Pearl: The Heroic Bid for Freedom on the Underground Railroad*, (New York: Harper Collins Publishers, 2007).

others; they communicated it to their friends; and when captain Drayton came to sail, instead of having seven passengers, as he had expected, he had ten times that number."¹⁰¹

The seventy-seven slaves embarked on a course that represented the culmination of strategic interracial cooperation and activism. As Stanley Harrold's work points out, interracial antislavery resistance was a characteristic feature of the District. Networks of communication among enslaved and free black inhabitants were also a critical feature of the city. Black inhabitants such as Daniel Bell, and Paul Jennings, former slave of President James Madison, spread the word, informing local slaves of the organized attempt on the *Pearl*. White supporters such as Gerrit Smith, William L. Chaplin, and the ship crew Daniel Drayton, Edward Sayres, and Chester English secured a vessel for the transport of the enslaved women and men. The planned route would take the schooner one hundred miles down the Potomac River, and then one hundred and twenty-five miles north on the Chesapeake Bay towards the free state of New Jersey. The morning after their departure, slave owners realized that the slaves were missing and a large-scale escape attempt had been initiated. They were furnished with more information according to John H. Paynter, from Judson Diggs, a slave who reported his knowledge of the incident. A group of angry slaveholders sailed out on the Salem to find the vessel and discovered it near Point Lookout in Maryland.¹⁰²

¹⁰¹ "An Appeal for Justice. The Undersigned, a Committee Appointed, *The North Star*, Rochester, NY, December 8, 1848, Accessible Archives.

¹⁰² Ibid; Stanley Harrold, *Subversives: Antislavery Community in Washington, D.C., 1828-1865*, (Baton Rouge: Louisiana State University Press, 2003).



Mary and Emily Edmonson, *The Escape on the Pearl: The Heroic Bid for Freedom on the Underground Railroad*, (New York: HarperCollins Publishers, 2008), photo from the Collection of Mary Kay Ricks.

Consequently, the slaves were returned to the District and arrived in the national capital to face a welcome committee of outraged slaveholders, and white mobs. Gerrit Smith wrote in the North Star, "My heart bleeds day and night for the seventy-seven who are replunged into slavery, after having escaped from its horrors. Oh, that is 'the second death!" Twenty-six women, thirty-eight men, and thirteen children appeared tied up as chattel upon their arrival. Hundreds of whites yelled violently in favor of lynching the "criminals" for their violation of the legal and social order of the nation. Many of the slaves were sold, this time in the domestic trade targeting the Deep South. The wrath of local whites, particularly slaveholders and slave traders in the District of Columbia,

Virginia, and Maryland, continued in the forms of unbridled harassment and violent efforts to intimidate local black inhabitants and white antislavery advocates. Subsequently, the fugitives and white accomplices implicated in the incident were tried as criminals.¹⁰³

The publisher of the antislavery organ *The New Era*, Gamaliel Bailey and his printing headquarters were also targeted by an angry mob of whites that nearly destroyed the paper's offices. One antislavery news account noted, "A mob there, it appears, has determined that a free press of that city, the *National Era*, shall be put down—put down by force, since the editor refuses to voluntarily suppress it—and that its publication there shall be no longer permitted." After facing numerous violent threats from local mobs, Bailey and his family stayed with the Mayor's family with whom he had a good relationship. In response to the destruction of the *National Era* offices, one journalist argued, "The real question is—and it is a most serious one—whether the freedom of the press is a nonentity in Washington." White locals who defended slavery would stop at nothing to suppress the threat that the antislavery press posed. Furthermore, mob violence was targeted at both white and black efforts to dismantle slavery in the region; they knew all too well the biracial collaborations that allowed the *Pearl* to leave the District with seventy-seven women, children, and men.¹⁰⁴

The white parties involved in the attempt were imprisoned and were regarded as criminal defendants in the Criminal Court of the District of Columbia. United States

¹⁰³ Ibid; "Letter from Gerrit Smith," *The North Star*, Rochester, New York, May 19, 1848.

¹⁰⁴ "From the Philadelphia North American: The Washington Riot, April 27, 1848, *The National Era*, Washington, D.C., Accessible Archives; Ford Risley, *Abolition and the Press: The Moral Struggle Against Slavery* (Evanston: Northwestern University Press, 2008)

Attorney for the District of Columbia, Philip Barton Key, brought forty-one indictments for slave theft against Drayton, Sayres, and English based upon the forty-one slave owners that were affected by the escape attempt. The three defendants were also burdened with seventy-four indictments for transporting slaves outside of the District. During the legal proceedings Daniel Drayton, Edward Sayres and Chester English were represented by local attorneys, David A. Hall and Daniel Ratcliff. English was dismissed largely because he worked as the hired cook and help on the crew and didn't completely understand the purpose and intent of the voyage. Sayres was acquitted on two counts of slave stealing, but having incurred fines and legal fees amounting to over ten thousand dollars, had to remain in jail. Drayton pled guilty for the transportation of slaves outside of the District and was convicted on two counts of slave stealing. Drayton and Sayres were imprisoned due to the hefty fines and legal fees they incurred while on trial, but were later granted a pardon from President Millard Fillmore at the endorsement of Massachusetts Senator Charles Sumner.¹⁰⁵

The Edmonson siblings were imprisoned at a slave pen in Alexandria for violating slave laws that forbid them from escaping slavery. Inspected and prepared for auction as any slave transported to the Deep South, the Edmonsons were sent to New Orleans and put up for sale. One sibling, Samuel was sold in New Orleans and the other siblings were transferred to Baltimore as a result of a yellow fever outbreak. Although the freedom of their brother Richard had been purchased just prior to their trip to New Orleans, it was not until his return to Baltimore that he was reunited with his wife and children who were also free. The futures of sisters Mary and Emily were still being determined by the slave-

trading firm Bruin and Hill. The two women were forced to labor as washerwomen and kept in the local prison during the hours in which they were not employed at work. Persistence from their father Paul Edmonson led to an arrangement with the firm that allowed him to purchase them. Paul Edmonson diligently raised the exorbitant amount of two thousand and two hundred and fifty dollars—the funds required to purchase his daughters. On November 4, 1848 the sisters were manumitted and they embarked on a journey towards New York and eventually the Young Ladies Preparatory School at Oberlin College in Ohio for their education.¹⁰⁶

Unlike the Edmonson sisters, most of the fugitive slaves on the *Pearl* did not experience manumission and at least twenty remained in jail until their fate was decided upon. Like the Edmonson sisters, women such as Ellen Steward, a fugitive slave from the household of Dolley Madison (who was known for selling her slaves in times of financial crisis) worked in the wealthier homes of the District and the surrounding counties of Maryland and Virginia. Despite the fact that Washington boasted a relatively large free black population and most slaves worked as "hires" rather than agricultural gang laborers, they knew all too well the real possibility of being sold away from their families. Fulfilling the daily labor demands that required them to traverse the streets of the city exposed enslaved women to glimpses of independence through their interactions

¹⁰⁶ Ibid; Walter Johnson, *Soul by Soul: Life inside the Antebellum Slave Market*, (Cambridge: Harvard University Press, 1999); Carol Wilson, *Freedom at Risk: The Kidnapping of Free Blacks in America, 1780-1865*, (Lexington: University Press of Kentucky, 1994); Jane H. Pease and William H. Pease, *They Who Would Be Free: Blacks' Search for Freedom, 1830-1861*, (New York: Atheneum, 1974); T. Stephen Whitman, *The Price of Freedom: Slavery and Manumission in Baltimore and Early National Maryland*, (Lexington: University Press of Kentucky, 1997); Michael Tadman, *Speculators and Slaves: Masters, Traders, and Slaves in the Old South*, (Madison: University of Wisconsin Press, 1996).

with free blacks and sympathetic whites in the city. The desire to be free was the primary motivation for flight, but other circumstances factored into decisions to escape. In fact, as Stanley Harrold documents in his work, many of the fugitives were motivated by learning of plans to sell them. This understanding of their vulnerability, and the unfavorable conditions of bondage inspired enslaved women to take the biggest risk of their lives despite the fact that they were less likely to escape. They challenged nineteenth-century ideas about gendered property and broke the law in a way that undercut the labor discipline of slavery in the District and neighboring Chesapeake counties. Through their own expressions of self-emancipation and self-making, black women flouted and destabilized white understandings about property and white entitlements to the bodies of enslaved women.¹⁰⁷

Larceny and Consumption

Enslaved women understood that their former masters would use the local press to generate excitement about their actions. Just as slaveholders crafted their portrayals of these female runaways, the women themselves envisioned their own performance of freedom. For example, Anna's former master John D. Barclay mentioned that she was last seen with a "crossbarred home-spun frock, crossbarred handkerchief on her head and a white one on her neck." The crossbarred fabric pattern resembled the patterns we associate with plaid today. Anna would have been considered relatively well dressed for an enslaved or free black woman. Barclay also notes that she took with her "a variety of clothing, among them a black silk and one or two white cambric frocks," indicating that

¹⁰⁷ Ibid.

she had access to multiple clothing options. Her hair or "her wool" was described as "very long and plaited," which "she generally wears nicely combed." Anna clearly paid close attention to the maintenance of her physical and sartorial representation, despite Barclay's attempts to depict her as "fat" and "lazy" in the runaway advertisement. Anna's possession of quality material goods may have even further positioned her to fashion a life of freedom, as she would have blended effectively with well-to-do blacks. Women planning to escape often took a variety of clothes with them or stole clothing to confuse the people that were plotting their capture. In another case, a woman named Letha Digges, was arrested for stealing clothing from a local white man. She was eventually discovered to be a fugitive slave, and subsequently whipped and sent to jail to be returned to her owner. It is possible that Letha Digges was attempting to find alternative clothing to change her appearance from any descriptive advertisements placed. Even in the event of successful escape, maintaining freedom remained a daunting task.¹⁰⁸

Cases involving free black women charged with theft of material property reveal strategic attempts to find household goods and personal necessities. As Seth Rockman argues, being poor was hard work—and "the pursuit of subsistence took men, women, and children into public spaces and precipitated numerous encounters with the law." Enslaved and free black women working for wages often searched for different sources of income and supplies, often through extralegal means. For instance, in December of 1830, Ann Talbutt was arrested for stealing three pairs of shoes worth \$4.00 and on another occasion for stealing two quilts worth \$1.50 and a chest worth \$3.50. Talbutt

¹⁰⁸ John D. Barclay, "Ranaway," *Daily National Intelligencer*, Washington, D.C. April 30, 1817, LOC.

was arrested for the latter crimes in December of 1828, during the harsh winter months; the multiple pairs of shoes would have provided much-needed protection for her feet and for the members of her household. Seven "colored people," including Charlotte Dyson, Mary A. Jackson, Elizabeth Simpson, and Eliza McDermot were jailed for stealing wood from the wharves on New Jersey Avenue. They were caught bringing logs into their homes at the end of November when the weather became frigid in the District. While black women could obtain employment as laundresses, seamstresses, and domestic servants, they did not make adequate wages to meet their financial obligations. Talbutt, like many free black women at the time, were willing to take extralegal measures and risk criminal charges in an effort to obtain necessities for themselves and members of their households.¹⁰⁹

Theft crimes committed by free black women in antebellum Washington uncover a culture of consumption among the law-breaking class. Thavolia Glymph observes, "The right to an education, to own property, to vote, and to participate fully in civic affairs in other ways are important attributes of freedom. But freedom also means selfdefinition and self-determination." What Glymph refers to as "small rights" plays out in the culture of consumption practiced among enslaved and free black women in the District. In March of 1834, Elizabeth Proctor stole a "drab fur bonnet" worth \$7.00. Most black men were arrested for stealing work tools, food, or bank notes but the majority of black women arrested for theft between 1830 and 1860 were charged with stealing clothing items, home goods, and money. Some black women took material for

¹⁰⁹ Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* (Baltimore: Johns Hopkins University Press, 2009) p.158; United States vs. Ann Talbutt 1830, Manuscript Collections, NARA; "The Number Seven," Daily National Republican, Washington, D.C. November 28, 1863, LOC.

making their own dresses. Clorissa Bowman or Mary Butler both stole cloth worth the same amount as a typical dress. Jane White stole a silk dress in the spring of 1836. While black women were consistently penalized for theft, the long list of repeat arrests for the same crime seem to suggest that the risk was worth the pleasure of obtaining at times necessities but in some cases luxury items. These women at some point made a connection between freedom and the ability to develop consumption practices that informed their sense of independence and self-awareness. These items were tools of self-making.¹¹⁰

Luxury items were not a dominant feature of the social landscape in Washington until the mid-nineteenth century; however, the few wealthy residents of the city could afford to purchase elegant wares and clothing. As scholar Bridget Heneghan demonstrates in her study of the relationship between material culture and race in antebellum America, darker ceramic wares and coarse fabrics were associated with the lower classes, particularly slaves and free people of color, while the increasing white hues and vibrant colors of the wares and fabrics of the white middle class reinforced racial and class stratification. "White goods contributed to the upper and middle classes' attempt to deny its dependence on labor, to expel the 'blackness' of slavery and servitude and impose an imaginary segregation even where integration was absolute," Heneghan offers. Black men and women were not unfamiliar with luxury items, as they tended to be the ones employed to maintain and care for such items in white homes. Luxury,

¹¹⁰ Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household*, (New York: Cambridge University Press, 2008) p. 209; United States vs. Elizabeth Proctor March 1834; United States vs. Clorissa Bowman, March 1835; United States vs. Mary Butler, March 1835; United States vs. Jane White, March 1836; Record Group 21, Criminal Cases of the District of Columbia, Manuscript Collections, NARA.

however, was relative to a person's proximity to poverty. What was considered a luxury for free and enslaved black women and men during the antebellum period often included basic necessities, such as the blankets and shoes stolen by Ann Talbutt. Even a dress may appear to be an indulgence but in most cases, enslaved women complained of being insufficiently clothed, and free black women could not always afford to appropriately clothe themselves. Repeat offenders demonstrate a consistent preoccupation with consumption as a strategy of self-making. Free and enslaved black women creatively searched for extralegal enhancements to their incomes for themselves and their homes.¹¹¹

Items of high value were not excluded from the consumption patterns of black women charged for theft. These women took large sums of money, possibly to pay the exorbitant fees required to remain a legal resident in the District, or cover living expenses. Rather than stealing goods, some women like Betsey Robinson stole one hundred dollars worth of bank notes. Robinson does not appear for theft of material goods, and must have had a specific purpose for the money. Jane Brown took "four bank notes worth \$35 and sundry small notes commonly called shinplasters" for which she received a sentence of one year in the penitentiary. Elizabeth Beckett was charged for stealing property valued at fifty-six dollars and fifty cents and sentenced to a year and six months of imprisonment and labor. Stealing money was a particularly acute offense in instances where black women were employed as servants in the homes of whites. Eliza Green, a "colored servant in the employ of Mr. Wm. Beckett," was accused of taking one hundred and thirteen dollars from her employer. Not only did stealing valuable property come with long sentences in the workhouse, but it also fueled the suspicion of black

¹¹¹ Ibid; Bridget T. Heneghan, *Whitewashing America: Material Culture and Race in the Antebellum Imagination*, (Oxford, Mississippi: University Press of Mississippi, 2003).

women who worked as servants in white homes. Black women were often entrusted with significant tasks tied to important household affairs. When enslaved and free black women servants were convicted of stealing within the domestic workplace, white employers were reminded that women servants possessed specific knowledge and awareness of their affairs and material possessions. Understanding black women's decisions to steal and consume however necessitates a deeper engagement with the identities they fashioned outside of their roles in white homes.¹¹²

Black women charged for criminal offenses strategically altered their identities and created aliases to acquire possessions. In 1850, Cordelia Diggs was indicted for obtaining goods under false pretense, by using a written order from Mary Suter to receive the "Goods and Chattels of Darius Calgett." Diggs collected twelve yards of Alpaca wool worth \$4.50, three yards of fringe worth \$1.32, and hooks and eyes worth \$2.00. For this offense she was sentenced to a year of "imprisonment at labor in the penitentiary" of the District of Columbia. The culture of consumption among the lawbreaking classes shows an interest not only in items of necessity, but of fashion and leisure as well. Similarly, Caroline Lewis at times went by the name of Caroline Johnson. She was charged with "stealing a shift worth \$2.25, a pocket book, and sundry pieces of silver worth \$2.25 of the Goods and Chattels of Augustus Staughton." Ellen Lindsey, otherwise known as Mary Ellen Shepherd, was indicted for stealing a guitar worth ten dollars from Lewis Carusi. These women traversed the city using interchanging identities in order to execute their crimes. Given the surveillance of free

¹¹² United States vs. Negro Betsey Robinson, March 1834, Record Group 21, Criminal Court of the District of Columbia, NARA; United States v. Jane Brown, November 1837, Record Group 21, Criminal Court of the District of Columbia, NARA; "Robbery," Daily National Republican, Washington, D.C., March 28, 1863, LOC.

blacks in Washington, officials kept a close eye on and tried to make an example of repeat offenders such as the women discussed above. Enslaved women also employed aliases in instances where they were attempting to escape or temporarily steal away from their masters. Renaming as a strategy and a form of self-making was an aspect of freedom that allowed former slaves to abandon the pet-like names imposed upon them in slavery in order to embrace new designations that often paid homage to names of family members. In this case, naming revised the criminal archive and served the purpose of diminishing their appearance in the criminal record. Any black woman caught stealing risked being sentenced to long terms of service and imprisonment in the workhouse.¹¹³

Black women convicted of theft were sentenced to the workhouse for extensive periods of time for stealing items of relatively insignificant economic value. For instance, Louisa Bowen, convicted of stealing a dress and a half dollar, was sentenced to a year of imprisonment. Similarly, Phillis Smith was found guilty for stealing a pair of "spectacles" and sent to the workhouse for one year. Hannah Wilson, convicted of stealing a bonnet worth a little over six dollars, was sentenced to one year in the penitentiary. Hester Neal, who was found guilty of stealing a dollar and a quarter, went to jail for six months. These women understood the harsh sentencing practices employed by the justices in the District, but nonetheless decided to engage in unlawful consumption.¹¹⁴

¹¹³ United States vs. Cordelia Diggs, June 1850; United States vs. Caroline Lewis, December 1850; United States vs. Ellen Lindsey, December 1850; Record Group 21, Criminal Court of the District of Columbia, NARA.

¹¹⁴ "Criminal Court," *Evening Star*, Washington, D.C., July 14, 1860; "Criminal Court," *Evening Star*, Washington, D.C. July 14, 1860; "Criminal Court," *Evening Star*, Washington, D.C. January 19, 1861; *The National Republican*, Washington, D.C. January 26, 1861, LOC.

Theft cases in the District, spanning the antebellum and war years, show a disproportionate number of black women accused of stealing clothing and household goods. The evidence suggests, that despite the fact that their wages were insufficient for items beyond basic living expenses, enslaved and free working-class black women continued to participate in a culture of consumption. Milly Evans was arrested for stealing "a lot of clothing," from Mrs. J.T. Reynolds and held in jail for further hearing. Mary F. Brooks was convicted for stealing a dress and "a quantity of jewelry" from Mr. Julius Baumgarten. Sarah Weems was convicted for stealing "articles of female wearing apparel," and sentenced to six months in jail. Johanna Hornsbury was tried for stealing "a frock valued at \$15, a crape shawl at \$5, and other articles," from John T. Burkley. In one feature titled, "Larceny of Clothing," Alice Pleasant was arrested for stealing "some ladies' clothing" from Joseph Shillen, a storekeeper on Seventh Street. Pleasant went to jail with three other black women Catharine Rossi, Emma Marshall, and Judith Alexander, for stealing ladies clothing from the same store. Julia Perry was found guilty of stealing a pair of shoes, a velvet cloak, a lot of linen and other articles of clothing from her neighbor W.M. Isaacs. Initially the evidence was not conclusive, but upon returning to his home Mr. Isaacs discovered the items in question cut into pieces concluding that the articles "had been thrown over the fence from the yard of the accused." This approach to participating in material culture, albeit unlawful, was a means through which black women supplemented their meager wages with household necessities, luxurious niceties, or even alternative sources of sartorial expression that enabled them to claim small rights and seize a measure of freedom.¹¹⁵

¹¹⁵ "United States Cases," Evening Star, Washington, D.C. August 5, 1857; "Criminal

Black women who labored as slaves prior to the Civil War noted their relationship with the material economy around them-the tension between their own material condition and the manner in which their labor was deployed to carry out the performance of the material wealth of their masters. The slave narratives and interviews of prominent black women almost always refer to the limited varieties of slave clothing and living conditions that reflected white attempts to create stark racial distinctions informed by material conditions. When referring to her role as the young caretaker of the master's infant, activist and dressmaker to Washington's elite, Elizabeth Keckly recalled, "For the discharge of that duty transferred me from the rude cabin to the household of my master. My simple attire was a short dress and a little white apron." Here she is speaking to the appeal of living outside of the "rude cabin" to the house associated with refinement, In regards to the slave clothing her mistress distributed to her, wealth, and power. Harriet Jacobs remarked, "I have a vivid recollection of the linsey-woolsey dress given me every winter by Mrs. Flint. How I hated it! It was one of the badges of slavery." Alternatively, Harriet Jacobs' grandmother, who purchased her own freedom from the profits earned in a baking business she operated, provided Jacobs with more suitable clothing. Through the entrepreneurial success of her grandmother, Jacobs wore higher quality fabrics and sewed garments according to her preferred tastes.¹¹⁶

Court," *Evening Star*, Washington, D.C. July 21, 1860; "Criminal Court," *Evening Star*, Washington, D.C., July 8, 1858; "Larceny of Clothing," *The Daily National Republican*, Washington, D.C. November 28, 1863; "The Number Seven," *The Daily National Republican*, Washington, D.C. November 28, 1863; "Police Matters," *The National Republican*, Washington, D.C. February 11, 1861.

¹¹⁶ Keckly, Elizabeth. *Behind the Scenes or, Thirty Years a Slave, and Four Years in the White House* (New York: G.W. Carleton & Co. Publishers, 1868).

Former slave women intentionally described their past in ways that show how they resisted and distanced themselves from the roles of inferiority imposed upon them by slave owners. These roles were expressed materially as slave owners provided limited clothing and necessities to slaves. Jacobs made it clear that she wouldn't wear the linseywoolsey dress, and Keckly viewed the master's household and the dress with a white apron as aspects of her condition that set her apart from the "badges of slavery." Another former slave, Annie Young Henson of Virginia, recalled, "My position was second nurse for the doctor's family, or one of the inner servants of the family, not one of the field hands. In my position my clothes were made better and better quality than the others, all made and arranged to suit the mistress' tastes." These accounts of slavery reflected moments where black women openly disclosed information regarding their rejection of the material distinctions of enslavement. Thus, Keckly and Jacobs revealed that enslaved women participated in both a real and imagined culture of consumption—critical processes of self-making and envisioning their material and sartorial preferences.¹¹⁷

White slave owners such as Jacobs' former master James Norcom acknowledged the sartorial forms of self-expression that her skills allowed for. In an advertisement for the capture of Harriet Jacobs, Norcom notes that, "Being a good seamstress, she has been accustomed to dress well, has a variety of very fine clothes, made in the prevailing fashion, and will probably appear, if abroad, tricked out in gay and fashionable finery." Thavolia Glymph notes, "The desire for a pretty dress or a home with kitchen utensils and blankets was a small but central part of freedom's making, of demonstrated control

¹¹⁷ Henderson, Annie Young. Slave Narratives Project, Maryland Narratives, Volume 8 Federal Writers Project 1936-38, United States Work Projects Administration Manuscript Division, LOC.

over one's life." Capitalizing on their limited access to the material economy seemed to disrupt the idea of white superiority by suggesting that black women commanded their own self-expression. Stephanie Camp asserts, "Women's style allowed them to take pleasure in their bodies, to deny that they were only (or mainly) worth the prices their owners placed on them." Slave owners and white employers used material goods to draw distinctions between slaves and masters, lack and abundance, servant and lady. Keckly and Jacobs disturbed these stark binaries.¹¹⁸

Harriet Jacobs and Elizabeth Keckly worked tirelessly on behalf of recently freed women and their families to address their material needs throughout the Civil War. The realities of war disrupted fantasies of stability for all Americans and exposed the ways in which black families were subjected to poverty, particularly within Union refugee camps. In a Union camp known as Duff Green's Row on First Street between East Capitol and A Streets in Southeast Washington, D.C., Keckly organized relief efforts for the freedwomen and their families, providing them with clothing and supplies. One particular visit captures an elderly woman waiting for her "annual shift" or dress from President Lincoln. She states,

Why, Missus Keckley, I is been here eight months, and Missus Lingom an't even give me one shife. Bliss God, childen, if I had ar know dat de government, and Mister and Missus government, was going to do dat ar way, I neber would 'ave comed here in God's world. My old missus us't gib me two shifes eber year.

¹¹⁸"Advertisement for the capture of Harriet Jacobs," *American Beacon* (daily), Norfolk, Virginia, July 4, 1835; Thavolia Glymph, *Out of the House of Bondage: The Transformation of the Plantation Household*, (New York: Cambridge University Press, 2008) p. 205; Camp, Stephanie, *Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South*, (Chapel Hill: University of North Carolina Press, 2004) p.279. Referring to an annual plantation ritual, the elderly woman had an expectation that President Lincoln would supply the freedpeople with clothing and supplies just as former masters had done for their slaves. This particular woman's idea of freedom was associated with having access to material resources. Her hard years of enslaved labor spoke through her entitlement to reparative provisions of clothing from the same government that validated her bondage just years prior.¹¹⁹

Conclusion

Enslaved and free black women accused of theft--or crimes of self-emancipation and self-making--asserted their own ideas about aspects of their labor, bodies, and loyalty whites were entitled to. They used the geographical proximity to free states, and the conditions of urbanity to confound existing forms of property ownership and labor discipline. Whereas, enslaved women in the Deep South may have been less inclined to runaway to the North due to familial obligations and the near impossibility of completing the arduous trek with their families, women in Maryland and Virginia used the proximity of the District, and the Mason-Dixon line to their advantage and embarked on the perilous journey with and without members of their families. Where slave owners attempted to retrieve their "lost property," the runaway women were making claims about their humanity, having already re-fashioned their identities through mechanisms of selfmaking such as disguises, aliases, theft of other people's possessions and other expressions of autonomy.

¹¹⁹ Keckly, Elizabeth. *Behind the Scenes or, Thirty Years a Slave, and Four Years in the White House* (New York: G.W. Carleton & Co. Publishers, 1868) p.63.

In instances where poor and working-class black women were unable to afford the nicer things in life, they "supplemented" their incomes by unlawfully taking what they wanted from white strangers, neighbors, and employers. A close examination of the articles they were accused of stealing discloses a culture of consumption. The evidence uncovers a preoccupation with self-making through unlawful acquisitions of basic necessities for their homes, fashionable clothing, large sums of money, and items of luxury and leisure. While not acting in accordance with the law, enslaved and black women, held different ideas about property and what they were entitled to.

Just as many enslaved and free black women understood their lives and labor as "stolen," they engaged in acts of theft through self-emancipation and self-making.

CHAPTER THREE: 'HER STRUGGLES WERE ALMOST SUPERHUMAN': SPECTACULAR SCENES

OF BLACK WOMEN'S LAW BREAKING AND EXECUTIONS, 1850-1860

At half-past twelve o'clock on February 26, 1858, "negress Jenny" was suspended through a trap door supported by a scaffold built of "four uprights ranged in a square, two of which supported a cross-beam" located above a platform. Prior to appearing before "an immense crowd" that would witness her execution, Jenny "protested her innocence" as the last rites of the Catholic Church were administered to her. The local sheriff then prepared the rope for her execution and, after he pulled the fly, "the drop fell and the woman dangled in the air." The reporter observed that: "At first her feet lifted and for some two minutes there was a perceptible struggle in her arms, but it soon ceased and having hung apparently lifeless for eleven minutes her body was lowered." Despite the fact that the number of spectators was legally limited to twelve persons, including a physician and minister, a man perched himself right outside of the jail walls with a ladder and charged others for access to a view of the hanging. In that moment, Jenny—who had been convicted for the murder of her mistress Mrs. Hall, by burning her to death-was a local celebrity. Her case appeared repeatedly throughout the press, which vividly laid out the details of her demise. The reporter noted that her "struggles were almost superhuman while in the air."¹²⁰

Narratives such as this one, featured in the *Evening Star*, uncover the voyeurism and spectacle of nineteenth-century executions of black women. The local news in Washington, D.C. and the surrounding locales of Virginia and Maryland provided extensive coverage of the legal proceedings in cases where black women were allegedly

¹²⁰ "The Execution at Alexandria Today (*From Our Own Reporter*)," *Evening Star* February 26, 1858, Washington, D.C., LOC.

violent. Moreover, residents of the District read the sensational accounts offered by dispatches in nearby counties in Virginia and Maryland, and likewise news of enslaved and free black women's violent resistance in Washington reached the Chesapeake counties. This chapter examines how race-based laws that drew parameters around black women's lives intersected with cultural pathologies of black female criminality in antebellum Washington, D.C., and the neighboring Chesapeake states.

Indeed, laws and daily news reports of black female law breaking prompted local residents to interact with and understand black women, free and enslaved, as inherently criminal and depraved, casting a cultural depiction of black female degeneracy and supporting white claims of superiority. A culture of legal spectatorship and capital punishment worked to denigrate the character of black women, who were featured more prominently than white women in press accounts of female violence, and who were punished more harshly than white female offenders. Capital punishment figured prominently in daily depictions of black women convicted of violent crimes, representing a rhetorical deployment of discipline in the press and capturing the realities of actual physical punishment at the gallows. Moreover, while free black women had (unlike slaves) some recourse to the courts in cases of intra-racial violent conflict within black communities, white press coverage of such cases ridiculed them and rendered them as spectacles, and thus undercut free black women's claim to legal standing and protection.¹²¹

¹²¹ White women were not exempt from public execution, but race remained a critical factor that made black women's violent crimes more threatening to the institution of slavery. For instance, Mary Surratt was one white woman that gained a national reputation for her involvement with the assassination of President Abraham Lincoln. This incident however happened after the 1850s.

Corporal punishment, or physical floggings, beatings, and whippings were critical methods of asserting slaveholder authority. Steve Mintz observes in his work that corporal punishment in America began to decline at the beginning of the nineteenth century, and a movement aimed at outlawing capital punishment gained momentum by the late 1840s. Attributing this movement to both religious and practical concerns, reformers emphasized that corporal and capital punishment proved ineffective in reducing crime. According to one study, during the eighteenth century, ninety-eight women were executed in America, and during the nineteenth century the number rose to one hundred and seventy-eight. It would be difficult however for scholars to account for the number of enslaved and free black women executed or physically punished. Despite the fact that the reformers were gaining traction in restricting physical forms of discipline, both corporal and capital punishment were not only administered in the jails but also within the private spaces governed by slaveholders and white employers.¹²²

By 1850, black women made up sixty-four percent of the black population, and enslaved and free blacks comprised a little over a quarter of the entire population of Washington, D.C. As previous chapters have demonstrated, whites had become increasingly dependent on black codes as a tool to inhibit the expanding free black population in the District. As residents in Georgetown professed in 1836, they feared the "insurrection and insubordination among the slaves or colored people," and regarded

Gallows literature was becoming increasingly popular during the nineteenth century and it was not uncommon to see crowds congregating to view executions. But the hanging of slaves implied a different threat to society.

¹²² Steven Mintz, *Moralists and Modernizers: America's Pre-Civil War Reformers* (Baltimore: Johns Hopkins University Press, 1995) p. 94; Howard Allen and Jerome Clubb, *Race, Class, and the Death Penalty: Capital Punishment in American History* (Albany: SUNY Press, 2008) p.15.

blacks as "unfit for freedom; ignorant, servile and depraved." News of violent resistance would only solidify those concerns over the possibility of black retaliation.¹²³

As the free black population grew, greater enforcement of these codes and increased fears of insurrection funneled more black women in the criminal courts. Nineteenth-century social critic Frederick Law Olmsted observed the "growing insolence and insubordination" of antebellum slaves and free blacks. Black women's criminality was assumed until proven otherwise; legal procedures left very little room for opportunities to endorse the innocence of black defendants. Indeed, enslaved and free black women were subject to race law, but seldom protected by the law. In fact, the law and white accounts of black women's law breaking exposed the volatility of southern life, and the violent foundations upon which southern society was established.¹²⁴

Through a sampling of criminal court records and the police reports featured in local newspapers, this chapter explores acts of alleged murder and violence to bring

¹²³ Register of Debates in Congress: Comprising the Leading Debates and Incidents of the First Session of the Twenty Fourth Congress: Together with an Appendix containing Important State Papers and Documents, and the Laws, of Public Nature, Enacted During the Session: with a Copious Index to the Whole, Volume XII, Washington, D.C. Gales and Seaton, 1836.

¹²⁴ Ibid; David Stroman, Slavery in Washington, D.C.: Slaves of Washington, D.C., (Washington, D.C., 2002), LOC; Frederick Law Olmsted, The Cotton Kingdom: A Traveler's Observations on Cotton and Slavery in the American Slave States. Edited by Arthur M. Schlesinger, (New York: Alfred A. Knopf, 1953); Columbian, November 8, 1831; House Report 691, 24 C, IS, p.18, Ser 295; Regarding critiques of urban enslavement, the following body of scholarship informs the work presented in this chapter: Richard Wade, Slavery in the Cities: The South, 1820-1860, (New York, New York: Oxford University Press, 1964); Barbara Fields, Slavery and Freedom on the Middle Ground: Maryland During the Nineteenth Century, (New Haven, Connecticut: Yale University Press, 1985); Midori Takagi, Rearing Wolves to Our Own Destruction: Slavery in Richmond, Virginia, 1782-1865, (Charlottesville, Virginia: University Press of Virginia, 1999); Larry E. Tise, Proslavery: A History of the Defense of Slavery in America, (Athens: University of Georgia Press, 1987); Mark V. Tushnet, The American Law of Slavery, 1810-1860: Consideration of Humanity and Interest, (Princeton: Princeton University Press, 1981).

attention to the instances in which enslaved and free black women engaged in violent resistance. I argue that such forms of retaliation included various expressions of confrontation, self-preservation, and desperation that highlight the circumscribed and scrutinized nature of women's daily lives. News reports of black women's criminality and executions from the District, and from the nearby counties of Virginia and Maryland, expose a culture of legal spectatorship and corporal discipline that affirmed the violence of race law.¹²⁵

Legal and extralegal violence in the form of executions, domestic slave sales, and mob terror maintained the racial and gendered order of the South. In *Slave Patrols: Law and Violence in Virginia and the Carolinas*, Sally Hadden points to the growth of the enslaved and free black population as the source of white fears and the catalyst for community policing practices. Indeed, these practices of collective policing were evident in Washington, D.C.—with the rise of white mobs and young white "rowdies" patrolling the streets and harassing black inhabitants, including black women. At the core, black female crime reflected anxieties about slave rebellion and a growing free black population. As a result, while the black women included in this study flouted ideas of racial and gender subordination in their law breaking, they concurrently paid a hefty price in the penal measures used against them by white residents who were preoccupied with racial and gender order in the capital. Southerners were concerned with "keeping the peace," which Laura Edwards explains, "expressed the ideal order of the metaphorical public body, subordinating everyone (in varying ways) within a hierarchical system." The

¹²⁵ Constance McLaughlin Green, *The Secret City: A History of Race Relations in the Nation's Capital* (Princeton, NJ: Princeton University Press, 1967); Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972).

"peace" as a legal concept however concealed the violent turmoil of the nineteenthcentury home, and more specifically the plantation.¹²⁶

Southerners invested in maintaining the existing social order also viewed print culture as a medium used to selectively expose and control depiction of violence in the South. Many details of the cases represented in the various news dispatches in the region were excluded or included based upon southern fears of black revolt. As Michael Trotti observes in his latest work, A Body in the Reservoir: Murder and Sensationalism in the South, crimes of violence by blacks were popular fodder for the news dailies, but a distinction was made between collective rebellion and individual crimes. For instance, he offers, "A slave rebellion was categorically different from murder; one embodied the threat of an individual miscreant, whereas the other threatened social revolution." He notes that Virginians in the antebellum era were both obsessed with black insurrections and, "pointedly unwilling to write very much about them"-while they wrote with abandon about individual crimes. This chapter demonstrates that in sensationalizing black women's crime, whites betrayed a fascination with women's defiance and an unwillingness to acknowledge its context: namely the status of enslaved and free women as victims of systematic legal violence.¹²⁷

¹²⁶Sally Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas*. Harvard Historical Studies, (Cambridge: Harvard University Press, 2001); "A Gang of Boys," Editor of the Star, *Evening Star*, Washington, D.C. November 12, 1857, Washington, D.C. LOC: Laura Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary South*, (Chapel Hill: The University of North Carolina Press, 2009).

¹²⁷ Jeannine DeLombard, *In the Shadow of the Gallows: Race, Crime, and American Civic Identity*, (Philadelphia: University Pennsylvania Press, 2012); Louis P. Massur, *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776-1865*, (New York: Oxford University Press, 1989); Michael Trotti, *A Body in the*

Consuming Crime: Intrigue and Inquests of Black Female Crime

At approximately nine o'clock on the morning of August 8, 1855, a crowd of "merchants, salesmen, citizens, and strangers" gathered around a "wild colored woman" giving a speech about how she was being sent to the workhouse. Described as "drunk" and "endeavoring to excite sympathy" in a report featured in the *Evening Star*, the local press captured a collective fascination with the criminal activity of what they considered the lower classes. Indeed, locals noted the mounting frequency of crime—ranging from arson, pickpocketing, assault, prostitution, larceny, and dueling—that threatened the moral health of the nation's capital. City officials and Congress thus pursued a sweeping effort between 1830 and the 1850s to modernize and enlarge the police department to combat the perceived threats of black crime and an expanding free black population. Accordingly, the antebellum era in Washington, D.C. culminated in a push and pull between institutional white power and glimpses of black liberation—a stark contrast between visions of a refined, wealthy national capital, and the destabilizing effects of slavery and poverty on "wild" black women.¹²⁸

The Evening Star and *The National Republican*, local newspapers in the District of Columbia, reported extensively on the criminal activity of black women in their "Police Court" columns. These reports coincided with the arrest warrants in the police registers. Black women appeared in police court reports that specified their names, as well as the nature of their arrests and sentences. While black and white men were also

Reservoir: Murder and Sensationalism in the South, (Chapel Hill: University of North Carolina Press, 2008).

¹²⁸ "An Attraction," Evening Star, August 8, 1855, Washington, D.C. LOC.

accounted for in the arrest notices, along with white women, sentencing disparities between black and white women existed as early as the late 1830s. Newspapers archived the idea that black women and men were disproportionately more inclined to "criminal" behavior than whites.¹²⁹

The Washington City jail register reveals important insights about the function of race and gender in arrest and sentencing patterns. Most white men and women that appeared in the jail register were repeat offenders, but black women more frequently appeared as first-time offenders. Black men and women were also sentenced to the workhouse more frequently than their white counterparts, largely due to harsher sentencing practices and/or their inability to pay the fines. The daily press consistently published the records of the jail register, positioning local newspapers as a key site of citizen policing and the development of ideas about black female criminality.¹³⁰

Despite the imposed legal proscriptions and subsequent penalties, free black women on rare occasions physically defended themselves from white men and women. Black women were infrequently charged for assault and battery upon white residents in the city. In December of 1850, Harriet Johnson was charged with assault and battery

¹²⁹ Local newspapers emerged in the 1850s on Washington's "newspaper row" located on Pennsylvania Avenue. *The Daily Evening Star* owned by Captain Joseph Borrows Tate began publication in December of 1852, and gained fame in the 1860s for their coverage of the Civil War. *The Weekly National Republican* later referred to as the *National Republican*, emerged in November of 1860 for six cents a week, or \$3.50 a year, providing daily coverage of local affairs; Jail Registers, District of Columbia, 1858-1861, HSW.

¹³⁰ Notably, local police officers were permitted to collect a percentage of the fees to supplement their relatively lower incomes. The willingness to incorporate black labor is yet another feature of the racial landscape in Washington that made black women who committed minor offenses subject to long sentences in the workhouse; Ibid; Kenneth Alfers, "Law and Order in the Capital City: A History of the Washington Police, 1800-1886," *George Washington Studies*, No.5, George Washington University, September, 1976; News, October 12th, 26th, 1850.

with the intent to kill Thomas B. Goddard. Goddard claimed that Johnson "beat, ill treat[ed]," and inflicted "other wrongs and harms" on him. Her testimony was undocumented, but the record does indicate that she pleaded not guilty. The jurors found her guilty, and she was sentenced to three years of imprisonment and labor at the penitentiary. Harriet Johnson received a harsher sentence than most assault cases involving black women, most likely due to the fact that she fought a white male of social Free black women at times defended themselves with physical force, but in standing. such cases they did not evade the legal consequences as whites did when they were violent towards black women. Although self-defense came with greater risk of harsher and longer sentences for black women, they were also more vulnerable to violence and exploitation in their labors and their navigation of poverty in the city. In the District of Columbia jail registry, records of assault and battery offences committed by black women were frequently preceded by the phrase "with intent to kill" but this trend did not appear in the listings of white women arrested for assault and battery. This may largely be informed by the willingness to concede to assumptions about black women's "inherent" immorality and criminality as a function of their race.¹³¹

Spectacles of Violence and Black Women's Executions

Press reports of female violence were rarely clinical and dispassionate; instead they invoked themes of scandal and betrayal, as such incidents of violence destabilized southern romantic images of the loyal slave and the compassionate mistress or patriarch. A year before Jenny's death, another enslaved woman, Sarah was executed by hanging

¹³¹ United States vs. Harriet Johnson, December 1850; United States vs. Henrietta Butler, December 1850; Record Group 21, Criminal Court of the District of Columbia, NARA.

for the murder of her mistress, also a Mrs. Hall in another county. Jenny's execution and the reports of other black women's violent confrontations speak to intrepid acts of retaliation that have largely remained scarce in historical literature on slavery. However, scholars such as Thavolia Glymph and Stephanie Camp have provided critical studies of black women's resistance, and white women's violence against enslaved women. Both scholars demystify the conditions that enslaved women encountered and contribute revelatory interpretations of female violence and resistance. Enslaved women regularly confronted violence from their white masters and mistresses, but as Glymph and Camp demonstrate, these women defied their authority by stealing away, tool breaking, and claiming their bodies as sites of pleasure. The literature on black women's resistance focuses on numerous strategies of defiance and rebellion. My work seeks to elaborate this scholarship by focusing on the meaning behind specific acts of alleged murder committed by enslaved and free black women.¹³²

While instances of murder occurred infrequently, the implications of these intermittent crimes expose the instability of white households that employed black

¹³² "Hung," Evening Star, August 25, 1857, Washington, D.C. Library of Congress; Camp, Stephanie, Closer to Freedom: Enslaved Women and Everyday Resistance in the Plantation South, (Chapel Hill: University of North Carolina Press, 2004); Glymph, Thavolia, Out of the House of Bondage: The Transformation of the Plantation Household, (New York: Cambridge University Press, 2008); Also see other scholarship on slavery: Ira Berlin, Many Thousands Gone: The First Two Centuries of Slavery in North America, (Cambridge: Harvard University Press, 2000); Ira Berlin, Slaves without Masters: The Free Negro in the Antebellum South, (New York: Pantheon Books, 1974); Sally Hadden, Slave Patrols: Law and Violence in Virginia and the Carolinas. Harvard Historical Studies, (Cambridge: Harvard University Press, 2001); Brenda Stevenson, Life in Black and White: Family and Community in the Slave South, (New York: Oxford University Press, 1997); Deborah Gray White, Ar'n't I a Woman: Female Slaves in the Plantation South, (New York: Norton, 1985); Jason R. Young, Rituals of Resistance: African Atlantic Religion in Kongo and the Lowcountry South in the Era of Slavery, (Baton Rouge: Louisiana State University Press, 2007).

women's labors. Furthermore, these acts of violent resistance reveal that the intimate nature of black women's labors in white homes was fraught with tension. William Link asserts in his work *Roots of Secession*, "As was true for other violent crimes, there was a larger subtext: slave murders suggested the disintegration of slaveholder authority." The depiction of black women as "murderers" did not account for their own daily encounters with brutality, but focused solely on them as a danger to society, and their executions, more specifically, as a public display of the suppression of that threat—a performance of "justice."¹³³

Mrs. Hall, Jenny's mistress was said to have died "under circumstances of particular brutality." The "particular brutality" that characterized her death also spoke to an evocative tendency to brand enslaved women as particularly predisposed to violent behavior. Jenny tried in her last moments to vindicate her Christian character. In the execution proceedings, it was noted that Jenny instructed her spiritual advisor to tell the public that she "died a Christian," and that she "wished to die in peace with God and man." Professing Christianity and "hoping for her salvation through the merits of her Savior, Jesus," countered the image of her as a violent murderer, and asked for an alternative lens of her life story to be taken into account.¹³⁴

But press accounts of black women's punishment neglected to offer such context. The newspapers omitted any details about what Jenny's life was like as a slave in Mrs. Hall's home. No mention of the people in her life, or even the conditions of her labor appeared in the articles, just the idea that Jenny was a murderer and "justice was served."

¹³³ William Link, *Roots of Secession: Slavery and Politics n Antebellum Virginia*, (Chapel Hill: The University of North Carolina Press, 2003).

¹³⁴ "The Execution at Alexandria Today (*From Our Own Reporter*)," *Evening Star* February 26, 1858, Washington, D.C., LOC.

The absence of context regarding who Jenny actually was would be considered trivial if not for the extensive detail included to explain the execution itself. The grim details of the execution offered at the beginning of this chapter illustrate that onlookers and readers cared very little about what led Jenny to the gallows and more about what her execution represents. Her death reinforces the protection of white interests from black rebellion, a legal and public affirmation of white authority over the lives of black women. Furthermore, the particular attention to the body and the tools of execution explained in the news story, fed the salacious appetites of readers of popular gallows literature. The consumption of *hanging spectacles* of black women branded executions as a form of justice to preempt any notions of white distaste or shame in absorbing such gruesome scenes.¹³⁵

Designated officials and a minister were allowed inside the jail yard where the hanging took place. News of the execution drew a large crowd, but the jail yard walls obstructed the view of the gallows. Days after Jenny's execution, the *Evening Star* published an article titled "Made 'Em Pay for It" capturing the commotion among the observing audience. A local man "kindly furnished a ladder by which a large number of the outsiders were enabled to mount the jail wall and witness the execution." For an observer to possess a ladder reflects a calculated effort to profit from the scene, and the spotlight placed upon the man's actions indicate that charging a fee for the execution was an uncommon practice. The man however profited from the execution once it was over. The reporter notes, "on turning about to descend again to terra firma," the mounted audience discovered that the ladder was missing, "leaving them high and dry and in an

exceedingly unpleasant position." The man was "enjoying intensely" the sight of their discomfort and "when he heard the word 'money' he consented to negotiate the terms." The conflict between the man and the audience was resolved when they reached an agreement that "he should receive the small fee of ten cents a head, and that the pay should be in advance." Once the "dimes were accordingly pitched down and gathered up," the man placed the ladder on the wall and ran.¹³⁶

Throughout the entire article, Jenny was mentioned only once, to indicate her role as the executed "criminal" in the gallows spectacle. Based upon the actions of the onlookers however, she was the "star" of a morbid "show," a performance of recompense on behalf of the white woman who died at the "brutal" hands of Jenny. The lengths to which people crowded around the jail yard to observe the execution upheld the fascination locals expressed with black women's crimes. Their public participation in the event suggested a degree of engagement that implied that they too, had a stake in Jenny's execution. A "murder" such as this one carried out by an enslaved woman upon her white mistress symbolically represented the culmination of white fears of betraval and retaliation from enslaved and free black laborers. In the District, the Snow Storm Riots of 1835 were ignited by a report of a slave allegedly attempting to kill his white mistress. Just a few years earlier, Nat Turner's Rebellion affirmed white fears of revolt. Both events ignited racial tensions in the District, making the homicide of white locals of particular interest. Jenny's case gained widespread attention perhaps due to similar anxieties about black retribution, but the fact that a woman would resign herself to burn her mistress dislocates nineteenth-century ideas about gender. Many however would not

¹³⁶ "Made Em' Pay for It," *Evening Star*, Washington, D.C., March 12, 1858, Washington, D.C., LOC.

only be forced to adjust their thinking about gender, but age had to be considered as well in cases involving slave resistance.¹³⁷

In 1857, a case in Albemarle County, Virginia involved an eight-year old enslaved girl named Judy. The girl was convicted for allegedly attempting to murder her mistress by "the most ferocious means." Her mistress was reportedly restricted to her bed due to an illness, and Judy was accused of "choking her, dragging her out of the bed, and brutally beating her with the tongs, and burning her with coals and hot embers." The reporter noted that the case was "most remarkable" because of the age of the enslaved girl, and that "the probability is that she would have succeeded in killing Mrs. T. very soon, had she not been prevented by the arrival of the family physician." Judy's age did not disrupt popular perceptions about whether or not young black girls held the capacity to "kill," but rather supported the idea of criminality as an "inherent" characteristic of black women and girls. Measuring enslaved children's "propensity" for violence proved to be a critical dynamic in determining the sentence.¹³⁸

The county court was left with the question: at what point does the "legal responsibility for crime" begin in a child's life? Unable to draw upon earlier precedents in the commonwealth, local justices looked to English law to gauge the "intelligence and capacity to distinguish right and wrong." The article then mentioned two cases in England where two convicted children, one nine years old and the other eight years of

¹³⁷ Sally Hadden, *Slave Patrols: Law and Violence in Virginia and the Carolinas*.
Harvard Historical Studies, (Cambridge: Harvard University Press, 2001); Jason R.
Young, *Rituals of Resistance: African Atlantic Religion in Kongo and the Lowcountry South in the Era of Slavery*, (Baton Rouge: Louisiana State University Press, 2007).
¹³⁸ "Remarkable Criminal Trial," *The Daily Dispatch*, Richmond, Virginia, August 6, 1859; "A Girl of Eight Years Sentenced to be Hung," *Lancaster Intelligencer*, Lancaster, Pennsylvania, August 16, 1859, Pennsylvania Civil War Era Newspaper Collection, PSUA.

age were both "condemned to capital punishment." Interestingly, England had already abolished slavery by the time this case was tried, and the children they referred to were not enslaved. The court decided "in view of the irresistible evidence in the case, and the enormity and brutality of the act," to convict Judy of attempted murder and sentence her to be executed. Other than the testimony of the family doctor, no further "irresistible evidence" was mentioned in the piece. Nineteenth-century legal scholarship however suggests that local testimony proved to be a critical determination of the legal outcomes of a particular case in southern counties. The violent nature of Judy's enslavement did not enter discussions about how such violence may have informed the "inhumanity and brutality" that characterized Judy in the press. ¹³⁹

American law at its inception intended for enslaved women to remain legally invisible, with appearances authorized only within the context of their status as property. In the case of Judy, we learn that enslaved children are no exception to this rule. The young girl first and foremost was seen as someone who threatened the authority of white slaveholders before any considerations of her age could save her from the gallows. Described as "brutal" and "ferocious" in the local press, Jenny and Judy were regarded as slaves that threatened the racial and social order of their respective locales.¹⁴⁰

Enslaved women and girls were legally regarded as chattel property without the ability to testify against their masters or mistresses or submit petitions for a writ of habeas corpus in the event of mistreatment. Considered voiceless and sexless, black

¹³⁹ Ibid; Laura Edwards, *The People and Their Peace: Legal Culture and the* Transformation of Inequality in the Post-Revolutionary (South, Chapel Hill: The University of North Carolina Press, 2009); Christopher Tomlins, Law, Labor, and Ideology in the Early American Republic, (New York: Cambridge University Press, 1993). ¹⁴⁰ Ibid

women's emotional and mental capacities mattered to whites only in relation to their ability to perform the duties and tasks required of their labor. Jenny and Judy, both enslaved, burned their mistresses for reasons unknown. Those questions go unanswered because the legal system that defined the court proceedings did not recognize the testimonies and violent experiences of enslaved women and girls.¹⁴¹

White mistresses in the South were notorious for their violence against slaves, particularly household slaves with whom they interacted with frequently. As Thavolia Glymph's work indicates, white mistresses of Southern plantations were considered "the principal actors in the violence that took place in the household," and often the "instigators inciting masters to violence." Jenny's and Judy's stories confirm white women's violent behavior against their slaves. Some enslaved women retaliated by decreasing the pace or quality of their work, stealing away, committing suicide, or in rare instances—murder. In this case, murder was suicide: Jenny as other enslaved women and girls understood well the consequences of rebellion. The reporter observed that during the execution, "in her present unhappy condition resigned herself to the will of God." Once the sheriff placed the rope around her neck, Jenny "remained [at] last calm and collected." Based upon the description in the news report, she had proclaimed her innocence, but understood that slavery and the criminal justice system were adjudicated

¹⁴¹ Kathleen Brown, *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia*, (Chapel Hill: The University of North Carolina Press, 1996); Laura Edwards, *Gendered Strife and Confusion: The Political Culture of Reconstruction*, (Urbana: University of Illinois Press, 1997); Victoria Bynum, Unruly Women: The Politics of Social and Sexual Control in the Old South, (Chapel Hill: University of North Carolina Press, 1992).

in such a way that worked against whatever reasons enslaved women may have had for retaliating against their masters and mistresses.¹⁴²

Just thirty miles outside of Washington, D.C., an enslaved woman named Agnes was tried for the murder of her master Gerard Mason in the County Court of Prince William County. Several different news accounts appeared, with mixed ideas about how the death had occurred. The *Baltimore Sun*, reported that Mason had returned to his home "under the influence of liquor," and that "He became offended with something the woman had done," and threatened to kill her with his axe. The article stated that, Agnes, "wresting the axe from him, struck the blow that killed him." This account of what happened seems to suggest that Agnes acted out of self-defense rather than malice. Mason appears as a master who's drinking led to his demise at the hands of the enslaved woman. The article concluded that, "the poor negro made no effort to escape," which alludes to the general understanding that an enslaved woman who killed her white master had very little chance of avoiding the death penalty. In the winter of 1850, Agnes was found guilty for the murder of Mason and sentenced to be executed.¹⁴³

District locals read varying interpretations such as the account published by the *Alexandria Gazette*, which told a slightly different story. One witness to the trial offered that "beyond a rational doubt, that Mr. Mason was killed in his bed, most probably whilst asleep, by blows inflicted with an axe by the accused." This account does not support the prospect of her acting in self-defense, but presents a case where her actions were

¹⁴² Catherine Clinton, *The Plantation Mistress: Woman's World in the Old South*, (New York: Pantheon Books, 1982); Glymph, Thavolia, *Out of the House of Bondage: The Transformation of the Plantation Household*, (New York: Cambridge University Press, 2008).

¹⁴³ Baltimore Sun, December 21, 1849, Baltimore, MD, LOC.

portrayed as a calculated effort carried out in a moment where Mason was the vulnerable party. Local juries, justices, and journalists, largely read the implications and motives of enslaved women's actions, as inherently criminal. For instance, the cross examinations supported the conclusion that Agnes was charged "with having willfully, deliberately, maliciously and with malice aforethought, killed and murdered her master Gerard Mason, by striking him repeated blows on the head with an axe." The justices of the peace for Prince William County decided on the death penalty, stating that "under thorough conviction, that she committed the murder willful and premeditated, whilst he was in bed, and the strong presumption asleep." Inexplicably, over seventy citizens of Prince William County signed petitions that argued, "that the extreme penalty of the law should not be inflicted upon the negro woman, Agnes under sentence of death." Instead, they recommended that she be sold away as punishment for her crime. What appeared to lead to a predictable conclusion was complicated by the queried responses around the case, and Agnes's sentence more specifically.¹⁴⁴

Following the trial proceedings, Agnes was believed to be five weeks pregnant, and witnesses attested to her being "visibly swollen." The court postponed the scheduled execution in anticipation for the further development of her pregnancy. G.W. Clifford, the jailor of Prince William County, wrote a letter stating that Agnes was,

¹⁴⁴ Alexandria Gazette, January 10, 1850; Commonwealth vs. Agnes—trial transcript, Virginia Governors Executive Papers—John Buchanan Floyd, Box #400, Folder 1, Accession, #B1055892 VHS; Commonwealth vs. Agnes—Letter from the "citizens of Prince William County," Virginia Governors Executive Papers—John Buchanan Floyd, Box #397, Folder 1, Accession #B1055892 VHS; Commonwealth vs. Agnes—Letter from the "citizens of Prince William County and adjacent counties," Virginia Governors Executive Papers, John Buchanan Floyd, Box #397, Folder 1, Accession #B1055892 VHS; Commonwealth vs. Agnes—Letter from, "members of the bar of Prince William County," Virginia Governors Executive Papers, John Buchanan Floyd, Box #397, Folder 1, Accession #B1055892 VHS.

very much swollen all the winter and spring, and Dr. Thornton (who examined her) says it is very natural that she should have come to the conclusion that she was pregnant, indeed it was the opinion of all who saw her at that time, but now the swelling has left her, it is evident she is not in that situation.

Agnes could very well have been pregnant, particularly given the noticeable weight gain observed by witnesses, but after waiting a few months to see if she would advance in pregnancy the court concluded that there were no visible signs of a child, and proceeded with the execution. Many accounts in the transcripts suggest that she lied about her pregnancy, but those who testified that she was visibly swollen could also lead to circumspection of miscarriage. Contestations about Agnes's body not only circulated in letters debating her pregnancy, but also appeared in deliberations about what precisely inspired her reaction against Mason.¹⁴⁵

Both publications that attempted to explain the death of Gerard Mason left out critical components of Agnes's cross-examinations. Several witness accounts explained that "the deceased wanted to handle her and she would not submit to it." In response Mason grabbed for his gun and threatened to kill her and she in turn reached for the gun and put it away. Mason demanded that Agnes get the axe and start a fire, and Agnes reportedly claimed that the axe was dull and went to show it to him. A fight ensued and Agnes killed him with the axe and he ended up on his bed. Another account offered that after the gun incident, Mason sent Agnes to cut wood and he told her she took too long. In response, Agnes informed him that the axe was dull and that she couldn't sharpen it

¹⁴⁵ *Commonwealth vs. Agnes*—Letter from G.W. Clifford, Virginia Governors Executive Papers, John Buchanan Floyd, Box #411, Folder 1, Accession #B1055893, Brentsville, Virginia, July 11, 1850. VHS

herself. Then she stated that "He wanted to turn up her clothes and take privilege with her, she told him she was too old for that now," and he grabbed the axe and threatened to kill her. She snatched the axe and struck him with it, and he fell on the bed dead. The plaintiff counsel focused their energies on attempting to prove that Agnes killed Mason under premeditated circumstances. This interpretation apparently resonated with the Alexandria Gazette and the local justices, but county locals seemed to believe that Agnes's actions did not warrant a death sentence.¹⁴⁶

The petition of local county citizens remains the curious component that may contextualize the violence that played out in Commonwealth vs. Agnes. Two signatories of the petition submitted by the citizens of Prince William County, included W. H. Duvall and Hugh Hammill. Agnes's testimony was disregarded by the news accounts and presiding justices, because she was an enslaved woman, however, an examination of a litigation effort initiated by Duvall and supported by Hammill offers further insight. Four years earlier, in Commonwealth vs. Gerard Mason, Duvall appeared before the court for the examination of Mason who at the time was being "charged with murder," and gave evidence against him concerning the allegations. This case involved the murder of an enslaved woman named Katy.¹⁴⁷

Witnesses appeared before the court to testify against Gerard Mason, indicating that his vehement behavior gave him quite the reputation for violence against enslaved women. William Johnson, a witness in the case testified that Mason knocked two black children out of the way as he stormed "apparently in a violent rage" into Katy's living

¹⁴⁶ Commonwealth vs. Agnes—Trial Transcript, Virginia Governors Executive Papers, John Buchanan Floyd, Box #400, Folder 1, Accession #B1055892, Brentsville, Virginia, January 17, 1850 VHS. ¹⁴⁷ Ibid

quarters. Johnson stated he went into the cabin "where he made a great noise as if thumping or knocking people about." Returning at about eleven o'clock to unload wood, Johnson mentioned that he "saw Negro Katy lying in the yard at the quarters," and that "she seemed to be in great pain as if from a beating—just breathing, just talking, not able to turn about." James Foster, who claimed to be ignorant of any recent incidents, recalled that in the fall of the year before, he "saw Gerard Mason stomp Katy in his yard at his dwelling." Within the past two months of the court proceedings, William Bates saw that "Katy was unable to walk about and has continued so every since." Bates stated that, he "has seen her crawling about her cabin and when crawling would sometimes fall some." Henry Duvall testified that he went to Mason to sell wood, and saw Mason "beat Katy with a large stick at the home," from which he "drove her back to the field, pursued and beat her a second time—knocked her down and left her lying on the ground." He added that just days after, he saw Katy "get another beating from Mason in which he seemed to strike with anything he could get hold of." The witnesses conducted daily business transactions with Mason and viewed firsthand, the violence experienced by Katy. On October 23rd of 1845, Katy was killed by Gerard Mason and buried on his property.¹⁴⁸

The court approved an inquest of Katy's buried body six days later to uncover the details of her death. The examination of the coroner and the observations of the jury, indicated that Mason, "being moved and seduced by the instigation of the devil, a short time before the death of his negro woman slave Katy," "with force and arms at a cabin, in and upon the aforesaid slave" "voluntarily made an assault." They stated further that Mason, "then and there with some instrument" "violently struck and cut and gave the said

slave" several "severe wounds." These wounds were described as located on the "back and lower part of the head" at "one and half inches" long, "cutting into and taking off a part of the skull." A felonious offense, according to Virginia law, Mason was committed to jail for a brief period of time but avoided execution. White men that testified against Mason in this case also signed a petition in favor of Agnes's deportation instead of execution. Deportation, in some cases, was viewed as a less severe form of penal discipline than execution. Locals through their daily interactions with Mason learned firsthand the incredible degree of violence he inflicted upon enslaved women he legally owned.¹⁴⁹

Testimonies from witnesses included in both the *Commonwealth vs. Mason* and *Commonwealth vs. Agnes* cases indicate that Gerard Mason tormented enslaved women through physical and sexual violence. In one account of Agnes's testimony, Mason attempted to "turn up her clothes and take privilege" but she told him "she was too old for that now." Her statements seem to suggest that Mason had made it a habit of raping her since she was a young girl as a part of his entitlement to her as his property. Similarly, the inquest of Katy's body and accompanying witness accounts indicate that she too suffered through physical and sexual violence at the hands of Gerard Mason. Agnes reacted to Mason's threats to kill her by hitting his head with the axe, while Katy could barely physically defend herself as a result of the destruction he inflicted on her body. The trial records indicate that news reports and justices omitted critical evidence that contextualize Agnes's violent reaction towards Mason. American criminal law and early nineteenth-century society regarded the details of black women's enslavement as

inconsequential in murder cases since slave testimony did not factor into the verdict. The legal deliberations demonstrate that the racial and gendered violence experienced by these women did not play a role in the jurisprudence exercised by the justices involved, nor did it factor in the depiction of an enslaved woman such as Agnes in news sources. The American legal value of whiteness outweighed the scales of human justice. The *Alexandria Gazette* and the *Baltimore Sun* was less concerned with the facts surrounding Gerard Mason's remarkable violence against enslaved women and more captivated by the fact that an enslaved woman murdered her master.¹⁵⁰

Interestingly, there were other cases where Virginians thought transportation to the Deep South was a more appropriate punishment for enslaved women accused of killing their masters. In Louisa County near Gordonsville, Virginia, an enslaved woman was legally charged for "murder in the first degree." Her actions were legally defined as premeditated "with malice aforethought," rather than second degree, voluntary, or involuntary manslaughter which would not assume a planned attempt at violence. Second-degree murder or voluntary manslaughter affirms the defendant's "intent to kill," whereas involuntary manslaughter does not imply an intention to cause death. Unlike Agnes's sentence however, the county court decided to send the enslaved woman into the domestic slave trade. Locals however would again intervene—this time to impose rather than commute a death sentence.¹⁵¹

¹⁵⁰ Thelma Jennings, "'Us Colored Women Had to Go through a Plenty': Sexual Exploitation of African American Slave Women," *Journal of Women's History* 1 (Winter 1990): pp. 45-74.

¹⁵¹ "Condemned to be Hung—Exciting Scene," *Huntingdon Globe*, August 5, 1857, Charlottesville, Virginia, Pennsylvania Civil War Era Newspaper Collection, PSUA.

In Agnes's case, county locals petitioned to have her sentence amended to sale in the slave trade but the court had decided in favor of death. In the case of the enslaved woman in Louisa County, locals in the courtroom "became greatly excited" upon hearing that the woman would *not* be executed. An article titled, "Exciting Scene," published in the press, revealed that the, "threats were made that if she was not condemned to death, the people themselves would lynch her." Localized law took effect in this case in ways that proved ineffective in Agnes's case. The petitioners in Agnes's case could not convince the justices to change the sentence. Pressing the case for the death penalty, "one or two gentlemen approached the dissenting justice, and advised him to change his opinion." The article reported that, "under these circumstances, the fifth magistrate gave way, and the woman was condemned to be hung." The "two gentlemen" were enforcing what Laura Edwards referred to as localized law, or the habit and customs of a community that informed the execution of justice, as locals understood it. Localized law, however, more often favored whites.¹⁵²

One court official stated that, "the sheriff ought to proclaim publicly that the court ordered the woman to be hung" in order to prevent "injury to the jail and danger to the prisoner." The court made it clear that keeping the peace was a central concern in the treatment of this particular case. As Edwards argues, "keeping the peace meant keeping everyone—from the lowest to the highest—in their appropriate places, as defined in specific local contexts." In *Commonwealth vs. Agnes* and the case of the enslaved woman near Gordonsville, the work of "keeping the peace" ultimately led to the execution of two

¹⁵² Ibid; Laura Edwards, *The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary (*South, Chapel Hill: The University of North Carolina Press, 2009).

women. "Keeping the peace" was particularly representative of the surrounding Chesapeake counties where residents weighed in closely on local legal matters. Washington, D.C. as well as Virginia and Maryland executed the law in favor of maintaining the racial order of the South. The cases discussed here testify to the public's fascination with female law breaking, and subsequent anxieties about social disorder. The article on the Gordonsville case concluded, "proclamation was made, and the excited populace became satisfied with the court."¹⁵³

Gender and Violence: The Case of Poor White Women

Discourses of gender and violence worked against lower-class black and white women in the District and surrounding counties in Virginia and Maryland. While not penalized as severely as black women, lower-class white women on rare occasions were committed to jail for violence against black inhabitants. The *Evening Star* reported on July 28, 1854 that Mrs. Sarah A. Gordon was committed to jail for "ill-treating a colored child." A witness reported that she severely whipped the child, and that she "fastened the child's hands above its head and left it in that position the entire night." The real legal violation was not violence against the child however, but a property dispute. Not only did the court discover that the child was not bound out to her, "as she at first stated," but she was also unable to pay the fine. Her inability to pay for the child's labor and the court fines speak to the driving force of class standing and economic mobility in determining white women's legal entitlement to abuse their servants.¹⁵⁴

¹⁵³ Ibid.

¹⁵⁴ "Committed for Court," *Evening Star*, Washington, D.C. July 28, 1854, Washington, D.C., LOC; Catherine Clinton, "Bloody Terrain: Freedwomen, Sexuality, and Violence

White women appeared in the daily news reports for acts of violence as well. For instance, on December 15, 1856, a white woman named Mary Moriarty was arrested for the murder of her child. Just prior to the death of the child she was taken to jail for drunkenness and profanity and released prior to the expiration of her sentenced term. For the murder of her child, she was sent to the workhouse to serve a term of ninety days. Enslaved and free black women either faced death or several years in the workhouse for murder, sentences that were primarily based on the race, and class standing of the victim. In another case just two years earlier, a six-year old black boy was "horribly beaten" by a white woman who had hired him. The report observed, "in addition to the bruises upon his body, one of his ears was nearly torn from his head." At the time that the article was published, the woman had not been arrested, and the future of the boy was not clear. Print sources highlighted the violent activities of lower-class black and white women. Elite white women's economic privilege made them less subject to public scrutiny as the conflicts within the domestic context of their home were respected as private property matters and defended by white men of standing. Lower-class black and white women were critiqued publicly without the social and economic protections to defend their names 155

During Reconstruction," Georgia Historical Quarterly 76 (Summer 1992): pp. 310-32; Laura Edwards, "Sexual Violence, Gender, Reconstruction, and the Extension of Patriarchy in Granville County, North Carolina," *North Carolina Historical Review* 68 (July 1991): pp. 237-60; Jacqueline Dowd Hall, " 'The Mind that Burns in Each Body': Women, Rape, and Racial Violence," in *Powers of Desire: The Politics of Sexuality*, ed. Ann Snitow, Christine Stansell, and Sharon Thompson, (New York: Monthly Review Press, 1983), pp. 328-49.

¹⁵⁵ *Evening Star*, Washington, D.C., December 15, 1856. Washington, D.C. LOC; "Brutality," *Daily Evening Star*, Washington, D.C. April 21, 1854, Washington, D.C., LOC.

Domestic violence was a part of the fabric of nineteenth-century American households. Disputes and physical battles ensued between white men and women and black men, women, and children throughout the nineteenth-century. Violence, or the use of force or power defined the slaveholder and slave, patriarch, wife, and servant relationship throughout antebellum Washington. Black women's legal violations often reflected an effort to break away from their subjection to forced labor, low wages, and terror inflicted by white men and women, as well as black men and other black women.

Narrating *Intra*racial Conflict

Black women's violence toward other black women was treated as spectacle, and locals regarded the legal proceedings with intrigue. The cultural meanings and interpretations of black female degeneracy tied to such cases functioned as an affirmation of the existing racial order. News accounts embedded ideas of black women's appetites for violence into the fabric of local print culture. While the population of black women in the District, and surrounding counties in Virginia and Maryland expanded, reports of their crimes reinforced existing systems of surveillance. Whites expressed both frustration and fascination with legal cases involving disputes between the black parties involved. These spectators scoffed at the thought of such cases being granted formal legal consideration, while consuming the daily features with considerable curiosity and editorializing. Such spectatorship of *intra*racial violence transformed common expressions of human conflict into racialized tropes of moral depravity.¹⁵⁶

¹⁵⁶ Linda Gordon, *Heroes of their Own Lives: The Politics and History of Family Violence*, (New York: Viking Press, 1988); Michael Grossberg, *Governing the Hearth: Law and Family in Nineteenth-Century America*, (Chapel Hill: University of North

For instance, in December of 1830, Caroline Calvert cut another woman, Nancy Ashton with an axe. The case listed just before Calvert's criminal charges indicates that Ashton was charged for stealing a cloak worth one dollar. This cloak may have belonged to Calvert and in reaction to the theft she cut Ashton. Similarly, Fanny Hedges was charged with assault and battery for attacking John Waters "by scalding" in 1835. Celia Briscoe and Eliza Cutjohn were both arrested for assault and battery of a free black man named William Ross. They were both fined five dollars and released from jail. In December of 1850, Henrietta Butler was indicted for assault and battery on a free black woman, Eliza King. The criminal court sentenced Butler to one week in jail and required her to pay a fine upon her release. Henrietta Savoy was also indicted for assault and battery of Mary Haystack and sentenced to pay a fine. These acts of violence against other black residents of the city were punishable by small fines rather than the long-term sentences to labor and imprisonment evident in the cases of black violence against white inhabitants.¹⁵⁷

Specific details of physical injuries and deliberations about the causes of death figured extensively in murder cases. On May 5, 1856, the *Evening Star* reported the death of "negress, Jane Jourdan," who died "at the hands of another slave negress" named Louisa Campbell. The story as it was told by a free black woman observing the scene, revealed that Jane went to Louisa's home in search of her husband, who fled upon Jane's

Carolina Press, 1985); Herbert Gutman, *The Black Family in Slavery and Freedom*, 1750-1925, (New York: Pantheon Books, 1976); Jacqueline Jones, *Labor of Love, Labor of Sorrow: Black Women, Work, and the Family from Slavery to the Present*, (New York: Basic Books, 1985).

¹⁵⁷ United States vs. Caroline Calvert, December 1830; United States vs. Celia Briscoe, November 1837; United States vs. Eliza Cutjohn, November 1837 Record Group 21, Criminal Cases of the District of Columbia, NARA.

arrival. Louisa struck Jane with a rock causing Jane to stumble into a nearby home of a free black woman named Mary Ball. Jane died of a large ruptured blood vessel in the heart from what the surgeon suspected came from being "struck by a stone." At the time of publication, the jury had not made a final verdict and Jane was still held in jail. The article gave an in-depth description of the post mortem examination conducted by two local doctors. Observations such as the "lack of effusion of blood in the tissues," that would result from a rock being thrown at the body, and a ruptured blood vessel in the heart, "at least one and a half inches" was carefully noted in the report. The doctors found more effusion of blood in the heart, which "might have been produced by violent mental emotion." The report concluded that the case "excites considerable interest, and the reopening of the inquest is eagerly looked for." Details that described black women's crimes.¹⁵⁸

Stories from Washington, D.C., Alexandria and state counties close to the District were frequently featured in publications in nearby Richmond, Virginia, and were typically regarded with both fascination and irritation. On September 30, 1852, *The Daily Dispatch*, which also reported on events occurring in Washington, D.C., reported that Eliza Hart, a free black woman, was "ordered fifteen lashes and required to give \$50 security" for throwing stones at Sophia Maxfield, another free black woman. It was decided that it would be tried in court, however the reporter noted that, "the indefatigable efforts of three lawyers caused the loss of three quarters of an hour of available time in the adjudication of this miserable case." The article suggests that such legal attention given to a case involving two free black women, not considered citizens due to their race

¹⁵⁸ "Alexandria Correspondence," *The Evening Star*, Washington, D.C., May 5, 1856. Washington, D.C., LOC.

and gender, was regarded as inconsequential. The reporter states further, "The idea of cross-examinations and arguments by counsel in such cases as these, is perfectly ridiculous—and as annoying, time-wasting, and provoking as it is ridiculous." The reporter at *The Daily Dispatch* did not see the significance in giving these women due process, or any other thorough legal examination to resolve the case. Black women's encounters with the law were only acceptable in circumstances where they were the accused, or in instances of ridicule and spectacle.¹⁵⁹

Despite ostensible white frustrations with legal cases that formally addressed civil disputes brought before the court by black women, these cases appeared regularly in the daily news. On December 3, 1852, "a dashing negress named Sylvia Gentry" was charged with assaulting and throwing a rock at Julia Ann Pitman, "a puffy negress." The article explained that three lawyers defended Sylvia and that Julia Ann, "with a swelled eye, solitary and alone, set the prosecuting ball in motion." Depicting Julia Ann as "solitary and alone" indicated that she did not have the legal representation of a lawyer, which may have factored into the outcome of the case. While free blacks could not testify against whites in court, they could serve as witnesses in cases involving both a black defendant and black plaintiff. The article offered that witnesses approached the Mayor, and "seven or eight men and women, white, mettled and black, swore positively, first, to seeing Sylvia throw stones at Julia," but then Julia retaliated by throwing stones as well. The witnesses testified that, Julia "threatened to 'qualify' Sylvia's head with a stick and then rocked her." After her retort, Sylvia "stoned" Julia Ann. The Mayor decided in favor of Sylvia, giving Julia Ann, "the reward to which a storming party is

¹⁵⁹ "Assaulting," *The Daily Dispatch*, Richmond, Virginia, September 30, 1852. Washington, D.C., LOC.

entitled, and adjudged her 20 lashes." The reporter seemed to suspect that the Mayor was partial to the "dashing negress Sylvia," as the feature was sarcastically titled "An Impartial Award." One black woman's justice was reduced to another's objectification in ways that speak to the mockery insinuated in the tone of the article. Thus, black women's civil disputes were treated as trivial or consumption spectacle at best.¹⁶⁰

Family conflicts among black inhabitants were policed and publicized in ways that weren't evident among white residents of the region. Such reports demonstrated that black women's private lives were also subject to surveillance. One incident was reported of a free black woman arrested for disciplining her daughter. In November 1837, Ellen Ray was jailed for the "assault and battery" of Ann Ray. Ellen Ray was arrested because she "cruelly and inhumanely beat and starve, and ill treat the said Ann so that her life was in danger." Despite the fact that Ann Ray's life was "in danger," Ellen Ray was charged a one dollar fine, released from jail and her daughter returned to her charge. Comparatively, black women arrested for larceny were required to pay fees between one and five dollars, and those convicted for keeping a bawdy house were required to pay anywhere between ten and twenty dollars in fines. Black women charged for assault and battery of white residents, were typically sentenced up to a year and six months of labor and imprisonment in the penitentiary, but in this case, the assault of a black girl amounted to a one-dollar fine. The laws and sentencing practices shaped social organization in ways that placed a premium on the lives of white men and women, while designating the lives of black inhabitants as worthless and valuable only within the terms of their asset value as slaves and low-wage laborers. The print record suggests that nineteenth-century

¹⁶⁰ "An Impartial Award," *The Daily Dispatch*, Richmond, Virginia, December 3, 1852. Washington, D.C., LOC.

Washington locals held a fascination with black women who were depicted as particularly violent.¹⁶¹

Conclusion

The racial and gendered context of violent crimes in Washington, D.C. and the surrounding Chesapeake states during the mid-nineteenth century was evident in the media coverage of legal proceedings involving black women's law breaking. The news reports offered carefully crafted depictions of black women as rabble-rousers, murderers, and unfit mothers, thereby commodifying black female criminality as consumption spectacle. In the cases discussed, black women's encounters with the court rendered invisible the daily exploitation of their labors and bodies—the very conditions that might explain their resistance—even as those cases made a public spectacle of black women's crimes.

Thus, the analysis of black female law breaking during the mid-nineteenth century makes the structural inequalities and ideologies of slave societies all the more apparent. Black women in the District of Columbia and beyond were exposed to the inconsistencies of an allegedly just law that could simultaneously refer to a black woman as chattel, property, human, or even, in the case of Jenny, "superhuman." To the extent black women were, in fact, "superhuman," their super powers revolved around the ability to claim a sense of human-ness despite the obvious contradictions between their social invisibility and criminal hypervisibility—between their violent acts and the daily violence that others inflicted on them.

¹⁶¹ United States vs. Ellen Ray, November 1837, Record Group 21, Criminal Cases of the District of Columbia, NARA.

CHAPTER FOUR

COLORED NYMPHS: ANTEBELLUM AND WARTIME SEX COMMERCE IN WASHINGTON, D.C.

On September 12, 1862, Mary Ann Jackson, "a colored nymph," was arrested for prostitution and turned over to the military authorities. Jackson was one of numerous black and white women who worked as prostitutes during the Civil War. The activities of prostitutes and their clients were mentioned in the daily press, at times briefly and at other moments as extensive features. These women would interact intimately with members of the military whether through transactions of sexual leisure or through disciplinary policing. In this case, Mary Ann Jackson was turned over to military authorities who functioned as wartime defenders of morality in the capital. The sex and leisure economy proved to be a particularly exasperating nuisance for those that attempted to bring about and maintain racial and gendered order.¹⁶²

Between 1860 and 1870, the white population of Washington, D.C. increased by a little over forty percent from 50,139 to 73,731. The black population including those designated as "mulatto" went from 10,983 to 35,392--an increase of over two hundred and twenty percent. Over ten thousand men served as soldiers defending the District of Columbia, and thousands more, representing the regiments of other states within the Union, either passed through or were temporarily stationed in the capital. The height of the nineteenth-century sex economy, in the District, came with the advent of the Civil War, and the sizeable influx of soldiers. Officials struggled against men's tantalizing appetites for sex and leisure and women's willingness to satiate their desires at a profit. This was particularly distressing for local officials and respectable citizens at a moment

¹⁶² "Prostitution," *The National Republican,* Washington, D.C. September 12, 1862, LOC.

when the nation's capital was expected to signify principles of honor in the Union war effort. With the arrival of Union soldiers, and freedwomen and men, the solicitation of clients, and the policing of prostitutes reached a pinnacle and the sex economy became more visibly interracial. Furthermore, a life of prostitution was deemed incompatible with the strictures of moral virtue and middle-class respectability defended by black antislavery activists. For black women like Mary Ann Jackson, however, the material realities of urban freedom made the sex and leisure market both an attractive and perilous option.¹⁶³

Free black women in the District typically worked low-wage, service-oriented jobs that limited their income-earning potential and often undercut their abilities to meet their material needs. During the mid-nineteenth century, black women were primarily listed in the historical record as slaves, servants, washerwomen, seamstresses, and prostitutes. Enslaved women virtually earned nothing for their labor unless the slave owner allowed them to collect additional earnings from being hired out. Such opportunities, however, were common for those considered "skilled" laborers such as seamstresses. Relatively few black women were listed as seamstresses, teachers, and housewives prior to the Civil War. The status of enslaved and free women along with the inequitable employment practices of the District were incompatible with black women's desires for economic empowerment. Through violating the legal and social codes, based on race and gender, the black women discussed here rejected moral respectability in their law breaking. Furthermore their violation of the racial code of inferiority and the gender

¹⁶³ Ernest B. Fergurson, *Freedom Rising: Washington in the Civil War*, (New York: Alfred P. Knopf, 2004); "Prostitution," *The National Republican, Washington*, D.C. September 12, 1862, LOC.

norms of moral chastity exposed the various mechanisms designed to control them. This chapter neither emphasizes black women's victimization through sex work, nor maintains that they were fully empowered by earning from their sexual labor. Undoubtedly, sex work across time increased the likelihood of encounters with sexual violence, exploitation, and disease. This chapter seeks to contextualize black women's personal and economic decisions to enter into sexual commerce and to capture the ways prostitution exposed the instability of racial and gendered social order in the capital. Black women's participation in the sex and leisure economy was a critical wartime avenue for earning income—an extralegal means of survival.¹⁶⁴

Black and white women working in the sex and leisure economies slighted the tenets of chastity and respectability espoused within ideologies of "true womanhood" during the nineteenth century. Catherine Allgor's discussion of elite white women in antebellum Washington notes that the wives of political leaders used the "private sphere" of the parlor to influence national politics. As D.C. was initially a city with a sparse population, Allgor argues that it was Dolley Madison and her elite peers who had to "create a ruling class" in the new capital at the beginning of the nineteenth century. The presence of the nation's key elected officials, and business interests from the surrounding slaveholding Chesapeake states, offered the beginning framework of a Washington ruling class. Considered among the "degraded" classes, the women working in the prostitution industry became a private source of leisure for men of all classes, and a public threat to

¹⁶⁴ Constance McLaughlin Green *Washington: Village and Capital, 1800-1878* (Princeton, NJ: Princeton University Press 1962); Constance McLaughlin Green, *The Secret City: A History of Race Relations in the Nation's Capital* Princeton, (NJ: Princeton University Press, 1967); Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972).

social order and civic virtue as the national capital took shape. These women navigated through the private and discrete worlds of men's leisure, and the public realm of moral policing and exposure.¹⁶⁵

This chapter builds upon a rich body of recent literature that collectively interrogates themes of prostitution, sexuality, race, and class in the nineteenth-century. In her analysis of sexuality and prostitution, Sex Among the Rabble: An Intimate History of Gender & Power in the Age of Revolution, Philadelphia, 1730-1830, Clare Lyons argues that middle-class reform campaigns inspired a "two-tiered system of sexuality." This system organized sexuality by race and class, distinguishing between the sexuality of virtuous men and women, and the insatiable sexual appetites of the "rabble." In I've Got to Make My Livin': Black Women's Sex Work in Turn-of-the-Century Chicago, Cynthia Blair argues that black women prostitutes were historical agents in disrupting attempts to limit interracial social and sexual interaction. Furthermore, Blair explores how black women looked to the sex economy to pursue their financial aspirations amidst an urban economy that was organized to limit the earning potential of black women and men. Kali Gross discusses the late nineteenth-century sex economy in her work *Colored Amazons*: Crime, Violence, and Black Women in the City of Brotherly Love, 1880-1910, as a "paradoxical site" of both "humiliation and empowerment." Not far from the memory of violent sexual and physical labor during slavery, black women were caught between the tension of exploitation and entrepreneurship. Despite efforts to defend their dignity, in most cases, black women's sexual immorality was assumed rather than questioned by elite whites regardless of their class standing. Thus relegating black women to the

¹⁶⁵ Catherine Allgor, *Parlor Politics: In Which the Ladies of Washington Help Build a City and a Government,* (Charlottesville: University Press of Virginia, 2000).

latter—the "rabble"—of the two-tiered system Lyons identifies in her work. More specifically, sex commerce in the District reveals a multi-tiered system within the industry itself, organized by class and racial preferences.¹⁶⁶

White and black women worked as prostitutes as early as the 1820s in the District. The antebellum client base of the sex economy primarily included white men, and immigrant and free black laborers who could afford the services of more inexpensive prostitutes and bawdy houses. White madams made higher wages or acquired modest inheritances that allowed them to obtain the property and material goods required to successfully launch higher-end, parlor-style bawdy houses. Such houses resembled the parlors of elite women, channeling the decorum of domesticity while serving the sexual fantasies of elite men. White madams ranked at the top of the sex economy in antebellum Washington, and many earned a reputation for unquestionable material success during the Civil War. Black and white prostitutes worked for white madams, and were typically expected to give a portion of their earnings to the madam. The criminal record demonstrates that black women could be found in the bawdy houses managed by white women, confirming sites of interracial sexual leisure. As white men were the primary consumers, ideas of black women's racial inferiority factored into what they

¹⁶⁶ Clare Lyons, Sex Among the Rabble: An Intimate History of Gender and Power in the Age of Revolution, Philadelphia, 1730-1830, (Chapel Hill: University of North Carolina Press, 2006); Cynthia M. Blair, I've Got to Make My Livin': Black Women's Sex Work in Turn-of-the Century Chicago, (Chicago: University of Chicago Press, 2010); Kali Gross, Colored Amazons: Crime, Violence, and Black Women in the City of Brotherly Love, 1880-1910, (Durham: Duke University Press, 2006).

were willing to pay. Furthermore, the exotic fantasies of black women's sexuality shaped their expectations of encounters with black women.¹⁶⁷

Black women in the District participated in the local sex economy as madams, prostitutes, and servants in the bawdy houses. Although madams made the most money and often paid the highest fees in the Criminal Court, it was not uncommon for prostitutes to earn significantly more than wage earners and laborers in other industries. Often black women found prostitution a more desirable enterprise for the material incentives that came with the work such as food, shelter, and the collective security of working with other women in the same house. Under these conditions, they were able to work with a modicum of autonomy by inviting clients into a space in which they controlled. Many prostitutes however, did not work in the organized environments of bawdy houses and rented rooms at houses of assignation, or in apartments alone. This allowed the women to collect more earnings, but made them vulnerable to exploitation and violence that often came with working independently of a bawdy house. ¹⁶⁸

Antebellum Sex Commerce

Black women increasingly became visible in the criminal record during the 1830s, particularly for "keeping a house of ill fame" more commonly referred to as a bawdy house. For instance, on April 15, 1836, Eliza and Henry Butler were both found guilty of

¹⁶⁷ Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972); Record Group 21, Criminal Cases of the District of Columbia, NARA; Mary Jane Dowd compiler, Records of the Office of Public Buildings and Public Parks of the National Capital—Record Group 42, Inventory No. 16. Washington, D.C.: NARA, 1992.

¹⁶⁸ United States vs. Eliza Butler, April 15, 1836, Record Group 21, Criminal Cases of the District of Columbia, NARA.

managing "a certain common bawdy house, situated in the City of Washington." They were charged with maintaining the said house "for filthy lucre and gain." "Divers evil disposed persons, as well as men as women, and whores, on the days and times aforesaid, as well in the night as in the day, [were] there unlawfully and wickedly did receive and entertain." Eliza was primarily listed in the official documents, and Henry was listed second, which may indicate him as an accomplice. A free black man named Henry Butler is also listed in the property tax record as a waiter, who owed taxes on a small lot. Butler and his occupation as a waiter are also listed in the city directory of black residents, while Eliza Butler appears in the tax record without a "profession." It is quite possible that this is the same Eliza and Henry Butler, but other free men and women with the same last name were accounted for in the property tax record and some even had better paying jobs that enabled them to avoid financial ties to a bawdy house.¹⁶⁹

The wording applied by the courts offers evidence of the link between law and a nineteenth-century culture of morality. The jurors further stated that the Butlers committed "whoredom and fornication, whereby divers unlawful assemblies, riots, routs, affrays, disturbances, and violations, of the peace of the United States, and dreadful filthy and lewd offences, [occurred] in the same house." The contrast between the description of "dreadful, filthy, and lewd offences" with the expectation of good "manners, conversation, morals, and estate" underscore the moral overtones that shaped cultural norms in the District. According to the jurors, their crimes ultimately caused "destruction and corruption of youth, and other people, in their manners, conversation, morals, and estate, and against the peace and government of the United States." Concern for the

¹⁶⁹ Ibid.

moral character of the new national capital was expressed in the language applied in the juror statement and used repeatedly in the cases of black women who were arrested for keeping a bawdy house. Despite the constant risk of arrest, free black women continued to maintain prostitution enterprises in key locations throughout the District. The exact location of the Butlers' prostitution activity is unclear largely because the record does not provide a cross street. Prostitution activity, however, even lingered near critical sites of elite political life.¹⁷⁰

Antebellum Washington resembled a city in a constant state of construction, with very few appealing physical structures beyond the federal buildings used for the purposes of the government. Consequently, it was nearly impossible to experience the new city without walking past women and men of various classes and races. In 1833 Ann Simms, Mrs. Wurtz, and Mary Wurtz were arrested for keeping a bawdy house on Pennsylvania Avenue near 14th Street. The three women ran an operation located near Lafayette Square, a neighborhood where prominent white families resided. One historian noted that in this neighborhood, "lived most of the local establishment—old-line families, ranking politicians," and that "in this fashionable circle, etiquette followed the traditions of the slave-owning chivalry of nearby counties." The Sims and Wurtz case juror statement accuses participants in prostitution of causing "great damage and common nuisance of all the good citizens," and thus reflects the desire of lawmaking officials to cordon off disruptive behavior. Black women's sex commerce near sites of respectable

white residences and businesses proved to be cumbersome for those hoping to exude an air of cosmopolitan urbanity.¹⁷¹

The presence of both black prostitutes and the notorious slave pens that were situated nearby further complicated the respectable appearance of elite neighborhoods and federal offices. Slave pens were scattered throughout the landscape, but clustered near the location where Simms, Wurtz, and Mrs. Wurtz were arrested for keeping a bawdy house. Slave pens existed at the nearby Decatur House located at Jackson and H, and at 14th and Constitution Avenue, attracting traffic in slave traders and slave owners who might have been target clients for prostitutes. At this point, the Lafayette Square neighborhood had already been named in honor of Marquis de Lafayette of France, and was home to St. John's Church, and federal style homes such as the Decatur House and the Dolly Madison House. Reputable white families and political leaders would find the presence of black women of "questionable character" an appalling disruption to the cosmopolitan landscape they were struggling to imagine. They were equally frustrated with the manner in which the slave trade dominated the landscape they attempted to fashion as a sophisticated space. Interestingly, like Mrs. Eliza Butler, one of the women is listed with a prefix indicating that she is actually married. Mrs. Wurtz's husband may or may not have been present in her life, but regardless of his status, the nature of her arrest disassociates marriage from respectability. Their collective case affirms a common theme found in the criminal record, mainly that of collaborative prostitution, which at

¹⁷¹ United States vs. Ann Simms, Mrs. Wurtz, and Mary Wurtz, September 1833 Record Group 21, Criminal Cases of the District of Columbia, NARA; Mary Jane Dowd compiler, Records of the Office of Public Buildings and Public Parks of the National Capital—Record Group 42, Inventory No. 16. Washington, D.C.: NARA, 1992; Ernest B. Fergurson, *Freedom Rising: Washington in the Civil War*, (New York: Alfred P. Knopf, 2004).

times involved family members. The specific nature of the relationship between Mrs. Wurtz and Mary Wurtz is unknown, but given the limited number of free blacks in the city and the uncommon last name, we could assume that they are related in some form.¹⁷²

If local authorities caught black women, managing a bawdy house came at a high price largely due to the high fines and the likelihood of repeated arrests. Many black women relied upon prostitution networks and collaborations that enabled them to generate more earnings. The fact that those accused of keeping a bawdy house were charged the highest fines, did not dissuade black women from maintaining their independent prostitution operations. For example, Eliza Warner and "Eliza Warner the Younger" (her daughter) were both arrested for "keeping a house of ill fame." In any line of work, it was common for nineteenth-century families to employ the labor of younger members in the family to contribute to the household income. In this case, it is unclear as to whether the "Younger" solicited sex or assisted with the duties associated with the upkeep of the house. They were both charged for "keeping a house of ill fame" and not prostitution, denoting that the women managed the private quarters in which these acts took place. During the summer of 1850, Elizabeth Ware was arrested for "keeping a house of ill fame and a house of assignation." The distinction made here regarding the "house of assignation" suggests that Ware not only provided a place for solicitation, but a

¹⁷²United States vs. Ann Simms, Mrs. Wurtz, and Mary Wurtz, September 1833, Record Group 21, Criminal Cases of the District of Columbia, NARA. David Stroman Slavery in Washington, D.C.: Slaves of Washington, D.C. Library of Congress, Washington, D.C., 2002.

place for prostitutes working independently of a madam and an organized bawdy house. Ware was released upon payment of a fine.¹⁷³

Women arrested for keeping bawdy houses or houses of assignation were charged a greater amount in legal fines than those convicted for prostitution. Prostitutes arrested for soliciting sex, disorderly conduct, profanity, being out after hours, or unlawful assembly were typically fined anywhere between one dollar to a little over five dollars. Fines were inconsistently determined, and prostitutes paid as little as a couple of dollars and those identified as madams paid as much as twenty dollars. Eliza Butler was arrested in the spring of 1836 for "keeping a House of ill fame commonly called a baudy House on 12th street," and sentenced to twenty days in the workhouse with a fine of ten dollars. Susan Ross was similarly arrested and charged for keeping a bawdy house, and required to pay a fine of fifteen dollars. Their blatant disregard for the moral principles promoted by reform advocates and the risk these women took in creating a prostitution business helps us understand the premium they placed upon economic independence. Managing a prostitution ring was less about defying sexual mores of the time, however, and more about the refusal to work the domestic service, and low-wage jobs black women were confined to. This is indicated by the unusually high fines required of those who "operated" a bawdy house and the significantly lower fees required of the actual prostitutes who worked in the bawdy houses.¹⁷⁴

¹⁷³ United States vs. Eliza Warner & Eliza Warner the Younger, November 1833, Record Group 21, Criminal Cases of the District of Columbia, NARA.

¹⁷⁴ United States vs. Betsey Robinson, March 1834; United States vs. Elizabeth Beckett, June 1850; United States vs. Jane Brown, November 1837; United States vs. Eliza and Henry Butler, March 1836; United States vs. Susan Ross, June 1850, Record Group 21, Criminal Cases of the District of Columbia, NARA.

Both black and white women arrested for prostitution tended to work in groups with other women, but there is no evidence that interracial cooperation took place during the 1830s. The collaborative nature of their work probably proved beneficial for several reasons. The main person in charge of operating a bawdy house might organize women in the same location, maximizing the opportunities for women to make money based upon the reputation of the house as a reliable site for sex services. Secondly, the presence of other sex workers may have been reassuring when considering potential threats to safety involved with prostitution and the event that a client withheld payment. In November of 1833, Ann Johnson and Hannah Contee were arrested together for "keeping a house of ill fame" near the third ward of the city. Sally McDaniel, Patty Pallison, and Kell Simpson were all similarly arrested as a group that fall. It was not uncommon for black women chose to work with other black women who solicited in the same ward or from the same bawdy house. Others tended to work with other relatives and even spouses.¹⁷⁵

Collaborating with spouses and relatives in earning extralegal income through prostitution disentangles concepts of marital and familial cohesion and stability with moral respectability alone. Black women often appeared in the criminal record with spouses or family members as accomplices. For instance, George W. Gray and Celia Gray, his wife, were arrested and charged for "keeping a house of ill fame, commonly called a whore house" on F street near the Methodist meeting house. It is unclear whether Celia Gray herself was a prostitute, but what the record does demonstrate is that they both

¹⁷⁵ United States vs. Ann Johnson and Hannah Contee, November 1833, United States vs. Sally McDaniel, Patty Pallison, and Kell Simpson, November 1833 Record Group 21, Criminal Cases of the District of Columbia, NARA.

operated the bawdy house, making them the primary earners in their location. Marriage and family cohesion among free blacks proved particularly important in shaping their home life in a way previously denied them as former slaves. As historian Erica Ball argues in her work on antislavery life and the black middle class, marriage and emphasis on the family was also a strategy of respectability to convey moral virtue, particularly among free black women. In this case however George and Celia Gray both embraced legal marriage and disregarded the precepts of moral virtue championed by many free blacks at the time. The couple even solicited clients near a Methodist church. Rather than subscribing to the expectations of moral virtue honored by the courts and by racial uplift initiatives, some black women elaborated their own ideas about family culture. ¹⁷⁶

Organizations and institutions that worked to instill moral virtue, and values of thrift and modesty were taking shape in the form of black churches, Sabbath schools, and abolitionist societies. These centers of reform also operated as the training grounds for respectability and a burgeoning black middle-class. At times functioning independently, and on most occasions collaborating with white allies in the abolition cause, this early moment gave rise to the beginnings of a discourse on black equality in the District. Radical abolitionists were declaring equality between the races and black churches and schools focused their efforts on intentionally living up to those claims through education and religious instruction. A distinct culture of moral virtue and thrift similarly took shape among a growing class of free blacks in cities across the country, particularly Philadelphia, Boston, Charleston, and New Orleans. These free black communities

¹⁷⁶ United States vs. George W. Gray & Celia Gray, September 1833, United States vs. Eliza & Henry Butler, March 1836, Record Group 21, Criminal Cases of the District of Columbia, NARA; Erica L. Ball, To Live an Antislavery Life: Personal Politics and the Antebellum Black Middle Class, (Athens: University of Georgia Press, 2012).

distinguished their lifestyles to demonstrate moral piety, a strategy that attempted to diminish the distinctions made between blacks as a debased race and whites as superior.¹⁷⁷

Antebellum middle-class families lived with a degree of financial stability. For instance, the Wormley family owned a large livery stable between Fifteenth Street and Pennsylvania Avenue near Willard Hotel. The patriarch of the family Lynch Wormley worked as a hackman making anywhere between \$25 and \$40 per week. The sons in the family also earned land in exchange for services rendered. By 1845, he owned a hotel between E and Fourteenth Streets. Indeed, women such as Elizabeth Keckly, who did not have the financial support of a patriarch like Lynch Wormley, were considered members of the black middle class as well. Keckly arrived in the District just months before the war, earning an estimated \$2.50 per day. Once she built an elite roster of clientele she was earning at least \$25 per week in commissions alone for fabric orders, and this did not include the profit she earned from making dresses for First Lady Mary Todd Lincoln, and other wives of the political elite. The free black inhabitants that did well financially

¹⁷⁷ Erica Armstrong Dunbar, A Fragile Freedom: African American Women and Emancipation in the Antebellum City, (New Haven, Connecticut: Yale University Press, 2008); Erica L. Ball, To Live an Antislavery Life: Personal Politics and the Antebellum Black Middle Class, (Athens: University of Georgia Press, 2012); Stanley Harrold, Subversives: Antislavery Community in Washington, D.C., 1828-1865, (Baton Rouge: Louisiana State University Press, 2003); Cynthia M. Kennedy, Braided Relations, Entwined Lives: The Women of Charleston's Urban Slave Society, (Bloomington, Indiana; Indiana University Press, 2005); Martha S. Jones, All Bound Up Together: The Woman Question in African American Public Culture, 1830-1900, (Chapel Hill, North Carolina: The University of North Carolina Press, 2007).

attempted to create a social culture that diminished popular ideas about black inferiority.¹⁷⁸

Black middle-class inhabitants in Washington were invested in resistance to racial repression throughout the Civil War era. The mechanisms they deployed were rooted in uplift ideologies with origins in Christian theology. Individuals from prominent free black families supported moral conduct, the temperance movement, and economic independence. The manner in which they worked spoke to their commitment to thrift and acquiring the necessary skills for good jobs. Many of the free black women who worked as prostitutes or madams were not as preoccupied with moral reform efforts, but rather represented the target audience for racial uplift. Economically, however, the aims of both the free black middle-class and black women working in sex and leisure were not all that opposed—their activities collectively pointed towards economic independence.¹⁷⁹

The unspoken anxieties driving the discourses of black morality, aside from vices such as drinking, gambling, and adultery, was the presence of interracial sexual recreation that fueled the incomes of those working as prostitutes or managers of bawdy houses. The strategic locations of bawdy houses such as the one kept by Ann Simms, Mrs. Wurtz, and Mary Wurtz on Pennsylvania Avenue and 14th Street, could attract both

¹⁷⁸ Wormley Family. Papers, 1773-1991 (bulk 1880-1960). Accession 42649. Personal papers collection, The Library of Virginia, Richmond, VA 23219; Carol Gelderman, *A Free Man of Color and His Hotel: Race, Reconstruction, and the Role of the Federal Government* (Dulles: Potomac Books, 2012), p. 10; Jennifer Fleischner, *Mrs. Lincoln and Mrs. Keckly: The Remarkable Story of the Friendship between a First Lady and a Former Slave* (New York: Random House, 2003) p. 207-218.

¹⁷⁹ Erica Armstrong Dunbar, *A Fragile Freedom: African American Women and Emancipation in the Antebellum City*, (New Haven, Connecticut: Yale University Press, 2008); Erica L. Ball, *To Live an Antislavery Life: Personal Politics and the Antebellum Black Middle Class*, (Athens: University of Georgia Press, 2012); Stanley Harrold, *Subversives: Antislavery Community in Washington, D.C., 1828-1865*, (Baton Rouge: Louisiana State University Press, 2003)

black and white clientele. Bawdy houses found near Pennsylvania Ave, which was centrally located, were also positioned near slave auction sites. There was a relationship between the travelers involved with slave auctions and the sex economy in the District. Historical scholarship has established the broad scope of sex across the color line in the Old South. Interracial sexual relations were not only common among white indentured servant women and black men in neighboring states such as Virginia and Maryland, but as the historical literature on slavery has demonstrated, interracial sex was also common among white men and black women whether consensual or not. Therefore, while interracial sex was not often explicitly featured in local news accounts during the antebellum decades, we can assume that some white men paid fees for services at the bawdy houses of black women.¹⁸⁰

Local complaints about the manner in which black women maintained and used their properties appeared more frequently as the sectional crisis intensified during the 1850s. For instance on September 25, 1854, an article titled, "A Shocking Nuisance" commented that, "complaints are made to us of a nuisance on square 388 (Island)." This referred to a "house of ill-fame, kept by a mulatto woman" named "Indian Jane" in the alley running between E and F streets, and between 9th and 10th streets. Neighbors complained of "being constantly annoyed by the noise, profanity, and indecencies of the inmates and frequenters" of her establishment. The article ended with a request for the police to "please look closely to this nuisance." Surveillance of "Indian Jane's" bawdy house was strongly encouraged with the precise identification of the location and

¹⁸⁰ United States vs. Ann Simms, Mrs. Wurtz, and Mary Wurtz, September 1833, Record Group 21, Criminal Cases of the District of Columbia, NARA; Martha Hodes, *White Women, Black Men: Illicit Sex in the 19th Century South*, (New Haven: Yale University Press, 1997).

description of the keeper. The feature in the local news highlighted the important role of citizen policing of property owned by black and "mulatto" inhabitants of the city. Because white males comprised the largest portion of the population who could afford to participate in the sex and leisure economy, her neighbors may have been most disturbed by possible white patrons frequenting her house of ill fame—hence the invocation of "shock" in the title of the article. Interracial sexual encounters would become a more prominent feature of sex and leisure commerce during the Civil War.¹⁸¹

Scholarship on early and antebellum America has recovered instances involving liaisons between white women and black men through detailed studies of manumission records. In fact, Letitia Woods Brown's work on free blacks in the District, and Martha Hodes's study of white women's sexual liaisons with black men have used such records to identify the details of slave parentage. In the District, as was the case in other slave states, slavery was inheritable through the mother. During the antebellum era, a number of slaves filed petitions for manumission claiming white maternal parentage. Many were able to prove that their mothers were in fact white, and their fathers of African ancestry. In the eighteenth century, lawmakers identified interracial liaisons involving white women with black men as a violation of anti-miscegenation laws. In antebellum Washington, these encounters could be prosecuted under criminal laws against women leading a "lewd" life, engaging in interracial sex, or in one particular instance, for "harboring a fugitive slave."¹⁸²

¹⁸¹ "A Shocking Nuisance," *Daily Evening Star*, Washington, D.C. September 25, 1854, LOC.

¹⁸² Letitia Woods Brown, *Free Negroes in the District of Columbia, 1790-1846* (New York: Oxford University Press, 1972); Martha Hodes, *White Women, Black Men: Illicit Sex in the 19th Century South*, (New Haven: Yale University Press, 2007).

On July 28, 1854, Roberta Knoxville, "quite a handsome widow woman" was arrested and taken to jail for concealing a fugitive slave. The man was found in the chimney of her home, but his hat and shoes were discovered in her bedroom. While in the jail, she was required to stay the entire night but "begged to be confined in the cell with the negro." She served time in the jail separate from the man she harbored in her home and was eventually released. The writer implied that there was more to her relationship with the man than the typical incidents of white women harboring fugitive slaves. One year later, on the morning of April 25, 1855, the same Roberta Knoxville was arrested for "leading a lewd and indecent course of life." She was held to bail for court in the sum of two hundred dollars, and also charged for keeping a house of ill fame, "having no proof in her favor." What disturbed the court the most was not the fact that she owned and operated a bawdy house, but that she was characterized as "a good looking white woman who seeks her companions from among the colored population." At this point, Knoxville had gained a reputation for romantically entertaining black men. Consequently, she was sent to the workhouse for thirty days and the reporter concluded that, "truly the way of the transgressor is hard." Knoxville's case was rare in the publicity it received. Even if interracial relationships were common in antebellum Washington, cases involving interracial prostitution networks did not appear in the local print sources regularly until the war. Sources feature black and white women's bawdy houses as independent of each other during the antebellum era.¹⁸³

The high fees that black women were fined for maintaining bawdy houses indicates that it was a profitable venture, mainly because the criminal record offers

¹⁸³ "Concealing a Negro," *Evening Star,* Washington, D.C. July 28, 1854; "Police," *Evening Star*, Washington, D.C. April 25, 1855, LOC.

evidence that these women were able to pay the fines and released from jail. By the 1850s, many black women in charge of bawdy houses were repeatedly jailed, fined, and released. Black prostitutes, however, were often fined and sent to the workhouse, mainly due to their inability to pay the fines. This evidence reveals that to operate a bawdy house proved far more profitable than to be a prostitute. The ability of madams to control the rates, and recurrently pay exorbitant fees places their income earning abilities beyond levels of poverty. Their disregard for the moral sentiments espoused by both black and white middle-class reformers, however, made them associated with the lower classes. And there still existed limitations as to what a black woman could earn as a prostitute or keeper of a bawdy house. As Cynthia Blair's work demonstrates, racial inferiority was still inscribed in the exchanges and expectations of black prostitutes, including lower compensation for sexual encounters. White women could charge higher rates for their services, and a few made quite a name for themselves at the coming of the Civil War.¹⁸⁴

Wartime Sex Economy

When the war started, prostitution surged in the city, even as a process of wartime emancipation was underway. An 1860 article in *The Daily National Republican* lamented that, "It is impossible to conceive anything more harrowing to the feeling than the negro breeding State, where boys are reared for the lash, and girls for prostitution." The article captured antislavery anxieties concerning the brutality of slavery in the South and the ways bondage affected the moral condition of slaves. Poverty brought on by the

¹⁸⁴ Cynthia M. Blair, *I've Got to Make My Livin': Black Women's Sex Work in Turn-ofthe Century Chicago*, (Chicago: University of Chicago Press, 2010); Negro Taxpayer Registers between 1830 and 1845 indicate that free blacks paid anywhere between fifty cents to twenty-four dollars.

war presented challenges that led women to what the editorial considered unique to the South—prostitution. An influx of new freedmen, women, and escaped slaves journeyed to the city looking for ways to earn income; they found themselves in a teeming, overcrowded city with limited employment options. Black women were largely confined to domestic service, laundry, and cooking jobs—all of which paid the lowest wages. Those looking for an alternative to domestic service employment, or those simply eager for any source of income, food, and housing, looked to the burgeoning sex economy.¹⁸⁵

Black and white prostitutes were repeatedly funneled into the jails and courts for their disruptive activity in the city. Targeted for their participation in selling sex and leisure, black prostitutes in particular, were typically arrested for disorderly conduct, profanity, and for theft. This was true for the black women that frequented the military camps. Accused of stealing "military goods," three black prostitutes, Josephine Picton, Elizabeth Wilson, and Sarah Gonefs were arrested together and turned over to the military for possessing property belonging to the military. Similarly, Annie Grant was arrested for robbing a drunken soldier of fifty cents. Black women prostitutes seized various opportunities for financial and material gain, capitalizing on the resources of the military and enlisted soldiers. Additionally, black women interacted with soldiers by soliciting their patronage for their respective sex enterprises.¹⁸⁶

¹⁸⁵ "England and Slavery," *Daily National Republican*, December 10, 1860, LOC.
¹⁸⁶ Record Group 351, Daily Returns of Precincts, Records of the Metropolitan Police; Records of the City of Washington, the Territory of the District of Columbia, Washington, D.C., NARA.

Name	Inmates	Class
Julia Thomas	4	3
480 13 th Street		
Two Houses	4	4
Rear of 348 E. Street		
Misses Seal and Brown	6	Low
13 Marble Alley		
Theadosia Herbert	5	1
Tin Cup Alley		
Rebecca Gaunt	4	2
Tin Cup Alley		
Sarah Wallace	5	2
Tin Cup Alley		
Sophia Harbour	2	1
489 3 rd Street		
Josaphine Webster	12	Low
Fighting Alley		
Biloy Becket	5	Low
243 E Street near 3rd		
Levinia Pergins	3	2
352 Virginia Av.		
Emily Brown	6	Low
H Street. Near 20 th Street		

Table 4.1 Coloured Bawdy Houses

At the beginning of the war, the Provost Marshal recorded 450 registered bawdy houses and the *Evening Star* reported 5,000 prostitutes working in Washington City alone and not including the 2,500 women in Georgetown and Alexandria who worked in the wartime sex economy. Table 4.1 shows a register of twelve "coloured bawdy houses" managed by the Provost Marshal towards the end of the war around 1864. The register documented addresses that were often difficult to find because of their location among hidden alley communities. The record listed the number of inmates according to a hierarchy among this cluster of bawdy houses with "1" being the best and "low" being the worst. This classification system may also be an indicator of the "class standing" of clientele the bawdy house attracted.¹⁸⁷

The sex economy experienced a boom in wartime Washington with the arrival of thousands of soldiers coming to serve the Union. What was formerly a quiet, somewhat sleepy town, became overcrowded with former slaves, soldiers, migrants, and cramped alley dwellings. One feature in the Daily National Republican reported that, "As houses for illicit and disreputable purposes are on the increase in this city, it has been determined upon by the proper military authorities to close them up." It was noted that, "in many instances soldiers are found in these places beasty drunk, when they ought to be with the army." The sex and leisure activities of soldiers and local citizens conflicted with the image of the District as a patriotic beacon for the war effort. Additionally, local religious leaders immediately expressed concern over the vices of the District during the war. At the monthly meeting of the Young Men's Christian Association of Washington in the fall of 1862, the members in attendance discussed the "spiritual wants of the soldiers," and the "spiritual and temporal welfare of the soldiers." In his remarks, Reverend Lancey of the army "spoke of the propriety of this association, taking some measures to repress the vices so generally prevalent in Washington at this time, especially the vice of prostitution." What was a concern for the activities of soldiers additionally translated into a preoccupation with a revived sex economy in the District.¹⁸⁸

During the war, court officials addressed the need to bring social order to the capital and attention to the vices that plagued the city. A grand jury organized to address

¹⁸⁷ Vol. 298, RG 393, Provost Marshal, 22nd Army Corps, District of Columbia, NARA.
¹⁸⁸ "Houses of Ill-Fame Closed," *Daily National Republican*, Washington, D.C. June 24, 1863; "Regular Monthly Meeting of the Young Men's Christian Association of Washington, *The National Republican*, Washington, D.C. October 27, 1862, LOC.

criminal activity in the District was charged by Chief Justice Cartter to serve as the "conservators of the moral health of the District." According to an article entitled, "The City in Danger of the Fate of Sodom," the presiding justice stated further that, "It is your duty to inquire into crime and bring the criminals to punishment." Justice Cartter noted that criminal activity in the District was distinctive arguing that, "there are thrown upon the District a vast deal of crime on account of having so many here from all parts of the This "distinctiveness" pointed to the racial and ethnic diversity that world." characterized mid nineteenth-century Washington and the fear of interracial sexual liaisons that grew more common during the war. Identifying prostitution as a major vice expanding in the city, he concluded, "The nymphs of prostitution, with painted effrontery, insult honest women. This is the only glaring, unblushing crime wandering about our streets." As men flocked to the capital for a variety of reasons, mainly as a result of the demands and effects of war, sex entrepreneurship became increasingly more profitable. For some women, a life that snubbed the parameters of true womanhood became more appealing.¹⁸⁹

Sex commerce affected the broader war effort across the North and the South. With a few exceptions, scholars have briefly nodded to this area of sex work during the Civil War. Throughout the war, women known as "camp followers" traveled with military camps for a variety of reasons. Some women were wives and family members who desired to remain close to loved ones, others may have worked as nurses, cooks, domestics and seamstresses. Some of the women that were considered "camp followers,"

¹⁸⁹ "District Criminal Court: Charge of Chief Justice Cartter to the Grand Jury—He calls their attention to the Social Vices of the District—The City in Danger of the Fate of Sodom," *The National Republican*, Washington, D.C. June 20, 1864, LOC.

or "public women," worked as prostitutes. In Tennessee, prostitution became so rampant, that an estimated 1,500 women worked as prostitutes. Moreover, Provost Marshal George Spalding, and General William Rosecrans became preoccupied with regulating the proliferation of sexually transmitted diseases such as syphilis and gonorrhea. Overall, more than 180,000 soldiers suffered from venereal diseases. Unable to control the sexuality of women and soldiers, the nation's capital also gained nationwide attention for the growth of prostitution. The "problem of prostitution" was exasperated by the profitability of sex work at a time of economic uncertainty. Looking to prostitutes at this particular moment, helps us understand the ways black and white women capitalized on wartime conditions in the District. ¹⁹⁰

At the beginning of the war, the Provost Marshall of the District began an aggressive campaign against prostitution, while others such as General Joseph Hooker wanted to geographically contain the sex industry to monitor the whereabouts of Union soldiers. Named after Brigadier General Joseph Hooker, "Hooker's Division" a hotbed of sex commerce in the District—existed near what is today referred to as Federal Triangle and extending into the current location of the National Museum of the American Indian. Hooker convinced many managers of bawdy houses to offer their services in a designated location in order to more closely monitor the activities of soldiers during the Civil War. This was likely an effort to deflect and contain unwanted solicitations of

¹⁹⁰ Anne Butler, *Daughters of Joy, Sisters of Misery* (Champaign: University of Illinois Press, 1987); Catherine Clinton, "Public Women and Sexual Politics during the American Civil War," *Battle Scars: Gender and Sexuality in the American Civil War* (New York: Oxford University Press, 2006) p.14-22; Judith E. Harper, *Women during the Civil War: An Encyclopedia* (New York: Taylor and Francis, 2004) p.308; Thomas P. Lowry, *The Story the Soldiers Wouldn't Tell: Sex in the Civil War*, (Mechanicsburg, PA: Stackpole Books, 1994) p. 29; Mary Massey, *Women in the Civil War* (Lincoln: University of Nebraska Press, 1966)

prostitutes or local "camp followers" in area military camps. Prostitutes were often arrested along with soldiers, showing a connection between the growing sex and leisure industry and the presence of soldiers. The coverage of prostitutes in the press, and their appearances before the courts, placed them in the public sphere in ways that would otherwise only be seen in the context of elite white women making appearances at political levees and private parlors.¹⁹¹

One white woman in particular loomed large in accounts of wartime prostitution. Mary Ann Hall was listed as early as 1840 in the census as the owner of a bawdy house that included, "five white females, one free colored woman, and one colored male slave." Hall's establishment was emblematic of the racial hierarchy of the antebellum and wartime sex economy. Her inmates were white, and those working in the capacity of servant or slave were black. While she was not considered respectable, Hall accumulated enough wealth to create a lifestyle of luxury and slave ownership—economically she was just as prosperous as other white elites.¹⁹²

By the beginning of the Civil War, Hall's real estate property was valued at \$14, 600, and she was considered "well-established." Catering to clientele elite enough to support the finest cuts of meat, bottles of Piper-Heidsieck champagne imported from France, and corsets made by Jean-Paul Gautier, Hall was infamous for her expensive taste. Situated conveniently on the national mall, a few blocks from the Capitol building,

¹⁹² United States Bureau of the Census 1840; District of Columbia Tax Records, 1843;
Papers relating to the Estate of Mary Ann Hall, District of Columbia Archives,
Washington, D.C. 1886, 1896; "The Estate of Mary Ann Hall," *The Evening Star*,
Washington, D.C. February 11, 1886, LOC.

¹⁹¹ Earnest B. Ferguson, *Freedom Rising: Washington in the Civil War*, (New York: Alfred A. Knopf, 2004); Thomas P. Lowry, *The Story the Soldiers Wouldn't Tell: Sex in the Civil War*, (Mechanicsburg, PA: Stackpole Books, 1994); Jean H. Baker, *Mary Todd Lincoln*, pp. 184-185.

Hall's establishment was regarded as the ultimate haven for luxurious leisure for men who could afford to pay. Her parlor exemplified a lavish display of domesticity, affirming elite men's desires for power and prestige through exclusivity and indulgence. The clients' desires were fulfilled through the experience offered at Hall's establishment, while she capitalized on an opportunity to build real wealth unparalleled by any other brothel in the city. Hall's proximity to political power players that often seasonally resided in the capital, without a companion to accompany them, made her establishment an important feature of elite white men's lives and leisure, while contesting the efficacy of true womanhood.¹⁹³

Mary Hall encountered both legal troubles and unquestionable financial success. A local celebrity during the war, Mary Hall was charged for "keeping a bawdy house" as many other women were, but her case appeared extensively in the press. When she entered the courtroom, she came with an entourage of supporters and donned "a suit of virtuous black." She was the most successful among a group of notorious brothel keepers that included, "Ann Benter of Tin Cup alley, Ellen Bride of Pear Tree alley, Mary Heissler, better known as 'Dutch Mary,' of Third Street." Hall's establishment more specifically, thrived for at least two decades without any serious legal trouble. She maintained her business through the war and retired in 1878. By the time of her death in 1888, Mary Hall's estate was worth an estimated \$100,000—no small fortune for any woman or man during the nineteenth-century. Hall died wealthy, leaving a generous

¹⁹³ United States Bureau of the Census 1840; District of Columbia Tax Records, 1843;
Papers relating to the Estate of Mary Ann Hall, District of Columbia Archives,
Washington, D.C. 1886, 1896; "The Estate of Mary Ann Hall," *The Evening Star*,
Washington, D.C. February 11, 1886; "The Farm of Mary Hall in Alexandria Co.," *The Evening Star*, Washington, D.C., October 21, 1886; "Locals," *The Evening Star*,
Washington, D.C. September 20, 1872, LOC.

inheritance to her two sisters with whom she worked. Mary Hall was well known by black and white residents of the city. Undoubtedly, black madams and prostitutes also knew of her and the extent of her success. Black and white prostitutes interacted frequently, often working alongside one another in the same alleys and bawdy houses.¹⁹⁴

Interracial bawdy houses were a common feature of the sex economy in Civil War Washington. News reports included cases where both white and black prostitutes worked in the same establishment. On January 26, 1860, Ellen Johnson, a black madam was put on trial for keeping a bawdy house between F and Twenty-sixth Streets in the First Ward. One witness testified that he had seen "deeply veiled white women go there and go in the gate." He testified further, that "men and women of lewd reputation go in there," and that, he has "even seen a little girl not above 14 years of age go in there." Another witness stated that he worked for Ward, he "once saw a girl go there and a man went upstairs with her". Ward informed the witness that the girl he saw was "the daughter of a clerk in the Patent Office." The witness also testified that he also saw "a respectable man, an officer in the Marine Corps" take a woman upstairs with him. The madams of these interracial bawdy houses understood the variety of preferences and conveniences that lured male clients into their particular establishment. Additionally, it was not uncommon for men of respectable standing to patronize these "lewd" spaces of sexual

¹⁹⁴ "Cyprian Affinities," *The Evening Star*, Washington, D.C. March 13, 1863; "Heavy Raid Upon the Fancy, the Big Establishments Attended to Mary Ann Hall and Others of the Elite Marched up to the City Hall," *The Evening Star*, Washington, D.C. January 15, 1864; "Bawdy House Case—Trial of Mary Ann Hall," *The Evening Star*, Washington, D.C. February 19, 1864; "Criminal Court," *The Evening Star*, Washington, D.C. February 20, 1864; "Criminal Court," *The Evening Star*, Washington, D.C. February 20, 1864; "Criminal Court—Trial of Mary Ann Hall on Charge of Keeping a Bawdy House," *The Evening Star*, Washington, D.C. February 22, 1864; "Supreme Court," *The Evening Star*, Washington, D.C. March 9, 1864, LOC.

leisure, mainly because they were financially positioned to consistently frequent bawdy houses.¹⁹⁵

During the war, black women appeared in the precinct reports as prostitutes as young as fifteen. In 1862, a group of four prostitutes were arrested, G. Simms at the age of 17, Hester Neil 15, Julia Coley 17, and Jane Washington 18 years of age. None of these young women were able to read or write, indicating that they did not attend the local colored schools but probably worked to earn income for their own survival or to contribute to their family households. Each of them were charged for disorderly conduct, and fined \$3.94 all of which they were able to pay in order to be released. There was no mention of them being associated with a local madam, but at a young age they decided to enter into the sex and leisure industry. That same year, two "colored servant girls" were arrested and charged for prostitution at the age of 16. All of these young women were arrested the same year that President Abraham Lincoln issued the District of Columbia Emancipation Act. Many young black women while becoming free, experienced separation from families, left their former masters or employers, and ventured out on their own in the hopes of earning a living as free women. For some, prostitution proved to be the only alternative in a city overcrowded with recently freedwomen, men, and children. But white anxieties were more directly pointed toward young white girls.¹⁹⁶

¹⁹⁵ "Criminal Court," *The Evening Star*, Washington, D.C. January 26, 1860, LOC.
¹⁹⁶ Record Group 351, Daily Returns of Precincts, Records of the Metropolitan Police; Records of the City of Washington, the Territory of the District of Columbia, Washington, D.C, NARA; An Act of April 16, 1862 [For the Release of Certain Persons Held to Service or Labor in the District of Columbia], NARA, General Records of the United States Government, Record Group 11; United States Congress, *Congressional Globe*, 39th Congress, 1st Session pp. 1507-1508.

Reports of young white girls being "enticed" by black women to work as prostitutes also caused local concern. On December 7, 1861, a white girl, thirteen years old, was retrieved from a house of assignation kept by a mulatto woman who they referred to as "a yellow woman." The feature noted that this was the third instance that week in which the police was called upon by "distressed relatives of girls (minors) to recover them from houses of ill fame." Furthermore, the article offered that, "there is no law here punishing the keepers of bawdy houses for harboring or enticing away girls under age from their homes." With an emphasis on the disturbing racial dynamic of this particular incident, the writer argued that, "the fact that the victims of such villainy are white, will not disqualify them, it is to be hoped, as candidates for redress at the hands of a black woman pointed to the reporter's insinuation that this crime was of particular offense to the "distressed" families of white girls vulnerable to the sex industry. The wartime sex economy, however, was becoming visibly more interracial than before.¹⁹⁷

Reports of interracial prostitution networks and busts appeared recurrently throughout the Civil War. At the beginning of the war, the police arrested Hester Chase, Mary Dorsey, Mary Shipley, Mary Fergerson, and Hannah Queen for prostitution along with five other white prostitutes found at the same venue. In 1862 some of the same women reappeared in the record when *The National Republican* reported breaking news of a descent upon a cluster of bawdy houses in the Seventh Ward. About ten "vile characters" were arrested for prostitution, two of which were black women. Shortly after, another "batch of beauties," including one black prostitute, "graced the magistrate's

¹⁹⁷ "Rescued," *The Evening Star*, Washington, D.C. December 7, 1861, Library of Congress.

office." The next group that came before Justice Stratton included eight prostitutes, two of which were black. At 11 o'clock that same evening three more women were arrested for prostitution including two black women, Mary Ward, and Mary Brown. The white woman arrested with Ward and Brown was fined the highest amount at \$20.94 for selling liquor, which may also indicate that she functioned as the madam in this particular bust. The paper described the women as representative of "all complexions and degrees of beauty or decay, with mixtures of chalk, paint, tinselry, and ribbons." These particular busts marked a targeted effort to intervene in incidents where interracial prostitution networks began taking shape. While black and white women may have collaborated prior to the war, strong evidence didn't appear until the 1860s—indicating a visible interracial sex economy.¹⁹⁸

The press consistently captured details of the police raids of local bawdy houses. For instance, in the Fourth Ward, at the "notorious den" of Eliza Crittenden in Prather's Alley, five prostitutes were arrested including Mary and Annie Eaton who were black. A madam could not afford to employ a prostitute in her care if she did not generate the expected interest from clients. Thus Mary and Annie possibly catered to returning, possibly white, clients. In the same bust, two black men found in the house were also arrested, but it is uncertain as to whether they were clients or servants in the house. They were immediately released as "nothing could be proved against them." The two black men were likely servants, porters, or hackmen employed by Crittenden. It was not

¹⁹⁸ Record Group 351, Daily Returns of Precincts, Records of the Metropolitan Police; Records of the City of Washington, the Territory of the District of Columbia, Washington, D.C., NARA; "Breaking Up the Bawdy Houses," *The National Republican*, Washington, D.C. September 22, 1862, LOC.

unusual for black women and men who worked as servants in these establishments, to end up in jail as a result of a prostitution bust.¹⁹⁹

Black servants were often caught up in the police raids of bawdy houses. In an article titled, "A Den of Infamy Broken Up" featured in the Daily National Republican, "a most abominable house of prostitution" was broken up by the infantry patrol of the Tenth New Jersey. Ordered by the Provost Marshal, the detachment went to the house after it had "been complained of as a filthy den, a rendezvous for the assemblage of the vilest characters of both sexes, and of the worst class of soldiers." Those arrested included eight prostitutes, military engineer Sergeant Weyton, nine soldiers, one citizen, and three colored servants. Collaborative gatherings that targeted military clientele, revealed that prostitutes, madams, and their servants were a key feature of the urban wartime landscape, particularly in the context of opportunities for leisure among soldiers. All were taken to the central guardhouse, and the Provost Marshal gave the women twenty-four hours to leave the city. The nine soldiers, citizen, and military engineer were not ordered to leave the city. Many of the narratives concerning prostitution busts emphasized the need to monitor the sexual and leisure activities of soldiers—this typically involved getting rid of the women. Much like the anxieties expressed by the local Young Men's Christian Association, and the Justices of the criminal courts, the moral character of Union soldiers were of central concern in wartime D.C. At a moment of national crisis, the prostitution enterprises of the District disrupted efforts to designate Washington as a public symbol of social order and civic and moral virtue. In addition to

¹⁹⁹ "Breaking Up the Bawdy Houses," *The National Republican*, Washington, D.C. September 22, 1862, LOC.

the news attention created by the busts, the raids on these bawdy houses were particularly costly for those working in them.²⁰⁰

Among those arrested in the "Den of Infamy," three servants went to jail for their association with the bawdy house. As a result of the raid, and the subsequent sentence that required the women to leave the city, they lost their jobs. Some servants were exploited by their employers, and when given the opportunity, exposed managers of the houses. One cook was called upon to testify in court against owners of a bawdy house near D Street. She stated, "Nobody has yet paid me for cooking; I haven't got my pay yet; Miss Roberts was my employer." One keeper of a bawdy house who maintained the house with his wife was arrested for selling liquor without a license. His servant "testified to her own prostitution with the man from whom the house is rented," at the direction of the wife, who also worked as a prostitute. Depending on the establishment, working at a bawdy house was often wrought with instability, and vulnerability to exploitation.²⁰¹

On rare occasions there were specific conditions that black women may have found appealing in entering the sex industry as servants. Black men and women working as servants and cooks at prominent bawdy houses often received room and board, and comparable wages depending on the success of the establishment. The infamous Mary Ann Hall was said to have "maintained a classic 'parlor house' frequented by "men of wealth and distinction." Hall kept colored servants and her house was known to offer "material comforts" to those who were among her employ. Some servants gained

²⁰⁰ "A Den of Infamy Broken Up," *The Daily National Republican*, Washington, D.C. December 19, 1862, LOC.

²⁰¹ Ibid; "The Trial of Major Burdnette," *The National Republican*, Washington, D.C. November 5, 1863, LOC.

exposure to the details of operating a prosperous bawdy house in hopes of entering the industry themselves.²⁰²

Sex Entrepreneurship, Autonomy, and Vulnerability

For a variety of reasons, primarily economic, black women worked in the sex and leisure industry in wartime Washington. During the war, white men were patrons of bawdy houses owned by black women. One black woman named Kate Ford, was often caught with white men and arrested for keeping a bawdy house between Eleventh and O Streets. Three additional black prostitutes were arrested, along with two white men, and taken before the presiding justice for further hearing. Getting caught in a bawdy house could be embarrassing for white men, particularly if it is understood that they sought the services of black women more specifically. A book titled, Mysteries and Miseries of America's Great Cities, commented that, "men couldn't really be expected to control their sexual appetites." Branding white men in particular as products of their own lust, in some ways excused them from their underground excursions to black-owned bawdy houses. Similarly, white slave owners known to have sexual encounters with enslaved women were thought to be momentarily, "possessed by evil," or overtaken by "the devil." Such sentiments made white men's sexual escapades a minor offense or even excusable at a time when anti-miscegenation was a popular and widely accepted legal concept. While race was not a deterrent for white patronage, assumptions about black women's

²⁰² "Bawdy House Case—Trial of Mary Ann Hall," *The Evening Star*, Washington, D.C. February 19, 1864, LOC.

racial inferiority factored into the perceptions of bawdy houses owned by black women.²⁰³

An article titled, "Low Bawdy House" featured an arrest initiated by the Tenth New Jersey on Fifteenth Street near M Street. This house was considered particularly "low" or debased due to its black ownership and also because it involved the common practice of robbery. The guard arrested "the keepers, man and woman, who are charged with robbing money from a colored man who visited the place." The fees acquired at bawdy houses that serviced black men specifically, were not always as lucrative as the managers and prostitutes expected, often causing them to lure men into an establishment under the guise of offering sexual services but ending in robbery. The arrests did not deter the keepers from maintaining their operation. After serving time at the central guardhouse, the house was, "ordered to be closed several weeks since, but they have repeatedly violated the order." Black women involved in sex commerce consistently lived in and out of jail. In the first ward, Maria Payne, was arrested and jailed for keeping a bawdy house at the corner of 18th and E Streets. Amanda Mathews was also sentenced to jail for keeping a bawdy house. The duration of jail time could range from one week to sixty days in the workhouse. Many of the women were released after paying hefty fines for assurance of their good behavior.²⁰⁴

²⁰³James William Beul, *Mysteries and Miseries of America's Great Cities, Embracing New York, Washington City, San Francisco, Salt Lake City, and New Orleans*, (St. Louis, MO: Historical Publishing Co, 1883).

²⁰⁴ "Low Bawdy House," *The National Republican*, Washington, D.C. October 9, 1862; "Committed for Court," *The Evening Star*, Washington, D.C. March 27, 1867; "Criminal Court, Judge Fisher Presiding," *The National Republican*, Washington, D.C. December 27, 1866, LOC.

Black women and men were entrepreneurial in maximizing the use of the properties they managed. For instance, Theodora Herbert was charged with keeping an "ill-governed and disorderly house," commonly referred to as a bawdy house. The multiple designations used to characterize Herbert's establishment points to the inconsistencies in the charges against her and the testimonies offered in court. While there were those who testified that there were people of lewd character, one witness shared a different experience. Laura Thompson, a white woman, testified to her having, "lived in the house of defendant as a boarder, and paid the defendant bed money." Thompson further offered that she remembered "respectable persons" visiting the house. The charges of prostitution upheld and Herbert was fined five hundred dollars. Thompson's testimony demonstrates that black women used their property for a variety of purposes other than sex work. The same held true for black men in the city who strategized about ways to use their property. Amos Pratt was charged with keeping a disorderly house, occupying the fourth story of the Woodward building. After a round of testimonies, it was clear that Pratt at times "held religious meetings of very respectable colored people" and at other times hosted "assemblages of disorderly, lewd, and drunken colored persons." At his place, he hosted "dances," and at times "made such a noise as to be heard two squares, and used profane and indecent language." Pratt argued that his hall "was not more disorderly than others in the neighborhood," and the witness could hear "only 'colored noise' and was deaf to 'white noise."" Pratt desired the same degree of privacy and autonomy afforded his white neighbors, who made just as much noise as the black residents.²⁰⁵

²⁰⁵ "United States Cases," *The Evening Star*, Washington, D.C. June 11, 1860; "Given

Madams and owners of "disorderly houses" that offered liquor, sex, and gambling for black male patrons, appeared more visibly towards the end of the war as black men became increasingly positioned to pay for such recreation. Arrested earlier for her involvement with interracial prostitution networks in 1862, Eliza Crittenden reappeared in the press at the end of the war. Her second featured appearance in the press, an article titled "Raid on Lize Crittenden's," captured the "descent" upon the bawdy house she operated in Prather's Alley. Of those arrested included, "five colored men and three colored women" which were reportedly found "playing cards." They were taken to the fourth ward station and charged for being disorderly. The reporter noted that one of the men arrested held a razor in his possession and informed the reader that a razor was "the favorite negro weapon." The man with the razor was fined \$10, and everyone else involved paid a fine of \$5 each. Eliza was not home at the time of the bust, but she was found the next morning and held in jail for further hearing. When Eliza was arrested in 1862, she went to jail along with the prostitutes she employed and the white male clients that patronized her establishment. The arrest of 1866 shows evidence of a sex and leisure business that increasingly serviced black men.²⁰⁶

Towards the end of the war, the effort to shut down bawdy houses gained traction with more targeted raids and mounting fines against both black and white proprietors. A report of the Chief of Military Patrols and Detectives, published in the *Daily National Republican*, shows the police force in "very efficient condition" asserting that during the month of March "their labors were herculean." In one month, twenty-six people were

Up," The Evening Star, Washington, D.C. June 22, 1860, LOC.

²⁰⁶ "Raid on Lize Crittenden's," The Evening Star, Washington, D.C. September 10, 1866; "Breaking Up the Bawdy Houses," *The National Republican*, Washington, D.C. September 22, 1862, Library of Congress.

arrested for selling liquor to soldiers, seven for selling liquor without a license, twelve for selling liquor on Sunday, and a total of ten bawdy houses broken up. Entrepreneurial black women were caught up in these arrests as it was the job of black madams to offer libations to patrons, but because they were black they were not permitted to obtain licenses to sell liquor. Of the ten bawdy houses seized, the women were ordered to vacate the premises, "which were either permanently closed, or turned over to their owners on the promise of renting them to families of respectability." The local police force persistently made efforts to dismantle opportunities for sex and leisure commerce. On April 16, 1866, one writer of the Evening Star observed, "the officers of the Seventh Ward seem to be earnestly engaged in rooting out the dens of infamy which have so long disgraced portions of that large ward." The article continued with claims that the seventh ward, in particular, have "been a cause of annovance to the order-loving residents of the Island." Officers reportedly arrested a number of bawdy houses and additional officers reported seven more raids. Of those arrested, five of the owners of bawdy houses were white and dismissed, and two, Virginia Magruder and Caroline Adams were black and held to bail for court. The feature concluded, that the officers of the Seventh Ward "succeeded in ridding that locality of a great many notorious characters within a few months."207

²⁰⁷ "Report of the Chief of Military Patrols and Detectives," *The Daily National Republican*, Washington, D.C. April 5, 1864; "In Earnest," *The Evening Star*, Washington, D.C. April 16, 1866, LOC.

Conclusion

On the surface, the antebellum sex economy appeared to represent a racially segregated enterprise that was largely regarded as a "tolerable nuisance." By the advent of the Civil War, the places of sex and leisure became increasingly interracial, and both black and white prostitutes attracted scrutiny in the local news. Interracial prostitution networks formed during the war, largely due to the changing demands and preferences that came with an influx of men from a variety of regions in the country. Undoubtedly, white men patronized establishments that offered interracial sexual pleasure and the discretion that was expected of those businesses. Local officials and religious leaders supported more aggressive efforts to dismantle, both black and white, sex enterprises in the city during the war. In an 1866 article titled, "Improving," the police reported that, "respect for the Sabbath is being restored." The war inspired officials to lead a charge against the presence of prostitutes who "prey upon the army," and made "fortunes from unprincipled men." The report offered that, "where the Sabbath was passed in dancing and drunkenness has suddenly quieted down." The officers were glad to finally "return a 'clean sheet' to the Superintendent," that morning.²⁰⁸

Attempts to control the sex and leisure industry may be attributed to the changing nature of the local sex economy including the increasingly interracial character of prostitution. Additionally, the economic incentive for women entering an expanding sex industry, and the unquestionable appeal of sex and leisure for enlisted soldiers and other military officials, created a real market demand for their services. The implications of these factors expose the instability of nineteenth-century ideas about race and gender.

²⁰⁸ "Improving," *The Evening Star*, Washington, D.C. January 29, 1866, LOC.

The social mores of the nineteenth century promoted the illusion that the sexual interests of black women and men, and of white women and men were unconnected racial and gendered relationships. Interracial prostitution enterprises challenged ideas about white male desires for white women alone inasmuch as white men paid for the sexual services of black women. Nonetheless, the fact that black women's sexual labor could be exploited by conceding to lower compensation than white women further maintained racial hierarchies within the local sex economy. The sex economy offered very real incentives in entrepreneurial work, and potential collaboration with other workers, but came also with the vulnerability to violence, exploitation, and venereal disease. In the midst of the instability brought on by the war, and wartime Emancipation, sex work in a bawdy house offered a means through which one could obtain food and housing. Sources do not support the idea that black women were as successful as the infamous Mary Hall, who lived a life of wealth and luxury, but records do show black women's ability to evade imprisonment by paying exorbitant fees associated with arrests. The ability to pay high fees, and the decision to continue sex work at the risk of recurring arrest, shows that some black women found prostitution amenable to their income earning goals. The tension in black women's sex work remains in the degree of autonomy afforded in its entrepreneurial context, and the subsequent sexual commodification and possible exploitation that came with it.

CHAPTER FIVE: UNTENABLE FREEDOM: BLACK WOMEN AND WARTIME EMANCIPATION IN WASHINGTON, D.C.

Black women have historically been engaged in a continuous struggle for liberation and survival well before and after the Emancipation era. Civil litigation, military emancipation policies, and wartime appeals for freedom and assistance recorded by the District of Columbia Board of Commissioners, along with the Secretary of War, uncover how the actions of black women shaped meanings of freedom in the moment of legal emancipation. At the beginning of the Civil War, enslaved and free women experienced a national capital run by local Democrats who were sympathizers of secessionism and supporters of a criminalizing black code. The war catalyzed the city's transformation from a southern slaveholding depot to a hotbed of radical Republican reform. This study explores the impact of wartime policies, many enacted through martial law, and the manner in which enslaved and free black women navigated these legal developments. The women discussed here, traveled through various parts of the District, "contraband camps" in Virginia, and the loyal slave state of Maryland.

Historical literature investigating wartime emancipation in the District analyzes the developments of policy throughout the course of the Civil War. For instance, in *Freedom National: The Destruction of Slavery in the United States, 1861-1865*, James Oakes argues that President Abraham Lincoln, along with the Republican Party, enthusiastically embraced the abolition of slavery through numerous forms of military emancipation, which culminated in the passage of the Thirteenth Amendment. In other words, Lincoln and Republican legislators were eager, not reluctant, emancipators, and utilized any means permitted by the Constitution. In *Lincoln's Citadel: The Civil War in Washington, D.C.*, Kenneth Winkle emphasizes the importance of Washington, D.C. as the most critical military junction of the Union—a space that remained vulnerable to Confederate occupation and Union defeat in the event that the city fortifications failed. Regarding emancipation, Winkle sees Lincoln as cautious and ambivalent, stressing that Lincoln began his presidential term focused on stalling the westward expansion of slavery rather than on immediate emancipation in the South. Focusing on African American experiences in postwar Washington, Kate Masur looks at equality and citizenship through the lens of political experimentation. In *An Example for All the Land: Emancipation and the Struggle for Equality in Washington, D.C.*, Masur frames black political objectives at the time as "upstart claims" or aims for equality that preceded existing policy. Furthermore, she characterizes the nation's capital as the critical laboratory through which Congress politically experimented with racial equality. These scholars, as well as others such as Barbara Fields, Eric Foner, Steven Hahn, and David Williams have provided rich analyses that further our understandings of the provisional and makeshift quality of flawed Emancipation era policies.²⁰⁹

This chapter is concerned with the manner in which freedwomen persevered through the deficiencies of wartime policy by reconstituting their lives and labor. Specifically, this chapter will explore the visions and meanings that black women

²⁰⁹ James Oakes, Freedom National: The Destruction of Slavery in the United States, 1861-1865, (New York: W.W. Norton & Company, 2013); Kenneth J. Winkle, Lincoln's Citadel: The Civil War in Washington, D.C., (New York: W.W. Norton & Company, 2013); Kate Masur, An Example for All the Land: Emancipation and the Struggle Over Equality in Washington, D.C., (Chapel Hill: University of North Carolina Press, 2010); Barbara Fields, Slavery and Freedom on the Middle Ground: Maryland during the Nineteenth Century, (New Haven: Yale University Press, 1985); Eric Foner, Nothing but Freedom: Emancipation and its Legacy, (Baton Rouge: Louisiana State University Press, 1983); Steven Hahn, A Nation under Our Feet: Black Political Struggles in the Rural South from Slavery to the Great Migration, (Cambridge: Harvard University, 2004); David Williams, I Freed Myself: African American Self-Emancipation in the Civil War Era, (New York: Cambridge University Press, 2014).

ascribed to freedom. As discussed herein, enslaved and free black women grappled with an emancipation landscape that labeled them as law breakers. Interrogating and challenging cultural ideas about black female criminality, which nineteenth-century accounts tied to violence, immorality, or vagrancy, this chapter suggests that opportunities for wartime escape from slavery, along with circumstances of overcrowding, poverty, and disease, forced black women into survival—and law breaking—mode. These women made claims to freedom, whether lawful or unlawful, depending on whether they came from a rebel or loyal state. Even in contraband camps, where black women and children were governed under Union authority, they were considered burdensome and often accused of vagrancy—a term used to criminalize the unemployed and homeless. These women, in turn, were "punished" for such offenses via neglect, violence, or return to slavery. Within this context, this study explores their law breaking as a form of necessity or survival, noting the manner in which black women were caught in the currents of war and rapidly changing emancipation policies.²¹⁰

Enslaved and free black women took advantage of the geographical and political position of Washington, D.C., particularly in instances where they arrived from slaveholding states during or after 1862. Many of them traveled to the District from Virginia, a bastion of the Confederacy, and the loyal slaveholding state of Maryland. According to the laws and customs of the Confederacy, black women coming from

²¹⁰ See Kinsely Huggins, From Slavery to Vagrancy in Brazil: Crime and Social Control in the Third World, (New Jersey: Rutgers University Press, 1984); Vagrancy in Law and Practice Under the Old Poor Law, England: Ashgate Publishing, 2012; Edward Ayers, Vengeance and Justice: Crime and Punishment in the Nineteenth-Century South, (New York: Oxford University Press, 1984); Laura Edwards, The People and Their Peace: Legal Culture and the Transformation of Inequality in the Post-Revolutionary (South, Chapel Hill: The University of North Carolina Press, 2009).

Virginia were considered "runaways." Concerned with sustaining the fragile loyalty of Maryland, the federal government legally protected slaveholder interests of the state by upholding the Fugitive Slave Law of 1850. Thus, depending on whether the laws of the Confederacy or the Union applied, black women traveling from slaveholding states could still be considered enslaved even as wartime emancipation took its course. Although the nation's capital had freed slaves residing in the District in 1862, many of the black women arriving in the city during the Civil War did so at their own risk—confronting a system that tenuously classified their legal status. Black women remained in a state of legal limbo as they navigated wartime policy created in the interests of states loyal to the Union and against the labor and economic interests of the Confederate war effort.

The emancipation process in Washington, D.C. involved a series of critical policies instituted under martial law including: the First Confiscation Act of 1861, the District of Columbia Emancipation Act of 1862, the elimination of black codes, the Supplemental Act of 1862, the Second Confiscation Act of 1862, the Emancipation Proclamation of 1863, and the repeal of the Fugitive Slave Law of 1850 in 1864. This emancipation process illuminates a complicated nexus of policy that had varying impacts on the lives of enslaved and free women, particularly those journeying from neighboring slaveholding states. Nestled between Confederate territory in Virginia and the nebulously loyal slave state of Maryland, wartime policy (concerning rebel states, loyal slaveholding states, and, by 1862, the free territory of Washington, D.C.) generated a mesh of refugee traffic and created uncertain terms of legal freedom.

Necessary Measures: Reform under Martial Law

In 1860, Washington, D.C. was governed by local leaders such as Mayor James Berret, a Southern Democrat with secessionist sympathies and a penchant for maintaining a proslavery interpretation of the Constitution.. Berret strategically staffed the city's police and Auxiliary Guard with Democrats invested in maintaining the existing racial order that left enslaved and free blacks at the mercy of stringent black codes and unsympathetic police officers. Although, by the beginning of the war, more blacks were free than enslaved in the District, Democratic sentiments produced a backlash against antislavery activism. White hostility to emancipation and racial equality was characterized by strict enforcement of black codes and incessant white mob violence. Throughout the course of the war, white locals, former slaveholders, and Confederate sympathizers harassed enslaved and free blacks, even as wartime laws allowed for increased emancipation measures.²¹¹

When Benjamin Butler arrived in Fort Monroe in the spring of 1861, near Hampton, Virginia, his actions ignited one of many wartime emancipation efforts issued under martial law. Seeing an opportunity to undermine the Confederate labor force at Sewell's Point, Butler welcomed families of slaves who sought refuge with Union soldiers as an alternative to being employed by the Confederate army. Under the logic of the law of nations, which indicated that the property of wartime enemies could be seized,

²¹¹ Hundreds of white locals were arrested under the suspicion of disloyalty, including socialite Rose Greenhow who served as a Confederate Spy. Others fled the city to fashion a new life for themselves in the seceded states. Kenneth J. Winkle, *Lincoln's Citadel: The Civil War in Washington, D.C.*, (New York: W.W. Norton & Company, 2013); Margaret Leech, *Reveille in Washington, 1860-1865*, (New York: Harper & Brothers Publishers, 1941); Ernest B. Ferguson, *Freedom Rising: Washington in the Civil War*, (New York: Vintage Books, 2004).

Butler considered these slaves "contraband" of war. Less than three months later, Congress issued the First Confiscation Act, written as "an act to confiscate property used for insurrectionary purposes." Pursuant to the Act, slaves could seek freedom by testifying that their owners were supporters of the rebellion and that their labor was employed for the Confederate effort. "Contrabands," or more aptly "refugees," thus made their way to Union encampments and the nation's capital.²¹²

While Virginia slaves were able to seek asylum within Union encampments, fugitives escaping from Maryland were imprisoned in the Washington jail. The jailor, John Wise, an infamous "negro catcher," was regarded as the "cruelest and most successful" in the District in a report from the Committee on the District of Columbia. He frequently approached Union encampments where he "steals negroes whenever he can lay his hands upon them," and then imprisoning them until their former masters reclaimed them. The First Confiscation Act could not support the escape of slaves from loyal slaveholding states such as Maryland, as well as Delaware and Kentucky, because these states were not in rebellion. Thus, slaves from these states were not lawfully regarded as confiscated wartime "property." Fugitive slaves from loyal states were frequently confined in the Washington jail and treated within the normal operation and reach of the Fugitive Slave Law of 1850.²¹³

²¹² James Oakes, *Freedom National: The Destruction of Slavery in the United States,* 1861-1865, (New York: W.W. Norton & Company, 2013); Garfield Randall, *Constitutional Problems under Lincoln*, (New York: D. Appleton, 1926); Silvana R. Siddali, *From Property to Person: Slavery and the Confiscation Acts, 1861-1862*, (Baton Rouge: Louisiana State University Press, 2005); Statutes at Large, 37th Congress, 1st Session., p.319.

²¹³ Senate Rep. Com. No. 60, 37th Congress, 2nd Session, 1-7, 27, 33-37; Congressional Globe, 37th Congress, 2nd Session, 311; *National Republican*, February 14, 1862.

Both refugees and formerly freed women and men were imprisoned in the jail during the war. On December 28, 1861, an article titled, "Secrets of the Prison House" published by Frank Leslie's Illustrated Newspaper offered a glaring visual depiction of the conditions of the prison. Featuring a cell with black women, forced to live in dismal surroundings, Mr. Lumley, the illustrator for the piece, observed that the women were imprisoned "in the midst of filth, vermin and contagious diseases" without shoes, adequate clothing, and half-starving." Although black women were often imprisoned in Washington, D.C. for petty crimes, the article noted that, in this case, many of these black inhabitants of the District had been found "peaceably at home," captured "merely from a spirit of malice and tyranny," and sent to the city prison. Thus, the editorial in Frank Leslie's paper not only depicted the conditions of squalor that freedwomen were confined to, but also the motive for their capture: to have them sold. The report from the Committee on the District of Columbia concluded that, in the jail, "a barbarous system of punishment had been practiced upon the colored persons." Similarly, the Evening Star reported, that the jail was unsuitable for even the "vilest criminals," and that its black prisoners were "confined there for no offence against the laws." The city jail thus served as a reminder that the nation's capital was still deeply enmeshed in the legal culture of the slaveholding states.. Despite the development of wartime emancipation policies, habits and customs of racial injustice continued even in cities such as Washington, D.C.²¹⁴

²¹⁴ "Secrets of the Prison-house—a cell in the female department of the Washington jail," *Frank Leslie's Illustrated Newspaper*, New York, December 28, 1861, New York Public Library; *Evening Star*, December 5, 7, 31, 1861.



"Secrets of the Prison-house—a cell in the female department of the Washington jail," *Frank Leslie's Illustrated Newspaper*, New York, December 28, 1861, New York Public Library; *Evening Star*, December 5, 7, 31, 1861.

Abuses of the law, attributed to white interpretations of existing laws, including the antebellum black codes, were referenced in the local press. On December 7, 1861, *The National Republican* observed that, "The whole abuse consists, partly, in the laws themselves, sometimes honestly enforced, and partly in acts done merely to gratify cupidity for fees, under color of the laws"; according to that source, the Senate had debated the "terrible exposure of the abuses practiced" relating to "the arrest and imprisonment of colored people," with resistance from those in favor of immediate abolition. Another article stated: "It seems that a law has existed for many years in the District of Columbia, authorizing the constables and police magistrates to arrest and confine negroes, fugitives from labor, or unable to produce free papers." Referencing the black codes instituted at the beginning of the nineteenth century, these regulations were applied during the tumult of the war prior to emancipation. The article informs readers that, under these laws, policing officers had "lately arrested and confined considerable numbers, without any investigation and without using any efforts to have Justice done." An article published by *Frank Leslie's Illustrated Newspaper* similarly reported that, "revelations" had been made in Washington "of the confinement of negroes in that city, for no other cause than their color, under the authority of municipal laws derogatory of the spirit of the age." Local officials, particularly those of Democratic convictions, made it clear they did not believe the Civil War was a war to end slavery, and instead continued to enforce antebellum racial order.²¹⁵

As politicians and press accounts took notice of long-established customs of legal abuses, outrage against racial discrimination and the dehumanizing impact of slavery gained traction over the course of the war. Senator Henry Wilson, a radical Republican opposed to slavery, noted the liberties taken by police officers and justices in cases involving slaves and free blacks. During the winter of 1861, Senator Fessenden of Maine argued that, while the war presents pressing concerns for Congress, "if we do nothing else in the week that we sit here than reform existing abuses in the District of Columbia, and particularly in the city of Washington, we shall have accomplished much." Senator Fessenden spoke not only from his own personal opposition to slaveholding power, but also from a broader understanding of the significance of the nation's capital amidst the

²¹⁵ Ibid.

war effort. He stated, "I am unwilling that the capital of the country shall any longer be a scene of oppression upon any class, no matter what, or upon any man of whatever color." News spread that Secretary of State, William H. Seward, issued an order to General George McClellan, "to arrest all persons who may attempt to imprison negroes on the ground of their being fugitives." Senator Fessenden's firm conviction to support action against those who wrongfully imprisoned black inhabitants illustrates Radical Republican initiative. As James Oakes explains in his work, radical Republicans launched a series of legislative assaults on slavery under martial law. These pivotal legislative decisions would eventually lead to the demise of the institution by the end of the war, shifting the course of black life in the District.²¹⁶

Wartime Emancipation in the District

In the spring of 1862, Congress approved the terms of freeing slaves in the District. On April 16th, the American government declared the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons held to service or labor within the District of Columbia by reason of African descent are hereby discharged and freed of and from all claim to such service or labor; and from and after the passage of this act neither slavery nor involuntary servitude, except for crime, whereof the party shall be duly convicted, shall hereafter exist in said District.

The abolishment of slavery in the District of Columbia, which legally set in motion the emancipation process, made the violation of this Emancipation Act a felony. Lawmakers

²¹⁶ Ibid; "Condition of the City Jail," *The National Republican*, Volume II December 7, 1861, LOC.

incentivized compliance with the new order by awarding up to three hundred dollars of compensation for each slave freed by former owners.²¹⁷

Some locals denounced the new Act as an unconstitutional infringement upon their property rights. As many as nine hundred and sixty-six slaveholders filed claims for compensation. The Clerk and members of the Board of Commissioners, along with the Secretary of the Treasury, were responsible for assessing the claims, determining the value of slaves, and transacting compensation. Commissioner records indicate that the majority of the claims involved smaller slaveholdings ranging between one to eight slaves. For the value of four slaves-which included a slave named Rosanna, and her children William and Alexa Gordon, and Caroline Lucas-the infamous brothel owner Mary Ann Hall received three thousand dollars. White women appeared as frequently as men in seeking compensation for their property. A woman named Harriet White, for instance, received a little over six thousand eight hundred dollars for the value of twentyfour slaves. White's case was one of many filed by women hoping to profit from the compensation provision in the Act, revealing that both white women and men were invested in the institution of slavery and believed they were entitled to compensation for "lost property" during emancipation. Some locals possessed holdings as large, if not larger, than White's. District resident George Washington Young, for instance, boasted

²¹⁷ Act of April 16, 1862[For the Release of Certain Persons Held to Service or Labor in the District of Columbia], National Archives, General Records of the United States Government, Record Group 11.

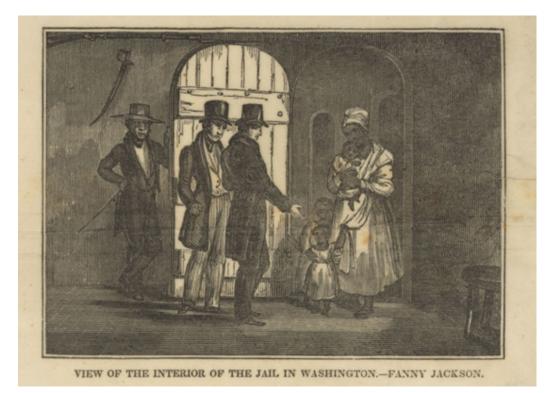
holdings of up to sixty-eight slaves, with a compensation value set at over seventeen thousand dollars.²¹⁸

Once freed, black residents could remain in the District, or leave the country with the support of government-subsidized emigration initiatives. Former slaves who decided to emigrate outside of the United States could be allotted up to one hundred dollars per person. Thus, while the Emancipation Act represented a significant victory that free and enslaved blacks, as well as white abolitionists, had worked incredibly hard to realize, it was clear that Congress encouraged the exodus of black locals. Although such colonization efforts had gained some traction prior to the war, the government could not convince a critical mass to emigrate outside of the country after emancipation. Some free blacks left the country, but most decided to remain in the city with hopes of ensuing equality.²¹⁹

Local emancipation, however, carved out a protected space for slavery where a black person was convicted for criminal activity. Indeed, in the event that blacks were placed in jail—even for minor offenses—they could be sentenced to a minimum of thirty days of involuntary servitude, or sent back to former masters with ties to corrupt constables and jailors. Hundreds of black women were thus arrested and sentenced to the workhouse a year after local emancipation took effect. District precinct records indicate that most of these women were charged for offenses such as "disorderly conduct" and "vagrancy." Accordingly, much more reform of the laws would be necessary in order for

²¹⁸ Records of the Board of Commissioners for the Emancipation of Slaves in the District of Columbia, 1862-63, M520, Roll 1, Washington, D.C., National Archives and Records Administration; Guardians also frequently represented children who had inherited slaves. ²¹⁹ Ibid; Kate Masur, *An Example for All the Land: Emancipation and the Struggle Over Equality in Washington, D.C.*, (Chapel Hill: University of North Carolina Press, 2010).

the Emancipation Act of Washington, D.C. to prove effective in releasing black women and men from the tyranny of slavery and the antebellum black codes.²²⁰



"View of the Interior of the Jail in Washington," Slave Market of America published by the American Anti-slavery Society, 1836. Rare Book and Special Collections Division, LOC DIG ppmsca 19705.

Republican Senator Henry Wilson understood all too well the legislative loopholes that would keep free blacks bound to injustice. Former chair of the 1852 Free Soil convention, and a longstanding proponent of abolitionism, Wilson submitted a proposal, just weeks after the passage of the Emancipation Act of Washington, D.C., to eliminate the black codes. By way of background, Senator Wilson, along with Senator

²²⁰ Disorderly conduct had not been clearly defined by local courts, and vagrancy most likely occurred as a result of unemployment and poverty spurred on by the war, not an unwillingness to work. Records of the Metropolitan Police Department of the District of Columbia, 1862, (National Archives, Record Group 351); Kenneth Alfers, "Law and Order in the Capital City: A History of the Washington Police, 1800-1886," *George Washington Studies*, No.5, George Washington University, September, 1976; News, October 12th, 26th, 1850.

James Grimes and the Committee on the District of Columbia, produced a report on the conditions of "degradation and inhumanity" that blacks faced in the Washington Jail. The concomitant discussions concerning the abhorrent treatment of enslaved and free blacks led to further deliberation over how the black codes and the Fugitive Slave Law of 1850 were the root of these injustices. Then, on May 22, 1862, Wilson submitted a proposal stating, among other things that, "all persons of color...shall be subject and amenable to the same laws and ordinances to which free white persons are." The subsequent repeal of the black codes ended a system of surveillance and control that had circumscribed the lives of enslaved and free blacks since the inception of the nation's capital. The measure thus proved to be critical in the emancipation process. White locals, however, would not relent so easily.²²¹

Despite the repeal of the black codes, the Emancipation Act itself remained largely deficient in its ability to transition former slaves into free life. As shown by records of defiant slaveholders, who resisted their former slaves' claims to a newly freed legal status, the emancipation process in Washington was stifled by white contempt. While Republican legislators and activists helped spearhead antislavery and emancipation policies, white locals vehemently expressed their hostilities toward the new free black

²²¹ Kate Masur, An Example for All the Land: Emancipation and the Struggle Over Equality in Washington, D.C., (Chapel Hill: University of North Carolina Press, 2010); John L. Myers, Senator Henry Wilson and the Civil War, (Lanham, MD: University Press of America, 2008); "An Act Providing for the Education of Colored Children in the Cities of Washington and Georgetown, District of Columbia, and for Other Purposes," U.S. Statutes at Large, 12:407; Senate Re. Com. No. 60, 37th Congress, 2nd Session, 1-7, 27, 33-37; Congressional Globe, 37th Congress, 2nd Session, 311; Washington National Republican, January 16, February 14, 1862; U.S. Statutes at Large, XII, 37th Congress, 2nd Session, Chap. LXXXIII, 407.

locals and incoming refugees. During the Civil War, reports surfaced of abuses, manipulation, and disregard of the law in cases involving black inhabitants.²²²

Despite the compensation provision in the Emancipation Act, many slave owners in the District did not concede to the primary requirement of the new law—emancipation. Slaves seeking to solidify their free status thus encountered a number of legal hurdles. The logistical issues presented by this resistance to the Emancipation Act led to the Supplemental Act of July 12, 1862, which set forth the terms under which slaves could claim free status even where a former owner refused to apply for compensation. The Supplemental Act stated, moreover, "in all judicial proceedings in the District of Columbia there shall be no exclusion of any witness on account of color." This stipulation, which allowed former slaves to testify against whites, was the distinctive feature of the Supplemental Act. Slave testimony proved critical in the efforts of black women and men to counter arguments that they were not residents of the District, or that they had unlawfully claimed entitlement to the terms of the Act. Local slaveholders, who refused to apply for compensation, took a decisive stance against the idea that the government could deny what they understood as a key feature of the rights and entitlements of citizenship. White possession of black people, as they understood the practice, was permitted and protected by the Constitution. But for the first time in the history of the nation's capital, slaves could exert legal agency in their own selfdefense..²²³

²²² Constance Green, *Secret City: A History of Race Relations in the Nation's Capital*, (Princeton: Princeton University Press, 1967), pp.99.

²²³ Records of the District Court for the District of Columbia Relating to Slaves, 1851-1863, section 1 (National Archives Microfilm Publication M433), Roll 1.

The Fugitive Slave Law of 1850, however, further complicated the emancipation process, particularly for slaves who were "hired out" in the District from Maryland planters or for those who simply escaped from loyal slaveholding states such as Maryland. The law stipulated that escaped slaves must be returned, and that penalties should be imposed upon officials and locals who refused to return slaves. Therefore, while hundreds of slaves flocked to the District from surrounding slaveholding states to become free, they did so illegally. Even after local emancipation and the abolishment of the black codes, the courts in Washington, D.C. enforced fugitive slave laws on behalf of owners residing in states that professed loyalty to the Union.²²⁴

Some slaves managed to evade fugitive slave laws with the assistance of military officials acting pursuant to the Second Confiscation Act of 1862. The Second Confiscation Act emancipated rebel-owned slaves as an "act to suppress insurrection, to punish Treason and Rebellion, to seize and confiscate the Property of Rebels." Essentially, while the First Confiscation Act had only freed those slaves employed in labor that supported the Confederate war effort, the Second Confiscation Act freed the slaves of all disloyal slaveholders. Scholars such as James Garfield Randall, Silvana Siddali, Daniel Hamilton and James Oakes have debated the relative effectiveness of the First and Second Confiscation Acts. Although the Acts impacted the economic and labor productivity of the Confederacy, particularly as refugees arrived from states closest to the Peninsula campaign, they did not legalize the freedom of neighboring slaveholding states such as Maryland and Delaware, where many slaves came from. Few disloyal

²²⁴ Although slaves submitted petitions for manumission certificates in civil suits well before Emancipation, the supplementary act of July 12, 1862 allowed slaves to secure their freedom upon the refusal of their owners to do so.

slaveholders in loyal states risked losing their slaves in support of the Confederate effort. The emancipation process remained difficult for slaves belonging to those slaveholders reluctantly loyal at best.²²⁵

Print sources indicate that this was a confusing and disorderly process, as the old city jail could not house the large influx of former slaves, and some officers were suspected of holding former slaves in the interests of Confederate slaveholders. One article states that, the prisoners, "have been committed to jail by the agents of disloyal parties now in the rebel service, *'for safe-keeping until the war is over*;' while all are acknowledgedly in prison without the least offence." For example, an older enslaved woman from Richmond was sent by "a disloyal person" to the jail "to be kept until the war is over." Abuses of the law were concentrated in places like the local prison, where it was the habit and custom to criminalize enslaved and free blacks without investigating whether there was any probable cause for their confinement.²²⁶

Indeed, many of the prisoners were already free, or had been working in military encampments. For instance, Senator Henry Wilson observed, "One of them, a free boy from Pennsylvania, came here with the Fifth Pennsylvania regiment, was found in the street" and sent to the jail. Similarly, one article mentioned that, "Of these victims of official cupidity, some, it will be seen, have been freemen from the North, coming with and belonging to United States regiments, in the capacity of servants." They reportedly

²²⁵ James Oakes, Freedom National: The Destruction of Slavery in the United States, 1861-1865, (New York: W.W. Norton & Company, 2013); Garfield Randall, Constitutional Problems under Lincoln, (New York: D. Appleton, 1926); Silvana R. Siddali, From Property to Person: Slavery and the Confiscation Acts, 1861-1862, (Baton Rouge: Louisiana State University Press, 2005).

²²⁶ Evening Star, Washington, D.C.; Ernest B. Ferguson, *Freedom Rising: Washington in the Civil War*, (New York: Vintage Books, 2004).

left "free and happy homes behind them, to contribute their mites and peril their lives in the cause of their country." Thus, even with the Emancipation, Supplemental, and Confiscation Acts, authorities arrested enslaved and free blacks at their discretion. Blacks in Washington, D.C. were guilty until proven innocent according to the practices of local police and justices. Any black person traveling throughout the District could be criminalized and imprisoned without notice—their newly found freedom could be snatched away in an instant.²²⁷

Contentious Freedom

Family networks figured prominently in recorded appeals for freedom in Washington, D.C., as black women and men sought to locate and reunite themselves with missing or abducted relatives. When the Superintendent of Contrabands at Camp Barker gave testimony before the American Freedmen's Inquiry, he stated that as a general rule, refugees, "wish and seek to preserve family ties renewing again their relations as parents, children, husband and wife whenever they are able." These family ties had been complicated and threatened not only by the system of enslavement, but also by the war itself. Many women were left alone, with as many as seven children to clothe and feed, while their husbands worked for the military or War Department. While most of these women sought employment to support their families, they struggled with the effects of starvation, inclement weather, and disease. Indeed, when their husbands were not paid

²²⁷ Ibid; Notably, the record demonstrates that, throughout the emancipation process, enslaved and free women assiduously searched for ways to recover members of their families and their children from resistant slaveholders and employers. Henry Greenleaf Pearson, *James S. Wadsworth of Geneseo*, New York: Charles Scribner's, 1913, pp139; John Syrett. *The Civil War Confiscation Acts: Failing to Reconstruct the South*. (New York: Fordham University Press, 2005).

adequate wages, or simply died during the war, women and children were subject to the most abject living conditions of the city. Enslaved and free women persistently submitted their grievances, complaining of legal entanglements with manipulative white locals who attempted to evade the terms of Emancipation.²²⁸

On March 28, 1862, Emeline Brown, a free black woman, submitted a petition for a writ of habeas corpus to the Circuit of Court of the District of Columbia, asserting that her daughter, Lucy Brown, was "uniquely and illegally detained and held in custody and keeping by one Benjamin J. Hunt of Georgetown." Her husband, John Brown, had "hired out" twelve-year old Lucy prior to the petition, but Emeline discovered that, "said child Lucy is maltreated." Emeline thus requested that the court grant her habeas petition "directed to and commanding the said Benjamin J. Hunt, to be and appear" before the court. Her petition, however, was denied—the court did not order Hunt's appearance or Lucy's release. As a result, Lucy continued working for Hunt without the protection of the law to shield her from his abuse. Eight months later, after the passage of the Emancipation Act of April 1862, Lucy's father, John Brown, a newly freed man, submitted a petition, arguing that he was her "natural guardian and protector." This petition was deemed meritorious-Hunt was mandated to release Lucy, and she was returned to her parents. Emeline's efforts to free her child from the tyranny of Benjamin J. Hunt was one of many cases involving the legally-sanctioned re-enslavement of free black women and girls, and the mistreatment of female slaves and servants in Washington D.C. during the mid-nineteenth century. The Emancipation Act of 1862, and the petition initiated by her father, John Brown, worked in favor of Lucy's release, but

²²⁸ Testimony from Dr. D.B. Nichols, {April ? 1863}, Letters Received, ser.12, Military District of Washington, RG 94 {O-328}.

even the legal stipulation that slavery was inheritable through the mother was glossed over prior to the emancipation measure. Localized law or customs often prevailed in favor of white interests until both the petitioners and lawmakers took further action.²²⁹

White inhabitants of the District, particularly those who owned slaves, generally either took advantage of the compensation provision in the Emancipation Act, or questioned the constitutionality of the new legal measure altogether. On December 16, 1862, Emeline Wedge, an enslaved woman owned by Alexander McCormick, filed freedom petitions on behalf of herself, along with her two children and her sister Alice Thomas. McCormick, who had refused to receive compensation for his slaves in the hopes that the Emancipation Act would be repealed, appeared before the Clerk after receiving a summons. Records indicate that he "denied the Constitutionality of the Emancipation Act, and said that he would bide his time until it was declared unconstitutional." Just before the case was decided, McCormick reappeared before the Clerk and Commissioners of the District, and contended with the claims of his former slaves.²³⁰

The facts of the case reveal the unique position of Washington, D.C. as a legal battleground over emancipation. The evidence showed that McCormick's farm was located along the border dividing the District from Maryland, and that, just one day after the Emancipation Act became law, he instructed the slaves to reside on the Maryland side

²²⁹ Testimony from Dr. D.B. Nichols, {April ? 1863}, Letters Received, ser.12, Military District of Washington, RG 94 {O-328}. A petition for a writ of habeas corpus (literally to "produce the body") is a request that a court order a prison warden, penal institution, or agency holding someone in custody to deliver the imprisoned individual to the court issuing the order. Habeas petitions are thus a vehicle to protest or challenge imprisonment. Habeas Corpus Case Records, 1820-1863, of the U.S. District Court for the District of Columbia (NARA Microfilm Publication M434) Roll 2, Record Group 21. ²³⁰ Ibid.

of his property. According to the records of the Board of Commissioners, he built a small tenement for the slaves on the Maryland side, while his main living quarters remained in the District, along with the cow pen and other buildings pertaining to the homestead. While McCormick generally prohibited his slaves from traveling to the District side of the property, it was proven that Alice was "required to drive cattle from the pasture to the cow pen," which was located on the District side. Unidentified witnesses also testified that they had seen the women and children in McCormick's Washington home daily, and that for approximately seven or eight weeks, Emeline and her family had resided in the District with an older man, also bearing the last name Wedge who apparently was the father of Emeline's husband.²³¹

The Board of Commissioners ultimately acknowledged Emeline's right to claim freedom under the Emancipation Act of 1862. Emeline's case is illuminating because, among other things, Emeline's husband and father-in-law did not file the petition, but she instead took the initiative to claim her rights to freedom. But this was not unusual. Patriarchy did not always feature prominently in the quest of black women for emancipation. Freedwomen in the moment of local emancipation filed numerous claims and complaints on behalf of themselves and members of their families.²³²

Similarly, commissioners dealt with another petition submitted by an enslaved woman that revealed the blurred boundaries of the District and the complex ties District locals held with the surrounding Chesapeake states. On May 29, 1862, just after the passage of the Emancipation Act of the District of Columbia, an enslaved girl named

 ²³¹ Records of the Board of Commissioners for the Emancipation of Slaves in the District of Columbia, 1862-1863, M520, Roll #1.
 ²³² Ibid

Maria Diggs submitted a petition for her freedom. Although the slaveholder in the case had applied for compensation for Maria's mother and father who resided with him in the District, he declared that Maria was "not freed by the act." He argued that, because Maria had been hired out to a man just outside of the District, the new law did not apply to her. While some could argue that the "hiring out" system of enslavement undermined slavery, in this case it preserved the institution by drawing upon its Chesapeake origins. The Commissioners opined that "all who were out of the District when the bill was approved, do not come within its provisions—are consequently slaves still." Maria thus was not as fortunate as Emeline Wedges. Because of the "hiring out" system, Maria's owner not only received compensation for her parents, but also found a way to invalidate her claims to freedom. Former slaveholders loyal to the Union still held the reigns.²³³

While there were over nine hundred slaveholders who received compensation for the emancipation of their slaves, this incentive only applied to those who resided in the District. For those slaveowners in the surrounding counties who were subsequently forced to release their slaves in accordance with the Emancipation Proclamation of 1863, there was no analogous provision for compensation. The Emancipation Proclamation of January 1, 1863 simply declared that all slaves within the Confederacy "are, and henceforward shall be free."²³⁴

Despite the common perception that the Emancipation Proclamation freed every slave in the country, the law, like its predecessor policies, only applied to those states in rebellion. Unwilling to surrender the men, women, and children that augmented their

²³³ "A Case Before the Emancipation Commissioners," *The National Republican*, Washington, D.C. May 29, 1862, LOC.

²³⁴ Emancipation Proclamation, January 1, 1863, Presidential Proclamations, 1791-1991, RG 11, General Records of the United States Government, NARA.

labor force in a war-ravaged landscape, slaveholders defiantly resisted these new legal measures of the Union that were designed to entice blacks to deplete Confederate resources and support the Union effort. Indeed, slaveholders of the seceded states did not see themselves as subject to these laws, to the contrary, they believed that they were only subject to the laws of the Confederacy, which validated their ownership of slaves, and referred to slaves within Union lines as "runaways." Black women, however, fought tirelessly to loose themselves and their relatives from the stranglehold of the old slave system.²³⁵

Maryland remained a point of contention during wartime emancipation, even after the state adopted a new constitution banning the practice of slavery in 1864. Barbara Fields notes that, "Slavery had held together the parts of the old society, assigning slaves, free blacks, and nonslaveholding whites their proper spheres. With slavery gone, some new principle of cohesion had to be established." Slaveholders in the state were reluctant to abide by the new measures. On November 14, 1864, just days prior to the date when Article 24 of Maryland's new constitution, which made slavery illegal, took effect, Harriet Anne Maria Banks wrote a letter stating that her owner, Dr. S.S. Hughes "treated me badly & this was my principal object in leaving they informed me that Abraham Lincoln Could not free me that he had no right to do so." Along with slavery, much of the Maryland black codes were no longer in effect, but the constitution did make leaving an employer a punishable crime for black Marylanders alone. Thus, a provision intended to inaugurate a free labor system in Maryland actually catalyzed a corrupt system of child

²³⁵ Board of Commissioners Records for the Emancipation of Slaves, 1862-1863, Records of the Accounting Officers of the Department of the Treasury, NARA (Record Group 217);

abduction, labor exploitation, and rejection of the parental rights of black mothers and fathers.²³⁶

Within this context, the apprenticeship system in Maryland arose as a convoluted collaboration between former slaveowners and local justices committed to the old order of the South. The Provost Marshal of the District of Maryland, Andrew Stafford, observed that, just four days after the adoption of the new constitution, "a rush was made to the Orphan's Court of this County, for the purpose of having all children under twenty one years of age, bound to their former owners, under the apprentice law of the State." These apprenticeship arrangements were validated by local judges, who typically decided in favor of the former master, regarding black parents as unfit to financially provide for their child, particularly where the father was away at work or war and could not claim the child's labor. Decisions of the court thus reflected a gendered and racial hierarchy that prioritized the interests of whites first, then black men as the head of the household, before those of black mothers. Reminiscent of the plantation, they also reinforced white patriarchy and paternalism to decide the fate of black children.²³⁷

Black mothers who did not have a spouse or whose husbands could not testify in Orphan's Court—often because they had left to find work or serve in the war—were

²³⁶ Barbara Fields, *Slavery and Freedom on the Middle Ground: Maryland During the Nineteenth Century*, (New Haven, Connecticut: Yale University Press, 1985) p.138; Statement of Harriet Ann Maria Banks, November 14, 1864, Letters Received, ser. 12, Record Group 94 {M-1932} Ira Berlin, Barbara J. Fields, Steven F. Miller, *Free at Last: A Documentary History of Slavery, Freedom, and the Civil War* (Publications of the Freedmen and Southern Society Project), (New York: The New Press, 1992).

²³⁷ Captain Andrew Stafford to General H.H. Lockwood, November 4, 1864, Letters Received, ser. 12, Record Group 94 {M-1932}; Mary Farmer-Kaiser, *Freedwomen and the Freedmen's Bureau: Race, Gender, and Public Policy in the Age of Emancipation*, (New York: Fordham University Press, 2010); Karin L. Zip, *Labor of Innocents: Forced Apprenticeship in North Carolina 1715-1919*, (Baton Rouge: Louisiana State University Press, 2005).

particularly affected by these legal interpretations of apprenticeship arrangements. In particular, black mothers found themselves burdened with the responsibility of simultaneously fighting off former slaveholders and providing for their children. Although the labors of all household members were critical to the subsistence of families during the nineteenth century, local justices in the Orphan's Court often refused to acknowledge a black mother's guardianship over her children and their labor. As a result, black women sometimes had to take matters into their own hands in order to retrieve their children from the grips of planter exploitation and create a life where their families could enjoy the fruits of their own labors. Jane Kamper, a former slave of William Townsend of Talbot County, Maryland, reportedly told Mr. Townsend, "of my having become free & desired my master to give my children and my bedclothes he told me that I was free but that my Children Should be bound to me {him}." She testified further that, "he locked my Children up so that I could not find them. I afterwards got my children by stealth & brought them to Baltimore." Kamper, like many other freedwomen, thus risked her life to save her children from unconsented apprenticeship. She concluded her statement saying, "My Master pursued me to the Boat to get possession of my children but I hid them on the boat." As exemplified by Kamper's story, legal emancipation made the freedom of black women and children lawful, but not necessarily tangible.238

Emancipation also could not erase the racial and gendered injustices that prevailed throughout the Civil War, nor the rampant effects of poverty that kept black

²³⁸ Statement of Jane Kamper, November 14, 1864, Letters Received, ser. 12, Record Group 94 {M-1932} Ira Berlin, Barbara J. Fields, Steven F. Miller, *Free at Last: A Documentary History of Slavery, Freedom, and the Civil War* (Publications of the Freedmen and Southern Society Project), (New York: The New Press, 1992).

women subject to hunger, disease, and inadequate living conditions. Indeed, black women earned the lowest wages and often found themselves in dire circumstances as they tried to feed and clothe their children. Josephine Griffing, an agent of the National Freedman's Relief Association, wrote to the Secretary of War about her encounters with the deplorable condition in which black women and children lived in the District. After delivering wood to "over one hundred families," she discovered that many families composed of women and children were "without food of any description." Griffing was confounded when she saw mothers "confined with infants with four, six, and seven children in their care—their Husbands either in Gov't Service or dead." Facing limited flexibility in terms of childcare, coupled with the low probability of making enough income, all odds were stacked against black women attempting to survive in the Washington, D.C. area.²³⁹

Some freedwomen arrived at "contraband camps" to begin their free life or just simply to survive. Freedmen's Village on Robert E. Lee's confiscated estate in Arlington, Virginia housed approximately 1,500 former slaves in 100 family homes. The Village was known for the rather large population of women, children, and elders frequently depicted as "dependents" of the government. The community however cultivated gardens, earned small wages, cared for the homes, sewed clothing, and built a school for the children. Government officials envisioned the camp as a temporary community and hoped to make employment arrangements with white families in need of additional labor in the North. Residents in the Village, by contrast, felt that they had created sustainable living conditions that would allow them to remain in Arlington. Just across the Potomac

²³⁹ Josephine S. Griffing to Hon. E.M. Staunton, December 1864, Consolidated Correspondence, Central Records, ser. 225, Record Group 92

between 12th and Q Streets in Washington, Camp Barker contrasted starkly with Freedmen's Village, and looked more like a "tent city" with higher mortality rates, and unsanitary living conditions. In 1864, when officials decided to move residents of Camp Barker to Freedmen's Village, only 120 agreed to move, while the remaining 685 refused to set foot on the slaveholding territory. ²⁴⁰

Charged anywhere between five and eight dollars per month for damp and cold shacks exposed to the inclement winters in the District, black women during the war found it difficult to earn a sufficient living and keep themselves and their families healthy. Many black children lost both parents during the war, and were forced to rely upon overcrowded orphanages or their closest relatives as they fought to survive. Their struggle for survival often resulted in casualties. In 1864, as officials began evicting freedpeople from Camp Barker, one grandmother was forced to leave the premises as her grandson was dying beside her. According to reports, "The grandmother who had taken care of it [the grandson] since its mothers death begged leave to stay until the child died, but she was refused." Camp Barker—a "contraband" camp organized by the government to house and employ refugees who escaped from Confederate territory—thus served as an outpost not only of freedom, but also frailty. For instance, Georgiana Willets, a missionary who worked at Camp Barker, observed in 1864 that, "There is now some

²⁴⁰ David Blight, *A Slave No More: Two Men Who Escaped to Freedom, Including Their Own Narratives of Emancipation* (Orlando: First Mariner Books, 2007) p. 93; Robert Harrison, *Washington during Civil War and Reconstruction: Race and Radicalism* (New York: Cambridge University Press, 2011) p.41-43.

suffering but it is chiefly amongst the women who have small children—These can barely obtain the necessaries of life."²⁴¹

Although, in the aftermath of wartime emancipation policies, refugees flocked to Union lines searching for asylum and opportunities to reclaim families and find work in sustainable communities built by freedmen and women, life in the contraband camps was often filled with habits and customs that merely reminded freedpeople, and black women in particular, that legal emancipation had its limits. The story of one black woman named Lucy Ellen Johnson, who lived with her mother at Camp Barker while her husband was employed in the military, is illuminating.

Upon her arrival at Camp Barker, Johnson understood that she was supposed to work in the camp and "earn my food and clothing like other contrabands." In fact, prior to her arrival, she worked as a chambermaid on the Steamboat *Zephyr*, showing a history and eagerness to work. Shortly after arriving at Camp Barker, however, Johnson became ill and unable to work. When she asked for rations, a blanket, and clothing, she was interrogated by Mr. Nichols, the white official at Camp Barker who distributed supplies. Nichols could not understand why Johnson's husband had not provided for her, but Johnson pleaded: "I am here to earn my board and the same clothes that others have." She offered to request money from her husband so that she could pay for the needed items, but Nichols responded, "You can't buy them from me—you can't have anything." Johnson argued that if her arrangements at the camp were problematic, then Nichols

²⁴¹ Josephine S. Griffing to Hon. E.M. Staunton, December 1864, Consolidated Correspondence, Central Records, ser. 225, Record Group 92; Testimony of Mrs. Louisa Jane Barker, January 1864, Miscellaneous Records, ser. 5412, Department of Washington, Record Group 393 Pt. 1 {C-4757}; Testimony of Georgiana Willets, January 1864, Miscellaneous Records, ser. 5412, Department of Washington, Record Group 393 Pt.1 {C-4757}.

should have spoken to her husband about the matter so that she could find work elsewhere.²⁴²

Nichols became angry, ordered Johnson to a room, where she was pinned down and harassed by a corporal, a sergeant, and soldiers. The gang of men took her to a tent, where they kicked her and grabbed her by the throat. She reported: "They fastened a rope round my two thumbs and passing it over the limb of a tree raised me from the ground so that my weight was suspended by the thumbs." They adjusted the rope and hung her by her wrists. "In this position," Johnson recalled, "one kicked me—another choked my throat—another stuffed dirty wool in my mouth." After a half hour of torture, she was finally released.²⁴³

According to an assessment conducted by the Freedmen and Southern Society Project, more than thirty people filed testimonies regarding the abusive treatment of freedpeople at Camp Barker. Stories like those of Lucy Ellen Johnson are vivid reminders of the undercurrents of white contempt during the moment of legal emancipation. This contempt for enslaved and free blacks, who migrated to Union lines and the District manifested itself in a variety of forms, ranging from abuse in contraband camps, to local mob violence in the city. Wartime emancipation sparked a violent backlash from those who viewed blacks as a nuisance and unworthy of equal rights.²⁴⁴

 ²⁴² Testimony of Luisa Jane Barker, January 14, 1864, Miscellaneous Records, ser. 5412, Department of Washington, Record Group 393 Pt.1 {C-4757}.
 ²⁴³ Ibid.

²⁴⁴ Ira Berlin, Barbara J. Fields, Steven F. Miller, *Free at Last: A Documentary History of Slavery, Freedom, and the Civil War* (Publications of the Freedmen and Southern Society Project), (New York: The New Press, 1992).

Black Voices in the Wake of Emancipation

Wartime emancipation policies and the provision in the Emancipation Proclamation permitting the enlistment of black soldiers laid the groundwork for the June 28, 1864 repeal of the Fugitive Slave Act of 1850. This, in turn, expanded the effectiveness of emancipation and protected black soldiers from re-enslavement during battle. As the war ignited an exodus of former slaves and free families into the District, black residents and soldiers across class lines became vulnerable to legal conflict. Black soldiers fighting on behalf of the Union, for instance, were not exempt from racial violence or imprisonment. One officer announced that he would "put as many bullets through a nigger recruit as he would through a mad dog." Leslie's, moreover, reported that former slaves and other black inhabitants of Washington were unjustly imprisoned. Complaints concerning the criminalization of "respectable" black residents—many of whom had a long history of residence in the city and organized relief for the former slaves that had migrated there during the war—appeared in print as well. A reporter for The National Republican offered, "I have been called upon repeatedly by colored persons of the most respectable character in this District, and asked if, in organizing the police of the District, we intended to oppress them as a class." These "respectable" black residents, typically affiliated with churches and uplift organizations, were not shielded from the criminalizing impulses of local police and angry mobs.²⁴⁵

The Civil War incited a localized battle between black and white residents of the capital. Throughout the course of the war, white mobs targeted black residents in the city, expressing opposition to the changing racial landscape. An account published by

²⁴⁵ Ibid; *Evening Star*, September 8, 1862; Margaret Leech, *Reveille in Washington*, *1860-1865*, (New York: Harper & Brothers, 1941), p.253; *Evening Star*, August 5, 1864.

the *Evening Star*, titled "Teamsters and Negroes Again in Conflict," chronicled the harassment of local black inhabitants of an alley community nestled between 24th and 25th and I and K Streets. The alley community—hidden from major thoroughfares—was occupied by black residents who reported that white teamsters came and broke the windows of their dwellings: "one of them coming across one of the colored men, named Isaac Murray, pursued him with a revolver and fired two shots at him." Murray received a fine of one dollar while the white man that fired the two shots paid a fine of two dollars. The next night, white teamsters launched another attack. The alley dwellers resisted the mob by threatening them with an axe, forcing them to retreat. As this incident demonstrates, black residents harassed near their homes, such as Isaac Murray, were treated as criminals and punished with fines for being victims of violence.²⁴⁶

With the proliferation of wartime policy, political and racial tensions skyrocketed. During the summer of 1862, just months after local emancipation and days prior to the Supplemental Act empowering blacks to testify against whites, one correspondent asked if "there was no law to prevent low rowdies from committing outrages on peaceable colored females when going to or from the house of worship on the Sabbath Day." He reported that local black women, particularly near Alexandria, Virginia, were "subjected to the grossest insults. Sometimes with kicks by these low men." The reporter argued that black people lacked protection under the law not only in Alexandria, the retroceded portion of the region, but also in the District of Columbia, where the Emancipation Act had just passed. Black locals understood that wartime emancipation alone would not

²⁴⁶ "Teamsters and Negroes Again in Conflict," *Evening Star*, July 20, 1860, Washington, D.C. LOC.

ensure freedom; in fact, those who had been members of the free black population during the antebellum era knew all too well the need to protect their fragile legal status.²⁴⁷

Despite the day-to-day violence and harassment, black locals organized extensively to assist new freedmen, women, and children as they arrived in the District throughout the war. On July 30, 1862, the Superintendent of Contrabands at Camp Barker reported that he was "agreeably surprised" by the "appearance of a two-horse wagon filled with potatoes, cabbage, onions, squashes, beets, tomatoes, fresh pork, cheese, white sugar, apples, oranges, lemons, pipes, tobacco, stockings, & c." The donation offered by the "Benevolent Sons of Levi" of Zion Wesley's Church, cost a total of twenty-nine dollars. Organized by local black activists and clergymen such as George Newman, Daniel Williams, John Brown, and Lloyd Jones, the Superintendent noted that, "No donation made for the benefit of the contrabands could have been better chosen and more timely." Even as they were financially burdened by the war effort, the sacrifice of black locals furnished much-needed goods as black men, women, and children flooded into the District.²⁴⁸

News accounts noted the mounting frequency with which former slaves were arriving to the nation's capital in hopes of escaping bondage, locating family members or, in some instances, seeking assistance. The *Daily National Republican* reported, on June 4, 1863, that one hundred and ten "contrabands" had arrived that morning. In total, it was reported that up to 40,000 former slaves made it to the District as "contrabands" living in camps and settlements near Freedmen's Village in Arlington, and throughout the District

²⁴⁷ "Outrages on the Colored People," *The National Republican*, July 3, 1862, Washington, D.C. LOC.

²⁴⁸ "Liberal Donations for the Contrabands: A Card" from D.B. Nichols, Superintendent of Contrabands at Camp Barker, *Daily National Republican*, July 30, 1862.

in makeshift shanties. Half of the refugees arrived to the camps as families, with each person averaging about forty cents per day in wages. The influx of former slaves expanded the black population significantly as they found ways to make the capital their home. But they did not arrive to a welcome committee. To the contrary, during deliberations over the Emancipation Act in Washington, local politicians had persistently disputed the authority of the government to free slaves in the District.²⁴⁹

As countless citizens across the country looked to the capital to see how recentlyfreed blacks would be integrated into society after the Emancipation Act of 1862, they witnessed sentiments of discontent not only from white locals, but also from District government officials. The Board of Aldermen and Board of Common Council of the City of Washington compiled a Joint Resolution of Instruction protesting local Emancipation. The Resolution read: "that the sentiment of a large majority of the people of this community is adverse to the unqualified abolition of slavery in this district at the present critical Junction in our national affairs." Local officials thus attempted to make a case against black emancipation. By framing the Civil War as an event that had little relevance to the status of slaves, whites, and particularly Democrats, endeavored to carve out emancipation from the scope of "national" concerns and affairs, suggesting that emancipation was an unnecessary digression from the war effort and a violation of social order.²⁵⁰

²⁴⁹ "Arrival of Contrabands," *The National Republican*, Washington, D.C. June 4, 1863. ²⁵⁰ Joint Resolution by the Washington, D.C., City Council, April 1862, 37A-J4, Senate Committee on the District of Columbia, Petitions & Memorials, ser. 547, 37th Congress, U.S. Senate, Record Group 46, National Archives. K Richards signed as president of the Board of Common Council; W.T. Dove as president of the Board of Aldermen. Mayor Richard Wallach endorsed the resolution, "Approved." The resolution was presented on the floor of the U.S. Senate on April 2, 1862.

The legislative battle between Congress and the local Board members continued as city officials reminded Congress of their duty as the "constitutional guardians of the interests and rights of the people of this District." In using the term "people," city officials did not include free blacks or the freedmen, women, and children. The board members thus requested that Congress provide "proper safe-guards" against the free black population, highlighting the fact that the city was located between two slaveholding states. They warned that, absent safeguards, the city would be transformed "into an asylum for free negroes, a population undesirable in every American community, and which it has been deemed necessary to exclude altogether from some even of the non-Slaveholding States." Despite the fact that the "hiring out" system and the growth of the free black population gave the District a moderate reputation for its treatment of blacks, it was nonetheless clear that white locals were displeased with the decision to emancipate local slaves, and even more dismayed at the possibility of black equality. The Emancipation moment thus exposed white hostilities toward black freedom even within Union lines.²⁵¹

In the immediate aftermath of the war, the arrest rate of black inhabitants remained consistent with wartime figures. This was a consequence of limited employment options and lack of political power to change their circumstances. Black women in the District were frequently charged for vagrancy and engaged in illicit income-earning activities such as prostitution, selling goods without a license, selling stolen items, and begging along the main corridors of the city. Although black reform leaders went to great lengths to assist these freedwomen in transitioning to freedom, the

²⁵¹ Ibid.

women themselves took an incredible degree of initiative to sustain a free life for them and their families. Freedwomen exhausted every resource they could, both legal and illicit. But as many reformers noted, free blacks remained limited in their freedom without enfranchisement.²⁵²

With no voting rights, wartime and post-emancipation conditions in the city left black women and men in the District politically impotent. Further, even if black Washingtonians had been granted the right to vote, that gendered right would not have extended to black women. This made the freedom of black women even more tenuous. While black women ultimately could not access the voting booth until the twentieth century, they nonetheless understood and navigated the complex array of political issues that affected their communities.²⁵³

Black women in the District were fully engaged in a local protest tradition in which they served as catalysts for black activism and racial uplift efforts. For instance, although black men were the designated signers of a petition protesting their lack of legal representation and voting privileges, black women informed the content of the petition. In December of 1865, a statement penned by "the Colored Citizens of the District of Columbia" addressed the political disparities between black and white inhabitants. Specifically, the statement emphasized that, while black residents paid "no inconsiderable amount of taxes," with "the proceeds of their labor taken and disposed of without a single

²⁵² Records of the Metropolitan Police Department of the District of Columbia, 1861-1865, (NARA, Record Group 351).

²⁵³ An Act of April 16, 1862 [For the Release of Certain Persons Held to Service or Labor in the District of Columbia], National Archives, General Records of the United States Government, Record Group 11; United States Congress, *Congressional Globe*, 39th Congress, 1st Session pp. 1507-1508; "An Inquest," March 12, 1863, *Daily National Republican*, Washington, D.C. Library of Congress.

voice," and were "intelligent enough to be industrious; to have accumulated property; to build and sustain churches, and institutions of learning," they had no access to political suffrage. Further, black women and men had educated their children "without the aid of any school-fund," while simultaneously subsidizing the education of local white children in the public schools.²⁵⁴

Black women played a critical role in these education initiatives, serving as teachers and developing strategies for fundraising and curriculum building despite scarce resources. In this manner, they did not limit their work to the advancement of women's interests alone; instead, their political agenda encompassed the interests of the entire community. Black women in Washington particularly aspired to strengthen the political and social autonomy of the lower classes through institutions and initiatives that promoted education, fundraising, addressing poverty and unemployment, and instilling a sense of racial pride. In 1862, for example, White House seamstress Elizabeth Keckly, along with other female congregants at the Fifteenth Street Presbyterian Church, organized the Contraband Relief Association to meet the material needs of freedpeople, "alleviate their sufferings, and help them towards a higher plane of civilization." Noting these efforts of black women, who often invited freedpeople into the basements and kitchens of their homes and churches, Henry McNeal Turner, pastor of Washington's Israel AME Church stated that, "It is female assistance which has given impetus to all reforming enterprises, and redeeming deeds." Some of these "redeeming deeds" included

²⁵⁴ John Francis Cook et al. to the Honorable Senators and Members of the House of Representatives in Congress Assembled, [Dec. 1865], 39A-H4, Committee on the District of Columbia, Petitions & Memorials, ser. 582, 39th Congress, U.S. Senate, Record Group 46, National Archives. Approximately 2,500 names appear on the petition, each apparently in the handwriting of the signer.

the establishment of sustainable communities, including Freedmen's Village in Alexandria, which was organized and supported by notable black female activists such as Sojourner Truth and Harriet Jacobs.²⁵⁵

At Freedmen's Village, Harriet Jacobs supported the refugees in their transition to freedom and established a school. Freedwomen were required to work in Union camps under harsh conditions, with inadequate food rations, and exorbitant rent fees for cramped living spaces. Freedmen's Village was a significant departure from the notorious Camp Barker in Washington, and offered a model for sustainable black communities where families built and maintained their own homes and cultivated their own land. Residents paid a percentage of rent, and raised funds to build a community school. Named after Harriet Jacobs the building of the Jacobs School was a tremendous triumph given the extreme conditions of poverty the new freedmen and women were subjected to. To capture their progress, Jacobs arranged for a photograph to be taken in front of the school. The Freedman's Record observed, "It is delightful to see this group of neatly dressed children, of all ages, and with faces of every variety of the African and mixed type, all intelligent, eager, and happy." Northern reformers described school operations as "diligent and efficient," a place of black improvement. Why did Jacobs arrange this photo shoot? Perhaps to demonstrate that despite the circumstances, the former slaves have proven themselves as "worthy citizens" that embody order, intelligence, and self-determination. These characteristics are problematic in themselves in that they suggest a narrow prescription for the humane treatment of people. However,

²⁵⁵ "Societies in Washington, DC, for the Benefit of the Contraband," *Christian Recorder*, November 1, 1862; *Christian Recorder*, August 29, 1863.

having understood this, Jacobs used this photograph to deploy a visual articulation of the potential for full black inclusion into American society.²⁵⁶

The 1865 statement from black citizens of the District—which noted that unequal laws hindered progress, industry, and "virtuous citizenship"—thus echoed black female initiatives to prove that the character of the black poor was no different than that of their white counterparts. Indeed, "virtue" was a term commonly deployed by black activist women at the time to validate their personhood and entitlement to equal rights. In arguing for equality, the 1865 statement also invoked notions of citizenship and pride by emphasizing black military service during the Civil War. Referencing the war effort, the statement reported that black soldiers comprised "three full regiments, over 3.500 enlisted men, while the white citizens out of a population of upwards 60.000 sent only about 1.500 enlisted men for the support of the Union, the Constitution, and the Laws." Just as local whites zealously deployed the Constitution in defense of white supremacy, blacks similarly utilized the Constitution as a political social tool, touting its tenets of liberty and justice as evidence that blacks deserved to share the privileges of freedom and equality.²⁵⁷

At the core, black inhabitants of the District knew that racial inequalities and disparities could not be remedied without political empowerment—i.e., the ability to

²⁵⁶ Jean Fagan-Yellin, *Harriet Jacobs: A Life, The Remarkable Adventures of the Woman Who Wrote Incidents in the Life of a Slave Girl* (New York: Basic Civitas Books, 2004) p. 184; Louisa Managed to Finish, "Jacob's School," Harriet Jacobs, Alexandria, January 13, 1865, the *Freedmen's Record*, March 1865, p.41.

²⁵⁷ John Francis Cook et al. to the Honorable Senators and Members of the House of Representatives in Congress Assembled, [Dec. 1865], 39A-H4, Committee on the District of Columbia, Petitions & Memorials, ser. 582, 39th Congress, U.S. Senate, Record Group 46, NARA. Approximately 2,500 names appear on the petition, each apparently in the handwriting of the signer.

change the laws. With a tone of cautious gratitude, the 1865 statement thus conveyed that, while Congress gave black people "a free District, and a free Country," blacks were "still without the political rights enjoyed by every other man" and only "nominally free." The "colored citizens" concluded that "without the right of suffrage, we are without protection, and liable to Combinations of outrage." Two years thereafter, Congress overrode a veto from President Andrew Johnson and granted the franchise to all males over the age of 21, regardless of race.²⁵⁸

While nineteenth-century ideas about gender prevented black women from accessing the ballot, they remained politically vigilant and active. In an article entitled "Negotiating and Transforming the Public Sphere: African American Political Life in the Transition from Slavery to Freedom," Elsa Barkley Brown provides a poignant paradigm for understanding black women's political engagement during that time. Examining black women in Richmond and the South, Brown concluded that "focusing on formal disfranchisement obscures women's continued participation in the external political arena," as evidenced by the fact that black women's "exclusion from legal enfranchisement did not prevent them from shaping the vote and political decisions." The critical work of black female organizing, fundraising, teaching, writing, mothering—all while discovering multiple ways of earning a living—dismantled disparaging perceptions of former slaves, thereby advancing the political project of race uplift.²⁵⁹

Black women not only acted outside the parameters of traditional electoral politics, but also beyond the gender dichotomy of spheres. Their political work

²⁵⁸ Ibid.

²⁵⁹ Brown, Elsa Barkley. "Negotiating Community and Freedom: African American Political Life in the Transition from Slavery to Freedom." *Public Culture* 7 (Fall 1994): 107-46.

encompassed a variety of ideas about empowerment that were rooted in both their gendered and racial experience as both "black" and "female." Martha Jones analyzes the particular ways in which black women engaged democracy, citizenship, and the nation-state differently from their white counterparts. Using the conceptual framework of "public culture," Jones argues that black women during Civil War and Reconstruction did not limit their political activities to those constructed solely around gender consciousness and women's issues. Instead, the collective and communal quality of black women's political activities transcended both class divides and gender constructions of strictly separate public and private spheres.²⁶⁰

Black women's collective efforts across class and gender lines left an imprint on wartime and postwar political activism in Washington, D.C. and the surrounding Chesapeake states. Their reform efforts culminated in a relevant—albeit ephemeral—political transformation. Whereas the Mayor of the District in 1860, James Berret, was a Southern Democrat and supporter of Southern secession, by 1868, black male residents of the District were exercising the right to vote and Sayles J. Brown, Republican and supporter of black civil rights, was elected mayor. In fact, 90 percent of eligible black voters in the District participated in the election. Just one year later, the Board of Police hired Charles C. Tillman and Calvin C. Caruthers, the first black policeman of the District of Columbia. Despite these political gains, however, racial equality was not fully realized in the daily life of most blacks in postwar Washington, and the triumph of political agency in the 1867 city election would evaporate into a faint memory eleven

²⁶⁰ Jones, Martha S. *All Bound Up Together: The Woman Questions in African American Public Culture, 1830-1900,* (Chapel Hill: University of North Carolina Press, 2007).

years later, when black and white males were disenfranchised. The fact that black women could not vote was an obvious indicator that the contestations over citizenship had all but reached a firm conclusion. Historian Robert Harrison identifies the Reconstruction era as a moment of biracial democracy that ended in 1874 largely due to the decisions of policy makers that focused on city planning, infrastructure and beautification at the expense of social Reconstruction. By the late 1870s the capital represented a romantic symbol of freedom by both black and whites alike. The reality however for the law breaking classes of black women resembled an all too familiar terrain of uncertainty as they worked to shape a life of freedom.²⁶¹

Conclusion

Wartime emancipation throughout the Civil War inspired a severe backlash from resistant white locals in Washington and defiant ex-Confederates who were unwilling to free their former slaves from laboring on their devastated plantations. Former slave owners fought to maintain the slave regime regardless of the legal transformations that occurred throughout the war. While certain measures, including the Emancipation Act, Supplemental Act, and the Congressional bill reversing the black codes, transformed the District into a hub of freedom and jumpstarted the path to end slavery, the Fugitive Slave Law of 1850 still accommodated slave interests until 1864, when Congress voided them. Prior to the end of the fugitive slave laws, countless escaped slaves were imprisoned,

²⁶¹ Evening Star, January 17, 1861; Washington Chronicle, June, 28, 1868; Kenneth Alfers, "Law and Order in the Capital City: A History of the Washington Police, 1800-1886," George Washington Studies, No.5, George Washington University, September, 1976; Kate Masur, An Example for All the Land: Emancipation and the Struggle Over Equality in Washington, D.C., (Chapel Hill: University of North Carolina Press, 2010); Robert Harrison, Washington during Civil War and Reconstruction: Race and Radicalism (New York: Cambridge University Press, 2011) p.166-168.

punished, and sent back to their former owners. Examining the legal "gains" of the war thus unveils the degree to which the lives of enslaved and free black women remained circumscribed by vulnerability to surveillance, criminalization, and exploitation. Legal emancipation had its limits.

Black women wielded their political muscles by challenging the notion that American citizenship equated to white entitlement and control over black life. Using tactics such as litigation, flight, petitions, fundraising, and organizing, black women initiated a wartime affront against the local white citizenry. The passage of the Supplemental Act, which allowed blacks to testify against white citizens for the first time, charted a critical, albeit limited, path for black women seeking to legally claim their freedom. Accordingly, Emeline Wedge's story ended very differently from Emeline Brown's. Emeline Brown petitioned the courts—months before the Supplemental Act passed—and initially lost her case. Emeline Wedge, however, took her former owner to court less than six months after the Supplemental Act was passed and won her case.

Even in cases ruled in favor of former owners, black women did not allow legal injustices to force them to surrender. Instead, they took matters into their own hands, creating their own system of redress. Jane Kemper, for instance, evaded the law and "by stealth," fled from the grips of slave owners with children in tow.

While legislative measures were vital to the nominal end of slavery, they were not a panacea. The logistical hurdles that black women faced—including reuniting families, rescuing children from the grips of resistant planters, overcoming poverty, gathering the necessary resources of food, shelter, and clothing, and protecting themselves and their families from labor exploitation—all remained outside the reach of the new laws.²⁶²

²⁶² Congress repealed the Fugitive Slave Law in 1864, and the Dred Scott decision was overturned with the passage of the Fourteenth Amendment in 1868 (See Masur's work, *An Example for All the Land*).

Epilogue

This study has been concerned with the manner in which enslaved and free women persevered through race and gender based legal proscriptions by reconstituting their lives and labor—through either legal or extralegal forms. "Crimes of Discontent" attempts to illuminate the contexts of enslaved and free black women's law breaking, and the corresponding social and political currents of discontent overt and implicit in their actions. The claim that enslaved and free black women violated the law as a form of survival, resistance, and self-expression turns away from nineteenth-century fixations on "criminality," and points toward the ways ideas about race and gender shaped the law, and subsequently black women's encounters with crime and punishment. "Discontent" catalyzed the pursuit of what enslaved and free black women were legally denied at the time: "life, liberty, and property." Discontent was also not immediately assuaged by the Reconstruction amendments. Postwar celebrations of freedom were met with the sobering realities of poverty, lost loved ones, and white hostility.

Countless Americans across the country looked to the capital to witness the integration of recently freed blacks after the Emancipation Act of 1862 and the subsequent Emancipation Proclamation of 1863. By the end of the Civil War, blacks represented at least thirty-percent of the population many recently freed and others longstanding free inhabitants of the city. In March of 1865, Congress established the Bureau of Refugees, Freedmen, and Abandoned Lands, for the "management and supervision of all abandoned lands, and the control of all subjects relating to refugees and freedmen, under such rules and regulations as may be presented by the head of the Bureau and approved by the President." The dire conditions of the city and the material

realities of black residents often made poverty their crime, and free labor a pressing issue for Bureau agents. In a report to Congress, one police superintendent noted that, "In a space about fifty yards square, I found about one hundred families, composed of from three to ten persons each, living in shanties one story in height...These places can be considered as nothing better than propagating grounds of crime, disease, and death." A recurring theme of immediate postwar accounts, survival often characterized freedwomen's transitions into postbellum life in Washington, D.C., and the surrounding Chesapeake counties. ²⁶³

As Reconstruction scholarship has shown, freedwomen made persistent attempts to avoid poverty in their search for employment opportunities, but emancipation did not guarantee complete control over their labor. On January 31, 1865, Congress passed the Thirteenth Amendment abolishing slavery and involuntary servitude except—and this was for whites a major loophole—in instances of criminal punishment. Involuntary servitude, as a punitive mechanism, remained in practice in postwar Washington, D.C. and the surrounding Chesapeake states. Thus, for some black women, involuntary servitude did not end with the Thirteenth amendment, but continued well into the late nineteenth century in their encounters with the workhouse and later the prison industrial complex. Additionally, black women's legal status would be largely unaffected by emancipation policies without the equal protection of the laws.²⁶⁴

²⁶³United States Congress, *Congressional Globe*, 39th Congress, 1st Session pp. 1507-1508; The shift in arrests actually occurred between 1830 and 1860 where black women were increasingly arrested leading up to the war.

²⁶⁴ An Act of April 16, 1862 [For the Release of Certain Persons Held to Service or Labor in the District of Columbia], NARA, General Records of the United States Government, Record Group 11.

In 1868, the Fourteenth Amendment expanded the scope of citizenship to "all persons born or naturalized in the United States." The Fourteenth Amendment included critical stipulations that forbid states from denying "the equal protection of the laws" and withholding due process of the law. The configuration of the Fourteenth Amendment underscored the redefinition of enslaved black women's legal status from chattel to American citizen entitled to the pursuit of "life, liberty, and property." Black women's claims to "life, liberty, and property," however, were not reflected in the Reconstruction era alone. Too, small classes of free black women owned property in the antebellum South, and numerous cases existed where enslaved and free women brought their grievances before the courts. The legal actions of antebellum enslaved and free black women were articulations of their pursuit of "life, liberty, or property," decades prior to the ratification of the Fourteenth Amendment. Nonetheless, black women unflinchingly deployed the Amendment, and would determinately do so throughout the twentieth century until the present day in their claims to civil rights. The Thirteenth and Fourteenth Amendments set in place critical legal mandates that would characterize many ensuing legal battles for equality.²⁶⁵

Scholarship that examines emancipation in the postwar South analyzes the meaning of freedom from a variety of lenses including: race, gender, labor, sex, and culture. In *Becoming Free in the Cotton South*, Susan O'Donovan explores the ways that

²⁶⁵ The House Joint Resolution Proposing the Thirteenth Amendment to the Constitution, January 31, 1865; Enrolled Acts and Resolutions of Congress 1789-1999; General Records of the United States Government, RG 11, NARA; The House Joint Resolution Proposing the Fourteenth Amendment to the Constitution, June 16, 1866; Enrolled Acts and Resolutions of Congress 1789-1999: General Records of the United States Government, RG 11, NARA; Amrita Chakrabarti Meyers, *Forging Freedom: Black Women in the Pursuit of Liberty in Antebellum Charleston* (Chapel Hill: University of North Carolina Press, 2011). sharecropping and the pervasive approach to the exploitation of family wage-based labor constantly maintained a stronghold on black aspirations for freedom. She looks to the southwest region of Georgia to examine the critical ways in which Emancipation and Reconstruction policies rapidly morphed into a "failed revolution." Alternatively, Kate Masur looks at political developments during the era of Emancipation in the context of experimentation in Washington, D.C. In *An Example for All the Land: Emancipation and the Struggle for Equality in Washington, D.C.*, Masur examines black political objectives that preceded Reconstruction policies. As I discuss throughout the preceding chapters, resistance to race-based legal edicts were not set in motion by the era of Emancipation alone, but black women's antebellum legal and extralegal resistance illuminates enslaved and free women's claims to freedom, and expressions of equality prior to the Civil War.²⁶⁶

Freedwomen embarked on an emancipation process that involved direct engagement with government agencies and more considerably, a significant effort to create a free life in the absence of government support, political equality and suffrage. This was an approach all too familiar to black women affiliated with the antebellum free class. Middle-class black women throughout the Civil War era modeled nineteenthcentury ideas about virtue and respectability as one of numerous responses to racial and

²⁶⁶Edwards, *Gendered Strife and Confusion: The Political Culture of Reconstruction*, (Urbana: University of Illinois Press, 1997); Barbara Fields, *Slavery and Freedom on the Middle Ground: Maryland during the Nineteenth Century*, (New Haven: Yale University Press, 1985); Julie Saville, *The Work of Reconstruction: From Slave to Wage Laborer in South Carolina, 1860-1870*, (New York: Cambridge University Press, 1994); Eric Foner, *Nothing but Freedom: Emancipation and its Legacy*, (Baton Rouge: Louisiana State University Press, 1983); Susan O'Donovan, *Becoming Free in the Cotton South*, (Cambridge; Harvard University Press, 2007); Kate Masur, *An Example for All the Land: Emancipation and the Struggle for Equality in Washington, D.C.*, (Chapel Hill: The University of North Carolina Press, 2010).

gender inequality. Rather than thinking solely in terms of middle-class respectability or political mobilization, this study explored the manner in which enslaved and free black women's lives were informed by the interspersed factors of policies, law breaking, self-determination, and their own visions and meanings tied to freedom. After the war, freedwomen embarked on a course to rebuild their lives, reunite with loved ones, and find well-paid work.

The Freedmen's Bureau played a critical role in this process of postwar reconstitution, particularly with their promotion of free labor practices and patriarchal domestic arrangements. Mary Farmer-Kaiser's *Freedwomen and the Freedmen's Bureau* and Karin Zipf's *Labor of Innocents*, capture the ways in which the Freedmen's Bureau struggled to enforce free labor ideology in slave societies. More specifically Farmer-Kaiser and Zipf's use of similar records included here, demonstrate the lengths to which the labor of freedwomen and their families were contested. The historiography of Emancipation and the Freedmen's Bureau underscore the fundamental understanding that tensions and competing ideas concerning the definition of freedom involved a complex array of interests rooted in regional social customs, labor practices, and familial and personal aspirations in keeping with nineteenth-century considerations of race and gender.²⁶⁷

Scholars have debated the degree to which the Freedmen's Bureau was effective in the emancipation process throughout former slaveholding regions, but the record demonstrates that regardless of whether the agency was efficacious, scores of

²⁶⁷ Mary Farmer-Kaiser, *Freedwomen and the Freedmen's Bureau: Race, Gender, and Public Policy in the Age of Emancipation*, (New York: Fordham University Press, 2010); Karin L. Zip, *Labor of Innocents: Forced Apprenticeship in North Carolina 1715-1919*, (Baton Rouge: Louisiana State University Press, 2005).

freedwomen viewed the bureau as a critical gateway for subverting local authority. Freedwomen proactively submitted complaints to Bureau officials, reporting employer abuse, local white harassment, and domestic disputes. They also utilized the local bureau offices to search for loved ones, employment, or compensation for wages withheld by exploitative employers. Patsey Berlin, a resident of the District wrote the Assistant Commissioner, John Eaton of the Freedmen's Bureau with concerns about her mother and four sisters. Berlin reported that Mr. Garnett near Fredericksburg, Virginia was holding her relatives against their will and that they were in a "starving condition." Some former slaveholders were contacted on more than one occasion for refusing to release children. The Bureau sent a notice to Mrs. Betty DeVaughn on one occasion requesting the release of a young girl named Phillis who was the daughter of Susannah Johnson. Another mother, Adeline Smith also complained to the agency that DeVaughn withheld her seven year-old son Jackson Williams. The records indicate that Assistant Commissioner John Eaton had to contact another officer to write a follow-up letter to Betty DeVaughn as she doggedly refused to release the children in her custody. The Bureau received thousands of such cases involving the involuntary servitude or abduction of lost family members.²⁶⁸

Black women confronted white violence and hostility in their postbellum efforts to reconstitute their lives. They often risked violent retaliation in their efforts to recover their children and respective family members from white planters. Immediately following the war, Mrs. Mary (or Christina) Marshall consulted the Assistant Commissioner for the District office of the Bureau for authorization to retrieve her

²⁶⁸ Records of the Assistant Commissioner for the District of Columbia, Bureau of Refugees, Freedmen, and Abandoned Lands, 1865-1869, NARA, M1055, Roll 1.

daughter Mary Agnes Marshall from a plantation in St. Mary's County, Maryland. Mrs. Mary made plans to rescue her daughter directly, indicating in the letter that she acted with the consent of her husband, also Mary Agnes's father. Assistant Commissioner John Eaton penned a letter that supported her actions and encouraged any local officers to provide the protection necessary to prevent abuse and resistance. The record shows significant numbers of children missing from their families who were usually discovered on the plantations of former owners who continued to exploit their labor. Black women in the District of Columbia and neighboring states, thus frequently appealed to the Freedmen's Bureau to locate, protect, and provide for their children. Authorization from Bureau agents in some instances proved an effective means to retrieving loved ones, but many attempts were met with resolute defiance.²⁶⁹

The children of former slaves who were either hired on distant plantations or remained on the property of former owners throughout the course of the war were often unable to make legal claims to freedom, making them ideal targets for exploitation. A man in Philadelphia was contacted by the District Assistant Commissioner to learn the whereabouts of Cornelia Robertson, who was hired during the war in 1864. Her relatives were anxious to be reunited with their little girl, who they had not heard from in a little over a year. Similarly, in nearby Rockville, for example, thirteen-year old Eliza Boswell was held in service "without compensation and against the wishes of her mother." Mrs. Thomas of Baltimore, Maryland was contacted about a young girl named Isabella who was hired six months prior to the date the letter was written. Eaton noted that her relatives were anxious to know where she was. Likewise, another mother hoped the Bureau could persuade the owner of Newington Farm in Fairfax County, Virginia to return her daughter Martha Ann Starks a twelve year old forced to labor for him since she was two years old. In this case, Martha was hired prior to the war and the mother had no control over the transaction. Even in the event that parents allowed their children to continue as apprentices and hired servants after Emancipation, white planters shaped the language and terms of contracts in favor of exploitation with minimum if any compensation.²⁷⁰

Poverty dominated the postwar landscape. Black women's efforts to reconstitute their labor towards opportunities that paid sufficient wages and that offered adequate working conditions proved nearly impossible in the face of defiant white employers. The conditions of freedom were often such that required the constant push against exploitation even as legislators were revising the legal status of freedwomen. For instance, Sally Jackson from Richmond, Virginia wrote the Bureau office in Washington, complaining that John Taylor of Wakefield, who promised to feed and clothe her and her three children in exchange for their labor, "with no provocation," beat "her very severely and drove her and her little ones away—paying her nothing—and threatening to shoot her if she returned." Despite Jackson's compliance with a formal contractual agreement with Taylor, the law still failed to secure accountability and protection from white abuse. Another woman in Virginia, Laura Scott, also reported that a man named Robert Garrett beat her and "refused to contribute to the support of five children," even though he was allegedly their father. Planters and former slave owners in the surrounding counties attempted to preserve the labor customs of the antebellum slave South and black mothers protested maltreatment and the conservancy of the old order of abuse.²⁷¹

As the Freedmen's Bureau literature points out, black men were also particularly "inconvenienced" by the persistent misappropriation of black women and children as they had hoped to claim their labors for their own household economies and homesteads. The Freedmen's Bureau championed domestic arrangements that organized black men as the heads of black households, and the legal proprietors of the labor of black women and children. Planter violence against black women who were married to black men violated patriarchal ideas of male familial authority with black men unable to truly protect their wives and dictate the terms of their labor as nineteenth-century gender norms typically encouraged. Also, the exploitation of black children fueled the coffers of white homes rather than the labor needs or preferences of black households. The lack of prosecutions against defiant planters reinforced the ultimate authority of white society over black family dynamics and their income-earning capacity. Planter intimidation tactics not only demonstrated one of many ways gender worked to reinforce white supremacy in law and practice, but the degree to which Bureau agents championed and defended male-led domestic arrangements in black families. Black women without a male spouse would defend their independent lifestyles in instances where they were not married.²⁷²

Freedwomen confronted assaults against their character and capacity for parenting particularly if they did not exhibit a commitment to prevalent ideas about patriarchy and

²⁷¹ Records of the Assistant Commissioner for the Commonwealth of Virginia, Bureau of Refugees, Freedmen, and Abandoned Lands, 1865-1869, M1048, Roll #1.

²⁷² Mary Farmer-Kaiser, *Freedwomen and the Freedmen's Bureau: Race, Gender, and Public Policy in the Age of Emancipation*, (New York: Fordham University Press, 2010); Karin L. Zip, *Labor of Innocents: Forced Apprenticeship in North Carolina 1715-1919*, (Baton Rouge: Louisiana State University Press, 2005).

true womanhood, and the corresponding expectations of virtue. The story of Amelia Hausen illuminates the struggles single mothers faced in reclaiming their children. Hausen appealed to the Bureau for the release of her two sons from former slave owner Mr. John Berry. Berry replied to this request by sending a letter of his own that challenged Amelia's abilities as a mother. He claimed that she had an "ungovernable temper," and that her children "suffered at her hands again and again." He further claimed that he gave the children permission to go with Amelia to Washington, D.C. but "they did not wish to leave" and "would not leave," after she struck one her sons "in the face a heavy blow with her hand." Playing on prevailing racial stereotypes articulated by scholars such as Deborah Gray White regarding black women's hypersexuality and proclivity toward violent behavior, Berry also noted that "the children referred to are illegitimate," and that one man who was supposedly their father was equally abusive. Amelia was regarded as an unfit mother due to accusations of abuse and promiscuity. With no one to defend her name, the former slave owner used her single status to undermine the efficacy of her testimony. The Bureau took no further action in the case after Berry's testimony and Amelia's appearance in Orphan's Court.²⁷³

Unnatural Mothers

Former slave owners fought to maintain the old order regardless of the legal transformations that occurred throughout the war. No longer legally authorized to treat

²⁷³ Deborah Gray White, *Ar'n't I A Woman? Female Slaves in the Plantation South*, (New York: W.W. Norton, 1985); War Department, Bureau of Refugees, Freedmen, and Abandoned Lands, District of Columbia (National Archives, Microfilm M1055), Roll 2; War Department, Bureau of Refugees, Freedmen, and Abandoned Lands, Virginia (National Archives, Microfilm M1048), Roll 1.

black women as chattel, white men and women made ardent claims to the bodies of enslaved women and their children. Designed to perpetuate exploitation of black labor, depictions of depraved and criminal black women pervaded American culture. Despite the purported departure from antebellum black codes, the antecedents of surveillance and policing thus endured spurring what later became known as the nadir of racial violence in the late nineteenth century. Within this landscape of exploitation, surveillance, and criminalization, black women faced tremendous economic, political, and social odds, both within the city limits of the District, as well as the neighboring states.

In the face of adversity, many black mothers in particular, took drastic, and seemingly incomprehensible, steps to create a better life for their children. On June 5, 1869, *The National Republican* published a notice titled "An Unnatural Mother," reporting the discovery of an infant "placed in a herring box" at the Government reservation across from the market house. An officer found the child, and took the child to the Central Guard House, "where the services of a colored nurse" were obtained "to wash and dress it." The baby was then taken to Campbell Hospital and "placed in the charge of the matron" of the facility. The article noted that, "the little thing appears healthy and promises to live to be a standing reproach to its unknown mother."²⁷⁴

While the article suggests certain moral shortcomings on the part of the mother, this misses the mark. It was clear from the condition of the child, who lacked clothing and covering, and was placed in a box, that the mother confronted realities—possibly material, physical, emotional, and mental—that impeded her ability to provide for the child. Perhaps the "unnatural mother" lived in conditions of squalor and poverty, like the

²⁷⁴ "An Unnatural Mother," June 5, 1869, Washington, D.C., *The National Republican*, LOC.

majority of freedwomen, many who were vulnerable to the bondage of destitution. Perhaps the "unnatural mother" simply wanted her child to have a brighter future than her present circumstances could afford. It seems as though the "unnatural mother" was doing what any mother would "naturally" do under such conditions. If the woman had no immediate relatives to turn to, it is quite possible that she could not earn a living and provide safe care for the child at the same time. There were many conceivable explanations as to why the mother left her child at the Government reservation. Certainly, freedwomen faced the constant reality of earning enough income for food, shelter, and clothing in postwar Washington, D.C. Without the necessary employment prospects, community ties and familial support, this challenge proved far more daunting with children.²⁷⁵

Indeed, this supposed "unnatural mother" was not alone. A year earlier, a "female colored child was left in a blanket, at the door of Mrs. Mary Thomas, colored, on South O Street, between New Jersey avenue and South Capitol Street." The mother left Mrs. Thomas with a letter, mentioning that she would periodically send money, and asking Mrs. Thomas to "take the best of care of her." Like the "unnatural mother," it seems that this woman wanted her daughter to grow up in a "respectable" home where she could receive the time, care, and attention that she deserved. She thus penned a letter memorializing the fact that her daughter was "neither fatherless nor motherless, for she has both. Its father and mother now loves her dearly: that is the reason she is sent to you, knowing she will be well taken care of." The mother further requested that Mrs. Thomas

"have her christened immediately" because the baby was ill and the mother believed that a good home and faith in God would make her child well again.²⁷⁶

This mother's act—giving her daughter away—shows that, even after Emancipation, black women in the District of Columbia faced incredible odds in their attempt to survive, work, and care for themselves and their families. Thus black women made tough decisions—ones that society often deemed "unnatural." These representations of "unnatural" motherhood among black women in the city, in turn, reinforced ideas of shame, undermining the dignity afforded a recently freed person. The preceding chapters mapped the journeys of women like the "unnatural mother"—women demonized for their actions and criminalized, but who broke the law as a strategy of survival in a society of racial caste and gender discrimination. Furthermore, despite the fact that legal emancipation was set in motion by legislators, the stories of these women indicate that black women would be engaged in a continuous struggle for liberation and survival well before and after the Emancipation era.

Despite the disparaging imprint that was made of black women's crimes, these same women were very much a part of the landscape, preparing meals, laboring in gardens and tending to crop, mending clothes, cleaning homes, nursing white babies, reproducing children of their own (which increased the asset holdings of white slave owners), and engaging in endless physical and sexual labor. Black women were thus featured prominently in American homes, communities, and economies.

The carceral regime of Civil War era Washington, and surrounding locales changed insofar as wartime and postwar policies dismantled antebellum slave law, race-

²⁷⁶July 16, 1868, Washington, D.C., *The National Republican*, LOC.

based laws, and incentivized fee systems for police. White locals continued their unchecked harassment of black inhabitants and the rise of Jim Crow segregation overshadowed Reconstruction amendments and threatened the political, social, and economic gains of black inhabitants of the city after the Compromise of 1877. Likewise, employment opportunities, sufficient wages, and reasonable employers were hard to come by in the overcrowded capital. Black women disassociated from middle-class respectability navigated the urban terrain often as washerwomen, servants, prostitutes, and vagrants barely making ends meet, but doing what they could to drive the course of their own lives.²⁷⁷

Looking to enslaved and free black women's law breaking reveals the ways that the fabric of our legal system was woven by threads of laws and policies designed to control black life. The study of law breaking reinforces the notion that enslaved and free black women broke the law, but their actions weren't always as egregious as the term "criminal" insinuates in cases involving white violators of the law. The preceding chapters contextualize black women's law breaking to show that they transgressed laws informed by nineteenth-century ideas about how race and gender should be organized in society. Implicit in their law breaking was their personal critiques of how society was unfairly organized by a hierarchy that positioned them at the bottom.

Enslaved and free women lawfully and unlawfully interacted with laws specifically designed to circumscribe their lives. Similar strands of criminalization link the past to contemporary legal and cultural debates about criminality. Black women in

²⁷⁷ As a concession to southern political factions, the Compromise of 1877 settled the election dispute of 1876 by removing troops from the South. The absence of federal protection ushered in a new era of racial terror that left white violence unchecked and Reconstruction policies ineffective in specific areas of the South.

poor communities were targeted and siphoned in and out of the workhouse and incentivized policing system during the mid nineteenth century. This carceral regime simultaneously exploited black women's labor, defamed their reputations, and supported white claims of racial superiority. Today's prison industrial complex is comprised of a profitable and powerful partnership of private prison corporations and government agencies that exploit the involuntary labor of prison inmates. The fastest growing prison population in the United States, black women in poor and underprivileged communities are currently targeted through mandatory minimum sentencing, heightened sentences for minor offences, and crimes that they simply did not commit. They are entwined in a web of corporate and government interests that perpetuate a profitable cycle of exploitation driven by longer sentences, higher rates of re-imprisonment and heightened criminalization of themselves and their loved ones. American cultural and societal instincts that link crime to black women in poor communities stem from a long history of race and gender based tropes of black female criminality. It is my hope that this study provides crucial context on how cultural ideas and assumptions about the lives of black women can obstruct their access to justice.²⁷⁸

²⁷⁸ Angela Davis, *Are Prisons Obsolete?* (New York: Seven Stories Press, 2003); Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*, (New York: The New Press, 2010).